

JAN 18 2008

A BILL FOR AN ACT

RELATING TO TERROR-FREE INVESTMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 36, part II, Hawaii Revised Statutes,
2 is amended by adding a new section to be appropriately
3 designated and to read as follows:

4 "§36- Terror-free investment. (a) For the purposes of
5 this section:

6 "Business ties" means owning or controlling property or
7 assets located in, having employees or facilities located in,
8 providing goods or services to, obtaining goods or services
9 from, having distribution agreements with, issuing credit or
10 loans to, purchasing bonds or commercial paper issued by,
11 investing in or having equity ties to or with Iran, North Korea,
12 Sudan, Syria, or any company domiciled in Iran, North Korea,
13 Sudan, Syria, or their affiliates.

14 "Company" means any entity capable of affecting commerce,
15 including but not limited to a government, government agency,
16 natural person, legal person, sole proprietorship, partnership,
17 firm, corporation, subsidiary, affiliate, franchisor,



1 franchisee, joint venture, trade association, financial
2 institution, utility, public franchise, provider of financial
3 services, trust, enterprise, or association.

4 "Global security risk prohibitive company" means any
5 foreign company that has active or current business ties in or
6 with Iran, North Korea, Sudan, or Syria as determined by an
7 independent, third-party research firm that specializes in
8 global security risk.

9 "Independent, third-party research firm" means a private
10 United States company that has submitted an affidavit to the
11 State averring that the company:

12 (1) Specializes in identifying and assessing companies
13 that are exposed to global security risk;

14 (2) Offers credible research on corporate ties to Iran,
15 North Korea, Sudan, or Syria, or that has been
16 maintained and provided to the market for a minimum of
17 one calendar year; and

18 (3) Does not have the potential for conflicts of interest
19 stemming from investment banking and corporate finance
20 activities.

21 "Iran" means the Islamic Republic of Iran.



1 "North Korea" means the Democratic People's Republic of
2 Korea.

3 "Sudan" means the Republic of the Sudan.

4 "Syria" means the Syrian Arab Republic.

5 "Public investor" or "public investors" means the State.

6 (b) All international equity holdings within the State
7 shall exclude global security risk prohibitive companies as
8 defined in subsection (a); provided that companies that are
9 certified as a non-governmental organization by the United
10 Nations, or that are determined by an independent, third-party
11 research firm, to engage solely in the provision of goods and
12 services that relieve human suffering, or promote health,
13 religious, spiritual, educational, humanitarian, or journalistic
14 activities in Iran, North Korea, Sudan, or Syria are exempt from
15 divestment and exclusion.

16 This section shall expire relative to each specific country
17 individually at such time that the President of the United
18 States affirmatively and unambiguously states, by means
19 including, but not limited to, enacted legislation, executive
20 order, or written certification from the President to Congress,
21 that the United States Department of State no longer recognizes



1 Iran, North Korea, Sudan, or Syria as state sponsors of
2 terrorism.

3 (c) The director of finance shall adopt rules pursuant to
4 chapter 91 for the establishment of actively or passively
5 managed international equity investment strategies that identify
6 and exclude all global security risk prohibitive companies;
7 provided that the rules shall stipulate that as a requisite for
8 selection to manage an international equity portfolio on behalf
9 of the State the respondent shall attest that no global security
10 risk prohibitive companies will be included in the portfolio
11 held on behalf of the State and provide a plan for ensuring
12 compliance.

13 (d) No later than January 1, , the director of finance
14 shall select and contract with managers for its international
15 equity holdings that are best suited to manage international
16 equity portfolios while excluding global security risk
17 prohibitive companies. Each manager selected will certify to
18 the director of finance on a quarterly basis that the portfolio
19 excludes global security risk prohibitive companies. If at any
20 time the director of finance finds that a contracted manager has
21 not complied with the divestiture requirement or holds global
22 security risk prohibitive companies on behalf of the state



1 investment, the director of finance shall notify the manager
2 that it has ninety days to become compliant. If the manager
3 fails to comply within the ninety-day period, the director of
4 finance shall terminate the contract with the manager, and the
5 manager shall be suspended from conducting business with any
6 public investor for a period of six months from the termination.

7 (e) A public investor shall not be liable for breach of
8 the public investor's fiduciary duty to the fund for which that
9 public investor has the authority to invest assets by reason of
10 any decision to restrict, reduce, or eliminate investments in
11 corporations doing business in Iran, North Korea, Sudan, or
12 Syria, pursuant to this section."

13 SECTION 2. Chapter 88, Hawaii Revised Statutes, is amended
14 by adding a new section to be appropriately designated and to
15 read as follows:

16 **"§88- Terror-free investment.** (a) For the purposes of
17 this section:

18 "Business ties" means owning or controlling property or
19 assets located in, having employees or facilities located in,
20 providing goods or services to, obtaining goods or services
21 from, having distribution agreements with, issuing credit or
22 loans to, purchasing bonds or commercial paper issued by,



1 investing in or having equity ties to or with Iran, North Korea,
2 Sudan, Syria, or any company domiciled in Iran, North Korea,
3 Sudan, Syria, or their affiliates.

4 "Company" means any entity capable of affecting commerce,
5 including but not limited to a government, government agency,
6 natural person, legal person, sole proprietorship, partnership,
7 firm, corporation, subsidiary, affiliate, franchisor,
8 franchisee, joint venture, trade association, financial
9 institution, utility, public franchise, provider of financial
10 services, trust, enterprise, or association.

11 "Global security risk prohibitive company" means any
12 foreign company that has active or current business ties in or
13 with Iran, North Korea, Sudan, or Syria as determined by an
14 independent, third-party research firm that specializes in
15 global security risk.

16 "Independent, third-party research firm" means a private
17 United States company that has submitted an affidavit to the
18 State averring that the company:

19 (1) Specializes in identifying and assessing companies
20 that are exposed to global security risk;

21 (2) Offers credible research on corporate ties to Iran,
22 North Korea, Sudan, or Syria, that has been maintained



1 and provided to the market for a minimum of one
2 calendar year; and

3 (3) Does not have the potential for conflicts of interest
4 stemming from investment banking and corporate finance
5 activities.

6 "Iran" means the Islamic Republic of Iran.

7 "North Korea" means the Democratic People's Republic of
8 Korea.

9 "Sudan" means the Republic of the Sudan.

10 "Syria" means the Syrian Arab Republic.

11 "Public investor" or "public investors" means the
12 employees' retirement system.

13 (b) All international equity holdings within the
14 employees' retirement system shall exclude global security risk
15 prohibitive companies as defined in subsection (a); provided
16 that companies that are certified as a non-governmental
17 organization by the United Nations, or that are determined by
18 an independent, third-party research firm, to engage solely in
19 the provision of goods and services that relieve human
20 suffering, or promote health, religious, spiritual, educational,
21 humanitarian, or journalistic activities in Iran, North Korea,
22 Sudan or Syria are exempt from divestment and exclusion.



1 This subsection shall expire relative to each specific
2 country individually at such time that the President of the
3 United States affirmatively and unambiguously states, by means
4 including, but not limited to, enacted legislation, executive
5 order, or written certification from the President to Congress,
6 that the United States Department of State no longer recognizes
7 Iran, North Korea, Sudan, or Syria as state sponsors of
8 terrorism.

9 (c) The board shall adopt rules pursuant to chapter 91 for
10 the establishment of actively or passively managed international
11 equity investment strategies that identify and exclude all
12 global security risk prohibitive companies; provided that the
13 rules shall stipulate that as a requisite for selection to
14 manage an international equity portfolio on behalf of the
15 employees' retirement system the respondent shall attest that no
16 global security risk prohibitive companies will be included in
17 the portfolio held on behalf of the employees' retirement system
18 and provide a plan for ensuring compliance.

19 (d) No later than January 1, , the board shall select
20 and contract with managers for its international equity holdings
21 that are best suited to manage international equity portfolios
22 while excluding global security risk prohibitive companies.



1 Each manager selected will certify to the board on a quarterly
 2 basis that the portfolio excludes global security risk
 3 prohibitive companies. If at any time the board finds that a
 4 contracted manager has not complied with the divestiture
 5 requirement or holds global security risk prohibitive companies
 6 on behalf of the state investment, the board shall notify the
 7 manager that it has ninety days to become compliant. If the
 8 manager fails to comply within that ninety-day period, the board
 9 shall terminate the contract with the manager, and the manager
 10 shall be suspended from conducting business with any public
 11 investor for a period of six months from the termination.

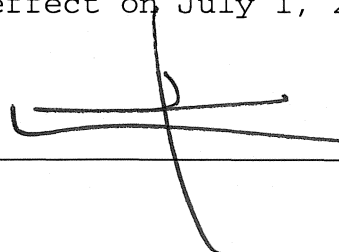
12 (e) A public investor shall not be liable for breach of
 13 the public investor's fiduciary duty to the fund for which that
 14 public investor has the authority to invest assets by reason of
 15 any decision to restrict, reduce, or eliminate investments in
 16 corporations doing business in Iran, North Korea, Sudan, or
 17 Syria, pursuant to this section."

18 SECTION 3. New statutory material is underscored.

19 SECTION 4. This Act shall take effect on July 1, 2008.

20

INTRODUCED BY: _____

 B/K



Report Title:

Terror-Free Investment

Description:

Prohibits the State and the employees' retirement system from investing in companies with active business ties to Iran, North Korea, Sudan, or Syria.

