

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

To: Finance

SENATE BILL NO. 2101

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

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

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

8 57-10-513. The planning and development districts and
9 qualified entities are authorized, empowered and directed to
10 deposit all grant funds received pursuant to this article in a
11 revolving assistance fund and to provide assistance therefrom to
12 small businesses in accordance with this article and the following
13 criteria, terms and conditions:

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

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

21 (ii) Assistance may be used in connection with the
22 purchase or lease of land, buildings, equipment and inventory, and
23 for working capital; provided, however, no more than one-third
24 (1/3) of the total assistance to a small business pursuant to this
25 article or Fifty Thousand Dollars (\$50,000.00), whichever is less,
26 may be used for working capital;

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

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

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

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

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

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

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

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

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

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

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

87 (h) No small business shall receive assistance under
88 the program in excess of Two Hundred Fifty Thousand Dollars
89 (\$250,000.00).

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

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

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

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

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

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

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

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

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

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

128 determine not to provide such assistance. Under no circumstances
129 may the planning and development district or qualified entity
130 provide such assistance on any terms or conditions not approved
131 and recommended by the small business assistance review board. If
132 the planning and development district or qualified entity
133 determines not to provide the assistance that the small business
134 assistance review board has recommended to be provided, the board
135 of directors of such district or the governing body of such entity
136 shall place in its minutes an explanation of the reasons for such
137 refusal. If the small business assistance review board recommends
138 against providing the assistance, the board of directors of the
139 planning and development district or the governing body of the
140 qualified entity may not determine to provide such assistance
141 under any terms and conditions.

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