

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To establish a program to attract grocery stores to and renovate grocery stores in low-income areas in the District; to require participating grocery stores to employ District residents and provide them with quality jobs, accept SNAP benefits, and accept WIC benefits; to designate a grocery ambassador to assist grocery retailers; to amend Chapter 38 of Title 47 of the District of Columbia Official Code to modify the tax exemption provisions for supermarkets, to establish a program to expand access to healthy foods in low-income areas in the District by providing assistance to corner stores, farmers markets and other small food retailers; to develop a plan for establishing a commercial distribution system for fresh produce and healthy foods to corner stores; and to assist corner stores in becoming more energy efficient.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Food, Environmental, and Economic Development in the District of Columbia Act of 2010".

TITLE I. DEFINITIONS.

Sec. 101. Definitions.

For the purposes of this act, the term:

(1) "Corner store" means a retail establishment that:

- (A) Sells grocery products;
- (B) Has less than 5,000 square feet of selling area;

(C) Does not have an off-premises retailer's license, Class A, established by D.C. Official Code § 25-112(d)(1); and

(D) Meets the eligibility requirements for the Supplemental Nutrition Assistance Program, established by the Food Stamp Act of 1964, approved August 31, 1964 (78 Stat. 703; 7 U.S.C. § 2011 *et seq.*).

(2) "Eligible area" means:

(A) A historically underutilized business zone, as defined by section 602 of the Small Business Reauthorization Act of 1997, approved December 2, 1997 (111 Stat. 2617; 15 U.S.C. § 632(p)(1)); or

(B) Census tracts 18.01, 33.01, 95.05, 95.07, or 95.08.

(3) "Farmers market" means a public market, as defined by section 2(2) of the Vending Regulation Act of 2009, effective October 22, 2009 (D.C. Law 18-71; D.C. Official Code § 37-131.01(2)), at which farmers and other producers sell fresh produce and healthy foods.

(4) "First source agreement" means the agreement required by section 4 of the First Source Employment Agreement Act of 1984, effective June 29, 1984 (D.C. Law 5-93; D.C. Official Code § 2-219.03).

(5) "Grocery store" means a retail establishment that:

(A) Has a primary business of selling grocery products;

(B) Has at least 5,000 square feet of selling area that is used for a general line of food and nonfood grocery products; and

(C) Meets the eligibility requirements for the Supplemental Nutrition Assistance Program, established by the Food Stamp Act of 1964, approved August 31, 1964 (78 Stat. 703; 7 U.S.C. § 2011 *et seq.*).

(6) “Healthy food” means fresh fruit and vegetables and other foods qualifying as healthy pursuant to 21 C.F.R. § 101.65(d)(2).

(7)(A) “Small food retailer” means a small business that is not a grocery store or a corner store and whose primary business is the retail sale of grocery items.

(B) The term “small food retailer” shall not include businesses that have an off-premises retailers license, Class A, established by D.C. Official Code § 25-112(d)(1).

(C) For the purposes of this section, the qualification of an entity or small business shall be established by the Mayor by rule.

(8) “SNAP benefits” means benefits provided by the Supplemental Nutrition Assistance Program, established by the Food Stamp Act of 1964, approved August 31, 1964 (78 Stat. 703; 7 U.S.C. § 2011 *et seq.*).

(9) “WIC benefits” means benefits provided by the Special Supplemental Nutrition Program for Women, Infants, and Children, established by Section 17 of the Child Nutrition Act of 14986, approved September 26, 1972 (86 Stat. 729; 42 U.S.C. § 1786).

TITLE II. GROCERY STORE DEVELOPMENT PROGRAM.

Sec. 201. Establishment of a grocery store development program.

(a) The Mayor shall establish a Grocery Store Development Program within the Office of the Deputy Mayor for Planning and Economic Development to attract grocery stores to and renovate grocery stores in eligible areas in the District and to create quality jobs for District residents.

(b) The District of Columbia Housing Authority and the Office of Planning shall, as requested by the Deputy Mayor for Planning and Economic Development, assist the program by providing technical assistance and other resources. The Washington, D.C. Economic Partnership may assist this program by providing technical assistance and support.

(c) This program may:

(1) Establish a working group of community development financial institutions, District agencies, nonprofit organizations, and other interested District individuals and organizations to seek federal funding through the Healthy Food Financing Initiative, the new market tax credits program, pursuant to section 45D of the Internal Revenue Code of 1986, approved December 21, 2000 (114 Stat. 763; 26 U.S.C. § 45D), and other programs;

(2) (A) Provide a combination of any or all of the following to grocery stores in eligible areas:

- (i) Grants;
- (ii) Loans;
- (iii) Federal tax credits;
- (iv) Other financial assistance; and
- (v) Technical assistance;

(B) The benefits provided by this paragraph shall be awarded to grocery stores in eligible areas on a competitive basis, with priority given to grocery stores in eligible areas that are underserved by retail sales of healthy food.

Sec. 202. Requirements.

(a) As a condition of participating in the program established by section 201, an individual or legal entity operating a grocery store shall:

- (1) Accept SNAP benefits;
- (2) Apply to accept WIC benefits and accept WIC benefits if eligible;
- (3) Enter into a first source agreement; and
- (4) Sell fresh produce and healthy foods.

(b) A grocery store shall agree in writing to the conditions set forth in subsection (a) of this section for a period of at least 5 years as a condition of participating in the program established by section 201; provided, that this requirement shall not be enforceable if the individual or legal entity ceases grocery store operations.

Sec. 203. Grocery ambassador program.

The Deputy Mayor for Planning and Economic Development shall designate a District employee as the grocery ambassador to assist retailers in building or renovating grocery stores in eligible areas by:

- (1) Providing research and data on eligible areas with insufficient grocery access;
- (2) Coordinating with all relevant District agencies and public utilities; and
- (3) Providing assistance in obtaining and expediting regulatory procedures and approvals; and
- (4) Providing other assistance as needed.

Sec. 204. Other incentives.

(a) The Zoning Commission should adopt regulations that permit bonus density or other appropriate zoning flexibility for projects in eligible areas with grocery stores, consistent with the Comprehensive Plan.

(b) When considering applications for special exceptions or planned unit developments, the Zoning Commission and Board of Zoning Adjustment should give favorable weight to projects with grocery stores in eligible areas.

(c) Grocery stores in eligible areas shall be eligible for the Green Building Expedited Construction Documents Review Program established by section 7 of the Green Building Act of 2006, approved March 8, 2007 (D.C. Law 16-234; D.C. Official Code § 6-1451.06), notwithstanding that they fail to qualify as green buildings under section 2(17) of the Green Building Act of 2006, approved March 8, 2007 (D.C. Law 16-234; D.C. Official Code § 6-1451.01(17)).

Sec. 205. Chapter 38 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-3801 is amended as follows:

(1) Paragraph (1B) is amended by striking the phrase “priority development area” and inserting the phrase “eligible area” in its place.

(2) New paragraphs (1C) and (1D) are added to read as follows:

“(1C) ‘Building materials’ means all materials necessary for the construction and build-out of real property, including furniture, fixtures, and other equipment installed in the property.

“(1D) ‘Eligible area’ means:

“(A) A historically underutilized business zone, as defined by section 602 of the Small Business Reauthorization Act of 1997, approved December 2, 1997 (111 Stat. 2617; 15 U.S.C. § 632(p)(1)); or

(B) Census tracts 18.01, 33.01, 95.05, 95.07, or 95.08.”.

(3) Paragraph (2) is amended by striking the phrase “priority development area” and inserting the phrase “eligible area” in its place.

(b) Section 47-3802 is amended by adding a new subsection (c) to read as follows:

“(c)(1) Effective for applications filed on or after January 1, 2011, to be eligible for any exemption provided under subsection (a) of this section, an applicant shall file with the Mayor, in such manner and form as the Mayor may prescribe, an application requesting certification of eligibility for the exemption.

“(2) The Mayor shall, as nearly as practicable, complete review of requests for certification within 45 days after receipt.

“(3) The Mayor shall certify to the Office of Tax and Revenue each taxpayer and property eligible for an exemption. The certification shall identify:

(A) The tax to which the certification applies;

(B) The specific taxpayer (including taxpayer identification number) and property (by square and lot or parcel or reservation number) eligible;

(C) The type or portion of the property that is eligible;

(D) The effective date of eligibility;

(E) The date on which eligibility is to terminate; and

(F) Such other information as the Office of Tax and Revenue shall require to administer the exemption.

“(4) The Office of Tax and Revenue shall, as nearly as practicable, review and process certifications by the Mayor for real property tax exemptions as subsection (a)(1) of this section, within 10 days after receipt.

“(5) The Mayor shall notify the Office of Tax and Revenue if any taxpayer or property certified as eligible under paragraph (3) of this subsection becomes ineligible for an exemption under subsection (a) of this section. The notification shall identify:

(A) The type of tax to which the notice applies;

(B) The taxpayer (including taxpayer identification number) and property (by square and lot or parcel or reservation number);

(C) The type or portion of the property ineligible;

(D) The date on which the taxpayer or property became ineligible; and

(E) Such other information as the Office of Tax and Revenue shall require to administer the termination of the exemption.

“(6) This subsection applies to the application requirements otherwise applicable to requests for exemption from the taxes listed in subsection (a) of this section, but shall not affect any other provision governing administration of the taxes.”.

TITLE III. HEALTHY FOOD RETAIL PROGRAM.

Sec. 301. Establishment of a healthy food retail program.

(a) The Mayor shall establish a Healthy Food Retail Program within the Department of Small and Local Business Development to expand access to healthy foods in eligible areas in the District by providing assistance to corner stores, farmers markets, and other small food retailers.

(b) The Department of Health, District Department of the Environment, Office of the Deputy Mayor for Planning and Economic Development, Office of Planning, and the University System of the District of Columbia shall, as requested by the Department of Small and Local Business Development, assist this program.

(c) (1) The program may provide a combination of any or all of the following to corner stores, farmers markets, and other small food retailers in eligible areas:

- (A) Grants;
- (B) Loans;
- (C) Federal tax credits;
- (D) Equipment;
- (E) Other financial assistance; and
- (F) Technical assistance.

(2) The benefits provided by this subsection shall be awarded to corner stores, farmers markets, and other small food retailers in eligible areas on a competitive basis, with priority given to projects with the greatest potential impact on expanding access to healthy foods in eligible areas that are underserved by retail sales of healthy food.

(d) Corner stores, farmers markets, and other small food retailers are encouraged to work cooperatively to expand access to healthy foods in eligible areas.

(e) The benefits provided by subsection (c) of this section may be used by corner stores to improve the display areas, exteriors, and interiors of corner stores to expand capacity to sell healthy food.

(f) The Department of Small and Local Business Development may contract with nonprofit organizations in promoting and implementing this program.

(g) The University System of the District of Columbia may provide nutrition education resources to eligible corner stores, farmers markets, and consumers in eligible areas.

Sec. 302. Requirements.

(a) Corner stores, farmers markets, and other small food retailers participating in the program established by section 301 shall be strongly encouraged to:

- (1) Apply to accept SNAP benefits;
- (2) Apply to accept WIC benefits; and
- (3) Employ District residents.

(b) Resources may be provided under section 301 to assist corner stores, farmers markets, and other small food retailers in acquiring the technology necessary to accept SNAP and WIC benefits.

(c) As a condition of participating in the program established by section 301, individuals or entities operating corner stores, farmers markets, and other small food retailers shall agree in writing to sell produce or other healthy foods for at least 3 years; provided, that this requirement shall not be enforceable if the individual or entity, or its successor, ceases all of its retail food sales operations.

Sec. 303. Healthy food distribution.

(a) The Department of Small and Local Business Development shall convene a working group to develop a plan for establishing a commercial distribution system for fresh produce and healthy foods to corner stores. Corner stores shall be encouraged to work cooperatively to maximize their buying power.

(b) The working group shall include representatives from:

- (1) District agencies;
- (2) The grocery ambassador, designated under section 203;
- (3) Nonprofit organizations;
- (4) Urban farmers and community gardeners;

(5) Corner stores and their trade associations; and

(6) Produce wholesalers.

(c) The working group shall issue a report, including recommendations, to the Mayor and the Council.

(d) The Department of Small and Local Business Development may issue grants, on a competitive basis, for the establishment of a commercial distribution system for fresh produce and healthy foods

Sec. 304. Energy efficiency.

The District Department of the Environment shall:

(1) Develop tools and resources for corner stores to reduce their operating costs by becoming more energy efficient; and

(2) Promote energy efficiency programs to corner stores.

TITLE IV. RULES; FISCAL IMPACT STATEMENT; EFFECTIVE DATE.

Sec. 401. Rules.

The Mayor, pursuant to Title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 et seq.), may issue rules to implement the provisions of this act.

Sec. 402. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02 (c)(3)).

Sec. 403. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.