

**As Introduced**

**133rd General Assembly  
Regular Session  
2019-2020**

**S. B. No. 362**

**Senator Peterson**

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**A BILL**

To amend section 122.151 of the Revised Code to 1  
increase the total amount of tax credits that 2  
may be awarded to insurance companies that 3  
invest in rural business growth funds. 4

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 122.151 of the Revised Code be 5  
amended to read as follows: 6

**Sec. 122.151.** (A) ~~On and after the effective date of the~~ 7  
~~enactment of this section~~ March 23, 2018, a person that has 8  
developed a business plan to invest in rural business concerns 9  
in this state and has successfully solicited private investors 10  
to make credit-eligible capital contributions in support of the 11  
plan may apply to the development services agency for 12  
certification as a rural business growth fund. The application 13  
shall include all of the following: 14

(1) The total eligible investment authority sought by the 15  
applicant under the business plan; 16

(2) Documents and other evidence sufficient to prove, to 17  
the satisfaction of the agency, that the applicant meets all of 18  
the following criteria: 19

(a) The applicant or an affiliate of the applicant is 20  
licensed as a rural business investment company under 7 U.S.C. 21  
2009cc, or as a small business investment company under 15 22  
U.S.C. 681. 23

(b) As of the date the application is submitted, the 24  
applicant has invested more than one hundred million dollars in 25  
operating companies, including at least fifty million dollars in 26  
operating companies located in rural areas. In computing 27  
investments under this division, the applicant may include 28  
investments made by affiliates of the applicant and investments 29  
made in businesses that are not operating companies but would 30  
qualify as operating companies if the principal business 31  
operations were located in this state. 32

(3) The industries in which the applicant proposes to make 33  
growth investments and the percentage of the growth investments 34  
that will be made in each industry. The applicant shall identify 35  
each industry by using the codes utilized by the north American 36  
industry classification system. 37

(4) An estimate of the number of new full-time equivalent 38  
employees and retained full-time equivalent employees that will 39  
result from the applicant's growth investments; 40

(5) A revenue impact assessment for the applicant's 41  
proposed growth investments prepared by a nationally recognized 42  
third-party independent economic forecasting firm using a 43  
dynamic economic forecasting model. The revenue impact 44  
assessment shall analyze the applicant's business plan over the 45  
ten years following the date the application is submitted to the 46  
agency. 47

(6) A signed affidavit from each investor successfully 48

solicited by the applicant to make a credit eligible capital 49  
contribution in support of the business plan. Each affidavit 50  
shall include information sufficient for the agency and the 51  
superintendent of insurance to identify the investor and shall 52  
state the amount of the investor's credit-eligible capital 53  
contribution. 54

(7) A nonrefundable application fee of five thousand 55  
dollars. 56

(B) (1) Except as provided in division (B) (2) of this 57  
section, the agency shall review and make a determination with 58  
respect to each application submitted under division (A) of this 59  
section within sixty days of receipt. The agency shall review 60  
and make determinations on the applications in the order in 61  
which the applications are received by the agency. Applications 62  
received by the agency on the same day shall be deemed to have 63  
been received simultaneously. The agency shall approve not more 64  
than ~~seventy five~~ one hundred fifty million dollars in eligible 65  
investment authority and not more than ~~forty five~~ ninety million 66  
dollars in credit-eligible capital contributions under this 67  
section. 68

(2) If the agency denies an application for certification 69  
as a fund, and approving a subsequently submitted application 70  
would result in exceeding the dollar limitation on eligible 71  
investment authority or credit-eligible contributions prescribed 72  
by division (B) (1) of this section assuming the previously 73  
denied application were completed, clarified, or cured under 74  
division (D) of this section, the agency shall refrain from 75  
making a determination on the subsequently submitted application 76  
until the previously denied application is reconsidered or the 77  
fifteen-day period for submitting additional information 78

respecting that application has passed, whichever comes first.	79
(C) The agency shall deny an application submitted under this section if any of the following are true:	80 81
(1) The application is incomplete.	82
(2) The application fee is not paid in full.	83
(3) The applicant does not satisfy all the criteria described in division (A) (2) of this section.	84 85
(4) The revenue impact assessment submitted under division (A) (5) of this section does not demonstrate that the applicant's business plan will result in a positive economic impact on this state over a ten-year period that exceeds the cumulative amount of tax credits that would be issued under section 122.152 of the Revised Code if the application were approved.	86 87 88 89 90 91
(5) The credit-eligible capital contributions described in affidavits submitted under division (A) (6) of this section do not equal sixty per cent of the total amount of eligible investment authority sought under the applicant's business plan.	92 93 94 95
(6) The agency has already approved the maximum total eligible investment authority and credit-eligible capital contributions allowed under division (B) of this section.	96 97 98
(D) If the agency denies an application under division (C) of this section, the agency shall send notice of its determination to the applicant. The notice shall include the reason or reasons that the application was denied. If the application was denied for any reason other than the reason specified in division (C) (6) of this section, the applicant may provide additional information to the agency to complete, clarify, or cure defects in the application. The additional	99 100 101 102 103 104 105 106

information must be submitted within fifteen days after the date 107  
the notice of denial was dispatched by the agency. If the person 108  
submits additional information within fifteen days, the agency 109  
shall reconsider the application within thirty days after 110  
receiving the additional information. The application shall be 111  
reviewed and considered before any pending application submitted 112  
after the original submission date of the reconsidered 113  
application. If the person does not submit additional 114  
information within fifteen days after dispatch of the notice of 115  
denial, the person may submit a new application with a new 116  
submission date at any time. 117

(E) If approving multiple simultaneously submitted 118  
applications would result in exceeding the overall eligible 119  
investment limit prescribed by division (B) of this section, the 120  
agency shall proportionally reduce the eligible investment 121  
authority and the credit-eligible capital contributions for each 122  
approved application as necessary to avoid exceeding the limit. 123

(F) The agency shall not deny a rural business growth fund 124  
application or reduce the requested eligible investment 125  
authority for reasons other than those described in divisions 126  
(C) and (E) of this section. If the agency approves such an 127  
application, the agency shall issue a written notice to the 128  
applicant certifying that the applicant qualifies as a rural 129  
business growth fund and specifying the amount of the 130  
applicant's eligible investment authority. 131

(G) A fund shall do all of the following within sixty days 132  
after receiving the certification issued under division (F) of 133  
this section: 134

(1) Collect the credit-eligible capital contributions from 135  
each investor whose affidavit was included in the application. 136

If the rural business growth fund's requested eligible investment authority is proportionally reduced under division (E) of this section, the investor's required credit-eligible capital contribution shall be reduced by the same proportion.

(2) Collect one or more investments of cash that, when added to the contributions collected under division (G) (1) of this section, equal the fund's eligible investment authority. At least ten per cent of the fund's eligible investment authority shall be comprised of equity investments contributed by affiliates of the fund, including employees, officers, and directors of such affiliates.

(H) Within sixty-five days after receiving the certification issued under division (F) (1) of this section, the fund shall send to the agency documentation sufficient to prove that the amounts described in divisions (G) (1) and (2) of this section have been collected. The fund shall identify any affiliate of an investor described in division (G) (1) of this section that will seek to claim the credit allowed by section 122.152 of the Revised Code. If the fund fails to fully comply with division (G) of this section, the fund's certification shall lapse.

Eligible investment authority and corresponding credit-eligible capital contributions that lapse under this division do not count toward limits on total eligible investment authority and credit-eligible capital contributions prescribed by division (B) of this section. Once eligible investment authority has lapsed, the agency shall first award lapsed authority pro rata to each fund that was awarded less than the requested eligible investment authority because of the operation of division (E) of this section. Any remaining eligible investment authority may be

awarded by the agency to new applicants. 167

(I) After receiving documentation sufficient to prove that 168  
the amounts described in divisions (G) (1) and (2) of this 169  
section have been collected, the agency shall issue the 170  
following notices: 171

(1) To each investor or affiliate identified in division 172  
(H) of this section, a notice of the amount and utilization 173  
schedule of the tax credits allocated to that investor or 174  
affiliate as a result of its credit-eligible capital 175  
contribution; 176

(2) To the superintendent of insurance, a notice of the 177  
amount and utilization schedule of the tax credits allocated to 178  
each investor described in division (G) (1) of this section and 179  
any affiliate of such investor who will seek to claim the credit 180  
allowed by section 122.152 of the Revised Code. 181

(J) Application fees submitted to the agency pursuant to 182  
division (A) (7) of this section shall be credited to the tax 183  
incentives operating fund created under section 122.174 of the 184  
Revised Code, and shall be used by the agency to administer 185  
sections 122.15 to 122.156 of the Revised Code. 186

**Section 2.** That existing section 122.151 of the Revised 187  
Code is hereby repealed. 188

**Section 3.** Pursuant to division (G) of section 5703.95 of 189  
the Revised Code, which states that any bill introduced in the 190  
House of Representatives or the Senate that proposes to enact or 191  
modify one or more tax expenditures should include a statement 192  
explaining the objectives of the tax expenditure or its 193  
modification and the sponsor's intent in proposing the tax 194  
expenditure or its modification: 195

The purpose of this bill is to foster small business	196
expansion and permanent job creation in rural Ohio counties by	197
increasing access to growth capital.	198