

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

309-2167-02

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 an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Section 288.707, Florida Statutes, is
26 amended to read:

27 288.707 Florida Black Business Investment Board,
28 Inc.--

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

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

5 ~~(b)(a)~~ Increasing opportunities for employment of
6 blacks, as well as the population in general;

7 ~~(c)(b)~~ Providing role models and establishing business
8 networks for the benefit of future generations of aspiring
9 black entrepreneurs;

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

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

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

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

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

29 (c) "Consortium" means two or more financial
30 institutions that ~~which~~ jointly negotiate and agree to provide
31

1 assistance to black business enterprises as provided in ss.
2 288.707-288.714 ~~ss. 9-21, chapter 85-104, Laws of Florida.~~

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

15 (a) The board of the corporation shall consist of the
16 following members:

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

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

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

30 4. Three representatives of black business investment
31 corporations, who must be selected from among and by the

1 chairmen of the black business investment corporations. A
2 representative from a black business investment corporation
3 shall serve for a term of 2 years but is eligible for
4 reappointment on a rotating basis with other representatives
5 from black business investment corporations.

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

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

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

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

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

1 documents, and papers filed with the board, of the minute
2 books of the board, and of its official seal. ~~A majority of~~
3 ~~the members of the board shall constitute a quorum.~~

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

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

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

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

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

3 288.7075 Legislative findings and intent; assistance
4 to minority business enterprises.--The Legislature finds that
5 a public purpose is served by creating and providing state
6 financial support for the public-private partnership known as
7 the "Florida Black Business Investment Board, Inc.," as well
8 as by providing financial support for the black business
9 investment corporations, in order to address the
10 business-development needs of black business enterprises. The
11 Legislature further finds, however, that the
12 business-development needs of black business enterprises are
13 shared by other minority business enterprises defined under s.
14 288.703. It is the intent of the Legislature, therefore, that
15 the board and the black business investment corporations,
16 notwithstanding any provisions in ss. 288.707-288.714 to the
17 contrary, include minority business enterprises within the
18 scope of their duties, responsibilities, and activities and
19 report to the Governor and the Legislature on their progress
20 in assisting black business enterprises and minority business
21 enterprises.

22 Section 3. 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 4. 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, indemnify, and purchase and maintain
23 insurance on behalf of, directors, officers, and employees of
24 the corporation and its boards against any personal liability
25 or accountability by reason of actions taken while acting
26 within the scope of their authority.

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

31

1 Section 5. Section 288.7091, Florida Statutes, is
2 amended to read:

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

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

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

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

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

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

31

1 ~~(6)(4)~~ Facilitate the formation of black business
2 investment corporations in communities that are not currently
3 served by such corporations and establish, in communities that
4 are not currently served by an existing black business
5 investment corporation, memoranda of understanding with local
6 financial institutions that will provide loan guarantees for
7 loans to black business enterprises;

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

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

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

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

1 Section 6. Section 288.7092, Florida Statutes, is
2 created to read:

3 288.7092 Return on investment from activities of the
4 corporation.--

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

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

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

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

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

1 than 60 percent of the state's investment by July 1, 2004; no
2 less than 70 percent of the state's investment by July 1,
3 2005; no less than 80 percent of the state's investment by
4 July 1, 2006; and no less than 100 percent of the state's
5 investment by July 1, 2007.

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

8 (a) Cash given directly to the corporation for its
9 operating budget.

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

14 (c) Cash generated by products or services of the
15 corporation.

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

31

1 income, equity investments, and the economic impact of the
2 corporation's investments and job creation and retention.

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

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

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

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

28 288.711 Florida Investment Incentive Trust Fund.--

29 (1) There is hereby created the Florida Investment
30 Incentive Trust Fund from which money may be drawn for
31 investments or loans, as authorized by this section, to

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

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

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

22 288.712 Florida guarantor funds.--

23 (3)

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

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

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

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

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

30 (4)
31

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.

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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;

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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.

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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. This act shall take effect July 1, 2002.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
CS/CS/SB 386

Provides for a financial audit by an independent certified public accountant to be filed within 12 months after the end of the fiscal year with the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Auditor General.

Removes the appropriation from the bill.