A BILL

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

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

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

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

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

(B) "Abandoned aircraft" means an aircraft to which both of the following apply:

(1) It is located on the premises of a public-use airport.
(2) The owner or operator has not paid any tie-down, hanger, rent, or storage costs for use of the premises for at least ninety consecutive days.

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

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

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

(F) "Public-use airport" means an airport owned or operated by a political subdivision.

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

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

(B) No person shall have a lien pursuant to division (A) of this section if the person has possession of the aircraft or if the
As Introduced

cost of the storage, the labor performed, or the materials furnished for the aircraft is greater than or equal to one thousand dollars and the owner of the aircraft has not requested or consented to the performance of the storage, labor, or furnishing of the materials.

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

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

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

(2) The office of aviation.

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

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

(b) The location of the abandoned aircraft on the airport premises;
(c) The amount of any fees and charges for the use of the airport by the abandoned aircraft that have accrued;

(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.

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

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

(b) Certified mail with electronic tracking;

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

(d) Personal service.

(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.

(D) Failure of the owner to receive a notice of removal does not invalidate a lien perfected under section 1311.73 of the Revised Code if the director complies with division (B) of this section.

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

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

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

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

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

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

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

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

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

(2) The omission or inaccuracy of any address in the affidavit does not invalidate the affidavit. The lien claimant may verify the affidavit before any person authorized to administer oaths, including an agent for the owner, the lien claimant, or any other interested party. An agent of the lien claimant may sign the affidavit for the lien claimant, provided
that the agent states his the agent's capacity with respect to the lien claimant. A lien claimant is considered to have filed for record with the United States federal aviation administration an affidavit upon receipt of the affidavit by the United States federal aviation administration as evidenced by a certified mail return receipt.

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

"Affidavit for Artisan's Lien on Aircraft

State of Ohio,

County of_____________________, ss: __________________________,

______________________________ of ______________________

whose address is____________________________________________,

being first duly sworn, says that he such lien claimant or his such lien claimant's employee performed labor, repairs, services, or maintenance upon, provided storage, or furnished materials, products, substances, accessories, parts, or equipment for a certain aircraft or part or equipment of a certain aircraft at the request of ______________________, whose address is ____________________, and of which __________________ is the titled owner.

The owner's address is ______________________________

The aircraft upon which labor, repairs, services, or maintenance were performed, or storage was provided, or materials, products, substances, accessories, parts, or equipment were furnished is identified as follows:

Manufacturer: _____________________________________________

Model: ____________________________________________________
Serial number ______________________________________________ 160
Registration number ________________________________ 161

The last date that labor, repairs, services, or maintenance were performed upon, or storage was provided, or materials, products, substances, accessories, parts, or equipment were furnished for the aircraft herein identified, including any part or equipment of that aircraft, was _______________ ______________, _____________, or alternatively, storage is still ongoing as of the following date: _______________ ______________, _____________ 167

The lien claimant states there is justly and truly due, over and above all legal setoffs, the sum of ________ dollars, for which the lien claimant claims a lien on the aircraft identified herein.

The lien claimant states that he is (is not) currently in possession of the aircraft. (The lien claimant states that he surrendered possession of the aircraft on the _______ day of ____________, ____________.)

____________________________
Lien claimant

____________________________
Capacity with respect to lien claimant

Sworn to before me and subscribed in my presence this _______ day of ____________, _____

____________________________
Notary public
(C) A lien claimant shall file the affidavit within one of the following periods:

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

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

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

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

Sec. 1311.75. (A) A lien claimant who perfects a lien in accordance with section 1311.73 of the Revised Code has priority over all other liens, claims, or encumbrances, except wage and salary claims of workers who have no ownership interests in the business of the lien claimant and amounts that are owed by the lien claimant to the aircraft owner and that are subject to
setoff against the amounts due for the labor, storage, and materials that are the basis for the lien.

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

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

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

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

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

(C) A lien that arises under section 1311.72 of the 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 his 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 are the basis of the lien were furnished, a bond, payable to the lien claimant, for the full amount owed to the lien claimant as stated in an affidavit filed pursuant to section 1311.73 of the Revised Code for the labor or materials, and conditioned for the
payment of any judgment that may be recovered on the lien, with costs.

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

Sec. 4561.01. As used in sections 4561.01 to 4561.25 of the Revised Code:

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

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

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

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

(E) "Air navigation facility" means any facility used, available for use, or designed for use in aid of navigation of aircraft, including airports, landing fields, facilities for the servicing of aircraft or for the comfort and accommodation of
air travelers, and any structures, mechanisms, lights, beacons, marks, communicating systems, or other instrumentalities or devices used or useful as an aid to the safe taking off, navigation, and landing of aircraft, or to the safe and efficient operation or maintenance of an airport or landing field, and any combination of such facilities.

(F) "Air navigation hazard" means any structure, object of natural growth, or use of land, that obstructs the air space required for the flight of aircraft in landing or taking off at any airport or landing field, or that otherwise is hazardous to such landing or taking off.

(G) "Air navigation," "navigation of aircraft," or "navigate aircraft" means the operation of aircraft in the air space over this state.

(H) "Airperson" means any individual who, as the person in command, or as pilot, mechanic, or member of the crew, engages in the navigation of aircraft.

(I) "Airway" means a route in the air space over and above the lands or waters of this state, designated by the Ohio aviation board as a route suitable for the navigation of aircraft.

(J) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.

(K) "Government agency" means a state agency, state institution of higher education, regional port authority, or any other political subdivision of the state, or the federal government or other states.
Sec. 4561.26. (A) As used in sections 4561.26 and 4561.27 of the Revised Code:

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

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

(b) It is not in a flyable condition.

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

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

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

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

(3) "Public-use airport" means an airport owned or operated by a political subdivision.

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

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

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

(2) The office of aviation.

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

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

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

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

(d) That the airport may remove, sell, scrap, or otherwise dispose of the derelict aircraft in accordance with section 4561.27 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 derelict aircraft from the airport and pay all accrued fees and charges.

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

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

(b) Certified mail with electronic tracking;

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

(d) Personal service.

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

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

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

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

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

(1) Sell the derelict aircraft at public auction;
(2) Dispose of the derelict aircraft through an aircraft salvage or scrap metal dealer.

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

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

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

(a) Any remaining fees and charges;

(b) Any costs paid to an aircraft salvage or scrap metal dealer.

All fees, charges, and costs are recoverable against the prior owner of the derelict aircraft by any remedies otherwise
provided by law.

(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:

(a) Any other known lienholders, according to the priority of the liens;

(b) The owner of the aircraft, if the owner can be determined and located;

(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.

(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.

Section 2. That existing sections 1311.71, 1311.72, 1311.73, 1311.75, 1311.76, 1311.77, and 4561.01 of the Revised Code are hereby repealed.