

By Senator Rouson

19-00837-18

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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 actions 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 licensure of branch offices of a program licensee;
16 specifying application requirements and fees for a
17 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, limitations, and
21 prohibitions relating to program loans and the
22 refinancing of program loans; authorizing licensees to
23 provide certain documents in the language in which the
24 loan was negotiated; requiring a program licensee to
25 pay for certain translation costs incurred by the
26 office; requiring a program licensee to provide
27 specified disclosures; authorizing a program licensee
28 to contract for and receive a specified origination
29 fee from a borrower on a program loan; specifying

19-00837-18

2018640__

30 methods for collecting the origination fee; specifying
31 limitations on the amount and frequency of the
32 origination fee; authorizing a program licensee to
33 collect specified insufficient funds fees and
34 delinquency charges; providing that program licensees
35 or their wholly owned subsidiaries may not sell or
36 assign unpaid debts to independent third parties for
37 collection purposes unless the debt has been
38 delinquent for a specified timeframe; requiring
39 program licensees to direct borrowers to certain
40 credit counseling services or provide certain credit
41 education to borrowers before disbursing program loan
42 proceeds; requiring program licensees to report
43 borrowers' payment performance to at least one
44 specified consumer reporting agency; defining the term
45 "consumer reporting agency that compiles and maintains
46 files on consumers on a nationwide basis"; prohibiting
47 the office from approving a person for the program
48 before the person is accepted as a data furnisher by a
49 consumer reporting agency; requiring program licensees
50 to provide borrowers with the names of consumer
51 reporting agencies that payment histories are reported
52 to; requiring a program licensee to underwrite each
53 program loan; prohibiting a program licensee from
54 making a program loan under certain circumstances;
55 providing underwriting procedures and requirements;
56 prohibiting a program licensee from requiring certain
57 waivers from a borrower or from certain acts against a
58 borrower who refuses certain waivers; providing

19-00837-18

2018640__

59 applicability and construction; creating s. 516.44,
60 F.S.; requiring arrangements between a program
61 licensee and a referral partner to be specified in a
62 written agreement; providing requirements for such
63 agreement; specifying authorized services of referral
64 partners; providing requirements for a referral
65 partner who accepts program loan payments from a
66 borrower; providing construction; prohibiting referral
67 partners from performing specified activities;
68 requiring a referral partner to provide a specified
69 notice to an applicant for a program loan and certain
70 assistance to the applicant under certain
71 circumstances; specifying requirements, limitations,
72 and prohibitions for the compensation of a referral
73 partner by a program licensee; requiring a program
74 licensee to provide, within a certain timeframe, a
75 specified notice to the office after entering into a
76 contract with a referral partner; requiring a referral
77 partner to provide, within a specified timeframe,
78 written notice to the program licensee of changes to
79 certain information; providing that program licensees
80 are responsible for the acts of referral partners
81 which are in violation of ch. 516, F.S.; requiring a
82 program licensee to pay a specified fee to the office
83 to file a referral partner notice; requiring the
84 Financial Services Commission to adopt rules; creating
85 s. 516.45, F.S.; requiring the office, beginning on a
86 specified date, to examine program licensees at
87 specified intervals; providing an exception; requiring

19-00837-18

2018640__

88 program licensees to pay the cost of examinations;
89 authorizing the office to maintain an action for
90 recovery of such cost; authorizing a method to
91 determine the cost of examinations; providing a
92 limitation to the scope of investigations or
93 examinations; providing that a program licensee is
94 subject to certain disciplinary actions for certain
95 violations; authorizing the office to take certain
96 disciplinary actions; creating s. 516.46, F.S.;

97 requiring a program licensee, beginning on a certain
98 date, to file a specified annual report with the
99 office; requiring the office to post, by a certain
100 date, a report to its website summarizing the use of
101 the program; specifying information to be contained in
102 the office's report; providing for conditional future
103 repeal of the program; providing an effective date.

104
105 Be It Enacted by the Legislature of the State of Florida:

106
107 Section 1. Section 516.40, Florida Statutes, is created to
108 read:

109 516.40 Access to Responsible Credit Pilot Program.—

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

112 (2) The Legislature finds that demand for responsible
113 consumer finance loans in principal amounts of at least \$300 and
114 no more than \$10,000 exceeds the supply of these loans. As a
115 first step toward addressing this gap, the Access to Responsible
116 Credit Pilot Program would allow more Floridians to obtain

19-00837-18

2018640__

117 responsible consumer finance loans of at least \$300 and no more
118 than \$10,000. The pilot program is also intended to assist
119 consumers in building their credit and has additional consumer
120 protections for these loans which exceed current protections
121 under general law.

122 Section 2. Section 516.41, Florida Statutes, is created to
123 read:

124 516.41 Definitions for ss. 516.40-516.46.—As used in ss.
125 516.40-516.46, the term:

126 (1) "Consumer reporting agency" has the same meaning as in
127 s. 603(p) of the Fair Credit Reporting Act, 15 U.S.C. s.
128 1681a(p).

129 (2) "Credit score" has the same meaning as in s.
130 609(f) (2) (A) of the Fair Credit Reporting Act, 15 U.S.C. s.
131 1681g(f) (2) (A).

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

134 (4) "Pilot program" or "program" means the Access to
135 Responsible Credit Pilot Program.

136 (5) "Pilot program license" means a license issued under
137 ss. 516.40-516.46 authorizing a program licensee to make and
138 collect program loans.

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

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

145 (b) At which the program licensee's name, advertising or

19-00837-18

2018640__

146 promotional materials, or signage suggests that program loans
147 are originated, negotiated, funded, or serviced; or

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

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

153 (8) "Program loan" means a consumer finance loan with a
154 principal amount of at least \$300 and no more than \$10,000
155 originated pursuant to ss. 516.40-516.44, excluding the amount
156 of the origination fee authorized under s. 516.43(3).

157 (9) "Referral partner" means an entity that, at the
158 referral partner's physical location for business or through
159 other means, performs one or more of the services authorized in
160 s. 516.44(2) on behalf of a program licensee. A referral partner
161 is not a credit service organization as defined in s. 817.7001
162 or a loan broker as defined in s. 687.14.

163 (10) "Refinance program loan" means a program loan that
164 extends additional principal to a borrower and replaces and
165 revises an existing program loan contract with the borrower. A
166 refinance program loan does not include an extension, a
167 deferral, or a rewrite of the program loan.

168 Section 3. Section 516.42, Florida Statutes, is created to
169 read:

170 516.42 Requirements for program participation; program
171 application requirements; fees.-

172 (1) A person may not advertise, offer, or make a program
173 loan or impose any charges or fees pursuant to s. 516.43 unless
174 the person first obtains a pilot program license from the

19-00837-18

2018640__

175 office.

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

178 1. Be licensed to make consumer finance loans under s.
179 516.05.

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

181 3. Not be subject to the issuance of a cease and desist
182 order; the issuance of a removal order; the denial, suspension,
183 or revocation of a license; or any other action within the
184 authority of the office or other financial regulatory agency in
185 this state.

186 4. Not have a deficiency at the time of the person's
187 application.

188 5. Pay a nonrefundable application fee of \$1,000 to the
189 office at the time of making the application, pursuant to rule
190 of the commission.

191 (b) A program applicant shall file with the office a
192 digital application, in a form and manner prescribed by
193 commission rule, which contains all of the following information
194 with respect to the applicant:

195 1. The legal business name and any other name the applicant
196 operates under.

197 2. The applicant's main address.

198 3. The telephone number and e-mail address of the
199 applicant.

200 4. The address of any program branch office.

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

203 6. The applicant's license number, if the applicant is

19-00837-18

2018640__

204 licensed under this chapter.

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

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

211 9. The signature and certification of an authorized person
212 of the applicant.

213 (3) A person who desires to participate in the program but
214 who is not licensed to make consumer finance loans pursuant to
215 s. 516.05 must concurrently submit the following digital
216 applications to the office, in the form and manner specified in
217 this chapter:

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

220 (b) An application and fee for admission to the program in
221 accordance with subsection (2).

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

225 (5) A program licensee shall pay a nonrefundable biennial
226 renewal fee of \$1,000 pursuant to commission rule.

227 (6) Notwithstanding s. 516.05(3), only one pilot program
228 license is required for a person to make program loans under ss.
229 516.40-516.46, regardless of whether the program licensee offers
230 program loans to prospective borrowers at its own physical
231 business locations, through referral partners, or through an
232 electronic access point through which a prospective borrower may

19-00837-18

2018640__

233 directly access the website of the program licensee.

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

236 (8) The office shall issue a program branch office license
237 to a program licensee after the office determines that the
238 program licensee submitted a completed electronic application
239 for a program branch office license in a form prescribed by
240 commission rule and paid an initial nonrefundable program branch
241 office license fee of \$30 per branch office as prescribed by
242 rule of the commission. Application fees may not be prorated for
243 partial years of licensure. The program branch office license
244 must be issued in the name of the program licensee that
245 maintains the branch office. An application is considered
246 received for purposes of s. 120.60 upon receipt of a completed
247 application form and the required fees. The application for a
248 program branch office license must contain the following
249 information:

250 (a) The legal business name and any other name the
251 applicant operates under.

252 (b) The applicant's main address.

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

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

255 (e) The name, title, address, telephone number, and e-mail
256 address of the contact person for the applicant.

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

259 (g) The signature and certification of an authorized person
260 of the applicant.

261 (9) A program branch office license must be renewed

19-00837-18

2018640__

262 biennially at the time of program license renewal under
263 subsection (5). A nonrefundable branch renewal fee of \$30 per
264 program branch office, by commission rule, must be submitted at
265 the time of renewal.

266 Section 4. Section 516.43, Florida Statutes, is created to
267 read:

268 516.43 Requirements for program loans.-

269 (1) GENERAL REQUIREMENTS.-A program licensee shall comply
270 with each of the following requirements in making program loans:

271 (a) A program loan must be unsecured.

272 (b) A program loan must have a minimum term of 120 days and
273 a maximum term of 60 months, but it may not impose a prepayment
274 penalty.

275 (c) A program loan must be repayable by the borrower in
276 substantially equal periodic installments, except that the final
277 payment may be less than the amount of the prior installments.
278 Installments may be due every 2 weeks, semimonthly, or monthly.

279 (d) A program loan must include a borrower's right to
280 rescind the program loan by notifying the program licensee of
281 the borrower's intent to rescind the program loan and return the
282 principal advanced by the end of the business day after the day
283 the program loan is consummated.

284 (e) Notwithstanding s. 516.031, the maximum annual interest
285 rate that may be charged on a program loan to the borrower on
286 that portion of the unpaid principal balance of the program
287 loan:

288 1. Up to and including \$3,000 is 36 percent.

289 2. Over \$3,000, and up to and including \$4,000, is 30
290 percent.

19-00837-18

2018640__

291 3. Over \$4,000, and up to and including \$10,000, is 24
292 percent.

293
294 The original principal amount of the program loan is equal to
295 the amount financed as defined by the federal Truth in Lending
296 Act and Regulation Z of the federal Consumer Financial
297 Protection Bureau. In determining compliance with the statutory
298 maximum interest rates in this paragraph, the computations used
299 must be simple interest, through the application of a daily
300 periodic rate to the actual unpaid principal balance each day,
301 and may not be add-on interest or any other computations.

302 (f) If two or more interest rates are applied to the
303 principal amount of a program loan, the licensee may charge,
304 contract for, and receive interest at that single annual
305 percentage rate that, if applied according to the actuarial
306 method to each of the scheduled periodic balances of principal,
307 would produce at maturity the same total amount of interest as
308 would result from the application of the two or more rates
309 otherwise permitted, based upon the assumption that all payments
310 are made as agreed.

311 (g) The program licensee must reduce the rate on each
312 subsequent program loan to the same borrower by a minimum of
313 one-twelfth of 1 percent per month, if all of the following
314 conditions are met:

315 1. The subsequent program loan is originated no more than
316 180 days after the prior program loan is fully repaid.

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

319 3. The prior program loan was outstanding for at least one-

19-00837-18

2018640__

320 half of its original term before its repayment.

321 (h) A program licensee may not induce or permit any person
322 to become obligated to the program licensee, directly or
323 contingently, or both, under more than one program loan at the
324 same time with the program licensee.

325 (i) A program licensee may not refinance a program loan
326 unless all of the following conditions are met at the time the
327 borrower submits an application to refinance:

328 1. The principal amount payable does not include more than
329 60 days of unpaid interest accrued on the previous program loan
330 in accordance with s. 516.031(5);

331 2. For program loans with an original term of less than 25
332 months, the borrower has repaid at least 60 percent of the
333 outstanding principal remaining on his or her existing program
334 loan;

335 3. For program loans with an original term of greater than
336 25 months but no more than 60 months, the borrower has made
337 current payments for at least 9 months on his or her program
338 loan;

339 4. The borrower is current on his or her outstanding
340 program loan; and

341 5. The program licensee has underwritten the new program
342 loan in accordance with subsection (7).

343 (j) In lieu of the provisions of s. 687.08, a program
344 licensee or, if applicable, its approved referral partner shall
345 make available to the borrower by either electronic or physical
346 means a plain and complete receipt of payment at the time that a
347 payment is made by the borrower. For audit purposes, a program
348 licensee shall maintain an electronic record for each receipt

19-00837-18

2018640__

349 made available to a borrower, which must include a copy of the
350 receipt and the date and time that the receipt was generated.

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

352 1. The name of the borrower.

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

354 3. The total payment amount received.

355 4. The date of payment.

356 5. The program loan balance before and after application of
357 the payment.

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

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

361 8. The following statement, prominently displayed in a type
362 size equal to or greater than the type size used to display the
363 other items on the receipt: "If you have any questions about
364 your loan now or in the future, you should direct those
365 questions to ...(name of program licensee)... by ...(at least
366 two different ways in which a borrower may contact the program
367 licensee)...."

368 (2) WRITTEN DISCLOSURES.—

369 (a) Notwithstanding s. 516.15(1), the loan contract and all
370 written disclosures and statements may be provided in English or
371 in the language in which the loan is negotiated. A program
372 licensee shall pay for any translation costs incurred by the
373 office.

374 (b) A program licensee shall provide those disclosures
375 required of all licensees in s. 516.15.

376 (3) ORIGINATION FEES.—

377 (a) Notwithstanding s. 516.031, a program licensee may

19-00837-18

2018640__

378 contract for and receive an origination fee from a borrower on a
379 program loan. The program licensee may either deduct the
380 origination fee from the principal amount of the loan disbursed
381 to the borrower or capitalize the origination fee into the
382 principal balance of the loan. The origination fee is fully
383 earned and nonrefundable immediately upon the making of the
384 program loan and may not exceed the lesser of 6 percent of the
385 principal amount of the program loan made to the borrower,
386 exclusive of the origination fee, or \$75.

387 (b) A program licensee may not charge a borrower an
388 origination fee more than twice in any 12-month period.

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

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

395 (b) Notwithstanding s. 516.031(3)(a)9., contract for and
396 receive a delinquency charge of up to \$15 for each calendar
397 month for each payment in default for at least 10 days, if the
398 charge is agreed upon in writing between the parties before it
399 is imposed.

400
401 The program licensee, or any wholly owned subsidiary of the
402 program licensee, may not sell or assign an unpaid debt to an
403 independent third party for collection purposes unless the debt
404 has been delinquent for at least 30 days.

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

19-00837-18

2018640__

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

409 (b) Provide a credit education program or materials to the
410 borrower. A borrower is not required to participate in any of
411 these education programs or seminars. A credit education program
412 or seminar offered pursuant to this subsection must be provided
413 at no cost to the borrower.

414 (6) CREDIT REPORTING.—

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

422 (b) The office may not approve a person for the program
423 before the person has been accepted as a data furnisher by a
424 consumer reporting agency.

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

428 (7) PROGRAM LOAN UNDERWRITING.—

429 (a) The program licensee shall underwrite each program loan
430 to determine a borrower's ability and willingness to repay the
431 program loan pursuant to the program loan terms. The program
432 licensee may not make a program loan if it determines that the
433 borrower's total monthly debt service payments at the time of
434 origination, including the program loan for which the borrower
435 is being considered and all outstanding forms of credit that can

19-00837-18

2018640__

436 be independently verified by the program licensee, exceed 35
437 percent of the borrower's gross monthly income.

438 (b)1. The program licensee shall seek information and
439 documentation pertaining to all of a borrower's outstanding debt
440 obligations during the loan application and underwriting
441 process, including loans that are self-reported by the borrower
442 but not available through independent verification. The program
443 licensee shall verify such information using a credit report
444 from at least one consumer reporting agency that compiles and
445 maintains files on consumers on a nationwide basis or through
446 other available electronic debt verification services that
447 provide reliable evidence of a borrower's outstanding debt
448 obligations.

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

452 (c) The program licensee shall also verify the borrower's
453 income in determining the debt-to-income ratio using information
454 from:

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

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

461 (8) PROVISIONS ON WAIVERS.-

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

464 1. Waive any right, penalty, remedy, forum, or procedure

19-00837-18

2018640__

465 provided for in any law applicable to the program loan,
466 including the right to file and pursue a civil action or file a
467 complaint with or otherwise communicate with the office, any
468 court, or other governmental entity.

469 2. Agree to the application of laws other than those of
470 this state.

471 3. Agree to resolve disputes in a jurisdiction outside of
472 this state.

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

476 (c) A program licensee may not refuse to do business with
477 or discriminate against a borrower or an applicant on the basis
478 of the borrower's or applicant's refusal to waive any right,
479 penalty, remedy, forum, or procedure, including the right to
480 file and pursue a civil action or complaint with, or otherwise
481 notify, the office, a court, or any other governmental entity.
482 The exercise of a person's right to refuse to waive any right,
483 penalty, remedy, forum, or procedure, including a rejection of a
484 contract requiring a waiver, does not affect any otherwise legal
485 terms of a contract or an agreement.

486 (d) This subsection does not apply to any agreement to
487 waive any right, penalty, remedy, forum, or procedure, including
488 any agreement to arbitrate a claim or dispute, after a claim or
489 dispute has arisen. This subsection does not affect the
490 enforceability or validity of any other provision of the
491 contract.

492 Section 5. Section 516.44, Florida Statutes, is created to
493 read:

19-00837-18

2018640__

494 516.44 Referral partners.—

495 (1) REFERRAL PARTNER AGREEMENT.—All arrangements between a
496 program licensee and a referral partner must be specified in a
497 written referral partner agreement between the parties. The
498 agreement must contain a provision that the referral partner
499 agrees to comply with this section and all rules adopted under
500 this section regarding the activities of referral partners, and
501 that the office has access to the referral partner's books and
502 records pertaining to the referral partner's operations under
503 the agreement with the program licensee in accordance with s.
504 516.45(4) and the office may examine the referral partner
505 pursuant to s. 516.45.

506 (2) AUTHORIZED SERVICES.—A program licensee may use the
507 services of one or more referral partners as provided in this
508 section. A referral partner may perform one or more of the
509 following services for a program licensee:

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

516 (b) Providing written factual information about program
517 loan terms, conditions, or qualification requirements to a
518 prospective borrower which has been prepared by the program
519 licensee or reviewed and approved in writing by the program
520 licensee. A referral partner may discuss the information with a
521 prospective borrower in general terms.

522 (c) Notifying a prospective borrower of the information

19-00837-18

2018640__

523 needed in order to complete a program loan application.

524 (d) Entering information provided by the prospective
525 borrower on a preprinted or an electronic application form or in
526 a preformatted computer database.

527 (e) Assembling credit applications and other materials
528 obtained in the course of a credit application transaction for
529 submission to the program licensee.

530 (f) Contacting the program licensee to determine the status
531 of a program loan application.

532 (g) Communicating a response that is returned by the
533 program licensee's automated underwriting system to a borrower
534 or a prospective borrower.

535 (h) Obtaining a borrower's signature on documents prepared
536 by the program licensee and delivering final copies of the
537 documents to the borrower.

538 (i) Disbursing program loan proceeds to a borrower if this
539 method of disbursement is acceptable to the borrower, subject to
540 the requirements of subsection (3). A loan disbursement made by
541 a referral partner under this paragraph is deemed to be made by
542 the program licensee on the date that the funds are disbursed or
543 otherwise made available by the referral partner to the
544 borrower.

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

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

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

19-00837-18

2018640__

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

556 (b) A referral partner that receives loan payments must
557 deliver or cause to be delivered to the borrower a plain and
558 complete receipt showing all of the information specified in s.
559 516.43(1) (j) at the time that the payment is made by the
560 borrower.

561 (c) A borrower who submits a loan payment to a referral
562 partner under this subsection is not liable for a failure or
563 delay by the referral partner in transmitting the payment to the
564 program licensee.

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

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

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

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

576 (c) Negotiating a loan term between a program licensee and
577 a prospective borrower.

578 (d) Offering information pertaining to a single prospective
579 borrower to more than one program licensee. However, if a
580 program licensee has declined to offer a program loan to a

19-00837-18

2018640__

581 prospective borrower and has so notified the prospective
582 borrower in writing, the referral partner may then offer
583 information pertaining to that borrower to another program
584 licensee with whom it has a referral partner agreement.

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

589 (5) DISCLOSURE NOTICE AND COMMUNICATION.-

590 (a) At the time the referral partner receives or processes
591 an application for a program loan, the referral partner shall
592 provide the following statement to the applicant on behalf of
593 the program licensee, in no smaller than 10-point type, and
594 shall request that the applicant acknowledge receipt of the
595 statement in writing:

596
597 Your loan application has been referred to us by
598 ...(name of referral partner).... We may pay a fee to
599 ...(name of referral partner)... for the successful
600 referral of your loan application. If you are approved
601 for the loan, ...(name of program licensee)... will
602 become your lender. If you have any questions about
603 your loan, now or in the future, you should direct
604 those questions to ...(name of program licensee)... by
605 ...(insert at least two different ways in which a
606 borrower may contact the program licensee).... If you
607 wish to report a complaint about ...(name of referral
608 partner)... or ...(name of program licensee)...
609 regarding this loan transaction, you may contact the

19-00837-18

2018640__

610 Division of Consumer Finance of the Office of
611 Financial Regulation at 850-487-9687 or
612 <http://www.flofr.com>.
613

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

619 (6) COMPENSATION.—

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

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

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

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

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

635 4. Subject to the limitations specified in subparagraphs
636 1., 2., and 3., the total compensation paid by a program
637 licensee to a referral partner for the services specified in
638 subsection (2) may not exceed the sum of:

19-00837-18

2018640__

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

643 b. Two dollars per payment received by the referral partner
644 on behalf of the program licensee for the duration of a program
645 loan, if the referral partner receives borrower loan payments on
646 the program licensee's behalf in accordance with subsection (3).

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

650 (c) A program licensee or a referral partner may not pass
651 on to a borrower, whether directly or indirectly, any additional
652 cost or other charge for compensation paid to a referral partner
653 under this program.

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

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

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

665 (c) The name and contact information of one or more
666 employees of the referral partner who are responsible for that
667 referral partner's referring activities on behalf of the program

19-00837-18

2018640__

668 licensee.

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

672 1. The filing of a petition under the United States
673 Bankruptcy Code for bankruptcy or reorganization by the referral
674 partner.

675 2. The commencement of an administrative or judicial
676 license suspension or revocation proceeding, or the denial of a
677 license request or renewal, by any state, the District of
678 Columbia, any United States territory, or any foreign country in
679 which the referral partner operates, plans to operate, or is
680 licensed to operate.

681 3. A felony indictment involving the referral partner or an
682 affiliated party.

683 4. A felony conviction, guilty plea, or plea of nolo
684 contendere, regardless of adjudication, of the referral partner
685 or an affiliated party.

686 5. Any suspected criminal act perpetrated in this state
687 relating to activities regulated under this chapter by the
688 referral partner.

689 6. Notification by a law enforcement or prosecutorial
690 agency that the referral partner is under criminal investigation
691 which includes, but is not limited to, subpoenas to produce
692 records or testimony and warrants issued by a court of competent
693 jurisdiction which authorize the search and seizure of any
694 records relating to a business activity regulated under this
695 chapter.

696

19-00837-18

2018640

697 As used in this paragraph, the term "affiliated party" means a
698 director, an officer, a responsible person, an employee, or a
699 foreign affiliate of a referral partner; or a person who has a
700 controlling interest in a referral partner.

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

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

709 (9) RESPONSIBILITY FOR ACTS OF A REFERRAL PARTNER.—A
710 program licensee is responsible for any act of its referral
711 partner if the act is a violation of this chapter.

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

716 Section 6. Section 516.45, Florida Statutes, is created to
717 read:

718 516.45 Examinations; disciplinary actions.—

719 (1) Notwithstanding any other law, commencing on January 1,
720 2019, the office shall examine each program licensee that is
721 accepted into the program in accordance with this chapter at
722 least once every 24 months.

723 (2) Notwithstanding subsection (1), the office may waive
724 one or more branch office examinations if the office finds that
725 such examinations are not necessary for the protection of the

19-00837-18

2018640__

726 public due to the centralized operations of the program licensee
727 or other factors acceptable to the office.

728 (3) The examined program licensee shall pay for the cost of
729 an examination to the office, pursuant to commission rule, and
730 the office may maintain an action for the recovery of the cost
731 in any court of competent jurisdiction. In determining the cost
732 of the examination, the office may use the estimated average
733 hourly cost for all persons performing examinations of program
734 licensees or other persons subject to ss. 516.40-516.46 for the
735 fiscal year.

736 (4) The scope of any investigation or examination of a
737 program licensee or referral partner must be limited to those
738 books, accounts, records, documents, materials, and matters
739 reasonably necessary to determine compliance with this chapter.

740 (5) A program licensee who violates any applicable
741 provision of this chapter is subject to disciplinary action
742 pursuant to s. 516.07(2). Any such disciplinary action is
743 subject to s. 120.60. A program licensee is also subject to
744 disciplinary action for a violation of s. 516.44 committed by
745 any of its referral partners.

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

748 (a) Disqualify the referral partner from performing
749 services under this chapter;

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

752 (c) Terminate a written agreement between a referral
753 partner and a program licensee;

754 (d) Impose an administrative fine not to exceed \$1,000 for

19-00837-18

2018640__

755 each such act of the referral partner; and

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

758 Section 7. Section 516.46, Florida Statutes, is created to
759 read:

760 516.46 Annual reports; reports by the office.—

761 (1) Beginning in 2020, on or before March 15 of each year,
762 a program licensee shall file a report with the office on each
763 of the items specified in subsection (2), on a form and in a
764 manner as prescribed by commission rule, which contains
765 aggregated or anonymized data without reference to any
766 borrower's nonpublic personal information or any proprietary or
767 trade secret information of the program licensee.

768 (2) On or before January 1, 2021, the office shall post a
769 report on its website summarizing the use of the program based
770 on the information contained in reports filed by each program
771 licensee under subsection (1). The report must state the
772 information in the aggregate so as not to identify data by
773 specific program licensee and must specify the period to which
774 the report corresponds. The report must include, but not be
775 limited to, the following for that period:

776 (a) The number of entities that applied to participate in
777 the program.

778 (b) The number of entities accepted to participate in the
779 program.

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

19-00837-18

2018640__

784 (d) The number of program loan applications received by
785 program licensees participating in the program, the number of
786 program loans made under the program, the total amount loaned,
787 the distribution of loan lengths upon origination, and the
788 distribution of interest rates and principal amounts upon
789 origination among those program loans.

790 (e) The number of borrowers who obtained more than one
791 program loan and the distribution of the number of program loans
792 per borrower.

793 (f) Of the borrowers who obtained more than one program
794 loan, the percentage of those borrowers whose credit scores
795 increased between successive loans, based on information from at
796 least one major credit bureau, and the average size of the
797 increase.

798 (g) The income distribution of borrowers upon program loan
799 origination, including the number of borrowers who obtained at
800 least one program loan and who resided in a low-income or
801 moderate-income census tract at the time of their loan
802 applications.

803 (h) The number of borrowers who obtained program loans for
804 the following purposes, based on borrower responses at the time
805 of their loan applications indicating the primary purpose for
806 which the program loan was obtained:

- 807 1. Pay medical expenses.
- 808 2. Pay for vehicle repair or a vehicle purchase.
- 809 3. Pay bills.
- 810 4. Consolidate debt.
- 811 5. Build or repair credit history.
- 812 6. Pay other expenses.

19-00837-18

2018640__

813 (i) The number of borrowers who self-report that they had a
814 bank account at the time of their loan application and the
815 number of borrowers who self-report that they did not have a
816 bank account at the time of their loan application.

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

819 1. The number and percentage of borrowers who applied for a
820 refinance program loan.

821 2. Of those borrowers who applied for a refinance program
822 loan, the number and percentage of borrowers who obtained a
823 refinance program loan.

824 (k) The number and type of referral partners used by
825 program licensees.

826 (l) The number and percentage of borrowers who obtained one
827 or more program loans on which delinquency charges were
828 assessed, the total amount of delinquency charges assessed, and
829 the average delinquency charge assessed by dollar amount and as
830 a percentage of the principal amount loaned.

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

833 1. The number and percentage of borrowers who experienced
834 at least one delinquency lasting between 7 and 29 days, and the
835 distribution of principal loan amounts corresponding to those
836 delinquencies.

837 2. The number and percentage of borrowers who experienced
838 at least one delinquency lasting between 30 and 59 days, and the
839 distribution of principal loan amounts corresponding to those
840 delinquencies.

841 3. The number and percentage of borrowers who experienced

19-00837-18

2018640__

842 at least one delinquency lasting 60 days or more, and the
843 distribution of principal loan amounts corresponding to those
844 delinquencies.

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

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

849 (p) The number of times that the office disqualified a
850 referral partner from performing services, barred a referral
851 partner from performing services at one or more specific
852 locations of the referral partner, terminated a written
853 agreement between a referral partner and a program licensee, or
854 imposed an administrative penalty.

855 (q) The number of complaints received by the office about a
856 program licensee or a referral partner and the nature of those
857 complaints.

858 Section 8. Sections 516.40-516.46, Florida Statutes, are
859 repealed on December 31, 2023, unless reenacted or superseded by
860 another law enacted by the Legislature before that date.

861 Section 9. This act shall take effect October 1, 2018.