

HOUSE BILL NO. 5869

March 02, 2022, Introduced by Reps. Camilleri, Puri, Slagh, Sneller, Damoose, Bezotte, Hertel, Steckloff, Young, Cavanagh, Pohutsky, Sowerby and Whitsett and referred to the Committee on Government Operations.

A bill to amend 2008 PA 234, entitled
"Divestment from terror act,"
by amending sections 2, 10, and 11 (MCL 129.292, 129.300, and
129.301), section 2 as amended by 2018 PA 684.

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

1 to the people of any state sponsors of terror.

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

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

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

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

19 (i) The Michigan legislative retirement system board of
20 trustees for the Tier 1 retirement plan available under the
21 Michigan legislative retirement system act, 1957 PA 261, MCL
22 38.1001 to 38.1080.

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

24 (A) The state police retirement system created under the state
25 police retirement act of 1986, 1986 PA 182, MCL 38.1601 to
26 ~~38.1675-38.1674.~~

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

29 (C) The Tier 1 retirement plan available under the state

1 ~~employees~~**employees'** retirement act, 1943 PA 240, MCL 38.1 to
2 38.69.

3 (D) The public school employees retirement system created
4 under the public school employees retirement act of 1979, 1980 PA
5 300, MCL 38.1301 to 38.1437.

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

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

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

10 (C) Section 7 of the Michigan trust fund act, 2000 PA 489, MCL
11 12.257.

12 (D) Children's trust fund under 1982 PA 249, MCL 21.171 to
13 21.172.

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

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

18 (iv) The board of trustees of a community college subject to
19 the community college act of 1966, 1966 PA 331, MCL 389.1 to
20 389.195.

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

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

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

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

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

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

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

28 (i) A scrutinized company does not mean a company ~~which~~**that**
29 the United States government has excluded from any present federal

1 sanctions regime relating to a state sponsor of terror **described in**
 2 **subdivision (k) (i)**, or ~~which~~**that** has obtained from the United
 3 States government an applicable license or approval to conduct a
 4 transaction with a state sponsor of terror **described in subdivision**
 5 **(k) (i)**.

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

19 (k) "State sponsor of terror" means, subject to section 10 as
 20 to applicability, any **of the following**:

21 **(i) Any** country determined by the United States Secretary of
 22 State to have repeatedly provided support for acts of international
 23 terrorism.

24 **(ii) Beginning on the effective date of the amendatory act that**
 25 **added this subparagraph, Russia.**

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

29 Sec. 10. (1) If a state sponsor of terror is any of the

1 following countries, then, except as provided in subsection (2),
2 the provisions of this act begin to apply on the following dates:

3 (a) Syria, January 1, 2010.

4 (b) Cuba, January 1, 2011.

5 (c) **Russia, 12 months after the effective date of the**
6 **amendatory act that added this subdivision.**

7 (d) ~~(e)~~—Any other country, 12 months following the
8 determination by the United States secretary of state.

9 (2) The state treasurer may extend, not more than 2 times, 1
10 or more of the dates in which the provisions of this act apply that
11 are described in subsection (1) for 1 year if the state treasurer
12 determines 1 or more of the following:

13 (a) The constitutionality of the divestment provisions of this
14 act are in conflict with federal law.

15 (b) The department of treasury is not able to gather
16 sufficient information to prepare an accurate scrutinized companies
17 list.

18 Sec. 11. Not later than October 1, 2010 and October 1, 2011,
19 and not later than 9 months immediately following the determination
20 **or addition** of another country as a state sponsor of terror, the
21 department of treasury shall make recommendations to each house of
22 the legislature and to the standing committees of the senate and
23 house of representatives having jurisdiction over issues pertaining
24 to divestment of state funds on what statutory changes are needed
25 to improve the effectiveness of this act and whether the department
26 of treasury has extended or will extend 1 or more of the dates
27 provided in section 10(1) and the reason for that extension as
28 described in section 10(2).