

S. 6865

A. 9135

S E N A T E - A S S E M B L Y

March 20, 2014

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IN SENATE -- Introduced by Sen. BALL -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

IN ASSEMBLY -- Introduced by M. of A. ORTIZ, BENEDETTO, ENGLEBRIGHT, SILVER, RUSSELL, MORELLE, HOOPER, NOLAN, SWEENEY, CUSICK, LUPARDO, SCHIMEL, DenDEKKER, MILLER, BRINDISI, RYAN, BARRETT, SANTABARBARA, ABBATE, ABINANTI, BRONSON, CLARK, CRESPO, DINOWITZ, FAHY, GUNTHER, HENNESSEY, MAGNARELLI, MARKEY, MCDONALD, ROBERTS, SCARBOROUGH, SCHIMMINGER, SIMANOWITZ, SKARTADOS, SKOUFIS, STECK, STIRPE, WEISENBERG, ZEBROWSKI, O'DONNELL, THIELE, ARROYO -- Multi-Sponsored by M. of A. -- FARRELL, MOSLEY -- (at the request of the Governor) -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to expanding opportunities for service-disabled veteran-owned business enterprises; and providing for the repeal of certain provisions upon expiration thereof

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

1     Section 1. Legislative findings. New York state (the "state") is home  
2     to more than 900,000 veterans, seventy-two percent of whom have served  
3     during periods of conflict. Additionally, the state is home to approxi-  
4     mately 30,000 active duty military personnel as well as 30,000 national  
5     guard and reserve personnel. In honor of their service to and sacrifice  
6     for our nation, New York state declares that it is the public policy of  
7     the state to promote and encourage the continuing economic development  
8     of service-disabled veteran-owned businesses. In the furtherance of  
9     this policy, the state aims to assist service-disabled veterans in play-  
10    ing a greater role in the economy of the state and to provide additional  
11    assistance and support to disabled veterans to better equip them to form  
12    and expand small businesses, thereby enabling them to realize the Ameri-  
13    can dream they fought to protect. To achieve this objective without  
14    disrupting the procurement practice and priorities already in law, the  
15    legislature finds that it is in the best interest of the economic devel-

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

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opment of the state to enact the "Service-Disabled Veteran-Owned Business Act".

S 1-a. Short title. This act shall be known and may be cited as the "Service-Disabled Veteran-Owned Business Act".

S 2. The executive law is amended by adding a new article 17-B to read as follows:

#### ARTICLE 17-B

#### PARTICIPATION BY SERVICE-DISABLED VETERANS WITH RESPECT TO STATE CONTRACTS

#### SECTION 369-H. DEFINITIONS.

#### 369-I. DIVISION OF SERVICE-DISABLED VETERANS' BUSINESS DEVELOPMENT.

#### 369-J. OPPORTUNITIES FOR CERTIFIED SERVICE-DISABLED VETERAN-OWNED BUSINESS ENTERPRISES.

#### 369-K. SEVERABILITY.

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

1. "CERTIFIED SERVICE-DISABLED VETERAN-OWNED BUSINESS ENTERPRISE" SHALL MEAN A BUSINESS ENTERPRISE, INCLUDING A SOLE PROPRIETORSHIP, PARTNERSHIP, LIMITED LIABILITY COMPANY OR CORPORATION THAT IS:

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

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

(C) AN ENTERPRISE IN WHICH SUCH SERVICE-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 THAT IS A SMALL BUSINESS WHICH HAS A SIGNIFICANT BUSINESS PRESENCE IN THE STATE, NOT DOMINANT IN ITS FIELD AND EMPLOYS, BASED ON ITS INDUSTRY, A CERTAIN NUMBER OF PERSONS AS DETERMINED BY THE DIRECTOR, BUT NOT TO EXCEED THREE HUNDRED, TAKING INTO CONSIDERATION FACTORS WHICH INCLUDE, BUT ARE NOT LIMITED TO, FEDERAL SMALL BUSINESS ADMINISTRATION STANDARDS PURSUANT TO 13 CFR PART 121 AND ANY AMENDMENTS THERETO; AND

(F) CERTIFIED BY THE OFFICE OF GENERAL SERVICES.

2. "COMMISSIONER" SHALL MEAN THE COMMISSIONER OF THE OFFICE OF GENERAL SERVICES.

3. "DIRECTOR" SHALL MEAN THE DIRECTOR OF THE DIVISION OF SERVICE-DISABLED VETERANS' BUSINESS DEVELOPMENT.

4. "DIVISION" SHALL MEAN THE DIVISION OF SERVICE-DISABLED VETERANS' BUSINESS DEVELOPMENT IN THE OFFICE OF GENERAL SERVICES.

5. "SERVICE-DISABLED VETERAN" SHALL MEAN (A) IN THE CASE OF THE UNITED STATES ARMY, NAVY, AIR FORCE, MARINES, COAST GUARD, ARMY NATIONAL GUARD OR AIR NATIONAL GUARD AND/OR RESERVES THEREOF, A VETERAN WHO RECEIVED A COMPENSATION RATING OF TEN PERCENT OR GREATER 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, AND (B) IN THE CASE OF THE NEW YORK GUARD OR THE NEW YORK NAVAL MILITIA AND/OR RESERVES THEREOF, A VETERAN WHO CERTIFIES, PURSUANT TO THE RULES AND REGULATIONS PROMULGATED BY THE DIRECTOR, TO HAVING INCURRED AN INJURY EQUIVALENT TO A COMPENSATION RATING OF TEN PERCENT OR GREATER 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.

1 6. "STATE AGENCY" SHALL MEAN: (A)(I) ANY STATE DEPARTMENT; OR (II) ANY  
2 DIVISION, BOARD, COMMISSION OR BUREAU OF ANY STATE DEPARTMENT; OR (III)  
3 THE STATE UNIVERSITY OF NEW YORK AND THE CITY UNIVERSITY OF NEW YORK,  
4 INCLUDING ALL THEIR CONSTITUENT UNITS EXCEPT COMMUNITY COLLEGES AND THE  
5 INDEPENDENT INSTITUTIONS OPERATING STATUTORY OR CONTRACT COLLEGES ON  
6 BEHALF OF THE STATE; OR (IV) A BOARD, A MAJORITY OF WHOSE MEMBERS ARE  
7 APPOINTED BY THE GOVERNOR OR WHO SERVE BY VIRTUE OF BEING STATE OFFICERS  
8 OR EMPLOYEES AS DEFINED IN SUBPARAGRAPH (I), (II) OR (III) OF PARAGRAPH  
9 (I) OF SUBDIVISION ONE OF SECTION SEVENTY-THREE OF THE PUBLIC OFFICERS  
10 LAW.

11 (B) A "STATE AUTHORITY," AS DEFINED IN SUBDIVISION ONE OF SECTION TWO  
12 OF THE PUBLIC AUTHORITIES LAW, AND THE FOLLOWING:

13 ALBANY COUNTY AIRPORT AUTHORITY;  
14 ALBANY PORT DISTRICT COMMISSION;  
15 ALFRED, ALMOND, HORNELLSVILLE SEWER AUTHORITY;  
16 BATTERY PARK CITY AUTHORITY;  
17 CAYUGA COUNTY WATER AND SEWER AUTHORITY;  
18 (NELSON A. ROCKEFELLER) EMPIRE STATE PLAZA PERFORMING ARTS CENTER  
19 CORPORATION;  
20 INDUSTRIAL EXHIBIT AUTHORITY;  
21 LIVINGSTON COUNTY WATER AND SEWER AUTHORITY;  
22 LONG ISLAND POWER AUTHORITY;  
23 LONG ISLAND RAIL ROAD;  
24 LONG ISLAND MARKET AUTHORITY;  
25 MANHATTAN AND BRONX SURFACE TRANSIT OPERATING AUTHORITY;  
26 METRO-NORTH COMMUTER RAILROAD;  
27 METROPOLITAN SUBURBAN BUS AUTHORITY;  
28 METROPOLITAN TRANSPORTATION AUTHORITY;  
29 NATURAL HERITAGE TRUST;  
30 NEW YORK CITY TRANSIT AUTHORITY;  
31 NEW YORK CONVENTION CENTER OPERATING CORPORATION;  
32 NEW YORK STATE BRIDGE AUTHORITY;  
33 NEW YORK STATE OLYMPIC REGIONAL DEVELOPMENT AUTHORITY;  
34 NEW YORK STATE THRUWAY AUTHORITY;  
35 NIAGARA FALLS PUBLIC WATER AUTHORITY;  
36 NIAGARA FALLS WATER BOARD;  
37 PORT OF OSWEGO AUTHORITY;  
38 POWER AUTHORITY OF THE STATE OF NEW YORK;  
39 ROOSEVELT ISLAND OPERATING CORPORATION;  
40 SCHENECTADY METROPLEX DEVELOPMENT AUTHORITY;  
41 STATE INSURANCE FUND;  
42 STATEN ISLAND RAPID TRANSIT OPERATING AUTHORITY;  
43 STATE UNIVERSITY CONSTRUCTION FUND;  
44 SYRACUSE REGIONAL AIRPORT AUTHORITY;  
45 TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY;  
46 UPPER MOHAWK VALLEY REGIONAL WATER BOARD;  
47 UPPER MOHAWK VALLEY REGIONAL WATER FINANCE AUTHORITY;  
48 UPPER MOHAWK VALLEY MEMORIAL AUDITORIUM AUTHORITY;  
49 URBAN DEVELOPMENT CORPORATION AND ITS SUBSIDIARY CORPORATIONS.

50 (C) THE FOLLOWING ONLY TO THE EXTENT OF STATE CONTRACTS ENTERED INTO  
51 FOR ITS OWN ACCOUNT OR FOR THE BENEFIT OF A STATE AGENCY AS DEFINED IN  
52 PARAGRAPH (A) OR (B) OF THIS SUBDIVISION:

53 DORMITORY AUTHORITY OF THE STATE OF NEW YORK;  
54 FACILITIES DEVELOPMENT CORPORATION;  
55 NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY;  
56 NEW YORK STATE SCIENCE AND TECHNOLOGY FOUNDATION.

1 (D) "STATE CONTRACT" SHALL MEAN: (I) A WRITTEN AGREEMENT OR PURCHASE  
2 ORDER INSTRUMENT, PROVIDING FOR A TOTAL EXPENDITURE IN EXCESS OF TWEN-  
3 TY-FIVE THOUSAND DOLLARS, WHEREBY A CONTRACTING AGENCY IS COMMITTED TO  
4 EXPEND OR DOES EXPEND FUNDS IN RETURN FOR LABOR, SERVICES INCLUDING BUT  
5 NOT LIMITED TO LEGAL, FINANCIAL AND OTHER PROFESSIONAL SERVICES,  
6 SUPPLIES, EQUIPMENT, MATERIALS OR ANY COMBINATION OF THE FOREGOING, TO  
7 BE PERFORMED FOR, OR RENDERED OR FURNISHED TO THE CONTRACTING AGENCY;  
8 (II) A WRITTEN AGREEMENT IN EXCESS OF ONE HUNDRED THOUSAND DOLLARS  
9 WHEREBY A CONTRACTING AGENCY IS COMMITTED TO EXPEND OR DOES EXPEND FUNDS  
10 FOR THE ACQUISITION, CONSTRUCTION, DEMOLITION, REPLACEMENT, MAJOR REPAIR  
11 OR RENOVATION OF REAL PROPERTY AND IMPROVEMENTS THEREON; AND (III) A  
12 WRITTEN AGREEMENT IN EXCESS OF ONE HUNDRED THOUSAND DOLLARS WHEREBY THE  
13 OWNER OF A STATE ASSISTED HOUSING PROJECT IS COMMITTED TO EXPEND OR DOES  
14 EXPEND FUNDS FOR THE ACQUISITION, CONSTRUCTION, DEMOLITION, REPLACEMENT,  
15 MAJOR REPAIR OR RENOVATION OF REAL PROPERTY AND IMPROVEMENTS THEREON FOR  
16 SUCH PROJECT.

17 7. "VETERAN" SHALL MEAN A PERSON WHO SERVED IN AND WHO HAS RECEIVED AN  
18 HONORABLE OR GENERAL DISCHARGE FROM, THE UNITED STATES ARMY, NAVY, AIR  
19 FORCE, MARINES, COAST GUARD, AND/OR RESERVES THEREOF, AND/OR IN THE ARMY  
20 NATIONAL GUARD, AIR NATIONAL GUARD, NEW YORK GUARD AND/OR THE NEW YORK  
21 NAVAL MILITIA.

22 S 369-I. DIVISION OF SERVICE-DISABLED VETERANS' BUSINESS DEVELOPMENT.  
23 1. THE HEAD OF THE DIVISION OF SERVICE-DISABLED VETERANS' BUSINESS  
24 DEVELOPMENT SHALL BE THE DIRECTOR WHO SHALL BE APPOINTED BY THE GOVERNOR  
25 AND WHO SHALL HOLD OFFICE AT THE PLEASURE OF THE COMMISSIONER.

26 2. THE DIRECTOR MAY APPOINT SUCH DEPUTIES, ASSISTANTS, AND OTHER  
27 EMPLOYEES AS MAY BE NEEDED FOR THE PERFORMANCE OF THE DUTIES PRESCRIBED  
28 HEREIN SUBJECT TO THE PROVISIONS OF THE CIVIL SERVICE LAW AND THE RULES  
29 AND REGULATIONS OF THE CIVIL SERVICE COMMISSION. THE DIRECTOR MAY  
30 REQUEST AND SHALL RECEIVE FROM ANY (I) DEPARTMENT, DIVISION, BOARD,  
31 BUREAU, OR EXECUTIVE COMMISSION OF THE STATE OR (II) STATE AGENCY, SUCH  
32 ASSISTANCE AS MAY BE NECESSARY TO CARRY OUT THE PROVISIONS OF THIS ARTI-  
33 CLE.

34 3. THE DIRECTOR SHALL HAVE THE FOLLOWING POWERS AND DUTIES:

35 (A) DEVELOP, COLLECT, SUMMARIZE AND DISSEMINATE INFORMATION THAT WILL  
36 BE HELPFUL TO PERSONS AND ORGANIZATIONS THROUGHOUT THE STATE IN UNDER-  
37 TAKING OR PROMOTING THE ESTABLISHMENT AND SUCCESSFUL OPERATION OF A  
38 SERVICE-DISABLED VETERAN-OWNED BUSINESS.

39 (B) DEVELOP AND MAKE AVAILABLE TO STATE AGENCIES A DIRECTORY OF CERTI-  
40 FIED SERVICE-DISABLED VETERAN-OWNED BUSINESS ENTERPRISES WHICH SHALL,  
41 WHEREVER PRACTICABLE, BE DIVIDED INTO CATEGORIES OF LABOR, SERVICES,  
42 SUPPLIES, EQUIPMENT, MATERIALS AND RECOGNIZED CONSTRUCTION TRADES AND  
43 WHICH SHALL INDICATE AREAS OR LOCATIONS OF THE STATE WHERE SUCH ENTER-  
44 PRISES ARE AVAILABLE TO PERFORM SERVICES. SUCH DIRECTORY SHALL BE POSTED  
45 ON THE OFFICE OF GENERAL SERVICES WEBSITE.

46 (C) ASSIST STATE AGENCIES IN THE DEVELOPMENT OF PROGRAMS TO FOSTER AND  
47 PROMOTE THE USE OF SERVICE-DISABLED VETERAN-OWNED BUSINESS ENTERPRISES  
48 ON STATE CONTRACTS.

49 (D) COORDINATE THE PLANS, PROGRAMS AND OPERATIONS OF THE STATE GOVERN-  
50 MENT WHICH AFFECT OR MAY CONTRIBUTE TO THE ESTABLISHMENT, PRESERVATION  
51 AND DEVELOPMENT OF SERVICE-DISABLED VETERAN-OWNED BUSINESS ENTERPRISES.

52 (E) TO APPOINT INDEPENDENT HEARING OFFICERS WHO BY CONTRACT OR TERMS  
53 OF EMPLOYMENT SHALL PRESIDE OVER ADJUDICATORY HEARINGS PURSUANT TO THIS  
54 SECTION FOR THE OFFICE AND WHO ARE ASSIGNED NO OTHER WORK BY THE OFFICE.

55 (F) IN CONJUNCTION WITH THE COMMISSIONER, DEVELOP A COMPREHENSIVE  
56 STATEWIDE PLAN AND OPERATIONAL GUIDELINES TO PROMOTE SERVICE-DISABLED

VETERAN-OWNED BUSINESS ENTERPRISES AND TO ASSIST THEM IN OBTAINING OPPORTUNITIES TO PARTICIPATE IN THE PROCUREMENT OF GOODS AND SERVICES BY THE STATE, INCLUDING IDENTIFICATION OF BARRIERS TO SERVICE-DISABLED VETERANS' BUSINESS DEVELOPMENT AND INVESTIGATION AND EVALUATION OF THEIR IMPACT ON ACHIEVING THE OBJECTIVES OF THIS ARTICLE.

4. THE COMMISSIONER SHALL:

(A) COORDINATE TRAINING OF ALL PROCUREMENT PERSONNEL OF STATE AGENCIES, EMPHASIZING INCREASED SENSITIVITY AND RESPONSIVENESS TO THE UNIQUE NEEDS AND REQUIREMENTS OF SERVICE-DISABLED VETERAN-OWNED BUSINESS ENTERPRISES.

(B) CONDUCT A COORDINATED REVIEW OF ALL EXISTING AND PROPOSED STATE TRAINING AND TECHNICAL ASSISTANCE ACTIVITIES IN DIRECT SUPPORT OF THE SERVICE-DISABLED VETERANS' BUSINESS DEVELOPMENT PROGRAM TO ASSURE CONSISTENCY WITH THE OBJECTIVES OF THIS ARTICLE.

(C) EVALUATE AND ASSESS AVAILABILITY OF FIRMS FOR THE PURPOSE OF INCREASING PARTICIPATION OF SUCH FIRMS IN STATE CONTRACTING IN CONSULTATION WITH RELEVANT STATE ENTITIES INCLUDING, BUT NOT LIMITED TO, THE NEW YORK STATE DIVISION OF VETERANS' AFFAIRS.

(D) PROVIDE ADVICE AND TECHNICAL ASSISTANCE TO PROMOTE SERVICE-DISABLED VETERAN-OWNED BUSINESS ENTERPRISES' UNDERSTANDING OF STATE PROCUREMENT LAWS, PRACTICES AND PROCEDURES TO FACILITATE AND INCREASE THE PARTICIPATION OF SERVICE-DISABLED VETERAN-OWNED BUSINESS ENTERPRISES IN STATE PROCUREMENT.

(E) ESTABLISH REGULAR PERFORMANCE REPORTING SYSTEMS REGARDING IMPLEMENTATION OF THE PROGRAMS DESIGNED TO INCREASE SERVICE-DISABLED VETERAN-OWNED BUSINESS PARTICIPATION IN PROCUREMENT CONTRACTS BY STATE AGENCIES.

(F) SUBMIT A REPORT BY THE THIRTY-FIRST OF DECEMBER EACH YEAR, WITH THE FIRST REPORT DUE BY THE THIRTY-FIRST OF DECEMBER IN THE CALENDAR YEAR NEXT SUCCEEDING THE CALENDAR YEAR IN WHICH THIS ARTICLE SHALL HAVE BECOME A LAW, TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE ASSEMBLY. SUCH REPORT SHALL INCLUDE INFORMATION INCLUDING, BUT NOT LIMITED TO, THE NUMBER OF CONTRACTS ENTERED INTO PURSUANT TO THIS ARTICLE, THE AVERAGE AMOUNT OF SUCH CONTRACTS, THE NUMBER OF SERVICE-DISABLED VETERAN-OWNED BUSINESS ENTERPRISES CERTIFIED, THE NUMBER OF APPLICATIONS FOR CERTIFICATION AS A SERVICE-DISABLED VETERAN-OWNED BUSINESS ENTERPRISE, THE NUMBER OF DENIALS FOR SUCH CERTIFICATION, THE NUMBER OF APPEALS OF SUCH DENIALS, AND THE OUTCOME OF SUCH APPEALS AND THE AVERAGE TIME THAT IS REQUIRED FOR SUCH CERTIFICATION TO BE COMPLETED.

5. CERTIFICATION. (A) THE DIRECTOR, OR IN THE ABSENCE OF THE DIRECTOR, THE COMMISSIONER, WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS ARTICLE, 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 OF SERVICE-DISABLED VETERANS' BUSINESS DEVELOPMENT SHALL BE RESPONSIBLE FOR VERIFYING BUSINESSES AS BEING OWNED, OPERATED, AND CONTROLLED BY A SERVICE-DISABLED VETERAN AND FOR CERTIFYING SUCH VERIFIED BUSINESSES. STATUS AS A SERVICE-DISABLED VETERAN PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION SHALL BE DOCUMENTED BY A COPY OF THE VETERAN'S CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY, INCLUD-

1 ING BUT NOT LIMITED TO, A DD-214 FORM OR AN HONORABLE SERVICE  
2 CERTIFICATE/REPORT OF CAUSALITY FROM THE DEPARTMENT OF DEFENSE, A LETTER  
3 OF CERTIFICATION BY THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS OR  
4 THE UNITED STATES DEPARTMENT OF DEFENSE AND ANY ADDITIONAL INFORMATION  
5 THAT MAY BE REQUIRED BY THE DIVISION OF SERVICE-DISABLED VETERANS' BUSI-  
6 NESS DEVELOPMENT. IN THE CASE OF THE NEW YORK GUARD OR THE NEW YORK  
7 NAVAL MILITIA AND/OR RESERVES THEREOF, STATUS AS A SERVICE-DISABLED  
8 VETERAN PURSUANT TO THIS PARAGRAPH SHALL BE DOCUMENTED PURSUANT TO RULES  
9 AND REGULATIONS PROMULGATED BY THE DIRECTOR, OR IN THE ABSENCE OF THE  
10 DIRECTOR, THE COMMISSIONER.

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

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

37 S 369-J. OPPORTUNITIES FOR CERTIFIED SERVICE-DISABLED VETERAN-OWNED  
38 BUSINESS ENTERPRISES. 1. THE DIRECTOR, OR IN THE ABSENCE OF THE DIREC-  
39 TOR, THE COMMISSIONER, WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS  
40 ARTICLE SHALL PROMULGATE RULES AND REGULATIONS FOR THE FOLLOWING  
41 PURPOSES:

42 (A) PROVIDE MEASURES AND PROCEDURES TO ENSURE THAT CERTIFIED SERVICE-  
43 DISABLED VETERAN-OWNED BUSINESS ENTERPRISES ARE AFFORDED THE OPPORTUNITY  
44 FOR MEANINGFUL PARTICIPATION IN THE PERFORMANCE OF STATE CONTRACTS AND  
45 TO ASSIST IN STATE AGENCIES' IDENTIFICATION OF THOSE STATE CONTRACTS FOR  
46 WHICH CERTIFIED SERVICE-DISABLED VETERAN-OWNED BUSINESS ENTERPRISES MAY  
47 BEST PERFORM;

48 (B) PROVIDE FOR MEASURES AND PROCEDURES THAT ASSIST STATE AGENCIES IN  
49 THE IDENTIFICATION OF STATE CONTRACTS WHERE SERVICE-DISABLED VETERAN  
50 CONTRACT GOALS ARE PRACTICAL, FEASIBLE AND APPROPRIATE FOR THE PURPOSE  
51 OF INCREASING THE UTILIZATION OF SERVICE-DISABLED VETERAN-OWNED BUSINESS  
52 ENTERPRISE PARTICIPATION ON STATE CONTRACTS;

53 (C) ACHIEVE A STATEWIDE GOAL FOR PARTICIPATION ON STATE CONTRACTS BY  
54 SERVICE-DISABLED VETERAN-OWNED BUSINESS ENTERPRISES OF SIX PERCENT;

1 (D) PROVIDE FOR PROCEDURES RELATING TO SUBMISSION AND RECEIPT OF  
2 APPLICATIONS BY SERVICE-DISABLED VETERAN-OWNED BUSINESS ENTERPRISES FOR  
3 CERTIFICATION;

4 (E) PROVIDE FOR THE MONITORING AND COMPLIANCE OF STATE CONTRACTS BY  
5 STATE AGENCIES WITH RESPECT TO THE PROVISIONS OF THIS ARTICLE;

6 (F) PROVIDE FOR THE REQUIREMENT THAT STATE AGENCIES SUBMIT REGULAR  
7 REPORTS, AS DETERMINED BY THE DIRECTOR, WITH RESPECT TO THEIR  
8 SERVICE-DISABLED VETERAN-OWNED BUSINESS ENTERPRISE PROGRAM ACTIVITY,  
9 INCLUDING BUT NOT LIMITED TO, UTILIZATION REPORTING AND STATE CONTRACT  
10 MONITORING AND COMPLIANCE;

11 (G) NOTWITHSTANDING ANY PROVISION OF THE STATE FINANCE LAW, THE PUBLIC  
12 BUILDINGS LAW, THE HIGHWAY LAW, THE TRANSPORTATION LAW OR THE PUBLIC  
13 AUTHORITIES LAW TO THE CONTRARY, PROVIDE FOR THE RESERVATION OR SET-A-  
14 SIDE OF CERTAIN PROCUREMENTS BY STATE AGENCIES IN ORDER TO ACHIEVE THE  
15 OBJECTIVES OF THIS ARTICLE; PROVIDED, HOWEVER, THAT SUCH PROCUREMENTS  
16 SHALL REMAIN SUBJECT TO (I) PRIORITY OF PREFERRED SOURCES PURSUANT TO  
17 SECTIONS ONE HUNDRED SIXTY-TWO AND ONE HUNDRED SIXTY-THREE OF THE STATE  
18 FINANCE LAW; (II) THE APPROVAL OF THE COMPTROLLER OF THE STATE OF NEW  
19 YORK PURSUANT TO SECTION ONE HUNDRED TWELVE AND SECTION ONE HUNDRED  
20 SIXTY-THREE OF THE STATE FINANCE LAW AND SECTION TWENTY-EIGHT HUNDRED  
21 SEVENTY-NINE-A OF THE PUBLIC AUTHORITIES LAW; AND (III) THE PROCUREMENT  
22 RECORD REQUIREMENTS PURSUANT TO PARAGRAPH G OF SUBDIVISION NINE OF  
23 SECTION ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW; AND

24 (H) PROVIDE FOR ANY OTHER PURPOSES TO EFFECTUATE THIS ARTICLE.

25 2. STATE AGENCIES SHALL ADMINISTER THE RULES AND REGULATIONS PROMUL-  
26 GATED BY THE DIRECTOR FOR THE IMPLEMENTATION OF THIS ARTICLE.

27 S 369-K. SEVERABILITY. IF ANY CLAUSE, SENTENCE, PARAGRAPH, SECTION OR  
28 PART OF THIS ARTICLE SHALL BE ADJUDGED BY ANY COURT OF COMPETENT JURIS-  
29 DICTION TO BE INVALID, THE JUDGMENT SHALL NOT AFFECT, IMPAIR OR INVALI-  
30 DATE THE REMAINDER THEREOF, BUT SHALL BE CONFINED IN ITS OPERATION TO  
31 THE CLAUSE, SENTENCE, PARAGRAPH, SECTION OR PART OF THIS ARTICLE DIRECT-  
32 LY INVOLVED IN THE CONTROVERSY IN WHICH THE JUDGMENT SHALL HAVE BEEN  
33 RENDERED.

34 S 3. Subdivisions 7 and 15 of section 310 of the executive law, as  
35 amended by chapter 175 of the laws of 2010, are amended to read as  
36 follows:

37 7. "Minority-owned business enterprise" shall mean a business enter-  
38 prise, including a sole proprietorship, partnership, LIMITED LIABILITY  
39 COMPANY or corporation that is:

40 (a) at least fifty-one percent owned by one or more minority group  
41 members;

42 (b) an enterprise in which such minority ownership is real, substan-  
43 tial and continuing;

44 (c) an enterprise in which such minority ownership has and exercises  
45 the authority to control independently the day-to-day business decisions  
46 of the enterprise;

47 (d) an enterprise authorized to do business in this state and inde-  
48 pendently owned and operated;

49 (e) an enterprise owned by an individual or individuals, whose owner-  
50 ship, control and operation are relied upon for certification, with a  
51 personal net worth that does not exceed three million five hundred thou-  
52 sand dollars, as adjusted annually on the first of January for inflation  
53 according to the consumer price index of the previous year; and

54 (f) an enterprise that is a small business pursuant to subdivision  
55 twenty of this section.

1 15. "Women-owned business enterprise" shall mean a business enter-  
2 prise, including a sole proprietorship, partnership, LIMITED LIABILITY  
3 COMPANY or corporation that is:

4 (a) at least fifty-one percent owned by one or more United States  
5 citizens or permanent resident aliens who are women;

6 (b) an enterprise in which the ownership interest of such women is  
7 real, substantial and continuing;

8 (c) an enterprise in which such women ownership has and exercises the  
9 authority to control independently the day-to-day business decisions of  
10 the enterprise;

11 (d) an enterprise authorized to do business in this state and inde-  
12 pendently owned and operated;

13 (e) an enterprise owned by an individual or individuals, whose owner-  
14 ship, control and operation are relied upon for certification, with a  
15 personal net worth that does not exceed three million five hundred thou-  
16 sand dollars, as adjusted annually on the first of January for inflation  
17 according to the consumer price index of the previous year; and

18 (f) an enterprise that is a small business pursuant to subdivision  
19 twenty of this section.

20 A firm owned by a minority group member who is also a woman may be  
21 certified as a minority-owned business enterprise, a women-owned busi-  
22 ness enterprise, or both, and may be counted towards either a minority-  
23 owned business enterprise goal or a women-owned business enterprise  
24 goal, in regard to any contract or any goal, set by an agency or author-  
25 ity, but such participation may not be counted towards both such goals.  
26 Such an enterprise's participation in a contract may not be divided  
27 between the minority-owned business enterprise goal and the women-owned  
28 business enterprise goal.

29 S 4. This act shall take effect immediately; provided, however, that  
30 sections one, one-a and two of this act shall expire and be deemed  
31 repealed March 31, 2019; and provided, further, however, that the amend-  
32 ments to subdivisions 7 and 15 of section 310 of the executive law made  
33 by section three of this act shall not affect the expiration of such  
34 section and shall be deemed to expire therewith.