

Second Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 24-0057.01 Richard Sweetman x4333

**HOUSE BILL 24-1011**

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**HOUSE SPONSORSHIP**

**Brown and Amabile,**

**SENATE SPONSORSHIP**

**Cutter,**

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**House Committees**  
Business Affairs & Labor

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING MORTGAGE SERVICERS, AND, IN CONNECTION**  
102 **THEREWITH, REQUIRING MORTGAGE SERVICERS TO TAKE**  
103 **CERTAIN ACTIONS REGARDING THE DISBURSEMENT OF**  
104 **INSURANCE PROCEEDS TO BORROWERS.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill requires a mortgage servicer to disclose certain information to a borrower concerning the disbursement of insurance proceeds to the borrower in the event that a residential property that is

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters or bold & italic numbers indicate new material to be added to existing law.*  
*Dashes through the words or numbers indicate deletions from existing law.*

subject to a mortgage is damaged or destroyed and an insurance company pays a claim associated with such damage or destruction.

In the event that half or more of a residential property is damaged or destroyed, a mortgage servicer must work with the borrower to create a repair plan or a rebuild plan that includes specific milestones that require the mortgage servicer to disburse insurance proceeds. However, a mortgage servicer must also disburse insurance proceeds to a borrower in specified amounts, depending on the amount of the insurance proceeds and whether the borrower is delinquent in making payments on the mortgage.

A mortgage servicer must promptly disburse to a borrower any amount of insurance proceeds in excess of the remaining amount that the borrower owes on the mortgage.

A mortgage servicer must hold in an interest-bearing account any insurance proceeds that the mortgage servicer does not immediately disburse to a borrower. A mortgage servicer must ensure that any interest that is credited to the account is credited and disbursed to the borrower.

A mortgage servicer must retain for at least 4 years all written and electronic communications between the mortgage servicer and a borrower.

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

2           **SECTION 1.** In Colorado Revised Statutes, **add** 38-40-106 as  
3 follows:

4           **38-40-106. Mortgage servicers - requirements concerning**  
5 **disbursement of insurance proceeds - disclosure of mortgage interest**  
6 **rate - retention of communications - definitions.** (1) AS USED IN THIS  
7 SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

8           (a) "BORROWER" HAS THE MEANING SET FORTH IN SECTION  
9 38-38-100.3 (2.5).

10           (b) "MORTGAGE SERVICER" MEANS:

11           (I) A MORTGAGE SERVICER, AS DEFINED IN SECTION 5-21-103 (4);

12           (II) A MORTGAGE SERVICER, AS DEFINED IN SECTION 38-38-100.3  
13 (23.3); OR

14           (III) AN AGENT OF A MORTGAGE SERVICER.

1 (c) "REBUILD PLAN" MEANS A PLAN TO REBUILD A RESIDENTIAL  
2 PROPERTY THAT HAS BEEN DESTROYED.

3 (d) "REPAIR PLAN" MEANS A WRITTEN PLAN TO REPAIR A  
4 RESIDENTIAL PROPERTY THAT HAS BEEN DAMAGED.

5 (e) "RESIDENTIAL PROPERTY" MEANS A RESIDENTIAL PROPERTY  
6 THAT IS THE SUBJECT OF A MORTGAGE.

7 (2) (a) UPON THE REQUEST OF A BORROWER, A MORTGAGE  
8 SERVICER SHALL PROMPTLY DISCLOSE TO THE BORROWER THE SPECIFIC  
9 CONDITIONS UNDER WHICH THE MORTGAGE SERVICER WILL DISBURSE  
10 INSURANCE PROCEEDS TO THE BORROWER IN THE EVENT THAT A  
11 RESIDENTIAL PROPERTY THAT IS THE SUBJECT OF A MORTGAGE IS  
12 DAMAGED OR DESTROYED AND AN INSURANCE COMPANY PAYS INSURANCE  
13 PROCEEDS TO SATISFY A CLAIM ASSOCIATED WITH SUCH DAMAGE OR  
14 DESTRUCTION. A MORTGAGE SERVICER MAY PROVIDE THE INFORMATION  
15 ELECTRONICALLY.

16 (b) IN THE EVENT THAT A RESIDENTIAL PROPERTY IS DAMAGED OR  
17 DESTROYED, A BORROWER, AFTER CONSULTING WITH THE BORROWER'S  
18 CONTRACTOR, SHALL CREATE A REPAIR PLAN OR REBUILD PLAN FOR THE  
19 RESIDENTIAL PROPERTY. THE BORROWER SHALL SUBMIT THE REPAIR PLAN  
20 OR REBUILD PLAN TO THE MORTGAGE SERVICER FOR APPROVAL. THE  
21 MORTGAGE SERVICER SHALL INDICATE APPROVAL OR DENIAL OF THE PLAN  
22 WITHIN THIRTY DAYS OF RECEIPT. THE REPAIR PLAN OR REBUILD PLAN  
23 MUST INCLUDE SPECIFIC MILESTONES THAT REQUIRE THE MORTGAGE  
24 SERVICER TO DISBURSE INSURANCE PROCEEDS IN CERTAIN AMOUNTS UPON  
25 REACHING THE SPECIFIED MILESTONES, AS DESCRIBED IN SUBSECTIONS  
26 (2)(c)(I)(B) AND (2)(d)(II) OF THIS SECTION. IF A MORTGAGE SERVICER  
27 EMPLOYS INSPECTORS FOR THE PURPOSE OF DETERMINING WHEN SUCH

1 MILESTONES ARE ATTAINED, THE MORTGAGE SERVICER SHALL NOTIFY THE  
2 BORROWER OF THE SPECIFIC CRITERIA THAT THE INSPECTORS USE TO MAKE  
3 SUCH DETERMINATIONS.

4 (c) (I) IF A BORROWER IS NOT DELINQUENT IN MAKING PAYMENTS  
5 ON THE MORTGAGE OR THE BORROWER IS LESS THAN THIRTY-ONE DAYS  
6 DELINQUENT IN MAKING PAYMENTS ON THE MORTGAGE, A MORTGAGE  
7 SERVICER SHALL DISBURSE THE INSURANCE PROCEEDS TO THE BORROWER  
8 AS FOLLOWS:

9 (A) IF THE AMOUNT OF THE INSURANCE PROCEEDS IS LESS THAN OR  
10 EQUAL TO FORTY THOUSAND DOLLARS, THE MORTGAGE SERVICER SHALL  
11 DISBURSE THE ENTIRE AMOUNT TO THE BORROWER IN ONE PAYMENT; AND

12 (B) IF THE AMOUNT OF THE INSURANCE PROCEEDS IS MORE THAN  
13 FORTY THOUSAND DOLLARS, THE MORTGAGE SERVICER SHALL INITIALLY  
14 DISBURSE TO THE BORROWER AN AMOUNT THAT IS FORTY THOUSAND  
15 DOLLARS OR THIRTY-THREE PERCENT OF THE TOTAL PROCEEDS,  
16 WHICHEVER AMOUNT IS GREATER. THEREAFTER, THE MORTGAGE SERVICER  
17 SHALL DISBURSE THE REMAINING PROCEEDS BASED ON PERIODIC  
18 INSPECTIONS AND PROGRESS ON THE WORK IN ACCORDANCE WITH THE  
19 MILESTONES IN THE REPAIR PLAN OR REBUILD PLAN DESCRIBED IN  
20 SUBSECTION (2)(b) OF THIS SECTION AND, WHERE REQUIRED BY FEDERAL  
21 LAW OR REGULATION, AFTER APPROVAL BY THE FEDERAL HOME LOAN  
22 BANKS OR APPLICABLE FEDERAL AGENCY.

23 (II) FOR THE PURPOSES OF THIS SUBSECTION (2)(c), IF A BORROWER  
24 HAS MADE ADVANCE PAYMENTS TO A CONTRACTOR OR TO PURCHASE  
25 MATERIALS, AS EVIDENCED BY PAID RECEIPTS, THE MORTGAGE SERVICER  
26 MAY REIMBURSE THE BORROWER FOR SUCH PAYMENTS.

27 (d) IF A BORROWER IS MORE THAN THIRTY-ONE DAYS

1 DELINQUENT IN MAKING PAYMENTS ON THE MORTGAGE, A MORTGAGE  
2 SERVICER SHALL DISBURSE THE INSURANCE PROCEEDS TO THE BORROWER  
3 AS FOLLOWS:

4 (I) IF THE AMOUNT OF THE INSURANCE PROCEEDS IS LESS THAN OR  
5 EQUAL TO FIVE THOUSAND DOLLARS, THE MORTGAGE SERVICER SHALL  
6 DISBURSE THE ENTIRE AMOUNT TO THE BORROWER IN ONE PAYMENT; AND

7 (II) IF THE AMOUNT OF THE INSURANCE PROCEEDS IS MORE THAN  
8 FIVE THOUSAND DOLLARS, THE MORTGAGE SERVICER SHALL INITIALLY  
9 DISBURSE TO THE BORROWER AN AMOUNT THAT IS TWENTY-FIVE PERCENT  
10 OF THE TOTAL PROCEEDS; EXCEPT THAT THE AMOUNT OF THIS INITIAL  
11 DISBURSEMENT MAY NOT EXCEED TEN THOUSAND DOLLARS OR THE  
12 AMOUNT BY WHICH THE TOTAL PROCEEDS EXCEED THE SUM OF THE  
13 UNPAID BALANCE ON THE MORTGAGE, ANY INTEREST ACCRUED ON THE  
14 MORTGAGE, AND ANY ADVANCES MADE ON THE MORTGAGE. THEREAFTER,  
15 THE MORTGAGE SERVICER SHALL DISBURSE THE REMAINING PROCEEDS IN  
16 AMOUNTS NOT TO EXCEED TWENTY-FIVE PERCENT OF THE REMAINING  
17 PROCEEDS, IN ACCORDANCE WITH THE MILESTONES ESTABLISHED IN THE  
18 REPAIR PLAN OR THE REBUILD PLAN PURSUANT TO SUBSECTION (2)(b) OF  
19 THIS SECTION; EXCEPT THAT THE MORTGAGE SERVICER SHALL NOT  
20 DISBURSE ANY REMAINING PROCEEDS UNTIL THE MORTGAGE SERVICER OR  
21 THE MORTGAGE SERVICER'S AGENT HAS INSPECTED THE REPAIRS, IF ANY,  
22 THAT HAVE BEEN MADE PURSUANT TO A REPAIR PLAN ESTABLISHED  
23 PURSUANT TO SUBSECTION (2)(b) OF THIS SECTION.

24 (e) FOR THE PURPOSES OF DISBURSEMENT OF INSURANCE PROCEEDS  
25 AS DESCRIBED IN SUBSECTIONS (2)(c) AND (2)(d) OF THIS SECTION:

26 (I) A MORTGAGE SERVICER SHALL MAKE THE FIRST DISBURSEMENT  
27 OF INSURANCE PROCEEDS TO THE BORROWER:

1 (A) WITHIN FOURTEEN DAYS AFTER THE MORTGAGE SERVICER  
2 RECEIVES THE INSURANCE PROCEEDS IF THE MORTGAGE IS INSURED BY THE  
3 FEDERAL GOVERNMENT OR SECURITIZED BY THE FEDERAL NATIONAL  
4 MORTGAGE ASSOCIATION OR THE FEDERAL HOME LOAN MORTGAGE  
5 CORPORATION; AND

6 (B) AS SOON AS REASONABLY POSSIBLE AND NO LATER THAN  
7 THIRTY DAYS AFTER THE MORTGAGE SERVICER RECEIVES THE INSURANCE  
8 PROCEEDS IF THE MORTGAGE IS NOT INSURED BY THE FEDERAL  
9 GOVERNMENT OR SECURITIZED BY THE FEDERAL NATIONAL MORTGAGE  
10 ASSOCIATION OR THE FEDERAL HOME LOAN MORTGAGE CORPORATION;  
11 AND

12 (II) A MORTGAGE SERVICER MAY DISBURSE FUNDS DIRECTLY TO A  
13 DESIGNEE OF A BORROWER SO LONG AS:

14 (A) THE DESIGNEE IS AGREED TO BY BOTH THE BORROWER AND  
15 THE MORTGAGE SERVICER; AND

16 (B) THE DESIGNATION IS PERMITTED BY FEDERAL AND STATE LAW  
17 AND ANY ASSOCIATED RULES.

18 (f) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,  
19 A MORTGAGE SERVICER SHALL PROMPTLY DISBURSE TO A BORROWER ANY  
20 AMOUNT OF INSURANCE PROCEEDS IN EXCESS OF THE REMAINING AMOUNT  
21 THAT THE BORROWER OWES ON THE MORTGAGE.

22 (g) A MORTGAGE SERVICER SHALL HOLD IN AN INTEREST-BEARING  
23 ACCOUNT ANY INSURANCE PROCEEDS THAT THE MORTGAGE SERVICER  
24 DOES NOT IMMEDIATELY DISBURSE TO A BORROWER. SUCH AN ACCOUNT  
25 MUST GENERATE INTEREST AT A RATE THAT IS NOT LESS THAN THE  
26 NATIONAL RATE FOR MONEY MARKET ACCOUNTS, AS DETERMINED  
27 ACCORDING TO 12 CFR 337.7. A MORTGAGE SERVICER SHALL ENSURE

1 THAT ANY INTEREST THAT IS CREDITED TO THE ACCOUNT IS CREDITED AND  
2 DISBURSED TO THE BORROWER.

3 (3) IMMEDIATELY UPON COMMENCING THE SERVICING OF A  
4 MORTGAGE, AND AT ANY TIME THEREAFTER AT THE REQUEST OF THE  
5 BORROWER, A MORTGAGE SERVICER SHALL:

6 (a) DISCLOSE TO THE BORROWER THE INTEREST RATE ASSOCIATED  
7 WITH THE MORTGAGE; AND

8 (b) PROVIDE THE BORROWER, IN WRITING, WITH A PRIMARY POINT  
9 OF CONTACT FOR THE PURPOSE OF COMMUNICATING WITH THE MORTGAGE  
10 SERVICER.

11 (4) A MORTGAGE SERVICER SHALL RETAIN FOR AT LEAST FOUR  
12 YEARS ALL WRITTEN AND ELECTRONIC COMMUNICATIONS BETWEEN THE  
13 MORTGAGE SERVICER AND A BORROWER.

14 (5) NOTHING IN THIS SECTION:

15 (a) PROHIBITS A MORTGAGE SERVICER FROM RELEASING  
16 INSURANCE PROCEEDS IN AMOUNTS GREATER THAN REQUIRED BY THIS  
17 SECTION;

18 (b) PROHIBITS OR LIMITS A MORTGAGE SERVICER FROM  
19 DISTRIBUTING ADDITIONAL MONEY THAT IS MADE AVAILABLE DURING A  
20 DECLARED STATE OF EMERGENCY OR NATURAL DISASTER; OR

21 (c) PROHIBITS A MORTGAGE SERVICER FROM COMPLYING WITH  
22 FEDERAL RULES AND REGULATIONS.

23 **SECTION 2.** In Colorado Revised Statutes, 38-40-104, **amend**  
24 (1) as follows:

25 **38-40-104. Cause of action - attorney fees.** (1) If any applicant  
26 or debtor is aggrieved by a violation of section 38-40-102, 38-40-103, ~~or~~  
27 38-40-103.5, OR 38-40-106 and the violation is not remedied in a

1 reasonable, timely, and good faith manner by the party obligated to do so,  
2 and after a good faith effort to resolve the dispute is made by the debtor  
3 or borrower, the debtor or borrower may bring an action in a court of  
4 competent jurisdiction for any such violation. If the court finds that actual  
5 damages have occurred, the court shall award to the debtor or borrower,  
6 in addition to actual damages, the amount of one thousand dollars,  
7 together with costs and reasonable attorney fees.

8           **SECTION 3.** In Colorado Revised Statutes, **add** 5-21-107.5 as  
9 follows:

10           **5-21-107.5. Disbursement of insurance proceeds to borrowers**  
11 **- disclosure of mortgage interest rate - retention of communications.**

12 A MORTGAGE SERVICER SHALL COMPLY WITH THE REQUIREMENTS OF  
13 SECTION 38-40-106 REGARDING DISBURSEMENT OF INSURANCE PROCEEDS  
14 TO BORROWERS, DISCLOSURE OF MORTGAGE INTEREST RATES, AND  
15 RETENTION OF COMMUNICATIONS.

16           **SECTION 4. Safety clause.** The general assembly finds,  
17 determines, and declares that this act is necessary for the immediate  
18 preservation of the public peace, health, or safety or for appropriations for  
19 the support and maintenance of the departments of the state and state  
20 institutions.