



Councilmember Kenyan R. McDuffie

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A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend, on an emergency basis, the Small and Certified Business Enterprise Development and Assistance Act of 2005 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 Emergency Amendment Act of 2024”.

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 (9A) is redesignated paragraph (9B).

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

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

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

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

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(4) Paragraph (13B) is redesignated as paragraph (13C).

(5) New paragraph (13B) is added to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

58                   (B) Paragraph (4) is repealed.

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

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

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

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

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

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

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

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

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

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

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

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

82                               “(3) If a hearing is requested, the Office of Administrative Hearings shall consider  
83 the matter pursuant to section 19 of the Office of Administrative Hearings Establishment Act of  
84 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.16), and the rules  
85 issued pursuant to it. The Department shall bear the burden of establishing the violation by a  
86 preponderance of the evidence.

87                               “(4) The decision of the Office of Administrative Hearings shall be the final  
88 administrative decision for the purpose of judicial review.

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

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

94                               “(7)(A) The Department may at any time, upon motion by a business enterprise or  
95 joint venture whose certification has been suspended or revoked, remove the suspension or  
96 reissue a certification, if the Department determines that it is in the District government’s interest

97 to remove the suspension or reissue the certification before the end of the 36-month period and  
98 the removal or reissuance will not endanger the health, safety, or welfare of the general public.

99           “(B) In determining whether to remove a suspension or reissuance a certification,  
100 the Department shall consider whether the business enterprise or joint venture submitted  
101 satisfactory proof that conditions within, or actions by, the business enterprise or joint venture  
102 that led to the suspension or revocation have been corrected.

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

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

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

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

120           Sec. 3. Fiscal impact statement.

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

124           Sec. 4. Effective date.

125           This act shall take effect following approval by the Mayor (or in the event of veto by the  
126 Mayor, action by the Council to override the veto), and shall remain in effect for no longer than  
127 90 days, as provided for emergency acts of the Council of the District of Columbia in section  
128 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788;  
129 89 D.C. Official Code § 1-204.12(a)).