

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; authorizing a program licensee  
44 |       to compensate an access partner; providing  
45 |       requirements relating to compensations paid to access  
46 |       partners; requiring program licensees to provide the  
47 |       office with a specified notice after contracting with  
48 |       and before using the services of access partners;  
49 |       defining the term "affiliated party"; requiring access  
50 |       partners to provide program licensees and the office

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

70  
71 Be It Enacted by the Legislature of the State of Florida:

72  
73 Section 1. Section 516.405, Florida Statutes, is created  
74 to read:

75 516.405 Access to Responsible Credit Pilot Program.-

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

80       (2) The pilot program is intended to assist consumers in  
81 building their credit and to provide additional consumer  
82 protections for these loans that exceed current protections  
83 under general law.

84       Section 2. Section 516.41, Florida Statutes, is created to  
85 read:

86       516.41 Definitions.—As used in ss. 516.405–516.46, the  
87 term:

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

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

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

100       (4) "Data furnisher" has the same meaning as the term

101 "furnisher" in 12 C.F.R. s. 1022.41(c).

102 (5) "Pilot program" or "program" means the Access to  
103 Responsible Credit Pilot Program.

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

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

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

113 (b) At which the program licensee's name, advertising or  
114 promotional materials, or signage suggests that program loans  
115 are originated, negotiated, funded, or serviced by the program  
116 licensee; or

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

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

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

126       (10) "Refinance program loan" means a program loan that  
127 extends additional principal to a borrower and replaces and  
128 revises an existing program loan contract with the borrower. A  
129 refinance program loan does not include an extension, a  
130 deferral, or a rewrite of the program loan.

131       Section 3. Section 516.42, Florida Statutes, is created to  
132 read:

133       516.42 Requirements for program participation; program  
134 application requirements.—

135       (1) A person may not advertise, offer, or make a program  
136 loan, or impose any charges or fees pursuant to s. 516.43,  
137 unless the person obtains a pilot program license from the  
138 office.

139       (2) In order to obtain a pilot program license, a person  
140 must:

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

143       2. Submit the application for the license required in s.  
144 516.05 concurrently with the application for the program  
145 license.

146       (b) Be accepted as a data furnisher by a consumer  
147 reporting agency.

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

150       (d) Not be subject to the issuance of a cease and desist

151 order; the issuance of a removal order; the denial, suspension,  
152 or revocation of a license; or any other action within the  
153 authority of the office, any financial regulatory agency in this  
154 state, or any other state or federal regulatory agency that  
155 affects the ability of such person to participate in the  
156 program.

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

161 1. The legal business name and any other name under which  
162 the applicant operates.

163 2. The applicant's main address.

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

165 4. The address of each program branch office.

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

168 6. The license number, if the applicant is licensed under  
169 s. 516.05.

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

172 8. A statement that the applicant has been accepted as a  
173 data furnisher by a consumer reporting agency and will report to  
174 a consumer reporting agency the payment performance of each  
175 borrower on all program loans.

176 9. The signature and certification of an authorized person  
177 of the applicant.

178 (b) A person who desires to participate in the program but  
179 who is not licensed to make consumer finance loans pursuant to  
180 s. 516.05 must concurrently submit the following digital  
181 applications to the office, in a form and manner specified in  
182 this chapter:

183 1. An application pursuant to s. 516.03 for licensure to  
184 make consumer finance loans.

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

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

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

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

200 (7) The office shall issue a program branch office license



201 to a program licensee after the office determines that the  
202 program licensee has submitted a completed electronic  
203 application for a program branch office license in a form  
204 prescribed by commission rule. The program branch office license  
205 must be issued in the name of the program licensee that  
206 maintains the branch office. An application is considered  
207 received for purposes of s. 120.60 upon receipt of a completed  
208 application form. The application for a program branch office  
209 license must contain the following information:

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

212 (b) The applicant's main address.

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

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

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

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

219 (g) The signature and certification of an authorized  
220 person of the applicant.

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

224 (9) Notwithstanding subsection (7), the office may deny an  
225 initial or renewal application for a program license or program

226 branch office license if the applicant or any person with power  
 227 to direct the management or policies of the applicant's business  
 228 is:

229 (a) The subject of any insolvency proceeding;

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

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

238 (10) The commission shall adopt rules to implement this  
 239 section.

240 Section 4. Section 516.43, Florida Statutes, is created to  
 241 read:

242 516.43 Requirements for program loans.—

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

245 (a) A program loan must be unsecured.

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

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

250 2. At least 12 months, but not more than 60 months, for a

251 loan with a principal balance upon origination of more than  
252 \$3,000.

253 (c) A borrower may not receive a program loan for a  
254 principal balance exceeding \$4,000 and may not receive a  
255 refinance program loan unless:

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

258 2. The borrower's credit score increased from the time of  
259 application for the borrower's first consummated program loan;  
260 and

261 3. The borrower was never delinquent on the program loan.

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

267 (e) A program loan must include a borrower's right to  
268 rescind the program loan by notifying the program licensee of  
269 the borrower's intent to rescind the program loan and returning  
270 the principal advanced by the end of the business day after the  
271 day the program loan is consummated.

272 (f) Notwithstanding s. 516.031, the maximum annual  
273 interest rate charged on a program loan to the borrower, which  
274 must be fixed for the duration of the program loan, is 36  
275 percent on that portion of the unpaid principal balance up to

276 and including \$3,000, 30 percent on that portion of the unpaid  
277 principal balance exceeding \$3,000 and up to and including  
278 \$4,000, and 24 percent on that portion of the unpaid principal  
279 balance exceeding \$4,000 and up to and including \$7,500. The  
280 original principal amount of the program loan is equal to the  
281 amount financed as defined by the federal Truth in Lending Act  
282 and Regulation Z of the Board of Governors of the Federal  
283 Reserve System. In determining compliance with the maximum  
284 annual interest rates in this paragraph, the computations used  
285 must be simple interest through the application of a daily  
286 periodic rate to the actual unpaid principal balance each day  
287 and may not be added-on interest or any other computations.

288 (g) If two or more interest rates are applied to the  
289 principal amount of a program loan, the program licensee may  
290 charge, contract for, and receive interest at that single annual  
291 percentage rate that, if applied according to the actuarial  
292 method to each of the scheduled periodic balances of principal,  
293 would produce at maturity the same total amount of interest as  
294 would result from the application of the two or more rates  
295 otherwise permitted, based upon the assumption that all payments  
296 are made as agreed.

297 (h) The program licensee shall reduce the interest rates  
298 specified in paragraph (f) on each subsequent program loan to  
299 the same borrower by a minimum of 1 percent, up to a maximum of  
300 6 percent, if all of the following conditions are met:

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

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

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

307       (i) The program licensee may not induce or permit any  
308 person to become obligated to the program licensee, directly or  
309 contingently, or both, under more than one program loan at the  
310 same time.

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

314       1. The principal amount payable may not include more than  
315 60 days' unpaid interest accrued on the previous program loan  
316 pursuant to s. 516.031(5).

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

321       3. For a program loan with an original term of more than  
322 25 months, but not more than 60 months, the borrower has made  
323 current payments for at least 9 months on his or her existing  
324 program loan.

325       4. The borrower is current on payments for his or her

326 existing program loan.

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

329 6. The borrower has met the conditions of paragraph (c).

330 (k) In lieu of the provisions of s. 687.08, the program  
331 licensee or, if applicable, its approved access partner shall  
332 make available to the borrower by electronic or physical means a  
333 plain and complete receipt of payment at the time that a payment  
334 is made by the borrower. For audit purposes, the program  
335 licensee must maintain an electronic record for each receipt  
336 made available to a borrower, which must include a copy of the  
337 receipt and the date and time that the receipt was generated.  
338 Each receipt made available to the borrower must show all of the  
339 following:

340 1. The name of the borrower.

341 2. The name of the access partner, if applicable.

342 3. The total payment amount received.

343 4. The date of payment.

344 5. The program loan balance before and after application  
345 of the payment.

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

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

349 8. The following statement, prominently displayed in a  
350 type size equal to or larger than the type size used to display

351 the other items on the receipt: "If you have any questions about  
352 your loan now or in the future, you should direct those  
353 questions to ... (name of program licensee)... by ... (at least  
354 two different ways in which a borrower may contact the program  
355 licensee)...."

356 (2) WRITTEN DISCLOSURES AND STATEMENTS.—

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

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

363 (3) ORIGINATION FEES.—Notwithstanding s. 516.031, a  
364 program licensee may:

365 (a) Contract for and receive an origination fee from a  
366 borrower on a program loan. The program licensee may either  
367 deduct the origination fee from the principal amount of the loan  
368 disbursed to the borrower or capitalize the origination fee into  
369 the principal balance of the loan. The origination fee is fully  
370 earned and nonrefundable immediately upon the making of the  
371 program loan and may not exceed the lesser of 6 percent of the  
372 principal amount of the program loan made to the borrower,  
373 exclusive of the origination fee, or \$90.

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

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

378 (a) Notwithstanding s. 516.031, require payment from a  
379 borrower of no more than \$20 for fees incurred by the program  
380 licensee from a dishonored payment due to insufficient funds of  
381 the borrower.

382 (b) Notwithstanding s. 516.031(3)(a)9., contract for and  
383 receive a delinquency charge for each payment in default for at  
384 least 10 days if the charge is agreed upon, in writing, between  
385 the program licensee and the borrower before it is imposed.  
386 Delinquency charges may be imposed as follows:

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

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

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

395  
396 The program licensee, or any wholly owned subsidiary of the  
397 program licensee, may not sell or assign an unpaid debt to a  
398 third party for collection purposes unless the debt has been  
399 delinquent for at least 30 days.

400 (5) CREDIT EDUCATION.—Before disbursement of program loan



401 proceeds to the borrower, the program licensee must:

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

404 (b) Provide a credit education program or seminar to the  
 405 borrower. The borrower is not required to participate in such  
 406 education program or seminar. A credit education program or  
 407 seminar offered pursuant to this paragraph must be provided at  
 408 no cost to the borrower.

409 (6) CREDIT REPORTING.—

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

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

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

418 (7) PROGRAM LOAN UNDERWRITING.—

419 (a) The program licensee must underwrite each program loan  
 420 to determine a borrower's ability and willingness to repay the  
 421 program loan pursuant to the program loan terms. The program  
 422 licensee may not make a program loan if it determines that the  
 423 borrower's total monthly debt service payments at the time of  
 424 origination, including the program loan for which the borrower  
 425 is being considered and all outstanding forms of credit that can

426 be independently verified by the program licensee, exceed 50  
427 percent of the borrower's gross monthly income for a loan of not  
428 more than \$3,000, or exceed 36 percent of the borrower's gross  
429 monthly income for a loan of more than \$3,000.

430 (b)1. The program licensee must seek information and  
431 documentation pertaining to all of a borrower's outstanding debt  
432 obligations during the loan application and underwriting  
433 process, including loans that are self-reported by the borrower  
434 but not available through independent verification. The program  
435 licensee must verify such information using a credit report from  
436 at least one consumer reporting agency or through other  
437 available electronic debt verification services that provide  
438 reliable evidence of a borrower's outstanding debt obligations.

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

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

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

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

450 (8) WAIVERS.—

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

453 1. Waive any right, penalty, remedy, forum, or procedure  
454 provided for in any law applicable to the program loan,  
455 including the right to file and pursue a civil action or file a  
456 complaint with or otherwise communicate with the office, a  
457 court, or any other governmental entity.

458 2. Agree to the application of laws other than those of  
459 this state.

460 3. Agree to resolve disputes in a jurisdiction outside of  
461 this state.

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

465 (c) A program licensee may not refuse to do business with  
466 or discriminate against a borrower or an applicant on the basis  
467 of the borrower's or applicant's refusal to waive any right,  
468 penalty, remedy, forum, or procedure, including the right to  
469 file and pursue a civil action or complaint with, or otherwise  
470 communicate with, the office, a court, or any other governmental  
471 entity. The exercise of a person's right to refuse to waive any  
472 right, penalty, remedy, forum, or procedure, including a  
473 rejection of a contract requiring a waiver, does not affect any  
474 otherwise legal terms of a contract or an agreement.

475 (d) This subsection does not apply to any agreement to

476 waive any right, penalty, remedy, forum, or procedure, including  
477 any agreement to arbitrate a claim or dispute after a claim or  
478 dispute has arisen. This subsection does not affect the  
479 enforceability or validity of any other provision of the  
480 contract.

481 Section 5. Section 516.44, Florida Statutes, is created to  
482 read:

483 516.44 Access partners.—

484 (1) ACCESS PARTNER AGREEMENT.—All arrangements between a  
485 program licensee and an access partner must be specified in a  
486 written access partner agreement between the parties. The  
487 agreement must contain the following provisions:

488 (a) The access partner agrees to comply with this section  
489 and all rules adopted under this section regarding the  
490 activities of access partners.

491 (b) The office has access to the access partner's books  
492 and records pertaining to the access partner's operations under  
493 the agreement with the program licensee in accordance with s.  
494 516.45(3) and may examine the access partner pursuant to s.  
495 516.45.

496 (2) AUTHORIZED SERVICES.—A program licensee may use the  
497 services of one or more access partners as provided in this  
498 section. An access partner may perform one or more of the  
499 following services from its physical business location for the  
500 program licensee:

501        (a) Distributing, circulating, using, or publishing  
502 printed brochures, flyers, fact sheets, or other written  
503 materials relating to program loans that the program licensee  
504 may make or negotiate. The written materials must be reviewed  
505 and approved in writing by the program licensee before being  
506 distributed, circulated, used, or published.

507        (b) Providing written factual information about program  
508 loan terms, conditions, or qualification requirements to a  
509 prospective borrower which has been prepared by the program  
510 licensee or reviewed and approved in writing by the program  
511 licensee. An access partner may discuss the information with a  
512 prospective borrower in general terms.

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

515        (d) Entering information provided by the prospective  
516 borrower on the program licensee's preprinted or electronic  
517 application form or in the program licensee's preformatted  
518 computer database.

519        (e) Assembling credit applications and other materials  
520 obtained in the course of a credit application transaction for  
521 submission to the program licensee.

522        (f) Contacting the program licensee to determine the  
523 status of a program loan application.

524        (g) Communicating a response that is returned by the  
525 program licensee's automated underwriting system to a borrower

526 or a prospective borrower.

527 (h) Obtaining a borrower's signature on documents prepared  
528 by the program licensee and delivering final copies of the  
529 documents to the borrower.

530 (i) Disbursing program loan proceeds to a borrower if this  
531 method of disbursement is acceptable to the borrower, subject to  
532 the requirements of subsection (3). A loan disbursement made by  
533 an access partner under this paragraph is deemed to be made by  
534 the program licensee on the date that the funds are disbursed or  
535 otherwise made available by the access partner to the borrower.

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

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

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

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

547 (b) An access partner that receives a loan payment from a  
548 borrower must deliver or cause to be delivered to the borrower a  
549 plain and complete receipt showing all of the information  
550 specified in s. 516.43(1)(k) at the time that the payment is

551 made by the borrower.

552 (c) A borrower who submits a loan payment to an access  
553 partner under this subsection is not liable for a failure or  
554 delay by the access partner in transmitting the payment to the  
555 program licensee.

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

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

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

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

566 (c) Negotiate a loan term between a program licensee and a  
567 prospective borrower.

568 (d) Offer information pertaining to a single prospective  
569 borrower to more than one program licensee. However, if a  
570 program licensee has declined to offer a program loan to a  
571 prospective borrower and has so notified the prospective  
572 borrower in writing, the access partner may then offer  
573 information pertaining to that borrower to another program  
574 licensee with whom it has an access partner agreement.

575 (e) Except for the purpose of assisting a borrower in

576 obtaining a refinance program loan, offer information pertaining  
577 to a prospective borrower to any program licensee if the  
578 prospective borrower has an outstanding program loan.

579 (f) Require a borrower to pay any fees or charges to the  
580 access partner or to any other person in connection with a  
581 program loan other than those permitted under ss. 516.405-  
582 516.46.

583 (5) DISCLOSURE STATEMENTS.-

584 (a) At the time that the access partner receives or  
585 processes an application for a program loan, the access partner  
586 shall provide the following statement to the applicant on behalf  
587 of the program licensee, in at least 10-point type, and shall  
588 request that the applicant acknowledge receipt of the statement  
589 in writing:

590  
591 Your loan application has been referred to us by  
592 ...(name of access partner).... We may pay a fee to  
593 ...(name of access partner)... for the successful  
594 referral of your loan application. If you are approved  
595 for the loan, ...(name of program licensee)... will  
596 become your lender. If you have any questions about  
597 your loan, now or in the future, you should direct  
598 those questions to ...(name of program licensee)... by  
599 ...(insert at least two different ways in which a  
600 borrower may contact the program licensee).... If you



601 wish to report a complaint about ... (name of access  
602 partner) ... or ... (name of program licensee) ...  
603 regarding this loan transaction, you may contact the  
604 Division of Consumer Finance of the Office of  
605 Financial Regulation at 850-487-9687 or  
606 <http://www.flofr.com>.

607  
608 (b) If the loan applicant has questions about the program  
609 loan which the access partner is not permitted to answer, the  
610 access partner must make a good faith effort to assist the  
611 applicant in making direct contact with the program licensee  
612 before the program loan is consummated.

613 (6) COMPENSATION.—

614 (a) The program licensee may compensate an access partner  
615 in accordance with a written agreement and a compensation  
616 schedule that is agreed to by the program licensee and the  
617 access partner, subject to the requirements in paragraph (b).

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

620 1. Compensation may not be paid to an access partner in  
621 connection with a loan application unless the program loan is  
622 consummated.

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

626        3. Compensation paid by the program licensee to the access  
627 partner may not exceed \$65 per consummated program loan and may  
628 not be charged directly or indirectly to the borrower.

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

634        (a) The name, principal office address, and any licensing  
635 details of the access partner and addresses of all physical  
636 business locations at which the access partner will perform  
637 services under this section.

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

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

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

647        1. The filing of a petition under the United States  
648 Bankruptcy Code for bankruptcy or reorganization by the access  
649 partner.

650        2. The commencement of an administrative or a judicial

651 license suspension or revocation proceeding, or the denial of a  
652 license request or renewal, by any state, the District of  
653 Columbia, any United States territory, or any foreign country in  
654 which the access partner operates, plans to operate, or is  
655 licensed to operate.

656 3. A felony indictment involving the access partner or an  
657 affiliated party.

658 4. The felony conviction, guilty plea, or plea of nolo  
659 contendere, regardless of adjudication, of the access partner or  
660 an affiliated party.

661 5. Any suspected criminal act perpetrated in this state  
662 relating to activities regulated under this chapter by the  
663 access partner.

664 6. Notification by a law enforcement or prosecutorial  
665 agency that the access partner is under criminal investigation,  
666 including, but not limited to, subpoenas to produce records or  
667 testimony and warrants issued by a court of competent  
668 jurisdiction which authorize the search and seizure of any  
669 records relating to a business activity regulated under this  
670 chapter.

671  
672 As used in this paragraph, the term "affiliated party" means a  
673 director, officer, control person, employee, or foreign  
674 affiliate of an access partner; or a person who has a  
675 controlling interest in an access partner.

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

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

684 (9) RESPONSIBILITY FOR ACTS OF AN ACCESS PARTNER.—A  
685 program licensee is responsible for any act of its access  
686 partner or the access partner's employees if such act is a  
687 violation of this chapter.

688 (10) RULEMAKING.—The commission shall adopt rules to  
689 implement this section.

690 Section 6. Section 516.45, Florida Statutes, is created to  
691 read:

692 516.45 Examinations, investigations, and grounds for  
693 disciplinary action.—

694 (1) Notwithstanding any other law, the office shall  
695 examine each program licensee that is accepted into the program  
696 in accordance with this chapter at least once every 24 months.

697 (2) Notwithstanding subsection (1), the office may waive  
698 one or more branch office examinations if the office finds that  
699 such examinations are not necessary for the protection of the  
700 public due to the centralized operations of the program licensee

701 or other factors acceptable to the office.

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

706 (4) A program licensee who violates any applicable  
707 provision of this chapter is subject to disciplinary action  
708 pursuant to s. 516.07(2). Any such disciplinary action is  
709 subject to s. 120.60. The program licensee is also subject to  
710 disciplinary action for a violation of s. 516.44 committed by  
711 any of its access partners or the access partner's employees.

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

714 (a) Bar the access partner from performing services under  
715 this chapter.

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

718 (c) Impose an administrative fine on the access partner  
719 not to exceed \$1,000 for each violation of s. 516.44.

720 (6) The commission shall adopt rules to implement this  
721 section.

722 Section 7. Section 516.46, Florida Statutes, is created to  
723 read:

724 516.46 Annual reports by program licensees and the  
725 office.-

726       (1) By March 15, 2021, and each year thereafter, a program  
727 licensee shall file a report with the office on a form and in a  
728 manner prescribed by commission rule. The report must include  
729 each of the items specified in subsection (2) for the preceding  
730 year using aggregated or anonymized data without reference to  
731 any borrower's nonpublic personal information or any program  
732 licensee's or access partner's proprietary or trade secret  
733 information.

734       (2) By January 1, 2022, and each year thereafter, the  
735 office shall post a report on its website summarizing the use of  
736 the program based on the information contained in the reports  
737 filed in the preceding year by program licensees under  
738 subsection (1). The office's report must publish the information  
739 in the aggregate so as not to identify data by any specific  
740 program licensee. The report must specify the period to which  
741 the report corresponds and must include, but is not limited to,  
742 the following for that period:

743       (a) The number of applicants approved for a program  
744 license by the office.

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

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

754 (d) Of those borrowers who obtained more than one program  
755 loan and had a credit score by the time of their subsequent  
756 loan, the percentage of those borrowers whose credit scores  
757 increased between successive loans, based on information from at  
758 least one major credit bureau, and the average size of the  
759 increase. In each case, the report must include the name of the  
760 credit score, such as FICO or VantageScore, which the program  
761 licensee is required to disclose.

762 (e) The income distribution of borrowers upon program loan  
763 origination, including the number of borrowers who obtained at  
764 least one program loan and who resided in a low-income or  
765 moderate-income census tract at the time of their loan  
766 applications.

767 (f) The number of borrowers who obtained program loans for  
768 the following purposes, based on the borrowers' responses at the  
769 time of their loan applications indicating the primary purpose  
770 for which the program loans were obtained:

- 771 1. To pay medical expenses.
- 772 2. To pay for vehicle repair or a vehicle purchase.
- 773 3. To pay bills.
- 774 4. To consolidate debt.
- 775 5. To build or repair credit history.

776       6. To finance a small business.

777       7. To pay other expenses.

778       (g) The number of borrowers who self-report that they had  
779 a bank account at the time of their loan application and the  
780 number of borrowers who self-report that they did not have a  
781 bank account at the time of their loan application.

782       (h) For refinance program loans:

783       1. The number and percentage of borrowers who applied for  
784 a refinance program loan.

785       2. Of those borrowers who applied for a refinance program  
786 loan, the number and percentage of borrowers who obtained a  
787 refinance program loan.

788       (i) The performance of program loans as reflected by all  
789 of the following:

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

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

798       3. The number and percentage of borrowers who experienced  
799 at least one delinquency lasting 60 days or more and the  
800 distribution of principal loan amounts corresponding to those



801 delinquencies.

802 (3) The commission shall adopt rules to implement this  
 803 section.

804 Section 8. Sections 516.405-516.46, Florida Statutes, as  
 805 created by this act, shall continue for 5 years after the date  
 806 on which the Office of Financial Regulation of the Financial  
 807 Services Commission posts its first report pursuant to s.  
 808 516.46(2), Florida Statutes, unless reenacted or superseded by  
 809 another law enacted by the Legislature before that date.

810 Section 9. For the 2019-2020 fiscal year, the sums of  
 811 \$262,125 in recurring funds and \$140,000 in nonrecurring funds  
 812 from the Regulatory Trust Fund are appropriated to the Office of  
 813 Financial Regulation of the Financial Services Commission, and  
 814 four full-time equivalent positions with associated salary rate  
 815 of 173,881 are authorized, to implement this act.

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