

By Senator Garcia

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1 A bill to be entitled
2 An act relating to residential mortgage loans;
3 amending s. 494.001, F.S.; revising and providing
4 definitions; creating s. 494.00163, F.S.; requiring
5 mortgage lenders and mortgage servicers to comply with
6 specified federal law; requiring that periodic
7 statements for residential mortgage loans follow
8 specified laws; specifying that certain entities are
9 not exempt from such laws; defining the term "small
10 mortgage servicer"; creating s. 494.00225, F.S.;
11 requiring mortgage servicers and mortgage lenders to
12 assume duties and obligations relating to previously
13 approved first lien loan modifications, foreclosure
14 prevention alternatives, and other loan modifications
15 under certain circumstances; creating s. 494.0027,
16 F.S.; defining terms; prohibiting mortgage servicers
17 and mortgage lenders from commencing certain civil
18 actions, recording specified notices, or conducting
19 foreclosure sales unless specified conditions are met;
20 requiring mortgage servicers and mortgage lenders to
21 establish single points of contact and provide to
22 borrowers direct means of communication with the
23 single points of contact upon request; providing
24 requirements and duties for single points of contact
25 and for mortgage servicers and mortgage lenders
26 relating to single points of contact; requiring
27 mortgage servicers and mortgage lenders to send
28 written acknowledgment of application receipt to
29 foreclosure prevention alternative applicants in

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

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

74

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

76

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

83 494.001 Definitions.—As used in this chapter, the term:

84 (1) "Borrower" means:

85 (a) A person obligated to repay a mortgage loan and
86 includes, but is not limited to, a coborrower or cosignor; or

87 (b) A natural person who is a mortgagor under a residential

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88 mortgage loan.

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

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

96 (a) Interacting with the borrower; managing the borrower's
97 loan account daily, including, but not limited to, collecting
98 and crediting loan payments that include principal and interest
99 paid and generating periodic billing and account statements; and
100 managing the borrower's escrow account, if applicable; or

101 (b) Enforcing the note and security instrument as the
102 current owner of the promissory note or as the authorized agent
103 of the current owner of the promissory note.

104 Section 2. Section 494.00163, Florida Statutes, is created
105 to read:

106 494.00163 Residential mortgage loans; lender-placed
107 insurance; periodic statements.—

108 (1) A mortgage lender or mortgage servicer shall comply
109 with 12 C.F.R. s. 1024.37.

110 (2) Periodic statements for residential mortgage loans in
111 this state must follow all the provisions set forth in 12 C.F.R.
112 s. 1026.41.

113 (3) A servicer of a reverse mortgage or a small mortgage
114 servicer is not exempt from the requirements of 12 C.F.R. s.
115 1024.37 and 12 C.F.R. s. 1026.41. As used in this section, the
116 term "small mortgage servicer" means a mortgage servicer that,

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117 together with any affiliates, services up to 5,000 residential
118 mortgage loans, all of which have the mortgage servicer or its
119 affiliate as the creditor or assignee.

120 Section 3. Section 494.00225, Florida Statutes, is created
121 to read:

122 494.00225 Residential mortgage loan modifications to avoid
123 foreclosure; transfers of duties and obligations of mortgage
124 servicers and mortgage lenders.—If a borrower of a residential
125 mortgage loan has been approved in writing for a first lien loan
126 modification, a foreclosure prevention alternative under s.
127 494.0027, or other loan modification to avoid foreclosure and if
128 the servicing of the borrower's mortgage loan is transferred or
129 sold, the mortgage servicer or mortgage lender to whom the
130 mortgage loan is transferred or sold shall assume all duties and
131 obligations related to such previously approved first lien loan
132 modification, foreclosure prevention alternative, or other loan
133 modification.

134 Section 4. Section 494.0027, Florida Statutes, is created
135 to read:

136 494.0027 Foreclosure prevention alternatives for
137 residential mortgage loans.—

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

139 (a) "Complete application" means an application for a
140 foreclosure prevention alternative for which the borrower has
141 provided all documents required by the mortgage servicer or
142 mortgage lender within the reasonable timeframe specified by the
143 mortgage servicer or mortgage lender.

144 (b) "Single point of contact" means a person who has, or a
145 team of personnel of which each member has, the ability,

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146 authority, and responsibility to:

147 1. Communicate the process by which a borrower may apply
148 for an available foreclosure prevention alternative and the
149 deadline for any required submission to be considered for the
150 foreclosure prevention alternative.

151 2. Coordinate receipt of all documents associated with the
152 available foreclosure prevention alternative and notify the
153 borrower of any missing document necessary to complete an
154 application for a foreclosure prevention alternative.

155 3. Have access to current information and sufficient
156 personnel to timely, accurately, and adequately inform the
157 borrower of the current status of the foreclosure prevention
158 alternative.

159 4. Ensure that the borrower is considered for all
160 foreclosure prevention alternatives offered by or through the
161 mortgage servicer or mortgage lender and for which the borrower
162 is or may be eligible.

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

165 (2) (a) A mortgage servicer or mortgage lender may not
166 commence a civil action for the recovery of any debt, or for the
167 enforcement of any right, under a residential mortgage loan
168 which is not barred by this chapter or chapter 702 or any other
169 provision of law; record a notice of default or a notice of
170 sale; or conduct a foreclosure sale, if a borrower submits an
171 application for a foreclosure prevention alternative offered by
172 or through the borrower's mortgage servicer or mortgage lender,
173 unless one of the following has occurred:

174 1. The borrower fails to submit all documents or

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175 information required to complete the application within the
176 allotted timeframe authorized by the mortgage servicer or
177 mortgage lender, which must be at least 30 calendar days after
178 the date of the initial acknowledgment of receipt of the
179 application sent to the borrower.

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

184 3. The borrower does not accept a written offer for a
185 foreclosure prevention alternative within 30 calendar days after
186 the date of the offer.

187 4. The borrower accepts a written offer for a foreclosure
188 prevention alternative, but defaults on or otherwise breaches
189 the borrower's obligations under the foreclosure prevention
190 alternative.

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

196 2. A single point of contact must remain assigned to the
197 borrower's account until the mortgage servicer or mortgage
198 lender determines that all foreclosure prevention alternatives
199 offered by or through the mortgage servicer or mortgage lender
200 have been exhausted or the borrower's account becomes current.

201 3. The mortgage servicer or mortgage lender shall ensure
202 that a single point of contact refers and transfers the borrower
203 to an appropriate supervisor upon the borrower's request, if the

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204 single point of contact has a supervisor.

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

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

217 (a) Upon receipt of an application for a foreclosure
218 prevention alternative, the mortgage servicer or mortgage lender
219 shall include in the initial acknowledgment of receipt of the
220 application:

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

226 2. A statement of any deadlines that affect the processing
227 of an application for a foreclosure prevention alternative,
228 including, without limitation, the deadline for submitting any
229 missing document.

230 3. A statement of the expiration dates for any documents
231 submitted by the borrower.

232 (b) If a borrower submits an application for a foreclosure

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233 prevention alternative but does not initially submit all the
234 documents or information required to complete the application,
235 the mortgage servicer or mortgage lender shall include in the
236 initial acknowledgment of receipt of the application:

237 1. A statement of any deficiency in the borrower's
238 application and must allow the borrower at least 30 calendar
239 days to submit any missing document or information required to
240 complete the application.

241 2. All the information required under subparagraphs (a)1.,
242 2., and 3.

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

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

254 (a) The reason for the denial.

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

257 (c) Instructions regarding how to appeal the denial,
258 including, without limitation, how to provide evidence that the
259 denial was in error.

260 (6) If a borrower of a residential mortgage loan submits a
261 complete application for a foreclosure prevention alternative

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262 and the borrower's application is denied, the mortgage servicer
263 or mortgage lender may not commence a civil action for the
264 recovery of any debt, or for the enforcement of any right, under
265 a residential mortgage loan which is not barred by this chapter
266 or chapter 702 or any other provision of law, record a notice of
267 default or a notice of sale, or conduct a foreclosure sale until
268 the later of:

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

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

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

273 2. If the appeal is successful, 14 calendar days after a
274 foreclosure prevention alternative offered after the appeal is
275 declined by the borrower; or

276 3. If a foreclosure prevention alternative offered after
277 the appeal is accepted, the date on which the borrower fails to
278 timely submit the first payment or otherwise breaches the terms
279 of the offer.

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

287 (a) There has been a material change in the borrower's
288 financial circumstances since the date of the borrower's
289 previous application.

290 (b) The change in paragraph (a) is documented by the

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291 borrower and submitted to the mortgage servicer or mortgage
292 lender.

293 (8) A mortgage servicer or mortgage lender may not charge
294 or collect:

295 (a) An application fee, a processing fee, or any other fee
296 for a foreclosure prevention alternative; or

297 (b) Late fees for periods during which:

298 1. A foreclosure prevention alternative is under
299 consideration or a denial is being appealed;

300 2. The borrower is making timely payments under a
301 foreclosure prevention alternative; or

302 3. A foreclosure prevention alternative is being evaluated
303 or exercised.

304 Section 5. Section 627.4055, Florida Statutes, is created
305 to read:

306 627.4055 Lender-placed insurance for residential mortgage
307 loan guaranty.-

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

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

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

315 (c) "Mortgage servicer" has the same meaning as in s.
316 494.001.

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

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

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- 320 1. Issue lender-placed insurance on a mortgaged property
321 if:
- 322 a. The insurer or insurance agent or an affiliate of the
323 insurer or insurance agent owns, performs the servicing for, or
324 owns the servicing right to, the mortgaged property; or
- 325 b. The mortgage servicer or mortgage lender has not
326 complied with 12 C.F.R. s. 1024.37.
- 327 2. Except for payment to a mortgage lender for any loss
328 resulting from a mortgage default or property foreclosure:
- 329 a. Compensate any mortgage lender, insurer, investor, or
330 mortgage servicer, including, but not limited to, through
331 payment of commissions, on a lender-placed insurance policy
332 issued by the insurer or insurance agent.
- 333 b. Make any payment, including, but not limited to, payment
334 of expenses, to any mortgage lender, insurer, investor, or
335 mortgage servicer for the purpose of securing lender-placed
336 insurance business or related outsourced services.
- 337 c. Share lender-placed insurance premium or risk with the
338 mortgage lender, investor, or mortgage servicer that obtained
339 the lender-placed insurance.
- 340 d. Offer contingent commissions, profit sharing, or other
341 payments dependent on profitability or loss ratios to any person
342 affiliated with lender-placed insurance.
- 343 (b) An insurer or insurance agent may not provide free or
344 below-cost outsourced services to a mortgage lender, insurance
345 producer, investor, or mortgage servicer or outsource its own
346 functions to a mortgage lender, insurance producer, investor, or
347 mortgage servicer on an above-cost basis.
- 348 Section 6. Section 635.0215, Florida Statutes, is created

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349 to read:

350 635.0215 Lender-placed insurance for residential mortgage
351 loan guaranty.-

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

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

354 (b) "Lender-placed insurance" has the same meaning as in s.
355 627.4055(1).

356 (c) "Mortgage servicer" has the same meaning as in s.
357 494.001.

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

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

361 1. Issue lender-placed insurance on a mortgaged property
362 if:

363 a. The insurer or insurance agent or an affiliate of the
364 insurer or insurance agent owns, performs the servicing for, or
365 owns the servicing right to the mortgaged property; or

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

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

370 a. Compensate any mortgage lender, insurer, investor, or
371 mortgage servicer, including, but not limited to, through
372 payment of commissions, on a lender-placed insurance policy
373 issued by the insurer or insurance agent.

374 b. Make any payment, including, but not limited to, payment
375 of expenses, to any mortgage lender, insurer, investor, or
376 mortgage servicer for the purpose of securing lender-placed
377 insurance business or related outsourced services.

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378 c. Share lender-placed insurance premium or risk with the
379 mortgage lender, investor, or mortgage servicer that obtained
380 the lender-placed insurance.

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

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

389 Section 7. Section 702.013, Florida Statutes, is created to
390 read:

391 702.013 Foreclosure prevention alternatives for residential
392 mortgage loans.—

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

394 (a) "Complete application" has the same meaning as in s.
395 494.0027(1).

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

398 (c) "Mortgage servicer" has the same meaning as in s.
399 494.001.

400 (d) "Single point of contact" has the same meaning as in s.
401 494.0027(1).

402 (2) (a) A mortgage servicer or mortgage lender may not
403 commence a civil action for the recovery of any debt, or for the
404 enforcement of any right, under a residential mortgage loan
405 which is not barred by this chapter or chapter 494 or any other
406 provision of law; record a notice of default or a notice of

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407 sale; or conduct a foreclosure sale, if a borrower submits an
408 application for a foreclosure prevention alternative offered by,
409 or through, the borrower's mortgage servicer or mortgage lender,
410 unless one of the following has occurred:

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

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

421 3. The borrower does not accept a written offer for a
422 foreclosure prevention alternative within 30 calendar days after
423 the date of the offer.

424 4. The borrower accepts a written offer for a foreclosure
425 prevention alternative, but defaults on or otherwise breaches
426 the borrower's obligations under the foreclosure prevention
427 alternative.

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

433 2. A single point of contact must remain assigned to the
434 borrower's account until the mortgage servicer or mortgage
435 lender determines that all foreclosure prevention alternatives

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436 offered by or through the mortgage servicer or mortgage lender
437 have been exhausted or the borrower's account becomes current.

438 3. The mortgage servicer or mortgage lender shall ensure
439 that a single point of contact refers and transfers the borrower
440 to an appropriate supervisor upon the borrower's request, if the
441 single point of contact has a supervisor.

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

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

454 (a) Upon receipt of an application for a foreclosure
455 prevention alternative, the mortgage servicer or mortgage lender
456 shall include in the initial acknowledgment of receipt of the
457 application:

458 1. A description of the process for considering the
459 application, including, without limitation, an estimate of when
460 a decision on the application will be made and the length of
461 time the borrower will have to consider an offer for a
462 foreclosure prevention alternative.

463 2. A statement of any deadlines that affect the processing
464 of an application for a foreclosure prevention alternative,

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465 including, without limitation, the deadline for submitting any
466 missing document.

467 3. A statement of the expiration dates for any documents
468 submitted by the borrower.

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

474 1. A statement of any deficiency in the borrower's
475 application and allow the borrower at least 30 calendar days to
476 submit any missing document or information required to complete
477 the application.

478 2. All the information required under subparagraphs (a)1.,
479 2., and 3.

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

486 (5) If a borrower submits a complete application for a
487 foreclosure prevention alternative for a residential mortgage
488 loan and the borrower's application is denied, the mortgage
489 servicer or mortgage lender shall send to the borrower a written
490 statement of:

491 (a) The reason for the denial.

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

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494 (c) Instructions regarding how to appeal the denial,
495 including, without limitation, how to provide evidence that the
496 denial was in error.

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

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

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

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

510 2. If the appeal is successful, 14 calendar days after a
511 foreclosure prevention alternative offered after the appeal is
512 declined by the borrower; or

513 3. If a foreclosure prevention alternative offered after
514 the appeal is accepted, the date on which the borrower fails to
515 timely submit the first payment or otherwise breaches the terms
516 of the offer.

517 (7) A mortgage servicer or mortgage lender is not required
518 to evaluate a foreclosure prevention alternative application
519 from a borrower of a residential mortgage loan who has already
520 been evaluated or afforded a fair opportunity to be evaluated
521 for a foreclosure prevention alternative or who has been
522 evaluated or afforded a fair opportunity to be evaluated

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523 consistent with the requirements of this section, unless:

524 (a) There has been a material change in the borrower's
525 financial circumstances since the date of the borrower's
526 previous application.

527 (b) The change in paragraph (a) is documented by the
528 borrower and submitted to the mortgage servicer or mortgage
529 lender.

530 (8) A mortgage servicer or mortgage lender may not charge
531 or collect:

532 (a) An application fee, a processing fee, or any other fee
533 for a foreclosure prevention alternative; or

534 (b) Late fees for periods during which:

535 1. A foreclosure prevention alternative is under
536 consideration or a denial is being appealed;

537 2. The borrower is making timely payments under a
538 foreclosure prevention alternative; or

539 3. A foreclosure prevention alternative is being evaluated
540 or exercised.

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

543 494.00115 Exemptions.—

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

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

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552 ~~s. 494.001(24).~~

553 (b) Soliciting in a manner that would lead the intended
554 audience to reasonably believe that such individual is in the
555 business of performing the activities described in s.
556 494.001(25) ~~s. 494.001(24).~~

557 (c) Maintaining a commercial business establishment at
558 which, or premises from which, such individual regularly
559 performs the activities described in s. 494.001(25) ~~s.~~
560 ~~494.001(24)~~ or regularly meets with current or prospective
561 mortgage borrowers.

562 Section 9. Paragraph (d) of subsection (4) of section
563 494.0025, Florida Statutes, is amended to read:

564 494.0025 Prohibited practices.—It is unlawful for any
565 person:

566 (4) In any practice or transaction or course of business
567 relating to the sale, purchase, negotiation, promotion,
568 advertisement, or hypothecation of mortgage loan transactions,
569 directly or indirectly:

570 (d) To misrepresent a residential mortgage loan, as
571 described in s. 494.001(26)(a) ~~s. 494.001(25)(a)~~, as a business
572 purpose loan.

573 Section 10. This act shall take effect July 1, 2023.