

STATE OF NEW YORK

7050

2023-2024 Regular Sessions

IN ASSEMBLY

May 10, 2023

Introduced by M. of A. CUNNINGHAM -- read once and referred to the
Committee on Governmental Operations

AN ACT to amend the executive law, in relation to authorizing not-for-profit corporation inclusion as minority and women-owned enterprises

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

1 Section 1. Subdivisions 1, 7 and 15 of section 310 of the executive
2 law, subdivision 1 as added by chapter 261 of the laws of 1988, subdivi-
3 sions 7 and 15 as amended by chapter 22 of the laws of 2014, paragraph
4 (e) of subdivision 7 and paragraph (e) of subdivision 15 as amended by
5 chapter 96 of the laws of 2019, and paragraph (a) of subdivision 15 as
6 amended by chapter 669 of the laws of 2022, are amended to read as
7 follows:

8 1. "Certified business" shall mean a business or not-for-profit corpo-
9 ration verified as a minority or women-owned business enterprise pursu-
10 ant to section three hundred fourteen of this article.

11 7. "Minority-owned business enterprise" shall mean:

12 (a) a business enterprise, including a sole proprietorship, partner-
13 ship, limited liability company or corporation that is:

14 [~~a~~] (i) at least fifty-one percent owned by one or more minority
15 group members;

16 [~~b~~] (ii) an enterprise in which such minority ownership is real,
17 substantial and continuing;

18 [~~e~~] (iii) an enterprise in which such minority ownership has and
19 exercises the authority to control independently the day-to-day business
20 decisions of the enterprise;

21 [~~d~~] (iv) an enterprise authorized to do business in this state and
22 independently owned and operated;

23 [~~e~~] (v) an enterprise owned by an individual or individuals, whose
24 ownership, control and operation are relied upon for certification, with
25 a personal net worth that does not exceed fifteen million dollars, and

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

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1 such other amount as the director shall set forth in regulations, as
 2 adjusted annually on the first of January for inflation according to the
 3 consumer price index of the previous year; and

4 ~~[(f)]~~ (vi) an enterprise that is a small business pursuant to subdivi-
 5 sion twenty of this section~~[+]~~; or

6 (b) a not-for-profit corporation:

7 (i) that includes a governing board of at least fifty-one percent
 8 minority group members;

9 (ii) in which such leadership is real, substantial and continuing; and

10 (iii) incorporated in this state and independently operated.

11 15. "Women-owned business enterprise" shall mean:

12 (a) a business enterprise, including a sole proprietorship, partner-
 13 ship, limited liability company or corporation that is:

14 ~~[(a)]~~ (i) at least fifty-one percent owned by one or more United
 15 States citizens or permanent resident noncitizens who are women;

16 ~~[(b)]~~ (ii) an enterprise in which the ownership interest of such women
 17 is real, substantial and continuing;

18 ~~[(c)]~~ (iii) an enterprise in which such women ownership has and exer-
 19 cises the authority to control independently the day-to-day business
 20 decisions of the enterprise;

21 ~~[(d)]~~ (iv) an enterprise authorized to do business in this state and
 22 independently owned and operated;

23 ~~[(e)]~~ (v) an enterprise owned by an individual or individuals, whose
 24 ownership, control and operation are relied upon for certification, with
 25 a personal net worth that does not exceed fifteen million dollars, and
 26 such other amount as the director shall set forth in regulations, as
 27 adjusted annually on the first of January for inflation according to the
 28 consumer price index of the previous year; and

29 ~~[(f)]~~ (vi) an enterprise that is a small business pursuant to subdivi-
 30 sion twenty of this section~~[+]~~; or

31 (b) a not-for-profit corporation:

32 (i) that includes a governing board of at least fifty-one percent
 33 women;

34 (ii) in which such leadership is real, substantial and continuing; and

35 (iii) incorporated in this state and independently operated.

36 A firm owned by a minority group member who is also a woman may be
 37 certified as a minority-owned business enterprise, a women-owned busi-
 38 ness enterprise, or both, and may be counted towards either a minority-
 39 owned business enterprise goal or a women-owned business enterprise
 40 goal, in regard to any contract or any goal, set by an agency or author-
 41 ity, but such participation may not be counted towards both such goals.
 42 Such an enterprise's participation in a contract may not be divided
 43 between the minority-owned business enterprise goal and the women-owned
 44 business enterprise goal.

45 § 2. Subdivision 2 of section 314 of the executive law, as amended by
 46 chapter 96 of the laws of 2019, is amended to read as follows:

47 2. For the purposes of this article, the office shall be responsible
 48 for verifying businesses and not-for-profit corporations as being owned,
 49 operated, ~~[and]~~ and/or controlled by minority group members or women and
 50 for certifying such verified businesses and not-for-profit corporations.
 51 The director shall prepare a directory of certified businesses for use
 52 by contracting agencies and contractors in carrying out the provisions
 53 of this article. The director shall periodically, but no less than annu-
 54 ally, update the directory.

55 § 3. This act shall take effect on the one hundred eightieth day after
 56 it shall have become a law; provided, however, that the amendments to

1 sections 310 and 314 of the executive law made by sections one and two
2 of this act shall not affect the repeal of such sections and shall be
3 deemed repealed therewith.