Divorce Lending Association

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A STATUS REPORT · EDITION ONE

The Divorce Assumption Report

Three states now require conventional mortgages to be assumable in a divorce. No agency in the United States records how often that actually happens, or why.

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> *Three legislatures have compelled a transaction that no federal dataset can measure.*
>
> SECTION ONE · THE FINDING

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Prepared for family law attorneys, mediators and divorce financial professionals. It describes what the loan system requires of lenders and servicers. **It is not legal advice.**

DIVORCE LENDING ASSOCIATION · THE CDLP® PROGRAM

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Edition **One** Data current to **27 August 2026** Statutes verified against **enacted text**

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One

The Finding: Nobody Counts This

Three legislatures have compelled a transaction that no federal dataset can measure.

Every discussion of divorce and mortgage assumption runs into the same wall, and almost nobody says so out loud. **No source in the United States records why an assumption occurred.** Not FHA, not VA, not USDA, not Fannie Mae, not Freddie Mac, not Ginnie Mae, and not the Home Mortgage Disclosure Act. There is no reason code. A divorce-triggered assumption and a sale-triggered assumption are indistinguishable in every dataset that exists.

The gap is not an oversight at the margins. It is structural, and it has three separate causes.

> REGULATION C · COMMENT 2(D)–2.I
>
> *"Assumptions are covered transactions, including successor-in-interest transactions."*
>
> HMDA covers assumptions. It simply has no field that identifies one. Every assumption is reported into the loan application register and dissolves into ordinary origination counts. Reported, and invisible.

Ginnie Mae cannot count them either, for a reason that is almost elegant: an assumed loan never leaves the pool, so no removal-reason code is ever generated. And the enterprises publish loan purchase and performance data without publishing assumption volume at all.

The industry has said this plainly. In December 2022, the Mortgage Bankers Association wrote to FHA and VA that **"data on volume of assumptions remains scarce."** Nearly four years later, it still is.

WHY THIS MATTERS TO A FAMILY LAW PRACTICE

When a legislature compels the availability of a transaction it cannot measure, nobody will be able to say whether the law worked. Not the sponsor, not the regulator, and not the attorney advising a client to rely on it. The only evidence available is the statutory text, the loan program rules underneath it, and what servicers actually do. This report assembles all three.

Two

The Three Statutes, Side by Side

California, Maryland and Virginia. No fourth state, and no federal bill.

	CALIFORNIA	MARYLAND	VIRGINIA
Authority	AB 3100 Ch. 431 (2024) Civ. Code §2951	HB 1018 Ch. 202 (2025) Fin. Inst. §§5-514, 6-606.1, 11-522	HB 304 2026 c. 962 Va. Code §6.2-419(E)
Status	NOT YET OPERATIVE	IN FORCE	IN FORCE
Reaches	Loans **originated on or after 1 Jan 2027**	New loans **and existing loans**, retroactively	Loans **secured on or after 1 Jul 2026**
Trigger	Dissolution, legal separation, or incidental property settlement	Decree of **absolute divorce** only	Decree of **annulment or divorce**
Condition	In all three: the assuming borrower must qualify for the underlying loan, **as determined by the lender**.		
Disclosure	None in the enacted text	**Before** completion of the loan application	Within **three days** of a completed application
Enforcement	None provided	Regulator supervision	Regulator supervision
Releases the departing spouse	NO	NO	NO

That last row is the one to read twice. The words *release*, *liability* and *novation* appear in none of the three statutes. Each compels the *availability of an assumption*. None discharges anyone from the note.

Three

What Each One Actually Says

Operative language, quoted from enacted text.

California

CAL. CIV. CODE §2951(A)

"A conventional home mortgage loan originated on or after January 1, 2027, and secured by owner-occupied residential real property containing four or fewer dwelling units with multiple borrowers shall include provisions to allow for any of the existing borrowers to purchase the property interest of another borrower on the loan by assuming the seller's portion of the mortgage in connection with a decree of dissolution of marriage, a legal separation agreement, or an incidental property settlement if the assuming borrower qualifies for the underlying loan, as determined by the lender."

Two features of the California statute deserve attention, and neither is widely reported.

It excludes the loans that motivated it. The Senate Banking analysis describes the bill as a response to mortgage rates rising from under three percent in 2021 to roughly seven percent in 2024. The enacted text then reaches only loans *originated on or after* 1 January 2027. Every legacy low-rate loan, the entire population the bill was written about, sits permanently outside it.

It has no enforcement mechanism, and the Legislature knew. The Senate Banking Committee analysis states that the bill “does not provide an enforcement mechanism” and suggested the author consider working with the Judiciary Committee to craft a narrow enforcement provision. No such provision was added.

A CORRECTION WORTH MAKING

Several compliance bulletins and California's own Assembly Floor analysis state that the law requires lenders to explain the assumption process in the loan documents provided to borrowers. **That requirement was struck by Senate amendment on 6 June 2024 and does not appear in the enacted section.** Civil Code §2951 contains subdivision (a), quoted above, and a definitions subdivision (b). Nothing else.

Maryland

> **MD. FIN. INST. §5-514(B), AND PARALLEL PROVISIONS AT §6-606.1 AND §11-522**
>
> *"A banking institution shall include in any conventional home mortgage loan a provision authorizing any of the existing borrowers to purchase the property interest of another borrower on the loan by assuming the seller's portion of the mortgage..."*
>
> Conditioned on a decree of absolute divorce and on the assuming borrower qualifying. Parallel sections bind credit unions and mortgage lenders, so the obligation follows the institution type.

Maryland is the only one of the three that reaches loans already in existence, which makes it the only one that touches a low-rate loan written before the statute. It is also the only one with an internal tension in its own applicability clause.

Section 2 of the Act contains two sentences that do not sit comfortably together. One deems *conventional home mortgages exceeding the FHFA lending limits*, entered into before the effective date, to include an assumption provision. The next states that the operative subsections “shall be construed to apply retroactively and shall be applied to and interpreted to affect any conventional home mortgage loan entered into prior to the effective date of this Act.” One sentence is limited to loans above the conforming limit; the next is general. A practitioner relying on Maryland retroactivity for a conforming-balance loan should read both sentences before relying on either.

Maryland's disclosure duty also runs earlier than Virginia's: the provision must be disclosed in writing to the applicant *before completion of the loan application*, not after.

Virginia

> **VA. CODE §6.2-419(E)**
>
> *"Any lender, for any conventional home mortgage loan secured on or after July 1, 2026… shall include provisions in such loan to allow for any of the existing borrowers to purchase the property interest of another borrower on the loan by assuming the seller's portion of the mortgage in connection with a decree of annulment or divorce if the assuming borrower qualifies for the underlying loan, as determined by the lender. The lender shall disclose such assumption provision in writing to a conventional home mortgage loan applicant within three days of receiving a completed loan application."*
>
> The subsection closes with a carve-out: it does not apply to any conventional home mortgage loan "that is otherwise required to be assumable in connection with a divorce under state or federal law."

Virginia's is the tidiest drafting of the three, and it was added to a section that has existed since 1982. Subsections (A) through (D) already gave a Virginia homeowner the right to demand, in writing, whether a holder will permit assumption, and to receive an answer within ten business days. The 2026 amendment converts a disclosure regime into a mandate, for loans secured going forward.

Note also that all three statutes define "conventional home mortgage loan" to exclude loans insured or guaranteed by the federal government. FHA, VA and USDA loans are governed by their own assumption rules, covered next, and are untouched by any of this.

Four

The Federal Baseline

What already applied, and what these statutes did not change.

Most of what practitioners believe about divorce and mortgage assumption comes from Garn-St. Germain, and most of what they believe about Garn-St. Germain is wider than the statute.

> **12 U.S.C. §1701J-3(B)**
>
> *"...lenders are encouraged to permit an assumption of a real property loan at the existing contract rate or at a rate which is at or below the average between the contract and market rates."*
>
> “Encouraged” is hortatory. It creates no duty and no cause of action. This is the single most misread sentence in the statute.

What Garn-St. Germain actually does is narrower and still valuable: its subsection (d) exemptions bar a lender from *accelerating* on certain transfers, including a transfer to a spouse or child, and a transfer resulting from a decree of dissolution, legal separation or incidental property settlement where the spouse becomes an owner. That protects the transfer of title. It does not compel an assumption, and it does not release anyone.

Then there is the fact that reframes the entire discussion for conventional loans.

> **FANNIE MAE SELLING GUIDE · B2-1.4-01, FIXED-RATE LOANS**
>
> *"Conventional fixed-rate loans are not assumable as of the note date."*
>
> For the great majority of conventional loans in force, there is no assumption to process. Not because a servicer refuses, but because the note never contained the right. A decree reciting that a spouse “shall assume the mortgage” binds the spouses. It does not bind the noteholder, which was never a party to it.

This is precisely the gap the three new statutes address, and it explains their shape: they operate by requiring the assumption provision to be written into the loan in the first place, going forward, rather than by compelling a servicer to permit something the note does not allow.

GOVERNMENT-BACKED LOANS, WHICH ARE A DIFFERENT WORLD

- **FHA** restricts assumption only as its rules permit (24 C.F.R. §203.512), and release of the departing borrower is a separate act requiring a creditworthiness determination or the passage of five years without default (§203.510).
- **VA** loans made on commitments dated on or after 1 March 1988 require holder or VA approval, with the purchaser assuming full liability and qualifying creditworthily (38 U.S.C. §3714). There is a 0.50 percent funding fee and a processing fee capped at $300.

- **The VA entitlement trap.** Where a non-veteran spouse assumes, VA states plainly that "the original Veteran's entitlement remains encumbered by the loan until the loan is paid in full. The seller would not receive a restoration of entitlement." A veteran who gives up the house in a settlement can find they cannot use their benefit again.
- **USDA** is starkest of all: on an approved assumption "the transferee must assume the entire outstanding debt… however, the transferor must remain personally liable" (7 C.F.R. §3555.256(b)(2)(i)).

THE SUCCESSOR-IN-INTEREST RULES ARE NOT AN ASSUMPTION RIGHT

The CFPB's 2016 servicing amendments require a servicer to treat a confirmed successor in interest as a borrower for communication and loss-mitigation purposes. The Bureau's own commentary makes the limit explicit: a servicer "may not require a confirmed successor in interest to assume the mortgage loan obligation under State law to be considered a borrower." That is the converse of a right to assume. These are disclosure and communication rules. They do not move the debt.

Five

Three Things That Get Conflated

Title, debt, and liability are three separate questions with three separate answers.

	WHAT IT IS	WHAT IT CHANGES	WHAT IT DOES NOT CHANGE
Title transfer	The deed moves the property to the receiving spouse.	The lender may not accelerate on account of the transfer.	**Nobody's liability on the note.** The receiving spouse owes nothing; the departing spouse still owes everything.
Assumption	The transferee contractually takes on the debt, by written agreement, after underwriting.	The transferee becomes personally liable.	By itself, releases no one. An assumption without an express release leaves **both** parties liable.
Release of liability	The noteholder discharges the departing spouse from the note.	That spouse's credit report, debt-to-income, and exposure to a deficiency.	Nothing about title or occupancy.

A quitclaim deed conveys the departing spouse's interest in the *property*. It has no effect whatsoever on the *note*. The client who quitclaims without obtaining a release has given away the asset and kept the entire liability, which is the worst of the available positions and the one consumers most often report landing in.

Six

What None of These Laws Do

The limits, stated plainly, because they are where clients get hurt.

- **None releases the departing spouse.** Assumption and release are separate acts. A statute compelling the first says nothing about the second.
- **None waives qualification.** All three condition the right on the assuming borrower qualifying for the underlying loan as determined by the lender. A spouse who cannot carry the debt on one income gains nothing.
- **None reaches federally insured or guaranteed loans.** FHA, VA and USDA are excluded by definition in all three.
- **None creates a timeline.** There is no statutory deadline for a servicer to process an assumption in any of the three states.
- **None addresses new money.** An equity buyout that requires cash on top of the assumed balance is not solved by an assumption right; that is a second lien or a refinance, and the arithmetic often defeats the plan.
- **Two of the three do not reach existing loans at all.** Only Maryland does, and its applicability clause is internally inconsistent.

WHAT SERVICERS ACTUALLY DO

In December 2024 the Consumer Financial Protection Bureau published an issue spotlight on homeowners after divorce or the death of a family member. It documents servicers pressing homeowners to refinance at current rates rather than assume, assumptions taking "months or even years," refusals to release an original borrower despite a high credit score and a clean payment history, and servicers continuing to send account information to an abusive former partner. One Missouri complaint describes 156 days waiting on a VA assumption.

That report is entirely qualitative. It contains no complaint counts, no percentages and no dollar totals. Any source attributing a statistic to it has invented one.

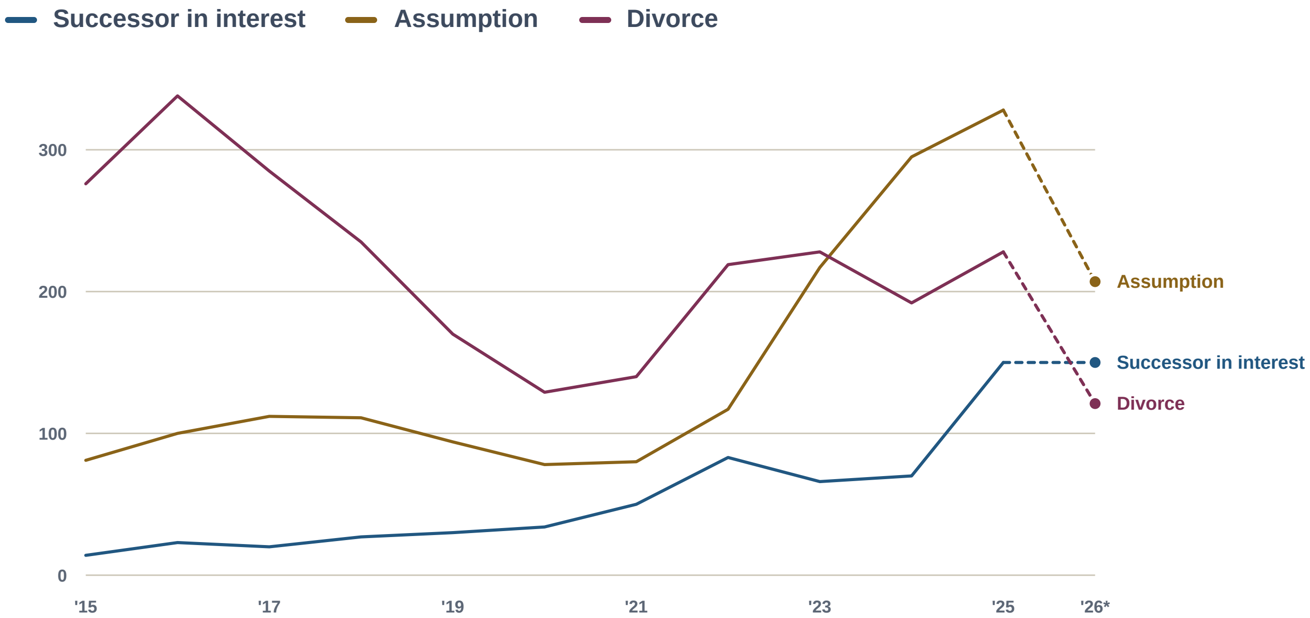
Seven

What the Data Shows

If assumption volume cannot be counted, complaints about assumptions can be.

The Consumer Financial Protection Bureau publishes every consumer complaint whose narrative the consumer consented to release. Querying that database on 27 August 2026 produces the only public time series that tracks this problem at all.

Mortgage complaints mentioning each term, by year received



CFPB Consumer Complaint Database, mortgage complaints with published narratives. 2026 is a partial year, through 27 August, and is shown with a broken line. Narratives are published only where the consumer consented, so true volumes are higher by an unknown multiple.

YEAR	SUCCESSOR IN INTEREST	ASSUMPTION	DIVORCE
2015	14	81	276
2016	23	100	338
2017	20	112	285
2018	27	111	235
2019	30	94	170
2020	34	78	129
2021	50	80	140
2022	83	117	219
2023	66	217	228
2024	70	295	192
2025	150	328	228
2026 (partial)	150	207	121

Three Things This Shows

Successor-in-interest complaints doubled, then doubled again. Seventy in 2024, 150 in 2025, and 150 already by August of 2026 with four months still to run. As a share of narrative mortgage complaints, they went from 1.07 percent to 2.07 percent, so this is not simply an artifact of rising complaint volume overall.

Assumption complaints rose roughly fourfold from the trough, from 78 in 2020 to 328 in 2025, tracking precisely the period in which an existing low-rate loan became something worth fighting for.

Complaints that merely mention divorce are flat to falling, from 338 in 2016 to 228 in 2025. The growth is specific to the assumption and successorship mechanics. It is not a story about more divorce. It is a story about the same divorces colliding with a rate environment that changed what the house is worth keeping.

WHAT IS PUBLISHED ON ASSUMPTION VOLUME

- **About 104,000 FHA loans** were assumed between 2001 and 2019, roughly one in every 214 FHA loans originated in that window. Published once by HUD's research arm in *Cityscape* (2022), and never updated.

- **4,052 FHA assumptions in 2023** and **1,037 VA assumptions** through three quarters of 2023. Both figures were given to reporters and appear in no agency publication. Two accounts of the VA number do not reconcile with each other.
- None of these is broken out by reason. The divorce share of any of them is unknown.

Eight

Fifty-State Status

Three states with a statute. Forty-seven where the federal baseline governs alone.

STATE	STATUS	AUTHORITY AND REACH
Alabama	NO STATUTE	Federal baseline governs.
Alaska	NO STATUTE	Federal baseline governs.
Arizona	NO STATUTE	Federal baseline governs.
Arkansas	NO STATUTE	Federal baseline governs.
California	**ENACTED, NOT YET OPERATIVE**	AB 3100, Ch. 431 (2024), Civ. Code §2951. Loans originated on or after 1 Jan 2027.
Colorado	NO STATUTE	Federal baseline governs.
Connecticut	NO STATUTE	Federal baseline governs.
Delaware	NO STATUTE	Federal baseline governs.
Florida	NO STATUTE	Federal baseline governs.
Georgia	NO STATUTE	Federal baseline governs.
Hawaii	NO STATUTE	Federal baseline governs.
Idaho	NO STATUTE	Federal baseline governs.
Illinois	NO STATUTE	Federal baseline governs.
Indiana	NO STATUTE	Federal baseline governs.
Iowa	NO STATUTE	Federal baseline governs.
Kansas	NO STATUTE	Federal baseline governs.
Kentucky	NO STATUTE	Federal baseline governs.

STATE	STATUS	AUTHORITY AND REACH
Louisiana	NO STATUTE	Federal baseline governs.
Maine	NO STATUTE	Federal baseline governs.
Maryland	**IN FORCE**	HB 1018, Ch. 202 (2025), Fin. Inst. §§5-514, 6-606.1, 11-522. Retroactive to existing loans.
Massachusetts	NO STATUTE	Federal baseline governs.
Michigan	NO STATUTE	Federal baseline governs.
Minnesota	NO STATUTE	Federal baseline governs.
Mississippi	NO STATUTE	Federal baseline governs.
Missouri	NO STATUTE	Federal baseline governs.
Montana	NO STATUTE	Federal baseline governs.
Nebraska	NO STATUTE	Federal baseline governs.
Nevada	NO STATUTE	Federal baseline governs.
New Hampshire	NO STATUTE	Federal baseline governs.
New Jersey	NO STATUTE	Federal baseline governs.
New Mexico	NO STATUTE	Federal baseline governs.
New York	NO STATUTE	Federal baseline governs.
North Carolina	NO STATUTE	Federal baseline governs.
North Dakota	NO STATUTE	Federal baseline governs.
Ohio	NO STATUTE	Federal baseline governs.
Oklahoma	NO STATUTE	Federal baseline governs.
Oregon	NO STATUTE	Federal baseline governs.
Pennsylvania	NO STATUTE	Federal baseline governs.
Rhode Island	NO STATUTE	Federal baseline governs.
South Carolina	NO STATUTE	Federal baseline governs.
South Dakota	NO STATUTE	Federal baseline governs.

STATE	STATUS	AUTHORITY AND REACH
Tennessee	NO STATUTE	Federal baseline governs.
Texas	NO STATUTE	Federal baseline governs.
Utah	NO STATUTE	Federal baseline governs.
Vermont	NO STATUTE	Federal baseline governs.
Virginia	**IN FORCE**	HB 304, 2026 c. 962, Va. Code §6.2-419(E). Loans secured on or after 1 Jul 2026.
Washington	NO STATUTE	Federal baseline governs.
West Virginia	NO STATUTE	Federal baseline governs.
Wisconsin	NO STATUTE	Federal baseline governs.
Wyoming	NO STATUTE	Federal baseline governs.

No fourth state has enacted a divorce assumption mandate, and no bill on the subject is pending in the 119th Congress. In the forty-seven remaining states the position is the one set out in section four: Garn-St. Germain prevents acceleration on the transfer, the note governs whether an assumption exists at all, and for most conventional fixed-rate loans it does not.

Nine

Method, Sources, Corrections

How statutes were verified. Each of the three was read in its enacted form rather than in secondary coverage. California Civil Code §2951 was read as codified. Virginia §6.2-419 was read on the Virginia Law site, where the amendment history records "2026, c. 962"; note that at least one major secondary code service still displays only subsections (A) through (D) and does not yet show the 2026 amendment. Maryland was read from the enacted chapter text of Ch. 202 (2025).

How the complaint series was built. The CFPB Consumer Complaint Database was queried on 27 August 2026, filtered to the Mortgage product. The search term matches the complaint narrative field only, so the correct denominator is mortgage complaints with published narratives, not all mortgage complaints. The term "assumable" was excluded because search stemming collapses it with ordinary uses of "assume" and inflates the count.

What we could not establish. No agency, enterprise or commercial source records the reason for an assumption. No state among the three collects data on assumption requests, approvals, denials or timelines, and none of the three statutes creates a reporting mechanism. California will produce no data for years by construction, since it governs loans originated from 2027 forward.

CORRECTIONS

This report will be reissued as legislatures act. Corrections are listed here in every edition, including our own. Edition One carries none. If you find an error in this document, tell us and it will appear in the next one under its own heading, with the date.

ABOUT THE DIVORCE LENDING ASSOCIATION

The Divorce Lending Association has been advancing divorce mortgage planning as a professional discipline since 2014. It creates and governs the **Certified Divorce Lending Professional (CDLP®)** designation and the **Real Estate Mediation Specialist (REM-S™)** certification, publishes practice standards and a code of ethics, and maintains a public national directory that any referring professional can check.

The Association is an approved continuing legal education provider, an approved continuing judicial education provider, and an approved continuing education provider with CFP Board and the Institute for Divorce Financial Analysts.

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Jody Bruns founded the Divorce Lending Association to give mortgage and real estate professionals education, resources and certification in divorce lending, and created both the CDLP® and REM-S™ certifications. She brings more than **35 years in mortgage and finance** and continues to practice as an active divorce mortgage planner.

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This is not legal advice. It is a lending analysis prepared for family law professionals. It describes what mortgage statutes, agency rules and loan program guides require of lenders and servicers. It does not advise on the drafting or interpretation of a settlement agreement, and nothing in it should be substituted for the judgment of counsel licensed in the relevant jurisdiction.

Primary sources. Cal. Civ. Code §2951 · Md. Fin. Inst. §§5-514, 6-606.1, 11-522 and Ch. 202 (2025) · Va. Code §6.2-419 · 12 U.S.C. §1701j-3 · 12 C.F.R. §191.5 · Fannie Mae Selling Guide B2-1.4-01 · 24 C.F.R. §§203.510, 203.512 · 38 U.S.C. §§3713, 3714 · 7 C.F.R. §3555.256 · Regulation X official interpretations, 12 C.F.R. Part 1024 · CFPB Issue Spotlight, 17 December 2024 · VA Circulars 26-23-10 and 26-23-27 · HUD PD&R, *Cityscape* (2022) · MBA comment to FHA and VA, December 2022.