

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:

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

Section 2. Section 500.81, Florida Statutes, is transferred, renumbered as section 595.801, and amended to read:
595.801 ~~500.81~~ Healthy Food Financing Initiative.—

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

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

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

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

(d) "Low-income community" means a population census tract, as reported in the most recent United States Census

51 Bureau American Community Survey, which meets one of the
 52 following criteria:

- 53 1. The poverty rate is at least 20 percent;
- 54 2. In the case of a low-income community located outside
 55 of a metropolitan area, the median family income does not exceed
 56 80 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
 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
 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
 102 made 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
 112 made 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
 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~~
144 ~~Government Accountability shall review the program and data~~
145 ~~collected from the department after a term of 7 years and report~~
146 ~~to the 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~~
 152 ~~unsuccessful after 7 years, the department shall create~~
 153 ~~guidelines for unused funds to be returned to the initial~~
 154 ~~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
 166 the 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;

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
 194 project 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.

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 floor space minimum in subparagraph
 207 (5)(a)4. may 3. can still qualify for funding if such funding
 208 will be used for refrigeration, displays, or other one-time
 209 capital expenditures to promote the sale of fresh produce and
 210 other healthy foods.

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

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

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

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

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

226 ~~of first refusal for such project; and~~
 227 ~~(c) Consider other criteria as determined by the~~
 228 ~~department.~~
 229 (c)(7) A minimum of three eligible projects shall be
 230 funded annually. Financing under this program for eligible
 231 projects may be used for any of the following purposes:
 232 1.(a) Site acquisition and preparation.
 233 2.(b) Construction and build-out costs.
 234 3.(e) Equipment and furnishings.
 235 4.(d) Workforce training ~~or security.~~
 236 5.(e) Predevelopment costs, such as market studies and
 237 appraisals.
 238 6.(f) Energy efficiency measures.
 239 7.(g) Working capital for first-time inventory and startup
 240 costs, including seeds and starter plants for residential
 241 produce cultivation.
 242 ~~(h) Acquisition of seeds and starter plants for the~~
 243 ~~residential cultivation of fruits, vegetables, herbs, and other~~
 244 ~~culinary products. However, only 7 percent of the total funds~~
 245 ~~expended in any one project under this section may be used for~~
 246 ~~such acquisition.~~
 247 8.(i) Other purposes as determined necessary and
 248 reasonable by the department or a third-party administrator.
 249 (7) PROGRAM REVIEW.—
 250 (a) The Office of Program Policy Analysis and Government

251 Accountability shall review the program and data collected from
252 the department after a term of 7 years and provide a report to
253 the President of the Senate and the Speaker of the House of
254 Representatives. The report must include economic impact and
255 health outcomes data and other factors as determined by the
256 department.

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

261 (8) FUNDING.—The department's performance and obligation
262 to pay under this section is contingent upon an annual
263 appropriation by the Legislature as provided in s. 287.0582. If
264 the department contracts with a third-party administrator, funds
265 must be advanced from the department's annual appropriation to
266 the third-party administrator in order to implement this
267 section.

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

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

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

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

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

278 595.402 Definitions.—As used in this act ~~chapter~~, the
 279 term:

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

281 (2) "Department" means the Department of Agriculture and
 282 Consumer Services.

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

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

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

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

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

299 (8) "Universal school breakfast program" means a program
 300 that makes breakfast available at no cost to all students

301 regardless of their household income.

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

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

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

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

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

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

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

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

329 595.408 Food distribution services; department
 330 responsibilities and functions.—

331 (1)

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

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

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

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

348 595.501 Corrective action plans; penalties.—

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

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

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