

By Senator Joyner

18-1684-07

See HB 1283

1 A bill to be entitled

2 An act relating to black business investment;

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

4 of Tourism, Trade, and Economic Development to

5 administer the Black Business Loan Program;

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

7 revising a short title; amending s. 288.703,

8 F.S.; revising the definition of "minority

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

10 references to the Florida Black Business

11 Investment Board, Inc., and black business

12 investment corporations from a list of certain

13 financial institutions maintained by the

14 Department of Management Services; requiring

15 the Department of Management Services to

16 collaborate with the Florida Black Business

17 Investment Board, Inc., and the Office of

18 Tourism, Trade, and Economic Development for

19 certain purposes; creating s. 288.7065, F.S.;

20 providing a short title; amending s. 288.707,

21 F.S.; revising provisions creating the Florida

22 Black Business Investment Board, Inc.; revising

23 legislative findings; creating the board;

24 requiring the board to contract with the Office

25 of Tourism, Trade, and Economic Development for

26 certain purposes; specifying application of

27 public records and public meetings

28 requirements; providing for appointment of a

29 board of directors; specifying terms of office

30 and experience requirements of board members;

31 providing for filling of board vacancies;

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

1 legislative finding regarding use of state
2 funds received by the board through fiscal year
3 2005-2006; providing duties and
4 responsibilities of the office and the board in
5 administering the program; establishing a
6 competitive application and annual
7 certification process for eligible recipients
8 for funds to provide loans, loan guarantees,
9 and investments to black business enterprises;
10 requiring an allocation policy for equitable
11 distribution throughout the state; providing
12 eligibility requirements for recipients to
13 receive funds and to provide loans, loan
14 guarantees, or investments; requiring annual
15 certification of eligibility; requiring the
16 office to consult with the board; requiring the
17 office to adopt rules; requiring the board to
18 adopt policies and procedures; creating s.
19 288.71025, F.S.; providing a prohibited act;
20 providing for filing of a civil complaint and
21 imposition of a fine; providing for use of
22 funds received from such fine; creating s.
23 288.7103, F.S.; providing black business
24 enterprise eligibility requirements for
25 receiving loans, loan guarantees, or
26 investments; amending s. 288.711, F.S.;

27 renaming the Florida Investment Incentive Trust
28 Fund as the Florida Black Business Loan Program
29 Trust Fund; placing the fund in the Office of
30 Tourism, Trade, and Economic Development for
31 purposes of implementing and administering the

1 Black Business Loan Program; deleting
2 provisions relating to authorizations for the
3 board to make investments from the fund for
4 certain purposes; revising purposes for which a
5 black business investment corporation is
6 authorized to use funds received from the fund;
7 amending s. 288.712, F.S.; revising provisions
8 relating to guarantor funds to assist qualified
9 black business enterprises obtain surety bonds
10 and other credit instruments; authorizing board
11 to contract with regulated surety companies;
12 revising uses of the Black Contractors Bond
13 Trust Fund and the Black Contractors Bond
14 Program Administrative and Loss Reserve Fund;
15 eliminating the Black Business Loan Guaranty
16 Trust Fund; revising board exceptions to laws
17 and rules related to a guaranty company;
18 requiring board adoption of policies and
19 procedures relating to board guarantee of loss
20 and to required payment of premiums;
21 authorizing contracting with private entity to
22 administer black contractors bonding program;
23 delineating board use of a surety bond company;
24 delineating board requirements for encouraging
25 program participation; amending s. 288.714,
26 F.S.; requiring recipients to provide quarterly
27 and annual reports; specifying report
28 requirements; requiring the board to submit an
29 annual program report to the Governor and
30 Legislature; specifying report requirements;
31 requiring certain black business investment

1 corporations to submit quarterly reports to the
2 board on uses of certain state funds;
3 specifying report requirements; amending s.
4 288.9015, F.S.; requiring Enterprise Florida,
5 Inc., to collaborate with the Florida Black
6 Business Investment Board, Inc., and the Office
7 of Tourism, Trade, and Economic Development for
8 certain purposes; requiring the Office of
9 Program Policy Analysis and Government
10 Accountability to submit a status report to the
11 Governor and Legislature on the Office of
12 Tourism, Trade, and Economic Development's
13 implementation of the Florida Black Business
14 Investment Act; requiring the Office of Program
15 Policy Analysis and Government Accountability
16 to conduct a program review of the Office of
17 Tourism, Trade, and Economic Development's
18 performance in meeting goals of the Florida
19 Black Business Investment Act and to submit a
20 program review report to the Governor and
21 Legislature; amending s. 288.90151, F.S.;
22 correcting a cross reference; repealing s.
23 288.7092, F.S., relating to return on
24 investment from activities of the corporation;
25 repealing s. 288.7095, F.S., relating to duties
26 of black business investment corporations;
27 repealing s. 288.71, F.S., relating to
28 conditions for board action; repealing s.
29 288.7101, F.S., relating to the state employee
30 leasing program of the Department of Management
31 Services for employees of the Florida Black

1 Business Investment Board, Inc.; repealing s.
2 288.713, F.S., relating to capital
3 participation instruments; providing an
4 appropriation and authorizing certain
5 positions; providing an effective date.
6

7 Be It Enacted by the Legislature of the State of Florida:
8

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

14 14.2015 Office of Tourism, Trade, and Economic
15 Development; creation; powers and duties.--

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

24 (g) Administer the Black Business Loan Program, the
25 purpose of which is to leverage state, local, and private
26 funds to provide loans and loan guarantees to black business
27 enterprises that cannot obtain capital through conventional
28 lending institutions but that otherwise could compete
29 successfully in the private sector.

30 Section 2. Section 288.702, Florida Statutes, is
31 amended to read:

1 288.702 Short title.--This section and sections
2 288.703-288.706 ~~This act shall be known and~~ may be cited as
3 the "Florida Small and Minority Business Assistance Act ~~of~~
4 ~~1985.~~"

5 Section 3. Paragraph (a) of subsection (3) of section
6 288.703, Florida Statutes, is amended to read:

7 288.703 Definitions.--As used in this act, the
8 following words and terms shall have the following meanings
9 unless the content shall indicate another meaning or intent:

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

12 (a) An African American, a person having origins in
13 any of the black racial groups of the African Diaspora,
14 regardless of cultural origin.

15 Section 4. Subsection (11) of section 288.706, Florida
16 Statutes, is amended, and subsection (12) is added to that
17 section, to read:

18 288.706 Florida Minority Business Loan Mobilization
19 Program.--

20 (11) The Department of Management Services shall
21 maintain a listing of financial institutions willing to
22 participate in the Florida Minority Business Loan Mobilization
23 Program, ~~which may include the Florida Black Business~~
24 ~~Investment Board, Inc., and black business investment~~
25 ~~corporations.~~ This list of financial institutions shall not be
26 exclusive. A minority business enterprise vendor who has a
27 working relationship with a financial institution is
28 encouraged to request that the financial institution apply to
29 participate as a financial institution for the program.

30 (12) The Department of Management Services shall
31 collaborate with the Florida Black Business Investment Board,

1 Inc., and the Office of Tourism, Trade, and Economic
2 Development to assist in the development and enhancement of
3 black business enterprises.

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

6 288.7065 Short title.--This section and sections
7 288.707-288.714 may be cited as the "Florida Black Business
8 Investment Act."

9 Section 6. Section 288.707, Florida Statutes, is
10 amended to read:

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

13 288.707 Florida Black Business Investment Board, Inc.;
14 findings; creation; membership; organization; meetings;
15 disclosure.--

16 (1) The Legislature finds that the public interest of
17 the state will be served by the creation of a not-for-profit
18 public-private entity the primary mission of which shall be to
19 assist in the development and expansion of black business
20 enterprises by:

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

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

27 (c) Creating partnerships between state and local
28 governments and private enterprises to aid in the development
29 and expansion of black business enterprises.

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1 (d) Providing a network of information resources for
2 black business enterprises and providing technical assistance
3 through this network.

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

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

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

23 (a) Five members appointed by the Governor who shall
24 serve terms of 4 years each, except that in making initial
25 appointments, the Governor shall appoint three members to
26 serve for terms of 2 years each and two members to serve for
27 terms of 3 years each.

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

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

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

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

5 (f) Four presidents of participating black business
6 investment corporations who shall be appointed by the
7 Executive Director of the Office of Tourism, Trade, and
8 Economic Development upon the recommendation of the Florida
9 Consortium of Black Business Investment Corporations, Inc., to
10 serve for terms of 3 years each. Each shall be eligible for
11 reappointment to one additional term of 3 years.

12 (4) Members of the board must have experience in
13 business, including financial services, banking, or economic
14 development. At least one of the Governor's appointees must
15 have experience in venture capitalism.

16 (5) Any person appointed to fill a vacancy on the
17 board shall be appointed in a like manner and shall serve for
18 only the remainder of the unexpired term. Any member shall be
19 eligible for reappointment.

20 (6) The Governor shall appoint the chairperson, who
21 shall be a member of the board and shall serve at the pleasure
22 of the Governor. The board shall annually elect one of its
23 members as vice chairperson.

24 (7) The board shall meet at least four times annually
25 upon the call of the chair or vice chair or at the request of
26 a majority of the membership. A majority of the total number
27 of current members of the board shall constitute a quorum. The
28 board may take official action by a majority vote of the
29 members present at any meeting at which a quorum is present.

30 (8) Members of the board shall serve without
31 compensation, but members, the president of the board, and

1 other board employees may be reimbursed for all reasonable,
2 necessary, and actual expenses as determined and approved by
3 the board.

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

8 Section 7. Section 288.708, Florida Statutes, is
9 amended to read:

10 288.708 President; employees.--

11 (1) The president of the board corporation, who may
12 also be designated as secretary-treasurer, shall be appointed
13 by the board and shall serve at the pleasure of the board. The
14 board shall establish and adjust the compensation of the
15 president. The president shall be the chief administrative and
16 operational officer of the board corporation and shall direct
17 and supervise administrative affairs and the general
18 management of the board corporation. The board may delegate to
19 its president those powers and responsibilities it deems
20 appropriate, except for appointment of the president. The
21 president:

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

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

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

30 (2) ~~The corporation and its officers and board members~~
31 ~~are responsible for the prudent use of all public and private~~

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

18 Section 8. Section 288.709, Florida Statutes, is
19 amended to read:

20 288.709 Powers of the Florida Black Business
21 Investment Board, Inc.--The board shall have all the powers
22 granted under chapter 617 and any powers necessary or
23 convenient to carry out and effectuate the purposes and
24 provisions of ss. 288.707-288.714, including, but not limited
25 to, the power to:

26 (1) Adopt bylaws for the regulation of its affairs and
27 the conduct of its business and adopt policies to implement
28 the provisions of law conferring duties upon it. ~~The Such~~
29 bylaws shall provide that the board corporation is subject to
30 the requirements of s. 24, Art. I of the State Constitution
31 and chapter 119 and s. 286.011.

1 ~~(2) Adopt an official seal.~~
2 ~~(3) Sue and be sued in its own name.~~
3 ~~(4) Make and execute contracts and other instruments~~
4 ~~necessary or convenient for the exercise of its power and~~
5 ~~functions.~~
6 ~~(5) Acquire, hold, and dispose of personal property~~
7 ~~for its corporate purposes.~~
8 (2)(6) Enter into agreements or other transactions
9 with any federal, state, or local agency or private entity.
10 ~~(7) Encourage financial institutions to participate in~~
11 ~~consortia for the purpose of investing in black business~~
12 ~~enterprises.~~
13 ~~(8) Ensure that funds available to the board for~~
14 ~~purposes set forth in ss. 288.707-288.714 are disbursed on a~~
15 ~~statewide basis and are not concentrated in one geographical~~
16 ~~area.~~
17 (3)(9) Invest any funds held in reserves or sinking
18 funds, or any funds not required for immediate disbursement,
19 in such investments as may be authorized for trust funds under
20 s. 215.47; however, such investments will be made on behalf of
21 the board by the Chief Financial Officer or by another trustee
22 appointed for that purpose.
23 (4)(10) Appear in its own behalf before boards,
24 commissions, departments, or other agencies of municipal,
25 county, state, or Federal Government.
26 ~~(11) Procure insurance or require bond against any~~
27 ~~loss in connection with its property in such amounts and from~~
28 ~~such insurers as may be necessary or desirable.~~
29 (5)(12) Apply for, accept, and disburse from any state
30 or nonstate source ~~Receive and accept from any federal, state,~~
31 ~~or local agency~~ grants, loans, or advances for, or in aid of,

1 | the purposes of ss. 288.707-288.714~~7~~ and ~~to~~ receive and accept
2 | contributions from any source of either money, property,
3 | labor, or other things of value~~7~~, to be held, used, and applied
4 | for said purposes.

5 | ~~(13) Create, issue, and buy and sell stock, evidences~~
6 | ~~of indebtedness, and other capital participation instruments;~~
7 | ~~to hold such stock, evidences of indebtedness, and capital~~
8 | ~~participation instruments; and to underwrite the creation of a~~
9 | ~~capital market for these securities in a manner designed to~~
10 | ~~enhance development of capital ownership in the target group.~~

11 | ~~(6)(14)~~ Provide and pay for ~~such~~ advisory services and
12 | technical assistance as may be necessary or desirable to carry
13 | out the purposes of this act.

14 | ~~(7)(15)~~ Engage in special programs to enhance the
15 | development of black business enterprises as authorized by
16 | this act.

17 | ~~(16) Promote black ownership of financial institutions~~
18 | ~~in Florida.~~

19 | ~~(17) Take, hold, and improve property, including real~~
20 | ~~property.~~

21 | ~~(18) Do any and all things necessary or convenient to~~
22 | ~~carry out the purposes of, and exercise the powers given and~~
23 | ~~granted in, ss. 288.707-288.714, and exercise any other~~
24 | ~~powers, rights, or responsibilities of a corporation.~~

25 | ~~(8)(19)~~ In addition to any indemnification available
26 | under chapter 617, indemnify, and purchase and maintain
27 | insurance on behalf of, directors, officers, and employees of
28 | the board corporation and its boards against any personal
29 | liability or accountability by reason of actions taken while
30 | acting within the scope of their authority.

31 |

1 ~~(9)(20)~~ Provide in its bylaws that, upon the
2 dissolution of the board corporation, all of its assets
3 acquired through the use of state funds, after payment of all
4 legal debts and liabilities, revert to the this state.

5 Section 9. Section 288.7091, Florida Statutes, is
6 amended to read:

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

9 288.7091 Duties of the Florida Black Business
10 Investment Board, Inc.--The board shall:

11 (1) Serve as an advisory board to the Office of
12 Tourism, Trade, and Economic Development, through contract
13 with the office, to assist the office with the implementation
14 of ss. 288.707-288.714.

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

19 (3) Serve as the clearinghouse for information and
20 sources of technical assistance that will enhance the
21 development and expansion of black business enterprises and
22 facilitate the provision of technical assistance in
23 communities in which such services are otherwise underserved.

24 (4) Aggressively market the Black Business Loan
25 Program and related services to black business enterprises
26 through all appropriate media outlets, including media
27 targeting the African-American community.

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

30 (6) Collaborate with the Department of Transportation,
31 the Department of Management Services, including the Florida

1 Minority Business Loan Mobilization Program, Workforce
2 Florida, Inc., and other state agencies and partners, the
3 State University System, including the Florida Agricultural
4 and Mechanical University's Institute of Urban Policy and
5 Commerce, school boards, and local governments to create a
6 network of information and to identify available resources to
7 enhance the development and expansion of black business
8 enterprises.

9 (7) Develop strategies to increase financial
10 institution investment in black business enterprises.

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

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

24 Section 10. Section 288.7094, Florida Statutes, is
25 created to read:

26 288.7094 Black business investment corporations.--

27 (1) The term "black business investment corporation"
28 means a corporation that provides loans, loan guarantees, or
29 investments to black business enterprises under ss.
30 288.707-288.714.

31

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

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

8 288.7102 Black Business Loan Program.--The Black
9 Business Loan Program is established in the Office of Tourism,
10 Trade, and Economic Development. Under the program, the office
11 shall disburse funds appropriated by the Legislature, through
12 eligible recipients, to black business enterprises that cannot
13 obtain capital through conventional lending institutions but
14 that could otherwise compete successfully in the private
15 sector. In creating this program, the Legislature finds that
16 the public interest of the state has been served with respect
17 to the use of any state funds received by the Florida Black
18 Business Investment Board, Inc., and any black business
19 investment corporation prior to and through fiscal year
20 2005-2006.

21 (1) The board 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 to black business enterprises
25 pursuant to the Florida Black Business Investment Act.

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

1 investment corporations in communities that are not served by
2 such corporations.

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

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

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

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

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

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

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

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

29 (4) The board shall annually certify each eligible
30 recipient, who must meet the provisions of ss.
31 288.707-288.714, the terms of the contract between the

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

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

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

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

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

14 288.71025 Prohibited acts; penalties.--

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

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

24 Section 13. Section 288.7103, Florida Statutes, is
25 created to read:

26 288.7103 Eligibility for loan, loan guarantee, or
27 investment.--A black business enterprise is not eligible to
28 receive a loan, loan guarantee, or investment unless the black
29 business enterprise demonstrates that:

30 (1) The proposed loan, loan guarantee, or investment
31 is economically sound and will assist the black business

1 enterprise in entering the conventional lending market,
2 increasing opportunities for employment, and strengthening the
3 economy of the state.

4 (2) The black business enterprise will be able to
5 compete successfully in the private sector if the black
6 business enterprise obtains the requested financial assistance
7 and has obtained or will obtain appropriate and credible
8 technical or managerial support through an organization
9 approved by the corporation.

10 Section 14. Section 288.711, Florida Statutes, is
11 amended to read:

12 288.711 Florida Black Business Loan Program Investment
13 ~~Incentive~~ Trust Fund.--

14 (1) There is hereby created the Florida Black Business
15 Loan Program Investment Incentive Trust Fund in the Office of
16 Tourism, Trade, and Economic Development for the purpose of
17 providing loans or loan guarantees under the Black Business
18 Loan Program as provided in s. 288.7102 from which money may
19 be drawn for loans, loan guarantees, or investments ~~or loans~~,
20 as authorized by this section, to encourage the development of
21 appropriate financial mechanisms in the private sector to
22 capitalize and assist in the development of black business
23 enterprises. All income earned by investments of the fund
24 shall be ~~deposited in the fund~~ for carrying out the purposes
25 of ss. 288.707-288.714. Administrative costs of the program
26 shall be appropriated in a lump-sum appropriation from the
27 fund ~~created herein~~ and shall be provided in the General
28 Appropriations Act.

29 (2) A black business investment corporation is
30 authorized to use funds received from the Florida Black
31 Business Loan Program Trust Fund in ~~The board is authorized to~~

1 ~~invest from the Florida Investment Incentive Trust Fund in~~
2 ~~black business investment corporations which conduct, or agree~~
3 ~~to conduct, programs of assisting the development of black~~
4 ~~business enterprises. Such investments shall be made under~~
5 ~~conditions required by law and as the board may, from time to~~
6 ~~time, require and may take any of the following forms:~~

7 (a) Purchases of stock, preferred or common, voting or
8 nonvoting, ~~as determined by the board; however, no more than~~
9 40 percent of the funds may be used for direct investments in
10 black business enterprises;

11 (b) Loans or loan guarantees, with or without
12 recourse, in either a subordinated or priority position, ~~as~~
13 ~~determined by the board; provided, however, that no more than~~
14 ~~20 percent of the capital base may be used for direct loans to~~
15 ~~black business enterprises; or~~

16 (c) Technical support to black business enterprises,
17 not to exceed 7 percent of the funds received, and direct
18 administrative costs, not to exceed 10 percent of the funds
19 ~~received Any other investment authorized by the board based on~~
20 ~~the expertise of its members.~~

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

25 (4) All loans, loan guarantees, and investments, and
26 any income related thereto, shall be used to carry out the
27 public purpose of ss. 288.707-288.714, which is to develop
28 black business enterprises. This is not meant to preclude a
29 reasonable profit for the participating black business
30 investment corporation or for return of equity developed to
31 the state and participating financial institutions upon any

1 distribution of the assets or excess income of the investment
2 corporation.

3 Section 15. Section 288.712, Florida Statutes, is
4 amended to read:

5 (Substantial rewording of section. See
6 s. 288.712, F.S., for present text.)
7 288.712 Guarantor funds.--

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

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

15 (3) There is hereby created the Black Contractors Bond
16 Trust Fund. For purposes of this section, the board may
17 utilize the Black Contractors Bond Trust Fund, consisting of
18 moneys deposited or credited to the Black Contractors Bond
19 Trust Fund pursuant to any appropriation made by law; any
20 grants, gifts, and contributions received pursuant to ss.
21 288.707-288.714; all moneys recovered following defaults; and
22 any other moneys obtained by the board for this purpose. The
23 fund shall be administered by the board in trust for the
24 purposes of this section and shall at no time be part of
25 general public funds under the following procedures:

26 (a) Any claims against the state arising from defaults
27 shall be payable from the Black Contractors Bond Program
28 Administrative and Loss Reserve Fund as provided in this
29 section or from the Black Contractors Bond Trust Fund. Nothing
30 in this section grants or pledges to any obligee or other
31 person any state moneys other than the moneys in the Black

1 Contractors Bond Program Administrative and Loss Reserve Fund
2 or the Black Contractors Bond Trust Fund.

3 (b) There is hereby created the Black Contractors Bond
4 Program Administrative and Loss Reserve Fund, consisting of
5 all premiums charged and collected in accordance with this
6 section and any interest income earned from the moneys in the
7 Black Contractors Bond Trust Fund.

8 (c) The board may guarantee bonds executed by sureties
9 for black business enterprises under this section as
10 principals on contracts with the state, any political
11 subdivision or instrumentality, or any person as the obligee.
12 The board, as guarantor, may exercise all the rights and
13 powers of a company authorized by the Department of Financial
14 Services to guarantee bonds under chapter 624, but otherwise
15 is not subject to any laws related to a guaranty company under
16 chapter 624 or to any rules of the department.

17 (d) The board shall adopt policies and procedures for
18 the application for bond guarantees and for the review and
19 approval of applications for bond guarantees submitted by
20 sureties that execute bonds eligible for guarantees under this
21 section.

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

26 (f) The policies and procedures of the board shall
27 require the black business enterprise to pay a premium in
28 advance for the bond to be established by the board. All
29 premiums paid by the black business enterprise shall be paid
30 into the Black Contractors Bond Program Administrative and
31 Loss Reserve Fund.

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

4 (h) Any funds to the credit of the Black Contractors
5 Bond Program Administrative and Loss Reserve Fund in excess of
6 the amount necessary to fund the appropriation authority for
7 the fund shall be held as a loss reserve to pay claims arising
8 from defaults on surety bonds guaranteed in accordance with
9 this section. If the balance of funds in the Black Contractors
10 Bond Administrative and Loss Reserve Fund is insufficient to
11 pay a claim against the state arising from default, then the
12 claim shall be payable from the Black Contractors Bond Trust
13 Fund.

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

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

1 (a) Conduct outreach, marketing, and recruitment of
2 black contractors.

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

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

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

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

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

23 Section 16. Section 288.714, Florida Statutes, is
24 amended to read:

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

27 288.714 Quarterly and annual reports.--

28 (1) Each recipient of state funds under ss.
29 288.707-288.712 shall provide to the board a quarterly report
30 within 15 days after the end of each calendar quarter that
31 includes a detailed summary of the recipient's performance of

1 the duties imposed by ss. 288.707-288.712, including, but not
2 limited to:

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

7 (b) Loan performance information.

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

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

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

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

21 (g) Any other information as required by the board by
22 rule.

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

27 (a) A cumulative summary of quarterly report data
28 required by subsection (1).

29 (b) A description of the strategies implemented by the
30 board to increase private investment in black business
31 enterprises.

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

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

5 (e) Recommendations for legislative or other changes
6 to enhance the development and expansion of black business
7 enterprises in the state.

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

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

12 288.9015 Enterprise Florida, Inc.; purpose; duties.--

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

25 Section 18. The Office of Program Policy Analysis and
26 Government Accountability shall prepare a status report on the
27 initial implementation of the Florida Black Business
28 Investment Act by the Office of Tourism, Trade, and Economic
29 Development and shall provide the report to the Governor, the
30 President of the Senate, and the Speaker of the House of
31 Representatives by December 1, 2008. The office shall a

1 conduct a program review of the Office of Tourism, Trade, and
2 Economic Development's performance in meeting the goals of the
3 Florida Black Business Investment Act and shall provide a
4 report to the Governor, the President of the Senate, and the
5 Speaker of the House of Representatives by December 1, 2009.

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

8 288.90151 Return on investment from activities of
9 Enterprise Florida, Inc.--

10 (6) Enterprise Florida, Inc., shall fully comply with
11 the performance measures, standards, and sanctions in its
12 contracts with the Office of Tourism, Trade, and Economic
13 Development under s. 14.2015(2)(~~i~~)(~~h~~) and (7). The Office of
14 Tourism, Trade, and Economic Development shall ensure, to the
15 maximum extent possible, that the contract performance
16 measures are consistent with performance measures that the
17 office is required to develop and track under
18 performance-based program budgeting.

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

21 Section 21. The sum of \$8.5 million is appropriated
22 from the General Revenue Fund to the Office of Tourism, Trade,
23 and Economic Development for the 2007-2008 fiscal year for
24 purposes of implementing and administering the Black Business
25 Loan Program, and 3 full-time equivalent positions and
26 \$500,000 for operation are authorized.

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