

By Senators Gaetz and Rich

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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
29 effective date.

4-00649-12

2012792

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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,

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

57
58 Section 1. Financial institutions; transactions relating to

4-00649-12

2012792

59 Iran or terrorism.

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

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

63 (b) "Financial institution" has the same meaning as defined
64 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
85 other Iranian financial institution to carry out an activity
86 listed in this subsection; or

87 (f) Facilitates a significant transaction or provides

4-00649-12

2012792

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, each
99 financial institution chartered in this state must certify to
100 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
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

4-00649-12

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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.