

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 existing recipients to  
 6       submit certain information to the Office of Tourism,  
 7       Trade, and Economic Development instead of financial  
 8       audits under certain circumstances; authorizing recipients  
 9       to redress audit findings within a specified period;  
 10      providing term of and revising requirements for funding  
 11      agreements between recipients and the office; revising the  
 12      entities with whom the office must consult before adopting  
 13      rules; revising limits on the use of funds for technical  
 14      support to black business enterprises and direct  
 15      administrative costs; conforming provisions; reenacting s.  
 16      288.7094(2), F.S., relating to black business investment  
 17      corporations, to incorporate changes made by the act in a  
 18      reference thereto; providing an effective date.

19  
 20   Be It Enacted by the Legislature of the State of Florida:

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 22           Section 1.   Section 288.7102, Florida Statutes, is amended  
 23   to read:

24           288.7102   Black Business Loan Program.—

25           (1)   The Black Business Loan Program is established in the  
 26   Office of Tourism, Trade, and Economic Development. Under the  
 27   program, the office shall ~~annually~~ certify eligible recipients  
 28   for a period of 5 years, recertify existing eligible recipients

29 once every 5 years, and ~~subsequently~~ disburse funds annually or  
 30 as appropriated by the Legislature, through such eligible  
 31 recipients, to black business enterprises that cannot obtain  
 32 capital through conventional lending institutions but that could  
 33 otherwise compete successfully in the private sector.

34 (2) The office shall establish an application and ~~annual~~  
 35 certification process for entities seeking funds to participate  
 36 in providing loans, loan guarantees, or investments in black  
 37 business enterprises pursuant to the Florida Black Business  
 38 Investment Act. The office shall process all applications and  
 39 recertifications submitted by June 1 on or before July 31 of the  
 40 same calendar year.

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

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

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

50 (b) For an existing recipient during the 1st through 4th  
 51 years of the recipient's recertification period, annually submit  
 52 to the office a financial audit or compilation of the  
 53 recipient's financial statement information for the most  
 54 recently completed fiscal year and a copy of the office's most  
 55 recent letter certifying the recipient as qualified for the  
 56 award of funds.

57           (c) For an existing recipient during the 5th year of the  
 58 recipient's recertification period, submit to the office a  
 59 recertification application and a financial audit performed by  
 60 an independent certified public account for the most recently  
 61 completed fiscal year, which audit does not reveal any material  
 62 weaknesses or instances of material noncompliance that the  
 63 recipient does not substantially redress within 60 days after  
 64 receipt of the audit report.

65           (d)~~(e)~~ For a new recipient:

66           1. Demonstrate that its board of directors includes  
 67 citizens of the state experienced in the development of black  
 68 business enterprises.

69           2. Demonstrate that the recipient has a business plan that  
 70 allows the recipient to operate in a manner consistent with ss.  
 71 288.707-288.714 and the rules of the office.

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

75           4. Demonstrate that the recipient has established viable  
 76 partnerships with public and private funding sources, economic  
 77 development agencies, and workforce development and job referral  
 78 networks.

79           5. Demonstrate that the recipient can provide a private  
 80 match equal to 20 percent of the amount of funds provided by the  
 81 office.

82           (e)~~(d)~~ For an existing or new recipient, agree to maintain  
 83 the recipient's books and records relating to funds received by  
 84 the office according to generally accepted accounting principles

85 and in accordance with the requirements of s. 215.97(7) and to  
 86 make those books and records available to the office for  
 87 inspection upon reasonable notice.

88 (5) Each eligible recipient must meet the provisions of  
 89 ss. 288.707-288.714, the terms of the agreement ~~contract~~ between  
 90 the recipient and the office, and any other applicable state or  
 91 federal laws. An entity may not receive funds under ss. 288.707-  
 92 288.714 unless the entity meets ~~annual~~ certification  
 93 requirements.

94 (6) ~~Upon approval by the office and~~ Before release of the  
 95 funds as provided in this section, the office shall issue a  
 96 letter certifying the eligible recipient ~~applicant~~ as qualified  
 97 for an award. The office and the eligible recipient ~~applicant~~  
 98 shall enter into an annual agreement that sets forth the  
 99 conditions for award of the funds. The term of any agreement  
 100 between the office and an eligible recipient may not exceed 1  
 101 year. The agreement must include the total amount of funds  
 102 awarded; the performance conditions that must be met once the  
 103 funding is ~~has been~~ awarded, including, but not limited to,  
 104 compliance with all ~~of the~~ requirements of this section for  
 105 eligible recipients of funds under this section; and sanctions  
 106 for failure to meet performance conditions, including any  
 107 provisions to recover awards. The agreement may not require any  
 108 reporting of or obligation for appropriated funds beyond the 1-  
 109 year term of the agreement, except that appropriated funds  
 110 remaining unexpended at the end of the 1-year agreement must be  
 111 reported until the funds are expended.

112 (7) The office, in consultation with the presidents of the

113 black business investment corporations ~~board~~, shall adopt rules  
 114 pursuant to ss. 120.536(1) and 120.54 to implement this section.

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

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

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

124 (c) Technical support to black business enterprises, ~~not~~  
 125 ~~to exceed 9 percent of the funds received,~~ and direct  
 126 administrative costs, not to exceed 27 ~~12~~ percent of the funds  
 127 received.

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

131 (10) All loans, loan guarantees, and investments, and any  
 132 income related thereto, shall be used to carry out the public  
 133 purpose of ss. 288.707-288.714, which is to develop black  
 134 business enterprises. This subsection does not preclude a  
 135 reasonable profit for the participating black business  
 136 investment corporation or for return of equity developed to the  
 137 state and participating financial institutions upon any  
 138 distribution of the assets or excess income of the investment  
 139 corporation.

HB 925

2011

140 Section 2. For the purpose of incorporating the amendment  
141 made by this act to section 288.7102, Florida Statutes, in a  
142 reference thereto, subsection (2) of section 288.7094, Florida  
143 Statutes, is reenacted to read:

144 288.7094 Black business investment corporations.—

145 (2) A black business investment corporation that meets the  
146 requirements of s. 288.7102(4) is eligible to participate in the  
147 Black Business Loan Program and shall receive priority  
148 consideration by the Office of Tourism, Trade, and Economic  
149 Development for participation in the program.

150 Section 3. This act shall take effect July 1, 2011.