

As Passed by the Senate

133rd General Assembly

Regular Session

2019-2020

S. B. No. 362

Senator Peterson

**Cosponsors: Senators Burke, Hackett, Huffman, S., Antonio, Blessing, Coley,
Craig, Fedor, Gavarone, Hoagland, Hottinger, Johnson, Kunze, Maharath,
Manning, Obhof, Rulli, Schaffer, Thomas, Wilson, Yuko**

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 agency. 46
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 80
this section if any of the following are true: 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 84
described in division (A) (2) of this section. 85

(4) The revenue impact assessment submitted under division 86
(A) (5) of this section does not demonstrate that the applicant's 87
business plan will result in a positive economic impact on this 88
state over a ten-year period that exceeds the cumulative amount 89
of tax credits that would be issued under section 122.152 of the 90
Revised Code if the application were approved. 91

(5) The credit-eligible capital contributions described in 92
affidavits submitted under division (A) (6) of this section do 93
not equal sixty per cent of the total amount of eligible 94
investment authority sought under the applicant's business plan. 95

(6) The agency has already approved the maximum total 96
eligible investment authority and credit-eligible capital 97
contributions allowed under division (B) of this section. 98

(D) If the agency denies an application under division (C) 99
of this section, the agency shall send notice of its 100
determination to the applicant. The notice shall include the 101
reason or reasons that the application was denied. If the 102
application was denied for any reason other than the reason 103

specified in division (C) (6) of this section, the applicant may 104
provide additional information to the agency to complete, 105
clarify, or cure defects in the application. The additional 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	137
investment authority is proportionally reduced under division	138
(E) of this section, the investor's required credit-eligible	139
capital contribution shall be reduced by the same proportion.	140
(2) Collect one or more investments of cash that, when	141
added to the contributions collected under division (G) (1) of	142
this section, equal the fund's eligible investment authority. At	143
least ten per cent of the fund's eligible investment authority	144
shall be comprised of equity investments contributed by	145
affiliates of the fund, including employees, officers, and	146
directors of such affiliates.	147
(H) Within sixty-five days after receiving the	148
certification issued under division (F) (1) of this section, the	149
fund shall send to the agency documentation sufficient to prove	150
that the amounts described in divisions (G) (1) and (2) of this	151
section have been collected. The fund shall identify any	152
affiliate of an investor described in division (G) (1) of this	153
section that will seek to claim the credit allowed by section	154
122.152 of the Revised Code. If the fund fails to fully comply	155
with division (G) of this section, the fund's certification	156
shall lapse.	157
Eligible investment authority and corresponding credit-	158
eligible capital contributions that lapse under this division do	159
not count toward limits on total eligible investment authority	160
and credit-eligible capital contributions prescribed by division	161
(B) of this section. Once eligible investment authority has	162
lapsed, the agency shall first award lapsed authority pro rata	163

to each fund that was awarded less than the requested eligible 164
investment authority because of the operation of division (E) of 165
this section. Any remaining eligible investment authority may be 166
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