

**CHAPTER 9****DEVELOPMENT OF SMALL BUSINESSES AND WOMEN AND MINORITY BUSINESSES****Authority**

N.J.S.A. 52:27H-6F, P.L. 1987, c.55 specifically section 9.

**Source and Effective Date**

R.1998 d.312, effective May 22, 1998.  
See: 30 N.J.R. 1399(a), 30 N.J.R. 2236(a).

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 9, Development of Small Businesses and Women and Minority Businesses, expires on November 18, 2003. See: 35 N.J.R. 1831(c).

**Chapter Historical Note**

Chapter 9, Development of Small Businesses and Women and Minority Businesses, was adopted as R.1988 d.95, effective March 7, 1988. See: 19 N.J.R. 2377(b), 20 N.J.R. 534(a). The Executive Order No. 66(1978) expiration date for Chapter 9 was extended by gubernatorial waiver from March 7, 1993 to May 30, 1993. See: 25 N.J.R. 1335(c). Pursuant to Executive Order No. 66(1978), Chapter 9 was readopted as R.1993 d.309, effective May 28, 1993. See: 25 N.J.R. 1752(a), 25 N.J.R. 2689(a).

Pursuant to Executive Order No. 66(1978), Chapter 9, Development of Small Businesses and Women and Minority Businesses, was readopted as R.1998 d.312, effective May 22, 1998. See: Source and Effective Date.

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**SUBCHAPTER 1. SERVICES TO SMALL BUSINESSES AND WOMEN AND MINORITY BUSINESSES****12A:9-1.1 Applicability and scope**

(a) The rules in this subchapter are promulgated by the Department of Commerce and Economic Development to implement P.L. 1987, ch. 55, an Act to establish within the Department of Commerce and Economic Development a Division of Development for Small Businesses and Women and Minority Businesses.

(b) The Act provides for consolidation, in the interest of efficiency, of the State's service to small businesses and women and minority businesses.

(c) The Act provides that the Division shall provide certain services to small businesses and women and minority businesses those services being: the establishment of a loan referral and packaging program; a compiled list of qualified professionals in specific areas of expertise; to coordinate managerial and technical assistance programs in the state; establish internship programs; serve as liaison on behalf of businesses with the agencies and departments of the state, federal, and local governments; provide assistance in obtaining legal counsel; provide financial analysis and accounting assistance; provide assistance in obtaining insurance; provide assistance in arranging contracts with franchisees; provide assistance in arranging for loans from commercial banks; assist in negotiating license agreements; assist in procuring bonding; make referrals to private consultants, institutions, and other business services; assist in finding sources of financing from federal, state and local sources; provide a central resource for eligible businesses in their dealings with various levels of governments; initiate and encourage education programs for eligible businesses; and establish a uniform procedure for certification of minority and women businesses.

(d) The Act also provides for the establishment of the office of the Director of the Division for the Development of Small Businesses and Women and Minority Businesses, and the Office of Women Business Enterprise.

**12A:9-1.2 Definitions**

The words and terms used in this subchapter shall have the following meanings unless the context clearly indicates otherwise:

"Authority" means the New Jersey Development Authority for Small Businesses and Minority and Women Enterprises.

"CAU" means the Certification and Approvals Unit which has sole authority in the Division to register vendors for the New Jersey Set-Aside program and/or certify busi-

nesses under the Uniform Certification Act for State programs.

“Commissioner” means the Commissioner of the Department of Commerce and Economic Development.

“DCED” means the Department of Commerce and Economic Development.

“Director” means the Director of the Division of Development for Small Businesses and Women and Minority Businesses.

“Division” means the Division of Development for Small Businesses and Women and Minority Businesses.

“Eligible businesses” means a minority and/or women business certified and/or registered by CAU or a small business registered by the Division and/or determined to be eligible to receive assistance and/or to participate in various State programs.

“Minority” means a person who is:

1. Black, which is a person having origins in any of the black racial groups of Africa;
2. Hispanic, which is a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean islands, regardless of race;
3. Asian American, which is a person having origins in any of the original people of the Far East, Southeast Asia, the Indian subcontinent, Hawaii, or the Pacific Islands; or
4. American Indian or Alaskan native, which is a person having origins in any of the original peoples of North America.

“Minority business” means a business which is at least 51 percent owned, operated and controlled by a minority or group of minorities and whose ownership is responsible for the daily as well as long term management decisions of the business.

“Small business” means a sole proprietorship, partnership, or corporation which is a size and type as defined by the Commissioner.

“Women” means all women regardless of race.

“Women business” means a business which is at least 51 percent owned, operated, and controlled by a woman or group of women and whose ownership is responsible for a daily as well as long term management decision of the business.

### 12A:9-1.3 Nature of Division service

The Division shall provide such services to small businesses, minority and women businesses as enumerated by the Act. Where specified, these services shall be subject to standards of Federal programs and be coordinated with the Authority. Services shall be limited in their scope to prevent the Department from incurring adverse liability and to ensure that the services do not compete with those private businesses traditionally providing services to the enumerated businesses.

### 12A:9-1.4 Loan referral and packaging

(a) The Division shall develop a loan referral and packaging program for small businesses, minority and women businesses which shall be subject to standards established by the Authority.

(b) The Division shall make referrals to private sector sources for loans without prejudice to those sources.

1. The referrals shall, where market conditions permit, include a minimum of three private source referrals.
2. The Division shall not directly involve itself in negotiations between the referred business and the private sector financing source.
3. The Division may, based on market conditions and needs, negotiate with private sector financing sources to provide loan packages or programs.

### 12A:9-1.5 Qualified professional listing

(a) The Division shall compile a list of qualified professionals who can or have provided services to small businesses, minority and women businesses. This list of qualified professionals shall include:

1. Accountants;
2. Financial specialists;
3. Management consultants;
4. Marketing consultants;
5. Employee training and development specialists; and
6. Other professionals as may be deemed appropriate by the Director.

(b) The Qualified Professionals List shall be made available upon request by an eligible business. The list shall not be restricted or edited in any manner which would provide favoritism or be detrimental to any professional contained on the list.

(c) There shall be no limit to the number of enumerated qualified professionals on the list.

**12A:9-1.19 Assistance in finding sources of financing from government sources**

(a) The Division shall, in conjunction with or at the request of the Authority, assist eligible businesses in finding sources of financing from Federal, State, and local sources.

(b) For purposes of assistance in finding sources of financing from government entities pursuant to (a) above, the Division shall maintain a listing of these financing sources and make them available to eligible businesses at their request.

**12A:9-1.20 Assistance in gaining information about employee training and development programs**

(a) The Division shall, in conjunction with or at the request of the Authority, assist eligible businesses in gaining information about employee training and development programs.

(b) The Division shall refer the eligible requesting business in (a) above to the Qualified Professionals List pursuant to N.J.A.C. 12A:9-1.5.

**12A:9-1.21 Centralized information concerning laws and rules**

(a) The Division shall create a centralized source of information for eligible businesses in their dealings with Federal, State and local governments, which shall include:

1. Government rules affecting eligible businesses;
2. Laws affecting eligible businesses; and
3. Government procurement programs affecting eligible businesses.

(c) The Division shall not provide materials to eligible businesses relevant to pending State legislation except as provided for at the direction of the Commissioner.

**12A:9-1.22 Internship programs**

(a) The Division, in conjunction with requirements of this subchapter, shall initiate and encourage education programs for eligible businesses.

(b) The Division may sponsor educational seminars and conferences for eligible business to facilitate the Division's ability to accomplish its other duties provided for under the Act.

**12A:9-1.23 Uniform certification**

(a) The Division shall establish, pursuant to the requirements of the Uniform Certification Act, P.L. 1986, c.195, a uniform procedure for the certification of minority and women businesses wishing to participate in State programs which require certification of authenticity of ownership and control of a business as a criteria for participation in State

programs, state political subdivision programs, and casino set-aside programs pursuant to P.L. 1987, c.137.

(b) The Division shall be the certifying authority for all departments, agencies, and authorities of the State.

(c) Where the certification procedure established by the Division pursuant to (a) above conflicts with Federal certification procedures, and that conflict would adversely affect the Federal funding of a State project, the Federal certification procedure shall take precedence when the Division has been properly and reasonably notified by the affected public agency that such conflict exists and the State's participation in such program is in jeopardy.

(d) The political subdivisions of the State shall certify the eligibility of minority and women businesses for the political subdivision's programs which require certification of the authority of ownership and control of a vendor or firm.

1. The political subdivisions of the State may accept those businesses certified by the Division as eligible to participate in their programs.

2. The political subdivisions of the State may by specific assignment and agreement have the Division serve as its certifying authority pursuant to approval by the Commissioner.

(e) The political subdivisions of the State shall utilize the uniform procedures formulated by the Division pursuant to (a) above.

1. Any political subdivision of the State choosing to establish its own certification program shall submit a plan to the Division for review and approval. The plan shall include:

- i. A description of the political subdivision's certification program;
- ii. An analysis of the program as to its compliance with the Division's uniform procedures;
- iii. The amount of funds assigned by the political subdivision for the programs;
- iv. Resumes of the personnel who will supervise and work within the program; and
- v. Any other information the Director or CAU administrator may deem relevant.

2. Any political subdivision of the State choosing to establish its own certification program shall submit annual reports to the Division as to the performance of the program. The report shall include:

- i. The number of minority businesses certified by the political subdivision;
- ii. The number of women businesses certified by the political subdivision;

iii. Total number of applications for certification received by that political subdivision;

iv. The number of site visits conducted by the political subdivision; and

v. The number of businesses decertified by the political subdivision.

3. Any political subdivision of the State choosing to establish its own certification program shall make available, at the request of the Division, any and all information relevant to any businesses applying for status as a certified business.

(f) The authority of the Division in matters relating to certification and vendor set-aside approval shall be vested in the CAU administrator.

1. The ruling of the administrator in these matters shall be final, except as may be provided by appeals of his decisions relating to the status of a business provided in regulation under those programs.

#### **12A:9-1.24 Advisory Council**

(a) For the purpose of assisting the Division in development and establishment of financial and technical assistance policy; resource allocation; eligibility for assistance and program participation standards; and coordination of programs with the Authority there is established, pursuant to the Act, the Small Business Advisory Council, the Minority Business Advisory Council, and the Women Business Advisory Council.

(b) Each Council shall consist of members appointed pursuant to and in the manner described in the Act.

(c) The respective Councils shall elect a chairman from among their membership. The chairman shall preside over all Council meetings.

(d) Each Council shall meet at least six times a year.

(e) At their discretion, the Councils may meet together as a group to satisfy the meeting requirements in (d) above.

(f) The Council may not hold an official meeting without a quorum. A quorum shall consist of five members of the board being present.

(g) Each member of a Council shall have one equal vote.

(h) The Councils may form ad hoc committees for specific areas of concern by majority vote.

(i) The Division shall be represented at the Council meetings by the Director or his or her designee.

(j) The Councils shall hold meetings pursuant to the requirements of the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq.