

ASSEMBLY, No. 378

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman T. SMITH

1 AN ACT concerning sureties and financial institutions and
2 supplementing Title 17 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. a. A surety shall elicit and record, on a standard form prescribed
8 by the Commissioner of Insurance, the race, gender and ethnicity of
9 each person applying to it for coverage in connection with the
10 performance of a contract to provide goods or services, including
11 construction services, to any public or private entity and shall list
12 thereon its decision to approve or deny coverage. A surety shall
13 transmit a completed form to the commissioner. Based upon this
14 information, the commissioner shall compile and publish, at least
15 annually, a statistical report which lists for each surety the rates of
16 approval and denial by race, gender and ethnicity and which compares
17 this information for each surety against an industry-wide average.
18 Whenever a person applying for coverage is other than an individual,
19 the surety shall elicit, record and report the information required by
20 this section for each individual holding an interest therein.

21 b. Whenever a surety denies coverage, it shall provide the applicant
22 with a complete written explanation which lists all reasons for the
23 denial.

24 c. As used in this section:

25 "interest" means the ownership or control of more than 10% of the
26 profits or assets of a firm, association or partnership or more than 10%
27 of the stock in a corporation for profit or holding shares in a
28 professional service corporation;

29 "person" means a firm, association, partnership, corporation or
30 professional service corporation, as well as an individual; and

31 "surety" means a company authorized under the laws of this State
32 to carry on the business specified in subsection g. of R.S.17:17-1.

33

34 2. a. A financial institution shall elicit and record, on a standard
35 form prescribed by the Commissioner of Banking, the race, gender and

1 ethnicity of each person applying to it for a business or commercial
2 loan and shall list thereon its decision to approve or deny the loan. A
3 financial institution shall transmit a completed form to the
4 commissioner. Based upon this information, the commissioner shall
5 compile and publish, at least annually, a statistical report which lists
6 for each financial institution the rates of approval and denial by race,
7 gender and ethnicity and which compares this information for each
8 financial institution against an industry-wide average. Whenever a
9 person applying for a loan is other than an individual, the financial
10 institution shall elicit, record and report the information required by
11 this section for each individual holding an interest therein.

12 b. Whenever a financial institution denies a loan, it shall provide
13 the applicant with a complete written explanation which lists all
14 reasons for the denial.

15 c. As used in this section:

16 "financial institution" means an entity subject to the supervision and
17 regulation of the Commissioner of Banking;

18 "interest" means the ownership or control of more than 10% of the
19 profits or assets of a firm, association or partnership or more than 10%
20 of the stock in a corporation for profit or holding shares in a
21 professional service corporation; and

22 "person" means a firm, association, partnership, corporation or
23 professional service corporation, as well as an individual.

24

25 3. This act shall take effect immediately.

26

27

28

STATEMENT

29

30 This bill would implement one of the recommendations made by the
31 Governor's Study Commission on Discrimination in Public Works
32 Procurement and Construction Contracts in its report of February 22,
33 1993. The commission determined that minority businesses and
34 women's business were having difficulty in obtaining bond coverage
35 and business loans and that this was limiting the ability of these firms
36 to compete in the marketplace. It recommended that reporting
37 requirements be imposed on sureties and financial institutions in order
38 to identify and prevent discrimination against minority businesses and
39 women's businesses.

40 The bill would require a surety to elicit, record and report to
41 Commissioner of Insurance the race, gender and ethnicity of persons
42 applying for bond coverage in connection with the performance of
43 certain contracts. It would also require financial institutions to file
44 similar reports with the Commissioner of Banking in regard to business
45 and commercial loans. In addition, the bill requires sureties

1 and financial institutions to provide a complete written explanation to
2 any applicant denied coverage or a loan.

3

4

5

6

7 Imposes certain reporting requirements on sureties and financial
8 institutions.