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LEGISLATIVE ACTION

Senate

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House

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Floor: 2/AD/2R

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04/26/2019 12:30 PM

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Senator Rouson moved the following:

1           **Senate Substitute for Amendment (308946) (with title**  
2 **amendment)**

3  
4           Delete everything after the enacting clause  
5 and insert:

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

8           516.405 Access to Responsible Credit Pilot Program.-

9           (1) The Access to Responsible Credit Pilot Program is  
10 created within the Office of Financial Regulation to allow more  
11 Floridians to obtain responsible consumer finance loans in



12 principal amounts of at least \$300 but not more than \$7,500.

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

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

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

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

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

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

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

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

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

40 (7) "Program branch office license" means a license issued



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41 under the program for each location, other than a program  
42 licensee's or access partner's principal place of business:

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

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

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

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

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

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

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

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

68 (1) A person may not advertise, offer, or make a program  
69 loan, or impose any charges or fees pursuant to s. 516.43,



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70 unless the person obtains a pilot program license from the  
71 office.

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

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

76 2. Submit the application for the license required in s.  
77 516.03 concurrently with the application for the program  
78 license. The application required by s. 516.03 must be approved  
79 and the license under that section must be issued in order to  
80 obtain the program license.

81 (b) Be accepted as a data furnisher by a consumer reporting  
82 agency.

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

88 (d) Not be subject to the issuance of a cease and desist  
89 order; the issuance of a removal order; the denial, suspension,  
90 or revocation of a license; or any other action within the  
91 authority of the office, any financial regulatory agency in this  
92 state, or any other state or federal regulatory agency that  
93 affects the ability of such person to participate in the  
94 program.

95 (3) (a) A program applicant must file with the office a  
96 digital application in a form and manner prescribed by  
97 commission rule which contains all of the following information  
98 with respect to the applicant:



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99           1. The legal business name and any other name under which  
100 the applicant operates.

101           2. The applicant's main address.

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

103           4. The address of each program branch office.

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

106           6. The license number, if the applicant is licensed under  
107 s. 516.05.

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

110           8. A statement that the applicant has been accepted as a  
111 data furnisher by a consumer reporting agency and will report to  
112 a consumer reporting agency the payment performance of each  
113 borrower on all program loans.

114           9. The signature and certification of an authorized person  
115 of the applicant.

116           (b) A person who desires to participate in the program but  
117 who is not licensed to make consumer finance loans pursuant to  
118 s. 516.05 must concurrently submit the following digital  
119 applications in a form and manner specified in this chapter to  
120 the office:

121           1. An application pursuant to s. 516.03 for licensure to  
122 make consumer finance loans.

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

125           (4) Except as otherwise provided in ss. 516.405-516.46, a  
126 program licensee is subject to all the laws and rules governing  
127 consumer finance loans under this chapter. A program license



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128 must be renewed biennially.

129 (5) Notwithstanding s. 516.05(3), only one program license  
130 is required for a person to make program loans under ss.  
131 516.405-516.46, regardless of whether the program licensee  
132 offers program loans to prospective borrowers at its own  
133 physical business locations, through access partners, or via an  
134 electronic access point through which a prospective borrower may  
135 directly access the website of the program licensee.

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

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

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

150 (b) The applicant's main address.

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

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

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

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



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157       (g) The signature and certification of an authorized person  
158 of the applicant.

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

162       (9) Notwithstanding subsection (7), the office may deny an  
163 initial or renewal application for a program license or program  
164 branch office license if the applicant or any person with power  
165 to direct the management or policies of the applicant's  
166 business:

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

173       (b) Pled nolo contendere to, or was convicted or found  
174 guilty of, a crime involving fraud, dishonest dealing, or any  
175 act of moral turpitude, regardless of whether adjudication was  
176 withheld.

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

183       (10) The commission shall adopt rules to implement this  
184 section.

185       Section 4. Section 516.43, Florida Statutes, is created to



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186 read:

187 516.43 Requirements for program loans.-

188 (1) REQUIREMENTS.-A program licensee shall comply with each  
189 of the following requirements in making program loans:

190 (a) A program loan must be unsecured.

191 (b) A program loan must have:

192 1. A term of at least 120 days, but not more than 36  
193 months, for a loan with a principal balance upon origination of  
194 at least \$300, but not more than \$3,000.

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

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

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

202 2. The borrower's credit score increased from the time of  
203 application for the borrower's first consummated program loan;  
204 and

205 3. The borrower was never delinquent for more than 7 days  
206 on a previous program loan.

207 (d) A program loan may not impose a prepayment penalty. A  
208 program loan must be repayable by the borrower in substantially  
209 equal, periodic installments, except that the final payment may  
210 be less than the amount of the prior installments. Installments  
211 must be due either every 2 weeks, semimonthly, or monthly.

212 (e) A program loan must include a borrower's right to  
213 rescind the program loan by notifying the program licensee of  
214 the borrower's intent to rescind the program loan and returning





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215 the principal advanced by the end of the business day after the  
216 day the program loan is consummated.

217 (f) Notwithstanding s. 516.031, the maximum annual interest  
218 rate charged on a program loan to the borrower, which must be  
219 fixed for the duration of the program loan, is 36 percent on  
220 that portion of the unpaid principal balance up to and including  
221 \$3,000; 30 percent on that portion of the unpaid principal  
222 balance exceeding \$3,000 and up to and including \$4,000; and 24  
223 percent on that portion of the unpaid principal balance  
224 exceeding \$4,000 and up to and including \$7,500. The original  
225 principal amount of the program loan is equal to the amount  
226 financed as defined by the federal Truth in Lending Act and  
227 Regulation Z of the Board of Governors of the Federal Reserve  
228 System. In determining compliance with the maximum annual  
229 interest rates in this paragraph, the computations used must be  
230 simple interest through the application of a daily periodic rate  
231 to the actual unpaid principal balance each day and may not be  
232 added-on interest or any other computations.

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

242 (h) The program licensee shall reduce the interest rates  
243 specified in paragraph (f) on each subsequent program loan to



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244 the same borrower by a minimum of 1 percent, up to a maximum of  
245 6 percent, if all of the following conditions are met:

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

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

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

252 (i) The program licensee may not induce or permit any  
253 person to become obligated to the program licensee, directly or  
254 contingently, or both, under more than one program loan at the  
255 same time with the program licensee.

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

259 1. The principal amount payable may not include more than  
260 60 days' unpaid interest accrued on the previous program loan  
261 pursuant to s. 516.031(5).

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

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

270 4. The borrower is current on payments for his or her  
271 existing program loan.

272 5. The program licensee must underwrite the new program



273 loan in accordance with subsection (7).

274 (k) In lieu of the provisions of s. 687.08, the program  
275 licensee or, if applicable, its approved access partner shall  
276 make available to the borrower by electronic or physical means a  
277 plain and complete receipt of payment at the time that a payment  
278 is made by the borrower. For audit purposes, the program  
279 licensee must maintain an electronic record for each receipt  
280 made available to a borrower, which must include a copy of the  
281 receipt and the date and time that the receipt was generated.  
282 Each receipt made available to the borrower must show all of the  
283 following:

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

300 (2) WRITTEN DISCLOSURES AND STATEMENTS.—

301 (a) Notwithstanding s. 516.15(1), the loan contract and all



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302 written disclosures and statements may be provided by a program  
303 licensee to a borrower in English or in the language in which  
304 the loan is negotiated.

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

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

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

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

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

322 (a) Notwithstanding s. 516.031, require payment from a  
323 borrower of no more than \$20 for fees incurred by the program  
324 licensee from a dishonored payment due to insufficient funds of  
325 the borrower.

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

330 Delinquency charges may be imposed as follows:



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

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

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

339  
340 The program licensee, or any wholly owned subsidiary of the  
341 program licensee, may not sell or assign an unpaid debt to an  
342 independent third party for collection purposes unless the debt  
343 has been delinquent for at least 30 days.

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

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

348 (b) Provide a credit education program or seminar to the  
349 borrower. The borrower is not required to participate in such  
350 education program or seminar. A credit education program or  
351 seminar offered pursuant to this paragraph must be provided at  
352 no cost to the borrower.

353 (6) CREDIT REPORTING.—

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

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

359 (c) The program licensee shall provide each borrower with



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360 the name or names of the consumer reporting agency or agencies  
361 to which it will report the borrower's payment history.

362 (7) PROGRAM LOAN UNDERWRITING.—

363 (a) The program licensee must underwrite each program loan  
364 to determine a borrower's ability and willingness to repay the  
365 program loan pursuant to the program loan terms. The program  
366 licensee may not make a program loan if it determines that the  
367 borrower's total monthly debt service payments at the time of  
368 origination, including the program loan for which the borrower  
369 is being considered and all outstanding forms of credit that can  
370 be independently verified by the program licensee, exceed 50  
371 percent of the borrower's gross monthly income for a loan of not  
372 more than \$3,000, or exceed 36 percent of the borrower's gross  
373 monthly income for a loan of more than \$3,000.

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

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

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

388 1. Electronic means or services that provide reliable



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389 evidence of the borrower's actual income; or  
390 2. The Internal Revenue Service Form W-2, tax returns,  
391 payroll receipts, bank statements, or other third-party  
392 documents that provide reasonably reliable evidence of the  
393 borrower's actual income.  
394 (8) WAIVERS.—  
395 (a) A program licensee may not require, as a condition of  
396 providing the program loan, that the borrower:  
397 1. Waive any right, penalty, remedy, forum, or procedure  
398 provided for in any law applicable to the program loan,  
399 including the right to file and pursue a civil action or file a  
400 complaint with or otherwise communicate with the office, a  
401 court, or any other governmental entity.  
402 2. Agree to the application of laws other than those of  
403 this state.  
404 3. Agree to resolve disputes in a jurisdiction outside of  
405 this state.  
406 (b) A waiver that is required as a condition of doing  
407 business with the program licensee is presumed involuntary,  
408 unconscionable, against public policy, and unenforceable.  
409 (c) A program licensee may not refuse to do business with  
410 or discriminate against a borrower or an applicant on the basis  
411 of the borrower's or applicant's refusal to waive any right,  
412 penalty, remedy, forum, or procedure, including the right to  
413 file and pursue a civil action or complaint with, or otherwise  
414 communicate with, the office, a court, or any other governmental  
415 entity. The exercise of a person's right to refuse to waive any  
416 right, penalty, remedy, forum, or procedure, including a  
417 rejection of a contract requiring a waiver, does not affect any



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418 otherwise legal terms of a contract or an agreement.

419 (d) This subsection does not apply to any agreement to  
420 waive any right, penalty, remedy, forum, or procedure, including  
421 any agreement to arbitrate a claim or dispute after a claim or  
422 dispute has arisen. This subsection does not affect the  
423 enforceability or validity of any other provision of the  
424 contract.

425 Section 5. Section 516.44, Florida Statutes, is created to  
426 read:

427 516.44 Access partners.—

428 (1) ACCESS PARTNER AGREEMENT.—All arrangements between a  
429 program licensee and an access partner must be specified in a  
430 written access partner agreement between the parties. The  
431 agreement must contain the following provisions:

432 (a) The access partner agrees to comply with this section  
433 and all rules adopted under this section regarding the  
434 activities of access partners.

435 (b) The office has access to the access partner's books and  
436 records pertaining to the access partner's operations under the  
437 agreement with the program licensee in accordance with s.  
438 516.45(3) and may examine the access partner pursuant to s.  
439 516.45.

440 (2) AUTHORIZED SERVICES.—A program licensee may use the  
441 services of one or more access partners as provided in this  
442 section. An access partner may perform one or more of the  
443 following services from its physical business location for the  
444 program licensee:

445 (a) Distributing, circulating, using, or publishing printed  
446 brochures, flyers, fact sheets, or other written materials





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447 relating to program loans that the program licensee may make or  
448 negotiate. The written materials must be reviewed and approved  
449 in writing by the program licensee before being distributed,  
450 circulated, used, or published.

451 (b) Providing written factual information about program  
452 loan terms, conditions, or qualification requirements to a  
453 prospective borrower which has been prepared by the program  
454 licensee or reviewed and approved in writing by the program  
455 licensee. An access partner may discuss the information with a  
456 prospective borrower in general terms.

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

459 (d) Entering information provided by the prospective  
460 borrower on a preprinted or an electronic application form or in  
461 a preformatted computer database.

462 (e) Assembling credit applications and other materials  
463 obtained in the course of a credit application transaction for  
464 submission to the program licensee.

465 (f) Contacting the program licensee to determine the status  
466 of a program loan application.

467 (g) Communicating a response that is returned by the  
468 program licensee's automated underwriting system to a borrower  
469 or a prospective borrower.

470 (h) Obtaining a borrower's signature on documents prepared  
471 by the program licensee and delivering final copies of the  
472 documents to the borrower.

473 (i) Disbursing program loan proceeds to a borrower if this  
474 method of disbursement is acceptable to the borrower, subject to  
475 the requirements of subsection (3). A loan disbursement made by



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476 an access partner under this paragraph is deemed to be made by  
477 the program licensee on the date that the funds are disbursed or  
478 otherwise made available by the access partner to the borrower.

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

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

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

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

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

495 (c) A borrower who submits a loan payment to an access  
496 partner under this subsection is not liable for a failure or  
497 delay by the access partner in transmitting the payment to the  
498 program licensee.

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

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

504 (a) Provide counseling or advice to a borrower or



505 prospective borrower with respect to any loan term.

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

509 (c) Negotiate a loan term between a program licensee and a  
510 prospective borrower.

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

518 (e) Except for the purpose of assisting a borrower in  
519 obtaining a refinance program loan, offer information pertaining  
520 to a prospective borrower to any program licensee if the  
521 prospective borrower has an outstanding program loan.

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

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

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

530 (5) DISCLOSURE STATEMENTS.—

531 (a) At the time that the access partner receives or  
532 processes an application for a program loan, the access partner  
533 shall provide the following statement to the applicant on behalf



534 of the program licensee, in at least 10-point type, and shall  
535 request that the applicant acknowledge receipt of the statement  
536 in writing:

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

554  
555 (b) If the loan applicant has questions about the program  
556 loan which the access partner is not permitted to answer, the  
557 access partner must make a good faith effort to assist the  
558 applicant in making direct contact with the program licensee  
559 before the program loan is consummated.

560 (6) COMPENSATION.—

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



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

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

567 1. Compensation may not be paid to an access partner in  
568 connection with a loan application unless the program loan is  
569 consummated.

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

573 3. Compensation paid by the program licensee to the access  
574 partner may not exceed \$65 per program loan, on average, plus \$2  
575 per payment received by the access partner on behalf of the  
576 program licensee for the duration of the program loan, and may  
577 not be charged directly or indirectly to the borrower.

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

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

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

589 (c) The name and contact information of one or more  
590 employees of the access partner who are responsible for that  
591 access partner's referring activities on behalf of the program



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592 licensee.

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

596 1. The filing of a petition under the United States  
597 Bankruptcy Code for bankruptcy or reorganization by the access  
598 partner.

599 2. The commencement of an administrative or a judicial  
600 license suspension or revocation proceeding, or the denial of a  
601 license request or renewal, by any state, the District of  
602 Columbia, any United States territory, or any foreign country in  
603 which the access partner operates, plans to operate, or is  
604 licensed to operate.

605 3. A felony indictment involving the access partner or an  
606 affiliated party.

607 4. The felony conviction, guilty plea, or plea of nolo  
608 contendere, regardless of adjudication, of the access partner or  
609 an affiliated party.

610 5. Any suspected criminal act perpetrated in this state  
611 relating to activities regulated under this chapter by the  
612 access partner.

613 6. Notification by a law enforcement or prosecutorial  
614 agency that the access partner is under criminal investigation,  
615 including, but not limited to, subpoenas to produce records or  
616 testimony and warrants issued by a court of competent  
617 jurisdiction which authorize the search and seizure of any  
618 records relating to a business activity regulated under this  
619 chapter.

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621 As used in this paragraph, the term "affiliated party" means a  
622 director, officer, control person, employee, or foreign  
623 affiliate of an access partner; or a person who has a  
624 controlling interest in an access partner.

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

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

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

636 (10) RULEMAKING.—The commission shall adopt rules to  
637 implement this section.

638 Section 6. Section 516.45, Florida Statutes, is created to  
639 read:

640 516.45 Examinations, investigations, and grounds for  
641 disciplinary action.—

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

645 (2) Notwithstanding subsection (1), the office may waive  
646 one or more branch office examinations if the office finds that  
647 such examinations are not necessary for the protection of the  
648 public due to the centralized operations of the program licensee  
649 or other factors acceptable to the office.



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

654       (4) A program licensee who violates any applicable  
655 provision of this chapter is subject to disciplinary action  
656 pursuant to s. 516.07(2). Any such disciplinary action is  
657 subject to s. 120.60. The program licensee is also subject to  
658 disciplinary action for a violation of s. 516.44 committed by  
659 any of its access partners.

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

662       (a) Bar the access partner from performing services under  
663 this chapter.

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

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

668       (6) The commission shall adopt rules to implement this  
669 section.

670       Section 7. Section 516.46, Florida Statutes, is created to  
671 read:

672       516.46 Annual reports by program licensees and the office.-

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





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679 licensee's or access partner's proprietary or trade secret  
680 information.

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

690 (a) The number of applicants approved for a program license  
691 by the office.

692 (b) The number of program loan applications received by  
693 program licensees, the number of program loans made under the  
694 program, the total amount loaned, the distribution of loan  
695 lengths upon origination, and the distribution of interest rates  
696 and principal amounts upon origination among those program  
697 loans.

698 (c) The number of borrowers who obtained more than one  
699 program loan and the distribution of the number of program loans  
700 per borrower.

701 (d) Of those borrowers who obtained more than one program  
702 loan and had a credit score by the time of their subsequent  
703 loan, the percentage of those borrowers whose credit scores  
704 increased between successive loans, based on information from at  
705 least one major credit bureau, and the average size of the  
706 increase. In each case, the report must include the name of the  
707 credit score, such as FICO or VantageScore, which the program



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708 licensee is required to disclose.

709 (e) The income distribution of borrowers upon program loan  
710 origination, including the number of borrowers who obtained at  
711 least one program loan and who resided in a low-income or  
712 moderate-income census tract at the time of their loan  
713 applications.

714 (f) The number of borrowers who obtained program loans for  
715 the following purposes, based on the borrowers' responses at the  
716 time of their loan applications indicating the primary purpose  
717 for which the program loans were obtained:

- 718 1. To pay medical expenses.  
719 2. To pay for vehicle repair or a vehicle purchase.  
720 3. To pay bills.  
721 4. To consolidate debt.  
722 5. To build or repair credit history.  
723 6. To finance a small business.  
724 7. To pay other expenses.

725 (g) The number of borrowers who self-report that they had a  
726 bank account at the time of their loan application and the  
727 number of borrowers who self-report that they did not have a  
728 bank account at the time of their loan application.

729 (h) For refinance program loans:

- 730 1. The number and percentage of borrowers who applied for a  
731 refinance program loan.  
732 2. Of those borrowers who applied for a refinance program  
733 loan, the number and percentage of borrowers who obtained a  
734 refinance program loan.

735 (i) The performance of program loans as reflected by all of  
736 the following:



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737 1. The number and percentage of borrowers who experienced  
738 at least one delinquency lasting between 7 and 29 days and the  
739 distribution of principal loan amounts corresponding to those  
740 delinquencies.

741 2. The number and percentage of borrowers who experienced  
742 at least one delinquency lasting between 30 and 59 days and the  
743 distribution of principal loan amounts corresponding to those  
744 delinquencies.

745 3. The number and percentage of borrowers who experienced  
746 at least one delinquency lasting 60 days or more and the  
747 distribution of principal loan amounts corresponding to those  
748 delinquencies.

749 (3) The commission shall adopt rules to implement this  
750 section.

751 Section 8. Sections 516.405-516.46, Florida Statutes, are  
752 repealed on July 1, 2029, unless reenacted or superseded by  
753 another law enacted by the Legislature before that date.

754 Section 9. For the 2019-2020 fiscal year, the sum of  
755 \$407,520 in nonrecurring funds from the Administrative Trust  
756 Fund is appropriated to the Office of Financial Regulation for  
757 the purpose of implementing this act.

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

759  
760 ===== T I T L E A M E N D M E N T =====

761 And the title is amended as follows:

762 Delete everything before the enacting clause  
763 and insert:

764 A bill to be entitled

765 An act relating to consumer finance loans; creating s.



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766 516.405, F.S.; creating the Access to Responsible  
767 Credit Pilot Program within the Office of Financial  
768 Regulation; providing legislative intent; creating s.  
769 516.41, F.S.; defining terms; creating s. 516.42,  
770 F.S.; requiring a program license from the office for  
771 certain actions relating to program loans; providing  
772 licensure requirements; requiring a program licensee's  
773 program branch offices to be licensed; providing  
774 program branch office license and license renewal  
775 requirements; providing circumstances under which the  
776 office may deny initial and renewal applications;  
777 requiring the Financial Services Commission to adopt  
778 rules; creating s. 516.43, F.S.; providing  
779 requirements for program licensees, program loans,  
780 loan repayments, loan rescissions, interest rates,  
781 program loan refinancing, receipts, disclosures and  
782 statements provided by program licensees to borrowers,  
783 origination fees, insufficient funds fees, and  
784 delinquency charges; requiring program licensees to  
785 provide certain credit education information to  
786 borrowers and to report payment performance of  
787 borrowers to a consumer reporting agency; prohibiting  
788 the office from approving a program licensee applicant  
789 before the applicant has been accepted as a data  
790 furnisher by a consumer reporting agency; providing a  
791 requirement for credit reporting; specifying program  
792 loan underwriting requirements for program licensees;  
793 prohibiting program licensees from making program  
794 loans under certain circumstances; requiring program



795 licensees to seek certain information and  
796 documentation; prohibiting program licensees from  
797 requiring certain waivers from borrowers; providing  
798 applicability; creating s. 516.44, F.S.; requiring all  
799 arrangements between program licensees and access  
800 partners to be specified in written access partner  
801 agreements; providing requirements for such  
802 agreements; specifying access partner services that  
803 may be used by program licensees; specifying  
804 procedures for borrowers' payment receipts or access  
805 partners' disbursement of program loans; providing  
806 recordkeeping requirements; prohibiting specified  
807 activities by access partners; providing disclosure  
808 statement requirements; providing requirements and  
809 prohibitions relating to compensation paid to access  
810 partners; requiring program licensees to provide the  
811 office with a specified notice after contracting with  
812 access partners; defining the term "affiliated party";  
813 requiring access partners to provide program licensees  
814 with a certain written notice within a specified time;  
815 providing that program licensees are responsible for  
816 certain acts of their access partners; requiring the  
817 commission to adopt rules; creating s. 516.45, F.S.;  
818 requiring the office to examine each program licensee;  
819 authorizing the office to waive branch office  
820 examinations under certain circumstances; limiting the  
821 scope of certain examinations and investigations;  
822 authorizing the office to take certain disciplinary  
823 action against program licensees and access partners;



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824 requiring the commission to adopt rules; creating s.  
825 516.46, F.S.; requiring program licensees to file an  
826 annual report with the office beginning on a specified  
827 date; requiring the office to post an annual report on  
828 its website by a specified date; specifying  
829 information to be contained in the reports; requiring  
830 the commission to adopt rules; providing for future  
831 repeal of the pilot program; providing an  
832 appropriation; providing an effective date.