

By the Committee on Banking and Insurance; and Senators Garcia and Taddeo

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1                                   A bill to be entitled  
2       An act relating to servicers and lenders of  
3       residential mortgage loans; amending s. 494.001, F.S.;  
4       revising and providing definitions; creating s.  
5       494.00163, F.S.; requiring that periodic statements  
6       for residential mortgage loans follow specified laws;  
7       specifying that certain entities are not exempt from  
8       such laws; defining the term "small mortgage  
9       servicer"; creating s. 494.00164, F.S.; prohibiting a  
10      mortgage servicer from assessing certain charges or  
11      fees relating to lender-placed insurance on a borrower  
12      unless specified requirements are met; defining the  
13      term "lender-placed insurance"; providing notice  
14      requirements relating to such assessment; requiring  
15      mortgage servicers to take specified actions after  
16      receiving certain evidence relating to hazard  
17      insurance coverage; requiring certain written notices  
18      to be sent by first-class mail; creating s. 494.00225,  
19      F.S.; requiring mortgage servicers and mortgage  
20      lenders to assume duties and obligations relating to  
21      previously approved first lien loan modifications,  
22      foreclosure prevention alternatives, and other loan  
23      modifications under certain circumstances; creating s.  
24      494.0027, F.S.; defining terms; prohibiting mortgage  
25      servicers and mortgage lenders from commencing certain  
26      civil actions, recording specified notices, or  
27      conducting foreclosure sales unless specified  
28      conditions are met; requiring mortgage servicers and  
29      mortgage lenders to establish single points of contact

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30 and provide to borrowers direct means of communication  
31 with the single points of contact upon request;  
32 providing requirements and duties for single points of  
33 contact and for mortgage servicers and mortgage  
34 lenders relating to single points of contact;  
35 requiring mortgage servicers and mortgage lenders to  
36 send written acknowledgment of application receipt to  
37 foreclosure prevention alternative applicants in  
38 specified manners within a specified timeframe;  
39 providing requirements for statements, documents, and  
40 information that mortgage servicers and mortgage  
41 lenders must send to applicants under various  
42 circumstances; providing timelines for mortgage  
43 servicers and mortgage lenders to commence civil  
44 actions against residential mortgage loan borrowers;  
45 providing that mortgage servicers and mortgage lenders  
46 are not required to evaluate foreclosure prevention  
47 alternative applications under certain circumstances;  
48 providing an exception; prohibiting mortgage servicers  
49 and mortgage lenders from charging specified fees;  
50 creating ss. 627.4055 and 635.0215, F.S.; defining  
51 terms; prohibiting insurers and insurance agents from  
52 engaging in certain acts relating to lender-placed  
53 insurance for residential mortgage loan guaranty;  
54 creating s. 702.013, F.S.; defining terms; prohibiting  
55 mortgage servicers and mortgage lenders from  
56 commencing certain civil actions, recording specified  
57 notices, or conducting foreclosure sales unless  
58 specified conditions are met; providing an exception;

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59 requiring mortgage servicers and mortgage lenders to  
60 establish single points of contact and to provide to  
61 borrowers direct means of communication with the  
62 single points of contact upon request; providing  
63 requirements and duties for single points of contact  
64 and for mortgage servicers and mortgage lenders  
65 relating to single points of contact; requiring  
66 mortgage servicers and mortgage lenders to send  
67 written acknowledgment of application receipt to  
68 foreclosure prevention alternative applicants in  
69 specified manners within a specified timeframe;  
70 providing requirements for statements, documents, and  
71 information that mortgage servicers and mortgage  
72 lenders must send to applicants under various  
73 circumstances; providing timelines for mortgage  
74 servicers and mortgage lenders to commence civil  
75 actions against residential mortgage loan borrowers;  
76 providing that mortgage servicers and mortgage lenders  
77 are not required to evaluate foreclosure prevention  
78 alternative applications under certain circumstances;  
79 providing an exception; prohibiting mortgage servicers  
80 and mortgage lenders from charging specified fees;  
81 amending ss. 494.00115 and 494.0025, F.S.; conforming  
82 cross-references; providing an effective date.

83

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

85

86 Section 1. Present subsections (12) through (26) and (27)  
87 through (38) of section 494.001, Florida Statutes, are

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88 redesignated as subsections (13) through (27) and subsections  
89 (29) through (40), respectively, new subsections (12) and (28)  
90 are added to that section, and subsection (1) of that section is  
91 amended, to read:

92 494.001 Definitions.—As used in this chapter, the term:

93 (1) "Borrower" means:

94 (a) A person obligated to repay a mortgage loan and  
95 includes, but is not limited to, a coborrower or cosignor; or

96 (b) A natural person who is a mortgagor under a residential  
97 mortgage loan.

98 (12) "Foreclosure prevention alternative" means a  
99 modification of a residential mortgage loan term.

100 (28) "Mortgage servicer" means a person or entity that  
101 directly services, or is contracted as a subservicing agent to a  
102 master servicer to service, a residential mortgage loan or  
103 manages a residential mortgage loan, which services or  
104 management may include, but is not limited to, the following  
105 responsibilities:

106 (a) Interacting with the borrower; managing the borrower's  
107 loan account daily, including, but not limited to, collecting  
108 and crediting loan payments that include principals and  
109 interests paid, and generating periodic billing and account  
110 statements; and managing the borrower's escrow account, if  
111 applicable; or

112 (b) Enforcing the note and security instrument as the  
113 current owner of the promissory note or as the authorized agent  
114 of the current owner of the promissory note.

115 Section 2. Section 494.00163, Florida Statutes, is created  
116 to read:

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117 494.00163 Residential mortgage loans; periodic statements.-

118 (1) Periodic statements for residential mortgage loans in  
119 the state must follow all the provisions set forth in 12 C.F.R.  
120 s. 1026.41.

121 (2) A servicer of a reverse mortgage or a small mortgage  
122 servicer is not exempt from the requirements of 12 C.F.R. s.  
123 1026.41. As used in this section, the term "small mortgage  
124 servicer" means a mortgage servicer that, together with any  
125 affiliates, services up to 5,000 residential mortgage loans, all  
126 of which have the mortgage servicer or its affiliate as the  
127 creditor or assignee.

128 Section 3. Section 494.00164, Florida Statutes, is created  
129 to read:

130 494.00164 Lender-placed insurance.-

131 (1) A mortgage servicer may not assess any premium charge  
132 or fee related to lender-placed insurance on a borrower unless  
133 the servicer has a reasonable basis to believe that the borrower  
134 has failed to comply with the mortgage loan contract's  
135 requirement to maintain hazard insurance and the requirements of  
136 this section are met. As used in this section, the term "lender-  
137 placed insurance" means hazard insurance obtained by a mortgage  
138 servicer on behalf of the owner or assignee of a mortgage loan  
139 that insures the property securing such loan. The term "lender-  
140 placed insurance" does not include hazard insurance required by  
141 the Flood Disaster Protection Act of 1973, or, if the borrower  
142 agrees, hazard insurance obtained by a borrower but renewed by  
143 the borrower's servicer at its discretion.

144 (2) A mortgage servicer may not assess any premium charge  
145 or fee related to lender-placed insurance on a borrower unless

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146 all of the following occur:

147 (a) The mortgage servicer, at least 45 days before  
148 assessing on a borrower a charge or fee related to lender-placed  
149 insurance, delivers to such borrower written notice containing  
150 all of the following:

151 1. The date of the notice, the mortgage servicer's name and  
152 mailing address, the borrower's name and mailing address, and  
153 the physical address of the property.

154 2. In bold type, a statement requesting the borrower to  
155 provide hazard insurance information for the borrower's  
156 property. The statement must identify the property by its  
157 physical address.

158 3. A statement specifying:

159 a. The borrower's hazard insurance is expiring, has  
160 expired, or provides insufficient coverage, as applicable;

161 b. The mortgage servicer does not have evidence of hazard  
162 insurance coverage for the property; and

163 c. If applicable, the type of insurance for which the  
164 servicer lacks evidence of coverage.

165 4. In bold type, a statement that hazard insurance is  
166 required on the borrower's property, and that the mortgage  
167 servicer has purchased or will purchase, as applicable, hazard  
168 insurance at the borrower's expense.

169 5. In bold type, a statement that insurance the mortgage  
170 servicer has purchased or purchases may cost significantly more  
171 than hazard insurance purchased by the borrower and may provide  
172 less coverage than hazard insurance purchased by the borrower.

173 6. A clear and conspicuous statement requesting the  
174 borrower to promptly provide the mortgage servicer with evidence

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175 of hazard insurance coverage for the property, including a  
176 description of the requested insurance information and how the  
177 borrower may provide such information.

178 7. The mortgage servicer's telephone number for borrower  
179 inquiries.

180 8. If applicable, a statement advising the borrower to  
181 review additional information provided in the same transmittal.

182 (b) The mortgage servicer, at least 15 days before  
183 assessing on a borrower a premium charge or fee related to  
184 lender-placed insurance, delivers to the borrower a written  
185 notice that:

186 1. If a mortgage servicer has not received hazard  
187 information after delivering the notice required by paragraph  
188 (a), includes:

189 a. The date of the notice;

190 b. In bold type, a statement that the notice is the second  
191 and final notice;

192 c. The information required for the notice under paragraph  
193 (a), except for the date of that notice; and

194 d. In bold type, the cost of the lender-placed insurance,  
195 stated as an annual premium, or, if a servicer does not know the  
196 cost of lender-placed insurance, a reasonable estimate of such  
197 cost.

198 2. If a mortgage servicer received hazard insurance  
199 information after delivering the notice required under paragraph  
200 (a) to the borrower, but has not received evidence demonstrating  
201 that the borrower has had sufficient hazard insurance coverage  
202 in place continuously, includes:

203 a. The date of the notice;

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204 b. In bold type, a statement that the notice is the second  
205 and final notice;

206 c. The information required by subparagraphs (a)1., 2., 5.,  
207 7., and 8.;

208 d. In bold type, the cost of the lender-placed insurance,  
209 stated as an annual premium, or, if a servicer does not know the  
210 cost of lender-placed insurance, a reasonable estimate of such  
211 cost;

212 e. A statement that the mortgage servicer received the  
213 hazard insurance information that the borrower provided;

214 f. A statement that requests the borrower to provide the  
215 information that is missing; and

216 g. A statement that the borrower will be charged for  
217 insurance the servicer has purchased or purchases for the period  
218 of time during which the servicer is unable to verify coverage.

219 (c) By the end of the 15-day period beginning on the date  
220 the written notice described in paragraph (b) is delivered to  
221 the borrower the mortgage servicer has not received, from the  
222 borrower or otherwise, evidence demonstrating that the borrower  
223 has continuously had in place hazard insurance coverage that  
224 complies with the loan contract's requirements to maintain  
225 hazard insurance.

226 (3) A mortgage servicer may not assess any premium charge  
227 or fee related to renewing or replacing lender-placed insurance  
228 on a borrower unless all of the following occur:

229 (a) The mortgage servicer, at least 45 days before  
230 assessing on a borrower a premium charge or fee related to  
231 renewing or replacing lender-placed insurance, delivers to such  
232 borrower written notice containing all of the following:



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233       1. The date of the notice, the mortgage servicer's name and  
234 mailing address, the borrower's name and mailing address, and  
235 the physical address of the property;

236       2. In bold type, a statement requesting the borrower to  
237 update the hazard insurance information for the borrower's  
238 property. The statement must identify the property by its  
239 physical address;

240       3. A statement that the mortgage servicer previously  
241 purchased insurance on the borrower's property and assessed the  
242 cost of the insurance to the borrower because the servicer did  
243 not have evidence that the borrower had hazard insurance  
244 coverage for the property;

245       4. A statement specifying:

246       a. The hazard insurance the mortgage servicer previously  
247 purchased is expiring or has expired, as applicable; and

248       b. In bold type, because hazard insurance is required on  
249 the borrower's property, the servicer intends to maintain  
250 insurance on the property by renewing or replacing the insurance  
251 it previously purchased;

252       5. In bold type, a statement that insurance the servicer  
253 has purchased or purchases may cost significantly more than  
254 hazard insurance purchased by the borrower, that such insurance  
255 may provide less coverage than hazard insurance purchased by the  
256 borrower;

257       6. The cost of the lender-placed insurance, stated as an  
258 annual premium, except if a mortgage servicer does not know the  
259 cost of the lender-placed insurance, a reasonable estimate shall  
260 be provided;

261       7. A statement that if the borrower purchases hazard

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262 insurance, the borrower should promptly provide the servicer  
263 with insurance information;

264 8. A description of the requested insurance information and  
265 how the borrower may provide such information;

266 9. The mortgage servicer's telephone number for borrower  
267 inquiries; and

268 10. If applicable, a statement advising the borrower to  
269 review additional information provided in the same transmittal.

270 (4) Within 15 days after receiving evidence demonstrating  
271 that the borrower has had hazard insurance coverage in place  
272 that complies with the loan contract's requirements to maintain  
273 hazard insurance, a mortgage servicer must:

274 (a) Cancel the lender-placed insurance the servicer  
275 purchased to insure the borrower's property; and

276 (b) Refund to such borrower all lender-placed insurance  
277 premium charges and fees paid by such borrower for any period of  
278 overlapping insurance coverage and remove from the borrower's  
279 account all lender-placed insurance charges and related fees for  
280 such period that the servicer has assessed to the borrower.

281 (5) The written notices required by this section must be  
282 sent by first-class or express mail.

283 Section 4. Section 494.00225, Florida Statutes, is created  
284 to read:

285 494.00225 Residential mortgage loan modifications to avoid  
286 foreclosure; transfers of duties and obligations of mortgage  
287 servicers and mortgage lenders.—If a borrower of a residential  
288 mortgage loan has been approved in writing for a first lien loan  
289 modification, a foreclosure prevention alternative under s.  
290 494.0027, or other loan modification to avoid foreclosure and if

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291 the servicing of the borrower's mortgage loan is transferred or  
292 sold, the mortgage servicer or mortgage lender to whom the  
293 mortgage loan is transferred or sold shall assume all duties and  
294 obligations related to such previously approved first lien loan  
295 modification, foreclosure prevention alternative, or other loan  
296 modification.

297 Section 5. Section 494.0027, Florida Statutes, is created  
298 to read:

299 494.0027 Foreclosure prevention alternatives for  
300 residential mortgage loans.-

301 (1) As used in this section, the term:

302 (a) "Complete application" means an application for a  
303 foreclosure prevention alternative for which the borrower has  
304 provided all documents required by the mortgage servicer or  
305 mortgage lender within the reasonable timeframe specified by the  
306 mortgage servicer or mortgage lender.

307 (b) "Single point of contact" means a person who has, or a  
308 team of personnel of which each member has, the ability,  
309 authority, and responsibility to:

310 1. Communicate the process by which a borrower may apply  
311 for an available foreclosure prevention alternative and the  
312 deadline for any required submission to be considered for the  
313 foreclosure prevention alternative.

314 2. Coordinate receipt of all documents associated with the  
315 available foreclosure prevention alternatives and notify the  
316 borrower of any missing document necessary to complete an  
317 application for a foreclosure prevention alternative.

318 3. Have access to current information and sufficient  
319 personnel to timely, accurately, and adequately inform the

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320 borrower of the current status of the foreclosure prevention  
321 alternative.

322 4. Ensure that the borrower is considered for all  
323 foreclosure prevention alternatives offered by, or through, the  
324 mortgage servicer or mortgage lender and for which the borrower  
325 is or may be eligible.

326 5. Have access to the person who has the ability and  
327 authority to stop the foreclosure process when necessary.

328 (2) (a) A mortgage servicer or mortgage lender may not  
329 commence a civil action for the recovery of any debt, or for the  
330 enforcement of any right, under a residential mortgage loan  
331 which is not barred by this chapter or chapter 702 or any other  
332 provision of law, record a notice of default or a notice of  
333 sale, or conduct a foreclosure sale if a borrower submits an  
334 application for a foreclosure prevention alternative offered by  
335 or through the borrower's mortgage servicer or mortgage lender,  
336 unless one of the following has occurred:

337 1. The borrower fails to submit all documents or  
338 information required to complete the application within the  
339 allotted timeframe authorized by the mortgage servicer or  
340 mortgage lender, which must be at least 30 calendar days after  
341 the date of the initial acknowledgment of receipt of the  
342 application sent to the borrower.

343 2. The mortgage servicer or mortgage lender makes a written  
344 determination that the borrower is not eligible for a  
345 foreclosure prevention alternative, and any appeal period under  
346 subsection (5) has expired.

347 3. The borrower does not accept a written offer for a  
348 foreclosure prevention alternative within 30 calendar days after

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349 the date of the offer.

350 4. The borrower accepts a written offer for a foreclosure  
351 prevention alternative, but defaults on or otherwise breaches  
352 the borrower's obligations under the foreclosure prevention  
353 alternative.

354 (b)1. If a borrower requests a foreclosure prevention  
355 alternative, the mortgage servicer or mortgage lender shall  
356 promptly establish a single point of contact and provide to the  
357 borrower one or more direct means of communication with the  
358 single point of contact.

359 2. A single point of contact must remain assigned to the  
360 borrower's account until the mortgage servicer or mortgage  
361 lender determines that all foreclosure prevention alternatives  
362 offered by, or through, the mortgage servicer or mortgage lender  
363 have been exhausted or the borrower's account becomes current.

364 3. The mortgage servicer or mortgage lender shall ensure  
365 that a single point of contact refers and transfers the borrower  
366 to an appropriate supervisor upon the borrower's request, if the  
367 single point of contact has a supervisor.

368 4. If the responsibilities of a single point of contact are  
369 performed by a team of personnel, the mortgage servicer or  
370 mortgage lender shall ensure that each member of the team is  
371 knowledgeable about the borrower's situation and current status  
372 in the process of seeking a foreclosure prevention alternative.

373 (3) Within 7 business days after receiving an application  
374 for a foreclosure prevention alternative or any document in  
375 connection with a foreclosure prevention alternative application  
376 for a residential mortgage loan, a mortgage servicer or mortgage  
377 lender shall send to the borrower, by first-class mail or, if an

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378 electronic mail address is provided, by electronic mail, written  
379 acknowledgment of the receipt of the application or document.

380 (a) Upon receipt of an application for a foreclosure  
381 prevention alternative, the mortgage servicer or mortgage lender  
382 shall include in the initial acknowledgment of receipt of the  
383 application:

384 1. A description of the process for considering the  
385 application, including, without limitation, an estimate of when  
386 a decision on the application will be made and the length of  
387 time the borrower will have to consider an offer for a  
388 foreclosure prevention alternative.

389 2. A statement of any deadlines that affect the processing  
390 of an application for a foreclosure prevention alternative,  
391 including, without limitation, the deadline for submitting any  
392 missing document.

393 3. A statement of the expiration dates for any documents  
394 submitted by the borrower.

395 (b) If a borrower submits an application for a foreclosure  
396 prevention alternative but does not initially submit all the  
397 documents or information required to complete the application,  
398 the mortgage servicer or mortgage lender shall include in the  
399 initial acknowledgment of receipt of the application:

400 1. A statement of any deficiency in the borrower's  
401 application and allow the borrower at least 30 calendar days to  
402 submit any missing document or information required to complete  
403 the application.

404 2. All the information required under subparagraphs (a)1.,  
405 2., and 3.

406 (4) If a borrower accepts an offer for a foreclosure

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407 prevention alternative for a residential mortgage loan, the  
408 mortgage servicer or mortgage lender shall provide the borrower  
409 with a copy of the complete agreement of the foreclosure  
410 prevention alternative signed by the mortgage lender or an agent  
411 or authorized representative of the mortgage lender.

412 (5) If a borrower submits a complete application for a  
413 foreclosure prevention alternative for a residential mortgage  
414 loan and the borrower's application is denied, the mortgage  
415 servicer or mortgage lender shall send to the borrower a written  
416 statement of:

417 (a) The reason for the denial.

418 (b) The length of time the borrower has to request an  
419 appeal of the denial, which must be at least 30 calendar days.

420 (c) Instructions regarding how to appeal the denial,  
421 including, without limitation, how to provide evidence that the  
422 denial was in error.

423 (6) If a borrower of a residential mortgage loan submits a  
424 complete application for a foreclosure prevention alternative  
425 and the borrower's application is denied, the mortgage servicer  
426 or mortgage lender may not commence a civil action for the  
427 recovery of any debt, or for the enforcement of any right, under  
428 a residential mortgage loan which is not barred by this chapter  
429 or chapter 702 or any other provision of law, record a notice of  
430 default or a notice of sale, or conduct a foreclosure sale until  
431 the later of:

432 (a) Sixty calendar days after the borrower is sent the  
433 written statement required by subsection (5); or

434 (b) If the borrower appeals the denial, the later of:

435 1. Fifteen calendar days after the denial of the appeal;

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436 2. If the appeal is successful, 14 calendar days after a  
437 foreclosure prevention alternative offered after the appeal is  
438 declined by the borrower; or

439 3. If a foreclosure prevention alternative offered after  
440 the appeal is accepted, the date on which the borrower fails to  
441 timely submit the first payment or otherwise breaches the terms  
442 of the offer.

443 (7) A mortgage servicer or mortgage lender is not required  
444 to evaluate a foreclosure prevention alternative application  
445 from a borrower of a residential mortgage loan who has already  
446 been evaluated or afforded a fair opportunity to be evaluated  
447 for a foreclosure prevention alternative or who has been  
448 evaluated or afforded a fair opportunity to be evaluated  
449 consistent with the requirements of this section, unless:

450 (a) There has been a material change in the borrower's  
451 financial circumstances since the date of the borrower's  
452 previous application.

453 (b) The change in paragraph (a) is documented by the  
454 borrower and submitted to the mortgage servicer or mortgage  
455 lender.

456 (8) A mortgage servicer or mortgage lender may not charge  
457 or collect:

458 (a) An application fee, processing fee, or other fee for a  
459 foreclosure prevention alternative; or

460 (b) Late fees for periods during which:

461 1. A foreclosure prevention alternative is under  
462 consideration or a denial is being appealed;

463 2. The borrower is making timely payments under a  
464 foreclosure prevention alternative; or



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465 3. A foreclosure prevention alternative is being evaluated  
466 or exercised.

467 Section 6. Section 627.4055, Florida Statutes, is created  
468 to read:

469 627.4055 Lender-placed insurance for residential mortgage  
470 loan guaranty.—

471 (1) As used in this section, the term:

472 (a) "Affiliate" has the same meaning as in s. 624.10.

473 (b) "Lender-placed insurance" means insurance obtained by a  
474 mortgage servicer or mortgage lender when a borrower of a  
475 residential mortgage loan does not maintain valid or sufficient  
476 insurance upon the mortgaged real property as required by the  
477 terms of the mortgage agreement.

478 (c) "Mortgage servicer" has the same meaning as in s.  
479 494.001.

480 (d) "Person affiliated" means an affiliate or affiliated  
481 person, as those terms are defined in s. 624.10.

482 (2) (a) An insurer or insurance agent may not:

483 1. Issue lender-placed insurance on a mortgaged property if  
484 the insurer or insurance agent or an affiliate of the insurer or  
485 insurance agent owns, performs the servicing for, or owns the  
486 servicing right to, the mortgaged property.

487 2. Except for payment to a mortgage lender for any loss  
488 resulting from a mortgage default or property foreclosure:

489 a. Compensate any mortgage lender, insurer, investor, or  
490 mortgage servicer, including, but not limited to, through  
491 payment of commissions, on a lender-placed insurance policy  
492 issued by the insurer or insurance agent.

493 b. Make any payment, including, but not limited to, payment

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494 of expenses, to any mortgage lender, insurer, investor, or  
495 mortgage servicer for the purpose of securing lender-placed  
496 insurance business or related outsourced services.

497 c. Share lender-placed insurance premium or risk with the  
498 mortgage lender, investor, or mortgage servicer that obtained  
499 the lender-placed insurance.

500 d. Offer contingent commissions, profit sharing, or other  
501 payments dependent on profitability or loss ratios to any person  
502 affiliated with lender-placed insurance.

503 (b) An insurer or insurance agent may not provide free or  
504 below-cost outsourced services to a mortgage lender, insurance  
505 producer, investor, or mortgage servicer or outsource its own  
506 functions to a mortgage lender, insurance producer, investor, or  
507 mortgage servicer on an above-cost basis.

508 Section 7. Section 635.0215, Florida Statutes, is created  
509 to read:

510 635.0215 Lender-placed insurance for residential mortgage  
511 loan guaranty.—

512 (1) As used in this section, the term:

513 (a) "Affiliate" has the same meaning as in s. 624.10.

514 (b) "Lender-placed insurance" has the same meaning as in s.  
515 627.4055(1).

516 (c) "Mortgage servicer" has the same meaning as in s.  
517 494.001.

518 (d) "Person affiliated" means an affiliate or affiliated  
519 person, as those terms are defined in s. 624.10.

520 (2) (a) An insurer or insurance agent may not:

521 1. Issue lender-placed insurance on a mortgaged property if  
522 the insurer or insurance agent or an affiliate of the insurer or

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523 insurance agent owns, performs the servicing for, or owns the  
524 servicing right to, the mortgaged property.

525 2. Except for payment to a mortgage lender for any loss  
526 resulting from a mortgage default or property foreclosure:

527 a. Compensate any mortgage lender, insurer, investor, or  
528 mortgage servicer, including, but not limited to, through  
529 payment of commissions, on a lender-placed insurance policy  
530 issued by the insurer or insurance agent.

531 b. Make any payment, including, but not limited to, payment  
532 of expenses, to any mortgage lender, insurer, investor, or  
533 mortgage servicer for the purpose of securing lender-placed  
534 insurance business or related outsourced services.

535 c. Share lender-placed insurance premium or risk with the  
536 mortgage lender, investor, or mortgage servicer that obtained  
537 the lender-placed insurance.

538 d. Offer contingent commissions, profit sharing, or other  
539 payments dependent on profitability or loss ratios to any person  
540 affiliated with lender-placed insurance.

541 (b) An insurer or insurance agent may not provide free or  
542 below-cost outsourced services to a mortgage lender, insurance  
543 producer, investor, or mortgage servicer or outsource its own  
544 functions to a mortgage lender, insurance producer, investor, or  
545 mortgage servicer on an above-cost basis.

546 Section 8. Section 702.013, Florida Statutes, is created to  
547 read:

548 702.013 Foreclosure prevention alternatives for residential  
549 mortgage loans.—

550 (1) As used in this section, the term:

551 (a) "Complete application" has the same meaning as in s.

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552 494.0027(1).553 (b) "Foreclosure prevention alternative" has the same  
554 meaning as in s. 494.001.555 (c) "Mortgage servicer" has the same meaning as in s.  
556 494.001.557 (d) "Single point of contact" has the same meaning as in s.  
558 494.0027(1).559 (2) (a) A mortgage servicer or mortgage lender may not  
560 commence a civil action for the recovery of any debt, or for the  
561 enforcement of any right, under a residential mortgage loan  
562 which is not barred by this chapter or chapter 494 or any other  
563 provision of law, record a notice of default or a notice of  
564 sale, or conduct a foreclosure sale, if a borrower submits an  
565 application for a foreclosure prevention alternative offered by,  
566 or through, the borrower's mortgage servicer or mortgage lender,  
567 unless one of the following has occurred:568 1. The borrower fails to submit all documents or  
569 information required to complete the application within the  
570 allotted timeframe authorized by the mortgage servicer or  
571 mortgage lender, which must be at least 30 calendar days after  
572 the date of the initial acknowledgment of receipt of the  
573 application sent to the borrower.574 2. The mortgage servicer or mortgage lender makes a written  
575 determination that the borrower is not eligible for a  
576 foreclosure prevention alternative, and any appeal period under  
577 subsection (5) has expired.578 3. The borrower does not accept a written offer for a  
579 foreclosure prevention alternative within 30 calendar days after  
580 the date of the offer.

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581       4. The borrower accepts a written offer for a foreclosure  
582 prevention alternative, but defaults on or otherwise breaches  
583 the borrower's obligations under the foreclosure prevention  
584 alternative.

585       (b)1. If a borrower requests a foreclosure prevention  
586 alternative, the mortgage servicer or mortgage lender shall  
587 promptly establish a single point of contact and provide to the  
588 borrower one or more direct means of communication with the  
589 single point of contact.

590       2. A single point of contact must remain assigned to the  
591 borrower's account until the mortgage servicer or mortgage  
592 lender determines that all foreclosure prevention alternatives  
593 offered by, or through, the mortgage servicer or mortgage lender  
594 have been exhausted or the borrower's account becomes current.

595       3. The mortgage servicer or mortgage lender shall ensure  
596 that a single point of contact refers and transfers the borrower  
597 to an appropriate supervisor upon the borrower's request, if the  
598 single point of contact has a supervisor.

599       4. If the responsibilities of a single point of contact are  
600 performed by a team of personnel, the mortgage servicer or  
601 mortgage lender shall ensure that each member of the team is  
602 knowledgeable about the borrower's situation and current status  
603 in the process of seeking a foreclosure prevention alternative.

604       (3) Within 7 business days after receiving an application  
605 for a foreclosure prevention alternative or any document in  
606 connection with a foreclosure prevention alternative application  
607 for a residential mortgage loan, a mortgage servicer or mortgage  
608 lender shall send to the borrower, by first-class mail or, if an  
609 electronic mail address is provided, by electronic mail, written

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610 acknowledgment of the receipt of the application or document.

611 (a) Upon receipt of an application for a foreclosure  
612 prevention alternative, the mortgage servicer or mortgage lender  
613 shall include in the initial acknowledgment of receipt of the  
614 application:

615 1. A description of the process for considering the  
616 application, including, without limitation, an estimate of when  
617 a decision on the application will be made and the length of  
618 time the borrower will have to consider an offer for a  
619 foreclosure prevention alternative.

620 2. A statement of any deadlines that affect the processing  
621 of an application for a foreclosure prevention alternative,  
622 including, without limitation, the deadline for submitting any  
623 missing document.

624 3. A statement of the expiration dates for any documents  
625 submitted by the borrower.

626 (b) If a borrower submits an application for a foreclosure  
627 prevention alternative but does not initially submit all the  
628 documents or information required to complete the application,  
629 the mortgage servicer or mortgage lender shall include in the  
630 initial acknowledgment of receipt of the application:

631 1. A statement of any deficiency in the borrower's  
632 application and allow the borrower at least 30 calendar days to  
633 submit any document or information required to complete the  
634 application.

635 2. All the information required under subparagraphs (a)1.,  
636 2., and 3.

637 (4) If a borrower accepts an offer for a foreclosure  
638 prevention alternative for a residential mortgage loan, the

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639 mortgage servicer or mortgage lender shall provide the borrower  
640 with a copy of the complete agreement of the foreclosure  
641 prevention alternative signed by the mortgage lender or an agent  
642 or authorized representative of the mortgage lender.

643 (5) If a borrower submits a complete application for a  
644 foreclosure prevention alternative for a residential mortgage  
645 loan and the borrower's application is denied, the mortgage  
646 servicer or mortgage lender shall send to the borrower a written  
647 statement of:

648 (a) The reason for the denial.

649 (b) The length of time the borrower has to request an  
650 appeal of the denial, which must be at least 30 calendar days.

651 (c) Instructions regarding how to appeal the denial,  
652 including, without limitation, how to provide evidence that the  
653 denial was in error.

654 (6) If a borrower of a residential mortgage loan submits a  
655 complete application for a foreclosure prevention alternative  
656 and the borrower's application is denied, the mortgage servicer  
657 or mortgage lender may not commence a civil action for the  
658 recovery of any debt, or for the enforcement of any right, under  
659 a residential mortgage loan which is not barred by this chapter  
660 or chapter 494 or any other provision of law, record a notice of  
661 default or a notice of sale, or conduct a foreclosure sale until  
662 the later of:

663 (a) Sixty calendar days after the borrower is sent the  
664 written statement required by subsection (5); or

665 (b) If the borrower appeals the denial, the later of:

666 1. Fifteen calendar days after the denial of the appeal; or

667 2. If the appeal is successful, 14 calendar days after a

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668 foreclosure prevention alternative offered after the appeal is  
669 declined by the borrower; or

670 3. If a foreclosure prevention alternative offered after  
671 the appeal is accepted, the date on which the borrower fails to  
672 timely submit the first payment or otherwise breaches the terms  
673 of the offer.

674 (7) A mortgage servicer or mortgage lender is not required  
675 to evaluate a foreclosure prevention alternative application  
676 from a borrower of a residential mortgage loan who has already  
677 been evaluated or afforded a fair opportunity to be evaluated  
678 for a foreclosure prevention alternative or who has been  
679 evaluated or afforded a fair opportunity to be evaluated  
680 consistent with the requirements of this section, unless:

681 (a) There has been a material change in the borrower's  
682 financial circumstances since the date of the borrower's  
683 previous application.

684 (b) The change in paragraph (a) is documented by the  
685 borrower and submitted to the mortgage servicer or mortgage  
686 lender.

687 (8) A mortgage servicer or mortgage lender may not charge  
688 or collect:

689 (a) Application fees, processing fees, or other fees for a  
690 foreclosure prevention alternative; or

691 (b) Late fees for periods during which:

692 1. A foreclosure prevention alternative is under  
693 consideration or a denial is being appealed;

694 2. The borrower is making timely payments under a  
695 foreclosure prevention alternative; or

696 3. A foreclosure prevention alternative is being evaluated



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697 or exercised.

698 Section 9. Paragraphs (a), (b), and (c) of subsection (5)  
699 of section 494.00115, Florida Statutes, are amended to read:

700 494.00115 Exemptions.—

701 (5) As used in this section, the term “hold himself or  
702 herself out to the public as being in the mortgage lending  
703 business” includes any of the following:

704 (a) Representing to the public, through advertising or  
705 other means of communicating or providing information, including  
706 the use of business cards, stationery, brochures, signs, rate  
707 lists, or promotional items, by any method, that such individual  
708 can or will perform the activities described in s. 494.001(25)  
709 ~~s. 494.001(24)~~.

710 (b) Soliciting in a manner that would lead the intended  
711 audience to reasonably believe that such individual is in the  
712 business of performing the activities described in s.  
713 494.001(25) ~~s. 494.001(24)~~.

714 (c) Maintaining a commercial business establishment at  
715 which, or premises from which, such individual regularly  
716 performs the activities described in s. 494.001(25) ~~s.~~  
717 ~~494.001(24)~~ or regularly meets with current or prospective  
718 mortgage borrowers.

719 Section 10. Paragraph (d) of subsection (4) of section  
720 494.0025, Florida Statutes, is amended to read:

721 494.0025 Prohibited practices.—It is unlawful for any  
722 person:

723 (4) In any practice or transaction or course of business  
724 relating to the sale, purchase, negotiation, promotion,  
725 advertisement, or hypothecation of mortgage loan transactions,

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726 directly or indirectly:

727 (d) To misrepresent a residential mortgage loan, as  
728 described in s. 494.001(26)(a) ~~s. 494.001(25)(a)~~, as a business  
729 purpose loan.

730 Section 11. This act shall take effect July 1, 2022.