

## **ARTICLE 13. SET-ASIDE CONTRACTS**

### **5:12-184 Legislative declarations**

The Legislature declares that the opportunity for full minority and women's business enterprise participation in the casino industry is essential if social and economic parity is to be obtained by minority and women business persons and if the economy of Atlantic City is to be stimulated as contemplated by the "Casino Control Act," P.L.1977, c. 210 (C. 5:12-1 et seq.).

L.1985, c. 539, § 1, eff. Jan. 21, 1986.

### **5:12-185 Definitions**

As used in this act:

a. "Casino licensee" means any entity which holds or is an applicant for a casino license pursuant to section 87 of P.L. 1977, c. 110 (C. 5:12-87).

b. "Minority business enterprise" means a business that is:

(1) A sole proprietorship, owned and controlled by a minority;

(2) A partnership or joint venture owned and controlled by minorities in which at least 51% of the ownership interest is held by minorities and the management and daily business operations of which are controlled by one or more of the minorities who own it; or

(3) A corporation or other entity whose management and daily business operations are controlled by one or more minorities who own it, and which is at least 51% owned by one or more minorities, or if stock is issued, at least 51% of the stock is owned by one or more minorities.

c. "Minority" means a person who is:

(1) Black, which is a person having origins in any of the black racial groups in Africa; or

(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; or

(3) Asian American, which is a person having origins in any of the original peoples of the Far East, Southeast Asia, 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.

d. "Women's business enterprise" means a business that is:

(1) A sole proprietorship owned and controlled by a woman; or

(2) A partnership or joint venture owned and controlled by women in which at least 51% of the ownership is held by women and the management and daily business operations of which are controlled by one or more women who own it; or

(3) A corporation or other entity whose management and daily business operations are controlled by one or more women who own it, and which is at least 51% owned by women, or if stock is issued, at least 51% of the stock is owned by one or more women.

L.1985, c. 539, § 2, eff. Jan. 21, 1986.

Amended by:

L.1987, c. 137, § 1, eff. June 3, 1987.

**5:12-186 Set-aside contracts for minority and women's business enterprises; percentage requirements and goals; report**

a. Notwithstanding the provisions of any law, rule or regulation to the contrary, every casino licensee shall establish goals of expending at least 5% of the dollar value of its contracts for goods and services with minority and women's business enterprises by the end of third year following the receipt of a casino license, and 10% of the dollar value of its contracts for goods and services with minority and women's business enterprises by the end of the sixth year following the receipt of a casino license; and each such licensee shall have a goal of expending 15% of the dollar value of its contracts for

goods and services with minority and women's business enterprises by the end of the 10th year following the receipt of a casino license. Each casino licensee shall be required to demonstrate annually that the requirements of this act have been met by submitting a report which shall include the total dollar value of contracts awarded for goods or services and the percentage thereof awarded to minority and women's business enterprises.

As used in this section, "goods and services" shall not include (1) utilities and taxes; (2) financing costs, such as mortgages, loans or any other type of debt; (3) medical insurance; (4) dues and fees to the Atlantic City Casino Association; (5) fees and payments to a parent or affiliated company of the casino licensee other than those that represent fees and payments for goods and services supplied by non-affiliated persons through an affiliated company for the use or benefit of the casino licensee; and (6) rents paid for real property and any payments constituting the price of an interest in real property as a result of a real estate transaction.

b. A casino licensee shall make a good faith effort to meet the requirements of this section and shall annually demonstrate to the division that such an effort was made.

c. A casino licensee may fulfill no more than 70% of its obligation or part of it under this act by requiring a vendor to set aside a portion of his contract for minority or women's business enterprises. Upon request, the licensee shall provide the division with proof of the amount of the set-aside.

L.1985, c. 539, § 4, eff. Jan. 21, 1986.

Amended by:

L.1987, c. 137, § 3, eff. June 3, 1987.

L.2011, c. 19, § 111, eff. Feb. 1, 2011.

**5:12-187 Set-aside contracts for minority and women's business enterprises; bus business**

a. Every casino licensee shall establish goals of expending at least 5% of the dollar value of its bus business with minority and women's business enterprises by the end of the third year following the receipt of a casino license, and 10% of the dollar value of its bus business with minority and women's business enterprises by the end of the sixth year following the receipt of a casino license; and each such licensee shall have a goal of expending 15% of the dollar value of its bus business with minority and women's business enterprises by the end of the 10th year following by the end of the 10th year following the receipt of a casino license. Each casino licensee shall be required to demonstrate annually that the requirements of this act have been met by submitting a report which shall include the total bus business expended and the percentage thereof awarded to minority and women's business enterprises.

b. A casino licensee shall make a good faith effort to meet the requirements of this section.

L.1985, c. 539, § 5, eff. Jan. 21, 1986.

Amended by:

L.1987, c. 137, § 4, eff. June 3, 1987.

L.2011, c. 19, § 112, eff. Feb. 1, 2011.

**5:12-187.1. Noncompliance with provisions relating to expenditures and assignments to minority and women business enterprises; suspension, revocation or other penalties; compliance period**

If the division determines that the provisions of sections 4 and 5 of P.L.1985, c.539 (C.5:12-186 and C.5:12-187) relating to expenditures and assignments to minority and women's business enterprises have not been met by a licensee, the division may recommend to the commission the suspension or revocation of the casino license, and the commission may, in its discretion, revoke or suspend the license, or the division may fine or impose appropriate conditions on the licensee, to ensure that the goals for expenditures and

assignments to minority and women's business enterprises are met; except that if a determination is made that a casino licensee has failed to demonstrate compliance with the provisions of sections 4 and 5 of P.L.1985, c.539 (C.5:12-186 and C.5:12-187), a casino licensee will have 90 days from the date of the determination of noncompliance within which to comply with the provisions of those sections.

L.1987, c. 137, § 7, eff. June 3, 1987.

Amended by:

L.2011, c. 19, § 113, eff. Feb. 1, 2011.

### **5:12-188 Unified certification procedure for minority and women's business enterprises**

The Division of Development for Small Businesses and Women's and Minority Businesses in the Department of Commerce and Economic Development created pursuant to P.L.1987, c. 55 (C. 52:27H-21.7 et seq.) shall establish and administer a unified certification procedure for minority and women's business enterprises that do business with casino licensees on contracts for goods and services or contracts for bus business.

L.1985, c. 539, § 6, eff. Jan. 21, 1986.

Amended by:

L.1987, c. 137, § 5, eff. June 3, 1987.

### **5:12-189 List of certified enterprises; annual review; challenge of designation**

The Division of Development for Small Businesses and Women's and Minority Businesses shall supply casino licensees with a list of those minority and women's business enterprises which it has certified. The division shall review the list annually to determine which of those minority and women's business enterprises shall continue to be certified. The division shall

establish a procedure whereby the designation of a certified minority and women's business enterprise may be challenged. The procedure shall include proper notice and a hearing for all parties concerned.

L.1985, c. 539, § 7, eff. Jan. 21, 1986.

Amended by:

L.1987, c. 137, § 6, eff. June 3, 1987.

### **5:12-190 Regulations**

The Division of Development for Small Businesses and Women's and Minority Businesses and the Division of Gaming Enforcement shall develop such other regulations as may be necessary to interpret and implement the provisions of this act.

L.1985, c. 539, § 8, eff. Jan. 21, 1986.

Amended by:

L.2011, c. 19, § 114, eff. Feb. 1, 2011.