

By Senator Garcia

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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 mortgage lenders and
6 mortgage servicers to comply with specified federal
7 law; requiring that periodic statements for
8 residential mortgage loans follow specified laws;
9 specifying that certain entities are not exempt from
10 such laws; defining the term "small mortgage
11 servicer"; creating s. 494.00225, F.S.; requiring
12 mortgage servicers and mortgage lenders to assume
13 duties and obligations relating to previously approved
14 first lien loan modifications, foreclosure prevention
15 alternatives, and other loan modifications under
16 certain circumstances; creating s. 494.0027, F.S.;
17 defining terms; prohibiting mortgage servicers and
18 mortgage lenders from commencing certain civil
19 actions, recording specified notices, or conducting
20 foreclosure sales unless specified conditions are met;
21 requiring mortgage servicers and mortgage lenders to
22 establish single points of contact and provide to
23 borrowers direct means of communication with the
24 single points of contact upon request; providing
25 requirements and duties for single points of contact
26 and for mortgage servicers and mortgage lenders
27 relating to single points of contact; requiring
28 mortgage servicers and mortgage lenders to send
29 written acknowledgment of application receipt to

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

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59 mortgage servicers and mortgage lenders to send
60 written acknowledgment of application receipt to
61 foreclosure prevention alternative applicants in
62 specified manners within a specified timeframe;
63 providing requirements for statements, documents, and
64 information that mortgage servicers and mortgage
65 lenders must send to applicants under various
66 circumstances; providing timelines for mortgage
67 servicers and mortgage lenders to commence civil
68 actions against residential mortgage loan borrowers;
69 providing that mortgage servicers and mortgage lenders
70 are not required to evaluate foreclosure prevention
71 alternative applications under certain circumstances;
72 providing an exception; prohibiting mortgage servicers
73 and mortgage lenders from charging specified fees;
74 amending ss. 494.00115 and 494.0025, F.S.; conforming
75 cross-references; providing an effective date.

76

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

78

79 Section 1. Present subsections (12) through (26) and (27)
80 through (38) of section 494.001, Florida Statutes, are
81 redesignated as subsections (13) through (27) and subsections
82 (29) through (40), respectively, new subsections (12) and (28)
83 are added to that section, and subsection (1) of that section is
84 amended, to read:

85 494.001 Definitions.—As used in this chapter, the term:

86 (1) "Borrower" means:

87 (a) A person obligated to repay a mortgage loan and

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88 includes, but is not limited to, a coborrower or cosignor; or

89 (b) A natural person who is a mortgagor under a residential
90 mortgage loan.

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

93 (28) "Mortgage servicer" means a person or entity that
94 directly services, or is contracted as a subservicing agent to a
95 master servicer to service, a residential mortgage loan or
96 manages a residential mortgage loan, which services or
97 management may include, but is not limited to, the following
98 responsibilities:

99 (a) Interacting with the borrower; managing the borrower's
100 loan account daily, including, but not limited to, collecting
101 and crediting loan payments that include principals and
102 interests paid, and generating periodic billing and account
103 statements; and managing the borrower's escrow account, if
104 applicable; or

105 (b) Enforcing the note and security instrument as the
106 current owner of the promissory note or as the authorized agent
107 of the current owner of the promissory note.

108 Section 2. Section 494.00163, Florida Statutes, is created
109 to read:

110 494.00163 Residential mortgage loans; lender-placed
111 insurance; periodic statements.-

112 (1) A mortgage lender or mortgage servicer must comply with
113 12 C.F.R. s. 1024.37.

114 (2) Periodic statements for residential mortgage loans in
115 the state must follow all the provisions set forth in 12 C.F.R.
116 s. 1026.41.

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117 (3) A servicer of a reverse mortgage or a small mortgage
118 servicer is not exempt from the requirements of 12 C.F.R. s.
119 1024.37 and 12 C.F.R. s. 1026.41. As used in this section, the
120 term "small mortgage servicer" means a mortgage servicer that,
121 together with any affiliates, services up to 5,000 residential
122 mortgage loans, all of which have the mortgage servicer or its
123 affiliate as the creditor or assignee.

124 Section 3. Section 494.00225, Florida Statutes, is created
125 to read:

126 494.00225 Residential mortgage loan modifications to avoid
127 foreclosure; transfers of duties and obligations of mortgage
128 servicers and mortgage lenders.—If a borrower of a residential
129 mortgage loan has been approved in writing for a first lien loan
130 modification, a foreclosure prevention alternative under s.
131 494.0027, or other loan modification to avoid foreclosure and if
132 the servicing of the borrower's mortgage loan is transferred or
133 sold, the mortgage servicer or mortgage lender to whom the
134 mortgage loan is transferred or sold shall assume all duties and
135 obligations related to such previously approved first lien loan
136 modification, foreclosure prevention alternative, or other loan
137 modification.

138 Section 4. Section 494.0027, Florida Statutes, is created
139 to read:

140 494.0027 Foreclosure prevention alternatives for
141 residential mortgage loans.—

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

143 (a) "Complete application" means an application for a
144 foreclosure prevention alternative for which the borrower has
145 provided all documents required by the mortgage servicer or

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146 mortgage lender within the reasonable timeframe specified by the
147 mortgage servicer or mortgage lender.

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

151 1. Communicate the process by which a borrower may apply
152 for an available foreclosure prevention alternative and the
153 deadline for any required submission to be considered for the
154 foreclosure prevention alternative.

155 2. Coordinate receipt of all documents associated with the
156 available foreclosure prevention alternatives and notify the
157 borrower of any missing document necessary to complete an
158 application for a foreclosure prevention alternative.

159 3. Have access to current information and sufficient
160 personnel to timely, accurately, and adequately inform the
161 borrower of the current status of the foreclosure prevention
162 alternative.

163 4. Ensure that the borrower is considered for all
164 foreclosure prevention alternatives offered by, or through, the
165 mortgage servicer or mortgage lender and for which the borrower
166 is or may be eligible.

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

169 (2) (a) A mortgage servicer or mortgage lender may not
170 commence a civil action for the recovery of any debt, or for the
171 enforcement of any right, under a residential mortgage loan
172 which is not barred by this chapter or chapter 702 or any other
173 provision of law, record a notice of default or a notice of
174 sale, or conduct a foreclosure sale, if a borrower submits an

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175 application for a foreclosure prevention alternative offered by,
176 or through, the borrower's mortgage servicer or mortgage lender,
177 unless one of the following has occurred:

178 1. The borrower fails to submit all documents or
179 information required to complete the application within the
180 allotted timeframe authorized by the mortgage servicer or
181 mortgage lender, which must be at least 30 calendar days after
182 the date of the initial acknowledgment of receipt of the
183 application sent to the borrower.

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

188 3. The borrower does not accept a written offer for a
189 foreclosure prevention alternative within 30 calendar days after
190 the date of the offer.

191 4. The borrower accepts a written offer for a foreclosure
192 prevention alternative, but defaults on or otherwise breaches
193 the borrower's obligations under the foreclosure prevention
194 alternative.

195 (b)1. If a borrower requests a foreclosure prevention
196 alternative, the mortgage servicer or mortgage lender shall
197 promptly establish a single point of contact and provide to the
198 borrower one or more direct means of communication with the
199 single point of contact.

200 2. A single point of contact must remain assigned to the
201 borrower's account until the mortgage servicer or mortgage
202 lender determines that all foreclosure prevention alternatives
203 offered by, or through, the mortgage servicer or mortgage lender

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204 have been exhausted or the borrower's account becomes current.

205 3. The mortgage servicer or mortgage lender shall ensure
206 that a single point of contact refers and transfers the borrower
207 to an appropriate supervisor upon the borrower's request, if the
208 single point of contact has a supervisor.

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

214 (3) Within 7 business days after receiving an application
215 for a foreclosure prevention alternative or any document in
216 connection with a foreclosure prevention alternative application
217 for a residential mortgage loan, a mortgage servicer or mortgage
218 lender shall send to the borrower, by first-class mail or, if an
219 electronic mail address is provided, by electronic mail, written
220 acknowledgment of the receipt of the application or document.

221 (a) Upon receipt of an application for a foreclosure
222 prevention alternative, the mortgage servicer or mortgage lender
223 shall include in the initial acknowledgment of receipt of the
224 application:

225 1. A description of the process for considering the
226 application, including, without limitation, an estimate of when
227 a decision on the application will be made and the length of
228 time the borrower will have to consider an offer for a
229 foreclosure prevention alternative.

230 2. A statement of any deadlines that affect the processing
231 of an application for a foreclosure prevention alternative,
232 including, without limitation, the deadline for submitting any

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233 missing document.

234 3. A statement of the expiration dates for any documents
235 submitted by the borrower.

236 (b) If a borrower submits an application for a foreclosure
237 prevention alternative but does not initially submit all the
238 documents or information required to complete the application,
239 the mortgage servicer or mortgage lender shall include in the
240 initial acknowledgment of receipt of the application:

241 1. A statement of any deficiency in the borrower's
242 application and allow the borrower at least 30 calendar days to
243 submit any missing document or information required to complete
244 the application.

245 2. All the information required under subparagraphs (a)1.,
246 2., and 3.

247 (4) If a borrower accepts an offer for a foreclosure
248 prevention alternative for a residential mortgage loan, the
249 mortgage servicer or mortgage lender shall provide the borrower
250 with a copy of the complete agreement of the foreclosure
251 prevention alternative signed by the mortgage lender or an agent
252 or authorized representative of the mortgage lender.

253 (5) If a borrower submits a complete application for a
254 foreclosure prevention alternative for a residential mortgage
255 loan and the borrower's application is denied, the mortgage
256 servicer or mortgage lender shall send to the borrower a written
257 statement of:

258 (a) The reason for the denial.

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

261 (c) Instructions regarding how to appeal the denial,

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262 including, without limitation, how to provide evidence that the
263 denial was in error.

264 (6) If a borrower of a residential mortgage loan submits a
265 complete application for a foreclosure prevention alternative
266 and the borrower's application is denied, the mortgage servicer
267 or mortgage lender may not commence a civil action for the
268 recovery of any debt, or for the enforcement of any right, under
269 a residential mortgage loan which is not barred by this chapter
270 or chapter 702 or any other provision of law, record a notice of
271 default or a notice of sale, or conduct a foreclosure sale until
272 the later of:

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

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

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

277 2. If the appeal is successful, 14 calendar days after a
278 foreclosure prevention alternative offered after the appeal is
279 declined by the borrower; or

280 3. If a foreclosure prevention alternative offered after
281 the appeal is accepted, the date on which the borrower fails to
282 timely submit the first payment or otherwise breaches the terms
283 of the offer.

284 (7) A mortgage servicer or mortgage lender is not required
285 to evaluate a foreclosure prevention alternative application
286 from a borrower of a residential mortgage loan who has already
287 been evaluated or afforded a fair opportunity to be evaluated
288 for a foreclosure prevention alternative or who has been
289 evaluated or afforded a fair opportunity to be evaluated
290 consistent with the requirements of this section, unless:

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291 (a) There has been a material change in the borrower's
292 financial circumstances since the date of the borrower's
293 previous application.

294 (b) The change in paragraph (a) is documented by the
295 borrower and submitted to the mortgage servicer or mortgage
296 lender.

297 (8) A mortgage servicer or mortgage lender may not charge
298 or collect:

299 (a) An application fee, processing fee, or other fee for a
300 foreclosure prevention alternative; or

301 (b) Late fees for periods during which:

302 1. A foreclosure prevention alternative is under
303 consideration or a denial is being appealed;

304 2. The borrower is making timely payments under a
305 foreclosure prevention alternative; or

306 3. A foreclosure prevention alternative is being evaluated
307 or exercised.

308 Section 5. Section 627.4055, Florida Statutes, is created
309 to read:

310 627.4055 Lender-placed insurance for residential mortgage
311 loan guaranty.—

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

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

314 (b) "Lender-placed insurance" means insurance obtained by a
315 mortgage servicer or mortgage lender when a borrower of a
316 residential mortgage loan does not maintain valid or sufficient
317 insurance upon the mortgaged real property as required by the
318 terms of the mortgage agreement.

319 (c) "Mortgage servicer" has the same meaning as in s.

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320 494.001.321 (d) "Person affiliated" means an affiliate or affiliated
322 person, as those terms are defined in s. 624.10.323 (2) (a) An insurer or insurance agent may not:324 1. Issue lender-placed insurance on a mortgaged property
325 if:326 a. The insurer or insurance agent or an affiliate of the
327 insurer or insurance agent owns, performs the servicing for, or
328 owns the servicing right to, the mortgaged property; or329 b. The mortgage servicer or mortgage lender has not
330 complied with 12 C.F.R. s. 1024.37.331 2. Except for payment to a mortgage lender for any loss
332 resulting from a mortgage default or property foreclosure:333 a. Compensate any mortgage lender, insurer, investor, or
334 mortgage servicer, including, but not limited to, through
335 payment of commissions, on a lender-placed insurance policy
336 issued by the insurer or insurance agent.337 b. Make any payment, including, but not limited to, payment
338 of expenses, to any mortgage lender, insurer, investor, or
339 mortgage servicer for the purpose of securing lender-placed
340 insurance business or related outsourced services.341 c. Share lender-placed insurance premium or risk with the
342 mortgage lender, investor, or mortgage servicer that obtained
343 the lender-placed insurance.344 d. Offer contingent commissions, profit sharing, or other
345 payments dependent on profitability or loss ratios to any person
346 affiliated with lender-placed insurance.347 (b) An insurer or insurance agent may not provide free or
348 below-cost outsourced services to a mortgage lender, insurance

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349 producer, investor, or mortgage servicer or outsource its own
350 functions to a mortgage lender, insurance producer, investor, or
351 mortgage servicer on an above-cost basis.

352 Section 6. Section 635.0215, Florida Statutes, is created
353 to read:

354 635.0215 Lender-placed insurance for residential mortgage
355 loan guaranty.—

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

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

358 (b) "Lender-placed insurance" has the same meaning as in s.
359 627.4055(1).

360 (c) "Mortgage servicer" has the same meaning as in s.
361 494.001.

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

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

365 1. Issue lender-placed insurance on a mortgaged property
366 if:

367 a. The insurer or insurance agent or an affiliate of the
368 insurer or insurance agent owns, performs the servicing for, or
369 owns the servicing right to, the mortgaged property; or

370 b. The mortgage servicer or mortgage lender has not
371 complied with 12 C.F.R. s. 1024.37.

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

374 a. Compensate any mortgage lender, insurer, investor, or
375 mortgage servicer, including, but not limited to, through
376 payment of commissions, on a lender-placed insurance policy
377 issued by the insurer or insurance agent.

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378 b. Make any payment, including, but not limited to, payment
379 of expenses, to any mortgage lender, insurer, investor, or
380 mortgage servicer for the purpose of securing lender-placed
381 insurance business or related outsourced services.

382 c. Share lender-placed insurance premium or risk with the
383 mortgage lender, investor, or mortgage servicer that obtained
384 the lender-placed insurance.

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

388 (b) An insurer or insurance agent may not provide free or
389 below-cost outsourced services to a mortgage lender, insurance
390 producer, investor, or mortgage servicer or outsource its own
391 functions to a mortgage lender, insurance producer, investor, or
392 mortgage servicer on an above-cost basis.

393 Section 7. Section 702.013, Florida Statutes, is created to
394 read:

395 702.013 Foreclosure prevention alternatives for residential
396 mortgage loans.—

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

398 (a) "Complete application" has the same meaning as in s.
399 494.0027(1).

400 (b) "Foreclosure prevention alternative" has the same
401 meaning as in s. 494.001.

402 (c) "Mortgage servicer" has the same meaning as in s.
403 494.001.

404 (d) "Single point of contact" has the same meaning as in s.
405 494.0027(1).

406 (2) (a) A mortgage servicer or mortgage lender may not

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407 commence a civil action for the recovery of any debt, or for the
408 enforcement of any right, under a residential mortgage loan
409 which is not barred by this chapter or chapter 494 or any other
410 provision of law, record a notice of default or a notice of
411 sale, or conduct a foreclosure sale, if a borrower submits an
412 application for a foreclosure prevention alternative offered by,
413 or through, the borrower's mortgage servicer or mortgage lender,
414 unless one of the following has occurred:

415 1. The borrower fails to submit all documents or
416 information required to complete the application within the
417 allotted timeframe authorized by the mortgage servicer or
418 mortgage lender, which must be at least 30 calendar days after
419 the date of the initial acknowledgment of receipt of the
420 application sent to the borrower.

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

425 3. The borrower does not accept a written offer for a
426 foreclosure prevention alternative within 30 calendar days after
427 the date of the offer.

428 4. The borrower accepts a written offer for a foreclosure
429 prevention alternative, but defaults on or otherwise breaches
430 the borrower's obligations under the foreclosure prevention
431 alternative.

432 (b)1. If a borrower requests a foreclosure prevention
433 alternative, the mortgage servicer or mortgage lender shall
434 promptly establish a single point of contact and provide to the
435 borrower one or more direct means of communication with the

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436 single point of contact.

437 2. A single point of contact must remain assigned to the
438 borrower's account until the mortgage servicer or mortgage
439 lender determines that all foreclosure prevention alternatives
440 offered by, or through, the mortgage servicer or mortgage lender
441 have been exhausted or the borrower's account becomes current.

442 3. The mortgage servicer or mortgage lender shall ensure
443 that a single point of contact refers and transfers the borrower
444 to an appropriate supervisor upon the borrower's request, if the
445 single point of contact has a supervisor.

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

451 (3) Within 7 business days after receiving an application
452 for a foreclosure prevention alternative or any document in
453 connection with a foreclosure prevention alternative application
454 for a residential mortgage loan, a mortgage servicer or mortgage
455 lender shall send to the borrower, by first-class mail or, if an
456 electronic mail address is provided, by electronic mail, written
457 acknowledgment of the receipt of the application or document.

458 (a) Upon receipt of an application for a foreclosure
459 prevention alternative, the mortgage servicer or mortgage lender
460 shall include in the initial acknowledgment of receipt of the
461 application:

462 1. A description of the process for considering the
463 application, including, without limitation, an estimate of when
464 a decision on the application will be made and the length of

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465 time the borrower will have to consider an offer for a
466 foreclosure prevention alternative.

467 2. A statement of any deadlines that affect the processing
468 of an application for a foreclosure prevention alternative,
469 including, without limitation, the deadline for submitting any
470 missing document.

471 3. A statement of the expiration dates for any documents
472 submitted by the borrower.

473 (b) If a borrower submits an application for a foreclosure
474 prevention alternative but does not initially submit all the
475 documents or information required to complete the application,
476 the mortgage servicer or mortgage lender shall include in the
477 initial acknowledgment of receipt of the application:

478 1. A statement of any deficiency in the borrower's
479 application and allow the borrower at least 30 calendar days to
480 submit any document or information required to complete the
481 application.

482 2. All the information required under subparagraphs (a)1.,
483 2., and 3.

484 (4) If a borrower accepts an offer for a foreclosure
485 prevention alternative for a residential mortgage loan, the
486 mortgage servicer or mortgage lender shall provide the borrower
487 with a copy of the complete agreement of the foreclosure
488 prevention alternative signed by the mortgage lender or an agent
489 or authorized representative of the mortgage lender.

490 (5) If a borrower submits a complete application for a
491 foreclosure prevention alternative for a residential mortgage
492 loan and the borrower's application is denied, the mortgage
493 servicer or mortgage lender shall send to the borrower a written

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494 statement of:

495 (a) The reason for the denial.

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

498 (c) Instructions regarding how to appeal the denial,
499 including, without limitation, how to provide evidence that the
500 denial was in error.

501 (6) If a borrower of a residential mortgage loan submits a
502 complete application for a foreclosure prevention alternative
503 and the borrower's application is denied, the mortgage servicer
504 or mortgage lender may not commence a civil action for the
505 recovery of any debt, or for the enforcement of any right, under
506 a residential mortgage loan which is not barred by this chapter
507 or chapter 494 or any other provision of law, record a notice of
508 default or a notice of sale, or conduct a foreclosure sale until
509 the later of:

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

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

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

514 2. If the appeal is successful, 14 calendar days after a
515 foreclosure prevention alternative offered after the appeal is
516 declined by the borrower; or

517 3. If a foreclosure prevention alternative offered after
518 the appeal is accepted, the date on which the borrower fails to
519 timely submit the first payment or otherwise breaches the terms
520 of the offer.

521 (7) A mortgage servicer or mortgage lender is not required
522 to evaluate a foreclosure prevention alternative application

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523 from a borrower of a residential mortgage loan who has already
524 been evaluated or afforded a fair opportunity to be evaluated
525 for a foreclosure prevention alternative or who has been
526 evaluated or afforded a fair opportunity to be evaluated
527 consistent with the requirements of this section, unless:

528 (a) There has been a material change in the borrower's
529 financial circumstances since the date of the borrower's
530 previous application.

531 (b) The change in paragraph (a) is documented by the
532 borrower and submitted to the mortgage servicer or mortgage
533 lender.

534 (8) A mortgage servicer or mortgage lender may not charge
535 or collect:

536 (a) Application fees, processing fees, or other fees for a
537 foreclosure prevention alternative; or

538 (b) Late fees for periods during which:

539 1. A foreclosure prevention alternative is under
540 consideration or a denial is being appealed;

541 2. The borrower is making timely payments under a
542 foreclosure prevention alternative; or

543 3. A foreclosure prevention alternative is being evaluated
544 or exercised.

545 Section 8. Paragraphs (a), (b), and (c) of subsection (5)
546 of section 494.00115, Florida Statutes, are amended to read:

547 494.00115 Exemptions.—

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

551 (a) Representing to the public, through advertising or

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552 other means of communicating or providing information, including
553 the use of business cards, stationery, brochures, signs, rate
554 lists, or promotional items, by any method, that such individual
555 can or will perform the activities described in s. 494.001(25)
556 ~~s. 494.001(24)~~.

557 (b) Soliciting in a manner that would lead the intended
558 audience to reasonably believe that such individual is in the
559 business of performing the activities described in s.
560 494.001(25) ~~s. 494.001(24)~~.

561 (c) Maintaining a commercial business establishment at
562 which, or premises from which, such individual regularly
563 performs the activities described in s. 494.001(25) ~~s.~~
564 ~~494.001(24)~~ or regularly meets with current or prospective
565 mortgage borrowers.

566 Section 9. Paragraph (d) of subsection (4) of section
567 494.0025, Florida Statutes, is amended to read:

568 494.0025 Prohibited practices.—It is unlawful for any
569 person:

570 (4) In any practice or transaction or course of business
571 relating to the sale, purchase, negotiation, promotion,
572 advertisement, or hypothecation of mortgage loan transactions,
573 directly or indirectly:

574 (d) To misrepresent a residential mortgage loan, as
575 described in s. 494.001(26)(a) ~~s. 494.001(25)(a)~~, as a business
576 purpose loan.

577 Section 10. This act shall take effect July 1, 2022.