

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

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1 Committee/Subcommittee hearing bill: Insurance & Banking  
2 Subcommittee

3 Representative Fant offered the following:

**Amendment 1 (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 516.40, Florida Statutes, is created to  
8 read:

9 516.40 Access to Responsible Credit Pilot Program.—

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

12 (2) The Legislature finds that demand for responsible  
13 consumer finance installment loans in principal amounts of at  
14 least \$300 and no more than \$3,000 exceeds the supply of these  
15 loans. As a first step toward addressing this gap, the Access to  
16 Responsible Credit Pilot Program would allow more Floridians to  
17 obtain responsible consumer finance installment loans of at

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18 least \$300 and no more than \$3,000. The pilot program is also  
19 intended to assist consumers in building their credit and has  
20 additional consumer protections for these installment loans  
21 which exceed current protections under general law.

22 (3) Except as otherwise provided, ss. 516.40-516.47 do not  
23 exempt a licensee from any other provision of this chapter.

24 Section 2. Section 516.41, Florida Statutes, is created to  
25 read:

26 516.41 Definitions.—As used in ss. 516.40-516.47, the  
27 term:—

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

31 (2) "Credit score" has the same meaning as provided in s.  
32 609(f) (2) of the Fair Credit Reporting Act, 15 U.S.C. s.  
33 1681g(f) (2) (A).

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

36 (4) "Pilot program" or "program" means the Access to  
37 Responsible Credit Pilot Program.

38 (5) "Pilot program license" means a permit issued under  
39 ss. 516.40-516.47 to make and collect consumer loans under the  
40 pilot program.

41 (6) "Program licensee" means a person who is licensed to  
42 make consumer finance installment loans under this chapter and  
43 who is approved by the office to participate in the program.

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44 (7) "Program loan" means a consumer finance installment  
45 loan with a principal amount of at least \$300 and no more than  
46 \$3,000.

47 (8) "Referral partner" means a person who markets program  
48 loans and administers and processes program loan applications on  
49 behalf of a program licensee at the referral partner's physical  
50 business location.

51 (a) The term does not include a person whose sole means of  
52 bringing a program licensee and a prospective borrower together  
53 at that person's physical business location is an electronic  
54 access point through which a prospective borrower may directly  
55 access the website of a program licensee.

56 (b) A referral partner is not a credit service  
57 organization that term is defined in s. 817.7001 or a loan  
58 broker as defined in s. 687.141.

59 (9) "Refinance program loan" means a program loan that  
60 replaces and revises an existing program loan contract with a  
61 borrower and which results in an extension of additional  
62 principal to that borrower.

63 Section 3. Section 516.42, Florida Statutes, is created to  
64 read:

65 516.42 Approval required; program application  
66 requirements; fees.—

67 (1) A program licensee may not offer or make a program  
68 loan, impose any charges or fees pursuant to s. 516.44, or use a

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69 referral partner pursuant to s. 516.45, without prior approval  
70 from the office to participate in the program.

71 (2) In order to participate in the program, a program  
72 licensee must be licensed to make consumer finance installment  
73 loans under this chapter, be in good standing with the office,  
74 and not be the subject of an outstanding enforcement action or  
75 have a deficiency at the time of the person's application. The  
76 applicant must file with the office a digital application in a  
77 form and manner prescribed by rule of the commission and pay a  
78 fee to the office in an amount determined by rule of the  
79 commission. In determining the fee, the commission must consider  
80 the officer's costs to administer the program.

81 (3) Except as otherwise provided in ss. 516.40-516.47 or  
82 by rule of the commission, a program licensee is subject to all  
83 the laws and regulations governing consumer finance installment  
84 loans under this chapter.

85 (4) A program licensee who desires to participate in the  
86 program but who is not licensed to make consumer finance  
87 installment loans pursuant to this chapter shall submit a  
88 combined application to the office, in a form and manner  
89 prescribed by rule of the commission, for licensure under this  
90 chapter to make consumer finance installment loans and for  
91 admission to the program. The applicant shall pay a fee to the  
92 office in an amount equal to the fees that would have been  
93 imposed if the applicant had submitted separate applications. To  
94 be eligible to apply in this manner, a person must not be the

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95 subject of an outstanding enforcement or other disciplinary  
96 action by any financial regulatory agency in this state.

97 (5) Notwithstanding s. 516.05(3), the office may grant a  
98 person a pilot program license that covers more than one  
99 physical business location if the person only offers program  
100 loans to prospective borrowers through referral partners  
101 approved by the office in accordance with s. 516.45.

102 Section 4. Section 516.43, Florida Statutes, is created to  
103 read:

104 516.43 Annual report.—By March 15 of each year, a program  
105 licensee shall file a report with the office containing  
106 aggregated data, without reference to any borrower's nonpublic  
107 personal information or any proprietary or trade secret  
108 information of the program licensee, on each of the items  
109 specified in s. 516.47 in a manner prescribed by rule of the  
110 commission. The report is in addition to any other annual report  
111 the program licensee may be required to file.

112 Section 5. Section 516.44, Florida Statutes, is created to  
113 read:

114 516.44 Requirements for program loans.—

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

117 (a) A program loan must be unsecured.

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

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120 (c) A program loan must include a borrower's right to  
121 rescind the program loan by notifying the program licensee of  
122 the borrower's intent to rescind the program loan and return the  
123 principal advanced by the end of the business day after the day  
124 the program loan is consummated.

125 (d) Notwithstanding s. 516.031, the interest rate charged  
126 on a program loan to the borrower may not exceed 36 percent. The  
127 interest rate must be fixed for the life of the program loan and  
128 must accrue on a simple-interest basis through the application  
129 of a daily periodic rate to the actual unpaid principal balance  
130 each day.

131 (e) For a refinance program loan, the principal amount  
132 payable may not include more than 60 days' unpaid interest  
133 accrued on the previous program loan in accordance with s.  
134 516.031(5). A program licensee may not refinance a program loan  
135 made under this section unless the borrower is current on his or  
136 her outstanding program loan at the time the borrower submits an  
137 application to refinance.

138 (f) A program licensee must provide a receipt for payments  
139 made in accordance with s. 687.08.

140 (g) A program licensee must comply with the other  
141 provisions of this section.

142 (2) WRITTEN DISCLOSURES.—

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

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146 (b) A program licensee must provide those disclosures  
147 required by all licensees in s. 516.15 and the following  
148 disclosures in clear and distinct terms to the borrower at the  
149 time of application:

150 1. The payment amount of each monthly installment.

151 2. The delinquency charge amount.

152 3. The following statement: "Repaying your loan early will  
153 lower your borrowing costs by reducing the amount of interest  
154 you will pay. This loan has no prepayment penalty."

155 4. A statement describing the borrower's right of  
156 rescission as provided in paragraph (1)(c).

157 (c) The written disclosures required in subparagraphs  
158 (b)1.-4. must be in a typeface of at least 12-point type. A  
159 program licensee may provide the disclosures in a mobile or  
160 other electronic application on which the size of the typeface  
161 of the disclosure can be manually modified by a prospective  
162 borrower, if the prospective borrower is given the option to  
163 print the disclosure in a typeface of at least 12-point size or  
164 is provided a printed copy of the disclosure by the program  
165 licensee with a typeface of at least 12-point size before the  
166 program loan is consummated.

167 (3) ORIGINATION FEES.—

168 (a) Notwithstanding s. 516.031, a program licensee may  
169 contract for and receive an origination fee from a borrower on a  
170 program loan. The origination fee is fully earned immediately

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171 upon making the program loan in an amount not to exceed the  
172 following:

173 1. Seven percent of the principal amount exclusive of the  
174 origination fee or \$90, whichever is less, on the first program  
175 loan made to a borrower.

176 2. Six percent of the principal amount exclusive of the  
177 origination fee or \$75, whichever is less, on the second and  
178 subsequent program loans made to that borrower.

179 (b) A program licensee may not charge the same borrower an  
180 origination fee more than once in any 4-month period.

181 (c) Notwithstanding paragraph (1)(e), a program licensee  
182 may not contract for or charge an origination fee in connection  
183 with a refinance program loan unless at least 8 months have  
184 elapsed since the receipt of a previous origination fee paid by  
185 the borrower. For a program loan that is not a refinance program  
186 loan, only one origination fee may be contracted for or received  
187 until the program loan has been repaid in full.

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

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

194 (b) Notwithstanding s. 516.031(3)(a)9., contract for and  
195 receive a delinquency charge of no more than \$14 for each  
196 payment in default for at least 7 days if the charge is agreed



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197 upon in writing between the parties before imposing the charge.

198 A delinquency fee imposed by a program licensee is subject to

199 all of the following:

200 1. No more than one delinquency fee may be imposed per  
201 delinquent payment.

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

204 3. The program licensee may not sell or assign an unpaid  
205 debt to an independent third party for collection unless the  
206 debt has been delinquent for at least 30 days.

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

209 (a) Direct the borrower to the consumer credit counseling  
210 services promoted by the office in accordance with s. 516.32;

211 (b) Invite the borrower to a credit education program or  
212 seminar offered by an independent third party; or

213 (c) Provide a credit education program or materials as  
214 approved by the office. The borrower may not be required to  
215 participate in either of these education programs or seminars. A  
216 credit education program or seminar offered pursuant to this  
217 subsection must be provided at no cost to the borrower.

218 (6) CREDIT REPORTING.—

219 (a) The program licensee must report each borrower's  
220 payment performance to at least one consumer reporting agency  
221 that compiles and maintains files on consumers on a nationwide  
222 basis upon acceptance as a data furnisher by that consumer

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223 reporting agency. For purposes of this section, the term  
224 "consumer reporting agency that compiles and maintains files on  
225 consumers on a nationwide basis" has the same meaning as in s.  
226 603(p) of the Fair Credit Reporting Act, 15 U.S.C. s. 1681a(p).  
227 A program licensee that is accepted as a data furnisher after  
228 admittance into the program must report the payment performance  
229 of all its borrowers since its inception of lending under the  
230 program as soon as practicable, but no more than 6 months after  
231 its acceptance into the program.

232 (b)1. The office may approve a licensee for the program  
233 before the licensee has been accepted as a data furnisher by a  
234 consumer reporting agency if the office has a reasonable  
235 expectation based on information supplied by the licensee that:

236 a. The licensee will be accepted as a data furnisher once  
237 it achieves a lending volume required of data furnishers of its  
238 type by a consumer reporting agency; and

239 b. The required lending volume will be achieved within the  
240 first 6 months after the licensee commences lending.

241 2. The office shall withdraw approval for pilot program  
242 participation from a program licensee that fails to become  
243 accepted as a data furnisher by a consumer reporting agency  
244 within 6 months after commencing lending under the pilot  
245 program.

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

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249 program licensee that is accepted as a data furnisher after  
250 admittance into the program must provide its borrowers as soon  
251 as practicable following acceptance as a data furnisher with the  
252 name or names of the consumer reporting agency or agencies to  
253 which it will report those borrowers' payment histories.

254 (7) PROGRAM LOAN UNDERWRITING.—

255 (a) The program licensee shall underwrite each program  
256 loan to determine a borrower's ability and willingness to repay  
257 the program loan pursuant to its terms. The program licensee may  
258 not make a program loan if it determines that the borrower's  
259 total monthly debt service payments at the time of origination,  
260 including the program loan for which the borrower is being  
261 considered and all outstanding forms of credit that can be  
262 independently verified by the program licensee, exceed 50  
263 percent of the borrower's gross monthly income.

264 (b)1. The program licensee shall seek information and  
265 documentation pertaining to all of a borrower's outstanding debt  
266 obligations during the loan application and underwriting  
267 process, including loans that are self-reported by the borrower  
268 but not available through independent verification. The program  
269 licensee shall verify that information using a credit report  
270 from at least one consumer reporting agency that compiles and  
271 maintains files on consumers on a nationwide basis or through  
272 other available electronic debt verification services that  
273 provide reliable evidence of a borrower's outstanding debt  
274 obligations.

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

278 (c) The program licensee shall also verify the borrower's  
279 income to determine the debt-to-income ratio using information  
280 from either:

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

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

287 (8) PROVISIONS ON WAIVERS.-

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

290 1. Waive any right, penalty, remedy, forum, or procedure  
291 provided for in any law applicable to the program loan,  
292 including the right to file and pursue a civil action or file a  
293 complaint with or otherwise communicate with the office, any  
294 court, or other governmental entity.

295 2. Agree to the application of laws other than those of  
296 this state.

297 3. Agree to resolve disputes in a jurisdiction outside of  
298 this state.

299 (b) A waiver by a borrower, other than one prohibited  
300 under paragraph (a), must be knowing, voluntary, in writing, and

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301 not expressly made a condition of doing business with the  
302 program licensee. A waiver that is required as a condition of  
303 doing business with the program licensee is presumed  
304 involuntary, unconscionable, against public policy, and  
305 unenforceable. The program licensee has the burden of proving  
306 that a waiver of any rights, penalties, forums, or procedures  
307 was knowing, voluntary, and not expressly made a condition of  
308 the contract with the borrower.

309 (c) A program licensee may not refuse to do business with  
310 or discriminate against a borrower or applicant on the basis  
311 that the borrower or applicant refuses to waive any right,  
312 penalty, remedy, forum, or procedure, including the right to  
313 file and pursue a civil action or complaint with, or otherwise  
314 notify, the office, a court, or any other governmental entity.  
315 The exercise of a person's right to refuse to waive any right,  
316 penalty, remedy, forum, or procedure, including a rejection of a  
317 contract requiring a waiver, does not affect any otherwise legal  
318 terms of a contract or an agreement.

319 (d) This subsection does not apply to any agreement to  
320 waive any right, penalty, remedy, forum, or procedure, including  
321 any agreement to arbitrate a claim or dispute, after a claim or  
322 dispute has arisen. This subsection does not affect the  
323 enforceability or validity of any other provision of the  
324 contract.

325 Section 6. Section 516.45, Florida Statutes, is created to  
326 read:

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516.45 Referral partners.-

(1) REFERRAL PARTNER AGREEMENT.-All arrangements between a program licensee and a referral partner must be specified in a written referral partner agreement between the parties. The agreement must contain a provision that the referral partner agrees to comply with this section and all rules adopted under this section regarding the activities of referral partners, and that the office has access to the referral partner's books and records pertaining to the referral partner's operations under the agreement with the program licensee in accordance with s. 516.46(4).

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

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

(b) Providing written factual information about program loan terms, conditions, or qualification requirements to a prospective borrower which have either been prepared by the program licensee or reviewed and approved in writing by the

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353 program licensee. A referral partner may discuss the information  
354 with a prospective borrower in general terms.

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

357 (d) Entering information provided by the prospective  
358 borrower on a preprinted or electronic application form or in a  
359 preformatted computer database.

360 (e) Assembling credit applications and other materials  
361 obtained in the course of a credit application transaction for  
362 submission to the program licensee.

363 (f) Contacting the program licensee to determine the  
364 status of a program loan application.

365 (g) Communicating a response that is returned by the  
366 program licensee's automated underwriting system to a borrower  
367 or a prospective borrower.

368 (h) Obtaining a borrower's signature on documents prepared  
369 by the program licensee and delivering final copies of the  
370 documents to the borrower.

371 (i) Disbursing program loan proceeds to a borrower if this  
372 method of disbursement is acceptable to the borrower, subject to  
373 the requirements of subsection (3). A loan disbursement made by  
374 a referral partner under this paragraph is deemed to be made by  
375 the program licensee on the date the funds are disbursed or  
376 otherwise made available by the referral partner to the  
377 borrower.

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

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

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

386 (b) A referral partner that receives loan payments must  
387 deliver or cause to be delivered to the borrower, at the time  
388 that the payment is made by the borrower, a plain and complete  
389 receipt showing all of the following:

390 1. The name of the referral partner.  
391 2. The total payment amount received.  
392 3. The date of payment.  
393 4. The program loan balance before and after application  
394 of the payment.

395 5. The amount of the payment that was applied to  
396 principal, interest, and fees.

397 6. The type of payment made by the borrower.

398 7. The following statement, prominently displayed in a  
399 type size equal to or greater than the type size used to display  
400 the other items on the receipt: "If you have any questions about  
401 your loan now or in the future, you should direct those  
402 questions to ...(name of program licensee)... by ...(at least



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403 two different ways in which a borrower may contact the program  
404 licensee)...."

405 (c) A borrower who submits a loan payment to a referral  
406 partner under this subsection is not liable for a failure or  
407 delay by the referral partner in transmitting the payment to the  
408 program licensee.

409 (d) A referral partner that disburses or receives loan  
410 payments pursuant to paragraph (2)(i) or paragraph (2)(j) must  
411 maintain records of all disbursements made and loan payments  
412 received for a period of at least 2 years, or for 1 month  
413 following the completion of a regular examination by the office  
414 under s. 516.46, whichever is later.

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

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

419 (b) Providing loan-related marketing material that has not  
420 previously been approved by the program licensee to a borrower  
421 or a prospective borrower.

422 (c) Negotiating a loan term between a program licensee and  
423 a prospective borrower.

424 (d) Offering information pertaining to a single  
425 prospective borrower to more than one program licensee, except  
426 if a program licensee has declined to offer a program loan to a  
427 prospective borrower and has so notified that prospective  
428 borrower in writing, the referral partner may then offer

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429 information pertaining to a single prospective borrower to  
430 another program licensee with whom it has a referral partner  
431 agreement.

432 (5) DISCLOSURE NOTICE AND COMMUNICATION.—

433 (a) At the time the referral partner receives or processes  
434 an application for a program loan, the referral partner must  
435 provide the following statement to the applicant on behalf of  
436 the program licensee, in no smaller than 10-point type, and must  
437 request that the applicant acknowledge receipt of the statement  
438 in writing:

439

440 Your loan application has been referred to us by ...(name of  
441 referral partner).... We may pay a fee to ...(name of referral  
442 partner)... for the successful referral of your loan  
443 application. If you are approved for the loan, ...(name of  
444 program licensee)... will become your lender. If you have any  
445 questions about your loan, now or in the future, you should  
446 direct those questions to ...(name of program licensee)... by  
447 ...(insert at least two different ways in which a borrower may  
448 contact the program licensee).... If you wish to report a  
449 complaint about ...(name of referral partner)... or ...(name of  
450 program licensee)... regarding this loan transaction, you may  
451 contact the Division of Consumer Finance of the Office of  
452 Financial Regulation at ...(telephone number)....

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454 (b) If the loan applicant has questions about the program  
455 loan which the referral partner is not permitted to answer, the  
456 referral partner must make a good faith effort to assist the  
457 applicant in making direct contact with the program licensee  
458 before the program loan is consummated.

459 (c) If the program loan is consummated, the program  
460 licensee must provide to the borrower a written copy of the  
461 disclosure notice within 2 weeks after the date of the program  
462 loan consummation. A program licensee may include the disclosure  
463 in its loan contract or as a separate document to the borrower  
464 via any means acceptable to the borrower.

465 (6) COMPENSATION.—

466 (a) The program licensee may compensate a referral partner  
467 in accordance with a written agreement and a compensation  
468 schedule that is mutually agreed to by the program licensee and  
469 the referral partner, subject to the requirements in paragraph  
470 (b).

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

473 1. Compensation may not be paid to a referral partner in  
474 connection with a loan application unless that program loan is  
475 consummated.

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

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478 3. Compensation may not be directly or indirectly passed  
479 on to a borrower through a fee or other compensation, or a  
480 portion of a fee or other compensation charged to a borrower.

481 4. Subject to the limitations specified in subparagraphs  
482 1., 2., and 3., the total compensation paid by a program  
483 licensee to a referral partner for the services specified in  
484 subsection (2) may not exceed the sum of:

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

489 b. Two dollars per payment received by the referral  
490 partner on behalf of the program licensee for the duration of  
491 the program loan, if the referral partner receives borrower loan  
492 payments on the program licensee's behalf in accordance with s.  
493 516.45(3).

494 5. The referral partner's location for services and other  
495 information required by subsection (7) must be reported to the  
496 office, and the referral partner may not be barred from  
497 providing services at that location by the office.

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

502 (7) NOTICE TO OFFICE.—A program licensee that uses the  
503 service of a referral partner must notify the office within 15

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504 days after entering into a contract with a referral partner, on  
505 a form prescribed by rule of the commission, regarding all of  
506 the following:

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

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

513 (c) The name and contact information of one or more  
514 employees of the referral partner who are responsible for that  
515 referral partner's referring activities on behalf of the program  
516 licensee.

517 (d) Any other information requested by the office, subject  
518 to the limitations specified in s. 516.46(4).

519 (8) APPROVAL OF REFERRAL PARTNERS.—A program licensee's  
520 application to use a referral partner must be submitted to the  
521 office electronically on a form approved by the office. The  
522 office shall approve or deny the application within 30 days  
523 after the office receives the completed application and payment  
524 of the applicable fee. Unless the office denies the application  
525 within the 30-day period, the application is deemed approved by  
526 the office.

527 Section 7. Section 516.46, Florida Statutes, is created to  
528 read:

529 516.46 Examinations and grounds for disciplinary action.—

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530 (1) Notwithstanding any other law, the office must examine  
531 each program licensee that is accepted into the program in  
532 accordance with this chapter, provided that such examination  
533 occurs at least once every 24 months.

534 (2) Notwithstanding subsection (1), the office may waive  
535 one or more branch office examinations if the office deems that  
536 such examinations are not necessary for the protection of the  
537 public due to the centralized operations of the program licensee  
538 or other factors acceptable to the office.

539 (3) The examined program licensee must pay for the cost of  
540 an examination to the office and the office may maintain an  
541 action for the recovery of the cost in any court of competent  
542 jurisdiction. In determining the cost of the examination, the  
543 office may use the estimated average hourly cost for all persons  
544 performing examinations of program licensees or other persons  
545 subject to ss. 516.40-516.47 for the fiscal year.

546 (4) The scope of any investigation or examination of a  
547 program licensee or referral partner shall be limited to those  
548 books, accounts, records, documents, materials, and matters  
549 necessary to determine compliance with this chapter.  
550 Notwithstanding ss. 516.11 and 516.12, a program licensee may  
551 provide information or materials demonstrating compliance with  
552 this chapter in an aggregated or anonymized format that excludes  
553 proprietary and trade secret information, and may redact  
554 proprietary and trade secret information in its books, accounts,  
555 records, documents, materials, and matters.

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556 (5) A program licensee or referral partner who violates  
557 any applicable provision of this chapter is subject to  
558 disciplinary action pursuant to s. 516.07(2). A program licensee  
559 is also subject to disciplinary action for a violation of s.  
560 516.45 committed by any of its referral partners.

561 Section 8. Section 516.47, Florida Statutes, is created to  
562 read:

563 516.47 Report by the office.—

564 (1) By January 1, 2018, the office must post a report on  
565 its website summarizing the use of the program.

566 (2) The report must state the information in aggregate so  
567 as not to identify data by specific program licensee.

568 (3) The office's report must specify the period to which  
569 the report corresponds and must include, but not be limited to,  
570 the following for that period:

571 (a) The number of entities that applied to participate in  
572 the program.

573 (b) The number of entities accepted to participate in the  
574 program.

575 (c) The reasons for rejecting applications for  
576 participation, if applicable. This information must be provided  
577 in a manner that does not identify the entity or entities  
578 rejected.

579 (d) The number of program loan applications received by  
580 program licensees participating in the program, the number of  
581 program loans made pursuant to the program, the total amount

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582 loaned, the distribution of loan lengths upon origination, and  
583 the distribution of interest rates and principal amounts upon  
584 origination among those program loans.

585 (e) The number of borrowers who obtained more than one  
586 program loan and the distribution of the number of program loans  
587 per borrower.

588 (f) Of the borrowers who obtained more than one program  
589 loan, the percentage of those borrowers whose credit scores  
590 increased between successive loans, based on information from at  
591 least one major credit bureau, and the average size of the  
592 increase.

593 (g) The income distribution of borrowers upon program loan  
594 origination, including the number of borrowers who obtained at  
595 least one program loan and who resided in a low-income or  
596 moderate-income census tract at the time of their loan  
597 applications.

598 (h) The number of borrowers who obtained program loans for  
599 the following purposes, based on borrower responses at the time  
600 of their loan applications, indicating the primary purpose for  
601 which the program loan was obtained:

- 602 1. Pay medical expenses.
- 603 2. Pay for vehicle repair or a vehicle purchase.
- 604 3. Pay bills.
- 605 4. Consolidate debt.
- 606 5. Build or repair credit history.
- 607 6. Pay other expenses.

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608 (i) The number of borrowers who self-report that they had  
609 a bank account at the time of their loan application and the  
610 number of borrowers who self-report that they did not have a  
611 bank account at the time of their loan application.

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

614 1. The number and percentage of borrowers who applied for  
615 a refinance program loan.

616 2. Of those borrowers who applied for a refinance program  
617 loan, the number and percentage of borrowers who obtained a  
618 refinance program loan.

619 (k) The number and type of referral partners used by  
620 program licensees.

621 (l) The number and percentage of borrowers who obtained  
622 one or more program loans on which delinquency charges were  
623 assessed, the total amount of delinquency charges assessed, and  
624 the average delinquency charge assessed by dollar amount and as  
625 a percentage of the principal amount loaned.

626 (m)1. The performance of program loans under the program  
627 as reflected by all of the following:

628 a. The number and percentage of borrowers who experienced  
629 at least one delinquency lasting between 7 and 29 days and the  
630 distribution of principal loan amounts corresponding to those  
631 delinquencies.

632 b. The number and percentage of borrowers who experienced  
633 at least one delinquency lasting between 30 and 59 days and the

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634 distribution of principal loan amounts corresponding to those  
635 delinquencies.

636 c. The number and percentage of borrowers who experienced  
637 at least one delinquency lasting 60 days or more and the  
638 distribution of principal loan amounts corresponding to those  
639 delinquencies.

640 2. To the extent data are readily available to the office,  
641 the office shall include in its report comparable delinquency  
642 data for unsecured loans made by licensed persons under ss.  
643 516.001-516.36 and part IV of chapter 560 for principal loan  
644 amounts between \$300 and \$3,000, and for unsecured extensions of  
645 credit made by state-chartered banks and credit unions under the  
646 office's jurisdiction in principal loan amounts between \$300 and  
647 \$3,000.

648 (n) The number and types of violations of ss. 516.40-  
649 516.47 by referral partners which were documented by the office.

650 (o) The number and types of violations of ss. 516.40-  
651 516.47 by program licensees which were documented by the office.

652 (p) The number of times that the office disqualified a  
653 referral partner from performing services, barred a referral  
654 partner from performing services at one or more specific  
655 locations of the referral partner, terminated a written  
656 agreement between a referral partner and a program licensee, or  
657 imposed an administrative penalty.

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658 (q) The number of complaints received by the office about  
659 a program licensee or a referral partner and the nature of those  
660 complaints.

661 (r) Recommendations for improving the program.

662 (s) Recommendations regarding whether the program should  
663 be continued after January 1, 2022.

664 (4) The office shall conduct a random sample survey of  
665 borrowers who have participated in the program to obtain  
666 information regarding the borrowers' experience and program  
667 licensees' compliance with ss. 516.40-516.47. The results of  
668 this survey shall be included in the report required by this  
669 section.

670 Section 9. Sections 516.40, 516.41, 516.42, 513.43,  
671 516.44, 516.45, 516.46, and 516.47, Florida Statutes, are  
672 repealed January 1, 2022.

673 Section 10. This act shall take effect January 1, 2017.

674

675

676 **T I T L E A M E N D M E N T**

677 Remove everything before the enacting clause and insert:

678 A bill to be entitled

679 An act relating to consumer finance loans; creating s.

680 516.40, F.S.; establishing the Access to Responsible

681 Credit Pilot Program; providing legislative findings

682 and intent; providing applicability; creating s.

683 516.41, F.S.; defining terms; creating s. 516.42,

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684 F.S.; prohibiting a person from certain activities  
685 without prior approval from the Office of Financial  
686 Regulation; specifying requirements for participating  
687 in the program to make certain consumer finance  
688 installment loans; specifying requirements for an  
689 application and fee; authorizing the office to grant a  
690 person a license covering more than one physical  
691 location under certain circumstances; creating s.  
692 516.43, F.S.; requiring a program licensee to file  
693 annual reports; creating s. 516.44, F.S.; providing  
694 general requirements for a program loan; requiring a  
695 program licensee to provide specified written  
696 disclosures to a borrower; specifying requirements for  
697 origination fees; specifying requirements for  
698 insufficient funds fees and delinquency charges;  
699 requiring a program licensee to offer certain credit  
700 education to a borrower; specifying requirements for  
701 reporting borrower payment performance to credit  
702 reporting agencies; authorizing the office to approve  
703 a licensee for the program before it has been accepted  
704 as a data furnisher under certain circumstances;  
705 requiring a program licensee to provide certain  
706 information relating to credit reporting agencies;  
707 specifying requirements for a program licensee to  
708 underwrite program loans; prohibiting a program  
709 licensee from requiring certain waivers from a

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710 borrower; specifying requirements for permissible  
711 waivers; prohibiting certain actions by a program  
712 licensee; providing applicability; creating s. 516.45,  
713 F.S.; requiring a program licensee and a referral  
714 partner to enter into a written referral partner  
715 agreement; specifying permitted services by a referral  
716 partner; specifying procedures for receipt or  
717 disbursement by a referral partner of program loan  
718 payments made by a borrower; providing that a borrower  
719 who submits a loan payment to a referral partner is  
720 not liable under certain circumstances; requiring a  
721 referral partner to maintain certain records;  
722 prohibiting certain activities by a referral partner;  
723 specifying disclosure notice requirements; specifying  
724 requirements and prohibitions for compensation from a  
725 program licensee to a referral partner; requiring a  
726 program licensee to provide the office with a  
727 specified notice after contracting with a referral  
728 partner; requiring the office to approve or deny an  
729 application within 30 days; creating s. 516.46, F.S.;  
730 requiring the office to examine program licensees at  
731 specified intervals; providing an exception; requiring  
732 program licensees to pay the cost of examinations;  
733 authorizing the office to maintain an action of  
734 recovery of the cost; authorizing a manner to  
735 determine the cost of examinations; providing

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736 limitations of an investigation; providing for  
737 disciplinary action; creating s. 516.47, F.S.;  
738 requiring the office to post a report to its website  
739 summarizing the use of the program by a certain date;  
740 specifying information to be contained in the report;  
741 requiring the office to conduct a specified survey of  
742 borrowers and include the results in the report;  
743 providing for the future repeal of ss. 516.40, 516.41,  
744 516.42, 513.43, 516.44, 516.45, 516.46, and 516.47,  
745 F.S., relating to the Access to Responsible Credit  
746 Pilot Program; providing an effective date.