

By Senator Ring

29-01018-14

2014948\_\_

1                   A bill to be entitled  
2           An act relating to foreign investments; amending s.  
3           215.47, F.S.; revising the percentage of investments  
4           that the State Board of Administration may invest in  
5           foreign securities; amending s. 215.473, F.S.;  
6           revising and providing definitions with respect to  
7           requirements that the board divest securities in which  
8           public moneys are invested in certain companies doing  
9           specified types of business in or with Sudan or Iran;  
10          revising exclusions from the divestment requirements;  
11          conforming cross-references; creating s. 624.449,  
12          F.S.; providing legislative intent; defining terms;  
13          providing that certain assets shall be treated as  
14          nonadmitted assets; requiring insurers to identify,  
15          report, and divest certain assets within a specified  
16          period; providing applicability; providing for  
17          severability; providing an effective date.

18  
19 Be It Enacted by the Legislature of the State of Florida:

20  
21           Section 1. Subsection (20) of section 215.47, Florida  
22           Statutes, is amended to read:

23           215.47 Investments; authorized securities; loan of  
24           securities.—Subject to the limitations and conditions of the  
25           State Constitution or of the trust agreement relating to a trust  
26           fund, moneys available for investments under ss. 215.44-215.53  
27           may be invested as follows:

28           (20) Notwithstanding the provisions in subsection (5)  
29           limiting such investments to 25 percent of any fund, the board

29-01018-14

2014948\_\_

30 may invest up to 50 ~~no more than 35~~ percent of any fund in  
31 corporate obligations and securities of any kind of a foreign  
32 corporation or a foreign commercial entity having its principal  
33 office located in any country other than the United States or  
34 its possessions or territories, not including United States  
35 dollar-denominated securities listed and traded on a United  
36 States exchange that are a part of the ordinary investment  
37 strategy of the board.

38 Section 2. Subsections (1) and (2), paragraph (e) of  
39 subsection (3), and subsection (5) of section 215.473, Florida  
40 Statutes, are amended to read:

41 215.473 Divestiture by the State Board of Administration;  
42 Sudan; Iran.—

43 (1) DEFINITIONS.—As used in this act, the term:

44 (a) "Active business operations" means all business  
45 operations that are not inactive business operations.

46 (b) "Business operations" means engaging in commerce in any  
47 form in Sudan or Iran, including, ~~but not limited to,~~ acquiring,  
48 developing, maintaining, owning, selling, possessing, leasing,  
49 or operating equipment, facilities, personnel, products,  
50 services, personal property, real property, or any other  
51 apparatus of business or commerce.

52 (c) "Company" means a ~~any~~ sole proprietorship,  
53 organization, association, corporation, partnership, joint  
54 venture, limited partnership, limited liability partnership,  
55 limited liability company, or other entity or business  
56 association, ~~including all wholly owned subsidiaries, majority-~~  
57 ~~owned subsidiaries, parent companies, or affiliates of such~~  
58 ~~entities or business associations,~~ that exists for the purpose

29-01018-14

2014948\_\_

59 of making profit.

60 (d) "Complicit" means taking actions during any preceding  
61 20-month period which have directly supported or promoted the  
62 genocidal campaign in Darfur, including, ~~but not limited to,~~  
63 preventing Darfur's victimized population from communicating  
64 with each other; encouraging Sudanese citizens to speak out  
65 against an internationally approved security force for Darfur;  
66 actively working to deny, cover up, or alter the record on human  
67 rights abuses in Darfur; or other similar actions.

68 (e) "Direct holdings" in a company means all securities of  
69 that company that are held directly by the public fund or in an  
70 account or fund in which the public fund owns all shares or  
71 interests.

72 (f) "Government of Iran" means the government of Iran, its  
73 instrumentalities, and companies owned or controlled by the  
74 government of Iran.

75 (g) "Government of South Sudan" means the Republic of South  
76 Sudan, that has its capital in Juba, South Sudan.

77 (h) ~~(g)~~ "Government of Sudan" means the Republic of the  
78 Sudan that has its capital ~~government~~ in Khartoum, Sudan, ~~that~~  
79 ~~is led by the National Congress Party, formerly known as the~~  
80 ~~National Islamic Front, or any successor government formed on or~~  
81 ~~after October 13, 2006, including the coalition National Unity~~  
82 ~~Government agreed upon in the Comprehensive Peace Agreement for~~  
83 ~~Sudan, and does not include the regional government of southern~~  
84 ~~Sudan.~~

85 (i) ~~(h)~~ "Inactive business operations" means the mere  
86 continued holding or renewal of rights to property previously  
87 operated for the purpose of generating revenues but not

29-01018-14

2014948\_\_

88 presently deployed for such purpose.

89 (j)~~(i)~~ "Indirect holdings" in a company means all  
90 securities of that company that are held in a commingled an  
91 ~~account or fund or other collective investment~~, such as a mutual  
92 fund, ~~managed by one or more persons not employed by the public~~  
93 ~~fund~~, in which the public fund owns shares or interests together  
94 with other investors not subject to ~~the provisions of this~~  
95 section act.

96 (k)~~(j)~~ "Iran" means the Islamic Republic of Iran.

97 (l)~~(k)~~ "Marginalized populations of Sudan" include, but are  
98 not limited to, the portion of the population in the Darfur  
99 region that has been genocidally victimized; the portion of the  
100 population of South ~~southern~~ Sudan victimized by Sudan's north-  
101 south civil war; the Beja, Rashidiya, and other similarly  
102 underserved groups of eastern Sudan; the Nubian and other  
103 similarly underserved groups in Sudan's Abyei, Southern Blue  
104 Nile, and Nuba Mountain regions; and the Amri, Hamadab, Manasir,  
105 and other similarly underserved groups of northern Sudan.

106 (m)~~(l)~~ "Military equipment" means weapons, arms, military  
107 supplies, and equipment that may readily be used for military  
108 purposes, including, but not limited to, radar systems,  
109 military-grade transport vehicles, or supplies or services sold  
110 or provided directly or indirectly to any force actively  
111 participating in armed conflict in Sudan.

112 (n)~~(m)~~ "Mineral-extraction activities" include the  
113 exploring, extracting, processing, transporting, or wholesale  
114 selling or trading of elemental minerals or associated metal  
115 alloys or oxides (ore), including gold, copper, chromium,  
116 chromite, diamonds, iron, iron ore, silver, tungsten, uranium,

29-01018-14

2014948\_\_

117 and zinc, as well as facilitating such activities, including  
118 providing supplies or services in support of such activities.

119 (o)~~(n)~~ "Oil-related activities" include, but are not  
120 limited to, owning rights to oil blocks; exporting, extracting,  
121 producing, refining, processing, exploring for, transporting,  
122 selling, or trading of oil; constructing, maintaining, or  
123 operating a pipeline, refinery, or other oil-field  
124 infrastructure; and facilitating such activities, including  
125 providing supplies or services in support of such activities,  
126 except that the mere retail sale of gasoline and related  
127 consumer products is not considered an oil-related activity.

128 (p)~~(e)~~ "Petroleum resources" means petroleum, petroleum  
129 byproducts, or natural gas.

130 (q)~~(f)~~ "Power-production activities" means a ~~any~~ business  
131 operation that involves a project commissioned by the National  
132 Electricity Corporation (NEC) of Sudan or other similar entity  
133 of the government of Sudan whose purpose is to facilitate power  
134 generation and delivery, including, but not limited to,  
135 establishing power-generating plants or hydroelectric dams,  
136 selling or installing components for the project, providing  
137 service contracts related to the installation or maintenance of  
138 the project, as well as facilitating such activities, including  
139 providing supplies or services in support of such activities.

140 (r)~~(g)~~ "Public fund" means all funds, assets, trustee, and  
141 other designates under the State Board of Administration  
142 pursuant to chapter 121.

143 (s)~~(r)~~ "Scrutinized active business operations" means  
144 active business operations that result ~~have resulted~~ in a  
145 company becoming a scrutinized company.

29-01018-14

2014948\_\_

146        ~~(t)~~ ~~(s)~~ "Scrutinized business operations" means business  
147 operations that result ~~have resulted~~ in a company becoming a  
148 scrutinized company.

149        ~~(u)~~ ~~(t)~~ "Scrutinized company" means a ~~any~~ company that meets  
150 any of the following criteria:

151            1. The company has business operations that involve  
152 contracts with or provision of supplies or services to the  
153 government of Sudan, companies in which the government of Sudan  
154 has a ~~any~~ direct or indirect equity share, consortiums or  
155 projects commissioned by the government of Sudan, or companies  
156 involved in consortiums or projects commissioned by the  
157 government of Sudan, and:

158            a. More than 10 percent of the company's revenues or assets  
159 linked to Sudan involve oil-related activities or mineral-  
160 extraction activities; less than 75 percent of the company's  
161 revenues or assets linked to Sudan involve contracts with or  
162 provision of oil-related or mineral-extracting products or  
163 services to the ~~regional~~ government of South ~~southern~~ Sudan ~~or a~~  
164 ~~project or consortium created exclusively by that regional~~  
165 ~~government~~; and the company has failed to take substantial  
166 action; or

167            b. More than 10 percent of the company's revenues or assets  
168 linked to Sudan involve power-production activities; less than  
169 75 percent of the company's power-production activities include  
170 projects whose intent is to provide power or electricity to the  
171 marginalized populations of Sudan; and the company has failed to  
172 take substantial action.

173            2. The company is complicit in the Darfur genocide.

174            3. The company supplies military equipment within Sudan,

29-01018-14

2014948\_\_

175 unless it clearly shows that the military equipment cannot be  
176 used to facilitate offensive military actions in Sudan or the  
177 company implements rigorous and verifiable safeguards to prevent  
178 use of that equipment by forces actively participating in armed  
179 conflict. Examples of safeguards include post-sale tracking of  
180 such equipment by the company, certification from a reputable  
181 and objective third party that such equipment is not being used  
182 by a party participating in armed conflict in Sudan, or sale of  
183 such equipment solely to the ~~regional~~ government of South  
184 ~~southern~~ Sudan or any internationally recognized peacekeeping  
185 force or humanitarian organization.

186 4. The company has business operations that involve  
187 contracts with or provision of supplies or services to the  
188 government of Iran, companies in which the government of Iran  
189 has any direct or indirect equity share, consortiums, or  
190 projects commissioned by the government of Iran, or companies  
191 involved in consortiums or projects commissioned by the  
192 government of Iran and:

193 a. More than 10 percent of the company's total revenues or  
194 assets are linked to Iran and involve oil-related activities or  
195 mineral-extraction activities,+ and the company has failed to  
196 take substantial action; or

197 b. The company has, with actual knowledge, on or after  
198 August 5, 1996, made an investment of \$20 million or more, or  
199 any combination of investments of at least \$10 million each,  
200 which in the aggregate equals or exceeds \$20 million in any 12-  
201 month period, and which directly or significantly contributes to  
202 the enhancement of Iran's ability to develop the petroleum  
203 resources of Iran.

29-01018-14

2014948\_\_

204        (v)~~(u)~~ "Social-development company" means a company whose  
 205 primary purpose in Sudan is to provide humanitarian goods or  
 206 services, including medicine or medical equipment; agricultural  
 207 supplies or infrastructure; educational opportunities;  
 208 journalism-related activities; information or information  
 209 materials; spiritual-related activities; services of a purely  
 210 clerical or reporting nature; food, clothing, or general  
 211 consumer goods that are unrelated to oil-related activities;  
 212 mineral-extraction activities; or power-production activities.

213        (w)~~(v)~~ "Substantial action specific to Iran" means  
 214 adopting, publicizing, and implementing a formal plan to cease  
 215 scrutinized business operations within 1 year and to refrain  
 216 from ~~any~~ such new business operations.

217        (x)~~(w)~~ "Substantial action specific to Sudan" means  
 218 adopting, publicizing, and implementing a formal plan to cease  
 219 scrutinized business operations within 1 year and to refrain  
 220 from ~~any~~ such new business operations; undertaking humanitarian  
 221 efforts in conjunction with an international organization, the  
 222 government of Sudan, the ~~regional~~ government of South ~~southern~~  
 223 Sudan, or a nonprofit entity evaluated and certified by an  
 224 independent third party to be substantially in a relationship to  
 225 the company's Sudan business operations and of benefit to one or  
 226 more marginalized populations of Sudan; or, through engagement  
 227 with the government of Sudan, materially improving conditions  
 228 for the genocidally victimized population in Darfur.

229        (2) IDENTIFICATION OF COMPANIES.—

230        (a) Within 90 days after June 8, 2007 ~~the effective date of~~  
 231 ~~this act~~, the public fund shall make its best efforts to  
 232 identify all scrutinized companies in which the public fund has



29-01018-14

2014948\_\_

233 direct or indirect holdings or could possibly have such holdings  
234 in the future. Such efforts include:

235 1. Reviewing and relying, as appropriate in the public  
236 fund's judgment, on publicly available information regarding  
237 companies having business operations in Sudan, including  
238 information provided by nonprofit organizations, research firms,  
239 international organizations, and government entities;

240 2. Contacting asset managers contracted by the public fund  
241 which ~~that~~ invest in companies having business operations in  
242 Sudan; or

243 3. Contacting other institutional investors that have  
244 divested from or engaged with companies that have business  
245 operations in Sudan.

246 4. Reviewing the laws of the United States regarding the  
247 levels of business activity that would cause application of  
248 sanctions for companies conducting business or investing in  
249 countries that are designated state sponsors of terror.

250 (b) By the first meeting of the public fund following the  
251 90-day period described in paragraph (a), the public fund shall  
252 assemble all scrutinized companies that fit criteria specified  
253 in subparagraphs (1) (u) 1., 2., and 3. ~~(1) (t) 1., 2., and 3.~~ into  
254 a "Scrutinized Companies with Activities in Sudan List" and  
255 ~~shall assemble~~ all scrutinized companies that fit criteria  
256 specified in subparagraph (1) (u) 4. ~~(1) (t) 4.~~ into a "Scrutinized  
257 Companies with Activities in the Iran Petroleum Energy Sector  
258 List."

259 (c) The public fund shall update and make publicly  
260 available quarterly the Scrutinized Companies with Activities in  
261 Sudan List and the Scrutinized Companies with Activities in the

29-01018-14

2014948\_\_

262 Iran Petroleum Energy Sector List based on evolving information  
263 from, among other sources, those listed in paragraph (a).

264 (d) Notwithstanding the provisions of this section ~~act~~, a  
265 social-development company that is not complicit in the Darfur  
266 genocide is not considered a scrutinized company under  
267 subparagraph (1)(u)1. ~~(1)(t)1.~~, subparagraph (1)(u)2. ~~(1)(t)2.~~,  
268 or subparagraph (1)(u)3 ~~(1)(t)3.~~

269 (3) REQUIRED ACTIONS.—The public fund shall adhere to the  
270 following procedure for assembling companies on the Scrutinized  
271 Companies with Activities in Sudan List and the Scrutinized  
272 Companies with Activities in the Iran Petroleum Energy Sector  
273 List:

274 (e) *Excluded securities.*—

275 1. Notwithstanding the provisions of this act, paragraphs  
276 (b) and (c) do not apply to indirect holdings in actively  
277 managed investment funds. However, the public fund shall submit  
278 letters to the managers of such investment funds containing  
279 companies that have scrutinized active business operations  
280 requesting that they consider removing such companies from the  
281 fund or create a similar actively managed fund having indirect  
282 holdings devoid of such companies. If the manager creates a  
283 similar fund, the public fund shall replace all applicable  
284 investments with investments in the similar fund in an expedited  
285 timeframe consistent with prudent investing standards. For the  
286 purposes of this section, a private equity fund is deemed to be  
287 an actively managed investment fund.

288 2. Notwithstanding the provisions of this section,  
289 paragraphs (b) and (c) do not apply to exchange-traded funds.

290 (5) EXPIRATION.—This act expires upon the occurrence of all

29-01018-14

2014948\_\_

291 of the following:

292 (a) If any of the following occur, the public fund shall no  
293 longer scrutinize companies according to subparagraphs (1)(u)1.,  
294 2., and 3. ~~(1)(t)1., 2., and 3.~~ and shall no longer assemble the  
295 Scrutinized Companies with Activities in Sudan List, shall cease  
296 engagement and divestment of such companies, and may reinvest in  
297 such companies if ~~as long as~~ such companies do not satisfy the  
298 criteria for inclusion in the Scrutinized Companies with  
299 Activities in the Iran Petroleum Energy Sector List:

300 1. The Congress or President of the United States,  
301 affirmatively and unambiguously states, by means including, but  
302 not limited to, legislation, executive order, or written  
303 certification from the President to Congress, that the Darfur  
304 genocide has been halted for at least 12 months;

305 2. The United States revokes all sanctions imposed against  
306 the government of Sudan;

307 3. The Congress or President of the United States  
308 affirmatively and unambiguously states, by means including, but  
309 not limited to, legislation, executive order, or written  
310 certification from the President to Congress, that the  
311 government of Sudan has honored its commitments to cease attacks  
312 on civilians, demobilize and demilitarize the Janjaweed and  
313 associated militias, grant free and unfettered access for  
314 deliveries of humanitarian assistance, and allow for the safe  
315 and voluntary return of refugees and internally displaced  
316 persons; or

317 4. The Congress or President of the United States  
318 affirmatively and unambiguously states, by means including, but  
319 not limited to, legislation, executive order, or written

29-01018-14

2014948\_\_

320 certification from the President to Congress, that mandatory  
321 divestment of the type provided for in this section ~~act~~  
322 interferes with the conduct of United States foreign policy.

323 (b) If any of the following occur, the public fund shall no  
324 longer scrutinize companies according to subparagraph (1)(u)4.  
325 ~~(1)(t)4.~~ and shall no longer assemble the Scrutinized Companies  
326 with Activities in the Iran Petroleum Energy Sector List and  
327 shall cease engagement, investment prohibitions, and divestment.  
328 The public fund may reinvest in such companies if ~~as long as~~  
329 such companies do not satisfy the criteria for inclusion in the  
330 Scrutinized Companies with Activities in Sudan List:

331 1. The Congress or President of the United States  
332 affirmatively and unambiguously states, by means including, but  
333 not limited to, legislation, executive order, or written  
334 certification from the President to Congress, that the  
335 government of Iran has ceased to acquire weapons of mass  
336 destruction and support international terrorism;

337 2. The United States revokes all sanctions imposed against  
338 the government of Iran; or

339 3. The Congress or President of the United States  
340 affirmatively and unambiguously declares, by means including,  
341 but not limited to, legislation, executive order, or written  
342 certification from the President to Congress, that mandatory  
343 divestment of the type provided for in this section ~~act~~  
344 interferes with the conduct of United States foreign policy.

345 Section 3. Section 624.449, Florida Statutes, is created to  
346 read:

347 624.449 Assets of insurers; foreign states sponsoring  
348 terrorism.—

29-01018-14

2014948\_\_

349 (1) The Legislature finds that:

350 (a) The federal Securities and Exchange Commission has  
351 determined that business activities in foreign nations  
352 sponsoring terrorism, such as Iran and Sudan, which are subject  
353 to sanctions by the United States may materially harm the share  
354 value of foreign companies. Shares in these foreign companies  
355 may be held in the portfolio of insurance companies issuing  
356 policies to consumers in this state.

357 (b) Publicly traded companies in the United States are  
358 substantially restricted from doing business in or with foreign  
359 nations that the United States Department of State has  
360 identified as sponsoring terrorism.

361 (c) Identifying companies with business activities in  
362 foreign nations that sponsor terrorism and ensuring that those  
363 investments are financially sound is an important public policy  
364 priority.

365 (d) It is the governments of Iran and Sudan, and not the  
366 people of Iran or Sudan, that support terrorism and commit  
367 egregious violations of human rights under which their own  
368 citizens are required to live.

369 (2) As used in this section, the term:

370 (a) "Business operations" means maintaining, selling, or  
371 leasing equipment, facilities, personnel, or any other apparatus  
372 of business or commerce in Iran or Sudan, including the  
373 ownership or possession of real or personal property located in  
374 Iran or Sudan.

375 (b) "Company" means a sole proprietorship, organization,  
376 association, corporation, partnership, venture, or other entity,  
377 including its subsidiary or affiliate, that exists for

29-01018-14

2014948\_\_

378 profitmaking purposes or to otherwise secure economic advantage.  
379 The term includes a company owned or controlled, directly or  
380 indirectly, by the government of Iran or Sudan which is  
381 established or organized under the laws of or has its principal  
382 place of business in the Islamic Republic of Iran or the  
383 Republic of the Sudan.

384 (c) "Government of Iran" has the same meaning as provided  
385 in s. 215.473. The term includes an individual, company, or  
386 public agency located in Iran that provides material or  
387 financial support to the Islamic Republic of Iran.

388 (d) "Government of South Sudan" has the same meaning as  
389 provided in s. 215.473.

390 (e) "Government of Sudan" has the same meaning as provided  
391 in s. 215.473.

392 (f) "Invest" or "investment" means the purchase, ownership,  
393 or control of stock of a company, association, or corporation;  
394 the capital stock of a mutual water company or corporation;  
395 bonds issued by the government or a political subdivision of  
396 Iran or Sudan; corporate bonds or other debt instruments issued  
397 by a company; or the commitment of funds or other assets to a  
398 company, including a loan or extension of credit to that  
399 company.

400 (g) "Iran" means the Islamic Republic of Iran or a  
401 territory under the administration or control of Iran.

402 (h) "South Sudan" means the Republic of South Sudan, that  
403 has its capital in Juba, South Sudan.

404 (i) "Sudan" means the Republic of the Sudan that has its  
405 capital in Khartoum, Sudan.

406 (3) Investments by a domestic insurer included on the lists

29-01018-14

2014948\_\_

407 of companies compiled by the State Board of Administration  
408 pursuant to s. 215.473 shall be treated as nonadmitted assets.  
409 On or before June 30, 2014, and quarterly thereafter, the  
410 insurer shall determine what investments it has in companies  
411 included on the list.

412 (4) The insurer shall provide to the Office of Insurance  
413 Regulation, on a quarterly basis, a list of investments that the  
414 insurer has in companies included on the list described in  
415 subsection (3), including, but not limited to, the issuer, by  
416 name, of the stock, bond, security, and other evidence of  
417 indebtedness.

418 (5) Within 36 months after a company's appearance on a list  
419 compiled pursuant to subsection (4), the insurer shall sell,  
420 redeem, divest, or withdraw all of its investments in the  
421 company.

422 (6) (a) This section ceases to apply with respect to Iranian  
423 assets upon the occurrence of both of the following:

424 1. Iran is removed from the United States Department of  
425 State's list of countries that have been determined to  
426 repeatedly provide support for acts of international terrorism.

427 2. Pursuant to federal law, the President of the United  
428 States determines and certifies to the United States Congress  
429 that Iran has ceased its efforts to design, develop,  
430 manufacture, or acquire a nuclear explosive device or related  
431 materials and technology.

432 (b) This section ceases to apply with respect to Sudanese  
433 assets if the government of Sudan is removed from the United  
434 States Department of State's list of countries that have been  
435 determined to repeatedly provide support for acts of

29-01018-14

2014948\_\_

436 international terrorism.

437       Section 4. If any provision of this act or the application  
438 thereof to any person or circumstance is held invalid, the  
439 invalidity does not affect other provisions or applications of  
440 the act which can be given effect without the invalid provision  
441 or application, and to this end the provisions of this act are  
442 declared severable.

443       Section 5. This act shall take effect July 1, 2014.