Liens

A Guide to the Repair and Storage Liens Act

What is the purpose of the Repair and Storage Liens Act?

The Repair and Storage Liens Act (RSLA) is an act which revises the law relating to the repair and storage of goods. The act sets out the rights of repairers and storers as well as the rights of individuals whose goods have been repaired and stored.

How does a repairer or storer ensure payment for repair or storage services?

A repairer or storer has a lien against the goods repaired or stored equal to the cost of the services. The RSLA gives the repairer or storer (the lien claimant) the right to retain possession of the article until payment is received. If the owner of the article fails to pay the lien claimant within a specified amount of time, the lien claimant has the right to sell or otherwise dispose of the article to satisfy the amount of the lien. The lien claimant can sell the article, keep the article or donate the article to charity in accordance with the procedures set out in the RSLA.

What if a lien claimant returns the goods to the owner?

In some circumstances a lien claimant may wish to return the goods to the owner before being paid for the repair or storage services. A lien claimant may also repair goods on-site at a factory or at a home. In both cases, the act provides that the lien claimant may have "non-possessory" lien rights. The lien claimant must obtain "a signed acknowledgement of indebtedness" (i.e. an invoice for the services performed signed by owner) from the owner stating that the owner agrees that an amount is owing for repair or storage services. A person who signs the acknowledgement is free to dispute the amount owing in any court proceeding that may occur at some future date. The lien claimant who gives up possession of an article before being paid is a "non-possessory" lien claimant. In addition to obtaining a signed acknowledgement of indebtedness, a non-possessory lien claimant must register a document called a "Claim for Lien" in the Personal Property Security Registration (PPSR) system in order to fully protect a lien interest in the article.

The RSLA allows a non-possessory lien claimant who remains unpaid to have the sheriff seize the article from the owner in order to sell or otherwise dispose of it to satisfy the lien. The lien claimant must give the sheriff a copy of the registered claim for lien and a direction to seize form (the direction to seize form is available in the sheriff's office). A non-possessory lien claimant has the same options as a possessor lien claimant - sale, retention or donation to charity in accordance with the procedures outlined in the act.
**What is the PPSR system?**

The PPSR system records and reproduces information concerning non-possessory liens in personal property as well as information concerning consumer and business loans where personal property is used as collateral to secure loans. (For further information about registering and searching when personal property is used as collateral to secure loans, see the consumer's guide, *Personal Property Security Registration System*).

**How does the PPSR system work?**

Non-possessory lien claimants register "notices" of their liens in the PPSR system by completing and submitting a "claim for lien" to the Personal Property Registration Branch of the Ministry of Government Services. The information is then recorded by the branch in a computer file and is available for searching by those who may wish to buy the personal property of another or to lend money on the security of someone else's personal property.

**What information is included in a Claim for Lien?**

Since the claim for lien is a notice, only essential information relating to the lien is required. This includes: the owner's name, address and date of birth, the lien claimant's name and business address, a description of the goods repaired or stored (including any motor vehicle identification number) and the amount of the lien.

**How important is the name and date of birth on the claim for lien?**

There are now approximately five million registrations in the PPSR system relating to information on consumer and business loans where goods and other personal property are used as collateral to secure loans. The key identifiers for individual borrowers and owners of repaired or stored goods are the name and date of birth. The name must include the first given name, the initial of the second given name (if any) and the surname.

**How long is the information retained in the PPSR system?**

Lien claimants can select a registration period of one, two or three years. When a lien is paid, the lien claimant is required to register a "discharge" within 30 days. If a lien claimant fails to do so, the owner can send the lien claimant a written notice requiring the lien claimant to pay the owner $100 and any damages resulting from the failure to discharge. The branch will remove a discharged registration 60 days later. If no discharge is registered, the registration will remain in the PPSR system until the end of the registration period.

**Why should you do a search in the PPSR system?**

Before buying a used car or other used goods, consumers should do a search of the PPSR system to protect themselves financially. For example, a search may indicate that a seller or previous owner of a car has had it repaired and that the amount of the repairer's lien remains outstanding. This could mean the lien claimant has rights in the car that the consumer intends to buy. If so, the search results will enable the consumer to contact the lien claimant to confirm whether or not the lien has been paid and to obtain further details. If the lien has been paid, the buyer should insist that the seller require the lien claimant to promptly register a discharge before the sale is completed. However, if there is an outstanding lien, the consumer may either decide against completing the sale or require the seller to arrange with the lien claimant to pay the lien and to have a discharge registered.

If a lien claimant has a lien against the used car and a search is not done, the car could later be seized if the owner fails to pay the lien. (Note: a search is not required when buying a new car or other new goods from a dealer. Consumers also do not need to...
search when buying a used car from a registered motor vehicle dealer in Ontario unless the car is worth more than $15,000. In that case, a VIN search should be done to determine whether any previous owner gave a lender rights in the car.)

**Should a potential repairer or storer do a search?**

A person contemplating repairing or storing an article of personal property does not need to do a search. A possessory lien claimant has the highest priority interest in the article. If a lien claimant gives up possession of an article, he or she will rank behind any subsequent lien claimants.

**Where are searches done?**

Searches can be done in Toronto at 375 University Avenue, 3rd Floor. Outside Toronto, contact your local land registry office to find the closest office where you can do a search. You may also submit a search request by mail, using an inquiry request form available at any of the offices that handle PPSR searches.

**If you are buying a used car, what searches should you do?**

A search should be done against both the vehicle identification number (VIN) and the name of the business or individual selling the car. As well, it is wise to search the names of any previous owners. If you have an approved credit card, you may conduct a search over the telephone by calling 1-800-267-8847, in Toronto 325-8847. TDD users dial 1-800-461-8866, in Toronto 326-8866.

**How do you do a VIN search?**

The VIN is the identification number affixed to the car by the manufacturer and is usually located on the dashboard. The VIN should be obtained directly from the car as the VIN set out on the vehicle permit may be incorrect. If there is any difference between the two numbers, a search should be done against both. A searcher may select an identical VIN search or similar VIN search. The identical VIN search will disclose only those registrations which set out the exact VIN searched. The similar VIN search will disclose registrations with a VIN which the PPSR system determines is similar in addition to any registrations with the exact VIN.

**Used Vehicle Information Package?**

Private sellers of used motor vehicles are required to purchase a Used Vehicle Information Package (UVIP) and make it available to potential buyers. Once sold, to transfer the vehicle registration, the UVIP must be presented at the Driver and Vehicle Licence Issuing Office. The UVIP contains a lien search for the vehicle.

The UVIP can be obtained by calling the Ministry of Government Services at 1-800-267-8847, in Toronto 325-8847. Visa and Mastercard are accepted. The package can also be obtained from the Ministry of Transportation.

**What information is required to do a search against a business name?**

The legal name of the business must first be determined. For example, if the business is a corporation, the incorporated name should be searched. In the case of a partnership, a search should be done against the registered partnership name. If a company or individual carries on business under a trade name, it is also wise to search against the trade name. A search may disclose some registrations which set out business names which the PPSR system determines are similar to the name search in addition to any registrations with the exact name.

**What information is needed to search an individual's name?**

There are two types of individual name searches. You may request that either an individual specific or an individual non-specific search be done. You must supply the first
given name, initial of second given name (if any) and surname and date of birth of an individual to do a specific search. This information should be verified against an official document such as a birth certificate, change of name certificate or certificate of Canadian citizenship. A non-specific search requires only the first given name and surname. This search should be done when a consumer does not know the individual's birth date or second given name, or when a consumer wants to lessen the risk of missing a registration due to an error. The results for both types of search will disclose only registrations which set out the exact name (and birth date for a specific search) which is searched.

**What if there is a dispute as to the amount of the lien?**

There is a special procedure in the act that allows an owner who disputes the amount of the lien to have the goods returned. The owner must make an application to court and pay the full amount in dispute into court. In the application, the owner may indicate the amount (if any) which the owner believes is owing and which the owner is willing to offer in payment to the lien claimant. The court will then issue an initial certificate to the owner. The owner must give the lien claimant the initial certificate.

If the lien claimant believes that the amount paid into court is not the full amount owing, the lien claimant must, within three days of receiving the initial certificate, file a notice of objection with the court indicating what the full amount owing is. The owner, upon payment into court of the additional amount, will be given a final certificate to give the lien claimant. The lien claimant must immediately release the article to the owner and then accept the amount offered in settlement by the owner or commence a law suit for the full amount.

If a lien claimant does not return the article or file a notice of objection within three days of receiving the initial certificate or does not release the article immediately upon receiving the final certificate, the owner can have the sheriff or bailiff seize the article. If the lien claimant fails to accept the amount offered in settlement by the owner or commence an action within 90 days from the date that the owner regains possession of the article (either because the sheriff or bailiff has seized it or it has been voluntarily returned), the owner can have the money paid into court returned.

This procedure enables the owner to regain possession of the article while at the same time the money paid into court protects the lien claimant's claim. The dispute no longer centres around the article; it centres around the full amount paid into court.

In addition to this special procedure, there is a general provision in the act permitting an application to the court to resolve disputes arising out of the repair or storage of articles. If an owner chooses to proceed under the special procedure, however, the general provision cannot be used to resolve the same dispute.

**Can an owner still get the article back after the lien claimant gives notice that the article will be sold?**

At any time before an article is sold, the owner can pay the lien claimant the amount of the lien, including the lien claimant’s reasonable expenses, and get the goods back from the lien claimant.

**What if the lien claimant does not sell or otherwise dispose of the article in accordance with the provisions in the RSLA?**

If a lien claimant does not comply with the rules for sale, retention or donation to a charity, any person who suffers damage as a result is entitled to receive $200 or the actual cost of damage, WHICHEVER IS GREATER. The person claiming damages will have to prove in a court of law that damage was suffered as a result of the non-compliance.

For further information about the PPSR system and the registration of claim for liens,
you may obtain a copy of the Registration and Enquiry Guide, which is available in the Toronto branch office or at the 55 land registry offices which provide PPSR searches.

**Be an informed consumer**

The Ontario Ministry of Government Services has published a number of other booklets covering a wide range of consumer topics.

For further information or to obtain copies of the ministry brochures call or write to:

General Inquiry Unit  
Ministry of Government Services  
250 Yonge Street  
Toronto ON M5B 2N5

(416) 326-8555  
1-800-268-1142  
TTY (Telephone for the deaf) (416) 326-8566