

1 A bill to be entitled
2 An act relating to the Florida Black Business
3 Investment Board; amending s. 288.707, F.S.;
4 revising legislative findings regarding the
5 creation and growth of black business
6 enterprises; redefining the term "black
7 business enterprise"; providing that the board
8 shall be a not-for-profit corporation and not
9 an entity of state government; revising
10 provisions relating to appointment and number
11 of board members, compensation of board
12 members, the president and employees, and
13 financial disclosure by board members;
14 providing for board meetings; authorizing the
15 board to appoint at-large members; amending s.
16 288.708, F.S.; revising provisions relating to
17 appointment of the executive director; renaming
18 the position of "executive director" as
19 "president"; providing for the appointment and
20 compensation of the president; providing for
21 delegation of powers and responsibilities to
22 the president; prescribing the corporation's
23 responsibilities regarding use of funds;
24 providing requirements regarding employees'
25 compensation; amending s. 288.709, F.S.;
26 replacing references to board rulemaking with
27 references to the adoption of policies;
28 eliminating provisions related to the authority
29 of the corporation to acquire and sell
30 property; amending s. 288.7091, F.S.; revising
31 provisions relating to duties of the

1 corporation regarding developing memoranda of
2 understanding with certain entities and
3 increasing the number of black business
4 enterprises in construction projects; requiring
5 the corporation to ensure that certain
6 appropriations are distributed properly, to
7 conduct certain economic development
8 activities, and to facilitate creation of black
9 business investment corporations; creating s.
10 288.7092, F.S.; providing intent regarding
11 operation of the corporation and return on
12 investment; defining the state's operating
13 investment in the corporation; directing the
14 board to adopt an annual operating budget;
15 providing requirements regarding private-sector
16 support; providing requirements regarding
17 corporation compliance with performance
18 measures; providing for a report; requiring
19 that the corporation hire a private accounting
20 firm or economic analysis firm and providing
21 its duties; amending ss. 288.711 and 288.712,
22 F.S.; conforming provisions; amending s.
23 288.714, F.S.; revising the list of persons to
24 whom the corporation's annual report is
25 submitted; revising the due date for such
26 report; clarifying references to ss.
27 288.707-288.714, F.S.; establishing a program
28 to lease state employees to the Black Business
29 Investment Board, Inc.; prescribing duties of
30 the Department of Management Services related
31 to such leasing program; providing terms and

1 conditions of such leasing program; amending s.
2 288.9015, F.S.; revising duties of Enterprise
3 Florida, Inc., relating to small and minority
4 businesses; directing Enterprise Florida, Inc.,
5 to contract with the Black Business Investment
6 Board, Inc., under certain conditions;
7 requiring the Black Business Investment Board,
8 Inc., to complete a report on the inclusion of
9 all minorities in the activities of the
10 corporation and the black business investment
11 corporations; providing applicability to other
12 legislation; providing an effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

15
16 Section 1. Section 288.707, Florida Statutes, is
17 amended to read:

18 288.707 Florida Black Business Investment Board,
19 Inc.--

20 (1) The Legislature finds that the public interest of
21 Florida will be served by the creation and growth of black
22 business enterprises by:

23 (a) Establishing a partnership between the public
24 sector and the private sector which seeks to leverage the
25 provision of state funds with funds and other resources from
26 private-sector businesses and other nonstate sources;

27 (b)(a) Increasing opportunities for employment of
28 blacks, as well as the population in general;

29 (c)(b) Providing role models and establishing business
30 networks for the benefit of future generations of aspiring
31 black entrepreneurs;

1 ~~(d)(c)~~ Strengthening the economy of the state by
2 increasing the number of qualified black business enterprises,
3 which in turn will increase competition in the marketplace and
4 improve the welfare of economically depressed neighborhoods;
5 and

6 ~~(e)(d)~~ Taking measures to increase access of black
7 businesses to both debt and equity capital.

8 (2) For the purposes of ss. 288.707-288.714 ~~ss. 9-21,~~
9 ~~chapter 85-104, Laws of Florida:~~

10 (a) "Black business enterprise" means any business
11 concern that ~~which~~ is organized to engage in commercial
12 transactions and that ~~which~~ is at least 51 percent owned by
13 one or more African Americans ~~black Americans~~ as defined in s.
14 288.703 and whose management and daily operations are
15 controlled by such persons.

16 (b) "Black business investment corporation" means a
17 subsidiary of a financial institution or a consortium of
18 financial institutions investing in, or lending to, black
19 business enterprises.

20 (c) "Consortium" means two or more financial
21 institutions that ~~which~~ jointly negotiate and agree to provide
22 assistance to black business enterprises as provided in ss.
23 288.707-288.714 ~~ss. 9-21, chapter 85-104, Laws of Florida.~~

24 (3) There is ~~hereby~~ created a not-for-profit
25 corporation ~~within the Office of Tourism, Trade, and Economic~~
26 ~~Development a body politic and corporate~~ to be known as the
27 "Florida Black Business Investment Board, Inc., hereinafter
28 referred to as the "corporation, board." which shall be
29 registered, incorporated, organized, and operated in
30 compliance with chapter 617 and which is not a unit or entity
31 of state government. ~~The board is hereby constituted a public~~

1 ~~instrumentality, and the exercise by the board of the powers~~
2 ~~conferred by ss. 9-21, chapter 85-104, Laws of Florida, shall~~
3 ~~be deemed to be the performance of an essential governmental~~
4 ~~function.~~

5 (a) The board of the corporation shall consist of the
6 following members:

7 1. Six ~~seven~~ members appointed by the Governor and
8 subject to confirmation by the Senate, who must six of whom
9 ~~shall~~ be experienced in investment finance and business
10 development, ~~one of whom must be a member of a black business~~
11 ~~investment corporation.~~

12 2. One member from the private sector appointed by the
13 President of the Senate, who must be experienced in investment
14 finance and business development and who shall serve a term of
15 2 years.

16 3. One member from the private sector appointed by the
17 Speaker of the House of Representatives, who must be
18 experienced in investment finance and business development and
19 who shall serve a term of 2 years.

20 4. Three representatives of black business investment
21 corporations, who must be selected from among and by the
22 chairs of the black business investment corporations. A
23 representative from a black business investment corporation
24 shall serve for a term of 2 years but is eligible for
25 reappointment on a rotating basis with other representatives
26 from black business investment corporations.

27 5. The vice chair of Enterprise Florida, Inc., or his
28 or her designee, who shall be an ex officio, nonvoting member,
29 and who shall provide information, advice, and guidance
30 designed to enhance the coordination of activities of
31 Enterprise Florida, Inc., and the corporation.

1 6. The chair of the Florida Development Finance
2 Corporation, created pursuant to s. 288.9604, who shall be an
3 ex officio, nonvoting member of the board.

4 (b) Members appointed by the Governor shall serve
5 terms of 4 years, except that in making the initial
6 appointments, the Governor shall appoint two members ~~one~~
7 ~~member~~ to serve for ~~a term of 1 year, two members to serve for~~
8 terms of 2 years, two members to serve for terms of 3 years,
9 and two members to serve for terms of 4 years.

10 (c) Any person appointed to fill a vacancy on the
11 board shall be appointed in a like manner and shall serve for
12 only the unexpired term. Any member shall be eligible for
13 reappointment.

14 (d) The Governor shall appoint the chairperson who
15 shall be a member of the board. The board shall annually
16 elect one of its members as vice chairperson and shall
17 designate a secretary-treasurer who need not be a member of
18 the board. The secretary-treasurer shall keep a record of the
19 proceedings of the board and shall be the custodian of all
20 books, documents, and papers filed with the board, of the
21 minute books of the board, and of its official seal. ~~A~~
22 ~~majority of the members of the board shall constitute a~~
23 ~~quorum.~~

24 (e) The board shall meet at least four times each
25 year, upon the call of the chair or the vice chair or at the
26 request of a majority of the membership. A majority of the
27 total number of all members fixed by paragraphs (a) and (h)
28 shall constitute a quorum. The board may take official action
29 by a majority vote of the members present at any meeting at
30 which a quorum is present.

31

1 ~~(f)(e)~~ Members of the board shall serve without
 2 compensation, but members, the president of the board, and
 3 other board employees may be reimbursed for all reasonable,
 4 necessary, and actual expenses as determined by the board
 5 ~~shall be reimbursed for per diem and travel expenses in~~
 6 ~~accordance with s. 112.061.~~

7 ~~(g)(f)~~ Each member of the board who is not otherwise
 8 required to file financial disclosure pursuant to s. 8, Art.
 9 II of the State Constitution or s. 112.3144 shall file full
 10 ~~and public disclosure of financial interests pursuant to s.~~
 11 ~~112.3145 at the times and places and in the same manner~~
 12 ~~required of elected constitutional officers under s. 8, Art.~~
 13 ~~II of the State Constitution and any law implementing s. 8,~~
 14 ~~Art. II of the State Constitution.~~

15 (h) Notwithstanding paragraph (a), the board may by
 16 resolution appoint two at-large members to the board from the
 17 private sector, each of whom may serve a 1-year term. At-large
 18 members shall have the powers and duties of other members of
 19 the board, except that they may not serve on an executive
 20 committee. An at-large member is eligible for reappointment
 21 but may not vote on his or her own reappointment.

22 Section 2. Section 288.708, Florida Statutes, is
 23 amended to read:

24 288.708 President ~~Executive director~~; employees.--

25 (1) The president ~~executive director~~ of the
 26 corporation board, who may also be designated as
 27 secretary-treasurer, shall be appointed by the board and shall
 28 serve at the pleasure of the board. The board shall establish
 29 and adjust the compensation of the president. ~~The president~~
 30 ~~executive director~~ shall be the chief administrative and
 31 operational officer of the corporation board and shall direct

1 and supervise administrative affairs and the general
2 management of the corporation board. The board may delegate to
3 its president those powers and responsibilities it deems
4 appropriate, except for appointment of the president.~~The~~
5 president ~~executive director~~:

6 (a) May contract with or employ legal and technical
7 experts and such other employees, permanent and temporary, as
8 shall be authorized by the board;

9 (b) Shall attend meetings of the board; and

10 (c) Shall cause copies to be made of all minutes and
11 other records and documents of the board and shall certify
12 that such copies are true copies. All persons dealing with the
13 corporation or board may rely upon such certification.

14 (2) The corporation and its officers and board members
15 are responsible for the prudent use of all public and private
16 funds and shall ensure that the use of such funds is in
17 accordance with all applicable laws, bylaws, or contractual
18 requirements. An employee of the corporation may not receive
19 compensation for employment that exceeds the salary paid to
20 the Governor, unless the corporation and the employee have
21 executed a contract that prescribes specific and measurable
22 performance outcomes for the employee, the satisfaction of
23 which provides the basis for the award of incentive payments
24 that increase the employee's total compensation to a level
25 above the salary paid to the Governor.~~The executive director~~
26 ~~and all employees of the board shall be exempt from the~~
27 ~~provisions of part II of chapter 110, and the executive~~
28 ~~director shall be subject to the provisions of part III of~~
29 ~~chapter 110.~~

30 Section 3. Section 288.709, Florida Statutes, is
31 amended to read:

1 288.709 Powers of the Florida Black Business
2 Investment Board, Inc.--The board shall have all the powers
3 necessary or convenient to carry out and effectuate the
4 purposes and provisions of ss. 288.707-288.714 ~~ss. 9-21,~~
5 ~~chapter 85-104, Laws of Florida,~~ including, but not limited
6 to, the power to:

7 (1) Adopt bylaws for the regulation of its affairs and
8 the conduct of its business and adopt policies ~~rules~~ pursuant
9 ~~to ss. 120.536(1) and 120.54~~ to implement the provisions of
10 law conferring duties upon it. However, any proposed bylaws or
11 policies ~~rules~~ affecting the operation or administration or
12 financial well-being of any of the black business investment
13 corporations must first be approved by a majority of the black
14 business investment corporations. Such bylaws shall provide
15 that the corporation is subject to the requirements of s. 24,
16 Art. I of the State Constitution and chapter 119 and s.
17 286.011.

18 (2) Adopt an official seal.

19 (3) Sue and be sued in its own name.

20 (4) Make and execute contracts and other instruments
21 necessary or convenient for the exercise of its power and
22 functions.

23 (5) Acquire, hold, and dispose of personal property
24 for its corporate purposes.

25 (6) Enter into agreements or other transactions with
26 any federal, state, or local agency.

27 (7) Encourage financial institutions to participate in
28 consortia for the purpose of investing in black business
29 enterprises.

30 (8) Ensure that funds available to the board for
31 purposes set forth in ss. 288.707-288.714 ~~ss. 9-21, chapter~~

1 ~~85-104, Laws of Florida,~~are disbursed on a statewide basis
2 and are not concentrated in one geographical area.

3 ~~(9) Acquire real property or any interest therein, by~~
4 ~~purchase or foreclosure, where such acquisition is necessary~~
5 ~~or appropriate to protect or secure any investment or loan in~~
6 ~~which the board has an interest; to sell, transfer, and convey~~
7 ~~any such property to a buyer without regard to the provisions~~
8 ~~of chapters 253 and 270; and, in the event that such sale,~~
9 ~~transfer, or conveyance cannot be effected with reasonable~~
10 ~~promptness or at a reasonable price, to lease such property~~
11 ~~for occupancy by eligible persons.~~

12 (9)~~(10)~~ Invest any funds held in reserves or sinking
13 funds, or any funds not required for immediate disbursement,
14 in such investments as may be authorized for trust funds under
15 s. 215.47; however provided, such investments will be made on
16 behalf of the board by the Office of State Treasurer or by
17 another trustee appointed for that purpose.

18 (10)~~(11)~~ Appear in its own behalf before boards,
19 commissions, departments, or other agencies of municipal,
20 county, state, or Federal Government.

21 (11)~~(12)~~ Procure insurance or require bond against any
22 loss in connection with its property in such amounts and from
23 such insurers as may be necessary or desirable.

24 (12)~~(13)~~ Receive and accept from any federal, state,
25 or local agency grants, loans, or advances for, or in aid of,
26 the purposes of ss. 288.707-288.714 ~~ss. 9-21, chapter 85-104,~~
27 ~~Laws of Florida,~~ and to receive and accept contributions from
28 any source of either money, property, labor, or other things
29 of value, to be held, used, and applied for said purposes.

30 (13)~~(14)~~ Create, issue, and buy and sell stock,
31 evidences of indebtedness, and other capital participation

1 instruments; to hold such stock, evidences of indebtedness,
2 and capital participation instruments; and to underwrite the
3 creation of a capital market for these securities in a manner
4 designed to enhance development of capital ownership in the
5 target group.

6 (14)~~(15)~~ Provide and pay for such advisory services
7 and technical assistance as may be necessary or desirable to
8 carry out the purposes of this act.

9 (15)~~(16)~~ Engage in special programs to enhance the
10 development of black business enterprises as authorized by
11 this act.

12 (16)~~(17)~~ Promote black ownership of financial
13 institutions in Florida.

14 (17)~~(18)~~ Take, hold, and improve property, including
15 real property.

16 (18)~~(19)~~ Do any and all things necessary or convenient
17 to carry out the purposes of, and exercise the powers given
18 and granted in, ss. 288.707-288.714 ~~ss. 9-21, chapter 85-104,~~
19 ~~Laws of Florida~~, and exercise any other powers, rights, or
20 responsibilities of a corporation.

21 (19) In addition to any indemnification available
22 under chapter 617, the corporation may indemnify, and purchase
23 and maintain insurance on behalf of, directors, officers, and
24 employees of the corporation and its boards against any
25 personal liability or accountability by reason of actions
26 taken while acting within the scope of their authority.

27 (20) Provide in its bylaws that, upon the dissolution
28 of the corporation, all of its assets, after payment of all
29 legal debts and liabilities, revert to this state.

30 Section 4. Section 288.7091, Florida Statutes, is
31 amended to read:

1 288.7091 Duties of the Florida Black Business
2 Investment Board, Inc.--The Florida Black Business Investment
3 Board, Inc., shall:

4 (1) Establish certification criteria for black
5 business investment corporations. Certification criteria shall
6 include administrative capacity, fiduciary controls, and, in
7 the case of existing black business investment corporations,
8 solvency and soundness of prior loan decisions;

9 (2) Ensure that any appropriations by the Legislature
10 to the corporation on behalf of the black business investment
11 corporations are provided to the corporations in the manner
12 and amount prescribed by the Legislature;

13 (3) Work with Enterprise Florida, Inc., and local
14 economic development organizations to promote the retention
15 and expansion of existing black business enterprises and to
16 promote the formation and recruitment of new black business
17 enterprises;

18 (4)~~(2)~~ Develop a memorandum of understanding with
19 Enterprise Florida, Inc., that outlines a strategy for
20 collaboration with the programs, activities, and committees or
21 similar units ~~and boards~~ of Enterprise Florida, Inc., which
22 memorandum of understanding shall provide for Enterprise
23 Florida, Inc., to contract with the corporation, where
24 practicable, for the delivery of economic development services
25 relating to black business enterprises;

26 (5)~~(3)~~ Include in the criteria for loan decisions,
27 occupational forecasting results set forth in s. 216.136(9)
28 which target high growth jobs;

29 (6)~~(4)~~ Facilitate the formation of black business
30 investment corporations in communities that are not currently
31 served by such corporations and establish, in communities that

1 are not currently served by an existing black business
2 investment corporation, memoranda of understanding with local
3 financial institutions that will provide loan guarantees for
4 loans to black business enterprises;

5 ~~(7)(5)~~ Develop memoranda of understanding with the
6 Departments of ~~Labor and Employment Security~~, Education,
7 Transportation, Community Affairs, and Management Services, as
8 well as with Workforce Florida, Inc., and the Florida State
9 Board of Education Regents, detailing efforts of common
10 interest and collaborations to expand black business
11 development;

12 ~~(8)(6)~~ Intensify efforts to increase the number of
13 franchises owned by black businesses and the number of the
14 black business enterprises in construction and
15 construction-related projects, with emphasis on construction
16 projects financed by focusing on federal, state, or and local
17 governments government financed construction projects; and

18 ~~(9)(7)~~ Annually, prepare a report detailing the
19 performance of each black business investment corporation,
20 addressing the number of jobs created and/or retained, success
21 and failure rates among loan recipients, and the amount of
22 funds leveraged from other sources.

23 (10) Annually, provide for a financial audit as
24 defined in s. 11.45 of its accounts and records by an
25 independent certified public accountant. The audit report
26 shall be filed within 12 months after the end of the fiscal
27 year to the Governor, the President of the Senate, the Speaker
28 of the House of Representatives, and the Auditor General.

29 Section 5. Section 288.7092, Florida Statutes, is
30 created to read:

31

1 288.7092 Return on investment from activities of the
2 corporation.--

3 (1) The public funds appropriated each year for the
4 operation of the corporation are invested in this
5 public-private partnership to enhance black business ownership
6 and investments in Florida. This policy shall be the
7 Legislature's priority consideration when reviewing the return
8 on investment for the corporation.

9 (2) It is also the intent of the Legislature that the
10 corporation coordinate its operations with Enterprise Florida,
11 Inc., and with local economic development organizations to
12 maximize the state and local return on investment to create
13 jobs for Floridians.

14 (3) It is further the intent of the Legislature to
15 maximize private-sector support in operating the corporation
16 as an endorsement of its value and as an enhancement of its
17 efforts.

18 (4)(a) The state's operating investment in the
19 corporation is the budget contracted by the Office of Tourism,
20 Trade, and Economic Development to the corporation, less
21 funding that is directed by the Legislature to be
22 subcontracted to a specific recipient.

23 (b) The board shall adopt for each upcoming fiscal
24 year an operating budget for the organization which specifies
25 the intended uses of the state's operating investment, other
26 sources of income, and a plan for securing private-sector
27 support to the corporation. Each fiscal year, private-sector
28 support to the corporation shall be as follows: no less than
29 50 percent of the state's investment by July 1, 2003; no less
30 than 60 percent of the state's investment by July 1, 2004; no
31 less than 70 percent of the state's investment by July 1,

1 2005; no less than 80 percent of the state's investment by
2 July 1, 2006; and no less than 100 percent of the state's
3 investment by July 1, 2007.

4 (5) Private-sector support in operating the
5 corporation includes:

6 (a) Cash given directly to the corporation for its
7 operating budget.

8 (b) Cash jointly raised by the corporation and a local
9 economic development organization, a group of such
10 organizations, or a statewide business organization that
11 supports collaborative projects.

12 (c) Cash generated by products or services of the
13 corporation.

14 (d) In-kind contributions directly to the corporation,
15 including private-sector equipment contributed as part of
16 technical assistance; goods and services, including time
17 donated by loan officers, advertising or marketing support,
18 and items used to promote the corporation; business
19 expenditures; business services provided; business support;
20 and other business contributions that augment the operations,
21 program, activities, or assets of the corporation, including,
22 but not limited to, an individual's time and expertise,
23 sponsored publications, private-sector staff services, payment
24 for advertising placements, sponsorship of events, sponsored
25 or joint research, discounts on leases or purchases, mission
26 or program sponsorship, copayments, stock, warrants,
27 royalties, or other private resources dedicated to the
28 corporation, low-interest loans, participations, investment
29 income, and equity investments.

30 (6) The corporation shall fully comply with the
31 performance measures, standards, and sanctions in its

1 contracts with the Office of Tourism, Trade, and Economic
2 Development. The office shall ensure, to the maximum extent
3 possible, that the contract performance measures are
4 consistent with performance measures that the office is
5 required to develop and track under performance-based program
6 budgeting.

7 (7) As part of the annual report required under s.
8 288.714, the board of the corporation shall provide the
9 Legislature with information quantifying the public's return
10 on investment.

11 (8) The corporation, in consultation with the Office
12 of Program Policy Analysis and Government Accountability,
13 shall hire a private accounting firm or economic analysis firm
14 to develop the methodology for establishing and reporting
15 return on investment and in-kind contributions as described in
16 this section. The Office of Program Policy Analysis and
17 Government Accountability shall review and offer feedback on
18 the methodology before it is implemented. The private
19 accounting firm or economic analysis firm shall certify
20 whether the applicable statements in the annual report comply
21 with this section.

22 Section 6. Subsections (1) and (4) of section 288.711,
23 Florida Statutes, are amended to read:

24 288.711 Florida Investment Incentive Trust Fund.--

25 (1) There is hereby created the Florida Investment
26 Incentive Trust Fund from which money may be drawn for
27 investments or loans, as authorized by this section, to
28 encourage the development of appropriate financial mechanisms
29 in the private sector to capitalize and assist in the
30 development of black business enterprises. All income earned
31 by investments of the fund shall be deposited in the fund for

1 carrying out the purposes of ss. 288.707-288.714 ~~ss. 9-21,~~
 2 ~~chapter 85-104, Laws of Florida.~~ Administrative costs of the
 3 program shall be appropriated in a lump-sum appropriation from
 4 the fund created herein and shall be provided in the General
 5 Appropriations Act.

6 (4) All loans and investments, and any income related
 7 thereto, shall be used to carry out the public purpose of ss.
 8 288.707-288.714 ~~ss. 9-21, chapter 85-104, Laws of Florida,~~
 9 which is to develop black business enterprises. This is not
 10 meant to preclude a reasonable profit for the participating
 11 black business investment corporation or for return of equity
 12 developed to the state and participating financial
 13 institutions upon any distribution of the assets or excess
 14 income of the investment corporation.

15 Section 7. Paragraph (b) of subsection (3) and
 16 paragraph (b) of subsection (4) of section 288.712, Florida
 17 Statutes, are amended to read:

18 288.712 Florida guarantor funds.--

19 (3)

20 (b) For purposes of this section, the corporation
 21 ~~board~~ may utilize the Black Contractors Bond Trust Fund in the
 22 State Treasury, consisting of moneys deposited or credited to
 23 the Black Contractors Bond Trust Fund pursuant to
 24 appropriation made by law; any grants, gifts, and
 25 contributions received pursuant to ss. 288.707-288.714 ~~ss.~~
 26 ~~9-21, chapter 85-104, Laws of Florida;~~ all moneys recovered
 27 following defaults; and any other moneys obtained by the board
 28 for this purpose. The fund shall be administered by the
 29 corporation ~~board~~ in trust for the purposes of this section
 30 and shall at no time be part of general public funds under the
 31 following procedures:

1 1. The corporation ~~board~~ is authorized to post or
2 pledge the assets of the Black Contractors Bond Trust Fund as
3 collateral in amounts necessary to secure the issuance of bid
4 bonds and construction contract bonds to black business
5 enterprises. The board of the corporation shall establish a
6 premium to be charged to the black business enterprise for
7 which the assets have been so posted or pledged, pursuant to
8 generally accepted actuarial principles, and shall establish
9 such rules as may otherwise be necessary to carry out the
10 purposes of this section.

11 2. Any claims against the state arising from defaults
12 shall be payable from the Black Contractors Bond Trust Fund.

13 3. Nothing in this subsection shall be construed to
14 prohibit or restrict the corporation ~~board~~ from entering into
15 a joint venture or other contractual agreement with a private
16 insurer or to invest in a private entity to handle all or part
17 of a black contractors bonding program, credit program, or
18 both for black business enterprises. Such investments or
19 joint venture shall be made under conditions required by law
20 and as the board may, from time to time, require and may take
21 any of the forms described in s. 288.711(2) and (3). The
22 board is authorized and encouraged to contract with a
23 regulated surety company to conduct a surety bond program for
24 black business enterprises. Moneys from the Black Contractors
25 Bond Trust Fund may be used for these purposes.

26 (4)

27 (b) If the board of the corporation chooses to
28 establish a loan guaranty program, it shall use ~~utilize~~ the
29 Black Business Loan Guaranty Trust Fund in the State Treasury,
30 consisting of moneys deposited or credited to the Black
31 Business Loan Guaranty Trust Fund pursuant to appropriation

1 made by law; any grants, gifts, and contributions received
2 pursuant to ss. 288.707-288.714 ~~ss. 9-21, chapter 85-104, Laws~~
3 ~~of Florida~~; all moneys recovered following defaults; and any
4 other moneys obtained by the corporation board for this
5 purpose. The Black Business Loan Guaranty Trust Fund shall be
6 administered by the corporation board in trust for the
7 purposes of this section and shall at no time be part of
8 general public funds under the following procedures:

9 1. The corporation board shall utilize the Black
10 Business Loan Guaranty Program Administrative and Loss Reserve
11 Fund in the State Treasury, consisting of all premiums charged
12 and collected in accordance with this section and any income
13 earned from the moneys in the account. All expenses of the
14 corporation board in carrying out the purposes of this
15 subsection shall be paid from the Black Business Loan Guaranty
16 Program Administrative and Loss Reserve Fund. Any moneys to
17 the credit of the Black Business Loan Guaranty Program
18 Administrative and Loss Reserve Fund in excess of the amount
19 necessary to fund the corporation's board's activity shall be
20 held as a loss reserve to pay claims arising from defaults on
21 loans underwritten in accordance with this section.

22 2. Any claims against the state arising from defaults
23 shall be payable initially from the Black Business Loan
24 Guaranty Program Administrative and Loss Reserve Fund and,
25 secondarily, from the Black Business Loan Guaranty Trust Fund.

26 3. The corporation board as loan guarantor may
27 exercise all rights and powers of a company authorized by the
28 Department of Insurance to guarantee loans but shall not be
29 subject to any requirements of an insurance company under the
30 Florida Insurance Code, nor to any rules of the Department of
31 Insurance; however, the corporation board shall refer to the

1 insurance code and rules thereunder when designing and
2 administering such program. The corporation ~~board~~ shall
3 follow sound actuarial principles when administering this
4 program. The corporation ~~board~~ shall establish a premium for
5 the loan guaranty and such rules as may be necessary to carry
6 out the purposes of this section.

7 4. The corporation ~~board~~ may guarantee no more than 20
8 percent of the principal of a loan to a black business
9 enterprise.

10 Section 8. Section 288.714, Florida Statutes, is
11 amended to read:

12 288.714 Annual report.--By February 1 ~~March 31~~ of each
13 year the board of the corporation shall submit to the
14 Governor, the President of the Senate, the Speaker of the
15 House of Representatives, and the director of the Office of
16 Tourism, Trade, and Economic Development ~~and the secretary of~~
17 ~~the Department of Labor and Employment Security~~ a complete and
18 detailed report setting forth:

19 (1) Operations and accomplishments of the corporation
20 ~~board~~;

21 (2) The number of black business enterprises which
22 participated during the past year in programs established or
23 administered by the corporation ~~board~~;

24 (3) The number of black business enterprises receiving
25 assistance from the corporation ~~board~~ and the manner in which
26 the assistance was received;

27 (4) The status of black business enterprises which
28 participated in programs established or administered by the
29 corporation ~~board~~;

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1 (5) The total number of jobs represented by black
2 business enterprises participating in programs established or
3 administered by the corporation board;

4 (6) Receipts and expenditures of the corporation board
5 during its most recent fiscal year in accordance with the
6 categories or classifications established by the corporation
7 board for its operating and capital accounts;

8 (7) Assets and liabilities of the corporation board at
9 the end of its most recent fiscal year and the status of its
10 trust funds; and

11 (8) A schedule of local bonds outstanding authorized
12 by the corporation board and capital participation instruments
13 issued by the corporation board for the year and the total to
14 date.

15 Section 9. Black Business Investment Board, Inc.,
16 state employee leasing program.--

17 (1) The Department of Management Services shall
18 establish a lease-agreement program under which an employee as
19 of June 30, 2002, of the Black Business Investment Board,
20 Inc., created under chapter 85-104, Laws of Florida, retains
21 his or her status as a state employee until a set date.

22 (2) The Department of Management Services shall
23 establish the terms and conditions of the program and such
24 lease agreements.

25 (a) Status as a state employee shall include the right
26 to participate in the Florida Retirement System.

27 (b) Any employee who participates in a lease agreement
28 shall work under the direct supervision of the corporation.

29 (c) Status as a state employee under a lease agreement
30 as provided in this section expires on June 30, 2004, unless
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1 the employee voluntarily relinquishes his or her status as a
2 state employee before that date.

3 Section 10. Subsection (5) of section 288.9015,
4 Florida Statutes, is amended to read:

5 288.9015 Enterprise Florida, Inc.; purpose; duties.--

6 (5) Enterprise Florida, Inc., shall incorporate the
7 needs of small and minority businesses into the
8 economic-development, international-trade and
9 reverse-investment, and workforce-development responsibilities
10 assigned to the organization by this section. Where
11 practicable and consistent with the expertise of the Black
12 Business Investment Board, Inc., Enterprise Florida, Inc.,
13 shall contract with the corporation for the delivery of
14 services in fulfillment of the responsibilities of Enterprise
15 Florida, Inc., relating to small and minority businesses.

16 Section 11. The Florida Black Business Investment
17 Board, Inc., shall report to the Governor, the President of
18 the Senate, and the Speaker of the House of Representatives by
19 February 1, 2003, on the feasibility of including minority
20 business enterprises, as defined under section 288.703,
21 Florida Statutes, within the programs, services, and
22 activities of the Florida Black Business Investment Board,
23 Inc., and the black business investment corporations. The
24 report shall include recommendations on a funding level
25 necessary to expand the scope of such programs, services, and
26 activities to include other minority business enterprises in
27 addition to black business enterprises.

28 Section 12. If any other act passed during the 2002
29 Regular Session of the Legislature or any extension thereof
30 contains a provision that repeals ss. 288.011 and 288.012,
31 Florida Statutes, the Legislature intends that the provision

1 in the other act shall take precedence over sections 7 and 8
2 of this act.

3 Section 13. This act shall take effect July 1, 2002.
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