

As Passed by the Senate

135th General Assembly

Regular Session

2023-2024

Am. S. B. No. 206

Senator Hackett

**Cosponsors: Senators Brenner, Antonio, Chavez, Cirino, Craig, DeMora,
Gavarone, Hicks-Hudson, Landis, O'Brien, Reineke, Rulli, Schaffer, Schuring,
Smith, Wilkin**

A BILL

To amend sections 1311.71, 1311.72, 1311.73, 1
1311.75, 1311.76, 1311.77, and 4561.01 and to 2
enact sections 1311.721, 4561.26, and 4561.27 of 3
the Revised Code to establish a process by which 4
an abandoned or derelict aircraft may be sold. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1311.71, 1311.72, 1311.73, 6
1311.75, 1311.76, 1311.77, and 4561.01 be amended and sections 7
1311.721, 4561.26, and 4561.27 of the Revised Code be enacted to 8
read as follows: 9

Sec. 1311.71. As used in sections 1311.71 to 1311.80 of 10
the Revised Code: 11

(A) "Aircraft" has the same meaning as in section 4561.01 12
of the Revised Code and includes any part or equipment of the 13
aircraft. "Aircraft" includes an abandoned aircraft, unless 14
otherwise specified. 15

(B) "Abandoned aircraft" means an aircraft to which both 16

of the following apply: 17

(1) It is located on the premises of a public-use airport. 18

(2) The owner or operator has not paid any tie-down, 19
hangar, rent, or storage costs for use of the premises for at 20
least ninety consecutive days. 21

(C) "Director" means the director or other chief executive 22
officer of a public-use airport. "Director" includes the 23
director's or chief's designee. 24

(D) "Labor" means to repair, service, ~~store,~~ or maintain 25
an aircraft. 26

~~(C)~~ (E) "Materials" means all products and substances, 27
including gasoline, oil, lubricants, accessories, parts, and 28
equipment, that are furnished for an aircraft. 29

(F) "Public-use airport" has the same meaning as in 30
section 4563.30 of the Revised Code. 31

(G) "Stores" means to keep an aircraft on real property 32
owned by a person that is not the owner of the aircraft. 33
"Stores" includes any necessary transportation of the aircraft 34
to an appropriate location for its storage. 35

Sec. 1311.72. (A) Except as provided in division (B) of 36
this section, any person who performs labor upon, stores, or 37
furnishes materials for an aircraft has a lien upon the aircraft 38
to secure payment for the labor, storage, and materials. Except 39
as provided in division (B) of this section, any person who owns 40
or operates an airport or repair shop and whose employee 41
performs labor upon, stores, or furnishes materials for an 42
aircraft has a lien upon the aircraft to secure payment for the 43
labor, storage, and materials. 44

(B) ~~No~~ Unless the aircraft is an abandoned aircraft, no 45
person shall have a lien pursuant to division (A) of this 46
section if the person has possession of the aircraft or if the 47
cost of the storage, the labor performed, or the materials 48
furnished for the aircraft is greater than or equal to one 49
thousand dollars and the owner of the aircraft has not requested 50
or consented to the performance of the storage, labor, or 51
furnishing of the materials. 52

(C) A lien that arises under this section is valid against 53
any person except a purchaser or encumbrancer who in good faith, 54
without notice, and for value acquired rights prior to the 55
recording of an affidavit for lien pursuant to section 1311.73 56
of the Revised Code. 57

Sec. 1311.721. (A) Before perfecting a lien that arises 58
under section 1311.72 of the Revised Code for an abandoned 59
aircraft, the director of a public-use airport shall search the 60
appropriate records of the airport and contact both of the 61
following entities to determine the name and address of the last 62
registered owner: 63

(1) The federal aviation administration's aircraft 64
registration branch; 65

(2) The office of aviation. 66

(B) (1) Within twenty business days after receipt of the 67
information obtained under division (A) of this section, the 68
director shall send notice to the owner of the abandoned 69
aircraft that was identified in accordance with division (A) of 70
this section that includes all of the following information: 71

(a) A description of the abandoned aircraft that includes 72
its federal aviation administration n-number, manufacturer name, 73

<u>model designation, and serial number;</u>	74
<u>(b) The location of the abandoned aircraft on the airport premises;</u>	75 76
<u>(c) The amount of any fees and charges for the use of the airport by the abandoned aircraft that have accrued;</u>	77 78
<u>(d) That the airport may seek to perfect a lien in accordance with section 1311.73 of the Revised Code if, within thirty calendar days after the date of receipt of such notice or notification that delivery was not possible, the owner does not remove the abandoned aircraft from the airport and pay all accrued fees and charges.</u>	79 80 81 82 83 84
<u>(2) The notice described in division (B)(1) of this section may be sent by any of the following methods:</u>	85 86
<u>(a) Certified or express mail with return receipt requested;</u>	87 88
<u>(b) Certified mail with electronic tracking;</u>	89
<u>(c) A commercial carrier service utilizing any form of delivery requiring a signed receipt;</u>	90 91
<u>(d) Personal service.</u>	92
<u>(C) The director may proceed in accordance with section 1311.73 of the Revised Code if the owner of the abandoned aircraft does not pay the accrued fees and charges in full and does not remove the abandoned aircraft within thirty days of the acknowledged receipt, or notification that the delivery was not possible, of a notice sent in accordance with division (B) of this section.</u>	93 94 95 96 97 98 99
<u>(D) Failure of the owner to receive a notice of removal</u>	100

does not invalidate a lien perfected under section 1311.73 of 101
the Revised Code if the director complies with division (B) of 102
this section. 103

Sec. 1311.73. ~~(A)~~(A)(1) To perfect a lien that arises 104
under section 1311.72 of the Revised Code, the person claiming 105
the lien shall make and file for record with the United States 106
federal aviation administration an affidavit verified under oath 107
that includes all of the following information: 108

(a) The amount owed to the lien claimant for the labor, 109
storage, or materials,~~a;~~ 110

(b) A description of the aircraft that reasonably 111
identifies it including the manufacturer, model, serial number, 112
and registration number of the aircraft,~~the;~~ 113

(c) The name of the person for whom the labor was 114
performed, the storage was provided, or the materials were 115
furnished, ~~the~~ if applicable; 116

(d) The name of the owner of the aircraft, if known,~~the;~~ 117

(e) The name and address of the lien claimant,~~the;~~ 118

(f) The date that the lien claimant or ~~his~~the lien 119
claimant's employee last performed any labor upon, stored, or 120
furnished any materials for the aircraft, ~~the~~ or if the storage 121
is ongoing; 122

(g) The date that the lien claimant surrendered possession 123
of the aircraft, if ~~he~~the lien claimant surrendered it,~~and the;~~ 124

(h) The name and address of the person who prepared the 125
affidavit. 126

(2) The omission or inaccuracy of any address in the 127

affidavit does not invalidate the affidavit. The lien claimant 128
may verify the affidavit before any person authorized to 129
administer oaths, including an agent for the owner, the lien 130
claimant, or any other interested party. An agent of the lien 131
claimant may sign the affidavit for the lien claimant, provided 132
that the agent states ~~his~~the agent's capacity with respect to 133
the lien claimant. A lien claimant is considered to have filed 134
for record with the United States federal aviation 135
administration an affidavit upon receipt of the affidavit by the 136
United States federal aviation administration as evidenced by a 137
certified mail return receipt. 138

(B) The affidavit may be in the following form: 139

"Affidavit for ~~Artisan's~~ Lien on Aircraft 140

State of Ohio, 141

County of _____, ss: _____, 142

_____ of _____ 143

whose address is _____, 144

being first duly sworn, says that ~~he~~such lien claimant or 145

~~his~~such lien claimant's employee performed labor, repairs, 146

services, or maintenance upon, provided storage, or furnished 147

~~storage~~, materials, products, substances, accessories, parts, or 148

equipment for a certain aircraft or part or equipment of a 149

certain aircraft at the request of _____, whose 150

address is _____, and of which 151

_____ is the titled owner. 152

The owner's address is _____ 153

The aircraft upon which labor, repairs, services, or 154

maintenance were performed, or storage was provided, or 155

materials, products, substances, accessories, parts, or 156

equipment were furnished is identified as follows: 157

Manufacturer: _____ 158

Model: _____ 159

Serial number _____ 160

Registration number _____ 161

The last date that labor, repairs, services, or 162

maintenance were performed upon, or storage was provided, or 163

materials, products, substances, accessories, parts, or 164

equipment were furnished for the aircraft herein identified, 165

including any part or equipment of that aircraft, was 166

_____, _____, or alternatively, 167

storage is still ongoing as of the following date: 168

_____, _____ 169

The lien claimant states there is justly and truly due, 170

over and above all legal setoffs, the sum of _____ dollars, 171

for which the lien claimant claims a lien on the aircraft 172

identified herein. 173

The lien claimant states that ~~he~~ the lien claimant is (is 174

not) currently in possession of the aircraft. (The lien claimant 175

states that ~~he~~ the lien claimant surrendered possession of the 176

aircraft on the _____ day of _____, _____) 177

_____ 178

Lien claimant 179

_____ 180

Capacity with respect to lien 181

claimant 182

Sworn to before me and subscribed in my presence this 183
_____ day of _____, _____ 184
_____ 185

Notary public 186

This instrument was prepared by _____ 187
whose address is _____ " 188

(C) A lien claimant shall file the affidavit within one of 189
the following periods: 190

(1) Ninety days after the date on which ~~he~~the lien 191
claimant or ~~his~~the lien claimant's employee last performed labor 192
upon or furnished materials for the aircraft that is subject to 193
the lien, if ~~he~~the lien claimant or ~~his~~the lien claimant's 194
employee is in possession of the aircraft at the time of filing; 195

(2) Ninety days after the date on which ~~he~~the lien 196
claimant or ~~his~~the lien claimant's employee surrendered 197
possession of the aircraft that is subject to the lien; 198

(3) Ninety days after the date by which the owner of an 199
abandoned aircraft that is subject to the lien was required to 200
remove the aircraft from the lien claimant's property in 201
accordance with section 1311.721 of the Revised Code. 202

(D) Any lien claimant who files an affidavit may file a 203
copy of the affidavit in the office of the county recorder in 204
the county in which the labor was performed upon or the 205
materials were furnished for the aircraft or where the aircraft 206
was stored. The lien claimant shall pay to the county recorder 207
the fee for recording an affidavit as determined under section 208
317.32 of the Revised Code. 209

Sec. 1311.75. (A) A lien claimant who perfects a lien in 210

accordance with section 1311.73 of the Revised Code has priority 211
over all other liens, claims, or encumbrances, except wage and 212
salary claims of workers who have no ownership interests in the 213
business of the lien claimant and amounts that are owed by the 214
lien claimant to the aircraft owner and that are subject to 215
setoff against the amounts due for the labor, storage, and 216
materials that are the basis for the lien. 217

(B) If more than one lien is perfected by more than one 218
lien claimant in accordance with section 1311.73 of the Revised 219
Code on the same aircraft, liens shall be ranked in priority in 220
the order of earliest filing with the United States federal 221
aviation administration, except as provided in division (A) of 222
this section. 223

Sec. 1311.76. (A) A lien claimant may enforce a lien that 224
arises under section 1311.72 of the Revised Code by bringing an 225
action to recover the monetary amount secured by the lien in a 226
court having jurisdiction in the county in which either of the 227
following occurred: 228

(1) The storage took place, the labor that is the basis of 229
the lien was performed, or the materials that are the basis of 230
the lien were furnished ~~or in the;~~ 231

(2) The county in which the lien claimant's primary place 232
of business is located, if it is located within this state. 233

(B) If a lien claimant obtains a judgment or order of a 234
court having jurisdiction enforcing a lien that arises under 235
section 1311.72 of the Revised Code, the lien claimant shall 236
send a certified copy of the judgment or order to the United 237
States federal aviation administration. 238

(C) A lien that arises under section 1311.72 of the 239

Revised Code remains in effect for six years after the date an affidavit is filed pursuant to section 1311.73 of the Revised Code, or until one of the following occurs within that six-year period:

(1) The lien claimant receives full payment of the amount due ~~him~~the lien claimant as stated in the affidavit filed pursuant to section 1311.73 of the Revised Code or in the judgment or order granted pursuant to this section by a court having jurisdiction;

(2) The lien claimant accepts less than the full amount secured by the lien pursuant to a written agreement with the owner of the aircraft that is subject to the lien;

(3) The owner files a bond in accordance with section 1311.77 of the Revised Code;

(4) A final judgment is entered by a court having jurisdiction in an action releasing the lien against the aircraft.

(D) Within thirty days after a lien has been satisfied or released in accordance with division (C) of this section, the lien claimant shall cause the lien to be released by notifying the United States federal aviation administration, and by notifying the county recorder in whose office the copy of the affidavit or court judgment or order was filed, if the lien claimant filed any of those documents with the county recorder.

Sec. 1311.77. The owner of an aircraft that is subject to a lien that is perfected pursuant to section 1311.73 of the Revised Code may release ~~his~~the owner's aircraft from the lien by filing with a court having jurisdiction in the county in which the labor that is the basis of the lien was performed, in

which the aircraft was stored, or in which the materials that 269
are the basis of the lien were furnished, a bond, payable to the 270
lien claimant, for the full amount owed to the lien claimant as 271
stated in an affidavit filed pursuant to section 1311.73 of the 272
Revised Code for the labor or materials, and conditioned for the 273
payment of any judgment that may be recovered on the lien, with 274
costs. 275

All bonds filed pursuant to this section shall be executed 276
by a corporate surety licensed by the state and authorized to 277
execute surety bonds in this state pursuant to Chapter 3929. of 278
the Revised Code. 279

Sec. 4561.01. As used in sections 4561.01 to ~~4561.25~~ 280
4561.27 of the Revised Code: 281

(A) "Aviation" means transportation by aircraft; operation 282
of aircraft; the establishment, operation, maintenance, repair, 283
and improvement of airports, landing fields, and other air 284
navigation facilities; and all other activities connected 285
therewith or incidental thereto. 286

(B) "Aircraft" means any ~~contrivance~~ manned device used or 287
~~designed~~ intended for navigation or flight in the air, ~~excepting~~ 288
~~a parachute or other contrivance for such navigation used~~ 289
primarily as safety equipment. "Aircraft" does not include an 290
ultralight vehicle as defined by 14 C.F.R. part 103. 291

(C) "Airport" means any location either on land or water 292
which is used for the landing and taking off of aircraft. 293

(D) "Landing field" means any location either on land or 294
water of such size and nature as to permit the landing or taking 295
off of aircraft with safety, and used for that purpose but not 296
equipped to provide for the shelter, supply, or care of 297

aircraft.	298
(E) "Air navigation facility" means any facility used,	299
available for use, or designed for use in aid of navigation of	300
aircraft, including airports, landing fields, facilities for the	301
servicing of aircraft or for the comfort and accommodation of	302
air travelers, and any structures, mechanisms, lights, beacons,	303
marks, communicating systems, or other instrumentalities or	304
devices used or useful as an aid to the safe taking off,	305
navigation, and landing of aircraft, or to the safe and	306
efficient operation or maintenance of an airport or landing	307
field, and any combination of such facilities.	308
(F) "Air navigation hazard" means any structure, object of	309
natural growth, or use of land, that obstructs the air space	310
required for the flight of aircraft in landing or taking off at	311
any airport or landing field, or that otherwise is hazardous to	312
such landing or taking off.	313
(G) "Air navigation," "navigation of aircraft," or	314
"navigate aircraft" means the operation of aircraft in the air	315
space over this state.	316
(H) "Airperson" means any individual who, as the person in	317
command, or as pilot, mechanic, or member of the crew, engages	318
in the navigation of aircraft.	319
(I) "Airway" means a route in the air space over and above	320
the lands or waters of this state, designated by the Ohio	321
aviation board as a route suitable for the navigation of	322
aircraft.	323
(J) "Person" means any individual, firm, partnership,	324
corporation, company, association, joint stock association, or	325
body politic, and includes any trustee, receiver, assignee, or	326

other similar representative thereof. 327

(K) "Government agency" means a state agency, state 328
institution of higher education, regional port authority, or any 329
other political subdivision of the state, or the federal 330
government or other states. 331

Sec. 4561.26. (A) As used in sections 4561.26 and 4561.27 332
of the Revised Code: 333

(1) "Derelict aircraft" means an aircraft that meets all 334
of the following conditions: 335

(a) It is located on the premises of a public-use airport. 336

(b) It is not in a flyable condition. 337

(c) It does not comply with the United States federal 338
aviation administration regulations that would allow it to be 339
operated or flown. 340

(d) It does not have a written repair plan approved and 341
signed by either a federal aviation administration certified 342
airframe and power plant mechanic or a person otherwise 343
authorized to perform maintenance on the aircraft in accordance 344
with the federal aviation administration regulations. 345

(e) The owner or operator of the aircraft has not paid any 346
tie-down, hangar, rent, or storage costs for use of the premises 347
for at least ninety consecutive days. 348

(2) "Director" means the director or other chief executive 349
officer of a public-use airport. "Director" includes the 350
director's or chief's designee. 351

(3) "Public-use airport" has the same meaning as in 352
section 4563.30 of the Revised Code. 353

(B) The director of a public-use airport may dispose of 354
any derelict aircraft located on the premises of that airport in 355
accordance with the procedures established in this section and 356
in section 4561.27 of the Revised Code. 357

(C) Before disposing of a derelict aircraft, the director 358
shall search the appropriate records of the airport and contact 359
both of the following entities to determine the name and address 360
of the last registered owner and any person having a legal or 361
equitable interest in the derelict aircraft: 362

(1) The federal aviation administration's aircraft 363
registration branch; 364

(2) The office of aviation. 365

(D) (1) Within twenty business days after receipt of the 366
information obtained under division (C) of this section, the 367
director shall send notice to the owner and any person having a 368
legal or equitable interest in the derelict aircraft that was 369
identified in accordance with division (C) of this section, that 370
includes all of the following information: 371

(a) A description of the derelict aircraft that includes 372
its federal aviation administration n-number, manufacturer name, 373
model designation, and serial number; 374

(b) The location of the derelict aircraft on the airport 375
premises; 376

(c) The amount of any fees and charges for the use of the 377
airport by the derelict aircraft that have accrued; 378

(d) That the airport may remove, sell, scrap, or otherwise 379
dispose of the derelict aircraft in accordance with section 380
4561.27 of the Revised Code if, within thirty calendar days 381

after the date of receipt of such notice or notification that 382
delivery was not possible, the owner does not remove the 383
derelict aircraft from the airport and pay all accrued fees and 384
charges. 385

(2) The notice described in division (D)(1) of this 386
section may be sent by any of the following methods: 387

(a) Certified or express mail with return receipt 388
requested; 389

(b) Certified mail with electronic tracking; 390

(c) A commercial carrier service utilizing any form of 391
delivery requiring a signed receipt; 392

(d) Personal service. 393

(3) In addition to the notice sent to the owner and any 394
person having a legal or equitable interest in the derelict 395
aircraft, the director shall do both of the following: 396

(a) File a copy of the notice with the federal aviation 397
administration's aircraft registration branch; 398

(b) Post a copy of the notice on the public-use airport's 399
web site. 400

(E) The director may proceed in accordance with section 401
4561.27 of the Revised Code if the owner or any other person 402
identified under division (C) of this section as having a legal 403
or equitable interest in the derelict aircraft does not pay the 404
accrued fees and charges in full and remove the derelict 405
aircraft within thirty days of the acknowledged receipt of or 406
notification that the delivery was not possible of a notice sent 407
in accordance with division (D) of this section. 408

Sec. 4561.27. (A) If a derelict aircraft remains on the 409
property of the public-use airport longer than the thirty-day 410
period specified in division (E) of section 4561.26 of the 411
Revised Code, the director may do one of the following: 412

(1) Sell the derelict aircraft at public auction; 413

(2) Dispose of the derelict aircraft through an aircraft 414
salvage or scrap metal dealer. 415

(B) (1) If the director elects to sell the derelict 416
aircraft at public auction, the director shall give notice of 417
the date, time, and place of the sale not less than ten calendar 418
days prior to the date of the sale in a written publication of 419
general circulation in the county where the airport is located. 420
The director may provide written notice of the intended sale to 421
any person known to have an interest in purchasing the derelict 422
aircraft. 423

(2) If the director elects to dispose of the derelict 424
aircraft through an aircraft salvage or scrap metal dealer, the 425
director may negotiate with the dealer for the price to be 426
received or paid by the director, as the circumstances warrant. 427
All information pertaining to the establishment of the price and 428
justification for the price shall be prepared and maintained by 429
the director, and the negotiated price shall be considered a 430
commercially reasonable price. 431

(C) (1) If the sale price or the negotiated price under 432
division (B) (1) or (2) of this section is less than the accrued 433
fees and charges against the derelict aircraft or the director 434
is required to pay the aircraft salvage or scrap metal dealer 435
for its services, the prior owner of the derelict aircraft is 436
liable to the airport for both of the following: 437

<u>(a) Any remaining fees and charges;</u>	438
<u>(b) Any costs paid to an aircraft salvage or scrap metal dealer.</u>	439 440
<u>All fees, charges, and costs are recoverable against the prior owner of the derelict aircraft by any remedies otherwise provided by law.</u>	441 442 443
<u>(2) If the sale price or the negotiated price under division (B) (1) or (2) of this section is more than the accrued fees and charges against the aircraft, the director shall pay the excess proceeds to the following individuals, as applicable:</u>	444 445 446 447
<u>(a) Any other known lienholders, according to the priority of the liens;</u>	448 449
<u>(b) The owner of the aircraft, if the owner can be determined and located;</u>	450 451
<u>(c) The director of commerce, to be deposited as unclaimed funds into the unclaimed funds trust fund created under section 169.05 of the Revised Code, if the owner cannot be determined or located.</u>	452 453 454 455
<u>(D) A purchaser or recipient in good faith of a derelict aircraft sold or obtained under this section takes the derelict aircraft free and clear of the rights or liens of any other person holding any legal or equitable interest to the derelict aircraft, regardless of whether that interest is recorded. The purchaser or recipient shall notify the appropriate federal aviation administration office and the office of aviation of the change in the registered owner of the derelict aircraft.</u>	456 457 458 459 460 461 462 463
Section 2. That existing sections 1311.71, 1311.72, 1311.73, 1311.75, 1311.76, 1311.77, and 4561.01 of the Revised	464 465

Code are hereby repealed.

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