

10622

I N A S S E M B L Y

June 8, 2016

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Bronson) --
read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to participation by LGBT,
disability and veteran-owned businesses in state contracts; and
providing for the repeal of such provisions upon expiration thereof

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

1 Section 1. Short title. This act shall be known as "The New York State
2 Supplier Diversity Act."

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

5 ARTICLE 17-C

6 SUPPLIER DIVERSITY IN STATE CONTRACTING OPPORTUNITIES
7 SECTION 369-M. DEFINITIONS.

8 369-N. DIVISION OF SUPPLIER DIVERSITY.

9 369-O. OPPORTUNITIES FOR CERTIFIED LGBT, DISABILITY AND VETER-
10 AN-OWNED BUSINESS ENTERPRISES.

11 369-P. SEVERABILITY.

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

14 1. "CERTIFIED LGBT, DISABILITY, OR VETERAN-OWNED BUSINESS ENTERPRISE"
15 SHALL MEAN A BUSINESS ENTERPRISE, INCLUDING A SOLE PROPRIETORSHIP, PART-
16 NERSHIP, LIMITED LIABILITY COMPANY OR CORPORATION THAT IS:

17 (A) AT LEAST FIFTY-ONE PERCENT OWNED BY ONE OR MORE LGBT INDIVIDUALS,
18 DISABLED INDIVIDUALS OR VETERANS;

19 (B) AN ENTERPRISE IN WHICH SUCH LGBT, DISABILITY OR VETERAN OWNERSHIP
20 IS REAL, SUBSTANTIAL, AND CONTINUING;

21 (C) AN ENTERPRISE IN WHICH SUCH LGBT, DISABILITY OR VETERAN OWNERSHIP
22 HAS AND EXERCISES THE AUTHORITY TO CONTROL INDEPENDENTLY THE DAY-TO-DAY
23 BUSINESS DECISIONS OF THE ENTERPRISE;

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

26 (E) AN ENTERPRISE THAT IS A SMALL BUSINESS WHICH HAS A SIGNIFICANT
27 BUSINESS PRESENCE IN THE STATE, NOT DOMINANT IN ITS FIELD AND EMPLOYS,

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

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1 BASED ON ITS INDUSTRY, A CERTAIN NUMBER OF PERSONS AS DETERMINED BY THE
2 DIRECTOR, BUT NOT TO EXCEED THREE HUNDRED, TAKING INTO CONSIDERATION
3 FACTORS WHICH INCLUDE, BUT ARE NOT LIMITED TO, FEDERAL SMALL BUSINESS
4 ADMINISTRATION STANDARDS PURSUANT TO 13 CFR PART 121 AND ANY AMENDMENTS
5 THERETO; AND

6 (F) CERTIFIED BY THE OFFICE OF GENERAL SERVICES, OR AN APPROVED
7 THIRD-PARTY AGENCY PURSUANT TO SUBDIVISION FIVE OF SECTION THREE HUNDRED
8 SIXTY-NINE-N OF THIS ARTICLE.

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

11 3. "DIRECTOR" SHALL MEAN THE DIRECTOR OF THE DIVISION OF SUPPLIER
12 DIVERSITY.

13 4. "DISABLED INDIVIDUAL" SHALL MEAN A PERSON WHO HAS PHYSICAL, MENTAL
14 OR MEDICAL IMPAIRMENT FROM ANATOMICAL, PHYSIOLOGICAL OR NEUROLOGICAL
15 CONDITIONS WHICH PREVENTS THE EXERCISE OF A NORMAL BODILY FUNCTION OR IS
16 DEMONSTRABLE BY MEDICALLY ACCEPTED CLINICAL OR LABORATORY DIAGNOSTIC
17 TECHNIQUES.

18 5. "DIVISION" SHALL MEAN THE DIVISION OF SUPPLIER DIVERSITY IN THE
19 OFFICE OF GENERAL SERVICES.

20 6. "LGBT INDIVIDUAL" SHALL MEAN A PERSON WHO IDENTIFIES AS LESBIAN,
21 GAY, BISEXUAL OR TRANSGENDER.

22 7. "STATE AGENCY" SHALL MEAN: (A)(I) ANY STATE DEPARTMENT; OR (II) ANY
23 DIVISION, BOARD, COMMISSION OR BUREAU OF ANY STATE DEPARTMENT; OR (III)
24 THE STATE UNIVERSITY OF NEW YORK AND THE CITY UNIVERSITY OF NEW YORK,
25 INCLUDING ALL THEIR CONSTITUENT UNITS EXCEPT COMMUNITY COLLEGES AND THE
26 INDEPENDENT INSTITUTIONS OPERATING STATUTORY OR CONTRACT COLLEGES ON
27 BEHALF OF THE STATE; OR (IV) A BOARD, A MAJORITY OF WHOSE MEMBERS ARE
28 APPOINTED BY THE GOVERNOR OR WHO SERVE BY VIRTUE OF BEING STATE OFFICERS
29 OR EMPLOYEES AS DEFINED IN SUBPARAGRAPH (I), (II) OR (III) OF PARAGRAPH
30 (I) OF SUBDIVISION ONE OF SECTION SEVENTY-THREE OF THE PUBLIC OFFICERS
31 LAW.

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

34 ALBANY COUNTY AIRPORT AUTHORITY;
35 ALBANY PORT DISTRICT COMMISSION;
36 ALFRED, ALMOND, HORNELLSVILLE SEWER AUTHORITY;
37 BATTERY PARK CITY AUTHORITY;
38 CAYUGA COUNTY WATER AND SEWER AUTHORITY;
39 (NELSON A. ROCKEFELLER) EMPIRE STATE PLAZA PERFORMING ARTS CENTER
40 CORPORATION;
41 INDUSTRIAL EXHIBIT AUTHORITY;
42 LIVINGSTON COUNTY WATER AND SEWER AUTHORITY;
43 LONG ISLAND POWER AUTHORITY;
44 LONG ISLAND RAIL ROAD;
45 LONG ISLAND MARKET AUTHORITY;
46 MANHATTAN AND BRONX SURFACE TRANSIT OPERATING AUTHORITY;
47 METRO-NORTH COMMUTER RAILROAD;
48 METROPOLITAN SUBURBAN BUS AUTHORITY;
49 METROPOLITAN TRANSPORTATION AUTHORITY;
50 NATURAL HERITAGE TRUST;
51 NEW YORK CITY TRANSIT AUTHORITY;
52 NEW YORK CONVENTION CENTER OPERATING CORPORATION;
53 NEW YORK STATE BRIDGE AUTHORITY;
54 NEW YORK STATE OLYMPIC REGIONAL DEVELOPMENT AUTHORITY;
55 NEW YORK STATE THRUWAY AUTHORITY;
56 NIAGARA FALLS PUBLIC WATER AUTHORITY;

1 NIAGARA FALLS WATER BOARD;
2 PORT OF OSWEGO AUTHORITY;
3 POWER AUTHORITY OF THE STATE OF NEW YORK;
4 ROOSEVELT ISLAND OPERATING CORPORATION;
5 SCHENECTADY METROPLEX DEVELOPMENT AUTHORITY;
6 STATE INSURANCE FUND;
7 STATEN ISLAND RAPID TRANSIT OPERATING AUTHORITY;
8 STATE UNIVERSITY CONSTRUCTION FUND;
9 SYRACUSE REGIONAL AIRPORT AUTHORITY;
10 TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY;
11 UPPER MOHAWK VALLEY REGIONAL WATER BOARD;
12 UPPER MOHAWK VALLEY REGIONAL WATER FINANCE AUTHORITY;
13 UPPER MOHAWK VALLEY MEMORIAL AUDITORIUM AUTHORITY;
14 URBAN DEVELOPMENT CORPORATION AND ITS SUBSIDIARY CORPORATIONS.

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

18 DORMITORY AUTHORITY OF THE STATE OF NEW YORK;
19 FACILITIES DEVELOPMENT CORPORATION;
20 NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY;
21 NEW YORK STATE SCIENCE AND TECHNOLOGY FOUNDATION.

22 (D) "STATE CONTRACT" SHALL MEAN: (I) A WRITTEN AGREEMENT OR PURCHASE
23 ORDER INSTRUMENT, PROVIDING FOR A TOTAL EXPENDITURE IN EXCESS OF TWEN-
24 TY-FIVE THOUSAND DOLLARS, WHEREBY A CONTRACTING AGENCY IS COMMITTED TO
25 EXPEND OR DOES EXPEND FUNDS IN RETURN FOR LABOR, SERVICES INCLUDING BUT
26 NOT LIMITED TO LEGAL, FINANCIAL AND OTHER PROFESSIONAL SERVICES,
27 SUPPLIES, EQUIPMENT, MATERIALS OR ANY COMBINATION OF THE FOREGOING, TO
28 BE PERFORMED FOR, OR RENDERED OR FURNISHED TO THE CONTRACTING AGENCY;
29 (II) A WRITTEN AGREEMENT IN EXCESS OF ONE HUNDRED THOUSAND DOLLARS
30 WHEREBY A CONTRACTING AGENCY IS COMMITTED TO EXPEND OR DOES EXPEND FUNDS
31 FOR THE ACQUISITION, CONSTRUCTION, DEMOLITION, REPLACEMENT, MAJOR REPAIR
32 OR RENOVATION OF REAL PROPERTY AND IMPROVEMENTS THEREON; AND (III) A
33 WRITTEN AGREEMENT IN EXCESS OF ONE HUNDRED THOUSAND DOLLARS WHEREBY THE
34 OWNER OF A STATE ASSISTED HOUSING PROJECT IS COMMITTED TO EXPEND OR DOES
35 EXPEND FUNDS FOR THE ACQUISITION, CONSTRUCTION, DEMOLITION, REPLACEMENT,
36 MAJOR REPAIR OR RENOVATION OF REAL PROPERTY AND IMPROVEMENTS THEREON FOR
37 SUCH PROJECT.

38 8. "VETERAN" SHALL MEAN A PERSON WHO SERVED IN AND WHO HAS RECEIVED AN
39 HONORABLE OR GENERAL DISCHARGE FROM THE UNITED STATES ARMY, NAVY, AIR
40 FORCE, MARINES, COAST GUARD, AND/OR RESERVES THEREOF, AND/OR THE ARMY
41 NATIONAL GUARD, AIR NATIONAL GUARD, NEW YORK GUARD AND/OR THE NEW YORK
42 NAVAL MILITIA.

43 S 369-N. DIVISION OF SUPPLIER DIVERSITY. 1. THE HEAD OF THE DIVISION
44 OF SUPPLIER DIVERSITY SHALL BE THE DIRECTOR WHO SHALL BE APPOINTED BY
45 THE GOVERNOR AND WHO SHALL HOLD OFFICE AT THE PLEASURE OF THE COMMIS-
46 SIONER.

47 2. THE DIRECTOR MAY APPOINT SUCH DEPUTIES, ASSISTANTS, AND OTHER
48 EMPLOYEES AS MAY BE NEEDED FOR THE PERFORMANCE OF THE DUTIES PRESCRIBED
49 HEREIN SUBJECT TO THE PROVISIONS OF THE CIVIL SERVICE LAW AND THE RULES
50 AND REGULATIONS OF THE CIVIL SERVICE COMMISSION. THE DIRECTOR MAY
51 REQUEST AND SHALL RECEIVE FROM ANY (A) DEPARTMENT, DIVISION, BOARD,
52 BUREAU, OR EXECUTIVE COMMISSION OF THE STATE OR (B) STATE AGENCY, SUCH
53 ASSISTANCE AS MAY BE NECESSARY TO CARRY OUT THE PROVISIONS OF THIS ARTI-
54 CLE.

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

1 (A) DEVELOP, COLLECT, SUMMARIZE AND DISSEMINATE INFORMATION THAT WILL
2 BE HELPFUL TO PERSONS AND ORGANIZATIONS THROUGHOUT THE STATE IN UNDER-
3 TAKING OR PROMOTING THE ESTABLISHMENT AND SUCCESSFUL OPERATION OF AN
4 LGBT, DISABILITY OR VETERAN-OWNED BUSINESS.

5 (B) DEVELOP AND MAKE AVAILABLE TO STATE AGENCIES A DIRECTORY OF CERTI-
6 FIED LGBT, DISABILITY AND VETERAN-OWNED BUSINESS ENTERPRISES WHICH
7 SHALL, WHEREVER PRACTICABLE, BE DIVIDED INTO CATEGORIES OF LABOR,
8 SERVICES, SUPPLIES, EQUIPMENT, MATERIALS AND RECOGNIZED CONSTRUCTION
9 TRADES AND WHICH SHALL INDICATE AREAS OR LOCATIONS OF THE STATE WHERE
10 SUCH ENTERPRISES ARE AVAILABLE TO PERFORM SERVICES. SUCH DIRECTORY SHALL
11 BE POSTED ON THE OFFICE OF GENERAL SERVICES WEBSITE.

12 (C) ASSIST STATE AGENCIES IN THE DEVELOPMENT OF PROGRAMS TO FOSTER AND
13 PROMOTE THE USE OF LGBT, DISABILITY AND VETERAN-OWNED BUSINESS ENTER-
14 PRISES ON STATE CONTRACTS.

15 (D) COORDINATE THE PLANS, PROGRAMS AND OPERATIONS OF THE STATE GOVERN-
16 MENT WHICH AFFECT OR MAY CONTRIBUTE TO THE ESTABLISHMENT, PRESERVATION
17 AND DEVELOPMENT OF LGBT, DISABILITY AND VETERAN-OWNED BUSINESS ENTER-
18 PRISES.

19 (E) TO APPOINT INDEPENDENT HEARING OFFICERS WHO BY CONTRACT OR TERMS
20 OF EMPLOYMENT SHALL PRESIDE OVER ADJUDICATORY HEARINGS PURSUANT TO THIS
21 SECTION FOR THE OFFICE OF GENERAL SERVICES AND WHO ARE ASSIGNED NO OTHER
22 WORK BY THE OFFICE OF GENERAL SERVICES.

23 (F) IN CONJUNCTION WITH THE COMMISSIONER, DEVELOP A COMPREHENSIVE
24 STATEWIDE PLAN AND OPERATIONAL GUIDELINES TO PROMOTE LGBT, DISABILITY
25 AND VETERAN-OWNED BUSINESS ENTERPRISES AND TO ASSIST THEM IN OBTAINING
26 OPPORTUNITIES TO PARTICIPATE IN THE PROCUREMENT OF GOODS AND SERVICES BY
27 THE STATE, INCLUDING IDENTIFICATION OF BARRIERS TO BUSINESS DEVELOPMENT
28 AND INVESTIGATION AND EVALUATION OF THEIR IMPACT ON ACHIEVING THE OBJEC-
29 TIVES OF THIS ARTICLE.

30 4. THE COMMISSIONER SHALL:

31 (A) COORDINATE TRAINING OF ALL PROCUREMENT PERSONNEL OF STATE AGEN-
32 CIES, EMPHASIZING INCREASED SENSITIVITY AND RESPONSIVENESS TO THE UNIQUE
33 NEEDS AND REQUIREMENTS OF LGBT, DISABILITY AND VETERAN-OWNED BUSINESS
34 ENTERPRISES.

35 (B) CONDUCT A COORDINATED REVIEW OF ALL EXISTING AND PROPOSED STATE
36 TRAINING AND TECHNICAL ASSISTANCE ACTIVITIES IN DIRECT SUPPORT OF THE
37 SUPPLIER DIVERSITY PROGRAM TO ASSURE CONSISTENCY WITH THE OBJECTIVES OF
38 THIS ARTICLE.

39 (C) EVALUATE AND ASSESS AVAILABILITY OF FIRMS FOR THE PURPOSE OF
40 INCREASING PARTICIPATION OF SUCH FIRMS IN STATE CONTRACTING IN CONSULTA-
41 TION WITH RELEVANT STATE ENTITIES.

42 (D) PROVIDE ADVICE AND TECHNICAL ASSISTANCE TO PROMOTE LGBT, DISABILI-
43 TY AND VETERAN-OWNED BUSINESS ENTERPRISES' UNDERSTANDING OF STATE
44 PROCUREMENT LAWS, PRACTICES AND PROCEDURES TO FACILITATE AND INCREASE
45 THE PARTICIPATION OF LGBT, DISABILITY AND VETERAN-OWNED BUSINESS ENTER-
46 PRISES IN STATE PROCUREMENT.

47 (E) ESTABLISH REGULAR PERFORMANCE REPORTING SYSTEMS REGARDING IMPLI-
48 MENTATION OF THE PROGRAMS DESIGNED TO INCREASE LGBT, DISABILITY AND
49 VETERAN-OWNED BUSINESS PARTICIPATION IN PROCUREMENT CONTRACTS BY STATE
50 AGENCIES.

51 (F) SUBMIT A REPORT BY THE THIRTY-FIRST OF DECEMBER EACH YEAR, WITH
52 THE FIRST REPORT DUE BY THE THIRTY-FIRST OF DECEMBER IN THE CALENDAR
53 YEAR NEXT SUCCEEDING THE CALENDAR YEAR IN WHICH THIS ARTICLE SHALL HAVE
54 BECOME A LAW, TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE,
55 AND THE SPEAKER OF THE ASSEMBLY. SUCH REPORT SHALL INCLUDE INFORMATION
56 INCLUDING, BUT NOT LIMITED TO, THE NUMBER OF CONTRACTS ENTERED INTO

1 PURSUANT TO THIS ARTICLE, THE AVERAGE AMOUNT OF SUCH CONTRACTS, THE
2 PERCENTAGE OF CONTRACTS AWARDED TO LGBT, DISABILITY AND VETERAN-OWNED
3 BUSINESS ENTERPRISES BY EACH STATE AGENCY, THE NUMBER OF LGBT, DISABILI-
4 TY AND VETERAN-OWNED BUSINESS ENTERPRISES CERTIFIED, THE NUMBER OF
5 APPLICATIONS FOR CERTIFICATION AS AN LGBT, DISABILITY OR VETERAN-OWNED
6 BUSINESS ENTERPRISE, THE NUMBER OF DENIALS FOR SUCH CERTIFICATION, THE
7 NUMBER OF APPEALS OF SUCH DENIALS, AND THE OUTCOME OF SUCH APPEALS AND
8 THE AVERAGE TIME THAT IS REQUIRED FOR SUCH CERTIFICATION TO BE
9 COMPLETED. THE REPORT SHALL BE POSTED ON A PUBLIC WEBSITE MAINTAINED BY
10 THE OFFICE OF GENERAL SERVICES.

11 5. CERTIFICATION. (A) THE DIRECTOR, OR IN THE ABSENCE OF THE DIRECTOR,
12 THE COMMISSIONER, WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS ARTI-
13 CLE, SHALL PROMULGATE RULES AND REGULATIONS PROVIDING FOR THE ESTABLISH-
14 MENT OF A STATEWIDE CERTIFICATION PROGRAM INCLUDING RULES AND REGU-
15 LATIONS GOVERNING THE APPROVAL, DENIAL, OR REVOCATION OF ANY SUCH
16 CERTIFICATION. SUCH RULES AND REGULATIONS SHALL INCLUDE, BUT NOT BE
17 LIMITED TO, SUCH MATTERS AS MAY BE REQUIRED TO ENSURE THAT THE ESTAB-
18 LISHED PROCEDURES THEREUNDER SHALL AT LEAST BE IN COMPLIANCE WITH THE
19 CODE OF FAIR PROCEDURE SET FORTH IN SECTION SEVENTY-THREE OF THE CIVIL
20 RIGHTS LAW. IN ADDITION TO A STATEWIDE CERTIFICATION PROGRAM, THE DIREC-
21 TOR, OR IN THE ABSENCE OF THE DIRECTOR, THE COMMISSIONER, SHALL APPROVE
22 THIRD-PARTY AGENCIES TO PERFORM VERIFICATION OF LGBT, DISABILITY AND/OR
23 VETERAN-OWNED BUSINESS ENTERPRISES. THE DIVISION SHALL ACCEPT CERTIF-
24 ICATIONS BY APPROVED THIRD-PARTY AGENCIES, AND IS AUTHORIZED TO DEVELOP
25 AND IMPLEMENT A STREAMLINED VERIFICATION PROCESS FOR ANY LGBT, DISABILI-
26 TY OR VETERAN-OWNED BUSINESS ENTERPRISE THAT HAS A CERTIFICATION THROUGH
27 AN APPROVED THIRD-PARTY AGENCY. APPROVED THIRD-PARTY AGENCIES SHALL
28 INCLUDE THE NATIONAL GAY AND LESBIAN CHAMBER OF COMMERCE FOR THE CERTIF-
29 ICATION OF LGBT-OWNED BUSINESS ENTERPRISES AND THE UNITED STATES BUSI-
30 NESS LEADERSHIP NETWORK FOR THE CERTIFICATION OF DISABILITY-OWNED ENTER-
31 PRISES.

32 (B) FOLLOWING APPLICATION FOR CERTIFICATION PURSUANT TO THIS SECTION,
33 THE DIRECTOR SHALL PROVIDE THE APPLICANT WITH WRITTEN NOTICE OF THE
34 STATUS OF THE APPLICATION, INCLUDING NOTICE OF ANY OUTSTANDING DEFICIEN-
35 CIES, WITHIN THIRTY DAYS. WITHIN SIXTY DAYS OF SUBMISSION OF A FINAL
36 COMPLETED APPLICATION, THE DIRECTOR SHALL PROVIDE THE APPLICANT WITH
37 WRITTEN NOTICE OF A DETERMINATION BY THE DIRECTOR APPROVING OR DENYING
38 SUCH CERTIFICATION AND, IN THE EVENT OF A DENIAL, A STATEMENT SETTING
39 FORTH THE REASONS FOR SUCH DENIAL. UPON A DETERMINATION DENYING OR
40 REVOKING CERTIFICATION, THE BUSINESS ENTERPRISE FOR WHICH CERTIFICATION
41 HAS BEEN SO DENIED OR REVOKED SHALL, UPON WRITTEN REQUEST MADE WITHIN
42 THIRTY DAYS FROM RECEIPT OF NOTICE OF SUCH DETERMINATION, BE ENTITLED TO
43 A HEARING BEFORE AN INDEPENDENT HEARING OFFICER DESIGNATED FOR SUCH
44 PURPOSE BY THE DIRECTOR. IN THE EVENT THAT A REQUEST FOR A HEARING IS
45 NOT MADE WITHIN SUCH THIRTY DAY PERIOD, SUCH DETERMINATION SHALL BE
46 DEEMED TO BE FINAL. THE INDEPENDENT HEARING OFFICER SHALL CONDUCT A
47 HEARING AND UPON THE CONCLUSION OF SUCH HEARING, ISSUE A WRITTEN RECOM-
48 MENDATION TO THE DIRECTOR TO AFFIRM, REVERSE, OR MODIFY SUCH DETERMI-
49 NATION OF THE DIRECTOR. SUCH WRITTEN RECOMMENDATION SHALL BE ISSUED TO
50 THE PARTIES. THE DIRECTOR, WITHIN THIRTY DAYS, BY ORDER, MUST ACCEPT,
51 REJECT OR MODIFY SUCH RECOMMENDATION OF THE HEARING OFFICER AND SET
52 FORTH IN WRITING THE REASON THEREFOR. THE DIRECTOR SHALL SERVE A COPY OF
53 SUCH ORDER AND REASONS THEREFOR UPON THE BUSINESS ENTERPRISE BY PERSONAL
54 SERVICE OR BY CERTIFIED MAIL RETURN RECEIPT REQUESTED. THE ORDER OF THE
55 DIRECTOR SHALL BE SUBJECT TO REVIEW PURSUANT TO ARTICLE SEVENTY-EIGHT OF
56 THE CIVIL PRACTICE LAW AND RULES.

(C) ALL CERTIFICATIONS SHALL BE VALID FOR A PERIOD OF TWO YEARS.

S 369-O. OPPORTUNITIES FOR CERTIFIED LGBT, DISABILITY AND VETERAN-OWNED BUSINESS ENTERPRISES. 1. 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 FOR THE FOLLOWING PURPOSES:

(A) PROVIDE MEASURES AND PROCEDURES TO ENSURE THAT CERTIFIED LGBT, DISABILITY AND VETERAN-OWNED BUSINESS ENTERPRISES ARE AFFORDED THE OPPORTUNITY FOR MEANINGFUL PARTICIPATION IN THE PERFORMANCE OF STATE CONTRACTS AND TO ASSIST IN STATE AGENCIES' IDENTIFICATION OF THOSE STATE CONTRACTS FOR WHICH CERTIFIED LGBT, DISABILITY AND/OR VETERAN-OWNED BUSINESS ENTERPRISES MAY BEST PERFORM;

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

(C) ACHIEVE A STATEWIDE GOAL FOR PARTICIPATION ON STATE CONTRACTS BY LGBT, DISABILITY AND VETERAN-OWNED BUSINESS ENTERPRISES AT A PERCENTAGE TO BE DETERMINED BY THE COMMISSIONER;

(D) PROVIDE FOR PROCEDURES RELATING TO SUBMISSION AND RECEIPT OF APPLICATIONS BY LGBT, DISABILITY OR VETERAN-OWNED BUSINESS ENTERPRISES FOR CERTIFICATION;

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

(F) PROVIDE FOR THE REQUIREMENT THAT STATE AGENCIES SUBMIT REGULAR REPORTS, AS DETERMINED BY THE DIRECTOR, WITH RESPECT TO THEIR SUPPLIER DIVERSITY PROGRAM ACTIVITY, INCLUDING BUT NOT LIMITED TO, UTILIZATION REPORTING AND STATE CONTRACT MONITORING AND COMPLIANCE; AND

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

2. STATE AGENCIES SHALL ADMINISTER THE RULES AND REGULATIONS PROMULGATED BY THE DIRECTOR FOR THE IMPLEMENTATION OF THIS ARTICLE.

S 369-P. 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 3. The commissioner of the office of general services shall conduct a study to determine a statewide goal for participation on state contracts by LGBT, disability and veteran-owned business enterprises and to determine whether providing for the reservation or set-aside of certain procurements by state agencies should be required in order to achieve the objectives of article 17-C of the executive law.

S 4. No later than one year after this act shall have become a law, the commissioner of the office of general services shall complete the study pursuant to section three of this act.

S 5. This act shall take effect immediately and shall expire and be deemed repealed five years after such effective date.