

House Bill 413

By: Representatives Williams of the 148th, Meeks of the 178th, Rhodes of the 124th, Dickey of the 145th, Blackmon of the 146th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 33-1-25 of the Official Code of Georgia Annotated, relating to the
2 "Georgia Agribusiness and Rural Jobs Act," so as to provide for a second round of funding
3 and period for applications; to increase an application fee and provide for an annual
4 maintenance fee; to change certain reporting requirements; to revise and provide for
5 definitions; to provide for related matters; to provide for an effective date; to repeal
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Code Section 33-1-25 of the Official Code of Georgia Annotated, relating to the "Georgia
10 Agribusiness and Rural Jobs Act," is amended in subsection (b) by revising paragraphs (3)
11 and (6) and adding a new paragraph to read as follows:

12 "(1) '2023 allocation' means the second round of funding provided for in paragraph (6.1)
13 of subsection (e) of this Code section."

14 "(3) 'Capital investment' means any equity investment in a rural fund by a rural investor
15 that:

16 (A) Is acquired after July 1, 2017, at its original issuance solely in exchange for cash;

17 (B) Has 100 percent of its cash purchase price used by the rural fund to make qualified
 18 investments in eligible businesses located in this state by the second anniversary of the
 19 initial credit allowance date; and

20 (C) Is designated by the rural fund as a capital investment under this Code section and
 21 is certified by the department pursuant to subsection (e) of this Code section. This
 22 term shall include any capital investment that does not meet the provisions of
 23 ~~subsection (e)(1)(A)~~ subparagraph (e)(1.3)(A) of this Code section if such investment
 24 was a capital investment in the hands of a prior holder."

25 "(6) 'Eligible business' means a business that, at the time of the initial qualified
 26 investment in the company, has less than 250 employees and its principal business
 27 operations are located in one or more rural areas or qualified areas in this state, provided
 28 that such business:

29 ~~(A) Has less than 250 employees; and~~

30 ~~(B)(i) Has its principal business operations in one or more rural areas in this state;~~
 31 ~~and~~

32 ~~(ii)(A) Produces or provides any goods or services produced in Georgia normally used~~
 33 ~~by farmers, ranchers, or producers and harvesters of aquatic products in their business~~
 34 ~~operations, or to improve the welfare or livelihood of such persons; or is~~

35 ~~(B) Is involved in the processing and marketing of agricultural products, farm supplies,~~
 36 ~~and input suppliers; or is~~

37 ~~(C) Is engaged in agribusiness as defined by the United States Department of~~
 38 ~~Agriculture; or is~~

39 ~~(D) Is engaged in manufacturing, health care, technology, transportation, or related~~
 40 ~~services; or~~

41 ~~(E) Is determined by the department to be an if not engaged in such industries, the~~
 42 ~~department determines that such investment that will be beneficial to the rural area and~~
 43 ~~the economic growth of the state.~~

44 Any business which is classified as an eligible business at the time of the initial
45 investment in said business by a rural fund shall remain classified as an eligible business
46 and may receive follow-on investments from any rural fund, and such follow-on
47 investments shall be qualified investments even though such business may not meet the
48 definition of an eligible business at the time of such follow-on investments."

49 **SECTION 2.**

50 Said Code section is further amended by revising subsections (e) and (k) and by adding a
51 new subsection (l) to read as follows:

52 "(e)(1) A rural fund that seeks to have an equity investment certified as a capital
53 investment and eligible for credits under this Code section shall apply to the department.

54 (1.1) For the first round of funding provided for in paragraph (6) of this subsection, the
55 The department shall begin accepting applications within 90 days of July 1, 2017, and
56 shall cease accepting applications on June 30, 2023.

57 (1.2) For the second round of funding provided for in paragraph (6.1) of this subsection,
58 the department shall begin accepting applications on August 1, 2023, and shall cease
59 accepting applications after such second round of funding is exhausted.

60 (1.3) The rural fund shall include the following in its application:

61 (A) The amount of capital investment requested;

62 (B) A copy of the applicant's or an affiliate of the applicant's license as a rural business
63 investment company under 7 U.S.C. Section 2009cc or as a small business investment
64 company under 15 U.S.C. Section 681 and a certificate executed by an executive officer
65 of the applicant attesting that such license remains in effect and has not been revoked;

66 (C) Evidence that, as of the date the application is submitted, the applicant or affiliates
67 of the applicant have invested at least \$100 million in nonpublic companies located in
68 rural areas within the United States;

69 (D) An estimate of the number of jobs that will be created or retained in this state as
70 a result of the applicant's qualified investments;

71 (E) A business plan that includes a revenue impact assessment projecting state and
72 local tax revenue to be generated by the applicant's proposed qualified investments
73 prepared by a nationally recognized, third-party, independent economic forecasting firm
74 using a dynamic economic forecasting model that analyzes the applicant's business plan
75 over the ten years following the date the application is submitted to the department; and

76 (F) A nonrefundable application fee of \$5,000.00 for the first round of funding
77 provided for in paragraph (6) of this subsection and \$25,000.00 for the second round
78 of funding provided for in paragraph (6.1) of this subsection, payable to the department.

79 (2) Within 30 days after receipt of a completed application, the department shall grant
80 or deny the application in full or in part. The department shall deny the application if:

81 (A) The applicant does not satisfy all of the criteria described in paragraph ~~(1)~~ (1.3)
82 of this subsection;

83 (B) The revenue impact assessment submitted with the application does not
84 demonstrate that the applicant's business plan will result in a positive economic impact
85 on this state over a ten-year period that exceeds the cumulative amount of tax credits
86 that would be issued to the applicant if the application were approved; or

87 (C) The department has already approved the maximum amount of capital investment
88 authority under paragraph (6) or paragraph (6.1) of this subsection, whichever
89 paragraph is applicable.

90 If the department denies any part of the application, it shall inform the applicant of the
91 grounds for the denial. If the applicant provides any additional information required by
92 the department or otherwise completes its application within 15 days of the notice of
93 denial, the application shall be considered completed as of the original date of
94 submission. If the applicant fails to provide the information or fails to complete its

95 application within the 15 day period, the application remains denied and must be
96 resubmitted in full with a new submission date.

97 (3) If the application is complete, the department shall certify the proposed equity
98 investment as a capital investment that is eligible for credits under this Code section,
99 subject to the limitations contained in paragraph (6) or paragraph (6.1) of this subsection,
100 whichever paragraph is applicable. The department shall provide written notice of the
101 certification to the rural fund.

102 (4) The department shall certify capital investments in the order that the applications
103 were received by the department. Applications received on the same day shall be deemed
104 to have been received simultaneously.

105 (5) For applications that are complete and received on the same day, the department
106 shall certify applications in proportionate percentages based upon the ratio of the amount
107 of capital investments requested in an application to the total amount of capital
108 investments requested in all applications.

109 (6) For the first round of funding, the ~~The~~ department shall certify \$100 million in capital
110 investments pursuant to this Code section until the earlier of the date that such funds are
111 exhausted, or June 30, 2023.

112 (6.1) For the second round of funding, beginning on August 1, 2023, the department
113 shall certify \$100 million in capital investments pursuant to this Code section until such
114 funds are exhausted.

115 (7) Within 60 days of the applicant receiving notice of certification, the rural fund shall
116 issue the capital investment to and receive cash in the amount of the certified amount
117 from a rural investor. At least 50 percent of the rural investor's capital investment shall
118 be composed of capital raised by the rural investor from sources, including directors,
119 members, employees, officers, and affiliates of the rural investor, other than the amount
120 of capital invested by the allocatee claiming the tax credits in exchange for such
121 allocation of tax credits. The rural fund shall provide the department with evidence of

122 the receipt of the cash investment within 65 days of the applicant receiving notice of
123 certification. If the rural fund does not receive the cash investment and issue the capital
124 investment within such time period following receipt of the certification notice, the
125 certification shall lapse and the rural fund shall not issue the capital investment without
126 reapplying to the department for certification. Lapsed certifications revert to the
127 authority and shall be reissued pro rata to applicants whose capital investment allocations
128 were reduced pursuant to paragraph (5) of this subsection and then in accordance with the
129 application process."

130 "(k)(1) Rural funds shall submit a report to the department within ~~the first 15 business~~
131 ~~days after the second anniversary of the initial credit allowance date~~ each capital
132 investment that provides documentation of: ~~as to the investment of 100 percent of the~~
133 ~~purchase price of such capital investment in qualified investments. Such report shall~~
134 ~~include:~~

- 135 (A) The location of each eligible business receiving a qualified investment;
136 (B) Bank statements of such rural fund evidencing each qualified investment;
137 (C) A copy of the written opinion of the department set forth in subsection (j) of this
138 Code section or evidence that such business was an eligible business at the time of such
139 qualified investment, as applicable;
140 (D) The number of employment positions created and retained as a result of qualified
141 investments;
142 (E) The average annual salary of positions described in subparagraph (D) of this
143 paragraph; and
144 (F) Such other information required by the department.

145 (2) Thereafter, rural funds shall submit an annual report to the department within 45
146 days of the beginning of the calendar year during the compliance period. The report shall
147 include but is not limited to the following:

148 (A) The number of employment positions created and retained as a result of qualified
149 investments; ~~and~~

150 (B) The average annual salary of positions described in subparagraph (A) of this
151 paragraph; and

152 (C) The rural fund's total eligible capital investments as a percentage of its total capital
153 investments.

154 (l) With respect to the second round of funding provided for in paragraph (6.1) of
155 subsection (e) of this Code section, each rural fund shall pay an annual maintenance fee
156 of \$7,500.00 to the department, beginning one year after the date of the initial credit
157 allowance and annually thereafter for five years."

158 **SECTION 3.**

159 This Act shall become effective upon its approval by the Governor or upon its becoming law
160 without such approval.

161 **SECTION 4.**

162 All laws and parts of laws in conflict with this Act are repealed.