

Committee on Banking and Insurance

CS/HB 1569 — Exemption from Regulation for Bona Fide Nonprofit Organizations

by Insurance & Banking Subcommittee and Rep. Grant and others (CS/SB 514 by Banking and Insurance Committee and Senators Boyd and Stewart)

The bill exempts from the regulations under ch. 494, F.S., a bona fide nonprofit organization and any employee thereof who acts as a loan originator only with respect to his or her work duties and only with respect to residential mortgage loans with terms that are favorable to the borrower. This exemption is substantially similar to the exemption permitted under the federal Secure and Fair Enforcement for Mortgage Licensing Act (S.A.F.E. Act) except that the exemption in the bill also covers the bona fide organization (not only the employee of such organization.)

The bill also:

- Provides that the Office of Financial Regulation (OFR) must determine whether an organization satisfies all of the following factors to be deemed a bona fide nonprofit organization:
 - Has the status of a tax-exempt organization under s. 501(c)(3), of the Internal Revenue Code.
 - Promotes affordable housing or provides homeownership education or similar services.
 - Conducts its activities in a manner that serves public or charitable purposes rather than commercial purposes.
 - Receives funding and revenue and charges fees in a manner that does not incentivize it or its employees to act other than in the best interests of its clients.
 - Compensates its employees in a manner that does not incentivize employees to act other than in the best interests of its clients.
 - Provides or identifies for the borrower residential mortgage loans with terms favorable to the borrower and comparable to mortgage loans and housing assistance provided under government housing assistance programs.
- Requires the OFR to determine that the terms of residential mortgage loans provided to or identified for the borrower are consistent with loan origination in public or charitable context, rather than a commercial context.
- Requires the OFR to periodically examine the books and activities of the organization and revoke its status if the organization does not continue to meet the requirements.

The bill expands the Financial Services Commission's rulemaking authority to prescribe criteria and processes for determining whether an organization is and remains a bona fide nonprofit organization for the purpose of determining whether the organization and its employees acting as loan originators may be exempt from regulation under ch. 494, F.S.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2024.

Vote: Senate 40-0; House 118-0