

AMENDED IN ASSEMBLY APRIL 15, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 978**

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**Introduced by Assembly Member Blumenfield**  
*(Coauthors: Assembly Members Brown, Fox, and Medina)*

February 22, 2013

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An act to *amend Section 500 of, and to add Section 465 to, the Financial Code, relating to financial institutions.*

LEGISLATIVE COUNSEL'S DIGEST

AB 978, as amended, 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 *to comply with* 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 that maintains a correspondent account or a payable-through account to establish at every 12-month examination period that it is not knowingly engaged in activities that are subject to sanctions under the federal act~~ *engaging with a foreign financial institution in violation of the sanctions under the federal Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 and authorizes the commissioner to assess an administrative fine not exceeding \$100,000 per occurrence against a licensee that fails to comply with this requirement. The bill would require the commissioner to refer all pertinent information relative to possible violations of the federal Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 to the Secretary of the United States Treasury within 10 days of receipt and authorizes him or her to cooperate with any federal investigation pursuant to the act. The bill would also prohibit a licensee from maintaining a correspondent account or a payable-through account with any foreign financial institution that the United States Treasury Department's Office of Foreign Assets Control has placed on the federal list of Foreign Financial Institutions Subject to Part 561.*

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:*

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

3 (a) In imposing United States sanctions on Iran, Congress and  
4 the President have determined that the illicit nuclear activities of  
5 the Government of Iran, combined with its development of  
6 unconventional weapons and ballistic missiles, and its support of  
7 international terrorism, represent a serious threat to the security  
8 of the United States, Israel, and other United States allies in Europe,  
9 the Middle East, and around the world.

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

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

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

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

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

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

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

14 (d) *On December 21, 2011, President Obama signed into law*  
15 *H.R. 1540, the federal National Defense Authorization Act for*  
16 *Fiscal Year 2012 (Public Law 112-81), which, subject to certain*  
17 *exceptions, places strict limits on any foreign financial institution's*  
18 *ability to open or maintain a correspondent account or a*  
19 *payable-through account with United States financial institutions*  
20 *if the Secretary of the Treasury determines that a foreign financial*  
21 *institution knowingly conducted or facilitated any significant*  
22 *financial transaction with the Central Bank of Iran.*

23 (d)

24 (e) The serious and urgent nature of the threat from Iran  
25 demands that states work together with the federal government  
26 and American allies to do everything possible, diplomatically,  
27 politically, and economically to prevent Iran from acquiring a  
28 nuclear weapons capability.

29 (e)

30 (f) There are moral and reputational reasons for this state to not  
31 engage in business with foreign companies that have business  
32 activities benefitting foreign states, such as Iran, that commit  
33 egregious violations of human rights, proliferate nuclear weapons  
34 capabilities, and support terrorism.

35 (f)

36 (g) In 2010, California enacted Chapter 573 of the Statutes of  
37 2010 (Assembly Bill 1650 of the 2009–10 Regular Session) to  
38 prohibit companies with certain investments in Iran from bidding  
39 on or entering into contracts for goods or services with state or  
40 local governments.

1 ~~(g)~~

2 *(h) The concerns of the State of California regarding Iran are*  
3 *strictly the result of the actions of the Government of Iran.*

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

5 465. (a) ~~(1)~~ *The commissioner shall prescribe regulations to*  
6 *require a licensee that maintains a correspondent account or a*  
7 *payable-through account with a foreign financial institution to*  
8 *establish due diligence policies, procedures, and controls*  
9 *reasonably designed to determine whether the Secretary of the*  
10 *Treasury has determined that the foreign financial institution is*  
11 *knowingly engaged in activities that are subject to sanctions under*  
12 *to comply with the federal Comprehensive Iran Sanctions,*  
13 *Accountability, and Divestment Act of 2010 (Public Law 111-195).*  
14 *The regulations may include an affirmative responsibility to notify*  
15 *the commissioner or other official identified in the regulation of*  
16 *potential irregularities that the licensee may come across during*  
17 *its normal course of business.*

18 *(b) A licensee that maintains a correspondent account or a*  
19 *payable-through account with a foreign financial institution shall*  
20 *establish, at every 12-month examination period pursuant to*  
21 *subdivision (d) of Section 500, that the licensee is not knowingly*  
22 *engaging with a foreign financial institution in violation of the*  
23 *sanctions under the federal Comprehensive Iran Sanctions,*  
24 *Accountability, and Divestment Act of 2010.*

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

31 *(c) No licensee shall maintain a correspondent account or a*  
32 *payable-through account with any foreign financial institution*  
33 *that the United States Treasury Department's Office of Foreign*  
34 *Assets Control has placed on the federal list of Foreign Financial*  
35 *Institutions Subject to Part 561.*

36 *(d) The commissioner shall review all federal regulations related*  
37 *to financial institution compliance with the federal Comprehensive*  
38 *Iran Sanctions, Accountability, and Divestment Act of 2010 within*  
39 *60 days of implementation and consider modification of the*  
40 *regulations subject to this section.*

1 (e) *The commissioner may assess an administrative fine of up*  
2 *to, but not exceeding, one hundred thousand dollars (\$100,000)*  
3 *per occurrence against a licensee that fails to comply with*  
4 *subdivision (b).*

5 (f) *The commissioner shall refer all pertinent information*  
6 *relative to possible violations of the federal Comprehensive Iran*  
7 *Sanctions, Accountability, and Divestment Act of 2010 to the*  
8 *Secretary of the United States Treasury within 10 days of receipt.*  
9 *The commission may cooperate with any federal investigation*  
10 *pursuant to the federal Comprehensive Iran Sanctions,*  
11 *Accountability, and Divestment Act of 2010.*

12 ~~(b)~~

13 (g) For purposes of this section, the terms “correspondent  
14 account” and “payable-through account” have the same meanings  
15 as used in the federal Comprehensive Iran Sanctions,  
16 Accountability, and Divestment Act of 2010 (Public Law 111-195).

17 *SEC. 3. Section 500 of the Financial Code is amended to read:*

18 500. (a) (1) For purposes of this section, “foreign bank” means  
19 the business in this state of every foreign (other nation) bank  
20 licensed under Article 3 (commencing with Section 1800) of  
21 Chapter 20 of Division 1.1.

22 (2) For purposes of this subdivision, an examination made by  
23 the commissioner in conjunction with or with assistance from a  
24 bank regulatory agency of the United States, of a state of the United  
25 States, or of a foreign nation is deemed to be an examination caused  
26 by the commissioner.

27 (3) No provision of this subdivision shall be deemed to require  
28 that the commissioner cause an examination to be made onsite at  
29 the offices of a bank.

30 (4) The commissioner shall cause every California state bank  
31 and every foreign bank to be examined to the extent and whenever  
32 and as often as the commissioner shall deem it advisable, but in  
33 no case less frequently than once every 12 months, except that the  
34 following banks shall be examined pursuant to federal law no less  
35 frequently than state banks and foreign banks that meet the  
36 respective federal criteria:

37 (A) California state banks that meet the criteria set forth in  
38 Section 1820(d)(4) of Title 12 of the United States Code.

39 (B) Foreign banks that meet the criteria set forth in Section  
40 211.26(c)(2) of Title 12 of the Code of Federal Regulations.

1 (5) The examinations required by paragraph (4) may be  
2 conducted in alternate examination periods, as appropriate, if the  
3 commissioner determines that an examination of the state bank by  
4 the appropriate federal regulator, insuring or guaranteeing  
5 corporation during the intervening examination period carries out  
6 the purpose of this section. The commissioner may not accept two  
7 consecutive examinations, or two consecutive examination reports,  
8 made by federal regulators, insuring or guaranteeing corporations,  
9 or agencies with respect to the condition of the state bank.

10 (6) The commissioner shall cause every California state trust  
11 company to be examined to the extent and whenever and as often  
12 as the commissioner shall deem it advisable, but in no case less  
13 frequently than once every 24 months.

14 (7) The commissioner may examine subsidiaries of every  
15 California state bank, state trust company, and foreign (other  
16 nation) bank licensed under Article 3 (commencing with Section  
17 1800) of Chapter 20 of Division 1.1 to the extent and whenever  
18 and as often as the commissioner shall deem it advisable.

19 (b) The commissioner may at any time examine any of the  
20 following:

21 (1) Any office of a bank organized under the laws of this state.

22 (2) Any office of a foreign (other state) bank that maintains an  
23 office in this state.

24 (3) Any office of a foreign (other nation) bank that maintains  
25 an office in this state.

26 (c) The officers and employees of every California state bank,  
27 California state trust company, and foreign bank being examined  
28 shall exhibit to the examiners, on request, any or all of its securities,  
29 books, records, and accounts and shall otherwise facilitate the  
30 examination so far as it may be in their power.

31 (d) (1) *The commissioner shall require that any licensee that*  
32 *maintains a correspondent account or a payable-through account*  
33 *with a foreign financial institution shall, when under examination*  
34 *pursuant to paragraph (4) of subdivision (a), demonstrate that the*  
35 *licensee is in compliance with state regulations for the*  
36 *implementation of the federal Comprehensive Iran Sanctions,*  
37 *Accountability, and Divestment Act of 2010 (Public Law 111-195).*

38 (2) *In any examination period in which the commissioner has*  
39 *accepted an examination by an appropriate federal regulator for*  
40 *compliance with paragraph (4) of subdivision (a), a licensee that*

1 *maintains a correspondent account or a payable-through account*  
2 *with a foreign financial institution shall submit a declaration of*  
3 *compliance with the regulations adopted pursuant to Section 465.*  
4 *The declaration shall be submitted to the commissioner within 30*  
5 *days of the completion of the examination.*

6 ~~SEC. 3.~~

7 SEC. 4. No reimbursement is required by this act pursuant to  
8 Section 6 of Article XIII B of the California Constitution because  
9 the only costs that may be incurred by a local agency or school  
10 district will be incurred because this act creates a new crime or  
11 infraction, eliminates a crime or infraction, or changes the penalty  
12 for a crime or infraction, within the meaning of Section 17556 of  
13 the Government Code, or changes the definition of a crime within  
14 the meaning of Section 6 of Article XIII B of the California  
15 Constitution.