SENATE BILL NO. 3149

AN ACT TO AMEND SECTION 69-2-13, MISSISSIPPI CODE OF 1972, TO PLACE THE ADMINISTRATION OF ALL PROGRAMS IN THE EMERGING CROPS FUND UNDER THE MISSISSIPPI DEVELOPMENT AUTHORITY; TO AUTHORIZE THE MISSISSIPPI DEVELOPMENT AUTHORITY TO DRAW AN ADDITIONAL $5,000,000.00 FROM THE EMERGING CROPS FUND FOR THE MINORITY LOAN PROGRAM ESTABLISHED IN THE EMERGING CROPS FUND; TO REVISE THE DEFINITION OF MINORITY BUSINESS UNDER THE MINORITY LOAN PROGRAM WITHIN THE EMERGING CROPS FUND; TO AUTHORIZE THE MISSISSIPPI DEVELOPMENT AUTHORITY TO DECLARE QUALIFIED ENTITIES ADMINISTERING SUCH LOAN PROGRAM IN DEFAULT UNDER CERTAIN CIRCUMSTANCES AND TO TAKE CERTAIN ACTIONS IN THE EVENT OF A DEFAULT; TO AUTHORIZE THE MISSISSIPPI DEVELOPMENT AUTHORITY TO UTILIZE AN ADDITIONAL $1,000,000.00 FROM THE MINORITY LOAN PROGRAM FOR ITS MINORITY BUSINESS ENTERPRISE SURETY BOND GUARANTEE PROGRAM; TO AMEND SECTION 69-2-19, MISSISSIPPI CODE OF 1972, TO INCREASE THE AGGREGATE AMOUNT OF BONDS THAT MAY BE ISSUED FOR THE EMERGING CROPS FUND; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 69-2-13, Mississippi Code of 1972, is amended as follows:

69-2-13. (1) There is hereby established in the State Treasury a fund to be known as the "Emerging Crops Fund," which shall be used to pay the interest on loans made to farmers for nonland capital costs of establishing production of emerging crops on land in Mississippi, and to make loans and grants which are authorized under this section to be made from the fund. The fund shall be administered by the Mississippi Development Authority. A board comprised of the directors of the authority, the Mississippi Cooperative Extension Service, the Mississippi Small Farm Development Center and the Mississippi Agricultural and Forestry Experiment Station, or their designees, shall develop definitions, guidelines and procedures for the implementation of this chapter. Funds for the Emerging Crops Fund shall be provided from the...
issuance of bonds or notes under Sections 69-2-19 through 69-2-37 and from repayment of interest loans made from the fund.

(2) (a) The Mississippi Development Authority shall develop a program which gives fair consideration to making loans for the processing and manufacturing of goods and services by agribusiness, greenhouse production horticulture, and small business concerns. It is the policy of the State of Mississippi that such authority shall give due recognition to and shall aid, counsel, assist and protect, insofar as is possible, the interests of agribusiness, greenhouse production horticulture, and small business concerns. To ensure that the purposes of this subsection are carried out, the Mississippi Development Authority shall loan not more than One Million Dollars ($1,000,000.00) to finance any single agribusiness, greenhouse production horticulture, or small business concern. Loans made pursuant to this subsection shall be made in accordance with the criteria established in Section 57-71-11.

(b) The Mississippi Development Authority may, out of the total amount of bonds authorized to be issued under this chapter, make available funds to any planning and development district in accordance with the criteria established in Section 57-71-11. Planning and development districts which receive monies pursuant to this provision shall use such monies to make loans to private companies for purposes consistent with this subsection.

(c) The Mississippi Development Authority is hereby authorized to engage legal services, financial advisors, appraisers and consultants, if needed, to review and close loans made hereunder and to establish and assess reasonable fees including, but not limited to, liquidation expenses.

(3) The Mississippi Development Authority shall, in addition to the other programs described in this section, provide for a program of loans to be made to agribusiness or greenhouse production horticulture enterprises for the purpose of encouraging
thereby the extension of conventional financing and the issuance
of letters of credit to such agribusiness or greenhouse production
horticulture enterprises by private institutions. Monies to make
such loans by the authority shall be drawn from the Emerging Crops
Fund. The amount of a loan to any single agribusiness or
greenhouse production horticulture enterprise shall not exceed
twenty percent (20%) of the total cost of the project for which
financing is sought or Two Hundred Thousand Dollars ($200,000.00),
whichever is less. No interest shall be charged on such loans,
and only the amount actually loaned shall be required to be
repaid. Repayments shall be deposited into the Emerging Crops
Fund.

(4) (a) Through June 30, 2004, the Mississippi Development
Authority may loan or grant to qualified planning and development
districts, and to small business investment corporations,
bank-based community development corporations, the Recruitment and
Training Program, Inc., the City of Jackson Business Development
Loan Fund, the Lorman Southwest Mississippi Development
Corporation, the West Jackson Community Development Corporation,
the East Mississippi Development Corporation, and other entities
meeting the criteria established by the Mississippi Development
Authority (all referred to hereinafter as "qualified entities"),
funds for the purpose of establishing loan revolving funds to
assist in providing financing for minority economic development.
The monies loaned or granted by the Mississippi Development
Authority shall be drawn from the Emerging Crops Fund and shall
not exceed Twenty-three Million Dollars ($23,000,000.00) in the
aggregate. Planning and development districts or qualified
entities which receive monies pursuant to this provision shall use
such monies to make loans to minority business enterprises
consistent with criteria established by the Mississippi
Development Authority. Such criteria shall include, at a minimum,
(i) The business enterprise must be a private, for-profit enterprise.

(ii) If the business enterprise is a proprietorship, the borrower must be a resident citizen of the State of Mississippi; if the business enterprise is a corporation or partnership, at least fifty percent (50%) of the owners must be resident citizens of the State of Mississippi.

(iii) The borrower must have at least five percent (5%) equity interest in the business enterprise.

(iv) The borrower must demonstrate ability to repay the loan.

(v) The borrower must not be in default of any previous loan from the state or federal government.

(vi) Loan proceeds may be used for financing all project costs associated with development or expansion of a new small business, including fixed assets, working capital, start-up costs, rental payments, interest expense during construction and professional fees related to the project.

(vii) Loan proceeds shall not be used to pay off existing debt for loan consolidation purposes; to finance the acquisition, construction, improvement or operation of real property which is to be held primarily for sale or investment; to provide for, or free funds, for speculation in any kind of property; or as a loan to owners, partners or stockholders of the applicant which do not change ownership interest by the applicant. However, this does not apply to ordinary compensation for services rendered in the course of business.

(viii) The maximum amount that may be loaned to any one (1) borrower shall be Two Hundred Fifty Thousand Dollars ($250,000.00).

(ix) The Mississippi Development Authority shall review each loan before it is made, and no loan shall be made to
any borrower until the loan has been reviewed and approved by the Mississippi Development Authority.

(b) For the purpose of this subsection, the term "minority business enterprise" means a socially and economically disadvantaged small business concern, organized for profit, performing a commercially useful function which is owned and controlled by one or more minorities or minority business enterprises certified by the Mississippi Development Authority, at least fifty percent (50%) of whom are resident citizens of the State of Mississippi. For purposes of this subsection, the term "socially and economically disadvantaged small business concern" shall have the meaning ascribed to such term under the Small Business Act (15 USCS, Section 637(a)), or women, and the term "owned and controlled" means a business in which one or more minorities or minority business enterprises certified by the Mississippi Development Authority own fifty-one percent (51%) or, in the case of a corporation, fifty-one percent (51%) of the voting stock, and control fifty-one percent (51%) of the management and daily business operations of the business.

From and after July 1, 2004, monies not loaned or granted by the Mississippi Development Authority to planning and development districts or qualified entities under this subsection, and monies not loaned by planning and development districts or qualified entities, shall be deposited to the credit of the sinking fund created and maintained in the State Treasury for the retirement of bonds issued under Section 69-2-19.

(c) If the Mississippi Development Authority determines that a qualified entity has provided loans to minority businesses in a manner inconsistent with the provisions of this subsection, then the amount of such loans so provided shall be withheld by the Mississippi Development Authority from any additional funds under this subsection. If the Mississippi Development Authority determines, after notifying such qualified entity twice in writing...
and providing such qualified entity a reasonable opportunity to comply, that a qualified entity has consistently failed to comply with this subsection, the Mississippi Development Authority may declare such qualified entity in default under this subsection and, upon receipt of notice thereof from the Mississippi Development Authority, such qualified entity shall immediately cease providing loans under this subsection, shall refund to the qualified entities all funds held in its revolving loan fund and, if required by the Mississippi Development Authority, shall convey to the Mississippi Development Authority all administrative and management control of loans provided by it under this subsection.

(d) If the Mississippi Development Authority determines, after notifying a qualified entity twice in writing and providing such district or entity a reasonable opportunity to take corrective action, that a qualified entity administering a revolving loan fund under the provisions of this subsection is not actively engaged in lending as defined by the rules and regulations of the Mississippi Development Authority, the Mississippi Development Authority may declare such qualified entity in default under this section and, upon receipt of notice thereof from the Mississippi Development Authority, such qualified entity shall immediately cease providing loans under this subsection, shall refund to the Mississippi Development Authority for distribution to other qualified entities all funds held in its revolving loan fund and, if required by the Mississippi Development Authority, shall convey to the Mississippi Development Authority all administrative and management control of loans provided by it under this subsection.

(5) The Mississippi Development Authority shall develop a program which will assist minority business enterprises by guaranteeing bid, performance and payment bonds which such minority businesses are required to obtain in order to contract
with federal agencies, state agencies or political subdivisions of
the state. Monies for such program shall be drawn from the monies
allocated under subsection (4) of this section to assist the
financing of minority economic development and shall not exceed
Three Million Dollars ($3,000,000.00) in the aggregate. The
Mississippi Development Authority may promulgate rules and
regulations for the operation of the program established pursuant
to this subsection. For the purpose of this subsection (5) the
term "minority business enterprise" has the meaning assigned such
term in subsection (4) of this section.

(6) The Mississippi Development Authority may loan or grant
to public entities and to nonprofit corporations funds to defray
the expense of financing (or to match any funds available from
other public or private sources for the expense of financing)
projects in this state which are devoted to the study, teaching
and/or promotion of regional crafts and which are deemed by the
authority to be significant tourist attractions. The monies
loaned or granted shall be drawn from the Emerging Crops Fund and
shall not exceed Two Hundred Fifty Thousand Dollars ($250,000.00)
in the aggregate.

(7) Through June 30, 1998, the Mississippi Development
Authority shall make available to the Mississippi Department of
Agriculture and Commerce funds for the purpose of establishing
loan revolving funds and other methods of financing for
agribusiness programs administered under the Mississippi
Agribusiness Council Act of 1993. The monies made available by
the Mississippi Development Authority shall be drawn from the
Emerging Crops Fund and shall not exceed Seven Hundred Thousand
Dollars ($700,000.00) in the aggregate. The Mississippi
Department of Agriculture and Commerce shall establish control and
auditing procedures for use of these funds. These funds will be
used primarily for quick payment to farmers for vegetable and
fruit crops processed and sold through vegetable processing plants
associated with the Department of Agriculture and Commerce and the Mississippi State Extension Service.

(8) From and after July 1, 1996, the Mississippi Development Authority shall make available to the Mississippi Small Farm Development Center One Million Dollars ($1,000,000.00) to be used by the center to assist small entrepreneurs as provided in Section 37-101-25, Mississippi Code of 1972. The monies made available by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund.

(9) The Mississippi Development Authority shall make available to the Agribusiness and Natural Resource Development Center through Alcorn State University an amount not to exceed Two Hundred Fifty Thousand Dollars ($250,000.00) in Fiscal Year 2001 and Two Hundred Fifty Thousand Dollars ($250,000.00) in Fiscal Year 2002 from the cash balance of the Emerging Crops Fund to support the development of a cooperative program for agribusiness development, marketing and natural resources development. This subsection (9) shall stand repealed on June 30, 2002.

(10) The Mississippi Development Authority shall make available to the Small Farm Development Center at Alcorn State University funds in an aggregate amount not to exceed Three Hundred Thousand Dollars ($300,000.00), to be drawn from the cash balance of the Emerging Crops Fund. The Small Farm Development Center at Alcorn State University shall use such funds to make loans to producers of sweet potatoes and cooperatives anywhere in the State of Mississippi owned by sweet potato producers to assist in the planting of sweet potatoes and the purchase of sweet potato production and harvesting equipment. A report of the loans made under this subsection shall be furnished by January 15 of each year to the Chairman of the Senate Agriculture Committee and the Chairman of the House Agriculture Committee.

(11) The Mississippi Development Authority shall make available to the Mississippi Department of Agriculture and
Commerce "Make Mississippi Mine" program an amount not to exceed One Hundred Fifty Thousand Dollars ($150,000.00) to be drawn from the cash balance of the Emerging Crops Fund.

SECTION 2. Section 69-2-19, Mississippi Code of 1972, is amended as follows:

69-2-19. The Mississippi Development Authority is authorized, at one time or from time to time, to declare by resolution the necessity for issuance of negotiable general obligation bonds of the State of Mississippi to provide funds for the Emerging Crops Fund established in Section 69-2-13. Upon the adoption of a resolution by the board, declaring the necessity for the issuance of any part or all of the general obligation bonds authorized by Sections 69-2-19 through 69-2-39, the authority shall deliver a certified copy of its resolution or resolutions to the State Bond Commission. Upon receipt of same, the State Bond Commission, in its discretion, shall act as the issuing agent, prescribe the form of the bonds, advertise for and accept bids, issue and sell the bonds so authorized to be sold, and do any and all other things necessary and advisable in connection with the issuance and sale of such bonds. The amount of bonds issued under Sections 69-2-19 through 69-2-39 shall not exceed One Hundred Two Million Dollars ($102,000,000.00) in the aggregate. No bonds may be issued under Sections 69-2-19 through 69-2-39 after October 1, 2003.

SECTION 3. This act shall take effect and be in force from and after July 1, 2001.