

1                   A bill to be entitled  
2           An act relating to consumer finance loans; creating s.  
3           516.405, F.S.; creating the Access to Responsible  
4           Credit Pilot Program within the Office of Financial  
5           Regulation; providing legislative intent; creating s.  
6           516.41, F.S.; providing definitions; creating s.  
7           516.42, F.S.; requiring persons to obtain a program  
8           license from the office before making program loans;  
9           providing licensure requirements; requiring a program  
10          licensee's program branch offices to be licensed;  
11          providing program branch office license and license  
12          renewal requirements; providing circumstances under  
13          which the office may deny initial and renewal  
14          applications; requiring rulemaking; creating s.  
15          516.43, F.S.; providing requirements for program  
16          licensees, program loans, interest rates, program loan  
17          refinancing, receipts, disclosures and statements  
18          provided by program licensees to borrowers,  
19          origination fees, insufficient funds fees, and  
20          delinquency charges; requiring program licensees to  
21          provide certain credit education information to  
22          borrowers and to report payment performance of  
23          borrowers to a consumer reporting agency; prohibiting  
24          the office from approving a program licensee applicant  
25          before the applicant has been accepted as a data

26 |       furnisher by a consumer reporting agency; requiring  
27 |       program licensees to underwrite program loans;  
28 |       prohibiting program licensees from making program  
29 |       loans under certain circumstances; requiring program  
30 |       licensees to seek certain information and  
31 |       documentation; prohibiting program licensees from  
32 |       requiring certain waivers from borrowers; providing  
33 |       applicability; creating s. 516.44, F.S.; requiring all  
34 |       arrangements between program licensees and access  
35 |       partners to be specified in written access partner  
36 |       agreements; providing requirements for such  
37 |       agreements; specifying access partner services which  
38 |       may be used by program licensees; specifying  
39 |       procedures for borrowers' payment receipts or access  
40 |       partners' disbursement of program loans; providing  
41 |       recordkeeping requirements; prohibiting certain  
42 |       activities by access partners; providing disclosure  
43 |       statement requirements; authorizing a program licensee  
44 |       to compensate an access partner; providing  
45 |       requirements relating to compensations paid to access  
46 |       partners; requiring program licensees to provide the  
47 |       office with a specified notice after contracting with  
48 |       and before using the services of access partners;  
49 |       defining the term "affiliated party"; requiring access  
50 |       partners to provide program licensees and the office

51 with a certain written notice within a specified time;  
52 providing that program licensees are responsible for  
53 acts of their access partners and access partners'  
54 employees; requiring rulemaking; creating s. 516.45,  
55 F.S.; requiring the office to examine program  
56 licensees at certain intervals, beginning on a  
57 specified date; providing an exception; limiting the  
58 scope of certain examinations and investigations;  
59 authorizing the office to take certain disciplinary  
60 action against program licensees and access partners;  
61 requiring rulemaking; creating s. 516.46, F.S.;  
62 requiring program licensees to file an annual report  
63 with the office beginning on a specified date;  
64 requiring the office to post an annual report on its  
65 website by a specified date; specifying information to  
66 be contained in the reports; requiring rulemaking;  
67 providing for conditional continuation of the program;  
68 providing an effective date.

69  
70 Be It Enacted by the Legislature of the State of Florida:

71  
72 Section 1. Section 516.405, Florida Statutes, is created  
73 to read:

74 516.405 Access to Responsible Credit Pilot Program.—

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

76 created within the Office of Financial Regulation to allow more  
77 Floridians to obtain responsible consumer finance loans in  
78 principal amounts of at least \$300, but not more than \$7,500.

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

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

85 516.41 Definitions.—As used in ss. 516.405-516.46, the  
86 term:

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

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

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

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

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

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

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

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

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

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

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

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

125       (10) "Refinance program loan" means a program loan that

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

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

132 516.42 Requirements for program participation; program  
133 application requirements.-

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

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

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

142 2. Submit the application for the license required in s.  
143 516.05 concurrently with the application for the program  
144 license.

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

147 (c) Not be the subject of any insolvency proceeding or a  
148 pending criminal prosecution.

149 (d) Not be subject to the issuance of a cease and desist  
150 order; the issuance of a removal order; the denial, suspension,

151 or revocation of a license; or any other action within the  
152 authority of the office, any financial regulatory agency in this  
153 state, or any other state or federal regulatory agency that  
154 affects the ability of such person to participate in the  
155 program.

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

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

162 2. The applicant's main address.

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

164 4. The address of each program branch office.

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

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

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

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

175 9. The signature and certification of an authorized person

176 of the applicant.

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

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

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

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

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

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

199 (7) The office shall issue a program branch office license  
200 to a program licensee after the office determines that the



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

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

211 (b) The applicant's main address.

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

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

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

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

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

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

223 (9) Notwithstanding subsection (7), the office may deny an  
224 initial or renewal application for a program license or program  
225 branch office license if the applicant or any person with power

226 to direct the management or policies of the applicant's business  
 227 is:

- 228 (a) The subject of any insolvency proceeding;
- 229 (b) The subject of a pending criminal prosecution in any  
 230 jurisdiction until conclusion of such criminal prosecution; or
- 231 (c) Subject to the issuance of a cease and desist order;  
 232 the issuance of a removal order; the denial, suspension, or  
 233 revocation of a license; or any other action within the  
 234 authority of the office, any financial regulatory agency in this  
 235 state, or any other state or federal regulatory agency that  
 236 affects the applicant's ability to participate in the program.

237 (10) The commission shall adopt rules to implement this  
 238 section.

239 Section 4. Section 516.43, Florida Statutes, is created to  
 240 read:

241 516.43 Requirements for program loans.—

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

244 (a) A program loan must be unsecured.

245 (b) A program loan must have a term of:

246 1. At least 120 days, but not more than 60 months, for a  
 247 loan with a principal balance upon origination of at least \$300,  
 248 but not more than \$3,000.

249 2. At least 12 months, but not more than 60 months, for a  
 250 loan with a principal balance upon origination of more than

251 \$3,000.

252 (c) A borrower may not receive a program loan for a  
253 principal balance exceeding \$4,000 and may not receive a  
254 refinance program loan unless:

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

257 2. The borrower's credit score increased from the time of  
258 application for the borrower's first consummated program loan;  
259 and

260 3. The borrower was never delinquent on the program loan.

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

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

271 (f) Notwithstanding s. 516.031, the maximum annual  
272 interest rate charged on a program loan to the borrower, which  
273 must be fixed for the duration of the program loan, is 36  
274 percent on that portion of the unpaid principal balance up to  
275 and including \$3,000, 30 percent on that portion of the unpaid

276 principal balance exceeding \$3,000 and up to and including  
277 \$4,000, and 24 percent on that portion of the unpaid principal  
278 balance exceeding \$4,000 and up to and including \$7,500. The  
279 original principal amount of the program loan is equal to the  
280 amount financed as defined by the federal Truth in Lending Act  
281 and Regulation Z of the Board of Governors of the Federal  
282 Reserve System. In determining compliance with the maximum  
283 annual interest rates in this paragraph, the computations used  
284 must be simple interest through the application of a daily  
285 periodic rate to the actual unpaid principal balance each day  
286 and may not be added-on interest or any other computations.

287 (g) If two or more interest rates are applied to the  
288 principal amount of a program loan, the program licensee may  
289 charge, contract for, and receive interest at that single annual  
290 percentage rate that, if applied according to the actuarial  
291 method to each of the scheduled periodic balances of principal,  
292 would produce at maturity the same total amount of interest as  
293 would result from the application of the two or more rates  
294 otherwise permitted, based upon the assumption that all payments  
295 are made as agreed.

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

300 1. The subsequent program loan is originated within 180

301 days after the prior program loan is fully repaid.

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

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

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

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

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

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

320 3. For a program loan with an original term of more than  
321 25 months, but not more than 60 months, the borrower has made  
322 current payments for at least 9 months on his or her existing  
323 program loan.

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

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

328        6. The borrower has met the conditions of paragraph (c).

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

339            1. The name of the borrower.

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

341            3. The total payment amount received.

342            4. The date of payment.

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

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

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

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

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

355 (2) WRITTEN DISCLOSURES AND STATEMENTS.—

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

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

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

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

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

375 (4) INSUFFICIENT FUNDS FEES AND DELINQUENCY CHARGES.—A

376 program licensee may:

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

381 (b) Notwithstanding s. 516.031(3)(a)9., contract for and  
382 receive a delinquency charge for each payment in default for at  
383 least 10 days if the charge is agreed upon, in writing, between  
384 the program licensee and the borrower before it is imposed.

385 Delinquency charges may be imposed as follows:

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

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

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

394  
395 The program licensee, or any wholly owned subsidiary of the  
396 program licensee, may not sell or assign an unpaid debt to a  
397 third party for collection purposes unless the debt has been  
398 delinquent for at least 30 days.

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



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

403 (b) Provide a credit education program or seminar to the  
404 borrower. The borrower is not required to participate in such  
405 education program or seminar. A credit education program or  
406 seminar offered pursuant to this paragraph must be provided at  
407 no cost to the borrower.

408 (6) CREDIT REPORTING.—

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

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

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

417 (7) PROGRAM LOAN UNDERWRITING.—

418 (a) The program licensee must underwrite each program loan  
419 to determine a borrower's ability and willingness to repay the  
420 program loan pursuant to the program loan terms. The program  
421 licensee may not make a program loan if it determines that the  
422 borrower's total monthly debt service payments at the time of  
423 origination, including the program loan for which the borrower  
424 is being considered and all outstanding forms of credit that can  
425 be independently verified by the program licensee, exceed 50

426 percent of the borrower's gross monthly income for a loan of not  
427 more than \$3,000, or exceed 36 percent of the borrower's gross  
428 monthly income for a loan of more than \$3,000.

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

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

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

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

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

449 (8) WAIVERS.—

450 (a) A program licensee may not require, as a condition of

451 providing the program loan, that the borrower:

452 1. Waive any right, penalty, remedy, forum, or procedure  
453 provided for in any law applicable to the program loan,  
454 including the right to file and pursue a civil action or file a  
455 complaint with or otherwise communicate with the office, a  
456 court, or any other governmental entity.

457 2. Agree to the application of laws other than those of  
458 this state.

459 3. Agree to resolve disputes in a jurisdiction outside of  
460 this state.

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

464 (c) A program licensee may not refuse to do business with  
465 or discriminate against a borrower or an applicant on the basis  
466 of the borrower's or applicant's refusal to waive any right,  
467 penalty, remedy, forum, or procedure, including the right to  
468 file and pursue a civil action or complaint with, or otherwise  
469 communicate with, the office, a court, or any other governmental  
470 entity. The exercise of a person's right to refuse to waive any  
471 right, penalty, remedy, forum, or procedure, including a  
472 rejection of a contract requiring a waiver, does not affect any  
473 otherwise legal terms of a contract or an agreement.

474 (d) This subsection does not apply to any agreement to  
475 waive any right, penalty, remedy, forum, or procedure, including

476 any agreement to arbitrate a claim or dispute after a claim or  
477 dispute has arisen. This subsection does not affect the  
478 enforceability or validity of any other provision of the  
479 contract.

480 Section 5. Section 516.44, Florida Statutes, is created to  
481 read:

482 516.44 Access partners.—

483 (1) ACCESS PARTNER AGREEMENT.—All arrangements between a  
484 program licensee and an access partner must be specified in a  
485 written access partner agreement between the parties. The  
486 agreement must contain the following provisions:

487 (a) The access partner agrees to comply with this section  
488 and all rules adopted under this section regarding the  
489 activities of access partners.

490 (b) The office has access to the access partner's books  
491 and records pertaining to the access partner's operations under  
492 the agreement with the program licensee in accordance with s.  
493 516.45(3) and may examine the access partner pursuant to s.  
494 516.45.

495 (2) AUTHORIZED SERVICES.—A program licensee may use the  
496 services of one or more access partners as provided in this  
497 section. An access partner may perform one or more of the  
498 following services from its physical business location for the  
499 program licensee:

500 (a) Distributing, circulating, using, or publishing

501 printed brochures, flyers, fact sheets, or other written  
502 materials relating to program loans that the program licensee  
503 may make or negotiate. The written materials must be reviewed  
504 and approved in writing by the program licensee before being  
505 distributed, circulated, used, or published.

506 (b) Providing written factual information about program  
507 loan terms, conditions, or qualification requirements to a  
508 prospective borrower which has been prepared by the program  
509 licensee or reviewed and approved in writing by the program  
510 licensee. An access partner may discuss the information with a  
511 prospective borrower in general terms.

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

514 (d) Entering information provided by the prospective  
515 borrower on the program licensee's preprinted or electronic  
516 application form or in the program licensee's preformatted  
517 computer database.

518 (e) Assembling credit applications and other materials  
519 obtained in the course of a credit application transaction for  
520 submission to the program licensee.

521 (f) Contacting the program licensee to determine the  
522 status of a program loan application.

523 (g) Communicating a response that is returned by the  
524 program licensee's automated underwriting system to a borrower  
525 or a prospective borrower.

526 (h) Obtaining a borrower's signature on documents prepared  
 527 by the program licensee and delivering final copies of the  
 528 documents to the borrower.

529 (i) Disbursing program loan proceeds to a borrower if this  
 530 method of disbursement is acceptable to the borrower, subject to  
 531 the requirements of subsection (3). A loan disbursement made by  
 532 an access partner under this paragraph is deemed to be made by  
 533 the program licensee on the date that the funds are disbursed or  
 534 otherwise made available by the access partner to the borrower.

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

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

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

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

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

551 (c) A borrower who submits a loan payment to an access  
552 partner under this subsection is not liable for a failure or  
553 delay by the access partner in transmitting the payment to the  
554 program licensee.

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

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

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

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

565 (c) Negotiate a loan term between a program licensee and a  
566 prospective borrower.

567 (d) Offer information pertaining to a single prospective  
568 borrower to more than one program licensee. However, if a  
569 program licensee has declined to offer a program loan to a  
570 prospective borrower and has so notified the prospective  
571 borrower in writing, the access partner may then offer  
572 information pertaining to that borrower to another program  
573 licensee with whom it has an access partner agreement.

574 (e) Except for the purpose of assisting a borrower in  
575 obtaining a refinance program loan, offer information pertaining

576 | to a prospective borrower to any program licensee if the  
 577 | prospective borrower has an outstanding program loan.

578 | (f) Require a borrower to pay any fees or charges to the  
 579 | access partner or to any other person in connection with a  
 580 | program loan other than those permitted under ss. 516.405-  
 581 | 516.46.

582 | (5) DISCLOSURE STATEMENTS.—

583 | (a) At the time that the access partner receives or  
 584 | processes an application for a program loan, the access partner  
 585 | shall provide the following statement to the applicant on behalf  
 586 | of the program licensee, in at least 10-point type, and shall  
 587 | request that the applicant acknowledge receipt of the statement  
 588 | in writing:

590 | Your loan application has been referred to us by  
 591 | ...(name of access partner).... We may pay a fee to  
 592 | ...(name of access partner)... for the successful  
 593 | referral of your loan application. If you are approved  
 594 | for the loan, ...(name of program licensee)... will  
 595 | become your lender. If you have any questions about  
 596 | your loan, now or in the future, you should direct  
 597 | those questions to ...(name of program licensee)... by  
 598 | ...(insert at least two different ways in which a  
 599 | borrower may contact the program licensee).... If you  
 600 | wish to report a complaint about ...(name of access



601 partner)... or ...(name of program licensee)...  
 602 regarding this loan transaction, you may contact the  
 603 Division of Consumer Finance of the Office of  
 604 Financial Regulation at 850-487-9687 or  
 605 http://www.flofr.com.

607 (b) If the loan applicant has questions about the program  
 608 loan which the access partner is not permitted to answer, the  
 609 access partner must make a good faith effort to assist the  
 610 applicant in making direct contact with the program licensee  
 611 before the program loan is consummated.

612 (6) COMPENSATION.—

613 (a) The program licensee may compensate an access partner  
 614 in accordance with a written agreement and a compensation  
 615 schedule that is agreed to by the program licensee and the  
 616 access partner, subject to the requirements in paragraph (b).

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

619 1. Compensation may not be paid to an access partner in  
 620 connection with a loan application unless the program loan is  
 621 consummated.

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

625 3. Compensation paid by the program licensee to the access

626 partner may not exceed \$65 per consummated program loan and may  
 627 not be charged directly or indirectly to the borrower.

628 (7) NOTICE TO OFFICE.—A program licensee that uses the  
 629 service of an access partner must notify the office, in a form  
 630 and manner prescribed by commission rule, within 15 days after  
 631 entering into a contract with an access partner and before using  
 632 such access partner's services, regarding all of the following:

633 (a) The name, principal office address, and any licensing  
 634 details of the access partner and addresses of all physical  
 635 business locations at which the access partner will perform  
 636 services under this section.

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

640 (c) The name and contact information of all employees of  
 641 the access partner who are responsible for that access partner's  
 642 referring activities on behalf of the program licensee.

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

646 1. The filing of a petition under the United States  
 647 Bankruptcy Code for bankruptcy or reorganization by the access  
 648 partner.

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

651 license request or renewal, by any state, the District of  
652 Columbia, any United States territory, or any foreign country in  
653 which the access partner operates, plans to operate, or is  
654 licensed to operate.

655 3. A felony indictment involving the access partner or an  
656 affiliated party.

657 4. The felony conviction, guilty plea, or plea of nolo  
658 contendere, regardless of adjudication, of the access partner or  
659 an affiliated party.

660 5. Any suspected criminal act perpetrated in this state  
661 relating to activities regulated under this chapter by the  
662 access partner.

663 6. Notification by a law enforcement or prosecutorial  
664 agency that the access partner is under criminal investigation,  
665 including, but not limited to, subpoenas to produce records or  
666 testimony and warrants issued by a court of competent  
667 jurisdiction which authorize the search and seizure of any  
668 records relating to a business activity regulated under this  
669 chapter.

670  
671 As used in this paragraph, the term "affiliated party" means a  
672 director, officer, control person, employee, or foreign  
673 affiliate of an access partner; or a person who has a  
674 controlling interest in an access partner.

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

676 | to the limitations specified in s. 516.45(3).

677 | (8) NOTICE OF CHANGES.—An access partner must provide the  
 678 | program licensee and the office with a written notice sent by  
 679 | registered mail within 30 days after any change is made to the  
 680 | information specified in paragraphs (7)(a)-(c) and within 30  
 681 | days after the occurrence or knowledge of any of the events  
 682 | specified in paragraph (7)(d).

683 | (9) RESPONSIBILITY FOR ACTS OF AN ACCESS PARTNER.—A  
 684 | program licensee is responsible for any act of its access  
 685 | partner or the access partner's employees if such act is a  
 686 | violation of this chapter.

687 | (10) RULEMAKING.—The commission shall adopt rules to  
 688 | implement this section.

689 | Section 6. Section 516.45, Florida Statutes, is created to  
 690 | read:

691 | 516.45 Examinations, investigations, and grounds for  
 692 | disciplinary action.—

693 | (1) Notwithstanding any other law, the office shall  
 694 | examine each program licensee that is accepted into the program  
 695 | in accordance with this chapter at least once every 24 months.

696 | (2) Notwithstanding subsection (1), the office may waive  
 697 | one or more branch office examinations if the office finds that  
 698 | such examinations are not necessary for the protection of the  
 699 | public due to the centralized operations of the program licensee  
 700 | or other factors acceptable to the office.

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

705       (4) A program licensee who violates any applicable  
706 provision of this chapter is subject to disciplinary action  
707 pursuant to s. 516.07(2). Any such disciplinary action is  
708 subject to s. 120.60. The program licensee is also subject to  
709 disciplinary action for a violation of s. 516.44 committed by  
710 any of its access partners or the access partner's employees.

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

713       (a) Bar the access partner from performing services under  
714 this chapter.

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

717       (c) Impose an administrative fine on the access partner  
718 not to exceed \$1,000 for each violation of s. 516.44.

719       (6) The commission shall adopt rules to implement this  
720 section.

721       Section 7. Section 516.46, Florida Statutes, is created to  
722 read:

723       516.46 Annual reports by program licensees and the  
724 office.-

725       (1) By March 15, 2021, and each year thereafter, a program

726 licensee shall file a report with the office on a form and in a  
727 manner prescribed by commission rule. The report must include  
728 each of the items specified in subsection (2) for the preceding  
729 year using aggregated or anonymized data without reference to  
730 any borrower's nonpublic personal information or any program  
731 licensee's or access partner's proprietary or trade secret  
732 information.

733 (2) By January 1, 2022, and each year thereafter, the  
734 office shall post a report on its website summarizing the use of  
735 the program based on the information contained in the reports  
736 filed in the preceding year by program licensees under  
737 subsection (1). The office's report must publish the information  
738 in the aggregate so as not to identify data by any specific  
739 program licensee. The report must specify the period to which  
740 the report corresponds and must include, but is not limited to,  
741 the following for that period:

742 (a) The number of applicants approved for a program  
743 license by the office.

744 (b) The number of program loan applications received by  
745 program licensees, the number of program loans made under the  
746 program, the total amount loaned, the distribution of loan  
747 lengths upon origination, and the distribution of interest rates  
748 and principal amounts upon origination among those program  
749 loans.

750 (c) The number of borrowers who obtained more than one

751 program loan and the distribution of the number of program loans  
752 per borrower.

753 (d) Of those borrowers who obtained more than one program  
754 loan and had a credit score by the time of their subsequent  
755 loan, the percentage of those borrowers whose credit scores  
756 increased between successive loans, based on information from at  
757 least one major credit bureau, and the average size of the  
758 increase. In each case, the report must include the name of the  
759 credit score, such as FICO or VantageScore, which the program  
760 licensee is required to disclose.

761 (e) The income distribution of borrowers upon program loan  
762 origination, including the number of borrowers who obtained at  
763 least one program loan and who resided in a low-income or  
764 moderate-income census tract at the time of their loan  
765 applications.

766 (f) The number of borrowers who obtained program loans for  
767 the following purposes, based on the borrowers' responses at the  
768 time of their loan applications indicating the primary purpose  
769 for which the program loans were obtained:

- 770 1. To pay medical expenses.
- 771 2. To pay for vehicle repair or a vehicle purchase.
- 772 3. To pay bills.
- 773 4. To consolidate debt.
- 774 5. To build or repair credit history.
- 775 6. To finance a small business.

776        7. To pay other expenses.

777        (g) The number of borrowers who self-report that they had  
778 a bank account at the time of their loan application and the  
779 number of borrowers who self-report that they did not have a  
780 bank account at the time of their loan application.

781        (h) For refinance program loans:

782        1. The number and percentage of borrowers who applied for  
783 a refinance program loan.

784        2. Of those borrowers who applied for a refinance program  
785 loan, the number and percentage of borrowers who obtained a  
786 refinance program loan.

787        (i) The performance of program loans as reflected by all  
788 of the following:

789        1. The number and percentage of borrowers who experienced  
790 at least one delinquency lasting between 7 and 29 days and the  
791 distribution of principal loan amounts corresponding to those  
792 delinquencies.

793        2. The number and percentage of borrowers who experienced  
794 at least one delinquency lasting between 30 and 59 days and the  
795 distribution of principal loan amounts corresponding to those  
796 delinquencies.

797        3. The number and percentage of borrowers who experienced  
798 at least one delinquency lasting 60 days or more and the  
799 distribution of principal loan amounts corresponding to those  
800 delinquencies.



801        (3) The commission shall adopt rules to implement this  
802 section.

803        Section 8. Sections 516.405-516.46, Florida Statutes, as  
804 created by this act, shall continue for 5 years after the date  
805 on which the Office of Financial Regulation of the Financial  
806 Services Commission posts its first report pursuant to s.  
807 516.46(2), Florida Statutes, unless reenacted or superseded by  
808 another law enacted by the Legislature before that date.

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