

By: Garcia, et al.

S.B. No. 120

A BILL TO BE ENTITLED

AN ACT

1
2 relating to investment prohibitions and divestment requirements
3 for certain investments of public money in companies involved in
4 the border wall between the United States and Mexico.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 2270.0001, Government Code, as added by
7 Chapter 96 (S.B. 253), Acts of the 85th Legislature, Regular
8 Session, 2017, is amended by adding Subdivision (1-a) and amending
9 Subdivision (9) to read as follows:

10 (1-a) "Border wall" means a wall, fence, or other
11 barrier on the border between the United States and Mexico.

12 (9) "Scrutinized company" means:

13 (A) a company that:

14 (i) engages in scrutinized business
15 operations described by Section 2270.0052; or

16 (ii) has been complicit in the Darfur
17 genocide during any preceding 20-month period;

18 (B) a company that engages in scrutinized
19 business operations described by Section 2270.0102; ~~and~~

20 (C) a company that engages in scrutinized
21 business operations described by Section 2270.0152; and

22 (D) a company that engages in scrutinized
23 business operations described by Section 2270.0172.

24 SECTION 2. Chapter 2270, Government Code, as added by

1 Chapter 96 (S.B. 253), Acts of the 85th Legislature, Regular
2 Session, 2017, is amended by adding Subchapter D-1 to read as
3 follows:

4 SUBCHAPTER D-1. GENERAL PROVISIONS RELATING TO INVESTMENTS

5 INVOLVING BORDER WALL

6 Sec. 2270.0171. DEFINITION. In this subchapter, "business
7 operations" means engaging in commerce in any form, including by:

8 (1) acquiring, developing, maintaining, owning,
9 selling, possessing, leasing, or operating equipment, facilities,
10 personnel, products, services, personal property, real property,
11 or any other apparatus of business or commerce; or

12 (2) planning, constructing, or maintaining a project.

13 Sec. 2270.0172. SCRUTINIZED BUSINESS OPERATIONS RELATING
14 TO BORDER WALL. A company engages in scrutinized business
15 operations relating to the border wall if the company has business
16 operations that involve planning, constructing, or maintaining the
17 border wall, including by providing:

18 (1) supplies, equipment, or other personal property;
19 or

20 (2) personnel.

21 SECTION 3. Sections 2270.0201(a) and (b), Government Code,
22 as added by Chapter 96 (S.B. 253), Acts of the 85th Legislature,
23 Regular Session, 2017, are amended to read as follows:

24 (a) The comptroller shall prepare and maintain a list of all
25 scrutinized companies. The list must be categorized according to:

26 (1) companies that are scrutinized companies under
27 Section 2270.0001(9)(A);

1 (2) companies that are scrutinized companies under
2 Section 2270.0001(9)(B); ~~and~~

3 (3) companies that are scrutinized companies under
4 Section 2270.0001(9)(C); and

5 (4) companies that are scrutinized companies under
6 Section 2270.0001(9)(D).

7 (b) In maintaining the list of scrutinized companies under
8 Subsection (a), the comptroller may review and rely, as appropriate
9 in the comptroller's judgment, on publicly available information
10 regarding companies with business operations in Sudan, in Iran,
11 ~~or~~ with designated foreign terrorist organizations, or relating
12 to the border wall, as applicable, including information provided
13 by the state, nonprofit organizations, research firms,
14 international organizations, and governmental entities.

15 SECTION 4. Section 2270.0203, Government Code, as added by
16 Chapter 96 (S.B. 253), Acts of the 85th Legislature, Regular
17 Session, 2017, is amended to read as follows:

18 Sec. 2270.0203. NOTICE TO LISTED COMPANY ENGAGED IN
19 INACTIVE BUSINESS OPERATIONS. For each listed company identified
20 under Section 2270.0202 that is engaged in only inactive
21 scrutinized business operations, the investing entity shall send a
22 written notice informing the company of this chapter and
23 encouraging the company to continue to refrain from initiating
24 active business operations in Sudan, in Iran, ~~and~~ with designated
25 foreign terrorist organizations, and relating to the border wall
26 until it is able to avoid being considered a listed company. The
27 investing entity shall continue the correspondence as the entity

1 considers necessary, but is not required to initiate correspondence
2 more often than semiannually.

3 SECTION 5. Section 2270.0204(b), Government Code, as added
4 by Chapter 96 (S.B. 253), Acts of the 85th Legislature, Regular
5 Session, 2017, is amended to read as follows:

6 (b) The notice shall offer the company the opportunity to
7 clarify its Sudan-related, Iran-related, [~~or~~] designated foreign
8 terrorist organization-related, or border wall-related activities,
9 as applicable, and shall encourage the company, not later than the
10 90th day after the date the company receives notice under this
11 section, to either cease all scrutinized business operations as
12 described by Sections 2270.0052, 2270.0102, [~~and~~] 2270.0152, and
13 2270.0172, or convert such operations to inactive business
14 operations in order to avoid qualifying for divestment by investing
15 entities.

16 SECTION 6. Not later than January 1, 2018, the comptroller
17 shall:

18 (1) prepare an updated list of scrutinized companies
19 required by Section 2270.0201, Government Code, as amended by this
20 Act, that includes companies that are scrutinized companies
21 described by Section 2270.0001(9)(D), Government Code, as added by
22 this Act;

23 (2) provide the list to each investing entity, as
24 defined by Section 2270.0001(7), Government Code; and

25 (3) post the list on the comptroller's Internet
26 website.

27 SECTION 7. This Act takes effect December 1, 2017.