

FORTY-SIXTH LEGISLATURE
FIRST SESSION, 2003

SB 449/a

February 20, 2003

Madam President:

Your PUBLIC AFFAIRS COMMITTEE, to whom has been referred

SENATE BILL 449

has had it under consideration and reports same with recommendation that it DO PASS, amended as follows:

1. On page 17, line 20, strike "HIGH-COST".
2. On page 17, line 21, after the dash insert the subsection designator "A.".
3. On page 18, line 7, strike "A." and insert in lieu thereof "(1)".
4. On page 18, line 9, strike "B." and insert in lieu thereof "(2)".
5. On page 18, line 14, strike "C." and insert in lieu thereof "(3)".
6. On page 18, between lines 18 and 19, insert the following new subsections:

"B. Notwithstanding any other law to the contrary, a borrower acting only in an individual capacity may assert against the creditor or any subsequent holder or assignee of the home loan:

(1) within six years of the closing of a home loan, a violation of the Home Loan Protection Act in connection with the loan as an original action or as a defense, claim or counterclaim after an action to collect on the home loan or foreclose on the collateral securing the home loan has been initiated or the debt arising from the home loan has been accelerated or the home loan has become sixty days in default; or

(2) at any time during the term of a high-cost home loan, a violation of the Home Loan Protection Act in connection with the loan as a defense, claim or counterclaim after an action to collect on the home loan or foreclose on the collateral securing the home loan has been initiated or the debt arising from the home loan has been accelerated or the home loan has become sixty days in default.

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C. In an action, claim or counterclaim brought pursuant to Subsection B of this section, the borrower may recover only amounts required to reduce or extinguish the borrower's liability under the home loan plus amounts required to recover costs and reasonable attorney fees.

D. Nothing in this section shall limit the substantive rights, remedies or procedural rights available to a borrower against a creditor, assignee or holder that are otherwise provided by law."

7. On page 19, line 16, strike "Lo4an" and insert in lieu thereof "Loan".,

and thence referred to the JUDICIARY COMMITTEE.

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Respectfully submitted,

Dede Feldman, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 6 For 3 Against
Yes: 6
No: 3
Excused: None
Absent: None

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