

By: Morris

To: Ways and Means

HOUSE BILL NO. 1384

1 AN ACT TO AMEND SECTION 43-33-704, MISSISSIPPI CODE OF 1972,
2 TO RECONSTITUTE THE MEMBERSHIP OF THE MISSISSIPPI HOME CORPORATION
3 EFFECTIVE JULY 1, 2000; TO END THE TERM OF OFFICE OF EXISTING
4 MEMBERS EFFECTIVE JUNE 30, 2000; TO PROVIDE THAT THE GOVERNOR
5 SHALL APPOINT TEN MEMBERS OF THE RECONSTITUTED MEMBERSHIP OF THE
6 CORPORATION, WITH THE ADVICE AND CONSENT OF THE SENATE; TO PROVIDE
7 THAT THE LIEUTENANT GOVERNOR SHALL APPOINT THREE MEMBERS OF THE
8 RECONSTITUTED MEMBERSHIP OF THE CORPORATION, WITH THE ADVICE AND
9 CONSENT OF THE SENATE; TO AMEND SECTION 43-33-729, MISSISSIPPI
10 CODE OF 1972, TO INCREASE THE AMOUNT OF BONDS THAT THE MISSISSIPPI
11 HOME CORPORATION MAY ISSUE TO AN ANNUAL AMOUNT OF \$150,000,000.00
12 THROUGH JUNE 30, 2003; TO AMEND SECTION 43-33-751, TO REVISE THE
13 CONFLICT OF INTEREST REQUIREMENTS FOR THE CORPORATION'S BOARD OF
14 DIRECTORS; TO AMEND SECTION 43-33-711, MISSISSIPPI CODE OF 1972,
15 IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

17 SECTION 1. Section 43-33-704, Mississippi Code of 1972, is
18 amended as follows:[WAN1]

19 43-33-704. (1) There is created by this article the
20 Mississippi Home Corporation, which shall be a continuation of the
21 corporate existence of the Mississippi Housing Finance Corporation
22 and (a) all property, rights and powers of the Mississippi Housing
23 Finance Corporation are vested in, and shall be exercised by, the
24 corporation, subject, however, to all pledges, covenants,
25 agreements, undertakings and trusts made or created by the
26 Mississippi Housing Finance Corporation; (b) all references to the
27 Mississippi Housing Finance Corporation in any other law or
28 regulation shall be deemed to refer to and apply to the
29 corporation; and (c) all regulations of the Mississippi Housing
30 Finance Corporation shall continue to be in effect as the
31 regulations of the corporation until amended, supplemented or
32 rescinded by the corporation in accordance with law.

33 (2) The corporation is created with power to: raise funds
34 from private investors in order to make such private funds
35 available to finance the acquisition, construction, rehabilitation
36 and improvement of residential and rental housing for persons of
37 low or moderate income within the state; provide financing to
38 qualified sponsors or individuals for a wide range of loans
39 including, but not limited to, housing development, mortgage,
40 rehabilitation or energy conservation loans; make loans to private
41 lenders to finance any of these loans; purchase any of these loans
42 from private lenders; refinance, insure or guarantee any of these
43 loans; provide for temporary or partial financing for any of these
44 purposes; develop, operate and administer housing programs which
45 further its stated goals of improving the availability,
46 affordability and quality of low and moderate income housing in
47 the state; and make grants or loans to private nonprofit
48 developers, local governments or private persons in furtherance of
49 these goals;

50 (3) (a) The corporation shall be composed of thirteen (13)
51 members. The Governor, with the advice and consent of the Senate,
52 shall appoint the members of the corporation, who shall be
53 residents of the state and shall not hold other public office.
54 There shall be at least one (1) member and not more than three (3)
55 members appointed from each of the five (5) congressional
56 districts in existence on January 1, 1989, and, in addition, (a)
57 from and after September 1, 1980, (i) at least one (1) member
58 shall have at least three (3) years' experience and background in
59 the savings and loan association business, the commercial banking
60 business or the mortgage banking business, (ii) at least one (1)
61 member shall have at least three (3) years' experience and
62 background in the residential housing construction industry, (iii)
63 at least one (1) member shall have at least three (3) years'
64 experience and background in the licensed residential housing
65 brokerage business, and (iv) at least one (1) member shall be a

66 member of the general public not engaged in any business, industry
67 or activity described in clauses (i) through (iii) of this
68 subparagraph; from and after September 1, 1989, (i) at least one
69 (1) member shall have at least three (3) years' experience and
70 background in the manufactured housing business; (ii) at least one
71 (1) member shall have at least three (3) years' experience and
72 background in nonprofit housing development in a Metropolitan
73 Statistical Area (MSA); (iii) at least one (1) member shall have
74 at least three (3) years' experience and background in nonprofit
75 housing development outside a MSA; and (iv) at least (1) member
76 shall be a low or moderate income person qualified for assistance
77 under this article.

78 (b) The term of office of the members of the
79 corporation who are serving pursuant to this subsection (3) shall
80 terminate on June 30, 2000.

81 (4) From and after July 1, 2000, the membership of the
82 corporation is reconstituted as follows:

83 (a) (i) The Governor, with the advice and consent of
84 the Senate, shall appoint ten (10) members of the corporation, who
85 shall be residents of the state. The Governor shall appoint three
86 (3) members from each Supreme Court District and one (1) member
87 from the state at large. One (1) member from each Supreme Court
88 District shall be appointed by the Governor for an initial term of
89 two (2) years, one (1) member from each Supreme Court District
90 shall be appointed by the Governor for an initial term of four (4)
91 years, and the remaining members shall be appointed by the
92 Governor for initial terms of six (6) years. Thereafter, the term
93 of members of the corporation appointed by the Governor shall be
94 as provided in subsection (5) of this section.

95 (ii) The Lieutenant Governor, with the advise and
96 consent of the Senate, shall appoint three (3) members of the
97 corporation, who shall be residents of the state. The Lieutenant
98 Governor shall appoint one (1) member from each Supreme Court

99 District. The initial terms of the members appointed by the
100 Lieutenant Governor shall be for two (2), four (4) and six (6)
101 years. Thereafter, the term of members of the corporation
102 appointed by the Lieutenant Governor shall be as provided in
103 subsection (5) of this section.

104 (5) Except as otherwise provided in subsection (2)(b) of
105 this section, appointments shall be for terms of six (6) years.
106 Each member shall hold office until his successor has been
107 appointed and qualified. Vacancies shall be filled by appointment
108 by the appropriate appointing authority, subject to the advice and
109 consent of the Senate, for the length of the unexpired term only.

110 Any member of the corporation shall be eligible for
111 reappointment. Any member of the corporation may be removed by
112 the appointing authority for misfeasance, malfeasance or willful
113 neglect of duty after reasonable notice and a public hearing,
114 unless the same are expressly waived in writing. Each member of
115 the corporation shall before entering upon his duty take an oath
116 of office to administer the duties of his office faithfully and
117 impartially, and a record of such oath shall be filed in the
118 office of the Secretary of State. The corporation shall annually
119 elect from its membership a chairman who shall be eligible for
120 reelection. The corporation shall annually elect from its
121 membership a vice chairman who shall be eligible for reelection.
122 The corporation shall also elect or appoint, and prescribe the
123 duties of, such other officers (who need not be members) as the
124 corporation deems necessary or advisable, and the corporation
125 shall fix the compensation of such officers. The corporation may
126 delegate to one or more of its members, officers, employees or
127 agents such powers and duties as it may deem proper, not
128 inconsistent with this article or other provisions of law.

129 * * *

130 (6) In accomplishing its purposes, the corporation is acting
131 in all respects for the benefit of the people of the state and the

132 performance of essential public functions and is serving a vital
133 public purpose in approving and otherwise promoting their health,
134 welfare and prosperity, and the enactment of the provisions
135 hereinafter set forth is for a valid public purpose and is hereby
136 so declared to be such as a matter of express legislative
137 determination.

138 * * *

139 SECTION 2. Section 43-33-729, Mississippi Code of 1972, is
140 amended as follows:

141 **[Through June 30, 2003, this section shall read as follows:]**

142 43-33-729. (1) The corporation may from time to time issue
143 its negotiable bonds and notes in such principal amounts as, in
144 the opinion of the corporation, shall be necessary to provide
145 sufficient funds for achieving the corporate purposes thereof,
146 including operating expenses and reserves, the payment of interest
147 on bonds and notes of the corporation, establishment of reserves
148 to secure such bonds and notes, and all other expenditures of the
149 corporation incident to and necessary or convenient to carry out
150 its corporate purposes and powers. Provided, except as otherwise
151 authorized herein, bonds and notes may be issued annually under
152 this article in an aggregate principal amount not to exceed One
153 Hundred Fifty Million Dollars (\$150,000,000.00), excluding bonds
154 and notes issued to refund outstanding bonds and notes.

155 (2) The provisions of Sections 75-71-1 through 75-71-57,
156 Mississippi Code of 1972 (the "Mississippi Securities Act"), shall
157 not apply to bonds and notes issued under the authority of this
158 article, and no application for a formal exemption from the
159 provisions of such act shall be required with respect to such
160 bonds and notes.

161 (3) Except as may otherwise be expressly provided by the
162 corporation, all bonds and notes issued by the corporation shall
163 be general obligations of the corporation, secured by the full
164 faith and credit of the corporation and payable out of any monies,

165 assets or revenues of the corporation, subject only to any
166 agreement with the bondholders or noteholders pledging any
167 particular monies, assets or revenues.

168 The corporation may issue bonds or notes to which the
169 principal and interest are payable:

170 (a) Exclusively from the revenues of the corporation
171 resulting from the use of the proceeds of such bonds or notes; or

172 (b) Exclusively from any particular revenues of the
173 corporation, whether or not resulting from the use of the proceeds
174 of such bonds or notes.

175 (4) Any bonds or notes issued by the corporation may be
176 additionally secured:

177 (a) By private insurance, by a direct pay or standby
178 letter of credit, or by any other credit enhancement facility
179 procured by the corporation for the payment of any such bonds;

180 (b) By a pledge of any grant, subsidy or contribution
181 from the United States or any agency or instrumentality thereof,
182 or from the state or any agency, instrumentality or political
183 subdivision thereof, or from any person, firm or corporation; or

184 (c) By the pledge of any securities, funds or reserves
185 (or earnings thereon) available to the corporation.

186 (5) Bonds and notes issued by the corporation shall be
187 authorized by a resolution or resolutions of the corporation
188 adopted as provided for by this article; provided, that any such
189 resolution authorizing the issuance of bonds or notes may delegate
190 to an officer or officers of the corporation the power to issue
191 such bonds or notes from time to time and to fix the details of
192 any such issues of bonds or notes by an appropriate certification
193 of such authorized officer.

194 (6) Except as specifically provided in this article, no
195 notice, consent or approval by any governmental body or public
196 officer shall be required as a prerequisite to the issuance, sale
197 or delivery of any bonds or notes of the corporation pursuant to

198 the provisions of this article. However, all bonds or notes
199 issued pursuant to this article may be validated, except as
200 otherwise provided in this section, in accordance with the
201 provisions of Sections 31-13-1 through 31-13-11, Mississippi Code
202 of 1972, in the same manner as provided therein for bonds issued
203 by a municipality. Any such validation proceedings shall be held
204 in the First Judicial District of Hinds County, Mississippi.
205 Notice thereof shall be given by publication in any newspaper
206 published in the City of Jackson, Mississippi, and of general
207 circulation throughout the state.

208 (7) It is hereby determined that the corporation is the sole
209 entity in the state authorized to issue bonds or notes for the
210 purposes of financing low and moderate income rental or
211 residential housing as set forth in this article. In addition,
212 the corporation shall have the power to issue mortgage credit
213 certificates, as provided by Section 25 of the Internal Revenue
214 Code of 1954, as amended, and to comply with all of the terms and
215 conditions set forth in Section 25, as the same may be amended
216 from time to time.

217 **[From and after July 1, 2003, this section shall read as**
218 **follows:]**

219 43-33-729. (1) The corporation may from time to time issue
220 its negotiable bonds and notes in such principal amounts as, in
221 the opinion of the corporation, shall be necessary to provide
222 sufficient funds for achieving the corporate purposes thereof,
223 including operating expenses and reserves, the payment of interest
224 on bonds and notes of the corporation, establishment of reserves
225 to secure such bonds and notes, and all other expenditures of the
226 corporation incident to and necessary or convenient to carry out
227 its corporate purposes and powers. Provided, except as otherwise
228 authorized herein, bonds and notes shall not be issued under this
229 article in an aggregate principal amount exceeding One Hundred
230 Ninety Million Dollars (\$190,000,000.00), excluding bonds and

231 notes issued to refund outstanding bonds and notes.

232 (2) The provisions of Sections 75-71-1 through 75-71-57,
233 Mississippi Code of 1972 (the "Mississippi Securities Act"), shall
234 not apply to bonds and notes issued under the authority of this
235 article, and no application for a formal exemption from the
236 provisions of such act shall be required with respect to such
237 bonds and notes.

238 (3) Except as may otherwise be expressly provided by the
239 corporation, all bonds and notes issued by the corporation shall
240 be general obligations of the corporation, secured by the full
241 faith and credit of the corporation and payable out of any monies,
242 assets or revenues of the corporation, subject only to any
243 agreement with the bondholders or noteholders pledging any
244 particular monies, assets or revenues.

245 The corporation may issue bonds or notes to which the
246 principal and interest are payable:

247 (a) Exclusively from the revenues of the corporation
248 resulting from the use of the proceeds of such bonds or notes; or

249 (b) Exclusively from any particular revenues of the
250 corporation, whether or not resulting from the use of the proceeds
251 of such bonds or notes.

252 (4) Any bonds or notes issued by the corporation may be
253 additionally secured:

254 (a) By private insurance, by a direct pay or standby
255 letter of credit, or by any other credit enhancement facility
256 procured by the corporation for the payment of any such bonds;

257 (b) By a pledge of any grant, subsidy or contribution
258 from the United States or any agency or instrumentality thereof,
259 or from the state or any agency, instrumentality or political
260 subdivision thereof, or from any person, firm or corporation; or

261 (c) By the pledge of any securities, funds or reserves
262 (or earnings thereon) available to the corporation.

263 (5) Bonds and notes issued by the corporation shall be

264 authorized by a resolution or resolutions of the corporation
265 adopted as provided for by this article; provided, that any such
266 resolution authorizing the issuance of bonds or notes may delegate
267 to an officer or officers of the corporation the power to issue
268 such bonds or notes from time to time and to fix the details of
269 any such issues of bonds or notes by an appropriate certification
270 of such authorized officer.

271 (6) Except as specifically provided in this article, no
272 notice, consent or approval by any governmental body or public
273 officer shall be required as a prerequisite to the issuance, sale
274 or delivery of any bonds or notes of the corporation pursuant to
275 the provisions of this article. However, all bonds or notes
276 issued pursuant to this article may be validated, except as
277 otherwise provided in this section, in accordance with the
278 provisions of Sections 31-13-1 through 31-13-11, Mississippi Code
279 of 1972, in the same manner as provided therein for bonds issued
280 by a municipality. Any such validation proceedings shall be held
281 in the First Judicial District of Hinds County, Mississippi.
282 Notice thereof shall be given by publication in any newspaper
283 published in the City of Jackson, Mississippi, and of general
284 circulation throughout the state.

285 (7) It is hereby determined that the corporation is the sole
286 entity in the state authorized to issue bonds or notes for the
287 purposes of financing low and moderate income rental or
288 residential housing as set forth in this article. In addition,
289 the corporation shall have the power to issue mortgage credit
290 certificates, as provided by Section 25 of the Internal Revenue
291 Code of 1954, as amended, and to comply with all of the terms and
292 conditions set forth in Section 25, as the same may be amended
293 from time to time.

294 SECTION 3. Section 43-33-751, Mississippi Code of 1972, is
295 amended as follows:

296 43-33-751. The directors shall be subject to the provisions

297 of Section 25-4-105.

298 SECTION 4. Section 43-33-711, Mississippi Code of 1972, is
299 amended as follows:

300 43-33-711. (1) The board of directors may create one or
301 more committees of the board and appoint members of the board to
302 serve on them. Each committee shall have two (2) or more
303 directors who serve at the pleasure of the board.

304 (2) The creation of a committee and appointment of directors
305 to it must be approved by a majority of all directors in office
306 when the action is taken.

307 (3) Sections of this article which govern meetings, action
308 without meetings, notice and waiver of notice, and quorum and
309 voting requirements of the board, apply to committees of the board
310 and their members as well.

311 * * *

312 SECTION 5. This act shall take effect and be in force from
313 and after its passage.