



Ohio Revised Code

Section 122.15 Definitions for sections 122.151 to 122.156.

Effective: March 23, 2018

Legislation: Senate Bill 8 - 132nd General Assembly

As used in this section and sections 122.151 to 122.156 of the Revised Code:

(A) "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another person. For the purposes of this division, a person is "controlled by" another person if the controlling person holds, directly or indirectly, the majority voting or ownership interest in the controlled person or has control over the day-to-day operations of the controlled person by contract or by law.

(B) "Closing date" means the date on which a rural business growth fund has collected all of the amounts specified by divisions (G)(1) and (2) of section 122.151 of the Revised Code.

(C) "Credit-eligible capital contribution" means an investment of cash by a person subject to the tax imposed by section 3901.86, 5725.18, 5729.03, or 5729.06 of the Revised Code in a rural business growth fund that equals the amount specified on a notice of tax credit allocation issued by the development services agency under division (I)(1) of section 122.151 of the Revised Code. The investment shall purchase an equity interest in the fund or purchase, at par value or premium, a debt instrument issued by the fund that meets all of the following criteria:

(1) The debt instrument has an original maturity date of at least five years after the date of issuance.

(2) The debt instrument has a repayment schedule that is not faster than a level principal amortization over five years.

(3) The debt instrument has no interest, distribution, or payment features dependent on the fund's profitability or the success of the fund's growth investments.

(D) "Eligible investment authority" means the amount stated on the notice issued under division (F) of section 122.151 of the Revised Code certifying the rural business growth fund. Sixty per cent of a



fund's eligible investment authority shall be comprised of credit-eligible capital contributions.

(E) "Full-time equivalent employee" means the quotient obtained by dividing the total number of hours for which employees were compensated for employment over the preceding twelve-month period by two thousand eighty.

(F) "Growth investment" means any capital or equity investment in a rural business concern or any loan to a rural business concern with a stated maturity of at least one year. A secured loan or the provision of a revolving line of credit to a rural business concern is a growth investment only if the rural business growth fund obtains an affidavit from the president or chief executive officer of the rural business concern attesting that the rural business concern sought and was denied similar financing from a commercial bank.

(G) "Operating company" means any business that has its principal business operations in this state, has fewer than two hundred fifty employees and not more than fifteen million dollars in net income for the preceding taxable year, and that is none of the following:

- (1) A country club;
- (2) A racetrack or other facility used for gambling;
- (3) A store the principal purpose of which is the sale of alcoholic beverages for consumption off premises;
- (4) A massage parlor;
- (5) A hot tub facility;
- (6) A suntan facility;
- (7) A business engaged in the development or holding of intangibles for sale;
- (8) A private or commercial golf course;



(9) A business that derives or projects to derive fifteen per cent or more of its net income from the rental or sale of real property, except any business that is a special purpose entity principally owned by a principal user of that property formed solely for the purpose of renting, either directly or indirectly, or selling real property back to such principal user if such principal user does not derive fifteen per cent or more of its gross annual revenue from the rental or sale of real property;

(10) A publicly traded business.

For the purposes of this division, "net income" means federal gross income as required to be reported under the Internal Revenue Code less federal and state taxes imposed on or measured by income.

(H) A business's "principal business operations" are in this state if at least eighty per cent of the business's employees reside in this state, the individuals who receive eighty per cent of the business's payroll reside in this state, or the business has agreed to use the proceeds of a growth investment to relocate at least eighty per cent of its employees to this state or pay at least eighty per cent of its payroll to individuals residing in this state.

(I) "Rural area" means any county in this state having a population less than two hundred thousand as of the most recent decennial census or the most recent annual population estimate published or released by the United States census bureau.

(J) "Rural business concern" means an operating company that has its principal business operations located in a rural area.

(K) "Rural business growth fund" and "fund" mean an entity certified by the development services agency under section 122.151 of the Revised Code.

(L) "Taxable year" means the calendar year ending on the thirty-first day of December next preceding the day the annual statement is required to be returned under section 5725.18 or 5729.02 of the Revised Code.