

1 A bill to be entitled
2 An act relating to consumer finance loans; creating s.
3 516.405, F.S.; creating the Access to Responsible
4 Credit Pilot Program within the Office of Financial
5 Regulation; providing legislative intent; creating s.
6 516.41, F.S.; providing definitions; creating s.
7 516.42, F.S.; requiring persons to obtain a program
8 license from the office before making program loans;
9 providing licensure requirements; requiring a program
10 licensee's program branch offices to be licensed;
11 providing program branch office license and license
12 renewal requirements; providing circumstances under
13 which the office may deny initial and renewal
14 applications; requiring rulemaking; creating s.
15 516.43, F.S.; providing requirements for program
16 licensees, program loans, interest rates, program loan
17 refinancing, receipts, disclosures and statements
18 provided by program licensees to borrowers,
19 origination fees, insufficient funds fees, and
20 delinquency charges; requiring program licensees to
21 provide certain credit education information to
22 borrowers and to report payment performance of
23 borrowers to a consumer reporting agency; prohibiting
24 the office from approving a program licensee applicant
25 before the applicant has been accepted as a data

26 | furnisher by a consumer reporting agency; requiring
27 | program licensees to underwrite program loans;
28 | prohibiting program licensees from making program
29 | loans under certain circumstances; requiring program
30 | licensees to seek certain information and
31 | documentation; prohibiting program licensees from
32 | requiring certain waivers from borrowers; providing
33 | applicability; creating s. 516.44, F.S.; requiring all
34 | arrangements between program licensees and access
35 | partners to be specified in written access partner
36 | agreements; providing requirements for such
37 | agreements; specifying access partner services which
38 | may be used by program licensees; specifying
39 | procedures for borrowers' payment receipts or access
40 | partners' disbursement of program loans; providing
41 | recordkeeping requirements; prohibiting certain
42 | activities by access partners; providing disclosure
43 | statement requirements; providing requirements
44 | prohibitions relating to compensations paid to access
45 | partners; requiring program licensees to provide the
46 | office with a specified notice after contracting with
47 | access partners; defining the term "affiliated party";
48 | requiring access partners to provide program licensees
49 | with a certain written notice within a specified time;
50 | providing that program licensees are responsible for

51 acts of their access partners; requiring rulemaking;
52 creating s. 516.45, F.S.; requiring the office to
53 examine program licensees at certain intervals,
54 beginning on a specified date; providing an exception;
55 limiting the scope of certain examinations and
56 investigations; authorizing the office to take certain
57 disciplinary action against program licensees and
58 access partners; requiring rulemaking; creating s.
59 516.46, F.S.; requiring program licensees to file an
60 annual report with the office beginning on a specified
61 date; requiring the office to post an annual report on
62 its website by a specified date; specifying
63 information to be contained in the reports; requiring
64 rulemaking; providing for conditional continuation of
65 the program; providing an effective date.

66
67 Be It Enacted by the Legislature of the State of Florida:

68
69 Section 1. Section 516.405, Florida Statutes, is created
70 to read:

71 516.405 Access to Responsible Credit Pilot Program.—

72 (1) The Access to Responsible Credit Pilot Program is
73 created within the Office of Financial Regulation to allow more
74 Floridians to obtain responsible consumer finance loans in
75 principal amounts of at least \$300 but not more than \$10,000.

76 (2) The pilot program is intended to assist consumers in
77 building their credit and to provide additional consumer
78 protections for these loans that exceed current protections
79 under general law.

80 Section 2. Section 516.41, Florida Statutes, is created to
81 read:

82 516.41 Definitions.—As used in ss. 516.405-516.46, the
83 term:

84 (1) "Access partner" means an entity that, at the entity's
85 physical business location or through online access, cellular
86 telephone, or other means, performs one or more of the services
87 authorized in s. 516.44(2) on behalf of a program licensee. The
88 term does not include a credit service organization as defined
89 in s. 817.7001 or a loan broker as defined in s. 687.14.

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

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

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

98 (5) "Pilot program" or "program" means the Access to
99 Responsible Credit Pilot Program.

100 (6) "Pilot program license" or "program license" means a

101 license issued under ss. 516.405-516.46 authorizing a program
102 licensee to make and collect program loans.

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

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

109 (b) At which the program licensee's name, advertising or
110 promotional materials, or signage suggests that program loans
111 are originated, negotiated, funded, or serviced by the program
112 licensee; or

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

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

118 (9) "Program loan" means a consumer finance loan with a
119 principal amount of at least \$300, but not more than \$10,000,
120 originated pursuant to ss. 516.405-516.46, excluding the amount
121 of the origination fee authorized under s. 516.43(3).

122 (10) "Refinance program loan" means a program loan that
123 extends additional principal to a borrower and replaces and
124 revises an existing program loan contract with the borrower. A
125 refinance program loan does not include an extension, a

126 deferral, or a rewrite of the program loan.

127 Section 3. Section 516.42, Florida Statutes, is created to
128 read:

129 516.42 Requirements for program participation; program
130 application requirements.—

131 (1) A person may not advertise, offer, or make a program
132 loan, or impose any charges or fees pursuant to s. 516.43,
133 unless the person obtains a pilot program license from the
134 office.

135 (2) In order to obtain a pilot program license, a person
136 must:

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

139 2. Submit the application for the license required in s.
140 516.05 concurrently with the application for the program
141 license.

142 (b) Be accepted as a data furnisher by a consumer
143 reporting agency.

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

146 (d) Not be subject to the issuance of a cease and desist
147 order; the issuance of a removal order; the denial, suspension,
148 or revocation of a license; or any other action within the
149 authority of the office, any financial regulatory agency in this
150 state, or any other state or federal regulatory agency that

151 affects the ability of such person to participate in the
152 program.

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

157 1. The legal business name and any other name under which
158 the applicant operates.

159 2. The applicant's main address.

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

161 4. The address of each program branch office.

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

164 6. The license number, if the applicant is licensed under
165 s. 516.05.

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

168 8. A statement that the applicant has been accepted as a
169 data furnisher by a consumer reporting agency and will report to
170 a consumer reporting agency the payment performance of each
171 borrower on all program loans.

172 9. The signature and certification of an authorized person
173 of the applicant.

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

176 s. 516.05 must concurrently submit the following digital
177 applications to the office, in a form and manner specified in
178 this chapter:

179 1. An application pursuant to s. 516.03 for licensure to
180 make consumer finance loans.

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

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

187 (5) Notwithstanding s. 516.05(3), only one program license
188 is required for a person to make program loans under ss.
189 516.405-516.46, regardless of whether the program licensee
190 offers program loans to prospective borrowers at its own
191 physical business locations, through access partners, or via an
192 electronic access point through which a prospective borrower may
193 directly access the website of the program licensee.

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

196 (7) The office shall issue a program branch office license
197 to a program licensee after the office determines that the
198 program licensee has submitted a completed electronic
199 application for a program branch office license in a form
200 prescribed by commission rule. The program branch office license

201 must be issued in the name of the program licensee that
202 maintains the branch office. An application is considered
203 received for purposes of s. 120.60 upon receipt of a completed
204 application form. The application for a program branch office
205 license must contain the following information:

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

208 (b) The applicant's main address.

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

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

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

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

215 (g) The signature and certification of an authorized
216 person of the applicant.

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

220 (9) Notwithstanding subsection (7), the office may deny an
221 initial or renewal application for a program license or program
222 branch office license if the applicant or any person with power
223 to direct the management or policies of the applicant's business
224 is:

225 (a) The subject of any insolvency proceeding;

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

228 (c) Subject to the issuance of a cease and desist order;
229 the issuance of a removal order; the denial, suspension, or
230 revocation of a license; or any other action within the
231 authority of the office, any financial regulatory agency in this
232 state, or any other state or federal regulatory agency that
233 affects the applicant's ability to participate in the program.

234 (10) The commission shall adopt rules to implement this
235 section.

236 Section 4. Section 516.43, Florida Statutes, is created to
237 read:

238 516.43 Requirements for program loans.—

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

241 (a) A program loan must be unsecured.

242 (b) A program loan must have:

243 1. A term of at least 120 days for a loan with a principal
244 balance upon origination of at least \$300, but not more than
245 \$3,000.

246 2. A term of at least 12 months, but not more than 60
247 months, for a loan with a principal balance upon origination of
248 more than \$3,000.

249 (c) A program loan must not impose a prepayment penalty. A
250 program loan must be repayable by the borrower in substantially

251 equal, periodic installments, except that the final payment may
252 be less than the amount of the prior installments. Installments
253 must be due either every 2 weeks, semimonthly, or monthly.

254 (d) A program loan must include a borrower's right to
255 rescind the program loan by notifying the program licensee of
256 the borrower's intent to rescind the program loan and returning
257 the principal advanced by the end of the business day after the
258 day the program loan is consummated.

259 (e) Notwithstanding s. 516.031, the maximum annual
260 interest rate charged on a program loan to the borrower, which
261 must be fixed for the duration of the program loan, is 36
262 percent on that portion of the unpaid principal balance up to
263 and including \$3,000; 30 percent on that portion of the unpaid
264 principal balance exceeding \$3,000 and up to and including
265 \$4,000; and 24 percent on that portion of the unpaid principal
266 balance exceeding \$4,000 and up to and including \$10,000. The
267 original principal amount of the program loan is equal to the
268 amount financed as defined by the federal Truth in Lending Act
269 and Regulation Z of the Board of Governors of the Federal
270 Reserve System. In determining compliance with the maximum
271 annual interest rates in this paragraph, the computations used
272 must be simple interest through the application of a daily
273 periodic rate to the actual unpaid principal balance each day
274 and may not be added-on interest or any other computations.

275 (f) If two or more interest rates are applied to the

276 principal amount of a program loan, the program licensee may
277 charge, contract for, and receive interest at that single annual
278 percentage rate that, if applied according to the actuarial
279 method to each of the scheduled periodic balances of principal,
280 would produce at maturity the same total amount of interest as
281 would result from the application of the two or more rates
282 otherwise permitted, based upon the assumption that all payments
283 are made as agreed.

284 (g) The program licensee shall reduce the interest rates
285 specified in paragraph (e) on each subsequent program loan to
286 the same borrower by a minimum of 1 percent, up to a maximum of
287 6 percent, if all of the following conditions are met:

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

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

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

294 (h) The program licensee may not induce or permit any
295 person to become obligated to the program licensee, directly or
296 contingently, or both, under more than one program loan at the
297 same time with the program licensee.

298 (i) The program licensee may not refinance a program loan
299 unless all of the following conditions are met at the time the
300 borrower submits an application to refinance:

301 1. The principal amount payable may not include more than
302 60 days' unpaid interest accrued on the previous program loan
303 pursuant to s. 516.031(5).

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

308 3. For a program loan with an original term of more than
309 25 months, but not more than 60 months, the borrower has made
310 current payments for at least 9 months on his or her existing
311 program loan.

312 4. The borrower is current on payments for his or her
313 existing program loan.

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

316 (j) In lieu of the provisions of s. 687.08, the program
317 licensee or, if applicable, its approved access partner shall
318 make available to the borrower by electronic or physical means a
319 plain and complete receipt of payment at the time that a payment
320 is made by the borrower. For audit purposes, the program
321 licensee must maintain an electronic record for each receipt
322 made available to a borrower, which must include a copy of the
323 receipt and the date and time that the receipt was generated.
324 Each receipt made available to the borrower must show all of the
325 following:

- 326 1. The name of the borrower.
- 327 2. The name of the access partner, if applicable.
- 328 3. The total payment amount received.
- 329 4. The date of payment.
- 330 5. The program loan balance before and after application
 331 of the payment.
- 332 6. The amount of the payment that was applied to the
 333 principal, interest, and fees.
- 334 7. The type of payment made by the borrower.
- 335 8. The following statement, prominently displayed in a
 336 type size equal to or larger than the type size used to display
 337 the other items on the receipt: "If you have any questions about
 338 your loan now or in the future, you should direct those
 339 questions to ...(name of program licensee)... by ...(at least
 340 two different ways in which a borrower may contact the program
 341 licensee)...."
- 342 (2) WRITTEN DISCLOSURES AND STATEMENTS.—
- 343 (a) Notwithstanding s. 516.15(1), the loan contract and
 344 all written disclosures and statements may be provided by a
 345 program licensee to a borrower in English or in the language in
 346 which the loan is negotiated.
- 347 (b) The program licensee shall provide to a borrower all
 348 the statements required of licensees under s. 516.15.
- 349 (3) ORIGINATION FEES.—Notwithstanding s. 516.031, a
 350 program licensee may:

351 (a) Contract for and receive an origination fee from a
352 borrower on a program loan. The program licensee may either
353 deduct the origination fee from the principal amount of the loan
354 disbursed to the borrower or capitalize the origination fee into
355 the principal balance of the loan. The origination fee is fully
356 earned and nonrefundable immediately upon the making of the
357 program loan and may not exceed the lesser of 6 percent of the
358 principal amount of the program loan made to the borrower,
359 exclusive of the origination fee, or \$90.

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

362 (4) INSUFFICIENT FUNDS FEES AND DELINQUENCY CHARGES.—A
363 program licensee may:

364 (a) Notwithstanding s. 516.031, require payment from a
365 borrower of no more than \$20 for fees incurred by the program
366 licensee from a dishonored payment due to insufficient funds of
367 the borrower.

368 (b) Notwithstanding s. 516.031(3)(a)9., contract for and
369 receive a delinquency charge of up to \$15 in a calendar month
370 for one or more payments that are in default for at least 10
371 days if the charge is agreed upon, in writing, between the
372 program licensee and the borrower before it is imposed.

373
374 The program licensee, or any wholly owned subsidiary of the
375 program licensee, may not sell or assign an unpaid debt to an

376 independent third party for collection purposes unless the debt
 377 has been delinquent for at least 30 days.

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

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

382 (b) Provide a credit education program or seminar to the
 383 borrower. The borrower is not required to participate in such
 384 education program or seminar. A credit education program or
 385 seminar offered pursuant to this paragraph must be provided at
 386 no cost to the borrower.

387 (6) CREDIT REPORTING.—

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

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

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

396 (7) PROGRAM LOAN UNDERWRITING.—

397 (a) The program licensee must underwrite each program loan
 398 to determine a borrower's ability and willingness to repay the
 399 program loan pursuant to the program loan terms. The program
 400 licensee may not make a program loan if it determines that the

401 borrower's total monthly debt service payments at the time of
402 origination, including the program loan for which the borrower
403 is being considered and all outstanding forms of credit that can
404 be independently verified by the program licensee, exceed 50
405 percent of the borrower's gross monthly income for a loan of not
406 more than \$3,000, or exceed 36 percent of the borrower's gross
407 monthly income for a loan of more than \$3,000.

408 (b)1. The program licensee must seek information and
409 documentation pertaining to all of a borrower's outstanding debt
410 obligations during the loan application and underwriting
411 process, including loans that are self-reported by the borrower
412 but not available through independent verification. The program
413 licensee must verify such information using a credit report from
414 at least one consumer reporting agency or through other
415 available electronic debt verification services that provide
416 reliable evidence of a borrower's outstanding debt obligations.

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

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

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

424 2. The Internal Revenue Service Form W-2, tax returns,
425 payroll receipts, bank statements, or other third-party

426 documents that provide reasonably reliable evidence of the
427 borrower's actual income.

428 (8) WAIVERS.—

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

431 1. Waive any right, penalty, remedy, forum, or procedure
432 provided for in any law applicable to the program loan,
433 including the right to file and pursue a civil action or file a
434 complaint with or otherwise communicate with the office, a
435 court, or any other governmental entity.

436 2. Agree to the application of laws other than those of
437 this state.

438 3. Agree to resolve disputes in a jurisdiction outside of
439 this state.

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

443 (c) A program licensee may not refuse to do business with
444 or discriminate against a borrower or an applicant on the basis
445 of the borrower's or applicant's refusal to waive any right,
446 penalty, remedy, forum, or procedure, including the right to
447 file and pursue a civil action or complaint with, or otherwise
448 communicate with, the office, a court, or any other governmental
449 entity. The exercise of a person's right to refuse to waive any
450 right, penalty, remedy, forum, or procedure, including a

451 rejection of a contract requiring a waiver, does not affect any
452 otherwise legal terms of a contract or an agreement.

453 (d) This subsection does not apply to any agreement to
454 waive any right, penalty, remedy, forum, or procedure, including
455 any agreement to arbitrate a claim or dispute after a claim or
456 dispute has arisen. This subsection does not affect the
457 enforceability or validity of any other provision of the
458 contract.

459 Section 5. Section 516.44, Florida Statutes, is created to
460 read:

461 516.44 Access partners.—

462 (1) ACCESS PARTNER AGREEMENT.—All arrangements between a
463 program licensee and an access partner must be specified in a
464 written access partner agreement between the parties. The
465 agreement must contain the following provisions:

466 (a) The access partner agrees to comply with this section
467 and all rules adopted under this section regarding the
468 activities of access partners.

469 (b) The office has access to the access partner's books
470 and records pertaining to the access partner's operations under
471 the agreement with the program licensee in accordance with s.
472 516.45(3) and may examine the access partner pursuant to s.
473 516.45.

474 (2) AUTHORIZED SERVICES.—A program licensee may use the
475 services of one or more access partners as provided in this

476 section. An access partner may perform one or more of the
477 following services for the program licensee:

478 (a) Distributing, circulating, using, or publishing
479 printed brochures, flyers, fact sheets, or other written
480 materials relating to program loans that the program licensee
481 may make or negotiate. The written materials must be reviewed
482 and approved in writing by the program licensee before being
483 distributed, circulated, used, or published.

484 (b) Providing written factual information about program
485 loan terms, conditions, or qualification requirements to a
486 prospective borrower which has been prepared by the program
487 licensee or reviewed and approved in writing by the program
488 licensee. An access partner may discuss the information with a
489 prospective borrower in general terms.

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

492 (d) Entering information provided by the prospective
493 borrower on a preprinted or an electronic application form or in
494 a preformatted computer database.

495 (e) Assembling credit applications and other materials
496 obtained in the course of a credit application transaction for
497 submission to the program licensee.

498 (f) Contacting the program licensee to determine the
499 status of a program loan application.

500 (g) Communicating a response that is returned by the

501 program licensee's automated underwriting system to a borrower
502 or a prospective borrower.

503 (h) Obtaining a borrower's signature on documents prepared
504 by the program licensee and delivering final copies of the
505 documents to the borrower.

506 (i) Disbursing program loan proceeds to a borrower if this
507 method of disbursement is acceptable to the borrower, subject to
508 the requirements of subsection (3). A loan disbursement made by
509 an access partner under this paragraph is deemed to be made by
510 the program licensee on the date that the funds are disbursed or
511 otherwise made available by the access partner to the borrower.

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

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

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

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

523 (b) An access partner that receives a loan payment from a
524 borrower must deliver or cause to be delivered to the borrower a
525 plain and complete receipt showing all of the information

526 specified in s. 516.43(1)(j) at the time that the payment is
527 made by the borrower.

528 (c) A borrower who submits a loan payment to an access
529 partner under this subsection is not liable for a failure or
530 delay by the access partner in transmitting the payment to the
531 program licensee.

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

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

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

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

542 (c) Negotiate a loan term between a program licensee and a
543 prospective borrower.

544 (d) Offer information pertaining to a single prospective
545 borrower to more than one program licensee. However, if a
546 program licensee has declined to offer a program loan to a
547 prospective borrower and has so notified the prospective
548 borrower in writing, the access partner may then offer
549 information pertaining to that borrower to another program
550 licensee with whom it has an access partner agreement.

551 (e) Require a borrower to pay any fees or charges to the
552 access partner or to any other person in connection with a
553 program loan other than those permitted under ss. 516.405-
554 516.46.

555 (5) DISCLOSURE STATEMENTS.-

556 (a) At the time that the access partner receives or
557 processes an application for a program loan, the access partner
558 shall provide the following statement to the applicant on behalf
559 of the program licensee, in at least 10-point type, and shall
560 request that the applicant acknowledge receipt of the statement
561 in writing:

562
563 Your loan application has been referred to us by
564 ...(name of access partner).... We may pay a fee to
565 ...(name of access partner)... for the successful
566 referral of your loan application. If you are approved
567 for the loan, ...(name of program licensee)... will
568 become your lender. If you have any questions about
569 your loan, now or in the future, you should direct
570 those questions to ...(name of program licensee)... by
571 ...(insert at least two different ways in which a
572 borrower may contact the program licensee).... If you
573 wish to report a complaint about ...(name of access
574 partner)... or ...(name of program licensee)...
575 regarding this loan transaction, you may contact the

576 Division of Consumer Finance of the Office of
577 Financial Regulation at 850-487-9687 or
578 <http://www.flofr.com>.

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

585 (6) COMPENSATION.—

586 (a) The program licensee may compensate an access partner
587 in accordance with a written agreement and a compensation
588 schedule that is agreed to by the program licensee and the
589 access partner, subject to the requirements in paragraph (b).

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

592 1. Compensation may not be paid to an access partner in
593 connection with a loan application unless the program loan is
594 consummated.

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

598 (7) NOTICE TO OFFICE.—A program licensee that uses the
599 service of an access partner must notify the office, in a form
600 and manner prescribed by commission rule, within 15 days after

601 entering into a contract with an access partner regarding all of
602 the following:

603 (a) The name, business address, and licensing details of
604 the access partner and all locations at which the access partner
605 will perform services under this section.

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

609 (c) The name and contact information of one or more
610 employees of the access partner who are responsible for that
611 access partner's referring activities on behalf of the program
612 licensee.

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

616 1. The filing of a petition under the United States
617 Bankruptcy Code for bankruptcy or reorganization by the access
618 partner.

619 2. The commencement of an administrative or a judicial
620 license suspension or revocation proceeding, or the denial of a
621 license request or renewal, by any state, the District of
622 Columbia, any United States territory, or any foreign country in
623 which the access partner operates, plans to operate, or is
624 licensed to operate.

625 3. A felony indictment involving the access partner or an

626 affiliated party.

627 4. The felony conviction, guilty plea, or plea of nolo
628 contendere, regardless of adjudication, of the access partner or
629 an affiliated party.

630 5. Any suspected criminal act perpetrated in this state
631 relating to activities regulated under this chapter by the
632 access partner.

633 6. Notification by a law enforcement or prosecutorial
634 agency that the access partner is under criminal investigation,
635 including, but not limited to, subpoenas to produce records or
636 testimony and warrants issued by a court of competent
637 jurisdiction which authorize the search and seizure of any
638 records relating to a business activity regulated under this
639 chapter.

640
641 As used in this paragraph, the term "affiliated party" means a
642 director, officer, responsible person, employee, or foreign
643 affiliate of an access partner; or a person who has a
644 controlling interest in an access partner.

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

647 (8) NOTICE OF CHANGES.—An access partner must provide the
648 program licensee with a written notice sent by registered mail
649 within 30 days after any change is made to the information
650 specified in paragraphs (7) (a)-(c) and within 30 days after the

651 occurrence or knowledge of any of the events specified in
652 paragraph (7) (d).

653 (9) RESPONSIBILITY FOR ACTS OF AN ACCESS PARTNER.—A
654 program licensee is responsible for any act of its access
655 partner if such act is a violation of this chapter.

656 (10) RULEMAKING.—The commission shall adopt rules to
657 implement this section.

658 Section 6. Section 516.45, Florida Statutes, is created to
659 read:

660 516.45 Examinations, investigations, and grounds for
661 disciplinary action.—

662 (1) Notwithstanding any other law, commencing on January
663 1, 2022, the office shall examine each program licensee that is
664 accepted into the program in accordance with this chapter at
665 least once every 24 months.

666 (2) Notwithstanding subsection (1), the office may waive
667 one or more branch office examinations if the office finds that
668 such examinations are not necessary for the protection of the
669 public due to the centralized operations of the program licensee
670 or other factors acceptable to the office.

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

675 (4) A program licensee who violates any applicable

676 provision of this chapter is subject to disciplinary action
677 pursuant to s. 516.07(2). Any such disciplinary action is
678 subject to s. 120.60. The program licensee is also subject to
679 disciplinary action for a violation of s. 516.44 committed by
680 any of its access partners.

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

683 (a) Bar the access partner from performing services under
684 this chapter.

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

687 (6) The commission shall adopt rules to implement this
688 section.

689 Section 7. Section 516.46, Florida Statutes, is created to
690 read:

691 516.46 Annual reports by program licensees and the
692 office.—

693 (1) By March 15, 2021, and each year thereafter, a program
694 licensee shall file a report with the office on a form and in a
695 manner prescribed by commission rule. The report must include
696 each of the items specified in subsection (2) for the preceding
697 year using aggregated or anonymized data without reference to
698 any borrower's nonpublic personal information or any program
699 licensee's or access partner's proprietary or trade secret
700 information.

701 (2) By January 1, 2022, and each year thereafter, the
702 office shall post a report on its website summarizing the use of
703 the program based on the information contained in the reports
704 filed in the preceding year by program licensees under
705 subsection (1). The office's report must publish the information
706 in the aggregate so as not to identify data by any specific
707 program licensee. The report must specify the period to which
708 the report corresponds and must include, but is not limited to,
709 the following for that period:

710 (a) The number of applicants approved for a program
711 license by the office.

712 (b) The number of program loan applications received by
713 program licensees, the number of program loans made under the
714 program, the total amount loaned, the distribution of loan
715 lengths upon origination, and the distribution of interest rates
716 and principal amounts upon origination among those program
717 loans.

718 (c) The number of borrowers who obtained more than one
719 program loan and the distribution of the number of program loans
720 per borrower.

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

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

729 (e) The income distribution of borrowers upon program loan
730 origination, including the number of borrowers who obtained at
731 least one program loan and who resided in a low-income or
732 moderate-income census tract at the time of their loan
733 applications.

734 (f) The number of borrowers who obtained program loans for
735 the following purposes, based on the borrowers' responses at the
736 time of their loan applications indicating the primary purpose
737 for which the program loans were obtained:

- 738 1. To pay medical expenses.
- 739 2. To pay for vehicle repair or a vehicle purchase.
- 740 3. To pay bills.
- 741 4. To consolidate debt.
- 742 5. To build or repair credit history.
- 743 6. To finance a small business.
- 744 7. To pay other expenses.

745 (g) The number of borrowers who self-report that they had
746 a bank account at the time of their loan application and the
747 number of borrowers who self-report that they did not have a
748 bank account at the time of their loan application.

749 (h) For refinance program loans:

- 750 1. The number and percentage of borrowers who applied for

751 a refinance program loan.

752 2. Of those borrowers who applied for a refinance program
753 loan, the number and percentage of borrowers who obtained a
754 refinance program loan.

755 (i) The performance of program loans as reflected by all
756 of the following:

757 1. The number and percentage of borrowers who experienced
758 at least one delinquency lasting between 7 and 29 days and the
759 distribution of principal loan amounts corresponding to those
760 delinquencies.

761 2. The number and percentage of borrowers who experienced
762 at least one delinquency lasting between 30 and 59 days and the
763 distribution of principal loan amounts corresponding to those
764 delinquencies.

765 3. The number and percentage of borrowers who experienced
766 at least one delinquency lasting 60 days or more and the
767 distribution of principal loan amounts corresponding to those
768 delinquencies.

769 (3) The commission shall adopt rules to implement this
770 section.

771 Section 8. Sections 516.405-516.46, Florida Statutes, as
772 created by this act, shall continue for 5 years after the date
773 on which the Office of Financial Regulation of the Financial
774 Services Commission posts its first report pursuant to s.
775 516.46(2), Florida Statutes, unless reenacted or superseded by

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776 | another law enacted by the Legislature before that date.

777 | Section 9. This act shall take effect January 1, 2020.