

By the Committees on Governmental Oversight and Productivity;
Commerce and Economic Opportunities; and Senator Holzendorf

302-2023-02

1 A bill to be entitled
2 An act relating to the Florida Black Business
3 Investment Board, Inc.; amending s. 288.707,
4 F.S.; revising legislative findings regarding
5 the 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; creating s.
16 288.7075, F.S.; providing legislative findings
17 that the needs of black business enterprises
18 are shared by other minority business
19 enterprises; expressing the intent of the
20 Legislature that the Black Business Investment
21 Board, Inc., and the black business investment
22 corporations include minority business
23 enterprises within the scope of their duties,
24 responsibilities, and activities and report on
25 their progress in assisting such business
26 enterprises; amending s. 288.708, F.S.;
27 revising provisions relating to appointment of
28 the executive director; renaming the position
29 of "executive director" as "president";
30 providing for the appointment and compensation
31 of the president; providing for delegation of

1 powers and responsibilities to the president;
2 prescribing the corporation's responsibilities
3 regarding use of funds; providing requirements
4 regarding employees' compensation; amending s.
5 288.709, F.S.; replacing references to board
6 rulemaking with references to the adoption of
7 policies; eliminating provisions related to the
8 authority of the corporation to acquire and
9 sell property; amending s. 288.7091, F.S.;
10 revising provisions relating to duties of the
11 corporation regarding developing memoranda of
12 understanding with certain entities and
13 increasing the number of black business
14 enterprises in construction projects; requiring
15 the corporation to ensure that certain
16 appropriations are distributed properly, to
17 conduct certain economic development
18 activities, and to facilitate creation of black
19 business investment corporations; creating s.
20 288.7092, F.S.; providing intent regarding
21 operation of the corporation and return on
22 investment; defining the state's operating
23 investment in the corporation; directing the
24 board to adopt an annual operating budget;
25 providing requirements regarding private-sector
26 support; providing requirements regarding
27 corporate compliance with performance measures;
28 providing for a report; requiring that the
29 board hire a private accounting firm or
30 economic analysis firm and providing its
31 duties; amending ss. 288.711 and 288.712, F.S.;

1 conforming provisions; amending s. 288.714,
2 F.S.; revising the list of persons to whom the
3 corporation's annual report is submitted;
4 revising the due date for such report;
5 clarifying references to ss. 288.707-288.714,
6 F.S.; establishing a program to lease state
7 employees to the Black Business Investment
8 Board, Inc.; prescribing duties of the
9 Department of Management Services related to
10 such leasing program; providing terms and
11 conditions of such leasing program; amending s.
12 288.9015, F.S.; revising duties of Enterprise
13 Florida, Inc., relating to small and minority
14 businesses; directing Enterprise Florida, Inc.,
15 to contract with the Black Business Investment
16 Board, Inc., under certain conditions;
17 requiring the Black Business Investment Board,
18 Inc., to complete a report on the inclusion of
19 all minorities in the activities of the board
20 and the black business investment corporations;
21 providing appropriations; providing an
22 effective date.

23

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

25

26 Section 1. Section 288.707, Florida Statutes, is
27 amended to read:

28 288.707 Florida Black Business Investment Board,
29 Inc.--

30

31

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

4 (a) Establishing a partnership between the public
5 sector and the private sector which seeks to leverage the
6 provision of state funds with funds and other resources from
7 private-sector businesses and other nonstate sources;

8 **(b)(a)** Increasing opportunities for employment of
9 blacks, as well as the population in general;

10 **(c)(b)** Providing role models and establishing business
11 networks for the benefit of future generations of aspiring
12 black entrepreneurs;

13 **(d)(c)** Strengthening the economy of the state by
14 increasing the number of qualified black business enterprises,
15 which in turn will increase competition in the marketplace and
16 improve the welfare of economically depressed neighborhoods;
17 and

18 **(e)(d)** Taking measures to increase access of black
19 businesses to both debt and equity capital.

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

22 (a) "Black business enterprise" means any business
23 concern that ~~which~~ is organized to engage in commercial
24 transactions and that ~~which~~ is at least 51 percent owned by
25 one or more African-Americans ~~black Americans~~ as defined in s.
26 288.703 and whose management and daily operations are
27 controlled by such persons.

28 (b) "Black business investment corporation" means a
29 subsidiary of a financial institution or a consortium of
30 financial institutions investing in, or lending to, black
31 business enterprises.

1 (c) "Consortium" means two or more financial
2 institutions that ~~which~~ jointly negotiate and agree to provide
3 assistance to black business enterprises as provided in ss.
4 288.707-288.714 ~~ss. 9-21, chapter 85-104, Laws of Florida.~~

5 (3) There is ~~hereby~~ created a not-for-profit
6 corporation ~~within the Office of Tourism, Trade, and Economic~~
7 ~~Development a body politic and corporate~~ to be known as the
8 Florida Black Business Investment Board, Inc., hereinafter
9 referred to as the "corporation," ~~"board."~~ which shall be
10 registered, incorporated, organized, and operated in
11 compliance with chapter 617 and which is not a unit or entity
12 of state government. ~~The board is hereby constituted a public~~
13 ~~instrumentality, and the exercise by the board of the powers~~
14 ~~conferred by ss. 9-21, chapter 85-104, Laws of Florida, shall~~
15 ~~be deemed to be the performance of an essential governmental~~
16 ~~function.~~

17 (a) The board of the corporation shall consist of the
18 following members:

19 1. Six ~~seven~~ members appointed by the Governor and
20 subject to confirmation by the Senate, who must ~~six of whom~~
21 ~~shall~~ be experienced in investment finance and business
22 ~~development, one of whom must be a member of a black business~~
23 ~~investment corporation.~~

24 2. One member from the private sector appointed by the
25 President of the Senate, who must be experienced in investment
26 finance and business development and who shall serve a term of
27 2 years.

28 3. One member from the private sector appointed by the
29 Speaker of the House of Representatives, who must be
30 experienced in investment finance and business development and
31 who shall serve a term of 2 years.

1 4. Three representatives of black business investment
2 corporations, who must be selected from among and by the
3 chairmen of the black business investment corporations. A
4 representative from a black business investment corporation
5 shall serve for a term of 2 years but is eligible for
6 reappointment on a rotating basis with other representatives
7 from black business investment corporations.

8 5. The vice chairman of Enterprise Florida, Inc., or
9 his or her designee, who shall be an ex officio, nonvoting
10 member, and who shall provide information, advice, and
11 guidance designed to enhance the coordination of activities of
12 Enterprise Florida, Inc., and the board.

13 6. The chair of the Florida Development Finance
14 Corporation, created pursuant to s. 288.9604, who shall be an
15 ex officio, nonvoting member of the corporation.

16 (b) Members appointed by the Governor shall serve
17 terms of 4 years, except that in making the initial
18 appointments, the Governor shall appoint two members to serve
19 for terms ~~one member to serve for a term of 1 year, two~~
20 ~~members to serve for terms of 2 years, two members to serve~~
21 for terms of 3 years, and two members to serve for terms of 4
22 years.

23 (c) Any person appointed to fill a vacancy on the
24 board shall be appointed in a like manner and shall serve for
25 only the unexpired term. Any member shall be eligible for
26 reappointment.

27 (d) The Governor shall appoint the chairperson who
28 shall be a member of the board and shall serve at the pleasure
29 of the Governor. The board shall annually elect one of its
30 members as vice chairperson and shall designate a
31 secretary-treasurer who need not be a member of the board.

1 The secretary-treasurer shall keep a record of the proceedings
2 of the board and shall be the custodian of all books,
3 documents, and papers filed with the board, of the minute
4 books of the board, and of its official seal. ~~A majority of~~
5 ~~the members of the board shall constitute a quorum.~~

6 (e) The board shall meet at least four times each
7 year, upon the call of the chairperson or the vice chairperson
8 or at the request of a majority of the membership. A majority
9 of the total number of all members fixed by paragraphs (a) and
10 (h) shall constitute a quorum. The board may take official
11 action by a majority vote of the members present at any
12 meeting at which a quorum is present.

13 ~~(f)(e)~~ Members of the board shall serve without
14 compensation, but members, the president of the board, and
15 other board employees may be reimbursed for all reasonable,
16 necessary, and actual expenses as determined by the board
17 ~~shall be reimbursed for per diem and travel expenses in~~
18 ~~accordance with s. 112.061.~~

19 ~~(g)(f)~~ Each member of the board who is not otherwise
20 required to file financial disclosure pursuant to s. 8, Art.
21 II of the State Constitution or s. 112.3144 shall file full
22 ~~and public disclosure of financial interests pursuant to s.~~
23 ~~112.3145 at the times and places and in the same manner~~
24 ~~required of elected constitutional officers under s. 8, Art.~~
25 ~~II of the State Constitution and any law implementing s. 8,~~
26 ~~Art. II of the State Constitution.~~

27 (h) Notwithstanding paragraph (a), the board may by
28 resolution appoint two at-large members to the board from the
29 private sector, each of whom may serve a 1-year term. At-large
30 members shall have the powers and duties of other members of
31 the board, except that they may not serve on an executive

1 committee. An at-large member is eligible for reappointment
2 but may not vote on his or her own reappointment.

3 Section 2. Section 288.7075, Florida Statutes, is
4 created to read:

5 288.7075 Legislative findings and intent; assistance
6 to minority business enterprises.--The Legislature finds that
7 a public purpose is served by creating and providing state
8 financial support for the public-private partnership known as
9 the "Florida Black Business Investment Board, Inc.," as well
10 as by providing financial support for the black business
11 investment corporations, in order to address the
12 business-development needs of black business enterprises. The
13 Legislature further finds, however, that the
14 business-development needs of black business enterprises are
15 shared by other minority business enterprises defined under s.
16 288.703. It is the intent of the Legislature, therefore, that
17 the board and the black business investment corporations,
18 notwithstanding any provisions in ss. 288.707-288.714 to the
19 contrary, include minority business enterprises within the
20 scope of their duties, responsibilities, and activities and
21 report to the Governor and the Legislature on their progress
22 in assisting black business enterprises and minority business
23 enterprises.

24 Section 3. Section 288.708, Florida Statutes, is
25 amended to read:

26 288.708 President ~~Executive director~~; employees.--

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

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

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

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

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

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

1 Section 4. Section 288.709, Florida Statutes, is
2 amended to read:

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

9 (1) Adopt bylaws for the regulation of its affairs and
10 the conduct of its business and adopt policies ~~rules pursuant~~
11 ~~to ss. 120.536(1) and 120.54~~ to implement the provisions of
12 law conferring duties upon it. However, any proposed bylaws or
13 policies ~~rules~~ affecting the operation or administration or
14 financial well-being of any of the black business investment
15 corporations must first be approved by a majority of the black
16 business investment corporations. Such bylaws shall provide
17 that the corporation is subject to the requirements of s. 24,
18 Art. I of the State Constitution and chapter 119 and s.
19 286.011.

20 (2) Adopt an official seal.

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

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

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

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

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

1 (8) Ensure that funds available to the board for
2 purposes set forth in ss. 288.707-288.714 ~~ss. 9-21, chapter~~
3 ~~85-104, Laws of Florida~~, are disbursed on a statewide basis
4 and are not concentrated in one geographical area.

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

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

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

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

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

1 (13)~~(14)~~ Create, issue, and buy and sell stock,
2 evidences of indebtedness, and other capital participation
3 instruments; to hold such stock, evidences of indebtedness,
4 and capital participation instruments; and to underwrite the
5 creation of a capital market for these securities in a manner
6 designed to enhance development of capital ownership in the
7 target group.

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

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

14 (16)~~(17)~~ Promote black ownership of financial
15 institutions in Florida.

16 (17)~~(18)~~ Take, hold, and improve property, including
17 real property.

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

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

29 (20) Provide in its bylaws that upon the dissolution
30 of the corporation that all of its assets, after payment of
31

1 all legal debts and liabilities, revert to the State of
2 Florida.

3 Section 5. Section 288.7091, Florida Statutes, is
4 amended to read:

5 288.7091 Duties of the Florida Black Business
6 Investment Board, Inc.--The Florida Black Business Investment
7 Board, Inc., shall:

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

13 (2) Ensure that any appropriations by the Legislature
14 to the corporation on behalf of the black business investment
15 corporations are provided to the corporations in the manner
16 and amount prescribed by the Legislature;

17 (3) Work with Enterprise Florida, Inc., and local
18 economic development organizations to promote the retention
19 and expansion of existing black business enterprises and to
20 promote the formation and recruitment of new black business
21 enterprises;

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

30
31

1 ~~(5)(3)~~ Include in the criteria for loan decisions,
2 occupational forecasting results set forth in s. 216.136(9)
3 which target high growth jobs;

4 ~~(6)(4)~~ Facilitate the formation of black business
5 investment corporations in communities that are not currently
6 served by such corporations and establish, in communities that
7 are not currently served by an existing black business
8 investment corporation, memoranda of understanding with local
9 financial institutions that will provide loan guarantees for
10 loans to black business enterprises;

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

18 ~~(8)(6)~~ Intensify efforts to increase the number of
19 franchises owned by black businesses and the number of the
20 black business enterprises in construction and
21 construction-related projects, with emphasis on construction
22 projects financed by focusing on federal, state, or ~~and~~ local
23 governments ~~government financed construction projects~~; and

24 ~~(9)(7)~~ Annually, prepare a report detailing the
25 performance of each black business investment corporation,
26 addressing the number of jobs created and/or retained, success
27 and failure rates among loan recipients, and the amount of
28 funds leveraged from other sources.

29 ~~(10)~~ Annually, provide for an annual compliance and
30 financial audit of accounts and records by an independent
31 certified public accountant at the end of its most recent

1 fiscal year performed in accordance with rules adopted by the
2 Auditor General.

3 Section 6. Section 288.7092, Florida Statutes, is
4 created to read:

5 288.7092 Return on investment from activities of the
6 corporation.--

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

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

18 (3) It is further the intent of the Legislature to
19 maximize private-sector support in operating the corporation
20 as an endorsement of its value and as an enhancement of its
21 efforts.

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

27 (b) The board shall adopt for each upcoming fiscal
28 year an operating budget for the organization which specifies
29 the intended uses of the state's operating investment, other
30 sources of income, and a plan for securing private-sector
31 support to the corporation. Each fiscal year, private-sector

1 support to the corporation shall be as follows: no less than
2 50 percent of the state's investment by July 1, 2003; no less
3 than 60 percent of the state's investment by July 1, 2004; no
4 less than 70 percent of the state's investment by July 1,
5 2005; no less than 80 percent of the state's investment by
6 July 1, 2006; and no less than 100 percent of the state's
7 investment by July 1, 2007.

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

10 (a) Cash given directly to the corporation for its
11 operating budget.

12 (b) Cash jointly raised by the corporation and a local
13 economic development organization, a group of such
14 organizations, or a statewide business organization that
15 supports collaborative projects.

16 (c) Cash generated by products or services of the
17 corporation.

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

1 corporation, low-interest loans, participations, investment
2 income, equity investments, and the economic impact of the
3 corporation's investments and job creation and retention.

4 (6) The corporation shall fully comply with the
5 performance measures, standards, and sanctions in its
6 contracts with the Office of Tourism, Trade, and Economic
7 Development. The office shall ensure, to the maximum extent
8 possible, that the contract performance measures are
9 consistent with performance measures that the office is
10 required to develop and track under performance-based program
11 budgeting.

12 (7) As part of the annual report required under s.
13 288.714, the board of the corporation shall provide the
14 Legislature with information quantifying the public's return
15 on investment.

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

27 Section 7. Subsections (1) and (4) of section 288.711,
28 Florida Statutes, are amended to read:

29 288.711 Florida Investment Incentive Trust Fund.--

30 (1) There is hereby created the Florida Investment
31 Incentive Trust Fund from which money may be drawn for

1 investments or loans, as authorized by this section, to
2 encourage the development of appropriate financial mechanisms
3 in the private sector to capitalize and assist in the
4 development of black business enterprises. All income earned
5 by investments of the fund shall be deposited in the fund for
6 carrying out the purposes of ss. 288.707-288.714 ~~ss. 9-21,~~
7 ~~chapter 85-104, Laws of Florida~~. Administrative costs of the
8 program shall be appropriated in a lump-sum appropriation from
9 the fund created herein and shall be provided in the General
10 Appropriations Act.

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

20 Section 8. Paragraph (b) of subsection (3) and
21 paragraph (b) of subsection (4) of section 288.712, Florida
22 Statutes, are amended to read:

23 288.712 Florida guarantor funds.--

24 (3)

25 (b) For purposes of this section, the corporation
26 ~~board~~ may utilize the Black Contractors Bond Trust Fund in the
27 State Treasury, consisting of moneys deposited or credited to
28 the Black Contractors Bond Trust Fund pursuant to
29 appropriation made by law; any grants, gifts, and
30 contributions received pursuant to ss. 288.707-288.714 ~~ss.~~
31 ~~9-21, chapter 85-104, Laws of Florida~~; all moneys recovered

1 following defaults; and any other moneys obtained by the board
2 for this purpose. The fund shall be administered by the
3 corporation board in trust for the purposes of this section
4 and shall at no time be part of general public funds under the
5 following procedures:

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

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

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

31 (4)

1 (b) If the board of the corporation chooses to
2 establish a loan guaranty program, it shall use ~~utilize~~ the
3 Black Business Loan Guaranty Trust Fund in the State Treasury,
4 consisting of moneys deposited or credited to the Black
5 Business Loan Guaranty Trust Fund pursuant to appropriation
6 made by law; any grants, gifts, and contributions received
7 pursuant to ss. 288.707-288.714 ~~ss. 9-21, chapter 85-104, Laws~~
8 ~~of Florida~~; all moneys recovered following defaults; and any
9 other moneys obtained by the corporation ~~board~~ for this
10 purpose. The Black Business Loan Guaranty Trust Fund shall be
11 administered by the corporation ~~board~~ in trust for the
12 purposes of this section and shall at no time be part of
13 general public funds under the following procedures:

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

27 2. Any claims against the state arising from defaults
28 shall be payable initially from the Black Business Loan
29 Guaranty Program Administrative and Loss Reserve Fund and,
30 secondarily, from the Black Business Loan Guaranty Trust Fund.

31

1 3. The corporation board as loan guarantor may
2 exercise all rights and powers of a company authorized by the
3 Department of Insurance to guarantee loans but shall not be
4 subject to any requirements of an insurance company under the
5 Florida Insurance Code, nor to any rules of the Department of
6 Insurance; however, the corporation board shall refer to the
7 insurance code and rules thereunder when designing and
8 administering such program. The corporation board shall follow
9 sound actuarial principles when administering this program.
10 The corporation board shall establish a premium for the loan
11 guaranty and such rules as may be necessary to carry out the
12 purposes of this section.

13 4. The corporation board may guarantee no more than 20
14 percent of the principal of a loan to a black business
15 enterprise.

16 Section 9. Section 288.714, Florida Statutes, is
17 amended to read:

18 288.714 Annual report.--By February 1 ~~March 31~~ of each
19 year the board of the corporation shall submit to the
20 Governor, the President of the Senate, the Speaker of the
21 House of Representatives, and the director of the Office of
22 Tourism, Trade, and Economic Development ~~and the secretary of~~
23 ~~the Department of Labor and Employment Security~~ a complete and
24 detailed report setting forth:

25 (1) Operations and accomplishments of the corporation
26 ~~board~~;

27 (2) The number of black business enterprises which
28 participated during the past year in programs established or
29 administered by the corporation board;

30
31

1 (3) The number of black business enterprises receiving
2 assistance from the corporation board and the manner in which
3 the assistance was received;

4 (4) The status of black business enterprises that
5 ~~which~~ participated in programs established or administered by
6 the corporation board;

7 (5) The total number of jobs represented by black
8 business enterprises participating in programs established or
9 administered by the corporation board;

10 (6) Receipts and expenditures of the corporation board
11 during its most recent fiscal year in accordance with the
12 categories or classifications established by the corporation
13 ~~board~~ for its operating and capital accounts;

14 (7) Assets and liabilities of the corporation board at
15 the end of its most recent fiscal year and the status of its
16 trust funds; and

17 (8) A schedule of local bonds outstanding authorized
18 by the corporation board and capital participation instruments
19 issued by the corporation board for the year and the total to
20 date.

21 Section 10. Black Business Investment Board, Inc.,
22 state employee leasing program.--

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

28 (2) The Department of Management Services shall
29 establish the terms and conditions of the program and such
30 lease agreements.

31

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

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

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

9 Section 11. Subsection (5) of section 288.9015,
10 Florida Statutes, is amended to read:

11 288.9015 Enterprise Florida, Inc.; purpose; duties.--

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

22 Section 12. The Black Business Investment Board, Inc.,
23 shall report to the Legislature by January 1, 2004, on what
24 efforts were made to include all minorities within the scope
25 of activities by the corporation and the black business
26 investment corporations.

27 Section 13. There is appropriated from the General
28 Revenue Fund to the Office of Tourism, Trade, and Economic
29 Development the sum of \$17.5 million in fiscal year 2002-2003
30 for use by the Black Business Investment Board, Inc. Of such
31 sum:

1 (1) Sixteen million dollars shall be divided equally
2 among, and distributed by the Black Business Investment Board,
3 Inc., to the black business investment corporations existing
4 in this state on the effective date of this act;

5 (2) One million dollars shall be for use by the
6 corporation for capitalizing programs of the corporation in
7 support of black business enterprises and for facilitating the
8 creation of black business investment corporations in
9 communities that are not currently served by an existing black
10 business investment corporation; and

11 (3) Five hundred thousand dollars shall be for use by
12 the corporation for its operations.

13 Section 14. This act shall take effect July 1, 2002.

14
15 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
16 COMMITTEE SUBSTITUTE FOR
17 CS/SB 386

18 Adds requirement that corporate bylaws state that corporation
19 is subject to open government requirements.

20 Adds requirement for annual compliance and financial audit by
21 independent certified public accountant and for submission of
22 such audit to Governor and Legislature each year.

23 Provides that all property of the corporation reverts to the
24 state upon dissolution of the corporation after payment of
25 legal debts and obligations.

26 Authorizes board to purchase indemnity insurance.
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