

By the Committee on Banking and Insurance; and Senator Rouson

597-03480-19

2019874c1

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

597-03480-19

2019874c1

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.; authorizing the office to  
54 examine each program licensee, branch office, and  
55 access partner; limiting the scope of certain  
56 examinations and investigations; authorizing the  
57 office to take certain disciplinary action against  
58 program licensees and access partners; requiring the

597-03480-19

2019874c1

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

60 requiring program licensees to file an annual report

61 with the office beginning on a specified date;

62 requiring the office to post an annual report on its

63 website by a specified date; specifying information to

64 be contained in the reports; requiring the commission

65 to adopt rules; providing for future repeal of the

66 pilot program; providing an effective date.

67

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

69

70 Section 1. Section 516.405, Florida Statutes, is created to

71 read:

72 516.405 Access to Responsible Credit Pilot Program.-

73 (1) The Access to Responsible Credit Pilot Program is

74 created within the Office of Financial Regulation to allow more

75 Floridians to obtain responsible consumer finance loans in

76 principal amounts of at least \$300 but not more than \$10,000.

77 (2) The pilot program is intended to assist consumers in

78 building their credit and to provide additional consumer

79 protections for these loans that exceed current protections

80 under general law.

81 Section 2. Section 516.41, Florida Statutes, is created to

82 read:

83 516.41 Definitions.-As used in ss. 516.405-516.46, the

84 term:

85 (1) "Access partner" means an entity that, at the entity's

86 physical business location or through online access, cellular

87 telephone, or other means, performs one or more of the services

597-03480-19

2019874c1

88 authorized in s. 516.44(2) on behalf of a program licensee. The  
89 term does not include a credit service organization as defined  
90 in s. 817.7001 or a loan broker as defined in s. 687.14.

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

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

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

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

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

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

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

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

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

116 (8) "Program licensee" means a person who is licensed to

597-03480-19

2019874c1

117 make and collect loans under this chapter and who is approved by  
118 the office to participate in the program.

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

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

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

130 516.42 Requirements for program participation; program  
131 application requirements.-

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

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

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

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

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

145 (c) Demonstrate financial responsibility, experience,

597-03480-19

2019874c1

146 character, or general fitness, such as to command the confidence  
147 of the public and to warrant the belief that the business  
148 operated at the licensed or proposed location is lawful, honest,  
149 fair, efficient, and within the purposes of this chapter.

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

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

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

163 2. The applicant's main address.

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

165 4. The address of each program branch office.

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

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

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

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

597-03480-19

2019874c1

175 borrower on all program loans.

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

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

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

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

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

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

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

200 (7) The office shall issue a program branch office license  
201 to a program licensee after the office determines that the  
202 program licensee has submitted a completed electronic  
203 application for a program branch office license in a form

597-03480-19

2019874c1

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

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

212 (b) The applicant's main address.

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

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

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

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

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

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

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

229 (a) Fails to demonstrate financial responsibility,  
230 experience, character, or general fitness, such as to command  
231 the confidence of the public and to warrant the belief that the  
232 business operated at the licensed or proposed location is



597-03480-19

2019874c1

233 lawful, honest, fair, efficient, and within the purposes of this  
234 chapter.

235 (b) Pled nolo contendere to, or was convicted or found  
236 guilty of, a crime involving fraud, dishonest dealing, or any  
237 act of moral turpitude, regardless of whether adjudication was  
238 withheld.

239 (c) Is subject to the issuance of a cease and desist order;  
240 the issuance of a removal order; the denial, suspension, or  
241 revocation of a license; or any other action within the  
242 authority of the office, any financial regulatory agency in this  
243 state, or any other state or federal regulatory agency that  
244 affects the applicant's ability to participate in the program.

245 (10) The commission shall adopt rules to implement this  
246 section.

247 Section 4. Section 516.43, Florida Statutes, is created to  
248 read:

249 516.43 Requirements for program loans.—

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

252 (a) A program loan must be unsecured.

253 (b) A program loan must have:

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

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

260 (c) A program loan must not impose a prepayment penalty. A  
261 program loan must be repayable by the borrower in substantially

597-03480-19

2019874c1

262 equal, periodic installments, except that the final payment may  
263 be less than the amount of the prior installments. Installments  
264 must be due either every 2 weeks, semimonthly, or monthly.

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

270 (e) Notwithstanding s. 516.031, the maximum annual interest  
271 rate charged on a program loan to the borrower, which must be  
272 fixed for the duration of the program loan, is 36 percent on  
273 that portion of the unpaid principal balance up to and including  
274 \$3,000; 30 percent on that portion of the unpaid principal  
275 balance exceeding \$3,000 and up to and including \$4,000; and 24  
276 percent on that portion of the unpaid principal balance  
277 exceeding \$4,000 and up to and including \$10,000. The original  
278 principal amount of the program loan is equal to the amount  
279 financed as defined by the federal Truth in Lending Act and  
280 Regulation Z of the Board of Governors of the Federal Reserve  
281 System. In determining compliance with the maximum annual  
282 interest rates in this paragraph, the computations used must be  
283 simple interest through the application of a daily periodic rate  
284 to the actual unpaid principal balance each day and may not be  
285 added-on interest or any other computations.

286 (f) If two or more interest rates are applied to the  
287 principal amount of a program loan, the program licensee may  
288 charge, contract for, and receive interest at that single annual  
289 percentage rate that, if applied according to the actuarial  
290 method to each of the scheduled periodic balances of principal,

597-03480-19

2019874c1

291 would produce at maturity the same total amount of interest as  
292 would result from the application of the two or more rates  
293 otherwise permitted, based upon the assumption that all payments  
294 are made as agreed.

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

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

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

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

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

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

312 1. The principal amount payable may not include more than  
313 60 days' unpaid interest accrued on the previous program loan  
314 pursuant to s. 516.031(5).

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

319 3. For a program loan with an original term of more than 25

597-03480-19

2019874c1

320 months, but not more than 60 months, the borrower has made  
321 current payments for at least 9 months on his or her existing  
322 program loan.

323 4. The borrower is current on payments for his or her  
324 existing program loan.

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

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

337 1. The name of the borrower.

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

339 3. The total payment amount received.

340 4. The date of payment.

341 5. The program loan balance before and after application of  
342 the payment.

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

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

346 8. The following statement, prominently displayed in a type  
347 size equal to or larger than the type size used to display the  
348 other items on the receipt: "If you have any questions about

597-03480-19

2019874c1

349 your loan now or in the future, you should direct those  
350 questions to ...(name of program licensee)... by ...(at least  
351 two different ways in which a borrower may contact the program  
352 licensee)...."

353 (2) WRITTEN DISCLOSURES AND STATEMENTS.—

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

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

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

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

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

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

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

597-03480-19

2019874c1

378 the borrower.

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

384

385 The program licensee, or any wholly owned subsidiary of the  
386 program licensee, may not sell or assign an unpaid debt to an  
387 independent third party for collection purposes unless the debt  
388 has been delinquent for at least 30 days.

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

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

393 (b) Provide a credit education program or seminar to the  
394 borrower. The borrower is not required to participate in such  
395 education program or seminar. A credit education program or  
396 seminar offered pursuant to this paragraph must be provided at  
397 no cost to the borrower.

398 (6) CREDIT REPORTING.—

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

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

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

597-03480-19

2019874c1

407 (7) PROGRAM LOAN UNDERWRITING.—

408 (a) The program licensee must underwrite each program loan  
409 to determine a borrower's ability and willingness to repay the  
410 program loan pursuant to the program loan terms. The program  
411 licensee may not make a program loan if it determines that the  
412 borrower's total monthly debt service payments at the time of  
413 origination, including the program loan for which the borrower  
414 is being considered and all outstanding forms of credit that can  
415 be independently verified by the program licensee, exceed 50  
416 percent of the borrower's gross monthly income for a loan of not  
417 more than \$3,000, or exceed 36 percent of the borrower's gross  
418 monthly income for a loan of more than \$3,000.

419 (b)1. The program licensee must seek information and  
420 documentation pertaining to all of a borrower's outstanding debt  
421 obligations during the loan application and underwriting  
422 process, including loans that are self-reported by the borrower  
423 but not available through independent verification. The program  
424 licensee must verify such information using a credit report from  
425 at least one consumer reporting agency or through other  
426 available electronic debt verification services that provide  
427 reliable evidence of a borrower's outstanding debt obligations.

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

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

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

435 2. The Internal Revenue Service Form W-2, tax returns,

597-03480-19

2019874c1

436 payroll receipts, bank statements, or other third-party  
437 documents that provide reasonably reliable evidence of the  
438 borrower's actual income.

439 (8) WAIVERS.—

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

442 1. Waive any right, penalty, remedy, forum, or procedure  
443 provided for in any law applicable to the program loan,  
444 including the right to file and pursue a civil action or file a  
445 complaint with or otherwise communicate with the office, a  
446 court, or any other governmental entity.

447 2. Agree to the application of laws other than those of  
448 this state.

449 3. Agree to resolve disputes in a jurisdiction outside of  
450 this state.

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

454 (c) A program licensee may not refuse to do business with  
455 or discriminate against a borrower or an applicant on the basis  
456 of the borrower's or applicant's refusal to waive any right,  
457 penalty, remedy, forum, or procedure, including the right to  
458 file and pursue a civil action or complaint with, or otherwise  
459 communicate with, the office, a court, or any other governmental  
460 entity. The exercise of a person's right to refuse to waive any  
461 right, penalty, remedy, forum, or procedure, including a  
462 rejection of a contract requiring a waiver, does not affect any  
463 otherwise legal terms of a contract or an agreement.

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



597-03480-19

2019874c1

465 waive any right, penalty, remedy, forum, or procedure, including  
466 any agreement to arbitrate a claim or dispute after a claim or  
467 dispute has arisen. This subsection does not affect the  
468 enforceability or validity of any other provision of the  
469 contract.

470 Section 5. Section 516.44, Florida Statutes, is created to  
471 read:

472 516.44 Access partners.—

473 (1) ACCESS PARTNER AGREEMENT.—All arrangements between a  
474 program licensee and an access partner must be specified in a  
475 written access partner agreement between the parties. The  
476 agreement must contain the following provisions:

477 (a) The access partner agrees to comply with this section  
478 and all rules adopted under this section regarding the  
479 activities of access partners.

480 (b) The office has access to the access partner's books and  
481 records pertaining to the access partner's operations under the  
482 agreement with the program licensee in accordance with s.  
483 516.45(3) and may examine the access partner pursuant to s.  
484 516.45.

485 (2) AUTHORIZED SERVICES.—A program licensee may use the  
486 services of one or more access partners as provided in this  
487 section. An access partner may perform one or more of the  
488 following services for the program licensee:

489 (a) Distributing, circulating, using, or publishing printed  
490 brochures, flyers, fact sheets, or other written materials  
491 relating to program loans that the program licensee may make or  
492 negotiate. The written materials must be reviewed and approved  
493 in writing by the program licensee before being distributed,

597-03480-19

2019874c1

494 circulated, used, or published.

495 (b) Providing written factual information about program  
496 loan terms, conditions, or qualification requirements to a  
497 prospective borrower which has been prepared by the program  
498 licensee or reviewed and approved in writing by the program  
499 licensee. An access partner may discuss the information with a  
500 prospective borrower in general terms.

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

503 (d) Entering information provided by the prospective  
504 borrower on a preprinted or an electronic application form or in  
505 a preformatted computer database.

506 (e) Assembling credit applications and other materials  
507 obtained in the course of a credit application transaction for  
508 submission to the program licensee.

509 (f) Contacting the program licensee to determine the status  
510 of a program loan application.

511 (g) Communicating a response that is returned by the  
512 program licensee's automated underwriting system to a borrower  
513 or a prospective borrower.

514 (h) Obtaining a borrower's signature on documents prepared  
515 by the program licensee and delivering final copies of the  
516 documents to the borrower.

517 (i) Disbursing program loan proceeds to a borrower if this  
518 method of disbursement is acceptable to the borrower, subject to  
519 the requirements of subsection (3). A loan disbursement made by  
520 an access partner under this paragraph is deemed to be made by  
521 the program licensee on the date that the funds are disbursed or  
522 otherwise made available by the access partner to the borrower.

597-03480-19

2019874c1

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

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

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

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

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

539 (c) A borrower who submits a loan payment to an access  
540 partner under this subsection is not liable for a failure or  
541 delay by the access partner in transmitting the payment to the  
542 program licensee.

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

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

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

550 (b) Provide loan-related marketing material that has not  
551 previously been approved by the program licensee to a borrower

597-03480-19

2019874c1

552 or a prospective borrower.

553 (c) Negotiate a loan term between a program licensee and a  
554 prospective borrower.

555 (d) Offer information pertaining to a single prospective  
556 borrower to more than one program licensee. However, if a  
557 program licensee has declined to offer a program loan to a  
558 prospective borrower and has so notified the prospective  
559 borrower in writing, the access partner may then offer  
560 information pertaining to that borrower to another program  
561 licensee with whom it has an access partner agreement.

562 (e) Require a borrower to pay any fees or charges to the  
563 access partner or to any other person in connection with a  
564 program loan other than those permitted under ss. 516.405-  
565 516.46.

566 (5) DISCLOSURE STATEMENTS.-

567 (a) At the time that the access partner receives or  
568 processes an application for a program loan, the access partner  
569 shall provide the following statement to the applicant on behalf  
570 of the program licensee, in at least 10-point type, and shall  
571 request that the applicant acknowledge receipt of the statement  
572 in writing:

573

574 Your loan application has been referred to us by  
575 ...(name of access partner).... We may pay a fee to  
576 ...(name of access partner)... for the successful  
577 referral of your loan application. If you are approved  
578 for the loan, ...(name of program licensee)... will  
579 become your lender. If you have any questions about  
580 your loan, now or in the future, you should direct

597-03480-19

2019874c1

581 those questions to ... (name of program licensee) ... by  
582 ... (insert at least two different ways in which a  
583 borrower may contact the program licensee) ... If you  
584 wish to report a complaint about ... (name of access  
585 partner) ... or ... (name of program licensee) ...  
586 regarding this loan transaction, you may contact the  
587 Division of Consumer Finance of the Office of  
588 Financial Regulation at 850-487-9687 or  
589 <http://www.flofr.com>.

590  
591 (b) If the loan applicant has questions about the program  
592 loan which the access partner is not permitted to answer, the  
593 access partner must make a good faith effort to assist the  
594 applicant in making direct contact with the program licensee  
595 before the program loan is consummated.

596 (6) COMPENSATION.—

597 (a) The program licensee may compensate an access partner  
598 in accordance with a written agreement and a compensation  
599 schedule that is agreed to by the program licensee and the  
600 access partner, subject to the requirements in paragraph (b).

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

603 1. Compensation may not be paid to an access partner in  
604 connection with a loan application unless the program loan is  
605 consummated.

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

609 (7) NOTICE TO OFFICE.—A program licensee that uses the

597-03480-19

2019874c1

610 service of an access partner must notify the office, in a form  
611 and manner prescribed by commission rule, within 15 days after  
612 entering into a contract with an access partner regarding all of  
613 the following:

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

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

620 (c) The name and contact information of one or more  
621 employees of the access partner who are responsible for that  
622 access partner's referring activities on behalf of the program  
623 licensee.

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

627 1. The filing of a petition under the United States  
628 Bankruptcy Code for bankruptcy or reorganization by the access  
629 partner.

630 2. The commencement of an administrative or a judicial  
631 license suspension or revocation proceeding, or the denial of a  
632 license request or renewal, by any state, the District of  
633 Columbia, any United States territory, or any foreign country in  
634 which the access partner operates, plans to operate, or is  
635 licensed to operate.

636 3. A felony indictment involving the access partner or an  
637 affiliated party.

638 4. The felony conviction, guilty plea, or plea of nolo

597-03480-19

2019874c1

639 contendere, regardless of adjudication, of the access partner or  
640 an affiliated party.

641 5. Any suspected criminal act perpetrated in this state  
642 relating to activities regulated under this chapter by the  
643 access partner.

644 6. Notification by a law enforcement or prosecutorial  
645 agency that the access partner is under criminal investigation,  
646 including, but not limited to, subpoenas to produce records or  
647 testimony and warrants issued by a court of competent  
648 jurisdiction which authorize the search and seizure of any  
649 records relating to a business activity regulated under this  
650 chapter.

651  
652 As used in this paragraph, the term "affiliated party" means a  
653 director, officer, responsible person, employee, or foreign  
654 affiliate of an access partner; or a person who has a  
655 controlling interest in an access partner.

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

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

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

667 (10) RULEMAKING.—The commission shall adopt rules to

597-03480-19

2019874c1

668 implement this section.

669 Section 6. Section 516.45, Florida Statutes, is created to  
670 read:

671 516.45 Examinations, investigations, and grounds for  
672 disciplinary action.—

673 (1) Notwithstanding any other law, the office may examine  
674 each program licensee that is accepted into the program and each  
675 branch office of the program licensee in accordance with this  
676 chapter.

677 (2) Notwithstanding any other law, the office may examine  
678 each access partner that is accepted into the program in  
679 accordance with this chapter.

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

684 (4) A program licensee who violates any applicable  
685 provision of this chapter is subject to disciplinary action  
686 pursuant to s. 516.07(2). Any such disciplinary action is  
687 subject to s. 120.60. The program licensee is also subject to  
688 disciplinary action for a violation of s. 516.44 committed by  
689 any of its access partners.

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

692 (a) Bar the access partner from performing services under  
693 this chapter.

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

696 (6) The commission shall adopt rules to implement this



597-03480-19

2019874c1

697 section.

698 Section 7. Section 516.46, Florida Statutes, is created to  
699 read:

700 516.46 Annual reports by program licensees and the office.-

701 (1) By March 15, 2021, and each year thereafter, a program  
702 licensee shall file a report with the office on a form and in a  
703 manner prescribed by commission rule. The report must include  
704 each of the items specified in subsection (2) for the preceding  
705 year using aggregated or anonymized data without reference to  
706 any borrower's nonpublic personal information or any program  
707 licensee's or access partner's proprietary or trade secret  
708 information.

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

718 (a) The number of applicants approved for a program license  
719 by the office.

720 (b) The number of program loan applications received by  
721 program licensees, the number of program loans made under the  
722 program, the total amount loaned, the distribution of loan  
723 lengths upon origination, and the distribution of interest rates  
724 and principal amounts upon origination among those program  
725 loans.

597-03480-19

2019874c1

726 (c) The number of borrowers who obtained more than one  
727 program loan and the distribution of the number of program loans  
728 per borrower.

729 (d) Of those borrowers who obtained more than one program  
730 loan and had a credit score by the time of their subsequent  
731 loan, the percentage of those borrowers whose credit scores  
732 increased between successive loans, based on information from at  
733 least one major credit bureau, and the average size of the  
734 increase. In each case, the report must include the name of the  
735 credit score, such as FICO or VantageScore, which the program  
736 licensee is required to disclose.

737 (e) The income distribution of borrowers upon program loan  
738 origination, including the number of borrowers who obtained at  
739 least one program loan and who resided in a low-income or  
740 moderate-income census tract at the time of their loan  
741 applications.

742 (f) The number of borrowers who obtained program loans for  
743 the following purposes, based on the borrowers' responses at the  
744 time of their loan applications indicating the primary purpose  
745 for which the program loans were obtained:

- 746 1. To pay medical expenses.  
747 2. To pay for vehicle repair or a vehicle purchase.  
748 3. To pay bills.  
749 4. To consolidate debt.  
750 5. To build or repair credit history.  
751 6. To finance a small business.  
752 7. To pay other expenses.

753 (g) The number of borrowers who self-report that they had a  
754 bank account at the time of their loan application and the

597-03480-19

2019874c1

755 number of borrowers who self-report that they did not have a  
756 bank account at the time of their loan application.

757 (h) For refinance program loans:

758 1. The number and percentage of borrowers who applied for a  
759 refinance program loan.

760 2. Of those borrowers who applied for a refinance program  
761 loan, the number and percentage of borrowers who obtained a  
762 refinance program loan.

763 (i) The performance of program loans as reflected by all of  
764 the following:

765 1. The number and percentage of borrowers who experienced  
766 at least one delinquency lasting between 7 and 29 days and the  
767 distribution of principal loan amounts corresponding to those  
768 delinquencies.

769 2. The number and percentage of borrowers who experienced  
770 at least one delinquency lasting between 30 and 59 days and the  
771 distribution of principal loan amounts corresponding to those  
772 delinquencies.

773 3. The number and percentage of borrowers who experienced  
774 at least one delinquency lasting 60 days or more and the  
775 distribution of principal loan amounts corresponding to those  
776 delinquencies.

777 (3) The commission shall adopt rules to implement this  
778 section.

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

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