

HOUSE BILL 440

P2

2lr0131
CF SB 235

By: **The Speaker (By Request – Administration) and Delegates Reznik, Hammen, Jones, Mizeur, ~~and Rosenberg~~ Rosenberg, Pendergrass, Bromwell, Cullison, Donoghue, Frank, Hubbard, Kach, A. Kelly, Kipke, Krebs, McDonough, Morhaim, Murphy, Nathan–Pulliam, Pena–Melnyk, Ready, and Tarrant**

Introduced and read first time: February 1, 2012
Assigned to: Health and Government Operations

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 14, 2012

CHAPTER _____

1 AN ACT concerning

2 **Procurement – Investment Activities in Iran**

3 FOR the purpose of specifying that certain persons shall be considered as engaging in
4 investment activities in Iran under certain circumstances; requiring the Board
5 of Public Works, on or before a certain date, to use certain information to create
6 a list of persons that engage in investment activities in Iran; requiring the
7 Board to update the list at certain times; requiring the Board, within a certain
8 number of days before adding a person to the list, to provide the person with
9 certain notice; prohibiting the Board from adding a person to the list under
10 certain circumstances; ~~requiring a unit to require a certain person to certify~~
11 ~~that the person is not included on a certain list; requiring a person that is~~
12 ~~unable to certify that the person does not engage in certain investment~~
13 ~~activities in Iran to provide a certain description of its investment activities;~~
14 ~~requiring certain certifications and disclosures to be publicly disclosed;~~
15 ~~requiring a unit to provide a certain person that may have falsely certified that~~
16 ~~the person does not engage in certain investment activities with certain notice~~
17 ~~that the person may submit certain documentation to the unit within a certain~~
18 ~~time frame; authorizing a unit to determine that a person has submitted a false~~
19 ~~certification under certain circumstances; establishing certain penalties that~~
20 ~~may be imposed on a person that submits a false certification; prohibiting a unit~~
21 ~~from awarding a procurement contract to a person that submits a false~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



~~certification; authorizing a unit to terminate a certain contract with a person that submitted a false certification; providing for the debarment of a certain person under certain circumstances; providing for the application of this Act; requiring the Board to provide a person with an opportunity to comment that the person is not engaged in investment activities in Iran; requiring a public body, on or after a certain date, to require a person that submits a bid or proposal or enters into a contract with the public body to make a certain certification or provide certain information; requiring the public body to submit certain information submitted by certain persons to the Board; requiring a public body to institute certain actions based on a determination of a false certification; requiring a public body to report certain information to the Board and the Attorney General under certain circumstances; authorizing the Attorney General to bring a certain action within a certain time after a certification is made; specifying certain penalties for submitting a false certification, including civil penalties, the termination of certain contracts, and the ineligibility of certain persons to bid on certain contracts under certain circumstances; providing that this Act does not create a private right of action; establishing that this Act preempts certain local laws and regulations; declaring the intent of the General Assembly; requiring the Department of Legislative Services to provide certain written notice concerning this Act to the Attorney General of the United States; making this Act severable; providing for the termination of this Act under certain circumstances; requiring the Board to notify the Department of Legislative Services of a certain event within a certain time period; defining certain terms; and generally relating to persons that engage in investment activities in Iran and the State procurement law.~~

26 BY repealing and reenacting, without amendments,
 27 Article – State Finance and Procurement
 28 Section 11-101(a), (d), ~~(k), and (x)~~ and (k)
 29 Annotated Code of Maryland
 30 (2009 Replacement Volume and 2011 Supplement)

31 BY adding to
 32 Article – State Finance and Procurement
 33 Section ~~13-501 through 13-505~~ 17-701 through 17-707 to be under the new
 34 subtitle “Subtitle ~~5~~ 7. Investment Activities in Iran”, ~~and 16-203(e)~~
 35 Annotated Code of Maryland
 36 (2009 Replacement Volume and 2011 Supplement)

37 Preamble

38 WHEREAS, In imposing sanctions on Iran, the Congress and the President of
 39 the United States have determined that the illicit nuclear activities of the government
 40 of Iran, combined with its development of unconventional weapons and ballistic
 41 missiles, and its support of international terrorism, represent a serious threat to the
 42 security of the United States and its allies and around the world; and

1 WHEREAS, The International Atomic Energy Agency repeatedly has called
2 attention to Iran’s unlawful nuclear activities, and as a result, the United Nations
3 Security Council has adopted four rounds of sanctions designed to compel the
4 government of Iran to cease those activities and comply with its obligations under the
5 Treaty on the Non–Proliferation of Nuclear Weapons; and

6 WHEREAS, The human rights situation in Iran has steadily deteriorated since
7 the fraudulent elections of 2009, as evidenced by the brutal repression, torture,
8 murder, and arbitrary detention of peaceful protestors, dissidents, and minorities; and

9 WHEREAS, On July 1, 2010, the President of the United States signed into law
10 the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, which
11 authorizes states and local governments to prevent investment in companies operating
12 in Iran and includes provisions that preclude companies that do business in Iran from
13 contracting with the U.S. government; and

14 WHEREAS, There are moral and reputational reasons for state and local
15 governments not to engage in business with foreign companies that have business
16 activities benefiting foreign states, such as Iran, that pursue illegal nuclear programs,
17 support acts of terrorism, and commit violations of human rights; and

18 WHEREAS, Short–term economic profits cannot be a justification to circumvent
19 international sanctions designed to thwart Iran from developing nuclear weapons; and

20 WHEREAS, The concerns of the Maryland General Assembly regarding Iran
21 are the result of the actions of the government of Iran and should not be construed as
22 enmity toward the Iranian people; now, therefore,

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

25 **Article – State Finance and Procurement**

26 11–101.

27 (a) In this Division II the following words have the meanings indicated
28 unless:

29 (1) the context clearly requires a different meaning; or

30 (2) a different definition is provided for a particular title or provision.

31 (d) “Board” means the Board of Public Works.

32 (k) “Person” means an individual, receiver, trustee, guardian, personal
33 representative, fiduciary, or representative of any kind and any partnership, firm,
34 association, corporation, or other entity.

1 ~~(x) (1) "Unit" means an officer or other entity that is in the Executive~~
 2 ~~Branch of the State government and is authorized by law to enter into a procurement~~
 3 ~~contract.~~

4 ~~(2) "Unit" does not include:~~

5 ~~(i) a bistate, multistate, bicounty, or multicounty governmental~~
 6 ~~agency; or~~

7 ~~(ii) a special tax district, sanitary district, drainage district, soil~~
 8 ~~conservation district, water supply district, or other political subdivision of the State.~~

9 ~~SUBTITLE 5. INVESTMENT ACTIVITIES IN IRAN.~~

10 ~~13-501.~~

11 ~~(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS~~
 12 ~~INDICATED.~~

13 ~~(B) "CONSTRUCTION SECTOR OF IRAN" MEANS ACTIVITIES TO PLAN,~~
 14 ~~DESIGN, ENGINEER, BUILD, CONSTRUCT, OR FINANCE PROJECTS AND~~
 15 ~~INVESTMENTS RELATED TO DEVELOPING THE INFRASTRUCTURE OF IRAN,~~
 16 ~~INCLUDING INFRASTRUCTURE RELATED TO THE ENERGY SECTOR OF IRAN OR~~
 17 ~~ANY ASPECT OF THE OIL, GAS, OR NUCLEAR POWER INDUSTRIES OF IRAN.~~

18 ~~(C) "ENERGY SECTOR OF IRAN" MEANS ACTIVITIES TO DEVELOP,~~
 19 ~~INVEST IN, EXPLORE FOR, REFINER, TRANSFER, PURCHASE, OR SELL OIL,~~
 20 ~~GASOLINE, OR OTHER REFINED OIL PRODUCTS OR NATURAL GAS, LIQUEFIED~~
 21 ~~NATURAL GAS RESOURCES, OR NUCLEAR POWER IN IRAN.~~

22 ~~(D) "ENGAGE IN INVESTMENT ACTIVITIES IN IRAN" MEANS THAT A~~
 23 ~~PERSON:~~

24 ~~(1) PROVIDES GOODS FOR OR SERVICES IN OR TO THE~~
 25 ~~CONSTRUCTION, ENERGY, OR FINANCIAL SECTORS OF IRAN;~~

26 ~~(2) PROVIDES OIL OR LIQUEFIED NATURAL GAS TANKERS, OR~~
 27 ~~PRODUCTS USED TO CONSTRUCT OR MAINTAIN PIPELINES USED TO TRANSPORT~~
 28 ~~OIL OR LIQUEFIED NATURAL GAS, FOR THE ENERGY SECTOR OF IRAN;~~

29 ~~(3) PURCHASES CRUDE OIL, REFINED PETROLEUM PRODUCTS, OR~~
 30 ~~NATURAL GAS FROM IRAN;~~

1 ~~(4) PROVIDES GOODS OR SERVICES, OR PAYMENT FOR GOODS OR~~
2 ~~SERVICES, TO A PERSON, INCLUDING A NONCOUNTRY SPECIFIC PERSON, THAT~~
3 ~~IS ON THE U.S. OFFICE OF FOREIGN ASSETS CONTROL'S SPECIALLY~~
4 ~~DESIGNATED NATIONALS LIST FOR IRAN;~~

5 ~~(5) TRANSFERS, OR FACILITATES THE TRANSFER OF, GOODS OR~~
6 ~~TECHNOLOGIES TO IRAN, INCLUDING:~~

7 ~~(I) FIREARMS OR AMMUNITION AS DEFINED IN 18 U.S.C. §~~
8 ~~921, ACCESSORIES FOR FIREARMS, RUBBER BULLETS, CLUBS, BATONS, POLICE~~
9 ~~STICKS, MACE, STUN GRENADES, TASERS OR OTHER ELECTROSHOCK WEAPONS,~~
10 ~~TEAR GAS, WATER CANNONS, MOTORCYCLES, MOTORIZED TRANSPORT FOR~~
11 ~~SECURITY PERSONNEL, OR SURVEILLANCE TECHNOLOGY;~~

12 ~~(II) SENSITIVE TECHNOLOGY AS DEFINED IN THE FEDERAL~~
13 ~~COMPREHENSIVE IRAN SANCTIONS, ACCOUNTABILITY, AND DIVESTMENT ACT~~
14 ~~OF 2010; AND~~

15 ~~(III) OTHER GOODS OR TECHNOLOGIES THAT THE BOARD~~
16 ~~DETERMINES HAVE OR MAY BE USED BY THE GOVERNMENT OF IRAN TO COMMIT~~
17 ~~HUMAN RIGHTS ABUSES AGAINST THE PEOPLE OF IRAN WHETHER OR NOT THE~~
18 ~~GOODS OR TECHNOLOGIES ARE SOLD DIRECTLY TO THE GOVERNMENT OF IRAN~~
19 ~~OR OTHERWISE; OR~~

20 ~~(6) (I) EXTENDS CREDIT TO A PERSON OR ENTITY THAT~~
21 ~~ENGAGES IN THE ACTIVITIES DESCRIBED IN ITEMS (1) THROUGH (5) OF THIS~~
22 ~~SUBSECTION; AND~~

23 ~~(II) IS IDENTIFIED ON A LIST CREATED IN ACCORDANCE~~
24 ~~WITH § 13 502 OF THIS SUBTITLE AS A PERSON OR AN ENTITY ENGAGING IN AN~~
25 ~~ACTIVITY DESCRIBED IN ITEMS (1) THROUGH (5) OF THIS SUBSECTION.~~

26 ~~(E) "FINANCIAL SECTOR OF IRAN" MEANS THE CENTRAL BANK OF~~
27 ~~IRAN OR ANOTHER FINANCIAL INSTITUTION OF IRAN DESIGNATED BY THE~~
28 ~~SECRETARY OF THE TREASURY FOR THE IMPOSITION OF SANCTIONS IN~~
29 ~~ACCORDANCE WITH THE FEDERAL INTERNATIONAL EMERGENCY ECONOMIC~~
30 ~~POWERS ACT.~~

31 ~~(F) (1) "IRAN" MEANS THE TERRITORY OF IRAN AND ANY OTHER~~
32 ~~TERRITORY OR MARINE AREA OVER WHICH THE GOVERNMENT OF IRAN CLAIMS~~
33 ~~SOVEREIGNTY, SOVEREIGN RIGHTS, OR JURISDICTION, PROVIDED THAT THE~~
34 ~~GOVERNMENT OF IRAN EXERCISES PARTIAL OR TOTAL DE FACTO CONTROL~~
35 ~~OVER THE AREA OR DERIVES A BENEFIT FROM ECONOMIC ACTIVITY IN THE~~
36 ~~AREA IN ACCORDANCE WITH INTERNATIONAL ARRANGEMENTS.~~

1 ~~(2) "IRAN" INCLUDES THE EXCLUSIVE ECONOMIC ZONE AND~~
2 ~~CONTINENTAL SHELF.~~

3 ~~(G) "PERSON" INCLUDES:~~

4 ~~(1) A NATURAL PERSON, CORPORATION, COMPANY, LIMITED~~
5 ~~PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP, LIMITED LIABILITY~~
6 ~~COMPANY, BUSINESS ASSOCIATION, SOLE PROPRIETORSHIP, JOINT VENTURE,~~
7 ~~PARTNERSHIP, SOCIETY, TRUST, OR ANY OTHER NONGOVERNMENTAL ENTITY,~~
8 ~~ORGANIZATION, OR GROUP;~~

9 ~~(2) A GOVERNMENTAL ENTITY OR INSTRUMENTALITY OF A~~
10 ~~GOVERNMENT, INCLUDING A MULTILATERAL DEVELOPMENT INSTITUTION, AS~~
11 ~~DEFINED BY THE FEDERAL INTERNATIONAL FINANCIAL INSTITUTIONS ACT;~~

12 ~~(3) A FINANCIAL INSTITUTION AS DEFINED BY THE FEDERAL IRAN~~
13 ~~SANCTIONS ACT OF 1996; OR~~

14 ~~(4) ANY PARENT, SUCCESSOR, SUBUNIT, DIRECT OR INDIRECT~~
15 ~~SUBSIDIARY, OR ANY ENTITY UNDER COMMON OWNERSHIP OR CONTROL WITH~~
16 ~~AN ENTITY DESCRIBED IN ITEMS (1) THROUGH (3) OF THIS SUBSECTION.~~

17 ~~(H) "UNIT" INCLUDES:~~

18 ~~(1) A BISTATE OR MULTISTATE AGENCY;~~

19 ~~(2) A COUNTY, MUNICIPAL CORPORATION, OR OTHER POLITICAL~~
20 ~~SUBDIVISION OF THE STATE OR AN AGENCY OR OTHER INSTRUMENTALITY OF~~
21 ~~THE POLITICAL SUBDIVISION; AND~~

22 ~~(3) A BICOUNTY OR MULTICOUNTY AGENCY.~~

23 ~~13-502.~~

24 ~~(A) ON OR BEFORE JANUARY 1, 2013, THE BOARD SHALL USE~~
25 ~~CREDIBLE INFORMATION AVAILABLE TO THE PUBLIC TO CREATE A LIST OF~~
26 ~~PERSONS THAT ENGAGE IN INVESTMENT ACTIVITIES IN IRAN.~~

27 ~~(B) THE BOARD SHALL UPDATE THE LIST EVERY 90 DAYS.~~

28 ~~(C) THIRTY DAYS BEFORE ADDING A PERSON TO THE LIST, THE BOARD~~
29 ~~SHALL PROVIDE THE PERSON WITH WRITTEN NOTICE THAT:~~

1 ~~(1) THE BOARD INTENDS TO ADD THE PERSON TO THE LIST;~~

2 ~~(2) INCLUSION OF THE PERSON ON THE LIST MAKES THE PERSON~~
3 ~~INELIGIBLE TO BID ON, SUBMIT A PROPOSAL FOR, OR ENTER INTO OR RENEW A~~
4 ~~CONTRACT FOR GOODS OR SERVICES WITH THE STATE; AND~~

5 ~~(3) WITHIN THE 30 DAY PERIOD, THE PERSON MAY SUBMIT~~
6 ~~WRITTEN DOCUMENTATION TO THE BOARD DEMONSTRATING THAT THE~~
7 ~~PERSON IS NOT ENGAGED IN INVESTMENT ACTIVITIES IN IRAN.~~

8 ~~(D) IF THE PERSON DEMONSTRATES TO THE BOARD THAT THE PERSON~~
9 ~~IS NOT ENGAGED IN INVESTMENT ACTIVITIES IN IRAN, THE BOARD MAY NOT~~
10 ~~ADD THE PERSON TO THE LIST.~~

11 ~~(E) THE BOARD SHALL MAKE EVERY EFFORT TO AVOID ERRONEOUSLY~~
12 ~~INCLUDING A PERSON ON THE LIST.~~

13 ~~13-503.~~

14 ~~(A) A UNIT SHALL REQUIRE A PERSON THAT SUBMITS A BID OR~~
15 ~~PROPOSAL OR OTHERWISE PROPOSES TO ENTER INTO OR RENEW A CONTRACT~~
16 ~~TO CERTIFY THAT THE PERSON IS NOT INCLUDED ON A LIST CREATED IN~~
17 ~~ACCORDANCE WITH § 13-502 OF THIS SUBTITLE OR ANOTHER SIMILAR LIST~~
18 ~~CREATED BY THE FEDERAL GOVERNMENT.~~

19 ~~(B) THE CERTIFICATION REQUIRED UNDER SUBSECTION (A) OF THIS~~
20 ~~SECTION SHALL:~~

21 ~~(1) BE MADE AT THE TIME A BID OR PROPOSAL IS SUBMITTED OR~~
22 ~~A CONTRACT IS RENEWED; AND~~

23 ~~(2) BE EXECUTED ON BEHALF OF THE APPLICABLE PERSON OR BY~~
24 ~~AN AUTHORIZED OFFICER OR REPRESENTATIVE OF THE PERSON.~~

25 ~~(C) IF A PERSON IS UNABLE TO CERTIFY THAT THE PERSON DOES NOT~~
26 ~~ENGAGE IN INVESTMENT ACTIVITY IN IRAN, THE PERSON SHALL PROVIDE TO~~
27 ~~THE UNIT, UNDER PENALTY OF PERJURY, A DETAILED DESCRIPTION OF THE~~
28 ~~PERSON'S INVESTMENT ACTIVITIES IN IRAN.~~

29 ~~(D) A CERTIFICATION OR DISCLOSURE PROVIDED TO A UNIT UNDER~~
30 ~~THIS SECTION SHALL BE MADE PUBLIC.~~

31 ~~13-504.~~

1 ~~(A) IF BY USING CREDIBLE INFORMATION AVAILABLE TO THE PUBLIC, A~~
2 ~~UNIT DETERMINES THAT A PERSON MAY HAVE FALSELY CERTIFIED THAT THE~~
3 ~~PERSON DOES NOT ENGAGE IN INVESTMENT ACTIVITY IN IRAN, THE UNIT SHALL~~
4 ~~PROVIDE THE PERSON WITH WRITTEN NOTICE THAT THE PERSON MAY SUBMIT~~
5 ~~WRITTEN DOCUMENTATION WITHIN 30 DAYS TO THE UNIT DEMONSTRATING~~
6 ~~THAT THE PERSON IS NOT ENGAGED IN OR HAS CEASED TO ENGAGE IN~~
7 ~~INVESTMENT ACTIVITIES IN IRAN.~~

8 ~~(B) IF A PERSON FAILS TO DEMONSTRATE TO THE UNIT THAT THE~~
9 ~~PERSON IS NOT ENGAGED IN OR HAS CEASED TO ENGAGE IN INVESTMENT~~
10 ~~ACTIVITIES IN IRAN, THE UNIT MAY DETERMINE THAT THE PERSON HAS~~
11 ~~SUBMITTED A FALSE CERTIFICATION.~~

12 ~~(C) A PERSON THAT SUBMITS A FALSE CERTIFICATION IS:~~

13 ~~(1) LIABLE FOR A CIVIL PENALTY IN AN AMOUNT THAT IS EQUAL~~
14 ~~TO THE GREATER OF \$1,000,000 OR TWICE THE AMOUNT OF THE CONTRACT FOR~~
15 ~~WHICH THE FALSE CERTIFICATION WAS MADE; AND~~

16 ~~(2) INELIGIBLE TO BID ON A CONTRACT FOR A PERIOD OF 3~~
17 ~~YEARS AFTER THE DATE OF THE DETERMINATION THAT THE PERSON~~
18 ~~SUBMITTED THE FALSE CERTIFICATION.~~

19 ~~(D) (1) A UNIT MAY NOT AWARD A PROCUREMENT CONTRACT TO A~~
20 ~~PERSON THAT SUBMITS A FALSE CERTIFICATION.~~

21 ~~(2) A UNIT MAY TERMINATE AN EXISTING CONTRACT WITH A~~
22 ~~PERSON THAT SUBMITTED A FALSE CERTIFICATION.~~

23 ~~13-505.~~

24 ~~(A) THIS SUBTITLE SHALL BE CONSTRUED LIBERALLY WITH REGARD TO~~
25 ~~ALL PROCUREMENT CONTRACTS FOR GOODS OR SERVICES WITH A PERSON~~
26 ~~ENGAGED IN INVESTMENT ACTIVITIES IN IRAN.~~

27 ~~(B) THIS SUBTITLE SHALL PREEMPT ANY LOCAL LAW.~~

28 ~~16-203.~~

29 ~~(E) A PERSON MAY BE DEBARRED FROM ENTERING INTO A CONTRACT~~
30 ~~WITH THE STATE IF, AT THE TIME OF BID OR PROPOSAL FOR A NEW CONTRACT~~
31 ~~OR RENEWAL OF AN EXISTING CONTRACT, THE PERSON IS INCLUDED ON A LIST~~
32 ~~CREATED TO IDENTIFY PERSONS THAT ENGAGE IN INVESTMENT ACTIVITIES IN~~
33 ~~IRAN IN ACCORDANCE WITH § 13-502 OF THIS ARTICLE.~~

1 **SUBTITLE 7. INVESTMENT ACTIVITIES IN IRAN.**

2 **17-701.**

3 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
4 **INDICATED.**

5 **(B) “ENERGY SECTOR OF IRAN” MEANS ACTIVITIES TO DEVELOP**
6 **PETROLEUM OR NATURAL GAS RESOURCES OR NUCLEAR POWER IN IRAN.**

7 **(C) “FINANCIAL INSTITUTION” HAS THE MEANING STATED IN SECTION**
8 **14 OF THE IRAN SANCTIONS ACT OF 1996 (PUBLIC LAW 104-172).**

9 **(D) “IRAN” INCLUDES THE GOVERNMENT OF IRAN AND ANY AGENCY OR**
10 **INSTRUMENTALITY OF IRAN.**

11 **(E) “PERSON” INCLUDES:**

12 **(1) A NATURAL PERSON, CORPORATION, COMPANY, LIMITED**
13 **LIABILITY COMPANY, BUSINESS ASSOCIATION, PARTNERSHIP, SOCIETY, TRUST,**
14 **OR ANY OTHER NONGOVERNMENTAL ENTITY, ORGANIZATION, OR GROUP;**

15 **(2) A GOVERNMENTAL ENTITY OR INSTRUMENTALITY OF A**
16 **GOVERNMENT, INCLUDING A MULTILATERAL DEVELOPMENT INSTITUTION, AS**
17 **DEFINED BY THE FEDERAL INTERNATIONAL FINANCIAL INSTITUTIONS ACT, 22**
18 **U.S.C. 262R(C)(3); OR**

19 **(3) ANY PARENT, SUCCESSOR, SUBUNIT, DIRECT OR INDIRECT**
20 **SUBSIDIARY OF, OR ANY ENTITY UNDER COMMON OWNERSHIP OR CONTROL**
21 **WITH, AN ENTITY DESCRIBED IN ITEM (1) OR (2) OF THIS SUBSECTION.**

22 **(F) “PUBLIC BODY” MEANS:**

23 **(1) THE STATE;**

24 **(2) A COUNTY, MUNICIPAL CORPORATION, OR OTHER POLITICAL**
25 **SUBDIVISION;**

26 **(3) A PUBLIC INSTRUMENTALITY; OR**

27 **(4) ANY GOVERNMENTAL UNIT AUTHORIZED TO AWARD A**
28 **CONTRACT.**

29 **17-702.**

1 FOR PURPOSES OF THIS SUBTITLE, A PERSON ENGAGES IN INVESTMENT
2 ACTIVITIES IN IRAN IF:

3 (1) THE PERSON PROVIDES GOODS OR SERVICES OF \$20,000,000
4 OR MORE IN THE ENERGY SECTOR OF IRAN, INCLUDING A PERSON THAT
5 PROVIDES OIL OR LIQUEFIED NATURAL GAS TANKERS OR PRODUCTS USED TO
6 CONSTRUCT OR MAINTAIN PIPELINES USED TO TRANSPORT OIL OR LIQUEFIED
7 NATURAL GAS FOR THE ENERGY SECTOR OF IRAN; OR

8 (2) THE PERSON IS A FINANCIAL INSTITUTION THAT EXTENDS
9 \$20,000,000 OR MORE IN CREDIT TO ANOTHER PERSON FOR 45 DAYS OR MORE
10 IF THE PERSON TO WHOM THE CREDIT IS EXTENDED:

11 (I) WILL USE THE CREDIT TO PROVIDE GOODS OR SERVICES
12 IN THE ENERGY SECTOR OF IRAN AS DESCRIBED IN ITEM (1) OF THIS SECTION;
13 AND

14 (II) IS, AT THE TIME OF THE EXTENSION OF CREDIT,
15 IDENTIFIED ON A LIST CREATED UNDER § 17-704 OF THIS SUBTITLE AS A
16 PERSON ENGAGING IN INVESTMENT ACTIVITIES IN IRAN.

17 17-703.

18 A PERSON THAT, AT THE TIME OF BID OR PROPOSAL FOR A NEW
19 CONTRACT OR RENEWAL OF AN EXISTING CONTRACT, IS IDENTIFIED ON A LIST
20 CREATED BY THE BOARD UNDER § 17-704 OF THIS SUBTITLE AS A PERSON
21 ENGAGING IN INVESTMENT ACTIVITIES IN IRAN IS INELIGIBLE TO, AND MAY NOT
22 BID ON, SUBMIT A PROPOSAL FOR, OR ENTER INTO OR RENEW A CONTRACT
23 WITH A PUBLIC BODY FOR GOODS OR SERVICES.

24 17-704.

25 (A) (1) ON OR BEFORE DECEMBER 31, 2012, THE BOARD SHALL USE
26 CREDIBLE INFORMATION AVAILABLE TO THE PUBLIC TO CREATE A LIST OF
27 PERSONS THAT THE BOARD DETERMINES TO BE ENGAGED IN INVESTMENT
28 ACTIVITIES IN IRAN AS DESCRIBED IN § 17-702 OF THIS SUBTITLE.

29 (2) THE BOARD SHALL UPDATE THE LIST AT LEAST EVERY 180
30 DAYS.

31 (3) BEFORE THE BOARD INCLUDES A PERSON ON THE LIST, THE
32 BOARD SHALL PROVIDE THE PERSON WITH 90 DAYS' WRITTEN NOTICE THAT:

1 (I) THE BOARD INTENDS TO INCLUDE THE PERSON ON THE
2 LIST; AND

3 (II) INCLUSION ON THE LIST WOULD MAKE THE PERSON
4 INELIGIBLE TO BID ON, SUBMIT A PROPOSAL FOR, OR ENTER INTO OR RENEW A
5 CONTRACT WITH A PUBLIC BODY FOR GOODS OR SERVICES.

6 (4) THE NOTICE REQUIRED UNDER PARAGRAPH (3) OF THIS
7 SUBSECTION SHALL SPECIFY THAT IF THE PERSON CEASES ENGAGEMENT IN
8 INVESTMENT ACTIVITIES IN IRAN AS DESCRIBED IN § 17-702 OF THIS SUBTITLE,
9 THE PERSON MAY BECOME ELIGIBLE FOR A FUTURE CONTRACT OR CONTRACT
10 RENEWAL WITH A PUBLIC BODY FOR GOODS OR SERVICES ON REMOVAL FROM
11 THE LIST.

12 (B) (1) THE BOARD SHALL PROVIDE A PERSON WITH AN
13 OPPORTUNITY TO COMMENT IN WRITING TO THE BOARD THAT THE PERSON IS
14 NOT ENGAGED IN INVESTMENT ACTIVITIES IN IRAN.

15 (2) IF THE PERSON DEMONSTRATES TO THE BOARD THAT THE
16 PERSON IS NOT ENGAGED IN INVESTMENT ACTIVITIES IN IRAN AS DESCRIBED IN
17 § 17-702 OF THIS SUBTITLE, THE BOARD MAY NOT INCLUDE THE PERSON ON
18 THE LIST.

19 (C) THE BOARD SHALL REMOVE A PERSON FROM THE LIST IF THE
20 PERSON DEMONSTRATES TO THE BOARD THAT THE PERSON NO LONGER IS
21 ENGAGED IN INVESTMENT ACTIVITIES IN IRAN AS DESCRIBED IN § 17-702 OF
22 THIS SUBTITLE.

23 (D) THE BOARD SHALL MAKE EVERY REASONABLE EFFORT TO AVOID
24 ERRONEOUSLY INCLUDING A PERSON ON THE LIST.

25 (E) THE BOARD SHALL PUBLISH THE LIST ON THE INTERNET.

26 17-705.

27 (A) ON OR AFTER JANUARY 1, 2013, A PUBLIC BODY SHALL REQUIRE A
28 PERSON THAT SUBMITS A BID OR PROPOSAL TO THE PUBLIC BODY FOR A
29 CONTRACT FOR GOODS OR SERVICES, OR OTHERWISE PROPOSES TO ENTER
30 INTO OR RENEW A CONTRACT FOR GOODS OR SERVICES WITH THE PUBLIC BODY,
31 TO:

32 (1) CERTIFY AT THE TIME THE BID IS SUBMITTED OR THE
33 CONTRACT IS RENEWED THAT THE PERSON:

1 (I) IS NOT IDENTIFIED ON THE LIST CREATED BY THE
2 BOARD AS A PERSON ENGAGING IN INVESTMENT ACTIVITIES IN IRAN AS
3 DESCRIBED IN § 17-702 OF THIS SUBTITLE; AND

4 (II) IS NOT ENGAGING IN INVESTMENT ACTIVITIES IN IRAN
5 AS DESCRIBED IN § 17-702 OF THIS SUBTITLE; OR

6 (2) IF THE PERSON IS UNABLE TO MAKE THE CERTIFICATION
7 UNDER ITEM (1) OF THIS SUBSECTION, PROVIDE THE PUBLIC BODY, UNDER
8 PENALTY OF PERJURY, A DETAILED DESCRIPTION OF THE PERSON'S
9 INVESTMENT ACTIVITIES IN IRAN.

10 (B) A PUBLIC BODY SHALL SUBMIT ANY INFORMATION PROVIDED TO
11 THE PUBLIC BODY UNDER SUBSECTION (A)(2) OF THIS SECTION TO THE BOARD.

12 17-706.

13 (A) (1) IF A PUBLIC BODY, USING CREDIBLE INFORMATION
14 AVAILABLE TO THE PUBLIC, DETERMINES THAT A PERSON HAS SUBMITTED A
15 FALSE CERTIFICATION UNDER § 17-705(A)(1) OF THIS SUBTITLE, THE PUBLIC
16 BODY SHALL PROVIDE WRITTEN NOTICE TO THE PERSON AND AN OPPORTUNITY
17 FOR THE PERSON TO DEMONSTRATE IN WRITING THAT THE PERSON IS NOT
18 ENGAGED IN INVESTMENT ACTIVITIES IN IRAN.

19 (2) IF THE PERSON FAILS TO DEMONSTRATE TO THE PUBLIC
20 BODY WITHIN 90 DAYS AFTER THE PUBLIC BODY PROVIDES NOTICE UNDER
21 PARAGRAPH (1) OF THIS SUBSECTION THAT THE PERSON IS NOT ENGAGED IN
22 INVESTMENT ACTIVITIES IN IRAN, THE PUBLIC BODY SHALL REPORT TO THE
23 BOARD AND THE ATTORNEY GENERAL:

24 (I) THE NAME OF THE PERSON DETERMINED TO HAVE
25 SUBMITTED A FALSE CERTIFICATION; AND

26 (II) THE INFORMATION ON WHICH THE PUBLIC BODY MADE
27 ITS DECISION.

28 (B) (1) THE ATTORNEY GENERAL MAY INSTITUTE AN ACTION
29 AGAINST A PERSON DETERMINED TO HAVE SUBMITTED A FALSE CERTIFICATION
30 UNDER § 17-705(A)(1) OF THIS SUBTITLE.

31 (2) AN ACTION BROUGHT UNDER THIS SECTION SHALL BE
32 BROUGHT WITHIN 3 YEARS FROM THE DATE THE CERTIFICATION IS MADE.

1 (C) IF, IN AN ACTION BROUGHT UNDER THIS SECTION, A COURT
2 DETERMINES THAT A PERSON SUBMITTED A FALSE CERTIFICATION:

3 (1) THE PERSON SHALL PAY ALL REASONABLE COSTS AND FEES
4 INCURRED IN THE CIVIL ACTION, INCLUDING:

5 (I) ANY COSTS INCURRED BY THE PUBLIC BODY FOR THE
6 INVESTIGATION THAT LED TO THE FINDING OF THE FALSE CERTIFICATION; AND

7 (II) ALL REASONABLE COSTS AND FEES INCURRED BY THE
8 ATTORNEY GENERAL IN BRINGING THE ACTION;

9 (2) THE COURT MAY IMPOSE A CIVIL PENALTY EQUAL TO THE
10 GREATER OF \$1,000,000 OR TWICE THE AMOUNT OF THE CONTRACT FOR WHICH
11 THE FALSE CERTIFICATION WAS SUBMITTED;

12 (3) THE PUBLIC BODY MAY TERMINATE THE CONTRACT FOR
13 WHICH THE FALSE CERTIFICATION WAS SUBMITTED; AND

14 (4) THE PERSON IS INELIGIBLE TO BID ON A CONTRACT WITH A
15 PUBLIC BODY FOR A PERIOD OF 3 YEARS FROM THE DATE OF THE COURT
16 ORDER.

17 (D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
18 SUBSECTION, AN UNSUCCESSFUL BIDDER OR ANY OTHER PERSON MAY NOT
19 PROTEST THE AWARD OF A CONTRACT OR CONTRACT RENEWAL ON THE BASIS
20 OF A FALSE CERTIFICATION.

21 (2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT PROHIBIT A
22 PUBLIC BODY FROM FILING A PROTEST OBJECTING TO THE AWARD OF A
23 CONTRACT OR CONTRACT RENEWAL ON THE BASIS OF A FALSE CERTIFICATION.

24 (E) THIS SUBTITLE DOES NOT CREATE OR AUTHORIZE A PRIVATE RIGHT
25 OF ACTION.

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27 THIS SUBTITLE PREEMPTS ANY LAW, ORDINANCE, RULE, OR REGULATION
28 OF ANY LOCAL GOVERNING BODY INVOLVING PROCUREMENT CONTRACTS FOR
29 GOODS OR SERVICES WITH A PERSON ENGAGED IN INVESTMENT ACTIVITIES IN
30 IRAN.

1 SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the
2 General Assembly to implement the authority granted under Section 202 of the
3 Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010.

4 SECTION 3. AND BE IT FURTHER ENACTED, That the Department of
5 Legislative Services shall submit to the Attorney General of the United States written
6 notice of the requirements of this Act within 30 days after the Act takes effect.

7 SECTION 4. AND BE IT FURTHER ENACTED, That if any provision of this
8 Act or the application thereof to any person or circumstance is held invalid for any
9 reason in a court of competent jurisdiction, the invalidity does not affect other
10 provisions or any other application of this Act which can be given effect without the
11 invalid provision or application, and for this purpose the provisions of this Act are
12 declared severable.

13 SECTION 5. AND BE IT FURTHER ENACTED, That:

14 (a) This Act shall remain in effect until:

15 (1) the Congress or the President of the United States affirmatively
16 and unambiguously declares, by means including, but not limited to, legislation,
17 executive order, or written certification from the President to Congress that Iran is no
18 longer seeking a nuclear weapons capability and no longer supports international
19 terrorism; or

20 (2) federal law no longer authorizes the states to adopt and enforce
21 provisions of the type authorized in this Act.

22 (b) The Board of Public Works shall notify the Department of Legislative
23 Services within 5 days after the occurrence of an event described in subsection (a) of
24 this section and, as of the date the event occurred, with no further action required by
25 the General Assembly, this Act shall be abrogated and of no further force and effect.

26 SECTION ~~5~~ 6. AND BE IT FURTHER ENACTED, That this Act shall take
27 effect June 1, 2012.