

By Senator Baxley

12-00470A-18

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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 an effective date.

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

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

15 494.001 Definitions.—As used in this chapter, the term:

16 (24) "Mortgage loan" means any:

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

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

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

28 Section 2. Present subsections (2) and (3) of section
29 494.00115, Florida Statutes, are redesignated as subsections (3)

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30 and (4), respectively, and a new subsection (2) is added to that
31 section, to read:

32 494.00115 Exemptions.—

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

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

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

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

52 Section 3. This act shall take effect July 1, 2018.