

By Senator Siplin

19-00906-11

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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  
4           recertification and audit periods for eligible  
5           recipients of the Black Business Loan Program;  
6           authorizing recipients to redress audit findings  
7           within a specified period; providing term of funding  
8           agreements between recipients and the Office of  
9           Tourism, Trade, and Economic Development; revising  
10          limits on the use of funds for technical support to  
11          black business enterprises and direct administrative  
12          costs; providing an effective date.

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

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

18           288.7102 Black Business Loan Program.—

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

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

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

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

39 (4) To be eligible to receive funds and provide loans, loan  
40 guarantees, or investments under this section, a recipient 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.  
57 288.707-288.714 and the rules of the office.

58 3. Demonstrate that the recipient has the technical skills

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

74 (5) Each eligible recipient must meet the provisions of ss.  
75 288.707-288.714, the terms of the agreement ~~contract~~ between the  
76 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~~

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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 adopt  
93 rules pursuant to ss. 120.536(1) and 120.54 to implement this  
94 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 to~~  
105 ~~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  
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

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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.