

# HOUSE BILL 1333

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By: **Delegates George, Bartlett, Bates, Beitzel, Burns, Costa, Dwyer, Eckardt, Elliott, Elmore, Frank, Glassman, Haddaway, J. King, Kipke, Krebs, Love, McComas, McConkey, Minnick, O'Donnell, Rice, Shank, Shewell, Sossi, Stein, Stifler, Stocksdale, and Stukes**

Introduced and read first time: February 28, 2007

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Public Investments Protection Act**

3 FOR the purpose of prohibiting the Board of Trustees for the State Retirement and  
4 Pension System from conducting certain investment transactions with certain  
5 companies; requiring certain companies to certify certain information to the  
6 Board of Trustees and the State Treasurer by certain dates; authorizing the  
7 Board of Trustees to void certain investment transactions under certain  
8 circumstances; defining certain terms; and generally relating to the investment  
9 of assets for the State Retirement and Pension System.

10 BY adding to

11 Article – State Personnel and Pensions

12 Section 21–1A–01 through 21–1A–03 to be under the new subtitle “Subtitle 1A.  
13 Maryland Public Investments Protection Act”

14 Annotated Code of Maryland

15 (2004 Replacement Volume and 2006 Supplement)

16 Preamble

17 WHEREAS, The Securities and Exchange Commission has determined that  
18 business activities in United States–sanctioned terrorist–sponsoring states can  
19 materially harm the share value of foreign companies that may be held in portfolios by  
20 Maryland’s public retirement and pension systems; and

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 WHEREAS, United States publicly traded companies are not allowed to do  
2 business in or with United States State Department–designated terrorist–sponsoring  
3 states; and

4 WHEREAS, Maryland’s public retirement and pension systems currently invest  
5 on behalf of the citizens of Maryland in foreign publicly traded companies that may be  
6 at risk due to such business ties; and

7 WHEREAS, The Maryland General Assembly views State investments in  
8 foreign publicly traded companies that have business operations with United States  
9 State Department–designated terrorist–sponsoring states as putting at risk the  
10 pensions of its dedicated public employees; and

11 WHEREAS, The exclusion of companies with such business ties from public  
12 portfolios will help protect Maryland’s public retirement and pension systems from  
13 investment losses related to such business activities and could improve the  
14 performance of these public funds; and

15 WHEREAS, The Maryland General Assembly finds it unconscionable for the  
16 State to invest in foreign companies whose business activities benefit nations that are  
17 egregious violators of human rights and known sponsors of terrorism; now, therefore,

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article – State Personnel and Pensions**

21 **SUBTITLE 1A. MARYLAND PUBLIC INVESTMENTS PROTECTION ACT.**

22 **21-1A-01.**

23 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
24 INDICATED.

25 (B) “COMPANY” MEANS ANY ENTITY CAPABLE OF AFFECTING  
26 COMMERCE, INCLUDING A GOVERNMENT, GOVERNMENT AGENCY, PERSON,  
27 SOLE PROPRIETORSHIP, PARTNERSHIP, FIRM, CORPORATION, SUBSIDIARY,  
28 AFFILIATE, FRANCHISOR, FRANCHISEE, JOINT VENTURE, TRADE ASSOCIATION,  
29 FINANCIAL INSTITUTION, UTILITY, OR PUBLIC FRANCHISE, PROVIDER OF

1 FINANCIAL SERVICES, TRUST, OR ENTERPRISES, AND ANY ASSOCIATION  
2 THEREOF.

3 (C) (1) "FORBIDDEN ENTITY" MEANS:

4 (I) THE GOVERNMENT OF IRAN, SUDAN, SYRIA, OR NORTH  
5 KOREA, OR ANY AGENCIES OF THOSE COUNTRIES INCLUDING POLITICAL UNITS  
6 AND SUBDIVISIONS;

7 (II) ANY COMPANY THAT IS WHOLLY OR PARTIALLY  
8 MANAGED OR CONTROLLED BY THE GOVERNMENT OF IRAN, SUDAN, SYRIA, OR  
9 NORTH KOREA AND AGENCIES OF THOSE COUNTRIES, INCLUDING POLITICAL  
10 UNITS AND SUBDIVISIONS;

11 (III) ANY COMPANY:

12 1. THAT IS ESTABLISHED OR ORGANIZED UNDER THE  
13 LAWS OF IRAN, SUDAN, SYRIA, OR NORTH KOREA;

14 2. WHOSE PRINCIPAL PLACE OF BUSINESS IS IRAN,  
15 SUDAN, SYRIA, OR NORTH KOREA;

16 3. THAT CONDUCTS A MATERIAL PORTION OF ITS  
17 BUSINESS OPERATIONS IN IRAN, SUDAN, SYRIA, OR NORTH KOREA;

18 4. IDENTIFIED BY THE OFFICE OF FOREIGN ASSETS  
19 CONTROL IN THE UNITED STATES DEPARTMENT OF THE TREASURY AS  
20 SPONSORING TERRORIST ACTIVITIES; OR

21 5. THAT IS A FOREIGN PUBLICLY TRADED COMPANY  
22 DETERMINED BY AN INDEPENDENT RESEARCH FIRM SPECIALIZING IN GLOBAL  
23 SECURITY RISK TO BE A COMPANY THAT OWNS OR CONTROLS PROPERTY OR  
24 ASSETS LOCATED IN, HAS EMPLOYEES OR FACILITIES LOCATED IN, PROVIDES  
25 GOODS OR SERVICES TO, OBTAINS GOODS OR SERVICES FROM, HAS  
26 DISTRIBUTION AGREEMENTS WITH, ISSUES CREDITS OR LOANS TO, PURCHASES  
27 BONDS OR COMMERCIAL PAPER ISSUED BY, OR INVESTS IN IRAN, SUDAN,  
28 SYRIA, OR NORTH KOREA.

1           (2) **“FORBIDDEN ENTITY” DOES NOT MEAN COMPANIES WHO ARE**  
2 **CERTIFIED AS NONGOVERNMENT ORGANIZATIONS BY THE UNITED NATIONS, OR**  
3 **DETERMINED BY AN INDEPENDENT RESEARCH FIRM SPECIALIZING IN GLOBAL**  
4 **SECURITY RISK TO BE ENGAGED SOLELY IN THE PROVISION OF GOODS AND**  
5 **SERVICES INTENDED TO RELIEVE HUMAN SUFFERING OR TO PROMOTE**  
6 **WELFARE, HEALTH, RELIGIOUS, AND SPIRITUAL ACTIVITIES, EDUCATION,**  
7 **HUMANITARIAN PURPOSES, OR JOURNALISTIC ACTIVITIES.**

8 **21-1A-02.**

9           **THE BOARD OF TRUSTEES MAY NOT TRANSFER OR DISBURSE FUNDS TO,**  
10 **DEPOSIT INTO, ACQUIRE ANY BONDS OR COMMERCIAL PAPER FROM OR**  
11 **OTHERWISE LOAN TO OR INVEST IN ANY ENTITY UNLESS THE COMPANY**  
12 **CHARGED WITH MANAGING ASSETS FOR THE SEVERAL SYSTEMS, AT NO**  
13 **ADDITIONAL COST TO THE BOARD OF TRUSTEES, CERTIFIES IN WRITING TO THE**  
14 **BOARD OF TRUSTEES AND STATE TREASURER THAT:**

15           (1) **THE COMPANY HAS NOT, DIRECTLY OR INDIRECTLY, LOANED**  
16 **TO, INVESTED IN, OR OTHERWISE TRANSFERRED ANY OF THE ASSETS OR**  
17 **PROPERTIES OF THE SEVERAL SYSTEMS TO A FORBIDDEN FOREIGN ENTITY ON**  
18 **OR AFTER JULY 1, 2007;**

19           (2) **AT LEAST 80% OF THE ASSETS OF THE SEVERAL SYSTEMS**  
20 **MANAGED BY THE COMPANY ARE NOT INVESTED, DIRECTLY OR INDIRECTLY, IN**  
21 **FORBIDDEN FOREIGN ENTITIES AT ANY TIME AFTER JULY 1, 2008; AND**

22           (3) **AT LEAST 100% OF THE ASSETS OF THE SEVERAL SYSTEMS**  
23 **MANAGED BY THE COMPANY ARE NOT INVESTED, DIRECTLY OR INDIRECTLY, IN**  
24 **FORBIDDEN FOREIGN ENTITIES AT ANY TIME AFTER JULY 1, 2010.**

25 **21-1A-03.**

26           **IN ADDITION TO ANY OTHER PENALTIES AND REMEDIES AVAILABLE**  
27 **UNDER THE LAWS OF MARYLAND AND THE UNITED STATES, ANY TRANSACTION**  
28 **THAT VIOLATES THE PROVISIONS OF THIS SUBTITLE SHALL BE VOID OR**  
29 **VOIDABLE, AT THE SOLE DISCRETION OF THE FIDUCIARY.**

30           **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**  
31 **July 1, 2007.**