

# HB5378



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB5378

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#### SYNOPSIS AS INTRODUCED:

New Act  
35 ILCS 5/229 new

Creates the Rural Job Creation Tax Credit Act. Provides that a taxpayer may claim a nonrefundable income tax credit for rural job creation equal to a percentage of the taxpayer's purchase of an equity interest in a rural investment company or purchase of a debt instrument issued by the rural investment company. Effective immediately.

LRB101 08132 HLH 53198 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Rural  
5 Job Creation Tax Credit Act.

6 Section 5. Nonrefundable rural job creation tax credit.

7 (a) For taxable years beginning on or after January 1,  
8 2020, a taxpayer may claim a nonrefundable tax credit against  
9 the tax imposed by subsections (a) and (b) of Section 201 of  
10 the Illinois Income Tax Act for rural job creation as provided  
11 in this Section.

12 (b) The tax credit under this Section is the amount listed  
13 as the tax credit amount on a tax credit certificate issued by  
14 the Department to the taxpayer for the taxable year.

15 (c) A taxpayer may carry forward a tax credit under this  
16 Section for the next 7 taxable years if the amount of the tax  
17 credit exceeds the taxpayer's tax liability under the Illinois  
18 Income Tax Act for the taxable year in which the taxpayer  
19 claims the tax credit.

20 Section 10. Definitions. As used in this Act:

21 "Affiliate" means a person that directly, or indirectly  
22 through one or more intermediaries, controls, is controlled by,

1 or is under common control with another person. For the  
2 purposes of this part, a person controls another person if the  
3 person holds, directly or indirectly, the majority voting or  
4 ownership interest in the controlled person or has control over  
5 the day-to-day operations of the controlled person by contract  
6 or by law.

7 "Claimant" means a resident or nonresident person that has  
8 taxable income under the Illinois Income Tax Act.

9 "Closing date" means the date on which a rural investment  
10 company has collected all of the investments.

11 "Credit-eligible contribution" means an investment of cash  
12 by a claimant in a rural investment company that is or will be  
13 eligible for a tax credit as evidenced by notification issued  
14 by the Department under this Act. The investment shall purchase  
15 an equity interest in the rural investment company or purchase,  
16 at par value or premium, a debt instrument issued by the rural  
17 investment company that has a maturity date at least five years  
18 after the closing date.

19 "Department" means the Department of Commerce and Economic  
20 Opportunity.

21 "Eligible small business" means a business that at the time  
22 of an initial growth investment in the business by a rural  
23 investment company:

24 (1) has fewer than 150 employees;

25 (2) has less than \$10,000,000 in net income for the  
26 preceding taxable year;

1           (3) maintains the business's principal business  
2 operations in the State; and

3           (4) is engaged in an industry related to:

4                   (A) aerospace;

5                   (B) defense;

6                   (C) energy and natural resources;

7                   (D) financial services;

8                   (E) life sciences;

9                   (F) outdoor products;

10                   (G) software development;

11                   (H) information technology;

12                   (I) manufacturing; or

13                   (J) agribusiness.

14           "Excess return" means the difference between: (i) the  
15 present value of all growth investments made by a rural  
16 investment company on the day the rural investment company  
17 applies to exit the program under Section 63N-4-309, including  
18 the present value of all distributions and gains from the  
19 growth investments; and (ii) the sum of the amount of the  
20 original growth investment and an amount equal to any projected  
21 increase in the equity holder's federal or State tax liability,  
22 including penalties and interest, related to the equity  
23 holder's ownership, management, or operation of the rural  
24 investment company. If this calculation is less than zero, then  
25 the excess return is equal to zero.

26           "Federally licensed rural business investment company"

1 means a person licensed as a rural business investment company  
2 under 7 U.S.C. 2009cc.

3 "Federally licensed small business investment company"  
4 means a person licensed as a small business investment company  
5 under 15 U.S.C. 681.

6 "Investment authority" means the minimum amount of  
7 investment a rural investment company must make in eligible  
8 small businesses in order for credit-eligible contributions to  
9 the rural investment company to qualify for a rural job  
10 creation tax credit.

11 "Rural county" means a county designated as a rural county  
12 by the Department.

13 "Rural investment company" means a company approved by the  
14 Department.

15 "State reimbursement amount" means the difference between:  
16 (i) 50% of the rural investment company's credit-eligible  
17 capital contributions; and (ii) the product of: (A) the total  
18 sum of new annual jobs reported to the State in the rural  
19 investment company's exit report; and (B) \$20,000. If the  
20 amount calculated is less than zero, the State reimbursement  
21 amount is equal to zero.

22 Section 15. Application, approval, and allocations.

23 (a) A person seeking approval as a rural investment company  
24 shall submit an application to the Department.

25 (b) The Department shall begin accepting applications on

1 November 1, 2019. Applications shall be in the form and manner  
2 required by the Department, by rule, and shall include the  
3 following:

4 (1) the total investment authority sought by the  
5 applicant, which may not exceed \$42,000,000;

6 (2) a copy of the applicant's or an affiliate of the  
7 applicant's license as a federally licensed rural business  
8 investment company or as a federally licensed small  
9 business investment company;

10 (3) evidence that, before the date the application is  
11 submitted, the applicant or affiliates of the applicant  
12 have invested at least \$50,000,000 in nonpublic companies  
13 located in counties in the United States with fewer than  
14 50,000 inhabitants;

15 (4) a signed affidavit from each claimant that commits  
16 to make a credit-eligible capital contribution to the  
17 applicant, stating the amount of that commitment; and

18 (5) the sum of all credit-eligible capital  
19 contribution commitments under paragraph (4), which must  
20 equal 58% of the total investment authority sought by the  
21 applicant.

22 (c) The Department shall:

23 (1) review and evaluate the applications submitted  
24 under this Section within 30 days of receipt in the order  
25 in which the applications are received; and

26 (2) consider applications received on the same day to

1           have been received simultaneously.

2           (d) If, after review and evaluation of an application, the  
3 Department determines that the application does not meet the  
4 requirements of subsection (b), the Department shall: (i) deny  
5 the application; or (ii) notify the applicant that the  
6 application was inadequate and allow the applicant to provide  
7 additional information to the Department to complete, clarify,  
8 or cure defects identified by the Department in the application  
9 and inform the applicant that the additional information must  
10 be received by the Department within 5 days of the notice in  
11 order to be considered.

12           If an applicant submits additional information to the  
13 Department, the Department shall consider the application to  
14 have been received on the date it was originally received by  
15 the Department and review and evaluate the additional  
16 information within 10 days of receiving the additional  
17 information. If, after review and evaluation of an application  
18 submitted under this Section and any additional information  
19 submitted, the Department determines that the application  
20 meets the requirements of subsection (b), the Department shall:  
21 (i) determine the amount of investment authority to award the  
22 applicant, (ii) provide to the applicant a written notice of  
23 approval as a rural investment company specifying the amount of  
24 the applicant's investment authority, and (iii) notify each  
25 claimant whose affidavit was included in the application that  
26 the claimant qualifies for a tax credit.

1 (e) The Department may not approve more than \$42,000,000 in  
2 total investment authority and not more than \$24,360,000 in  
3 total credit-eligible contributions under this Section.  
4 Subject to the provisions of this subsection, if an application  
5 is approved, the Department shall approve the amount of  
6 investment authority requested on the application. The  
7 Department may continue to accept applications under this  
8 Section until the amount of approved investment authority  
9 reaches \$42,000,000. If the Department approves multiple  
10 applications received simultaneously and the total amount of  
11 investment authority requested on those applications exceeds  
12 the amount of investment authority remaining, the Department  
13 shall proportionally reduce the investment authority and  
14 credit-eligible capital contributions for each of these  
15 applications as necessary to avoid exceeding the amount of  
16 investment authority and credit-eligible capital contributions  
17 remaining.

18 (f) Within 65 days after the day on which a rural  
19 investment company receives approval of an application under  
20 this Section, the rural investment company shall:

21 (1) collect the total amount of committed  
22 credit-eligible capital contributions from each claimant  
23 whose affidavit was included in the application;

24 (2) collect one or more cash equity investments  
25 contributed by affiliates of the rural investment company,  
26 including employees, officers, and directors of such

1 affiliates, that equal at least 10% of the rural investment  
2 company's investment authority;

3 (3) collect one or more cash investments that, when  
4 added to the amounts collected under paragraphs (1) and  
5 (2), equal the rural investment company's investment  
6 authority; and

7 (4) send sufficient documentation to the Department to  
8 prove that the amounts described in this subsection have  
9 been collected.

10 (g) If the rural investment company fails to fully comply  
11 with subsection (f), the rural investment company's approval  
12 shall lapse and the corresponding investment authority and  
13 credit-eligible capital contributions shall not count toward  
14 the limits on the program size. If the Department awards lapsed  
15 investment authority to a rural investment company, the  
16 Department shall first award lapsed investment authority pro  
17 rata to each rural investment company that was awarded less  
18 than the requested investment authority, which a rural  
19 investment company may allocate to the rural investment  
20 company's investors at the company's discretion. The  
21 Department may award any remaining investment authority to new  
22 applicants.

23 Section 20. Tax credit.

24 (a) On the closing date, a claimant whose affidavit was  
25 included in an approved application submitted under Section 15

1 shall earn a credit against the taxes imposed by subsections  
2 (a) and (b) of Section 201 equal to the amount of the  
3 claimant's credit-eligible capital contribution to the rural  
4 investment company.

5 (b) In each of the taxable years that includes the fourth  
6 through seventh anniversaries of the closing date, the  
7 Department shall issue a tax credit certificate to each  
8 approved claimant, specifying a tax credit amount for the  
9 taxable year equal to 25% of the claimant's total  
10 credit-eligible capital contribution.

11 (c) A claimant may not claim a tax credit under this  
12 Section unless the claimant has a tax credit certificate issued  
13 by the Department. A claimant claiming a credit under this  
14 Section shall retain a tax credit certificate the claimant  
15 receives from the Department for the same time period a person  
16 is required to keep books and records under the Illinois Income  
17 Tax Act. The Department shall adopt rules for the  
18 administration of this program.

19 Section 25. Revocation of tax credit certificates.

20 (a) Except as provided in subsection (b), the Department  
21 shall revoke a tax credit certificate issued under Section 20  
22 if the rural investment company in which the credit-eligible  
23 capital contribution was made does any of the following before  
24 the rural investment company exits the program in accordance  
25 with Section 30:

1           (1) fails to invest 100% of the rural investment  
2           company's investment authority in growth investments in  
3           this state within three years of the closing date;

4           (2) fails to maintain growth investments in this State  
5           equal to 100% of the rural investment company's investment  
6           authority until the seventh anniversary of the closing date  
7           in accordance with this section;

8           (3) makes a distribution or payment that results in the  
9           rural investment company having less than 100% of the rural  
10          investment company's investment authority invested in  
11          growth investments in this state or available for  
12          investment in growth investments and held in cash and other  
13          marketable securities;

14          (4) fails to maintain growth investments equal to 70%  
15          of the rural investment company's investment authority in  
16          eligible small businesses that maintain their principal  
17          business operations in a rural county;

18          (5) invests more than \$5,000,000 from the investment  
19          authority in the same eligible small business, including  
20          amounts invested in affiliates of the eligible small  
21          business, exclusive of growth investments made with repaid  
22          or redeemed growth investments or interest or profits  
23          realized on the repaid or redeemed growth investments; or

24          (6) makes a growth investment in an eligible small  
25          business that directly, or indirectly through an  
26          affiliate: (i) owns or has the right to acquire an

1 ownership interest in the rural investment company, an  
2 affiliate of the rural investment company, or an investor  
3 in the rural investment company; or (ii) makes a loan to or  
4 an investment in the rural investment company, an affiliate  
5 of the rural investment company, or an investor in the  
6 rural investment company.

7 (b) For the purposes of subsection (a), an investment is  
8 maintained even if the investment is sold or repaid if the  
9 rural investment company reinvests an amount equal to the  
10 capital returned or recovered by the fund from the original  
11 investment, exclusive of any profits realized, in other growth  
12 investments in this State within 12 months of the receipt of  
13 such capital. Amounts received periodically by a rural  
14 investment company are treated as continually invested in  
15 growth investments if the amounts are reinvested in one or more  
16 growth investments by the end of the following calendar year. A  
17 rural investment company is not required to reinvest capital  
18 returned from growth investments after the sixth anniversary of  
19 the closing date and such growth investments are considered as  
20 being held continuously by the rural investment company through  
21 the seventh anniversary of the closing date. Paragraph (6) of  
22 subsection (a) does not apply to investments in publicly-traded  
23 securities by an eligible small business or an owner or  
24 affiliate of an eligible small business. A rural investment  
25 company is not considered an affiliate of a business concern  
26 solely as a result of the rural investment company's growth

1 investment. A growth investment in an eligible small business  
2 that is not located in a rural county may count toward the  
3 requirements of paragraph (4) of subsection (a) if the  
4 Department determines that the eligible small business is  
5 located in an economically disadvantaged rural area, as defined  
6 by rules adopted by the Department.

7 (c) Before revoking one or more tax credit certificates  
8 under this section, the Department shall notify the rural  
9 investment company of the reasons for the pending revocation.  
10 If the rural investment company corrects any violation outlined  
11 in the notice to the satisfaction of the Department within 90  
12 days after the day on which the notice was sent, the Department  
13 may not revoke the tax credit certificate. If tax credit  
14 certificates are revoked under this Section, the rural  
15 investment company shall make a cash distribution to the  
16 Department in an amount equal to the sum of all tax credits  
17 awarded to persons that have made credit-eligible  
18 contributions to the rural investment company, if the rural  
19 investment company is able to provide documentation to the  
20 Department that proves that a tax credit has not been claimed,  
21 the amount owed shall be reduced by the amount of the unclaimed  
22 tax credit. The rural investment company's investment  
23 authority and credit-eligible capital contributions will not  
24 count toward the limits on the program size.

25 Section 30. Exit. On or after the seventh anniversary of

1 the closing date, a rural investment company may apply to the  
2 Department to exit the program and no longer be subject to this  
3 Act. An application submitted this Section shall be in a form  
4 and in accordance with procedures prescribed by the Department  
5 and shall include a calculation of the State reimbursement  
6 amount. In evaluating the exit application, if no tax credit  
7 certificates have been revoked and the rural investment company  
8 has not received a notice of revocation that has remained  
9 uncorrected, the rural investment company is eligible for exit.  
10 The Department shall respond to the application within 30 days  
11 of receipt and include confirmation of the State reimbursement  
12 amount. The Department shall not unreasonably deny an  
13 application submitted under this Section. If the Department  
14 denies the application, the Department shall provide the  
15 reasons for the determination to the rural investment company.  
16 Within 60 days after the day on which the confirmation of the  
17 State reimbursement amount is received by the rural investment  
18 company, the rural investment company shall make a cash  
19 distribution to the State in an amount equal to the lesser of:  
20 (i) the State reimbursement amount; or (ii) the excess return.  
21 The Department shall notify the rural investment company once  
22 payments have been received. Any amounts collected under this  
23 Section shall be deposited into the General Revenue Fund.

24 Section 900. The Illinois Income Tax Act is amended by  
25 adding Section 229 as follows:

1 (35 ILCS 5/229 new)

2 Sec. 229. Rural Job Creation Tax Credit Act. A taxpayer is  
3 entitled to a credit against the taxes imposed by subsections  
4 (a) and (b) of Section 201 as provided in the Rural Job  
5 Creation Tax Credit Act.

6 Section 999. Effective date. This Act takes effect upon  
7 becoming law.