

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 789

Short Title: Grocery Store Incentives. (Public)

Sponsors: Representatives Holley, Gill, Jackson, and G. Martin (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Commerce and Job Development, if favorable, Appropriations.

April 15, 2015

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

The General Assembly of North Carolina enacts:

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

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

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

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

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

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

"§ 143B-437.93. Healthy food financing.

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

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

- (1) Department. – The North Carolina Department of Commerce.
- (2) Financing. – Traditional loans, grants, forgivable loans, or some combination of all three.
- (3) Food business. – An establishment that uses an area equal to or greater than 5,000 square feet primarily for the purpose of conducting the business of



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

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

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

14 a. The poverty rate for the census tract is at least twenty percent (20%).

15 b. If the census tract is located outside of a metropolitan area, the
16 census tract has a median family income at or below ninety-five
17 percent (95%) of the median family income for the State.

18 c. If the census tract is located within a metropolitan area, the census
19 tract has a median family income at or below ninety-five percent
20 (95%) of the greater of the median family income for the State or for
21 the metropolitan area.

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

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

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

39 (1) The applicant's proposed plan for use of funds, including specific goals for
40 implementation that will increase sales of healthy food and will engage the
41 community.

42 (2) The applicant's capacity to successfully implement the project and the
43 likelihood that the project will be economically self-sustaining.

44 (3) The applicant's ability to repay an award if the award is made in the form of
45 a loan.

46 (4) The applicant's agreement, for period of at least five years, to comply with
47 all of the following conditions:

48 a. To accept Supplemental Nutrition Assistance Program (SNAP)
49 benefits.

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

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