

1                   A bill to be entitled  
2           An act relating to consumer finance pilot program;  
3           creating s. 516.40, F.S.; establishing the Access to  
4           Responsible Credit Pilot Program within the Office of  
5           Financial Regulation; providing legislative findings  
6           and intent; creating s. 516.41, F.S.; providing  
7           definitions; creating s. 516.42, F.S.; requiring  
8           persons to obtain a program license from the office  
9           before making program loans; providing licensure  
10          requirements; specifying application and renewal fees;  
11          requiring a program licensee's program branch offices  
12          to be licensed; providing program branch office  
13          license and license renewal requirements; creating s.  
14          516.43, F.S.; providing requirements for program  
15          licensees, disclosures and statements provided by  
16          program licensees to borrowers, origination fees,  
17          insufficient funds fees, and delinquency charges;  
18          requiring program licensees to provide certain credit  
19          education and reporting information to borrowers and  
20          to report payment performance of borrowers to consumer  
21          reporting agency; prohibiting the office from  
22          approving a program licensee applicant before the  
23          applicant has been accepted as a data furnisher by  
24          consumer reporting agency; specifying requirements for  
25          program licensees to underwrite program loans;

26 | prohibiting program licensees from requiring certain  
27 | waivers from borrowers; providing applicability;  
28 | creating s. 516.44, F.S.; requiring program licensees  
29 | and referral partners to enter into a written referral  
30 | partner agreement; specifying referral partner  
31 | services which may be used by program licensees;  
32 | specifying procedures for receipt or disbursement by  
33 | referral partners of program loan payments made by  
34 | borrowers; exempting specified borrowers from  
35 | liability under certain circumstances; prohibiting  
36 | certain activities by referral partners; providing  
37 | disclosure statement requirements; providing  
38 | requirements, prohibitions, and limitations relating  
39 | to program licensees compensating referral partners;  
40 | requiring program licensees to provide the office with  
41 | a specified notice after contracting with referral  
42 | partners; requiring referral partners to provide  
43 | program licensees with a certain written notice within  
44 | a specified time; providing that program licensees are  
45 | responsible for acts of their referral partners;  
46 | requiring program licensees to pay a specified fee to  
47 | the office for each of their referral partners;  
48 | creating s. 516.45, F.S.; requiring the office to  
49 | examine program licensees at certain intervals  
50 | beginning on a specified date; providing an exception;

51 requiring program licensees to reimburse the office  
52 for examination costs; authorizing the office to  
53 maintain an action for the recovery of such costs;  
54 authorizing a method for the office to determine such  
55 costs; limiting the scope of certain examinations and  
56 investigations; authorizing the office to take certain  
57 disciplinary action against program licensees and  
58 referral partners; creating s. 516.46, F.S.; requiring  
59 program licensees to file an annual report with the  
60 office beginning on a specified date; requiring the  
61 office to post an annual report on its website by a  
62 specified date; specifying information to be contained  
63 in the reports; providing for conditional future  
64 repeal of the program; providing an effective date.

65  
66 Be It Enacted by the Legislature of the State of Florida:

67  
68 Section 1. Section 516.40, Florida Statutes, is created to  
69 read:

70 516.40 Access to Responsible Credit Pilot Program.—

71 (1) The Access to Responsible Credit Pilot Program is  
72 created within the Office of Financial Regulation.

73 (2) The Legislature finds that demand for responsible  
74 consumer finance loans in principal amounts of at least \$300 but  
75 not more than \$10,000 exceeds the supply of these loans. As a

76 first step toward addressing this gap, the Access to Responsible  
77 Credit Pilot Program would allow more Floridians to obtain  
78 responsible consumer finance loans in principal amounts of at  
79 least \$300 but not more than \$10,000. The pilot program is  
80 intended to assist consumers in building their credit and  
81 provides additional consumer protections for these loans that  
82 exceed current protections under general law.

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

85 516.41 Definitions.— As used in ss. 516.40-516.46, the  
86 term:

87 (1) "Consumer reporting agency" has the same meaning as in  
88 s. 603(p) of the Fair Credit Reporting Act, 15 U.S.C. s.  
89 1681a(p).

90 (2) "Credit score" has the same meaning as in s.  
91 609(f) (2) (A) of the Fair Credit Reporting Act, 15 U.S.C. s.  
92 1681g(f) (2) (A).

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

95 (4) "Pilot program" or "program" means the Access to  
96 Responsible Credit Pilot Program.

97 (5) "Pilot program license" or "program license" means a  
98 license issued under ss. 516.40-516.46 authorizing a program  
99 licensee to make and collect pilot program loans.

100 (6) "Program branch office license" means a location,

101 other than a program licensee's or referral partner's principal  
102 place of business:

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

106 (b) At which the program licensee's name, advertising or  
107 promotional materials, or signage suggests that program loans  
108 are originated, negotiated, funded, or serviced by the program  
109 licensee; or

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

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

115 (8) "Program loan" means a consumer finance loan with a  
116 principal amount of at least \$300 but not more than \$10,000  
117 originated pursuant to ss. 516.40-516.46, excluding the amount  
118 of the origination fee authorized under s. 516.43(3).

119 (9) "Referral partner" means an entity that, at the  
120 referral partner's physical business location or through other  
121 means, performs one or more of the services authorized in s.  
122 516.44(2) on behalf of a program licensee. A referral partner is  
123 not a credit service organization as defined in s. 817.7001 or a  
124 loan broker as defined in s. 687.14.

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

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

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

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

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

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

140 1. Be licensed to make consumer finance loans under s.  
141 516.05.

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

143 3. Not be subject to the issuance of a cease and desist  
144 order; the issuance of a removal order; the denial, suspension,  
145 or revocation of a license; or any other action within the  
146 authority of the office or any financial regulatory agency in  
147 this state.

148 4. Not have a deficiency at the time of the person's  
149 application.

150 5. Pay a nonrefundable application fee of \$1,000 to the

151 office at the time of making the application, pursuant to rule  
152 of the commission.

153 (b) A program applicant must file with the office a  
154 digital application in a form and manner prescribed by rule of  
155 the commission which contains all of the following information  
156 with respect to the applicant:

157 1. The legal business name and any other name under which  
158 the applicant operates.

159 2. The main address.

160 3. The telephone number and e-mail address.

161 4. The address of each program branch office.

162 5. The contact person's name, title, address, telephone  
163 number, and e-mail address.

164 6. The license number, if licensed under this chapter.

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

167 8. A statement that the applicant has been accepted as a  
168 data furnisher by a consumer reporting agency and will report to  
169 a consumer reporting agency the payment performance of each  
170 borrower on all program loans.

171 9. The signature and certification of any person  
172 authorized by the applicant.

173 (3) A person who desires to participate in the program but  
174 who is not licensed to make consumer finance loans pursuant to  
175 s. 516.05 must concurrently submit the following digital

176 applications to the office, in a form and manner specified in  
177 this chapter:

178 (a) An application and a fee pursuant to s. 516.03 for  
179 licensure to make consumer finance loans.

180 (b) An application and a fee for admission to the program  
181 in accordance with subsection (2).

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

185 (5) A program licensee must pay a nonrefundable biennial  
186 renewal fee of \$1,000 pursuant to rule of the commission.

187 (6) Notwithstanding s. 516.05(3), only one pilot program  
188 license is required for a person to make program loans under ss.  
189 516.40-516.46, regardless of whether the program licensee offers  
190 program loans to prospective borrowers at its own physical  
191 business locations, through referral partners, or via an  
192 electronic access point through which a prospective borrower may  
193 directly access the website of the program licensee.

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

196 (8) The office must issue a program branch office license  
197 to a program licensee after the office determines that the  
198 program licensee has submitted a completed electronic  
199 application for a program branch office license in a form  
200 prescribed by rule of the commission and payment of an initial



201 nonrefundable program branch office license fee of \$30 per  
202 branch office as prescribed by rule of the commission.  
203 Application fees may not be prorated for partial years of  
204 licensure. The program branch office license must be issued in  
205 the name of the program licensee that maintains the branch  
206 office. An application is considered received for purposes of s.  
207 120.60 upon receipt of a completed application form and the  
208 required fees. The application for a program branch office  
209 license must contain the following information:

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

212 (b) The applicant's main address.

213 (c) The telephone number and e-mail address.

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

215 (e) The contact person's name, title, address, telephone  
216 number, and e-mail address.

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

219 (g) The signature and certification of any person  
220 authorized by the applicant.

221 (9) A program branch office license must be renewed  
222 biennially at the time of renewing the program license under  
223 subsection (5). A nonrefundable branch renewal fee of \$30 per  
224 program branch office, established by rule of the commission,  
225 must be submitted at the time of renewal.

226 Section 4. Section 516.43, Florida Statutes, is created to  
227 read:

228 516.43 Requirements for program loans.—

229 (1) REQUIREMENTS.—A program licensee must comply with each  
230 of the following requirements in making program loans:

231 (a) A program loan must be unsecured.

232 (b) A program loan must have a term of at least 120 days  
233 but not more than 60 months and may not have a prepayment  
234 penalty.

235 (c) A program loan must be repayable by the borrower in  
236 substantially equal periodic installments, except that the final  
237 payment may be less than the amount of the prior installments.  
238 Installments must be due either every 2 weeks, semimonthly, or  
239 monthly.

240 (d) A program loan must include a borrower's right to  
241 rescind the program loan by notifying the program licensee of  
242 the borrower's intent to rescind the program loan and returning  
243 the principal advanced by the end of the business day after the  
244 day the program loan is consummated.

245 (e) Notwithstanding s. 516.031, the maximum annual  
246 interest rate charged on a program loan to the borrower is 36  
247 percent on that portion of the unpaid principal balance up to  
248 and including \$3,000; 30 percent on that portion of the unpaid  
249 principal balance that is more than \$3,000 and up to and  
250 including \$4,000; and 24 percent on that portion of the unpaid

251 principal balance that is more than \$4,000 and up to and  
252 including \$10,000. The original principal amount of the program  
253 loan is equal to the amount financed as defined by the federal  
254 Truth in Lending Act and Regulation Z of the federal Consumer  
255 Financial Protection Bureau. In determining compliance with the  
256 maximum annual interest rates in this paragraph, the  
257 computations used must be simple interest through the  
258 application of a daily periodic rate to the actual unpaid  
259 principal balance each day and may not be added-on interest or  
260 any other computations.

261 (f) If two or more interest rates are applied to the  
262 principal amount of a program loan, the program licensee may  
263 charge, contract for, and receive interest at that single annual  
264 percentage rate which, if applied according to the actuarial  
265 method to each of the scheduled periodic balances of principal,  
266 would produce at maturity the same total amount of interest as  
267 would result from the application of the two or more rates  
268 otherwise permitted, based upon the assumption that all payments  
269 are made as agreed.

270 (g) The program licensee must reduce the rate on each  
271 subsequent program loan to the same borrower by a minimum of  
272 one-twelfth of 1 percent per month, if all of the following  
273 conditions are met:

274 1. The subsequent program loan is originated no more than  
275 180 days after the prior program loan is fully repaid.

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

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

280        (h) A program licensee may not induce or permit any person  
281 to become obligated to the program licensee, directly or  
282 contingently, or both, under more than one program loan at the  
283 same time with the program licensee.

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

287        1. The principal amount payable may not include more than  
288 60 days' unpaid interest accrued on the previous program loan  
289 pursuant to s. 516.031(5).

290        2. For program loans with an original term up to and  
291 including 25 months, the borrower has repaid at least 60 percent  
292 of the outstanding principal remaining on his or her existing  
293 program loan.

294        3. For program loans with an original term of greater than  
295 25 months, but not more than 60 months, the borrower has made  
296 current payments for at least 9 months on his or her existing  
297 program loan.

298        4. The borrower is current on payments for his or her  
299 existing program loan.

300        5. The program licensee must underwrite the new program

301 loan in accordance with subsection (7).

302 (j) In lieu of the provisions of s. 687.08, a program  
303 licensee or, if applicable, its approved referral partner must  
304 make available to the borrower by electronic or physical means a  
305 plain and complete receipt of payment at the time that a payment  
306 is made by the borrower. For audit purposes, a program licensee  
307 must maintain an electronic record for each receipt made  
308 available to a borrower, which must include a copy of the  
309 receipt and the date and time that the receipt was generated.

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

- 311 1. The name of the borrower.
- 312 2. The name of the referral partner, if applicable.
- 313 3. The total payment amount received.
- 314 4. The date of payment.
- 315 5. The program loan balance before and after application  
316 of the payment.
- 317 6. The amount of the payment that was applied to the  
318 principal, interest, and fees.
- 319 7. The type of payment made by the borrower.
- 320 8. The following statement, prominently displayed in a  
321 type size equal to or greater than the type size used to display  
322 the other items on the receipt: "If you have any questions about  
323 your loan now or in the future, you should direct those  
324 questions to ... (name of program licensee) ... by ... (at least  
325 two different ways in which a borrower may contact the program

326 licensee)...."

327 (2) DISCLOSURES AND STATEMENTS.—

328 (a) Notwithstanding s. 516.15(1), the loan contract and  
 329 all written disclosures and statements may be provided by a  
 330 program licensee to a borrower in English or any other language  
 331 in which the loan is negotiated. A program licensee must pay for  
 332 any translation costs incurred by the office.

333 (b) The statements required in s. 516.15 must be provided  
 334 by a program licensee to a borrower.

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

337 (a) Contract for and receive an origination fee from a  
 338 borrower on a program loan. The program licensee may either  
 339 deduct the origination fee from the principal amount of the loan  
 340 disbursed to the borrower or capitalize the origination fee into  
 341 the principal balance of the loan. The origination fee is fully  
 342 earned and nonrefundable immediately upon the making of the  
 343 program loan and may not exceed the lesser of 6 percent of the  
 344 principal amount of the program loan made to the borrower,  
 345 exclusive of the origination fee, or \$75.

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

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

349 Notwithstanding s. 516.031, a program licensee may:

350 (a) Require payment from a borrower of no more than \$20

351 for fees incurred by the program licensee from a dishonored  
352 payment due to insufficient funds of the borrower.

353 (b) Contract for and receive a delinquency charge of up to  
354 \$15 for each calendar month for each payment in default for at  
355 least 10 days if the charge is agreed upon in writing between  
356 the program licensee and the borrower before it is imposed.

357  
358 The program licensee or any wholly owned subsidiary of the  
359 program licensee may not sell or assign an unpaid debt for  
360 collection purposes unless the debt has been delinquent for at  
361 least 30 days.

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

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

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

371 (6) CREDIT REPORTING.—

372 (a) The program licensee must report each borrower's  
373 payment performance to at least one consumer reporting agency  
374 that compiles and maintains files on consumers on a nationwide  
375 basis. As used in this section, the term "consumer reporting

376 agency that compiles and maintains files on consumers on a  
377 nationwide basis" has the same meaning as in s. 603(p) of the  
378 Fair Credit Reporting Act, 15 U.S.C. s. 1681a(p).

379 (b) The office may not approve a program licensee  
380 applicant before the applicant has been accepted as a data  
381 furnisher by a consumer reporting agency.

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

385 (7) PROGRAM LOAN UNDERWRITING.—

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

395 (b)1. The program licensee must seek information and  
396 documentation pertaining to all of a borrower's outstanding debt  
397 obligations during the loan application and underwriting  
398 process, including loans that are self-reported by the borrower  
399 but not available through independent verification. The program  
400 licensee must verify such information using a credit report from



401 at least one consumer reporting agency that compiles and  
402 maintains files on consumers on a nationwide basis or through  
403 other available electronic debt verification services that  
404 provide reliable evidence of a borrower's outstanding debt  
405 obligations.

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

409 (c) The program licensee must also verify the borrower's  
410 income to determine the debt-to-income ratio using information  
411 from:

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

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

418 (8) WAIVERS.—

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

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

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

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

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

433        (c) A program licensee may not refuse to do business with  
434 or discriminate against a borrower or an applicant on the basis  
435 that the borrower or applicant refuses to waive any right,  
436 penalty, remedy, forum, or procedure, including the right to  
437 file and pursue a civil action or complaint with, or otherwise  
438 notify, the office, a court, or any other governmental entity.  
439 The exercise of a person's right to refuse to waive any right,  
440 penalty, remedy, forum, or procedure, including a rejection of a  
441 contract requiring a waiver, does not affect any otherwise legal  
442 terms of a contract or an agreement.

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

449        Section 5. Section 516.44, Florida Statutes, is created to  
450 read:

451       516.44 Referral partners.-

452       (1) REFERRAL PARTNER AGREEMENT.-All arrangements between a  
453 program licensee and a referral partner must be specified in a  
454 written referral partner agreement between the parties. The  
455 agreement must contain a provision that the referral partner  
456 agrees to comply with this section and all rules adopted under  
457 this section regarding the activities of referral partners, and  
458 that the office has access to the referral partner's books and  
459 records pertaining to the referral partner's operations under  
460 the agreement with the program licensee in accordance with s.  
461 516.45(4) and may examine the referral partner pursuant to s.  
462 516.45.

463       (2) AUTHORIZED SERVICES.-A program licensee may use the  
464 services of one or more referral partners as provided in this  
465 section. A referral partner may perform one or more of the  
466 following services for a program licensee:

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

473       (b) Providing written factual information about program  
474 loan terms, conditions, or qualification requirements to a  
475 prospective borrower which has been prepared by the program

476 licensee or reviewed and approved in writing by the program  
477 licensee. A referral partner may discuss the information with a  
478 prospective borrower in general terms.

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

481 (d) Entering information provided by the prospective  
482 borrower on a preprinted or an electronic application form or in  
483 a preformatted computer database.

484 (e) Assembling credit applications and other materials  
485 obtained in the course of a credit application transaction for  
486 submission to the program licensee.

487 (f) Contacting the program licensee to determine the  
488 status of a program loan application.

489 (g) Communicating a response that is returned by the  
490 program licensee's automated underwriting system to a borrower  
491 or a prospective borrower.

492 (h) Obtaining a borrower's signature on documents prepared  
493 by the program licensee and delivering final copies of the  
494 documents to the borrower.

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

501 borrower.

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

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

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

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

513 (b) A referral partner that receives loan payments must  
514 deliver or cause to be delivered to the borrower a plain and  
515 complete receipt showing all of the information specified in s.  
516 516.43(1) (j) at the time that the payment is made by the  
517 borrower.

518 (c) A borrower who submits a loan payment to a referral  
519 partner under this subsection is not liable for a failure or  
520 delay by the referral partner in transmitting the payment to the  
521 program licensee.

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

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

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

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

533 (c) Negotiating a loan term between a program licensee and  
534 a prospective borrower.

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

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

545 (5) DISCLOSURE STATEMENTS.—

546 (a) At the time the referral partner receives or processes  
547 an application for a program loan, the referral partner must  
548 provide the following statement to the applicant on behalf of  
549 the program licensee, in at least 10-point type, and must  
550 request that the applicant acknowledge receipt of the statement

HB 747

2018

551 in writing:

552

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

569

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

575 (6) COMPENSATION.—

576 (a) The program licensee may compensate a referral partner  
577 in accordance with a written agreement and a compensation  
578 schedule that is agreed to by the program licensee and the  
579 referral partner, subject to the requirements in paragraph (b).

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

582 1. Compensation may not be paid to a referral partner in  
583 connection with a loan application unless the program loan is  
584 consummated.

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

587 3. Compensation may not be directly or indirectly passed  
588 on to a borrower through a fee or other compensation, or a  
589 portion of a fee or other compensation, charged to a borrower.

590 4. Subject to the limitations specified in subparagraphs  
591 1., 2., and 3., the total compensation paid by a program  
592 licensee to a referral partner for the services specified in  
593 subsection (2) may not exceed the sum of:

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

598 b. Two dollars per payment received by the referral  
599 partner on behalf of the program licensee for the duration of  
600 the program loan, if the referral partner receives borrower loan



601 payments on the program licensee's behalf in accordance with  
602 subsection (3).

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

606 (c) A program licensee or a referral partner may not pass  
607 on to a borrower, whether directly or indirectly, any additional  
608 cost or other charge for compensation paid to a referral partner  
609 under this program.

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

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

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

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

625 (d) A statement by the program licensee that it has

626 conducted due diligence with respect to the referral partner and  
627 has confirmed that none of the following applies:

628 1. The filing of a petition under the United States  
629 Bankruptcy Code for bankruptcy or reorganization by the referral  
630 partner.

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

637 3. A felony indictment involving the referral partner or  
638 an affiliated party.

639 4. The felony conviction, guilty plea, or plea of nolo  
640 contendere, regardless of adjudication, of the referral partner  
641 or an affiliated party.

642 5. Any suspected criminal act perpetrated in this state  
643 relating to activities regulated under this chapter committed by  
644 a referral partner.

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

651 chapter.

652 (e) Any other information requested by the office, subject  
653 to the limitations specified in s. 516.45(4).

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

660 (9) RESPONSIBILITY FOR ACTS OF A REFERRAL PARTNER.—A  
661 program licensee is responsible for any act of its referral  
662 partner if such act is a violation of this chapter.

663 (10) REFERRAL PARTNER FEE.—The program licensee must pay  
664 to the office, at the time it files a referral partner notice  
665 with the office, a one-time nonrefundable fee of \$30 for each of  
666 its referral partners as prescribed by rule of the commission.

667 Section 6. Section 516.45, Florida Statutes, is created to  
668 read:

669 516.45 Examinations, investigations, and grounds for  
670 disciplinary action.—

671 (1) Notwithstanding any other law, commencing on January  
672 1, 2019, the office must examine each program licensee that is  
673 accepted into the program in accordance with this chapter at  
674 least once every 24 months.

675 (2) Notwithstanding subsection (1), the office may waive

676 the examination requirement if the office deems that the  
677 examination is not necessary for the protection of the public  
678 due to the centralized operations of the program licensee or  
679 other factors acceptable to the office.

680 (3) The program licensee must reimburse the office for the  
681 cost of the examination, pursuant to rule of the commission, and  
682 the office may maintain an action for the recovery of the  
683 examination cost in any court of competent jurisdiction. In  
684 determining the cost of the examination, the office may use the  
685 estimated average hourly cost for all persons performing the  
686 examination or any other persons subject to ss. 516.40-516.46  
687 for the fiscal year.

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

692 (5) A program licensee who violates any applicable  
693 provision of this chapter is subject to disciplinary action  
694 pursuant to s. 516.07(2). Such disciplinary action is subject to  
695 the provisions of s. 120.60. A program licensee is also subject  
696 to disciplinary action for a violation of s. 516.44 committed by  
697 any of its referral partners.

698 (6) The office may take any of the following actions  
699 against a referral partner who violates a provision of s.  
700 516.44:

701 (a) Disqualify the referral partner from performing  
702 services under this chapter.

703 (b) Prohibit the referral partner from performing services  
704 at one or more of its specific locations.

705 (c) Terminate the written agreement between the referral  
706 partner and the program licensee.

707 (d) Impose an administrative fine not to exceed \$1,000 on  
708 the referral partner for each violation of s. 516.44.

709 (e) Prohibit the referral partner from performing any  
710 services on behalf of the program licensee if the office deems  
711 it to be in the public interest.

712 Section 7. Section 516.46, Florida Statutes, is created to  
713 read:

714 516.46 Annual reports by program licensee and office.—

715 (1) Beginning in 2020, on or before March 15 of each year,  
716 a program licensee must file a report with the office on a form  
717 and in a manner prescribed by the commission by rule. The report  
718 must include each of the items specified in subsection (2) for  
719 the preceding year using aggregated or anonymized data without  
720 reference to any borrower's nonpublic personal information or  
721 any program licensee's proprietary or trade secret information.

722 (2) Beginning in 2021, on or before January 1 of each  
723 year, the office must post a report on its website summarizing  
724 the use of the program based upon the information contained in  
725 the annual reports filed in the preceding year by program

726 licensees under subsection (1). The report must state the  
727 information using aggregated data so as not to identify any  
728 specific program licensee. The report must specify the period to  
729 which the report corresponds and must include, but is not  
730 limited to, the following for each annual period:

731 (a) The number of entities that applied to participate in  
732 the program.

733 (b) The number of entities accepted to participate in the  
734 program.

735 (c) The reason for rejecting an application for  
736 participation, if applicable. This information must be provided  
737 in a manner that does not identify the entity rejected.

738 (d) The number of program loan applications received by  
739 program licensees participating in the program, the number of  
740 program loans made pursuant to the program, the total amount  
741 loaned, the distribution of loan lengths upon origination, and  
742 the distribution of interest rates and principal amounts upon  
743 origination among those program loans.

744 (e) The number of borrowers who obtained more than one  
745 program loan and the distribution of the number of program loans  
746 per borrower.

747 (f) For borrowers who obtained more than one program loan,  
748 the percentage of those borrowers whose credit scores increased  
749 between successive loans, based on information from at least one  
750 major credit bureau, and the average size of the increase.

751 (g) The income distribution of borrowers upon program loan  
752 origination, including the number of borrowers who obtained at  
753 least one program loan and who resided in a low-income or  
754 moderate-income census tract at the time of their loan  
755 applications.

756 (h) The number of borrowers who obtained program loans for  
757 the following purposes, based on borrower responses at the time  
758 of their loan applications indicating the primary purpose for  
759 which the program loan was obtained:

- 760 1. Pay medical expenses.  
761 2. Pay for vehicle repair or a vehicle purchase.  
762 3. Pay bills.  
763 4. Consolidate debt.  
764 5. Build or repair credit history.  
765 6. Pay other expenses.

766 (i) The number of borrowers who self-report that they had  
767 a bank account at the time of their loan application and the  
768 number of borrowers who self-report that they did not have a  
769 bank account at the time of their loan application.

770 (j) For refinance program loans:

771 1. The number and percentage of borrowers who applied for  
772 a refinance program loan.

773 2. The number and percentage of borrowers who obtained a  
774 refinance program loan.

775 (k) The number and type of referral partners used by

776 program licensees.

777 (l) The number and percentage of borrowers who obtained  
778 one or more program loans on which delinquency charges were  
779 assessed, the total amount of delinquency charges assessed, and  
780 the average delinquency charge assessed by dollar amount and as  
781 a percentage of the principal amount loaned.

782 (m) The performance of program loans as reflected by all  
783 of the following:

784 1. The number and percentage of borrowers who experienced  
785 at least one delinquency lasting between 7 and 29 days and the  
786 distribution of principal loan amounts corresponding to those  
787 delinquencies.

788 2. The number and percentage of borrowers who experienced  
789 at least one delinquency lasting between 30 and 59 days and the  
790 distribution of principal loan amounts corresponding to those  
791 delinquencies.

792 3. The number and percentage of borrowers who experienced  
793 at least one delinquency lasting 60 days or more and the  
794 distribution of principal loan amounts corresponding to those  
795 delinquencies.

796 (n) The number and types of violations of ss. 516.40-  
797 516.46 by referral partners which were documented by the office.

798 (o) The number and types of violations of ss. 516.40-  
799 516.46 by program licensees which were documented by the office.

800 (p) The number of times that the office disqualified a



HB 747

2018

801 referral partner from performing services, barred a referral  
802 partner from performing services at one or more specific  
803 locations of the referral partner, terminated a written  
804 agreement between a referral partner and a program licensee, or  
805 imposed an administrative penalty.

806 (g) The number of complaints received by the office about  
807 a program licensee or a referral partner and the nature of those  
808 complaints.

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

812 Section 9. This act shall take effect October 1, 2018.