



1                   A bill to be entitled  
 2           An act relating to mortgage regulation; amending s.  
 3           494.001, F.S.; revising the definition of the term  
 4           "mortgage loan"; amending s. 494.00115, F.S.;  
 5           providing an exemption from regulation under parts I  
 6           and II of ch. 494, F.S., for certain securities  
 7           dealers, investment advisers, and associated persons;  
 8           providing requirements for certain solicitations and  
 9           referrals; providing a definition for the term "hold  
 10          himself or herself out to the public as being in the  
 11          mortgage lending business"; providing an effective  
 12          date.

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

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

18           494.001 Definitions.—As used in this chapter, the term:

19           (24) "Mortgage loan" means any:

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



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

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

31 Section 2. Present subsections (2) and (3) of section  
32 494.00115, Florida Statutes, are redesignated as subsections (3)  
33 and (4), respectively, and new subsections (2) and (5) are added  
34 to that section, to read:

35 494.00115 Exemptions.—

36 (2) (a) A securities dealer, an investment adviser, or an  
37 associated person registered under s. 517.12 is exempt from  
38 regulation under this part and part II of this chapter if such  
39 person, in the normal course of conducting securities business  
40 with a corporate or an individual client:

41 1. Solicits or offers to solicit a mortgage loan from a  
42 securities client or refers a securities client to an entity  
43 exempt under paragraph (1) (b), a licensed mortgage broker, a  
44 licensed mortgage lender, or a registered loan originator; and

45 2. Does not accept or offer to accept an application for a  
46 mortgage loan, negotiate or offer to negotiate the terms or  
47 conditions of a new or existing mortgage loan on behalf of a  
48 borrower or lender, or negotiate or offer to negotiate the sale  
49 of an existing mortgage loan to a noninstitutional investor for  
50 compensation or gain.



51           (b) Any solicitation or referral made pursuant to this  
52 subsection must comply with chapter 517; the federal Real Estate  
53 Settlement Procedures Act, 12 U.S.C. ss. 2601 et seq.; and any  
54 applicable federal law or general law of this state.

55           (5) As used in this section, the term "hold himself or  
56 herself out to the public as being in the mortgage lending  
57 business" includes any of the following:

58           (a) Representing to the public, through advertising or  
59 other means of communicating or providing information (including  
60 the use of business cards, stationery, brochures, signs, rate  
61 lists, or promotional items), by any medium whatsoever, that  
62 such individual can or will perform the activities described in  
63 s. 494.001(23).

64           (b) Soliciting in a manner that would lead the intended  
65 audience to reasonably believe that such individual is in the  
66 business of performing the activities described in s.  
67 494.001(23).

68           (c) Maintaining a commercial business establishment at  
69 which, or premises from which, such individual regularly  
70 performs the activities described in s. 494.001(23) or regularly  
71 meets with current or prospective borrowers.

72           (d) Advertising, soliciting, or conducting business  
73 through use of a name, trademark, service mark, trade name,  
74 Internet address, or logo which indicates or reasonably implies  
75 that the business being advertised, solicited, or conducted is



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76 | the kind or character of business transacted or conducted by a  
77 | licensed mortgage lender or which is likely to lead any person  
78 | to believe that such business is that of a licensed mortgage  
79 | lender.

80 | (e) Using any form promulgated by the Federal National  
81 | Mortgage Association, the Federal Home Loan Mortgage  
82 | Corporation, the United States Department of Housing and Urban  
83 | Development, or the Consumer Financial Protection Bureau in  
84 | performing the activities described in s. 494.001(23).

85 | Section 3. This act shall take effect July 1, 2017.