

By: Davis of Harris

H.B. No. 1143

A BILL TO BE ENTITLED

AN ACT

relating to investment prohibitions and divestment requirements for certain investments of public money.

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

SECTION 1. Section 404.024(b), Government Code, is amended to read as follows:

(b) Subject to Chapter 2270, state ~~[State]~~ funds not deposited in state depositories shall be invested by the comptroller in:

(1) direct security repurchase agreements;

(2) reverse security repurchase agreements;

(3) direct obligations of or obligations the principal and interest of which are guaranteed by the United States;

(4) direct obligations of or obligations guaranteed by agencies or instrumentalities of the United States government;

(5) bankers' acceptances that:

(A) are eligible for purchase by the Federal Reserve System;

(B) do not exceed 270 days to maturity; and

(C) are issued by a bank whose other comparable short-term obligations are rated in the highest short-term rating category, within which there may be subcategories or gradations indicating relative standing, including such subcategories or gradations as "rating category" or "rated," by a nationally

1 recognized statistical rating organization, as defined by 15 U.S.C.
2 Section 78c [~~Rule 2a-7 (17 C.F.R. Section 270.2a-7)~~, promulgated
3 ~~under the Investment Company Act of 1940 by the Securities and~~
4 ~~Exchange Commission~~];

5 (6) commercial paper that:

6 (A) does not exceed 270 days to maturity; and

7 (B) except as provided by Subsection (i), is
8 issued by an entity whose other comparable short-term obligations
9 are rated in the highest short-term rating category by a nationally
10 recognized statistical rating organization;

11 (7) contracts written by the treasury in which the
12 treasury grants the purchaser the right to purchase securities in
13 the treasury's marketable securities portfolio at a specified price
14 over a specified period and for which the treasury is paid a fee and
15 specifically prohibits naked-option or uncovered option trading;

16 (8) direct obligations of or obligations guaranteed by
17 the Inter-American Development Bank, the International Bank for
18 Reconstruction and Development (the World Bank), the African
19 Development Bank, the Asian Development Bank, and the International
20 Finance Corporation that have received the highest long-term rating
21 categories for debt obligations by a nationally recognized
22 statistical rating organization;

23 (9) bonds issued, assumed, or guaranteed by the State
24 of Israel;

25 (10) obligations of a state or an agency, county,
26 city, or other political subdivision of a state;

27 (11) mutual funds secured by obligations that are

1 described by Subdivisions (1) through (6) or by obligations
2 consistent with Rule 2a-7 (17 C.F.R. Section 270.2a-7), promulgated
3 by the Securities and Exchange Commission, including pooled funds:

4 (A) established by the Texas Treasury
5 Safekeeping Trust Company;

6 (B) operated like a mutual fund; and

7 (C) with portfolios consisting only of
8 dollar-denominated securities;

9 (12) foreign currency for the sole purpose of
10 facilitating investment by state agencies that have the authority
11 to invest in foreign securities;

12 (13) asset-backed securities, as defined by the
13 Securities and Exchange Commission in Rule 2a-7 (17 C.F.R. Section
14 270.2a-7), that are rated at least A or its equivalent by a
15 nationally recognized statistical rating organization and that
16 have a weighted-average maturity of five years or less; and

17 (14) corporate debt obligations that are rated at
18 least A or its equivalent by a nationally recognized statistical
19 rating organization and mature in five years or less from the date
20 on which the obligations were "acquired," as defined by the
21 Securities and Exchange Commission in Rule 2a-7 (17 C.F.R. Section
22 270.2a-7).

23 SECTION 2. Section [2256.017](#), Government Code, is amended to
24 read as follows:

25 Sec. 2256.017. EXISTING INVESTMENTS. Except as provided by
26 Chapter 2270, an [~~A~~] entity is not required to liquidate
27 investments that were authorized investments at the time of

1 purchase.

2 SECTION 3. Section 2256.024(a), Government Code, is amended
3 to read as follows:

4 (a) The authority granted by this subchapter is in addition
5 to that granted by other law. Except as provided by Subsection (b)
6 and Section 2256.017, this subchapter does not:

7 (1) prohibit an investment specifically authorized by
8 other law; or

9 (2) authorize an investment specifically prohibited
10 by other law.

11 SECTION 4. Chapter 806, Government Code, is transferred to
12 Subtitle F, Title 10, Government Code, redesignated as Chapter 2270
13 of that subtitle, and amended to read as follows:

14 CHAPTER 2270 [~~806~~]. PROHIBITION ON INVESTING PUBLIC MONEY IN
15 CERTAIN INVESTMENTS [~~INVESTMENT IN SUDAN~~]

16 SUBCHAPTER A. GENERAL PROVISIONS

17 Sec. 2270.0001 [~~806.001~~]. DEFINITIONS. In this chapter:

18 (1) "Active business operations" means all business
19 operations that are not inactive business operations.

20 (2) [~~"Business operations" means engaging in commerce~~
21 ~~in any form in Sudan, including by acquiring, developing,~~
22 ~~maintaining, owning, selling, possessing, leasing, or operating~~
23 ~~equipment, facilities, personnel, products, services, personal~~
24 ~~property, real property, or any other apparatus of business or~~
25 ~~commerce.~~

26 [~~3~~] "Company" means a sole proprietorship,
27 organization, association, corporation, partnership, joint

1 venture, limited partnership, limited liability partnership,
2 limited liability company, or other entity or business association
3 whose securities are publicly traded, including a wholly owned
4 subsidiary, majority-owned subsidiary, parent company, or
5 affiliate of those entities or business associations, that exists
6 to make a profit.

7 (3) "Designated foreign terrorist organization" means
8 a foreign terrorist organization designated by the comptroller on
9 the list prepared as required by Section 2270.0153.

10 (4) [~~"Complicit" means taking actions that have~~
11 ~~directly supported or promoted the genocidal campaign in Darfur,~~
12 ~~including:~~

13 [~~(A) preventing members of Darfur's victimized~~
14 ~~population from communicating with each other,~~

15 [~~(B) encouraging Sudanese citizens to speak out~~
16 ~~against an internationally approved security force for Darfur, or~~

17 [~~(C) actively working to deny, cover up, or alter~~
18 ~~the record on human rights abuses in Darfur.~~

19 [~~(5)~~] "Direct holdings" in a company["] means all
20 securities of that company held directly by an investing [~~a state~~
21 ~~governmental~~] entity in an account or fund in which an investing [~~a~~
22 ~~state governmental~~] entity owns all shares or interests.

23 (5) [~~(6)~~] "Government of Sudan" means the government in
24 Khartoum, Sudan, which is led by the National Congress Party,
25 formerly known as the National Islamic Front, or any successor
26 government formed on or after October 13, 2006, including the
27 coalition National Unity Government agreed upon in the

1 ~~Comprehensive Peace Agreement for Sudan. The term does not include~~
2 ~~the regional government of southern Sudan.~~

3 ~~(7)~~ "Inactive business operations" means the mere
4 continued holding or renewal of rights to property previously
5 operated to generate revenue but not presently deployed to generate
6 revenue.

7 (6) ~~(8)~~ "Indirect holdings" in a company~~["]~~ means
8 all securities of that company held in an account or fund, such as a
9 mutual fund, managed by one or more persons not employed by an
10 investing ~~[a state governmental]~~ entity, in which the investing
11 ~~[state governmental]~~ entity owns shares or interests together with
12 other investors not subject to this chapter. The term does not
13 include money invested under a plan described by Section 401(k) or
14 457 of the Internal Revenue Code of 1986.

15 (7) "Investing entity" means:
16 (A) an entity subject to Chapter 2256;
17 (B) the Employees Retirement System of Texas;
18 (C) the Teacher Retirement System of Texas; and
19 (D) the comptroller with respect to the
20 comptroller's investment of state funds.

21 (8) ~~(9)~~ "Listed company" means a company listed by
22 the comptroller under Section 2270.0201 ~~[806.051]~~.

23 (9) ~~(10)~~ ~~"Marginalized populations of Sudan"~~
24 ~~includes:~~

25 ~~[(A) the portion of the population in the Darfur~~
26 ~~region that has been genocidally victimized,~~

27 ~~[(B) the portion of the population of southern~~

1 ~~Sudan victimized by Sudan's North-South civil war,~~

2 ~~[(C) the Beja, Rashidiya, and other similarly~~
3 ~~underserved groups of eastern Sudan,~~

4 ~~[(D) the Nubian and other similarly underserved~~
5 ~~groups in Sudan's Abyei, Southern Blue Nile, and Nuba Mountain~~
6 ~~regions, and~~

7 ~~[(E) the Amri, Hamadab, Manasir, and other~~
8 ~~similarly underserved groups of northern Sudan.~~

9 ~~[(11) "Military equipment" means weapons, arms,~~
10 ~~military supplies, and equipment that readily may be used for~~
11 ~~military purposes, including radar systems or military-grade~~
12 ~~transport vehicles or supplies or services sold or provided~~
13 ~~directly or indirectly to any force actively participating in armed~~
14 ~~conflict in Sudan.~~

15 ~~[(12) "Mineral extraction activities" includes~~
16 ~~exploring, extracting, processing, transporting, or wholesale~~
17 ~~selling or trading of elemental minerals or associated metal alloys~~
18 ~~or oxides (ore), including gold, copper, chromium, chromite,~~
19 ~~diamonds, iron, iron ore, silver, tungsten, uranium, and zinc, as~~
20 ~~well as facilitating those activities, including by providing~~
21 ~~supplies or services in support of those activities.~~

22 ~~[(13) "Oil-related activities" includes:~~

23 ~~[(A) owning rights to oil blocks,~~

24 ~~[(B) exporting, extracting, producing, refining,~~
25 ~~processing, exploring for, transporting, selling, or trading of~~
26 ~~oil,~~

27 ~~[(C) constructing, maintaining, or operating a~~

1 ~~pipeline, refinery, or other oil-field infrastructure; or~~

2 ~~[(D) facilitating oil-related activities,~~
3 ~~including by providing supplies or services in support of the~~
4 ~~activities, except that the mere retail sale of gasoline and~~
5 ~~related consumer products is not an oil-related activity.~~

6 ~~[(14) "Power production activities" means any~~
7 ~~business operation that involves a project commissioned by the~~
8 ~~National Electricity Corporation of Sudan or another similar~~
9 ~~Government of Sudan entity whose purpose is to facilitate power~~
10 ~~generation and delivery, including establishing power-generating~~
11 ~~plants or hydroelectric dams, selling or installing components for~~
12 ~~the project, and providing service contracts related to the~~
13 ~~installation or maintenance of the project, as well as facilitating~~
14 ~~those activities, including by providing supplies or services in~~
15 ~~support of those activities.~~

16 ~~[(15)] "Scrutinized company" means:~~

17 ~~(A) a company that:~~

18 ~~(i) [(A)] engages in scrutinized business~~
19 ~~operations described by Section 2270.0052 [806.002]; or~~

20 ~~(ii) [(B)] has been complicit in the Darfur~~
21 ~~genocide during any preceding 20-month period;~~

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

24 ~~(C) a company that engages in scrutinized~~
25 ~~business operations described by Section 2270.0152.~~

26 ~~[(16) "Social development company" means a company~~
27 ~~whose primary purpose in Sudan is to provide humanitarian goods or~~

1 ~~services, including medicine or medical equipment, agricultural~~
2 ~~supplies or infrastructure, educational opportunities,~~
3 ~~journalism-related activities, information or information~~
4 ~~materials, spiritual-related activities, services of a purely~~
5 ~~clerical or reporting nature, food, clothing, or general consumer~~
6 ~~goods that are unrelated to oil-related activities, mineral~~
7 ~~extraction activities, or power production activities.~~

8 ~~[(17) "State governmental entity" means the Employees~~
9 ~~Retirement System of Texas or the Teacher Retirement System of~~
10 ~~Texas.~~

11 ~~[(18) "Substantial action" means adopting,~~
12 ~~publicizing, and implementing a formal plan to cease scrutinized~~
13 ~~business operations within one year and to refrain from any such new~~
14 ~~business operations, undertaking significant humanitarian efforts~~
15 ~~on behalf of one or more marginalized populations of Sudan, or,~~
16 ~~through engagement with the Government of Sudan, materially~~
17 ~~improving conditions for the genocidally victimized population in~~
18 ~~Darfur.]~~

19 ~~Sec. 2270.0002 [806.002. SCRUTINIZED BUSINESS OPERATIONS.~~

20 ~~A company engages in scrutinized business operations if:~~

21 ~~[(1) the company has business operations that involve~~
22 ~~contracts with or providing supplies or services to the Government~~
23 ~~of Sudan, a company in which the Government of Sudan has any direct~~
24 ~~or indirect equity share, a Government of Sudan-commissioned~~
25 ~~consortium or project, or a company involved in a Government of~~
26 ~~Sudan-commissioned consortium or project, and:~~

27 ~~[(A) more than 10 percent of the company's~~

1 ~~revenues or assets linked to Sudan involve oil-related activities~~
2 ~~or mineral extraction activities, less than 75 percent of the~~
3 ~~company's revenue or assets linked to Sudan involve contracts with~~
4 ~~or provision of oil-related or mineral extracting products or~~
5 ~~services to the regional government of southern Sudan or a project~~
6 ~~or consortium created exclusively by that regional government, and~~
7 ~~the company has failed to take substantial action; or~~

8 ~~[(B) more than 10 percent of the company's~~
9 ~~revenue or assets linked to Sudan involve power production~~
10 ~~activities, less than 75 percent of the company's power production~~
11 ~~activities include projects whose intent is to provide power or~~
12 ~~electricity to the marginalized populations of Sudan, and the~~
13 ~~company has failed to take substantial action; or~~

14 ~~[(2) the company supplies military equipment in Sudan,~~
15 ~~unless:~~

16 ~~[(A) the company clearly shows that the military~~
17 ~~equipment cannot be used to facilitate offensive military actions~~
18 ~~in Sudan; or~~

19 ~~[(B) the company implements rigorous and~~
20 ~~verifiable safeguards to prevent use of that equipment by forces~~
21 ~~actively participating in armed conflict, including:~~

22 ~~[(i) using post-sale tracking of the~~
23 ~~equipment by the company;~~

24 ~~[(ii) obtaining certification from a~~
25 ~~reputable and objective third party that the equipment is not being~~
26 ~~used by a party participating in armed conflict in Sudan; or~~

27 ~~[(iii) selling the equipment solely to the~~

1 ~~regional government of southern Sudan or any internationally~~
2 ~~recognized peacekeeping force or humanitarian organization.~~

3 ~~[Sec. 806.003. SOCIAL DEVELOPMENT COMPANY.~~
4 ~~Notwithstanding any other law, a social development company that is~~
5 ~~not complicit in the Darfur genocide is not a scrutinized company.~~

6 ~~[Sec. 806.004].~~ EXCEPTION. Notwithstanding any other law,
7 a company that the United States government affirmatively declares
8 to be excluded from its federal sanctions regime relating to Sudan,
9 its federal sanctions regime relating to Iran, or any federal
10 sanctions regime relating to a designated foreign terrorist
11 organization is not subject to divestment or investment prohibition
12 under this chapter.

13 Sec. 2270.0003 [~~806.005~~]. OTHER LEGAL OBLIGATIONS. With
14 respect to actions taken in compliance with this chapter, including
15 all good faith determinations regarding companies as required by
16 this chapter, an investing [~~a state governmental~~] entity is exempt
17 from any conflicting statutory or common law obligations, including
18 any obligations with respect to making investments, divesting from
19 any investment, preparing or maintaining any list of companies, or
20 choosing asset managers, investment funds, or investments for the
21 [~~state governmental~~] entity's securities portfolios.

22 Sec. 2270.0004. INAPPLICABILITY OF CERTAIN REQUIREMENTS
23 INCONSISTENT WITH FIDUCIARY RESPONSIBILITIES AND RELATED DUTIES.
24 An investing entity described by Section 2270.0001(7)(B) or (C) is
25 not subject to a requirement of this chapter if the entity
26 determines that the requirement would be inconsistent with the
27 entity's fiduciary responsibility with respect to the investment of

1 entity assets or other duties imposed by law relating to the
2 investment of entity assets, including the duty of care established
3 under Section 67, Article XVI, Texas Constitution.

4 Sec. 2270.0005. CONFLICT WITH OTHER LAW. To the extent of a
5 conflict between this chapter and a provision of Chapter 404 or 2256
6 regarding an investing entity's investments, this chapter
7 prevails.

8 Sec. 2270.0006 [~~806.006~~]. INDEMNIFICATION OF INVESTING
9 [~~STATE GOVERNMENTAL~~] ENTITIES, EMPLOYEES, AND OTHERS. In a cause
10 of action based on an action, inaction, decision, divestment,
11 investment, company communication, report, or other determination
12 made or taken in connection with this chapter, the state shall,
13 without regard to whether the person performed services for
14 compensation, indemnify and hold harmless for actual damages, court
15 costs, and attorney's fees adjudged against, and defend:

16 (1) an employee, a member of the governing body, or any
17 other officer of an investing [~~a state governmental~~] entity;

18 (2) a contractor of an investing [~~a state~~
19 ~~governmental~~] entity;

20 (3) a former employee, a former member of the
21 governing body, or any other former officer of an investing [~~a state~~
22 ~~governmental~~] entity who was an employee or officer when the act or
23 omission on which the damages are based occurred; [~~and~~]

24 (4) a former contractor of an investing [~~a state~~
25 ~~governmental~~] entity who was a contractor when the act or omission
26 on which the damages are based occurred; and

27 (5) an investing entity.

1 Sec. 2270.0007 [~~806.007~~]. NO PRIVATE CAUSE OF ACTION. (a)
2 A person, including a member, retiree, and beneficiary of a
3 retirement system to which this chapter applies, an association, a
4 research firm, a company, or any other person may not sue or pursue
5 a private cause of action against the state, an investing [~~a state~~
6 ~~governmental~~] entity, an employee, a member of the governing body,
7 or any other officer of an investing [~~a state governmental~~] entity,
8 or a contractor of an investing [~~a state governmental~~] entity, for
9 any claim or cause of action, including breach of fiduciary duty, or
10 for violation of any constitutional, statutory, or regulatory
11 requirement in connection with any action, inaction, decision,
12 divestment, investment, company communication, report, or other
13 determination made or taken in connection with this chapter.

14 (b) A person who files suit against the state, an investing
15 [~~a state governmental~~] entity, an employee, a member of the
16 governing body, or any other officer of an investing [~~a state~~
17 ~~governmental~~] entity, or a contractor of an investing [~~a state~~
18 ~~governmental~~] entity, is liable for paying the costs and attorney's
19 fees of a person sued in violation of this section.

20 Sec. 2270.0008. RELIANCE ON COMPANY RESPONSE. The
21 comptroller in administering this chapter and an investing entity
22 may rely on a company's response to a notice or communication made
23 under this chapter without conducting any further investigation,
24 research, or inquiry.

25 SUBCHAPTER B. GENERAL PROVISIONS RELATING TO INVESTMENTS IN SUDAN

26 Sec. 2270.0051. DEFINITIONS. In this subchapter:

27 (1) "Business operations" means engaging in commerce

1 in any form in Sudan, including by acquiring, developing,
2 maintaining, owning, selling, possessing, leasing, or operating
3 equipment, facilities, personnel, products, services, personal
4 property, real property, or any other apparatus of business or
5 commerce.

6 (2) "Complicit" means taking actions that have
7 directly supported or promoted the genocidal campaign in Darfur,
8 including:

9 (A) preventing members of Darfur's victimized
10 population from communicating with each other;

11 (B) encouraging Sudanese citizens to speak out
12 against an internationally approved security force for Darfur; or

13 (C) actively working to deny, cover up, or alter
14 the record on human rights abuses in Darfur.

15 (3) "Government of Sudan" means the government in
16 Khartoum, Sudan, which is led by the National Congress Party,
17 formerly known as the National Islamic Front, or any successor
18 government formed on or after October 13, 2006, including the
19 coalition National Unity Government agreed upon in the
20 Comprehensive Peace Agreement for Sudan. The term does not include
21 the regional government of southern Sudan.

22 (4) "Marginalized populations of Sudan" includes:

23 (A) the portion of the population in the Darfur
24 region that has been genocidally victimized;

25 (B) the portion of the population of southern
26 Sudan victimized by Sudan's North-South civil war;

27 (C) the Beja, Rashidiya, and other similarly

1 underserved groups of eastern Sudan;

2 (D) the Nubian and other similarly underserved
3 groups in Sudan's Abyei, Southern Blue Nile, and Nuba Mountain
4 regions; and

5 (E) the Amri, Hamadab, Manasir, and other
6 similarly underserved groups of northern Sudan.

7 (5) "Military equipment" means weapons, arms,
8 military supplies, and equipment that readily may be used for
9 military purposes, including radar systems or military-grade
10 transport vehicles or supplies or services sold or provided
11 directly or indirectly to any force actively participating in armed
12 conflict in Sudan.

13 (6) "Mineral extraction activities" includes
14 exploring, extracting, processing, transporting, or wholesale
15 selling or trading of elemental minerals or associated metal alloys
16 or oxides (ore), including gold, copper, chromium, chromite,
17 diamonds, iron, iron ore, silver, tungsten, uranium, and zinc, as
18 well as facilitating those activities, including by providing
19 supplies or services in support of those activities.

20 (7) "Oil-related activities" includes:

21 (A) owning rights to oil blocks;

22 (B) exporting, extracting, producing, refining,
23 processing, exploring for, transporting, selling, or trading of
24 oil;

25 (C) constructing, maintaining, or operating a
26 pipeline, refinery, or other oil-field infrastructure; or

27 (D) facilitating oil-related activities,

1 including by providing supplies or services in support of the
2 activities, except that the mere retail sale of gasoline and
3 related consumer products is not an oil-related activity.

4 (8) "Power production activities" means any business
5 operation that involves a project commissioned by the National
6 Electricity Corporation of Sudan or another similar government of
7 Sudan entity whose purpose is to facilitate power generation and
8 delivery, including establishing power-generating plants or
9 hydroelectric dams, selling or installing components for the
10 project, and providing service contracts related to the
11 installation or maintenance of the project, as well as facilitating
12 those activities, including by providing supplies or services in
13 support of those activities.

14 (9) "Social development company" means a company whose
15 primary purpose in Sudan is to provide humanitarian goods or
16 services, including medicine or medical equipment, agricultural
17 supplies or infrastructure, educational opportunities,
18 journalism-related activities, information or information
19 materials, spiritual-related activities, services of a purely
20 clerical or reporting nature, food, clothing, or general consumer
21 goods that are unrelated to oil-related activities, mineral
22 extraction activities, or power production activities.

23 (10) "Substantial action" means adopting,
24 publicizing, and implementing a formal plan to cease scrutinized
25 business operations within one year and to refrain from any such new
26 business operations, undertaking significant humanitarian efforts
27 on behalf of one or more marginalized populations of Sudan, or,

1 through engagement with the government of Sudan, materially
2 improving conditions for the genocidally victimized population in
3 Darfur.

4 Sec. 2270.0052. SCRUTINIZED BUSINESS OPERATIONS IN SUDAN.

5 A company engages in scrutinized business operations in Sudan if:

6 (1) the company has business operations that involve
7 contracts with or providing supplies or services to the government
8 of Sudan, a company in which the government of Sudan has any direct
9 or indirect equity share, a government of Sudan-commissioned
10 consortium or project, or a company involved in a government of
11 Sudan-commissioned consortium or project, and:

12 (A) more than 10 percent of the company's
13 revenues or assets linked to Sudan involve oil-related activities
14 or mineral extraction activities, less than 75 percent of the
15 company's revenue or assets linked to Sudan involve contracts with
16 or provision of oil-related or mineral extracting products or
17 services to the regional government of southern Sudan or a project
18 or consortium created exclusively by that regional government, and
19 the company has failed to take substantial action; or

20 (B) more than 10 percent of the company's revenue
21 or assets linked to Sudan involve power production activities, less
22 than 75 percent of the company's power production activities
23 include projects whose intent is to provide power or electricity to
24 the marginalized populations of Sudan, and the company has failed
25 to take substantial action; or

26 (2) the company supplies military equipment in Sudan,
27 unless:

1 (A) the company clearly shows that the military
2 equipment cannot be used to facilitate offensive military actions
3 in Sudan; or

4 (B) the company implements rigorous and
5 verifiable safeguards to prevent use of that equipment by forces
6 actively participating in armed conflict, including:

7 (i) using post-sale tracking of the
8 equipment by the company;

9 (ii) obtaining certification from a
10 reputable and objective third party that the equipment is not being
11 used by a party participating in armed conflict in Sudan; or

12 (iii) selling the equipment solely to the
13 regional government of southern Sudan or any internationally
14 recognized peacekeeping force or humanitarian organization.

15 Sec. 2270.0053. SOCIAL DEVELOPMENT COMPANY.

16 Notwithstanding any other law, a social development company that is
17 not complicit in the Darfur genocide is not a scrutinized company
18 under Section 2270.0001(9)(A).

19 SUBCHAPTER C. GENERAL PROVISIONS RELATING TO INVESTMENTS IN IRAN

20 Sec. 2270.0101. DEFINITIONS. In this subchapter:

21 (1) "Business operations" means engaging in commerce
22 in any form in Iran, including by acquiring, developing,
23 maintaining, owning, selling, possessing, leasing, or operating
24 equipment, facilities, personnel, products, services, personal
25 property, real property, or any other apparatus of business or
26 commerce.

27 (2) "Military equipment" means weapons, arms,

1 military supplies, and equipment that readily may be used for
2 military purposes, including radar systems and military-grade
3 transport vehicles.

4 Sec. 2270.0102. SCRUTINIZED BUSINESS OPERATIONS IN IRAN. A
5 company engages in scrutinized business operations in Iran if:

6 (1) the company has business operations that involve
7 contracts with or providing supplies or services to the government
8 of Iran, a company in which the government of Iran has any direct or
9 indirect equity share, a consortium or project commissioned by the
10 government of Iran, or a company involved in a consortium or project
11 commissioned by the government of Iran; or

12 (2) the company supplies military equipment to Iran.

13 SUBCHAPTER D. GENERAL PROVISIONS RELATING TO INVESTMENTS

14 IN CERTAIN FOREIGN TERRORIST ORGANIZATIONS

15 Sec. 2270.0151. DEFINITIONS. In this subchapter:

16 (1) "Business operations" means engaging in commerce
17 in any form, including by acquiring, developing, maintaining,
18 owning, selling, possessing, leasing, or operating equipment,
19 facilities, personnel, products, services, personal property, real
20 property, or any other apparatus of business or commerce.

21 (2) "Terroristic equipment" means weapons, arms,
22 military supplies, and equipment that readily may be used for
23 terroristic purposes or activities.

24 Sec. 2270.0152. SCRUTINIZED BUSINESS OPERATIONS WITH
25 DESIGNATED FOREIGN TERRORIST ORGANIZATION. A company engages in
26 scrutinized business operations with a designated foreign
27 terrorist organization if:

1 (1) the company has business operations that involve:

2 (A) a contract with or providing supplies or
3 services to a designated foreign terrorist organization;

4 (B) a company in which a designated foreign
5 terrorist organization has any direct or indirect equity share;

6 (C) a consortium or project commissioned by a
7 designated foreign terrorist organization; or

8 (D) a company involved in a consortium or project
9 commissioned by a designated foreign terrorist organization; or

10 (2) the company supplies terroristic equipment to a
11 designated foreign terrorist organization.

12 Sec. 2270.0153. DESIGNATION OF FOREIGN TERRORIST
13 ORGANIZATIONS. (a) The comptroller shall prepare and maintain a
14 list of foreign organizations designated by the comptroller as
15 foreign terrorist organizations.

16 (b) In preparing and maintaining the list under Subsection
17 (a), the comptroller:

18 (1) shall consider including a foreign organization
19 designated as a foreign terrorist organization by the United States
20 secretary of state as authorized by 8 U.S.C. Section 1189; and

21 (2) may review and rely, as appropriate in the
22 comptroller's judgment, on other available information regarding
23 foreign organizations, including information provided by a federal
24 or state governmental entity, a nonprofit organization, a research
25 firm, or an international organization.

26 (c) The comptroller shall update the list annually or more
27 often as the comptroller considers necessary, but not more often

1 than quarterly, based on information from sources listed in
2 Subsection (b) and any other sources.

3 (d) Not later than the 30th day after the date the list of
4 designated foreign terrorist organizations is first prepared or is
5 updated, the comptroller shall:

6 (1) file the list with the presiding officer of each
7 house of the legislature and the attorney general; and

8 (2) post the list on the comptroller's Internet
9 website.

10 SUBCHAPTER E [~~B~~]. DUTIES REGARDING INVESTMENTS

11 Sec. 2270.0201 [~~806.051~~]. LISTED COMPANIES. (a) The
12 comptroller shall prepare and maintain[~~, and provide to each state~~
13 ~~governmental entity,~~] a list of all scrutinized companies. The
14 list must be categorized according to:

15 (1) companies that are scrutinized companies under
16 Section 2270.0001(9)(A);

17 (2) companies that are scrutinized companies under
18 Section 2270.0001(9)(B); and

19 (3) companies that are scrutinized companies under
20 Section 2270.0001(9)(C).

21 (b) In maintaining the list of scrutinized companies under
22 Subsection (a), the comptroller may review and rely, as appropriate
23 in the comptroller's judgment, on publicly available information
24 regarding companies with business operations in Sudan, in Iran, or
25 with designated foreign terrorist organizations, as applicable,
26 including information provided by the state, nonprofit
27 organizations, research firms, international organizations, and

1 governmental entities.

2 (c) [~~(b)~~] The comptroller shall update the list of
3 scrutinized companies under Subsection (a) annually or more often
4 as the comptroller considers necessary, but not more often than
5 quarterly, based on information from, among other sources, those
6 listed in Subsection (b) [~~(a)~~].

7 (d) The comptroller shall:

8 (1) provide each list prepared or updated under this
9 section to each investing entity; and

10 (2) post each list on the comptroller's Internet
11 website.

12 (e) [~~(c)~~] Not later than the 30th day after the date a [~~the~~]
13 list of scrutinized companies is [~~first~~] provided [~~or updated~~], the
14 comptroller shall file the list of scrutinized companies with the
15 presiding officer of each house of the legislature and the attorney
16 general.

17 (f) For purposes of the prohibitions and duties under this
18 chapter, the date the comptroller posts on the comptroller's
19 Internet website a list of scrutinized companies under this section
20 is considered the date the comptroller receives notice of the list.

21 Sec. 2270.0202 [~~806.052~~]. IDENTIFICATION OF INVESTMENT IN
22 LISTED COMPANIES. Not later than the 30th day after the date an
23 investing [~~a state governmental~~] entity receives a [~~the~~] list
24 provided under Section 2270.0201 [~~806.051~~], the [~~state~~
25 ~~governmental~~] entity shall notify the comptroller of the listed
26 companies in which the [~~state governmental~~] entity owns direct or
27 indirect holdings.

1 Sec. 2270.0203 [~~806.053~~]. NOTICE TO LISTED COMPANY ENGAGED
2 IN INACTIVE BUSINESS OPERATIONS. For each listed company
3 identified under Section 2270.0202 [~~806.052~~] that is engaged in
4 only inactive scrutinized business operations, the investing
5 [~~state-governmental~~] entity shall send a written notice informing
6 the company of this chapter and encouraging the company to continue
7 to refrain from initiating active business operations in Sudan, in
8 Iran, and with designated foreign terrorist organizations until it
9 is able to avoid being considered a listed company. The investing
10 [~~state-governmental~~] entity shall continue the correspondence as
11 the entity considers necessary, but is not required to initiate
12 correspondence more often than semiannually.

13 Sec. 2270.0204 [~~806.054~~]. ACTIONS RELATING TO LISTED
14 COMPANY ENGAGED IN ACTIVE BUSINESS OPERATIONS. (a) For each listed
15 company identified under Section 2270.0202 [~~806.052~~] that is
16 engaged in scrutinized active business operations, the investing
17 [~~state-governmental~~] entity shall send a written notice informing
18 the company of its listed company status and warning the company
19 that it may become subject to divestment by investing [~~state~~
20 ~~governmental~~] entities.

21 (b) The notice shall offer the company the opportunity to
22 clarify its Sudan-related, Iran-related, or designated foreign
23 terrorist organization-related activities, as applicable, and
24 shall encourage the company, not later than the 90th day after the
25 date the company receives notice under this section, to either
26 cease all [~~its~~] scrutinized business operations as described by
27 Sections 2270.0052, 2270.0102, and 2270.0152, or convert such

1 operations to inactive business operations in order to avoid
2 qualifying for divestment by investing [~~state-governmental~~]
3 entities.

4 (c) If, during the time provided by Subsection (b), the
5 company ceases scrutinized business operations described by that
6 subsection, the comptroller shall remove the company from the list
7 of scrutinized companies and this chapter will no longer apply to
8 the company unless it resumes scrutinized business operations.

9 (d) If, during the time provided by Subsection (b), the
10 company converts its scrutinized active business operations to
11 inactive business operations, the company is subject to all
12 provisions of this chapter relating to inactive business
13 operations.

14 (e) If, after the time provided by Subsection (b) expires,
15 the listed company continues to have scrutinized active business
16 operations, the investing [~~state-governmental~~] entity shall sell,
17 redeem, divest, or withdraw all publicly traded securities of the
18 company, except securities described by Section 2270.0207
19 [~~806.057~~], according to the schedule provided by Section 2270.0206
20 [~~806.056~~].

21 Sec. 2270.0205 [~~806.055~~]. ACTIONS RELATING TO LISTED
22 COMPANY COMPLICIT IN GENOCIDE. (a) In this section, "complicit"
23 has the meaning assigned by Section 2270.0051.

24 (b) For each company identified under Section 2270.0202
25 [~~806.052~~] that has been complicit, the investing [~~state~~
26 ~~governmental~~] entity shall send a written notice informing the
27 company of its listed company status and warning the company that it

1 may become subject to divestment by the investing [~~state~~
2 ~~governmental~~] entity.

3 (c) [~~(b)~~] The notice must require the listed company to
4 refrain from taking any further action that would make it
5 complicit.

6 (d) [~~(c)~~] If, after receiving the notice under Subsection
7 (b) [~~(a)~~], the listed company takes additional action that makes
8 the company complicit, the investing [~~state-governmental~~] entity
9 shall sell, redeem, divest, or withdraw all publicly traded
10 securities of the company, except securities described by Section
11 2270.0207 [~~806.057~~], according to the schedule provided by Section
12 2270.0206 [~~806.056~~].

13 Sec. 2270.0206 [~~806.056~~]. DIVESTMENT OF ASSETS. (a) An
14 investing [~~A state-governmental~~] entity required to sell, redeem,
15 divest, or withdraw all publicly traded securities of a listed
16 company shall comply with the following schedule:

17 (1) at least 50 percent of those assets shall be
18 removed from the investing [~~state-governmental~~] entity's assets
19 under management not later than the 270th day after the date the
20 company receives notice under Section 2270.0204 [~~806.054~~] or
21 2270.0205 [~~806.055~~] or Subsection (b); and

22 (2) 100 percent of those assets shall be removed from
23 the investing [~~state-governmental~~] entity's assets under
24 management not later than the 450th day after the date the company
25 receives notice under Section 2270.0204 [~~806.054~~] or 2270.0205
26 [~~806.055~~] or Subsection (b).

27 (b) If a company that ceased scrutinized active business

1 operations after receiving notice under Section 2270.0204
2 [806.054] resumes scrutinized active business operations, the
3 investing [~~state governmental~~] entity shall send a written notice
4 to the company informing it that the [~~state governmental~~] entity
5 will sell, redeem, divest, or withdraw all publicly traded
6 securities of the scrutinized company according to the schedule in
7 Subsection (a).

8 (c) An investing [~~A state governmental~~] entity may delay the
9 schedule for divestment under Subsection (a) only to the extent
10 that the [~~state governmental~~] entity determines, in the [~~state~~
11 ~~governmental~~] entity's good faith judgment, that divestment from
12 listed companies will likely result in a loss in value described by
13 Section 2270.0208(a) [806.058(a)]. If the [~~a state governmental~~]
14 entity delays the schedule for divestment, the [~~state governmental~~]
15 entity shall submit a report to the presiding officer of each house
16 of the legislature and the attorney general stating the reasons and
17 justification for the [~~state governmental~~] entity's delay in
18 divestment from listed companies. The report must include
19 documentation supporting its determination that the divestment
20 would result in a loss in value described by Section 2270.0208(a)
21 [806.058(a)], including objective numerical estimates. The
22 investing [~~state governmental~~] entity shall update the report every
23 six months.

24 Sec. 2270.0207 [806.057]. INVESTMENTS EXEMPTED FROM
25 DIVESTMENT. An investing [~~A state governmental~~] entity is not
26 required to divest from any indirect holdings in actively managed
27 investment funds or private equity funds. The investing [~~state~~

1 ~~governmental~~] entity shall submit letters to the managers of
2 investment funds containing listed companies requesting that they
3 consider removing those companies from the fund or create a similar
4 actively managed fund with indirect holdings devoid of listed
5 companies. If the manager creates a similar fund with
6 substantially the same management fees and same level of investment
7 risk, the investing [~~state-governmental~~] entity shall replace all
8 applicable investments with investments in the similar fund in an
9 expedited time frame consistent with prudent fiduciary standards.

10 Sec. 2270.0208 [~~806.058~~]. AUTHORIZED INVESTMENT IN LISTED
11 COMPANIES. (a) An investing [~~A state-governmental~~] entity may
12 cease divesting from or may reinvest in one or more listed companies
13 if clear and convincing evidence shows that the value for all assets
14 under management by the [~~state-governmental~~] entity becomes equal
15 to or less than 99.7 percent of the hypothetical value of all assets
16 under management by the [~~state-governmental~~] entity had the [~~state~~
17 ~~governmental~~] entity not divested from listed companies under this
18 chapter.

19 (b) An investing [~~A state-governmental~~] entity may invest in
20 a listed company as provided by this section only to the extent
21 necessary to ensure that the value of the assets managed by the
22 [~~state-governmental~~] entity does not fall below the value described
23 by Subsection (a).

24 (c) Before an investing [~~a state-governmental~~] entity may
25 invest in a listed company under this section, the [~~state~~
26 ~~governmental~~] entity must provide a written report to the presiding
27 officer of each house of the legislature and the attorney general

1 setting forth the reason and justification, supported by clear and
2 convincing evidence, for its decisions to cease divestment, to
3 reinvest, or to remain invested in a listed company.

4 (d) The investing [~~state governmental~~] entity shall update
5 the report required by Subsection (c) semiannually, as applicable.

6 (e) This section does not apply to reinvestment in a company
7 that has ceased to be a listed company.

8 Sec. 2270.0209 [~~806.059~~]. PROHIBITED INVESTMENTS. Except
9 as provided by Sections 2270.0002 [~~806.004~~] and 2270.0208
10 [~~806.058~~], an investing [~~a state governmental~~] entity may not
11 acquire securities of a listed company.

12 SUBCHAPTER F [~~G~~]. EXPIRATION; REPORT; ENFORCEMENT

13 Sec. 2270.0251 [~~806.101~~]. EXPIRATION OF CHAPTER. This
14 chapter expires September 1, 2037 [~~on the earliest of:~~

15 [~~(1) the date on which the United States Congress or~~
16 ~~the president of the United States declares that the Darfur~~
17 ~~genocide has been halted for at least 12 months;~~

18 [~~(2) the date on which the United States revokes its~~
19 ~~sanctions against the Government of Sudan; or~~

20 [~~(3) the date on which the United States Congress or~~
21 ~~the president of the United States, through legislation or~~
22 ~~executive order, declares that mandatory divestment of the type~~
23 ~~provided for in this chapter interferes with the conduct of United~~
24 ~~States foreign policy].~~

25 Sec. 2270.0252 [~~806.102~~]. REPORT. Not later than December
26 31 of each year, each investing [~~state governmental~~] entity shall:

27 (1) file a publicly available report with the

1 presiding officer of each house of the legislature and[~~7~~] the
2 attorney general[~~, and the United States presidential special envoy~~
3 ~~to Sudan~~] that:

4 (A) [~~(1)~~] identifies all investments sold,
5 redeemed, divested, or withdrawn in compliance with Section
6 2270.0206 [~~806.056~~];

7 (B) [~~(2)~~] identifies all prohibited investments
8 under Section 2270.0209 [~~806.059~~]; and

9 (C) [~~(3)~~] summarizes any changes made under
10 Section 2270.0207; and

11 (2) file a report with the United States presidential
12 special envoy to Sudan that identifies investments in Sudan
13 identified in the report as required by Subdivisions (1)(A) and (B)
14 and summarizes any changes made under Section 2270.0207 related to
15 those investments [~~806.057~~].

16 Sec. 2270.0253 [~~806.103~~]. ENFORCEMENT. The attorney
17 general may bring any action necessary to enforce this chapter.

18 SECTION 5. Chapter 807, Government Code, is repealed.

19 SECTION 6. (a) On the effective date of this Act, all
20 powers, duties, and functions of the State Pension Review Board
21 under Chapter 807, Government Code, as repealed by this Act, are
22 transferred to the comptroller of public accounts.

23 (b) All of the following that relate to a power, duty, or
24 function transferred under Subsection (a) of this section are
25 transferred to the comptroller of public accounts on the effective
26 date of this Act:

27 (1) all obligations and contracts;

1 (2) all property and records in the custody of the
2 State Pension Review Board;

3 (3) all funds appropriated by the legislature and
4 other money;

5 (4) all complaints, investigations, or contested
6 cases that are pending before the State Pension Review Board,
7 without change in status; and

8 (5) all necessary personnel.

9 (c) A rule, policy, or form adopted by or on behalf of the
10 State Pension Review Board that relates to a power, duty, or
11 function transferred under Subsection (a) of this section becomes a
12 rule, policy, or form of the comptroller of public accounts on the
13 transfer of the related power, duty, or function and remains in
14 effect:

15 (1) until altered by the comptroller of public
16 accounts; or

17 (2) unless it conflicts with a rule, policy, or form of
18 the comptroller of public accounts.

19 (d) An action brought or proceeding commenced before the
20 date of a transfer under this section, including a contested case or
21 a remand of an action or proceeding by a reviewing court, is
22 governed by the laws and rules applicable to the action or
23 proceeding before the transfer.

24 SECTION 7. Not later than September 1, 2017, the
25 comptroller of public accounts shall prepare the initial list of
26 designated foreign terrorist organizations as required by Section
27 2270.0153, Government Code, as added by this Act.

1 SECTION 8. Not later than October 1, 2017, the comptroller
2 of public accounts shall:

3 (1) prepare an updated list of scrutinized companies
4 required by Section 2270.0201, Government Code, as added by this
5 Act;

6 (2) provide the list to each investing entity, as
7 defined by Section 2270.0001, Government Code, as added by this
8 Act; and

9 (3) post the list on the comptroller's Internet
10 website.

11 SECTION 9. This Act takes effect immediately if it receives
12 a vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect, this
15 Act takes effect on the 91st day after the last day of the
16 legislative session.