STATE OF NEW YORK

7932

2023-2024 Regular Sessions

IN ASSEMBLY

August 4, 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 granting provisional MWBE certification status for applicants who are not approved or denied for MWBE status within ninety days

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

Section 1. Subdivision 3 of section 314 of the executive law, as amended by chapter 96 of the laws of 2019, is amended to read as follows:

3. **(a)** Following application for certification pursuant to this section, the director shall provide the applicant with written notice of the status of the application, including notice of any outstanding deficiencies, within twenty-one days. Within forty-five days of submission of a final completed application, the director shall provide the applicant with written notice of a determination by the office approving or denying such certification and, in the event of a denial a statement setting forth the reasons for such denial. **If such written notice of a determination is not provided to the applicant within ninety days, the director shall grant provisional MWBE certification status, as defined by subdivision twenty-three of section three hundred ten of this article, to such applicant. Upon the expiration of such provisional MWBE certification, the director shall provide the applicant with written notice of a final determination by the office approving or denying such certification and, in the event of a denial, a statement setting forth the reasons for such denial.**

(b) Upon a determination denying or revoking certification, the business enterprise for which certification has been so denied or revoked shall, upon written request made within thirty days from receipt of notice of such determination, be entitled to a hearing before an independent hearing officer designated for such purpose by the director. In

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

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the event that a request for a hearing is not made within such thirty day period, such determination shall be deemed to be final. The independent hearing officer shall conduct a hearing and upon the conclusion of such hearing, issue a written recommendation to the director to affirm, reverse or modify such determination of the director. Such written recommendation shall be issued to the parties. The director, within thirty days, by order, must accept, reject or modify such recommendation of the hearing officer and set forth in writing the reasons therefor. The director shall serve a copy of such order and reasons therefor upon the business enterprise by personal service or by certified mail return receipt requested. The order of the director shall be subject to review pursuant to article seventy-eight of the civil practice law and rules.

§ 2. This act shall take effect immediately; provided, however, that the amendments to subdivision 3 of section 314 of the executive law made by section one of this act shall not affect the repeal of such section and shall be deemed repealed therewith.