NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 13-1017

BY REPRESENTATIVE(S) Lebsock, Buckner, Court, Duran, Exum, Fields, Fischer, Ginal, Hamner, Hullinghorst, Kagan, Kraft-Tharp, Labuda, McCann, McLachlan, Melton, Mitsch Bush, Moreno, Pabon, Peniston, Pettersen, Primavera, Rosenthal, Ryden, Salazar, Schafer, Singer, Vigil, Williams, Young, Ferrandino;
also SENATOR(S) Tochtrop and Giron, Guzman, Heath, Johnston, Kefalas, King, Newell, Nicholson, Steadman, Todd, Ulibarri, Morse.

CONCERNING A REQUIREMENT THAT SUCCESSOR SERVICERS OF RESIDENTIAL MORTGAGE LOANS FOLLOW THROUGH WITH LOAN MODIFICATIONS OFFERED TO BORROWERS, AND, IN CONNECTION THEREWITH, REQUIRING A SERVICER TO INFORM A SUCCESSOR SERVICER OF THE TERMS OF ANY MODIFICATION OFFER UPON ANY TRANSFER OF SERVICING RIGHTS FOR THE LOAN.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** 38-40-103.5 as follows:

38-40-103.5. Notice upon transfer of servicing rights - prior servicer's offer to borrower survives transfer. (1) AS USED IN THIS SECTION:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(a) "BORROWER" MEANS A PERSON LIABLE UNDER AN EVIDENCE OF DEBT CONSTITUTING A RESIDENTIAL MORTGAGE LOAN.

(b) "EVIDENCE OF DEBT" HAS THE MEANING SET FORTH IN SECTION 38-38-100.3 (8).

(c) "HOLDER" MEANS THE HOLDER OF AN EVIDENCE OF DEBT CONSTITUTING A RESIDENTIAL MORTGAGE LOAN.

(d) "RESIDENTIAL MORTGAGE LOAN" HAS THE MEANING SET FORTH IN SECTION 12-61-902, C.R.S.

(e) (I) "SERVICER" MEANS A PERSON WHO COLLECTS, RECEIVES, OR HAS THE RIGHT TO COLLECT OR RECEIVE PAYMENTS ON BEHALF OF A HOLDER, INCLUDING PAYMENTS OF PRINCIPAL, INTEREST, ESCROW AMOUNTS, AND OTHER AMOUNTS DUE ON OBLIGATIONS DUE AND OWING TO THE HOLDER.

(II) "SERVICER" INCLUDES:

(A) THE PERSON OR ENTITY TO WHOM PAYMENTS ARE TO BE SENT, AS LISTED ON THE MOST RECENT BILLING STATEMENT OR PAYMENT COUPON PROVIDED TO THE BORROWER; OR

(B) A SUBSIDIARY, AFFILIATE, OR ASSIGNEE OF A SERVICER, HOWEVER DESIGNATED, INCLUDING A PERSON DESIGNATED AS A SUBSERVICER.

(2) A SERVICER TO WHOM SERVICING RIGHTS FOR A RESIDENTIAL MORTGAGE LOAN HAVE BEEN SOLD OR TRANSFERRED BY THE HOLDER OR BY A PREDECESSOR SERVICER IS SUBJECT TO, AND SHALL HONOR, THE BORROWER'S ACCEPTANCE, PRIOR TO THE SALE OR TRANSFER OF SERVICING RIGHTS, OF ANY OFFER PREVIOUSLY MADE BY THE HOLDER OR PREDECESSOR SERVICER IN CONNECTION WITH A MODIFICATION OF A RESIDENTIAL MORTGAGE LOAN.

(3) AT THE TIME OF THE TRANSFER OR SALE OF SERVICING RIGHTS FOR A RESIDENTIAL MORTGAGE LOAN, THE TRANSFEROR OR SELLER SHALL INFORM THE BUYER OR TRANSFEREE OF THE SERVICING RIGHTS WHETHER A

LOAN MODIFICATION IS PENDING.

(4) A CONTRACT FOR THE TRANSFER OR SALE OF SERVICING RIGHTS FOR A RESIDENTIAL MORTGAGE LOAN MUST OBLIGATE THE SUCCESSOR SERVICER TO:

(a) ACCEPT AND CONTINUE PROCESSING ANY PENDING LOAN MODIFICATION REQUESTS; AND

(b) HONOR ANY TRIAL AND PERMANENT LOAN MODIFICATION AGREEMENTS ENTERED INTO BY THE PRIOR SERVICER.

SECTION 2. In Colorado Revised Statutes, **amend** 38-40-104 as follows:

38-40-104. Cause of action - attorney fees. (1) If any applicant or debtor is aggrieved by a violation of section 38-40-102, ~~or~~ 38-40-103, ~~which~~ OR 38-40-103.5 AND THE violation is not remedied in a reasonable, timely, and good faith manner by the party obligated to do so, and after a good faith effort to resolve the dispute is made by the debtor or borrower, ~~such~~ THE debtor or borrower may bring an action in a court of competent jurisdiction for any such violation. ~~and,~~ If the court finds that actual damages have occurred, the court shall award TO THE DEBTOR OR BORROWER, in addition to actual damages, the amount of one thousand dollars, together with ~~and~~ costs and reasonable attorney fees.

(2) ~~No~~ A transferee from a lender ~~shall be~~ IS NOT liable for any act or omission of the lender under section 38-40-102. ~~No~~ A transferee of servicing or collection rights ~~shall be~~ IS NOT liable for any act or omission of the transferor of those rights under section 38-40-103 OR 38-40-103.5.

SECTION 3. Applicability. This act applies to loan modification offers made on or after the effective date of this act.

SECTION 4. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Mark Ferrandino SPEAKER OF THE HOUSE OF REPRESENTATIVES	John P. Morse PRESIDENT OF THE SENATE
Marilyn Eddins CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES	Cindi L. Markwell SECRETARY OF THE SENATE

APPROVED_____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO