

GOVERNMENT CODE

TITLE 8. PUBLIC RETIREMENT SYSTEMS

SUBTITLE A. PROVISIONS GENERALLY APPLICABLE TO PUBLIC RETIREMENT
SYSTEMS

CHAPTER 809A. PROHIBITION ON INVESTMENT IN CERTAIN
CHINESE-AFFILIATED ENTITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 809A.001. DEFINITIONS. In this chapter:

(1) "Chinese-affiliated entity" means a publicly traded entity that:

(A) is both:

(i) incorporated or headquartered in the People's Republic of China, including in the Hong Kong special administrative region, other than a U.S. subsidiary, as that term is defined by 15 C.F.R. Section 772.1; and

(ii) publicly confirmed to be controlled by the People's Republic of China, the Chinese Communist Party, or a provincial division, municipality, governmental agency, sovereign wealth fund, or political instrumentality of the People's Republic of China; or

(B) is identified by one or more of the appropriate government agencies to be required by the National Intelligence Law of the People's Republic of China (2017), as amended in 2018, or any successor law, to support, assist, and cooperate with the state intelligence work of the People's Republic of China and keep the secrets of the national intelligence work of the People's Republic of China.

(2) "Direct holdings" means, with respect to a restricted entity, all securities of that restricted entity held directly by a state governmental entity in an account or fund in which a state governmental entity owns all shares or interests.

(3) "Entity" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, 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) "Indirect holdings" means, with respect to a restricted entity, all securities of that restricted entity 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 the provisions of 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 (26 U.S.C. Section 401(k) or 457).

(5) "Listed restricted entity" means a restricted entity listed by the comptroller under Section [809A.051](#).

(6) "Restricted entity" means a Chinese-affiliated entity or other entity associated with the People's Republic of China that is identified or included on an entities list maintained by the federal government for the purpose of imposing prohibitions or restrictions on or against entities to address national security concerns, protect human rights, or combat unfair trade practices. The term includes an entity that:

(A) is listed on the entity list under supplement No. 4 to 15 C.F.R. Part 744 as associated with the People's Republic of China because there is reasonable cause to believe the entity is involved, has been involved, or poses a significant risk of being or becoming involved in activities contrary to the national security or foreign policy interests of the United States of America; and

(B) is listed in the Federal Register by the United States Secretary of Defense as a Chinese military company operating directly or indirectly in the United States or in any territory or possession of the United States on the most recent list compiled under Section 1260H of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Pub. L. No. 116-283, reprinted in note, 10 U.S.C. Section 113), or any successor list of Chinese military companies the secretary is required by law to compile and publish.

(7) "State governmental entity" means:

(A) the Employees Retirement System of Texas,

including a retirement system administered by that system;

(B) the Teacher Retirement System of Texas;

(C) the Texas Municipal Retirement System;

(D) the Texas County and District Retirement System;

(E) the Texas Emergency Services Retirement System; or

(F) the permanent school fund.

Added by Acts 2025, 89th Leg., R.S., Ch. 981 (S.B. 667), Sec. 1, eff. September 1, 2025.

Sec. 809A.002. OTHER LEGAL OBLIGATIONS. With respect to actions taken in compliance with this chapter, including all good faith determinations regarding restricted entities as required by this chapter, a state governmental entity and the comptroller are 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 restricted entities, or choosing asset managers, investment funds, or investments for the state governmental entity's securities portfolios.

Added by Acts 2025, 89th Leg., R.S., Ch. 981 (S.B. 667), Sec. 1, eff. September 1, 2025.

Sec. 809A.003. INDEMNIFICATION OF STATE GOVERNMENTAL ENTITIES, EMPLOYEES, AND OTHERS. In a cause of action based on an action, inaction, decision, divestment, investment, restricted entity 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, a former member of the governing body, or any other former officer of a state governmental

entity who was an employee, member of the governing body, or other officer when the act or omission on which the damages are based occurred;

(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; and

(5) a state governmental entity.

Added by Acts 2025, 89th Leg., R.S., Ch. 981 (S.B. 667), Sec. 1, eff. September 1, 2025.

Sec. 809A.004. NO PRIVATE CAUSE OF ACTION. (a) A person, including a member, retiree, or beneficiary of a retirement system to which this chapter applies, an association, a research firm, a restricted entity, or any other person may not sue or pursue a private cause of action against the state, a state governmental entity, a current or former 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, restricted entity 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 2025, 89th Leg., R.S., Ch. 981 (S.B. 667), Sec. 1, eff. September 1, 2025.

Sec. 809A.005. INAPPLICABILITY OF REQUIREMENTS INCONSISTENT WITH FIDUCIARY RESPONSIBILITIES AND RELATED DUTIES. A state governmental entity is not subject to a requirement of this chapter if the state governmental entity determines that the requirement would be inconsistent with its fiduciary responsibility with respect to the investment of its

assets or other duties imposed by law relating to the investment of its assets, including the duty of care established under Section 67, Article XVI, Texas Constitution.

Added by Acts 2025, 89th Leg., R.S., Ch. 981 (S.B. 667), Sec. 1, eff. September 1, 2025.

Sec. 809A.006. RELIANCE ON FEDERAL DETERMINATION AND RESTRICTED ENTITY RESPONSE. The comptroller may rely on the following, in the following order of priority, without conducting any further investigation, research, or inquiry:

(1) a determination by a federal agency or officer made under a federal law, regulation, or executive order regarding whether an entity is a restricted entity; and

(2) a restricted entity's response to a communication made under this chapter.

Added by Acts 2025, 89th Leg., R.S., Ch. 981 (S.B. 667), Sec. 1, eff. September 1, 2025.

SUBCHAPTER B. DUTIES REGARDING INVESTMENTS

Sec. 809A.051. LISTED RESTRICTED ENTITIES. (a) The comptroller shall prepare and maintain, and provide to each state governmental entity, a list of all restricted entities. In maintaining the list, the comptroller may:

(1) review and rely, as appropriate in the comptroller's judgment, on publicly available information regarding restricted entities, including information provided or made available by federal, state, or local governments, nonprofit organizations, research firms, and international organizations; and

(2) request written verification from a restricted entity that it does not meet any of the criteria in Section 809A.001(6) and rely, as appropriate in the comptroller's judgment and without conducting further investigation, research, or inquiry, on the entity's written response to the request.

(b) A restricted entity that fails to provide to the comptroller a written verification under Subsection (a)(2) before

the 61st day after receiving the request from the comptroller is presumed to be a restricted entity.

(c) The comptroller shall update the list 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).

(d) Not later than the 30th day after the date the list of restricted entities is first provided or updated, the comptroller shall file the list with the presiding officer of each house of the legislature and the attorney general and post the list on a publicly available Internet website.

Added by Acts 2025, 89th Leg., R.S., Ch. 981 (S.B. 667), Sec. 1, eff. September 1, 2025.

Sec. 809A.052. IDENTIFICATION OF INVESTMENT IN LISTED RESTRICTED ENTITIES. Not later than the 30th day after the date a state governmental entity receives the list provided under Section 809A.051, the state governmental entity shall notify the comptroller of the restricted entities in which the state governmental entity owns direct holdings or indirect holdings.

Added by Acts 2025, 89th Leg., R.S., Ch. 981 (S.B. 667), Sec. 1, eff. September 1, 2025.

Sec. 809A.053. NOTICE OF DIVESTMENT TO LISTED RESTRICTED ENTITY. For each listed restricted entity identified under Section 809A.052, the state governmental entity shall send a written notice:

(1) informing the restricted entity of its status as a restricted entity; and

(2) warning the restricted entity that it may become subject to divestment by the state governmental entity.

Added by Acts 2025, 89th Leg., R.S., Ch. 981 (S.B. 667), Sec. 1, eff. September 1, 2025.

Sec. 809A.054. DIVESTMENT OF ASSETS. (a) A state governmental entity required to sell, redeem, divest, or withdraw all publicly traded securities of a listed restricted entity shall

comply with the following schedule:

(1) at least 50 percent of those assets must be removed from the state governmental entity's assets under management not later than the 180th day after the date the restricted entity receives notice under Section 809A.053 unless the state governmental entity determines, based on a good faith exercise of its fiduciary discretion and subject to Subdivision (2), that a later date is more prudent; and

(2) 100 percent of those assets must be removed from the state governmental entity's assets under management not later than the 360th day after the date the restricted entity receives notice under Section 809A.053.

(b) Except as provided by Subsection (a), a state governmental entity may delay the schedule for divestment under that subsection only to the extent that the state governmental entity determines, in the state governmental entity's good faith judgment, and consistent with the state governmental entity's fiduciary duty, that divestment from listed restricted entities will likely result in a loss in value or a benchmark deviation described by Section 809A.056(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 reason and justification for the state governmental entity's delay in divestment from listed restricted entities. The report must include documentation supporting its determination that the divestment would result in a loss in value or a benchmark deviation described by Section 809A.056(a), including objective numerical estimates. The state governmental entity shall update the report every six months.

Added by Acts 2025, 89th Leg., R.S., Ch. 981 (S.B. 667), Sec. 1, eff. September 1, 2025.

Sec. 809A.055. INVESTMENTS EXEMPTED FROM DIVESTMENT. A state governmental entity is not required to divest from any indirect holdings in actively or passively managed investment funds or private equity funds. The state governmental entity shall

submit letters to the managers of each investment fund containing listed restricted entities requesting that they remove those restricted entities from the fund or create a similar actively or passively managed fund with indirect holdings devoid of listed restricted entities. If a manager creates a similar fund with substantially the same management fees and same level of investment risk and anticipated return, the state governmental entity may replace all applicable investments with investments in the similar fund in a time frame consistent with prudent fiduciary standards but not later than the 450th day after the date the fund is created. Added by Acts 2025, 89th Leg., R.S., Ch. 981 (S.B. 667), Sec. 1, eff. September 1, 2025.

Sec. 809A.056. AUTHORIZED INVESTMENT IN LISTED RESTRICTED ENTITIES. (a) A state governmental entity may cease divesting from one or more listed restricted entities only if clear and convincing evidence shows that:

(1) the state governmental entity has suffered or will suffer a loss in the hypothetical value of all assets under management by the state governmental entity as a result of having to divest from listed restricted entities under this chapter; or

(2) an individual portfolio that uses a benchmark-aware strategy would be subject to an aggregate expected deviation from its benchmark as a result of having to divest from listed restricted entities under this chapter.

(b) A state governmental entity may cease divesting from a listed restricted entity as provided by this section only to the extent necessary to ensure that the state governmental entity does not suffer a loss in value or deviate from its benchmark as described by Subsection (a).

(c) Before a state governmental entity may cease divesting from a listed restricted entity under this section, the state governmental entity must provide a written report to the comptroller, 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 deciding to cease divestment or to remain invested in a listed

restricted entity.

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

Added by Acts 2025, 89th Leg., R.S., Ch. 981 (S.B. 667), Sec. 1, eff. September 1, 2025.

Sec. 809A.057. PROHIBITED INVESTMENTS. Except as provided by Section 809A.056, a state governmental entity may not acquire securities of a listed restricted entity.

Added by Acts 2025, 89th Leg., R.S., Ch. 981 (S.B. 667), Sec. 1, eff. September 1, 2025.

SUBCHAPTER C. REPORT; ENFORCEMENT

Sec. 809A.101. REPORT. Not later than January 5 of each year, each state governmental entity shall file a publicly available report with the presiding officer of each house of the legislature and the attorney general that:

(1) identifies all securities sold, redeemed, divested, or withdrawn in compliance with Section 809A.054;

(2) identifies all prohibited investments under Section 809A.057; and

(3) summarizes any changes made under Section 809A.055.

Added by Acts 2025, 89th Leg., R.S., Ch. 981 (S.B. 667), Sec. 1, eff. September 1, 2025.

Sec. 809A.102. ENFORCEMENT. The attorney general may bring any action necessary to enforce this chapter.

Added by Acts 2025, 89th Leg., R.S., Ch. 981 (S.B. 667), Sec. 1, eff. September 1, 2025.