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CONSTRUCTION, BUILDERS' AND MECHANICS' LIENS IN CANADA
8th Edition

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This publication offers an exhaustive analysis of the construction, builders' and mechanics' lien legislation from all Canadian jurisdictions; legislative concordances, guidance on construction lien practice; a comprehensive set of construction law forms and precedents; and summaries and analysis of every significant case in the construction lien area decided in trial and appeal courts throughout Canada.

This release includes updates to Chapter 3 (The Lien Claimant), Chapter 6 (Enforcement of Liens), Chapter 7 (Loss, Discharge or Vacating of Lien), Chapter 10 (Jurisdiction), and Chapter 11 (Practice Before Trial).

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Highlights

- **Loss, Discharge or Vacating of Lien—Failures to Take Action—Failure to Proceed with the Action—**Section 37(1) of the Ontario Act provides that a perfected lien expires immediately after the second anniversary of the commencement of the action which perfected that lien unless either (a) an order is made for the trial of an action in which the lien may be enforced, or (b) an action in which the lien may be enforced is set down for trial. Rule 24.01 of the Ontario Rules of Civil Procedure, which provides for dismissal for failure to set an action down for trial within six months of the close of pleadings, is inconsistent with s. 37 and is therefore not available in a lien action: *Structured Restoration Inc. v. Chaly*, 2026 ONSC 1978 (S.C.J.).
- Enforcement of Liens—Contents of the Claim for Lien—Description of Land Sufficient for Registration—The Ontario Divisional Court has held that even where an improvement includes multiple parcels of land, a lien claimant cannot enforce its lien against lands which it did not include in its claim for lien. The concept of lands "enjoyed therewith" does not expand the lands to more than was described in the claim for lien. It is the lands that the lien claimant has certified in its claim for lien that is "enjoyed therewith" with the improvement of labour and materials provided by the lien claimant: *1499545 Ontario Inc. (Northern Bulk Logistics) v. Pattern Development*, 2026 ONSC 1652 (Div. Ct.).