

Act No. 684
Public Acts of 2018
Approved by the Governor
December 28, 2018
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**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018**

Introduced by Rep. Johnson

ENROLLED HOUSE BILL No. 6479

AN ACT to amend 2008 PA 234, entitled “An act to prohibit the investment of certain state money or other assets in companies with certain types of business operations in countries designated as state sponsors of terror; to require divestment of any current investments in those companies; and to provide for the powers and duties of certain state and local governmental officers and entities,” by amending section 2 (MCL 129.292).

The People of the State of Michigan enact:

Sec. 2. As used in this act:

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

(b) “Business operations” means engaging in commerce in any form with a state sponsor of terror, including by acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.

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

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

(e) “Fiduciary” means any of the following:

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

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

(A) The state police retirement system created under the state police retirement act of 1986, 1986 PA 182, MCL 38.1601 to 38.1675.

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

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

(D) The public school employees retirement system created under the public school employees retirement act of 1979, 1980 PA 300, MCL 38.1301 to 38.1437.

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

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

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

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

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

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

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

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

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

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

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

(g) "Indirect holdings" in a company means all securities of that company held in an account or fund, including a mutual fund or other commingled fund, managed by 1 or more persons not employed by the fiduciary, in which the fiduciary owns shares or interests together with other investors not subject to the provisions of this act.

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

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

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

(i) A scrutinized company does not mean a company which the United States government has excluded from any present federal sanctions regime relating to a state sponsor of terror, or which has obtained from the United States government an applicable license or approval to conduct a transaction with a state sponsor of terror.

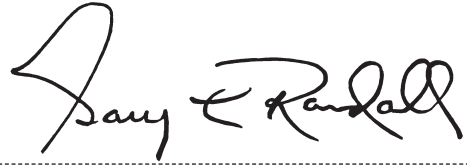
(j) "Social development company" means a company licensed by the United States department of treasury pursuant to the federal trade sanction reform and export enhancement act of 2000, P.L. 106-387, or a company lawfully operating under the laws of another country, whose primary purpose in a state sponsor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

(k) "State sponsor of terror" means, subject to section 10 as to applicability, any country determined by the United States Secretary of State to have repeatedly provided support for acts of international terrorism.

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

Enacting section 1. This amendatory act does not take effect unless House Bill No. 6475 of the 99th Legislature is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor