
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2427 Session of
2012

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SCHMOTZER, M. SMITH, TOEPEL, WILLIAMS AND YOUNGBLOOD,
JUNE 11, 2012

REFERRED TO COMMITTEE ON STATE GOVERNMENT, JUNE 11, 2012

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. The heading of Chapter 35 of Title 62 of the
7 Pennsylvania Consolidated Statutes is amended to read:

8 CHAPTER 35

9 [(RESERVED)]

10 TERROR FREE PROCUREMENT

11 Section 2. Title 62 is amended by adding sections to read:

12 Sec.

13 3501. Definitions.

14 3502. Engaging in investment activities.

15 3503. List of persons engaged in investment activities.

16 3504. Certification.

1 3505. Penalties for false certification.

2 § 3501. Definitions.

3 "Department." The Department of General Services of the
4 Commonwealth.

5 "Financial institution." The term as defined in section 14
6 of the Iran Sanctions Act of 1996 (Public Law 104-172, 50 U.S.C.
7 § 1701).

8 "Iran." The government of Iran or an agency or
9 instrumentality of Iran.

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

19 § 3502. Engaging in investment activities.

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

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

28 (2) Extending at least \$20,000,000 in credit to a person
29 for 45 days or more if all of the following apply:

30 (i) The person uses the credit to provide goods or

1 services to the energy sector in Iran.

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

5 § 3503. List of persons engaged in investment activities.

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

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

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

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

30 (c) Fee.--The department may assess a fee to obtain a copy

1 of the list. Upon request, the department shall provide the list
2 free of charge to the General Assembly or a public entity.

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

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

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

15 (2) The person refrains from engaging in any future
16 investment activities in Iran.

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

20 § 3504. Certification.

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

29 § 3505. Penalties for false certification.

30 (a) Penalties.--Upon determination by the department that a

1 person has provided a false certification form to a Commonwealth
2 entity under section 3504 (relating to certification), the
3 person shall be subject to the following:

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

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

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

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

29 Section 3. This act shall take effect January 1, 2013.