

Good News for Auto Lessors in Ontario: Motor Vehicles Used for Ride Sharing May be Covered by the Vicarious Liability Cap

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May 13, 2019

The Ontario government recently introduced Bill 107 (the Getting Ontario Moving Act) which, among its various provisions, provides a cap on the liability of lessor of motor vehicles used in the ride sharing industry. When passed, this legislation will provide certainty to auto lessors as to their potential liability if one of their lessees gets into an accident.

Ontario imposes liability on lessors for actions of its motor vehicle lessees through the *Highway Traffic Act*. In the mid 2000s, Ontario introduced legislation that capped the maximum liability that a lessor could suffer on a particular accident to \$1 million per occurrence. Lessors then purchased umbrella insurance to cover this risk. The cap however, was not extended to a motor vehicle used as a “taxi cab, livery vehicle or limousine for hire.”

When enacted, the ride sharing industry was at best in its infancy. As the ride sharing industry grew into prominence, there was a significant concern that lessors would not be covered by the cap as vehicles used for ride sharing may be seen as a taxi or livery vehicle. This uncertainty caused lessors to include specific exclusions in their leases prohibiting the use of the vehicle for ride sharing. Notwithstanding this exclusion, it was suspected by many lessors that their vehicle was used for ride sharing, which made the auto leasing community uncomfortable.

When passed, this legislation will eliminate this uncertainty and allow lessors to better evaluate their risks. This legislation may also lead to opportunities for auto lessors to partake in more innovative finance programs in the sale and promotion of motor vehicles for use in the ever-expanding ride sharing market. This leaves only the Province of British Columbia without a cap for ride sharing.

For further information regarding this matter, please contact Jonathan Fleisher, Amanda Scolieri or any member of the Banking, Lending & Specialty Finance Group.