

By: Miles

S.B. No. 723

A BILL TO BE ENTITLED

AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

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

CHAPTER 26. TEXAS COMMUNITY DEVELOPMENT GROCERY STORE AND HEALTHY CORNER STORE REVOLVING LOAN FUND

Sec. 26.001. DEFINITIONS. In this chapter:

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

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

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

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

(B) otherwise has serious healthy food access limitations.

1           (4) "Fund" means the community development grocery  
2 store and healthy corner store revolving loan fund established by  
3 this chapter.

4           (5) "Grocery store" means a store that has at least:

5                   (A) 66 percent of the store's retail space  
6 reserved for the sale of food products;

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

10                   (C) 30 percent of the store's food retail space  
11 reserved for the sale of perishable foods, including dairy  
12 products, fresh produce, fresh meats, poultry, and fish, and frozen  
13 foods.

14           (6) "Healthy corner store" means a corner store that:

15                   (A) offers a wide variety of fresh produce for  
16 sale; and

17                   (B) allocates at least 20 percent of the store's  
18 retail space to fresh produce and other perishable foods, including  
19 dairy products.

20           (7) "Program" means the loan program authorized by  
21 this chapter.

22           (8) "Supplemental nutrition assistance program" means  
23 the nutritional assistance program formerly referred to as the food  
24 stamp program.

25           (9) "WIC program" means the federal special  
26 supplemental nutrition program for women, infants, and children  
27 authorized by 42 U.S.C. Section 1786.

1       Sec. 26.002. TRUST FUND. (a) The community development  
2 grocery store and healthy corner store revolving loan fund is a  
3 trust fund outside the state treasury held by a community  
4 development financial institution and overseen by the department as  
5 trustee on behalf of entities operating grocery stores or healthy  
6 corner stores located in food deserts in this state.

7       (b) The fund is composed of:

8           (1) gifts or grants received from public or private  
9 sources; and

10          (2) income from other money in the fund.

11       (c) The department may accept on behalf of the fund gifts  
12 and grants for the use and benefit of the program.

13       Sec. 26.003. COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS.

14       (a) The department shall contract with and award money, if  
15 available, to not more than five community development financial  
16 institutions to carry out the purposes of this chapter.

17       (b) In selecting a community development financial  
18 institution, the department shall consider the financial  
19 institution's:

20           (1) demonstrated success in implementing similar  
21 economic development projects;

22           (2) ability to raise additional capital; and

23           (3) solvency.

24       (c) The community development financial institution shall:

25           (1) provide revolving loan funds to entities proposing  
26 to operate or operating grocery stores or healthy corner stores in  
27 food deserts;

1           (2) develop, in consultation with the department, a  
2 system used to underwrite loan applications;

3           (3) provide training on business management and the  
4 profitable sale of healthy foods to corner store owners receiving a  
5 loan or grant money from the program;

6           (4) accept gifts and grants; and

7           (5) seek funding from various government and private  
8 sources.

9           Sec. 26.004. LOAN REVIEW COMMITTEE. (a) Before  
10 contracting with a community development financial institution,  
11 the department shall require the financial institution to establish  
12 or make use of an existing loan review committee to approve loan  
13 requests of entities proposing to operate or operating grocery  
14 stores or healthy corner stores.

15           (b) The loan review committee may not approve a loan request  
16 of an entity proposing to operate or operating a grocery store or  
17 healthy corner store unless the grocery store or healthy corner  
18 store:

19           (1) will be or currently is located in a food desert;

20           (2) will be or currently is located in a low and  
21 moderate income area, as determined by the United States Department  
22 of Housing and Urban Development, or will serve or currently is  
23 servicing a customer base living in a low and moderate income area;

24           (3) will accept benefits under the WIC program and the  
25 supplemental nutrition assistance program not later than the 90th  
26 day after the date the store opens, or currently accepts benefits  
27 under those programs; and

1           (4) will be or currently is open year-round.

2           Sec. 26.005. CONSIDERATION OF OTHER RESOURCES. The loan  
3 review committee in approving a loan request shall give preference  
4 to an entity proposing to operate or operating a grocery store or  
5 healthy corner store that uses additional public and private  
6 resources to fund the grocery store or healthy corner store,  
7 including cash or in-kind matches.

8           Sec. 26.006. LOANS TO GROCERY STORES OR CORNER STORES. (a)  
9 The community development financial institution may not make a loan  
10 to an entity proposing to operate or operating a grocery store or  
11 healthy corner store in a food desert unless the loan review  
12 committee has approved the loan.

13           (b) A loan made by the community development financial  
14 institution may be subordinated debt.

15           (c) The community development financial institution may  
16 make a loan under the program through a partnership or joint  
17 investment with one or more financial institutions or federal or  
18 state programs.

19           (d) Payments on grocery store or healthy corner store loans  
20 shall be made to the community development financial institution.  
21 The community development financial institution shall use the  
22 repayments of loan principal by entities operating grocery stores  
23 or healthy corner stores to make new loans as provided by this  
24 chapter.

25           (e) The community development financial institution may  
26 make a forgivable loan at a zero percent interest rate for a period  
27 of five years to an entity proposing to operate or operating a

1 grocery store or healthy corner store in a food desert. The  
2 community development financial institution that makes a  
3 forgivable loan under this subsection:

4 (1) may not make a forgivable loan to an entity that  
5 exceeds \$500,000;

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

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

11 (4) if the community development financial  
12 institution determines that the entity is not in compliance with  
13 the requirements of this chapter, shall require the entity to repay  
14 the remaining balance of the forgivable loan.

15 (f) A loan provided under this chapter must be made from  
16 available funds that must be used for that purpose.

17 Sec. 26.007. INCREASE IN INTEREST RATE; ACCELERATED  
18 REPAYMENT. If a recipient of a loan does not comply with the  
19 requirements of this chapter, the community development financial  
20 institution that made the loan, as provided by department rule,  
21 may:

22 (1) increase the interest rate on the loan;

23 (2) accelerate repayment of the principal of and  
24 interest on the loan; or

25 (3) take any other remedy permitted by department rule  
26 that the institution considers appropriate.

27 Sec. 26.008. SELF-FUNDING. The department shall develop

1 the fund program as a revolving loan fund that will become  
2 self-funding over the life of the program.

3 Sec. 26.009. INCOME FROM LOAN. All income received on a  
4 loan made with money received under the program is the property of  
5 the community development financial institution. Income received  
6 on a loan includes the payment of interest by a borrower and the  
7 administrative fees assessed by the community development  
8 financial institution.

9 Sec. 26.010. RULES. (a) The department shall adopt rules  
10 to administer this chapter, including rules that require:

11 (1) the department to review the lending and servicing  
12 practices of a community development financial institution to  
13 ensure the practices conform to generally accepted accounting  
14 principles;

15 (2) an eligible entity proposing to operate or  
16 operating a grocery store or healthy corner store to enter into an  
17 agreement with the community development financial institution  
18 that states the terms of the loan made to the entity;

19 (3) the community development financial institution  
20 to provide to the department semiannual reports giving details of  
21 the status of each loan made under the program;

22 (4) the community development financial institution  
23 to develop rules to regulate financial monitoring and inventory;

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

27 (6) the department to provide oversight of the

1 community development financial institution as necessary to  
2 qualify the community development financial institution for loan  
3 guarantees from federal or state programs.

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

6 (1) make grants to eligible entities proposing to  
7 operate or operating grocery stores or healthy corner stores from  
8 money other than money that may be received from the fund; or

9 (2) seek funds from state or federal agencies or  
10 private sources to supplement and complement any funds received  
11 under the program.

12 (c) The department may adopt other rules as necessary to  
13 accomplish the purposes of this chapter.

14 Sec. 26.011. BIENNIAL REPORT. (a) Not later than December  
15 1 of each even-numbered year, the department, in coordination with  
16 the community development financial institution, shall submit a  
17 report to the House Appropriations Committee, the Senate Finance  
18 Committee, the governor, and the Legislative Budget Board.

19 (b) The report must include for the preceding two state  
20 fiscal years:

21 (1) the number of entities receiving loans or grants  
22 under this chapter;

23 (2) repayment rates on loans;

24 (3) the total amount of money loaned or awarded by  
25 grants;

26 (4) the amount of square footage of commercial space  
27 created;

- 1           (5) the number of jobs created or retained;  
2           (6) the average wages of the jobs created or retained;  
3 and  
4           (7) the additional property tax revenue gained by  
5 local entities.

6           SECTION 3. Not later than November 15, 2017, the Department  
7 of Agriculture shall adopt rules to administer Chapter 26,  
8 Agriculture Code, as added by this Act.

9           SECTION 4. Not later than January 15, 2018, the Department  
10 of Agriculture shall designate community development financial  
11 institutions as provided by Section 26.003, Agriculture Code, as  
12 added by this Act, to carry out the purposes of Chapter 26,  
13 Agriculture Code, as added by this Act.

14           SECTION 5. Not later than February 15, 2018, the Department  
15 of Agriculture shall transfer money in the community development  
16 grocery store and healthy corner store revolving loan fund to a  
17 community development financial institution.

18           SECTION 6. This Act takes effect September 1, 2017.