

1 A bill to be entitled

2 An act relating to an exemption from regulation for
3 bona fide nonprofit organizations; amending s.
4 494.0011, F.S.; authorizing the Financial Services
5 Commission to adopt rules prescribing criteria and
6 processes for determining whether an organization is a
7 bona fide nonprofit organization for a specified
8 purpose; amending s. 494.00115, F.S.; providing
9 exemptions from certain regulation for bona fide
10 nonprofit organizations and certain employees of a
11 bona fide nonprofit organization that meet specified
12 criteria; requiring the Office of Financial Regulation
13 to make a specified determination; requiring the
14 office to make such determination based on terms
15 consistent with loan origination in a public or
16 charitable context; requiring the office to
17 periodically examine the books and activities of an
18 organization and to revoke its status as a bona fide
19 nonprofit organization under certain circumstances;
20 providing an effective date.

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

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24 Section 1. Paragraph (b) of subsection (2) of section
25 494.0011, Florida Statutes, is amended to read:

26 | 494.0011 Powers and duties of the commission and office.—
 27 | (2) The commission may adopt rules to administer parts I,
 28 | II, and III of this chapter, including rules:
 29 | (b) Relating to compliance with the S.A.F.E. Mortgage
 30 | Licensing Act of 2008, including rules to:
 31 | 1. Require loan originators, mortgage brokers, mortgage
 32 | lenders, and branch offices to register through the registry.
 33 | 2. Require the use of uniform forms that have been
 34 | approved by the registry, and any subsequent amendments to such
 35 | forms if the forms are substantially in compliance with the
 36 | provisions of this chapter. Uniform forms that the commission
 37 | may adopt include, but are not limited to:
 38 | a. Uniform Mortgage Lender/Mortgage Broker Form, MU1.
 39 | b. Uniform Mortgage Biographical Statement & Consent Form,
 40 | MU2.
 41 | c. Uniform Mortgage Branch Office Form, MU3.
 42 | d. Uniform Individual Mortgage License/Registration &
 43 | Consent Form, MU4.
 44 | 3. Require the filing of forms, documents, and fees in
 45 | accordance with the requirements of the registry.
 46 | 4. Prescribe requirements for amending or surrendering a
 47 | license or other activities as the commission deems necessary
 48 | for the office's participation in the registry.
 49 | 5. Prescribe procedures that allow a licensee to challenge
 50 | information contained in the registry.

51 6. Prescribe procedures for reporting violations of this
52 chapter and disciplinary actions on licensees to the registry.

53 7. Prescribe criteria and processes for determining if an
54 organization is and remains a bona fide nonprofit organization
55 for the purpose of determining whether the organization and its
56 employees who are acting as loan originators are exempt from
57 regulation under this chapter pursuant to s. 494.00115.

58 Section 2. Subsections (3), (4), and (5) of section
59 494.00115, Florida Statutes, are renumbered as subsections (4),
60 (5), and (6), respectively, and a new subsection (3) is added to
61 that section, to read:

62 494.00115 Exemptions.—

63 (3)(a) As provided in this subsection, a bona fide
64 nonprofit organization and an employee of a bona fide nonprofit
65 organization who acts as a loan originator only with respect to
66 his or her work duties for the bona fide nonprofit organization
67 and who acts as a loan originator only with respect to
68 residential mortgage loans with terms that are favorable to the
69 borrower, are exempt from regulation under this chapter.

70 1. For an organization to be considered a bona fide
71 nonprofit organization under this subsection, the office must
72 determine, pursuant to criteria and processes established by
73 rule, that the organization satisfies all of the following
74 criteria:

75 a. Has the status of a tax-exempt organization under s.

76 501(c)(3) of the Internal Revenue Code of 1986.

77 b. Promotes affordable housing or provides homeownership
78 education or similar services.

79 c. Conducts its activities in a manner that serves public
80 or charitable purposes rather than commercial purposes.

81 d. Receives funding and revenue and charges fees in a
82 manner that does not incentivize it or its employees to act
83 other than in the best interests of its clients.

84 e. Compensates its employees in a manner that does not
85 incentivize employees to act other than in the best interests of
86 its clients.

87 f. Provides or identifies for the borrower residential
88 mortgage loans with terms favorable to the borrower and
89 comparable to mortgage loans and housing assistance provided
90 under government housing assistance programs.

91 2. For residential mortgage loans to be deemed under this
92 subsection to have terms that are favorable to the borrower, the
93 office must determine that the terms are consistent with loan
94 origination in a public or charitable context, rather than a
95 commercial context.

96 (b) The office must periodically examine the books and
97 activities of an organization that it determines is a bona fide
98 nonprofit organization and revoke its status as a bona fide
99 nonprofit organization if it does not continue to meet the
100 criteria specified in paragraph (a).

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101 | Section 3. This act shall take effect July 1, 2024. |