

CHAPTER 2016-221

Committee Substitute for Committee Substitute for Committee Substitute for House Bill No. 153

An act relating to the Healthy Food Financing Initiative; providing definitions; directing the Department of Agriculture and Consumer Services to establish a Healthy Food Financing Initiative program to provide specified financing to rehabilitate or expand independent grocery stores and supermarkets in underserved communities within low-income communities; authorizing the department to contract with a third-party administrator; establishing funding specifications for administrators; providing program, project, and applicant requirements; authorizing funds to be used for specified purposes; directing the department to submit an annual report to the Legislature and adopt rules; directing the Office of Program Policy Analysis and Government Accountability to study the results of the program after a certain time period; directing the termination of the program under certain conditions; providing an appropriation; providing an effective date.

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

Section 1. Healthy Food Financing Initiative.—

(1) 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 Bureau American Community Survey, which meets one of the following criteria:

1. The poverty rate is at least 20 percent;

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

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

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

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

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

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

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

(2) The department shall establish a Healthy Food Financing Initiative program that is composed of and coordinates the use of grants from any source; federal, state, and private loans from a governmental entity or institutions regulated by a governmental entity; federal tax credits; and other types of financial assistance for the rehabilitation or expansion of independent grocery stores, supermarkets, community facilities, or other structures to increase access to fresh produce and other nutritious food in underserved communities.

(3)(a) The department may contract with one or more qualified nonprofit organizations or Florida-based federally certified community development financial institutions to administer the program through a public-private partnership. Eligible community development financial institutions must be able to demonstrate:

1. Prior experience in healthy food financing.

2. Support from the Community Development Financial Institutions Fund of the United States Department of the Treasury.

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

4. The ability to assume full financial risk for loans made under this initiative.

(b) The department shall:

1. Establish program guidelines, raise matching funds, promote the program statewide, evaluate applicants, underwrite and disburse grants and loans, and monitor compliance and impact. The department may contract with a third-party administrator to carry out such duties. If the department contracts with a third-party administrator, funds shall be granted to the third-party administrator to create a revolving loan fund for the purpose of financing projects that meet the criteria of the program. The third-party administrator shall report to the department annually.

2. Create eligibility guidelines and provide financing through an application process. Eligible projects must:

a. Be located in an underserved community;

b. Primarily serve low-income communities; and

c. Provide for the renovation or expansion of, including infrastructure upgrades to, existing independent grocery stores or supermarkets; or the renovation or expansion of, including infrastructure upgrades to, community facilities to improve the availability and quality of fresh produce and other healthy foods.

3. Report annually to the President of the Senate and the Speaker of the House of Representatives on the projects funded, the geographic distribution of the projects, the costs of the program, and the outcomes, including the number and type of jobs created.

(4)(a) The Office of Program Policy Analysis and Government Accountability shall review the program and data collected from the department after a term of 7 years and report to the President of the Senate and the Speaker of the House of Representatives. The report shall include, but is not limited to, health impacts based on data collected by the state on diabetes, heart disease and other obesity-related diseases, and other factors as determined by the department.

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

(5) A for-profit entity, including a convenience store or a fueling station, or a not-for-profit entity, including, but not limited to, a sole proprietorship, partnership, limited liability company, corporation, cooperative, nonprofit

organization, nonprofit community development entity, or private university, may apply for financing. An applicant for financing must:

(a) Demonstrate the capacity to successfully implement the project and the likelihood that the project will be economically self-sustaining;

(b) Demonstrate the ability to repay the loan; and

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

1. Accept Supplemental Nutrition Assistance Program benefits;

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

3. Allocate at least 30 percent of food retail space for the sale of perishable foods, which may include fresh or frozen dairy products, fresh produce, and fresh meats, poultry, and fish;

4. Comply with all data collection and reporting requirements established by the department; and

5. Promote the hiring of local residents.

Projects including, but not limited to, corner stores, bodegas, or other types of nontraditional grocery stores that do not meet the 30 percent minimum in subparagraph 3. can still qualify for funding if such funding will be used for refrigeration, displays, or other one-time capital expenditures to promote the sale of fresh produce and other healthy foods.

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

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

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

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

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

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

(7) Financing for projects may be used for the following purposes:

(a) Site acquisition and preparation.

(b) Construction and build-out costs.

(c) Equipment and furnishings.

(d) Workforce training or security.

(e) Predevelopment costs, such as market studies and appraisals.

(f) Energy efficiency measures.

(g) Working capital for first-time inventory and startup costs.

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

(i) Other purposes as determined by the department or a third-party administrator.

(8) The department shall adopt rules to administer this section.

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

Section 2. For the 2016-2017 fiscal year, the sum of \$500,000 in nonrecurring funds from the General Revenue Fund is appropriated to the Department of Agriculture and Consumer Services for the purpose of implementing this act.

Section 3. This act shall take effect July 1, 2016.

Approved by the Governor April 14, 2016.

Filed in Office Secretary of State April 14, 2016.