

By: Representatives Turner, Dixon

To: Appropriations

HOUSE BILL NO. 1127
(As Sent to Governor)

1 AN ACT TO BE KNOWN AS THE "IRAN DIVESTMENT ACT OF 2015"; TO
2 DECLARE LEGISLATIVE FINDINGS AND INTENT; TO DEFINE CERTAIN TERMS
3 USED IN THE ACT; TO REQUIRE THE EXECUTIVE DIRECTOR OF THE
4 DEPARTMENT OF FINANCE AND ADMINISTRATION TO DEVELOP AND PUBLISH A
5 LIST OF PERSONS DEEMED TO BE ENGAGING IN INVESTMENT ACTIVITIES IN
6 IRAN; TO CREATE LIMITED EXCEPTIONS TO THE PROHIBITION AGAINST
7 PUBLIC CONTRACTS WITH PERSONS ENGAGED IN INVESTMENT ACTIVITIES IN
8 IRAN; TO REQUIRE AN ANNUAL REPORT TO BE SUBMITTED TO THE GOVERNOR,
9 LIEUTENANT GOVERNOR AND HOUSE SPEAKER ON THE STATUS AND EFFECT OF
10 THIS ACT; TO PROHIBIT THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND
11 THE STATE TREASURER FROM INVESTING WITH PERSONS ENGAGED IN
12 INVESTMENT ACTIVITIES IN IRAN; TO HOLD HARMLESS OFFICERS,
13 EMPLOYEES AND AGENTS OF THE RETIREMENT SYSTEM AND STATE
14 TREASURER'S OFFICE FOR CLAIMS ARISING FROM DECISIONS TO RESTRICT
15 INVESTMENTS UNDER THIS ACT; AND FOR RELATED PURPOSES.

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

17 **SECTION 1. Short title.** This act shall be known and may be
18 cited as the "Iran Divestment Act of 2015."

19 **SECTION 2. Legislative findings.** (1) The Mississippi
20 Legislature finds the following:

21 (a) Congress and the President have determined that the
22 illicit nuclear activities of the Government of Iran, combined
23 with its development of unconventional weapons and ballistic
24 missiles, and its support of international terrorism represent a



25 serious threat to the security of the United States, Israel and
26 other allies of the United States in Europe, the Middle East and
27 around the world.

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

34 (c) On July 1, 2010, President Barack Obama signed into
35 law H.R. 2194, the "Comprehensive Iran Sanctions, Accountability,
36 and Divestment Act of 2010" (Public Law 111-195), which expressly
37 authorizes states and local governments to prevent investment in,
38 including prohibiting entry into or renewing contracts with,
39 companies operating in Iran's energy sector with investments that
40 have the result of directly or indirectly supporting the efforts
41 of the Government of Iran to achieve nuclear weapons capability.

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

48 (e) Respect for human rights in Iran has deteriorated
49 steadily, as demonstrated by transparently fraudulent elections



50 and the brutal repression and murder, arbitrary arrests and show
51 trials of peaceful dissidents.

52 (f) The concerns of the State of Mississippi regarding
53 Iran are strictly the result of the actions of the Government of
54 Iran and should not be construed as enmity towards the Iranian
55 people.

56 (2) The intent of the Legislature is to implement the
57 authority granted under Section 202 of the Comprehensive Iran
58 Sanctions, Accountability, and Divestment Act of 2010 (Public Law
59 111-195).

60 **SECTION 3. Definitions.** As used in this act, the following
61 words and phrases have the meanings ascribed in this section
62 unless the context clearly indicates otherwise:

63 (a) "Energy sector of Iran" means activities to develop
64 petroleum or natural gas resources or nuclear power in Iran.

65 (b) "Expense" means all explicit costs associated with
66 divesting of investments, including, but not limited to, trading
67 costs, brokerage commissions, and any realized losses, and all
68 implicit costs, including, but not limited to, lost opportunity
69 costs resulting from the prohibition from making certain
70 investments.

71 (c) "Investment" means a commitment or contribution of
72 funds or property, whatever the source, a loan or other extension
73 of credit, and the entry into or renewal of a contract for goods
74 or services. The term "investment" does not include indirect



75 beneficial ownership through index funds, commingled funds,
76 limited partnerships, derivative instruments or the like.

77 (d) "Iran" includes the Government of Iran and any
78 agency or instrumentality of Iran.

79 (e) "Person" means any of the following:

80 (i) A natural person, corporation, company,
81 limited liability company, business association, partnership,
82 society, trust or any other nongovernmental entity, organization
83 or group;

84 (ii) Any governmental entity or instrumentality of
85 a government, including a multilateral development institution, as
86 defined in Section 1701(c)(3) of the International Financial
87 Institutions Act (22 U.S.C. § 262r(c)(3)); or

88 **SECTION 4. Persons engaged in investments.** For purposes of
89 this act, a person engages in investment activities in Iran if the
90 person provides goods or services valued at Twenty Million Dollars
91 (\$20,000,000.00) or more in the energy sector of Iran, including a
92 person that provides oil liquefied natural gas tankers or products
93 used to construct or maintain pipelines used to transport oil or
94 liquefied natural gas for the energy sector of Iran.

95 **SECTION 5. Duties of the Executive Director of the**
96 **Department of Finance and Administration.** (1) (a) Before
97 November 1, 2015, the Executive Director of the Department of
98 Finance and Administration shall develop or contract to develop,
99 using credible information available to the public, a list of



100 persons determined to engage in investment activities in Iran, as
101 described in this section. If the executive director elects to
102 contract for the development of the list, the list must be
103 developed before November 1, 2015. When completed, the list must
104 be posted on the website of the Department of Finance and
105 Administration.

106 (b) The executive director shall update the list by
107 July 1st of every year.

108 (c) Before a person is included on the finalized
109 initial list or updated list, the executive director must do all
110 of the following:

111 (i) Provide ninety (90) days written notice of the
112 executive director's intent to include the person on the list.
113 The notice must inform the person that inclusion on the list will
114 make the person ineligible to contract with the state. The notice
115 also must specify that the person, if it ceases its engagement in
116 investment activities in Iran, may be removed from the list.

117 (ii) The executive director shall provide a person
118 with an opportunity to comment in writing that it is not engaged
119 in investment activities in Iran. If the person demonstrates to
120 the executive director that the person is not engaged in
121 investment activities in Iran, the person shall not be included on
122 the list.

123 (d) The executive director shall make every effort to
124 avoid including a person on the list erroneously.



125 **SECTION 6. Annual reporting by the Executive Director of the**

126 **Department of Finance and Administration.** The executive director
127 shall report annually to the Governor, Lieutenant Governor and
128 Speaker of the House of Representatives before October 1 on the
129 status of the federal Comprehensive Iran Sanctions,
130 Accountability, and Divestment Act of 2010 (Public Law 111-195),
131 the "Iran Divestment Act of 2015," and any rules or regulations
132 adopted thereunder.

133 **SECTION 7. Limitation on the Public Employees' Retirement**

134 **System and State Treasury Investments.** (1) The Public Employees'
135 Retirement System and the State Treasurer may not invest funds
136 with a person that is identified on a list created pursuant to
137 Section 5 of this act as a person engaging in investment
138 activities in Iran, as described in Section 4 of this act.

139 (2) Any existing investments in violation of subsection (1)
140 as of July 1, 2015, must be divested when prudent to do so but
141 within one hundred twenty (120) days after the posting is made on
142 the website of the Department of Finance and Administration.

143 **SECTION 8. Exception to investment prohibition.**

144 Notwithstanding Section 7 of this act, an investment may be made
145 in a person engaged in investment activities in Iran, as described
146 in Section 4 of this act, on a case by case basis, if:

147 (a) The investment activities in Iran were made before
148 July 1, 2015, the investment activities in Iran have not been
149 expanded or renewed after July 1, 2015, and the person has



150 adopted, publicized and is implementing a formal plan to cease the
151 investment activities in Iran and to refrain from engaging in any
152 new investments in Iran; or

153 (b) The investor makes a determination that the
154 investments are necessary in order to perform its functions.

155 **SECTION 9. Limitation of act due to fiduciary obligations.**

156 Nothing in this act requires the Public Employees' Retirement
157 System of Mississippi or the State Treasurer or their agents to
158 take any action as described in this act unless it is determined,
159 in good faith, that: the action described in this act is
160 consistent with the fiduciary responsibilities of the Public
161 Employees' Retirement System of Mississippi or the State Treasurer
162 or their agents; and there are appropriated funds of the state to
163 absorb the expenses necessary to implement this act.

164 **SECTION 10. Indemnification of employees and officials for**
165 **compliance with this act.** Present, future and former board

166 members, officers, employees and agents of the Public Employees'
167 Retirement System and the Department of Finance and
168 Administration, as well as present, future and former State
169 Treasurers, officers and employees of the State Treasurer and
170 agents retained by the State Treasurer, must be indemnified from
171 the State General Fund and held harmless by the state from all
172 claims, demands, suits, actions, damages, judgments, costs,
173 charges and expenses, including court costs and attorney's fees,
174 and against all liability, losses and damages of any nature



175 whatsoever that these present, future or former board members,
176 officers, employees, agents or contract investment managers shall
177 or may at any time sustain by reason of any decision to restrict,
178 reduce or eliminate investments pursuant to this act.

179 **SECTION 11. Continued application of this act.** The
180 restrictions established under this act apply only until:

181 (a) The President or Congress of the United States, by
182 means including, but not limited to, legislation, executive order
183 or written certification, declares that divestment of the type
184 provided for in this act interferes with the conduct of United
185 States foreign policy; or

186 (b) The United States revokes its current sanctions
187 against Iran.

188 **SECTION 12. Notice to the Attorney General of the United**
189 **States.** The Secretary of State, in consultation with the
190 Mississippi Attorney General, shall submit to the Attorney General
191 of the United States a written notice describing this act before
192 August 1, 2015.

193 **SECTION 13. Severability.** If any section, subsection,
194 paragraph, subparagraph, sentence, clause, phrase or word of this
195 act is for any reason held to be unconstitutional or invalid, the
196 holding shall not affect the constitutionality or validity of the
197 remaining portions of this act. The Legislature hereby declares
198 that it would have passed this act, and each and every section,
199 subsection, paragraph, subparagraph, sentence, clause, phrase and



200 word thereof, irrespective of the fact that any one or more other
201 sections, subsections, paragraphs, subparagraphs, sentences,
202 clauses, phrases or words thereof may be declared to be
203 unconstitutional, invalid or otherwise ineffective.

204 **SECTION 14.** This act shall take effect and be in force from
205 and after July 1, 2015.

