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Councilmember Wendell Felder

A BILL

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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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 2026”.

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.”

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

33 “(8A) Equity impact enterprise” means a business enterprise that is a resident-  
34 owned business, small business enterprise, and disadvantaged business enterprise.”

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

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

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

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

40 “(10A) “Informal complaint” means a complaint other than a formal complaint and  
41 includes complaints submitted in person, by email, by telephone, or through the Department’s  
42 complaint hotline.”.

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

44 “(10B) “Independently owned and operated” means that the business enterprise  
45 manages and controls its day-to-day operations without being subject to control, restriction,  
46 modification, or limitation by another business enterprise or not-for-profit business that has an  
47 ownership or other financial interest in the business enterprise.”.

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

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

50 “(13B) “Person” means any individual, firm, partnership, joint venture, general  
51 partner of a partnership, limited liability company, registered limited liability partnership, foreign  
52 limited liability partnership, association, corporation, unincorporated business, company, syndicate,  
53 estate, trust, business trust, trustee, trustee in bankruptcy, receiver, executor, administrator,

54 assignee, fiduciary, or entity of any kind.”.

55 (b) Section 2331 (D.C. Official Code § 2-218.31) is amended by adding a new paragraph  
56 (1A) to read as follows:

57 “(1A)(A) Is:

58 “(i) Independently owned and operated;

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

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

63 (c) Section 2346(b)(2)(A) (D.C. Official Code § 2-218.46(b)(2)(A)) is amended to read as  
64 follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

94 (B) Paragraph (4) is repealed.

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

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

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

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

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

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

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

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

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

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

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

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

118                   “(3) If a hearing is requested, the Office of Administrative Hearings shall consider  
119 the matter pursuant to section 19 of the Office of Administrative Hearings Establishment Act of

120 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.16), and the rules  
121 issued pursuant to it. The Department shall bear the burden of establishing the violation by a  
122 preponderance of the evidence.

123           “(4) The Office of Administrative Hearings shall conduct such hearing based on the  
124 record developed by the Department. The decision of the Office of Administrative Hearings shall  
125 be the final administrative decision for the purpose of judicial review.

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

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

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

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

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

142 subsection.

143 “(8)(A) If, after an investigation, the Department determines that a business  
144 enterprise or joint venture certified under this act has violated any provision of this act in such a  
145 manner as to present an imminent danger to the health, safety, or welfare of any person or the  
146 general public, the Department may summarily suspend the certification of the business enterprise  
147 or joint venture upon issuing the notice of determination described in paragraph (1) of this  
148 subsection.

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

152 “(ii) If a business enterprise or joint venture timely requests a hearing  
153 on a summary suspension, the Office of Administrative Hearings shall conduct the hearing within  
154 14 days after receiving the request, unless a longer period of time is agreed to by the business  
155 enterprise or joint venture, and shall issue a decision within 14 days after the record of the hearing  
156 closes.”.

157 Sec. 3. Applicability.

158 This act shall apply as of March 29, 2026.

159 Sec. 4. Fiscal impact statement.

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

163 Sec. 5. Effective date.

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

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