HOUSE BILL 98-1215

BY REPRESENTATIVES Nichol, Mace, and Smith;
also SENATORS B. Alexander and Bishop.

AN ACT

CONCERNING CIVIL PENALTIES FOR VIOLATIONS OF THE DISCLOSURE REQUIREMENTS FOR MAKING LOANS SECURED BY A MORTGAGE OR DEED OF TRUST.

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

SECTION 1. 38-40-104, Colorado Revised Statutes, is amended to read:

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 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 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 in addition to actual damages the amount of five thousand dollars, together with and costs and reasonable attorney fees.

(2) No transferee from a lender shall be liable for any act or omission of the lender under section 38-40-102. No transferee of servicing or collection rights shall be liable for any act or omission of the transferor of those rights under section 38-40-103.

SECTION 2. 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.

Approved: April 21, 1998