

By: Representatives Ford, Reynolds

To: Ways and Means

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 430

1 AN ACT TO AMEND SECTION 69-2-13, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE MISSISSIPPI DEVELOPMENT AUTHORITY TO DRAW
3 \$20,000,000.00 FROM THE EMERGING CROPS FUND TO PROVIDE LOANS TO
4 ANY AGRIBUSINESS ENTERPRISE ENGAGED IN BEEF PROCESSING FOR THE
5 PURPOSE OF ENCOURAGING THE EXTENSION OF CONVENTIONAL FINANCING AND
6 THE ISSUANCE OF LETTERS OF CREDIT TO SUCH AGRIBUSINESS ENTERPRISES
7 BY PRIVATE INSTITUTIONS; TO EXTEND THE REPEALER ON MONIES MADE
8 AVAILABLE TO THE AGRIBUSINESS AND NATURAL RESOURCE DEVELOPMENT
9 CENTER AT ALCORN STATE UNIVERSITY FROM THE EMERGING CROPS FUND;
10 AND FOR RELATED PURPOSES.

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

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

14 69-2-13. (1) There is hereby established in the State
15 Treasury a fund to be known as the "Emerging Crops Fund," which
16 shall be used to pay the interest on loans made to farmers for
17 nonland capital costs of establishing production of emerging crops
18 on land in Mississippi, and to make loans and grants which are
19 authorized under this section to be made from the fund. The fund
20 shall be administered by the Mississippi Development Authority. A
21 board comprised of the directors of the authority, the Mississippi
22 Cooperative Extension Service, the Mississippi Small Farm
23 Development Center and the Mississippi Agricultural and Forestry
24 Experiment Station, or their designees, shall develop definitions,
25 guidelines and procedures for the implementation of this chapter.
26 Funds for the Emerging Crops Fund shall be provided from the
27 issuance of bonds or notes under Sections 69-2-19 through 69-2-37
28 and from repayment of interest loans made from the fund.

29 (2) (a) The Mississippi Development Authority shall develop
30 a program which gives fair consideration to making loans for the
31 processing and manufacturing of goods and services by



32 agribusiness, greenhouse production horticulture, and small
33 business concerns. It is the policy of the State of Mississippi
34 that the Mississippi Development Authority shall give due
35 recognition to and shall aid, counsel, assist and protect, insofar
36 as is possible, the interests of agribusiness, greenhouse
37 production horticulture, and small business concerns. To ensure
38 that the purposes of this subsection are carried out, the
39 Mississippi Development Authority shall loan not more than One
40 Million Dollars (\$1,000,000.00) to finance any single
41 agribusiness, greenhouse production horticulture, or small
42 business concern. Loans made pursuant to this subsection shall be
43 made in accordance with the criteria established in Section
44 57-71-11.

45 (b) The Mississippi Development Authority may, out of
46 the total amount of bonds authorized to be issued under this
47 chapter, make available funds to any planning and development
48 district in accordance with the criteria established in Section
49 57-71-11. Planning and development districts which receive monies
50 pursuant to this provision shall use such monies to make loans to
51 private companies for purposes consistent with this subsection.

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

57 (3) (a) The Mississippi Development Authority shall, in
58 addition to the other programs described in this section, provide
59 for a program of loans to be made to agribusiness or greenhouse
60 production horticulture enterprises for the purpose of encouraging
61 thereby the extension of conventional financing and the issuance
62 of letters of credit to such agribusiness or greenhouse production
63 horticulture enterprises by private institutions. Monies to make
64 such loans by the Mississippi Development Authority shall be drawn



65 from the Emerging Crops Fund. The amount of a loan to any single
66 agribusiness or greenhouse production horticulture enterprise
67 under this paragraph (a) shall not exceed twenty percent (20%) of
68 the total cost of the project for which financing is sought or Two
69 Hundred Thousand Dollars (\$200,000.00), whichever is less. No
70 interest shall be charged on such loans, and only the amount
71 actually loaned shall be required to be repaid. Repayments shall
72 be deposited into the Emerging Crops Fund.

73 (b) The Mississippi Development Authority shall, in
74 addition to the other programs described in this section, provide
75 for a program of loans to be made to any agribusiness enterprise
76 engaged in beef processing for the purpose of encouraging thereby
77 the extension of conventional financing and the issuance of
78 letters of credit to such agribusiness enterprises by private
79 institutions. Monies to make such loans by the Mississippi
80 Development Authority shall be drawn from the Emerging Crops Fund
81 and shall not exceed Twenty Million Dollars (\$20,000,000.00) in
82 the aggregate. The amount of a loan to any single agribusiness
83 enterprise under this paragraph (b) shall not exceed the total
84 cost of the project for which financing is sought or Twenty
85 Million Dollars (\$20,000,000.00), whichever is less. The interest
86 charged on a loan made under this paragraph (b) shall be at a rate
87 determined by the Mississippi Development Authority. All
88 repayments of any loan made under this paragraph (b) shall be
89 deposited into the Emerging Crops Fund. Assistance received by an
90 agribusiness enterprise under this paragraph (b) shall not
91 disqualify the agribusiness enterprise from obtaining any other
92 assistance under this chapter.

93 (4) (a) Through June 30, 2003, the Mississippi Development
94 Authority may loan or grant to qualified planning and development
95 districts, and to small business investment corporations,
96 bank-based community development corporations, the Recruitment and
97 Training Program, Inc., the City of Jackson Business Development



98 Loan Fund, the Lorman Southwest Mississippi Development
99 Corporation, the West Jackson Community Development Corporation,
100 the East Mississippi Development Corporation, and other entities
101 meeting the criteria established by the Mississippi Development
102 Authority (all referred to hereinafter as "qualified entities"),
103 funds for the purpose of establishing loan revolving funds to
104 assist in providing financing for minority economic development.
105 The monies loaned or granted by the Mississippi Development
106 Authority shall be drawn from the Emerging Crops Fund and shall
107 not exceed Twenty-three Million Dollars (\$23,000,000.00) in the
108 aggregate. Planning and development districts or qualified
109 entities which receive monies pursuant to this provision shall use
110 such monies to make loans to minority business enterprises
111 consistent with criteria established by the Mississippi
112 Development Authority. Such criteria shall include, at a minimum,
113 the following:

114 (i) The business enterprise must be a private,
115 for-profit enterprise.

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

121 (iii) The borrower must have at least five percent
122 (5%) equity interest in the business enterprise.

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

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

127 (vi) Loan proceeds may be used for financing all
128 project costs associated with development or expansion of a new
129 small business, including fixed assets, working capital, start-up



130 costs, rental payments, interest expense during construction and
131 professional fees related to the project.

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

141 (viii) The maximum amount that may be loaned to
142 any one (1) borrower shall be Two Hundred Fifty Thousand Dollars
143 (\$250,000.00).

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

148 (b) For the purpose of this subsection, the term
149 "minority business enterprise" means a socially and economically
150 disadvantaged small business concern, organized for profit,
151 performing a commercially useful function which is owned and
152 controlled by one or more minorities or minority business
153 enterprises certified by the Mississippi Development Authority, at
154 least fifty percent (50%) of whom are resident citizens of the
155 State of Mississippi. For purposes of this subsection, the term
156 "socially and economically disadvantaged small business concern"
157 shall have the meaning ascribed to such term under the Small
158 Business Act (15 USCS, Section 637(a)), or women, and the term
159 "owned and controlled" means a business in which one or more
160 minorities or minority business enterprises certified by the
161 Mississippi Development Authority own sixty percent (60%) or, in
162 the case of a corporation, sixty percent (60%) of the voting



163 stock, and control sixty percent (60%) of the management and daily
164 business operations of the business.

165 From and after July 1, 2003, monies not loaned or granted by
166 the Mississippi Development Authority to planning and development
167 districts or qualified entities under this subsection, and monies
168 not loaned by planning and development districts or qualified
169 entities, shall be deposited to the credit of the sinking fund
170 created and maintained in the State Treasury for the retirement of
171 bonds issued under Section 69-2-19.

172 (c) Notwithstanding any other provision of this
173 subsection to the contrary, if federal funds are not available for
174 commitments made by a planning and development district to provide
175 assistance under any federal loan program administered by the
176 planning and development district in coordination with the
177 Appalachian Regional Commission or Economic Development
178 Administration, or both, a planning and development district may
179 use funds in its loan revolving fund, which have not been
180 committed otherwise to provide assistance, for the purpose of
181 providing temporary funding for such commitments. If a planning
182 and development district uses uncommitted funds in its loan
183 revolving fund to provide such temporary funding, the district
184 shall use funds repaid to the district under the temporarily
185 funded federal loan program to replenish the funds used to provide
186 the temporary funding. Funds used by a planning and development
187 district to provide temporary funding under this paragraph (c)
188 must be repaid to the district's loan revolving fund no later than
189 twelve (12) months after the date the district provides the
190 temporary funding. A planning and development district may not
191 use uncommitted funds in its loan revolving fund to provide
192 temporary funding under this paragraph (c) on more than two (2)
193 occasions during a calendar year. A planning and development
194 district may provide temporary funding for multiple commitments on
195 each such occasion. The maximum aggregate amount of uncommitted



196 funds in a loan revolving fund that may be used for such purposes
197 during a calendar year shall not exceed seventy percent (70%) of
198 the uncommitted funds in the loan revolving fund on the date the
199 district first provides temporary funding during the calendar
200 year.

201 (d) If the Mississippi Development Authority determines
202 that a planning and development district or qualified entity has
203 provided loans to minority businesses in a manner inconsistent
204 with the provisions of this subsection, then the amount of such
205 loans so provided shall be withheld by the Mississippi Development
206 Authority from any additional grant funds to which the planning
207 and development district or qualified entity becomes entitled
208 under this subsection. If the Mississippi Development Authority
209 determines, after notifying such planning and development district
210 or qualified entity twice in writing and providing such planning
211 and development district or qualified entity a reasonable
212 opportunity to comply, that a planning and development district or
213 qualified entity has consistently failed to comply with this
214 subsection, the Mississippi Development Authority may declare such
215 planning and development district or qualified entity in default
216 under this subsection and, upon receipt of notice thereof from the
217 Mississippi Development Authority, such planning and development
218 district or qualified entity shall immediately cease providing
219 loans under this subsection, shall refund to the Mississippi
220 Development Authority for distribution to other planning and
221 development districts or qualified entities all funds held in its
222 revolving loan fund and, if required by the Mississippi
223 Development Authority, shall convey to the Mississippi Development
224 Authority, all administrative and management control of loans
225 provided by it under this subsection.

226 (e) If the Mississippi Development Authority
227 determines, after notifying a planning and development district or
228 qualified entity twice in writing and providing copies of such



229 notification to each member of the Legislature in whose district
230 or in a part of whose district such planning and development
231 district or qualified entity is located and providing such
232 planning and development district or qualified entity a reasonable
233 opportunity to take corrective action, that a planning and
234 development district or qualified entity administering a revolving
235 loan fund under the provisions of this subsection is not actively
236 engaged in lending as defined by the rules and regulations of the
237 Mississippi Development Authority, the Mississippi Development
238 Authority may declare such planning and development district or
239 qualified entity in default under this subsection and, upon
240 receipt of notice thereof from the Mississippi Development
241 Authority, such planning and development district or qualified
242 entity shall immediately cease providing loans under this
243 subsection, shall refund to the Mississippi Development Authority
244 for distribution to other planning and development districts or
245 qualified entities all funds held in its revolving loan fund and,
246 if required by the Mississippi Development Authority, shall convey
247 to the Mississippi Development Authority all administrative and
248 management control of loans provided by it under this subsection.

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



261 term "minority business enterprise" has the meaning assigned such
262 term in subsection (4) of this section.

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

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

288 (8) From and after July 1, 1996, the Mississippi Development
289 Authority shall make available to the Mississippi Small Farm
290 Development Center One Million Dollars (\$1,000,000.00) to be used
291 by the center to assist small entrepreneurs as provided in Section
292 37-101-25, Mississippi Code of 1972. The monies made available by



293 the Mississippi Development Authority shall be drawn from the
294 Emerging Crops Fund.

295 (9) The Mississippi Development Authority shall make
296 available to the Agribusiness and Natural Resource Development
297 Center through Alcorn State University an amount not to exceed Two
298 Hundred Fifty Thousand Dollars (\$250,000.00) in fiscal year 2001
299 and Two Hundred Fifty Thousand Dollars (\$250,000.00) in fiscal
300 year 2002 from the cash balance of the Emerging Crops Fund to
301 support the development of a cooperative program for agribusiness
302 development, marketing and natural resources development. This
303 subsection (9) shall stand repealed on June 30, 2003.

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

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

322 **SECTION 2.** This act shall take effect and be in force from
323 and after its passage.

