

By the Committee on Business Development & International Trade and 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. For purposes of this subparagraph, the term "related  
20 immediate family group" means one or more children under 16  
21 years of age and a parent of such children or the spouse of  
22 such parent residing in the same house or living unit.

23           3. Require that prospective certified minority  
24 business enterprises be currently performing a useful business  
25 function. A "useful business function" is defined as a  
26 business function which results in the provision of materials,  
27 supplies, equipment, or services to customers other than state  
28 or local government. Acting as a conduit to transfer funds to  
29 a nonminority business does not constitute a useful business  
30 function unless it is done so in a normal industry practice.  
31 As used in this section, the term "acting as a conduit" means,

1 in part, not acting as a regular dealer by making sales of  
2 material, goods, or supplies from items bought, kept in stock,  
3 and regularly sold to the public in the usual course of  
4 business. Brokers, manufacturer's representatives, sales  
5 representatives, and nonstocking distributors are considered  
6 as conduits that do not perform a useful business function,  
7 unless normal industry practice dictates.

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

10 288.703 Definitions.--As used in this act, the  
11 following words and terms shall have the following meanings  
12 unless the content shall indicate another meaning or intent:

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

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

1 and daily operations are controlled by such persons. A  
2 minority business enterprise may primarily involve the  
3 practice of a profession. Ownership by a minority person does  
4 not include ownership which is the result of a transfer from a  
5 nonminority person to a minority person within a related  
6 immediate family group if the combined total net asset value  
7 of all members of such family group exceeds \$1 million. For  
8 purposes of this subsection, the term "related immediate  
9 family group" means one or more children under 16 years of age  
10 and a parent of such children or the spouse of such parent  
11 residing in the same house or living unit.

12 Section 3. The definitions of small business, minority  
13 business enterprise, and certified minority business  
14 enterprise provided in s. 288.703, Florida Statutes, apply to  
15 the state and all political subdivisions of the state.

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

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19 HOUSE SUMMARY

20 Revises the definition of minority business enterprise to  
21 exclude intrafamily transfers made solely to achieve  
22 ownership by a minority person. Excludes from provisions  
23 relating to certification of minority business  
24 enterprises intrafamily transfers from a nonminority  
25 person to a minority person for purposes of eligibility  
26 for certification. Limits small businesses to those with  
27 net worths of \$1 million or less. See bill for details.  
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