



— RESIDENTIAL · GUIDE

Refinancing or switching lenders

What your lawyer does on a refinance, why the existing charge has to be discharged, and what it costs.

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Refinancing sounds like a purely financial exercise between you and a bank, so people are sometimes surprised that a lawyer is involved at all. The reason is simple: a mortgage is registered against the title to your home, and changing it means changing what is registered on title. That is legal work. Here is what actually happens when you refinance or move your mortgage to a new lender, and why.

What "refinancing" really means on title

Your current mortgage is registered as a charge against your property. When you refinance, one of two things is happening:

- Same lender, new terms: sometimes your existing lender simply amends your mortgage, which may need little or no registration work.
- New mortgage or new lender: more often, a new mortgage is being put in place, and if you are switching lenders, your old lender's charge has to come off title and the new lender's charge has to go on.

That second scenario is where the legal work lives, and it is the common one when people talk about refinancing or switching lenders.

Why the old charge has to be discharged

A new lender almost always wants to be in first position on your title, meaning their mortgage ranks ahead of any other charge. They will not advance the money until they are confident they will have that priority. So the old lender's mortgage has to be paid out and discharged, removed from title, and the new lender's mortgage registered in its place.

This is the heart of the transaction:

- Your lawyer obtains a payout statement from your existing lender.
- The new lender advances the new mortgage funds to your lawyer.
- Your lawyer uses those funds to pay off and discharge the old mortgage.
- The new mortgage is registered against your title.

- Any remaining funds, if you are borrowing more than you owe, are dealt with according to your instructions.

Just like on a sale, the existing lender can be slow to process a discharge, so this is started early.

What your lawyer does

When you refinance, your lawyer is usually acting on the new lender's instructions as well as for you. The work typically includes:

- Reviewing title to confirm ownership and identify everything registered against the property that the new lender needs dealt with.
- Receiving and following the lender's instructions, which set out the conditions that must be met before the money is advanced.
- Preparing and registering the new mortgage.
- Obtaining the payout and discharge of the old mortgage and any other charges the lender requires removed.
- Arranging title insurance if the lender requires it, which most do.
- Meeting with you to sign the mortgage and related documents and explaining what you are signing.
- Reporting to you and the lender after closing.

What it costs

A refinance has its own costs, separate from the interest savings or the funds you are accessing. These generally include legal fees, the costs of registering the discharge and the new mortgage, title insurance if required, and any lender or administrative charges. There can also be a penalty from your existing lender for breaking your current mortgage early, which is a matter between you and that lender and can be significant depending on your mortgage. We do not quote figures here because they vary, but ask for an estimate up front so you can weigh the total cost against the benefit you are refinancing to get.

A practical point: sometimes a lender offers to cover some or all of the legal and registration costs of a switch as an incentive. If yours does, find out exactly what is covered before you assume the refinance is free.

A few things to confirm before you refinance

- The early payout penalty on your current mortgage. This is often the biggest hidden cost. Ask your current lender what it will be before you commit, because it can change whether the refinance makes sense.
- What the new lender requires. The lender's instructions drive the transaction. The sooner your lawyer has them, the smoother it goes.
- Whether other charges need to come off. Lines of credit and second mortgages registered against your home may need to be discharged or rearranged. Tell your lawyer about everything on title.

- Your timeline. Discharges take time. If you are trying to hit a rate deadline, build in room.

Bottom line

Refinancing or switching lenders is legal work because it changes what is registered against your home: the old mortgage comes off title and the new one goes on, and the new lender will not advance funds until it is confident of its priority. Your lawyer handles the discharge, the registration, and the lender's conditions. Before you commit, get the full cost picture, especially any penalty for breaking your current mortgage, so the savings are real once everything is counted. Talk to us early and we will run it.

This is general information about refinancing in Ontario, not legal or financial advice for your situation. Whether a refinance makes sense depends on your numbers. Talk to us, and your mortgage advisor, before you proceed.

Questions about your own situation? Book a free consultation at lucianolegal.com/contact.html, call 647-479-4585, or email info@lucianolegal.com.

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