

1-1 By: Zaffirini, et al. S.B. No. 403  
 1-2 (In the Senate - Filed February 5, 2013; February 13, 2013,  
 1-3 read first time and referred to Committee on Agriculture, Rural  
 1-4 Affairs, and Homeland Security; April 24, 2013, rereferred to  
 1-5 Committee on Government Organization; April 29, 2013, reported  
 1-6 adversely, with favorable Committee Substitute by the following  
 1-7 vote: Yeas 4, Nays 2; April 29, 2013, sent to printer.)

1-8 COMMITTEE VOTE

|      | Yea | Nay | Absent | PNV |
|------|-----|-----|--------|-----|
| 1-9  |     |     |        |     |
| 1-10 | X   |     |        |     |
| 1-11 | X   |     |        |     |
| 1-12 |     |     | X      |     |
| 1-13 | X   |     |        |     |
| 1-14 |     | X   |        |     |
| 1-15 | X   |     |        |     |
| 1-16 |     | X   |        |     |

1-17 COMMITTEE SUBSTITUTE FOR S.B. No. 403 By: Garcia

1-18 A BILL TO BE ENTITLED  
 1-19 AN ACT

1-20 relating to the establishment of a community development grocery  
 1-21 store and healthy corner store revolving loan fund program.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. It is the intent of the legislature to support  
 1-24 revitalization in food deserts, reduce the cost of financing  
 1-25 agricultural development projects, and increase the number of food  
 1-26 markets providing affordable and nutritious foods in underserved  
 1-27 areas.

1-28 SECTION 2. Title 2, Agriculture Code, is amended by adding  
 1-29 Chapter 26 to read as follows:

1-30 CHAPTER 26. TEXAS COMMUNITY DEVELOPMENT GROCERY STORE AND HEALTHY  
 1-31 CORNER STORE REVOLVING LOAN FUND

1-32 Sec. 26.001. DEFINITIONS. In this chapter:

1-33 (1) "Community development financial institution" has  
 1-34 the meaning assigned by 12 U.S.C. Section 4702.

1-35 (2) "Corner store" means a store that has less than  
 1-36 2,000 square feet of retail space.

1-37 (3) "Food desert" means a geographic area determined  
 1-38 by the department to be an area that:

1-39 (A) has limited access to healthy food retailers  
 1-40 and is located in a lower-income or high-poverty area; or

1-41 (B) otherwise has serious healthy food access  
 1-42 limitations.

1-43 (4) "Fund" means the community development grocery  
 1-44 store and healthy corner store revolving loan fund established by  
 1-45 this chapter.

1-46 (5) "Grocery store" means a store that has at least:

1-47 (A) 66 percent of the store's retail space  
 1-48 reserved for the sale of food products;

1-49 (B) 50 percent of the store's food retail space  
 1-50 reserved for the sale of non-prepared foods or foods intended for  
 1-51 home preparation and consumption; and

1-52 (C) 30 percent of the store's food retail space  
 1-53 reserved for the sale of perishable foods, including dairy  
 1-54 products, fresh produce, fresh meats, poultry, and fish, and frozen  
 1-55 foods.

1-56 (6) "Healthy corner store" means a corner store that:

1-57 (A) offers a wide variety of fresh produce for  
 1-58 sale; and

1-59 (B) allocates at least 20 percent of the store's  
 1-60 retail space to fresh produce and other perishable foods, including

2-1 dairy products.  
2-2 (7) "Program" means the loan program authorized by  
2-3 this chapter.  
2-4 (8) "Supplemental nutrition assistance program" means  
2-5 the nutritional assistance program formerly referred to as the food  
2-6 stamp program.  
2-7 (9) "WIC program" means the federal special  
2-8 supplemental nutrition program for women, infants, and children  
2-9 authorized by 42 U.S.C. Section 1786.  
2-10 Sec. 26.002. TRUST FUND. (a) The community development  
2-11 grocery store and healthy corner store revolving loan fund is a  
2-12 trust fund outside the state treasury held by a community  
2-13 development financial institution and overseen by the department as  
2-14 trustee on behalf of entities operating grocery stores or healthy  
2-15 corner stores located in food deserts in this state.  
2-16 (b) The fund is composed of:  
2-17 (1) gifts or grants received from public or private  
2-18 sources; and  
2-19 (2) income from other money in the fund.  
2-20 (c) The department may accept on behalf of the fund gifts  
2-21 and grants for the use and benefit of the program.  
2-22 Sec. 26.003. COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS.  
2-23 (a) The department shall contract with and award money, if  
2-24 available, to not more than five community development financial  
2-25 institutions to carry out the purposes of this chapter.  
2-26 (b) In selecting a community development financial  
2-27 institution, the department shall consider the financial  
2-28 institution's:  
2-29 (1) demonstrated success in implementing similar  
2-30 economic development projects;  
2-31 (2) ability to raise additional capital; and  
2-32 (3) solvency.  
2-33 (c) The community development financial institution shall:  
2-34 (1) provide revolving loan funds to entities proposing  
2-35 to operate or operating grocery stores or healthy corner stores in  
2-36 food deserts;  
2-37 (2) develop, in consultation with the department, a  
2-38 system used to underwrite loan applications;  
2-39 (3) provide training on business management and the  
2-40 profitable sale of healthy foods to corner store owners receiving a  
2-41 loan or grant money from the program;  
2-42 (4) accept gifts and grants; and  
2-43 (5) seek funding from various government and private  
2-44 sources.  
2-45 Sec. 26.004. LOAN REVIEW COMMITTEE. (a) Before  
2-46 contracting with a community development financial institution,  
2-47 the department shall require the financial institution to establish  
2-48 or make use of an existing loan review committee to approve loan  
2-49 requests of entities proposing to operate or operating grocery  
2-50 stores or healthy corner stores.  
2-51 (b) The loan review committee may not approve a loan request  
2-52 of an entity proposing to operate or operating a grocery store or  
2-53 healthy corner store unless the grocery store or healthy corner  
2-54 store:  
2-55 (1) will be or currently is located in a food desert;  
2-56 (2) will be or currently is located in a low and  
2-57 moderate income area, as determined by the United States Department  
2-58 of Housing and Urban Development, or will serve or currently is  
2-59 servicing a customer base living in a low and moderate income area;  
2-60 (3) will accept benefits under the WIC program and the  
2-61 supplemental nutrition assistance program not later than the 90th  
2-62 day after the date the store opens, or currently accepts benefits  
2-63 under those programs; and  
2-64 (4) will be or currently is open year-round.  
2-65 Sec. 26.005. CONSIDERATION OF OTHER RESOURCES. The loan  
2-66 review committee in approving a loan request shall give preference  
2-67 to an entity proposing to operate or operating a grocery store or  
2-68 healthy corner store that uses additional public and private  
2-69 resources to fund the grocery store or healthy corner store,

3-1 including cash or in-kind matches.

3-2 Sec. 26.006. LOANS TO GROCERY STORES OR CORNER STORES.

3-3 (a) The community development financial institution may not make a  
 3-4 loan to an entity proposing to operate or operating a grocery store  
 3-5 or healthy corner store in a food desert unless the loan review  
 3-6 committee has approved the loan.

3-7 (b) A loan made by the community development financial  
 3-8 institution may be subordinated debt.

3-9 (c) The community development financial institution may  
 3-10 make a loan under the program through a partnership or joint  
 3-11 investment with one or more financial institutions or federal or  
 3-12 state programs.

3-13 (d) Payments on grocery store or healthy corner store loans  
 3-14 shall be made to the community development financial institution.  
 3-15 The community development financial institution shall use the  
 3-16 repayments of loan principal by entities operating grocery stores  
 3-17 or healthy corner stores to make new loans as provided by this  
 3-18 chapter.

3-19 (e) The community development financial institution may  
 3-20 make a forgivable loan at a zero percent interest rate for a period  
 3-21 of five years to an entity proposing to operate or operating a  
 3-22 grocery store or healthy corner store in a food desert. The  
 3-23 community development financial institution that makes a  
 3-24 forgivable loan under this subsection:

3-25 (1) may not make a forgivable loan to an entity that  
 3-26 exceeds \$500,000;

3-27 (2) may not forgive an amount greater than one-fifth  
 3-28 of the forgivable loan amount each year;

3-29 (3) shall annually evaluate an entity that receives a  
 3-30 forgivable loan under this subsection to ensure that the entity is  
 3-31 in compliance with the requirements of this chapter; and

3-32 (4) if the community development financial  
 3-33 institution determines that the entity is not in compliance with  
 3-34 the requirements of this chapter, shall require the entity to repay  
 3-35 the remaining balance of the forgivable loan.

3-36 (f) A loan provided under this chapter must be made from  
 3-37 available funds that must be used for that purpose.

3-38 Sec. 26.007. INCREASE IN INTEREST RATE; ACCELERATED  
 3-39 REPAYMENT. If a recipient of a loan does not comply with the  
 3-40 requirements of this chapter, the community development financial  
 3-41 institution that made the loan, as provided by department rule,  
 3-42 may:

3-43 (1) increase the interest rate on the loan;

3-44 (2) accelerate repayment of the principal of and  
 3-45 interest on the loan; or

3-46 (3) take any other remedy permitted by department rule  
 3-47 that the institution considers appropriate.

3-48 Sec. 26.008. SELF-FUNDING. The department shall develop  
 3-49 the fund program as a revolving loan fund that will become  
 3-50 self-funding over the life of the program.

3-51 Sec. 26.009. INCOME FROM LOAN. All income received on a  
 3-52 loan made with money received under the program is the property of  
 3-53 the community development financial institution. Income received  
 3-54 on a loan includes the payment of interest by a borrower and the  
 3-55 administrative fees assessed by the community development  
 3-56 financial institution.

3-57 Sec. 26.010. RULES. (a) The department shall adopt rules  
 3-58 to administer this chapter, including rules that require:

3-59 (1) the department to review the lending and servicing  
 3-60 practices of a community development financial institution to  
 3-61 ensure the practices conform to generally accepted accounting  
 3-62 principles;

3-63 (2) an eligible entity proposing to operate or  
 3-64 operating a grocery store or healthy corner store to enter into an  
 3-65 agreement with the community development financial institution  
 3-66 that states the terms of the loan made to the entity;

3-67 (3) the community development financial institution  
 3-68 to provide to the department semiannual reports giving details of  
 3-69 the status of each loan made under the program;

4-1 (4) the community development financial institution  
4-2 to develop rules to regulate financial monitoring and inventory;

4-3 (5) a third-party certified public accountant to  
4-4 perform biennial audits of grocery stores for which loans are made  
4-5 under the program; and

4-6 (6) the department to provide oversight of the  
4-7 community development financial institution as necessary to  
4-8 qualify the community development financial institution for loan  
4-9 guarantees from federal or state programs.

4-10 (b) Under rules adopted by the department, the community  
4-11 development financial institution may:

4-12 (1) make grants to eligible entities proposing to  
4-13 operate or operating grocery stores or healthy corner stores from  
4-14 money other than money that may be received from the fund; or

4-15 (2) seek funds from state or federal agencies or  
4-16 private sources to supplement and complement any funds received  
4-17 under the program.

4-18 (c) The department may adopt other rules as necessary to  
4-19 accomplish the purposes of this chapter.

4-20 Sec. 26.011. ANNUAL REPORT. (a) Not later than December 1  
4-21 of each even-numbered year, the department, in coordination with  
4-22 the community development financial institution, shall submit a  
4-23 report to the House Appropriations Committee, the Senate Finance  
4-24 Committee, the governor, and the Legislative Budget Board.

4-25 (b) The report must include for the preceding two state  
4-26 fiscal years:

4-27 (1) the number of entities receiving loans or grants  
4-28 under this chapter;

4-29 (2) repayment rates on loans;

4-30 (3) the total amount of money loaned or awarded by  
4-31 grants;

4-32 (4) the amount of square footage of commercial space  
4-33 created;

4-34 (5) the number of jobs created or retained;

4-35 (6) the average wages of the jobs created or retained;

4-36 and

4-37 (7) the additional property tax revenue gained by  
4-38 local entities.

4-39 SECTION 3. Not later than November 15, 2013, the Department  
4-40 of Agriculture shall adopt rules to administer Chapter 26,  
4-41 Agriculture Code, as added by this Act.

4-42 SECTION 4. Not later than January 15, 2014, the Department  
4-43 of Agriculture shall designate community development financial  
4-44 institutions as provided by Section 26.003, Agriculture Code, as  
4-45 added by this Act, to carry out the purposes of Chapter 26,  
4-46 Agriculture Code, as added by this Act.

4-47 SECTION 5. Not later than February 15, 2014, the Department  
4-48 of Agriculture shall transfer money in the community development  
4-49 grocery store and healthy corner store revolving loan fund to a  
4-50 community development financial institution.

4-51 SECTION 6. This Act takes effect September 1, 2013.

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