National Consumer Law Center

Regulating Shared Appreciation Mortgages Massachusetts HD3988 / SD913

February 2025

THE PROBLEM: NEW PROVISION EXPOSES MASSACHUSETTS HOMEOWNERS TO SIGNIFICANT FINANCIAL RISK

In November 2024, a provision in the Economic Development bill (Section 269) created a dangerous loophole for homeowners by granting a *blanket waiver of liability* for non-profit Shared Appreciation Mortgages (SAMs), stripping away crucial consumer protections and leaving homeowners vulnerable to predatory lending practices.

WHAT ARE SAMS AND WHY ARE THEY RISKY?

In a SAM, the homeowner agrees to share a percentage of the appreciation in the home's value with the lender upon sale, transfer, or refinance of the home. SAMs are usually provided to homeowners who are in a desperate situation with few options available to save their homes. While presented as a lifeline, SAMs often become a trap. Homeowners are not told a set dollar amount that they will have to pay at maturity, leading to devastating surprises when they try to refinance or sell. Imagine owing *more than half* of your home's equity to the lender – a real scenario documented in *Humes et al. v. BlueHub Capital, Inc.* This case exposed how SAMs can prevent homeowners from benefiting from even record-low interest rates, trapping them in financial hardship.

THE SOLUTION: HD3988 / SD913 – RESTORING FAIRNESS AND TRANSPARENCY

HD3988 / SD913 closes the loophole created by Section 269 and protects homeowners from the predatory nature of SAMs, regardless of the lender. This bill isn't about eliminating SAMs as an option, but ensuring they are used responsibly and transparently. It achieves this by:

- **Defining Appreciation Clearly:** The bill establishes a clear formula for calculating appreciation, deducting the cost of homeowner improvements, and preventing lenders from inflating the shared amount.
- **Capping Shared Appreciation Payments (SAP):** The SAP is the amount of any appreciation in value that the mortgagor is required to pay to the mortgage holder upon sale, refinance, or transfer of the property. Under this bill, that amount is limited to the *lesser* of 15% of the appreciation or 15% of the original loan value. This provides a crucial maximum, allowing homeowners to calculate the potential cost *before* signing. This fixed number empowers informed decision-making.

- **Mandating Pre-Consummation Counseling:** Borrowers *must* receive counseling from a HUD-certified housing counselor (paid for by the lender) at least 14 days before closing. This ensures independent, expert advice.

- **Requiring Timely Disclosures:** Lenders must provide *all* loan documents and disclosures a full 21 business days before finalizing the SAM, giving borrowers ample time to review and understand the terms.

- **Protecting Refinancing Rights:** The bill explicitly allows refinancing of SAMs at any point during the mortgage term.

- **Ensuring Responsible Loan Servicing:** Lenders are required to provide regular statements and adhere to notification requirements regarding loan servicing and ownership transfers.

- **Providing Advance Notice of SAP Due Date:** Lenders must notify borrowers of the SAP amount, due date, and payment method at least 90 days in advance, preventing last-minute shocks.

- **Establishing Strong Remedies:** Violations of the bill's provisions can result in contract voiding, damages for the borrower, and potential license revocation for the lender.

THE BOTTOM LINE: HD3988 / SD913 protects homeowners from predatory lending practices by demanding transparency, capping potential costs, and empowering informed decision-making. It’s a common-sense measure that restores fairness and protects the financial well-being of Massachusetts homeowners.

For more information contact Andrea Bopp Stark, astark@NCLC.org or Andrew Pizor, apizor@NCLC.org.