A bill to be entitled
An act relating to consumer finance; creating s. 516.40; creating the Increased Access to Responsible Small-Dollar Loans Pilot Program within the Office of Financial Regulation; providing definitions; requiring persons charging fees or using referral partners under the pilot program to obtain a license; providing licensing requirements; providing fee requirements; providing conditions and requirements for small loan licensees; providing loan requirements; providing disclosure requirements; providing requirements related to loan payment receipts; authorizing a small loan licensee to contract with a referral partner for certain purposes; regulating the activities and compensation of referral partners; providing recordkeeping requirements; requiring the office to examine licensees and referral partners; requiring licensees to reimburse the office for examination costs; providing grounds for disciplinary action; providing reporting requirements; providing for expiration of the pilot program; providing an effective date.

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

Section 1. Section 516.40, Florida Statutes, is created to
read:

516.40 Increased Access to Responsible Small-Dollar Loans Pilot Program.—

(1) There is created within the Office of Financial Regulation the Increased Access to Responsible Small-Dollar Loans Pilot Program. The purpose of the program is to fulfill consumer demand for loans with a principal amount of $3,000 or less and improve consumers' credit ratings through these installment loans.

(2) DEFINITIONS.—As used in this section, the term:

(a) "Borrower" means a person who incurs either direct or contingent liability to repay a small loan.

(b) "Consumer reporting agency" has the same meaning as provided in 15 U.S.C. s. 1681a(p).

(c) "Credit score" has the same meaning as provided in s. 626.9741.

(d) "Data furnisher" means a creditor that furnishes information to a consumer reporting agency.

(e) "Pilot program" means the Increased Access to Responsible Small-Dollar Loans Pilot Program.

(f) "Referral partner" means a person who directly or indirectly solicits or offers to solicit a small loan and accepts or offers to accept an application for a small loan. A referral partner is not a loan broker as defined in s. 687.14 or a credit service organization as defined in s. 817.7001.

(g) "Small loan" means a loan made pursuant to this
section.

(h) "Small loan license" or "license" means a license issued under this section to provide small loans.

(i) "Small loan licensee" or "licensee" means a person to whom a small loan license is issued.

(3) SMALL LOAN LICENSE; FEES.—A person may not impose any charges or fees or use a referral partner pursuant to this section without a valid small loan license. A person may apply for and obtain a small loan license pursuant to ss. 516.03 and 516.05, with the following exceptions:

(a) A small loan license may be issued for more than one physical location if the licensee offers and accepts loan applications only through its website.

(b) An applicant must be a data furnisher with a consumer reporting agency at the time of application. However, the office may issue a small loan license to an applicant if the office reasonably believes that the applicant will qualify as a data furnisher within 6 months after receiving a small loan license. If the applicant fails to become a data furnisher within 6 months after receiving a license, the office must revoke the small loan license.

(c) The small loan license fee shall be an amount necessary to cover the expenses of administering this section.

(4) SMALL LOANS.—A small loan licensee must comply with this chapter unless otherwise specifically provided by this section.
(a) A small loan licensee must offer consumer credit counseling services provided by the office or credit education programs offered by an independent third party to a prospective borrower during the loan application process. Such educational programs shall be provided to a prospective borrower free of charge. Attendance of such a program is not a condition of obtaining a small loan.

(b) A small loan licensee must report all payments from a borrower to a consumer reporting agency. A licensee that becomes a data furnisher for a consumer reporting agency must report all payments from a borrower to the data furnisher as soon as practicable.

(c) The licensee must attempt to collect a delinquent payment for a period of at least 30 days after the date that payment is due before selling or assigning the unpaid debt to an independent party for collection.

(d) A licensee may not make a loan to a prospective borrower with a debt-to-income ratio greater than 50 percent. As used in this paragraph, the term:

1. "Debt" means total monthly debt service payments, including the small loan being considered, across all outstanding forms of credit. Debt may, but is not required to, include loans from friends or family.

2. "Income" means the prospective borrower's gross monthly income.

(e) A licensee may not require a prospective borrower to
waive his or her legal rights as a condition of obtaining the
small loan without the borrower's express informed consent to
such waiver. Any waiver made by the borrower without informed
consent is void but does not affect the validity or
enforceability of other provisions of the loan agreement.
(5) FINANCE CHARGE; MAXIMUM RATES.—A small loan licensee
may lend any sum of money in the principal amount of at least
$300 but not more than $3,000. A small loan must have a term of
90 days or longer and must be unsecured. Notwithstanding s.
516.031, a licensee may charge, contract for, and receive
interest and other charges as provided and authorized by this
subsection.
(a) The maximum interest rate is 36 percent per annum. The
interest must be calculated by simple interest and not add-on
interest or any other computations. The interest rate must be
fixed for the life of the loan.
(b) Section 516.031(5) applies to a small loan that is
refinanced.
(c) A licensee may contract for and receive an origination
fee on a small loan and the refinance of the loan. The fee may
only be imposed once at the closing of a loan and may not be
imposed more than once in any 4-month period.
1. On the first loan made to a borrower, the origination
fee may not exceed the lesser of 7 percent of the principal
amount or $90.
2. On the second or subsequent loan, including a
refinanced loan, the origination fee may not exceed the lesser of 6 percent of the principal amount or $75.

(d) A licensee may charge and receive a delinquency charge not to exceed $14 for each payment in default for at least 7 days. Only one delinquency charge may be imposed per delinquent payment, and no more than two delinquent charges may be imposed during a period of 30 consecutive days.

(e) A licensee or referral partner who receives a check, draft, negotiable order of withdrawal, or like instrument drawn on a bank or other depository institution, from a borrower as full or partial repayment of a loan, may make and collect from the borrower a bad check charge of not more than $25 if such instrument is not paid or is dishonored by such institution.

(f) A licensee or any other person in connection with the making of a small loan may not offer, sell, or require the borrower to obtain credit insurance on a small loan.

(6) DISCLOSURE.—A licensee must deliver a statement pursuant to s. 516.15(1) to the borrower in at least 12-point type. The statement may be provided electronically to the borrower if the borrower has the option to print the statement in at least 12-point type. The statement must include:

(a) The periodic payment amount.

(b) The delinquency fee amount.

(c) The following statement: "Repaying your loan early will lower your borrowing costs by reducing the amount of interest you will pay. This loan has no prepayment penalty."
(d) The following statement: "The borrower has the right to rescind the loan by notifying the licensee and returning the principal advanced by the end of the business day after the date the loan proceeds are disbursed."

(e) The name of the consumer reporting agency to which the licensee shall report the borrower's payment history. If the licensee became a data furnisher after the loan is consummated, the licensee shall provide the name of the consumer reporting agency to the borrower as soon as practicable.

(f) If the borrower submitted a loan application to a referral partner, the referral partner must provide the following statement to the borrower:

"Your loan application has been referred to us by ...(name of referral partner).... We may pay a fee to ...(name of referral partner).... for the successful referral of your loan application. IF YOU ARE APPROVED FOR THE LOAN, ...(NAME OF LICENSEE).... WILL BECOME YOUR LENDER. If you have any questions about your loan, now or in the future, you should direct those questions to ...(name of licensee).... by ...(insert at least two different ways in which a borrower may contact the licensee).... If you wish to report a complaint about ...(name of referral partner).... or ...(name of licensee).... regarding this loan transaction, you may contact the Florida Office of
(7) RECEIPTS.—A licensee and a referral partner must provide the borrower, at the time that payment is made, with a plain and complete receipt for each payment made on account of any loan. A licensee or referral partner who refuses, upon demand, to give a receipt complying with this subsection forfeits the entire interest upon such principal sum to the borrower. A receipt for payment must contain:

(a) The name of the referral partner, if applicable.

(b) The total payment amount received.

(c) The date of payment.

(d) The loan balance before and after application of the payment.

(e) The amount of the payment that is applied to principal, interest, and fees.

(f) The form of payment, such as cash, check, or money order.

(g) If the payment is received by a referral partner, the following statement: "If you have any questions about your loan now or in the future, you should direct those questions to ...(name of licensee)... by ...(insert at least two different ways in which a borrower may contact the licensee)...."

(8) REFERRAL PARTNERS.—

(a) A small loan licensee may contract with one or more referral partners to:
1. Distribute marketing materials and other written information related to small loans.

2. Assist prospective borrowers in completing a loan application and update the prospective borrower on the status of the loan application.

3. Submit the loan applications to the licensee. The referral partner may only submit a loan application to one licensee. If the licensee declines to offer a loan to a prospective borrower, the referral partner may submit the loan application of that prospective borrower to another licensee.

4. Inform borrowers of the terms of the loan.

5. Close the loan transaction on behalf of the licensee and disburse the loan proceeds to the borrower.

5. Receive loan payments from a borrower.

(b) A referral partner may not:

1. Provide counseling or advice to the prospective borrower.

2. Negotiate the terms of the loan on behalf of the licensee or the prospective borrower.

(c) All marketing materials, written materials, and loan information provided by a referral partner must be prepared by the licensee or preapproved by the licensee. The licensee must be available to answer any questions that a prospective borrower has related to a small loan. The loan cannot be consummated until the borrower's questions are answered.

(d) A referral partner is an agent of the licensee and...
must comply with this section and all applicable rules of the office.

(e) The licensee may compensate a referral partner for its services, subject to the following requirements:

1. A referral partner may not be compensated in connection with a loan application unless the loan is consummated. The compensation may not exceed $60 per loan.

2. A referral partner may not be compensated more than $2 per loan payment received by the referral partner.

3. Compensation to a referral partner may not be based on the principal amount of the loan.

4. A licensee may not directly or indirectly charge a borrower any fee or expense incurred by the licensee related to the loan.

(e) If a licensee enters into a contract with a referral partner, the licensee must notify the office within 15 days after entering into the contract on a form prescribed by the office. The form must include the following information:

1. The name, business address, and licensing details of the referral partner and all locations at which the referral partner will perform services under this section.

2. The name and contact information for the person who executed the referral partner agreement on behalf of the referral partner.

3. The name and contact information for at least one employee of the referral partner carrying out the terms of the
4. Any other information requested by the office.

(9) RECORDS.—A small loan licensee and a referral partner must maintain books, accounts, and records as provided in s. 516.12.

(10) INVESTIGATIONS.—The office shall examine a licensee and its referral partners as provided in s. 516.11 at least once every 24 months to determine compliance with this section. The office may waive the examination of one or more locations of the licensee if the office determines that the examination of that location is not necessary for protection of the public.

(a) The office shall randomly survey borrowers as part of its examination of licensees and referral partners.

(b) A licensee shall reimburse the office for the cost of examining the licensee and its referral partners. The office may bring an action in any court of competent jurisdiction against a licensee to recover the cost of examination of the licensee and its referral partners. In determining the cost of the examination, the office may use the estimated average hourly cost for all persons performing examinations of licensees or the licensee’s referral partner.

(11) GROUNDS FOR DISCIPLINARY ACTION.—A small loan licensee or a referral partner who violates any applicable provision of this chapter is subject to disciplinary action pursuant to s. 516.07(2). A licensee is also subject to disciplinary action for a violation of this section committed by
any of its referral partners.

(12) REPORTING REQUIREMENTS.-

(a) A licensee must file with the office on or before March 15, 2017, and annually thereafter, a report in a manner prescribed by the office related to its small loans.

(b) The office must post on its website on or before January 1, 2018, and annually thereafter, a report on the effectiveness of the pilot program. The report may not identify data by specific licensee, but must include:

1. The number of applicants for the pilot program.
2. The number of entities granted a small loan license.
3. The reasons that the office denied an applicant's request to participate in the pilot program.
4. The number of applications for a small loan and the number of small loans made.
5. The total principal amount of loans made under the pilot program.
6. The duration of the loans and loan interest rates.
7. The number of borrowers who obtained more than one small loan and the number of loans per borrower.
8. The effect of the pilot program on the borrowers' credit score.
9. The income distribution of borrowers upon loan origination.
10. The number of borrowers who reside in a low-income area.
11. The number of borrowers who obtained loans for the following purposes:
   a. Medical.
   b. Vehicle repair or purchase.
   c. Payment of household bills.
   d. Debt consolidation.
   e. Building or repairing credit history.
   f. Other purposes not provided in subparagraphs a.–e.
12. The number of borrowers who maintained a bank account at the time of their loan application.
13. The number and percentage of borrowers who requested to refinance their small loans and the number and percentage of small loans actually refinanced.
14. The number and type of referral partners used by licensees.
15. The number and percentage of borrowers who were charged a delinquency fee, the number of days the loans were delinquent, the total amount of delinquency fees charged, and the average delinquency fee assessed by dollar amount and as a percentage of the principal amount loaned.
16. Comparable delinquency data for unsecured loans made under this chapter and by state-chartered banks and credit unions for principal loan amounts of at least $300 but not more than $3,000.
17. The number and types of violations of this section by licensees and referral partners and disciplinary actions taken
by the office against licensees or referral partners.

18. The number of complaints received by the office from borrowers against licensees or referral partners and the nature of those complaints.

19. Results of surveys completed by borrowers relating to their experience with the pilot program.

20. Recommendations for improving the pilot program and recommendations regarding whether the program should be continued.

(13) This section expires January 1, 2022.

Section 2. This act shall take effect July 1, 2016.