

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Bruce E. Tarr

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 to protect equity in real estate transactions.

PETITION OF:

NAME:

Bruce E. Tarr

DISTRICT/ADDRESS:

First Essex and Middlesex

SENATE No.

[Pin Slip]

The Commonwealth of Massachusetts

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

An Act to protect equity in real estate transactions.

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. Section 269 of chapter 238 of the acts of 2024 is hereby amended by
2 striking the following:-(2) If an entity obtains from a person acquiring or re-acquiring a
3 residential property a shared appreciation mortgage encumbering such residential property that
4 secures the contingent right of the entity to receive a percentage share of the appreciation in
5 value of such residential property upon: (i) the sale, conveyance, assignment or other transfer
6 thereof; (ii) refinancing or other payoff or satisfaction of the new first priority mortgage loan
7 encumbering such residential property; or (iii) the occurrence of other events specified in such
8 shared appreciation mortgage or such shared appreciation promissory note, including reaching a
9 defined maturity date, then the entity and the maker, lender, grantor or holder of the new first
10 priority mortgage loan shall not be liable for monetary relief, injunctive relief or other equitable
11 relief at common law or by statute, including chapter 93A, chapter 140D, chapter 183C and
12 section 49 of chapter 271 for the use of or the terms of said shared appreciation mortgage or
13 shared appreciation promissory note, so long as such person receives a full disclosure, in writing
14 as required herein and in advance of the closing of such person’s acquisition or re-acquisition of

15 such residential property, stating that such person will be required to enter into a shared
16 appreciation mortgage and shared appreciation promissory note to such entity at said closing and
17 upon such person's entering into a new first priority mortgage loan. A shared appreciation
18 mortgage and shared appreciation promissory note offered under this subsection shall be
19 permitted only if a person has received notice or is otherwise shown to be not less than 90 days
20 delinquent on their prior mortgage loan. An offer for a shared appreciation mortgage shall be
21 invalid if there is no reduction of the prior delinquent mortgage loan principal the person owes or
22 owed when the person acquires or re-acquires such residential property and enters into a new
23 first priority mortgage loan.

24 (3) An entity shall not offer a shared appreciation mortgage and shared appreciation
25 promissory note to a person without first providing written notice disclosing substantially the
26 following information:

27 Notice of Shared Appreciation Mortgage Agreement

28 In connection with your acquisition or re-acquisition of your property at
29 _____, the undersigned entity intends to make an offer to you to enter into a shared
30 appreciation mortgage and shared appreciation promissory note. Please be advised that under
31 such shared appreciation mortgage and promissory note:

32 You will not be required to make any payment on the shared appreciation mortgage or
33 shared appreciation note during the mortgage term.

34 You must pay the shared appreciation mortgage upon refinancing of your new first
35 priority mortgage loan or upon the sale of the property.

36 Your percentage of shared appreciation will be based on the amount that your prior
37 mortgage debt has been reduced.

38 (4) Said written notice may include substantially the following information:

39 You are encouraged to discuss this agreement with family, community service providers,
40 housing counselors or others at any time during this mortgage process. If you fail or refuse to
41 seek housing counseling, the entity may choose not to proceed. A list of housing counselors
42 certified by the United States Department of Housing and Urban Development is enclosed with
43 this notice or has otherwise been provided.

44 In order to proceed with this transaction, you must sign, date and return this notice to us
45 promptly, but in not less than 7 days after your receipt of this notice.

46 By signing this notice, you are not bound to proceed to enter into a shared appreciation
47 mortgage and promissory note. The entity has no obligation to proceed to assist you with
48 acquiring or reacquiring a residential property or otherwise proceed to negotiate a shared
49 appreciation mortgage and promissory note. No shared appreciation mortgage or promissory note
50 shall be binding on you or the entity until a final shared appreciation mortgage and note are
51 signed and dated by both you and the entity.

52 Your shared appreciation mortgage and promissory note shall become due and payable
53 upon the sale, conveyance, assignment or other transfer of your residential property, upon
54 refinancing of the new first priority mortgage loan encumbering such residential property, or
55 other payoff or satisfaction of such new first priority mortgage loan, or upon the occurrence of
56 other events specified in the shared appreciation mortgage or shared appreciation promissory
57 note, including reaching a defined maturity date.

58 (5) The attorney general may promulgate rules and regulations to implement this
59 subsection"

60 and inserting in place thereof the following:-

61 "(2) If an entity obtains from a person acquiring or re-acquiring a residential property a
62 shared appreciation mortgage encumbering such residential property that secures the contingent
63 right of the entity to receive a percentage share of the appreciation in value of such residential
64 property upon: (i) the sale, or option to sell, conveyance, assignment or other transfer thereof; (ii)
65 refinancing or other payoff or satisfaction of the new first priority mortgage loan encumbering
66 such residential property; or (iii) the occurrence of other events specified in such shared
67 appreciation mortgage or such shared appreciation promissory note, including reaching a defined
68 maturity date, such person shall be required to obtain third-party counseling regarding this
69 product by an approved HUD-certified counseling agency in Massachusetts which shall be paid
70 for by the entity originating the shared appreciation mortgage. The entity originating the shared
71 appreciation Mortgage shall be liable for any violations of all applicable federal and state laws
72 and regulations. The Division of Banks will approve the housing counselors

73 Such persons will receive a full disclosure, in writing as required herein and in advance
74 of the closing of such person's acquisition or re-acquisition of such residential property, stating
75 that such person will be required to enter into a shared appreciation mortgage and shared
76 appreciation promissory note to such entity at said closing and upon such person's entering into a
77 new first priority mortgage loan. A shared appreciation mortgage and shared appreciation
78 promissory note offered under this subsection shall be permitted only if a person has received
79 notice and has completed third-party counseling.

80 The terms of the shared appreciation mortgage loan shall state that the shared
81 appreciation payment shall not exceed the lesser of:

82 1. 15 per cent of the appreciation value of the property based on the difference
83 between an appraisal of the property at the time of origination and again at the time the shared
84 appreciation payment is due, minus the actual cost of any improvements made to the property; or

85 2. 15 percent of the value of the property at the time of the consummation of the
86 shared appreciation mortgage loan based on a current appraisal.

87 3. All appraisals shall be determined by an appraisal with comparative home
88 appraisals by a state-certified general real estate appraiser or a state-certified residential real
89 estate appraiser as defined by section 178 of chapter 112.

90 (3) An entity shall not offer a shared appreciation mortgage and shared appreciation
91 promissory note to a person without first providing written notice disclosing substantially the
92 following information:

93 Notice of Shared Appreciation Mortgage Agreement

94 In connection with your acquisition or re-acquisition of your property at [fill
95 in]_____, the undersigned entity intends to make an offer to you to enter into a shared
96 appreciation mortgage and shared appreciation promissory note. Please be advised that under
97 such shared appreciation mortgage and promissory note:

98 You will not be required to make any payment on the shared appreciation mortgage or
99 shared appreciation note during the mortgage term. Your payment will be due at the

100 time of a payoff of the loan due to a sale of the property, transfer of ownership of the
101 property, repayment at the maturity date on [fill in date], refinancing of the loan, the payoff of,
102 including at the maturity date on [fill in] or refinancing of any other mortgage made at the same
103 time or any the following events stated in your shared appreciation mortgage or shared
104 appreciation note: [fill in].

105 Your percentage of shared appreciation will be the lesser of:

- 106 1. ____ per cent of the appreciation value when your payment is due; or
107 \$_____ which is _____ per cent of the value of your property at the time
108 you enter into the shared appreciation mortgage. This was determined by an [appraisal by a state-
109 certified general real estate appraiser] or [a state-certified residential real estate appraiser.]

110 You are required to complete third-party counseling by an approved HUD-certified
111 counseling agency specific to understanding the shared appreciation mortgage you are signing
112 and any other options that may be available to you. If you fail or refuse to seek housing
113 counseling, the entity may not proceed. A list of HUD- certified housing counselors approved by
114 the Division of Banks is enclosed with this notice.

115 In order to proceed with this transaction, you must sign, date and return this notice to us
116 promptly, but in not less than 7 days after your receipt of this notice.

117 By signing this notice, you are not bound to proceed to enter into a shared appreciation
118 mortgage and promissory note. The entity has no obligation to proceed to assist you with
119 acquiring or reacquiring a residential property or otherwise proceed to negotiate a shared
120 appreciation mortgage and promissory note. No shared appreciation mortgage or promissory note

121 shall be binding on you or the entity until a final shared appreciation mortgage and note are
122 signed and dated by both you and the entity.

123 (5) The attorney general will promulgate rules and regulations and may modify the
124 disclosure notice in subsection 3 as needed to implement this subsection.