



Home Equity Investment Loans Are Subprime Mortgages: Policymakers Must Strengthen Rules to Protect Homeowners

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Summary

Home equity “investment” (HEI) contracts are marketed as innovative, flexible ways for homeowners—especially older adults and those with limited income or credit—to tap their home equity without taking out a loan. In reality, these products are high-cost, high-risk mortgage loans and should be regulated as such. Their structure creates unpredictable balloon payments, encourages equity-stripping, and exposes homeowners to foreclosure without the protections that apply to traditional mortgages.

Key Points

- HEIs are mortgage loans in substance and should be regulated under existing state and federal mortgage laws.
- Companies mislabel these transactions as “investments” or “options” to evade consumer protections.
- Homeowners face unpredictable, often unaffordable repayment obligations that can lead to foreclosure and equity loss.
- Policymakers must clarify the legal status of HEIs, impose caps on repayment, and strengthen enforcement to prevent widespread harm.

I. Introduction: A Growing Threat to Home Equity

American homeowners hold more than \$35 trillion in home equity—the single largest source of family wealth. Many plan to use this equity to fund retirement, pay for long-term care, make home repairs, help children with education costs, or consolidate debts.

For decades, homeowners accessed this equity primarily through regulated financial products such as home equity loans, home equity lines of credit, and reverse mortgages. But as interest rates rose and lending standards tightened, new for-profit companies began to market HEI loans offering cash now in exchange for a share of the home's future value.

These companies promote HEI loans as a safe alternative to borrowing. In practice, however, HEIs are structured in ways that obscure their true costs and risks. Without clear regulatory oversight, homeowners face the danger of losing significant equity—and their homes.

II. What Is a Home Equity Investment Loan?

HEI loans go by many names—"shared appreciation agreements," "home equity sharing contracts," "equity investment options," and more.¹ Despite the terminology, the core transaction is the same: the homeowner receives a lump sum today and promises to repay a far greater, undetermined amount in the future.

How HEIs Work:

- The company provides cash up front.
- The contract lasts for a fixed number of years (typically 10 or 30).
- When the term ends—or when the homeowner sells, refinances, transfers the property, or breaches a contract term—the homeowner must make a single balloon payment.
- That payment is calculated as a percentage of the home's then-current value.
- If the homeowner cannot pay, the company will force a sale or foreclose.²

Although framed as the sale of an "option" or a share of future appreciation, these contracts almost always require repayment. Companies use valuation discounts, prepayment penalties, and investor-backed securitization models to ensure that they will receive their initial investment plus substantial returns. They also carefully select which homeowners they will lend to. They typically market to older homeowners and those with poor credit who have at least 25% equity in the home and live in an area with stable or increasing home values.

HEI loans function as mortgage loans that put the consumer's home at risk—yet these companies argue that mortgage laws do not apply.

III. Why HEIs Are High-Risk, High-Cost Mortgage Loans

HEI loans differ from traditional mortgages in form, but not in substance. They share the defining characteristics of mortgage credit:

- The homeowner receives money now.
- Payment is required later.
- The home secures the obligation.
- Failure to repay results in losing the home.

A. Unpredictable and Often Unaffordable Balloon Payments

Unlike traditional mortgages, HEI loans do not disclose an interest rate. Instead, the contract requires the homeowner to pay a percentage of the home's value at the end of the term.

But this is dangerous because homeowners cannot know in advance:

- how much their home will be worth, or
- how big the final repayment will be.

In essence, homeowners are writing a blank check to their lender when they enter into an HEI loan. In some contracts, homeowners have been forced to give up 100% of the home's increase in value or make payments representing a 2,000% return on the original advance.³ Rising home values mean larger payments to the investor, turning appreciation into a liability for the homeowner.

B. Hidden, Subprime-Level Effective Interest Rates

When the final balloon payment is compared to the initial cash received, many HEI loans function like extremely high-interest, subprime loans—without disclosing an APR. This means the homeowner cannot compare the cost to traditional mortgage financing, which is normally much cheaper and comes with consumer protections.

C. Barriers to Refinancing, Repairing, or Using the Home

Most HEI loans restrict homeowners from:

- refinancing or taking out a second mortgage,
- renting out the property,
- making certain improvements without approval, or
- transferring ownership to family members.

These restrictions trap homeowners in costly contracts and prevent them from benefiting from market-rate refinancing.

D. Limited Ability to Defend Their Rights

Many HEIs include forced-arbitration clauses. Without access to courts, homeowners struggle to challenge unfair or abusive terms. But if recognized as mortgage loans, these clauses would be prohibited under the Truth in Lending Act.⁴

E. Complexity of Information

Contracts can exceed 100 pages and rely on legal and financial concepts far beyond the experience of most consumers. Companies use slick advertising, risk-adjusted valuation models, and securitization structures that mask the high costs and minimize the appearance of risk.

Even financially sophisticated consumers can misjudge the cost due to well-documented behavioral tendencies—such as discounting future risks in favor of immediate cash.

IV. Existing Consumer Protection Laws Should Apply— But Enforcement Has Not Caught Up

HEI loans meet the functional definition of mortgage loans and should therefore be subject to the full range of state and federal protections, including:

- Truth in Lending Act (TILA)⁵

- Real Estate Settlement Procedures Act (RESPA)⁶
- Home Ownership and Equity Protection Act (HOEPA)⁷
- Federal bans on forced arbitration in mortgage credit
- State mortgage licensing, foreclosure, and usury laws

The most common type of reverse mortgage—home equity conversion mortgages, or HECMs—are also subject to important consumer protections, such as mandatory counseling before closing, and certain disclosures. Most importantly, HECM borrowers have the right to stay in their homes indefinitely, as long as they remain current on their property insurance and taxes.

Yet companies claim that, because they frame the contracts as "options," they are exempt. They use this argument to evade disclosure obligations, interest rate caps, underwriting standards, and foreclosure protections.

Several courts have ruled that HEI loans are mortgage loans or refused to dismiss homeowner suits alleging so.⁸ A growing number of states—including Colorado, Connecticut, Illinois, Maine, and Maryland—have already clarified that HEI loans are mortgage loans subject to lending laws.⁹ Other states should follow suit.

V. Why HEI Loans Are Unfair and Abusive

HEI loans harm consumers in well-documented ways:

1. **They impose unpredictable, often exorbitant repayment obligations, forcing homeowners to lose their homes.** Homeowners may owe many times what they received and are unable to pay without selling the home.
2. **They obscure true costs.** Without APR disclosures, consumers cannot compare HEIs to traditional mortgages.
3. **They rely on asset-based lending.** Companies do not assess whether borrowers can afford the repayment; they expect repayment through sale or foreclosure.
4. **They restrict homeowners' ability to use or refinance their property.**
5. **They limit access to courts.** Forced arbitration blocks homeowners from defending their rights.
6. **They exploit consumer psychology and complexity.** The structure encourages borrowers to under-estimate costs and over-estimate benefits.

Taken together, these features make HEI loans a form of predatory lending that targets homeowners with substantial equity but limited liquidity—particularly older adults and those with poor credit.

VI. Policy Recommendations

Caveat emptor not work here. Consumers cannot reasonably evaluate the risks of HEI loans, and the consequences of misunderstanding the terms can be devastating. Policymakers at the state and federal levels must act now.

A. States Should:

- **Clarify that HEIs are mortgage loans** subject to all state residential mortgage laws, including foreclosure protections and usury limits.
- **Require contractual repayment caps** set at reasonable statutory limits.
- **Void any contract** that exceeds those caps or omits them.
- **Require independent legal counsel** for homeowners at the company's expense.
- **Require companies to pay all closing costs.**
- **Require companies to offer a market-rate refinance option** at the end of the contract if the homeowner cannot repay without selling.
- **Treat violations as unfair or deceptive acts** under state consumer protection statutes.
- **Increase enforcement** against companies that mislead consumers or violate lending laws.

B. The Consumer Financial Protection Bureau Should:

- **Build off its consumer advisory¹⁰ and formally declare that HEI loans are mortgage loans** subject to TILA, HOEPA, RESPA, and the Garn–St. Germain Act.
- **Issue guidance** that any HEI loan lacking a repayment cap is unfair or abusive.
- **Amend Regulation Z** to clarify that HEI loans are credit transactions.
- **Create a model HEI loan disclosure form** requiring APR calculations based on:
 - the amount advanced to the homeowner,
 - borrower-paid closing costs,
 - a balloon payment equal to a contractual or statutory cap, and
 - the assumption that the company will exercise any option.
- **Clarify UDAP/UDAAP violations¹¹** for HEIs that obscure costs or limit informed consumer decision-making.

Conclusion

HEIs are mortgage loans disguised as investments. Without action, these products will strip wealth from homeowners, destabilize families, and erode the nation's largest source of household financial security.

State legislatures, regulators, and the CFPB must close loopholes now—before HEIs become the next generation of pervasive predatory mortgage lending.

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Endnotes

1. See, e.g., Sujeet Indap, Financial Times, Private credit's latest contraption (Oct. 4, 2024), available at <https://www.ft.com/content/ca1b67a0-c95f-40f3-8dd1-ca6a583a14c6>; Washington Dep't of Fin. Inst., Home Equity Sharing Agreement Inquiry Report (June 2025), available at <https://evans.uw.edu/wp-content/uploads/2025/08/HESA-Final-Report-July-2025.pdf> (hereinafter "Wash. DFI Report"); Morningstar DBRS press release, Morningstar DBRS Assigns Provisional Credit Ratings to Unison Trust 2024-1 (May 24, 2024), <https://dbrs.morningstar.com/research/433261/morningstar-dbrs-assigns-provisional-credit-ratings-tounison-trust-2024-1>; Senate Bill Rpt SB 5968, Wash. Sen. Business, Financial Services, Gaming & Trade (Jan. 25, 2024), available at <https://lawfilesexternal.wa.gov/biennium/2023-24/Pdf/Bill%20Reports/Senate/5968%20SBR%20BFGT%20OC%2024.pdf>.
2. Many contracts include a power of attorney that allows the HEI lender to sell the house without the borrower's involvement.
3. See *Foster v. EquityKey Real Estate Investments*, 2017 WL 1862527, at *2 (N.D. Cal. May 9, 2017); *Comstock v. Steinbergh*, 2004 WL 3120554 (Mass. Super. Dec. 16, 2004).
4. 15 U.S.C. § 1639c.
5. 15 U.S.C. § 1601 et seq.
6. 12 U.S.C. § 2601 et seq.
7. 15 U.S.C. §§ 1601
8. See, e.g. *Olson v. Unison Agreement Corp.*, 2025 WL 2254522, at *3 (9th Cir. Aug. 7, 2025) (holding Unison's product was "credit" under the term's "plain and ordinary meaning"); *Commonwealth v. Hometap Equity Partners, L.L.C.*, 2025 WL 2468564, at *6 (Mass. Super. Ct. Aug. 21, 2025) (finding product was loan because "no substantial risk that Hometap will lose its principal" and it never intended to actually own the house—just recoup funds through its sale or other form of repayment); *Muskal v. Point Digital Finance*, <https://library.nclc.org/companion-material/order-denying-motion-compel-arbitration-muskal-v-point-digital-fin-ariz-super-ct>, CV 2025-024855 (Ariz. Super. Ct. Dec. 19, 2025) (holding HEI was subject to Truth in Lending Act's ban on arbitration clauses for mortgage loans); *Singhal v. Unison Agreement Corp.*, 2023 WL 2734230, at *5 (S.D. Fla. Mar. 31, 2023) (denying mot. to dismiss); *Stone v. Real Estate Equity Exchange*, 2025 WL 2222829 (Bankr. D. Colo. July 30, 2025) (denying mot. to dismiss).
9. Conn. Gen. Stat. Ann. § 36a-485(27) ("Residential mortgage loan' means any loan, including a shared appreciation agreement, primarily for personal, family or household use that is secured by a mortgage, deed of trust or other equivalent consensual security interest on a dwelling or residential real estate upon which is constructed or intended to be constructed a dwelling"); Conn. Gen. Stat. Ann. § 36a-485(30) (defining "Shared appreciation agreement"); Ill. Gen. Assembly, Public Act 103-1015, § 5 (eff. Jan. 1, 2025) (amending 205 ILCS 635/1-4(f)) ("Mortgage loan', 'residential mortgage loan', or 'home mortgage loan' includes a loan in which funds are advanced through a shared appreciation agreement."); id. (amending 205 ILCS 635/1-4(ccc) to define "Shared appreciation agreement"); Maine Department of Professional & Financial Regulation, Bureau of Consumer Credit Protection, Advisory Ruling 122 (Oct. 29, 2025) (Advisory ruling defining "shared appreciation mortgage" products as "credit"); Md. Code Ann., Fin. Inst. §11-501(m)(2) ("Mortgage loan" includes a loan in which funds are advanced through a shared appreciation agreement."); Md. Code Ann., Fin. Inst. § 11-501(r) (defining "Shared appreciation agreement"). See also Colorado Div. of Real Estate, Position Statement – MLO 2.0 – License Requirements for Originating Home Equity Contracts (Adopted January 21, 2026).

10. See CFPB Consumer Advisory: Beware of costly, risky and complex home equity "investment" contracts (Jan. 15, 2025); CFPB Issue Spotlight: Home Equity Contracts: Market Overview (Jan. 15, 2025); CFPB, Mortgage Lenders Must Comply with the Law, Not Invent Loopholes (Jan. 15, 2025). See also CFPB Amicus Brief in *Roberts v. Unlock Partnership Solutions A01, Inc.*, C.A. No. 1:24-cv-1374-CPO-AMD (D.N.J. Jan 15, 2025) (arguing that "Defendant Unlock Partnership Solutions AOI, Inc. (Unlock)'s product meets the definition of a residential mortgage loan").
11. Pursuant to 12 U.S.C. § 5531(d)(1) and (2)(A)-(B).