

Civil Enforcement Monthly Bulletin: Garage Keepers Liens – Making the most out of the Garage Keepers Lien Act

One of the most misunderstood Acts in Alberta is also one of the smallest Acts in Alberta. The Garage Keepers Lien act is only seven pages long, but the list of questions I often receive when assisting customers on these types of files far exceeds the number of pages in the whole act. I have detailed below the most commonly asked Garage Keepers Lien questions and the answers for the same.

Who is a Garage Keeper?

A person who keeps a place of business for the housing, storage or repair of a motor vehicle or farm vehicle and who receives compensation for that housing, storage or repair.

You do not have to do repairs to the vehicle or be a repair shop to be a Garage Keeper. If you are in the business of the storage of Motor Vehicles as defined below – you are deemed a Garage Keeper under this act.

What can I seize under a Garage Keepers Lien?

A Garage Keeper can seize Motor Vehicles and Farm Vehicles. The acts definition of a Motor Vehicle is:

A vehicle propelled by any power other than muscular power and includes an airplane but does not include a motor vehicle that runs only on rails.

A recreational vehicle that is propelled by its own power can be seized. A trailer that is towed cannot be seized, except when it is brought to the Garage Keeper attached to a vehicle and repairs or storage is done on both pieces as one unit. A seizure can then be conducted on the whole unit. If a trailer is brought to the Garage Keepers and dropped off for repairs – it cannot be seized under this act.

What is deemed an Acknowledgement of Debt?

The two most common acknowledgements of debt are:

1. A signed work order that details the repairs to be completed and the estimated costs of the same
2. A signed invoice after the work has been completed

A third commonly used acknowledgement of debt is a returned cheque (NSF Cheque). The issuance of this cheque is proof of their acknowledgement of the debt. Should the cheque be returned by the bank for any reason, this cheque can be used as an acknowledgment of debt and therefore can be used to authorize the seizure of the vehicle.

Can I seize under an open account where there are no signed work orders or invoices?

There are actually two different answers to this question – yes and no:

1. Yes you can seize – if you have maintained possession of the vehicle from the time the repairs were done or the storage was accrued and you still have possession of the vehicle at the time of seizure.
2. No you cannot seize – if the vehicle has been returned to the debtor or the debtor's agent. Without a signed acknowledgement of the debt, you have no proof that the repairs or storage occurred and therefore you cannot seize.

If you have customers with open accounts, it is imperative that you train your staff to ensure that they obtain a signed worked order when the vehicle is delivered for repairs or they obtain a signature on the invoice prior to the vehicle being returned to the debtor or debtor's agent's possession.

What can I do to ensure that if I need to seize I have all the required information?

When you are accepting a vehicle in for repairs it is important that you obtain as much information about your customer as possible. The information you receive at the onset of the transaction will be invaluable should be required to seize for payment at a later date.

1. Ask to see your customer's identification. Ensure you have a full and complete address for the client. If you need to conduct a seizure it will be imperative that you have the correct address of the debtor to enable the service of the seizure documents.
2. Ensure that you have noted the vehicles full serial number on the work order or invoice. If we cannot find the vehicle to seize it – we can still seize it under Section 54 of the Civil Enforcement Act – but we will require the full and correct serial number of the vehicle to conduct the seizure. If it is determined that the serial number used to register your Garage Keepers Lien is incorrect, the seizure can be challenged and a court order will be required to correct the serial number on your lien.
3. If possible compare the vehicles registration documents to the client's identification – are they the owner of the vehicle? Does the address, VIN and other information match?
4. If the customer states the vehicle belongs to a company, you must ensure you have the companies' full legal name. If the company does not have Inc. or Ltd. after their name – they are not a legal entity. For example the company may call itself Joe's Construction, when in fact the company's legal name is 123456 AB Ltd. operating as Joe's Construction. This information is imperative for your seizure registration and the service of the seizure documents.

What happens after I seize the vehicle – do I now own it – can I sell it?

Once a vehicle is seized under a Garage Keepers Lien Act the vehicle does not become the property of the Garage Keeper. The vehicle can be left on site with the Garage Keepers until the debt and all civil enforcement costs are paid by the debtor. Once full payment is received, the Garage Keeper is required to return the vehicle to the debtor. The vehicle can be left on site with the Garage Keeper until the vehicle is sold by the Civil Enforcement Agency through private sale or sale to the creditor.

Under the Garage Keepers Lien Act of Alberta, a Garage Keeper cannot sell, dispose of, dismantle, drive, authorize staff or other parties to use, or in any other way de-value the vehicle while it is under seizure.

The civil enforcement agency who conducted the seizure must also conduct the sale of the seized vehicle. The vehicle can be sold to the Garage Keeper, but the agency must ensure that fair market value is received for the vehicle and therefore an independent appraisal of the vehicle will be required.

The vehicle can also be removed from the Garage Keeper's location for sale by auction or for storage purposes. The proceeds from the sale of the vehicle, no matter which method is used, must be submitted to the civil enforcement agency and are then distributed as per the Civil Enforcement Act.

I hope this month's bulletin has helped you better understand our Garage Keepers Lien Act and the many ins and outs of the same. If you have any questions relating to the information provided above, or if I can assist you with any other civil enforcement questions/needs, please do not hesitate to drop me an email at patriciaw@ccebailiff.ca or contact me by phone at (403) 668-8804 or (780) 448-5833 ext. 8804.

Remember spring is on the way, hang in there winter is almost over.

Patricia Wilson

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