H. B. No. 849

AN ACT TO AMEND SECTION 69-2-13, MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEALER ON CERTAIN PROGRAMS FUNDED UNDER THE EMERGING CROPS FUND; TO REQUIRE THE MISSISSIPPI DEVELOPMENT AUTHORITY TO PROVIDE FUNDS FROM THE EMERGING CROPS FUND TO THE MISSISSIPPI DEPARTMENT OF AGRICULTURE AND COMMERCE TO BE USED FOR REHABILITATION, MAINTENANCE AND ADVERTISING OF THE MISSISSIPPI FARMERS CENTRAL MARKET; 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 the Mississippi Development 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) (a) 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 Mississippi Development Authority shall be drawn from the Emerging Crops Fund. The amount of a loan to any single
agribusiness or greenhouse production horticulture enterprise
under this paragraph (a) 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.

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

(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, the following:

(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 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.

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) Notwithstanding any other provision of this
subsection to the contrary, if federal funds are not available for
commitments made by a planning and development district to provide
assistance under any federal loan program administered by the
planning and development district in coordination with the
Appalachian Regional Commission or Economic Development
Administration, or both, a planning and development district may
use funds in its loan revolving fund, which have not been
committed otherwise to provide assistance, for the purpose of
providing temporary funding for such commitments. If a planning
and development district uses uncommitted funds in its loan
revolving fund to provide such temporary funding, the district
shall use funds repaid to the district under the temporarily
funded federal loan program to replenish the funds used to provide
the temporary funding. Funds used by a planning and development
district to provide temporary funding under this paragraph (c)
must be repaid to the district's loan revolving fund no later than
twelve (12) months after the date the district provides the
temporary funding. A planning and development district may not
use uncommitted funds in its loan revolving fund to provide
temporary funding under this paragraph (c) on more than two (2)
occasions during a calendar year. A planning and development
district may provide temporary funding for multiple commitments on
each such occasion. The maximum aggregate amount of uncommitted
funds in a loan revolving fund that may be used for such purposes
during a calendar year shall not exceed seventy percent (70\%) of
the uncommitted funds in the loan revolving fund on the date the
district first provides temporary funding during the calendar
year.

(d) If the Mississippi Development Authority determines
that a planning and development district or 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 grant funds to which the planning
and development district or qualified entity becomes entitled
under this subsection. If the Mississippi Development Authority
determines, after notifying such planning and development district
or qualified entity twice in writing and providing such planning
and development district or qualified entity a reasonable
opportunity to comply, that a planning and development district or
qualified entity has consistently failed to comply with this
subsection, 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.

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

(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, 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 Mine Mississippi" 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.

(12) The Mississippi Development Authority shall make
available to the Mississippi Department of Agriculture and
Commerce 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 to be used for the rehabilitation and
maintenance of the Mississippi Farmers Central Market in Jackson, Mississippi.

(13) The Mississippi Development Authority shall make available to the Mississippi Department of Agriculture and Commerce an amount not to exceed Twenty-five Thousand Dollars ($25,000.00) to be drawn from the cash balance of the Emerging Crops Fund to be used for advertising purposes related to the Mississippi Farmers Central Market in Jackson, Mississippi.

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