

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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WITHDRAWN	_____	(Y/N)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

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1 Committee/Subcommittee hearing bill: Commerce Committee  
 2 Representative Fernandez-Barquin offered the following:

**Amendment (with title amendment)**

Remove everything after the enacting clause and insert:

Section 1. Section 516.405, Florida Statutes, is created to read:

516.405 Access to Responsible Credit Pilot Program.—

9 (1) The Access to Responsible Credit Pilot Program is  
 10 created within the Office of Financial Regulation to allow more  
 11 Floridians to obtain responsible consumer finance loans in  
 12 principal amounts of at least \$300, but not more than \$7,500.

13 (2) The pilot program is intended to assist consumers in  
 14 building their credit and to provide additional consumer  
 15 protections for these loans that exceed current protections  
 16 under general law.

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17 Section 2. Section 516.41, Florida Statutes, is created to  
18 read:

19 516.41 Definitions.—As used in ss. 516.405-516.46, the  
20 term:

21 (1) "Access partner" means an entity that, at one or more  
22 physical business locations owned or rented by the entity,  
23 performs one or more of the services authorized in s. 516.44(2)  
24 on behalf of a program licensee. The term does not include a  
25 credit service organization as defined in s. 817.7001 or a loan  
26 broker as defined in s. 687.14.

27 (2) "Consumer reporting agency" has the same meaning as  
28 the term "consumer reporting agency that compiles and maintains  
29 files on consumers on a nationwide basis" in the Fair Credit  
30 Reporting Act, 15 U.S.C. s. 1681a(p).

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

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

35 (5) "Pilot program" or "program" means the Access to  
36 Responsible Credit Pilot Program.

37 (6) "Pilot program license" or "program license" means a  
38 license issued under ss. 516.405-516.46 authorizing a program  
39 licensee to make and collect program loans.

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40 (7) "Program branch office license" means a license issued  
41 under the program for each location, other than a program  
42 licensee's or access partner's principal place of business:

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

46 (b) At which the program licensee's name, advertising or  
47 promotional materials, or signage suggests that program loans  
48 are originated, negotiated, funded, or serviced by the program  
49 licensee; or

50 (c) At which program loans are originated, negotiated,  
51 funded, or serviced by the program licensee.

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

55 (9) "Program loan" means a consumer finance loan with a  
56 principal amount of at least \$300, but not more than \$7,500,  
57 originated pursuant to ss. 516.405-516.46, excluding the amount  
58 of the origination fee authorized under s. 516.43(3).

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

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

66 516.42 Requirements for program participation; program  
67 application requirements.-

68 (1) A person may not advertise, offer, or make a program  
69 loan, or impose any charges or fees pursuant to s. 516.43,  
70 unless the person obtains a pilot program license from the  
71 office.

72 (2) In order to obtain a pilot program license, a person  
73 must:

74 (a)1. Be licensed to make and collect consumer finance  
75 loans under s. 516.05; or

76 2. Submit the application for the license required in s.  
77 516.05 concurrently with the application for the program  
78 license, both of which must be approved by the office.

79 (b) Be accepted as a data furnisher by a consumer  
80 reporting agency.

81 (c) Not be the subject of any insolvency proceeding or a  
82 pending criminal prosecution.

83 (d) Not be subject to the issuance of a cease and desist  
84 order; the issuance of a removal order; the denial, suspension,  
85 or revocation of a license; or any other action within the  
86 authority of the office, any financial regulatory agency in this  
87 state, or any other state or federal regulatory agency that

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88 affects the ability of such person to participate in the  
89 program.

90 (3) (a) A program applicant must file with the office a  
91 digital application, in a form and manner prescribed by  
92 commission rule, which contains all of the following information  
93 with respect to the applicant:

94 1. The legal business name and any other name under which  
95 the applicant operates.

96 2. The applicant's main address.

97 3. The applicant's telephone number and e-mail address.

98 4. The address of each program branch office.

99 5. The name, title, address, telephone number, and e-mail  
100 address of the applicant's contact person.

101 6. The license number, if the applicant is licensed under  
102 s. 516.05.

103 7. A statement as to whether the applicant intends to use  
104 the services of one or more access partners under s. 516.44.

105 8. A statement that the applicant has been accepted as a  
106 data furnisher by a consumer reporting agency and will report to  
107 a consumer reporting agency the payment performance of each  
108 borrower on all program loans.

109 9. The signature and certification of an authorized person  
110 of the applicant.

111 (b) A person who desires to participate in the program but  
112 who is not licensed to make consumer finance loans pursuant to

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113 s. 516.05 must concurrently submit the following digital  
114 applications to the office, in a form and manner specified in  
115 this chapter:

116 1. An application pursuant to s. 516.03 for licensure to  
117 make consumer finance loans.

118 2. An application for admission to the program in  
119 accordance with paragraph (a).

120 (4) Except as otherwise provided in ss. 516.405-516.46, a  
121 program licensee is subject to all the laws and rules governing  
122 consumer finance loans under this chapter. A program license  
123 must be renewed biennially.

124 (5) Notwithstanding s. 516.05(3), only one program license  
125 is required for a person to make program loans under ss.  
126 516.405-516.46, regardless of whether the program licensee  
127 offers program loans to prospective borrowers at its own  
128 physical business locations, through access partners, or via an  
129 electronic access point through which a prospective borrower may  
130 directly access the website of the program licensee.

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

133 (7) The office shall issue a program branch office license  
134 to a program licensee after the office determines that the  
135 program licensee has submitted a completed electronic  
136 application for a program branch office license in a form  
137 prescribed by commission rule. The program branch office license

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138 must be issued in the name of the program licensee that  
139 maintains the branch office. An application is considered  
140 received for purposes of s. 120.60 upon receipt of a completed  
141 application form. The application for a program branch office  
142 license must contain the following information:

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

145 (b) The applicant's main address.

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

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

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

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

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

154 (8) Except as provided in subsection (9), a program branch  
155 office license must be renewed biennially at the time of  
156 renewing the program license.

157 (9) Notwithstanding subsection (7), the office may deny an  
158 initial or renewal application for a program license or program  
159 branch office license if the applicant or any person with power  
160 to direct the management or policies of the applicant's business  
161 is:

162 (a) The subject of any insolvency proceeding;

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163 (b) The subject of a pending criminal prosecution in any  
164 jurisdiction until conclusion of such criminal prosecution; or

165 (c) Subject to the issuance of a cease and desist order;  
166 the issuance of a removal order; the denial, suspension, or  
167 revocation of a license; or any other action within the  
168 authority of the office, any financial regulatory agency in this  
169 state, or any other state or federal regulatory agency that  
170 affects the applicant's ability to participate in the program.

171 (10) The commission shall adopt rules to implement this  
172 section.

173 Section 4. Section 516.43, Florida Statutes, is created to  
174 read:

175 516.43 Requirements for program loans.—

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

178 (a) A program loan must be unsecured.

179 (b) A program loan must have a term of:

180 1. At least 120 days, but not more than 60 months, for a  
181 loan with a principal balance upon origination of at least \$300,  
182 but not more than \$3,000.

183 2. At least 12 months, but not more than 60 months, for a  
184 loan with a principal balance upon origination of more than  
185 \$3,000.

186 (c) A borrower may not receive a program loan for a  
187 principal balance exceeding \$5,000 unless:



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188 1. The borrower has paid in full the outstanding  
189 principal, interest, and fees on a program loan;

190 2. The borrower's credit score increased from the time of  
191 application for the borrower's first consummated program loan;  
192 and

193 3. The borrower was never delinquent for more than 7 days  
194 on the program loan.

195 (d) A program loan must not impose a prepayment penalty. A  
196 program loan must be repayable by the borrower in substantially  
197 equal, periodic installments, except that the final payment may  
198 be less than the amount of the prior installments. Installments  
199 must be due every 2 weeks, semimonthly, or monthly.

200 (e) A program loan must include a borrower's right to  
201 rescind the program loan by notifying the program licensee of  
202 the borrower's intent to rescind the program loan and returning  
203 the principal advanced by the end of the business day after the  
204 day the program loan is consummated.

205 (f) Notwithstanding s. 516.031, the maximum annual  
206 interest rate charged on a program loan to the borrower, which  
207 must be fixed for the duration of the program loan, is 36  
208 percent on that portion of the unpaid principal balance up to  
209 and including \$3,000, 30 percent on that portion of the unpaid  
210 principal balance exceeding \$3,000 and up to and including  
211 \$4,000, and 24 percent on that portion of the unpaid principal  
212 balance exceeding \$4,000 and up to and including \$7,500. The

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213 original principal amount of the program loan is equal to the  
214 amount financed as defined by the federal Truth in Lending Act  
215 and Regulation Z of the Board of Governors of the Federal  
216 Reserve System. In determining compliance with the maximum  
217 annual interest rates in this paragraph, the computations used  
218 must be simple interest through the application of a daily  
219 periodic rate to the actual unpaid principal balance each day  
220 and may not be added-on interest or any other computations.

221 (g) If two or more interest rates are applied to the  
222 principal amount of a program loan, the program licensee may  
223 charge, contract for, and receive interest at that single annual  
224 percentage rate that, if applied according to the actuarial  
225 method to each of the scheduled periodic balances of principal,  
226 would produce at maturity the same total amount of interest as  
227 would result from the application of the two or more rates  
228 otherwise permitted, based upon the assumption that all payments  
229 are made as agreed.

230 (h) The program licensee shall reduce the interest rates  
231 specified in paragraph (f) on each subsequent program loan to  
232 the same borrower by a minimum of 1 percent, up to a maximum of  
233 6 percent, if all of the following conditions are met:

234 1. The subsequent program loan is originated within 180  
235 days after the prior program loan is fully repaid.

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

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

240 (i) The program licensee may not permit any person to  
241 become obligated to the program licensee, directly or  
242 contingently, or both, under more than one program loan from the  
243 program licensee at the same time.

244 (j) The program licensee may not refinance a program loan  
245 unless all of the following conditions are met at the time the  
246 borrower submits an application to refinance:

247 1. The principal amount payable may not include more than  
248 60 days' unpaid interest accrued on the previous program loan  
249 pursuant to s. 516.031(5).

250 2. For a program loan with an original term up to and  
251 including 25 months, the borrower has repaid at least 60 percent  
252 of the outstanding principal remaining on his or her existing  
253 program loan.

254 3. For a program loan with an original term of more than  
255 25 months, but not more than 60 months, the borrower has made  
256 current payments for at least 9 months on his or her existing  
257 program loan.

258 4. The borrower is current on payments for his or her  
259 existing program loan.

260 5. The program licensee must underwrite the new program  
261 loan in accordance with subsection (7).

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262        (k) In lieu of the provisions of s. 687.08, the program  
263 licensee or, if applicable, its approved access partner shall  
264 make available to the borrower by electronic or physical means a  
265 plain and complete receipt of payment at the time that a payment  
266 is made by the borrower. For audit purposes, the program  
267 licensee must maintain an electronic record for each receipt  
268 made available to a borrower, which must include a copy of the  
269 receipt and the date and time that the receipt was generated.  
270 Each receipt made available to the borrower must show all of the  
271 following:

- 272            1. The name of the borrower.
- 273            2. The name of the access partner, if applicable.
- 274            3. The total payment amount received.
- 275            4. The date of payment.
- 276            5. The program loan balance before and after application  
277 of the payment.
- 278            6. The amount of the payment that was applied to the  
279 principal, interest, and fees.
- 280            7. The type of payment made by the borrower.
- 281            8. The following statement, prominently displayed in a  
282 type size equal to or larger than the type size used to display  
283 the other items on the receipt: "If you have any questions about  
284 your loan now or in the future, you should direct those  
285 questions to ...(name of program licensee)... by ...(at least

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286 two different ways in which a borrower may contact the program  
287 licensee)...."

288 (2) WRITTEN DISCLOSURES AND STATEMENTS.-

289 (a) Notwithstanding s. 516.15(1), the loan contract and  
290 all written disclosures and statements may be provided by a  
291 program licensee to a borrower in English or in the language in  
292 which the loan is negotiated.

293 (b) The program licensee shall provide to a borrower all  
294 the statements required of licensees under s. 516.15.

295 (3) ORIGINATION FEES.-Notwithstanding s. 516.031, a  
296 program licensee may:

297 (a) Contract for and receive an origination fee from a  
298 borrower on a program loan. The program licensee may either  
299 deduct the origination fee from the principal amount of the loan  
300 disbursed to the borrower or capitalize the origination fee into  
301 the principal balance of the loan. The origination fee is fully  
302 earned and nonrefundable immediately upon the making of the  
303 program loan and may not exceed the lesser of 6 percent of the  
304 principal amount of the program loan made to the borrower,  
305 exclusive of the origination fee, or \$90.

306 (b) Not charge a borrower an origination fee more than  
307 twice in any 12-month period.

308 (4) INSUFFICIENT FUNDS FEES AND DELINQUENCY CHARGES.-A  
309 program licensee may:

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310 (a) Notwithstanding s. 516.031, require payment from a  
311 borrower of no more than \$20 for fees incurred by the program  
312 licensee from a dishonored payment due to insufficient funds of  
313 the borrower.

314 (b) Notwithstanding s. 516.031(3)(a)9., contract for and  
315 receive a delinquency charge for each payment in default for at  
316 least 7 days if the charge is agreed upon, in writing, between  
317 the program licensee and the borrower before it is imposed.

318 Delinquency charges may be imposed as follows:

319 1. For payments due monthly, the delinquency charge for a  
320 payment in default may not exceed \$15.

321 2. For payments due semimonthly, the delinquency charge  
322 for a payment in default may not exceed \$7.50.

323 3. For payments due every 2 weeks, the delinquency charge  
324 for a payment in default may not exceed \$7.50 if two payments  
325 are due within the same calendar month, and may not exceed \$5 if  
326 three payments are due within the same calendar month.

327  
328 The program licensee, or any wholly owned subsidiary of the  
329 program licensee, may not sell or assign an unpaid debt to a  
330 third party for collection purposes unless the debt has been  
331 delinquent for at least 30 days.

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

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

336 (b) Provide a credit education program or seminar to the  
337 borrower. The borrower is not required to participate in such  
338 education program or seminar. A credit education program or  
339 seminar offered pursuant to this paragraph must be provided at  
340 no cost to the borrower.

341 (6) CREDIT REPORTING.-

342 (a) The program licensee shall report each borrower's  
343 payment performance to at least one consumer reporting agency.

344 (b) The office may not approve an applicant for the  
345 program license before the applicant has been accepted as a data  
346 furnisher by a consumer reporting agency.

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

350 (7) PROGRAM LOAN UNDERWRITING.-

351 (a) The program licensee must underwrite each program loan  
352 to determine a borrower's ability and willingness to repay the  
353 program loan pursuant to the program loan terms. The program  
354 licensee may not make a program loan if it determines that the  
355 borrower's total monthly debt service payments at the time of  
356 origination, including the program loan for which the borrower  
357 is being considered and all outstanding forms of credit that can  
358 be independently verified by the program licensee, exceed 50

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359 percent of the borrower's gross monthly income for a loan of not  
360 more than \$3,000, or exceed 36 percent of the borrower's gross  
361 monthly income for a loan of more than \$3,000.

362 (b)1. The program licensee must seek information and  
363 documentation pertaining to all of a borrower's outstanding debt  
364 obligations during the loan application and underwriting  
365 process, including loans that are self-reported by the borrower  
366 but not available through independent verification. The program  
367 licensee must verify such information using a credit report from  
368 at least one consumer reporting agency or through other  
369 available electronic debt verification services that provide  
370 reliable evidence of a borrower's outstanding debt obligations.

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

374 (c) The program licensee must verify the borrower's income  
375 to determine the debt-to-income ratio using information from:

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

378 2. The Internal Revenue Service Form W-2, tax returns,  
379 payroll receipts, bank statements, or other third-party  
380 documents that provide reasonably reliable evidence of the  
381 borrower's actual income.

382 (8) WAIVERS.—



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

385 1. Waive any right, penalty, remedy, forum, or procedure  
386 provided for in any law applicable to the program loan,  
387 including the right to file and pursue a civil action or file a  
388 complaint with or otherwise communicate with the office, a  
389 court, or any other governmental entity.

390 2. Agree to the application of laws other than those of  
391 this state.

392 3. Agree to resolve disputes in a jurisdiction outside of  
393 this state.

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

397 (c) A program licensee may not refuse to do business with  
398 or discriminate against a borrower or an applicant on the basis  
399 of the borrower's or applicant's refusal to waive any right,  
400 penalty, remedy, forum, or procedure, including the right to  
401 file and pursue a civil action or complaint with, or otherwise  
402 communicate with, the office, a court, or any other governmental  
403 entity. The exercise of a person's right to refuse to waive any  
404 right, penalty, remedy, forum, or procedure, including a  
405 rejection of a contract requiring a waiver, does not affect any  
406 otherwise legal terms of a contract or an agreement.

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407 (d) This subsection does not apply to any agreement to  
408 waive any right, penalty, remedy, forum, or procedure, including  
409 any agreement to arbitrate a claim or dispute after a claim or  
410 dispute has arisen. This subsection does not affect the  
411 enforceability or validity of any other provision of the  
412 contract.

413 Section 5. Section 516.44, Florida Statutes, is created to  
414 read:

415 516.44 Access partners.—

416 (1) ACCESS PARTNER AGREEMENT.—All arrangements between a  
417 program licensee and an access partner must be specified in a  
418 written access partner agreement between the parties. The  
419 agreement must contain the following provisions:

420 (a) The access partner agrees to comply with this section  
421 and all rules adopted under this section regarding the  
422 activities of access partners.

423 (b) The office has access to the access partner's books  
424 and records pertaining to the access partner's operations under  
425 the agreement with the program licensee in accordance with s.  
426 516.45(3) and may examine the access partner pursuant to s.  
427 516.45.

428 (2) AUTHORIZED SERVICES.—A program licensee may use the  
429 services of one or more access partners as provided in this  
430 section. An access partner may perform one or more of the

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431 following services from its physical business location for the  
432 program licensee:

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

439 (b) Providing written factual information about program  
440 loan terms, conditions, or qualification requirements to a  
441 prospective borrower which has been prepared by the program  
442 licensee or reviewed and approved in writing by the program  
443 licensee. An access partner may discuss the information with a  
444 prospective borrower in general terms.

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

447 (d) Entering information provided by the prospective  
448 borrower on the program licensee's preprinted or electronic  
449 application form or in the program licensee's preformatted  
450 computer database.

451 (e) Assembling credit applications and other materials  
452 obtained in the course of a credit application transaction for  
453 submission to the program licensee.

454 (f) Contacting the program licensee to determine the  
455 status of a program loan application.

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456 (g) Communicating a response that is returned by the  
457 program licensee's automated underwriting system to a borrower  
458 or a prospective borrower.

459 (h) Obtaining a borrower's signature on documents prepared  
460 by the program licensee and delivering final copies of the  
461 documents to the borrower.

462 (i) Disbursing program loan proceeds to a borrower if this  
463 method of disbursement is acceptable to the borrower, subject to  
464 the requirements of subsection (3). A loan disbursement made by  
465 an access partner under this paragraph is deemed to be made by  
466 the program licensee on the date that the funds are disbursed or  
467 otherwise made available by the access partner to the borrower.

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

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

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

475 (a) A loan payment made by a borrower to an access partner  
476 under paragraph (2)(j) must be applied to the borrower's program  
477 loan and deemed received by the program licensee as of the date  
478 on which the payment is received by the access partner.

479 (b) An access partner that receives a loan payment from a  
480 borrower must deliver or cause to be delivered to the borrower a

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481 plain and complete receipt showing all of the information  
482 specified in s. 516.43(1)(k) at the time that the payment is  
483 made by the borrower.

484 (c) A borrower who submits a loan payment to an access  
485 partner under this subsection is not liable for a failure or  
486 delay by the access partner in transmitting the payment to the  
487 program licensee.

488 (d) An access partner that disburses or receives loan  
489 payments pursuant to paragraph (2)(i) or paragraph (2)(j) must  
490 maintain records of all disbursements made and loan payments  
491 received for at least 2 years.

492 (4) PROHIBITED ACTIVITIES.—An access partner may not:

493 (a) Provide counseling or advice to a borrower or  
494 prospective borrower with respect to any loan term.

495 (b) Provide loan-related marketing material that has not  
496 previously been approved by the program licensee to a borrower  
497 or a prospective borrower.

498 (c) Negotiate a loan term between a program licensee and a  
499 prospective borrower.

500 (d) Offer information pertaining to a single prospective  
501 borrower to more than one program licensee. However, if a  
502 program licensee has declined to offer a program loan to a  
503 prospective borrower and has so notified the prospective  
504 borrower in writing, the access partner may then offer

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505 information pertaining to that borrower to another program  
506 licensee with whom it has an access partner agreement.

507 (e) Except for the purpose of assisting a borrower in  
508 obtaining a refinance program loan, offer information pertaining  
509 to a prospective borrower to any program licensee if the  
510 prospective borrower has an outstanding program loan.

511 (f) Require a borrower to pay any fees or charges to the  
512 access partner or to any other person in connection with a  
513 program loan other than those permitted under ss. 516.405-  
514 516.46.

515 (g) Perform in-person marketing of the program at a public  
516 food service establishment, as defined in s. 509.013(5), or at a  
517 place where alcoholic beverages, as defined in s. 561.01(4), are  
518 served for consumption.

519 (h) Perform in-person marketing of the program at a  
520 location at which the primary purpose is the sale of liquor, as  
521 defined in s. 565.01.

522 (5) DISCLOSURE STATEMENTS.-

523 (a) At the time that the access partner receives or  
524 processes an application for a program loan, the access partner  
525 shall provide the following statement to the applicant on behalf  
526 of the program licensee, in at least 10-point type, and shall  
527 request that the applicant acknowledge receipt of the statement  
528 in writing:

529

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530 Your loan application has been referred to us by  
531 ...(name of access partner).... We may pay a fee to  
532 ...(name of access partner)... for the successful  
533 referral of your loan application. If you are approved  
534 for the loan, ...(name of program licensee)... will  
535 become your lender. If you have any questions about  
536 your loan, now or in the future, you should direct  
537 those questions to ...(name of program licensee)... by  
538 ...(insert at least two different ways in which a  
539 borrower may contact the program licensee).... If you  
540 wish to report a complaint about ...(name of access  
541 partner)... or ...(name of program licensee)...  
542 regarding this loan transaction, you may contact the  
543 Division of Consumer Finance of the Office of  
544 Financial Regulation at 850-487-9687 or  
545 <http://www.flofr.com>.

546  
547 (b) If the loan applicant has questions about the program  
548 loan which the access partner is not permitted to answer, the  
549 access partner must make a good faith effort to assist the  
550 applicant in making direct contact with the program licensee  
551 before the program loan is consummated.

552 (6) COMPENSATION.—

553 (a) The program licensee may compensate an access partner  
554 in accordance with a written agreement and a compensation

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555 schedule that is agreed to by the program licensee and the  
556 access partner, subject to the requirements in paragraph (b).

557 (b) The compensation of an access partner by a program  
558 licensee is subject to the following requirements:

559 1. Compensation may not be paid to an access partner in  
560 connection with a loan application unless the program loan is  
561 consummated.

562 2. The access partner's location for services and other  
563 information required in subsection (7) must be reported to the  
564 office.

565 3. Compensation paid by the program licensee to the access  
566 partner may not exceed \$65 per program loan, on average, plus \$2  
567 per payment received by the access partner on behalf of the  
568 program licensee for the duration of the program loan, and may  
569 not be charged directly or indirectly to the borrower.

570 (7) NOTICE TO OFFICE.—A program licensee that uses the  
571 service of an access partner must notify the office, in a form  
572 and manner prescribed by commission rule, within 15 days after  
573 entering into a contract with an access partner and before using  
574 such access partner's services, regarding all of the following:

575 (a) The name, principal office address, and any licensing  
576 details of the access partner and addresses of all physical  
577 business locations at which the access partner will perform  
578 services under this section.



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579 (b) The name and contact information for an employee of  
580 the access partner who is knowledgeable about, and has the  
581 authority to execute, the access partner agreement.

582 (c) The name and contact information of all employees of  
583 the access partner who are responsible for that access partner's  
584 referring activities on behalf of the program licensee.

585 (d) A statement by the program licensee that it has  
586 conducted due diligence with respect to the access partner and  
587 has confirmed that none of the following apply:

588 1. The filing of a petition under the United States  
589 Bankruptcy Code for bankruptcy or reorganization by the access  
590 partner.

591 2. The commencement of an administrative or a judicial  
592 license suspension or revocation proceeding, or the denial of a  
593 license request or renewal, by any state, the District of  
594 Columbia, any United States territory, or any foreign country in  
595 which the access partner operates, plans to operate, or is  
596 licensed to operate.

597 3. A felony indictment involving the access partner or an  
598 affiliated party.

599 4. The felony conviction, guilty plea, or plea of nolo  
600 contendere, regardless of adjudication, of the access partner or  
601 an affiliated party.

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602 5. Any suspected criminal act perpetrated in this state  
603 relating to activities regulated under this chapter by the  
604 access partner.

605 6. Notification by a law enforcement or prosecutorial  
606 agency that the access partner is under criminal investigation,  
607 including, but not limited to, subpoenas to produce records or  
608 testimony and warrants issued by a court of competent  
609 jurisdiction which authorize the search and seizure of any  
610 records relating to a business activity regulated under this  
611 chapter.

612  
613 As used in this paragraph, the term "affiliated party" means a  
614 director, officer, control person, employee, or foreign  
615 affiliate of an access partner; or a person who has a  
616 controlling interest in an access partner.

617 (e) Any other information requested by the office, subject  
618 to the limitations specified in s. 516.45(3).

619 (8) NOTICE OF CHANGES.—An access partner must provide the  
620 program licensee and the office with a written notice sent by  
621 registered mail within 30 days after any change is made to the  
622 information specified in paragraphs (7) (a)-(c) and within 30  
623 days after the occurrence or knowledge of any of the events  
624 specified in paragraph (7) (d).

625 (9) RESPONSIBILITY FOR ACTS OF AN ACCESS PARTNER.—A  
626 program licensee is responsible for any act of its access

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627 partner or the access partner's employees if such act is a  
628 violation of this chapter.

629 (10) RULEMAKING.—The commission shall adopt rules to  
630 implement this section.

631 Section 6. Section 516.45, Florida Statutes, is created to  
632 read:

633 516.45 Examinations, investigations, and grounds for  
634 disciplinary action.—

635 (1) Notwithstanding any other law, the office shall  
636 examine each program licensee that is accepted into the program  
637 in accordance with this chapter.

638 (2) Notwithstanding subsection (1), the office may waive  
639 one or more branch office examinations if the office finds that  
640 such examinations are not necessary for the protection of the  
641 public due to the centralized operations of the program licensee  
642 or other factors acceptable to the office.

643 (3) The scope of any investigation or examination of a  
644 program licensee or access partner must be limited to those  
645 books, accounts, records, documents, materials, and matters  
646 reasonably necessary to determine compliance with this chapter.

647 (4) A program licensee who violates any applicable  
648 provision of this chapter is subject to disciplinary action  
649 pursuant to s. 516.07(2). Any such disciplinary action is  
650 subject to s. 120.60. The program licensee is also subject to

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651 disciplinary action for a violation of s. 516.44 committed by  
652 any of its access partners or the access partner's employees.

653 (5) The office may take any of the following actions  
654 against an access partner who violates s. 516.44:

655 (a) Bar the access partner from performing services under  
656 this chapter.

657 (b) Bar the access partner from performing services at one  
658 or more of its specific locations.

659 (c) Impose an administrative fine on the access partner  
660 not to exceed \$5,000 in a calendar year for violations of s.  
661 516.44.

662 (6) The commission shall adopt rules to implement this  
663 section.

664 Section 7. Section 516.46, Florida Statutes, is created to  
665 read:

666 516.46 Annual reports by program licensees and the  
667 office.-

668 (1) By March 15, 2021, and each year thereafter, a program  
669 licensee shall file a report with the office on a form and in a  
670 manner prescribed by commission rule. The report must include  
671 each of the items specified in subsection (2) for the preceding  
672 year using aggregated or anonymized data without reference to  
673 any borrower's nonpublic personal information or any program  
674 licensee's or access partner's proprietary or trade secret  
675 information.

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676 (2) By January 1, 2022, and each year thereafter, the  
677 office shall post a report on its website summarizing the use of  
678 the program based on the information contained in the reports  
679 filed in the preceding year by program licensees under  
680 subsection (1). The office's report must publish the information  
681 in the aggregate so as not to identify data by any specific  
682 program licensee. The report must specify the period to which  
683 the report corresponds and must include, but is not limited to,  
684 the following for that period:

685 (a) The number of applicants approved for a program  
686 license by the office.

687 (b) The number of program loan applications received by  
688 program licensees, the number of program loans made under the  
689 program, the total amount loaned, the distribution of loan  
690 lengths upon origination, and the distribution of interest rates  
691 and principal amounts upon origination among those program  
692 loans.

693 (c) The number of borrowers who obtained more than one  
694 program loan and the distribution of the number of program loans  
695 per borrower.

696 (d) Of those borrowers who obtained more than one program  
697 loan and had a credit score by the time of their subsequent  
698 loan, the percentage of those borrowers whose credit scores  
699 increased between successive loans, based on information from at  
700 least one major credit bureau, and the average size of the

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701 increase. In each case, the report must include the name of the  
702 credit score, such as FICO or VantageScore, which the program  
703 licensee is required to disclose.

704 (e) The income distribution of borrowers upon program loan  
705 origination, including the number of borrowers who obtained at  
706 least one program loan and who resided in a low-income or  
707 moderate-income census tract at the time of their loan  
708 applications.

709 (f) The number of borrowers who obtained program loans for  
710 the following purposes, based on the borrowers' responses at the  
711 time of their loan applications indicating the primary purpose  
712 for which the program loans were obtained:

- 713 1. To pay medical expenses.
- 714 2. To pay for vehicle repair or a vehicle purchase.
- 715 3. To pay bills.
- 716 4. To consolidate debt.
- 717 5. To build or repair credit history.
- 718 6. To finance a small business.
- 719 7. To pay other expenses.

720 (g) The number of borrowers who self-report that they had  
721 a bank account at the time of their loan application and the  
722 number of borrowers who self-report that they did not have a  
723 bank account at the time of their loan application.

724 (h) For refinance program loans:

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725 1. The number and percentage of borrowers who applied for  
726 a refinance program loan.

727 2. Of those borrowers who applied for a refinance program  
728 loan, the number and percentage of borrowers who obtained a  
729 refinance program loan.

730 (i) The performance of program loans as reflected by all  
731 of the following:

732 1. The number and percentage of borrowers who experienced  
733 at least one delinquency lasting between 7 and 29 days and the  
734 distribution of principal loan amounts corresponding to those  
735 delinquencies.

736 2. The number and percentage of borrowers who experienced  
737 at least one delinquency lasting between 30 and 59 days and the  
738 distribution of principal loan amounts corresponding to those  
739 delinquencies.

740 3. The number and percentage of borrowers who experienced  
741 at least one delinquency lasting 60 days or more and the  
742 distribution of principal loan amounts corresponding to those  
743 delinquencies.

744 (3) The commission shall adopt rules to implement this  
745 section.

746 Section 8. Sections 516.405-516.46, Florida Statutes, as  
747 created by this act, are repealed on July 1, 2029.

748 Section 9. For the 2019-2020 fiscal year, the sums of  
749 \$262,125 in recurring funds and \$140,000 in nonrecurring funds

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750 from the Regulatory Trust Fund are appropriated to the Office of  
751 Financial Regulation of the Financial Services Commission, and  
752 four full-time equivalent positions with associated salary rate  
753 of 173,881 are authorized, to implement this act.

754 Section 10. This act shall take effect January 1, 2020.

755

756 -----

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

758 Remove lines 56-67 and insert:

759 licenses; providing an exception; limiting the scope  
760 of certain examinations and investigations;  
761 authorizing the office to take certain disciplinary  
762 action against program licensees and access partners;  
763 requiring rulemaking; creating s. 516.46, F.S.;  
764 requiring program licensees to file an annual report  
765 with the office beginning on a specified date;  
766 requiring the office to post an annual report on its  
767 website by a specified date; specifying information to  
768 be contained in the reports; requiring rulemaking;  
769 providing for future repeal of the program;