

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 certified eligible
31 recipients, to certain black business

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

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

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

1 repealing s. 288.713, F.S., relating to capital
2 participation instruments; providing a
3 legislative finding regarding use of state
4 funds received by the board through fiscal year
5 2005-2006; 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 is ~~shall~~ not
26 ~~be~~ 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.

30
31

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

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 subsequently
10 disburse funds appropriated by the Legislature, through such
11 eligible recipients, to black business enterprises that cannot
12 obtain capital through conventional lending institutions but
13 that could otherwise compete successfully in the private
14 sector.

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

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

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

- 1 (a) Be a corporation registered in the state.
- 2 (b) Demonstrate that its board of directors includes
3 citizens of the state experienced in the development of black
4 business enterprises.
- 5 (c) Demonstrate that the recipient has a business plan
6 that allows the recipient to operate in a manner consistent
7 with ss. 288.707-288.714 and the rules of the office.
- 8 (d) Demonstrate that the recipient has the technical
9 skills to analyze and evaluate applications by black business
10 enterprises for loans, loan guarantees, or investments.
- 11 (e) Demonstrate that the recipient has established
12 viable partnerships with public and private funding sources,
13 economic development agencies, and workforce development and
14 job referral networks.
- 15 (f) Demonstrate that the recipient can provide a
16 private match equal to 20 percent of the amount of funds
17 provided by the office.
- 18 (g) Agree to maintain the recipient's books and
19 records relating to funds received by the office according to
20 generally accepted accounting principles and in accordance
21 with the requirements of s. 215.97(7) and to make those books
22 and records available to the office for inspection upon
23 reasonable notice.
- 24 (4) The board shall annually recommend to the office
25 certification of each eligible recipient, who must meet the
26 provisions of ss. 288.707-288.714, the terms of the contract
27 between the recipient and the office, and any other applicable
28 state or federal laws. An entity may not receive funds under
29 ss. 288.707-288.714 unless the entity meets annual
30 certification requirements.
- 31

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

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

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

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

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

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

27 (c) Technical support to black business enterprises,
28 not to exceed 7 percent of the funds received, and direct
29 administrative costs, not to exceed 10 percent of the funds
30 received.

31

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

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

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 a civil action in any
23 court of competent jurisdiction against any person for a
24 knowing or willful violation of this section. Upon an adverse
25 adjudication, the court may impose a civil penalty of up to
26 \$500 and payment of court costs and reasonable attorney's fees
27 incurred by the plaintiff.

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

30 288.7103 Eligibility for loan, loan guarantee, or
31 investment.--A black business enterprise is not eligible to

1 receive a loan, loan guarantee, or investment from funds
2 disbursed pursuant to s. 288.7102 unless the black business
3 enterprise demonstrates that:

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

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

15 Section 14. Section 288.712, Florida Statutes, is
16 amended to read:

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

19 288.712 Guarantor funds.--

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

24 (2) The board may contract with a regulated surety
25 company to conduct a surety bond program for black business
26 enterprises.

27 (3) For purposes of this section, the board may
28 utilize the Black Contractors Bond Trust Fund, consisting of
29 moneys deposited or credited to the Black Contractors Bond
30 Trust Fund pursuant to any appropriation made by law; any
31 grants, gifts, and contributions received pursuant to ss.

1 288.707-288.714; all moneys recovered following defaults; all
2 premiums charged and collected in accordance with this section
3 and any interest earned; and any other moneys obtained by the
4 board for this purpose. The fund shall be administered by the
5 board in trust for the purposes of this section and shall at
6 no time be part of general public funds under the following
7 procedures:

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

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

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

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

31

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

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

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

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

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

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) By December 31, 2007, prepare and submit to the
16 Governor a detailed report outlining and evaluating the
17 progress made in implementing the black contractors bonding
18 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 15. 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 s. 288.7102
29 shall provide to the board a quarterly report within 15 days
30 after the end of each calendar quarter which includes a
31

1 detailed summary of the recipient's performance of the duties
2 imposed by s. 288.7102, including, but not 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 required by policies adopted
22 by the board.
23 (2) The board must compile and provide to the office a
24 summary of all quarterly reports within 30 days after the end
25 of each calendar quarter which includes a detailed summary of
26 the recipient's performance of the duties imposed by s.
27 288.7102.
28 (3) By May 1 of each year, the board shall provide to
29 the Governor, the President of the Senate, and the Speaker of
30 the House of Representatives a detailed report of the
31 performance of the Black Business Loan Program, including:

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

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

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

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

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

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

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

17 288.9015 Enterprise Florida, Inc.; purpose; duties.--

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

30 Section 17. The Office of Program Policy Analysis and
31 Government Accountability shall prepare a status report on the

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

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

18 17.11 To report disbursements made.--

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

1 Accounting Information Resource Subsystem for use in this
2 reporting.

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

5 287.055 Acquisition of professional architectural,
6 engineering, landscape architectural, or surveying and mapping
7 services; definitions; procedures; contingent fees prohibited;
8 penalties.--

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

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

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

22 288.90151 Return on investment from activities of
23 Enterprise Florida, Inc.--

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

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

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. This act shall take effect July 1, 2007.

13
14 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
15 COMMITTEE SUBSTITUTE FOR
16 CS/CS Senate Bill 2860

17 The committee substitute removes the appropriation from the
18 bill.

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