

By: Morris

To: Ways and Means

HOUSE BILL NO. 1347

1 AN ACT TO AMEND SECTIONS 57-10-511 AND 57-10-513, MISSISSIPPI
2 CODE OF 1972, TO REVISE CERTAIN PROVISIONS OF THE SMALL BUSINESS
3 ASSISTANCE ACT; TO EXTEND THE REPEALER; AND FOR RELATED PURPOSES.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

5 SECTION 1. Section 57-10-511, Mississippi Code of 1972, is
6 amended as follows:

7 57-10-511. (1) DECD shall grant funds under this article to
8 a planning and development district or qualified entity in
9 accordance with the following terms and conditions:

10 (a) Grant funds received by a planning and development
11 district or qualified entity in accordance with this article shall
12 be used by the planning and development district or qualified
13 entity to establish a revolving assistance fund for the purpose of
14 providing assistance to small businesses in accordance with this
15 article. Except as otherwise allowed in this article, all
16 principal and interest payments by small businesses in repayment
17 of such assistance shall be eligible for and used by the planning
18 and development district or qualified entity for additional
19 assistance to small businesses in accordance with this article.

20 (b) Each planning and development district meeting the
21 criteria set forth in this article shall receive an initial grant
22 of not to exceed One Million Dollars (\$1,000,000.00) for the
23 purpose of establishing the program within its area in accordance
24 with this article. Each qualified entity meeting the criteria set
25 forth in this article shall be eligible to receive an initial
26 grant of Five Hundred Thousand Dollars (\$500,000.00) for the

27 purpose of establishing the program within the area it serves in
28 accordance with this article. The total amount of initial grants
29 to planning and development districts shall not exceed Ten Million
30 Dollars (\$10,000,000.00) and the total amount of initial grants
31 for qualified entities shall not exceed Two Million Dollars
32 (\$2,000,000.00). Each planning and development district or
33 qualified entity receiving an initial grant shall have twelve (12)
34 months in which to make binding commitments to provide assistance
35 to small businesses in the principal amount of the initial grant
36 in accordance with this article. Grant funds not committed to
37 provide assistance to small businesses at the end of twelve (12)
38 months after receipt thereof by the planning and development
39 district or qualified entity shall be returned to DECD for
40 placement in a pool to be redistributed by DECD to planning and
41 development districts or qualified entities which have binding
42 commitments to distribute as assistance all their initial grant
43 funds and have pending applications for additional assistance in
44 accordance with this article. Any planning and development
45 district or qualified entity returning any such grant funds to
46 DECD shall be required at the time such initial grant funds are
47 returned to deliver to the State Treasury, for deposit in the
48 General Fund, interest on the amount of such returned funds at the
49 same rate as any bonds or notes of the State of Mississippi issued
50 pursuant to this article to provide such grant funds.

51 (c) After all of the initial grant funds have been
52 provided as assistance to small businesses in accordance with this
53 article, DECD shall distribute additional grant funds to each
54 planning and development district or qualified entity qualified
55 under this article to receive and requesting such funds in
56 whatever amounts DECD deems appropriate and when needed by such
57 planning and development districts or qualified entities to
58 provide additional assistance to small businesses in accordance
59 with this article. The schedule for distributing such funds shall
60 be determined by DECD. Funds distributed to planning and
61 development districts and qualified entities pursuant to this
62 paragraph shall be in addition to funds distributed to planning
63 and development districts and qualified entities pursuant to

64 paragraph (b) of this section. The total amount of grants issued
65 pursuant to this paragraph shall not exceed Seventeen Million
66 Dollars (\$17,000,000.00) for planning and development districts or
67 qualified entities. Grant funds not committed to provide
68 assistance to small businesses at the end of twelve (12) months
69 after receipt thereof by the planning and development district or
70 qualified entity shall be returned to DECD for placement in a pool
71 to be redistributed by DECD to planning and development districts
72 or qualified entities which have binding commitments to distribute
73 as assistance all their initial grant funds and have pending
74 applications for additional assistance in accordance with this
75 article. Any planning and development district or qualified
76 entity returning any such grant funds to DECD shall be required at
77 the time such grant funds are returned to deliver to the State
78 Treasury, for deposit in the General Fund, interest on the amount
79 of such returned funds at the same rate as any bonds or notes of
80 the State of Mississippi issued pursuant to this article to
81 provide such grant funds.

82 (d) A planning and development district or qualified
83 entity participating in the program may utilize not more than
84 fifty percent (50%) of interest earned on assistance provided to
85 small businesses in accordance with this article for
86 administration and management of the program, unless specifically
87 authorized to utilize more by DECD; provided, however, any
88 interest earned on grant funds held by a planning and development
89 district or qualified entity prior to the utilization of such
90 grant funds to provide assistance to small business shall be
91 placed in the revolving assistance fund of the planning and
92 development district or qualified entity and shall not be expended
93 for administration or management costs. Planning and development
94 districts and qualified entities may retain fifty percent (50%) of
95 the interest earned on repayment funds that are being held on
96 deposit in anticipation of relending to aid in the administration

97 and management of the program. Each planning and development
98 district and qualified entity shall file annually with the
99 Secretary of the Senate and the Clerk of the House of
100 Representatives not later than the first day of each regular
101 legislative session a report which details any interest retained
102 or utilized by the planning and development district or qualified
103 entity pursuant to this paragraph (d).

104 (e) If a planning and development district or qualified
105 entity participating in the program experiences losses from
106 assistance provided pursuant to the program in excess of fifty
107 percent (50%) of the amount of grant funds received by the
108 planning and development district or qualified entity, the
109 planning and development district or qualified entity shall repay
110 the State of Mississippi the amount of such losses in excess of
111 fifty percent (50%) by delivering that amount to the State
112 Treasury for deposit in the General Fund.

113 (f) DECD shall assist each planning and development
114 district or qualified entity participating in the program in
115 connection with such planning and development district's or
116 qualified entity's compliance with this article.

117 (g) Each planning and development district or qualified
118 entity participating in the program shall submit the following
119 reports to the House Ways and Means Committee, the Senate Economic
120 Development, Tourism and Parks Committee and the Department of
121 Economic and Community Development:

122 (i) An annual audit of grant funds received in
123 connection with the program; and

124 (ii) A semiannual report on July 30 and January 30
125 of each year, describing all assistance provided to small
126 businesses pursuant to the program, such reports to include
127 without limitation the following: a description of each small
128 business receiving assistance; the project to be assisted and
129 purpose of assistance; a description of each loan and equity

130 investment, including the terms and conditions thereof and use of
131 the funds assistance by the small business; history of the
132 assistance pool, including principal amount loaned, interest
133 earned, interest expended for administration and management,
134 principal amount of equity investments, assistance funds
135 available, and losses; and a statement of jobs created or retained
136 as a result of the assistance program.

137 (h) If DECD determines that a district or entity has
138 provided assistance to small businesses in a manner inconsistent
139 with the provisions of this article, then the amount of such
140 assistance so provided shall be withheld by DECD from any
141 additional grant funds to which the district or entity becomes
142 entitled under this article. If DECD determines, after notifying
143 such district or entity twice in writing and providing such
144 district or entity a reasonable opportunity to comply, that a
145 planning and development district or qualified entity has
146 consistently failed to comply with this article in connection with
147 the program, DECD may declare such planning and development
148 district or qualified entity in default under the program and,
149 upon receipt of notice thereof from DECD, such planning and
150 development district or qualified entity shall immediately cease
151 providing assistance under the program, shall refund to DECD for
152 distribution to other planning and development districts or
153 qualified entities all funds held in its revolving assistance fund
154 and, if required by DECD, shall convey to DECD all administrative
155 and management control of assistance provided by it under the
156 program.

157 (2) This section shall stand repealed on July 1, 2001.

158 SECTION 2. Section 57-10-513, Mississippi Code of 1972, is
159 amended as follows:

160 57-10-513. The planning and development districts and
161 qualified entities are authorized, empowered and directed to
162 deposit all grant funds received pursuant to this article in a

163 revolving assistance fund and to provide assistance therefrom to
164 small businesses in accordance with this article and the following
165 criteria, terms and conditions:

166 (a) To be eligible for assistance under this article,
167 the small business and the project to be assisted must meet the
168 following criteria:

169 (i) Assistance must be in connection with an
170 identifiable project or business plan, and the principal amount of
171 all assistance may not exceed fifty percent (50%) of the total
172 cost of said project or business plan;

173 (ii) Assistance may be used in connection with the
174 purchase or lease of land, buildings, equipment and inventory, and
175 for working capital; provided, however, no more than one-third
176 (1/3) of the total assistance to a small business pursuant to this
177 article or Fifty Thousand Dollars (\$50,000.00), whichever is less,
178 may be used for working capital;

179 (iii) Assistance may not be provided for
180 speculative land or real estate investments;

181 (iv) Assistance may not be provided under the
182 program to finance or satisfy any existing debt;

183 (v) Assistance may not be provided to a small
184 business unless at least sixty percent (60%) of the small business
185 is owned, directly or indirectly, by individuals who have been
186 residents of the State of Mississippi for the last two (2) years;
187 and

188 (vi) The project or business plan for which
189 assistance is provided must create or retain full-time jobs, and
190 the planning and development district or qualified entity must
191 receive a certificate to that effect from the small business
192 before any assistance is provided.

193 (b) The interest rate on loans shall not be less than
194 five percent (5%) per annum or more than four percent (4%) above
195 the federal discount rate, plus the servicing fees established in

196 this article.

197 (c) As security for any loan under the program, the
198 planning and development district or qualified entity shall take a
199 security interest in assets of the small business and require
200 personal guarantees of all persons and entities owning twenty
201 percent (20%) or more of the small business. Such security
202 interests may be subordinate to other security interests in such
203 assets.

204 (d) The maximum term of any loan under the program
205 shall not exceed the following: fifteen (15) years if used to
206 purchase or lease land or buildings, ten (10) years if used to
207 purchase or lease equipment, five (5) years if used to provide
208 working capital and three (3) years if used to purchase inventory.

209 (e) In the event of a default by a small business on a
210 loan under the program, the planning and development district or
211 qualified entity shall foreclose and enforce its security
212 interests and personal guarantees relating to such loan and take
213 all necessary and appropriate action to recover all principal and
214 interest owed, and all amounts so recovered shall be deposited in
215 the revolving assistance fund administered by said planning and
216 development district or qualified entity. Any small business
217 which defaults on a loan under the program shall not be eligible
218 for any other loan under the program.

219 (f) A planning and development district or qualified
220 entity may acquire, subscribe for, own, hold, sell, assign,
221 transfer, mortgage or pledge an equity investment in a small
222 business incorporated under the laws of the State of Mississippi,
223 provided such equity investment constitutes less than fifty
224 percent (50%) of the voting shares of the small business and does
225 not exceed Fifty Thousand Dollars (\$50,000.00), and while the
226 owner or holder thereof, the planning and development district or
227 qualified entity may exercise all the rights, powers and
228 privileges of ownership, including the right to vote thereon. Any

229 such equity investment in a small business may be redeemed by such
230 small business upon payment to the planning and development
231 district or qualified entity of the principal amount of such
232 equity investment, plus six percent (6%) interest, compounded
233 annually from the date of such equity investment, provided such
234 repayment is tendered within seven (7) years of the date of such
235 equity investment.

236 (g) A planning and development district or qualified
237 entity shall not utilize more than one-third (1/3) of all grant
238 funds received for equity investments in small businesses.

239 (h) No small business shall receive assistance under
240 the program in excess of One Hundred Thousand Dollars
241 (\$100,000.00).

242 (i) All assistance applications must be reviewed by,
243 and the terms and conditions of the assistance must be recommended
244 to the planning and development district or qualified entity, by a
245 small business assistance review board established by the planning
246 and development district or qualified entity, consisting of the
247 following members appointed by the planning and development
248 district or qualified entity:

249 (i) Two (2) individuals with current experience in
250 banking or finance;

251 (ii) Two (2) principal or majority owners of
252 private, for-profit commercial enterprises qualifying as small
253 businesses under this article;

254 (iii) One (1) senior officer of a private,
255 for-profit commercial enterprise not qualifying as a small
256 business under this article or the executive director of an
257 industrial or economic development foundation;

258 (iv) One (1) individual who is a minority and who
259 has current experience in banking or finance or who is the
260 principal or majority owner of a private, for-profit commercial
261 enterprise qualifying as a small business under this article; and

262 (v) One (1) individual who is female and who has
263 current experience in banking or finance or who is the principal
264 or majority owner of a private, for-profit commercial enterprise
265 qualifying as a small business under this article.

266 As used in this paragraph, "minority" shall mean individuals
267 who are Asian, Black, Hispanic or Native American as defined in
268 Section 31-7-13(s), Mississippi Code of 1972.

269 All members of such small business assistance review boards
270 shall be residents of the area served by the planning and
271 development district or qualified entity. Small business
272 assistance review boards shall meet at least quarterly and shall
273 meet anytime there are at least two (2) assistance applications
274 pending that require review.

275 (j) If the small business assistance review board
276 recommends that assistance be provided, the planning and
277 development district or qualified entity may either approve and
278 provide the assistance on the exact terms and conditions
279 recommended by the small business assistance review board or
280 determine not to provide such assistance. Under no circumstances
281 may the planning and development district or qualified entity
282 provide such assistance on any terms or conditions not approved
283 and recommended by the small business assistance review board. If
284 the planning and development district or qualified entity
285 determines not to provide the assistance that the small business
286 assistance review board has recommended to be provided, the board
287 of directors of such district or the governing body of such entity
288 shall place in its minutes an explanation of the reasons for such
289 refusal. If the small business assistance review board recommends
290 against providing the assistance, the board of directors of the
291 planning and development district or the governing body of the
292 qualified entity may not determine to provide such assistance
293 under any terms and conditions.

294 SECTION 3. This act shall take effect and be in force from

295 and after its passage.