

By Senator Garcia

36-01122-18

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1 A bill to be entitled
2 An act relating to mortgage lending; amending s.
3 494.001, F.S.; revising the definition of the term
4 "mortgage loan"; amending s. 494.00115, F.S.; defining
5 the term "hold himself or herself out to the public as
6 being in the mortgage lending business"; providing an
7 effective date.

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

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

13 494.001 Definitions.—As used in this chapter, the term:

14 (24) "Mortgage loan" means any:

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

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

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

26 Section 2. Subsection (4) is added to section 494.00115,
27 Florida Statutes, to read:

28 494.00115 Exemptions.—

29 (4) As used in this section, the term "hold himself or

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30 herself out to the public as being in the mortgage lending
31 business" includes any of the following:

32 (a) Representing to the public, through advertising or
33 other means of communicating or providing information, and by
34 any medium whatsoever, including the use of business cards,
35 stationery, brochures, signs, rate lists, or promotional items,
36 that such individual can or will perform the activities
37 described in s. 494.001(23).

38 (b) Soliciting in a manner that would lead the intended
39 audience to reasonably believe that such individual is in the
40 business of performing the activities described in s.
41 494.001(23).

42 (c) Maintaining a commercial business establishment at
43 which, or premises from which, such individual regularly
44 performs the activities described in s. 494.001(23) or regularly
45 meets with current or prospective borrowers.

46 (d) Advertising, soliciting, or conducting business through
47 use of a name, trademark, service mark, trade name, Internet
48 address, or logo that indicates or reasonably implies that the
49 business being advertised, solicited, or conducted is the kind
50 or character of business transacted or conducted by a licensed
51 mortgage lender or that is likely to lead any person to believe
52 that such business is that of a licensed mortgage lender.

53 Section 3. This act shall take effect January 1, 2019.