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### **GUIDE TO BUILDERS' LIENS IN BRITISH COLUMBIA**

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Release No. 3, June 2022**

#### **Publisher's Special Release Note 2021**

The pages in this work were reissued in June 2021 and updated to reflect that date in the release line. Please note that we did not review the content on every page of this work in the June 2021 release. We will continue to review and update the content according to the work's publication schedule. This will ensure that subscribers are reading commentary that incorporates developments in the law as soon as possible after they have happened or as the author deems them significant.

Changes to chapter and heading numbering may have occurred. Please refer to the Correlation Table in the front matter if you wish to confirm references.

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This publication features a comprehensive analysis of builders' liens law and practice in British Columbia. It is compact, practical and designed for everyday use.

This release features additions to Appendix B. Builders Lien Act – Case Law Digests. This release also features the addition to Appendix E. Related Legislation of Bill 11 – *Commercial Liens Act*.

### Highlights

- **Builders Lien Act — Case Law Digests — Construction Law — Construction and Builders' Liens — Holdback — Miscellaneous** — Board of Education hired contractor to build school — After default on contract, board terminated contractor's right to continue with work, made demand to insurer under performance bond, and hired new builder — Hearing was held regarding payment of holdback under *Builders Lien Act* — As initial contract has not been completed, abandoned or terminated within meaning of s. 8(2)(a) of Act, board was required to retain holdback until expiry of 55 days following substantial completion of work under contract with new builder — Clear intention of new contract with new builder was that original contract remained in force and was to be completed, with new builder assuming rights and obligation — This interpretation was consistent with scheme intention of Act: *The Board of Education of School District No. 43 (Coquitlam) v. Zurich Insurance Company Ltd.*, 2021 CarswellBC 2633, 2021 BCSC 1633, N. Smith J., In Chambers (B.C.S.C.).
- **Related Legislation — Bill 11 - *Commercial Liens Act*** — On March 7, 2022, Bill 11-*Commercial Liens Act* will, when passed, govern the law of liens for service providers who provide labour or materials to restore, improve, store, transport, carry, tow or salvage goods. The current system, which is governed by the *Repairers Lien Act*, the *Warehouse Lien Act* and *Livestock Lien Act*, will be repealed. A key aspect of the Act is its integration with the *Personal Property Security Act* and the public registry for the PPSA, the British Columbia Personal Property Registry. The Act will create a new type of lien in the PPR, referred to as commercial liens. The Act will give a repairer the choice of holding possession of the property to maintain a lien or returning the property to the customer in exchange for a written acknowledgment that can be used to register the lien in the PPR. For non-serial number goods that are too large

to store or move, the repairer can register a lien in the PPR. The Act also creates a lien as soon as the services begin and establishes clear rules for the amount secured by a lien. The Act will not impact the law of liens under the *Builders Lien Act*.

### **ProView Developments**

Your ProView edition of this product now has a new, modified layout:

- The opening page is now the title page of the book as you would see in the print work
- As with the print product, the front matter is in a different order than previously displayed
- The Table of Cases and Index are now in PDF with no searching and linking
- The Table of Contents now has internal links to every chapter and section of the book within ProView
- Images are generally greyscale and size is now adjustable
- Footnote text only appears in ProView-generated PDFs of entire sections and pages

