

By Senator Garcia

36-00321B-17

20171298\_\_

1                                   A bill to be entitled  
2       An act relating to mortgage loans; amending s.  
3       494.001, F.S.; redefining the term "mortgage loan";  
4       amending s. 494.00115, F.S.; requiring the Financial  
5       Services Commission to define the term "hold himself  
6       or herself out to the public as being in the mortgage  
7       lending business" by rule; providing an effective  
8       date.

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10   Be It Enacted by the Legislature of the State of Florida:

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12       Section 1. Subsection (24) of section 494.001, Florida  
13       Statutes, is amended to read:

14       494.001 Definitions.—As used in this chapter, the term:  
15       (24) "Mortgage loan" means any:

16       (a) Residential loan that ~~primarily for personal, family,~~  
17       ~~or household use which~~ is secured by a mortgage, deed of trust,  
18       or other equivalent consensual security interest on a dwelling,  
19       as defined in s. 103(w) ~~s. 103(v)~~ of the federal Truth in  
20       Lending Act, or for the purchase of residential real estate upon  
21       which a dwelling is to be constructed;

22       (b) Loan on commercial real property if the borrower is an  
23       individual or the lender is a noninstitutional investor; or

24       (c) Loan on improved real property consisting of five or  
25       more dwelling units if the borrower is an individual or the  
26       lender is a noninstitutional investor.

27       Section 2. Subsection (2) of section 494.00115, Florida  
28       Statutes, is amended to read:

29       494.00115 Exemptions.—

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30 (2) The following persons are exempt from regulation under  
31 part III of this chapter:

32 (a) A person acting in a fiduciary capacity conferred by  
33 the authority of a court.

34 (b) A person who, as a seller of his or her own real  
35 property, receives one or more mortgages in a purchase money  
36 transaction.

37 (c) A person who acts solely under contract and as an agent  
38 for federal, state, or municipal agencies for the purpose of  
39 servicing mortgage loans.

40 (d) A person who makes only nonresidential mortgage loans  
41 and sells loans only to institutional investors.

42 (e) An individual making or acquiring a mortgage loan using  
43 his or her own funds for his or her own investment, and who does  
44 not hold himself or herself out to the public as being in the  
45 mortgage lending business.

46 (f) An individual selling a mortgage that was made or  
47 purchased with that individual's funds for his or her own  
48 investment, and who does not hold himself or herself out to the  
49 public as being in the mortgage lending business.

50  
51 The commission shall define by rule the term "hold himself or  
52 herself out to the public as being in the mortgage lending  
53 business" as it is used in this subsection.

54 Section 3. This act shall take effect January 1, 2018.