



Ohio Revised Code

Section 1311.78 Notifying lien claimant to commence suit.

Effective: April 16, 1993

Legislation: House Bill 673 - 119th General Assembly

(A) The owner of an aircraft that is subject to a lien that arises under section 1311.72 of the Revised Code may notify the lien claimant who has perfected the lien in accordance with section 1311.73 of the Revised Code to commence suit on the lien.

(B)(1) The owner shall serve a written notice to commence suit on the lien claimant by certified mail, return receipt requested, at the address of the lien claimant or his agent as stated in the lien claimant's affidavit or at the address of the lien claimant as stated in writing in a delivery to the owner subsequent to the owner's receipt of the affidavit. Service of the notice is deemed completed when a return receipt is received by the owner indicating delivery of the notice. If a return receipt shows a failure or refusal of delivery, service is deemed completed after the owner mails a second copy of the notice by ordinary mail, provided that the notice is not returned by the postal authorities within fourteen days after the date of mailing with an endorsement showing failure of delivery.

(2) If service of the notice to commence suit cannot be made at the address stated on the affidavit or stated in subsequent written notice, and if the owner of the aircraft cannot locate the lien claimant or his agent by diligent search, the notice may be served by publication once each week for six consecutive weeks in a newspaper of general circulation in the county in which the lien claimant's address as stated in the affidavit is located. Service is completed on the date of the last publication.

(C) Within thirty days after service of the notice to commence suit is completed, the owner of the aircraft shall do all of the following:

(1) Execute an affidavit stating the manner in which service of the notice was accomplished;

(2) Attach to the affidavit a copy of the notice with a certified mail return receipt indicating the service or attempted service or a certificate of publication from the newspaper that published the notice;



(3) File the affidavit and attachment described in divisions (C)(1) and (2) of this section with the United States federal aviation administration.

(D) If a lien claimant fails to commence suit upon the lien within sixty days after completion of service of the notice to commence suit or if the lien claimant commences an action to enforce the lien and the action is dismissed with prejudice before or after adjudication, the lien is void, and the aircraft is wholly discharged from the lien. If a lien is void because of a lien claimant's failure to commence suit on the lien within sixty days after service of a notice to commence suit, the claim that is the basis of the lien is not prejudiced by the failure, except for the loss of the lien as security for the claim.