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

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2015-2016 Regular Sessions

I N S E N A T E

September 11, 2015

Introduced by Sens. CROCI, ORTT, FELDER, FARLEY -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the Iran divestment act of 2012, the state finance law, and chapter 481 of the laws of 2013 amending the insurance law relating to investments in foreign states sponsoring terrorism, in relation to the divestment of Iran; and to repeal certain provisions of the insurance law relating thereto

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

Section 1. This act shall be known and may be cited as the New York state Iran divestment act.

S 2. Section 2 of chapter 1 of the laws 2012 amending the state finance law and other laws enacting the Iran divestment act of 2012 is amended to read as follows:

S 2. The legislature hereby finds and declares all of the following:

[(a) Congress and the President have determined that the illicit nuclear activities of the Government of Iran, combined with its development of unconventional weapons and ballistic missiles, and its support of international terrorism, represent a serious threat to the security of the United States, Israel, and other United States allies in Europe, the Middle East, and around the world.

(b) The International Atomic Energy Agency has repeatedly called attention to Iran's unlawful nuclear activities, and, as a result, the United Nations Security Council has adopted a range of sanctions designed to encourage the government of Iran to cease those activities and comply with its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons (commonly known as the "Nuclear Non-Proliferation Treaty").

(c) On July 1, 2010, President Barack Obama signed into law H.R. 2194, the "Comprehensive Iran Sanctions, Accountability, and Divestment

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

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Act of 2010" (Public Law 111-195), which expressly authorizes states and local governments to prevent investment in, including prohibiting entry into or renewing contracts with, companies operating in Iran's energy sector with investments that have the result of directly or indirectly supporting the efforts of the government of Iran to achieve nuclear weapons capability.

(d) The serious and urgent nature of the threat from Iran demands that states, local governments, and private institutions work together with the federal government and American allies to do everything possible diplomatically, politically, and economically to prevent Iran from acquiring a nuclear weapons capability.

(e) Respect for human rights in Iran has steadily deteriorated as demonstrated by transparently fraudulent elections and the brutal repression and murder, arbitrary arrests, and show trials of peaceful dissidents.

(f) The concerns of the state of New York regarding Iran are strictly the result of the actions of the government of Iran and should not be construed as enmity towards the Iranian people.

(g) In order to effectively address the need for the governments of this state to respond to the policies of Iran in a uniform fashion, prohibiting contracts with persons engaged in investment activities in the energy sector of Iran must be accomplished on a statewide basis.

(h) It is the intent of the legislature to fully implement the authority granted under Section 202 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Public Law 111-195).]

(A) THAT THE ILLICIT NUCLEAR ACTIVITIES OF THE GOVERNMENT OF IRAN, COMBINED WITH ITS DEVELOPMENT OF UNCONVENTIONAL WEAPONS AND BALLISTIC MISSILES, AND ITS SUPPORT OF INTERNATIONAL TERRORISM, REPRESENT A SERIOUS THREAT TO THE SECURITY OF THE STATE OF NEW YORK, ITS CITIZENS AND THEIR PROPERTY;

(B) THAT IRAN AND OTHER TERRORIST STATES AND ORGANIZATIONS HAVE REPEATEDLY IDENTIFIED NEW YORK STATE AND ITS CITIZENS AS A PRIMARY TARGET FOR TERRORIST ACTIVITIES AND ATTACKS, AND UNDER THE STATE'S CONSTITUTIONAL POWERS TO PROVIDE FOR THE PUBLIC HEALTH, SAFETY, SECURITY AND PUBLIC PROTECTION OF ITS CITIZENS AND THEIR PROPERTY, AND UNDER THE STATE'S CONSTITUTIONAL POWERS TO PROVIDE FOR THE PROTECTION AND REGULATION OF ITS FINANCIAL, BANKING AND INSURANCE SECTORS, AND UNDER THE STATE'S CONSTITUTIONAL POWERS TO PROVIDE FOR THE PROTECTION AND REGULATION OF ITS ENVIRONMENT AND NATURAL RESOURCES, NEW YORK STATE HAS THE LEGAL AUTHORITY TO PREVENT INVESTMENT IN, INCLUDING PROHIBITING ENTRY INTO OR RENEWING CONTRACTS WITH, COMPANIES OPERATING IN IRAN'S ENERGY AND FINANCIAL SECTORS WITH INVESTMENTS THAT HAVE THE RESULT OF DIRECTLY OR INDIRECTLY SUPPORTING THE EFFORTS OF THE GOVERNMENT OF IRAN TO ACHIEVE NUCLEAR WEAPONS CAPABILITY OR TO OTHERWISE PROMOTE OR ADVANCE TERRORIST ACTIVITIES THAT WILL TARGET OR AFFECT NEW YORK STATE, ITS CITIZENS OR THEIR PROPERTY;

(C) THAT THE SERIOUS AND URGENT NATURE OF THE THREAT FROM IRAN DEMANDS THAT STATES, LOCAL GOVERNMENTS, AND PRIVATE INSTITUTIONS WORK TOGETHER WITH THE FEDERAL GOVERNMENT AND AMERICAN ALLIES TO DO EVERYTHING POSSIBLE DIPLOMATICALLY, POLITICALLY, AND ECONOMICALLY TO PREVENT IRAN FROM ACQUIRING A NUCLEAR WEAPONS CAPABILITY OR TO OTHERWISE PROMOTE OR ADVANCE TERRORIST ACTIVITIES THAT WILL TARGET OR AFFECT NEW YORK STATE, ITS CITIZENS OR THEIR PROPERTY;

(D) THAT IRAN HAS REPEATEDLY DEMONSTRATED AN INTENT TO PURSUE AND USE NUCLEAR WEAPONS, WEAPONS OF MASS DESTRUCTION, AND TO PROMOTE OR ADVANCE TERRORIST ACTIVITIES ACROSS THE WORLD;

(E) THAT RESPECT FOR HUMAN RIGHTS IN IRAN HAS STEADILY DETERIORATED AS DEMONSTRATED BY TRANSPARENTLY FRAUDULENT ELECTIONS AND THE BRUTAL REPRESSION AND MURDER, ARBITRARY ARRESTS, AND SHOW TRIALS OF PEACEFUL DISSIDENTS;

(F) THAT THE CONCERNS OF THE STATE OF NEW YORK REGARDING IRAN ARE STRICTLY THE RESULT OF THE ACTIONS OF THE GOVERNMENT OF IRAN AND SHOULD NOT BE CONSTRUED AS ENMITY TOWARDS THE IRANIAN PEOPLE;

(G) THAT IN ORDER TO EFFECTIVELY ADDRESS THE NEED FOR THE GOVERNMENTS OF THIS STATE TO RESPOND TO THE POLICIES OF IRAN IN A UNIFORM FASHION, PROHIBITING CONTRACTS WITH PERSONS ENGAGED IN INVESTMENT ACTIVITIES IN THE ENERGY AND FINANCIAL SECTORS OF IRAN MUST BE ACCOMPLISHED ON A STATEWIDE BASIS;

(H) THAT TERRORISTS HAVE CONTINUED TO USE IRAN AS THEIR SAFE HARBOR, THAT THE IRANIAN GOVERNMENT HAS FAILED TO ADDRESS THE SPREAD OF TERRORIST ACTIVITIES, AND THAT HUMAN RIGHTS VIOLATIONS ARE IN IRAN ARE, AND CONTINUE TO BE RAMPANT; AND

(I) THAT THE SERIOUS AND URGENT NATURE OF THE CONTINUED THREAT FROM IRAN, FOR THE STATE OF NEW YORK, ITS CITIZENS AND THEIR PROPERTY, DEMANDS THAT OUR STATE, LOCAL GOVERNMENTS AND PRIVATE INSTITUTIONS WORK TOGETHER TO CONTINUE TO DO ALL WITHIN ITS LEGAL POWER TO ENSURE THAT IRAN DOES NOT HAVE THE RESOURCES TO ACQUIRE NUCLEAR WEAPONS CAPABILITY AND THAT IT CEASE ITS PROMOTION AND ADVANCEMENT OF TERRORIST ACTIVITIES.

S 3. Paragraph b of subdivision 1 of section 165-a of the state finance law, as added by chapter 1 of the laws of 2012, is amended to read as follows:

(b) "Financial institution" means [the term as used in Section 14 of the Iran Sanctions Act of 1996 (Public Law 104-172; 50 U.S.C. 1701 note).]:

(1) A BANKING ORGANIZATION AS DEFINED IN SUBDIVISION ELEVEN OF SECTION TWO OF THE BANKING LAW;

(2) A SECURITIES FIRM, INCLUDING A BROKER OR DEALER;

(3) ANY INSURANCE COMPANY, INCLUDING ANY COMPANY, AGENT, BROKER, OR UNDERWRITER, LICENSED OR REGULATED BY THE DEPARTMENT OF FINANCIAL SERVICES PURSUANT TO THE INSURANCE LAW; AND/OR

(4) ANY OTHER COMPANY THAT PROVIDES A FINANCIAL PRODUCT OR SERVICE AS DEFINED IN SUBDIVISION TWO OF SECTION ONE HUNDRED FOUR OF THE FINANCIAL SERVICES LAW.

S 4. Subparagraph 2 of paragraph e of subdivision 1 of section 165-a of the state finance law, as added by chapter 1 of the laws of 2012, is amended to read as follows:

(2) Any governmental entity or instrumentality of a government, including [a multilateral development institution, as defined in Section 1701(c)(3) of the International Financial Institutions Act (22 U.S.C. 262r(c)(3))] THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT, THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT, THE INTERNATIONAL DEVELOPMENT ASSOCIATION, THE INTERNATIONAL FINANCE CORPORATION, THE MULTILATERAL INVESTMENT GUARANTEE AGENCY, THE AFRICAN DEVELOPMENT BANK, THE AFRICAN DEVELOPMENT FUND, THE ASIAN DEVELOPMENT BANK, THE INTER-AMERICAN DEVELOPMENT BANK, THE BANK FOR ECONOMIC COOPERATION AND DEVELOPMENT IN THE MIDDLE EAST AND NORTH AFRICA, AND THE INTER-AMERICAN INVESTMENT CORPORATION.

S 5. Subdivision 6 of section 165-a of the state finance law, as added by chapter 1 of the laws of 2012, is amended to read as follows:

6. The commissioner shall report to the governor and the legislature annually on or before October first, on the status of the [federal "Comprehensive Iran Sanctions, Accountability, and Divestment Act of

2010" (Public Law 111-195), "the Iran divestment act of 2012",] PROVISIONS OF THE NEW YORK STATE IRAN DIVESTMENT ACT and any rules or regulations adopted thereunder.

S 6. Section 1 of chapter 481 of the laws of 2013 amending the insurance law relating to investments in foreign states sponsoring terrorism, is amended to read as follows:

Section 1. The legislature finds and declares all of the following:

[(1) The Federal Securities and Exchange Commission has determined that investments in foreign states sponsoring terrorism, such as Iran, that are subject to sanctions by the United States, may materially harm the share value of foreign companies. Shares in these foreign companies may be held in the portfolio of insurance companies issuing policies to New York consumers.

(2) Publicly traded companies in the United States are substantially restricted in doing business in or with foreign states, such as Iran, that the United States Department of State has identified as sponsoring terrorism.

(3) Identifying persons with investments in foreign states, such as Iran, that sponsor terrorism and ensuring that those investments are financially sound is an important public policy priority.

(4) It is the government of Iran, and not the people of Iran, that is responsible for Iran's support of terrorism and that commits egregious violations of human rights under which its own citizens are required to live.]

(A) THAT THE ILLICIT NUCLEAR ACTIVITIES OF THE GOVERNMENT OF IRAN, COMBINED WITH ITS DEVELOPMENT OF UNCONVENTIONAL WEAPONS AND BALLISTIC MISSILES, AND ITS SUPPORT OF INTERNATIONAL TERRORISM, REPRESENT A SERIOUS THREAT TO THE SECURITY OF THE STATE OF NEW YORK, ITS CITIZENS AND THEIR PROPERTY;

(B) THAT IRAN AND OTHER TERRORIST STATES AND ORGANIZATIONS HAVE REPEATEDLY IDENTIFIED NEW YORK STATE AND ITS CITIZENS AS A PRIMARY TARGET FOR TERRORIST ACTIVITIES AND ATTACKS, AND UNDER THE STATE'S CONSTITUTIONAL POWERS TO PROVIDE FOR THE PUBLIC HEALTH, SAFETY, SECURITY AND PUBLIC PROTECTION OF ITS CITIZENS AND THEIR PROPERTY, AND UNDER THE STATE'S CONSTITUTIONAL POWERS TO PROVIDE FOR THE PROTECTION AND REGULATION OF ITS FINANCIAL, BANKING AND INSURANCE SECTORS, AND UNDER THE STATE'S CONSTITUTIONAL POWERS TO PROVIDE FOR THE PROTECTION AND REGULATION OF ITS ENVIRONMENT AND NATURAL RESOURCES, NEW YORK STATE HAS THE LEGAL AUTHORITY TO PREVENT INVESTMENT IN, INCLUDING PROHIBITING ENTRY INTO OR RENEWING CONTRACTS WITH, COMPANIES OPERATING IN IRAN'S ENERGY AND FINANCIAL SECTORS WITH INVESTMENTS THAT HAVE THE RESULT OF DIRECTLY OR INDIRECTLY SUPPORTING THE EFFORTS OF THE GOVERNMENT OF IRAN TO ACHIEVE NUCLEAR WEAPONS CAPABILITY OR TO OTHERWISE PROMOTE OR ADVANCE TERRORIST ACTIVITIES THAT WILL TARGET OR AFFECT NEW YORK STATE, ITS CITIZENS OR THEIR PROPERTY;

(C) THAT THE SERIOUS AND URGENT NATURE OF THE THREAT FROM IRAN DEMANDS THAT STATES, LOCAL GOVERNMENTS, AND PRIVATE INSTITUTIONS WORK TOGETHER WITH THE FEDERAL GOVERNMENT AND AMERICAN ALLIES TO DO EVERYTHING POSSIBLE DIPLOMATICALLY, POLITICALLY, AND ECONOMICALLY TO PREVENT IRAN FROM ACQUIRING A NUCLEAR WEAPONS CAPABILITY OR TO OTHERWISE PROMOTE OR ADVANCE TERRORIST ACTIVITIES THAT WILL TARGET OR AFFECT NEW YORK STATE, ITS CITIZENS OR THEIR PROPERTY;

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(E) THAT RESPECT FOR HUMAN RIGHTS IN IRAN HAS STEADILY DETERIORATED AS DEMONSTRATED BY TRANSPARENTLY FRAUDULENT ELECTIONS AND THE BRUTAL REPRESSION AND MURDER, ARBITRARY ARRESTS, AND SHOW TRIALS OF PEACEFUL DISSIDENTS;

(F) THAT THE CONCERNS OF THE STATE OF NEW YORK REGARDING IRAN ARE STRICTLY THE RESULT OF THE ACTIONS OF THE GOVERNMENT OF IRAN AND SHOULD NOT BE CONSTRUED AS ENMITY TOWARDS THE IRANIAN PEOPLE;

(G) THAT IN ORDER TO EFFECTIVELY ADDRESS THE NEED FOR THE GOVERNMENTS OF THIS STATE TO RESPOND TO THE POLICIES OF IRAN IN A UNIFORM FASHION, PROHIBITING CONTRACTS WITH PERSONS ENGAGED IN INVESTMENT ACTIVITIES IN THE ENERGY AND FINANCIAL SECTORS OF IRAN MUST BE ACCOMPLISHED ON A STATEWIDE BASIS;

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S 7. Subsection 5 of section 1415 of the insurance law is REPEALED.

S 8. This act shall take effect immediately, and shall not be deemed repealed as the result of any executive action taken by the president of the United States, or the department of state, unless such action is a duly executed treaty approved by two-thirds of the United States Senate, and provided further that the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act is authorized to be made on and after such effective date.