
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 500 Session of
2013

INTRODUCED BY STACK, SCARNATI, TARTAGLIONE, WILLIAMS, TEPLITZ,
FARNESE, GREENLEAF, WASHINGTON, SOLOBAY, RAFFERTY, ALLOWAY
AND McILHINNEY, MARCH 6, 2013

REFERRED TO STATE GOVERNMENT, MARCH 6, 2013

AN ACT

1 Amending Title 62 (Procurement) of the Pennsylvania Consolidated
2 Statutes, providing for investment activities in Iran; and
3 imposing civil penalties.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Chapter 35 of Title 62 of the Pennsylvania
7 Consolidated Statutes is amended to read:

8 CHAPTER 35

9 [(RESERVED)]

10 IRAN FREE PROCUREMENT

11 Sec.

12 3501. Definitions.

13 3502. Engaging in investment activities.

14 3503. List of persons engaged in investment activities.

15 3504. Certification.

16 3505. Penalties for false certification.

17 3506. Expiration.

18 § 3501. Definitions.

1 "Department." The Department of General Services of the
2 Commonwealth.

3 "Financial institution." The term as defined in section 14
4 of the Iran Sanctions Act of 1996 (Public Law 104-172, 50 U.S.C.
5 § 1701).

6 "Iran." The government of Iran or an agency or
7 instrumentality of Iran.

8 "Person." An individual, organization, a financial
9 institution, sole proprietorship, association, corporation,
10 partnership, joint venture, limited partnership, limited
11 liability partnership, limited liability company or other entity
12 or business association that exists for the purpose of making a
13 profit or government entity that includes a multilateral
14 development institution as defined in section 1701 of the
15 International Financial Institutions Act (Public Law 95-118, 22
16 U.S.C. 262r).
17 § 3502. Engaging in investment activities.

18 A person or financial institution engages in an investment
19 activity by doing any of the following:

20 (1) Providing goods or services worth at least
21 \$20,000,000, including oil tankers or transporters and
22 liquefied natural gas tankers or transporters, to the energy
23 sector of Iran, or products used to construct or maintain
24 pipelines used to transport oil or liquefied natural gas for
25 the energy sector of Iran.

26 (2) Extending at least \$1,000,000 in credit to a person
27 for 45 days or more if all of the following apply:

28 (i) The person uses the credit to provide goods or
29 services to the energy sector in Iran.

30 (ii) The person is identified on a list created

1 under section 3503 (relating to list of persons engaged
2 in investment activities).

3 § 3503. List of persons engaged in investment activities.

4 (a) List.--The department shall develop a list of persons
5 whom the department determines are engaged in investment
6 activities in Iran as described in section 3502 (relating to
7 engaging in investment activities). The department shall make
8 its determination based on publicly available, credible
9 information. The department shall update the list every 180
10 days. Ninety days prior adding a person to the list, the
11 department shall do all of the following:

12 (1) Provide notice to the person of the department's
13 intention to add the person to the list. The notice shall
14 inform the person that inclusion on the list makes the person
15 ineligible to enter into a contract with a Commonwealth
16 entity for goods or services worth at least \$1,000,000. The
17 notice shall specify that if the person ceases to engage in
18 investment activities in Iran, the person may regain
19 eligibility upon removal from the list.

20 (2) Provide the person an opportunity to comment in
21 writing to the department. The person shall maintain
22 eligibility if the person demonstrates no engagement in
23 investment activities in Iran.

24 (b) Ineligibility of persons on list.--A person identified
25 on a list under subsection (a) shall be ineligible to enter into
26 a contract with a Commonwealth entity for goods or services
27 worth at least \$1,000,000.

28 (c) Fee.--The department may assess a fee to obtain a copy
29 of the list. Upon request, the department shall provide the list
30 free of charge to the General Assembly or a public entity.

1 (d) Retirement system investments.--A person who enters into
2 a contract with the Public School Employees' Retirement System
3 or the State Employees' Retirement System shall not be deemed a
4 person who engages in investment activities in Iran on the basis
5 of the person's investments with the retirement system.

6 (e) Exception.--On a case-by-case basis, the department may
7 permit a person engaging in investment activities in Iran to
8 enter a contract with a Commonwealth entity for goods or
9 services worth at least \$1,000,000 if all of the following
10 apply:

11 (1) The investment activities in Iran were made before
12 and were not expanded after July 1, 2010.

13 (2) The person refrains from engaging in any future
14 investment activities in Iran.

15 (3) The department determines that the Commonwealth
16 entity has no other method of obtaining the goods or services
17 than entering into a contract with the person.

18 § 3504. Certification.

19 The department shall make available a certification form
20 indicating that a person is not on the list under section
21 3503(a) (relating to list of persons engaged in investment
22 activities) and is eligible under this chapter to contract with
23 the Commonwealth. Prior to entering into a contract with a
24 Commonwealth entity, a person shall provide a certification form
25 to the Commonwealth entity, unless the person is exempt under
26 section 3503(e).

27 § 3505. Penalties for false certification.

28 (a) Penalties.--Upon determination by the department that a
29 person has provided a false certification form to a Commonwealth
30 entity under section 3504 (relating to certification), the

1 person shall be subject to the following:

2 (1) A civil penalty in the amount of \$250,000 or twice
3 the amount of the investment, whichever is greater. Only one
4 civil penalty may be imposed upon a person per investment.

5 (2) Termination of the existing contract with the
6 Commonwealth entity for a period of three years from the date
7 of the determination that the person submitted the false
8 certification. Following the three-year period, the
9 Commonwealth entity or the department may permanently
10 terminate the contract.

11 (b) Report of false certification.--The department shall
12 report to the Attorney General the name of the person who
13 submitted the false certification and the pertinent information
14 that led to the department's determination. No later than three
15 years after the department makes a determination under
16 subsection (a), the Attorney General shall determine whether to
17 bring a civil action against the person to collect the penalty
18 described in subsection (a). If a court determines the person
19 submitted a false certification, the person shall pay all
20 reasonable costs and fees incurred in the civil action.
21 Reasonable costs shall include the reasonable costs incurred by
22 the Commonwealth entity in investigating the authenticity of the
23 certification. Only one civil action against the person may be
24 brought for a false certification on a contract.

25 (c) No private right of action.--Nothing in this section may
26 be construed to create or authorize a private right of action.
27 § 3506. Expiration.

28 The department shall have no obligations under this chapter
29 with respect to a company engaged in business activities in Iran
30 upon the occurrence of any of the following:

1 (1) Iran does not appear on the List of State Sponsors
2 of Terrorism.

3 (2) The President or Congress of the United States,
4 through legislation or executive order, declares that
5 mandatory divestment of the type provided for in this chapter
6 interferes with the conduct of United States foreign policy.

7 Section 2. This act shall take effect January 1, 2014, or
8 immediately, whichever is later.