



1           (1) SHORT TITLE.--This section may be cited as the  
2 "Florida Capital Formation Act."  
3           (2) DEFINITIONS.--As used in this section, the term:  
4           (a) "Company" means the Florida Opportunity Fund.  
5           (b) "Florida Opportunity Fund Allocation Manager" or  
6 "allocation manager" means one or more fund-of-funds  
7 investment managers hired by the Florida Opportunity Fund to  
8 invest assets of the company in venture capital funds.  
9           (c) "Office" means the Governor's Office of Tourism,  
10 Trade, and Economic Development.  
11           (d) "Florida-based" means operating in this state at a  
12 permanent address and maintaining at least one business unit  
13 in this state.  
14           (e) "Business unit" means an employing unit, as  
15 defined in s. 443.036, which is registered with the Agency for  
16 Workforce Innovation for purposes of unemployment compensation  
17 or means a subcategory or division of an employing unit that  
18 is accepted by the Agency for Workforce Innovation as a  
19 reporting unit.  
20           (3) FLORIDA CAPITAL INVESTMENT.--  
21           (a) The Governor's Office of Tourism, Trade, and  
22 Economic Development shall account for the funds separately  
23 within the Economic Development Trust Fund created in s.  
24 288.095 for moneys transferred under this section. The office  
25 shall make all funds available for investment by the State  
26 Board of Administration or its investment manager as requested  
27 by the State Board of Administration. The State Board of  
28 Administration or its designated investment manager shall  
29 invest and reinvest the moneys in accordance with s. 215.47  
30 and subject to the terms of any trust agreement between the  
31 State Board of Administration and the office. Fees and

1 expenses incurred by the State Board of Administration for  
2 investing the moneys shall be deducted as provided in a trust  
3 agreement. Upon request of the office, the State Board of  
4 Administration shall liquidate investments and advance the  
5 proceeds to the company as required to fund its investments  
6 pursuant to this section as well as its reasonable and  
7 necessary operational expenses. The exercise by the State  
8 Board of Administration or its designated investment manager  
9 of powers conferred by this section shall be deemed and held  
10 to be the performance of essential public purposes.

11 (b) The State Board of Administration or its  
12 designated investment manager shall invest and reinvest any  
13 funds returned by the company in accordance with s. 215.47 and  
14 subject to the terms of any trust agreement between the State  
15 Board of Administration and the office. The company shall  
16 maintain necessary working capital moneys; obtain funding from  
17 the trust fund for its investments, reasonable and necessary  
18 operating costs, or replenishment of working capital balances;  
19 and return for liquidity investment any moneys received in  
20 excess of its working capital needs.

21 (4) FLORIDA OPPORTUNITY FUND; CREATION; POWERS AND  
22 DUTIES.--

23 (a) Enterprise Florida, Inc., shall organize the  
24 Florida Opportunity Fund as a wholly owned, private,  
25 not-for-profit limited liability Florida company. Enterprise  
26 Florida, Inc., shall be the company's sole owner. The Florida  
27 Opportunity Fund is not a public company or instrumentality of  
28 the state. Enterprise Florida, Inc., shall annually evaluate  
29 and report to the Governor, the President of the Senate, and  
30 the Speaker of the House of Representatives whether the  
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1 company is being operated and state funds are being invested  
2 in the best interest of the state.

3 (b) The Florida Opportunity Fund shall be governed by  
4 a board of directors consisting of five members who have  
5 expertise in the area of the selection and supervision of  
6 early-stage investment managers or in the fiduciary management  
7 of investment funds or who have expertise in other areas  
8 considered appropriate by the appointment committee. The vice  
9 chair of Enterprise Florida, Inc., shall select from among its  
10 board of directors a five-person appointment committee to  
11 appoint the company's initial board of directors. After  
12 selection of the initial board of directors, vacancies on the  
13 board of directors shall be filled by appointment by  
14 Enterprise Florida, Inc. The board of directors shall be  
15 appointed to serve staggered 3-year terms in accordance with  
16 the company's organizational documents. Members of the board  
17 of directors, the officers, and employees are subject to any  
18 restrictions on conflicts of interest specified in the  
19 organizational documents and may not have an interest in the  
20 Florida Opportunity Fund Allocation Manager or in any  
21 investments made by the company. Members of the board of  
22 directors shall serve without compensation, but members,  
23 officers, and employees may be reimbursed for all reasonable,  
24 necessary, and actual expenses, as determined by the board and  
25 approved by Enterprise Florida, Inc.

26 (c) The company shall have all powers granted under  
27 chapter 608 and may indemnify members of the board of  
28 directors to the broadest extent permissible under state law.  
29 However, the members, officers, and employees shall have a  
30 fiduciary duty with respect to the management of company  
31 assets and selection and oversight of its allocation manager

1 and shall discharge those duties in the best interest of the  
2 state.

3 (d) The company shall be subject to chapter 119,  
4 relating to public meetings, and s. 286.011, relating to  
5 public records.

6 (e) The company shall select a Florida Opportunity  
7 Fund Allocation Manager who has a demonstrated expertise in  
8 the successful management and fund allocation of investments  
9 in venture capital funds. In selecting a manager, the company  
10 shall consider, among other pertinent factors, each  
11 candidate's level of experience, quality of management  
12 performance, investment philosophy and process, prior  
13 investment fund results, and potential for achieving the  
14 purposes of this section.

15 (f) The company shall invest on a fund-of-funds basis  
16 in seed and early-stage venture capital funds having  
17 experienced managers or management teams with demonstrated  
18 experience, expertise, and a successful history in the  
19 investment of venture capital funds, focusing on opportunities  
20 in this state. The company may not make direct investments in  
21 individual businesses. While not precluded from investing in  
22 venture capital funds that have investments outside this  
23 state, the company must require a venture capital fund to show  
24 a record of successful investment in this state, to be based  
25 in this state, or to have an office in this state staffed with  
26 a full-time, professional venture investment executive in  
27 order to be eligible for investment. The company may negotiate  
28 any and all terms and conditions for its investments,  
29 including the clawback of management fees and other provisions  
30 that maximize investment in seed and early-stage Florida-based  
31 companies.

1           (g) The company may not invest in a venture capital  
2 fund unless that venture capital fund has raised capital from  
3 other sources in an amount at least equal to the investment of  
4 the company, such that the total invested in Florida-based  
5 companies by the receiving venture capital fund totals at  
6 least twice the investment of the company. Investments must be  
7 made in Florida-based companies, including, without  
8 limitation, enterprises in life sciences, information  
9 technology, advanced manufacturing processes, aviation and  
10 aerospace, and homeland security and defense, as well as other  
11 strategic technologies.

12           (5) ANNUAL REPORT.--The company shall submit an annual  
13 report of its activities to the Governor, the President of the  
14 Senate, and the Speaker of the House of Representatives within  
15 3 months after the end of its fiscal year. The annual report  
16 must include a copy of the independent audit of the company  
17 and a valuation of the assets of the company, a review of the  
18 progress of the Florida Opportunity Fund Allocation Manager in  
19 implementing its investment plan, the rate of return, and the  
20 benefits to the state resulting from this program, including  
21 the amount of capital deployed and the amount of investment.  
22 The annual report must also include a list of venture capital  
23 funds in which investments were made and the number of Florida  
24 businesses created and their associated industry.

25           Section 2. For the 2006-2007 fiscal year, the sum of  
26 \$300,000 is appropriated from the General Revenue Fund to the  
27 Economic Development Trust Fund in the Office of Tourism,  
28 Trade, and Economic Development to be used for start-up  
29 activities necessary to implement this act, including creation  
30 of the Florida Opportunity Fund and the solicitation, and  
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1 related due diligence, required for contracting the services  
2 of the Florida Opportunity Fund Allocation Manager.

3           Section 3. For the 2006-2007 fiscal year, the sum of  
4 \$35 million is transferred from nonrecurring moneys in the  
5 General Revenue Fund to the Economic Development Trust Fund in  
6 the Office of Tourism, Trade, and Economic Development for  
7 subsequent investment in the Florida Opportunity Fund as  
8 described in this act. Notwithstanding s. 216.301, Florida  
9 Statutes, and pursuant to s. 216.351, Florida Statutes, any  
10 balance remaining at the end of any fiscal year shall remain  
11 in the trust fund and shall be available for carrying out the  
12 purposes of this section. The transferred amount and any  
13 earnings thereon are appropriated and may be used for the  
14 purposes of this act until July 1, 2020, at which time the sum  
15 of \$35 million or the balance of funds, whichever is less,  
16 shall be returned to the General Revenue Fund. The Florida  
17 Opportunity Fund shall continue to administer its investments  
18 after July 1, 2020, until such investments are liquidated.  
19 Proceeds from liquidation of investments and any proceeds in  
20 excess of \$35 million may be retained for continuous  
21 reinvestment by the Florida Opportunity Fund, if an amount of  
22 not less than \$35 million has been returned to the General  
23 Revenue Fund on or before July 1, 2020. If at any time  
24 Enterprise Florida, Inc., dissolves the Florida Opportunity  
25 Fund, all assets of the Florida Opportunity Fund and any funds  
26 remaining for the purpose of this section shall revert to the  
27 General Revenue Fund. Enterprise Florida, Inc., may not sell  
28 or transfer ownership of the company.

29           Section 4. This act shall take effect July 1, 2006.  
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1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                                   COMMITTEE SUBSTITUTE FOR  
3   CS for SB 2668  
4 Clarifies that the Florida Opportunity Fund is wholly-owned by  
5 Enterprise Florida, Inc.  
6 Prohibits Enterprise Florida, Inc., from selling or  
7 transferring the Florida Opportunity Fund.  
8 Provides that the Florida Opportunity Fund must be managed in  
9 the best interest of the state.  
10 Requires reversion to the General Revenue Fund of all assets  
11 of the Florida Opportunity Fund if the Fund is dissolved by  
12 Enterprise Florida, Inc.  
13 Prohibits Enterprise Florida, Inc., from selling or  
14 transferring the Florida Opportunity Fund.  
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