

SENATE, No. 2311

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED APRIL 9, 2020

Sponsored by:
Senator RONALD L. RICE
District 28 (Essex)

SYNOPSIS

Prohibits disqualification of certain minority-owned and women-owned businesses for certification.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning certification of minority-owned and women-
2 owned businesses and amending P.L.1987, c.55.

3

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

6

7 1. Section 5 of P.L.1987, c.55 (C.52:27H-21.11) is amended to
8 read as follows:

9 5. The division shall have the power to:

10 a. Establish a loan referral program and loan packaging program
11 for eligible businesses, using criteria for eligibility which meet the
12 standards established by the authority or which meet the standards
13 established by private sources or by other State or federal programs;

14 b. Compile lists of qualified professionals, including women and
15 minorities in specific areas of expertise, to be disseminated to eligible
16 businesses and to be used in making referrals;

17 c. Use available resources within the State, including, but not
18 limited to, small business development centers, business
19 organizations, academic institutions with business programs, and
20 minority business development offices, to coordinate managerial and
21 technical assistance;

22 d. Establish, in cooperation with institutions of higher
23 education, an internship program for candidates for undergraduate
24 and graduate degrees in business administration and related fields for
25 the purpose of providing assistance to the division, the authority and
26 to businesses which are eligible to receive assistance under this act;

27 e. Provide, consistent with the provisions of this act and in
28 conjunction with, or at the request of, the authority, assistance to
29 eligible businesses, including, but not limited to:

30 (1) Assistance in researching markets or in market analysis;

31 (2) Advice in advertising and marketing;

32 (3) Advice in selecting sales or other distribution channels;

33 (4) Providing information and training with respect to bidding on
34 government contracts;

35 (5) Serving as liaison with the Department of the Treasury and
36 other departments and agencies of State, federal and local
37 government to promote the procurement of contracts for eligible
38 businesses;

39 (6) Assistance in obtaining legal counsel;

40 (7) Providing financial analysis and accounting assistance;

41 (8) Assistance in obtaining appropriate insurance, including
42 benefit packages for employees;

43 (9) Assistance in arranging contracts with franchisers;

44 (10) Assistance in arranging commercial loans made by a State
45 or federally chartered bank, savings bank, or savings and loan

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is
not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 association, if, with respect to loans made by State chartered
2 institutions, the loans are made in accordance with the powers
3 conferred on those institutions pursuant to Title 17 of the Revised
4 Statutes, including bridge loans and cash flow loans;

5 (11) Assistance in negotiating license agreements;

6 (12) Assistance in procuring bonding or substitutes therefor;

7 (13) Making referrals to private consultants, institutions, and
8 other providers of services, according to the specific needs of an
9 eligible business;

10 (14) Assistance in finding sources of financing from federal,
11 State, and local sources;

12 (15) Assistance in gaining information about employee training
13 and development programs; and

14 f. Provide a central resource for eligible businesses in their
15 dealing with federal, State, and local governments, including
16 information regarding government regulations or laws which affect
17 eligible businesses;

18 g. Initiate and encourage education programs for eligible
19 businesses;

20 h. Notwithstanding any other provision of law, exercise
21 exclusive authority within the State to establish a uniform procedure
22 for departments, agencies and authorities of the State and of its
23 political subdivisions to certify the eligibility of a business to bid on
24 contracts, or otherwise represent itself as a minority or women's
25 business, except that a minority or women's business engaged in the
26 procurement of materials and supplies that is otherwise eligible for
27 such certification pursuant to this subsection shall not be rendered
28 ineligible therefor solely because the business is not significantly and
29 substantially involved in the production, or does not have evidence
30 of movement, of inventory on hand, in and out of its facility, provided
31 the business:

32 (1) places an order for a product with a distributor or
33 manufacturer;

34 (2) takes possession of the materials or supplies in the order by
35 payment;

36 (3) assumes the risk of ownership of the materials or supplies;
37 and

38 (4) causes the product, materials, or supplies to be shipped to a
39 customer.

40 The uniform procedure shall provide guidance for determining
41 whether any or all beneficial owners of the business directly or
42 indirectly created or used a trust, proxy, power of attorney, pooling
43 arrangement, or any other contract, arrangement, or device with the
44 purpose or effect of evading the ownership requirements under
45 section 2 of P.L.1987, c.55 (C.52:27H-21.8).

46 The division shall be the certifying authority for departments,
47 agencies and authorities of the State, except that when the division's
48 procedure for certification of a business as a minority business or

1 women's business conflicts with a federal certification procedure that
2 affects a State project in which the federal government participates,
3 the federal certification procedure shall take precedence. Public
4 agencies shall identify those projects and shall notify the division. A
5 political subdivision shall have the responsibility of certifying the
6 eligibility of a women's business or minority business to bid on
7 contracts or otherwise represent itself as a women's business or
8 minority business within the political subdivision, except that, if the
9 business is certified by the division to represent itself as being a
10 minority or women's business under State programs, the political
11 subdivision may accept that certification for eligibility of the
12 business under programs of the political subdivision. A political
13 subdivision shall utilize the uniform certification procedure
14 formulated by the division;

15 i. Submit to the Governor and the Legislature an annual report
16 regarding its activities and setting forth recommendations of methods
17 which might be utilized to more efficiently and effectively carry out
18 the purposes of this act, and submit to the commissioner periodic
19 reports on the condition of small businesses, and women's and
20 minority businesses in the State; and

21 j. Provide any other services which it deems necessary or which
22 may be requested by the authority.

23 (cf: P.L.2003, c.189, s.1)

24
25 2. This act shall take effect immediately.
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28 STATEMENT

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30 This bill would modify the eligibility criteria for a business to qualify
31 as a minority-owned or women-owned business under State law. The
32 bill specifies that an otherwise eligible minority-owned or women-
33 owned business engaged in the procurement of materials and supplies
34 would be eligible for certification although the business is not involved
35 in the production or movement of inventory on hand, as long as the
36 business:

37 (1) places an order for a product with a distributor or manufacturer;

38 (2) takes possession of the materials or supplies in the order by
39 payment;

40 (3) assumes the risk of ownership of the materials or supplies; and

41 (4) causes the product, materials, or supplies to be shipped to a
42 customer.

43 The bill requires the uniform procedure, which governs the
44 certification of minority and women's businesses, to provide
45 guidance for determining whether the beneficial owners of a business
46 have created a shell company or other arrangement with the purpose
47 or effect of evading the ownership requirements under the law.