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LEGISLATIVE ACTION

Senate

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House

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Floor: WD/3R

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05/03/2019 11:44 AM

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Senator Rouson moved the following:

1           **Senate Amendment to Amendment (300314) (with title**  
2 **amendment)**

3  
4           Delete lines 26 - 775

5 and insert:

6           (a) The term includes only the following:

7           1. A bank, as defined in s. 658.12(2).

8           2. A national bank, as defined in s. 658.12(12).

9           3. A credit union, as defined in s. 657.002(4).

10           4. An insurance agent, as defined in s. 626.015(3).

11           5. An insurance agency, as defined in s. 626.015(10).



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- 12       6. A tax preparation service.
- 13       7. A money services business, as defined in s. 560.103(22).
- 14       8. An authorized vendor of a money services business, as  
15 defined in s. 560.103(3).
- 16       9. An investment adviser, as defined in s. 517.021(14).
- 17       10. A financial services provider.
- 18       11. A public accounting firm as defined in s. 473.302(7)  
19 (b) The term does not include a credit service organization  
20 as defined in s. 817.7001 or a loan broker as defined in s.  
21 687.14.
- 22       (2) "Consumer reporting agency" has the same meaning as the  
23 term "consumer reporting agency that compiles and maintains  
24 files on consumers on a nationwide basis" in the Fair Credit  
25 Reporting Act, 15 U.S.C. s. 1681a(p).
- 26       (3) "Credit score" has the same meaning as in the Fair  
27 Credit Reporting Act, 15 U.S.C. s. 1681g(f)(2)(A).
- 28       (4) "Data furnisher" has the same meaning as the term  
29 "furnisher" in 12 C.F.R. s. 1022.41(c).
- 30       (5) "Pilot program" or "program" means the Access to  
31 Responsible Credit Pilot Program.
- 32       (6) "Pilot program license" or "program license" means a  
33 license issued under ss. 516.405-516.46 authorizing a program  
34 licensee to make and collect program loans.
- 35       (7) "Program branch office license" means a license issued  
36 under the program for each location, other than a program  
37 licensee's or access partner's principal place of business:
- 38       (a) The address of which appears on business cards,  
39 stationery, or advertising used by the program licensee in  
40 connection with business conducted under this chapter;



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41 (b) At which the program licensee's name, advertising or  
42 promotional materials, or signage suggests that program loans  
43 are originated, negotiated, funded, or serviced by the program  
44 licensee; or

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

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

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

54 (10) "Refinance program loan" means a program loan that  
55 extends additional principal to a borrower and replaces and  
56 revises an existing program loan contract with the borrower. A  
57 refinance program loan does not include an extension, a  
58 deferral, or a rewrite of the program loan.

59 Section 6. Effective January 1, 2020, section 516.42,  
60 Florida Statutes, is created to read:

61 516.42 Requirements for program participation; program  
62 application requirements.-

63 (1) A person may not advertise, offer, or make a program  
64 loan, or impose any charges or fees pursuant to s. 516.43,  
65 unless the person obtains a pilot program license from the  
66 office.

67 (2) In order to obtain a pilot program license, a person  
68 must:

69 (a)1. Be licensed to make and collect consumer finance



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70 loans under s. 516.05; or

71 2. Submit the application for the license required in s.  
72 516.03 concurrently with the application for the program  
73 license. The application required by s. 516.03 must be approved  
74 and the license under that section must be issued in order to  
75 obtain the program license.

76 (b) Be accepted as a data furnisher by a consumer reporting  
77 agency.

78 (c) Demonstrate financial responsibility, experience,  
79 character, or general fitness, such as to command the confidence  
80 of the public and to warrant the belief that the business  
81 operated at the licensed or proposed location is lawful, honest,  
82 fair, efficient, and within the purposes of this chapter.

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  
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.



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

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



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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  
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 person  
153 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.



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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  
161 business:

162 (a) Fails to demonstrate financial responsibility,  
163 experience, character, or general fitness, such as to command  
164 the confidence of the public and to warrant the belief that the  
165 business operated at the licensed or proposed location is  
166 lawful, honest, fair, efficient, and within the purposes of this  
167 chapter.

168 (b) Pled nolo contendere to, or was convicted or found  
169 guilty of, a crime involving fraud, dishonest dealing, or any  
170 act of moral turpitude, regardless of whether adjudication was  
171 withheld.

172 (c) Is subject to the issuance of a cease and desist order;  
173 the issuance of a removal order; the denial, suspension, or  
174 revocation of a license; or any other action within the  
175 authority of the office, any financial regulatory agency in this  
176 state, or any other state or federal regulatory agency that  
177 affects the applicant's ability to participate in the program.

178 (10) The commission shall adopt rules to implement this  
179 section.

180 Section 7. Effective January 1, 2020, section 516.43,  
181 Florida Statutes, is created to read:

182 516.43 Requirements for program loans.—

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

185 (a) A program loan must be unsecured.



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186       (b) A program loan must have:  
187       1. A term of at least 120 days, but not more than 36  
188 months, for a loan with a principal balance upon origination of  
189 at least \$300, but not more than \$3,000.  
190       2. A term of at least 12 months, but not more than 60  
191 months, for a loan with a principal balance upon origination of  
192 more than \$3,000.  
193       (c) A borrower may not receive a program loan for a  
194 principal balance exceeding \$5,000 unless:  
195       1. The borrower has paid in full the outstanding principal,  
196 interest, and fees on a previous program loan;  
197       2. The borrower's credit score increased from the time of  
198 application for the borrower's first consummated program loan;  
199 and  
200       3. The borrower was never delinquent for more than 7 days  
201 on a previous program loan.  
202       (d) A program loan may not impose a prepayment penalty. A  
203 program loan must be repayable by the borrower in substantially  
204 equal, periodic installments, except that the final payment may  
205 be less than the amount of the prior installments. Installments  
206 must be due either every 2 weeks, semimonthly, or monthly.  
207       (e) A program loan must include a borrower's right to  
208 rescind the program loan by notifying the program licensee of  
209 the borrower's intent to rescind the program loan and returning  
210 the principal advanced by the end of the business day after the  
211 day the program loan is consummated.  
212       (f) Notwithstanding s. 516.031, the maximum annual interest  
213 rate charged on a program loan to the borrower, which must be  
214 fixed for the duration of the program loan, is 36 percent on





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215 that portion of the unpaid principal balance up to and including  
216 \$3,000; 30 percent on that portion of the unpaid principal  
217 balance exceeding \$3,000 and up to and including \$4,000; and 24  
218 percent on that portion of the unpaid principal balance  
219 exceeding \$4,000 and up to and including \$7,500. The original  
220 principal amount of the program loan is equal to the amount  
221 financed as defined by the federal Truth in Lending Act and  
222 Regulation Z of the Board of Governors of the Federal Reserve  
223 System. In determining compliance with the maximum annual  
224 interest rates in this paragraph, the computations used must be  
225 simple interest through the application of a daily periodic rate  
226 to the actual unpaid principal balance each day and may not be  
227 added-on interest or any other computations.

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

237 (h) The program licensee shall reduce the interest rates  
238 specified in paragraph (f) on each subsequent program loan to  
239 the same borrower by a minimum of 1 percent, up to a maximum of  
240 6 percent, if all of the following conditions are met:

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

243 2. The borrower was never more than 15 days delinquent on



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244 the prior program loan.

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

247 (i) The program licensee may not induce or permit any  
248 person to become obligated to the program licensee, directly or  
249 contingently, or both, under more than one program loan at the  
250 same time with the program licensee.

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

254 1. The principal amount payable may not include more than  
255 60 days' unpaid interest accrued on the previous program loan  
256 pursuant to s. 516.031(5).

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

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

265 4. The borrower is current on payments for his or her  
266 existing program loan.

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

269 (k) In lieu of the provisions of s. 687.08, the program  
270 licensee or, if applicable, its approved access partner shall  
271 make available to the borrower by electronic or physical means a  
272 plain and complete receipt of payment at the time that a payment



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273 is made by the borrower. For audit purposes, the program  
274 licensee must maintain an electronic record for each receipt  
275 made available to a borrower, which must include a copy of the  
276 receipt and the date and time that the receipt was generated.  
277 Each receipt made available to the borrower must show all of the  
278 following:

- 279 1. The name of the borrower.
- 280 2. The name of the access partner, if applicable.
- 281 3. The total payment amount received.
- 282 4. The date of payment.
- 283 5. The program loan balance before and after application of  
284 the payment.
- 285 6. The amount of the payment that was applied to the  
286 principal, interest, and fees.
- 287 7. The type of payment made by the borrower.
- 288 8. The following statement, prominently displayed in a type  
289 size equal to or larger than the type size used to display the  
290 other items on the receipt: "If you have any questions about  
291 your loan now or in the future, you should direct those  
292 questions to ...(name of program licensee)... by ...(at least  
293 two different ways in which a borrower may contact the program  
294 licensee)...."

295 (2) WRITTEN DISCLOSURES AND STATEMENTS.-

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

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



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

304       (a) Contract for and receive an origination fee from a  
305 borrower on a program loan. The program licensee may either  
306 deduct the origination fee from the principal amount of the loan  
307 disbursed to the borrower or capitalize the origination fee into  
308 the principal balance of the loan. The origination fee is fully  
309 earned and nonrefundable immediately upon the making of the  
310 program loan and may not exceed the lesser of 6 percent of the  
311 principal amount of the program loan made to the borrower,  
312 exclusive of the origination fee, or \$90.

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

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

317       (a) Notwithstanding s. 516.031, require payment from a  
318 borrower of no more than \$20 for fees incurred by the program  
319 licensee from a dishonored payment due to insufficient funds of  
320 the borrower.

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

325 Delinquency charges may be imposed as follows:

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

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

330       3. For payments due every 2 weeks, the delinquency charge



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331 for a payment in default may not exceed \$7.50 if two payments  
332 are due within the same calendar month, and may not exceed \$5 if  
333 three payments are due within the same calendar month.

334  
335 The program licensee, or any wholly owned subsidiary of the  
336 program licensee, may not sell or assign an unpaid debt to an  
337 independent third party for collection purposes unless the debt  
338 has been delinquent for at least 30 days.

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

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

343 (b) Provide a credit education program or seminar to the  
344 borrower. The borrower is not required to participate in such  
345 education program or seminar. A credit education program or  
346 seminar offered pursuant to this paragraph must be provided at  
347 no cost to the borrower.

348 (6) CREDIT REPORTING.—

349 (a) The program licensee shall report each borrower's  
350 payment performance to at least two consumer reporting agencies.

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

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

357 (7) PROGRAM LOAN UNDERWRITING.—

358 (a) The program licensee must underwrite each program loan  
359 to determine a borrower's ability and willingness to repay the



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360 program loan pursuant to the program loan terms. The program  
361 licensee may not make a program loan if it determines that the  
362 borrower's total monthly debt service payments at the time of  
363 origination, including the program loan for which the borrower  
364 is being considered and all outstanding forms of credit that can  
365 be independently verified by the program licensee, exceed 50  
366 percent of the borrower's gross monthly income for a loan of not  
367 more than \$3,000, or exceed 36 percent of the borrower's gross  
368 monthly income for a loan of more than \$3,000.

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

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

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

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

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



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389 (8) WAIVERS.-

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

392 1. Waive any right, penalty, remedy, forum, or procedure  
393 provided for in any law applicable to the program loan,  
394 including the right to file and pursue a civil action or file a  
395 complaint with or otherwise communicate with the office, a  
396 court, or any other governmental entity.

397 2. Agree to the application of laws other than those of  
398 this state.

399 3. Agree to resolve disputes in a jurisdiction outside of  
400 this state.

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

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

414 (d) This subsection does not apply to any agreement to  
415 wave any right, penalty, remedy, forum, or procedure, including  
416 any agreement to arbitrate a claim or dispute after a claim or  
417 dispute has arisen. This subsection does not affect the



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418 enforceability or validity of any other provision of the  
419 contract.

420 Section 8. Effective January 1, 2020, section 516.44,  
421 Florida Statutes, is created to read:

422 516.44 Access partners.—

423 (1) ACCESS PARTNER AGREEMENT.—All arrangements between a  
424 program licensee and an access partner must be specified in a  
425 written access partner agreement between the parties. The  
426 agreement must contain the following provisions:

427 (a) The access partner agrees to comply with this section  
428 and all rules adopted under this section regarding the  
429 activities of access partners.

430 (b) The office has access to the access partner's books and  
431 records pertaining to the access partner's operations under the  
432 agreement with the program licensee in accordance with s.  
433 516.45(3) and may examine the access partner pursuant to s.  
434 516.45.

435 (2) AUTHORIZED SERVICES.—A program licensee may use the  
436 services of one or more access partners as provided in this  
437 section. An access partner may perform one or more of the  
438 following services from its physical business location for the  
439 program licensee:

440 (a) Distributing, circulating, using, or publishing printed  
441 brochures, flyers, fact sheets, or other written materials  
442 relating to program loans that the program licensee may make or  
443 negotiate. The written materials must be reviewed and approved  
444 in writing by the program licensee before being distributed,  
445 circulated, used, or published.

446 (b) Providing written factual information about program





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447 loan terms, conditions, or qualification requirements to a  
448 prospective borrower which has been prepared by the program  
449 licensee or reviewed and approved in writing by the program  
450 licensee. An access partner may discuss the information with a  
451 prospective borrower in general terms.

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

454 (d) Entering information provided by the prospective  
455 borrower on a preprinted or an electronic application form or in  
456 a preformatted computer database.

457 (e) Assembling credit applications and other materials  
458 obtained in the course of a credit application transaction for  
459 submission to the program licensee.

460 (f) Contacting the program licensee to determine the status  
461 of a program loan application.

462 (g) Communicating a response that is returned by the  
463 program licensee's automated underwriting system to a borrower  
464 or a prospective borrower.

465 (h) Obtaining a borrower's signature on documents prepared  
466 by the program licensee and delivering final copies of the  
467 documents to the borrower.

468 (i) Disbursing program loan proceeds to a borrower if this  
469 method of disbursement is acceptable to the borrower, subject to  
470 the requirements of subsection (3). A loan disbursement made by  
471 an access partner under this paragraph is deemed to be made by  
472 the program licensee on the date that the funds are disbursed or  
473 otherwise made available by the access partner to the borrower.

474 (j) Receiving a program loan payment from the borrower if  
475 this method of payment is acceptable to the borrower, subject to



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476 the requirements of subsection (3).

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

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

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

485 (b) An access partner that receives a loan payment from a  
486 borrower must deliver or cause to be delivered to the borrower a  
487 plain and complete receipt showing all of the information  
488 specified in s. 516.43(1)(k) at the time that the payment is  
489 made by the borrower.

490 (c) A borrower who submits a loan payment to an access  
491 partner under this subsection is not liable for a failure or  
492 delay by the access partner in transmitting the payment to the  
493 program licensee.

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

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

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

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

504 (c) Negotiate a loan term between a program licensee and a



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505 prospective borrower.

506 (d) Offer information pertaining to a single prospective  
507 borrower to more than one program licensee. However, if a  
508 program licensee has declined to offer a program loan to a  
509 prospective borrower and has so notified the prospective  
510 borrower in writing, the access partner may then offer  
511 information pertaining to that borrower to another program  
512 licensee with whom it has an access partner agreement.

513 (e) Except for the purpose of assisting a borrower in  
514 obtaining a refinance program loan, offer information pertaining  
515 to a prospective borrower to any program licensee if the  
516 prospective borrower has an outstanding program loan.

517 (f) Charge a borrower any fee for a program loan.

518 (5) DISCLOSURE STATEMENTS.—

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

525  
526 Your loan application has been referred to us by  
527 ...(name of access partner).... We may pay a fee to  
528 ...(name of access partner)... for the successful  
529 referral of your loan application. If you are approved  
530 for the loan, ...(name of program licensee)... will  
531 become your lender. If you have any questions about  
532 your loan, now or in the future, you should direct  
533 those questions to ...(name of program licensee)... by



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534 ...(insert at least two different ways in which a  
535 borrower may contact the program licensee).... If you  
536 wish to report a complaint about ...(name of access  
537 partner)... or ...(name of program licensee)...  
538 regarding this loan transaction, you may contact the  
539 Division of Consumer Finance of the Office of  
540 Financial Regulation at 850-487-9687 or  
541 <http://www.flofr.com>.

542  
543 (b) If the loan applicant has questions about the program  
544 loan which the access partner is not permitted to answer, the  
545 access partner must make a good faith effort to assist the  
546 applicant in making direct contact with the program licensee  
547 before the program loan is consummated.

548 (6) COMPENSATION.—

549 (a) The program licensee may compensate an access partner  
550 in accordance with a written agreement and a compensation  
551 schedule that is agreed to by the program licensee and the  
552 access partner, subject to the requirements in paragraph (b).

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

555 1. Compensation may not be paid to an access partner in  
556 connection with a loan application unless the program loan is  
557 consummated.

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

561 3. Compensation paid by the program licensee to the access  
562 partner may not exceed \$65 per program loan, on average, plus \$2



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563 per payment received by the access partner on behalf of the  
564 program licensee for the duration of the program loan, and may  
565 not be charged directly or indirectly to the borrower.

566 (7) NOTICE TO OFFICE.—A program licensee that uses the  
567 service of an access partner must notify the office, in a form  
568 and manner prescribed by commission rule, within 15 days after  
569 entering into a contract with an access partner regarding all of  
570 the following:

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

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

577 (c) The name and contact information of one or more  
578 employees of the access partner who are responsible for that  
579 access partner's referring activities on behalf of the program  
580 licensee.

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

584 1. The filing of a petition under the United States  
585 Bankruptcy Code for bankruptcy or reorganization by the access  
586 partner.

587 2. The commencement of an administrative or a judicial  
588 license suspension or revocation proceeding, or the denial of a  
589 license request or renewal, by any state, the District of  
590 Columbia, any United States territory, or any foreign country in  
591 which the access partner operates, plans to operate, or is



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592 licensed to operate.

593 3. A felony indictment involving the access partner or an  
594 affiliated party.

595 4. The felony conviction, guilty plea, or plea of nolo  
596 contendere, regardless of adjudication, of the access partner or  
597 an affiliated party.

598 5. Any suspected criminal act perpetrated in this state  
599 relating to activities regulated under this chapter by the  
600 access partner.

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

608

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

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

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



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

624       (10) REGISTRY OF ACCESS PARTNERS.—A program licensee shall  
625 maintain a registry of all access partners and access partner  
626 locations that provide services to the program licensee. The  
627 program licensee shall provide a copy of the registry to the  
628 office at the time the program licensee files its report  
629 pursuant to s. 516.46(1).

630       (11) RULEMAKING.—The commission shall adopt rules to  
631 implement this section.

632       Section 9. Effective January 1, 2020, section 516.45,  
633 Florida Statutes, is created to read:

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

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

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

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

648       (4) A program licensee who violates any applicable  
649 provision of this chapter is subject to disciplinary action



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650 pursuant to s. 516.07(2). Any such disciplinary action is  
651 subject to s. 120.60. The program licensee is also subject to  
652 disciplinary action for a violation of s. 516.44 committed by  
653 any of its access partners.

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

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

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

660 (c) Impose an administrative fine on the access partner of  
661 up to \$5,000 in a calendar year.

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

664 Section 10. Effective January 1, 2020, section 516.46,  
665 Florida Statutes, is created to read:

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

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

675 (2) By January 1, 2022, and each year thereafter, the  
676 office shall post a report on its website summarizing the use of  
677 the program based on the information contained in the reports  
678 filed in the preceding year by program licensees under





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679 subsection (1). The office's report must publish the information  
680 in the aggregate so as not to identify data by any specific  
681 program licensee. The report must specify the period to which  
682 the report corresponds and must include, but is not limited to,  
683 the following for that period:

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

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

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

695 (d) Of those borrowers who obtained more than one program  
696 loan and had a credit score by the time of their subsequent  
697 loan, the percentage of those borrowers whose credit scores  
698 increased between successive loans, based on information from at  
699 least one major credit bureau, and the average size of the  
700 increase. In each case, the report must include the name of the  
701 credit score, such as FICO or VantageScore, which the program  
702 licensee is required to disclose.

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



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

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

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

723       (h) For refinance program loans:

- 724       1. The number and percentage of borrowers who applied for a  
725 refinance program loan.  
726       2. Of those borrowers who applied for a refinance program  
727 loan, the number and percentage of borrowers who obtained a  
728 refinance program loan.

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

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

735       2. The number and percentage of borrowers who experienced  
736 at least one delinquency lasting between 30 and 59 days and the



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737 distribution of principal loan amounts corresponding to those  
738 delinquencies.

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

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

745 Section 11. Sections 516.405-516.46, Florida Statutes, are  
746 repealed on January 1, 2026, unless reenacted or superseded by  
747 another law enacted by the Legislature before that date.

748 Section 12. For the 2019-2020 fiscal year, the sum of  
749 \$407,520 in nonrecurring funds from the Administrative Trust  
750 Fund is appropriated to the Office of Financial Regulation for  
751 the purpose of implementing sections 516.405-516.46, Florida  
752 Statutes.

753

754 ===== T I T L E A M E N D M E N T =====

755 And the title is amended as follows:

756 Delete lines 848 - 864

757 and insert:

758 office by a certain time; requiring the commission to  
759 adopt rules; creating s. 516.45, F.S.; requiring the  
760 office to examine each program licensee; authorizing  
761 the office to waive branch office examinations under  
762 certain circumstances; limiting the scope of certain  
763 examinations and investigations; authorizing the  
764 office to take certain disciplinary action against  
765 program licensees and access partners; requiring the



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766 commission to adopt rules; creating s. 516.46, F.S.;

767 requiring program licensees to file an annual report

768 with the office beginning on a specified date;

769 requiring the office to post an annual report on its

770 website by a specified date; specifying information to

771 be contained in the reports; requiring the commission

772 to adopt rules; providing for future repeal of the

773 pilot program; providing an appropriation; providing

774 effective