

By Senator Montford

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1                                   A bill to be entitled  
2       An act relating to rural communities; creating s.  
3       288.062, F.S.; providing a short title; defining  
4       terms; 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

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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 toward 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

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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 to  
77 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, the term:

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

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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) "Department" means the Department of Economic  
94 Opportunity.

95 (d) "Investment authority" means the amount stated on the  
96 certification notice issued pursuant to paragraph (3) (e).

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

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

108 (g) "Rural business" means a business that at the time of  
109 the initial rural growth investment in the company by a rural  
110 growth fund:

- 111 1. Has fewer than 200 employees;
- 112 2. Has its principal place of business operations in one or  
113 more rural communities in the state; and
- 114 3. Is engaged in industries related to agribusiness,  
115 manufacturing, plant sciences, services, or technology, or if  
116 not engaged in such industries, upon a determination by the

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117 department that the investment will be beneficial to the rural  
118 community and the economic growth of the state.

119 (h) "Rural community" means a county with a population of  
120 75,000 or fewer.

121 (i) "Rural growth fund" means an entity certified by the  
122 department pursuant to paragraph (3) (e).

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

127 (k) "State premium tax liability" means any liability  
128 incurred by any entity under s. 624.509 or s. 624.5091.

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

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

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

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

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

149 5. A business plan that includes a revenue impact  
150 assessment projecting state and local tax revenue to be  
151 generated by the applicant's proposed rural growth investments.  
152 The business plan must be prepared by a nationally recognized  
153 independent third-party economic forecasting firm using a  
154 dynamic economic forecasting model that analyzes the applicant's  
155 business plan for a period of 10 years following the date the  
156 application is submitted to the department;

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

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

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

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

174 1. The application is incomplete or the application fee is

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175 not paid in full;

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

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

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

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

196 (e) The department may not reduce the requested investment  
197 authority of a rural growth fund or deny a rural growth fund  
198 application for reasons other than those described in paragraph  
199 (b). Upon approval of an application, the department shall send  
200 a notice to the applicant certifying the applicant as a rural  
201 growth fund and specifying the amount of the applicant's  
202 investment authority and the investor contributions required  
203 from each taxpayer that submitted an affidavit with the rural

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204 growth fund's application.

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

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

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

229 (4) (a) A taxpayer that makes an investor contribution is  
230 vested with an earned credit against state premium tax liability  
231 which is equal to the taxpayer's investor contribution. Twenty  
232 percent of the credit may be used in each taxable year,



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233 beginning with the calendar year following the second  
234 anniversary of the closing date and concluding in the calendar  
235 year following the sixth anniversary of the closing date,  
236 exclusive of amounts carried forward pursuant to paragraph (c).

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

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

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

251 (5) (a) The department must revoke a tax credit certificate  
252 issued under subparagraph (3) (f) 2. if, with respect to a rural  
253 growth fund before it exits the program in accordance with  
254 paragraph (e), any of the following occurs:

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

258 2. The rural growth fund, after investing 100 percent of  
259 its investment authority in rural growth investments in this  
260 state within 2 years after the closing date, fails to maintain  
261 rural growth investments equal to 100 percent of its investment

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

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

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

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291 this subparagraph, a rural growth fund is not considered an  
292 affiliate of a rural business solely because of its rural growth  
293 investment in that business.

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

300 (c) Before revoking tax credit certificates under this  
301 subsection, the department must notify the rural growth fund of  
302 the reasons for the pending revocation. The rural growth fund  
303 has 90 days after the date the notice was dispatched to correct  
304 any violation outlined in the notice to the satisfaction of the  
305 department in order to avoid revocation of the tax credit  
306 certificate.

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

318 (e) On or after the seventh anniversary of the closing  
319 date, a rural growth fund may apply to the department to exit

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320 the program and no longer be subject to regulation. The  
321 department must respond to the application within 30 days after  
322 receiving the application. The department must approve the  
323 application if none of the rural growth fund's tax credit  
324 certificates have been revoked and the rural growth fund has not  
325 received notice of a revocation that is currently pending. The  
326 department may not unreasonably deny an exit application  
327 submitted pursuant to this paragraph. If the application is  
328 denied, the notice must include the reasons for the denial.

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

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

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

348 (8) (a) Each rural growth fund shall submit a report to the

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349 department on or before the fifth business day after the second  
350 anniversary of the closing date. The report must provide  
351 documentation as to each rural growth investment and include:

352 1. A bank statement evidencing each rural growth  
353 investment;

354 2. The name, location, and industry of each rural business  
355 receiving a rural growth investment, including either evidence  
356 that the business qualified as a rural business at the time the  
357 investment was made or a determination letter pursuant to  
358 subsection (6);

359 3. As of December 31 of the preceding calendar year, the  
360 number of employment positions created or retained because of  
361 the rural growth fund's rural growth investments; and

362 4. Any other information required by the department.

363 (b) Thereafter, the rural growth fund shall submit an  
364 annual report to the department by February 15 for the duration  
365 of the compliance period. The report must include:

366 1. As of December 31 of the preceding calendar year, the  
367 number of employment positions created or retained because of  
368 the rural growth fund's rural growth investments;

369 2. The average annual salary of the positions described in  
370 subparagraph 1.; and

371 3. Any other information required by the department.

372 (c) The rural growth fund must provide the department with  
373 an annual report for a redeemed or repaid rural growth  
374 investment if the annual report for such investment is  
375 available.

376 (9) The department may adopt rules to implement this act.

377 (10) The department shall notify the Department of Revenue

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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.