

Bill No. SB 2860

Barcode 114808

CHAMBER ACTION

Senate

House

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

.
. .
. .
. .
. .
. .

The Committee on Commerce (Crist) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

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

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

(2) The purpose of the Office of Tourism, Trade, and Economic Development is to assist the Governor in working with the Legislature, state agencies, business leaders, and economic development professionals to formulate and implement coherent and consistent policies and strategies designed to provide economic opportunities for all Floridians. To accomplish such purposes, the Office of Tourism, Trade, and

Bill No. SB 2860

Barcode 114808

1 Economic Development shall:

2 (g) Administer the Black Business Loan Program, the
3 purpose of which is to leverage state, local, and private
4 funds to provide loans and loan guarantees to black business
5 enterprises that cannot obtain capital through conventional
6 lending institutions but that otherwise could compete
7 successfully in the private sector.

8 Section 2. Section 288.702, Florida Statutes, is
9 amended to read:

10 288.702 Short title.--This section and sections
11 288.703-288.706 ~~This act shall be known and~~ may be cited as
12 the "Florida Small and Minority Business Assistance Act ~~of~~
13 ~~1985.~~"

14 Section 3. Paragraph (a) of subsection (3) of section
15 288.703, Florida Statutes, is amended to read:

16 288.703 Definitions.--As used in this act, the
17 following words and terms shall have the following meanings
18 unless the content shall indicate another meaning or intent:

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

21 (a) An African American, a person having origins in
22 any of the black racial groups of the African Diaspora,
23 regardless of cultural origin.

24 Section 4. Subsection (11) of section 288.706, Florida
25 Statutes, is amended, and subsection (12) is added to that
26 section, to read:

27 288.706 Florida Minority Business Loan Mobilization
28 Program.--

29 (11) The Department of Management Services shall
30 maintain a listing of financial institutions willing to
31 participate in the Florida Minority Business Loan Mobilization

Bill No. SB 2860

Barcode 114808

1 ~~Program, which may include the Florida Black Business~~
 2 ~~Investment Board, Inc., and black business investment~~
 3 ~~corporations.~~ This list of financial institutions shall not be
 4 exclusive. A minority business enterprise vendor who has a
 5 working relationship with a financial institution is
 6 encouraged to request that the financial institution apply to
 7 participate as a financial institution for the program.

8 (12) The Department of Management Services shall
 9 collaborate with the Florida Black Business Investment Board,
 10 Inc., and the Office of Tourism, Trade, and Economic
 11 Development to assist in the development and enhancement of
 12 black business enterprises.

13 Section 5. Section 288.7065, Florida Statutes, is
 14 created to read:

15 288.7065 Short title.--This section and sections
 16 288.707-288.714 may be cited as the "Florida Black Business
 17 Investment Act."

18 Section 6. Section 288.707, Florida Statutes, is
 19 amended to read:

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

22 288.707 Florida Black Business Investment Board, Inc.;
 23 findings; creation; membership; organization; meetings;
 24 disclosure.--

25 (1) The Legislature finds that the public interest of
 26 the state will be served by the creation of a not-for-profit
 27 public-private entity the primary mission of which shall be to
 28 assist in the development and expansion of black business
 29 enterprises by:

30 (a) Advising the Office of Tourism, Trade, and
 31 Economic Development in its oversight of the Black Business

Bill No. SB 2860

Barcode 114808

1 Loan Program and creating long-range strategic policy for the
2 program.

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

5 (c) Creating partnerships between state and local
6 governments and private enterprises to aid in the development
7 and expansion of black business enterprises.

8 (d) Providing a network of information resources for
9 black business enterprises and providing technical assistance
10 through this network.

11 (2)(a) There is created a not-for-profit corporation
12 to be known as the "Florida Black Business Investment Board,
13 Inc.," referred to in ss. 288.707-288.714 as the board, which
14 shall be registered, incorporated, organized, and operated in
15 compliance with chapter 617 and shall not be a unit or entity
16 of state government. The Legislature determines, however, that
17 public policy dictates that the board operate in the most open
18 and accessible manner consistent with its public purpose.
19 Therefore, the Legislature specifically declares that the
20 board and its advisory committees or similar groups created by
21 the board, including any subsidiaries, are subject to the
22 provisions of chapter 119, relating to public records, and the
23 provisions of chapter 286, relating to public meetings and
24 records.

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

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

30 (a) Five members appointed by the Governor who shall
31 serve terms of 4 years each, except that in making initial

Bill No. SB 2860

Barcode 114808

1 appointments, the Governor shall appoint three members to
2 serve for terms of 2 years each and two members to serve for
3 terms of 3 years each.

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

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

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

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

12 (f) Four presidents of participating black business
13 investment corporations who shall be appointed by the
14 Executive Director of the Office of Tourism, Trade, and
15 Economic Development upon the recommendation of the Florida
16 Consortium of Black Business Investment Corporations, Inc., to
17 serve for terms of 3 years each. Each shall be eligible for
18 reappointment to one additional term of 3 years.

19 (4) Members of the board must have experience in
20 business, including financial services, banking, or economic
21 development. At least one of the Governor's appointees must
22 have experience in venture capitalism.

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

27 (6) The Governor shall appoint the chairperson, who
28 shall be a member of the board and shall serve at the pleasure
29 of the Governor. The board shall annually elect one of its
30 members as vice chairperson.

31 (7) The board shall meet at least four times annually

Bill No. SB 2860

Barcode 114808

1 upon the call of the chair or vice chair or at the request of
 2 a majority of the membership. A majority of the total number
 3 of current members of the board shall constitute a quorum. The
 4 board may take official action by a majority vote of the
 5 members present at any meeting at which a quorum is present.

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

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

15 Section 7. Section 288.708, Florida Statutes, is
 16 amended to read:

17 288.708 President; employees.--

18 (1) The president of the board ~~corporation~~, who may
 19 also be designated as secretary-treasurer, shall be appointed
 20 by the board and shall serve at the pleasure of the board. The
 21 board shall establish and adjust the compensation of the
 22 president. The president shall be the chief administrative and
 23 operational officer of the board ~~corporation~~ and shall direct
 24 and supervise administrative affairs and the general
 25 management of the board ~~corporation~~. The board may delegate to
 26 its president those powers and responsibilities it deems
 27 appropriate, except for appointment of the president. The
 28 president:

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

Bill No. SB 2860

Barcode 114808

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

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

6 (2) ~~The corporation and its officers and board members~~
7 ~~are responsible for the prudent use of all public and private~~
8 ~~funds and shall ensure that the use of such funds is in~~
9 ~~accordance with all applicable laws, bylaws, or contractual~~
10 ~~requirements.~~ An employee of the board ~~corporation~~ may not
11 receive compensation for employment that exceeds the salary
12 paid to the Governor, unless the board ~~corporation~~ and the
13 employee have executed a contract that prescribes specific and
14 measurable performance outcomes for the employee, the
15 satisfaction of which provides the basis for the award of
16 incentive payments that increase the employee's total
17 compensation to a level above the salary paid to the Governor.
18 The Department of Management Services shall establish a
19 lease-agreement program under which an employee of the board,
20 as of June 30, 2002, retains his or her status as a state
21 employee until the employee voluntarily or involuntarily
22 terminates his or her status with the board. Status as a state
23 employee shall include the right to participate in the Florida
24 Retirement System.

25 Section 8. Section 288.709, Florida Statutes, is
26 amended to read:

27 288.709 Powers of the Florida Black Business
28 Investment Board, Inc.--The board shall have all the powers
29 granted under chapter 617 and any powers necessary or
30 convenient to carry out and effectuate the purposes and
31 provisions of ss. 288.707-288.714, including, but not limited

Bill No. SB 2860

Barcode 114808

1 to, the power to:

2 (1) Adopt bylaws for the regulation of its affairs and
3 the conduct of its business and adopt policies to implement
4 the provisions of law conferring duties upon it. ~~The Such~~
5 bylaws shall provide that the board ~~corporation~~ is subject to
6 the requirements of s. 24, Art. I of the State Constitution
7 and chapter 119 and s. 286.011.

8 ~~(2) Adopt an official seal.~~

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

10 ~~(4) Make and execute contracts and other instruments~~
11 ~~necessary or convenient for the exercise of its power and~~
12 ~~functions.~~

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

15 ~~(2)(6)~~ Enter into agreements or other transactions
16 with any federal, state, or local agency or private entity.

17 ~~(7) Encourage financial institutions to participate in~~
18 ~~consortia for the purpose of investing in black business~~
19 ~~enterprises.~~

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

24 ~~(3)(9)~~ Invest any funds held in reserves or sinking
25 funds, or any funds not required for immediate disbursement,
26 in such investments as may be authorized for trust funds under
27 s. 215.47; however, such investments will be made on behalf of
28 the board by the Chief Financial Officer or by another trustee
29 appointed for that purpose.

30 ~~(4)(10)~~ Appear in its own behalf before boards,
31 commissions, departments, or other agencies of municipal,

Bill No. SB 2860

Barcode 114808

1 county, state, or Federal Government.

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

5 ~~(5)(12) Apply for, accept, and disburse from any state~~
6 ~~or nonstate source Receive and accept from any federal, state,~~
7 ~~or local agency grants, loans, or advances for, or in aid of,~~
8 the purposes of ss. 288.707-288.714, and to receive and accept
9 contributions from any source of either money, property,
10 labor, or other things of value, to be held, used, and applied
11 for said purposes.

12 ~~(13) Create, issue, and buy and sell stock, evidences~~
13 ~~of indebtedness, and other capital participation instruments;~~
14 ~~to hold such stock, evidences of indebtedness, and capital~~
15 ~~participation instruments; and to underwrite the creation of a~~
16 ~~capital market for these securities in a manner designed to~~
17 ~~enhance development of capital ownership in the target group.~~

18 ~~(6)(14) Provide and pay for such advisory services and~~
19 technical assistance as may be necessary or desirable to carry
20 out the purposes of this act.

21 ~~(7)(15) Engage in special programs to enhance the~~
22 development of black business enterprises as authorized by
23 this act.

24 ~~(16) Promote black ownership of financial institutions~~
25 ~~in Florida.~~

26 ~~(17) Take, hold, and improve property, including real~~
27 ~~property.~~

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

Bill No. SB 2860

Barcode 114808

1 ~~(8)(19)~~ In addition to any indemnification available
 2 under chapter 617, indemnify, and purchase and maintain
 3 insurance on behalf of, directors, officers, and employees of
 4 the board corporation and its boards against any personal
 5 liability or accountability by reason of actions taken while
 6 acting within the scope of their authority.

7 ~~(9)(20)~~ Provide in its bylaws that, upon the
 8 dissolution of the board corporation, all of its assets
 9 acquired through the use of state funds, after payment of all
 10 legal debts and liabilities, revert to the ~~this~~ state.

11 Section 9. Section 288.7091, Florida Statutes, is
 12 amended to read:

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

15 288.7091 Duties of the Florida Black Business
 16 Investment Board, Inc.--The board shall:

17 (1) Serve as an advisory board to the Office of
 18 Tourism, Trade, and Economic Development, through contract
 19 with the office, to assist the office with the implementation
 20 of ss. 288.707-288.714.

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

25 (3) Serve as the clearinghouse for information and
 26 sources of technical assistance that will enhance the
 27 development and expansion of black business enterprises and
 28 facilitate the provision of technical assistance in
 29 communities in which such services are otherwise underserved.

30 (4) Aggressively market the Black Business Loan
 31 Program and related services to black business enterprises

Bill No. SB 2860

Barcode 114808

1 through all appropriate media outlets, including media
2 targeting the African-American community.

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

5 (6) Collaborate with the Department of Transportation,
6 the Department of Management Services, including the Florida
7 Minority Business Loan Mobilization Program, Workforce
8 Florida, Inc., and other state agencies and partners, the
9 State University System, including the Florida Agricultural
10 and Mechanical University's Institute of Urban Policy and
11 Commerce, school boards, and local governments to create a
12 network of information and to identify available resources to
13 enhance the development and expansion of black business
14 enterprises.

15 (7) Develop strategies to increase financial
16 institution investment in black business enterprises.

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

21 (9) Annually provide for a financial audit, as defined
22 in s. 11.45, of the board's accounts and records by an
23 independent certified public accountant. The audit shall
24 include an explanation of all investments made by the board
25 and an explanation of administrative costs. Within 6 months
26 after the end of the fiscal year, the audit report shall be
27 provided to the Governor, the President of the Senate, the
28 Speaker of the House of Representatives, and the Auditor
29 General.

30 Section 10. Section 288.7094, Florida Statutes, is
31 created to read:

Bill No. SB 2860

Barcode 114808

1 288.7094 Black business investment corporations.--

2 (1) The term "black business investment corporation"
3 means a corporation that provides loans, loan guarantees, or
4 investments to black business enterprises under ss.
5 288.707-288.714.

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

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

13 288.7102 Black Business Loan Program.--The Black
14 Business Loan Program is established in the Office of Tourism,
15 Trade, and Economic Development. Under the program, the office
16 shall annually certify eligible recipients and disburse funds
17 appropriated by the Legislature, through such certified
18 recipients, to black business enterprises that cannot obtain
19 capital through conventional lending institutions but that
20 could otherwise compete successfully in the private sector.

21 (1) The office shall establish a uniform, open, and
22 competitive application and annual certification process for
23 eligible recipients who seek funds to provide loans to, loan
24 guarantees for, or investments in black business enterprises
25 pursuant to the Florida Black Business Investment Act. The
26 board shall receive the applications and make recommendations
27 for certification to the office.

28 (2) The office, in consultation with the board, shall
29 develop an allocation policy to ensure that services provided
30 under ss. 288.707-288.714 for the benefit of black business
31 enterprises are disbursed equitably throughout the state. The

Bill No. SB 2860

Barcode 114808

1 board shall facilitate the formation of black business
2 investment corporations in communities that are not served by
3 such corporations.

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

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

8 (b) Demonstrate that its board of directors includes
9 citizens of the state experienced in the development of black
10 business enterprises.

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

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

17 (e) Demonstrate that the recipient has established
18 viable partnerships with public and private funding sources,
19 economic development agencies, and workforce development and
20 job referral networks.

21 (f) Demonstrate that the recipient can provide a
22 private match equal to 20 percent of the amount of funds
23 provided by the office.

24 (g) Agree to maintain the recipient's books and
25 records relating to funds received by the office according to
26 generally accepted accounting principles and in accordance
27 with the requirements of s. 215.97(7) and to make those books
28 and records available to the office for inspection upon
29 reasonable notice.

30 (4) The board shall annually recommend to the office
31 the certification of each eligible recipient, who must meet

Bill No. SB 2860

Barcode 114808

1 the provisions of ss. 288.707-288.714, the terms of the
 2 contract between the recipient and the office, and any other
 3 applicable state or federal laws. An entity may not receive
 4 funds under ss. 288.707-288.714 unless the entity meets annual
 5 certification requirements.

6 (5) Upon approval by the office and release of the
 7 funds, the office shall issue a letter certifying the
 8 applicant as qualified for an award. The office and the
 9 applicant shall enter into an agreement that sets forth the
 10 conditions for award of the funds which includes the total
 11 amount of funds awarded; the performance conditions that must
 12 be met once the funding has been awarded, including, but not
 13 limited to, compliance with all the requirements of this
 14 section; and sanctions for failure to meet performance
 15 conditions including any provisions to recover awards.

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

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

21 Section 12. Section 288.71025, Florida Statutes, is
 22 created to read:

23 288.71025 Prohibited acts; penalties.--

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

28 (2) In addition to any other penalties or remedies
 29 provided under law, the board may bring civil action in any
 30 court of competent jurisdiction against any person for a
 31 knowing or willful violation of this section. The court may

Bill No. SB 2860

Barcode 114808

1 impose a civil penalty of up to \$500 for such violation. Any
 2 funds received from such fines shall be appropriated to the
 3 board for any and all of the purposes and uses provided in the
 4 Florida Black Business Investment Act.

5 Section 13. Section 288.7103, Florida Statutes, is
 6 created to read:

7 288.7103 Eligibility for loan, loan guarantee, or
 8 investment.--A black business enterprise is not eligible to
 9 receive a loan, loan guarantee, or investment from funds
 10 disbursed pursuant to s. 288.7102 unless the black business
 11 enterprise demonstrates that:

12 (1) The proposed loan, loan guarantee, or investment
 13 is economically sound and will assist the black business
 14 enterprise in entering the conventional lending market,
 15 increasing opportunities for employment, and strengthening the
 16 economy of the state.

17 (2) The black business enterprise will be able to
 18 compete successfully in the private sector if the black
 19 business enterprise obtains the requested financial assistance
 20 and has obtained or will obtain appropriate and credible
 21 technical or managerial support through an organization
 22 approved by the corporation.

23 Section 14. Section 288.711, Florida Statutes, is
 24 amended to read:

25 288.711 Florida Black Business Loan Program Investment
 26 Incentive Trust Fund.--

27 (1) ~~The Economic Development~~ There is hereby created
 28 ~~the Florida Investment Incentive~~ Trust Fund in the Office of
 29 Tourism, Trade, and Economic Development shall be used for the
 30 purpose of providing loans or loan guarantees under the Black
 31 Business Loan Program as provided in s. 288.7102 from which

Bill No. SB 2860

Barcode 114808

1 money may be drawn for loans, loan guarantees, or investments
 2 ~~or loans~~, as authorized by this section, to encourage the
 3 development of appropriate financial mechanisms in the private
 4 sector to capitalize and assist in the development of black
 5 business enterprises. All income earned by investments of the
 6 fund, from funds deposited pursuant to ss. 288.707-288.14,
 7 shall be ~~deposited in the fund~~ for carrying out the purposes
 8 of ss. 288.707-288.714. Administrative costs of the program
 9 shall be appropriated in a lump-sum appropriation from the
 10 fund ~~created herein~~ and shall be provided in the General
 11 Appropriations Act.

12 (2) A black business investment corporation is
 13 authorized to use funds received from the Economic Development
 14 Trust Fund from funds deposited pursuant to ss.
 15 288.707-288.14, in ~~The board is authorized to invest from the~~
 16 ~~Florida Investment Incentive Trust Fund in black business~~
 17 ~~investment corporations which conduct, or agree to conduct,~~
 18 ~~programs of assisting the development of black business~~
 19 ~~enterprises. Such investments shall be made under conditions~~
 20 ~~required by law and as the board may, from time to time,~~
 21 ~~require and may take any of the following forms:~~

22 (a) Purchases of stock, preferred or common, voting or
 23 nonvoting, ~~as determined by the board; however, no more than~~
 24 40 percent of the funds may be used for direct investments in
 25 black business enterprises;

26 (b) Loans or loan guarantees, with or without
 27 recourse, in either a subordinated or priority position, ~~as~~
 28 ~~determined by the board; provided, however, that no more than~~
 29 ~~20 percent of the capital base may be used for direct loans to~~
 30 ~~black business enterprises; or~~

31 (c) Technical support to black business enterprises,

Bill No. SB 2860

Barcode 114808

1 not to exceed 7 percent of the funds received, and direct
 2 administrative costs, not to exceed 10 percent of the funds
 3 received ~~Any other investment authorized by the board based on~~
 4 ~~the expertise of its members.~~

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

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

18 Section 15. Section 288.712, Florida Statutes, is
 19 amended to read:

20 (Substantial rewording of section. See
 21 s. 288.712, F.S., for present text.)

22 288.712 Guarantor funds.--

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

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

30 (3) For purposes of this section, the board may use
 31 the Black Contractors Bond Trust Fund, consisting of moneys

Bill No. SB 2860

Barcode 114808

1 deposited or credited to the Black Contractors Bond Trust Fund
 2 pursuant to any appropriation made by law; any grants, gifts,
 3 and contributions received pursuant to ss. 288.707-288.714;
 4 all moneys recovered following defaults; all premiums charged
 5 and collected in accordance with this section and any interest
 6 income earned therein; and any other moneys obtained by the
 7 board for this purpose. The fund shall be administered by the
 8 board in trust for the purposes of this section and shall at
 9 no time be part of general public funds under the following
 10 procedures:

11 (a) Any claims against the state arising from defaults
 12 shall be payable from the Black Contractors Bond Trust Fund.
 13 Nothing in this section grants or pledges to any obligee or
 14 other person any state moneys other than the moneys in the
 15 Black Contractors Bond Trust Fund.

16 (b) The board may guarantee bonds executed by sureties
 17 for black business enterprises under this section as
 18 principals on contracts with the state, any political
 19 subdivision or instrumentality, or any person as the obligee.
 20 The board, as guarantor, may exercise all the rights and
 21 powers of a company authorized by the Department of Financial
 22 Services to guarantee bonds under chapter 624, but otherwise
 23 is not subject to any laws related to a guaranty company under
 24 chapter 624 or to any rules of the department.

25 (c) The board shall adopt policies and procedures for
 26 the application for bond guarantees and for the review and
 27 approval of applications for bond guarantees submitted by
 28 sureties that execute bonds eligible for guarantees under this
 29 section.

30 (d) In accordance with the policies and procedures
 31 adopted pursuant to this section, the board may guarantee up

Bill No. SB 2860

Barcode 114808

1 to 90 percent of the loss incurred and paid by sureties on
2 bonds guaranteed under this section.

3 (e) The policies and procedures of the board shall
4 require the black business enterprise to pay a premium in
5 advance for the bond to be established by the board. All
6 premiums paid by the black business enterprise shall be paid
7 into the Black Contractors Bond Program Trust Fund.

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

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

16 (4) Nothing in this section shall be construed to
17 prohibit or restrict the board from entering into a joint
18 venture or other contractual agreement with a private insurer
19 or to invest in a private entity to handle all or part of a
20 black contractors bonding program for black business
21 enterprises. The board is authorized and encouraged to
22 contract with a regulated surety company to conduct a surety
23 bond program for black business enterprises. Moneys from the
24 Black Contractors Bond Trust Fund may be used for these
25 purposes. The board may approve one application per fiscal
26 year from each surety company to support one fiscal year of
27 that company's activities under this section. A surety bond
28 company that applies for a bond guarantee under this section,
29 regardless of whether the guarantee is approved, is not
30 restricted from also applying for individual bond guarantees
31 under this section.

Bill No. SB 2860

Barcode 114808

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

3 (a) Conduct outreach, marketing, and recruitment of
4 black contractors.

5 (b) Provide assistance to the Office of Supplier
6 Diversity within the Department of Management Services, as
7 needed, to certify new black business enterprises and to train
8 appropriate department staff.

9 (c) Provide business development services to black
10 business enterprises in the developmental and transitional
11 stages of the program, including financing and bonding
12 assistance and management and technical assistance.

13 (d) Develop a mentor program to bring businesses into
14 a working relationship with black contractors in a way that
15 commercially benefits both entities and serves the purpose of
16 the program.

17 (e) No later than December 31, 2007, prepare and
18 submit to the Governor a detailed report outlining and
19 evaluating the progress made in implementing the black
20 contractors bonding program.

21 (f) Establish a process by which black contractors may
22 apply for contract assistance, financial and bonding
23 assistance, management and technical assistance, and mentoring
24 opportunities.

25 Section 16. Section 288.714, Florida Statutes, is
26 amended to read:

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

29 288.714 Quarterly and annual reports.--

30 (1) Each recipient of state funds under s. 288.7102
31 shall provide to the board a quarterly report within 15 days

Bill No. SB 2860

Barcode 114808

1 after the end of each calendar quarter that includes a
2 detailed summary of the recipient's performance of the duties
3 imposed by ss. 288.707-288.712, including, but not limited to:

4 (a) The dollar amount of all loans or loan guarantees
5 made to black business enterprises, the percentages of the
6 loans guaranteed, and the names and identification of the
7 types of businesses served.

8 (b) Loan performance information.

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

11 (d) The amount and nature of technical assistance
12 provided to black business enterprises, including technical
13 assistance services provided in areas in which such services
14 are otherwise unavailable.

15 (e) A balance sheet for the recipient, including an
16 explanation of all investments and administrative and
17 operational expenses.

18 (f) A summary of all services provided to non-black
19 business enterprises, including the dollar value and nature of
20 such services and the names and identification of the types of
21 businesses served.

22 (g) Any other information as required by policies
23 adopted by the board.

24 (2) The board must compile and provide the office with
25 a summary of all quarterly reports within 30 days after the
26 end of each calendar quarter which includes a detailed summary
27 of the recipient's performance of the duties imposed by s.
28 288.7102.

29 (3) By May 1 of each year, the board shall provide to
30 the Governor, the President of the Senate, and the Speaker of
31 the House of Representatives a detailed report of the

Bill No. SB 2860

Barcode 114808

1 performance of the Black Business Loan Program, including:

2 (a) A cumulative summary of quarterly report data
3 required by subsection (1).

4 (b) A description of the strategies implemented by the
5 board to increase private investment in black business
6 enterprises.

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

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

11 (e) Recommendations for legislative or other changes
12 to enhance the development and expansion of black business
13 enterprises in the state.

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

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

18 288.9015 Enterprise Florida, Inc.; purpose; duties.--

19 (4) Enterprise Florida, Inc., shall incorporate the
20 needs of small and minority businesses into the
21 economic-development, international-trade and
22 reverse-investment, and workforce-development responsibilities
23 assigned to the organization by this section. ~~where~~
24 ~~practicable and consistent with the expertise of the Black~~
25 ~~Business Investment Board, Inc.,~~ Enterprise Florida, Inc.,
26 shall collaborate ~~contract~~ with the Florida Black Business
27 Investment Board, Inc., and the Office of Tourism, Trade, and
28 Economic Development ~~corporation~~ for the delivery of services
29 in fulfillment of the responsibilities of Enterprise Florida,
30 Inc., relating to small and minority businesses.

31 Section 18. The Office of Program Policy Analysis and

Bill No. SB 2860

Barcode 114808

1 Government Accountability shall prepare a status report on the
2 initial implementation of the Florida Black Business
3 Investment Act by the Office of Tourism, Trade, and Economic
4 Development, the Florida Black Business Investment Board, and
5 the recipients of funds disbursed pursuant to s. 288.7102,
6 Florida Statutes, and shall provide the report to the
7 Governor, the President of the Senate, and the Speaker of the
8 House of Representatives by December 1, 2008. The office shall
9 a conduct a program review of the Office of Tourism, Trade,
10 and Economic Development's performance in meeting the goals of
11 the Florida Black Business Investment Act and shall provide a
12 report to the Governor, the President of the Senate, and the
13 Speaker of the House of Representatives by December 1, 2009.

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

16 288.90151 Return on investment from activities of
17 Enterprise Florida, Inc.--

18 (6) Enterprise Florida, Inc., shall fully comply with
19 the performance measures, standards, and sanctions in its
20 contracts with the Office of Tourism, Trade, and Economic
21 Development under s. 14.2015(2)(i)~~(h)~~ and (7). The Office of
22 Tourism, Trade, and Economic Development shall ensure, to the
23 maximum extent possible, that the contract performance
24 measures are consistent with performance measures that the
25 office is required to develop and track under
26 performance-based program budgeting.

27 Section 20. Sections 288.7092, 288.7095, 288.71,
28 288.7101, and 288.713, Florida Statutes, are repealed.

29 Section 21. The Legislature finds that the public
30 interest of the state has been served with respect to the use
31 of any state funds received by the Florida Black Business

Bill No. SB 2860

Barcode 114808

1 Investment Board, Inc., and any black business investment
2 corporation prior to and through the 2005-2006 fiscal year.

3 Section 22. The sum of \$8.5 million is appropriated
4 from the General Revenue Fund to the Office of Tourism, Trade,
5 and Economic Development for the 2007-2008 fiscal year for
6 purposes of implementing and administering the Black Business
7 Loan Program, and 3 full-time equivalent positions and
8 \$500,000 for operation are authorized.

9 Section 23. This act shall take effect July 1, 2007.

10

11

12 ===== T I T L E A M E N D M E N T =====

13 And the title is amended as follows:

14 Delete everything before the enacting clause

15

16 and insert:

17

A bill to be entitled

18

An act relating to black business investment;

19

amending s. 14.2015, F.S.; requiring the Office

20

of Tourism, Trade, and Economic Development to

21

administer the Black Business Loan Program;

22

providing purposes; amending s. 288.702, F.S.;

23

revising a short title; amending s. 288.703,

24

F.S.; revising the definition of "minority

25

person"; amending s. 288.706, F.S.; deleting

26

references to the Florida Black Business

27

Investment Board, Inc., and black business

28

investment corporations from a list of certain

29

financial institutions maintained by the

30

Department of Management Services; requiring

31

the Department of Management Services to

Bill No. SB 2860

Barcode 114808

1 collaborate with the Florida Black Business
2 Investment Board, Inc., and the Office of
3 Tourism, Trade, and Economic Development for
4 certain purposes; creating s. 288.7065, F.S.;
5 providing a short title; amending s. 288.707,
6 F.S.; revising provisions creating the Florida
7 Black Business Investment Board, Inc.; revising
8 legislative findings; creating the board;
9 requiring the board to contract with the Office
10 of Tourism, Trade, and Economic Development for
11 certain purposes; specifying application of
12 public records and public meetings
13 requirements; providing for appointment of a
14 board of directors; specifying terms of office
15 and experience requirements of board members;
16 providing for filling of board vacancies;
17 requiring the Governor to appoint a chair;
18 providing for meetings; requiring members to
19 serve without compensation; providing for
20 reimbursement of expenses; requiring members to
21 file a statement of financial interests;
22 amending s. 288.708, F.S.; providing for
23 appointment and duties of the president of the
24 board; deleting a provision specifying prudent
25 use of certain funds and requiring use of funds
26 according to applicable laws, bylaws, or
27 contracts; applying certain salary limitation
28 provisions to employees of the board; requiring
29 the Department of Management Services to
30 establish a lease-agreement program for board
31 employees; amending s. 288.709, F.S.; revising

Bill No. SB 2860

Barcode 114808

1 the powers of the board; amending s. 288.7091,
2 F.S.; revising the duties of the board;
3 creating s. 288.7094, F.S.; providing a
4 definition; specifying eligibility of certain
5 black business investment corporations to
6 participate in the Black Business Loan Program;
7 requiring the Office of Tourism, Trade, and
8 Economic Development to give priority
9 consideration to such corporations for
10 participation in the program; creating s.
11 288.7102, F.S.; establishing the Black Business
12 Loan Program in the Office of Tourism, Trade,
13 and Economic Development; requiring the office
14 to disburse funds appropriated by the
15 Legislature, through eligible recipients, to
16 certain black business enterprises; providing
17 duties and responsibilities of the office and
18 the board in administering the program;
19 establishing a competitive application and
20 annual certification process for eligible
21 recipients for funds to provide loans, loan
22 guarantees, and investments to black business
23 enterprises; requiring an allocation policy for
24 equitable distribution throughout the state;
25 providing eligibility requirements for
26 recipients to receive funds and to provide
27 loans, loan guarantees, or investments;
28 requiring annual certification of eligibility;
29 providing for award agreements and for the
30 reimbursement of certain funds under certain
31 circumstances; requiring the office to consult

Bill No. SB 2860

Barcode 114808

1 with the board; requiring the office to adopt
2 rules; requiring the board to adopt policies
3 and procedures; creating s. 288.71025, F.S.;
4 providing a prohibited act; providing for
5 filing of a civil complaint and imposition of a
6 fine; providing for use of funds received from
7 such fine; creating s. 288.7103, F.S.;
8 providing black business enterprise eligibility
9 requirements for receiving loans, loan
10 guarantees, or investments; amending s.
11 288.711, F.S.; providing that the Office of
12 Tourism, Trade, and Economic Development will
13 administer the trust fund for purposes of
14 implementing and administering the Black
15 Business Loan Program; deleting provisions
16 relating to authorizations for the board to
17 make investments from the fund for certain
18 purposes; revising purposes for which a black
19 business investment corporation is authorized
20 to use funds received from the fund; amending
21 s. 288.712, F.S.; revising provisions relating
22 to guarantor funds to assist qualified black
23 business enterprises obtain surety bonds and
24 other credit instruments; authorizing the board
25 to contract with regulated surety companies;
26 revising uses of the Black Contractors Bond
27 Trust Fund; eliminating the Black Business Loan
28 Guaranty Trust Fund; revising board exceptions
29 to laws and rules related to a guaranty
30 company; requiring board adoption of policies
31 and procedures relating to board guarantee of

Bill No. SB 2860

Barcode 114808

1 loss and to required payment of premiums;
2 authorizing contracting with private entity to
3 administer black contractors bonding program;
4 delineating board use of a surety bond company;
5 delineating board requirements for encouraging
6 program participation; amending s. 288.714,
7 F.S.; requiring recipients to provide quarterly
8 and annual reports; specifying report
9 requirements; requiring the board to submit an
10 annual program report to the Governor and
11 Legislature; specifying report requirements;
12 requiring certain black business investment
13 corporations to submit quarterly reports to the
14 board on uses of certain state funds;
15 specifying report requirements; amending s.
16 288.9015, F.S.; requiring Enterprise Florida,
17 Inc., to collaborate with the Florida Black
18 Business Investment Board, Inc., and the Office
19 of Tourism, Trade, and Economic Development for
20 certain purposes; requiring the Office of
21 Program Policy Analysis and Government
22 Accountability to submit a status report to the
23 Governor and Legislature on the Office of
24 Tourism, Trade, and Economic Development's
25 implementation of the Florida Black Business
26 Investment Act; requiring the Office of Program
27 Policy Analysis and Government Accountability
28 to conduct a program review of the performance
29 of the Office of Tourism, Trade, and Economic
30 Development, the Florida Black Business
31 Investment Board, and the program fund

Bill No. SB 2860

Barcode 114808

1 recipients in meeting goals of the Florida
2 Black Business Investment Act and to submit a
3 program review report to the Governor and
4 Legislature; amending s. 288.90151, F.S.;
5 correcting a cross reference; repealing s.
6 288.7092, F.S., relating to return on
7 investment from activities of the corporation;
8 repealing s. 288.7095, F.S., relating to duties
9 of black business investment corporations;
10 repealing s. 288.71, F.S., relating to
11 conditions for board action; repealing s.
12 288.7101, F.S., relating to the state employee
13 leasing program of the Department of Management
14 Services for employees of the Florida Black
15 Business Investment Board, Inc.; repealing s.
16 288.713, F.S., relating to capital
17 participation instruments; providing a
18 legislative finding regarding the use of state
19 funds received by the board through the
20 2005-2006 fiscal year; providing an
21 appropriation and authorizing certain
22 positions; providing an effective date.

23
24
25
26
27
28
29
30
31