

**ASSEMBLY AMENDMENT 3,
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 15, line 3: delete “It” and substitute “Except as provided in s. 428.2105,
3 it”.

4 **2.** Page 15, line 11: after that line insert:

5 **“428.2105 Remedies. (1) CAUSE OF ACTION.** Except as provided in sub. (5), and
6 notwithstanding s. 428.210 (4), a customer may bring an action to enforce any
7 requirement or prohibition under this subchapter. Except as provided in sub. (5),
8 and notwithstanding s. 428.210 (4), any requirement or prohibition under this
9 subchapter is enforceable by class action under s. 803.08.

10 **(2) REMEDIES.** (a) Except as provided under sub. (5), and notwithstanding s.
11 428.210 (4), a person who violates this subchapter is liable to the person who
12 commences an action under sub. (1) in an amount equal to the total of the following:

1 1. Twice the amount of interest paid under the applicable covered loan, plus an
2 amount equal to the total of all interest remaining under the loan.

3 2. The actual damages, including any incidental and consequential damages,
4 sustained by the person commencing the action as a result of the violation.

5 (b) If a person prevails in an action under sub. (1), the person shall recover the
6 aggregate amount of costs and expenses determined by the court to have been
7 reasonably incurred on the person's behalf in connection with the prosecution of the
8 action, together with a reasonable amount for attorney fees. The award of attorney
9 fees shall be in an amount sufficient to compensate the attorneys representing the
10 person. In determining the amount of the award, the court may consider any of the
11 following:

12 1. The time and labor required, the novelty and difficulty of the questions
13 involved, and the skill requisite properly to conduct the cause.

14 2. The customary charges of the bar for similar services.

15 3. The amount involved in the controversy and the benefits resulting to the
16 client or clients from the services.

17 4. The contingency or the certainty of the compensation.

18 5. The amount of the costs and expenses reasonably advanced by the attorney
19 in the prosecution of the action.

20 (c) In addition to the remedies provided under pars. (a) and (b), the following
21 remedies are available in any action under sub. (1):

22 1. Injunctive relief.

23 2. Declaratory relief.

24 3. Punitive damages under s. 895.85.

