

CHAPTER 2023-351

House Bill No. 5-C

An act relating to scrutinized companies; amending s. 215.473, F.S.; defining terms; revising the definition of the term “scrutinized company”; requiring the State Board of Administration to identify and maintain the Scrutinized Companies with Activities in Iran Terrorism Sectors List; requiring the board to update and quarterly make such list publicly available; requiring the board to adhere to specified procedures to assemble companies on such list; providing that companies on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List as of a specified date are deemed, beginning on a certain date, to be on the Scrutinized Companies with Activities in Iran Terrorism Sectors List until removed pursuant to specified procedures; requiring the State Board of Administration to file a certain report with each member of its Board of Trustees and the Legislature within a specified timeframe after the list is created or updated; requiring the board to no longer scrutinize companies subject to the Scrutinized Companies with Activities in Iran Terrorism Sectors List, to no longer assemble companies on the list, and to cease engagement, investment prohibitions, and divestment actions if two specified actions occur; conforming provisions to changes made by the act; amending s. 287.135, F.S.; providing that certain entities are ineligible to, and may not, bid on, submit a proposal for, or enter into or renew certain contracts; requiring that certain contracts entered into or renewed on or after a specified date with an agency or a local governmental entity contain a provision allowing for the termination of such contract under specified circumstances; revising the exception allowing an agency or a local governmental entity to contract with a company on specified lists or engaged in business operations with certain countries; providing the circumstances under which an agency or a local governmental entity may contract with a company on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or the Scrutinized Companies with Activities in Iran Terrorism Sectors List; requiring a company to certify that it is not on certain lists at the time the company submits a bid or proposal for a contract or before the company enters into or renews a contract with an agency or a local governmental entity; conforming provisions to changes made by the act; amending s. 624.449, F.S.; requiring domestic insurers to annually provide to the Office of Insurance Regulation a list of companies in which they have investments which are on the Scrutinized Companies with Activities in Iran Terrorism Sectors List; reenacting s. 215.47(10)(b), F.S., relating to certain investment decisions made by the State Board of Administration, to incorporate the amendments made to s. 215.473, F.S., in a reference thereto; providing severability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 215.473, Florida Statutes, is amended to read:

215.473 Divestiture by the State Board of Administration; Sudan; Iran.

(1) DEFINITIONS.—As used in this section, the term:

(a) “Active business operations” means all business operations that are not inactive business operations.

(b) “Board” means the State Board of Administration.

(c) “Business operations” means engaging in commerce in any form in Sudan or Iran, including, but not limited to, 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.

(d) “Company” means a 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 such entities or business associations, that exists for the purpose of making profit.

(e) “Complicit” means taking actions during any preceding 20-month period which have directly supported or promoted the genocidal campaign in Darfur, including preventing Darfur’s victimized population from communicating with each other; encouraging Sudanese citizens to speak out against an internationally approved security force for Darfur; actively working to deny, cover up, or alter the record on human rights abuses in Darfur; or other similar actions.

(f) “Construction sector” means the production, procurement, devising, framing, or arranging in Iran of parts or materials to fabricate, shape, or form buildings or structures, including the onsite development, assembly, or construction of residential, commercial, or institutional buildings in Iran.

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

(h) “Energy sector” means those activities involving the exploration, extraction, production, refinement, or liquefaction of petroleum, natural gas, or petroleum products in Iran.

(i) “Financial sector” means any entity, including foreign branches wherever located, organized under the laws of Iran or any jurisdiction within Iran, or owned or controlled by the government of Iran, or located in Iran, or owned or controlled by any such entities, which is engaged in the business, as principal or agent, of accepting deposits; making, granting, transferring, holding, or brokering loans or credits; or purchasing or selling

foreign exchange, securities, or commodity futures or options, or procuring purchasers and sellers thereof. Entities that operate in the financial sector of the Iranian economy include, but are not limited to, depository institutions, banks, savings banks, money service businesses, trust companies, insurance companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, dealers in precious metals, stones, or jewels, and holding companies, affiliates, or subsidiaries of any such entities.

(j)(g) “Government of Iran” means the government of Iran, its instrumentalities, and companies owned or controlled by the government of Iran.

(k)(h) “Government of South Sudan” means the Republic of South Sudan, that has its capital in Juba, South Sudan.

(l)(i) “Government of Sudan” means the Republic of the Sudan that has its capital in Khartoum, Sudan.

(m)(j) “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 such purpose.

(n)(k) “Indirect holdings” in a company means all securities of that company that are held in a commingled fund or other collective investment, such as a mutual fund, in which the public fund owns shares or interests together with other investors not subject to this section.

(o)(l) “Iran” means the Islamic Republic of Iran.

(p) “Manufacturing sector” means the creation of goods in Iran by manual labor or machinery which are for export from Iran or for sale within Iran.

(q)(m) “Marginalized populations of Sudan” include, but are not limited to, the portion of the population in the Darfur region that has been genocidally victimized; the portion of the population of South Sudan victimized by Sudan’s north-south civil war; the Beja, Rashidiya, and other similarly underserved groups of eastern Sudan; the Nubian and other similarly underserved groups in Sudan’s Abyei, Southern Blue Nile, and Nuba Mountain regions; and the Amri, Hamadab, Manasir, and other similarly underserved groups of northern Sudan.

(r) “Metals sector” means the sale, supply, or transfer, directly or indirectly, to or from Iran of raw or semifinished metals, including, but not limited to, the following types of such materials and all alloys or compounds containing such materials: aluminum, americium, antimony, barium, beryllium, bismuth, boron, cadmium, calcium, cerium, cesium, chromium, cobalt, copper, dysprosium, erbium, europium, gadolinium, gallium, germanium, gold, hafnium, hastelloy, inconel, indium, iridium, iron, lanthanum, lead, lithium, lutetium, magnesium, manganese, mercury,

molybdenum, monel, neodymium, neptunium, nickel, niobium, osmium, palladium, platinum, plutonium, polonium, potassium, praseodymium, promethium, radium, rhenium, rhodium, ruthenium, samarium, scandium, silicon, silver, sodium, steels, strontium, tantalum, technetium, tellurium, terbium, thallium, thorium, tin, titanium, tungsten, uranium, vanadium, ytterbium, yttrium, zinc, and zirconium.

~~(s)~~(n) “Military equipment” means weapons, arms, military supplies, and equipment that may readily be used for military purposes, including, but not limited to, radar systems, military-grade transport vehicles, or supplies or services sold or provided directly or indirectly to any force actively participating in armed conflict in Sudan.

~~(t)~~(o) “Mineral-extraction activities” include the exploring, extracting, processing, transporting, or wholesale selling or trading of elemental minerals or associated metal alloys or oxides (ore), including gold, copper, chromium, chromite, diamonds, iron, iron ore, silver, tungsten, uranium, and zinc, as well as facilitating such activities, including providing supplies or services in support of such activities.

~~(u)~~ “Mining sector” means any act, process, or industry of extracting, at the surface or underground, ores, coal, precious stones, or any other minerals or geological materials from the earth in Iran.

~~(v)~~(p) “Oil-related activities” include, but are not limited to, owning rights to oil blocks; exporting, extracting, producing, refining, processing, exploring for, transporting, selling, or trading of oil; constructing, maintaining, or operating a pipeline, refinery, or other oil-field infrastructure; and facilitating such activities, including providing supplies or services in support of such activities, except that the mere retail sale of gasoline and related consumer products is not considered an oil-related activity.

~~(w)~~ “Petrochemical sector” means those activities involving any aromatic, olefin, or synthesis gas, or any of their derivatives, including ethylene, propylene, butadiene, benzene, toluene, xylene, ammonia, methanol, and urea.

~~(x)~~(q) “Petroleum resources” means petroleum, petroleum byproducts, or natural gas.

~~(y)~~ “Port sector” means those activities involving the loading and unloading of cargo and passengers or the transporting of goods and raw materials.

~~(z)~~(r) “Power-production activities” means a business operation that involves a project commissioned by the National Electricity Corporation (NEC) of Sudan or other similar entity of the government of Sudan whose purpose is to facilitate power generation and delivery, including, but not limited to, establishing power-generating plants or hydroelectric dams, selling or installing components for the project, providing service contracts

related to the installation or maintenance of the project, as well as facilitating such activities, including providing supplies or services in support of such activities.

~~(aa)~~^(s) “Public fund” means all assets of the Florida Retirement System held by the State Board of Administration in its capacity as a fiduciary pursuant to chapter 121.

~~(bb)~~^(t) “Scrutinized active business operations” means active business operations that result in a company becoming a scrutinized company.

~~(cc)~~^(u) “Scrutinized business operations” means business operations that result in a company becoming a scrutinized company.

~~(dd)~~^(v) “Scrutinized company” means a company that meets any of the following criteria:

1. The company has business operations that involve contracts with or provision of supplies or services to the government of Sudan, companies in which the government of Sudan has a direct or indirect equity share, consortiums or projects commissioned by the government of Sudan, or companies involved in consortiums or projects commissioned by the government of Sudan, and:

a. More than 10 percent of the company’s revenues or assets linked to Sudan involve oil-related activities or mineral-extraction activities; less than 75 percent of the company’s revenues or assets linked to Sudan involve contracts with or provision of oil-related or mineral-extracting products or services to the government of South Sudan; and the company has failed to take substantial action; or

b. More than 10 percent of the company’s revenues or assets linked to Sudan involve power-production activities; less than 75 percent of the company’s power-production activities include projects whose intent is to provide power or electricity to the marginalized populations of Sudan; and the company has failed to take substantial action.

2. The company is complicit in the Darfur genocide.

3. The company supplies military equipment within Sudan, unless it clearly shows that the military equipment cannot be used to facilitate offensive military actions in Sudan or the company implements rigorous and verifiable safeguards to prevent use of that equipment by forces actively participating in armed conflict. Examples of safeguards include post-sale tracking of such equipment by the company, certification from a reputable and objective third party that such equipment is not being used by a party participating in armed conflict in Sudan, or sale of such equipment solely to the government of South Sudan or any internationally recognized peace-keeping force or humanitarian organization.

4. The company has business operations that involve contracts with or provision of supplies or services to the government of Iran, companies in which the government of Iran has any direct or indirect equity share, consortiums, or projects commissioned by the government of Iran, or companies involved in consortiums or projects commissioned by the government of Iran and:

a. More than 10 percent of the company's total revenues or assets are linked to Iran and involve oil-related activities or mineral-extraction activities, and the company has failed to take substantial action; ~~or~~

b. On or after January 10, 2024, more than 10 percent of the company's total revenues or assets are linked to Iran and involve the energy, petrochemical, financial, construction, manufacturing, textile, mining, metals, shipping, shipbuilding, or port sectors of Iran, and the company has failed to take substantial action;

~~c.b.~~ The company has, with actual knowledge, on or after August 5, 1996, made an investment of \$20 million or more, or any combination of investments of at least \$10 million each, which in the aggregate equals or exceeds \$20 million in any 12-month period, and which directly or significantly contributes to the enhancement of Iran's ability to develop the petroleum resources of Iran; or

d. The company has, with actual knowledge, on or after January 10, 2024, an investment of \$20 million or more, or any combination of investments of at least \$10 million each, which in the aggregate equals or exceeds \$20 million in any 12-month period and involves oil-related activities in Iran, mineral-extraction activities in Iran, or the energy, petrochemical, financial, construction, manufacturing, textile, mining, metals, shipping, shipbuilding, or port sectors of Iran.

(ee) "Shipbuilding sector" means those activities involving the construction of seagoing vessels, including oil tankers and cargo vessels, in Iran.

(ff) "Shipping sector" means those activities involving the transportation of goods by seagoing vessels, including oil tankers and cargo vessels, flying the flag of Iran or owned, controlled, chartered, or operated directly or indirectly by the government of Iran.

~~(gg)(w)~~ "Social-development company" means a company whose primary purpose in Sudan is to provide humanitarian goods or services, including medicine or medical equipment; agricultural supplies or infrastructure; educational opportunities; journalism-related activities; information or information materials; spiritual-related activities; services of a purely clerical or reporting nature; food, clothing, or general consumer goods that are unrelated to oil-related activities; mineral-extraction activities; or power-production activities.

~~(hh)(x)~~ “Substantial action specific to Iran” means adopting, publicizing, and implementing a formal plan to cease scrutinized business operations within 1 year and to refrain from such new business operations.

~~(ii)(y)~~ “Substantial action specific to Sudan” means adopting, publicizing, and implementing a formal plan to cease scrutinized business operations within 1 year and to refrain from such new business operations; undertaking humanitarian efforts in conjunction with an international organization, the government of Sudan, the government of South Sudan, or a nonprofit entity evaluated and certified by an independent third party to be substantially in a relationship to the company’s Sudan business operations and of benefit to one or more marginalized populations of Sudan; or, through engagement with the government of Sudan, materially improving conditions for the genocidally victimized population in Darfur.

~~(jj)~~ “Textile sector” means the fiber synthesis, dyeing, weaving, knitting, or felting in Iran of textiles, including apparel, carpets, cloths, fabric, or related goods, which are for export from Iran.

(2) IDENTIFICATION OF COMPANIES.—

(a) The board shall make its best efforts to identify all scrutinized companies in which the public fund has direct or indirect holdings or could possibly have such holdings in the future. Such efforts include:

1. Reviewing and relying, as appropriate in the board’s judgment, on publicly available information regarding companies having business operations in Sudan, including information provided by nonprofit organizations, research firms, international organizations, and government entities;

2. Contacting asset managers contracted by the board which invest in companies having business operations in Sudan;

3. Contacting other institutional investors that have divested from or engaged with companies that have business operations in Sudan; or

4. Reviewing the laws of the United States regarding the levels of business activity that would cause application of sanctions for companies conducting business or investing in countries that are designated state sponsors of terror.

(b) The board shall maintain a list of all scrutinized companies that fit criteria specified in subparagraphs ~~(1)(dd)1., 2., and 3.~~ (1)(v)1., 2., and 3. labeled the “Scrutinized Companies with Activities in Sudan List” and a list of all scrutinized companies that fit criteria specified in subparagraph ~~(1)(dd)4.~~ (1)(v)4. labeled the “Scrutinized Companies with Activities in the Iran Terrorism Sectors ~~Petroleum Energy Sector~~ List.”

(c) The board shall update and make publicly available quarterly the Scrutinized Companies with Activities in Sudan List and the Scrutinized Companies with Activities in the Iran Terrorism Sectors ~~Petroleum Energy~~

Sector List based on evolving information from, among other sources, those listed in paragraph (a).

(d) Notwithstanding this section, a social-development company that is not complicit in the Darfur genocide is not considered a scrutinized company under subparagraph ~~(1)(dd)1.~~ ~~(1)(v)1.~~, subparagraph ~~(1)(dd)2.~~ ~~(1)(v)2.~~, or subparagraph ~~(1)(dd)3.~~ ~~(1)(v)3.~~

(3) REQUIRED ACTIONS.—The board shall adhere to the following procedure for assembling companies on the Scrutinized Companies with Activities in Sudan List and the Scrutinized Companies with Activities in the Iran Terrorism Sectors Petroleum Energy Sector List:

(a) *Engagement.*—

1. The board shall immediately determine the companies on the Scrutinized Companies with Activities in Sudan List and the Scrutinized Companies with Activities in the Iran Terrorism Sectors Petroleum Energy Sector List in which the public fund owns direct or indirect holdings. Any company on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List as of November 6, 2023, is deemed to be on the Scrutinized Companies with Activities in Iran Terrorism Sectors List, effective November 10, 2023, until the company is subsequently removed pursuant to this section.

2. For each company identified in this paragraph that has only inactive business operations, the board shall send a written notice informing the company of this act and encouraging it to continue to refrain from initiating active business operations in Sudan or Iran until it is able to avoid scrutinized business operations. The board shall continue such correspondence semiannually.

3. For each company newly identified under this paragraph which has active business operations, the board shall send a written notice informing the company of its scrutinized company status and that it may become subject to divestment by the public fund. The notice must inform the company of the opportunity to clarify its Sudan-related or Iran-related activities and encourage the company to cease its scrutinized business operations or convert such operations to inactive business operations within 90 days in order to avoid qualifying for divestment by the public fund.

4. If, within 90 days after the board's first engagement with a company pursuant to this paragraph, that company ceases scrutinized business operations, the company shall be removed from the Scrutinized Companies with Activities in Sudan List and the Scrutinized Companies with Activities in the Iran Terrorism Sectors Petroleum Energy Sector List, and the provisions of this act shall cease to apply to that company unless that company resumes scrutinized business operations. If, within 90 days after the board's first engagement, the company converts its scrutinized active business operations to inactive business operations, the company is subject

to all provisions relating to inactive business operations. A company may be removed from one list but remain on the other list, in which case the company shall be subject to the provisions applicable to the list on which the company remains.

(b) *Divestment.*—

1. If, after 90 days following the board's first engagement with a company pursuant to paragraph (a), the company continues to have scrutinized active business operations, and only while such company continues to have scrutinized active business operations, the board shall sell, redeem, divest, or withdraw all publicly traded securities of the company, except as provided in paragraph (d), from the public fund within 12 months after the company's most recent appearance on the Scrutinized Companies with Activities in Sudan List or on the Scrutinized Companies with Activities in the Iran Terrorism Sectors ~~Petroleum Energy Sector~~ List.

2. If a company that ceased scrutinized active business operations following engagement pursuant to paragraph (a) resumes such operations, this paragraph immediately applies, and the board shall send a written notice to the company. The company shall also be immediately reintroduced onto the Scrutinized Companies with Activities in Sudan List or on the Scrutinized Companies with Activities in the Iran Terrorism Sectors ~~Petroleum Energy Sector~~ List, as applicable.

(c) *Prohibition.*—The board may not acquire, on behalf of the public fund, securities of companies on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Terrorism Sectors ~~Petroleum Energy Sector~~ List that have active business operations, except as provided in paragraph (d).

(d) *Exemption.*—A company that the United States Government affirmatively declares to be excluded from its present or any future federal sanctions regime relating to Sudan or Iran is not subject to divestment or the investment prohibition pursuant to paragraphs (b) and (c).

(e) *Excluded securities.*—

1. Notwithstanding this section, paragraphs (b) and (c) do not apply to indirect holdings in actively managed investment funds. However, the board shall submit letters to the managers of such investment funds containing companies that have scrutinized active business operations requesting that they consider removing such companies from the fund or create a similar actively managed fund having indirect holdings devoid of such companies. If the manager creates a similar fund, the board, on behalf of the public fund, shall replace all applicable investments with investments in the similar fund in an expedited timeframe consistent with prudent investing standards. For the purposes of this section, a private equity fund is deemed to be an actively managed investment fund.

2. Notwithstanding this section, paragraphs (b) and (c) do not apply to exchange-traded funds.

(f) *Further exclusions.*—Notwithstanding any other provision of this act, the board, when discharging its responsibility for operation of a defined contribution plan, shall engage the manager of the investment offerings in such plans requesting that they consider removing scrutinized companies from the investment offerings or create an alternative investment offering devoid of scrutinized companies. If the manager creates an alternative investment offering and the offering is deemed by the board to be consistent with prudent investor standards, the board shall consider including such investment offering in the plan.

(4) REPORTING.—

(a) The board shall file a report with each member of its Board of Trustees, the President of the Senate, and the Speaker of the House of Representatives which includes the Scrutinized Companies with Activities in Sudan List and the Scrutinized Companies with Activities in the Iran Terrorism Sectors Petroleum Energy Sector List within 30 days after the list is created or updated. This report must ~~shall~~ be made available to the public.

(b) At each quarterly meeting of the Board of Trustees thereafter, the board shall file a report regarding the public fund, which must ~~shall~~ be made available to the public and to each member of its Board of Trustees, the President of the Senate, and the Speaker of the House of Representatives, and shall send a copy of that report to the United States Presidential Special Envoy to Sudan and the United States Presidential Special Envoy to Iran, or an appropriate designee or successor, which includes:

1. A summary of correspondence with companies engaged by the board on behalf of the public fund under subparagraphs (3)(a)2. and 3.;

2. All investments sold, redeemed, divested, or withdrawn in compliance with paragraph (3)(b);

3. All prohibited investments under paragraph (3)(c);

4. Any progress made under paragraph (3)(e); and

5. A list of all publicly traded securities held directly by the public fund.

(5) EXPIRATION.—This section expires upon the occurrence of all of the following:

(a) If any of the following occurs, the board may no longer scrutinize companies according to subparagraphs ~~(1)(dd)1., 2., and 3.~~ (1)(v)1., 2., and 3. and may no longer assemble the Scrutinized Companies with Activities in Sudan List, shall cease engagement and divestment of such companies, and may reinvest in such companies if such companies do not satisfy the criteria

for inclusion in the Scrutinized Companies with Activities in the Iran Terrorism Sectors Petroleum Energy Sector List:

1. The Congress or President of the United States affirmatively and unambiguously states, by means including, but not limited to, legislation, executive order, or written certification from the President to Congress, that the Darfur genocide has been halted for at least 12 months;

2. The United States revokes all sanctions imposed against the government of Sudan;

3. The Congress or President of the United States affirmatively and unambiguously states, by means including, but not limited to, legislation, executive order, or written certification from the President to Congress, that the government of Sudan has honored its commitments to cease attacks on civilians, demobilize and demilitarize the Janjaweed and associated militias, grant free and unfettered access for deliveries of humanitarian assistance, and allow for the safe and voluntary return of refugees and internally displaced persons; or

4. The Congress or President of the United States affirmatively and unambiguously states, by means including, but not limited to, legislation, executive order, or written certification from the President to Congress, that mandatory divestment of the type provided for in this section interferes with the conduct of United States foreign policy.

(b) If ~~both~~ either of the following ~~occur~~ occurs, the board may no longer scrutinize companies according to subparagraph ~~(1)(dd)4.~~ ~~(1)(v)4.~~, may no longer assemble the Scrutinized Companies with Activities in the Iran Terrorism Sectors Petroleum Energy Sector List, and shall cease engagement, investment prohibitions, and divestment:

1. The Congress ~~and~~ ~~or~~ President of the United States affirmatively and unambiguously ~~state~~ states, by means including, but not limited to, legislation, executive order, or written certification from the President to Congress, that the government of Iran has ceased to acquire weapons of mass destruction and support international terrorism; ~~and~~ ~~or~~

2. The United States revokes all sanctions imposed against the government of Iran.

The board, on behalf of the public fund, may reinvest in such companies if such companies do not satisfy the criteria for inclusion in the Scrutinized Companies with Activities in Sudan List. The board, acting as a fiduciary in accordance with s. 215.47(10), shall monitor events relating to subparagraphs 1. and 2., and, upon finding that the conditions in subparagraph 1. or subparagraph 2. have occurred, the board shall report such finding at a quarterly meeting of its trustees. At each quarterly meeting of the trustees, the board shall report on the status of events relating to subparagraphs 1. and 2.

(6) INVESTMENT POLICY STATEMENT OBLIGATIONS.—The board’s actions taken in compliance with this act, including all good faith determinations regarding companies as required by this act, shall be adopted and incorporated into the public fund’s investment policy statement as provided in s. 215.475.

(7) REINVESTMENT IN CERTAIN COMPANIES HAVING SCRUTINIZED ACTIVE BUSINESS OPERATIONS.—Notwithstanding any other provision of this act to the contrary, the public fund may cease divesting from certain scrutinized companies pursuant to paragraph (3)(b) or reinvest in certain scrutinized companies from which it divested pursuant to paragraph (3)(b) if clear and convincing evidence shows that the value of all assets of the public fund becomes equal to or less than 99.50 percent, or 50 basis points, of the hypothetical value of all assets of the public fund assuming no divestment for any company had occurred under paragraph (3)(b). Cessation of divestment, reinvestment, or any subsequent ongoing investment authorized by this act is limited to the minimum steps necessary to avoid the contingency set forth in this subsection or that no divestment of any company is required for less than fair value. For any cessation of divestment, reinvestment, or subsequent ongoing investment authorized by this act, the board shall provide a written report to each member of its Board of Trustees, the President of the Senate, and the Speaker of the House of Representatives in advance of initial reinvestment, updated semiannually thereafter as applicable, setting forth the reasons and justification, supported by clear and convincing evidence, for its decisions to cease divestment, reinvest, or remain invested in companies having scrutinized active business operations. This act does not apply to reinvestment in companies on the grounds that they have ceased to have scrutinized active business operations.

Section 2. Section 287.135, Florida Statutes, is amended to read:

287.135 Prohibition against contracting with scrutinized companies.—

(1) In addition to the terms defined in ss. 287.012 and 215.473, as used in this section, the term:

(a) “Awarding body” means, for purposes of state contracts, an agency or the department, and for purposes of local contracts, the governing body of the local governmental entity.

(b) “Boycott of Israel” has the same meaning as defined in s. 215.4725.

(c) “Business operations” means, for purposes specifically related to Cuba or Syria, engaging in commerce in any form in Cuba or Syria, including, but not limited to, acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, military equipment, or any other apparatus of business or commerce.

(d) “Local governmental entity” means a county, municipality, special district, or other political subdivision of the state.

(2) A company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with an agency or local governmental entity for goods or services of:

(a) Any amount if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to s. 215.4725, or is engaged in a boycott of Israel; or

(b) One million dollars or more if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company:

1. Is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Terrorism Sectors ~~Petroleum Energy Sector~~ List, created pursuant to s. 215.473; or

2. Is engaged in business operations in Cuba or Syria.

(3)(a) Any contract with an agency or local governmental entity for goods or services of \$1 million or more entered into or renewed on or after:

1. July 1, 2011, through June 30, 2012, must contain a provision that allows for the termination of such contract at the option of the awarding body if the company is found to have submitted a false certification as provided under subsection (5) or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

2. July 1, 2012, through September 30, 2016, must contain a provision that allows for the termination of such contract at the option of the awarding body if the company is found to have submitted a false certification as provided under subsection (5), been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or been engaged in business operations in Cuba or Syria.

3. October 1, 2016, through June 30, 2018, must contain a provision that allows for the termination of such contract at the option of the awarding body if the company:

a. Is found to have submitted a false certification as provided under subsection (5);

b. Has been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel;

c. Has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or

d. Has been engaged in business operations in Cuba or Syria.

4. July 1, 2018, must contain a provision that allows for the termination of such contract at the option of the awarding body if the company is found to have submitted a false certification as provided under subsection (5), been placed on the Scrutinized Companies with Activities in Sudan List ~~or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List~~, or been engaged in business operations in Cuba or Syria.

5. July 1, 2018, must contain a provision that allows for the termination of such contract at the option of the awarding body if the company is found to have submitted a false certification as provided under subsection (5) or has been placed on a list created pursuant to s. 215.473, relating to scrutinized active business operations in Iran.

(b) Any contract with an agency or local governmental entity for goods or services of any amount entered into or renewed on or after July 1, 2018, must contain a provision that allows for the termination of such contract at the option of the awarding body if the company is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

(4) Notwithstanding subsection (2) or subsection (3), an agency or local governmental entity, on a case-by-case basis, may allow permit a company on the Scrutinized Companies with Activities in Sudan List, ~~or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List~~, or the Scrutinized Companies with Activities in Iran Terrorism Sectors List, or a company engaged in business operations in Cuba or Syria, to be eligible for, bid on, submit a proposal for, or enter into or renew a contract for goods or services of \$1 million or more, or may ~~allow permit~~ a company on the Scrutinized Companies that Boycott Israel List to be eligible for, bid on, submit a proposal for, or enter into or renew a contract for goods or services of any amount, under the conditions set forth in paragraph (a) or the conditions set forth in paragraph (b):

(a)1. With respect to a company on the Scrutinized Companies with Activities in Sudan List ~~or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List~~, all of the following occur:

a. The scrutinized business operations were made before July 1, 2011.

b. The scrutinized business operations have not been expanded or renewed after July 1, 2011.

c. The agency or local governmental entity determines that it is in the best interest of the state or local community to contract with the company.

d. The company has adopted, has publicized, and is implementing a formal plan to cease scrutinized business operations and to refrain from engaging in any new scrutinized business operations.

2. With respect to a company engaged in business operations in Cuba or Syria, all of the following occur:

a. The business operations were made before July 1, 2012.

b. The business operations have not been expanded or renewed after July 1, 2012.

c. The agency or local governmental entity determines that it is in the best interest of the state or local community to contract with the company.

d. The company has adopted, has publicized, and is implementing a formal plan to cease business operations and to refrain from engaging in any new business operations.

3. With respect to a company on the Scrutinized Companies that Boycott Israel List, all of the following occur:

a. The boycott of Israel was initiated before October 1, 2016.

b. The company certifies in writing that it has ceased its boycott of Israel.

c. The agency or local governmental entity determines that it is in the best interest of the state or local community to contract with the company.

d. The company has adopted, has publicized, and is implementing a formal plan to cease scrutinized business operations and to refrain from engaging in any new scrutinized business operations.

4. With respect to a company on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List as of November 6, 2023, all of the following occur:

a. The scrutinized business operations were made before July 1, 2011.

b. The scrutinized business operations have not been expanded or renewed after July 1, 2011.

c. The agency or local governmental entity determines that it is in the best interest of the state or local community to contract with the company.

d. The company has adopted, has publicized, and is implementing a formal plan to cease scrutinized business operations and to refrain from engaging in any new scrutinized business operations.

5. With respect to a company on the Scrutinized Companies with Activities in Iran Terrorism Sectors List other than those companies

included on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List as of November 6, 2023, all of the following occur:

a. The scrutinized business operations were made before January 10, 2024.

b. The scrutinized business operations have not been expanded or renewed on or after January 10, 2024.

c. The agency or local governmental entity determines that it is in the best interest of the state or local community to contract with the company.

d. The company has adopted, has publicized, and is implementing a formal plan to cease those scrutinized business operations and to refrain from engaging in any new scrutinized business operations.

(b) One of the following occurs:

1. The local governmental entity makes a public finding that, absent such an exemption, the local governmental entity would be unable to obtain the goods or services for which the contract is offered.

2. For a contract with an executive agency, the Governor makes a public finding that, absent such an exemption, the agency would be unable to obtain the goods or services for which the contract is offered.

3. For a contract with an office of a state constitutional officer other than the Governor, the state constitutional officer makes a public finding that, absent such an exemption, the office would be unable to obtain the goods or services for which the contract is offered.

(5) At the time a company submits a bid or proposal for a contract or before the company enters into or renews a contract with an agency or local governmental entity for goods or services of \$1 million or more, the company must certify that the company is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran ~~Terrorism Sectors~~ ~~Petroleum Energy Sector~~ List and that it does not have business operations in Cuba or Syria. At the time a company submits a bid or proposal for a contract or before the company enters into or renews a contract with an agency or local governmental entity for goods or services of any amount, the company must certify that the company is not participating in a boycott of Israel.

(a) If, after the agency or the local governmental entity determines, using credible information available to the public, that the company has submitted a false certification, the agency or local governmental entity shall provide the company with written notice of its determination. The company shall have 90 days following receipt of the notice to respond in writing and to demonstrate that the determination of false certification was made in error. If the company does not make such demonstration within 90 days after receipt of the notice, the agency or the local governmental entity shall bring

a civil action against the company. If a civil action is brought and the court determines that the company submitted a false certification, the company shall pay the penalty described in subparagraph 1. and all reasonable attorney fees and costs, including any costs for investigations that led to the finding of false certification.

1. A civil penalty equal to the greater of \$2 million or twice the amount of the contract for which the false certification was submitted shall be imposed.

2. The company is ineligible to bid on any contract with an agency or local governmental entity for 3 years after the date the agency or local governmental entity determined that the company submitted a false certification.

(b) A civil action to collect the penalties described in paragraph (a) must commence within 3 years after the date the false certification is submitted.

(6) Only the agency or local governmental entity that is a party to the contract may cause a civil action to be brought under this section. This section does not create or authorize a private right of action or enforcement of the penalties provided in this section. An unsuccessful bidder, or any other person other than the agency or local governmental entity, may not protest the award of a contract or contract renewal on the basis of a false certification.

(7) This section preempts any ordinance or rule of any agency or local governmental entity involving public contracts for goods or services of:

(a) One million dollars or more with a company engaged in scrutinized business operations.

(b) Any amount with a company that has been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

(8) The contracting prohibitions in this section applicable to companies on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Terrorism Sectors ~~Petroleum Energy Sector~~ List or to companies engaged in business operations in Cuba or Syria become inoperative on the date that federal law ceases to authorize the states to adopt and enforce such contracting prohibitions.

Section 3. Section 624.449, Florida Statutes, is amended to read:

624.449 Insurer investment in foreign companies.—A domestic insurer shall provide to the office on an annual basis a list of investments that the insurer has in companies included on the “Scrutinized Companies with Activities in Sudan List” and the “Scrutinized Companies with Activities in the Iran Terrorism Sectors ~~Petroleum Energy Sector~~ List” compiled by the State Board of Administration pursuant to s. 215.473(2). The insurer’s list

must include the name of the issuer and the stock, bond, security, and other evidence of indebtedness.

Section 4. For the purpose of incorporating the amendments made by this act to section 215.473, Florida Statutes, in a reference thereto, paragraph (b) of subsection (10) of section 215.47, Florida Statutes, is reenacted to read:

215.47 Investments; authorized securities; loan of securities.—Subject to the limitations and conditions of the State Constitution or of the trust agreement relating to a trust fund, moneys available for investments under ss. 215.44-215.53 may be invested as follows:

(10)

(b) Notwithstanding any other law except for ss. 215.471, 215.4725, and 215.473, when deciding whether to invest and when investing the assets of any fund, the State Board of Administration must make decisions based solely on pecuniary factors and may not subordinate the interests of the participants and beneficiaries of the fund to other objectives, including sacrificing investment return or undertaking additional investment risk to promote any nonpecuniary factor. The weight given to any pecuniary factor must appropriately reflect a prudent assessment of its impact on risk or returns.

Section 5. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 6. This act shall take effect upon becoming a law.

Approved by the Governor November 13, 2023.

Filed in Office Secretary of State November 13, 2023.