

By Senator Rouson

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

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30 circumstances; requiring program licensees to seek  
31 certain information and documentation; prohibiting  
32 program licensees from requiring certain waivers from  
33 borrowers; providing applicability; creating s.  
34 516.44, F.S.; requiring all arrangements between  
35 program licensees and access partners to be specified  
36 in written access partner agreements; providing  
37 requirements for such agreements; specifying access  
38 partner services that may be used by program  
39 licensees; specifying procedures for borrowers'  
40 payment receipts or access partners' disbursement of  
41 program loans; providing recordkeeping requirements;  
42 prohibiting certain activities by access partners;  
43 providing disclosure statement requirements; providing  
44 requirements and prohibitions relating to compensation  
45 paid to access partners; requiring program licensees  
46 to provide the office with a specified notice after  
47 contracting with access partners; defining the term  
48 "affiliated party"; requiring access partners to  
49 provide program licensees with a certain written  
50 notice within a specified time; providing that program  
51 licensees are responsible for acts of their access  
52 partners; requiring the commission to adopt rules;  
53 creating s. 516.45, F.S.; requiring the office to  
54 examine program licensees at certain intervals,  
55 beginning on a specified date; providing an exception;  
56 limiting the scope of certain examinations and  
57 investigations; authorizing the office to take certain  
58 disciplinary action against program licensees and

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59 access partners; requiring the commission to adopt  
60 rules; creating s. 516.46, F.S.; requiring program  
61 licensees to file an annual report with the office  
62 beginning on a specified date; requiring the office to  
63 post an annual report on its website by a specified  
64 date; specifying information to be contained in the  
65 reports; requiring the commission to adopt rules;  
66 providing for future repeal of the pilot program;  
67 providing an effective date.

68

69 Be It Enacted by the Legislature of the State of Florida:

70

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

73 516.405 Access to Responsible Credit Pilot Program.-

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

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

82 Section 2. Section 516.41, Florida Statutes, is created to  
83 read:

84 516.41 Definitions.-As used in ss. 516.405-516.46, the  
85 term:

86 (1) "Access partner" means an entity that, at the entity's  
87 physical business location or through online access, cellular

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88 telephone, or other means, performs one or more of the services  
89 authorized in s. 516.44(2) on behalf of a program licensee. The  
90 term does not include a credit service organization as defined  
91 in s. 817.7001 or a loan broker as defined in s. 687.14.

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

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

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

100 (5) "Pilot program" or "program" means the Access to  
101 Responsible Credit Pilot Program.

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

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

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

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

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

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

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

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

129       Section 3. Section 516.42, Florida Statutes, is created to  
130 read:

131       516.42 Requirements for program participation; program  
132 application requirements.—

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

137       (2) In order to obtain a pilot program license, a person  
138 must:

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

141       2. Submit the application for the license required in s.  
142 516.05 concurrently with the application for the program  
143 license.

144       (b) Be accepted as a data furnisher by a consumer reporting  
145 agency.

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

148 (d) Not be subject to the issuance of a cease and desist  
149 order; the issuance of a removal order; the denial, suspension,  
150 or revocation of a license; or any other action within the  
151 authority of the office, any financial regulatory agency in this  
152 state, or any other state or federal regulatory agency that  
153 affects the ability of such person to participate in the  
154 program.

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

159 1. The legal business name and any other name under which  
160 the applicant operates.

161 2. The applicant's main address.

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

163 4. The address of each program branch office.

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

166 6. The license number, if the applicant is licensed under  
167 s. 516.05.

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

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

174 9. The signature and certification of an authorized person

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175 of the applicant.

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

181 1. An application pursuant to s. 516.03 for licensure to  
182 make consumer finance loans.

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

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

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

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

198 (7) The office shall issue a program branch office license  
199 to a program licensee after the office determines that the  
200 program licensee has submitted a completed electronic  
201 application for a program branch office license in a form  
202 prescribed by commission rule. The program branch office license  
203 must be issued in the name of the program licensee that

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204 maintains the branch office. An application is considered  
205 received for purposes of s. 120.60 upon receipt of a completed  
206 application form. The application for a program branch office  
207 license must contain the following information:

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

210 (b) The applicant's main address.

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

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

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

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

217 (g) The signature and certification of an authorized person  
218 of the applicant.

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

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

227 (a) The subject of any insolvency proceeding;

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

230 (c) Subject to the issuance of a cease and desist order;  
231 the issuance of a removal order; the denial, suspension, or  
232 revocation of a license; or any other action within the



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233 authority of the office, any financial regulatory agency in this  
234 state, or any other state or federal regulatory agency that  
235 affects the applicant's ability to participate in the program.

236 (10) The commission shall adopt rules to implement this  
237 section.

238 Section 4. Section 516.43, Florida Statutes, is created to  
239 read:

240 516.43 Requirements for program loans.-

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

243 (a) A program loan must be unsecured.

244 (b) A program loan must have:

245 1. A term of at least 120 days for a loan with a principal  
246 balance upon origination of at least \$300, but not more than  
247 \$3,000.

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

251 (c) A program loan must not impose a prepayment penalty. A  
252 program loan must be repayable by the borrower in substantially  
253 equal, periodic installments, except that the final payment may  
254 be less than the amount of the prior installments. Installments  
255 must be due either every 2 weeks, semimonthly, or monthly.

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

261 (e) Notwithstanding s. 516.031, the maximum annual interest

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

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

286 (g) The program licensee shall reduce the interest rates  
287 specified in paragraph (e) on each subsequent program loan to  
288 the same borrower by a minimum of 1 percent, up to a maximum of  
289 6 percent, if all of the following conditions are met:

290 1. The subsequent program loan is originated within 180

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291 days after the prior program loan is fully repaid.

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

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

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

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

303 1. The principal amount payable may not include more than  
304 60 days' unpaid interest accrued on the previous program loan  
305 pursuant to s. 516.031(5).

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

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

314 4. The borrower is current on payments for his or her  
315 existing program loan.

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

318 (j) In lieu of the provisions of s. 687.08, the program  
319 licensee or, if applicable, its approved access partner shall

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320 make available to the borrower by electronic or physical means a  
321 plain and complete receipt of payment at the time that a payment  
322 is made by the borrower. For audit purposes, the program  
323 licensee must maintain an electronic record for each receipt  
324 made available to a borrower, which must include a copy of the  
325 receipt and the date and time that the receipt was generated.  
326 Each receipt made available to the borrower must show all of the  
327 following:

- 328 1. The name of the borrower.
- 329 2. The name of the access partner, if applicable.
- 330 3. The total payment amount received.
- 331 4. The date of payment.
- 332 5. The program loan balance before and after application of  
333 the payment.
- 334 6. The amount of the payment that was applied to the  
335 principal, interest, and fees.
- 336 7. The type of payment made by the borrower.
- 337 8. The following statement, prominently displayed in a type  
338 size equal to or larger than the type size used to display the  
339 other items on the receipt: "If you have any questions about  
340 your loan now or in the future, you should direct those  
341 questions to ...(name of program licensee)... by ...(at least  
342 two different ways in which a borrower may contact the program  
343 licensee)...."

344 (2) WRITTEN DISCLOSURES AND STATEMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

389 (6) CREDIT REPORTING.—

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

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

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

398 (7) PROGRAM LOAN UNDERWRITING.—

399 (a) The program licensee must underwrite each program loan  
400 to determine a borrower's ability and willingness to repay the  
401 program loan pursuant to the program loan terms. The program  
402 licensee may not make a program loan if it determines that the  
403 borrower's total monthly debt service payments at the time of  
404 origination, including the program loan for which the borrower  
405 is being considered and all outstanding forms of credit that can  
406 be independently verified by the program licensee, exceed 50

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407 percent of the borrower's gross monthly income for a loan of not  
408 more than \$3,000, or exceed 36 percent of the borrower's gross  
409 monthly income for a loan of more than \$3,000.

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

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

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

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

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

430 (8) WAIVERS.—

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

433 1. Waive any right, penalty, remedy, forum, or procedure  
434 provided for in any law applicable to the program loan,  
435 including the right to file and pursue a civil action or file a

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436 complaint with or otherwise communicate with the office, a  
437 court, or any other governmental entity.

438 2. Agree to the application of laws other than those of  
439 this state.

440 3. Agree to resolve disputes in a jurisdiction outside of  
441 this state.

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

445 (c) A program licensee may not refuse to do business with  
446 or discriminate against a borrower or an applicant on the basis  
447 of the borrower's or applicant's refusal to waive any right,  
448 penalty, remedy, forum, or procedure, including the right to  
449 file and pursue a civil action or complaint with, or otherwise  
450 communicate with, the office, a court, or any other governmental  
451 entity. The exercise of a person's right to refuse to waive any  
452 right, penalty, remedy, forum, or procedure, including a  
453 rejection of a contract requiring a waiver, does not affect any  
454 otherwise legal terms of a contract or an agreement.

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

461 Section 5. Section 516.44, Florida Statutes, is created to  
462 read:

463 516.44 Access partners.—

464 (1) ACCESS PARTNER AGREEMENT.—All arrangements between a



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465 program licensee and an access partner must be specified in a  
466 written access partner agreement between the parties. The  
467 agreement must contain the following provisions:

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

471 (b) The office has access to the access partner's books and  
472 records pertaining to the access partner's operations under the  
473 agreement with the program licensee in accordance with s.  
474 516.45(3) and may examine the access partner pursuant to s.  
475 516.45.

476 (2) AUTHORIZED SERVICES.—A program licensee may use the  
477 services of one or more access partners as provided in this  
478 section. An access partner may perform one or more of the  
479 following services for the program licensee:

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

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

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

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

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

500 (f) Contacting the program licensee to determine the status  
501 of a program loan application.

502 (g) Communicating a response that is returned by the  
503 program licensee's automated underwriting system to a borrower  
504 or a prospective borrower.

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

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

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

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

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

521 (a) A loan payment made by a borrower to an access partner  
522 under paragraph (2)(j) must be applied to the borrower's program

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523 loan and deemed received by the program licensee as of the date  
524 on which the payment is received by the access partner.

525 (b) An access partner that receives a loan payment from a  
526 borrower must deliver or cause to be delivered to the borrower a  
527 plain and complete receipt showing all of the information  
528 specified in s. 516.43(1)(j) at the time that the payment is  
529 made by the borrower.

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

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

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

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

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

544 (c) Negotiate a loan term between a program licensee and a  
545 prospective borrower.

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

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552 licensee with whom it has an access partner agreement.

553 (e) Require a borrower to pay any fees or charges to the  
554 access partner or to any other person in connection with a  
555 program loan other than those permitted under ss. 516.405-  
556 516.46.

557 (5) DISCLOSURE STATEMENTS.-

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

564  
565 Your loan application has been referred to us by  
566 ...(name of access partner).... We may pay a fee to  
567 ...(name of access partner)... for the successful  
568 referral of your loan application. If you are approved  
569 for the loan, ...(name of program licensee)... will  
570 become your lender. If you have any questions about  
571 your loan, now or in the future, you should direct  
572 those questions to ...(name of program licensee)... by  
573 ...(insert at least two different ways in which a  
574 borrower may contact the program licensee).... If you  
575 wish to report a complaint about ...(name of access  
576 partner)... or ...(name of program licensee)...  
577 regarding this loan transaction, you may contact the  
578 Division of Consumer Finance of the Office of  
579 Financial Regulation at 850-487-9687 or  
580 <http://www.flofr.com>.

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

587 (6) COMPENSATION.—

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

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

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

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

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

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

608 (b) The name and contact information for an employee of the  
609 access partner who is knowledgeable about, and has the authority

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610 to execute, the access partner agreement.

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

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

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

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

627 3. A felony indictment involving the access partner or an  
628 affiliated party.

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

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

635 6. Notification by a law enforcement or prosecutorial  
636 agency that the access partner is under criminal investigation,  
637 including, but not limited to, subpoenas to produce records or  
638 testimony and warrants issued by a court of competent

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639 jurisdiction which authorize the search and seizure of any  
640 records relating to a business activity regulated under this  
641 chapter.

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

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

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

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

658 (10) RULEMAKING.—The commission shall adopt rules to  
659 implement this section.

660 Section 6. Section 516.45, Florida Statutes, is created to  
661 read:

662 516.45 Examinations, investigations, and grounds for  
663 disciplinary action.—

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

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

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

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

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

685           (a) Bar the access partner from performing services under  
686 this chapter.

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

689       (6) The commission shall adopt rules to implement this  
690 section.

691       Section 7. Section 516.46, Florida Statutes, is created to  
692 read:

693       516.46 Annual reports by program licensees and the office.—

694       (1) By March 15, 2021, and each year thereafter, a program  
695 licensee shall file a report with the office on a form and in a  
696 manner prescribed by commission rule. The report must include



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697 each of the items specified in subsection (2) for the preceding  
698 year using aggregated or anonymized data without reference to  
699 any borrower's nonpublic personal information or any program  
700 licensee's or access partner's proprietary or trade secret  
701 information.

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

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

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

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

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

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726 least one major credit bureau, and the average size of the  
727 increase. In each case, the report must include the name of the  
728 credit score, such as FICO or VantageScore, which the program  
729 licensee is required to disclose.

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

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

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

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

750 (h) For refinance program loans:

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

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755 refinance program loan.

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

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

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

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

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

772 Section 8. Sections 516.405-516.46, Florida Statutes, are  
773 repealed on January 1, 2027, unless reenacted or superseded by  
774 another law enacted by the Legislature before that date.

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