

AN ACT concerning State government, which may be cited as the Act to End Atrocities and Terrorism in the Sudan.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 5. The Deposit of State Moneys Act is amended by changing Section 22.5 and by adding Section 22.6 as follows:

(15 ILCS 520/22.5) (from Ch. 130, par. 41a)

Sec. 22.5. Permitted investments. The State Treasurer may, with the approval of the Governor, invest and reinvest any State money in the treasury which is not needed for current expenditures due or about to become due, in obligations of the United States government or its agencies or of National Mortgage Associations established by or under the National Housing Act, 1201 U.S.C. 1701 et seq., or in mortgage participation certificates representing undivided interests in specified, first-lien conventional residential Illinois mortgages that are underwritten, insured, guaranteed, or purchased by the Federal Home Loan Mortgage Corporation or in Affordable Housing Program Trust Fund Bonds or Notes as defined in and issued pursuant to the Illinois Housing Development Act. All such obligations shall be considered as cash and may be delivered over as cash by a State Treasurer to his successor.

The State Treasurer may, with the approval of the Governor, purchase any state bonds with any money in the State Treasury that has been set aside and held for the payment of the principal of and interest on the bonds. The bonds shall be considered as cash and may be delivered over as cash by the State Treasurer to his successor.

The State Treasurer may, with the approval of the Governor, invest or reinvest any State money in the treasury that is not needed for current expenditure due or about to become due, or any money in the State Treasury that has been set aside and

held for the payment of the principal of and the interest on any State bonds, in shares, withdrawable accounts, and investment certificates of savings and building and loan associations, incorporated under the laws of this State or any other state or under the laws of the United States; provided, however, that investments may be made only in those savings and loan or building and loan associations the shares and withdrawable accounts or other forms of investment securities of which are insured by the Federal Deposit Insurance Corporation.

The State Treasurer may not invest State money in any savings and loan or building and loan association unless a commitment by the savings and loan (or building and loan) association, executed by the president or chief executive officer of that association, is submitted in the following form:

The Savings and Loan (or Building and Loan) Association pledges not to reject arbitrarily mortgage loans for residential properties within any specific part of the community served by the savings and loan (or building and loan) association because of the location of the property. The savings and loan (or building and loan) association also pledges to make loans available on low and moderate income residential property throughout the community within the limits of its legal restrictions and prudent financial practices.

The State Treasurer may, with the approval of the Governor, invest or reinvest, at a price not to exceed par, any State money in the treasury that is not needed for current expenditures due or about to become due, or any money in the State Treasury that has been set aside and held for the payment of the principal of and interest on any State bonds, in bonds issued by counties or municipal corporations of the State of Illinois.

The State Treasurer may, with the approval of the Governor, invest or reinvest any State money in the Treasury which is not

needed for current expenditure, due or about to become due, or any money in the State Treasury which has been set aside and held for the payment of the principal of and the interest on any State bonds, in participations in loans, the principal of which participation is fully guaranteed by an agency or instrumentality of the United States government; provided, however, that such loan participations are represented by certificates issued only by banks which are incorporated under the laws of this State or any other state or under the laws of the United States, and such banks, but not the loan participation certificates, are insured by the Federal Deposit Insurance Corporation.

The State Treasurer may, with the approval of the Governor, invest or reinvest any State money in the Treasury that is not needed for current expenditure, due or about to become due, or any money in the State Treasury that has been set aside and held for the payment of the principal of and the interest on any State bonds, in any of the following:

(1) Bonds, notes, certificates of indebtedness, Treasury bills, or other securities now or hereafter issued that are guaranteed by the full faith and credit of the United States of America as to principal and interest.

(2) Bonds, notes, debentures, or other similar obligations of the United States of America, its agencies, and instrumentalities.

(2.5) Bonds, notes, debentures, or other similar obligations of a foreign government, other than the Republic of the Sudan, that are guaranteed by the full faith and credit of that government as to principal and interest, but only if the foreign government has not defaulted and has met its payment obligations in a timely manner on all similar obligations for a period of at least 25 years immediately before the time of acquiring those obligations.

(3) Interest-bearing savings accounts, interest-bearing certificates of deposit, interest-bearing

time deposits, or any other investments constituting direct obligations of any bank as defined by the Illinois Banking Act.

(4) Interest-bearing accounts, certificates of deposit, or any other investments constituting direct obligations of any savings and loan associations incorporated under the laws of this State or any other state or under the laws of the United States.

(5) Dividend-bearing share accounts, share certificate accounts, or class of share accounts of a credit union chartered under the laws of this State or the laws of the United States; provided, however, the principal office of the credit union must be located within the State of Illinois.

(6) Bankers' acceptances of banks whose senior obligations are rated in the top 2 rating categories by 2 national rating agencies and maintain that rating during the term of the investment.

(7) Short-term obligations of corporations organized in the United States with assets exceeding \$500,000,000 if (i) the obligations are rated at the time of purchase at one of the 3 highest classifications established by at least 2 standard rating services and mature not later than 180 days from the date of purchase, (ii) the purchases do not exceed 10% of the corporation's outstanding obligations, ~~and~~ (iii) no more than one-third of the public agency's funds are invested in short-term obligations of corporations, and (iv) the corporation is not a forbidden entity, as defined in Section 22.6 of the Deposit of State Moneys Act.

(8) Money market mutual funds registered under the Investment Company Act of 1940, provided that the portfolio of the money market mutual fund is limited to obligations described in this Section and to agreements to repurchase such obligations.

(9) The Public Treasurers' Investment Pool created

under Section 17 of the State Treasurer Act or in a fund managed, operated, and administered by a bank.

(10) Repurchase agreements of government securities having the meaning set out in the Government Securities Act of 1986 subject to the provisions of that Act and the regulations issued thereunder.

(11) Investments made in accordance with the Technology Development Act.

For purposes of this Section, "agencies" of the United States Government includes:

(i) the federal land banks, federal intermediate credit banks, banks for cooperatives, federal farm credit banks, or any other entity authorized to issue debt obligations under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and Acts amendatory thereto;

(ii) the federal home loan banks and the federal home loan mortgage corporation;

(iii) the Commodity Credit Corporation; and

(iv) any other agency created by Act of Congress.

The Treasurer may, with the approval of the Governor, lend any securities acquired under this Act. However, securities may be lent under this Section only in accordance with Federal Financial Institution Examination Council guidelines and only if the securities are collateralized at a level sufficient to assure the safety of the securities, taking into account market value fluctuation. The securities may be collateralized by cash or collateral acceptable under Sections 11 and 11.1.

(Source: P.A. 92-546, eff. 1-1-03; 92-851, eff. 8-26-02; revised 9-19-02.)

(15 ILCS 520/22.6 new)

Sec. 22.6. Prohibited deposits.

(a) Notwithstanding any other provision of law, the State Treasurer shall not deposit any funds into or otherwise contract with any financial institution unless an expressly authorized officer of that financial institution annually

certifies, in the manner and form established by the Treasurer, that the financial institution has implemented policies and practices that require loan applicants to certify that they are not forbidden entities.

(b) For the purposes of this Section:

"Company" is any entity capable of affecting commerce, including but not limited to (i) a government, government agency, natural person, legal person, sole proprietorship, partnership, firm, corporation, subsidiary, affiliate, franchisor, franchisee, joint venture, trade association, financial institution, utility, public franchise, provider of financial services, trust, or enterprise; and (ii) any association thereof.

"Forbidden entity" means any of the following:

(1) The government of the Republic of the Sudan and any of its agencies, including but not limited to political units and subdivisions;

(2) Any company that is wholly or partially managed or controlled by the government of the Republic of the Sudan and any of its agencies, including but not limited to political units and subdivisions;

(3) Any company (i) that is established or organized under the laws of the Republic of the Sudan; or (ii) whose principal place of business is in the Republic of the Sudan;

(4) Any company (i) identified by the Office of Foreign Assets Control in the United States Department of the Treasury as sponsoring terrorist activities; or (ii) fined, penalized, or sanctioned by the Office of Foreign Assets Control in the United States Department of the Treasury for any violation of any United States rules and restrictions relating to the Republic of the Sudan that occurred at any time following the effective date of this Act; and

(5) Any company who has failed to certify under oath that it does not own or control any property or asset

located in, have employees or facilities located in, provide goods or services to, obtain goods or services from, have distribution agreements with, issue credits or loans to, purchase bonds or commercial paper issued by, or invest in (i) the Republic of the Sudan; or (ii) any company domiciled in the Republic of the Sudan.

Notwithstanding the foregoing, the term "forbidden entity" shall exclude companies, except agencies of the Republic of the Sudan, who are certified as Non-Government Organizations by the United Nations, or who engage solely in (i) the provision of goods and services intended to relieve human suffering or to promote welfare, health, religious and spiritual activities, and education for humanitarian purposes or otherwise; or (ii) journalistic activities.

(c) In addition to any other penalties and remedies available under the law of Illinois and the United States, any transaction between a financial institution and a company that violates the provisions of this Act shall be void or voidable, at the joint discretion of the Treasurer and the financial institution.

(d) This Section does not apply to (a) linked deposits made by the Treasurer into financial institutions in return for that institution's commitment to provide, through loans or other financial support, agreed benefits in projects undertaken in the community; and (b) the purchase of depository, custodial, processing, and advisory services that are necessary to fulfill the Treasurer's obligations and responsibilities.

Section 10. The Illinois Pension Code is amended by adding Section 1-110.5 as follows:

(40 ILCS 5/1-110.5 new)

Sec. 1-110.5. Certain prohibited transactions.

(a) A fiduciary of a retirement system or pension fund established under this Code shall not transfer or disburse funds to, deposit into, acquire any bonds or commercial paper

from, or otherwise loan to or invest in any entity unless the company charged with managing the assets of the retirement system or pension fund, at no additional cost to the fiduciary, certifies to the fiduciary, in the manner and form established by the Treasurer, that:

(1) the fund managing company has not loaned to, invested in, or otherwise transferred any of the retirement system or pension fund's assets to a forbidden entity any time after the effective date of this Act;

(2) at least 60% of the retirement system or pension fund's assets are not invested in forbidden entities at any time more than twelve months after the effective date of this Act;

(3) at least 100% of the retirement system or pension fund's assets are not invested in forbidden entities at any time more than eighteen months after the effective date of this Act.

(b) For purposes of this Section:

"Company" is any entity capable of affecting commerce, including but not limited to (i) a government, government agency, natural person, legal person, sole proprietorship, partnership, firm, corporation, subsidiary, affiliate, franchisor, franchisee, joint venture, trade association, financial institution, utility, public franchise, provider of financial services, trust, or enterprise; and (ii) any association thereof.

"Forbidden entity" means any of the following:

(1) The government of the Republic of the Sudan and any of its agencies, including but not limited to political units and subdivisions;

(2) Any company that is wholly or partially managed or controlled by the government of the Republic of the Sudan and any of its agencies, including but not limited to political units and subdivisions;

(3) Any company (i) that is established or organized under

the laws of the Republic of the Sudan; (ii) whose principal place of business is in the Republic of the Sudan;

(4) Any company (i) identified by the Office of Foreign Assets Control in the United States Department of the Treasury as sponsoring terrorist activities; or (ii) fined, penalized, or sanctioned by the Office of Foreign Assets Control in the United States Department of the Treasury for any violation of any United States rules and restrictions relating to the Republic of the Sudan that occurred at any time following the effective date of this Act; and

(5) Any publicly traded company who has been identified by an independent researching firm that specializes in global security risk as being a company that owns or controls property or assets located in, has employees or facilities located in, provides goods or services to, obtain goods or services from, has distribution agreements with, issue credits or loans to, purchase bonds or commercial paper issued by, or invest in (i) the Republic of the Sudan; or (ii) any company domiciled in the Republic of the Sudan; and

(6) Any non publicly-traded company that fails to submit to the fund managing company an affidavit sworn under oath in which an expressly authorized officer of the company avers that the company (i) does not own or control any property or asset located in the Republic of the Sudan; and (ii) did not transact commercial business in the Republic of the Sudan.

Notwithstanding the foregoing, the term "forbidden entity" shall exclude companies, except agencies of the Republic of the Sudan, who are certified as Non-Government Organizations by the United Nations, or who engage solely in (i) the provision of goods and services intended to relieve human suffering or to promote welfare, health, religious and spiritual activities, and education humanitarian purposes or otherwise; or (ii) journalistic activities.

(c) In addition to any other penalties and remedies available under the law of Illinois and the United States, any transaction that violates the provisions of this Act shall be void or voidable, at the sole discretion of the fiduciary.

Section 90. Term; construction. The provisions of this amendatory Act of the 94th General Assembly shall have full force and effect until such time as the government of the United States, through Executive Order or otherwise, rescinds Executive Order 13067, or until such time as these provisions are repealed or modified by the General Assembly. This amendatory Act of the 94th General Assembly shall be construed under the laws of the State of Illinois and, where applicable, the laws of the United States.

Section 99. Effective date. This Act takes effect 7 months after becoming law.