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CS/CS/HB 1283

2007 Legislature

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

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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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 | certified eligible recipients, to certain black business  
51 | enterprises; providing duties and responsibilities of the  
52 | office and the board in administering the program;  
53 | establishing a competitive application and annual  
54 | certification process for eligible recipients for funds to  
55 | provide loans, loan guarantees, and investments to black  
56 | business enterprises; requiring an allocation policy for

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57 equitable distribution throughout the state; providing  
58 eligibility requirements for recipients to receive funds  
59 and to provide loans, loan guarantees, or investments;  
60 requiring annual certification of eligibility; providing  
61 for award agreements and reimbursement of funds under  
62 certain circumstances; requiring the office to adopt  
63 rules; requiring the board to adopt policies and  
64 procedures; providing restrictions for the use of funds by  
65 black business investment corporations; providing  
66 legislative intent if an investment mechanism is held  
67 invalid; providing for reasonable profit for a black  
68 business investment corporation; creating s. 288.71025,  
69 F.S.; providing a prohibited act; providing for filing of  
70 a civil complaint, imposition of a fine, and the payment  
71 of court costs and reasonable attorney's fees; creating s.  
72 288.7103, F.S.; providing black business enterprise  
73 eligibility requirements for receiving loans, loan  
74 guarantees, or investments; amending s. 288.712, F.S.;  
75 revising provisions relating to guarantor funds to assist  
76 qualified black business enterprises obtain surety bonds  
77 and other credit instruments; authorizing the board to  
78 contract with regulated surety companies; revising uses of  
79 the Black Contractors Bond Trust Fund; eliminating the  
80 Black Business Loan Guaranty Trust Fund and the Black  
81 Contractors Bond Program Administrative and Loss Reserve  
82 Fund; revising board exceptions to laws and rules related  
83 to a guaranty company; requiring board adoption of  
84 policies and procedures relating to board guarantee of

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85 | loss and to required payment of premiums; authorizing  
86 | contracting with a private entity to administer a black  
87 | contractors bonding program; delineating board use of a  
88 | surety bond company; delineating board requirements for  
89 | implementing the black contractors bonding program;  
90 | amending s. 288.714, F.S.; requiring recipients to provide  
91 | quarterly and annual reports; specifying report  
92 | requirements; requiring the board to provide a summary of  
93 | such reports to the office; requiring the board to submit  
94 | an annual program report to the Governor and Legislature;  
95 | specifying report requirements; amending s. 288.9015,  
96 | F.S.; requiring Enterprise Florida, Inc., to collaborate  
97 | with the Florida Black Business Investment Board, Inc.,  
98 | and the Office of Tourism, Trade, and Economic Development  
99 | for certain purposes; requiring the Office of Program  
100 | Policy Analysis and Government Accountability to submit a  
101 | status report to the Governor and Legislature on the  
102 | implementation of the Florida Black Business Investment  
103 | Act by the Office of Tourism, Trade, and Economic  
104 | Development, the Florida Black Business Investment Board,  
105 | Inc., and program fund recipients; requiring the Office of  
106 | Program Policy Analysis and Government Accountability to  
107 | conduct a program review of the performance of the Office  
108 | of Tourism, Trade, and Economic Development, the Florida  
109 | Black Business Investment Board, Inc., and program fund  
110 | recipients in meeting goals of the Florida Black Business  
111 | Investment Act and to submit a program review report to  
112 | the Governor and Legislature; amending ss. 17.11, 287.055,

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113 288.90151, 625.3255, 657.042, and 658.67, F.S.; conforming  
114 references to changes made by the act; repealing s.  
115 288.7092, F.S., relating to return on investment from  
116 activities of the corporation; repealing s. 288.7095,  
117 F.S., relating to duties of black business investment  
118 corporations; repealing s. 288.71, F.S., relating to  
119 conditions for board action; repealing s. 288.7101, F.S.,  
120 relating to the state employee leasing program of the  
121 Department of Management Services for employees of the  
122 Florida Black Business Investment Board, Inc.; repealing  
123 s. 288.711, F.S., relating to the Florida Investment  
124 Incentive Trust Fund; repealing s. 288.713, F.S., relating  
125 to capital participation instruments; providing a  
126 legislative finding regarding use of state funds received  
127 by the board through fiscal year 2005-2006; providing an  
128 effective date.

129

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

131

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

136 14.2015 Office of Tourism, Trade, and Economic  
137 Development; creation; powers and duties.--

138 (2) The purpose of the Office of Tourism, Trade, and  
139 Economic Development is to assist the Governor in working with  
140 the Legislature, state agencies, business leaders, and economic

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

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

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

154 288.702 Short title.--This section and sections 288.703-  
155 288.706 ~~This act shall be known and~~ may be cited as the "Florida  
156 Small and Minority Business Assistance Act ~~of 1985.~~"

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

159 288.703 Definitions.--As used in this act, the following  
160 words and terms shall have the following meanings unless the  
161 content shall indicate another meaning or intent:

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

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

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

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169 section, to read:

170 288.706 Florida Minority Business Loan Mobilization  
171 Program.--

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

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

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

189 288.7065 Short title.--This section and sections 288.707-  
190 288.714 may be cited as the "Florida Black Business Investment  
191 Act."

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

194 (Substantial rewording of section. See  
195 s. 288.707, F.S., for present text.)

196 288.707 Florida Black Business Investment Board, Inc.;

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197 findings; creation; membership; organization; meetings;  
198 disclosure.--

199 (1) The Legislature finds that the public interest of the  
200 state will be served by the creation of a not-for-profit public-  
201 private entity the primary mission of which shall be to assist  
202 in the development and expansion of black business enterprises  
203 by:

204 (a) Advising the Office of Tourism, Trade, and Economic  
205 Development in its oversight of the Black Business Loan Program  
206 and creating long-range strategic policy for the program.

207 (b) Evaluating the unmet need for capital by black  
208 business enterprises in the state.

209 (c) Creating partnerships between state and local  
210 governments and private enterprises to aid in the development  
211 and expansion of black business enterprises.

212 (d) Providing a network of information resources for black  
213 business enterprises and providing technical assistance through  
214 this network.

215 (2) (a) There is created a not-for-profit corporation to be  
216 known as the "Florida Black Business Investment Board, Inc.,"  
217 referred to in ss. 288.707-288.714 as the board, which shall be  
218 registered, incorporated, organized, and operated in compliance  
219 with chapter 617 and shall not be a unit or entity of state  
220 government. The Legislature determines, however, that public  
221 policy dictates that the board operate in the most open and  
222 accessible manner consistent with its public purpose. Therefore,  
223 the Legislature specifically declares that the board and its  
224 advisory committees or similar groups created by the board,



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225 including any subsidiaries, are subject to the provisions of  
226 chapter 119, relating to public records, and the provisions of  
227 chapter 286, relating to public meetings and records.

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

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

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

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

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

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

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

246 (f) Four presidents of participating black business  
247 investment corporations who shall be appointed by the Executive  
248 Director of the Office of Tourism, Trade, and Economic  
249 Development upon the recommendation of the Florida Consortium of  
250 Black Business Investment Corporations, Inc., to serve for terms  
251 of 3 years each. Each shall be eligible for reappointment to one  
252 additional term of 3 years.

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

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

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

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

271           (8) Members of the board shall serve without compensation,  
 272 but members, the president of the board, and other board  
 273 employees may be reimbursed for all reasonable, necessary, and  
 274 actual expenses as determined and approved by the board pursuant  
 275 to s. 112.061.

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

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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  
308 executed a contract that prescribes specific and measurable

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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.~~

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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, and to receive and accept~~  
363 ~~contributions from any source of either money, property, labor,~~  
364 ~~or other things of value, to be held, used, and applied for said~~

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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.

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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

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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:

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



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448 investments to black business enterprises under s. 288.7102.

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

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

456 288.7102 Black Business Loan Program.--The Black Business  
457 Loan Program is established in the Office of Tourism, Trade, and  
458 Economic Development. Under the program, the office shall  
459 annually certify eligible recipients and subsequently disburse  
460 funds appropriated by the Legislature, through such 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.

464 (1) The office shall establish a uniform, open, and  
465 competitive application and annual certification process for  
466 eligible recipients who seek funds to provide loans, loan  
467 guarantees, or investments in black business enterprises  
468 pursuant to the Florida Black Business Investment Act. The board  
469 shall receive the applications and make recommendations for  
470 certification to the office.

471 (2) The office, in consultation with the board, shall  
472 develop an allocation policy to ensure that services provided  
473 under ss. 288.707-288.714 for the benefit of black business  
474 enterprises are disbursed equitably throughout the state. The  
475 board shall facilitate the formation of black business

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476 investment corporations in communities that are not served by  
477 such corporations.

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

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

482 (b) Demonstrate that its board of directors includes  
483 citizens of the state experienced in the development of black  
484 business enterprises.

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

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

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

495 (f) Demonstrate that the recipient can provide a private  
496 match equal to 20 percent of the amount of funds provided by the  
497 office.

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

503 (4) The board shall annually recommend to the office

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504 certification of each eligible recipient, who must meet the  
505 provisions of ss. 288.707-288.714, the terms of the contract  
506 between the recipient and the office, and any other applicable  
507 state or federal laws. An entity may not receive funds under ss.  
508 288.707-288.714 unless the entity meets annual certification  
509 requirements.

510 (5) Upon approval by the office and prior to release of  
511 the funds as provided in this section, the office shall issue a  
512 letter certifying the applicant as qualified for an award. The  
513 office and the applicant shall enter into an agreement that sets  
514 forth the conditions for award of the funds. The agreement must  
515 include the total amount of funds awarded; the performance  
516 conditions that must be met once the funding has been awarded,  
517 including, but not limited to, compliance with all of the  
518 requirements of this section for eligible recipients of funds  
519 under this section; and sanctions for failure to meet  
520 performance conditions, including any provisions to recover  
521 awards.

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

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

527 (7) A black business investment corporation certified by  
528 the office as an eligible recipient under this section is  
529 authorized to use funds appropriated for the Black Business Loan  
530 Program in any of the following forms:

531 (a) Purchases of stock, preferred or common, voting or

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532 nonvoting; however, no more than 40 percent of the funds may be  
533 used for direct investments in black business enterprises;

534 (b) Loans or loan guarantees, with or without recourse, in  
535 either a subordinated or priority position; or

536 (c) Technical support to black business enterprises, not  
537 to exceed 7 percent of the funds received, and direct  
538 administrative costs, not to exceed 10 percent of the funds  
539 received.

540 (8) It is the intent of the Legislature that if any one  
541 type of investment mechanism authorized in subsection (7) is  
542 held to be invalid, all other valid mechanisms remain available.

543 (9) All loans, loan guarantees, and investments, and any  
544 income related thereto, shall be used to carry out the public  
545 purpose of ss. 288.707-288.714, which is to develop black  
546 business enterprises. This subsection does not preclude a  
547 reasonable profit for the participating black business  
548 investment corporation or for return of equity developed to the  
549 state and participating financial institutions upon any  
550 distribution of the assets or excess income of the investment  
551 corporation.

552 Section 12. Section 288.71025, Florida Statutes, is  
553 created to read:

554 288.71025 Prohibited acts; penalties.--

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

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559       (2) In addition to any other penalties or remedies  
560 provided under law, the board may bring a civil action in any  
561 court of competent jurisdiction against any person for a knowing  
562 or willful violation of this section. Upon an adverse  
563 adjudication, the court may impose a civil penalty of up to \$500  
564 and payment of court costs and reasonable attorney's fees  
565 incurred by the plaintiff.

566       Section 13. Section 288.7103, Florida Statutes, is created  
567 to read:

568       288.7103 Eligibility for loan, loan guarantee, or  
569 investment.--A black business enterprise is not eligible to  
570 receive a loan, loan guarantee, or investment from funds  
571 disbursed pursuant to s. 288.7102 unless the black business  
572 enterprise demonstrates that:

573       (1) The proposed loan, loan guarantee, or investment is  
574 economically sound and will assist the black business enterprise  
575 in entering the conventional lending market, increasing  
576 opportunities for employment, and strengthening the economy of  
577 the state.

578       (2) The black business enterprise will be able to compete  
579 successfully in the private sector if the black business  
580 enterprise obtains the requested financial assistance and has  
581 obtained or will obtain appropriate and credible technical or  
582 managerial support through an organization approved by the  
583 corporation.

584       Section 14. Section 288.712, Florida Statutes, is amended  
585 to read:

586       (Substantial rewording of section. See

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587 s. 288.712, F.S., for present text.)  
 588 288.712 Guarantor funds.--  
 589 (1) The board is authorized to establish, with or without  
 590 public or private partners, guarantor funds to assist qualified  
 591 black business enterprises in obtaining surety bonds and other  
 592 credit instruments when required.  
 593 (2) The board may contract with a regulated surety company  
 594 to conduct a surety bond program for black business enterprises.  
 595 (3) For purposes of this section, the board may utilize  
 596 the Black Contractors Bond Trust Fund, consisting of moneys  
 597 deposited or credited to the Black Contractors Bond Trust Fund  
 598 pursuant to any appropriation made by law; any grants, gifts,  
 599 and contributions received pursuant to ss. 288.707-288.714; all  
 600 moneys recovered following defaults; all premiums charged and  
 601 collected in accordance with this section and any interest  
 602 earned; and any other moneys obtained by the board for this  
 603 purpose. The fund shall be administered by the board in trust  
 604 for the purposes of this section and shall at no time be part of  
 605 general public funds under the following procedures:  
 606 (a) Any claims against the state arising from defaults  
 607 shall be payable from the Black Contractors Bond Trust Fund.  
 608 Nothing in this section grants or pledges to any obligee or  
 609 other person any state moneys other than the moneys in the Black  
 610 Contractors Bond Trust Fund.  
 611 (b) The board may guarantee bonds executed by sureties for  
 612 black business enterprises under this section as principals on  
 613 contracts with the state, any political subdivision or  
 614 instrumentality, or any person as the obligee. The board, as

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615 guarantor, may exercise all the rights and powers of a company  
616 authorized by the Department of Financial Services to guarantee  
617 bonds under chapter 624, but otherwise is not subject to any  
618 laws related to a guaranty company under chapter 624 or to any  
619 rules of the department.

620 (c) The board shall adopt policies and procedures for the  
621 application for bond guarantees and for the review and approval  
622 of applications for bond guarantees submitted by sureties that  
623 execute bonds eligible for guarantees under this section.

624 (d) In accordance with the policies and procedures adopted  
625 pursuant to this section, the board may guarantee up to 90  
626 percent of the loss incurred and paid by sureties on bonds  
627 guaranteed under this section.

628 (e) The policies and procedures of the board shall require  
629 the black business enterprise to pay a premium in advance for  
630 the bond to be established by the board. All premiums paid by  
631 the black business enterprise shall be paid into the Black  
632 Contractors Bond Trust Fund.

633 (f) The penal sum amounts of all outstanding bonds issued  
634 by the board shall not exceed the amount of moneys in the Black  
635 Contractors Bond Trust Fund.

636 (g) Any funds to the credit of the Black Contractors Bond  
637 Trust Fund in excess of the amount necessary to fund the  
638 appropriation authority for the fund shall be held as a loss  
639 reserve to pay claims arising from defaults on surety bonds  
640 guaranteed in accordance with this section.

641 (4) Nothing in this section shall be construed to prohibit  
642 or restrict the board from entering into a joint venture or

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643 other contractual agreement with a private insurer or to invest  
644 in a private entity to handle all or part of a black contractors  
645 bonding program for black business enterprises. The board is  
646 authorized and encouraged to contract with a regulated surety  
647 company to conduct a surety bond program for black business  
648 enterprises. Moneys from the Black Contractors Bond Trust Fund  
649 may be used for these purposes. The board may approve one  
650 application per fiscal year from each surety company to support  
651 one fiscal year of that company's activities under this section.  
652 A surety bond company that applies for a bond guarantee under  
653 this section, regardless of whether the guarantee is approved,  
654 is not restricted from also applying for individual bond  
655 guarantees under this section.

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

658 (a) Conduct outreach, marketing, and recruitment of black  
659 contractors.

660 (b) Provide assistance to the Office of Supplier Diversity  
661 within the Department of Management Services, as needed, to  
662 certify new black business enterprises and to train appropriate  
663 department staff.

664 (c) Provide business development services to black  
665 business enterprises in the developmental and transitional  
666 stages of the program, including financing and bonding  
667 assistance and management and technical assistance.

668 (d) Develop a mentor program to bring businesses into a  
669 working relationship with black contractors in a way that  
670 commercially benefits both entities and serves the purpose of



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671 the program.

672 (e) No later than December 31, 2007, prepare and submit to  
673 the Governor a detailed report outlining and evaluating the  
674 progress made in implementing the black contractors bonding  
675 program.

676 (f) Establish a process by which black contractors may  
677 apply for contract assistance, financial and bonding assistance,  
678 management and technical assistance, and mentoring  
679 opportunities.

680 Section 15. Section 288.714, Florida Statutes, is amended  
681 to read:

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

684 288.714 Quarterly and annual reports.--

685 (1) Each recipient of state funds under s. 288.7102 shall  
686 provide to the board a quarterly report within 15 days after the  
687 end of each calendar quarter that includes a detailed summary of  
688 the recipient's performance of the duties imposed by s.  
689 288.7102, including, but not limited to:

690 (a) The dollar amount of all loans or loan guarantees made  
691 to black business enterprises, the percentages of the loans  
692 guaranteed, and the names and identification of the types of  
693 businesses served.

694 (b) Loan performance information.

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

697 (d) The amount and nature of technical assistance provided  
698 to black business enterprises, including technical assistance

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699 services provided in areas in which such services are otherwise  
700 unavailable.

701 (e) A balance sheet for the recipient, including an  
702 explanation of all investments and administrative and  
703 operational expenses.

704 (f) A summary of all services provided to non-black  
705 business enterprises, including the dollar value and nature of  
706 such services and the names and identification of the types of  
707 businesses served.

708 (g) Any other information as required by policies adopted  
709 by the board.

710 (2) The board must compile and provide to the office a  
711 summary of all quarterly reports within 30 days after the end of  
712 each calendar quarter that includes a detailed summary of the  
713 recipient's performance of the duties imposed by s. 288.7102.

714 (3) By May 1 of each year, the board shall provide to the  
715 Governor, the President of the Senate, and the Speaker of the  
716 House of Representatives a detailed report of the performance of  
717 the Black Business Loan Program, including:

718 (a) A cumulative summary of quarterly report data required  
719 by subsection (1).

720 (b) A description of the strategies implemented by the  
721 board to increase private investment in black business  
722 enterprises.

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

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

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727           (e) Recommendations for legislative or other changes to  
728 enhance the development and expansion of black business  
729 enterprises in the state.

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

732           Section 16. Subsection (4) of section 288.9015, Florida  
733 Statutes, is amended to read:

734           288.9015 Enterprise Florida, Inc.; purpose; duties.--

735           (4) Enterprise Florida, Inc., shall incorporate the needs  
736 of small and minority businesses into the economic-development,  
737 international-trade and reverse-investment, and workforce-  
738 development responsibilities assigned to the organization by  
739 this section. ~~Where practicable and consistent with the~~  
740 ~~expertise of the Black Business Investment Board, Inc.,~~  
741 Enterprise Florida, Inc., shall collaborate ~~contract~~ with the  
742 Florida Black Business Investment Board, Inc., and the Office of  
743 Tourism, Trade, and Economic Development ~~corporation~~ for the  
744 delivery of services in fulfillment of the responsibilities of  
745 Enterprise Florida, Inc., relating to small and minority  
746 businesses.

747           Section 17. The Office of Program Policy Analysis and  
748 Government Accountability shall prepare a status report on the  
749 initial implementation of the Florida Black Business Investment  
750 Act by the Office of Tourism, Trade, and Economic Development,  
751 the Florida Black Business Investment Board, Inc., and the  
752 recipients of funds disbursed pursuant to s. 288.7102, Florida  
753 Statutes, and shall provide the report to the Governor, the  
754 President of the Senate, and the Speaker of the House of

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755 Representatives by December 1, 2008. The office shall conduct a  
 756 program review of the performance of the Office of Tourism,  
 757 Trade, and Economic Development, the Florida Black Business  
 758 Investment Board, Inc., and the recipients of funds disbursed  
 759 pursuant to s. 288.7102, Florida Statutes, in meeting the goals  
 760 of the Florida Black Business Investment Act and shall provide a  
 761 report to the Governor, the President of the Senate, and the  
 762 Speaker of the House of Representatives by December 1, 2009.

763 Section 18. Subsection (2) of section 17.11, Florida  
 764 Statutes, is amended to read:

765 17.11 To report disbursements made.--

766 (2) The Chief Financial Officer shall also cause to have  
 767 reported from the Florida Accounting Information Resource  
 768 Subsystem no less than quarterly the disbursements which  
 769 agencies made to small businesses, as defined in the Florida  
 770 Small and Minority Business Assistance Act ~~of 1985~~; to certified  
 771 minority business enterprises in the aggregate; and to certified  
 772 minority business enterprises broken down into categories of  
 773 minority persons, as well as gender and nationality subgroups.  
 774 This information shall be made available to the agencies, the  
 775 Office of Supplier Diversity, the Governor, the President of the  
 776 Senate, and the Speaker of the House of Representatives. Each  
 777 agency shall be responsible for the accuracy of information  
 778 entered into the Florida Accounting Information Resource  
 779 Subsystem for use in this reporting.

780 Section 19. Paragraph (d) of subsection (3) of section  
 781 287.055, Florida Statutes, is amended to read:

782 287.055 Acquisition of professional architectural,

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783 engineering, landscape architectural, or surveying and mapping  
784 services; definitions; procedures; contingent fees prohibited;  
785 penalties.--

786 (3) PUBLIC ANNOUNCEMENT AND QUALIFICATION PROCEDURES.--

787 (d) Each agency shall evaluate professional services,  
788 including capabilities, adequacy of personnel, past record,  
789 experience, whether the firm is a certified minority business  
790 enterprise as defined by the Florida Small and Minority Business  
791 Assistance Act ~~of 1985~~, and other factors determined by the  
792 agency to be applicable to its particular requirements. When  
793 securing professional services, an agency must endeavor to meet  
794 the minority business enterprise procurement goals under s.  
795 287.09451.

796 Section 20. Subsection (6) of section 288.90151, Florida  
797 Statutes, is amended to read:

798 288.90151 Return on investment from activities of  
799 Enterprise Florida, Inc.--

800 (6) Enterprise Florida, Inc., shall fully comply with the  
801 performance measures, standards, and sanctions in its contracts  
802 with the Office of Tourism, Trade, and Economic Development  
803 under s. 14.2015(2) (i) ~~(h)~~ and (7). The Office of Tourism, Trade,  
804 and Economic Development shall ensure, to the maximum extent  
805 possible, that the contract performance measures are consistent  
806 with performance measures that the office is required to develop  
807 and track under performance-based program budgeting.

808 Section 21. Section 625.3255, Florida Statutes, is amended  
809 to read:

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810           625.3255 Capital participation instrument.--An insurer may  
811 invest in any capital participation instrument or evidence of  
812 indebtedness issued by the Florida Black Business Investment  
813 Board pursuant to the Florida Small and Minority Business  
814 Assistance Act ~~of 1985~~.

815           Section 22. Paragraph (b) of subsection (4) of section  
816 657.042, Florida Statutes, is amended to read:

817           657.042 Investment powers and limitations.--A credit union  
818 may invest its funds subject to the following definitions,  
819 restrictions, and limitations:

820           (4) INVESTMENT SUBJECT TO LIMITATION OF ONE PERCENT OF  
821 CAPITAL OF THE CREDIT UNION.--Up to 1 percent of the capital of  
822 the credit union may be invested in any of the following:

823           (b) Any capital participation instrument or evidence of  
824 indebtedness issued by the Florida Black Business Investment  
825 Board pursuant to the Florida Small and Minority Business  
826 Assistance Act ~~of 1985~~.

827           Section 23. Paragraph (g) of subsection (4) of section  
828 658.67, Florida Statutes, is amended to read:

829           658.67 Investment powers and limitations.--A bank may  
830 invest its funds, and a trust company may invest its corporate  
831 funds, subject to the following definitions, restrictions, and  
832 limitations:

833           (4) INVESTMENTS SUBJECT TO LIMITATION OF TEN PERCENT OR  
834 LESS OF CAPITAL ACCOUNTS.--

835           (g) Up to 10 percent of the capital accounts of a bank or  
836 trust company may be invested in any capital participation  
837 instrument or evidence of indebtedness issued by the Florida

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838 Black Business Investment Board pursuant to the Florida Small  
839 and Minority Business Assistance Act ~~of 1985~~.

840 Section 24. Sections 288.7092, 288.7095, 288.71, 288.7101,  
841 288.711, and 288.713, Florida Statutes, are repealed.

842 Section 25. The Legislature finds that the public interest  
843 of the state has been served with respect to the use of any  
844 state funds received by the Florida Black Business Investment  
845 Board, Inc., and any black business investment corporation prior  
846 to and through the 2005-2006 fiscal year.

847 Section 26. This act shall take effect July 1, 2007.