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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/27/2017	.	
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The Committee on Banking and Insurance (Rouson) 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 established within the Office of Financial
Regulation the Access to Responsible Credit Pilot Program.

(2) The Legislature finds that demand for responsible



554840

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 for ss. 516.40-516.46.—As used in ss.
23 516.40-516.46, the term:

24 (1) "Consumer reporting agency" has the same meaning as in
25 s. 603(p) of the Fair Credit Reporting Act, 15 U.S.C. s.
26 1681a(p).

27 (2) "Credit score" has the same meaning as in s.
28 609(f) (2) (A) of the Fair Credit Reporting Act, 15 U.S.C. s.
29 1681g(f) (2) (A).

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

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

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

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



554840

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

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

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

48 (7) "Program branch office license" means a license issued
49 to a program licensee for each program branch office in the
50 state.

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

54 (9) "Program loan" means a consumer finance loan with a
55 principal amount of at least \$300 and no more than \$3,000
56 originated pursuant to ss. 516.40-516.44, excluding the amount
57 of the origination fee authorized under s. 516.43(3).

58 (10) "Referral partner" means an entity that, at the
59 referral partner's physical location for business or through
60 other means, performs one or more of the services authorized in
61 s. 516.44(2) on behalf of a program licensee. A referral partner
62 is not a credit service organization as defined in s. 817.7001
63 or a loan broker as defined in s. 687.14.

64 (11) "Refinance program loan" means a program loan that
65 extends additional principal to a borrower and replaces and
66 revises an existing program loan contract with the borrower. A
67 refinance program loan does not include an extension, a
68 deferral, or a rewrite of the program loan.



554840

69 Section 3. Section 516.42, Florida Statutes, is created to
70 read:

71 516.42 Requirements for program participation; program
72 application requirements; fees.-

73 (1) A person may not advertise, offer, or make a program
74 loan or impose any charges or fees pursuant to s. 516.43 unless
75 the person first obtains a pilot program license from the
76 office.

77 (2)(a) In order to participate in the program, a person
78 must meet the following criteria:

79 1. Be licensed to make consumer finance loans under s.
80 516.05.

81 2. Not be the subject of any insolvency proceeding.

82 3. Not be subject to the issuance of a cease and desist
83 order; the issuance of a removal order; the denial, suspension,
84 or revocation of a license; or any other action within the
85 authority of the office or any other state, territory, or
86 jurisdiction.

87 4. Not have a deficiency at the time of the person's
88 application.

89 5. Pay a nonrefundable application fee of \$1,000 to the
90 office at the time of making the application, pursuant to rule
91 of the commission.

92 (b) A program applicant shall file with the office an
93 electronic application, in a form and manner prescribed by
94 commission rule, which contains all of the following information
95 with respect to the applicant:

96 1. The legal business name and any other name the applicant
97 operates under.



554840

- 98 2. The applicant's main address.
- 99 3. The telephone number and e-mail address of the
100 applicant.
- 101 4. The address of any program branch office.
- 102 5. The name, title, address, telephone number, and e-mail
103 address of the contact person for the applicant.
- 104 6. The applicant's license number under this chapter.
- 105 7. A statement as to whether the applicant intends to use
106 the services of one or more referral partners under s. 516.44.
- 107 8. A statement that the applicant has been accepted as a
108 data furnisher by a consumer reporting agency and will report to
109 a consumer reporting agency the payment performance of each
110 borrower on all loans made under the program.
- 111 9. The signature and certification of a control person of
112 the applicant.
- 113 (3) Except as otherwise provided in ss. 516.40-516.46, a
114 program licensee is subject to all of the laws and rules
115 governing consumer finance loans under this chapter.
- 116 (4) A program licensee shall pay a nonrefundable biennial
117 renewal fee of \$1,000 pursuant to commission rule.
- 118 (5) Notwithstanding s. 516.05(3), only one pilot program
119 license is required for a person to make program loans under ss.
120 516.40-516.46, regardless of whether the program licensee offers
121 program loans to prospective borrowers at its own physical
122 business locations, through referral partners, or through an
123 electronic access point through which a prospective borrower may
124 directly access the website of the program licensee.
- 125 (6) Each branch office of a program licensee must be
126 licensed under this section.



554840

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

- 141 (a) The legal business name and any other name the
142 applicant operates under.
143 (b) The applicant's main address.
144 (c) The applicant's telephone number and e-mail address.
145 (d) The address of each program branch office.
146 (e) The name, title, address, telephone number, and e-mail
147 address of the contact person for the applicant.
148 (f) The applicant's license number under this chapter.
149 (g) The signature and certification of an authorized person
150 of the applicant.

151 (8) A program branch office license must be renewed
152 biennially at the time of renewing the program license under
153 subsection (4). A nonrefundable branch renewal fee of \$30 per
154 program branch office, by commission rule, must be submitted at
155 the time of renewal.



554840

156 Section 4. Section 516.43, Florida Statutes, is created to
157 read:

158 516.43 Requirements for program loans.—

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

161 (a) A program loan must be unsecured.

162 (b) A program loan must have a minimum term of 120 days,
163 but it may not impose a prepayment penalty.

164 (c) A program loan must be repayable by the borrower in
165 substantially equal weekly, biweekly, or monthly installments.

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

171 (e) Notwithstanding s. 516.031, the interest rate charged
172 on a program loan to the borrower may not exceed 36 percent. The
173 interest rate must be fixed for the life of the program loan and
174 must accrue on a simple-interest basis through the application
175 of a daily periodic rate to the actual unpaid principal balance
176 each day.

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

181 1. The subsequent program loan is originated no more than
182 180 days after the prior program loan is fully repaid.

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



554840

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

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

190 1. The principal amount payable does not include more than
191 60 days of unpaid interest accrued on the previous program loan
192 in accordance with s. 516.031(5);

193 2. The borrower has repaid at least 60 percent of the
194 outstanding principal remaining on his or her existing program
195 loan;

196 3. The borrower is current on his or her outstanding
197 program loan;

198 4. The program licensee has underwritten the new program
199 loan in accordance with subsection (7); and

200 5. The borrower has not previously refinanced the
201 outstanding program loan.

202 (h) In lieu of the provisions of s. 687.08, a program
203 licensee or, if applicable, its approved referral partner shall
204 make available to the borrower by either electronic or physical
205 means a plain and complete receipt of payment at the time that a
206 payment is made by the borrower. For audit purposes, a program
207 licensee shall maintain an electronic record for each receipt
208 made available to a borrower, which must include a copy of the
209 receipt and the date and time that the receipt was generated.
210 Each receipt of payment must show all of the following:

211 1. The name of the borrower.

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

213 3. The total payment amount received.



554840

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



554840

243 program loan and may not exceed 6 percent of the principal
244 amount of the program loan made to the borrower, exclusive of
245 the lesser of the origination fee or \$75.

246 (b) A program licensee may not charge a borrower an
247 origination fee more than once in any 12-month period.

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

251 (a) Require payment from a borrower of no more than \$20 for
252 fees incurred by the program licensee from a dishonored payment
253 due to insufficient funds of the borrower.

254 (b) Notwithstanding s. 516.031(3)(a)9., contract for and
255 receive a delinquency charge of no more than \$15 for each
256 payment in default for at least 10 days, if the charge is agreed
257 upon in writing between the parties before imposing the charge.
258 A delinquency fee imposed by a program licensee is subject to
259 all of the following restrictions:

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

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

264
265 The program licensee, or any wholly owned subsidiary of the
266 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



554840

272 services offered by an independent third party; or

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

278 (6) CREDIT REPORTING.—

279 (a) The program licensee shall 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 person for the program
287 before the person has been accepted as a data furnisher by a
288 consumer reporting agency.

289 (c) The program licensee shall 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 35



554840

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 such 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 loans
314 made to a borrower by friends or family in determining the
315 borrower's debt-to-income ratio.

316 (c) The program licensee shall also verify the borrower's
317 income in determining 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,



554840

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 that is required as a condition of doing
338 business with the program licensee is presumed involuntary,
339 unconscionable, against public policy, and unenforceable.

340 (c) A program licensee may not refuse to do business with
341 or discriminate against a borrower or an applicant on the basis
342 of the borrower's or applicant's refusal to waive any right,
343 penalty, remedy, forum, or procedure, including the right to
344 file and pursue a civil action or complaint with, or otherwise
345 notify, the office, a court, or any other governmental entity.
346 The exercise of a person's right to refuse to waive any right,
347 penalty, remedy, forum, or procedure, including a rejection of a
348 contract requiring a waiver, does not affect any otherwise legal
349 terms of a contract or an agreement.

350 (d) This subsection does not apply to any agreement to
351 waive any right, penalty, remedy, forum, or procedure, including
352 any agreement to arbitrate a claim or dispute, after a claim or
353 dispute has arisen. This subsection does not affect the
354 enforceability or validity of any other provision of the
355 contract.

356 Section 5. Section 516.44, Florida Statutes, is created to
357 read:

358 516.44 Referral partners.—



554840

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

369 (2) AUTHORIZED SERVICES.—A program licensee may use the
370 services of one or more referral partners as provided in this
371 section. A referral partner may perform one or more of the
372 following services for a program licensee:

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

379 (b) Providing written factual information about program
380 loan terms, conditions, or qualification requirements to a
381 prospective borrower which has been prepared by the program
382 licensee or reviewed and approved in writing by the program
383 licensee. A referral partner may discuss the information with a
384 prospective borrower in general terms.

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

387 (d) Entering information provided by the prospective



554840

388 borrower on a preprinted or an electronic application form or in
389 a preformatted computer database.

390 (e) Assembling credit applications and other materials
391 obtained in the course of a credit application transaction for
392 submission to the program licensee.

393 (f) Contacting the program licensee to determine the status
394 of a program loan application.

395 (g) Communicating a response that is returned by the
396 program licensee's automated underwriting system to a borrower
397 or a prospective borrower.

398 (h) Obtaining a borrower's signature on documents prepared
399 by the program licensee and delivering final copies of the
400 documents to the borrower.

401 (i) Disbursing program loan proceeds to a borrower if this
402 method of disbursement is acceptable to the borrower, subject to
403 the requirements of subsection (3). A loan disbursement made by
404 a referral partner under this paragraph is deemed to be made by
405 the program licensee on the date that the funds are disbursed or
406 otherwise made available by the referral partner to the
407 borrower.

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

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

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

415 (a) A loan payment made by a borrower to a referral partner
416 under paragraph (2)(j) must be applied to the borrower's program



554840

417 loan and is deemed received by the program licensee as of the
418 date the payment is received by the referral partner.

419 (b) A referral partner that receives loan payments must
420 deliver or cause to be delivered to the borrower a plain and
421 complete receipt showing all of the information specified in s.
422 516.43(1) (h) at the time that the payment is made by the
423 borrower.

424 (c) A borrower who submits a loan payment to a referral
425 partner under this subsection is not liable for a failure or
426 delay by the referral partner in transmitting the payment to the
427 program licensee.

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

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

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

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

439 (c) Negotiating a loan term between a program licensee and
440 a prospective borrower.

441 (d) Offering information pertaining to a single prospective
442 borrower to more than one program licensee. However, if a
443 program licensee has declined to offer a program loan to a
444 prospective borrower and has so notified the prospective
445 borrower in writing, the referral partner may then offer



554840

446 information pertaining to that borrower to another program
447 licensee with whom it has a referral partner agreement.

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

451 (5) DISCLOSURE NOTICE AND COMMUNICATION.—

452 (a) At the time the referral partner receives or processes
453 an application for a program loan, the referral partner shall
454 provide the following statement to the applicant on behalf of
455 the program licensee, in no smaller than 10-point type, and
456 shall request that the applicant acknowledge receipt of the
457 statement in writing:

458
459 Your loan application has been referred to us by
460 ...(name of referral partner).... We may pay a fee to
461 ...(name of referral partner)... for the successful
462 referral of your loan application. If you are approved
463 for the loan, ...(name of program licensee)... will
464 become your lender. If you have any questions about
465 your loan, now or in the future, you should direct
466 those questions to ...(name of program licensee)... by
467 ...(insert at least two different ways in which a
468 borrower may contact the program licensee).... If you
469 wish to report a complaint about ...(name of referral
470 partner)... or ...(name of program licensee)...
471 regarding this loan transaction, you may contact the
472 Division of Consumer Finance of the Office of
473 Financial Regulation at 850-487-9687 or
474 <http://www.flofr.com>.



554840

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

(6) COMPENSATION.—

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

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

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

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

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

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

a. Sixty dollars per program loan, on average, assessed annually, whether paid at the time of consummation, through installments, or in a manner otherwise agreed upon by the



554840

504 program licensee and the referral partner; and

505 b. Two dollars per payment received by the referral partner
506 on behalf of the program licensee for the duration of the
507 program loan, if the referral partner receives borrower loan
508 payments on the program licensee's behalf in accordance with
509 subsection (3).

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

513 (c) A program licensee or a referral partner may not pass
514 on to a borrower, whether directly or indirectly, any additional
515 cost or other charge for compensation paid to a referral partner
516 under this program.

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

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

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

528 (c) The name and contact information of one or more
529 employees of the referral partner who are responsible for that
530 referral partner's referring activities on behalf of the program
531 licensee.

532 (d) A statement by the program licensee that it has



554840

533 conducted due diligence with respect to the referral partner and
534 has confirmed that none of the following applies:

535 1. The filing of a petition under the United States
536 Bankruptcy Code for bankruptcy or reorganization by the referral
537 partner.

538 2. The commencement of an administrative or judicial
539 license suspension or revocation proceeding, or the denial of a
540 license request or renewal, by any state, the District of
541 Columbia, any United States territory, or any foreign country in
542 which the referral partner operates, plans to operate, or is
543 licensed to operate.

544 3. A felony indictment involving the referral partner or an
545 affiliated party.

546 4. A felony conviction, guilty plea, or plea of nolo
547 contendere, regardless of adjudication, of the referral partner
548 or an affiliated party.

549 5. Any suspected criminal act perpetrated in this state
550 relating to activities regulated under this chapter by a
551 referral partner.

552 6. Notification by a law enforcement or prosecutorial
553 agency that the referral partner is under criminal investigation
554 which includes, but is not limited to, subpoenas to produce
555 records or testimony and warrants issued by a court of competent
556 jurisdiction which authorize the search and seizure of any
557 records relating to a business activity regulated under this
558 chapter.

559
560 As used in this paragraph, the term "affiliated party" means a
561 director, an officer, a responsible person, an employee, or a



554840

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

564 (e) Any other information requested by the office subject
565 to the limitations specified in s. 516.45(4).

566 (8) NOTICE OF CHANGES.—A referral partner must provide the
567 program licensee with written notice, sent by registered mail,
568 within 30 days after any changes are made to the information
569 specified in paragraphs (7) (a)-(c) or within 30 days after the
570 occurrence or knowledge of any of the events specified in
571 paragraph (7) (d), whichever is later.

572 (9) RESPONSIBILITY FOR ACTS OF A REFERRAL PARTNER.—A
573 program licensee is responsible for any act of its referral
574 partner if the program licensee should have known of the act or
575 if the program licensee had actual knowledge that the act is a
576 violation of this chapter and allowed it to continue. Such
577 responsibility is limited to conduct engaged in by the referral
578 partner pursuant to the authority granted to it by the program
579 licensee under the contract between the referral partner and the
580 program licensee.

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

585 Section 6. Section 516.45, Florida Statutes, is created to
586 read:

587 516.45 Examinations; disciplinary actions.—

588 (1) Notwithstanding any other law, commencing on January 1,
589 2018, the office shall examine each program licensee that is
590 accepted into the program in accordance with this chapter at



554840

591 least once every 24 months.

592 (2) Notwithstanding subsection (1), the office may waive
593 one or more branch office examinations if the office finds that
594 such examinations are not necessary for the protection of the
595 public due to the centralized operations of the program licensee
596 or other factors acceptable to the office.

597 (3) The examined program licensee shall pay for the cost of
598 an examination to the office, pursuant to commission rule, and
599 the office may maintain an action for the recovery of the cost
600 in any court of competent jurisdiction. In determining the cost
601 of the examination, the office may use the estimated average
602 hourly cost for all persons performing examinations of program
603 licensees or other persons subject to ss. 516.40-516.46 for the
604 fiscal year.

605 (4) A program licensee or referral partner shall maintain,
606 preserve, and keep available for examination all books,
607 accounts, or other documents required by this chapter, any rule
608 or order adopted under this chapter, or any agreement entered
609 into with the office.

610 (5) A program licensee who violates any applicable
611 provision of this chapter is subject to disciplinary action
612 pursuant to s. 516.07(2). Any such disciplinary action is
613 subject to s. 120.60. A program licensee is also subject to
614 disciplinary action for a violation of s. 516.44 committed by
615 any of its referral partners.

616 (6) The office may take any of the following actions
617 against a referral partner who violates s. 516.44:

618 (a) Disqualify the referral partner from performing
619 services under this chapter;



554840

620 (b) Bar the referral partner from performing services at
621 one or more specific locations of the referral partner;

622 (c) Terminate a written agreement between a referral
623 partner and a program licensee;

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

626 (e) Prohibit program licensees from using the referral
627 partner, if the office deems it to be in the public interest.

628 Section 7. Section 516.46, Florida Statutes, is created to
629 read:

630 516.46 Annual reports; reports by the office.-

631 (1) Beginning in 2019, on or before March 15 of each year,
632 a program licensee shall file a report with the office on each
633 of the items specified in subsection (2), on a form and in a
634 manner as prescribed by commission rule, which contains
635 aggregated or anonymized data without reference to any
636 borrower's nonpublic personal information or any proprietary or
637 trade secret information of the program licensee.

638 (2) On or before January 1, 2020, the office shall post a
639 report on its website summarizing the use of the program based
640 on the information contained in reports filed by each program
641 licensee under subsection (1). The report must state the
642 information in the aggregate so as not to identify data by
643 specific program licensee and must specify the period to which
644 the report corresponds. The report must include, but not be
645 limited to, the following for that period:

646 (a) The number of entities that applied to participate in
647 the program.

648 (b) The number of entities accepted to participate in the



554840

649 program.

650 (c) The office's reasons for rejecting applications for
651 participation, if applicable. This information must be provided
652 in a manner that does not identify the entity or entities
653 rejected.

654 (d) The number of program loan applications received by
655 program licensees participating in the program, the number of
656 program loans made under the program, the total amount loaned,
657 the distribution of loan lengths upon origination, and the
658 distribution of interest rates and principal amounts upon
659 origination among those program loans.

660 (e) The number of borrowers who obtained more than one
661 program loan and the distribution of the number of program loans
662 per borrower.

663 (f) Of the borrowers who obtained more than one program
664 loan, the percentage of those borrowers whose credit scores
665 increased between successive loans, based on information from at
666 least one major credit bureau, and the average size of the
667 increase.

668 (g) The income distribution of borrowers upon program loan
669 origination, including the number of borrowers who obtained at
670 least one program loan and who resided in a low-income or
671 moderate-income census tract at the time of their loan
672 applications.

673 (h) The number of borrowers who obtained program loans for
674 the following purposes, based on borrower responses at the time
675 of their loan applications indicating the primary purpose for
676 which the program loan was obtained:

677 1. Pay medical expenses.



554840

- 678 2. Pay for vehicle repair or a vehicle purchase.
- 679 3. Pay bills.
- 680 4. Consolidate debt.
- 681 5. Build or repair credit history.
- 682 6. Pay other expenses.
- 683 (i) The number of borrowers who self-report that they had a
684 bank account at the time of their loan application and the
685 number of borrowers who self-report that they did not have a
686 bank account at the time of their loan application.
- 687 (j) With respect to refinance program loans, the report
688 must specifically include the following information:
- 689 1. The number and percentage of borrowers who applied for a
690 refinance program loan.
- 691 2. Of those borrowers who applied for a refinance program
692 loan, the number and percentage of borrowers who obtained a
693 refinance program loan.
- 694 (k) The number and type of referral partners used by
695 program licensees.
- 696 (l) The number and percentage of borrowers who obtained one
697 or more program loans on which delinquency charges were
698 assessed, the total amount of delinquency charges assessed, and
699 the average delinquency charge assessed by dollar amount and as
700 a percentage of the principal amount loaned.
- 701 (m) The performance of program loans under the program as
702 reflected by all of the following:
- 703 1. The number and percentage of borrowers who experienced
704 at least one delinquency lasting between 7 and 29 days, and the
705 distribution of principal loan amounts corresponding to those
706 delinquencies.



554840

707 2. The number and percentage of borrowers who experienced
708 at least one delinquency lasting between 30 and 59 days, and the
709 distribution of principal loan amounts corresponding to those
710 delinquencies.

711 3. The number and percentage of borrowers who experienced
712 at least one delinquency lasting 60 days or more, and the
713 distribution of principal loan amounts corresponding to those
714 delinquencies.

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

717 (o) The number and types of violations of ss. 516.40-516.46
718 by program licensees which were documented by the office.

719 (p) The number of times that the office disqualified a
720 referral partner from performing services, barred a referral
721 partner from performing services at one or more specific
722 locations of the referral partner, terminated a written
723 agreement between a referral partner and a program licensee, or
724 imposed an administrative penalty.

725 (q) The number of complaints received by the office about a
726 program licensee or a referral partner and the nature of those
727 complaints.

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

731 Section 9. This act shall take effect July 1, 2018.

732
733 ===== T I T L E A M E N D M E N T =====

734 And the title is amended as follows:

735 Delete everything before the enacting clause



554840

736 and insert:

737 A bill to be entitled
738 An act relating to consumer finance loans; creating s.
739 516.40, F.S.; establishing the Access to Responsible
740 Credit Pilot Program within the Office of Financial
741 Regulation; providing legislative findings and intent;
742 creating s. 516.41, F.S.; defining terms; creating s.
743 516.42, F.S.; prohibiting a person from certain
744 activities relating to program loans unless the person
745 obtains a pilot program license from the office;
746 providing criteria for participation in the pilot
747 program; specifying application requirements and fees;
748 providing for construction; specifying a renewal fee;
749 providing that only one pilot program license is
750 required for a person to make program loans; requiring
751 that branch offices of a program licensee be licensed;
752 specifying requirements and a fee for applications for
753 a program branch office license; requiring program
754 branch office licenses to be renewed biennially and
755 specifying a branch office renewal fee; creating s.
756 516.43, F.S.; providing requirements for and
757 limitations on program loans; requiring a program
758 licensee to provide specified disclosures; authorizing
759 licensees to provide certain documents in the language
760 in which the loan was negotiated; requiring a program
761 licensee to pay for certain translation costs incurred
762 by the office; authorizing a program licensee to
763 contract for and receive a specified nonrefundable
764 origination fee from a borrower on a program loan;



554840

765 authorizing a program licensee to collect specified
766 insufficient funds fees and delinquency charges;
767 requiring a program licensee to provide specified
768 credit education to a borrower before disbursing
769 program loan proceeds; requiring a program licensee to
770 report borrowers' payment performance to at least one
771 specified consumer reporting agency and provide
772 borrowers with the names of such agencies; prohibiting
773 the office from approving a person for the program
774 before the person is accepted as a data furnisher by a
775 consumer reporting agency; requiring a program
776 licensee to underwrite each program loan; prohibiting
777 a program licensee from making a program loan under
778 certain circumstances; providing required and
779 authorized procedures for a program licensee to
780 determine a borrower's ability and willingness to
781 repay the program loan; prohibiting a program licensee
782 from requiring certain waivers from a borrower or from
783 certain acts against a borrower who refuses certain
784 waivers; providing for applicability and construction;
785 creating s. 516.44, F.S.; requiring arrangements
786 between a program licensee and a referral partner to
787 be specified in a written agreement; providing
788 requirements for such agreement; specifying authorized
789 services for referral partners; providing requirements
790 for a referral partner who accepts loan payments from
791 a borrower; providing for construction; prohibiting
792 specified activities by a referral partner; requiring
793 a referral partner to provide a specified notice to an



554840

794 applicant for a program loan and certain assistance to
795 the applicant under certain circumstances; specifying
796 requirements, limitations, and prohibitions for the
797 compensation of a referral partner by a program
798 licensee; requiring a program licensee to provide a
799 specified notice to the office after entering into a
800 contract with a referral partner; requiring a referral
801 partner to provide written notice to the program
802 licensee of certain information within a specified
803 time; specifying the program licensee's responsibility
804 for acts of its referral partner; requiring a program
805 licensee to pay a specified fee to the office to file
806 a referral partner notice; requiring rulemaking by the
807 Financial Services Commission; creating s. 516.45,
808 F.S.; requiring the office to examine program
809 licensees at specified intervals beginning on a
810 specified date; providing an exception; requiring
811 program licensees to pay the cost of examinations;
812 authorizing the office to maintain an action for
813 recovery of the cost; authorizing a method to
814 determine the cost of examinations; providing a
815 recordkeeping requirement for program licensees and
816 referral partners; providing that a program licensee
817 is subject to certain disciplinary action for certain
818 violations; authorizing the office to take certain
819 disciplinary actions; requiring rulemaking by the
820 commission; creating s. 516.46, F.S.; requiring a
821 program licensee to file a specified annual report
822 with the office beginning on a certain date; requiring



554840

823 the office to post a report to its website summarizing
824 the use of the program by a certain date; specifying
825 information to be contained in the office's report;
826 providing for conditional future repeal of the
827 program; providing an effective date.