



# Ohio Legislative Service Commission

## Bill Analysis

Mackenzie Damon

### **S.B. 209**

131st General Assembly  
(As Introduced)

**Sens.** Hite, Lehner, Eklund, Beagle, Yuko

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## **BILL SUMMARY**

### **Nonrefundable tax credit**

- Authorizes a nonrefundable tax credit for insurance companies that invest in special-purpose "rural business growth funds" that contribute capital to certain kinds of businesses with substantial operations in rural areas of Ohio.<sup>1</sup>
- Specifies that the tax credit equals the amount of the investor's "credit-eligible capital contribution" and is spread over a five-year period: 0% of the capital contribution in years one and two and 33.3% of the capital contribution in years three, four, and five.<sup>2</sup>
- Defines "credit-eligible capital contribution" to mean an investment of cash in a rural business growth fund to purchase an equity interest in the rural business growth fund or to purchase, at par value or premium, a debt instrument issued by the rural growth fund that meets all of the following criteria:
  - Has an original maturity of at least five years;
  - Has a repayment schedule that is not faster than a level principal amortization over five years; and

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<sup>1</sup> R.C. 121.152(A), 5725.98(A)(5), and 5729.98(A)(5).

<sup>2</sup> R.C. 121.152(B).

--Has no interest, distribution, or payment features dependent on the rural business growth fund's profitability or the success of the rural growth investments.<sup>3</sup>

- Requires 60% of a rural business growth fund's eligible investment authority to be comprised of credit-eligible capital contributions.<sup>4</sup>
- Authorizes investors to claim the credit against the insurance premiums taxes, domestic and foreign, and the retaliatory tax imposed on insurance companies doing business in Ohio.<sup>5</sup>
- Requires the Director of Development Services, after consultation with the Tax Commissioner and the Superintendent of Insurance, to adopt rules necessary to implement the bill.<sup>6</sup>

### **Rural business growth funds**

- Specifies that, to qualify for the credit, a taxpayer must make a loan to or investment in an entity certified by DSA as a rural business growth fund, and authorizes only an entity that is federally licensed as a rural business investment company, or a small business investment company and that has a history of large investments in rural businesses, to be certified.<sup>7</sup>
- Requires an applicant to submit a business plan that includes specified information and documentation when applying to DSA for certification as a rural business growth fund, including affidavits from each investor and a ten-year revenue impact assessment on the business plan conducted by a nationally recognized independent economic forecasting firm.<sup>8</sup>
- Authorizes DSA to approve \$75 million in eligible investment authority over the lifetime of the program and \$45 million in credit-eligible capital contributions.<sup>9</sup>

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<sup>3</sup> R.C. 122.15(C).

<sup>4</sup> R.C. 122.15(E).

<sup>5</sup> R.C. 122.152(A).

<sup>6</sup> R.C. 122.154(C).

<sup>7</sup> R.C. 122.15(J) and 122.151(A).

<sup>8</sup> R.C. 122.151(A).

<sup>9</sup> R.C. 122.151(B).

- Specifies that, once certified, a rural business growth fund has 60 days to collect credit-eligible capital contributions and other investments that aggregately equal the fund's eligible investment authority.<sup>10</sup>
- Also specifies that at least 10% of a fund's eligible investment authority must be comprised of equity investments contributed by affiliates of the rural business growth fund, including employees, officers, and directors of such affiliates.<sup>11</sup>
- Requires a fund to notify DSA when all required amounts have been collected, and, if the fund does not send notification to DSA within 65 days of certification, specifies that the fund's eligible investment authority lapses and reverts back to DSA for distribution to other rural business growth fund applicants.<sup>12</sup>
- Requires a rural business growth fund to invest 100% of its eligible investment authority in rural business concerns in Ohio within two years after the closing date, which is the date by which the fund has collected all the investments.<sup>13</sup>

### **Rural business concern**

- Defines "rural business concern" to mean an operating company with its principal operations in Ohio that has fewer than 250 employees or not more than \$15 million in net, after-tax income, and precludes certain types of operating companies, such as country clubs, massage parlors, golf courses, hot tub facilities, and publicly traded businesses, from being considered a rural business concern.<sup>14</sup>
- Requires the business to be located in a rural area or produce goods or services normally used by farmers, ranchers, or producers and harvesters of aquatic products.<sup>15</sup>
- Defines "rural area" to mean either of the following:
  - Any area located within a political subdivision having a population less than or equal to 50,000 and outside the standard metropolitan statistical area of any adjacent community having a population greater than 50,000; or

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<sup>10</sup> R.C. 122.151(G).

<sup>11</sup> R.C. 122.151(G)(2).

<sup>12</sup> R.C. 122.151(G).

<sup>13</sup> R.C. 122.153(A).

<sup>14</sup> R.C. 122.15(F) and (I).

<sup>15</sup> R.C. 122.15(I).

--Any area determined to be rural in character by the Under Secretary of Agriculture for Rural Development within the U.S. Department of Agriculture.<sup>16</sup>

### **Investment in rural business growth fund requirements**

- Generally requires a rural business growth fund to maintain the investments in rural business concerns until the fifth anniversary of the closing date (i.e., the date on which a rural business growth fund has collected all of the amounts required under the bill).<sup>17</sup>
- Requires a fund, if an investment is sold or repaid before that time, to reinvest an equivalent amount in another rural business concern within one year, and generally authorizes a rural business growth fund to invest not more than 20% of its eligible investment authority in the same rural business concern.<sup>18</sup>
- Prohibits a fund from investing in a rural business concern that is an owner, investor, or creditor of the fund.<sup>19</sup>
- Requires DSA to revoke the tax credits issued to a fund's credit-eligible investors if the fund violates any of the above restrictions or makes certain prohibited distributions or payments, and requires the Tax Commissioner or the Superintendent of Insurance to make an assessment against such investors for any credits claimed before revocation.<sup>20</sup>

### **Annual report**

- Requires each rural business growth fund to submit a report to DSA on or before the fifth business day after the second anniversary of the closing date, and requires the report to provide documentation containing specified information as to the investment of the fund's eligible investment authority in rural growth investments.<sup>21</sup>
- Requires a rural business growth fund to submit an annual report to DSA on or before the last day of February of each year following the year in which the original report is required that includes all of the following:

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<sup>16</sup> R.C.122.15(H).

<sup>17</sup> R.C. 122.15(B).

<sup>18</sup> R.C. 122.153(A).

<sup>19</sup> R.C. 122.153(A)(5).

<sup>20</sup> R.C. 122.153(B).

<sup>21</sup> R.C. 122.154(A).

- The number of employment positions created or retained as a result of the fund's rural growth investments as of the last day of the preceding calendar year;
- The average annual salary of those positions; and
- Any other information required by DSA.<sup>22</sup>

## Decertification

- Authorizes a rural business growth fund, after the fifth anniversary of the closing date, to apply to DSA to decertify.<sup>23</sup>
- Specifies that once a fund is decertified, it is no longer subject to the bill's restrictions.<sup>24</sup>

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## HISTORY

ACTION	DATE
Introduced	09-03-15

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<sup>22</sup> R.C. 122.154(B).

<sup>23</sup> R.C. 122.153(C).

<sup>24</sup> R.C. 122.153(C).

