

Bill No. CS for SB 2860

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CHAMBER ACTION

Senate

House

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The Committee on Governmental Operations (Lawson) 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

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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

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1 ~~Program, which may include the Florida Black Business~~
 2 ~~Investment Board, Inc., and black business investment~~
 3 ~~corporations.~~ This list of financial institutions ~~is~~ shall not
 4 ~~be~~ 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

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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

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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

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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 are entitled to reimbursement for all
 9 reasonable, necessary, and actual expenses as determined and
 10 approved by the board pursuant to s. 112.061.

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;

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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

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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,

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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.

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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

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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:

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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 s. 288.7102.

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

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

12 288.7102 Black Business Loan Program.--The Black
13 Business Loan Program is established in the Office of Tourism,
14 Trade, and Economic Development. Under the program, the office
15 shall annually certify eligible recipients and subsequently
16 disburse funds appropriated by the Legislature, through such
17 eligible recipients, to black business enterprises that cannot
18 obtain capital through conventional lending institutions but
19 that could otherwise compete successfully in the private
20 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, loan
24 guarantees, 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

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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 certification of each eligible recipient, who must meet the

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

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

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

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

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

27 (a) Purchases of stock, preferred or common, voting or
 28 nonvoting; however, no more than 40 percent of the funds may
 29 be used for direct investments in black business enterprises;

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

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1 (c) Technical support to black business enterprises,
2 not to exceed 7 percent of the funds received, and direct
3 administrative costs, not to exceed 10 percent of the funds
4 received.

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

9 (9) 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 subsection does not preclude
13 a 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 12. Section 288.71025, Florida Statutes, is
19 created to read:

20 288.71025 Prohibited acts; penalties.--

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

25 (2) In addition to any other penalties or remedies
26 provided under law, the board may bring a civil action in any
27 court of competent jurisdiction against any person for a
28 knowing or willful violation of this section. Upon an adverse
29 adjudication, the court may impose a civil penalty of up to
30 \$500 and payment of court costs and reasonable attorney's fees
31 incurred by the plaintiff.

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1 Section 13. Section 288.7103, Florida Statutes, is
2 created to read:

3 288.7103 Eligibility for loan, loan guarantee, or
4 investment.--A black business enterprise is not eligible to
5 receive a loan, loan guarantee, or investment from funds
6 disbursed pursuant to s. 288.7102 unless the black business
7 enterprise demonstrates that:

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

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

19 Section 14. Section 288.712, Florida Statutes, is
20 amended to read:

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

23 288.712 Guarantor funds.--

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

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

31 (3) For purposes of this section, the board may

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

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

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

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

31 (d) In accordance with the policies and procedures

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1 adopted pursuant to this section, the board may guarantee up
2 to 90 percent of the loss incurred and paid by sureties on
3 bonds guaranteed under this section.

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

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

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

17 (4) This section does not prohibit or restrict the
18 board from entering into a joint venture or other contractual
19 agreement with a private insurer or from investing in a
20 private entity to handle all or part of a black contractors
21 bonding program for black business enterprises. The board is
22 authorized and encouraged to contract with a regulated surety
23 company to conduct a surety bond program for black business
24 enterprises. Moneys from the Black Contractors Bond Trust Fund
25 may be used for these purposes. The board may approve one
26 application per fiscal year from each surety company to
27 support one fiscal year of that company's activities under
28 this section. A surety bond company that applies for a bond
29 guarantee under this section, regardless of whether the
30 guarantee is approved, is not restricted from also applying
31 for individual bond guarantees under this section.

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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) By December 31, 2007, prepare and submit to the
18 Governor a detailed report outlining and evaluating the
19 progress made in implementing the black contractors bonding
20 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 15. 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

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1 after the end of each calendar quarter which includes a
2 detailed summary of the recipient's performance of the duties
3 imposed by s. 288.7102, 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 required by policies adopted
23 by the board.

24 (2) The board must compile and provide to the office a
25 summary of all quarterly reports within 30 days after the end
26 of each calendar quarter which includes a detailed summary of
27 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

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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 16. 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 17. The Office of Program Policy Analysis and

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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,
5 Inc., and the recipients of funds disbursed pursuant to s.
6 288.7102, Florida Statutes, and shall provide the report to
7 the Governor, the President of the Senate, and the Speaker of
8 the House of Representatives by December 1, 2008. The office
9 shall conduct a program review of the performance of the
10 Office of Tourism, Trade, and Economic Development, the
11 Florida Black Business Investment Board, Inc., and the
12 recipients of funds disbursed pursuant to s. 288.7102, Florida
13 Statutes, in meeting the goals of the Florida Black Business
14 Investment Act and shall provide a report to the Governor, the
15 President of the Senate, and the Speaker of the House of
16 Representatives by December 1, 2009.

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

19 17.11 To report disbursements made.--

20 (2) The Chief Financial Officer shall also cause to
21 have reported from the Florida Accounting Information Resource
22 Subsystem no less than quarterly the disbursements which
23 agencies made to small businesses, as defined in the Florida
24 Small and Minority Business Assistance Act ~~of 1985~~; to
25 certified minority business enterprises in the aggregate; and
26 to certified minority business enterprises broken down into
27 categories of minority persons, as well as gender and
28 nationality subgroups. This information shall be made
29 available to the agencies, the Office of Supplier Diversity,
30 the Governor, the President of the Senate, and the Speaker of
31 the House of Representatives. Each agency shall be responsible

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1 for the accuracy of information entered into the Florida
2 Accounting Information Resource Subsystem for use in this
3 reporting.

4 Section 19. Paragraph (d) of subsection (3) of section
5 287.055, Florida Statutes, is amended to read:

6 287.055 Acquisition of professional architectural,
7 engineering, landscape architectural, or surveying and mapping
8 services; definitions; procedures; contingent fees prohibited;
9 penalties.--

10 (3) PUBLIC ANNOUNCEMENT AND QUALIFICATION
11 PROCEDURES.--

12 (d) Each agency shall evaluate professional services,
13 including capabilities, adequacy of personnel, past record,
14 experience, whether the firm is a certified minority business
15 enterprise as defined by the Florida Small and Minority
16 Business Assistance Act ~~of 1985~~, and other factors determined
17 by the agency to be applicable to its particular requirements.
18 When securing professional services, an agency must endeavor
19 to meet the minority business enterprise procurement goals
20 under s. 287.09451.

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

23 288.90151 Return on investment from activities of
24 Enterprise Florida, Inc.--

25 (6) Enterprise Florida, Inc., shall fully comply with
26 the performance measures, standards, and sanctions in its
27 contracts with the Office of Tourism, Trade, and Economic
28 Development under s. 14.2015(2)(~~i~~)(~~h~~) and (7). The Office of
29 Tourism, Trade, and Economic Development shall ensure, to the
30 maximum extent possible, that the contract performance
31 measures are consistent with performance measures that the

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1 office is required to develop and track under
2 performance-based program budgeting.

3 Section 21. Section 625.3255, Florida Statutes, is
4 amended to read:

5 625.3255 Capital participation instrument.--An insurer
6 may invest in any capital participation instrument or evidence
7 of indebtedness issued by the Florida Black Business
8 Investment Board pursuant to the Florida Small and Minority
9 Business Assistance Act ~~of 1985~~.

10 Section 22. Paragraph (b) of subsection (4) of section
11 657.042, Florida Statutes, is amended to read:

12 657.042 Investment powers and limitations.--A credit
13 union may invest its funds subject to the following
14 definitions, restrictions, and limitations:

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

18 (b) Any capital participation instrument or evidence
19 of indebtedness issued by the Florida Black Business
20 Investment Board pursuant to the Florida Small and Minority
21 Business Assistance Act ~~of 1985~~.

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

24 658.67 Investment powers and limitations.--A bank may
25 invest its funds, and a trust company may invest its corporate
26 funds, subject to the following definitions, restrictions, and
27 limitations:

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

30 (g) Up to 10 percent of the capital accounts of a bank
31 or trust company may be invested in any capital participation

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1 instrument or evidence of indebtedness issued by the Florida
2 Black Business Investment Board pursuant to the Florida Small
3 and Minority Business Assistance Act ~~of 1985~~.

4 Section 24. Sections 288.7092, 288.7095, 288.71,
5 288.7101, 288.711, and 288.713, Florida Statutes, are
6 repealed.

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

12 Section 26. The nonrecurring sum of \$3 million from
13 the General Revenue Fund is appropriated to the Office of
14 Tourism, Trade, and Economic Development for the 2007-2008
15 fiscal year for the purpose of implementing and administering
16 the Black Business Loan Program. Of these funds, \$300,000
17 shall be provided to the Florida Black Business Investment
18 Board, Inc., for operations and administration of the board,
19 and \$25,000 may be used by the Office of Tourism, Trade, and
20 Economic Development for startup costs associated with
21 administering the provisions of this act.

22 Section 27. This act shall take effect July 1, 2007.

23
24

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

26 And the title is amended as follows:

27 Delete everything before the enacting clause

28
29 and insert:

30 A bill to be entitled

31 An act relating to black business investment;

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1 amending s. 14.2015, F.S.; requiring the Office
2 of Tourism, Trade, and Economic Development to
3 administer the Black Business Loan Program;
4 providing purposes; amending s. 288.702, F.S.;
5 revising a short title; amending s. 288.703,
6 F.S.; revising the definition of "minority
7 person"; amending s. 288.706, F.S.; deleting
8 references to the Florida Black Business
9 Investment Board, Inc., and black business
10 investment corporations from a list of certain
11 financial institutions maintained by the
12 Department of Management Services; requiring
13 the Department of Management Services to
14 collaborate with the Florida Black Business
15 Investment Board, Inc., and the Office of
16 Tourism, Trade, and Economic Development for
17 certain purposes; creating s. 288.7065, F.S.;
18 providing a short title; amending s. 288.707,
19 F.S.; revising provisions creating the Florida
20 Black Business Investment Board, Inc.; revising
21 legislative findings; creating the board;
22 requiring the board to contract with the Office
23 of Tourism, Trade, and Economic Development for
24 certain purposes; specifying application of
25 public records and public meetings
26 requirements; providing for appointment of a
27 board of directors; specifying terms of office
28 and experience requirements of board members;
29 providing for filling of board vacancies;
30 requiring the Governor to appoint a chair;
31 providing for meetings; requiring members to

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1 serve without compensation; providing for
2 reimbursement of expenses; requiring members to
3 file a statement of financial interests;
4 amending s. 288.708, F.S.; providing for
5 appointment and duties of the president of the
6 board; deleting a provision specifying prudent
7 use of certain funds and requiring use of funds
8 according to applicable laws, bylaws, or
9 contracts; applying certain salary limitation
10 provisions to employees of the board; requiring
11 the Department of Management Services to
12 establish a lease-agreement program for board
13 employees; amending s. 288.709, F.S.; revising
14 the powers of the board; amending s. 288.7091,
15 F.S.; revising the duties of the board;
16 creating s. 288.7094, F.S.; providing a
17 definition; specifying eligibility of certain
18 black business investment corporations to
19 participate in the Black Business Loan Program;
20 requiring the Office of Tourism, Trade, and
21 Economic Development to give priority
22 consideration to such corporations for
23 participation in the program; creating s.
24 288.7102, F.S.; establishing the Black Business
25 Loan Program in the Office of Tourism, Trade,
26 and Economic Development; requiring the office
27 to disburse funds appropriated by the
28 Legislature, through certified eligible
29 recipients, to certain black business
30 enterprises; providing duties and
31 responsibilities of the office and the board in

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1 administering the program; establishing a
2 competitive application and annual
3 certification process for eligible recipients
4 for funds to provide loans, loan guarantees,
5 and investments to black business enterprises;
6 requiring an allocation policy for equitable
7 distribution throughout the state; providing
8 eligibility requirements for recipients to
9 receive funds and to provide loans, loan
10 guarantees, or investments; requiring annual
11 certification of eligibility; providing for
12 award agreements and reimbursement of funds
13 under certain circumstances; requiring the
14 office to adopt rules; requiring the board to
15 adopt policies and procedures; providing
16 restrictions for the use of funds by black
17 business investment corporations; providing
18 legislative intent if an investment mechanism
19 is held invalid; providing for reasonable
20 profit for a black business investment
21 corporation; creating s. 288.71025, F.S.;
22 providing a prohibited act; providing for
23 filing of a civil complaint, imposition of a
24 fine, and the payment of court costs and
25 reasonable attorney's fees; creating s.
26 288.7103, F.S.; providing black business
27 enterprise eligibility requirements for
28 receiving loans, loan guarantees, or
29 investments; amending s. 288.712, F.S.;
30 revising provisions relating to guarantor funds
31 to assist qualified black business enterprises

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1 in obtaining surety bonds and other credit
2 instruments; authorizing the board to contract
3 with regulated surety companies; revising uses
4 of the Black Contractors Bond Trust Fund;
5 eliminating the Black Business Loan Guaranty
6 Trust Fund and the Black Contractors Bond
7 Program Administrative and Loss Reserve Fund;
8 revising board exceptions to laws and rules
9 related to a guaranty company; requiring board
10 adoption of policies and procedures relating to
11 board guarantee of loss and to required payment
12 of premiums; authorizing contracting with a
13 private entity to administer a black
14 contractors bonding program; delineating board
15 use of a surety bond company; delineating board
16 requirements for implementing the black
17 contractors bonding program; amending s.
18 288.714, F.S.; requiring recipients to provide
19 quarterly and annual reports; specifying report
20 requirements; requiring the board to provide a
21 summary of such reports to the office;
22 requiring the board to submit an annual program
23 report to the Governor and Legislature;
24 specifying report requirements; amending s.
25 288.9015, F.S.; requiring Enterprise Florida,
26 Inc., to collaborate with the Florida Black
27 Business Investment Board, Inc., and the Office
28 of Tourism, Trade, and Economic Development for
29 certain purposes; requiring the Office of
30 Program Policy Analysis and Government
31 Accountability to submit a status report to the

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1 Governor and the Legislature on the
2 implementation of the Florida Black Business
3 Investment Act by the Office of Tourism, Trade,
4 and Economic Development, the Florida Black
5 Business Investment Board, Inc., and program
6 fund recipients; requiring the Office of
7 Program Policy Analysis and Government
8 Accountability to conduct a program review of
9 the performance of the Office of Tourism,
10 Trade, and Economic Development, the Florida
11 Black Business Investment Board, Inc., and
12 program fund recipients in meeting goals of the
13 Florida Black Business Investment Act and to
14 submit a program review report to the Governor
15 and the Legislature; amending ss. 17.11,
16 287.055, 288.90151, 625.3255, 657.042, and
17 658.67, F.S.; conforming references to changes
18 made by the act; repealing s. 288.7092, F.S.,
19 relating to return on investment from
20 activities of the corporation; repealing s.
21 288.7095, F.S., relating to duties of black
22 business investment corporations; repealing s.
23 288.71, F.S., relating to conditions for board
24 action; repealing s. 288.7101, F.S., relating
25 to the state employee leasing program of the
26 Department of Management Services for employees
27 of the Florida Black Business Investment Board,
28 Inc.; repealing s. 288.711, F.S., relating to
29 the Florida Investment Incentive Trust Fund;
30 repealing s. 288.713, F.S., relating to capital
31 participation instruments; providing a

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1 legislative finding regarding use of state
2 funds received by the board through fiscal year
3 2005-2006; providing an appropriation;
4 providing an effective date.
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