

1-1 By: Alvarado S.B. No. 678
 1-2 (In the Senate - Filed February 12, 2021; March 11, 2021,
 1-3 read first time and referred to Committee on Finance;
 1-4 April 14, 2021, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 14, Nays 1; April 14, 2021,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18		X		
1-19	X			
1-20	X			
1-21	X			
1-22	X			
1-23	X			

1-24 COMMITTEE SUBSTITUTE FOR S.B. No. 678 By: Whitmire

1-25 A BILL TO BE ENTITLED
 1-26 AN ACT

1-27 relating to the creation of the small business disaster recovery
 1-28 loan program.

1-29 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-30 SECTION 1. Chapter 403, Government Code, is amended by
 1-31 adding Subchapter R to read as follows:

1-32 SUBCHAPTER R. SMALL BUSINESS DISASTER RECOVERY LOAN PROGRAM

1-33 Sec. 403.501. DEFINITIONS. In this subchapter:

1-34 (1) "Disaster declaration" means a declaration by the
 1-35 governor of a state of disaster under Section 418.014.

1-36 (2) "Fund" means the small business disaster recovery
 1-37 revolving fund created under Section 403.506.

1-38 (3) "Small business" has the meaning assigned by
 1-39 Section 481.401.

1-40 (4) "Trust company" means the Texas Treasury
 1-41 Safekeeping Trust Company.

1-42 Sec. 403.502. SMALL BUSINESS DISASTER RECOVERY LOAN
 1-43 PROGRAM. (a) The comptroller by rule shall establish a loan
 1-44 program to use money from the fund established under this
 1-45 subchapter to provide financial assistance to small businesses
 1-46 affected by a disaster.

1-47 (b) The comptroller may provide financial assistance from
 1-48 the fund only:

1-49 (1) in the form of a loan to an eligible small business
 1-50 that is located in an area under a disaster declaration; and

1-51 (2) during the period for which the disaster
 1-52 declaration is in effect.

1-53 (c) The comptroller shall credit to the fund all principal
 1-54 and interest payments on a loan from the fund.

1-55 Sec. 403.503. ELIGIBILITY FOR LOAN. The comptroller by
 1-56 rule shall establish the eligibility requirements for a loan to a
 1-57 small business under this subchapter. The requirements must
 1-58 include that the small business:

1-59 (1) is in good standing under the laws of this state;

1-60 (2) does not owe delinquent taxes to a taxing unit of

2-1 this state;

2-2 (3) has suffered physical damage or economic injury as
 2-3 a result of the event leading to the disaster declaration; and

2-4 (4) has paid in full any previous loans received under
 2-5 this subchapter.

2-6 Sec. 403.504. USES OF LOAN. An eligible small business may
 2-7 only use a loan received under this subchapter to pay the small
 2-8 business's payroll costs, including costs related to the
 2-9 continuation of health care benefits for the small business's
 2-10 employees.

2-11 Sec. 403.505. APPLICATION FOR LOAN. The comptroller shall
 2-12 develop and implement an application process for an eligible small
 2-13 business to receive a loan under this subchapter.

2-14 Sec. 403.506. SMALL BUSINESS DISASTER RECOVERY REVOLVING
 2-15 FUND. (a) The small business disaster recovery revolving fund is
 2-16 a special fund outside the state treasury to be used by the
 2-17 comptroller, without further legislative appropriation, for the
 2-18 purpose of providing financial assistance to small businesses in
 2-19 response to a disaster declaration as provided by this subchapter.
 2-20 The comptroller shall administer the fund. The comptroller may
 2-21 establish separate accounts in the fund. The fund and the fund's
 2-22 accounts are kept and held by the trust company in escrow and in
 2-23 trust for and in the name of the comptroller. The comptroller has
 2-24 legal title to money and investments in the fund until money is
 2-25 disbursed from the fund as provided by this subchapter and
 2-26 comptroller rules.

2-27 (b) Money deposited to the credit of the fund may be used
 2-28 only as provided by this subchapter.

2-29 (c) The fund consists of:

2-30 (1) money transferred or deposited to the credit of
 2-31 the fund by law, including money from any source transferred or
 2-32 deposited to the credit of the fund at the comptroller's discretion
 2-33 as authorized by law;

2-34 (2) the proceeds of any fee or tax imposed by this
 2-35 state that by statute is dedicated for deposit to the credit of the
 2-36 fund;

2-37 (3) any other revenue that the legislature by statute
 2-38 dedicates for deposit to the credit of the fund; and

2-39 (4) investment earnings and interest earned on amounts
 2-40 credited to the fund.

2-41 Sec. 403.507. MANAGEMENT AND INVESTMENT OF FUND. (a) The
 2-42 trust company shall hold and invest the fund, and any accounts
 2-43 established in the fund, for and in the name of the comptroller,
 2-44 taking into account the purposes for which money in the fund may be
 2-45 used. The fund may be co-invested with the state treasury pool.

2-46 (b) The overall objective for the investment of the fund is
 2-47 to maintain sufficient liquidity to meet the needs of the fund while
 2-48 striving to preserve the purchasing power of the fund. It is the
 2-49 intent of the legislature that the fund remain available in
 2-50 perpetuity for the purposes of this subchapter.

2-51 (c) The trust company has any power necessary to accomplish
 2-52 the purposes of managing and investing the assets of the fund. In
 2-53 managing the assets of the fund, through procedures and subject to
 2-54 restrictions the trust company considers appropriate, the trust
 2-55 company may acquire, exchange, sell, supervise, manage, or retain
 2-56 any kind of investment that a prudent investor, exercising
 2-57 reasonable care, skill, and caution, would acquire or retain in
 2-58 light of the purposes, terms, distribution requirements, and other
 2-59 circumstances of the fund then prevailing, taking into
 2-60 consideration the investment of all the assets of the fund rather
 2-61 than a single investment.

2-62 (d) The trust company may recover the costs incurred in
 2-63 managing and investing the fund only from the earnings of the fund.

2-64 (e) The trust company annually shall report to the
 2-65 comptroller with respect to the investment of the fund. The trust
 2-66 company shall contract with a certified public accountant to
 2-67 conduct an independent audit of the fund annually and shall present
 2-68 the results of each annual audit to the comptroller. This
 2-69 subsection does not affect the state auditor's authority to conduct

3-1 an audit of the fund under Chapter 321.
3-2 (f) The trust company shall adopt an investment policy that
3-3 is appropriate for the fund. The trust company shall present the
3-4 investment policy to the investment advisory board established
3-5 under Section 404.028. The investment advisory board shall submit
3-6 to the trust company recommendations regarding the policy.
3-7 (g) The comptroller annually shall provide to the trust
3-8 company a forecast of the cash flows into and out of the fund. The
3-9 comptroller shall provide updates to the forecasts as appropriate
3-10 to ensure that the trust company is able to achieve the objective
3-11 specified by Subsection (b).
3-12 (h) The trust company shall disburse money from the fund as
3-13 directed by the comptroller.
3-14 Sec. 403.508. RULES. The comptroller shall adopt rules
3-15 necessary to implement this subchapter.
3-16 Sec. 403.509. REPORT. Not later than December 1 of each
3-17 even-numbered year, the comptroller shall prepare and submit to the
3-18 governor, the lieutenant governor, and each member of the
3-19 legislature a report that includes:
3-20 (1) the balance of the fund as of the date of the
3-21 report;
3-22 (2) the total dollar amount of disbursements from the
3-23 fund during the two-year period preceding that date; and
3-24 (3) a general description of each small business for
3-25 which an applicant was awarded a loan from the fund during the
3-26 two-year period preceding that date.
3-27 SECTION 2. The comptroller of public accounts and the Texas
3-28 Treasury Safekeeping Trust Company are required to implement a
3-29 provision of this Act only if the legislature appropriates money
3-30 specifically for that purpose. If the legislature does not
3-31 appropriate money specifically for that purpose, the comptroller
3-32 and the trust company may, but are not required to, implement a
3-33 provision of this Act using other appropriations that are available
3-34 for that purpose.
3-35 SECTION 3. This Act takes effect September 1, 2021.

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