

By Senator Rouson

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1 A bill to be entitled
2 An act relating to consumer finance loans; creating s.
3 516.40, F.S.; establishing the Access to Responsible
4 Credit Pilot Program within the Office of Financial
5 Regulation; providing legislative findings and intent;
6 creating s. 516.41, F.S.; defining terms; creating s.
7 516.42, F.S.; prohibiting a person from certain
8 activities relating to program loans unless the person
9 obtains a pilot program license from the office;
10 providing criteria for participation in the pilot
11 program; specifying application requirements and fees;
12 providing for construction; specifying a renewal fee;
13 requiring that branch offices of a program licensee be
14 licensed; specifying requirements and a fee for
15 applications for a program branch office license;
16 specifying a branch office renewal fee; requiring the
17 Financial Services Commission to adopt rules; creating
18 s. 516.43, F.S.; providing requirements and
19 limitations for program loans; authorizing certain
20 documents to be provided in the language in which the
21 loan was negotiated; requiring a program licensee to
22 provide specified disclosures; authorizing a program
23 licensee to contract for and receive a specified
24 nonrefundable origination fee from a borrower on a
25 program loan; authorizing a program licensee to
26 collect specified insufficient funds fees and
27 delinquency charges; requiring a program licensee to
28 provide specified credit education to a borrower
29 before disbursing program loan proceeds; requiring a
30 program licensee to report borrowers' payment
31 performance to at least one specified consumer
32 reporting agency and provide borrowers with the names

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33 of such agencies; prohibiting the office from
34 approving a person for the program before the person
35 is accepted as a data furnisher by a consumer
36 reporting agency; requiring a program licensee to
37 underwrite each program loan; prohibiting a program
38 licensee from making a program loan under certain
39 circumstances; providing required and authorized
40 procedures for a program licensee to determine a
41 borrower's ability and willingness to repay the
42 program loan; prohibiting a program licensee from
43 requiring certain waivers from a borrower or from
44 certain acts against a borrower who refuses certain
45 waivers; providing requirements for authorized
46 waivers; providing for applicability and construction;
47 creating s. 516.44, F.S.; requiring arrangements
48 between a program licensee and a referral partner to
49 be specified in a written agreement; providing
50 requirements for such agreement; specifying authorized
51 services for referral partners; providing requirements
52 for a referral partner who accepts loan payments from
53 a borrower; providing for construction; prohibiting
54 specified activities by a referral partner; requiring
55 a referral partner to provide a specified notice to an
56 applicant for a program loan and certain assistance to
57 the applicant under certain circumstances; specifying
58 requirements, limitations, and prohibitions for the
59 compensation of a referral partner by a program
60 licensee; requiring a program licensee to provide a
61 specified notice to the office after entering into a

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62 contract with a referral partner; requiring a referral
63 partner to provide written notice to the program
64 licensee of certain information within a specified
65 time; specifying the program licensee's responsibility
66 for acts of its referral partner; requiring a program
67 licensee to pay a specified fee to the office to file
68 a referral partner notice; requiring rulemaking by the
69 commission; creating s. 516.45, F.S.; requiring the
70 office to examine program licensees at specified
71 intervals beginning on a specified date; providing an
72 exception; requiring program licensees to pay the cost
73 of examinations; authorizing the office to maintain an
74 action for recovery of the cost; authorizing a method
75 to determine the cost of examinations; limiting the
76 scope of investigations into program licensees or
77 referral partners; providing that a program licensee
78 is subject to certain disciplinary action for certain
79 violations; authorizing the office to take certain
80 disciplinary actions; requiring rulemaking by the
81 commission; creating s. 516.46, F.S.; requiring a
82 program licensee to file a specified annual report
83 with the office beginning on a certain date; requiring
84 the office to post a report to its website summarizing
85 the use of the program by a certain date; specifying
86 information to be contained in the office's report;
87 providing for conditional future repeal of the
88 program; providing an effective date.

89
90 Be It Enacted by the Legislature of the State of Florida:

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

516.40 Access to Responsible Credit Pilot Program.—

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

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

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

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

(1) "Consumer reporting agency" has the same meaning as in s. 603(p) of the Fair Credit Reporting Act, 15 U.S.C. s. 1681a(p).

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

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

(4) "Pilot program" or "program" means the Access to

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120 Responsible Credit Pilot Program.

121 (5) "Pilot program license" means a license issued under
122 ss. 516.40-516.46 authorizing a program licensee to make and
123 collect program loans.

124 (6) "Program branch office license" means a location, other
125 than a program licensee's or referral partner's principal place
126 of business:

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

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

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

135 (7) "Program licensee" means a person who is licensed to
136 make and collect program loans under this chapter and who is
137 approved by the office to participate in the program.

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

142 (9) "Referral partner" means an entity that, at the
143 referral partner's physical location for business or through
144 other means, performs one or more of the services authorized in
145 s. 516.44(2) on behalf of a program licensee. A referral partner
146 is not a credit service organization as defined in s. 817.7001
147 or a loan broker as defined in s. 687.14.

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

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

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

155 516.42 Requirements for program participation; program
156 application requirements; fees.-

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

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

163 1. Be licensed to make consumer finance loans under s.
164 516.05.

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

166 3. Not be subject to the issuance of a cease and desist
167 order; the issuance of a removal order; the denial, suspension,
168 or revocation of a license; or any other action within the
169 authority of the office or any financial regulatory agency in
170 this state.

171 4. Not have a deficiency at the time of the person's
172 application.

173 5. Pay a nonrefundable application fee of \$1,000 to the
174 office at the time of making the application, pursuant to rule
175 of the commission.

176 (b) A program applicant shall file with the office a
177 digital application, in a form and manner prescribed by

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178 commission rule, which contains all of the following information
179 with respect to the applicant:

180 1. The legal business name and any other name the applicant
181 operates under.

182 2. The applicant's main address.

183 3. The telephone number and e-mail address of the
184 applicant.

185 4. The address of any program branch office.

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

188 6. The applicant's license number, if the applicant is
189 licensed under this chapter.

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

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

196 9. The signature and certification of an authorized person
197 of the applicant.

198 (3) A person who desires to participate in the program but
199 who is not licensed to make consumer finance loans pursuant to
200 s. 516.05 must concurrently submit the following digital
201 applications to the office, in a form and manner specified in
202 this chapter:

203 (a) An application and fee pursuant to s. 516.03 for
204 licensure to make consumer finance loans; and

205 (b) An application and fee for admission to the program in
206 accordance with subsection (2).

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

210 (5) A program licensee shall pay a nonrefundable biennial
211 renewal fee of \$1,000 pursuant to commission rule.

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

219 (7) Each branch office of a program licensee must be
220 licensed under this section.

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

235 (a) The legal business name and any other name the

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236 applicant operates under.

237 (b) The applicant's main address.

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

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

240 (e) The name, title, address, telephone number, and e-mail
 241 address of the contact person for the applicant.

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

244 (g) The signature and certification of an authorized person
 245 of the applicant.

246 (9) A program branch office license must be renewed
 247 biennially at the time of renewing the program license under
 248 subsection (5). A nonrefundable branch renewal fee of \$30 per
 249 program branch office, by commission rule, must be submitted at
 250 the time of renewal.

251 Section 4. Section 516.43, Florida Statutes, is created to
 252 read:

253 516.43 Requirements for program loans.—

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

256 (a) A program loan must be unsecured.

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

259 (c) A program loan must be repayable by the borrower in
 260 substantially equal weekly, biweekly, semimonthly, or monthly
 261 installments.

262 (d) A program loan must include a borrower's right to
 263 rescind the program loan by notifying the program licensee of
 264 the borrower's intent to rescind the program loan and return the

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265 principal advanced by the end of the business day after the day
266 the program loan is consummated.

267 (e) Notwithstanding s. 516.031, the interest rate charged
268 on a program loan to the borrower may not exceed 36 percent. The
269 interest rate must be fixed for the life of the program loan and
270 must accrue on a simple-interest basis through the application
271 of a daily periodic rate to the actual unpaid principal balance
272 each day.

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

277 1. The subsequent program loan is originated no more than
278 180 days after the prior program loan is fully repaid.

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

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

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

286 1. The principal amount payable does not include more than
287 60 days of unpaid interest accrued on the previous program loan
288 in accordance with s. 516.031(5);

289 2. The borrower has repaid at least 60 percent of the
290 outstanding principal remaining on his or her existing program
291 loan;

292 3. The borrower is current on his or her outstanding
293 program loan;

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294 4. The program licensee has underwritten the new program
295 loan in accordance with subsection (7); and

296 5. The borrower has not previously refinanced the
297 outstanding program loan.

298 (h) In lieu of the provisions of s. 687.08, a program
299 licensee or, if applicable, its approved referral partner shall
300 make available to the borrower by either electronic or physical
301 means a plain and complete receipt of payment at the time that a
302 payment is made by the borrower. For audit purposes, a program
303 licensee shall maintain an electronic record for each receipt
304 made available to a borrower, which must include a copy of the
305 receipt and the date and time that the receipt was generated.
306 Each receipt of payment must show all of the following:

307 1. The name of the borrower.

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

309 3. The total payment amount received.

310 4. The date of payment.

311 5. The program loan balance before and after application of
312 the payment.

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

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

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

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323 (2) WRITTEN DISCLOSURES.—

324 (a) Notwithstanding s. 516.15(1), the loan contract and all
325 written disclosures and statements may be provided in English or
326 in the language in which the loan is negotiated.

327 (b) A program licensee shall provide those disclosures
328 required of all licensees in s. 516.15.

329 (3) ORINATION FEES.—

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

340 (b) A program licensee may not charge a borrower an
341 origination fee more than twice in any 12-month period.

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

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

345 (a) Require payment from a borrower of no more than \$25 for
346 fees incurred by the program licensee from a dishonored payment
347 due to insufficient funds of the borrower.

348 (b) Notwithstanding s. 516.031(3)(a)9., contract for and
349 receive a delinquency charge of no more than \$14 for each
350 payment in default for at least 7 days, if the charge is agreed
351 upon in writing between the parties before imposing the charge.

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352 A delinquency fee imposed by a program licensee is subject to
353 all of the following restrictions:

354 1. No more than one delinquency fee may be imposed per
355 delinquent payment.

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

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

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

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

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

372 (6) CREDIT REPORTING.—

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

380 (b) The office may not approve a person for the program

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381 before the person has been accepted as a data furnisher by a
382 consumer reporting agency.

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

386 (7) PROGRAM LOAN UNDERWRITING.—

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

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

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

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

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

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

419 (8) PROVISIONS ON WAIVERS.-

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

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

427 2. Agree to the application of laws other than those of
428 this state.

429 3. Agree to resolve disputes in a jurisdiction outside of
430 this state.

431 (b) A waiver by a borrower, other than one prohibited under
432 paragraph (a), must be knowing, voluntary, in writing, and not
433 expressly made a condition of doing business with the program
434 licensee. A waiver that is required as a condition of doing
435 business with the program licensee is presumed involuntary,
436 unconscionable, against public policy, and unenforceable. The
437 program licensee has the burden of proving that a waiver of any
438 rights, penalties, forums, or procedures was knowing, voluntary,

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439 and not expressly made a condition of the contract with the
440 borrower.

441 (c) A program licensee may not refuse to do business with
442 or discriminate against a borrower or an applicant on the basis
443 of the borrower's or applicant's refusal to waive any right,
444 penalty, remedy, forum, or procedure, including the right to
445 file and pursue a civil action or complaint with, or otherwise
446 notify, the office, a court, or any other governmental entity.
447 The exercise of a person's right to refuse to waive any right,
448 penalty, remedy, forum, or procedure, including a rejection of a
449 contract requiring a waiver, does not affect any otherwise legal
450 terms of a contract or an agreement.

451 (d) This subsection does not apply to any agreement to
452 waive any right, penalty, remedy, forum, or procedure, including
453 any agreement to arbitrate a claim or dispute, after a claim or
454 dispute has arisen. This subsection does not affect the
455 enforceability or validity of any other provision of the
456 contract.

457 Section 5. Section 516.44, Florida Statutes, is created to
458 read:

459 516.44 Referral partners.—

460 (1) REFERRAL PARTNER AGREEMENT.—All arrangements between a
461 program licensee and a referral partner must be specified in a
462 written referral partner agreement between the parties. The
463 agreement must contain a provision that the referral partner
464 agrees to comply with this section and all rules adopted under
465 this section regarding the activities of referral partners, and
466 that the office has access to the referral partner's books and
467 records pertaining to the referral partner's operations under

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468 the agreement with the program licensee in accordance with s.
469 516.45(4).

470 (2) AUTHORIZED SERVICES.—A program licensee may use the
471 services of one or more referral partners as provided in this
472 section. A referral partner may perform one or more of the
473 following services for a program licensee:

474 (a) Distributing, circulating, using, or publishing printed
475 brochures, flyers, fact sheets, or other written materials
476 relating to program loans that the program licensee may make or
477 negotiate. The written materials must be reviewed and approved
478 in writing by the program licensee before being distributed,
479 circulated, used, or published.

480 (b) Providing written factual information about program
481 loan terms, conditions, or qualification requirements to a
482 prospective borrower which has been prepared by the program
483 licensee or reviewed and approved in writing by the program
484 licensee. A referral partner may discuss the information with a
485 prospective borrower in general terms.

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

488 (d) Entering information provided by the prospective
489 borrower on a preprinted or an electronic application form or in
490 a preformatted computer database.

491 (e) Assembling credit applications and other materials
492 obtained in the course of a credit application transaction for
493 submission to the program licensee.

494 (f) Contacting the program licensee to determine the status
495 of a program loan application.

496 (g) Communicating a response that is returned by the

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497 program licensee's automated underwriting system to a borrower
498 or a prospective borrower.

499 (h) Obtaining a borrower's signature on documents prepared
500 by the program licensee and delivering final copies of the
501 documents to the borrower.

502 (i) Disbursing program loan proceeds to a borrower if this
503 method of disbursement is acceptable to the borrower, subject to
504 the requirements of subsection (3). A loan disbursement made by
505 a referral partner under this paragraph is deemed to be made by
506 the program licensee on the date that the funds are disbursed or
507 otherwise made available by the referral partner to the
508 borrower.

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

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

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

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

520 (b) A referral partner that receives loan payments must
521 deliver or cause to be delivered to the borrower a plain and
522 complete receipt showing all of the information specified in s.
523 516.43(1)(h) at the time that the payment is made by the
524 borrower.

525 (c) A borrower who submits a loan payment to a referral

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526 partner under this subsection is not liable for a failure or
527 delay by the referral partner in transmitting the payment to the
528 program licensee.

529 (d) A referral partner that disburses or receives loan
530 payments pursuant to paragraph (2)(i) or paragraph (2)(j) must
531 maintain records of all disbursements made and loan payments
532 received for a period of at least 2 years.

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

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

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

540 (c) Negotiating a loan term between a program licensee and
541 a prospective borrower.

542 (d) Offering information pertaining to a single prospective
543 borrower to more than one program licensee. However, if a
544 program licensee has declined to offer a program loan to a
545 prospective borrower and has so notified the prospective
546 borrower in writing, the referral partner may then offer
547 information pertaining to that borrower to another program
548 licensee with whom it has a referral partner agreement.

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

552 (5) DISCLOSURE NOTICE AND COMMUNICATION.—

553 (a) At the time the referral partner receives or processes
554 an application for a program loan, the referral partner shall

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555 provide the following statement to the applicant on behalf of
556 the program licensee, in no smaller than 10-point type, and
557 shall request that the applicant acknowledge receipt of the
558 statement in writing:

559
560 Your loan application has been referred to us by
561 ...(name of referral partner).... We may pay a fee to
562 ...(name of referral partner)... for the successful
563 referral of your loan application. If you are approved
564 for the loan, ...(name of program licensee)... will
565 become your lender. If you have any questions about
566 your loan, now or in the future, you should direct
567 those questions to ...(name of program licensee)... by
568 ...(insert at least two different ways in which a
569 borrower may contact the program licensee).... If you
570 wish to report a complaint about ...(name of referral
571 partner)... or ...(name of program licensee)...
572 regarding this loan transaction, you may contact the
573 Division of Consumer Finance of the Office of
574 Financial Regulation at 850-487-9687 or
575 <http://www.flofr.com>.

576
577 (b) If the loan applicant has questions about the program
578 loan which the referral partner is not permitted to answer, the
579 referral partner must make a good faith effort to assist the
580 applicant in making direct contact with the program licensee
581 before the program loan is consummated.

582 (6) COMPENSATION.—

583 (a) The program licensee may compensate a referral partner

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584 in accordance with a written agreement and a compensation
585 schedule that is mutually agreed to by the program licensee and
586 the referral partner, subject to the requirements in paragraph
587 (b).

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

590 1. Compensation may not be paid to a referral partner in
591 connection with a loan application unless the program loan is
592 consummated.

593 2. Compensation may not be paid to a referral partner based
594 upon the principal amount of the program loan.

595 3. Compensation may not be directly or indirectly passed on
596 to a borrower through a fee or other compensation, or a portion
597 of a fee or other compensation, charged to a borrower.

598 4. Subject to the limitations specified in subparagraphs
599 1., 2., and 3., the total compensation paid by a program
600 licensee to a referral partner for the services specified in
601 subsection (2) may not exceed the sum of:

602 a. Sixty dollars per program loan, on average, assessed
603 annually, whether paid at the time of consummation, through
604 installments, or in a manner otherwise agreed upon by the
605 program licensee and the referral partner; and

606 b. Two dollars per payment received by the referral partner
607 on behalf of the program licensee for the duration of the
608 program loan, if the referral partner receives borrower loan
609 payments on the program licensee's behalf in accordance with
610 subsection (3).

611 5. The referral partner's location for services and other
612 information required by subsection (7) must be reported to the

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613 office.

614 (c) A program licensee or a referral partner may not pass
615 on to a borrower, whether directly or indirectly, any additional
616 cost or other charge for compensation paid to a referral partner
617 under this program.

618 (7) NOTICE TO OFFICE.—A program licensee that uses the
619 service of a referral partner must notify the office, in a form
620 and manner prescribed by the commission, within 15 days after
621 entering into a contract with a referral partner regarding all
622 of the following:

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

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

629 (c) The name and contact information of one or more
630 employees of the referral partner who are responsible for that
631 referral partner's referring activities on behalf of the program
632 licensee.

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

636 1. The filing of a petition under the United States
637 Bankruptcy Code for bankruptcy or reorganization by the referral
638 partner.

639 2. The commencement of an administrative or judicial
640 license suspension or revocation proceeding, or the denial of a
641 license request or renewal, by any state, the District of

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642 Columbia, any United States territory, or any foreign country in
643 which the referral partner operates, plans to operate, or is
644 licensed to operate.

645 3. A felony indictment involving the referral partner or an
646 affiliated party.

647 4. A felony conviction, guilty plea, or plea of nolo
648 contendere, regardless of adjudication, of the referral partner
649 or an affiliated party.

650 5. Any suspected criminal act perpetrated in this state
651 relating to activities regulated under this chapter by a
652 referral partner.

653 6. Notification by a law enforcement or prosecutorial
654 agency that the referral partner is under criminal investigation
655 which includes, but is not limited to, subpoenas to produce
656 records or testimony and warrants issued by a court of competent
657 jurisdiction which authorize the search and seizure of any
658 records relating to a business activity regulated under this
659 chapter.

660
661 As used in this paragraph, the term "affiliated party" means a
662 director, an officer, a responsible person, an employee, or a
663 foreign affiliate of a referral partner; or a person who has a
664 controlling interest in a referral partner.

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

667 (8) NOTICE OF CHANGES.—A referral partner must provide the
668 program licensee with written notice, sent by registered mail,
669 within 30 days after any changes are made to the information
670 specified in paragraphs (7) (a)-(c) or within 30 days after the

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671 occurrence or knowledge of any of the events specified in
672 paragraph (7) (d), whichever is later.

673 (9) RESPONSIBILITY FOR ACTS OF A REFERRAL PARTNER.—A
674 program licensee is responsible for any act of its referral
675 partner if the program licensee should have known of the act or
676 if the program licensee had actual knowledge that the act is a
677 violation of this chapter and allowed it to continue. Such
678 responsibility is limited to conduct engaged in by the referral
679 partner pursuant to the authority granted to it by the program
680 licensee under the contract between the referral partner and the
681 program licensee.

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

686 Section 6. Section 516.45, Florida Statutes, is created to
687 read:

688 516.45 Examinations; disciplinary actions.—

689 (1) Notwithstanding any other law, commencing on January 1,
690 2018, the office shall examine each program licensee that is
691 accepted into the program in accordance with this chapter at
692 least once every 24 months.

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

698 (3) The examined program licensee shall pay for the cost of
699 an examination to the office, pursuant to commission rule, and

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700 the office may maintain an action for the recovery of the cost
701 in any court of competent jurisdiction. In determining the cost
702 of the examination, the office may use the estimated average
703 hourly cost for all persons performing examinations of program
704 licensees or other persons subject to ss. 516.40-516.46 for the
705 fiscal year.

706 (4) The scope of any investigation or examination of a
707 program licensee or referral partner must be limited to those
708 books, accounts, records, documents, materials, and matters
709 reasonably necessary to determine compliance with this chapter.

710 (5) A program licensee who violates any applicable
711 provision of this chapter is subject to disciplinary action
712 pursuant to s. 516.07(2). Any such disciplinary action is
713 subject to s. 120.60. A program licensee is also subject to
714 disciplinary action for a violation of s. 516.44 committed by
715 any of its referral partners.

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

718 (a) Disqualify the referral partner from performing
719 services under this chapter;

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

722 (c) Terminate a written agreement between a referral
723 partner and a program licensee;

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

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

728 Section 7. Section 516.46, Florida Statutes, is created to

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729 read:

730 516.46 Annual reports; reports by the office.-

731 (1) Beginning in 2019, on or before March 15 of each year,
732 a program licensee shall file a report with the office on each
733 of the items specified in subsection (2), on a form and in a
734 manner as prescribed by commission rule, which contains
735 aggregated or anonymized data without reference to any
736 borrower's nonpublic personal information or any proprietary or
737 trade secret information of the program licensee.

738 (2) On or before January 1, 2020, the office shall post a
739 report on its website summarizing the use of the program based
740 on the information contained in reports filed by each program
741 licensee under subsection (1). The report must state the
742 information in the aggregate so as not to identify data by
743 specific program licensee and must specify the period to which
744 the report corresponds. The report must include, but not be
745 limited to, the following for that period:

746 (a) The number of entities that applied to participate in
747 the program.

748 (b) The number of entities accepted to participate in the
749 program.

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

754 (d) The number of program loan applications received by
755 program licensees participating in the program, the number of
756 program loans made under the program, the total amount loaned,
757 the distribution of loan lengths upon origination, and the

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758 distribution of interest rates and principal amounts upon
759 origination among those program loans.

760 (e) The number of borrowers who obtained more than one
761 program loan and the distribution of the number of program loans
762 per borrower.

763 (f) Of the borrowers who obtained more than one program
764 loan, the percentage of those borrowers whose credit scores
765 increased between successive loans, based on information from at
766 least one major credit bureau, and the average size of the
767 increase.

768 (g) The income distribution of borrowers upon program loan
769 origination, including the number of borrowers who obtained at
770 least one program loan and who resided in a low-income or
771 moderate-income census tract at the time of their loan
772 applications.

773 (h) The number of borrowers who obtained program loans for
774 the following purposes, based on borrower responses at the time
775 of their loan applications indicating the primary purpose for
776 which the program loan was obtained:

- 777 1. Pay medical expenses.
- 778 2. Pay for vehicle repair or a vehicle purchase.
- 779 3. Pay bills.
- 780 4. Consolidate debt.
- 781 5. Build or repair credit history.
- 782 6. Pay other expenses.

783 (i) The number of borrowers who self-report that they had a
784 bank account at the time of their loan application and the
785 number of borrowers who self-report that they did not have a
786 bank account at the time of their loan application.

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

789 1. The number and percentage of borrowers who applied for a
790 refinance program loan.

791 2. Of those borrowers who applied for a refinance program
792 loan, the number and percentage of borrowers who obtained a
793 refinance program loan.

794 (k) The number and type of referral partners used by
795 program licensees.

796 (l) The number and percentage of borrowers who obtained one
797 or more program loans on which delinquency charges were
798 assessed, the total amount of delinquency charges assessed, and
799 the average delinquency charge assessed by dollar amount and as
800 a percentage of the principal amount loaned.

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

803 1. The number and percentage of borrowers who experienced
804 at least one delinquency lasting between 7 and 29 days, and the
805 distribution of principal loan amounts corresponding to those
806 delinquencies.

807 2. The number and percentage of borrowers who experienced
808 at least one delinquency lasting between 30 and 59 days, and the
809 distribution of principal loan amounts corresponding to those
810 delinquencies.

811 3. The number and percentage of borrowers who experienced
812 at least one delinquency lasting 60 days or more, and the
813 distribution of principal loan amounts corresponding to those
814 delinquencies.

815 (n) The number and types of violations of ss. 516.40-516.46

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816 by referral partners which were documented by the office.

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

819 (p) The number of times that the office disqualified a
820 referral partner from performing services, barred a referral
821 partner from performing services at one or more specific
822 locations of the referral partner, terminated a written
823 agreement between a referral partner and a program licensee, or
824 imposed an administrative penalty.

825 (q) The number of complaints received by the office about a
826 program licensee or a referral partner and the nature of those
827 complaints.

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

831 Section 9. This act shall take effect October 1, 2017.