

By: Representative Eaton

To: Ways and Means

HOUSE BILL NO. 1390

1 AN ACT TO AMEND SECTION 69-2-13, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE THAT AGRIBUSINESS ENTERPRISE LOANS FROM MONIES DRAWN FROM
3 THE EMERGING CROPS FUND SHALL BE 100% GUARANTEED TO THE
4 MISSISSIPPI DEVELOPMENT AUTHORITY BY AN ELIGIBLE FINANCIAL
5 INSTITUTION; AND FOR 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. Each Agribusiness Enterprise Loan made under this
40 subsection shall be one hundred percent (100%) guaranteed to the
41 Mississippi Development Authority by an eligible financial
42 institution.

43 (b) The Mississippi Development Authority may, out of
44 the total amount of bonds authorized to be issued under this
45 chapter, make available funds to any planning and development
46 district in accordance with the criteria established in Section
47 57-71-11. Planning and development districts which receive monies
48 pursuant to this provision shall use such monies to make loans to
49 private companies for purposes consistent with this subsection.

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

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

62 such loans by the Mississippi Development Authority shall be drawn
63 from the Emerging Crops Fund. The amount of a loan to any single
64 agribusiness or greenhouse production horticulture enterprise
65 under this paragraph (a) shall not exceed twenty percent (20%) of
66 the total cost of the project for which financing is sought or Two
67 Hundred Thousand Dollars (\$200,000.00), whichever is less. No
68 interest shall be charged on such loans, and only the amount
69 actually loaned shall be required to be repaid. Repayments shall
70 be deposited into the Emerging Crops Fund. Each Agribusiness
71 Enterprise Loan made under this subsection shall be one hundred
72 percent (100%) guaranteed to the Mississippi Development Authority
73 by an eligible financial institution.

74 (b) The Mississippi Development Authority shall, in
75 addition to the other programs described in this section, provide
76 for a program of loans or loan guaranties, or both, to be made to
77 or on behalf of any agribusiness enterprise engaged in beef
78 processing for the purpose of encouraging thereby the extension of
79 conventional financing and the issuance of letters of credit to
80 such agribusiness enterprises by private institutions. Monies to
81 make such loans or loan guaranties, or both, by the Mississippi
82 Development Authority shall be drawn from the Emerging Crops Fund
83 and shall not exceed Thirty-five Million Dollars (\$35,000,000.00)
84 in the aggregate. The amount of a loan to any single agribusiness
85 enterprise or loan guaranty on behalf of such agribusiness
86 enterprise, or both, under this paragraph (b) shall not exceed the
87 total cost of the project for which financing is sought or
88 Thirty-five Million Dollars (\$35,000,000.00), whichever is less.
89 The interest charged on a loan made under this paragraph (b) shall
90 be at a rate determined by the Mississippi Development Authority.
91 All repayments of any loan made under this paragraph (b) shall be
92 deposited into the Emerging Crops Fund. Assistance received by an
93 agribusiness enterprise under this paragraph (b) shall not

94 disqualify the agribusiness enterprise from obtaining any other
95 assistance under this chapter.

96 (4) (a) Through June 30, 2006, the Mississippi Development
97 Authority may loan or grant to qualified planning and development
98 districts, and to small business investment corporations,
99 bank-based community development corporations, the Recruitment and
100 Training Program, Inc., the City of Jackson Business Development
101 Loan Fund, the Lorman Southwest Mississippi Development
102 Corporation, the West Jackson Community Development Corporation,
103 the East Mississippi Development Corporation, and other entities
104 meeting the criteria established by the Mississippi Development
105 Authority (all referred to hereinafter as "qualified entities"),
106 funds for the purpose of establishing loan revolving funds to
107 assist in providing financing for minority economic development.
108 The monies loaned or granted by the Mississippi Development
109 Authority shall be drawn from the Emerging Crops Fund and shall
110 not exceed Twenty-six Million Dollars (\$26,000,000.00) in the
111 aggregate. Planning and development districts or qualified
112 entities which receive monies pursuant to this provision shall use
113 such monies to make loans to minority business enterprises
114 consistent with criteria established by the Mississippi
115 Development Authority. Such criteria shall include, at a minimum,
116 the following:

117 (i) The business enterprise must be a private,
118 for-profit enterprise.

119 (ii) If the business enterprise is a
120 proprietorship, the borrower must be a resident citizen of the
121 State of Mississippi; if the business enterprise is a corporation
122 or partnership, at least fifty percent (50%) of the owners must be
123 resident citizens of the State of Mississippi.

124 (iii) The borrower must have at least five percent
125 (5%) equity interest in the business enterprise.

126 (iv) The borrower must demonstrate ability to
127 repay the loan.

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

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

135 (vii) Loan proceeds shall not be used to pay off
136 existing debt for loan consolidation purposes; to finance the
137 acquisition, construction, improvement or operation of real
138 property which is to be held primarily for sale or investment; to
139 provide for, or free funds, for speculation in any kind of
140 property; or as a loan to owners, partners or stockholders of the
141 applicant which do not change ownership interest by the applicant.
142 However, this does not apply to ordinary compensation for services
143 rendered in the course of business.

144 (viii) The maximum amount that may be loaned to
145 any one (1) borrower shall be Two Hundred Fifty Thousand Dollars
146 (\$250,000.00).

147 (ix) The Mississippi Development Authority shall
148 review each loan before it is made, and no loan shall be made to
149 any borrower until the loan has been reviewed and approved by the
150 Mississippi Development Authority.

151 (b) For the purpose of this subsection, the term
152 "minority business enterprise" means a socially and economically
153 disadvantaged small business concern, organized for profit,
154 performing a commercially useful function which is owned and
155 controlled by one or more minorities or minority business
156 enterprises certified by the Mississippi Development Authority, at
157 least fifty percent (50%) of whom are resident citizens of the
158 State of Mississippi. For purposes of this subsection, the term

159 "socially and economically disadvantaged small business concern"
160 shall have the meaning ascribed to such term under the Small
161 Business Act (15 USCS, Section 637(a)), or women, and the term
162 "owned and controlled" means a business in which one or more
163 minorities or minority business enterprises certified by the
164 Mississippi Development Authority own sixty percent (60%) or, in
165 the case of a corporation, sixty percent (60%) of the voting
166 stock, and control sixty percent (60%) of the management and daily
167 business operations of the business.

168 From and after July 1, 2006, monies not loaned or granted by
169 the Mississippi Development Authority to planning and development
170 districts or qualified entities under this subsection, and monies
171 not loaned by planning and development districts or qualified
172 entities, shall be deposited to the credit of the sinking fund
173 created and maintained in the State Treasury for the retirement of
174 bonds issued under Section 69-2-19.

175 (c) Notwithstanding any other provision of this
176 subsection to the contrary, if federal funds are not available for
177 commitments made by a planning and development district to provide
178 assistance under any federal loan program administered by the
179 planning and development district in coordination with the
180 Appalachian Regional Commission or Economic Development
181 Administration, or both, a planning and development district may
182 use funds in its loan revolving fund, which have not been
183 committed otherwise to provide assistance, for the purpose of
184 providing temporary funding for such commitments. If a planning
185 and development district uses uncommitted funds in its loan
186 revolving fund to provide such temporary funding, the district
187 shall use funds repaid to the district under the temporarily
188 funded federal loan program to replenish the funds used to provide
189 the temporary funding. Funds used by a planning and development
190 district to provide temporary funding under this paragraph (c)
191 must be repaid to the district's loan revolving fund no later than

192 twelve (12) months after the date the district provides the
193 temporary funding. A planning and development district may not
194 use uncommitted funds in its loan revolving fund to provide
195 temporary funding under this paragraph (c) on more than two (2)
196 occasions during a calendar year. A planning and development
197 district may provide temporary funding for multiple commitments on
198 each such occasion. The maximum aggregate amount of uncommitted
199 funds in a loan revolving fund that may be used for such purposes
200 during a calendar year shall not exceed seventy percent (70%) of
201 the uncommitted funds in the loan revolving fund on the date the
202 district first provides temporary funding during the calendar
203 year.

204 (d) If the Mississippi Development Authority determines
205 that a planning and development district or qualified entity has
206 provided loans to minority businesses in a manner inconsistent
207 with the provisions of this subsection, then the amount of such
208 loans so provided shall be withheld by the Mississippi Development
209 Authority from any additional grant funds to which the planning
210 and development district or qualified entity becomes entitled
211 under this subsection. If the Mississippi Development Authority
212 determines, after notifying such planning and development district
213 or qualified entity twice in writing and providing such planning
214 and development district or qualified entity a reasonable
215 opportunity to comply, that a planning and development district or
216 qualified entity has consistently failed to comply with this
217 subsection, the Mississippi Development Authority may declare such
218 planning and development district or qualified entity in default
219 under this subsection and, upon receipt of notice thereof from the
220 Mississippi Development Authority, such planning and development
221 district or qualified entity shall immediately cease providing
222 loans under this subsection, shall refund to the Mississippi
223 Development Authority for distribution to other planning and
224 development districts or qualified entities all funds held in its

225 revolving loan fund and, if required by the Mississippi
226 Development Authority, shall convey to the Mississippi Development
227 Authority all administrative and management control of loans
228 provided by it under this subsection.

229 (e) If the Mississippi Development Authority
230 determines, after notifying a planning and development district or
231 qualified entity twice in writing and providing copies of such
232 notification to each member of the Legislature in whose district
233 or in a part of whose district such planning and development
234 district or qualified entity is located and providing such
235 planning and development district or qualified entity a reasonable
236 opportunity to take corrective action, that a planning and
237 development district or qualified entity administering a revolving
238 loan fund under the provisions of this subsection is not actively
239 engaged in lending as defined by the rules and regulations of the
240 Mississippi Development Authority, the Mississippi Development
241 Authority may declare such planning and development district or
242 qualified entity in default under this subsection and, upon
243 receipt of notice thereof from the Mississippi Development
244 Authority, such planning and development district or qualified
245 entity shall immediately cease providing loans under this
246 subsection, shall refund to the Mississippi Development Authority
247 for distribution to other planning and development districts or
248 qualified entities all funds held in its revolving loan fund and,
249 if required by the Mississippi Development Authority, shall convey
250 to the Mississippi Development Authority all administrative and
251 management control of loans provided by it under this subsection.

252 (5) The Mississippi Development Authority shall develop a
253 program which will assist minority business enterprises by
254 guaranteeing bid, performance and payment bonds which such
255 minority businesses are required to obtain in order to contract
256 with federal agencies, state agencies or political subdivisions of
257 the state. Monies for such program shall be drawn from the monies

258 allocated under subsection (4) of this section to assist the
259 financing of minority economic development and shall not exceed
260 Three Million Dollars (\$3,000,000.00) in the aggregate. The
261 Mississippi Development Authority may promulgate rules and
262 regulations for the operation of the program established pursuant
263 to this subsection. For the purpose of this subsection (5) the
264 term "minority business enterprise" has the meaning assigned such
265 term in subsection (4) of this section.

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

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

291 (8) From and after July 1, 1996, the Mississippi Development
292 Authority shall make available to the Mississippi Small Farm
293 Development Center One Million Dollars (\$1,000,000.00) to be used
294 by the center to assist small entrepreneurs as provided in Section
295 37-101-25, Mississippi Code of 1972. The monies made available by
296 the Mississippi Development Authority shall be drawn from the
297 Emerging Crops Fund.

298 (9) The Mississippi Development Authority shall make
299 available to the Agribusiness and Natural Resource Development
300 Center through Alcorn State University an amount not to exceed Two
301 Hundred Fifty Thousand Dollars (\$250,000.00) in fiscal year 2001
302 and Two Hundred Fifty Thousand Dollars (\$250,000.00) in fiscal
303 year 2002 from the cash balance of the Emerging Crops Fund to
304 support the development of a cooperative program for agribusiness
305 development, marketing and natural resources development. This
306 subsection (9) shall stand repealed on June 30, 2006.

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

320 (11) The Mississippi Development Authority shall make
321 available to the Mississippi Department of Agriculture and
322 Commerce "Make Mine Mississippi" program an amount not to exceed

323 One Hundred Fifty Thousand Dollars (\$150,000.00) to be drawn from
324 the cash balance of the Emerging Crops Fund.

325 (12) The Mississippi Development Authority shall make
326 available to the Mississippi Department of Agriculture and
327 Commerce an amount not to exceed One Hundred Fifty Thousand
328 Dollars (\$150,000.00) to be drawn from the cash balance of the
329 Emerging Crops Fund to be used for the rehabilitation and
330 maintenance of the Mississippi Farmers Central Market in Jackson,
331 Mississippi.

332 (13) The Mississippi Development Authority shall make
333 available to the Mississippi Department of Agriculture and
334 Commerce an amount not to exceed Twenty-five Thousand Dollars
335 (\$25,000.00) to be drawn from the cash balance of the Emerging
336 Crops Fund to be used for advertising purposes related to the
337 Mississippi Farmers Central Market in Jackson, Mississippi.

338 (14) (a) The Mississippi Development Authority shall, in
339 addition to the other programs described in this section, provide
340 for a program of loan guaranties to be made on behalf of any
341 nonprofit entity qualified under Section 501(c)(3) of the Internal
342 Revenue Code and certified by the United States Department of the
343 Treasury as a community development financial institution for the
344 purpose of encouraging the extension of financing to such an
345 entity which financing the entity will use to make funds available
346 to other entities for the purpose of making loans available in
347 low-income communities in Mississippi. Monies to make such loan
348 guaranties by the Mississippi Development Authority shall be drawn
349 from the Emerging Crops Fund and shall not exceed Two Million
350 Dollars (\$2,000,000.00) in the aggregate. The amount of a loan
351 guaranty on behalf of such an entity under this subsection (14)
352 shall not exceed Two Million Dollars (\$2,000,000.00). Assistance
353 received by an entity under this subsection (14) shall not
354 disqualify the entity from obtaining any other assistance under
355 this chapter.

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

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

366 **SECTION 2.** This act shall take effect and be in force from
367 and after July 1, 2005.