

2003 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB792)

Received: **02/24/2004**

Received By: **agary**

Wanted: **Soon**

Identical to LRB:

For: **Lena Taylor (608) 266-0645**

By/Representing: **Cindy**

This file may be shown to any legislator: **NO**

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Fin. Inst. - int. rates/loans**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Taylor@legis.state.wi.us**

Carbon copy (CC:) to: **cindy.mcginnis@legis.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:

predatory lending; assignee liability

Instructions:

Same as LRBa2200, but to sub

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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FE Sent For:

<END>

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/?	agary	1/25 jld	2/25 jld	2/25 JPK			

FE Sent For:

<END>

TODAY
by 4:00 pm

a 2344/1
LRB:22001
ARG:ldjif

Stays

ASSEMBLY AMENDMENT, to ASA 1,
TO 2003 ASSEMBLY BILL 792

substitute amendment

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At the locations indicated, amend the ~~bill~~ as follows:

- 1. Page ⁵~~8~~, line ²¹~~2~~: delete the material beginning with "an" and ending with "or" on line ²²~~3~~.
- 2. Page ⁶~~8~~, line ¹⁵~~21~~: delete "or an assignee of the loan".
- 3. Page ⁶~~8~~, line ¹⁷~~23~~: delete "or assignee".
- 4. Page ⁶~~8~~, line ¹⁹~~4~~: delete "or assignee".
- 5. Page ⁶~~8~~, line ²³~~5~~: delete "lender's or" and substitute "lender's".
- 6. Page ⁶~~8~~, line ²⁴~~6~~: delete "assignee's".
- 7. Page ⁶~~8~~, line ²⁴~~6~~: delete "or assignee".
- 8. Page ⁷~~8~~, line ⁶~~12~~: delete "or an assignee of the loan".
- 9. Page ⁷~~10~~, line ²¹~~7~~: delete "assignee or".
- 10. Page ⁷~~10~~, line ²⁴~~10~~: delete ", assignee of a covered loan,".

①

11. Page ⁹~~14~~, line ¹³~~1~~: after that line insert:

2 **"428.205 Assignee liability. (1) LIMIT ON ASSIGNEE LIABILITY.** The liability of
3 a lender who is an assignee on a covered loan that is in violation of s. 428.203 may
4 not exceed the total amount of the customer's outstanding obligation under the
5 covered loan, plus costs and attorney fees, if the assignee satisfies all of the following:

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

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

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

21 **(2) STATUTES OF LIMITATIONS IN CERTAIN CASES.** (a) Except as provided in par. (b),
22 any action brought by a customer that is subject to sub. (1) shall be commenced
23 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)