

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 applications seeking approval as  
6           growth funds; requiring that the applications include  
7           certain materials, including an application fee;  
8           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 under  
13          certain circumstances; authorizing an applicant whose  
14          application was denied to provide additional  
15          information within a certain timeframe; prohibiting  
16          the department from reducing the investment authority  
17          of an application or denying an application for  
18          reasons other than the ones listed; requiring the  
19          department to certify approved applications; requiring  
20          the growth fund to collect contributions and  
21          investments within a certain timeframe; requiring the  
22          department to provide a tax credit certificate;  
23          authorizing the department to revoke a growth fund's  
24          certification under specified conditions; granting a  
25          credit against state premium tax liability for

26 | specified investors; providing restrictions on the  
27 | credit; requiring that a taxpayer claiming a credit  
28 | submit a copy of the tax credit certificate with his  
29 | or her tax return; requiring the department to revoke  
30 | the tax credit certificate under certain  
31 | circumstances; providing a formula for calculating the  
32 | maximum amount of investments; specifying a time  
33 | period within which a growth fund may correct  
34 | violations; requiring the department to distribute  
35 | reverted investment authority among certain growth  
36 | funds; authorizing the growth fund to submit an exit  
37 | application; providing procedures for use by the  
38 | department in handling exit applications; authorizing  
39 | the growth fund to request specified written opinions  
40 | from the department; specifying procedure for  
41 | recognizing a new principal place of business  
42 | operations; requiring the growth fund to submit a  
43 | report to the department at a specified time;  
44 | requiring the growth fund to submit an annual report  
45 | to the department; requiring that the annual report  
46 | include certain information; providing for rulemaking;  
47 | requiring the department to notify the Department of  
48 | Revenue of any insurance company that is allocated tax  
49 | credits; providing applicability; providing an  
50 | effective date.

51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75

Be It Enacted by the Legislature of the State of Florida:

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

288.062 Florida Rural Jobs and Business Recovery Act.—

(1) This section may be cited as the "Florida Rural Jobs and Business Recovery Act."

(2) The following terms when used in this section have following meanings except where the context clearly indicates a different meaning:

(a) "Affiliate" means an entity that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another entity. For the purposes of this paragraph, an entity is "controlled by" another entity if the controlling entity holds, directly or indirectly, the majority voting or ownership interest in the controlled entity or has control over the day-to-day operations of the controlled entity by contract or by law.

(b) "Closing date" means the date on which a growth fund has collected all amounts specified by paragraph (8) (a).

(c) "Department" means the Department of Economic Opportunity.

(d) "Growth business" means a business that, at the time a growth fund initially invests in the business:

76           1. Has fewer than 200 employees;  
 77           2. Has its principal business operations in at least one  
 78 growth zone in the state; and  
 79           3. Is engaged in North American Industry Classification  
 80 System sectors: 11, 21, 22, 23, 31-33, 48-49, 54 or 62 or, if  
 81 not engaged in such industries, the department determines that  
 82 the investment will be beneficial to the growth zone.  
 83           (e) "Growth fund" means an entity certified by the  
 84 department under subsection (7).  
 85           (f) "Growth investment" means any capital or equity  
 86 investment in a growth business or any loan to a growth business  
 87 with a stated maturity at least 1 year after the date of  
 88 issuance.  
 89           (g) "Growth zone" means any area outside an urban area  
 90 with a population of greater than 50,000.  
 91           (h) "High wage" means a wage in any county that is at  
 92 least 100 percent of the county average.  
 93           (i) "Investment authority" means the amount certified by  
 94 the department under subsection (7). At least 75 percent of a  
 95 growth fund's investment authority must consist of investor  
 96 contributions.  
 97           (j) "Investor contribution" means a cash investment in a  
 98 growth fund by an entity that is subject to the state premium  
 99 tax under ss. 624.509 and 624.5091. The cash investment must  
 100 equal the amount specified for that entity in the department's

101 approval of a growth fund's application under subsection (4).  
102 The cash investment shall purchase an equity interest in the  
103 growth fund or purchase, at par value or premium, a debt  
104 instrument that has a maturity date at least 5 years from the  
105 closing date and a repayment schedule that is no greater than  
106 level principal amortization over 5 years.

107 (k) "Jobs retained" means the number of employment  
108 positions that existed before the initial investment in a growth  
109 business that pays a high wage and that, on average, required at  
110 least 35 hours of work per week for each employee and for which  
111 the growth business's chief executive officer or similar officer  
112 certifies that the employment positions would have been  
113 eliminated but for the initial growth investment.

114 (l) "New annual jobs" means the difference between:

115 1.a. The average monthly number of high wage employment  
116 positions that required at least 35 hours of work per week at a  
117 growth business in the preceding calendar year; or

118 b. If the initial growth investment occurred during the  
119 preceding calendar year, the average monthly number of high wage  
120 employment positions that required at least 35 hours of work per  
121 week at a growth business for the months during which the  
122 initial growth investment was invested through the end of the  
123 preceding calendar year; and

124 2. The number of high wage employment positions that  
125 required at least 35 hours of work per week at the growth

126 business on the date of the initial growth investment.

127

128 If the resulting total is less than zero, the new annual jobs  
129 amount is equal to zero.

130 (m) "Principal business operation" of a business is the  
131 location or locations where at least 60 percent of the  
132 business's employees work or where the employees who are paid at  
133 least 60 percent of the business's payroll are located. A  
134 business agrees to relocate or hire new employees using the  
135 proceeds of a growth investment to establish its principal  
136 business operation in a growth zone in the state that is deemed  
137 to have its principal business operations in the new location  
138 provided it satisfies this definition within 180 days after  
139 receiving the growth investment, unless the department agrees to  
140 a later date.

141 (n) "State premium tax" means the tax identified in s.  
142 624.509 or s. 624.5091.

143 (3) Beginning September 1, 2019, the department shall  
144 accept applications for approval as a growth fund on a form  
145 adopted by the department. The application shall include the  
146 following:

147 (a) The total investment authority sought by the  
148 applicant.

149 (b) Evidence sufficient to the department's satisfaction  
150 that, as of the date the application is submitted, the

151 applicant, or an affiliate of the applicant, has at least one  
152 principal in a rural business investment company licensed under  
153 7 U.S.C. 2009cc, et seq, or is a small business investment  
154 company licensed under 15 U.S.C. 681 that is, and has been for  
155 at least 4 years, an employee or officer of the applicant or its  
156 affiliates, including a copy of the license issued to a rural  
157 business investment company under 7 U.S.C. s. 2009cc or to a  
158 small business investment company under 15 U.S.C s. 681.

159 (c) Evidence that as of the date the application is  
160 submitted, the applicant or affiliates of the applicant have  
161 invested at least \$100 million in nonpublic companies located in  
162 non-metropolitan counties as defined by the Office of Management  
163 and Budget within the Office of the President of the United  
164 States on the basis of county or county-equivalent units.

165 (d) An estimate of the total number of new jobs that will  
166 be created and jobs retained over the life of the program in  
167 this state because of the applicant's growth investments.

168 (e) A business plan that includes a revenue impact  
169 assessment projecting state and local tax revenues to be  
170 generated, as well as state expenditures to be reduced, by the  
171 applicant's proposed growth investments, prepared by a  
172 nationally recognized third-party independent economic  
173 forecasting firm using a dynamic economic forecasting model that  
174 analyzes the applicant's business plan over the 10 years  
175 following the date the application is submitted to the

176 department.

177 (f) A signed affidavit from each investor stating the  
178 amount of cash contribution the investor will make.

179 (4) (a) Within 30 days after receipt of a completed  
180 application containing the information set forth in subsection  
181 (3), the department shall approve or deny the application.

182 (b) The department shall deem applications that are  
183 received on the same day as having been received simultaneously.

184 (c) The department shall approve investment authority up  
185 to an amount that would allow no more than \$15 million in tax  
186 credits to be taken in any one year, excluding any credits that  
187 are carried forward pursuant to paragraph (10) (c). If requests  
188 for investment authority exceed this tax credit limitation, the  
189 department shall proportionally reduce the investment authority  
190 and the investor contributions for each approved application as  
191 necessary to avoid exceeding the limit.

192 (5) The department shall deny an application if:

193 (a) The application is incomplete;

194 (b) The applicant does not satisfy the criteria set forth  
195 in subsection (3);

196 (c) The revenue impact assessment submitted under  
197 subparagraph (3) (e) does not demonstrate that the applicant's  
198 business plan will result in a positive economic impact on this  
199 state over a 10-year period that exceeds the cumulative amount  
200 of tax credits that would be issued to the applicant's



201 investors;

202 (d) The investor contributions described in affidavits  
203 submitted under paragraph (3) (f) do not equal at least 75  
204 percent of the total amount of investment authority sought under  
205 the applicant's business plan; or

206 (e) The department has already approved the maximum amount  
207 of investment authority and investor contributions allowed under  
208 subsection (4).

209 (6) If the department denies an application, the  
210 applicant, within 15 days after the denial, may provide  
211 additional information to the department to cure any defects in  
212 the application identified by the department, except for failure  
213 to comply with paragraphs (5) (c), (d), or (e). The department  
214 shall review and reconsider such applications within 30 days and  
215 before approving any pending applications submitted after the  
216 original submission date of the reconsidered application.

217 (7) The department shall not reduce the requested  
218 investment authority or deny a growth fund application for  
219 reasons other than those described in subsection (4) or  
220 subsection (5). After the department approves an application, it  
221 shall specify the amount of the applicant's investment authority  
222 and the investor contributions required from each investor that  
223 submitted an affidavit with the growth fund's application and  
224 certify the applicant as a growth fund.

225 (8) (a) Within 60 days after receiving the certification

226 under subsection (7), a growth fund shall collect all investor  
227 contributions and collect additional investments of cash that,  
228 when added to the investor contributions, at least equal the  
229 growth fund's investment authority. Within 65 days after  
230 receiving the certification issued under subsection (7), a  
231 growth fund shall send to the department documentation that it  
232 has collected the amounts described in this subsection. At least  
233 10 percent of the growth fund's investment authority must  
234 consist of equity investments contributed by affiliates of the  
235 growth fund. The fund shall report to the department the date on  
236 which the investor contributions and additional investments of  
237 cash investments were collected.

238 (b) Upon receipt of the documentation required by  
239 paragraph (a), the department shall provide a tax credit  
240 certificate to each taxpayer who has made an investor  
241 contribution in the amount of the contribution.

242 (9) If the growth fund fails to fully comply with  
243 subsection (8), the department shall revoke the growth fund's  
244 certification and the corresponding investment authority and  
245 investor contributions will not count toward the limits on the  
246 program size set forth in subsection (4). The department shall  
247 first award revoked investment authority pro rata to each growth  
248 fund that was awarded less than the investment authority for  
249 which it applied, and a growth fund may allocate the associated  
250 investor contribution authority to any taxpayer with state

251 premium tax liability in its discretion. Any remaining  
252 investment authority may be awarded by the department to new  
253 applicants.

254 (10) (a) Any taxpayer that makes an investor contribution is  
255 vested with an earned credit against state premium tax liability  
256 equal to that investor's contribution. The credit may be used  
257 over 5 years such that 20 percent of the credit is applied in  
258 each of the taxable years that includes the third through  
259 seventh anniversaries of the closing date, unless a specific  
260 request is made to carry them forward for a period not to exceed  
261 10 years.

262 (b) The credit is nonrefundable and may not be sold,  
263 transferred, or allocated to any other entity other than an  
264 affiliate that was an affiliate at the time of the submission of  
265 the investor's affidavit included in the growth fund's  
266 application.

267 (c) The amount of the credit claimed by a taxpayer may not  
268 exceed the amount of such taxpayer's state premium tax liability  
269 for the tax year for which the credit is claimed.

270 (d) A taxpayer claiming a credit under this section shall  
271 submit a copy of the tax credit certificate with the taxpayer's  
272 return for each taxable year for which the credit is claimed.

273 (11) The department must revoke the tax credit  
274 certificates issued under paragraph (8) (b) if any of the  
275 following occur with respect to a growth fund before the growth

276 fund exits the program in accordance with paragraph (15) (a):

277 (a) The growth fund does not invest 100 percent of its  
278 investment authority in growth investments in this state within  
279 two years of the closing date;

280 (b) The growth fund, after initially satisfying paragraph  
281 (a), fails to maintain growth investments equal to 100 percent  
282 of its investment authority until the sixth anniversary of the  
283 closing date. For purposes of this paragraph, an investment is  
284 "maintained" even if it is sold or repaid so long as the growth  
285 fund reinvests an amount equal to the capital returned or  
286 recovered from the original investment, exclusive of any profits  
287 realized, in other growth investments in this state within 12  
288 months of the receipt of such capital. Amounts received  
289 periodically by a growth fund shall be treated as continuously  
290 invested in growth investments if the amounts are reinvested in  
291 one or more growth investments by the end of the following  
292 calendar year;

293 (c) The growth fund, before exiting the program in  
294 accordance with paragraph (15) (a), makes a distribution or  
295 payment that results in the growth fund having less than 100  
296 percent of its investment authority invested in growth  
297 investments in this state or available for investment in growth  
298 investments and held in cash and other marketable securities;

299 (d) The growth fund invests in a growth business that  
300 directly or indirectly through an affiliate owns, has the right

301 to acquire an ownership interest, makes a loan to, or makes an  
302 investment in the growth fund, an affiliate of the growth fund,  
303 or an investor in the growth fund. This paragraph does not apply  
304 to investments in publicly traded securities by a growth  
305 business or an owner or affiliate of such growth business. For  
306 purposes of this paragraph, a growth fund is not considered an  
307 affiliate of a growth business solely because of its growth  
308 investment.

309 (12) Before making a growth investment, a growth fund, may  
310 request a written opinion from the department as to whether the  
311 business in which it proposes to invest satisfies the definition  
312 of a growth business. The department, not later than the 15th  
313 business day after the date of receipt of the request, shall  
314 provide the growth fund with a determination letter providing  
315 its opinion. If the department fails to issue a determination  
316 letter by the 15th business day, the business in which the  
317 growth fund proposes to invest shall be considered a growth  
318 business.

319 (13) The maximum amount of growth investments in a growth  
320 business, including amounts invested in affiliates of the growth  
321 business, that a growth fund may count in satisfying the  
322 requirements of paragraphs (11)(a) and (b) is the greater of  
323 \$5,000,000 or 20 percent of its investment authority.

324 (14) Before revoking a tax credit certificate under  
325 subsection (13), the department shall notify the growth fund of

326 the reasons for the pending revocation. The growth fund shall  
327 have 90 days from the date the notice was received to correct  
328 any violation outlined in the notice to the satisfaction of the  
329 department and avoid revocation of the tax credit certificate.

330 (15) If the department revokes any tax credit certificates  
331 under subsection (11), the associated investment authority and  
332 investor contributions will not count toward the limit on total  
333 investment authority and investor contributions described in  
334 subsection (4). The department shall first award reverted  
335 investment authority pro rata to each growth fund that was  
336 awarded less than the requested investment authority for which  
337 it applied, and such growth fund may allocate the associated  
338 investor contribution authority to any taxpayer with state  
339 premium tax liability in its discretion. The department may  
340 award any remaining investment authority to new applicants.

341 (16) (a) On or after the seventh anniversary of the closing  
342 date, a growth fund may apply to the department to exit the  
343 program and no longer be subject to regulation except as set  
344 forth in paragraph (b). The department shall approve or deny the  
345 application within 30 days of receipt. In evaluating the  
346 application, the fact that no tax credit certificates have been  
347 revoked and that the growth fund has not received a notice of  
348 revocation that has not been cured pursuant to subsection (14)  
349 is sufficient evidence to prove that the growth fund is eligible  
350 for exit. The department shall not unreasonably deny an

351 application submitted under this paragraph. If the application  
352 is denied, the notice shall include the reasons for the  
353 determination.

354 (b) After its exit from the program in accordance with  
355 paragraph (a), a growth fund may not make distributions to its  
356 investors unless it has made growth investments equal to at  
357 least 150 percent of its investment authority. Each growth fund  
358 shall continue to report the amount of growth investments made  
359 to the department annually until it has made growth investments  
360 equal to at least 150 percent of its investment authority.

361 (c) At any time the growth fund proposes to make a  
362 distribution to its investors that, when added to all previous  
363 distributions to its investors, is in excess of its investment  
364 authority, the growth fund shall remit to the department a  
365 payment equal the product of the proposed distribution and a  
366 fraction, the numerator of which is the aggregate number of new  
367 annual jobs and jobs retained reported to the department  
368 pursuant to subsection (18) and the denominator of which is the  
369 number of new annual jobs and jobs retained projected in the  
370 growth fund's application, as prorated based on the amount of  
371 investment authority received by the growth fund. No payment is  
372 due if the aggregate number of new annual jobs and jobs retained  
373 as of the date of the proposed distribution equal or exceed the  
374 number of new annual jobs and jobs retained projected in the  
375 growth fund's application, as prorated based on the amount of

376 investment authority received.

377 (17) The department may not revoke a tax credit  
378 certificate after a growth fund exits from the program.

379 (18) (a) Each growth fund shall submit an annual report to  
380 the department on or before the 5th business day after each  
381 anniversary of the closing date prior to its exit from the  
382 program in accordance with paragraph (16) (a). The report shall  
383 identify each growth investment made by the growth fund and  
384 shall include:

385 1. A bank statement evidencing each growth investment;

386 2. The name, location and industry of each growth business  
387 receiving a growth investment, including either the  
388 determination letter set forth in subsection (12) or evidence  
389 that the business qualified as a growth business at the time the  
390 investment was made;

391 3. The number of full-time high wage employment positions  
392 at each growth business on the date of the growth fund's initial  
393 growth investment;

394 4 The number of new annual jobs and jobs retained at each  
395 growth business;

396 5. The average annual salary of the positions described in  
397 paragraph (2) (1); and

398 6. The cumulative amount of growth investments made in  
399 growth businesses;

400 7. The retained jobs of the growth business based on the



401 monthly average of high wage employment positions. The reported  
 402 number of retained jobs may not exceed the number reported on  
 403 the initial report under subparagraph (3) (a) 4.

404 8. Any other information required by the department.

405 (b) The growth fund is not required to provide information  
 406 with respect to growth investments that have been redeemed or  
 407 repaid as part of the annual report set forth paragraph (a) but  
 408 shall provide such information if available.

409 (19) The department:

410 (a) May adopt rules to implement the provisions of this  
 411 section.

412 (b) Shall adopt forms and notices to implement this  
 413 section.

414 (c) Shall notify the Department of Insurance of the name  
 415 of any insurance company allocated tax credits under this act  
 416 and the amount of such credits.

417 (20) The provisions of this section apply only to tax  
 418 returns or reports originally due on or after January 1, 2020.

419 Section 2. This act shall take effect July 1, 2019.