

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.