

1 A bill to be entitled
2 An act relating to rural communities; creating s.
3 288.062, F.S.; providing a short title; providing
4 definitions; requiring the Department of Economic
5 Opportunity to accept an application seeking approval
6 as a rural growth fund; requiring that the application
7 include certain materials, including an application
8 fee; requiring the department to grant or deny the
9 application within a specified time; prohibiting the
10 department from approving more than a certain amount
11 of investment authority or investor contributions;
12 requiring the department to deny an application if the
13 application does not meet certain requirements;
14 authorizing an applicant whose application was denied
15 to provide additional information to the department
16 within a certain timeframe; requiring the department
17 to review and reconsider an application that has
18 additional information submitted within a certain
19 timeframe; prohibiting the department from reducing
20 the investment authority of an application or denying
21 an application for reasons other than the ones listed;
22 requiring the department to certify an applicant that
23 has his or her application approved; requiring the
24 rural growth fund to collect contributions and
25 investments within a certain timeframe; requiring the

26 rural growth fund to send documentation of the
27 contributions and investments to the department;
28 requiring the department to provide a tax credit
29 certificate; providing that a rural growth fund's
30 certification will lapse for failure to comply;
31 requiring the department to redistribute lapsed
32 investment authority; providing that a taxpayer who
33 makes an investor contribution is vested with a credit
34 against state premium tax liability; providing
35 restrictions on the credit; requiring that a taxpayer
36 claiming a credit submit a copy of the tax credit
37 certificate with his or her tax return; requiring the
38 department to revoke the tax credit certificate if the
39 rural growth fund exits the program or fails to meet
40 certain requirements; providing a formula for
41 calculating the maximum amount of investments the
42 rural growth fund can count towards satisfying tax
43 credit certificate requirements; requiring the
44 department to give reasons for a pending revocation of
45 a tax credit certificate; specifying that the rural
46 growth fund has 90 days from the dispatch of the
47 notice to correct violations; requiring the department
48 to distribute reverted investment authority among
49 certain rural growth funds; authorizing the rural
50 growth fund to submit an exit application after a

51 specified time; requiring the department to respond to
52 an exit application within a certain timeframe;
53 prohibiting the department from unreasonably denying
54 an exit application; prohibiting the department from
55 revoking the rural growth fund's tax credit
56 certificate after the rural growth fund has exited the
57 program; authorizing the rural growth fund to request
58 a written opinion from the department about potential
59 investments; specifying that an out-of-state business
60 relocating employees to this state must satisfy a
61 specific definition within a certain timeframe before
62 a new principal place of business operations is
63 recognized; requiring the rural growth fund to submit
64 a report to the department at a specified time;
65 requiring that the report provide certain
66 documentation; requiring the rural growth fund to
67 submit an annual report to the department; requiring
68 that the annual report include certain information;
69 providing for rulemaking; requiring the department to
70 notify the Department of Revenue of any insurance
71 company that is allocated tax credits; providing
72 applicability; providing an effective date.

73
74 Be It Enacted by the Legislature of the State of Florida:
75

76 Section 1. Section 288.062, Florida Statutes, is created
 77 to read:

78 288.062 Florida Rural Community Jobs and Business
 79 Resiliency Act.-

80 (1) This section may be cited as the "Florida Rural
 81 Community Jobs and Business Resiliency Act."

82 (2) As used in this section:

83 (a) "Affiliate" means an entity that, directly or
 84 indirectly through one or more intermediaries, controls, is
 85 controlled by, or is under common control with another entity.

86 For purposes of this paragraph, an entity is controlled by
 87 another entity if the controlling entity holds, directly or
 88 indirectly, the majority voting or ownership interest in the
 89 controlled entity or has control over the day-to-day operations
 90 of the controlled entity by contract or law.

91 (b) "Closing date" means the date that a rural growth fund
 92 has collected all amounts specified by paragraph (3)(f).

93 (c) "Investment authority" means the amount stated on the
 94 certification notice issued pursuant to paragraph (3)(e).

95 (d) "Investor contribution" means an investment of cash,
 96 by a person with a state premium tax liability and equal to the
 97 amount specified on a tax certificate issued by the department,
 98 in a rural growth fund for an equity interest in the rural
 99 growth fund or a debt instrument, at par value or premium, which
 100 has a maturity date at least 5 years after the closing date.

101 (e) "Principal place of business operations" means the
102 place or places at which business operations are located, and
103 where at least 60 percent of the business's employees work or
104 where employees who are paid at least 60 percent of the
105 business's payroll work.

106 (f) "Rural business" means a business that at the time of
107 the initial rural growth investment in the company by a rural
108 growth fund:

109 1. Has fewer than 200 employees;

110 2. Has its principal place or places of business
111 operations in one or more rural communities in the state; and

112 3. Is engaged in industries related to agribusiness,
113 manufacturing, plant sciences, services, or technology, or, if
114 not engaged in such industries, upon a determination by the
115 department that the investment will be beneficial to the rural
116 community and the economic growth of the state.

117 (g) "Rural community" means a county with a population of
118 75,000 or fewer.

119 (h) "Rural growth fund" means an entity certified by the
120 department pursuant to paragraph (3) (e).

121 (i) "Rural growth investment" means any capital or equity
122 investment by a rural growth fund in a rural business or any
123 loan granted to a rural business by a rural growth fund with a
124 stated maturity at least 1 year after the date of issuance.

125 (j) "State premium tax liability" means any liability

126 incurred by any entity under s. 624.509 or s. 624.5091.

127 (3) (a) Beginning September 1, 2018, the department shall
128 accept applications for certification as a rural growth fund on
129 a form prescribed by the department. The application must
130 include:

131 1. The total investment authority sought by the applicant
132 under the applicant's business plan submitted pursuant to
133 subparagraph 5.;

134 2. A copy of the applicant's license, or of the license of
135 an affiliate of the applicant, as a rural business investment
136 company under 7 U.S.C. s. 2009cc or as a small business
137 investment company under 15 U.S.C. s. 681;

138 3. Evidence that, as of the date the application is
139 submitted, the applicant or affiliates of the applicant have
140 invested at least \$100 million in private companies located in
141 non-metropolitan counties as defined by the federal Office of
142 Management and Budget on the basis of county or county-
143 equivalent units;

144 4. An estimate of the number of jobs that will be created
145 or retained in this state because of the applicant's rural
146 growth investments;

147 5. A business plan that includes a revenue impact
148 assessment projecting state and local tax revenue to be
149 generated by the applicant's proposed rural growth investments.
150 The business plan must be prepared by a nationally recognized

151 independent third-party economic forecasting firm using a
152 dynamic economic forecasting model that analyzes the applicant's
153 business plan for a period of 10 years following the date the
154 application is submitted to the department;

155 6. A signed affidavit from each investor stating the
156 amount of investor contributions each taxpayer commits to make;
157 and

158 7. An application fee of \$5,000.

159 (b) Within 30 days after receipt of a completed
160 application containing the information set forth in paragraph
161 (a), the department shall grant or deny the application. The
162 department shall deem applications received on the same day as
163 received simultaneously. The department may not approve more
164 than \$200 million in investment authority and may not approve
165 investor contributions equaling more than 3.75 percent of the
166 total investment authority in the taxable years that include the
167 third through seventh anniversaries of the closing date. If
168 requests for investment authority exceed this limitation, the
169 department shall proportionally reduce the investment authority
170 and the investor contributions for each approved application as
171 necessary to avoid exceeding the limit.

172 (c) The department shall deny an application if:

173 1. The application is incomplete or the application fee is
174 not paid in full;

175 2. The revenue impact assessment submitted pursuant to

176 subparagraph (a)5. does not demonstrate that the applicant's
177 business plan will result in a positive economic impact on this
178 state over a 10-year period which exceeds the cumulative amount
179 of tax credits that would be issued to the applicant's
180 investors;

181 3. The investor contributions described in affidavits
182 submitted pursuant to subparagraph (a)6. do not total at least
183 60 percent of the total amount of investment authority sought
184 under the applicant's business plan; or

185 4. The department has already approved the maximum amount
186 of investment authority and investor contributions allowed under
187 paragraph (b).

188 (d) Within 15 days of notice that the department has
189 denied an application, the applicant may provide additional
190 information to the department to complete, clarify, or cure any
191 defects in the application identified by the department. The
192 department shall review and reconsider any application
193 supplemented by additional information within 30 days of the
194 original submission date of the application.

195 (e) The department may not reduce the requested investment
196 authority of a rural growth fund or deny a rural growth fund
197 application for reasons other than those described in paragraph
198 (b). Upon approval of an application, the department shall send
199 a notice to the applicant certifying the applicant as a rural
200 growth fund and specifying the amount of the applicant's

201 investment authority and the investor contributions required
202 from each taxpayer that submitted an affidavit with the rural
203 growth fund's application.

204 (f)1. Within 60 days of receiving an approval issued
205 pursuant to paragraph (e), a rural growth fund shall collect all
206 investor contributions and collect additional investments of
207 cash that are, when added to the investor contributions, at
208 least equal to the rural growth fund's investment authority.
209 Within 65 days of receiving an approval issued pursuant to
210 paragraph (e), a rural growth fund shall send the department
211 documentation that sufficiently proves that the amounts
212 described in this subparagraph were collected.

213 2. Upon receipt of the documentation required by
214 subparagraph 1., the department shall provide a tax credit
215 certificate in the amount of the investor contribution to each
216 taxpayer who made such investor contribution.

217 (g) A rural growth fund's certification lapses if the
218 rural growth fund fails to fully comply with paragraph (f). When
219 a certification lapses, the corresponding investment authority
220 and investor contributions do not count toward the limits on
221 program funding prescribed by paragraph (b). The department
222 shall allocate any lapsed investment authority pro rata to each
223 rural growth fund that was not awarded the full investment
224 authority it applied for. A rural growth fund may allocate, at
225 its discretion, the associated investor contribution authority

226 to any taxpayer with state premium tax liability. The department
227 may award any remaining investment authority to new applicants.

228 (4) (a) A taxpayer that makes an investor contribution is
229 vested with an earned credit against state premium tax liability
230 which is equal to the taxpayer's investor contribution. Twenty
231 percent of the credit may be utilized in each taxable year,
232 beginning with the calendar year following the second
233 anniversary of the closing date and concluding in the calendar
234 year following the sixth anniversary of the closing date,
235 exclusive of amounts carried forward pursuant to paragraph (c).

236 (b) The credit is nonrefundable and may not be sold,
237 transferred, or allocated to any other entity other than an
238 affiliate with state premium tax liability at the time of the
239 submission of the investor's affidavit included in the rural
240 growth fund's application.

241 (c) The amount of the credit claimed by a taxpayer may not
242 exceed the amount of the taxpayer's state premium tax liability
243 for the tax year in which the credit is claimed. Any amount of
244 tax credit that the entity does not claim in a taxable year may
245 be carried forward for use in future taxable years for a period
246 not to exceed 10 years.

247 (d) A taxpayer claiming a credit under this section must
248 submit a copy of the tax credit certificate with his or her tax
249 return for each taxable year that the credit is claimed.

250 (5) (a) The department must revoke a tax credit certificate

251 issued under subparagraph (3)(f)2. if, with respect to a rural
252 growth fund before it exits the program in accordance with
253 paragraph (e), any of the following occur:

254 1. Within 2 years of the closing date, the rural growth
255 fund does not invest 100 percent of its investment authority in
256 rural growth investments in this state;

257 2. The rural growth fund, after investing 100 percent of
258 its investment authority in rural growth investments in this
259 state within 2 years of the closing date, fails to maintain
260 rural growth investments equal to 100 percent of its investment
261 authority until the seventh anniversary of the closing date. For
262 the purposes of this subparagraph, an investment is "maintained"
263 even if it is sold or repaid so long as the rural growth fund
264 reinvests an amount equal to the capital returned or recovered
265 from the original investment, exclusive of any profits realized,
266 in other rural growth investments in this state within 12 months
267 of the receipt of such capital. Amounts received periodically by
268 a rural growth fund are treated as continuously invested in
269 rural growth investments if the amounts are reinvested in one or
270 more rural growth investments by the end of the following
271 calendar year. A rural growth fund is not required to reinvest
272 capital returned from rural growth investments after the sixth
273 anniversary of the closing date, and such rural growth
274 investments are considered held continuously by the rural growth
275 fund through the seventh anniversary of the closing date;

276 3. Before exiting the program in accordance with paragraph
277 (e), the rural growth fund makes a distribution or payment that
278 results in the rural growth fund having less than 100 percent of
279 its investment authority invested in rural growth investments in
280 this state or available for investment in rural growth
281 investments and held in cash and other marketable securities; or

282 4. The rural growth fund makes a rural growth investment
283 in a rural business that directly, or indirectly through an
284 affiliate, owns, has the right to acquire an ownership interest
285 in, makes a loan to, or makes an investment in the rural growth
286 fund, an affiliate of the rural growth fund, or an investor in
287 the rural growth fund. This subparagraph does not apply to
288 investments in publicly traded securities by a rural business or
289 an owner or an affiliate of such rural business. For purposes of
290 this subparagraph, a rural growth fund is not considered an
291 affiliate of a rural business solely because of its rural growth
292 investment in that business.

293 (b) The maximum amount of rural growth investments in a
294 rural business, including amounts invested in affiliates of the
295 rural business, that a rural growth fund may count towards its
296 satisfaction of the requirements of subparagraphs (a)1. and 2.
297 is the greater of \$5 million or 20 percent of its investment
298 authority.

299 (c) Before revoking tax credit certificates under this
300 subsection, the department must notify the rural growth fund of

301 the reasons for the pending revocation. The rural growth fund
302 has 90 days from the date the notice was dispatched to correct
303 any violation outlined in the notice to the satisfaction of the
304 department in order to avoid revocation of the tax credit
305 certificate.

306 (d) If a tax credit certificate is revoked under this
307 subsection, the associated investment authority and investor
308 contributions may not count toward the limit on total investment
309 authority and investor contributions described by paragraph
310 (3)(b). The department shall award reverted investment authority
311 pro rata to each rural growth fund awarded less than the
312 requested investment authority for which it applied. Such a
313 rural growth fund may allocate, in its discretion, the
314 associated investor contribution authority to any taxpayer with
315 state premium tax liability. The department may award any
316 remaining investment authority to new applicants.

317 (e) On or after the seventh anniversary of the closing
318 date, a rural growth fund may apply to the department to exit
319 the program and no longer be subject to regulation. The
320 department must respond to the application within 30 days of
321 receiving the application. The department must approve the
322 application if none of the rural growth fund's tax credit
323 certificates have been revoked and the rural growth fund has not
324 received notice of a revocation that is currently pending. The
325 department may not unreasonably deny an exit application

326 submitted pursuant to this paragraph. If the application is
327 denied, the notice must include the reasons for the denial.

328 (f) The department may not revoke a tax credit certificate
329 after a rural growth fund exits the program.

330 (6) Before making a rural growth investment, a rural
331 growth fund may request that the department issue a written
332 opinion as to whether the business in which the rural growth
333 fund proposes to invest satisfies the definition of a rural
334 business. The department, no later than 15 business days after
335 the receipt of the request, shall notify the rural growth fund
336 of its determination. If the department fails to notify the
337 rural growth fund of its determination by the 15th business day,
338 the business is considered a rural business.

339 (7) An out-of-state business that agrees to relocate
340 employees using the proceeds of a rural growth investment to
341 establish its principal place of business operations in a rural
342 community in the state is deemed to have its principal place of
343 business operations in this new location provided it meets the
344 definition of paragraph (2) (f) within 180 days after receiving
345 the rural growth investment, unless the department agrees to a
346 later date.

347 (8) (a) Each rural growth fund shall submit a report to the
348 department on or before the fifth business day after the second
349 anniversary of the closing date. The report must provide
350 documentation as to each rural growth investment and include:

- 351 1. A bank statement evidencing each rural growth
352 investment;
- 353 2. The name, location, and industry of each rural business
354 receiving a rural growth investment, including either evidence
355 that the business qualified as a rural business at the time the
356 investment was made or a determination letter pursuant to
357 subsection (6);
- 358 3. As of December 31 of the preceding calendar year, the
359 number of employment positions created or retained because of
360 the rural growth fund's rural growth investments; and
- 361 4. Any other information required by the department.
- 362 (b) Thereafter, the rural growth fund shall submit an
363 annual report to the department by February 15 for the duration
364 of the compliance period. The report must include:
- 365 1. As of December 31 of the preceding calendar year, the
366 number of employment positions created or retained because of
367 the rural growth fund's rural growth investments;
- 368 2. The average annual salary of the positions described in
369 subparagraph 1.; and
- 370 3. Any other information required by the department.
- 371 (c) The rural growth fund must provide the department with
372 an annual report for a redeemed or repaid rural growth
373 investment if the annual report for such investment is
374 available.
- 375 (9) The department may adopt rules to implement the

376 | provisions of this act.

377 | (10) The department shall notify the Department of Revenue
 378 | of the name of any insurance company allocated tax credits
 379 | pursuant to this act and the amount of such credits.

380 | (11) This section only applies to tax returns or reports
 381 | originally due on or after January 1, 2019.

382 | Section 2. This act shall take effect July 1, 2018.