

By the Committee on Banking and Insurance; and Senator Boyd

597-02162-24

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1 A bill to be entitled
2 An act relating to mortgage brokering; amending s.
3 494.0011, F.S.; authorizing the Financial Services
4 Commission to adopt rules prescribing criteria and
5 processes for determining whether an organization is a
6 bona fide nonprofit organization for a specified
7 purpose; amending s. 494.00115, F.S.; providing
8 exemptions from regulation under ch. 494, F.S., for
9 bona fide nonprofit organizations and certain
10 employees of a bona fide nonprofit organization that
11 meet specified criteria; requiring the Office of
12 Financial Regulation to make a specified
13 determination; requiring the office to make certain a
14 determination related to the terms of residential
15 mortgage loans originated by such employees; requiring
16 the office to periodically examine the books and
17 activities of a bona fide nonprofit organization and
18 to revoke its status in certain circumstances;
19 providing an effective date.

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

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

25 494.0011 Powers and duties of the commission and office.—

26 (2) The commission may adopt rules to administer parts I,
27 II, and III of this chapter, including rules:

28 (b) Relating to compliance with the S.A.F.E. Mortgage
29 Licensing Act of 2008, including rules to:

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30 1. Require loan originators, mortgage brokers, mortgage
31 lenders, and branch offices to register through the registry.

32 2. Require the use of uniform forms that have been approved
33 by the registry, and any subsequent amendments to such forms if
34 the forms are substantially in compliance with the provisions of
35 this chapter. Uniform forms that the commission may adopt
36 include, but are not limited to:

37 a. Uniform Mortgage Lender/Mortgage Broker Form, MU1.

38 b. Uniform Mortgage Biographical Statement & Consent Form,
39 MU2.

40 c. Uniform Mortgage Branch Office Form, MU3.

41 d. Uniform Individual Mortgage License/Registration &
42 Consent Form, MU4.

43 3. Require the filing of forms, documents, and fees in
44 accordance with the requirements of the registry.

45 4. Prescribe requirements for amending or surrendering a
46 license or other activities as the commission deems necessary
47 for the office's participation in the registry.

48 5. Prescribe procedures that allow a licensee to challenge
49 information contained in the registry.

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

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

58 Section 2. Present subsections (3), (4), and (5) of section

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59 494.00115, Florida Statutes, are redesignated as subsections
60 (4), (5), and (6), respectively, and a new subsection (3) is
61 added to 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 to 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

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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 section 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).

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