ASSEMBLY BILL No. 978

Introduced by Assembly Member Blumenfield

February 22, 2013

An act to add Section 465 to the Financial Code, relating to financial institutions.

legislative counsel's digest

AB 978, as introduced, Blumenfield. Financial institutions: Iran sanctions.

Existing law, the Financial Institutions Law, provides for the regulation and licensure of financial institutions by the Department of Financial Institutions and the Commissioner of Financial Institutions. On July 1, 2013, the Governor's Reorganization Plan No. 2 of 2012 transfers the responsibilities of the department and commissioner to the Department of Business Oversight and the Commissioner of Business Oversight, as specified. A willful violation of specified provisions of the Financial Institutions Law, or a rule or order issued pursuant to the Financial Institutions Law by certain licensees, is a crime.

The federal Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 requires the Secretary of the Treasury to prescribe regulations to prohibit, or impose strict conditions on, the opening or maintaining in the United States of a correspondent account or a payable-through account by a foreign financial institution that the Secretary of the Treasury finds knowingly engages in certain activities related to the Government of Iran, subject to specified penalties. The federal act also requires the Secretary of the Treasury to prescribe regulations to require a domestic financial institution maintaining a correspondent account or payable-through account in the United States for a foreign financial institution to perform an audit of prohibited activities that may be carried out by the foreign financial institution, report to the Department of the Treasury with respect to transactions or other financial services provided with respect to a prohibited activity, certify that the foreign financial institution is not knowingly engaging in any prohibited activity, to the best of its knowledge, and establish due diligence policies, procedures, and controls reasonably designed to detect whether the Secretary of the Treasury has found the foreign financial institution to knowingly engage in any prohibited activity.

This bill would require the commissioner to prescribe regulations to require a licensee under the Financial Institutions Law that maintains a correspondent account or a payable-through account with a foreign financial institution to establish due diligence policies, procedures, and controls reasonably designed to determine whether the Secretary of the Treasury has determined that the foreign financial institution is knowingly engaged in activities that are subject to sanctions under the federal Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010. The bill would also require the commissioner to prescribe regulations to require a licensee to certify annually to the commissioner that, to the best of the knowledge of the licensee, the foreign financial institution is not knowingly engaged in activities that are subject to sanctions under the federal act.

Because a willful violation of a regulation adopted by the commissioner may be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) In imposing United States sanctions on Iran, 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) On July 1, 2010, President Barack Obama signed into law H.R. 2194, the federal Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Public Law 111-195), which puts strict limits on any foreign financial institution's ability to open or maintain a correspondent account or a payable-through account with United States financial institutions if the Secretary of the Treasury determines that such a foreign financial institution knowingly does any of the following:

(1) Facilitates the efforts of the Government of Iran to acquire or develop weapons of mass destruction or their delivery systems.

(2) Provides support for organizations designated by the United States as foreign terrorist organizations.

(3) Facilitates the activities of persons subject to financial sanctions pursuant to United Nations Security Council resolutions imposing sanctions on Iran.

(4) Engages in money laundering or carries out any activity listed above.

(5) Facilitates a significant transaction or transactions or provides significant financial services for Iran's Revolutionary Guard Corps or its agents or affiliates, or any financial institution whose property or interests in property are blocked pursuant to federal law in connection with Iran's proliferation of weapons of mass destruction or their delivery systems, or Iran's support for international terrorism.

(c) The federal Comprehensive Iran Sanctions, Accountability and Divestment Act (Public Law 111-195) imposes civil and criminal penalties on United States financial institutions that know or should have known that foreign financial institutions that maintain correspondent accounts or payable-through accounts with them are facilitating activities subject to sanctions.

(d) The serious and urgent nature of the threat from Iran demands that states 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) There are moral and reputational reasons for this state to not engage in business with foreign companies that have business activities benefitting foreign states, such as Iran, that commit egregious violations of human rights, proliferate nuclear weapons capabilities, and support terrorism.

(f) In 2010, California enacted Chapter 573 of the Statutes of 2010 (Assembly Bill 1650 of the 2009–10 Regular Session) to prohibit companies with certain investments in Iran from bidding on or entering into contracts for goods or services with state or local governments.

(g) The concerns of the State of California regarding Iran are strictly the result of the actions of the Government of Iran.

SEC. 2. Section 465 is added to the Financial Code, to read:

465. (a) (1) The commissioner shall prescribe regulations to require a licensee that maintains a correspondent account or a payable-through account with a foreign financial institution to establish due diligence policies, procedures, and controls reasonably designed to determine whether the Secretary of the Treasury has determined that the foreign financial institution is knowingly engaged in activities that are subject to sanctions under the federal Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Public Law 111-195).

(2) The commissioner shall prescribe regulations to require a licensee to certify annually to the commissioner that, to the best of the knowledge of the licensee, the foreign financial institution is not knowingly engaged in activities that are subject to sanctions under the federal Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Public Law 111-195).

(b) For purposes of this section, the terms "correspondent account" and "payable-through account" have the same meanings as used in the federal Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Public Law 111-195).

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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