

By: Senator(s) Jackson (11th), Thomas

To: Business and Financial Institutions; Appropriations

SENATE BILL NO. 2668

1 AN ACT TO CREATE THE COMMUNITY DEVELOPMENT FINANCIAL  
2 INSTITUTIONS ACT; TO PROVIDE FOR LEGISLATIVE INTENT; TO DEFINE  
3 CERTAIN TERMS; TO CREATE THE COMMUNITY DEVELOPMENT FINANCIAL  
4 INSTITUTIONS FUND; TO PROVIDE FOR THE ADMINISTRATION OF THE FUND;  
5 TO PROVIDE FOR THE SELECTION OF COMMUNITY DEVELOPMENT FINANCIAL  
6 INSTITUTIONS; TO PROVIDE FOR PERFORMANCE GOALS AND SANCTIONS; TO  
7 PRESCRIBE REPORTING REQUIREMENTS; TO AUTHORIZE THE COMMISSIONER OF  
8 BANKING AND CONSUMER FINANCE TO PROMULGATE RULES AND REGULATIONS;  
9 AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** This act shall be known and may be cited as the  
12 "Community Development Financial Institutions Act".

13 **SECTION 2.** (1) The Legislature hereby finds that credit,  
14 banking services and investment capital are vital to the  
15 revitalization of communities throughout the state. The  
16 Legislature further finds that many communities with the greatest  
17 potential for growth and the greatest need for jobs and investment  
18 lack access to the services and capital of traditional banking and  
19 lending institutions. The Legislature further finds that access  
20 to banking services and capital can be improved through a growing  
21 network of alternative financial service providers known as  
22 community development financial institutions, hereafter referred  
23 to as "CDFIS." The Legislature finds that CDFIS are currently  
24 providing effective lending and financial services and fulfill a  
25 vital role in meeting the needs of Mississippi's low and moderate  
26 income communities.

27 (2) The Legislature finds that the continued growth of CDFIS  
28 requires an established support structure in order to build  
29 capacity in these institutions. The Legislature further finds  
30 that creation of a statewide CDFIS Fund will strengthen these

31 institutions, allowing them to expand their mission of addressing  
32 the credit and banking needs of low and moderate income  
33 communities in the State of Mississippi.

34 **SECTION 3.** As used in this act, the following terms and  
35 abbreviations shall have the meanings indicated:

36 (a) "Administrator" means the administrator of the  
37 community development financial institutions fund.

38 (b) "CDFI" means a community development financial  
39 institution which:

40 (i) Has the primary mission of promoting community  
41 development;

42 (ii) Serves an investment area or targeted  
43 population;

44 (iii) Is principally a financing entity whose  
45 predominant activity is providing loans, investments and/or  
46 banking services, and development services;

47 (iv) Maintains, through representation on its  
48 governing board or otherwise, accountability to residents of its  
49 investment area or targeted population; and

50 (v) Is not an agency or instrumentality of the  
51 united states, any state, or any municipality.

52 (c) "Commissioner" means the Commissioner of Banking  
53 and Consumer Finance.

54 (d) "Fund" means the community development financial  
55 institutions fund.

56 (e) "Investment area" means a geographic area that:  
57 is economically distressed as defined in the federal CDFI  
58 legislation or has significant unmet needs for loans or equity  
59 investments or encompasses or is located in a federally designated  
60 empowerment zone or enterprise community as established pursuant  
61 to Title XIII of the federal Omnibus Budget Reconciliation Act of  
62 1993 (Pub. L. 103-66)

63 (f) "Low income" means having an income, adjusted for  
64 family size, of not more than:

65 (i) For metropolitan areas, eighty percent (80%)  
66 of the area median income; and

67 (ii) For nonmetropolitan areas, the greater of:  
68 eighty percent (80%) of the area median income; or eighty percent  
69 (80%) of the statewide nonmetropolitan area median income.

70 (g) "Targeted population" means individuals or an  
71 identifiable group of individuals who are low income persons or  
72 otherwise lack adequate access to loans or equity investments.

73 **SECTION 4.** The Community Development Financial Institutions  
74 Fund is hereby created. The purpose of the fund is to provide  
75 financial and technical assistance to community development  
76 financial institutions that make loans and investments and provide  
77 development services to specific investment areas or targeted  
78 populations.

79 **SECTION 5.** (1) The Commissioner of Banking and Consumer  
80 Finance shall be responsible for developing policies and  
81 priorities for the fund pursuant to the provisions of this act.

82 (2) The Commissioner of Banking and Consumer Finance shall  
83 designate an administrator of the fund. The administrator of the  
84 fund shall have experience in community development lending or  
85 finance and shall not act as an official of a CDFI. The  
86 administrator shall serve at the will and pleasure of the  
87 Commissioner of Banking and Consumer Finance.

88 **SECTION 6.** An application for assistance shall be submitted  
89 in such form and in accordance with such procedures as the  
90 governing board shall establish. Applications submitted to the  
91 fund shall include:

92 (a) A three-year business plan;

93 (b) An analysis of the needs of the investment area or  
94 targeted population and a strategy for addressing those needs;

95 (c) An explanation of proposed activities, consistent  
96 with existing economic, community, and housing development plans,  
97 adopted by or applicable to an investment area or targeted  
98 population;

99 (d) A description of how the applicant will coordinate  
100 with community organizations and financial institutions and  
101 leverage private sector investments, including, but not limited  
102 to, equity investments, loans, secondary markets or other services  
103 to the investment area or targeted populations in the case of an  
104 applicant with a prior history of serving investment areas or  
105 targeted populations;

106 (e) In the case of an applicant with a prior history of  
107 serving investment area or targeted populations, a demonstration  
108 that the applicant:

109 (i) Has a record of success in serving investment  
110 areas or targeted populations; and

111 (ii) Will expand its operations into a new  
112 investment area or will serve a new targeted population, offer  
113 more products or services, or increase the volume of its current  
114 business;

115 (f) A description of how the applicant will provide  
116 financial services for community businesses that employ or will  
117 create jobs for low income persons or to businesses that are owned  
118 by low income persons, or enhance the availability of products and  
119 services to low income persons; and

120 (g) Any additional information that the Commissioner of  
121 Banking and Consumer Finance shall require.

122 **SECTION 7.** In the awarding of assistance, the fund shall  
123 select from eligible CDFI applicants based on criteria that shall  
124 include:

125 (a) The likelihood of success of the applicant in  
126 meeting the goals of its strategic plan;

127 (b) The experience and background of the CDFI`s board  
128 of directors or management team;

129 (c) The extent of need for equity investments, loans,  
130 and development services within the investment areas or targeted  
131 populations;

132 (d) The extent of economic distress within the  
133 investment areas or the extent of need within the targeted  
134 populations;

135 (e) The extent to which the proposed activities will  
136 expand economic opportunities within the investment areas or  
137 targeted populations;

138 (f) The extent of support from the investment areas or  
139 targeted populations;

140 (g) The extent of the applicant`s current and planned  
141 community involvement;

142 (h) The extent to which the applicant will increase its  
143 resources through coordination with other institutions or  
144 participation in a secondary market; and

145 (i) In the case of an applicant with a prior history of  
146 serving investment areas or targeted populations, the extent of  
147 success in serving such areas or populations.

148 **SECTION 8.** Prior to receiving any assistance under this act,  
149 each CDFI selected for assistance shall enter into an agreement  
150 with the fund that requires the institution to comply with  
151 specified performance goals and to abide by other terms and  
152 conditions of such assistance. The format and terms of such  
153 agreement shall be established by the governing board; provided,  
154 however, that the agreement shall provide that, in the event of  
155 fraud, mismanagement or noncompliance with this act or the terms  
156 of agreement, the fund may:

157 (a) Require changes to the performance goals;

158 (b) Revoke approval of a CDFI application;

159 (c) Reduce or terminate assistance;

- 160 (d) Require repayment of assistance;  
161 (e) Bar an applicant from reapplying for assistance;  
162 and  
163 (f) Take such other actions that the fund deems  
164 appropriate.

165 **SECTION 9.** The fund may provide:

166 (a) Financial assistance through equity investments,  
167 deposits, credit union shares, loans and grants.

168 (b) Technical assistance and training:

169 (i) Directly;

170 (ii) Through grants; or

171 (iii) By contracting with organizations that  
172 possess expertise in community development finance, without regard  
173 to whether or not the organizations receive or are eligible to  
174 receive assistance under this act.

175 The fund shall not own more than fifty percent (50%) of the  
176 equity of a CDFI and shall not control the operations of such  
177 institution. The fund shall hold only transferable, nonvoting  
178 equity investments in a CDFI. No CDFI shall receive assistance in  
179 an amount, which exceeds the greater of ten percent (10%) of the  
180 total assets of the fund or Five Hundred Thousand Dollars  
181 (\$500,000.00).

182 **SECTION 10.** (1) A CDFI which files an application and is  
183 approved by the fund for financial assistance may use such  
184 assistance for the following purposes:

185 (a) For the development of commercial facilities that  
186 promote revitalization, community stability, and the creation or  
187 retention of jobs;

188 (b) For the development or improvement of community  
189 facilities;

190 (c) For the provision of basic financial services;

191 (d) For housing that is principally affordable to  
192 low-income people, except that assistance used to facilitate home

193 ownership shall only be used for services and lending products  
194 that:

195 (i) Serve low income people; and

196 (ii) Are not provided by other lenders in the area;  
197 or complement the services and lending products provided by other  
198 lenders in the area;

199 (e) For businesses that:

200 (i) Provide jobs for low-income people or are  
201 owned by low income people, women, or minority entrepreneurs;

202 (ii) Enhance the availability of products and  
203 services to low-income people; or

204 (iii) Have loan requests of Twenty-five Thousand  
205 Dollars (\$25,000.00) or less and have five (5) or fewer employees;  
206 or

207 (f) For other businesses and activities deemed  
208 appropriate by the fund.

209 (2) The fund may also provide technical assistance to any  
210 CDFI regardless of whether or not it has received financial  
211 assistance from the fund. Monies from the fund may be used for  
212 activities that enhance the capacity of a CDFI, such as training  
213 of management and other personnel, and development of programs,  
214 investment, or loan products.

215 (3) Any monies designated for the creation of small business  
216 investment companies, which are reallocated to the fund shall be  
217 used in support of small businesses.

218 (4) No monies from the fund shall be disbursed for the  
219 purposes of subsection (1) or (2) of this section without an equal  
220 match from the federal Community Development Financial  
221 Institutions Fund (12 USC 4701) or a match from a nongovernmental  
222 entity; provided, however, that the fund may approve an  
223 application from a CDFI for assistance from the fund before a  
224 match has been secured.

225           **SECTION 11.** The fund shall submit a report to the Governor,  
226 the Speaker of the House and the temporary President of the Senate  
227 on or before the first of October, and annually thereafter,  
228 describing the financial and technical assistance provided  
229 pursuant to this act, including: the number of CDFI applications  
230 filed and accepted; the amount and type of assistance provided; a  
231 description of projects financed or assisted by fund monies; the  
232 number of jobs created or retained through the investment of fund  
233 monies; the amount and source of funds leveraged; and such other  
234 information as the Mississippi Development Authority may require.

235           **SECTION 12.** The Commissioner of Banking and Consumer  
236 Finance, in consultation with the Mississippi Development  
237 Authority, shall promulgate rules and regulations in accordance  
238 with the Mississippi Administrative Procedures Act that are  
239 necessary and reasonable for the operation of the fund.

240           **SECTION 13.** This act shall take effect and be in force from  
241 and after July 1, 2005.