



Ohio Revised Code

Section 1311.251 Claim for furnishing materials.

Effective: April 10, 1991

Legislation: House Bill 238 - 118th General Assembly

(A) A claim for furnishing materials arises under sections 1311.25 to 1311.32 of the Revised Code only if the materials are:

(1) Furnished with the intent, as evidenced by the contract of sale, the delivery order, delivery to the site by the claimant or at the claimant's direction, or by other evidence, that the materials be used in the course of the public improvement with which the claim arises;

(2) Incorporated in the public improvement or consumed as normal wastage in the public improvement operations;

(3) Specifically fabricated for incorporation in the public improvement and not readily resalable in the ordinary course of the fabricator's business even if not actually incorporated in the public improvement;

(4) Used for the public improvement or for the operation of machinery or equipment used in the course of the public improvement and not remaining in the public improvement, subject to diminution by the salvage of those materials; or

(5) Tools or machinery used on the particular public improvement, subject to division (C) of this section.

(B) The delivery of materials to the site of the public improvement, whether or not by the claimant, creates a conclusive presumption that the materials were used in the course of the public improvement or were incorporated into the public improvement.

(C) A claim for furnishing tools or machinery which arises under division (A)(5) of this section is limited to either of the following:



(1) If the tools or machinery are rented, the claim is for the reasonable rental value for the period of actual use and any reasonable period of nonuse taken into account in the rental contract.

(2) If the tools or machinery are purchased, the claim is for the price, but the claim only arises if the tools or machinery were purchased for use in the course of the particular public improvement and have no substantial value to the purchaser after the completion of the public improvement on which they were used.

(D) All of the deliveries or the sales, or both, by a claimant of materials, including tools and machinery to or for an improvement, give rise to one claim for the unpaid portion of the sales.