

SECTION 2

COMMERCIAL LIENS ACT



Module 2 — When a Commercial Lien Arises

Understanding the Legal Foundation of Lien Rights for Towers & Repairers

Opening Narration

Narrator:

Before you can enforce a lien, send notices, or hold a vehicle, you must know whether a lien legally exists in the first place.

This module explains the conditions under which a commercial lien arises under the **Commercial Liens Act (CLA)** — and when it does not.

For towers and repairers, this knowledge ensures that you assert your rights confidently while remaining fully compliant with the law.

Lesson 1 — What Creates a Lien Under the CLA?

Under the CLA, a commercial lien arises when:

A person provides tow, repair, storage, transportation, or other value-added services to goods (such as a motor vehicle) at the request of a person who had the authority to request those services.

There are three key components:

✓ 1. A service was performed

Examples:

- Towing
- Accident recovery
- Storage
- Repairs or diagnostics
- Transporting goods
- Specialized services that add value or incur expense

✓ 2. The service was performed in relation to “goods”

In our industry, this almost always means a **motor vehicle**, trailer, motorcycle, boat-on-trailer, RV, or similar unit.

✓ 3. The person requesting the service had legal authority

This is also called **owner’s authority**, and we will break it down shortly.

When all three elements are present, a lien exists **automatically**

Lesson 2 — Who Can Create a Lien?

For Tows

A tow lien arises when you tow or store a vehicle:

- At the direction of police
- At the request of the owner
- At the request of a driver with authority
- At the request of a property owner (trespass / private parking)
- At the request of ICBC or another insurer
- After an accident when the owner is absent (common scenario)

For Repairers

A repairer lien arises when you:

- Diagnose a problem
 - Perform repairs
 - Install parts or tires
 - Provide mechanical, electrical, or EV-related work
 - Store the vehicle while awaiting repair
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Lesson 3 — Understanding "Owner's Authority"

Narrator:

A lien is only valid if the person authorizing the tow or repair had the **legal authority** to do so.

Under the CLA, authority can come from:

✓ 1. The registered owner

Clear, simple, automatic.

✓ 2. A person in lawful possession

Examples:

- The insured driver
- A family member driving the vehicle
- A company employee driving a fleet vehicle
- A lessee
- A rental customer

✓ 3. A person with apparent authority

This was a major clarification under the CLA.

A lien may still be valid even if the person requesting the tow or repair:

- Is not the registered owner
- Does not hold legal title

As long as you had a reasonable basis to believe they had authority.

Examples:

- Driver calls a tow operator after an accident

- Driver authorizes repairs at a shop
- Parent authorizes tow of adult child's vehicle left on their property
- Property manager authorizes removal of an abandoned vehicle

✓ 4. Police acting under lawful authority

Police hold lawful authority to order a tow when:

- A vehicle is abandoned
 - A vehicle is left blocking traffic
 - A vehicle is part of an investigation
 - A driver is impaired or prohibited
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Lesson 4 — When a Lien Does *Not* Arise

Narrator:

There are situations where a lien does not automatically arise or may be invalid. These cases are important to understand:

✗ 1. Towing without lawful authority

Example:

A vehicle is removed from private property without proper signage or authorization.

✗ 2. Unauthorized repairs

If repairs were performed without the owner's knowledge or consent (beyond reasonable diagnostics), the lien may be challenged.

✗ 3. When possession is lost

Possession is a cornerstone of the lien.

If you release the vehicle voluntarily, the lien is extinguished.

✗ 4. When the debtor did not request or authorize the service

Example:

A neighbour asks a tow to remove a vehicle they don't own.

✗ 5. Police require the vehicle to be released

Under certain circumstances, law enforcement may require the release of a vehicle, even if a lien exists.

Lesson 8 will cover this in detail.

X 6. Work performed under a warranty or insurance without customer obligation

If the customer owes nothing, no lien exists.

X 7. When the amount being claimed is unreasonable

If a lien amount is inflated or unsupported, the lien may be deemed invalid.

Lesson 5 — Lien Arises Automatically:

The lien arises **as soon as**:

- The service is performed, and
- Authority exists

However, solid documentation helps protect you in disputes, including:

- Tow sheets
- Work orders
- Diagnostics reports
- Storage logs
- Photographs
- Customer authorizations
- Police tow authorizations
- Email/text confirmations

Good documentation strengthens your lien and makes enforcement easier.

Lesson 6 — Examples Towers Will Encounter

Example 1 — Accident Tow

Driver is unconscious.
Police authorize the tow.
You now have a valid lien.

Example 2 — Private Property Tow

Property manager signs a tow release.
Lien arises as soon as you tow the vehicle.

Example 3 — Parking Lot Breakdown

Owner authorizes tow to a shop.
Lien arises upon towing.

Example 4 — Unauthorized Caller

A random neighbour calls a tow truck because a car is “blocking their driveway.”
If the caller has no authority, **no lien arises**.

Lesson 7 — Examples Repairers Will Encounter

Example 1 — Customer authorizes repair

Valid lien.

Example 2 — Only diagnostics were performed

Lien exists for diagnostic fees.

Example 3 — Owner disputes the estimate

Lien still exists for diagnosis and authorized work.

Example 4 — Vehicle brought in by driver, not registered owner

Repairer has valid lien unless there is evidence of fraud or deception.

Example 5 — Unauthorized repairs

If the owner never agreed to the work, the lien may be invalid.

Lesson 8 — Summary

Narrator:

To recap:

- A commercial lien arises automatically when services are performed at the request of someone with lawful authority.
- Authority may be actual, implied, or apparent.
- The lien applies to towing, repairs, storage, and transport.
- A lien may be invalid if services were unauthorized, authority was lacking, or possession is lost.
- Good recordkeeping protects your lien and prevents disputes.

Understanding these rules is essential before we move on to possession, notice, priority, and sale.