

HOUSE BILL NO. 401

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 3/16/22

Referred: State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to certain investments of state funds in the Russian Federation and**
2 **financial institutions profiteering from the Russian Federation's invasion of Ukraine;**
3 **providing indemnity and immunity for certain investment actions taken in compliance**
4 **with law; and providing for an effective date."**

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1.** AS 37.10 is amended by adding a new section to read:

7 **Sec. 37.10.072. Investments in the Russian Federation and certain**
8 **financial institutions profiteering from the Russian Federation's invasion of**
9 **Ukraine.** (a) The commissioner or a fiduciary of a fund subject to this title, excluding
10 the Alaska Permanent Fund and the Alaska Retirement Management Board, may not
11 invest in and shall cause the fund to divest ownership, if any, in all sovereign debt of
12 the Russian Federation and the publicly traded securities of a company that has been
13 identified by the United States Department of Treasury, Office of Foreign Assets
14 Control, as

1 (1) being owned or controlled by, or having acted or purported to act
2 for or on behalf of, the government of Russia; or

3 (2) operating or having operated in the financial services sector of the
4 Russian Federation economy.

5 (b) Divestment of an ownership interest in Russian sovereign debt or a
6 company shall occur within 180 days after that sovereign debt or company is
7 identified by the United States Department of Treasury, Office of Foreign Assets
8 Control, as provided in (a) of this section. If a fund has investments managed by an
9 outside investment manager, the fiduciary shall direct the investment manager not to
10 invest in and to divest from assets identified in (a) of this section. The outside
11 investment manager shall divest from the identified assets within 180 days after
12 direction from the fiduciary.

13 (c) If an investment in a fund under (a) of this section is managed as a
14 commingled investment or other business structure in which the fund is not the sole
15 owner of the investment interest or if the investment is an index fund, the provisions
16 of (a) of this section do not apply. The commissioner shall require that, on or before
17 January 31 of each year, the fiduciary submit letters to the managers of commingled
18 investments requesting the managers to consider divesting from the investment
19 interests identified under (a) of this section.

20 (d) The commissioner or a fiduciary of a fund subject to this title, excluding
21 the Alaska Permanent Fund and the Alaska Retirement Management Board, may not
22 conduct business with a financial institution that has been identified as profiteering
23 from the Russian Federation's invasion of Ukraine.

24 (e) Notwithstanding (a) and (d) of this section, the commissioner or a
25 fiduciary of a fund may invest in the publicly traded securities of a company identified
26 by the United States Department of Treasury, Office of Foreign Assets Control, as
27 provided in (a) of this section or a financial institution identified in (d) of this section
28 if the commissioner or fiduciary determines that a failure to invest in the company or
29 failure to conduct business with the financial institution would be otherwise
30 inconsistent with applicable fiduciary responsibilities or any other duty imposed by
31 law. Before investing in a company or conducting business with a financial institution

1 under this subsection, the commissioner or a fiduciary shall consider at least three
 2 alternative investment opportunities in companies or financial institutions that do not
 3 conduct or have direct investments in business operations in the Russian Federation.

4 (f) Annually, on or before January 31, the commissioner shall advise the
 5 president of the senate and the speaker of the house of representatives of the
 6 companies identified in (a) of this section.

7 (g) If the federal government excludes a company from its present or any
 8 future federal sanctions relating to the Russian Federation, the company may be
 9 exempt from the divestment requirements and the investment prohibitions of this
 10 section.

11 (h) For actions taken or inaction done in good faith in compliance with this
 12 section, the commissioner of revenue, a fiduciary, an agent, attorney, trustee, officer,
 13 employee, staff, custodian, research firm, or investment manager under contract of the
 14 commissioner or the fiduciary is

15 (1) exempt from a conflicting state statutory or common law
 16 obligation, including an obligation with respect to choice of an asset manager,
 17 investment fund, or investment for the securities portfolio of a public fund;

18 (2) immune from liability under state or local law;

19 (3) indemnified and held harmless by the state from claims, demands,
 20 suits, actions, damages, judgments, costs, charges, and expenses, including costs and
 21 attorney fees, and against all liability, losses, and damages of any nature that the
 22 commissioner, the fiduciary, the agent, attorney, trustee, officer, employee, staff,
 23 custodian, research firm, or investment manager under contract of the commissioner or
 24 the fiduciary may, at any time, sustain because of a decision to restrict, reduce, or
 25 eliminate an investment in compliance with this section; and

26 (4) immune from adverse licensing actions under AS 08.

27 (i) In this section,

28 (1) "commissioner" means the commissioner of revenue;

29 (2) "financial institution" means a company engaged in the business of
 30 dealing with financial and monetary transactions such as deposits, loans, investments,
 31 and currency exchange;

1 (3) "profiteering" means taking advantage of the Russian Federation's
2 invasion of Ukraine to make an excessive or unfair profit, or otherwise seeking
3 financial gain in the purchase or sale of Russian sovereign debt and the publicly traded
4 securities of a Russian entity;

5 (4) "Russian sovereign debt" means any debt instrument that is issued
6 by the government of Russia.

7 (j) This section expires on July 1, 2023.

8 * **Sec. 2.** AS 37.10.072, enacted by sec. 1 of this Act, is repealed July 1, 2023.

9 * **Sec. 3.** This Act takes effect immediately under AS 01.10.070(c).