

Position Statement - MLO 2.0 - License Requirements for Originating Home Equity Contracts (Adopted January 21, 2026)

Consumers routinely access the equity in their residential property through cash out refinances, home equity loans or lines of credit, and reverse mortgages. These products often fall within the definition of a residential mortgage loan and, absent an exemption afforded by the practice act, require Colorado licensure when taking an application for, offering, or negotiating the terms of these products.

With the introduction of home equity contracts (also referred to as home equity agreements, shared appreciation agreements, and shared appreciation loans) into the financial market, the Board is issuing this position statement to clarify that a mortgage loan originator's license is required to take an application, offer, or negotiate the terms of a home equity contract when the contract meets the definition of a residential mortgage loan.

Home equity contracts are complex financial agreements that allow the homeowner to receive an upfront cash payment from a company or investor, in exchange for a future lump sum payment which is tied to the home's value. Homeowner repayment under these agreements typically occurs within an established time in the future or is triggered by an event, such as the sale of the property.

Individuals taking applications for a residential mortgage loan or offering or negotiating the terms of a residential mortgage loan are generally required to have a Colorado mortgage loan originator's license to perform those services, unless they meet one of the exemptions afforded by the practice act. A residential mortgage loan is

“a loan that is primarily for personal, family, or household use and 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 single-family dwelling or multiple-family dwelling of four or fewer units.” (§ 12-10-702(21), C.R.S.)

Home equity contracts can qualify as a residential mortgage loan, requiring licensure to originate. The expectation of homeowner repayment signals that a home equity contract is a loan, not a gift, grant, or investment. While the repayment amount may be speculative (the future payment depends on home value at the time of a triggering event), these agreements anticipate that the property will accrue additional equity over a specified period of time and ensure that homeowner repayment will, at the very least, cover the initial amount provided to the homeowner.

A home equity contract would not qualify as a residential mortgage loan if: (1) it is not 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 single-family dwelling or multiple-family dwelling of four or fewer units; (2) the funds are not used primarily for personal, family, or household use by the homeowner; or (3) there is no expectation or requirement of repayment by the homeowner.