
Coates' Canons Blog: Iran Divestment Act – Be Careful Who You Contract With!

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UPDATE: For those who have been searching the new versions of the statutes and can't find the Iran Divestment Act based on the statute citations in the legislation, the Revisor of Statutes recodified the IDA. The new citation is Article 6E of Chapter 147 (G.S. 147-86.55 to 147-86.63). The FAQ's linked below have been updated to reflect the recodified statute citations.

During the 2015 legislative session, the North Carolina General Assembly enacted the Iran Divestment Act (S.L. 2015-118; SB455) ("the Act") which prohibits state agencies and local governments from entering into contracts with entities that the North Carolina State Treasurer has determined are engaged in certain investment activities in the Iranian energy sector. What does this mean for local governments?

The Act requires the State Treasurer's Office to publish a list of entities it has identified as investing in the Iranian energy sector and update the list every 180 days. An entity identified on the Treasurer's list (called the "Final Divestment List") is prohibited from contracting with state agencies and local governments. Local governments and state agencies must require entities with which they contract to certify that the entity is not included on the Final Divestment List. In addition, all entities contracting with the State and local governments are prohibited from subcontracting with any entity included on the Final Divestment List. Contracts entered into with an entity included on the Final Divestment List are rendered void by operation of the statute.

The State Treasurer has published the Final Divestment List on its Iran Divestment Act Resources webpage. Actually, the Treasurer's office developed two lists, both of which are available at the webpage linked above. The Final Divestment List provides the names of entities engaging directly in investment activities in the Iranian energy sector. The Iran Parent and Subsidiary Guidance contains the names of companies that own more than 20% of or are a majority-owned subunit or subsidiary of an entity on the Final Divestment List. Entities identified on *both* lists are subject to the Act's prohibitions, and local governments cannot enter into contracts with *any* entity identified on *either* list.

Questions have been flying across local government listservs about the Iran Divestment Act. Which local governments are subject to the Act? What contracts are covered by the Act? What categories of vendors, businesses, and contractors might be subject to the Act? How to comply with the certification requirement? Is a certification required every time a P-card is swiped or a credit card is used for an online purchase? What are the consequences for noncompliance? What happens if our vendor ends up on the Iran list? These and other questions are answered in a set of Frequently Asked Questions developed by the School of Government with assistance from the Department of State Treasurer and the State's bond counsel. These FAQs are available on the SOG's Local Government Purchasing and Contracting website under "Legislative Updates" (or just click on the link above).

So don't panic – read the FAQ's, check the lists on the Treasurer's website, talk with your attorney about certification language (there are examples in the FAQs), and let us know if you have any more questions.

Links

- www.ncleg.net/Sessions/2015/Bills/Senate/HTML/S455v5.html
- www.nctreasurer.com/inside-the-department/OpenGovernment/Pages/Iran-Divestment-Act-Resources.aspx
- www.sog.unc.edu/sites/www.sog.unc.edu/files/articles/Iran%20Divestment%20Act%20FAQ.pdf
- www.sog.unc.edu/resources/microsites/local-government-purchasing-and-contracting/



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- www.sog.unc.edu/resources/microsites/local-government-purchasing-and-contracting/legislative-updates