May 14, 2025

Re: LD 1901/HP 1272 - An Act to Regulate Shared Appreciation Agreements Relating to Residential Property

Dear Members of the House Committee on Health Coverage, Insurance and Financial Services,

Please accept this written testimony on behalf of Hometap Equity Partners, LLC ("Hometap") to express concern regarding the unintended consequences of Legislative Document 1901/House Paper 1272 - An Act to Regulate Shared Appreciation Agreements Relating to Residential Property ("LD 1901"). Hometap firmly supports the objective of protecting consumers from predatory practices and welcomes regulation of shared appreciation agreements; however, the bill as currently proposed would effectively eliminate the availability of shared appreciation agreements in the State of Maine. As outlined in more detail below, the unique nature of shared appreciation agreements warrants careful consideration prior to enacting legislation that attempts to fit these products into a regulatory framework designed for loans. Hometap urges the legislature to table further action on LD 1901 until a more comprehensive approach can be designed through a robust stakeholder process.

Hometap Background

Founded in Boston in 2017, Hometap is a fintech company devoted to a mission of making owning a home less stressful and more accessible for all homeowners. Hometap provides industry-leading residential home equity investments ("HEIs"), a form of shared appreciation agreement, that have helped more than 18,000 American homeowners access the equity in their homes without needing to take out a loan or sell their home. Although Hometap does not currently operate in Maine, Hometap would be interested in bringing its product to the state in the future.

Through its HEIs, Hometap enters into agreements with homeowners to provide them immediate liquidity based on a percentage of their home's value in exchange for an option to acquire a stake in the value of their home (the "Hometap Share") once it is sold or at the expiration of the 10-year contract term.

Unlike credit programs, such as home equity loans or reverse mortgages, under the HEI the homeowner receives a lump sum payment at the time of investment and does not make monthly payments, does not pay interest, and is not required to repay the funds received from Hometap. Homeowners are free to repurchase the option from Hometap at any time prior to Hometap exercising its option; the homeowner may accomplish this by paying Hometap an amount equal to the then-current value of the Hometap Share. If the homeowner elects not to repurchase the option prior to the end of the contract term, Hometap may acquire the percentage ownership in the property that it contracted for. As described below, Hometap caps the amount it may receive at a 20% annualized rate of return.

While there are many reasons why homeowners find a Hometap investment to be an attractive option that suits their financial goals, our customers tend to share a common challenge in that their financial needs are not met by traditional home financing options. Traditional financing options present challenges for many homeowners, even those that are well qualified, because of costs associated with ongoing debt service and the impact to a household's cash flow. This creates a difficult situation for many homeowners when faced with the need to pay off high-cost debt, make necessary home repairs, fund renovations, pay for medical expenses, prepare for retirement, or finance a small business.

HEIs provide a means for these consumers to keep their existing financing in place, retain ownership and free use of their home, and obtain the cash they need for large expenditures - all without the day-to-day expense of debt service. Many homeowners across age, income, and property value view HEIs as an appealing product, due to the lack of monthly payments and a cost structure that is driven by the future value of the home. Indeed, homeowners find real value from Hometap's products. Hometap's Net Promoter Score ("NPS")[1] for homeowners who have received an investment from Hometap is 86. This is more than double the average NPS for financial services providers. In addition, 97% of homeowners that worked with Hometap reported their experience as "Best in Class" or "Above Average."[2]

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[1] Net Promoter Score is a common marketing metric that measures how likely a consumer would be to recommend a product or service to others.
[2] Hometap conducted study.

Concerns Regarding LD 1901

Hometap is concerned with overall categorization of shared appreciation agreements and the specific restrictions that LD 1901 imposes on shared appreciation agreements - restrictions that are not imposed on other consumer financial products under the Maine Consumer Credit Code. LD 1901 would effectively ban shared appreciation agreements as drafted, limiting choice and innovation for consumers in Maine.

I. Equity Investments Should Not Be Regulated as Consumer Lending.

As described above, Hometap's HEI and other shared appreciation agreements are materially different from a loan or credit extension. Although the term "shared appreciation agreement" sounds similar to credit products such as a shared appreciation mortgage ("SAM"), they are fundamentally different. Generally, a SAM is a mortgage loan in which the lender loans the borrower funds to purchase a home and offers a reduced interest rate on the loan. In exchange, the borrower agrees to give the lender a percentage in any increase in the value of the home. The borrower makes regular payments of principal and interest over the term of the loan. Then, when the borrower sells the home, the borrower is responsible for paying back the outstanding principal and the appropriate share of the appreciated value of the home to the lender.

In contrast, with Hometap's HEI and other shared appreciation agreements, there is no debt or loan amount owed that need be repaid by the homeowner. For example, Hometap's HEI is an investment in the form of an option contract in which Hometap purchases the right to acquire a percentage interest in the home's value in exchange for a lump sum cash payment. As expressly recognized by the commentary to the Truth in Lending Act, option contracts and real estate investment plans where there is a risk of loss do not constitute "credit" arrangements.[3]

Rather than attempt to fit equity based products like shared appreciation agreements into a framework based on credit products, Hometap urges you to craft legislation that both protects consumers and respects the very real legal and economic distinctions presented by these products.

To serve the goal of protecting consumers, good actors in the industry have already integrated certain best practices, similar to those used in the traditional lending space, into their business operations. For example, Hometap incorporates numerous consumer protections into its sales process and product, such as:

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[3] See Official Staff Commentary to 12 C.F.R. Part 1026 section 2(a)(14)(vii) and (viii) available at https://www.consumerfinance.gov/policy-compliance/rulemaking/regulations/1026/2/#a-2.

- During the sales process, homeowners are provided access to adjustable, digestible dashboards that help them understand the costs of the investment and model various home price appreciation scenarios;
- Hometap advises homeowners to seek their own legal and tax guidance before accepting an investment;
- Before closing, homeowners are provided with detailed disclosures outlining the critical product elements in a manner consistent with the approach taken in the integrated TRID/RESPA disclosures;
- Consumers are given a three day rescission period after signing the Option Purchase Agreement before the investment becomes binding;
- Hometap's initial investment amount is limited such that the Hometap Share will never own a majority stake in the property; and
- Hometap's recovery is limited to a 20% annualized rate of return to protect homeowners if they decide to repurchase the option shortly after signing or in situations where there is rapid home price appreciation.[4]

Maine consumers would be better served by legislation that creates substantive protections for consumers and a clear disclosure framework tailored to the unique nature of shared appreciation agreements. We believe the distinct structure of these products supports a tailored regulatory regime, rather than one designed for consumer loans, and ask the legislature to study the industry prior to subjecting it to requirements designed for consumer loans. Hometap is fully committed to working with lawmakers to regulate the industry in a way that preserves access to this important option while ensuring all possible consumer protections.

III. <u>H.P. 1272 Effectively Prohibits Home Equity Sharing Agreements</u>

Aside from the general concern created by regulating shared appreciation agreements under a regime designed for credit products, the specific restrictions imposed by LD 1901 would operate as an anticompetitive ban on shared appreciation agreements.

First, the prohibition on liens proposed under § 3.317.1.A–B places companies like Hometap at a competitive disadvantage because it will functionally prohibit access to funding sources. Capital providers are not willing to invest in home financing products that are not secured by a lien. Indeed, we are aware of no other home financing product that is subject to this form of restriction.

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[4] Despite capping Hometap's potential return on an investment, Hometap bears the full risk that it will lose the entire amount invested in the event of a significant decline in home prices or in situations where a property becomes "under water" as a result of a default on the consumer's senior mortgage obligations.

Second, the proposed restrictions on cost - both with respect to closing costs under § 3.317.1.F and total investment return under § 3.317.2 - are arbitrary and inconsistent with the treat of other products regulated under the Consumer Credit Code. While it may make sense to establish limits on closing costs and specify the appropriate range of charges that a consumer incurs in connection with a shared appreciation agreement, not being able to charge any costs to a consumer is an unreasonable restriction. Similarly, limiting an investor's total return under a shared appreciation agreement to the lesser of the amount paid to the consumer plus allowable interest or 200% of the amount paid to the borrower is an arbitrary and anti-competitive penalty. There are numerous circumstances in which the total amount received by a traditional lender may exceed 200% of the amount loaned to a consumer. This is particularly true in the current interest rate environment. On a more fundamental level, this aspect of LD 1901 does not take a key feature of home equity investments into account, specifically that the returns home equity investors like Hometap rely, in large part, on house price appreciation; our calculation of risks is different than that of traditional lenders that depend solely on repayment by the borrower. In this way, home equity investments align our interests with those of our homeowners - both Hometap and homeowners benefit when home prices rise, and are impacted when home prices decline. By defining shared appreciation agreements as a form of credit transaction but subjecting them to a separate pricing standard, LD 1901 creates a very uneven playing field that heavily favors traditional lenders at a time when homeowners need alternatives more than ever.

Taken together, the risk presented by not being able to secure investments, the impacts to capital availability, and the inability to appropriately price for risk, will likely eliminate the availability of shared appreciation agreements for Maine consumers.[5]

Consumers are best served by having a choice of financial products This is particularly true in the current macroeconomic environment. Rather than pursue legislation that will both reduce consumer choice and harm competition, Hometap encourages Maine to focus its legislative efforts on creating a tailored regime for shared appreciation agreements that will enhance consumer protections and promote competition. Accordingly, Hometap opposes LD 1901 as drafted.

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[5] Although it does not impact Hometap's product, the requirement that shared appreciation agreements have a term of 10 years or less pursuant to § 3.317.1.E is concerning and limits consumer choice. Some consumers may prefer a shared appreciation agreement with a term of 15 or 30 years. Hometap strongly supports the development of a competitive market for shared appreciation agreements and opposes arbitrary limits on product structure.

We appreciate your consideration of these concerns and are happy to provide further information or answer the Committee's questions to supplement this written testimony.

Respectfully,

Hometap Equity Partners, LLC

DocuSigned by:

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