

STATE OF MAINE

—  
IN THE YEAR OF OUR LORD  
TWO THOUSAND TWENTY-SIX

—  
H.P. 1272 - L.D. 1901

**An Act to Regulate Shared Appreciation Agreements Relating to Residential Property**

**Emergency preamble.** Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** shared appreciation mortgage loans are a new form of equity-based financing; and

**Whereas,** this legislation enacts statutory provisions to regulate shared appreciation mortgage loans as mortgage loans and directs the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection to enforce those provisions; and

**Whereas,** immediate enactment of this legislation is necessary for the protection of consumers; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

**Be it enacted by the People of the State of Maine as follows:**

**PART A**

**Sec. A-1. 9-A MRSA §1-110, sub-§3,** as enacted by PL 1981, c. 218, is amended to read:

**3.** ~~First lien mortgages~~ Mortgages on real estate granted by a creditor subject to licensing by the administrator as set out in section 2-301.

**Sec. A-2. 9-A MRSA §1-301, sub-§14, ¶D** is enacted to read:

D. "Consumer loan" includes a shared appreciation mortgage loan.

**Sec. A-3. 9-A MRSA §1-301, sub-§17,** as amended by PL 2021, c. 245, Pt. A, §2, is further amended by amending the 5th blocked paragraph to read:

"Creditor" includes a mortgage loan servicer and a shared appreciation mortgage loan lender.

**Sec. A-4. 9-A MRSA §1-301, sub-§19, ¶A,** as amended by PL 2011, c. 427, Pt. D, §6, is further amended by amending subparagraph (7) to read:

(7) Premiums or other charges for credit life, accident, health or loss-of-income insurance or insurance against loss of or damage to property or against liability arising out of the ownership or use of property, written in connection with a credit transaction, unless the applicable requirements of section 2-501 and Article 8-A are met; ~~and~~

**Sec. A-5. 9-A MRSA §1-301, sub-§19, ¶A,** as amended by PL 2011, c. 427, Pt. D, §6, is further amended by amending subparagraph (8) to read:

(8) Discounts for the purpose of inducing payment by a means other than the use of credit; and

**Sec. A-6. 9-A MRSA §1-301, sub-§19, ¶A,** as amended by PL 2011, c. 427, Pt. D, §6, is further amended by enacting a new subparagraph (9) to read:

(9) Equity share payment amount as defined in section 8-506, subsection 1, paragraph F-1.

**Sec. A-7. 9-A MRSA §1-301, sub-§37-A** is enacted to read:

**37-A. Shared appreciation mortgage loan.** "Shared appreciation mortgage loan" means a writing evidencing a transaction or any option, any future or any other derivative between a person and a consumer according to which the consumer receives money or any other item of value in exchange for an interest or future interest in a dwelling or residential real estate or a future obligation to pay an amount based on the value of the dwelling or residential real estate that is secured by a mortgage, a deed of trust or an equivalent consensual security interest in the dwelling or residential real estate on the occurrence of an event, such as the transfer of ownership; a maturity date; the death of the consumer; or any other event contemplated by the writing. "Shared appreciation mortgage loan" does not include any shared appreciation mortgage loan extended through a federal or state government agency, a government-sponsored enterprise or a municipal agency or enterprise of the State.

**Sec. A-8. 9-A MRSA §1-301, sub-§37-B** is enacted to read:

**37-B. Shared appreciation mortgage loan lender.** "Shared appreciation mortgage loan lender" means a person that extends a shared appreciation mortgage loan secured by a dwelling or residential real estate.

**Sec. A-9. 9-A MRSA §8-504, sub-§2,** as amended by PL 2013, c. 464, §4, is further amended to read:

**2. Rule-making authority.** Consistent with the purposes of Title X and Title XIV of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203 and with the purposes set forth in sections 1-102 and 8-502 and notwithstanding other law, the administrator may adopt rules substantially similar to or that afford more protection for consumers than those codified in 12 Code of Federal Regulations, Part 1026 and 12 Code of Federal Regulations, Part 1013. Rules adopted pursuant to this subsection are

routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. In adopting rules pursuant to this subsection, the administrator shall specifically consider whether there is a ~~substantial~~ an impact on consumer protection before adopting rules affecting the following provisions of section 8-506:

- A. The rate thresholds pertaining to high-cost mortgage loans in section 8-506, subsection 1, paragraph H;
- B. The prepayment penalties for high-cost mortgage loans in section 8-506, subsection 2, paragraph D;
- C. The assignee liability for high-cost mortgage loans in section 8-506, subsection 3;
- D. The ability to repay in section 8-506, subsection 4;
- E. The prohibition against flipping and the principles of tangible net benefit in section 8-506, subsection 5; ~~and~~
- F. The enhanced penalties for violations in section 8-506, subsection 6-;
- G. The method to calculate the annualized cost of a shared appreciation mortgage loan under section 8-506, subsection 1, paragraph A-1;
- H. The maximum allowable shared appreciation mortgage loan equity share percentage to payment amount percentage ratios, as those terms are defined in section 8-506, subsection 1, paragraphs F-2 and J-2;
- I. Restrictions on shared appreciation mortgage loans in section 8-506, subsection 5-A;
- J. The standards for automated valuation models used by shared appreciation mortgage lenders pursuant to section 8-506, subsection 5-C, paragraph B;
- K. The standards for shared appreciation mortgage loan borrower and homeowner counseling in section 8-506, subsection 5-D; and
- L. The preliminary and closing borrower disclosures for shared appreciation mortgage loans required in section 8-506, subsection 5-F.

The rules may contain classifications, differentiations or other provisions and may provide for adjustments and exceptions for any class of transactions subject to this Title that in the judgment of the administrator are necessary or proper to effectuate the purposes of this Title; or to prevent circumvention or evasion of or to facilitate compliance with; the provisions of this Title.

**Sec. A-10. 9-A MRSA §8-506, sub-§1, ¶A-1** is enacted to read:

A-1. "Annualized cost" means the annualized cost of a shared appreciation mortgage loan, expressed as a percentage and calculated as follows: (((settlement payment/payment amount)^(365/term days))-1), otherwise expressed as  $\left(\left(\frac{\text{settlement payment}}{\text{payment amount}}\right)^{\left(\frac{365}{\text{term days}}\right)} - 1\right)$ , or as established by rule adopted by the administrator pursuant to section 8-504, subsection 2.

**Sec. A-11. 9-A MRSA §8-506, sub-§1, ¶F-1** is enacted to read:

F-1. "Equity share payment amount" means the settlement payment minus the payment amount.

**Sec. A-12. 9-A MRSA §8-506, sub-§1, ¶F-2** is enacted to read:

F-2. "Equity share percentage" means the percentage portion of the value of the dwelling or residential real estate pledged by the borrower by agreement to the creditor at the time of consummation of a shared appreciation mortgage loan or later.

**Sec. A-13. 9-A MRSA §8-506, sub-§1, ¶H**, as amended by PL 2013, c. 464, §8, is further amended to read:

H. "High-cost mortgage loan" means a residential mortgage loan in which the terms of the loan meet or exceed one or more of the following thresholds or a shared appreciation mortgage loan in which the terms of the loan meet or exceed the total points and fees threshold established in subparagraph (2):

(1) Rate threshold, which, for a residential mortgage loan, is the point at which the annual percentage rate equals or exceeds the rate set forth in 12 Code of Federal Regulations, Section 1026.32(a)(1)(i) without regard to whether the residential mortgage loan may be considered a "residential mortgage transaction" or an extension of "open-end credit" as those terms are set forth in 12 Code of Federal Regulations, Section 1026.2; and

(2) The total points and fees threshold, which is:

(a) For loans in which the total loan amount is \$40,000 or more, the point at which the total points and fees payable in connection with the residential mortgage loan less any excluded points and fees exceed 5% of the total loan amount; and

(b) For loans in which the total loan amount is less than \$40,000, the point at which the total points and fees payable in connection with the residential mortgage loan less any excluded points and fees exceed 6% of the total loan amount.

**Sec. A-14. 9-A MRSA §8-506, sub-§1, ¶I**, as amended by PL 2013, c. 464, §8, is further amended to read:

I. "Higher-priced mortgage loan" has the same meaning as set forth in the Federal Truth in Lending Act and its implementing regulation, Regulation Z, 12 Code of Federal Regulations, Section 1026.35(a). "Higher-priced mortgage loan" also includes a residential mortgage loan, except for a shared appreciation mortgage loan, that is a nontraditional mortgage as described in the "Interagency Guidance on Nontraditional Mortgage Product Risks" issued September 29, 2006 and published in 71 Federal Register, 58609 on October 4, 2006 and as updated from time to time, except that "higher-priced mortgage loan" does not include a mortgage that does not allow a borrower to defer repayment of principal or interest.

**Sec. A-15. 9-A MRSA §8-506, sub-§1, ¶J-1** is enacted to read:

J-1. "Payment amount" means the proceeds of a shared appreciation mortgage loan that are disbursed to a borrower by a creditor or disbursed by a creditor to 3rd parties on the borrower's behalf. "Payment amount" includes the dollar value of the payments or other consideration made to a borrower by a creditor at the time of consummation of a shared appreciation mortgage loan or later.

**Sec. A-16. 9-A MRSA §8-506, sub-§1, ¶J-2** is enacted to read:

J-2. "Payment amount percentage" means the percentage portion of the value of the dwelling or residential real estate disbursed to the borrower by agreement by the creditor at the time of consummation of a shared appreciation mortgage loan or later.

**Sec. A-17. 9-A MRSA §8-506, sub-§1, ¶L**, as amended by PL 2013, c. 464, §8, is further amended by enacting at the end a new blocked paragraph to read:

"Residential mortgage loan" includes a shared appreciation mortgage loan.

**Sec. A-18. 9-A MRSA §8-506, sub-§1, ¶M-1** is enacted to read:

M-1. "Settlement payment" means the dollar amount that a borrower is expected to pay to a creditor to settle or pay off a shared appreciation mortgage loan, exclusive of any money advanced by the creditor on behalf of the borrower, subsequent to the consummation of the loan, for certain homeownership costs including, but not limited to, property taxes, insurance, owner association fees and utilities, payable by the borrower to the creditor under the terms of the shared appreciation mortgage loan.

**Sec. A-19. 9-A MRSA §8-506, sub-§1, ¶M-2** is enacted to read:

M-2. "Term days" means the exact number of days between the settlement date of a shared appreciation mortgage loan and the settlement payment date of a shared appreciation mortgage loan or as established by rule adopted by the administrator pursuant to section 8-504, subsection 2.

**Sec. A-20. 9-A MRSA §8-506, sub-§5-A** is enacted to read:

**5-A. Shared appreciation mortgage loans; restrictions.** A shared appreciation mortgage loan is subject to the following restrictions and any rules related to these restrictions adopted by the administrator pursuant to section 8-504, subsection 2.

A. A shared appreciation mortgage loan may not contain a provision that prevents the borrower from renting the property to another, except that, if the rental otherwise complies with applicable federal or state law, regulation and rule, this paragraph does not prohibit:

(1) A creditor from charging fees or premiums associated with originating a shared appreciation mortgage loan secured by a non-owner-occupied property;

(2) A creditor from requiring the borrower to obtain usual and customary insurance coverage associated with such rental; or

(3) A creditor from prohibiting the borrower from entering into a rental or lease agreement that would extend beyond the maturity date of the shared appreciation mortgage loan.

B. A shared appreciation mortgage loan may not contain a provision that prevents the borrower or the homeowner from refinancing an existing senior mortgage or lien through a conventional or agency so-called rate-and-term refinancing as long as the principal balance on the new mortgage loan does not exceed the unpaid principal balance of the mortgage loan being refinanced plus customary and reasonable transaction costs. The creditor shall agree to subordinate its interest in connection with the rate-and-term refinancing as set forth in this paragraph.

C. A shared appreciation mortgage loan may not apply a settlement payment formula that differs from the formula originally agreed upon or impose any penalties if the borrower elects to settle or otherwise terminate the shared appreciation mortgage loan before its scheduled maturity date or termination date.

D. A shared appreciation mortgage loan may not contain mandatory arbitration clauses and waivers of certain consumer rights in accordance with the prohibition found in 12 Code of Federal Regulations, Section 1026.36(h).

E. A shared appreciation mortgage loan may not include a confidentiality provision regarding the terms of the shared appreciation mortgage loan.

F. A shared appreciation mortgage loan may not contain a provision permitting the creditor to extend the term of the shared appreciation mortgage loan unless the provision requires the express written consent of the borrower to the extension, except that, and subject to the applicable statute of limitations, this paragraph may not be construed to limit or otherwise reduce the period of time in which the creditor may pursue legal action related to a borrower's failure to settle the shared appreciation mortgage loan upon the expiration of the then-current term of the shared appreciation mortgage. A creditor may unilaterally extend the term of the shared appreciation mortgage loan:

(1) For 30 days if:

(a) The extension occurs at the end of the term; and

(b) The extension is related to a settlement or other termination that is in progress but will not occur prior to the termination of the shared appreciation mortgage loan or the borrower has requested an extension but will not complete the written consent prior to the termination of the option period; or

(2) For one year if:

(a) The extension occurs at the end of the term;

(b) The creditor has sent the borrower at least 3 notices regarding the end of the term; and

(c) The borrower has not responded or indicated an intent to settle or otherwise terminate the shared appreciation mortgage loan.

G. A prepayment fee or penalty may not be charged under the terms of or included in the loan documents of a shared appreciation mortgage loan.

H. A shared appreciation mortgage loan may not include a demand feature that permits the creditor to accelerate the indebtedness by terminating the shared appreciation mortgage loan in advance of the original maturity date and to demand repayment of the entire outstanding balance, except in the following circumstances:

(1) There is fraud or material misrepresentation by the borrower in connection with the loan or open-end credit agreement;

(2) The borrower fails to meet the payment terms of the agreement for any outstanding balance that results in a default in payment under the loan; or

(3) There is an action or inaction by the borrower that adversely affects the creditor's security for the loan or any right of the creditor in the security.

I. A person who purchases or is otherwise assigned a shared appreciation mortgage loan is subject to all affirmative claims and any defenses with respect to the loan that the borrower may assert against a creditor of the loan.

J. A creditor may receive the settlement payment amount based only on the appraisal at settlement of the loan and may not charge additional amounts based on the condition of the property.

K. In addition to applicable requirements under federal and state law, the creditor shall disclose prior to consummation of the loan the annualized cost, equity share payment amount, settlement payment amount and annual percentage rate for each year of the term of the loan based on a real estate appreciation index prescribed by the administrator by rule.

**Sec. A-21. 9-A MRSA §8-506, sub-§5-B** is enacted to read:

**5-B. Shared appreciation mortgage loans; requirements for contents of shared appreciation mortgage loans.** A shared appreciation mortgage loan is subject to the following requirements.

A. A shared appreciation mortgage loan must contain a provision requiring the creditor to provide to the borrower at least 90 days' advance written notice of any action required by the borrower under the terms of the shared appreciation mortgage loan that, if not timely taken by the borrower, will affect the rights or interests of the borrower, except that this paragraph does not apply to:

(1) Actions required of the borrower arising from a directive or mandate by a governmental authority related to noncompliance with applicable law that requires action in fewer than 90 days; or

(2) Matters that cause an imminent threat to the condition of the dwelling, property or health or safety of the public that are known to the creditor and verified by internal or external assessment.

B. A shared appreciation mortgage loan must provide for a periodic statement in accordance with rules adopted by the administrator.

C. A shared appreciation mortgage loan must contain a provision that, within 7 business days of a request from the borrower for information regarding the process for a final termination or settlement of the shared appreciation mortgage loan, the creditor shall provide a detailed and accurate written statement of the payoff or settlement process. If determining a settlement amount requires obtaining a 3rd-party valuation, a creditor is deemed to have complied with this paragraph by providing a written notice of an estimated total amount required to pay the shared appreciation mortgage loan in full, as of a specified date, and advising the borrower of the process and estimated cost for obtaining such 3rd-party valuation. The valuation appraisal under this paragraph must conform to the requirements of subsection 5-C, paragraph A. The written notice of an estimated written amount must itemize and explain all known charges included in the total figure stated and estimate all charges that are subject to change.

D. Upon a consumer's default involving a real estate tax or insurance premium delinquency, if the shared appreciation mortgage loan lender elects to advance funds to cure the delinquency, the lender shall, at the consumer's request, defer repayment of the amount of the advance until settlement of the loan without the accrual of interest.

**Sec. A-22. 9-A MRSA §8-506, sub-§5-C** is enacted to read:

**5-C. Shared appreciation mortgage loans; requirements for property valuation.**  
The following requirements apply with respect to property valuation.

A. A creditor shall conduct shared appreciation mortgage loan valuation appraisals in a manner substantially similar to the appraisal valuation independence standards set forth in 12 Code of Federal Regulations, Section 1026.42.

B. Shared appreciation mortgage loan transaction automated valuation models are subject to substantially similar and applicable quality control standards for automated valuation models issued by the federal Consumer Financial Protection Bureau and published as 89 Federal Register, 64538, effective October 1, 2025, or by rule adopted by the administrator pursuant to section 8-504, subsection 2.

**Sec. A-23. 9-A MRSA §8-506, sub-§5-D** is enacted to read:

**5-D. Shared appreciation mortgage loans; requirements for counseling.** A creditor may not make a shared appreciation mortgage loan without first receiving certification from a counselor with a 3rd-party organization approved by the United States Department of Housing and Urban Development, a housing financing agency of this State or the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection that the borrower or the homeowner has received counseling that includes a review of the borrower's or homeowner's needs and circumstances; homeowner and property eligibility; shared appreciation mortgage loan features and costs; issues and obligations after closing; and financial alternatives to the shared appreciation mortgage loan.

**Sec. A-24. 9-A MRSA §8-506, sub-§5-E** is enacted to read:

**5-E. Shared appreciation mortgage loans; requirement for 3-day right of rescission.** A creditor shall offer each shared appreciation mortgage loan borrower a 3-day right of rescission period in a manner substantially similar to the requirements in 12 Code of Federal Regulations, Section 1026.23.

**Sec. A-25. 9-A MRSA §8-506, sub-§5-F** is enacted to read:

**5-F. Shared appreciation mortgage loans; required disclosures.** Before a shared appreciation mortgage loan agreement is entered into, a shared appreciation mortgage loan lender shall provide the disclosures established by rule adopted by the administrator under section 8-504, subsection 2.

**Sec. A-26. 9-A MRSA §8-506, sub-§5-G** is enacted to read:

**5-G. Shared appreciation mortgage loans; consequence of no advice of counsel to borrower.** The following provisions apply regarding the lack of representation by independent counsel of a borrower.

A. A shared appreciation mortgage loan is presumed to be unconscionable or the result of an unfair or deceptive trade practice unless the borrower was represented by independent counsel in connection with all aspects of the origination of the shared appreciation mortgage loan and in the granting and execution of the mortgage. When the borrower or the borrower's legal counsel successfully raises the presumption that the shared appreciation mortgage loan was unconscionable, or was the result of an

unfair or deceptive trade practice, by a preponderance of the evidence that the borrower did not have independent legal advice in connection with the transaction, and when the shared appreciation mortgage loan lender that benefits from the execution of the mortgage fails to rebut the presumption, the borrower or the borrower's legal counsel or personal representative is entitled to avoid the transfer or execution of the mortgage and entitled to the relief in paragraph C.

B. A civil action may be brought to obtain relief under this subsection by the borrower or the borrower's legal representative or personal representative.

C. When a court finds that a shared appreciation mortgage loan was unconscionable or the result of an unfair or deceptive trade practice under paragraph A, the court shall grant appropriate relief enabling the borrower to avoid the execution of the mortgage securing the transaction, including the rescission of the mortgage, and such other relief as the court considers proper. The court shall award reasonable attorney's fees and costs to be paid by the shared appreciation mortgage loan lender, or by any assignee of the mortgage, as found by the court. When the court finds that the shared appreciation mortgage loan's being unconscionable or the result of an unfair or deceptive trade practice in connection with the transaction is a good and valid defense to any suit to enforce the terms of the shared appreciation mortgage loan, the court shall refuse to enforce the terms of the shared appreciation mortgage loan.

**Sec. A-27. 9-A MRSA §8-506, sub-§6, ¶K** is enacted to read:

K. A violation of this section constitutes a per se violation of Title 5, section 207 and of Title 14, section 6113.

**Sec. A-28. Report.** No later than February 1, 2029, the Superintendent of Consumer Credit Protection within the Department of Professional and Financial Regulation shall submit a report to the joint standing committee of the Legislature having jurisdiction over health coverage, insurance and financial services matters that includes findings and recommendations regarding the regulation of shared appreciation mortgage loans pursuant to the Maine Revised Statutes, Title 9-A, including, but not limited to, suggested statutory changes. The committee may submit legislation related to the report to the 134th Legislature in 2029.

## **PART B**

**Sec. B-1. Shared appreciation mortgage products subject to Maine Consumer Credit Code.** The Legislature adopts the ruling of the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection, which took effect October 29, 2025, that a shared appreciation mortgage product is a consumer credit transaction subject to the provisions of the Maine Revised Statutes, Title 9-A applicable to mortgage loans and that providers of these products are supervised lenders under that Title. Any shared appreciation mortgage product entered into with a consumer that is secured by a dwelling or residential real estate in this State between October 29, 2025 and the effective date of this Act that does not comply with the provisions of that ruling is void and unenforceable.

**Sec. B-2. Retroactivity.** This Part applies retroactively to October 29, 2025.

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved.