STATE OF NEW YORK

5771

2017-2018 Regular Sessions

IN SENATE

April 28, 2017

Introduced by Sen. HAMILTON -- read twice and ordered printed, and when printed to be committed to the Committee on Banks

AN ACT to amend the banking law, in relation to enacting the "credit creation pilot program act of New York"; and providing for the repeal of such provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Short title. This act shall be known and may be cited as the "credit creation pilot program act of New York".

§ 2. The legislature finds and declares that consumer demand for responsible installment loans in principal amounts of at least three hundred dollars and no more than five thousand dollars exceeds the supply of these loans. The legislature has identified several improvements that could be made to the banking laws, which would allow more New Yorkers to access responsible installment loans of at least three hundred dollars and no more than five thousand dollars. The credit creation pilot program act of New York is intended to assist consumers in building their credit and has additional consumer protections for these loans which exceed current protections under existing law.

§ 3. The banking law is amended by adding a new article 8-B to read as follows:

ARTICLE 8-B

CREDIT CREATION PILOT PROGRAM ACT OF NEW YORK

Section 339-a. Creation of pilot program and definitions.

339-b. Approval required; program application requirements; fees.

339-c. Requirements for program loans.

339-d. Underwriting requirements; credit reporting; credit education; prohibition on refinance; prohibition on credit insurance; and additional consumer protections.

339-e. Disclosures, statements and receipts.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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339-f. Referral partners; permitted services; prohibited activities; compensation.
339-g. Examinations and grounds for disciplinary action.
339-h. Program reporting.

§ 339-a. Creation of pilot program and definitions. 1. The superintendent shall create and implement within the department, the credit creation pilot program act of New York.

2. For purposes of this article:

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

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

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

(d) "Pilot program" or "program" means the credit creation pilot program act of New York.

(e) "Pilot program licensee" or "program licensee" means a person or entity that is licensed to make and collect program loans under this article and who is approved by the superintendent to participate in the program.

(f) "Pilot program master license" or "program master license" means a program master license issued by the superintendent under this article authorizing a program licensee to make and collect program loans.

(g) "Program branch office license" means the license granted to a program licensee with a program master license for additional licensed program locations, excluding a program licensee's or referral partner's principal place of business, at which program loans are originated, negotiated, funded, or serviced by a program licensee.

(h) "Program loan" means a consumer installment loan with a principal amount of at least three hundred dollars and no more than five thousand dollars.

(i) "Referral partner" means an entity that, at the referral partner's physical location for business or through other means, performs one or more of the permitted services specified in section three hundred thirty-nine-f of this article on behalf of a program licensee. A referral partner shall not mean a loan broker as defined in section 5-531 of the general obligations law.

(j) "Superintendent" means the superintendent of financial services.

§ 339-b. Approval required; program application requirements; fees. 1. A program licensee may not offer or make a program loan, or impose any charges or fees pursuant to this article, without prior approval from the superintendent to participate in the program.

2. In order to participate in the program, a person or entity must:

(a) Be licensed as a lender pursuant to article nine of this chapter;

(b) Not be the subject of any insolvency proceedings;

(c) Be in good standing with the superintendent and not be subject to any outstanding enforcement or other disciplinary actions taken against it by any of New York's financial regulators or by a financial regulator of another state, the District of Columbia or any agency of the United States;

(d) Pay an application fee of three thousand dollars to the superintendent at the time of making the application;

(e) File with the superintendent an application in a form and manner prescribed by the superintendent which contains the following information with respect to the program applicant and such other information as the superintendent may require by regulation:

(i) The legal business name and any other name the applicant operates under other than the legal business name;

(ii) The address of the principal place of business;

(iii) The telephone number and e-mail address;

(iv) The address of any program branch office;

(v) The name and address of the applicant and if the applicant is a partnership or limited liability company, the names and addresses of the members, or if the applicant is a corporation, the names and addresses of the shareholders owning ten percent or more of the shares of such corporation;

(vi) The contact person's name, title, address, telephone number, and e-mail address;

(vii) The license number, if licensed under article nine of this chapter;

(viii) A statement as to whether the applicant intends to use the services of one or more referral partners under section three hundred thirty-nine-f of this article;

(ix) A statement that the applicant has been accepted as a data furnisher by a consumer reporting agency and will report to a consumer reporting agency the payment performance of each borrower on all loans made under the program; and

(x) The signature and certification of an authorized person of the applicant.

3. A program licensee who desires to participate in the program but who is not licensed to make loans pursuant to article nine of this chapter must submit concurrently the following two applications to the superintendent, in a form and manner specified in this section:

(a) An application and a fee for a master license pursuant to article nine of this chapter; and

(b) An application and a fee for admission to the program in accordance with paragraphs (d) and (e) of subdivision two of this section.

4. Except as otherwise provided in this article, a program licensee is subject to all the laws and rules governing consumer loans under article nine of this chapter.

5. All program licensees shall be assessed an annual nonrefundable license fee of one thousand dollars.

6. Only one pilot program master license is required for a person or entity to make program loans under this article, regardless of whether the program licensee offers program loans to prospective borrowers at its own physical business locations, through referral partners, or via an electronic access point through which a prospective borrower may directly access the website of the program licensee.

7. Each branch office of a program licensee must be licensed under this section.

8. This superintendent shall issue a program branch office license to a program licensee after the superintendent determines that the program licensee has submitted a completed application for a program branch office license in a form prescribed by the superintendent and payment of an initial nonrefundable program branch office license fee of five hundred dollars for each branch office as prescribed by the superintendent. Application fees may not be prorated for partial years of licensure. The program branch office license shall be issued in the name of the program licensee that maintains the branch office. The application for a program branch office license shall contain the following information with respect to the applicant:

(a) The legal business name and any other name the applicant operates under other than the legal business name;

(b) The address of the principal place of business;

(c) The telephone number and e-mail address;

(d) The address of each program branch office;

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

(f) The program master license number, if licensed under this article; and

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

§ 339-c. Requirements for program loans. 1. A program licensee shall comply with each of the following requirements in making program loans:

(a) A program loan shall be unsecured;

(b) A program loan shall have a minimum principal amount upon origination of three hundred dollars and a maximum principal amount upon origination of five thousand dollars excluding the amount of the origination fee permitted under subdivision three of this section;

(c) A program loan shall have a term of not less than two hundred forty days;

(d) A program loan must be repayable by the borrower in substantially equal weekly, biweekly, semimonthly, or monthly installments; and

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

2. As an alternative to the charges authorized by section 5-501 of the general obligations law or section fourteen-a of this chapter, a program licensee may contract for and receive charges for a program loan made pursuant to this section at an annual simple interest rate not to exceed thirty percent. The interest rate calculated as of the date of loan origination shall be fixed for the life of the loan and shall accrue on a simple-interest basis, through the application of a daily periodic rate to the actual unpaid principal balance each day.

3. Notwithstanding section 5-501 of the general obligations law or section fourteen-a of this chapter, a program licensee may contract for and receive a nonrefundable origination fee from the borrower, provided that the borrower has not rescinded the program loan pursuant to paragraph (e) of subdivision one of this section. The origination fee shall be fully earned immediately upon making the program loan, in an amount not to exceed five percent of the principal amount, exclusive of the origination fee, or seventy-five dollars, whichever is less, on the program loan made to that borrower. An origination fee charged by a program licensee shall be subject to all of the following:

(i) Only one origination fee may be contracted for or received from a borrower until the program loan has been repaid in full;

(ii) A program licensee shall not charge the same borrower an origination fee more than twice in any twelve-month period; and

(iii) The program licensee may either deduct the origination fee from the principal amount of the program loan disbursed to the borrower or capitalize the origination fee into the principal balance of the program loan.

4. Notwithstanding section three hundred fifty-one of this chapter, a program licensee may:

(a) Require payment from a borrower of no more than twenty-five dollars for insufficient funds fees incurred by that program licensee due to actions of the borrower; and

(b) Contract for and receive a delinquency fee of no more than fourteen dollars for each payment in default for at least seven days if the charge is agreed upon in writing between the parties before imposing the charge. A delinquency fee imposed by a program licensee is subject to all of the following:

(i) No more than one delinquency fee may be imposed per delinquent payment;

(ii) No more than two delinquency fees may be imposed during any period of thirty consecutive days; and

(iii) No delinquency fee may be imposed on a borrower who is one hundred eighty days or more past due if that fee would result in the sum of the borrower's remaining unpaid principal balance, accrued interest, and delinquency fees exceeding one hundred eighty percent of the original principal amount of the borrower's loan.

§ 339-d. Underwriting requirements; credit reporting; credit education; prohibition on refinance; prohibition on credit insurance; and additional consumer protections. 1. The following shall apply to a program loan made by a program licensee pursuant to this article:

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

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

(B) The program licensee shall not be required to consider, for purposes of debt-to-income ratio evaluation, loans from friends or family.

(ii) The program licensee shall also verify the borrower's income that the program licensee relies on to determine the borrower's debt-to-income ratio using information from either of the following:

(A) Electronic means or services that provide reliable evidence of the borrower's actual income; or

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

(b) The program licensee shall report each borrower's payment performance to at least one consumer reporting agency that compiles and maintains files on consumers on a nationwide basis. For purposes of this section, a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis is one that meets the definition in section 60-3(p) of the federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681a(p)).

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

(d) The program licensee shall notify each borrower, at least two days prior to each payment due date, informing the borrower of the amount due, and the payment due date. Notification may be provided by any means mutually acceptable to the borrower and the program licensee. A borrower shall have the right to opt out of this notification at any time, upon electronic or written request to the program licensee. The program licensee shall notify each borrower of this right prior to disbursing program loan proceeds.

(e) Before disbursing program loan proceeds to a borrower, the program licensee shall either:

(i) offer a credit education program or seminar to the borrower that has been previously reviewed and approved by the superintendent for use in complying with this section; or

(ii) invite the borrower to a credit education program or seminar offered by an independent third party that has been previously reviewed and approved by the superintendent for use in complying with this section. The borrower shall not be required to participate in either of these education programs or seminars. A credit education program or seminar offered pursuant to this paragraph shall be provided at no cost to the borrower.

(f) A program licensee shall not refinance a program loan. Refinance means the replacement or revision of an existing program loan contract with a borrower in exchange for an advance of additional principal to that borrower. A program licensee may extend, defer, or rewrite a program loan.

2. (a) Notwithstanding section three hundred fifty-seven of this chapter, no program licensee, referral partner or any other person or entity, in connection with, or incidental to, the making of any program loan made pursuant to this article, may offer, sell, or require the borrower to contract for "credit insurance" of the type specified in subdivision three of section three hundred fifty-seven of this chapter or insurance on tangible personal or real property of the type specified in subdivision one of section three hundred fifty-seven of this chapter.

(b) Notwithstanding section three hundred fifty-seven of this chapter, no program licensee, referral partner, or any other person that participates in the origination of a program loan under this article shall refer a borrower to any other person for the purchase of "credit insurance" of the type specified in subdivision three of section three hundred fifty-seven of this chapter or insurance on tangible personal or real property of the type specified in subdivision one of section three hundred fifty-seven of this chapter.

3. (a) No program licensee shall require, as a condition of providing the program loan, that the borrower waive any right, penalty, remedy, forum, or procedure provided for in any law applicable to the program loan, including the right to file and pursue a civil action or file a complaint with or otherwise communicate with the superintendent or any court or other public entity, or that the borrower agree to resolve disputes in a jurisdiction outside of New York or to the application of laws other than those of New York, as provided by law. Any waiver that is required as a condition of doing business with the program licensee shall be presumed involuntary, unconscionable, against public policy, and unenforceable.

(b) No program licensee shall refuse to do business with or discriminate against a borrower or applicant on the basis that the borrower or applicant refuses to waive any right, penalty, remedy, forum, or procedure, including the right to file and pursue a civil action or complaint with, or otherwise notify, the superintendent or any court or other public entity. The exercise of a person's right to refuse to waive any right, penalty, remedy, forum, or procedure, including a rejection of a contract requiring a waiver, shall not affect any otherwise legal terms of a contract or an agreement.

(c) This subdivision shall not apply to any agreement to waive any right, penalty, remedy, forum, or procedure, including any agreement to arbitrate a claim or dispute, after a claim or dispute has arisen. Nothing in this subdivision shall affect the enforceability or validity of any other provision of the contract.

4. The program licensee or any of its wholly owned subsidiaries may not sell or assign an unpaid debt to an independent third party for collection purposes unless the debt has been delinquent for at least thirty days.

5. The program licensee shall develop and implement policies and procedures designed to respond to questions raised by applicants and borrowers regarding their program loans, including those involving referral partners, and to address customer complaints as soon as reasonably practicable.

§ 339-e. Disclosures, statements and receipts. 1. (a) In addition to the disclosure requirements of article nine of this chapter, a program licensee shall disclose the following to the consumer in writing, in a typeface no smaller than twelve-point type, at the time of application:

(i) The amount borrowed; the total dollar cost of the program loan to the consumer if the program loan is paid back on time, including the sum of the origination fee, principal amount borrowed, and interest payments; the corresponding annual percentage rate, calculated in accordance with Federal Reserve Board Regulation Z (12 C.F.R. 226); the periodic payment amount; the delinquency fee schedule; and the following statement: "Repaying your loan early will lower your borrowing costs by reducing the amount of interest you will pay. This loan has no prepayment penalty."

(ii) A statement that the consumer has the right to rescind the program loan by notifying the program licensee of the consumer's intent to rescind the program loan and returning the principal advanced by the end of the business day following the date the program loan is consummated.

(b) A program licensee may provide the borrower with the disclosures required by paragraph (a) of this subdivision in a mobile or other electronic application, on which the size of the typeface of the disclosure can be manually modified by a prospective borrower, if the prospective borrower is given the option to print the disclosure in a typeface of at least twelve-point size or is provided by the program licensee with a hardcopy of the disclosure in a typeface of at least twelve-point size before the program loan is consummated.

(c) The program loan contract and all written disclosures and statements may be provided in English or another language in which the program loan is negotiated.

2. At the time a referral partner receives or processes an application for a program loan pursuant to section three hundred thirty-nine-f of this article, the referral partner shall provide the following statement to the applicant, on behalf of the program licensee, in no smaller than

ten-point type, and must request that the applicant acknowledge receipt of the statement in writing:

"Your loan application has been referred to us by (name of referral partner). We may pay a fee to (name of referral partner) for the successful referral of your loan application. If you are approved for the loan, (name of program licensee) will become your lender. If you have any questions about your loan, now or in the future, you should direct those questions to (name of program licensee) by (insert at least two different ways in which a borrower may contact the program licensee). If you wish to report a complaint about (name of referral partner) or (name if program licensee) regarding this loan transaction, you may contact the Department of Financial Services and file your complaint online at http://www.dfs.ny.gov."

3. A referral partner that disburses loan proceeds to a borrower pursuant to paragraph (j) of subdivision three of section three hundred thirty-nine-f of this article shall deliver or cause to be delivered to the borrower at the time loan proceeds are disbursed a plain and complete receipt showing all of the following:

(a) The date of disbursement;

(b) The total amount disbursed:

(c) The corresponding loan account identification; and

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

4. In addition to the receipt requirements in article nine of this chapter, a program licensee or its approved referral partner, if applicable, must make available to the borrower by electronic or physical means, at the time that a payment is made by the borrower, a plain and complete receipt of payment. For audit purposes, a program licensee must maintain an electronic record for each receipt made available to a borrower, which must include a copy of the receipt and the date and time that the receipt was generated. Each receipt of payment must show all of the following:

(a) The name of the borrower;

(b) The name of the referral partner, if applicable;

(c) The total payment amount received;

(d) The date of payment;

(e) The program loan balance before and after application of the payment;

(f) The amount of the payment that was applied to principal, interest, and fees;

(g) The type of payment made by the borrower; and

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

§ 339-f. Referral partners; permitted services; prohibited activities; compensation. 1. A licensee who is approved by the superintendent to participate in the program may use the services of one or more referral partners as provided in this article.

2. All arrangements between a program licensee and a referral partner must be specified in a written referral partner agreement between the parties. The agreement must contain a provision that the referral partner agrees to comply with this section and all rules adopted under this section regarding the activities of referral partners, and that the superintendent has access to the referral partner's books and records pertaining to the referral partner's operations under the agreement with the program licensee in accordance with subdivision one of section three hundred thirty-nine-g of this article.

3. A referral partner may perform one or more of the following services for a program licensee:

(a) Distributing, circulating, using, or publishing printed brochures, flyers, factsheets, or other written materials relating to program loans that the program licensee may make or negotiate. The written materials must be reviewed and approved in writing by the program licensee before being distributed, circulated, or published;

(b) Providing written factual information about program loan terms, conditions, or qualification requirements to a prospective borrower which have been either prepared by the program licensee or reviewed and approved in writing by the program licensee. A referral partner may discuss the information with a prospective borrower in general terms;

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

(d) Entering information provided by the prospective borrower on a preprinted or electronic application form or onto a preformatted computer database;

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

(f) Contacting the program licensee to determine the status of a program loan application;

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

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

(i) Operating an electronic access point through which a prospective borrower may directly access the website of the program licensee to apply for a program loan;

(j) Disbursing loan proceeds to a borrower, if this method of disbursement is acceptable to the borrower subject to the requirements of subdivision four of section three hundred thirty-nine-e of this article. A loan disbursement made by a referral partner under this subdivision is deemed to be made by the program licensee on the date the funds are disbursed or otherwise made available by the referral partner to the borrower; or

(k) Receiving a program loan payment from the borrower if this method of payment is acceptable to the borrower, subject to the requirements of subdivision five of section three hundred thirty-nine-e of this article.

4. (a) A program loan payment made by a borrower to a referral partner under this section must be applied to the borrower's program loan and deemed received by the program licensee as of the date the payment is received by the referral partner.

(b) A referral partner that receives program loan payments under this section shall deliver or cause to be delivered to the borrower at the

time that the payment is made by the borrower, a plain and complete receipt showing all of the information specified in subdivision five of section three hundred thirty-nine-e of this article.

5. A borrower who submits a program loan payment to a referral partner under this section shall not be liable for any failure or delay by the referral partner in transmitting the payment to the program licensee.

6. A referral partner that disburses or receives loan payments pursuant to subdivision three of this section shall maintain records of all disbursements made and loan payments received for a period of at least two years or until one month following the completion of an examination of the program licensee by the superintendent, whichever is later.

7. Providing any notice or disclosure required to be provided to the borrower by the program licensee, other than the notice required to be provided by the program licensee to the borrower pursuant to subdivision three of section three hundred thirty-nine-e of this article. A program licensee that uses a referral partner to provide notices or disclosures to borrowers shall maintain a record of which notices and disclosures each referral partner provides to borrowers on its behalf, for the purpose of facilitating the commissioner's examination of the program licensee.

8. A referral partner shall not engage in any of the following prohibited activities:

(a) Providing counseling or advice to a borrower or prospective borrower with respect to any loan term;

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

(c) Negotiating a loan term between a program licensee and a prospective borrower;

(d) Offering information pertaining to a single prospective borrower to more than one program licensee, except if a program licensee has declined to offer a program loan to a prospective borrower and has so notified that prospective borrower in writing, the referral partner may then offer information pertaining to a single prospective borrower to another program licensee with which it has a referral partner's agreement; and

(e) Requiring a borrower to pay any fees or charges to the referral partner or to any other person in connection with a program loan other than those permitted under this article.

9. A referral partner shall comply with all laws applicable to the program licensee that impose requirements upon the program licensee for safeguards for information security.

10. If the loan applicant has questions about the program loan that the referral partner is not permitted to answer, the referral partner shall make a good faith effort to assist the applicant in making direct contact with the program licensee before the program loan is consummated.

11. The program licensee may compensate a referral partner pursuant to the written agreement between the licensee and the referral partner and a compensation schedule that is mutually agreed to by the program licensee and the referral partner, subject to the requirements in subdivision twelve of this section.

12. The compensation of a referral partner by a program licensee shall be subject to all of the following requirements:

(a) Compensation may not be paid to a referral partner in connection with a loan application unless that program loan is consummated;

(b) Compensation may not be paid to a referral partner based upon the principal amount of the program loan;

(c) Compensation may not be directly or indirectly passed on to a borrower through a fee or other compensation, or a portion of a fee or other compensation charged to a borrower; and

(d) Subject to the limitations set forth in paragraphs (a), (b) and (c) of this subdivision, the total compensation paid by a program licensee to a referral partner for the services specified in subdivision three of this section shall not exceed the sum of the following:

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

(ii) Two dollars per payment received by the referral partner on behalf of the program licensee for the duration of the program loan, if the referral partner receives borrower loan payments on the program licensee's behalf in accordance with subdivision three of this section.

(e) Neither the program licensee nor any referral partner may pass on to a borrower, whether directly or indirectly, any additional cost or other charge for compensation paid to a referral partner under this program.

13. A program licensee that utilizes the services of a referral partner must notify the superintendent, in a form and manner prescribed by the superintendent, within fifteen days after entering into a contract with a referral partner regarding all of the following:

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

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

(c) The name and contact information of an employee of the referral partner who is responsible for that referral partner's referring activities on behalf of the program licensee; and

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

(i) The filing of a petition under the United States Bankruptcy Code for bankruptcy or reorganization by the referral partner;

(ii) The commencement of an administrative or a judicial license suspension or revocation proceeding, or the denial of a license request or renewal, by any state, the District of Columbia, any United States territory, or any foreign country in which the referral partner operates, plans to operate, or is licensed to operate;

(iii) A felony indictment involving the referral partner or an affiliated party. As used in this subparagraph, the term "affiliated party" means a director, an officer, a responsible person, an employee, or a foreign affiliate of a referral partner; or a person who has a controlling interest in a referral partner;

(iv) The felony conviction, guilty plea, or plea of nolo contendere, regardless of adjudication, of the referral partner or an affiliated party;

(v) Any suspected criminal act committed in this state or any act committed in another state or the District of Columbia that would constitute a criminal act if committed in the state of New York relating to activities regulated under this chapter by a referral partner;

(vi) Notification by a law enforcement or prosecutorial agency that the referral partner is under criminal investigation including, but not limited to, subpoenas to produce records or testimony and warrants issued by a court of competent jurisdiction which authorize the search and seizure of any records relating to a business activity regulated under this chapter; and

(vii) Any other information requested by the superintendent.

14. A referral partner must provide the program licensee with a written notice sent by registered mail within thirty days of any changes to the information specified in paragraphs (a) through (c) of subdivision thirteen of this section or the occurrence or knowledge of, whichever time period is greater, any of the events specified in paragraph (d) of subdivision thirteen of this section.

15. A program licensee is responsible for any act of its referral partner if the program licensee should have known of the act or had actual knowledge that such act is a violation of this section, and the program licensee allowed the act to continue. Such responsibility is limited to conduct engaged in by the referral partner pursuant to the authority granted to it by the program licensee under the contract between the referral partner and the program licensee.

16. The program licensee shall pay to the superintendent, at the time it files a referral partner notice with the superintendent, a one-time nonrefundable fee of thirty dollars for each referral partner as prescribed by the superintendent.

§ 339-g. Examinations and grounds for disciplinary action. 1. To ensure that the activities of the program licensee are in compliance with this article, the superintendent must examine each program licensee at least once every twenty-four months. The superintendent may examine each program licensee more frequently in accordance with and pursuant to article nine of this chapter. The superintendent may also examine the operations of each referral partner to ensure that the activities of the program licensee and the referral partner are in compliance with this article.

2. The program licensee shall pay for the costs of any such examination in the amount determined by the superintendent.

3. Notwithstanding subdivision one of this section, the superintendent shall have the authority to waive one or more program branch office examinations, if the superintendent deems that the program branch office examinations are not necessary for the protection of the public, due to the centralized operations of the program licensee or other factors acceptable to the superintendent.

4. A program licensee who violates any applicable provision of this article is subject to disciplinary action pursuant to article nine of this chapter. Subject to subdivision fifteen of section three hundred thirty-nine-f of this article, a program licensee is also subject to disciplinary action for a violation of this article committed by any of its referral partners.

5. The superintendent may take any of the following actions against a referral partner who violates the provisions of this section:

(a) Disqualify the referral partner from performing services under this article;

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

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

(d) Impose an administrative fine not to exceed one thousand dollars for each act of the referral partner; and

(e) If the superintendent deems that action in the public interest, prohibit the use of that referral partner by all program licensees accepted to participate in the program.

§ 339-h. Program reporting. 1. On or before April first of each year, a program licensee shall file a report with the superintendent containing aggregated or anonymized data, without reference to any borrower's nonpublic personal information or any proprietary or trade secret information of the program licensee, on each of the items specified in subdivision four of this section.

2. On or before January first, two thousand twenty-one, and again, on or before January first, two thousand twenty-three, the superintendent must post a report on its website summarizing the use of the program based upon the information contained in the report filed by each program licensee under subdivision one of this section.

3. The report must state the information in aggregate so as not to identify data by specific program licensee or referral partner.

4. The superintendent's report must specify the period to which the report corresponds and must include, but shall not be limited to, the following for that period:

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

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

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

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

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

(f) The average credit score increase between successive program loans for borrowers (i) with no credit score and (ii) with a credit score. In each case the licensee must specify the methodology used to measure the increase based on information from at least one major credit bureau.

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

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

(i) Pay medical expenses;

(ii) Pay for vehicle repair or a vehicle purchase;

(iii) Pay bills;

(iv) Consolidate debt;

(v) Build or repair credit history; and

(vi) Pay other expenses.

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

(j) The number and type of referral partners used by program licensees.

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

(l) The performance of program loans under the program as reflected by all of the following:

(i) The number and percentage of borrowers who experienced at least one delinquency lasting between seven and twenty-nine days and the distribution of principal loan amounts corresponding to those delinquencies;

(ii) The number and percentage of borrowers who experienced at least one delinquency lasting between thirty and fifty-nine days and the distribution of principal loan amounts corresponding to those delinquencies; and

(iii) The number and percentage of borrowers who experienced at least one delinquency lasting sixty days or more and the distribution of principal loan amounts corresponding to those delinquencies.

(m) The number and types of violations of this article by referral partners which were documented by the superintendent.

(n) The number and types of violations of this article by program licensees which were documented by the superintendent.

(o) The number of times that the superintendent disqualified a referral partner from performing services, barred a referral partner from performing services at one or more specific locations of the referral partner, terminated a written agreement between a referral partner and a program licensee, or imposed an administrative penalty.

(p) The number of complaints received by the superintendent about a program licensee or a referral partner and the nature of those complaints.

§ 4. This act shall take effect on the one hundred eightieth day after it shall have become a law and shall expire and be deemed repealed five years after such date; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made or completed on or before such effective date.