



Repair and Storage Liens Act, R.S.O. 1990, c. R.25 proposed amendments:

CLA and Automotive Financing in Canada

[Canadian Lenders Association](#) represents and advocates for over 300 companies across Canada that participate in SMB, consumer, home, equipment, automotive and mortgage financing. We host the [Automotive Financing Roundtable](#) which has bank and non-bank member companies.

The CLA plays a supportive role in advocating for better regulatory practices, transparency, and fairness in all types of financial transactions and agreements. By leveraging their expertise in lending and financial regulations, the CLA can contribute to broader efforts to reform or improve legislation like the RSLA to prevent abuses and protect the interests of all parties involved.

Amendments Overview

This document outlines proposed amendments to the Repair and Storage Liens Act (RSLA), focusing on definitions, lien amounts, priority of non-possessory liens, and assignment of liens. Additionally, it proposes changes to the Ontario Regulation 427/15 concerning the determination of fair value for towing and storage.

These amendments aim to clarify the scope of repairs covered under the Act, ensure fairness in lien amounts, and establish clear priorities for liens, particularly when there are competing claims. They also seek to standardize the determination of fair value for services like towing and storage, providing more predictability and transparency in the process.

1. Definition of "Repair"

- **Current Definition:** The term "repair" encompasses expenditures of money or the application of labor, skill, or materials to an article for altering, improving, restoring its properties, or maintaining its condition. This includes transportation for repair, towing, and salvage.
- **Proposed Amendment:** Narrow the definition of "repair" to exclude "improvements" and limit it to necessary or reasonable repairs following a vehicle's breakdown or accident.

["repair" means an expenditure of money on, or the application of labour, skill or materials to, an article for the purpose of altering, improving or restoring its properties or maintaining its condition and includes,

(a) the transportation of the article for purpose of making a repair,

(b) the towing of an article,

(c) the salvage of an article; ("réparation")]

2. Amount of Lien (Section 3 (2.1))

- Current Provision: The RSLA lien amount can include additional fees such as registration fees, insurance verification fees, admin fees, and interest charges.
- Proposed Amendment: Limit the lien amount to the actual repair costs, excluding any additional fees. This aligns with the Consumer Protection Act, 2002, specifying that the repairer's lien should not exceed authorized charges for the repair and any maximum amount authorized by the person requesting the repair. (see case law *2373409 Ontario Corporation cob Capital Trust Financial v Go To Loans Inc.*)

[Amount of lien

(2.1) In cases where Part VI of Consumer Protection Act, 2002 applies, the amount of a repairer's lien under subsection (2) shall not exceed,

(a) the amount that the repairer is authorized to charge for the repair under subsection 58 (2) and section 64 of the Consumer Protection Act, 2002, if those provisions apply to the repairer; and (b) the maximum amount authorized by the person who requested the repair, if section 56 of the Consumer Protection Act, 2002 applies to the person. 2006, c. 19, Sched. G, s. 10 (1).]

3. Priority of Non-Possessory Liens (Section 7 (3))

- Current Provision: Non-possessory liens are given priority over the interests of any other person except for other lien claimants under Part I, with priority determined by the rules governing the distribution of proceeds under section 16.
- Proposed Amendment: Non-possessory liens should not have priority over previously registered liens under the Personal Property Security Act (PPSA) supported by a Security Agreement.

[Priority

(3) A non-possessory lien has priority over the interest in the article of any other person other than a lien claimant who is claiming a lien under Part I, and, where more than one non-possessory lien is claimed in the same article, priority shall be determined according to the same rules of priority as govern the distribution of proceeds under section 16.]

4. Assignment of Lien (Section 29)

- Current Provision: Liens can be assigned by a written instrument.
- Proposed Amendment: Assigned liens should become subordinate to any previously registered lien under the PPSA supported by a Security Agreement. The assignment must be registered under the Act with a financing change statement, indicating the assignment in the "General Collateral Description".

[Assignment of lien

29 (1) A lien claimant may assign the lien claimant's right to a lien by an instrument in writing.]

5. Determination of Fair Value (O. Reg. 427/15: Section 1 (1))

- Current Provision: Fair value determination includes considering the repairer's costs and profit among other factors.
- Proposed Amendment: Introduce a predetermined schedule of rates for towing and storage, varying by jurisdiction, to guide the determination of fair value.

[Determination of fair value

1. (1) In determining the fair value of the repair under paragraph 2 of subsection 3 (1) of the Act or of the part of the repair under paragraph 3 of subsection 3 (1) of the Act, the following factors shall be considered and may be included:

- 1. The repairer's fixed costs, variable costs, direct costs and indirect costs.**
- 2. The repairer's profit.**
- 3. Any other relevant factors.]**



About the Canadian Lenders Association

The Canadian Lenders Association (CLA) supports the growth of bank and non-bank companies that are in the business of lending. We also support lending adjacent sectors including BaaS, Core Banking, Open Banking, DE&I and Sustainable Finance Frameworks. We currently represent and advocate for over 300 companies across Canada that participate in SMB, consumer, home, equipment, automotive and mortgage financing. *The CLA does not represent the Payday lending sector.*

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