

By: Representatives Brown,
Watson

To: Ways and Means

HOUSE BILL NO. 41

1 AN ACT TO ESTABLISH THE MISSISSIPPI DISASTER SMALL BUSINESS
2 BRIDGE LOAN ACT TO PROVIDE SHORT-TERM LOANS FOR SMALL BUSINESSES
3 THAT SUFFER PHYSICAL DAMAGE AS A RESULT OF A DISASTER FOR WHICH
4 THE GOVERNOR HAS ISSUED A DISASTER DECLARATION TO ASSIST SMALL
5 BUSINESSES IN RETURNING TO BUSINESS AS SOON AS POSSIBLE; TO
6 PROVIDE THAT THE MISSISSIPPI DEVELOPMENT AUTHORITY SHALL
7 ADMINISTER THE LOAN PROGRAM AND SHALL HAVE THE AUTHORITY TO
8 ESTABLISH THE DISASTER LOAN PROGRAM WITH FEDERALLY INSURED
9 FINANCIAL INSTITUTIONS; TO PROVIDE THE MINIMUM AND MAXIMUM AMOUNT
10 OF LOANS AUTHORIZED UNDER THIS ACT; TO PROVIDE THE TERM OF SUCH
11 LOANS; TO ESTABLISH CERTAIN ELIGIBILITY REQUIREMENTS FOR THE
12 RECEIPT OF SUCH LOANS; TO PROVIDE THAT UPON THE ISSUANCE OF A
13 DISASTER DECLARATION BY THE GOVERNOR AND A DETERMINATION OF NEED
14 BY THE MISSISSIPPI DEVELOPMENT AUTHORITY, THE STATE BOND
15 COMMISSION IS AUTHORIZED TO OBTAIN A LINE OF CREDIT IN AN AMOUNT
16 NOT TO EXCEED \$25,000,000.00 FOR ANY ONE DISASTER, FROM A
17 COMMERCIAL LENDER, INVESTMENT BANKING GROUP OR A CONSORTIUM OF
18 EITHER OR BOTH, FOR THE PURPOSE OF FUNDING THE LOAN PROGRAM; TO
19 ESTABLISH A DISASTER HOME FLOOD GRANT PROGRAM TO PROVIDE GRANTS TO
20 INDIVIDUALS WHO SUFFERED PHYSICAL DAMAGE TO HOMES DUE TO FLOODING
21 OR STORM SURGE AS A RESULT OF HURRICANE KATRINA AND WHO HAD NO
22 FLOOD INSURANCE OR OTHER INSURANCE PROVIDING COVERAGE FOR SUCH
23 DAMAGE; TO PROVIDE THAT THE DEPARTMENT OF FINANCE AND
24 ADMINISTRATION SHALL ADMINISTER THE GRANT PROGRAM; TO PROVIDE THE
25 MAXIMUM AMOUNT OF GRANTS AUTHORIZED UNDER THE GRANT PROGRAM; TO
26 ESTABLISH CERTAIN ELIGIBILITY REQUIREMENTS FOR THE RECEIPT OF SUCH
27 GRANTS; TO AUTHORIZE THE ISSUANCE OF \$100,000,000.00 WORTH OF
28 STATE GENERAL OBLIGATION BONDS FOR THE PURPOSE OF PROVIDING FUNDS
29 FOR THE GRANT PROGRAM; AND FOR RELATED PURPOSES.

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

31 **SECTION 1.** Sections 1 through 5 of this act shall be known
32 and may be cited as the "Mississippi Disaster Small Business
33 Bridge Loan Act."

34 **SECTION 2.** (1) It is the intent of the Legislature, and
35 declared to be the policy of the State of Mississippi, that
36 short-term loan funds should be made available quickly to assist
37 small businesses physically harmed by any disaster for which a
38 disaster declaration has been issued by the Governor.

39 (2) The loan program established by Sections 1 through 5 of
40 this act is intended to provide short-term financial assistance to

41 small businesses until the owners of the business are able to
42 obtain other financing or obtain insurance proceeds.

43 **SECTION 3.** (1) The Mississippi Development Authority
44 (hereinafter referred to as the "authority") is authorized and
45 empowered to utilize any funds acquired pursuant to Section 5 of
46 this act and any funds otherwise provided for the purposes
47 expressed in Sections 1 through 5 of this act from any source, to
48 establish a disaster loan program with federally insured financial
49 institutions to provide short-term bridge loans to small business
50 owners in this state for the purpose of assisting such small
51 businesses in returning to business as quickly as possible.

52 (2) The amount of any loan granted under Sections 1 through
53 5 of this act shall be not less than One Thousand Dollars
54 (\$1,000.00) nor more than Twenty-five Thousand Dollars
55 (\$25,000.00). The term of any loan made under this section shall
56 be ninety (90) days or one hundred eighty (180) days as determined
57 by the authority based upon the circumstances of the business
58 applying for the loan. The proceeds of the loans authorized under
59 Sections 1 through 5 of this act shall be used only for the
60 purpose of maintaining or restarting the business in the area for
61 which a disaster declaration by the Governor has been issued.

62 (3) To be eligible for the loans authorized under Sections 1
63 through 5 of this act, small businesses shall:

64 (a) Be located in the area for which a disaster
65 declaration has been issued by the Governor;

66 (b) Have been established in the area for which the
67 disaster declaration of the Governor was issued for not less than
68 one (1) year prior to the declaration;

69 (c) Have employed not less than two (2) nor more than
70 one hundred (100) persons immediately prior to the disaster
71 declaration;

72 (d) Have suffered physical damage as a direct result of
73 the disaster; and

74 (e) Be at least fifty-one percent (51%) owned by
75 Mississippi residents, or, in the case of a Mississippi nonprofit
76 corporation, controlled by Mississippi residents.

77 (4) Using assessments of the disaster impacted areas, the
78 authority shall designate the area, and the counties in the area,
79 in which a small business must be located to be eligible to
80 participate in the program. The authority shall develop, adopt
81 and publish reasonable rules and regulations for the operation of
82 the loan program established under Sections 1 through 5 of this
83 act. The rules and regulations shall govern the use of loan
84 proceeds, terms of loans, loan interest rates and fees, the loan
85 approval process and any other matters the authority considers
86 appropriate. For purposes of the program established by Sections
87 1 through 5 of this act, the authority shall be exempt from the
88 Mississippi Administrative Procedures Law.

89 **SECTION 4.** The authority shall be the sole administrator of
90 the funds that become available to implement the provisions of
91 Sections 1 through 5 of this act. The authority is authorized to
92 utilize any of its general powers to operate the loan program
93 established under Sections 1 through 5 of this act.

94 **SECTION 5.** (1) After a disaster has been proclaimed by the
95 Governor, the authority shall determine the need to implement the
96 loan program authorized by Sections 1 through 5 of this act. Upon
97 making such determination, the authority shall notify the State
98 Bond Commission and request funds be provided to the authority to
99 implement the program. Not more than Twenty-five Million Dollars
100 (\$25,000,000.00) shall be provided for any one (1) disaster.

101 (2) (a) Upon receipt of the notification provided for in
102 subsection (1) of this section, the State Bond Commission is
103 authorized to obtain a line of credit, in an amount not to exceed
104 Twenty-five Million Dollars (\$25,000,000.00), from a commercial
105 lender, investment banking group or a consortium of either or
106 both. The length of indebtedness under this provision shall not

107 carry past three (3) years following the origination of the line
108 of credit. The State Bond Commission shall select a lender. The
109 line of credit shall be authorized and approved by the State Bond
110 Commission and shall have such terms and details as may be
111 provided by resolution of the State Bond Commission. Loan
112 proceeds shall be received by the authority and shall be used to
113 implement the loan program authorized by Sections 1 through 5 of
114 this act. The authority shall accumulate loan repayments to repay
115 the line of credit; however, the authority may use repayments
116 received while the program is being made available to small
117 businesses to fund additional loans. The authority shall seek
118 legislation for funding to repay loan defaults and interest costs
119 on the line of credit.

120 (b) As security for the repayment of the principal and
121 interest on the line of credit provided for in paragraph (a) of
122 this subsection, the full faith, credit and resources of the State
123 of Mississippi are hereby irrevocably pledged.

124 (3) This subsection shall be complete authority for the
125 borrowing authorized hereunder and shall not be subject to any
126 other limitations under state law.

127 **SECTION 6.** (1) The Department of Finance and Administration
128 shall establish a disaster grant program to provide grants to
129 individuals who sustained physical damage to homes due to flooding
130 or storm surge as a result of Hurricane Katrina and who had no
131 flood insurance or other insurance providing coverage for such
132 damage. For the purposes of the grant program authorized under
133 this section, a home can be a primary residence or second home.

134 (2) The amount of a grant made under this section shall not
135 exceed Twenty-five Thousand Dollars (\$25,000.00) or one-half (1/2)
136 of the cost of repairing or rebuilding a home, whichever is less.
137 The proceeds of the grants authorized under this section shall be
138 used only for the purpose of repairing or rebuilding a home for
139 which a grant was made under this section.

140 (3) To be eligible for a grant under this section, an
141 individual must:

142 (a) Own or have owned a home that sustained physical
143 damage due to flooding or storm surge as a result of Hurricane
144 Katrina; and

145 (b) Not have had flood insurance or other insurance
146 providing coverage for such damage.

147 (4) An individual desiring assistance under this section
148 must submit an application to the Department of Finance and
149 Administration. The application must include a description of the
150 property and the purpose for which assistance is requested, the
151 cost of the project for which assistance is requested and any
152 other information required by the Department of Finance and
153 Administration.

154 (5) The Department of Finance and Administration shall have
155 all powers necessary to implement and administer the program
156 established under this section, and the Department of Finance and
157 Administration shall promulgate rules and regulations, in
158 accordance with the Mississippi Administrative Procedures Law,
159 necessary for the implementation of this section.

160 (6) There is created in the State Treasury a special fund to
161 be designated as the "Mississippi Disaster Home Flood Grant Fund,"
162 which shall consist of funds appropriated or otherwise made
163 available by the Legislature in any manner and funds from any
164 other source designated for deposit into such fund. Unexpended
165 amounts remaining in the fund at the end of a fiscal year shall
166 not lapse into the State General Fund, and any investment earnings
167 or interest earned on amounts in the fund shall be deposited to
168 the credit of the fund. Monies in the fund shall be used by the
169 Department of Finance and Administration for the purposes
170 described in this section.

171 **SECTION 7.** As used in Sections 7 through 22 of this act, the
172 following words shall have the meanings ascribed herein unless the
173 context clearly requires otherwise:

174 (a) "Accreted value" of any bonds means, as of any date
175 of computation, an amount equal to the sum of (i) the stated
176 initial value of such bond, plus (ii) the interest accrued thereon
177 from the issue date to the date of computation at the rate,
178 compounded semiannually, that is necessary to produce the
179 approximate yield to maturity shown for bonds of the same
180 maturity.

181 (b) "State" means the State of Mississippi.

182 (c) "Commission" means the State Bond Commission.

183 **SECTION 8.** (1) The commission, at one time, or from time to
184 time, may declare by resolution the necessity for issuance of
185 general obligation bonds of the State of Mississippi to provide
186 funds for the program authorized in Section 6 of this act. Upon
187 the adoption of a resolution by the Department of Finance and
188 Administration, declaring the necessity for the issuance of any
189 part or all of the general obligation bonds authorized by this
190 section, the Department of Finance and Administration shall
191 deliver a certified copy of its resolution or resolutions to the
192 commission. Upon receipt of such resolution, the commission, in
193 its discretion, may act as the issuing agent, prescribe the form
194 of the bonds, advertise for and accept bids, issue and sell the
195 bonds so authorized to be sold and do any and all other things
196 necessary and advisable in connection with the issuance and sale
197 of such bonds. The total amount of bonds issued under Sections 7
198 through 22 of this act shall not exceed One Hundred Million
199 Dollars (\$100,000,000.00). No bonds shall be issued under
200 Sections 7 through 22 of this act after July 1, 2007.

201 (2) The proceeds of bonds issued pursuant to Sections 7
202 through 22 of this act shall be deposited into the special fund
203 created in Section 6 of this act. Any investment earnings on

204 bonds issued pursuant to Sections 7 through 22 of this act shall
205 be used to pay debt service on bonds issued under Sections 7
206 through 22 of this act, in accordance with the proceedings
207 authorizing issuance of such bonds.

208 **SECTION 9.** The principal of and interest on the bonds
209 authorized under Sections 7 through 22 of this act shall be
210 payable in the manner provided in this section. Such bonds shall
211 bear such date or dates, be in such denomination or denominations,
212 bear interest at such rate or rates (not to exceed the limits set
213 forth in Section 75-17-101, Mississippi Code of 1972), be payable
214 at such place or places within or without the State of
215 Mississippi, shall mature absolutely at such time or times not to
216 exceed twenty-five (25) years from date of issue, be redeemable
217 before maturity at such time or times and upon such terms, with or
218 without premium, shall bear such registration privileges, and
219 shall be substantially in such form, all as shall be determined by
220 resolution of the commission.

221 **SECTION 10.** The bonds authorized by Sections 7 through 22 of
222 this act shall be signed by the chairman of the commission, or by
223 his facsimile signature, and the official seal of the commission
224 shall be affixed thereto, attested by the secretary of the
225 commission. The interest coupons, if any, to be attached to such
226 bonds may be executed by the facsimile signatures of such
227 officers. Whenever any such bonds shall have been signed by the
228 officials designated to sign the bonds who were in office at the
229 time of such signing but who may have ceased to be such officers
230 before the sale and delivery of such bonds, or who may not have
231 been in office on the date such bonds may bear, the signatures of
232 such officers upon such bonds and coupons shall nevertheless be
233 valid and sufficient for all purposes and have the same effect as
234 if the person so officially signing such bonds had remained in
235 office until their delivery to the purchaser, or had been in
236 office on the date such bonds may bear. However, notwithstanding

237 anything herein to the contrary, such bonds may be issued as
238 provided in the Registered Bond Act of the State of Mississippi.

239 **SECTION 11.** All bonds and interest coupons issued under the
240 provisions of Sections 7 through 22 of this act have all the
241 qualities and incidents of negotiable instruments under the
242 provisions of the Uniform Commercial Code, and in exercising the
243 powers granted by Sections 7 through 22 of this act, the
244 commission shall not be required to and need not comply with the
245 provisions of the Uniform Commercial Code.

246 **SECTION 12.** The commission shall act as the issuing agent
247 for the bonds authorized under Sections 7 through 22 of this act,
248 prescribe the form of the bonds, advertise for and accept bids,
249 issue and sell the bonds so authorized to be sold, pay all fees
250 and costs incurred in such issuance and sale, and do any and all
251 other things necessary and advisable in connection with the
252 issuance and sale of such bonds. The commission is authorized and
253 empowered to pay the costs that are incident to the sale, issuance
254 and delivery of the bonds authorized under Sections 7 through 22
255 of this act from the proceeds derived from the sale of such bonds.
256 The commission shall sell such bonds on sealed bids at public
257 sale, and for such price as it may determine to be for the best
258 interest of the State of Mississippi, but no such sale shall be
259 made at a price less than par plus accrued interest to the date of
260 delivery of the bonds to the purchaser. All interest accruing on
261 such bonds so issued shall be payable semiannually or annually;
262 however, the first interest payment may be for any period of not
263 more than one (1) year.

264 Notice of the sale of any such bonds shall be published at
265 least one time, not less than ten (10) days before the date of
266 sale, and shall be so published in one or more newspapers
267 published or having a general circulation in the City of Jackson,
268 Mississippi, and in one or more other newspapers or financial

269 journals with a national circulation, to be selected by the
270 commission.

271 The commission, when issuing any bonds under the authority of
272 Sections 7 through 22 of this act, may provide that bonds, at the
273 option of the State of Mississippi, may be called in for payment
274 and redemption at the call price named therein and accrued
275 interest on such date or dates named therein.

276 **SECTION 13.** The bonds issued under the provisions of
277 Sections 7 through 22 of this act are general obligations of the
278 State of Mississippi, and for the payment thereof the full faith
279 and credit of the State of Mississippi is irrevocably pledged. If
280 the funds appropriated by the Legislature are insufficient to pay
281 the principal of and the interest on such bonds as they become
282 due, then the deficiency shall be paid by the State Treasurer from
283 any funds in the State Treasury not otherwise appropriated. All
284 such bonds shall contain recitals on their faces substantially
285 covering the provisions of this section.

286 **SECTION 14.** Upon the issuance and sale of bonds under the
287 provisions of Sections 7 through 22 of this act, the commission
288 shall transfer the proceeds of any such sale or sales to the
289 special fund created in Section 6 of this act. The proceeds of
290 such bonds shall be disbursed solely upon the order of the
291 Department of Finance and Administration under such restrictions,
292 if any, as may be contained in the resolution providing for the
293 issuance of the bonds.

294 **SECTION 15.** The bonds authorized under Sections 7 through 22
295 of this act may be issued without any other proceedings or the
296 happening of any other conditions or things other than those
297 proceedings, conditions and things which are specified or required
298 by Sections 7 through 22 of this act. Any resolution providing
299 for the issuance of bonds under the provisions of Sections 7
300 through 22 of this act shall become effective immediately upon its
301 adoption by the commission, and any such resolution may be adopted

302 at any regular or special meeting of the commission by a majority
303 of its members.

304 **SECTION 16.** The bonds authorized under the authority of
305 Sections 7 through 22 of this act may be validated in the Chancery
306 Court of the First Judicial District of Hinds County, Mississippi,
307 in the manner and with the force and effect provided by Chapter
308 13, Title 31, Mississippi Code of 1972, for the validation of
309 county, municipal, school district and other bonds. The notice to
310 taxpayers required by such statutes shall be published in a
311 newspaper published or having a general circulation in the City of
312 Jackson, Mississippi.

313 **SECTION 17.** Any holder of bonds issued under the provisions
314 of Sections 7 through 22 of this act or of any of the interest
315 coupons pertaining thereto may, either at law or in equity, by
316 suit, action, mandamus or other proceeding, protect and enforce
317 any and all rights granted under Sections 7 through 22 of this
318 act, or under such resolution, and may enforce and compel
319 performance of all duties required by Sections 7 through 22 of
320 this act to be performed, in order to provide for the payment of
321 bonds and interest thereon.

322 **SECTION 18.** All bonds issued under the provisions of
323 Sections 7 through 22 of this act shall be legal investments for
324 trustees and other fiduciaries, and for savings banks, trust
325 companies and insurance companies organized under the laws of the
326 State of Mississippi, and such bonds shall be legal securities
327 which may be deposited with and shall be received by all public
328 officers and bodies of this state and all municipalities and
329 political subdivisions for the purpose of securing the deposit of
330 public funds.

331 **SECTION 19.** Bonds issued under the provisions of Sections 7
332 through 22 of this act and income therefrom shall be exempt from
333 all taxation in the State of Mississippi.

334 **SECTION 20.** The proceeds of the bonds issued under Sections
335 7 through 22 of this act shall be used solely for the purposes
336 therein provided, including the costs incident to the issuance and
337 sale of such bonds.

338 **SECTION 21.** The State Treasurer is authorized, without
339 further process of law, to certify to the Department of Finance
340 and Administration the necessity for warrants, and the Department
341 of Finance and Administration is authorized and directed to issue
342 such warrants, in such amounts as may be necessary to pay when due
343 the principal of, premium, if any, and interest on, or the
344 accreted value of, all bonds issued under Sections 7 through 22 of
345 this act; and the State Treasurer shall forward the necessary
346 amount to the designated place or places of payment of such bonds
347 in ample time to discharge such bonds, or the interest thereon, on
348 the due dates thereof.

349 **SECTION 22.** Sections 7 through 22 of this act shall be
350 deemed to be full and complete authority for the exercise of the
351 powers therein granted, but Sections 7 through 22 of this act
352 shall not be deemed to repeal or to be in derogation of any
353 existing law of this state.

354 **SECTION 23.** This act shall take effect and be in force from
355 and after its passage.