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LC02928  
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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2006**

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A N A C T

RELATING TO PUBLIC FINANCE -- STATE INVESTMENT COMMISSION

Introduced By: Representatives Almeida, Ajello, Williams, Davey, and Slater

Date Introduced: April 06, 2006

Referred To: House Finance

It is enacted by the General Assembly as follows:

1           Section 1. Chapter 35-10 of the General Laws entitled "STATE INVESTMENT  
2   COMMISSION " is hereby amended by adding thereto the following section:

3           **35-10-15. Investment in corporations doing business in Sudan. -- (a) The assets of any**  
4   investment account, including pension, endowment, and annuity funds, under the jurisdiction of  
5   the state investment commission and/or the state treasurer (the "fiduciaries") shall not be invested  
6   in companies ("targeted companies") which either directly or through an affiliated instrumentality  
7   meet the following criteria:

8           (1) Provide revenues to the Sudanese government through business with the government,  
9   government-owned companies or government-controlled consortiums.

10          (2) Offer little substantive benefit to those outside of the Sudanese government or its  
11   affiliated supporters in Khartoum, Northern Sudan and the Nile River Valley; this "outside"  
12   population specifically includes the country's disaffected Eastern, Southern, and Western regions.

13          (3) Have either demonstrated complicity in the Darfur genocide or have not taken any  
14   substantial action to halt the genocide. Substantial action shall include, but is not limited to,  
15   curtailment of operations or public pressure on the Sudanese government. Simple company  
16   statements shall not constitute evidence of substantial action.

17          (b) Companies providing military equipment, arms, or defense supplies to any domestic  
18   party in Sudan, including the Sudanese government and rebels, shall automatically be targeted for  
19   divestment. A strong presumption shall also be made against any company providing any

1 domestic party in Sudan with equipment that may be readily co-opted for military use, including  
2 radar systems and military-grade transport vehicles, unless that company has implemented  
3 safeguards against such co-option.

4 (c) Companies which, either directly or through an affiliated instrumentality, provide  
5 services clearly dedicated to social development for the whole country shall be excluded from  
6 divestment. Such entities include, but are not limited to, those providing medicine and medical  
7 equipment, agricultural supplies and agricultural infrastructure, educational opportunities,  
8 journalism-related activities and general consumer goods.

9 (d) The following types of investments shall be subject to divestment:

10 (1) Direct holdings of public equity, corporate bonds, and Sudanese government-issued  
11 bonds.

12 (i) Direct investments shall be defined as holdings directly managed by the fiduciaries  
13 mentioned in this ordinance and all holdings administered by a contracted manager in separately  
14 managed accounts, including both actively-managed and passively-managed/indexed funds.

15 (2) Holdings of public equity, corporate bonds, and Sudanese-government-issued bonds  
16 in commingled accounts that are passively-managed/indexed. Actively-managed, commingled  
17 accounts, for both public equity and fixed-income investments, will be excluded from immediate  
18 divestment. Such accounts are still covered under subsection (e) of this section.

19 (3) Private equity holdings with readily identifiable ties to Sudan.

20 (i) "Readily identifiable" is left to the good faith judgment of the fiduciaries mentioned in  
21 this section.

22 (e) The state treasurer and board of investment commissioners shall submit letters to  
23 contracted managers of actively-managed, commingled accounts requesting that the manager  
24 consider creating an actively-managed, commingled account devoid of companies targeted as a  
25 result of this section. In the event of such an introduction, the fiduciaries shall transfer all assets  
26 in actively-managed, commingled accounts into the newly available, Sudan-free accounts in an  
27 expedited timeframe still consistent with the fiduciaries' prudent investor obligations.

28 (f) The list of targeted companies shall be determined by submitting the criteria in  
29 subsection (a) to a reputable and nonbiased third-party research firm, such as, but not limited to,  
30 the institutional Shareholder Services, Inc. and KLD Research & Analysis. Such a list may  
31 require modifications as circumstances in Sudan evolve.

32 (g) Research attained through the process outlined in subsection (f) must, when possible,  
33 be supplemented by publicly available research, communication with potentially targeted  
34 companies and communication with states and institutions that have already divested.

1           (h) Reasons for eliminating or adding a company from a preliminary list of identified  
2 companies based on the process outlined in subsection (f) must be justified in writing and  
3 supported by available research.

4           (i) The state treasurer and state investment commission shall take appropriate action to  
5 sell, redeem, divest or withdraw any investment held in violation of this act.

6           (1) At least fifty percent (50%) of assets eligible for divestment under this section shall  
7 be removed from the fiduciaries' assets under management by six (6) months after approval of  
8 this act.

9           (2) One hundred percent (100%) of assets eligible for divestment under this section shall  
10 be removed from the fiduciaries' assets under management within one year after approval of this  
11 act.

12           (j) Prior to divestment from a targeted company, the fiduciaries shall notify the targeted  
13 company of the impending decision and encourage the company to alter its current practices.

14           (k) The state treasurer shall file with the clerks of the house of representatives and of the  
15 senate a report of all investments held as of the effective date of this section which are in  
16 violation of this section. Annually thereafter, the state treasurer shall report on all investments  
17 sold, redeemed, divested or withdrawn in compliance with this section.

18           (l) If it is determined by the state treasurer that a company, which had previously been  
19 considered a targeted company, has ceased business operations with Sudan or its  
20 instrumentalities, then subsections (h) and (k) shall no longer apply to that company.

21           (m) In the event that the government of Sudan sufficiently halts the ongoing genocide in  
22 Darfur for at least twelve (12) months, as determined jointly by the state department and congress  
23 of the United States, the provisions of this section shall expire.

24           (n) In the event that the United States revokes its current sanctions on Sudan, the  
25 provisions of this section shall expire.

26           SECTION 2. This act shall take effect upon passage and nothing in this act shall alter or  
27 diminish existing fiduciary or statutory obligations and other terms, conditions, and limitations on  
28 the investment of retirement system assets for the exclusive interest and benefit of participants  
29 and beneficiaries of a retirement system.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO PUBLIC FINANCE -- STATE INVESTMENT COMMISSION

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1           This act provides that the assets of any investment account, including pension,  
2           endowment, and annuity funds, under the jurisdiction of the state investment commission and/or  
3           the state treasurer shall not be invested in companies ("targeted companies") which either directly  
4           or through an affiliated instrumentality provide revenues to the Sudanese government through  
5           business with the government, government-owned companies or government-controlled  
6           consortiums.

7           This act would take effect upon passage and nothing in this act would alter or diminish  
8           existing fiduciary or statutory obligations and other terms, conditions, and limitations on the  
9           investment of retirement system assets for the exclusive interest and benefit of participants and  
10          beneficiaries of a retirement system.

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