

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 Assem-
bly, do enact as follows:

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

4 3. (a) Following application for certification pursuant to this
5 section, the director shall provide the applicant with written notice of
6 the status of the application, including notice of any outstanding defi-
7 ciencies, within twenty-one days. Within forty-five days of submission
8 of a final completed application, the director shall provide the appli-
9 cant with written notice of a determination by the office approving or
10 denying such certification and, in the event of a denial a statement
11 setting forth the reasons for such denial. If such written notice of a
12 determination is not provided to the applicant within ninety days, the
13 director shall grant provisional MWBE certification status, as defined
14 by subdivision twenty-three of section three hundred ten of this arti-
15 cle, to such applicant. Upon the expiration of such provisional MWBE
16 certification, the director shall provide the applicant with written
17 notice of a final determination by the office approving or denying such
18 certification and, in the event of a denial, a statement setting forth
19 the reasons for such denial.

20 (b) Upon a determination denying or revoking certification, the busi-
21 ness enterprise for which certification has been so denied or revoked
22 shall, upon written request made within thirty days from receipt of
23 notice of such determination, be entitled to a hearing before an inde-
24 pendent 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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1 the event that a request for a hearing is not made within such thirty
2 day period, such determination shall be deemed to be final. The inde-
3 pendent hearing officer shall conduct a hearing and upon the conclusion
4 of such hearing, issue a written recommendation to the director to
5 affirm, reverse or modify such determination of the director. Such writ-
6 ten recommendation shall be issued to the parties. The director, within
7 thirty days, by order, must accept, reject or modify such recommendation
8 of the hearing officer and set forth in writing the reasons therefor.
9 The director shall serve a copy of such order and reasons therefor upon
10 the business enterprise by personal service or by certified mail return
11 receipt requested. The order of the director shall be subject to review
12 pursuant to article seventy-eight of the civil practice law and rules.

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