S T A T E O F N E W Y O R K

6462

I N S E N A T E

February 13, 2012

Introduced by Sen. SKELOS -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the public authorities law and the state finance law, in relation to the application of the Iranian energy sector divestment act to certain entities

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The public authorities law is amended by adding a new section 2879-c to read as follows:

S 2879-C. IRANIAN ENERGY SECTOR DIVESTMENT. 1. AS USED IN THIS SECTION:

A. "ENERGY SECTOR" SHALL HAVE THE SAME MEANING AS DEFINED IN PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION ONE HUNDRED SIXTY-FIVE-A OF THE STATE FINANCE LAW.

B. "FINANCIAL INSTITUTION" SHALL HAVE THE SAME MEANING AS DEFINED IN PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION ONE HUNDRED SIXTY-FIVE-A OF THE STATE FINANCE LAW.

C. "INVESTMENT" SHALL HAVE THE SAME MEANING AS DEFINED IN PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION ONE HUNDRED SIXTY-FIVE-A OF THE STATE FINANCE LAW.

D. "IRAN" SHALL HAVE THE SAME MEANING AS DEFINED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION ONE HUNDRED SIXTY-FIVE-A OF THE STATE FINANCE LAW.

E. "PERSON" SHALL HAVE THE SAME MEANING AS DEFINED IN PARAGRAPH (E) OF SUBDIVISION ONE OF SECTION ONE HUNDRED SIXTY-FIVE-A OF THE STATE FINANCE LAW.

2. FOR PURPOSES OF THIS SECTION, A PERSON ENGAGES IN INVESTMENT ACTIVITIES IN IRAN IF:

A. THE PERSON PROVIDES GOODS OR SERVICES OF TWENTY MILLION DOLLARS OR MORE IN THE ENERGY SECTOR OF IRAN, INCLUDING A PERSON THAT PROVIDES OIL OR LIQUEFIED NATURAL GAS TANKERS, OR PRODUCTS USED TO CONSTRUCT OR MAINTAIN PIPELINES USED TO TRANSPORT OIL OR LIQUEFIED NATURAL GAS, FOR THE ENERGY SECTOR OF IRAN; OR

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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B. THE PERSON IS A FINANCIAL INSTITUTION THAT EXTENDS TWENTY MILLION DOLLARS OR MORE IN CREDIT TO ANOTHER PERSON, FOR FORTY-FIVE DAYS OR MORE, IF THAT PERSON WILL USE THE CREDIT TO PROVIDE GOODS OR SERVICES IN THE ENERGY SECTOR IN IRAN.

3. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER OR ANY OTHER LAW TO THE CONTRARY, NO STATE OR LOCAL PUBLIC AUTHORITY OR AN INTERSTATE OR INTERNATIONAL AUTHORITY, OR SUBSIDIARY THEREOF, SHALL ENTER INTO ANY CONTRACT FOR WORK OR SERVICES PERFORMED OR TO BE PERFORMED OR GOODS SOLD OR TO BE SOLD, WITH A PERSON THAT IS IDENTIFIED ON A LIST CREATED PURSUANT TO PARAGRAPH (B) OF SUBDIVISION THREE OF SECTION ONE HUNDRED SIXTY-FIVE-A OF THE STATE FINANCE LAW AS A PERSON ENGAGING IN INVESTMENT ACTIVITIES IN IRAN AS DESCRIBED IN SUBDIVISION TWO OF THIS SECTION.

4. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER OR ANY OTHER LAW TO THE CONTRARY, EVERY CONTRACT ENTERED INTO WITH A STATE OR LOCAL PUBLIC AUTHORITY OR AN INTERSTATE OR INTERNATIONAL AUTHORITY FOR WORK OR SERVICES PERFORMED OR TO BE PERFORMED OR GOODS SOLD OR TO BE SOLD, SHALL CONTAIN THE FOLLOWING STATEMENT SUBSCRIBED BY AND AFFIRMED BY THE PERSON ENTERING INTO THE CONTRACT AS TRUE UNDER THE PENALTIES OF PERJURY:

A. "BY SIGNING THIS CONTRACT, EACH PERSON AND EACH PERSON SIGNING ON BEHALF OF ANY OTHER PARTY CERTIFIES, AND IN THE CASE OF A JOINT BID OR PARTNERSHIP EACH PARTY THERETO CERTIFIES AS TO ITS OWN ORGANIZATION, UNDER PENALTY OF PERJURY, THAT TO THE BEST OF ITS KNOWLEDGE AND BELIEF THAT EACH PERSON IS NOT ON THE LIST CREATED PURSUANT TO PARAGRAPH (B) OF SUBDIVISION 3 OF SECTION 165-A OF THE STATE FINANCE LAW."

B. NOTWITHSTANDING PARAGRAPH A OF THIS SUBDIVISION, THE STATEMENT OF NON-INVESTMENT IN THE IRANIAN ENERGY SECTOR MAY BE SUBMITTED ELECTRONICALLY.

C. A CONTRACT SHALL NOT BE CONSIDERED NOR SHALL ANY CONTRACT BE ENTERED INTO WHERE THE CONDITION SET FORTH IN PARAGRAPH A OF THIS SUBDIVISION HAS NOT BEEN COMPLIED WITH; PROVIDED, HOWEVER, THAT IF IN ANY CASE THE PERSON CANNOT MAKE THE FOREGOING CERTIFICATION, THE PERSON SHALL SO STATE AND SHALL FURNISH WITH THE CONTRACT A SIGNED STATEMENT WHICH SETS FORTH IN DETAIL THE REASONS THEREFOR. A PUBLIC AUTHORITY MAY AWARD OR ENTER INTO A CONTRACT WITH A PERSON WHO CANNOT MAKE THE CERTIFICATION PURSUANT TO PARAGRAPH A OF THIS SUBDIVISION ON A CASE-BY-CASE BASIS IF:

(1) THE INVESTMENT ACTIVITIES IN IRAN WERE MADE BEFORE THE EFFECTIVE DATE OF THIS SECTION, THE INVESTMENT ACTIVITIES IN IRAN HAVE NOT BEEN EXPANDED OR RENEWED AFTER THE EFFECTIVE DATE OF THIS SECTION, AND THE PERSON HAS ADOPTED, PUBLICIZED, AND IS IMPLEMENTING A FORMAL PLAN TO CEASE THE INVESTMENT ACTIVITIES IN IRAN AND TO REFRAIN FROM ENGAGING IN ANY NEW INVESTMENTS IN IRAN; OR

(2) THE PUBLIC AUTHORITY MAKES A DETERMINATION THAT THE GOODS OR SERVICES ARE NECESSARY FOR THE PUBLIC AUTHORITY TO PERFORM ITS FUNCTIONS AND THAT, ABSENT SUCH AN EXEMPTION, THE PUBLIC AUTHORITY WOULD BE UNABLE TO OBTAIN THE GOODS OR SERVICES FOR WHICH THE CONTRACT IS OFFERED. SUCH DETERMINATION SHALL BE MADE IN WRITING AND SHALL BE A PUBLIC DOCUMENT.

S 2. Subdivision 9 of section 160 of the state finance law, as added by chapter 83 of the laws of 1995, is amended to read as follows:

9. "State agency" or "state agencies" means all state departments, boards, commissions, offices or institutions but excludes, however, for the purposes of subdivision five of section three hundred fifty-five of the education law, the state university of New York and excludes, for the purposes of subdivision a of section sixty-two hundred eighteen of the education law, the city university of New York; PROVIDED, HOWEVER, THAT THE STATE UNIVERSITY OF NEW YORK AND THE CITY UNIVERSITY OF NEW

YORK SHALL BE SUBJECT TO THE PROVISIONS OF SECTION ONE HUNDRED SIXTY-FIVE-A OF THIS ARTICLE. Furthermore, such term shall not include the legislature or the judiciary.

S 3. This act shall take effect on the same date and in the same manner as chapter 1 of the laws of 2012, takes effect.