

Senate Amendments to House Bill No. 41

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

30 **SECTION 1.** This act shall be known and may be cited as the
31 "Hurricane Katrina Disaster Small Business Bridge Loan Act."

32 **SECTION 2.** (1) It is the intent of the Legislature, and
33 declared to be the policy of the State of Mississippi, that
34 short-term loan funds should be made available quickly to assist
35 small businesses physically harmed by Hurricane Katrina.

36 (2) The loan program established by this act is intended to
37 provide short-term financial assistance to small businesses until
38 the owners of the business are able to obtain other financing or
39 obtain insurance proceeds.

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

50 (2) The amount of any loan granted under this act shall be
51 not less than One Thousand Dollars (\$1,000.00) nor more than
52 Twenty-five Thousand Dollars (\$25,000.00). The term of any loan
53 made under this section shall be ninety (90) days or one hundred
54 eighty (180) days as determined by the authority based upon the
55 circumstances of the business applying for the loan; however, upon

request of a financial institution assisting in the program, the authority may extend the term of any loan made under this act an additional one hundred eighty (180) days. The proceeds of the loans authorized under this act shall be used only for the purpose of maintaining or restarting the business in the area for which the disaster declaration by the Governor for Hurricane Katrina was issued.

(3) To be eligible for the loans authorized under this act, small businesses shall:

(a) Be located in the area for which the disaster declaration for Hurricane Katrina was issued by the Governor;

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

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

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

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

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

SECTION 4. The authority shall be the sole administrator of the funds that become available to implement the provisions of

91 this act. The authority is authorized to utilize any of its
92 general powers to operate the loan program established under this
93 act.

94 **SECTION 5.** (1) The authority shall determine the need to
95 implement the loan program authorized by this act. Upon making
96 such determination, the authority shall notify the State Bond
97 Commission and request funds be provided to the authority to
98 implement the program. Not more than Twenty-five Million Dollars
99 (\$25,000,000.00) may be provided.

100 (2) (a) Upon receipt of the notification provided for in
101 subsection (1) of this section, the State Bond Commission is
102 authorized to obtain a line of credit, in an amount not to exceed
103 Twenty-five Million Dollars (\$25,000,000.00), from a commercial
104 lender, investment banking group or a consortium of either or
105 both. The length of indebtedness under this provision shall not
106 carry past three (3) years following the origination of the line
107 of credit. The State Bond Commission shall select a lender. The
108 line of credit shall be authorized and approved by the State Bond
109 Commission and shall have such terms and details as may be
110 provided by resolution of the State Bond Commission. Loan
111 proceeds shall be received by the authority and shall be used to
112 implement the loan program authorized by this act. The authority
113 shall accumulate loan repayments to repay the line of credit;
114 however, the authority may use repayments received while the
115 program is being made available to small businesses to fund
116 additional loans. The authority shall seek legislation for
117 funding to repay loan defaults and interest costs on the line of
118 credit.

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

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

126 **SECTION 6.** (1) The Department of Finance and Administration

127 shall establish a disaster grant program to provide grants to
128 individuals who sustained physical damage to homes due to flooding
129 or storm surge as a result of Hurricane Katrina or a storm that
130 occurred as a result of Hurricane Katrina and who had no flood
131 insurance or other insurance providing coverage for such damage.
132 For the purposes of the grant program authorized under this
133 section, a home shall be the primary homestead of the applicant.

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 and/or replacing its
137 contents, whichever is less. The proceeds of the grants
138 authorized under this section shall be used only for the purpose
139 of repairing or rebuilding a home and/or replacing the contents of
140 a home for which a grant was made under this section. An
141 individual receiving a grant to rebuild a home must rebuild the
142 home in the county in which it was located at the time of the
143 damage.

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

146 (a) Own or have owned a home that sustained physical
147 damage due to flooding or storm surge as a result of Hurricane
148 Katrina or a storm that occurred as a result of Hurricane Katrina;

149 (b) Not have had flood insurance or other insurance
150 providing coverage for such damage or had flood insurance but had
151 a flood loss that exceeded such insurance and was not covered by
152 other insurance or source of reimbursement;

153 (c) Have exhausted all available federal remedies to
154 obtain funds to pay for the cost of repairing or rebuilding his or
155 her home and/or replacing the contents of his or her home;

156 (d) Have been approved for United States Small Business
157 Administration disaster loan assistance for repair or rebuilding
158 of such home; and

159 (e) Agree to obtain and maintain flood insurance
160 coverage on the property for which assistance is requested.

161 (4) (a) Any property owner who receives a grant under this
162 section and who fails to maintain flood insurance coverage on the
163 property for which assistance is requested as required in this
164 section shall not be eligible for state assistance for any flood
165 damage that occurs after the grant is made.

166 (b) Any homes that were located in an area designated
167 as a Special Flood Hazard Area under the National Flood Insurance
168 Program, received flood damage as a result of Hurricane Katrina or
169 a storm that occurred as a result of Hurricane Katrina and were
170 not covered by flood insurance, shall not be eligible for a grant
171 under this section.

172 (c) If any damage to a home for which a grant is
173 awarded under this section is subsequently found to have been paid
174 for or covered by a policy of insurance, the person who received
175 the grant shall repay all or a portion of the grant, as determined
176 by the Department of Finance and Administration.

177 (5) An individual desiring assistance under this section
178 must submit an application to the Department of Finance and
179 Administration. The application must include a description of the
180 property and the purpose for which assistance is requested, the
181 cost of the project for which assistance is requested and any
182 other information required by the Department of Finance and
183 Administration.

184 (6) The Department of Finance and Administration shall have
185 all powers necessary to implement and administer the program
186 established under this section, and the Department of Finance and
187 Administration shall promulgate rules and regulations, in
188 accordance with the Mississippi Administrative Procedures Law,
189 necessary for the implementation of this section.

190 (7) There is created in the State Treasury a special fund to
191 be designated as the "Mississippi Disaster Home Flood Grant Fund,"
192 which shall consist of funds appropriated or otherwise made
193 available by the Legislature in any manner and funds from any
194 other source designated for deposit into such fund. Unexpended
195 amounts remaining in the fund at the end of a fiscal year shall

not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund shall be used by the Department of Finance and Administration for the purposes described in this section.

(8) The provisions of this section shall not take effect until such time as the Legislature appropriates Fifty Million Dollars (\$50,000,000.00) from the State General Fund to the Department of Finance and Administration for administration of the loan program established in this section.

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

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

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

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

SECTION 8. (1) The commission, at one time, or from time to time, may declare by resolution the necessity for issuance of general obligation bonds of the State of Mississippi to provide funds for the program authorized in Section 6 of this act. Upon the adoption of a resolution by the Department of Finance and Administration, declaring the necessity for the issuance of any part or all of the general obligation bonds authorized by this section, the Department of Finance and Administration shall deliver a certified copy of its resolution or resolutions to the commission. Upon receipt of such resolution, the commission, in its discretion, may 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 total amount of bonds issued under Sections 7 through 22 of this act shall not exceed Five Hundred Million Dollars (\$500,000,000.00). No bonds shall be issued under Sections 7 through 22 of this act:

(a) Until such time as:

(i) The Legislature appropriates Fifty Million Dollars (\$50,000,000.00) from the State General Fund to the Department of Finance and Administration for administration of the program established in Section 6 of this act; and

(ii) The Executive Director of the Department of Finance and Administration certifies to the State Bond Commission that the bond proceeds will be utilized in conjunction with federal funds to provide grants to individuals who sustained physical damage to homes due to flooding or storm surge as a result of Hurricane Katrina, or a storm that occurred as a result of Hurricane Katrina, and who had no flood insurance or other insurance providing coverage for such damage; or

(b) After July 1, 2007.

(2) The proceeds of bonds issued pursuant to Sections 7 through 22 of this act shall be deposited into the special fund created in Section 6 of this act. Any investment earnings on bonds issued pursuant to Sections 7 through 22 of this act shall be used to pay debt service on bonds issued under Sections 7 through 22 of this act, in accordance with the proceedings authorizing issuance of such bonds.

SECTION 9. The principal of and interest on the bonds authorized under Sections 7 through 22 of this act shall be payable in the manner provided in this section. Such bonds shall bear such date or dates, be in such denomination or denominations, bear interest at such rate or rates (not to exceed the limits set forth in Section 75-17-101, Mississippi Code of 1972), be payable at such place or places within or without the State of Mississippi, shall mature absolutely at such time or times not to exceed twenty-five (25) years from date of issue, be redeemable

before maturity at such time or times and upon such terms, with or without premium, shall bear such registration privileges, and shall be substantially in such form, all as shall be determined by resolution of the commission.

SECTION 10. The bonds authorized by Sections 7 through 22 of this act shall be signed by the chairman of the commission, or by his facsimile signature, and the official seal of the commission shall be affixed thereto, attested by the secretary of the commission. The interest coupons, if any, to be attached to such bonds may be executed by the facsimile signatures of such officers. Whenever any such bonds shall have been signed by the officials designated to sign the bonds who were in office at the time of such signing but who may have ceased to be such officers before the sale and delivery of such bonds, or who may not have been in office on the date such bonds may bear, the signatures of such officers upon such bonds and coupons shall nevertheless be valid and sufficient for all purposes and have the same effect as if the person so officially signing such bonds had remained in office until their delivery to the purchaser, or had been in office on the date such bonds may bear. However, notwithstanding anything herein to the contrary, such bonds may be issued as provided in the Registered Bond Act of the State of Mississippi.

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

SECTION 12. The commission shall act as the issuing agent for the bonds authorized under Sections 7 through 22 of this act, prescribe the form of the bonds, advertise for and accept bids, issue and sell the bonds so authorized to be sold, pay all fees and costs incurred in such issuance and sale, and do any and all other things necessary and advisable in connection with the

issuance and sale of such bonds. The commission is authorized and empowered to pay the costs that are incident to the sale, issuance and delivery of the bonds authorized under Sections 7 through 22 of this act from the proceeds derived from the sale of such bonds. The commission shall sell such bonds on sealed bids at public sale, and for such price as it may determine to be for the best interest of the State of Mississippi, but no such sale shall be made at a price less than par plus accrued interest to the date of delivery of the bonds to the purchaser. All interest accruing on such bonds so issued shall be payable semiannually or annually; however, the first interest payment may be for any period of not more than one (1) year.

Notice of the sale of any such bonds shall be published at least one time, not less than ten (10) days before the date of sale, and shall be so published in one or more newspapers published or having a general circulation in the City of Jackson, Mississippi, and in one or more other newspapers or financial journals with a national circulation, to be selected by the commission.

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

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

335 **SECTION 14.** Upon the issuance and sale of bonds under the
336 provisions of Sections 7 through 22 of this act, the commission
337 shall transfer the proceeds of any such sale or sales to the
338 special fund created in Section 6 of this act. The proceeds of
339 such bonds shall be disbursed solely upon the order of the
340 Department of Finance and Administration under such restrictions,
341 if any, as may be contained in the resolution providing for the
342 issuance of the bonds.

343 **SECTION 15.** The bonds authorized under Sections 7 through 22
344 of this act may be issued without any other proceedings or the
345 happening of any other conditions or things other than those
346 proceedings, conditions and things which are specified or required
347 by Sections 7 through 22 of this act. Any resolution providing
348 for the issuance of bonds under the provisions of Sections 7
349 through 22 of this act shall become effective immediately upon its
350 adoption by the commission, and any such resolution may be adopted
351 at any regular or special meeting of the commission by a majority
352 of its members.

353 **SECTION 16.** The bonds authorized under the authority of
354 Sections 7 through 22 of this act may be validated in the Chancery
355 Court of the First Judicial District of Hinds County, Mississippi,
356 in the manner and with the force and effect provided by Chapter
357 13, Title 31, Mississippi Code of 1972, for the validation of
358 county, municipal, school district and other bonds. The notice to
359 taxpayers required by such statutes shall be published in a
360 newspaper published or having a general circulation in the City of
361 Jackson, Mississippi.

362 **SECTION 17.** Any holder of bonds issued under the provisions
363 of Sections 7 through 22 of this act or of any of the interest
364 coupons pertaining thereto may, either at law or in equity, by
365 suit, action, mandamus or other proceeding, protect and enforce
366 any and all rights granted under Sections 7 through 22 of this
367 act, or under such resolution, and may enforce and compel
368 performance of all duties required by Sections 7 through 22 of

369 this act to be performed, in order to provide for the payment of
370 bonds and interest thereon.

371 **SECTION 18.** All bonds issued under the provisions of
372 Sections 7 through 22 of this act shall be legal investments for
373 trustees and other fiduciaries, and for savings banks, trust
374 companies and insurance companies organized under the laws of the
375 State of Mississippi, and such bonds shall be legal securities
376 which may be deposited with and shall be received by all public
377 officers and bodies of this state and all municipalities and
378 political subdivisions for the purpose of securing the deposit of
379 public funds.

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

383 **SECTION 20.** The proceeds of the bonds issued under Sections
384 7 through 22 of this act shall be used solely for the purposes
385 therein provided, including the costs incident to the issuance and
386 sale of such bonds.

387 **SECTION 21.** The State Treasurer is authorized, without
388 further process of law, to certify to the Department of Finance
389 and Administration the necessity for warrants, and the Department
390 of Finance and Administration is authorized and directed to issue
391 such warrants, in such amounts as may be necessary to pay when due
392 the principal of, premium, if any, and interest on, or the
393 accreted value of, all bonds issued under Sections 7 through 22 of
394 this act; and the State Treasurer shall forward the necessary
395 amount to the designated place or places of payment of such bonds
396 in ample time to discharge such bonds, or the interest thereon, on
397 the due dates thereof.

398 **SECTION 22.** Sections 7 through 22 of this act shall be
399 deemed to be full and complete authority for the exercise of the
400 powers therein granted, but Sections 7 through 22 of this act
401 shall not be deemed to repeal or to be in derogation of any
402 existing law of this state.

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

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO ESTABLISH THE HURRICANE KATRINA DISASTER SMALL
2 BUSINESS BRIDGE LOAN ACT TO PROVIDE SHORT-TERM LOANS FOR SMALL
3 BUSINESSES THAT SUFFERED PHYSICAL DAMAGE AS A RESULT OF HURRICANE
4 KATRINA TO ASSIST SMALL BUSINESSES IN RETURNING TO BUSINESS AS
5 SOON AS POSSIBLE; TO PROVIDE THAT THE MISSISSIPPI DEVELOPMENT
6 AUTHORITY SHALL ADMINISTER THE LOAN PROGRAM AND SHALL HAVE THE
7 AUTHORITY TO ESTABLISH THE DISASTER LOAN PROGRAM WITH FEDERALLY
8 INSURED FINANCIAL INSTITUTIONS; TO PROVIDE THE MINIMUM AND MAXIMUM
9 AMOUNT OF LOANS AUTHORIZED UNDER THIS ACT; TO PROVIDE THE TERM OF
10 SUCH LOANS; TO ESTABLISH CERTAIN ELIGIBILITY REQUIREMENTS FOR THE
11 RECEIPT OF SUCH LOANS; TO PROVIDE THAT UPON A DETERMINATION OF
12 NEED BY THE MISSISSIPPI DEVELOPMENT AUTHORITY, THE STATE BOND
13 COMMISSION IS AUTHORIZED TO OBTAIN A LINE OF CREDIT IN AN AMOUNT
14 NOT TO EXCEED \$25,000,000.00 FROM A COMMERCIAL LENDER, INVESTMENT
15 BANKING GROUP OR A CONSORTIUM OF EITHER OR BOTH, FOR THE PURPOSE
16 OF FUNDING THE LOAN PROGRAM; TO ESTABLISH A DISASTER HOME FLOOD
17 GRANT PROGRAM TO PROVIDE GRANTS TO INDIVIDUALS WHO SUSTAINED
18 PHYSICAL DAMAGE TO HOMES DUE TO FLOODING OR STORM SURGE AS A
19 RESULT OF HURRICANE KATRINA OR A STORM THAT OCCURRED AS A RESULT
20 OF HURRICANE KATRINA AND WHO HAD NO FLOOD INSURANCE OR OTHER
21 INSURANCE PROVIDING COVERAGE FOR SUCH DAMAGE; TO PROVIDE THAT THE
22 DEPARTMENT OF FINANCE AND ADMINISTRATION SHALL ADMINISTER THE
23 GRANT PROGRAM; TO PROVIDE THE MAXIMUM AMOUNT OF GRANTS AUTHORIZED
24 UNDER THE GRANT PROGRAM; TO ESTABLISH CERTAIN ELIGIBILITY
25 REQUIREMENTS FOR THE RECEIPT OF SUCH GRANTS; TO AUTHORIZE THE
26 ISSUANCE OF \$500,000,000.00 WORTH OF STATE GENERAL OBLIGATION
27 BONDS FOR THE PURPOSE OF PROVIDING FUNDS FOR THE GRANT PROGRAM;
28 AND FOR RELATED PURPOSES.

SS26\HB41PS.J

John O. Gilbert
Secretary of the Senate