



485526

576-03836-17

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on General Government)

A bill to be entitled

An act relating to consumer finance loans; creating s. 516.40, F.S.; establishing the Access to Responsible Credit Pilot Program within the Office of Financial Regulation; providing legislative findings and intent; creating s. 516.41, F.S.; defining terms; creating s. 516.42, F.S.; prohibiting a person from certain activities relating to program loans unless the person obtains a pilot program license from the office; providing criteria for participation in the pilot program; specifying application requirements and fees; providing for construction; specifying a renewal fee; providing that only one pilot program license is required for a person to make program loans; requiring that branch offices of a program licensee be licensed; specifying requirements and a fee for applications for a program branch office license; requiring program branch office licenses to be renewed biennially and specifying a branch office renewal fee; creating s. 516.43, F.S.; providing requirements for and limitations on program loans; requiring a program licensee to provide specified disclosures; authorizing licensees to provide certain documents in the language in which the loan was negotiated; requiring a program licensee to pay for certain translation costs incurred by the office; authorizing a program licensee to contract for and receive a specified nonrefundable



485526

576-03836-17

28 origination fee from a borrower on a program loan;
29 authorizing a program licensee to collect specified
30 insufficient funds fees and delinquency charges;
31 requiring a program licensee to provide specified
32 credit education to a borrower before disbursing
33 program loan proceeds; requiring a program licensee to
34 report borrowers' payment performance to at least one
35 specified consumer reporting agency and provide
36 borrowers with the names of such agencies; prohibiting
37 the office from approving a person for the program
38 before the person is accepted as a data furnisher by a
39 consumer reporting agency; requiring a program
40 licensee to underwrite each program loan; prohibiting
41 a program licensee from making a program loan under
42 certain circumstances; providing required and
43 authorized procedures for a program licensee to
44 determine a borrower's ability and willingness to
45 repay the program loan; prohibiting a program licensee
46 from requiring certain waivers from a borrower or from
47 certain acts against a borrower who refuses certain
48 waivers; providing for applicability and construction;
49 creating s. 516.44, F.S.; requiring arrangements
50 between a program licensee and a referral partner to
51 be specified in a written agreement; providing
52 requirements for such agreement; specifying authorized
53 services for referral partners; providing requirements
54 for a referral partner who accepts loan payments from
55 a borrower; providing for construction; prohibiting
56 specified activities by a referral partner; requiring



485526

576-03836-17

57 a referral partner to provide a specified notice to an
58 applicant for a program loan and certain assistance to
59 the applicant under certain circumstances; specifying
60 requirements, limitations, and prohibitions for the
61 compensation of a referral partner by a program
62 licensee; requiring a program licensee to provide a
63 specified notice to the office after entering into a
64 contract with a referral partner; requiring a referral
65 partner to provide written notice to the program
66 licensee of certain information within a specified
67 time; specifying the program licensee's responsibility
68 for acts of its referral partner; requiring a program
69 licensee to pay a specified fee to the office to file
70 a referral partner notice; requiring rulemaking by the
71 Financial Services Commission; creating s. 516.45,
72 F.S.; requiring the office to examine program
73 licensees at specified intervals beginning on a
74 specified date; providing an exception; requiring
75 program licensees to pay the cost of examinations;
76 authorizing the office to maintain an action for
77 recovery of the cost; authorizing a method to
78 determine the cost of examinations; providing a
79 recordkeeping requirement for program licensees and
80 referral partners; providing that a program licensee
81 is subject to certain disciplinary action for certain
82 violations; authorizing the office to take certain
83 disciplinary actions; requiring rulemaking by the
84 commission; creating s. 516.46, F.S.; requiring a
85 program licensee to file a specified annual report



485526

576-03836-17

86 with the office beginning on a certain date; requiring
87 the office to post a report to its website summarizing
88 the use of the program by a certain date; specifying
89 information to be contained in the office's report;
90 providing for conditional future repeal of the
91 program; providing an effective date.
92

93 Be It Enacted by the Legislature of the State of Florida:
94

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

97 516.40 Access to Responsible Credit Pilot Program.—

98 (1) There is established within the Office of Financial
99 Regulation the Access to Responsible Credit Pilot Program.

100 (2) The Legislature finds that demand for responsible
101 consumer finance loans in principal amounts of at least \$300 and
102 no more than \$3,000 exceeds the supply of these loans. As a
103 first step toward addressing this gap, the Access to Responsible
104 Credit Pilot Program would allow more Floridians to obtain
105 responsible consumer finance loans of at least \$300 and no more
106 than \$3,000. The pilot program is also intended to assist
107 consumers in building their credit and has additional consumer
108 protections for these loans which exceed current protections
109 under general law.

110 Section 2. Section 516.41, Florida Statutes, is created to
111 read:

112 516.41 Definitions for ss. 516.40-516.46.—As used in ss.
113 516.40-516.46, the term:

114 (1) "Consumer reporting agency" has the same meaning as in



485526

576-03836-17

115 s. 603(p) of the Fair Credit Reporting Act, 15 U.S.C. s.
116 1681a(p).

117 (2) "Credit score" has the same meaning as in s.
118 609(f)(2)(A) of the Fair Credit Reporting Act, 15 U.S.C. s.
119 1681g(f)(2)(A).

120 (3) "Data furnisher" has the same meaning as the term
121 "furnisher" in 12 C.F.R. s. 1022.41(c).

122 (4) "Pilot program" or "program" means the Access to
123 Responsible Credit Pilot Program.

124 (5) "Pilot program license" means a license issued under
125 ss. 516.40-516.46 authorizing a program licensee to make and
126 collect program loans.

127 (6) "Program branch office" means a location, other than a
128 program licensee's or referral partner's principal place of
129 business:

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

133 (b) At which the program licensee's name, advertising or
134 promotional materials, or signage suggests that program loans
135 are originated, negotiated, funded, or serviced; or

136 (c) At which program loans are originated, negotiated,
137 funded, or serviced by a program licensee.

138 (7) "Program branch office license" means a license issued
139 to a program licensee for each program branch office in the
140 state.

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



485526

576-03836-17

144 (9) "Program loan" means a consumer finance loan with a
145 principal amount of at least \$300 and no more than \$3,000
146 originated pursuant to ss. 516.40-516.44, excluding the amount
147 of the origination fee authorized under s. 516.43(3).

148 (10) "Referral partner" means an entity that, at the
149 referral partner's physical location for business or through
150 other means, performs one or more of the services authorized in
151 s. 516.44(2) on behalf of a program licensee. A referral partner
152 is not a credit service organization as defined in s. 817.7001
153 or a loan broker as defined in s. 687.14.

154 (11) "Refinance program loan" means a program loan that
155 extends additional principal to a borrower and replaces and
156 revises an existing program loan contract with the borrower. A
157 refinance program loan does not include an extension, a
158 deferral, or a rewrite of the program loan.

159 Section 3. Section 516.42, Florida Statutes, is created to
160 read:

161 516.42 Requirements for program participation; program
162 application requirements; fees.-

163 (1) A person may not advertise, offer, or make a program
164 loan or impose any charges or fees pursuant to s. 516.43 unless
165 the person first obtains a pilot program license from the
166 office.

167 (2) (a) In order to participate in the program, a person
168 must meet the following criteria:

169 1. Be licensed to make consumer finance loans under s.
170 516.05.

171 2. Not be the subject of any insolvency proceeding.

172 3. Not be subject to the issuance of a cease and desist



485526

576-03836-17

173 order; the issuance of a removal order; the denial, suspension,
174 or revocation of a license; or any other action within the
175 authority of the office or any other state, territory, or
176 jurisdiction.

177 4. Not have a deficiency at the time of the person's
178 application.

179 5. Pay a nonrefundable application fee of \$1,000 to the
180 office at the time of making the application, pursuant to rule
181 of the commission.

182 (b) A program applicant shall file with the office an
183 electronic application, in a form and manner prescribed by
184 commission rule, which contains all of the following information
185 with respect to the applicant:

186 1. The legal business name and any other name the applicant
187 operates under.

188 2. The applicant's main address.

189 3. The telephone number and e-mail address of the
190 applicant.

191 4. The address of any program branch office.

192 5. The name, title, address, telephone number, and e-mail
193 address of the contact person for the applicant.

194 6. The applicant's license number under this chapter.

195 7. A statement as to whether the applicant intends to use
196 the services of one or more referral partners under s. 516.44.

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

201 9. The signature and certification of a control person of



485526

576-03836-17

202 the applicant.

203 (3) Except as otherwise provided in ss. 516.40-516.46, a
204 program licensee is subject to all of the laws and rules
205 governing consumer finance loans under this chapter.

206 (4) A program licensee shall pay a nonrefundable biennial
207 renewal fee of \$1,000 pursuant to commission rule.

208 (5) Notwithstanding s. 516.05(3), only one pilot program
209 license is required for a person to make program loans under ss.
210 516.40-516.46, regardless of whether the program licensee offers
211 program loans to prospective borrowers at its own physical
212 business locations, through referral partners, or through an
213 electronic access point through which a prospective borrower may
214 directly access the website of the program licensee.

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

217 (7) The office shall issue a program branch office license
218 to a program licensee after the office determines that the
219 program licensee submitted a completed electronic application
220 for a program branch office license in a form prescribed by
221 commission rule and paid an initial nonrefundable program branch
222 office license fee of \$30 per branch office as prescribed by
223 rule of the commission. Application fees may not be prorated for
224 partial years of licensure. The program branch office license
225 must be issued in the name of the program licensee that
226 maintains the branch office. An application is considered
227 received for purposes of s. 120.60 upon receipt of a completed
228 application form and the required fees. The application for a
229 program branch office license must contain the following
230 information:



485526

576-03836-17

- 231 (a) The legal business name and any other name the
232 applicant operates under.
- 233 (b) The applicant's main address.
- 234 (c) The applicant's telephone number and e-mail address.
- 235 (d) The address of each program branch office.
- 236 (e) The name, title, address, telephone number, and e-mail
237 address of the contact person for the applicant.
- 238 (f) The applicant's license number under this chapter.
- 239 (g) The signature and certification of an authorized person
240 of the applicant.

241 (8) A program branch office license must be renewed
242 biennially at the time of renewing the program license under
243 subsection (4). A nonrefundable branch renewal fee of \$30 per
244 program branch office, by commission rule, must be submitted at
245 the time of renewal.

246 Section 4. Section 516.43, Florida Statutes, is created to
247 read:

248 516.43 Requirements for program loans.—

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

251 (a) A program loan must be unsecured.

252 (b) A program loan must have a minimum term of 120 days,
253 but it may not impose a prepayment penalty.

254 (c) A program loan must be repayable by the borrower in
255 substantially equal weekly, biweekly, or monthly installments.

256 (d) A program loan must include a borrower's right to
257 rescind the program loan by notifying the program licensee of
258 the borrower's intent to rescind the program loan and return the
259 principal advanced by the end of the business day after the day



485526

576-03836-17

260 the program loan is consummated.

261 (e) Notwithstanding s. 516.031, the interest rate charged
262 on a program loan to the borrower may not exceed 36 percent. The
263 interest rate must be fixed for the life of the program loan and
264 must accrue on a simple-interest basis through the application
265 of a daily periodic rate to the actual unpaid principal balance
266 each day.

267 (f) The program licensee shall reduce the rate on each
268 subsequent program loan to the same borrower by a minimum of
269 one-twelfth of 1 percent per month, if all of the following
270 conditions are met:

271 1. The subsequent program loan is originated no more than
272 180 days after the prior program loan is fully repaid.

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

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

277 (g) A program licensee may not refinance a program loan
278 unless all of the following conditions are met at the time the
279 borrower submits an application to refinance:

280 1. The principal amount payable does not include more than
281 60 days of unpaid interest accrued on the previous program loan
282 in accordance with s. 516.031(5);

283 2. The borrower has repaid at least 60 percent of the
284 outstanding principal remaining on his or her existing program
285 loan;

286 3. The borrower is current on his or her outstanding
287 program loan;

288 4. The program licensee has underwritten the new program



485526

576-03836-17

289 loan in accordance with subsection (7); and

290 5. The borrower has not previously refinanced the
291 outstanding program loan.

292 (h) In lieu of the provisions of s. 687.08, a program
293 licensee or, if applicable, its approved referral partner shall
294 make available to the borrower by either electronic or physical
295 means a plain and complete receipt of payment at the time that a
296 payment is made by the borrower. For audit purposes, a program
297 licensee shall maintain an electronic record for each receipt
298 made available to a borrower, which must include a copy of the
299 receipt and the date and time that the receipt was generated.

300 Each receipt of payment must show all of the following:

301 1. The name of the borrower.

302 2. The name of the referral partner, if applicable.

303 3. The total payment amount received.

304 4. The date of payment.

305 5. The program loan balance before and after application of
306 the payment.

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

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

310 8. The following statement, prominently displayed in a type
311 size equal to or greater than the type size used to display the
312 other items on the receipt: "If you have any questions about
313 your loan now or in the future, you should direct those
314 questions to ...(name of program licensee)... by ...(at least
315 two different ways in which a borrower may contact the program
316 licensee)...."

317 (2) WRITTEN DISCLOSURES.-



485526

576-03836-17

318 (a) A program licensee shall provide those disclosures
319 required of all licensees in s. 516.15.

320 (b) Notwithstanding s. 516.15(1), the loan contract and all
321 written disclosures and statements may be provided in English or
322 in the language in which the loan is negotiated. A program
323 licensee shall pay for any translation costs incurred by the
324 office.

325 (3) ORIGINATION FEES.—

326 (a) Notwithstanding s. 516.031, a program licensee may
327 contract for and receive a nonrefundable origination fee from a
328 borrower on a program loan. The program licensee may either
329 deduct the origination fee from the principal amount of the loan
330 disbursed to the borrower or capitalize the origination fee into
331 the principal balance of the loan. The origination fee is fully
332 earned and nonrefundable immediately upon the making of the
333 program loan and may not exceed 6 percent of the principal
334 amount of the program loan made to the borrower, exclusive of
335 the lesser of the origination fee or \$75.

336 (b) A program licensee may not charge a borrower an
337 origination fee more than once in any 12-month period.

338 (4) INSUFFICIENT FUNDS FEES AND DELINQUENCY CHARGES.—

339 Notwithstanding s. 516.031, a program licensee approved by the
340 office to participate in the program may:

341 (a) Require payment from a borrower of no more than \$20 for
342 fees incurred by the program licensee from a dishonored payment
343 due to insufficient funds of the borrower.

344 (b) Notwithstanding s. 516.031(3)(a)9., contract for and
345 receive a delinquency charge of no more than \$15 for each
346 payment in default for at least 10 days, if the charge is agreed



485526

576-03836-17

347 upon in writing between the parties before imposing the charge.
348 A delinquency fee imposed by a program licensee is subject to
349 all of the following restrictions:

350 1. No more than one delinquency fee may be imposed per
351 delinquent payment.

352 2. No more than two delinquency fees may be imposed during
353 a period of 30 consecutive days.

354
355 The program licensee, or any wholly owned subsidiary of the
356 program licensee, may not sell or assign an unpaid debt to an
357 independent third party for collection purposes unless the debt
358 has been delinquent for at least 30 days.

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

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

363 (b) Provide a credit education program or materials to the
364 borrower. A borrower is not required to participate in any of
365 these education programs or seminars. A credit education program
366 or seminar offered pursuant to this subsection must be provided
367 at no cost to the borrower.

368 (6) CREDIT REPORTING.—

369 (a) The program licensee shall report each borrower's
370 payment performance to at least one consumer reporting agency
371 that compiles and maintains files on consumers on a nationwide
372 basis. As used in this section, the term "consumer reporting
373 agency that compiles and maintains files on consumers on a
374 nationwide basis" has the same meaning as in s. 603(p) of the
375 Fair Credit Reporting Act, 15 U.S.C. s. 1681a(p).



485526

576-03836-17

376 (b) The office may not approve a person for the program
377 before the person has been accepted as a data furnisher by a
378 consumer reporting agency.

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

382 (7) PROGRAM LOAN UNDERWRITING.-

383 (a) The program licensee shall underwrite each program loan
384 to determine a borrower's ability and willingness to repay the
385 program loan pursuant to the program loan terms. The program
386 licensee may not make a program loan if it determines that the
387 borrower's total monthly debt service payments at the time of
388 origination, including the program loan for which the borrower
389 is being considered and all outstanding forms of credit that can
390 be independently verified by the program licensee, exceed 35
391 percent of the borrower's gross monthly income.

392 (b)1. The program licensee shall seek information and
393 documentation pertaining to all of a borrower's outstanding debt
394 obligations during the loan application and underwriting
395 process, including loans that are self-reported by the borrower
396 but not available through independent verification. The program
397 licensee shall verify such information using a credit report
398 from at least one consumer reporting agency that compiles and
399 maintains files on consumers on a nationwide basis or through
400 other available electronic debt verification services that
401 provide reliable evidence of a borrower's outstanding debt
402 obligations.

403 2. The program licensee is not required to consider loans
404 made to a borrower by friends or family in determining the



485526

576-03836-17

405 borrower's debt-to-income ratio.

406 (c) The program licensee shall also verify the borrower's
407 income in determining the debt-to-income ratio using information
408 from:

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

411 2. Internal Revenue Service Form W-2, tax returns, payroll
412 receipts, bank statements, or other third-party documents that
413 provide reasonably reliable evidence of the borrower's actual
414 income.

415 (8) PROVISIONS ON WAIVERS.-

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

418 1. Waive any right, penalty, remedy, forum, or procedure
419 provided for in any law applicable to the program loan,
420 including the right to file and pursue a civil action or file a
421 complaint with or otherwise communicate with the office, any
422 court, or other governmental entity.

423 2. Agree to the application of laws other than those of
424 this state.

425 3. Agree to resolve disputes in a jurisdiction outside of
426 this state.

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

430 (c) A program licensee may not refuse to do business with
431 or discriminate against a borrower or an applicant on the basis
432 of the borrower's or applicant's refusal to waive any right,
433 penalty, remedy, forum, or procedure, including the right to



485526

576-03836-17

434 file and pursue a civil action or complaint with, or otherwise
435 notify, the office, a court, or any other governmental entity.
436 The exercise of a person's right to refuse to waive any right,
437 penalty, remedy, forum, or procedure, including a rejection of a
438 contract requiring a waiver, does not affect any otherwise legal
439 terms of a contract or an agreement.

440 (d) This subsection does not apply to any agreement to
441 wave any right, penalty, remedy, forum, or procedure, including
442 any agreement to arbitrate a claim or dispute, after a claim or
443 dispute has arisen. This subsection does not affect the
444 enforceability or validity of any other provision of the
445 contract.

446 Section 5. Section 516.44, Florida Statutes, is created to
447 read:

448 516.44 Referral partners.—

449 (1) REFERRAL PARTNER AGREEMENT.—All arrangements between a
450 program licensee and a referral partner must be specified in a
451 written referral partner agreement between the parties. The
452 agreement must contain a provision that the referral partner
453 agrees to comply with this section and all rules adopted under
454 this section regarding the activities of referral partners, and
455 that the office has access to the referral partner's books and
456 records pertaining to the referral partner's operations under
457 the agreement with the program licensee in accordance with s.
458 516.45(4).

459 (2) AUTHORIZED SERVICES.—A program licensee may use the
460 services of one or more referral partners as provided in this
461 section. A referral partner may perform one or more of the
462 following services for a program licensee:



485526

576-03836-17

463 (a) Distributing, circulating, using, or publishing printed
464 brochures, flyers, fact sheets, or other written materials
465 relating to program loans that the program licensee may make or
466 negotiate. The written materials must be reviewed and approved
467 in writing by the program licensee before being distributed,
468 circulated, used, or published.

469 (b) Providing written factual information about program
470 loan terms, conditions, or qualification requirements to a
471 prospective borrower which has been prepared by the program
472 licensee or reviewed and approved in writing by the program
473 licensee. A referral partner may discuss the information with a
474 prospective borrower in general terms.

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

477 (d) Entering information provided by the prospective
478 borrower on a preprinted or an electronic application form or in
479 a preformatted computer database.

480 (e) Assembling credit applications and other materials
481 obtained in the course of a credit application transaction for
482 submission to the program licensee.

483 (f) Contacting the program licensee to determine the status
484 of a program loan application.

485 (g) Communicating a response that is returned by the
486 program licensee's automated underwriting system to a borrower
487 or a prospective borrower.

488 (h) Obtaining a borrower's signature on documents prepared
489 by the program licensee and delivering final copies of the
490 documents to the borrower.

491 (i) Disbursing program loan proceeds to a borrower if this



485526

576-03836-17

492 method of disbursement is acceptable to the borrower, subject to
493 the requirements of subsection (3). A loan disbursement made by
494 a referral partner under this paragraph is deemed to be made by
495 the program licensee on the date that the funds are disbursed or
496 otherwise made available by the referral partner to the
497 borrower.

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

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

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

505 (a) A loan payment made by a borrower to a referral partner
506 under paragraph (2)(j) must be applied to the borrower's program
507 loan and is deemed received by the program licensee as of the
508 date the payment is received by the referral partner.

509 (b) A referral partner that receives loan payments must
510 deliver or cause to be delivered to the borrower a plain and
511 complete receipt showing all of the information specified in s.
512 516.43(1)(h) at the time that the payment is made by the
513 borrower.

514 (c) A borrower who submits a loan payment to a referral
515 partner under this subsection is not liable for a failure or
516 delay by the referral partner in transmitting the payment to the
517 program licensee.

518 (d) A referral partner that disburses or receives loan
519 payments pursuant to paragraph (2)(i) or paragraph (2)(j) must
520 maintain records of all disbursements made and loan payments



485526

576-03836-17

521 received for a period of at least 2 years.

522 (4) PROHIBITED ACTIVITIES.—A referral partner may not
523 engage in any of the following activities:

524 (a) Providing counseling or advice to a borrower or
525 prospective borrower with respect to any loan term.

526 (b) Providing loan-related marketing material that has not
527 previously been approved by the program licensee to a borrower
528 or a prospective borrower.

529 (c) Negotiating a loan term between a program licensee and
530 a prospective borrower.

531 (d) Offering information pertaining to a single prospective
532 borrower to more than one program licensee. However, if a
533 program licensee has declined to offer a program loan to a
534 prospective borrower and has so notified the prospective
535 borrower in writing, the referral partner may then offer
536 information pertaining to that borrower to another program
537 licensee with whom it has a referral partner agreement.

538 (e) Requiring a borrower to pay any fees or charges to the
539 referral partner or to any other person in connection with a
540 program loan other than those permitted under ss. 516.40-516.46.

541 (5) DISCLOSURE NOTICE AND COMMUNICATION.—

542 (a) At the time the referral partner receives or processes
543 an application for a program loan, the referral partner shall
544 provide the following statement to the applicant on behalf of
545 the program licensee, in no smaller than 10-point type, and
546 shall request that the applicant acknowledge receipt of the
547 statement in writing:

548
549 Your loan application has been referred to us by



485526

576-03836-17

550 ...(name of referral partner).... We may pay a fee to
551 ...(name of referral partner)... for the successful
552 referral of your loan application. If you are approved
553 for the loan, ...(name of program licensee)... will
554 become your lender. If you have any questions about
555 your loan, now or in the future, you should direct
556 those questions to ...(name of program licensee)... by
557 ...(insert at least two different ways in which a
558 borrower may contact the program licensee).... If you
559 wish to report a complaint about ...(name of referral
560 partner)... or ...(name of program licensee)...
561 regarding this loan transaction, you may contact the
562 Division of Consumer Finance of the Office of
563 Financial Regulation at 850-487-9687 or
564 <http://www.flofr.com>.
565

566 (b) If the loan applicant has questions about the program
567 loan which the referral partner is not permitted to answer, the
568 referral partner must make a good faith effort to assist the
569 applicant in making direct contact with the program licensee
570 before the program loan is consummated.

571 (6) COMPENSATION.-

572 (a) The program licensee may compensate a referral partner
573 in accordance with a written agreement and a compensation
574 schedule that is mutually agreed to by the program licensee and
575 the referral partner, subject to the requirements in paragraph
576 (b).

577 (b) The compensation of a referral partner by a program
578 licensee is subject to all of the following requirements:



485526

576-03836-17

- 579 1. Compensation may not be paid to a referral partner in
580 connection with a loan application unless the program loan is
581 consummated.
- 582 2. Compensation may not be paid to a referral partner based
583 upon the principal amount of the program loan.
- 584 3. Compensation may not be directly or indirectly passed on
585 to a borrower through a fee or other compensation, or a portion
586 of a fee or other compensation, charged to a borrower.
- 587 4. Subject to the limitations specified in subparagraphs
588 1., 2., and 3., the total compensation paid by a program
589 licensee to a referral partner for the services specified in
590 subsection (2) may not exceed the sum of:
- 591 a. Sixty dollars per program loan, on average, assessed
592 annually, whether paid at the time of consummation, through
593 installments, or in a manner otherwise agreed upon by the
594 program licensee and the referral partner; and
- 595 b. Two dollars per payment received by the referral partner
596 on behalf of the program licensee for the duration of the
597 program loan, if the referral partner receives borrower loan
598 payments on the program licensee's behalf in accordance with
599 subsection (3).
- 600 5. The referral partner's location for services and other
601 information required by subsection (7) must be reported to the
602 office.
- 603 (c) A program licensee or a referral partner may not pass
604 on to a borrower, whether directly or indirectly, any additional
605 cost or other charge for compensation paid to a referral partner
606 under this program.
- 607 (7) NOTICE TO OFFICE.—A program licensee that uses the



485526

576-03836-17

608 service of a referral partner must notify the office, in a form
609 and manner prescribed by the commission, within 15 days after
610 entering into a contract with a referral partner regarding all
611 of the following:

612 (a) The name, business address, and licensing details of
613 the referral partner and all locations at which the referral
614 partner will perform services under this section.

615 (b) The name and contact information for an employee of the
616 referral partner who is knowledgeable about, and has the
617 authority to execute, the referral partner agreement.

618 (c) The name and contact information of one or more
619 employees of the referral partner who are responsible for that
620 referral partner's referring activities on behalf of the program
621 licensee.

622 (d) A statement by the program licensee that it has
623 conducted due diligence with respect to the referral partner and
624 has confirmed that none of the following applies:

625 1. The filing of a petition under the United States
626 Bankruptcy Code for bankruptcy or reorganization by the referral
627 partner.

628 2. The commencement of an administrative or judicial
629 license suspension or revocation proceeding, or the denial of a
630 license request or renewal, by any state, the District of
631 Columbia, any United States territory, or any foreign country in
632 which the referral partner operates, plans to operate, or is
633 licensed to operate.

634 3. A felony indictment involving the referral partner or an
635 affiliated party.

636 4. A felony conviction, guilty plea, or plea of nolo



485526

576-03836-17

637 contendere, regardless of adjudication, of the referral partner
638 or an affiliated party.

639 5. Any suspected criminal act perpetrated in this state
640 relating to activities regulated under this chapter by a
641 referral partner.

642 6. Notification by a law enforcement or prosecutorial
643 agency that the referral partner is under criminal investigation
644 which includes, but is not limited to, subpoenas to produce
645 records or testimony and warrants issued by a court of competent
646 jurisdiction which authorize the search and seizure of any
647 records relating to a business activity regulated under this
648 chapter.

649
650 As used in this paragraph, the term "affiliated party" means a
651 director, an officer, a responsible person, an employee, or a
652 foreign affiliate of a referral partner; or a person who has a
653 controlling interest in a referral partner.

654 (e) Any other information requested by the office subject
655 to the limitations specified in s. 516.45(4).

656 (8) NOTICE OF CHANGES.—A referral partner must provide the
657 program licensee with written notice, sent by registered mail,
658 within 30 days after any changes are made to the information
659 specified in paragraphs (7) (a)-(c) or within 30 days after the
660 occurrence or knowledge of any of the events specified in
661 paragraph (7) (d), whichever is later.

662 (9) RESPONSIBILITY FOR ACTS OF A REFERRAL PARTNER.—A
663 program licensee is responsible for any act of its referral
664 partner if the program licensee should have known of the act or
665 if the program licensee had actual knowledge that the act is a



485526

576-03836-17

666 violation of this chapter and allowed it to continue. Such
667 responsibility is limited to conduct engaged in by the referral
668 partner pursuant to the authority granted to it by the program
669 licensee under the contract between the referral partner and the
670 program licensee.

671 (10) REFERRAL PARTNER FEE.—The program licensee shall pay
672 to the office at the time it files a referral partner notice
673 with the office a one-time, nonrefundable fee of \$30 for each
674 referral partner, as prescribed by commission rule.

675 Section 6. Section 516.45, Florida Statutes, is created to
676 read:

677 516.45 Examinations; disciplinary actions.—

678 (1) Notwithstanding any other law, commencing on January 1,
679 2019, the office shall examine each program licensee that is
680 accepted into the program in accordance with this chapter at
681 least once every 24 months.

682 (2) Notwithstanding subsection (1), the office may waive
683 one or more branch office examinations if the office finds that
684 such examinations are not necessary for the protection of the
685 public due to the centralized operations of the program licensee
686 or other factors acceptable to the office.

687 (3) The examined program licensee shall pay for the cost of
688 an examination to the office, pursuant to commission rule, and
689 the office may maintain an action for the recovery of the cost
690 in any court of competent jurisdiction. In determining the cost
691 of the examination, the office may use the estimated average
692 hourly cost for all persons performing examinations of program
693 licensees or other persons subject to ss. 516.40-516.46 for the
694 fiscal year.



485526

576-03836-17

695 (4) A program licensee or referral partner shall maintain,
696 preserve, and keep available for examination all books,
697 accounts, or other documents required by this chapter, any rule
698 or order adopted under this chapter, or any agreement entered
699 into with the office.

700 (5) A program licensee who violates any applicable
701 provision of this chapter is subject to disciplinary action
702 pursuant to s. 516.07(2). Any such disciplinary action is
703 subject to s. 120.60. A program licensee is also subject to
704 disciplinary action for a violation of s. 516.44 committed by
705 any of its referral partners.

706 (6) The office may take any of the following actions
707 against a referral partner who violates s. 516.44:

708 (a) Disqualify the referral partner from performing
709 services under this chapter;

710 (b) Bar the referral partner from performing services at
711 one or more specific locations of the referral partner;

712 (c) Terminate a written agreement between a referral
713 partner and a program licensee;

714 (d) Impose an administrative fine not to exceed \$1,000 for
715 each such act of the referral partner; and

716 (e) Prohibit program licensees from using the referral
717 partner, if the office deems it to be in the public interest.

718 Section 7. Section 516.46, Florida Statutes, is created to
719 read:

720 516.46 Annual reports; reports by the office.—

721 (1) Beginning in 2019, on or before March 15 of each year,
722 a program licensee shall file a report with the office on each
723 of the items specified in subsection (2), on a form and in a



485526

576-03836-17

724 manner as prescribed by commission rule, which contains
725 aggregated or anonymized data without reference to any
726 borrower's nonpublic personal information or any proprietary or
727 trade secret information of the program licensee.

728 (2) On or before January 1, 2020, the office shall post a
729 report on its website summarizing the use of the program based
730 on the information contained in reports filed by each program
731 licensee under subsection (1). The report must state the
732 information in the aggregate so as not to identify data by
733 specific program licensee and must specify the period to which
734 the report corresponds. The report must include, but not be
735 limited to, the following for that period:

736 (a) The number of entities that applied to participate in
737 the program.

738 (b) The number of entities accepted to participate in the
739 program.

740 (c) The office's reasons for rejecting applications for
741 participation, if applicable. This information must be provided
742 in a manner that does not identify the entity or entities
743 rejected.

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

750 (e) The number of borrowers who obtained more than one
751 program loan and the distribution of the number of program loans
752 per borrower.



485526

576-03836-17

753 (f) Of the borrowers who obtained more than one program
754 loan, the percentage of those borrowers whose credit scores
755 increased between successive loans, based on information from at
756 least one major credit bureau, and the average size of the
757 increase.

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

763 (h) The number of borrowers who obtained program loans for
764 the following purposes, based on borrower responses at the time
765 of their loan applications indicating the primary purpose for
766 which the program loan was obtained:

- 767 1. Pay medical expenses.
768 2. Pay for vehicle repair or a vehicle purchase.
769 3. Pay bills.
770 4. Consolidate debt.
771 5. Build or repair credit history.
772 6. Pay other expenses.

773 (i) The number of borrowers who self-report that they had a
774 bank account at the time of their loan application and the
775 number of borrowers who self-report that they did not have a
776 bank account at the time of their loan application.

777 (j) With respect to refinance program loans, the report
778 must specifically include the following information:

- 779 1. The number and percentage of borrowers who applied for a
780 refinance program loan.
781 2. Of those borrowers who applied for a refinance program



485526

576-03836-17

782 loan, the number and percentage of borrowers who obtained a
783 refinance program loan.

784 (k) The number and type of referral partners used by
785 program licensees.

786 (l) The number and percentage of borrowers who obtained one
787 or more program loans on which delinquency charges were
788 assessed, the total amount of delinquency charges assessed, and
789 the average delinquency charge assessed by dollar amount and as
790 a percentage of the principal amount loaned.

791 (m) The performance of program loans under the program as
792 reflected by all of the following:

793 1. The number and percentage of borrowers who experienced
794 at least one delinquency lasting between 7 and 29 days, and the
795 distribution of principal loan amounts corresponding to those
796 delinquencies.

797 2. The number and percentage of borrowers who experienced
798 at least one delinquency lasting between 30 and 59 days, and the
799 distribution of principal loan amounts corresponding to those
800 delinquencies.

801 3. The number and percentage of borrowers who experienced
802 at least one delinquency lasting 60 days or more, and the
803 distribution of principal loan amounts corresponding to those
804 delinquencies.

805 (n) The number and types of violations of ss. 516.40-516.46
806 by referral partners which were documented by the office.

807 (o) The number and types of violations of ss. 516.40-516.46
808 by program licensees which were documented by the office.

809 (p) The number of times that the office disqualified a
810 referral partner from performing services, barred a referral



485526

576-03836-17

811 partner from performing services at one or more specific
812 locations of the referral partner, terminated a written
813 agreement between a referral partner and a program licensee, or
814 imposed an administrative penalty.

815 (q) The number of complaints received by the office about a
816 program licensee or a referral partner and the nature of those
817 complaints.

818 Section 8. Sections 516.40-516.46, Florida Statutes, are
819 repealed on December 31, 2022, unless reenacted or superseded by
820 another law enacted by the Legislature before that date.

821 Section 9. This act shall take effect July 1, 2018.