

By Senator Fasano

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1 A bill to be entitled
 2 An act relating to residential foreclosure
 3 proceedings; amending s. 501.1377, F.S.; excluding
 4 from the definition of the term "foreclosure-rescue
 5 consultant" a person or entity employed or engaged,
 6 directly or indirectly, by the holder of an obligation
 7 or lien on any residential real property in
 8 foreclosure, an attorney in the course of the practice
 9 of law, and title insurers and title agents and
 10 agencies that are licensed or admitted under the
 11 Florida Insurance Code and providing limited services;
 12 providing an effective date.

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

16 Section 1. Paragraph (b) of subsection (2) of section
 17 501.1377, Florida Statutes, is amended to read:

18 501.1377 Violations involving homeowners during the course
 19 of residential foreclosure proceedings.—

20 (2) DEFINITIONS.—As used in this section, the term:

21 (b) "Foreclosure-rescue consultant" means a person who
 22 directly or indirectly makes a solicitation, representation, or
 23 offer to a homeowner to provide or perform, in return for
 24 payment of money or other valuable consideration, foreclosure-
 25 related rescue services. The term does not apply to:

- 26 1. A person excluded under s. 501.212.
- 27 2. A person acting under the express authority or written
- 28 approval of the United States Department of Housing and Urban
- 29 Development or other department or agency of the United States

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30 or this state to provide foreclosure-related rescue services.

31 3. A charitable, not-for-profit agency or organization, as
32 determined by the United States Internal Revenue Service under
33 s. 501(c)(3) of the Internal Revenue Code, which offers
34 counseling or advice to an owner of residential real property in
35 foreclosure or loan default if the agency or organization does
36 not contract for foreclosure-related rescue services with a for-
37 profit lender or person facilitating or engaging in foreclosure-
38 rescue transactions.

39 4. A person who holds or is owed an obligation secured by a
40 lien on any residential real property in foreclosure if the
41 person performs foreclosure-related rescue services in
42 connection with this obligation or lien and the obligation or
43 lien was not the result of or part of a proposed foreclosure
44 reconveyance or foreclosure-rescue transaction, or a person or
45 entity employed or engaged, directly or indirectly, by the
46 holder of such an obligation or lien.

47 5. A financial institution as defined in s. 655.005 and any
48 parent or subsidiary of the financial institution or of the
49 parent or subsidiary.

50 6. A licensed mortgage broker, mortgage lender, or
51 correspondent mortgage lender that provides mortgage counseling
52 or advice regarding residential real property in foreclosure,
53 which counseling or advice is within the scope of services set
54 forth in chapter 494 and is provided without payment of money or
55 other consideration other than a mortgage brokerage fee as
56 defined in s. 494.001.

57 7. An attorney licensed to practice law in this state who
58 is acting on behalf of a client, individually or through the

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59 attorney's law firm, in the course of the practice of law.

60 8. Title insurers and licensed title agents and agencies
61 that are licensed or admitted under the Florida Insurance Code,
62 to the extent that they are providing title searches or other
63 information, title insurance, or closing services related to a
64 foreclosure-rescue transaction or in furtherance of foreclosure-
65 related rescue services.

66 Section 2. This act shall take effect upon becoming a law.