



1 A bill to be entitled
2 An act relating to Florida business entities; amending
3 s. 20.60, F.S.; deleting the requirement that the
4 Department of Economic Opportunity manage certain
5 activities related to the commercialization of
6 specified products, services, and ideas; specifying
7 that the Institute for Commercialization of Florida
8 Technology is not an appropriate direct-support
9 organization; amending s. 288.9621, F.S.; designating
10 an additional section as being included in the Florida
11 Capital Formation Act; amending s. 288.9622, F.S.;
12 revising legislative intent; amending s. 288.9623,
13 F.S.; defining terms; amending s. 288.9625, F.S.;
14 redesignating the Institute for the Commercialization
15 of Public Research as the Institute for
16 Commercialization of Florida Technology; specifying
17 that the institute is not subject to control,
18 supervision, or direction by the department; revising
19 the institute's responsibilities; requiring that the
20 investment-related affairs of the institute be managed
21 by the private fund manager and overseen by the board
22 of directors; restructuring the board of directors and
23 the selection process for the board of directors;
24 specifying term limits of the board members under
25 certain circumstances; requiring the board of



26 | directors to amend the bylaws of the institute under
27 | certain circumstances; providing that a director is
28 | subject to restrictions on certain conflicts of
29 | interest; prohibiting a director from having a
30 | financial interest in certain investments; authorizing
31 | a director to be reimbursed for certain expenses;
32 | granting the institute certain powers; requiring the
33 | institute to indemnify certain persons; delegating
34 | certain duties to the board of directors; revising to
35 | whom the board must provide a copy of the annual
36 | report and who may require and receive supplemental
37 | data relative to the institute's operation; requiring
38 | that certain requirements be met before the private
39 | fund manager is authorized to make an investment in a
40 | company, on behalf of the institute; deleting
41 | provisions relating to certain duties of the
42 | institute; deleting provisions relating to certain
43 | fees charged by the institute and the prohibition on
44 | using capital in support of certain entities;
45 | specifying that the annual report is considered a
46 | public record, subject to certain exemptions; revising
47 | the requirements of the institute's annual report;
48 | listing requirements and prohibitions for the private
49 | fund manager; stating the purpose of the institute's
50 | use of the private fund manager; requiring the private



51 fund manager to assume the management of certain
52 assets; authorizing the private fund manager to act on
53 behalf of the institute for certain purposes;
54 requiring that the private fund manager be paid
55 certain fees; authorizing the private fund manager to
56 undertake certain activities on behalf of the
57 institute; requiring the private fund manager to issue
58 an annual report to the board of directors by a
59 specific date; specifying that the annual report is
60 considered a public record subject to certain
61 exemptions; requiring that the report contain certain
62 information; requiring that the institute transfer any
63 funds received from a specific appropriation after a
64 specified date to the General Revenue Fund; requiring
65 that all assets held by the institute and the Florida
66 Technology Seed Capital Fund be immediately liquidated
67 if the institute receives such an appropriation;
68 providing that all the proceeds resulting from such
69 liquidation revert to the General Revenue Fund;
70 amending s. 288.96255, F.S.; revising the purpose of
71 the technology fund; requiring that certain proceeds
72 be returned to the fund after the payment of certain
73 costs and fees; requiring the institute to employ a
74 private fund manager; requiring the private fund
75 manager to perform specific duties; requiring that the



76 private fund manager receive certain fees and costs at
77 a specified time; requiring the private fund manager
78 to use a certain process to evaluate a proposal;
79 requiring the private fund manager to consider certain
80 factors when approving a company for investment;
81 deleting specific requirements for the investment of
82 funds; authorizing the private fund manager, in
83 addition to the institute, to perform certain tasks;
84 amending s. 288.9627, F.S.; conforming provisions to
85 changes made by this act; amending s. 607.512, F.S.;
86 authorizing the omission of certain confidential
87 information from an annual benefit report of a social
88 purpose corporation; amending s. 607.612, F.S.;
89 authorizing the omission of certain confidential
90 information from an annual benefit report of a benefit
91 corporation; amending s. 658.23, F.S.; authorizing the
92 modification of form articles of incorporation to
93 include provisions required for a social purpose or
94 benefit corporation; amending s. 658.30, F.S.;
95 providing that certain provisions of the act extend to
96 financial institutions in certain circumstances;
97 authorizing stockholders, directors, and committees of
98 financial institutions to hold meetings as authorized
99 by the act; amending s. 658.36, F.S.; authorizing a
100 financial institution to approve special stock



101 offering plans notwithstanding provisions of the act;
 102 providing an effective date.

103

104 Be It Enacted by the Legislature of the State of Florida:

105

106 Section 1. Paragraph (e) of subsection (4) and paragraph
 107 (b) of subsection (9) of section 20.60, Florida Statutes, are
 108 amended to read:

109 20.60 Department of Economic Opportunity; creation; powers
 110 and duties.—

111 (4) The purpose of the department is to assist the
 112 Governor in working with the Legislature, state agencies,
 113 business leaders, and economic development professionals to
 114 formulate and implement coherent and consistent policies and
 115 strategies designed to promote economic opportunities for all
 116 Floridians. To accomplish such purposes, the department shall:

117 (e) Manage the activities of public-private partnerships
 118 and state agencies in order to avoid duplication and promote
 119 coordinated and consistent implementation of programs in areas
 120 including, but not limited to, tourism; international trade and
 121 investment; business recruitment, creation, retention, and
 122 expansion; minority and small business development; rural
 123 community development; ~~commercialization of products, services,~~
 124 ~~or ideas developed in public universities or other public~~
 125 ~~institutions;~~ and the development and promotion of professional



126 and amateur sporting events.

127 (9) The executive director shall:

128 (b) Serve as the manager for the state with respect to
129 contracts with Enterprise Florida, Inc., ~~the Institute for the~~
130 ~~Commercialization of Public Research,~~ and all applicable direct-
131 support organizations. To accomplish the provisions of this
132 section and applicable provisions of chapter 288, and
133 notwithstanding the provisions of part I of chapter 287, the
134 director shall enter into specific contracts with Enterprise
135 Florida, Inc., ~~the Institute for the Commercialization of Public~~
136 ~~Research,~~ and other appropriate direct-support organizations.
137 Such contracts may be for multiyear terms and must ~~shall~~ include
138 specific performance measures for each year. For purposes of
139 this section, the Florida Tourism Industry Marketing Corporation
140 and the Institute for Commercialization of Florida Technology
141 are not ~~is not an~~ appropriate direct-support organizations
142 organization.

143 Section 2. Section 288.9621, Florida Statutes, is amended
144 to read:

145 288.9621 Short title.—Sections 288.9621-288.96255 ~~Sections~~
146 ~~288.9621-288.9625~~ may be cited as the "Florida Capital Formation
147 Act."

148 Section 3. Section 288.9622, Florida Statutes, is amended
149 to read:

150 288.9622 Findings and intent.—



151 (1) The Legislature finds and declares that there is a
152 need to increase the availability of seed capital and early
153 stage investment ~~venture equity~~ capital for emerging companies
154 in the state, including, without limitation, businesses
155 ~~enterprises~~ in life sciences, information technology, advanced
156 manufacturing processes, aviation and aerospace, and homeland
157 security and defense, as well as other industries of strategic
158 importance to this state ~~strategic technologies~~.

159 (2) It is the intent of the Legislature that ss. 288.9621-
160 288.96255 ~~ss. 288.9621-288.9625~~ serve to mobilize private
161 investment in a broad variety of ~~venture capital~~ partnerships in
162 diversified industries and geographies; retain private sector
163 investment criteria focused on rate of return; allow the
164 Institute for Commercialization of Florida Technology to use the
165 ~~services of~~ highly qualified private fund managers experienced
166 in the seed and early stage development industry in this state;
167 outline the use, qualifications, and activities of the private
168 management, without any financial support or specific
169 appropriations from the state, by a private fund manager of the
170 assets of the Seed Capital Accelerator Program and the Florida
171 Technology Seed Capital Fund investment portfolio of the
172 Institute for Commercialization of Florida Technology ~~venture~~
173 ~~capital industry regardless of location~~; facilitate the
174 organization of the Florida Opportunity Fund as an investor in
175 seed and early stage businesses, infrastructure projects,



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176 venture capital funds, and angel funds; and precipitate capital
177 investment and extensions of credit to and in the Florida
178 Opportunity Fund.

179 (3) It is the intent of the Legislature to mobilize
180 investment ~~venture equity~~ capital ~~for investment~~ in such a
181 manner as to result in a significant potential to create new
182 businesses and jobs in this state which ~~that~~ are based on high
183 growth potential technologies, products, or services and which
184 ~~that~~ will further diversify the economy of this state.

185 (4) It is the intent of the Legislature to reduce the
186 ongoing operational cost and burden of managing the Florida
187 Technology Seed Capital Fund and the Seed Capital Accelerator
188 Program to this state and eliminate any financial support or
189 specific appropriations from the state by engaging a private
190 asset management entity in this state which is familiar with the
191 seed and early stage investment industry in this state. This
192 entity would be responsible for the management of the assets of
193 the Seed Capital Accelerator Program and the Florida Technology
194 Seed Capital Fund investment portfolio without requiring ongoing
195 budget expenditures by this state or receiving any financial
196 support or specific appropriations from the state ~~that an~~
197 ~~institute be created to mentor, market, and attract capital to~~
198 ~~such commercialization ventures throughout the state.~~

199 Section 4. Section 288.9623, Florida Statutes, is amended
200 to read:



201 288.9623 Definitions.—As used in ss. 288.9621-288.96255,
202 the term ss. ~~288.9621-288.9625~~:

203 (1) "Accelerator program" means the Seed Capital
204 Accelerator Program managed by the institute.

205 (2)~~(1)~~ "Board" means the board of directors of the Florida
206 Opportunity Fund.

207 (3)~~(2)~~ "Fund" means the Florida Opportunity Fund.

208 (4) "Institute" means the Institute for Commercialization
209 of Florida Technology.

210 (5) "Investment portfolio" means individual or collective
211 investment assets held under the technology fund.

212 (6) "Net profits" means the total gross proceeds received
213 from the sale or liquidation of an asset of the investment
214 portfolio less any costs, legal fees, professional fees,
215 consulting fees, government fees, brokerage fees, taxes,
216 management fees pursuant to s. 288.9625(12)(b), disbursement to
217 private investors pursuant to s. 288.96255(6), or other fees,
218 costs, and expenses incurred in the sale or liquidation of any
219 of the investment portfolio assets.

220 (7) "Portfolio companies" means the companies who are part
221 of the Florida Technology Seed Capital Fund investment
222 portfolio.

223 (8) "Private fund manager" means the private entity, or
224 its designee, selected to manage the investment portfolio on
225 behalf of the institute.



226 (9) "Technology fund" means the Florida Technology Seed
227 Capital Fund managed by the institute.

228 Section 5. Section 288.9625, Florida Statutes, is amended
229 to read:

230 288.9625 Institute for ~~the~~ Commercialization of Florida
231 Technology Public Research. ~~There is established at a public~~
232 ~~university or research center in this state the Institute for~~
233 ~~the Commercialization of Public Research.~~

234 (1) The institute ~~is~~ shall be a nonprofit ~~not-for-profit~~
235 corporation registered, incorporated, and operated in accordance
236 with chapter 617. The institute is not subject to control,
237 supervision, or direction by the department in any manner,
238 including, but not limited to, personnel, purchasing,
239 transactions involving real or personal property, and budgetary
240 matters.

241 (2) The purpose of the institute is to assist, without any
242 financial support or specific appropriations from the state, in
243 the commercialization of products developed by the research and
244 development activities of an innovation business, including, but
245 not limited to, those ~~as defined in s. 288.1089; a publicly~~
246 ~~supported college, university, or research institute; or any~~
247 ~~other publicly supported organization in this state.~~ The
248 institute shall fulfill its purpose in the best interests of the
249 state. The institute:

250 (a) Is a corporation primarily acting as an



251 instrumentality of the state pursuant to s. 768.28(2), for the
252 purposes of sovereign immunity;

253 (b) Is not an agency within the meaning of s. 20.03(11);

254 (c) Is subject to the open records and meetings
255 requirements of s. 24, Art. I of the State Constitution, chapter
256 119, and s. 286.011;

257 (d) Is not subject to ~~the provisions of~~ chapter 287;

258 (e) Is ~~shall be~~ governed by the code of ethics for public
259 officers and employees as set forth in part III of chapter 112;

260 (f) May create corporate subsidiaries; and

261 (g) May not receive any financial support or specific
262 appropriations from the state ~~Shall support existing~~
263 ~~commercialization efforts at state universities; and~~

264 ~~(h) May not supplant, replace, or direct existing~~
265 ~~technology transfer operations or other commercialization~~
266 ~~programs, including incubators and accelerators.~~

267 (3) The articles of incorporation of the institute must ~~be~~
268 ~~approved in a written agreement with the department. The~~
269 ~~agreement and the articles of incorporation shall:~~

270 (a) Provide that the institute shall provide equal
271 employment opportunities for all persons regardless of race,
272 color, religion, gender, national origin, age, handicap, or
273 marital status;

274 (b) Provide that the institute is subject to the public
275 records and meeting requirements of s. 24, Art. I of the State



276 Constitution;

277 (c) Provide that all officers, directors, and employees of
278 the institute are ~~shall be~~ governed by the code of ethics for
279 public officers and employees as set forth in part III of
280 chapter 112;

281 (d) Provide that members of the board of directors of the
282 institute are responsible for the prudent use of all public and
283 private funds and that they will ensure that the use of funds is
284 in accordance with all applicable laws, bylaws, and contractual
285 requirements, including those in subsection (15); and

286 (e) Provide that the fiscal year of the institute is from
287 July 1 to June 30.

288 (4) The investment-related affairs of the institute shall
289 be managed by the private fund manager, and overseen by a board
290 of directors who shall serve without compensation. Each director
291 shall have only one vote. The chair of the board of directors
292 shall be selected by a majority vote of the directors, a quorum
293 being present. ~~The board of directors shall consist of the~~
294 ~~following five members:~~

295 ~~(a) The executive director of the department, or the~~
296 ~~director's designee.~~

297 ~~(b) The president of the university where the institute is~~
298 ~~located or the president's designee unless multiple universities~~
299 ~~jointly sponsor the institute, in which case the presidents of~~
300 ~~the sponsoring universities shall agree upon a designee.~~



301 (a) ~~(e)~~ The board of directors shall consist of three
302 directors appointed pursuant to the procedures and requirements
303 of this section by the Governor to 3-year staggered terms, to
304 which the directors may be reappointed.

305 (b) For any director appointed before July 1, 2018, the
306 term of service for that director may continue through the end
307 of his or her current term. The vacancy created by the
308 expiration of such term must be filled pursuant to the
309 procedures and requirements of this section.

310 (c) The bylaws of the institute shall be amended
311 accordingly by the board of directors to reflect the
312 requirements of this section.

313 (d) Upon vacancy, or within 90 days before an anticipated
314 vacancy by the expiration of a term of a director, the private
315 fund manager shall submit a list of three eligible nominees,
316 which may include the incumbent director, to replace the
317 outgoing director. The board of directors, voting along with the
318 private fund manager, may appoint a director from the nominee
319 list or may request and appoint a director from a new list of
320 three nominees that were not included on the previous list.

321 (e) The persons appointed as replacement directors must
322 include persons who have expertise in the area of the selection
323 and supervision of early stage investment managers or in the
324 fiduciary management of investment funds and other areas of
325 expertise as considered appropriate.



326 (f) Directors are subject to any restrictions on conflicts
327 of interest specified in the organizational documents and may
328 not have a financial interest in any venture capital investment
329 in any portfolio company.

330 (g) Directors may be reimbursed for all reasonable,
331 necessary, and actual expenses as determined and approved by the
332 private fund manager pursuant to s. 112.061.

333 (h) The institute shall have all powers granted under its
334 organizational documents and shall indemnify its directors and
335 the private fund manager to the broadest extent permissible
336 under the laws of this state.

337 (5) The board of directors shall oversee the private fund
338 manager to ensure consistency with the Florida Capital Formation
339 Act, perform those duties as may be delegated to it in the
340 bylaws of the institute, and provide a copy of the institute's
341 annual report to the Governor, the President of the Senate, and
342 the Speaker of the House of Representatives, and the president
343 of the university at which the institute is located.

344 (6) ~~The department, the president and the board of~~
345 ~~trustees of the university where the institute is located, the~~
346 ~~Auditor General, and the Office of Program Policy Analysis and~~
347 ~~Government Accountability may require and receive from the~~
348 ~~institute or its independent auditor any detail or supplemental~~
349 ~~data relative to the operation of the institute.~~

350 (7) To the extent funds for investment are available in



351 the technology fund, the private fund manager, on behalf of the
352 institute, may make an investment in a company or organization
353 if the following requirements are met:

354 (a) Before providing assistance, the institute accepted ~~To~~
355 ~~be eligible for assistance,~~ the company or organization
356 attempting to commercialize its product based on the guidelines
357 under s. 288.96255(4) must be accepted by the institute before
358 ~~receiving the institute's assistance.~~

359 (b) The company or organization is based in this state
360 ~~institute shall receive recommendations from any publicly~~
361 ~~supported organization that a company that is commercializing~~
362 ~~the research, technology, or patents from a qualifying publicly~~
363 ~~supported organization should be accepted into the institute.~~

364 (c) ~~The institute shall thereafter review the business~~
365 ~~plans and technology information of each such recommended~~
366 ~~company. If accepted, the institute shall mentor the company,~~
367 ~~develop marketing information on the company, and use its~~
368 ~~resources to attract capital investment into the company, as~~
369 ~~well as bring other resources to the company which may foster~~
370 ~~its effective management, growth, capitalization, technology~~
371 ~~protection, or marketing or business success.~~

372 (8) ~~The institute shall:~~

373 (a) ~~Maintain a centralized location to showcase companies~~
374 ~~and their technologies and products;~~

375 (b) ~~Develop an efficient process to inventory and~~



376 ~~publicize companies and products that have been accepted by the~~
377 ~~institute for commercialization;~~

378 ~~(c) Routinely communicate with private investors and~~
379 ~~venture capital organizations regarding the investment~~
380 ~~opportunities in its showcased companies;~~

381 ~~(d) Facilitate meetings between prospective investors and~~
382 ~~eligible organizations in the institute;~~

383 ~~(e) Hire full-time staff who understand relevant~~
384 ~~technologies needed to market companies to the angel investors~~
385 ~~and venture capital investment community; and~~

386 ~~(f) Develop cooperative relationships with publicly~~
387 ~~supported organizations all of which work together to provide~~
388 ~~resources or special knowledge that is likely to be helpful to~~
389 ~~institute companies.~~

390 ~~(8)(9)~~ Except as provided under s. 288.96255, the
391 institute may not develop or accrue any ownership, royalty,
392 patent, or other such rights over or interest in companies or
393 products in the institute except in connection with financing
394 provided directly to client companies and shall maintain the
395 confidentiality of proprietary information.

396 ~~(10) The institute may not charge for services provided to~~
397 ~~state universities and affiliated organizations, community~~
398 ~~colleges, or state agencies; however, the institute may deliver~~
399 ~~and charge for services to private companies and affiliated~~
400 ~~organizations if providing a service does not interfere with the~~



401 ~~core mission of the institute. The institute may not use its~~
402 ~~capital in support of private companies or affiliated~~
403 ~~organizations whose products were not developed by research and~~
404 ~~development activities of a publicly supported college,~~
405 ~~university, or research institute, or any other organization.~~

406 (9) ~~(11)~~ By December 1 of each year, the institute shall
407 issue an annual report concerning its activities to the
408 Governor, the President of the Senate, and the Speaker of the
409 House of Representatives. The annual report shall be considered
410 a public record, as provided in paragraph (3) (b), subject to any
411 appropriate exemptions under s. 288.9627. The annual report must
412 ~~shall~~ include the following:

413 (a) Information on any assistance provided by the
414 institute to an innovation business, as defined in s. 288.1089,
415 ~~a publicly supported college, university, or research institute,~~
416 ~~or any other publicly supported organization in the state.~~

417 (b) A description of the benefits to this state resulting
418 from the institute, including the number of businesses created,
419 associated industries started, the number of jobs created, and
420 the growth of related projects.

421 (c) Independently audited financial statements, including
422 statements that show receipts and expenditures during the
423 preceding fiscal year for personnel, management fees,
424 administration, and operational costs of the institute.

425 (10) The private fund manager:



426 (a) Must be a for-profit limited liability company or a
427 for-profit corporation formed, governed, and operated in
428 accordance with chapter 605 or chapter 607, respectively.

429 (b) Shall conduct activities on behalf of the institute
430 which are consistent with the purposes set forth in this
431 section.

432 (c) Must have expertise and experience in the management
433 and operation of early stage companies in this state.

434 (d) Must have experience with investment in early stage
435 ventures in this state and have a working knowledge and
436 understanding of the investment portfolio and the relevant
437 industries of the portfolio companies in this state.

438 (e) Shall employ personnel and professionals who have
439 knowledge of the investment portfolio and portfolio companies of
440 the institute, as well as financial, technical, and business
441 expertise to manage the technology fund activity.

442 (f) May not be a public corporation or instrumentality of
443 the state.

444 (g) Is not a corporation primarily acting as an
445 instrumentality of the state pursuant to s. 768.28(2), for the
446 purposes of sovereign immunity.

447 (h) Is not an agency within the meaning of s. 20.03(11).

448 (i) Is not subject to chapter 287.

449 (j) May not be governed by the code of ethics for public
450 officers and employees as set forth in part III of chapter 112.



451 (k) May not receive any specific appropriation from the
452 state in any amount.

453 (11) The purpose of the institute's use of a private fund
454 manager is to alleviate the state's burden of the continued and
455 future operational and management costs related to the
456 technology fund and accelerator program without the financial
457 support of or any specific appropriation from the state, while
458 allowing the institute, through the activities of the private
459 fund manager, to continue to foster greater private-sector
460 investment funding, to encourage seed-stage investments in
461 startup and early stage companies, and to advise companies about
462 how to restructure existing management, operations, product
463 development, or service development to attract advantageous
464 business opportunities.

465 (12) The private fund manager shall assume the management
466 of the assets of the accelerator program and the technology fund
467 investment portfolios associated with the institute.

468 (a) The private fund manager has the authority on behalf
469 of the institute to:

470 1. Negotiate investment, sale, and liquidation terms with
471 portfolio and nonportfolio companies;

472 2. Develop and execute contracts, or amendments thereto,
473 with portfolio and nonportfolio companies;

474 3. Seek new qualified companies for the investment of
475 funds from the technology fund;



476 4. Receive, on behalf of the institute, investment capital
477 from the sale or liquidation of any portion of the investment
478 portfolio, loan proceeds, or other investment returns, and remit
479 such capital, proceeds, and returns to the technology fund
480 pursuant to s. 288.96255, except as otherwise provided in this
481 section and s. 288.96255; and

482 5. Perform additional duties set forth in s. 288.96255.

483 (b) The private fund manager shall be paid reasonable fees
484 consistent with industry fund management practices and
485 consisting of:

486 1. An operational management fee, including the
487 reimbursement of expenses, paid from the proceeds of the
488 repayment of loans from the accelerator program or other
489 capital, proceeds, and returns available in the technology fund;

490 2. A portfolio fee paid from the proceeds of each sale or
491 liquidation of assets or portions of the assets of the
492 investment portfolio; and

493 3. A closing fee paid from the investment amount paid by
494 the technology fund to a company at the closing of each
495 investment.

496 (13) The private fund manager may undertake the following
497 activities on behalf of the institute:

498 (a) Mentor, assist with the development of marketing
499 information, and assist with attracting capital investment, as
500 well as bring other resources to the company which may foster



501 its effective management, growth, capitalization, technology
502 protection, or marketing or business success;

503 (b) Communicate with private investors and venture capital
504 organizations regarding investment opportunities in the
505 portfolio companies of the technology fund and accelerator
506 program;

507 (c) Facilitate meetings between prospective investors and
508 the companies; and

509 (d) Develop cooperative relationships with publicly
510 supported organizations that work together to provide resources
511 or special knowledge likely to be helpful to portfolio
512 companies.

513 (14) By November 1 of each year, the private fund manager
514 shall issue an annual report to the board of directors of the
515 institute concerning the activities the private fund manager
516 conducted which relate to existing accelerator program and
517 technology fund investments in order for the board to be in
518 compliance with its report obligations under subsection (9). The
519 annual report provided by the private fund manager shall be
520 considered a public record, as provided in paragraph (3)(b),
521 subject to any appropriate exemptions under s. 288.9627. The
522 annual report, at a minimum, must include:

523 (a) A description of the benefits to this state resulting
524 from the assets of the accelerator program and technology fund,
525 including the number of jobs created, the amount of capital the



526 companies raised, and other benefits relating to increased
527 research expenditures and company growth.

528 (b) Independently audited financial statements related to
529 the receipt and calculation of the net profits of the investment
530 portfolio.

531 (15) If the institute receives any specific appropriation
532 from the state after July 1, 2018, the institute shall
533 immediately transfer such funds to the General Revenue Fund. The
534 institute, and all assets held by the institute, including all
535 assets and ownership interests held by the technology fund
536 pursuant to s. 288.96255, shall be liquidated immediately after
537 the receipt of such appropriation, and all proceeds of the sales
538 of such assets and ownership interests shall revert to the
539 General Revenue Fund.

540 Section 6. Subsection (1) and subsections (3) through (7)
541 of section 288.96255, Florida Statutes, are amended to read:

542 288.96255 Florida Technology Seed Capital Fund; creation;
543 duties.—

544 (1) The Institute for ~~the~~ Commercialization of Florida
545 Technology ~~Public Research~~ shall create the Florida Technology
546 Seed Capital Fund as a corporate subsidiary. The purpose of the
547 technology fund is, without any financial assistance or specific
548 appropriations from the state, to foster greater private-sector
549 investment funding, to encourage seed-stage investments in
550 start-up companies, and to advise companies about how to



551 restructure existing management, operation, or production to
552 attract advantageous business opportunities. The net profits of
553 the proceeds of each sale or liquidation of assets or portions
554 of the assets of the investment portfolio must ~~a sale of the~~
555 ~~equity held by the fund shall~~ be returned to the technology fund
556 for reinvestment after payment of the applicable costs,
557 professional fees, expenses, fees pursuant to s.
558 288.9625(12) (b), and disbursement to private investors pursuant
559 to paragraph (6) (e).

560 (3) The institute shall employ a private fund manager
561 pursuant to s. 288.9625 ~~professionals who have both technical~~
562 ~~and business expertise~~ to manage the investment portfolio and
563 technology fund activity. The private fund manager ~~institute~~
564 ~~shall establish an investor advisory board comprised of venture~~
565 ~~capital professionals and early stage investors from this and~~
566 ~~other states who~~ shall advise the institute and guide the ~~fund~~
567 management of the technology fund and make funding
568 recommendations, provided that capital for investment is
569 available in the technology fund. The private fund manager shall
570 receive reasonable fees consistent with industry practices for
571 performing due diligence and an investment closing fee paid out
572 of the technology fund at the closing of each investment in
573 addition to reasonable attorney fees, other fees prescribed in
574 s. 288.9625(12) (b), and other costs in connection with making an
575 investment. ~~Administrative costs paid out of the fund shall be~~



576 ~~determined by the investor advisory board.~~

577 (4) The private fund manager institute shall use a
578 thorough and detailed process that is modeled after investment
579 industry practices ~~the best practices of the investment industry~~
580 to evaluate a proposal. In order to approve a company for
581 investment, the private fund manager, on behalf of the
582 institute, must consider if:

583 (a) The company has a strong intellectual property
584 position, a capable management team, readily identifiable paths
585 to market or commercialization, significant job-growth
586 potential, the ability to provide other sources of capital to
587 leverage the state's investment, and the potential to attract
588 additional funding;

589 (b) The private fund manager has had an opportunity to
590 complete due diligence to its satisfaction ~~company has been~~
591 ~~identified by a publicly funded research institution;~~

592 (c) The ~~start-up~~ company is a target industry business as
593 defined in s. 288.106(2); and

594 (d) ~~The company has been identified by~~ An approved
595 private-sector lead investor who has demonstrated due diligence
596 typical of start-up investments in evaluating the potential of
597 the company has identified the company.; ~~and~~

598 ~~(e) The advisory board and fund manager have reviewed the~~
599 ~~company's proposal and recommended it.~~

600 (5) ~~(a) Seed Funds~~ from the technology fund may be



601 | invested if the institute approves a company and the initial
602 | seed-stage investment. ~~The initial seed stage investment must be~~
603 | ~~at least \$50,000, but no more than \$300,000. The initial seed-~~
604 | ~~stage investment requires a one-to-one, private-sector match of~~
605 | ~~investment.~~

606 | ~~(b) Additional seed funds may be invested in a company if~~
607 | ~~approved by the institute. The cumulative total of investment in~~
608 | ~~a single company may not exceed \$500,000. Any additional~~
609 | ~~investment amount requires a two-to-one, private-sector match of~~
610 | ~~investment.~~

611 | (6) The institute or private fund manager may:

612 | (a) Provide a company with value-added support services in
613 | the areas of business plan development and strategy, the
614 | preparation of investor presentations, and other critical areas
615 | identified by the private fund manager ~~institute~~ to increase its
616 | chances for long-term viability and success;

617 | (b) Encourage appropriate investment funds to become
618 | preapproved to match investment funds;

619 | (c) Market the attractiveness of the state as an early-
620 | stage investment location; ~~and~~

621 | (d) Collaborate with state economic-development
622 | organizations, national associations of seed and angel funds,
623 | and other innovation-based associations to create an enhanced
624 | state entrepreneurial ecosystem; ~~and.~~

625 | (e) Transfer any portion of the assets of the investment



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626 portfolio, on behalf of the institute, into a private fund or
627 special purpose vehicle, receive additional private investment
628 in the private fund or special purpose vehicle, manage the
629 private fund or special purpose vehicle, and distribute to the
630 technology fund and the private investors the respective pro
631 rata portion of any net profits from the sale or liquidation of
632 the assets of such private fund or special purpose vehicle.

633 ~~(7) The institute shall annually evaluate the activities~~
634 ~~and results of the funding, taking into consideration that seed~~
635 ~~investment horizons span from 3 to 7 years.~~

636 Section 7. Section 288.9627, Florida Statutes, is amended
637 to read:

638 288.9627 Exemptions from public records and public
639 meetings requirements for the Institute for ~~the~~
640 Commercialization of Florida Technology Public Research.—

641 (1) DEFINITIONS.—As used in this section, the term:

642 (a) "Institute for ~~the~~ Commercialization of Florida
643 Technology Public Research" or "institute" means the institute
644 established by s. 288.9625.

645 (b)1. "Proprietary confidential business information"
646 means information that has been designated by the proprietor
647 when provided to the institute as information that is owned or
648 controlled by a proprietor; that is intended to be and is
649 treated by the proprietor as private, the disclosure of which
650 would harm the business operations of the proprietor and has not



651 | been intentionally disclosed by the proprietor unless pursuant
652 | to a private agreement that provides that the information will
653 | not be released to the public except as required by law or legal
654 | process, or pursuant to law or an order of a court or
655 | administrative body; and that concerns:

656 | a. Trade secrets as defined in s. 688.002.

657 | b. Financial statements and internal or external auditor
658 | reports of a proprietor corporation, partnership, or person
659 | requesting confidentiality under this statute, unless publicly
660 | released by the proprietor.

661 | c. Meeting materials related to financial, operating,
662 | investment, or marketing information of the proprietor
663 | corporation, partnership, or person.

664 | d. Information concerning private investors in the
665 | proprietor corporation, partnership, or person.

666 | 2. "Proprietary confidential business information" does
667 | not include:

668 | a. The identity and primary address of the proprietor's
669 | principals.

670 | b. The dollar amount and date of the financial commitment
671 | or contribution made by the institute.

672 | c. The dollar amount, on a fiscal-year-end basis, of cash
673 | repayments or other fungible distributions received by the
674 | institute from each proprietor.

675 | d. The dollar amount, if any, of the total management fees



676 and costs paid on an annual fiscal-year-end basis by the
677 institute.

678 (c) "Proprietor" means a corporation, partnership, or
679 person that has applied for or received assistance, financial or
680 otherwise, from the institute and that controls or owns the
681 proprietary confidential business information.

682 (2) PUBLIC RECORDS EXEMPTION.—

683 (a) The following records held by the institute are
684 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
685 of the State Constitution:

686 1. Materials that relate to methods of manufacture or
687 production, potential trade secrets, or patentable material
688 received, generated, ascertained, or discovered during the
689 course of research or through research projects conducted by
690 universities and other publicly supported organizations in this
691 state and that are provided to the institute by a proprietor.

692 2. Information that would identify an investor or
693 potential investor who desires to remain anonymous in projects
694 reviewed by the institute for assistance.

695 3. Any information received from a person from another
696 state or nation or the Federal Government which is otherwise
697 confidential or exempt pursuant to the laws of that state or
698 nation or pursuant to federal law.

699 4. Proprietary confidential business information for 7
700 years after the termination of the institute's financial



701 commitment to the company.

702 (b) At the time any record made confidential and exempt by
703 this subsection, or portion thereof, is legally available or
704 subject to public disclosure for any other reason, that record,
705 or portion thereof, shall no longer be confidential and exempt
706 and shall be made available for inspection and copying.

707 (3) PUBLIC MEETINGS EXEMPTION.—

708 (a) That portion of a meeting of the institute's board of
709 directors at which information is discussed which is
710 confidential and exempt under subsection (2) is exempt from s.
711 286.011 and s. 24(b), Art. I of the State Constitution.

712 (b) Any exempt portion of a meeting shall be recorded and
713 transcribed. The board of directors shall record the times of
714 commencement and termination of the meeting, all discussion and
715 proceedings, the names of all persons present at any time, and
716 the names of all persons speaking. An exempt portion of any
717 meeting may not be off the record.

718 (c) A transcript and minutes of exempt portions of
719 meetings are confidential and exempt from s. 119.07(1) and s.
720 24(a), Art. I of the State Constitution.

721 (4) REQUEST TO INSPECT OR COPY A RECORD.—

722 (a) Records made confidential and exempt by this section
723 may be released, upon written request, to a governmental entity
724 in the performance of its official duties and responsibilities.

725 (b) Notwithstanding the provisions of paragraph (2)(a), a



726 request to inspect or copy a public record that contains
727 proprietary confidential business information shall be granted
728 if the proprietor of the information fails, within a reasonable
729 period of time after the request is received by the institute,
730 to verify the following to the institute through a written
731 declaration in the manner provided by s. 92.525:

732 1. That the requested record contains proprietary
733 confidential business information and the specific location of
734 such information within the record;

735 2. If the proprietary confidential business information is
736 a trade secret, a verification that it is a trade secret as
737 defined in s. 688.002;

738 3. That the proprietary confidential business information
739 is intended to be and is treated by the proprietor as private,
740 is the subject of efforts of the proprietor to maintain its
741 privacy, and is not readily ascertainable or publicly available
742 from any other source; and

743 4. That the disclosure of the proprietary confidential
744 business information to the public would harm the business
745 operations of the proprietor.

746 (c)1. Any person may petition a court of competent
747 jurisdiction for an order for the public release of those
748 portions of any record made confidential and exempt by
749 subsection (2).

750 2. Any action under this subsection must be brought in



751 Palm Beach County or Alachua County, and the petition or other
752 initial pleading shall be served on the institute and, if
753 determinable upon diligent inquiry, on the proprietor of the
754 information sought to be released.

755 3. In any order for the public release of a record under
756 this subsection, the court shall make a finding that:

757 a. The record or portion thereof is not a trade secret as
758 defined in s. 688.002;

759 b. A compelling public interest is served by the release
760 of the record or portions thereof which exceed the public
761 necessity for maintaining the confidentiality of such record;
762 and

763 c. The release of the record will not cause damage to or
764 adversely affect the interests of the proprietor of the released
765 information, other private persons or business entities, or the
766 institute.

767 (5) PENALTIES.—Any person who willfully and knowingly
768 violates this section commits a misdemeanor of the first degree,
769 punishable as provided in s. 775.082 or s. 775.083.

770 Section 8. Subsection (4) is added to section 607.512,
771 Florida Statutes, to read:

772 607.512 Preparation of annual benefit report.—

773 (4) Notwithstanding the requirements of this section,
774 information that is required to be included in the annual
775 benefit report but that is otherwise required by applicable



776 regulatory state or federal law to be kept confidential may be
777 omitted from the annual benefit report. If such information is
778 omitted, the annual benefit report shall expressly state that
779 information required by this section has been omitted in
780 reliance on this subsection.

781 Section 9. Subsection (5) is added to section 607.612,
782 Florida Statutes, to read:

783 607.612 Preparation of annual benefit report.—

784 (5) Notwithstanding the requirements of this section,
785 information that is required to be included in the annual
786 benefit report but that is otherwise required by applicable
787 regulatory state or federal law to be kept confidential may be
788 omitted from the annual benefit report. If such information is
789 omitted, the annual benefit report shall expressly state that
790 information required by this section has been omitted in
791 reliance on this subsection.

792 Section 10. Subsection (2) of section 658.23, Florida
793 Statutes, is amended to read:

794 658.23 Submission of articles of incorporation; contents;
795 form; approval; filing; commencement of corporate existence;
796 bylaws.—

797 (2) The articles of incorporation shall contain:

798 (a) The name of the proposed bank or trust company.

799 (b) The general nature of the business to be transacted or
800 a statement that the corporation may engage in any activity or



801 business permitted by law. Such statement shall authorize all
802 such activities and business by the corporation.

803 (c) The amount of capital stock authorized, showing the
804 maximum number of shares of par value common stock and of
805 preferred stock, and of every kind, class, or series of each,
806 together with the distinguishing characteristics and the par
807 value of all shares.

808 (d) The amount of capital with which the corporation will
809 begin business, which may not be less than the amount required
810 by the office pursuant to s. 658.21.

811 (e) A provision that the corporation is to have perpetual
812 existence unless existence is terminated pursuant to the
813 financial institutions codes.

814 (f) The initial street address of the main office of the
815 corporation, which shall be in this state.

816 (g) The number of directors, which shall be five or more,
817 and the names and street addresses of the members of the initial
818 board of directors.

819 (h) A provision for preemptive rights, if applicable.

820 (i) A provision authorizing the board of directors to
821 appoint additional directors, pursuant to s. 658.33, if
822 applicable.

823
824 The office shall provide to the proposed directors form articles
825 of incorporation which must include only those provisions



826 required under this section or under ~~part I~~ of chapter 607. The
827 form articles may be modified by the applicant to include any of
828 the additional provisions required by part II or part III of
829 chapter 607 which are necessary for a corporation to be a social
830 purpose or benefit corporation. The form articles shall be
831 acknowledged by the proposed directors and returned to the
832 office for filing with the Department of State.

833 Section 11. Section 658.30, Florida Statutes, is amended
834 to read:

835 658.30 Application of the Florida Business Corporation
836 Act.—

837 (1) When not in direct conflict with or superseded by
838 specific provisions of the financial institutions codes, the
839 provisions of the Florida Business Corporation Act, part I of
840 chapter 607, and, if applicable, part II or part III of chapter
841 607, extend to state banks and trust companies formed under the
842 financial institutions codes. This section shall be liberally
843 construed to accomplish the purposes stated herein.

844 (2) Without limiting the generality of subsection (1),
845 stockholders, directors, and committees of state banks and trust
846 companies may hold meetings in any manner authorized by part I
847 of chapter 607, and, if applicable, part II or part III of
848 chapter 607, and any action by stockholders, directors, or
849 committees required or authorized to be taken at a meeting may
850 be taken without a meeting in any manner authorized by part I of



851 chapter 607.

852 Section 12. Subsection (3) of section 658.36, Florida
853 Statutes, is amended to read:

854 658.36 Changes in capital.—

855 (3) If a bank or trust company's capital accounts have
856 been diminished by losses to less than the minimum required
857 pursuant to the financial institutions codes, the market value
858 of its shares of capital stock is less than the present par
859 value, and the bank or trust company cannot reasonably issue and
860 sell new shares of stock to restore its capital accounts at a
861 share price of par value or greater of the previously issued
862 capital stock, the office, notwithstanding any other provisions
863 of part I of chapter 607 and, if applicable, part II or part III
864 of chapter 607, or the financial institutions codes, may approve
865 special stock offering plans.

866 (a) Such plans may include, but are not limited to,
867 mechanisms for stock splits including reverse splits;
868 revaluations of par value of outstanding stock; changes in
869 voting rights, dividends, or other preferences; and creation of
870 new classes of stock.

871 (b) The plan must be approved by majority vote of the bank
872 or trust company's entire board of directors and by holders of
873 two-thirds of the outstanding shares of stock.

874 (c) The office shall disapprove a plan that provides
875 unfair or disproportionate benefits to existing shareholders,



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876 | directors, executive officers, or their related interests. The
877 | office shall also disapprove any plan that is not likely to
878 | restore the capital accounts to sufficient levels to achieve a
879 | sustainable, safe, and sound financial institution.

880 | (d) For any bank or trust company that the office
881 | determines to be a failing financial institution pursuant to s.
882 | 655.4185, the office may approve special stock offering plans
883 | without a vote of the shareholders.

884 | Section 13. This act shall take effect July 1, 2018.