

STATE OF NEW YORK

10492

IN ASSEMBLY

May 29, 2024

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

AN ACT to amend the executive law, in relation to minority and women-owned business enterprise certification

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph (e) of subdivision 7 of section 310 of the execu-
2 tive law, as amended by chapter 96 of the laws of 2019, is amended to
3 read as follows:

4 (e) an enterprise owned by an individual or individuals, whose owner-
5 ship, control and operation are relied upon for certification, with a
6 personal net worth that does not exceed fifteen million dollars, and
7 such other amount as the director shall set forth in regulations, as
8 adjusted annually on the first of January for inflation according to the
9 consumer price index of the previous year; provided, however, notwith-
10 standing any other provision of law to the contrary, for purposes of
11 certification of a minority-owned business enterprise under section
12 three hundred fourteen of this article, the personal net worth limit of
13 fifteen million dollars or more shall not apply to any small business
14 enterprise that manufactures metal or vinyl windows and doors (NAICS
15 codes 332321 and 326199) that is located in a city with a population of
16 more than one million and where eighty percent or more of its employees
17 that work at such location in such city are minority group members as
18 defined in subdivision eight of this section; and

19 § 2. Subdivision 20 of section 310 of the executive law, as amended by
20 chapter 44 of the laws of 2024, is amended to read as follows:

21 20. "Small business" as used in this section, unless otherwise indi-
22 cated, shall mean a business which has a significant business presence
23 in the state, is independently owned and operated, not dominant in its
24 field and employs, based on its industry, a certain number of persons as
25 determined by the director, but not to exceed three hundred, except
26 during a declared state disaster emergency as defined pursuant to
27 section twenty-eight of this chapter, not to exceed three hundred
28 employees who work thirty or more hours per week over the period of

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

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1 fifty-two weeks for a total of one thousand five hundred sixty hours
2 worked, taking into consideration factors which include, but are not
3 limited to, federal small business administration standards pursuant to
4 13 CFR part 121 and any amendments thereto; provided, however, notwith-
5 standing any other provision of law to the contrary, for purposes of
6 certification of a minority-owned business enterprise under section
7 three hundred fourteen of this article, the small business employee
8 limit of three hundred persons or more shall not apply to any small
9 business enterprise that manufactures metal or vinyl windows and doors
10 (NAICS codes 332321 and 326199) that is located in a city with a popu-
11 lation of more than one million and where eighty percent or more of its
12 employees that work at such location in such city are minority group
13 members as defined in subdivision eight of this section. The director
14 may issue regulations on the construction of the terms in this defi-
15 nition. For purposes of this subdivision, an employee may break from
16 employment for up to thirteen weeks without the fifty-two week lookback
17 period resetting.

18 § 3. Subdivision 1 of section 314 of the executive law, as amended by
19 chapter 567 of the laws of 2022, is amended to read as follows:

20 1. The director shall promulgate rules and regulations providing for
21 the establishment of a statewide certification program including rules
22 and regulations governing the approval, denial or revocation of any such
23 certification including revocations for convictions for fraudulently
24 misrepresenting the status of minority or women-owned business enter-
25 prises. Such rules shall set forth the maximum personal net worth of a
26 minority group member or woman who may be relied upon to certify a busi-
27 ness as a minority-owned business enterprise or women-owned business
28 enterprise with a minimum personal net worth threshold of fifteen
29 million dollars, and may thereafter establish different maximum levels
30 of personal net worth for minority group members and women on an indus-
31 try-by-industry basis for such industries as the director shall deter-
32 mine. Such regulations relating to the classification of the industry-
33 by-industry personal net worth thresholds above the fifteen million
34 dollar threshold shall consider the personal net worth of the owners of
35 both certified and non-certified businesses, including but not limited
36 to, prime contractors and subcontractors, as well as any such other
37 factors needed to establish such thresholds. Such rules and regulations
38 shall include, but not be limited to, such matters as may be required to
39 ensure that the established procedures thereunder shall at least be in
40 compliance with the code of fair procedure set forth in section seven-
41 ty-three of the civil rights law, and consistent with the provisions of
42 article twenty-three-A of the correction law. Notwithstanding any
43 provision of this subdivision or any other provision of law to the
44 contrary, for purposes of certification of a minority-owned business
45 enterprise, the personal net worth limit of fifteen million dollars or
46 more shall not apply to any small business enterprise that manufactures
47 metal or vinyl windows and doors (NAICS codes 332321 and 326199) that is
48 located in a city with a population of more than one million and where
49 eighty percent or more of its employees that work at such location in
50 such city are minority group members as defined in subdivision eight of
51 section three hundred ten of this article.

52 § 4. Subparagraph (vi) of paragraph (a) of subdivision 2-a of section
53 314 of the executive law, as amended by chapter 96 of the laws of 2019,
54 is amended to read as follows:

55 (vi) be owned by an individual or individuals, whose ownership,
56 control and operation are relied upon for certification, with a personal

1 net worth that does not exceed fifteen million dollars and such other
2 amount as the director shall set forth in regulations, as adjusted annu-
3 ally for inflation according to the consumer price index; provided,
4 however, notwithstanding any other provision of law to the contrary, for
5 purposes of certification of a minority-owned business enterprise, the
6 personal net worth limit of fifteen million dollars or more shall not
7 apply to any small business enterprise that manufactures metal or vinyl
8 windows and doors (NAICS codes 332321 and 326199) that is located in a
9 city with a population of more than one million and where eighty percent
10 or more of its employees that work at such location in such city are
11 minority group members as defined in subdivision eight of section three
12 hundred ten of this article; and

13 § 5. This act shall take effect immediately; provided the amendments
14 to article 15-A of the executive law made by sections one, two, three
15 and four of this act shall not affect the repeal of such article and
16 shall be deemed repealed therewith.