



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

### *CLA and Automotive Financing in Canada*

The [Canadian Lenders Association](#) (CLA) represents and advocates for over 320 companies across Canada that participate in SMB, consumer, home, equipment, automotive and mortgage financing. We host the [Automotive Financing Roundtable](#) which includes both bank and non-bank member companies.

The CLA plays a supportive role in advocating for better regulatory practices, transparency, and fairness in financial transactions and agreements. By leveraging our members' 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.
- Exact language used in RSLA:

*["repair" means an expenditure of money on, or the application of labour, skill or materials to, an article for the purpose of altering 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")]*

- **Proposed Amendment:** We suggest strongly that a distinction is drawn between essential and cosmetic repairs. As a community representing lenders on both sides of this issue, we agree that the following list that delineates essential from non-essential repairs be added to the Act to eliminate abuses.

### **Essential Car Repairs**

1. **Engine Repairs**
  - Timing belt/chain replacement
  - Spark plug replacement
  - Oil and filter changes
  - Coolant system repairs (radiator, hoses)
  - Fuel system repairs (fuel pump, fuel filter)
  - Replacement engine
2. **Brake System Repairs**
  - Brake pad/shoe replacement
  - Brake rotor/drum resurfacing or replacement
  - Brake fluid flush
  - Brake line repairs
3. **Transmission Repairs**
  - Transmission fluid change
  - Clutch replacement (manual transmissions)
  - Transmission rebuilds or replacements
4. **Suspension and Steering Repairs**
  - Shock absorber/strut replacement
  - Wheel alignment
  - Power steering fluid replacement
  - Steering rack repairs
5. **Electrical System Repairs**
  - Battery replacement
  - Alternator replacement
  - Starter motor replacement
  - Fuses and wiring repairs
6. **Exhaust System Repairs**
  - Muffler replacement
  - Catalytic converter replacement
  - Exhaust pipe repairs
7. **Safety and Legal Compliance**
  - Headlight, taillight, and signal light replacements
  - Windshield wiper replacement

- Airbag system repairs
- Seatbelt repairs
- Tires and rim \* (winter and replacement)
- Rustproofing
- Backup camera

\* *This does not apply to tire replacement for custom wheels.*

### **Non-Essential or Cosmetic Car Repairs**

#### **1. Exterior Enhancements**

- Custom paint jobs
- Vanity Vinyl wraps
- Body kits and spoilers
- Custom wheels and rims

#### **2. Interior Enhancements**

- Custom upholstery (leather seats, custom stitching)
- Dashboard customization (carbon fiber, wood trim)
- Upgraded sound systems (amplifiers, subwoofers)
- Ambient lighting

#### **3. Performance Upgrades**

- Aftermarket exhaust systems
- Performance air filters and intakes
- Suspension lowering kits
- Turbocharger or supercharger installations

#### **4. Technology Upgrades**

- In-car entertainment systems (DVD players, gaming consoles)
- Advanced GPS/navigation systems
- Custom gauge clusters
- Remote start systems

#### **5. Miscellaneous Enhancements**

- Window tinting
- Custom grilles
- Underbody neon lights
- Decals and stickers

### **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.

- Exact language used in RSLA:

**[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).]*

- **Proposed Amendment:**

- o Limit the lien amount to the actual repair costs, excluding any additional fees. Align 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*).
- o Set a cap on the assignment fee that can be added to the debt, consulting industry experts to determine a reasonable amount.
- o Require RSLA lenders for loans over a certain amount to notify prior secured lenders to prevent surprises.

### 3. 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.
- Exact language used in RSLA:

**[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.]*

- **Proposed Amendment:** Introduce a predetermined schedule of rates for towing and storage, varying by jurisdiction, to guide the determination of fair value. Establish a schedule of recovery charges and prohibit any recovery charges from related companies.

### Grandfathering Provision:

To ensure fairness and allow RSLA funders adequate time to adjust their practices in accordance with the proposed amendments, the CLA's Automotive Roundtable recommends allowing for a grandfathering period of *one year* to be implemented. During this period, finance companies currently engaged in

activities that may be affected by the amendments to the Repair and Storage Liens Act (RSLA) will be permitted to continue such activities under the existing regulations. This period aims to facilitate a smooth transition and minimize disruption to the industry while ensuring compliance with the updated legislation.

Any RSLA liens in place or registered before the effective date, should be enforceable under the historical terms. Changing the enforceability terms after liens have been filed would significantly impact these lenders, so maintaining the original terms for existing liens ensures consistency and fairness.



### **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.*

<https://www.canadianlenders.org/automotive-lending-roundtable/>