

By the Committee on Banking and Insurance; and Senators Rouson and Gruters

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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 credit union as defined in s. 657.002.
- 105 3. An agent as defined in s. 626.015.
- 106 4. An insurance agency as defined in s. 626.015.
- 107 5. A tax preparation service.
- 108 6. A money services business as defined in s. 560.103.
- 109 7. An authorized vendor as defined in s. 560.103.
- 110 8. A law office.
- 111 9. An investment adviser as defined in s. 517.021.
- 112 10. A financial services provider.
- 113 11. A public accounting firm as defined in s. 473.302(7).

114 (b) The term does not include a credit service organization  
115 as defined in s. 817.7001 or a loan broker as defined in s.  
116 687.14.

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

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

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

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

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

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

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

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

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

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

145 (9) "Program loan" means a consumer finance loan with a

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146 principal amount of at least \$300, but not more than \$7,500,  
147 originated pursuant to ss. 516.405-516.46, excluding the amount  
148 of the origination fee authorized under s. 516.43(3).

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

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

156 516.42 Requirements for program participation; program  
157 application requirements.-

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

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

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

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

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

173 (c) Demonstrate financial responsibility, experience,  
174 character, or general fitness, such as to command the confidence

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175 of the public and to warrant the belief that the business  
176 operated at the licensed or proposed location is lawful, honest,  
177 fair, efficient, and within the purposes of this chapter.

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

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

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

191 2. The applicant's main address.

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

193 4. The address of each program branch office.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

240 (b) The applicant's main address.

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

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

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

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

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

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

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

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

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262 chapter.

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

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

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

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

277 516.43 Requirements for program loans.—

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

280 (a) A program loan must be unsecured.

281 (b) A program loan must have:

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

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

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

290 1. The borrower has paid in full the outstanding principal,

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291 interest, and fees on a previous program loan;

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

294 and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

374 1. The name of the borrower.

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

376 3. The total payment amount received.

377 4. The date of payment.

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378       5. The program loan balance before and after application of  
379 the payment.

380       6. The amount of the payment which was applied to the  
381 principal, interest, and fees.

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

383       8. The following statement, prominently displayed in a type  
384 size equal to or larger than the type size used to display the  
385 other items on the receipt: "If you have any questions about  
386 your loan now or in the future, you should direct those  
387 questions to ... (name of program licensee)... by ... (at least  
388 two different ways in which a borrower may contact the program  
389 licensee)...."

390       (1) A program licensee may make program loans only to  
391 residents of Broward, Miami-Dade, and Palm Beach Counties.

392       (m) At least 85 percent of program loans annually issued by  
393 a program licensee must be provided to borrowers whose gross  
394 monthly income is less than \$6,250.

395       (2) WRITTEN DISCLOSURES AND STATEMENTS.—

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

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

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

404       (a) Contract for and receive an origination fee from a  
405 borrower on a program loan. The program licensee may either  
406 deduct the origination fee from the principal amount of the loan

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

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

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

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

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

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

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

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

434  
435 The program licensee, or any wholly owned subsidiary of the

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

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

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

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

448 (6) CREDIT REPORTING.—

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

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

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

457 (7) PROGRAM LOAN UNDERWRITING.—

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

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465 be independently verified by the program licensee, exceed 50  
466 percent of the borrower's gross monthly income for a loan of not  
467 more than \$3,000, or exceed 36 percent of the borrower's gross  
468 monthly income for a loan of more than \$3,000.

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

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

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

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

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

489 (8) WAIVERS.—

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

492 1. Waive any right, penalty, remedy, forum, or procedure  
493 provided for in any law applicable to the program loan,

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494 including the right to file and pursue a civil action or file a  
495 complaint with or otherwise communicate with the office, a  
496 court, or any other governmental entity.

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

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

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

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

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

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

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

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

528 516.44 Access partners.—

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

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

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

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

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

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

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

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

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

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

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

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

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

580       (j) Receiving a program loan payment from the borrower if

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581 this method of payment is acceptable to the borrower, subject to  
582 the requirements of subsection (3).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

630 (5) DISCLOSURE STATEMENTS.-

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

637  
638 Your loan application has been referred to us by

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

654  
 655 (b) If the loan applicant has questions about the program  
 656 loan which the access partner is not permitted to answer, the  
 657 access partner must make a good faith effort to assist the  
 658 applicant in making direct contact with the program licensee  
 659 before the program loan is consummated.

660 (6) COMPENSATION.-

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

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

- 667 1. Compensation may not be paid to an access partner in

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668 connection with a loan application unless the program loan is  
669 consummated.

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

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

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

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

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

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

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

696 1. The filing of a petition under the United States

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697 Bankruptcy Code for bankruptcy or reorganization by the access  
698 partner.

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

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

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

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

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

720  
721 As used in this paragraph, the term "affiliated party" means a  
722 director, officer, control person, employee, or foreign  
723 affiliate of an access partner; or a person who has a  
724 controlling interest in an access partner.

725 (e) Any other information requested by the office, subject

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726 to the limitations specified in s. 516.45(3).

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

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

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

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

740 516.45 Examinations, investigations, and grounds for  
741 disciplinary action.—

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

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

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

754 (4) A program licensee who violates any applicable

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

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

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

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

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

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

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

772 516.46 Annual reports by program licensees and the office.—

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

781 (2) By January 1, 2023, and each year thereafter, the  
782 office shall post a report on its website summarizing the use of  
783 the program based on the information contained in the reports

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

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

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

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

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

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

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813 applications.

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

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

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

829 (h) For refinance program loans:

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

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

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

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842 at least one delinquency lasting between 30 and 59 days and the  
843 distribution of principal loan amounts corresponding to those  
844 delinquencies.

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

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

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

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

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