



**MARYLAND COMMISSIONER OF
FINANCIAL REGULATION**

**INDUSTRY ADVISORY
REGULATORY GUIDANCE**



June 5, 2023

**SHARED APPRECIATION AGREEMENTS:
INTERIM GUIDANCE**

During its 2023 session, Maryland's General Assembly passed House Bill 1150 (568 Md. Laws 2023), affirming the position of the Commissioner of Financial Regulation and the Office of the Attorney General that shared appreciation agreements are mortgage loans. The law has an effective date of July 1, 2023.

The bill defines a shared appreciation agreement ("SAA") and can be found [here](#). The Office of the Commissioner of Financial Regulation is issuing this interim guidance to provide industry guidance and compliance expectations for lenders seeking to comply with recently enacted legislation related to shared appreciation loans. This guidance will remain effective as the Office works to issue applicable regulations.

SAAs are mortgage loans and those offering SAAs to Maryland consumers are required to obtain a Maryland Mortgage Lender license ("License") unless exempt from licensure under Maryland's Mortgage Lender Law. While the Commissioner may impose penalties for violations of Maryland law, in recognition of the previous uncertainty surrounding the classification of SAAs, lenders who previously offered SAAs but did not have a License to do so will not face enforcement action from the Commissioner solely for their failure to hold a License, provided the lender:

- Applies for a License by July 1, 2023; and
- Takes no further SAA applications from Maryland consumers until a License is obtained.

The Commissioner may impose a penalty on or pursue other enforcement action against an unlicensed lender who offers SAAs subsequent to the issuance of this guidance.

Effective July 1, 2023, all SAAs will be governed by either Md. Code Ann., Commercial Law Article Title 12, Subtitle 9 (revolving credit) or Subtitle 10 (closed-end credit), as applicable. These subtitles impose certain disclosure requirements on lenders.

The Commissioner will issue regulations regarding compliance with disclosure requirements for SAAs. The Commissioner anticipates that these regulations will include a disclosure format tailored specifically to SAAs.

For SAA applications taken on or after July 1, 2023, and until applicable regulations become effective, the Commissioner will not cite a licensee for a violation of Maryland disclosure requirements regarding a

SAA if the licensee makes a good faith effort to provide the applicant the following information within ten days of receiving an application. If the actual terms of the SAA differ from those provided in the initial disclosure, the licensee shall provide the following information again at least 72 hours prior to settlement:

- The amount of money the licensee will advance to the applicant;
- The maximum term of the SAA;
- The current market value of the property and the method used to determine that value;
- If applicable, the amount of any discount the licensee will apply to the current value when calculating any change in the value of the property;
- The method the licensee will use in determining the value of the property when the SAA terminates;
- The method the licensee will use to calculate the amount due at termination or expiration of the SAA, including any shared appreciation, shared equity, or other charges;
- Any limitations on the maximum amount that will be due at termination/expiration;
- Repayment scenarios for termination/expiration in five years, ten years, and the maximum number of years permitted under the agreement (or 30 years if the agreement has no maximum term), including a depreciation scenario, an average appreciation scenario, and a high appreciation scenario for each termination/expiration time period. Each scenario must include, at a minimum:
 - The amount due in excess of the amount advanced at the inception of the SAA;
 - The total amount due; and
 - The total cost to the applicant expressed as an annual percentage rate or similar rate to allow the consumer to compare the cost at termination under each given scenario with the cost of traditional credit;
- A chart or table showing average home appreciation in Maryland for the most recent periods of 5, 15, and 30 calendar years, based on a reasonably reliable, publicly available index, indicating the index used; and
- Any minimum amount that will be due at termination.

For questions about this advisory, please contact Clifford Charland, Director of Non-Depository Operations, at 410-230-6167, or by e-mail at clifford.charland@maryland.gov.

The Office of the Commissioner of Financial Regulation, a division of the Maryland Department of Labor, is Maryland's consumer financial protection agency and financial services regulator. For more information, please visit our website at www.labor.maryland.gov/finance.



Office of the Commissioner of Financial Regulation

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