**State Finance and Procurement Article**

**Title 17. Special Provisions – State and Local Subdivisions**

**Subtitle 7. Investment Activities in Iran**

**§17–701. Definitions**

1. In this subtitle the following words have the meanings indicated.
2. “Energy sector of Iran” means activities to develop petroleum or natural gas resources or nuclear power in Iran.
3. “Financial institution” has the meaning stated in Section 14 of the Iran Sanctions Act of 1996 (Public Law 104–172).
4. “Iran” includes the government of Iran and any agency or instrumentality of Iran.
5. “Person” includes:

(1) a natural person, corporation, company, limited liability company, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group;

(2) a governmental entity or instrumentality of a government, including a multilateral development institution, as defined by the federal International Financial Institutions Act, 22 U.S.C. 262r(c)(3); or

(3) any parent, successor, subunit, direct or indirect subsidiary of, or any entity under common ownership or control with, an entity described in item (1) or (2) of this subsection.

1. “Public body” means:

(1) the State;

(2) a county, municipal corporation, or other political subdivision;

(3) a public instrumentality; or

(4) any governmental unit authorized to award a contract.

**§17–702. Engagement of Investment activities in Iran**

For purposes of this subtitle, a person engages in investment activities in Iran if:

(1) the person provides goods or services of $20,000,000 or more in the energy sector of Iran, including a person that provides oil or liquefied natural gas tankers or products used to construct or maintain pipelines used to transport oil or liquefied natural gas for the energy sector of Iran; or

(2) the person is a financial institution that extends $20,000,000 or more in credit to another person for 45 days or more if the person to whom the credit is extended:

(i) will use the credit to provide goods or services in the energy sector of Iran as described in item (1) of this section; and

(ii) is, at the time of the extension of credit, identified on a list created under § 17–704 of this subtitle as a person engaging in investment activities in Iran.

**§17–703. Ineligibility to bid on, submit a proposal for, or enter into or renew contract**

 A person that, at the time of bid or proposal for a new contract or renewal of an existing contract, is identified on a list created by the Board under § 17–704 of this subtitle as a person engaging in investment activities in Iran is ineligible to, and may not bid on, submit a proposal for, or enter into or renew a contract with a public body for goods or services.

**§17–704**. **List of persons engaged in investment activities in Iran**

(a) (1) On or before December 31, 2012, the Board shall use credible information available to the public to create a list of persons that the Board determines to be engaged in investment activities in Iran as described in § 17–702 of this subtitle.

 (2) The Board shall update the list at least every 180 days.

(3) Before the Board includes a person on the list, the Board shall provide the person with 90 days’ written notice that:

(i) the Board intends to include the person on the list; and

(ii) inclusion on the list would make the person ineligible to bid on, submit a proposal for, or enter into or renew a contract with a public body for goods or services.

 (4) The notice required under paragraph (3) of this subsection shall specify that if the person ceases engagement in investment activities in Iran as described in § 17–702 of this subtitle, the person may become eligible for a future contract or contract renewal with a public body for goods or services on removal from the list.

(b) (1) The Board shall provide a person with an opportunity to comment in writing to the Board that the person is not engaged in investment activities in Iran.

(2) If the person demonstrates to the Board that the person is not engaged in investment activities in Iran as described in § 17–702 of this subtitle, the Board may not include the person on the list.

1. The Board shall remove a person from the list if the person demonstrates to the Board that the person no longer is engaged in investment activities in Iran as described in § 17–702 of this subtitle.
2. The Board shall make every reasonable effort to avoid erroneously including a person on the list.
3. The Board shall publish the list on the Internet.

**§17–705**. **Bid or proposal for contract**

1. On or after January 1, 2013, a public body shall require a person that submits a bid or proposal to the public body for a contract for goods or services, or otherwise proposes to enter into or renew a contract for goods or services with the public body, to:

(1) certify at the time the bid is submitted or the contract is renewed that the person:

(i) is not identified on the list created by the Board as a person engaging in investment activities in Iran as described in § 17–702 of this subtitle; and

(ii) is not engaging in investment activities in Iran as described in § 17–702 of this subtitle; or

(2) if the person is unable to make the certification under item (1) of this subsection, provide the public body, under penalty of perjury, a detailed description of the person’s investment activities in Iran.

1. A public body shall submit any information provided to the public body under subsection (a)(2) of this section to the Board.

**§ 17-706. False certification**

1. Notice and opportunity to be heard. --

(1) If a public body, using credible information available to the public, determines that a person has submitted a false certification under § 17-705(a)(1) of this subtitle, the public body shall provide written notice to the person and an opportunity for the person to demonstrate in writing that the person is not engaged in investment activities in Iran.

(2) If the person fails to demonstrate to the public body within 90 days after the public body provides notice under paragraph (1) of this subsection that the person is not engaged in investment activities in Iran, the public body shall report to the Board and the Attorney General:

(i) the name of the person determined to have submitted a false certification; and

(ii) the information on which the public body made its decision.

1. Action by Attorney General. --

(1) The Attorney General may institute an action against a person determined to have submitted a false certification under § 17-705(a)(1) of this subtitle.

(2) An action brought under this section shall be brought within 3 years from the date the certification is made.

1. Penalties. -- If, in an action brought under this section, a court determines that a person submitted a false certification:

(1) the person shall pay all reasonable costs and fees incurred in the civil action, including: certification; and

(ii) all reasonable costs and fees incurred by the Attorney General in bringing the action;

(2) the court may impose a civil penalty equal to the greater of $ 1,000,000 or twice the amount of the contract for which the false certification was submitted;

(3) the public body may terminate the contract for which the false certification was submitted; and

(4) the person is ineligible to bid on a contract with a public body for a period of 3 years from the date of the court order.

1. Protest of award of contract based on false certification. --

(1) Except as provided in paragraph (2) of this subsection, an unsuccessful bidder or any other person may not protest the award of a contract or contract renewal on the basis of a false certification.

(2) Paragraph (1) of this subsection does not prohibit a public body from filing a protest objecting to the award of a contract or contract renewal on the basis of a false certification.

1. No private right of action. -- This subtitle does not create or authorize a private right of action.

**§ 17-707. Preemption**

This subtitle preempts any law, ordinance, rule, or regulation of any local governing body involving procurement contracts for goods or services with a person engaged in investment activities in Iran.