

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 program;
8 providing program eligibility requirements for
9 nonprofit organizations and revising eligibility
10 requirements for community development financial
11 institutions; revising the duties of the Department of
12 Agriculture and Consumer Services and third-party
13 administrators; revising requirements for program
14 applicants and projects; revising the purposes for
15 which project funding may be used; requiring the
16 Office of Program Policy Analysis and Government
17 Accountability to review the program and collected
18 data after a specified timeframe and provide the
19 Legislature with a specified report; specifying that
20 program funding is subject to and provided from
21 certain appropriations; deleting a prohibition
22 relating to funding distribution; amending ss.
23 595.401, 595.402, 595.404, 595.408, and 595.501, F.S.;
24 conforming provisions to changes made by the act;
25 providing an effective date.

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

28
29 Section 1. The Division of Law Revision is directed to

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30 rename chapter 595, Florida Statutes, entitled "School Food and
31 Nutrition Services," as "Food and Nutrition."

32 Section 2. Section 500.81, Florida Statutes, is
33 transferred, renumbered as section 595.801, and amended to read:
34 595.801 ~~500.81~~ Healthy Food Financing Initiative.—

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

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

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

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

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

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

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59 3. In the case of a low-income community located inside of
60 a metropolitan area, the median family income does not exceed 80
61 percent of the statewide median family income or 80 percent of
62 the metropolitan median family income, whichever is greater.

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

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

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

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

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

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

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88 facilities, or other retail outlets ~~structures~~ to increase
89 access to affordable fresh produce and other nutritious food in
90 underserved communities.

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

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

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

98 1. Prior experience in healthy food financing.

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

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

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

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

107 1. Prior experience in healthy food financing.

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

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

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

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

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

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

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

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

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

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

145 ~~(4) (a) The Office of Program Policy Analysis and Government~~

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

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

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

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

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

171 ~~2. (b) Demonstrate the ability to repay the loan.~~

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

174 ~~3. 1. Accept Supplemental Nutrition Assistance Program~~

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175 benefits ~~and~~;

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

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

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

186 ~~6.5. Promote the hiring of local residents.~~

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

193 (6) PROJECT ELIGIBILITY.-

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

196 1. Be located in an underserved community; and

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

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204 administrator.

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

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

214 ~~(a) Give preference to local Florida-based grocers or local~~
215 ~~business owners with experience in grocery stores and to grocers~~
216 ~~and business owners with a business plan model that includes~~
217 ~~written documentation of opportunities to purchase from Florida~~
218 ~~farmers and growers before seeking out-of-state 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 ~~(e) Consider other criteria as determined by the~~
228 ~~department.~~

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

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

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- 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 reasonable
- 248 by the department or a third-party administrator.
- 249 (7) PROGRAM REVIEW.—
- 250 (a) Beginning July 1, 2024, the Office of Program Policy
- 251 Analysis and Government Accountability shall review the program
- 252 and data collected from the department for 7 years and provide a
- 253 report to the President of the Senate and the Speaker of the
- 254 House of Representatives by July 1, 2032. The report must
- 255 include economic impact and health outcomes data and other
- 256 factors as determined by the department.
- 257 (b) If the report determines the program to be unsuccessful
- 258 after the 7-year period, the department must return any initial
- 259 funds that have not been loaned, granted, or leveraged in a
- 260 revolving loan fund to the General Revenue Fund.
- 261 (8) FUNDING.—The department's performance and obligation to

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262 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 to
 273 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 to
 277 read:

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

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

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

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

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

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291 administered by the department.

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

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

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

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

301 Section 5. Subsections (3), (9), (10), (11), (13), and (16)
302 of section 595.404, Florida Statutes, are amended to read:

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

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

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

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

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

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320 notwithstanding ss. 120.569 and 120.57-120.595.

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

325 (16) To adopt and implement an exemption, waiver, and
326 variance process by rule, as required by federal regulations,
327 for sponsors under the programs implemented pursuant to this act
328 ~~chapter~~, notwithstanding s. 120.542.

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

332 595.408 Food distribution services; department
333 responsibilities and functions.—

334 (1)

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

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

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

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

351 595.501 Corrective action plans; penalties.—

352 (2) Any person or sponsor that violates ~~any provision of~~
353 this act ~~chapter~~ or any rule adopted thereunder or otherwise
354 does not comply with the program is subject to a suspension or
355 revocation of their agreement, loss of reimbursement, or a
356 financial penalty in accordance with federal or state law, or
357 both. This section does not restrict the applicability of any
358 other law.

359 Section 8. This act shall take effect July 1, 2024.