

2019874e1

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.; defining terms; creating s. 516.42,
7 F.S.; requiring a program license from the office for
8 certain actions relating to program loans; providing
9 licensure requirements; requiring a program licensee's
10 program branch offices to be licensed; providing
11 program branch office license and license renewal
12 requirements; providing circumstances under which the
13 office may deny initial and renewal applications;
14 requiring the Financial Services Commission to adopt
15 rules; creating s. 516.43, F.S.; providing
16 requirements for program licensees, program loans,
17 loan repayments, loan rescissions, interest rates,
18 program loan refinancing, receipts, disclosures and
19 statements provided by program licensees to borrowers,
20 origination fees, insufficient funds fees, and
21 delinquency charges; requiring program licensees to
22 provide certain credit education information to
23 borrowers and to report payment performance of
24 borrowers to a consumer reporting agency; prohibiting
25 the office from approving a program licensee applicant
26 before the applicant has been accepted as a data
27 furnisher by a consumer reporting agency; providing a
28 requirement for credit reporting; specifying program
29 loan underwriting requirements for program licensees;

2019874e1

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

2019874e1

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

70
71 Be It Enacted by the Legislature of the State of Florida:

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

75 516.405 Access to Responsible Credit Pilot Program.—

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

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

84 Section 2. Section 516.41, Florida Statutes, is created to
85 read:

86 516.41 Definitions.—As used in ss. 516.405-516.46, the
87 term:

2019874e1

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

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

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

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

102 (5) "Pilot program" or "program" means the Access to
103 Responsible Credit Pilot Program.

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

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

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

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

2019874e1

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

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

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

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

131 Section 3. Section 516.42, Florida Statutes, is created to
132 read:

133 516.42 Requirements for program participation; program
134 application requirements.—

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

139 (2) In order to obtain a pilot program license, a person
140 must:

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

143 2. Submit the application for the license required in s.
144 516.03 concurrently with the application for the program
145 license. The application required by s. 516.03 must be approved

2019874e1

146 and the license under that section must be issued in order to
147 obtain the program license.

148 (b) Be accepted as a data furnisher by a consumer reporting
149 agency.

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

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

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

166 1. The legal business name and any other name under which
167 the applicant operates.

168 2. The applicant's main address.

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

170 4. The address of each program branch office.

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

173 6. The license number, if the applicant is licensed under
174 s. 516.05.

2019874e1

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

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

181 9. The signature and certification of an authorized person
182 of the applicant.

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

188 1. An application pursuant to s. 516.03 for licensure to
189 make consumer finance loans.

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

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

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

203 (6) Each branch office of a program licensee must be

2019874e1

204 licensed under this section.

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

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

217 (b) The applicant's main address.

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

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

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

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

224 (g) The signature and certification of an authorized person
225 of the applicant.

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

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

2019874e1

233 business:

234 (a) Fails to demonstrate financial responsibility,
235 experience, character, or general fitness, such as to command
236 the confidence of the public and to warrant the belief that the
237 business operated at the licensed or proposed location is
238 lawful, honest, fair, efficient, and within the purposes of this
239 chapter.

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

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

250 (10) The commission shall adopt rules to implement this
251 section.

252 Section 4. Section 516.43, Florida Statutes, is created to
253 read:

254 516.43 Requirements for program loans.—

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

257 (a) A program loan must be unsecured.

258 (b) A program loan must have:

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

2019874e1

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

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

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

269 2. The borrower's credit score increased from the time of
270 application for the borrower's first consummated program loan;
271 and

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

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

279 (e) A program loan must include a borrower's right to
280 rescind the program loan by notifying the program licensee of
281 the borrower's intent to rescind the program loan and returning
282 the principal advanced by the end of the business day after the
283 day the program loan is consummated.

284 (f) Notwithstanding s. 516.031, the maximum annual interest
285 rate charged on a program loan to the borrower, which must be
286 fixed for the duration of the program loan, is 36 percent on
287 that portion of the unpaid principal balance up to and including
288 \$3,000; 30 percent on that portion of the unpaid principal
289 balance exceeding \$3,000 and up to and including \$4,000; and 24
290 percent on that portion of the unpaid principal balance

2019874e1

291 exceeding \$4,000 and up to and including \$7,500. The original
292 principal amount of the program loan is equal to the amount
293 financed as defined by the federal Truth in Lending Act and
294 Regulation Z of the Board of Governors of the Federal Reserve
295 System. In determining compliance with the maximum annual
296 interest rates in this paragraph, the computations used must be
297 simple interest through the application of a daily periodic rate
298 to the actual unpaid principal balance each day and may not be
299 added-on interest or any other computations.

300 (g) If two or more interest rates are applied to the
301 principal amount of a program loan, the program licensee may
302 charge, contract for, and receive interest at that single annual
303 percentage rate that, if applied according to the actuarial
304 method to each of the scheduled periodic balances of principal,
305 would produce at maturity the same total amount of interest as
306 would result from the application of the two or more rates
307 otherwise permitted, based upon the assumption that all payments
308 are made as agreed.

309 (h) The program licensee shall reduce the interest rates
310 specified in paragraph (f) on each subsequent program loan to
311 the same borrower by a minimum of 1 percent, up to a maximum of
312 6 percent, if all of the following conditions are met:

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

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

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

319 (i) The program licensee may not induce or permit any

2019874e1

320 person to become obligated to the program licensee, directly or
321 contingently, or both, under more than one program loan at the
322 same time with the program licensee.

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

326 1. The principal amount payable may not include more than
327 60 days' unpaid interest accrued on the previous program loan
328 pursuant to s. 516.031(5).

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

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

337 4. The borrower is current on payments for his or her
338 existing program loan.

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

341 (k) In lieu of the provisions of s. 687.08, the program
342 licensee or, if applicable, its approved access partner shall
343 make available to the borrower by electronic or physical means a
344 plain and complete receipt of payment at the time that a payment
345 is made by the borrower. For audit purposes, the program
346 licensee must maintain an electronic record for each receipt
347 made available to a borrower, which must include a copy of the
348 receipt and the date and time that the receipt was generated.

2019874e1

349 Each receipt made available to the borrower must show all of the
350 following:

- 351 1. The name of the borrower.
- 352 2. The name of the access partner, if applicable.
- 353 3. The total payment amount received.
- 354 4. The date of payment.
- 355 5. The program loan balance before and after application of
356 the payment.
- 357 6. The amount of the payment that was applied to the
358 principal, interest, and fees.
- 359 7. The type of payment made by the borrower.
- 360 8. The following statement, prominently displayed in a type
361 size equal to or larger than the type size used to display the
362 other items on the receipt: "If you have any questions about
363 your loan now or in the future, you should direct those
364 questions to ...(name of program licensee)... by ...(at least
365 two different ways in which a borrower may contact the program
366 licensee)...."

367 (2) WRITTEN DISCLOSURES AND STATEMENTS.—

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

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

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

376 (a) Contract for and receive an origination fee from a
377 borrower on a program loan. The program licensee may either

2019874e1

378 deduct the origination fee from the principal amount of the loan
379 disbursed to the borrower or capitalize the origination fee into
380 the principal balance of the loan. The origination fee is fully
381 earned and nonrefundable immediately upon the making of the
382 program loan and may not exceed the lesser of 6 percent of the
383 principal amount of the program loan made to the borrower,
384 exclusive of the origination fee, or \$90.

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

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

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

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

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

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

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

406

2019874e1

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

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

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

415 (b) Provide a credit education program or seminar to the
416 borrower. The borrower is not required to participate in such
417 education program or seminar. A credit education program or
418 seminar offered pursuant to this paragraph must be provided at
419 no cost to the borrower.

420 (6) CREDIT REPORTING.—

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

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

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

429 (7) PROGRAM LOAN UNDERWRITING.—

430 (a) The program licensee must underwrite each program loan
431 to determine a borrower's ability and willingness to repay the
432 program loan pursuant to the program loan terms. The program
433 licensee may not make a program loan if it determines that the
434 borrower's total monthly debt service payments at the time of
435 origination, including the program loan for which the borrower

2019874e1

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

441 (b)1. The program licensee must seek information and
442 documentation pertaining to all of a borrower's outstanding debt
443 obligations during the loan application and underwriting
444 process, including loans that are self-reported by the borrower
445 but not available through independent verification. The program
446 licensee must verify such information using a credit report from
447 at least one consumer reporting agency or through other
448 available electronic debt verification services that provide
449 reliable evidence of a borrower's outstanding debt obligations.

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

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

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

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

461 (8) WAIVERS.—

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

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

2019874e1

465 provided for in any law applicable to the program loan,
466 including the right to file and pursue a civil action or file a
467 complaint with or otherwise communicate with the office, a
468 court, or any other governmental entity.

469 2. Agree to the application of laws other than those of
470 this state.

471 3. Agree to resolve disputes in a jurisdiction outside of
472 this state.

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

476 (c) A program licensee may not refuse to do business with
477 or discriminate against a borrower or an applicant on the basis
478 of the borrower's or applicant's refusal to waive any right,
479 penalty, remedy, forum, or procedure, including the right to
480 file and pursue a civil action or complaint with, or otherwise
481 communicate with, the office, a court, or any other governmental
482 entity. The exercise of a person's right to refuse to waive any
483 right, penalty, remedy, forum, or procedure, including a
484 rejection of a contract requiring a waiver, does not affect any
485 otherwise legal terms of a contract or an agreement.

486 (d) This subsection does not apply to any agreement to
487 waive any right, penalty, remedy, forum, or procedure, including
488 any agreement to arbitrate a claim or dispute after a claim or
489 dispute has arisen. This subsection does not affect the
490 enforceability or validity of any other provision of the
491 contract.

492 Section 5. Section 516.44, Florida Statutes, is created to
493 read:

2019874e1

494 516.44 Access partners.—

495 (1) ACCESS PARTNER AGREEMENT.—All arrangements between a
496 program licensee and an access partner must be specified in a
497 written access partner agreement between the parties. The
498 agreement must contain the following provisions:

499 (a) The access partner agrees to comply with this section
500 and all rules adopted under this section regarding the
501 activities of access partners.

502 (b) The office has access to the access partner's books and
503 records pertaining to the access partner's operations under the
504 agreement with the program licensee in accordance with s.
505 516.45(3) and may examine the access partner pursuant to s.
506 516.45.

507 (2) AUTHORIZED SERVICES.—A program licensee may use the
508 services of one or more access partners as provided in this
509 section. An access partner may perform one or more of the
510 following services from its physical business location for the
511 program licensee:

512 (a) Distributing, circulating, using, or publishing printed
513 brochures, flyers, fact sheets, or other written materials
514 relating to program loans that the program licensee may make or
515 negotiate. The written materials must be reviewed and approved
516 in writing by the program licensee before being distributed,
517 circulated, used, or published.

518 (b) Providing written factual information about program
519 loan terms, conditions, or qualification requirements to a
520 prospective borrower which has been prepared by the program
521 licensee or reviewed and approved in writing by the program
522 licensee. An access partner may discuss the information with a

2019874e1

523 prospective borrower in general terms.

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

526 (d) Entering information provided by the prospective
527 borrower on a preprinted or an electronic application form or in
528 a preformatted computer database.

529 (e) Assembling credit applications and other materials
530 obtained in the course of a credit application transaction for
531 submission to the program licensee.

532 (f) Contacting the program licensee to determine the status
533 of a program loan application.

534 (g) Communicating a response that is returned by the
535 program licensee's automated underwriting system to a borrower
536 or a prospective borrower.

537 (h) Obtaining a borrower's signature on documents prepared
538 by the program licensee and delivering final copies of the
539 documents to the borrower.

540 (i) Disbursing program loan proceeds to a borrower if this
541 method of disbursement is acceptable to the borrower, subject to
542 the requirements of subsection (3). A loan disbursement made by
543 an access partner under this paragraph is deemed to be made by
544 the program licensee on the date that the funds are disbursed or
545 otherwise made available by the access partner to the borrower.

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

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

2019874e1

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

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

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

562 (c) A borrower who submits a loan payment to an access
563 partner under this subsection is not liable for a failure or
564 delay by the access partner in transmitting the payment to the
565 program licensee.

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

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

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

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

576 (c) Negotiate a loan term between a program licensee and a
577 prospective borrower.

578 (d) Offer information pertaining to a single prospective
579 borrower to more than one program licensee. However, if a
580 program licensee has declined to offer a program loan to a

2019874e1

581 prospective borrower and has so notified the prospective
582 borrower in writing, the access partner may then offer
583 information pertaining to that borrower to another program
584 licensee with whom it has an access partner agreement.

585 (e) Except for the purpose of assisting a borrower in
586 obtaining a refinance program loan, offer information pertaining
587 to a prospective borrower to any program licensee if the
588 prospective borrower has an outstanding program loan.

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

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

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

597 (5) DISCLOSURE STATEMENTS.-

598 (a) At the time that the access partner receives or
599 processes an application for a program loan, the access partner
600 shall provide the following statement to the applicant on behalf
601 of the program licensee, in at least 10-point type, and shall
602 request that the applicant acknowledge receipt of the statement
603 in writing:

604
605 Your loan application has been referred to us by
606 ...(name of access partner).... We may pay a fee to
607 ...(name of access partner)... for the successful
608 referral of your loan application. If you are approved
609 for the loan, ...(name of program licensee)... will

2019874e1

610 become your lender. If you have any questions about
611 your loan, now or in the future, you should direct
612 those questions to ...(name of program licensee)... by
613 ...(insert at least two different ways in which a
614 borrower may contact the program licensee).... If you
615 wish to report a complaint about ...(name of access
616 partner)... or ...(name of program licensee)...
617 regarding this loan transaction, you may contact the
618 Division of Consumer Finance of the Office of
619 Financial Regulation at 850-487-9687 or
620 <http://www.flofr.com>.

621
622 (b) If the loan applicant has questions about the program
623 loan which the access partner is not permitted to answer, the
624 access partner must make a good faith effort to assist the
625 applicant in making direct contact with the program licensee
626 before the program loan is consummated.

627 (6) COMPENSATION.—

628 (a) The program licensee may compensate an access partner
629 in accordance with a written agreement and a compensation
630 schedule that is agreed to by the program licensee and the
631 access partner, subject to the requirements in paragraph (b).

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

634 1. Compensation may not be paid to an access partner in
635 connection with a loan application unless the program loan is
636 consummated.

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

2019874e1

639 office.

640 3. Compensation paid by the program licensee to the access
641 partner may not exceed \$65 per program loan, on average, plus \$2
642 per payment received by the access partner on behalf of the
643 program licensee for the duration of the program loan, and may
644 not be charged directly or indirectly to the borrower.

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

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

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

656 (c) The name and contact information of one or more
657 employees of the access partner who are responsible for that
658 access partner's referring activities on behalf of the program
659 licensee.

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

663 1. The filing of a petition under the United States
664 Bankruptcy Code for bankruptcy or reorganization by the access
665 partner.

666 2. The commencement of an administrative or a judicial
667 license suspension or revocation proceeding, or the denial of a

2019874e1

668 license request or renewal, by any state, the District of
669 Columbia, any United States territory, or any foreign country in
670 which the access partner operates, plans to operate, or is
671 licensed to operate.

672 3. A felony indictment involving the access partner or an
673 affiliated party.

674 4. The felony conviction, guilty plea, or plea of nolo
675 contendere, regardless of adjudication, of the access partner or
676 an affiliated party.

677 5. Any suspected criminal act perpetrated in this state
678 relating to activities regulated under this chapter by the
679 access partner.

680 6. Notification by a law enforcement or prosecutorial
681 agency that the access partner is under criminal investigation,
682 including, but not limited to, subpoenas to produce records or
683 testimony and warrants issued by a court of competent
684 jurisdiction which authorize the search and seizure of any
685 records relating to a business activity regulated under this
686 chapter.

687
688 As used in this paragraph, the term "affiliated party" means a
689 director, officer, control person, employee, or foreign
690 affiliate of an access partner; or a person who has a
691 controlling interest in an access partner.

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

694 (8) NOTICE OF CHANGES.—An access partner must provide the
695 program licensee with a written notice sent by registered mail
696 within 30 days after any change is made to the information

2019874e1

697 specified in paragraphs (7) (a)-(c) and within 30 days after the
698 occurrence or knowledge of any of the events specified in
699 paragraph (7) (d).

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

703 (10) RULEMAKING.—The commission shall adopt rules to
704 implement this section.

705 Section 6. Section 516.45, Florida Statutes, is created to
706 read:

707 516.45 Examinations, investigations, and grounds for
708 disciplinary action.—

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

712 (2) Notwithstanding subsection (1), the office may waive
713 one or more branch office examinations if the office finds that
714 such examinations are not necessary for the protection of the
715 public due to the centralized operations of the program licensee
716 or other factors acceptable to the office.

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

721 (4) A program licensee who violates any applicable
722 provision of this chapter is subject to disciplinary action
723 pursuant to s. 516.07(2). Any such disciplinary action is
724 subject to s. 120.60. The program licensee is also subject to
725 disciplinary action for a violation of s. 516.44 committed by

2019874e1

726 any of its access partners.

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

729 (a) Bar the access partner from performing services under
730 this chapter.

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

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

735 (6) The commission shall adopt rules to implement this
736 section.

737 Section 7. Section 516.46, Florida Statutes, is created to
738 read:

739 516.46 Annual reports by program licensees and the office.-

740 (1) By March 15, 2021, and each year thereafter, a program
741 licensee shall file a report with the office on a form and in a
742 manner prescribed by commission rule. The report must include
743 each of the items specified in subsection (2) for the preceding
744 year using aggregated or anonymized data without reference to
745 any borrower's nonpublic personal information or any program
746 licensee's or access partner's proprietary or trade secret
747 information.

748 (2) By January 1, 2022, and each year thereafter, the
749 office shall post a report on its website summarizing the use of
750 the program based on the information contained in the reports
751 filed in the preceding year by program licensees under
752 subsection (1). The office's report must publish the information
753 in the aggregate so as not to identify data by any specific
754 program licensee. The report must specify the period to which

2019874e1

755 the report corresponds and must include, but is not limited to,
756 the following for that period:

757 (a) The number of applicants approved for a program license
758 by the office.

759 (b) The number of program loan applications received by
760 program licensees, the number of program loans made under the
761 program, the total amount loaned, the distribution of loan
762 lengths upon origination, and the distribution of interest rates
763 and principal amounts upon origination among those program
764 loans.

765 (c) The number of borrowers who obtained more than one
766 program loan and the distribution of the number of program loans
767 per borrower.

768 (d) Of those borrowers who obtained more than one program
769 loan and had a credit score by the time of their subsequent
770 loan, the percentage of those borrowers whose credit scores
771 increased between successive loans, based on information from at
772 least one major credit bureau, and the average size of the
773 increase. In each case, the report must include the name of the
774 credit score, such as FICO or VantageScore, which the program
775 licensee is required to disclose.

776 (e) The income distribution of borrowers upon program loan
777 origination, including the number of borrowers who obtained at
778 least one program loan and who resided in a low-income or
779 moderate-income census tract at the time of their loan
780 applications.

781 (f) The number of borrowers who obtained program loans for
782 the following purposes, based on the borrowers' responses at the
783 time of their loan applications indicating the primary purpose

2019874e1

784 for which the program loans were obtained:

- 785 1. To pay medical expenses.
786 2. To pay for vehicle repair or a vehicle purchase.
787 3. To pay bills.
788 4. To consolidate debt.
789 5. To build or repair credit history.
790 6. To finance a small business.
791 7. To pay other expenses.

792 (g) The number of borrowers who self-report that they had a
793 bank account at the time of their loan application and the
794 number of borrowers who self-report that they did not have a
795 bank account at the time of their loan application.

796 (h) For refinance program loans:

- 797 1. The number and percentage of borrowers who applied for a
798 refinance program loan.
799 2. Of those borrowers who applied for a refinance program
800 loan, the number and percentage of borrowers who obtained a
801 refinance program loan.

802 (i) The performance of program loans as reflected by all of
803 the following:

- 804 1. The number and percentage of borrowers who experienced
805 at least one delinquency lasting between 7 and 29 days and the
806 distribution of principal loan amounts corresponding to those
807 delinquencies.
808 2. The number and percentage of borrowers who experienced
809 at least one delinquency lasting between 30 and 59 days and the
810 distribution of principal loan amounts corresponding to those
811 delinquencies.
812 3. The number and percentage of borrowers who experienced

2019874e1

813 at least one delinquency lasting 60 days or more and the
814 distribution of principal loan amounts corresponding to those
815 delinquencies.

816 (3) The commission shall adopt rules to implement this
817 section.

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

821 Section 9. For the 2019-2020 fiscal year, the sum of
822 \$407,520 in nonrecurring funds from the Administrative Trust
823 Fund is appropriated to the Office of Financial Regulation for
824 the purpose of implementing this act.

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