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LEGISLATIVE ACTION

Senate

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House

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Senator Rouson moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

516.405 Access to Responsible Credit Pilot Program.—

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



308946

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

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

18 516.41 Definitions.—As used in ss. 516.405-516.46, the
19 term:

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

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

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

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

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

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

39 (7) "Program branch office license" means a license issued
40 under the program for each location, other than a program



308946

41 licensee's or access partner's principal place of business:

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

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

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

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

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

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

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

65 516.42 Requirements for program participation; program
66 application requirements.—

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



308946

70 office.
71 (2) In order to obtain a pilot program license, a person
72 must:
73 (a)1. Be licensed to make and collect consumer finance
74 loans under s. 516.05; or
75 2. Submit the application for the license required in s.
76 516.05 concurrently with the application for the program
77 license, both of which must be approved by the office.
78 (b) Be accepted as a data furnisher by a consumer reporting
79 agency.
80 (c) Not be the subject of any insolvency proceeding or a
81 pending criminal prosecution.
82 (d) Not be subject to the issuance of a cease and desist
83 order; the issuance of a removal order; the denial, suspension,
84 or revocation of a license; or any other action within the
85 authority of the office, any financial regulatory agency in this
86 state, or any other state or federal regulatory agency that
87 affects the ability of such person to participate in the
88 program.
89 (3) (a) A program applicant must file with the office a
90 digital application, in a form and manner prescribed by
91 commission rule, which contains all of the following information
92 with respect to the applicant:
93 1. The legal business name and any other name under which
94 the applicant operates.
95 2. The applicant's main address.
96 3. The applicant's telephone number and e-mail address.
97 4. The address of each program branch office.
98 5. The name, title, address, telephone number, and e-mail



308946

99 address of the applicant's contact person.

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

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

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

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

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

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

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

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

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



308946

128 electronic access point through which a prospective borrower may
129 directly access the website of the program licensee.

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

132 (7) The office shall issue a program branch office license
133 to a program licensee after the office determines that the
134 program licensee has submitted a completed electronic
135 application for a program branch office license in a form
136 prescribed by commission rule. The program branch office license
137 must be issued in the name of the program licensee that
138 maintains the branch office. An application is considered
139 received for purposes of s. 120.60 upon receipt of a completed
140 application form. The application for a program branch office
141 license must contain the following information:

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

144 (b) The applicant's main address.

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

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

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

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

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

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

156 (9) Notwithstanding subsection (7), the office may deny an



308946

157 initial or renewal application for a program license or program
158 branch office license if the applicant or any person with power
159 to direct the management or policies of the applicant's business
160 is:

161 (a) The subject of any insolvency proceeding;

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

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

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

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

174 516.43 Requirements for program loans.—

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

177 (a) A program loan must be unsecured.

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

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

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

185 (c) A borrower may not receive a program loan for a



308946

186 principal balance exceeding \$5,000 unless:

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

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

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

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

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

204 (f) Notwithstanding s. 516.031, the maximum annual interest
205 rate charged on a program loan to the borrower, which must be
206 fixed for the duration of the program loan, is 36 percent on
207 that portion of the unpaid principal balance up to and including
208 \$3,000, 30 percent on that portion of the unpaid principal
209 balance exceeding \$3,000 and up to and including \$4,000, and 24
210 percent on that portion of the unpaid principal balance
211 exceeding \$4,000 and up to and including \$7,500. The original
212 principal amount of the program loan is equal to the amount
213 financed as defined by the federal Truth in Lending Act and
214 Regulation Z of the Board of Governors of the Federal Reserve



308946

215 System. In determining compliance with the maximum annual
216 interest rates in this paragraph, the computations used must be
217 simple interest through the application of a daily periodic rate
218 to the actual unpaid principal balance each day and may not be
219 added-on interest or any other computations.

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

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

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

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

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

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

243 (j) The program licensee may not refinance a program loan



308946

244 unless all of the following conditions are met at the time the
245 borrower submits an application to refinance:

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

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

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

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

259 5. The program licensee must underwrite the new program
260 loan in accordance with subsection (8).

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

271 1. The name of the borrower.

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



308946

- 273 3. The total payment amount received.
- 274 4. The date of payment.
- 275 5. The program loan balance before and after application of
276 the payment.
- 277 6. The amount of the payment that was applied to the
278 principal, interest, and fees.
- 279 7. The type of payment made by the borrower.
- 280 8. The following statement, prominently displayed in a type
281 size equal to or larger than the type size used to display the
282 other items on the receipt: "If you have any questions about
283 your loan now or in the future, you should direct those
284 questions to ... (name of program licensee)... by ... (at least
285 two different ways in which a borrower may contact the program
286 licensee)...."
- 287 (2) WRITTEN DISCLOSURES AND STATEMENTS.—
- 288 (a) Notwithstanding s. 516.15(1), the loan contract and all
289 written disclosures and statements may be provided by a program
290 licensee to a borrower in English or in the language in which
291 the loan is negotiated.
- 292 (b) The program licensee shall provide to a borrower all
293 the statements required of licensees under s. 516.15.
- 294 (3) ORIGINATION FEES.—Notwithstanding s. 516.031, a program
295 licensee may:
- 296 (a) Contract for and receive an origination fee from a
297 borrower on a program loan. The program licensee may either
298 deduct the origination fee from the principal amount of the loan
299 disbursed to the borrower or capitalize the origination fee into
300 the principal balance of the loan. The origination fee is fully
301 earned and nonrefundable immediately upon the making of the



308946

302 program loan and may not exceed the lesser of 6 percent of the
303 principal amount of the program loan made to the borrower,
304 exclusive of the origination fee, or \$90.

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

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

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

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

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

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

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

326
327 The program licensee, or any wholly owned subsidiary of the
328 program licensee, may not sell or assign an unpaid debt to a
329 third party for collection purposes unless the debt has been
330 delinquent for at least 30 days.



308946

331 (5) ADDITIONAL FEES PROHIBITED.—Notwithstanding any fees
332 authorized in this chapter, a program licensee may not charge a
333 borrower any fees other than those authorized in subsections (3)
334 and (4) for a program loan.

335 (6) CREDIT EDUCATION.—Before disbursement of program loan
336 proceeds to the borrower, the program licensee must:

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

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

344 (7) CREDIT REPORTING.—

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

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

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

353 (8) PROGRAM LOAN UNDERWRITING.—

354 (a) The program licensee must underwrite each program loan
355 to determine a borrower's ability and willingness to repay the
356 program loan pursuant to the program loan terms. The program
357 licensee may not make a program loan if it determines that the
358 borrower's total monthly debt service payments at the time of
359 origination, including the program loan for which the borrower



308946

360 is being considered and all outstanding forms of credit that can
361 be independently verified by the program licensee, exceed 50
362 percent of the borrower's gross monthly income for a loan of not
363 more than \$3,000, or exceed 36 percent of the borrower's gross
364 monthly income for a loan of more than \$3,000.

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

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

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

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

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

385 (9) WAIVERS.—

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

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



308946

389 provided for in any law applicable to the program loan,
390 including the right to file and pursue a civil action or file a
391 complaint with or otherwise communicate with the office, a
392 court, or any other governmental entity.

393 2. Agree to the application of laws other than those of
394 this state.

395 3. Agree to resolve disputes in a jurisdiction outside of
396 this state.

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

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

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

416 Section 5. Section 516.44, Florida Statutes, is created to
417 read:



308946

418 516.44 Access partners.—

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

423 (a) The access partner agrees to comply with this section
424 and all rules adopted under this section regarding the
425 activities of access partners.

426 (b) The office has access to the access partner's books and
427 records pertaining to the access partner's operations under the
428 agreement with the program licensee in accordance with s.
429 516.45(3) and may examine the access partner pursuant to s.
430 516.45.

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

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

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



308946

447 prospective borrower in general terms.

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

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

454 (e) Assembling credit applications and other materials
455 obtained in the course of a credit application transaction for
456 submission to the program licensee.

457 (f) Contacting the program licensee to determine the status
458 of a program loan application.

459 (g) Communicating a response that is returned by the
460 program licensee's automated underwriting system to a borrower
461 or a prospective borrower.

462 (h) Obtaining a borrower's signature on documents prepared
463 by the program licensee and delivering final copies of the
464 documents to the borrower.

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

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

474 (k) Operating an electronic access point through which a
475 prospective borrower may directly access the website of the



308946

476 program licensee to apply for a program loan.

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

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

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

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

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

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

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

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

501 (c) Negotiate a loan term between a program licensee and a
502 prospective borrower.

503 (d) Offer information pertaining to a single prospective
504 borrower to more than one program licensee. However, if a



308946

505 program licensee has declined to offer a program loan to a
506 prospective borrower and has so notified the prospective
507 borrower in writing, the access partner may then offer
508 information pertaining to that borrower to another program
509 licensee with whom it has an access partner agreement.

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

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

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

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

522 (5) DISCLOSURE STATEMENTS.-

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

529
530 Your loan application has been referred to us by
531 ...(name of access partner).... We may pay a fee to
532 ...(name of access partner)... for the successful
533 referral of your loan application. If you are approved



308946

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

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

552 (6) COMPENSATION.-

553 (a) The program licensee may compensate an access partner
554 in accordance with a written agreement and a compensation
555 schedule that is agreed to by the program licensee and the
556 access partner, subject to the requirements in paragraph (b).

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

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

562 2. The access partner's location for services and other



308946

563 information required in subsection (7) must be reported to the
564 office.

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

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

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

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

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

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

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

591 2. The commencement of an administrative or a judicial



308946

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

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

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

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

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

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

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

619 (8) NOTICE OF CHANGES.—An access partner must provide the
620 program licensee and the office with a written notice sent by



308946

621 registered mail within 30 days after any change is made to the
622 information specified in paragraphs (7) (a)-(c) and within 30
623 days after the occurrence or knowledge of any of the events
624 specified in paragraph (7) (d).

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

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

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

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

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

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

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

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



650 subject to s. 120.60. The program licensee is also subject to
651 disciplinary action for a violation of s. 516.44 committed by
652 any of its access partners or the access partner's employees.

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

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

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

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

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

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

665 516.46 Annual reports by program licensees and the office.-

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

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



308946

679 in the aggregate so as not to identify data by any specific
680 program licensee. The report must specify the period to which
681 the report corresponds and must include, but is not limited to,
682 the following for that period:

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

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

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

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

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

707 (f) The number of borrowers who obtained program loans for



308946

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

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

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

722 (h) For refinance program loans:

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

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

- 730 1. The number and percentage of borrowers who experienced
731 at least one delinquency lasting between 7 and 29 days and the
732 distribution of principal loan amounts corresponding to those
733 delinquencies.
- 734 2. The number and percentage of borrowers who experienced
735 at least one delinquency lasting between 30 and 59 days and the
736 distribution of principal loan amounts corresponding to those



308946

737 delinquencies.

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

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

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

746 Section 9. For the 2019-2020 fiscal year, the sums of
747 \$262,125 in recurring funds and \$140,000 in nonrecurring funds
748 from the Regulatory Trust Fund are appropriated to the Office of
749 Financial Regulation of the Financial Services Commission, and
750 four full-time equivalent positions with associated salary rate
751 of 173,881 are authorized, to implement this act.

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

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 everything before the enacting clause
757 and insert:

758 A bill to be entitled
759 An act relating to consumer finance loans; creating s.
760 516.405, F.S.; creating the Access to Responsible
761 Credit Pilot Program within the Office of Financial
762 Regulation; providing legislative intent; creating s.
763 516.41, F.S.; providing definitions; creating s.
764 516.42, F.S.; requiring persons to obtain a program
765 license from the office for certain actions relating



766 to program loans; providing licensure requirements;
767 requiring a program licensee's program branch offices
768 to be licensed; providing program branch office
769 license and license renewal requirements; providing
770 circumstances under which the office may deny initial
771 and renewal applications; requiring the Financial
772 Services Commission to adopt rules; creating s.
773 516.43, F.S.; providing requirements for program
774 licensees, program loans, interest rates, program loan
775 refinancing, receipts, disclosures and statements
776 provided by program licensees to borrowers,
777 origination fees, insufficient funds fees, and
778 delinquency charges; prohibiting program licensees
779 from charging borrowers any fees other than as
780 specified; requiring program licensees to provide
781 certain credit education information to borrowers and
782 to report payment performance of borrowers to a
783 consumer reporting agency; prohibiting the office from
784 approving a program licensee applicant before the
785 applicant has been accepted as a data furnisher by a
786 consumer reporting agency; requiring program licensees
787 to underwrite program loans; prohibiting program
788 licensees from making program loans under certain
789 circumstances; requiring program licensees to seek
790 certain information and documentation; prohibiting
791 program licensees from requiring certain waivers from
792 borrowers; providing applicability; creating s.
793 516.44, F.S.; requiring all arrangements between
794 program licensees and access partners to be specified



795 in written access partner agreements; providing
796 requirements for such agreements; specifying access
797 partner services which may be used by program
798 licensees; specifying procedures for borrowers'
799 payment receipts or access partners' disbursements of
800 program loans; providing recordkeeping requirements;
801 prohibiting certain activities by access partners;
802 providing disclosure statement requirements;
803 authorizing a program licensee to compensate an access
804 partner; providing requirements relating to
805 compensation paid to access partners; requiring
806 program licensees to provide the office with a
807 specified notice after contracting with, and before
808 using the services of, access partners; defining the
809 term "affiliated party"; requiring access partners to
810 provide program licensees and the office with a
811 certain written notice within a specified time;
812 providing that program licensees are responsible for
813 acts of their access partners and access partners'
814 employees; requiring the commission to adopt rules;
815 creating s. 516.45, F.S.; requiring the office to
816 examine program licensees; providing an exception;
817 limiting the scope of certain examinations and
818 investigations; authorizing the office to take certain
819 disciplinary action against program licensees and
820 access partners; requiring the commission to adopt
821 rules; creating s. 516.46, F.S.; requiring program
822 licensees to file an annual report with the office
823 beginning on a specified date; requiring the office to



308946

824 post an annual report on its website by a specified
825 date; specifying information to be contained in the
826 reports; requiring the commission to adopt rules;
827 providing for future repeal of the program; providing
828 an appropriation; providing an effective date.