HOUSE . . . . . No. 3203

By Mr. Finneran of Boston, petition of David B. Cohen and other members of the General Court for legislation to protect home equity loan borrowers. Banks and Banking.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Eight.

AN ACT TO PROTECT HOME EQUITY LOAN BORROWERS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 167E of the General Laws is hereby amended by adding
2 after section 11 the following new section:
3 Section 11A. (a) For the purposes of this section, the following
4 terms shall have the following meanings:
5 "Application process," the time between the submission of a
6 completed loan application and the closing.
7 "Commissioner," the commissioner of banks.
8 "Home equity loan," an open-end loan secured by a mortgage,
9 other than a first lien, on residential property located in the
10 commonwealth of four units or less occupied in whole or in part
11 by the mortgagor.
12 "Index," any regional or national measure of market rates of
13 interest. An index may be either a single value as of a particular
14 date or a moving average of a particular measure of rate change
15 over a particular period of time. In either case, the index must
16 be readily available to and verifiable by the mortgagor and be
17 beyond the control of the mortgagee or of any one bank.
18 (b) All variable-rate home equity loans made by mortgagees
19 located in the commonwealth shall be subject to the following
20 terms and conditions:
21 (1) All variable-rate home equity loan interest rates shall be
22 based on the sum of the value of a specific index at a particular
23 point in time plus a margin. The mortgagee may select the point

24 in time during the application process that the index is fixed and
25 the initial interest rate of the loan is set, or may allow the
26 mortgagor to do so.
27 (2) In selecting an index for a particular home equity loan
28 product, the mortgagee shall identify in the mortgage note the
29 name of the index and the name of the publication where it can
30 be found.
31 (3) A mortgagee may choose any number of percentage points
32 to add to the index value as a margin at the time the variable-
33 rate home equity loan is drafted. The margin must remain
34 constant during the entire life of the home equity loan. The margin
35 selected may be a positive number, a negative number, or zero.
36 (4) The commissioner shall limit the amount that a mortgagee
37 may adjust the interest rate on a home equity loan at each
38 adjustment and/or over the life of the loan.
39 (5) Any change made in the interest rate on a home equity loan
40 over the life of the loan shall be directly attributable to the
41 movement of the index in accordance with a formula specified
42 in the original note. No fees or points may be charged in
43 connection with an adjustment.
44 (6) The minimum adjustment interval shall be six months. All
45 adjustment intervals shall be of equal length, except that the first
46 adjustment interval may be of unequal length if necessary to
47 establish a master adjustment schedule.
48 (7) The adjustment calculation must be based on the most
49 recently available index value prior to the rate adjustment. The
50 new index value added to the margin shall equal the new base
51 interest rate. The new base interest rate shall be modified if
52 required by any selected loan option described in subsection (c)
53 of this section.
54 (8) A written notice shall be mailed to the mortgagor prior to
55 the scheduled adjustment and shall include all of the details of
56 the adjustment calculation, including the actual mathematical
57 calculations.
58 (c) All home equity loans made by mortgagees located in the
59 commonwealth shall include a provision allowing the mortgagor
60 to elect to convert all or part of the outstanding loan balance from
61 a variable-rate, open-end loan to a fixed-rate, fixed-term loan
62 payable in full in equal monthly installments over the life of the

63 loan. The interest rates and minimum length of such converted
64 loans shall be subject to guidelines promulgated by the
65 commissioner.
66 (d) All home equity loans made by mortgagees located in the
67 commonwealth shall amortize at a rate to be set by the
68 commissioner. The rate set by the commissioner need not require
69 full amortization.
70 (e) Mortgagees may offer home equity loans where the initial
71 interest rate on the loan is lower than the fixed rate of interest
72 charged for the life of the loan or, in the case of variable-rate home
73 equity loans, where the initial interest rate is less than the sum
74 of the most recently available index value plus the margin,
75 provided that no cash payment has been made to reduce the
76 interest rate. Such initial interest rate shall be known as an
77 "introductory discount" and must be referred to as such in all
78 advertising and promotional materials along with information
79 about the regular price of the home equity loan and information
80 regarding repayment terms. In no case may the amount of interest
81 discounted at origination be carried over or deferred to a future
82 adjustment.
83 (f) The commissioner shall prescribe such rules and regulations
84 as may be necessary and proper to carry out the purposes of any
85 and all provisions of this section.