H. R. 2347

IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2007
Received

AUGUST 3, 2007
Read twice and referred to the Committee on Banking, Housing, and Urban Affairs

AN ACT

To authorize State and local governments to direct divestiture from, and prevent investment in, companies with investments of $20,000,000 or more in Iran’s energy sector, companies that sell arms to the Government of Iran, and financial institutions that extend $20,000,000 or more in credit to the Government of Iran for 45 days or more, and for other purposes.
Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.
This Act may be cited as the “Iran Sanctions Ena-
bling Act of 2007”.

SEC. 2. FINDINGS.
The Congress finds as follows:

(1) The Convention on the Prevention and Pun-
ishment of the Crime of Genocide, completed at
Paris, December 9, 1948 (commonly referred to as
the “Genocide Convention”) defines genocide as,
among other things, the act of killing members of a
national, ethnic, racial, or religious group with the
intent to destroy, in whole or in part, the targeted
group. In addition, the Genocide Convention also
prohibits conspiracy to commit genocide, as well as
“direct and public incitement to commit genocide”.

(2) 133 member states of the United Nations
have ratified the Genocide Convention and thereby
pledged to prosecute individuals who violate the
Genocide Convention’s prohibition on incitement to
commit genocide, as well as those individuals who
commit genocide directly.

(3) On October 27, 2005, at the World Without
Zionism Conference in Tehran, Iran, the President
of Iran, Mahmoud Ahmadinejad, called for Israel to be “wiped off the map,” described Israel as “a disgraceful blot [on] the face of the Islamic world,” and declared that “[a]nybody who recognizes Israel will burn in the fire of the Islamic nation’s fury.” President Ahmadinejad has subsequently made similar types of comments, and the Government of Iran has displayed inflammatory symbols that express similar intent.

(4) On December 23, 2006, the United Nations Security Council unanimously approved Resolution 1737, which bans the supply of nuclear technology and equipment to Iran and freezes the assets of certain organizations and individuals involved in Iran’s nuclear program, until Iran suspends its enrichment of uranium, as verified by the International Atomic Energy Agency.

(5) Following Iran’s failure to comply with Resolution 1737, on March 24, 2007, the United Nations Security Council unanimously approved Resolution 1747, to tighten sanctions on Iran, imposing a ban on arms sales and expanding the freeze on assets, in response to the country’s uranium-enrichment activities.
(6) There are now signs of domestic discontent within Iran, and targeted financial and economic measures could produce further political pressure within Iran. According to the Economist Intelligence Unit, the nuclear crisis “is imposing a heavy opportunity cost on Iran’s economic development, slowing down investment in the oil, gas, and petrochemical sectors, as well as in critical infrastructure projects, including electricity”.

(7) Targeted financial measures represent one of the strongest non-military tools available to convince Tehran that it can no longer afford to engage in dangerous, destabilizing activities such as its nuclear weapons program and its support for terrorism.

(8) Foreign persons that have invested in Iran’s energy sector, despite Iran’s support of international terrorism and its nuclear program, have provided additional financial means for Iran’s activities in these areas, and many United States persons have unknowingly invested in those same foreign persons.

(9) There is an increasing interest by States, local governments, educational institutions, and private institutions to seek to disassociate themselves from companies that directly or indirectly support
the Government of Iran’s efforts to achieve a nuclear weapons capability.

(10) Policy makers and fund managers may find moral, prudential, or reputational reasons to divest from companies that accept the business risk of operating in countries that are subject to international economic sanctions or that have business relationships with countries, governments, or entities with which any United States company would be prohibited from dealing because of economic sanctions imposed by the United States.

SEC. 3. TRANSPARENCY IN CAPITAL MARKETS.

(a) LIST OF PERSONS INVESTING IN IRAN ENERGY SECTOR OR SELLING ARMS TO THE GOVERNMENT OF IRAN.—

(1) Publication of list.—Not later than 6 months after the date of the enactment of this Act and every 6 months thereafter, the President or a designee of the President shall, using only publicly available (including proprietary) information, ensure publication in the Federal Register of a list of each person, whether within or outside of the United States, that, as of the date of the publication, has an investment of more than $20,000,000 in the energy sector in Iran, sells arms to the Government of
Iran, or is a financial institution that extends
$20,000,000 or more in credit to the Government of
Iran for 45 days or more. To the extent practicable,
the list shall include a description of the investment
made by each such person, including the dollar
value, intended purpose, and status of the invest-
ment, as of the date of the publication.

(2) PRIOR NOTICE TO PERSONS.—The Presi-
dent or a designee of the President shall, at least 30
days before the list is published under paragraph
(1), notify each person that the President or the des-
ignee, as the case may be, intends to include on the
list.

(3) DELAY IN INCLUDING PERSONS ON THE
LIST.—After notifying a person under paragraph
(2), the President or a designee of the President
may delay including that person on the list for up
to 60 days if the President or the designee deter-
mines and certifies to the Congress that the person
has taken specific and effective actions to terminate
the involvement of the person in the activities that
resulted in the notification under paragraph (2).

(4) REMOVAL OF PERSONS FROM THE LIST.—
The President or a designee of the President may
remove a person from the list before the next publi-
cation of the list under paragraph (1) if the President or the designee determines that the person does not have an investment of more than $20,000,000 in the energy sector in Iran, does not sell arms to the Government of Iran, and is not a financial institution that extends $20,000,000 or more in credit to the Government of Iran for 45 days or more.

(b) Publication on Website.—The President or a designee of the President shall ensure that the list is published on an appropriate government website, updating the list as necessary to take into account any person removed from the list under subsection (a)(4).

(c) Definition.—In this section, the term “investment” has the meaning given that term in section 14(9) of the Iran Sanctions Act (50 U.S.C. 1701 App.).

SEC. 4. AUTHORITY OF STATE AND LOCAL GOVERNMENTS TO DIVEST FROM CERTAIN COMPANIES INVESTED IN IRAN’S ENERGY SECTOR.

(a) Statement of Policy.—It is the policy of the United States to support the decision of State governments, local governments, and educational institutions to divest from, and to prohibit the investment of assets they control in, persons that have investments of more than $20,000,000 in Iran’s energy sector, persons that sell arms to the Government of Iran, and financial institutions
that extend $20,000,000 or more in credit to the Government of Iran for 45 days or more.

(b) Authority to Divest.—

(1) In general.—Notwithstanding any other provision of law, a State or local government may adopt and enforce measures to divest the assets of the State or local government from, or prohibit investment of the assets of the State or local government in—

(A) persons that are included on the list most recently published under section 3(a)(1), as modified under section 3(a)(4);

(B) persons that sell arms to the Government of Iran;

(C) financial institutions that extend $20,000,000 or more in credit to the Government of Iran for 45 days or more; and

(D) persons that are included on any list of entities with investments in Iran, entities doing business in Iran, or entities doing business with the Government of Iran, which is issued pursuant to a law that—

(i) authorizes a State or local government to divest from, or prohibits a State
or local government from investing assets in, the persons; and
(ii) is enacted by a State or local government on or before the first publication of a list under section 3.

(2) DEFINITIONS.—In this subsection:

(A) INVESTMENT.—The “investment” of assets includes—

(i) a commitment or contribution of assets; and

(ii) a loan or other extension of credit of assets.

(B) ASSETS.—The term “assets” refers to public monies and includes any pension, retirement, annuity, or endowment fund, or similar instrument, that is controlled, directly or indirectly, by a State or local government.

(c) PREEMPTION.—A measure of a State or local government that is authorized by subsection (b) is not preempted by any Federal law or regulation.

SEC. 5. SAFE HARBOR FOR CHANGES OF INVESTMENT POLICIES BY MUTUAL FUNDS.

Section 13 of the Investment Company Act of 1940 (15 U.S.C. 80a–13) is amended by adding at the end the following new subsection:
“(c) Safe Harbor for Changes in Investment Policies.—Notwithstanding any other provision of Federal or State law, no person may bring any civil, criminal, or administrative action against any registered investment company or person providing services to such registered investment company (including its investment adviser), or any employee, officer, or director thereof, based solely upon the investment company divesting from, or avoiding investing in, securities issued by companies that are included on the most recent list published under section 3(a)(1) of the Iran Sanctions Enabling Act of 2007, as modified under section 3(b) of that Act. For purposes of this subsection the term ‘person’ shall include the Federal government, and any State or political subdivision of a State.”.


Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended by adding at the end the following new subsection:

“(n) No person shall be treated as breaching any of the responsibilities, obligations, or duties imposed upon fiduciaries by this title, and no action may be brought under this section against any person, for divesting plan assets from, or avoiding investing plan assets in, persons that
are included on the most recent list published under sec-
tion 3(a)(1) of the Iran Sanctions Enabling Act, as modi-
fied under section 3(a)(4) of such Act.”.

SEC. 7. RULE OF INTERPRETATION.

Nothing in this Act shall be interpreted to limit the
authority of any person to divest, or avoid investment in,
any asset, or to adopt or enforce any measure to do so.

SEC. 8. DEFINITIONS.

In this Act:

(1) IRAN.—the term “Iran” includes any agen-
cy or instrumentality of Iran.

(2) ENERGY SECTOR.—The term “energy sec-
tor” refers to activities to develop petroleum or nat-
ural gas resources, or nuclear power.

(3) PERSON.—The term “person” means—

(A) a natural person as well as a corpora-
tion, business association, partnership, society,
trust, any other nongovernmental entity, orga-
nization, or group;

(B) any governmental entity or instrumen-
tality of a government, including a multilateral
development institution (as defined in section
1701(c)(3) of the International Financial Insti-
tutions Act); and
(C) any successor, subunit, or subsidiary of any entity described in subparagraph (A) or (B).

(4) STATE.—The term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(5) STATE OR LOCAL GOVERNMENT.—

(A) IN GENERAL.—The term “State or local government” includes—

(i) any State and any agency or instrumentality thereof;

(ii) any local government within a State, and any agency or instrumentality thereof;

(iii) any other governmental instrumentality; and

(iv) any public institution of higher education.

(B) PUBLIC INSTITUTION OF HIGHER EDUCATION.—The term “public institution of higher education” means a public institution of higher education within the meaning of the Higher Education Act of 1965.
SEC. 9. SUNSET.

This Act shall terminate 30 days after the date on which the President has certified to Congress that—

(1) the Government of Iran has ceased providing support for acts of international terrorism and no longer satisfies the requirements for designation as a state-sponsor of terrorism for purposes of section 6(j) of the Export Administration Act of 1979, section 620A of the Foreign Assistance Act of 1961, section 40 of the Arms Export Control Act, or any other provision of law; and

(2) Iran has ceased the pursuit, acquisition, and development of nuclear, biological, and chemical weapons and ballistic missiles and ballistic missile launch technology.


Attest: LORRAINE C. MILLER,

Clerk.