

AN ACT

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 require that for a business enterprise to be certified as a local business enterprise it must be independently owned, operated, and controlled, more than 50% owned, operated, and controlled by a District-based enterprise or not-for-profit business, or owned by a non-District-based business enterprise or not-for-profit business that is more than 50% owned by District residents, and to require currently certified local business enterprises that do not meet one of these requirements to be recertified.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Local Business Enterprise Clarification Emergency Amendment Act of 2023”.

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

“(1A)(A) Is:

“(i) Independently owned, operated, and controlled;

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

“(iii) Owned by a non-District-based business enterprise or not-for-profit business that is more than 50% owned by District residents.

“(B) For the purposes of this paragraph, the term “Independently owned, operated, and controlled” includes a business enterprise that manages and controls its day-to-day operations without being subject to control, restriction, modification, or limitation by another business enterprise or not-for-profit business that has an ownership or other financial interest in the business enterprise.”.

(b) A new section 2331a (D.C. Official Code § 2-218.31a) is added to read as follows:

“Sec. 2331a. Grace period for compliance with section 2331(1A).

“(a) Except as provided in subsection (b) of this section, a business enterprise currently certified as a local business enterprise pursuant this act that does not meet the requirements of section 2331(1A) and has not submitted a new application to the Department of Small and Local Business Development to be recertified as a local business enterprise within 90 days of the effective date of the Local Business Enterprise Clarification Emergency Amendment Act of 2021, effective July 21, 2021 (D.C. Act 24-118; 68 DCR 7323), shall have its certification revoked pursuant to section 2363(a)(2)(B).

“(b) A business enterprise currently certified as a local business enterprise pursuant to this act that does not meet the requirements of section 2331(1A) but has an existing contract with the District, or was included as a subcontractor on a subcontracting plan on an existing contract with the District, shall be permitted to complete the term of that contract or subcontract, including the base year and any option years under the contract or subcontract, and receive the appropriate credit towards assisting an agency in meeting its goals pursuant to section 2341 and subcontracting points pursuant to section 2346 under its current certification. Upon completion of the term of that contract, the business enterprise must meet the requirements of section 2331(1A) and be recertified to remain a local business enterprise.”.

Sec. 3. Technical amendment.

Section 3 of the Local Solar Expansion Amendment Act of 2022, enacted on January 10, 2023 (D.C. Act 24-742; 70 DCR 606), is amended by striking the phrase “subsection (a) of this section;” and inserting the phrase “section 4;” in its place.

Sec.4. Applicability.

Section 2 shall apply as of February 10, 2023.

Sec. 5. Fiscal impact statement.

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

Sec. 6. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

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412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788;
D.C. Official Code § 1-204.12(a)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia