

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

10388--A

I N A S S E M B L Y

May 24, 2012

Introduced by M. of A. RAMOS, ENGLEBRIGHT, ORTIZ, McENENY, LAVINE --
Multi-Sponsored by -- M. of A. NOLAN -- read once and referred to the
Committee on Governmental Operations -- reported and referred to the
Committee on Codes -- committee discharged, bill amended, ordered
reprinted as amended and recommitted to said committee

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 ASSEM-
BLY, 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 ENTER-
PRISES.

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 TWEN-
TY-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
THE END OF SUCH CONFLICT INCLUDING MILITARY SERVICE IN OPERATION ENDUR-
ING 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.

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

LBD15990-06-2

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

6 4. "CERTIFIED SERVICE-CONNECTED DISABLED VETERAN-OWNED BUSINESS ENTER-
7 PRISE" SHALL MEAN A BUSINESS ENTERPRISE, INCLUDING A SOLE PROPRIETOR-
8 SHIP, PARTNERSHIP, OR CORPORATION THAT IS:

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

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

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

16 (D) AN ENTERPRISE AUTHORIZED TO DO BUSINESS IN THIS STATE AND IS INDE-
17 PENDENTLY OWNED AND OPERATED;

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

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

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

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

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

35 7. "CERTIFIED VETERAN-OWNED BUSINESS ENTERPRISES" SHALL MEAN A BUSI-
36 NESS ENTERPRISE, INCLUDING A SOLE PROPRIETORSHIP, PARTNERSHIP, OR CORPO-
37 RATION THAT IS:

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

39 (B) AN ENTERPRISE IN WHICH SUCH VETERAN OWNERSHIP IS REAL, SUBSTAN-
40 TIAL, AND CONTINUING;

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

44 (D) AN ENTERPRISE AUTHORIZED TO DO BUSINESS IN THIS STATE AND INDE-
45 PENDENTLY OWNED AND OPERATED;

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

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

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

55 S 369-A. OPPORTUNITIES FOR CERTIFIED SERVICE-CONNECTED DISABLED VETER-
56 AN-OWNED BUSINESS ENTERPRISES.

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

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

13 (A) DEVELOP A STRATEGY TO IMPLEMENT THE PROVISIONS AND POLICY ESTAB-
14 LISHED IN SUBDIVISION ONE OF THIS SECTION; AND SHALL PUBLICLY PUBLISH
15 SUCH STRATEGY;

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

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

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

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

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

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

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

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

46 (B) THE DIVISION FOR SMALL BUSINESS SHALL BE RESPONSIBLE FOR VERIFYING
47 BUSINESSES AS BEING OWNED, OPERATED, AND CONTROLLED BY A SERVICE-CON-
48 NECTED DISABLED VETERAN AND FOR CERTIFYING SUCH VERIFIED BUSINESSES.
49 STATUS AS A SERVICE-CONNECTED DISABLED VETERAN SHALL BE DOCUMENTED BY A
50 COPY OF THE VETERAN'S CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE
51 DUTY ALSO KNOWN AS A DD-214 FORM OR AN HONORABLE SERVICE CERTIFICATE
52 REPORT OF CAUSALITY FROM THE DEPARTMENT OF DEFENSE, A LETTER OF CERTIF-
53 ICATION BY THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS OR THE
54 UNITED STATES DEPARTMENT OF DEFENSE AND ANY ADDITIONAL INFORMATION THAT
55 MAY BE REQUIRED BY THE DIVISION FOR SMALL BUSINESS. THE DEPUTY COMMIS-
56 SIONER OF THE DIVISION FOR SMALL BUSINESS SHALL PREPARE A DIRECTORY OF

1 CERTIFIED SERVICE-CONNECTED DISABLED VETERAN-OWNED BUSINESS ENTERPRISES
2 FOR USE BY AGENCIES IN CARRYING OUT THE PROVISIONS OF THIS SECTION. SUCH
3 DIRECTORY SHALL BE PUBLICLY POSTED ON THE EMPIRE STATE DEVELOPMENT
4 CORPORATION WEBSITE. THE DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL
5 BUSINESS SHALL PERIODICALLY UPDATE THE DIRECTORY.

6 (C) FOLLOWING APPLICATION FOR CERTIFICATION PURSUANT TO THIS SECTION,
7 THE DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS SHALL PROVIDE
8 THE APPLICANT WITH WRITTEN NOTICE OF THE STATUS OF THE APPLICATION,
9 INCLUDING NOTICE OF ANY OUTSTANDING DEFICIENCIES, WITHIN THIRTY DAYS.
10 WITHIN SIXTY DAYS OF SUBMISSION OF A FINAL COMPLETED APPLICATION, THE
11 DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS SHALL PROVIDE THE
12 APPLICANT WITH WRITTEN NOTICE OF A DETERMINATION BY THE DEPUTY COMMIS-
13 SIONER OF THE DIVISION FOR SMALL BUSINESS APPROVING OR DENYING SUCH
14 CERTIFICATION AND, IN THE EVENT OF A DENIAL, A STATEMENT SETTING FORTH
15 THE REASONS FOR SUCH DENIAL. UPON A DETERMINATION DENYING OR REVOKING
16 CERTIFICATION, THE BUSINESS ENTERPRISE FOR WHICH CERTIFICATION HAS BEEN
17 SO DENIED OR REVOKED SHALL, UPON WRITTEN REQUEST MADE WITHIN THIRTY DAYS
18 FROM RECEIPT OF NOTICE OF SUCH DETERMINATION, BE ENTITLED TO A HEARING
19 BEFORE AN INDEPENDENT HEARING OFFICER DESIGNATED FOR SUCH PURPOSE BY THE
20 DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS. IN THE EVENT
21 THAT A REQUEST FOR A HEARING IS NOT MADE WITHIN SUCH THIRTY DAY PERIOD,
22 SUCH DETERMINATION SHALL BE DEEMED TO BE FINAL. THE INDEPENDENT HEARING
23 OFFICER SHALL CONDUCT A HEARING AND UPON THE CONCLUSION OF SUCH HEARING,
24 ISSUE A WRITTEN RECOMMENDATION TO THE DEPUTY COMMISSIONER OF THE DIVI-
25 SION FOR SMALL BUSINESS TO AFFIRM, REVERSE, OR MODIFY SUCH DETERMINATION
26 OF THE DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS. SUCH
27 WRITTEN RECOMMENDATION SHALL BE ISSUED TO THE PARTIES. THE DEPUTY
28 COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS, WITHIN THIRTY DAYS, BY
29 ORDER, MUST ACCEPT, REJECT OR MODIFY SUCH RECOMMENDATION OF THE HEARING
30 OFFICER AND SET FORTH IN WRITING THE REASON THEREFOR. THE DEPUTY COMMIS-
31 SIONER OF THE DIVISION FOR SMALL BUSINESS SHALL SERVE A COPY OF SUCH
32 ORDER AND REASONS THEREFOR UPON THE BUSINESS ENTERPRISE BY PERSONAL
33 SERVICE OR BY CERTIFIED MAIL RETURN RECEIPT REQUESTED. THE ORDER OF THE
34 DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS SHALL BE SUBJECT
35 TO REVIEW PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW
36 AND RULES.

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

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

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

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

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

52 S 369-B. OPPORTUNITIES FOR CERTIFIED VETERAN-OWNED BUSINESS ENTER-
53 PRISES. 1. CONTRACT PREFERENCES. EACH AGENCY SHALL PROVIDE THE OPPORTU-
54 NITY FOR CERTIFIED VETERAN-OWNED BUSINESS ENTERPRISES TO MAXIMIZE THEIR
55 PARTICIPATION IN THE PERFORMANCE OF STATE CONTRACTS. A BID BY A VETER-
56 AN-OWNED BUSINESS ENTERPRISE SHALL BE TREATED AS THE LOWEST BID IN A

1 COMPETITIVE PROCESS FOR A COMMODITY IF IT COST NO MORE THAN TEN PERCENT
2 HIGHER THAN THE LOWEST BID AND FOR SERVICES, IF THE COST COMPONENT IS NO
3 MORE THAN TEN PERCENT HIGHER THAN THE COST COMPONENT OF THE HIGHEST
4 SCORING BID, THESE COMPONENTS SHALL BE TREATED AS EQUAL FOR PURPOSES OF
5 COMPETITIVE SCORING.

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

8 (A) DEVELOP A STRATEGY TO IMPLEMENT THE PROVISIONS AND POLICY ESTAB-
9 LISHED IN SUBDIVISION ONE OF THIS SECTION; AND SHALL PUBLICLY PUBLISH
10 SUCH STRATEGY;

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

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

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

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

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

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

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

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

41 (B) THE DIVISION FOR SMALL BUSINESS SHALL BE RESPONSIBLE FOR VERIFYING
42 BUSINESSES AS BEING OWNED, OPERATED, AND CONTROLLED BY A VETERAN AND FOR
43 CERTIFYING SUCH VERIFIED BUSINESSES. STATUS AS A VETERAN SHALL BE DOCU-
44 MENTED BY A COPY OF THE VETERAN'S CERTIFICATE OF RELEASE OR DISCHARGE
45 FROM ACTIVE DUTY ALSO KNOWN AS A DD-214 FORM OR AN HONORABLE SERVICE
46 CERTIFICATE REPORT OF CAUSALITY FROM THE DEPARTMENT OF DEFENSE, A LETTER
47 OF CERTIFICATION BY THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS OR
48 THE UNITED STATES DEPARTMENT OF DEFENSE AND ANY ADDITIONAL INFORMATION
49 THAT MAY BE REQUIRED BY THE DIVISION FOR SMALL BUSINESS. THE DEPUTY
50 COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS SHALL PREPARE A DIRECTO-
51 RY OF CERTIFIED VETERAN-OWNED BUSINESS ENTERPRISES FOR USE BY AGENCIES
52 IN CARRYING OUT THE PROVISIONS OF THIS SECTION. SUCH DIRECTORY SHALL BE
53 PUBLICLY POSTED ON THE EMPIRE STATE DEVELOPMENT CORPORATION WEBSITE. THE
54 DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS SHALL PERIOD-
55 ICALLY UPDATE THE DIRECTORY.

1 (C) FOLLOWING APPLICATION FOR CERTIFICATION PURSUANT TO THIS SECTION,
2 THE DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS SHALL PROVIDE
3 THE APPLICANT WITH WRITTEN NOTICE OF THE STATUS OF THE APPLICATION,
4 INCLUDING NOTICE OF ANY OUTSTANDING DEFICIENCIES, WITHIN THIRTY DAYS.
5 WITHIN SIXTY DAYS OF SUBMISSION OF A FINAL COMPLETED APPLICATION, THE
6 DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS SHALL PROVIDE THE
7 APPLICANT WITH WRITTEN NOTICE OF A DETERMINATION BY THE DEPUTY COMMIS-
8 SIONER OF THE DIVISION FOR SMALL BUSINESS APPROVING OR DENYING SUCH
9 CERTIFICATION AND, IN THE EVENT OF A DENIAL, A STATEMENT SETTING FORTH
10 THE REASONS FOR SUCH DENIAL. UPON A DETERMINATION DENYING OR REVOKING
11 CERTIFICATION, THE BUSINESS ENTERPRISE FOR WHICH CERTIFICATION HAS BEEN
12 SO DENIED OR REVOKED SHALL, UPON WRITTEN REQUEST MADE WITHIN THIRTY DAYS
13 FROM RECEIPT OF NOTICE OF SUCH DETERMINATION, BE ENTITLED TO A HEARING
14 BEFORE AN INDEPENDENT HEARING OFFICER DESIGNATED FOR SUCH PURPOSE BY THE
15 DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS. IN THE EVENT
16 THAT A REQUEST FOR A HEARING IS NOT MADE WITHIN SUCH THIRTY DAY PERIOD,
17 SUCH DETERMINATION SHALL BE DEEMED TO BE FINAL. THE INDEPENDENT HEARING
18 OFFICER SHALL CONDUCT A HEARING AND UPON THE CONCLUSION OF SUCH HEARING,
19 ISSUE A WRITTEN RECOMMENDATION TO THE DEPUTY COMMISSIONER OF THE DIVI-
20 SION FOR SMALL BUSINESS TO AFFIRM, REVERSE, OR MODIFY SUCH DETERMINATION
21 OF THE DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS. SUCH
22 WRITTEN RECOMMENDATION SHALL BE ISSUED TO THE PARTIES. THE DEPUTY
23 COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS, WITHIN THIRTY DAYS, BY
24 ORDER, MUST ACCEPT, REJECT OR MODIFY SUCH RECOMMENDATION OF THE HEARING
25 OFFICER AND SET FORTH IN WRITING THE REASONS THEREFOR. THE DEPUTY
26 COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS SHALL SERVE A COPY OF
27 SUCH ORDER AND REASONS THEREFOR UPON THE BUSINESS ENTERPRISE BY PERSONAL
28 SERVICE OR BY CERTIFIED MAIL RETURN RECEIPT REQUESTED. THE ORDER OF THE
29 DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS SHALL BE SUBJECT
30 TO REVIEW PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW
31 AND RULES.

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

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

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

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

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

45 S 369-C. SEVERABILITY. IF ANY CLAUSE, SENTENCE, PARAGRAPH, SECTION OR
46 PART OF THIS ARTICLE SHALL BE ADJUDGED BY ANY COURT OF COMPETENT JURIS-
47 DICTION TO BE INVALID, THE JUDGMENT SHALL NOT AFFECT, IMPAIR OR INVALI-
48 DATE THE REMAINDER THEREOF, BUT SHALL BE CONFINED IN ITS OPERATION TO
49 THE CLAUSE, SENTENCE, PARAGRAPH, SECTION OR PART OF THIS ARTICLE DIRECT-
50 LY INVOLVED IN THE CONTROVERSY IN WHICH THE JUDGMENT SHALL HAVE BEEN
51 RENDERED.

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