

Assembly Bill No. 978

CHAPTER 139

An act to add Section 337 to the Financial Code, relating to financial institutions.

[Approved by Governor August 26, 2013. Filed with
Secretary of State August 26, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AB 978, Blumenfeld. Financial institutions: Iran sanctions.

Existing law generally provides for the regulation and licensure of financial institutions, including, but not limited to, banks and credit unions, by the Department of Business Oversight and the Commissioner of Business Oversight, as specified.

The federal Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 imposes federal sanctions against the Government of Iran, as specified, and, among other duties, 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, when conducting specified examinations, to examine whether a licensee that maintains a correspondent account or payable-through account, as defined, is in compliance with the federal Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, associated federal regulations, and any related presidential executive orders. The bill also authorizes the commissioner to bring an action for a violation of the act, as specified, and requires the commissioner to forward evidence of the violation to the United States Department of the Treasury. This bill would become inoperative when certain conditions are met.

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 of 2010 (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) On December 21, 2011, President Obama signed into law H.R. 1540, the federal National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81), which, subject to certain exceptions, places 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 a foreign financial institution knowingly conducted or facilitated any significant financial transaction with the Central Bank of Iran.

(e) 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.

(f) 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.

(g) 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.

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

SEC. 2. Section 337 is added to the Financial Code, to read:

337. (a) The commissioner, when conducting examinations under Section 500, 14250, 16150, or 16700, shall examine a licensee that maintains a correspondent account or payable-through account for compliance with the federal Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Public Law 111-195), associated federal regulations, and any related presidential executive orders. If the commissioner finds that a licensee is in violation, the commissioner may bring an action in accordance with Section 566, 14302, 16200, or 16900, and shall forward evidence of the violation to the United States Department of the Treasury. For purposes of this section, “correspondent account” and “payable-through account” have the meanings given those terms in Section 5381A of Title 31 of the United States Code.

(b) This section shall become inoperative if both of the following conditions occur:

(1) Iran is removed from the United States Department of State’s list of countries that have been determined to repeatedly provide support for acts of international terrorism.

(2) Pursuant to the appropriate federal statute, the President determines and certifies to the appropriate committee of the United States Congress that Iran has ceased its efforts to design, develop, manufacture, or acquire a nuclear explosive device or related materials and technology.