

By the Committees on Appropriations; and Banking and Insurance;  
and 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.; 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

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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 appropriation; providing

67 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.  
142 516.03 concurrently with the application for the program  
143 license. The application required by s. 516.03 must be approved  
144 and the license under that section must be issued in order to  
145 obtain the program license.

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146 (b) Be accepted as a data furnisher by a consumer reporting  
147 agency.

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

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

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

164 1. The legal business name and any other name under which  
165 the applicant operates.

166 2. The applicant's main address.

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

168 4. The address of each program branch office.

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

171 6. The license number, if the applicant is licensed under  
172 s. 516.05.

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

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175 8. A statement that the applicant has been accepted as a  
176 data furnisher by a consumer reporting agency and will report to  
177 a consumer reporting agency the payment performance of each  
178 borrower on all program loans.

179 9. The signature and certification of an authorized person  
180 of the applicant.

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

186 1. An application pursuant to s. 516.03 for licensure to  
187 make consumer finance loans.

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

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

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

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

203 (7) The office shall issue a program branch office license

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

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

215 (b) The applicant's main address.

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

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

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

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

222 (g) The signature and certification of an authorized person  
223 of the applicant.

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

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

232 (a) Fails to demonstrate financial responsibility,



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233 experience, character, or general fitness, such as to command  
234 the confidence of the public and to warrant the belief that the  
235 business operated at the licensed or proposed location is  
236 lawful, honest, fair, efficient, and within the purposes of this  
237 chapter.

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

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

248 (10) The commission shall adopt rules to implement this  
249 section.

250 Section 4. Section 516.43, Florida Statutes, is created to  
251 read:

252 516.43 Requirements for program loans.-

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

255 (a) A program loan must be unsecured.

256 (b) A program loan must have:

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

260 2. A term of at least 12 months, but not more than 60  
261 months, for a loan with a principal balance upon origination of

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262 more than \$3,000.

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

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

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

289 (f) If two or more interest rates are applied to the  
290 principal amount of a program loan, the program licensee may

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291 charge, contract for, and receive interest at that single annual  
292 percentage rate that, if applied according to the actuarial  
293 method to each of the scheduled periodic balances of principal,  
294 would produce at maturity the same total amount of interest as  
295 would result from the application of the two or more rates  
296 otherwise permitted, based upon the assumption that all payments  
297 are made as agreed.

298 (g) The program licensee shall reduce the interest rates  
299 specified in paragraph (e) on each subsequent program loan to  
300 the same borrower by a minimum of 1 percent, up to a maximum of  
301 6 percent, if all of the following conditions are met:

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

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

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

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

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

315 1. The principal amount payable may not include more than  
316 60 days' unpaid interest accrued on the previous program loan  
317 pursuant to s. 516.031(5).

318 2. For a program loan with an original term up to and  
319 including 25 months, the borrower has repaid at least 60 percent

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320 of the outstanding principal remaining on his or her existing  
321 program loan.

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

326 4. The borrower is current on payments for his or her  
327 existing program loan.

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

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

340 1. The name of the borrower.

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

342 3. The total payment amount received.

343 4. The date of payment.

344 5. The program loan balance before and after application of  
345 the payment.

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

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

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349 8. The following statement, prominently displayed in a type  
350 size equal to or larger than the type size used to display the  
351 other items on the receipt: "If you have any questions about  
352 your loan now or in the future, you should direct those  
353 questions to ...(name of program licensee)... by ...(at least  
354 two different ways in which a borrower may contact the program  
355 licensee)...."

356 (2) WRITTEN DISCLOSURES AND STATEMENTS.-

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

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

363 (3) ORIGINATION FEES.-Notwithstanding s. 516.031, a program  
364 licensee may:

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

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

376 (4) INSUFFICIENT FUNDS FEES AND DELINQUENCY CHARGES.-A  
377 program licensee may:

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

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

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

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

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

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

401 (6) CREDIT REPORTING.—

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

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

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

410 (7) PROGRAM LOAN UNDERWRITING.—

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

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

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

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

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

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

442 (8) WAIVERS.—

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

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

450 2. Agree to the application of laws other than those of  
451 this state.

452 3. Agree to resolve disputes in a jurisdiction outside of  
453 this state.

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

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



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465 rejection of a contract requiring a waiver, does not affect any  
466 otherwise legal terms of a contract or an agreement.

467 (d) This subsection does not apply to any agreement to  
468 waive any right, penalty, remedy, forum, or procedure, including  
469 any agreement to arbitrate a claim or dispute after a claim or  
470 dispute has arisen. This subsection does not affect the  
471 enforceability or validity of any other provision of the  
472 contract.

473 Section 5. Section 516.44, Florida Statutes, is created to  
474 read:

475 516.44 Access partners.—

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

480 (a) The access partner agrees to comply with this section  
481 and all rules adopted under this section regarding the  
482 activities of access partners.

483 (b) The office has access to the access partner's books and  
484 records pertaining to the access partner's operations under the  
485 agreement with the program licensee in accordance with s.  
486 516.45(3) and may examine the access partner pursuant to s.  
487 516.45.

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

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

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494 relating to program loans that the program licensee may make or  
495 negotiate. The written materials must be reviewed and approved  
496 in writing by the program licensee before being distributed,  
497 circulated, used, or published.

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

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

506 (d) Entering information provided by the prospective  
507 borrower on a preprinted or an electronic application form or in  
508 a preformatted computer database.

509 (e) Assembling credit applications and other materials  
510 obtained in the course of a credit application transaction for  
511 submission to the program licensee.

512 (f) Contacting the program licensee to determine the status  
513 of a program loan application.

514 (g) Communicating a response that is returned by the  
515 program licensee's automated underwriting system to a borrower  
516 or a prospective borrower.

517 (h) Obtaining a borrower's signature on documents prepared  
518 by the program licensee and delivering final copies of the  
519 documents to the borrower.

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

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

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

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

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

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

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

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

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

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

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

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552 prospective borrower with respect to any loan term.

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

556 (c) Negotiate a loan term between a program licensee and a  
557 prospective borrower.

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

565 (e) Require a borrower to pay any fees or charges to the  
566 access partner or to any other person in connection with a  
567 program loan other than those permitted under ss. 516.405-  
568 516.46.

569 (5) DISCLOSURE STATEMENTS.-

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

576  
577 Your loan application has been referred to us by  
578 ...(name of access partner).... We may pay a fee to  
579 ...(name of access partner)... for the successful  
580 referral of your loan application. If you are approved

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

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

599 (6) COMPENSATION.—

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

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

606 1. Compensation may not be paid to an access partner in  
607 connection with a loan application unless the program loan is  
608 consummated.

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

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610 information required in subsection (7) must be reported to the  
611 office.

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

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

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

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

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

630 1. The filing of a petition under the United States  
631 Bankruptcy Code for bankruptcy or reorganization by the access  
632 partner.

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

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639 3. A felony indictment involving the access partner or an  
640 affiliated party.

641 4. The felony conviction, guilty plea, or plea of nolo  
642 contendere, regardless of adjudication, of the access partner or  
643 an affiliated party.

644 5. Any suspected criminal act perpetrated in this state  
645 relating to activities regulated under this chapter by the  
646 access partner.

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

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

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

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

667 (9) RESPONSIBILITY FOR ACTS OF AN ACCESS PARTNER.—A program

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668 licensee is responsible for any act of its access partner if  
669 such act is a violation of this chapter.

670 (10) RULEMAKING.—The commission shall adopt rules to  
671 implement this section.

672 Section 6. Section 516.45, Florida Statutes, is created to  
673 read:

674 516.45 Examinations, investigations, and grounds for  
675 disciplinary action.—

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

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

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

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

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

695 (a) Bar the access partner from performing services under  
696 this chapter.



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

699 (6) The commission shall adopt rules to implement this  
700 section.

701 Section 7. Section 516.46, Florida Statutes, is created to  
702 read:

703 516.46 Annual reports by program licensees and the office.-

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

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

721 (a) The number of applicants approved for a program license  
722 by the office.

723 (b) The number of program loan applications received by  
724 program licensees, the number of program loans made under the  
725 program, the total amount loaned, the distribution of loan

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726 lengths upon origination, and the distribution of interest rates  
727 and principal amounts upon origination among those program  
728 loans.

729 (c) The number of borrowers who obtained more than one  
730 program loan and the distribution of the number of program loans  
731 per borrower.

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

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

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

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

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755 7. To pay other expenses.

756 (g) The number of borrowers who self-report that they had a  
757 bank account at the time of their loan application and the  
758 number of borrowers who self-report that they did not have a  
759 bank account at the time of their loan application.

760 (h) For refinance program loans:

761 1. The number and percentage of borrowers who applied for a  
762 refinance program loan.

763 2. Of those borrowers who applied for a refinance program  
764 loan, the number and percentage of borrowers who obtained a  
765 refinance program loan.

766 (i) The performance of program loans as reflected by all of  
767 the following:

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

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

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

780 (3) The commission shall adopt rules to implement this  
781 section.

782 Section 8. Sections 516.405-516.46, Florida Statutes, are  
783 repealed on January 1, 2027, unless reenacted or superseded by

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784 another law enacted by the Legislature before that date.

785       Section 9. For the 2019-2020 fiscal year, the sum of  
786 \$407,520 in nonrecurring funds from the Administrative Trust  
787 Fund is appropriated to the Office of Financial Regulation for  
788 the purpose of implementing this act.

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