MISSISSIPPI LEGISLATURE REGULAR SESSION 2004

By: Senator(s) Thomas, Dearing, Butler, Harden

To: Finance

SENATE BILL NO. 2101

AN ACT TO AMEND SECTION 57-10-513, MISSISSIPPI CODE OF 1972, TO INCREASE THE MAXIMUM AMOUNT OF ASSISTANCE THAT A SMALL BUSINESS MAY RECEIVE UNDER THE MISSISSIPPI SMALL BUSINESS ASSISTANCE ACT; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 57-10-513, Mississippi Code of 1972, is amended as follows:

57-10-513. The planning and development districts and qualified entities are authorized, empowered and directed to deposit all grant funds received pursuant to this article in a revolving assistance fund and to provide assistance therefrom to small businesses in accordance with this article and the following criteria, terms and conditions:

(a) To be eligible for assistance under this article, the small business and the project to be assisted must meet the following criteria:

(i) Assistance must be in connection with an identifiable project or business plan, and the principal amount of all assistance may not exceed fifty percent (50%) of the total cost of said project or business plan;

(ii) Assistance may be used in connection with the purchase or lease of land, buildings, equipment and inventory, and for working capital; provided, however, no more than one-third (1/3) of the total assistance to a small business pursuant to this article or Fifty Thousand Dollars ($50,000.00), whichever is less, may be used for working capital;

(iii) Assistance may not be provided for speculative land or real estate investments;

(iv) Assistance may not be provided under the program to finance or satisfy any existing debt;

(v) Assistance may not be provided to a small business unless at least sixty percent (60%) of the small business is owned, directly or indirectly, by individuals who have been residents of the State of Mississippi for two (2) years immediately prior to the application for assistance; and

(vi) The project or business plan for which assistance is provided must create or retain full-time jobs, and the planning and development district or qualified entity must receive a certificate to that effect from the small business before any assistance is provided.

(b) The interest rate on loans shall not be less than five percent (5%) per annum or more than four percent (4%) above the federal discount rate, plus the servicing fees established in this article.

(c) As security for any loan under the program, the planning and development district or qualified entity shall take a security interest in assets of the small business and require personal guarantees of all persons and entities owning twenty percent (20%) or more of the small business. Such security interests may be subordinate to other security interests in such assets.

(d) The maximum term of any loan under the program shall not exceed the following: fifteen (15) years if used to purchase or lease land or buildings, ten (10) years if used to purchase or lease equipment, five (5) years if used to provide working capital and three (3) years if used to purchase inventory.

(e) In the event of a default by a small business on a loan under the program, the planning and development district or qualified entity shall foreclose and enforce its security interests and personal guarantees relating to such loan and take all necessary and appropriate action to recover all principal and

interest owed, and all amounts so recovered shall be deposited in the revolving assistance fund administered by said planning and development district or qualified entity. Any small business which defaults on a loan under the program shall not be eligible for any other loan under the program.

(f) A planning and development district or qualified entity may acquire, subscribe for, own, hold, sell, assign, transfer, mortgage or pledge an equity investment in a small business incorporated under the laws of the State of Mississippi, provided such equity investment constitutes less than fifty percent (50%) of the voting shares of the small business and does not exceed Fifty Thousand Dollars ($50,000.00), and while the owner or holder thereof, the planning and development district or qualified entity may exercise all the rights, powers and privileges of ownership, including the right to vote thereon. Any such equity investment in a small business may be redeemed by such small business upon payment to the planning and development district or qualified entity of the principal amount of such equity investment, plus six percent (6%) interest, compounded annually from the date of such equity investment, provided such repayment is tendered within seven (7) years of the date of such equity investment.

(g) A planning and development district or qualified entity shall not utilize more than one-third (1/3) of all grant funds received for equity investments in small businesses.

(h) No small business shall receive assistance under the program in excess of <u>Two Hundred Fifty Thousand Dollars ($250,000.00)</u>.

(i) All assistance applications must be reviewed by, and the terms and conditions of the assistance must be recommended to the planning and development district or qualified entity, by a small business assistance review board established by the planning and development district or qualified entity, consisting of the

following members appointed by the planning and development district or qualified entity:

(i) Two (2) individuals with current experience in banking or finance;

(ii) Two (2) principal or majority owners of private, for-profit commercial enterprises qualifying as small businesses under this article;

(iii) One (1) senior officer of a private, for-profit commercial enterprise not qualifying as a small business under this article or the executive director of an industrial or economic development foundation;

(iv) One (1) individual who is a minority and who has current experience in banking or finance or who is the principal or majority owner of a private, for-profit commercial enterprise qualifying as a small business under this article; and

(v) One (1) individual who is female and who has current experience in banking or finance or who is the principal or majority owner of a private, for-profit commercial enterprise qualifying as a small business under this article.

As used in this paragraph, "minority" shall mean individuals who are Asian, Black, Hispanic or Native American as defined in Section 31-7-13(s), Mississippi Code of 1972.

All members of such small business assistance review boards shall be residents of the area served by the planning and development district or qualified entity. Small business assistance review boards shall meet at least quarterly and shall meet anytime there are at least two (2) assistance applications pending that require review.

(j) If the small business assistance review board recommends that assistance be provided, the planning and development district or qualified entity may either approve and provide the assistance on the exact terms and conditions recommended by the small business assistance review board or

determine not to provide such assistance. Under no circumstances may the planning and development district or qualified entity provide such assistance on any terms or conditions not approved and recommended by the small business assistance review board. If the planning and development district or qualified entity determines not to provide the assistance that the small business assistance review board has recommended to be provided, the board of directors of such district or the governing body of such entity shall place in its minutes an explanation of the reasons for such refusal. If the small business assistance review board recommends against providing the assistance, the board of directors of the planning and development district or the governing body of the qualified entity may not determine to provide such assistance under any terms and conditions.

SECTION 2. This act shall take effect and be in force from and after July 1, 2004.