

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 403, Government Code, is amended by adding Subchapter R to read as follows:

SUBCHAPTER R. SMALL BUSINESS DISASTER RECOVERY LOAN PROGRAM

Sec. 403.501. 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 403.506.

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

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

Sec. 403.502. SMALL BUSINESS DISASTER RECOVERY LOAN PROGRAM. (a) The comptroller 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 comptroller 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 comptroller shall credit to the fund all principal
5 and interest payments on a loan from the fund.

6 Sec. 403.503. ELIGIBILITY FOR LOAN. The comptroller by
7 rule shall establish the eligibility requirements for a loan to a
8 small business under this subchapter. The requirements must include
9 that 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. 403.504. 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. 403.505. APPLICATION FOR LOAN. The comptroller shall
23 develop and implement an application process for an eligible small
24 business to receive a loan under this subchapter.

25 Sec. 403.506. SMALL BUSINESS DISASTER RECOVERY REVOLVING
26 FUND. (a) The small business disaster recovery revolving fund is a
27 special fund outside the state treasury to be used by the

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

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

13 (c) The fund consists of:

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

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

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

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

25 Sec. 403.507. MANAGEMENT AND INVESTMENT OF FUND. (a) The
26 trust company shall hold and invest the fund, and any accounts
27 established in the fund, for and in the name of the comptroller,

1 taking into account the purposes for which money in the fund may be
2 used. The fund may be co-invested with the state treasury pool.

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

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

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

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

1 (f) The trust company shall adopt an investment policy that
2 is appropriate for the fund. The trust company shall present the
3 investment policy to the investment advisory board established
4 under Section 404.028. The investment advisory board shall submit
5 to the trust company recommendations regarding the policy.

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

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

13 Sec. 403.508. RULES. The comptroller shall adopt rules
14 necessary to implement this subchapter.

15 Sec. 403.509. REPORT. Not later than December 1 of each
16 even-numbered year, the comptroller shall prepare and submit to the
17 governor, the lieutenant governor, and each member of the
18 legislature a report that includes:

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

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

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

26 SECTION 2. This Act takes effect September 1, 2021.