



**ASSEMBLY AMENDMENT 2,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2003 ASSEMBLY BILL 792**

February 26, 2004 – Offered by COMMITTEE ON FINANCIAL INSTITUTIONS.

- 1 At the locations indicated, amend the substitute amendment as follows:
- 2 **1.** Page 5, line 21: delete the material beginning with “an” and ending with “or”
- 3 on line 22.
- 4 **2.** Page 6, line 15: delete “or an assignee of the loan”.
- 5 **3.** Page 6, line 17: delete “or assignee”.
- 6 **4.** Page 6, line 19: delete “or assignee”.
- 7 **5.** Page 6, line 23: delete “lender’s or” and substitute “lender’s”.
- 8 **6.** Page 6, line 24: delete “assignee’s”.
- 9 **7.** Page 6, line 24: delete “or assignee”.
- 10 **8.** Page 7, line 6: delete “or an assignee of the loan”.
- 11 **9.** Page 7, line 21: delete “assignee or”.

1 **10.** Page 7, line 24: delete “, assignee of a covered loan,”.

2 **11.** Page 9, line 13: after that line insert:

3 **“428.205 Assignee liability. (1) LIMIT ON ASSIGNEE LIABILITY.** The liability of
4 a lender who is an assignee on a covered loan that is in violation of s. 428.203 may
5 not exceed the total amount of the customer’s outstanding obligation under the
6 covered loan, plus costs and attorney fees, if the assignee satisfies all of the following:

7 (a) The assignee has in place at the time of the assignment policies that
8 expressly prohibit the assignee from accepting an assignment of a covered loan that
9 is in violation of s. 428.203.

10 (b) The assignee enters into a contract with the assignor of the covered loan,
11 prior to the assignment, pursuant to which the assignor represents and warrants to
12 the assignee that the assignor will not assign covered loans that are in violation of
13 s. 428.203 to the assignee or that such a representation and warranty has been made
14 to the assignor with respect to loans the assignor received from a previous assignor
15 and that the assignor will assign to the assignee only loans subject to that
16 representation and warranty.

17 (c) The assignee exercises reasonable due diligence at the time of the
18 assignment or within a reasonable period of time thereafter to prevent the
19 assignment of covered loans that are in violation of s. 428.203. As used in this
20 paragraph, “reasonable due diligence” includes statistical sampling but not
21 loan-by-loan review.

22 **(2) STATUTES OF LIMITATIONS IN CERTAIN CASES.** (a) Except as provided in par. (b),
23 any action brought by a customer that is subject to sub. (1) shall be commenced
24 within 5 years of the date on which the loan is made.

1 (b) A customer may assert any claims and defenses against an assignee of a
2 covered loan in an action that is subject to sub. (1) at any time during the term of the
3 covered loan if an action to collect on the loan or to foreclose on the security for the
4 loan has been commenced, the debt under the loan has been accelerated, or the loan
5 has been in default for at least 60 days.

6 (3) OTHER RIGHTS UNAFFECTED. This section does not affect any rights or
7 remedies provided to a customer under other law.”

8 (END)