

By: Representative Ford

To: Ways and Means

HOUSE BILL NO. 849

1 AN ACT TO AMEND SECTION 69-2-13, MISSISSIPPI CODE OF 1972, TO
2 EXTEND THE REPEALER ON CERTAIN PROGRAMS FUNDED UNDER THE EMERGING
3 CROPS FUND; AND FOR RELATED PURPOSES.

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

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

7 69-2-13. (1) There is hereby established in the State
8 Treasury a fund to be known as the "Emerging Crops Fund," which
9 shall be used to pay the interest on loans made to farmers for
10 nonland capital costs of establishing production of emerging crops
11 on land in Mississippi, and to make loans and grants which are
12 authorized under this section to be made from the fund. The fund
13 shall be administered by the Mississippi Development Authority. A
14 board comprised of the directors of the authority, the Mississippi
15 Cooperative Extension Service, the Mississippi Small Farm
16 Development Center and the Mississippi Agricultural and Forestry
17 Experiment Station, or their designees, shall develop definitions,
18 guidelines and procedures for the implementation of this chapter.
19 Funds for the Emerging Crops Fund shall be provided from the
20 issuance of bonds or notes under Sections 69-2-19 through 69-2-37
21 and from repayment of interest loans made from the fund.

22 (2) (a) The Mississippi Development Authority shall develop
23 a program which gives fair consideration to making loans for the
24 processing and manufacturing of goods and services by
25 agribusiness, greenhouse production horticulture, and small
26 business concerns. It is the policy of the State of Mississippi
27 that the Mississippi Development Authority shall give due



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

38 (b) The Mississippi Development Authority may, out of
39 the total amount of bonds authorized to be issued under this
40 chapter, make available funds to any planning and development
41 district in accordance with the criteria established in Section
42 57-71-11. Planning and development districts which receive monies
43 pursuant to this provision shall use such monies to make loans to
44 private companies for purposes consistent with this subsection.

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

50 (3) (a) The Mississippi Development Authority shall, in
51 addition to the other programs described in this section, provide
52 for a program of loans to be made to agribusiness or greenhouse
53 production horticulture enterprises for the purpose of encouraging
54 thereby the extension of conventional financing and the issuance
55 of letters of credit to such agribusiness or greenhouse production
56 horticulture enterprises by private institutions. Monies to make
57 such loans by the Mississippi Development Authority shall be drawn
58 from the Emerging Crops Fund. The amount of a loan to any single
59 agribusiness or greenhouse production horticulture enterprise
60 under this paragraph (a) shall not exceed twenty percent (20%) of



61 the total cost of the project for which financing is sought or Two
62 Hundred Thousand Dollars (\$200,000.00), whichever is less. No
63 interest shall be charged on such loans, and only the amount
64 actually loaned shall be required to be repaid. Repayments shall
65 be deposited into the Emerging Crops Fund.

66 (b) The Mississippi Development Authority shall, in
67 addition to the other programs described in this section, provide
68 for a program of loans or loan guaranties, or both, to be made to
69 or on behalf of any agribusiness enterprise engaged in beef
70 processing for the purpose of encouraging thereby the extension of
71 conventional financing and the issuance of letters of credit to
72 such agribusiness enterprises by private institutions. Monies to
73 make such loans or loan guaranties, or both, by the Mississippi
74 Development Authority shall be drawn from the Emerging Crops Fund
75 and shall not exceed Twenty-one Million Dollars (\$21,000,000.00)
76 in the aggregate. The amount of a loan to any single agribusiness
77 enterprise or loan guaranty on behalf of such agribusiness
78 enterprise, or both, under this paragraph (b) shall not exceed the
79 total cost of the project for which financing is sought or
80 Twenty-one Million Dollars (\$21,000,000.00), whichever is less.
81 The interest charged on a loan made under this paragraph (b) shall
82 be at a rate determined by the Mississippi Development Authority.
83 All repayments of any loan made under this paragraph (b) shall be
84 deposited into the Emerging Crops Fund. Assistance received by an
85 agribusiness enterprise under this paragraph (b) shall not
86 disqualify the agribusiness enterprise from obtaining any other
87 assistance under this chapter.

88 (4) (a) Through June 30, 2004, the Mississippi Development
89 Authority may loan or grant to qualified planning and development
90 districts, and to small business investment corporations,
91 bank-based community development corporations, the Recruitment and
92 Training Program, Inc., the City of Jackson Business Development
93 Loan Fund, the Lorman Southwest Mississippi Development



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

109 (i) The business enterprise must be a private,
110 for-profit enterprise.

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

116 (iii) The borrower must have at least five percent
117 (5%) equity interest in the business enterprise.

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

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

122 (vi) Loan proceeds may be used for financing all
123 project costs associated with development or expansion of a new
124 small business, including fixed assets, working capital, start-up
125 costs, rental payments, interest expense during construction and
126 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 sixty percent (60%) or, in the case of a corporation, sixty percent (60%) of the voting stock, and control sixty percent (60%) of the management and daily business operations of the business.



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

167 (c) Notwithstanding any other provision of this
168 subsection to the contrary, if federal funds are not available for
169 commitments made by a planning and development district to provide
170 assistance under any federal loan program administered by the
171 planning and development district in coordination with the
172 Appalachian Regional Commission or Economic Development
173 Administration, or both, a planning and development district may
174 use funds in its loan revolving fund, which have not been
175 committed otherwise to provide assistance, for the purpose of
176 providing temporary funding for such commitments. If a planning
177 and development district uses uncommitted funds in its loan
178 revolving fund to provide such temporary funding, the district
179 shall use funds repaid to the district under the temporarily
180 funded federal loan program to replenish the funds used to provide
181 the temporary funding. Funds used by a planning and development
182 district to provide temporary funding under this paragraph (c)
183 must be repaid to the district's loan revolving fund no later than
184 twelve (12) months after the date the district provides the
185 temporary funding. A planning and development district may not
186 use uncommitted funds in its loan revolving fund to provide
187 temporary funding under this paragraph (c) on more than two (2)
188 occasions during a calendar year. A planning and development
189 district may provide temporary funding for multiple commitments on
190 each such occasion. The maximum aggregate amount of uncommitted
191 funds in a loan revolving fund that may be used for such purposes
192 during a calendar year shall not exceed seventy percent (70%) of



193 the uncommitted funds in the loan revolving fund on the date the
194 district first provides temporary funding during the calendar
195 year.

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

221 (e) If the Mississippi Development Authority
222 determines, after notifying a planning and development district or
223 qualified entity twice in writing and providing copies of such
224 notification to each member of the Legislature in whose district
225 or in a part of whose district such planning and development



district or qualified entity is located and providing such planning and development district or qualified entity a reasonable opportunity to take corrective action, that a planning and development district or 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 planning and development district or qualified entity in default under this subsection and, upon receipt of notice thereof from the Mississippi Development Authority, such planning and development district or qualified entity shall immediately cease providing loans under this subsection, shall refund to the Mississippi Development Authority for distribution to other planning and development districts or 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.



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

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

283 (8) From and after July 1, 1996, the Mississippi Development
284 Authority shall make available to the Mississippi Small Farm
285 Development Center One Million Dollars (\$1,000,000.00) to be used
286 by the center to assist small entrepreneurs as provided in Section
287 37-101-25, Mississippi Code of 1972. The monies made available by
288 the Mississippi Development Authority shall be drawn from the
289 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, 2004.

(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. This act shall take effect and be in force from and after its passage.

