

P.L. 2024, CHAPTER 10, *approved May 1, 2024*
Senate, No. 1313 (*First Reprint*)

1 AN ACT ¹[establishing a] concerning the¹ certification ¹[program
2 for] of¹ businesses owned by LGBTQ+ persons¹[,]¹ and
3 supplementing Title 52 of the Revised Statutes.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 ¹[1. As used in this act:

9 “Appeal” means a filed written challenge to a denial or
10 revocation of a certification as an LGBTQ+ business.

11 “Applicant” means a business that applies for certification as an
12 LGBTQ+ business pursuant to this act.

13 “Business” means an entity organized for profit which includes,
14 but is not limited to, a sole proprietorship, partnership, limited
15 liability company, corporation, or joint venture.

16 “Certification” means a determination by the division that an
17 applicant has met the standards for certification as an LGBTQ+
18 business, pursuant to section 2 of this act.

19 “Control and managerial and operational control” mean
20 authority over the affairs of a business, including, but not limited to,
21 capital investment, property acquisition, employee hiring, contract
22 negotiations, legal matters, officer and director selection, operating
23 responsibility, financial transaction, and the rights of other
24 shareholders or joint partners. Control shall not include absentee
25 ownership. Control shall be deemed not to exist where an owner
26 does not identify as LGBTQ+. Additionally, control shall not be
27 deemed to exist if someone, other than someone who identifies as
28 LGBTQ+, is disproportionately responsible for the daily operation
29 of a business, or for policy and contractual decisions.

30 “Day” or “business day” means any weekday, excluding
31 Saturdays, Sundays, State or federal legal holidays, and State-
32 mandated furlough days.

33 “Denial” means an administrative decision by the division to
34 reject an application pursuant to section 7 of this act.

35 “Department” means the Department of the Treasury.

36 “Designated hearing officer” means a Department of the
37 Treasury employee designated by the State Treasurer to render

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly floor amendments adopted March 18, 2024.

1 decisions on cases involving an appeal of a denial of a certification
2 or a challenge to a certification, pursuant to this act.

3 “Director” means the director of the Division of Revenue and
4 Enterprise Services, in the Department of the Treasury.

5 “Division” means the Division of Revenue and Enterprise
6 Services, in the Department of the Treasury.

7 “E.O. 295” means Executive Order No. 295 (2022), issued by
8 Governor Murphy on May 3, 2022.

9 “Filed” means received by the director or a division
10 representative.

11 “Joint venture” means a business undertaking between two or
12 more entities who share risk and responsibility for a specific project
13 while otherwise retaining their distinct identities.

14 “LGBTQ+” means lesbian, gay, bisexual, transgender, queer,
15 questioning +, or other gender identities and sexual orientations that
16 are non-cisgender and non-heterosexual.

17 “LGBTQ+ business” means a business, which is:

18 (1) a sole proprietorship, owned and controlled by a person who
19 identifies as LGBTQ+;

20 (2) a partnership or joint venture, in which at least 51 percent of
21 the ownership interest is held by individuals who identify as
22 LGBTQ+ and the management and daily business operations are
23 controlled by one or more of the individuals who identify as
24 LGBTQ+; or

25 (3) a corporation or other entity, whose management and daily
26 business operations are controlled by one or more individuals who
27 identify as LGBTQ+ which is at least 51 percent owned by one or
28 more individuals who identify as LGBTQ+ or, if stock is issued, at
29 least 51 percent of the stock is owned by one or more individuals
30 who identify as LGBTQ+.

31 “Selective Assistance Vendor Information (SAVI)” means the
32 database in which the division maintains a public listing of small
33 businesses, veteran’s businesses, disabled veteran-owned
34 businesses, minority, women, and LGBTQ+ businesses.

35 “State contracting agency” or “contracting agency” means any
36 board, commission, committee, authority, division, college,
37 university, department, or agency of the State that possesses the
38 legal authority to enter into, or award, contracts for goods and
39 services or construction contracts. ¹

40

41 ¹[2. a. A business may be eligible to be certified as an
42 LGBTQ+ business, as set forth in this section.

43 b. In order to be eligible as an LGBTQ+ business, a business
44 shall be a sole proprietorship, partnership, joint venture,
45 corporation, or other business entity authorized pursuant to the laws
46 of the United States, which is at least 51 percent owned, operated,
47 and controlled by persons who identify as LGBTQ+.

1 c. In order to be eligible to be certified, a business shall meet
2 the following standards to be certified as an LGBTQ+ business:

3 (1) ownership. A business shall be deemed to be independently
4 owned, operated, and controlled, if its management, as specified in
5 its certification application, is responsible for both its daily and
6 long-term operation, and that management owns at least 51 percent
7 interest in the business and consists of individuals who identify as
8 LGBTQ+. The ownership and control by members of the LGBTQ+
9 community shall be real, substantial, and continuing, demonstrating
10 authority over the affairs of the business, and shall go beyond the
11 pro forma ownership of the business as reflected in its ownership
12 documents;

13 (2) business entity. Recognition of the business as a separate
14 entity for tax or corporate purposes is not necessarily sufficient for
15 recognition as an LGBTQ+ business. In determining whether a
16 potential LGBTQ+ business is an independent business, all relevant
17 factors shall be considered, including the date the business was
18 established and the degree to which financial, equipment leasing,
19 and other relationships with non-LGBTQ+ businesses vary from
20 industry practice;

21 (3) licensing. When a professional or occupational license or
22 certification is required by federal or State law to perform the
23 primary business operations of the applicant business, and the
24 LGBTQ+ business does not possess the applicable license or
25 certification, the LGBTQ+ owner shall demonstrate competence in
26 the affairs of the business, in order to satisfy the requirement for
27 managerial and operational control; and

28 (4) registration. A business shall be registered with the division
29 to do business in New Jersey.】¹

30
31 ¹【3. a. The documentation required for first-time applicants
32 seeking certification may be abbreviated. The documentation
33 requirements in this section shall only apply to first-time applicants
34 for certification.

35 b. A first-time applicant for certification as an LGBTQ+
36 business shall submit documentation necessary to determine the
37 applicant's eligibility for certification.

38 c. The division shall prepare a New Jersey Uniform
39 Certification Application. The application shall be an online
40 application available from the division's Internet website. The
41 information submitted in support of an application shall include, but
42 not be limited to:

43 (1) the names and addresses of the owner, partners, or
44 shareholders, as applicable, and their representative shares of
45 ownership;

46 (2) the names and addresses of members of the board of
47 directors;

48 (3) the names and addresses of the officers of the business;

- 1 (4) the number of shares of stock issued and outstanding, in the
2 case of a corporation;
- 3 (5) the articles of incorporation, bylaws, partnership agreements,
4 or joint venture agreements, as applicable;
- 5 (6) organizational charts;
- 6 (7) the certificate of birth, or motor vehicle driver's license,
7 passport, or other acceptable form of identification of the owners,
8 partners, shareholders, or in the case of corporations, members of
9 the board of directors, as applicable to the applicant entity; and
- 10 (8) an affidavit, signed by the individual seeking certification,
11 certifying that the signer owns the business and identifies as
12 LGBTQ+. In the case of a business with multiple owners, a single
13 affidavit certifying that at least 51 percent of ownership identifies
14 as LGBTQ+ shall be sufficient.
- 15 d. A first-time applicant's certification shall be provisional and
16 shall be operative for one year from the date of approval.
17 Following an initial certification year, a business shall reapply for
18 certification no later than 20 days prior to the expiration of the
19 business's current certification, and not earlier than 60 days prior to
20 the expiration of that certification.
- 21 (1) The division shall prepare an application form for
22 recertification. The application shall be an online application
23 available on the division's Internet website.
- 24 (2) As part of its recertification application to the division, a
25 business shall provide in its application, in addition to the
26 information required pursuant to subsection c. of this section:
- 27 (a) the location of its business;
- 28 (b) the names and addresses of the officers of the business;
- 29 (c) the names and addresses of capital investors and the amount
30 of capital contributed. Gifted ownership shall not be considered;
- 31 (d) personal and corporate tax returns for each owner, director,
32 and officer of the business for the past three consecutive years
33 (including W-2 forms);
- 34 (e) the bonding capacity and history of the business;
- 35 (f) the affiliation of the business or any of its owners, officers,
36 or directors with any other business entity;
- 37 (g) a current organizational chart;
- 38 (h) a representative list of current and prior clients for the past
39 two years, where applicable;
- 40 (i) a complete list of major real and personal property holdings
41 of the business;
- 42 (j) a complete disclosure of financial statements and balance
43 sheets;
- 44 (k) a complete listing of banking institutions with which the
45 business is affiliated;
- 46 (l) a complete listing of previously attained certifications and a
47 listing of all legal entities that denied certification, including but not
48 limited to certification as a small business, veteran's business,

1 disabled veteran-owned business, minority business, or women's
2 business; and

3 (m) copies of office or warehouse lease or rental agreements,
4 deeds, and mortgages.

5 (3) Upon approval of an application, a certificate issued
6 pursuant to this section shall be valid for five years, subject to the
7 annual certification verification statement. Every five years
8 thereafter, but no later than 20 days prior to the expiration of the
9 business's current certification, and not earlier than 60 days prior to
10 the expiration of the certification, a business interested in remaining
11 certified as an LGBTQ+ business shall comply with the certification
12 procedures in this subsection.

13 (4) An applicant shall fully and accurately complete all relevant
14 parts of the Uniform Certification Application. Failure to complete
15 an application may result in denial.

16 (5) Annually, the business shall submit, not more than 20 days
17 prior to the anniversary of the certification, an annual Certification
18 Verification Statement, in which it shall attest that there is no
19 change in the ownership, control, or any other factor of the business
20 affecting eligibility for certification as an LGBTQ+ business.

21 e. (1) If the business fails to submit the annual certification
22 verification statement by the anniversary date, the certification will
23 lapse and the business shall be removed from the SAVI. If the
24 business seeks to be re-certified, it shall reapply for certification
25 pursuant to subsection d. of this section.

26 (2) If the business submits the annual Certification Verification
27 Statement by the anniversary date, but either the Certification
28 Verification Statement or other information received by the division
29 indicates that the business is no longer eligible for certification as
30 an LGBTQ+ business, the division shall revoke the certification
31 pursuant to this section and, following revocation, the business shall
32 be removed from the SAVI. The business may appeal this
33 revocation, pursuant to the procedures established by the division.

34 f. Grounds for denial of an application pursuant to this section
35 shall be as follows:

36 (1) in the event that the division, after reviewing the application,
37 requests additional information or documentation that is necessary
38 to make a determination, the applicant's failure to comply with the
39 request within 30 days of the request shall result in denial; and

40 (2) if the applicant knowingly supplies incorrect, incomplete, or
41 inaccurate information, the applicant shall be disqualified and
42 barred from reapplying for certification for a period of 18 months
43 from the date of notice of disqualification.】¹

44
45 ¹【4. a. When a business is determined by the division to be an
46 LGBTQ+ business, the business shall be added to the SAVI
47 database. Each business shall be placed on the database denoting its
48 status as an LGBTQ+ business.

1 b. When a business is placed on the SAVI database:
2 (1) that business shall be eligible for any appropriate State
3 programs and initiatives for LGBTQ+ businesses; and
4 (2) the business shall be informed by the division of its
5 certification status. The division shall also issue an individual
6 certification number exclusive to the business, as part of the
7 certification procedure.】¹

8
9 ¹【5. An LGBTQ+ business may apply to be certified by the
10 division at any time, unless restricted pursuant to this act.】¹

11
12 ¹【6. An applicant for certification as an LGBTQ+ business may
13 request, in writing, to the director, that its application be withdrawn.
14 A requested withdrawal shall not be prejudicial to any subsequent
15 application. An applicant may reapply not sooner than 90 calendar
16 days following the date of withdrawal, but not more than three
17 times in a calendar year. An applicant may withdraw once during a
18 12-month period.】¹

19
20 ¹【7. a. The division may deny or revoke the certification of an
21 LGBTQ+ business if the division has determined that:

- 22 (1) the applicant has failed to meet certification criteria;
23 (2) the business has ceased to meet certification criteria;
24 (3) the applicant has not timely renewed its certification; or
25 (4) the applicant has knowingly provided incorrect or false
26 information.

27 b. When a determination to deny or revoke a certification is
28 made, the division shall notify the business through the mail or
29 electronic means, including electronic mail. The denial or
30 revocation shall be effective as of the date of the notice.

31 c. An LGBTQ+ business challenging the denial or revocation
32 shall submit an appeal to the director or designated hearing officer
33 setting forth, in detail, the grounds for such appeal in a written
34 statement. The appeal shall be filed within 10 business days
35 following the business's receipt of written notification that it was
36 denied certification, or that its certification was revoked. The
37 appeal shall contain:

38 (1) the specific grounds for challenging the denial of the
39 certification or the revocation of the certification, including all
40 arguments, materials, or other documentation that may support the
41 appellant's position; and

42 (2) a statement as to whether the appellant requests an
43 opportunity for an in-person presentation and the reason(s) for the
44 request.

45 d. The director, or designated hearing officer, may disregard
46 any appeal filed after the 10-day period.

1 e. The appeal accepted by the director or designated hearing
2 officer shall be resolved pursuant to the Administrative Procedure
3 Act, P.L.1968, c.410 (C.52:14B-1 et seq.). The determination
4 issued by the director, or designated hearing officer, shall be a final
5 agency decision, which shall be appealable to the Appellate
6 Division of the Superior Court.

7 f. The director, or designated hearing officer, is entitled to
8 request, receive, and review copies of any and all records and
9 documents deemed appropriate and relevant to the issues and
10 arguments set forth in the appeal. Upon receipt of the request by
11 the director or designated hearing officer, a business shall promptly
12 provide the requested records or information. The director or
13 designated hearing officer may also consider relevant information
14 requested and received from other parties deemed appropriate.

15 g. A business who receives a decision from the division that
16 the denial or revocation has been reaffirmed may reapply for
17 certification one year after the original date of denial or
18 revocation.】¹

19
20 ¹【8. a. A third-party may challenge the qualifications of an
21 applicant, or a certified entity, pursuant to this act for eligibility to
22 be certified as an LGBTQ+ business and be included in the SAVI
23 database.

24 b. A third-party finding cause to challenge the certification of
25 an LGBTQ+ business shall submit an appeal to the director, or
26 designated hearing officer, setting forth, in detail, the grounds for
27 the challenge in a written statement with copies to the challenged
28 business. The challenge shall contain the specific grounds for
29 challenging the certification, including all arguments, materials, or
30 other documentation that may support the challenger's position. A
31 challenge pursuant to this subsection is limited to the authenticity of
32 a business pursuant to this act to be certified as an LGBTQ+
33 business. The right to challenge a currently certified LGBTQ+
34 business is in addition to, and independent of, any protest hearing
35 rights that are afforded by any State contracting agency.

36 c. When the division, or designated hearing officer, receives a
37 challenge, the division shall notify the affected business in writing.

38 d. (1) Upon proper notice, the division or designated hearing
39 officer shall conduct a hearing on the matter pursuant to the
40 Administrative Procedure Act, P.L.1968, c.410 (C.52:14B-1 et
41 seq.). The determination issued by the director, or designated
42 hearing officer, shall be a final agency decision, which shall be
43 appealable to the Appellate Division of the Superior Court;

44 (2) The director, or designated hearing officer, is entitled to
45 request, receive, and review copies of any and all records and
46 documents deemed appropriate and relevant to the issues and
47 arguments set forth in the challenge. Upon receipt of the request by
48 the director or designated hearing officer, the business shall

1 promptly provide the requested records or information. The
2 director, or designated hearing officer, may also consider relevant
3 information requested and received from other parties deemed
4 appropriate; and

5 (3) A business who receives a decision from the director, or
6 designated hearing officer, that the certification has been revoked
7 may reapply for certification one year after the date of revocation. **】¹**

8

9 **【**9. a. Applicants for certification pursuant to this act shall
10 accurately and honestly supply all information required by the
11 division.

12 b. Any business certified by the division as an LGBTQ+
13 business shall immediately apprise the division of any
14 circumstances that in any way affect the ownership composition of
15 the business, or the control over the business, or otherwise affect
16 the eligibility of the business, pursuant to this act.

17 c. The failure of a business to report any changed
18 circumstances pursuant to subsection b. of this section, or the
19 falsification of information provided pursuant to subsection b. of
20 this section, shall disqualify the business for inclusion on the SAVI
21 database. When the division determines that a business has been
22 certified as an LGBTQ+ business on the basis of false information,
23 the division shall notify the business that it has been removed from
24 the SAVI database.

25 d. The certificate holder shall have 10 business days to file a
26 notice of appeal with the director or designated hearing officer. The
27 notice of appeal shall provide the specific grounds for appealing the
28 determination, including all relevant information.

29 e. Receipt of a proper appeal shall constitute a contested case,
30 eligible for hearing, pursuant to the Administrative Procedure Act,
31 P.L.1968, c.410 (C.52:14B-1 et seq.). **】¹**

32

33 **【**10. a. The division may form reciprocal agreements with, or
34 accept certifications by, other public and private certifying entities,
35 to facilitate LGBTQ+ business development and growth.

36 b. All reciprocal agreements shall provide that the quality of
37 the program of the other certifying agency is the relative equal of
38 the division's program.

39 c. Documentation from the reciprocal agency showing
40 certification shall be provided.

41 d. In the event that the division forms reciprocal agreements
42 with, or accepts certifications by, other public and or private
43 certifying entities, it shall post information on its website, including
44 the names of the entities, the effective date of accepting
45 certifications by other entities, and links to such entities. **】¹**

1 ¹11. a. All information and documents submitted to the
2 division as part of the certification application shall be deemed
3 confidential, unless required by applicable federal and State law.
4 Information required to be disclosed for purposes of inclusion in the
5 SAVI database is not deemed confidential.

6 b. Information and documents provided to the division may be
7 made available, subject to confidentiality limitations, pursuant to
8 P.L.1963, c.73 (C.47:1A-1 et seq.), where required during a
9 challenge or appeal proceeding pursuant to this act. ¹

10 ¹12. This act shall take effect on the 365th day next following
11 the date of enactment. ¹

12
13 ¹1. a. The Department of the Treasury shall establish,
14 consistently with Executive Order No. 295 of 2022, a unified
15 procedure for the certification of a business as an LGBTQ+
16 business. In establishing and administering the procedure required
17 by this section, the department shall ensure that the application for
18 certification process is clear, concise, and does not require
19 duplication of effort on the part of the applicant.

20 b. The department shall:

21 (1) establish criteria to be used:

22 (a) to determine the status of a business as an LGBTQ+
23 business;

24 (b) to deny or revoke the certification of an LGBTQ+ business;
25 and

26 (c) by a third-party challenging the qualifications of an
27 applicant to be certified as an LGBTQ+ business;

28 (2) establish an appeal process for an LGBTQ+ business
29 challenging the denial or revocation of the certification;

30 (3) provide a single form of application for certification, which
31 form shall be written in plain language, and include instructions as
32 to the certification procedure and any additional documents or
33 information required to be supplied by the applicant;

34 (4) on no less than an annual basis, verify the status of each
35 certified business to ensure continued compliance with the criteria
36 for certification and control by the appropriate persons; and

37 (5) compile, maintain, and make available to the public,
38 government agencies, and other organizations, lists of certified
39 LGBTQ+ businesses.

40 c. A business may submit an application for certification as an
41 LGBTQ+ business to the department at any time.

42 d. A business may submit to the department, in writing, a
43 request to withdraw an application for certification as an LGBTQ+
44 business. A business may submit a request to withdraw an
45 application one time within a 12-month period. A request to
46 withdraw an application shall not be relevant to the department's
47 consideration of a subsequent application submitted by that

1 business. A business may submit a new application for certification
2 following the passage of 90 calendar days after the date the
3 business submitted a request to withdraw an application, but no
4 more frequently than three times within a calendar year.

5 e. An applicant for certification pursuant to this section shall
6 accurately and honestly supply all information required by the
7 department. A certified LGBTQ+ business shall notify the
8 department, as soon as possible, of changed circumstances that may
9 impact the ownership composition of the business, control of the
10 business, or otherwise affect the business's eligibility for
11 certification pursuant to this section. The department shall revoke
12 the certification of a business which fails to report a changed
13 circumstance pursuant to this subsection.

14 f. The department may enter into a reciprocal agreement with,
15 or accept the certification of, one or more public or private
16 certifying entities in order to facilitate the development and growth
17 of LGBTQ+ businesses, provided that the quality of the program
18 established by each other certifying entity is substantially similar to
19 the department's program of certifying LGBTQ+ businesses. The
20 department shall document each reciprocal agreement it enters into,
21 and each entity from which the department accepts certifications, by
22 posting identifying information of the department's Internet
23 website, which shall include: the name of each other certifying
24 entity, the date the department starts accepting certifications from
25 each other entity, and a link to each other certifying entity's Internet
26 website.

27 g. Information and documents that a business submits to the
28 department as part of the business's application for certification as
29 an LGBTQ+ business shall be deemed confidential, unless
30 otherwise required to be accessible pursuant to applicable federal or
31 State law. Subject to confidentiality limitations pursuant to
32 P.L.1963, c.73 (C.47:1A-1 et seq.), the department may make
33 available, during an appeal pursuant to this section, the information
34 and documents a business has submitted to the department as part of
35 the business's application for certification as an LGBTQ+ business.
36 Information required to be disclosed for purposes of listing certified
37 LGBTQ+ businesses pursuant to subsection b. of this section shall
38 not be deemed confidential.

39 h. As used in this section:

40 "Appeal" means a filed written challenge to a denial or
41 revocation of a certification as an LGBTQ+ business.

42 "Applicant" means a business that applies for certification as an
43 LGBTQ+ business pursuant to this section.

44 "Business" means an entity organized for profit which includes,
45 but is not limited to, a sole proprietorship, partnership, limited
46 liability company, corporation, or joint venture.

1 “Certification” means a determination by the department that an
2 applicant has met the standards for certification as an LGBTQ+
3 business, pursuant to this section.

4 “Department” means the Department of the Treasury.

5 “Executive Order No. 295” means Executive Order No. 295
6 (2022), issued by Governor Murphy on May 3, 2022.

7 “LGBTQ+” means lesbian, gay, bisexual, transgender, queer,
8 questioning +, or other gender identities and sexual orientations that
9 are non-cisgender and non-heterosexual.

10 “LGBTQ+ business” means a business, which is:

11 (1) a sole proprietorship owned and controlled by a person who
12 identifies as LGBTQ+;

13 (2) a partnership or joint venture, in which at least 51 percent of
14 the ownership interest is held by individuals who identify as
15 LGBTQ+ and the management and daily business operations are
16 controlled by one or more of the individuals who identify as
17 LGBTQ+; or

18 (3) a corporation or other entity, the management and daily
19 business operations of which are controlled by one or more
20 individuals who identify as LGBTQ+ and of which at least 51
21 percent of the legal beneficial ownership is held by one or more
22 individuals who identify as LGBTQ+.¹

23

24 ¹2. The Department of the Treasury, pursuant to the
25 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
26 seq.), shall adopt rules and regulations to effectuate the provisions
27 of this act.¹

28

29 ¹3. This act shall take effect on the 180th day next following the
30 date of enactment.¹

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33

34

35 Establishes procedure for certification of LGBTQ+ business.

CHAPTER 10

AN ACT concerning the certification of businesses owned by LGBTQ+ persons and supplementing Title 52 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.52:18A-49.1 LGBTQ+ business certification, unified procedure; definitions.

1. a. The Department of the Treasury shall establish, consistently with Executive Order No. 295 of 2022, a unified procedure for the certification of a business as an LGBTQ+ business. In establishing and administering the procedure required by this section, the department shall ensure that the application for certification process is clear, concise, and does not require duplication of effort on the part of the applicant.

b. The department shall:

(1) establish criteria to be used:

(a) to determine the status of a business as an LGBTQ+ business;

(b) to deny or revoke the certification of an LGBTQ+ business; and

(c) by a third party challenging the qualifications of an applicant to be certified as an LGBTQ+ business;

(2) establish an appeal process for an LGBTQ+ business challenging the denial or revocation of the certification;

(3) provide a single form of application for certification, which form shall be written in plain language, and include instructions as to the certification procedure and any additional documents or information required to be supplied by the applicant;

(4) on no less than an annual basis, verify the status of each certified business to ensure continued compliance with the criteria for certification and control by the appropriate persons; and

(5) compile, maintain, and make available to the public, government agencies, and other organizations lists of certified LGBTQ+ businesses.

c. A business may submit an application for certification as an LGBTQ+ business to the department at any time.

d. A business may submit to the department, in writing, a request to withdraw an application for certification as an LGBTQ+ business. A business may submit a request to withdraw an application one time within a 12-month period. A request to withdraw an application shall not be relevant to the department's consideration of a subsequent application submitted by that business. A business may submit a new application for certification following the passage of 90 calendar days after the date the business submitted a request to withdraw an application, but no more frequently than three times within a calendar year.

e. An applicant for certification pursuant to this section shall accurately and honestly supply all information required by the department. A certified LGBTQ+ business shall notify the department, as soon as possible, of changed circumstances that may impact the ownership composition of the business, control of the business, or otherwise affect the business's eligibility for certification pursuant to this section. The department shall revoke the certification of a business which fails to report a changed circumstance pursuant to this subsection.

f. The department may enter into a reciprocal agreement with, or accept the certification of, one or more public or private certifying entities in order to facilitate the development and growth of LGBTQ+ businesses, provided that the quality of the program established by each other certifying entity is substantially similar to the department's program of certifying LGBTQ+ businesses. The department shall document each reciprocal agreement it enters into, and each entity from which the department accepts certifications, by posting identifying information of the department's Internet website, which shall include: the name of each other

certifying entity, the date the department starts accepting certifications from each other entity, and a link to each other certifying entity's Internet website.

g. Information and documents that a business submits to the department as part of the business's application for certification as an LGBTQ+ business shall be deemed confidential, unless otherwise required to be accessible pursuant to applicable federal or State law. Subject to confidentiality limitations pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), the department may make available, during an appeal pursuant to this section, the information and documents a business has submitted to the department as part of the business's application for certification as an LGBTQ+ business. Information required to be disclosed for purposes of listing certified LGBTQ+ businesses pursuant to subsection b. of this section shall not be deemed confidential.

h. As used in this section:

"Appeal" means a filed written challenge to a denial or revocation of a certification as an LGBTQ+ business.

"Applicant" means a business that applies for certification as an LGBTQ+ business pursuant to this section.

"Business" means an entity organized for profit which includes, but is not limited to, a sole proprietorship, partnership, limited liability company, corporation, or joint venture.

"Certification" means a determination by the department that an applicant has met the standards for certification as an LGBTQ+ business, pursuant to this section.

"Department" means the Department of the Treasury.

"Executive Order No. 295" means Executive Order No. 295 (2022), issued by Governor Murphy on May 3, 2022.

"LGBTQ+" means lesbian, gay, bisexual, transgender, queer, questioning +, or other gender identities and sexual orientations that are non-cisgender and non-heterosexual.

"LGBTQ+ business" means a business, which is:

a sole proprietorship owned and controlled by a person who identifies as LGBTQ+;

a partnership or joint venture, in which at least 51 percent of the ownership interest is held by individuals who identify as LGBTQ+ and the management and daily business operations are controlled by one or more of the individuals who identify as LGBTQ+; or

a corporation or other entity, the management and daily business operations of which are controlled by one or more individuals who identify as LGBTQ+ and of which at least 51 percent of the legal beneficial ownership is held by one or more individuals who identify as LGBTQ+.

2. The Department of the Treasury, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate the provisions of this act.

3. This act shall take effect on the 180th day next following the date of enactment.

Approved May 1, 2024.

SENATE, No. 1313

STATE OF NEW JERSEY 221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

Senator M. TERESA RUIZ

District 29 (Essex and Hudson)

SYNOPSIS

Establishes certification program for businesses owned by LGBTQ+ persons.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT establishing a certification program for businesses owned
2 by LGBTQ+ persons, and supplementing Title 52 of the Revised
3 Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. As used in this act:

9 “Appeal” means a filed written challenge to a denial or
10 revocation of a certification as an LGBTQ+ business.

11 “Applicant” means a business that applies for certification as an
12 LGBTQ+ business pursuant to this act.

13 “Business” means an entity organized for profit which includes,
14 but is not limited to, a sole proprietorship, partnership, limited
15 liability company, corporation, or joint venture.

16 “Certification” means a determination by the division that an
17 applicant has met the standards for certification as an LGBTQ+
18 business, pursuant to section 2 of this act.

19 “Control and managerial and operational control” mean
20 authority over the affairs of a business, including, but not limited to,
21 capital investment, property acquisition, employee hiring, contract
22 negotiations, legal matters, officer and director selection, operating
23 responsibility, financial transaction, and the rights of other
24 shareholders or joint partners. Control shall not include absentee
25 ownership. Control shall be deemed not to exist where an owner
26 does not identify as LGBTQ+. Additionally, control shall not be
27 deemed to exist if someone, other than someone who identifies as
28 LGBTQ+, is disproportionately responsible for the daily operation
29 of a business, or for policy and contractual decisions.

30 “Day” or “business day” means any weekday, excluding
31 Saturdays, Sundays, State or federal legal holidays, and State-
32 mandated furlough days.

33 “Denial” means an administrative decision by the division to
34 reject an application pursuant to section 7 of this act.

35 “Department” means the Department of the Treasury.

36 “Designated hearing officer” means a Department of the
37 Treasury employee designated by the State Treasurer to render
38 decisions on cases involving an appeal of a denial of a certification
39 or a challenge to a certification, pursuant to this act.

40 “Director” means the director of the Division of Revenue and
41 Enterprise Services, in the Department of the Treasury.

42 “Division” means the Division of Revenue and Enterprise
43 Services, in the Department of the Treasury.

44 “E.O. 295” means Executive Order No. 295 (2022), issued by
45 Governor Murphy on May 3, 2022.

46 “Filed” means received by the director or a division
47 representative.

1 “Joint venture” means a business undertaking between two or
2 more entities who share risk and responsibility for a specific project
3 while otherwise retaining their distinct identities.

4 “LGBTQ+” means lesbian, gay, bisexual, transgender, queer,
5 questioning +, or other gender identities and sexual orientations that
6 are non-cisgender and non-heterosexual.

7 “LGBTQ+ business” means a business, which is:

8 (1) a sole proprietorship, owned and controlled by a person who
9 identifies as LGBTQ+;

10 (2) a partnership or joint venture, in which at least 51 percent of
11 the ownership interest is held by individuals who identify as
12 LGBTQ+ and the management and daily business operations are
13 controlled by one or more of the individuals who identify as
14 LGBTQ+; or

15 (3) a corporation or other entity, whose management and daily
16 business operations are controlled by one or more individuals who
17 identify as LGBTQ+ which is at least 51 percent owned by one or
18 more individuals who identify as LGBTQ+ or, if stock is issued, at
19 least 51 percent of the stock is owned by one or more individuals
20 who identify as LGBTQ+.

21 “Selective Assistance Vendor Information (SAVI)” means the
22 database in which the division maintains a public listing of small
23 businesses, veteran’s businesses, disabled veteran-owned
24 businesses, minority, women, and LGBTQ+ businesses.

25 “State contracting agency” or “contracting agency” means any
26 board, commission, committee, authority, division, college,
27 university, department, or agency of the State that possesses the
28 legal authority to enter into, or award, contracts for goods and
29 services or construction contracts.

30

31 2. a. A business may be eligible to be certified as an LGBTQ+
32 business, as set forth in this section.

33 b. In order to be eligible as an LGBTQ+ business, a business
34 shall be a sole proprietorship, partnership, joint venture,
35 corporation, or other business entity authorized pursuant to the laws
36 of the United States, which is at least 51 percent owned, operated,
37 and controlled by persons who identify as LGBTQ+.

38 c. In order to be eligible to be certified, a business shall meet
39 the following standards to be certified as and LGBTQ+ business:

40 (1) ownership. A business shall be deemed to be independently
41 owned, operated, and controlled, if its management, as specified in
42 its certification application, is responsible for both its daily and
43 long-term operation, and that management owns at least 51 percent
44 interest in the business and consists of individuals who identify as
45 LGBTQ+. The ownership and control by members of the LGBTQ+
46 community shall be real, substantial, and continuing, demonstrating
47 authority over the affairs of the business, and shall go beyond the

1 pro forma ownership of the business as reflected in its ownership
2 documents;

3 (2) business entity. Recognition of the business as a separate
4 entity for tax or corporate purposes is not necessarily sufficient for
5 recognition as an LGBTQ+ business. In determining whether a
6 potential LGBTQ+ business is an independent business, all relevant
7 factors shall be considered, including the date the business was
8 established and the degree to which financial, equipment leasing,
9 and other relationships with non-LGBTQ+ businesses vary from
10 industry practice;

11 (3) licensing. When a professional or occupational license or
12 certification is required by federal or State law to perform the
13 primary business operations of the applicant business, and the
14 LGBTQ+ business does not possess the applicable license or
15 certification, the LGBTQ+ owner shall demonstrate competence in
16 the affairs of the business, in order to satisfy the requirement for
17 managerial and operational control; and

18 (4) registration. A business shall be registered with the division
19 to do business in New Jersey.
20

21 3. a. The documentation required for first-time applicants
22 seeking certification may be abbreviated. The documentation
23 requirements in this subsection shall only apply to first-time
24 applicants for certification.

25 b. A first-time applicant for certification as an LGBTQ+
26 business shall submit documentation necessary to determine the
27 applicant's eligibility for certification.

28 c. The division shall prepare a New Jersey Uniform
29 Certification Application. The application shall be an online
30 application available from the division's Internet website. The
31 information submitted in support of an application shall include, but
32 not be limited to:

33 (1) the names and addresses of the owner, partners, or
34 shareholders, as applicable, and their representative shares of
35 ownership;

36 (2) the names and addresses of members of the board of
37 directors;

38 (3) the names and addresses of the officers of the business;

39 (4) the number of shares of stock issued and outstanding, in the
40 case of a corporation;

41 (5) the articles of incorporation, bylaws, partnership agreements,
42 or joint venture agreements, as applicable;

43 (6) organizational charts;

44 (7) the certificate of birth, or motor vehicle driver's license,
45 passport, or other acceptable form of identification of the owners,
46 partners, shareholders, or in the case of corporations, members of
47 the board of directors, as applicable to the applicant entity; and

1 (8) an affidavit, signed by the individual seeking certification,
2 certifying that the signer owns the business and identifies as
3 LGBTQ+. In the case of a business with multiple owners, a single
4 affidavit certifying that at least 51 percent of ownership identifies
5 as LGBTQ+ shall be sufficient.

6 d. A first-time applicant's certification shall be provisional and
7 shall be operative for one year from the date of approval.
8 Following an initial certification year, a business shall reapply for
9 certification no later than 20 days prior to the expiration of the
10 business's current certification, and not earlier than 60 days prior to
11 the expiration of that certification.

12 (1) The division shall prepare an application form for
13 recertification. The application shall be an online application
14 available on the division's Internet website.

15 (2) As part of its recertification application to the division, a
16 business shall provide in its application, in addition to the
17 information required pursuant to subsection c. of this section:

18 (a) the location of its business;

19 (b) the names and addresses of the officers of the business;

20 (c) the names and addresses of capital investors and the amount
21 of capital contributed. Gifted ownership shall not be considered;

22 (d) personal and corporate tax returns for each owner, director,
23 and officer of the business for the past three consecutive years
24 (including W2s);

25 (e) the bonding capacity and history of the business;

26 (f) the affiliation of the business or any of its owners, officers,
27 or directors with any other business entity;

28 (g) a current organizational chart;

29 (h) a representative list of current and prior clients for the past
30 two years, where applicable;

31 (i) a complete list of major real and personal property holdings
32 of the business;

33 (j) a complete disclosure of financial statements and balance
34 sheets;

35 (k) a complete listing of banking institutions with which the
36 business is affiliated;

37 (l) a complete listing of previously attained certifications and a
38 listing of all legal entities that denied certification, including but not
39 limited to certification as a small business, veteran's business,
40 disabled veteran-owned business, minority business, or women's
41 business; and

42 (m) copies of office or warehouse lease or rental agreements,
43 deeds, and mortgages.

44 (3) Upon approval of an application, a certificate issued
45 pursuant to this subsection shall be valid for five years, subject to
46 the annual certification verification statement. Every five years
47 thereafter, but no later than 20 days prior to the expiration of the
48 business's current certification, and not earlier than 60 days prior to

1 the expiration of the certification, a business interested in remaining
2 certified as an LGBTQ+ business shall comply with the certification
3 procedures in this subsection.

4 (4) An applicant shall fully and accurately complete all relevant
5 parts of the Uniform Certification Application. Failure to complete
6 an application may result in denial.

7 (5) Annually, the business shall submit, not more than 20 days
8 prior to the anniversary of the certification, an annual Certification
9 Verification Statement, in which it shall attest that there is no
10 change in the ownership, control, or any other factor of the business
11 affecting eligibility for certification as an LGBTQ+ business.

12 e. (1) If the business fails to submit the annual certification
13 verification statement by the anniversary date, the certification will
14 lapse and the business shall be removed from the SAVI. If the
15 business seeks to be re-certified, it shall reapply for certification
16 pursuant to subsection d. of this section.

17 (2) If the business submits the annual Certification Verification
18 Statement by the anniversary date, but either the Certification
19 Verification Statement or other information received by the division
20 indicates that the business is no longer eligible for certification as
21 an LGBTQ+ business, the division shall revoke the certification
22 pursuant to this section and, following revocation, the business shall
23 be removed from the SAVI. The business may appeal this
24 revocation, pursuant to the procedures established by the division.

25 f. Grounds for denial of an application pursuant to this section
26 shall be as follows:

27 (1) in the event that the division, after reviewing the application,
28 requests additional information or documentation that is necessary
29 to make a determination, the applicant's failure to comply with the
30 request within 30 days of the request shall result in denial; and

31 (2) if the applicant knowingly supplies incorrect, incomplete, or
32 inaccurate information, the applicant shall be disqualified and
33 barred from reapplying for certification for a period of 18 months
34 from the date of notice of disqualification.

35
36 4. a. When a business is determined by the division to be an
37 LGBTQ+ business, the business shall be added to the SAVI
38 database. Each business shall be placed on the database denoting its
39 status as an LGBTQ+ business.

40 b. When a business is placed on the SAVI database:

41 (1) that business shall be eligible for any appropriate State
42 programs and initiatives for LGBTQ+ businesses; and

43 (2) the business shall be informed by the division of its
44 certification status. The division shall also issue an individual
45 certification number exclusive to the business, as part of the
46 certification procedure.

- 1 5. An LGBTQ+ business may apply to be certified by the
2 division at any time, unless restricted pursuant to this act.
3
- 4 6. An applicant for certification as an LGBTQ+ business may
5 request, in writing, to the director, that its application be withdrawn.
6 A requested withdrawal shall not be prejudicial to any subsequent
7 application. An applicant may reapply not sooner than 90 calendar
8 days following the date of withdrawal, but not more than three
9 times in a calendar year. An applicant may withdraw once during a
10 12-month period.
11
- 12 7. a. The division may deny or revoke the certification of an
13 LGBTQ+ business if the division has determined that:
14 (1) the applicant has failed to meet certification criteria;
15 (2) the business has ceased to meet certification criteria;
16 (3) the applicant has not timely renewed its certification; or
17 (4) the applicant has knowingly provided incorrect or false
18 information.
19 b. When a determination to deny or revoke a certification is
20 made, the division shall notify the business through the mail or
21 electronic means, including electronic mail. The denial or
22 revocation shall be effective as of the date of the notice.
23 c. An LGBTQ+ business challenging the denial or revocation
24 shall submit an appeal to the director or designated hearing officer
25 setting forth, in detail, the grounds for such appeal in a written
26 statement. The appeal shall be filed within 10 business days
27 following the business's receipt of written notification that it was
28 denied certification, or that its certification was revoked. The
29 appeal shall contain:
30 (1) the specific grounds for challenging the denial of the
31 certification or the revocation of the certification, including all
32 arguments, materials, or other documentation that may support the
33 appellant's position; and
34 (2) a statement as to whether the appellant requests an
35 opportunity for an in-person presentation and the reason(s) for the
36 request.
37 d. The director, or designated hearing officer, may disregard
38 any appeal filed after the 10-day period.
39 e. The appeal accepted by the director or designated hearing
40 officer shall be resolved pursuant to the Administrative Procedures
41 Act, P.L.1968, c.410 (C.52:14B-1 et seq.). The determination
42 issued by the director, or designated hearing officer, shall be a final
43 agency decision, which shall be appealable to the Appellate
44 Division of the Superior Court.
45 f. The director, or designated hearing officer, is entitled to
46 request, receive, and review copies of any and all records and
47 documents deemed appropriate and relevant to the issues and
48 arguments set forth in the appeal. Upon receipt of the request by

1 the director or designated hearing officer, a business shall promptly
2 provide the requested records or information. The director or
3 designated hearing officer may also consider relevant information
4 requested and received from other parties deemed appropriate.

5 g. A business who receives a decision from the division that
6 the denial or revocation has been reaffirmed may reapply for
7 certification one year after the original date of denial or revocation.

8

9 8. a. A third-party may challenge the qualifications of an
10 applicant, or a certified entity, pursuant to this act for eligibility to
11 be certified as an LGBTQ+ business and be included in the SAVI
12 database.

13 b. A third-party finding cause to challenge the certification of
14 an LGBTQ+ business shall submit an appeal to the director, or
15 designated hearing officer, setting forth, in detail, the grounds for
16 the challenge in a written statement with copies to the challenged
17 business. The challenge shall contain the specific grounds for
18 challenging the certification, including all arguments, materials, or
19 other documentation that may support the challenger's position. A
20 challenge pursuant to this subsection is limited to the authenticity of
21 a business pursuant to this act to be certified as an LGBTQ+
22 business. The right to challenge a currently certified LGBTQ+
23 business is in addition to, and independent of, any protest hearing
24 rights that are afforded by any State contracting agency.

25 c. When the division, or designated hearing officer, receives a
26 challenge, the division shall notify the affected business in writing.

27 d. (1) Upon proper notice, the division or designated hearing
28 officer shall conduct a hearing on the matter pursuant to the
29 Administrative Procedures Act, P.L.1968, c.410 (C.52:14B-1 et
30 seq.). The determination issued by the director, or designated
31 hearing officer, shall be a final agency decision, which shall be
32 appealable to the Appellate Division of the Superior Court;

33 (2) The director, or designated hearing officer, is entitled to
34 request, receive, and review copies of any and all records and
35 documents deemed appropriate and relevant to the issues and
36 arguments set forth in the challenge. Upon receipt of the request by
37 the director or designated hearing officer, the business shall
38 promptly provide the requested records or information. The
39 director, or designated hearing officer, may also consider relevant
40 information requested and received from other parties deemed
41 appropriate; and

42 (3) A business who receives a decision from the director, or
43 designated hearing officer, that the certification has been revoked
44 may reapply for certification one year after the date of revocation.

45

46 9. a. Applicants for certification pursuant to this act shall
47 accurately and honestly supply all information required by the
48 division.

1 b. Any business certified by the division as an LGBTQ+
2 business shall immediately apprise the division of any
3 circumstances that in any way affect the ownership composition of
4 the business, or the control over the business, or otherwise affect
5 the eligibility of the business, pursuant to this act.

6 c. The failure of a business to report any changed
7 circumstances pursuant to subsection b. of this section, or the
8 falsification of information provided pursuant to subsection b. of
9 this section, shall disqualify the business for inclusion on the SAVI
10 database. When the division determines that a business has been
11 certified as an LGBTQ+ business on the basis of false information,
12 the division shall notify the business that it has been removed from
13 the SAVI database.

14 d. The certificate holder shall have 10 business days to file a
15 notice of appeal with the director or designated hearing officer. The
16 notice of appeal shall provide the specific grounds for appealing the
17 determination, including all relevant information.

18 e. Receipt of a proper appeal shall constitute a contested case,
19 eligible for hearing, pursuant to the Administrative Procedures Act,
20 P.L.1968, c.410 (C.52:14B-1 et seq.).

21

22 10. a. The division may form reciprocal agreements with, or
23 accept certifications by, other public and private certifying entities,
24 to facilitate LGBTQ+ business development and growth.

25 b. All reciprocal agreements shall provide that the quality of
26 the program of the other certifying agency is the relative equal of
27 the division's program.

28 c. Documentation from the reciprocal agency showing
29 certification shall be provided.

30 d. In the event that the division forms reciprocal agreements
31 with, or accepts certifications by, other public and or private
32 certifying entities, it shall post information on its website, including
33 the names of the entities, the effective date of accepting
34 certifications by other entities, and links to such entities.

35

36 11. a. All information and documents submitted to the division
37 as part of the certification application shall be deemed confidential,
38 unless required by applicable federal and State law. Information
39 required to be disclosed for purposes of inclusion in the SAVI
40 database is not deemed confidential.

41 b. Information and documents provided to the division may be
42 made available, subject to confidentiality limitations, pursuant to
43 P.L.1963, c.73 (C.47:1A-1 et seq.), where required during a
44 challenge or appeal proceeding pursuant to this act.

45

46 12. This act shall take effect on the 365th day next following the
47 date of enactment.

STATEMENT

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This bill authorizes the Department of the Treasury to certify businesses owned by lesbian, gay, bisexual, transgender, queer, or other persons who do not identify as heterosexual or cisgender in the same way that the Department provides for the certification of minority and women’s businesses. This bill codifies the program established by Governor Murphy in Executive Order No. 295 (2022) into law.

New Jersey’s LGBTQ+ residents are vital participants in economic, civic, and social life in the State. Businesses owned in whole or in part by LGBTQ+ individuals touch all parts of the State’s economy, providing vital goods and services to New Jerseyans and visitors. Enabling the certification of business entities owned by members of underrepresented communities contributes to the success and recognition of such businesses and helps such businesses thrive. The Division of Revenue in the Department of the Treasury already provides the opportunity for minority owned, women owned, veteran owned, and disabled-veteran owned businesses to apply for certification as such, but no such mechanism existed in New Jersey for LGBTQ+ businesses prior to E.O. 295. This bill permanently remedies that lack of opportunity, affirms that LGBTQ+ business owners are welcome and encouraged to conduct business in New Jersey, and enables such businesses to proudly announce that they are recognized by the State as an LGBTQ+ business enterprise.

[First Reprint]

SENATE, No. 1313

STATE OF NEW JERSEY
221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

Senator M. TERESA RUIZ

District 29 (Essex and Hudson)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Assemblyman STERLEY S. STANLEY

District 18 (Middlesex)

Assemblyman DONALD A. GUARDIAN

District 2 (Atlantic)

Co-Sponsored by:

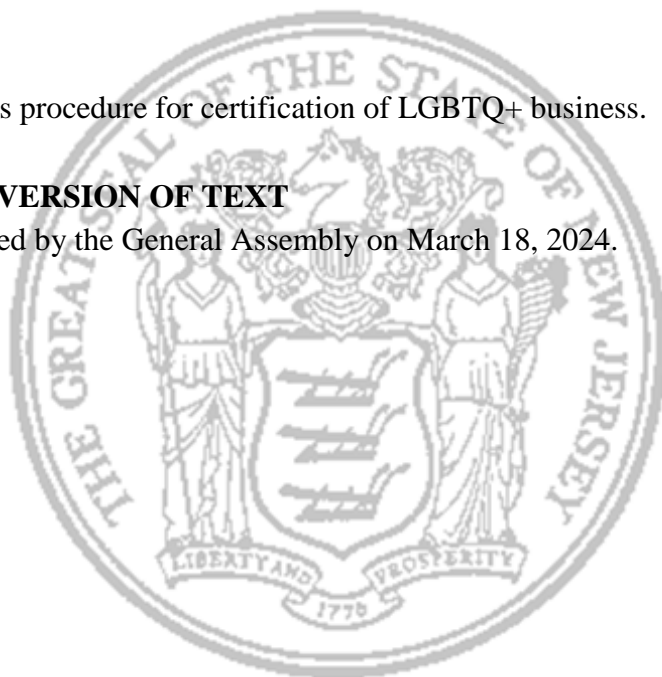
Assemblywomen McCoy, Peterpaul, Quijano, Reynolds-Jackson and Hall

SYNOPSIS

Establishes procedure for certification of LGBTQ+ business.

CURRENT VERSION OF TEXT

As amended by the General Assembly on March 18, 2024.



(Sponsorship Updated As Of: 3/18/2024)

1 AN ACT ¹**[**establishing a **]** concerning the¹ certification ¹**[**program
2 for **]** ¹of¹ businesses owned by LGBTQ+ persons¹**[,]**¹ and
3 supplementing Title 52 of the Revised Statutes.
4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*
7

8 ¹**[**1. As used in this act:

9 “Appeal” means a filed written challenge to a denial or
10 revocation of a certification as an LGBTQ+ business.

11 “Applicant” means a business that applies for certification as an
12 LGBTQ+ business pursuant to this act.

13 “Business” means an entity organized for profit which includes,
14 but is not limited to, a sole proprietorship, partnership, limited
15 liability company, corporation, or joint venture.

16 “Certification” means a determination by the division that an
17 applicant has met the standards for certification as an LGBTQ+
18 business, pursuant to section 2 of this act.

19 “Control and managerial and operational control” mean
20 authority over the affairs of a business, including, but not limited to,
21 capital investment, property acquisition, employee hiring, contract
22 negotiations, legal matters, officer and director selection, operating
23 responsibility, financial transaction, and the rights of other
24 shareholders or joint partners. Control shall not include absentee
25 ownership. Control shall be deemed not to exist where an owner
26 does not identify as LGBTQ+. Additionally, control shall not be
27 deemed to exist if someone, other than someone who identifies as
28 LGBTQ+, is disproportionately responsible for the daily operation
29 of a business, or for policy and contractual decisions.

30 “Day” or “business day” means any weekday, excluding
31 Saturdays, Sundays, State or federal legal holidays, and State-
32 mandated furlough days.

33 “Denial” means an administrative decision by the division to
34 reject an application pursuant to section 7 of this act.

35 “Department” means the Department of the Treasury.

36 “Designated hearing officer” means a Department of the
37 Treasury employee designated by the State Treasurer to render
38 decisions on cases involving an appeal of a denial of a certification
39 or a challenge to a certification, pursuant to this act.

40 “Director” means the director of the Division of Revenue and
41 Enterprise Services, in the Department of the Treasury.

42 “Division” means the Division of Revenue and Enterprise
43 Services, in the Department of the Treasury.

44 “E.O. 295” means Executive Order No. 295 (2022), issued by
45 Governor Murphy on May 3, 2022.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus] in the above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹**Assembly floor amendments adopted March 18, 2024.**

1 “Filed” means received by the director or a division
2 representative.

3 “Joint venture” means a business undertaking between two or
4 more entities who share risk and responsibility for a specific project
5 while otherwise retaining their distinct identities.

6 “LGBTQ+” means lesbian, gay, bisexual, transgender, queer,
7 questioning +, or other gender identities and sexual orientations that
8 are non-cisgender and non-heterosexual.

9 “LGBTQ+ business” means a business, which is:

10 (1) a sole proprietorship, owned and controlled by a person who
11 identifies as LGBTQ+;

12 (2) a partnership or joint venture, in which at least 51 percent of
13 the ownership interest is held by individuals who identify as
14 LGBTQ+ and the management and daily business operations are
15 controlled by one or more of the individuals who identify as
16 LGBTQ+; or

17 (3) a corporation or other entity, whose management and daily
18 business operations are controlled by one or more individuals who
19 identify as LGBTQ+ which is at least 51 percent owned by one or
20 more individuals who identify as LGBTQ+ or, if stock is issued, at
21 least 51 percent of the stock is owned by one or more individuals
22 who identify as LGBTQ+.

23 “Selective Assistance Vendor Information (SAVI)” means the
24 database in which the division maintains a public listing of small
25 businesses, veteran’s businesses, disabled veteran-owned
26 businesses, minority, women, and LGBTQ+ businesses.

27 “State contracting agency” or “contracting agency” means any
28 board, commission, committee, authority, division, college,
29 university, department, or agency of the State that possesses the
30 legal authority to enter into, or award, contracts for goods and
31 services or construction contracts.】¹

32

33 ¹【2. a. A business may be eligible to be certified as an
34 LGBTQ+ business, as set forth in this section.

35 b. In order to be eligible as an LGBTQ+ business, a business
36 shall be a sole proprietorship, partnership, joint venture,
37 corporation, or other business entity authorized pursuant to the laws
38 of the United States, which is at least 51 percent owned, operated,
39 and controlled by persons who identify as LGBTQ+.

40 c. In order to be eligible to be certified, a business shall meet
41 the following standards to be certified as an LGBTQ+ business:

42 (1) ownership. A business shall be deemed to be independently
43 owned, operated, and controlled, if its management, as specified in
44 its certification application, is responsible for both its daily and
45 long-term operation, and that management owns at least 51 percent
46 interest in the business and consists of individuals who identify as
47 LGBTQ+. The ownership and control by members of the LGBTQ+
48 community shall be real, substantial, and continuing, demonstrating

1 authority over the affairs of the business, and shall go beyond the
2 pro forma ownership of the business as reflected in its ownership
3 documents;

4 (2) business entity. Recognition of the business as a separate
5 entity for tax or corporate purposes is not necessarily sufficient for
6 recognition as an LGBTQ+ business. In determining whether a
7 potential LGBTQ+ business is an independent business, all relevant
8 factors shall be considered, including the date the business was
9 established and the degree to which financial, equipment leasing,
10 and other relationships with non-LGBTQ+ businesses vary from
11 industry practice;

12 (3) licensing. When a professional or occupational license or
13 certification is required by federal or State law to perform the
14 primary business operations of the applicant business, and the
15 LGBTQ+ business does not possess the applicable license or
16 certification, the LGBTQ+ owner shall demonstrate competence in
17 the affairs of the business, in order to satisfy the requirement for
18 managerial and operational control; and

19 (4) registration. A business shall be registered with the division
20 to do business in New Jersey. **1**

21

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23 seeking certification may be abbreviated. The documentation
24 requirements in this section shall only apply to first-time applicants
25 for certification.

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27 business shall submit documentation necessary to determine the
28 applicant's eligibility for certification.

29 c. The division shall prepare a New Jersey Uniform
30 Certification Application. The application shall be an online
31 application available from the division's Internet website. The
32 information submitted in support of an application shall include, but
33 not be limited to:

34 (1) the names and addresses of the owner, partners, or
35 shareholders, as applicable, and their representative shares of
36 ownership;

37 (2) the names and addresses of members of the board of
38 directors;

39 (3) the names and addresses of the officers of the business;

40 (4) the number of shares of stock issued and outstanding, in the
41 case of a corporation;

42 (5) the articles of incorporation, bylaws, partnership agreements,
43 or joint venture agreements, as applicable;

44 (6) organizational charts;

45 (7) the certificate of birth, or motor vehicle driver's license,
46 passport, or other acceptable form of identification of the owners,
47 partners, shareholders, or in the case of corporations, members of
48 the board of directors, as applicable to the applicant entity; and

1 (8) an affidavit, signed by the individual seeking certification,
2 certifying that the signer owns the business and identifies as
3 LGBTQ+. In the case of a business with multiple owners, a single
4 affidavit certifying that at least 51 percent of ownership identifies
5 as LGBTQ+ shall be sufficient.

6 d. A first-time applicant's certification shall be provisional and
7 shall be operative for one year from the date of approval.
8 Following an initial certification year, a business shall reapply for
9 certification no later than 20 days prior to the expiration of the
10 business's current certification, and not earlier than 60 days prior to
11 the expiration of that certification.

12 (1) The division shall prepare an application form for
13 recertification. The application shall be an online application
14 available on the division's Internet website.

15 (2) As part of its recertification application to the division, a
16 business shall provide in its application, in addition to the
17 information required pursuant to subsection c. of this section:

18 (a) the location of its business;

19 (b) the names and addresses of the officers of the business;

20 (c) the names and addresses of capital investors and the amount
21 of capital contributed. Gifted ownership shall not be considered;

22 (d) personal and corporate tax returns for each owner, director,
23 and officer of the business for the past three consecutive years
24 (including W-2 forms);

25 (e) the bonding capacity and history of the business;

26 (f) the affiliation of the business or any of its owners, officers,
27 or directors with any other business entity;

28 (g) a current organizational chart;

29 (h) a representative list of current and prior clients for the past
30 two years, where applicable;

31 (i) a complete list of major real and personal property holdings
32 of the business;

33 (j) a complete disclosure of financial statements and balance
34 sheets;

35 (k) a complete listing of banking institutions with which the
36 business is affiliated;

37 (l) a complete listing of previously attained certifications and a
38 listing of all legal entities that denied certification, including but not
39 limited to certification as a small business, veteran's business,
40 disabled veteran-owned business, minority business, or women's
41 business; and

42 (m) copies of office or warehouse lease or rental agreements,
43 deeds, and mortgages.

44 (3) Upon approval of an application, a certificate issued
45 pursuant to this section shall be valid for five years, subject to the
46 annual certification verification statement. Every five years
47 thereafter, but no later than 20 days prior to the expiration of the
48 business's current certification, and not earlier than 60 days prior to

1 the expiration of the certification, a business interested in remaining
2 certified as an LGBTQ+ business shall comply with the certification
3 procedures in this subsection.

4 (4) An applicant shall fully and accurately complete all relevant
5 parts of the Uniform Certification Application. Failure to complete
6 an application may result in denial.

7 (5) Annually, the business shall submit, not more than 20 days
8 prior to the anniversary of the certification, an annual Certification
9 Verification Statement, in which it shall attest that there is no
10 change in the ownership, control, or any other factor of the business
11 affecting eligibility for certification as an LGBTQ+ business.

12 e. (1) If the business fails to submit the annual certification
13 verification statement by the anniversary date, the certification will
14 lapse and the business shall be removed from the SAVI. If the
15 business seeks to be re-certified, it shall reapply for certification
16 pursuant to subsection d. of this section.

17 (2) If the business submits the annual Certification Verification
18 Statement by the anniversary date, but either the Certification
19 Verification Statement or other information received by the division
20 indicates that the business is no longer eligible for certification as
21 an LGBTQ+ business, the division shall revoke the certification
22 pursuant to this section and, following revocation, the business shall
23 be removed from the SAVI. The business may appeal this
24 revocation, pursuant to the procedures established by the division.

25 f. Grounds for denial of an application pursuant to this section
26 shall be as follows:

27 (1) in the event that the division, after reviewing the application,
28 requests additional information or documentation that is necessary
29 to make a determination, the applicant's failure to comply with the
30 request within 30 days of the request shall result in denial; and

31 (2) if the applicant knowingly supplies incorrect, incomplete, or
32 inaccurate information, the applicant shall be disqualified and
33 barred from reapplying for certification for a period of 18 months
34 from the date of notice of disqualification.】¹

35
36 ¹【4. a. When a business is determined by the division to be an
37 LGBTQ+ business, the business shall be added to the SAVI
38 database. Each business shall be placed on the database denoting its
39 status as an LGBTQ+ business.

40 b. When a business is placed on the SAVI database:

41 (1) that business shall be eligible for any appropriate State
42 programs and initiatives for LGBTQ+ businesses; and

43 (2) the business shall be informed by the division of its
44 certification status. The division shall also issue an individual
45 certification number exclusive to the business, as part of the
46 certification procedure.】¹

1 ¹【5. An LGBTQ+ business may apply to be certified by the
2 division at any time, unless restricted pursuant to this act.】¹

3
4 ¹【6. An applicant for certification as an LGBTQ+ business may
5 request, in writing, to the director, that its application be withdrawn.
6 A requested withdrawal shall not be prejudicial to any subsequent
7 application. An applicant may reapply not sooner than 90 calendar
8 days following the date of withdrawal, but not more than three
9 times in a calendar year. An applicant may withdraw once during a
10 12-month period.】¹

11
12 ¹【7. a. The division may deny or revoke the certification of an
13 LGBTQ+ business if the division has determined that:

- 14 (1) the applicant has failed to meet certification criteria;
15 (2) the business has ceased to meet certification criteria;
16 (3) the applicant has not timely renewed its certification; or
17 (4) the applicant has knowingly provided incorrect or false
18 information.

19 b. When a determination to deny or revoke a certification is
20 made, the division shall notify the business through the mail or
21 electronic means, including electronic mail. The denial or
22 revocation shall be effective as of the date of the notice.

23 c. An LGBTQ+ business challenging the denial or revocation
24 shall submit an appeal to the director or designated hearing officer
25 setting forth, in detail, the grounds for such appeal in a written
26 statement. The appeal shall be filed within 10 business days
27 following the business's receipt of written notification that it was
28 denied certification, or that its certification was revoked. The
29 appeal shall contain:

30 (1) the specific grounds for challenging the denial of the
31 certification or the revocation of the certification, including all
32 arguments, materials, or other documentation that may support the
33 appellant's position; and

34 (2) a statement as to whether the appellant requests an
35 opportunity for an in-person presentation and the reason(s) for the
36 request.

37 d. The director, or designated hearing officer, may disregard
38 any appeal filed after the 10-day period.

39 e. The appeal accepted by the director or designated hearing
40 officer shall be resolved pursuant to the Administrative Procedure
41 Act, P.L.1968, c.410 (C.52:14B-1 et seq.). The determination
42 issued by the director, or designated hearing officer, shall be a final
43 agency decision, which shall be appealable to the Appellate
44 Division of the Superior Court.

45 f. The director, or designated hearing officer, is entitled to
46 request, receive, and review copies of any and all records and
47 documents deemed appropriate and relevant to the issues and

1 arguments set forth in the appeal. Upon receipt of the request by
2 the director or designated hearing officer, a business shall promptly
3 provide the requested records or information. The director or
4 designated hearing officer may also consider relevant information
5 requested and received from other parties deemed appropriate.

6 g. A business who receives a decision from the division that
7 the denial or revocation has been reaffirmed may reapply for
8 certification one year after the original date of denial or
9 revocation.】¹

10
11 ¹【8. a. A third-party may challenge the qualifications of an
12 applicant, or a certified entity, pursuant to this act for eligibility to
13 be certified as an LGBTQ+ business and be included in the SAVI
14 database.

15 b. A third-party finding cause to challenge the certification of
16 an LGBTQ+ business shall submit an appeal to the director, or
17 designated hearing officer, setting forth, in detail, the grounds for
18 the challenge in a written statement with copies to the challenged
19 business. The challenge shall contain the specific grounds for
20 challenging the certification, including all arguments, materials, or
21 other documentation that may support the challenger's position. A
22 challenge pursuant to this subsection is limited to the authenticity of
23 a business pursuant to this act to be certified as an LGBTQ+
24 business. The right to challenge a currently certified LGBTQ+
25 business is in addition to, and independent of, any protest hearing
26 rights that are afforded by any State contracting agency.

27 c. When the division, or designated hearing officer, receives a
28 challenge, the division shall notify the affected business in writing.

29 d. (1) Upon proper notice, the division or designated hearing
30 officer shall conduct a hearing on the matter pursuant to the
31 Administrative Procedure Act, P.L.1968, c.410 (C.52:14B-1 et
32 seq.). The determination issued by the director, or designated
33 hearing officer, shall be a final agency decision, which shall be
34 appealable to the Appellate Division of the Superior Court;

35 (2) The director, or designated hearing officer, is entitled to
36 request, receive, and review copies of any and all records and
37 documents deemed appropriate and relevant to the issues and
38 arguments set forth in the challenge. Upon receipt of the request by
39 the director or designated hearing officer, the business shall
40 promptly provide the requested records or information. The
41 director, or designated hearing officer, may also consider relevant
42 information requested and received from other parties deemed
43 appropriate; and

44 (3) A business who receives a decision from the director, or
45 designated hearing officer, that the certification has been revoked
46 may reapply for certification one year after the date of revocation.】¹

1 ¹9. a. Applicants for certification pursuant to this act shall
2 accurately and honestly supply all information required by the
3 division.

4 b. Any business certified by the division as an LGBTQ+
5 business shall immediately apprise the division of any
6 circumstances that in any way affect the ownership composition of
7 the business, or the control over the business, or otherwise affect
8 the eligibility of the business, pursuant to this act.

9 c. The failure of a business to report any changed
10 circumstances pursuant to subsection b. of this section, or the
11 falsification of information provided pursuant to subsection b. of
12 this section, shall disqualify the business for inclusion on the SAVI
13 database. When the division determines that a business has been
14 certified as an LGBTQ+ business on the basis of false information,
15 the division shall notify the business that it has been removed from
16 the SAVI database.

17 d. The certificate holder shall have 10 business days to file a
18 notice of appeal with the director or designated hearing officer. The
19 notice of appeal shall provide the specific grounds for appealing the
20 determination, including all relevant information.

21 e. Receipt of a proper appeal shall constitute a contested case,
22 eligible for hearing, pursuant to the Administrative Procedure Act,
23 P.L.1968, c.410 (C.52:14B-1 et seq.).¹

24

25 ¹10. a. The division may form reciprocal agreements with, or
26 accept certifications by, other public and private certifying entities,
27 to facilitate LGBTQ+ business development and growth.

28 b. All reciprocal agreements shall provide that the quality of
29 the program of the other certifying agency is the relative equal of
30 the division's program.

31 c. Documentation from the reciprocal agency showing
32 certification shall be provided.

33 d. In the event that the division forms reciprocal agreements
34 with, or accepts certifications by, other public and or private
35 certifying entities, it shall post information on its website, including
36 the names of the entities, the effective date of accepting
37 certifications by other entities, and links to such entities.¹

38

39 ¹11. a. All information and documents submitted to the
40 division as part of the certification application shall be deemed
41 confidential, unless required by applicable federal and State law.
42 Information required to be disclosed for purposes of inclusion in the
43 SAVI database is not deemed confidential.

44 b. Information and documents provided to the division may be
45 made available, subject to confidentiality limitations, pursuant to
46 P.L.1963, c.73 (C.47:1A-1 et seq.), where required during a
47 challenge or appeal proceeding pursuant to this act.¹

1 ¹12. This act shall take effect on the 365th day next following
2 the date of enactment. ¹

3
4 ¹1. a. The Department of the Treasury shall establish,
5 consistently with Executive Order No. 295 of 2022, a unified
6 procedure for the certification of a business as an LGBTQ+
7 business. In establishing and administering the procedure required
8 by this section, the department shall ensure that the application for
9 certification process is clear, concise, and does not require
10 duplication of effort on the part of the applicant.

11 b. The department shall:

12 (1) establish criteria to be used:

13 (a) to determine the status of a business as an LGBTQ+
14 business;

15 (b) to deny or revoke the certification of an LGBTQ+ business;
16 and

17 (c) by a third-party challenging the qualifications of an
18 applicant to be certified as an LGBTQ+ business;

19 (2) establish an appeal process for an LGBTQ+ business
20 challenging the denial or revocation of the certification;

21 (3) provide a single form of application for certification, which
22 form shall be written in plain language, and include instructions as
23 to the certification procedure and any additional documents or
24 information required to be supplied by the applicant;

25 (4) on no less than an annual basis, verify the status of each
26 certified business to ensure continued compliance with the criteria
27 for certification and control by the appropriate persons; and

28 (5) compile, maintain, and make available to the public,
29 government agencies, and other organizations, lists of certified
30 LGBTQ+ businesses.

31 c. A business may submit an application for certification as an
32 LGBTQ+ business to the department at any time.

33 d. A business may submit to the department, in writing, a
34 request to withdraw an application for certification as an LGBTQ+
35 business. A business may submit a request to withdraw an
36 application one time within a 12-month period. A request to
37 withdraw an application shall not be relevant to the department's
38 consideration of a subsequent application submitted by that
39 business. A business may submit a new application for certification
40 following the passage of 90 calendar days after the date the
41 business submitted a request to withdraw an application, but no
42 more frequently than three times within a calendar year.

43 e. An applicant for certification pursuant to this section shall
44 accurately and honestly supply all information required by the
45 department. A certified LGBTQ+ business shall notify the
46 department, as soon as possible, of changed circumstances that may
47 impact the ownership composition of the business, control of the
48 business, or otherwise affect the business's eligibility for

1 certification pursuant to this section. The department shall revoke
2 the certification of a business which fails to report a changed
3 circumstance pursuant to this subsection.

4 f. The department may enter into a reciprocal agreement with,
5 or accept the certification of, one or more public or private
6 certifying entities in order to facilitate the development and growth
7 of LGBTQ+ businesses, provided that the quality of the program
8 established by each other certifying entity is substantially similar to
9 the department's program of certifying LGBTQ+ businesses. The
10 department shall document each reciprocal agreement it enters into,
11 and each entity from which the department accepts certifications, by
12 posting identifying information of the department's Internet
13 website, which shall include: the name of each other certifying
14 entity, the date the department starts accepting certifications from
15 each other entity, and a link to each other certifying entity's Internet
16 website.

17 g. Information and documents that a business submits to the
18 department as part of the business's application for certification as
19 an LGBTQ+ business shall be deemed confidential, unless
20 otherwise required to be accessible pursuant to applicable federal or
21 State law. Subject to confidentiality limitations pursuant to
22 P.L.1963, c.73 (C.47:1A-1 et seq.), the department may make
23 available, during an appeal pursuant to this section, the information
24 and documents a business has submitted to the department as part of
25 the business's application for certification as an LGBTQ+ business.
26 Information required to be disclosed for purposes of listing certified
27 LGBTQ+ businesses pursuant to subsection b. of this section shall
28 not be deemed confidential.

29 h. As used in this section:

30 "Appeal" means a filed written challenge to a denial or
31 revocation of a certification as an LGBTQ+ business.

32 "Applicant" means a business that applies for certification as an
33 LGBTQ+ business pursuant to this section.

34 "Business" means an entity organized for profit which includes,
35 but is not limited to, a sole proprietorship, partnership, limited
36 liability company, corporation, or joint venture.

37 "Certification" means a determination by the department that an
38 applicant has met the standards for certification as an LGBTQ+
39 business, pursuant to this section.

40 "Department" means the Department of the Treasury.

41 "Executive Order No. 295" means Executive Order No. 295
42 (2022), issued by Governor Murphy on May 3, 2022.

43 "LGBTQ+" means lesbian, gay, bisexual, transgender, queer,
44 questioning +, or other gender identities and sexual orientations that
45 are non-cisgender and non-heterosexual.

46 "LGBTQ+ business" means a business, which is:

47 (1) a sole proprietorship owned and controlled by a person who
48 identifies as LGBTQ+;

1 (2) a partnership or joint venture, in which at least 51 percent of
2 the ownership interest is held by individuals who identify as
3 LGBTQ+ and the management and daily business operations are
4 controlled by one or more of the individuals who identify as
5 LGBTQ+; or

6 (3) a corporation or other entity, the management and daily
7 business operations of which are controlled by one or more
8 individuals who identify as LGBTQ+ and of which at least 51
9 percent of the legal beneficial ownership is held by one or more
10 individuals who identify as LGBTQ+.¹

11

12 ¹2. The Department of the Treasury, pursuant to the
13 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
14 seq.), shall adopt rules and regulations to effectuate the provisions
15 of this act.¹

16

17 ¹3. This act shall take effect on the 180th day next following the
18 date of enactment.¹

SENATE, No. 1313

STATE OF NEW JERSEY

221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

Senator M. TERESA RUIZ

District 29 (Essex and Hudson)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Assemblyman STERLEY S. STANLEY

District 18 (Middlesex)

Assemblyman DONALD A. GUARDIAN

District 2 (Atlantic)

Co-Sponsored by:

Assemblywomen McCoy, Peterpaul, Quijano, Reynolds-Jackson and Hall

SYNOPSIS

Establishes certification program for businesses owned by LGBTQ+ persons.

CURRENT VERSION OF TEXT

As reported by the Senate Commerce Committee with technical review.



(Sponsorship Updated As Of: 3/18/2024)

1 AN ACT establishing a certification program for businesses owned
2 by LGBTQ+ persons, and supplementing Title 52 of the Revised
3 Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. As used in this act:

9 “Appeal” means a filed written challenge to a denial or
10 revocation of a certification as an LGBTQ+ business.

11 “Applicant” means a business that applies for certification as an
12 LGBTQ+ business pursuant to this act.

13 “Business” means an entity organized for profit which includes,
14 but is not limited to, a sole proprietorship, partnership, limited
15 liability company, corporation, or joint venture.

16 “Certification” means a determination by the division that an
17 applicant has met the standards for certification as an LGBTQ+
18 business, pursuant to section 2 of this act.

19 “Control and managerial and operational control” mean
20 authority over the affairs of a business, including, but not limited to,
21 capital investment, property acquisition, employee hiring, contract
22 negotiations, legal matters, officer and director selection, operating
23 responsibility, financial transaction, and the rights of other
24 shareholders or joint partners. Control shall not include absentee
25 ownership. Control shall be deemed not to exist where an owner
26 does not identify as LGBTQ+. Additionally, control shall not be
27 deemed to exist if someone, other than someone who identifies as
28 LGBTQ+, is disproportionately responsible for the daily operation
29 of a business, or for policy and contractual decisions.

30 “Day” or “business day” means any weekday, excluding
31 Saturdays, Sundays, State or federal legal holidays, and State-
32 mandated furlough days.

33 “Denial” means an administrative decision by the division to
34 reject an application pursuant to section 7 of this act.

35 “Department” means the Department of the Treasury.

36 “Designated hearing officer” means a Department of the
37 Treasury employee designated by the State Treasurer to render
38 decisions on cases involving an appeal of a denial of a certification
39 or a challenge to a certification, pursuant to this act.

40 “Director” means the director of the Division of Revenue and
41 Enterprise Services, in the Department of the Treasury.

42 “Division” means the Division of Revenue and Enterprise
43 Services, in the Department of the Treasury.

44 “E.O. 295” means Executive Order No. 295 (2022), issued by
45 Governor Murphy on May 3, 2022.

46 “Filed” means received by the director or a division
47 representative.

1 “Joint venture” means a business undertaking between two or
2 more entities who share risk and responsibility for a specific project
3 while otherwise retaining their distinct identities.

4 “LGBTQ+” means lesbian, gay, bisexual, transgender, queer,
5 questioning +, or other gender identities and sexual orientations that
6 are non-cisgender and non-heterosexual.

7 “LGBTQ+ business” means a business, which is:

8 (1) a sole proprietorship, owned and controlled by a person who
9 identifies as LGBTQ+;

10 (2) a partnership or joint venture, in which at least 51 percent of
11 the ownership interest is held by individuals who identify as
12 LGBTQ+ and the management and daily business operations are
13 controlled by one or more of the individuals who identify as
14 LGBTQ+; or

15 (3) a corporation or other entity, whose management and daily
16 business operations are controlled by one or more individuals who
17 identify as LGBTQ+ which is at least 51 percent owned by one or
18 more individuals who identify as LGBTQ+ or, if stock is issued, at
19 least 51 percent of the stock is owned by one or more individuals
20 who identify as LGBTQ+.

21 “Selective Assistance Vendor Information (SAVI)” means the
22 database in which the division maintains a public listing of small
23 businesses, veteran’s businesses, disabled veteran-owned
24 businesses, minority, women, and LGBTQ+ businesses.

25 “State contracting agency” or “contracting agency” means any
26 board, commission, committee, authority, division, college,
27 university, department, or agency of the State that possesses the
28 legal authority to enter into, or award, contracts for goods and
29 services or construction contracts.

30

31 2. a. A business may be eligible to be certified as an LGBTQ+
32 business, as set forth in this section.

33 b. In order to be eligible as an LGBTQ+ business, a business
34 shall be a sole proprietorship, partnership, joint venture,
35 corporation, or other business entity authorized pursuant to the laws
36 of the United States, which is at least 51 percent owned, operated,
37 and controlled by persons who identify as LGBTQ+.

38 c. In order to be eligible to be certified, a business shall meet
39 the following standards to be certified as an LGBTQ+ business:

40 (1) ownership. A business shall be deemed to be independently
41 owned, operated, and controlled, if its management, as specified in
42 its certification application, is responsible for both its daily and
43 long-term operation, and that management owns at least 51 percent
44 interest in the business and consists of individuals who identify as
45 LGBTQ+. The ownership and control by members of the LGBTQ+
46 community shall be real, substantial, and continuing, demonstrating
47 authority over the affairs of the business, and shall go beyond the

1 pro forma ownership of the business as reflected in its ownership
2 documents;

3 (2) business entity. Recognition of the business as a separate
4 entity for tax or corporate purposes is not necessarily sufficient for
5 recognition as an LGBTQ+ business. In determining whether a
6 potential LGBTQ+ business is an independent business, all relevant
7 factors shall be considered, including the date the business was
8 established and the degree to which financial, equipment leasing,
9 and other relationships with non-LGBTQ+ businesses vary from
10 industry practice;

11 (3) licensing. When a professional or occupational license or
12 certification is required by federal or State law to perform the
13 primary business operations of the applicant business, and the
14 LGBTQ+ business does not possess the applicable license or
15 certification, the LGBTQ+ owner shall demonstrate competence in
16 the affairs of the business, in order to satisfy the requirement for
17 managerial and operational control; and

18 (4) registration. A business shall be registered with the division
19 to do business in New Jersey.
20

21 3. a. The documentation required for first-time applicants
22 seeking certification may be abbreviated. The documentation
23 requirements in this section shall only apply to first-time applicants
24 for certification.

25 b. A first-time applicant for certification as an LGBTQ+
26 business shall submit documentation necessary to determine the
27 applicant's eligibility for certification.

28 c. The division shall prepare a New Jersey Uniform
29 Certification Application. The application shall be an online
30 application available from the division's Internet website. The
31 information submitted in support of an application shall include, but
32 not be limited to:

33 (1) the names and addresses of the owner, partners, or
34 shareholders, as applicable, and their representative shares of
35 ownership;

36 (2) the names and addresses of members of the board of
37 directors;

38 (3) the names and addresses of the officers of the business;

39 (4) the number of shares of stock issued and outstanding, in the
40 case of a corporation;

41 (5) the articles of incorporation, bylaws, partnership agreements,
42 or joint venture agreements, as applicable;

43 (6) organizational charts;

44 (7) the certificate of birth, or motor vehicle driver's license,
45 passport, or other acceptable form of identification of the owners,
46 partners, shareholders, or in the case of corporations, members of
47 the board of directors, as applicable to the applicant entity; and

1 (8) an affidavit, signed by the individual seeking certification,
2 certifying that the signer owns the business and identifies as
3 LGBTQ+. In the case of a business with multiple owners, a single
4 affidavit certifying that at least 51 percent of ownership identifies
5 as LGBTQ+ shall be sufficient.

6 d. A first-time applicant's certification shall be provisional and
7 shall be operative for one year from the date of approval.
8 Following an initial certification year, a business shall reapply for
9 certification no later than 20 days prior to the expiration of the
10 business's current certification, and not earlier than 60 days prior to
11 the expiration of that certification.

12 (1) The division shall prepare an application form for
13 recertification. The application shall be an online application
14 available on the division's Internet website.

15 (2) As part of its recertification application to the division, a
16 business shall provide in its application, in addition to the
17 information required pursuant to subsection c. of this section:

18 (a) the location of its business;

19 (b) the names and addresses of the officers of the business;

20 (c) the names and addresses of capital investors and the amount
21 of capital contributed. Gifted ownership shall not be considered;

22 (d) personal and corporate tax returns for each owner, director,
23 and officer of the business for the past three consecutive years
24 (including W-2 forms);

25 (e) the bonding capacity and history of the business;

26 (f) the affiliation of the business or any of its owners, officers,
27 or directors with any other business entity;

28 (g) a current organizational chart;

29 (h) a representative list of current and prior clients for the past
30 two years, where applicable;

31 (i) a complete list of major real and personal property holdings
32 of the business;

33 (j) a complete disclosure of financial statements and balance
34 sheets;

35 (k) a complete listing of banking institutions with which the
36 business is affiliated;

37 (l) a complete listing of previously attained certifications and a
38 listing of all legal entities that denied certification, including but not
39 limited to certification as a small business, veteran's business,
40 disabled veteran-owned business, minority business, or women's
41 business; and

42 (m) copies of office or warehouse lease or rental agreements,
43 deeds, and mortgages.

44 (3) Upon approval of an application, a certificate issued
45 pursuant to this section shall be valid for five years, subject to the
46 annual certification verification statement. Every five years
47 thereafter, but no later than 20 days prior to the expiration of the
48 business's current certification, and not earlier than 60 days prior to

1 the expiration of the certification, a business interested in remaining
2 certified as an LGBTQ+ business shall comply with the certification
3 procedures in this subsection.

4 (4) An applicant shall fully and accurately complete all relevant
5 parts of the Uniform Certification Application. Failure to complete
6 an application may result in denial.

7 (5) Annually, the business shall submit, not more than 20 days
8 prior to the anniversary of the certification, an annual Certification
9 Verification Statement, in which it shall attest that there is no
10 change in the ownership, control, or any other factor of the business
11 affecting eligibility for certification as an LGBTQ+ business.

12 e. (1) If the business fails to submit the annual certification
13 verification statement by the anniversary date, the certification will
14 lapse and the business shall be removed from the SAVI. If the
15 business seeks to be re-certified, it shall reapply for certification
16 pursuant to subsection d. of this section.

17 (2) If the business submits the annual Certification Verification
18 Statement by the anniversary date, but either the Certification
19 Verification Statement or other information received by the division
20 indicates that the business is no longer eligible for certification as
21 an LGBTQ+ business, the division shall revoke the certification
22 pursuant to this section and, following revocation, the business shall
23 be removed from the SAVI. The business may appeal this
24 revocation, pursuant to the procedures established by the division.

25 f. Grounds for denial of an application pursuant to this section
26 shall be as follows:

27 (1) in the event that the division, after reviewing the application,
28 requests additional information or documentation that is necessary
29 to make a determination, the applicant's failure to comply with the
30 request within 30 days of the request shall result in denial; and

31 (2) if the applicant knowingly supplies incorrect, incomplete, or
32 inaccurate information, the applicant shall be disqualified and
33 barred from reapplying for certification for a period of 18 months
34 from the date of notice of disqualification.

35
36 4. a. When a business is determined by the division to be an
37 LGBTQ+ business, the business shall be added to the SAVI
38 database. Each business shall be placed on the database denoting its
39 status as an LGBTQ+ business.

40 b. When a business is placed on the SAVI database:

41 (1) that business shall be eligible for any appropriate State
42 programs and initiatives for LGBTQ+ businesses; and

43 (2) the business shall be informed by the division of its
44 certification status. The division shall also issue an individual
45 certification number exclusive to the business, as part of the
46 certification procedure.

- 1 5. An LGBTQ+ business may apply to be certified by the
2 division at any time, unless restricted pursuant to this act.
3
- 4 6. An applicant for certification as an LGBTQ+ business may
5 request, in writing, to the director, that its application be withdrawn.
6 A requested withdrawal shall not be prejudicial to any subsequent
7 application. An applicant may reapply not sooner than 90 calendar
8 days following the date of withdrawal, but not more than three
9 times in a calendar year. An applicant may withdraw once during a
10 12-month period.
11
- 12 7. a. The division may deny or revoke the certification of an
13 LGBTQ+ business if the division has determined that:
14 (1) the applicant has failed to meet certification criteria;
15 (2) the business has ceased to meet certification criteria;
16 (3) the applicant has not timely renewed its certification; or
17 (4) the applicant has knowingly provided incorrect or false
18 information.
19 b. When a determination to deny or revoke a certification is
20 made, the division shall notify the business through the mail or
21 electronic means, including electronic mail. The denial or
22 revocation shall be effective as of the date of the notice.
23 c. An LGBTQ+ business challenging the denial or revocation
24 shall submit an appeal to the director or designated hearing officer
25 setting forth, in detail, the grounds for such appeal in a written
26 statement. The appeal shall be filed within 10 business days
27 following the business's receipt of written notification that it was
28 denied certification, or that its certification was revoked. The
29 appeal shall contain:
30 (1) the specific grounds for challenging the denial of the
31 certification or the revocation of the certification, including all
32 arguments, materials, or other documentation that may support the
33 appellant's position; and
34 (2) a statement as to whether the appellant requests an
35 opportunity for an in-person presentation and the reason(s) for the
36 request.
37 d. The director, or designated hearing officer, may disregard
38 any appeal filed after the 10-day period.
39 e. The appeal accepted by the director or designated hearing
40 officer shall be resolved pursuant to the Administrative Procedure
41 Act, P.L.1968, c.410 (C.52:14B-1 et seq.). The determination
42 issued by the director, or designated hearing officer, shall be a final
43 agency decision, which shall be appealable to the Appellate
44 Division of the Superior Court.
45 f. The director, or designated hearing officer, is entitled to
46 request, receive, and review copies of any and all records and
47 documents deemed appropriate and relevant to the issues and
48 arguments set forth in the appeal. Upon receipt of the request by

1 the director or designated hearing officer, a business shall promptly
2 provide the requested records or information. The director or
3 designated hearing officer may also consider relevant information
4 requested and received from other parties deemed appropriate.

5 g. A business who receives a decision from the division that
6 the denial or revocation has been reaffirmed may reapply for
7 certification one year after the original date of denial or revocation.

8

9 8. a. A third-party may challenge the qualifications of an
10 applicant, or a certified entity, pursuant to this act for eligibility to
11 be certified as an LGBTQ+ business and be included in the SAVI
12 database.

13 b. A third-party finding cause to challenge the certification of
14 an LGBTQ+ business shall submit an appeal to the director, or
15 designated hearing officer, setting forth, in detail, the grounds for
16 the challenge in a written statement with copies to the challenged
17 business. The challenge shall contain the specific grounds for
18 challenging the certification, including all arguments, materials, or
19 other documentation that may support the challenger's position. A
20 challenge pursuant to this subsection is limited to the authenticity of
21 a business pursuant to this act to be certified as an LGBTQ+
22 business. The right to challenge a currently certified LGBTQ+
23 business is in addition to, and independent of, any protest hearing
24 rights that are afforded by any State contracting agency.

25 c. When the division, or designated hearing officer, receives a
26 challenge, the division shall notify the affected business in writing.

27 d. (1) Upon proper notice, the division or designated hearing
28 officer shall conduct a hearing on the matter pursuant to the
29 Administrative Procedure Act, P.L.1968, c.410 (C.52:14B-1 et
30 seq.). The determination issued by the director, or designated
31 hearing officer, shall be a final agency decision, which shall be
32 appealable to the Appellate Division of the Superior Court;

33 (2) The director, or designated hearing officer, is entitled to
34 request, receive, and review copies of any and all records and
35 documents deemed appropriate and relevant to the issues and
36 arguments set forth in the challenge. Upon receipt of the request by
37 the director or designated hearing officer, the business shall
38 promptly provide the requested records or information. The
39 director, or designated hearing officer, may also consider relevant
40 information requested and received from other parties deemed
41 appropriate; and

42 (3) A business who receives a decision from the director, or
43 designated hearing officer, that the certification has been revoked
44 may reapply for certification one year after the date of revocation.

45

46 9. a. Applicants for certification pursuant to this act shall
47 accurately and honestly supply all information required by the
48 division.

1 b. Any business certified by the division as an LGBTQ+
2 business shall immediately apprise the division of any
3 circumstances that in any way affect the ownership composition of
4 the business, or the control over the business, or otherwise affect
5 the eligibility of the business, pursuant to this act.

6 c. The failure of a business to report any changed
7 circumstances pursuant to subsection b. of this section, or the
8 falsification of information provided pursuant to subsection b. of
9 this section, shall disqualify the business for inclusion on the SAVI
10 database. When the division determines that a business has been
11 certified as an LGBTQ+ business on the basis of false information,
12 the division shall notify the business that it has been removed from
13 the SAVI database.

14 d. The certificate holder shall have 10 business days to file a
15 notice of appeal with the director or designated hearing officer. The
16 notice of appeal shall provide the specific grounds for appealing the
17 determination, including all relevant information.

18 e. Receipt of a proper appeal shall constitute a contested case,
19 eligible for hearing, pursuant to the Administrative Procedure Act,
20 P.L.1968, c.410 (C.52:14B-1 et seq.).

21

22 10. a. The division may form reciprocal agreements with, or
23 accept certifications by, other public and private certifying entities,
24 to facilitate LGBTQ+ business development and growth.

25 b. All reciprocal agreements shall provide that the quality of
26 the program of the other certifying agency is the relative equal of
27 the division's program.

28 c. Documentation from the reciprocal agency showing
29 certification shall be provided.

30 d. In the event that the division forms reciprocal agreements
31 with, or accepts certifications by, other public and or private
32 certifying entities, it shall post information on its website, including
33 the names of the entities, the effective date of accepting
34 certifications by other entities, and links to such entities.

35

36 11. a. All information and documents submitted to the division
37 as part of the certification application shall be deemed confidential,
38 unless required by applicable federal and State law. Information
39 required to be disclosed for purposes of inclusion in the SAVI
40 database is not deemed confidential.

41 b. Information and documents provided to the division may be
42 made available, subject to confidentiality limitations, pursuant to
43 P.L.1963, c.73 (C.47:1A-1 et seq.), where required during a
44 challenge or appeal proceeding pursuant to this act.

45

46 12. This act shall take effect on the 365th day next following the
47 date of enactment.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 1313

STATE OF NEW JERSEY

DATED: FEBRUARY 5, 2024

The Senate Commerce Committee reports favorably Senate Bill No. 1313.

This bill authorizes the Department of the Treasury to certify businesses owned by lesbian, gay, bisexual, transgender, queer, or other persons who do not identify as heterosexual or cisgender in the same way that the Department provides for the certification of minority and women's businesses. This bill codifies the program established by Governor Murphy in Executive Order No. 295 (2022) into law.

New Jersey's LGBTQ+ residents are vital participants in economic, civic, and social life in the State. Businesses owned in whole or in part by LGBTQ+ individuals touch all parts of the State's economy, providing vital goods and services to New Jerseyans and visitors. Enabling the certification of business entities owned by members of underrepresented communities contributes to the success and recognition of the businesses and helps them thrive. The Division of Revenue in the Department of the Treasury already provides the opportunity for minority owned, women owned, veteran owned, and disabled-veteran owned businesses to apply for certification as such, but no such mechanism existed in New Jersey for LGBTQ+ businesses prior to E.O. 295. This bill permanently remedies that lack of opportunity, affirms that LGBTQ+ business owners are welcome and encouraged to conduct business in New Jersey, and enables such businesses to proudly announce that they are recognized by the State as an LGBTQ+ business enterprise.

This bill was pre-filed for introduction in the 2024-2025 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

STATEMENT TO
SENATE, No. 1313

with Assembly Floor Amendments
(Proposed by Assemblyman WIMBERLY)

ADOPTED: MARCH 18, 2024

This floor amendment replaces the existing provisions of the bill with provisions requiring the Department of the Treasury to establish a unified procedure for a business to apply for certification as an LGBTQ+ business. Under the amended bill, “LGBTQ+ business” is defined to mean:

(1) a sole proprietorship, owned and controlled by a person who identifies as LGBTQ+;

(2) a partnership or joint venture, in which at least 51 percent of the ownership interest is held by individuals who identify as LGBTQ+ and the management and daily business operations are controlled by one or more of the individuals who identify as LGBTQ+; or

(3) a corporation or other entity, the management and daily business operations of which are controlled by one or more individuals who identify as LGBTQ+ and of which at least 51 percent of the legal beneficial ownership is held by one or more individuals who identify as LGBTQ+.

The bill requires the department, among other items, to establish criteria to be used:

(1) to determine the status of a business as an LGBTQ+ business;
(2) to deny or revoke the certification of an LGBTQ+ business;
and

(3) by a third-party challenging the qualifications of an applicant to be certified as an LGBTQ+ business.

The bill also requires the department to establish a process for a business to challenge the denial or revocation of an LGBTQ+ certification. The bill specifies that certain information a business submits to the department with its application is to remain confidential. This bill is consistent with the provisions of Executive Order No. 295 of 2022, issued by Governor Murphy to address LGBTQ+ business certification.

ASSEMBLY, No. 3330

STATE OF NEW JERSEY 221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Assemblyman **BENJIE E. WIMBERLY**

District 35 (Bergen and Passaic)

Assemblyman **STERLEY S. STANLEY**

District 18 (Middlesex)

Assemblyman **DONALD A. GUARDIAN**

District 2 (Atlantic)

Co-Sponsored by:

Assemblywomen **McCoy and Peterpaul**

SYNOPSIS

Establishes certification program for businesses owned by LGBTQ+ persons.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 2/22/2024)

1 AN ACT establishing a certification program for businesses owned
2 by LGBTQ+ persons, and supplementing Title 52 of the Revised
3 Statutes.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. As used in this act:

9 “Appeal” means a filed written challenge to a denial or
10 revocation of a certification as an LGBTQ+ business.

11 “Applicant” means a business that applies for certification as an
12 LGBTQ+ business pursuant to this act.

13 “Business” means an entity organized for profit which includes,
14 but is not limited to, a sole proprietorship, partnership, limited
15 liability company, corporation, or joint venture.

16 “Certification” means a determination by the division that an
17 applicant has met the standards for certification as an LGBTQ+
18 business, pursuant to section 2 of this act.

19 “Control and managerial and operational control” mean authority
20 over the affairs of a business, including, but not limited to, capital
21 investment, property acquisition, employee hiring, contract
22 negotiations, legal matters, officer and director selection, operating
23 responsibility, financial transaction, and the rights of other
24 shareholders or joint partners. Control shall not include absentee
25 ownership. Control shall be deemed not to exist where an owner
26 does not identify as LGBTQ+. Additionally, control shall not be
27 deemed to exist if someone, other than someone who identifies as
28 LGBTQ+, is disproportionately responsible for the daily operation
29 of a business, or for policy and contractual decisions.

30 “Day” or “business day” means any weekday, excluding
31 Saturdays, Sundays, State or federal legal holidays, and State-
32 mandated furlough days.

33 “Denial” means an administrative decision by the division to
34 reject an application pursuant to section 7 of this act.

35 “Department” means the Department of the Treasury.

36 “Designated hearing officer” means a Department of the
37 Treasury employee designated by the State Treasurer to render
38 decisions on cases involving an appeal of a denial of a certification
39 or a challenge to a certification, pursuant to this act.

40 “Director” means the director of the Division of Revenue and
41 Enterprise Services, in the Department of the Treasury.

42 “Division” means the Division of Revenue and Enterprise
43 Services, in the Department of the Treasury.

1 “E.O. 295” means Executive Order No. 295 (2022), issued by
2 Governor Murphy on May 3, 2022.

3 “Filed” means received by the director or a division
4 representative.

5 “Joint venture” means a business undertaking between two or
6 more entities who share risk and responsibility for a specific project
7 while otherwise retaining their distinct identities.

8 “LGBTQ+” means lesbian, gay, bisexual, transgender, queer,
9 questioning +, or other gender identities and sexual orientations that
10 are non-cisgender and non-heterosexual.

11 “LGBTQ+ business” means a business, which is:

12 (1) a sole proprietorship, owned and controlled by a person who
13 identifies as LGBTQ+;

14 (2) a partnership or joint venture, in which at least 51 percent of
15 the ownership interest is held by individuals who identify as
16 LGBTQ+ and the management and daily business operations are
17 controlled by one or more of the individuals who identify as
18 LGBTQ+; or

19 (3) a corporation or other entity, whose management and daily
20 business operations are controlled by one or more individuals who
21 identify as LGBTQ+ which is at least 51 percent owned by one or
22 more individuals who identify as LGBTQ+ or, if stock is issued, at
23 least 51 percent of the stock is owned by one or more individuals
24 who identify as LGBTQ+.

25 “Selective Assistance Vendor Information (SAVI)” means the
26 database in which the division maintains a public listing of small
27 businesses, veteran’s businesses, disabled veteran-owned
28 businesses, minority, women, and LGBTQ+ businesses.

29 “State contracting agency” or “contracting agency” means any
30 board, commission, committee, authority, division, college,
31 university, department, or agency of the State that possesses the
32 legal authority to enter into, or award, contracts for goods and
33 services or construction contracts.

34

35 2. a. A business may be eligible to be certified as an LGBTQ+
36 business, as set forth in this section.

37 b. In order to be eligible as an LGBTQ+ business, a business
38 shall be a sole proprietorship, partnership, joint venture,
39 corporation, or other business entity authorized pursuant to the laws
40 of the United States, which is at least 51 percent owned, operated,
41 and controlled by persons who identify as LGBTQ+.

42 c. In order to be eligible to be certified, a business shall meet
43 the following standards to be certified as and LGBTQ+ business:

1 (1) ownership. A business shall be deemed to be independently
2 owned, operated, and controlled, if its management, as specified in
3 its certification application, is responsible for both its daily and
4 long-term operation, and that management owns at least 51 percent
5 interest in the business and consists of individuals who identify as
6 LGBTQ+. The ownership and control by members of the LGBTQ+
7 community shall be real, substantial, and continuing, demonstrating
8 authority over the affairs of the business, and shall go beyond the
9 pro forma ownership of the business as reflected in its ownership
10 documents;

11 (2) business entity. Recognition of the business as a separate
12 entity for tax or corporate purposes is not necessarily sufficient for
13 recognition as an LGBTQ+ business. In determining whether a
14 potential LGBTQ+ business is an independent business, all relevant
15 factors shall be considered, including the date the business was
16 established and the degree to which financial, equipment leasing,
17 and other relationships with non-LGBTQ+ businesses vary from
18 industry practice;

19 (3) licensing. When a professional or occupational license or
20 certification is required by federal or State law to perform the
21 primary business operations of the applicant business, and the
22 LGBTQ+ business does not possess the applicable license or
23 certification, the LGBTQ+ owner shall demonstrate competence in
24 the affairs of the business, in order to satisfy the requirement for
25 managerial and operational control; and

26 (4) registration. A business shall be registered with the division
27 to do business in New Jersey.

28

29 3. a. The documentation required for first-time applicants
30 seeking certification may be abbreviated. The documentation
31 requirements in this subsection shall only apply to first-time
32 applicants for certification.

33 b. A first-time applicant for certification as an LGBTQ+
34 business shall submit documentation necessary to determine the
35 applicant's eligibility for certification.

36 c. The division shall prepare a New Jersey Uniform
37 Certification Application. The application shall be an online
38 application available from the division's Internet website. The
39 information submitted in support of an application shall include, but
40 not be limited to:

41 (1) the names and addresses of the owner, partners, or
42 shareholders, as applicable, and their representative shares of
43 ownership;

- 1 (2) the names and addresses of members of the board of
- 2 directors;
- 3 (3) the names and addresses of the officers of the business;
- 4 (4) the number of shares of stock issued and outstanding, in the
- 5 case of a corporation;
- 6 (5) the articles of incorporation, bylaws, partnership agreements,
- 7 or joint venture agreements, as applicable;
- 8 (6) organizational charts;
- 9 (7) the certificate of birth, or motor vehicle driver's license,
- 10 passport, or other acceptable form of identification of the owners,
- 11 partners, shareholders, or in the case of corporations, members of
- 12 the board of directors, as applicable to the applicant entity; and
- 13 (8) an affidavit, signed by the individual seeking certification,
- 14 certifying that the signer owns the business and identifies as
- 15 LGBTQ+. In the case of a business with multiple owners, a single
- 16 affidavit certifying that at least 51 percent of ownership identifies
- 17 as LGBTQ+ shall be sufficient.
- 18 d. A first-time applicant's certification shall be provisional and
- 19 shall be operative for one year from the date of approval.
- 20 Following an initial certification year, a business shall reapply for
- 21 certification no later than 20 days prior to the expiration of the
- 22 business's current certification, and not earlier than 60 days prior to
- 23 the expiration of that certification.
- 24 (1) The division shall prepare an application form for
- 25 recertification. The application shall be an online application
- 26 available on the division's Internet website.
- 27 (2) As part of its recertification application to the division, a
- 28 business shall provide in its application, in addition to the
- 29 information required pursuant to subsection c. of this section:
- 30 (a) the location of its business;
- 31 (b) the names and addresses of the officers of the business;
- 32 (c) the names and addresses of capital investors and the amount
- 33 of capital contributed. Gifted ownership shall not be considered;
- 34 (d) personal and corporate tax returns for each owner, director,
- 35 and officer of the business for the past three consecutive years
- 36 (including W2s);
- 37 (e) the bonding capacity and history of the business;
- 38 (f) the affiliation of the business or any of its owners, officers,
- 39 or directors with any other business entity;
- 40 (g) a current organizational chart;
- 41 (h) a representative list of current and prior clients for the past
- 42 two years, where applicable;
- 43 (i) a complete list of major real and personal property holdings
- 44 of the business;

1 (j) a complete disclosure of financial statements and balance
2 sheets;

3 (k) a complete listing of banking institutions with which the
4 business is affiliated;

5 (l) a complete listing of previously attained certifications and a
6 listing of all legal entities that denied certification, including but not
7 limited to certification as a small business, veteran's business,
8 disabled veteran-owned business, minority business, or women's
9 business; and

10 (m) copies of office or warehouse lease or rental agreements,
11 deeds, and mortgages.

12 (3) Upon approval of an application, a certificate issued
13 pursuant to this subsection shall be valid for five years, subject to
14 the annual certification verification statement. Every five years
15 thereafter, but no later than 20 days prior to the expiration of the
16 business's current certification, and not earlier than 60 days prior to
17 the expiration of the certification, a business interested in remaining
18 certified as an LGBTQ+ business shall comply with the certification
19 procedures in this subsection.

20 (4) An applicant shall fully and accurately complete all relevant
21 parts of the Uniform Certification Application. Failure to complete
22 an application may result in denial.

23 (5) Annually, the business shall submit, not more than 20 days
24 prior to the anniversary of the certification, an annual Certification
25 Verification Statement, in which it shall attest that there is no
26 change in the ownership, control, or any other factor of the business
27 affecting eligibility for certification as an LGBTQ+ business.

28 e. (1) If the business fails to submit the annual certification
29 verification statement by the anniversary date, the certification will
30 lapse and the business shall be removed from the SAVI. If the
31 business seeks to be re-certified, it shall reapply for certification
32 pursuant to subsection d. of this section.

33 (2) If the business submits the annual Certification Verification
34 Statement by the anniversary date, but either the Certification
35 Verification Statement or other information received by the division
36 indicates that the business is no longer eligible for certification as
37 an LGBTQ+ business, the division shall revoke the certification
38 pursuant to this section and, following revocation, the business shall
39 be removed from the SAVI. The business may appeal this
40 revocation, pursuant to the procedures established by the division.

41 f. Grounds for denial of an application pursuant to this section
42 shall be as follows:

43 (1) in the event that the division, after reviewing the application,
44 requests additional information or documentation that is necessary

1 to make a determination, the applicant's failure to comply with the
2 request within 30 days of the request shall result in denial; and

3 (2) if the applicant knowingly supplies incorrect, incomplete, or
4 inaccurate information, the applicant shall be disqualified and
5 barred from reapplying for certification for a period of 18 months
6 from the date of notice of disqualification.

7

8 4. a. When a business is determined by the division to be
9 an LGBTQ+ business, the business shall be added to the SAVI
10 database. Each business shall be placed on the database denoting its
11 status as an LGBTQ+ business.

12 b. When a business is placed on the SAVI database:

13 (1) that business shall be eligible for any appropriate State
14 programs and initiatives for LGBTQ+ businesses; and

15 (2) the business shall be informed by the division of its
16 certification status. The division shall also issue an individual
17 certification number exclusive to the business, as part of the
18 certification procedure.

19

20 5. An LGBTQ+ business may apply to be certified by the
21 division at any time, unless restricted pursuant to this act.

22

23 6. An applicant for certification as an LGBTQ+ business may
24 request, in writing, to the director, that its application be withdrawn.
25 A requested withdrawal shall not be prejudicial to any subsequent
26 application. An applicant may reapply not sooner than 90 calendar
27 days following the date of withdrawal, but not more than three
28 times in a calendar year. An applicant may withdraw once during a
29 12-month period.

30

31 7. a. The division may deny or revoke the certification of
32 an LGBTQ+ business if the division has determined that:

33 (1) the applicant has failed to meet certification criteria;

34 (2) the business has ceased to meet certification criteria;

35 (3) the applicant has not timely renewed its certification; or

36 (4) the applicant has knowingly provided incorrect or false
37 information.

38 b. When a determination to deny or revoke a certification is
39 made, the division shall notify the business through the mail or
40 electronic means, including electronic mail. The denial or
41 revocation shall be effective as of the date of the notice.

42 c. An LGBTQ+ business challenging the denial or revocation
43 shall submit an appeal to the director or designated hearing officer
44 setting forth, in detail, the grounds for such appeal in a written

1 statement. The appeal shall be filed within 10 business days
2 following the business's receipt of written notification that it was
3 denied certification, or that its certification was revoked. The
4 appeal shall contain:

5 (1) the specific grounds for challenging the denial of the
6 certification or the revocation of the certification, including all
7 arguments, materials, or other documentation that may support the
8 appellant's position; and

9 (2) a statement as to whether the appellant requests an
10 opportunity for an in-person presentation and the reason(s) for the
11 request.

12 d. The director, or designated hearing officer, may disregard
13 any appeal filed after the 10-day period.

14 e. The appeal accepted by the director or designated hearing
15 officer shall be resolved pursuant to the Administrative Procedures
16 Act, P.L.1968, c.410 (C.52:14B-1 et seq.). The determination
17 issued by the director, or designated hearing officer, shall be a final
18 agency decision, which shall be appealable to the Appellate
19 Division of the Superior Court.

20 f. The director, or designated hearing officer, is entitled to
21 request, receive, and review copies of any and all records and
22 documents deemed appropriate and relevant to the issues and
23 arguments set forth in the appeal. Upon receipt of the request by
24 the director or designated hearing officer, a business shall promptly
25 provide the requested records or information. The director or
26 designated hearing officer may also consider relevant information
27 requested and received from other parties deemed appropriate.

28 g. A business who receives a decision from the division that
29 the denial or revocation has been reaffirmed may reapply for
30 certification one year after the original date of denial or revocation.

31

32 8. a. A third-party may challenge the qualifications of an
33 applicant, or a certified entity, pursuant to this act for eligibility to
34 be certified as an LGBTQ+ business and be included in the SAVI
35 database.

36 b. A third-party finding cause to challenge the certification of
37 an LGBTQ+ business shall submit an appeal to the director, or
38 designated hearing officer, setting forth, in detail, the grounds for
39 the challenge in a written statement with copies to the challenged
40 business. The challenge shall contain the specific grounds for
41 challenging the certification, including all arguments, materials, or
42 other documentation that may support the challenger's position. A
43 challenge pursuant to this subsection is limited to the authenticity of
44 a business pursuant to this act to be certified as an LGBTQ+

1 business. The right to challenge a currently certified LGBTQ+
2 business is in addition to, and independent of, any protest hearing
3 rights that are afforded by any State contracting agency.

4 c. When the division, or designated hearing officer, receives a
5 challenge, the division shall notify the affected business in writing.

6 d. (1) Upon proper notice, the division or designated
7 hearing officer shall conduct a hearing on the matter pursuant to the
8 Administrative Procedures Act, P.L.1968, c.410 (C.52:14B-1 et
9 seq.). The determination issued by the director, or designated
10 hearing officer, shall be a final agency decision, which shall be
11 appealable to the Appellate Division of the Superior Court;

12 (2) The director, or designated hearing officer, is entitled to
13 request, receive, and review copies of any and all records and
14 documents deemed appropriate and relevant to the issues and
15 arguments set forth in the challenge. Upon receipt of the request by
16 the director or designated hearing officer, the business shall
17 promptly provide the requested records or information. The
18 director, or designated hearing officer, may also consider relevant
19 information requested and received from other parties deemed
20 appropriate; and

21 (3) A business who receives a decision from the director, or
22 designated hearing officer, that the certification has been revoked
23 may reapply for certification one year after the date of revocation.
24

25 9. a. Applicants for certification pursuant to this act shall
26 accurately and honestly supply all information required by the
27 division.

28 b. Any business certified by the division as an LGBTQ+
29 business shall immediately apprise the division of any
30 circumstances that in any way affect the ownership composition of
31 the business, or the control over the business, or otherwise affect
32 the eligibility of the business, pursuant to this act.

33 c. The failure of a business to report any changed
34 circumstances pursuant to subsection b. of this section, or the
35 falsification of information provided pursuant to subsection b. of
36 this section, shall disqualify the business for inclusion on the SAVI
37 database. When the division determines that a business has been
38 certified as an LGBTQ+ business on the basis of false information,
39 the division shall notify the business that it has been removed from
40 the SAVI database.

41 d. The certificate holder shall have 10 business days to file a
42 notice of appeal with the director or designated hearing officer. The
43 notice of appeal shall provide the specific grounds for appealing the
44 determination, including all relevant information.

1 e. Receipt of a proper appeal shall constitute a contested case,
2 eligible for hearing, pursuant to the Administrative Procedures Act,
3 P.L.1968, c.410 (C.52:14B-1 et seq.).
4

5 10. a. The division may form reciprocal agreements with, or
6 accept certifications by, other public and private certifying entities,
7 to facilitate LGBTQ+ business development and growth.

8 b. All reciprocal agreements shall provide that the quality of
9 the program of the other certifying agency is the relative equal of
10 the division's program.

11 c. Documentation from the reciprocal agency showing
12 certification shall be provided.

13 d. In the event that the division forms reciprocal agreements
14 with, or accepts certifications by, other public and or private
15 certifying entities, it shall post information on its website, including
16 the names of the entities, the effective date of accepting
17 certifications by other entities, and links to such entities.
18

19 11. a. All information and documents submitted to the
20 division as part of the certification application shall be deemed
21 confidential, unless required by applicable federal and State
22 law. Information required to be disclosed for purposes of inclusion
23 in the SAVI database is not deemed confidential.

24 b. Information and documents provided to the division may be
25 made available, subject to confidentiality limitations, pursuant to
26 P.L.1963, c.73 (C.47:1A-1 et seq.), where required during a
27 challenge or appeal proceeding pursuant to this act.
28

29 12. This act shall take effect on the 365th day next following the
30 date of enactment.
31
32

33 STATEMENT
34

35 This bill authorizes the Department of the Treasury to certify
36 businesses owned by lesbian, gay, bisexual, transgender, queer, or
37 other persons who do not identify as heterosexual or cisgender in
38 the same way that the Department provides for the certification of
39 minority and women's businesses. This bill codifies the program
40 established by Governor Murphy in Executive Order No. 295
41 (2022) into law.

42 New Jersey's LGBTQ+ residents are vital participants in
43 economic, civic, and social life in the State. Businesses owned in
44 whole or in part by LGBTQ+ individuals touch all parts of the
45 State's economy, providing vital goods and services to New

A3330 WIMBERLY, STANLEY

11

1 Jerseyans and visitors. Enabling the certification of business
2 entities owned by members of underrepresented communities
3 contributes to the success and recognition of such businesses and
4 helps such businesses thrive. The Division of Revenue in the
5 Department of the Treasury already provides the opportunity for
6 minority owned, women owned, veteran owned, and disabled-
7 veteran owned businesses to apply for certification as such, but no
8 such mechanism existed in New Jersey for LGBTQ+ businesses
9 prior to E.O. 295. This bill permanently remedies that lack of
10 opportunity, affirms that LGBTQ+ business owners are welcome
11 and encouraged to conduct business in New Jersey, and enables
12 such businesses to proudly announce that they are recognized by the
13 State as an LGBTQ+ business enterprise.

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3330

STATE OF NEW JERSEY
221st LEGISLATURE

ADOPTED FEBRUARY 22, 2024

Sponsored by:

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Assemblyman STERLEY S. STANLEY

District 18 (Middlesex)

Assemblyman DONALD A. GUARDIAN

District 2 (Atlantic)

Co-Sponsored by:

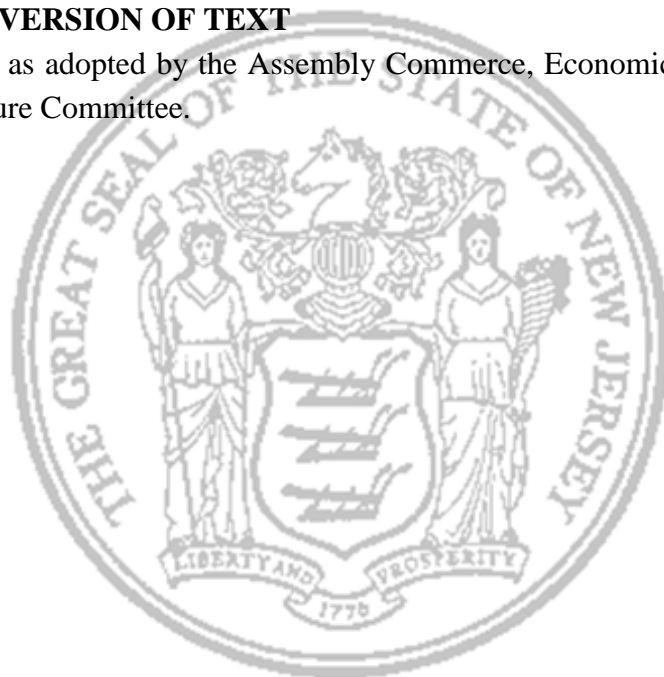
Assemblywomen McCoy, Peterpaul, Quijano, Reynolds-Jackson and Hall

SYNOPSIS

Establishes procedure for certification of LGBTQ+ business.

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly Commerce, Economic Development and Agriculture Committee.



(Sponsorship Updated As Of: 3/18/2024)

1 AN ACT concerning the certification of businesses owned by
2 LGBTQ+ persons and supplementing Title 52 of the Revised
3 Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. a. The Department of the Treasury shall establish,
9 consistently with Executive Order No. 295 of 2022, a unified
10 procedure for the certification of a business as an LGBTQ+
11 business. In establishing and administering the procedure required
12 by this section, the department shall ensure that the application for
13 certification process is clear, concise, and does not require
14 duplication of effort on the part of the applicant.

15 b. The department shall:

16 (1) establish criteria to be used:

17 (a) to determine the status of a business as an LGBTQ+
18 business;

19 (b) to deny or revoke the certification of an LGBTQ+ business;
20 and

21 (c) by a third-party challenging the qualifications of an
22 applicant to be certified as an LGBTQ+ business;

23 (2) establish an appeal process for an LGBTQ+ business
24 challenging the denial or revocation of the certification;

25 (3) provide a single form of application for certification, which
26 form shall be written in plain language, and include instructions as
27 to the certification procedure and any additional documents or
28 information required to be supplied by the applicant;

29 (4) on no less than an annual basis, verify the status of each
30 certified business to ensure continued compliance with the criteria
31 for certification and control by the appropriate persons; and

32 (5) compile, maintain, and make available to the public,
33 government agencies, and other organizations, lists of certified
34 LGBTQ+ businesses.

35 c. A business may submit an application for certification as an
36 LGBTQ+ business to the department at any time.

37 d. A business may submit to the department, in writing, a
38 request to withdraw an application for certification as an LGBTQ+
39 business. A business may submit a request to withdraw an
40 application one time within a 12-month period. A request to
41 withdraw an application shall not be relevant to the department's
42 consideration of a subsequent application submitted by that
43 business. A business may submit a new application for certification
44 following the passage of 90 calendar days after the date the
45 business submitted a request to withdraw an application, but no
46 more frequently than three times within a calendar year.

47 e. An applicant for certification pursuant to this section shall
48 accurately and honestly supply all information required by the

1 department. A certified LGBTQ+ business shall notify the
2 department, as soon as possible, of changed circumstances that may
3 impact the ownership composition of the business, control of the
4 business, or otherwise affect the business's eligibility for
5 certification pursuant to this section. The department shall revoke
6 the certification of a business which fails to report a changed
7 circumstance pursuant to this subsection.

8 f. The department may enter into a reciprocal agreement with,
9 or accept the certification of, one or more public or private
10 certifying entities in order to facilitate the development and growth
11 of LGBTQ+ businesses, provided that the quality of the program
12 established by each other certifying entity is substantially similar to
13 the department's program of certifying LGBTQ+ businesses. The
14 department shall document each reciprocal agreement it enters into,
15 and each entity from which the department accepts certifications, by
16 posting identifying information of the department's Internet
17 website, which shall include: the name of each other certifying
18 entity, the date the department starts accepting certifications from
19 each other entity, and a link to each other certifying entity's Internet
20 website.

21 g. Information and documents that a business submits to the
22 department as part of the business's application for certification as
23 an LGBTQ+ business shall be deemed confidential, unless
24 otherwise required to be accessible pursuant to applicable federal or
25 State law. Subject to confidentiality limitations pursuant to
26 P.L.1963, c.73 (C.47:1A-1 et seq.), the department may make
27 available, during an appeal pursuant to this section, the information
28 and documents a business has submitted to the department as part of
29 the business's application for certification as an LGBTQ+ business.
30 Information required to be disclosed for purposes of listing certified
31 LGBTQ+ businesses pursuant to subsection b. of this section shall
32 not be deemed confidential.

33 h. As used in this section:

34 "Appeal" means a filed written challenge to a denial or
35 revocation of a certification as an LGBTQ+ business.

36 "Applicant" means a business that applies for certification as an
37 LGBTQ+ business pursuant to this section.

38 "Business" means an entity organized for profit which includes,
39 but is not limited to, a sole proprietorship, partnership, limited
40 liability company, corporation, or joint venture.

41 "Certification" means a determination by the department that an
42 applicant has met the standards for certification as an LGBTQ+
43 business, pursuant to this section.

44 "Department" means the Department of the Treasury.

45 "Executive Order No. 295" means Executive Order No. 295
46 (2022), issued by Governor Murphy on May 3, 2022.

- 1 “LGBTQ+” means lesbian, gay, bisexual, transgender, queer,
2 questioning +, or other gender identities and sexual orientations that
3 are non-cisgender and non-heterosexual.
- 4 “LGBTQ+ business” means a business, which is:
- 5 (1) a sole proprietorship owned and controlled by a person who
6 identifies as LGBTQ+;
- 7 (2) a partnership or joint venture, in which at least 51 percent of
8 the ownership interest is held by individuals who identify as
9 LGBTQ+ and the management and daily business operations are
10 controlled by one or more of the individuals who identify as
11 LGBTQ+; or
- 12 (3) a corporation or other entity, the management and daily
13 business operations of which are controlled by one or more
14 individuals who identify as LGBTQ+ and of which at least 51
15 percent of the legal beneficial ownership is held by one or more
16 individuals who identify as LGBTQ+.
- 17
- 18 2. The Department of the Treasury, pursuant to the
19 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
20 seq.), shall adopt rules and regulations to effectuate the provisions
21 of this act.
- 22
- 23 3. This act shall take effect on the 180th day next following the
24 date of enactment.

ASSEMBLY COMMERCE, ECONOMIC DEVELOPMENT AND
AGRICULTURE COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3330

STATE OF NEW JERSEY

DATED: FEBRUARY 22, 2024

The Assembly Commerce, Economic Development and Agriculture Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 3330.

This committee substitute requires the Department of the Treasury to establish a unified procedure for a business to apply for certification as an LGBTQ+ business. Under the bill, “LGBTQ+ business” is defined to mean:

(1) a sole proprietorship, owned and controlled by a person who identifies as LGBTQ+;

(2) a partnership or joint venture, in which at least 51 percent of the ownership interest is held by individuals who identify as LGBTQ+ and the management and daily business operations are controlled by one or more of the individuals who identify as LGBTQ+; or

(3) a corporation or other entity, the management and daily business operations of which are controlled by one or more individuals who identify as LGBTQ+ and of which at least 51 percent of the legal beneficial ownership is held by one or more individuals who identify as LGBTQ+.

The substitute requires the department, among other items, to establish criteria to be used:

(1) to determine the status of a business as an LGBTQ+ business;
(2) to deny or revoke the certification of an LGBTQ+ business;
and

(3) by a third-party challenging the qualifications of an applicant to be certified as an LGBTQ+ business.

The substitute also requires the department to establish a process for a business to challenge the denial or revocation of an LGBTQ+ certification. The substitute specifies that certain information a business submits to the department with its application is to remain confidential. This substitute is consistent with the provisions of Executive Order No. 295 of 2022, issued by Governor Murphy to address LGBTQ+ business certification.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3330

STATE OF NEW JERSEY

DATED: MARCH 14, 2024

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3330 ACS.

This bill requires the Department of the Treasury (“department”) to establish a unified procedure for a business to apply for certification as an LGBTQ+ business. Under the bill, “LGBTQ+ business” is defined to mean:

(1) a sole proprietorship that is owned and controlled by a person who identifies as LGBTQ+;

(2) a partnership or joint venture, in which at least 51 percent of the ownership interest is held by individuals who identify as LGBTQ+ and the management and daily business operations are controlled by one or more of the individuals who identify as LGBTQ+; or

(3) a corporation or other entity, the management and daily business operations of which are controlled by one or more individuals who identify as LGBTQ+ and of which at least 51 percent of the legal beneficial ownership is held by one or more individuals who identify as LGBTQ+.

The bill requires the department, among other items, to establish criteria to be used: to determine the status of a business as an LGBTQ+ business; to deny or revoke the certification of an LGBTQ+ business; and by a third-party challenging the qualifications of an applicant to be certified as an LGBTQ+ business.

The bill also requires the department to establish a process for a business to challenge the denial or revocation of an LGBTQ+ certification. The bill specifies that certain information a business submits to the department with its application is to remain confidential. This bill is consistent with the provisions of Executive Order No. 295 of 2022, issued by Governor Murphy to address LGBTQ+ business certification.

FISCAL IMPACT:

This bill was not certified as requiring a fiscal note.

Governor Murphy Signs Bipartisan Legislation Codifying State Certification Program for LGBTQ+-Owned Businesses

05/1/2024

TRENTON – Governor Phil Murphy today signed bipartisan legislation codifying the program he established through [Executive Order No. 295](#) (2022) that directed the New Jersey Department of the Treasury to establish a certification for LGBTQ+-Owned Businesses. Business certifications support underrepresented groups in gaining access to certain contracting opportunities and government programs.

Signed by the Governor in May of 2022 alongside the Pride Chamber of Commerce, Executive Order No. 295 underscored that LGBTQ+ businesses are a crucial part of the state's economic health and growth and are encouraged to conduct business in New Jersey. Through today's legislation, the program will continue beyond the Murphy Administration, benefitting generations to come.

"New Jersey is proud to celebrate our LGBTQ+ community year-round, but it is particularly special to sign this law into effect just a few weeks ahead of PRIDE month," **said Governor Murphy**. "LGBTQ+ business owners are critical to the Garden State and our economy, and I am honored to support endeavors that uplift underrepresented communities and embrace authenticity. By codifying this certification program in statute, we ensure that the opportunity to proudly identify as an LGBTQ+-owned business will last for many years to come."

Certification, which is free of charge, expands access to contracting opportunities and enables businesses to proudly identify as LGBTQ+-owned in their advertising. The LGBTQ+-owned business certifications are overseen by the New Jersey Division of Revenue and Enterprise Services. Eligibility for certification requires that the business be at least 51% LGBTQ+ owned and controlled. Certification is valid for five years, at which point the business must reapply for certification ahead of the expiration date.

As of today, the Department of the Treasury has certified 141 LGBTQ+ businesses across New Jersey.

"Dozens of businesses have become certified as an LGBTQ+-owned enterprise since the launch of the program one year ago," **said State Treasurer Elizabeth Maher Muoio**. "Treasury is proud to play a role in elevating LGBTQ+-owned businesses, as well as small, minority, women, and veteran-owned enterprises that help make up the backbone of our economy. I'd like to thank the dedicated staff of our Division of Revenue and Enterprise Services for their hard work behind the scenes to launch this program and help New Jersey businesses grow and thrive."

Certification programs are also in place for small, minority-owned, women-owned, veteran-owned, and disabled-veteran-owned businesses. Enshrining this program aligns with Governor Murphy's longstanding efforts to boost local economies, promote equal opportunity, and provide supports and protections to New Jersey's vast LGBTQ+ community.

Primary sponsors of S1313/A3330 include Senators Nellie Pou and Teresa M. Ruiz and Assemblymembers Benjie E.

Wimberly, Sterley S. Stanley, and Donald A. Guardian.

"The codification of Executive Order 295 is not just a legal step, but a societal victory for LGBTQ+ businesses, granting them recognition they've long deserved. This certification parallels the support extended to minority-owned, women-owned, and veteran-owned enterprises, offering equal footing for growth and access to vital resources," **said Senate Majority Leader M. Teresa Ruiz**. "New Jersey is leading the way as the first state in the nation to codify this certification, and I am proud to have been a co-sponsor on this important bill. I thank Governor Murphy for signing it into law and continuing to create new economic opportunities for our diverse and innovative businesses."

"Businesses owned in whole or in part by LGBTQ+ individuals touch all aspects of the economy and add to the commercial diversity that is a rich part of our shared social identity," **said Senator Nellie Pou, Chair of the Senate Commerce Committee**. "This new law reaffirms the vital and emerging role those businesses play, and will continue to play in the civic and economic future of our state."

"LGBTQIA+ individuals are a vital part of New Jersey's economic, social, and civic landscape and by enshrining the prior executive order into law, we reaffirm our commitment and dedication to fostering a diverse business sector across the Garden State," **said Assemblyman Benjie E. Wimberly**. "With this legislation, we remind businesses and by extension, their owners, that they are not only welcomed but encouraged to be a part of our communities."

"In New Jersey, economic empowerment knows no bounds, and diversity in business is not only essential but enriching," **said Assemblyman Sterley Stanley**. "By providing certification for LGBTQ+ businesses, A3330 not only acknowledges their contributions but does so in a way that fosters a more inclusive economy, where every entrepreneur has an equal opportunity to thrive."

"Being a member of the LGBTQ community has not always been celebrated or recognized and I lived this experience personally. When New Jersey has an opportunity to right the wrongs of our past we must take it," **said Assemblyman Don Guardian**. "This law cements the state's certification program for LGBTQIA-owned businesses, providing legitimacy and visibility. Only a state law can bring the members of the LGBTQ community the peace of mind and security that they so deserve and have earned."

"This law will ensure opportunities for LGBTQ+ entrepreneurs to connect with customers and one another," **said Assemblywoman Luanne Peterpaul**. "LGBTQ+ business owners contribute over \$1 trillion to the U.S. economy but still face obstacles for growth. This certification will promote economic growth with inclusivity, equity, and equality."

"Today is a historic day for our LGBTQ+ community who will be recognized in New Jersey," **said Gus Penaranda, Executive Director of the NJ Pride Chamber of Commerce**. "As the first state to codify the certification process for LGBTQ+ certifications. In times where our community is constantly silenced and attacked, this sends a clear message to all businesses looking to invest in New Jersey that we are a welcoming state. This wouldn't have been possible with the leadership of Senators Pou and Ruiz, and Assemblymembers Wimberly, Stanley, Guardian, and Peterpaul for their leadership. Thank you as well to Governor Murphy, Treasurer Muiio, and their teams for working collaboratively with us to ensure this became law and to further protect LGBTQIA+ business owners. We thank him for signing Executive Order 295 back in 2022, laying the groundwork for a more inclusive and equitable business environment that acknowledges and values the contributions of the LGBTQIA+ community."