

1 A bill to be entitled
 2 An act relating to the Black Business Loan Program;
 3 amending s. 288.7102, F.S.; revising the recertification
 4 and audit periods for eligible recipients of the Black
 5 Business Loan Program; authorizing recipients to redress
 6 audit findings within a specified period; providing term
 7 of funding agreements between recipients and the Office of
 8 Tourism, Trade, and Economic Development; revising limits
 9 on the use of funds for technical support to black
 10 business enterprises and direct administrative costs;
 11 providing an effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:

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 15 Section 1. Section 288.7102, Florida Statutes, is amended
 16 to read:

17 288.7102 Black Business Loan Program.—

18 (1) The Black Business Loan Program is established in the
 19 Office of Tourism, Trade, and Economic Development. Under the
 20 program, the office shall ~~annually~~ certify eligible recipients,
 21 recertify eligible recipients once every 5 years, and
 22 subsequently disburse funds appropriated by the Legislature,
 23 through such eligible recipients, to black business enterprises
 24 that cannot obtain capital through conventional lending
 25 institutions but that could otherwise compete successfully in
 26 the private sector.

27 (2) The office shall establish an application and ~~annual~~
 28 certification process for entities seeking funds to participate

29 | in providing loans, loan guarantees, or investments in black
 30 | business enterprises pursuant to the Florida Black Business
 31 | Investment Act. The office shall process all applications and
 32 | recertifications submitted by June 1 on or before July 31.

33 | (3) If the Black Business Loan Program is appropriated any
 34 | funding in a fiscal year, the office shall distribute an equal
 35 | amount of the appropriation, calculated as the total annual
 36 | appropriation divided by the total number of program recipients
 37 | certified on or before July 31 of that fiscal year.

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

41 | (a) Be a corporation registered in the state.

42 | (b) For an existing recipient, ~~annually~~ submit to the
 43 | office, together with the recipient's recertification
 44 | application, a financial audit performed by an independent
 45 | certified public account for the recipient's quinquennial
 46 | recertification period ~~most recently completed fiscal year~~,
 47 | which audit does not reveal any material weaknesses or instances
 48 | of material noncompliance that the recipient does not
 49 | substantially redress within 60 days after receipt of the audit
 50 | report.

51 | (c) For a new recipient:

52 | 1. Demonstrate that its board of directors includes
 53 | citizens of the state experienced in the development of black
 54 | business enterprises.

55 | 2. Demonstrate that the recipient has a business plan that
 56 | allows the recipient to operate in a manner consistent with ss.

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57 288.707-288.714 and the rules of the office.

58 3. Demonstrate that the recipient has the technical skills
59 to analyze and evaluate applications by black business
60 enterprises for loans, loan guarantees, or investments.

61 4. Demonstrate that the recipient has established viable
62 partnerships with public and private funding sources, economic
63 development agencies, and workforce development and job referral
64 networks.

65 5. Demonstrate that the recipient can provide a private
66 match equal to 20 percent of the amount of funds provided by the
67 office.

68 (d) For an existing or new recipient, agree to maintain
69 the recipient's books and records relating to funds received by
70 the office according to generally accepted accounting principles
71 and in accordance with the requirements of s. 215.97(7) and to
72 make those books and records available to the office for
73 inspection upon reasonable notice.

74 (5) Each eligible recipient must meet the provisions of
75 ss. 288.707-288.714, the terms of the agreement ~~contract~~ between
76 the recipient and the office, and any other applicable state or
77 federal laws. An entity may not receive funds under ss. 288.707-
78 288.714 unless the entity meets ~~annual~~ certification
79 requirements.

80 (6) Upon approval by the office and before release of the
81 funds as provided in this section, the office shall issue a
82 letter certifying the applicant as qualified for an award. The
83 office and the applicant shall enter into an agreement that sets
84 forth the conditions for award of the funds. The agreement must

85 | include the total amount of funds awarded; the performance
 86 | conditions that must be met once the funding is ~~has been~~
 87 | awarded, including, but not limited to, compliance with all ~~of~~
 88 | ~~the~~ requirements of this section for eligible recipients of
 89 | funds under this section; and sanctions for failure to meet
 90 | performance conditions, including any provisions to recover
 91 | awards. The term of the agreement may not exceed 1 year.

92 | (7) The office, in consultation with the board, shall
 93 | adopt rules pursuant to ss. 120.536(1) and 120.54 to implement
 94 | this section.

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

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

102 | (b) Loans or loan guarantees, with or without recourse, in
 103 | either a subordinated or priority position; or

104 | (c) Technical support to black business enterprises, ~~not~~
 105 | ~~to exceed 9 percent of the funds received,~~ and direct
 106 | administrative costs, not to exceed 27 ~~12~~ percent of the funds
 107 | received.

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

111 | (10) All loans, loan guarantees, and investments, and any
 112 | income related thereto, shall be used to carry out the public

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113 | purpose of ss. 288.707-288.714, which is to develop black
114 | business enterprises. This subsection does not preclude a
115 | reasonable profit for the participating black business
116 | investment corporation or for return of equity developed to the
117 | state and participating financial institutions upon any
118 | distribution of the assets or excess income of the investment
119 | corporation.

120 | Section 2. This act shall take effect July 1, 2011.