

## Mortgage broker FAQs

### What additional costs should the borrower budget for when buying a property?

- Lawlab legal fees for a standard conveyance are between \$880 to \$1650 incl GST depending on the location and type of property.
- Disbursements (including property searches) vary depending on the location and type of property but generally between \$100 to \$400 for the most common searches in most states.
- Settlement adjustments such as adjustments of rates, water, land tax and other outgoings may increase or decrease the settlement balance payable to the seller depending on whether the seller has paid outgoings in advance or is in arrears.
- Registration fees are payable to the state land registries for the registration of any release of mortgage, the transfer and the new mortgage. These fees vary between states and in most states are between \$100 to \$150 per document, except transfers in QLD that are calculated based on the purchase price and can cost several hundred dollars and more). These fees are often deducted from the loan amount (so less funds are available at settlement).

- Stamp (transfer) duty is calculated at a rate based on the purchase price and a stamp duty calculator can be found on each state revenue office website.

**Contact lawlab for a breakdown of estimated costs for your client's property.**

### When a borrower is intending to buy a property using their SMSF, what name should go on the contract?

A SMSF borrowing to buy real estate may do so if they comply with the limited recourse borrowing arrangements. One of these requirements is that the property is purchased by and held on trust by a separate trust (a bare trust) and the SMSF is the sole beneficiary of the trust. The buying entity in the contract should be the trustee of the bare trust, e.g. 123 Smith Street Pty Ltd as trustee for the 123 Smith Street Bare Trust.

**Refer to lawlab's guide titled 'Super funds borrowing to buy real estate' for further information.**

### In what circumstances can a buyer terminate a contract if they are unable to obtain finance?

If a contract is conditional upon finance approval and the buyer is unable to obtain finance before the finance approval due date then the buyer may terminate the contract by giving notice to the seller and the buyer is entitled to a full refund of any deposit paid.

If a contract is not conditional upon finance approval and the buyer is unable to obtain finance to complete the contract (which may occur for example in an off the plan contract where a valuation of the completed property does not meet the lending requirements) then the buyer usually has no right to terminate the contract. In this situation the buyer should seek legal advice as to their best course of action. If the buyer is unable to complete the contract then they will be in breach of the contract and the seller may have rights against the buyer including the right to terminate the contract, keep the deposit and sue the buyer for damages.

## When is stamp duty payable?

State	Existing properties	Off the plan properties
NSW	3 months from contract date	The earlier of 3 months from settlement or 15 months from the contract date
QLD	30 days from the contract date or 30 days from the date the contract is unconditional (e.g. finance approval)	30 days from the date the contract is unconditional (e.g. the plan has registered)
VIC	30 days from the settlement date	30 days from the settlement date
WA	30 days from assessment (must be lodged for assessment within 2 months of contract date)	3 years from assessment (must be lodged for assessment within 2 months of contract date)

SA	2 months from the date the contract is unconditional (e.g. finance approval)	2 months from the date the contract is unconditional (e.g. the plan has registered)
NT	60 days from the date the contract is unconditional (e.g. finance approval)	60 days from the date the contract is unconditional (e.g. the plan has registered)
ACT	90 days from contract date	The earlier of 90 days from settlement or 15 months from the contract date
TAS	3 months from the settlement date	3 months from the settlement date

A borrower will need to pay stamp duty by settlement as the lender will require the transfer documents to be stamped for registration.

**Refer to lawlab’s guides titled ‘Transfer duty & grants FAQ’ for further information.**

## What can a broker do to make sure the conveyance goes smoothly

- Check that the borrower has sufficient additional funds (e.g. for legal costs, disbursements, settlement adjustments, registration fees and stamp duty)
- Check that the buying entity described in the contract is same as borrowing entity (except for SMSFs)
- Application for finance submitted as soon as contract is exchanged
- Check that the loan and mortgage documents are signed and witnessed correctly
- Check that the transfer and mortgage match
- Obtain an authority from the borrower for it’s lender to draw on the borrower’s account for additional funds required

**If you would like printed copies of this guide please contact lawlab on 1800 529 522 or email conveyancing@lawlab.com.au**

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