

1 A bill to be entitled

2 An act relating to business services; creating s.
3 516.405, F.S.; creating the Access to Responsible
4 Credit Pilot Program within the Office of Financial
5 Regulation; providing legislative intent; creating s.
6 516.41, F.S.; providing definitions; creating s.
7 516.42, F.S.; requiring persons to obtain a program
8 license from the office before engaging in certain
9 actions relating to program loans; providing licensure
10 requirements; requiring a program licensee's program
11 branch offices to be licensed; providing program
12 branch office license and license renewal
13 requirements; providing circumstances under which the
14 office may deny initial and renewal applications;
15 requiring the Financial Services Commission to adopt
16 rules; creating s. 516.43, F.S.; providing
17 requirements for program licensees, program loans,
18 loan repayments, loan rescissions, interest rates,
19 program loan refinancing, receipts, disclosures and
20 statements provided by program licensees to borrowers,
21 origination fees, insufficient funds fees, and
22 delinquency charges; authorizing program licensees to
23 provide program loans only to residents of specified
24 counties; requiring program licensees to provide
25 certain credit education information to borrowers and

26 | to report payment performance of borrowers to consumer
27 | reporting agencies; prohibiting the office from
28 | approving a program licensee applicant before the
29 | applicant has been accepted as a data furnisher by a
30 | consumer reporting agency; providing a requirement for
31 | credit reporting; specifying program loan underwriting
32 | requirements for program licensees; prohibiting
33 | program licensees from making program loans under
34 | certain circumstances; requiring program licensees to
35 | seek certain information and documentation;
36 | prohibiting program licensees from requiring certain
37 | waivers from borrowers; providing applicability;
38 | requiring program licensees to maintain a specified
39 | registry and to provide the office with a copy of the
40 | registry; prohibiting the office from publishing such
41 | registry; creating s. 516.44, F.S.; requiring all
42 | arrangements between program licensees and access
43 | partners to be specified in written access partner
44 | agreements; providing requirements for such
45 | agreements; specifying access partner services that
46 | may be used by program licensees; specifying
47 | procedures for borrowers' payment receipts or access
48 | partners' disbursement of program loans; providing
49 | recordkeeping requirements; prohibiting specified
50 | activities by access partners; providing disclosure

51 statement requirements; providing requirements and
52 prohibitions relating to compensation paid to access
53 partners; requiring program licensees to provide the
54 office with a specified notice after contracting with
55 access partners; defining the term "affiliated party";
56 requiring access partners to provide program licensees
57 with a certain written notice within a specified time;
58 providing that program licensees are responsible for
59 certain acts of their access partners; requiring the
60 commission to adopt rules; creating s. 516.45, F.S.;
61 requiring the office to examine each program licensee;
62 authorizing the office to waive branch office
63 examinations under certain circumstances; limiting the
64 scope of certain examinations and investigations;
65 authorizing the office to take certain disciplinary
66 action against program licensees and access partners;
67 requiring the commission to adopt rules; creating s.
68 516.46, F.S.; requiring program licensees to file an
69 annual report with the office beginning on a specified
70 date; requiring the office to post an annual report on
71 its website by a specified date; specifying
72 information to be contained in the reports; requiring
73 the commission to adopt rules; providing for future
74 repeal of the pilot program; providing an
75 appropriation; providing effective dates.

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

Section 1. Effective January 1, 2021, section 516.405, Florida Statutes, is created to read:

516.405 Access to Responsible Credit Pilot Program.—

(1) The Access to Responsible Credit Pilot Program is created within the Office of Financial Regulation to allow more Floridians to obtain responsible consumer finance loans in principal amounts of at least \$300 but not more than \$7,500.

(2) The pilot program is intended to assist consumers in building their credit and to provide additional consumer protections for such loans that exceed current protections under general law.

Section 2. Effective January 1, 2021, section 516.41, Florida Statutes, is created to read:

516.41 Definitions.—As used in ss. 516.405-516.46, the term:

(1) "Access partner" means an entity that, at one or more physical business locations owned or rented by the entity, performs one or more of the services authorized in s. 516.44(2) on behalf of a program licensee.

(a) The term includes the following entities or an agent of such entities:

1. A bank, as defined in s. 658.12.

- 101 2. A national bank, as defined in s. 658.12.
- 102 3. A credit union, as defined in s. 657.002.
- 103 4. An agent, as defined in s. 626.015.
- 104 5. An insurance agency, as defined in s. 626.015.
- 105 6. A tax preparation service.
- 106 7. A money services business, as defined in s. 560.103.
- 107 8. An authorized vendor, as defined in s. 560.103, of a
 108 money services business.
- 109 9. A law office.
- 110 10. An investment adviser, as defined in s. 517.021.
- 111 11. A financial services provider.
- 112 12. A public accounting firm, as defined in s. 473.302(7).
- 113 (b) The term does not include a credit service
 114 organization as defined in s. 817.7001 or a loan broker as
 115 defined in s. 687.14.
- 116 (2) "Consumer reporting agency" means a consumer reporting
 117 agency that regularly engages in the practice of assembling or
 118 evaluating, and maintaining, for the purpose of furnishing
 119 consumer reports to third parties bearing on a consumer's credit
 120 worthiness, credit standing, or credit capacity, each of the
 121 following regarding consumers residing nationwide:
- 122 (a) Public record information.
- 123 (b) Credit account information from persons who furnish
 124 that information regularly and in the ordinary course of
 125 business.

126 (3) "Credit score" means a numerical value or a
127 categorization derived from a statistical tool or modeling
128 system used by a person who makes or arranges a loan to predict
129 the likelihood of certain credit behaviors, including default.

130 The term does not include:

131 (a) Any mortgage score or rating of an automated
132 underwriting system that considers one or more factors in
133 addition to credit information, including the loan-to-value
134 ratio, the amount of down payment, or the financial assets of a
135 consumer; or

136 (b) Any other elements of the underwriting process or
137 underwriting decision.

138 (4) "Data furnisher" means an entity that furnishes
139 information relating to consumers to one or more consumer
140 reporting agencies for inclusion in a consumer report. An entity
141 is not a furnisher when it:

142 (a) Provides information to a consumer reporting agency
143 solely to obtain a consumer report;

144 (b) Is acting as a consumer reporting agency;

145 (c) Is a consumer to whom the furnished information
146 pertains; or

147 (d) Is a neighbor, friend, or associate of the consumer,
148 or another individual with whom the consumer is acquainted or
149 who may have knowledge about the consumer, and who provides
150 information about the consumer's character, general reputation,

151 personal characteristics, or mode of living in response to a
152 specific request from a consumer reporting agency.

153 (5) "Pilot program" or "program" means the Access to
154 Responsible Credit Pilot Program.

155 (6) "Pilot program license" or "program license" means a
156 license issued under ss. 516.405-516.46 authorizing a program
157 licensee to make and collect program loans.

158 (7) "Program branch office license" means a license issued
159 under the program for each location, other than a program
160 licensee's or access partner's principal place of business:

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

164 (b) At which the program licensee's name, advertising or
165 promotional materials, or signage suggests that program loans
166 are originated, negotiated, funded, or serviced by the program
167 licensee; or

168 (c) At which program loans are originated, negotiated,
169 funded, or serviced by the program licensee.

170 (8) "Program licensee" means a person who is licensed to
171 make and collect loans under this chapter and who is approved by
172 the office to participate in the program.

173 (9) "Program loan" means a consumer finance loan with a
174 principal amount of at least \$300, but not more than \$7,500,
175 originated pursuant to ss. 516.405-516.46, excluding the amount

176 | of the origination fee authorized under s. 516.43(3).

177 | (10) "Refinance program loan" means a program loan that
178 | extends additional principal to a borrower and replaces and
179 | revises an existing program loan contract with the borrower. A
180 | refinance program loan does not include an extension, a
181 | deferral, or a rewrite of the program loan.

182 | Section 3. Effective January 1, 2021, section 516.42,
183 | Florida Statutes, is created to read:

184 | 516.42 Requirements for program participation; program
185 | application requirements.—

186 | (1) A person may not advertise, offer, or make a program
187 | loan, or impose any charges or fees pursuant to s. 516.43,
188 | unless the person obtains a pilot program license from the
189 | office.

190 | (2) In order to obtain a pilot program license, a person
191 | must:

192 | (a)1. Be licensed to make and collect consumer finance
193 | loans under s. 516.05; or

194 | 2. Submit the application for the license required under
195 | s. 516.03 concurrently with the application for the program
196 | license. The application required under s. 516.03 must be
197 | approved, and the license under that section must be issued in
198 | order to obtain the program license.

199 | (b) Be accepted as a data furnisher by a consumer
200 | reporting agency.

201 (c) Demonstrate financial responsibility, experience,
202 character, or general fitness, such as to command the confidence
203 of the public and to warrant the belief that the business
204 operated at the licensed or proposed location is lawful, honest,
205 fair, efficient, and within the purposes of this chapter.

206 (d) Not be subject to the issuance of a cease and desist
207 order; the issuance of a removal order; the denial, suspension,
208 or revocation of a license; or any other action within the
209 authority of the office, any financial regulatory agency in this
210 state, or any other state or federal regulatory agency that
211 affects the ability of such person to participate in the
212 program.

213 (3) (a) A program applicant must file with the office a
214 digital application, in a form and manner prescribed by
215 commission rule, which contains all of the following information
216 with respect to the applicant:

217 1. The legal business name and any other name under which
218 the applicant operates.

219 2. The applicant's main address.

220 3. The applicant's telephone number and e-mail address.

221 4. The address of each program branch office.

222 5. The name, title, address, telephone number, and e-mail
223 address of the applicant's contact person.

224 6. The license number, if the applicant is licensed under
225 s. 516.05.

226 7. A statement as to whether the applicant intends to use
227 the services of one or more access partners under s. 516.44.

228 8. A statement that the applicant has been accepted as a
229 data furnisher by a consumer reporting agency and will report to
230 a consumer reporting agency the payment performance of each
231 borrower on all program loans.

232 9. The signature and certification of an authorized person
233 of the applicant.

234 (b) A person who desires to participate in the program but
235 who is not licensed to make consumer finance loans pursuant to
236 s. 516.05 must concurrently submit to the office the following
237 digital applications, in a form and manner specified in this
238 chapter:

239 1. An application pursuant to s. 516.03 for licensure to
240 make consumer finance loans.

241 2. An application for admission to the program in
242 accordance with paragraph (a).

243 (4) Except as otherwise provided in ss. 516.405-516.46, a
244 program licensee is subject to all the laws and rules governing
245 consumer finance loans under this chapter. A program license
246 must be renewed biennially.

247 (5) Notwithstanding s. 516.05(3), only one program license
248 is required for a person to make program loans under ss.
249 516.405-516.46, regardless of whether the program licensee
250 offers program loans to prospective borrowers at its own

251 physical business locations, through access partners, or via an
252 electronic access point through which a prospective borrower may
253 directly access the website of the program licensee.

254 (6) Each branch office of a program licensee must be
255 licensed under this section.

256 (7) The office shall issue a program branch office license
257 to a program licensee after the office determines that the
258 program licensee has submitted a completed electronic
259 application for a program branch office license in a form
260 prescribed by commission rule. The program branch office license
261 must be issued in the name of the program licensee that
262 maintains the branch office. An application is considered
263 received for purposes of s. 120.60 upon receipt of a completed
264 application form. The application for a program branch office
265 license must contain the following information:

266 (a) The legal business name and any other name under which
267 the applicant operates.

268 (b) The applicant's main address.

269 (c) The applicant's telephone number and e-mail address.

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

271 (e) The name, title, address, telephone number, and e-mail
272 address of the applicant's contact person.

273 (f) The applicant's license number, if the applicant is
274 licensed under this chapter.

275 (g) The signature and certification of an authorized

276 person of the applicant.

277 (8) Except as provided in subsection (9), a program branch
278 office license must be renewed biennially at the time of
279 renewing the program license.

280 (9) Notwithstanding subsection (7), the office may deny an
281 initial or renewal application for a program license or program
282 branch office license if the applicant or any person with power
283 to direct the management or policies of the applicant's
284 business:

285 (a) Fails to demonstrate financial responsibility,
286 experience, character, or general fitness, such as to command
287 the confidence of the public and to warrant the belief that the
288 business operated at the licensed or proposed location is
289 lawful, honest, fair, efficient, and within the purposes of this
290 chapter.

291 (b) Pled nolo contendere to, or was convicted or found
292 guilty of, a crime involving fraud, dishonest dealing, or any
293 act of moral turpitude, regardless of adjudication.

294 (c) Is subject to the issuance of a cease and desist
295 order; the issuance of a removal order; the denial, suspension,
296 or revocation of a license; or any other action within the
297 authority of the office, any financial regulatory agency in this
298 state, or any other state or federal regulatory agency that
299 affects the applicant's ability to participate in the program.

300 (10) The commission shall adopt rules to implement this

301 section.

302 Section 4. Effective January 1, 2021, section 516.43,
303 Florida Statutes, is created to read:

304 516.43 Requirements for program loans.—

305 (1) REQUIREMENTS.—A program licensee shall comply with
306 each of the following requirements in making program loans:

307 (a) A program loan must be unsecured.

308 (b) A program loan must have:

309 1. A term of at least 120 days, but not more than 36
310 months, for a loan with a principal balance upon origination of
311 at least \$300, but not more than \$3,000.

312 2. A term of at least 12 months, but not more than 60
313 months, for a loan with a principal balance upon origination of
314 more than \$3,000.

315 (c) A borrower may not receive a program loan for a
316 principal balance exceeding \$5,000 unless:

317 1. The borrower has received a previous program loan and
318 has paid in full the outstanding principal, interest, and fees
319 on the previous program loan;

320 2. The borrower's credit score increased from the time of
321 application for the borrower's first consummated program loan;
322 and

323 3. The borrower was never delinquent for more than 7 days
324 on a previous program loan.

325 (d) A program loan may not impose a prepayment penalty. A

326 program loan must be repayable by the borrower in substantially
327 equal, periodic installments, except that the final payment may
328 be less than the amount of the prior installments. Installments
329 must be due either every 2 weeks, semimonthly, or monthly.

330 (e) A program loan must include a borrower's right to
331 rescind the program loan by notifying the program licensee of
332 the borrower's intent to rescind the program loan and returning
333 the principal advanced by the end of the business day after the
334 day the program loan is consummated.

335 (f) Notwithstanding s. 516.031, the maximum annual
336 interest rate charged on a program loan to the borrower, which
337 must be fixed for the duration of the program loan, is 36
338 percent on that portion of the unpaid principal balance up to
339 and including \$3,000; 30 percent on that portion of the unpaid
340 principal balance exceeding \$3,000 and up to and including
341 \$4,000; and 24 percent on that portion of the unpaid principal
342 balance exceeding \$4,000 and up to and including \$7,500. The
343 original principal amount of the program loan is equal to the
344 amount financed as defined by the federal Truth in Lending Act
345 and Regulation Z of the Board of Governors of the Federal
346 Reserve System. In determining compliance with the maximum
347 annual interest rates in this paragraph, the computations used
348 must be simple interest through the application of a daily
349 periodic rate to the actual unpaid principal balance each day
350 and may not be added-on interest or any other computations.

351 (g) If two or more interest rates are applied to the
352 principal amount of a program loan, the program licensee may
353 charge, contract for, and receive interest at that single annual
354 percentage rate that, if applied according to the actuarial
355 method to each of the scheduled periodic balances of principal,
356 would produce at maturity the same total amount of interest as
357 would result from the application of the two or more rates
358 otherwise permitted, based upon the assumption that all payments
359 are made as agreed.

360 (h) The program licensee shall reduce the interest rates
361 specified in paragraph (f) on each subsequent program loan to
362 the same borrower by a minimum of 1 percent, up to a maximum of
363 6 percent, if all of the following conditions are met:

364 1. The subsequent program loan is originated within 180
365 days after the prior program loan is fully repaid.

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

368 3. The prior program loan was outstanding for at least
369 one-half of its original term before its repayment.

370 (i) The program licensee may not induce or permit any
371 person to become obligated to the program licensee, directly or
372 contingently, or both, under more than one program loan at the
373 same time with the program licensee.

374 (j) The program licensee may not refinance a program loan
375 unless all of the following conditions are met at the time the

376 borrower submits an application to refinance:

377 1. The principal amount payable may not include more than
378 60 days' unpaid interest accrued on the previous program loan
379 pursuant to s. 516.031(5).

380 2. For a program loan with an original term up to and
381 including 25 months, the borrower has repaid at least 60 percent
382 of the outstanding principal remaining on his or her existing
383 program loan.

384 3. For a program loan with an original term of more than
385 25 months, but not more than 60 months, the borrower has made
386 current payments for at least 9 months on his or her existing
387 program loan.

388 4. The borrower is current on payments for his or her
389 existing program loan.

390 5. The program licensee must underwrite the new program
391 loan in accordance with subsection (7).

392 (k) In lieu of the provisions of s. 687.08, the program
393 licensee or, if applicable, its approved access partner shall
394 make available to the borrower by electronic or physical means a
395 plain and complete receipt of payment at the time that a payment
396 is made by the borrower. For audit purposes, the program
397 licensee must maintain an electronic record for each receipt
398 made available to a borrower, which must include a copy of the
399 receipt and the date and time that the receipt was generated.
400 Each receipt made available to the borrower must show all of the

401 following:

402 1. The name of the borrower.

403 2. The name of the access partner, if applicable.

404 3. The total payment amount received.

405 4. The date of payment.

406 5. The program loan balance before and after application
407 of the payment.

408 6. The amount of the payment that was applied to the
409 principal, interest, and fees.

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

411 8. The following statement, prominently displayed in a
412 type size equal to or larger than the type size used to display
413 the other items on the receipt: "If you have any questions about
414 your loan now or in the future, you should direct those
415 questions to ...(name of program licensee)... by ...(at least
416 two different ways in which a borrower may contact the program
417 licensee)...."

418 (1) A program licensee may provide program loans only to
419 residents of Broward, Miami-Dade, and Palm Beach Counties.

420 (m) A program licensee must provide annually at least 85
421 percent of program loans to borrowers whose gross monthly income
422 is less than \$6,250.

423 (2) WRITTEN DISCLOSURES AND STATEMENTS.—

424 (a) Notwithstanding s. 516.15(1), a program licensee may
425 provide the loan contract and all written disclosures and

426 statements to a borrower in English or in the language in which
427 the loan is negotiated.

428 (b) The program licensee shall provide to a borrower all
429 the statements required of licensees under s. 516.15.

430 (3) ORIGINATION FEES.—Notwithstanding s. 516.031, a
431 program licensee may:

432 (a) Contract for and receive an origination fee from a
433 borrower on a program loan. The program licensee may either
434 deduct the origination fee from the principal amount of the loan
435 disbursed to the borrower or capitalize the origination fee into
436 the principal balance of the loan. The origination fee is fully
437 earned and nonrefundable immediately upon the making of the
438 program loan and may not exceed the lesser of 6 percent of the
439 principal amount of the program loan made to the borrower,
440 exclusive of the origination fee, or \$90.

441 (b) Not charge a borrower an origination fee more than
442 twice in any 12-month period.

443 (4) INSUFFICIENT FUNDS FEES AND DELINQUENCY CHARGES.—A
444 program licensee may:

445 (a) Notwithstanding s. 516.031, require payment from a
446 borrower of no more than \$20 for fees incurred by the program
447 licensee from a dishonored payment due to insufficient funds of
448 the borrower.

449 (b) Notwithstanding s. 516.031(3)(a)9., contract for and
450 receive a delinquency charge for each payment in default for at

451 least 7 days if the charge is agreed upon, in writing, between
452 the program licensee and the borrower before it is imposed.

453 Delinquency charges may be imposed as follows:

454 1. For payments due monthly, the delinquency charge for a
455 payment in default may not exceed \$15.

456 2. For payments due semimonthly, the delinquency charge
457 for a payment in default may not exceed \$7.50.

458 3. For payments due every 2 weeks, the delinquency charge
459 for a payment in default may not exceed \$7.50 if two payments
460 are due within the same calendar month, and may not exceed \$5 if
461 three payments are due within the same calendar month.

462
463 The program licensee, or any wholly owned subsidiary of the
464 program licensee, may not sell or assign an unpaid debt to an
465 independent third party for collection purposes unless the debt
466 has been delinquent for at least 30 days.

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

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

471 (b) Provide a credit education program or seminar to the
472 borrower. The borrower is not required to participate in such
473 education program or seminar. A credit education program or
474 seminar offered pursuant to this paragraph must be provided at
475 no cost to the borrower.

476 (6) CREDIT REPORTING.—

477 (a) The program licensee shall report each borrower's
478 payment performance to at least two consumer reporting agencies.

479 (b) The office may not approve an applicant for the
480 program license before the applicant has been accepted as a data
481 furnisher by a consumer reporting agency.

482 (c) The program licensee shall provide each borrower with
483 the name or names of the consumer reporting agency or agencies
484 to which it will report the borrower's payment history.

485 (7) PROGRAM LOAN UNDERWRITING.—

486 (a) The program licensee must underwrite each program loan
487 to determine a borrower's ability and willingness to repay the
488 program loan pursuant to the program loan terms. The program
489 licensee may not make a program loan if it determines that the
490 borrower's total monthly debt service payments at the time of
491 origination, including the program loan for which the borrower
492 is being considered and all outstanding forms of credit that can
493 be independently verified by the program licensee, exceed 50
494 percent of the borrower's gross monthly income for a loan of not
495 more than \$3,000, or exceed 36 percent of the borrower's gross
496 monthly income for a loan of more than \$3,000.

497 (b)1. The program licensee must seek information and
498 documentation pertaining to all of a borrower's outstanding debt
499 obligations during the loan application and underwriting
500 process, including loans that are self-reported by the borrower

501 but not available through independent verification. The program
 502 licensee must verify such information using a credit report from
 503 at least one consumer reporting agency or through other
 504 available electronic debt verification services that provide
 505 reliable evidence of a borrower's outstanding debt obligations.

506 2. The program licensee is not required to consider loans
 507 made to a borrower by friends or family in determining the
 508 borrower's debt-to-income ratio.

509 (c) The program licensee must verify the borrower's income
 510 to determine the debt-to-income ratio using information from:

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

513 2. The Internal Revenue Service Form W-2, tax returns,
 514 payroll receipts, bank statements, or other third-party
 515 documents that provide reasonably reliable evidence of the
 516 borrower's actual income.

517 (8) WAIVERS.—

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

520 1. Waive any right, penalty, remedy, forum, or procedure
 521 provided for in any law applicable to the program loan,
 522 including the right to file and pursue a civil action or file a
 523 complaint with or otherwise communicate with the office, a
 524 court, or any other governmental entity.

525 2. Agree to the application of laws other than those of

526 this state.

527 3. Agree to resolve disputes in a jurisdiction outside of
528 this state.

529 (b) A waiver that is required as a condition of doing
530 business with the program licensee is presumed involuntary,
531 unconscionable, against public policy, and unenforceable.

532 (c) A program licensee may not refuse to do business with
533 or discriminate against a borrower or an applicant on the basis
534 of the borrower's or applicant's refusal to waive any right,
535 penalty, remedy, forum, or procedure, including the right to
536 file and pursue a civil action or complaint with, or otherwise
537 communicate with, the office, a court, or any other governmental
538 entity. The exercise of a person's right to refuse to waive any
539 right, penalty, remedy, forum, or procedure, including a
540 rejection of a contract requiring a waiver, does not affect any
541 otherwise legal terms of a contract or an agreement.

542 (d) This subsection does not apply to any agreement to
543 wave any right, penalty, remedy, forum, or procedure, including
544 any agreement to arbitrate a claim or dispute after a claim or
545 dispute has arisen. This subsection does not affect the
546 enforceability or validity of any other provision of the
547 contract.

548 (9) REGISTRY OF ACCESS PARTNERS.—A program licensee shall
549 maintain a registry of all access partners that provide services
550 to the program licensee. The program licensee shall provide a

551 copy of the registry to the office at the time the program
552 licensee files its report under s. 516.46(1). The office may not
553 publish the registry in its report under s. 516.46(2).

554 Section 5. Effective January 1, 2021, section 516.44,
555 Florida Statutes, is created to read:

556 516.44 Access partners.—

557 (1) ACCESS PARTNER AGREEMENT.—All arrangements between a
558 program licensee and an access partner must be specified in a
559 written access partner agreement between the parties. The
560 agreement must contain the following provisions:

561 (a) The access partner agrees to comply with this section
562 and all rules adopted under this section regarding the
563 activities of access partners.

564 (b) The office has access to the access partner's books
565 and records pertaining to the access partner's operations under
566 the agreement with the program licensee in accordance with s.
567 516.45(3) and may examine the access partner pursuant to s.
568 516.45.

569 (2) AUTHORIZED SERVICES.—A program licensee may use the
570 services of one or more access partners as provided in this
571 section. An access partner may perform one or more of the
572 following services from its physical business location for the
573 program licensee:

574 (a) Distributing, circulating, using, or publishing
575 printed brochures, flyers, fact sheets, or other written

576 materials relating to program loans that the program licensee
577 may make or negotiate. The written materials must be reviewed
578 and approved in writing by the program licensee before being
579 distributed, circulated, used, or published.

580 (b) Providing written factual information about program
581 loan terms, conditions, or qualification requirements to a
582 prospective borrower which has been prepared by the program
583 licensee or reviewed and approved in writing by the program
584 licensee. An access partner may discuss the information with a
585 prospective borrower in general terms.

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

588 (d) Entering information provided by the prospective
589 borrower on a preprinted or an electronic application form or in
590 a preformatted computer database.

591 (e) Assembling credit applications and other materials
592 obtained in the course of a credit application transaction for
593 submission to the program licensee.

594 (f) Contacting the program licensee to determine the
595 status of a program loan application.

596 (g) Communicating a response that is returned by the
597 program licensee's automated underwriting system to a borrower
598 or a prospective borrower.

599 (h) Obtaining a borrower's signature on documents prepared
600 by the program licensee and delivering final copies of the

601 documents to the borrower.

602 (i) Disbursing program loan proceeds to a borrower if this
603 method of disbursement is acceptable to the borrower, subject to
604 the requirements of subsection (3). A loan disbursement made by
605 an access partner under this paragraph is deemed to be made by
606 the program licensee on the date that the funds are disbursed or
607 otherwise made available by the access partner to the borrower.

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

611 (k) Operating an electronic access point through which a
612 prospective borrower may directly access the website of the
613 program licensee to apply for a program loan.

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

615 (a) A loan payment made by a borrower to an access partner
616 under paragraph (2)(j) must be applied to the borrower's program
617 loan and deemed received by the program licensee as of the date
618 on which the payment is received by the access partner.

619 (b) An access partner that receives a loan payment from a
620 borrower must deliver or cause to be delivered to the borrower a
621 plain and complete receipt showing all of the information
622 specified in s. 516.43(1)(j) at the time that the payment is
623 made by the borrower.

624 (c) A borrower who submits a loan payment to an access
625 partner under this subsection is not liable for a failure or

626 delay by the access partner in transmitting the payment to the
627 program licensee.

628 (d) An access partner that disburses or receives loan
629 payments pursuant to paragraph (2)(i) or paragraph (2)(j) must
630 maintain records of all disbursements made and loan payments
631 received for at least 2 years.

632 (4) PROHIBITED ACTIVITIES.—An access partner may not:

633 (a) Provide counseling or advice to a borrower or
634 prospective borrower with respect to any loan term.

635 (b) Provide loan-related marketing material that has not
636 previously been approved by the program licensee to a borrower
637 or a prospective borrower.

638 (c) Negotiate a loan term between a program licensee and a
639 prospective borrower.

640 (d) Offer information pertaining to a single prospective
641 borrower to more than one program licensee. However, if a
642 program licensee has declined to offer a program loan to a
643 prospective borrower and has so notified the prospective
644 borrower in writing, the access partner may then offer
645 information pertaining to that borrower to another program
646 licensee with whom it has an access partner agreement.

647 (e) Except for the purpose of assisting a borrower in
648 obtaining a refinance program loan, offer information pertaining
649 to a prospective borrower to any program licensee if the
650 prospective borrower has an outstanding program loan.

651 (f) Charge a borrower any fee for a program loan.

652 (g) Perform any services for a program licensee at a pawn
653 shop, as defined in s. 539.001.

654 (h) Perform any services for a program licensee at a pari-
655 mutuel facility, as defined in s. 550.002, or any facility where
656 covered games, as authorized by s. 285.710, are conducted.

657 (5) DISCLOSURE STATEMENTS.—

658 (a) At the time that the access partner receives or
659 processes an application for a program loan, the access partner
660 shall provide the following statement to the applicant on behalf
661 of the program licensee, in at least 10-point type, and shall
662 request that the applicant acknowledge receipt of the statement
663 in writing:

664
665 Your loan application has been referred to us by
666 ...(name of access partner).... We may pay a fee to
667 ...(name of access partner)... for the successful
668 referral of your loan application. If you are approved
669 for the loan, ...(name of program licensee)... will
670 become your lender. If you have any questions about
671 your loan, now or in the future, you should direct
672 those questions to ...(name of program licensee)... by
673 ...(insert at least two different ways in which a
674 borrower may contact the program licensee).... If you
675 wish to report a complaint about ...(name of access

676 partner)... or ...(name of program licensee)...
677 regarding this loan transaction, you may contact the
678 Division of Consumer Finance of the Office of
679 Financial Regulation at 850-487-9687 or
680 <http://www.flofr.com>.

681
682 (b) If the loan applicant has questions about the program
683 loan which the access partner is not permitted to answer, the
684 access partner must make a good faith effort to assist the
685 applicant in making direct contact with the program licensee
686 before the program loan is consummated.

687 (6) COMPENSATION.—

688 (a) The program licensee may compensate an access partner
689 in accordance with a written agreement and a compensation
690 schedule that is agreed to by the program licensee and the
691 access partner, subject to the requirements in paragraph (b).

692 (b) The compensation of an access partner by a program
693 licensee is subject to the following requirements:

694 1. Compensation may not be paid to an access partner in
695 connection with a loan application unless the program loan is
696 consummated.

697 2. The access partner's location for services and other
698 information required in subsection (7) must be reported to the
699 office.

700 3. Compensation may not exceed \$65 per program loan, on

701 average, plus \$2 per payment received by the access partner on
702 behalf of the program licensee for the duration of the program
703 loan, and may not be charged directly or indirectly to the
704 borrower.

705 (7) NOTICE TO OFFICE.—A program licensee that uses the
706 service of an access partner must notify the office, in a form
707 and manner prescribed by commission rule, within 15 days after
708 entering into a contract with an access partner regarding all of
709 the following:

710 (a) The name, business address, and licensing details of
711 the access partner and all locations at which the access partner
712 will perform services under this section.

713 (b) The name and contact information for an employee of
714 the access partner who is knowledgeable about, and has the
715 authority to execute, the access partner agreement.

716 (c) The name and contact information of one or more
717 employees of the access partner who are responsible for that
718 access partner's referring activities on behalf of the program
719 licensee.

720 (d) A statement by the program licensee that it has
721 conducted due diligence with respect to the access partner and
722 has confirmed that none of the following apply:

723 1. The filing of a petition under the United States
724 Bankruptcy Code for bankruptcy or reorganization by the access
725 partner.

726 2. The commencement of an administrative or a judicial
727 license suspension or revocation proceeding, or the denial of a
728 license request or renewal, by any state, the District of
729 Columbia, any United States territory, or any foreign country in
730 which the access partner operates, plans to operate, or is
731 licensed to operate.

732 3. A felony indictment involving the access partner or an
733 affiliated party.

734 4. The felony conviction, guilty plea, or plea of nolo
735 contendere, regardless of adjudication, of the access partner or
736 an affiliated party.

737 5. Any suspected criminal act perpetrated in this state
738 relating to activities regulated under this chapter by the
739 access partner.

740 6. Notification by a law enforcement or prosecutorial
741 agency that the access partner is under criminal investigation,
742 including, but not limited to, subpoenas to produce records or
743 testimony and warrants issued by a court of competent
744 jurisdiction which authorize the search and seizure of any
745 records relating to a business activity regulated under this
746 chapter.

747
748 As used in this paragraph, the term "affiliated party" means a
749 director, officer, control person, employee, or foreign
750 affiliate of an access partner; or a person who has a

751 controlling interest in an access partner.

752 (e) Any other information requested by the office, subject
753 to the limitations specified in s. 516.45(3).

754 (8) NOTICE OF CHANGES.—An access partner must provide the
755 program licensee with a written notice sent by registered mail
756 within 30 days after any change is made to the information
757 specified in paragraphs (7) (a)-(c) and within 30 days after the
758 occurrence or knowledge of any of the events specified in
759 paragraph (7) (d).

760 (9) RESPONSIBILITY FOR ACTS OF AN ACCESS PARTNER.—A
761 program licensee is responsible for any act of its access
762 partner if such act is a violation of this chapter.

763 (10) RULEMAKING.—The commission shall adopt rules to
764 implement this section.

765 Section 6. Effective January 1, 2021, section 516.45,
766 Florida Statutes, is created to read:

767 516.45 Examinations, investigations, and grounds for
768 disciplinary action.—

769 (1) Notwithstanding any other law, the office shall
770 examine each program licensee that is accepted into the program
771 in accordance with this chapter.

772 (2) Notwithstanding subsection (1), the office may waive
773 one or more branch office examinations if the office finds that
774 such examinations are not necessary for the protection of the
775 public due to the centralized operations of the program licensee

776 or other factors acceptable to the office.

777 (3) The scope of any investigation or examination of a
778 program licensee or access partner must be limited to those
779 books, accounts, records, documents, materials, and matters
780 reasonably necessary to determine compliance with this chapter.

781 (4) A program licensee who violates any applicable
782 provision of this chapter is subject to disciplinary action
783 pursuant to s. 516.07(2). Any such disciplinary action is
784 subject to s. 120.60. The program licensee is also subject to
785 disciplinary action for a violation of s. 516.44 committed by
786 any of its access partners.

787 (5) The office may take any of the following actions
788 against an access partner who violates s. 516.44:

789 (a) Bar the access partner from performing services under
790 this chapter.

791 (b) Bar the access partner from performing services at one
792 or more of its specific locations.

793 (c) Impose an administrative fine on the access partner of
794 up to \$5,000 in a calendar year.

795 (6) The commission shall adopt rules to implement this
796 section.

797 Section 7. Effective January 1, 2021, section 516.46,
798 Florida Statutes, is created to read:

799 516.46 Annual reports by program licensees and the
800 office.-

801 (1) By March 15, 2021, and each year thereafter, a program
802 licensee shall file a report with the office on a form and in a
803 manner prescribed by commission rule. The report must include
804 each of the items specified in subsection (2) for the preceding
805 year using aggregated or anonymized data without reference to
806 any borrower's nonpublic personal information or any program
807 licensee's or access partner's proprietary or trade secret
808 information.

809 (2) By January 1, 2022, and each year thereafter, the
810 office shall post a report on its website summarizing the use of
811 the program based on the information contained in the reports
812 filed in the preceding year by program licensees under
813 subsection (1). The office's report must publish the information
814 in the aggregate so as not to identify data by any specific
815 program licensee. The report must specify the period to which
816 the report corresponds and must include, but is not limited to,
817 the following for that period:

818 (a) The number of applicants approved for a program
819 license by the office.

820 (b) The number of program loan applications received by
821 program licensees, the number of program loans made under the
822 program, the total amount loaned, the distribution of loan
823 lengths upon origination, and the distribution of interest rates
824 and principal amounts upon origination among those program
825 loans.

826 (c) The number of borrowers who obtained more than one
827 program loan and the distribution of the number of program loans
828 per borrower.

829 (d) Of those borrowers who obtained more than one program
830 loan and had a credit score by the time of their subsequent
831 loan, the percentage of those borrowers whose credit scores
832 increased between successive loans, based on information from at
833 least one major credit bureau, and the average size of the
834 increase. In each case, the report must include the name of the
835 credit score, such as FICO or VantageScore, which the program
836 licensee is required to disclose.

837 (e) The income distribution of borrowers upon program loan
838 origination, including the number of borrowers who obtained at
839 least one program loan and who resided in a low-income or
840 moderate-income census tract at the time of their loan
841 applications.

842 (f) The number of borrowers who obtained program loans for
843 the following purposes, based on the borrowers' responses at the
844 time of their loan applications indicating the primary purpose
845 for which the program loans were obtained:

- 846 1. To pay medical expenses.
- 847 2. To pay for vehicle repair or a vehicle purchase.
- 848 3. To pay bills.
- 849 4. To consolidate debt.
- 850 5. To build or repair credit history.

851 6. To finance a small business.

852 7. To pay other expenses.

853 (g) The number of borrowers who self-report that they had
854 a bank account at the time of their loan application and the
855 number of borrowers who self-report that they did not have a
856 bank account at the time of their loan application.

857 (h) For refinance program loans:

858 1. The number and percentage of borrowers who applied for
859 a refinance program loan.

860 2. Of those borrowers who applied for a refinance program
861 loan, the number and percentage of borrowers who obtained a
862 refinance program loan.

863 (i) The performance of program loans as reflected by all
864 of the following:

865 1. The number and percentage of borrowers who experienced
866 at least one delinquency lasting between 7 and 29 days and the
867 distribution of principal loan amounts corresponding to those
868 delinquencies.

869 2. The number and percentage of borrowers who experienced
870 at least one delinquency lasting between 30 and 59 days and the
871 distribution of principal loan amounts corresponding to those
872 delinquencies.

873 3. The number and percentage of borrowers who experienced
874 at least one delinquency lasting 60 days or more and the
875 distribution of principal loan amounts corresponding to those

876 delinquencies.

877 (3) The commission shall adopt rules to implement this
878 section.

879 Section 8. Sections 516.405-516.46, Florida Statutes, as
880 created by this act, are repealed on July 1, 2030, unless
881 reenacted by the Legislature before that date.

882 Section 9. For the 2020-2021 fiscal year, the sum of
883 \$407,520 in nonrecurring funds is appropriated from the
884 Administrative Trust Fund to the Office of Financial Regulation
885 for the purpose of implementing this act.

886 Section 10. Except as otherwise expressly provided in this
887 act and except for this section, which shall take effect upon
888 this act becoming a law, this act shall take effect July 1,
889 2020.