

## SECTION 2 — COMMERCIAL LIENS ACT



### Module 5 — Lien Priority Under the Commercial Liens Act

*Who Gets Paid First — Towlers? Repairers? Banks? Leasing Companies?*

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#### Opening Narration

**Narrator:**

When a vehicle is financed, leased, or used as collateral, the bank or lender has a registered PPSA interest.

Under the Commercial Liens Act (CLA), towlers and repairers may have priority over those lenders — but priority depends on following the rules.

This lesson explains:

- How lien priority works
- When towlers outrank lenders
- When lenders outrank towlers
- How repairer liens differ from tow/storage liens
- How notice affects priority
- Common real-world priority scenarios

Understanding priority is essential for knowing when you can hold, enforce, or sell a vehicle — and when you cannot.

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## Lesson 1 — What Is Lien Priority?

Priority determines **who gets paid first** out of:

- Sale proceeds
- Settlement funds
- Insurance payouts
- Court-ordered distribution

Under the CLA, **priority is not automatic**.

It depends on:

1. The type of lien
2. Whether possession was maintained
3. Whether notice was properly sent
4. The timing and nature of secured lenders' interests

This means a tow or repairer may sometimes outrank a bank — but not always.

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## Lesson 2 — Two Main Types of Liens Under the CLA

There are two broad lien categories relevant to the industry:

### 1. Tow & Storage Liens

Arise when services relate to:

- Towing
- Accident recovery
- Removal from private property
- Storage
- Transportation

### 2. Repairer Liens

Arise when services relate to:

- Mechanical or electrical repair
- Body work
- Diagnostics

- Installation of parts
- Specialized EV repairs
- Value-added labour or materials

These two lien types have **different priority rules**, which we'll explain next.

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## Lesson 3 — Priority Rules for Tow & Storage Liens

Under the CLA, **tow and storage liens generally have strong priority**, but only if:

✓ **Possession is maintained**

✓ **Proper notice is given**

✓ **The charges are reasonable**

### **Tow/Storage Liens Often Outrank Secured Lenders When:**

1. The tow was necessary to:
  - Clear a roadway
  - Respond to an accident
  - Comply with police direction
  - Remove an abandoned vehicle
  - Protect public safety
2. The storage occurred because the tow was the first lawful custodian.

### **General Principle:**

The first person to take lawful possession and provide necessary services often has priority over earlier registered lenders.

However: **Notice to lenders is required** to preserve this priority.

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## Lesson 4 — Priority Rules for Repairer Liens

Repairer liens have a different legal flavour:

## Repairer Liens Often Outrank Secured Lenders When:

- The repairs **increase the value** of the vehicle
- The lien amount relates directly to those repairs
- Possession is maintained
- Notice is properly given

## Repairer Liens Are Vulnerable When:

- Repairs were unauthorized
- Estimates were not agreed upon
- The amount being claimed is unreasonable
- Secured lenders dispute the necessity of the repairs
- Possession was lost before payment

Repairer liens depend heavily on:

- **Documentation**
  - **Customer authorization**
  - **Clarity of charges**
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## Lesson 5 — When Secured Lenders Outrank Towers or Repairers

A bank, leasing company, or finance company may have priority if:

### ✓ You fail to send notice

Failing to notify secured lenders is one of the most common (and fatal) mistakes.

### ✓ Charges are unreasonable or unsubstantiated

Courts may limit or invalidate inflated storage or repair amounts.

### ✓ Possession is lost

Possession = power.

Lose possession → lose priority.

### ✓ The lender's security interest predates your lien and is not displaced by service value

Example:

A repair shop installs aftermarket rims without authorization — lender likely outranks.

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## Lesson 6 — Priority in Mixed Cases (Tow + Repair)

**How priority works in these situations:**

✓ **Tow/storage lien typically ranks first**

Especially in accident or safety situations.

✓ **Repair lien may rank second**

If repairs added value and were authorized.

✓ **Lender ranks third**

Unless notice failures elevate the lender higher.

✓ **Multiple liens can be stacked**

The CLA allows combined lien claims.

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## Lesson 7 — Priority Scenarios: Real-World Examples

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### **Scenario 1 — Accident Tow (Police Directed)**

- Vehicle is financed
- Police direct tower to remove the vehicle
- Tower stores it
- Tower sends notice to owner and lender

**Priority outcome:**

Tower has priority over the lender.

Reason: Tow was necessary, possession was maintained, and proper notice was sent.

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## **Scenario 2 — Repair Shop Finds Out Vehicle Is Leased After Repairs Begin**

- Customer has authorized repairs
- Shop performs work
- PPSA search later reveals a leasing company
- Shop sends notice immediately

### **Priority outcome:**

Repairer may retain priority for authorized repairs.

Lender retains priority over unapproved or unnecessary repairs.

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## **Scenario 3 — Tow Operator Fails to Send Notice**

- Vehicle is financed
- Tow and storage charges accumulate
- No notice is sent
- Lender demands release

### **Priority outcome:**

Lender outranks the tower.

Tower may have to release the vehicle without payment.

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## **Scenario 4 — Vehicle Is Repossessed from Lot Without Objection**

A bailiff retrieves a financed vehicle, and staff allow removal.

### **Priority outcome:**

Tower's lien is extinguished.

Lender takes priority by default.

Possession was lost.

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## **Scenario 5 — Unauthorized Repairs**

Customer did not authorize an engine rebuild.

**Priority outcome:**

Lien for unauthorized repairs is invalid.  
Lender outranks the repairer.

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**Scenario 6 — “Value-Added” Repairs**

Repairer installs new transmission with proper authorization.

**Priority outcome:**

Repair lien outranks lender, because the repairs increased asset value.

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## Lesson 8 — How to Maximize Your Priority Rights

**✓ Always perform a PPSA search**

Before sending notices.

**✓ Send notice immediately**

To owner and lenders.

**✓ Keep possession secure**

Possession = priority.

**✓ Document all services clearly**

This is your evidence.

**✓ Keep charges reasonable**

Courts do not protect inflated claims.

**✓ Train staff on removal requests**

Especially bailiff activity and repo situations.

**✓ Consult counsel for complex cases**

Especially disputes with major lenders.

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## Lesson 9 — Summary

**Narrator:**

To recap:

- Priority determines **who gets paid first**.
- Towlers and repairers often outrank secured lenders — *if* they follow the rules.
- Possession + Notice = Priority.
- Failure to send notice is the most common way priority is lost.
- Tow liens and repair liens have different strengths and vulnerabilities.
- Real-world scenarios depend on authorization, documentation, and timing.

Understanding priority is essential before we move into **vehicle sale procedures**, which require legal precision.

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