

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H.B. 789
Apr 14, 2015
HOUSE PRINCIPAL CLERK

H

D

HOUSE DRH30282-MC-169 (04/01)

Short Title: Grocery Store Incentives.

(Public)

Sponsors: Representative Holley.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROMOTE HEALTHY FOOD FINANCING.

3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** If House Bill 250 of the 2015 Regular Session of the General
5 Assembly does not become law, Part 2J of Article 10 of Chapter 143B of the General Statutes
6 is reenacted and reads as rewritten:

7 "~~Part 2J. Wine and Grape Growers Council.~~ Healthy Food Financing.

8 **"§ 143B-437.92. Office of Food Business Development.**

9 The Office of Food Business Development is created within the Department of Commerce.
10 The Office shall have the following powers and duties:

- 11 (1) To identify and implement methods for improving access in the State to
12 nutrient-dense foods.
13 (2) To coordinate the interaction of North Carolina's farming and agricultural
14 industries with food businesses in the State.
15 (3) To assist in the coordination of the activities of the various State agencies
16 and other organizations contributing to the development of universal access
17 to nutrient-dense foods.
18 (4) To receive and disburse funds.
19 (5) To enter into agreements with any local, State, or national organizations or
20 agency engaged in education for the purpose of disseminating information
21 on nutrition education.
22 (6) To take any other action necessary to carry out its purpose."

23 **SECTION 2.** Part 2J of Article 10 of Chapter 143B of the General Statutes is
24 amended by adding a new section to read:

25 **"§ 143B-437.93. Healthy food financing.**

26 (a) Purpose. – The purpose of this section is to establish a statewide program to
27 increase the availability of fresh and nutritious food, including fruits and vegetables, in
28 underserved communities by providing financing and assistance for retailers to open, renovate,
29 or expand food businesses.

30 (b) Definitions. – The following definitions apply in this section:

- 31 (1) Department. – The North Carolina Department of Commerce.
32 (2) Financing. – Traditional loans, grants, forgivable loans, or some
33 combination of all three.
34 (3) Food business. – An establishment that uses an area equal to or greater than
35 5,000 square feet primarily for the purpose of conducting the business of
36 regularly and customarily selling food, primarily to be eaten off the



1 premises. Food businesses shall include grocery stores and other retail
2 establishments where food primarily to be eaten off the premises is regularly
3 sold.

4 (4) Underserved community. – An area with low food business access that must
5 be either (i) a census tract determined to be an area with low access by the
6 United States Department of Agriculture, as identified in the USDA's Food
7 Access Research Atlas, or (ii) identified as having low access to a food
8 business through a methodology that has been adopted for use by a local
9 government health department or nonprofit healthy food initiative.

10 (5) Low-income community. – A population census tract that that has been
11 identified by the Economic Research Service of the United States
12 Department of Agriculture as meeting one of the following criteria:

- 13 a. The poverty rate for the census tract is at least twenty percent (20%).
14 b. If the census tract is located outside of a metropolitan area, the
15 census tract has a median family income at or below ninety-five
16 percent (95%) of the median family income for the State.
17 c. If the census tract is located within a metropolitan area, the census
18 tract has a median family income at or below ninety-five percent
19 (95%) of the greater of the median family income for the State or for
20 the metropolitan area.

21 (c) Access to Healthy Food Financing Fund. – There is hereby established in the Office
22 of Food Business Development the Access to Healthy Food Financing Fund. Moneys in the
23 Fund shall be used to expand access to fresh produce and other nutritious foods in low-income
24 communities by offering financing for the opening, renovation, and expansion of food
25 businesses. The Office is encouraged to award at least twenty-five percent (25%) of amounts
26 from the Fund in the form of grants or forgivable loans and to use the Fund to leverage funding
27 from sources other than State funds.

28 (d) Administration. – The Office of Food Business Development shall be responsible
29 for establishing a program to provide financing from the Fund for food businesses. The Office
30 shall promote the program; establish eligibility, guidelines, and application criteria for the
31 program; evaluate applicants; award grants and loans; and monitor compliance with and impact
32 of the program. The Office may contract with one or more nonprofit corporations or
33 community development financial institutions to coordinate regarding uses of matching funds
34 provided by the corporation or institution. The Office must develop rules to administer the
35 program to meet the intent of this section.

36 (f) Application. – An application for financing shall be evaluated on all of the
37 following:

- 38 (1) The applicant's proposed plan for use of funds, including specific goals for
39 implementation that will increase sales of healthy food and will engage the
40 community.
41 (2) The applicant's capacity to successfully implement the project and the
42 likelihood that the project will be economically self-sustaining.
43 (3) The applicant's ability to repay an award if the award is made in the form of
44 a loan.
45 (4) The applicant's agreement, for period of at least five years, to comply with
46 all of the following conditions:
47 a. To accept Supplemental Nutrition Assistance Program (SNAP)
48 benefits.
49 b. To apply to accept Special Supplemental Nutrition Program for
50 Women, Infants and Children (WIC) benefits and accept WIC
51 benefits, if eligible.

- 1 c. To comply with all data collection and reporting requirements
2 established by the Department.
3 d. To give priority in hiring to local residents.
4 e. To comply with any State or local laws or ordinances concerning
5 food safety.
6 (5) The level of need in the area to be served.
7 (6) The degree to which the project requires an award from the Fund to move
8 forward, create impact, or be competitive.
9 (7) The degree to which the project will have a positive economic impact on the
10 community, including by creating or retaining jobs for local residents.
11 (8) Other criteria the Office determines to be consistent with the purposes of this
12 section.
13 (e) Food Businesses. – The Office may enter into an agreement to provide financing to
14 food businesses. A food business is eligible to receive funds if all of the following provisions
15 are met:
16 (1) The food business is located in a low-income community or underserved
17 community.
18 (2) The food business uses program funds only for the following purposes:
19 a. Site acquisition and preparation.
20 b. Construction and build out costs.
21 c. Equipment and furnishings.
22 d. Soft costs such as workforce training or security.
23 e. Predevelopment costs such as market studies and appraisals.
24 f. Energy efficiency measures.
25 g. Working capital for first time inventory and start-up costs.
26 (3) The food business allocates at least thirty percent (30%) of food retail space
27 for the sale of perishable foods, which may include dairy, fresh produce,
28 fresh meats, poultry, fish or these same foods frozen.
29 (f) Report. – The Office shall report annually on recommended policy changes that
30 would encourage food businesses and small food retailers to open or expand in underserved
31 areas of the State, projects funded, the geographic distribution of the projects, the number of
32 jobs created, the average compensation of jobs created, the cost of all projects funded, the
33 amount of private funds used in conjunction with awards from the Fund, percentage of sales of
34 products sold as a result of the project, and the number of persons who, due to the receipt of
35 funds by an entity receiving funds, live within one mile for a metropolitan area or within 10
36 miles for a nonmetropolitan area.
37 (g) Forfeiture. – A food business receiving an award from the Fund forfeits the award if
38 the business fails to maintain the applicable eligibility requirements during the term of the
39 agreement. An entity that forfeits an award under this section is liable for the amount of the
40 award plus interest at the rate established under G.S. 105-241.21, computed from the date of
41 the award."

42 **SECTION 2.** This act is effective when it becomes law.