Article 6G.

Divestment From Companies Boycotting Israel.

§ 147-86.80. Definitions.

The following definitions apply in this Article:

(1) Boycott Israel or boycott of Israel. – Engaging in refusals to deal, terminating business activities, or taking actions that are intended to penalize, inflict economic harm, or otherwise limit commercial relations specifically with Israel, or persons or entities doing business in Israel or in Israeli-controlled territories. This term does not apply to decisions made for ordinary business purposes or for actions with an economic impact of less than twenty million dollars ($20,000,000) in a 12-month period.

(2) Company. – Any sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of those entities or business associations.

(3) Investment. – This term has the same meaning as G.S. 147-86.57(3).

(4) Restricted company. – A company that appears on the list of companies that are engaged in a boycott of Israel developed by the State Treasurer under G.S. 147-86.81(a)(1).

(5) State agency. – Any board, commission, department, executive department, officer, institution, and any political subdivision of the State. (2017-193, s. 1.1.)

§ 147-86.81. Prohibitions on State investment.

(a) No more than 30 days after October 1, 2017, the State Treasurer shall adopt a policy prohibiting the North Carolina Retirement Systems or the Department of State Treasurer from investing in any company engaged in a boycott of Israel. At a minimum, the policy shall provide for the following:

(1) List of restricted companies. – Within 120 days of adoption of the policy, the State Treasurer shall develop and make publicly available a list of companies it determines to be engaged in a boycott of Israel. In the development of this list, the State Treasurer shall use any other state lists of restricted companies pursuant to similar laws and any federal information or guidance on companies that boycott Israel and any other credible information provided by nonprofit organizations, research firms, and governmental entities, and generally publicly available information. The State Treasurer shall make every effort to avoid erroneously including a company on the list. Before finalizing an initial or updated list, the State Treasurer must do all of the following before a company is included on the list:

a. Provide 90 days' written notice of the State Treasurer's intent to include the company on the list. The notice shall inform the company that inclusion on the list would make the company ineligible for State investment, may result in the company becoming subject to divestment by the North Carolina Retirement Systems, and may affect the company's ability to conduct business with the State and its

subdivisions. The notice shall specify that the company may be removed from the list if the company ceases its engagement in a boycott of Israel.

b. The State Treasurer shall provide a company with an opportunity to comment in writing that the company is not engaged in a boycott of Israel or has ceased its boycott of Israel. If the company demonstrates to the State Treasurer that the company has not been engaged in a boycott of Israel, the company shall not be placed on the list. If a company had been engaged in a boycott of Israel but has ceased the boycott, it must submit a written certification to the State Treasurer that the company will not reengage in a boycott of Israel for the duration of any business with the State. The State Treasurer shall keep all written certifications from restricted and previously restricted companies.

(2) Identification of investments. – Upon completion of the initial list of restricted companies created pursuant to subdivision (1) of this subsection, the State Treasurer shall identify any restricted companies in which the North Carolina Retirement Systems has investments.

(3) Review of restricted companies list. – The State Treasurer shall review the list of restricted companies created pursuant to subdivision (1) of this subsection on an annual basis. This updated list shall be made publicly available and any updates shall be distributed to the North Carolina Retirement Systems.

(4) Investments prohibited. – Neither the North Carolina Retirement Systems nor the State Treasurer may invest funds with a company that is identified on a list created pursuant to subdivision (1) of this section as a company engaging in restricted investment activities.

(5) Existing investments. – Any existing investment with a company that is identified on a list created pursuant to subdivision (1) of this section as a company engaging in restricted activities must be divested within 180 days of the adoption of the list.

(b) Nothing in the policy or in this Article shall require the North Carolina Retirement Systems or the State Treasurer to take action unless it is determined by the State Treasurer, in good faith, that the action is consistent with the fiduciary responsibilities of the Retirement Systems and the State Treasurer. (2017-193, s. 1.1.)

§ 147-86.82. Restrictions on contracts with the State or subdivisions of the State.

(a) A company that is identified as a restricted company is ineligible to contract with the State or any political subdivision of the State.

(b) Any contract entered into with a company that is identified as a restricted company at the time of contract is void ab initio.

(c) Upon receiving information that a company that was not identified as a restricted company at the time of contract has later been identified as a restricted company, the State agency shall review the information and offer the company an opportunity to respond. If the company fails to demonstrate that the company should not have been identified as a restricted company within 90 days after notification by the State agency, then the State agency shall take action as may be appropriate and provided for by law, rule, or contract.

(d) Contracts in existence on October 1, 2017, with restricted companies shall be allowed to expire in accordance with the terms of the contract. (2017-193, s. 1.1.)

§ 147-86.83. Exceptions.

G.S. 147-86.82 shall not apply to contracts valued at one thousand dollars ($1,000) or less. (2017-193, s. 1.1.)

§ 147-86.84. (Repealed) Reporting. (2017-193, s. 1.1; repealed by 2021-180, s. 37.12(f), effective November 18, 2021.)