

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

1 | duties and responsibilities of the office and
2 | the board in administering the program;
3 | establishing a competitive application and
4 | annual certification process for eligible
5 | recipients for funds to provide loans, loan
6 | guarantees, and investments to black business
7 | enterprises; requiring an allocation policy for
8 | equitable distribution throughout the state;
9 | providing eligibility requirements for
10 | recipients to receive funds and to provide
11 | loans, loan guarantees, or investments;
12 | requiring annual certification of eligibility;
13 | providing for award agreements and for the
14 | reimbursement of certain funds under certain
15 | circumstances; requiring the office to consult
16 | with the board; requiring the office to adopt
17 | rules; requiring the board to adopt policies
18 | and procedures; creating s. 288.71025, F.S.;
19 | providing a prohibited act; providing for
20 | filing of a civil complaint and imposition of a
21 | fine; providing for use of funds received from
22 | such fine; creating s. 288.7103, F.S.;
23 | providing black business enterprise eligibility
24 | requirements for receiving loans, loan
25 | guarantees, or investments; amending s.
26 | 288.711, F.S.; providing that the Office of
27 | Tourism, Trade, and Economic Development will
28 | administer the trust fund for purposes of
29 | implementing and administering the Black
30 | Business Loan Program; deleting provisions
31 | relating to authorizations for the board to

1 make investments from the fund for certain
2 purposes; revising purposes for which a black
3 business investment corporation is authorized
4 to use funds received from the fund; amending
5 s. 288.712, F.S.; revising provisions relating
6 to guarantor funds to assist qualified black
7 business enterprises obtain surety bonds and
8 other credit instruments; authorizing the board
9 to contract with regulated surety companies;
10 revising uses of the Black Contractors Bond
11 Trust Fund; eliminating the Black Business Loan
12 Guaranty Trust Fund; revising board exceptions
13 to laws and rules related to a guaranty
14 company; requiring board adoption of policies
15 and procedures relating to board guarantee of
16 loss and to required payment of premiums;
17 authorizing contracting with private entity to
18 administer black contractors bonding program;
19 delineating board use of a surety bond company;
20 delineating board requirements for encouraging
21 program participation; amending s. 288.714,
22 F.S.; requiring recipients to provide quarterly
23 and annual reports; specifying report
24 requirements; requiring the board to submit an
25 annual program report to the Governor and
26 Legislature; specifying report requirements;
27 requiring certain black business investment
28 corporations to submit quarterly reports to the
29 board on uses of certain state funds;
30 specifying report requirements; amending s.
31 288.9015, F.S.; requiring Enterprise Florida,

1 Inc., to collaborate with the Florida Black
2 Business Investment Board, Inc., and the Office
3 of Tourism, Trade, and Economic Development for
4 certain purposes; requiring the Office of
5 Program Policy Analysis and Government
6 Accountability to submit a status report to the
7 Governor and Legislature on the Office of
8 Tourism, Trade, and Economic Development's
9 implementation of the Florida Black Business
10 Investment Act; requiring the Office of Program
11 Policy Analysis and Government Accountability
12 to conduct a program review of the performance
13 of the Office of Tourism, Trade, and Economic
14 Development, the Florida Black Business
15 Investment Board, and the program fund
16 recipients in meeting goals of the Florida
17 Black Business Investment Act and to submit a
18 program review report to the Governor and
19 Legislature; amending s. 288.90151, F.S.;
20 correcting a cross reference; repealing s.
21 288.7092, F.S., relating to return on
22 investment from activities of the corporation;
23 repealing s. 288.7095, F.S., relating to duties
24 of black business investment corporations;
25 repealing s. 288.71, F.S., relating to
26 conditions for board action; repealing s.
27 288.7101, F.S., relating to the state employee
28 leasing program of the Department of Management
29 Services for employees of the Florida Black
30 Business Investment Board, Inc.; repealing s.
31 288.713, F.S., relating to capital

1 participation instruments; providing a
2 legislative finding regarding the use of state
3 funds received by the board through the
4 2005-2006 fiscal year; providing an
5 appropriation and authorizing certain
6 positions; providing an effective date.
7

8 Be It Enacted by the Legislature of the State of Florida:
9

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

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

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

25 (g) Administer the Black Business Loan Program, the
26 purpose of which is to leverage state, local, and private
27 funds to provide loans and loan guarantees to black business
28 enterprises that cannot obtain capital through conventional
29 lending institutions but that otherwise could compete
30 successfully in the private sector.
31

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

3 288.702 Short title.--This section and sections
4 288.703-288.706 ~~This act shall be known and~~ may be cited as
5 the "Florida Small and Minority Business Assistance Act ~~of~~
6 ~~1985.~~"

7 Section 3. Paragraph (a) of subsection (3) of section
8 288.703, Florida Statutes, is amended to read:

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

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

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

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

20 288.706 Florida Minority Business Loan Mobilization
21 Program.--

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

1 (12) The Department of Management Services shall
2 collaborate with the Florida Black Business Investment Board,
3 Inc., and the Office of Tourism, Trade, and Economic
4 Development to assist in the development and enhancement of
5 black business enterprises.

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

8 288.7065 Short title.--This section and sections
9 288.707-288.714 may be cited as the "Florida Black Business
10 Investment Act."

11 Section 6. Section 288.707, Florida Statutes, is
12 amended to read:

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

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

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

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

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

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

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 s. 288.7102.

30 (2) A black business investment corporation that meets
31 the requirements of s. 288.7102(3) is eligible to participate

1 in the Black Business Loan Program and shall receive priority
2 consideration by the Office of Tourism, Trade, and Economic
3 Development for participation in the program.

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

6 288.7102 Black Business Loan Program.--The Black
7 Business Loan Program is established in the Office of Tourism,
8 Trade, and Economic Development. Under the program, the office
9 shall annually certify eligible recipients and disburse funds
10 appropriated by the Legislature, through such certified
11 recipients, to black business enterprises that cannot obtain
12 capital through conventional lending institutions but that
13 could otherwise compete successfully in the private sector.

14 (1) The office shall establish a uniform, open, and
15 competitive application and annual certification process for
16 eligible recipients who seek funds to provide loans to, loan
17 guarantees for, or investments in black business enterprises
18 pursuant to the Florida Black Business Investment Act. The
19 board shall receive the applications and make recommendations
20 for certification to the office.

21 (2) The office, in consultation with the board, shall
22 develop an allocation policy to ensure that services provided
23 under ss. 288.707-288.714 for the benefit of black business
24 enterprises are disbursed equitably throughout the state. The
25 board shall facilitate the formation of black business
26 investment corporations in communities that are not served by
27 such corporations.

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

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

1 (b) Demonstrate that its board of directors includes
2 citizens of the state experienced in the development of black
3 business enterprises.

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

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

10 (e) Demonstrate that the recipient has established
11 viable partnerships with public and private funding sources,
12 economic development agencies, and workforce development and
13 job referral networks.

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

17 (g) Agree to maintain the recipient's books and
18 records relating to funds received by the office according to
19 generally accepted accounting principles and in accordance
20 with the requirements of s. 215.97(7) and to make those books
21 and records available to the office for inspection upon
22 reasonable notice.

23 (4) The board shall annually recommend to the office
24 the certification of each eligible recipient, who must meet
25 the provisions of ss. 288.707-288.714, the terms of the
26 contract between the recipient and the office, and any other
27 applicable state or federal laws. An entity may not receive
28 funds under ss. 288.707-288.714 unless the entity meets annual
29 certification requirements.

30 (5) Upon approval by the office and release of the
31 funds, the office shall issue a letter certifying the

1 applicant as qualified for an award. The office and the
2 applicant shall enter into an agreement that sets forth the
3 conditions for award of the funds which includes the total
4 amount of funds awarded; the performance conditions that must
5 be met once the funding has been awarded, including, but not
6 limited to, compliance with all the requirements of this
7 section; and sanctions for failure to meet performance
8 conditions including any provisions to recover awards.

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

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

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

16 288.71025 Prohibited acts; penalties.--

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

21 (2) In addition to any other penalties or remedies
22 provided under law, the board may bring civil action in any
23 court of competent jurisdiction against any person for a
24 knowing or willful violation of this section. The court may
25 impose a civil penalty of up to \$500 for such violation. Any
26 funds received from such fines shall be appropriated to the
27 board for any and all of the purposes and uses provided in the
28 Florida Black Business Investment Act.

29 Section 13. Section 288.7103, Florida Statutes, is
30 created to read:

31

1 288.7103 Eligibility for loan, loan guarantee, or
2 investment.--A black business enterprise is not eligible to
3 receive a loan, loan guarantee, or investment from funds
4 disbursed pursuant to s. 288.7102 unless the black business
5 enterprise demonstrates that:

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

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

17 Section 14. Section 288.711, Florida Statutes, is
18 amended to read:

19 288.711 Florida Black Business Loan Program Investment
20 Incentive Trust Fund.--

21 (1) The Economic Development ~~There is hereby created~~
22 ~~the Florida Investment Incentive Trust Fund~~ in the Office of
23 Tourism, Trade, and Economic Development shall be used for the
24 purpose of providing loans or loan guarantees under the Black
25 Business Loan Program as provided in s. 288.7102 from which
26 money may be drawn for loans, loan guarantees, or investments
27 ~~or loans~~, as authorized by this section, to encourage the
28 development of appropriate financial mechanisms in the private
29 sector to capitalize and assist in the development of black
30 business enterprises. All income earned by investments of the
31 fund, from funds deposited pursuant to ss. 288.707-288.14,

1 shall be ~~deposited in the fund~~ for carrying out the purposes
2 of ss. 288.707-288.714. Administrative costs of the program
3 shall be appropriated in a lump-sum appropriation from the
4 fund ~~created herein~~ and shall be provided in the General
5 Appropriations Act.

6 (2) A black business investment corporation is
7 authorized to use funds received from the Economic Development
8 Trust Fund from funds deposited pursuant to ss.
9 288.707-288.14, in ~~The board is authorized to invest from the~~
10 ~~Florida Investment Incentive Trust Fund in black business~~
11 ~~investment corporations which conduct, or agree to conduct,~~
12 ~~programs of assisting the development of black business~~
13 ~~enterprises. Such investments shall be made under conditions~~
14 ~~required by law and as the board may, from time to time,~~
15 ~~require and may take any of the following forms:~~

16 (a) Purchases of stock, preferred or common, voting or
17 nonvoting, ~~as determined by the board; however, no more than~~
18 40 percent of the funds may be used for direct investments in
19 black business enterprises;

20 (b) Loans or loan guarantees, with or without
21 recourse, in either a subordinated or priority position, ~~as~~
22 ~~determined by the board; provided, however, that no more than~~
23 ~~20 percent of the capital base may be used for direct loans to~~
24 ~~black business enterprises; or~~

25 (c) Technical support to black business enterprises,
26 not to exceed 7 percent of the funds received, and direct
27 administrative costs, not to exceed 10 percent of the funds
28 received ~~Any other investment authorized by the board based on~~
29 ~~the expertise of its members.~~

30 (3) It is the intent of the Legislature that if any
31 one type of investment mechanism authorized in subsection (2)

1 is held to be invalid all other valid mechanisms remain
2 available.

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

12 Section 15. Section 288.712, Florida Statutes, is
13 amended to read:

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

16 288.712 Guarantor funds.--

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

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

24 (3) For purposes of this section, the board may use
25 the Black Contractors Bond Trust Fund, consisting of moneys
26 deposited or credited to the Black Contractors Bond Trust Fund
27 pursuant to any appropriation made by law; any grants, gifts,
28 and contributions received pursuant to ss. 288.707-288.714;
29 all moneys recovered following defaults; all premiums charged
30 and collected in accordance with this section and any interest
31 income earned therein; and any other moneys obtained by the

1 board for this purpose. The fund shall be administered by the
2 board in trust for the purposes of this section and shall at
3 no time be part of general public funds under the following
4 procedures:

5 (a) Any claims against the state arising from defaults
6 shall be payable from the Black Contractors Bond Trust Fund.
7 Nothing in this section grants or pledges to any obligee or
8 other person any state moneys other than the moneys in the
9 Black Contractors Bond Trust Fund.

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

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

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

28 (e) The policies and procedures of the board shall
29 require the black business enterprise to pay a premium in
30 advance for the bond to be established by the board. All
31

1 premiums paid by the black business enterprise shall be paid
2 into the Black Contractors Bond Program Trust Fund.

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

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

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

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

29 (a) Conduct outreach, marketing, and recruitment of
30 black contractors.

31

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

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

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

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

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

21 Section 16. Section 288.714, Florida Statutes, is
22 amended to read:

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

25 288.714 Quarterly and annual reports.--

26 (1) Each recipient of state funds under s. 288.7102
27 shall provide to the board a quarterly report within 15 days
28 after the end of each calendar quarter that includes a
29 detailed summary of the recipient's performance of the duties
30 imposed by s. 288.7102, including, but not limited to:
31

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

5 (b) Loan performance information.

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

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

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

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

19 (g) Any other information as required by policies
20 adopted by the board.

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

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

30 (a) A cumulative summary of quarterly report data
31 required by subsection (1).

1 (b) A description of the strategies implemented by the
2 board to increase private investment in black business
3 enterprises.

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

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

8 (e) Recommendations for legislative or other changes
9 to enhance the development and expansion of black business
10 enterprises in the state.

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

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

15 288.9015 Enterprise Florida, Inc.; purpose; duties.--

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

28 Section 18. The Office of Program Policy Analysis and
29 Government Accountability shall prepare a status report on the
30 initial implementation of the Florida Black Business
31 Investment Act by the Office of Tourism, Trade, and Economic

1 Development, the Florida Black Business Investment Board, and
2 the recipients of funds disbursed pursuant to s. 288.7102,
3 Florida Statutes, and shall provide the report to the
4 Governor, the President of the Senate, and the Speaker of the
5 House of Representatives by December 1, 2008. The office shall
6 conduct a program review of the performance of the Office of
7 Tourism, Trade, and Economic Development, the Florida Black
8 Business Investment Board, and the recipients of funds
9 disbursed pursuant to s. 788.7102 in meeting the goals of the
10 Florida Black Business Investment Act and shall provide a
11 report to the Governor, the President of the Senate, and the
12 Speaker of the House of Representatives by December 1, 2009.

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

15 288.90151 Return on investment from activities of
16 Enterprise Florida, Inc.--

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

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

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

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

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

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

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 2860

4 This committee substitute makes the following changes to the
5 bill as filed:

- 6 - Requires the Office of Tourism, Trade, and Economic
7 Development (OTTED), rather than the Florida Black
8 Business Investment Board (FBBIB), to annually certify
9 entities to receive funds from the Black Business Loan
10 Program, as created by this CS; the FBBIB is required to
11 receive and forward the applications for certification,
12 and recommend to OTTED which entities should be annually
13 certified;
- 14 - Requires OTTED to contract with the entities certified to
15 receive funds from the Black Business Loan Program, and
16 specifies the conditions of such contracts, including
17 recovery of disbursed funds when performance conditions
18 are not met;
- 19 - Requires the FBBIB to submit to OTTED quarterly
20 compilations of the quarterly reports submitted by
21 certified entities that have received funds from the
22 Black Business Loan Program;
- 23 - Provides that the Economic Development Trust Fund in
24 OTTED will be used for the purpose of providing loans,
25 loan guarantees, or investments under the Black Business
26 Loan Program;
- 27 - Provides that the FBBIB may use the Black Contractors
28 Bond Trust Fund for the purposes of the Black Contractors
29 Bond Program;
- 30 - Transfers legislative findings related to past
31 appropriations for capitalization of the FBBIB and the
Black Business Investment Corporations from the proposed
provision creating the Black Business Loan Program to an
undesignated section of Florida Law; and
- Requires OPPAGA to include the FBBIB and certified
entities that have received funds from the Black Business
Loan Program in the status report and program review of
the implementation of the Florida Black Business
Investment Act, as created by this CS.