

1                   A bill to be entitled  
2           An act relating to consumer finance loans; creating s.  
3           516.40, F.S.; establishing the Access to Responsible  
4           Credit Pilot Program; providing legislative findings  
5           and intent; creating s. 516.41, F.S.; providing  
6           definitions; creating s. 516.42, F.S.; prohibiting a  
7           person from certain activities without prior approval  
8           from the Office of Financial Regulation; specifying  
9           requirements for participating in the program to make  
10          certain consumer finance loans; specifying  
11          requirements for an application and a fee; providing  
12          applicability of laws and regulations to a program  
13          licensee; requiring an approved program licensee to  
14          pay a specified renewal fee; providing that only one  
15          pilot program license is required for a person to make  
16          program loans; requiring each branch office of a  
17          program licensee to be licensed; requiring the office  
18          to issue a program branch office license after making  
19          certain determinations; specifying requirements for a  
20          program branch office license application; providing  
21          requirements for renewal of a program branch office  
22          license; creating s. 516.43, F.S.; providing general  
23          requirements for a program loan; requiring a program  
24          licensee to provide specified written disclosures to a  
25          borrower; specifying requirements for origination

26 | fees; specifying requirements for insufficient funds  
27 | fees and delinquency charges; specifying requirements  
28 | for a program licensee relating to credit education  
29 | for a borrower; specifying requirements for reporting  
30 | borrower payment performance to credit reporting  
31 | agencies; prohibiting the office from approving a  
32 | licensee for the program before it has been accepted  
33 | as a data furnisher; requiring a program licensee to  
34 | provide a borrower with certain information relating  
35 | its credit reporting; specifying requirements for a  
36 | program licensee to underwrite program loans;  
37 | prohibiting a program licensee from requiring certain  
38 | waivers from a borrower; specifying requirements for  
39 | permissible waivers; prohibiting certain actions by a  
40 | program licensee; providing applicability; creating s.  
41 | 516.44, F.S.; requiring a program licensee and a  
42 | referral partner to enter into a written referral  
43 | partner agreement; specifying permitted services by a  
44 | referral partner; specifying procedures for receipt or  
45 | disbursement by a referral partner of program loan  
46 | payments made by a borrower; providing that a borrower  
47 | who submits a loan payment to a referral partner is  
48 | not liable under certain circumstances; requiring a  
49 | referral partner to maintain certain records;  
50 | prohibiting certain activities by a referral partner;

51 specifying disclosure notice requirements; specifying  
52 requirements, prohibitions, and limitations for  
53 compensation from a program licensee to a referral  
54 partner; requiring a program licensee to provide the  
55 office with a specified notice after contracting with  
56 a referral partner; requiring a referral partner to  
57 provide the program licensee with a certain written  
58 notice within a specified time; specifying the program  
59 licensee's responsibility for acts of its referral  
60 partner; requiring a program licensee to pay a  
61 specified fee to the office to file a referral partner  
62 notice; creating s. 516.45, F.S.; requiring the office  
63 to examine program licensees at specified intervals  
64 beginning on a specified date; providing an exception;  
65 requiring program licensees to pay the cost of  
66 examinations; authorizing the office to maintain an  
67 action of recovery of the cost; authorizing a manner  
68 to determine the cost of examinations; providing  
69 limitations of an investigation; providing that a  
70 program licensee is subject to certain disciplinary  
71 action for certain violations; authorizing the office  
72 to take certain disciplinary actions; creating s.  
73 516.46, F.S.; requiring a program licensee to file a  
74 certain report with the office at certain intervals  
75 beginning on a certain date; requiring the office to

76 post a report to its website summarizing the use of  
77 the program by a certain date; specifying information  
78 to be contained in the office's report; providing for  
79 conditional future repeal of the program; providing an  
80 effective date.

81  
82 Be It Enacted by the Legislature of the State of Florida:

83  
84 Section 1. Section 516.40, Florida Statutes, is created to  
85 read:

86 516.40 Access to Responsible Credit Pilot Program.—

87 (1) There is created within the Office of Financial  
88 Regulation the Access to Responsible Credit Pilot Program.

89 (2) The Legislature finds that demand for responsible  
90 consumer finance loans in principal amounts of at least \$300 and  
91 no more than \$3,000 exceeds the supply of these loans. As a  
92 first step toward addressing this gap, the Access to Responsible  
93 Credit Pilot Program would allow more Floridians to obtain  
94 responsible consumer finance loans of at least \$300 and no more  
95 than \$3,000. The pilot program is also intended to assist  
96 consumers in building their credit and has additional consumer  
97 protections for these loans which exceed current protections  
98 under general law.

99 Section 2. Section 516.41, Florida Statutes, is created to  
100 read:

101 516.41 Definitions.— As used in ss. 516.40-516.46, the  
 102 term:

103 (1) "Consumer reporting agency" has the same meaning as in  
 104 s. 603(p) of the Fair Credit Reporting Act, 15 U.S.C. s.  
 105 1681a(p).

106 (2) "Credit score" has the same meaning as in s.  
 107 609(f) (2) (A) of the Fair Credit Reporting Act, 15 U.S.C. s.  
 108 1681g(f) (2) (A).

109 (3) "Data furnisher" has the same meaning as the term  
 110 "furnisher" in 12 C.F.R. s. 1022.41(c).

111 (4) "Pilot program" or "program" means the Access to  
 112 Responsible Credit Pilot Program.

113 (5) "Pilot program license" means a permit issued under  
 114 ss. 516.40-516.46 authorizing a program licensee to make and  
 115 collect pilot program loans.

116 (6) "Program branch office license" means a location,  
 117 other than a program licensee's or referral partner's principal  
 118 place of business:

119 (a) The address of which appears on business cards,  
 120 stationery, or advertising used by the program licensee in  
 121 connection with business conducted under this chapter;

122 (b) At which the program licensee's name, advertising or  
 123 promotional materials, or signage suggests that program loans  
 124 are originated, negotiated, funded, or serviced; or

125 (c) At which program loans are originated, negotiated,

126 funded, or serviced by a program licensee.

127 (7) "Program licensee" means a person who is licensed to  
128 make and collect program loans under this chapter and who is  
129 approved by the office to participate in the program.

130 (8) "Program loan" means a consumer finance loan with a  
131 principal amount of at least \$300 and no more than \$3,000.

132 (9) "Referral partner" means an entity that, at the  
133 referral partner's physical location for business, performs one  
134 or more of the permitted services in s. 516.44(2) on behalf of a  
135 program licensee. A referral partner is not a credit service  
136 organization as defined in s. 817.7001 or a loan broker as  
137 defined in s. 687.14.

138 (10) "Refinance program loan" means a program loan that  
139 extends additional principal to a borrower and replaces and  
140 revises an existing program loan contract with the borrower. A  
141 refinance program loan does not include an extension, a  
142 deferral, or a rewrite of the program loan.

143 Section 3. Section 516.42, Florida Statutes, is created to  
144 read:

145 516.42 Approval required; program application  
146 requirements; fees.—

147 (1) A program licensee may not offer or make a program  
148 loan, or impose any charges or fees pursuant to s. 516.43,  
149 without prior approval from the office to participate in the  
150 program.

151        (2) (a) In order to participate in the program, a person  
 152 must:  
 153        1. Be licensed to make consumer finance loans under s.  
 154 516.05.  
 155        2. Not be the subject of any insolvency proceedings.  
 156        3. Not be subject to the issuance of a cease and desist  
 157 order; the issuance of a removal order; the denial, suspension,  
 158 or revocation of a license; or any other action within the  
 159 authority of the office or any financial regulatory agency in  
 160 this state; or must not have a deficiency at the time of the  
 161 person's application.  
 162        4. Pay a nonrefundable application fee of \$1,000 to the  
 163 office at the time of making the application pursuant to rule of  
 164 the commission.  
 165        (b) The applicant must file with the office a digital  
 166 application in a form and manner prescribed by rule of the  
 167 commission which contains all of the following information with  
 168 respect to the program applicant:  
 169        1. The legal business name and any other name the  
 170 applicant operates under other than the legal business name.  
 171        2. The applicant's main address.  
 172        3. The telephone number and e-mail address.  
 173        4. The address of each program branch office.  
 174        5. The contact person's name, title, address, telephone  
 175 number, and e-mail address.

176 6. The license number, if licensed under this chapter.

177 7. A statement as to whether the applicant intends to use  
178 the services of one or more referral partners under s. 516.44.

179 8. A statement that the applicant has been accepted as a  
180 data furnisher by a consumer reporting agency and will report to  
181 a consumer reporting agency the payment performance of each  
182 borrower on all loans made under this program.

183 9. The signature and certification of an authorized person  
184 of the applicant.

185 (3) A program licensee who desires to participate in the  
186 program but who is not licensed to make consumer finance loans  
187 pursuant to s. 516.05 must submit concurrently the following two  
188 digital applications to the office, in a form and manner  
189 specified in this chapter:

190 (a) An application and a fee pursuant to s. 516.03 for  
191 licensure to make consumer finance loans; and

192 (b) An application and a fee for admission to the program  
193 in accordance with subsection (2).

194 (4) Except as otherwise provided in ss. 516.40-516.46, a  
195 program licensee is subject to all the laws and rules governing  
196 consumer finance loans under this chapter.

197 (5) All program licensees shall be assessed a  
198 nonrefundable biennial renewal fee of \$1,000 pursuant to rule of  
199 the commission.

200 (6) Notwithstanding s. 516.05(3), only one pilot program



201 license is required for a person to make program loans under ss.  
202 516.40-516.46, regardless of whether the program licensee offers  
203 program loans to prospective borrowers at its own physical  
204 business locations, through referral partners, or via an  
205 electronic access point through which a prospective borrower may  
206 directly access the website of the program licensee.

207 (7) Each branch office of a program licensee must be  
208 licensed under this section.

209 (8) The office shall issue a program branch office license  
210 to a program licensee after the office determines that the  
211 program licensee has submitted a completed electronic  
212 application for a program branch office license in a form  
213 prescribed by rule of the commission and payment of an initial  
214 nonrefundable program branch office license fee of \$30 per  
215 branch office as prescribed by rule of the commission.

216 Application fees may not be prorated for partial years of  
217 licensure. The program branch office license shall be issued in  
218 the name of the program licensee that maintains the branch  
219 office. An application is considered received for purposes of s.  
220 120.60 upon receipt of a completed application form and the  
221 required fees. The application for a program branch office  
222 license must contain the following information:

223 (a) The legal business name and any other name the  
224 applicant operates under other than the legal business name.

225 (b) The applicant's main address.

226 (c) The telephone number and e-mail address.

227 (d) The address of each program branch office.

228 (e) The contact person's name, title, address, telephone  
 229 number, and e-mail address.

230 (f) The license number, if licensed under this chapter.

231 (g) The signature and certification of an authorized  
 232 person of the applicant.

233 (9) A program branch office license must be renewed  
 234 biennially at the time of renewing the program license under  
 235 subsection (5). A nonrefundable branch renewal fee of \$30 per  
 236 program branch office, by rule of the commission, must be  
 237 submitted at the time of renewal.

238 Section 4. Section 516.43, Florida Statutes, is created to  
 239 read:

240 516.43 Requirements for program loans.—

241 (1) GENERAL REQUIREMENTS.—A program licensee must comply  
 242 with each of the following requirements in making program loans:

243 (a) A program loan must be unsecured.

244 (b) A program loan must have a minimum term of 120 days,  
 245 except it may not have a prepayment penalty.

246 (c) A program loan must be repayable by the borrower in  
 247 substantially equal weekly, biweekly, semimonthly, or monthly  
 248 installments.

249 (d) A program loan must include a borrower's right to  
 250 rescind the program loan by notifying the program licensee of

251 the borrower's intent to rescind the program loan and return the  
252 principal advanced by the end of the business day after the day  
253 the program loan is consummated.

254 (e) Notwithstanding s. 516.031, the interest rate charged  
255 on a program loan to the borrower may not exceed 34 percent. The  
256 interest rate must be fixed for the life of the program loan and  
257 must accrue on a simple-interest basis through the application  
258 of a daily periodic rate to the actual unpaid principal balance  
259 each day.

260 (f) The program licensee shall reduce the rate on each  
261 subsequent program loan to the same borrower by a minimum of  
262 one-twelfth of 1 percent per month, if all of the following  
263 conditions are met:

264 1. The subsequent program loan is originated no more than  
265 180 days after the prior program loan is fully repaid.

266 2. The borrower was never more than 15 days delinquent on  
267 the prior program loan.

268 3. The prior program loan was outstanding for at least  
269 one-half of its original term prior to its repayment.

270 (g) A program licensee may not refinance a program loan  
271 unless all of the following conditions are met at the time the  
272 borrower submits an application to refinance:

273 1. The principal amount payable may not include more than  
274 60 days' unpaid interest accrued on the previous program loan in  
275 accordance with s. 516.031(5);

276        2. The borrower has repaid at least 60 percent of the  
277 outstanding principal remaining on his or her existing program  
278 loan;

279        3. The borrower is current on his or her outstanding  
280 program loan;

281        4. The program licensee must underwrite the new program  
282 loan in accordance with subsection (7); and

283        5. The borrower has not previously refinanced the  
284 outstanding program loan.

285        (h) In lieu of the provisions of s. 687.08, a program  
286 licensee or its approved referral partner, if applicable, must  
287 make available to the borrower by electronic or physical means,  
288 at the time that a payment is made by the borrower, a plain and  
289 complete receipt of payment. For audit purposes, a program  
290 licensee must maintain an electronic record for each receipt  
291 made available to a borrower, which must include a copy of the  
292 receipt and the date and time that the receipt was generated.  
293 Each receipt of payment must show all of the following:

294            1. The name of the borrower.

295            2. The name of the referral partner, if applicable.

296            3. The total payment amount received.

297            4. The date of payment.

298            5. The program loan balance before and after application  
299 of the payment.

300            6. The amount of the payment that was applied to the

301 principal, interest, and fees.

302 7. The type of payment made by the borrower.

303 8. The following statement, prominently displayed in a  
304 type size equal to or greater than the type size used to display  
305 the other items on the receipt: "If you have any questions about  
306 your loan now or in the future, you should direct those  
307 questions to ...(name of program licensee)... by ...(at least  
308 two different ways in which a borrower may contact the program  
309 licensee)...."

310 (2) WRITTEN DISCLOSURES.—

311 (a) Notwithstanding s. 516.15(1), the loan contract and  
312 all written disclosures and statements may be provided in  
313 English or another language in which the loan is negotiated.

314 (b) A program licensee must provide those disclosures  
315 required by all licensees in s. 516.15.

316 (3) ORIGINATION FEES.—

317 (a) Notwithstanding s. 516.031, a program licensee may  
318 contract for and receive a nonrefundable origination fee from a  
319 borrower on a program loan. The program licensee may either  
320 deduct the origination fee from the principal amount of the loan  
321 disbursed to the borrower or capitalize the origination fee into  
322 the principal balance of the loan. The origination fee is fully  
323 earned immediately and nonrefundable upon making the program  
324 loan in an amount not to exceed 6 percent of the principal  
325 amount exclusive of the origination fee or \$75, whichever is

326 less, on a program loan made to that borrower.

327 (b) A program licensee may not charge the same borrower an  
328 origination fee more than twice in any 12-month period.

329 (4) INSUFFICIENT FUNDS FEES AND DELINQUENCY CHARGES.—  
330 Notwithstanding s. 516.031, a program licensee approved by the  
331 office to participate in the program may:

332 (a) Require payment from a borrower of no more than \$25  
333 for fees incurred by the program licensee from a dishonored  
334 payment due to insufficient funds of the borrower.

335 (b) Notwithstanding s. 516.031(3)(a)9., contract for and  
336 receive a delinquency charge of no more than \$14 for each  
337 payment in default for at least 7 days if the charge is agreed  
338 upon in writing between the parties before imposing the charge.  
339 A delinquency fee imposed by a program licensee is subject to  
340 all of the following:

341 1. No more than one delinquency fee may be imposed per  
342 delinquent payment.

343 2. No more than two delinquency fees may be imposed during  
344 a period of 30 consecutive days.

345 3. The program licensee or any wholly owned subsidiary of  
346 the program licensee may not sell or assign an unpaid debt to an  
347 independent third party for collection purposes unless the debt  
348 has been delinquent for at least 30 days.

349 (5) CREDIT EDUCATION.—Before disbursement of program loan  
350 proceeds to the borrower, the program licensee must:

351 (a) Direct the borrower to the consumer credit counseling  
352 services offered by an independent third party; or

353 (b) Provide a credit education program or seminar to the  
354 borrower. The borrower may not be required to participate in any  
355 of these education programs or seminars. A credit education  
356 program or seminar offered pursuant to this subsection must be  
357 provided at no cost to the borrower.

358 (6) CREDIT REPORTING.—

359 (a) The program licensee must report each borrower's  
360 payment performance to at least one consumer reporting agency  
361 that compiles and maintains files on consumers on a nationwide  
362 basis. As used in this section, the term "consumer reporting  
363 agency that compiles and maintains files on consumers on a  
364 nationwide basis" has the same meaning as in s. 603(p) of the  
365 Fair Credit Reporting Act, 15 U.S.C. s. 1681a(p).

366 (b) The office may not approve a licensee for the program  
367 before the licensee has been accepted as a data furnisher by a  
368 consumer reporting agency.

369 (c) The program licensee must provide each borrower with  
370 the name or names of the consumer reporting agency or agencies  
371 to which it will report the borrower's payment history.

372 (7) PROGRAM LOAN UNDERWRITING.—

373 (a) The program licensee shall underwrite each program  
374 loan to determine a borrower's ability and willingness to repay  
375 the program loan pursuant to the program loan terms. The program

376 licensee may not make a program loan if it determines that the  
377 borrower's total monthly debt service payments at the time of  
378 origination, including the program loan for which the borrower  
379 is being considered and all outstanding forms of credit that can  
380 be independently verified by the program licensee, exceed 50  
381 percent of the borrower's gross monthly income.

382 (b)1. The program licensee shall seek information and  
383 documentation pertaining to all of a borrower's outstanding debt  
384 obligations during the loan application and underwriting  
385 process, including loans that are self-reported by the borrower  
386 but not available through independent verification. The program  
387 licensee shall verify that information using a credit report  
388 from at least one consumer reporting agency that compiles and  
389 maintains files on consumers on a nationwide basis or through  
390 other available electronic debt verification services that  
391 provide reliable evidence of a borrower's outstanding debt  
392 obligations.

393 2. The program licensee is not required to consider a  
394 borrower's loans from friends or family for purposes of  
395 determining the borrower's debt-to-income ratio.

396 (c) The program licensee shall also verify the borrower's  
397 income to determine the debt-to-income ratio using information  
398 from:

399 1. Electronic means or services that provide reliable  
400 evidence of the borrower's actual income; or



401        2. Internal Revenue Service Form W-2, tax returns, payroll  
402 receipts, bank statements, or other third-party documents that  
403 provide reasonably reliable evidence of the borrower's actual  
404 income.

405        (8) PROVISIONS ON WAIVERS.-

406        (a) A program licensee may not require, as a condition of  
407 providing the program loan, that the borrower:

408        1. Waive any right, penalty, remedy, forum, or procedure  
409 provided for in any law applicable to the program loan,  
410 including the right to file and pursue a civil action or file a  
411 complaint with or otherwise communicate with the office, a  
412 court, or other governmental entity.

413        2. Agree to the application of laws other than those of  
414 this state.

415        3. Agree to resolve disputes in a jurisdiction outside of  
416 this state.

417        (b) A waiver by a borrower, other than one prohibited  
418 under paragraph (a), must be knowing, voluntary, in writing, and  
419 not expressly made a condition of doing business with the  
420 program licensee. A waiver that is required as a condition of  
421 doing business with the program licensee is presumed  
422 involuntary, unconscionable, against public policy, and  
423 unenforceable. The program licensee has the burden of proving  
424 that a waiver of any rights, penalties, forums, or procedures  
425 was knowing, voluntary, and not expressly made a condition of

426 the contract with the borrower.

427 (c) A program licensee may not refuse to do business with  
428 or discriminate against a borrower or an applicant on the basis  
429 that the borrower or applicant refuses to waive any right,  
430 penalty, remedy, forum, or procedure, including the right to  
431 file and pursue a civil action or complaint with, or otherwise  
432 notify, the office, a court, or any other governmental entity.  
433 The exercise of a person's right to refuse to waive any right,  
434 penalty, remedy, forum, or procedure, including a rejection of a  
435 contract requiring a waiver, does not affect any otherwise legal  
436 terms of a contract or an agreement.

437 (d) This subsection does not apply to any agreement to  
438 waive any right, penalty, remedy, forum, or procedure, including  
439 any agreement to arbitrate a claim or dispute after a claim or  
440 dispute has arisen. This subsection does not affect the  
441 enforceability or validity of any other provision of the  
442 contract.

443 Section 5. Section 516.44, Florida Statutes, is created to  
444 read:

445 516.44 Referral partners.—

446 (1) REFERRAL PARTNER AGREEMENT.—All arrangements between a  
447 program licensee and a referral partner must be specified in a  
448 written referral partner agreement between the parties. The  
449 agreement must contain a provision that the referral partner  
450 agrees to comply with this section and all rules adopted under

451 this section regarding the activities of referral partners, and  
452 that the office has access to the referral partner's books and  
453 records pertaining to the referral partner's operations under  
454 the agreement with the program licensee in accordance with s.  
455 516.45(4).

456 (2) PERMITTED SERVICES.—A program licensee may use the  
457 services of one or more referral partners as provided in this  
458 section. A referral partner may perform one or more of the  
459 following services for a program licensee at the referral  
460 partner's physical business location:

461 (a) Distributing, circulating, using, or publishing  
462 printed brochures, flyers, fact sheets, or other written  
463 materials relating to program loans that the program licensee  
464 may make or negotiate. The written materials must be reviewed  
465 and approved in writing by the program licensee before being  
466 distributed, circulated, used, or published.

467 (b) Providing written factual information about program  
468 loan terms, conditions, or qualification requirements to a  
469 prospective borrower which have either been prepared by the  
470 program licensee or reviewed and approved in writing by the  
471 program licensee. A referral partner may discuss the information  
472 with a prospective borrower in general terms.

473 (c) Notifying a prospective borrower of the information  
474 needed in order to complete a program loan application.

475 (d) Entering information provided by the prospective

476 borrower on a preprinted or an electronic application form or in  
477 a preformatted computer database.

478 (e) Assembling credit applications and other materials  
479 obtained in the course of a credit application transaction for  
480 submission to the program licensee.

481 (f) Contacting the program licensee to determine the  
482 status of a program loan application.

483 (g) Communicating a response that is returned by the  
484 program licensee's automated underwriting system to a borrower  
485 or a prospective borrower.

486 (h) Obtaining a borrower's signature on documents prepared  
487 by the program licensee and delivering final copies of the  
488 documents to the borrower.

489 (i) Disbursing program loan proceeds to a borrower if this  
490 method of disbursement is acceptable to the borrower, subject to  
491 the requirements of subsection (3). A loan disbursement made by  
492 a referral partner under this paragraph is deemed to be made by  
493 the program licensee on the date that the funds are disbursed or  
494 otherwise made available by the referral partner to the  
495 borrower.

496 (j) Receiving a program loan payment from the borrower if  
497 this method of payment is acceptable to the borrower, subject to  
498 the requirements of subsection (3).

499 (k) Operating an electronic access point through which a  
500 prospective borrower may directly access the website of the

501 program licensee to apply for a program loan.

502 (3) RECEIPT OR DISBURSEMENT OF PROGRAM LOAN PAYMENTS.—

503 (a) A loan payment made by a borrower to a referral  
504 partner under paragraph (2) (j) must be applied to the borrower's  
505 program loan and deemed received by the program licensee as of  
506 the date the payment is received by the referral partner.

507 (b) A referral partner that receives loan payments must  
508 deliver or cause to be delivered to the borrower, at the time  
509 that the payment is made by the borrower, a plain and complete  
510 receipt showing all of the information specified in s.  
511 516.43(1) (g) .

512 (c) A borrower who submits a loan payment to a referral  
513 partner under this subsection is not liable for a failure or  
514 delay by the referral partner in transmitting the payment to the  
515 program licensee.

516 (d) A referral partner that disburses or receives loan  
517 payments pursuant to paragraph (2) (i) or paragraph (2) (j) must  
518 maintain records of all disbursements made and loan payments  
519 received for a period of at least 2 years.

520 (4) PROHIBITED ACTIVITIES.—A referral partner may not  
521 engage in any of the following activities:

522 (a) Providing counseling or advice to a borrower or  
523 prospective borrower with respect to any loan term.

524 (b) Providing loan-related marketing material that has not  
525 previously been approved by the program licensee to a borrower

526 | or a prospective borrower.

527 | (c) Negotiating a loan term between a program licensee and  
 528 | a prospective borrower.

529 | (d) Offering information pertaining to a single  
 530 | prospective borrower to more than one program licensee, except  
 531 | if a program licensee has declined to offer a program loan to a  
 532 | prospective borrower and has so notified that prospective  
 533 | borrower in writing, the referral partner may then offer  
 534 | information pertaining to a single prospective borrower to  
 535 | another program licensee with whom it has a referral partner  
 536 | agreement.

537 | (e) Requiring a borrower to pay any fees or charges to the  
 538 | referral partner or to any other person in connection with a  
 539 | program loan other than those permitted under ss. 516.40-516.46.

540 | (5) DISCLOSURE NOTICE AND COMMUNICATION.—

541 | (a) At the time the referral partner receives or processes  
 542 | an application for a program loan, the referral partner shall  
 543 | provide the following statement to the applicant on behalf of  
 544 | the program licensee, in no smaller than 10-point type, and must  
 545 | request that the applicant acknowledge receipt of the statement  
 546 | in writing:

547 |  
 548 | Your loan application has been referred to us by  
 549 | ...(name of referral partner).... We may pay a fee to  
 550 | ...(name of referral partner)... for the successful

551 referral of your loan application. If you are approved  
552 for the loan, ...(name of program licensee)... will  
553 become your lender. If you have any questions about  
554 your loan, now or in the future, you should direct  
555 those questions to ...(name of program licensee)... by  
556 ...(insert at least two different ways in which a  
557 borrower may contact the program licensee).... If you  
558 wish to report a complaint about ...(name of referral  
559 partner)... or ...(name of program licensee)...  
560 regarding this loan transaction, you may contact the  
561 Division of Consumer Finance of the Office of  
562 Financial Regulation at 850-487-9687 or  
563 <http://www.flofr.com>.

564  
565 (b) If the loan applicant has questions about the program  
566 loan which the referral partner is not permitted to answer, the  
567 referral partner shall make a good faith effort to assist the  
568 applicant in making direct contact with the program licensee  
569 before the program loan is consummated.

570 (c) If the program loan is consummated, the program  
571 licensee must provide to the borrower a written copy of the  
572 disclosure notice within 2 weeks after the date of the program  
573 loan consummation. A program licensee may include the disclosure  
574 in its loan contract or as a separate document to the borrower  
575 via any means acceptable to the borrower.

576 (6) COMPENSATION.—

577 (a) The program licensee may compensate a referral partner  
578 in accordance with a written agreement and a compensation  
579 schedule that is mutually agreed to by the program licensee and  
580 the referral partner, subject to the requirements in paragraph  
581 (b).

582 (b) The compensation of a referral partner by a program  
583 licensee is subject to all of the following requirements:

584 1. Compensation may not be paid to a referral partner in  
585 connection with a loan application unless that program loan is  
586 consummated.

587 2. Compensation may not be paid to a referral partner  
588 based upon the principal amount of the program loan.

589 3. Compensation may not be directly or indirectly passed  
590 on to a borrower through a fee or other compensation, or a  
591 portion of a fee or other compensation charged to a borrower.

592 4. Subject to the limitations specified in subparagraphs  
593 1., 2., and 3., the total compensation paid by a program  
594 licensee to a referral partner for the services specified in  
595 subsection (2) may not exceed the sum of:

596 a. Sixty dollars per program loan, on average, assessed  
597 annually whether paid at the time of consummation, through  
598 installments, or in a manner otherwise agreed upon by the  
599 program licensee and the referral partner; and

600 b. Two dollars per payment received by the referral



601 partner on behalf of the program licensee for the duration of  
602 the program loan, if the referral partner receives borrower loan  
603 payments on the program licensee's behalf in accordance with  
604 subsection (3).

605 5. The referral partner's location for services and other  
606 information required by subsection (7) must be reported to the  
607 office.

608 (c) Neither the program licensee nor any referral partner  
609 may pass on to a borrower, whether directly or indirectly, any  
610 additional cost or other charge for compensation paid to a  
611 referral partner under this program.

612 (7) NOTICE TO OFFICE.—A program licensee that uses the  
613 service of a referral partner must notify the office, in a form  
614 and manner prescribed by the commission, within 15 days after  
615 entering into a contract with a referral partner regarding all  
616 of the following:

617 (a) The name, business address, and licensing details of  
618 the referral partner and all locations at which the referral  
619 partner will perform services under this section.

620 (b) The name and contact information for an employee of  
621 the referral partner who is knowledgeable about, and has the  
622 authority to execute, the referral partner agreement.

623 (c) The name and contact information of one or more  
624 employees of the referral partner who are responsible for that  
625 referral partner's referring activities on behalf of the program

626 licensee.

627 (d) A statement by the program licensee that it has  
628 conducted due diligence with respect to the referral partner and  
629 has confirmed that none of the following applies:

630 1. The filing of a petition under the United States  
631 Bankruptcy Code for bankruptcy or reorganization by the referral  
632 partner.

633 2. The commencement of an administrative or a judicial  
634 license suspension or revocation proceeding, or the denial of a  
635 license request or renewal, by any state, the District of  
636 Columbia, any United States territory, or any foreign country in  
637 which the referral partner operates, plans to operate, or is  
638 licensed to operate.

639 3. A felony indictment involving the referral partner or  
640 an affiliated party. As used in this subparagraph, the term  
641 "affiliated party" means a director, an officer, a responsible  
642 person, an employee, or a foreign affiliate of a referral  
643 partner; or a person who has a controlling interest in a  
644 referral partner.

645 4. The felony conviction, guilty plea, or plea of nolo  
646 contendere, regardless of adjudication, of the referral partner  
647 or an affiliated party.

648 5. Any suspected criminal act perpetrated in this state  
649 relating to activities regulated under this chapter by a  
650 referral partner.

651 6. Notification by a law enforcement or prosecutorial  
652 agency that the referral partner is under criminal  
653 investigation, including, but not limited to, subpoenas to  
654 produce records or testimony and warrants issued by a court of  
655 competent jurisdiction which authorize the search and seizure of  
656 any records relating to a business activity regulated under this  
657 chapter.

658 (e) Any other information requested by the office, subject  
659 to the limitations specified in s. 516.45(4).

660 (8) NOTICE OF CHANGES.—A referral partner must provide the  
661 program licensee with a written notice sent by registered mail  
662 within 30 days of any changes to the information specified in  
663 paragraphs (7) (a)–(7) (c) or the occurrence or knowledge of,  
664 whichever time period is greater, any of the events specified in  
665 paragraph (7) (d).

666 (9) RESPONSIBILITY FOR ACTS OF A REFERRAL PARTNER.—A  
667 program licensee is responsible for any act of its referral  
668 partner if the program licensee should have known of the act or  
669 had actual knowledge that such act is a violation of this  
670 chapter, and the program licensee allowed the act to continue.  
671 Such responsibility is limited to conduct engaged in by the  
672 referral partner pursuant to the authority granted to it by the  
673 program licensee under the contract between the referral partner  
674 and the program licensee.

675 (10) REFERRAL PARTNER FEE.—The program licensee shall pay

676 to the office, at the time it files a referral partner notice  
677 with the office, a one-time nonrefundable fee of \$30 for each  
678 referral partner as prescribed by rule of the commission.

679 Section 6. Section 516.45, Florida Statutes, is created to  
680 read:

681 516.45 Examinations and grounds for disciplinary action.-

682 (1) Notwithstanding any other law, commencing on January  
683 1, 2018, the office must examine each program licensee that is  
684 accepted into the program in accordance with this chapter;  
685 provided that such examination occurs at least once every 24  
686 months.

687 (2) Notwithstanding subsection (1), the office may waive  
688 one or more branch office examinations if the office deems that  
689 such examinations are not necessary for the protection of the  
690 public due to the centralized operations of the program licensee  
691 or other factors acceptable to the office.

692 (3) The examined program licensee must pay for the cost of  
693 an examination to the office, pursuant to rule of the  
694 commission, and the office may maintain an action for the  
695 recovery of the cost in any court of competent jurisdiction. In  
696 determining the cost of the examination, the office may use the  
697 estimated average hourly cost for all persons performing  
698 examinations of program licensees or other persons subject to  
699 ss. 516.40-516.46 for the fiscal year.

700 (4) The scope of any investigation or examination of a

701 program licensee or referral partner shall be limited to those  
702 books, accounts, records, documents, materials, and matters  
703 reasonably necessary to determine compliance with this chapter.

704 (5) A program licensee who violates any applicable  
705 provision of this chapter is subject to disciplinary action  
706 pursuant to s. 516.07(2). Any such disciplinary action shall be  
707 subject to the provisions in s. 120.60. A program licensee is  
708 also subject to disciplinary action for a violation of s. 516.44  
709 committed by any of its referral partners.

710 (6) The office may take any of the following actions  
711 against a referral partner who violates the provisions of s.  
712 516.44:

713 (a) Disqualify the referral partner from performing  
714 services under this chapter;

715 (b) Bar the referral partner from performing services at  
716 one or more specific locations of that referral partner;

717 (c) Terminate a written agreement between a referral  
718 partner and a program licensee;

719 (d) Impose an administrative fine not to exceed \$1,000 for  
720 each act of the referral partner; and

721 (e) If the office deems that action in the public  
722 interest, prohibit the use of that referral partner by all  
723 program licensees accepted to participate in the program.

724 Section 7. Section 516.46, Florida Statutes, is created to  
725 read:

726        516.46 Report by the office.—

727        (1) On or before March 15 of each year, commencing in  
728 2019, a program licensee shall file a report with the office  
729 containing aggregated or anonymized data, without reference to  
730 any borrower's nonpublic personal information or any proprietary  
731 or trade secret information of the program licensee, on each of  
732 the items specified in subsection (4).

733        (2) On or before January 1, 2020, the office must post a  
734 report on its website summarizing the use of the program based  
735 upon the information contained in the report filed by each  
736 program licensee under subsection (1).

737        (3) The report must state the information in aggregate so  
738 as not to identify data by specific program licensee.

739        (4) The office's report must specify the period to which  
740 the report corresponds and must include, but not be limited to,  
741 the following for that period:

742        (a) The number of entities that applied to participate in  
743 the program.

744        (b) The number of entities accepted to participate in the  
745 program.

746        (c) The reasons for rejecting applications for  
747 participation, if applicable. This information must be provided  
748 in a manner that does not identify the entity or entities  
749 rejected.

750        (d) The number of program loan applications received by

751 program licensees participating in the program, the number of  
752 program loans made pursuant to the program, the total amount  
753 loaned, the distribution of loan lengths upon origination, and  
754 the distribution of interest rates and principal amounts upon  
755 origination among those program loans.

756 (e) The number of borrowers who obtained more than one  
757 program loan and the distribution of the number of program loans  
758 per borrower.

759 (f) Of the borrowers who obtained more than one program  
760 loan, the percentage of those borrowers whose credit scores  
761 increased between successive loans, based on information from at  
762 least one major credit bureau, and the average size of the  
763 increase.

764 (g) The income distribution of borrowers upon program loan  
765 origination, including the number of borrowers who obtained at  
766 least one program loan and who resided in a low-income or  
767 moderate-income census tract at the time of their loan  
768 applications.

769 (h) The number of borrowers who obtained program loans for  
770 the following purposes, based on borrower responses at the time  
771 of their loan applications indicating the primary purpose for  
772 which the program loan was obtained:

- 773 1. Pay medical expenses.  
774 2. Pay for vehicle repair or a vehicle purchase.  
775 3. Pay bills.

776 4. Consolidate debt.

777 5. Build or repair credit history.

778 6. Pay other expenses.

779 (i) The number of borrowers who self-report that they had  
780 a bank account at the time of their loan application and the  
781 number of borrowers who self-report that they did not have a  
782 bank account at the time of their loan application.

783 (j) With respect to refinance program loans, the report  
784 must specifically include the following information:

785 1. The number and percentage of borrowers who applied for  
786 a refinance program loan.

787 2. Of those borrowers who applied for a refinance program  
788 loan, the number and percentage of borrowers who obtained a  
789 refinance program loan.

790 (k) The number and type of referral partners used by  
791 program licensees.

792 (l) The number and percentage of borrowers who obtained  
793 one or more program loans on which delinquency charges were  
794 assessed, the total amount of delinquency charges assessed, and  
795 the average delinquency charge assessed by dollar amount and as  
796 a percentage of the principal amount loaned.

797 (m) The performance of program loans under the program as  
798 reflected by all of the following:

799 1. The number and percentage of borrowers who experienced  
800 at least one delinquency lasting between 7 and 29 days and the



801 distribution of principal loan amounts corresponding to those  
802 delinquencies.

803 2. The number and percentage of borrowers who experienced  
804 at least one delinquency lasting between 30 and 59 days and the  
805 distribution of principal loan amounts corresponding to those  
806 delinquencies.

807 3. The number and percentage of borrowers who experienced  
808 at least one delinquency lasting 60 days or more and the  
809 distribution of principal loan amounts corresponding to those  
810 delinquencies.

811 (n) The number and types of violations of ss. 516.40-  
812 516.46 by referral partners which were documented by the office.

813 (o) The number of times that the office disqualified a  
814 referral partner from performing services, barred a referral  
815 partner from performing services at one or more specific  
816 locations of the referral partner, terminated a written  
817 agreement between a referral partner and a program licensee, or  
818 imposed an administrative penalty.

819 (p) The number of complaints received by the office about  
820 a program licensee or a referral partner and the nature of those  
821 complaints.

822 Section 8. Sections 516.40-516.46, Florida Statutes, are  
823 repealed on December 31, 2022, unless reenacted or superseded by  
824 another law enacted by the Legislature before that date.

825 Section 9. This act shall take effect October 1, 2017.