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Backgrounder

BCLI Report no. 23—Report on the Uniform Liens Act

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A lien is a legal claim against property that can prevent it from being sold unless the lien is paid off. The law of liens at its simplest is designed to provide a right to retain the property of another to secure payment of a debt or performance of an obligation. This report examines the commercial liens of repairers, storers, and common carriers. These liens provide persons who have repaired, stored, or transported goods with the right to hold that property to secure payment of the charges owed for the services provided.

This report embodies the recommendations of the British Columbia Law Institute to revise the law governing repairers', storers', and common carriers' liens. A repairer's lien provides persons who repair property with the right to retain that property until they are paid for the work done. Storage liens provide warehousemen with the right to hold property deposited for storage until the debt due for the services provided has been satisfied. The common law possessory lien provides common carriers with the right to retain possession of property that has been transported or conveyed pending payment of the freight charges owing. The law governing the liens of repairers, storers, and common carriers has evolved little over the years with the result that it is antiquated, obscure, and inflexible.

This report briefly describes each of the aforementioned liens and summarizes the applicable law and associated problems. In particular the *Repairers Lien Act*, the *Warehouse Lien Act*, and the common law regarding common carrier's liens are analyzed in depth. The report concludes that the law governing the commercial liens of repairers, storers, and common carriers no longer provides appropriate security and is out of date, inflexible, and inefficient. The principal recommendation made is that the *Uniform Liens Act*, prepared by the Uniform Law Conference of Canada, be adopted to govern these liens. This Act provides an approach that aims to effectively harmonize this area of the law with *Personal Property Security Act* principles.