

HB 613

2012

1 A bill to be entitled  
2 An act relating to financial institutions; providing  
3 definitions; requiring a financial institution that is  
4 chartered in this state and that maintains certain  
5 accounts with a foreign financial institution to  
6 establish due diligence policies, procedures, and  
7 controls reasonably designed to detect whether the  
8 foreign financial institution engages in certain  
9 activities facilitating the development of weapons of  
10 mass destruction by the Government of Iran, provides  
11 support for certain foreign terrorist organizations,  
12 or participates in other related activities; requiring  
13 the Office of Financial Regulation to adopt rules  
14 establishing minimum standards for the due diligence  
15 policies, procedures, and controls; requiring a  
16 financial institution chartered in this state to  
17 annually file a compliance certificate with the Office  
18 of Financial Regulation; requiring the Office of  
19 Financial Regulation to submit an annual report  
20 relating to its rules and certifications from  
21 financial institutions to the Governor, the President  
22 of the Senate, and the Speaker of the House of  
23 Representatives; requiring the Office of the Chief  
24 Financial Officer to make the annual report available  
25 to the public on its website; authorizing the Office  
26 of Financial Regulation to impose a civil penalty  
27 against a financial institution that fails to make the  
28 annual certification required by the act; providing an

HB 613

2012

29 | effective date.

30 |

31 | WHEREAS, the United States Congress passed, and President  
 32 | Obama signed into law, the Comprehensive Iran Sanctions,  
 33 | Accountability, and Divestment Act of 2010, and

34 | WHEREAS, the Comprehensive Iran Sanctions, Accountability,  
 35 | and Divestment Act of 2010 prohibits or strictly limits any  
 36 | foreign financial institution's ability to open or maintain a  
 37 | correspondent account or a payable-through account with American  
 38 | financial institutions if the United States Secretary of the  
 39 | Treasury determines that the foreign financial institution  
 40 | knowingly engages in certain activities facilitating the  
 41 | development of weapons of mass destruction by the Government of  
 42 | Iran, provides support for certain foreign terrorist  
 43 | organizations, or participates in other related activities, and

44 | WHEREAS, the Comprehensive Iran Sanctions, Accountability,  
 45 | and Divestment Act of 2010 imposes civil and criminal penalties  
 46 | against financial institutions based in the United States which  
 47 | know or should know that they are maintaining a correspondent  
 48 | account or a payable-through account with a foreign financial  
 49 | institution that engages in prohibited activities, and

50 | WHEREAS, it is a sensible fiduciary responsibility of  
 51 | financial institutions chartered in the State of Florida to know  
 52 | the activities of foreign financial institutions with which they  
 53 | maintain correspondent or payable-through accounts, NOW,  
 54 | THEREFORE,

55 |

56 | Be It Enacted by the Legislature of the State of Florida:

HB 613

2012

57  
58       Section 1. Financial institutions; transactions relating  
59 to Iran or terrorism.-

60       (1) As used in this section, the term:

61       (a) "Correspondent account" has the same meaning as  
62 defined in 31 U.S.C. s. 5318A.

63       (b) "Financial institution" has the same meaning as  
64 defined in s. 655.005(1)(i), Florida Statutes.

65       (c) "Payable-through account" has the same meaning as  
66 defined in 31 U.S.C. s. 5318A.

67       (2) A financial institution chartered in this state which  
68 maintains a correspondent account or a payable-through account  
69 with a foreign financial institution must establish due  
70 diligence policies, procedures, and controls reasonably designed  
71 to detect whether the United States Secretary of the Treasury  
72 has found that the foreign financial institution knowingly:

73       (a) Facilitates the efforts of the Government of Iran,  
74 including efforts of Iran's Revolutionary Guard Corps, to  
75 acquire or develop weapons of mass destruction or their delivery  
76 systems;

77       (b) Provides support for an organization designated by the  
78 United States as a foreign terrorist organization;

79       (c) Facilitates the activities of a person who is subject  
80 to financial sanctions pursuant to a resolution of the United  
81 Nations Security Council imposing sanctions on Iran;

82       (d) Engages in money laundering to carry out any activity  
83 listed in this subsection;

84       (e) Facilitates efforts by the Central Bank of Iran or any

HB 613

2012

85 other Iranian financial institution to carry out an activity  
86 listed in this subsection; or

87 (f) Facilitates a significant transaction or provides  
88 significant financial services for Iran's Revolutionary Guard  
89 Corps or its agents or affiliates, or any financial institution,  
90 whose property or interests in property are blocked pursuant to  
91 federal law in connection with Iran's proliferation of weapons  
92 of mass destruction, or delivery systems for those weapons, or  
93 Iran's support for international terrorism.

94 (3) By July 1, 2012, the Office of Financial Regulation  
95 shall adopt rules establishing minimum standards for due  
96 diligence policies, procedures, and controls required by this  
97 section.

98 (4) By January 1, 2013, and each January 1 thereafter,  
99 each financial institution chartered in this state must certify  
100 to the Office of Financial Regulation that the financial  
101 institution has adopted and substantially complies with its due  
102 diligence policies, procedures, and controls required by this  
103 section and the rules of the Office of Financial Regulation, and  
104 that to the best knowledge of the financial institution, the  
105 financial institution does not maintain a correspondent account  
106 or a payable-through account with a foreign financial  
107 institution that knowingly engages in any act described in  
108 subsection (2).

109 (5) By January 31, 2013, and each January 31 thereafter,  
110 the Office of Financial Regulation must submit a report to the  
111 Governor, the President of the Senate, and the Speaker of the  
112 House of Representatives which contains a copy of the rules

HB 613

2012

113 required under subsection (2) and the status of the  
114 certifications of compliance received from the financial  
115 institutions chartered in this state.

116 (6) The Office of the Chief Financial Officer shall make  
117 its annual compliance report under this section available on its  
118 website.

119 (7) The Office of Financial Regulation may impose a civil  
120 penalty, not to exceed \$100,000 per occurrence, against a  
121 financial institution that fails to make the annual  
122 certification required under subsection (4).

123 Section 2. This act shall take effect upon becoming a law.