

By Senator Rouson

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1 A bill to be entitled
2 An act relating to business services; 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 to
8 advertise, offer, or make program loans or to impose
9 certain charges or fees; providing licensure
10 requirements; requiring a program licensee's program
11 branch offices to be licensed; providing program
12 branch office license and license renewal
13 requirements; providing circumstances under which the
14 office may deny initial and renewal applications;
15 requiring the Financial Services Commission to adopt
16 rules; creating s. 516.43, F.S.; specifying
17 requirements for program licensees, program loans,
18 loan repayments, rescissions, interest rates, program
19 loan refinancing, receipts, disclosures and statements
20 provided by program licensees to borrowers,
21 origination fees, insufficient funds fees, and
22 delinquency charges; providing that program loans may
23 be made only in specified counties; requiring that a
24 specified percentage of program loans annually issued
25 be provided to borrowers below a specified income;
26 requiring program licensees to provide certain credit
27 education information to borrowers and to report
28 payment performance of borrowers to at least two
29 consumer reporting agencies; prohibiting the office

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30 from approving a program licensee applicant before the
31 applicant has been accepted as a data furnisher by a
32 consumer reporting agency; requiring program licensees
33 to provide certain credit reporting information to
34 borrowers; specifying program loan underwriting
35 requirements for program licensees; prohibiting
36 program licensees from making program loans under
37 certain circumstances; requiring program licensees to
38 seek certain information and documentation;
39 prohibiting program licensees from requiring certain
40 waivers from borrowers; providing applicability;
41 requiring program licensees to maintain a registry of
42 their access partners and annually provide a copy to
43 the office; prohibiting the office from publishing a
44 registry in its annual report; creating s. 516.44,
45 F.S.; requiring all arrangements between program
46 licensees and access partners to be specified in
47 written access partner agreements; providing
48 requirements for such agreements; specifying access
49 partner services that may be used by program
50 licensees; specifying procedures for borrowers'
51 payment receipts or access partners' disbursement of
52 program loans; providing recordkeeping requirements;
53 specifying activities prohibited for access partners;
54 providing disclosure statement requirements; providing
55 requirements and prohibitions relating to compensation
56 paid to access partners; requiring program licensees
57 to provide the office with a specified notice after
58 contracting with access partners; defining the term

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59 "affiliated party"; requiring access partners to
60 provide program licensees with a certain written
61 notice within a specified time; providing that program
62 licensees are responsible for violations by their
63 access partners; requiring the commission to adopt
64 rules; creating s. 516.45, F.S.; requiring the office
65 to examine each program licensee; authorizing the
66 office to waive branch office examinations under
67 certain circumstances; limiting the scope of certain
68 examinations and investigations; authorizing the
69 office to take certain disciplinary action against
70 program licensees and access partners; requiring the
71 commission to adopt rules; creating s. 516.46, F.S.;
72 requiring program licensees to file an annual report
73 with the office; requiring the office to post an
74 annual report on its website; specifying information
75 to be contained in the reports; requiring the
76 commission to adopt rules; providing for future repeal
77 of the pilot program; providing an appropriation;
78 providing an effective date.

79

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

81

82 Section 1. Section 516.405, Florida Statutes, is created to
83 read:

84 516.405 Access to Responsible Credit Pilot Program.—

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

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

89 (2) The pilot program is intended to assist consumers in
90 building their credit and to provide additional consumer
91 protections for these loans which exceed current protections
92 under general law.

93 Section 2. Section 516.41, Florida Statutes, is created to
94 read:

95 516.41 Definitions.—As used in ss. 516.405-516.46, the
96 term:

97 (1) "Access partner" means an entity that, at one or more
98 physical business locations owned or rented by the entity,
99 performs one or more of the services authorized in s. 516.44(2)
100 on behalf of a program licensee.

101 (a) The term includes only the following entities and
102 agents of the entities:

103 1. A bank as defined in s. 658.12.

104 2. A national bank as defined in s. 658.12.

105 3. A credit union as defined in s. 657.002.

106 4. An agent as defined in s. 626.015.

107 5. An insurance agency as defined in s. 626.015.

108 6. A tax preparation service.

109 7. A money services business as defined in s. 560.103.

110 8. An authorized vendor as defined in s. 560.103.

111 9. A law office.

112 10. An investment adviser as defined in s. 517.021.

113 11. A financial services provider.

114 12. A public accounting firm as defined in s. 473.302(7).

115 (b) The term does not include a credit service organization
116 as defined in s. 817.7001 or a loan broker as defined in s.

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117 687.14.

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

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

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

126 (5) "Pilot program" or "program" means the Access to
127 Responsible Credit Pilot Program.

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

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

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

137 (b) At which the program licensee's name, advertising or
138 promotional materials, or signage suggests that program loans
139 are originated, negotiated, funded, or serviced by the program
140 licensee; or

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

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

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

150 (10) "Refinance program loan" means a program loan that
151 extends additional principal to a borrower and replaces and
152 revises an existing program loan contract with the borrower. A
153 refinance program loan does not include an extension, a
154 deferral, or a rewrite of the program loan.

155 Section 3. Section 516.42, Florida Statutes, is created to
156 read:

157 516.42 Requirements for program participation; program
158 application requirements.—

159 (1) A person may not advertise, offer, or make a program
160 loan, or impose any charges or fees pursuant to s. 516.43,
161 unless the person obtains a pilot program license from the
162 office.

163 (2) In order to obtain a pilot program license, a person
164 must:

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

167 2. Submit the application for the license required in s.
168 516.03 concurrently with the application for the program
169 license. The application required by s. 516.03 must be approved
170 and the license under that section must be issued in order to
171 obtain the program license.

172 (b) Be accepted as a data furnisher by a consumer reporting
173 agency.

174 (c) Demonstrate financial responsibility, experience,

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

179 (d) Not be subject to the issuance of a cease and desist
180 order; the issuance of a removal order; the denial, suspension,
181 or revocation of a license; or any other action within the
182 authority of the office, any financial regulatory agency in this
183 state, or any other state or federal regulatory agency which
184 affects the ability of the applicant to participate in the
185 program.

186 (3) (a) A program applicant must file with the office a
187 digital application in a form and manner prescribed by
188 commission rule which contains all of the following information
189 with respect to the applicant:

190 1. The legal business name and any other name under which
191 the applicant operates.

192 2. The applicant's main address.

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

194 4. The address of each program branch office.

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

197 6. The applicant's license number, if the applicant is
198 licensed under s. 516.05.

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

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

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204 borrower on all program loans.

205 9. The signature and certification of an authorized person
206 of the applicant.

207 (b) A person who desires to participate in the program but
208 who is not licensed to make consumer finance loans pursuant to
209 s. 516.05 must concurrently submit the following digital
210 applications in a form and manner specified in this chapter to
211 the office:

212 1. An application pursuant to s. 516.03 for licensure to
213 make consumer finance loans.

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

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

220 (5) Notwithstanding s. 516.05(3), only one program license
221 is required for a person to make program loans under ss.
222 516.405-516.46, regardless of whether the program licensee
223 offers program loans to prospective borrowers at its own
224 physical business locations, through access partners, or via an
225 electronic access point through which a prospective borrower may
226 directly access the website of the program licensee.

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

229 (7) The office shall issue a program branch office license
230 to a program licensee after the office determines that the
231 program licensee has submitted a completed electronic
232 application for a program branch office license in a form

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233 prescribed by commission rule. The program branch office license
234 must be issued in the name of the program licensee that
235 maintains the branch office. An application is considered
236 received for purposes of s. 120.60 upon receipt of a completed
237 application form. The application for a program branch office
238 license must contain the following information:

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

241 (b) The applicant's main address.

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

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

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

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

248 (g) The signature and certification of an authorized person
249 of the applicant.

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

253 (9) Notwithstanding subsection (7), the office may deny an
254 initial or renewal application for a program license or program
255 branch office license if the applicant or any person with power
256 to direct the management or policies of the applicant's
257 business:

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

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262 lawful, honest, fair, efficient, and within the purposes of this
263 chapter.

264 (b) Pled nolo contendere to, or was convicted or found
265 guilty of, a crime involving fraud, dishonest dealing, or any
266 act of moral turpitude, regardless of whether adjudication was
267 withheld.

268 (c) Is subject to the issuance of a cease and desist order;
269 the issuance of a removal order; the denial, suspension, or
270 revocation of a license; or any other action within the
271 authority of the office, any financial regulatory agency in this
272 state, or any other state or federal regulatory agency which
273 affects the applicant's ability to participate in the program.

274 (10) The commission shall adopt rules to implement this
275 section.

276 Section 4. Section 516.43, Florida Statutes, is created to
277 read:

278 516.43 Requirements for program loans.—

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

281 (a) A program loan must be unsecured.

282 (b) A program loan must have:

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

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

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

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

293 2. The borrower's credit score increased from the time of
294 application for the borrower's first consummated program loan;
295 and

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

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

303 (e) A program loan must include a borrower's right to
304 rescind the program loan by notifying the program licensee of
305 the borrower's intent to rescind the program loan and returning
306 the principal advanced by the end of the business day after the
307 day the program loan is consummated.

308 (f) Notwithstanding s. 516.031, the maximum annual interest
309 rate charged on a program loan to the borrower, which must be
310 fixed for the duration of the program loan, is 36 percent on
311 that portion of the unpaid principal balance up to and including
312 \$3,000; 30 percent on that portion of the unpaid principal
313 balance exceeding \$3,000 and up to and including \$4,000; and 24
314 percent on that portion of the unpaid principal balance
315 exceeding \$4,000 and up to and including \$7,500. The original
316 principal amount of the program loan is equal to the amount
317 financed as defined by the federal Truth in Lending Act and
318 Regulation Z of the Board of Governors of the Federal Reserve
319 System. In determining compliance with the maximum annual

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320 interest rates in this paragraph, the computations used must be
321 simple interest through the application of a daily periodic rate
322 to the actual unpaid principal balance each day and may not be
323 added-on interest or any other computations.

324 (g) If two or more interest rates are applied to the
325 principal amount of a program loan, the program licensee may
326 charge, contract for, and receive interest at that single annual
327 percentage rate that, if applied according to the actuarial
328 method to each of the scheduled periodic balances of principal,
329 would produce at maturity the same total amount of interest as
330 would result from the application of the two or more rates
331 otherwise permitted, based upon the assumption that all payments
332 are made as agreed.

333 (h) The program licensee shall reduce the interest rates
334 specified in paragraph (f) on each subsequent program loan to
335 the same borrower by a minimum of 1 percent, up to a maximum of
336 6 percent, if all of the following conditions are met:

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

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

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

343 (i) The program licensee may not induce or permit any
344 person to become obligated to the program licensee, directly or
345 contingently, or both, under more than one program loan at the
346 same time with the program licensee.

347 (j) The program licensee may not refinance a program loan
348 unless all of the following conditions are met at the time the

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349 borrower submits an application to refinance:

350 1. The principal amount payable may not include more than
351 60 days' unpaid interest accrued on the previous program loan
352 pursuant to s. 516.031(5).

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

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

361 4. The borrower is current on payments for his or her
362 existing program loan.

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

365 (k) In lieu of the provisions of s. 687.08, the program
366 licensee or, if applicable, its approved access partner shall
367 make available to the borrower by electronic or physical means a
368 plain and complete receipt of payment at the time that the
369 borrower makes a loan payment. For audit purposes, the program
370 licensee must maintain an electronic record for each receipt
371 made available to a borrower. The electronic record must include
372 a copy of the receipt and the date and time that the receipt was
373 generated. Each receipt made available to the borrower must show
374 all of the following:

375 1. The name of the borrower.

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

377 3. The total payment amount received.

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- 378 4. The date of payment.
- 379 5. The program loan balance before and after application of
380 the payment.
- 381 6. The amount of the payment which was applied to the
382 principal, interest, and fees.
- 383 7. The type of payment made by the borrower.
- 384 8. The following statement, prominently displayed in a type
385 size equal to or larger than the type size used to display the
386 other items on the receipt: "If you have any questions about
387 your loan now or in the future, you should direct those
388 questions to ...(name of program licensee)... by ...(at least
389 two different ways in which a borrower may contact the program
390 licensee)...."
- 391 (1) A program licensee may make program loans only to
392 residents of Broward, Miami-Dade, and Palm Beach Counties.
- 393 (m) At least 85 percent of program loans annually issued by
394 a program licensee must be provided to borrowers whose gross
395 monthly income is less than \$6,250.
- 396 (2) WRITTEN DISCLOSURES AND STATEMENTS.—
- 397 (a) Notwithstanding s. 516.15(1), the loan contract and all
398 written disclosures and statements may be provided by a program
399 licensee to a borrower in English or in the language in which
400 the loan is negotiated.
- 401 (b) The program licensee shall provide to a borrower all
402 the statements required of licensees under s. 516.15.
- 403 (3) ORIGINATION FEES.—Notwithstanding s. 516.031, a program
404 licensee may:
- 405 (a) Contract for and receive an origination fee from a
406 borrower on a program loan. The program licensee may either

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407 deduct the origination fee from the principal amount of the loan
408 disbursed to the borrower or capitalize the origination fee into
409 the principal balance of the loan. The origination fee is fully
410 earned and nonrefundable immediately upon the making of the
411 program loan and may not exceed the lesser of 6 percent of the
412 principal amount of the program loan made to the borrower,
413 exclusive of the origination fee, or \$90.

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

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

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

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

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

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

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

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

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

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

444 (b) Provide a credit education program or seminar to the
445 borrower. The borrower is not required to participate in the
446 education program or seminar. A credit education program or
447 seminar offered pursuant to this paragraph must be provided at
448 no cost to the borrower.

449 (6) CREDIT REPORTING.—

450 (a) The program licensee shall report each borrower's
451 payment performance to at least two consumer reporting agencies.

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

455 (c) The program licensee shall provide each borrower with
456 the names of the consumer reporting agencies to which it will
457 report the borrower's payment history.

458 (7) PROGRAM LOAN UNDERWRITING.—

459 (a) The program licensee must underwrite each program loan
460 to determine a borrower's ability and willingness to repay the
461 program loan pursuant to the program loan terms. The program
462 licensee may not make a program loan if it determines that the
463 borrower's total monthly debt service payments at the time of
464 origination, including the program loan for which the borrower

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

470 (b)1. The program licensee must seek information and
471 documentation pertaining to all of a borrower's outstanding debt
472 obligations during the loan application and underwriting
473 process, including loans that are self-reported by the borrower
474 but not available through independent verification. The program
475 licensee must verify such information using a credit report from
476 at least one consumer reporting agency or through other
477 available electronic debt verification services that provide
478 reliable evidence of a borrower's outstanding debt obligations.

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

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

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

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

490 (8) WAIVERS.—

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

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

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494 provided for in any law applicable to the program loan,
495 including the right to file and pursue a civil action or file a
496 complaint with or otherwise communicate with the office, a
497 court, or any other governmental entity.

498 2. Agree to the application of laws other than those of
499 this state.

500 3. Agree to resolve disputes in a jurisdiction outside of
501 this state.

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

505 (c) A program licensee may not refuse to do business with
506 or discriminate against a borrower or an applicant on the basis
507 of the borrower's or applicant's refusal to waive any right,
508 penalty, remedy, forum, or procedure, including the right to
509 file and pursue a civil action or complaint with, or otherwise
510 communicate with, the office, a court, or any other governmental
511 entity. The exercise of a person's right to refuse to waive any
512 right, penalty, remedy, forum, or procedure, including a
513 rejection of a contract requiring a waiver, does not affect any
514 otherwise legal terms of a contract or an agreement.

515 (d) This subsection does not apply to any agreement to
516 waive any right, penalty, remedy, forum, or procedure, including
517 any agreement to arbitrate a claim or dispute after a claim or
518 dispute has arisen. This subsection does not affect the
519 enforceability or validity of any other provision of the
520 contract.

521 (9) REGISTRY OF ACCESS PARTNERS.—A program licensee shall
522 maintain a registry of all access partners that provide services

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523 to the program licensee. The program licensee shall provide a
524 copy of the registry to the office at the time the program
525 licensee files its report pursuant to s. 516.46(1). The office
526 may not publish a registry in its report under s. 516.46(2).

527 Section 5. Section 516.44, Florida Statutes, is created to
528 read:

529 516.44 Access partners.—

530 (1) ACCESS PARTNER AGREEMENT.—All arrangements between a
531 program licensee and an access partner must be specified in a
532 written access partner agreement between the parties. The
533 agreement must contain the following provisions:

534 (a) The access partner agrees to comply with this section
535 and all rules adopted under this section regarding the
536 activities of access partners.

537 (b) The office has access to the access partner's books and
538 records pertaining to the access partner's operations under the
539 agreement with the program licensee in accordance with s.
540 516.45(3) and may examine the access partner pursuant to s.
541 516.45.

542 (2) AUTHORIZED SERVICES.—A program licensee may use the
543 services of one or more access partners as provided in this
544 section. An access partner may perform one or more of the
545 following services from its physical business location for the
546 program licensee:

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

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552 circulated, used, or published.

553 (b) Providing written factual information about program
554 loan terms, conditions, or qualification requirements to a
555 prospective borrower which has been prepared by the program
556 licensee or reviewed and approved in writing by the program
557 licensee. An access partner may discuss the information with a
558 prospective borrower in general terms.

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

561 (d) Entering information provided by the prospective
562 borrower on a preprinted or an electronic application form or in
563 a preformatted computer database.

564 (e) Assembling credit applications and other materials
565 obtained in the course of a credit application transaction for
566 submission to the program licensee.

567 (f) Contacting the program licensee to determine the status
568 of a program loan application.

569 (g) Communicating a response that is returned by the
570 program licensee's automated underwriting system to a borrower
571 or a prospective borrower.

572 (h) Obtaining a borrower's signature on documents prepared
573 by the program licensee and delivering final copies of the
574 documents to the borrower.

575 (i) Disbursing program loan proceeds to a borrower if this
576 method of disbursement is acceptable to the borrower, subject to
577 the requirements of subsection (3). A loan disbursement made by
578 an access partner under this paragraph is deemed to be made by
579 the program licensee on the date that the funds are disbursed or
580 otherwise made available by the access partner to the borrower.

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

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

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

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

592 (b) An access partner that receives a loan payment from a
593 borrower must deliver or cause to be delivered to the borrower a
594 plain and complete receipt showing all of the information
595 specified in s. 516.43(1)(k) at the time that the borrower makes
596 the payment.

597 (c) A borrower who submits a loan payment to an access
598 partner under this subsection is not liable for a failure or
599 delay by the access partner in transmitting the payment to the
600 program licensee.

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

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

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

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

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610 or a prospective borrower.

611 (c) Negotiate a loan term between a program licensee and a
612 prospective borrower.

613 (d) Offer information pertaining to a single prospective
614 borrower to more than one program licensee. However, if a
615 program licensee has declined to offer a program loan to a
616 prospective borrower and has so notified the prospective
617 borrower in writing, the access partner may then offer
618 information pertaining to that borrower to another program
619 licensee with whom it has an access partner agreement.

620 (e) Except for the purpose of assisting a borrower in
621 obtaining a refinance program loan, offer information pertaining
622 to a prospective borrower to any program licensee if the
623 prospective borrower has an outstanding program loan.

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

625 (g) Perform any service for a program licensee at a
626 pawnshop as defined in s. 539.001(2).

627 (h) Perform any service for a program licensee at a pari-
628 mutuel facility as defined in s. 550.002, or at any facility
629 where covered games, as authorized under s. 285.710, are
630 conducted.

631 (5) DISCLOSURE STATEMENTS.-

632 (a) At the time that the access partner receives or
633 processes an application for a program loan, the access partner
634 shall provide the following statement to the applicant on behalf
635 of the program licensee, in at least 10-point type, and shall
636 request that the applicant acknowledge receipt of the statement
637 in writing:

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639 Your loan application has been referred to us by
640 ...(name of access partner).... We may pay a fee to
641 ...(name of access partner)... for the successful
642 referral of your loan application. If you are approved
643 for the loan, ...(name of program licensee)... will
644 become your lender. If you have any questions about
645 your loan, now or in the future, you should direct
646 those questions to ...(name of program licensee)... by
647 ...(insert at least two different ways in which a
648 borrower may contact the program licensee).... If you
649 wish to report a complaint about ...(name of access
650 partner)... or ...(name of program licensee)...
651 regarding this loan transaction, you may contact the
652 Division of Consumer Finance of the Office of
653 Financial Regulation at (850) 487-9687 or
654 <http://www.flofr.com>.

655
656 (b) If the loan applicant has questions about the program
657 loan which the access partner is not permitted to answer, the
658 access partner must make a good faith effort to assist the
659 applicant in making direct contact with the program licensee
660 before the program loan is consummated.

661 (6) COMPENSATION.—

662 (a) The program licensee may compensate an access partner
663 in accordance with a written agreement and a compensation
664 schedule that is agreed to by the program licensee and the
665 access partner, subject to the requirements in paragraph (b).

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

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668 1. Compensation may not be paid to an access partner in
669 connection with a loan application unless the program loan is
670 consummated.

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

674 3. Compensation paid by the program licensee to the access
675 partner may not exceed \$65 per program loan, on average, plus \$2
676 per payment received by the access partner on behalf of the
677 program licensee for the duration of the program loan, and may
678 not be charged directly or indirectly to the borrower.

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

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

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

690 (c) The name and contact information of one or more
691 employees of the access partner who are responsible for that
692 access partner's referring activities on behalf of the program
693 licensee.

694 (d) A statement by the program licensee that it has
695 conducted due diligence with respect to the access partner and
696 has confirmed that none of the following applies:

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697 1. The filing of a petition under the United States
698 Bankruptcy Code for bankruptcy or reorganization by the access
699 partner.

700 2. The commencement of an administrative or a judicial
701 license suspension or revocation proceeding, or the denial of a
702 license request or renewal, by any state, the District of
703 Columbia, any United States territory, or any foreign country in
704 which the access partner operates, plans to operate, or is
705 licensed to operate.

706 3. A felony indictment involving the access partner or an
707 affiliated party.

708 4. The felony conviction, guilty plea, or plea of nolo
709 contendere, regardless of adjudication, of the access partner or
710 an affiliated party.

711 5. Any suspected criminal act perpetrated in this state
712 relating to activities regulated under this chapter by the
713 access partner.

714 6. Notification by a law enforcement or prosecutorial
715 agency that the access partner is under criminal investigation,
716 including, but not limited to, subpoenas to produce records or
717 testimony and warrants issued by a court of competent
718 jurisdiction which authorize the search and seizure of any
719 records relating to a business activity regulated under this
720 chapter.

721
722 As used in this paragraph, the term "affiliated party" means a
723 director, officer, control person, employee, or foreign
724 affiliate of an access partner; or a person who has a
725 controlling interest in an access partner.

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

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

734 (9) RESPONSIBILITY FOR ACTS OF AN ACCESS PARTNER.—A program
735 licensee is responsible for any act of its access partner if the
736 act is a violation of this chapter.

737 (10) RULEMAKING.—The commission shall adopt rules to
738 implement this section.

739 Section 6. Section 516.45, Florida Statutes, is created to
740 read:

741 516.45 Examinations, investigations, and grounds for
742 disciplinary action.—

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

746 (2) Notwithstanding subsection (1), the office may waive
747 one or more branch office examinations if the office finds that
748 such examinations are not necessary for the protection of the
749 public due to the centralized operations of the program licensee
750 or other factors acceptable to the office.

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

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755 (4) A program licensee who violates any applicable
756 provision of this chapter is subject to disciplinary action
757 pursuant to s. 516.07(2). Any such disciplinary action is
758 subject to s. 120.60. The program licensee is also subject to
759 disciplinary action for a violation of s. 516.44 committed by
760 any of its access partners.

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

763 (a) Bar the access partner from performing services under
764 this chapter.

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

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

769 (6) The commission shall adopt rules to implement this
770 section.

771 Section 7. Section 516.46, Florida Statutes, is created to
772 read:

773 516.46 Annual reports by program licensees and the office.—

774 (1) By March 15, 2022, and each year thereafter, a program
775 licensee shall file a report with the office on a form and in a
776 manner prescribed by commission rule. The report must include
777 each of the items specified in subsection (2) for the preceding
778 year using aggregated or anonymized data without reference to
779 any borrower's nonpublic personal information or any program
780 licensee's or access partner's proprietary or trade secret
781 information.

782 (2) By January 1, 2023, and each year thereafter, the
783 office shall post a report on its website summarizing the use of

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784 the program based on the information contained in the reports
785 filed in the preceding year by program licensees under
786 subsection (1). The office's report must publish the information
787 in the aggregate so as not to identify data by any specific
788 program licensee. The report must specify the period to which
789 the report corresponds and must include, but is not limited to,
790 the following for that period:

791 (a) The number of applicants approved for a program license
792 by the office.

793 (b) The number of program loan applications received by
794 program licensees, the number of program loans made under the
795 program, the total amount loaned, the distribution of loan
796 lengths upon origination, and the distribution of interest rates
797 and principal amounts upon origination among those program
798 loans.

799 (c) The number of borrowers who obtained more than one
800 program loan and the distribution of the number of program loans
801 per borrower.

802 (d) Of those borrowers who obtained more than one program
803 loan and had a credit score by the time of their subsequent
804 loan, the percentage of those borrowers whose credit scores
805 increased between successive loans, based on information from at
806 least one major credit bureau, and the average size of the
807 increase. In each case, the report must include the name of the
808 credit score, such as FICO or VantageScore, which the program
809 licensee is required to disclose.

810 (e) The income distribution of borrowers upon program loan
811 origination, including the number of borrowers who obtained at
812 least one program loan and who resided in a low-income or

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813 moderate-income census tract at the time of their loan
814 applications.

815 (f) The number of borrowers who obtained program loans for
816 the following purposes, based on the borrowers' responses at the
817 time of their loan applications indicating the primary purpose
818 for which the program loans were obtained:

- 819 1. To pay medical expenses.
- 820 2. To pay for vehicle repair or a vehicle purchase.
- 821 3. To pay bills.
- 822 4. To consolidate debt.
- 823 5. To build or repair credit history.
- 824 6. To finance a small business.
- 825 7. To pay other expenses.

826 (g) The number of borrowers who self-report that they had a
827 bank account at the time of their loan application and the
828 number of borrowers who self-report that they did not have a
829 bank account at the time of their loan application.

830 (h) For refinance program loans:

- 831 1. The number and percentage of borrowers who applied for a
832 refinance program loan.
- 833 2. Of those borrowers who applied for a refinance program
834 loan, the number and percentage of borrowers who obtained a
835 refinance program loan.

836 (i) The performance of program loans as reflected by all of
837 the following:

- 838 1. The number and percentage of borrowers who experienced
839 at least one delinquency lasting between 7 and 29 days and the
840 distribution of principal loan amounts corresponding to those
841 delinquencies.

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842 2. The number and percentage of borrowers who experienced
843 at least one delinquency lasting between 30 and 59 days and the
844 distribution of principal loan amounts corresponding to those
845 delinquencies.

846 3. The number and percentage of borrowers who experienced
847 at least one delinquency lasting 60 days or more and the
848 distribution of principal loan amounts corresponding to those
849 delinquencies.

850 (3) The commission shall adopt rules to implement this
851 section.

852 Section 8. Sections 516.405-516.46, Florida Statutes, are
853 repealed on July 1, 2030, unless reenacted or superseded by
854 another law enacted by the Legislature before that date.

855 Section 9. For the 2020-2021 fiscal year, the sum of
856 \$407,520 in nonrecurring funds from the Administrative Trust
857 Fund is appropriated to the Office of Financial Regulation for
858 the purpose of implementing this act.

859 Section 10. This act shall take effect January 1, 2021.