

Council Substitute for
Council Substitute for House Bill No. 1283

An act relating to black business investment; amending s. 14.2015, F.S.; requiring the Office of Tourism, Trade, and Economic Development to administer the Black Business Loan Program; providing purposes; amending s. 288.702, F.S.; revising a short title; amending s. 288.703, F.S.; revising the definition of “minority person”; amending s. 288.706, F.S.; deleting references to the Florida Black Business Investment Board, Inc., and black business investment corporations from a list of certain financial institutions maintained by the Department of Management Services; requiring the Department of Management Services to collaborate with the Florida Black Business Investment Board, Inc., and the Office of Tourism, Trade, and Economic Development for certain purposes; creating s. 288.7065, F.S.; providing a short title; amending s. 288.707, F.S.; revising provisions creating the Florida Black Business Investment Board, Inc.; revising legislative findings; creating the board; requiring the board to contract with the Office of Tourism, Trade, and Economic Development for certain purposes; specifying application of public records and public meetings requirements; providing for appointment of a board of directors; specifying terms of office and experience requirements of board members; providing for filling of board vacancies; requiring the Governor to appoint a chair; providing for meetings; requiring members to serve without compensation; providing for reimbursement of expenses; requiring members to file a statement of financial interests; amending s. 288.708, F.S.; providing for appointment and duties of the president of the board; deleting a provision specifying prudent use of certain funds and requiring use of funds according to applicable laws, bylaws, or contracts; applying certain salary limitation provisions to employees of the board; requiring the Department of Management Services to establish a lease-agreement program for board employees; amending s. 288.709, F.S.; revising the powers of the board; amending s. 288.7091, F.S.; revising the duties of the board; creating s. 288.7094, F.S.; providing a definition; specifying eligibility of certain black business investment corporations to participate in the Black Business Loan Program; requiring the Office of Tourism, Trade, and Economic Development to give priority consideration to such corporations for participation in the program; creating s. 288.7102, F.S.; establishing the Black Business Loan Program in the Office of Tourism, Trade, and Economic Development; requiring the office to disburse funds appropriated by the Legislature, through certified eligible recipients, to certain black business enterprises; providing duties and responsibilities of the office and the board in administering the program; establishing a competitive application and annual certification process for eligible recipients for funds to provide loans, loan guarantees, and investments to black business enterprises; requiring an allocation policy for equitable distribution throughout the state; providing eligibility requirements for recipients to receive funds and to provide

loans, loan guarantees, or investments; requiring annual certification of eligibility; providing for award agreements and reimbursement of funds under certain circumstances; requiring the office to adopt rules; requiring the board to adopt policies and procedures; providing restrictions for the use of funds by black business investment corporations; providing legislative intent if an investment mechanism is held invalid; providing for reasonable profit for a black business investment corporation; creating s. 288.71025, F.S.; providing a prohibited act; providing for filing of a civil complaint, imposition of a fine, and the payment of court costs and reasonable attorney's fees; creating s. 288.7103, F.S.; providing black business enterprise eligibility requirements for receiving loans, loan guarantees, or investments; amending s. 288.712, F.S.; revising provisions relating to guarantor funds to assist qualified black business enterprises obtain surety bonds and other credit instruments; authorizing the board to contract with regulated surety companies; revising uses of the Black Contractors Bond Trust Fund; eliminating the Black Business Loan Guaranty Trust Fund and the Black Contractors Bond Program Administrative and Loss Reserve Fund; revising board exceptions to laws and rules related to a guaranty company; requiring board adoption of policies and procedures relating to board guarantee of loss and to required payment of premiums; authorizing contracting with a private entity to administer a black contractors bonding program; delineating board use of a surety bond company; delineating board requirements for implementing the black contractors bonding program; amending s. 288.714, F.S.; requiring recipients to provide quarterly and annual reports; specifying report requirements; requiring the board to provide a summary of such reports to the office; requiring the board to submit an annual program report to the Governor and Legislature; specifying report requirements; amending s. 288.9015, F.S.; requiring Enterprise Florida, Inc., to collaborate with the Florida Black Business Investment Board, Inc., and the Office of Tourism, Trade, and Economic Development for certain purposes; requiring the Office of Program Policy Analysis and Government Accountability to submit a status report to the Governor and Legislature on the implementation of the Florida Black Business Investment Act by the Office of Tourism, Trade, and Economic Development, the Florida Black Business Investment Board, Inc., and program fund recipients; requiring the Office of Program Policy Analysis and Government Accountability to conduct a program review of the performance of the Office of Tourism, Trade, and Economic Development, the Florida Black Business Investment Board, Inc., and program fund recipients in meeting goals of the Florida Black Business Investment Act and to submit a program review report to the Governor and Legislature; amending ss. 17.11, 287.055, 288.90151, 625.3255, 657.042, and 658.67, F.S.; conforming references to changes made by the act; repealing s. 288.7092, F.S., relating to return on investment from activities of the corporation; repealing s. 288.7095, F.S., relating to duties of black business investment corporations; repealing s. 288.71, F.S., relating to conditions for board action; repealing s. 288.7101, F.S., relating to the

state employee leasing program of the Department of Management Services for employees of the Florida Black Business Investment Board, Inc.; repealing s. 288.711, F.S., relating to the Florida Investment Incentive Trust Fund; repealing s. 288.713, F.S., relating to capital participation instruments; providing a legislative finding regarding use of state funds received by the board through fiscal year 2005-2006; providing an effective date.

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

Section 1. Paragraphs (g), (h), (i), and (j) of subsection (2) of section 14.2015, Florida Statutes, are redesignated as paragraphs (h), (i), (j), and (k), respectively, and a new paragraph (g) is added to that subsection to read:

14.2015 Office of Tourism, Trade, and Economic Development; creation; powers and duties.—

(2) The purpose of the Office of Tourism, Trade, and Economic Development is to assist the Governor in working with the Legislature, state agencies, business leaders, and economic development professionals to formulate and implement coherent and consistent policies and strategies designed to provide economic opportunities for all Floridians. To accomplish such purposes, the Office of Tourism, Trade, and Economic Development shall:

(g) Administer the Black Business Loan Program, the purpose of which is to leverage state, local, and private funds to provide loans and loan guarantees to black business enterprises that cannot obtain capital through conventional lending institutions but that otherwise could compete successfully in the private sector.

Section 2. Section 288.702, Florida Statutes, is amended to read:

288.702 Short title.—This section and sections 288.703-288.706 ~~This act shall be known and~~ may be cited as the “Florida Small and Minority Business Assistance Act of 1985.”

Section 3. Paragraph (a) of subsection (3) of section 288.703, Florida Statutes, is amended to read:

288.703 Definitions.—As used in this act, the following words and terms shall have the following meanings unless the content shall indicate another meaning or intent:

(3) “Minority person” means a lawful, permanent resident of Florida who is:

(a) An African American, a person having origins in any of the black racial groups of the African Diaspora, regardless of cultural origin.

Section 4. Subsection (11) of section 288.706, Florida Statutes, is amended, and subsection (12) is added to that section, to read:

288.706 Florida Minority Business Loan Mobilization Program.—

(11) The Department of Management Services shall maintain a listing of financial institutions willing to participate in the Florida Minority Business Loan Mobilization Program, ~~which may include the Florida Black Business Investment Board, Inc., and black business investment corporations.~~ This list of financial institutions shall not be exclusive. A minority business enterprise vendor who has a working relationship with a financial institution is encouraged to request that the financial institution apply to participate as a financial institution for the program.

(12) The Department of Management Services shall collaborate with the Florida Black Business Investment Board, Inc., and the Office of Tourism, Trade, and Economic Development to assist in the development and enhancement of black business enterprises.

Section 5. Section 288.7065, Florida Statutes, is created to read:

288.7065 Short title.—This section and sections 288.707-288.714 may be cited as the “Florida Black Business Investment Act.”

Section 6. Section 288.707, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 288.707, F.S., for present text.)

288.707 Florida Black Business Investment Board, Inc.; findings; creation; membership; organization; meetings; disclosure.—

(1) The Legislature finds that the public interest of the state will be served by the creation of a not-for-profit public-private entity the primary mission of which shall be to assist in the development and expansion of black business enterprises by:

(a) Advising the Office of Tourism, Trade, and Economic Development in its oversight of the Black Business Loan Program and creating long-range strategic policy for the program.

(b) Evaluating the unmet need for capital by black business enterprises in the state.

(c) Creating partnerships between state and local governments and private enterprises to aid in the development and expansion of black business enterprises.

(d) Providing a network of information resources for black business enterprises and providing technical assistance through this network.

(2)(a) There is created a not-for-profit corporation to be known as the “Florida Black Business Investment Board, Inc.,” referred to in ss. 288.707-288.714 as the board, which shall be registered, incorporated, organized, and operated in compliance with chapter 617 and shall not be a unit or entity of state government. The Legislature determines, however, that public policy dictates that the board operate in the most open and accessible manner consistent with its public purpose. Therefore, the Legislature specifically

declares that the board and its advisory committees or similar groups created by the board, including any subsidiaries, are subject to the provisions of chapter 119, relating to public records, and the provisions of chapter 286, relating to public meetings and records.

(b) The board shall contract with the Office of Tourism, Trade, and Economic Development to implement the provisions of ss. 288.707-288.714.

(3) The board shall be governed by a board of directors chosen as follows:

(a) Five members appointed by the Governor who shall serve terms of 4 years each, except that in making initial appointments, the Governor shall appoint three members to serve for terms of 2 years each and two members to serve for terms of 3 years each.

(b) One member appointed by the President of the Senate who shall serve a term of 2 years.

(c) One member appointed by the Speaker of the House of Representatives who shall serve a term of 2 years.

(d) The vice chair of Enterprise Florida, Inc., or his or her designee.

(e) The chair of the Florida Development Finance Corporation created pursuant to s. 288.9604.

(f) Four presidents of participating black business investment corporations who shall be appointed by the Executive Director of the Office of Tourism, Trade, and Economic Development upon the recommendation of the Florida Consortium of Black Business Investment Corporations, Inc., to serve for terms of 3 years each. Each shall be eligible for reappointment to one additional term of 3 years.

(4) Members of the board must have experience in business, including financial services, banking, or economic development. At least one of the Governor's appointees must have experience in venture capitalism.

(5) Any person appointed to fill a vacancy on the board shall be appointed in a like manner and shall serve for only the remainder of the unexpired term. Any member shall be eligible for reappointment.

(6) The Governor shall appoint the chairperson, who shall be a member of the board and shall serve at the pleasure of the Governor. The board shall annually elect one of its members as vice chairperson.

(7) The board shall meet at least four times annually upon the call of the chair or vice chair or at the request of a majority of the membership. A majority of the total number of current members of the board shall constitute a quorum. The board may take official action by a majority vote of the members present at any meeting at which a quorum is present.

(8) Members of the board shall serve without compensation, but members, the president of the board, and other board employees may be reim-

bursed for all reasonable, necessary, and actual expenses as determined and approved by the board pursuant to s. 112.061.

(9) Each member of the board who is not otherwise required to disclose financial interests pursuant to s. 8, Art. II of the State Constitution or s. 112.3144 shall file a statement of financial interests pursuant to s. 112.3145.

Section 7. Section 288.708, Florida Statutes, is amended to read:

288.708 President; employees.—

(1) The president of the ~~board corporation~~, who may also be designated as secretary-treasurer, shall be appointed by the board and shall serve at the pleasure of the board. The board shall establish and adjust the compensation of the president. The president shall be the chief administrative and operational officer of the ~~board corporation~~ and shall direct and supervise administrative affairs and the general management of the ~~board corporation~~. The board may delegate to its president those powers and responsibilities it deems appropriate, except for appointment of the president. The president:

(a) May contract with or employ legal and technical experts and such other employees, permanent and temporary, as shall be authorized by the board;

(b) Shall attend meetings of the board; and

(c) Shall cause copies to be made of all minutes and other records and documents of the board and shall certify that such copies are true copies. All persons dealing with the ~~corporation or~~ board may rely upon such certification.

(2) ~~The corporation and its officers and board members are responsible for the prudent use of all public and private funds and shall ensure that the use of such funds is in accordance with all applicable laws, bylaws, or contractual requirements. An employee of the board corporation may not receive compensation for employment that exceeds the salary paid to the Governor, unless the board corporation and the employee have executed a contract that prescribes specific and measurable performance outcomes for the employee, the satisfaction of which provides the basis for the award of incentive payments that increase the employee's total compensation to a level above the salary paid to the Governor. The Department of Management Services shall establish a lease-agreement program under which an employee of the board, as of June 30, 2002, retains his or her status as a state employee until the employee voluntarily or involuntarily terminates his or her status with the board. Status as a state employee shall include the right to participate in the Florida Retirement System.~~

Section 8. Section 288.709, Florida Statutes, is amended to read:

288.709 Powers of the Florida Black Business Investment Board, Inc.—The board shall have all the powers granted under chapter 617 and any powers necessary or convenient to carry out and effectuate the purposes and provisions of ss. 288.707-288.714, including, but not limited to, the power to:

(1) Adopt bylaws for the regulation of its affairs and the conduct of its business and adopt policies to implement the provisions of law conferring duties upon it. ~~The Such~~ bylaws shall provide that the board ~~corporation~~ is subject to the requirements of s. 24, Art. I of the State Constitution and chapter 119 and s. 286.011.

~~(2) Adopt an official seal.~~

~~(3) Sue and be sued in its own name.~~

~~(4) Make and execute contracts and other instruments necessary or convenient for the exercise of its power and functions.~~

~~(5) Acquire, hold, and dispose of personal property for its corporate purposes.~~

~~(2)(6)~~ Enter into agreements or other transactions with any federal, state, or local agency or private entity.

~~(7) Encourage financial institutions to participate in consortia for the purpose of investing in black business enterprises.~~

~~(8) Ensure that funds available to the board for purposes set forth in ss. 288.707-288.714 are disbursed on a statewide basis and are not concentrated in one geographical area.~~

~~(3)(9)~~ Invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in such investments as may be authorized for trust funds under s. 215.47; however, such investments will be made on behalf of the board by the Chief Financial Officer or by another trustee appointed for that purpose.

~~(4)(10)~~ Appear in its own behalf before boards, commissions, departments, or other agencies of municipal, county, state, or Federal Government.

~~(11) Procure insurance or require bond against any loss in connection with its property in such amounts and from such insurers as may be necessary or desirable.~~

~~(5)(12)~~ Apply for, accept, and disburse from any state or nonstate source ~~Receive and accept from any federal, state, or local agency grants, loans, or advances for, or in aid of, the purposes of ss. 288.707-288.714, and to receive and accept contributions from any source of either money, property, labor, or other things of value, to be held, used, and applied for said purposes.~~

~~(13) Create, issue, and buy and sell stock, evidences of indebtedness, and other capital participation instruments; to hold such stock, evidences of indebtedness, and capital participation instruments; and to underwrite the creation of a capital market for these securities in a manner designed to enhance development of capital ownership in the target group.~~

~~(6)(14)~~ Provide and pay for ~~such~~ advisory services and technical assistance as may be necessary or desirable to carry out the purposes of this act.

~~(7)(15)~~ Engage in special programs to enhance the development of black business enterprises as authorized by this act.

~~(16)~~ Promote black ownership of financial institutions in Florida.

~~(17)~~ Take, hold, and improve property, including real property.

~~(18)~~ Do any and all things necessary or convenient to carry out the purposes of, and exercise the powers given and granted in, ss. 288.707-288.714, and exercise any other powers, rights, or responsibilities of a corporation.

~~(8)(19)~~ In addition to any indemnification available under chapter 617, indemnify, and purchase and maintain insurance on behalf of, directors, officers, and employees of the board corporation and its boards against any personal liability or accountability by reason of actions taken while acting within the scope of their authority.

~~(9)(20)~~ Provide in its bylaws that, upon the dissolution of the board corporation, all of its assets acquired through the use of state funds, after payment of all legal debts and liabilities, revert to the this state.

Section 9. Section 288.7091, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 288.7091, F.S., for present text.)

288.7091 Duties of the Florida Black Business Investment Board, Inc.—
The board shall:

(1) Serve as an advisory board to the Office of Tourism, Trade, and Economic Development, through contract with the office, to assist the office with the implementation of ss. 288.707-288.714.

(2) Aid the development and expansion of black business enterprises by leveraging state, local, and private funds to be held by the board for use according to the provisions of ss. 288.707-288.714.

(3) Serve as the clearinghouse for information and sources of technical assistance that will enhance the development and expansion of black business enterprises and facilitate the provision of technical assistance in communities in which such services are otherwise underserved.

(4) Aggressively market the Black Business Loan Program and related services to black business enterprises through all appropriate media outlets, including media targeting the African-American community.

(5) Collaborate with Enterprise Florida, Inc., or its affiliates to develop and expand black business enterprises.

(6) Collaborate with the Department of Transportation, the Department of Management Services, including the Florida Minority Business Loan Mobilization Program, Workforce Florida, Inc., and other state agencies and partners, the State University System, including the Florida Agricultural

and Mechanical University's Institute of Urban Policy and Commerce, school boards, and local governments to create a network of information and to identify available resources to enhance the development and expansion of black business enterprises.

(7) Develop strategies to increase financial institution investment in black business enterprises.

(8) Provide a 5-year projection of the need for capital by black business enterprises. The board may contract with an independent entity to prepare the projection once every 5 years.

(9) Annually provide for a financial audit, as defined in s. 11.45, of the board's accounts and records by an independent certified public accountant. The audit shall include an explanation of all investments made by the board and an explanation of administrative costs. Within 6 months after the end of the fiscal year, the audit report shall be provided to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Auditor General.

Section 10. Section 288.7094, Florida Statutes, is created to read:

288.7094 Black business investment corporations.—

(1) The term "black business investment corporation" means a corporation that provides loans, loan guarantees, or investments to black business enterprises under s. 288.7102.

(2) A black business investment corporation that meets the requirements of s. 288.7102(3) is eligible to participate in the Black Business Loan Program and shall receive priority consideration by the Office of Tourism, Trade, and Economic Development for participation in the program.

Section 11. Section 288.7102, Florida Statutes, is created to read:

288.7102 Black Business Loan Program.—The Black Business Loan Program is established in the Office of Tourism, Trade, and Economic Development. Under the program, the office shall annually certify eligible recipients and subsequently disburse funds appropriated by the Legislature, through such eligible recipients, to black business enterprises that cannot obtain capital through conventional lending institutions but that could otherwise compete successfully in the private sector.

(1) The office shall establish a uniform, open, and competitive application and annual certification process for eligible recipients who seek funds to provide loans, loan guarantees, or investments in black business enterprises pursuant to the Florida Black Business Investment Act. The board shall receive the applications and make recommendations for certification to the office.

(2) The office, in consultation with the board, shall develop an allocation policy to ensure that services provided under ss. 288.707-288.714 for the benefit of black business enterprises are disbursed equitably throughout the

state. The board shall facilitate the formation of black business investment corporations in communities that are not served by such corporations.

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

(a) Be a corporation registered in the state.

(b) Demonstrate that its board of directors includes citizens of the state experienced in the development of black business enterprises.

(c) Demonstrate that the recipient has a business plan that allows the recipient to operate in a manner consistent with ss. 288.707-288.714 and the rules of the office.

(d) Demonstrate that the recipient has the technical skills to analyze and evaluate applications by black business enterprises for loans, loan guarantees, or investments.

(e) Demonstrate that the recipient has established viable partnerships with public and private funding sources, economic development agencies, and workforce development and job referral networks.

(f) Demonstrate that the recipient can provide a private match equal to 20 percent of the amount of funds provided by the office.

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

(4) The board shall annually recommend to the office certification of each eligible recipient, who must meet the provisions of ss. 288.707-288.714, the terms of the contract between the recipient and the office, and any other applicable state or federal laws. An entity may not receive funds under ss. 288.707-288.714 unless the entity meets annual certification requirements.

(5) Upon approval by the office and prior to release of the funds as provided in this section, the office shall issue a letter certifying the applicant as qualified for an award. The office and the applicant shall enter into an agreement that sets forth the conditions for award of the funds. The agreement must include the total amount of funds awarded; the performance conditions that must be met once the funding has been awarded, including, but not limited to, compliance with all of the requirements of this section for eligible recipients of funds under this section; and sanctions for failure to meet performance conditions, including any provisions to recover awards.

(6)(a) The office, in consultation with the board, shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this section.

(b) The board shall adopt policies and procedures necessary to implement this section.

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

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

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

(c) Technical support to black business enterprises, not to exceed 7 percent of the funds received, and direct administrative costs, not to exceed 10 percent of the funds received.

(8) It is the intent of the Legislature that if any one type of investment mechanism authorized in subsection (7) is held to be invalid, all other valid mechanisms remain available.

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

Section 12. Section 288.71025, Florida Statutes, is created to read:

288.71025 Prohibited acts; penalties.—

(1) It is unlawful for any person to hold itself out as a black business investment corporation without being certified by the board as eligible to participate in the Florida Black Business Loan Program.

(2) In addition to any other penalties or remedies provided under law, the board may bring a civil action in any court of competent jurisdiction against any person for a knowing or willful violation of this section. Upon an adverse adjudication, the court may impose a civil penalty of up to \$500 and payment of court costs and reasonable attorney's fees incurred by the plaintiff.

Section 13. Section 288.7103, Florida Statutes, is created to read:

288.7103 Eligibility for loan, loan guarantee, or investment.—A black business enterprise is not eligible to receive a loan, loan guarantee, or investment from funds disbursed pursuant to s. 288.7102 unless the black business enterprise demonstrates that:

(1) 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.

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

Section 14. Section 288.712, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 288.712, F.S., for present text.)

288.712 Guarantor funds.—

(1) The board is authorized to establish, with or without public or private partners, guarantor funds to assist qualified black business enterprises in obtaining surety bonds and other credit instruments when required.

(2) The board may contract with a regulated surety company to conduct a surety bond program for black business enterprises.

(3) For purposes of this section, the board may utilize the Black Contractors Bond Trust Fund, consisting of moneys deposited or credited to the Black Contractors Bond Trust Fund pursuant to any appropriation made by law; any grants, gifts, and contributions received pursuant to ss. 288.707-288.714; all moneys recovered following defaults; all premiums charged and collected in accordance with this section and any interest earned; and any other moneys obtained by the board for this purpose. The fund shall be administered by the board in trust for the purposes of this section and shall at no time be part of general public funds under the following procedures:

(a) Any claims against the state arising from defaults shall be payable from the Black Contractors Bond Trust Fund. Nothing in this section grants or pledges to any obligee or other person any state moneys other than the moneys in the Black Contractors Bond Trust Fund.

(b) The board may guarantee bonds executed by sureties for black business enterprises under this section as principals on contracts with the state, any political subdivision or instrumentality, or any person as the obligee. The board, as guarantor, may exercise all the rights and powers of a company authorized by the Department of Financial Services to guarantee bonds under chapter 624, but otherwise is not subject to any laws related to a guaranty company under chapter 624 or to any rules of the department.

(c) The board shall adopt policies and procedures for the application for bond guarantees and for the review and approval of applications for bond guarantees submitted by sureties that execute bonds eligible for guarantees under this section.

(d) In accordance with the policies and procedures adopted pursuant to this section, the board may guarantee up to 90 percent of the loss incurred and paid by sureties on bonds guaranteed under this section.

(e) The policies and procedures of the board shall require the black business enterprise to pay a premium in advance for the bond to be established

by the board. All premiums paid by the black business enterprise shall be paid into the Black Contractors Bond Trust Fund.

(f) The penal sum amounts of all outstanding bonds issued by the board shall not exceed the amount of moneys in the Black Contractors Bond Trust Fund.

(g) Any funds to the credit of the Black Contractors Bond Trust Fund in excess of the amount necessary to fund the appropriation authority for the fund shall be held as a loss reserve to pay claims arising from defaults on surety bonds guaranteed in accordance with this section.

(4) Nothing in this section shall be construed to prohibit or restrict the board from entering into a joint venture or other contractual agreement with a private insurer or to invest in a private entity to handle all or part of a black contractors bonding program for black business enterprises. The board is authorized and encouraged to contract with a regulated surety company to conduct a surety bond program for black business enterprises. Moneys from the Black Contractors Bond Trust Fund may be used for these purposes. The board may approve one application per fiscal year from each surety company to support one fiscal year of that company's activities under this section. A surety bond company that applies for a bond guarantee under this section, regardless of whether the guarantee is approved, is not restricted from also applying for individual bond guarantees under this section.

(5) The board shall do all of the following to implement the black contractors bonding program:

(a) Conduct outreach, marketing, and recruitment of black contractors.

(b) Provide assistance to the Office of Supplier Diversity within the Department of Management Services, as needed, to certify new black business enterprises and to train appropriate department staff.

(c) Provide business development services to black business enterprises in the developmental and transitional stages of the program, including financing and bonding assistance and management and technical assistance.

(d) Develop a mentor program to bring businesses into a working relationship with black contractors in a way that commercially benefits both entities and serves the purpose of the program.

(e) No later than December 31, 2007, prepare and submit to the Governor a detailed report outlining and evaluating the progress made in implementing the black contractors bonding program.

(f) Establish a process by which black contractors may apply for contract assistance, financial and bonding assistance, management and technical assistance, and mentoring opportunities.

Section 15. Section 288.714, Florida Statutes, is amended to read:

(Substantial rewording of section. See

s. 288.714, F.S., for present text.)

288.714 Quarterly and annual reports.—

(1) Each recipient of state funds under s. 288.7102 shall provide to the board a quarterly report within 15 days after the end of each calendar quarter that includes a detailed summary of the recipient's performance of the duties imposed by s. 288.7102, including, but not limited to:

(a) The dollar amount of all loans or loan guarantees made to black business enterprises, the percentages of the loans guaranteed, and the names and identification of the types of businesses served.

(b) Loan performance information.

(c) The amount and nature of all other financial assistance provided to black business enterprises.

(d) The amount and nature of technical assistance provided to black business enterprises, including technical assistance services provided in areas in which such services are otherwise unavailable.

(e) A balance sheet for the recipient, including an explanation of all investments and administrative and operational expenses.

(f) A summary of all services provided to non-black business enterprises, including the dollar value and nature of such services and the names and identification of the types of businesses served.

(g) Any other information as required by policies adopted by the board.

(2) The board must compile and provide to the office a summary of all quarterly reports within 30 days after the end of each calendar quarter that includes a detailed summary of the recipient's performance of the duties imposed by s. 288.7102.

(3) By May 1 of each year, the board shall provide to the Governor, the President of the Senate, and the Speaker of the House of Representatives a detailed report of the performance of the Black Business Loan Program, including:

(a) A cumulative summary of quarterly report data required by subsection (1).

(b) A description of the strategies implemented by the board to increase private investment in black business enterprises.

(c) A summary of the board's performance of its duties under ss. 288.707-288.712.

(d) The most recent 5-year projection of the need for capital by black business enterprises.

(e) Recommendations for legislative or other changes to enhance the development and expansion of black business enterprises in the state.

(f) A projection of the program's activities during the next 12 months.

Section 16. Subsection (4) of section 288.9015, Florida Statutes, is amended to read:

288.9015 Enterprise Florida, Inc.; purpose; duties.—

(4) Enterprise Florida, Inc., shall incorporate the needs of small and minority businesses into the economic-development, international-trade and reverse-investment, and workforce-development responsibilities assigned to the organization by this section. ~~Where practicable and consistent with the expertise of the Black Business Investment Board, Inc.,~~ Enterprise Florida, Inc., shall collaborate ~~contract~~ with the Florida Black Business Investment Board, Inc., and the Office of Tourism, Trade, and Economic Development ~~corporation~~ for the delivery of services in fulfillment of the responsibilities of Enterprise Florida, Inc., relating to small and minority businesses.

Section 17. The Office of Program Policy Analysis and Government Accountability shall prepare a status report on the initial implementation of the Florida Black Business Investment Act by the Office of Tourism, Trade, and Economic Development, the Florida Black Business Investment Board, Inc., and the recipients of funds disbursed pursuant to s. 288.7102, Florida Statutes, and shall provide the report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1, 2008. The office shall conduct a program review of the performance of the Office of Tourism, Trade, and Economic Development, the Florida Black Business Investment Board, Inc., and the recipients of funds disbursed pursuant to s. 288.7102, Florida Statutes, in meeting the goals of the Florida Black Business Investment Act and shall provide a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1, 2009.

Section 18. Subsection (2) of section 17.11, Florida Statutes, is amended to read:

17.11 To report disbursements made.—

(2) The Chief Financial Officer shall also cause to have reported from the Florida Accounting Information Resource Subsystem no less than quarterly the disbursements which agencies made to small businesses, as defined in the Florida Small and Minority Business Assistance Act ~~of 1985~~; to certified minority business enterprises in the aggregate; and to certified minority business enterprises broken down into categories of minority persons, as well as gender and nationality subgroups. This information shall be made available to the agencies, the Office of Supplier Diversity, the Governor, the President of the Senate, and the Speaker of the House of Representatives. Each agency shall be responsible for the accuracy of information entered into the Florida Accounting Information Resource Subsystem for use in this reporting.

Section 19. Paragraph (d) of subsection (3) of section 287.055, Florida Statutes, is amended to read:

287.055 Acquisition of professional architectural, engineering, landscape architectural, or surveying and mapping services; definitions; procedures; contingent fees prohibited; penalties.—

(3) PUBLIC ANNOUNCEMENT AND QUALIFICATION PROCEDURES.—

(d) Each agency shall evaluate professional services, including capabilities, adequacy of personnel, past record, experience, whether the firm is a certified minority business enterprise as defined by the Florida Small and Minority Business Assistance Act of 1985, and other factors determined by the agency to be applicable to its particular requirements. When securing professional services, an agency must endeavor to meet the minority business enterprise procurement goals under s. 287.09451.

Section 20. Subsection (6) of section 288.90151, Florida Statutes, is amended to read:

288.90151 Return on investment from activities of Enterprise Florida, Inc.—

(6) Enterprise Florida, Inc., shall fully comply with the performance measures, standards, and sanctions in its contracts with the Office of Tourism, Trade, and Economic Development under s. 14.2015(2)(~~i~~)(h) and (7). The Office of Tourism, Trade, and Economic Development shall ensure, to the maximum extent possible, that the contract performance measures are consistent with performance measures that the office is required to develop and track under performance-based program budgeting.

Section 21. Section 625.3255, Florida Statutes, is amended to read:

625.3255 Capital participation instrument.—An insurer may invest in any capital participation instrument or evidence of indebtedness issued by the Florida Black Business Investment Board pursuant to the Florida Small and Minority Business Assistance Act of 1985.

Section 22. Paragraph (b) of subsection (4) of section 657.042, Florida Statutes, is amended to read:

657.042 Investment powers and limitations.—A credit union may invest its funds subject to the following definitions, restrictions, and limitations:

(4) INVESTMENT SUBJECT TO LIMITATION OF ONE PERCENT OF CAPITAL OF THE CREDIT UNION.—Up to 1 percent of the capital of the credit union may be invested in any of the following:

(b) Any capital participation instrument or evidence of indebtedness issued by the Florida Black Business Investment Board pursuant to the Florida Small and Minority Business Assistance Act of 1985.

Section 23. Paragraph (g) of subsection (4) of section 658.67, Florida Statutes, is amended to read:

658.67 Investment powers and limitations.—A bank may invest its funds, and a trust company may invest its corporate funds, subject to the following definitions, restrictions, and limitations:

(4) INVESTMENTS SUBJECT TO LIMITATION OF TEN PERCENT OR LESS OF CAPITAL ACCOUNTS.—

(g) Up to 10 percent of the capital accounts of a bank or trust company may be invested in any capital participation instrument or evidence of indebtedness issued by the Florida Black Business Investment Board pursuant to the Florida Small and Minority Business Assistance Act of 1985.

Section 24. Sections 288.7092, 288.7095, 288.71, 288.7101, 288.711, and 288.713, Florida Statutes, are repealed.

Section 25. The Legislature finds that the public interest of the state has been served with respect to the use of any state funds received by the Florida Black Business Investment Board, Inc., and any black business investment corporation prior to and through the 2005-2006 fiscal year.

Section 26. This act shall take effect July 1, 2007.

Approved by the Governor June 15, 2007.

Filed in Office Secretary of State June 15, 2007.