

1                   A bill to be entitled  
2           An act relating to the Black Business Investment Board,  
3           Inc.; amending s. 288.707, F.S.; deleting a description of  
4           the board as a public-private entity; requiring the board  
5           to assist the Office of Tourism, Trade, and Economic  
6           Development in creating a long-range strategic policy for  
7           the Black Business Loan Program; revising the entities  
8           with whom the board may create partnerships for the  
9           development and expansion of black business enterprises;  
10          revising the membership of the board of directors;  
11          providing for certain members to be ex officio, nonvoting  
12          members; revising requirements for the selection, removal,  
13          and terms of the chair and vice chair; amending s.  
14          288.709, F.S.; requiring that upon dissolution of the  
15          board, an asset that was not acquired through the use of  
16          state funds be returned to the donor who provided the  
17          asset or the funding or resources to acquire the asset;  
18          amending s. 288.7091, F.S.; requiring the board to aid the  
19          development and expansion of black business enterprises by  
20          leveraging federal, state, local, and private funds;  
21          requiring the board to collaborate with agencies of the  
22          federal, state, and local governments, private entities,  
23          nonprofit organizations, and national organizations;  
24          amending s. 288.7102, F.S.; revising the dates by which  
25          applications for loans from the Black Business Loan  
26          Program must be received and processed by the Office of  
27          Tourism, Trade, and Economic Development; revising  
28          eligibility requirements for new and existing program

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29 recipients; revising the date by which the Office of  
30 Tourism, Trade, and Economic Development must distribute  
31 appropriations to program recipients; deleting provisions  
32 providing for the board to recommend the certification of  
33 eligible recipients for loans; revising the percentages of  
34 program funds that a program recipient may use for  
35 technical support for black business enterprises or direct  
36 administrative costs; amending s. 288.71025, F.S.;  
37 authorizing the Office of Tourism, Trade, and Economic  
38 Development to bring a civil action against an entity that  
39 unlawfully holds itself out as a black business investment  
40 corporation; amending s. 288.712, F.S.; deleting a  
41 provision relating to the black contractors bonding  
42 program, which requires the board to provide assistance to  
43 the Office of Supplier Diversity within the Department of  
44 Management Services; amending s. 288.714, F.S.; requiring  
45 that recipients of loans from the Black Business Loan  
46 Program provide quarterly reports to the Office of  
47 Tourism, Trade, and Economic Development; requiring that  
48 the Office of Tourism, Trade, and Economic Development  
49 compile a summary of quarterly reports from loan  
50 recipients and provide a copy of the summary to the board;  
51 requiring that the Office of Tourism, Trade, and Economic  
52 Development and the board provide annual reports to the  
53 Governor and Legislature by a certain date; providing an  
54 effective date.

55  
56 Be It Enacted by the Legislature of the State of Florida:

57  
 58 Section 1. Subsections (1), (2), (3), and (6) of section  
 59 288.707, Florida Statutes, are amended to read:

60 288.707 Florida Black Business Investment Board, Inc.;  
 61 findings; creation; membership; organization; meetings;  
 62 disclosure.-

63 (1) The Legislature finds that the public interest of the  
 64 state will be served by the creation of a not-for-profit  
 65 corporation, ~~public-private entity~~ the primary mission of which  
 66 is shall be to assist in the development and expansion of black  
 67 business enterprises by:

68 (a) Advising the Office of Tourism, Trade, and Economic  
 69 Development in its oversight of the Black Business Loan Program  
 70 and assisting in the creation of a ~~creating~~ long-range strategic  
 71 policy for the program.

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

74 (c) Creating partnerships between federal, state, and  
 75 local governments, ~~and~~ private enterprises, and national  
 76 organizations to aid in the development and expansion of black  
 77 business enterprises.

78 (d) Providing a network of information resources for black  
 79 business enterprises and providing technical assistance through  
 80 this network.

81 (2) (a) There is created a not-for-profit corporation to be  
 82 known as the "Florida Black Business Investment Board, Inc.,"  
 83 referred to in ss. 288.707-288.714 as the board, which shall be  
 84 registered, incorporated, organized, and operated in compliance

85 with chapter 617 and which must ~~shall~~ not be a unit or entity of  
 86 state government. The Legislature determines, however, that  
 87 public policy dictates that the board operate in the most open  
 88 and accessible manner consistent with its public purpose.  
 89 Therefore, the Legislature specifically declares that the board  
 90 and its advisory committees or similar groups created by the  
 91 board, including any subsidiaries, are subject to the provisions  
 92 of chapter 119, relating to public records, and the provisions  
 93 of chapter 286, relating to public meetings and records.

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

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

99 (a) Four ~~Five~~ members appointed by the Governor who shall  
 100 serve terms of 4 years each, except that in making initial  
 101 appointments, the Governor shall appoint three members to serve  
 102 for terms of 2 years each and two members to serve for terms of  
 103 3 years each.

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

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

108 (d) The vice chair of Enterprise Florida, Inc., or his or  
 109 her designee, who shall be an ex officio, nonvoting member.

110 (e) Two at-large members selected by the board of  
 111 directors who are nationally known for their achievements in  
 112 finance, small business development, or economic development.

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113 ~~(e) The chair of the Florida Development Finance~~  
114 ~~Corporation created pursuant to s. 288.9604.~~

115 (f) Four presidents of participating black business  
116 investment corporations who shall be appointed by the Executive  
117 Director of the Office of Tourism, Trade, and Economic  
118 Development upon the recommendation of the Florida Consortium of  
119 Black Business Investment Corporations, Inc., to serve for terms  
120 of 3 years each. Each shall be eligible for reappointment to one  
121 additional term of 3 years.

122 (6) The board shall elect a chair and vice chair from  
123 among its members for a term of 2 years. The chair may be  
124 removed by a two-thirds vote of the membership of the board. ~~The~~  
125 ~~Governor shall appoint the chair, who shall be a member of the~~  
126 ~~board and shall serve at the pleasure of the Governor. The board~~  
127 ~~shall annually elect one of its members as vice chair.~~

128 Section 2. Subsection (9) of section 288.709, Florida  
129 Statutes, is amended to read:

130 288.709 Powers of the Florida Black Business Investment  
131 Board, Inc.—The board shall have all the powers granted under  
132 chapter 617 and any powers necessary or convenient to carry out  
133 and effectuate the purposes and provisions of ss. 288.707–  
134 288.714, including, but not limited to, the power to:

135 (9) Provide in its bylaws that, upon the dissolution of  
136 the board, all of its assets acquired through the use of state  
137 funds, after payment of all legal debts and liabilities, revert  
138 to the state. However, an asset that is not acquired through the  
139 use of state funds, or the funding or resources necessary to  
140 acquire the asset, shall be returned to the donor who provided

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141 the asset.

142 Section 3. Subsections (2) and (6) of section 288.7091,  
143 Florida Statutes, are amended to read:

144 288.7091 Duties of the Florida Black Business Investment  
145 Board, Inc.—The board shall:

146 (2) Aid the development and expansion of black business  
147 enterprises by leveraging federal, state, local, and private  
148 funds to be held by the board for use according to the  
149 provisions of ss. 288.707-288.714.

150 (6) Collaborate with agencies of the federal, state, and  
151 local governments, private entities, nonprofit organizations,  
152 and national organizations ~~the Department of Transportation, the~~  
153 ~~Department of Management Services, including the Florida~~  
154 ~~Minority Business Loan Mobilization Program, Workforce Florida,~~  
155 ~~Inc., and other state agencies and partners, the State~~  
156 ~~University System, including the Florida Agricultural and~~  
157 ~~Mechanical University's Institute of Urban Policy and Commerce,~~  
158 ~~school boards, and local governments~~ to create a network of  
159 information and to identify available resources to enhance the  
160 development and expansion of black business enterprises.

161 Section 4. Section 288.7102, Florida Statutes, is amended  
162 to read:

163 288.7102 Black Business Loan Program.—

164 (1) The Black Business Loan Program is established in the  
165 Office of Tourism, Trade, and Economic Development. Under the  
166 program, the office shall annually certify eligible recipients  
167 and subsequently disburse funds appropriated by the Legislature,  
168 through such eligible recipients, to black business enterprises

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169 that cannot obtain capital through conventional lending  
170 institutions but that could otherwise compete successfully in  
171 the private sector.

172 (2) The office shall establish an application and annual  
173 certification process for entities seeking funds to participate  
174 in providing loans, loan guarantees, or investments in black  
175 business enterprises pursuant to the Florida Black Business  
176 Investment Act. ~~The board shall receive the applications and~~  
177 ~~make recommendations for certification to the office.~~ The office  
178 shall process all applications and recertifications submitted by  
179 June 1 ~~July 1~~ on or before July 31 ~~September 30~~.

180 (3) If the Black Business Loan Program is appropriated any  
181 funding in a fiscal year, the office shall distribute an equal  
182 amount of the appropriation, calculated as the total annual  
183 appropriation divided by the total number of program recipients  
184 certified on or before July 31 ~~September 30~~ of that fiscal year.

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

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

189 (b) For an existing recipient, annually submit to the  
190 office a financial audit performed by an independent certified  
191 public account for the most recently completed fiscal year,  
192 which audit does not reveal any material weaknesses or instances  
193 of material noncompliance.

194 (c) For a new recipient:

195 1. (b) Demonstrate that its board of directors includes  
196 citizens of the state experienced in the development of black

197 business enterprises.

198 2.~~(e)~~ Demonstrate that the recipient has a business plan  
 199 that allows the recipient to operate in a manner consistent with  
 200 ss. 288.707-288.714 and the rules of the office.

201 3.~~(d)~~ Demonstrate that the recipient has the technical  
 202 skills to analyze and evaluate applications by black business  
 203 enterprises for loans, loan guarantees, or investments.

204 4.~~(e)~~ Demonstrate that the recipient has established  
 205 viable partnerships with public and private funding sources,  
 206 economic development agencies, and workforce development and job  
 207 referral networks.

208 5.~~(f)~~ Demonstrate that the recipient can provide a private  
 209 match equal to 20 percent of the amount of funds provided by the  
 210 office.

211 (d)~~(g)~~ For an existing or new recipient, agree to maintain  
 212 the recipient's books and records relating to funds received by  
 213 the office according to generally accepted accounting principles  
 214 and in accordance with the requirements of s. 215.97(7) and to  
 215 make those books and records available to the office for  
 216 inspection upon reasonable notice.

217 ~~(5) The board shall annually recommend to the office~~  
 218 ~~certification of~~ Each eligible recipient, ~~who~~ must meet the  
 219 provisions of ss. 288.707-288.714, the terms of the contract  
 220 between the recipient and the office, and any other applicable  
 221 state or federal laws. An entity may not receive funds under ss.  
 222 288.707-288.714 unless the entity meets annual certification  
 223 requirements.

224 (6) Upon approval by the office and before ~~prior to~~



225 release of the funds as provided in this section, the office  
 226 shall issue a letter certifying the applicant as qualified for  
 227 an award. The office and the applicant shall enter into an  
 228 agreement that sets forth the conditions for award of the funds.  
 229 The agreement must include the total amount of funds awarded;  
 230 the performance conditions that must be met once the funding has  
 231 been awarded, including, but not limited to, compliance with all  
 232 of the requirements of this section for eligible recipients of  
 233 funds under this section; and sanctions for failure to meet  
 234 performance conditions, including any provisions to recover  
 235 awards.

236 (7) ~~(a)~~ The office, in consultation with the board, shall  
 237 adopt rules pursuant to ss. 120.536(1) and 120.54 to implement  
 238 this section.

239 ~~(b) The board shall adopt policies and procedures  
 240 necessary to implement this section.~~

241 (8) A black business investment corporation certified by  
 242 the office as an eligible recipient under this section is  
 243 authorized to use funds appropriated for the Black Business Loan  
 244 Program in any of the following forms:

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

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

250 (c) Technical support to black business enterprises, not  
 251 to exceed 13 7 percent of the funds received, and direct  
 252 administrative costs, not to exceed 14 ~~10~~ percent of the funds

253 received.

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

257 (10) All loans, loan guarantees, and investments, and any  
 258 income related thereto, shall be used to carry out the public  
 259 purpose of ss. 288.707-288.714, which is to develop black  
 260 business enterprises. This subsection does not preclude a  
 261 reasonable profit for the participating black business  
 262 investment corporation or for return of equity developed to the  
 263 state and participating financial institutions upon any  
 264 distribution of the assets or excess income of the investment  
 265 corporation.

266 Section 5. Section 288.71025, Florida Statutes, is amended  
 267 to read:

268 288.71025 Prohibited acts; penalties.-

269 (1) It is unlawful for any person to hold itself out as a  
 270 black business investment corporation without being certified ~~by~~  
 271 ~~the board~~ as eligible to participate in the Florida Black  
 272 Business Loan Program.

273 (2) In addition to any other penalties or remedies  
 274 provided under law, the office board ~~board~~ may bring a civil action in  
 275 any court of competent jurisdiction against any person for a  
 276 knowing or willful violation of this section. Upon an adverse  
 277 adjudication, the court may impose a civil penalty of up to \$500  
 278 and payment of court costs and reasonable attorney's fees  
 279 incurred by the plaintiff.

280 Section 6. Subsection (5) of section 288.712, Florida

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281 Statutes, is amended to read:

282 288.712 Guarantor funds.—

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

285 (a) Conduct outreach, marketing, and recruitment of black  
286 contractors.

287 ~~(b) Provide assistance to the Office of Supplier Diversity~~  
288 ~~within the Department of Management Services, as needed, to~~  
289 ~~certify new black business enterprises and to train appropriate~~  
290 ~~department staff.~~

291 (b) ~~(e)~~ Provide business development services to black  
292 business enterprises in the developmental and transitional  
293 stages of the program, including financing and bonding  
294 assistance and management and technical assistance.

295 (c) ~~(d)~~ Develop a mentor program to bring businesses into a  
296 working relationship with black contractors in a way that  
297 commercially benefits both entities and serves the purpose of  
298 the program.

299 ~~(e) No later than December 31, 2007, prepare and submit to~~  
300 ~~the Governor a detailed report outlining and evaluating the~~  
301 ~~progress made in implementing the black contractors bonding~~  
302 ~~program.~~

303 (d) ~~(f)~~ Establish a process by which black contractors may  
304 apply for contract assistance, financial and bonding assistance,  
305 management and technical assistance, and mentoring  
306 opportunities.

307 Section 7. Section 288.714, Florida Statutes, is amended  
308 to read:

309 288.714 Quarterly and annual reports.—

310 (1) Each recipient of state funds under s. 288.7102 shall  
 311 provide to the office ~~board~~ a quarterly report within 15 days  
 312 after the end of each calendar quarter that includes a detailed  
 313 summary of the recipient's performance of the duties imposed by  
 314 s. 288.7102, including, but not limited to:

315 (a) The dollar amount of all loans or loan guarantees made  
 316 to black business enterprises, the percentages of the loans  
 317 guaranteed, and the names and identification of the types of  
 318 businesses served.

319 (b) Loan performance information.

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

322 (d) The amount and nature of technical assistance provided  
 323 to black business enterprises, including technical assistance  
 324 services provided in areas in which such services are otherwise  
 325 unavailable.

326 (e) A balance sheet for the recipient, including an  
 327 explanation of all investments and administrative and  
 328 operational expenses.

329 (f) A summary of all services provided to nonblack  
 330 business enterprises, including the dollar value and nature of  
 331 such services and the names and identification of the types of  
 332 businesses served.

333 (g) Any other information as required by policies adopted  
 334 by the office ~~board~~.

335 (2) The office ~~board~~ must compile ~~and provide to the~~  
 336 ~~office~~ a summary of all quarterly reports and provide a copy of

337 the summary to the board within 30 days after the end of each  
 338 calendar quarter that includes a detailed summary of the  
 339 recipient's performance of the duties imposed by s. 288.7102.

340 (3) By August 31 ~~May 1~~ of each year, the office board  
 341 shall provide to the Governor, the President of the Senate, and  
 342 the Speaker of the House of Representatives a detailed report of  
 343 the performance of the Black Business Loan Program. The report  
 344 must include, ~~including:~~

345 ~~(a)~~ a cumulative summary of quarterly report data required  
 346 by subsection (1).

347 (4) By August 31 of each year, the board shall provide to  
 348 the Governor, the President of the Senate, and the Speaker of  
 349 the House of Representatives a detailed report of the board's  
 350 performance, including:

351 (a) ~~(b)~~ A description of the strategies implemented by the  
 352 board to increase private investment in black business  
 353 enterprises.

354 (b) ~~(e)~~ A summary of the board's performance of its duties  
 355 under ss. 288.707-288.712.

356 (c) ~~(d)~~ The most recent 5-year projection of the need for  
 357 capital by black business enterprises.

358 (d) ~~(e)~~ Recommendations for legislative or other changes to  
 359 enhance the development and expansion of black business  
 360 enterprises in the state.

361 (e) ~~(f)~~ A projection of the program's activities during the  
 362 next 12 months.

363 Section 8. This act shall take effect upon becoming a law.