

NH Lending Decision Tree

May 19, 2009

Non-Bank Lenders and Brokers: When is a NH mortgage loan¹ made or brokered pursuant to NH RSA 397-A?

1. Is the mortgage loan to be secured by real property (land and improvements – either existing or to be constructed) located in NH?
 - a. If yes, go to 2.
 - b. If no, loan is not subject to NH RSA 397-A (i.e., outside jurisdiction, or land only).

2. Is the loan secured², in whole or in part (such as within a commercial property), by 1-4 existing (or to be constructed) dwelling units³?
 - a. If yes, go to 3.
 - b. If no (i.e., 5 or more dwelling units), then no NH RSA 397-A licenses required* – it's a commercial loan.

3. Is any portion of the collateral intended to be occupied by the owner/borrower as a dwelling?
 - a. If yes, then:
 - i. Loan broker (if applicable) must be a NH-licensed mortgage broker or mortgage banker, and
 - ii. Lender (creditor on loan note) must be a:
 1. Bank or a bank subsidiary, or
 2. NH-licensed mortgage banker, and
 - iii. Loan originator must be licensed, and
 - iv. Loan Servicer must be registered with NH Banking Dept. (RSA 397-B).
 - b. If no, then no NH RSA 397-A licenses required*.

* "No license required" means that the loan is considered to be "commercial" and would not be reported to the NH Banking Department in the Annual Report of loan production, would not be subject to review by the NH Banking Department, would not be listed on the "loan list" to be provided to the NH Banking Department examiners for purposes of examination, and would not be subject to the requirements of NH RSA 397-A. Other legal and regulatory compliance requirements may still apply to these loans.

Currently, HB 610 is pending in the state legislature. If that bill passes, then this decision tree will become inaccurate and will need to be updated to reflect the amended RSA 397-A provisions.

¹ Any mortgage loan type: purchase loan, refinance, HELOC, second mortgage, reverse mortgage, etc.

² Any lien: First mortgage, second mortgage or any junior lien.

³ 1-4 dwelling units includes a single-family dwelling, a duplex, a multi-family 1-4 family unit dwelling, manufactured housing, a mobile home, a single-family condo or co-op unit, or a second/vacation home. It does not include time share units, RVs, boats or campers.

Exhibit to: