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# OHIO LEGISLATIVE SERVICE COMMISSION

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## Bill Analysis

**Version:** As Introduced

**Primary Sponsors:** Reps. Dean and Peterson

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### SUMMARY

- Authorizes a person to recoup unpaid storage costs from the owner of an aircraft by perfecting a lien on the aircraft.
- Establishes specific notification procedures that apply before the director of a public-use airport may perfect a lien on an abandoned aircraft for storage costs and for labor on or furnishing materials for the abandoned aircraft.
- Establishes a process to dispose of a derelict aircraft located on a public-use airport's property through either public auction or through an aircraft salvage or scrap metal dealer.
- Specifies that the owner of a derelict aircraft remains liable for any remaining costs, fees, and charges if the price of the aircraft does not cover the amount owed to the airport.
- Establishes a procedure for any excess proceeds from the disposal of a derelict aircraft to be distributed to other lienholders, the owner of the aircraft, or the Unclaimed Funds Trust Fund, as circumstances warrant.

### DETAILED ANALYSIS

#### Introduction

The bill adds unpaid storage costs to the list of costs that a person may recoup through the placement of a lien on an aircraft. It also establishes notification procedures that apply when perfecting a lien with respect to an abandoned aircraft located at a public-use airport. Additionally, it establishes a process for a public-use airport to sell a derelict aircraft left on the airport's property.

While current law establishes a process for placing a lien on an aircraft for performing labor on (i.e., repairing, servicing, and maintaining) or furnishing materials for an aircraft, it

does not establish a process for storage liens or for getting rid of derelict aircraft left on an airport's property.

### **Abandoned and derelict aircraft**

Under the bill, an abandoned aircraft is one located on the premises of a public-use airport (i.e., an airport available for use by the general public without the prior approval of the owner or operator, except as federal laws or regulations require) when the owner or operator of the aircraft has not paid any tie-down, hangar, rent, or storage costs for use of the premises for at least 90 consecutive days.<sup>1</sup> A derelict aircraft, in contrast, is one that meets all of the following:

1. It is located on the premises of a public-use airport.
2. It is not in a flyable condition.
3. It does not comply with the U.S. Federal Aviation Administration (FAA) regulations that would allow it to be operated or flown.
4. It does not have a written repair plan that is approved and signed by either an FAA certified airframe and power plant mechanic or a person otherwise authorized to perform maintenance on the aircraft, in accordance with FAA regulations.
5. The owner or operator of the aircraft has not paid any tie-down, hangar, rent, or storage costs for use of the premises for at least 90 consecutive days.<sup>2</sup>

An abandoned aircraft might also be a derelict aircraft, if it meets the additional conditions related to derelict aircraft.

### **Storage liens**

As indicated above, the existing process for placing a lien on an aircraft applies to costs for labor performed on, and materials furnished for, an aircraft. The bill applies this process to costs incurred for the storage of an aircraft. The existing process establishes procedures for perfecting the lien, which include the following:

- Filing an affidavit with the FAA to perfect the lien;
- Specifications for what must be included in the affidavit, such as the amount owed to the lien claimant and a description of the aircraft;
- A 90-day period in which to file the affidavit;
- Serving a copy of the affidavit on the owner;
- Lien priority processes;

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<sup>1</sup> R.C. 1311.71.

<sup>2</sup> R.C. 4561.26.

- Enforcement of the lien through the court with jurisdiction in the county in which either the storage took place or in which the public-use airport's primary place of business is located (when in Ohio);
- Processes for an aircraft owner to take to release the lien or commence a suit on the lien; and
- Processes for the lien claimant (the airport) to maintain the lien (a lien otherwise lasts six years, unless released sooner) and the awarding of attorney's fees.<sup>3</sup>

### **Additional procedures for abandoned aircraft**

The bill establishes a notification procedure that the director of a public-use airport must complete before the director may perfect a lien on an abandoned aircraft. Specifically, the director must search the airport's appropriate records and contact the FAA's Aircraft Registration Branch and the Office of Aviation (with the Ohio Department of Transportation) to determine the name and address of the abandoned aircraft's last registered owner. Within 20 days of receiving that information, the director must then send notice to the owner identified by the FAA and the Office of Aviation. The notice must include all of the following:

- A description of the abandoned aircraft, including its FAA N-Number, manufacturer name, model designation, and serial number;
- The location of the abandoned aircraft on the airport premises;
- The amount of any fees and charges for the use of the airport by the abandoned aircraft that have accrued; and
- That the airport may seek to perfect a lien if within 30 calendar days after the receipt of notice or notification that delivery was not possible the owner does not remove the abandoned aircraft and pay all of the accrued fees and charges.

The notice may be sent either by certified or express mail with return receipt requested, by certified mail with electronic tracking, by a commercial carrier service utilizing any form of delivery requiring a signed receipt, or by personal service. If the owner does not respond to the notice, does not remove the abandoned aircraft, and does not pay the accrued fees and charges in full within 30 days of receipt of the notice (or notification that delivery was not possible), the director may proceed in perfecting a lien on the abandoned aircraft. The failure of the owner to receive the notice of removal does not invalidate a perfected lien, if the director of the public-use airport complied with the notice procedures.<sup>4</sup>

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<sup>3</sup> R.C. 1311.72, 1311.73, 1311.74, not in the bill, 1311.75, 1311.76, 1311.77, 1311.78, not in the bill, 1311.79, not in the bill, and 1311.80, not in the bill.

<sup>4</sup> R.C. 1311.721.

## Disposal process for derelict aircraft

### Notification

The bill also establishes procedures for a director of a public-use airport to dispose of a derelict aircraft that is located on the airport premises. Before disposal, the director must follow a similar search and notice procedure as it would for placing a lien on an abandoned aircraft. Namely, the director must search its own records and contact the FAA Aircraft Registration Branch and the Office of Aviation to find the last registered owner *and* any person having legal or equitable interest in the derelict aircraft.

Within 20 days of receiving that information, the director must send a notice by the same methods of certified or express mail with return receipt requested, by certified mail with electronic tracking, by a commercial carrier service utilizing any form of delivery requiring a signed receipt, or by personal service. In addition to the notice sent to the owner and any person with a legal or equitable interest in the derelict aircraft, the director also must file a copy of the notice with the FAA's Aircraft Registration Branch and post of copy of the notice on the airport's website.

The notice itself is similar to the notice sent regarding a lien on an abandoned aircraft. Thus, the notice must identify the aircraft, its location, and the fees and charges that have accrued. However, the notice also must specify that the airport may remove, sell, scrap, or otherwise dispose of the derelict aircraft if, within 30 calendar days after the date of receipt of the 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.<sup>5</sup>

### Disposal

If the owner does not pay the accrued fees and charges in full and remove the derelict aircraft within 30 days of receipt of the notice (or notification that delivery was not possible), the director may do one of the following:

- Sell the derelict aircraft at public auction; or
- Dispose of the derelict aircraft through an aircraft salvage or scrap metal dealer.

If sold at public auction, the director must give notice of the date, time, and place of the sale at least ten calendar days prior to the sale in a written publication of general circulation in the airport's county. The director also may give written notice to any person known to have an interest in purchasing the derelict aircraft.

If disposed of 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, based on the circumstances. The director must prepare and maintain all information pertaining to the

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<sup>5</sup> R.C. 4561.26.

establishment of that price and its justification. The negotiated price (whatever it may be) is considered a commercially reasonable price.

If the final price of the derelict aircraft is less than the accrued fees and charges against the derelict aircraft (or the director must pay for it to be salvaged/scrapped), the prior owner of the derelict aircraft remains liable to the airport for any remaining fees, charges, and the costs paid to the dealer. The airport may recover those fees, charges, and costs by any remedies otherwise provided by law.

If the final sale price is more than the accrued fees and charges against the aircraft, the director must pay all excess proceeds to the following individuals, as applicable:

1. Any other known lienholders, according to the priority of the liens;
2. The owner of the aircraft, if the owner can be determined and located;
3. The Director of Commerce, to be deposited as unclaimed funds into the Unclaimed Funds Trust Fund, if the owner cannot be determined or located.

Any good faith purchaser or recipient of the derelict aircraft sold or obtained through the process established by the bill takes the derelict aircraft free and clear of the rights or liens of any other person holding legal or equitable interest to the aircraft, regardless of whether that interest was recorded. The purchaser or recipient must notify the FAA and the Office of Aviation of the change in registered ownership.<sup>6</sup>

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## HISTORY

Action	Date
Introduced	05-15-24

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ANHB0554IN-135/ar

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<sup>6</sup> R.C. 4561.27.