

By Senator Garcia

36-00321B-17

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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.—

36-00321B-17

20171298__

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.

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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.