

CHAPTER 217

AN ACT concerning the definition of women's business enterprises and minority business enterprises, amending various parts of the statutory law, and supplementing Title 52 of the Revised Statutes.

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

1. Section 2 of P.L.1986, c.195 (C.52:27H-21.18) is amended to read as follows:

C.52:27H-21.18 Definitions.

2. As used in this act:

- a. "Control" means authority over the affairs of a business, including, but not limited to, capital investment, property acquisition, employee hiring, contract negotiations, legal matters, officer and director selection, operating responsibility, financial transactions and the rights of other shareholders or joint partners; except that control shall not include absentee ownership, nor shall it be deemed to exist where an owner or employee who is not a minority, in the case of a minority business; or a male owner or employee, in the case of a women's business, is disproportionately responsible for the operation of the business or for policy and contractual decisions.

- b. "Commissioner" means the Treasurer of the State of New Jersey.

- c. "Director" means the Director of the Division of Revenue and Enterprise Services in the New Jersey Department of the Treasury.

- d. "Division" means the Division of Revenue and Enterprise Services in the New Jersey Department of the Treasury.

- e. "Minority" means a person who is:

- (1) Black, which is a person having origins in any of the black racial groups in Africa; or

- (2) Hispanic, which is a person with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race; or

- (3) Asian American, which is a person having origins in any of the original peoples of the Far East, Southeast Asia, Indian subcontinent, Hawaii, or the Pacific Islands; or

- (4) American Indian or Alaskan native, which is a person having origins in any of the original peoples of North America.

- f. "Minority business" means a business which is:

- (1) A sole proprietorship owned and controlled by a minority;

- (2) A partnership or joint venture owned and controlled by minorities in which at least 51% of the ownership interest is held by minorities and the management and daily business operations of which are controlled by one or more of the minorities who own it; or

- (3) A corporation or other entity whose management and daily business operations are controlled by one or more minorities who own it, and of which at least 51% of the legal beneficial ownership is held by one or more minorities.

- g. "Public agency" means the State or any department, division, agency, authority, board, commission or committee thereof.

- h. "Woman" or "women" means a female or females, regardless of race.

- i. "Women's business" means a business which is:

- (1) A sole proprietorship owned and controlled by a woman; or

- (2) A partnership or joint venture owned and controlled by women in which at least 51% of the ownership is held by women and the management and daily business operations of which are controlled by one or more women who own it; or

(3) A corporation or other entity whose management and daily business operations are controlled by one or more women who own it, and of which at least 51% of the legal beneficial ownership is held by women.

j. "Applicant" means an individual or individuals, a sole proprietor, partnership, joint venture or corporation that applies for certification as a minority business or women's business, in accordance with the provisions of P.L.1986, c.195 (C.52:27H-21.17 et seq.).

2. Section 5 of P.L.2003, c.189 (C.52:27H-21.22b) is amended to read as follows:

C.52:27H-21.22b Application for recertification every five years; required.

5. After a minority business or women's business has been recertified after first receiving initial certification, the director shall require the certified minority business or certified women's business to apply for recertification every five years. The director may require of the applicant the documentation that is necessary to determine the applicant's eligibility for recertification, including but not limited to:

- a. Names and addresses of the owner, partners or shareholders, as applicable, and their representative shares of ownership;
- b. Names and addresses of members of the board of directors, in the case of corporations;
- c. Names and addresses of the officers of the business;
- d. Names and addresses of capital investors;
- e. Number of shares of stock issued and outstanding, in the case of a corporation;
- f. Articles of incorporation, bylaws, partnership agreements, or joint venture agreements, as applicable;
- g. (Deleted by amendment, P.L.2023, c.217)
- h. The affiliation of the business or any of its owners, officers or directors with any other business entity;
- i. A representative list of prior and current clients;
- j. Major real and personal property holdings of the business;
- k. Financial statements and balance sheets;
- l. Banking institutions with which the business is affiliated; and
- m. Organizational charts;
- n. An applicant's certificate of birth and motor vehicle driver's license;
- o. Personal or corporate federal or State income tax returns;
- p. An affidavit certifying that the applicant is a minority business or women's business, as defined in section 2 of P.L.1986, c.195 (C.52:27H-21.18); and
- q. Any other information the director deems necessary to effectuate the purposes of this act.

3. Section 2 of P.L.1987, c.56 (C.52:27H-21.26) is amended to read as follows:

C.52:27H-21.26 Definitions.

2. As used in this act:

- a. "Commissioner" means the Treasurer of the State of New Jersey.
- b. "Minority" means a person who is:
 - (1) Black, which is a person having origins in any of the black racial groups in Africa; or
 - (2) Hispanic, which is a person with origins in Mexico, South or Central America, or the Caribbean Islands regardless of race; or
 - (3) Asian American, which is a person having origins in any of the original peoples of the Far East, Southeast Asia, Indian Subcontinent, Hawaii, or the Pacific Islands; or

(4) American Indian or Alaskan native, which is a person having origins in any of the original peoples of North America.

c. "Minority business" means a business which is:

(1) A sole proprietorship, owned and controlled by a minority;

(2) A partnership or joint venture owned and controlled by minorities in which at least 51% of the ownership interest is held by minorities and the management and daily business operations of which are controlled by one or more of the minorities who own it; or

(3) A corporation or other entity whose management and daily business operations are controlled by one or more minorities who own it, and of which at least 51% of the legal beneficial ownership is held by one or more minorities.

d. "Small business" means a business which is of a size and type defined by the commissioner.

e. "Women's business" means a business which is:

(1) A sole proprietorship owned and controlled by a woman;

(2) A partnership or joint venture owned and controlled by women in which at least 51% of the ownership is held by women and the management and daily business operations of which are controlled by one or more women who own it; or

(3) A corporation or other entity whose management and daily business operations are controlled by one or more women who own it, and of which at least 51% of the legal beneficial ownership is held by women.

f. "Grantee" means a county or municipality who has received a grant under this act.

g. "Technical assistance" means aiding the establishment, development and promotion of small, minority and women's businesses operating within the grantee's jurisdiction by means that will be defined by the commissioner under the provisions of the act.

h. "Certification assistance" means aiding minority and women's businesses within the grantee's jurisdiction in becoming certified, under State regulations, to be eligible to bid on public contracts or otherwise represent themselves as a "minority business" or "women's business" under any program conducted by public agencies for which such certification is so required. Certification assistance also covers the cost to the grantee of integrating and standardizing existing local government certification procedures with State certification standards and procedures.

4. Any business enterprise which was denied certification or re-certification as a "women's business," "women's business enterprise," "women-owned business," "women-owned business enterprise," "minority business," "minority business enterprise," "minority-owned business," or a "minority-owned business enterprise," within a 12-month period preceding the effective date of this bill, and which would qualify for certification or re-certification in accordance with section 1 of P.L.2023, c.217 (C.52:27H-21.18), may apply, following the effective date of P.L.2023, c.217 (C.52:27H-21.18 et al.), for certification or re-certification without waiting for the statutory or regulatory waiting period governing the timing of re-application after a denial of certification or re-certification.

5. This act shall take effect immediately.

Approved January 8, 2024.