

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 after a specified timeframe and
17 provide the Legislature with a specified report;
18 specifying that program funding is subject to and
19 provided from certain appropriations; deleting a
20 prohibition relating to funding distribution; amending
21 ss. 595.401, 595.402, 595.404, 595.408, and 595.501,
22 F.S.; conforming provisions to changes made by the
23 act; providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. The Division of Law Revision is directed to
28 rename chapter 595, Florida Statutes, entitled "School Food and
29 Nutrition Services," as "Food and Nutrition."

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

32 595.801 ~~500.81~~ Healthy Food Financing Initiative.—

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

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

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

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

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

53 1. The poverty rate is at least 20 percent;

54 2. In the case of a low-income community located outside of
55 a metropolitan area, the median family income does not exceed 80
56 percent of the statewide median family income; or

57 3. In the case of a low-income community located inside of
58 a metropolitan area, the median family income does not exceed 80

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59 percent of the statewide median family income or 80 percent of
60 the metropolitan median family income, whichever is greater.

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

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

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

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

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

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

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88 other nutritious food in underserved communities.

89 (3) THIRD-PARTY ADMINISTRATORS; QUALIFICATIONS.—

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

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

96 1. Prior experience in healthy food financing.

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

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

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

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

105 1. Prior experience in healthy food financing.

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

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

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

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

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

116 ADMINISTRATOR.—The department or a third-party administrator

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117 shall do all of the following:

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

128 (b)2. Create eligibility guidelines and provide financing
129 through an application process. ~~Eligible projects must:~~
130 a. ~~Be located in an underserved community;~~
131 b. ~~Primarily serve low-income communities; and~~
132 c. ~~Provide for the renovation or expansion of, including~~
133 ~~infrastructure upgrades to, existing independent grocery stores~~
134 ~~or supermarkets; or the renovation or expansion of, including~~
135 ~~infrastructure upgrades to, community facilities to improve the~~
136 ~~availability and quality of fresh produce and other healthy~~
137 ~~foods.~~

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

143 ~~(4) (a) The Office of Program Policy Analysis and Government~~
144 ~~Accountability shall review the program and data collected from~~
145 ~~the department after a term of 7 years and report to the~~

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

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

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

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

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

169 2.(b) ~~Demonstrate the ability to repay the loan.~~† ~~and~~

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

172 3.1. ~~Accept Supplemental Nutrition Assistance Program~~
 173 ~~benefits~~ and~~†~~

174 2. ~~Apply to accept~~ Special Supplemental Nutrition Program

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175 for Women, Infants, and Children benefits. ~~and accept such~~
176 ~~benefits, if approved;~~

177 4.3. For independent grocery stores and supermarkets,
178 allocate at least 30 percent of floor food retail space for the
179 sale of perishable foods, which may include fresh or frozen
180 dairy products, fresh produce, and fresh meats, poultry, and
181 fish. ~~;~~

182 5.4. Comply with all data collection and reporting
183 requirements established by the department. ~~;~~ and

184 6.5. Promote the hiring of local residents.

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

191 (6) PROJECT ELIGIBILITY.—

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

194 1. Be located in an underserved community; and

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

203 (b) Projects including, but not limited to, corner stores,

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

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

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

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

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

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

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

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

230 1.(a) Site acquisition and preparation.

231 2.(b) Construction and build-out costs.

232 3.(e) Equipment and furnishings.

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233 ~~4.(d) Workforce training or security.~~

234 ~~5.(e) Predevelopment costs, such as market studies and~~
235 ~~appraisals.~~

236 ~~6.(f) Energy efficiency measures.~~

237 ~~7.(g) Working capital for first-time inventory and startup~~
238 ~~costs, including seeds and starter plants for residential~~
239 ~~produce cultivation.~~

240 ~~(h) Acquisition of seeds and starter plants for the~~
241 ~~residential cultivation of fruits, vegetables, herbs, and other~~
242 ~~culinary products. However, only 7 percent of the total funds~~
243 ~~expended in any one project under this section may be used for~~
244 ~~such acquisition.~~

245 ~~8.(i) Other purposes as determined necessary and reasonable~~
246 ~~by the department or a third-party administrator.~~

247 ~~(7) PROGRAM REVIEW.—~~

248 ~~(a) The Office of Program Policy Analysis and Government~~
249 ~~Accountability shall review the program and data collected from~~
250 ~~the department after a term of 7 years and provide a report to~~
251 ~~the President of the Senate and the Speaker of the House of~~
252 ~~Representatives. The report must include economic impact and~~
253 ~~health outcomes data and other factors as determined by the~~
254 ~~department.~~

255 ~~(b) If the report determines the program to be unsuccessful~~
256 ~~after 7 years, the department must return any initial funds that~~
257 ~~have not been loaned, granted, or leveraged in a revolving loan~~
258 ~~fund to the General Revenue Fund.~~

259 ~~(8) FUNDING.—The department's performance and obligation to~~
260 ~~pay under this section is contingent upon an annual~~
261 ~~appropriation by the Legislature as provided in s. 287.0582. If~~

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

266 (9) ~~(8)~~ RULES.—The department shall adopt rules to
267 administer this section.

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

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

272 595.401 Short title.—Sections 595.401-595.601 ~~This chapter~~
273 may be cited as the "Florida School Food and Nutrition Act."

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

276 595.402 Definitions.—As used in this act ~~chapter~~, the term:

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

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

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

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

290 (5) "School district" means any of the 67 county school

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291 districts, including the respective district school board.

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

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

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

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

301 595.404 School food and other nutrition programs; powers
302 and duties of the department.—The department has the following
303 powers and duties:

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

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

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

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

319 (13) To advance funds from the program's annual

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320 appropriation to a summer nutrition program sponsor, when
321 requested, in order to implement ~~the provisions of this act~~
322 ~~chapter~~ and in accordance with federal regulations.

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

326 595.408 Food distribution services; department
327 responsibilities and functions.—

328 (1)

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

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

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

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

345 595.501 Corrective action plans; penalties.—

346 (2) Any person or sponsor that violates ~~any provision of~~
347 this act ~~chapter~~ or any rule adopted thereunder or otherwise
348 does not comply with the program is subject to a suspension or

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

353 Section 8. This act shall take effect July 1, 2023.