

## AMENDMENTS TO HOUSE BILL NO. 201

Sponsor: REPRESENTATIVE FRANKEL

Printer's No. 205

1 Amend Bill, page 1, line 3, by inserting after "proposals"  
2 ; providing for investment activities in Iran; and  
3 imposing civil penalties

4 Amend Bill, page 1, by inserting after line 17

5 Section 2. The heading of Chapter 35 of Title 62 is amended  
6 to read:

7 CHAPTER 35

8 [(RESERVED)]

9 IRAN FREE PROCUREMENT

10 Section 3. Title 62 is amended by adding sections to read:  
11 § 3501. Definitions.

12 "Department." The Department of General Services of the  
13 Commonwealth.

14 "Financial institution." The term as defined in section 14  
15 of the Iran Sanctions Act of 1996 (Public Law 104-172, 50 U.S.C.  
16 § 1701).

17 "Iran." The government of Iran or an agency or  
18 instrumentality of Iran.

19 "Person." An individual, organization, a financial  
20 institution, sole proprietorship, association, corporation,  
21 partnership, joint venture, limited partnership, limited  
22 liability partnership, limited liability company or other entity  
23 or business association that exists for the purpose of making a  
24 profit or government entity that includes a multilateral  
25 development institution as defined in section 1701 of the  
26 International Financial Institutions Act (Public Law 95-118, 22  
27 U.S.C. 262r).

28 § 3502. Engaging in investment activities.

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

31 (1) Providing goods or services worth at least  
32 \$20,000,000, including oil tankers or transporters and  
33 liquefied natural gas tankers or transporters, to the energy  
34 sector of Iran, or products used to construct or maintain  
35 pipelines used to transport oil or liquefied natural gas for  
36 the energy sector of Iran.

37 (2) Extending at least \$1,000,000 in credit to a person

1 for 45 days or more if all of the following apply:

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

4 (ii) The person is identified on a list created  
5 under section 3503 (relating to list of persons engaged  
6 in investment activities).

7 § 3503. List of persons engaged in investment activities.

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

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

24 (2) Provide the person an opportunity to comment in  
25 writing to the department. The person shall maintain  
26 eligibility if the person demonstrates no engagement in  
27 investment activities in Iran.

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

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

35 (d) Retirement system investments.--A person who enters into  
36 a contract with the Public School Employees' Retirement System  
37 or the State Employees' Retirement System shall not be deemed a  
38 person who engages in investment activities in Iran on the basis  
39 of the person's investments with the retirement system.

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

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

47 (2) The person refrains from engaging in any future  
48 investment activities in Iran.

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

1 § 3504. Certification.

2 The department shall make available a certification form  
3 indicating that a person is not on the list under section  
4 3503(a) (relating to list of persons engaged in investment  
5 activities) and is eligible under this chapter to contract with  
6 the Commonwealth. Prior to entering into a contract with a  
7 Commonwealth entity, a person shall provide a certification form  
8 to the Commonwealth entity, unless the person is exempt under  
9 section 3503(e).

10 § 3505. Penalties for false certification.

11 (a) Penalties.--Upon determination by the department that a  
12 person has provided a false certification form to a Commonwealth  
13 entity under section 3504 (relating to certification), the  
14 person shall be subject to the following:

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

18 (2) Termination of the existing contract with the  
19 Commonwealth entity for a period of three years from the date  
20 of the determination that the person submitted the false  
21 certification. Following the three-year period, the  
22 Commonwealth entity or the department may permanently  
23 terminate the contract.

24 (b) Report of false certification.--The department shall  
25 report to the Attorney General the name of the person who  
26 submitted the false certification and the pertinent information  
27 that led to the department's determination. No later than three  
28 years after the department makes a determination under  
29 subsection (a), the Attorney General shall determine whether to  
30 bring a civil action against the person to collect the penalty  
31 described in subsection (a). If a court determines the person  
32 submitted a false certification, the person shall pay all  
33 reasonable costs and fees incurred in the civil action.  
34 Reasonable costs shall include the reasonable costs incurred by  
35 the Commonwealth entity in investigating the authenticity of the  
36 certification. Only one civil action against the person may be  
37 brought for a false certification on a contract.

38 (c) No private right of action.--Nothing in this section may  
39 be construed to create or authorize a private right of action.

40 § 3506. Expiration.

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

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

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

50 Amend Bill, page 2, line 1, by striking out "2" and inserting

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2       Amend Bill, page 2, line 1, by striking out "60 days." and  
3 inserting

4       as follows:

5           (1) The amendment of 62 Pa.C.S. Ch. 35 shall take effect  
6 January 1, 2014, or immediately, whichever is later.

7           (2) This section shall take effect immediately.

8           (3) The remainder of this act shall take effect in 60  
9 days.