



Ohio Revised Code

Section 1311.31 Action by claimant to enforce payment.

Effective: April 16, 1993

Legislation: Senate Bill 338 - 119th General Assembly

The public authority, upon the receipt of the affidavit referred to in section 1311.26 of the Revised Code shall, or the claimant or his agent, in the name of the public authority, may serve the principal contractor with a copy thereof, within five days after the public authority receives it, together with a notice that the principal contractor must give notice of his intention to dispute the claim within twenty days. If the claimant is not in privity of contract with the principal contractor, the notice of intention to dispute may state that the claimant failed to serve a notice of furnishing as required by division (A)(1) of section 1311.261 of the Revised Code. If the claimant performed the labor or work or furnished the material to a subcontractor of the principal contractor, the claimant shall, within twenty days after serving the affidavit to the public authority, furnish a copy of it to the subcontractor. If the claimant fails to furnish the copy to the subcontractor, the claimant forfeits his rights to a claim under sections 1311.25 to 1311.32 of the Revised Code. If the principal contractor fails within twenty days after receipt of the affidavit to serve to the public authority written notice of his intention to dispute the claim, he has assented to its correctness, provided that within twenty days after receipt by any subcontractor of a copy of the affidavit, the subcontractor may serve the notice of intention to dispute on behalf of the principal contractor. Thereupon, provided all affidavits filed on the same public improvement have been assented to, the amount detained from the principal contractor shall be applied by and payment made by the public authority, in the order of preference provided in section 1311.29 of the Revised Code, pro rata, upon the claims on which affidavits have been filed. Where more than one affidavit has been filed with respect to the same public improvement, and one or more of the affidavits has not been assented to, then the amount detained shall be applied pro rata among all the claimants in the order of preference prescribed in section 1311.29 of the Revised Code, payment being made in the amount of their pro rata shares to all claimants whose affidavits have been assented to, and the pro rata shares of claimants whose affidavits have not been assented to shall be detained by the public authority until the dispute with respect to any affidavit has been resolved in any manner provided by law, whereupon payment in whole or in part shall be made to claimants in whose favor the dispute is resolved and any remaining part of the pro rata shares shall be applied pro rata among and payment made to all claimants as provided in this section. Each subsequent payment falling due shall be applied among and payment



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made to the claimants as provided in this section.