

THE FLORIDA SENATE
2018 SUMMARY OF LEGISLATION PASSED
Committee on Banking and Insurance

CS/HB 935 — Mortgage Regulation

by Commerce Committee and Rep. Nunez (CS/SB 894 by Rules Committee and Senator Garcia)

The bill revises ch. 494, F.S., governing non-depository loan originators, mortgage brokers, and mortgage lender businesses subject to regulation by the Office of Financial Regulation to provide greater consumer protections. The bill provides that it is unlawful for any person to misrepresent a residential mortgage loan as a business purpose loan, and defines the term, “business purpose loan.” Further, the bill provides a definition of the term “hold himself or herself out to the public as being in the mortgage lending business,” as that term currently exists under two licensing exemption provisions. These current exemptions permit an individual investor to make or acquire a mortgage loan with his or her own funds, or to sell such mortgage loan, without being licensed as a mortgage lender, so long as the individual does not “hold himself or herself out to the public as being in the mortgage lending business.”

The bill was in response to alleged unlicensed mortgage lending activity in South Florida. According to these reports, some lending entities were providing residential loans with usurious interest rates and high fees made under the guise of business purpose loans in order to avoid licensure and disclosure requirements under ch. 494, F.S., as a mortgage lender. These groups also claim that some of these unscrupulous lenders would not make the “residential loan” unless the borrower formed a limited liability company.

If approved by the Governor, these provisions take effect July 1, 2019.

Vote: Senate 37-0; House 112-0