

By: Alvarado

S.B. No. 678

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the small business disaster recovery loan program.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 481, Government Code, is amended by adding Subchapter cc to read as follows:

SUBCHAPTER CC. SMALL BUSINESS DISASTER RECOVERY LOAN PROGRAM

Sec. 481.601. DEFINITIONS. In this subchapter:

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

(2) "Fund" means the small business disaster recovery revolving fund created under Section 481.606.

(3) "Small business" has the meaning assigned by Section 481.401.

(4) "Trust company" means the Texas Treasury Safekeeping Trust Company.

Sec. 481.602. SMALL BUSINESS DISASTER RECOVERY LOAN PROGRAM. (a) The office by rule shall establish a loan program to use money from the fund established under this subchapter to provide financial assistance to small businesses affected by a disaster.

(b) The office may provide financial assistance from the fund only:

(1) in the form of a loan to an eligible small business

1 that is located in an area under a disaster declaration; and

2 (2) during the period for which the disaster
3 declaration is in effect.

4 (c) The office shall credit to the fund all principal and
5 interest payments on a loan from the fund.

6 Sec. 481.603. ELIGIBILITY FOR LOAN. The office by rule
7 shall establish the eligibility requirements for a loan to a small
8 business under this subchapter. The requirements must include that
9 the small business:

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

11 (2) does not owe delinquent taxes to a taxing unit of
12 this state;

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

15 (4) has paid in full any previous loans received under
16 this subchapter.

17 Sec. 481.604. USES OF LOAN. An eligible small business may
18 only use a loan received under this subchapter to pay the small
19 business's payroll costs, including costs related to the
20 continuation of health care benefits for the small business's
21 employees.

22 Sec. 481.605. APPLICATION FOR LOAN. The office shall
23 develop and implement an application process for an eligible small
24 business to receive a loan under this subchapter.

25 Sec. 481.606. SMALL BUSINESS DISASTER RECOVERY REVOLVING
26 FUND. (a) The small business disaster recovery revolving fund is
27 a special fund outside the state treasury to be used by the office,

1 without further legislative appropriation, for the purpose of
2 providing financial assistance to small businesses in response to a
3 disaster declaration as provided by this subchapter. The office
4 shall administer the fund. The office may establish separate
5 accounts in the fund. The fund and the fund's accounts are kept and
6 held by the trust company in escrow and in trust for and in the name
7 of the office. The office has legal title to money and investments
8 in the fund until money is disbursed from the fund as provided by
9 this subchapter and office rules.

10 (b) Money deposited to the credit of the fund may be used
11 only as provided by this subchapter.

12 (c) The fund consists of:

13 (1) money transferred or deposited to the credit of
14 the fund by law, including money from any source transferred or
15 deposited to the credit of the fund at the office's discretion as
16 authorized by law;

17 (2) the proceeds of any fee or tax imposed by this
18 state that by statute is dedicated for deposit to the credit of the
19 fund;

20 (3) any other revenue that the legislature by statute
21 dedicates for deposit to the credit of the fund; and

22 (4) investment earnings and interest earned on amounts
23 credited to the fund.

24 Sec. 481.607. MANAGEMENT AND INVESTMENT OF FUND. (a) The
25 trust company shall hold and invest the fund, and any accounts
26 established in the fund, for and in the name of the office, taking
27 into account the purposes for which money in the fund may be used.

1 The fund may be co-invested with the state treasury pool.

2 (b) The overall objective for the investment of the fund is
3 to maintain sufficient liquidity to meet the needs of the fund while
4 striving to preserve the purchasing power of the fund. It is the
5 intent of the legislature that the fund remain available in
6 perpetuity for the purposes of this subchapter.

7 (c) The trust company has any power necessary to accomplish
8 the purposes of managing and investing the assets of the fund. In
9 managing the assets of the fund, through procedures and subject to
10 restrictions the trust company considers appropriate, the trust
11 company may acquire, exchange, sell, supervise, manage, or retain
12 any kind of investment that a prudent investor, exercising
13 reasonable care, skill, and caution, would acquire or retain in
14 light of the purposes, terms, distribution requirements, and other
15 circumstances of the fund then prevailing, taking into
16 consideration the investment of all the assets of the fund rather
17 than a single investment.

18 (d) The trust company may recover the costs incurred in
19 managing and investing the fund only from the earnings of the fund.

20 (e) The trust company annually shall report to the office
21 with respect to the investment of the fund. The trust company shall
22 contract with a certified public accountant to conduct an
23 independent audit of the fund annually and shall present the
24 results of each annual audit to the office. This subsection does
25 not affect the state auditor's authority to conduct an audit of the
26 fund under Chapter [321](#).

27 (f) The trust company shall adopt an investment policy that

1 is appropriate for the fund. The trust company shall present the
2 investment policy to the investment advisory board established
3 under Section 404.028. The investment advisory board shall submit
4 to the trust company recommendations regarding the policy.

5 (g) The office annually shall provide to the trust company a
6 forecast of the cash flows into and out of the fund. The office
7 shall provide updates to the forecasts as appropriate to ensure
8 that the trust company is able to achieve the objective specified by
9 Subsection (b).

10 (h) The trust company shall disburse money from the fund as
11 directed by the office.

12 Sec. 481.608. RULES. The office shall adopt rules
13 necessary to implement this subchapter.

14 Sec. 481.609. REPORT. Not later than December 1 of each
15 even-numbered year, the office shall prepare and submit to the
16 governor, the lieutenant governor, and each member of the
17 legislature a report that includes:

18 (1) the balance of the fund as of the date of the
19 report;

20 (2) the total dollar amount of disbursements from the
21 fund during the two-year period preceding that date; and

22 (3) a general description of each small business for
23 which an applicant was awarded a loan from the fund during the
24 two-year period preceding that date.

25 SECTION 2. The Texas Economic Development and Tourism
26 Office and the Texas Treasury Safekeeping Trust Company are
27 required to implement a provision of this Act only if the

1 legislature appropriates money specifically for that purpose. If
2 the legislature does not appropriate money specifically for that
3 purpose, the office and the trust company may, but are not required
4 to, implement a provision of this Act using other appropriations
5 that are available for that purpose.

6 SECTION 3. This Act takes effect September 1, 2021.