

CHAPTER 3
CORRECTED COPY

AN ACT prohibiting government dealings with businesses associated with Belarus or Russia, supplementing Title 52 of the New Jersey Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.52:32-60.1 List identifying entities that engage in prohibited activities in Russia, Belarus developed, maintained.

1. a. A person that is identified on a list created pursuant to subsection b. of this section as a person that has been determined to engage in prohibited activities in Russia or Belarus shall be ineligible to and shall not:

(1) enter into or renew a contract with a State agency for the provision of goods or services or the purchase of bonds or other obligations;

(2) file or renew a Public Works Contractor Registration with the Department of Labor and Workforce Development;

(3) be approved for or continue to receive an economic development subsidy from the Economic Development Authority in but not of the Department of the Treasury, be awarded a municipal property tax abatement, or make or enter into a payment in lieu of property tax agreement;

(4) apply for or receive a tax clearance certificate from the Director of the Division of Taxation in the Department of the Treasury;

(5) be certified by the Department of Community Affairs as an urban renewal entity for purposes of the "Long Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et seq.); and

(6) be designated as a redeveloper by a public agency for the purpose of planning, replanning, construction, or undertaking of any project or redevelopment work in accordance with the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.).

b. Immediately upon the effective date of this section, the Department of the Treasury shall, using credible information available to the public, begin developing a list of persons it determines engage in prohibited activities in Russia or Belarus. The department is authorized to consult an independent research firm that specializes in global security risk for portfolio determinations, as selected by the State Treasurer, to develop the list. The department shall update the list on a rolling basis. Beginning after the 91st day next following the date of enactment of this section, the department shall be required to update the list at least every six months. Before including a person or entity on the initial list or an updated list, the department shall:

(1) provide notice of its intent to include the person on the list. The notice shall inform the person that inclusion on the list would make the person ineligible to engage in any of the enumerated activities specified by subsection a. of this section; and

(2) provide a person with an opportunity to comment in writing that the person is not engaged in prohibited activities in Russia or Belarus. If the person demonstrates to the department that the person is not engaged in prohibited activities in Russia or Belarus, the person or entity shall not be included on the list.

c. A State agency or local unit, as applicable, shall require a person seeking to engage in any of the enumerated activities specified by subsection a. of this section to certify, before the contract is awarded, renewed, amended, or extended, or before applying for certification as an urban renewal entity or designation as a redeveloper that the person is not identified on a list created pursuant to this section as a person engaging in prohibited activities in Russia or Belarus. The certification required shall be executed on behalf of the applicable person by an

authorized officer or representative of the person. If a person is unable to make the certification required because the person or one of the person's parents, subsidiaries, or affiliates has engaged in prohibited activity in Russia or Belarus, the person shall provide to the State agency or local unit of government concerned, prior to the deadline for delivery of such certification, a detailed and precise description of such activities, such description to be provided under penalty of perjury. The certifications provided under this section and disclosures provided under this section shall be disclosed to the public.

d. (1) If the department determines, using credible information available to the public and after providing notice and an opportunity to comment in writing for the person to demonstrate that it is not engaged in prohibited activities in Russia or Belarus, that the person or entity has submitted a false certification pursuant to this section, and the person fails to demonstrate to the department that the person has ceased its engagement in the prohibited activities in Russia or Belarus within 90 days after the determination of a false certification, the following shall apply:

(a) pursuant to an action under paragraph (2) of this subsection, a civil penalty in an amount that is equal to the greater of \$1,000,000 or twice the amount of the bid or application listed in subsection a. of this section for which the false certification was made.

(b) termination of an existing contract, registration, economic development subsidy, tax abatement, payment in lieu of property tax agreement, certification, or designation as deemed appropriate by the issuing agency or the application process for any of the foregoing.

(c) ineligibility to engage in any of the enumerated activities specified by subsection a. of this section for a period of three years from the date of the determination that the person submitted the false certification, provided that the person has ceased its engagement in the prohibited activities in Russia or Belarus.

(2) The department shall report to the Attorney General the name of the person that the State agency determines has submitted a false certification under this section, together with its information as to the false certification, and the Attorney General shall determine whether to bring a civil action against the person to collect the penalty described in this subsection. Only one civil action against the person to collect the penalty described in this subsection may be brought for a false certification on a bid or application listed in subsection a. of this section. A civil action to collect such penalty shall commence within three years from the date the certification is made.

e. For purposes of this section:

"Economic development subsidy" means the provision of an amount of funds to a recipient with a value of greater than \$25,000 for the purpose of stimulating economic development in New Jersey, including, but not limited to, any investment, bond, grant, loan, loan guarantee, matching fund, tax credit, or other tax expenditure.

"Engaged in prohibited activities in Russia or Belarus" means (1) companies in which the Government of Russia or Belarus has any direct equity share; (2) having any business operations commencing after the effective date of this act that involve contracts with or the provision of goods or services to the Government of Russia or Belarus; (3) being headquartered in Russia or having its principal place of business in Russia or Belarus, or (4) supporting, assisting or facilitating the Government of Russia or Belarus in their campaigns to invade the sovereign country of Ukraine, either through in-kind support or for profit.

"Person or entity" means any of the following:

(1) A natural person, corporation, company, limited partnership, limited liability partnership, limited liability company, business association, sole proprietorship, joint venture, 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); or

(3) Any parent, successor, subunit, direct or indirect subsidiary, or any entity under common ownership or control with, any entity described in paragraph (1) or (2).

“Russia” and “Belarus” mean, respectively, the governments of Russia and Belarus, and include the territories of those nations and any other territory or marine area that are recognized by the United States as part of either country.

“State agency” means any of the principal departments in the Executive Branch of the State government, and any division, board, bureau, office, commission or other instrumentality within or created by such department; the Legislature of the State and any office, board, bureau or commission within or created by the Legislative Branch; and any independent State authority, commission, instrumentality or agency that is authorized by law to award public contracts. “State agency” shall also include a public research university that is not a State college subject to the provisions of the "State College Contracts Law," P.L.1986, c.43 (C.18A:64-52 et seq.).

C.40A:11-2.2 Local contracting unit, compliance; report of false certification.

2. a. A local contracting unit as defined in and subject to the provisions of the “Local Public Contracts Law,” P.L.1971, c.198 (C.40A:11-1 et seq.), shall implement and comply with the provisions of P.L.2022, c.3 (C.52:32-60.1 et al.), except that the contracting unit shall rely on the list developed by the Department of the Treasury pursuant to subsection b. of section 1 of P.L.2022, c.3 (C.52:32-60.1).

b. If the local contracting unit determines that a person has submitted a false certification concerning its engagement in prohibited activities in Russia or Belarus pursuant to section 1 of P.L.2022, c.3 (C.52:32-60.1), the local contracting unit shall report to the New Jersey Attorney General the name of that person or entity, and the Attorney General shall determine whether to bring a civil action against the person to collect the penalty prescribed in subsection c. of section 1 of P.L.2022, c.3 (C.52:32-60.1).

c. The local contracting unit may also report to the municipal attorney or county counsel, as appropriate, the name of that person, together with its information as to the false certification, and the municipal attorney or county counsel, as appropriate, may determine to bring such civil action against the person to collect such penalty.

C.18A:18A-49.5 Board of education, compliance; report of false certification.

3. a. A board of education as defined in and subject to the provisions of the "Public School Contracts Law," P.L.1977, c.114 (N.J.S.18A:18A-1 et seq.), shall implement and comply with the provisions of P.L.2022, c.3 (C.52:32-60.1 et al.), except that the board shall rely on the list developed by the Department of the Treasury pursuant to subsection b. of section 1 of P.L.2022, c.3 (C.52:32-60.1).

b. If the board determines that a person or entity has submitted a false certification concerning its engagement in prohibited activities in Russia or Belarus pursuant to section 1 of P.L.2022, c.3 (C.52:32-60.1), the board shall report to the New Jersey Attorney General the name of that person, and the Attorney General shall determine whether to bring a civil action against the person to collect the penalty prescribed in subsection c. of section 1 of P.L.2022, c.3 (C.52:32-60.1).

c. The board may also report to the board's attorney the name of that person, together with its information as to the false certification, and the board's attorney may determine to bring such civil action against the person to collect such penalty.

C.18A:64-85.1 State college, compliance; report of false certification.

4. a. A State college as defined in and subject to the provisions of the "State College Contracts Law," P.L.1986, c.43 (C.18A:64-52 et seq.), shall implement and comply with the provisions of P.L.2022, c.3 (C.52:32-60.1 et al.), except that the State college shall rely on the list developed by the Department of the Treasury pursuant to subsection b. of section 1 of P.L.2022, c.3 (C.52:32-60.1).

b. If the State college determines that a person has submitted a false certification concerning its engagement in prohibited activities in Russia or Belarus pursuant to section 1 of P.L.2022, c.3 (C.52:32-60.1), the State college shall report to the New Jersey Attorney General the name of that person, and the Attorney General shall determine whether to bring a civil action against the person to collect the penalty prescribed in subsection c. of section 1 of P.L.2022, c.3 (C.52:32-60.1).

c. The State college may also report to the State college attorney the name of that person, together with its information as to the false certification, and the State college attorney may determine to bring such civil action against the person to collect such penalty.

C.18A:64A-25.44 County college compliance; report of false certification.

5. a. A county college as defined in and subject to the provisions of the "County College Contracts Law," P.L.1982, c.189 (C.18A:64A-25.1 et seq.), shall implement and comply with the provisions of P.L.2022, c.3 (C.52:32-60.1 et al.), except that the county college shall rely on the list developed by the Department of the Treasury pursuant to subsection b. of section 1 of P.L.2022, c.3 (C.52:32-60.1).

b. If the county college determines that a person has submitted a false certification concerning its engagement in prohibited activities in Russia or Belarus pursuant to section 1 of P.L.2022, c.3 (C.52:32-60.1), the county college shall report to the New Jersey Attorney General the name of that person, and the Attorney General shall determine whether to bring a civil action against the person or entity to collect the penalty prescribed in subsection c. of section 1 of P.L.2022, c.3 (C.52:32-60.1).

c. The county college may also report to the county college attorney the name of that person, together with its information as to the false certification, and the county college attorney may determine to bring such civil action against the person to collect such penalty.

C.52:18A-89.16 Assets of pension, any annuity fund under the Division of Investment, Department of Treasury, prohibited from investment in listed entity with certain ties to Russia, Belarus.

6. a. Notwithstanding any provision of law to the contrary, except section 11 of P.L.1950 c.270 (C.52:18A-89), as amended, no assets of any pension or annuity fund under the jurisdiction of the Division of Investment in the Department of the Treasury, or its successor, shall be invested directly in a company included in the Department of the Treasury's list created pursuant to subsection b. of section 1 of P.L.2022, c.3 (C.52:32-60.1) for engaging in prohibited activities in Russia or Belarus.

b. The State Investment Council and the Director of the Division of Investment shall take appropriate action to sell, redeem, divest, or withdraw any investment held in violation of subsection a. of this section. Any appropriate action to sell, redeem, divest, or withdraw any

investment shall be completed not later than one year following the date that such investment is identified as being in violation of subsection a. of this section, provided that if such sale, redemption, divestment, or withdrawal within such one-year period would be premature or otherwise imprudent and inconsistent with the requirements of section 11 of P.L.1950 c.270 (C.52:18A-89), as amended, such sale, redemption, divestment, or withdrawal shall be completed as soon thereafter as such requirements are met.

c. Within 90 days after the effective date of P.L.2022, c.3 (C.52:32-60.1 et al.), the Director of the Division of Investment shall file with the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), a report of all investments held as of the effective date that are in violation of subsection a. of this section.

d. State Investment Council members, jointly and individually, and State officers and employees involved therewith, shall be indemnified and held harmless by the State of New Jersey from all claims, demands, suits, actions, damages, judgments, costs, charges, and expenses, including court costs and attorney's fees, and against all liability, losses, and damages of any nature whatsoever that these State Investment Council members, and State officers and employees, shall or may at any time sustain by reason of any decision to restrict, reduce, or eliminate investments pursuant to this act.

C.52:32-60.2 Prohibiting certain State entities from engaging in certain economic activities with Russia, Belarus.

7. A State agency, local contracting unit, board of education, State college, or county college shall not bank with, have or hold stock, debt, or other equity investments of, or maintain insurance coverage through a policy issued by a financial institution that is included in the Department of the Treasury's list created pursuant to subsection b. of section 1 of P.L.2022, c.3 (C.52:32-60.1) for engaging in prohibited activities in Russia or Belarus.

C.52:32-60.3 Rules, regulations.

8. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the State Treasurer may adopt immediately upon filing with the Office of Administrative Law such rules and regulations as the State Treasurer determines to be necessary to effectuate the purposes of P.L.2022, c.3 (C.52:32-60.1 et al.), which rules and regulation shall be effective for a period not exceeding 360 days following the effective date of P.L.2022, c.3 (C.52:32-60.1 et al.) and may thereafter be amended, adopted, or readopted by the State Treasurer in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

C.52:32-60.4 Severability.

9. The provisions of sections 1 through 8 of P.L.2022, c.3 (C.52:32-60.1, C.40A:11-2.2, C.18A:18A-49.5, C.18A:64-85.1, C.18A:64A-25.44, C.52:18A-89.16, C.52:32-60.2, and C.52:32-60.3) shall not apply in circumstances when their application would violate federal law or regulation or be inconsistent with the terms and conditions of federal funding.

10. This act shall take effect immediately and shall expire upon the revocation of federal sanctions contained in Executive Order 14024.

Approved March 9, 2022.