

# STATE OF NEW YORK

9217

## IN SENATE

May 6, 2024

Introduced by Sen. STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Procurement and Contracts

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.

LBD15390-01-4

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.