

By: Senator(s) Minor

To: Finance

SENATE BILL NO. 2938

1 AN ACT TO AMEND SECTION 69-2-13, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE DEFINITION OF THE TERM "SOCIALY AND ECONOMICALLY
3 DISADVANTAGED SMALL BUSINESS CONCERN" AS IT RELATES TO THE
4 MINORITY BUSINESS LOAN PROGRAM IN THE EMERGING CROPS FUND; AND FOR
5 RELATED PURPOSES.

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

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

9 69-2-13. (1) There is hereby established in the State
10 Treasury a fund to be known as the "Emerging Crops Fund," which
11 shall be used to pay the interest on loans made to farmers for
12 nonland capital costs of establishing production of emerging crops
13 on land in Mississippi, and to make loans and grants which are
14 authorized under this section to be made from the fund. The fund
15 shall be administered by the Mississippi Development Authority. A
16 board comprised of the directors of the authority, the Mississippi
17 Cooperative Extension Service, the Mississippi Small Farm
18 Development Center and the Mississippi Agricultural and Forestry
19 Experiment Station, or their designees, shall develop definitions,
20 guidelines and procedures for the implementation of this chapter.
21 Funds for the Emerging Crops Fund shall be provided from the
22 issuance of bonds or notes under Sections 69-2-19 through 69-2-37
23 and from repayment of interest loans made from the fund.

24 (2) (a) The Mississippi Development Authority shall develop
25 a program which gives fair consideration to making loans for the
26 processing and manufacturing of goods and services by
27 agribusiness, greenhouse production horticulture, and small
28 business concerns. It is the policy of the State of Mississippi



29 that the Mississippi Development Authority shall give due
30 recognition to and shall aid, counsel, assist and protect, insofar
31 as is possible, the interests of agribusiness, greenhouse
32 production horticulture, and small business concerns. To ensure
33 that the purposes of this subsection are carried out, the
34 Mississippi Development Authority shall loan not more than One
35 Million Dollars (\$1,000,000.00) to finance any single
36 agribusiness, greenhouse production horticulture, or small
37 business concern. Loans made pursuant to this subsection shall be
38 made in accordance with the criteria established in Section
39 57-71-11.

40 (b) The Mississippi Development Authority may, out of
41 the total amount of bonds authorized to be issued under this
42 chapter, make available funds to any planning and development
43 district in accordance with the criteria established in Section
44 57-71-11. Planning and development districts which receive monies
45 pursuant to this provision shall use such monies to make loans to
46 private companies for purposes consistent with this subsection.

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

52 (3) The Mississippi Development Authority shall, in addition
53 to the other programs described in this section, provide for a
54 program of loans to be made to agribusiness or greenhouse
55 production horticulture enterprises for the purpose of encouraging
56 thereby the extension of conventional financing and the issuance
57 of letters of credit to such agribusiness or greenhouse production
58 horticulture enterprises by private institutions. Monies to make
59 such loans by the Mississippi Development Authority shall be drawn
60 from the Emerging Crops Fund. The amount of a loan to any single
61 agribusiness or greenhouse production horticulture enterprise



62 shall not exceed twenty percent (20%) of the total cost of the
63 project for which financing is sought or Two Hundred Thousand
64 Dollars (\$200,000.00), whichever is less. No interest shall be
65 charged on such loans, and only the amount actually loaned shall
66 be required to be repaid. Repayments shall be deposited into the
67 Emerging Crops Fund.

68 (4) (a) Through June 30, 2003, the Mississippi Development
69 Authority may loan or grant to qualified planning and development
70 districts, and to small business investment corporations,
71 bank-based community development corporations, the Recruitment and
72 Training Program, Inc., the City of Jackson Business Development
73 Loan Fund, the Lorman Southwest Mississippi Development
74 Corporation, the West Jackson Community Development Corporation,
75 the East Mississippi Development Corporation, and other entities
76 meeting the criteria established by the Mississippi Development
77 Authority (all referred to hereinafter as "qualified entities"),
78 funds for the purpose of establishing loan revolving funds to
79 assist in providing financing for minority economic development.
80 The monies loaned or granted by the Mississippi Development
81 Authority shall be drawn from the Emerging Crops Fund and shall
82 not exceed Twenty-three Million Dollars (\$23,000,000.00) in the
83 aggregate. Planning and development districts or qualified
84 entities which receive monies pursuant to this provision shall use
85 such monies to make loans to minority business enterprises
86 consistent with criteria established by the Mississippi
87 Development Authority. Such criteria shall include, at a minimum,
88 the following:

89 (i) The business enterprise must be a private,
90 for-profit enterprise.

91 (ii) If the business enterprise is a
92 proprietorship, the borrower must be a resident citizen of the
93 State of Mississippi; if the business enterprise is a corporation



94 or partnership, at least fifty percent (50%) of the owners must be
95 resident citizens of the State of Mississippi.

96 (iii) The borrower must have at least five percent
97 (5%) equity interest in the business enterprise.

98 (iv) The borrower must demonstrate ability to
99 repay the loan.

100 (v) The borrower must not be in default of any
101 previous loan from the state or federal government.

102 (vi) Loan proceeds may be used for financing all
103 project costs associated with development or expansion of a new
104 small business, including fixed assets, working capital, start-up
105 costs, rental payments, interest expense during construction and
106 professional fees related to the project.

107 (vii) Loan proceeds shall not be used to pay off
108 existing debt for loan consolidation purposes; to finance the
109 acquisition, construction, improvement or operation of real
110 property which is to be held primarily for sale or investment; to
111 provide for, or free funds, for speculation in any kind of
112 property; or as a loan to owners, partners or stockholders of the
113 applicant which do not change ownership interest by the applicant.
114 However, this does not apply to ordinary compensation for services
115 rendered in the course of business.

116 (viii) The maximum amount that may be loaned to
117 any one (1) borrower shall be Two Hundred Fifty Thousand Dollars
118 (\$250,000.00).

119 (ix) The Mississippi Development Authority shall
120 review each loan before it is made, and no loan shall be made to
121 any borrower until the loan has been reviewed and approved by the
122 Mississippi Development Authority.

123 (b) For the purpose of this subsection, the term
124 "minority business enterprise" means a socially and economically
125 disadvantaged small business concern, organized for profit,
126 performing a commercially useful function which is owned and



127 controlled by one or more minorities or minority business
128 enterprises certified by the Mississippi Development Authority, at
129 least fifty percent (50%) of whom are resident citizens of the
130 State of Mississippi. For purposes of this subsection, the term
131 "socially and economically disadvantaged small business concern"
132 shall have the meaning ascribed to such term under the Small
133 Business Act (15 USCS, Section 637(a)), or women, and the term
134 "owned and controlled" means a business in which one or more
135 minorities or minority business enterprises certified by the
136 Mississippi Development Authority own fifty-one percent (51%) or,
137 in the case of a corporation, fifty-one percent (51%) of the
138 voting stock, and control fifty-one percent (51%) of the
139 management and daily business operations of the business.

140 From and after July 1, 2003, monies not loaned or granted by
141 the Mississippi Development Authority to planning and development
142 districts or qualified entities under this subsection, and monies
143 not loaned by planning and development districts or qualified
144 entities, shall be deposited to the credit of the sinking fund
145 created and maintained in the State Treasury for the retirement of
146 bonds issued under Section 69-2-19.

147 (c) Notwithstanding any other provision of this
148 subsection to the contrary, if federal funds are not available for
149 commitments made by a planning and development district to provide
150 assistance under any federal loan program administered by the
151 planning and development district in coordination with the
152 Appalachian Regional Commission or Economic Development
153 Administration, or both, a planning and development district may
154 use funds in its loan revolving fund, which have not been
155 committed otherwise to provide assistance, for the purpose of
156 providing temporary funding for such commitments. If a planning
157 and development district uses uncommitted funds in its loan
158 revolving fund to provide such temporary funding, the district
159 shall use funds repaid to the district under the temporarily



160 funded federal loan program to replenish the funds used to provide
161 the temporary funding. Funds used by a planning and development
162 district to provide temporary funding under this paragraph (c)
163 must be repaid to the district's loan revolving fund no later than
164 twelve (12) months after the date the district provides the
165 temporary funding. A planning and development district may not
166 use uncommitted funds in its loan revolving fund to provide
167 temporary funding under this paragraph (c) on more than two (2)
168 occasions during a calendar year. A planning and development
169 district may provide temporary funding for multiple commitments on
170 each such occasion. The maximum aggregate amount of uncommitted
171 funds in a loan revolving fund that may be used for such purposes
172 during a calendar year shall not exceed seventy percent (70%) of
173 the uncommitted funds in the loan revolving fund on the date the
174 district first provides temporary funding during the calendar
175 year.

176 (d) If the Mississippi Development Authority determines
177 that a planning and development district or qualified entity has
178 provided loans to minority businesses in a manner inconsistent
179 with the provisions of this subsection, then the amount of such
180 loans so provided shall be withheld by the Mississippi Development
181 Authority from any additional grant funds to which the planning
182 and development district or qualified entity becomes entitled
183 under this subsection. If the Mississippi Development Authority
184 determines, after notifying such planning and development district
185 or qualified entity twice in writing and providing such planning
186 and development district or qualified entity a reasonable
187 opportunity to comply, that a planning and development district or
188 qualified entity has consistently failed to comply with this
189 subsection, the Mississippi Development Authority may declare such
190 planning and development district or qualified entity in default
191 under this subsection and, upon receipt of notice thereof from the
192 Mississippi Development Authority, such planning and development



193 district or qualified entity shall immediately cease providing
194 loans under this subsection, shall refund to the Mississippi
195 Development Authority for distribution to other planning and
196 development districts or qualified entities all funds held in its
197 revolving loan fund and, if required by the Mississippi
198 Development Authority, shall convey to the Mississippi Development
199 Authority, all administrative and management control of loans
200 provided by it under this subsection.

201 (e) If the Mississippi Development Authority
202 determines, after notifying a planning and development district or
203 qualified entity twice in writing and providing copies of such
204 notification to each member of the Legislature in whose district
205 or in a part of whose district such planning and development
206 district or qualified entity is located and providing such
207 planning and development district or qualified entity a reasonable
208 opportunity to take corrective action, that a planning and
209 development district or qualified entity administering a revolving
210 loan fund under the provisions of this subsection is not actively
211 engaged in lending as defined by the rules and regulations of the
212 Mississippi Development Authority, the Mississippi Development
213 Authority may declare such planning and development district or
214 qualified entity in default under this subsection and, upon
215 receipt of notice thereof from the Mississippi Development
216 Authority, such planning and development district or qualified
217 entity shall immediately cease providing loans under this
218 subsection, shall refund to the Mississippi Development Authority
219 for distribution to other planning and development districts or
220 qualified entities all funds held in its revolving loan fund and,
221 if required by the Mississippi Development Authority, shall convey
222 to the Mississippi Development Authority all administrative and
223 management control of loans provided by it under this subsection.

224 (5) The Mississippi Development Authority shall develop a
225 program which will assist minority business enterprises by



226 guaranteeing bid, performance and payment bonds which such
227 minority businesses are required to obtain in order to contract
228 with federal agencies, state agencies or political subdivisions of
229 the state. Monies for such program shall be drawn from the monies
230 allocated under subsection (4) of this section to assist the
231 financing of minority economic development and shall not exceed
232 Three Million Dollars (\$3,000,000.00) in the aggregate. The
233 Mississippi Development Authority may promulgate rules and
234 regulations for the operation of the program established pursuant
235 to this subsection. For the purpose of this subsection (5) the
236 term "minority business enterprise" has the meaning assigned such
237 term in subsection (4) of this section.

238 (6) The Mississippi Development Authority may loan or grant
239 to public entities and to nonprofit corporations funds to defray
240 the expense of financing (or to match any funds available from
241 other public or private sources for the expense of financing)
242 projects in this state which are devoted to the study, teaching
243 and/or promotion of regional crafts and which are deemed by the
244 authority to be significant tourist attractions. The monies
245 loaned or granted shall be drawn from the Emerging Crops Fund and
246 shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00)
247 in the aggregate.

248 (7) Through June 30, 1998, the Mississippi Development
249 Authority shall make available to the Mississippi Department of
250 Agriculture and Commerce funds for the purpose of establishing
251 loan revolving funds and other methods of financing for
252 agribusiness programs administered under the Mississippi
253 Agribusiness Council Act of 1993. The monies made available by
254 the Mississippi Development Authority shall be drawn from the
255 Emerging Crops Fund and shall not exceed Seven Hundred Thousand
256 Dollars (\$700,000.00) in the aggregate. The Mississippi
257 Department of Agriculture and Commerce shall establish control and
258 auditing procedures for use of these funds. These funds will be



259 used primarily for quick payment to farmers for vegetable and
260 fruit crops processed and sold through vegetable processing plants
261 associated with the Department of Agriculture and Commerce and the
262 Mississippi State Extension Service.

263 (8) From and after July 1, 1996, the Mississippi Development
264 Authority shall make available to the Mississippi Small Farm
265 Development Center One Million Dollars (\$1,000,000.00) to be used
266 by the center to assist small entrepreneurs as provided in Section
267 37-101-25, Mississippi Code of 1972. The monies made available by
268 the Mississippi Development Authority shall be drawn from the
269 Emerging Crops Fund.

270 (9) The Mississippi Development Authority shall make
271 available to the Agribusiness and Natural Resource Development
272 Center through Alcorn State University an amount not to exceed Two
273 Hundred Fifty Thousand Dollars (\$250,000.00) in Fiscal Year 2001
274 and Two Hundred Fifty Thousand Dollars (\$250,000.00) in Fiscal
275 Year 2002 from the cash balance of the Emerging Crops Fund to
276 support the development of a cooperative program for agribusiness
277 development, marketing and natural resources development. This
278 subsection (9) shall stand repealed on June 30, 2002.

279 (10) The Mississippi Development Authority shall make
280 available to the Small Farm Development Center at Alcorn State
281 University funds in an aggregate amount not to exceed Three
282 Hundred Thousand Dollars (\$300,000.00), to be drawn from the cash
283 balance of the Emerging Crops Fund. The Small Farm Development
284 Center at Alcorn State University shall use such funds to make
285 loans to producers of sweet potatoes and cooperatives anywhere in
286 the State of Mississippi owned by sweet potato producers to assist
287 in the planting of sweet potatoes and the purchase of sweet potato
288 production and harvesting equipment. A report of the loans made
289 under this subsection shall be furnished by January 15 of each
290 year to the Chairman of the Senate Agriculture Committee and the
291 Chairman of the House Agriculture Committee.



292 (11) The Mississippi Development Authority shall make
293 available to the Mississippi Department of Agriculture and
294 Commerce "Make Mississippi Mine" program an amount not to exceed
295 One Hundred Fifty Thousand Dollars (\$150,000.00) to be drawn from
296 the cash balance of the Emerging Crops Fund.

297 **SECTION 2.** This act shall take effect and be in force from
298 and after July 1, 2002.

