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Written Testimony of Andrea Bopp Stark, National Consumer Law Center to Maine Legislature Joint Standing Committee on [redacted] LD 1901, An Act to Regulate Shared Appreciation Agreements Relating to Residential Property

May 14, 2025

Dear Chairs Bailey and Mathieson and members of the Health, Insurance & Financial Services Committee:

Thank you for the opportunity to offer testimony on behalf of the National Consumer Law Center in support of LD 1901. My name is Andrea Bopp Stark, a proud Maine resident with deep roots in Portland and Saco, and a senior attorney at NCLC, where we are dedicated to advancing economic justice for vulnerable populations across the nation.

For decades, NCLC has engaged in rigorous advocacy and scholarship concerning home preservation and foreclosure prevention. Over the past several years, we have seen an increase in entities offering shared appreciation agreement (SAA) loans, also marketed as home equity investment or "HEI" loans and have published materials explaining the extensive risks of these products and recommendations for regulation.[1]

What is an SAA loan? An SAA loan can take several forms. In one model, investors offer to buy out a mortgage that is in default from the current loan owner and give the homeowner a new mortgage with a lower monthly payment by extending the term or reducing the interest rate, in exchange for an agreement that the homeowner will pay a certain percentage of accrued equity to the investor upon the sale or refinance of the loan. Often, investors will seek out homeowners who are in default on their mortgage to market these loans.

In another type of SAA loan, the investor provides the homeowner with a lump sum of cash now with the promise of no monthly payments until the house is sold and then the homeowner will pay a

1 **Home Equity Investment Loans Are Subprime Mortgages: Federal and State Policymakers Should Update Rules to Protect Consumers found at https://www.nclc.org/resources/home-equity-investment-loans-are-subprime-mortgages-federal-and-state-policymakers-should-update-rules-to-protect-consumers/; Fact Sheet for Regulating Shared Appreciation Mortgages (in response to MA H.3954 / S.731) found at https://www.nclc.org/resources/fact-sheet-for-regulating-shared-appreciation-mortgages-massachusetts-hd3988-sd913/**

[redacted]

significant percentage of the accrued equity. The homeowner has no idea how much that amount will be, and the inflated amount owed can severely limit a homeowner's options when they want to refinance or sell the home.

In our work with advocates and low-income homeowners across the country, we have seen first-hand many examples of how these loans are sold to vulnerable homeowners, particularly older homeowners with significant equity, and the harm that can result. The products are complex and poorly disclosed. Many lenders try to avoid the legal characterization of a loan altogether and so fail to make legally required state and federal disclosures. These loans may be presented as a lifeline to a homeowner in trouble or a cheap way to save their home or access money, but too often they are a trap.

Homeowners do not know when they enter into these loans the actual dollar amount they will have to pay down the road. Some contracts require the homeowner to pay 50% or more of the equity that has accrued during the term of the contract, which can end up being tens of thousands of dollars.

In Massachusetts, over 1,000 homeowners entered into SAA loans, which were called shared appreciation mortgages (SAMs) during the foreclosure crisis. There is currently a class action lawsuit pending against the investor who made these loans for unfair and deceptive conduct. In these cases, the creditor bought the mortgage from the mortgage lender for the market value of the home at the time, which was less than what was owed on the loan, and gave a loan to the homeowner in that amount at 6% interest, plus significant fees and costs, in exchange for 50% or more of the future equity in the home. When some homeowners recently tried to refinance their loans when rates were at an all-time low, they were required to pay out such a significant portion of their equity that they could not qualify for a refinance loan. For example:

Imagine that a homeowner doesn't qualify for a prime mortgage rate and instead enters into an SAA loan that offers a 6% interest rate plus a 50% appreciation share. Now imagine their home value increases from $100,000 to $200,000 over ten years, and the homeowner wants to get out of the SAA loan and refinance to a lower interest rate. To do so, the homeowner would have to pay the creditor or refinance an additional $50,000, on top of the principal balance, dramatically increasing their costs. For many of the Massachusetts homeowners, this was not financially possible.

Lower-income older adults are disproportionately targeted for these types of loans. For many older adults who have spent their lives paying off their mortgages, their home is vital to their retirement. Many are also on fixed incomes and often have trouble making ends meet as their income drops and medical or other expenses rise. They become cash poor and equity rich; the perfect target for risky financial products such as SAA loans.

This is what happened to the Olsons in Washington State, who are in their seventies and live with an adult child with Down syndrome. They entered into an equity sharing agreement after getting a flyer in the mail promising they could receive a lump sum amount of cash, pulled from the equity of their house, with no monthly payments or interest. They needed the money for unexpected expenses. The contract was long and complicated. The lender made an investment payment of $64,750 in exchange for a 70% ownership interest in the Olsons' home. They were charged $2500 in transaction fees and a second mortgage for $64k was placed on their home. In 2021, the Olsons were looking to sell their home but when they calculated the costs of getting the property ready to sell, the amount owed on their first mortgage, and the amount they would owe the creditor they realized they would receive almost nothing from the sale of their home to put down on a new home.

A similar situation happened to Maggie Colin, an 85-year-old retired dialysis nurse. In 2019 she needed cash for dental implants and saw a flyer coaxing her to access the equity in her home. She was given $60,000 cash in exchange for having to provide the creditor with 42% of any accrued equity when she decided to sell. She recently attempted to refinance her home but was denied due to the equity sharing agreement in place.

This same entity also made a loan to a Massachusetts low-income homeowner who lives with his elderly mother. About eight years ago, he received an advertisement in the mail offering a lump of cash in exchange for a shared appreciation mortgage. At the time, his home was valued at approximately $350,000 and it has now nearly doubled in value. The value of his home should have brought him increased financial security, and more home equity to tap for help with associated rising property taxes, but it hasn't because of the SAA loan. He recently applied for a Home Equity Line of Credit in order to have more financial help with his day-to-day finances and learned that he was ineligible because of the SAA loan. The homeowner did not realize that he would not be able to use the equity in his home in order to help him age in place. He is now 8 years older, and he would like to use the value of his house in order to maintain his modest lifestyle. He cannot do that, because the SAA lender–rather than this low-income homeowner–is entitled to 70% of the increase in value.

The Massachusetts Attorney General's office also has an enforcement action against Hometap that offers upfront "fast cash" to consumers in exchange for a future payment of a large percentage of the homeowner's hard-earned equity.[2] The lawsuit alleges that Hometap targets "house rich, cash poor" homeowners that have substantial equity but lower income or other assets, including the elderly, retirees, those with low credit scores, and those with significant debt.

We have not heard of these investors in Maine yet but that does not mean they are not already targeting our most vulnerable homeowners as I speak, or will be shortly. They are targeting lower-income, older homeowners in Massachusetts and around the country. That is why it is so important to pass LD 1901 now, to prevent these entities from targeting and defrauding Maine homeowners.

An Act to Regulate Shared Appreciation Agreements Relating to Residential Property offers a common-sense, targeted solution and provides essential consumer protections for a growing class of complicated, high-risk financial products. It's not about eliminating SAA loans altogether, but brings

2 See https://www.mass.gov/news/ag-campbell-files-nation-leading-state-enforcement-action-against-home-equity-investment-company-alleging-violations-of-consumer-protections-mortgage-laws

transparency and fairness to the process, a process that is complicated and difficult to understand, and has resulted in real harm to low-income homeowners. Specifically, this bill:

- **Defines shared appreciation agreements** as arrangements where a homeowner receives funds in return for a present or future interest in their home, typically repaid based on how much the property appreciates in value after events like a sale, death, or refinance.

- **Prohibits predatory provisions** in these agreements, including:

  - Creating liens or obligations that bind future owners;
  - Restricting a homeowner's right to rent or refinance their property;
  - Enforcing terms beyond 10 years;
  - Imposing penalties for early repayment or requiring arbitration;
  - Charging closing costs or silencing consumers through confidentiality clauses.

- **Limits repayment amounts** to ensure fairness:

  - The repayment may not exceed the lesser of the original amount advanced (plus allowable interest), or 200% of the original amount provided.

- **Establishes strong legal safeguards** for consumers:

  - Homeowners must be notified at least 30 days in advance to seek independent legal advice;
  - The party offering the funds must pay for this legal counsel;
  - The agreement cannot be enforced unless these conditions are met.

- **Enforces accountability**:

  - Any violations render the agreement unenforceable,
  - Violations are considered per se violations of the Maine Unfair Trade Practices Act,
  - They are also grounds for license revocation by the Bureau of Consumer Credit Protection.

This legislation places necessary boundaries around a complex financial product that is often marketed without clear disclosure or regard for long-term impacts on homeowners. It ensures transparency, fairness, and accountability—especially for vulnerable consumers.

I urge the Committee to support this bill and help protect Maine homeowners from exploitation.

Thank you for your consideration of this testimony. Please feel free to contact me at astark@nclc.org if you have any questions.

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