

103^D CONGRESS
1ST SESSION

H. R. 183

To promote economic development in the Lower Mississippi Delta by establishing the Lower Mississippi Delta Development Financing Corporation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mr. ESPY (for himself and Mr. EMERSON) introduced the following bill; which was referred to the Committee on Banking, Finance and Urban Affairs

A BILL

To promote economic development in the Lower Mississippi Delta by establishing the Lower Mississippi Delta Development Financing Corporation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Lower Mississippi
5 Delta Development Financing Corporation Act”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—The Congress finds the following:

8 (1) The income levels, employment levels, edu-
9 cational levels, and similar socioeconomic indicators

1 are extremely low in the lower Mississippi delta re-
2 gion.

3 (2) The economic base in the region is under-
4 developed and the local capacity to strengthen the
5 economic base is inadequate.

6 (3) The region has significant economic
7 strengths upon which to build a strong and vibrant
8 economy.

9 (4) A regional institution is the most appro-
10 priate form for an economic development institution
11 which can efficiently address the economic situation
12 in the lower Mississippi delta region given the scope
13 of the economic problems confronting the region and
14 the common conditions which are apparent through-
15 out the region.

16 (b) PURPOSES.—The purposes of this Act are as
17 follows:

18 (1) To establish a multifaceted proactive re-
19 gional institution to develop entrepreneurs and en-
20 courage the creation of new ventures.

21 (2) To create a sustainable change in the eco-
22 nomic environment of the lower Mississippi delta re-
23 gion which is conducive to the growth and success
24 of new ventures by providing intensive technical

1 assistance and guidance and appropriate forms of
2 capital.

3 (3) To provide a structure for designing and
4 implementing strategies for building the capacity of
5 new and existing institutions and organizations that
6 provide enterprise assistance.

7 (4) To create a culture of entrepreneurship
8 through role models and programs.

9 (5) To develop partnerships with lenders, gov-
10 ernment, community organizations, and private busi-
11 nesses for creating a continuum of credit and capital
12 products ranging from debt instruments for estab-
13 lished firms to equity investments for early-stage de-
14 velopment and new ventures.

15 (6) To target community development banking
16 activities and capacity building assistance to the
17 chronically-distressed communities of the lower Mis-
18 sissippi delta.

19 (c) DEFINITIONS.—For purposes of this Act—

20 (1) CORPORATION.—The term “Corporation”
21 means the Lower Mississippi Delta Development Fi-
22 nancing Corporation.

23 (2) DIRECTOR.—The term “director” means a
24 member of the board of directors of the Corporation.

1 (3) LOWER MISSISSIPPI DELTA REGION.—The
2 term “lower Mississippi delta region” means the 219
3 counties in the States of Arkansas, Illinois, Ken-
4 tucky, Louisiana, Mississippi, Missouri, and Ten-
5 nessee identified as the lower Mississippi delta area
6 in the final report of the Lower Mississippi Delta
7 Development Commission entitled “The Delta Initia-
8 tives” under date of May 14, 1990.

9 **SEC. 3. ESTABLISHMENT OF CORPORATION.**

10 (a) IN GENERAL.—There is hereby established the
11 Lower Mississippi Delta Development Financing Corpora-
12 tion as a federally chartered private corporation.

13 (b) MANAGEMENT.—

14 (1) IN GENERAL.—The Corporation shall be
15 under the management of a board of directors con-
16 sisting of 15 directors.

17 (2) QUALIFICATIONS OF APPOINTED DIREC-
18 TORS.—Directors who are appointed to the board of
19 directors pursuant to subsection (c) shall be ap-
20 pointed—

21 (A) from among individuals who—

22 (i) have expressed a strong commit-
23 ment to the economic development of the
24 lower Mississippi delta; and

1 (ii) are especially qualified to serve as
2 directors by virtue of their education,
3 training, or experience; and

4 (B) after giving special consideration to
5 the public interest in the appointment of a
6 board of directors the membership of which is
7 fairly representative of the diverse interests in
8 the lower Mississippi delta region and the geo-
9 graphical subregions and political subdivisions
10 within the region.

11 (3) QUORUM.—8 directors shall constitute a
12 quorum.

13 (4) CHAIRPERSON.—The board of directors
14 shall elect 1 director to serve as the chairperson of
15 the board of directors for such term as the bylaws
16 of the Corporation shall provide.

17 (5) MEETINGS.—Except as otherwise provided
18 in the bylaws of the Corporation, the board of direc-
19 tors shall meet at the call of the chairperson of the
20 board of directors or a majority of the directors.

21 (c) APPOINTMENT OF DIRECTORS.—

22 (1) INITIAL APPOINTMENT OF DIRECTORS FOR
23 1 YEAR TO ORGANIZE THE CORPORATION.—

24 (A) IN GENERAL.—The directors first ap-
25 pointed to the board of directors after the en-

1 actment of this Act shall be appointed by the
2 President by and with the advice and consent of
3 the lower Mississippi delta region congressional
4 delegation in accordance with subparagraph (B)
5 for a term of 1 year.

6 (B) ADVICE AND CONSENT PROCEDURE.—

7 (i) SUBMISSION OF NOMINATION.—

8 The President shall submit the nomination
9 of a person as a director of the Corpora-
10 tion to the Speaker of the House of Rep-
11 resentatives and the president pro tempore
12 of the Senate.

13 (ii) MEETING OF THE LOWER MIS-
14 SISSIPPI DELTA REGION CONGRESSIONAL
15 DELEGATION.—Upon receipt of a nomina-
16 tion by the President in accordance with
17 clause (i), the Speaker of the House of
18 Representatives and the president pro tem-
19 pore of the Senate shall convene a meeting
20 of the lower Mississippi delta region con-
21 gressional delegation to consider the nomi-
22 nation in accordance with such procedures
23 as the delegation may adopt for such pur-
24 pose.

1 (iii) ELECTION BY MAJORITY.—The
2 nomination of a director of the Corporation
3 under this paragraph may be confirmed
4 only by a majority of the members of the
5 lower Mississippi delta region congressional
6 delegation each of whom shall have 1 vote.

7 (C) LOWER MISSISSIPPI DELTA REGION
8 CONGRESSIONAL DELEGATION DEFINED.—For
9 purposes of this paragraph, the term ‘lower
10 Mississippi delta region congressional delega-
11 tion’ means—

12 (i) the Senators returned from the
13 States of Arkansas, Illinois, Kentucky,
14 Louisiana, Mississippi, Missouri, and Ten-
15 nessee; and

16 (ii) the representatives returned from
17 each congressional district within the
18 States of Arkansas, Illinois, Kentucky,
19 Louisiana, Mississippi, Missouri, and Ten-
20 nessee all or a portion of which lies within
21 the lower Mississippi delta region, as deter-
22 mined by the Speaker of the House of
23 Representatives.

24 (D) DECLARATION OF CONGRESS.—The
25 Congress hereby declares that the procedure es-

1 tablished under this paragraph for the appoint-
2 ment of the initial directors on the board of di-
3 rectors is undertaken in connection with the es-
4 tablishment of a private corporation and shall
5 not be construed as the appointment of an offi-
6 cer of the United States within the meaning of
7 the second paragraph of section 2 of Article II
8 of the Constitution of the United States of
9 America.

10 (2) APPOINTMENT OF DIRECTORS AFTER FIRST
11 YEAR.—Except as provided in paragraph (1), any
12 position on the board of directors which is held by
13 an appointed director shall be filled, at the end of
14 such director's term or in the case of a vacancy dur-
15 ing such term, by a person appointed by the board
16 of directors in accordance with procedures estab-
17 lished under the bylaws.

18 (3) TERMS OF APPOINTED DIRECTORS.—

19 (A) IN GENERAL.—The bylaws prescribed
20 under section 3(a)(1) shall establish the terms
21 of the directors appointed under paragraph (2).

22 (B) APPOINTMENTS TO FILL VACANCIES.—
23 A director appointed to the board of directors
24 to fill a vacancy occurring before the expiration
25 of the term for which such director's prede-

1 cessor was appointed shall be appointed only for
2 the remainder of such term.

3 (C) SERVICE AFTER EXPIRATION OF
4 TERM.—A director may serve after the expira-
5 tion of the term of such director until the suc-
6 cessor of the director has taken office.

7 (4) VACANCIES WITH RESPECT TO APPOINTED
8 DIRECTORS.—Any vacancy on the board of directors
9 which was held by an appointed director shall be
10 filled by a person appointed by the board of direc-
11 tors.

12 (d) PROVISIONS APPLICABLE TO DIRECTORS ELECT-
13 ED BY SHAREHOLDERS.—

14 (1) IN GENERAL.—The board of directors may
15 provide for the election of directors by stockholders
16 in the corporation and establish procedures for such
17 elections.

18 (2) NUMBER OF ELECTED DIRECTORS.—The
19 number of directors who are elected by the holders
20 of common stock—

21 (A) may not exceed 10; and

22 (B) shall be determined by the board of di-
23 rectors in accordance with the bylaws.

24 (3) VACANCIES WITH RESPECT TO ELECTED DI-
25 RECTORS.—

1 (A) APPOINTMENT.—Any vacancy on the
2 board of directors which was held by an elected
3 member and becomes vacant after the annual
4 election of the elected directors shall be filled by
5 a person appointed by the board of directors.

6 (B) TERM OF APPOINTEE.—A director ap-
7 pointed under subparagraph (A) to fill a va-
8 cancy occurring before the expiration of the
9 term for which such director's predecessor was
10 elected shall be appointed only for the remain-
11 der of such term.

12 (4) TERMS OF ELECTED DIRECTORS.—Elected
13 directors shall be elected annually for a term ending
14 on the date of the next annual meeting of the com-
15 mon stockholders of the Corporation and shall serve
16 until such directors' successors are elected.

17 (e) REPORT BY BOARD OF DIRECTORS AFTER 1
18 YEAR.—Before the end of the term of the directors first
19 appointed to the board of directors under subsection
20 (c)(1), the board of directors shall submit a report to the
21 President and the Congress on the organization and oper-
22 ation of the Corporation during the 1st year of the Cor-
23 poration's existence, including—

1 (1) an accounting of the stock issued and sold
2 by the Corporation during the year;

3 (2) any recommendation of the board of direc-
4 tors with respect to the establishment or acquisition
5 of any subsidiary of the Corporation and the activi-
6 ties of any such subsidiary; and

7 (3) any recommendation for legislative initia-
8 tives which the board of directors may determine to
9 be appropriate for further enhancing the economic
10 development of the lower Mississippi delta region.

11 (f) PROVISIONS RELATING DIRECTORS WHO ARE
12 FEDERAL OFFICERS OR EMPLOYEES.—

13 (1) LIMITATION ON NUMBER.—After the end of
14 the 1-year period beginning on the date on which the
15 board of directors first meets with a quorum
16 present, not more than 3 directors may serve at the
17 same time as an officer or employee of the United
18 States.

19 (2) RESTRICTION ON PAY FOR FEDERAL PER-
20 SONNEL.—Directors who are full-time officers or
21 employees of the United States shall receive no addi-
22 tional pay by reason of service on the board of direc-
23 tors.

1 **SEC. 4. POWERS AND DUTIES OF CORPORATION.**

2 (a) GENERAL POWERS.—The Corporation shall have
3 the following powers:

4 (1) BYLAWS.—To prescribe, by the Board of
5 Directors, bylaws not inconsistent with law regulat-
6 ing the manner in which—

7 (A) stock of the corporation may be trans-
8 ferred;

9 (B) the directors of the corporation may be
10 appointed or elected;

11 (C) the officers and employees of the cor-
12 poration may be appointed;

13 (D) the property of the corporation may be
14 transferred;

15 (E) the general business of the corporation
16 may be conducted; and

17 (F) the privileges granted to the corpora-
18 tion by law may be exercised and enjoyed.

19 (2) CORPORATE SEAL.—To adopt, alter, and
20 use a corporate seal.

21 (3) CONTRACTS.—To enter into contracts.

22 (4) ISSUE OBLIGATIONS.—To issue debentures,
23 bonds, or other obligations, and to borrow, to give
24 security for any amount borrowed, and to pay inter-
25 est on (and any redemption premium with respect
26 to) any such obligation or amount.

1 (5) STOCK.—To issue stock in accordance with
2 section 5.

3 (6) PROPERTY AND INVESTMENTS.—To ac-
4 quire, hold, lease, mortgage, maintain, or dispose of
5 real and personal property, including securities is-
6 sued by any other person.

7 (7) SUBSIDIARIES AND OTHER INVESTMENTS
8 AND ASSOCIATIONS.—To acquire or establish sub-
9 sidiaries, to enter into partnerships, associations,
10 joint ventures, and other business relationships, and
11 to make investments in any person.

12 (8) LITIGATION.—To sue and be sued in its
13 corporate capacity, and to complain and defend in
14 any action brought by or against the Corporation in
15 any State or Federal court of competent jurisdiction.

16 (9) OFFICERS AND EMPLOYEES.—By the Board
17 of Directors—

18 (A) to appoint an executive director, a sec-
19 retary, and a treasurer and such other officers
20 and employees as the Board of Directors may
21 provide for in the bylaws;

22 (B) to define the duties of the officers and
23 employees;

24 (C) to fix the compensation of such officers
25 and employees and provide such other employ-

1 ment benefits as the Board of Directors may
2 provide for in the bylaws;

3 (D) to require bonds of officers and em-
4 ployees; and

5 (E) to dismiss at pleasure any officer or
6 employee.

7 (10) STANDARDS.—To establish such standards
8 as may be appropriate to carry out the requirements
9 of this Act, including underwriting standards.

10 (11) OTHER POWERS.—To exercise such inci-
11 dental powers as may be appropriate to carry out
12 the purposes of this Act.

13 (12) SUCCESSION.—To have succession until
14 dissolved.

15 (b) DUTIES.—

16 (1) IN GENERAL.—The Corporation shall de-
17 velop strategies and provide financial and technical
18 assistance for building and expanding the economic
19 base of the lower Mississippi delta region and com-
20 munities within the region.

21 (2) DEVELOPMENT STRATEGIES AUTHOR-
22 IZED.—In carrying out the purposes of this Act with
23 respect to the lower Mississippi delta region, the
24 Corporation may—

1 (A) initiate or participate in community
2 strategic planning for economic development;

3 (B) provide, or participate in the provision
4 of, technical training programs or technical
5 services which the Corporation determines are
6 appropriate for local capacity building, develop-
7 ing economic opportunities for businesses, in-
8 cluding microenterprises, in the region or within
9 any community in the region;

10 (C) provide, or participate in the provision
11 of, regional economic research and analysis and
12 sectoral development services;

13 (D) raise funds for regional and local eco-
14 nomic development and other purposes of this
15 Act from the Federal Government, State gov-
16 ernments within the region, foundations, cor-
17 porations, and other persons;

18 (E) provide support through incentives and
19 other forms of economic enhancement, including
20 investments and grants, for the development of
21 local financial institutions, including microloan
22 funds, seed capital and venture capital funds,
23 revolving loan funds, in order to make develop-
24 ment banking and related financial services

1 more available in the lower Mississippi delta re-
2 gion;

3 (F) make or guarantee loans and provide
4 grants (including matching grants) in connec-
5 tion with providing technical training programs
6 or technical services and strategies for expand-
7 ing existing businesses, including micro-enter-
8 prises and other economic development within
9 the region; and

10 (G) establish terms for any loan under this
11 paragraph which provide that the principal of
12 the loan, or any portion of any such principal,
13 may be forgiven if the program or project for
14 which such loan has been made meets or ex-
15 ceeds such performance goals as may be estab-
16 lished under the terms of the loan.

17 (c) PASSIVE INVESTMENTS IN LOCAL BANKS.—

18 (1) IN GENERAL.—The Corporation may ac-
19 quire and retain shares of insured depository institu-
20 tions and depository institution holding companies
21 which are located in the lower Mississippi delta re-
22 gion and which are part of the development strategy
23 and mission adopted by the Corporation.

24 (2) PASSIVE INVESTMENT RULE.—If—

1 (A) the amount of the shares held by the
2 Corporation in any insured depository institu-
3 tion or depository institution holding company
4 at any time does not exceed 50 percent of the
5 total number of the outstanding shares issued
6 by such institution or holding company; and

7 (B) the acquisition and retention of such
8 shares by the Corporation is made for purposes
9 of investment and is not made for the purpose
10 of acquiring, exercising, or transferring control
11 of any such depository institution or depository
12 institution holding company,

13 the Corporation shall not be deemed to control the
14 depository institution or depository institution hold-
15 ing company for purposes of sections 2, 3, and 4 of
16 the Bank Holding Company Act of 1956 or section
17 10 of the Home Owners' Loan Act.

18 (3) DEFINITIONS.—For purposes of this sub-
19 section, the terms “insured depository institution”
20 and “depository institution holding company” have
21 the meaning given to such terms in section 3 of the
22 Federal Deposit Insurance Act.

23 **SEC. 5. STOCK ISSUANCE.**

24 (a) COMMON STOCK ISSUANCE.—

1 (1) IN GENERAL.—The Corporation may issue
2 common stock having par value fixed by the board
3 of directors.

4 (2) VOTING RIGHTS.—Each share of common
5 stock shall be entitled to 1 vote with rights of cumu-
6 lative voting in elections of directors.

7 (3) DIVIDENDS.—The Corporation may pay to
8 holders of common stock issued under this sub-
9 section such dividends on that stock as may be de-
10 termined by the board of directors.

11 (b) PREFERRED STOCK.—

12 (1) ISSUANCE.—The Corporation may issue
13 nonvoting preferred stock having such par value as
14 the board of directors may determine.

15 (2) PREFERENCE ON TERMINATION OF BUSI-
16 NESS.—In the event of any liquidation, dissolution,
17 or completion of the business of the Corporation,
18 holders of the preferred shares of stock of the Cor-
19 poration, shall be paid in full at the par value of
20 those shares, plus all accrued dividends, before the
21 holders of shares of common stock of the Corpora-
22 tion may receive any payment.

23 **SEC. 6. GRANTS TO CORPORATION.**

24 (a) AUTHORIZATION OF APPROPRIATIONS.—There is
25 authorized to be appropriated to the President the sum

1 of \$100,000,000 for fiscal years 1994, 1995, 1996, 1997,
2 and 1998 for grants to the Corporation to carry out the
3 purposes of this Act.

4 (b) GRANTS TO CORPORATION.—The President may
5 make such grants to the Corporation as the President de-
6 termines to be appropriate to carry out the purposes of
7 this Act, including the use of such funds by the Corpora-
8 tion to secure obligations issued by the Corporation.

9 (c) RECEIPT OF FUNDS NOT TO AFFECT PRIVATE
10 STATUS OF CORPORATION.—The Corporation shall not be
11 treated as a Government corporation for purposes of chap-
12 ter 91 of title 31, United States Code, or any other provi-
13 sion of law by virtue of any grant to the Corporation under
14 this section.

15 (d) TREATMENT OF CORPORATION FUNDS.—No con-
16 tribution or investment made by the Corporation with re-
17 spect to any other person shall be treated as a contribution
18 or investment involving any funds other than private funds
19 because of any grant made to the Corporation under this
20 section, for purposes of the Small Business Investment
21 Act of 1958 or any other provision of law.

22 **SEC. 7. RESOURCE COMMITTEE.**

23 (a) IN GENERAL.—The Corporation shall establish
24 an advisory committee consisting of _____ members ap-
25 pointed by the board of directors from among individuals

1 especially qualified to advise the Corporation by virtue of
2 their education, training, and experience.

3 (b) DESIGNEE OF FEDERAL RESERVE BOARD.—Not-
4 withstanding the appointment authority of the board of
5 directors of the Corporation under subsection (a), the
6 Board of Governors of the Federal Reserve System may
7 designate 1 officer or employee of such Board to serve as
8 a member of the advisory committee established pursuant
9 to subsection (a).

10 **SEC. 8. ANNUAL REPORT.**

11 The Corporation shall submit an annual report on the
12 operations of the Corporation and a financial statement
13 to the Congress.

14 **SEC. 9. ANNUAL GAO EXAMINATION.**

15 (a) IN GENERAL.—Notwithstanding any other provi-
16 sion of law and in accordance with such regulations as
17 the Comptroller General of the United States may pre-
18 scribe, the Comptroller General shall perform an annual
19 examination and a financial audit of the Corporation on
20 whatever basis the Comptroller General determines to be
21 appropriate.

22 (b) ACCESS TO RECORDS.—The Corporation shall—

23 (1) make available to the Comptroller General
24 for audit all records and property, used, or managed
25 by the Corporation;

1 (2) provide the Comptroller General with facili-
2 ties for verifying transactions with the balances or
3 securities held by depositaries, fiscal agents, or
4 custodians; and

5 (3) provide the Comptroller General with suit-
6 able and lockable offices, access to copying facilities,
7 and furniture and telephones.

8 (c) ANNUAL REPORT.—The Comptroller General
9 shall make an annual report to the Congress on the exam-
10 ination and financial audit of the Corporation under this
11 section.

12 **SEC. 10. FEDERAL AGENCY ASSISTANCE.**

13 Each agency, department, or other instrumentality of
14 the Federal Government may provide funds, services, and
15 facilities, on a reimbursable basis, which are appropriate
16 to assist the Corporation to carry out the purposes of this
17 Act.

18 **SEC. 11. REORGANIZATION AS A STATE CHARTERED COR-**
19 **PORATION.**

20 (a) IN GENERAL.—The board of directors of the Cor-
21 poration shall recharter and reorganize the Corporation as
22 a State-chartered corporation during the 6-month period
23 beginning at the end of fiscal year 1999.

24 (b) APPLICABILITY OF ACT.—This Act shall cease to
25 apply with respect to the Corporation as of the effective

- 1 date of the chartering of the Corporation as a State-char-
- 2 tered corporation pursuant to subsection (a).

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