

S. WARD
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Be it Enacted by the People of the State of Colorado:

Colorado Secretary of State

SECTION 1. In Colorado Revised Statutes, **add** part 2 to article 54.8 of title 24 as follows:

24-54.8-202. Definitions. AS USED IN THIS PART 2, UNLESS THE CONTEXT OTHERWISE REQUIRES:

- (1) "ACTIVE BUSINESS OPERATIONS" HAS THE SAME MEANING AS IN SECTION 24-54.8-102 (1).
- (2) "COMPANY" HAS THE SAME MEANING AS IN SECTION 24-54.8-102 (3).
- (3) "BUSINESS OPERATIONS" MEANS ENGAGING IN COMMERCE IN ANY FORM IN IRAN, INCLUDING 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.
- (4) "DIRECT HOLDINGS" HAS THE SAME MEANING AS IN SECTION 24-54.8-102 (5).
- (5) "INDIRECT HOLDINGS" HAS THE SAME MEANING AS IN SECTION 24-54.8-102 (8).
- (6) "INACTIVE BUSINESS OPERATIONS" HAS THE SAME MEANING AS IN SECTION 24-54.8-102 (7).
- (7) "IRAN" MEANS THE ISLAMIC REPUBLIC OF IRAN.
- (8) "MILITARY EQUIPMENT" MEANS WEAPONS, ARMS, MILITARY SUPPLIES, AND EQUIPMENT THAT READILY MAY BE USED FOR MILITARY PURPOSES, INCLUDING BUT NOT LIMITED TO RADAR SYSTEMS OR MILITARY-GRADE TRANSPORT VEHICLES, OR SUPPLIES OF SERVICES SOLD OR PROVIDED DIRECTLY OR INDIRECTLY TO ANY FORCE DIRECTLY OR INDIRECTLY CONTROLLED BY THE GOVERNMENT OF IRAN.
- (9) "MINERAL EXTRACTION ACTIVITIES" HAS THE SAME MEANING AS IN SECTION 24-54.8-102 (11).
- (10) "OIL RELATED ACTIVITIES" HAS THE SAME MEANING AS IN SECTION 24-54.8-102 (12).
- (11) "POWER PRODUCTION ACTIVATES" MEANS ANY BUSINESS OPERATION THAT INVOLVES A PROJECT COMMISSIONED BY THE GOVERNMENT OF IRAN OR ITS DESIGNATED REPRESENTATIVE WHOSE PURPOSE IT 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 THE FACILITATION OF SUCH ACTIVITIES, INCLUDING THE PROVISION OF SUPPLIES OR SERVICES IN SUPPORT OF SUCH ACTIVITIES.

- (12) "PUBLIC FUND" HAS THE SAME MEANING AS IN SECTION 24-54.8-102 (14).
- (13) "IRAN-RESTRICTED COMPANY" MEANS A COMPANY THAT HAS BUSINESS OPERATIONS THAT INVOLVE CONTRACTS WITH OR PROVISIONS 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 TEN PERCENT OF THE COMPANY'S REVENUES PRODUCED IN OR ASSETS LOCATED IN IN IRAN INVOLVE OIL-RELATED OR MINERAL EXTRACTION ACTIVITIES AND THE COMPANY HAS FAILED TO TAKE SUBSTANTIAL ACTION; OR
 - (b) MORE THAN TEN PERCENT OF THE COMPANY'S REVENUES PRODUCED IN OR ASSETS LOCATED IN IRAN INVOLVE POWER PRODUCTION ACTIVITIES AND THE COMPANY HAS FAILED TO TAKE SUBSTANTIAL ACTION; OR
 - (c) THE COMPANY HAS ON OR AFTER AUGUST 5, 1996, MADE AN INVESTMENT OF TWENTY MILLION DOLLARS OR MORE, OR ANY COMBINATION OF INVESTMENTS OF AT LEAST TEN MILLION DOLLARS EACH THAT IN THE AGGREGATE EQUALS OR EXCEEDS TWENTY MILLION DOLLARS IN ANY TWELVE MONTH PERIOD, THAT DIRECTLY OR SIGNIFICANTLY CONTRIBUTES TO THE ENHANCEMENT OF IRAN'S ABILITY TO DEVELOP PETROLEUM RESOURCES WITHIN ITS BORDERS AND THE COMPANY HAS FAILED TO TAKE SUBSTANTIAL ACTION ; OR
 - (d) THE COMPANY SUPPLIES MILITARY EQUIPMENT IN IRAN.
- (14) "SUBSTANTIAL ACTION" MEANS ADOPTING, PUBLICIZING, AND IMPLEMENTING A FORMAL PLAN TO CEASE RESTRICTED BUSINESS OPERATIONS WITHIN ONE YEAR AND REFRAIN FROM ANY SUCH NEW BUSINESS OPERATIONS IN IRAN.

24-54.8-203. Identification of Iran restricted companies. (1) WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS SECTION, A PUBLIC FUND SHALL MAKE ITS BEST EFFORTS TO IDENTIFY ALL IRAN-RESTRICTED COMPANIES IN WHICH THE PUBLIC FUND HAS DIRECT OR INDIRECT HOLDINGS OR COULD POSSIBLY HAVE SUCH HOLDINGS IN THE FUTURE. SUCH EFFORTS MAY INCLUDE, AS APPROPRIATE IN THE PUBLIC FUND'S JUDGEMENT:

- (a) REVIEWING AND RELYING ON PUBLICLY AVAILABLE INFORMATION REGARDING COMPANIES WITH BUSINESS OPERATIONS IN IRAN, INCLUDING INFORMATION

PROVIDED BY NONPROFIT ORGANIZATIONS, RESEARCH FIRMS, INTERNATIONAL ORGANIZATIONS, AND GOVERNMENT ENTITIES;

- (b) CONTACTING ASSET MANAGERS CONTRACTED BY THE PUBLIC FUND THAT INVEST IN COMPANIES WITH BUSINESS OPERATIONS IN IRAN; AND
- (c) CONTACTING OTHER INSTITUTIONAL INVESTORS THAT HAVE DIVESTED FROM OR ENGAGED WITH COMPANIES THAT HAVE BUSINESS OPERATIONS IN IRAN.
- (d) CONTACTING OTHER PUBLIC FUNDS.

(2) BY THE FIRST MEETING OF A PUBLIC FUND FOLLOWING THE ONE YEAR PERIOD DESCRIBED IN SUBSECTION (1) OF THIS SECTION, THE PUBLIC FUND MUST ASSEMBLE ALL RESTRICTED COMPANIES INTO AN IRAN-RESTRICTED COMPANIES LIST.

(3) A PUBLIC FUND MUST UPDATE THE IRAN-RESTRICTED COMPANIES LIST EVERY SIX MONTHS BASED ON EVOLVING INFORMATION FROM, AMONG OTHER SOURCES, THOSE LISTED IN SUBSECTION (1) OF THIS SECTION.

(4) A PUBLIC FUND MAY ENGAGE A RESEARCH FIRM OR ORGANIZATION THAT OFFERS SERVICES RELATED TO THE SCREENING OF COMPANIES THAT HAVE BUSINESS OPERATIONS IN IRAN TO PERFORM ALL OR PART OF THE TASKS REQUIRED IN THIS SECTION. IT SHALL BE REASONABLE AND SUFFICIENT FOR A PUBLIC FUND TO RELY ON INFORMATION AND WORK PRODUCT OBTAINED FROM SUCH RESEARCH FIRM OR ORGANIZATION.

24-54.8-204. Actions required by a public fund. (1) Divestment determination. A PUBLIC FUND SHALL ADHERE TO THE FOLLOWING PROCEDURES FOR COMPANIES ON THE IRAN-RESTRICTED COMPANIES LIST:

- (a) THE PUBLIC FUND MUST IMMEDIATELY DETERMINE THE COMPANIES ON THE IRAN-RESTRICTED COMPANIES LIST IN WHICH THE PUBLIC FUND OWNS DIRECT OR INDIRECT HOLDINGS.
- (b) FOR EACH COMPANY IDENTIFIED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1) WITH ONLY INACTIVE BUSINESS OPERATIONS, THE PUBLIC FUND MUST SEND A WRITTEN NOTICE INFORMING THE COMPANY OF THIS PART 2 AND ENCOURAGING IT TO CONTINUE TO REFRAIN FROM INITIATING ACTIVE BUSINESS OPERATIONS IN IRAN UNTIL IT IS ABLE TO AVOID RESTRICTED BUSINESS OPERATIONS.
- (c) FOR EACH COMPANY NEWLY IDENTIFIED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1) WITH ACTIVE BUSINESS OPERATIONS, THE PUBLIC FUND MUST SEND A WRITTEN NOTICE INFORMING THE COMPANY OF ITS IRAN-RESTRICTED

COMPANY STATUS AND THAT IT MAY BECOME SUBJECT TO DIVESTMENT FROM THE PUBLIC FUND. THE NOTICE SHALL OFFER THE COMPANY THE OPPORTUNITY TO CLARIFY ITS IRAN-RELATED ACTIVITIES AND SHALL ENCOURAGE THE COMPANY, WITHIN 90 DAYS, TO EITHER CEASE ITS RESTRICTED BUSINESS OPERATIONS OR CONVERT SUCH OPERATIONS TO INACTIVE BUSINESS OPERATIONS IN ORDER TO AVOID QUALIFYING FOR DIVESTMENT BY THE PUBLIC FUND.

(d) IF, WITHIN NINETY DAYS FOLLOWING THE PUBLIC FUND'S FIRST ENGAGEMENT WITH A COMPANY PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (1), THAT COMPANY CEASES IRAN-RESTRICTED BUSINESS OPERATIONS, THE COMPANY SHALL BE REMOVED FROM THE IRAN-RESTRICTED COMPANIES LIST AND THE PROVISIONS OF THIS SECTION SHALL CEASE TO APPLY TO IT UNLESS IT RESUMES IRAN-RESTRICTED BUSINESS OPERATIONS. IF, WITHIN NINETY DAYS FOLLOWING THE PUBLIC FUND'S FIRST ENGAGEMENT, THE COMPANY CONVERTS ITS IRAN-RESTRICTED ACTIVE BUSINESS OPERATIONS TO INACTIVE BUSINESS OPERATIONS, THE COMPANY SHALL BE SUBJECT TO THE PROVISIONS OF PARAGRAPH (b) OF THIS SUBSECTION (1).

(2) **Divestment.** (a) IF, AFTER 90 DAYS FOLLOWING A PUBLIC FUND'S FIRST ENGAGEMENT WITH A COMPANY PURSUANT TO PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION, THE COMPANY CONTINUES TO HAVE IRAN-RESTRICTED ACTIVE BUSINESS OPERATIONS, AND ONLY WHILE SUCH COMPANY CONTINUES TO HAVE IRAN-RESTRICTED ACTIVE BUSINESS OPERATIONS, THE PUBLIC FUND SHALL SELL, REDEEM, DIVEST, OR WITHDRAW ALL PUBLICLY TRADED SECURITIES OF THE COMPANY, EXCEPT AS PROVIDED IN SUBSECTIONS (4) AND (5) OF THIS SECTION, ACCORDING TO THE FOLLOWING SCHEDULE:

(I) AT LEAST FIFTY PERCENT OF SUCH ASSETS SHALL BE REMOVED FROM THE PUBLIC FUND'S ASSETS UNDER MANAGEMENT BY NINE MONTHS AFTER THE COMPANY'S MOST RECENT APPEARANCE ON THE IRAN-RESTRICTED COMPANIES LIST.

(II) ONE HUNDRED PERCENT OF SUCH ASSETS SHALL BE REMOVED FROM THE PUBLIC FUND'S ASSETS UNDER MANAGEMENT WITHIN FIFTEEN MONTHS AFTER THE COMPANY'S MOST RECENT APPEARANCE ON THE IRAN-RESTRICTED COMPANIES LIST.

(b) IF A COMPANY THAT CEASED IRAN-RESTRICTED ACTIVE BUSINESS OPERATIONS FOLLOWING ENGAGEMENT PURSUANT TO PARAGRAPH (c) OF SUBSECTION (1) OF THE SECTION RESUMES SUCH OPERATIONS, PARAGRAPH (a) OF THIS SUBSECTION (2) SHALL IMMEDIATELY APPLY, AND A PUBLIC FUND SHALL SEND WRITTEN NOTICE TO THE COMPANY. THE COMPANY SHALL ALSO BE IMMEDIATELY PLACED ON THE IRAN-RESTRICTED COMPANIES LIST AGAIN.

(3) **Prohibition.** AT NO TIME SHALL A PUBLIC FUND ACQUIRE DIRECT HOLDINGS IN SECURITIES OF COMPANIES ON THE IRAN-RESTRICTED COMPANIES LIST THAT HAVE ACTIVE BUSINESS OPERATIONS. PUBLIC FUNDS SHALL NOT UNDERTAKE INVESTMENTS IN AN INDIRECT PASSIVELY MANAGED FUND THAT IS NOT HELD IN THE PUBLIC FUND'S PORTFOLIO AS OF THE EFFECTIVE DATE OF THIS PART 2, WHERE THE PASSIVELY MANAGED FUND CONTAINS PUBLICLY TRADED SECURITIES OF AN IRAN-RESTRICTED COMPANY WITH ACTIVE BUSINESS OPERATIONS IN IRAN.

(4) **Defined contribution plans.** NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, PUBLIC FUNDS, WHEN DISCHARGING THEIR RESPONSIBILITY FOR OPERATION OF A DEFINED CONTRIBUTION PLAN, MUST ENGAGE THE MANAGER OF THE INVESTMENT OFFERINGS IN SUCH PLANS REQUESTING THAT THEY CONSIDER REMOVING IRAN-RESTRICTED COMPANIES FROM THE INVESTMENT OFFERINGS OR CREATE AN ALTERNATIVE INVESTMENT OFFERINGS DEVOID OF IRAN-RESTRICTED COMPANIES. IF THE MANAGER CREATES AN ALTERNATIVE INVESTMENT OFFERING AND THE OFFERING IS DEEMED CONSISTENT WITH PRUDENT INVESTOR STANDARDS BY THE PUBLIC FUND, THE PUBLIC FUND SHALL CONSIDER INCLUDING SUCH INVESTMENT OFFERING IN THE PLAN.

(5) **Private equity.** PUBLIC FUNDS MUST ANNUALLY NOTIFY MANAGERS OF PRIVATE EQUITY ASSETS OF THE PUBLIC FUND THAT PUBLIC POLICY IN COLORADO IS TO AVOID PARTICIPATION IN IRAN-RESTRICTED COMPANIES WITH ACTIVE BUSINESS OPERATIONS IN IRAN AND REQUEST THE MANAGERS NOT UNDERTAKE ANY INVESTMENTS THAT WOULD CONSTITUTE SUCH OPERATIONS. PRIOR TO INVESTING IN A NEW PRIVATE EQUITY FUND THAT IS NOT IN THE PUBLIC FUND'S PORTFOLIO AS OF THE EFFECTIVE DATE OF THIS PART 2, THE PUBLIC FUND SHALL PERFORM DUE DILIGENCE TO PREVENT INVESTMENT IN ANY PRIVATE EQUITY FUND WHERE THE OFFERING MEMORANDUM OR PROSPECTUS IDENTIFIES THE PURPOSE OF THE PRIVATE EQUITY FUND AS INVESTING IN IRAN-RESTRICTED COMPANIES WITH ACTIVE BUSINESS OPERATIONS IN IRAN.

24-54.8-205. Public fund reporting requirements. (1) A PUBLIC FUND MUST FILE A PUBLICLY AVAILABLE REPORT TO THE GENERAL ASSEMBLY, THE OFFICE OF THE ATTORNEY GENERAL, AND THE OFFICE OF THE TREASURER THAT INCLUDES THE IRAN-RESTRICTED COMPANIES WITHIN THIRTY DAYS AFTER THE LIST IS CREATED.

(2) ANNUALLY THEREAFTER, A PUBLIC FUND MUST FILE A PUBLICLY AVAILABLE REPORT TO THE GENERAL ASSEMBLY, THE OFFICE OF THE ATTORNEY GENERAL, AND THE OFFICE OF THE TREASURER THAT INCLUDES:

(a) A SUMMARY OF CORRESPONDENCE WITH COMPANIES ENGAGED BY THE PUBLIC FUND PURSUANT TO 24-54.8-204 (1) (b) AND (1) (c);

(b) ALL INVESTMENTS SOLD, REDEEMED, DIVESTED, OR WITHDRAWN IN COMPLIANCE WITH SECTION 24-54.8-204 (2); AND

(c) ALL PROHIBITED INVESTMENTS UNDER SECTION 24-54.8-204 (3).

24-54.8-206. Severability. IF ANY PROVISION OF THIS PART 2 OR THE APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, SUCH INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS PART 2 THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF THIS PART 2 ARE DECLARED TO BE SEVERABLE.

SECTION 2. In Colorado Revised Statutes, 24-54.8-101, amend 9 (1) (r) and (3) as follows:

24-54.8-101. Legislative declaration - post-enactment review.

(1) The general assembly hereby finds and declares that:

(r) It is the judgment of the general assembly that this ~~article~~ PART 1 should remain in effect only insofar as it continues to be consistent with, and does not unduly interfere with, the foreign policy of the United States as determined by the federal government.

(3) The general assembly further finds and declares that the desired result of this ~~article~~ PART 1 for the purpose of post-enactment review is that all public funds sell, redeem, divest, or withdraw investments in scrutinized companies with active business operations in Sudan and maintain communication with scrutinized companies with inactive business operations in Sudan, in accordance with the provisions of this ~~article~~ PART 1.

SECTION 3. In Colorado Revised Statutes, 24-54.8-102, amend introductory portion and (16) (c) as follows:

24-54.8-102. Definitions. As used in this ~~article~~ PART 1, unless the context otherwise requires:

(16) "Scrutinized company" means a company that meets any of the following criteria:

(c) 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, such as through 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 regional government of southern Sudan or any internationally recognized peacekeeping force or humanitarian organization. Notwithstanding any provision of this ~~article~~ PART 1 to the contrary, a social development company that is not complicit in the Darfur genocide shall not be considered a scrutinized company.

SECTION 4. In Colorado Revised Statutes, 24-54.8-104, amend (1) (b), (5), and (6) as follows:

24-54.8-104. Required actions. (1) Engagement. A public fund shall adhere to the following procedures for companies on the scrutinized companies list:

(b) For each company identified pursuant to paragraph (a) of this subsection (1) with only inactive business operations, the public fund shall send a written notice informing the company of this ~~article~~ PART 1 and encouraging it to continue to refrain from initiating active business operations in Sudan until it is able to avoid scrutinized business operations. The public fund shall continue such correspondence on a semi-annual basis.

(5) **Excluded securities.** Notwithstanding any other provision of this ~~article~~ PART 1, subsections (2) and (3) of this section do not apply to indirect holdings in actively managed investment funds. A public fund shall, however, submit letters to the managers of such investment funds containing companies with scrutinized active business operations requesting that they consider removing such companies from the fund or create a similar actively managed fund with indirect holdings devoid of such companies. If the manager creates a similar fund and if the public fund determines investment in the similar fund is consistent with prudent investment standards, the public fund shall replace all applicable investments with investments in the similar fund in an expedited time. In addition, notwithstanding any other provision of this article, for passively managed indirect holdings, if the manager does not remove such companies or create a similar fund consistent with prudent investment standards by October 1, 2008, or nine months after the date the public fund first requests the manager to act, whichever is later, then the scrutinized companies with active business operations shall be removed from the indirect passively managed assets of the public fund.

(6) **Defined contribution plans.** Notwithstanding any other provision of this ~~article~~ PART 1, public funds, when discharging their 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 consistent with prudent investor standards by the public fund, the public fund shall consider including such investment offering in the plan.

SECTION 5. In Colorado Revised Statutes, 24-54.8-106, amend (1) introductory portion and (1) (c) as follows:

24-54.8-106. Provisions for repeal. (1) This ~~article~~ PART 1 is repealed upon the occurrence of any one of the following:

(c) The congress or president of the United States, through legislation or executive order, declares that mandatory divestment of the type provided for in this ~~article~~ PART 1 interferes with the conduct of United States foreign policy.

SECTION 6. In Colorado Revised Statutes, 24-54.8-111 amend as follows:

24-54.8-111. Severability. If any section, subsection, paragraph, subparagraph, sub-subparagraph, sentence, clause, phrase, word, or other provision of this ~~article~~ PART 1 or the application thereof to any person or circumstance is found to be invalid, illegal, unenforceable, or unconstitutional, the provision is hereby declared to be severable and the remainder of this ~~article~~ PART 1 shall remain effective and functional notwithstanding the invalidity, illegality, unenforceability, or unconstitutionality. The Colorado general assembly hereby declares that it would have passed this ~~article~~ PART 1, including each section, subsection, paragraph, subparagraph, sub-subparagraph, sentence, clause, phrase, word, and other provision irrespective of the fact that any such provision would be declared invalid, illegal, unenforceable, or unconstitutional, including, but not limited to, the engagement, divestment, and prohibition provisions of this ~~article~~ PART 1.

SECTION 7. Effective date. (1) This Act shall take effect at 12:01 a.m. on January 1, 2017.