



## Ohio Revised Code

### Section 1311.88 Proceedings to enforce lien.

Effective: March 31, 2021

Legislation: Senate Bill 39 - 133rd General Assembly

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(A) To commence proceedings to enforce a lien, a broker shall comply with all of the following:

(1) The broker shall file a complaint in the common pleas court in the county where the lien property is located.

(2)(a) The complaint shall be filed within two years following the recording of the lien affidavit as provided in division (B) of section 1311.87 of the Revised Code.

(b) Failure to file a complaint within the time specified in this division extinguishes the lien, in which case no subsequent lien affidavit may be recorded for the same claim and the claim may not be asserted in any proceeding under this section.

(3) A complaint shall identify the contract upon which the lien is based and the date of the contract, describe the services performed by the broker pursuant to the contract, specify the unpaid amounts due to the broker pursuant to the contract, specify the address of the lien property, and have a copy of the contract attached.

(4) The broker shall name as defendants in the complaint all parties that have a legal or equitable interest in the lien property of whom the broker has knowledge.

(B)(1) The owner may demand that the broker commence a suit to enforce a broker's lien by serving a written notice of demand on the broker by personal delivery or by certified mail, commercial carrier service, or any other method that includes written evidence of receipt.

(2) If the broker does not commence the suit within twenty-eight days after receipt of the notice of demand, the lien is extinguished.

(C) In an action based on a broker's lien, a court shall assess the nonprevailing parties with all costs



and reasonable attorney's fees incurred by the prevailing parties. If the broker prevails, the assessed costs and attorney's fees shall include all those incurred by the broker to perfect and enforce the broker lien including any litigation costs and any prejudgment interest due. The court shall equitably apportion the assessed costs, attorney's fees, and prejudgment interest among all responsible nonprevailing parties.