

By Senator Jones

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1 A bill to be entitled
2 An act relating to the Healthy Food Financing
3 Initiative program; providing a directive to the
4 Division of Law Revision; transferring, renumbering,
5 and amending s. 500.81, F.S.; redefining the term
6 "underserved community"; revising requirements for the
7 administration of and participation in the Healthy
8 Food Financing Initiative program; providing program
9 eligibility requirements for nonprofit organizations
10 and revising eligibility requirements for community
11 development financial institutions; revising
12 requirements for program applicants and projects;
13 revising the purposes for which project funding may be
14 used; requiring the Office of Program Policy Analysis
15 and Government Accountability to review the program
16 and collected data and provide the Legislature with a
17 specified report; specifying that program funding is
18 subject to and provided from certain appropriations;
19 deleting a prohibition limiting the amount the
20 Department of Agriculture and Consumer Services may
21 distribute among program recipients; amending ss.
22 595.401, 595.402, 595.404, 595.408, and 595.501, F.S.;
23 conforming provisions to changes made by the act;
24 providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. The Division of Law Revision is directed to
29 rename chapter 595, Florida Statutes, entitled "School Food and

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30 Nutrition Services," as "Food and Nutrition."

31 Section 2. Section 500.81, Florida Statutes, is
32 transferred, renumbered as section 595.801, and amended to read:

33 595.801 ~~500.81~~ Healthy Food Financing Initiative.—

34 (1) DEFINITIONS.—As used in this section, the term:

35 (a) "Community facility" means a property owned by a
36 nonprofit or for-profit entity in which health and human
37 services are provided and space is offered in a manner that
38 provides increased access to, or delivery or distribution of,
39 food or other agricultural products to encourage public
40 consumption and household purchases of fresh produce or other
41 healthy food to improve the public health and well-being of low-
42 income children, families, and older adults.

43 (b) "Department" means the Department of Agriculture and
44 Consumer Services.

45 (c) "Independent grocery store or supermarket" means an
46 independently owned grocery store or supermarket whose parent
47 company does not own more than 40 grocery stores throughout the
48 country based upon ownership conditions as identified in the
49 latest Nielsen TDLinx Supermarket/Supercenter database.

50 (d) "Low-income community" means a population census tract,
51 as reported in the most recent United States Census Bureau
52 American Community Survey, which meets one of the following
53 criteria:

- 54 1. The poverty rate is at least 20 percent;
55 2. In the case of a low-income community located outside of
56 a metropolitan area, the median family income does not exceed 80
57 percent of the statewide median family income; or
58 3. In the case of a low-income community located inside of

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59 a metropolitan area, the median family income does not exceed 80
60 percent of the statewide median family income or 80 percent of
61 the metropolitan median family income, whichever is greater.

62 (e) "Program" means the Healthy Food Financing Initiative
63 established by the department.

64 (f) "Underserved community" means a low-income community
65 ~~distressed urban, suburban, or rural geographic area~~ where a
66 substantial number of residents have low access to a full-
67 service supermarket or grocery store. An area with limited
68 supermarket access must be:

69 1. A census tract, as determined to be an area with low
70 access by the United States Department of Agriculture, as
71 identified in the Food Access Research Atlas;

72 2. Identified as a limited supermarket access area as
73 recognized by the Community Development Financial Institutions
74 Fund of the United States Department of the Treasury; or

75 3. Identified as an area with low access to a supermarket
76 or grocery store through a methodology that has been adopted for
77 use by another governmental initiative, or a well-established or
78 well-regarded philanthropic healthy food initiative.

79 (2) HEALTHY FOOD FINANCING INITIATIVE PROGRAM.—The
80 department shall establish a Healthy Food Financing Initiative
81 program that provides grants and loans ~~is composed of and~~
82 ~~coordinates the use of grants from any source; federal, state,~~
83 ~~and private loans from a governmental entity or institutions~~
84 ~~regulated by a governmental entity; federal tax credits; and~~
85 ~~other types of financial assistance~~ for the construction,
86 rehabilitation, or expansion of independent grocery stores,
87 supermarkets, community facilities, or other retail outlets

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88 ~~structures~~ to increase access to affordable fresh produce and
89 other nutritious food in underserved communities.

90 (3) THIRD-PARTY ADMINISTRATORS; QUALIFICATIONS.-

91 (a) The department may contract with one or more qualified
92 nonprofit organizations or Florida-based federally certified
93 community development financial institutions to administer the
94 program through a public-private partnership.

95 (b) A qualified nonprofit organization must be able to
96 demonstrate all of the following:

97 1. Prior experience in healthy food financing.

98 2. An exemption from taxation under s. 501(c)(3) of the
99 Internal Revenue Code.

100 3. The ability to successfully manage and operate lending
101 and grant programs.

102 4. The ability to assume full financial risk for loans made
103 under the program.

104 (c) Eligible community development financial institutions
105 must be able to demonstrate all of the following:

106 1. Prior experience in healthy food financing.

107 2. Certification by ~~Support from~~ the Community Development
108 Financial Institutions Fund of the United States Department of
109 the Treasury.

110 3. The ability to successfully manage and operate lending
111 and tax credit programs.

112 4. The ability to assume full financial risk for loans made
113 under the program ~~this initiative.~~

114 (d) Any third-party administrator that contracts with the
115 department shall provide quarterly updates to the department.

116 (4) ~~(b)~~ DUTIES OF THE DEPARTMENT OR THIRD-PARTY

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117 ADMINISTRATOR.—The department or a third-party administrator
118 shall do all of the following:

119 (a)1. Establish program guidelines, raise matching funds,
120 promote the program statewide, evaluate applicants, make award
121 decisions, underwrite and disburse grants and loans, and monitor
122 compliance and impact. ~~The department may contract with a third-~~
123 ~~party administrator to carry out such duties. If the department~~
124 ~~contracts with a third-party administrator, funds shall be~~
125 ~~granted to the third-party administrator to create a revolving~~
126 ~~loan fund for the purpose of financing projects that meet the~~
127 ~~criteria of the program. The third-party administrator shall~~
128 ~~report to the department annually.~~

129 (b)2. Create eligibility guidelines and provide financing
130 through an application process. ~~Eligible projects must:~~

131 ~~a. Be located in an underserved community;~~
132 ~~b. Primarily serve low-income communities; and~~
133 ~~e. Provide for the renovation or expansion of, including~~
134 ~~infrastructure upgrades to, existing independent grocery stores~~
135 ~~or supermarkets; or the renovation or expansion of, including~~
136 ~~infrastructure upgrades to, community facilities to improve the~~
137 ~~availability and quality of fresh produce and other healthy~~
138 ~~foods.~~

139 (c)3. Report annually to the President of the Senate and
140 the Speaker of the House of Representatives on the projects
141 funded, the geographic distribution of the projects, ~~the costs~~
142 ~~of the program~~, and the outcomes, including the number and type
143 of jobs created.

144 ~~(4) (a) The Office of Program Policy Analysis and Government~~
145 ~~Accountability shall review the program and data collected from~~

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146 ~~the department after a term of 7 years and report to the~~
147 ~~President of the Senate and the Speaker of the House of~~
148 ~~Representatives. The report shall include, but is not limited~~
149 ~~to, health impacts based on data collected by the state on~~
150 ~~diabetes, heart disease and other obesity-related diseases, and~~
151 ~~other factors as determined by the department.~~

152 ~~(b) If the report determines the program to be unsuccessful~~
153 ~~after 7 years, the department shall create guidelines for unused~~
154 ~~funds to be returned to the initial investor.~~

155 (5) PROGRAM PARTICIPANTS.—Entities that may apply for
156 funding under the program include ~~A~~ for-profit entities ~~entity,~~
157 including a convenience stores ~~store~~ or a fueling stations; ~~and~~
158 station, ~~or a not-for-profit entities~~ entity, including, but not
159 limited to, a sole proprietorships, partnerships ~~proprietorship,~~
160 partnership, limited liability companies, corporations,
161 cooperatives ~~company, corporation, cooperative,~~ nonprofit
162 organizations ~~organization,~~ nonprofit community development
163 entities ~~entity,~~ or private universities ~~university,~~ may apply
164 ~~for financing.~~

165 (a) A program ~~An~~ applicant for financing must do all of the
166 following:

167 1.(a) Demonstrate the capacity to successfully implement
168 the project and the likelihood that the project will be
169 economically self-sustaining. ~~;~~

170 2.(b) Demonstrate the ability to repay the loan. ~~;~~ and

171 ~~(c) Agree, as an independent grocery store or supermarket,~~
172 ~~for at least 5 years, to:~~

173 3.1. ~~Accept Supplemental Nutrition Assistance Program~~
174 ~~benefits~~ and

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175 ~~2. Apply to accept~~ Special Supplemental Nutrition Program
176 for Women, Infants, and Children benefits. ~~and accept such~~
177 ~~benefits, if approved;~~

178 ~~4.3. For independent grocery stores and supermarkets,~~
179 allocate at least 30 percent of floor ~~food retail~~ space for the
180 sale of perishable foods, which may include fresh or frozen
181 dairy products, fresh produce, and fresh meats, poultry, and
182 fish. ~~;~~

183 ~~5.4. Comply with all data collection and reporting~~
184 requirements established by the department. ~~;~~ ~~and~~

185 ~~6.5. Promote the hiring of local residents.~~

186 (b) The department shall give preference to Florida-based
187 grocers, local business owners with experience in grocery
188 stores, and grocers and business owners with a business plan
189 that includes written documentation of opportunities to purchase
190 from farmers and growers in this state before seeking out-of-
191 state purchases.

192 (6) PROJECT ELIGIBILITY.—

193 (a) To be eligible for funding under the program, a project
194 must:

195 1. Be located in an underserved community; and

196 2. Provide for the construction of independent grocery
197 stores or supermarkets; renovation, expansion, and
198 infrastructure upgrades to stores and community facilities that
199 improve the availability and quality of fresh produce and other
200 healthy foods; or other projects that create or improve access
201 to affordable fresh produce which meet the intent of this
202 section, as determined by the department or a third-party
203 administrator.

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204 ~~(b) Projects including, but not limited to, corner stores,~~
205 ~~bodegas, or other types of nontraditional grocery stores that do~~
206 ~~not meet the 30 percent space minimum in subparagraph (5) (a)4.~~
207 ~~may 3. can still qualify for funding if such funding will be~~
208 ~~used for refrigeration, displays, or other one-time capital~~
209 ~~expenditures to promote the sale of fresh produce and other~~
210 ~~healthy foods.~~

211 ~~(6) In determining which qualified projects to finance, the~~
212 ~~department or third party administrator shall:~~

213 ~~(a) Give preference to local Florida-based grocers or local~~
214 ~~business owners with experience in grocery stores and to grocers~~
215 ~~and business owners with a business plan model that includes~~
216 ~~written documentation of opportunities to purchase from Florida~~
217 ~~farmers and growers before seeking out-of-state purchases;~~

218 ~~(b) Consider the level of need in the area to be served;~~

219 ~~(c) Consider the degree to which the project will have a~~
220 ~~positive economic impact on the underserved community, including~~
221 ~~the creation or retention of jobs for local residents;~~

222 ~~(d) Consider the location of existing independent grocery~~
223 ~~stores, supermarkets, or other markets relevant to the~~
224 ~~applicant's project and provide the established entity the right~~
225 ~~of first refusal for such project; and~~

226 ~~(e) Consider other criteria as determined by the~~
227 ~~department.~~

228 ~~(c) (7) A minimum of three eligible projects shall be funded~~
229 ~~annually. Financing under this program for eligible projects may~~
230 ~~be used for any of the following purposes:~~

231 ~~1. (a) Site acquisition and preparation.~~

232 ~~2. (b) Construction and build-out costs.~~

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- 233 ~~3.(e)~~ Equipment and furnishings.
- 234 ~~4.(d)~~ Workforce training ~~or security~~.
- 235 ~~5.(e)~~ Predevelopment costs, such as market studies and
236 appraisals.
- 237 ~~6.(f)~~ Energy efficiency measures.
- 238 ~~7.(g)~~ Working capital for first-time inventory and startup
239 costs, including seeds and starter plants for residential
240 produce cultivation.
- 241 ~~(h) Acquisition of seeds and starter plants for the~~
242 ~~residential cultivation of fruits, vegetables, herbs, and other~~
243 ~~culinary products. However, only 7 percent of the total funds~~
244 ~~expended in any one project under this section may be used for~~
245 ~~such acquisition.~~
- 246 ~~8.(i)~~ Other purposes as determined necessary and reasonable
247 by the department or a third-party administrator.
- 248 (7) PROGRAM REVIEW.—
- 249 (a) The Office of Program Policy Analysis and Government
250 Accountability shall review the program and data collected from
251 the department after a term of 7 years and provide a report to
252 the President of the Senate and the Speaker of the House of
253 Representatives. The report shall include economic impact and
254 health outcomes data and other factors as determined by the
255 department.
- 256 (b) If the report determines the program to be unsuccessful
257 after 7 years, the department shall return any initial funds
258 that have not been loaned, granted, or leveraged in a revolving
259 loan fund to the General Revenue Fund.
- 260 (8) FUNDING.—The department's performance and obligation to
261 pay under this section is contingent upon an annual

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262 appropriation by the Legislature as provided in s. 287.0582. If
263 the department contracts with a third-party administrator, funds
264 must be advanced from the department's annual appropriation to
265 the third-party administrator in order to implement this
266 section.

267 (9) ~~(8)~~ RULES.—The department shall adopt rules to
268 administer this section.

269 ~~(9) The department may not distribute more than \$500,000~~
270 ~~among more than three recipients.~~

271 Section 3. Section 595.401, Florida Statutes, is amended to
272 read:

273 595.401 Short title.—Sections 595.401-595.601 ~~This chapter~~
274 may be cited as the "Florida School Food and Nutrition Act."

275 Section 4. Section 595.402, Florida Statutes, is amended to
276 read:

277 595.402 Definitions.—As used in this act ~~chapter~~, the term:

278 (1) "Commissioner" means the Commissioner of Agriculture.

279 (2) "Department" means the Department of Agriculture and
280 Consumer Services.

281 (3) "Program" means any one or more of the school food and
282 nutrition service programs that the department has
283 responsibility over including, but not limited to, the National
284 School Lunch Program, the Special Milk Program, the School
285 Breakfast Program, the Summer Food Service Program, the Fresh
286 Fruit and Vegetable Program, and any other program that relates
287 to school nutrition.

288 (4) "School breakfast program" means a program authorized
289 by s. 4 of the Child Nutrition Act of 1966, as amended, and
290 administered by the department.

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291 (5) "School district" means any of the 67 county school
292 districts, including the respective district school board.

293 (6) "Sponsor" means any entity that is conducting a program
294 under a current agreement with the department.

295 (7) "Summer nutrition program" means one or more of the
296 programs authorized under 42 U.S.C. s. 1761.

297 (8) "Universal school breakfast program" means a program
298 that makes breakfast available at no cost to all students
299 regardless of their household income.

300 Section 5. Subsections (3), (9), (10), (11), and (13) of
301 section 595.404, Florida Statutes, are amended to read:

302 595.404 School food and other nutrition programs; powers
303 and duties of the department.—The department has the following
304 powers and duties:

305 (3) To fully cooperate with the United States Government
306 and its agencies and instrumentalities so that the department
307 may receive the benefit of all federal financial allotments and
308 assistance possible to carry out the purposes of this act
309 ~~chapter~~.

310 (9) To employ such persons as are necessary to perform its
311 duties under this act ~~chapter~~.

312 (10) To adopt rules covering the administration, operation,
313 and enforcement of the program and the farmers' market nutrition
314 program, as well as to implement ~~the provisions of~~ this act
315 ~~chapter~~.

316 (11) To adopt and implement an appeal process by rule, as
317 required by federal regulations, for applicants and participants
318 under the programs implemented pursuant to this act ~~chapter~~,
319 notwithstanding ss. 120.569 and 120.57-120.595.

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320 (13) To advance funds from the program's annual
321 appropriation to a summer nutrition program sponsor, when
322 requested, in order to implement ~~the provisions of this act~~
323 ~~chapter~~ and in accordance with federal regulations.

324 Section 6. Paragraph (b) of subsection (1) and subsections
325 (2) and (4) of section 595.408, Florida Statutes, are amended to
326 read:

327 595.408 Food distribution services; department
328 responsibilities and functions.—

329 (1)

330 (b) The department shall determine the benefits each
331 applicant or recipient of assistance is entitled to receive
332 under this act ~~chapter~~, provided that each applicant or
333 recipient is a resident of this state and a citizen of the
334 United States or is an alien lawfully admitted for permanent
335 residence or otherwise permanently residing in the United States
336 under color of law.

337 (2) The department shall cooperate fully with the United
338 States Government and its agencies and instrumentalities so that
339 the department may receive the benefit of all federal financial
340 allotments and assistance possible to carry out the purposes of
341 this act ~~chapter~~.

342 (4) This act ~~chapter~~ does not limit, abrogate, or abridge
343 the powers and duties of any other state agency.

344 Section 7. Subsection (2) of section 595.501, Florida
345 Statutes, is amended to read:

346 595.501 Corrective action plans; penalties.—

347 (2) Any person or sponsor that violates ~~any provision of~~
348 this act ~~chapter~~ or any rule adopted thereunder or otherwise

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349 does not comply with the program is subject to a suspension or
350 revocation of their agreement, loss of reimbursement, or a
351 financial penalty in accordance with federal or state law, or
352 both. This section does not restrict the applicability of any
353 other law.

354 Section 8. This act shall take effect July 1, 2022.