

By the Committee on Banking and Insurance; and Senator Rouson

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1                   A bill to be entitled  
2       An act relating to consumer finance loans; creating s.  
3       516.40, F.S.; establishing the Access to Responsible  
4       Credit Pilot Program within the Office of Financial  
5       Regulation; providing legislative findings and intent;  
6       creating s. 516.41, F.S.; defining terms; creating s.  
7       516.42, F.S.; prohibiting a person from certain  
8       activities relating to program loans unless the person  
9       obtains a pilot program license from the office;  
10      providing criteria for participation in the pilot  
11      program; specifying application requirements and fees;  
12      providing for construction; specifying a renewal fee;  
13      providing that only one pilot program license is  
14      required for a person to make program loans; requiring  
15      that branch offices of a program licensee be licensed;  
16      specifying requirements and a fee for applications for  
17      a program branch office license; requiring program  
18      branch office licenses to be renewed biennially and  
19      specifying a branch office renewal fee; creating s.  
20      516.43, F.S.; providing requirements for and  
21      limitations on program loans; requiring a program  
22      licensee to provide specified disclosures; authorizing  
23      licensees to provide certain documents in the language  
24      in which the loan was negotiated; requiring a program  
25      licensee to pay for certain translation costs incurred  
26      by the office; authorizing a program licensee to  
27      contract for and receive a specified nonrefundable  
28      origination fee from a borrower on a program loan;  
29      authorizing a program licensee to collect specified

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30 insufficient funds fees and delinquency charges;  
31 requiring a program licensee to provide specified  
32 credit education to a borrower before disbursing  
33 program loan proceeds; requiring a program licensee to  
34 report borrowers' payment performance to at least one  
35 specified consumer reporting agency and provide  
36 borrowers with the names of such agencies; prohibiting  
37 the office from approving a person for the program  
38 before the person is accepted as a data furnisher by a  
39 consumer reporting agency; requiring a program  
40 licensee to underwrite each program loan; prohibiting  
41 a program licensee from making a program loan under  
42 certain circumstances; providing required and  
43 authorized procedures for a program licensee to  
44 determine a borrower's ability and willingness to  
45 repay the program loan; prohibiting a program licensee  
46 from requiring certain waivers from a borrower or from  
47 certain acts against a borrower who refuses certain  
48 waivers; providing for applicability and construction;  
49 creating s. 516.44, F.S.; requiring arrangements  
50 between a program licensee and a referral partner to  
51 be specified in a written agreement; providing  
52 requirements for such agreement; specifying authorized  
53 services for referral partners; providing requirements  
54 for a referral partner who accepts loan payments from  
55 a borrower; providing for construction; prohibiting  
56 specified activities by a referral partner; requiring  
57 a referral partner to provide a specified notice to an  
58 applicant for a program loan and certain assistance to

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59 the applicant under certain circumstances; specifying  
60 requirements, limitations, and prohibitions for the  
61 compensation of a referral partner by a program  
62 licensee; requiring a program licensee to provide a  
63 specified notice to the office after entering into a  
64 contract with a referral partner; requiring a referral  
65 partner to provide written notice to the program  
66 licensee of certain information within a specified  
67 time; specifying the program licensee's responsibility  
68 for acts of its referral partner; requiring a program  
69 licensee to pay a specified fee to the office to file  
70 a referral partner notice; requiring rulemaking by the  
71 Financial Services Commission; creating s. 516.45,  
72 F.S.; requiring the office to examine program  
73 licensees at specified intervals beginning on a  
74 specified date; providing an exception; requiring  
75 program licensees to pay the cost of examinations;  
76 authorizing the office to maintain an action for  
77 recovery of the cost; authorizing a method to  
78 determine the cost of examinations; providing a  
79 recordkeeping requirement for program licensees and  
80 referral partners; providing that a program licensee  
81 is subject to certain disciplinary action for certain  
82 violations; authorizing the office to take certain  
83 disciplinary actions; requiring rulemaking by the  
84 commission; creating s. 516.46, F.S.; requiring a  
85 program licensee to file a specified annual report  
86 with the office beginning on a certain date; requiring  
87 the office to post a report to its website summarizing

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88 the use of the program by a certain date; specifying  
89 information to be contained in the office's report;  
90 providing for conditional future repeal of the  
91 program; providing an effective date.

92  
93 Be It Enacted by the Legislature of the State of Florida:

94  
95 Section 1. Section 516.40, Florida Statutes, is created to  
96 read:

97 516.40 Access to Responsible Credit Pilot Program.—

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

100 (2) The Legislature finds that demand for responsible  
101 consumer finance loans in principal amounts of at least \$300 and  
102 no more than \$3,000 exceeds the supply of these loans. As a  
103 first step toward addressing this gap, the Access to Responsible  
104 Credit Pilot Program would allow more Floridians to obtain  
105 responsible consumer finance loans of at least \$300 and no more  
106 than \$3,000. The pilot program is also intended to assist  
107 consumers in building their credit and has additional consumer  
108 protections for these loans which exceed current protections  
109 under general law.

110 Section 2. Section 516.41, Florida Statutes, is created to  
111 read:

112 516.41 Definitions for ss. 516.40-516.46.—As used in ss.  
113 516.40-516.46, the term:

114 (1) "Consumer reporting agency" has the same meaning as in  
115 s. 603(p) of the Fair Credit Reporting Act, 15 U.S.C. s.  
116 1681a(p).

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117 (2) "Credit score" has the same meaning as in s.  
118 609(f)(2)(A) of the Fair Credit Reporting Act, 15 U.S.C. s.  
119 1681g(f)(2)(A).

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

122 (4) "Pilot program" or "program" means the Access to  
123 Responsible Credit Pilot Program.

124 (5) "Pilot program license" means a license issued under  
125 ss. 516.40-516.46 authorizing a program licensee to make and  
126 collect program loans.

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

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

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

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

138 (7) "Program branch office license" means a license issued  
139 to a program licensee for each program branch office in the  
140 state.

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

144 (9) "Program loan" means a consumer finance loan with a  
145 principal amount of at least \$300 and no more than \$3,000

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146 originated pursuant to ss. 516.40-516.44, excluding the amount  
147 of the origination fee authorized under s. 516.43(3).

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

154 (11) "Refinance program loan" means a program loan that  
155 extends additional principal to a borrower and replaces and  
156 revises an existing program loan contract with the borrower. A  
157 refinance program loan does not include an extension, a  
158 deferral, or a rewrite of the program loan.

159 Section 3. Section 516.42, Florida Statutes, is created to  
160 read:

161 516.42 Requirements for program participation; program  
162 application requirements; fees.-

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

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

169 1. Be licensed to make consumer finance loans under s.  
170 516.05.

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

172 3. Not be subject to the issuance of a cease and desist  
173 order; the issuance of a removal order; the denial, suspension,  
174 or revocation of a license; or any other action within the

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175 authority of the office or any other state, territory, or  
176 jurisdiction.

177 4. Not have a deficiency at the time of the person's  
178 application.

179 5. Pay a nonrefundable application fee of \$1,000 to the  
180 office at the time of making the application, pursuant to rule  
181 of the commission.

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

186 1. The legal business name and any other name the applicant  
187 operates under.

188 2. The applicant's main address.

189 3. The telephone number and e-mail address of the  
190 applicant.

191 4. The address of any program branch office.

192 5. The name, title, address, telephone number, and e-mail  
193 address of the contact person for the applicant.

194 6. The applicant's license number under this chapter.

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

197 8. A statement that the applicant has been accepted as a  
198 data furnisher by a consumer reporting agency and will report to  
199 a consumer reporting agency the payment performance of each  
200 borrower on all loans made under the program.

201 9. The signature and certification of a control person of  
202 the applicant.

203 (3) Except as otherwise provided in ss. 516.40-516.46, a

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204 program licensee is subject to all of the laws and rules  
205 governing consumer finance loans under this chapter.

206 (4) A program licensee shall pay a nonrefundable biennial  
207 renewal fee of \$1,000 pursuant to commission rule.

208 (5) Notwithstanding s. 516.05(3), only one pilot program  
209 license is required for a person to make program loans under ss.  
210 516.40-516.46, regardless of whether the program licensee offers  
211 program loans to prospective borrowers at its own physical  
212 business locations, through referral partners, or through an  
213 electronic access point through which a prospective borrower may  
214 directly access the website of the program licensee.

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

217 (7) The office shall issue a program branch office license  
218 to a program licensee after the office determines that the  
219 program licensee submitted a completed electronic application  
220 for a program branch office license in a form prescribed by  
221 commission rule and paid an initial nonrefundable program branch  
222 office license fee of \$30 per branch office as prescribed by  
223 rule of the commission. Application fees may not be prorated for  
224 partial years of licensure. The program branch office license  
225 must be issued in the name of the program licensee that  
226 maintains the branch office. An application is considered  
227 received for purposes of s. 120.60 upon receipt of a completed  
228 application form and the required fees. The application for a  
229 program branch office license must contain the following  
230 information:

231 (a) The legal business name and any other name the  
232 applicant operates under.



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- 233       (b) The applicant's main address.
- 234       (c) The applicant's telephone number and e-mail address.
- 235       (d) The address of each program branch office.
- 236       (e) The name, title, address, telephone number, and e-mail  
 237 address of the contact person for the applicant.
- 238       (f) The applicant's license number under this chapter.
- 239       (g) The signature and certification of an authorized person  
 240 of the applicant.
- 241       (8) A program branch office license must be renewed  
 242 biennially at the time of renewing the program license under  
 243 subsection (4). A nonrefundable branch renewal fee of \$30 per  
 244 program branch office, by commission rule, must be submitted at  
 245 the time of renewal.
- 246       Section 4. Section 516.43, Florida Statutes, is created to  
 247 read:
- 248       516.43 Requirements for program loans.—
- 249       (1) GENERAL REQUIREMENTS.—A program licensee shall comply  
 250 with each of the following requirements in making program loans:
- 251       (a) A program loan must be unsecured.
- 252       (b) A program loan must have a minimum term of 120 days,  
 253 but it may not impose a prepayment penalty.
- 254       (c) A program loan must be repayable by the borrower in  
 255 substantially equal weekly, biweekly, or monthly installments.
- 256       (d) A program loan must include a borrower's right to  
 257 rescind the program loan by notifying the program licensee of  
 258 the borrower's intent to rescind the program loan and return the  
 259 principal advanced by the end of the business day after the day  
 260 the program loan is consummated.
- 261       (e) Notwithstanding s. 516.031, the interest rate charged

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262 on a program loan to the borrower may not exceed 36 percent. The  
263 interest rate must be fixed for the life of the program loan and  
264 must accrue on a simple-interest basis through the application  
265 of a daily periodic rate to the actual unpaid principal balance  
266 each day.

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

271 1. The subsequent program loan is originated no more than  
272 180 days after the prior program loan is fully repaid.

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

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

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

280 1. The principal amount payable does not include more than  
281 60 days of unpaid interest accrued on the previous program loan  
282 in accordance with s. 516.031(5);

283 2. The borrower has repaid at least 60 percent of the  
284 outstanding principal remaining on his or her existing program  
285 loan;

286 3. The borrower is current on his or her outstanding  
287 program loan;

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

290 5. The borrower has not previously refinanced the

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291 outstanding program loan.

292 (h) In lieu of the provisions of s. 687.08, a program  
293 licensee or, if applicable, its approved referral partner shall  
294 make available to the borrower by either electronic or physical  
295 means a plain and complete receipt of payment at the time that a  
296 payment is made by the borrower. For audit purposes, a program  
297 licensee shall maintain an electronic record for each receipt  
298 made available to a borrower, which must include a copy of the  
299 receipt and the date and time that the receipt was generated.

300 Each receipt of payment must show all of the following:

301 1. The name of the borrower.

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

303 3. The total payment amount received.

304 4. The date of payment.

305 5. The program loan balance before and after application of  
306 the payment.

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

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

310 8. The following statement, prominently displayed in a type  
311 size equal to or greater than the type size used to display the  
312 other items on the receipt: "If you have any questions about  
313 your loan now or in the future, you should direct those  
314 questions to ...(name of program licensee)... by ...(at least  
315 two different ways in which a borrower may contact the program  
316 licensee)...."

317 (2) WRITTEN DISCLOSURES.—

318 (a) A program licensee shall provide those disclosures  
319 required of all licensees in s. 516.15.

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320 (b) Notwithstanding s. 516.15(1), the loan contract and all  
321 written disclosures and statements may be provided in English or  
322 in the language in which the loan is negotiated. A program  
323 licensee shall pay for any translation costs incurred by the  
324 office.

325 (3) ORIGINATION FEES.—

326 (a) Notwithstanding s. 516.031, a program licensee may  
327 contract for and receive a nonrefundable origination fee from a  
328 borrower on a program loan. The program licensee may either  
329 deduct the origination fee from the principal amount of the loan  
330 disbursed to the borrower or capitalize the origination fee into  
331 the principal balance of the loan. The origination fee is fully  
332 earned and nonrefundable immediately upon the making of the  
333 program loan and may not exceed 6 percent of the principal  
334 amount of the program loan made to the borrower, exclusive of  
335 the lesser of the origination fee or \$75.

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

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

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

344 (b) Notwithstanding s. 516.031(3)(a)9., contract for and  
345 receive a delinquency charge of no more than \$15 for each  
346 payment in default for at least 10 days, if the charge is agreed  
347 upon in writing between the parties before imposing the charge.  
348 A delinquency fee imposed by a program licensee is subject to

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349 all of the following restrictions:

350 1. No more than one delinquency fee may be imposed per  
351 delinquent payment.

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

354  
355 The program licensee, or any wholly owned subsidiary of the  
356 program licensee, may not sell or assign an unpaid debt to an  
357 independent third party for collection purposes unless the debt  
358 has been delinquent for at least 30 days.

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

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

363 (b) Provide a credit education program or materials to the  
364 borrower. A borrower is not required to participate in any of  
365 these education programs or seminars. A credit education program  
366 or seminar offered pursuant to this subsection must be provided  
367 at no cost to the borrower.

368 (6) CREDIT REPORTING.—

369 (a) The program licensee shall report each borrower's  
370 payment performance to at least one consumer reporting agency  
371 that compiles and maintains files on consumers on a nationwide  
372 basis. As used in this section, the term "consumer reporting  
373 agency that compiles and maintains files on consumers on a  
374 nationwide basis" has the same meaning as in s. 603(p) of the  
375 Fair Credit Reporting Act, 15 U.S.C. s. 1681a(p).

376 (b) The office may not approve a person for the program  
377 before the person has been accepted as a data furnisher by a

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378 consumer reporting agency.

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

382 (7) PROGRAM LOAN UNDERWRITING.—

383 (a) The program licensee shall underwrite each program loan  
384 to determine a borrower's ability and willingness to repay the  
385 program loan pursuant to the program loan terms. The program  
386 licensee may not make a program loan if it determines that the  
387 borrower's total monthly debt service payments at the time of  
388 origination, including the program loan for which the borrower  
389 is being considered and all outstanding forms of credit that can  
390 be independently verified by the program licensee, exceed 35  
391 percent of the borrower's gross monthly income.

392 (b)1. The program licensee shall seek information and  
393 documentation pertaining to all of a borrower's outstanding debt  
394 obligations during the loan application and underwriting  
395 process, including loans that are self-reported by the borrower  
396 but not available through independent verification. The program  
397 licensee shall verify such information using a credit report  
398 from at least one consumer reporting agency that compiles and  
399 maintains files on consumers on a nationwide basis or through  
400 other available electronic debt verification services that  
401 provide reliable evidence of a borrower's outstanding debt  
402 obligations.

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

406 (c) The program licensee shall also verify the borrower's

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407 income in determining the debt-to-income ratio using information  
408 from:

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

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

415 (8) PROVISIONS ON WAIVERS.-

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

418 1. Waive any right, penalty, remedy, forum, or procedure  
419 provided for in any law applicable to the program loan,  
420 including the right to file and pursue a civil action or file a  
421 complaint with or otherwise communicate with the office, any  
422 court, or other governmental entity.

423 2. Agree to the application of laws other than those of  
424 this state.

425 3. Agree to resolve disputes in a jurisdiction outside of  
426 this state.

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

430 (c) A program licensee may not refuse to do business with  
431 or discriminate against a borrower or an applicant on the basis  
432 of the borrower's or applicant's refusal to waive any right,  
433 penalty, remedy, forum, or procedure, including the right to  
434 file and pursue a civil action or complaint with, or otherwise  
435 notify, the office, a court, or any other governmental entity.

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436 The exercise of a person's right to refuse to waive any right,  
437 penalty, remedy, forum, or procedure, including a rejection of a  
438 contract requiring a waiver, does not affect any otherwise legal  
439 terms of a contract or an agreement.

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

446 Section 5. Section 516.44, Florida Statutes, is created to  
447 read:

448 516.44 Referral partners.—

449 (1) REFERRAL PARTNER AGREEMENT.—All arrangements between a  
450 program licensee and a referral partner must be specified in a  
451 written referral partner agreement between the parties. The  
452 agreement must contain a provision that the referral partner  
453 agrees to comply with this section and all rules adopted under  
454 this section regarding the activities of referral partners, and  
455 that the office has access to the referral partner's books and  
456 records pertaining to the referral partner's operations under  
457 the agreement with the program licensee in accordance with s.  
458 516.45(4).

459 (2) AUTHORIZED SERVICES.—A program licensee may use the  
460 services of one or more referral partners as provided in this  
461 section. A referral partner may perform one or more of the  
462 following services for a program licensee:

463 (a) Distributing, circulating, using, or publishing printed  
464 brochures, flyers, fact sheets, or other written materials



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465 relating to program loans that the program licensee may make or  
466 negotiate. The written materials must be reviewed and approved  
467 in writing by the program licensee before being distributed,  
468 circulated, used, or published.

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

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

477 (d) Entering information provided by the prospective  
478 borrower on a preprinted or an electronic application form or in  
479 a preformatted computer database.

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

483 (f) Contacting the program licensee to determine the status  
484 of a program loan application.

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

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

491 (i) Disbursing program loan proceeds to a borrower if this  
492 method of disbursement is acceptable to the borrower, subject to  
493 the requirements of subsection (3). A loan disbursement made by

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494 a referral partner under this paragraph is deemed to be made by  
495 the program licensee on the date that the funds are disbursed or  
496 otherwise made available by the referral partner to the  
497 borrower.

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

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

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

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

509 (b) A referral partner that receives loan payments must  
510 deliver or cause to be delivered to the borrower a plain and  
511 complete receipt showing all of the information specified in s.  
512 516.43(1) (h) at the time that the payment is made by the  
513 borrower.

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

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

522 (4) PROHIBITED ACTIVITIES.—A referral partner may not

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523 engage in any of the following activities:

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

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

529 (c) Negotiating a loan term between a program licensee and  
530 a prospective borrower.

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

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

541 (5) DISCLOSURE NOTICE AND COMMUNICATION.—

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

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

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

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

571 (6) COMPENSATION.—

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

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

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

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581 consummated.

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

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

587 4. Subject to the limitations specified in subparagraphs  
588 1., 2., and 3., the total compensation paid by a program  
589 licensee to a referral partner for the services specified in  
590 subsection (2) may not exceed the sum of:

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

595 b. Two dollars per payment received by the referral partner  
596 on behalf of the program licensee for the duration of the  
597 program loan, if the referral partner receives borrower loan  
598 payments on the program licensee's behalf in accordance with  
599 subsection (3).

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

603 (c) A program licensee or a referral partner may not pass  
604 on to a borrower, whether directly or indirectly, any additional  
605 cost or other charge for compensation paid to a referral partner  
606 under this program.

607 (7) NOTICE TO OFFICE.—A program licensee that uses the  
608 service of a referral partner must notify the office, in a form  
609 and manner prescribed by the commission, within 15 days after

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610 entering into a contract with a referral partner regarding all  
611 of the following:

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

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

618 (c) The name and contact information of one or more  
619 employees of the referral partner who are responsible for that  
620 referral partner's referring activities on behalf of the program  
621 licensee.

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

625 1. The filing of a petition under the United States  
626 Bankruptcy Code for bankruptcy or reorganization by the referral  
627 partner.

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

634 3. A felony indictment involving the referral partner or an  
635 affiliated party.

636 4. A felony conviction, guilty plea, or plea of nolo  
637 contendere, regardless of adjudication, of the referral partner  
638 or an affiliated party.

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639 5. Any suspected criminal act perpetrated in this state  
640 relating to activities regulated under this chapter by a  
641 referral partner.

642 6. Notification by a law enforcement or prosecutorial  
643 agency that the referral partner is under criminal investigation  
644 which includes, but is not limited to, subpoenas to produce  
645 records or testimony and warrants issued by a court of competent  
646 jurisdiction which authorize the search and seizure of any  
647 records relating to a business activity regulated under this  
648 chapter.

649  
650 As used in this paragraph, the term "affiliated party" means a  
651 director, an officer, a responsible person, an employee, or a  
652 foreign affiliate of a referral partner; or a person who has a  
653 controlling interest in a referral partner.

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

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

662 (9) RESPONSIBILITY FOR ACTS OF A REFERRAL PARTNER.—A  
663 program licensee is responsible for any act of its referral  
664 partner if the program licensee should have known of the act or  
665 if the program licensee had actual knowledge that the act is a  
666 violation of this chapter and allowed it to continue. Such  
667 responsibility is limited to conduct engaged in by the referral

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668 partner pursuant to the authority granted to it by the program  
669 licensee under the contract between the referral partner and the  
670 program licensee.

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

675 Section 6. Section 516.45, Florida Statutes, is created to  
676 read:

677 516.45 Examinations; disciplinary actions.—

678 (1) Notwithstanding any other law, commencing on January 1,  
679 2018, the office shall examine each program licensee that is  
680 accepted into the program in accordance with this chapter at  
681 least once every 24 months.

682 (2) Notwithstanding subsection (1), the office may waive  
683 one or more branch office examinations if the office finds that  
684 such examinations are not necessary for the protection of the  
685 public due to the centralized operations of the program licensee  
686 or other factors acceptable to the office.

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

695 (4) A program licensee or referral partner shall maintain,  
696 preserve, and keep available for examination all books,



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697 accounts, or other documents required by this chapter, any rule  
698 or order adopted under this chapter, or any agreement entered  
699 into with the office.

700 (5) A program licensee who violates any applicable  
701 provision of this chapter is subject to disciplinary action  
702 pursuant to s. 516.07(2). Any such disciplinary action is  
703 subject to s. 120.60. A program licensee is also subject to  
704 disciplinary action for a violation of s. 516.44 committed by  
705 any of its referral partners.

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

708 (a) Disqualify the referral partner from performing  
709 services under this chapter;

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

712 (c) Terminate a written agreement between a referral  
713 partner and a program licensee;

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

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

718 Section 7. Section 516.46, Florida Statutes, is created to  
719 read:

720 516.46 Annual reports; reports by the office.—

721 (1) Beginning in 2019, on or before March 15 of each year,  
722 a program licensee shall file a report with the office on each  
723 of the items specified in subsection (2), on a form and in a  
724 manner as prescribed by commission rule, which contains  
725 aggregated or anonymized data without reference to any

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726 borrower's nonpublic personal information or any proprietary or  
727 trade secret information of the program licensee.

728 (2) On or before January 1, 2020, the office shall post a  
729 report on its website summarizing the use of the program based  
730 on the information contained in reports filed by each program  
731 licensee under subsection (1). The report must state the  
732 information in the aggregate so as not to identify data by  
733 specific program licensee and must specify the period to which  
734 the report corresponds. The report must include, but not be  
735 limited to, the following for that period:

736 (a) The number of entities that applied to participate in  
737 the program.

738 (b) The number of entities accepted to participate in the  
739 program.

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

744 (d) The number of program loan applications received by  
745 program licensees participating in the program, the number of  
746 program loans made under the program, the total amount loaned,  
747 the distribution of loan lengths upon origination, and the  
748 distribution of interest rates and principal amounts upon  
749 origination among those program loans.

750 (e) The number of borrowers who obtained more than one  
751 program loan and the distribution of the number of program loans  
752 per borrower.

753 (f) Of the borrowers who obtained more than one program  
754 loan, the percentage of those borrowers whose credit scores

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755 increased between successive loans, based on information from at  
756 least one major credit bureau, and the average size of the  
757 increase.

758 (g) The income distribution of borrowers upon program loan  
759 origination, including the number of borrowers who obtained at  
760 least one program loan and who resided in a low-income or  
761 moderate-income census tract at the time of their loan  
762 applications.

763 (h) The number of borrowers who obtained program loans for  
764 the following purposes, based on borrower responses at the time  
765 of their loan applications indicating the primary purpose for  
766 which the program loan was obtained:

- 767 1. Pay medical expenses.
- 768 2. Pay for vehicle repair or a vehicle purchase.
- 769 3. Pay bills.
- 770 4. Consolidate debt.
- 771 5. Build or repair credit history.
- 772 6. Pay other expenses.

773 (i) The number of borrowers who self-report that they had a  
774 bank account at the time of their loan application and the  
775 number of borrowers who self-report that they did not have a  
776 bank account at the time of their loan application.

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

- 779 1. The number and percentage of borrowers who applied for a  
780 refinance program loan.
- 781 2. Of those borrowers who applied for a refinance program  
782 loan, the number and percentage of borrowers who obtained a  
783 refinance program loan.

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784 (k) The number and type of referral partners used by  
785 program licensees.

786 (l) The number and percentage of borrowers who obtained one  
787 or more program loans on which delinquency charges were  
788 assessed, the total amount of delinquency charges assessed, and  
789 the average delinquency charge assessed by dollar amount and as  
790 a percentage of the principal amount loaned.

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

793 1. The number and percentage of borrowers who experienced  
794 at least one delinquency lasting between 7 and 29 days, and the  
795 distribution of principal loan amounts corresponding to those  
796 delinquencies.

797 2. The number and percentage of borrowers who experienced  
798 at least one delinquency lasting between 30 and 59 days, and the  
799 distribution of principal loan amounts corresponding to those  
800 delinquencies.

801 3. The number and percentage of borrowers who experienced  
802 at least one delinquency lasting 60 days or more, and the  
803 distribution of principal loan amounts corresponding to those  
804 delinquencies.

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

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

809 (p) The number of times that the office disqualified a  
810 referral partner from performing services, barred a referral  
811 partner from performing services at one or more specific  
812 locations of the referral partner, terminated a written

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813 agreement between a referral partner and a program licensee, or  
814 imposed an administrative penalty.

815 (q) The number of complaints received by the office about a  
816 program licensee or a referral partner and the nature of those  
817 complaints.

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

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