S T A T E O F N E W Y O R K

3038

2013-2014 Regular Sessions

I N S E N A T E

January 29, 2013

Introduced by Sen. BALL -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs

AN ACT to amend the executive law, in relation to participation by service-connected disabled veterans and veterans with respect to state contracts

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The executive law is amended by adding a new article 17-A to read as follows:

ARTICLE 17-A

PARTICIPATION BY SERVICE-CONNECTED DISABLED VETERANS AND VETERANS WITH RESPECT TO STATE CONTRACTS

SECTION 369. DEFINITIONS.

369-A. OPPORTUNITIES FOR CERTIFIED SERVICE-CONNECTED DISABLED VETERAN-OWNED BUSINESS ENTERPRISES.

369-B. OPPORTUNITIES FOR CERTIFIED VETERAN-OWNED BUSINESS ENTERPRISES.

369-C. SEVERABILITY.

S 369. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "AGENCY" OR "AGENCIES" SHALL HAVE THE SAME MEANING AS DEFINED IN SUBDIVISION NINE OF SECTION ONE HUNDRED SIXTY OF THE STATE FINANCE LAW.

2. "PERIOD OF WAR" MEANS THE SPANISH AMERICAN WAR; THE MEXICAN BORDER PERIOD; WORLD WAR I; WORLD WAR II; THE HOSTILITIES KNOWN AS THE KOREAN WAR, WHICH COMMENCED JUNE TWENTY-SEVENTH, NINETEEN HUNDRED FIFTY AND TERMINATED ON JANUARY THIRTY-FIRST, NINETEEN HUNDRED FIFTY-FIVE; THE HOSTILITIES KNOWN AS THE VIETNAM WAR, WHICH COMMENCED ON FEBRUARY TWENTY-EIGHTH, NINETEEN HUNDRED SIXTY-ONE AND TERMINATED ON MAY SEVENTH, NINETEEN HUNDRED SEVENTY-FIVE; AND THE HOSTILITIES KNOWN AS THE PERSIAN GULF CONFLICT, WHICH COMMENCED AUGUST SECOND, NINETEEN HUNDRED NINETY TO

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD07355-01-3

THE END OF SUCH CONFLICT INCLUDING MILITARY SERVICE IN OPERATION ENDURING FREEDOM, OPERATION IRAQI FREEDOM OR OPERATION NEW DAWN AND WAS THE RECIPIENT OF THE GLOBAL WAR ON TERRORISM EXPEDITIONARY MEDAL OR THE IRAQ CAMPAIGN MEDAL OR THE AFGHANISTAN CAMPAIGN MEDAL.

3. "SERVICE-CONNECTED DISABLED VETERAN" MEANS A VETERAN WHO RECEIVED A COMPENSATION RATING FROM THE UNITED STATES DEPARTMENT OF VETERANS' AFFAIRS OR FROM THE UNITED STATES DEPARTMENT OF DEFENSE BECAUSE OF A SERVICE-CONNECTED DISABILITY INCURRED IN THE LINE OF DUTY IN THE ACTIVE MILITARY, NAVAL OR AIR SERVICE.

4. "CERTIFIED SERVICE-CONNECTED DISABLED VETERAN-OWNED BUSINESS ENTERPRISE" SHALL MEAN A BUSINESS ENTERPRISE, INCLUDING A SOLE PROPRIETORSHIP, PARTNERSHIP, OR CORPORATION THAT IS:

(A) AT LEAST FIFTY-ONE PERCENT OWNED BY ONE OR MORE SERVICE-CONNECTED DISABLED VETERANS;

(B) AN ENTERPRISE IN WHICH SUCH SERVICE-CONNECTED DISABLED VETERAN OWNERSHIP IS REAL, SUBSTANTIAL, AND CONTINUING;

(C) AN ENTERPRISE IN WHICH SUCH SERVICE-CONNECTED DISABLED VETERAN OWNERSHIP HAS AND EXERCISES THE AUTHORITY TO CONTROL INDEPENDENTLY THE DAY-TO-DAY BUSINESS DECISIONS OF THE ENTERPRISE;

(D) AN ENTERPRISE AUTHORIZED TO DO BUSINESS IN THIS STATE AND IS INDEPENDENTLY OWNED AND OPERATED;

(E) AN ENTERPRISE OWNED BY AN INDIVIDUAL OR INDIVIDUALS, WHOSE OWNERSHIP, CONTROL AND OPERATION ARE RELIED UPON FOR CERTIFICATION, WITH A PERSONAL NET WORTH THAT DOES NOT EXCEED THREE MILLION FIVE HUNDRED THOUSAND DOLLARS, AS ADJUSTED ANNUALLY ON THE FIRST OF JANUARY FOR INFLATION ACCORDING TO THE CONSUMER PRICE INDEX OF THE PREVIOUS YEAR;

(F) AN ENTERPRISE THAT IS A SMALL BUSINESS PURSUANT TO SUBDIVISION FIVE OF THIS SECTION; AND

(G) CERTIFIED PURSUANT TO SUBDIVISION THREE OF SECTION THREE HUNDRED SIXTY-NINE-A OF THIS ARTICLE.

5. "SMALL BUSINESS" SHALL HAVE THE SAME MEANING AS DEFINED IN SECTION ONE HUNDRED THIRTY-ONE OF THE ECONOMIC DEVELOPMENT LAW.

6. "VETERAN" SHALL MEAN A PERSON WHO SERVED IN THE ACTIVE MILITARY, NAVAL, OR AIR SERVICE DURING A PERIOD OF WAR, OR WAS A RECIPIENT OF THE ARMED FORCES EXPEDITIONARY MEDAL, NAVY EXPEDITIONARY MEDAL, MARINE CORPS EXPEDITIONARY MEDAL, OR GLOBAL WAR ON TERRORISM EXPEDITIONARY MEDAL, AND WAS DISCHARGED OR RELEASED THEREFROM UNDER OTHER THAN DISHONORABLE DISCHARGE.

7. "CERTIFIED VETERAN-OWNED BUSINESS ENTERPRISE" SHALL MEAN A BUSINESS ENTERPRISE, INCLUDING A SOLE PROPRIETORSHIP, PARTNERSHIP, OR CORPORATION THAT IS:

(A) AT LEAST FIFTY-ONE PERCENT OWNED BY ONE OR MORE VETERANS;

(B) AN ENTERPRISE IN WHICH SUCH VETERAN OWNERSHIP IS REAL, SUBSTANTIAL, AND CONTINUING;

(C) AN ENTERPRISE IN WHICH SUCH VETERAN OWNERSHIP HAS AND EXERCISES THE AUTHORITY TO CONTROL INDEPENDENTLY THE DAY-TO-DAY BUSINESS DECISIONS OF THE ENTERPRISE;

(D) AN ENTERPRISE AUTHORIZED TO DO BUSINESS IN THIS STATE AND INDEPENDENTLY OWNED AND OPERATED;

(E) AN ENTERPRISE OWNED BY AN INDIVIDUAL OR INDIVIDUALS, WHOSE OWNERSHIP, CONTROL AND OPERATION WERE RELIED UPON FOR CERTIFICATION, WITH A PERSONAL NET WORTH THAT DOES NOT EXCEED THREE MILLION FIVE HUNDRED THOUSAND DOLLARS, AS ADJUSTED ANNUALLY ON THE FIRST OF JANUARY FOR INFLATION ACCORDING TO THE CONSUMER PRICE INDEX OF THE PREVIOUS YEAR;

(F) AN ENTERPRISE THAT IS A SMALL BUSINESS PURSUANT TO SUBDIVISION FIVE OF THIS SECTION; AND

(G) CERTIFIED PURSUANT TO SUBDIVISION THREE OF SECTION THREE HUNDRED SIXTY-NINE-B OF THIS ARTICLE.

S 369-A. OPPORTUNITIES FOR CERTIFIED SERVICE-CONNECTED DISABLED VETERAN-OWNED BUSINESS ENTERPRISES. 1. CONTRACT PREFERENCES. EACH AGENCY SHALL PROVIDE THE OPPORTUNITY FOR CERTIFIED SERVICE-CONNECTED DISABLED VETERAN-OWNED BUSINESS ENTERPRISES TO MAXIMIZE THEIR PARTICIPATION IN THE PERFORMANCE OF STATE CONTRACTS. A BID BY A SERVICE-CONNECTED DISABLED VETERAN-OWNED BUSINESS ENTERPRISE SHALL BE TREATED AS THE LOWEST BID IN A COMPETITIVE PROCESS FOR A COMMODITY IF IT COST NO MORE THAN FIFTEEN PERCENT HIGHER THAN THE LOWEST BID AND FOR SERVICES, IF THE COST COMPONENT IS NO MORE THAN FIFTEEN PERCENT HIGHER THAN THE COST COMPONENT OF THE HIGHEST SCORING BID, THESE COMPONENTS SHALL BE TREATED AS EQUAL FOR PURPOSES OF COMPETITIVE SCORING.

2. DUTIES OF AGENCIES. IN ORDER TO IMPLEMENT THE PROVISIONS AND POLICY ESTABLISHED IN SUBDIVISION ONE OF THIS SECTION, AGENCIES SHALL:

(A) DEVELOP A STRATEGY TO IMPLEMENT THE PROVISIONS AND POLICY ESTABLISHED IN SUBDIVISION ONE OF THIS SECTION; AND SHALL PUBLICLY PUBLISH SUCH STRATEGY;

(B) MAKE THE AGENCY'S STRATEGY PUBLICLY AVAILABLE, POST SUCH STRATEGY UPON THE WEBSITE OF SUCH AGENCY, AND REPORT ANNUALLY TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE ASSEMBLY, ON THE IMPLEMENTATION OF THE AGENCY'S STRATEGY;

(C) DESIGNATE A SENIOR-LEVEL OFFICIAL WITHIN SUCH AGENCY WHO SHALL BE RESPONSIBLE FOR DEVELOPING AND IMPLEMENTING THE AGENCY'S STRATEGY; AND

(D) INCLUDE IN THE AGENCY'S STRATEGY PLANS FOR:

(I) ENCOURAGING AND FACILITATING PARTICIPATION BY CERTIFIED SERVICE-CONNECTED DISABLED VETERAN-OWNED BUSINESS ENTERPRISES IN COMPETITIONS FOR AWARD OF AGENCY CONTRACTS;

(II) ENCOURAGING AGENCY CONTRACTORS TO SUBCONTRACT WITH CERTIFIED SERVICE-CONNECTED DISABLED VETERAN-OWNED BUSINESS ENTERPRISES AND ACTIVELY MONITORING AND EVALUATING AGENCY CONTRACTOR'S EFFORTS TO DO SO;

(III) TRAINING AGENCY PERSONNEL ON APPLICABLE LAW AND POLICIES RELATING TO PARTICIPATION OF CERTIFIED SERVICE-CONNECTED DISABLED VETERAN-OWNED BUSINESS ENTERPRISES IN STATE CONTRACTING; AND

(IV) DISSEMINATING INFORMATION TO CERTIFIED SERVICE-CONNECTED DISABLED VETERAN-OWNED BUSINESS ENTERPRISES THAT WOULD ASSIST THESE BUSINESSES IN PARTICIPATING IN AWARDS OF AGENCY CONTRACTS.

3. CERTIFICATION. (A) THE DEPUTY COMMISSIONER RESPONSIBLE FOR HEADING THE DIVISION FOR SMALL BUSINESS WITHIN THE DEPARTMENT OF ECONOMIC DEVELOPMENT, AS ESTABLISHED PURSUANT TO SECTION ONE HUNDRED THIRTY-TWO OF THE ECONOMIC DEVELOPMENT LAW SHALL PROMULGATE RULES AND REGULATIONS PROVIDING FOR THE ESTABLISHMENT OF A STATEWIDE CERTIFICATION PROGRAM INCLUDING RULES AND REGULATIONS GOVERNING THE APPROVAL, DENIAL, OR REVOCATION OF ANY SUCH CERTIFICATION. SUCH RULES AND REGULATIONS SHALL INCLUDE, BUT NOT BE LIMITED TO, SUCH MATTERS AS MAY BE REQUIRED TO ENSURE THAT THE ESTABLISHED PROCEDURES THEREUNDER SHALL AT LEAST BE IN COMPLIANCE WITH THE CODE OF FAIR PROCEDURE SET FORTH IN SECTION SEVENTY-THREE OF THE CIVIL RIGHTS LAW.

(B) THE DIVISION FOR SMALL BUSINESS SHALL BE RESPONSIBLE FOR VERIFYING BUSINESSES AS BEING OWNED, OPERATED, AND CONTROLLED BY A SERVICE-CONNECTED DISABLED VETERAN AND FOR CERTIFYING SUCH VERIFIED BUSINESSES. STATUS AS A SERVICE-CONNECTED DISABLED VETERAN SHALL BE DOCUMENTED BY A COPY OF THE VETERAN'S CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY ALSO KNOWN AS A DD-214 FORM OR AN HONORABLE SERVICE CERTIFICATE REPORT OF CAUSALITY FROM THE DEPARTMENT OF DEFENSE, A LETTER OF CERTIFICATION BY THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS OR THE

UNITED STATES DEPARTMENT OF DEFENSE AND ANY ADDITIONAL INFORMATION THAT MAY BE REQUIRED BY THE DIVISION FOR SMALL BUSINESS. THE DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS SHALL PREPARE A DIRECTORY OF CERTIFIED SERVICE-CONNECTED DISABLED VETERAN-OWNED BUSINESS ENTERPRISES FOR USE BY AGENCIES IN CARRYING OUT THE PROVISIONS OF THIS SECTION. SUCH DIRECTORY SHALL BE PUBLICLY POSTED ON THE EMPIRE STATE DEVELOPMENT CORPORATION WEBSITE. THE DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS SHALL PERIODICALLY UPDATE THE DIRECTORY.

(C) FOLLOWING APPLICATION FOR CERTIFICATION PURSUANT TO THIS SECTION, THE DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS SHALL PROVIDE THE APPLICANT WITH WRITTEN NOTICE OF THE STATUS OF THE APPLICATION, INCLUDING NOTICE OF ANY OUTSTANDING DEFICIENCIES, WITHIN THIRTY DAYS. WITHIN SIXTY DAYS OF SUBMISSION OF A FINAL COMPLETED APPLICATION, THE DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS SHALL PROVIDE THE APPLICANT WITH WRITTEN NOTICE OF A DETERMINATION BY THE DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS APPROVING OR DENYING SUCH CERTIFICATION AND, IN THE EVENT OF A DENIAL, A STATEMENT SETTING FORTH THE REASONS FOR SUCH DENIAL. UPON A DETERMINATION DENYING OR REVOKING CERTIFICATION, THE BUSINESS ENTERPRISE FOR WHICH CERTIFICATION HAS BEEN SO DENIED OR REVOKED SHALL, UPON WRITTEN REQUEST MADE WITHIN THIRTY DAYS FROM RECEIPT OF NOTICE OF SUCH DETERMINATION, BE ENTITLED TO A HEARING BEFORE AN INDEPENDENT HEARING OFFICER DESIGNATED FOR SUCH PURPOSE BY THE DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS. IN THE EVENT THAT A REQUEST FOR A HEARING IS NOT MADE WITHIN SUCH THIRTY DAY PERIOD, SUCH DETERMINATION SHALL BE DEEMED TO BE FINAL. THE INDEPENDENT HEARING OFFICER SHALL CONDUCT A HEARING AND UPON THE CONCLUSION OF SUCH HEARING, ISSUE A WRITTEN RECOMMENDATION TO THE DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS TO AFFIRM, REVERSE, OR MODIFY SUCH DETERMINATION OF THE DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS. SUCH WRITTEN RECOMMENDATION SHALL BE ISSUED TO THE PARTIES. THE DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS, WITHIN THIRTY DAYS, BY ORDER, MUST ACCEPT, REJECT OR MODIFY SUCH RECOMMENDATION OF THE HEARING OFFICER AND SET FORTH IN WRITING THE REASON THEREFOR. THE DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS SHALL SERVE A COPY OF SUCH ORDER AND REASONS THEREFOR UPON THE BUSINESS ENTERPRISE BY PERSONAL SERVICE OR BY CERTIFIED MAIL RETURN RECEIPT REQUESTED. THE ORDER OF THE DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS SHALL BE SUBJECT TO REVIEW PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES.

(D) ALL CERTIFICATIONS SHALL BE VALID FOR A PERIOD OF THREE YEARS.

4. DUTIES OF DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS. THE DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS SHALL:

(A) DESIGNATE AN APPROPRIATE ENTITY WITHIN THE DIVISION FOR SMALL BUSINESS THAT SHALL, IN CONSULTATION WITH THE DIVISION OF VETERANS' AFFAIRS, PROVIDE TO CERTIFIED SERVICE-CONNECTED DISABLED VETERAN-OWNED BUSINESS ENTERPRISES INFORMATION AND ASSISTANCE CONCERNING PARTICIPATION IN STATE CONTRACTING;

(B) ADVISE AND ASSIST AGENCIES IN THEIR IMPLEMENTATION OF SUBDIVISION ONE OF THIS SECTION; AND

(C) MAKE AVAILABLE TO CERTIFIED SERVICE-CONNECTED DISABLED VETERAN-OWNED BUSINESS ENTERPRISES TRAINING IN STATE CONTRACTING LAW, PROCEDURES, AND PRACTICES THAT WOULD ASSIST SUCH BUSINESSES IN PARTICIPATING IN STATE CONTRACTING AND MAKE THIS TRAINING AVAILABLE ONLINE THROUGH A CONTINUOUS LEARNING PROGRAM.

S 369-B. OPPORTUNITIES FOR CERTIFIED VETERAN-OWNED BUSINESS ENTERPRISES. 1. CONTRACT PREFERENCES. EACH AGENCY SHALL PROVIDE THE OPPORTU-

NITY FOR CERTIFIED VETERAN-OWNED BUSINESS ENTERPRISES TO MAXIMIZE THEIR PARTICIPATION IN THE PERFORMANCE OF STATE CONTRACTS. A BID BY A VETERAN-OWNED BUSINESS ENTERPRISE SHALL BE TREATED AS THE LOWEST BID IN A COMPETITIVE PROCESS FOR A COMMODITY IF IT COST NO MORE THAN TEN PERCENT HIGHER THAN THE LOWEST BID AND FOR SERVICES, IF THE COST COMPONENT IS NO MORE THAN TEN PERCENT HIGHER THAN THE COST COMPONENT OF THE HIGHEST SCORING BID, THESE COMPONENTS SHALL BE TREATED AS EQUAL FOR PURPOSES OF COMPETITIVE SCORING.

2. DUTIES OF AGENCIES. IN ORDER TO IMPLEMENT THE PROVISIONS AND POLICY ESTABLISHED IN SUBDIVISION ONE OF THIS SECTION, AGENCIES SHALL:

(A) DEVELOP A STRATEGY TO IMPLEMENT THE PROVISIONS AND POLICY ESTABLISHED IN SUBDIVISION ONE OF THIS SECTION; AND SHALL PUBLICLY PUBLISH SUCH STRATEGY;

(B) MAKE THE AGENCY'S STRATEGY PUBLICLY AVAILABLE, HAVE SUCH STRATEGY POSTED UPON THE WEBSITE OF SUCH AGENCY, AND REPORT ANNUALLY TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE ASSEMBLY ON THE IMPLEMENTATION OF THE AGENCY'S STRATEGY;

(C) DESIGNATE A SENIOR-LEVEL OFFICIAL WITHIN SUCH AGENCY WHO SHALL BE RESPONSIBLE FOR DEVELOPING AND IMPLEMENTING THE AGENCY'S STRATEGY; AND

(D) INCLUDE IN THE AGENCY'S STRATEGY PLANS FOR:

(I) ENCOURAGING AND FACILITATING PARTICIPATION BY CERTIFIED VETERAN-OWNED BUSINESS ENTERPRISES IN COMPETITIONS FOR AWARD OF AGENCY CONTRACTS;

(II) ENCOURAGING AGENCY CONTRACTORS TO SUBCONTRACT WITH CERTIFIED VETERAN-OWNED BUSINESS ENTERPRISES AND ACTIVELY MONITORING AND EVALUATING AGENCY CONTRACTOR'S EFFORTS TO DO SO;

(III) TRAINING AGENCY PERSONNEL ON APPLICABLE LAW AND POLICIES RELATING TO PARTICIPATION OF CERTIFIED VETERAN-OWNED BUSINESS ENTERPRISES IN STATE CONTRACTING; AND

(IV) DISSEMINATING INFORMATION TO CERTIFIED VETERAN-OWNED BUSINESS ENTERPRISES THAT WOULD ASSIST THESE BUSINESSES IN PARTICIPATING IN AWARDS OF AGENCY CONTRACTS.

3. CERTIFICATION. (A) THE DEPUTY COMMISSIONER RESPONSIBLE FOR HEADING THE DIVISION FOR SMALL BUSINESS WITHIN THE DEPARTMENT OF ECONOMIC DEVELOPMENT, AS ESTABLISHED PURSUANT TO SECTION ONE HUNDRED THIRTY-TWO OF THE ECONOMIC DEVELOPMENT LAW SHALL PROMULGATE RULES AND REGULATIONS PROVIDING FOR THE ESTABLISHMENT OF A STATEWIDE CERTIFICATION PROGRAM INCLUDING RULES AND REGULATIONS GOVERNING THE APPROVAL, DENIAL, OR REVOCATION OF ANY SUCH CERTIFICATION. SUCH RULES AND REGULATIONS SHALL INCLUDE, BUT NOT BE LIMITED TO, SUCH MATTERS AS MAY BE REQUIRED TO ENSURE THAT THE ESTABLISHED PROCEDURES THEREUNDER SHALL AT LEAST BE IN COMPLIANCE WITH THE CODE OF FAIR PROCEDURE SET FORTH IN SECTION SEVENTY-THREE OF THE CIVIL RIGHTS LAW.

(B) THE DIVISION FOR SMALL BUSINESS SHALL BE RESPONSIBLE FOR VERIFYING BUSINESSES AS BEING OWNED, OPERATED, AND CONTROLLED BY A VETERAN AND FOR CERTIFYING SUCH VERIFIED BUSINESSES. STATUS AS A VETERAN SHALL BE DOCUMENTED BY A COPY OF THE VETERAN'S CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY ALSO KNOWN AS A DD-214 FORM OR AN HONORABLE SERVICE CERTIFICATE REPORT OF CAUSALITY FROM THE DEPARTMENT OF DEFENSE, A LETTER OF CERTIFICATION BY THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS OR THE UNITED STATES DEPARTMENT OF DEFENSE AND ANY ADDITIONAL INFORMATION THAT MAY BE REQUIRED BY THE DIVISION FOR SMALL BUSINESS. THE DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS SHALL PREPARE A DIRECTORY OF CERTIFIED VETERAN-OWNED BUSINESS ENTERPRISES FOR USE BY AGENCIES IN CARRYING OUT THE PROVISIONS OF THIS SECTION. SUCH DIRECTORY SHALL BE PUBLICLY POSTED ON THE EMPIRE STATE DEVELOPMENT CORPORATION WEBSITE. THE

DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS SHALL PERIODICALLY UPDATE THE DIRECTORY.

(C) FOLLOWING APPLICATION FOR CERTIFICATION PURSUANT TO THIS SECTION, THE DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS SHALL PROVIDE THE APPLICANT WITH WRITTEN NOTICE OF THE STATUS OF THE APPLICATION, INCLUDING NOTICE OF ANY OUTSTANDING DEFICIENCIES, WITHIN THIRTY DAYS. WITHIN SIXTY DAYS OF SUBMISSION OF A FINAL COMPLETED APPLICATION, THE DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS SHALL PROVIDE THE APPLICANT WITH WRITTEN NOTICE OF A DETERMINATION BY THE DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS APPROVING OR DENYING SUCH CERTIFICATION AND, IN THE EVENT OF A DENIAL, A STATEMENT SETTING FORTH THE REASONS FOR SUCH DENIAL. UPON A DETERMINATION DENYING OR REVOKING CERTIFICATION, THE BUSINESS ENTERPRISE FOR WHICH CERTIFICATION HAS BEEN SO DENIED OR REVOKED SHALL, UPON WRITTEN REQUEST MADE WITHIN THIRTY DAYS FROM RECEIPT OF NOTICE OF SUCH DETERMINATION, BE ENTITLED TO A HEARING BEFORE AN INDEPENDENT HEARING OFFICER DESIGNATED FOR SUCH PURPOSE BY THE DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS. IN THE EVENT THAT A REQUEST FOR A HEARING IS NOT MADE WITHIN SUCH THIRTY DAY PERIOD, SUCH DETERMINATION SHALL BE DEEMED TO BE FINAL. THE INDEPENDENT HEARING OFFICER SHALL CONDUCT A HEARING AND UPON THE CONCLUSION OF SUCH HEARING, ISSUE A WRITTEN RECOMMENDATION TO THE DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS TO AFFIRM, REVERSE, OR MODIFY SUCH DETERMINATION OF THE DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS. SUCH WRITTEN RECOMMENDATION SHALL BE ISSUED TO THE PARTIES. THE DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS, WITHIN THIRTY DAYS, BY ORDER, MUST ACCEPT, REJECT OR MODIFY SUCH RECOMMENDATION OF THE HEARING OFFICER AND SET FORTH IN WRITING THE REASONS THEREFOR. THE DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS SHALL SERVE A COPY OF SUCH ORDER AND REASONS THEREFOR UPON THE BUSINESS ENTERPRISE BY PERSONAL SERVICE OR BY CERTIFIED MAIL RETURN RECEIPT REQUESTED. THE ORDER OF THE DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS SHALL BE SUBJECT TO REVIEW PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES.

(D) ALL CERTIFICATIONS SHALL BE VALID FOR A PERIOD OF THREE YEARS.

4. DUTIES OF DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS. THE DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS SHALL:

(A) DESIGNATE AN APPROPRIATE ENTITY WITHIN THE DIVISION FOR SMALL BUSINESS THAT SHALL, IN CONSULTATION WITH THE DIVISION OF VETERANS' AFFAIRS, PROVIDE TO VETERAN-OWNED BUSINESS ENTERPRISES INFORMATION AND ASSISTANCE CONCERNING PARTICIPATION IN STATE CONTRACTING;

(B) ADVISE AND ASSIST AGENCIES IN THEIR IMPLEMENTATION OF SUBDIVISION ONE OF THIS SECTION; AND

(C) MAKE AVAILABLE TO VETERAN-OWNED BUSINESS ENTERPRISES TRAINING IN STATE CONTRACTING LAW, PROCEDURES, AND PRACTICES THAT WOULD ASSIST SUCH BUSINESSES IN PARTICIPATING IN STATE CONTRACTING AND MAKE THIS TRAINING AVAILABLE ONLINE THROUGH A CONTINUOUS LEARNING PROGRAM.

S 369-C. SEVERABILITY. IF ANY CLAUSE, SENTENCE, PARAGRAPH, SECTION OR PART OF THIS ARTICLE SHALL BE ADJUDGED BY ANY COURT OF COMPETENT JURISDICTION TO BE INVALID, THE JUDGMENT SHALL NOT AFFECT, IMPAIR OR INVALIDATE THE REMAINDER THEREOF, BUT SHALL BE CONFINED IN ITS OPERATION TO THE CLAUSE, SENTENCE, PARAGRAPH, SECTION OR PART OF THIS ARTICLE DIRECTLY INVOLVED IN THE CONTROVERSY IN WHICH THE JUDGMENT SHALL HAVE BEEN RENDERED.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.