YOU AND YOUR PROPERTY

BY RESIDENTIAL PROPERTY LAWYER
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The Reserve Bank has announced that effective from 1 October 2013, in their role as a regulator of banks, they will require every bank to balance their risk profile by ensuring no more than 10 per cent of new funds lent to residential property owners were lent to purchasers with less than a 20 per cent deposit.

This will have a significant impact on all first home buyers who as a general rule of thumb do not have a 20 per cent deposit. The net effect of this is that only a privileged few will be able to access bank lending if they wish to borrow more than 80 per cent of the purchase price. The banks will save this type of lending for its lowest risk and highest valued customers. It is my suspicion only young professionals with good incomes will be able to have any opportunity to access these types of loans from banks after 1 October 2013.

The effects of this policy will be widely felt. Customers who are borrowing less than 80 per cent of the purchase price of a property will become highly sought after by banks. It is likely to be those types of clients who will be attracted to lenders by way of financial incentives. Contributions to legal fees or other financial incentives will completely dry up for those who are borrowing more than 80 per cent. For these customers, interest rates and low equity insurance premiums will increase.

The natural question to ask is how will first home buyers access the market? The policy the Reserve Bank has implemented is intended to regulate banks, not individual first home buyers. As such, this means first home buyers can access the balance of their funding from sources other than bank lenders. Options available to first home buyers who do not have 20 per cent deposit include:

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1. The "bank" of mum and dad. Parents can either loan, gift or guarantee portions of loans. We have already been involved in several instances where parents have been involved in the purchase of a property for their children.
2. Parents could buy a property on behalf of their children using the equity they have in their own house. The children can then repay the bank loans over a period of time. Once equity has been built up to an appropriate level the house can be transferred to the children. An agreement between the parents and children would be required to confirm the details of the arrangement.

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3. A new market will likely arise for funding deposits. If this money is sourced from non-bank lenders, the bank is under no obligation to enquire as to the source of the funding. The bank's obligation is solely to keep its lending to no more than 80 per cent of the value of the property. Buyers should be careful, as most bank mortgages include a provision prohibiting other mortgages being registered against the title by second lenders. To register a second mortgage would be a breach of the first mortgage.
4. Non bank lenders will enter the market. We have already heard rumours of Australian lenders re-entering New Zealand and offering loans to purchasers with less than a 20 per cent deposit. Interest rates for these lenders are usually higher and fees will also be charged for establishing these facilities. Notwithstanding this, these lenders may become attractive to first home buyers.
5. Purchasers could pool their financial resources with friends or family to buy houses together. It is important any people who do pool their money have a Property Sharing Agreement whereby the basis on which they hold the property is agreed and the basis upon which it will ultimately be sold is also agreed.
6. First home buyers will still be able to access schemes such as Kiwisaver, the First Home Buyers' Subsidy and Welcome Home loans, (depending on the nature of the property they are purchasing). These sums can contribute a reasonable sum which, together with cash, can get first home buyers closer to a 20 per cent deposit. If they can borrow the balance of funds from family members, they may be able to secure their first property and still comply with the bank's requirement of a 20 per cent deposit.

All of the above options involve specialist legal advice. Our team would be very happy to assist anyone who would appreciate advice on their options for purchasing if they do not qualify for a loan under the new policy.

"If you would like a copy of previous articles on property written by Michael email him on michael@homelegal.co.nz."

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