

S T A T E O F N E W Y O R K

S. 7094

A. 9636

S E N A T E - A S S E M B L Y

March 24, 2016

IN SENATE -- Introduced by Sen. SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

IN ASSEMBLY -- Introduced by M. of A. WOERNER -- Multi-Sponsored by -- M. of A. MAGEE -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to providing insurance corporations with a tax credit for investments made in rural business growth funds; and to amend the state finance law, in relation to establishing the New York agriculture and rural jobs fund

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The tax law is amended by adding a new section 42 to read
2 as follows:
3 S 42. NEW YORK AGRICULTURE AND RURAL JOBS CREDIT. (A) DEFINITIONS. FOR
4 THE PURPOSE OF THIS SECTION THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING
5 MEANINGS:
6 (1) "AFFILIATE" MEANS A PERSON THAT DIRECTLY, OR INDIRECTLY THROUGH
7 ONE OR MORE INTERMEDIARIES, CONTROLS, IS CONTROLLED BY, OR IS UNDER
8 COMMON CONTROL WITH ANOTHER PERSON. FOR THE PURPOSES OF THIS DIVISION, A
9 PERSON IS "CONTROLLED BY" ANOTHER PERSON IF THE CONTROLLING PERSON
10 HOLDS, DIRECTLY OR INDIRECTLY, THE MAJORITY VOTING OR OWNERSHIP INTEREST
11 IN THE CONTROLLED PERSON OR HAS CONTROL OVER THE DAY-TO-DAY OPERATIONS
12 OF THE CONTROLLED PERSON BY CONTRACT OR BY LAW.
13 (2) "CLOSING DATE" MEANS THE DATE ON WHICH A RURAL BUSINESS GROWTH
14 FUND HAS COLLECTED ALL OF THE AMOUNTS SPECIFIED BY SUBPARAGRAPHS (A) AND
15 (B) OF PARAGRAPH SEVEN OF SUBDIVISION (B) OF THIS SECTION.
16 (3) "CREDIT-ELIGIBLE CAPITAL CONTRIBUTION" MEANS AN INVESTMENT OF CASH
17 BY A PERSON IN A RURAL BUSINESS GROWTH FUND THAT EQUALS THE AMOUNT SPEC-
18 IFIED ON A TAX CREDIT CERTIFICATE ISSUED BY THE DEPARTMENT UNDER SUBPAR-
19 AGRAPH (B) OF PARAGRAPH SIX OF SUBDIVISION (B) OF THIS SECTION. THE
20 INVESTMENT SHALL PURCHASE AN EQUITY INTEREST IN THE RURAL BUSINESS
21 GROWTH FUND OR PURCHASE, AT PAR VALUE OR PREMIUM, A DEBT INSTRUMENT

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD14662-02-6

1 ISSUED BY THE RURAL GROWTH FUND THAT MEETS ALL OF THE FOLLOWING CRITE-
2 RIA:

3 (A) THE DEBT INSTRUMENT HAS AN ORIGINAL MATURITY DATE OF AT LEAST FIVE
4 YEARS AFTER THE DATE OF ISSUANCE.

5 (B) THE DEBT INSTRUMENT HAS A REPAYMENT SCHEDULE THAT IS NOT FASTER
6 THAN A LEVEL PRINCIPAL AMORTIZATION OVER FIVE YEARS.

7 (C) THE DEBT INSTRUMENT HAS NO INTEREST, DISTRIBUTION, OR PAYMENT
8 FEATURES DEPENDENT ON THE RURAL BUSINESS GROWTH FUND'S PROFITABILITY OR
9 THE SUCCESS OF THE RURAL GROWTH INVESTMENTS.

10 (4) "ELIGIBLE DISTRIBUTION" MEANS ANY OF THE FOLLOWING:

11 (A) A DISTRIBUTION OF CASH TO ONE OR MORE EQUITY OWNERS OF THE RURAL
12 BUSINESS GROWTH FUND TO FULLY OR PARTIALLY OFFSET A PROJECTED INCREASE
13 IN THE OWNER'S FEDERAL OR STATE TAX LIABILITY, INCLUDING ANY PENALTIES
14 AND INTEREST, RELATED TO THE OWNER'S OWNERSHIP, MANAGEMENT, OR OPERATION
15 OF THE RURAL BUSINESS GROWTH FUND;

16 (B) A DISTRIBUTION OF CASH AS PAYMENT OF INTEREST AND PRINCIPAL ON A
17 DEBT OF THE RURAL BUSINESS GROWTH FUND EXCEPT TO THE EXTENT THE PAYMENT
18 RESULTS IN THE RURAL BUSINESS GROWTH FUND HAVING LESS THAN ONE HUNDRED
19 PERCENT OF ITS ELIGIBLE INVESTMENT AUTHORITY INVESTED IN RURAL GROWTH
20 INVESTMENTS IN THIS STATE OR HELD IN CASH AND OTHER MARKETABLE SECURI-
21 TIES AWAITING INVESTMENT IN RURAL GROWTH INVESTMENTS IN THIS STATE;

22 (C) A DISTRIBUTION OF CASH RELATED TO THE REASONABLE COSTS AND
23 EXPENSES OF FORMING, SYNDICATING, MANAGING, AND OPERATING THE RURAL
24 BUSINESS GROWTH FUND. SUCH DISTRIBUTIONS MAY INCLUDE REASONABLE AND
25 NECESSARY FEES PAID FOR PROFESSIONAL SERVICES, INCLUDING LEGAL AND
26 ACCOUNTING SERVICES, RELATED TO THE FORMATION AND OPERATION OF THE RURAL
27 BUSINESS GROWTH FUND AND AN ANNUAL MANAGEMENT FEE TO THE EXTENT IT DOES
28 NOT EXCEED TWO PERCENT OF THE RURAL BUSINESS GROWTH FUND'S ELIGIBLE
29 INVESTMENT AUTHORITY. FOR PURPOSES OF THIS SECTION, "ELIGIBLE DISTRIB-
30 UTION" DOES NOT INCLUDE SUCH A DISTRIBUTION TO A PERSON THAT MADE A
31 CREDIT-ELIGIBLE CAPITAL CONTRIBUTION TO THE RURAL BUSINESS GROWTH FUND.

32 (5) "ELIGIBLE INVESTMENT AUTHORITY" MEANS THE AMOUNT STATED ON THE
33 NOTICE ISSUED UNDER SUBPARAGRAPH (A) OF PARAGRAPH SIX OF SUBDIVISION (B)
34 OF THIS SECTION CERTIFYING THE RURAL BUSINESS GROWTH FUND. SEVENTY
35 PERCENT OF A RURAL BUSINESS GROWTH FUND'S ELIGIBLE INVESTMENT AUTHORITY
36 SHALL BE COMPRISED OF CREDIT-ELIGIBLE CAPITAL CONTRIBUTIONS.

37 (6) A BUSINESS'S "PRINCIPAL BUSINESS OPERATIONS" ARE IN THIS STATE IF
38 AT LEAST EIGHTY PERCENT OF THE BUSINESS'S EMPLOYEES RESIDE IN THIS
39 STATE, THE INDIVIDUALS WHO RECEIVE EIGHTY PERCENT OF THE BUSINESS'S
40 PAYROLL RESIDE IN THIS STATE, OR THE BUSINESS HAS AGREED TO USE THE
41 PROCEEDS OF A RURAL GROWTH INVESTMENT TO RELOCATE AT LEAST EIGHTY
42 PERCENT OF ITS EMPLOYEES TO THIS STATE OR PAY AT LEAST EIGHTY PERCENT OF
43 ITS PAYROLL TO INDIVIDUALS RESIDING IN THIS STATE.

44 (7) "RURAL AREA" MEANS EITHER OF THE FOLLOWING:

45 (A) A TOWN HAVING A POPULATION DENSITY OF LESS THAN ONE HUNDRED FIFTY
46 PERSONS PER SQUARE MILE;

47 (B) A COUNTY HAVING A POPULATION OF TWO HUNDRED FIFTY THOUSAND OR LESS
48 AS REFLECTED IN THE LATEST FEDERAL DECENNIAL CENSUS.

49 (8) "RURAL BUSINESS CONCERN" MEANS AN OPERATING COMPANY THAT, AT THE
50 TIME IF THE INITIAL INVESTMENT IN THE COMPANY BY A RURAL BUSINESS GROWTH
51 FUND, HAS ITS PRINCIPAL BUSINESS OPERATIONS IN THIS STATE, HAS FEWER
52 THAN TWO HUNDRED FIFTY EMPLOYEES OR NOT MORE THAN FIFTEEN MILLION
53 DOLLARS IN NET INCOME FOR THE PRECEDING TAXABLE YEAR, AND MEETS EITHER
54 OF THE FOLLOWING CRITERIA:

55 (A) THE BUSINESS'S PRINCIPAL BUSINESS OPERATIONS ARE LOCATED IN A
56 RURAL AREA; OR

(B) THE BUSINESS PRODUCES OR PROVIDES ANY GOODS OR SERVICES NORMALLY USED BY FARMERS, RANCHERS, OR PRODUCERS AND HARVESTERS OF AQUATIC PRODUCTS IN THEIR BUSINESS OPERATIONS, OR TO IMPROVE THE WELFARE OR LIVELIHOOD OF SUCH PERSONS, OR IS INVOLVED IN THE PROCESSING AND MARKETING OF AGRICULTURAL PRODUCTS, FARM SUPPLY, AND INPUT SUPPLIERS. FOR THE PURPOSES OF THIS SECTION, "NET INCOME" MEANS FEDERAL ADJUSTED GROSS INCOME AS REQUIRED TO BE REPORTED UNDER THE INTERNAL REVENUE CODE LESS FEDERAL AND STATE TAXES IMPOSED ON OR MEASURED BY INCOME.

(9) "RURAL BUSINESS GROWTH FUND" MEANS AN ENTITY CERTIFIED BY THE DEPARTMENT UNDER THIS SECTION.

(10) "RURAL GROWTH INVESTMENT" MEANS ANY CAPITAL OR EQUITY INVESTMENT IN A RURAL BUSINESS CONCERN OR ANY LOAN TO A RURAL BUSINESS CONCERN WITH A TERM OF AT LEAST ONE YEAR.

(11) "TAXABLE YEAR" WHEN USED IN REFERENCE TO AN INSURANCE COMPANY MEANS THE CALENDAR YEAR ENDING ON THE THIRTY-FIRST DAY OF DECEMBER NEXT PRECEDING THE DAY THE ANNUAL REPORT IS REQUIRED TO BE RETURNED UNDER SUBDIVISION (D) OF THIS SECTION.

(B) CERTIFICATION. (1) ON AND AFTER AUGUST FIRST, TWO THOUSAND SIXTEEN, A PERSON THAT HAS DEVELOPED A BUSINESS PLAN TO INVEST IN RURAL BUSINESS CONCERNS IN THIS STATE AND HAS SUCCESSFULLY SOLICITED PRIVATE INVESTORS TO MAKE CAPITAL CONTRIBUTIONS IN SUPPORT OF THE PLAN MAY APPLY TO THE DEPARTMENT FOR CERTIFICATION AS A RURAL BUSINESS GROWTH FUND. THE APPLICATION SHALL INCLUDE ALL OF THE FOLLOWING:

(A) THE TOTAL ELIGIBLE INVESTMENT AUTHORITY SOUGHT BY THE APPLICANT UNDER THE BUSINESS PLAN;

(B) DOCUMENTS AND OTHER EVIDENCE SUFFICIENT TO PROVE, TO THE SATISFACTION OF THE DEPARTMENT, THAT THE APPLICANT MEETS ALL OF THE FOLLOWING CRITERIA: (I) THE APPLICANT OR AN AFFILIATE OF THE APPLICANT IS LICENSED AS A RURAL BUSINESS INVESTMENT COMPANY UNDER 7 U.S.C. 2009CC, OR AS A SMALL BUSINESS INVESTMENT COMPANY UNDER 15 U.S.C. 681.

(II) AS OF THE DATE THE APPLICATION IS SUBMITTED, THE APPLICANT HAS INVESTED MORE THAN ONE HUNDRED MILLION DOLLARS IN OPERATING COMPANIES, INCLUDING AT LEAST FIFTY MILLION DOLLARS IN OPERATING COMPANIES LOCATED IN RURAL AREAS. IN COMPUTING INVESTMENTS UNDER THIS DIVISION, THE APPLICANT MAY INCLUDE INVESTMENTS MADE BY AFFILIATES OF THE APPLICANT.

(C) AN ESTIMATE OF THE NUMBER OF JOBS THAT WILL BE CREATED OR RETAINED IN THIS STATE AS A RESULT OF THE APPLICANT'S RURAL GROWTH INVESTMENTS;

(D) A REVENUE IMPACT ASSESSMENT FOR THE APPLICANT'S PROPOSED RURAL GROWTH INVESTMENTS PREPARED BY A NATIONALLY RECOGNIZED THIRD-PARTY INDEPENDENT ECONOMIC FORECASTING FIRM USING A DYNAMIC ECONOMIC FORECASTING MODEL. THE REVENUE IMPACT ASSESSMENT SHALL ANALYZE THE APPLICANT'S BUSINESS PLAN OVER THE TEN YEARS FOLLOWING THE DATE THE APPLICATION IS SUBMITTED TO THE DEPARTMENT.

(E) A SIGNED AFFIDAVIT FROM EACH INVESTOR SUCCESSFULLY SOLICITED BY THE APPLICANT TO MAKE A CREDIT ELIGIBLE CAPITAL CONTRIBUTION IN SUPPORT OF THE BUSINESS PLAN. EACH AFFIDAVIT SHALL INCLUDE INFORMATION SUFFICIENT FOR THE TAX COMMISSIONER TO IDENTIFY THE INVESTOR AND SHALL STATE THE AMOUNT OF THE INVESTOR'S CREDIT-ELIGIBLE CAPITAL CONTRIBUTION.

(F) A NONREFUNDABLE APPLICATION FEE OF FIVE THOUSAND DOLLARS.

(2) THE DEPARTMENT SHALL REVIEW AND MAKE A DETERMINATION WITH RESPECT TO EACH APPLICATION SUBMITTED UNDER PARAGRAPH ONE OF THIS SUBDIVISION WITHIN THIRTY DAYS OF RECEIPT. THE DEPARTMENT SHALL REVIEW AND MAKE DETERMINATIONS ON THE APPLICATIONS IN THE ORDER IN WHICH THE APPLICATIONS ARE RECEIVED BY THE DEPARTMENT. APPLICATIONS RECEIVED BY THE DEPARTMENT ON THE SAME DAY SHALL BE DEEMED TO HAVE BEEN RECEIVED SIMULTANEOUSLY. EXCEPT AS PROVIDED IN PARAGRAPH FIVE OF SUBDIVISION (C) OF

1 THIS SECTION, THE DEPARTMENT SHALL NOT APPROVE MORE THAN ONE HUNDRED
2 MILLION DOLLARS IN ELIGIBLE INVESTMENT AUTHORITY OR MORE THAN SEVENTY
3 MILLION DOLLARS IN CREDIT-ELIGIBLE CAPITAL CONTRIBUTIONS.

4 (3) THE DEPARTMENT SHALL DENY AN APPLICATION SUBMITTED UNDER THIS
5 SECTION IF ANY OF THE FOLLOWING ARE TRUE: (A) THE APPLICATION IS INCOM-
6 PLETE.

7 (B) THE APPLICATION FEE IS NOT PAID IN FULL.

8 (C) THE APPLICANT DOES NOT SATISFY ALL THE CRITERIA DESCRIBED IN
9 SUBPARAGRAPH (B) OF PARAGRAPH ONE OF THIS SUBDIVISION.

10 (D) THE REVENUE IMPACT ASSESSMENT SUBMITTED UNDER SUBPARAGRAPH (D) OF
11 PARAGRAPH ONE OF THIS SUBDIVISION DOES NOT DEMONSTRATE THAT THE APPLI-
12 CANT'S BUSINESS PLAN WILL RESULT IN A POSITIVE ECONOMIC IMPACT ON THIS
13 STATE OVER A TEN-YEAR PERIOD THAT EXCEEDS THE ELIGIBLE INVESTMENT
14 AUTHORITY SOUGHT BY THE APPLICANT.

15 (E) THE CREDIT-ELIGIBLE CAPITAL CONTRIBUTIONS DESCRIBED IN AFFIDAVITS
16 SUBMITTED UNDER SUBPARAGRAPH (E) OF PARAGRAPH ONE OF THIS SUBDIVISION DO
17 NOT EQUAL SEVENTY PERCENT OF THE TOTAL AMOUNT OF ELIGIBLE INVESTMENT
18 AUTHORITY SOUGHT UNDER THE APPLICANT'S BUSINESS PLAN.

19 (F) THE DEPARTMENT HAS ALREADY APPROVED THE MAXIMUM AMOUNT OF ELIGIBLE
20 INVESTMENT AUTHORITY AND CREDIT-ELIGIBLE CAPITAL CONTRIBUTIONS ALLOWED
21 UNDER PARAGRAPH TWO OF THIS SUBDIVISION.

22 (4) IF THE DEPARTMENT DENIES AN APPLICATION UNDER PARAGRAPH THREE OF
23 THIS SUBDIVISION, THE DEPARTMENT SHALL SEND NOTICE OF ITS DETERMINATION
24 OF THE APPLICANT. THE NOTICE SHALL INCLUDE THE REASONS THAT THE APPLICA-
25 TION WAS DENIED. IF THE APPLICATION WAS DENIED FOR ANY REASON OTHER THAN
26 THE REASON SPECIFIED IN SUBPARAGRAPH (F) OF PARAGRAPH THREE OF THIS
27 SUBDIVISION, THE APPLICANT MAY PROVIDE ADDITIONAL INFORMATION TO THE
28 DEPARTMENT TO COMPLETE, CLARIFY, OR CURE DEFECTS IN THE APPLICATION.
29 THE ADDITIONAL INFORMATION MUST BE SUBMITTED WITHIN THIRTY DAYS AFTER
30 THE DATE THE NOTICE OF DENIAL WAS SENT BY THE DEPARTMENT. IF THE PERSON
31 OR ENTITY SUBMITS ADDITIONAL INFORMATION WITHIN THIRTY DAYS, THE DEPART-
32 MENT SHALL RECONSIDER THE APPLICATION WITHIN THIRTY DAYS AFTER RECEIVING
33 SUCH ADDITIONAL INFORMATION. IF AFTER SUBMISSION OF ADDITIONAL INFORMA-
34 TION, THE DEPARTMENT APPROVES THE APPLICATION, THEN THE SUBMISSION DATE
35 SHALL BE THE DATE OF THE ORIGINAL SUBMISSION OF THE APPLICATION. IF THE
36 PERSON OR ENTITY DOES NOT SUBMIT ADDITIONAL INFORMATION WITHIN THIRTY
37 DAYS AFTER THE NOTICE OF DENIAL WAS SENT, THE APPLICANT MAY SUBMIT A NEW
38 APPLICATION WITH A NEW SUBMISSION DATE AT ANY TIME.

39 (5) OF APPROVING MULTIPLE SIMULTANEOUSLY SUBMITTED APPLICATIONS WOULD
40 RESULT IN EXCEEDING THE OVERALL ELIGIBLE INVESTMENT LIMIT PRESCRIBED BY
41 PARAGRAPH TWO OF THIS SUBDIVISION, THE DEPARTMENT SHALL PROPORTIONALLY
42 REDUCE THE ELIGIBLE INVESTMENT AUTHORITY AND THE CREDIT-ELIGIBLE CAPITAL
43 CONTRIBUTIONS FOR EACH APPROVED APPLICATION AS NECESSARY TO AVOID
44 EXCEEDING THE LIMIT.

45 (6) THE DEPARTMENT SHALL NOT DENY A RURAL BUSINESS GROWTH FUND APPLI-
46 CATION OR REDUCE THE REQUESTED ELIGIBLE INVESTMENT AUTHORITY FOR REASONS
47 OTHER THAN THOSE DESCRIBED IN PARAGRAPHS THREE AND FIVE OF THIS SUBDIVI-
48 SION. IF THE DEPARTMENT APPROVES SUCH APPLICATION, THE DEPARTMENT SHALL
49 ISSUE ALL OF THE FOLLOWING NOTICES: (A) TO THE APPLICANT, A WRITTEN
50 NOTICE CERTIFYING THAT THE APPLICANT QUALIFIES AS A RURAL BUSINESS
51 GROWTH FUND AND SPECIFYING THE AMOUNT OF THE APPLICANT'S ELIGIBLE
52 INVESTMENT AUTHORITY; (B) TO EACH INVESTOR WHOSE AFFIDAVIT WAS INCLUDED
53 IN THE APPLICATION, A TAX CREDIT CERTIFICATE SPECIFYING THE AMOUNT OF
54 THE INVESTOR'S CREDIT-ELIGIBLE CAPITAL CONTRIBUTION; (C) TO THE COMMIS-
55 SIONER, A COPY OF EACH TAX CREDIT CERTIFICATE ISSUED UNDER SUBPARAGRAPH
56 (B) OF PARAGRAPH SIX OF THIS SUBDIVISION.

1 (7) A RURAL BUSINESS GROWTH FUND SHALL COMPLETE ALL OF THE FOLLOWING
2 WITHIN SIXTY DAYS OF RECEIVING THE CERTIFICATION ISSUED UNDER SUBPARA-
3 GRAPH (A) OF PARAGRAPH SIX OF THIS SUBDIVISION:

4 (A) COLLECT THE CREDIT-ELIGIBLE CAPITAL CONTRIBUTIONS FROM EACH INVE-
5 TOR ISSUED A TAX CREDIT CERTIFICATE UNDER SUBPARAGRAPH (B) OF PARAGRAPH
6 SIX OF THIS SUBDIVISION;

7 (B) COLLECT ONE OR MORE INVESTMENTS OF CASH, WHICH SHALL PURCHASE AN
8 EQUITY INTEREST IN THE RURAL GROWTH FUND OR A DEBT INSTRUMENT ISSUED BY
9 THE RURAL GROWTH FUND AT PAR VALUE OR PREMIUM, WITH A MATURITY DATE OF
10 AT LEAST FIVE YEARS FROM THE CLOSING DATE THAT, WHEN ADDED TO THE
11 CONTRIBUTIONS COLLECTED UNDER SUBPARAGRAPH (A) OF PARAGRAPH SEVEN OF
12 THIS SUBDIVISION, EQUAL THE FUND'S ELIGIBLE INVESTMENT AUTHORITY. AT
13 LEAST TEN PERCENT OF THE FUND'S ELIGIBLE INVESTMENT AUTHORITY SHALL BE
14 COMPRISED OF EQUITY INVESTMENTS CONTRIBUTED BY AFFILIATES OF THE RURAL
15 BUSINESS GROWTH FUND, INCLUDING EMPLOYEES, OFFICERS, AND DIRECTORS OF
16 SUCH AFFILIATES.

17 (C) SEND TO THE DEPARTMENT DOCUMENTATION SUFFICIENT TO PROVE THAT THE
18 AMOUNTS DESCRIBED IN SUBPARAGRAPHS (A) AND (B) OF PARAGRAPH SEVEN OF
19 THIS SUBDIVISION HAVE BEEN COLLECTED. IF THE RURAL BUSINESS GROWTH FUND
20 FAILS TO FULLY COMPLY WITH THIS PARAGRAPH, THE FUND'S CERTIFICATION
21 SHALL LAPSE.

22 (8) ELIGIBLE INVESTMENT AUTHORITY AND CORRESPONDING CREDIT-ELIGIBLE
23 CAPITAL CONTRIBUTIONS THAT LAPSE UNDER PARAGRAPH SEVEN OF THIS SUBDIVI-
24 SION DO NOT COUNT TOWARD LIMITS ON TOTAL ELIGIBLE INVESTMENT AUTHORITY
25 AND CREDIT-ELIGIBLE CAPITAL CONTRIBUTIONS PRESCRIBED IN PARAGRAPH TWO OF
26 THIS SUBDIVISION. ONCE ELIGIBLE INVESTMENT AUTHORITY HAS LAPSED, THE
27 DEPARTMENT SHALL FIRST AWARD LAPSED AUTHORITY PRO RATA TO EACH RURAL
28 BUSINESS GROWTH FUND THAT WAS AWARDED LESS THAN THE REQUESTED ELIGIBLE
29 INVESTMENT AUTHORITY UNDER PARAGRAPH FIVE OF THIS SUBDIVISION. ANY
30 REMAINING ELIGIBLE INVESTMENT AUTHORITY MAY BE AWARDED BY THE DEPARTMENT
31 TO NEW APPLICANTS.

32 (9) APPLICATION FEES SUBMITTED TO THE DEPARTMENT PURSUANT TO SUBPARA-
33 GRAPH (F) OF PARAGRAPH ONE OF THIS SUBDIVISION SHALL BE CREDITED TO THE
34 NEW YORK AGRICULTURE AND RURAL JOBS FUND, CREATED IN SECTION
35 NINETY-NINE-Y OF THE STATE FINANCE LAW.

36 (C) REVOCATION OF CERTIFICATION. (1) THE DEPARTMENT SHALL REVOKE A TAX
37 CREDIT CERTIFICATE ISSUED UNDER SUBDIVISION (B) OF THIS SECTION IF ANY
38 OF THE FOLLOWING OCCUR WITH RESPECT TO A RURAL BUSINESS GROWTH FUND
39 BEFORE THE FUND IS DECERTIFIED UNDER PARAGRAPH SIX OF THIS SUBDIVISION.

40 (A) THE RURAL BUSINESS GROWTH FUND IN WHICH THE CREDIT-ELIGIBLE CAPI-
41 TAL CONTRIBUTION WAS MADE DOES NOT INVEST ONE HUNDRED PERCENT OF ITS
42 ELIGIBLE INVESTMENT AUTHORITY IN RURAL GROWTH INVESTMENTS IN THIS STATE
43 WITHIN THREE YEARS OF THE CLOSING DATE.

44 (B) THE RURAL BUSINESS GROWTH FUND MAKES A DISTRIBUTION OR PAYMENT
45 OTHER THAN AN ELIGIBLE DISTRIBUTION BEFORE THE FOURTH ANNIVERSARY OF THE
46 CLOSING DATE.

47 (C) THE RURAL BUSINESS GROWTH FUND INVESTS MORE THAN TWENTY PERCENT OF
48 ITS ELIGIBLE INVESTMENT AUTHORITY IN THE SAME RURAL BUSINESS CONCERN,
49 INCLUDING AMOUNTS INVESTED IN AFFILIATES OF THE RURAL BUSINESS CONCERN
50 BUT EXCLUDING AMOUNTS REINVESTED IN THE RURAL BUSINESS GROWTH FUND WITH
51 REPAYED OR REDEEMED RURAL BUSINESS GROWTH INVESTMENTS, PROVIDED SUCH
52 REINVESTMENTS SHALL NOT COUNT TOWARDS THE REQUIREMENT OF SUBPARAGRAPH
53 (A) OF THIS PARAGRAPH.

54 (D) THE RURAL BUSINESS GROWTH FUND MAKES A RURAL GROWTH INVESTMENT IN
55 A RURAL BUSINESS CONCERN THAT DIRECTLY OR INDIRECTLY THROUGH AN AFFIL-
56 IATE OWNS, HAS THE RIGHT TO ACQUIRE AN OWNERSHIP INTEREST, MAKE A LOAN

1 TO, OR MAKE AN INVESTMENT IN THE RURAL BUSINESS GROWTH FUND, AN AFFIL-
2 IATE OF THE RURAL BUSINESS GROWTH FUND, OR AN INVESTOR IN THE RURAL
3 BUSINESS GROWTH FUND. THIS PARAGRAPH DOES NOT APPLY TO INVESTMENTS IN
4 PUBLICLY TRADED SECURITIES BY A RURAL BUSINESS CONCERN OR AN OWNER OR
5 AFFILIATE OF SUCH CONCERN.

6 (2) IF, AFTER INVESTING ONE HUNDRED PERCENT OF ITS ELIGIBLE INVESTMENT
7 AUTHORITY IN RURAL GROWTH INVESTMENTS IN THIS STATE, THE RURAL BUSINESS
8 GROWTH FUND FAILS TO MAINTAIN THAT INVESTMENT UNTIL THE FIFTH ANNIVER-
9 SARY OF THE CLOSING DATE, INCLUDING THE REINVESTMENT OF SUCH INVEST-
10 MENT, THE DEPARTMENT SHALL LEVY A FINE AGAINST THE RURAL BUSINESS GROWTH
11 FUND OF UP TO THREE HUNDRED THOUSAND DOLLARS. FOR THE PURPOSES OF THIS
12 SECTION, AN INVESTMENT IS "MAINTAINED" EVEN IF THE INVESTMENT IS SOLD OR
13 REPAYED SO LONG AS THE RURAL BUSINESS GROWTH FUND REINVESTS AN AMOUNT
14 EQUAL TO THE CAPITAL RETURNED OR RECOVERED BY THE FUND FROM THE ORIGINAL
15 INVESTMENT, EXCLUSIVE OF ANY PROFITS REALIZED, IN OTHER RURAL GROWTH
16 INVESTMENTS IN THIS STATE WITHIN TWELVE MONTHS OF THE RECEIPT OF SUCH
17 CAPITAL. AMOUNTS RECEIVED PERIODICALLY BY A RURAL BUSINESS GROWTH FUND
18 SHALL BE TREATED AS CONTINUALLY INVESTED IN RURAL GROWTH INVESTMENTS IF
19 THE AMOUNTS ARE REINVESTED IN ONE OR MORE RURAL GROWTH INVESTMENTS BY
20 THE END OF THE FOLLOWING CALENDAR YEAR. A RURAL BUSINESS GROWTH FUND IS
21 NOT REQUIRED TO REINVEST CAPITAL RETURNED FROM RURAL GROWTH INVESTMENTS
22 AFTER THE FOURTH ANNIVERSARY OF THE CLOSING DATE, AND SUCH RURAL GROWTH
23 INVESTMENTS SHALL BE CONSIDERED HELD CONTINUOUSLY BY THE RURAL GROWTH
24 FUND THROUGH THE FIFTH ANNIVERSARY OF THE CLOSING DATE.

25 (3) BEFORE TAKING ACTION UNDER PARAGRAPHS ONE AND TWO OF THIS SUBDIVI-
26 SION, THE DEPARTMENT SHALL NOTIFY THE RURAL BUSINESS GROWTH FUND OF THE
27 REASONS FOR THE PENDING ACTION. IF THE RURAL BUSINESS GROWTH FUND
28 CORRECTS THE VIOLATIONS OUTLINED IN THE NOTICE TO THE SATISFACTION OF
29 THE DEPARTMENT WITHIN ONE HUNDRED EIGHTY DAYS OF THE DATE OF THE NOTICE
30 WAS SENT, THE DEPARTMENT SHALL NOT REVOKE THE TAX CREDIT CERTIFICATES OR
31 LEVY A FINE.

32 (4) IF THE DEPARTMENT REVOKES A TAX CREDIT CERTIFICATE UNDER PARAGRAPH
33 ONE OF THIS SUBDIVISION, THE COMMISSIONER SHALL MAKE AN ASSESSMENT FOR
34 THE AMOUNT OF THE CREDIT CLAIMED BY THE CERTIFICATE HOLDER BEFORE THE
35 CERTIFICATE WAS REVOKED. THE COMMISSIONER SHALL MAKE THE ASSESSMENT
36 WITHIN ONE YEAR AFTER THE CERTIFICATE HAS BEEN REVOKED.

37 (5) IF TAX CREDIT CERTIFICATES ARE REVOKED UNDER PARAGRAPH ONE OF THIS
38 SUBDIVISION, THE ASSOCIATED ELIGIBLE INVESTMENT AUTHORITY AND CREDIT-EL-
39 IGIBLE CAPITAL CONTRIBUTIONS DO NOT COUNT TOWARD THE LIMIT ON TOTAL
40 ELIGIBLE INVESTMENT AUTHORITY AND CREDIT-ELIGIBLE CAPITAL CONTRIBUTIONS
41 DESCRIBED BY PARAGRAPH TWO OF SUBDIVISION (B) OF THIS SECTION. THE
42 DEPARTMENT SHALL FIRST AWARD REVERTED AUTHORITY PRO RATA TO EACH RURAL
43 BUSINESS GROWTH FUND THAT WAS AWARDED LESS THAN THE REQUESTED ELIGIBLE
44 INVESTMENT AUTHORITY UNDER PARAGRAPH FIVE OF SUBDIVISION (B) OF THIS
45 SECTION. ANY REMAINING ELIGIBLE INVESTMENT AUTHORITY MAY BE AWARDED BY
46 THE DEPARTMENT TO NEW APPLICANTS.

47 (6) (A) ON OR AFTER THE FIFTH ANNIVERSARY OF THE CLOSING DATE, A RURAL
48 BUSINESS GROWTH FUND THAT HAS NOT COMMITTED ANY OF THE ACTS DESCRIBED IN
49 PARAGRAPH ONE OF THIS SUBDIVISION MAY APPLY TO THE DEPARTMENT TO DECER-
50 TIFY AS A RURAL BUSINESS GROWTH FUND. THE DEPARTMENT SHALL RESPOND TO
51 THE APPLICATION WITHIN THIRTY DAYS AFTER RECEIVING SUCH APPLICATION. IN
52 EVALUATING THE FACT THAT NO TAX CREDIT CERTIFICATES HAVE BEEN REVOKED
53 WITH RESPECT TO THE RURAL BUSINESS GROWTH FUND SHALL BE SUFFICIENT
54 EVIDENCE TO PROVE THAT THE FUND IS ELIGIBLE FOR DECERTIFICATION. THE
55 DEPARTMENT SHALL NOT UNREASONABLY DENY AN APPLICATION SUBMITTED UNDER
56 THIS SUBDIVISION.

(B) THE DEPARTMENT SHALL SEND NOTICE OF ITS DETERMINATION WITH RESPECT TO AN APPLICATION SUBMITTED UNDER SUBPARAGRAPH (A) OF THIS PARAGRAPH TO THE RURAL BUSINESS GROWTH FUND. IF THE APPLICATION IS DENIED, THE NOTICE SHALL INCLUDE THE REASONS FOR THE DETERMINATION.

(C) THE DEPARTMENT SHALL NOT REVOKE A TAX CREDIT CERTIFICATE DUE TO ANY ACTIONS OF A RURAL BUSINESS GROWTH FUND THAT OCCUR AFTER THE DATE THE FUND'S APPLICATION FOR DECERTIFICATION IS APPROVED UNDER SUBPARAGRAPH (A) OF THIS PARAGRAPH.

(D) REPORTS. (1) EACH RURAL BUSINESS GROWTH FUND SHALL SUBMIT A REPORT TO THE DEPARTMENT ON OR BEFORE THE FIFTH BUSINESS DAY AFTER THE SECOND ANNIVERSARY OF THE CLOSING DATE. THE REPORT SHALL PROVIDE DOCUMENTATION AS TO THE INVESTMENT OF THE FUND'S ELIGIBLE INVESTMENT AUTHORITY IN RURAL GROWTH INVESTMENTS. SUCH DOCUMENTATION SHALL INCLUDE THE FOLLOWING:

(A) A BANK STATEMENT OF THE RURAL BUSINESS GROWTH FUND DISPLAYING EACH RURAL GROWTH INVESTMENT;

(B) THE NAME AND LOCATION OF EACH BUSINESS IN WHICH THE RURAL BUSINESS GROWTH FUND HAS MADE A RURAL GROWTH INVESTMENT, INCLUDING EVIDENCE THAT THE BUSINESS QUALIFIED AS A RURAL BUSINESS CONCERN AT THE TIME THE INVESTMENT WAS MADE.

(2) ON OR BEFORE THE LAST DAY OF FEBRUARY OF EACH YEAR FOLLOWING THE YEAR IN WHICH THE REPORT REQUIRED UNDER PARAGRAPH ONE OF THIS SUBDIVISION IS DUE, THE RURAL BUSINESS GROWTH FUND SHALL SUBMIT AN ANNUAL REPORT TO THE DEPARTMENT INCLUDING THE FOLLOWING:

(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;

(B) THE AVERAGE ANNUAL SALARY OF THE POSITIONS DESCRIBED IN SUBPARAGRAPH (A) OF THIS PARAGRAPH;

(C) ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT.

(3) THE DEPARTMENT SHALL ADOPT RULES NECESSARY TO IMPLEMENT THIS SUBDIVISION.

S 2. Section 1511 of the tax law is amended by adding a new subdivision (dd) to read as follows:

(DD) CREDIT FOR CERTAIN INVESTMENTS TO A RURAL BUSINESS GROWTH FUND.

(1) THERE IS HEREBY ALLOWED A NONREFUNDABLE TAX CREDIT FOR TAXPAYERS THAT MADE A CREDIT-ELIGIBLE CAPITAL CONTRIBUTION TO A RURAL BUSINESS GROWTH FUND AND WERE ISSUED A TAX CREDIT CERTIFICATE UNDER SUBPARAGRAPH (B) OF PARAGRAPH SIX OF SUBDIVISION (B) OF SECTION FORTY-TWO OF THIS CHAPTER. THE CREDIT MAY BE CLAIMED AGAINST THE TAX IMPOSED BY THIS ARTICLE. THE CREDIT MAY NOT BE SOLD, TRANSFERRED, OR ALLOCATED TO ANY ENTITY OTHER THAN AN AFFILIATE OF THE TAXPAYER.

(2) ON THE CLOSING DATE, THE TAXPAYER SHALL EARN A VESTED CREDIT EQUAL TO THE AMOUNT OF THE TAXPAYER'S CREDIT-ELIGIBLE CAPITAL CONTRIBUTION TO THE RURAL BUSINESS GROWTH FUND, AS SPECIFIED ON THE TAX CREDIT CERTIFICATE. THE TAXPAYER MAY CLAIM UP TO TWENTY-FIVE PERCENT OF THE ELIGIBLE INVESTMENT AUTHORITY FOR THE TAXABLE YEAR OF THE THIRD ANNIVERSARY DATE OF THE CLOSING DATE, EXCLUSIVE OF AMOUNTS CARRIED FORWARD PURSUANT TO PARAGRAPH THREE OF THIS SUBDIVISION. THE TAXPAYER MAY CLAIM UP TO TWENTY PERCENT OF THE ELIGIBLE INVESTMENT AUTHORITY FOR THE TAXABLE YEARS THAT INCLUDE THE FOURTH AND FIFTH ANNIVERSARY DATES OF THE CLOSING DATE, EXCLUSIVE OF AMOUNTS CARRIED FORWARD PURSUANT TO PARAGRAPH THREE OF THIS SUBDIVISION.

(3) IF THE AMOUNT OF THE CREDIT FOR A TAXABLE YEAR EXCEEDS THE TAX OTHERWISE DUE FOR THAT YEAR, THE EXCESS SHALL BE CARRIED FORWARD TO ENSUING TAXABLE YEARS UNTIL FULLY USED. A TAXPAYER CLAIMING A CREDIT

1 UNDER THIS SECTION SHALL SUBMIT A COPY OF THE TAX CREDIT CERTIFICATE
2 WITH THE TAXPAYER'S RETURN FOR EACH TAXABLE YEAR FOR WHICH THE CREDIT IS
3 CLAIMED.

4 S 3. The state finance law is amended by adding a new section 99-y to
5 read as follows:

6 S 99-Y. NEW YORK AGRICULTURE AND RURAL JOBS FUND. 1. THERE IS HEREBY
7 ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE
8 COMMISSIONER OF TAXATION AND FINANCE A SPECIAL FUND TO BE KNOWN AS THE
9 "NEW YORK AGRICULTURE AND RURAL JOBS FUND".

10 2. SUCH FUND SHALL CONSIST OF ALL APPLICATION FEES SUBMITTED PURSUANT
11 TO SUBPARAGRAPH (F) OF PARAGRAPH ONE OF SUBDIVISION (B) OF SECTION
12 FORTY-TWO OF THE TAX LAW, AND ALL OTHER MONEYS APPROPRIATED, CREDITED,
13 OR TRANSFERRED THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW.

14 3. MONEYS OF THE FUND, FOLLOWING APPROPRIATION BY THE LEGISLATURE
15 SHALL BE EXPENDED ONLY FOR THE PURPOSES OF PROVIDING FUNDING FOR THE NEW
16 YORK AGRICULTURE AND RURAL JOBS CREDIT SET FORTH IN SECTION FORTY-TWO OF
17 THE TAX LAW. MONEYS SHALL BE PAID OUT OF THE FUND ON THE AUDIT AND
18 WARRANT OF THE STATE COMPTROLLER ON VOUCHERS APPROVED AND CERTIFIED BY
19 THE COMMISSIONER OF TAXATION AND FINANCE. ANY INTEREST RECEIVED BY THE
20 COMPTROLLER ON MONEYS ON DEPOSIT IN THE NEW YORK AGRICULTURE AND RURAL
21 JOBS FUND SHALL BE RETAINED IN AND BECOME PART OF SUCH FUND.

22 S 4. This act shall take effect January 1, 2017.