

HOUSE BILL No. 6479

November 7, 2018, Introduced by Rep. Johnson and referred to the Committee on Financial Liability Reform.

A bill to amend 2008 PA 234, entitled
"Divestment from terror act,"
by amending section 2 (MCL 129.292).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Active business operations" means all business operations
3 that are not inactive business operations. Active business
4 operations do not include the activities of any business, legal, or
5 governmental entity or institution that provides humanitarian aid
6 to the people of any state sponsors of terror.

7 (b) "Business operations" means engaging in commerce in any
8 form with a state sponsor of terror, including by acquiring,
9 developing, maintaining, owning, selling, possessing, leasing, or
10 operating equipment, facilities, personnel, products, services,

1 personal property, real property, or any other apparatus of
2 business or commerce.

3 (c) "Company" means any sole proprietorship, organization,
4 association, corporation, partnership, joint venture, limited
5 partnership, limited liability partnership, limited liability
6 company, or other entity or business association, including all
7 wholly owned subsidiaries, majority-owned subsidiaries, parent
8 companies, or affiliates of those entities or business
9 associations, that exists for profit-making purposes.

10 (d) "Direct holdings" in a company means all securities of
11 that company held directly by the fiduciary or in an account or
12 fund in which the fiduciary owns all shares or interests.

13 (e) "Fiduciary" means any of the following:

14 (i) The Michigan legislative retirement system board of
15 trustees for the Tier 1 retirement plan available under the
16 Michigan legislative retirement system act, 1957 PA 261, MCL
17 38.1001 to 38.1080.

18 (ii) The state treasurer for all of the following:

19 (A) The state police retirement system created under the state
20 police retirement act of 1986, 1986 PA 182, MCL 38.1601 to
21 ~~38.1648-38.1675.~~

22 (B) The Tier 1 retirement plan available under the judges
23 retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670.

24 (C) The Tier 1 retirement plan available under the state
25 employees retirement act, 1943 PA 240, MCL 38.1 to 38.69.

26 (D) The public school employees retirement system created
27 under the public school employees retirement act of 1979, 1980 PA

1 300, MCL 38.1301 to ~~38.1408~~**38.1437**.

2 (iii) The state treasurer in connection with his or her duties
3 under any of the following:

4 (A) 1946 (1st Ex Sess) PA 9, MCL 35.602 to 35.610.

5 (B) 1855 PA 105, MCL 21.141 to 21.147.

6 (C) Section 7 of the Michigan trust fund act, 2000 PA 489, MCL
7 12.257.

8 (D) Children's trust fund under 1982 PA 249, MCL 21.171 to
9 21.172.

10 (E) The McCauley-Traxler-Law-Bowman-McNeely lottery act, 1972
11 PA 239, MCL 432.1 to 432.47.

12 (F) Section 503b of the natural resources and environmental
13 protection act, 1994 PA 451, MCL 324.503b.

14 (iv) The board of trustees of a community college subject to
15 the community college act of 1966, 1966 PA 331, MCL 389.1 to
16 389.195.

17 (v) The board of directors of the Michigan education trust
18 described in section 10 of the Michigan education trust act, 1986
19 PA 316, MCL 390.1430.

20 (vi) The board of the Michigan strategic fund under the
21 Michigan strategic fund act, 1984 PA 270, MCL 125.2001 to 125.2094.

22 (f) "Inactive business operations" means the mere continued
23 holding or renewal of rights to property previously operated for
24 the purpose of generating revenues but not presently deployed for
25 that purpose.

26 (g) "Indirect holdings" in a company means all securities of
27 that company held in an account or fund, including a mutual fund or

1 other commingled fund, managed by 1 or more persons not employed by
2 the fiduciary, in which the fiduciary owns shares or interests
3 together with other investors not subject to the provisions of this
4 act.

5 (h) "Scrutinized company" means, except for a company
6 described in subdivision (i), and for a social development company
7 or a company that only meets the criteria of this subdivision
8 because an independently owned franchisee of that company is a
9 scrutinized company, any company that has business operations that
10 involve contracts with or provision of supplies or services to a
11 state sponsor of terror; companies in which a state sponsor of
12 terror has any direct or indirect equity share, consortiums, or
13 projects commissioned by a state sponsor of terror; or companies
14 involved in consortiums and projects commissioned by a state
15 sponsor of terror and 1 or more of the following:

16 (i) More than 10% of the company's total revenues or assets
17 are directly invested in or earned from or significantly
18 contributed to a state sponsor of terror and the company has failed
19 to take substantial action.

20 (ii) The company has, with actual knowledge, made an
21 investment of \$20,000,000.00 or more, or any combination of
22 investments of at least \$10,000,000.00 each, which in the aggregate
23 equals or exceeds \$20,000,000.00 in any 12-month period, and which
24 directly or significantly contributes to a state sponsor of terror,
25 and the company has failed to take substantial action.

26 (i) A scrutinized company does not mean a company which the
27 United States government has excluded from any present federal

1 sanctions regime relating to a state sponsor of terror, or which
2 has obtained from the United States government an applicable
3 license or approval to conduct a transaction with a state sponsor
4 of terror.

5 (j) "Social development company" means a company licensed by
6 the United States department of treasury pursuant to the federal
7 trade sanction reform and export enhancement act of 2000, P.L. 106-
8 387, or a company lawfully operating under the laws of another
9 country, whose primary purpose in a state sponsor of terror is to
10 provide humanitarian goods or services including, food, other
11 agricultural products, supplies or infrastructure, clothing,
12 shelter, medicines or medical equipment, educational opportunities,
13 journalism-related activities, information or information
14 materials, spiritual-related activities, general consumer goods, or
15 services of a purely clerical or reporting nature, to aid the
16 inhabitants of a state sponsor of terror.

17 (k) "State sponsor of terror" means, subject to section 10 as
18 to applicability, any country determined by the United States
19 ~~secretary~~ **SECRETARY** of ~~state~~ **STATE** to have repeatedly provided
20 support for acts of international terrorism.

21 (l) "Substantial action" means adopting, publicizing, and
22 implementing a formal plan to cease scrutinized business operations
23 within 1 year and to refrain from any new business operations.

24 Enacting section 1. This amendatory act does not take effect
25 unless Senate Bill No. ____ or House Bill No. 6475 (request no.
26 05259'18) of the 99th Legislature is enacted into law.