

By Representative Andrews

1 A bill to be entitled
2 An act relating to minority business
3 enterprises; amending s. 287.0943, F.S.;
4 providing a presumption for certain
5 certification purposes; providing an exclusion;
6 amending s. 288.703, F.S.; revising
7 definitions; specifying application; providing
8 an effective date.

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10 Be It Enacted by the Legislature of the State of Florida:

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12 Section 1. Paragraph (e) of subsection (1) of section
13 287.0943, Florida Statutes, 1996 Supplement, is amended to
14 read:

15 287.0943 Certification of minority business
16 enterprises.--

17 (1)

18 (e) In assessing the status of ownership and control,
19 certification criteria shall, at a minimum:

20 1. Link ownership by a minority person, as defined in
21 s. 288.703(3), or as dictated by the legal obligations of a
22 certifying organization, to day-to-day control and financial
23 risk by the qualifying minority owner, and to licensure of a
24 minority owner in any trade or profession that the minority
25 business enterprise will offer to the state when certified;
26 however, the minority licenseholder need not be the
27 controlling owner of the enterprise, but must hold an
28 ownership interest. Minority business enterprises presently
29 certified by the state will not be subject to the licensure
30 requirement until 5 years after the effective date of this
31 act.

1 2. If present ownership was obtained by transfer,
2 require the minority person on whom eligibility is based to
3 have owned at least 51 percent of the applicant firm for a
4 minimum of 2 years, when any previous majority ownership
5 interest in the firm was by a nonminority who is or was a
6 relative, former employer, or current employer of the minority
7 person on whom eligibility is based. This requirement shall
8 not apply to minority persons who are otherwise eligible who
9 take a 51-percent-or-greater interest in a firm that requires
10 professional licensure to operate and who will be the
11 qualifying licenseholder for the firm when certified. A
12 transfer made within a related immediate family group from a
13 nonminority person to a minority person in order to establish
14 ownership by a minority person shall be deemed to have been
15 made solely for purposes of satisfying certification criteria
16 and shall render such ownership invalid for purposes of
17 qualifying for such certification if the combined total net
18 asset value of all members of such family group exceeds \$1
19 million.

20 3. Require that prospective certified minority
21 business enterprises be currently performing a useful business
22 function. A "useful business function" is defined as a
23 business function which results in the provision of materials,
24 supplies, equipment, or services to customers other than state
25 or local government. Acting as a conduit to transfer funds to
26 a nonminority business does not constitute a useful business
27 function unless it is done so in a normal industry practice.
28 As used in this section, the term "acting as a conduit" means,
29 in part, not acting as a regular dealer by making sales of
30 material, goods, or supplies from items bought, kept in stock,
31 and regularly sold to the public in the usual course of

1 business. Brokers, manufacturer's representatives, sales
2 representatives, and nonstocking distributors are considered
3 as conduits that do not perform a useful business function,
4 unless normal industry practice dictates.

5 Section 2. Subsections (1) and (2) of section 288.703,
6 Florida Statutes, 1996 Supplement, are amended to read:

7 288.703 Definitions.--As used in this act, the
8 following words and terms shall have the following meanings
9 unless the content shall indicate another meaning or intent:

10 (1) "Small business" means an independently owned and
11 operated business concern that employs 100 or fewer permanent
12 full-time employees and that, together with its affiliates,
13 has a net worth of not more than ~~\$1~~\$3 million and an average
14 net income after federal income taxes, excluding any carryover
15 losses, for the preceding 2 years of not more than \$2 million.
16 As applicable to sole proprietorships, the ~~\$1~~\$3 million net
17 worth requirement shall include both personal and business
18 investments.

19 (2) "Minority business enterprise" means any small
20 business concern as defined in subsection (1) which is
21 organized to engage in commercial transactions, which is
22 domiciled in Florida, and which is at least 51-percent-owned
23 by minority persons who are members of an insular group that
24 is of a particular racial, ethnic, or gender makeup or
25 national origin, which has been subjected historically to
26 disparate treatment due to identification in and with that
27 group resulting in an underrepresentation of commercial
28 enterprises under the group's control, and whose management
29 and daily operations are controlled by such persons. A
30 minority business enterprise may primarily involve the
31 practice of a profession. Ownership by a minority person does

1 not include ownership which is the result of a transfer from a
2 nonminority person to a minority person within a related
3 immediate family group if the combined total net asset value
4 of all members of such family group exceeds \$1 million.

5 Section 3. The definitions of small business, minority
6 business enterprise, and certified minority business
7 enterprise provided in s. 288.703, Florida Statutes, apply to
8 the state and all political subdivisions of the state.

9 Section 4. This act shall take effect October 1, 1997.

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12 HOUSE SUMMARY

13 Revises the definition of minority business enterprise to
14 exclude intrafamily transfers made solely to achieve
15 ownership by a minority person. Excludes from provisions
16 relating to certification of minority business
17 enterprises intrafamily transfers from a nonminority
18 person to a minority person for purposes of eligibility
19 for certification. Limits small businesses to those with
20 net worths of \$1 million or less. See bill for details.
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