

1 A bill to be entitled
2 An act relating to black business investment; amending s.
3 14.2015, F.S.; requiring the Office of Tourism, Trade, and
4 Economic Development to administer the Black Business Loan
5 Program; providing purposes; amending s. 288.702, F.S.;
6 revising a short title; amending s. 288.703, F.S.;
7 revising the definition of "minority person"; amending s.
8 288.706, F.S.; deleting references to the Florida Black
9 Business Investment Board, Inc., and black business
10 investment corporations from a list of certain financial
11 institutions maintained by the Department of Management
12 Services; requiring the Department of Management Services
13 to collaborate with the Florida Black Business Investment
14 Board, Inc., and the Office of Tourism, Trade, and
15 Economic Development for certain purposes; creating s.
16 288.7065, F.S.; providing a short title; amending s.
17 288.707, F.S.; revising provisions creating the Florida
18 Black Business Investment Board, Inc.; revising
19 legislative findings; creating the board; requiring the
20 board to contract with the Office of Tourism, Trade, and
21 Economic Development for certain purposes; specifying
22 application of public records and public meetings
23 requirements; providing for appointment of a board of
24 directors; specifying terms of office and experience
25 requirements of board members; providing for filling of
26 board vacancies; requiring the Governor to appoint a
27 chair; providing for meetings; requiring members to serve
28 without compensation; providing for reimbursement of

29 expenses; requiring members to file a statement of
30 financial interests; amending s. 288.708, F.S.; providing
31 for appointment and duties of the president of the board;
32 deleting a provision specifying prudent use of certain
33 funds and requiring use of funds according to applicable
34 laws, bylaws, or contracts; applying certain salary
35 limitation provisions to employees of the board; requiring
36 the Department of Management Services to establish a
37 lease-agreement program for board employees; amending s.
38 288.709, F.S.; revising the powers of the board; amending
39 s. 288.7091, F.S.; revising the duties of the board;
40 creating s. 288.7094, F.S.; providing a definition;
41 specifying eligibility of certain black business
42 investment corporations to participate in the Black
43 Business Loan Program; requiring the Office of Tourism,
44 Trade, and Economic Development to give priority
45 consideration to such corporations for participation in
46 the program; creating s. 288.7102, F.S.; establishing the
47 Black Business Loan Program in the Office of Tourism,
48 Trade, and Economic Development; requiring the office to
49 disburse funds appropriated by the Legislature, through
50 eligible recipients, to certain black business
51 enterprises; providing a legislative finding regarding use
52 of state funds received by the board through fiscal year
53 2005-2006; providing duties and responsibilities of the
54 office and the board in administering the program;
55 establishing a competitive application and annual
56 certification process for eligible recipients for funds to

57 provide loans, loan guarantees, and investments to black
58 business enterprises; requiring an allocation policy for
59 equitable distribution throughout the state; providing
60 eligibility requirements for recipients to receive funds
61 and to provide loans, loan guarantees, or investments;
62 requiring annual certification of eligibility; requiring
63 the office to consult with the board; requiring the office
64 to adopt rules; requiring the board to adopt policies and
65 procedures; creating s. 288.71025, F.S.; providing a
66 prohibited act; providing for filing of a civil complaint
67 and imposition of a fine; providing for use of funds
68 received from such fine; creating s. 288.7103, F.S.;
69 providing black business enterprise eligibility
70 requirements for receiving loans, loan guarantees, or
71 investments; amending s. 288.711, F.S.; renaming the
72 Florida Investment Incentive Trust Fund as the Florida
73 Black Business Loan Program Trust Fund; placing the fund
74 in the Office of Tourism, Trade, and Economic Development
75 for purposes of implementing and administering the Black
76 Business Loan Program; deleting provisions relating to
77 authorizations for the board to make investments from the
78 fund for certain purposes; revising purposes for which a
79 black business investment corporation is authorized to use
80 funds received from the fund; amending s. 288.712, F.S.;
81 revising provisions relating to guarantor funds to assist
82 qualified black business enterprises obtain surety bonds
83 and other credit instruments; authorizing board to
84 contract with regulated surety companies; revising uses of

85 the Black Contractors Bond Trust Fund and the Black
86 Contractors Bond Program Administrative and Loss Reserve
87 Fund; eliminating the Black Business Loan Guaranty Trust
88 Fund; revising board exceptions to laws and rules related
89 to a guaranty company; requiring board adoption of
90 policies and procedures relating to board guarantee of
91 loss and to required payment of premiums; authorizing
92 contracting with private entity to administer black
93 contractors bonding program; delineating board use of a
94 surety bond company; delineating board requirements for
95 encouraging program participation; amending s. 288.714,
96 F.S.; requiring recipients to provide quarterly and annual
97 reports; specifying report requirements; requiring the
98 board to submit an annual program report to the Governor
99 and Legislature; specifying report requirements; requiring
100 certain black business investment corporations to submit
101 quarterly reports to the board on uses of certain state
102 funds; specifying report requirements; amending s.
103 288.9015, F.S.; requiring Enterprise Florida, Inc., to
104 collaborate with the Florida Black Business Investment
105 Board, Inc., and the Office of Tourism, Trade, and
106 Economic Development for certain purposes; requiring the
107 Office of Program Policy Analysis and Government
108 Accountability to submit a status report to the Governor
109 and Legislature on the Office of Tourism, Trade, and
110 Economic Development's implementation of the Florida Black
111 Business Investment Act; requiring the Office of Program
112 Policy Analysis and Government Accountability to conduct a

113 program review of the Office of Tourism, Trade, and
 114 Economic Development's performance in meeting goals of the
 115 Florida Black Business Investment Act and to submit a
 116 program review report to the Governor and Legislature;
 117 amending s. 288.90151, F.S.; correcting a cross reference;
 118 repealing s. 288.7092, F.S., relating to return on
 119 investment from activities of the corporation; repealing
 120 s. 288.7095, F.S., relating to duties of black business
 121 investment corporations; repealing s. 288.71, F.S.,
 122 relating to conditions for board action; repealing s.
 123 288.7101, F.S., relating to the state employee leasing
 124 program of the Department of Management Services for
 125 employees of the Florida Black Business Investment Board,
 126 Inc.; repealing s. 288.713, F.S., relating to capital
 127 participation instruments; providing an appropriation and
 128 authorizing certain positions; providing an effective
 129 date.

130

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

132

133 Section 1. Paragraphs (g), (h), (i), and (j) of subsection
 134 (2) of section 14.2015, Florida Statutes, are redesignated as
 135 paragraphs (h), (i), (j), and (k), respectively, and a new
 136 paragraph (g) is added to that subsection, to read:

137 14.2015 Office of Tourism, Trade, and Economic
 138 Development; creation; powers and duties.--

139 (2) The purpose of the Office of Tourism, Trade, and
 140 Economic Development is to assist the Governor in working with

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141 the Legislature, state agencies, business leaders, and economic
 142 development professionals to formulate and implement coherent
 143 and consistent policies and strategies designed to provide
 144 economic opportunities for all Floridians. To accomplish such
 145 purposes, the Office of Tourism, Trade, and Economic Development
 146 shall:

147 (g) Administer the Black Business Loan Program, the
 148 purpose of which is to leverage state, local, and private funds
 149 to provide loans and loan guarantees to black business
 150 enterprises that cannot obtain capital through conventional
 151 lending institutions but that otherwise could compete
 152 successfully in the private sector.

153 Section 2. Section 288.702, Florida Statutes, is amended
 154 to read:

155 288.702 Short title.--This section and sections 288.703-
 156 288.706 ~~This act shall be known and~~ may be cited as the "Florida
 157 Small and Minority Business Assistance Act ~~of 1985.~~"

158 Section 3. Paragraph (a) of subsection (3) of section
 159 288.703, Florida Statutes, is amended to read:

160 288.703 Definitions.--As used in this act, the following
 161 words and terms shall have the following meanings unless the
 162 content shall indicate another meaning or intent:

163 (3) "Minority person" means a lawful, permanent resident
 164 of Florida who is:

165 (a) An African American, a person having origins in any of
 166 the black racial groups of the African Diaspora, regardless of
 167 cultural origin.

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168 Section 4. Subsection (11) of section 288.706, Florida
 169 Statutes, is amended, and subsection (12) is added to that
 170 section, to read:

171 288.706 Florida Minority Business Loan Mobilization
 172 Program.--

173 (11) The Department of Management Services shall maintain
 174 a listing of financial institutions willing to participate in
 175 the Florida Minority Business Loan Mobilization Program, ~~which~~
 176 ~~may include the Florida Black Business Investment Board, Inc.,~~
 177 ~~and black business investment corporations.~~ This list of
 178 financial institutions shall not be exclusive. A minority
 179 business enterprise vendor who has a working relationship with a
 180 financial institution is encouraged to request that the
 181 financial institution apply to participate as a financial
 182 institution for the program.

183 (12) The Department of Management Services shall
 184 collaborate with the Florida Black Business Investment Board,
 185 Inc., and the Office of Tourism, Trade, and Economic Development
 186 to assist in the development and enhancement of black business
 187 enterprises.

188 Section 5. Section 288.7065, Florida Statutes, is created
 189 to read:

190 288.7065 Short title.--This section and sections 288.707-
 191 288.714 may be cited as the "Florida Black Business Investment
 192 Act."

193 Section 6. Section 288.707, Florida Statutes, is amended
 194 to read:

195 (Substantial rewording of section. See

196 s. 288.707, F.S., for present text.)
 197 288.707 Florida Black Business Investment Board, Inc.;
 198 findings; creation; membership; organization; meetings;
 199 disclosure.--
 200 (1) The Legislature finds that the public interest of the
 201 state will be served by the creation of a not-for-profit public-
 202 private entity the primary mission of which shall be to assist
 203 in the development and expansion of black business enterprises
 204 by:
 205 (a) Advising the Office of Tourism, Trade, and Economic
 206 Development in its oversight of the Black Business Loan Program
 207 and creating long-range strategic policy for the program.
 208 (b) Evaluating the unmet need for capital by black
 209 business enterprises in the state.
 210 (c) Creating partnerships between state and local
 211 governments and private enterprises to aid in the development
 212 and expansion of black business enterprises.
 213 (d) Providing a network of information resources for black
 214 business enterprises and providing technical assistance through
 215 this network.
 216 (2) (a) There is created a not-for-profit corporation to be
 217 known as the "Florida Black Business Investment Board, Inc.,"
 218 referred to in ss. 288.707-288.714 as the board, which shall be
 219 registered, incorporated, organized, and operated in compliance
 220 with chapter 617 and shall not be a unit or entity of state
 221 government. The Legislature determines, however, that public
 222 policy dictates that the board operate in the most open and
 223 accessible manner consistent with its public purpose. Therefore,

224 the Legislature specifically declares that the board and its
 225 advisory committees or similar groups created by the board,
 226 including any subsidiaries, are subject to the provisions of
 227 chapter 119, relating to public records, and the provisions of
 228 chapter 286, relating to public meetings and records.

229 (b) The board shall contract with the Office of Tourism,
 230 Trade, and Economic Development to implement the provisions of
 231 ss. 288.707-288.714.

232 (3) The board shall be governed by a board of directors
 233 chosen as follows:

234 (a) Five members appointed by the Governor who shall serve
 235 terms of 4 years each, except that in making initial
 236 appointments, the Governor shall appoint three members to serve
 237 for terms of 2 years each and two members to serve for terms of
 238 3 years each.

239 (b) One member appointed by the President of the Senate
 240 who shall serve a term of 2 years.

241 (c) One member appointed by the Speaker of the House of
 242 Representatives who shall serve a term of 2 years.

243 (d) The vice chair of Enterprise Florida, Inc., or his or
 244 her designee.

245 (e) The chair of the Florida Development Finance
 246 Corporation created pursuant to s. 288.9604.

247 (f) Four presidents of participating black business
 248 investment corporations who shall be appointed by the Executive
 249 Director of the Office of Tourism, Trade, and Economic
 250 Development upon the recommendation of the Florida Consortium of
 251 Black Business Investment Corporations, Inc., to serve for terms

252 of 3 years each. Each shall be eligible for reappointment to one
253 additional term of 3 years.

254 (4) Members of the board must have experience in business,
255 including financial services, banking, or economic development.
256 At least one of the Governor's appointees must have experience
257 in venture capitalism.

258 (5) Any person appointed to fill a vacancy on the board
259 shall be appointed in a like manner and shall serve for only the
260 remainder of the unexpired term. Any member shall be eligible
261 for reappointment.

262 (6) The Governor shall appoint the chairperson, who shall
263 be a member of the board and shall serve at the pleasure of the
264 Governor. The board shall annually elect one of its members as
265 vice chairperson.

266 (7) The board shall meet at least four times annually upon
267 the call of the chair or vice chair or at the request of a
268 majority of the membership. A majority of the total number of
269 current members of the board shall constitute a quorum. The
270 board may take official action by a majority vote of the members
271 present at any meeting at which a quorum is present.

272 (8) Members of the board shall serve without compensation,
273 but members, the president of the board, and other board
274 employees may be reimbursed for all reasonable, necessary, and
275 actual expenses as determined and approved by the board.

276 (9) Each member of the board who is not otherwise required
277 to disclose financial interests pursuant to s. 8, Art. II of the
278 State Constitution or s. 112.3144 shall file a statement of
279 financial interests pursuant to s. 112.3145.

280 Section 7. Section 288.708, Florida Statutes, is amended
 281 to read:

282 288.708 President; employees.--

283 (1) The president of the board ~~corporation~~, who may also
 284 be designated as secretary-treasurer, shall be appointed by the
 285 board and shall serve at the pleasure of the board. The board
 286 shall establish and adjust the compensation of the president.
 287 The president shall be the chief administrative and operational
 288 officer of the board ~~corporation~~ and shall direct and supervise
 289 administrative affairs and the general management of the board
 290 ~~corporation~~. The board may delegate to its president those
 291 powers and responsibilities it deems appropriate, except for
 292 appointment of the president. The president:

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

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

297 (c) Shall cause copies to be made of all minutes and other
 298 records and documents of the board and shall certify that such
 299 copies are true copies. All persons dealing with the ~~corporation~~
 300 ~~or~~ board may rely upon such certification.

301 ~~(2) The corporation and its officers and board members are~~
 302 ~~responsible for the prudent use of all public and private funds~~
 303 ~~and shall ensure that the use of such funds is in accordance~~
 304 ~~with all applicable laws, bylaws, or contractual requirements.~~

305 An employee of the board ~~corporation~~ may not receive
 306 compensation for employment that exceeds the salary paid to the
 307 Governor, unless the board ~~corporation~~ and the employee have

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308 | executed a contract that prescribes specific and measurable
 309 | performance outcomes for the employee, the satisfaction of which
 310 | provides the basis for the award of incentive payments that
 311 | increase the employee's total compensation to a level above the
 312 | salary paid to the Governor. The Department of Management
 313 | Services shall establish a lease-agreement program under which
 314 | an employee of the board, as of June 30, 2002, retains his or
 315 | her status as a state employee until the employee voluntarily or
 316 | involuntarily terminates his or her status with the board.
 317 | Status as a state employee shall include the right to
 318 | participate in the Florida Retirement System.

319 | Section 8. Section 288.709, Florida Statutes, is amended
 320 | to read:

321 | 288.709 Powers of the Florida Black Business Investment
 322 | Board, Inc.--The board shall have all the powers granted under
 323 | chapter 617 and any powers necessary or convenient to carry out
 324 | and effectuate the purposes and provisions of ss. 288.707-
 325 | 288.714, including, but not limited to, the power to:

326 | (1) Adopt bylaws for the regulation of its affairs and the
 327 | conduct of its business and adopt policies to implement the
 328 | provisions of law conferring duties upon it. The ~~Such~~ bylaws
 329 | shall provide that the board ~~corporation~~ is subject to the
 330 | requirements of s. 24, Art. I of the State Constitution and
 331 | chapter 119 and s. 286.011.

332 | ~~(2) Adopt an official seal.~~

333 | ~~(3) Sue and be sued in its own name.~~

334 ~~(4) Make and execute contracts and other instruments~~
 335 ~~necessary or convenient for the exercise of its power and~~
 336 ~~functions.~~

337 ~~(5) Acquire, hold, and dispose of personal property for~~
 338 ~~its corporate purposes.~~

339 (2)(6) Enter into agreements or other transactions with
 340 any federal, state, or local agency or private entity.

341 ~~(7) Encourage financial institutions to participate in~~
 342 ~~consortia for the purpose of investing in black business~~
 343 ~~enterprises.~~

344 ~~(8) Ensure that funds available to the board for purposes~~
 345 ~~set forth in ss. 288.707-288.714 are disbursed on a statewide~~
 346 ~~basis and are not concentrated in one geographical area.~~

347 (3)(9) Invest any funds held in reserves or sinking funds,
 348 or any funds not required for immediate disbursement, in such
 349 investments as may be authorized for trust funds under s.
 350 215.47; however, such investments will be made on behalf of the
 351 board by the Chief Financial Officer or by another trustee
 352 appointed for that purpose.

353 (4)(10) Appear in its own behalf before boards,
 354 commissions, departments, or other agencies of municipal,
 355 county, state, or Federal Government.

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

359 (5)(12) Apply for, accept, and disburse from any state or
 360 nonstate source ~~Receive and accept from any federal, state, or~~
 361 ~~local agency grants, loans, or advances for, or in aid of, the~~

362 purposes of ss. 288.707-288.714~~7~~ and ~~to~~ receive and accept
 363 contributions from any source of either money, property, labor,
 364 or other things of value~~7~~, to be held, used, and applied for said
 365 purposes.

366 ~~(13) Create, issue, and buy and sell stock, evidences of~~
 367 ~~indebtedness, and other capital participation instruments; to~~
 368 ~~hold such stock, evidences of indebtedness, and capital~~
 369 ~~participation instruments; and to underwrite the creation of a~~
 370 ~~capital market for these securities in a manner designed to~~
 371 ~~enhance development of capital ownership in the target group.~~

372 (6)~~(14)~~ Provide and pay for ~~such~~ advisory services and
 373 technical assistance as may be necessary or desirable to carry
 374 out the purposes of this act.

375 (7)~~(15)~~ Engage in special programs to enhance the
 376 development of black business enterprises as authorized by this
 377 act.

378 ~~(16) Promote black ownership of financial institutions in~~
 379 ~~Florida.~~

380 ~~(17) Take, hold, and improve property, including real~~
 381 ~~property.~~

382 ~~(18) Do any and all things necessary or convenient to~~
 383 ~~carry out the purposes of, and exercise the powers given and~~
 384 ~~granted in, ss. 288.707-288.714, and exercise any other powers,~~
 385 ~~rights, or responsibilities of a corporation.~~

386 (8)~~(19)~~ In addition to any indemnification available under
 387 chapter 617, indemnify, and purchase and maintain insurance on
 388 behalf of, directors, officers, and employees of the board
 389 ~~corporation~~ and its boards against any personal liability or

390 accountability by reason of actions taken while acting within
 391 the scope of their authority.

392 ~~(9)(20)~~ Provide in its bylaws that, upon the dissolution
 393 of the board corporation, all of its assets acquired through the
 394 use of state funds, after payment of all legal debts and
 395 liabilities, revert to the ~~this~~ state.

396 Section 9. Section 288.7091, Florida Statutes, is amended
 397 to read:

398 (Substantial rewording of section. See
 399 s. 288.7091, F.S., for present text.)

400 288.7091 Duties of the Florida Black Business Investment
 401 Board, Inc.--The board shall:

402 (1) Serve as an advisory board to the Office of Tourism,
 403 Trade, and Economic Development, through contract with the
 404 office, to assist the office with the implementation of ss.
 405 288.707-288.714.

406 (2) Aid the development and expansion of black business
 407 enterprises by leveraging state, local, and private funds to be
 408 held by the board for use according to the provisions of ss.
 409 288.707-288.714.

410 (3) Serve as the clearinghouse for information and sources
 411 of technical assistance that will enhance the development and
 412 expansion of black business enterprises and facilitate the
 413 provision of technical assistance in communities in which such
 414 services are otherwise underserved.

415 (4) Aggressively market the Black Business Loan Program
 416 and related services to black business enterprises through all

417 appropriate media outlets, including media targeting the
418 African-American community.

419 (5) Collaborate with Enterprise Florida, Inc., or its
420 affiliates to develop and expand black business enterprises.

421 (6) Collaborate with the Department of Transportation, the
422 Department of Management Services, including the Florida
423 Minority Business Loan Mobilization Program, Workforce Florida,
424 Inc., and other state agencies and partners, the State
425 University System, including the Florida Agricultural and
426 Mechanical University's Institute of Urban Policy and Commerce,
427 school boards, and local governments to create a network of
428 information and to identify available resources to enhance the
429 development and expansion of black business enterprises.

430 (7) Develop strategies to increase financial institution
431 investment in black business enterprises.

432 (8) Provide a 5-year projection of the need for capital by
433 black business enterprises. The board may contract with an
434 independent entity to prepare the projection once every 5 years.

435 (9) Annually provide for a financial audit, as defined in
436 s. 11.45, of the board's accounts and records by an independent
437 certified public accountant. The audit shall include an
438 explanation of all investments made by the board and an
439 explanation of administrative costs. Within 6 months after the
440 end of the fiscal year, the audit report shall be provided to
441 the Governor, the President of the Senate, the Speaker of the
442 House of Representatives, and the Auditor General.

443 Section 10. Section 288.7094, Florida Statutes, is created
444 to read:

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445 288.7094 Black business investment corporations.--

446 (1) The term "black business investment corporation" means
447 a corporation that provides loans, loan guarantees, or
448 investments to black business enterprises under ss. 288.707-
449 288.714.

450 (2) A black business investment corporation that meets the
451 requirements of s. 288.7102(3) is eligible to participate in the
452 Black Business Loan Program and shall receive priority
453 consideration by the Office of Tourism, Trade, and Economic
454 Development for participation in the program.

455 Section 11. Section 288.7102, Florida Statutes, is created
456 to read:

457 288.7102 Black Business Loan Program.--The Black Business
458 Loan Program is established in the Office of Tourism, Trade, and
459 Economic Development. Under the program, the office shall
460 disburse funds appropriated by the Legislature, through eligible
461 recipients, to black business enterprises that cannot obtain
462 capital through conventional lending institutions but that could
463 otherwise compete successfully in the private sector. In
464 creating this program, the Legislature finds that the public
465 interest of the state has been served with respect to the use of
466 any state funds received by the Florida Black Business
467 Investment Board, Inc., and any black business investment
468 corporation prior to and through fiscal year 2005-2006.

469 (1) The board shall establish a uniform, open, and
470 competitive application and annual certification process for
471 eligible recipients who seek funds to provide loans, loan

472 guarantees, or investments to black business enterprises
473 pursuant to the Florida Black Business Investment Act.

474 (2) The office, in consultation with the board, shall
475 develop an allocation policy to ensure that services provided
476 under ss. 288.707-288.714 for the benefit of black business
477 enterprises are disbursed equitably throughout the state. The
478 board shall facilitate the formation of black business
479 investment corporations in communities that are not served by
480 such corporations.

481 (3) To be eligible to receive funds and provide loans,
482 loan guarantees, or investments under this section, a recipient
483 must:

484 (a) Be a corporation registered in the state.

485 (b) Demonstrate that its board of directors includes
486 citizens of the state experienced in the development of black
487 business enterprises.

488 (c) Demonstrate that the recipient has a business plan
489 that allows the recipient to operate in a manner consistent with
490 ss. 288.707-288.714 and the rules of the office.

491 (d) Demonstrate that the recipient has the technical
492 skills to analyze and evaluate applications by black business
493 enterprises for loans, loan guarantees, or investments.

494 (e) Demonstrate that the recipient has established viable
495 partnerships with public and private funding sources, economic
496 development agencies, and workforce development and job referral
497 networks.

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498 (f) Demonstrate that the recipient can provide a private
499 match equal to 20 percent of the amount of funds provided by the
500 office.

501 (g) Agree to maintain the recipient's books and records
502 relating to funds received by the office according to generally
503 accepted accounting principles and in accordance with the
504 requirements of s. 215.97(7) and to make those books and records
505 available to the office for inspection upon reasonable notice.

506 (4) The board shall annually certify each eligible
507 recipient, who must meet the provisions of ss. 288.707-288.714,
508 the terms of the contract between the recipient and the office,
509 and any other applicable state or federal laws. An entity may
510 not receive funds under ss. 288.707-288.714 unless the entity
511 meets annual certification requirements.

512 (5) The office shall consult with the board in
513 implementing the provisions of this section.

514 (6) (a) The office, in consultation with the board, shall
515 adopt rules pursuant to ss. 120.536(1) and 120.54 to implement
516 this section.

517 (b) The board shall adopt policies and procedures
518 necessary to implement this section.

519 Section 12. Section 288.71025, Florida Statutes, is
520 created to read:

521 288.71025 Prohibited acts; penalties.--

522 (1) It is unlawful for any person to hold itself out as a
523 black business investment corporation without being certified by
524 the board as eligible to participate in the Florida Black
525 Business Loan Program.

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526 (2) The board may file a civil complaint and impose a fine
527 of \$500 on any person violating subsection (1). Any funds
528 received from such fines shall be appropriated to the board for
529 any and all of the purposes and uses provided in the Florida
530 Black Business Investment Act.

531 Section 13. Section 288.7103, Florida Statutes, is created
532 to read:

533 288.7103 Eligibility for loan, loan guarantee, or
534 investment.--A black business enterprise is not eligible to
535 receive a loan, loan guarantee, or investment unless the black
536 business enterprise demonstrates that:

537 (1) The proposed loan, loan guarantee, or investment is
538 economically sound and will assist the black business enterprise
539 in entering the conventional lending market, increasing
540 opportunities for employment, and strengthening the economy of
541 the state.

542 (2) The black business enterprise will be able to compete
543 successfully in the private sector if the black business
544 enterprise obtains the requested financial assistance and has
545 obtained or will obtain appropriate and credible technical or
546 managerial support through an organization approved by the
547 corporation.

548 Section 14. Section 288.711, Florida Statutes, is amended
549 to read:

550 288.711 Florida Black Business Loan Program Investment
551 ~~Incentive~~ Trust Fund.--

552 (1) There is hereby created the Florida Black Business
553 Loan Program Investment~~Incentive~~ Trust Fund in the Office of

554 Tourism, Trade, and Economic Development for the purpose of
 555 providing loans or loan guarantees under the Black Business Loan
 556 Program as provided in s. 288.7102 from which money may be drawn
 557 for loans, loan guarantees, or investments ~~or loans,~~ as
 558 authorized by this section, to encourage the development of
 559 appropriate financial mechanisms in the private sector to
 560 capitalize and assist in the development of black business
 561 enterprises. All income earned by investments of the fund shall
 562 ~~be deposited in the fund~~ for carrying out the purposes of ss.
 563 288.707-288.714. Administrative costs of the program shall be
 564 appropriated in a lump-sum appropriation from the fund ~~created~~
 565 ~~herein~~ and shall be provided in the General Appropriations Act.

566 (2) A black business investment corporation is authorized
 567 to use funds received from the Florida Black Business Loan
 568 Program Trust Fund ~~The board is authorized to invest from the~~
 569 ~~Florida Investment Incentive Trust Fund in black business~~
 570 ~~investment corporations which conduct, or agree to conduct,~~
 571 ~~programs of assisting the development of black business~~
 572 ~~enterprises. Such investments shall be made under conditions~~
 573 ~~required by law and as the board may, from time to time, require~~
 574 ~~and may take any of the following forms:~~

575 (a) Purchases of stock, preferred or common, voting or
 576 ~~nonvoting, as determined by the board;~~ however, no more than 40
 577 percent of the funds may be used for direct investments in black
 578 business enterprises;

579 (b) Loans or loan guarantees, with or without recourse, in
 580 either a subordinated or priority position, ~~as determined by the~~
 581 ~~board; provided, however, that no more than 20 percent of the~~

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582 ~~capital base may be used for direct loans to black business~~
583 ~~enterprises; or~~

584 (c) Technical support to black business enterprises, not
585 to exceed 7 percent of the funds received, and direct
586 administrative costs, not to exceed 10 percent of the funds
587 received ~~Any other investment authorized by the board based on~~
588 ~~the expertise of its members.~~

589 (3) It is the intent of the Legislature that if any one
590 type of investment mechanism authorized in subsection (2) is
591 held to be invalid all other valid mechanisms remain available.

592 (4) All loans, loan guarantees, and investments, and any
593 income related thereto, shall be used to carry out the public
594 purpose of ss. 288.707-288.714, which is to develop black
595 business enterprises. This is not meant to preclude a reasonable
596 profit for the participating black business investment
597 corporation or for return of equity developed to the state and
598 participating financial institutions upon any distribution of
599 the assets or excess income of the investment corporation.

600 Section 15. Section 288.712, Florida Statutes, is amended
601 to read:

602 (Substantial rewording of section. See
603 s. 288.712, F.S., for present text.)
604 288.712 Guarantor funds.--

605 (1) The board is authorized to establish, with or without
606 public or private partners, guarantor funds to assist qualified
607 black business enterprises in obtaining surety bonds and other
608 credit instruments when required.

609 (2) The board may contract with a regulated surety company
610 to conduct a surety bond program for black business enterprises.

611 (3) There is hereby created the Black Contractors Bond
612 Trust Fund. For purposes of this section, the board may utilize
613 the Black Contractors Bond Trust Fund, consisting of moneys
614 deposited or credited to the Black Contractors Bond Trust Fund
615 pursuant to any appropriation made by law; any grants, gifts,
616 and contributions received pursuant to ss. 288.707-288.714; all
617 moneys recovered following defaults; and any other moneys
618 obtained by the board for this purpose. The fund shall be
619 administered by the board in trust for the purposes of this
620 section and shall at no time be part of general public funds
621 under the following procedures:

622 (a) Any claims against the state arising from defaults
623 shall be payable from the Black Contractors Bond Program
624 Administrative and Loss Reserve Fund as provided in this section
625 or from the Black Contractors Bond Trust Fund. Nothing in this
626 section grants or pledges to any obligee or other person any
627 state moneys other than the moneys in the Black Contractors Bond
628 Program Administrative and Loss Reserve Fund or the Black
629 Contractors Bond Trust Fund.

630 (b) There is hereby created the Black Contractors Bond
631 Program Administrative and Loss Reserve Fund, consisting of all
632 premiums charged and collected in accordance with this section
633 and any interest income earned from the moneys in the Black
634 Contractors Bond Trust Fund.

635 (c) The board may guarantee bonds executed by sureties for
636 black business enterprises under this section as principals on

637 contracts with the state, any political subdivision or
638 instrumentality, or any person as the obligee. The board, as
639 guarantor, may exercise all the rights and powers of a company
640 authorized by the Department of Financial Services to guarantee
641 bonds under chapter 624, but otherwise is not subject to any
642 laws related to a guaranty company under chapter 624 or to any
643 rules of the department.

644 (d) The board shall adopt policies and procedures for the
645 application for bond guarantees and for the review and approval
646 of applications for bond guarantees submitted by sureties that
647 execute bonds eligible for guarantees under this section.

648 (e) In accordance with the policies and procedures adopted
649 pursuant to this section, the board may guarantee up to 90
650 percent of the loss incurred and paid by sureties on bonds
651 guaranteed under this section.

652 (f) The policies and procedures of the board shall require
653 the black business enterprise to pay a premium in advance for
654 the bond to be established by the board. All premiums paid by
655 the black business enterprise shall be paid into the Black
656 Contractors Bond Program Administrative and Loss Reserve Fund.

657 (g) The penal sum amounts of all outstanding bonds issued
658 by the board shall not exceed the amount of moneys in the Black
659 Contractors Bond Trust Fund.

660 (h) Any funds to the credit of the Black Contractors Bond
661 Program Administrative and Loss Reserve Fund in excess of the
662 amount necessary to fund the appropriation authority for the
663 fund shall be held as a loss reserve to pay claims arising from
664 defaults on surety bonds guaranteed in accordance with this

665 section. If the balance of funds in the Black Contractors Bond
666 Administrative and Loss Reserve Fund is insufficient to pay a
667 claim against the state arising from default, then the claim
668 shall be payable from the Black Contractors Bond Trust Fund.

669 (4) Nothing in this section shall be construed to prohibit
670 or restrict the board from entering into a joint venture or
671 other contractual agreement with a private insurer or to invest
672 in a private entity to handle all or part of a black contractors
673 bonding program for black business enterprises. The board is
674 authorized and encouraged to contract with a regulated surety
675 company to conduct a surety bond program for black business
676 enterprises. Moneys from the Black Contractors Bond Trust Fund
677 may be used for these purposes. The board may approve one
678 application per fiscal year from each surety company to support
679 one fiscal year of that company's activities under this section.
680 A surety bond company that applies for a bond guarantee under
681 this section, regardless of whether the guarantee is approved,
682 is not restricted from also applying for individual bond
683 guarantees under this section.

684 (5) The board shall do all of the following to implement
685 the black contractors bonding program:

686 (a) Conduct outreach, marketing, and recruitment of black
687 contractors.

688 (b) Provide assistance to the Office of Supplier Diversity
689 within the Department of Management Services, as needed, to
690 certify new black business enterprises and to train appropriate
691 department staff.

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692 (c) Provide business development services to black
693 business enterprises in the developmental and transitional
694 stages of the program, including financing and bonding
695 assistance and management and technical assistance.

696 (d) Develop a mentor program to bring businesses into a
697 working relationship with black contractors in a way that
698 commercially benefits both entities and serves the purpose of
699 the program.

700 (e) No later than December 31, 2007, prepare and submit to
701 the Governor a detailed report outlining and evaluating the
702 progress made in implementing the black contractors bonding
703 program.

704 (f) Establish a process by which black contractors may
705 apply for contract assistance, financial and bonding assistance,
706 management and technical assistance, and mentoring
707 opportunities.

708 Section 16. Section 288.714, Florida Statutes, is amended
709 to read:

710 (Substantial rewording of section. See
711 s. 288.714, F.S., for present text.)

712 288.714 Quarterly and annual reports.--

713 (1) Each recipient of state funds under ss. 288.707-
714 288.712 shall provide to the board a quarterly report within 15
715 days after the end of each calendar quarter that includes a
716 detailed summary of the recipient's performance of the duties
717 imposed by ss. 288.707-288.712, including, but not limited to:

718 (a) The dollar amount of all loans or loan guarantees made
719 to black business enterprises, the percentages of the loans

720 guaranteed, and the names and identification of the types of
 721 businesses served.

722 (b) Loan performance information.

723 (c) The amount and nature of all other financial
 724 assistance provided to black business enterprises.

725 (d) The amount and nature of technical assistance provided
 726 to black business enterprises, including technical assistance
 727 services provided in areas in which such services are otherwise
 728 unavailable.

729 (e) A balance sheet for the recipient, including an
 730 explanation of all investments and administrative and
 731 operational expenses.

732 (f) A summary of all services provided to non-black
 733 business enterprises, including the dollar value and nature of
 734 such services and the names and identification of the types of
 735 businesses served.

736 (g) Any other information as required by the board by
 737 rule.

738 (2) By May 1 of each year, the board shall provide to the
 739 Governor, the President of the Senate, and the Speaker of the
 740 House of Representatives a detailed report of the performance of
 741 the Black Business Loan Program, including:

742 (a) A cumulative summary of quarterly report data required
 743 by subsection (1).

744 (b) A description of the strategies implemented by the
 745 board to increase private investment in black business
 746 enterprises.

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747 (c) A summary of the board's performance of its duties
748 under ss. 288.707-288.712.

749 (d) The most recent 5-year projection of the need for
750 capital by black business enterprises.

751 (e) Recommendations for legislative or other changes to
752 enhance the development and expansion of black business
753 enterprises in the state.

754 (f) A projection of the program's activities during the
755 next 12 months.

756 Section 17. Subsection (4) of section 288.9015, Florida
757 Statutes, is amended to read:

758 288.9015 Enterprise Florida, Inc.; purpose; duties.--

759 (4) Enterprise Florida, Inc., shall incorporate the needs
760 of small and minority businesses into the economic-development,
761 international-trade and reverse-investment, and workforce-
762 development responsibilities assigned to the organization by
763 this section. ~~Where practicable and consistent with the~~
764 ~~expertise of the Black Business Investment Board, Inc.,~~
765 Enterprise Florida, Inc., shall collaborate ~~contract~~ with the
766 Florida Black Business Investment Board, Inc., and the Office of
767 Tourism, Trade, and Economic Development ~~corporation~~ for the
768 delivery of services in fulfillment of the responsibilities of
769 Enterprise Florida, Inc., relating to small and minority
770 businesses.

771 Section 18. The Office of Program Policy Analysis and
772 Government Accountability shall prepare a status report on the
773 initial implementation of the Florida Black Business Investment
774 Act by the Office of Tourism, Trade, and Economic Development

775 and shall provide the report to the Governor, the President of
 776 the Senate, and the Speaker of the House of Representatives by
 777 December 1, 2008. The office shall a conduct a program review of
 778 the Office of Tourism, Trade, and Economic Development's
 779 performance in meeting the goals of the Florida Black Business
 780 Investment Act and shall provide a report to the Governor, the
 781 President of the Senate, and the Speaker of the House of
 782 Representatives by December 1, 2009.

783 Section 19. Subsection (6) of section 288.90151, Florida
 784 Statutes, is amended to read:

785 288.90151 Return on investment from activities of
 786 Enterprise Florida, Inc.--

787 (6) Enterprise Florida, Inc., shall fully comply with the
 788 performance measures, standards, and sanctions in its contracts
 789 with the Office of Tourism, Trade, and Economic Development
 790 under s. 14.2015(2) (i) ~~(h)~~ and (7). The Office of Tourism, Trade,
 791 and Economic Development shall ensure, to the maximum extent
 792 possible, that the contract performance measures are consistent
 793 with performance measures that the office is required to develop
 794 and track under performance-based program budgeting.

795 Section 20. Sections 288.7092, 288.7095, 288.71, 288.7101,
 796 and 288.713, Florida Statutes, are repealed.

797 Section 21. The sum of \$8.5 million is appropriated from
 798 the General Revenue Fund to the Office of Tourism, Trade, and
 799 Economic Development for the 2007-2008 fiscal year for purposes
 800 of implementing and administering the Black Business Loan
 801 Program, and 3 full-time equivalent positions and \$500,000 for
 802 operation are authorized.

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Section 22. This act shall take effect July 1, 2007.