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1ST SESSION

# H. R. 2347

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IN THE SENATE OF THE UNITED STATES

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

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## 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.

1       *Be it enacted by the Senate and House of Representa-*  
2   *tives of the United States of America in Congress assembled,*

3   **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Iran Sanctions Ena-  
5   bling Act of 2007”.

6   **SEC. 2. FINDINGS.**

7       The Congress finds as follows:

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

18               (2) 133 member states of the United Nations  
19   have ratified the Genocide Convention and thereby  
20   pledged to prosecute individuals who violate the  
21   Genocide Convention’s prohibition on incitement to  
22   commit genocide, as well as those individuals who  
23   commit genocide directly.

24               (3) On October 27, 2005, at the World Without  
25   Zionism Conference in Tehran, Iran, the President

1 of Iran, Mahmoud Ahmadinejad, called for Israel to  
2 be “wiped off the map,” described Israel as “a dis-  
3 gracef<sup>u</sup>l blot [on] the face of the Islamic world,” and  
4 declared that “[a]nybody who recognizes Israel will  
5 burn in the fire of the Islamic nation’s fury.” Presi-  
6 dent Ahmadinejad has subsequently made similar  
7 types of comments, and the Government of Iran has  
8 displayed inflammatory symbols that express similar  
9 intent.

10 (4) On December 23, 2006, the United Nations  
11 Security Council unanimously approved Resolution  
12 1737, which bans the supply of nuclear technology  
13 and equipment to Iran and freezes the assets of cer-  
14 tain organizations and individuals involved in Iran’s  
15 nuclear program, until Iran suspends its enrichment  
16 of uranium, as verified by the International Atomic  
17 Energy Agency.

18 (5) Following Iran’s failure to comply with Res-  
19 olution 1737, on March 24, 2007, the United Na-  
20 tions Security Council unanimously approved Reso-  
21 lution 1747, to tighten sanctions on Iran, imposing  
22 a ban on arms sales and expanding the freeze on as-  
23 sets, in response to the country’s uranium-enrich-  
24 ment activities.

1 (6) There are now signs of domestic discontent  
2 within Iran, and targeted financial and economic  
3 measures could produce further political pressure  
4 within Iran. According to the Economist Intelligence  
5 Unit, the nuclear crisis “is imposing a heavy oppor-  
6 tunity cost on Iran’s economic development, slowing  
7 down investment in the oil, gas, and petrochemical  
8 sectors, as well as in critical infrastructure projects,  
9 including electricity”.

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

22 (9) There is an increasing interest by States,  
23 local governments, educational institutions, and pri-  
24 vate institutions to seek to disassociate themselves  
25 from companies that directly or indirectly support

1 the Government of Iran's efforts to achieve a nu-  
2 clear weapons capability.

3 (10) Policy makers and fund managers may  
4 find moral, prudential, or reputational reasons to di-  
5 vest from companies that accept the business risk of  
6 operating in countries that are subject to inter-  
7 national economic sanctions or that have business  
8 relationships with countries, governments, or entities  
9 with which any United States company would be  
10 prohibited from dealing because of economic sanc-  
11 tions imposed by the United States.

12 **SEC. 3. TRANSPARENCY IN CAPITAL MARKETS.**

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

16 (1) PUBLICATION OF LIST.—Not later than 6  
17 months after the date of the enactment of this Act  
18 and every 6 months thereafter, the President or a  
19 designee of the President shall, using only publicly  
20 available (including proprietary) information, ensure  
21 publication in the Federal Register of a list of each  
22 person, whether within or outside of the United  
23 States, that, as of the date of the publication, has  
24 an investment of more than \$20,000,000 in the en-  
25 ergy sector in Iran, sells arms to the Government of

1       Iran, or is a financial institution that extends  
2       \$20,000,000 or more in credit to the Government of  
3       Iran for 45 days or more. To the extent practicable,  
4       the list shall include a description of the investment  
5       made by each such person, including the dollar  
6       value, intended purpose, and status of the invest-  
7       ment, as of the date of the publication.

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

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

23                   (4) REMOVAL OF PERSONS FROM THE LIST.—  
24      The President or a designee of the President may  
25      remove a person from the list before the next publi-

1 cation of the list under paragraph (1) if the Presi-  
2 dent or the designee determines that the person does  
3 not have an investment of more than \$20,000,000 in  
4 the energy sector in Iran, does not sell arms to the  
5 Government of Iran, and is not a financial institu-  
6 tion that extends \$20,000,000 or more in credit to  
7 the Government of Iran for 45 days or more.

8 (b) PUBLICATION ON WEBSITE.—The President or a  
9 designee of the President shall ensure that the list is pub-  
10 lished on an appropriate government website, updating the  
11 list as necessary to take into account any person removed  
12 from the list under subsection (a)(4).

13 (c) DEFINITION.—In this section, the term “invest-  
14 ment” has the meaning given that term in section 14(9)  
15 of the Iran Sanctions Act (50 U.S.C. 1701 App.).

16 **SEC. 4. AUTHORITY OF STATE AND LOCAL GOVERNMENTS**  
17 **TO DIVEST FROM CERTAIN COMPANIES IN-**  
18 **VESTED IN IRAN’S ENERGY SECTOR.**

19 (a) STATEMENT OF POLICY.—It is the policy of the  
20 United States to support the decision of State govern-  
21 ments, local governments, and educational institutions to  
22 divest from, and to prohibit the investment of assets they  
23 control in, persons that have investments of more than  
24 \$20,000,000 in Iran’s energy sector, persons that sell  
25 arms to the Government of Iran, and financial institutions

1 that extend \$20,000,000 or more in credit to the Govern-  
2 ment of Iran for 45 days or more.

3 (b) AUTHORITY TO DIVEST.—

4 (1) IN GENERAL.—Notwithstanding any other  
5 provision of law, a State or local government may  
6 adopt and enforce measures to divest the assets of  
7 the State or local government from, or prohibit in-  
8 vestment of the assets of the State or local govern-  
9 ment in—

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

13 (B) persons that sell arms to the Govern-  
14 ment of Iran;

15 (C) financial institutions that extend  
16 \$20,000,000 or more in credit to the Govern-  
17 ment of Iran for 45 days or more; and

18 (D) persons that are included on any list  
19 of entities with investments in Iran, entities  
20 doing business in Iran, or entities doing busi-  
21 ness with the Government of Iran, which is  
22 issued pursuant to a law that—

23 (i) authorizes a State or local govern-  
24 ment to divest from, or prohibits a State

3 (ii) is enacted by a State or local gov-  
4 ernment on or before the first publication  
5 of a list under section 3.

6 (2) DEFINITIONS.—In this subsection:

9 (i) a commitment or contribution of  
10 assets; and

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

13 (B) ASSETS.—The term “assets” refers to  
14 public monies and includes any pension, retire-  
15 ment, annuity, or endowment fund, or similar  
16 instrument, that is controlled, directly or indi-  
17 rectly, by a State or local government.

18 (c) PREEMPTION.—A measure of a State or local gov-  
19 ernment that is authorized by subsection (b) is not pre-  
20 empted by any Federal law or regulation.

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

23       Section 13 of the Investment Company Act of 1940  
24 (15 U.S.C. 80a-13) is amended by adding at the end the  
25 following new subsection:

1       “(c) SAFE HARBOR FOR CHANGES IN INVESTMENT  
2 POLICIES.—Notwithstanding any other provision of Fed-  
3 eral or State law, no person may bring any civil, criminal,  
4 or administrative action against any registered investment  
5 company or person providing services to such registered  
6 investment company (including its investment adviser), or  
7 any employee, officer, or director thereof, based solely  
8 upon the investment company divesting from, or avoiding  
9 investing in, securities issued by companies that are in-  
10 cluded on the most recent list published under section  
11 3(a)(1) of the Iran Sanctions Enabling Act of 2007, as  
12 modified under section 3(b) of that Act. For purposes of  
13 this subsection the term ‘person’ shall include the Federal  
14 government, and any State or political subdivision of a  
15 State.”.

16 SEC. 6. SAFE HARBOR FOR CHANGES OF INVESTMENT  
17 POLICIES BY EMPLOYEE BENEFIT PLANS.

18       Section 502 of the Employee Retirement Income Se-  
19       curity Act of 1974 (29 U.S.C. 1132) is amended by adding  
20       at the end the following new subsection:

21       “(n) No person shall be treated as breaching any of  
22 the responsibilities, obligations, or duties imposed upon fi-  
23 duciaries by this title, and no action may be brought under  
24 this section against any person, for divesting plan assets  
25 from, or avoiding investing plan assets in, persons that

1 are included on the most recent list published under sec-  
2 tion 3(a)(1) of the Iran Sanctions Enabling Act, as modi-  
3 fied under section 3(a)(4) of such Act.”.

4 **SEC. 7. RULE OF INTERPRETATION.**

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

8 **SEC. 8. DEFINITIONS.**

9 In this Act:

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

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

15 (3) **PERSON.**—The term “person” means—

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

20 (B) any governmental entity or instrumen-  
21 tality of a government, including a multilateral  
22 development institution (as defined in section  
23 1701(c)(3) of the International Financial Insti-  
24 tutions Act); and

1 (C) any successor, subunit, or subsidiary of  
2 any entity described in subparagraph (A) or  
3 (B).

9 (5) STATE OR LOCAL GOVERNMENT.—

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

12 (i) any State and any agency or in-  
13 strumentality thereof;

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

17 (iii) any other governmental instru-  
18 mentality; and

19 (iv) any public institution of higher  
20 education

21 (B) PUBLIC INSTITUTION OF HIGHER EDU-  
22 CATION.—The term “public institution of high-  
23 er education” means a public institution of  
24 higher education within the meaning of the  
25 Higher Education Act of 1965.

1 **SEC. 9. SUNSET.**

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

4 (1) the Government of Iran has ceased pro-  
5 viding support for acts of international terrorism  
6 and no longer satisfies the requirements for designa-  
7 tion as a state-sponsor of terrorism for purposes of  
8 section 6(j) of the Export Administration Act of  
9 1979, section 620A of the Foreign Assistance Act of  
10 1961, section 40 of the Arms Export Control Act,  
11 or any other provision of law; and

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

Passed the House of Representatives July 31, 2007.

Attest: LORRAINE C. MILLER,

*Clerk.*