

Chairman Phil Mendelson
at the request of the Mayor

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend, on a temporary basis, the Small and Certified Business Enterprise Development and Assistance Act of 2005 to require a business applying for certification as a local business enterprise to be independently owned and operated; to amend minimum certified business enterprise performance requirements in a certified joint venture; and to establish uniform hearing procedures for enforcement actions.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Certified Business Enterprise Program Compliance and Enforcement Support Temporary Amendment Act of 2025”.

Sec. 2. The Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.01 *et seq.*), is amended as follows:

(a) Section 2302 (D.C. Official Code § 2-218.02) is amended as follows:

(1) Paragraph (7) is amended to read as follows:

“(7) “Economically disadvantaged individual” means an individual who owns at least a 51% interest in a business enterprise and whose personal net worth does not exceed the limits set by the federal Department of Transportation, pursuant to 49 CFR § 26.68.”

(2) Paragraph (8A) is amended to read as follows:

“(8A) Equity impact enterprise” means a business enterprise that is a resident-

36 owned business, small business enterprise, and disadvantaged business enterprise.”

37 (3) Paragraph (9) is redesignated as paragraph (8B).

38 (4) A new paragraph (9) is added to read as follows:

39 “(9) “Formal complaint” means a complaint that is submitted to the
40 Department in writing, sworn to by the complainant, and notarized.”.

41 (5) A new paragraph (10A) is added to read as follows:

42 “(10A) “Informal complaint” means a complaint other than a formal
43 complaint and includes complaints submitted in person, by email, by telephone, or through
44 the Department’s complaint hotline.”.

45 (6) A new paragraph (10B) is added to read as follows:

46 “(10B) “Independently owned and operated” means that the business
47 enterprise manages and controls its day-to-day operations without being subject to control,
48 restriction, modification, or limitation by another business enterprise or not-for-profit
49 business that has an ownership or other financial interest in the business enterprise.”.

50 (7) Paragraph (13B) is redesignated as paragraph (13C).

51 (8) A new paragraph (13B) is added to read as follows:

52 “(13B) “Person” means any individual, firm, partnership, joint venture, general
53 partner of a partnership, limited liability company, registered limited liability partnership,
54 foreign limited liability partnership, association, corporation, unincorporated business,
55 company, syndicate, estate, trust, business trust, trustee, trustee in bankruptcy, receiver,
56 executor, administrator, assignee, fiduciary, or entity of any kind.”.

57 (b) Section 2331 (D.C. Official Code § 2-218.31) is amended by
58 adding a new paragraph (1A) to read as follows:

59 “(1A)(A) Is:

60 “(i) Independently owned and operated;

61 “(ii) More than 50% owned, operated, and controlled by a District-
62 based enterprise or not-for-profit business; or

63 “(iii) Owned by a non-District-based business enterprise that is
64 more than 50% owned by District residents;”.

65 (c) Section 2346(b)(2)(A) (D.C. Official Code § 2-218.46(b)(2)(A)) is amended as
66 follows:

67 “(2)(A) Each government-assisted construction and non-construction contract for
68 which a certified joint venture is selected as a beneficiary and is granted points or a price
69 reduction pursuant to section 2343 or is selected through a set-aside program under this subpart
70 shall include a requirement that each certified business enterprise holding a majority or minority
71 interest in the certified joint venture shall, with its own organization and resources, perform a
72 percentage of the work equal to or greater than its percentage interest in the joint venture, and, if
73 the certified joint venture subcontracts, at least 35% of the subcontracted effort shall be with
74 certified business enterprises.”.

75 (d) Section 2363 (D.C. Official Code § 2-218.63) is amended as follows:

76 (1) Subsection (c) is amended by striking the phrase “, in
77 accordance with procedures set forth in subsection (e) of this section,”.

78 (2) Subsection (e) is amended as follows:

79 (A) Paragraphs (1), (2), and (3) are amended to read as follows:

80 “(e)(1)(A) Any person may file with the Department a formal or informal complaint
81 alleging a violation of this act.

82 “(B) The Department shall maintain a hotline for the filing of informal
83 complaints.

84 “(2) Except as provided in paragraph (3) of this subsection, the Department shall
85 investigate each formal or informal complaint filed with it.

86 “(3) The Department may dismiss a complaint without conducting an
87 investigation if the Department determines the complaint is frivolous or otherwise without
88 merit. If the Department dismisses a formal complaint as frivolous or otherwise without merit,
89 the Department shall prepare a report that includes:

90 “(A) A statement detailing the formal complaint, including the
91 name, address, and telephone number of the person filing the complaint;

92 “(B) The name of the person or certified joint venture alleged to be in
93 violation of this act;

94 “(C) The facts and law considered in rendering the determination; and

95 “(D) Any other information considered in rendering the determination.”

96 (B) Paragraph (4) is repealed.

97 (C) New paragraphs (5) and (6) are added to read as follows:

98 “(5) After the completion of an investigation conducted pursuant to this
99 subsection, the Department shall take such enforcement action, if any, it deems
100 appropriate.

101 “(6) The Department shall maintain a record listing all formal complaints, which
102 shall contain:

103 “(A) The name of the person alleged to be in violation of this act;

104 “(B) The date the formal complaint was made to the Department; and

105 “(C) A description of the formal complaint.”.

106 (3) Subsection (g) is amended to read as follows:

107 “(g)(1) Except as provided in paragraph (8) of this subsection, before
108 issuing a civil penalty to, or denying, suspending, changing, or revoking a certification, a person
109 or a certified joint venture, the Department shall issue a notice of determination to the person or
110 certified joint venture. The notice of determination shall describe the:

111 “(A) Basis for the Department’s determination;

112 “(B) Proposed penalty, if any; and

113 “(C) Process and timeline by which the person or certified joint venture
114 may request a hearing.

115 “(2) Pursuant to paragraph (3) of this subsection, a person, or a designated
116 representative on behalf of a certified joint venture, may request a hearing before the Office of
117 Administrative Hearings within 10 days after receiving the notice. If the person or certified joint
118 venture does not request a hearing within that time, the civil penalty, denial, suspension, change,
119 or revocation shall become final, and the person or certified joint venture shall be deemed to have
120 waived the opportunity for judicial review.

121 “(3) If a hearing is requested, the Office of Administrative Hearings shall
122 consider the matter pursuant to section 19 of the Office of Administrative Hearings Establishment
123 Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.16), and the
124 rules issued pursuant to it. The Department shall bear the burden of establishing the violation by a
125 preponderance of the evidence.

126 “(4) The Office of Administrative Hearings shall conduct such hearing
127 based on the record developed by the Department. The decision of the Office of Administrative

128 Hearings shall be the final administrative decision for the purpose of judicial review.

129 “(5) Notice of a final suspension or revocation of a certification shall be
130 published on the Department’s website.

131 “(6) A business enterprise or joint venture whose certification has been
132 revoked shall not be eligible to apply for a new certification from the Department until 36 months
133 after the date that the revocation became final.

134 “(7)(A) The Department may at any time, upon motion by a business
135 enterprise or joint venture whose certification has been suspended or revoked, remove the
136 suspension or reissue a certification if the Department determines that it is in the District
137 government’s interest to remove the suspension or reissue the certification before the end of the
138 36-month period and the removal or reissuance will not endanger the health, safety, or welfare of
139 the general public.

140 “(B) In determining whether to remove a suspension or reissue a
141 certification, the Department shall consider whether the business enterprise or joint venture
142 submitted satisfactory proof that conditions within, or actions by, the business enterprise or joint
143 venture that led to the suspension or revocation have been corrected.

144 “(C) A business enterprise or joint venture whose certification is reissued
145 shall cease to be subject to the 36-month waiting period established in paragraph (6) of this
146 subsection.

147 “(8)(A) If, after an investigation, the Department determines that a
148 business enterprise or joint venture certified under this act has violated any provision of this act in
149 such a manner as to present an imminent danger to the health, safety, or welfare of any person or
150 the general public, the Department may summarily suspend the certification of the business

151 enterprise or joint venture upon issuing the notice of determination described in paragraph (1) of
152 this subsection.

153 “(B)(i) The notice of determination shall inform the business enterprise or
154 joint venture of the reason for the summary suspension and the right to request a hearing before
155 the Office of Administrative Hearings pursuant to this subsection.

156 “(ii) If a business enterprise or joint venture timely requests
157 a hearing on a summary suspension, the Office of Administrative Hearings shall conduct the
158 hearing within 14 days after receiving the request, unless a longer period of time is agreed to by
159 the business enterprise or joint venture, and shall issue a decision within 14 days after the record
160 of the hearing closes.”.

161 Sec. 3. Fiscal impact statement.

162 The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal
163 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
164 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

165 Sec. 4. Effective date.

166 (a) This act shall take effect following approval by the Mayor (or in the event of veto by
167 the Mayor, action by the Council to override the veto), a 30-day period of congressional review as
168 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
169 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
170 Columbia Register.

171 (b) This act shall expire after 225 days of its having taken effect.