Sec. 806.001. DEFINITIONS. In this chapter:

(1) "Active business operations" means all business operations that are not inactive business operations.

(2) "Business operations" means engaging in commerce in any form in Sudan, including by 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.

(3) "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 whose securities are publicly traded, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations, that exists to make a profit.

(4) "Complicit" means taking actions that have directly supported or promoted the genocidal campaign in Darfur, including:

(A) preventing members of Darfur's victimized population from communicating with each other;

(B) encouraging Sudanese citizens to speak out against an internationally approved security force for Darfur; or

(C) actively working to deny, cover up, or alter the record on human rights abuses in Darfur.

(5) "Direct holdings in a company" means all securities of that company held directly by a state governmental entity in an account or fund in which a state governmental entity
owns all shares or interests.

(6) "Government of Sudan" means the government in Khartoum, Sudan, which is led by the National Congress Party, formerly known as the National Islamic Front, or any successor government formed on or after October 13, 2006, including the coalition National Unity Government agreed upon in the Comprehensive Peace Agreement for Sudan. The term does not include the regional government of southern Sudan.

(7) "Inactive business operations" means the mere continued holding or renewal of rights to property previously operated to generate revenue but not presently deployed to generate revenue.

(8) "Indirect holdings in a company" means all securities of that company held in an account or fund, such as a mutual fund, managed by one or more persons not employed by a state governmental entity, in which the state governmental entity owns shares or interests together with other investors not subject to this chapter. The term does not include money invested under a plan described by Section 401(k) or 457 of the Internal Revenue Code of 1986.

(9) "Listed company" means a company listed by the comptroller under Section 806.051.

(10) "Marginalized populations of Sudan" includes:

(A) the portion of the population in the Darfur region that has been genocidally victimized;

(B) the portion of the population of southern Sudan victimized by Sudan's North-South civil war;

(C) the Beja, Rashidiya, and other similarly underserved groups of eastern Sudan;

(D) the Nubian and other similarly underserved groups in Sudan's Abyei, Southern Blue Nile, and Nuba Mountain regions; and

(E) the Amri, Hamadab, Manasir, and other similarly underserved groups of northern Sudan.

(11) "Military equipment" means weapons, arms, military supplies, and equipment that readily may be used for military purposes, including radar systems or military-grade
transport vehicles or supplies or services sold or provided directly or indirectly to any force actively participating in armed conflict in Sudan.

(12) "Mineral extraction activities" includes 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 those activities, including by providing supplies or services in support of those activities.

(13) "Oil-related activities" includes:
(A) owning rights to oil blocks;
(B) exporting, extracting, producing, refining, processing, exploring for, transporting, selling, or trading of oil;
(C) constructing, maintaining, or operating a pipeline, refinery, or other oil-field infrastructure; or
(D) facilitating oil-related activities, including by providing supplies or services in support of the activities, except that the mere retail sale of gasoline and related consumer products is not an oil-related activity.

(14) "Power production activities" means any business operation that involves a project commissioned by the National Electricity Corporation of Sudan or another similar Government of Sudan entity whose purpose is to facilitate power generation and delivery, including establishing power-generating plants or hydroelectric dams, selling or installing components for the project, and providing service contracts related to the installation or maintenance of the project, as well as facilitating those activities, including by providing supplies or services in support of those activities.

(15) "Scrubent company" means a company that:
(A) engages in scrutinized business operations described by Section 806.002; or
(B) has been complicit in the Darfur genocide during any preceding 20-month period.

(16) "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.

(17) "State governmental entity" means the Employees Retirement System of Texas or the Teacher Retirement System of Texas.

(18) "Substantial action" means adopting, publicizing, and implementing a formal plan to cease scrutinized business operations within one year and to refrain from any such new business operations, undertaking significant humanitarian efforts on behalf of 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.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.

Sec. 806.002. SCRUTINIZED BUSINESS OPERATIONS. A company engages in scrutinized business operations if:

(1) the company has business operations that involve contracts with or providing supplies or services to the Government of Sudan, a company in which the Government of Sudan has any direct or indirect equity share, a Government of Sudan-commissioned consortium or project, or a company involved in a Government of Sudan-commissioned consortium or project, 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 revenue or assets linked to Sudan involve contracts with or provision of oil-related or mineral extracting products or services to the regional government of southern Sudan or a project or consortium created exclusively by that regional government, and
the company has failed to take substantial action; or

(B) more than 10 percent of the company's revenue 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; or

(2) the company supplies military equipment in Sudan, unless:

(A) the company clearly shows that the military equipment cannot be used to facilitate offensive military actions in Sudan; or

(B) the company implements rigorous and verifiable safeguards to prevent use of that equipment by forces actively participating in armed conflict, including:

(i) using post-sale tracking of the equipment by the company;

(ii) obtaining certification from a reputable and objective third party that the equipment is not being used by a party participating in armed conflict in Sudan; or

(iii) selling the equipment solely to the regional government of southern Sudan or any internationally recognized peacekeeping force or humanitarian organization.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.

Sec. 806.003. SOCIAL DEVELOPMENT COMPANY. Notwithstanding any other law, a social development company that is not complicit in the Darfur genocide is not a scrutinized company.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.

Sec. 806.004. EXCEPTION. Notwithstanding any other law, a company that the United States government affirmatively declares to be excluded from its federal sanctions regime relating to Sudan is not subject to divestment or investment prohibition under this chapter.
Sec. 806.005. OTHER LEGAL OBLIGATIONS. With respect to actions taken in compliance with this chapter, including all good faith determinations regarding companies as required by this chapter, a state governmental entity is exempt from any conflicting statutory or common law obligations, including any obligations with respect to making investments, divesting from any investment, preparing or maintaining any list of companies, or choosing asset managers, investment funds, or investments for the state governmental entity's securities portfolios.

Sec. 806.006. INDEMNIFICATION OF STATE GOVERNMENTAL ENTITIES, EMPLOYEES, AND OTHERS. In a cause of action based on an action, inaction, decision, divestment, investment, company communication, report, or other determination made or taken in connection with this chapter, the state shall, without regard to whether the person performed services for compensation, indemnify and hold harmless for actual damages, court costs, and attorney's fees adjudged against, and defend:

1. an employee, a member of the governing body, or any other officer of a state governmental entity;
2. a contractor of a state governmental entity;
3. a former employee, former member of the governing body, or any other former officer of a state governmental entity who was an employee or officer when the act or omission on which the damages are based occurred; and
4. a former contractor of a state governmental entity who was a contractor when the act or omission on which the damages are based occurred.

Sec. 806.007. NO PRIVATE CAUSE OF ACTION. (a) A person,
including a member, retiree, and beneficiary of a retirement system to which this chapter applies, an association, a research firm, a company, or any other person may not sue or pursue a private cause of action against the state, a state governmental entity, an employee, a member of the governing body, or any other officer of a state governmental entity, or a contractor of a state governmental entity, for any claim or cause of action, including breach of fiduciary duty, or for violation of any constitutional, statutory, or regulatory requirement in connection with any action, inaction, decision, divestment, investment, company communication, report, or other determination made or taken in connection with this chapter.

(b) A person who files suit against the state, a state governmental entity, an employee, a member of the governing body, or any other officer of a state governmental entity, or a contractor of a state governmental entity, is liable for paying the costs and attorney's fees of a person sued in violation of this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.

SUBCHAPTER B. DUTIES REGARDING INVESTMENTS

Sec. 806.051. LISTED COMPANIES. (a) The comptroller shall prepare and maintain, and provide to each state governmental entity, a list of all scrutinized companies. In maintaining the list of scrutinized companies, the comptroller may review and rely, as appropriate in the comptroller's judgment, on publicly available information regarding companies with business operations in Sudan, including information provided by the state, nonprofit organizations, research firms, international organizations, and governmental entities.

(b) The comptroller shall update the list of scrutinized companies annually or more often as the comptroller considers necessary, but not more often than quarterly, based on information from, among other sources, those listed in Subsection (a).

(c) Not later than the 30th day after the date the list of scrutinized companies is first provided or updated, the comptroller
shall file the list of scrutinized companies with the presiding officer of each house of the legislature and the attorney general.
Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.

Sec. 806.052. IDENTIFICATION OF INVESTMENT IN LISTED COMPANIES. Not later than the 14th day after the date a state governmental entity receives the list provided under Section 806.051(c), the state governmental entity shall notify the comptroller of the listed companies in which the state governmental entity owns direct or indirect holdings.
Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.

Sec. 806.053. NOTICE TO LISTED COMPANY ENGAGED IN INACTIVE BUSINESS OPERATIONS. For each listed company identified under Section 806.052 that is engaged in only inactive scrutinized business operations, the state governmental entity shall send a written notice informing the company of this chapter and encouraging the company to continue to refrain from initiating active business operations in Sudan until it is able to avoid being considered a listed company. The state governmental entity shall continue the correspondence as the entity considers necessary, but is not required to initiate correspondence more often than semiannually.
Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.

Sec. 806.054. ACTIONS RELATING TO LISTED COMPANY ENGAGED IN ACTIVE BUSINESS OPERATIONS. (a) For each listed company identified under Section 806.052 that is engaged in scrutinized active business operations, the state governmental entity shall send a written notice informing the company of its listed company status and warning the company that it may become subject to divestment by state governmental entities.

(b) The notice shall offer the company the opportunity to clarify its Sudan-related activities and shall encourage the
company, not later than the 90th day after the date the company receives notice under this section, to either cease its scrutinized business operations or convert such operations to inactive business operations in order to avoid qualifying for divestment by state governmental entities.

(c) If, during the time provided by Subsection (b), the company ceases scrutinized business operations, the comptroller shall remove the company from the list of scrutinized companies and this chapter will no longer apply to the company unless it resumes scrutinized business operations.

(d) If, during the time provided by Subsection (b), the company converts its scrutinized active business operations to inactive business operations, the company is subject to all provisions of this chapter relating to inactive business operations.

(e) If, after the time provided by Subsection (b) expires, the listed company continues to have scrutinized active business operations, the state governmental entity shall sell, redeem, divest, or withdraw all publicly traded securities of the company, except securities described by Section 806.057, according to the schedule provided by Section 806.056.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.

Sec. 806.055. ACTIONS RELATING TO LISTED COMPANY COMPLICIT IN GENOCIDE. (a) For each company identified under Section 806.052 that has been complicit, the state governmental entity shall send a written notice informing the company of its listed company status and warning the company that it may become subject to divestment by the state governmental entity.

(b) The notice must require the listed company to refrain from taking any further action that would make it complicit.

(c) If, after receiving the notice under Subsection (a), the listed company takes additional action that makes the company complicit, the state governmental entity shall sell, redeem, divest, or withdraw all publicly traded securities of the company, except securities described by Section 806.057, according to the
Sec. 806.056. DIVESTMENT OF ASSETS. (a) A state governmental entity required to sell, redeem, divest, or withdraw all publicly traded securities of a listed company shall comply with the following schedule:

(1) at least 50 percent of those assets shall be removed from the state governmental entity's assets under management not later than the 270th day after the date the company receives notice under Section 806.054 or 806.055 or Subsection (b); and

(2) 100 percent of those assets shall be removed from the state governmental entity's assets under management not later than the 450th day after the date the company receives notice under Section 806.054 or 806.055 or Subsection (b).

(b) If a company that ceased scrutinized active business operations after receiving notice under Section 806.054 resumes scrutinized active business operations, the state governmental entity shall send a written notice to the company informing it that the state governmental entity will sell, redeem, divest, or withdraw all publicly traded securities of the scrutinized company according to the schedule in Subsection (a).

(c) A state governmental entity may delay the schedule for divestment under Subsection (a) only to the extent that the state governmental entity determines, in the state governmental entity's good faith judgment, that divestment from listed companies will likely result in a loss in value described by Section 806.058(a). If a state governmental entity delays the schedule for divestment, the state governmental entity shall submit a report to the presiding officer of each house of the legislature and the attorney general stating the reasons and justification for the state governmental entity's delay in divestment from listed companies. The report must include documentation supporting its determination that the divestment would result in a loss in value described by Section 806.058(a), including objective numerical
estimates. The state governmental entity shall update the report every six months.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.

Sec. 806.057. INVESTMENTS EXEMPTED FROM DIVESTMENT. A state governmental entity is not required to divest from any indirect holdings in actively managed investment funds or private equity funds. The state governmental entity shall submit letters to the managers of investment funds containing listed companies requesting that they consider removing those companies from the fund or create a similar actively managed fund with indirect holdings devoid of listed companies. If the manager creates a similar fund with substantially the same management fees and same level of investment risk, the state governmental entity shall replace all applicable investments with investments in the similar fund in an expedited time frame consistent with prudent fiduciary standards.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.

Sec. 806.058. AUTHORIZED INVESTMENT IN LISTED COMPANIES. (a) A state governmental entity may cease divesting from or may reinvest in one or more listed companies if clear and convincing evidence shows that the value for all assets under management by the state governmental entity becomes equal to or less than 99.7 percent of the hypothetical value of all assets under management by the state governmental entity had the state governmental entity not divested from listed companies under this chapter.

(b) A state governmental entity may invest in a listed company as provided by this section only to the extent necessary to ensure that the value of the assets managed by the state governmental entity does not fall below the value described by Subsection (a).

(c) Before a state governmental entity may invest in a listed company under this section, the state governmental entity must provide a written report to the presiding officer of each house
of the legislature and the attorney general setting forth the reason and justification, supported by clear and convincing evidence, for its decisions to cease divestment, to reinvest, or to remain invested in a listed company.

(d) The state governmental entity shall update the report required by Subsection (c) semiannually, as applicable.

(e) This section does not apply to reinvestment in a company that has ceased to be a listed company.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.

Sec. 806.059. PROHIBITED INVESTMENTS. Except as provided by Sections 806.004 and 806.058, a state governmental entity may not acquire securities of a listed company.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.

SUBCHAPTER C. EXPIRATION; REPORT; ENFORCEMENT

Sec. 806.101. EXPIRATION OF CHAPTER. This chapter expires on the earliest of:

(1) the date on which the United States Congress or the president of the United States declares that the Darfur genocide has been halted for at least 12 months;

(2) the date on which the United States revokes its sanctions against the Government of Sudan; or

(3) the date on which the United States Congress or the president of the United States, through legislation or executive order, declares that mandatory divestment of the type provided for in this chapter interferes with the conduct of United States foreign policy.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.

Sec. 806.102. REPORT. Not later than December 31 of each year, each state governmental entity shall file a publicly available report with the presiding officer of each house of the
legislature, the attorney general, and the United States presidential special envoy to Sudan that:

(1) identifies all investments sold, redeemed, divested, or withdrawn in compliance with Section 806.056;

(2) identifies all prohibited investments under Section 806.059; and

(3) summarizes any changes made under Section 806.057.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.

Sec. 806.103. ENFORCEMENT. The attorney general may bring any action necessary to enforce this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.