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LEGISLATIVE ACTION

Senate	.	House
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Floor: 1/AD/2R	.	Floor: SEN1/C
05/02/2017 05:33 PM	.	05/04/2017 02:32 PM
	.	

Senator Garcia moved the following:

Senate Amendment (with title amendment)

Delete lines 12 - 35

and insert:

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

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

(24) "Mortgage loan" means any:

(a) Residential loan ~~that primarily for personal, family, or household use which~~ is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling,



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12 as defined in s. 103(w) ~~s. 103(v)~~ of the federal Truth in
13 Lending Act, or for the purchase of residential real estate upon
14 which a dwelling is to be constructed;

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

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

20 Section 2. Present subsections (2) and (3) of section
21 494.00115, Florida Statutes, are redesignated as subsections (3)
22 and (4), respectively, and new subsections (2) and (5) are added
23 to that section, to read:

24 494.00115 Exemptions.—

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

30 1. Solicits or offers to solicit a mortgage loan from a
31 securities client or refers a securities client to an entity
32 exempt under paragraph (1) (b), a licensed mortgage broker, a
33 licensed mortgage lender, or a registered loan originator; and

34 2. Does not accept or offer to accept an application for a
35 mortgage loan, negotiate or offer to negotiate the terms or
36 conditions of a new or existing mortgage loan on behalf of a
37 borrower or lender, or negotiate or offer to negotiate the sale
38 of an existing mortgage loan to a noninstitutional investor for
39 compensation or gain.

40 (b) Any solicitation or referral made pursuant to this



41 subsection must comply with chapter 517; the federal Real Estate
42 Settlement Procedures Act, 12 U.S.C. ss. 2601 et seq.; and any
43 applicable federal law or general law of this state.

44 (5) As used in this section, the term "hold himself or
45 herself out to the public as being in the mortgage lending
46 business" includes any of the following:

47 (a) Representing to the public, through advertising or
48 other means of communicating or providing information (including
49 the use of business cards, stationery, brochures, signs, rate
50 lists, or promotional items), by any medium whatsoever, that
51 such individual can or will perform the activities described in
52 s. 494.001(23).

53 (b) Soliciting in a manner that would lead the intended
54 audience to reasonably believe that such individual is in the
55 business of performing the activities described in s.
56 494.001(23).

57 (c) Maintaining a commercial business establishment at
58 which, or premises from which, such individual regularly
59 performs the activities described in s. 494.001(23) or regularly
60 meets with current or prospective borrowers.

61 (d) Advertising, soliciting, or conducting business through
62 use of a name, trademark, service mark, trade name, Internet
63 address, or logo which indicates or reasonably implies that the
64 business being advertised, solicited, or conducted is the kind
65 or character of business transacted or conducted by a licensed
66 mortgage lender or which is likely to lead any person to believe
67 that such business is that of a licensed mortgage lender.

68 (e) Using any form promulgated by the Federal National
69 Mortgage Association, the Federal Home Loan Mortgage



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70 Corporation, the United States Department of Housing and Urban
71 Development, or the Consumer Financial Protection Bureau in
72 performing the activities described in s. 494.001(23).

73

74 ===== T I T L E A M E N D M E N T =====

75 And the title is amended as follows:

76 Delete lines 2 - 7

77 and insert:

78 An act relating to mortgage regulation; amending s.

79 494.001, F.S.; revising the definition of the term

80 "mortgage loan"; amending s. 494.00115, F.S.;

81 providing an exemption from regulation under parts I

82 and II of ch. 494, F.S., for certain securities

83 dealers, investment advisers, and associated persons;

84 providing requirements for certain solicitations and

85 referrals; providing a definition for the term "hold

86 himself or herself out to the public as being in the

87 mortgage lending business"; providing an effective