By: Taylor of Collin

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## A BILL TO BE ENTITLED

AN ACT

2	relating	to	investment	prohibitions	and	divestment	requirements
3	for certa	in	investments	of public mone	у.		

- 4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
- 5 SECTION 1. Section 404.024(b), Government Code, is amended 6 to read as follows:
- 7 (b) <u>Subject to Chapter 2270, state</u> [State] funds not 8 deposited in state depositories shall be invested by the 9 comptroller in:
- 10 (1) direct security repurchase agreements;
- 11 (2) reverse security repurchase agreements;
- 12 (3) direct obligations of or obligations the principal
- 13 and interest of which are guaranteed by the United States;
- 14 (4) direct obligations of or obligations guaranteed by
- 15 agencies or instrumentalities of the United States government;
- 16 (5) bankers' acceptances that:
- 17 (A) are eligible for purchase by the Federal
- 18 Reserve System;
- 19 (B) do not exceed 270 days to maturity; and
- (C) are issued by a bank whose other comparable
- 21 short-term obligations are rated in the highest short-term rating
- 22 category, within which there may be subcategories or gradations
- 23 indicating relative standing, including such subcategories or
- 24 gradations as "rating category" or "rated," by a nationally

- 1 recognized statistical rating organization, as defined by <u>15 U.S.C.</u>
- 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

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- 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).
- SECTION 2. Section 2256.017, Government Code, is amended to
- 24 read as follows:
- Sec. 2256.017. EXISTING INVESTMENTS. Except as provided by
- 26 Chapter 2270, an [An] 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 [<del>(3)</del>] "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 <u>a foreign terrorist organization designated by the comptroller on</u>
- 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  $\left[\frac{(5)}{}\right]$  "Direct holdings" in a company  $\left[\frac{1}{}\right]$  means all
- 20 securities of that company held directly by an investing [a state
- 21  $\frac{\text{governmental}}{\text{governmental}}$  entity in an account or fund in which  $\frac{\text{an investing}}{\text{an investing}}$
- 22 state governmental] entity owns all shares or interests.
- 23 (5) [<del>(6)</del> "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

Τ	Comprehensive Peace Agreement for Sudan. The term does not include			
2	the regional government of southern Sudan.			
3	$\left[\frac{(7)}{7}\right]$ "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) [ <del>(8)</del> ] "Indirect holdings <u>"</u> in a company[ <del>"</del> ] 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 $\underline{2270.0201}$ [ $\underline{806.051}$ ].			
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			

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Sudan victimized by Sudan's North-South civil war;
                    [(C) the Beja, Rashidiya, and other similarly
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   underserved groups of eastern Sudan;
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                    [(D) the Nubian and other similarly underserved
   groups in Sudan's Abyei, Southern Blue Nile, and Nuba Mountain
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   regions; and
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                    [(E) the Amri, Hamadab, Manasir, and other
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   similarly underserved groups of northern Sudan.
               [(11) "Military equipment" means weapons, arms,
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   military supplies, and equipment that readily may be used for
   military purposes, including radar systems or military-grade
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   transport vehicles or supplies or services sold or provided
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   directly or indirectly to any force actively participating in armed
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   conflict in Sudan.
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               [(12) "Mineral extraction activities" includes
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   exploring, extracting, processing, transporting, or wholesale
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   selling or trading of elemental minerals or associated metal alloys
   or oxides (ore), including gold, copper, chromium, chromite,
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   diamonds, iron, iron ore, silver, tungsten, uranium, and zinc, as
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   well as facilitating those activities, including by providing
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   supplies or services in support of those activities.
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               [(13) "Oil-related activities" includes:
                    [(A) owning rights to oil blocks;
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                    [(B) exporting, extracting, producing, refining,
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   processing, exploring for, transporting, selling, or trading of
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   oil;
                    (C) constructing, maintaining, or operating
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pipeline, refinery, or other oil-field infrastructure; or
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                     [(D) facilitating oil-related activities,
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   including by providing supplies or services in support of the
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   activities, except that the mere retail sale of gasoline and
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   related consumer products is not an oil-related activity.
                [(14) "Power production activities" means any
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   business operation that involves a project commissioned by the
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   National Electricity Corporation of Sudan or another similar
   Government of Sudan entity whose purpose is to facilitate power
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   generation and delivery, including establishing power-generating
   plants or hydroelectric dams, selling or installing components for
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   the project, and providing service contracts related to the
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   installation or maintenance of the project, as well as facilitating
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   those activities, including by providing supplies or services in
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   support of those activities.
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               [<del>(15)</del>] "Scrutinized company" means:
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                     (A) a company that:
                          (i) [<del>(A)</del>] engages in scrutinized business
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    operations described by Section 2270.0052 [806.002]; or
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                          \underline{\text{(ii)}} [\frac{\text{(B)}}{\text{B}}] has been complicit in the Darfur
    genocide during any preceding 20-month period;
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22
                     (B) a company that engages in scrutinized
   business operations described by Section 2270.0102; and
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24
                     (C) a company that engages in scrutinized
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   business operations described by Section 2270.0152.
                [(16) "Social development company" means a company
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    whose primary purpose in Sudan is to provide humanitarian goods
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services, including medicine or medical equipment, agricultural or infrastructure, educational opportunities, 2 <del>supplies</del> journalism-related activities, information or information materials, spiritual-related activities, services of a purely 4 5 clerical or reporting nature, food, clothing, or general consumer goods that are unrelated to oil-related activities, mineral 6 extraction activities, or power production activities. 7 8 [(17) "State governmental entity" means the Employees Retirement System of Texas or the Teacher Retirement System of 10 Texas. [(18) "Substantial action" means adopting, 11 12 publicizing, and implementing a formal plan to cease scrutinized business operations within one year and to refrain from any such new 13 14 business operations, undertaking significant humanitarian efforts 15 on behalf of one or more marginalized populations of Sudan, or, through engagement with the Government of Sudan, materially 16 17 improving conditions for the genecidally victimized population in Darfur.] 18 Sec. 2270.0002 [806.002. SCRUTINIZED BUSINESS OPERATIONS. 19 A company engages in scrutinized business operations if: 20 21 [(1) the company has business operations that involve contracts with or providing supplies or services to the Government 2.2 23 of Sudan, a company in which the Government of Sudan has any direct 24 or indirect equity share, a Government of Sudan-commissioned consortium or project, or a company involved in a Government of 25 26 Sudan-commissioned consortium or project, and: 27 [(A) more than 10 percent of the company's

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revenues or assets linked to Sudan involve oil-related activities 1 or mineral extraction activities, less than 75 percent of the 2 company's revenue or assets linked to Sudan involve contracts with or provision of oil-related or mineral extracting products or 4 5 services to the regional government of southern Sudan or a project or consortium created exclusively by that regional government, and 6 the company has failed to take substantial action; or 7 8 [(B) more than 10 percent of the company's 9 revenue or assets linked to Sudan involve power production activities, less than 75 percent of the company's power production 10 activities include projects whose intent is to provide power or 11 electricity to the marginalized populations of Sudan, and the 12 company has failed to take substantial action; or 13 14 [(2) the company supplies military equipment in Sudan, 15 unless: 16 [(A) the company clearly shows that the military equipment cannot be used to facilitate offensive military actions 17 in Sudan; or 18 [(B) the company implements rigorous and 19 verifiable safeguards to prevent use of that equipment by forces 20 actively participating in armed conflict, including: 21 22 [(i) using post-sale tracking of the 23 equipment by the company; 24 [(ii) obtaining certification from 25 reputable and objective third party that the equipment is not being 26 used by a party participating in armed conflict in Sudan; or [(iii) selling the equipment solely to the 27

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.

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

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

Sec. 2270.0004. INAPPLICABILITY OF CERTAIN REQUIREMENTS

INCONSISTENT WITH FIDUCIARY RESPONSIBILITIES AND RELATED DUTIES.

An investing entity described by Section 2270.0001(7)(B) or (C) is

not subject to a requirement of this chapter if the entity

determines that the requirement would be inconsistent with the

entity's fiduciary responsibility with respect to the investment of

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- 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.

- Sec. 2270.0007 [806.007]. NO PRIVATE CAUSE OF ACTION. (a) 1 A person, including a member, retiree, and beneficiary of a 2 3 retirement system to which this chapter applies, an association, a research firm, a company, or any other person may not sue or pursue 4 a private cause of action against the state, an investing [a state 5 governmental] entity, an employee, a member of the governing body, 6 or any other officer of an investing [a state governmental] entity, 7 8 or a contractor of an investing [a state governmental] entity, for any claim or cause of action, including breach of fiduciary duty, or 9 10 for violation of any constitutional, statutory, or regulatory requirement in connection with any action, inaction, decision, 11 12 divestment, investment, company communication, report, or other determination made or taken in connection with this chapter. 13
- 14 (b) A person who files suit against the state, an investing 15 [a state governmental] entity, an employee, a member of the governing body, or any other officer of an investing [a state 16 17 governmental] entity, or a contractor of an investing [a state governmental] entity, is liable for paying the costs and attorney's 18 fees of a person sued in violation of this section. 19
- Sec. 2270.0008. RELIANCE ON COMPANY RESPONSE. 20 The comptroller in administering this chapter and an investing entity 21 22 may rely on a company's response to a notice or communication made under this chapter without conducting any further investigation, 23 24 research, or inquiry.
- SUBCHAPTER B. GENERAL PROVISIONS RELATING TO INVESTMENTS IN SUDAN 25
- 26 Sec. 2270.0051. DEFINITIONS. In this subchapter:
- (1) "Business operations" means engaging in commerce 27

- 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
- (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:
- (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;
- (C) the Beja, Rashidiya, and other similarly

1 underserved groups of eastern Sudan; 2 (D) the Nubian and other similarly underserved groups in Sudan's Abyei, Southern Blue Nile, and Nuba Mountain 3 4 regions; and 5 (E) the Amri, Hamadab, Manasir, and other 6 similarly underserved groups of northern Sudan. (5) "Military equipment" means weapons, arms, 7 military supplies, and equipment that readily may be used for 8 military purposes, including radar systems or military-grade 9 transport vehicles or supplies or services sold or provided 10 directly or indirectly to any force actively participating in armed 11 12 conflict in Sudan. (6) "Mineral <u>extraction</u> activities" 13 includes exploring, extracting, processing, transporting, or wholesale 14 selling or trading of elemental minerals or associated metal alloys 15 or oxides (ore), including gold, copper, chromium, chromite, 16 17 diamonds, iron, iron ore, silver, tungsten, uranium, and zinc, as well as facilitating those activities, including by providing 18 19 supplies or services in support of those activities. (7) "Oil-related activities" includes: 20 21 (A) owning rights to oil blocks; 22 (B) exporting, extracting, producing, refining, processing, exploring for, transporting, selling, or trading of 23 oil; 24 25 (C) constructing, maintaining, or operating a 26 pipeline, refinery, or other oil-field infrastructure; or (D) facilitating oil-related activities, 27

- 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 <u>services</u>, 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 <u>extraction activities</u>, 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
- 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.
- 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	

- 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 <u>updated</u>, 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.
- SUBCHAPTER  $\underline{\mathbf{E}}$  [ $\mathbf{B}$ ]. 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:
- (1) companies that are scrutinized companies under
- 16 <u>Section 2270.0001(9)(A);</u>
- 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 <u>(b)</u> In maintaining the list of scrutinized companies <u>under</u>
- 22 <u>Subsection (a)</u>, 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) [<del>(b)</del>] The comptroller shall update the list of
- 3 scrutinized companies <u>under Subsection (a)</u> 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 <u>(d) The comptroller shall:</u>
- 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.
- (e)  $[\frac{(c)}{(c)}]$  Not later than the 30th day after the date a  $[\frac{the}{c}]$
- 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.
- Sec.  $\underline{2270.0202}$  [806.052]. IDENTIFICATION OF INVESTMENT IN
- 22 LISTED COMPANIES. Not later than the 30th day after the date  $\underline{an}$
- 23 <u>investing</u> [a state governmental] entity receives a [the] list
- 24 provided under Section <u>2270.0201</u> [<del>806.051</del>], 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.

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

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

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(b) The notice shall offer the company the opportunity to clarify its Sudan-related, Iran-related, or designated foreign terrorist organization-related activities, as applicable, and 23 shall encourage the company, not later than the 90th day after the date the company receives notice under this section, to either 26 cease all [its] scrutinized business operations as described by 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 <a href="investing">investing</a> [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 <u>subsection</u>, 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 <u>investing</u> [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. <u>2270.0205</u> [<del>806.055</del>]. ACTIONS RELATING TO LISTED
- 22 COMPANY COMPLICIT IN GENOCIDE. (a) In this section, "complicit"
- 23 has the meaning assigned by Section 2270.0051.
- (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 <u>investing</u> [state
- 2 governmental] entity.
- 3 (c)  $\frac{(b)}{(b)}$  The notice must require the listed company to
- 4 refrain from taking any further action that would make i
- 5 complicit.
- 6  $\underline{\text{(d)}}$  [ $\frac{\text{(c)}}{\text{)}}$ ] If, after receiving the notice under Subsection
- 7 (b)  $[\frac{a}{a}]$ , the listed company takes additional action that makes
- 8 the company complicit, the <a href="investing">investing</a> [state governmental] entity
- 9 shall sell, redeem, divest, or withdraw all publicly traded
- 10 securities of the company, except securities described by Section
- 11  $2270.\underline{0207}$  [806.057], according to the schedule provided by Section
- 12 2270.0206 [<del>806.056</del>].
- 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 <u>investing</u> [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

operations after receiving notice under Section <u>2270.0204</u>
[806.054] resumes scrutinized active business operations, the
investing [state governmental] entity shall send a written notice
to the company informing it that the [state governmental] entity
will sell, redeem, divest, or withdraw all publicly traded
securities of the scrutinized company according to the schedule in

Subsection (a).

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- 8 An investing [A state governmental] entity may delay the schedule for divestment under Subsection (a) only to the extent 9 that the [state governmental] entity determines, in the [state 10 governmental] entity's good faith judgment, that divestment from 11 listed companies will likely result in a loss in value described by 12 Section 2270.0208(a) [806.058(a)]. If the [a state governmental]13 14 entity delays the schedule for divestment, the [state governmental] 15 entity shall submit a report to the presiding officer of each house of the legislature and the attorney general stating the reasons and 16 17 justification for the [state governmental] entity's delay in divestment from listed companies. The report must 18 documentation supporting its determination that the divestment 19 would result in a loss in value described by Section <a>2270.0208(a)</a> 20 [806.058(a)]including objective numerical estimates. The 21 investing [state governmental] entity shall update the report every 22 23 six months.
- Sec. <u>2270.0207</u> [<del>806.057</del>]. INVESTMENTS EXEMPTED FROM
  DIVESTMENT. <u>An investing</u> [<del>A state governmental</del>] entity is not
  required to divest from any indirect holdings in actively managed
  investment funds or private equity funds. The investing [state

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

Sec.  $\underline{2270.0208}$  [ $\underline{806.058}$ ]. AUTHORIZED INVESTMENT IN LISTED 10 COMPANIES. An investing [A state governmental] entity may 11 (a) cease divesting from or may reinvest in one or more listed companies 12 if clear and convincing evidence shows that the value for all assets 13 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 under management by the [state governmental] entity had the [state 16 17 governmental] entity not divested from listed companies under this chapter. 18

- (b) An investing [A state governmental] entity may invest in a listed company as provided by this section only to the extent necessary to ensure that the value of the assets managed by the [state governmental] entity does not fall below the value described by Subsection (a).
- (c) Before <u>an investing</u> [a state governmental] entity may invest in a listed company under this section, the [state governmental] entity must provide a written report to the presiding officer of each house of the legislature and the attorney general

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- 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 <u>investing</u> [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.
- SUBCHAPTER F [C]. 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].
- Sec.  $\underline{2270.0252}$  [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

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- 1 presiding officer of each house of the legislature  $\underline{and}[\tau]$  the
- 2 attorney general[, and the United States presidential special envoy
- 3 to Sudan that:
- 4  $\underline{\text{(A)}}$  [\(\frac{\((1)\)}{\(1)\)}] identifies all investments sold,
- 5 redeemed, divested, or withdrawn in compliance with Section
- 6 2270.0206 [<del>806.056</del>];
- 7  $\underline{\text{(B)}}$  [(2)] identifies all prohibited investments
- 8 under Section 2270.0209 [<del>806.059</del>]; and
- 9 (C)  $\frac{(C)}{(3)}$  summarizes any changes made under
- 10 Section <u>2270.0207</u>; 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.
- 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.