

## House Bill 1

By: Representatives Willard of the 51<sup>st</sup>, Lindsey of the 54<sup>th</sup>, Abrams of the 89<sup>th</sup>, Ehrhart of the 36<sup>th</sup>, Smith of the 134<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 9 of the Official Code of Georgia Annotated, relating to civil practice, so as  
2 to provide a comprehensive civil forfeiture procedure; to provide for a short title; to provide  
3 for definitions; to provide for jurisdiction and venue; to provide for innocent owners; to  
4 provide for seizure of property; to provide for notice and time frames for notice to interested  
5 parties; to provide for forfeiture liens; to provide for storage of property; to provide for  
6 nonjudicial forfeiture, in rem forfeiture, and in personam forfeiture; to provide for temporary  
7 relief and stays of criminal proceedings; to provide for intervention by certain parties under  
8 certain circumstances; to provide for presumptions and the burden of proof; to provide for  
9 the disposition of seized property and reporting; to provide for the effect of federal law  
10 forfeitures; to amend Title 16 of the Official Code of Georgia Annotated, relating to crimes  
11 and offenses, so as to conform provisions to the new Chapter 16 of Title 9, correct  
12 cross-references, and remove obsolete or improper references to forfeiture; to amend Titles  
13 3, 5, 7, 10, 12, 15, 17, 27, 36, 38, 40, 45, 46, 48, and 52 of the Official Code of Georgia  
14 Annotated, relating to alcoholic beverages, appeal and error, banking and finance, commerce  
15 and trade, conservation and natural resources, courts, criminal procedure, game and fish,  
16 local government, military, emergency management, and veterans affairs, motor vehicles and  
17 traffic, public officers and employees, public utilities and public transportation, revenue and  
18 taxation, and waters of the state, ports, and watercraft, respectively, so as to conform  
19 provisions to the new Chapter 16 of Title 9, correct cross-references, and remove obsolete  
20 or improper references to forfeiture; to provide for related matters; to provide for an effective  
21 date and applicability; to repeal conflicting laws; and for other purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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**PART I**  
**CIVIL FORFEITURE PROCEDURE**  
**SECTION 1-1.**

26 Title 9 of the Official Code of Georgia Annotated, relating to civil practice, is amended by  
27 adding a new chapter to read as follows:

28

"CHAPTER 16

29

9-16-1.

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This chapter shall be known and may be cited as the 'Georgia Uniform Civil Forfeiture Procedure Act.'

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9-16-2.

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As used in this chapter, the term:

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(1)(A) 'Beneficial interest' means either of the following:

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(i) The interest of a person as a beneficiary under any other trust arrangement pursuant to which a trustee holds legal or record title to real property for the benefit of such person; or

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(ii) The interest of a person under any other form of express fiduciary arrangement pursuant to which any other person holds legal or record title to real property for the benefit of such person.

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(B) 'Beneficial interest' does not include the interest of a stockholder in a corporation or the interest of a partner in either a general partnership or limited partnership nor shall it include an equitable interest. A beneficial interest shall be deemed to be located where the real property owned by the trustee is located.

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(2) 'Costs' means, but shall not be limited to:

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(A) All expenses associated with the seizure, towing, storage, maintenance, custody, preservation, operation, or sale of property; and

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(B) Satisfaction of any security interest or lien not subject to forfeiture under this chapter.

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(3) 'Court costs' means, but shall not be limited to:

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(A) All court costs, including the costs of advertisement, transcripts, and court reporter fees; and

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(B) Payment of receivers, conservators, appraisers, accountants, or trustees appointed by the court pursuant to Code Section 9-16-11 or 9-16-15.

55 (4) 'Financial institution' means a bank, trust company, national banking association,  
 56 industrial bank, savings institution, or credit union chartered and supervised under state  
 57 or federal law.

58 (5) 'Governmental agency' means any department, office, council, commission,  
 59 committee, authority, board, bureau, or division of the executive, judicial, or legislative  
 60 branch of a state, the United States, or any political subdivision thereof.

61 (6) 'Interest holder' means a secured party within the meaning of Code Section 11-9-102,  
 62 the claim of a beneficial interest, or a perfected encumbrance pertaining to an interest in  
 63 property.

64 (7) 'Owner' means a person, other than an interest holder, who has an interest in property  
 65 and is in compliance with any statute requiring its recordation or reflection in public  
 66 records in order to perfect the interest against a bona fide purchaser for value.

67 (8) 'Proceeds' means property derived directly or indirectly from, maintained by, or  
 68 realized through an act or omission relating to criminal conduct and includes any benefit,  
 69 interest, or property of any kind without reduction for expenses incurred for acquisition,  
 70 maintenance, or any other purpose.

71 (9) 'Property' means anything of value and includes any interest in anything of value,  
 72 including real property and any fixtures thereon, and tangible and intangible personal  
 73 property, including but not limited to currency, instruments, securities, or any other kind  
 74 of privilege, interest, claim, or right.

75 (10) 'Real property' means any real property situated in this state or any interest in such  
 76 real property, including, but not limited to, any lease of or mortgage upon such real  
 77 property.

78 (11) 'State attorney' means a district attorney of this state or his or her designee or, when  
 79 specifically authorized by law, the Attorney General or his or her designee.

80 (12)(A) 'Trustee' means either of the following:

81 (i) Any person who holds legal or record title to real property for which any other  
 82 person has a beneficial interest; or

83 (ii) Any successor trustee or trustees to any of the foregoing persons.

84 (B) 'Trustee' does not include the following:

85 (i) Any person appointed or acting as a guardian or conservator under Title 29,  
 86 relating to guardian and ward, or personal representative under former Chapter 6 of  
 87 Title 53 as such existed on December 31, 1997, relating to the administration of  
 88 estates, if applicable, or Chapter 6 of Title 53 and other provisions in Chapters 1  
 89 through 11 of Title 53, the 'Revised Probate Code of 1998,' relating to the  
 90 administration of estates; or

91 (ii) Any person appointed or acting as a trustee of any testamentary trust or as trustee  
 92 of any indenture of trust under which any bonds are or are to be issued.

93 (13) 'United States' means the United States and its territories and possessions, the 50  
 94 states, and the District of Columbia.

95 9-16-3.

96 (a) A civil forfeiture action shall be filed by a state attorney in the name of the State of  
 97 Georgia in any superior court of this state and may be brought:

98 (1) In the case of an in rem action, in the judicial circuit where the property is located;

99 (2) In the case of an in personam action, in the judicial circuit in which the defendant  
 100 resides; or

101 (3) By the state attorney having jurisdiction over any offense which arose out of the same  
 102 conduct which made the property subject to forfeiture.

103 (b) If more than one state attorney has jurisdiction to file a civil action pursuant to this  
 104 chapter, the state attorney having primary jurisdiction over the conduct giving rise to the  
 105 forfeiture shall, in the event of a conflict, have priority over any other state attorney.

106 (c) Any civil action brought pursuant to this chapter may be compromised or settled in the  
 107 same manner as other civil actions.

108 9-16-4.

109 A civil forfeiture action shall be tried:

110 (1) If the civil forfeiture action is in rem against real property, in the county where the  
 111 property is located, except where a single tract is divided by a county line, in which case  
 112 the superior court of either county shall have jurisdiction;

113 (2) If the civil forfeiture action is in rem against tangible or intangible personal property,  
 114 in any county where the property is located or will be located during the pendency of the  
 115 action; or

116 (3) If the civil forfeiture action is in personam, as provided in Article VI, Section II of  
 117 the Constitution.

118 9-16-5.

119 A property interest shall not be subject to forfeiture under this chapter if the owner of the  
 120 interest or interest holder establishes that the owner or interest holder:

121 (1) Is not legally accountable for the conduct giving rise to its forfeiture;

122 (2) Did not consent to it;

123 (3) Did not know and could not reasonably have known of the conduct or that it was  
 124 likely to occur;

125 (4) Had not acquired and did not stand to acquire substantial proceeds from the conduct  
126 giving rise to its forfeiture other than as an interest holder in an arm's length commercial  
127 transaction;

128 (5) With respect to conveyances for transportation only, did not hold the property jointly,  
129 in common, or in community with a person whose conduct gave rise to the forfeiture;

130 (6) Does not hold the property for the benefit of or as nominee for any person whose  
131 conduct gave rise to its forfeiture, and, if the owner or interest holder acquired the interest  
132 through any such person, the owner or interest holder acquired it as a bona fide purchaser  
133 for value without knowingly taking part in an illegal transaction; and

134 (7) Acquired the interest:

135 (A) Before the completion of the conduct giving rise to its forfeiture and the person  
136 whose conduct gave rise to its forfeiture did not have the authority to convey the  
137 interest to a bona fide purchaser for value at the time of the conduct; or

138 (B) After the completion of the conduct giving rise to its forfeiture:

139 (i) As a bona fide purchaser for value without knowingly taking part in an illegal  
140 transaction;

141 (ii) Before the filing of a forfeiture lien on it and before the effective date of a notice  
142 of pending forfeiture relating to it and without notice of its seizure for forfeiture; and

143 (iii) At the time the interest was acquired, was reasonably without cause to believe  
144 that the property was subject to forfeiture or likely to become subject to forfeiture.

145 9-16-6.

146 If a seized vehicle is registered to a person or entity that was not present at the scene of the  
147 seizure and whose conduct did not give rise to the forfeiture, the seizing officer or his or  
148 her designee shall make a reasonable effort to determine the name of the registered owner  
149 of the seized vehicle and, upon learning such registered owner's telephone number or  
150 address, inform him or her that the vehicle has been seized.

151 9-16-7.

152 (a) Property subject to forfeiture may be seized by any law enforcement officer of this  
153 state or any political subdivision thereof who has power to make arrests or execute process  
154 or a search warrant issued by any court having jurisdiction over the property. A court  
155 issued warrant authorizing seizure of property subject to forfeiture may be issued on an  
156 affidavit demonstrating that probable cause exists for its forfeiture or that the property has  
157 been the subject of a previous final judgment of forfeiture in the courts of the United States.  
158 The court may order that the property be seized on such terms and conditions as are  
159 reasonable.

160 (b) Property subject to forfeiture may be seized without process if probable cause exists  
 161 to believe that the property is subject to forfeiture or the seizure is incident to an arrest or  
 162 search pursuant to a search warrant or to an inspection under an inspection warrant.

163 (c) The court's jurisdiction over civil forfeiture actions shall not be affected by a seizure  
 164 in violation of the Constitution of Georgia or the Constitution of the United States made  
 165 with process or in a good faith belief of probable cause.

166 9-16-8.

167 (a) When property that is intended to be forfeited is taken by any law enforcement officer  
 168 of this state, within 30 days thereof the seizing officer shall, in writing, report the fact of  
 169 seizure and conduct an inventory and estimate the value of the property seized and provide  
 170 such information to the district attorney of the judicial circuit having jurisdiction in the  
 171 county where the seizure was made.

172 (b) Within 60 days from the date of seizure, the state attorney shall:

173 (1) Initiate a notice of nonjudicial forfeiture as provided for in Code Section 9-16-12; or

174 (2) Initiate a complaint for forfeiture as provided for in Code Section 9-16-13 or 9-16-14.

175 (c) If the seizing officer fails to comply with subsection (a) of this Code section or the state  
 176 attorney fails to comply with subsection (b) of this Code section, the property shall be  
 177 released on the request of an owner or interest holder, pending a judicial forfeiture action  
 178 pursuant to this chapter, unless the property is being held as evidence.

179 9-16-9.

180 (a) A state attorney may file, without a filing fee, a forfeiture lien upon the initiation of any  
 181 civil action under this chapter or criminal proceeding or upon seizure for forfeiture. The  
 182 forfeiture lien filing shall constitute notice to any person claiming an interest in the  
 183 property owned by the named person. The forfeiture lien shall include the following  
 184 information:

185 (1) The name of each person who has a known interest in the seized property and, in the  
 186 discretion of the state attorney, any alias and any corporations, partnerships, trusts, or  
 187 other entities, including nominees, that are either owned entirely or in part or controlled  
 188 by such persons; and

189 (2) A description of the property, the value of the property claimed by the state attorney,  
 190 the name of the court where the civil action or criminal proceeding has been brought, and  
 191 the case number of the civil action or criminal proceeding if known at the time of filing  
 192 the forfeiture lien.

193 (b) A forfeiture lien filed pursuant to this Code section shall apply to:

194 (1) The described property:

195 (2) Each named person and any aliases, fictitious names, or other names, including  
 196 names of corporations, partnerships, trusts, or other entities that are either owned entirely  
 197 or in part or controlled by each named person; and

198 (3) Any interest in real property owned or controlled by each named person.

199 (c) A forfeiture lien creates, upon filing, a lien in favor of the state as it relates to the  
 200 seized property or to any named person or related entities with respect to such property.  
 201 Such forfeiture lien secures the amount of potential liability for civil judgment and, if  
 202 applicable, the fair market value of seized property relating to all civil forfeiture actions  
 203 under this chapter enforcing such lien. A forfeiture lien referred to in this Code section  
 204 shall be filed in accordance with the provisions of the laws in this state pertaining to the  
 205 type of property that is subject to the forfeiture lien. The state attorney may amend or  
 206 release, in whole or in part, a forfeiture lien filed under this Code section at any time by  
 207 filing, without a filing fee, an amended forfeiture lien in accordance with this Code section  
 208 which identifies the forfeiture lien amended. The state attorney, as soon as practical after  
 209 filing a forfeiture lien, shall furnish to any person named in the forfeiture lien a notice of  
 210 the filing of the forfeiture lien. Failure to furnish such notice shall not invalidate or  
 211 otherwise affect a forfeiture lien filed in accordance with this Code section.

212 (d) Upon entry of judgment in favor of the state, the state attorney may proceed to execute  
 213 on the forfeiture lien as in the case of any other judgment.

214 (e) A trustee, constructive or otherwise, who has notice that a forfeiture lien, a notice of  
 215 pending forfeiture, or a civil forfeiture action has been filed against the property or against  
 216 any person or entity for whom the person holds title or appears as the owner of record shall  
 217 furnish, within ten days of receiving notice as provided by this subsection, to the state  
 218 attorney the following information:

219 (1) The name and address of the person or entity for whom the property is held;

220 (2) The names and addresses of all beneficiaries for whose benefit legal title to the seized  
 221 property, or property of the named person or related entity, is held; and

222 (3) A copy of the applicable trust agreement or other instrument, if any, under which the  
 223 trustee or other person holds legal title or appears as the owner of record of the property.

224 (f) A trustee, constructive or otherwise, who fails to comply with subsection (e) of this  
 225 Code section shall be guilty of a misdemeanor.

226 9-16-10.

227 (a) Property attached or seized under this chapter shall not be subject to replevin,  
 228 conveyance, sequestration, or attachment.

229 (b) The seizing law enforcement agency or the state attorney may authorize the release of  
 230 the attached or seized property if the forfeiture or retention is unnecessary or may transfer

231 the civil forfeiture action to another agency or state attorney by discontinuing a civil  
 232 forfeiture action in favor of a civil forfeiture action initiated by another law enforcement  
 233 agency or state attorney.

234 (c) A civil forfeiture action filed pursuant to this chapter may be assigned to the same  
 235 judge hearing any other civil forfeiture action or criminal proceeding involving  
 236 substantially the same parties or same property in accordance with the Uniform Superior  
 237 Court Rules.

238 (d) Property shall be deemed to be in the custody of the State of Georgia subject only to  
 239 the orders and decrees of the superior court having jurisdiction over the civil forfeiture  
 240 action.

241 9-16-11.

242 (a) If property is seized, the state attorney may:

243 (1) Remove the property to a place designated by the superior court having jurisdiction  
 244 over the civil forfeiture action;

245 (2) Place the property under constructive seizure by giving notice of pending forfeiture  
 246 to its owners and interest holders and filing notice of seizure in any appropriate public  
 247 record relating to the property. Notice of a pending forfeiture may be posted in a  
 248 prominent location in the courthouse for the jurisdiction having venue for the forfeiture  
 249 if the owners' and interest holders' names are not known;

250 (3) Remove the property to a storage area within the jurisdiction of the court for  
 251 safekeeping;

252 (4) Provide for another governmental agency, a receiver appointed by the court pursuant  
 253 to Chapter 8 of this title, an owner, or an interest holder to take custody of the property  
 254 and remove it to an appropriate location within the county where the property was seized;  
 255 or

256 (5) Require the sheriff or chief of police of the political subdivision where the property  
 257 was seized to take custody of the property and remove it to an appropriate location for  
 258 disposition in accordance with law.

259 (b) If the expense of keeping any property which has been attached or seized is excessive  
 260 or disproportionate to the value of the property or the property:

261 (1) Is a depreciating asset;

262 (2) Is perishable or is liable to perish or waste; or

263 (3) May be greatly reduced in value by keeping it,

264 the court, upon motion of the state attorney, a claimant, or the custodian of the property,  
 265 may order the property or any portion thereof to be sold upon such terms and conditions



266 as may be prescribed by the court. The income from the sale shall be paid into the registry  
 267 of the court pending final disposition of the civil action.

268 (c) If the property is currency and is not needed for evidentiary purposes, within 60 days  
 269 of the seizure the seizing agency shall submit the currency to the clerk of court and such  
 270 currency shall be deposited in an interest-bearing account in a financial institution that has  
 271 a branch location within the county where the civil forfeiture action is located. Any  
 272 accrued interest shall follow the principal in any judgment with respect thereto.

273 9-16-12.

274 (a) If the estimated value of personal property seized is \$5,000.00 or less, the state attorney  
 275 shall post a notice of the seizure of such property in a prominent location in the courthouse  
 276 of the county in which the property was seized. Such notice shall include:

277 (1) A description of the property;

278 (2) The date and place of seizure;

279 (3) The conduct giving rise to forfeiture;

280 (4) The alleged violation of law; and

281 (5) A statement that the owner or interest holder of such property has 30 days within  
 282 which a claim must be served on the state attorney by certified mail or statutory overnight  
 283 delivery, return receipt requested, and that such claim must be signed by the owner or  
 284 interest holder and provide:

285 (A) The name of the claimant;

286 (B) The address at which the claimant resides;

287 (C) A description of the claimant's interest in the property; and

288 (D) A description of the circumstances of the claimant's obtaining an interest in the  
 289 property and, to the best of the claimant's knowledge, the date the claimant obtained the  
 290 interest and the name of the person or entity that transferred the interest to the claimant.

291 (b) The state attorney shall serve a copy of the notice specified in subsection (a) of this  
 292 Code section upon an owner, interest holder, and person in possession of the property at  
 293 the time of seizure as follows:

294 (1) If the name and current address of the person in possession of the property at the time  
 295 of the seizure, owner, or interest holder are known, provide notice by either personal  
 296 service or mailing a copy of the notice by certified mail or statutory overnight delivery,  
 297 return receipt requested, to that address;

298 (2) If the name and address of the person in possession of the property at the time of  
 299 seizure, owner, or interest holder are required by law to be on public record with a  
 300 governmental agency to perfect an interest in the property but the owner's or interest

301 holder's current address is not known, mail a copy of the notice by certified mail or  
 302 statutory overnight delivery, return receipt requested, to any address on the record; or  
 303 (3) If the current address of the person in possession of the property at the time of the  
 304 seizure, owner, or interest holder is not known and is not on record as provided in  
 305 paragraph (2) of this subsection or the name of the person in possession of the property  
 306 at the time of the seizure, owner, or interest holder is not known, publish a copy of the  
 307 notice of the civil forfeiture action once a week for two consecutive weeks in the legal  
 308 organ for the county in which the seizure occurs.

309 (c)(1) The owner or interest holder may serve a claim to the seized property within 30  
 310 days after being served or within 30 days after the second publication of the notice of  
 311 forfeiture, whichever occurs last, by sending the claim to the state attorney by certified  
 312 mail or statutory overnight delivery, return receipt requested.

313 (2) The claim shall be signed by the owner or interest holder and shall provide:

314 (A) The name of the claimant;

315 (B) The address at which the claimant resides;

316 (C) A description of the claimant's interest in the property; and

317 (D) A description of the circumstances of the claimant's obtaining an interest in the  
 318 property and, to the best of the claimant's knowledge, the date the claimant obtained the  
 319 interest and the name of the person or entity that transferred the interest to the claimant.

320 (3) If any claim is served, even when the state attorney determines that insufficient  
 321 information has been provided by the claimant, the state attorney shall file a complaint  
 322 for forfeiture as provided in Code Section 9-16-13 or 9-16-14 within 30 days of the actual  
 323 receipt of the claim. Any person who serves the state attorney with a claim shall be  
 324 joined as a party.

325 (4) If no claim is received within 33 days after service of the notice of forfeiture or the  
 326 second publication of the notice of forfeiture, whichever occurs last, all right, title, and  
 327 interest in the property shall be forfeited to the state by operation of law and the state  
 328 attorney shall dispose of the property as provided in Code Section 9-16-20. The state  
 329 attorney shall serve a copy of the order forfeiting the property by first-class mail upon  
 330 any person who was served with a notice of seized property.

331 9-16-13.

332 (a) In actions in rem, the property which is the subject of the civil action shall be named  
 333 as the defendant. The complaint shall be verified on oath or affirmation by a duly  
 334 authorized agent of the state in a manner consistent with Article 5 of Chapter 10 of this  
 335 title. Such complaint shall describe the property with reasonable particularity; state that  
 336 it is located within the county or will be located within the county during the pendency of

337 the action; state its present custodian; state the name of the owner or interest holder, if  
 338 known; allege the essential elements of the criminal violation which is claimed to exist;  
 339 state the place of seizure, if the property was seized; and conclude with a prayer of due  
 340 process to enforce the forfeiture.

341 (b)(1) A copy of the complaint and summons shall be served on any person known to be  
 342 an owner or interest holder and any person who is in possession of the property.

343 (2) Issuance of the summons, form of the summons, and service of the complaint and  
 344 summons shall be as provided in subsections (a), (b), (c), and (e) of Code Section 9-11-4.

345 (3) If real property is the subject of the civil forfeiture action or the owner or interest  
 346 holder is unknown or resides out of this state or departs this state or cannot after due  
 347 diligence be found within this state or conceals himself or herself so as to avoid service,  
 348 a copy of the notice of the civil forfeiture action shall be published once a week for two  
 349 consecutive weeks in the legal organ of the county in which the civil forfeiture action is  
 350 pending. Such publication shall be deemed notice to any and all persons having an  
 351 interest in or right affected by such civil forfeiture action and from any sale of the  
 352 property resulting therefrom, but shall not constitute notice to an interest holder unless  
 353 that person is unknown or resides out of this state or departs this state or cannot after due  
 354 diligence be found within this state or conceals himself or herself to avoid service.

355 (4) If tangible property which has not been seized is the subject of the civil action, the  
 356 court may order the sheriff or another law enforcement officer to take possession of the  
 357 property. If the character or situation of the property is such that the taking of actual  
 358 possession is impracticable, the sheriff shall execute process by affixing a copy of the  
 359 complaint and summons to the property in a conspicuous place and by leaving another  
 360 copy of the complaint and summons with the person having possession or his or her  
 361 agent. In cases involving a vessel or aircraft, the sheriff or other law enforcement officer  
 362 shall be authorized to make a written request with the appropriate governmental agency  
 363 not to permit the departure of such vessel or aircraft until notified by the sheriff or the  
 364 sheriff's deputy that the vessel or aircraft has been released.

365 (c) An owner of or interest holder in the property may file an answer asserting a claim  
 366 against the property in the action in rem. Any such answer shall be filed within 30 days  
 367 after the service of the summons and complaint. Where service is made by publication and  
 368 personal service has not been made, an owner or interest holder shall file an answer within  
 369 30 days of the date of final publication. An answer shall be verified by the owner or  
 370 interest holder under penalty of perjury. In addition to complying with the general rules  
 371 applicable to filing an answer in civil actions as set forth in Article 3 of Chapter 11 of this  
 372 title, the answer shall set forth:

373 (1) The name of the claimant;

- 374 (2) The address at which the claimant resides;  
 375 (3) The claimant's interest in the property; and  
 376 (4) A description of the circumstances of the claimant's obtaining an interest in the  
 377 property and, to the best of the claimant's knowledge, the date the claimant obtained the  
 378 interest and the name of the person or entity that transferred the interest to the claimant.
- 379 (d) In addition to any injured person's right of intervention pursuant to Code Section  
 380 9-16-17, any owner or interest holder or person in possession of the property who suffers  
 381 a pecuniary loss or physical injury due to a violation of Code Section 16-5-46, Article 4 or  
 382 5 of Chapter 8 of Title 16, Article 8 of Chapter 9 of Title 16, or Chapter 14 of Title 16 may  
 383 be permitted to intervene in any civil forfeiture action brought pursuant to this chapter as  
 384 provided by Chapter 11 of this title.
- 385 (e) If at the expiration of the period set forth in subsection (c) of this Code section no  
 386 answer has been filed, the state attorney may seek a default judgment as provided in Code  
 387 Section 9-11-55 and, if granted, the court shall order the disposition of the seized property  
 388 as provided for in Code Section 9-16-20.
- 389 (f) If an answer is filed, a bench trial shall be held within 60 days after the last claimant  
 390 was served with the complaint; provided, however, that such trial may be continued by the  
 391 court for good cause shown. Discovery as provided for in Article 5 of Chapter 11 of this  
 392 title shall not be allowed; however, prior to trial, any party may apply to the court to allow  
 393 for such discovery, and if discovery is allowed, the court may continue the trial to a date  
 394 not more than 60 days after the end of the discovery period unless continued by the court  
 395 for good cause shown.
- 396 (g) An action in rem may be brought by the state attorney in addition to or in lieu of any  
 397 other in rem or in personam action brought pursuant to this chapter.
- 398 9-16-14.
- 399 (a) In actions in personam, the complaint shall be verified on oath or affirmation by a duly  
 400 authorized agent of the state in a manner consistent with Article 5 of Chapter 10 of this  
 401 title. The complaint shall:
- 402 (1) Describe with reasonable particularity the property which is sought to be forfeited;  
 403 (2) State the property's present custodian;  
 404 (3) State the name of the owner or interest holder, if known;  
 405 (4) Allege the essential elements of the criminal violation which is claimed to exist;  
 406 (5) State the place of seizure, if the property was seized; and  
 407 (6) Conclude with a prayer of due process to enforce the forfeiture.
- 408 (b) Service of the complaint and summons shall be as follows:

409 (1) Except as otherwise provided in this Code section, issuance of the summons, form  
410 of the summons, and service of the complaint and summons shall be as provided by  
411 subsections (a), (b), (c), and (d) of Code Section 9-11-4; and  
412 (2) If the defendant is unknown or resides out of this state or departs this state or cannot  
413 after due diligence be found within this state or conceals himself or herself so as to avoid  
414 service, notice of the civil forfeiture action shall be published once a week for two  
415 consecutive weeks in the legal organ of the county in which the civil forfeiture action is  
416 pending. Such publication shall be deemed sufficient notice to any such defendant.  
417 (c) A defendant shall file a verified answer within 30 days after the service of the  
418 summons and complaint. If service is made by publication and personal service has not  
419 been made, a defendant shall file such answer within 30 days of the date of final  
420 publication. In addition to complying with the general rules applicable to filing an answer  
421 in civil actions as set forth in Article 3 of Chapter 11 of this title, the answer shall contain  
422 all of the elements set forth in subsection (c) of Code Section 9-16-13.  
423 (d) In addition to any injured person's right of intervention pursuant to Code Section  
424 9-16-17, any owner or interest holder or person in possession of the property who suffers  
425 a pecuniary loss or physical injury due to a violation of Code Section 16-5-46, Article 4 or  
426 5 of Chapter 8 of Title 16, Article 8 of Chapter 9 of Title 16, or Chapter 14 of Title 16 may  
427 be permitted to intervene in any civil forfeiture action brought pursuant to this chapter as  
428 provided by Chapter 11 of this title.  
429 (e) If at the expiration of the period set forth in subsection (c) of this Code section no  
430 answer has been filed, the state attorney may seek a default judgment as provided in Code  
431 Section 9-11-55 and, if granted, the court shall order the disposition of the seized property  
432 as provided for in Code Section 9-16-20.  
433 (f) If an answer is filed, a bench trial shall be held within 60 days after the last claimant  
434 was served with the complaint; provided, however, that such trial may be continued by the  
435 court for good cause shown. Discovery as provided for in Article 5 of Chapter 11 of this  
436 title shall not be allowed; however, prior to trial any party may apply to the court to allow  
437 for such discovery, and if discovery is allowed, the court may continue the trial to a date  
438 not more than 60 days after the end of the discovery period unless continued by the court  
439 for good cause shown.  
440 (g) On a determination of liability of a person for conduct giving rise to forfeiture, the  
441 court shall enter a judgment of forfeiture of the property described in the complaint and  
442 shall also authorize the state attorney or his or her agent or any law enforcement officer or  
443 peace officer to seize all property ordered to be forfeited which was not previously seized  
444 or was not then under seizure. Following the entry of an order declaring the property

445 forfeited, the court, on application of the state attorney, may enter any appropriate order  
446 to protect the interest of the state in the property ordered to be forfeited.

447 9-16-15.

448 In conjunction with any civil forfeiture action brought pursuant to this chapter or criminal  
449 proceeding involving forfeiture:

450 (1) The court, upon application of the state attorney, may enter any restraining order or  
451 injunction; require the execution of satisfactory performance bonds; appoint receivers,  
452 conservators, appraisers, accountants, or trustees; or take any action to seize, secure,  
453 maintain, or preserve the availability of property subject to forfeiture, including issuing  
454 a warrant for its seizure and writ of attachment, whether before or after the filing of a  
455 complaint for forfeiture;

456 (2) A temporary restraining order under this Code section may be entered on application  
457 of the state attorney, without notice or an opportunity for a hearing, if the state attorney  
458 demonstrates that:

459 (A) There is probable cause to believe that the property subject to the order, in the  
460 event of final judgment or conviction, would be subject to forfeiture; and

461 (B) Provision of notice would jeopardize the availability of the property for forfeiture;

462 (3) Notice of the entry of a restraining order and an opportunity for a hearing shall be  
463 afforded to persons known to have an interest in the property. The hearing shall be held  
464 at the earliest possible date consistent with subsection (b) of Code Section 9-11-65 and  
465 shall be limited to the issues of whether:

466 (A) There is a probability that the state will prevail on the issue of forfeiture and that  
467 failure to enter the order will result in the property's being destroyed, conveyed,  
468 encumbered, removed from the jurisdiction of the court, concealed, or otherwise made  
469 unavailable for forfeiture; and

470 (B) The need to preserve the availability of the property through the entry of the  
471 requested order outweighs the hardship on any owner or interest holder against whom  
472 the order is to be entered;

473 (4) If property is seized for forfeiture or a forfeiture lien is filed without a previous  
474 judicial determination of probable cause or order of forfeiture or a hearing under  
475 paragraph (2) of this Code section, the court, on an application filed by an owner of or  
476 interest holder in the property within 30 days after notice of its seizure or forfeiture lien  
477 or actual knowledge of such seizure or lien, whichever is earlier, and complying with the  
478 requirements for an answer to an in rem complaint, and after five days' notice to the  
479 district attorney of the judicial circuit where the property was seized or, in the case of a  
480 forfeiture lien, to the state attorney filing such lien, may issue an order to show cause to

481 the state attorney and seizing law enforcement agency for a hearing on the sole issue of  
 482 whether probable cause for forfeiture of the property then exists. The hearing shall be  
 483 held within 30 days unless continued for good cause on motion of either party. If the  
 484 court finds that there is no probable cause for forfeiture of the property, the property shall  
 485 be released. In determining probable cause, the court shall apply the rules of evidence;  
 486 provided, however, that hearsay shall be admissible; and

487 (5) The court may order property that has been seized for forfeiture to be sold to satisfy  
 488 a specified interest of any interest holder, on motion of any party, and after notice and a  
 489 hearing, on the conditions that:

490 (A) The interest holder has filed a proper claim and if the interest holder is a financial  
 491 institution:

492 (i) Is authorized to do business in this state and is under the jurisdiction of a  
 493 governmental agency which regulates financial institutions, securities, insurance, or  
 494 real estate; or

495 (ii) Has an interest that the state attorney has stipulated is exempt from forfeiture;

496 (B) The interest holder shall dispose of the property by commercially reasonable public  
 497 sale and apply the income first to its interest and then to its reasonable expenses  
 498 incurred in connection with the sale or disposal; and

499 (C) The balance of the income, if any, shall be returned to the actual or constructive  
 500 custody of the court, in an interest bearing account, subject to further proceedings under  
 501 this chapter.

502 9-16-16.

503 (a) For good cause shown by the state or the owner or interest holder of the property, the  
 504 court may stay civil forfeiture actions during the pendency of criminal proceedings  
 505 resulting from a related indictment or accusation until such time as the criminal  
 506 proceedings result in a plea of guilty, a conviction after trial, or an acquittal after trial or  
 507 are otherwise concluded before the trial court.

508 (b) An acquittal or dismissal in a criminal proceeding shall not preclude civil forfeiture  
 509 actions pursuant to this chapter.

510 (c) A defendant convicted in any criminal proceeding shall be precluded from later  
 511 denying the essential allegations of the criminal offense of which the defendant was  
 512 convicted in any civil forfeiture action against such defendant pursuant to this chapter,  
 513 regardless of the pendency of an appeal from that conviction; provided, however, that the  
 514 evidence of the pendency of an appeal shall be admissible. For the purposes of this  
 515 subsection, the term 'conviction' means the result from a verdict or plea of guilty, including  
 516 a plea of nolo contendere.

517 9-16-17.

518 (a) As used in this Code section, the term 'injured person' means any person who suffers  
519 a pecuniary loss or physical injury due to a violation of Code Section 16-5-46, Article 4 or  
520 5 of Chapter 8 of Title 16, Article 8 of Chapter 9 of Title 16, or Chapter 14 of Title 16. In  
521 the event that such person is a child or deceased, the provisions of subparagraphs (B) and  
522 (C) of paragraph (11) of Code Section 17-17-3 shall apply.

523 (b) If an injured person has provided contact information pursuant to Chapter 17 of Title  
524 17, a state attorney shall serve every known injured person, if he or she has not previously  
525 been served, with a copy of the notice or complaint for civil forfeiture and a notice of such  
526 person's right of intervention at least 30 days prior to the entry of a final judgment.

527 (c) Notwithstanding the distribution of forfeiture proceeds as set forth in Code Section  
528 9-16-20, any injured person shall have a right or claim to forfeited property or to the  
529 proceeds derived therefrom superior to any right or claim the state or local government has  
530 in the same property or proceeds other than for costs. To enforce such a claim, the injured  
531 person must intervene in the civil forfeiture action prior to the entry of a final judgment.

532 9-16-18.

533 (a) The state's burden of proof shall be to show by clear and convincing evidence that  
534 seized property is subject to forfeiture.

535 (b) The fact that currency or a negotiable instrument was found in proximity to contraband  
536 or to an instrumentality of conduct giving rise to forfeiture shall authorize the trier of fact  
537 to infer that the currency or negotiable instrument was the proceeds of conduct giving rise  
538 to forfeiture or was used or intended to be used to facilitate such conduct.

539 (c) There shall be a rebuttable presumption that any property of a person is subject to  
540 forfeiture under this chapter if the state attorney establishes by clear and convincing  
541 evidence that:

542 (1) The person has engaged in conduct giving rise to forfeiture;

543 (2) The property was acquired by the person during the period of the conduct giving rise  
544 to forfeiture or within a reasonable time after such period; and

545 (3) There was no likely source for the property other than the conduct giving rise to  
546 forfeiture.

547 9-16-19.

548 (a) All property declared to be forfeited vests in the state at the time of commission of the  
549 conduct giving rise to forfeiture together with the proceeds of the property after that time.  
550 Any property or proceeds transferred later to any person remain subject to forfeiture and  
551 thereafter shall be ordered to be forfeited unless the transferee claims and establishes in a



552 hearing under this chapter that the transferee is a bona fide purchaser for value and the  
 553 transferee's interest is exempt under Code Section 9-16-5.

554 (b) On entry of judgment for a person claiming an interest in the property that is subject  
 555 to a civil forfeiture action, the court shall order that the property or interest in the property  
 556 be released or delivered promptly to that person free of liens and encumbrances.

557 9-16-20.

558 (a) As used in this Code section, the term:

559 (1) 'Official law enforcement purpose' means expenditures for law enforcement  
 560 equipment, training expenses, and investigative expenses; such term shall not include the  
 561 payment of salaries or rewards to law enforcement personnel.

562 (2) 'Political subdivision' means any county, municipality, or consolidated government  
 563 of this state.

564 (b) Whenever property is forfeited under this chapter, any property which is required by  
 565 order of the court or by law to be destroyed or which is harmful to the public shall, when  
 566 no longer needed for evidentiary purposes, be destroyed or forwarded to the Division of  
 567 Forensic Sciences of the Georgia Bureau of Investigation or any other agency of state or  
 568 local government for destruction or for any medical or scientific use not prohibited under  
 569 the laws of the United States.

570 (c) When property, other than currency or real property, is forfeited under this chapter, the  
 571 court may:

572 (1) Order the property to be sold, with the income from the sale to be distributed as  
 573 provided in subsection (f) of this Code section; or

574 (2) Provide for the in-kind distribution of the property as provided for in subsection (f)  
 575 of this Code section.

576 (d) When real property is forfeited, the court may appoint a person to act as the receiver  
 577 of such property for the limited purpose of holding and transferring title and may order  
 578 that:

579 (1) The title to the real property be placed in the name of the state;

580 (2) The appropriate political subdivision take charge of the property and:

581 (A) Sell the property with such conditions as the court deems proper and distribute the  
 582 income in such manner as the court so orders; or

583 (B) Hold the property for use by one or more law enforcement agencies;

584 (3) The real property be turned over to an appropriate political subdivision without  
 585 restrictions;

586 (4) The real property be deeded to a land bank authority as provided in Article 4 of  
 587 Chapter 4 of Title 48; or

588 (5) The real property be disposed of in any commercially reasonable manner as the court  
 589 deems proper.

590 (e) When property is to be sold pursuant to this Code section:

591 (1) The court may direct that such property be sold by:

592 (A) Judicial sale as provided in Article 7 of Chapter 13 of this title; provided, however,  
 593 that the court may establish a minimum acceptable price for such property; or

594 (B) Any commercially feasible means, including, but not limited to, in the case of real  
 595 property, listing such property with a licensed real estate broker, selected by a state  
 596 attorney through competitive bids; and

597 (2) The proceeds of such sale shall be paid into the registry of the court.

598 (f)(1) The state attorney shall submit a proposed order of distribution to the court and the  
 599 court shall issue an order of distribution. The state attorney shall provide a copy of the  
 600 order of distribution to the chief executive officer of any political subdivision that will  
 601 receive a distribution pursuant to such order.

602 (2) All property forfeited in the same civil forfeiture action shall be pooled together and  
 603 a fair market value shall be assigned to each item of property other than currency in such  
 604 pool. A total value shall be established for the pool by adding together the fair market  
 605 value of all such property in the pool, the amount of currency in the pool, and any  
 606 accrued interest.

607 (3) The first distribution from the pool shall be to pay all costs and expenses, including  
 608 court costs, to the entity incurring the cost or expense. As further set forth in paragraphs  
 609 (4) and (5) of this subsection, the currency portion of the remaining pool shall be  
 610 distributed pro rata to law enforcement agencies and multijurisdictional task forces,  
 611 according to the role which each law enforcement agency or multijurisdictional task force  
 612 played in the seizure of the property, and may be distributed to the district attorney's  
 613 office.

614 (4) After the payment of costs, expenses, and court costs and upon the request of the  
 615 district attorney, the order of distribution may provide that up to 10 percent of the  
 616 remaining pool be paid to the district attorney's office for its efforts in prosecuting the  
 617 forfeiture proceedings. Any sum paid to the district attorney's office shall only be utilized  
 618 for the payment of the office's trial expenses, victim-witness services, training expenses,  
 619 travel expenses, and maintenance or improvement of equipment.

620 (5) Property distribution shall be as follows:

621 (A) With respect to political subdivisions:

622 (i) Property distributed in kind to a political subdivision or multijurisdictional task  
 623 force for use by an agency, department, or officer of a political subdivision for official  
 624 law enforcement purposes shall be designated in the order of distribution and shall be

625 titled accordingly. If real property is distributed to a political subdivision, the  
 626 political subdivision may transfer the real property to a land bank authority as  
 627 provided in Article 4 of Chapter 4 of Title 48. When in kind property is no longer  
 628 needed by the recipient, it shall be disposed of in accordance with the political  
 629 subdivision's policy and procedure;

630 (ii) Currency distributed to local law enforcement agencies or to multijurisdictional  
 631 task forces shall be paid or credited to such agencies or task forces within 15 days of  
 632 the date of the order of distribution; provided, however, that such agency or task force  
 633 shall not be eligible to receive more than 33 1/3 percent of the amount of local funds  
 634 appropriated or otherwise made available to such agency or task force for the fiscal  
 635 year in which such funds are distributed. Such currency may be used for any official  
 636 law enforcement purpose and shall not be used to supplant any other local, state, or  
 637 federal funds appropriated for staff or operations; and

638 (iii) Currency not distributed pursuant to division (ii) of this subparagraph shall be  
 639 expended for any official law enforcement purpose; for the representation of indigents  
 640 in criminal cases; for drug treatment, mental health treatment, rehabilitation,  
 641 prevention, or education or any other program which responds to problems created  
 642 by drug or substance abuse; for use as matching funds for grant programs related to  
 643 drug treatment or prevention; to fund victim-witness assistance programs; or for any  
 644 combination of the foregoing; and

645 (B) With respect to the state:

646 (i) Property distributed in kind to the state for use by an agency or officer of the state  
 647 shall be designated in the order of distribution and shall be delivered over to the  
 648 Department of Administrative Services for such use or disposition as may be  
 649 determined by the commissioner of administrative services; and

650 (ii) Currency distributed to the state shall be paid into the general fund of the state  
 651 treasury within 15 days of the date of the order of distribution, it being the intent of  
 652 the General Assembly that the same be used, subject to appropriation from the general  
 653 fund in the manner provided by law, for funding of Article 2 of Chapter 12 of Title  
 654 17, the 'Georgia Indigent Defense Act of 2003,' for representation of indigents in  
 655 criminal cases; for funding of the Georgia Crime Victims Emergency Fund; for law  
 656 enforcement and prosecution agency programs and particularly for funding of  
 657 advanced drug investigation and prosecution training for law enforcement officers and  
 658 prosecuting attorneys; for drug treatment, mental health treatment, rehabilitation,  
 659 prevention, or education or any other program which responds to problems created  
 660 by drug or substance abuse; for use as matching funds for grant programs related to  
 661 drug treatment or prevention; or for financing the judicial system of the state.

662 (g)(1) The Administrative Office of the Courts shall promulgate and from time to time  
 663 amend as necessary and post on its website an annual reporting form for use by local law  
 664 enforcement agencies and multijurisdictional task forces to report forfeited property as  
 665 set forth in this subsection.

666 (2) Every local law enforcement agency and multijurisdictional task force receiving  
 667 forfeiture property, including property distributed in kind, shall submit an annual report  
 668 to the political subdivision and the district attorney governing its jurisdiction specifying  
 669 the property received during the fiscal year and clearly identifying the use of such  
 670 property, including the specifics of all monetary expenditures. Such annual report shall  
 671 be submitted to the applicable political subdivision and district attorney at the same time  
 672 as such agency's or task force's budget request. No political subdivision shall accept for  
 673 filing any annual report unless the report is on a form promulgated by the Administrative  
 674 Office of the Courts and such form is appropriately and legibly completed.

675 (3) A copy of the annual report required by this subsection shall also be submitted to the  
 676 Carl Vinson Institute of Government of the University of Georgia as provided in Code  
 677 Section 36-80-21.

678 (4) If a local law enforcement agency or multijurisdictional task force fails to comply  
 679 with this subsection or misuses property derived or resulting from civil forfeiture actions,  
 680 such agency or task force shall not be eligible to receive property derived or resulting  
 681 from civil forfeiture actions for a period of two years commencing on a date determined  
 682 by the district attorney of the judicial circuit having appropriate jurisdiction. Any  
 683 property forfeited during a two-year suspension period shall be shall be paid over into the  
 684 general fund of the state treasury. The district attorney shall ensure that civil forfeiture  
 685 disposition orders reflect the disposition of such property.

686 9-16-21.

687 (a) The court shall order the forfeiture of any property of a claimant or defendant up to the  
 688 value of property found by the court to be subject to forfeiture if any of the forfeited  
 689 property:

690 (1) Cannot be located;

691 (2) Has been transferred or conveyed to, sold to, or deposited with a third party;

692 (3) Is beyond the jurisdiction of the court;

693 (4) Has been substantially diminished in value while not in the actual physical custody  
 694 of the receiver or governmental agency directed to maintain custody of the property; or

695 (5) Has been commingled with other property that cannot be divided without difficulty.

696 (b) In addition to any other remedy provided for by law, a state attorney on behalf of the  
 697 state may institute a civil action in any court of the United States against any person acting

698 with knowledge or any person to whom notice of a forfeiture lien has been provided in  
699 accordance with Code Section 9-16-9; to whom notice of seizure has been provided in  
700 accordance with Code Section 9-16-8; or to whom notice of a civil forfeiture action  
701 alleging conduct giving rise to forfeiture under this chapter has been provided, if property  
702 subject to forfeiture is conveyed, alienated, disposed of, or otherwise rendered unavailable  
703 for forfeiture after the filing of a forfeiture lien notice or notice of seizure or after the filing  
704 and notice of a civil forfeiture action alleging conduct giving rise to forfeiture under this  
705 chapter, as the case may be. The state may recover judgment in an amount equal to the  
706 value of the forfeiture lien but not to exceed the fair market value of the property or, if  
707 there is no forfeiture lien, in an amount not to exceed the fair market value of the property,  
708 together with reasonable investigative expenses and attorney's fees.

709 (c) A state attorney may file and prosecute in any of the courts of the United States or as  
710 may be necessary to enforce any judgment rendered pursuant to this chapter.

711 (d) No person claiming an interest in property subject to forfeiture may commence or  
712 maintain any civil action concerning the validity of the alleged interest other than as  
713 provided in this chapter. No person claiming an interest in property subject to forfeiture  
714 may file any counterclaim or cross-claim to any action brought pursuant to this chapter.  
715 Except as specifically authorized by subsection (d) of Code Section 9-16-13, subsection  
716 (d) of Code Section 9-16-14, or Code Section 9-16-17, providing for intervention, no  
717 person claiming an interest in such property may intervene in any civil forfeiture action  
718 brought pursuant to this chapter.

719 (e) A civil forfeiture action under this chapter shall be commenced within four years after  
720 the last conduct giving rise to forfeiture or to the claim for relief became known or should  
721 have become known, excluding any time during which either the property or defendant is  
722 out of the state or in confinement or during which criminal proceedings relating to the same  
723 conduct are in progress.

724 9-16-22.

725 (a) Property seized or forfeited pursuant to federal law, and such property or proceeds  
726 derived therefrom, authorized by such federal law to be transferred to a cooperating law  
727 enforcement agency of this state or any political subdivision thereof shall be utilized by the  
728 law enforcement agency or political subdivision to which the property or proceeds are so  
729 transferred as provided by such federal law and regulations thereunder. If federal law is  
730 silent as to the utilization of such property or proceeds, the property and proceeds shall be  
731 disposed of and utilized as set forth in Code Section 9-16-20.

732 (b) Any law enforcement agency receiving property or proceeds pursuant to federal law  
733 shall also comply with subsection (g) of Code Section 9-16-20.

734 9-16-23.

735 This chapter shall be liberally construed to effectuate its remedial purposes."

736 **PART II**  
 737 **CONFORMING TITLE 16 TO THE NEW**  
 738 **CIVIL FORFEITURE PROCEDURE**  
 739 **SECTION 2-1.**

740 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is  
 741 amended by revising subsection (e) of Code Section 16-5-44.1, relating to highjacking a  
 742 motor vehicle, as follows:

743 "(e)(1) As used in this subsection, the terms 'proceeds' and 'property' shall have the same  
 744 meanings as set forth in Code Section 9-16-2.

745 (2) Any property which is, directly or indirectly, used; or intended for use; derived, or  
 746 realized, directly or indirectly, from in any manner to facilitate a violation of this Code  
 747 section is forfeited to the state and no property interest shall exist therein. Any action  
 748 declaring such forfeiture shall be governed by the provisions of Code Section 16-13-49  
 749 and any proceeds derived or realized therefrom are declared to be contraband and no  
 750 person shall have a property right in them.

751 (3) Any property subject to forfeiture pursuant to paragraph (2) of this subsection shall  
 752 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9."

753 **SECTION 2-2.**

754 Said title is further amended by revising subsection (g) of code section 16-5-46, relating to  
 755 trafficking of persons for labor or sexual servitude, as follows:

756 "(g)(1) As used in this subsection, the terms 'proceeds' and 'property' shall have the same  
 757 meanings as set forth in Code Section 9-16-2. All real and personal property of every  
 758 kind used or intended for use in the course of, derived from, or realized through a  
 759 violation of this Code section shall be subject to forfeiture to the state. Forfeiture shall  
 760 be had by the same procedure set forth in Code Section 16-14-7. Prosecuting attorneys  
 761 and the Attorney General may commence forfeiture proceedings under this Code section.

762 (2) Any property which is, directly or indirectly, used or intended for use in any manner  
 763 to facilitate a violation of this Code section and any proceeds derived or realized  
 764 therefrom are declared to be contraband and no person shall have a property right in  
 765 them.

766 (3) Any property subject to forfeiture pursuant to paragraph (2) of this subsection shall  
 767 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9.

768 (4) The Attorney General shall be specifically authorized to commence forfeiture  
 769 proceedings under this Code section."

770 **SECTION 2-3.**

771 Said title is further amended by repealing in its entirety Code Section 16-6-13.2, relating to  
 772 forfeiture and seizure of property involving pimping and pandering, and enacting a new Code  
 773 Section 16-6-13.2 to read as follows:

774 "16-6-13.2.

775 (a) As used in this Code section, the term 'motor vehicle' shall have the same meaning as  
 776 set forth in Code Section 40-1-1.

777 (b) The following are declared to be contraband and no person shall have a property right  
 778 in them:

779 (1) Any motor vehicle used by a person to facilitate a violation of Code Section 16-6-11  
 780 when the offense involved the pimping of a person under 18 years of age to perform an  
 781 act of prostitution; and

782 (2) Any motor vehicle used by a person to facilitate a violation of Code Section 16-6-11  
 783 when such person has been convicted of or pled nolo contendere for two previous  
 784 violations of Code Section 16-6-11 or 16-6-12 within a five-year period and who is  
 785 convicted of or pleads nolo contendere to a third violation of Code Section 16-6-11 or  
 786 16-6-12 within the same five-year period.

787 (c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall  
 788 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9."

789 **SECTION 2-4.**

790 Said title is further amended by repealing in its entirety Code Section 16-6-13.3, relating to  
 791 proceeds from pimping, forfeiture, and distribution, and enacting a new Code Section  
 792 16-6-13.3 to read as follows:

793 "16-6-13.3.

794 (a) As used in this Code section, the terms 'proceeds' and 'property' shall have the same  
 795 meanings as set forth in Code Section 9-16-2.

796 (b) Any property which is, directly or indirectly, used or intended for use in any manner  
 797 to facilitate a violation of Code Section 16-6-11 when any of the persons involved in  
 798 performing an action of prostitution is under the age of 18 and any proceeds derived or  
 799 realized therefrom are declared to be contraband and no person shall have a property right  
 800 in them.

801 (c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall  
 802 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9."

803 **SECTION 2-5.**

804 Said title is further amended by revising Code Section 16-7-95, relating to forfeiture and  
 805 destruction or disposition of property, as follows:

806 "16-7-95.

807 (a) As used in this Code section, the terms 'proceeds' and 'property' shall have the same  
 808 meanings as set forth in Code Section 9-16-2. All property which is subject to forfeiture  
 809 pursuant to Code Section 16-13-49 which is, directly or indirectly, used or intended for use  
 810 in any manner to facilitate a violation of this article or any proceeds derived or realized  
 811 therefrom shall be considered contraband. Except as provided in subsection (b) of this  
 812 Code section, such property may be seized and shall be forfeited to the state as provided  
 813 in Code Section 16-13-49. A property interest shall not be subject to forfeiture under this  
 814 Code section if the owner of such interest or interest holder establishes any of the  
 815 provisions of subsection (e) of Code Section 16-13-49.

816 (b) Any property which is, directly or indirectly, used or intended for use in any manner  
 817 to facilitate a violation of this article and any proceeds derived or realized therefrom are  
 818 declared to be contraband and no person shall have a property right in them.

819 (c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall  
 820 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9.

821 ~~(b)~~(d) On application of the seizing law enforcement agency, the superior court may  
 822 authorize the seizing law enforcement agency to destroy or transfer to any agency of this  
 823 state or of the United States which can safely store or render harmless any destructive  
 824 device, explosive, poison gas, or detonator which is subject to forfeiture pursuant to this  
 825 Code section if the court finds that it is impractical or unsafe for the seizing law  
 826 enforcement agency to store such destructive device, explosive, poison gas, or detonator.  
 827 Such application may be made at any time after seizure. Any destruction authorized  
 828 pursuant to this subsection shall be made in the presence of at least one credible witness  
 829 or shall be recorded on film, videotape, or other electronic imaging method. Any such  
 830 film, videotape, or other electronic imaging method shall be admissible as evidence in lieu  
 831 of such destructive device, explosive, poison gas, or detonator. The court may also direct  
 832 the seizing agency or an agency to which such destructive device, explosive, poison gas,  
 833 or detonator is transferred to make a report of the destruction, take samples, or both.

834 ~~(c)~~(e) The provisions of subsection ~~(b)~~ (d) of this Code section shall not prohibit an  
 835 explosive ordnance technician, other law enforcement officer, or fire service personnel  
 836 from taking action which will render safe an explosive, destructive device, poison gas, or  
 837 detonator or any object which is suspected of being an explosive, destructive device, poison  
 838 gas, or detonator without the prior approval of a court when such action is intended to  
 839 protect lives or property."



840 **SECTION 2-6.**

841 Said title is further amended by revising subsection (e) of Code Section 16-8-5.2, relating to  
 842 retail property fencing and forfeiture, as follows:

843 "(e)(1) As used in this subsection, the terms 'proceeds' and 'property' shall have the same  
 844 meanings as set forth in Code Section 9-16-2.

845 (2) Any property constituting proceeds derived from proceeds which are, directly or  
 846 indirectly, derived or realized through a violation of this Code section shall be subject to  
 847 forfeiture to the State of Georgia except that are declared to be contraband and no person  
 848 shall have a property right in them; provided, however, that notwithstanding Code  
 849 Section 9-16-5, no property of any owner shall be forfeited under this subsection, to the  
 850 extent of the interest of such owner, by reason of an act or omission established by such  
 851 owner to have been committed or omitted without knowledge or consent of such owner.  
 852 The procedure for forfeiture and disposition of forfeited property under this subsection  
 853 shall be as provided for under Code Section 16-13-49.

854 (3) Any property subject to forfeiture pursuant to paragraph (2) of this subsection shall  
 855 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9."

856 **SECTION 2-7.**

857 Said title is further amended by revising subsection (f) of Code Section 16-8-60, relating to  
 858 reproduction of recorded material, transfer, sale, distribution, circulation, and forfeiture, as  
 859 follows:

860 "(f)(1) Any phonograph record, disc, wire, tape, videotape, film, or other article onto  
 861 which sounds or visual images have been transferred shall be subject to forfeiture to the  
 862 State of Georgia except that in violation of this Code section are declared to be  
 863 contraband and no person shall have a property right in them; provided, however, that  
 864 notwithstanding Code Section 9-16-5, no property of any owner shall be forfeited under  
 865 this paragraph, to the extent of the interest of such owner, by reason of an act or omission  
 866 established by such owner to have been committed or omitted without knowledge or  
 867 consent of such owner.

868 (2) Any property subject to forfeiture pursuant to paragraph (1) of this subsection shall  
 869 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9. The  
 870 procedure for forfeiture and disposition of forfeited property under this subsection shall  
 871 be as provided for under Code Section 16-13-49."

872 **SECTION 2-8.**

873 Said title is further amended by revising subsections (c) through (r) of Code Section 16-8-85,  
 874 relating to forfeiture of personal property seized, as follows:

875 ~~“(c)(1) Any motor vehicle, motor vehicle part, other conveyance, tool, implement, or~~  
 876 ~~instrumentality is not subject to forfeiture under this Code section by reason of any act~~  
 877 ~~or omission which the owner proves to have been committed or omitted without the~~  
 878 ~~owner's knowledge or consent.~~

879 ~~(2) Seizing agencies shall utilize their best efforts to identify any seized motor vehicle~~  
 880 ~~or motor vehicle part to determine ownership or the identity of any other person having~~  
 881 ~~a right or interest in a seized motor vehicle or motor vehicle part. In its reasonable~~  
 882 ~~identification and owner location attempts, the seizing agency shall cause the stolen~~  
 883 ~~motor vehicle files of the Georgia Bureau of Investigation to be searched for stolen or~~  
 884 ~~wanted information on motor vehicles similar to the seized motor vehicle or consistent~~  
 885 ~~with the seized motor vehicle part.~~

886 ~~(3)(c) If~~ Where a motor vehicle part has an apparent value in excess of \$1,000.00:

887 ~~(A)(1)~~ (1) The seizing agency shall consult with an expert of the type specified in  
 888 paragraph (4) of Code Section 16-8-82; and

889 ~~(B)(2)~~ (2) The seizing agency shall also request searches of the ~~on-line~~ online and ~~off-line~~  
 890 offline files of the National Crime Information Center and the National Automobile Theft  
 891 Bureau when the Georgia Bureau of Investigation and Georgia Crime Information Center  
 892 files have been searched with negative results.

893 (d) Any property subject to forfeiture pursuant to this Code section shall be forfeited in  
 894 accordance with the procedures set forth in Chapter 16 of Title 9, except as specifically set  
 895 forth in subsections (g) through (j) of this Code section. ~~A forfeiture of a motor vehicle,~~  
 896 ~~motor vehicle part, or other conveyance encumbered by a bona fide security interest is~~  
 897 ~~subject to the interest of the secured party where the secured party neither had knowledge~~  
 898 ~~of nor consented to the act or omission forming the ground for the forfeiture.~~

899 ~~(e) Property, as described in subsection (a) of this Code section, which is seized and held~~  
 900 ~~for forfeiture shall not be subject to replevin and is subject only to the order and judgments~~  
 901 ~~of a court of competent jurisdiction hearing the forfeiture proceedings.~~

902 ~~(f)(1) A prosecutor in the county where the seizure occurs shall bring an action for~~  
 903 ~~forfeiture in a court of competent jurisdiction. The forfeiture action shall be brought~~  
 904 ~~within 60 days from the date of seizure except where the prosecutor in the sound exercise~~  
 905 ~~of discretion determines that no forfeiture action should be brought because of the rights~~  
 906 ~~of property owners, lienholders, or secured creditors or because of exculpatory,~~  
 907 ~~exonerating, or mitigating facts and circumstances.~~

908 ~~(2) The prosecutor shall give notice of the forfeiture proceeding by mailing a copy of the~~  
 909 ~~complaint in the forfeiture proceeding to each person whose right, title, or interest is of~~  
 910 ~~record in the Department of Revenue, the Department of Transportation, the Federal~~  
 911 ~~Aviation Agency, or any other department or agency of this state, any other state or~~

912 ~~territory of the United States, or of the federal government if such property is required to~~  
 913 ~~be registered with any such department or agency.~~

914 ~~(3) Notice of the forfeiture proceeding shall be given to any other such person as may~~  
 915 ~~appear, from the facts and circumstances, to have any right, title, or interest in or to the~~  
 916 ~~property.~~

917 ~~(4) The owner of the property or any person having or claiming right, title, or interest in~~  
 918 ~~the property may within 60 days after the mailing of such notice file a verified answer to~~  
 919 ~~the complaint and may appear at the hearing on the action for forfeiture.~~

920 ~~(5) The prosecutor shall show at a forfeiture hearing, by a preponderance of the~~  
 921 ~~evidence, that such property was used in the commission of a violation of Code Section~~  
 922 ~~16-8-83 or was used or possessed to facilitate such violation.~~

923 ~~(6) The owner of such property may show by a preponderance of the evidence that the~~  
 924 ~~owner did not know, and did not have reason to know, that the property was to be used~~  
 925 ~~or possessed in the commission of any violation or that any of the exceptions to forfeiture~~  
 926 ~~are applicable.~~

927 ~~(7) Unless the prosecutor shall make the showing required of it, the court shall order the~~  
 928 ~~property released to the owner. Where the prosecutor has made such a showing, the court~~  
 929 ~~may order that:~~

930 ~~(A) The property be destroyed by the agency which seized it or some other agency~~  
 931 ~~designated by the court;~~

932 ~~(B) The property be delivered and retained for use by the agency which seized it or~~  
 933 ~~some other agency designated by the court; or~~

934 ~~(C) The property be sold at public sale.~~

935 ~~(g)(e)~~ A copy of a forfeiture order shall be filed with the sheriff of the county in which the  
 936 forfeiture occurs and with each federal or state department or agency with which such  
 937 property is required to be registered. Such order, when filed, constitutes authority for the  
 938 issuance to the agency to whom the property is delivered and retained for use or to any  
 939 purchaser of the property of a certificate of title, registration certificate, or other special  
 940 certificate as may be required by law in consideration of the condition of the property.

941 ~~(h) Proceeds from sale at public auction, after payment of all reasonable charges and~~  
 942 ~~expenses incurred by the agency designated by the court to conduct the sale in storing and~~  
 943 ~~selling the property, shall be paid into the general fund of the county of seizure.~~

944 ~~(i)(f)~~ No motor vehicle, either seized under Code Section 16-8-84 or forfeited under this  
 945 Code section, shall be released by the seizing agency or used or sold by an agency  
 946 designated by the court unless any altered, counterfeited, defaced, destroyed, disguised,  
 947 falsified, forged, obliterated, or removed vehicle identification number is corrected by the

948 issuance and affixing of either an assigned or replacement vehicle identification number  
949 plate as may be appropriate under laws or regulations of this state.

950 ~~(j)~~(g) No motor vehicle part having any altered, counterfeited, defaced, destroyed,  
951 disguised, falsified, forged, obliterated, or removed vehicle identification number may be  
952 disposed of upon forfeiture except by destruction thereof, except that this subsection shall  
953 not apply to any such motor vehicle part which is assembled with and constitutes part of  
954 a motor vehicle.

955 ~~(k)~~(h) No motor vehicle or motor vehicle part shall be forfeited under this Code section  
956 solely on the basis that it is unidentifiable. Instead of forfeiture, any seized motor vehicle  
957 or motor vehicle part which is unidentifiable shall be the subject of a written report sent by  
958 the seizing agency to the Department of Revenue; which ~~report~~ shall include a description  
959 of the motor vehicle or motor vehicle part, including its color, if any; the date, time, and  
960 place of its seizure; the name of the person from whose possession or control it was seized;  
961 the grounds for its seizure; and the location where the same is held or stored.

962 ~~(l)~~(i) When a seized unidentifiable motor vehicle or motor vehicle part has been held for  
963 60 days or more after the notice to the Department of Revenue specified in  
964 subsection ~~(k)~~ (h) of this Code section has been given, the seizing agency, or its agent, shall  
965 cause the motor vehicle or motor vehicle part to be sold at a public sale to the highest  
966 bidder. Notice of the time and place of sale shall be posted in a conspicuous place for at  
967 least 30 days prior to the sale on the premises where the motor vehicle or motor vehicle  
968 part has been stored.

969 ~~(m)~~(j)(1) When a seized unidentifiable motor vehicle or motor vehicle part has an  
970 apparent value of \$1,000.00 or less, the seizing agency shall authorize the disposal of the  
971 motor vehicle or motor vehicle part, provided that no such disposition shall be made  
972 sooner than 60 days after the date of seizure.

973 ~~(n)~~(2) The proceeds of the public sale of an unidentifiable motor vehicle or motor vehicle  
974 part shall be deposited into the general fund of the state, county, or municipal corporation  
975 employing the seizing agency after deduction of any reasonable and necessary towing and  
976 storage charges.

977 ~~(o)~~(k) Seizing agencies shall utilize their best efforts to arrange for the towing and storing  
978 of motor vehicles and motor vehicle parts in the most economical manner possible. In no  
979 event shall the owner of a motor vehicle or a motor vehicle part be required to pay more  
980 than the minimum reasonable costs of towing and storage.

981 ~~(p)~~(l) A seized motor vehicle or motor vehicle part that is neither forfeited nor  
982 unidentifiable shall be held subject to the order of the court in which the criminal action is  
983 pending or, if a request for its release from such custody is made, until the prosecutor has  
984 notified the defendant or the defendant's attorney of such request and both the prosecution

985 and defense have been afforded a reasonable opportunity for an examination of the  
 986 property to determine its true value and to produce or reproduce, by photographs or other  
 987 identifying techniques, legally sufficient evidence for introduction at trial or other criminal  
 988 proceedings. Upon expiration of a reasonable time for the completion of the examination,  
 989 which in no event shall exceed 14 days from the date of service upon the defense of the  
 990 notice of request for return of property as provided in this subsection, the property shall be  
 991 released to the person making such request after satisfactory proof of such person's  
 992 entitlement to the possession thereof. Notwithstanding the foregoing, upon application by  
 993 either party with notice to the other, the court may order retention of the property if it  
 994 determines that retention is necessary in the furtherance of justice.

995 ~~(q)~~(m) When a seized vehicle is forfeited, restored to its owner, or disposed of as  
 996 unidentifiable, the seizing agency shall retain a report of the transaction for a period of at  
 997 least one year from the date of the transaction.

998 ~~(r)~~(n) When an applicant for a certificate of title or salvage certificate of title presents to  
 999 the Department of Revenue proof that the applicant purchased or acquired a motor vehicle  
 1000 at public sale conducted pursuant to this Code section and such fact is attested to by the  
 1001 seizing agency, the Department of Revenue shall issue a certificate of title or a salvage  
 1002 certificate of title, as determined by the state revenue commissioner, for such motor vehicle  
 1003 upon receipt of the statutory fee, a properly executed application for a certificate of title or  
 1004 other certificate of ownership, and the affidavit of the seizing agency that a state assigned  
 1005 number was applied for and affixed to the motor vehicle prior to the time that the motor  
 1006 vehicle was released by the seizing agency to the purchaser."

#### 1007 SECTION 2-9.

1008 Said title is further amended by revising Code Section 16-8-106, relating to forfeiture under  
 1009 the "Georgia Residential Mortgage Fraud Act," as follows:

1010 "16-8-106.

1011 (a) As used in this Code section, the terms 'proceeds' and 'property' shall have the same  
 1012 meanings as set forth in Code Section 9-16-2. ~~All real and personal property of every kind~~  
 1013 ~~used or intended for use in the course of, derived from, or realized through a violation of~~  
 1014 ~~this article shall be subject to forfeiture to the state. Forfeiture shall be had by the same~~  
 1015 ~~procedure set forth in Code Section 16-14-7. District attorneys and the Attorney General~~  
 1016 ~~may commence forfeiture proceedings under this article.~~

1017 (b) Any property which is, directly or indirectly, used or intended for use in any manner  
 1018 to facilitate a violation of this article and any proceeds derived or realized therefrom are  
 1019 declared to be contraband and no person shall have a property right in them.

1020 (c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall  
 1021 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9.  
 1022 (d) The Attorney General shall be specifically authorized to commence forfeiture  
 1023 proceedings under this Code section."

1024 **SECTION 2-10.**

1025 Said title is further amended by revising subsection (h) of Code Section 16-9-4, relating to  
 1026 manufacturing, selling, or distributing false identification documents, as follows:

1027 "(h)(1) As used in this subsection, the terms 'proceeds' and 'property' shall have the same  
 1028 meanings as set forth in Code Section 9-16-2. Any property which is used, intended for  
 1029 use, or used in any manner to facilitate a violation of this Code section is contraband and  
 1030 forfeited to the state and no person shall have a property interest in it. Such property may  
 1031 be seized or detained in the same manner as provided in Code Section 16-13-49 and shall  
 1032 not be subject to replevin, conveyance, sequestration, or attachment.

1033 (2) Any property which is, directly or indirectly, used or intended for use in any manner  
 1034 to facilitate a violation of this Code section and any proceeds derived or realized  
 1035 therefrom are declared to be contraband and no person shall have a property right in  
 1036 them. Within 60 days of the date of the seizure of contraband pursuant to this Code  
 1037 section, the district attorney shall initiate forfeiture or other proceedings as provided in  
 1038 Code Section 16-13-49. An owner or interest holder, as defined by subsection (a) of  
 1039 Code Section 16-13-49, may establish as a defense to the forfeiture of property which is  
 1040 subject to forfeiture under this Code section the applicable provisions of subsection (e)  
 1041 or (f) of Code Section 16-13-49. Property which is forfeited pursuant to this Code section  
 1042 shall be disposed of and distributed as provided in Code Section 16-13-49.

1043 (3) Any property subject to forfeiture pursuant to paragraph (2) of this subsection shall  
 1044 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9. If  
 1045 property subject to forfeiture cannot be located; has been transferred or conveyed to, sold  
 1046 to, or deposited with a third party; is beyond the jurisdiction of the court; has been  
 1047 substantially diminished in value while not in the actual physical custody of a receiver  
 1048 or governmental agency directed to maintain custody of the property; or has been  
 1049 commingled with other property that cannot be divided without difficulty, the court shall  
 1050 order the forfeiture of any property of a claimant or defendant up to the value of property  
 1051 found by the court to be subject to forfeiture under this subsection in accordance with the  
 1052 procedures set forth in subsection (x) of Code Section 16-13-49.

1053 (4) The provisions of paragraphs (3), (4), and (5) of subsection (x) and subsection (z) of  
 1054 Code Section 16-13-49 shall be applicable to any proceedings brought pursuant to this  
 1055 subsection."

**SECTION 2-11.**

1056  
 1057 Said title is further amended by revising Code Section 16-11-11, relating to dissolution of  
 1058 subversive organizations and forfeiture, as follows:

1059 "16-11-11.

1060 It shall be unlawful for any subversive organization or foreign subversive organization to  
 1061 exist or function in this state. Any organization which by a court of competent jurisdiction  
 1062 is found to have violated this Code section shall be dissolved and, if it is a corporation  
 1063 organized and existing under the laws of this state, a finding by a court of competent  
 1064 jurisdiction that it has violated this Code section shall constitute legal cause for ~~forfeiture~~  
 1065 revocation of its charter and its charter shall be ~~forfeited~~ revoked. All funds, books,  
 1066 records, and files of every kind and all other property of any organization found to have  
 1067 violated this Code section shall be seized by and for this state, the funds to be deposited in  
 1068 the state treasury and the books, records, files, and other property to be turned over to the  
 1069 Attorney General."

**SECTION 2-12.**

1070  
 1071 Said title is further amended by revising paragraph (3) of subsection (b) of Code Section  
 1072 16-12-24, relating to possession, manufacture, or transfer of gambling devices or parts, as  
 1073 follows:

1074 "(3) Any antique slot machine seized as a result of a violation of this Code section shall  
 1075 be contraband and subject to seizure and destruction as provided in Code Section  
 1076 ~~16-12-30~~ 16-12-32. An antique slot machine seized for a violation of this Code section  
 1077 shall not be destroyed, altered, or sold until the owner has been afforded a reasonable  
 1078 opportunity to present evidence that the device was not operated for unlawful gambling  
 1079 or in violation of this Code section. If the court determines that the device is an antique  
 1080 slot machine and was not operated or possessed in violation of this or any other Code  
 1081 section, such device shall be returned to its owner."

**SECTION 2-13.**

1082  
 1083 Said title is further amended by revising Code Section 16-12-30, relating to seizure and  
 1084 destruction of gambling devices, as follows:

1085 "16-12-30.

1086 ~~(a) Except as provided in subsection (b) of Code Section 16-12-24, every gambling device~~  
 1087 ~~is declared to be contraband and subject to seizure and confiscation by any state or local~~  
 1088 ~~authority within whose jurisdiction the same may be found.~~

1089 ~~(b) At such time as there shall be a final judgment entered in any case or cases in which~~  
 1090 ~~a seized gambling device is necessary evidence or at such time as the state shall determine~~

1091 ~~that the continued physical existence of the seized gambling device is no longer necessary,~~  
 1092 ~~the same shall be turned over by that person having custody of the device to the sheriff of~~  
 1093 ~~the county wherein the device was confiscated. The sheriff shall within ten days after~~  
 1094 ~~receiving the device destroy the same in the presence of the district attorney of the circuit~~  
 1095 ~~in which such county is located and shall forward to the state revenue commissioner a~~  
 1096 ~~certificate so stating which shall include the serial number of the device so destroyed.~~  
 1097 Reserved."

#### 1098 SECTION 2-14.

1099 Said title is amended by repealing in its entirety Code Section 16-12-32, relating to seizure  
 1100 and disposition of property used in or derived from a violation of the article proscribing  
 1101 gambling and related offenses, and enacting a new Code Section 16-12-32 to read as follows:  
 1102 "16-12-32.

1103 (a) As used in this Code section, the terms 'proceeds,' 'property,' and 'United States' shall  
 1104 have the same meanings as set forth in Code Section 9-16-2, and 'enterprise' means any  
 1105 person, sole proprietorship, partnership, corporation, trust, association, or other legal entity  
 1106 created under the laws the United States or any foreign nation or a group of individuals  
 1107 associated in fact although not a legal entity and includes illicit as well as licit enterprises  
 1108 and governmental as well as other entities.

1109 (b) The following are declared to be contraband, and no person shall have a property right  
 1110 in them:

1111 (1) Every gambling device except antique slot machines as provided for in subsection (b)  
 1112 of Code Section 16-12-24;

1113 (2) Any property which is, directly or indirectly, used or intended for use in any manner  
 1114 to facilitate a violation of this article and any proceeds derived or realized therefrom;

1115 (3) Any property located in this state which was, directly or indirectly, used or intended  
 1116 for use in any manner to facilitate a violation of this article or of the laws of the United  
 1117 States relating to gambling and any proceeds derived or realized therefrom;

1118 (4) Any interest, security, claim, or property or contractual right of any kind affording  
 1119 a source of influence over any enterprise that a person has established, operated,  
 1120 controlled, conducted, or participated in the conduct of in violation of this article or any  
 1121 of the laws of the United States relating to gambling and any proceeds derived or realized  
 1122 therefrom; and

1123 (5) Any property found in close proximity to any gambling device or other property  
 1124 subject to forfeiture under this Code section.

1125 (c) Any property declared as contraband pursuant to subsection (b) of this Code section  
 1126 shall be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9."



**SECTION 2-15.**

1127  
1128 Said title is further amended by revising subsections (e) through (g) of Code Section  
1129 16-12-100, relating to sexual exploitation of children, as follows:

1130 ~~"(e)(1) As used in this subsection, the terms 'proceeds' and 'property' shall have the same~~  
1131 ~~meaning as set forth in Code Section 9-16-2. A person who is convicted of an offense~~  
1132 ~~under this Code section shall forfeit to the State of Georgia such interest as the person~~  
1133 ~~may have in:~~

1134 ~~(A) Any property constituting or directly derived from gross profits or other proceeds~~  
1135 ~~obtained from such offense; and~~

1136 ~~(B) Any property used, or intended to be used, to commit such offense.~~

1137 ~~(2) Any property which is, directly or indirectly, used or intended to be used in any~~  
1138 ~~manner to facilitate a violation of this Code section and any proceeds derived or realized~~  
1139 ~~therefrom are declared to be contraband and no person shall have a property right in~~  
1140 ~~them. In any action under this Code section, the court may enter such restraining orders~~  
1141 ~~or take other appropriate action, including acceptance of performance bonds, in~~  
1142 ~~connection with any interest that is subject to forfeiture.~~

1143 ~~(3) Any property subject to forfeiture pursuant to paragraph (2) of this subsection shall~~  
1144 ~~be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9. The~~  
1145 ~~court shall order forfeiture of property referred to in paragraph (1) of this subsection if~~  
1146 ~~the trier of fact determines, beyond a reasonable doubt, that such property is subject to~~  
1147 ~~forfeiture.~~

1148 ~~(4) The provisions of subsection (u) of Code Section 16-13-49 shall apply for the~~  
1149 ~~disposition of any property forfeited under this subsection. In any disposition of property~~  
1150 ~~under this subsection, a convicted person shall not be permitted to acquire property~~  
1151 ~~forfeited by such person.~~

1152 ~~(f)(1) The following property shall be subject to forfeiture to the State of Georgia:~~

1153 ~~(A) Any material or equipment used, or intended for use, in producing, reproducing,~~  
1154 ~~transporting, shipping, or receiving any visual medium in violation of this Code section;~~

1155 ~~(B) Any visual medium produced, transported, shipped, or received in violation of this~~  
1156 ~~Code section, or any material containing such depiction; provided, however, that any~~  
1157 ~~such property so forfeited shall be destroyed by the appropriate law enforcement~~  
1158 ~~agency after it is no longer needed in any court proceedings; or~~

1159 ~~(C) Any property constituting or directly derived from gross profits or other proceeds~~  
1160 ~~obtained from a violation of this Code section;~~

1161 ~~except that no property of any owner shall be forfeited under this paragraph, to the extent~~  
1162 ~~of the interest of such owner, by reason of an act or omission established by such owner~~  
1163 ~~to have been committed or omitted without knowledge or consent of such owner.~~

1164 ~~(2) The procedure for forfeiture and disposition of forfeited property under this~~  
 1165 ~~subsection shall be as provided for forfeitures under Code Section 16-13-49.~~

1166 ~~(g)(f)(1)~~ Except as otherwise provided in paragraph (2) of this subsection, any person  
 1167 who violates a provision of this Code section shall be guilty of a felony and, upon  
 1168 conviction thereof, shall be punished by imprisonment for not less than five nor more  
 1169 than 20 years and by a fine of not more than \$100,000.00. In the event, however, that the  
 1170 person so convicted is a member of the immediate family of the victim, no fine shall be  
 1171 imposed.

1172 (2) Any person who violates subsection (c) of this Code section shall be guilty of a  
 1173 misdemeanor."

#### 1174 SECTION 2-16.

1175 Said title is further amended by revising subsection (f) of Code Section 16-13-30.1, relating  
 1176 to unlawful manufacture, delivery, distribution, possession, or sale of noncontrolled  
 1177 substances, as follows:

1178 "(f)(1) As used in this subsection, the terms 'proceeds' and 'property' shall have the same  
 1179 meanings as set forth in Code Section 9-16-2.

1180 (2) Any All property which would be subject to forfeiture under the provisions of  
 1181 subsection (d) of Code Section 16-13-49 for a violation of this article which is, directly  
 1182 or indirectly, used; or intended for use; in any manner to facilitate, or is derived from, a  
 1183 violation of this Code section, and any proceeds derived or realized therefrom, and any  
 1184 noncontrolled substance which is manufactured, distributed, dispensed, possessed with  
 1185 the intent to distribute, or sold in violation of this Code section are declared to be  
 1186 contraband and there shall be no property interest therein no person shall have a property  
 1187 right in them.

1188 (3) Any property or noncontrolled substance which is subject to the provisions of  
 1189 forfeiture pursuant to paragraph (2) of this subsection shall be forfeited in accordance  
 1190 with the procedures of Code Section 16-13-49 set forth in Chapter 16 of Title 9."

#### 1191 SECTION 2-17.

1192 Said title is further amended by revising subsection (d) of Code Section 16-13-30.2, relating  
 1193 to unlawful manufacture, distribution, or possession with intent to distribute imitation  
 1194 controlled substances, as follows:

1195 "(d) All materials which are manufactured, distributed, or possessed in violation of this  
 1196 Code section and any proceeds derived or realized therefrom are declared to be contraband  
 1197 and no person shall have a property right in them and shall be forfeited according to the  
 1198 procedure described in Code Section 16-13-49 set forth in Chapter 16 of Title 9. As used

1199 in this subsection, the term 'proceeds' shall have the same meaning as set forth in Code  
 1200 Section 9-16-2."

1201 **SECTION 2-18.**

1202 Said title is further amended by revising subsection (f) of Code Section 16-13-30.4, relating  
 1203 to licenses for sale, transfer, or purchase for resale of products containing pseudoephedrine,  
 1204 as follows:

1205 "(f) Any ~~Any~~ products containing pseudoephedrine that have been or that are intended to  
 1206 be sold, transferred, purchased for resale, possessed, or otherwise transferred in violation  
 1207 of a provision of this Code section ~~shall be subject to forfeiture to the state and no property~~  
 1208 ~~right shall exist in them~~ and any proceeds derived or realized therefrom are declared to be  
 1209 contraband and no person shall have a property right in them and shall be forfeited  
 1210 according to the procedure set forth in Chapter 16 of Title 9. As used in this subsection,  
 1211 the term 'proceeds' shall have the same meaning as set forth in Code Section 9-16-2."

1212 **SECTION 2-19.**

1213 Said title is further amended by revising subsections (e) through (g) of Code Section  
 1214 16-13-32, relating to transactions in drug related objects and forfeitures, as follows:

1215 "(e) All instruments, devices, and objects which are distributed or possessed in violation  
 1216 of this Code section and any proceeds derived or realized therefrom are declared to be  
 1217 contraband and no person shall have a property right in them and shall be forfeited  
 1218 according to the procedure set forth in Chapter 16 of Title 9. As used in this subsection,  
 1219 the term 'proceeds' shall have the same meaning as set forth in Code Section 9-16-2.

1220 ~~(f) After conviction and after all direct appeals from the conviction have been exhausted,~~  
 1221 ~~any instruments, devices, or objects which are the subject of prosecution under this Code~~  
 1222 ~~section may be destroyed by the state or any county or municipality thereof without court~~  
 1223 ~~order.~~

1224 ~~(g) Any instruments, devices, or objects which are seized after July 1, 1980, on~~  
 1225 ~~condemnation as being distributed or possessed in violation of this Code section and which~~  
 1226 ~~are not made the subject of prosecution under this Code section may be destroyed by the~~  
 1227 ~~state or any county or municipality thereof if within 90 days after such seizures are made,~~  
 1228 ~~the district attorney or the solicitor-general of any court that has jurisdiction to try~~  
 1229 ~~misdemeanors in the county where the seizure occurred shall institute condemnation~~  
 1230 ~~proceedings in the court by petition, a copy of which shall be served upon the owner of the~~  
 1231 ~~seized items, if known; and if the owner is unknown, notice of such proceedings shall be~~  
 1232 ~~published once a week for two weeks in the newspaper in which the sheriff's~~  
 1233 ~~advertisements are published. The petition shall allege that the seized items were~~

1234 ~~distributed or possessed in violation of this Code section; and, if no defense is filed within~~  
 1235 ~~30 days from the filing of the petition, judgment by default shall be entered by the court at~~  
 1236 ~~chambers, and the court shall order the seized items to be destroyed; otherwise, the case~~  
 1237 ~~shall proceed as other civil cases in the court. Should the state prove, by a preponderance~~  
 1238 ~~of the evidence, that the seized items were distributed or possessed in violation of this Code~~  
 1239 ~~section, the court shall order the seized items to be destroyed."~~

#### 1240 **SECTION 2-20.**

1241 Said title is further amended by revising subsection (e) of Code Section 16-13-32.1, relating  
 1242 to transactions in drug related objects, evidence, and forfeiture, as follows:

1243 "(e) All objects and materials which are distributed or possessed in violation of this Code  
 1244 section and any proceeds derived or realized therefrom are declared to be contraband and  
 1245 no person shall have a property right in them and shall be forfeited according to the  
 1246 procedure described in Code Section 16-13-49 set forth in Chapter 16 of Title 9. As used  
 1247 in this subsection, the term 'proceeds' shall have the same meaning as set forth in Code  
 1248 Section 9-16-2."

#### 1249 **SECTION 2-21.**

1250 Said title is further amended by repealing Code Section 16-13-48.1, relating to funds or  
 1251 property transferred to state or local agencies under federal drug laws, in its entirety.

#### 1252 **SECTION 2-22.**

1253 Said title is further amended by repealing in its entirety Code Section 16-13-49, relating to  
 1254 forfeitures, and enacting a new Code Section 16-13-49 to read as follows:

1255 "16-13-49.

1256 (a) As used in this Code section, the term:

1257 (1) 'Controlled substance' shall have the same meaning as set forth in Code Section  
 1258 16-13-21 and shall include marijuana, as such term is defined in Code Section 16-13-21.

1259 (2) 'Enterprise' means any person, sole proprietorship, partnership, corporation, trust,  
 1260 association, or other legal entity created under the laws of the United States or any  
 1261 foreign nation or a group of individuals associated in fact although not a legal entity and  
 1262 includes illicit as well as licit enterprises and governmental as well as other entities.

1263 (3) 'Proceeds' shall have the same meaning as set forth in Code Section 9-16-2.

1264 (4) 'Property' shall have the same meaning as set forth in Code Section 9-16-2.

1265 (5) 'United States' shall have the same meaning as set forth in Code Section 9-16-2.

1266 (b) Except as provided in subsection (d) of this Code section, the following are declared  
 1267 to be contraband and no person shall have a property right in them:

- 1268 (1) Any controlled substances, raw materials, or controlled substance analogs that have  
 1269 been manufactured, distributed, dispensed, possessed, or acquired in violation of this  
 1270 article;
- 1271 (2) Any property which is, directly or indirectly, used or intended for use in any manner  
 1272 to facilitate a violation of this article and any proceeds derived or realized therefrom;
- 1273 (3) Any property located in this state which was, directly or indirectly, used or intended  
 1274 for use in any manner to facilitate a violation of this article or the laws of the United  
 1275 States relating to controlled substances that is punishable by imprisonment for more than  
 1276 one year and any proceeds derived or realized therefrom;
- 1277 (4) Any interest, security, claim, or property or contractual right of any kind affording  
 1278 a source of influence over any enterprise that a person has established, operated,  
 1279 controlled, conducted, or participated in the conduct of in violation of this article or the  
 1280 laws of the United States relating to controlled substances that is punishable by  
 1281 imprisonment for more than one year and any proceeds derived or realized therefrom; and
- 1282 (5) Any property found in close proximity to any controlled substance or other property  
 1283 subject to forfeiture under this Code section.
- 1284 (c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall  
 1285 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9.
- 1286 (d) Property shall not be subject to forfeiture under this Code section for a violation  
 1287 involving only one gram or less of a mixture containing cocaine or four ounces or less of  
 1288 marijuana unless such property was used to facilitate a transaction in or a purchase of or  
 1289 sale of a controlled substance.
- 1290 (e) In addition to persons authorized to seize property pursuant to Code Section 9-16-7,  
 1291 property which is subject to forfeiture under this Code section may be seized by the  
 1292 director of the Georgia Drugs and Narcotics Agency or by any drug agent of this state or  
 1293 any political subdivision thereof who has power to make arrests or execute process or a  
 1294 search warrant issued by any court having jurisdiction over the property.
- 1295 (f) Controlled substances included in Schedule I which are contraband and any controlled  
 1296 substance whose owners are unknown shall be summarily forfeited to the state. The court  
 1297 may include in any judgment of conviction under this article an order forfeiting any  
 1298 controlled substance involved in the offense to the extent of the defendant's interest."

### 1299 **SECTION 2-23.**

1300 Said title is further amended by revising Code Section 16-13-53, relating to pending  
 1301 proceedings, as follows:

1302 "16-13-53.

1303 ~~(a) Prosecution for any violation of law occurring prior to July 1, 1974, is not affected or~~  
 1304 ~~abated by this article. If the offense which was being prosecuted is similar to one set out~~  
 1305 ~~in this article, then the penalties under this article apply if they are less than those under~~  
 1306 ~~prior law.~~

1307 ~~(b) Civil seizures or forfeitures and injunctive proceedings commenced prior to July 1,~~  
 1308 ~~1974, are not affected by this article.~~

1309 ~~(c) All administrative proceedings pending under prior laws which were superseded by this~~  
 1310 ~~article shall be continued and brought to a final determination in accord with the laws and~~  
 1311 ~~rules in effect prior to July 1, 1974. Any substance controlled under prior law which is not~~  
 1312 ~~listed within Schedules I through V is automatically controlled without further proceedings~~  
 1313 ~~and shall be listed in the appropriate schedule.~~

1314 ~~(d) This article applies to violations of law, seizures, forfeitures, injunctive proceedings,~~  
 1315 ~~administrative proceedings, and investigations occurring after July 1, 1974. Reserved.~~"

1316 **SECTION 2-24.**

1317 Said title is further amended by revising Code Section 16-13-58, relating to funds for  
 1318 development and maintenance of program, as follows:

1319 "16-13-58.

1320 (a) The agency shall be authorized to apply for available grants and may accept any gifts,  
 1321 grants, donations, and other funds, ~~including funds from the disposition of forfeited~~  
 1322 ~~property~~, to assist in developing and maintaining the program established pursuant to Code  
 1323 Section 16-13-57; provided, however, that neither the board, agency, nor any other state  
 1324 entity shall accept a grant that requires as a condition of the grant any sharing of  
 1325 information that is inconsistent with this part.

1326 (b) The agency shall be authorized to grant funds to dispensers for the purpose of covering  
 1327 costs for dedicated equipment and software for dispensers to use in complying with the  
 1328 reporting requirements of Code Section 16-13-59. Such grants to dispensers shall be  
 1329 funded by gifts, grants, donations, or other funds, ~~including funds from the disposition of~~  
 1330 ~~forfeited property~~, received by the agency for the operation of the program established  
 1331 pursuant to Code Section 16-13-57. The agency shall be authorized to establish standards  
 1332 and specifications for any equipment and software purchased pursuant to a grant received  
 1333 by a dispenser pursuant to this Code section. Nothing in this part shall be construed to  
 1334 require a dispenser to incur costs to purchase equipment or software to comply with this  
 1335 part.

1336 (c) Nothing in this part shall be construed to require any appropriation of state funds."

1337 **SECTION 2-25.**

1338 Said title is further amended by revising Chapter 14, the "Georgia RICO (Racketeer  
1339 Influenced and Corrupt Organizations) Act," as follows:

1340 "CHAPTER 14

1341 16-14-1.

1342 This chapter shall be known and may be cited as the 'Georgia RICO (Racketeer Influenced  
1343 and Corrupt Organizations) Act.'

1344 16-14-2.

1345 (a) The General Assembly finds that a severe problem is posed in this state by the  
1346 increasing sophistication of various criminal elements and the increasing extent to which  
1347 the state and its citizens are harmed as a result of the activities of these elements.

1348 (b) The General Assembly declares that the intent of this chapter is to impose sanctions  
1349 against those who violate this chapter and to provide compensation to persons injured or  
1350 aggrieved by such violations. It is not the intent of the General Assembly that isolated  
1351 incidents of misdemeanor conduct or acts of civil disobedience be prosecuted under this  
1352 chapter. It is the intent of the General Assembly, however, that this chapter apply to an  
1353 interrelated pattern of criminal activity motivated by or the effect of which is pecuniary  
1354 gain or economic or physical threat or injury. This chapter shall be liberally construed to  
1355 effectuate the remedial purposes embodied in its operative provisions.

1356 16-14-3.

1357 As used in this chapter, the term:

1358 ~~(1) 'Alien corporation' means a corporation organized under laws other than the laws of~~  
1359 ~~the United States or the laws of any state of the United States.~~

1360 ~~(2)(A) 'Beneficial interest' means either of the following:~~

1361 ~~(i) The interest of a person as a beneficiary under any other trust arrangement~~  
1362 ~~pursuant to which a trustee holds legal or record title to real property for the benefit~~  
1363 ~~of such person; or~~

1364 ~~(ii) The interest of a person under any other form of express fiduciary arrangement~~  
1365 ~~pursuant to which any other person holds legal or record title to real property for the~~  
1366 ~~benefit of such person.~~

1367 ~~(B) 'Beneficial interest' does not include the interest of a stockholder in a corporation~~  
1368 ~~or the interest of a partner in either a general partnership or limited partnership. A~~

1369 ~~beneficial interest shall be deemed to be located where the real property owned by the~~  
 1370 ~~trustee is located.~~

1371 ~~(3) 'Civil proceeding' means any civil proceeding commenced by an investigative agency~~  
 1372 ~~under any provision of this chapter.~~

1373 ~~(4)(1) 'Criminal proceeding' means any criminal proceeding commenced by an~~  
 1374 ~~investigative agency the Department of Law or the office of any district attorney under~~  
 1375 ~~any provision of this chapter.~~

1376 ~~(5) 'Documentary material' means any book, paper, document, writing, drawing, graph,~~  
 1377 ~~chart, photograph, phonorecord, magnetic tape, computer printout, other data compilation~~  
 1378 ~~from which information can be obtained or from which information can be translated into~~  
 1379 ~~usable form, or other tangible item.~~

1380 ~~(6)(2) 'Enterprise' means any person, sole proprietorship, partnership, corporation,~~  
 1381 ~~business trust, union chartered under the laws of this state, or other legal entity; or any~~  
 1382 ~~unchartered union, association, or group of individuals associated in fact although not a~~  
 1383 ~~legal entity; and it includes illicit as well as licit enterprises and governmental as well as~~  
 1384 ~~other entities.~~

1385 ~~(7) 'Investigative agency' means the Department of Law or the office of any district~~  
 1386 ~~attorney.~~

1387 ~~(8)(3) 'Pattern of racketeering activity' means:~~

1388 (A) Engaging in at least two acts of racketeering activity in furtherance of one or more  
 1389 incidents, schemes, or transactions that have the same or similar intents, results,  
 1390 accomplices, victims, or methods of commission or otherwise are interrelated by  
 1391 distinguishing characteristics and are not isolated incidents, provided at least one of  
 1392 such acts occurred after July 1, 1980, and that the last of such acts occurred within four  
 1393 years, excluding any periods of imprisonment, after the commission of a prior act of  
 1394 racketeering activity; or

1395 (B) Engaging in any one or more acts of domestic terrorism as described in subsection  
 1396 (a) of Code Section 16-4-10 or any criminal attempt, criminal solicitation, or criminal  
 1397 conspiracy related thereto.

1398 ~~(9)(4)(A) 'Racketeering activity' means to commit, to attempt to commit, or to solicit,~~  
 1399 ~~coerce, or intimidate another person to commit any crime which is chargeable by~~  
 1400 ~~indictment under the following laws of this state involving:~~

1401 (i) Unlawful distillation, manufacture, and transportation of alcoholic beverages in  
 1402 violation of Code Section 3-3-27;

1403 (ii) Records and reports of currency transactions in violation of Article 11 of Chapter  
 1404 1 of Title 7;



- 1405 (iii) The 'Georgia Uniform Securities Act of 2008' in violation of Chapter 5 of Title  
 1406 10;  
 1407 (iv) Homicide in violation of Article 1 of Chapter 5 of this title;  
 1408 (v) Assault and battery in violation of Article 2 of Chapter 5 of this title;  
 1409 (vi) Kidnapping, false imprisonment, and related offenses in violation of Article 3 of  
 1410 Chapter 5 of this title;  
 1411 (vii) Prostitution, keeping a place of prostitution, pimping, pandering, and pandering  
 1412 by compulsion in violation of Code Sections 16-6-9 through 16-6-12 and 16-6-14;  
 1413 (viii) Burglary in violation of Code Section 16-7-1;  
 1414 (ix) Smash and grab burglary in violation of Code Section 16-7-2;  
 1415 (x) Arson and explosives in violation of Article 3 of Chapter 7 of this title;  
 1416 (xi) Bombs, explosives, and chemical and biological weapons in violation of Article  
 1417 4 of Chapter 7 of this title;  
 1418 (xii) Theft in violation of Article 1 of Chapter 8 of this title;  
 1419 (xiii) Robbery in violation of Article 2 of Chapter 8 of this title;  
 1420 (xiv) Criminal reproduction and sale of recorded material in violation of Article 3 of  
 1421 Chapter 8 of this title;  
 1422 (xv) The 'Georgia Residential Mortgage Fraud Act' in violation of Article 5 of  
 1423 Chapter 8 of this title;  
 1424 (xvi) Forgery in any degree in violation of Code Section 16-9-1;  
 1425 (xvii) Illegal use of financial transaction cards in violation of Code Sections 16-9-31,  
 1426 16-9-32, 16-9-33, and 16-9-34;  
 1427 (xviii) Use of an article with an altered identification mark in violation of Code  
 1428 Section 16-9-70;  
 1429 (xix) The 'Georgia Computer Systems Protection Act' in violation of Article 6 of  
 1430 Chapter 9 of this title;  
 1431 (xx) Identity fraud in violation of Article 8 of Chapter 9 of this title;  
 1432 (xxi) Bribery in violation of Code Section 16-10-2;  
 1433 (xxii) False statements and writings or false lien statements against public officers  
 1434 or public employees in violation of Code Section 16-10-20 or 16-10-20.1;  
 1435 (xxiii) Impersonating a public officer or employee in violation of Code Section  
 1436 16-10-23;  
 1437 (xxiv) Attempted murder or threatening of witnesses in official proceedings in  
 1438 violation of Code Section 16-10-32;  
 1439 (xxv) Perjury and other related offenses in violation of Article 4 of Chapter 10 of this  
 1440 title;  
 1441 (xxvi) Embracery in violation of Code Section 16-10-91;

- 1442 (xxvii) Influencing witnesses in violation of Code Section 16-10-93;  
 1443 (xxviii) Tampering with evidence in violation of Code Section 16-10-94;  
 1444 (xxvix) Intimidation or injury of grand or trial juror or court officer in violation of  
 1445 Code Section 16-10-97;  
 1446 (xxx) Terroristic threats and acts in violation of Code Section 16-11-37;  
 1447 (xxxi) The 'Georgia Firearms and Weapons Act' in violation of Part 2 of Article 4 of  
 1448 Chapter 11 of this title;  
 1449 (xxxii) Commercial gambling in violation of Code Section 16-12-22;  
 1450 (xxxiii) Distributing obscene materials in violation of Code Section 16-12-80;  
 1451 (xxxiv) The 'Georgia Controlled Substances Act' in violation of Article 2 of Chapter  
 1452 13 of this title;  
 1453 (xxxv) The 'Dangerous Drug Act' in violation of Article 3 of Chapter 13 of this title;  
 1454 (xxxvi) Marijuana in violation of subsection (j) of Code Section 16-13-30;  
 1455 (xxxvii) Payday loans in violation of Chapter 17 of this title;  
 1456 (xxxviii) Insurance fraud in violation of Code Section 33-1-9;  
 1457 (xxxix) Certain felonies involving certificates of title, security interest, or liens in  
 1458 violation of Code Section 40-3-90;  
 1459 (xl) Removal or falsification of identification numbers in violation of Code Section  
 1460 40-4-21; or  
 1461 (xli) Possession of motor vehicle parts from which the identification has been  
 1462 removed in violation of Code Section 40-4-22.  
 1463 ~~(i) Article 2 of Chapter 13 of this title, relating to controlled substances;~~  
 1464 ~~(ii) Article 3 of Chapter 13 of this title, known as the 'Dangerous Drugs Act';~~  
 1465 ~~(iii) Subsection (j) of Code Section 16-13-30, relating to marijuana;~~  
 1466 ~~(iv) Article 1 of Chapter 5 of this title, relating to homicide;~~  
 1467 ~~(v) Article 2 of Chapter 5 of this title, relating to bodily injury and related offenses;~~  
 1468 ~~(vi) Articles 3 and 4 of Chapter 7 of this title, relating to arson and destructive~~  
 1469 ~~devices, respectively;~~  
 1470 ~~(vii) Code Section 16-7-1, relating to burglary, or Code Section 16-7-2, relating to~~  
 1471 ~~smash and grab burglary;~~  
 1472 ~~(viii) Code Section 16-9-1, relating to forgery in any degree;~~  
 1473 ~~(ix) Article 1 of Chapter 8 of this title, relating to theft;~~  
 1474 ~~(x) Article 2 of Chapter 8 of this title, relating to robbery;~~  
 1475 ~~(xi) Code Sections 16-6-9 through 16-6-12 and 16-6-14, relating to prostitution and~~  
 1476 ~~pandering;~~  
 1477 ~~(xii) Code Section 16-12-80, relating to distributing obscene materials;~~  
 1478 ~~(xiii) Code Section 16-10-2, relating to bribery;~~

1479 ~~(xiv) Code Section 16-10-93, relating to influencing witnesses;~~  
 1480 ~~(xv) Article 4 of Chapter 10 of this title and Code Sections 16-10-20, 16-10-20.1,~~  
 1481 ~~16-10-23, and 16-10-91, relating to perjury and other falsifications;~~  
 1482 ~~(xvi) Code Section 16-10-94, relating to tampering with evidence;~~  
 1483 ~~(xvii) Code Section 16-12-22, relating to commercial gambling;~~  
 1484 ~~(xviii) Code Section 3-3-27, relating to distilling or making liquors;~~  
 1485 ~~(xix) Part 2 of Article 4 of Chapter 11 of this title, known as the 'Georgia Firearms~~  
 1486 ~~and Weapons Act';~~  
 1487 ~~(xx) Code Section 16-8-60, relating to unauthorized transfers and reproductions of~~  
 1488 ~~recorded material;~~  
 1489 ~~(xxi) Chapter 5 of Title 10, relating to violations of the 'Georgia Uniform Securities~~  
 1490 ~~Act of 2008';~~  
 1491 ~~(xxii) Code Section 3-3-27, relating to the unlawful distillation, manufacture, and~~  
 1492 ~~transportation of alcoholic beverages;~~  
 1493 ~~(xxiii) Code Sections 16-9-31, 16-9-32, 16-9-33, and 16-9-34, relating to the~~  
 1494 ~~unlawful use of financial transaction cards;~~  
 1495 ~~(xxiv) Code Section 40-3-90, relating to certain felonies involving certificates of title,~~  
 1496 ~~security interest, or liens concerning motor vehicles;~~  
 1497 ~~(xxv) Code Section 40-4-21, relating to removal or falsification of identification~~  
 1498 ~~numbers;~~  
 1499 ~~(xxvi) Code Section 40-4-22, relating to possession of motor vehicle parts from~~  
 1500 ~~which the identification has been removed;~~  
 1501 ~~(xxvii) Code Section 16-9-70, relating to use of an article with an altered~~  
 1502 ~~identification mark;~~  
 1503 ~~(xxviii) Article 6 of Chapter 9 of this title, known as the 'Georgia Computer Systems~~  
 1504 ~~Protection Act';~~  
 1505 ~~(xxix) Any conduct defined as 'racketeering activity' under 18 U.S.C. Section 1961~~  
 1506 ~~(1)(A), (B), (C), and (D);~~  
 1507 ~~(xxx) Article 3 of Chapter 5 of this title, relating to kidnapping, false imprisonment,~~  
 1508 ~~and related offenses, except for Code Section 16-5-44, relating to aircraft hijacking;~~  
 1509 ~~(xxxii) Code Section 16-11-37, relating to terroristic threats and acts;~~  
 1510 ~~(xxxii) Code Section 16-5-44.1, relating to motor vehicle hijacking;~~  
 1511 ~~(xxxiii) Code Section 16-10-32, relating to tampering with witnesses, victims, or~~  
 1512 ~~informants;~~  
 1513 ~~(xxxiv) Code Section 16-10-97, relating to intimidation of grand or trial juror or court~~  
 1514 ~~officer;~~

1515 ~~(xxxv) Article 11 of Chapter 1 of Title 7 and Sections 5311 through 5330 of Title 31~~  
 1516 ~~of the United States Code relating to records and reports of currency transactions;~~  
 1517 ~~(xxxvi) Article 8 of Chapter 9 of this title, relating to identity fraud, and Section 1028~~  
 1518 ~~of Title 18 of the United States Code, relating to fraudulent identification documents~~  
 1519 ~~and information;~~  
 1520 ~~(xxxvii) Code Section 33-1-9, relating to insurance fraud;~~  
 1521 ~~(xxxviii) Code Section 16-17-2, relating to payday loans;~~  
 1522 ~~(xxxix) Code Section 16-9-101, relating to deceptive commercial e-mail;~~  
 1523 ~~(xl) Code Section 16-8-102, relating to residential mortgage fraud; or~~  
 1524 ~~(xli) Code Section 16-5-5, relating to assisted suicide.~~

1525 (B) 'Racketeering activity' shall also mean any act or threat involving murder,  
 1526 kidnapping, gambling, arson, robbery, theft, receipt of stolen property, bribery,  
 1527 extortion, obstruction of justice, dealing in narcotic or dangerous drugs, or dealing in  
 1528 securities which is chargeable under the laws of the United States ~~or~~ any territory of  
 1529 the ~~several states~~ United States, or any state and which is punishable by imprisonment  
 1530 for more than one year.

1531 (C) 'Racketeering activity' shall also mean any conduct defined as 'racketeering  
 1532 activity' under 18 U.S.C. Section 1961 (1), any violation of 18 U.S.C. Section 1028, or  
 1533 any violation of 31 U.S.C. Sections 5311 through 5330.

1534 ~~(10)(5)~~ 'Real property' means any real property situated in this state or any interest in  
 1535 such real property, including, but not limited to, any lease of or mortgage upon such real  
 1536 property.

1537 ~~(11) 'RICO lien notice' means the notice described in Code Section 16-14-13.~~

1538 ~~(12)(A) 'Trustee' means either of the following:~~

1539 ~~(i) Any person who holds legal or record title to real property for which any other~~  
 1540 ~~person has a beneficial interest; or~~

1541 ~~(ii) Any successor trustee or trustees to any of the foregoing persons.~~

1542 ~~(B) 'Trustee' does not include the following:~~

1543 ~~(i) Any person appointed or acting as a guardian or conservator under Title 29,~~  
 1544 ~~relating to guardian and ward, or personal representative under former Chapter 6 of~~  
 1545 ~~Title 53 as such existed on December 31, 1997, relating to the administration of~~  
 1546 ~~estates, if applicable, or Chapter 6 of Title 53 and other provisions in Chapter 1~~  
 1547 ~~through 11 of Title 53, the 'Revised Probate Code of 1998,' relating to the~~  
 1548 ~~administration of estates; or~~

1549 ~~(ii) Any person appointed or acting as a trustee of any testamentary trust or as trustee~~  
 1550 ~~of any indenture of trust under which any bonds are or are to be issued.~~

1551 16-14-4.

1552 (a) It ~~is~~ shall be unlawful for any person, through a pattern of racketeering activity or  
1553 proceeds derived therefrom, to acquire or maintain, directly or indirectly, any interest in  
1554 or control of any enterprise, real property, or personal property of any nature, including  
1555 money.

1556 (b) It ~~is~~ shall be unlawful for any person employed by or associated with any enterprise  
1557 to conduct or participate in, directly or indirectly, such enterprise through a pattern of  
1558 racketeering activity.

1559 (c) It ~~is~~ shall be unlawful for any person to conspire or endeavor to violate any of the  
1560 provisions of subsection (a) or (b) of this Code section. A person violates this subsection  
1561 when:

1562 (1) He or she together with one or more persons conspires to violate any of the  
1563 provisions of subsection (a) or (b) of this Code section and any one or more of such  
1564 persons commits any overt act to effect the object of the conspiracy; or

1565 (2) He or she endeavors to violate any of the provisions of subsection (a) or (b) of this  
1566 Code section and commits any overt act to effect the object of the endeavor.

1567 16-14-5.

1568 (a) Any person convicted of the offense of engaging in activity in violation of Code  
1569 Section 16-14-4 ~~is~~ shall be guilty of a felony and shall be punished by not less than five nor  
1570 more than 20 years' imprisonment or the fine specified in subsection (b) of this Code  
1571 section, or both.

1572 (b) In lieu of any fine otherwise authorized by law, any person convicted of the offense of  
1573 engaging in conduct in violation of Code Section 16-14-4 may be sentenced to pay a fine  
1574 that does not exceed the greater of \$25,000.00 or three times the amount of any pecuniary  
1575 value gained by him or her from such violation.

1576 (c) The court shall hold a hearing to determine the amount of the fine authorized by  
1577 subsection (b) of this Code section.

1578 (d) For the purposes of subsection (b) of this Code section, the term 'pecuniary value'  
1579 means:

1580 (1) Anything of value in the form of money, a negotiable instrument, a commercial  
1581 interest, or anything else, the primary significance of which is economic advantage; or

1582 (2) Any other property or service that has a value in excess of \$100.00.

1583 16-14-6.

1584 (a) Any superior court may, after making due provisions for the rights of innocent persons,  
1585 enjoin violations of Code Section 16-14-4 by issuing appropriate orders and judgments,  
1586 including, but not limited to:

1587 (1) Ordering any defendant to divest himself or herself of any interest in any enterprise,  
1588 real property, or personal property;

1589 (2) Imposing reasonable restrictions upon the future activities or investments of any  
1590 defendant, including, but not limited to, prohibiting any defendant from engaging in the  
1591 same type of endeavor as the enterprise in which he or she was engaged in violation of  
1592 Code Section 16-14-4;

1593 (3) Ordering the dissolution or reorganization of any enterprise;

1594 (4) Ordering the suspension or revocation of any license, permit, or prior approval  
1595 granted to any enterprise by any agency of the state; or

1596 (5) Ordering the forfeiture of the charter of a corporation organized under the laws of this  
1597 state or the revocation of a certificate authorizing a foreign corporation to conduct  
1598 business within this state upon a finding that the board of directors or a managerial agent  
1599 acting on behalf of the corporation, in conducting affairs of the corporation, has  
1600 authorized or engaged in conduct in violation of Code Section 16-14-4 and that, for the  
1601 prevention of future criminal activity, the public interest requires that the charter of the  
1602 corporation be forfeited and that the corporation be dissolved or the certificate be  
1603 revoked.

1604 (b) Any aggrieved person or the state may institute a proceeding under subsection (a) of  
1605 this Code section. In such proceeding, relief shall be granted in conformity with the  
1606 principles that govern the granting of injunctive relief from threatened loss or damage in  
1607 other civil cases, provided that no showing of special or irreparable damage to the person  
1608 shall have to be made. Upon the execution of proper bond against damages for an  
1609 injunction improvidently granted and a showing of immediate danger of significant loss or  
1610 damage, a temporary restraining order and a preliminary injunction may be issued in any  
1611 such action before a final determination on the merits.

1612 (c) Any person who is injured by reason of any violation of Code Section 16-14-4 shall  
1613 have a cause of action for three times the actual damages sustained and, where appropriate,  
1614 punitive damages. Such person shall also recover ~~attorneys'~~ attorney's fees in the trial and  
1615 appellate courts and costs of investigation and litigation reasonably incurred. The  
1616 defendant or any injured person may demand a trial by jury in any civil action brought  
1617 pursuant to this Code section.

1618 (d) Any injured person shall have a right or claim to forfeited property or to the proceeds  
1619 derived therefrom ~~superior to any right or claim the state or the county (other than for~~

1620 costs) has in the same property or proceeds. To enforce such a claim, the injured person  
 1621 must intervene in the forfeiture proceeding prior to its final disposition as set forth in Code  
 1622 Section 9-16-17.

1623 (e) A conviction in any criminal proceeding ~~under this chapter~~ shall estop the defendant  
 1624 in any subsequent civil forfeiture action or other civil proceeding as to all matters proved  
 1625 in the criminal proceeding.

1626 16-14-7.

1627 (a) All property of every kind used or intended for use in the course of, derived from, or  
 1628 realized through a pattern of racketeering activity is shall be subject to forfeiture to the  
 1629 state. ~~Forfeiture shall be had by a civil procedure known as a RICO forfeiture proceeding~~  
 1630 ~~under the following rules:~~ The Attorney General shall be specifically authorized to  
 1631 commence forfeiture proceedings under this chapter in matters arising under Code  
 1632 Section 45-15-10.

1633 (b) Any property subject to forfeiture pursuant to subsection (a) of this Code section and  
 1634 any proceeds derived or realized therefrom are declared to be contraband and no person  
 1635 shall have a property right in them and shall be forfeited in accordance with the procedure  
 1636 set forth in Chapter 16 of Title 9. A RICO forfeiture proceeding shall be governed by  
 1637 Chapter 11 of Title 9, the 'Georgia Civil Practice Act,' except to the extent that special rules  
 1638 of procedure are stated in this chapter.

1639 (c) ~~A RICO forfeiture proceeding shall be an in rem proceeding against the property.~~

1640 (d) ~~A RICO forfeiture proceeding shall be instituted by complaint and prosecuted by the~~  
 1641 ~~district attorney of the county in which the property is located or seized. The proceeding~~  
 1642 ~~may be commenced before or after seizure of the property.~~

1643 (e) ~~If the complaint is filed before seizure, it shall state what property is sought to be~~  
 1644 ~~forfeited, that the property is within the jurisdiction of the court, the grounds for forfeiture,~~  
 1645 ~~and the names of all persons known to have or claim an interest in the property. The court~~  
 1646 ~~shall determine ex parte whether there is reasonable cause to believe that the property is~~  
 1647 ~~subject to forfeiture and that notice to those persons having or claiming an interest in the~~  
 1648 ~~property prior to seizure would cause the loss or destruction of the property. If the court~~  
 1649 ~~finds that reasonable cause does not exist to believe the property is subject to forfeiture, it~~  
 1650 ~~shall dismiss the complaint. If the court finds that reasonable cause does exist to believe~~  
 1651 ~~the property is subject to forfeiture but there is not reasonable cause to believe that prior~~  
 1652 ~~notice would result in loss or destruction, it shall order service on all persons known to~~  
 1653 ~~have or claim an interest in the property prior to a further hearing on whether a writ of~~  
 1654 ~~seizure should issue. If the court finds that there is reasonable cause to believe that the~~  
 1655 ~~property is subject to forfeiture and to believe that prior notice would cause loss or~~

1656 ~~destruction, it shall without any further hearing or notice issue a writ of seizure directing~~  
1657 ~~the sheriff of the county where the property is found to seize it.~~

1658 ~~(f) Seizure may be effected by a law enforcement officer authorized to enforce the penal~~  
1659 ~~laws of this state prior to the filing of the complaint and without a writ of seizure if the~~  
1660 ~~seizure is incident to a lawful arrest, search, or inspection and the officer has probable~~  
1661 ~~cause to believe the property is subject to forfeiture and will be lost or destroyed if not~~  
1662 ~~seized. Within ten days of the date of seizure, the seizure shall be reported by the officer~~  
1663 ~~to the district attorney of the circuit in which the seizure is effected; and the district~~  
1664 ~~attorney shall, within a reasonable time after receiving notice of seizure, file a complaint~~  
1665 ~~for forfeiture. The complaint shall state, in addition to the information required in~~  
1666 ~~subsection (e) of this Code section, the date and place of seizure.~~

1667 ~~(g) After the complaint is filed or the seizure effected, whichever is later, every person~~  
1668 ~~known to have or claim an interest in the property shall be served, if not previously served,~~  
1669 ~~with a copy of the complaint and a notice of seizure in the manner provided by Chapter 11~~  
1670 ~~of Title 9, the 'Georgia Civil Practice Act.' Service by publication may be ordered upon any~~  
1671 ~~party whose whereabouts cannot be determined.~~

1672 ~~(h)(1) Any person claiming an interest in the property may become a party to the action~~  
1673 ~~at any time prior to judgment whether named in the complaint or not. Any party claiming~~  
1674 ~~a substantial interest in the property may upon motion be allowed by the court to take~~  
1675 ~~possession of the property upon posting bond with good and sufficient security in double~~  
1676 ~~the amount of the property's value conditioned to pay the value of any interest in the~~  
1677 ~~property found to be subject to forfeiture or the value of any interest of another not~~  
1678 ~~subject to forfeiture. Such a party taking possession shall not remove the property from~~  
1679 ~~the territorial jurisdiction of the court without written permission from the court.~~

1680 ~~(2) The court may, upon such terms and conditions as prescribed by it, order that the~~  
1681 ~~property be sold by an innocent party who holds a lien on or security interest in the~~  
1682 ~~property at any time during the proceedings. Any proceeds from such sale over and~~  
1683 ~~above the amount necessary to satisfy the lien or security interest shall be paid into court~~  
1684 ~~pending final judgment in the forfeiture proceeding. No such sale shall be ordered,~~  
1685 ~~however, unless the obligation upon which the lien or security interest is based is in~~  
1686 ~~default.~~

1687 ~~(3) Pending final judgment in the forfeiture proceeding, the court may make any other~~  
1688 ~~disposition of the property which is in the interest of substantial justice.~~

1689 ~~(i) After service of process, all further proceedings shall be as provided in Chapter 11 of~~  
1690 ~~Title 9, the 'Georgia Civil Practice Act,' except that any party may bring one motion to~~  
1691 ~~dismiss at any time and such motion shall be heard and ruled on within ten days. Any party~~  
1692 ~~may demand a jury trial.~~



1693 ~~(j) The interest of an innocent party in the property shall not be subject to forfeiture. An~~  
1694 ~~innocent party is one who did not have actual or constructive knowledge that the property~~  
1695 ~~was subject to forfeiture.~~

1696 ~~(k) Subject to the requirement of protecting the interest of all innocent parties, the court~~  
1697 ~~may, after judgment of forfeiture, make any of the following orders for disposition of the~~  
1698 ~~property:~~

1699 ~~(1) Destruction of contraband, the possession of which is illegal;~~

1700 ~~(2) Retention for official use by any agency of this state or any political subdivision~~  
1701 ~~thereof. When such agency or political subdivision no longer has use for such property,~~  
1702 ~~it shall be disposed of by judicial sale;~~

1703 ~~(3) Transfer to the Division of Archives and History of property useful for historical or~~  
1704 ~~instructional purposes;~~

1705 ~~(4) Retention of the property by any innocent party having an interest therein, upon~~  
1706 ~~payment or approval of a plan for payment into court of the value of any forfeited interest~~  
1707 ~~in the property. The plan may include, in the case of an innocent party who holds a lien~~  
1708 ~~on or security interest in the property, the sale of the property by the innocent party under~~  
1709 ~~such terms and conditions as may be prescribed by the court and the payment into court~~  
1710 ~~of any proceeds from such sale over and above the amount necessary to satisfy the lien~~  
1711 ~~or security interest;~~

1712 ~~(5) Judicial sale of the property;~~

1713 ~~(6) Transfer of the property to any innocent party having an interest therein equal to or~~  
1714 ~~greater than the value of the property; or~~

1715 ~~(7) Any other disposition of the property which is in the interest of substantial justice and~~  
1716 ~~adequately protects innocent parties.~~

1717 ~~(l) The net proceeds of any sale or disposition after satisfaction of the interest of any~~  
1718 ~~innocent party, less the greater of one-half thereof or the costs borne by the county in~~  
1719 ~~bringing the forfeiture action, shall be paid into the general fund of the state treasury. The~~  
1720 ~~costs borne by the county or one-half of the net proceeds of sale or disposition, whichever~~  
1721 ~~is greater, shall be paid into the treasury of the county where the forfeiture action is~~  
1722 ~~brought. Notwithstanding any other provision in this Code section, the court may, after~~  
1723 ~~satisfaction of the interest of any innocent party, make any other division of the proceeds~~  
1724 ~~among the state, county, or municipalities or agencies of the state, county, or~~  
1725 ~~municipalities, which is commensurate with the proportion of the assistance that each~~  
1726 ~~contributed to the underlying criminal action, forfeiture, or criminal action and forfeiture.~~

1727 ~~(m) In lieu of the provisions of subsections (c) through (g) of this Code section, the state~~  
1728 ~~may bring an in personam action for the forfeiture of any property subject to forfeiture~~  
1729 ~~under subsection (a) of this Code section.~~

1730 ~~(n)(1) Upon the entry of a final judgment of forfeiture in favor of the state, the title of the~~  
 1731 ~~state to the forfeited property shall:~~

1732 ~~(A) In the case of real property or beneficial interest, relate back to the date of filing~~  
 1733 ~~of the RICO lien notice in the official records of the county where the real property or~~  
 1734 ~~beneficial trust is located and, if no RICO lien notice is filed, then to the date of the~~  
 1735 ~~filing of any notice of lis pendens under Article 9 of Chapter 14 of Title 44 in the~~  
 1736 ~~official records of the county where the real property or beneficial interest is located~~  
 1737 ~~and, if no RICO lien notice or notice of lis pendens is so filed, then to the date of~~  
 1738 ~~recording of the final judgment of forfeiture in the official records of the county where~~  
 1739 ~~the real property or beneficial interest is located; and~~

1740 ~~(B) In the case of personal property, relate back to the date the personal property was~~  
 1741 ~~seized by the investigating agency.~~

1742 ~~(2) If property subject to forfeiture is conveyed, alienated, disposed of, or otherwise~~  
 1743 ~~rendered unavailable for forfeiture after the filing of a RICO lien notice or after the filing~~  
 1744 ~~of a civil proceeding or criminal proceeding, whichever is earlier, the investigative~~  
 1745 ~~agency may, on behalf of the state, institute an action in the appropriate superior court~~  
 1746 ~~against the person named in the RICO lien notice or the defendant in the civil proceeding~~  
 1747 ~~or criminal proceeding; and the court shall enter final judgment against the person named~~  
 1748 ~~in the RICO lien notice or the defendant in the civil proceeding or criminal proceeding~~  
 1749 ~~in an amount equal to the fair market value of the property, together with investigative~~  
 1750 ~~costs and attorney's fees incurred by the investigative agency in the action. If a civil~~  
 1751 ~~proceeding is pending, such action shall be filed only in the court where such civil~~  
 1752 ~~proceeding is pending.~~

1753 16-14-8.

1754 Notwithstanding any other provision of law setting forth a statute of limitations, a criminal  
 1755 proceeding or civil action or proceeding under this chapter may brought pursuant to Code  
 1756 Section 16-14-6 shall be commenced up until five years after the conduct in violation of  
 1757 a provision of this chapter terminates ~~or the cause of action accrues~~. If a criminal  
 1758 prosecution or civil forfeiture action is brought by the state ~~to punish or prevent any~~  
 1759 ~~violation of pursuant to~~ this chapter, then the running of this period of limitations, with  
 1760 respect to any cause of action arising under subsection (b) or (c) of Code Section 16-14-6  
 1761 which is based upon any matter complained of in such prosecution or action by the state,  
 1762 shall be suspended during the pendency of the criminal prosecution or civil forfeiture  
 1763 action by the state and for two years thereafter.

1764 16-14-9.

1765 The application of one civil remedy under this chapter shall not preclude the application  
1766 of any other remedy, civil or criminal, under this chapter or any other provision of law.  
1767 Civil remedies under this chapter are supplemental and not mutually exclusive.

1768 16-14-10.

1769 (a) ~~A Notwithstanding any other provision of law,~~ a valid judgment rendered by a court  
1770 of a jurisdiction having a law substantially similar to this chapter ~~with~~ shall be recognized  
1771 and enforced by the courts of this state to the extent that a judgment rendered by a court of  
1772 this state pursuant to this chapter would be enforced in such other jurisdiction.

1773 (b) The Attorney General ~~is~~ shall be authorized to enter into reciprocal agreements with  
1774 the attorney general or chief prosecuting attorney of any jurisdiction having a law  
1775 substantially similar to this chapter so as to further the purposes of this chapter.

1776 16-14-11.

1777 In any criminal proceeding ~~brought pursuant to this chapter,~~ the crime shall be considered  
1778 to have been committed in any county in which an incident of racketeering occurred or in  
1779 which an interest or control of an enterprise or real or personal property is acquired or  
1780 maintained.

1781 16-14-12.

1782 This state may, in any civil action or civil forfeiture action brought pursuant to this chapter,  
1783 file with the clerk of the ~~superior~~ court a certificate stating that the case is of special public  
1784 importance. A copy of ~~that~~ such certificate shall be furnished immediately by such clerk  
1785 to the chief judge or, in his or her absence, the presiding chief judge of the ~~superior~~ court  
1786 in which such civil action or civil forfeiture action is pending; and, upon receipt of such  
1787 ~~copy~~ certificate, the judge shall immediately designate a judge to hear and determine the  
1788 civil action or civil forfeiture action. The judge so designated shall promptly assign such  
1789 civil action or civil forfeiture action for hearing, participate in the hearings and  
1790 determination, and cause the civil action or civil forfeiture action to be expedited.

1791 ~~16-14-13.~~

1792 ~~(a) Upon the institution of any civil proceeding, the investigative agency then or at any~~  
1793 ~~time during the pendency of the proceeding may file in the official records of any one or~~  
1794 ~~more counties a RICO lien notice. No filing fee or other charge shall be required as a~~  
1795 ~~condition for filing the RICO lien notice, and the clerk of the superior court shall, upon the~~  
1796 ~~presentation of a RICO lien notice, immediately record it in the official records.~~

1797 ~~(b) The RICO lien notice shall be signed by the Attorney General or his designee or by a~~  
 1798 ~~district attorney or his designee. The notice shall be in such form as the Attorney General~~  
 1799 ~~prescribes and shall set forth the following information:~~

1800 ~~(1) The name of the person against whom the civil proceeding has been brought. In its~~  
 1801 ~~discretion, the investigative agency may also name in the RICO lien notice any other~~  
 1802 ~~aliases, names, or fictitious names under which the person may be known. In its~~  
 1803 ~~discretion, the investigative agency may also name in the RICO lien notice any~~  
 1804 ~~corporation, partnership, or other entity that is either controlled by or entirely owned by~~  
 1805 ~~the person;~~

1806 ~~(2) If known to the investigative agency, the present residence and business addresses~~  
 1807 ~~of the person named in the RICO lien notice and of the other names set forth in the RICO~~  
 1808 ~~lien notice;~~

1809 ~~(3) A reference to the civil proceeding stating that a proceeding under this chapter has~~  
 1810 ~~been brought against the person named in the RICO lien notice, the name of the county~~  
 1811 ~~or counties where the proceeding has been brought, and, if known to the investigative~~  
 1812 ~~agency at the time of filing the RICO lien notice, the case number of the proceeding;~~

1813 ~~(4) A statement that the notice is being filed pursuant to this chapter; and~~

1814 ~~(5) The name and address of the investigative agency filing the RICO lien notice and the~~  
 1815 ~~name of the individual signing the RICO lien notice.~~

1816 ~~(c) A RICO lien notice shall apply only to one person and, to the extent applicable, any~~  
 1817 ~~aliases, fictitious names, or other names, including names of corporations, partnerships, or~~  
 1818 ~~other entities, to the extent permitted in paragraph (1) of subsection (b) of this Code~~  
 1819 ~~section. A separate RICO lien notice shall be filed for any other person against whom the~~  
 1820 ~~investigative agency desires to file a RICO lien notice under this Code section.~~

1821 ~~(d) The investigative agency shall, as soon as practicable after the filing of each RICO lien~~  
 1822 ~~notice, furnish to the person named in the notice either a copy of the recorded notice or a~~  
 1823 ~~copy of the notice with a notation thereon of the county or counties in which the notice has~~  
 1824 ~~been recorded. The failure of the investigative agency to so furnish a copy of the notice~~  
 1825 ~~under this subsection shall not invalidate or otherwise affect the notice.~~

1826 ~~(e) The filing of a RICO lien notice creates, from the time of its filing, a lien in favor of~~  
 1827 ~~the state on the following property of the person named in the notice and against any other~~  
 1828 ~~names set forth in the notice:~~

1829 ~~(1) Any real property situated in the county where the notice is filed then or thereafter~~  
 1830 ~~owned by the person or under any of the names; and~~

1831 ~~(2) Any beneficial interest situated in the county where the notice is filed then or~~  
 1832 ~~thereafter owned by the person or under any of the names.~~

1833 ~~(f) The lien shall commence and attach as of the time of filing of the RICO lien notice and~~  
 1834 ~~shall continue thereafter until expiration, termination, or release pursuant to Code Section~~  
 1835 ~~16-14-14. The lien created in favor of the state shall be superior and prior to the interest~~  
 1836 ~~of any other person in the real property or beneficial interest if the interest is acquired~~  
 1837 ~~subsequent to the filing of the notice.~~

1838 ~~(g) In conjunction with any civil proceedings:~~

1839 ~~(1) The investigative agency may file without prior court order in any county a lis~~  
 1840 ~~pendens and, in such case, any person acquiring an interest in the subject real property~~  
 1841 ~~or beneficial interest, if the real property or beneficial interest is acquired subsequent to~~  
 1842 ~~the filing of lis pendens, shall take the interest subject to the civil proceeding and any~~  
 1843 ~~subsequent judgment of forfeiture; and~~

1844 ~~(2) If a RICO lien notice has been filed, the investigative agency may name as~~  
 1845 ~~defendants, in addition to the person named in the notice, any persons acquiring an~~  
 1846 ~~interest in the real property or beneficial interest subsequent to the filing of the notice.~~  
 1847 ~~If a judgment of forfeiture is entered in the proceeding in favor of the state, the interest~~  
 1848 ~~of any person in the property that was acquired subsequent to the filing of the notice shall~~  
 1849 ~~be subject to the notice and judgment of forfeiture.~~

1850 ~~(h)(1) A trustee who acquires actual knowledge that a RICO lien notice or a civil~~  
 1851 ~~proceeding or criminal proceeding has been filed against any person for whom he holds~~  
 1852 ~~legal or record title to real property shall immediately furnish to the investigative agency~~  
 1853 ~~the following:~~

1854 ~~(A) The name and address of the person, as known to the trustee;~~

1855 ~~(B) The name and address, as known to the trustee, of all other persons for whose~~  
 1856 ~~benefit the trustee holds title to the real property; and~~

1857 ~~(C) If requested by the investigative agency, a copy of the trust agreement or other~~  
 1858 ~~instrument pursuant to which the trustee holds legal or record title to the real property.~~

1859 ~~(2) Any trustee who fails to comply with the provisions of this subsection is guilty of a~~  
 1860 ~~misdemeanor.~~

1861 ~~(i) Any trustee who conveys title to real property for which a RICO lien notice has been~~  
 1862 ~~filed at the time of the conveyance in the county where the real property is situated naming~~  
 1863 ~~a person who, to the actual knowledge of the trustee, holds a beneficial interest in the trust~~  
 1864 ~~shall be liable to the state for the greater of:~~

1865 ~~(1) The amount of proceeds received directly by the person named in the RICO lien~~  
 1866 ~~notice as a result of the conveyance;~~

1867 ~~(2) The amount of proceeds received by the trustee as a result of the conveyance and~~  
 1868 ~~distributed to the person named in the RICO lien notice; or~~

1869 ~~(3) The fair market value of the interest of the person named in the RICO lien notice in~~  
 1870 ~~the real property so conveyed; however, if the trustee conveys the real property and holds~~  
 1871 ~~the proceeds that would otherwise be paid or distributed to the beneficiary or at the~~  
 1872 ~~direction of the beneficiary or his designee, the trustee's liability shall not exceed the~~  
 1873 ~~amount of the proceeds so held for so long as the proceeds are held by the trustee.~~

1874 ~~(j) The filing of a RICO lien notice shall not constitute a lien on the record title to real~~  
 1875 ~~property as owned by the trustee except to the extent the trustee is named in the RICO lien~~  
 1876 ~~notice. The investigative agency may bring a civil proceeding in any superior court against~~  
 1877 ~~the trustee to recover from the trustee the amounts set forth in subsection (i), and the state~~  
 1878 ~~shall also be entitled to recover investigative costs and attorney's fees incurred by the~~  
 1879 ~~investigative agency.~~

1880 ~~(k) The filing of a RICO lien notice shall not affect the use to which real property or a~~  
 1881 ~~beneficial interest owned by the person named in the RICO lien notice may be put or the~~  
 1882 ~~right of the person to receive any avails, rents, or other proceeds resulting from the use and~~  
 1883 ~~ownership, but not the sale, of the property until a judgment of forfeiture is entered.~~

1884 ~~(l)(1) The provisions of this Code section shall not apply to any conveyance by a trustee~~  
 1885 ~~pursuant to a court order unless such court order is entered in an action between the~~  
 1886 ~~trustee and the beneficiary.~~

1887 ~~(2) Unless the trustee has actual knowledge that a person owning a beneficial interest in~~  
 1888 ~~the trust is named in a RICO lien notice or is otherwise a defendant in a civil proceeding,~~  
 1889 ~~the provisions of this Code section shall not apply to:~~

1890 ~~(A) Any conveyance by a trustee required under the terms of any trust agreement,~~  
 1891 ~~which trust agreement is a matter of public record prior to the filing of any RICO lien~~  
 1892 ~~notice; or~~

1893 ~~(B) Any conveyance by a trustee to all of the persons who own a beneficial interest in~~  
 1894 ~~the trust.~~

1895 ~~(m) All forfeitures or dispositions under this Code section shall be made with due~~  
 1896 ~~provision for the rights of innocent persons.~~

1897 ~~16-14-14.~~

1898 ~~(a) The term of a RICO lien notice shall be for a period of six years from the date of filing~~  
 1899 ~~unless a renewal RICO lien notice has been filed by the investigative agency; and, in such~~  
 1900 ~~case, the term of the renewal RICO lien notice shall be for a period of six years from the~~  
 1901 ~~date of its filing. The investigative agency shall be entitled to only one renewal of the~~  
 1902 ~~RICO lien notice.~~

1903 ~~(b) The investigative agency filing the RICO lien notice may release in whole or in part~~  
 1904 ~~any RICO lien notice or may release any specific real property or beneficial interest from~~

1905 ~~the RICO lien notice upon such terms and conditions as it may determine. Any release of~~  
1906 ~~a RICO lien notice executed by the investigative agency may be filed in the official records~~  
1907 ~~of any county. No charge or fee shall be imposed for the filing of any release of a RICO~~  
1908 ~~lien notice.~~

1909 ~~(c) If no civil proceeding has been instituted by the investigative agency seeking a~~  
1910 ~~forfeiture of any property owned by the person named in the RICO lien notice, the acquittal~~  
1911 ~~in the criminal proceeding of the person named in the RICO lien notice or the dismissal of~~  
1912 ~~the criminal proceeding shall terminate the RICO lien notice; and, in such case, the filing~~  
1913 ~~of the RICO lien notice shall have no effect. In the event the criminal proceeding has been~~  
1914 ~~dismissed or the person named in the RICO lien notice has been acquitted in the criminal~~  
1915 ~~proceeding, the RICO lien notice shall continue for the duration of the civil proceeding.~~

1916 ~~(d) If no civil proceeding is then pending against the person named in a RICO lien notice,~~  
1917 ~~the person named in a RICO lien notice may institute an action against the investigative~~  
1918 ~~agency filing the notice in the county where the notice has been filed seeking a release or~~  
1919 ~~extinguishment of the notice; and, in such case:~~

1920 ~~(1) The court shall, upon the motion of such person, immediately enter an order setting~~  
1921 ~~a date for hearing, which date shall be not less than five nor more than ten days after the~~  
1922 ~~action has been filed, and the order, along with a copy of the complaint, shall be served~~  
1923 ~~on the investigative agency within three days after the institution of the action. At the~~  
1924 ~~hearing, the court shall take evidence on the issue of whether any real property or~~  
1925 ~~beneficial interest owned by such person is covered by the RICO lien notice or otherwise~~  
1926 ~~subject to forfeiture under this chapter; and, if such person shows by the preponderance~~  
1927 ~~of the evidence that the RICO lien notice is not applicable to him or that any real property~~  
1928 ~~or beneficial interest owned by him is not subject to forfeiture under this chapter, the~~  
1929 ~~court shall enter a judgment extinguishing the RICO lien notice or releasing the real~~  
1930 ~~property or beneficial interest from the RICO lien notice;~~

1931 ~~(2) The court shall immediately enter its order releasing from the RICO lien notice any~~  
1932 ~~specific real property or beneficial interest if a sale of the real property or beneficial~~  
1933 ~~interest is pending and the filing of the notice prevents the sale of the property or interest;~~  
1934 ~~however, the proceeds resulting from the sale of the real property or beneficial interest~~  
1935 ~~shall be deposited into the registry of the court, subject to the further order of the court;~~  
1936 ~~and~~

1937 ~~(3) At the hearing set forth in paragraph (1), the court may release from the RICO lien~~  
1938 ~~notice any real property or beneficial interest upon the posting by such person of such~~  
1939 ~~security as is equal to the value of the real property or beneficial interest owned by such~~  
1940 ~~person.~~

1941 ~~(e) In the event a civil proceeding is pending against a person named in a RICO lien~~  
 1942 ~~notice, the court, upon motion by said person, may grant the relief set forth in this Code~~  
 1943 ~~section.~~

1944 ~~16-14-15.~~

1945 ~~(a) Each alien corporation desiring to acquire of record any real property shall have, prior~~  
 1946 ~~to acquisition, and shall continuously maintain in this state during any year thereafter in~~  
 1947 ~~which such real property is owned by the alien corporation:~~

1948 ~~(1) A registered office; and~~

1949 ~~(2) A registered agent, which agent may be either:~~

1950 ~~(A) An individual resident in this state whose business office is identical with such~~  
 1951 ~~registered office; or~~

1952 ~~(B) Another corporation authorized to transact business in this state having a business~~  
 1953 ~~office identical with such registered office.~~

1954 ~~(b) Each registered agent appointed pursuant to this Code section, on whom process may~~  
 1955 ~~be served, shall file a statement in writing with the Secretary of State accepting the~~  
 1956 ~~appointment as registered agent simultaneously with being designated.~~

1957 ~~(c) Each alien corporation shall file with the Secretary of State an annual registration~~  
 1958 ~~setting forth:~~

1959 ~~(1) The name of the alien corporation and the country under whose law it is incorporated;~~

1960 ~~(2) The mailing address of the principal office of the alien corporation;~~

1961 ~~(3) The name and mailing address of each officer and each director of the alien~~  
 1962 ~~corporation;~~

1963 ~~(4) The name and street address of the registered agent and registered office of the alien~~  
 1964 ~~corporation; and~~

1965 ~~(5) The signature of the corporate president, vice-president, secretary, assistant secretary,~~  
 1966 ~~or treasurer attesting to the accuracy of the report as of the date the annual registration is~~  
 1967 ~~executed on behalf of the corporation.~~

1968 ~~(d) The first annual registration must be delivered to the Secretary of State between~~  
 1969 ~~January 1 and April 1, or such other date as the Secretary of State may specify by rules or~~  
 1970 ~~regulations, of the year following a calendar year in which an alien corporation filed its~~  
 1971 ~~initial application pursuant to subsection (a) of this Code section. Subsequent annual~~  
 1972 ~~registrations must be delivered to the Secretary of State between January 1 and April 1, or~~  
 1973 ~~such other date as the Secretary of State may specify by rules or regulations, of the~~  
 1974 ~~following calendar years.~~

1975 ~~(e) For filing reports required pursuant to this Code section, the Secretary of State shall~~  
 1976 ~~collect a filing fee as set out in Code Section 14-2-122 for the filing of annual registrations.~~



1977 ~~(f) If an annual registration does not contain the information required by this Code section,~~  
 1978 ~~the Secretary of State shall promptly notify the reporting domestic, foreign, or alien~~  
 1979 ~~corporation in writing and return the report to it for correction. If the report is corrected~~  
 1980 ~~to contain the information required by this Code section and delivered to the Secretary of~~  
 1981 ~~State within 30 days after the effective date of notice, it is deemed to be timely filed.~~  
 1982 ~~(g) The Secretary of State shall record the status of any alien corporation that fails to~~  
 1983 ~~comply with the requirements of this Code section.~~  
 1984 ~~(h) Each alien corporation that fails to file a report as required by subsection (c) of this~~  
 1985 ~~Code section or fails to maintain a registered office and a registered agent as required by~~  
 1986 ~~subsection (a) of this Code section shall not be entitled to own, purchase, or sell any real~~  
 1987 ~~property and shall not be entitled to bring an action or defend in the courts of the state until~~  
 1988 ~~such requirements have been complied with.~~  
 1989 ~~(i) The filing of a report by a corporation as required by subsection (c) of this Code section~~  
 1990 ~~shall be solely for the purposes of this chapter and, notwithstanding Code Section 14-2-510~~  
 1991 ~~or any other relevant law, shall not be used as a determination of whether the corporation~~  
 1992 ~~is actually doing business in this state."~~

#### 1993 SECTION 2-26.

1994 Said title is further amended by revising Code Section 16-15-5, relating to contraband,  
 1995 seizure, and forfeiture under the "Georgia Street Gang Terrorism and Prevention Act," as  
 1996 follows:

1997 "16-15-5.

1998 (a) As used in this Code section, the terms 'proceeds' and 'property' shall have the same  
 1999 meanings as set forth in Code Section 9-16-2. ~~The following are declared to be contraband~~  
 2000 ~~and no person shall have a property interest in them:~~

2001 ~~(1)(b) Any All property which is, directly or indirectly, used or intended for use in any~~  
 2002 ~~manner to facilitate a violation of this chapter; and proceeds derived or realized therefrom~~  
 2003 ~~are declared to be contraband and no person shall have a property right in them.~~

2004 ~~(2) Any property constituting or derived from gross profits or other proceeds obtained~~  
 2005 ~~from a violation of this chapter.~~

2006 ~~(b) In any action under this Code section, the court may enter such restraining orders or~~  
 2007 ~~take other appropriate action, including acceptance of performance bonds, in connection~~  
 2008 ~~with any interest that is subject to forfeiture.~~

2009 ~~(c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall~~  
 2010 ~~be forfeited in accordance with Chapter 16 of Title 9. Within 60 days of the date of the~~  
 2011 ~~seizure of contraband pursuant to this Code section, the district attorney shall initiate a~~  
 2012 ~~forfeiture proceeding as provided in Code Section 16-13-49. An owner or interest holder,~~

2013 ~~as defined by subsection (a) of Code Section 16-13-49, may establish as a defense to the~~  
 2014 ~~forfeiture of property which is subject to forfeiture under this Code section the applicable~~  
 2015 ~~provisions of subsection (e) or (f) of Code Section 16-13-49. Property which is forfeited~~  
 2016 ~~pursuant to this Code section shall be disposed of as provided in Code Section 16-13-49~~  
 2017 ~~and the proceeds of such disposition shall be paid to the Criminal Justice Coordinating~~  
 2018 ~~Council for use in funding gang prevention projects."~~

2019 **SECTION 2-27.**

2020 Said title is further amended by repealing in its entirety Code Section 16-16-2, relating to  
 2021 motor vehicles, tools, and weapons subject to forfeiture, and enacting a new Code Section  
 2022 16-16-2 to read as follows:

2023 "16-16-2.

2024 (a) As used in this Code section, the terms 'proceeds' and 'property' shall have the same  
 2025 meanings as set forth in Code Section 9-16-2.

2026 (b) Any property which is, directly or indirectly, used or intended for use in any manner  
 2027 to facilitate the commission of a burglary or armed robbery and any proceeds derived or  
 2028 realized therefrom are declared to be contraband and no person shall have a property right  
 2029 in them

2030 (c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall  
 2031 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9."

2032 **PART III**

2033 **CONFORMING TITLES 3, 5, 7, 10, 12, 15, 17, 27, 36, 38, 40, 45, 46, 48, AND 52**

2034 **TO THE NEW CIVIL FORFEITURE PROCEDURE**

2035 **AND CORRECTING TERMINOLOGY**

2036 **SECTION 3-1.**

2037 Title 3 of the Official Code of Georgia Annotated, relating to alcoholic beverages, is  
 2038 amended by revising Code Section 3-10-10, relating to existence of property rights in  
 2039 distilled spirits or vessels kept or used in violation of the chapter, as follows:

2040 "3-10-10.

2041 No property rights of any kind shall exist in distilled spirits or in the vessels kept or used  
 2042 for the purpose of violating this chapter, or in any such liquors when received, possessed,  
 2043 or stored at any forbidden place or anywhere in a quantity forbidden by law or when kept,  
 2044 stored, or deposited for the purpose of sale or unlawful disposition, furnishing, or  
 2045 distribution. In all such cases the distilled spirits, the vessels and receptacles in which the  
 2046 distilled spirits are contained, and any property kept or used for the purpose of violating

2047 this chapter are declared to be contraband; and are to be forfeited to the state when seized;  
 2048 ~~and may be condemned to be destroyed after seizure by order of the court that has acquired~~  
 2049 ~~jurisdiction over them, or by order of the judge or court after conviction when the distilled~~  
 2050 ~~spirits and property have been seized for use as evidence in accordance with the procedures~~  
 2051 ~~set forth in Chapter 16 of Title 9."~~

### 2052 SECTION 3-2.

2053 Said title is further amended by revising Code Section 3-10-11, relating to contraband  
 2054 apparatus and appliances, existence of property rights therein, summary destruction of  
 2055 contraband, and procedure for seizure and condemnation of vehicles and conveyances and  
 2056 boats and vessels, as follows:

2057 "3-10-11.

2058 (a)(1) All apparatus or appliances which are used for the unlawful purpose of distilling  
 2059 or manufacturing any distilled spirits are declared to be contraband.

2060 (2) No person shall have any property right in or to the contraband specified in this  
 2061 subsection.

2062 (3) Whenever apparatus or appliances used or about to be used for the unlawful purpose  
 2063 of manufacturing, using, holding, or containing any distilled spirits are found or  
 2064 discovered by any sheriff, deputy sheriff, or other law enforcement officer of this state,  
 2065 the same shall be summarily destroyed and rendered useless by him or her without any  
 2066 formal order of the court.

2067 (b)(1) All vehicles and conveyances of every kind and description in this state and all  
 2068 boats and vessels of every kind and description in any of the waters of this state; ~~which~~  
 2069 ~~vehicles and vessels are used in conveying, removing, concealing, or storing any distilled~~  
 2070 ~~spirits, the transportation, possession, or storing of which is in violation of law, are~~  
 2071 ~~declared to be contraband and shall be seized ~~and condemned~~ by any ~~sheriff or other~~~~  
 2072 ~~arresting law enforcement officer. Such ~~vehicles, conveyances, boats, and vessels~~~~  
 2073 ~~contraband shall be subject to seizure and condemnation as specified in this Code section~~  
 2074 ~~in any county or municipality of this state forfeiture in accordance with the procedures set~~  
 2075 ~~forth in Chapter 16 of Title 9, including those counties and municipalities in which the sale~~  
 2076 ~~of distilled spirits is lawful. The law enforcement officer making a seizure shall report the~~  
 2077 ~~seizure within ten days after the seizure to the prosecuting attorney of the county, city, or~~  
 2078 ~~superior court having jurisdiction in the county where the seizure was made.~~

2079 (2) ~~Within 30 days from the time the prosecuting attorney receives the notice, he shall~~  
 2080 ~~institute condemnation proceedings by petition, a copy of which shall be served upon the~~  
 2081 ~~owner or lessee, if known, and, if the owner or lessee is unknown, notice of the~~

2082 proceedings shall be published once a week for two weeks in the newspaper in which the  
 2083 sheriff's advertisements are published.

2084 ~~(3) If at the expiration of 30 days after the filing of a petition pursuant to paragraph (2)~~  
 2085 ~~of this subsection no claimant has appeared to defend against the petition, the court shall~~  
 2086 ~~order the disposition of the property as otherwise provided in this subsection.~~

2087 ~~(4) Should it appear upon the trial of the case that the vehicle, conveyance, boat, or~~  
 2088 ~~vessel was used as provided in paragraph (1) of this subsection with the knowledge of the~~  
 2089 ~~owner or lessee, it shall be disposed of by order of the court after such advertisement as~~  
 2090 ~~the court may direct.~~

2091 ~~(5) Except as otherwise provided in this Code section, property forfeited pursuant to this~~  
 2092 ~~subsection shall be disposed of by order of the court as follows:~~

2093 ~~(A) Upon application of the seizing law enforcement agency or any other law~~  
 2094 ~~enforcement agency of state, county, or municipal government, the court shall permit~~  
 2095 ~~the agency to retain the property for official use in law enforcement work;~~

2096 ~~(B) That property which is not required to be destroyed by law and which is not~~  
 2097 ~~harmful to the public shall be sold. The proceeds of such sale shall be used for payment~~  
 2098 ~~of all proper expenses of the forfeiture and sale, including, but not limited to, the~~  
 2099 ~~expenses of seizure, maintenance of custody, advertising, and court costs. The~~  
 2100 ~~remainder of the proceeds of a sale of forfeited property, after the deductions authorized~~  
 2101 ~~in this subparagraph for proper expenses, shall be paid into the general fund of the~~  
 2102 ~~county in which the seizure is made.~~

2103 ~~(c) Where the owner or lessee of any property seized for purposes of condemnation~~  
 2104 ~~absconds or conceals himself so that actual notice of the condemnation proceeding cannot~~  
 2105 ~~be served upon him, he shall be served by publication as provided for in paragraph (2) of~~  
 2106 ~~subsection (b) of this Code section in the case of an unknown owner or lessee.~~

2107 ~~(d)(1) All condemnation proceedings against any vehicle, conveyance, boat, or vessel~~  
 2108 ~~shall be proceedings in rem against the property seized. The property shall be described~~  
 2109 ~~only in general terms, and it is no ground for defense that the person who had the~~  
 2110 ~~property in possession at the time of its illegal use and seizure had not been convicted of~~  
 2111 ~~such violation.~~

2112 ~~(2) Any party at interest may appear, by answer under oath, and make defense. The~~  
 2113 ~~owner or lessee shall be permitted to defend by showing that the property seized, if used~~  
 2114 ~~illegally by another, was used without the knowledge, connivance, or consent, express~~  
 2115 ~~or implied, of the owner or lessee and by showing also that the property seized, if a motor~~  
 2116 ~~vehicle, was legally registered with the department in the true name and address of the~~  
 2117 ~~owner or his predecessor in title, unless the vehicle is a new vehicle bought from a dealer~~  
 2118 ~~within 30 days of the time of seizure. The holder of any bona fide lien on the property~~

2119 ~~so seized shall be protected to the full extent of his lien if the holder shows that the illegal~~  
 2120 ~~use of the property was without his knowledge, connivance, or consent, express or~~  
 2121 ~~implied.~~

2122 ~~(e) The court to whom a petition for condemnation is referred may at its discretion allow~~  
 2123 ~~any party at interest to give bond and take possession of the vehicle seized. In such cases~~  
 2124 ~~the court shall determine whether the bond shall be a forthcoming bond or an eventual~~  
 2125 ~~condemnation money bond and shall also determine the amount of the bond. The~~  
 2126 ~~enforcement of any bond so given shall be regulated by the general law applicable to such~~  
 2127 ~~cases.~~

2128 ~~(f) The court may permit a settlement between the parties at any stage of the proceeding~~  
 2129 ~~by permitting the value of the vehicle or the value of the equity in the vehicle, as~~  
 2130 ~~determined by the court, to be paid into court. Money so paid shall be distributed as~~  
 2131 ~~provided by law in all cases of condemnation.~~

2132 ~~(g) The agency, state, county, or municipality seizing any contraband article may use any~~  
 2133 ~~vessel, vehicle, aircraft, or other conveyance described in subsection (b) of this Code~~  
 2134 ~~section for covert police activity for a period of up to 60 days prior to the sale of such~~  
 2135 ~~vessel, vehicle, aircraft, or other conveyance, except that no vessel, vehicle, aircraft, or~~  
 2136 ~~other conveyance shall be utilized for covert police activity prior to final judicial~~  
 2137 ~~adjudication of lawful seizure."~~

2138 **SECTION 3-3.**

2139 Said title is further amended by revising Code Section 3-10-12, relating to raw materials or  
 2140 substances, fixtures, implements, or apparatus intended for use in unlawful distillation or  
 2141 manufacture of distilled spirits declared contraband, property rights in contraband, and  
 2142 procedures for seizure and disposition of contraband, as follows:

2143 "3-10-12.

2144 (a) Any raw materials or substances, including, but not limited to, sugar of any grade or  
 2145 type, and any fixture, implement, or apparatus used or intended for use in the unlawful  
 2146 distilling or manufacturing of any distilled spirits are declared to be contraband.

2147 (b) No person shall have any property right in or to any contraband specified in  
 2148 subsection (a) of this Code section.

2149 (c) Whenever any property item used or about to be used as specified in subsection (a) of  
 2150 this Code section is found or discovered, whether in transit, in storage, or at a site of  
 2151 unlawful distillation or manufacture, by any ~~sheriff, deputy sheriff, revenue agent, or any~~  
 2152 ~~other~~ law enforcement officer, it is ~~declared forfeited~~ and shall be subject to the following  
 2153 dispositions, ~~or any of them:~~

2154 (1) When found or discovered at a site of unlawful distillation or manufacture, it may be  
 2155 summarily destroyed and rendered useless by any ~~of the officers named in this subsection~~  
 2156 law enforcement officer without any formal order of the court or, in the event any of the  
 2157 raw materials or substances are fit for human consumption or if any of the fixtures,  
 2158 implements, or apparatus are of any beneficial use to the educational authorities of the  
 2159 county for use in any of their educational programs, they may be delivered to the public  
 2160 schools of the county in which seized for use in the schools. When any of the foregoing  
 2161 items are delivered to a public school system, the officer delivering the items shall obtain  
 2162 from the appropriate school authorities an itemized receipt detailing all items delivered  
 2163 to the system and report such information as provided in subsection (g) of Code Section  
 2164 9-16-20. In the event any of the foregoing items are destroyed by a law enforcement  
 2165 officer, ~~he~~ the officer shall execute an affidavit of such fact in which ~~he shall list~~ all items  
 2166 destroyed ~~by him shall be listed~~. The receipts and affidavits shall be maintained by the  
 2167 officer and shall be open to inspection by the public upon request; or  
 2168 (2) When found or discovered in transit or in storage by any ~~of the officers named in this~~  
 2169 ~~subsection~~ law enforcement officer, the property items shall be seized by the officer and  
 2170 ~~the procedures of notice, condemnation, and sale provided in Code Section 3-10-11,~~  
 2171 ~~applicable to vehicles and conveyances, shall be followed~~ forfeited in accordance with  
 2172 the procedures set forth in Chapter 16 of Title 9."

#### 2173 SECTION 3-4.

2174 Title 5 of the Official Code of Georgia Annotated, relating to appeal and error, is amended  
 2175 by revising paragraph (8) of subsection (c) of Code Section 5-5-41, relating to requirements  
 2176 as to extraordinary motions for new trial generally, as follows:

2177 "(8) If the court orders testing pursuant to this subsection, the court shall determine the  
 2178 method of testing and responsibility for payment for the cost of testing, if necessary, and  
 2179 may require the petitioner to pay the costs of testing if the court determines that the  
 2180 petitioner has the ability to pay. If the petitioner is indigent, the cost shall be paid from  
 2181 the fine and bond forfeiture fund as provided in Article 3 of Chapter 5 21 of Title 15."

#### 2182 SECTION 3-5.

2183 Title 7 of the Official Code of Georgia Annotated, relating to banks and banking, is amended  
 2184 by revising Code Section 7-1-11, relating to registration of nonresident corporations, as  
 2185 follows:

2186 "7-1-11.

2187 Whenever any financial institution or other corporation domiciled outside this state,  
 2188 including domestic international banking facilities, international bank agencies,

2189 international bank representative offices, and representative offices of federally and state  
 2190 chartered financial institutions, is required to register with the department as a prerequisite  
 2191 to the conduct of business in this state or for the purpose of taking title or liens against  
 2192 property located in this state, such registration shall be in lieu of further registration  
 2193 pursuant to ~~Code Section 16-14-15~~ or any other provisions of law."

2194 **SECTION 3-6.**

2195 Said title is further amended by revising Code Section 7-1-916, relating to forfeiture of  
 2196 property involved in illegal transactions, as follows:

2197 "7-1-916.

2198 All property of every kind used or intended for use in the course of, derived from, or  
 2199 realized through a transaction which in fact involves the proceeds of unlawful activity  
 2200 specified in Chapter 14 of Title 16 or otherwise subject to the provisions of this article shall  
 2201 be subject to forfeiture to the state. Forfeiture shall be had by the same procedure as is set  
 2202 forth in ~~Code Section 16-14-7~~ Chapter 16 of Title 9. As used in this Code section, the  
 2203 terms 'proceeds' and 'property' shall have the same meaning as set forth in Code Section  
 2204 9-16-2."

2205 **SECTION 3-7.**

2206 Title 10 of the Official Code of Georgia Annotated, relating to commerce and trade, is  
 2207 amended by revising subsection (d) of Code Section 10-1-454, relating to forged or  
 2208 counterfeited trademarks, service marks, or copyrighted or registered designs, as follows:

2209 "(d)(1) The State of Georgia finds and declares that the citizens of this state have a right  
 2210 to receive those goods and services which they reasonably believe they are purchasing  
 2211 or for which they contract. The state further finds that the manufacture and sale of  
 2212 counterfeit goods or goods which are not what they purport to be and the offering of  
 2213 services through the use of counterfeit service marks constitutes a fraud on the public and  
 2214 results in economic disruption to the legitimate businesses of this state. In order to  
 2215 protect the citizens and businesses of this state it is necessary to take appropriate actions  
 2216 to remove counterfeit goods from the channels of commerce and prevent the  
 2217 manufacture, sale, and distribution of such goods or the offering of such services through  
 2218 the use of counterfeit service marks.

2219 (2) As used in this subsection, the terms 'proceeds' and 'property' shall have the same  
 2220 meanings as set forth in Code Section 9-16-2.

2221 (3) Any property which is, directly or indirectly, used or intended for use in any manner  
 2222 to facilitate a violation of this Code section and any proceeds derived or realized

2223 therefrom are declared to be contraband and no person shall have a property right in  
2224 them.

2225 (4) Any property subject to forfeiture pursuant to paragraph (3) of this subsection shall  
2226 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9.

2227 ~~(2) For the purposes expressed in paragraph (1) of this subsection, a person who is~~  
2228 ~~convicted of or pleads nolo contendere to a felony offense under this Code section shall~~  
2229 ~~forfeit to the State of Georgia such interest as the person may have in:~~

2230 ~~(A) Any goods, labels, products, or other property containing or constituting forged or~~  
2231 ~~counterfeit trademarks, service marks, or copyrighted or registered designs or~~  
2232 ~~constituting or directly derived from gross profits or other proceeds obtained from such~~  
2233 ~~offense;~~

2234 ~~(B) Any property or any interest in any property, including but not limited to any~~  
2235 ~~reproduction equipment, scanners, computer equipment, printing equipment, plates,~~  
2236 ~~dies, sewing or embroidery equipment, motor vehicle, or other asset, used to commit~~  
2237 ~~a violation of this Code section; and~~

2238 ~~(C) Any property constituting or directly derived from gross profits or other proceeds~~  
2239 ~~obtained from a violation of this Code section.~~

2240 ~~(3) In any action under this Code section, the court may enter such restraining orders or~~  
2241 ~~take other appropriate action, including acceptance of performance bonds, in connection~~  
2242 ~~with any interest that is subject to forfeiture.~~

2243 ~~(4) The court shall order forfeiture of property referred to in paragraph (2) of this~~  
2244 ~~subsection if the trier of fact determines beyond a reasonable doubt that such property is~~  
2245 ~~subject to forfeiture.~~

2246 ~~(5) The provisions of subsection (u) of Code Section 16-13-49 shall apply for the~~  
2247 ~~disposition of any property forfeited under this subsection, provided that any property~~  
2248 ~~containing a counterfeit trademark, service mark, or copyrighted or registered design~~  
2249 ~~shall be destroyed unless the owner of the trademark, service mark, or copyrighted or~~  
2250 ~~registered design gives prior written consent to the sale of such property or such~~  
2251 ~~trademark, service mark, or copyrighted or registered design is obliterated or removed~~  
2252 ~~from such property prior to the disposition thereof. Any forfeited goods which are~~  
2253 ~~hazardous to the health, welfare, or safety of the public shall be destroyed. In any~~  
2254 ~~disposition of property under this subsection, a person who has been convicted of or who~~  
2255 ~~has entered a plea of nolo contendere to a violation of this Code section shall not be~~  
2256 ~~permitted to acquire property forfeited by such person.~~

2257 ~~(6) The procedure for forfeiture and disposition of forfeited property under this~~  
2258 ~~subsection shall be as provided for forfeitures under Code Section 16-13-49."~~



2259 **SECTION 3-8.**

2260 Said title is further amended by revising subsection (b) of Code Section 10-13A-8, relating  
2261 to suspension of distributor's license, as follows:

2262 "(b) Any cigarettes that have been sold, offered for sale, or possessed for sale in this state  
2263 in violation of Code Section 10-13A-5 shall be deemed contraband under Code Section  
2264 48-11-9 and such cigarettes shall be subject to seizure and forfeiture as provided in ~~such~~  
2265 ~~Code section~~ Chapter 16 of Title 9."

2266 **SECTION 3-9.**

2267 Title 12 of the Official Code of Georgia Annotated, relating to conservation and natural  
2268 resources, is amending by revising subsection (e) of Code Section 12-4-48, relating to actions  
2269 by director to enforce part relating to deep drilling for oil, gas, and other minerals, as follows:

2270 "~~(e)(1)~~ In addition to any other enforcement remedy available to the director under this  
2271 part, all illegal minerals and illegal products are declared to be contraband and forfeited to  
2272 the state ~~and shall be confiscated and seized by any peace officer who shall forthwith~~  
2273 ~~deliver it~~ in accordance with the procedures set forth in Chapter 16 of Title 9, except that:

2274 (1) Any seizure of contraband shall be delivered to the director or his or her duly  
2275 authorized agent ~~within ten days of the seizure;~~

2276 (2) Illegal minerals shall only be forfeited as provided for in Code Section 9-16-13; and

2277 (3) Property seized pursuant to this subsection shall not be required to be stored in an  
2278 area within the jurisdiction of the court if such storage is not possible.

2279 ~~(2) The district attorney whose circuit includes the county in which the seizure is made,~~  
2280 ~~within 30 days after the seizure of any illegal minerals or illegal products, shall institute~~  
2281 ~~proceedings by petition in the superior court of any county where the seizure was made~~  
2282 ~~against the property so seized and against any and all persons known to have an interest~~  
2283 ~~in or right affected by the seizure or sale of such property. A copy of such petition shall~~  
2284 ~~be served upon the owner or lessee of such property, if known, and upon the person or~~  
2285 ~~persons having custody or possession of such property at the time of the confiscation or~~  
2286 ~~seizure. If the owner or lessee or person or persons having custody or possession of such~~  
2287 ~~property at the time of seizure is unknown, notice of such proceedings shall be published~~  
2288 ~~once a week for two consecutive weeks in the newspaper in which sheriff's~~  
2289 ~~advertisements of the county are published. Such publication shall be deemed notice to~~  
2290 ~~any and all persons having an interest in or right affected by such proceeding and any sale~~  
2291 ~~of the property resulting therefrom. If no defense or intervention shall be filed within 30~~  
2292 ~~days from the filing of the petition, judgment by default shall be entered by the court;~~  
2293 ~~otherwise the case shall proceed as civil cases. Should the mineral or mineral product be~~  
2294 ~~found to be illegal within the sense of this part, the same shall be decreed to be~~

2295 ~~contraband and ordered sold under such terms as the judge in his order may direct. The~~  
 2296 ~~judge may order the same sold in bulk, in lots, in parcels, or under such other regulations~~  
 2297 ~~as may be deemed proper. The proceeds arising from such sale shall be applied:~~

2298 ~~(A) To the payment of proper costs and expenses, including expenses incurred in the~~  
 2299 ~~seizure;~~

2300 ~~(B) To the payment of the cost of the court and its officers;~~

2301 ~~(C) To the payment of any cost incurred in the storage, advertisement, maintenance,~~  
 2302 ~~or care of such property; and~~

2303 ~~(D) If any money remains, to the state treasury to the credit of the general fund.~~

2304 ~~(3) Where the owner or lessee of any property seized for purpose of condemnation shall~~  
 2305 ~~abscond or conceal himself so that the actual notice of the condemnation proceedings~~  
 2306 ~~cannot be served upon him, he shall be served by publication as is provided in this Code~~  
 2307 ~~section in the case of an unknown owner or lessee.~~

2308 ~~(4) All proceedings against any alleged illegal minerals or for the purpose of~~  
 2309 ~~condemnation shall be proceedings in rem against the property, and the property shall be~~  
 2310 ~~described only in general terms. It is the intent and purpose of the procedure provided~~  
 2311 ~~by this Code section to provide a civil remedy for the condemnation and sale of~~  
 2312 ~~contraband property.~~

2313 ~~(5) The court shall have full discretion and authority to permit a settlement between the~~  
 2314 ~~parties at any stage of the proceedings by permitting the value of the alleged illegal~~  
 2315 ~~minerals or illegal products to be paid into court, as determined by the court, which~~  
 2316 ~~money when so paid in shall be distributed as provided by law in all cases of~~  
 2317 ~~condemnation.~~

2318 ~~(6)(f) Nothing in this Code section shall deny or abridge any cause of action a royalty~~  
 2319 ~~owner, lienholder, or other claimant may have against any persons whose acts result in the~~  
 2320 ~~forfeiture of the illegal oil, illegal gas, or illegal product."~~

2321 **SECTION 3-10.**

2322 Said title is further amended by revising subsection (a) of Code Section 12-5-133, relating  
 2323 to penalty and confiscation of equipment, as follows:

2324 "(a) Any person who engages in or follows the business or occupation of, or advertises,  
 2325 holds himself or herself out, or acts, temporarily or otherwise, as a water well contractor  
 2326 without having first secured the required license or renewal thereof or any person who  
 2327 otherwise violates any provisions of this part shall be guilty of a misdemeanor and, upon  
 2328 conviction thereof, shall be fined not less than \$100.00 and not more than \$1,000.00. Each  
 2329 day during which such violation exists or continues shall constitute a separate offense. ~~In~~  
 2330 ~~addition to or in lieu of any fine imposed for acting without the required license, any person~~

2331 ~~violating any provision of this part may have his or her drilling rigs and commercial~~  
 2332 ~~vehicles confiscated in accordance with Code Section 12-5-137."~~

2333 **SECTION 3-11.**

2334 Said title is further amended by revising Code Section 12-5-137, relating to the procedure  
 2335 for confiscation and sale of contraband equipment and defenses, as follows:

2336 "12-5-137.

2337 (a) All drilling rigs or commercial vehicles used to drill any well and other equipment used  
 2338 to drill any well by a person who is not a licensed water well contractor or driller or who  
 2339 is not acting under the direction of a professional engineer or professional geologist as  
 2340 required by this part are declared to be contraband subject to forfeiture and confiscation  
 2341 and seizure by any peace officer, who shall forthwith deliver such rigs and equipment to  
 2342 the district attorney whose circuit includes the county in which a seizure is made or to his  
 2343 duly authorized agent within ten days of the seizure in accordance with Chapter 16 of  
 2344 Title 9.

2345 (b) ~~The district attorney whose circuit includes the county in which the seizure is made,~~  
 2346 ~~within 30 days after the seizure of any illegal drilling equipment, shall institute proceedings~~  
 2347 ~~by petition in the superior court of any county where the seizure was made against the~~  
 2348 ~~property so seized and against any and all persons known to have an interest in or right~~  
 2349 ~~affected by the seizure or sale of such property. A copy of such petition shall be served~~  
 2350 ~~upon the owner or lessee of such property, if known, and upon the person or persons~~  
 2351 ~~having custody or possession of such property at the time of the confiscation or seizure.~~  
 2352 ~~If the owner or lessee, or person or persons having custody or possession of such property~~  
 2353 ~~at the time of seizure is unknown, notice of such proceedings shall be published once a~~  
 2354 ~~week for two consecutive weeks in the newspaper in which sheriff's advertisements of the~~  
 2355 ~~county are published. Such publication shall be deemed notice to any and all persons~~  
 2356 ~~having an interest in or right affected by such proceedings and any sale of the property~~  
 2357 ~~resulting therefrom. If no defense or intervention shall be filed within 30 days from the~~  
 2358 ~~filing of the petition, judgment by default shall be entered by the court; otherwise the case~~  
 2359 ~~shall proceed as in other civil cases. Should the drilling equipment be found to be illegal~~  
 2360 ~~within the sense of this part, the same shall be decreed to be contraband and ordered sold~~  
 2361 ~~under such terms as the judge in his order may direct. The proceeds arising from such sale~~  
 2362 ~~shall be applied:~~

2363 (1) ~~To the payment of proper costs and expenses, including expenses incurred in the~~  
 2364 ~~seizure;~~

2365 (2) ~~To the payment of the cost of the court and its officers;~~

2366 ~~(3) To the payment of any cost incurred in the storage, advertisement, maintenance, or~~  
 2367 ~~care of such property; and~~

2368 ~~(4) If any money remains, to the general funds of the county.~~

2369 ~~(c) Where the owner or lessee of any property seized for purpose of condemnation shall~~  
 2370 ~~abscond or conceal himself so that the actual notice of the condemnation proceedings~~  
 2371 ~~cannot be served upon him, he shall be served by publication as is provided in this Code~~  
 2372 ~~section in the case of an unknown owner or lessee.~~

2373 ~~(d) All proceedings against any alleged illegal drilling equipment for the purpose of~~  
 2374 ~~condemnation shall be proceedings in rem against the property, and the property shall be~~  
 2375 ~~described only in general terms. It is the intent and purpose of the procedure provided by~~  
 2376 ~~this Code section to provide a civil remedy for the condemnation and sale of contraband~~  
 2377 ~~property.~~

2378 ~~(e) Any party at interest may appear, by answer under oath, and make his defense. The~~  
 2379 ~~owner, lessee, security interest holder, or lienholder shall be permitted to defend by~~  
 2380 ~~showing that the property seized, if illegally used by another, was used without the~~  
 2381 ~~knowledge, connivance, or consent, expressed or implied, of the owner, lessee, security~~  
 2382 ~~interest holder, or lienholder. The holder of any bona fide lien on or security interest in the~~  
 2383 ~~property shall be protected to the full extent of his lien or security interest, respectively;~~  
 2384 ~~provided, however, that nothing contained in this Code section shall be construed to~~  
 2385 ~~obligate the district attorney whose circuit includes the county in which a seizure is made~~  
 2386 ~~beyond the proceeds of any such sale less the actual costs incurred by him."~~

2387 **SECTION 3-12.**

2388 Said title is further amended by revising subsection (c) of Code Section 12-8-2, relating to  
 2389 dumping sanitary sewer, kitchen, or toilet wastes in storm or sanitary sewers prohibited, as  
 2390 follows:

2391 "(c) Any motor vehicle, trailer, and all other ~~articles~~ property and contrivances ~~instruments~~  
 2392 utilized in the hauling, transporting, dumping, placing, or disposition of any contents or  
 2393 matter in any public sewer in violation of subsection (a) of this Code section are declared  
 2394 to be contraband and shall be subject to ~~seizure, confiscation, and~~ forfeiture according to  
 2395 the terms, provisions, conditions, and procedures set out in ~~Code Section 3-10-11~~, as far  
 2396 as such terms and procedures can be made to apply Chapter 16 of Title 9."

2397 **SECTION 3-13.**

2398 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising  
 2399 Code Section 15-6-95, relating to priorities of fines, forfeitures, surcharges, additional fees,  
 2400 and costs in partial payments into the court, as follows:

2401 "15-6-95.

2402 Notwithstanding any law to the contrary, a clerk of any superior court of this state who  
 2403 receives partial payments, as ordered by the court, of criminal fines, bond forfeitures, or  
 2404 costs shall distribute ~~said~~ such sums in the order of priority set forth below:

2405 (1) The amount provided for in Chapter 17 of Title 47 for the Peace Officers' Annuity  
 2406 and Benefit Fund;

2407 (2) The amount provided for in Chapter 14 of Title 47 for the Superior Court Clerks'  
 2408 Retirement Fund of Georgia;

2409 (3) The amount provided for in Chapter 16 of Title 47 for the Sheriffs' Retirement Fund  
 2410 of Georgia;

2411 (4) The amounts provided under subparagraphs (a)(1)(A) and (a)(2)(A) of Code Section  
 2412 15-21-73;

2413 (5) The amounts provided for under subparagraphs (a)(1)(B) and (a)(2)(B) of Code  
 2414 Section 15-21-73;

2415 (6) The amount as may be provided in Chapter 15 of Title 36 for county law libraries;

2416 (7) The surcharge provided for in Chapter 21 of this title for jail construction and  
 2417 staffing;

2418 (8) The surcharge provided for in cases of driving under the influence for purposes of  
 2419 state crime victim compensation under Code Section 15-21-112;

2420 (9) The application fee provided for in subsection (c) of Code Section 15-21A-6;

2421 (10) The balance of the fine shall be paid to the county; and

2422 (11) After the final partial or installment payment, the surcharge provided for in Code  
 2423 Sections 15-21-100 and 15-21-101 for the Drug Abuse Treatment and Education Fund."

2424 **SECTION 3-14.**

2425 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is  
 2426 amended by revising Code Section 17-5-51, relating to forfeiture of weapons used in  
 2427 commission of crime, possession of which constitutes crime or delinquent act, or illegal  
 2428 concealment generally, motor vehicles, definitions, and return of firearm to innocent owner,  
 2429 as follows:

2430 "17-5-51.

2431 ~~(a) Any~~ Except as provided in subsection (c) of this Code section, any device which is  
 2432 used as a weapon in the commission of any crime against any person or any attempt to  
 2433 commit any crime against any person, any weapon the possession or carrying of which  
 2434 constitutes a crime or delinquent act, and any weapon for which a person has been  
 2435 convicted of violating Code Section 16-11-126 are declared to be contraband and ~~are~~ shall  
 2436 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9,

2437 ~~notwithstanding the time frames set forth in Code Section 9-16-8. For the purposes of this~~  
 2438 ~~article, a motor vehicle shall not be deemed to be a weapon or device and shall not be~~  
 2439 ~~contraband or forfeited under this article; provided, however, that this exception shall not~~  
 2440 ~~be construed to prohibit the seizure, condemnation, and sale of motor vehicles used in the~~  
 2441 ~~illegal transportation of alcoholic beverages.~~

2442 ~~(b) As used in this Code section, the term:~~

2443 ~~(1) 'Firearm' shall have the same meaning as set forth in Code Section 16-11-171.~~

2444 ~~(2) 'Innocent owner' means a person who:~~

2445 ~~(A) Did not beforehand know or in the exercise of ordinary care would not have known~~  
 2446 ~~of the conduct which caused his or her firearm to be forfeited, seized, or abandoned to~~  
 2447 ~~any law enforcement agency of this state or a political subdivision of this state,~~  
 2448 ~~including the Department of Natural Resources;~~

2449 ~~(B) Did not participate in the commission of a crime or delinquent act involving his or~~  
 2450 ~~her firearm;~~

2451 ~~(C) Legally owned and presently owns the firearm forfeited, seized, or abandoned; and~~

2452 ~~(D) Is authorized by state and federal law to receive and possess his or her firearm.~~

2453 ~~(c) A firearm that is the property of an innocent owner shall be returned to such person~~  
 2454 ~~when such firearm is no longer needed for evidentiary purposes.~~

2455 ~~(d) The costs of returning the firearm to the innocent owner shall be borne by the innocent~~  
 2456 ~~owner. Such costs shall be limited to the actual costs of shipping and associated costs from~~  
 2457 ~~any transfer and background check fees charged when delivering the firearm to the~~  
 2458 ~~innocent owner.~~

2459 ~~(e) If six months elapse after notification to the innocent owner of the possession of the~~  
 2460 ~~firearm by a political subdivision or state custodial agency and the innocent owner fails to~~  
 2461 ~~bear the costs of return of his or her firearm or fails to respond to the political subdivision~~  
 2462 ~~or state custodial agency, then the political subdivision or state custodial agency may~~  
 2463 ~~follow the procedures under subsection (d) of Code Section 17-5-52.1."~~

#### 2464 **SECTION 3-15.**

2465 Said title is further amended by revising Code Section 17-5-52, relating to sale or destruction  
 2466 of weapons used in commission of crime or delinquent act involving possession, sale of  
 2467 weapons not the property of the defendant, disposition of proceeds of sale, and record  
 2468 keeping, as follows:

2469 "17-5-52.

2470 (a) When a final judgment is entered finding a defendant guilty of the commission or  
 2471 attempted commission of a crime against any person or guilty of the commission of a crime  
 2472 or delinquent act involving the illegal possession or carrying of a weapon, any device

2473 which was used as a weapon in the commission of the crime or delinquent act shall be  
 2474 turned over by the person having custody of the weapon or device to the sheriff, chief of  
 2475 police, or other executive officer of the law enforcement agency that originally confiscated  
 2476 the weapon or device when the weapon or device is no longer needed for evidentiary  
 2477 purposes. Within ~~With the exception of firearms, as such term is defined in Code Section~~  
 2478 ~~17-5-51, which shall be disposed of in accordance with Code Section 17-5-52.1, within 90~~  
 2479 ~~days after receiving the weapon or device, the sheriff, chief of police, or other executive~~  
 2480 ~~officer of the law enforcement agency shall retain the weapon or device for use in law~~  
 2481 ~~enforcement, destroy the same, or sell the weapon or device pursuant to judicial sale as~~  
 2482 ~~provided in Article 7 of Chapter 13 of Title 9 or by any commercially feasible means,~~  
 2483 ~~provided that if the weapon or device used as a weapon in the crime is not the property of~~  
 2484 ~~the defendant, there shall be no forfeiture of such weapon or device~~ return or sell the  
 2485 weapon as provided in Code Section 17-5-54, or if the weapon or device is subject to  
 2486 forfeiture, the procedures set forth in Chapter 16 of Title 9 shall be followed  
 2487 notwithstanding the time frames set forth in Code Section 9-16-8. A state attorney seeking  
 2488 forfeiture under this Code section shall initiate forfeiture proceedings within 60 days of the  
 2489 entry of a final judgment as contemplated by this Code section; the remaining provisions  
 2490 of Chapter 16 of Title 9 shall be applicable.

2491 ~~(b) The proceeds derived from all sales of such weapons or devices, after deducting the~~  
 2492 ~~costs of the advertising and the sale, shall be turned in to the treasury of the county or the~~  
 2493 ~~municipal corporation that sold the weapon or device. The proceeds derived from the sale~~  
 2494 ~~of such weapons or devices confiscated by a state law enforcement agency shall be paid~~  
 2495 ~~into the state treasury.~~

2496 ~~(c) Any law enforcement agency that retains, destroys, or sells any weapon or device~~  
 2497 ~~pursuant to this Code section shall maintain records that include an accurate description of~~  
 2498 ~~each weapon or device along with records of whether each weapon or device was retained,~~  
 2499 ~~sold, or destroyed."~~

### 2500 **SECTION 3-16.**

2501 Said title is further amended by repealing Code Section 17-5-52.1, relating to disposal of  
 2502 forfeited or abandoned firearms, innocent owners, auctions, record keeping, and liability of  
 2503 government entities, which reads as follows:

2504 "17-5-52.1.

2505 (a) As used in this Code section, the terms 'firearm' and 'innocent owner' shall have the  
 2506 same meaning as set forth in Code Section 17-5-51.

2507 (b) Notwithstanding any other provision of law to the contrary and subject to the duty to  
 2508 return firearms to innocent owners pursuant to subsection (c) of Code Section 17-5-51 and

2509 this Code section, all firearms that are forfeited or abandoned to any law enforcement  
2510 agency of this state or a political subdivision of this state, including the Department of  
2511 Natural Resources, or that are otherwise acquired by the state or a political subdivision and  
2512 are no longer needed, shall be disposed of as provided in this Code section.

2513 (c) Prior to the disposal of any firearm that has been forfeited or abandoned to the state or  
2514 a political subdivision of the state, the political subdivision or state custodial agency with  
2515 possession of the firearm shall use its best efforts to determine if the firearm has been lost  
2516 by, stolen from, or otherwise illegally obtained from an innocent owner and, if so, shall  
2517 return the firearm to its innocent owner in accordance with Code Section 17-5-51.

2518 (d) If an innocent owner of a firearm cannot be located or after proper notification he or  
2519 she fails to pay for the return of his or her firearm, if the political subdivision is:

2520 (1) A municipal corporation, it shall dispose of its firearms as provided for in Code  
2521 Section 36-37-6; provided, however, that municipal corporations shall not have the right  
2522 to reject any and all bids or to cancel any proposed sale of such firearms, and all sales  
2523 shall be to persons who are licensed as firearms collectors, dealers, importers, or  
2524 manufacturers under the provisions of 18 U.S.C. Section 921, et seq., and Chapter 16 of  
2525 Title 43 and who are authorized to receive such firearms under the terms of such license.  
2526 Any political subdivision which disposes of firearms shall use proceeds from the sale of  
2527 a firearm as are necessary to cover the costs of administering this Code section, with any  
2528 surplus to be transferred to the general fund of the political subdivision; or

2529 (2) Not a municipal corporation, the state custodial agency or the political subdivision  
2530 shall dispose of its firearms by sale at public auction to persons who are licensed as  
2531 firearms collectors, dealers, importers, or manufacturers under the provisions of 18  
2532 U.S.C. Section 921, et seq., and Chapter 16 of Title 43 and who are authorized to receive  
2533 such firearms under the terms of such license. A state custodial agency shall retain only  
2534 such proceeds as are necessary to cover the costs of administering this Code section, with  
2535 any surplus to be transferred to the general fund of the state, provided that a state  
2536 custodial agency may be reimbursed for any firearms formerly in use by the state  
2537 custodial agency that are sold under this Code section.

2538 (e) Auctions required by paragraph (2) of subsection (d) of this Code section may occur  
2539 online on a rolling basis or at live events, but in no event shall such auctions occur less  
2540 frequently than once every six months during any time in which the political subdivision  
2541 or state custodial agency has an inventory of saleable firearms.

2542 (f) The requirements of subsection (d) of this Code section shall not apply to a firearm if  
2543 no bids from eligible recipients are received within six months from when bidding opened  
2544 on such firearm or the sheriff, chief of police, agency director, or designee of such official  
2545 certifies the firearm is unsafe for use because of wear, damage, age, or modification or



2546 because any federal or state law prohibits the sale or distribution of such firearm. Any such  
 2547 firearm shall, at the discretion of the sheriff, chief of police, agency director, or designee  
 2548 of such official, be transferred to the Division of Forensic Sciences of the Georgia Bureau  
 2549 of Investigation, a municipal or county law enforcement forensic laboratory for training or  
 2550 experimental purposes, or be destroyed.

2551 (g) All agencies subject to the provisions of this Code section shall keep records of the  
 2552 firearms acquired and disposed of as provided by this Code section as well as records of  
 2553 the proceeds of the sales thereof and the disbursement of such proceeds in accordance with  
 2554 records retention schedules adopted in accordance with Article 5 of Chapter 18 of Title 50,  
 2555 the 'Georgia Records Act.'

2556 (h) Neither the state nor any political subdivision of the state nor any of its officers, agents,  
 2557 or employees shall be liable to any person, including the purchaser of a firearm, for  
 2558 personal injuries or damage to property arising from the sale of a firearm under this Code  
 2559 section unless the state or political subdivision acted with gross negligence or willful or  
 2560 wanton misconduct."

### 2561 SECTION 3-17.

2562 Said title is further amended by revising Code Section 17-5-54, relating to disposition of  
 2563 personal property in custody of law enforcement agencies, as follows:

2564 "17-5-54.

2565 (a) As used in this Code section, the term:

2566 (1) 'Firearm' means any handgun, rifle, shotgun, or similar device or weapon which will  
 2567 or can be converted to expel a projectile by the action of an explosive or electrical charge.

2568 (2) 'Law enforcement agency' means a law enforcement agency of this state or a political  
 2569 subdivision of this state, including the Department of Natural Resources.

2570 (3) 'Rightful owner' means a person claiming ownership of property which is the subject  
 2571 of a crime or has been abandoned.

2572 (b) This Code section shall not apply to:

2573 (1) Personal property which is the subject of forfeiture proceedings as otherwise  
 2574 provided by law;

2575 (2) Any property which is the subject of a disposition pursuant to Code Sections 17-5-50  
 2576 through 17-5-53; and

2577 (3) Any abandoned motor vehicle for which the provisions of Chapter 11 of Title 40 are  
 2578 applicable.

2579 ~~(a)(c)~~(1) Except as provided in Chapter 16 of Title 9, Code Sections 17-5-55 and  
 2580 17-5-56, and ~~subsections (d), (e), and (f)~~ subsection (b) of this Code section, when a law  
 2581 enforcement agency assumes custody of any personal property which is the subject of a

2582 crime or has been abandoned ~~or is otherwise seized~~, a disposition of such property shall  
 2583 be made in accordance with the provisions of this Code section.

2584 (2) When a final verdict and judgment is entered finding a defendant guilty of the  
 2585 commission of a crime, any personal property used as evidence in the trial shall be  
 2586 returned to the rightful owner of the property within 30 days following the final  
 2587 judgment; provided, however, that if the judgment is appealed or if the defendant files a  
 2588 motion for a new trial and if photographs, videotapes, or other identification or analysis  
 2589 of the personal property will not be sufficient evidence for the appeal of the case or new  
 2590 trial of the case, such personal property shall be returned to the rightful owner within 30  
 2591 days of the conclusion of the appeal or new trial, whichever occurs last.

2592 (3) Any person claiming to be a rightful owner of property shall make an application to  
 2593 the entity holding his or her property and shall furnish satisfactory proof of ownership of  
 2594 such property and present personal identification. The person in charge of such property  
 2595 may return such property to the applicant. The person to whom property is delivered  
 2596 shall sign, under penalty of false swearing, a declaration of ownership, which shall be  
 2597 retained by the person in charge of the property. Such declaration, absent any other proof  
 2598 of ownership, shall be deemed satisfactory proof of ownership for the purposes of this  
 2599 Code section; provided, however, that with respect to motor vehicles, paragraph (3) of  
 2600 subsection (b) and subsection (f) of this Code section shall govern the return of motor  
 2601 vehicles.

2602 (4) If more than one person claims ownership of property, a court with jurisdiction over  
 2603 the property shall conduct a hearing to determine the ownership of such property.

2604 (d) All personal property in the custody of a law enforcement agency, including personal  
 2605 property used as evidence in a criminal trial, which is ~~unclaimed after a period of 90 days~~  
 2606 ~~following its seizure, or following the final verdict and judgment in the case of property~~  
 2607 ~~used as evidence, and which is no:~~

2608 (1) No longer needed in a criminal investigation or for evidentiary purposes in  
 2609 accordance with Code Section 17-5-55 or 17-5-56;

2610 (2) Not claimed pursuant to Code Section 17-5-50; and

2611 (3) Not claimed pursuant to subsection (c) of this Code section

2612 after a period of 90 days following the final verdict and judgment in the case of property  
 2613 used as evidence or following the property being abandoned shall be subject to disposition  
 2614 by the law enforcement agency as provided in subsection (e) of this Code section if the  
 2615 property is not a firearm and as provided in subsection (g) of this Code section if the  
 2616 property is a firearm.

2617 (e) For any unclaimed personal property that is not a firearm, the ~~The~~ sheriff, chief of  
 2618 police, or other executive officer of a law enforcement agency shall make application to

2619 the superior court for an order to retain, sell, or discard such property. In the application  
 2620 the officer shall state each item of personal property to be retained, sold, or discarded.  
 2621 Upon the superior court's granting an order for the law enforcement agency to retain such  
 2622 property, the law enforcement agency shall retain such property for official use. Upon the  
 2623 superior court's granting an order which authorizes that the property be discarded, the law  
 2624 enforcement agency shall dispose of the property as other salvage or nonserviceable  
 2625 equipment. Upon the superior court's granting an order for the sale of personal property,  
 2626 the officer shall provide for a notice to be placed once a week for four weeks in the legal  
 2627 organ of the county specifically describing each item and advising possible owners of items  
 2628 of the method of contacting the law enforcement agency; provided, however, that  
 2629 miscellaneous items having an estimated fair market value of \$75.00 or less may be  
 2630 advertised or sold, or both, in lots. Such notice shall also stipulate a date, time, and place  
 2631 said items will be placed for public sale if not claimed. Such notice shall also stipulate  
 2632 whether said items or groups of items are to be sold in blocks, by lot numbers, by entire list  
 2633 of items, or separately.

2634 ~~(2) Such unclaimed personal property~~ ~~Items not claimed by the owners~~ shall be sold at a  
 2635 sale which shall be conducted not less than seven nor more than 15 days after the final  
 2636 advertised notice has been run. The sale shall be to the highest bidder.

2637 ~~(3)~~ If such personal property has not been bid on in two successive sales, the law  
 2638 enforcement agency may retain the property for official use or the property will be  
 2639 considered as salvage and disposed of as other county or municipal salvage or  
 2640 nonserviceable equipment.

2641 ~~(4)~~ With respect to unclaimed perishable personal property or animals or other wildlife,  
 2642 ~~the~~ an officer may make application to the superior court for an order authorizing the  
 2643 disposition of such property prior to the expiration of 90 days.

2644 ~~(5)(f)~~ With respect to a ~~seized~~ motor vehicle which is the subject of a crime or has been  
 2645 abandoned but which is not the subject of forfeiture proceedings, the law enforcement  
 2646 agency shall be required to contact the Georgia Crime Information Center to determine if  
 2647 such motor vehicle has been stolen and to follow generally the procedures of Code Section  
 2648 40-11-2 to ascertain the registered owner of such vehicle.

2649 (g)(1) With respect to unclaimed firearms, if the sheriff, chief of police, agency director,  
 2650 or designee of such official certifies that a firearm is unsafe because of wear, damage,  
 2651 age, or modification or because any federal or state law prohibits the sale or distribution  
 2652 of such firearm, at the discretion of such official, it shall be transferred to the Division of  
 2653 Forensic Sciences of the Georgia Bureau of Investigation, a municipal or county law  
 2654 enforcement forensic laboratory for training or experimental purposes, or be destroyed.

2655 (2) Otherwise, an unclaimed firearm:

2656 (A) Possessed by a municipal corporation shall be disposed of as provided for in Code  
 2657 Section 36-37-6; provided, however, that municipal corporations shall not have the  
 2658 right to reject any bids or to cancel any proposed sale of such firearms, and all sales  
 2659 shall be to persons who are licensed as firearms collectors, dealers, importers, or  
 2660 manufacturers under the provisions of 18 U.S.C. Section 921, et seq., and Chapter 16  
 2661 of Title 43 and who are authorized to receive such firearms under the terms of such  
 2662 license; or

2663 (B) Possessed by the state or a political subdivision other than a municipal corporation,  
 2664 shall be disposed of by sale at public auction to persons who are licensed as firearms  
 2665 collectors, dealers, importers, or manufacturers under the provisions of 18 U.S.C.  
 2666 Section 921, et seq., and Chapter 16 of Title 43 and who are authorized to receive such  
 2667 firearms under the terms of such license. Auctions required by this subparagraph may  
 2668 occur online on a rolling basis or at live events, but in no event shall such auctions  
 2669 occur less frequently than once every six months during any time in which the political  
 2670 subdivision or state custodial agency has an inventory of salable firearms.

2671 (3) If no bids from eligible recipients are received within six months from when bidding  
 2672 opened on a firearm offered for sale pursuant to paragraph (2) of this subsection, the  
 2673 firearm shall be transferred to the Division of Forensic Sciences of the Georgia Bureau  
 2674 of Investigation, a municipal or county law enforcement forensic laboratory for training  
 2675 or experimental purposes, or be destroyed.

2676 ~~(b)~~(h) Records ~~will~~ shall be maintained showing the manner in which each personal  
 2677 property item came into possession of the law enforcement agency, a description of the  
 2678 property, all efforts to locate the owner, any case or docket number, the date of publication  
 2679 of any newspaper notices, and the date on which the property was retained by the law  
 2680 enforcement agency, sold, or discarded. All agencies subject to the provisions of this Code  
 2681 section shall keep records of the firearms acquired and disposed of as provided by this  
 2682 Code section as well as records of the proceeds of the sales thereof and the disbursement  
 2683 of such proceeds in accordance with records retention schedules adopted in accordance  
 2684 with Article 5 of Chapter 18 of Title 50, the 'Georgia Records Act.'

2685 ~~(e)~~(i) The proceeds from the sale of personal property by the sheriff or other county law  
 2686 enforcement agency pursuant to this Code section shall be paid into the general fund of the  
 2687 county treasury. The proceeds from the sale of personal property by a municipal law  
 2688 enforcement agency pursuant to this Code section shall be paid into the general fund of the  
 2689 municipal treasury. The proceeds from the sale of personal property by a state agency  
 2690 pursuant to this Code section shall be paid into the general fund of the state.

2691 ~~(d) The provisions of this Code section shall not apply to personal property which is the~~  
 2692 ~~subject of forfeiture proceedings as otherwise provided by law.~~

2693 ~~(e) The provisions of this Code section shall not apply to any property which is the subject~~  
 2694 ~~of a disposition pursuant to Code Sections 17-5-50 through 17-5-53.~~

2695 ~~(f) The provisions of this Code section shall not apply to any abandoned motor vehicle for~~  
 2696 ~~which the provisions of Chapter 11 of Title 40 are applicable.~~

2697 (j) Neither the state nor any political subdivision of the state nor any of its officers, agents,  
 2698 or employees shall be liable to any person, including the purchaser of a firearm, for  
 2699 personal injuries or damage to property arising from the sale of a firearm under subsection  
 2700 (g) of this Code section unless the state or political subdivision acted with gross negligence  
 2701 or willful or wanton misconduct."

2702 **SECTION 3-18.**

2703 Title 27 of the Official Code of Georgia Annotated, relating to game and fish, is amended by  
 2704 revising subparagraph (b)(3)(B) of Code Section 27-3-12, relating to unlawful substances and  
 2705 equipment relating to hunting, as follows:

2706 "(B) Any equipment used or intended for use in a violation of this Code section,  
 2707 excluding motor vehicles, is declared to be contraband and shall be forfeited ~~to the state~~  
 2708 in accordance with the procedures set forth in Chapter 16 of Title 9."

2709 **SECTION 3-19.**

2710 Said title is further amended by revising subsection (c) of Code Section 27-3-26, relating to  
 2711 hunting bears, as follows:

2712 "(c) Any person violating the provisions of this Code section is shall be guilty of a  
 2713 misdemeanor of a high and aggravated nature, and, upon conviction, may be punished by  
 2714 a fine of not less than \$500.00 ~~and not to exceed~~ nor more than \$5,000.00, or by  
 2715 confinement for a term not to exceed 12 months, or both. The court may order that  
 2716 restitution be paid to the department of not less than \$1,500.00 for each bear or bear part  
 2717 which is the subject of a violation of this Code section. Any equipment which is used or  
 2718 intended for use in a violation of this Code section, excluding motor vehicles, is declared  
 2719 to be contraband and is forfeited ~~to the state~~ in accordance with the procedures set forth in  
 2720 Chapter 16 of Title 9. The hunting and fishing privileges of any person convicted of  
 2721 violating the provisions of this Code section shall be suspended for three years."

2722 **SECTION 3-20.**

2723 Said title is further amended by revising subsection (a.1) of Code Section 27-4-133, relating  
 2724 to lawful net fishing for shrimp, as follows:

2725 "(a.1)(1) It shall be unlawful to fish for shrimp for human consumption with any trawl  
 2726 or trawls having a total foot-rope length greater than 220 feet, not including the foot-rope

2727 length of a single trawl not greater than 16 feet when used as a try net. Foot-rope shall  
 2728 be measured from brail line to brail line, first tie to last tie on the bottom line. The  
 2729 provisions of this subsection shall not apply to vessels having a maximum draft of seven  
 2730 feet or less when fully loaded. The department is authorized to exempt trawls used by  
 2731 persons holding a valid scientific collection permit granted by the department.

2732 (2) A vessel operator who violates the provisions of this subsection shall be guilty of a  
 2733 misdemeanor and, upon conviction, shall be fined not less than \$500.00 nor more than  
 2734 \$2,500.00, ~~or imprisoned for not longer than 30 days,~~ or both, and any trawl on board the  
 2735 vessel shall be contraband and ~~may be seized~~ forfeited in accordance with the procedures  
 2736 set forth in Chapter 16 of Title 9."

2737 **SECTION 3-21.**

2738 Said title is further amended by revising subsection (c) of Code Section 27-4-134, relating  
 2739 to the requirements for commercial fishing boat licenses, as follows:

2740 "(c) Every breach or violation shall carry over to all succeeding bonds filed under this  
 2741 Code section. The aggregate liability shall not exceed the amount of the bond. However,  
 2742 in the event that the total amount of any bond is forfeited, the commercial fishing boat  
 2743 license shall be suspended until a new bond in the amount of \$10,000.00 is filed covering  
 2744 the remainder of the period of the license. Until the new bond is filed, any commercial use  
 2745 of the boat shall be unlawful; and the owner shall be guilty of a misdemeanor of a high and  
 2746 aggravated nature. Nothing in this subsection shall be construed so as to alter or affect the  
 2747 seizure and ~~condemnation~~ civil forfeiture, under Code Section 27-4-137, of any boat not  
 2748 covered by the bonds provided for in paragraphs (1) and (2) of subsection (a) of this Code  
 2749 section."

2750 **SECTION 3-22.**

2751 Said title is further amended by revising Code Section 27-4-137, relating to condemnation  
 2752 proceedings, as follows:

2753 "27-4-137.

2754 (a) Each boat, propulsion unit, net, door, boom, winch, cable, electronic device, or  
 2755 accessory equipment used in violation of Code Section 27-4-133 or 27-4-171 is declared  
 2756 to be contraband and forfeited to the state ~~and shall be confiscated and seized by any peace~~  
 2757 ~~officer, who shall impound it in the name of the district attorney whose circuit includes the~~  
 2758 ~~county in which a seizure is made. The district attorney whose circuit includes the county~~  
 2759 ~~in which a seizure is made, within 30 days after the seizure of any such equipment, shall~~  
 2760 ~~institute proceedings by petition in the superior court of any county where the seizure was~~  
 2761 ~~made against the property so seized and against any and all persons having an interest in~~

2762 ~~or right affected by the seizure or sale of the equipment. A copy of the petition shall be~~  
 2763 ~~served upon the owner or lessee of the equipment, if known, and upon the person having~~  
 2764 ~~custody or possession of the equipment at the time of the confiscation or seizure. If the~~  
 2765 ~~owner, lessee, or person having custody or possession of the equipment at the time of~~  
 2766 ~~seizure is unknown, notice of such proceedings shall be published once a week for two~~  
 2767 ~~consecutive weeks in the newspaper in which sheriff's advertisements of the county are~~  
 2768 ~~published. Such publication shall be deemed notice to any and all persons having an~~  
 2769 ~~interest in or right affected by such proceedings and any sale of the equipment resulting~~  
 2770 ~~therefrom. If no defense or intervention shall be filed within 30 days from the filing of the~~  
 2771 ~~petition, judgment by default shall be entered by the court; otherwise, the case shall~~  
 2772 ~~proceed as other civil cases. Should it appear upon the trial of the case or upon default that~~  
 2773 ~~such equipment was used in violation of the Code sections heretofore cited in this~~  
 2774 ~~subsection, the equipment shall be sold by order of the court after such advertisement as~~  
 2775 ~~the court may direct. The proceeds arising from the sale shall be applied:~~

2776 ~~(1) To the payment of proper costs and expenses, including expenses incurred in the~~  
 2777 ~~seizure;~~

2778 ~~(2) To the payment of the costs of the court and its officers;~~

2779 ~~(3) To the payment of any costs incurred in the storage, advertisement, maintenance, or~~  
 2780 ~~care of such property; and~~

2781 ~~(4) If any money remains, to the general funds of the county.~~

2782 ~~(b) Where the owner or lessee of any equipment seized for purposes of condemnation shall~~  
 2783 ~~abscond or conceal himself so that actual notice of the condemnation proceedings cannot~~  
 2784 ~~be served upon him, he shall be served by publication as is provided in subsection (a) of~~  
 2785 ~~this Code section in the case of an unknown owner or lessee.~~

2786 ~~(c) All proceedings against any such equipment for the purpose of condemnation shall be~~  
 2787 ~~proceedings in rem against the equipment, and the equipment shall be described only in~~  
 2788 ~~general terms. It shall be no ground for defense that the person who had the equipment in~~  
 2789 ~~possession at the time of its use and seizure has not been convicted or acquitted of any~~  
 2790 ~~criminal proceedings resulting from or arising out of such use. It is the intent and purpose~~  
 2791 ~~of the procedure provided by this Code section to provide a civil remedy for the~~  
 2792 ~~condemnation and sale of equipment used in violation of Code Section 27-4-133,~~  
 2793 ~~notwithstanding the conviction or acquittal of the person having possession or custody of~~  
 2794 ~~the equipment at the time of its seizure. The conviction or acquittal of any such person~~  
 2795 ~~shall not be admissible as evidence in any proceeding under this Code section.~~

2796 ~~(d) Any party at interest may appear, by answer under oath, and make his defense. in~~  
 2797 ~~accordance with the procedures set forth in Chapter 16 of Title 9; provided, however, that:~~

2798 (1) Forfeiture shall only be done in accordance with Code Section 9-16-13 and the  
 2799 property shall be described only in general terms; and  
 2800 (2) The holder of any bona fide lien on the property shall be protected to the full extent  
 2801 of his the lien, but only if the lien was perfected prior to the filing by the department of  
 2802 the affidavit provided for in paragraph (3) of subsection (a) of Code Section 27-4-134,  
 2803 provided that ~~nothing contained in this Code section shall be construed to obligate the~~  
 2804 ~~district attorney whose circuit includes the county in which a seizure is made~~ the state  
 2805 shall not be obligated beyond the proceeds of any such sale less the actual costs incurred  
 2806 by him.

2807 ~~(e) The court to which any such petition for condemnation may be referred may, in its~~  
 2808 ~~discretion, allow any party at interest to give bond and take possession of the equipment~~  
 2809 ~~seized. The court shall determine whether the bond shall be a forthcoming bond or an~~  
 2810 ~~eventual condemnation money bond and shall determine the amount of such bond. The~~  
 2811 ~~enforcement of any bond so given shall be regulated by the general law applicable in such~~  
 2812 ~~cases.~~

2813 ~~(f) The court shall have full discretion and authority to permit a settlement between the~~  
 2814 ~~parties at any stage of the proceedings by permitting to be paid into court the value of the~~  
 2815 ~~equipment or the value of the equity therein, as determined by the court, which money,~~  
 2816 ~~when so paid in, shall be distributed as provided by law in all cases of condemnation.~~

2817 ~~(g)~~(b) The Attorney General may, upon the request of the commissioner, aid the district  
 2818 attorney in the in rem proceeding arising from any seizure or confiscation of property."

### 2819 **SECTION 3-23.**

2820 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended  
 2821 by revising subsection (e) of Code Section 36-80-21, relating to electronic transmissions of  
 2822 budgets, as follows:

2823 "(e) Concurrent with the submission of the annual report by local law enforcement  
 2824 agencies required by ~~division (u)(4)(D)(iii) of Code Section 16-13-49~~ subsection (g) of  
 2825 Code Section 9-16-20, a copy of such report shall be electronically transmitted in a  
 2826 Portable Document Format (PDF) file to the Vinson Institute and posted on the website by  
 2827 the Vinson Institute as soon as practicable."

### 2828 **SECTION 3-24.**

2829 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles, is amended  
 2830 by revising Code Section 40-6-391.2, relating to seizure and forfeiture of motor vehicles  
 2831 operated by habitual violators, as follows:



2832 "40-6-391.2.

2833 (a) ~~Any~~ Except as provided in this Code section, any motor vehicle operated by a person  
2834 who has been declared a habitual violator for three violations of Code Section 40-6-391  
2835 ~~and,~~ whose license has been revoked, and who is arrested and charged with a violation of  
2836 Code Section 40-6-391; is declared to be contraband and subject to forfeiture ~~to the state,~~  
2837 as provided in this Code section, provided that said forfeiture shall not be absolute unless  
2838 ~~the defendant is finally convicted of such offense~~ in accordance with the procedures set  
2839 forth in Chapter 16 of Title 9.

2840 (b) ~~Any motor vehicle subject to forfeiture under subsection (a) of this Code section shall~~  
2841 ~~be seized immediately upon discovery by any law enforcement officer, peace officer, or~~  
2842 ~~law enforcement agency of this state or any political subdivision thereof who has the power~~  
2843 ~~to make arrests and whose duty it is to enforce this article, that said motor vehicle has been~~  
2844 ~~declared contraband. Said motor vehicle shall be delivered within 20 days to the district~~  
2845 ~~attorney whose circuit includes the county in which a seizure is made or to his duly~~  
2846 ~~authorized agent. At any time subsequent to the seizure, the chief officer of the seizing~~  
2847 ~~agency, his designee, or the district attorney may release the vehicle upon bond being~~  
2848 ~~posted in like manner as authorized in subsection (e) of this Code section.~~

2849 (c) ~~Within 60 days from the date of the seizure, the district attorney of the judicial circuit,~~  
2850 ~~or the director on his behalf, shall cause to be filed in the superior court of the county in~~  
2851 ~~which the motor vehicle is seized or detained an action for condemnation of such motor~~  
2852 ~~vehicle. The proceedings shall be brought in the name of the state by the district attorney~~  
2853 ~~of the circuit in which the motor vehicle was seized, and the action shall be verified by a~~  
2854 ~~duly authorized agent of the state in a manner required by the law of this state. The action~~  
2855 ~~shall describe the motor vehicle and state its location, present custodian, and the name of~~  
2856 ~~the owner, if known, to the duly authorized agent of the state; allege the essential elements~~  
2857 ~~of the violation which is claimed to exist; and conclude with a prayer of due process to~~  
2858 ~~enforce the forfeiture. Upon the filing of such an action, the court shall promptly cause~~  
2859 ~~process to issue to the present custodian in possession of the motor vehicle described in the~~  
2860 ~~action, commanding him to seize the motor vehicle in the action and to hold that motor~~  
2861 ~~vehicle for further order of the court. The owner, lessee, or any person having a duly~~  
2862 ~~recorded security interest in or lien on such motor vehicle shall be notified by any means~~  
2863 ~~of service provided for in Title 9 or by delivery of a copy of the complaint and summons~~  
2864 ~~by certified mail or statutory overnight delivery to said owner or lienholder or a person of~~  
2865 ~~suitable age or discretion having charge of said owner's premises. For purposes of this~~  
2866 ~~subsection, where forfeiture of a motor vehicle titled or registered in Georgia is sought,~~  
2867 ~~notice to the titleholder shall be deemed adequate if a copy of the complaint and summons~~  
2868 ~~is mailed by certified mail or statutory overnight delivery to the titleholder at the address~~

2869 ~~set out in the title and an additional copy is mailed by certified mail or statutory overnight~~  
2870 ~~delivery to the firm, person, or corporation which holds the current registration for said~~  
2871 ~~motor vehicle, who shall be deemed agent for service for said titleholder, and said~~  
2872 ~~complaint is advertised once a week for two weeks as set out in this subsection. If the~~  
2873 ~~owner, lessee, or person having a duly recorded security interest in or lien on the~~  
2874 ~~contraband motor vehicle is unknown or resides out of the state or departs the state or~~  
2875 ~~cannot after due diligence be found within the state or conceals himself so as to avoid~~  
2876 ~~notice, notice of the proceedings shall be published once a week for two weeks in the~~  
2877 ~~newspaper in which the sheriff's advertisements are published. Such publication shall be~~  
2878 ~~deemed notice to any and all persons having an interest in or right affected by such~~  
2879 ~~proceeding and any sale of the motor vehicle resulting therefrom, but shall not constitute~~  
2880 ~~notice to any person having a duly recorded security interest in or lien upon such motor~~  
2881 ~~vehicle and required to be served under this Code section unless that person is unknown~~  
2882 ~~or resides out of the state or departs the state or cannot after due diligence be found within~~  
2883 ~~the state or conceals himself to avoid notice.~~

2884 ~~(d)(1) Any party at interest may appear, by answer under oath, and file an intervention~~  
2885 ~~or defense within 30 days from the date of service on the condemnee of the action for~~  
2886 ~~condemnation. The owner, lessee, security interest holder, or lienholder shall be~~  
2887 ~~permitted to defend by showing that the motor vehicle seized was not subject to forfeiture~~  
2888 ~~under this Code section.~~

2889 ~~(2) A rented or leased vehicle shall not be subject to forfeiture unless it is established in~~  
2890 ~~the forfeiture proceedings that the owner of the rented or leased vehicle knew or should~~  
2891 ~~have known of or consented to the operation of such motor vehicle in a manner which~~  
2892 ~~would subject the vehicle to forfeiture. Upon learning of the address or phone number~~  
2893 ~~of the rental or leasing company which owns such vehicle, the district attorney shall~~  
2894 ~~immediately contact the company to inform it that the vehicle is available for the~~  
2895 ~~company to take possession.~~

2896 ~~(e) The court to which any such petition for condemnation may be referred may, in its~~  
2897 ~~discretion, allow any party at interest, after making said defense under subsection (d) of~~  
2898 ~~this Code section, to give bond and take possession of the motor vehicle seized. Such~~  
2899 ~~motor vehicle shall not be sold or leased without prior approval of the court. In the event~~  
2900 ~~the court approves such sale or lease, the proceeds arising therefrom shall be deposited in~~  
2901 ~~the registry of the court, pending final adjudication of the forfeiture proceeding. The court~~  
2902 ~~shall determine whether the bond shall be a forthcoming bond or an eventual condemnation~~  
2903 ~~money bond and shall also determine the amount of the bond. The enforcement of any~~  
2904 ~~bond so given shall be regulated by the general law applicable to such cases.~~

2905 ~~(f) If no defense or intervention is filed within 30 days from the date of service on the~~  
 2906 ~~condemnee of the petition, judgment shall be entered by the court and the motor vehicle~~  
 2907 ~~shall be sold. The court may direct that such property be sold by:~~

2908 ~~(1) Judicial sale as provided in Article 7 of Chapter 13 of Title 9; provided, however, that~~  
 2909 ~~the court may establish a minimum acceptable price for such property; or~~

2910 ~~(2) Any commercially feasible means.~~

2911 ~~(g) The proceeds arising from such sale shall be deposited into the general treasury of the~~  
 2912 ~~state or any other governmental unit whose law enforcement agency it was that originally~~  
 2913 ~~seized the motor vehicle. It is the intent of the General Assembly that, where possible,~~  
 2914 ~~proceeds deposited into the state treasury should be used and that proceeds vested in any~~  
 2915 ~~local governmental unit shall be applied to fund alcohol or drug treatment, rehabilitation,~~  
 2916 ~~and prevention and education programs, after making the necessary expenditures for:~~

2917 ~~(1) Any costs incurred in the seizure;~~

2918 ~~(2) The costs of the court and its officers; and~~

2919 ~~(3) Any cost incurred in the storage, advertisement, maintenance, or care of the motor~~  
 2920 ~~vehicle.~~

2921 ~~(h) The interest of an owner, lessee, security interest holder, or lienholder shall not be~~  
 2922 ~~subject to forfeiture unless the condemnor shows by a preponderance of evidence that such~~  
 2923 ~~person knew or reasonably should have known that the operator was a habitual violator as~~  
 2924 ~~set forth in subsection (a) of this Code section and knew or reasonably should have known~~  
 2925 ~~that such person would operate or was operating the vehicle while in violation of Code~~  
 2926 ~~Section 40-6-391.~~

2927 ~~(i)~~(b) In any case where a vehicle which is the only family vehicle is determined to be  
 2928 subject to forfeiture, the court may, if it determines that the financial hardship to the family  
 2929 as a result of the forfeiture and sale outweighs the benefit to the state from such forfeiture,  
 2930 order the title to the vehicle transferred to such other family member who is a duly licensed  
 2931 operator and who requires the use of such vehicle for employment or family transportation  
 2932 purposes. Such transfer shall be subject to any valid liens and shall be granted only once."

2933 **SECTION 3-25.**

2934 Said title is further amended by revising Article 2 of Chapter 11, relating to forfeiture of  
 2935 vehicles and components, as follows:

## "ARTICLE 2

2936

2937 40-11-20.

2938 The following items are declared to be contraband and are subject to forfeiture in  
2939 accordance with the procedures set forth in Chapter 16 of Title 9:

2940 (1) Any motor vehicle the manufacturer's vehicle identification number of which has  
2941 been removed, altered, defaced, falsified, or destroyed; and

2942 (2) Any component part of a motor vehicle the manufacturer's identification number of  
2943 which has been removed, altered, defaced, falsified, or destroyed.

2944 40-11-21.

2945 ~~Property subject to forfeiture under Code Section 40-11-20 and in the possession of any~~  
2946 ~~state or local law enforcement agency shall not be subject to replevin but is deemed to be~~  
2947 ~~in the custody of the superior court of the county wherein the property is located subject~~  
2948 ~~only to the orders and decrees of the court having jurisdiction over the forfeiture~~  
2949 ~~proceedings.~~

2950 ~~40-11-22.~~

2951 ~~The law enforcement agency having possession of any property subject to forfeiture under~~  
2952 ~~Code Section 40-11-20 shall report such fact, within ten days of taking possession, to the~~  
2953 ~~district attorney of the judicial circuit having jurisdiction in the county where the property~~  
2954 ~~is located. Within 30 days from the date he or she receives such notice, the district attorney~~  
2955 ~~of the judicial circuit shall file in the superior court of the county in which the property is~~  
2956 ~~located an action for condemnation of the property. The proceedings shall be brought in~~  
2957 ~~the name of the state, and the action shall be verified by a duly authorized agent of the state~~  
2958 ~~in the manner required by law. The action shall describe the property, state its location,~~  
2959 ~~state its present custodian, state the name of the owner, if known, to the duly authorized~~  
2960 ~~agent of the state, allege the essential elements which are claimed to exist, and shall~~  
2961 ~~conclude with a prayer of due process to enforce the forfeiture. Upon the filing of such an~~  
2962 ~~action, the court shall promptly cause process to issue to the present custodian in~~  
2963 ~~possession of the property described in the action, commanding him or her to seize the~~  
2964 ~~property described in the action and to hold that property for further order of the court. A~~  
2965 ~~copy of the action shall be served on the owner, if known. If the owner is known, a copy~~  
2966 ~~of the action shall also be served upon any person having a duly recorded security interest~~  
2967 ~~in or lien upon that property. If the owner is unknown or resides out of the state or departs~~  
2968 ~~the state or cannot after due diligence be found within the state or conceals himself or~~  
2969 ~~herself so as to avoid service, notice of the proceedings shall be published once a week for~~

2970 ~~two weeks in the newspaper in which the sheriff's advertisements are published. Such~~  
 2971 ~~publication shall be deemed notice to any and all persons having an interest in or right~~  
 2972 ~~affected by such proceeding and from any sale of the property resulting therefrom but shall~~  
 2973 ~~not constitute notice to any person having a duly recorded security interest in or lien upon~~  
 2974 ~~such property and required to be served under this Code section unless that person is~~  
 2975 ~~unknown or resides out of the state or departs the state or cannot after due diligence be~~  
 2976 ~~found within the state or conceals himself or herself to avoid service. At the expiration of~~  
 2977 ~~30 days after such filing, if no claimant has appeared to defend the action, the court shall~~  
 2978 ~~order the disposition of the seized property as provided for in this Code section. If the~~  
 2979 ~~owner of the property appears and defends the action and can show that he or she was~~  
 2980 ~~unaware of the fact that the identification number had been removed, altered, defaced,~~  
 2981 ~~falsified, or destroyed, the court shall order the property returned to the owner upon the~~  
 2982 ~~owner's paying proper expenses relating to proceedings for forfeiture, including the~~  
 2983 ~~expenses of the maintenance of custody, advertising, and court costs and upon the~~  
 2984 ~~property's being assigned a new identification number as provided in this article.~~

2985 ~~40-11-23.~~

2986 ~~Except as otherwise provided in this article, when property is forfeited under this article,~~  
 2987 ~~the court may:~~

2988 ~~(1) Order that the property be retained by the law enforcement agency or the county in~~  
 2989 ~~which the property is located; or~~

2990 ~~(2) Order that the property be disposed of by sale, the proceeds of which shall be used~~  
 2991 ~~to pay the proper expenses relating to the proceedings for forfeiture, including the~~  
 2992 ~~expenses of maintenance of custody, advertising, and court costs, with the remaining~~  
 2993 ~~funds to be paid into the general fund of the county.~~

2994 ~~40-11-24.~~

2995 ~~Prior to the property's being sold or returned to the owner or otherwise disposed of, the~~  
 2996 ~~Department of Revenue shall assign it a new identification number. If the property is to~~  
 2997 ~~be returned to the owner, the court shall order that such return is conditioned on the owner~~  
 2998 ~~paying the expenses relating to the civil forfeiture, including the expenses of maintenance~~  
 2999 ~~of custody, advertising, and court costs.~~

3000

### **SECTION 3-26**

3001 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,  
 3002 is amended by revising Code Section 45-15-10, relating to the Attorney General's authority

3003 to prosecute officials, persons, firms, or corporations for violations while dealing with or for  
3004 the state, as follows:

3005 "45-15-10.

3006 The Attorney General, as the head of the Department of Law and the chief legal officer of  
3007 the state, is authorized to prosecute in the criminal courts of this state any official, person,  
3008 firm, or corporation which violates any criminal statute while dealing with or for the state  
3009 or any official, employee, department, agency, board, bureau, commission, institution, or  
3010 appointee thereof; and the Attorney General is authorized to call upon the district attorney  
3011 or the prosecuting officer of any state court to assist in or to conduct such prosecution; and,  
3012 when so requested by the Attorney General, it shall be the duty of any such district attorney  
3013 or prosecuting officer of this state to assist in or to conduct such prosecution for and on  
3014 behalf of the Attorney General and the state. The Attorney General shall be authorized to  
3015 commence civil forfeiture proceedings pursuant to Code Section 16-14-7 whenever he or  
3016 she is authorized to prosecute a case pursuant to this Code section."

3017 **SECTION 3-27.**

3018 Title 46 of the Official Code of Georgia Annotated, relating to public utilities and public  
3019 transportation, is amended by revising Code Section 46-9-253, relating to transportation of  
3020 gunpowder, dynamite, or other explosives, as follows:

3021 "46-9-253.

3022 Any person who causes more than five pounds of gunpowder, or any amount of dynamite  
3023 or other dangerous explosive, to be transported upon water, by railroad, or otherwise shall  
3024 have the word 'Gunpowder,' 'Dynamite,' or other name of the explosive marked in large  
3025 letters upon each package so transported. Gunpowder, dynamite, or other dangerous  
3026 explosive transported in violation of ~~said provision shall be liable to seizure and forfeiture~~  
3027 ~~by any officer who may execute a criminal warrant, under warrant for that purpose, issued~~  
3028 ~~by any officer who may issue such first-named warrants, one-half of the same to go to the~~  
3029 ~~informer, the other half to go to the military fund of the state, after public sale by order of~~  
3030 ~~the officer issuing the warrant, or one of like authority~~ this Code section are declared  
3031 contraband and shall be forfeited in accordance with the procedures set forth in Chapter 16  
3032 of Title 9."

3033 **SECTION 3-28.**

3034 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is  
3035 amended by revising subsection (b) of Code Section 48-4-61, relating to land bank authority  
3036 established by interlocal cooperation agreement, as follows:

3037 "(b) The authority shall be a public body corporate and politic with the power to sue and  
3038 be sued, to accept and issue deeds in its name, including without limitation the acceptance  
3039 of real property in accordance with the provisions of ~~paragraph (2.1)~~ of subsection (f)  
3040 of Code Section ~~16-13-49~~ 9-16-20, and to institute quia timet actions and shall have any  
3041 other powers necessary and incidental to carry out the powers granted by this article."

### 3042 SECTION 3-29.

3043 Title 52 of the Official Code of Georgia Annotated, relating to waters of the state, ports, and  
3044 watercraft, is amended by revising Code Section 52-7-7.3, relating to seizure of vessels  
3045 without hull identification numbers, seizure of related property, and inspections, as follows:

3046 "52-7-7.3.

3047 (a) If the hull identification number on a vessel required by Code Section 52-7-7.1 or  
3048 52-7-7.2 to have a hull identification number does not exist or has been altered, removed,  
3049 destroyed, covered, or defaced or the real identity of the vessel cannot be determined, the  
3050 vessel, and any items used while towing ~~said~~ such vessel, may be seized as contraband  
3051 ~~property~~ by a law enforcement agency or the department and shall be subject to forfeiture  
3052 in accordance with the procedures set forth in Chapter 16 of Title 9.

3053 (b) A ~~Such~~ vessel described in subsection (a) of this Code section shall not be sold or  
3054 operated on the waters of the state unless the department:

3055 (1) Receives a request from a law enforcement agency providing adequate  
3056 documentation for a replacement hull identification number; or

3057 (2) Is directed by written order of a court of competent jurisdiction to issue to the vessel  
3058 a replacement hull identification number.

3059 ~~Thereafter, the replacement HIN shall be used for identification purposes. No vessel shall~~  
3060 ~~be forfeited if the owner was unaware the vessel's HIN had been altered, removed,~~  
3061 ~~destroyed, covered, or defaced.~~

3062 ~~(b)~~(c) The failure to have the hull identification number clearly displayed in compliance  
3063 with this article shall be probable cause for any law enforcement officer to make further  
3064 inspection of the vessel in question to ascertain the true identity thereof.

3065 (d) Prior to the vessel being sold or returned to the owner or otherwise disposed of, the  
3066 department shall assign it a new hull identification number in accordance with federal law."

### 3067 SECTION 3-30.

3068 Said title is further amended by revising Code Section 52-7-7.4, relating to property not  
3069 subject to replevin, as follows:

3070 "52-7-7.4.

3071 ~~(a) Property subject to forfeiture under Code Section 52-7-7.3 and in the possession of any~~  
3072 ~~state or local law enforcement agency shall not be subject to replevin but shall be deemed~~  
3073 ~~to be in the custody of the superior court of the county wherein the property is located~~  
3074 ~~subject only to the orders and decrees of the court having jurisdiction over the forfeiture~~  
3075 ~~proceedings.~~

3076 ~~(b) The law enforcement agency having possession of any property subject to forfeiture~~  
3077 ~~under Code Section 52-7-7.3 shall report such fact within ten days of taking possession to~~  
3078 ~~the district attorney of the judicial circuit having jurisdiction in the county where the~~  
3079 ~~property is located. Within 30 days from the date he or she receives such notice, the~~  
3080 ~~district attorney of the judicial circuit shall file in the superior court of the county in which~~  
3081 ~~the property is located an action for condemnation of the property. The proceedings shall~~  
3082 ~~be brought in the name of the state, and the action shall be verified by a duly authorized~~  
3083 ~~agent of the state in the manner required by law. The action shall describe the property,~~  
3084 ~~state its location, state its present custodian, state the name of the owner, if known, state~~  
3085 ~~the duly authorized agent of the state, allege the essential elements which are claimed to~~  
3086 ~~exist, and shall conclude with a prayer of due process to enforce the forfeiture. Upon the~~  
3087 ~~filing of such an action, the court shall promptly cause process to issue to the present~~  
3088 ~~custodian in possession of the property described in the action, commanding him or her to~~  
3089 ~~seize the property described in the action and to hold that property for further order of the~~  
3090 ~~court. A copy of the action shall be served on the owner, if known. If the owner is known,~~  
3091 ~~a copy of the action shall also be served upon any person having a duly recorded security~~  
3092 ~~interest in or lien upon that property. If the owner is unknown or resides out of the state~~  
3093 ~~or departs the state or cannot after due diligence be found within the state or conceals~~  
3094 ~~himself or herself so as to avoid service, notice of the proceedings shall be published once~~  
3095 ~~a week for two weeks in the newspaper in which the sheriff's advertisements are published.~~  
3096 ~~Such publication shall be deemed notice to any and all persons having an interest in or right~~  
3097 ~~affected by such proceeding and from any sale of the property resulting therefrom but shall~~  
3098 ~~not constitute notice to any person having a duly recorded security interest in or lien upon~~  
3099 ~~such property and required to be served under this Code section unless that person is~~  
3100 ~~unknown or resides out of the state or departs the state or cannot after due diligence be~~  
3101 ~~found within the state or conceals himself or herself to avoid service. At the expiration of~~  
3102 ~~30 days after such filing, if no claimant has appeared to defend the action, the court shall~~  
3103 ~~order the disposition of the seized property as provided for in this Code section. If the~~  
3104 ~~owner of the vessel appears and defends the action and can show that he or she was~~  
3105 ~~unaware of the fact that the hull identification number had been removed, altered, defaced,~~  
3106 ~~falsified, or destroyed, the court shall order the property returned to the owner upon the~~



3107 ~~owner's paying proper expenses relating to proceedings for forfeiture, including the~~  
 3108 ~~expenses of the maintenance of custody, advertising, and court costs and upon the vessel~~  
 3109 ~~being assigned a new hull identification number as provided in this article.~~

3110 ~~(c) Except as otherwise provided in this article, when property is forfeited under this~~  
 3111 ~~article, the court may:~~

3112 ~~(1) Order that the vessel be retained by the law enforcement agency or the county in~~  
 3113 ~~which the vessel is located; or~~

3114 ~~(2) Order that the vessel be disposed of by sale, the proceeds of which shall be used to~~  
 3115 ~~pay the proper expenses relating to the proceedings for forfeiture, including the expenses~~  
 3116 ~~of maintenance of custody, advertising, and court costs, with the remaining funds to be~~  
 3117 ~~paid into the general fund of the county.~~

3118 ~~(d) Prior to the vessel being sold or returned to the owner or otherwise disposed of, the~~  
 3119 ~~department shall assign it a new hull identification number in accordance with federal law.~~

3120 Reserved."

### 3121 **SECTION 3-31.**

3122 The following Code sections of the Official Code of Georgia Annotated are amended by  
 3123 replacing "fines and forfeitures" wherever such term occurs with "fines and bond forfeitures":

3124 (1) Code Section 15-21-2, relating to payment into county treasury of fines and forfeitures;

3125 (2) Code Section 15-21-3, relating to maintenance of moneys from fines and forfeitures in  
 3126 county treasury;

3127 (3) Code Section 15-21-4, relating to distribution of fines and forfeitures generally;

3128 (4) Code Section 15-21-5, relating to procedure for filing and payment of claims of officers  
 3129 of court where defendant acquitted or person liable for payment of costs is insolvent;

3130 (5) Code Section 15-21-7, relating to the report by county treasurer to grand jury as to fines  
 3131 and forfeitures received and disbursed;

3132 (6) Code Section 15-21-8, relating to applicability and effect of Code Sections 15-21-2  
 3133 through 15-21-7;

3134 (7) Code Section 15-21-9, relating to lien of officers for payment of insolvent costs;

3135 (8) Code Section 15-21-13, relating to priority of payment of claims for fees of solicitors of  
 3136 city courts, sheriffs, clerks, and district attorneys;

3137 (9) Code Section 15-21-56, relating to proceedings by persons claiming interest in fine and  
 3138 forfeiture fund;

3139 (10) Code Section 15-21-57, relating to effect of article upon duty of prosecution officers  
 3140 and county treasurers relating to account for fines and forfeitures;

3141 (11) Code Section 15-21-58, relating to effect of article upon Acts pertaining to courts in  
 3142 particular counties or cities;

- 3143 (12) Code Section 27-1-14, relating to disposition of fines and forfeitures;  
 3144 (13) Code Section 36-30-9, relating to compensation of law enforcement officers;  
 3145 (14) Code Section 36-31-8, relating to transition periods for governmental functions;  
 3146 (15) Code Section 36-32-6, relating to relating to jurisdiction in marijuana possession cases;  
 3147 (16) Code Section 36-32-7, relating to jurisdiction in cases of operating a motor vehicle  
 3148 without effective insurance;  
 3149 (17) Code Section 36-32-8, relating to jurisdiction of cases of operating a motor vehicle  
 3150 without emission inspection;  
 3151 (18) Code Section 36-32-9, relating to jurisdiction of cases of shoplifting;  
 3152 (19) Code Section 36-32-10, relating to jurisdiction of cases of furnishing alcoholic  
 3153 beverages to and purchase and possession of alcoholic beverages by underage persons;  
 3154 (20) Code Section 36-32-10.1, relating to jurisdiction in counties without state court to try  
 3155 violations of Code Section 16-7-21;  
 3156 (21) Code Section 36-35-6, relating to limitation on home rule powers;  
 3157 (22) Code Section 38-2-464, relating to payment of fines;  
 3158 (23) Code Section 40-5-124, relating to jurisdiction of offenses;  
 3159 (24) Code Section 40-13-22, relating to jurisdiction over offenses under Code Section  
 3160 40-2-8;  
 3161 (25) Code Section 40-16-7, relating to budget of the Department of Driver Services; and  
 3162 (26) Code Section 42-9-45, relating to general rule-making power of the State Board of  
 3163 Pardons and Paroles.

3164 **SECTION 3-32.**

- 3165 The following Code sections of the Official Code of Georgia Annotated are amended by  
 3166 replacing "fine and forfeitures fund", "fines and forfeitures fund", and "fine and forfeiture  
 3167 fund" wherever such terms occur with "fine and bond forfeiture fund":  
 3168 (1) Code Section 4-3-8, relating to return and disposition of proceeds of sale;  
 3169 (2) Code Section 15-21-5, relating to procedure for filing and payment of claims of officers  
 3170 of court where defendant acquitted or person liable for payment of costs is insolvent;  
 3171 (3) Code Section 15-21-50, relating to limitation period for claims against fine and forfeiture  
 3172 fund;  
 3173 (4) Code Section 15-21-51, relating to the procedure for extension of limitation period;  
 3174 (5) Code Section 15-21-52, relating to payment into county treasury of funds received as  
 3175 part of fine and forfeiture fund;  
 3176 (6) Code Section 15-21-54, relating to creation of claim for benefit of county against fine  
 3177 and forfeiture fund;

- 3178 (7) Code Section 15-21-55, relating to disposition of funds remaining after claims against  
3179 fine and forfeiture fund paid or barred by limitation;
- 3180 (8) Code Section 15-21-56, relating to proceedings by persons claiming interest in fine and  
3181 forfeiture fund;
- 3182 (9) Code Section 24-13-132, relating to appointment of counsel and payment of costs and  
3183 expenses;
- 3184 (10) Code Section 36-15-9, relating to collection of additional costs in court cases; and
- 3185 (11) Code Section 40-16-7, relating to budget of the Department of Driver Services.

3186 **PART IV**

3187 **EFFECTIVE DATE, APPLICABILITY, AND REPEALER**

3188 **SECTION 4-1.**

3189 This Act shall become effective on July 1, 2013, and shall apply to seizures of property for  
3190 forfeiture that occur on or after that date. Any such seizure that occurs before July 1, 2013,  
3191 shall be governed by the statute in effect at the time of such seizure.

3192 **SECTION 4-2.**

3193 All laws and parts of laws in conflict with this Act are repealed.