

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Nuñez offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Present subsections (4) through (37) of section 494.001, Florida Statutes, are redesignated as subsections (5) through (38), respectively, and a new subsection (4) is added to that section, to read:

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

(4) "Business purpose loan" means a mortgage loan, the proceeds of which the borrower intends to use primarily for a business purpose and not primarily for a personal, family, or household purpose. In determining if the loan is for a business

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14 purpose, a person must refer to the official interpretation by
15 the Consumer Financial Protection Bureau of 12 C.F.R. s.
16 1026.3(a).

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

19 494.00115 Exemptions.—

20 (4) As used in this section, the term "hold himself or
21 herself out to the public as being in the mortgage lending
22 business" includes any of the following:

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

28 (b) Soliciting in a manner that would lead the intended
29 audience to reasonably believe that such individual is in the
30 business of performing the activities described in s.
31 494.001(24).

32 (c) Maintaining a commercial business establishment at
33 which, or premises from which, such individual regularly
34 performs the activities described in s. 494.001(24) or regularly
35 meets with current or prospective mortgage borrowers.

36 (d) Advertising, soliciting, or conducting business
37 through the use of a name, trademark, service mark, trade name,
38 Internet address, or logo that indicates or reasonably implies

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39 that the business being advertised, solicited, or conducted is
40 of the kind or character of business transacted or conducted by
41 a licensed mortgage lender or is likely to lead any person to
42 believe that such business is that of a licensed mortgage
43 lender.

44 Section 3. Subsection (4) of section 494.0025, Florida
45 Statutes, is amended to read:

46 494.0025 Prohibited practices.—It is unlawful for any
47 person:

48 (4) In any practice or transaction or course of business
49 relating to the sale, purchase, negotiation, promotion,
50 advertisement, or hypothecation of mortgage loan transactions,
51 directly or indirectly:

52 (a) To knowingly or willingly employ any device, scheme,
53 or artifice to defraud;

54 (b) To engage in any transaction, practice, or course of
55 business which operates as a fraud upon any person in connection
56 with the purchase or sale of any mortgage loan; ~~or~~

57 (c) To obtain property by fraud, willful misrepresentation
58 of a future act, or false promise; or

59 (d) To misrepresent a residential mortgage loan, as
60 described in s. 494.001(25)(a), as a business purpose loan.

61 Section 4. For the purpose of incorporating the amendment
62 made by this act to section 494.0025, Florida Statutes, in a

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63 reference thereto, section 494.0018, Florida Statutes, is
64 reenacted to read:

65 494.0018 Penalties.—

66 (1) Whoever knowingly violates any provision of s.
67 494.00255(1)(a), (b), or (c) or s. 494.0025(1), (2), (3), (4),
68 or (5), except as provided in subsection (2) of this section,
69 commits a felony of the third degree, punishable as provided in
70 s. 775.082, s. 775.083, or s. 775.084. Each such violation
71 constitutes a separate offense.

72 (2) Any person who violates any provision of this chapter,
73 in which the total value of money and property unlawfully
74 obtained exceeds \$50,000 and there are five or more victims,
75 commits a felony of the first degree, punishable as provided in
76 s. 775.082, s. 775.083, or s. 775.084.

77 Section 5. This act shall take effect July 1, 2019.

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

80 Remove everything before the enacting clause and insert:

81 An act to be entitled
82 An act relating to mortgage regulation; amending s.
83 494.001, F.S.; defining the term "business purpose
84 loan"; amending s. 494.00115, F.S.; defining the term
85 "hold himself or herself out to the public as being in
86 the mortgage lending business"; amending s. 494.0025,
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88 F.S.; prohibiting the misrepresentation of a
89 residential mortgage loan as a business purpose loan;
90 reenacting s. 494.0018, F.S., relating to penalties,
91 to incorporate the amendment made to s. 494.0025,
92 F.S., in a reference thereto; providing an effective
93 date.

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