

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 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.”.

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

(5) A 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:

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

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

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

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

(B) Paragraph (4) is repealed.

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

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

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

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

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

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

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

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

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

“(B) Proposed penalty, if any; and

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

“(2) Pursuant to paragraph (3) of this subsection, a person or designated representative on behalf of a certified joint venture may request a hearing before the Office of Administrative Hearings within 10 days after receiving the notice. If the person or certified joint venture does not request a hearing within that time, the civil penalty, denial, suspension, change,

or revocation shall become final, and the person or certified joint venture shall be deemed to have waived the opportunity for judicial review.

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

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

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

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

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

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

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

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

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

“(ii) If a business enterprise or joint venture timely requests a hearing on a summary suspension, the Office of Administrative Hearings shall conduct the hearing within 14 days after receiving the request, unless a longer period of time is agreed to by

the business enterprise or joint venture, and shall issue a decision within 14 days after the record of the hearing closes.”.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement of the 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. 4. 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 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; 89 D.C. Official Code § 1-204.12(a)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia