

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Daniel Cahill

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to home investments.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Daniel Cahill</i>	<i>10th Essex</i>	<i>1/16/2025</i>

HOUSE No.

[Pin Slip]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act relative to home investments.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1: The General Laws are hereby amended by inserting after chapter 255F the
2 following new chapter:-

3 Chapter 255G: Shared Equity Investments

4 Section 1: Definitions

5 Section 1. As used in this chapter the following words shall, unless the context otherwise
6 requires, have the following meanings:-

7 "Agreed home value" means the value of the residential property at the time of
8 origination, as agreed to by both the homeowner and the shared equity investor and does not
9 include any discount or risk adjustment.

10 "Annualized cost" means the annualized cost of a shared equity investment, expressed as
11 a percentage and calculated as follows: $((\text{settlement payment} / \text{investment amount})^{(365 / \text{term}}$
12 $\text{days})) - 1$).

13 “Beginning home equity" means the unencumbered equity in a homeowner's residential
14 property after the shared equity investment is consummated, expressed as a percentage and
15 calculated as follows: $(1 - ((\text{senior secured debt} + \text{investment amount}) / \text{agreed home value}))$).

16 “Commissioner” means the Massachusetts commissioner of banks.

17 “Control Person” means each member, director, principal officer, and office manager,
18 controlling shareholder owning, directly or indirectly, at least twenty-five (25%) of a legal entity,
19 and any other person with the authority to direct the management of the legal entity.

20 “Instrumentality created by the United States or any state” means a federal, state,
21 municipal government, quasi-governmental entity or a nonprofit agency or corporation
22 incorporated under the laws of the commonwealth that has a tax exempt status granted under the
23 provisions of section 501(c)(3) of the federal Internal Revenue Code, which exclusively makes
24 home equity investments on residential property to be financed with public funds, or negotiates,
25 places, assists in the placement of, finds, or offers to negotiate, place, assist in the placement of
26 or find home equity investments on residential property to be financed with public funds only
27 under a contract with a federal, state, or municipal government, any instrumentality thereof or
28 any quasi-governmental entity as determined by the Commissioner. The making of a home
29 equity investment shall include being named as the investor on the investment agreement or
30 other investment documents.

31 “Homeowner” means the owner of the property that applies for or enters into a shared
32 equity investment.

33 "Investment amount" means the gross proceeds of a shared equity investment that is
34 provided to the homeowner, before any deduction of third-party fees or amounts charged by the
35 shared equity investor.

36 "Multi-state licensing system" means a system involving 1 or more states, the District of
37 Columbia, or the Commonwealth of Puerto Rico for the sharing of regulatory information and
38 the licensing and application processes, by electronic or other means, for home equity investors.

39 "Residential property" means real property located in the commonwealth containing a
40 dwelling house with accommodations for four or less separate households and occupied in whole
41 or in part by either the homeowner who obtained the shared equity investment, or a renter who
42 pays rent directly to the homeowner.

43 "Senior secured debt" means any obligation secured by a lien on the residential property
44 that would be senior to the lien securing obligations under the shared equity investment after
45 application of any proceeds from the shared equity investment at closing to reduce the amount of
46 any such senior obligations.

47 "Settle" or "settlement" means the process by which a homeowner terminates a shared
48 equity investment, as set out in the terms of the shared equity investment.

49 "Settlement payment" means the dollar amount that the homeowner will pay to settle a
50 shared equity investment, excluding any amounts paid by the homeowner pursuant to the terms
51 of the shared equity investment as (i) reimbursement for payments made on behalf of the
52 homeowner, (ii) administrative fees charged to the homeowner during the term of the shared
53 equity investment, or (iii) interest required that is not otherwise prohibited by law.

54 “Shared equity investment” means a non-recourse transaction whereby a shared equity
55 investor grants an outright sum of money to a homeowner in exchange for an equity interest in
56 the homeowner’s residential property or a future obligation to pay a sum upon the occurrence of
57 one or more conditions subsequent. A shared equity investment is not a mortgage loan or other
58 form of loan as defined in section 3 of chapter 167E.

59 “Shared equity investor” means any person or legal entity engaged in the business of
60 making or servicing shared equity investments. The term shall not include: (i) a shared equity
61 investment holder; or (ii) a person or entity that purchases or invests solely in an interest in real
62 estate other than a shared equity investment.

63 "Shared equity investment application" means the submission of a homeowner's financial
64 and property information for purposes of entering a shared equity investment.

65 "Shared equity investment holder" means a person or entity that purchases and passively
66 holds a pre-existing shared equity investment, or interest therein, which is serviced by a third-
67 party shared equity investor who is licensed under this chapter.

68 "Term days" means the exact number of days that passed between the date on which the
69 investment amount is disbursed to the homeowner and the settlement date of the shared equity
70 investment.

71 Section 2: Shared equity investor license requirement; exempted entities

72 (a) License Required. No person shall act as a shared equity investor with respect to
73 residential property unless first obtaining a license from the Commissioner.

74 (b) Exemptions. The following persons shall be exempt from the requirements of this
75 chapter:

76 (i) any person who is employed by or associated with a licensed shared equity investor
77 and acting under the direction of said licensed shared equity investor shall not be required to
78 obtain such license.

79 (ii) any shared equity investor making twelve or fewer shared equity investments within
80 any period of twelve consecutive months; provided, however, that in computing the number of
81 shared equity investments, there shall be counted in the shared equity investments of more than
82 one partnership, association, trust or corporation, the majority interest of which are owned or
83 controlled directly or indirectly by the same person or persons, partnerships, associations, trusts
84 or corporations and including in the loans of a partnership or company not incorporated the loans
85 of the several members thereof.

86 (iii) a bank as defined in section one of chapter one hundred and sixty-seven, a national
87 banking association, a federally chartered credit union, a federal savings and loan association, a
88 federal savings bank, or any subsidiary or affiliate of the above, insurance company, or to any
89 bank, trust company, savings bank, savings and loan association, credit union or insurance
90 company organized under the laws of any other state; provided, however, that except as provided
91 herein, such provisions shall apply to any subsidiary or affiliate, as defined by the
92 Commissioner, of any such exempted entity and of a bank holding company established in
93 accordance with state or federal law;

94 (iv) any instrumentality created by the United States or any state or to any nonprofit,
95 public or independent post-secondary educational institution within the commonwealth

96 authorized by law to grant degrees by the commonwealth, or by any agency or instrumentality
97 thereof, for shared equity investments made by any such educational institution to its faculty or
98 staff, or to any charitable organization originally created by a last will and testament before
99 January first, nineteen hundred and fifty which makes no more than twelve shared equity
100 investments during a twelve month period;

101 (v) a real estate broker or real estate salesman as defined in section eighty-seven PP of
102 chapter one hundred and twelve who, in connection with services performed in a prospective real
103 estate transaction, provides shared equity investment information or assistance to a buyer if such
104 real estate broker or real estate salesman is not compensated for the same in addition to the
105 compensation received from the seller for such real estate services.

106 Section 3: License application; multi-state licensing system

107 The application for a license shall be in a form prescribed by the Commissioner. Such
108 application shall include the name and addresses where the business of the applicant is located,
109 and if the applicant is a legal entity, the names and addresses of each Control Person. The
110 Commissioner may require a background investigation of each applicant for a shared equity
111 investment license, and each Control Person of an applicant, by means of fingerprint checks by
112 the department of criminal justice information services pursuant to section 172 of chapter 6, and
113 the Federal Bureau of Investigation for state and national criminal history record checks. Receipt
114 of criminal history record information by a private entity shall be prohibited. Each application
115 for a license shall be accompanied by an investigation fee. Investigation and license fees shall be
116 determined annually by the Commissioner of administration under section 3B of chapter 7.

117 The Commissioner may participate in a multi-state licensing system for shared equity
118 investors. The Commissioner may establish requirements for participation by an applicant in a
119 multi-state licensing system which may vary from the provisions set out in sections 3 and 5. The
120 applicant shall pay directly to such multi-state licensing system any additional fee relating to
121 participation in such multi-state licensing system. The Commissioner shall ensure that the multi-
122 state licensing system adopts appropriate privacy, data security and security breach notification
123 policies. Upon written request, the Commissioner shall make available within 30 days, a copy of
124 the contract between the division and the multi-state licensing system that satisfies this section.

125 Section 4: Issuance of license by Commissioner; notice of license denial; appeal

126 Upon the filing of an application for a license, if the Commissioner finds that the
127 financial responsibility, character, reputation, integrity and general fitness of the applicant, and
128 of the partners or members thereof if the applicant is a partnership or association, and of the
129 officers, directors and principal employees if the applicant is a corporation, are such as to
130 warrant belief that the business will be operated honestly, fairly, soundly and efficiently in the
131 public interest consistent with the purposes of this chapter, he shall thereupon issue the applicant
132 a license to engage in the business of a shared equity investor. If the Commissioner shall not so
133 find, he shall not issue a license and he shall notify the applicant of the denial. Within twenty
134 days thereafter, he shall enter upon his records a written decision and findings containing the
135 reasons supporting the denial and shall forthwith give written notice thereof by registered mail to
136 the applicant. Within thirty days after the date of such notice, the applicant may appeal from such
137 denial to the superior court for Suffolk county, sitting in equity. The court shall hear all pertinent
138 evidence and determine the facts and upon the facts as so determined, review said denial and, as
139 justice and equity may require, affirm the same or order the Commissioner to issue such license.

140 The Commissioner shall approve or deny every application for a license within ninety days after
141 the filing thereof, but any failure of the Commissioner to act within such period shall not be
142 deemed to be an approval of any such application.

143 Section 5: Information on license; changes; notice requirements

144 Each license shall state the address at which the business is to be conducted and shall
145 state the name of the licensee. Business shall at all times be conducted in the name of the
146 licensee as it appears on the license. A copy of such license or license number shall be posted on
147 the licensee's website.

148 Such license shall not be transferable or assignable and shall expire annually on a date
149 determined by the Commissioner.

150 Any change of location or closing of a place of business of the licensee, either at the
151 address stated on the license or at a place other than said address stated on the license, shall
152 require prior written notice thereof to the Commissioner. Such notice shall be in writing setting
153 forth the reason therefor and shall be filed with the Commissioner at least thirty days prior to any
154 such relocation or closing.

155 If there shall be any change among the Control Persons of any licensee, the licensee shall
156 notify the Commissioner in a timely manner of the name, address and occupation of each new
157 member, officer, partner or director, and provide such other information as the Commissioner
158 may require.

159 Section 6: License suspension or revocation; notice and hearing

160 The Commissioner may suspend or revoke any license issued pursuant to this chapter if
161 said Commissioner finds that:

162 (i) the licensee has violated any provision of this chapter or any rule or regulation
163 adopted hereunder, or any other law applicable to the conduct of its business; or

164 (ii) any fact or condition exists which, if it had existed at the time of the original
165 application for such license, would have warranted the Commissioner in refusing to issue such
166 license.

167 Except as provided in section seven, no license shall be revoked or suspended except
168 after notice and a hearing thereon pursuant to chapter thirty A.

169 A licensee may surrender a license by delivering to the Commissioner written notice that
170 it thereby surrenders such license, but such surrender shall not affect the civil or criminal liability
171 of the licensee for acts committed before such surrender.

172 No revocation, suspension or surrender of any license shall impair or affect the obligation
173 of any pre-existing lawful contract between the licensee and any person.

174 Section 7: Commissioner's order to cease and desist from unlawful act or practice; prior
175 notice and opportunity for hearing; temporary order

176 (a) If the Commissioner determines, after giving notice of and opportunity for a hearing,
177 that a licensee has engaged in or is about to engage in an act or practice constituting a violation
178 of a provision of this chapter or a rule, regulation or order hereunder, he may order such licensee
179 to cease and desist from such unlawful act or practice and take such affirmative action as in his
180 judgment will effect the purposes of this chapter.

181 (b) If the Commissioner makes written findings of fact that the public interest will be
182 irreparably harmed by delay in issuing an order under subsection (a) he may issue a temporary
183 cease and desist order. Upon the entry of a temporary cease and desist order, the Commissioner
184 shall promptly notify, in writing, the licensee affected thereby that such order has been so
185 entered, the reasons therefor, and that within twenty days after the receipt of a written request
186 from such licensee, the matter will be scheduled for hearing to determine whether or not such
187 temporary order shall become permanent and final. If no such hearing is requested and none is
188 ordered by the Commissioner, the order shall remain in effect until it is modified or vacated by
189 the Commissioner. If a hearing is requested or ordered, the Commissioner, after giving notice of
190 and opportunity for a hearing to the licensee subject to said order, shall, by written finding of
191 facts and conclusions of law, vacate, modify or make permanent the order.

192 (c) No order under this section, except an order issued pursuant to subsection (b), may be
193 entered without prior notice of and opportunity for a hearing. The Commissioner may vacate or
194 modify an order under this section upon finding that the conditions which required such an order
195 have changed and that it is in the public interest to so vacate or modify.

196 Any order issued pursuant to this section shall be subject to review as provided in chapter
197 thirty A.

198 Section 8: Annual report; examination of business records

199 (a) Annual Report. Each licensee shall annually, on or before a date determined by the
200 Commissioner, file a report with the Commissioner containing such information as said
201 Commissioner may require concerning the business and operations conducted by the licensee in
202 the commonwealth during the preceding calendar year.

203 (b) Recordkeeping. A licensee shall keep and use such business records in such form and
204 at such location as said Commissioner shall, by regulation, determine, which shall enable said
205 Commissioner to determine whether such licensee is complying with the provisions of this
206 chapter and any rules or regulations promulgated hereunder by said Commissioner and any other
207 law, rule or regulation applicable to the conduct of the business for which it is licensed under this
208 chapter. Nothing in this section shall be construed to permit any such licensee to destroy original
209 records or documents. Each such licensee shall preserve all such business records for a minimum
210 of three (3) years, or such longer period as the Commissioner may prescribe by regulation.
211 Notwithstanding the provisions of any general or special law or the Massachusetts Rules of Civil
212 Procedure to the contrary, service of a subpoena for business records upon a licensee, delivered
213 to an office of such licensee located within the commonwealth shall be deemed to have been
214 served at the location, whether within or outside the commonwealth, where the original business
215 records or documents are kept or maintained.

216 (c) Examinations. The Commissioner shall inspect a licensee's relevant records and
217 evidence of compliance with the provisions of this chapter or any rule or regulation issued
218 hereunder and with any other law, rule or regulation applicable to the conduct of the business for
219 which it is licensed under this chapter. For the purposes of such inspection, the Commissioner or
220 a representative of the Commissioner shall have access to the offices and place of business,
221 books, accounts, papers, records and files of all such licensees. The Commissioner, and any
222 person designated by him, may require the attendance and testimony of any person whom the
223 Commissioner deems necessary relative to the conduct and operation of such business. The total
224 cost for any such inspection, which shall be paid by the licensee within 30 days after the receipt
225 of an invoice therefore, shall be in accordance with fees determined annually by the

226 Commissioner of administration pursuant to section 3B of chapter 7, including expenses for
227 necessary travel outside the commonwealth for the purposes of conducting such inspections.

228 During the course of such inspection, a shared equity investor that has entered into 50 or
229 more shared equity investments in the last calendar year shall be examined for its compliance
230 with applicable anti-discrimination laws and laws prohibiting unfair, deceptive, or abusive acts
231 or practices in consumer financial products or services. Such examination shall also include an
232 evaluation of such shared equity investor's: (a) origination of shared equity investments and
233 consistency with safe and sound business practices; (b) efforts working with homeowners to
234 resolve performance defaults; and (c) disclosure and education of homeowners about the terms
235 of shared equity investment products. The Commissioner may make rules prescribing additional
236 factors for measuring a licensee's performance.

237 Upon the completion of such examination, the Commissioner shall prepare a written
238 evaluation of such shared equity investor's record of performance, which shall be open to public
239 inspection upon request, and said written evaluation shall include: (a) the assessment factors
240 utilized to determine the shared equity investor's descriptive rating; (b) the Commissioner's
241 conclusions with respect to each such assessment factor; (c) a discussion of the facts supporting
242 such conclusions; and (d) the shared equity investor's descriptive rating and the basis therefor.

243 Based upon such examination, the shared equity investor shall be assigned 1 of the
244 following descriptive ratings: (a) outstanding record of performance; (b) high satisfactory record
245 of performance; (c) satisfactory record of performance; (d) needs to improve record of
246 performance; or (e) substantial noncompliance.

247 In considering an application from a licensed shared equity investor for a renewal of a
248 license issued pursuant to this chapter, the Commissioner shall consider, but not be limited to,
249 the record of performance of any such shared equity investor in accordance with this section.
250 Said record of performance may provide the basis for the denial of any such renewal application.

251 The Commissioner shall adopt regulations implementing the requirements of this section.

252 The Commissioner shall preserve a full record of each such examination of a licensee,
253 including a statement of its condition. All records of investigation and reports of examination by
254 the commissioner, including work papers, information derived from such reports or in response
255 to such reports, and any copies thereof in the possession of any licensee under the supervision of
256 the commissioner, shall be confidential and privileged communications, shall not be subject to
257 subpoena and shall not be a public record under clause Twenty-sixth of section 7 of chapter 4.
258 For the purpose of this paragraph, records of investigation and reports of examinations shall
259 include records of investigation and reports of examinations conducted by any financial
260 institution regulatory agency of the federal government and any other state, and of any foreign
261 government which are considered confidential by such agency or foreign government and which
262 are in possession of the Commissioner. In any proceeding before a court, the court may issue a
263 protective order to seal the record protecting the confidentiality of any such record, other than
264 any such record on file with the court or filed in connection with the court proceeding, and the
265 court may exclude the public from any portion of a proceeding at which any such record may be
266 disclosed. Copies of such reports of examination shall be furnished to a licensee for its use only
267 and shall not be exhibited to any other person, organization or agency without prior written
268 approval by the Commissioner. The Commissioner may, in his discretion, furnish to regulatory
269 agencies of the federal government, of other states, or of foreign countries and any law

270 enforcement agency, such information, reports, inspections and statements relating to the
271 licensees under his supervision.

272 Section 9: Shared equity investor obligations

273 (a) Rescission period. A shared equity investor shall provide at least three business days in
274 which the homeowner may rescind their acceptance of the shared equity investment before such
275 shared equity investment becomes effective and binding for the homeowner. The homeowner
276 shall submit the rescission notice in writing to the shared equity investor within such designated
277 rescission period.

278 (b) Except in connection with a home purchase transaction, the homeowner's beginning
279 home equity must be equal to or greater than 10 percent. For purposes of this provision, if any
280 portion of the investment amount will be used to pay down existing obligations secured by the
281 residential property, the homeowner's beginning home equity will be calculated after application
282 of the investment amount to pay down such obligations.

283 (c) All appraisals or other valuation reports used to determine the agreed home value
284 must meet industry standards and be conducted by an independent third party, unless an
285 affiliated appraisal or valuation is disclosed and consented to in writing by the homeowner.
286 Copies of all valuation reports must be provided to the homeowner.

287 (d) The annualized cost of a shared equity investment may not exceed 20 percent.

288 Section 10: Disclosure requirements

289 (a) Prior to entering into a shared equity investment, a shared equity investor shall
290 provide a disclosure to the homeowner in a form prescribed by the Commissioner. The
291 disclosure shall contain at least the following information:

292 (i) A clear and conspicuous statement that (1) by entering into the shared equity
293 investment, a lien will be placed on the property and that failure to comply with the terms of the
294 shared equity investment or an inability to settle the shared equity investment may result in the
295 homeowner losing their property, and (2) that the homeowner should obtain the advice of an
296 attorney before proceeding with the transaction.

297 (ii) A summary of the terms of the shared equity investment including:

298 (1) The investment amount;

299 (2) An itemization of any charges and payments to third parties and any fees paid to the
300 shared equity investor which are deducted from the investment amount;

301 (3) The net proceeds to be delivered to the homeowner after the expiration of the
302 rescission period;

303 (4) The maximum term of the shared equity investment;

304 (5) How the homeowner can settle the shared equity investment together with an
305 explanation of how the settlement payment will be calculated; and

306 (6) A summary of the types of fees that may be charged in connection with settling the
307 shared equity investment.

308 (iii)(1) The agreed home value without adjustment and the method used to determine the
309 agreed home value; and (2) if the agreed home value is adjusted for any discounts, risk
310 adjustments, or enhancements for purposes of the shared equity investment, the amount of such
311 adjustments and the value of the property used for purposes of calculating the shared equity
312 investor's equity interest in the property;

313 (iv) The method of determining the final value of the property that is the subject of the
314 shared equity investment upon settlement of the shared equity investment;

315 (v) The maximum equity interest in the property that the shared equity investor may
316 receive under the terms of the shared equity investment or an explanation of any other limits on
317 the amount that the shared equity investor may receive under the shared equity investment;

318 (vi) Any other amounts charged in connection with the shared equity investment;

319 (vii) Settlement examples for the shared equity investment after three years, five years,
320 10 years, 15 years, and 30 years, in each case up to the maximum term of the applicable shared
321 equity investment.

322 (1) For each settlement time frame, examples shall be provided based on:

323 (A) No change in the value of the property;

324 (B) A total depreciation of 10 percent;

325 (C) Annual appreciation of three and one half percent;

326 (D) Annual appreciation of five and one half percent; and

327 (E) The actual annualized change in value of residential real property in Massachusetts
328 over the prior five year period, measured from the most recent available data point in the All-
329 Transactions House Price Index as published by the Federal Reserve Bank of St. Louis.

330 (2) For each combination of settlement time frame and property change in value specified
331 in subsection (vii)(1) of this section, the homeowner shall be provided with:

332 (A) The projected final value of the property;

333 (B) The equity interest that the shared equity investor would be entitled to receive,
334 expressed as a percentage of projected final property value;

335 (C) The dollar value of such equity interest, and if any cap applies, the capped dollar
336 value required to settle the shared equity investment; and

337 (D) An annual percentage rate equivalent based on the investment amount, the gross
338 estimated settlement cost, and the number of days from the disbursement of the investment
339 amount to settlement.

340 (b) Shared equity investors may provide homeowners with additional disclosures
341 provided that the form disclosure prescribed by the Commissioner is used and there is no
342 inconsistency between such disclosures.

343 Section 11: Prohibited acts

344 A shared equity investor is prohibited from engaging in any of the following:

345 (a) Charging any penalty for settling a shared equity investment before the end of the
346 shared equity investment's specified term;

347 (b) Preventing the homeowner from renting or using the property as the homeowner
348 chooses, provided that such use complies with applicable law. Nothing in this subsection
349 prohibits a shared equity investment from:

350 (1) Requiring that the homeowner notify the shared equity investor of a change in use;

351 (2) Requiring the homeowner to obtain commercially appropriate property insurance in
352 connection with any use of the property; or

353 (3) Imposing risk-based pricing adjustments on properties that are not the homeowner's
354 primary residence;

355 (c) Requiring the use of an appraisal or valuation report prepared or managed by an
356 appraiser, appraisal management company, or other valuation service provider affiliated with the
357 shared equity investor except the homeowner and shared equity investor may agree to the use of
358 an affiliated appraiser or appraisal management company to the extent that such affiliation is
359 disclosed and consented to in writing by the homeowner;

360 (d) Agreeing to a valuation that differs from the value obtained by the appraisal or other
361 third-party means unless:

362 (1) At least one third-party valuation report is obtained and shared with the homeowner to
363 provide an indication of market value; and

364 (2) The value that differs from the appraisal or third-party valuation report is fully
365 disclosed to the homeowner and the homeowner agrees to the alternative value in writing;

366 (e) Including provisions in the shared equity investment that prohibit the homeowner
367 from refinancing a mortgage or lien on a property that is the homeowner's primary residence,
368 provided that:

369 (i) Nothing in this subsection obligates a shared equity investor or shared equity
370 investment holder to subordinate their lien to any other lien holder; and

371 (ii) If the homeowner is seeking a cash out refinancing, the shared equity investment may
372 require that the proceeds of such refinancing be used to settle the shared equity investment; and

373 (f) Charging an amount to settle a shared equity investment that exceeds the amount
374 permitted under Section 9(d) of this chapter, plus reimbursement for payments made on behalf of
375 the homeowner or administrative fees charged to the homeowner during the term of the shared
376 equity investment.

377 Section 12: Civil actions filed by Commissioner

378 The Commissioner may enforce the provisions of this chapter, or restrain any violations
379 thereof, by filing a civil action in any court of competent jurisdiction.

380 Section 13: Penalties

381 Whoever violates section 2 or any rule or regulation promulgated thereunder shall be
382 punished by a fine of not more than \$2,000 or by imprisonment in the house of correction for not
383 more than 2 1/2 years or by imprisonment in state prison for not more than 5 years, or both such
384 fine and imprisonment. Each day such violation occurs or continues shall be deemed a separate
385 offense. The penalty provision of this section shall be in addition to, and not in lieu of, any other

386 law applicable to a licensee or other person for violating section 2 or any rule or regulation made
387 thereunder.

388 Section 14: Penalties; no limitation on civil action; review

389 (a) Whenever the Commissioner finds that any licensee or exempt person under section 2
390 has violated this chapter or any rule or regulation adopted thereunder, or any other law of the
391 commonwealth applicable to the conduct of the business of making home equity investments on
392 residential property in the commonwealth, the Commissioner may, by order, in addition to any
393 other action authorized under this chapter or any rule or regulation made thereunder, impose a
394 penalty upon the person which shall not exceed \$5,000 for each violation, up to a maximum of
395 \$100,000 for such violation plus the costs of investigation. The Commissioner may impose a
396 penalty which shall not exceed \$5,000 for each violation of this chapter, or any rule or regulation
397 adopted thereunder, by a person other than a licensee or exempt person under section 2, plus the
398 costs of investigation.

399 (b) Nothing in this section shall limit the right of any individual or entity who has been
400 injured as a result of any violation of this chapter by a licensee, or any person other than a
401 licensee or exempt person under section 2, to bring an action to recover damages or restitution in
402 a court of competent jurisdiction.

403 (c) Any findings or order issued by the Commissioner pursuant to this section shall be
404 subject to review as provided in chapter 30A.

405 Section 15: Written notice of intention to prohibit; statement of facts; order of
406 prohibition; service

407 (a) Whenever the Commissioner determines that any person has, directly or indirectly,
408 violated any section of this chapter or any rule or regulation adopted thereunder, applicable to the
409 conduct of the business of making shared equity investments in the commonwealth, or any order
410 issued by the Commissioner under this chapter or any written agreement entered between the
411 licensee and the Commissioner, the Commissioner may serve upon that person a written notice
412 of intention:

413 (1) to prohibit the person from performing in the capacity of a principal employee on
414 behalf of any licensee for a period of time that the Commissioner considers necessary to cure the
415 condition giving rise to the Commissioner's action;

416 (2) to prohibit the person from applying for or obtaining a license from the Commissioner
417 for a period up to 36 months following the effective date of an order issued under subsection (b)
418 or (c); or

419 (3) to prohibit the person from any further participation, in any manner, in the conduct of
420 the affairs of a shared equity investor in Massachusetts or to prohibit the person from being
421 employed by, an agent of, or operating on behalf of a licensee under this chapter or any other
422 business which requires a license from the Commissioner.

423 (b) A written notice issued under subsection (a) shall contain a written statement of the
424 facts that support the prohibition and shall give notice of an opportunity for a hearing to be held
425 thereon. The hearing shall be fixed for a date not more than 30 days after the date of service upon
426 the Commissioner of the request for a hearing. If the person fails to submit a request for a
427 hearing within 20 days of service of notice under subsection (a), or otherwise fails to appear in

428 person or by a duly authorized representative, the party shall be considered to have consented to
429 the issuance of an order of prohibition in accordance with the notice.

430 (c) In the event of the consent under subsection (b), or if after a hearing the
431 Commissioner finds that any of the grounds specified in the notice have been established, the
432 Commissioner may issue an order of prohibition in accordance with subsection (a) as the
433 Commissioner finds appropriate.

434 (d) An order issued under subsection (b) or (c) shall be effective upon service upon the
435 person. The Commissioner shall also serve a copy of the order upon the licensee of which the
436 person is an employee or on whose behalf the person is performing. The order shall remain in
437 effect and enforceable until it is modified, terminated, suspended, or set aside by the
438 Commissioner or a court of competent jurisdiction.

439 (e) Except as consented to in writing by the Commissioner, any person who, pursuant to
440 an order issued under subsection (b) or (c), has been prohibited from participating in whole or in
441 part in the conduct of the affairs of a shared equity investor in Massachusetts may not, while the
442 order is in effect, continue or commence to perform in the capacity of a principal employee, or
443 otherwise participate in any manner, if so prohibited by order of the Commissioner, in the
444 conduct of the affairs of:—

445 (1) any licensee under this chapter;

446 (2) any other business which requires a license from the Commissioner; or

447 (3) any bank, as defined under section 1 of chapter 167 or any subsidiary thereof.

448 Section 16: Rulemaking

449 The Commissioner may adopt, amend or repeal rules and regulations to prescribe safe
450 and sound operating standards for licensees, the forms and process used for the license
451 application process, and consumer protections, and to aid in the administration and enforcement
452 of this chapter.