



HOMEOWNERSHIP DIVISION

November 15, 2018

Lender Notice: Banking Department Update and Cash Assistance Mortgage Information

Please note this Lender Notice consists of two topics:

1. Update from our discussions with the Banking Department about the Cash Assistance Mortgage; and
2. Some general information about working on the Cash Assistance Mortgage.

By way of overall update, the program has done very well since the launch of the new structure.

- Reservations have been strong. Rates have been attractive with robust loan volume.
- Home *Flex* Plus (with 3% Cash Assistance) volume is up 25% compared to the prior year (before the Cash Assistance Mortgage structure).
- The total dollar amount of Cash Assistance being paid is up 30% compared to the prior year (before the Cash Assistance Mortgage structure). So far, \$1.7 million in Cash Assistance since July 1, 2018.

Banking Department Update

New Hampshire Housing's July 26, 2018 lender notice stated: "A lender has contacted New Hampshire Housing with the opinion that Participating Lenders who assist with the Cash Assistance Mortgage might be considered "mortgage brokers" under [RSA Chapter 397-A](#) (Licensing of Nondepository Mortgage Bankers, Brokers, and Servicers)." New Hampshire Housing also learned that the lender had raised the issue with the New Hampshire Banking Department. Because of this, New Hampshire Housing reached out to the New Hampshire Banking Department.

During these meetings, New Hampshire Housing provided the Banking Department with information about the entire program, meaning: (i) the Home *Flex* Plus (first mortgage); and (ii) the Cash Assistance Mortgage (second mortgage). We provided them information that this program helps 600-700 households with much needed cash assistance (\$3.5 to \$4.5 million per year). Most importantly, we asserted that the Banking Department could address its concerns via the first mortgage without considering the lenders to be brokers on the second mortgage. The New Hampshire Mortgage Bankers and Brokers Association also reached out to the Banking Department to support this effort. New Hampshire Housing is grateful that the Banking Department provided an opportunity to discuss this issue.

The Banking Department did not provide New Hampshire Housing with any written determination. In our discussions, however, the Banking Department explained that under RSA Chapter 397-A definitions, the lender on the first mortgage *is acting* as a broker on the second mortgage (the Cash Assistance Mortgage). However, the Banking Department also said that to the extent the lender is already licensed as a "mortgage banker," they would not need to be separately licensed as a "mortgage broker" because of their work on the Cash Assistance Mortgages. The Department further explained that those mortgage bankers would need to *report* the Cash Assistance Mortgage as a *brokered loan* on their *call reports* to the Department.

As New Hampshire Housing stated in the earlier lender notice, Participating Lenders should review this issue and make their own decision about what steps need to be taken.

New Hampshire Housing may, working with others, seek legislative clarification about this issue. Our goal is and has been to help borrowers and to limit the processing and regulatory burdens on lenders who are working with these borrowers. Your commitment to this mission is greatly appreciated.

If you have questions for New Hampshire Housing, please contact Ignatius MacLellan, Managing Director, Homeownership, 603.310.9270, imaclellan@nhhfa.org.

If you have questions for the Banking Department, please contact Raeleen Schutte, Director of Consumer Credit, State of New Hampshire Banking Department, 53 Regional Drive, Suite 200, Concord, NH 03301, 603.271.3561, Raeleen.Schutte@banking.nh.gov.

Cash Assistance Mortgage Updates

We are pleased to see that the Home *Flex* Plus program, with the Cash Assistance Mortgage, is working! Reservations have been strong. The process is overall working well. Thank you.

Here are some points we want to remind lenders about when working on the Cash Assistance Mortgages.

1. **Document Preparation for the Cash Assistance Mortgage:** New Hampshire Housing, not the lender, prepares the actual Cash Assistance Mortgage.

When a lender contacts New Hampshire Housing to have the Cash Assistance funds wired to the closing agent (by noon at least two days before closing), New Hampshire Housing emails the lender: a) confirming that the funds have been wired; and b) providing the lender with the actual Cash Assistance Mortgage for the borrower to sign. (The borrower information on the Cash Assistance Mortgage is generated from New Hampshire Housing's loan reservation system. So, please ensure the name and address are accurate in the reservation.)

Lenders should not prepare the Cash Assistance Mortgage. The online version of the Cash Assistance Mortgage should not be used. That form is there just for informational purposes.

2. **Attachments to the Cash Assistance Mortgage:** Lenders must attach the property description as Exhibit A. Other than that legal description, do not attach other documents to the Cash Assistance Mortgage.
3. **Recording the Cash Assistance Mortgage:** Please ensure the Cash Assistance Mortgage is recorded *after* the first mortgage and as a separate mortgage. Please remember, New Hampshire Housing is exempt from recording fees, meaning no recording fees with the Cash Assistance Mortgage.
4. **Title Insurance/Policy:** a) New Hampshire Housing does not want the title insurance to cover the Cash Assistance Mortgage (second mortgage). The policy should only cover the first mortgage. Specifically, please do not list the Cash Assistance Mortgage on Schedule A of the title policy. b) We understand, however, that the agent may want to list the Cash Assistance Mortgage on the policy. The Cash Assistance Mortgage may be listed on Schedule B-2 where other contemporaneously recorded documents are listed.
5. **No Loan Application:** New Hampshire Housing is not requiring and does not want a loan application for the Cash Assistance Mortgage. The Cash Assistance Mortgage happens automatically. If a borrower applies for and qualifies for the Home *Flex* Plus (first mortgage), the borrower automatically qualifies for the Cash Assistance Mortgage. If your system produces a loan application, please do not have the borrower sign and please discard the application.
6. **\$100 Document Preparation Fee:** Our systems have failed to pay lenders the \$100 fee for document preparation with the Cash Assistance Mortgage. We will be correcting this, and we should be sending past payments soon.

If you have any questions, please contact Mike Chadbourne, Director Homeownership Lending, 603.310.9247, mchadbourne@nhhfa.org.