

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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SENATE DRS15182-MM-67 (03/12)

Short Title: Iran Divestment Act.

(Public)

Sponsors: Senator Gunn (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO ENACT THE IRAN DIVESTMENT ACT.

3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** Chapter 143C of the General Statutes is amended by adding a new  
5 Article to read:

6 "Article 6A.

7 "Iran Divestment Act.

8 "**§ 143C-6A-1. Article title.**

9 This Article may be cited as the "Iran Divestment Act of 2015."

10 "**§ 143C-6A-2. Findings.**

11 The General Assembly finds that:

- 12 (1) Congress and the President have determined that the illicit nuclear activities  
13 of the Government of Iran, combined with its development of  
14 unconventional weapons and ballistic missiles, and its support of  
15 international terrorism, represent a serious threat to the security of the United  
16 States, Israel, and other United States allies in Europe, the Middle East, and  
17 around the world.
- 18 (2) The International Atomic Energy Agency has repeatedly called attention to  
19 Iran's unlawful nuclear activities, and, as a result, the United Nations  
20 Security Council has adopted a range of sanctions designed to encourage the  
21 Government of Iran to cease those activities and comply with its obligations  
22 under the Treaty on the Non-Proliferation of Nuclear Weapons.
- 23 (3) On July 1, 2010, President Barack Obama signed into law H.R. 2194, the  
24 "Comprehensive Iran Sanctions, Accountability, and Divestment Act of  
25 2010" (Public Law 111-195), which expressly authorizes states and local  
26 governments to prevent investment in, including prohibiting entry into or  
27 renewing contracts with, companies operating in Iran's energy sector with  
28 investments that have the result of directly or indirectly supporting the  
29 efforts of the Government of Iran to achieve nuclear weapons capability.
- 30 (4) The serious and urgent nature of the threat from Iran demands that states,  
31 local governments, and private institutions work together with the federal  
32 government and American allies to do everything possible diplomatically,  
33 politically, and economically to prevent Iran from acquiring a nuclear  
34 weapons capability.



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- 1           (5)   Respect for human rights in Iran has steadily deteriorated as demonstrated  
2           by transparently fraudulent elections and the brutal repression and murder,  
3           arbitrary arrests, and show trials of peaceful dissidents.  
4           (6)   The concerns of the State of North Carolina regarding Iran are strictly the  
5           result of the actions of the Government of Iran and should not be construed  
6           as enmity towards the Iranian people.  
7           (7)   In order to effectively address the need for this State to respond to the  
8           policies of Iran in a uniform fashion, prohibiting contracts with persons  
9           engaged in investment activities in the energy sector of Iran must be  
10           accomplished on a statewide basis.  
11           (8)   It is the intent of the General Assembly to fully implement the authority  
12           granted under Section 202 of the Comprehensive Iran Sanctions,  
13           Accountability, and Divestment Act of 2010 (Public Law 111-195).

14   **§ 143C-6A-3. Definitions.**

15       As used in this Article:

- 16           (1)   "Energy sector of Iran" means activities to develop petroleum or natural gas  
17           resources or nuclear power in Iran.  
18           (2)   "Financial institution" means the term as used in Section 14 of the Iran  
19           Sanctions Act of 1996 (Public Law 104-172; 50 U.S.C. 1701 § note).  
20           (3)   "Investment" means a commitment or contribution of funds or property,  
21           whatever the source, a loan or other extension of credit, and the entry into or  
22           renewal of a contract for goods or services. It does not include indirect  
23           beneficial ownership through index funds, commingled funds, limited  
24           partnerships, derivative instruments, or the like.  
25           (4)   "Investment activities in Iran" means a person engages in investment  
26           activities in Iran if:  
27           a.   The person provides goods or services of twenty million dollars  
28           (\$20,000,000) or more in the energy sector of Iran, including a  
29           person that provides oil or liquefied natural gas tankers, or products  
30           used to construct or maintain pipelines used to transport oil or  
31           liquefied natural gas, for the energy sector of Iran; or  
32           b.   The person is a financial institution that extends twenty million  
33           dollars (\$20,000,000) or more in credit to another person, for 45 days  
34           or more, if that person will use the credit to provide goods or services  
35           in the energy sector in Iran and is identified on a list, created  
36           pursuant to G.S. 143C-6A-6, as a person engaging in investment  
37           activities in Iran as described in this section.  
38           (5)   "Iran" includes the Government of Iran and any agency or instrumentality of  
39           Iran.  
40           (6)   "Person" means any of the following:  
41           a.   A natural person, corporation, company, limited liability company,  
42           business association, partnership, society, trust, or any other  
43           nongovernmental entity, organization, or group.  
44           b.   Any governmental entity or instrumentality of a government,  
45           including a multilateral development institution, as defined in section  
46           1701(c)(3) of the International Financial Institutions Act (22 U.S.C. §  
47           262r(c)(3)).  
48           c.   Any successor, subunit, parent entity, or subsidiary of, or any entity  
49           under common ownership or control with, any entity described in  
50           sub-subdivisions (a) and (b) of this subdivision.

1           (7) "State agency" means any board, commission, department, executive  
2           department, officer, institution, and any political subdivision of the State.

3 **"§ 143C-6A-4. List of persons engaged in investment.**

4           (a) No more than 120 days after the effective date of this act, the Secretary of State  
5 shall develop or contract to develop, using credible information available to the public, a list of  
6 persons it determines engage in investment activities in Iran.

7           (b) The Secretary of State shall update the list every 180 days.

8           (c) Before finalizing an initial list or an updated list, the Secretary of State must do all  
9 of the following before a person is included on the list:

10           (1) Provide 90 days' written notice of the Secretary of State's intent to include  
11 the person on the list. The notice shall inform the person that inclusion on  
12 the list would make the person ineligible to contract with the State. The  
13 notice shall specify that the person, if it ceases its engagement in investment  
14 activities in Iran, may be removed from the list.

15           (2) The Secretary of State shall provide a person with an opportunity to  
16 comment in writing that it is not engaged in investment activities in Iran. If  
17 the person demonstrates to the Secretary of State that the person is not  
18 engaged in investment activities in Iran, the person shall not be included on  
19 the list.

20           (d) The Secretary of State shall make every effort to avoid erroneously including a  
21 person on the list.

22 **"§ 143C-6A-5. Certification required.**

23           (a) A State agency shall require a person that attempts to contract with the State or  
24 political subdivision of the State, including a contract renewal or assumption, to certify, at the  
25 time the bid is submitted or the contract is entered into, renewed, or assigned, that the person or  
26 the assignee is not identified on a list created pursuant to G.S. 143C-6A-5. A State agency shall  
27 include certification information in the procurement record.

28           (b) A person that contracts with the State or a political subdivision of the State,  
29 including a contract renewal or assumption, shall not utilize, on the contract with the State  
30 agency any subcontractor that is identified on a list created pursuant to G.S. 143C-6A-5.

31           (c) Upon receiving information that a person who has made the certification required by  
32 subsection (a) of this section is in violation thereof, the State agency shall review such  
33 information and offer the person an opportunity to respond. If the person fails to demonstrate  
34 that it has ceased its engagement in the investment which is in violation of this act within 90  
35 days after the determination of such violation, then the State agency shall take such action as  
36 may be appropriate and provided for by law, rule, or contract.

37 **"§ 143C-6A-6. Restrictions on contracts with the State or subdivisions of the State.**

38           (a) A person that is identified on a list created pursuant to G.S. 143C-6A-4(a) as a  
39 person engaging in investment activities in Iran is ineligible to contract with the State or any  
40 political subdivision of the State.

41           (b) Any contract entered into with a person that is ineligible to contract with the State or  
42 any political subdivision of the State shall be void ab initio.

43 **"§ 143C-6A-7. Prohibition on State investment.**

44           (a) Neither the North Carolina Retirement Systems or the State Treasurer may invest  
45 funds with a person that is identified on a list created pursuant to G.S. 143C-6A-5 as a person  
46 engaging in investment activities in Iran.

47           (b) Any existing investments in violation of subsection (a) of this section as of the  
48 effective date of this act, must be divested within 120 days of the effective date of this act.

49           (c) Nothing in this section requires the North Carolina Retirement Systems or the State  
50 Treasurer to take action unless it is determined, in good faith, that the action is consistent with

1 the fiduciary responsibilities of the Retirement Systems and the State Treasurer and there are  
2 appropriated funds of the State to absorb the expenses necessary to implement this section.

3 **"§ 143C-6A-8. Exceptions.**

4 (a) G.S. 143C-6A-6 does not apply to contracts valued at one thousand dollars (\$1,000)  
5 or less.

6 (b) Notwithstanding G.S. 143C-6A-6, a person engaged in investment activities in Iran  
7 may contract with the State or a political subdivision of the State, on a case-by-case basis, if:

8 (1) The investment activities in Iran were made before the effective date of this  
9 act, the investment activities in Iran have not been expanded or renewed  
10 after the effective date of this act, and the person has adopted, publicized,  
11 and is implementing a formal plan to cease the investment activities in Iran  
12 and to refrain from engaging in any new investments in Iran; or

13 (2) The State agency makes a determination that the commodities or services are  
14 necessary to perform its functions and that, absent such an exemption, the  
15 State agency would be unable to obtain the commodities or services for  
16 which the contract is offered. Such determination shall be entered into the  
17 procurement record.

18 (c) Notwithstanding G.S. 143C-6A-7, an investment may be made in a person engaged  
19 in investment activities in Iran, on a case-by-case basis, if:

20 (1) The investment activities in Iran were made before the effective date of this  
21 act, the investment activities in Iran have not been expanded or renewed  
22 after the effective date of this act, and the person has adopted, publicized,  
23 and is implementing a formal plan to cease the investment activities in Iran  
24 and to refrain from engaging in any new investments in Iran; or

25 (2) The investor makes a determination that the investments are necessary to  
26 perform its functions.

27 **"§ 143C-6A-9. Report; application.**

28 (a) The Secretary of State shall report to the President Pro Tempore of the Senate, the  
29 Speaker of the House of Representatives, and the Governor annually by October 1, on the  
30 status of the federal "Comprehensive Iran Sanctions, Accountability, and Divestment Act of  
31 2010" (Public Law 111-195), the "Iran Divestment Act of 2015," and any rules or regulations  
32 adopted thereunder.

33 (b) The restrictions provided for in this Article apply only until:

34 (1) the President or Congress of the United States, by means including, but not  
35 limited to, legislation, executive order, or written certification, declares that  
36 divestment of the type provided for in this Article interferes with the conduct  
37 of United States foreign policy; or

38 (2) Congress revokes authority to divest in the manner provided for in this  
39 Article."

40 **SECTION 2.** The Secretary of State shall submit to the Attorney General of the  
41 United States a written notice describing this act within 30 days after the effective date of this  
42 act.

43 **SECTION 3.** This act becomes effective October 1, 2015.