

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: CS/SB 1600

INTRODUCER: Senator Powell

SUBJECT: Black Business Loan Program

DATE: February 11, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Reeve	McKay	CM	Fav/CS
2.			ATD	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1600 amends the Black Business Loan Program (program) to require that the application process and the annual certification process for the program be two separate and distinct processes. The bill also allows recipients of the program's funds to use funds provided by public agencies to meet the required 20 percent match and makes the eligibility requirements for new recipients applicable to existing recipients.

The bill takes effect July 1, 2020.

II. Present Situation:

The Black Business Loan Program was created in 2007 by the Florida Black Business Investment Act to provide loans, loan guarantees, and investments through loan administrators to black business enterprises that cannot obtain capital through conventional lending institutions but could otherwise compete successfully in the private sector.¹

The Department of Economic Opportunity (DEO) is authorized to establish an application and annual certification process for entities seeking to provide loans, loan guarantees, or investments through the program. The DEO must process applications submitted by June 1 on or before July 31.²

¹ Chapter 2007-157, s. 11, Laws of Fla. (creating s. 288.7102, F.S.)

² Section 288.7102(2), F.S.

To be eligible to receive funds to provide loans, loan guarantees, or investments to a black business enterprise, a recipient must be a corporation registered in the state. A recipient new to the program must also demonstrate that:³

- Its board of directors includes citizens of the state experienced in the development of black business enterprises;
- The recipient has a business plan that allows the recipient to operate in a manner consistent with this section and the rules of the DEO;
- The recipient has the technical skills to analyze and evaluate applications by black business enterprises for loans, loan guarantees, or investments;
- The recipient has established viable partnerships with public and private funding sources, economic development agencies, and workforce development and job referral networks; and
- The recipient can provide a private match equal to 20 percent of the amount of funds provided by the DEO.

New and existing recipients must agree to maintain books and records relating to funds received by the DEO and to make such books and records available to the DEO for inspection upon reasonable notice.⁴ An existing recipient must submit to the DEO an annual financial audit performed by an independent certified public accountant⁵ and a quarterly report containing a summary of the recipient's performance of the duties required by the program within 15 days of the end of each calendar quarter.⁶

If the Legislature appropriates funding to the program, the DEO must divide the appropriation by the total number of program recipients certified on or before July 31 of the fiscal year the appropriation is received. These equal amounts will then be distributed by the DEO to the recipients.⁷

Before a recipient can be awarded funds, the DEO must issue a letter certifying the recipient as eligible, and the DEO and the recipient must enter into an agreement that sets forth the conditions for the award of funds. The agreement must include the total amount of funds awarded, the performance conditions that must be met, and sanctions for the failure to meet performance conditions.⁸

In order to be eligible to receive a loan, loan guarantee, or investment from a recipient of funds distributed by the DEO, a black business enterprise must demonstrate that:⁹

- The proposed loan, loan guarantee, or investment is economically sound and will assist the black business enterprise in entering the conventional lending market, increasing opportunities for employment, and strengthening the economy of the state; and
- The black business enterprise will be able to compete successfully in the private sector if the black business enterprise obtains the requested financial assistance and has obtained or will

³ Section 288.7102(4), F.S.

⁴ Section 288.7102(4)(d), F.S.

⁵ Section 288.7102(4)(b), F.S.

⁶ Section 288.714, F.S.

⁷ Section 288.7102(3), F.S.

⁸ Section 288.7102(6), F.S.

⁹ Section 288.7103, F.S.

obtain appropriate and credible technical or managerial support through an organization approved by the corporation.

A black business investment corporation, a corporation that provides loans, loan guarantees, or investments to black business enterprises, that is eligible to receive funds and through the program shall receive priority consideration by the DEO for participation in the program.¹⁰

The program was appropriated \$2,250,000 in Fiscal Year 2018-2019. That year, the two current loan administrators, the Miami Bayside Foundation and the Florida Agricultural and Mechanical University Federal Credit Union, provided 17 loans or loan guarantees totaling \$990,011.¹¹

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 288.7102, F.S., to require that the application process and the annual certification process for the Black Business Loan Program be two separate and distinct processes. The DEO must consider an applicant's need, ability, and past performance providing similar business development services when assessing applications. The loan application must:

- Indicate the maximum possible score an applicant may achieve for each required section of the application;
- Indicate that the required cash match funds may be funds that were provided by a public agency;
- Require an applicant to document his or her past performance under any similar business development program; and
- Require an applicant indicate whether he or she previously provided loans, loan guarantees, or investments to black business enterprises as an employee of a public agency, and, if so, identify the programs for which such services were performed.

Under current law, an existing recipient must submit to the DEO an annual financial audit performed by an independent certified public accountant. The bill amends s. 288.7102(4)(b), F.S., to require recipients to submit a financial audit performed by an independent certified public accountant in order to be eligible to receive funds; existing recipients must annually submit such an audit. The bill specifies that existing recipients must also meet the eligibility requirements currently required of new recipients found in s. 288.7102(4)(c), F.S.

Section 2 reenacts s. 288.7094, F.S., to conform to the bill's provisions.

Section 3 provides that the bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹⁰ Section 288.7094, F.S.

¹¹ Florida Department of Economic Opportunity, *2018-2019 Annual Report* (21), available at http://floridajobs.org/docs/default-source/communicationsfiles/deo-annual-report-2019.pdf?sfvrsn=bce141b0_4 (last visited Feb. 11, 2020).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Recipients of the program's funds will be able to use funds provided by a public agency to meet the required 20 percent funding match.

C. Government Sector Impact:

The DEO has not yet estimated the bill's impact on its expenditures. However, the impact will likely be minimal.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Line 27 of the bill requires the DEO to consider an applicant's "need" when assessing applications, but the bill provides no standards by which to determine "need."

Line 43 of the bill requires the loan application to indicate that the required cash match funds may be funds that were provided by a public agency. Current law requires recipients of the program's funds to demonstrate they can provide a "*private* match" equal to 20 percent of the amount of funds provided by the DEO.

The bill requires the "loan application" to include certain components. The term "loan application" is potentially misleading because the application is for entities seeking funds to participate as loan administrators, not entities applying for a loan. The applications must

“indicate the maximum possible score an applicant may achieve for each required section of the application,” but neither the bill nor current statute provide any guidelines for scoring.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 288.7102 and 288.7094.

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Commerce and Tourism on February 11, 2020:

- Amends language pertaining to an applicant’s past performance providing similar business development services;
- Reverts the required match amount back to 20 percent of the program’s funds; and
- Allows recipients to use funds provided by a public agency for the required match.

- B. **Amendments:**

None.