

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

21
 22 Be It Enacted by the Legislature of the State of Florida:

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

26 288.7102 Black Business Loan Program.—

27 (1) The Black Business Loan Program is established in the
 28 department, which shall ~~annually~~ certify eligible recipients for

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

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

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

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

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

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

57 award of funds.

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

66 (d)-(e) For a new recipient:

- 67 1. Demonstrate that its board of directors includes
68 citizens of the state experienced in the development of black
69 business enterprises.
- 70 2. Demonstrate that the recipient has a business plan that
71 allows the recipient to operate in a manner consistent with this
72 section and the rules of the department.
- 73 3. Demonstrate that the recipient has the technical skills
74 to analyze and evaluate applications by black business
75 enterprises for loans, loan guarantees, or investments.
- 76 4. Demonstrate that the recipient has established viable
77 partnerships with public and private funding sources, economic
78 development agencies, and workforce development and job referral
79 networks.
- 80 5. Demonstrate that the recipient can provide a private
81 match equal to 20 percent of the amount of funds provided by the
82 department.

83 (e)-(d) For an existing or new recipient, agree to maintain
84 the recipient's books and records relating to funds received by

85 the department according to generally accepted accounting
 86 principles and in accordance with the requirements of s.
 87 215.97(7) and to make those books and records available to the
 88 department for inspection upon reasonable notice.

89 (5) Each eligible recipient must meet the requirements of
 90 this section, the terms of the agreement ~~contract~~ between the
 91 recipient and the department, and any other applicable state or
 92 federal laws. An entity may not receive funds unless the entity
 93 meets ~~annual~~ certification requirements.

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

HB 255

2012

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

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

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

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

125 (c) Administrative costs and technical support to black
126 business enterprises, which combined may not ~~to~~ exceed 27 9
127 percent of the funds received, and direct administrative costs,
128 ~~not to exceed 12 percent of the funds received.~~

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

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

HB 255

2012

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 department for participation in the
149 program.

150 Section 3. This act shall take effect July 1, 2012.