HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS

BILL #:	CS/CS/CS/HB 153	**FINAL HOUSE FLOOR ACTION:**	
SPONSOR(S):	State Affairs Committee; Agriculture & Natural Resources Appropriations Subcommittee; Agriculture & Natural Resources Subcommittee; Santiago and others	120 **Y's**	0 **N's**
COMPANION BILLS:	CS/CS/SB 760	**GOVERNOR'S ACTION:**	Approved

SUMMARY ANALYSIS

CS/CS/CS/HB 153 passed the House on March 3, 2016. The bill was amended by the Senate on March 10, 2016, and by the House on March 11, 2016. The bill passed the Senate on March 11, 2016. The bill directs the Department of Agriculture and Consumer Services (DACS) to create a Healthy Food Financing Initiative (program) to coordinate the use of financial assistance from any source to increase access to fresh produce and other nutritious food in underserved communities. In part, the bill:

- Authorizes DACS to contract with one or more qualified nonprofit organizations or Florida-based federally certified community development financial institutions to administer the program and creates eligibility criteria for such organizations.
- Requires DACS or a third-party administrator to establish program guidelines, raise matching funds, promote the program statewide, evaluate applicants, disburse grants and loans, and monitor compliance and impact.
- Requires projects under the program to be located in underserved communities; primarily serve low income families; and provide for the renovation or expansion of independent grocery stores or supermarkets and community facilities.
- Requires DACS to submit a report annually to the Legislature on the projects funded, geographic distribution of projects, program costs, and program outcomes.
- Requires the Office of Program Policy Analysis and Government Accountability to review the program after 7 years. If the report determines the program to be unsuccessful after 7 years, DACS must create guidelines to return unused funds to the initial investor.
- Enumerates program application requirements and permissible uses of program financing.
- Directs DACS or the third-party administrator to give preference to local, Florida-based grocers and business owners; consider the level of need in the area served; consider the project's positive economic impact when determining which projects to finance; and the location of the proposed project.
- Restricts DACS to distributing no more than $500,000 among no more than three recipients.
- Provides a nonrecurring appropriation of $500,000 from the General Revenue Fund.

The bill appears to have a significant negative fiscal impact on the state. This bill will likely have a positive fiscal impact on the "independent grocery stores and supermarkets" and "community facilities" eligible to receive financial assistance.

The bill was approved by the Governor on April 14, 2016, ch. 2016-221. L.O.F., and will become effective on July 1, 2016.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

Food Deserts

Food deserts are urban neighborhoods and rural towns without ready access to fresh, healthy, and affordable food. Instead of supermarkets and grocery stores, these communities may have no food access or are served only by fast food restaurants and convenience stores that offer few healthy, affordable food options. The lack of access contributes to a poor diet and may lead to higher levels of obesity and other diet-related diseases, such as diabetes and heart disease.[1]

The U.S. Department of Agriculture's (USDA's) Economic Research Service estimates that 23.5 million people live in food deserts. More than half of those people (13.5 million) are low-income.[2]

The USDA, the U.S. Department of Treasury (Treasury), and the U.S. Department of Health and Human Services (HHS) identifies a food desert as a census tract with a substantial share of residents who live in low-income areas that have low levels of access to a grocery store or healthy, affordable food retail outlet. Census tracts qualify as food deserts if they meet low-income and low-access thresholds. Such terms are defined as:

- "Low-income communities" have:
  - a poverty rate of 25 percent or greater; or
  - a median family income at or below 80 percent of the area median family income.
- "Low-access communities" have at least 500 persons or at least 33% of the census tract's population living more than one mile from a supermarket or large grocery store (10 miles in the case of non-metropolitan census tracts).[3]

Healthy Food Financing Initiatives

To decrease the presence of food deserts, several federal and state agencies have undertaken initiatives to increase access to healthy, affordable foods in these communities.

At the federal level, USDA, the Treasury, and HHS work to make funding available in the form of loans, grants, promotions, and other programs to create healthy food options in food deserts.[4] These programs:

- Provide financial and technical assistance;
- Make funds available through selected rural development and Agricultural Marketing Service programs;
- Provide tax credits; and
- Award competitive grants to community development corporations to support projects that finance grocery stores, farmers markets, and other sources of fresh nutritious food.[5]

The federal programs seek to increase access to whole foods such as fruits, vegetables, whole grains, fat free or low-fat dairy, and lean meats that are perishable (fresh, refrigerated, or frozen) or canned as

[1] USDA, Food Deserts, http://apps.ams.usda.gov/fooddeserts/foodDeserts.aspx (last visited November 18, 2015).
[2] Id.
[3] Id.
[4] HHS, *Healthy Food Financing Initiative*, http://www.acf.hhs.gov/programs/ocs/programs/community-economic-development/healthy-food-financing (last visited November 18, 2015).
[5] Id.

well as nutrient-dense foods and beverages encouraged by the 2010 Dietary Guidelines for Americans.[6]

Twenty-seven states have taken some action to address the issue of food deserts. These include creating Healthy Food Financing Initiatives, undertaking studies, expanding financial support, providing low interest loans, studying access to food, and providing tax incentives.[7]

Community Development Financial Institutions (CDFIs)
CDFIs are banks, credit unions, loan funds, microloan funds, or venture capital providers that help families finance their first homes, support community residents starting businesses, and invest in local health centers, schools, or community centers for low income communities.[8] CDFIs are certified by the CDFI Fund.[9] The CDFI Fund is an agency within the Treasury that promotes economic revitalization in distressed communities throughout the United States by providing financial assistance and information to CDFIs.[10] Once certified, a CDFI may apply for awards under the CDFI Fund's competitive programs, including the Capital Magnet Fund, CDFI Bond Guarantee Program, Community Development Financial Institutions Program, and Native Initiatives.[11]

Effect of the Bill

The bill directs DACS to establish a Healthy Food Financing Initiative (program) that comprises and coordinates the use of federal, state, and private loans and grants, federal tax credits, and other forms of financial assistance. This financial assistance must be used for rehabilitation or expansion of independent grocery stores, supermarkets, and community facilities to increase access to fresh produce and other nutritious food in underserved communities.

The bill defines the following terms:

- "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.
- "Department" means Department of Agriculture and Consumer Services.
- "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.
- "Low-income community" means a population census tract, as reported in the most recent U.S. Census Bureau American Community Survey,[12] that meets one of the following criteria:
  - A poverty rate of at least 20 percent;
  - 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

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[6] USDA, *Food Deserts, Frequently Asked Questions*, https://apps.ams.usda.gov/fooddeserts/FAQ.aspx#healthyfood (last visited November 18, 2015); the guidelines are available at: http://www.cnpp.usda.gov/sites/default/files/dietary_guidelines_for_americans/PolicyDoc.pdf.
[7] Healthy Food Portal, *Policy Efforts and Impacts, State and Local*, http://healthyfoodaccess.org/policy-efforts-and-impacts/state-and-local (last visited November 18, 2015).
[8] CDFI Fund, *What Are CDFIs?*, https://www.cdfifund.gov/Documents/CDFI_infographic_v08A.pdf (last visited November 18, 2015).
[9] CDFI Fund, *Certification*, https://www.cdfifund.gov/programs-training/certification/Pages/default.aspx (last visited November 18, 2015).
[10] CDFI Fund, *About Us*, https://www.cdfifund.gov/about/Pages/default.aspx (last visited November 20, 2015).
[11] Id.
[12] U.S. Census Bureau, *Our Surveys and Programs*, https://www.census.gov/programs-surveys.html (last visited November 20, 2015).

    - 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.
- "Program" means the Healthy Food Financing Initiative established by DACS.
- "Underserved community" means a distressed urban, suburban, or rural geographic area where a substantial number of residents have low access to a full-service grocery store or supermarket. An area with limited supermarket access must be:
    - A census tract, as determined to be an area with low access by the USDA, as identified in the Food Access Research Atlas;[13]
    - Identified as a limited supermarket access area as recognized by the CDFI Fund;[14] or
    - 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 or philanthropic healthy food initiative.

The bill authorizes DACS to contract with one or more nonprofit organizations or Florida-based federally certified CDFI to administer the program. To be eligible to contract with DACS to administer the program, the CDFI or nonprofit organization must demonstrate:

- Prior experience in healthy food financing;
- Support from the CDFI Fund within the Treasury;
- The ability to manage and operate lending and tax credit programs; and
- The ability to assume full financial risk for loans made under the program.

The bill directs DACS to establish program guidelines, raise matching funds, promote the program statewide, evaluate applicants, underwrite and disburse grants and loans, and monitor program compliance and impact. To carry out these directives, the bill authorizes DACS to contract with a third-party. If DACS contracts with a third party administrator, the third party administrator must create a revolving loan fund for the purpose of financing projects that meet the criteria of the program. The third-party administrator must report to DACS annually.

The bill directs DACS to create eligibility guidelines and provide financing through an application process. Eligible projects must:

- Be located in an underserved community;
- Primarily serve low-income communities; and
- Provide for 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.

DACS must report to the Legislature annually 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.

The bill requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to review the program after 7 years and report to the Speaker of the House of Representatives and the President of the Senate. The report must 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 DACS. If the OPPAGA report determines the program to be unsuccessful after 7 years, DACS must create guidelines to return unused funds to the initial investor.

To receive program financing, applicants must:

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[13] USDA, *Food Access Research Atlas*, http://www.ers.usda.gov/data-products/food-access-research-atlas.aspx (last visited November 18, 2015).
[14] CDFI Fund, *CDFI Information Mapping System*, https://www.cdfifund.gov/Pages/mapping-system.aspx (last visited November 18, 2015).

- Demonstrate the capacity to successfully implement the project and the likelihood that the project will be economically self-sustaining;
- Demonstrate the ability to repay the loan; and
- Agree, as an independent grocery store or supermarket, for at least 5 years, to:
    - Accept Supplemental Nutrition Assistance Program (SNAP)[15] benefits;
    - Apply to accept Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)[16] benefits and accept such benefits if approved;
    - 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;
    - Comply with all data collection and reporting requirements established by DACS; and
    - Promote the hiring of local residents.

The bill provides an exception to the 30 percent minimum requirement for food retail space for corner stores, bodegas, and other non-traditional grocery stores if the funding will be used for refrigeration displays, or other one-time capital expenditures to promote the sale of fresh produce or perishables.

The bill requires DACS or its third-party administrator to determine which projects receive financing by:
- Giving 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;
- Considering the level of need in the area to be served;
- Considering 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;
- Considering 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 projects; and
- Considering other criteria as may be determined by DACS.

The bill authorizes financing for selected projects for the following purposes:
- Site acquisition and preparation;
- Construction and build-out costs;
- Equipment and furnishings;
- Workforce training or security;
- Predevelopment costs, such as market studies and appraisals;
- Energy-efficiency measures;
- Working capital for first-time inventory and startup costs;
- Acquisition of seeds and starter plants for the residential cultivation of fruits, vegetables, herbs, and other culinary products. The bill stipulates that only 7 percent of the total funds expended in any one project may be used for such acquisition; and
- Other purposes as may be determined by DACS or its third-party administrator.

The bill requires DACS to adopt rules to implement the program.

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[15] SNAP is a federal program that offers nutrition assistance to millions of eligible, low-income individuals and families and provides economic benefits to communities. USDA, *Supplemental Nutrition Assistance Program*, http://www.fns.usda.gov/snap/supplemental-nutrition-assistance-program-snap (last visited November 18, 2015).

[16] WIC is a federal program that provides grants to states for supplemental foods, health care referrals, and nutrition education for low-income pregnant, breastfeeding, and non-breastfeeding postpartum women, and to infants and children up to age five who are found to be at nutritional risk. USDA, *Women, Infants, and Children (WIC)*, http://www.fns.usda.gov/wic/women-infants-and-children-wic (last visited November 18, 2015).

Lastly, the bill provides a nonrecurring appropriation of $500,000 from the General Revenue Fund for the purpose of implementing the bill. The bill restricts DACS to distribute no more than $500,000 among more than three recipients.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill appears to have a significant negative fiscal impact on DACS. DACS estimates $64,499 in recurring funds and $3,999 in nonrecurring funds for 1 OPS and associated expenses will be needed to implement the program.[17]

   DACS is required to adopt rules, which can be absorbed within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have a positive fiscal impact on the private sector since "independent grocery stores and supermarkets" and "community facilities," as part of the program, will be eligible to receive financial assistance in the form of grants and loans to improve or set up stores to provide access to healthy food and fresh produce.

D. FISCAL COMMENTS:

The bill provides a nonrecurring appropriation of $500,000 from the General Revenue Fund for the purpose of implementing the bill.

[17] DACS, Agency Analysis of 2016 House Bill 153, p. 3 (October 19, 2015).