

By: Representative Ellis

To: Appropriations

HOUSE BILL NO. 1269

1 AN ACT TO AMEND SECTION 57-10-511, MISSISSIPPI CODE OF 1972,
 2 TO REQUIRE PLANNING AND DEVELOPMENT DISTRICTS AND QUALIFYING
 3 ENTITIES THAT ADMINISTER REVOLVING ASSISTANCE FUNDS TO LOAN AT
 4 LEAST SEVENTY-FIVE PERCENT OF SUCH FUNDS BY DECEMBER 31 OF EACH
 5 CALENDAR YEAR; TO PROVIDE THAT IF SUCH DISTRICTS AND ENTITIES FAIL
 6 TO LOAN THE REQUIRED AMOUNT, THEN THE MISSISSIPPI DEVELOPMENT
 7 AUTHORITY SHALL BE REFUNDED THE FUNDS AND THE SERVICES PROVIDED IN
 8 REGARDS TO SUCH FUNDS SHALL CEASE TO BE PROVIDED; AND FOR RELATED
 9 PURPOSES.

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

11 **SECTION 1.** Section 57-10-511, Mississippi Code of 1972, is
 12 amended as follows:

13 57-10-511. MDA shall grant funds under this article to a
 14 planning and development district or qualified entity in
 15 accordance with the following terms and conditions:

16 (a) Grant funds received by a planning and development
 17 district or qualified entity in accordance with this article shall
 18 be used by the planning and development district or qualified
 19 entity to establish a revolving assistance fund for the purpose of
 20 providing assistance to small businesses in accordance with this
 21 article. Except as otherwise allowed in this article, all
 22 principal and interest payments by small businesses in repayment
 23 of such assistance shall be eligible for and used by the planning
 24 and development district or qualified entity for additional
 25 assistance to small businesses in accordance with this article.

26 (b) Each planning and development district meeting the
 27 criteria set forth in this article shall receive an initial grant
 28 of not to exceed One Million Dollars (\$1,000,000.00) for the
 29 purpose of establishing the program within its area in accordance
 30 with this article. Each qualified entity meeting the criteria set

31 forth in this article shall be eligible to receive an initial
32 grant of Five Hundred Thousand Dollars (\$500,000.00) for the
33 purpose of establishing the program within the area it serves in
34 accordance with this article. The total amount of initial grants
35 to planning and development districts shall not exceed Ten Million
36 Dollars (\$10,000,000.00) and the total amount of initial grants
37 for qualified entities shall not exceed Two Million Dollars
38 (\$2,000,000.00). Each planning and development district or
39 qualified entity receiving an initial grant shall have twelve (12)
40 months in which to make binding commitments to provide assistance
41 to small businesses in the principal amount of the initial grant
42 in accordance with this article. Grant funds not committed to
43 provide assistance to small businesses at the end of twelve (12)
44 months after receipt thereof by the planning and development
45 district or qualified entity shall be returned to MDA for
46 placement in a pool to be redistributed by MDA to planning and
47 development districts or qualified entities which have binding
48 commitments to distribute as assistance all their initial grant
49 funds and have pending applications for additional assistance in
50 accordance with this article. Any planning and development
51 district or qualified entity returning any such grant funds to MDA
52 shall be required at the time such initial grant funds are
53 returned to deliver to the State Treasury, for deposit in the
54 General Fund, interest on the amount of such returned funds at the
55 same rate as any bonds or notes of the State of Mississippi issued
56 pursuant to this article to provide such grant funds.

57 (c) After all of the initial grant funds have been
58 provided as assistance to small businesses in accordance with this
59 article, MDA shall distribute additional grant funds to each
60 planning and development district or qualified entity qualified
61 under this article to receive and requesting such funds in
62 whatever amounts MDA deems appropriate and when needed by such
63 planning and development districts or qualified entities to

64 provide additional assistance to small businesses in accordance
65 with this article. The schedule for distributing such funds shall
66 be determined by MDA. Funds distributed to planning and
67 development districts and qualified entities pursuant to this
68 paragraph shall be in addition to funds distributed to planning
69 and development districts and qualified entities pursuant to
70 paragraph (b) of this section. The total amount of grants issued
71 pursuant to this paragraph shall not exceed Twenty Million Dollars
72 (\$20,000,000.00) for planning and development districts or
73 qualified entities. Grant funds not committed to provide
74 assistance to small businesses at the end of twelve (12) months
75 after receipt thereof by the planning and development district or
76 qualified entity shall be returned to MDA for placement in a pool
77 to be redistributed by MDA to planning and development districts
78 or qualified entities which have binding commitments to distribute
79 as assistance all their initial grant funds and have pending
80 applications for additional assistance in accordance with this
81 article. Any planning and development district or qualified
82 entity returning any such grant funds to MDA shall be required at
83 the time such grant funds are returned to deliver to the State
84 Treasury, for deposit in the General Fund, interest on the amount
85 of such returned funds at the same rate as any bonds or notes of
86 the State of Mississippi issued pursuant to this article to
87 provide such grant funds.

88 (d) A planning and development district or qualified
89 entity participating in the program may utilize not more than
90 fifty percent (50%) of interest earned on assistance provided to
91 small businesses in accordance with this article for
92 administration and management of the program, unless specifically
93 authorized to utilize more by MDA; provided, however, any interest
94 earned on grant funds held by a planning and development district
95 or qualified entity prior to the utilization of such grant funds
96 to provide assistance to small businesses shall be placed in the

97 revolving assistance fund of the planning and development district
98 or qualified entity and shall not be expended for administration
99 or management costs. Planning and development districts and
100 qualified entities may retain fifty percent (50%) of the interest
101 earned on repayment funds that are being held on deposit in
102 anticipation of relending to aid in the administration and
103 management of the program. Each planning and development district
104 and qualified entity shall file annually with the Secretary of the
105 Senate and the Clerk of the House of Representatives not later
106 than the first day of each regular legislative session a report
107 which details any interest retained or utilized by the planning
108 and development district or qualified entity pursuant to this
109 paragraph (d).

110 (e) If a planning and development district or qualified
111 entity participating in the program experiences losses from
112 assistance provided pursuant to the program in excess of sixty
113 percent (60%) of the amount of grant funds received by the
114 planning and development district or qualified entity, the
115 planning and development district or qualified entity shall repay
116 the State of Mississippi the amount of such losses in excess of
117 sixty percent (60%) by delivering that amount to the State
118 Treasury for deposit in the General Fund.

119 (f) MDA shall assist each planning and development
120 district or qualified entity participating in the program in
121 connection with such planning and development district's or
122 qualified entity's compliance with this article.

123 (g) Each planning and development district or qualified
124 entity participating in the program shall submit the following
125 reports to the MDA:

126 (i) An annual audit of grant funds received in
127 connection with the program; and

128 (ii) A semiannual report on July 30 and January 30
129 of each year, describing all assistance provided to small

130 businesses pursuant to the program, such reports to include
131 without limitation the following: a description of each small
132 business receiving assistance; the project to be assisted and
133 purpose of assistance; a description of each loan and equity
134 investment, including the terms and conditions thereof and use of
135 the * * * assistance funds by the small business; history of the
136 assistance pool, including principal amount loaned, interest
137 earned, interest expended for administration and management,
138 principal amount of equity investments, assistance funds
139 available, and losses; and a statement of jobs created or retained
140 as a result of the assistance program.

141 (h) If MDA determines that a district or entity has
142 provided assistance to small businesses in a manner inconsistent
143 with the provisions of this article, then the amount of such
144 assistance so provided shall be withheld by MDA from any
145 additional grant funds to which the district or entity becomes
146 entitled under this article. If MDA determines, after notifying
147 such district or entity twice in writing and providing such
148 district or entity a reasonable opportunity to comply, that a
149 planning and development district or qualified entity has
150 consistently failed to comply with this article in connection with
151 the program, MDA may declare such planning and development
152 district or qualified entity in default under the program and,
153 upon receipt of notice thereof from MDA, such planning and
154 development district or qualified entity shall immediately cease
155 providing assistance under the program, shall refund to MDA for
156 distribution to other planning and development districts or
157 qualified entities all funds held in its revolving assistance fund
158 and, if required by MDA, shall convey to MDA all administrative
159 and management control of assistance provided by it under the
160 program.

161 (i) If MDA determines, after notifying a planning and
162 development district or qualified entity twice in writing and

163 providing copies of such notification to each member of the
164 Legislature in whose district or in a part of whose district such
165 planning and development district or qualified entity is located
166 and providing such district or entity a reasonable opportunity to
167 take corrective action, that a planning and development district
168 or a qualified entity administering a revolving assistance fund
169 under the provisions of this article is not actively engaged in
170 lending. For purposes of this paragraph, "not actively engaged"
171 means that a planning and development district or qualified entity
172 has not loaned at least seventy-five percent (75%) of the
173 uncommitted funds in its revolving assistance fund, for the
174 purposes prescribed in this section, by December 31 of each
175 calendar year. After determining that such district or entity is
176 not actively engaged in lending, then MDA may declare such
177 planning and development district or qualified entity in default
178 under the program and, upon receipt of notice thereof from MDA,
179 such planning and development district or qualified entity shall
180 immediately cease providing assistance under the program, shall
181 refund to MDA for distribution to other planning and development
182 districts or qualified entities all funds held in its revolving
183 assistance fund and, if required by MDA, shall convey to MDA all
184 administrative and management control of assistance provided by it
185 under the program.

186 (j) Notwithstanding any other provision of this article
187 to the contrary, if federal funds are not available for
188 commitments made by a planning and development district to provide
189 assistance under any federal loan program administered by the
190 planning and development district in coordination with the
191 Appalachian Regional Commission or Economic Development
192 Administration, or both, a planning and development district may
193 use funds in its revolving assistance fund, which have not been
194 committed otherwise to provide assistance, for the purpose of
195 providing temporary funding for such commitments. If a planning

196 and development district uses uncommitted funds in its revolving
197 assistance fund to provide such temporary funding, the district
198 shall use funds repaid to the district under the temporarily
199 funded federal loan program to replenish the funds used to provide
200 the temporary funding. Funds used by a planning and development
201 district to provide temporary funding under this paragraph (j)
202 must be repaid to the district's revolving assistance fund no
203 later than twelve (12) months after the date the district provides
204 the temporary funding. A planning and development district may
205 not use uncommitted funds in its revolving assistance fund to
206 provide temporary funding under this paragraph (j) on more than
207 two (2) occasions during a calendar year. A planning and
208 development district may provide temporary funding for multiple
209 commitments on each such occasion. The maximum aggregate amount
210 of uncommitted funds in a revolving assistance fund that may be
211 used for such purposes during a calendar year shall not exceed
212 seventy percent (70%) of the uncommitted funds in the revolving
213 assistance fund on the date the district first provides temporary
214 funding during the calendar year.

215 **SECTION 2.** This act shall take effect and be force from and
216 after July 1, 2007.