

By: Representatives Evans (45th), Mangold,
Calvert, Creekmore IV, Smith, Wallace

To: Agriculture;
Appropriations

HOUSE BILL NO. 812

1 AN ACT TO AMEND SECTION 69-2-13, MISSISSIPPI CODE OF 1972, TO
2 INCREASE THE MAXIMUM LOAN AMOUNT MADE FROM THE EMERGING CROPS FUND
3 TO AGRIBUSINESS OR GREENHOUSE PRODUCTION HORTICULTURE ENTERPRISES
4 FOR INITIAL CONSTRUCTION OF RENOVATIONS TO AN EXISTING
5 AGRIBUSINESS OR GREENHOUSE PRODUCTION HORTICULTURE ENTERPRISES TO
6 \$400,000.00; TO INCREASE THE AGGREGATE MAXIMUM LOAN AMOUNT MADE
7 FROM THE EMERGING CROPS FUND TO AGRIBUSINESS OR GREENHOUSE
8 PRODUCTION HORTICULTURE ENTERPRISES TO \$800,000.00; AND FOR
9 RELATED PURPOSES.

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

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

13 69-2-13. (1) There is hereby established in the State
14 Treasury a fund to be known as the "Emerging Crops Fund," which
15 shall be used to pay the interest on loans made to farmers for
16 nonland capital costs of establishing production of emerging crops
17 on land in Mississippi, and to make loans and grants which are
18 authorized under this section to be made from the fund. The fund
19 shall be administered by the Mississippi Development Authority. A
20 board comprised of the directors of the authority, the Mississippi
21 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



47 district in accordance with the criteria established in Section
48 57-71-11. Planning and development districts which receive monies
49 pursuant to this provision shall use such monies to make loans to
50 private companies for purposes consistent with this subsection.

51 (c) The Mississippi Development Authority is hereby
52 authorized to engage legal services, financial advisors,
53 appraisers and consultants if needed to review and close loans
54 made hereunder and to establish and assess reasonable fees
55 including, but not limited to, liquidation expenses.

56 (d) The State Auditor may conduct performance and
57 compliance audits under this chapter according to Section
58 7-7-211(o) and may bill the oversight agency.

59 (3) (a) The Mississippi Development Authority shall, in
60 addition to the other programs described in this section, provide
61 for the following programs of loans to be made to agribusiness or
62 greenhouse production horticulture enterprises for the purpose of
63 encouraging thereby the extension of conventional financing and
64 the issuance of letters of credit to such agribusiness or
65 greenhouse production horticulture enterprises by private
66 institutions. Monies to make such loans by the Mississippi
67 Development Authority shall be drawn from the Emerging Crops Fund.

68 (b) The Mississippi Development Authority may make
69 loans to agribusiness or greenhouse production horticulture
70 enterprises. The amount of any loan to any single enterprise
71 under this paragraph (b) shall not exceed * * * forty percent



72 (40%) of the total cost of the project for which financing is
73 sought or * * * Four Hundred Thousand Dollars (\$400,000.00),
74 whichever is less. No interest shall be charged on such loans,
75 and only the amount actually loaned shall be required to be
76 repaid. Repayments shall be deposited into the Emerging Crops
77 Fund.

78 (c) The Mississippi Development Authority also may make
79 loans under this subsection (3) to existing agribusiness or
80 greenhouse production horticulture enterprises for the purpose of
81 assisting such enterprises to make upgrades, renovations, repairs
82 and other improvements to their equipment, facilities and
83 operations, which shall not exceed * * * Four Hundred Thousand
84 Dollars (\$400,000.00) or * * * sixty percent (60%) of the total
85 cost of the project for which financing is sought, whichever is
86 less. No interest shall be charged on loans made under this
87 paragraph, and only the amount actually loaned shall be required
88 to be repaid. Repayments shall be deposited into the Emerging
89 Crops Fund.

90 (d) The maximum aggregate amount of loans that may be
91 made under this subsection (3) to any one (1) agribusiness shall
92 be not more than * * * Eight Hundred Thousand Dollars
93 (\$800,000.00).

94 (4) (a) Through June 30, 2010, the Mississippi Development
95 Authority may loan or grant to qualified planning and development
96 districts, and to small business investment corporations,



97 bank-based community development corporations, the Recruitment and
98 Training Program, Inc., the City of Jackson Business Development
99 Loan Fund, the Lorman Southwest Mississippi Development
100 Corporation, the West Jackson Community Development Corporation,
101 the East Mississippi Development Corporation, and other entities
102 meeting the criteria established by the Mississippi Development
103 Authority (all referred to hereinafter as "qualified entities"),
104 funds for the purpose of establishing loan revolving funds to
105 assist in providing financing for minority economic development.
106 The monies loaned or granted by the Mississippi Development
107 Authority shall be drawn from the Emerging Crops Fund and shall
108 not exceed Twenty-nine Million Dollars (\$29,000,000.00) in the
109 aggregate. Planning and development districts or qualified
110 entities which receive monies pursuant to this provision shall use
111 such monies to make loans to minority business enterprises
112 consistent with criteria established by the Mississippi
113 Development Authority. Such criteria shall include, at a minimum,
114 the following:

115 (i) The business enterprise must be a private,
116 for-profit enterprise.

117 (ii) If the business enterprise is a
118 proprietorship, the borrower must be a resident citizen of the
119 State of Mississippi; if the business enterprise is a corporation
120 or partnership, at least fifty percent (50%) of the owners must be
121 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. Except as otherwise provided, 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. However, an individual whose personal
net worth exceeds Five Hundred Thousand Dollars (\$500,000.00)
shall not be considered to be an economically disadvantaged
individual.

From and after July 1, 2010, monies not loaned or granted by
the Mississippi Development Authority to planning and development



172 districts or qualified entities under this subsection, and monies
173 not loaned by planning and development districts or qualified
174 entities, shall be deposited to the credit of the sinking fund
175 created and maintained in the State Treasury for the retirement of
176 bonds issued under Section 69-2-19.

177 (c) Notwithstanding any other provision of this
178 subsection to the contrary, if federal funds are not available for
179 commitments made by a planning and development district to provide
180 assistance under any federal loan program administered by the
181 planning and development district in coordination with the
182 Appalachian Regional Commission or Economic Development
183 Administration, or both, a planning and development district may
184 use funds in its loan revolving fund, which have not been
185 committed otherwise to provide assistance, for the purpose of
186 providing temporary funding for such commitments. If a planning
187 and development district uses uncommitted funds in its loan
188 revolving fund to provide such temporary funding, the district
189 shall use funds repaid to the district under the temporarily
190 funded federal loan program to replenish the funds used to provide
191 the temporary funding. Funds used by a planning and development
192 district to provide temporary funding under this paragraph (c)
193 must be repaid to the district's loan revolving fund no later than
194 twelve (12) months after the date the district provides the
195 temporary funding. A planning and development district may not
196 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. The Mississippi Development Authority may secure letters of credit, as determined necessary by the authority, to guarantee bid, performance and payment bonds pursuant to this subsection. 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.



271 (6) The Mississippi Development Authority may loan or grant
272 to public entities and to nonprofit corporations funds to defray
273 the expense of financing (or to match any funds available from
274 other public or private sources for the expense of financing)
275 projects in this state which are devoted to the study, teaching
276 and/or promotion of regional crafts and which are deemed by the
277 authority to be significant tourist attractions. The monies
278 loaned or granted shall be drawn from the Emerging Crops Fund and
279 shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00)
280 in the aggregate.

281 (7) Through June 30, 2006, the Mississippi Development
282 Authority shall make available to the Mississippi Department of
283 Agriculture and Commerce funds for the purpose of establishing
284 loan revolving funds and other methods of financing for
285 agribusiness programs administered under the Mississippi
286 Agribusiness Council Act of 1993. The monies made available by
287 the Mississippi Development Authority shall be drawn from the
288 Emerging Crops Fund and shall not exceed One Million Two Hundred
289 Thousand Dollars (\$1,200,000.00) in the aggregate. The
290 Mississippi Department of Agriculture and Commerce shall establish
291 control and auditing procedures for use of these funds. These
292 funds will be used primarily for quick payment to farmers for
293 vegetable and fruit crops processed and sold through vegetable
294 processing plants associated with the Department of Agriculture
295 and Commerce and the Mississippi State Extension Service.



296 (8) From and after July 1, 1996, the Mississippi Development
297 Authority shall make available to the Mississippi Small Farm
298 Development Center One Million Dollars (\$1,000,000.00) to be used
299 by the center to assist small entrepreneurs as provided in Section
300 37-101-25, Mississippi Code of 1972. The monies made available by
301 the Mississippi Development Authority shall be drawn from the
302 Emerging Crops Fund.

303 (9) [Repealed]

304 (10) The Mississippi Development Authority shall make
305 available to the Small Farm Development Center at Alcorn State
306 University funds in an aggregate amount not to exceed Three
307 Hundred Thousand Dollars (\$300,000.00), to be drawn from the cash
308 balance of the Emerging Crops Fund. The Small Farm Development
309 Center at Alcorn State University shall use such funds to make
310 loans to producers of sweet potatoes and cooperatives anywhere in
311 the State of Mississippi owned by sweet potato producers to assist
312 in the planting of sweet potatoes and the purchase of sweet potato
313 production and harvesting equipment. A report of the loans made
314 under this subsection shall be furnished by January 15 of each
315 year to the Chairman of the Senate Agriculture Committee and the
316 Chairman of the House Agriculture Committee.

317 (11) The Mississippi Development Authority shall make
318 available to the Mississippi Department of Agriculture and
319 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.

(14) (a) The Mississippi Development Authority shall, in addition to the other programs described in this section, provide for a program of loan guaranties to be made on behalf of any nonprofit entity qualified under Section 501(c)(3) of the Internal Revenue Code and certified by the United States Department of the Treasury as a community development financial institution for the purpose of encouraging the extension of financing to such an entity which financing the entity will use to make funds available to other entities for the purpose of making loans available in low-income communities in Mississippi. Monies to make such loan



guaranties by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund and shall not exceed Two Million Dollars (\$2,000,000.00) in the aggregate. The amount of a loan guaranty on behalf of such an entity under this subsection (14) shall not exceed Two Million Dollars (\$2,000,000.00). Assistance received by an entity under this subsection (14) shall not disqualify the entity from obtaining any other assistance under this chapter.

(b) An entity desiring assistance under this subsection (14) must submit an application to the Mississippi Development Authority. The application must include any information required by the Mississippi Development Authority.

(c) The Mississippi Development Authority shall have all powers necessary to implement and administer the program established under this subsection (14), and the Mississippi Development Authority shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this subsection (14).

(15) (a) The Mississippi Development Authority shall, in addition to the other programs described in this section, provide for a program of grants to agribusiness enterprises that process, dry, store or ship peanuts and if the enterprise has invested prior to April 17, 2009, a minimum of Six Million Dollars (\$6,000,000.00) in land, facilities and equipment in this state that are utilized to process, dry, store or ship peanuts. Monies



to make such grants by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund and shall not exceed One Million Dollars (\$1,000,000.00) in the aggregate. The amount of a grant under this subsection (15) shall not exceed One Million Dollars (\$1,000,000.00).

(b) An entity desiring assistance under this subsection (15) must submit an application to the Mississippi Development Authority. The application must include a description of the project for which assistance is requested, the cost of the project for which assistance is requested, the amount of assistance requested and any other information required by the Mississippi Development Authority.

(c) As a condition of the receipt of a grant under this subsection (15), an entity must agree to remain in business in this state for not less than five (5) years and must meet other conditions established by the Mississippi Development Authority to ensure that the assistance results in an economic benefit to the state. The Mississippi Development Authority shall require that binding commitments be entered into requiring that:

(i) The minimum requirements provided for in this subsection (15) and the conditions established by the Mississippi Development Authority are met; and

(ii) If such commitments and conditions are not met, all or a portion of the funds provided pursuant to this subsection (15) shall be repaid.



395 (d) The Mississippi Development Authority shall have
396 all powers necessary to implement and administer the program
397 established under this subsection (15), and the Mississippi
398 Development Authority shall promulgate rules and regulations, in
399 accordance with the Mississippi Administrative Procedures Law,
400 necessary for the implementation of this subsection (15).

401 (16) (a) The Mississippi Development Authority, in addition
402 to the other programs described in this section, shall provide for
403 a program of loan guaranties to be made on behalf of certain
404 agribusinesses engaged in sweet potato growing and farming for the
405 purpose of encouraging thereby the extension of conventional
406 financing and the issuance of letters of credit to such
407 agribusinesses by lenders. The amount of a loan guaranty made on
408 behalf of such an agribusiness shall be ninety percent (90%) of
409 the amount of assistance made available by a lender for the
410 purposes authorized under this subsection (16). Monies to make
411 such loan guaranties by the Mississippi Development Authority
412 shall be drawn from the Emerging Crops Fund and shall not exceed
413 Seventeen Million Dollars (\$17,000,000.00) in the aggregate.

414 (b) In order to be eligible for assistance under this
415 subsection (16) an agribusiness must:

416 (i) Have been actively engaged in sweet potato
417 growing and farming in this state before January 1, 2010;



(ii) Have incurred a disaster-related loss for sweet potato growing and farming purposes for calendar year 2009, as determined by a lender;

(iii) Agree to obtain and maintain federal Noninsured Agricultural Program (NAP) insurance coverage for the outstanding balance of any assistance received under this subsection (16); and

(iv) Satisfy underwriting criteria established by a lender related to loans under this subsection (16).

(c) (i) An entity desiring assistance under this subsection must submit an application for assistance to a lender not later than August 1, 2010. The application must include:

1. Information verifying the length of time the applicant has been actively engaged in sweet potato growing and farming in this state;

2. Information regarding the number of acres used by the applicant for sweet potato growing and farming purposes during the 2009 calendar year, as certified to by the Farm Services Authority (FSA) or the Mississippi Department of Agriculture and Commerce (MDAC), and the number of acres the applicant intends to use for such purposes during the 2010 calendar year;

3. The average cost per acre incurred by the applicant for sweet potato growing and farming purposes during the 2009 calendar year, as certified to by the FSA or MDAC, and an



estimate of the average cost per acre to be incurred by the applicant for such purposes during the calendar year for which application is made;

4. The amount of assistance requested;

5. A statement from the applicant agreeing that he will obtain and maintain NAP insurance coverage for the outstanding balance of any assistance received under this subsection (16); and

6. Any other information required by the lender and/or the MDA.

(ii) The lender shall review the application for assistance and determine whether the applicant qualifies for assistance under this subsection (16). If the lender determines that the applicant qualifies for assistance, the lender shall loan funds to the applicant subject to the provisions of this subsection (16).

(d) Loans made under this subsection (16) shall be subject to the following conditions:

(i) The maximum amount of a loan to a borrower shall not exceed One Thousand Seven Hundred Dollars (\$1,700.00) per acre and shall exclude any machinery and equipment costs.

(ii) The proceeds of a loan may be used only for paying a borrower's sweet potato planting, production and harvesting costs, excluding machinery and equipment costs.



(iii) The proceeds of a loan may not be used to repay, satisfy or finance existing debt.

(iv) The time allowed for repayment of a loan shall not be more than five (5) years, and there shall be no penalty, fee or other charge imposed for the prepayment of a loan.

(e) The receipt of assistance by a person or other entity under any other program described in this section shall not disqualify the person or entity from obtaining a loan under the program established in this subsection (16) if the person or entity is otherwise eligible under this program. In addition, the receipt of a loan by a person or other entity under the program established under this subsection (16) shall not disqualify the person or entity from obtaining assistance under any other program described in this section.

(f) The Mississippi Development Authority shall have all powers necessary to implement and administer the program established under this subsection (16), and the Mississippi Development Authority shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this subsection (16).

SECTION 2. This act shall take effect and be in force from and after July 1, 2020.

