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LEGISLATIVE ACTION

Senate

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House

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The Committee on Banking and Insurance (Richter) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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

516.40 Access to Responsible Credit Pilot Program.—

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

(2) The Legislature finds that demand for responsible



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11 consumer finance loans in principal amounts of at least \$300 and  
12 no more than \$3,000 exceeds the supply of these loans. As a  
13 first step toward addressing this gap, the Access to Responsible  
14 Credit Pilot Program would allow more Floridians to obtain  
15 responsible consumer finance loans of at least \$300 and no more  
16 than \$3,000. The pilot program is also intended to assist  
17 consumers in building their credit and has additional consumer  
18 protections for these loans which exceed current protections  
19 under general law.

20 Section 2. Section 516.41, Florida Statutes, is created to  
21 read:

22 516.41 Definitions.—As used in ss. 516.40-516.46, the term:

23 (1) "Consumer reporting agency" has the same meaning as in  
24 s. 603(p) of the Fair Credit Reporting Act, 15 U.S.C. s.  
25 1681a(p).

26 (2) "Credit score" has the same meaning as in s.  
27 609(f) (2) (A) of the Fair Credit Reporting Act, 15 U.S.C. s.  
28 1681g(f) (2) (A).

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

31 (4) "Pilot program" or "program" means the Access to  
32 Responsible Credit Pilot Program.

33 (5) "Pilot program license" means a permit issued under ss.  
34 516.40-516.46 authorizing a program licensee to make and collect  
35 pilot program loans.

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

39 (a) The address of which appears on business cards,



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40 stationery, or advertising used by the program licensee in  
41 connection with business conducted under this chapter;

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

45 (c) At which program loans are originated, negotiated,  
46 funded, or serviced by a program licensee.

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

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

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

58 (10) "Refinance program loan" means a program loan that  
59 extends additional principal to a borrower and replaces and  
60 revises an existing program loan contract with the borrower. A  
61 refinance program loan does not include an extension, a  
62 deferral, or a rewrite of the program loan.

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

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

67 (1) A program licensee may not offer or make a program  
68 loan, or impose any charges or fees pursuant to s. 516.43,



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69 without prior approval from the office to participate in the  
70 program.

71 (2) (a) In order to participate in the program, a person  
72 must:

73 1. Be licensed to make consumer finance loans under s.  
74 516.05.

75 2. Not be the subject of any insolvency proceedings.

76 3. Not be subject to the issuance of a cease and desist  
77 order; the issuance of a removal order; the denial, suspension,  
78 or revocation of a license; or any other action within the  
79 authority of the office or any financial regulatory agency in  
80 this state; or must not have a deficiency at the time of the  
81 person's application.

82 4. Pay a nonrefundable application fee of \$1,000 to the  
83 office at the time of making the application pursuant to rule of  
84 the commission.

85 (b) The applicant must file with the office a digital  
86 application in a form and manner prescribed by rule of the  
87 commission which contains all of the following information with  
88 respect to the program applicant:

89 1. The legal business name and any other name the applicant  
90 operates under other than the legal business name.

91 2. The applicant's main address.

92 3. The telephone number and e-mail address.

93 4. The address of each program branch office.

94 5. The contact person's name, title, address, telephone  
95 number, and e-mail address.

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

97 7. A statement as to whether the applicant intends to use



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98 the services of one or more referral partners under s. 516.44.

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

103 9. The signature and certification of an authorized person  
104 of the applicant.

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

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

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

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

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

120 (6) Notwithstanding s. 516.05(3), only one pilot program  
121 license is required for a person to make program loans under ss.  
122 516.40-516.46, regardless of whether the program licensee offers  
123 program loans to prospective borrowers at its own physical  
124 business locations, through referral partners, or via an  
125 electronic access point through which a prospective borrower may  
126 directly access the website of the program licensee.



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

129       (8) The office shall issue a program branch office license  
130 to a program licensee after the office determines that the  
131 program licensee has submitted a completed electronic  
132 application for a program branch office license in a form  
133 prescribed by rule of the commission and payment of an initial  
134 nonrefundable program branch office license fee of \$30 per  
135 branch office as prescribed by rule of the commission.  
136 Application fees may not be prorated for partial years of  
137 licensure. The program branch office license shall be issued in  
138 the name of the program licensee that maintains the branch  
139 office. An application is considered received for purposes of s.  
140 120.60 upon receipt of a completed application form and the  
141 required fees. The application for a program branch office  
142 license must contain the following information:

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

145       (b) The applicant's main address.

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

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

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

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

151       (g) The signature and certification of an authorized person  
152 of the applicant.

153       (9) A program branch office license must be renewed  
154 biennially at the time of renewing the program license under  
155 subsection (5). A nonrefundable branch renewal fee of \$30 per



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156 program branch office, by rule of the commission, must be  
157 submitted at the time of renewal.

158 Section 4. Section 516.43, Florida Statutes, is created to  
159 read:

160 516.43 Requirements for program loans.-

161 (1) GENERAL REQUIREMENTS.-A program licensee must comply  
162 with each of the following requirements in making program loans:

163 (a) A program loan must be unsecured.

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

166 (c) A program loan must be repayable by the borrower in  
167 substantially equal weekly, biweekly, semimonthly, or monthly  
168 installments.

169 (d) A program loan must include a borrower's right to  
170 rescind the program loan by notifying the program licensee of  
171 the borrower's intent to rescind the program loan and return the  
172 principal advanced by the end of the business day after the day  
173 the program loan is consummated.

174 (e) Notwithstanding s. 516.031, the interest rate charged  
175 on a program loan to the borrower may not exceed 34 percent. The  
176 interest rate must be fixed for the life of the program loan and  
177 must accrue on a simple-interest basis through the application  
178 of a daily periodic rate to the actual unpaid principal balance  
179 each day.

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

184 1. The subsequent program loan is originated no more than



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185 180 days after the prior program loan is fully repaid.  
186 2. The borrower was never more than 15 days delinquent on  
187 the prior program loan.  
188 3. The prior program loan was outstanding for at least one-  
189 half of its original term prior to its repayment.  
190 (g) A program licensee may not refinance a program loan  
191 unless all of the following conditions are met at the time the  
192 borrower submits an application to refinance:  
193 1. The principal amount payable may not include more than  
194 60 days' unpaid interest accrued on the previous program loan in  
195 accordance with s. 516.031(5);  
196 2. The borrower has repaid at least 60 percent of the  
197 outstanding principal remaining on his or her existing program  
198 loan;  
199 3. The borrower is current on his or her outstanding  
200 program loan;  
201 4. The program licensee must underwrite the new program  
202 loan in accordance with subsection (7); and  
203 5. The borrower has not previously refinanced the  
204 outstanding program loan.  
205 (h) In lieu of the provisions of s. 687.08, a program  
206 licensee or its approved referral partner, if applicable, must  
207 make available to the borrower by electronic or physical means,  
208 at the time that a payment is made by the borrower, a plain and  
209 complete receipt of payment. For audit purposes, a program  
210 licensee must maintain an electronic record for each receipt  
211 made available to a borrower, which must include a copy of the  
212 receipt and the date and time that the receipt was generated.  
213 Each receipt of payment must show all of the following:





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- 214       1. The name of the borrower.
- 215       2. The name of the referral partner, if applicable.
- 216       3. The total payment amount received.
- 217       4. The date of payment.
- 218       5. The program loan balance before and after application of  
219 the payment.
- 220       6. The amount of the payment that was applied to the  
221 principal, interest, and fees.
- 222       7. The type of payment made by the borrower.
- 223       8. The following statement, prominently displayed in a type  
224 size equal to or greater than the type size used to display the  
225 other items on the receipt: "If you have any questions about  
226 your loan now or in the future, you should direct those  
227 questions to ...(name of program licensee)... by ...(at least  
228 two different ways in which a borrower may contact the program  
229 licensee)...."
- 230       (2) WRITTEN DISCLOSURES.-
- 231       (a) Notwithstanding s. 516.15(1), the loan contract and all  
232 written disclosures and statements may be provided in English or  
233 another language in which the loan is negotiated.
- 234       (b) A program licensee must provide those disclosures  
235 required by all licensees in s. 516.15.
- 236       (3) ORIGINATION FEES.-
- 237       (a) Notwithstanding s. 516.031, a program licensee may  
238 contract for and receive a nonrefundable origination fee from a  
239 borrower on a program loan. The program licensee may either  
240 deduct the origination fee from the principal amount of the loan  
241 disbursed to the borrower or capitalize the origination fee into  
242 the principal balance of the loan. The origination fee is fully



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243 earned immediately and nonrefundable upon making the program  
244 loan in an amount not to exceed 6 percent of the principal  
245 amount exclusive of the origination fee or \$75, whichever is  
246 less, on a program loan made to that borrower.

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

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

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

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

261 1. No more than one delinquency fee may be imposed per  
262 delinquent payment.

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

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

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

271 (a) Direct the borrower to the consumer credit counseling



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272 services offered by an independent third party; or

273 (b) Provide a credit education program or materials to the  
274 borrower. The borrower may not be required to participate in any  
275 of these education programs or seminars. A credit education  
276 program or seminar offered pursuant to this subsection must be  
277 provided at no cost to the borrower.

278 (6) CREDIT REPORTING.—

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

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

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

292 (7) PROGRAM LOAN UNDERWRITING.—

293 (a) The program licensee shall underwrite each program loan  
294 to determine a borrower's ability and willingness to repay the  
295 program loan pursuant to the program loan terms. The program  
296 licensee may not make a program loan if it determines that the  
297 borrower's total monthly debt service payments at the time of  
298 origination, including the program loan for which the borrower  
299 is being considered and all outstanding forms of credit that can  
300 be independently verified by the program licensee, exceed 50



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301 percent of the borrower's gross monthly income.

302 (b)1. The program licensee shall seek information and  
303 documentation pertaining to all of a borrower's outstanding debt  
304 obligations during the loan application and underwriting  
305 process, including loans that are self-reported by the borrower  
306 but not available through independent verification. The program  
307 licensee shall verify that information using a credit report  
308 from at least one consumer reporting agency that compiles and  
309 maintains files on consumers on a nationwide basis or through  
310 other available electronic debt verification services that  
311 provide reliable evidence of a borrower's outstanding debt  
312 obligations.

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

316 (c) The program licensee shall also verify the borrower's  
317 income to determine the debt-to-income ratio using information  
318 from:

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

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

325 (8) PROVISIONS ON WAIVERS.-

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

328 1. Waive any right, penalty, remedy, forum, or procedure  
329 provided for in any law applicable to the program loan,



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330 including the right to file and pursue a civil action or file a  
331 complaint with or otherwise communicate with the office, any  
332 court, or other governmental entity.

333 2. Agree to the application of laws other than those of  
334 this state.

335 3. Agree to resolve disputes in a jurisdiction outside of  
336 this state.

337 (b) A waiver by a borrower, other than one prohibited under  
338 paragraph (a), must be knowing, voluntary, in writing, and not  
339 expressly made a condition of doing business with the program  
340 licensee. A waiver that is required as a condition of doing  
341 business with the program licensee is presumed involuntary,  
342 unconscionable, against public policy, and unenforceable. The  
343 program licensee has the burden of proving that a waiver of any  
344 rights, penalties, forums, or procedures was knowing, voluntary,  
345 and not expressly made a condition of the contract with the  
346 borrower.

347 (c) A program licensee may not refuse to do business with  
348 or discriminate against a borrower or an applicant on the basis  
349 that the borrower or applicant refuses to waive any right,  
350 penalty, remedy, forum, or procedure, including the right to  
351 file and pursue a civil action or complaint with, or otherwise  
352 notify, the office, a court, or any other governmental entity.  
353 The exercise of a person's right to refuse to waive any right,  
354 penalty, remedy, forum, or procedure, including a rejection of a  
355 contract requiring a waiver, does not affect any otherwise legal  
356 terms of a contract or an agreement.

357 (d) This subsection does not apply to any agreement to  
358 waive any right, penalty, remedy, forum, or procedure, including



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359 any agreement to arbitrate a claim or dispute, after a claim or  
360 dispute has arisen. This subsection does not affect the  
361 enforceability or validity of any other provision of the  
362 contract.

363 Section 5. Section 516.44, Florida Statutes, is created to  
364 read:

365 516.44 Referral partners.—

366 (1) REFERRAL PARTNER AGREEMENT.—All arrangements between a  
367 program licensee and a referral partner must be specified in a  
368 written referral partner agreement between the parties. The  
369 agreement must contain a provision that the referral partner  
370 agrees to comply with this section and all rules adopted under  
371 this section regarding the activities of referral partners, and  
372 that the office has access to the referral partner's books and  
373 records pertaining to the referral partner's operations under  
374 the agreement with the program licensee in accordance with s.  
375 516.45(4).

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

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

387 (b) Providing written factual information about program



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388 loan terms, conditions, or qualification requirements to a  
389 prospective borrower which have either been prepared by the  
390 program licensee or reviewed and approved in writing by the  
391 program licensee. A referral partner may discuss the information  
392 with a prospective borrower in general terms.

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

395 (d) Entering information provided by the prospective  
396 borrower on a preprinted or an electronic application form or in  
397 a preformatted computer database.

398 (e) Assembling credit applications and other materials  
399 obtained in the course of a credit application transaction for  
400 submission to the program licensee.

401 (f) Contacting the program licensee to determine the status  
402 of a program loan application.

403 (g) Communicating a response that is returned by the  
404 program licensee's automated underwriting system to a borrower  
405 or a prospective borrower.

406 (h) Obtaining a borrower's signature on documents prepared  
407 by the program licensee and delivering final copies of the  
408 documents to the borrower.

409 (i) Disbursing program loan proceeds to a borrower if this  
410 method of disbursement is acceptable to the borrower, subject to  
411 the requirements of subsection (3). A loan disbursement made by  
412 a referral partner under this paragraph is deemed to be made by  
413 the program licensee on the date that the funds are disbursed or  
414 otherwise made available by the referral partner to the  
415 borrower.

416 (j) Receiving a program loan payment from the borrower if



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417 this method of payment is acceptable to the borrower, subject to  
418 the requirements of subsection (3).

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

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

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

427 (b) A referral partner that receives loan payments must  
428 deliver or cause to be delivered to the borrower, at the time  
429 that the payment is made by the borrower, a plain and complete  
430 receipt showing all of the information specified in s.  
431 516.43(1)(g).

432 (c) A borrower who submits a loan payment to a referral  
433 partner under this subsection is not liable for a failure or  
434 delay by the referral partner in transmitting the payment to the  
435 program licensee.

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

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

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

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





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446 or a prospective borrower.

447 (c) Negotiating a loan term between a program licensee and  
448 a prospective borrower.

449 (d) Offering information pertaining to a single prospective  
450 borrower to more than one program licensee, except if a program  
451 licensee has declined to offer a program loan to a prospective  
452 borrower and has so notified that prospective borrower in  
453 writing, the referral partner may then offer information  
454 pertaining to a single prospective borrower to another program  
455 licensee with whom it has a referral partner agreement.

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

459 (5) DISCLOSURE NOTICE AND COMMUNICATION.-

460 (a) At the time the referral partner receives or processes  
461 an application for a program loan, the referral partner shall  
462 provide the following statement to the applicant on behalf of  
463 the program licensee, in no smaller than 10-point type, and must  
464 request that the applicant acknowledge receipt of the statement  
465 in writing:

466  
467 Your loan application has been referred to us by  
468 ...(name of referral partner).... We may pay a fee to  
469 ...(name of referral partner)... for the successful  
470 referral of your loan application. If you are approved  
471 for the loan, ...(name of program licensee)... will  
472 become your lender. If you have any questions about  
473 your loan, now or in the future, you should direct  
474 those questions to ...(name of program licensee)... by



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475 ...(insert at least two different ways in which a  
476 borrower may contact the program licensee).... If you  
477 wish to report a complaint about ...(name of referral  
478 partner)... or ...(name of program licensee)...  
479 regarding this loan transaction, you may contact the  
480 Division of Consumer Finance of the Office of  
481 Financial Regulation at 850-487-9687 or  
482 <http://www.flofr.com>.

483  
484 (b) If the loan applicant has questions about the program  
485 loan which the referral partner is not permitted to answer, the  
486 referral partner shall make a good faith effort to assist the  
487 applicant in making direct contact with the program licensee  
488 before the program loan is consummated.

489 (c) If the program loan is consummated, the program  
490 licensee must provide to the borrower a written copy of the  
491 disclosure notice within 2 weeks after the date of the program  
492 loan consummation. A program licensee may include the disclosure  
493 in its loan contract or as a separate document to the borrower  
494 via any means acceptable to the borrower.

495 (6) COMPENSATION.-

496 (a) The program licensee may compensate a referral partner  
497 in accordance with a written agreement and a compensation  
498 schedule that is mutually agreed to by the program licensee and  
499 the referral partner, subject to the requirements in paragraph  
500 (b).

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

503 1. Compensation may not be paid to a referral partner in



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504 connection with a loan application unless that program loan is  
505 consummated.

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

508 3. Compensation may not be directly or indirectly passed on  
509 to a borrower through a fee or other compensation, or a portion  
510 of a fee or other compensation charged to a borrower.

511 4. Subject to the limitations specified in subparagraphs  
512 1., 2., and 3., the total compensation paid by a program  
513 licensee to a referral partner for the services specified in  
514 subsection (2) may not exceed the sum of:

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

519 b. Two dollars per payment received by the referral partner  
520 on behalf of the program licensee for the duration of the  
521 program loan, if the referral partner receives borrower loan  
522 payments on the program licensee's behalf in accordance with  
523 subsection (3).

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

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

531 (7) NOTICE TO OFFICE.—A program licensee that uses the  
532 service of a referral partner must notify the office, in a form



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533 and manner prescribed by the commission, within 15 days after  
534 entering into a contract with a referral partner regarding all  
535 of the following:

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

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

542 (c) The name and contact information of one or more  
543 employees of the referral partner who are responsible for that  
544 referral partner's referring activities on behalf of the program  
545 licensee.

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

549 1. The filing of a petition under the United States  
550 Bankruptcy Code for bankruptcy or reorganization by the referral  
551 partner.

552 2. The commencement of an administrative or a judicial  
553 license suspension or revocation proceeding, or the denial of a  
554 license request or renewal, by any state, the District of  
555 Columbia, any United States territory, or any foreign country in  
556 which the referral partner operates, plans to operate, or is  
557 licensed to operate.

558 3. A felony indictment involving the referral partner or an  
559 affiliated party. As used in this subparagraph, the term  
560 "affiliated party" means a director, an officer, a responsible  
561 person, an employee, or a foreign affiliate of a referral



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562 partner; or a person who has a controlling interest in a  
563 referral partner.

564 4. The felony conviction, guilty plea, or plea of nolo  
565 contendere, regardless of adjudication, of the referral partner  
566 or an affiliated party.

567 5. Any suspected criminal act perpetrated in this state  
568 relating to activities regulated under this chapter by a  
569 referral partner.

570 6. Notification by a law enforcement or prosecutorial  
571 agency that the referral partner is under criminal investigation  
572 including, but not limited to, subpoenas to produce records or  
573 testimony and warrants issued by a court of competent  
574 jurisdiction which authorize the search and seizure of any  
575 records relating to a business activity regulated under this  
576 chapter.

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

579 (8) NOTICE OF CHANGES.—A referral partner must provide the  
580 program licensee with a written notice sent by registered mail  
581 within 30 days of any changes to the information specified in  
582 paragraphs (7) (a)-(7) (c) or the occurrence or knowledge of,  
583 whichever time period is greater, any of the events specified in  
584 paragraph (7) (d).

585 (9) RESPONSIBILITY FOR ACTS OF A REFERRAL PARTNER.—A  
586 program licensee is responsible for any act of its referral  
587 partner if the program licensee should have known of the act or  
588 had actual knowledge that such act is a violation of this  
589 chapter, and the program licensee allowed the act to continue.  
590 Such responsibility is limited to conduct engaged in by the



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591 referral partner pursuant to the authority granted to it by the  
592 program licensee under the contract between the referral partner  
593 and the program licensee.

594 (10) REFERRAL PARTNER FEE.—The program licensee shall pay  
595 to the office, at the time it files a referral partner notice  
596 with the office, a one-time nonrefundable fee of \$30 for each  
597 referral partner as prescribed by rule of the commission.

598 Section 6. Section 516.45, Florida Statutes, is created to  
599 read:

600 516.45 Examinations and grounds for disciplinary action.—

601 (1) Notwithstanding any other law, commencing on January 1,  
602 2018, the office must examine each program licensee that is  
603 accepted into the program in accordance with this chapter;  
604 provided that such examination occurs at least once every 24  
605 months.

606 (2) Notwithstanding subsection (1), the office may waive  
607 one or more branch office examinations if the office deems that  
608 such examinations are not necessary for the protection of the  
609 public due to the centralized operations of the program licensee  
610 or other factors acceptable to the office.

611 (3) The examined program licensee must pay for the cost of  
612 an examination to the office, pursuant to rule of the  
613 commission, and the office may maintain an action for the  
614 recovery of the cost in any court of competent jurisdiction. In  
615 determining the cost of the examination, the office may use the  
616 estimated average hourly cost for all persons performing  
617 examinations of program licensees or other persons subject to  
618 ss. 516.40-516.46 for the fiscal year.

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



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

623 (5) A program licensee who violates any applicable  
624 provision of this chapter is subject to disciplinary action  
625 pursuant to s. 516.07(2). Any such disciplinary action shall be  
626 subject to the provisions in s. 120.60. A program licensee is  
627 also subject to disciplinary action for a violation of s. 516.44  
628 committed by any of its referral partners.

629 (6) The office may take any of the following actions  
630 against a referral partner who violates the provisions of s.  
631 516.44:

632 (a) Disqualify the referral partner from performing  
633 services under this chapter,

634 (b) Bar the referral partner from performing services at  
635 one or more specific locations of that referral partner,

636 (c) Terminate a written agreement between a referral  
637 partner and a program licensee,

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

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

643 Section 7. Section 516.46, Florida Statutes, is created to  
644 read:

645 516.46 Report by the office.—

646 (1) On or before March 15 of each year, commencing in 2019,  
647 a program licensee shall file a report with the office  
648 containing aggregated or anonymized data, without reference to



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649 any borrower's nonpublic personal information or any proprietary  
650 or trade secret information of the program licensee, on each of  
651 the items specified in subsection (4).

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

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

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

661 (a) The number of entities that applied to participate in  
662 the program.

663 (b) The number of entities accepted to participate in the  
664 program.

665 (c) The reasons for rejecting applications for  
666 participation, if applicable. This information must be provided  
667 in a manner that does not identify the entity or entities  
668 rejected.

669 (d) The number of program loan applications received by  
670 program licensees participating in the program, the number of  
671 program loans made pursuant to the program, the total amount  
672 loaned, the distribution of loan lengths upon origination, and  
673 the distribution of interest rates and principal amounts upon  
674 origination among those program loans.

675 (e) The number of borrowers who obtained more than one  
676 program loan and the distribution of the number of program loans  
677 per borrower.





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678       (f) Of the borrowers who obtained more than one program  
679 loan, the percentage of those borrowers whose credit scores  
680 increased between successive loans, based on information from at  
681 least one major credit bureau, and the average size of the  
682 increase.

683       (g) The income distribution of borrowers upon program loan  
684 origination, including the number of borrowers who obtained at  
685 least one program loan and who resided in a low-income or  
686 moderate-income census tract at the time of their loan  
687 applications.

688       (h) The number of borrowers who obtained program loans for  
689 the following purposes, based on borrower responses at the time  
690 of their loan applications, and an indication whether the  
691 primary purpose for which the program loan was obtained was to:

692       (i) The income distribution of borrowers upon program loan  
693 origination, including the number of borrowers who obtained at  
694 least one program loan and who resided in a low-income or  
695 moderate-income census tract at the time of their loan  
696 applications.

697       (j) The number of borrowers who obtained program loans for  
698 the following purposes, based on borrower responses at the time  
699 of their loan applications indicating the primary purpose for  
700 which the program loan was obtained:

- 701       1. Pay medical expenses.
- 702       2. Pay for vehicle repair or a vehicle purchase.
- 703       3. Pay bills.
- 704       4. Consolidate debt.
- 705       5. Build or repair credit history.
- 706       6. Pay other expenses.



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707       (k) The number of borrowers who self-report that they had a  
708 bank account at the time of their loan application and the  
709 number of borrowers who self-report that they did not have a  
710 bank account at the time of their loan application.

711       (l) With respect to refinance program loans, the report  
712 must specifically include the following information:

713           1. The number and percentage of borrowers who applied for a  
714 refinance program loan.

715           2. Of those borrowers who applied for a refinance program  
716 loan, the number and percentage of borrowers who obtained a  
717 refinance program loan.

718       (m) The number and type of referral partners used by  
719 program licensees.

720       (n) The number and percentage of borrowers who obtained one  
721 or more program loans on which delinquency charges were  
722 assessed, the total amount of delinquency charges assessed, and  
723 the average delinquency charge assessed by dollar amount and as  
724 a percentage of the principal amount loaned.

725       (o) The performance of program loans under the program as  
726 reflected by all of the following:

727           1. The number and percentage of borrowers who experienced  
728 at least one delinquency lasting between 7 and 29 days and the  
729 distribution of principal loan amounts corresponding to those  
730 delinquencies.

731           2. The number and percentage of borrowers who experienced  
732 at least one delinquency lasting between 30 and 59 days and the  
733 distribution of principal loan amounts corresponding to those  
734 delinquencies.

735           3. The number and percentage of borrowers who experienced



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736 at least one delinquency lasting 60 days or more and the  
737 distribution of principal loan amounts corresponding to those  
738 delinquencies.

739 (p) The number and types of violations of ss. 516.40-516.46  
740 by referral partners which were documented by the office.

741 (q) The number and types of violations of ss. 516.40-516.46  
742 by program licensees which were documented by the office.

743 (r) The number of times that the office disqualified a  
744 referral partner from performing services, barred a referral  
745 partner from performing services at one or more specific  
746 locations of the referral partner, terminated a written  
747 agreement between a referral partner and a program licensee, or  
748 imposed an administrative penalty.

749 (s) The number of complaints received by the office about a  
750 program licensee or a referral partner and the nature of those  
751 complaints.

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

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

756  
757 ===== T I T L E A M E N D M E N T =====

758 And the title is amended as follows:

759 Delete everything before the enacting clause  
760 and insert:

761 A bill to be entitled  
762 An act relating to consumer finance loans; creating s.  
763 516.40, F.S.; establishing the Access to Responsible  
764 Credit Pilot Program; providing legislative findings



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765 and intent; creating s. 516.41, F.S.; defining terms;  
766 creating s. 516.42, F.S.; prohibiting a person from  
767 certain activities without prior approval from the  
768 Office of Financial Regulation; specifying  
769 requirements for participating in the program to make  
770 certain consumer finance loans; specifying  
771 requirements for an application and a fee; providing  
772 applicability of laws and regulations to a program  
773 licensee; requiring an approved program licensee to  
774 pay a specified renewal fee; providing that only one  
775 pilot program license is required for a person to make  
776 program loans; requiring each branch office of a  
777 program licensee to be licensed; requiring the office  
778 to issue a program branch office license after making  
779 certain determinations; specifying requirements for a  
780 program branch office license application; providing  
781 requirements for renewal of a program branch office  
782 license; creating s. 516.43, F.S.; providing general  
783 requirements for a program loan; requiring a program  
784 licensee to provide specified written disclosures to a  
785 borrower; specifying requirements for origination  
786 fees; specifying requirements for insufficient funds  
787 fees and delinquency charges; specifying requirements  
788 for a program licensee relating to credit education  
789 for a borrower; specifying requirements for reporting  
790 borrower payment performance to credit reporting  
791 agencies; prohibiting the office from approving a  
792 licensee for the program before it has been accepted  
793 as a data furnisher; requiring a program licensee to



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794 provide a borrower with certain information relating  
795 its credit reporting; specifying requirements for a  
796 program licensee to underwrite program loans;  
797 prohibiting a program licensee from requiring certain  
798 waivers from a borrower; specifying requirements for  
799 permissible waivers; prohibiting certain actions by a  
800 program licensee; providing applicability; creating s.  
801 516.44, F.S.; requiring a program licensee and a  
802 referral partner to enter into a written referral  
803 partner agreement; specifying permitted services by a  
804 referral partner; specifying procedures for receipt or  
805 disbursement by a referral partner of program loan  
806 payments made by a borrower; providing that a borrower  
807 who submits a loan payment to a referral partner is  
808 not liable under certain circumstances; requiring a  
809 referral partner to maintain certain records;  
810 prohibiting certain activities by a referral partner;  
811 specifying disclosure notice requirements; specifying  
812 requirements, prohibitions, and limitations for  
813 compensation from a program licensee to a referral  
814 partner; requiring a program licensee to provide the  
815 office with a specified notice after contracting with  
816 a referral partner; requiring a referral partner to  
817 provide the program licensee with a certain written  
818 notice within a specified time; specifying the program  
819 licensee's responsibility for acts of its referral  
820 partner; requiring a program licensee to pay a  
821 specified fee to the office to file a referral partner  
822 notice; creating s. 516.45, F.S.; requiring the office



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823 to examine program licensees at specified intervals  
824 beginning on a specified date; providing an exception;  
825 requiring program licensees to pay the cost of  
826 examinations; authorizing the office to maintain an  
827 action of recovery of the cost; authorizing a manner  
828 to determine the cost of examinations; providing  
829 limitations of an investigation; providing that a  
830 program licensee is subject to certain disciplinary  
831 action for certain violations; authorizing the office  
832 to take certain disciplinary actions; creating s.  
833 516.46, F.S.; requiring a program licensee to file a  
834 certain report with the office at certain intervals  
835 beginning on a certain date; requiring the office to  
836 post a report to its website summarizing the use of  
837 the program by a certain date; specifying information  
838 to be contained in the office's report; providing for  
839 conditional future repeal of the program; providing an  
840 effective date.