§ 165-a. Iran divestment. 1. As used in this section, the following definitions shall apply:

(a) "Energy sector" of Iran means activities to develop petroleum or natural gas resources or nuclear power in Iran.
(b) "Financial institution" means the term as used in Section 14 of the Iran Sanctions Act of 1996 (Public Law 104-172; 50 U.S.C. 1701 note).
(c) "Investment" means a commitment or contribution of funds or property, a loan or other extension of credit; and the entry into or renewal of a contract for goods or services.
(d) "Iran" includes the government of Iran and any agency or instrumentality of Iran.
(e) "Person" means any of the following:
   (1) A natural person, corporation, company, limited liability company, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group.
   (2) Any governmental entity or instrumentality of a government, including a multilateral development institution, as defined in Section 1701(c)(3) of the International Financial Institutions Act (22 U.S.C. 262r(c)(3)).
   (3) Any successor, subunit, parent entity, or subsidiary of, or any entity under common ownership or control with, any entity described in subparagraph one or two of this paragraph.

2. For purposes of this section, a person engages in investment activities in Iran if:

(a) The person provides goods or services of twenty million dollars 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
(b) The person is a financial institution that extends twenty million dollars or more in credit to another person, for forty-five days or more, if that person will use the credit to provide goods or services in the energy sector in Iran and is identified on a list created pursuant to paragraph (b) of subdivision three of this section as a person engaging in investment activities in Iran as described in paragraph (a) of this subdivision.

3. (a) A person that is identified on a list created pursuant to paragraph (b) of this subdivision as a person engaging in investment activities in Iran as described in subdivision two of this section, shall not be deemed a responsive bidder or offerer pursuant to section one hundred sixty-three of this article.

(b) (1) Not later than one hundred twenty days after the effective date of this section, the commissioner shall develop or contract to develop, using credible information available to the public, a list of persons it determines engage in investment activities in Iran as described in subdivision two of this section. If the commissioner has contracted to develop the list, the list shall be finally developed not later than one hundred twenty days after this section shall take effect. Such list, when completed, shall be posted on the website of the office of general services.
   (2) The commissioner shall update the list every one hundred eighty days.
   (3) Before finalizing an initial list pursuant to subparagraph one of this paragraph or an updated list pursuant to subparagraph two of this paragraph, the commissioner shall do all of the following before a person is included on the list:
(A) Provide ninety days' written notice of the commissioner's intent to include the person on the list. The notice shall inform the person that inclusion on the list would make the person a non-responsive bidder or offerer. The notice shall specify that the person, if it ceases its engagement in investment activities in Iran as described in subdivision two of this section, may be removed from the list.

(B) The commissioner shall provide a person with an opportunity to comment in writing that it is not engaged in investment activities in Iran. If the person demonstrates to the commissioner that the person is not engaged in investment activities in Iran as described in subdivision two of this section, the person shall not be included on the list.

(4) The commissioner shall make every effort to avoid erroneously including a person on the list.

(5) A person that has a contract with the New York state common retirement fund, the New York state and local employees' retirement system, the New York state and local police and fire retirement system, or the New York state teachers' retirement system, shall not be deemed a person that engages in investment activities in Iran as described in subdivision two of this section on the basis of those contracts or investments with such retirement systems, provided however, that nothing in this subparagraph shall prevent the New York state common retirement fund, the New York state and local employees' retirement system, New York state and local police and fire retirement system or the New York state teachers' retirement system from pursuing a policy of divestment in the Iranian economy.

(c) Notwithstanding paragraph (a) of this subdivision, a state agency may permit a person engaged in investment activities in Iran as described by subdivision two of this section to be deemed a responsive bidder or offerer, on a case-by-case basis with a state agency if:

(1) The investment activities in Iran were made before the effective date of this section, the investment activities in Iran have not been expanded or renewed after the effective date of this section, and the person has adopted, publicized, and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran; or

(2) The state agency makes a determination that the commodities or services are necessary for the state agency to perform its functions and that, absent such an exemption, the state agency would be unable to obtain the commodities or services for which the contract is offered. Such determination shall be entered into the procurement record.

4. (a) A state agency shall require a person that submits a bid or offer in response to a notice of procurement, or that proposes to renew an existing procurement contract with a state agency or proposes to assume the responsibility of a contractor pursuant to a procurement contract with a state agency or otherwise proposes to enter into a contract with a state agency with respect to contracts for commodities, services, construction, or contracts entered pursuant to sections six and seven of the New York state printing and public documents law, section eight of the public buildings law, or section thirty-eight of the highway law, to certify, at the time the bid is submitted or the contract is renewed or assigned, that the person or the assignee is not identified on a list created pursuant to paragraph (b) of subdivision three of this section. A state agency shall include certification information in the procurement record.

(b) A person that submits a bid or offer in response to a notice of procurement or that proposes to renew an existing procurement contract with a state agency or proposes to assume the responsibility of a contractor pursuant to a procurement contract with a state agency, or
otherwise proposes to enter into a contract with a state agency with
respect to a contract for commodities, services, construction, or
contracts entered pursuant to sections six and seven of the New York
state printing and public documents law, section eight of the public
buildings law, or section thirty-eight of the highway law shall not
utilize, on the contract with the state agency, any subcontractor that
is identified on a list created pursuant to paragraph (b) of subdivision
three of this section.

5. Upon receiving information that a person who has made the
certification required by subdivision four of this section is in
violation thereof, the state agency shall review such information and
offer the person an opportunity to respond. If the person fails to
demonstrate that is has ceased its engagement in the investment which is
in violation of this act within ninety days after the determination of
such violation, then the state agency shall take such action as may be
appropriate and provided for by law, rule or contract, including, but
not limited to, imposing sanctions, seeking compliance, recovering
damages or declaring the contractor in default.

6. The commissioner shall report to the governor and the legislature
annually on or before October first, on the status of the federal
"Comprehensive Iran Sanctions, Accountability, and Divestment Act of
2010" (Public Law 111-195), "the Iran divestment act of 2012", and any
rules or regulations adopted thereunder.

* NB Effective April 12, 2012