

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1209 Session of 2019

INTRODUCED BY BOYLE, DONATUCCI, HILL-EVANS, SCHLOSSBERG,  
FREEMAN, ISAACSON, HOHENSTEIN, YOUNGBLOOD, MURT AND JOHNSON-  
HARRELL, APRIL 15, 2019

REFERRED TO COMMITTEE ON STATE GOVERNMENT, APRIL 15, 2019

AN ACT

1 Amending the act of July 2, 2010 (P.L.266, No.44), entitled "An  
2 act providing for divestiture by the State Treasurer, the  
3 State Employees' Retirement System and the Public School  
4 Employees' Retirement System of investments in companies  
5 doing business in Iran and Sudan," amending the title of the  
6 act; and further providing for definitions, for required  
7 actions, for reporting and for expiration.

8 The General Assembly of the Commonwealth of Pennsylvania  
9 hereby enacts as follows:

10 Section 1. The title of the act of July 2, 2010 (P.L.266,  
11 No.44), known as the Protecting Pennsylvania's Investments Act,  
12 is amended to read:

AN ACT

14 Providing for divestiture by the State Treasurer, the State  
15 Employees' Retirement System and the Public School Employees'  
16 Retirement System of investments in companies doing business  
17 in Brunei, Iran and Sudan.

18 Section 2. The definitions of "business activities," "oil-  
19 related activities," "scrutinized company" and "social  
20 development company" in section 2 of the act are amended and the

1 section is amended by adding definitions to read:

2 Section 2. Definitions.

3 The following words and phrases when used in this act shall  
4 have the meanings given to them in this section unless the  
5 context clearly indicates otherwise:

6 \* \* \*

7 "Brunei." The nation of Brunei.

8 "Business activities." Owning or controlling property or  
9 assets located in, having employees or facilities located in,  
10 providing goods or services to, having distribution agreements  
11 with, issuing credit or loans to, purchasing bonds or commercial  
12 paper issued by, investing in or having equity ties to or with  
13 Brunei, Iran[,] or Sudan or any company domiciled in Brunei,  
14 Iran or Sudan.

15 \* \* \*

16 "Government of Brunei." The government of Brunei and its  
17 instrumentalities and companies owned or controlled by the  
18 government of Brunei.

19 \* \* \*

20 "Oil-related activities." The term includes all of the  
21 following:

22 (1) Development of petroleum or natural gas resources of  
23 Brunei, Iran or Sudan. This paragraph does not include the  
24 mere sale of gasoline and related consumer products.

25 (2) Owning rights to oil or natural gas blocks.

26 (3) Exporting, extracting, producing, refining,  
27 processing, exploring for, transporting, selling or trading  
28 oil or natural gas.

29 (4) Constructing, maintaining or operating any pipeline,  
30 refinery, liquefaction facility or other oil or natural gas

1 infrastructure.

2 (5) Facilitating activities referred to in paragraph  
3 (1), (2), (3) or (4), including by supplying services in  
4 support of the activities.

5 \* \* \*

6 "Scrutinized company." Any of the following:

7 (1) Any foreign company that has:

8 (i) invested at least \$20,000,000 in oil-related  
9 activities in Brunei or Iran in any 12-month period since  
10 August 5, 1996;

11 (ii) supplied military equipment to the government  
12 of Iran within the 12-month period prior to the effective  
13 date of this section; or

14 (iii) knowingly and intentionally violated the  
15 United States export controls with respect to Brunei or  
16 Iran during the 12-month period prior to the effective  
17 date of this section.

18 (2) Any foreign company that meets the criteria set  
19 forth either in subparagraph (i) or (ii):

20 (i) The company has business activities that involve  
21 contracts with or provision of supplies or services to  
22 the government of Brunei or the government of Sudan,  
23 companies in which the government of Brunei or the  
24 government of Sudan has any direct equity share,  
25 government of Brunei-commissioned or government of Sudan-  
26 commissioned consortiums or projects, or companies  
27 involved in government of Brunei-commissioned or  
28 government of Sudan-commissioned consortiums or projects;  
29 and

30 (A) more than 10% of the company's revenue or

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

12 (B) more than 10% of the company's revenues or  
13 assets linked to Brunei or Sudan involve power  
14 production activities; less than 75% of the company's  
15 power production activities include projects whose  
16 intent is to provide power or electricity to the  
17 marginalized populations of Sudan; and the company  
18 has failed to take substantial action specific to  
19 Brunei or Sudan.

20 (ii) The company supplies military equipment within  
21 Brunei or Sudan, unless it clearly shows that the  
22 military equipment cannot be used to facilitate offensive  
23 military actions in Brunei or Sudan or the company  
24 implements rigorous and verifiable safeguards to prevent  
25 use of that equipment by forces actively participating in  
26 armed conflict, for example, through post-sale tracking  
27 of such equipment by the company, certification from a  
28 reputable and objective third party that such equipment  
29 is not being used by a party participating in armed  
30 conflict in Brunei or Sudan or sale of such equipment

solely to the regional government of southern Sudan or  
any internationally recognized peacekeeping force or  
humanitarian organization.

The term does not include a foreign company that is a social  
development company.

"Social development company." A company whose primary  
purpose in Brunei, Iran or 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.

"Substantial action specific to Brunei." Adopting,  
publicizing and implementing a formal plan to cease scrutinized  
business activities within one year and to refrain from any such  
new business activities; or through engagement with the  
government of Brunei, accomplishing the repeal of the Syariah  
Penal Code imposed on the Muslim population of Brunei.

\* \* \*

Section 3. Sections 4(a), (b), (c) and (d) and 5(b), (c)  
introductory paragraph and (d)(1) of the act are amended to  
read:

Section 4. Required actions.

(a) Procedure.--A public fund shall adhere to the procedures  
under this section for determining companies on its Scrutinized  
Companies with Activities in Brunei List, Scrutinized Companies  
with Activities in Iran List and Scrutinized Companies with  
Activities in Sudan List that qualify for divestment.

(b) Engagement.--

1           (1) For each company on a public fund's Scrutinized  
2 Companies with Activities in Brunei List, Scrutinized  
3 Companies with Activities in Iran List or Scrutinized  
4 Companies with Activities in Sudan List in which the public  
5 fund has direct holdings, the public fund shall send a  
6 written notice informing the company of its scrutinized  
7 company status and specify the business activities which have  
8 resulted in this determination and that it may become subject  
9 to divestment by the public fund. The notice must inform the  
10 company of the opportunity to clarify its scrutinized  
11 business activities and encourage the company, within 180  
12 days of the date of receipt of the notice, to cease its  
13 scrutinized business activities in Brunei, Iran[, ] or Sudan  
14 [or both] or convert the activities to inactive business  
15 activities in order to avoid qualifying for divestment by the  
16 public fund. The notice shall be sent no later than 120 days  
17 after the effective date of this section.

18           (2) If, within 180 days of the date of receipt of a  
19 notice under paragraph (1), a company announces by public  
20 disclosure substantial action specific to Brunei, substantial  
21 action specific to Iran or substantial action specific to  
22 Sudan, the public fund may maintain its holdings, but the  
23 company shall remain on the Scrutinized Companies with  
24 Activities in Brunei List, Scrutinized Companies with  
25 Activities in Iran List or Scrutinized Companies with  
26 Activities in Sudan List pending completion of the companies'  
27 cessation of scrutinized business activities. Following  
28 completion of a company's cessation of scrutinized business  
29 activities, the public fund shall remove the company from its  
30 Scrutinized Companies with Activities in Brunei List,

1 Scrutinized Companies with Activities in Iran List or  
2 Scrutinized Companies with Activities in Sudan List.

3 (c) Divestment.--

4 (1) If, after 180 days following the effective date of  
5 receipt of the notice under subsection (b)(1), a company has  
6 not announced by public disclosure substantial action  
7 specific to Brunei, substantial action specific to Iran[, ] or  
8 substantial action specific to Sudan [or both] as specified  
9 in the notice, or the public fund determines or becomes aware  
10 that the company continues to have scrutinized business  
11 activities, the public fund, within 26 months after the 180-  
12 day period, shall sell, redeem, divest or withdraw from its  
13 direct holdings all securities of the company.

14 (2) If a public fund determines or becomes aware that a  
15 company that ceased scrutinized business activities following  
16 engagement under subsection (b) has resumed the activities,  
17 the public fund shall send a written notice to the company  
18 under subsection (b), and the company shall be immediately  
19 placed onto the public fund's Scrutinized Companies with  
20 Activities in Brunei List, Scrutinized Companies with  
21 Activities in Iran List or Scrutinized Companies with  
22 Activities in Sudan List.

23 (3) A public fund shall monitor a scrutinized company  
24 that has announced by public disclosure substantial action  
25 specific to Brunei, substantial action specific to Iran[, ] or  
26 substantial action specific to Sudan [or both]. If, after one  
27 year the public fund determines or becomes aware that the  
28 company has not implemented the plan, within 26 months after  
29 the expiration of the one-year period, the public fund shall  
30 sell, redeem, divest or withdraw from its direct holdings all

securities of the company.

(d) Prohibition.--A public fund may not acquire securities of a company on its Scrutinized Companies with Activities in Brunei List, Scrutinized Companies with Activities in Iran List or Scrutinized Companies with Activities in Sudan List.

\* \* \*

Section 5. Reporting.

\* \* \*

(b) Duty of public fund.--A public fund shall, within one year of assembly of its Scrutinized Companies with Activities in Brunei List, Scrutinized Companies with Activities in Iran List and Scrutinized Companies with Activities in Sudan List, provide a report to the Governor, the President pro tempore of the Senate, the Speaker of the House of Representatives and each member of the boards of the Pennsylvania Municipal Retirement System, the State Employees' Retirement System and Public School Employees' Retirement System. The report shall include the items required under subsection (c). The report shall be made available to the public.

(c) Contents.--The report under subsection (b) shall include the most recent Scrutinized Companies with Activities in Brunei List, Scrutinized Companies with Activities in Iran List and Scrutinized Companies with Activities in Sudan List and all of the following:

\* \* \*

(d) Update.--A public fund shall do all of the following:

(1) Annually update, based on evolving information under subsection (c), and make publicly available its Scrutinized Companies with Activities in Brunei List, Scrutinized Companies with Activities in Iran List and Scrutinized



Companies with Activities in Sudan List.

\* \* \*

Section 4. Section 6 of the act is amended by adding a subsection to read:

Section 6. Expiration.

\* \* \*

(c) Recurrence of investment in Brunei.--A public fund shall have no obligations under this act with respect to a company engaged in business activities in Brunei if the government of Brunei repeals the Syariah Penal Code imposed on the Muslim population of the Nation of Brunei that includes the punishment of death by stoning or whipping for an individual found guilty of homosexual sex, sodomy, adultery or rape, and amputation of a hand or foot for theft.

Section 5. This act shall take effect in 60 days.