

1-1 By: Hinojosa S.B. No. 1465
 1-2 (In the Senate - Filed March 10, 2021; March 24, 2021, read
 1-3 first time and referred to Committee on Natural Resources &
 1-4 Economic Development; April 30, 2021, reported adversely, with
 1-5 favorable Committee Substitute by the following vote: Yeas 8, Nays
 1-6 0; April 30, 2021, 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 COMMITTEE SUBSTITUTE FOR S.B. No. 1465 By: Hinojosa

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to operation of the Texas small and rural community
 1-22 success fund program administered by the Texas Economic Development
 1-23 Bank as successor to the Texas leverage fund program and to creation
 1-24 of the micro-business disaster recovery loan guarantee program.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Chapter 489, Government Code, is amended by
 1-27 adding Subchapters E and F to read as follows:

1-28 SUBCHAPTER E. TEXAS SMALL AND RURAL COMMUNITY SUCCESS FUND

1-29 Sec. 489.251. DEFINITION. In this subchapter, "fund" means
 1-30 the Texas small and rural community success fund established by
 1-31 Section 489.252.

1-32 Sec. 489.252. TEXAS SMALL AND RURAL COMMUNITY SUCCESS FUND.

1-33 (a) The Texas small and rural community success fund is created as
 1-34 a trust fund held outside the state treasury by the comptroller as
 1-35 trustee. The comptroller shall hold money in the fund in escrow and
 1-36 in trust for and on behalf of the bank and the owners of bonds issued
 1-37 under Section 489.253.

1-38 (b) The fund consists of:

1-39 (1) proceeds from the issuance of bonds under Section
 1-40 489.253;

1-41 (2) payments of principal and interest on loans made
 1-42 under this subchapter;

1-43 (3) loan origination fees imposed on loans made under
 1-44 this subchapter;

1-45 (4) investment earnings described by Subsection (e);
 1-46 and

1-47 (5) any other money received by the bank under this
 1-48 subchapter.

1-49 (c) The fund may be used only:

1-50 (1) to make loans to economic development corporations
 1-51 for eligible projects as authorized by Chapters 501, 504, and 505,
 1-52 Local Government Code;

1-53 (2) to pay the bank's necessary and reasonable costs of
 1-54 administering the program established by this subchapter,
 1-55 including the payment of letter of credit fees and credit rating
 1-56 fees;

1-57 (3) to pay the principal of and interest on bonds
 1-58 issued under Section 489.253;

1-59 (4) to pay reasonable fees and other costs incurred by
 1-60 the bank in administering the fund; and

2-1 (5) for any other purpose authorized by this
 2-2 subchapter.

2-3 (d) The bank, in coordination with the comptroller, may
 2-4 provide for the establishment and maintenance of separate accounts
 2-5 or sub-accounts in the fund, including interest and sinking
 2-6 accounts, reserve accounts, program accounts, or other accounts.
 2-7 The accounts and sub-accounts must be kept and held in escrow and in
 2-8 trust as provided by Subsection (a).

2-9 (e) Pending use, the comptroller may invest and reinvest the
 2-10 money in the fund in investments authorized by law for state funds.
 2-11 Earnings on the investments shall be credited to the fund.

2-12 (f) The bank may use money in the fund for the purposes
 2-13 specified by and according to the procedures established by this
 2-14 subchapter. This state may take action with respect to the fund
 2-15 only as specified by this subchapter and only in accordance with the
 2-16 resolutions of the executive director of the office adopted under
 2-17 Section 489.253.

2-18 Sec. 489.253. REVENUE-BASED BONDS AUTHORIZED. (a) The
 2-19 bank, the office, or the office's successor agency may provide for
 2-20 the issuance, sale, and retirement of bonds, including obligations
 2-21 in the form of commercial paper notes, to provide funding for
 2-22 economic development purposes as authorized by Section 52-a,
 2-23 Article III, Texas Constitution, and this subchapter.

2-24 (b) The bonds are special obligations of the bank and the
 2-25 principal of and interest on the bonds must be payable solely from
 2-26 the revenues derived by the bank under this subchapter, including
 2-27 loan repayments secured by a pledge of the local economic
 2-28 development sales and use tax revenues imposed by municipalities
 2-29 for the benefit of economic development corporations created under
 2-30 Chapters 504 and 505, Local Government Code. The bonds do not
 2-31 constitute an indebtedness of this state, the office, or the bank in
 2-32 the meaning of the Texas Constitution or of any statutory
 2-33 limitation. The bonds do not constitute a pecuniary liability of
 2-34 this state, the office, or the bank or constitute a charge against
 2-35 the general credit of this state, the office, or the bank, or
 2-36 against the taxing power of this state. The limitations provided by
 2-37 this subsection must be stated plainly on the face of each bond.

2-38 (c) The executive director of the office by resolution may
 2-39 provide for the bonds to:

2-40 (1) be executed and delivered at any time in one or
 2-41 more series as a single issue or as several issues;

2-42 (2) be in any denomination and form, including
 2-43 registered uncertificated bonds not represented by written
 2-44 instruments and commonly known as book-entry obligations, the
 2-45 registration of ownership and transfer of which the bank shall
 2-46 provide for under a system of books and records maintained by a
 2-47 financial institution serving as trustee, paying agent, or bond
 2-48 registrar;

2-49 (3) be of a term authorized by the executive director,
 2-50 not to exceed 40 years from their date;

2-51 (4) be in coupon or registered form;

2-52 (5) be payable in installments and at a time or times
 2-53 not exceeding the term authorized by applicable law;

2-54 (6) be subject to terms of redemption;

2-55 (7) be payable at a place or places;

2-56 (8) bear no interest or bear interest at any rate or
 2-57 rates, fixed, variable, floating, or otherwise determined by the
 2-58 bank or determined under a contractual arrangement approved by the
 2-59 executive director, except that the maximum net effective interest
 2-60 rate, computed in accordance with Section 1204.005, on the bonds
 2-61 may not exceed a rate equal to the maximum annual interest rate
 2-62 established by Section 1204.006; and

2-63 (9) contain provisions not inconsistent with this
 2-64 subchapter.

2-65 (d) Bonds issued under this section are subject to review
 2-66 and approval by the attorney general in the same manner and with the
 2-67 same effect as may be required by law, including Chapter 1202 or
 2-68 1371, as applicable.

2-69 (e) This state pledges to and agrees with the owners of any

3-1 bonds issued under this section that this state will not limit or
3-2 alter the rights vested in the bank to fulfill the terms of any
3-3 agreements made with an owner or in any way impair the rights and
3-4 remedies of an owner until the bonds, together with any premium and
3-5 the interest on the bonds, with interest on any unpaid premium or
3-6 installments of interest, and all costs and expenses in connection
3-7 with any action or proceeding by or on behalf of the owners, are
3-8 fully met and discharged. The bank may include this pledge and
3-9 agreement of this state in any agreement with the owners of the
3-10 bonds.

3-11 Sec. 489.254. BOND SALE AND ISSUANCE. (a) Bonds issued
3-12 under Section 489.253 may be sold at public or private sale at a
3-13 price and in a manner and from time to time as resolutions of the
3-14 executive director of the office that authorize issuance of the
3-15 bonds provide.

3-16 (b) From the proceeds of the sale of the bonds, the bank may
3-17 pay expenses, premiums, and insurance premiums that the bank
3-18 considers necessary or advantageous in connection with the
3-19 authorization, sale, and issuance of the bonds.

3-20 (c) In connection with the issuance of its bonds, the bank
3-21 may exercise the powers granted to the governing body of an issuer
3-22 in connection with the issuance of obligations under Chapter 1371.
3-23 However, any bonds issued in accordance with this subchapter and
3-24 Chapter 1371 are not subject to the rating requirement for an
3-25 obligation issued under Chapter 1371.

3-26 Sec. 489.255. AGREEMENTS IN BONDS. (a) A resolution of the
3-27 executive director of the office that authorizes bonds to be issued
3-28 under Section 489.253 or a security agreement, including a related
3-29 indenture or trust indenture, may contain any agreements and
3-30 provisions customarily contained in instruments securing bonds,
3-31 including provisions respecting the fixing and collection of
3-32 obligations, the creation and maintenance of special funds, and the
3-33 rights and remedies available, in the event of default to the
3-34 holders of the bonds or to the trustee under the security agreement,
3-35 all as the bank considers advisable and consistent with this
3-36 subchapter. However, in making such an agreement or provision, the
3-37 bank may not incur:

3-38 (1) a pecuniary liability of this state, the office,
3-39 or the bank; or

3-40 (2) a charge against the general credit of this state,
3-41 the office, or the bank, or against the taxing powers of this state.

3-42 (b) The resolution of the executive director of the office
3-43 authorizing the issuance of the bonds and a security agreement
3-44 securing the bonds may provide that, in the event of default in
3-45 payment of the principal of or interest on the bonds or in the
3-46 performance of an agreement contained in the proceedings or
3-47 security agreement, the payment and performance may be enforced as
3-48 provided by Sections 403.055 and 403.0551, by mandamus, or by the
3-49 appointment of a receiver in equity with power to charge and collect
3-50 bonds and to apply revenues pledged according to the proceedings or
3-51 the provisions of the security agreement. A security agreement may
3-52 provide that, in the event of default in payment or the violation of
3-53 an agreement contained in the security agreement, a trustee under
3-54 the security agreement may enforce the bondholder's rights by
3-55 mandamus or other proceedings at law or in equity to obtain any
3-56 relief permitted by law, including the right to collect and receive
3-57 any revenue used to secure the bonds.

3-58 (c) A breach of a resolution of the executive director of
3-59 the office adopted under Section 489.253, a breach of an agreement
3-60 made under this section, or a default under bonds issued under this
3-61 subchapter does not constitute:

3-62 (1) a pecuniary liability of this state, the office,
3-63 or the bank; or

3-64 (2) a charge against the general credit of this state,
3-65 the office, or the bank, or against the taxing power of this state.

3-66 (d) The trustee or trustees under a security agreement or a
3-67 depository specified by the security agreement may be any person
3-68 that the bank designates, regardless of whether the person is a
3-69 resident of this state or incorporated under the laws of the United

4-1 States or any state.
4-2 Sec. 489.256. REFUNDING BONDS. (a) Bonds issued under
4-3 Section 489.253 may be refunded by the bank by the issuance of the
4-4 bank's refunding bonds in the amount that the bank considers
4-5 necessary to refund the unpaid principal of the refunded bonds,
4-6 together with any unpaid interest, premiums, expenses, and
4-7 commissions required to be paid in connection with the refunded
4-8 bonds. Refunding may be effected whether the refunded bonds have
4-9 matured or are to mature later, either by sale of the refunding
4-10 bonds or by exchange of the refunding bonds for the refunded bonds.

4-11 (b) A holder of refunded bonds may not be compelled to
4-12 surrender the bonds for payment or exchange before the date on which
4-13 the bonds are payable, or, if the bonds are called for redemption,
4-14 before the date on which they are by their terms subject to
4-15 redemption.

4-16 (c) Refunding bonds having a final maturity not to exceed
4-17 that permitted for other bonds issued under Section 489.253 may be
4-18 issued under the same terms and conditions provided by this
4-19 subchapter for the issuance of bonds or may be issued in the manner
4-20 provided by statute, including Chapters 1207 and 1371.

4-21 Sec. 489.257. USE OF BOND PROCEEDS. The proceeds from the
4-22 sale of bonds issued under this subchapter may be applied only for a
4-23 purpose for which the bonds were issued, except that:

4-24 (1) any secured interest received in the sale shall be
4-25 applied to the payment of the principal of or interest on the bonds
4-26 sold and, if a portion of the proceeds is not needed for a purpose
4-27 for which the bonds were issued, that portion shall be applied to
4-28 the payment of the principal of or interest on the bonds; and

4-29 (2) any premium received in the sale of the bonds shall
4-30 be applied in accordance with Section 1201.042(d).

4-31 Sec. 489.258. BONDS AS LEGAL INVESTMENTS FOR FIDUCIARIES
4-32 AND OTHER PERSONS. (a) Bonds of the bank issued under this
4-33 subchapter are securities in which all public officers and bodies
4-34 of this state; municipalities; municipal subdivisions; insurance
4-35 companies and associations and other persons carrying on an
4-36 insurance business; banks, bankers, trust companies, savings and
4-37 loan associations, investment companies, and other persons
4-38 carrying on a banking business; administrators, guardians,
4-39 executors, trustees, and other fiduciaries; and other persons
4-40 authorized to invest in other obligations of this state may invest
4-41 funds, including capital, in their control or belonging to them.

4-42 (b) Notwithstanding any other provision of law, the bonds of
4-43 the bank issued under this subchapter are also securities that may
4-44 be deposited with and received by public officers and bodies of this
4-45 state and municipalities and municipal subdivisions for any purpose
4-46 for which the deposit of other obligations of the state are
4-47 authorized.

4-48 Sec. 489.259. ADMINISTRATION OF FUND. The bank shall
4-49 administer the fund. In administering the fund and this
4-50 subchapter, the bank has the powers necessary to carry out the
4-51 purposes of this subchapter, including the power to:

4-52 (1) make, execute, and deliver contracts,
4-53 conveyances, and other instruments; and

4-54 (2) impose charges and provide for reasonable
4-55 penalties for delinquent payments or performance in connection with
4-56 any transaction.

4-57 SUBCHAPTER F. MICRO-BUSINESS DISASTER RECOVERY LOAN GUARANTEE
4-58 PROGRAM

4-59 Sec. 489.301. DEFINITIONS. In this subchapter:

4-60 (1) "Declared disaster" means a state of disaster
4-61 declared by the governor under Chapter 418.

4-62 (2) "Financial institution" includes a bank, trust
4-63 company, banking association, savings and loan association,
4-64 mortgage company, investment bank, credit union, and
4-65 nontraditional financial institution.

4-66 (3) "Micro-business" means a corporation,
4-67 partnership, sole proprietorship, or other legal entity that:

4-68 (A) is domiciled in this state and has at least 95
4-69 percent of its employees located in this state;

5-1 (B) is formed to make a profit; and
5-2 (C) employs not more than 20 employees.

5-3 (4) "Participating financial institution" means a
5-4 financial institution participating in the program.

5-5 (5) "Program" means the micro-business disaster
5-6 recovery loan guarantee program.

5-7 Sec. 489.302. MICRO-BUSINESS DISASTER RECOVERY FUND. (a)
5-8 The micro-business disaster recovery fund is a dedicated account in
5-9 the general revenue fund.

5-10 (b) The micro-business disaster recovery fund is composed
5-11 of:

5-12 (1) money appropriated by the legislature for the
5-13 implementation and administration of this subchapter;

5-14 (2) amounts received by the state from federal grants
5-15 or other sources;

5-16 (3) interest earned on the investment of money in the
5-17 micro-business disaster recovery fund;

5-18 (4) amounts transferred from the Texas economic
5-19 development bank fund; and

5-20 (5) any other amounts received under this subchapter
5-21 and required by the bank to be deposited in the micro-business
5-22 disaster recovery fund.

5-23 (c) Money in the micro-business disaster recovery fund may
5-24 be appropriated only to the bank for use in carrying out the
5-25 purposes of this subchapter.

5-26 Sec. 489.303. POWERS OF BANK IN ADMINISTERING
5-27 MICRO-BUSINESS DISASTER RECOVERY FUND. In administering the
5-28 micro-business disaster recovery fund, the bank has the powers
5-29 necessary to carry out the purposes of this subchapter, including
5-30 the power to invest money at the bank's discretion in obligations
5-31 determined proper by the bank.

5-32 Sec. 489.304. MICRO-BUSINESS DISASTER RECOVERY LOAN
5-33 GUARANTEE PROGRAM. (a) The bank shall establish and administer a
5-34 micro-business disaster recovery loan guarantee program in which
5-35 money in the micro-business disaster recovery fund is used to
5-36 guarantee loans made by participating financial institutions to
5-37 micro-businesses that have suffered economic injury as a result of
5-38 a declared disaster.

5-39 (b) The bank shall determine the eligibility of a financial
5-40 institution to participate in the program and may set a limit on the
5-41 number of eligible financial institutions that may participate in
5-42 the program.

5-43 (c) To participate in the program, an eligible financial
5-44 institution must enter into a participation agreement with the bank
5-45 that sets out the terms and conditions under which loans made to
5-46 micro-businesses recovering from a declared disaster will be
5-47 guaranteed.

5-48 (d) To qualify for a loan guarantee under the program, a
5-49 micro-business:

5-50 (1) must:
5-51 (A) be in good standing under the laws of this
5-52 state; and

5-53 (B) not owe delinquent taxes to a taxing unit of
5-54 this state before the date of the initial issuance of the disaster
5-55 declaration; and

5-56 (2) may not:
5-57 (A) have total revenue that exceeds the amount
5-58 for which no franchise tax is due under Section 171.002(d)(2), Tax
5-59 Code; or

5-60 (B) be a franchise, a national chain with
5-61 operations in this state, a lobbying firm, or a private equity firm
5-62 or backed by a private equity firm.

5-63 (e) A micro-business that receives a loan guarantee shall
5-64 apply the loan to working capital or to the purchase, construction,
5-65 or lease of capital assets damaged, reduced, or lost as a result of
5-66 the declared disaster.

5-67 Sec. 489.305. RULEMAKING AUTHORITY. The executive director
5-68 of the office shall adopt rules relating to the implementation of
5-69 the program and any other rules necessary to accomplish the

6-1 purposes of this subchapter.

6-2 Sec. 489.306. ANNUAL REPORT BY PARTICIPATING FINANCIAL
6-3 INSTITUTION. A participating financial institution shall submit an
6-4 annual report to the bank. The report must:

6-5 (1) provide information regarding outstanding loan
6-6 guarantees, loan guarantee losses, and any other information on
6-7 loan guarantees under the program the bank considers appropriate;

6-8 (2) state the total amount of loans that the bank has
6-9 guaranteed under this subchapter;

6-10 (3) include a copy of the financial institution's most
6-11 recent financial statement; and

6-12 (4) include information regarding the type and size of
6-13 micro-businesses with loan guarantees.

6-14 Sec. 489.307. ANNUAL REPORT TO LEGISLATURE. The bank shall
6-15 submit to the legislature an annual status report on the program's
6-16 activities.

6-17 SECTION 2. Section 501.008, Local Government Code, is
6-18 amended to read as follows:

6-19 Sec. 501.008. LIMITATION ON FINANCIAL OBLIGATION. (a)
6-20 Except as provided by Subsection (b), a [A] corporation may not
6-21 incur a financial obligation that cannot be paid from:

6-22 (1) bond proceeds;

6-23 (2) revenue realized from the lease or sale of a
6-24 project;

6-25 (3) revenue realized from a loan made by the
6-26 corporation to wholly or partly finance or refinance a project; or

6-27 (4) money granted under a contract with a municipality
6-28 under Section 380.002.

6-29 (b) A Type A or Type B corporation may obtain a loan from the
6-30 Texas small and rural community success fund program under
6-31 Subchapter E, Chapter 489, Government Code, for eligible projects
6-32 as authorized by this subtitle. To secure the loan, the Type A or
6-33 Type B corporation may pledge revenue from the sales and use tax
6-34 imposed by the corporation's authorizing municipality under
6-35 Chapter 504 or 505, as applicable, for the benefit of the
6-36 corporation.

6-37 SECTION 3. The Texas small and rural community success fund
6-38 program authorizes the continued operation, under a new name and
6-39 with new provisions, as added by this Act, of the Texas leverage
6-40 fund program that was established by the September 9, 1992, master
6-41 resolution of the Texas Department of Commerce under Chapter 4
6-42 (S.B. 223), Acts of the 71st Legislature, Regular Session, 1989
6-43 (codifying authority of the former Texas Department of Commerce to
6-44 issue revenue bonds under former Sections 481.052 through 481.058,
6-45 Government Code), as amended by Chapter 1041 (S.B. 932), Acts of the
6-46 75th Legislature, Regular Session, 1997, and by Chapter 814 (S.B.
6-47 275), Acts of the 78th Legislature, Regular Session, 2003.

6-48 SECTION 4. (a) Except as provided by Subsection (b) of this
6-49 section, the governmental acts and proceedings of the comptroller,
6-50 the Texas Economic Development and Tourism Office, and the Texas
6-51 Economic Development Bank relating to the administration of the
6-52 Texas leverage fund program that occurred before the effective date
6-53 of this Act are validated as if the acts had occurred as authorized
6-54 by law.

6-55 (b) This section does not validate:

6-56 (1) an act that, under the law of this state at the
6-57 time the act occurred, was a misdemeanor or felony; or

6-58 (2) a matter that on the effective date of this Act:

6-59 (A) is involved in litigation if the litigation
6-60 ultimately results in the matter being held invalid by a final
6-61 judgment of a court; or

6-62 (B) has been held invalid by a final judgment of a
6-63 court.

6-64 SECTION 5. The comptroller of public accounts is required
6-65 to implement a provision of this Act only if the legislature
6-66 appropriates money specifically for that purpose. If the
6-67 legislature does not appropriate money specifically for that
6-68 purpose, the comptroller may, but is not required to, implement a
6-69 provision of this Act using other appropriations available for that

7-1 purpose.

7-2 SECTION 6. The Texas Economic Development and Tourism
7-3 Office is required to implement a provision of this Act only if the
7-4 legislature appropriates money specifically for that purpose. If
7-5 the legislature does not appropriate money specifically for that
7-6 purpose, the office may, but is not required to, implement a
7-7 provision of this Act using other appropriations available for that
7-8 purpose.

7-9 SECTION 7. The Texas Economic Development Bank is required
7-10 to implement a provision of this Act only if the legislature
7-11 appropriates money specifically for that purpose. If the
7-12 legislature does not appropriate money specifically for that
7-13 purpose, the bank may, but is not required to, implement a provision
7-14 of this Act using other appropriations available for that purpose.

7-15 SECTION 8. The attorney general is required to implement a
7-16 provision of this Act only if the legislature appropriates money
7-17 specifically for that purpose. If the legislature does not
7-18 appropriate money specifically for that purpose, the attorney
7-19 general may, but is not required to, implement a provision of this
7-20 Act using other appropriations available for that purpose.

7-21 SECTION 9. This Act takes effect immediately if it receives
7-22 a vote of two-thirds of all the members elected to each house, as
7-23 provided by Section 39, Article III, Texas Constitution. If this
7-24 Act does not receive the vote necessary for immediate effect, this
7-25 Act takes effect September 1, 2021.

7-26

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