

By the Committee on Banking and Insurance; and Senators Rouson and Gruters

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1 A bill to be entitled
2 An act relating to business services; creating s.
3 516.405, F.S.; creating the Access to Responsible
4 Credit Pilot Program within the Office of Financial
5 Regulation; providing legislative intent; creating s.
6 516.41, F.S.; defining terms; creating s. 516.42,
7 F.S.; requiring a program license from the office to
8 advertise, offer, or make program loans or to impose
9 certain charges or fees; providing licensure
10 requirements; requiring a program licensee's program
11 branch offices to be licensed; providing program
12 branch office license and license renewal
13 requirements; providing circumstances under which the
14 office may deny initial and renewal applications;
15 requiring the Financial Services Commission to adopt
16 rules; creating s. 516.43, F.S.; specifying
17 requirements for program licensees, program loans,
18 loan repayments, rescissions, interest rates, program
19 loan refinancing, receipts, disclosures and statements
20 provided by program licensees to borrowers,
21 origination fees, insufficient funds fees, and
22 delinquency charges; providing that program loans may
23 be made only in specified counties; requiring that a
24 specified percentage of program loans annually issued
25 be provided to borrowers below a specified income;
26 requiring program licensees to provide certain credit
27 education information to borrowers and to report
28 payment performance of borrowers to at least two
29 consumer reporting agencies; prohibiting the office

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30 from approving a program licensee applicant before the
31 applicant has been accepted as a data furnisher by a
32 consumer reporting agency; requiring program licensees
33 to provide certain credit reporting information to
34 borrowers; specifying program loan underwriting
35 requirements for program licensees; prohibiting
36 program licensees from making program loans under
37 certain circumstances; requiring program licensees to
38 seek certain information and documentation;
39 prohibiting program licensees from requiring certain
40 waivers from borrowers; providing applicability;
41 requiring program licensees to maintain a registry of
42 their access partners and annually provide a copy to
43 the office; prohibiting the office from publishing a
44 registry in its annual report; creating s. 516.44,
45 F.S.; requiring all arrangements between program
46 licensees and access partners to be specified in
47 written access partner agreements; providing
48 requirements for such agreements; specifying access
49 partner services that may be used by program
50 licensees; specifying procedures for borrowers'
51 payment receipts or access partners' disbursement of
52 program loans; providing recordkeeping requirements;
53 specifying activities prohibited for access partners;
54 providing disclosure statement requirements; providing
55 requirements and prohibitions relating to compensation
56 paid to access partners; requiring program licensees
57 to provide the office with a specified notice after
58 contracting with access partners; defining the term

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59 "affiliated party"; requiring access partners to
60 provide program licensees with a certain written
61 notice within a specified time; providing that program
62 licensees are responsible for violations by their
63 access partners; requiring the commission to adopt
64 rules; creating s. 516.45, F.S.; requiring the office
65 to examine each program licensee; authorizing the
66 office to waive branch office examinations under
67 certain circumstances; limiting the scope of certain
68 examinations and investigations; authorizing the
69 office to take certain disciplinary action against
70 program licensees and access partners; requiring the
71 commission to adopt rules; creating s. 516.46, F.S.;
72 requiring program licensees to file an annual report
73 with the office; requiring the office to post an
74 annual report on its website; specifying information
75 to be contained in the reports; requiring the
76 commission to adopt rules; providing for future repeal
77 of the pilot program; providing an appropriation;
78 providing an effective date.

79
80 Be It Enacted by the Legislature of the State of Florida:

81
82 Section 1. Section 516.405, Florida Statutes, is created to
83 read:

84 516.405 Access to Responsible Credit Pilot Program.—

85 (1) The Access to Responsible Credit Pilot Program is
86 created within the Office of Financial Regulation to allow more
87 Floridians to obtain responsible consumer finance loans in

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88 principal amounts of at least \$300 but not more than \$7,500.

89 (2) The pilot program is intended to assist consumers in
90 building their credit and to provide additional consumer
91 protections for these loans which exceed current protections
92 under general law.

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

95 516.41 Definitions.—As used in ss. 516.405-516.46, the
96 term:

97 (1) "Access partner" means an entity that, at one or more
98 physical business locations owned or rented by the entity,
99 performs one or more of the services authorized in s. 516.44(2)
100 on behalf of a program licensee.

101 (a) The term includes only the following entities and
102 agents of the entities:

- 103 1. A bank as defined in s. 658.12.
- 104 2. A credit union as defined in s. 657.002.
- 105 3. An agent as defined in s. 626.015.
- 106 4. An insurance agency as defined in s. 626.015.
- 107 5. A tax preparation service.
- 108 6. A money services business as defined in s. 560.103.
- 109 7. An authorized vendor as defined in s. 560.103.
- 110 8. A law office.
- 111 9. An investment adviser as defined in s. 517.021.
- 112 10. A financial services provider.
- 113 11. A public accounting firm as defined in s. 473.302(7).

114 (b) The term does not include a credit service organization
115 as defined in s. 817.7001 or a loan broker as defined in s.
116 687.14.

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

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

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

125 (5) "Pilot program" or "program" means the Access to
126 Responsible Credit Pilot Program.

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

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

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

136 (b) At which the program licensee's name, advertising or
137 promotional materials, or signage suggests that program loans
138 are originated, negotiated, funded, or serviced by the program
139 licensee; or

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

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

145 (9) "Program loan" means a consumer finance loan with a

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146 principal amount of at least \$300, but not more than \$7,500,
147 originated pursuant to ss. 516.405-516.46, excluding the amount
148 of the origination fee authorized under s. 516.43(3).

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

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

156 516.42 Requirements for program participation; program
157 application requirements.-

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

162 (2) In order to obtain a pilot program license, a person
163 must:

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

166 2. Submit the application for the license required in s.
167 516.03 concurrently with the application for the program
168 license. The application required by s. 516.03 must be approved
169 and the license under that section must be issued in order to
170 obtain the program license.

171 (b) Be accepted as a data furnisher by a consumer reporting
172 agency.

173 (c) Demonstrate financial responsibility, experience,
174 character, or general fitness, such as to command the confidence

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175 of the public and to warrant the belief that the business
176 operated at the licensed or proposed location is lawful, honest,
177 fair, efficient, and within the purposes of this chapter.

178 (d) Not be subject to the issuance of a cease and desist
179 order; the issuance of a removal order; the denial, suspension,
180 or revocation of a license; or any other action within the
181 authority of the office, any financial regulatory agency in this
182 state, or any other state or federal regulatory agency which
183 affects the ability of the applicant to participate in the
184 program.

185 (3) (a) A program applicant must file with the office a
186 digital application in a form and manner prescribed by
187 commission rule which contains all of the following information
188 with respect to the applicant:

189 1. The legal business name and any other name under which
190 the applicant operates.

191 2. The applicant's main address.

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

193 4. The address of each program branch office.

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

196 6. The applicant's license number, if the applicant is
197 licensed under s. 516.05.

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

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

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204 9. The signature and certification of an authorized person
205 of the applicant.

206 (b) A person who desires to participate in the program but
207 who is not licensed to make consumer finance loans pursuant to
208 s. 516.05 must concurrently submit the following digital
209 applications in a form and manner specified in this chapter to
210 the office:

211 1. An application pursuant to s. 516.03 for licensure to
212 make consumer finance loans.

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

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

219 (5) Notwithstanding s. 516.05(3), only one program license
220 is required for a person to make program loans under ss.
221 516.405-516.46, regardless of whether the program licensee
222 offers program loans to prospective borrowers at its own
223 physical business locations, through access partners, or via an
224 electronic access point through which a prospective borrower may
225 directly access the website of the program licensee.

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

228 (7) The office shall issue a program branch office license
229 to a program licensee after the office determines that the
230 program licensee has submitted a completed electronic
231 application for a program branch office license in a form
232 prescribed by commission rule. The program branch office license

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233 must be issued in the name of the program licensee that
234 maintains the branch office. An application is considered
235 received for purposes of s. 120.60 upon receipt of a completed
236 application form. The application for a program branch office
237 license must contain the following information:

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

240 (b) The applicant's main address.

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

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

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

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

247 (g) The signature and certification of an authorized person
248 of the applicant.

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

252 (9) Notwithstanding subsection (7), the office may deny an
253 initial or renewal application for a program license or program
254 branch office license if the applicant or any person with power
255 to direct the management or policies of the applicant's
256 business:

257 (a) Fails to demonstrate financial responsibility,
258 experience, character, or general fitness, such as to command
259 the confidence of the public and to warrant the belief that the
260 business operated at the licensed or proposed location is
261 lawful, honest, fair, efficient, and within the purposes of this

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262 chapter.

263 (b) Pled nolo contendere to, or was convicted or found
264 guilty of, a crime involving fraud, dishonest dealing, or any
265 act of moral turpitude, regardless of whether adjudication was
266 withheld.

267 (c) Is subject to the issuance of a cease and desist order;
268 the issuance of a removal order; the denial, suspension, or
269 revocation of a license; or any other action within the
270 authority of the office, any financial regulatory agency in this
271 state, or any other state or federal regulatory agency which
272 affects the applicant's ability to participate in the program.

273 (10) The commission shall adopt rules to implement this
274 section.

275 Section 4. Section 516.43, Florida Statutes, is created to
276 read:

277 516.43 Requirements for program loans.—

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

280 (a) A program loan must be unsecured.

281 (b) A program loan must have:

282 1. A term of at least 120 days, but not more than 36
283 months, for a loan with a principal balance upon origination of
284 at least \$300, but not more than \$3,000.

285 2. A term of at least 12 months, but not more than 60
286 months, for a loan with a principal balance upon origination of
287 more than \$3,000.

288 (c) A borrower may not receive a program loan for a
289 principal balance exceeding \$5,000 unless:

290 1. The borrower has paid in full the outstanding principal,

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291 interest, and fees on a previous program loan;

292 2. The borrower's credit score increased from the time of
293 application for the borrower's first consummated program loan;

294 and

295 3. The borrower was never delinquent for more than 7 days
296 on a previous program loan.

297 (d) A program loan may not impose a prepayment penalty. A
298 program loan must be repayable by the borrower in substantially
299 equal, periodic installments, except that the final payment may
300 be less than the amount of the prior installments. Installments
301 must be due either every 2 weeks, semimonthly, or monthly.

302 (e) A program loan must include a borrower's right to
303 rescind the program loan by notifying the program licensee of
304 the borrower's intent to rescind the program loan and returning
305 the principal advanced by the end of the business day after the
306 day the program loan is consummated.

307 (f) Notwithstanding s. 516.031, the maximum annual interest
308 rate charged on a program loan to the borrower, which must be
309 fixed for the duration of the program loan, is 36 percent on
310 that portion of the unpaid principal balance up to and including
311 \$3,000; 30 percent on that portion of the unpaid principal
312 balance exceeding \$3,000 and up to and including \$4,000; and 24
313 percent on that portion of the unpaid principal balance
314 exceeding \$4,000 and up to and including \$7,500. The original
315 principal amount of the program loan is equal to the amount
316 financed as defined by the federal Truth in Lending Act and
317 Regulation Z of the Board of Governors of the Federal Reserve
318 System. In determining compliance with the maximum annual
319 interest rates in this paragraph, the computations used must be

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320 simple interest through the application of a daily periodic rate
321 to the actual unpaid principal balance each day and may not be
322 added-on interest or any other computations.

323 (g) If two or more interest rates are applied to the
324 principal amount of a program loan, the program licensee may
325 charge, contract for, and receive interest at that single annual
326 percentage rate that, if applied according to the actuarial
327 method to each of the scheduled periodic balances of principal,
328 would produce at maturity the same total amount of interest as
329 would result from the application of the two or more rates
330 otherwise permitted, based upon the assumption that all payments
331 are made as agreed.

332 (h) The program licensee shall reduce the interest rates
333 specified in paragraph (f) on each subsequent program loan to
334 the same borrower by a minimum of 1 percent, up to a maximum of
335 6 percent, if all of the following conditions are met:

336 1. The subsequent program loan is originated within 180
337 days after the prior program loan is fully repaid.

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

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

342 (i) The program licensee may not induce or permit any
343 person to become obligated to the program licensee, directly or
344 contingently, or both, under more than one program loan at the
345 same time with the program licensee.

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

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349 1. The principal amount payable may not include more than
350 60 days' unpaid interest accrued on the previous program loan
351 pursuant to s. 516.031(5).

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

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

360 4. The borrower is current on payments for his or her
361 existing program loan.

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

364 (k) In lieu of the provisions of s. 687.08, the program
365 licensee or, if applicable, its approved access partner shall
366 make available to the borrower by electronic or physical means a
367 plain and complete receipt of payment at the time that the
368 borrower makes a loan payment. For audit purposes, the program
369 licensee must maintain an electronic record for each receipt
370 made available to a borrower. The electronic record must include
371 a copy of the receipt and the date and time that the receipt was
372 generated. Each receipt made available to the borrower must show
373 all of the following:

374 1. The name of the borrower.

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

376 3. The total payment amount received.

377 4. The date of payment.

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378 5. The program loan balance before and after application of
379 the payment.

380 6. The amount of the payment which was applied to the
381 principal, interest, and fees.

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

383 8. The following statement, prominently displayed in a type
384 size equal to or larger than the type size used to display the
385 other items on the receipt: "If you have any questions about
386 your loan now or in the future, you should direct those
387 questions to ... (name of program licensee)... by ... (at least
388 two different ways in which a borrower may contact the program
389 licensee)...."

390 (1) A program licensee may make program loans only to
391 residents of Broward, Miami-Dade, and Palm Beach Counties.

392 (m) At least 85 percent of program loans annually issued by
393 a program licensee must be provided to borrowers whose gross
394 monthly income is less than \$6,250.

395 (2) WRITTEN DISCLOSURES AND STATEMENTS.—

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

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

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

404 (a) Contract for and receive an origination fee from a
405 borrower on a program loan. The program licensee may either
406 deduct the origination fee from the principal amount of the loan

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407 disbursed to the borrower or capitalize the origination fee into
408 the principal balance of the loan. The origination fee is fully
409 earned and nonrefundable immediately upon the making of the
410 program loan and may not exceed the lesser of 6 percent of the
411 principal amount of the program loan made to the borrower,
412 exclusive of the origination fee, or \$90.

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

415 (4) INSUFFICIENT FUNDS FEES AND DELINQUENCY CHARGES.—A
416 program licensee may:

417 (a) Notwithstanding s. 516.031, require payment from a
418 borrower of no more than \$20 for fees incurred by the program
419 licensee from a dishonored payment due to insufficient funds of
420 the borrower.

421 (b) Notwithstanding s. 516.031(3)(a)9., contract for and
422 receive a delinquency charge for each payment in default for at
423 least 7 days if the charge is agreed upon, in writing, between
424 the program licensee and the borrower before it is imposed.
425 Delinquency charges may be imposed as follows:

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

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

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

434
435 The program licensee, or any wholly owned subsidiary of the

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436 program licensee, may not sell or assign an unpaid debt to an
437 independent third party for collection purposes unless the debt
438 has been delinquent for at least 30 days.

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

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

443 (b) Provide a credit education program or seminar to the
444 borrower. The borrower is not required to participate in the
445 education program or seminar. A credit education program or
446 seminar offered pursuant to this paragraph must be provided at
447 no cost to the borrower.

448 (6) CREDIT REPORTING.—

449 (a) The program licensee shall report each borrower's
450 payment performance to at least two consumer reporting agencies.

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

454 (c) The program licensee shall provide each borrower with
455 the names of the consumer reporting agencies to which it will
456 report the borrower's payment history.

457 (7) PROGRAM LOAN UNDERWRITING.—

458 (a) The program licensee must underwrite each program loan
459 to determine a borrower's ability and willingness to repay the
460 program loan pursuant to the program loan terms. The program
461 licensee may not make a program loan if it determines that the
462 borrower's total monthly debt service payments at the time of
463 origination, including the program loan for which the borrower
464 is being considered and all outstanding forms of credit that can

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465 be independently verified by the program licensee, exceed 50
466 percent of the borrower's gross monthly income for a loan of not
467 more than \$3,000, or exceed 36 percent of the borrower's gross
468 monthly income for a loan of more than \$3,000.

469 (b)1. The program licensee must seek information and
470 documentation pertaining to all of a borrower's outstanding debt
471 obligations during the loan application and underwriting
472 process, including loans that are self-reported by the borrower
473 but not available through independent verification. The program
474 licensee must verify such information using a credit report from
475 at least one consumer reporting agency or through other
476 available electronic debt verification services that provide
477 reliable evidence of a borrower's outstanding debt obligations.

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

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

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

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

489 (8) WAIVERS.—

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

492 1. Waive any right, penalty, remedy, forum, or procedure
493 provided for in any law applicable to the program loan,

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494 including the right to file and pursue a civil action or file a
495 complaint with or otherwise communicate with the office, a
496 court, or any other governmental entity.

497 2. Agree to the application of laws other than those of
498 this state.

499 3. Agree to resolve disputes in a jurisdiction outside of
500 this state.

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

504 (c) A program licensee may not refuse to do business with
505 or discriminate against a borrower or an applicant on the basis
506 of the borrower's or applicant's refusal to waive any right,
507 penalty, remedy, forum, or procedure, including the right to
508 file and pursue a civil action or complaint with, or otherwise
509 communicate with, the office, a court, or any other governmental
510 entity. The exercise of a person's right to refuse to waive any
511 right, penalty, remedy, forum, or procedure, including a
512 rejection of a contract requiring a waiver, does not affect any
513 otherwise legal terms of a contract or an agreement.

514 (d) This subsection does not apply to any agreement to
515 waive any right, penalty, remedy, forum, or procedure, including
516 any agreement to arbitrate a claim or dispute after a claim or
517 dispute has arisen. This subsection does not affect the
518 enforceability or validity of any other provision of the
519 contract.

520 (9) REGISTRY OF ACCESS PARTNERS.—A program licensee shall
521 maintain a registry of all access partners that provide services
522 to the program licensee. The program licensee shall provide a

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523 copy of the registry to the office at the time the program
524 licensee files its report pursuant to s. 516.46(1). The office
525 may not publish a registry in its report under s. 516.46(2).

526 Section 5. Section 516.44, Florida Statutes, is created to
527 read:

528 516.44 Access partners.—

529 (1) ACCESS PARTNER AGREEMENT.—All arrangements between a
530 program licensee and an access partner must be specified in a
531 written access partner agreement between the parties. The
532 agreement must contain the following provisions:

533 (a) The access partner agrees to comply with this section
534 and all rules adopted under this section regarding the
535 activities of access partners.

536 (b) The office has access to the access partner's books and
537 records pertaining to the access partner's operations under the
538 agreement with the program licensee in accordance with s.
539 516.45(3) and may examine the access partner pursuant to s.
540 516.45.

541 (2) AUTHORIZED SERVICES.—A program licensee may use the
542 services of one or more access partners as provided in this
543 section. An access partner may perform one or more of the
544 following services from its physical business location for the
545 program licensee:

546 (a) Distributing, circulating, using, or publishing printed
547 brochures, flyers, fact sheets, or other written materials
548 relating to program loans that the program licensee may make or
549 negotiate. The written materials must be reviewed and approved
550 in writing by the program licensee before being distributed,
551 circulated, used, or published.

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552 (b) Providing written factual information about program
553 loan terms, conditions, or qualification requirements to a
554 prospective borrower which has been prepared by the program
555 licensee or reviewed and approved in writing by the program
556 licensee. An access partner may discuss the information with a
557 prospective borrower in general terms.

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

560 (d) Entering information provided by the prospective
561 borrower on a preprinted or an electronic application form or in
562 a preformatted computer database.

563 (e) Assembling credit applications and other materials
564 obtained in the course of a credit application transaction for
565 submission to the program licensee.

566 (f) Contacting the program licensee to determine the status
567 of a program loan application.

568 (g) Communicating a response that is returned by the
569 program licensee's automated underwriting system to a borrower
570 or a prospective borrower.

571 (h) Obtaining a borrower's signature on documents prepared
572 by the program licensee and delivering final copies of the
573 documents to the borrower.

574 (i) Disbursing program loan proceeds to a borrower if this
575 method of disbursement is acceptable to the borrower, subject to
576 the requirements of subsection (3). A loan disbursement made by
577 an access partner under this paragraph is deemed to be made by
578 the program licensee on the date that the funds are disbursed or
579 otherwise made available by the access partner to the borrower.

580 (j) Receiving a program loan payment from the borrower if

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581 this method of payment is acceptable to the borrower, subject to
582 the requirements of subsection (3).

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

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

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

591 (b) An access partner that receives a loan payment from a
592 borrower must deliver or cause to be delivered to the borrower a
593 plain and complete receipt showing all of the information
594 specified in s. 516.43(1) (k) at the time that the borrower makes
595 the payment.

596 (c) A borrower who submits a loan payment to an access
597 partner under this subsection is not liable for a failure or
598 delay by the access partner in transmitting the payment to the
599 program licensee.

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

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

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

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

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610 (c) Negotiate a loan term between a program licensee and a
611 prospective borrower.

612 (d) Offer information pertaining to a single prospective
613 borrower to more than one program licensee. However, if a
614 program licensee has declined to offer a program loan to a
615 prospective borrower and has so notified the prospective
616 borrower in writing, the access partner may then offer
617 information pertaining to that borrower to another program
618 licensee with whom it has an access partner agreement.

619 (e) Except for the purpose of assisting a borrower in
620 obtaining a refinance program loan, offer information pertaining
621 to a prospective borrower to any program licensee if the
622 prospective borrower has an outstanding program loan.

623 (f) Charge a borrower any fee for a program loan.

624 (g) Perform any service for a program licensee at a
625 pawnshop as defined in s. 539.001(2).

626 (h) Perform any service for a program licensee at a pari-
627 mutuel facility as defined in s. 550.002, or at any facility
628 where covered games, as authorized under s. 285.710, are
629 conducted.

630 (5) DISCLOSURE STATEMENTS.-

631 (a) At the time that the access partner receives or
632 processes an application for a program loan, the access partner
633 shall provide the following statement to the applicant on behalf
634 of the program licensee, in at least 10-point type, and shall
635 request that the applicant acknowledge receipt of the statement
636 in writing:

637
638 Your loan application has been referred to us by

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639 ...(name of access partner).... We may pay a fee to
640 ...(name of access partner)... for the successful
641 referral of your loan application. If you are approved
642 for the loan, ...(name of program licensee)... will
643 become your lender. If you have any questions about
644 your loan, now or in the future, you should direct
645 those questions to ...(name of program licensee)... by
646 ...(insert at least two different ways in which a
647 borrower may contact the program licensee).... If you
648 wish to report a complaint about ...(name of access
649 partner)... or ...(name of program licensee)...
650 regarding this loan transaction, you may contact the
651 Division of Consumer Finance of the Office of
652 Financial Regulation at (850) 487-9687 or
653 <http://www.flofr.com>.

654
655 (b) If the loan applicant has questions about the program
656 loan which the access partner is not permitted to answer, the
657 access partner must make a good faith effort to assist the
658 applicant in making direct contact with the program licensee
659 before the program loan is consummated.

660 (6) COMPENSATION.-

661 (a) The program licensee may compensate an access partner
662 in accordance with a written agreement and a compensation
663 schedule that is agreed to by the program licensee and the
664 access partner, subject to the requirements in paragraph (b).

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

667 1. Compensation may not be paid to an access partner in

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668 connection with a loan application unless the program loan is
669 consummated.

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

673 3. Compensation paid by the program licensee to the access
674 partner may not exceed \$65 per program loan, on average, plus \$2
675 per payment received by the access partner on behalf of the
676 program licensee for the duration of the program loan, and may
677 not be charged directly or indirectly to the borrower.

678 (7) NOTICE TO OFFICE.—A program licensee that uses the
679 service of an access partner must notify the office, in a form
680 and manner prescribed by commission rule, within 15 days after
681 entering into a contract with an access partner regarding all of
682 the following:

683 (a) The name, business address, and licensing details of
684 the access partner and all locations at which the access partner
685 will perform services under this section.

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

689 (c) The name and contact information of one or more
690 employees of the access partner who are responsible for that
691 access partner's referring activities on behalf of the program
692 licensee.

693 (d) A statement by the program licensee that it has
694 conducted due diligence with respect to the access partner and
695 has confirmed that none of the following applies:

696 1. The filing of a petition under the United States

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697 Bankruptcy Code for bankruptcy or reorganization by the access
698 partner.

699 2. The commencement of an administrative or a judicial
700 license suspension or revocation proceeding, or the denial of a
701 license request or renewal, by any state, the District of
702 Columbia, any United States territory, or any foreign country in
703 which the access partner operates, plans to operate, or is
704 licensed to operate.

705 3. A felony indictment involving the access partner or an
706 affiliated party.

707 4. The felony conviction, guilty plea, or plea of nolo
708 contendere, regardless of adjudication, of the access partner or
709 an affiliated party.

710 5. Any suspected criminal act perpetrated in this state
711 relating to activities regulated under this chapter by the
712 access partner.

713 6. Notification by a law enforcement or prosecutorial
714 agency that the access partner is under criminal investigation,
715 including, but not limited to, subpoenas to produce records or
716 testimony and warrants issued by a court of competent
717 jurisdiction which authorize the search and seizure of any
718 records relating to a business activity regulated under this
719 chapter.

720
721 As used in this paragraph, the term "affiliated party" means a
722 director, officer, control person, employee, or foreign
723 affiliate of an access partner; or a person who has a
724 controlling interest in an access partner.

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

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726 to the limitations specified in s. 516.45(3).

727 (8) NOTICE OF CHANGES.—An access partner must provide the
728 program licensee with a written notice sent by registered mail
729 within 30 days after any change is made to the information
730 specified in paragraphs (7) (a)-(c) and within 30 days after the
731 occurrence or knowledge of any of the events specified in
732 paragraph (7) (d).

733 (9) RESPONSIBILITY FOR ACTS OF AN ACCESS PARTNER.—A program
734 licensee is responsible for any act of its access partner if the
735 act is a violation of this chapter.

736 (10) RULEMAKING.—The commission shall adopt rules to
737 implement this section.

738 Section 6. Section 516.45, Florida Statutes, is created to
739 read:

740 516.45 Examinations, investigations, and grounds for
741 disciplinary action.—

742 (1) Notwithstanding any other law, the office shall examine
743 each program licensee that is accepted into the program in
744 accordance with this chapter.

745 (2) Notwithstanding subsection (1), the office may waive
746 one or more branch office examinations if the office finds that
747 such examinations are not necessary for the protection of the
748 public due to the centralized operations of the program licensee
749 or other factors acceptable to the office.

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

754 (4) A program licensee who violates any applicable

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755 provision of this chapter is subject to disciplinary action
756 pursuant to s. 516.07(2). Any such disciplinary action is
757 subject to s. 120.60. The program licensee is also subject to
758 disciplinary action for a violation of s. 516.44 committed by
759 any of its access partners.

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

762 (a) Bar the access partner from performing services under
763 this chapter.

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

766 (c) Impose an administrative fine on the access partner of
767 up to \$5,000 in a calendar year.

768 (6) The commission shall adopt rules to implement this
769 section.

770 Section 7. Section 516.46, Florida Statutes, is created to
771 read:

772 516.46 Annual reports by program licensees and the office.—

773 (1) By March 15, 2022, and each year thereafter, a program
774 licensee shall file a report with the office on a form and in a
775 manner prescribed by commission rule. The report must include
776 each of the items specified in subsection (2) for the preceding
777 year using aggregated or anonymized data without reference to
778 any borrower's nonpublic personal information or any program
779 licensee's or access partner's proprietary or trade secret
780 information.

781 (2) By January 1, 2023, and each year thereafter, the
782 office shall post a report on its website summarizing the use of
783 the program based on the information contained in the reports

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784 filed in the preceding year by program licensees under
785 subsection (1). The office's report must publish the information
786 in the aggregate so as not to identify data by any specific
787 program licensee. The report must specify the period to which
788 the report corresponds and must include, but is not limited to,
789 the following for that period:

790 (a) The number of applicants approved for a program license
791 by the office.

792 (b) The number of program loan applications received by
793 program licensees, the number of program loans made under the
794 program, the total amount loaned, the distribution of loan
795 lengths upon origination, and the distribution of interest rates
796 and principal amounts upon origination among those program
797 loans.

798 (c) The number of borrowers who obtained more than one
799 program loan and the distribution of the number of program loans
800 per borrower.

801 (d) Of those borrowers who obtained more than one program
802 loan and had a credit score by the time of their subsequent
803 loan, the percentage of those borrowers whose credit scores
804 increased between successive loans, based on information from at
805 least one major credit bureau, and the average size of the
806 increase. In each case, the report must include the name of the
807 credit score, such as FICO or VantageScore, which the program
808 licensee is required to disclose.

809 (e) The income distribution of borrowers upon program loan
810 origination, including the number of borrowers who obtained at
811 least one program loan and who resided in a low-income or
812 moderate-income census tract at the time of their loan

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813 applications.

814 (f) The number of borrowers who obtained program loans for
815 the following purposes, based on the borrowers' responses at the
816 time of their loan applications indicating the primary purpose
817 for which the program loans were obtained:

- 818 1. To pay medical expenses.
819 2. To pay for vehicle repair or a vehicle purchase.
820 3. To pay bills.
821 4. To consolidate debt.
822 5. To build or repair credit history.
823 6. To finance a small business.
824 7. To pay other expenses.

825 (g) The number of borrowers who self-report that they had a
826 bank account at the time of their loan application and the
827 number of borrowers who self-report that they did not have a
828 bank account at the time of their loan application.

829 (h) For refinance program loans:

- 830 1. The number and percentage of borrowers who applied for a
831 refinance program loan.
832 2. Of those borrowers who applied for a refinance program
833 loan, the number and percentage of borrowers who obtained a
834 refinance program loan.

835 (i) The performance of program loans as reflected by all of
836 the following:

- 837 1. The number and percentage of borrowers who experienced
838 at least one delinquency lasting between 7 and 29 days and the
839 distribution of principal loan amounts corresponding to those
840 delinquencies.
841 2. The number and percentage of borrowers who experienced

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842 at least one delinquency lasting between 30 and 59 days and the
843 distribution of principal loan amounts corresponding to those
844 delinquencies.

845 3. The number and percentage of borrowers who experienced
846 at least one delinquency lasting 60 days or more and the
847 distribution of principal loan amounts corresponding to those
848 delinquencies.

849 (3) The commission shall adopt rules to implement this
850 section.

851 Section 8. Sections 516.405-516.46, Florida Statutes, are
852 repealed on July 1, 2030, unless reenacted or superseded by
853 another law enacted by the Legislature before that date.

854 Section 9. For the 2020-2021 fiscal year, the sum of
855 \$407,520 in nonrecurring funds from the Administrative Trust
856 Fund is appropriated to the Office of Financial Regulation for
857 the purpose of implementing this act.

858 Section 10. This act shall take effect January 1, 2021.