

The Senate Committee on Judiciary offered the following substitute to HB 307:

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 10 of Title 15 of the Official Code of Georgia Annotated, relating to
 2 magistrate courts, so as to provide for jurisdiction of such courts; to amend Chapter 3 and
 3 Chapter 11 of Title 40 of the Official Code of Georgia Annotated, relating to certificates of
 4 title, security interests, and liens and abandoned motor vehicles, respectively, so as to provide
 5 for issuance of a salvage certificate of title under certain conditions; to provide for assertion
 6 and foreclosure of a mechanic's lien upon a motor vehicle; to repeal and revise various Code
 7 sections of Article 1 of Chapter 11, relating to abandoned and derelict vehicles, and to enact
 8 a new Article 1A; to provide for a short title; to provide for legislative intent; to provide for
 9 definitions; to provide for unattended motor vehicle checks by peace officers; to provide for
 10 procedures, conditions, and limitations for the removal of unattended motor vehicles from
 11 public or private property; to prohibit the removal of vehicles left in private lots in certain
 12 instances; to provide for conditions for the removal of items from a motor vehicle stored
 13 without the consent of the owner; to provide for notice of certain information relating to a
 14 motor vehicle removed and stored without the consent of the owner; to provide for the
 15 creation of a lien upon a motor vehicle removed and stored without the consent of an owner;
 16 to provide for recoverable fees; to provide for procedures, conditions, and limitations for the
 17 foreclosure of such lien; to provide for a public sale process; to provide for submission of
 18 proceeds from such public sale to the Department of Revenue to be treated as unclaimed
 19 property; to provide for a process for obtaining a new motor vehicle title for a motor vehicle
 20 purchased at a public sale; to provide for a form to disclaim ownership of a motor vehicle;
 21 to amend Article 5 of Chapter 12 of Title 44 of the Official Code of Georgia Annotated,
 22 relating to disposition of unclaimed property, so as to provide for proceeds from the sale of
 23 an abandoned motor vehicle after satisfaction of a lien to be deposited with the commissioner
 24 of revenue; to provide for publication of "Georgia Unclaimed Property List"; to provide for
 25 related matters; to provide for effective dates; to repeal conflicting laws; and for other
 26 purposes.

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

28

SECTION 1.

29 Chapter 10 of Title 15 of the Official Code of Georgia Annotated, relating to magistrate
30 courts, is amended by revising Code Section 15-10-2, relating to general jurisdiction, as
31 follows:

32 "15-10-2.

33 Each magistrate court and each magistrate thereof shall have jurisdiction and power over
34 the following matters:

- 35 (1) The hearing of applications for and the issuance of arrest and search warrants;
- 36 (2) Issuance of warrants and related proceedings as provided in Article 4 of Chapter 6
37 of Title 17, relating to bonds for good behavior and bonds to keep the peace;
- 38 (3) The holding of courts of inquiry;
- 39 (4) The trial of charges of violations of county ordinances and penal ordinances of state
40 authorities;
- 41 (5) The trial of civil claims including garnishment and attachment in which exclusive
42 jurisdiction is not vested in the superior court and the amount demanded or the value of
43 the property claimed does not exceed \$15,000.00, provided that no prejudgment
44 attachment may be granted;
- 45 (6) The issuance of summons, trial of issues, and issuance of writs and judgments in
46 dispossessory proceedings and distress warrant proceedings as provided in Articles 3 and
47 4 of Chapter 7 of Title 44;
- 48 (7) The punishment of contempts by fine not exceeding \$200.00 or by imprisonment not
49 exceeding ten days or both;
- 50 (8) The administration of any oath which is not required by law to be administered by
51 some other officer;
- 52 (9) The granting of bail in all cases where the granting of bail is not exclusively
53 committed to some other court or officer;
- 54 (10) The issuing of subpoenas to compel attendance of witnesses in the magistrate court
55 and subpoenas for the production of documentary evidence before the magistrate court;
- 56 (11) Such other matters as are committed to their jurisdiction by other general laws;
- 57 (12) The trial and sentencing of misdemeanor violations of Code Section 16-9-20,
58 relating to criminal issuance of bad checks, as provided by Article 10 of this chapter;
- 59 (13) The execution or subscribing and the acceptance of written waivers of extradition
60 in the same manner provided for in Code Section 17-13-46;
- 61 (14) The trial and sentencing of misdemeanor violations of other Code sections as
62 provided by Article 13 of this chapter;
- 63 (15) The foreclosure of liens on animals as established in Title 4; and

64 (16) The foreclosure of liens on abandoned mobile homes as established in Article 6 of
 65 Chapter 7 of Title 44; and
 66 (17) The foreclosure of liens on abandoned motor vehicles as established in Article 1A
 67 of Chapter 11 of Title 40, 'The Abandoned Motor Vehicle Act.'"

68 **SECTION 2.**

69 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is
 70 amended in Code Section 40-3-36, relating to cancellation of certificate of title for scrap,
 71 dismantled, or demolished vehicles or trailers, salvage certificate of title, administrative
 72 enforcement, and removal of license plates, by revising subparagraph (a)(4)(C) as follows:

73 "(C)(i) Any insurance company which acquires a damaged motor vehicle by virtue
 74 of having paid a total loss claim shall mail or deliver the certificate of title to the
 75 commissioner for cancellation. If an insurance company or its authorized agent,
 76 including, but not limited to, a salvage dealer as such term is defined in Code Section
 77 40-11-13, is unable to obtain a certificate of title within 30 days after acceptance by
 78 the motor vehicle owner of a total loss claim, the insurance company or its authorized
 79 agent may apply to the department for a salvage certificate of title on a form provided
 80 by the department for such purpose. Such application shall require submission of
 81 evidence that the insurance company or its authorized agent has fulfilled the
 82 settlement through payment of a total loss claim and has made two or more written
 83 or other verifiable forms of communication with the owner in order to obtain such
 84 owner's certificate of title. Any such application made by a salvage dealer shall also
 85 include written documentation of support that an insurance company has transferred
 86 all its claims or rights to such vehicle to the salvage dealer. Any salvage certificate
 87 of title issued by the department pursuant to this subdivision shall comply with any
 88 applicable requirements relating to salvage, rebuilt, or restored certificates of title in
 89 this Code section and Code Section 40-3-37.

90 (ii) In every case in which a total loss claim is paid and the insurance company does
 91 not acquire such damaged motor vehicle, the insurance company paying such total
 92 loss claim, the vehicle owner, and the lienholder or security interest holder, as
 93 applicable, shall take the following steps to secure a salvage certificate of title for
 94 such motor vehicle:

95 (i)(I) If the vehicle owner is in possession of the certificate of title, the owner shall
 96 deliver the certificate of title to the insurance company prior to any payment of the
 97 claim, and the insurance company shall mail or deliver the certificate of title, an
 98 application for a salvage certificate of title, and the form provided by the
 99 commissioner for issuance of a salvage certificate of title;

100 ~~(ii)~~(II) If the certificate of title has been lost, destroyed, or misplaced, the vehicle
101 owner shall, prior to payment of the claim on such vehicle, complete an application
102 for a replacement title on the form provided by the commissioner and deliver such
103 application and form to the insurance company and the insurance company shall
104 mail or deliver such application and form to the commissioner for issuance of a
105 replacement original title marked salvage;

106 ~~(iii)~~(III) If the lienholder or security interest holder has possession of the certificate
107 of title, the vehicle owner shall complete an application for a replacement title on
108 a form provided by the commissioner and shall deliver the completed form to the
109 insurance company prior to the payment of the claim; the insurance company shall
110 thereafter mail or deliver the application to the commissioner with notice of the
111 payment of the total loss claim and the name and address of the lienholder or
112 security interest holder in possession of the title. The commissioner shall mail
113 notice to the lienholder or security interest holder that a total loss claim has been
114 paid on the vehicle and that the title to such vehicle has been canceled, and the
115 commissioner shall provide to the lienholder or security interest holder a salvage
116 certificate of title for such vehicle, provided that the validity of the security interest
117 shall not be affected by issuance of a salvage certificate of title. The lienholder or
118 security interest holder shall, within ten days after receipt of such notice of total loss
119 claim and cancellation of the original certificate of title, mail or deliver the canceled
120 original certificate of title to the commissioner; or

121 ~~(iv)~~(IV) For the sole purpose of payment of a total loss claim, for any vehicle ten
122 years of age or older for which neither the vehicle owner nor the lienholder or
123 security interest holder, if any, possesses a certificate of title, the vehicle owner
124 shall deliver the vehicle license plate and certificate of registration for such vehicle
125 to the insurance company prior to payment of any claim and the insurance company
126 shall mail or deliver the license plate and certificate of registration to the
127 commissioner with a completed form provided by the commissioner; provided,
128 however, that the vehicle owner shall not operate such vehicle and the owner shall
129 obtain a certificate of title for such vehicle as provided by law, which certificate of
130 title shall then be subject to cancellation as provided in this paragraph."

131

SECTION 3.

132 Said title is further amended in Code Section 40-3-54, relating to assertion and foreclosure
133 of mechanics' liens, by revising subsection (b) as follows:

134 "(b) If possession is retained or the lien recorded, the owner-debtor may contest the
135 validity of the amount claimed to be due by making written demand upon the lienholder.

136 If upon receipt of such demand the lienholder fails to institute foreclosure proceedings
 137 pursuant to this Code section or Article 1A of Chapter 11 of this title within ~~ten days where~~
 138 ~~possession has been retained, or within 30 days where possession has been surrendered~~, the
 139 lien is forfeited."

140 **SECTION 4.**

141 Said title is further amended in Article 1 of Chapter 11, relating to abandoned and derelict
 142 vehicles, by repealing and designating as reserved the following:

- 143 (1) Code Section 40-11-2, relating to duty of person removing or storing a motor vehicle;
 144 (2) Code Section 40-11-3, relating to removal of vehicles from public property by peace
 145 officer and notification requirements;
 146 (3) Code Section 40-11-3.1, relating to unattended vehicles;
 147 (4) Code Section 40-11-3.2, relating to limited prohibition on towing vehicles within paid
 148 parking facility located within 500 feet of an establishment serving alcohol;
 149 (5) Code Section 40-11-4, relating to creation of lien; courts authorized to foreclose lien;
 150 (6) Code Section 40-11-5, relating to lien foreclosure procedure;
 151 (7) Code Section 40-11-6, relating to sale of vehicle pursuant to foreclosure;
 152 (8) Code Section 40-11-7, relating to how purchaser at foreclosure sale may obtain
 153 certificate of title;
 154 (9) Code Section 40-11-8, relating to disposition of proceeds of foreclosure sale; and
 155 (10) Code Section 40-11-10, relating to disposition of certain contents of abandoned
 156 vehicles.

157 **SECTION 5.**

158 Said title is further amended by enacting a new Article 1A of Chapter 11 to read as follows:

159 "ARTICLE 1A

160 40-11-11.

161 The article shall be known and may be cited as the 'Abandoned Motor Vehicle Act.'

162 40-11-12.

163 The intent of the General Assembly is to provide a comprehensive and streamlined process
 164 for businesses removing motor vehicles from public rights of way and private or public
 165 property to recover the costs associated with this work while balancing the rights of a
 166 motor vehicle owner, when a motor vehicle has been abandoned or unclaimed. Businesses
 167 removing motor vehicles from public rights of way and private property without the

168 consent of an owner are regulated by the Department of Public Safety pursuant to Code
169 Section 44-1-13 and, as such, the recoverable fees for these businesses are limited. When
170 executed at the request of law enforcement, these businesses perform an essential public
171 function of keeping highways in this state free from obstructions that could cause a threat
172 to public health or safety or cause traffic congestion. As a result of licensure, these
173 businesses often incur great costs in performing this service but are unable to recover the
174 full amounts expended. The intent of the General Assembly is to allow such businesses to
175 continue to remove abandoned vehicles at the request of law enforcement and private
176 property owners, by providing a method for obtaining excess funds from the sale of
177 abandoned and unclaimed vehicles and applying those funds as reimbursements for
178 unrecovered expenses of such businesses, which will allow them to remain viable and to
179 minimize any financial loss in performing this important public safety function.

180 40-11-13.

181 As used in this article, the term:

182 (1) 'Day' means a business day unless otherwise stated and shall not include Saturdays,
183 Sundays, and legal holidays recognized by the state.

184 (2) 'Department' means the Department of Revenue or any entity that has an agreement
185 with such department to serve as an authorized entity to access information relating to
186 motor vehicle ownership and disseminate such information upon request and which is
187 identified as such an authorized entity on the website of the Department of Revenue.

188 (3) 'Motor vehicle' means every trailer and vehicle which is self-propelled.

189 (4) 'Owner' means any secured interest holder with a current interest in a motor vehicle
190 and person listed on the registration of a motor vehicle found in the records of the
191 department or in the records of the state where the vehicle is registered.

192 (5) 'Paid private parking lot' means private property where the owner or operator of a
193 motor vehicle pays a valuable consideration for the right to park in such location.

194 (6) 'Repair facility' means any person maintaining physical custody of a motor vehicle
195 for repairs that have been requested or authorized by an owner or by an insurance
196 company acting on behalf of an owner.

197 (7) 'Salvage dealer' means any person taking possession of a motor vehicle from or upon
198 request from an insurance company which is damaged to the extent that its restoration to
199 an operable condition would require the replacement of two or more major component
200 parts or for which the insurance company has paid a total loss claim and has been unable
201 to obtain a certificate of title.

202 (8) 'Secured interest holder' means a secured party within the meaning of Code Section
203 11-9-102 or a person with a perfected encumbrance pertaining to an interest in a motor
204 vehicle.

205 (9) 'Towing and storage firm' means any person regulated by the Department of Public
206 Safety and in compliance with requirements set forth in Code Section 44-1-13 who
207 removes a motor vehicle from private or public property with or without the consent of
208 the motor vehicle owner or authorized user and provides storage for such motor vehicle
209 after removal.

210 (10) 'Trailer' means a vehicle with or without motive power designed to be drawn by a
211 motor vehicle; provided, however, that such term shall not include a mobile home as such
212 term is set forth in Code Section 8-2-160 unless such vehicle was left unattended on
213 public property and its removal was requested by a peace officer.

214 40-11-14.

215 (a) Any peace officer, or any entity authorized by such peace officer or the Department of
216 Public Safety, who discovers a motor vehicle which has been left unattended on a highway
217 or other public property shall immediately perform an unattended vehicle check on such
218 motor vehicle, unless an unattended vehicle check card is displayed on such motor vehicle,
219 indicating that an unattended vehicle check has been previously performed. For purposes
220 of this Code section, an unattended vehicle check shall consist of such actions as are
221 reasonably necessary to determine that the unattended vehicle does not contain an injured
222 or incapacitated person and to determine that the unattended vehicle does not pose a threat
223 to public health or safety or traffic congestion.

224 (b) A peace officer, or any entity authorized by such peace officer or the Department of
225 Public Safety, who completes an unattended motor vehicle check shall attach the completed
226 check card to the vehicle. Unattended vehicle check cards shall be in such form and shall
227 be attached to vehicles in such manner as may be specified by rule or regulation of the
228 Department of Public Safety. Unattended vehicle check cards shall be serially numbered;
229 shall be of a distinctive color and shape, so as to be readily visible to passing motorists; and
230 shall contain spaces for the investigating individual to set forth the location of the vehicle,
231 the date and time of the completion of the unattended vehicle check, and the name of his
232 or her law enforcement or other authorized agency. Detachable stubs shall be included
233 upon such unattended vehicle check cards and shall bear the same serial number and
234 provide for the same information as the portion of the unattended vehicle check card to be
235 left on the vehicle, shall include a space to identify the investigating individual, and shall
236 include a space for the officer to set forth the license plate number and other pertinent
237 identifying information relating to the unattended vehicle. Completed detachable stubs

238 shall be filed with the investigating individual's law enforcement or other authorized
239 agency. The Department of Public Safety may provide unattended vehicle check cards free
240 of charge if sufficient funds for such purpose are available to the Department of Public
241 Safety.

242 (c) It shall be unlawful for any person other than a peace officer or any entity authorized
243 by such peace officer or the Department of Public Safety, to attach any type of unattended
244 motor vehicle check card to a motor vehicle. Any person convicted of violating this
245 subsection shall be guilty of a misdemeanor.

246 (d) Within 24 hours of completing an unattended vehicle check or discovering an
247 unattended motor vehicle with an unattended motor vehicle card attached to such vehicle
248 by an authorized individual who is not a peace officer, a peace officer shall query the
249 criminal justice information system to determine if the unattended motor vehicle has been
250 entered into the criminal justice information system as a stolen vehicle. If an unattended
251 vehicle has been reported as stolen, the peace officer shall place a phone call to the law
252 enforcement agency that filed such report, providing the location of the motor vehicle. The
253 law enforcement agency receiving such phone call shall notify the owner of the vehicle of
254 the location of the motor vehicle.

255 (e) Failure of a peace officer to comply with any provision of this Code section shall not
256 limit the remedies available to any person pursuant to this article.

257 40-11-15.

258 (a) Any peace officer who finds a motor vehicle which has been left unattended on a
259 highway for more than five days, as evidenced by the date on an unattended vehicle check
260 card, may cause such motor vehicle to be removed to a garage or other place of safety.

261 (b) Any peace officer who finds a motor vehicle which has been left unattended on a
262 highway and which poses an immediate threat to public health or safety or traffic
263 congestion, may cause such motor vehicle to be removed to a garage or other place of
264 safety. Within 24 hours of causing an unattended motor vehicle to be removed pursuant
265 to this subsection, the peace officer shall query the criminal justice information system to
266 determine if the unattended motor vehicle has been entered into the criminal justice
267 information system as a stolen vehicle. If a removed vehicle has been reported as stolen,
268 the peace officer shall place a phone call to the law enforcement agency that filed such
269 report, providing the name and address of the towing and storage firm that removed the
270 motor vehicle. The law enforcement agency receiving such phone call shall notify the
271 owner of the vehicle of the location of the motor vehicle.

272 (c) Any peace officer who causes an unattended motor vehicle to be removed pursuant to
273 this Code section shall be liable only for gross negligence.

274 (d) A towing and storage firm that has removed an unattended motor vehicle from public
275 property at the request of a peace officer shall, within three days of the removal, request
276 from the department the identification and addresses of all owners of such vehicle
277 contained in the records of the department; provided, however, that if such vehicle has an
278 out-of-state license plate, such request shall be made to the state where the vehicle is
279 registered or to an entity with access to such state's vehicle registration information. The
280 department shall furnish the requested owner information no later than five days from the
281 date the request was received. The department may charge a fee of no more than \$2.00 for
282 such owner information. For purposes of this subsection, an unattended motor vehicle shall
283 include a motor vehicle required to be moved due to arrest of the vehicle's operator or any
284 direction of a peace officer.
285 (e) Failure of a peace officer to comply with any provision of this Code section shall not
286 limit the remedies available to any person pursuant to this article.

287 40-11-16.

288 (a)(1) Any towing and storage firm which has removed an unattended motor vehicle
289 from private property at the request of the property owner shall, within three days of the
290 removal, request from the department the identification and addresses of all owners of
291 such vehicle contained in the records of the department; provided, however, that if such
292 vehicle has an out-of-state license plate, such request shall be made to the state where the
293 vehicle is registered or to an entity with access to such state's vehicle registration
294 information. The department shall furnish the requested owner information no later than
295 five days from the date the request was received. The department may charge a fee of no
296 more than \$2.00 for such owner information.

297 (2) The towing and storage firm shall submit notification of the removal by hand
298 delivery, electronic transmission, or telephonic facsimile transmission to the law
299 enforcement agency with jurisdiction over the location from where the motor vehicle was
300 removed no later than one day after submission of the request to the department. Within
301 24 hours of receipt of the copy of the request described in subsection (a) of this Code
302 section, the local law enforcement agency shall query the criminal justice information
303 system to determine if such motor vehicle has been entered into the criminal justice
304 information system as a stolen vehicle. If such vehicle has been reported as stolen, the
305 local law enforcement agency shall place a phone call to the law enforcement agency that
306 filed such report, providing the name and address of the towing and storage firm who
307 submitted a copy of the request described in subsection (a) of this Code section. The law
308 enforcement agency receiving such phone call shall notify the owner of the vehicle of the

309 location of the vehicle and contact information for the towing and storage firm and shall
310 inform the towing and storage firm that the vehicle has been reported as stolen.

311 (3) Failure of a peace officer to comply with any provision of this subsection shall not
312 limit the remedies available to any person pursuant to this article.

313 (b)(1) Any repair facility or salvage dealer which has been in possession of a motor
314 vehicle for at least 15 days without communication from an owner or insurance company
315 and which desires to file a petition pursuant to Code Section 40-11-19.1, shall request
316 from the department the identification and addresses of all owners of such vehicle
317 contained in the records of the department; provided, however, that if such vehicle has
318 an out-of-state license plate, such request shall be made to the state where the vehicle is
319 registered or to an entity with access to such state's vehicle registration information. For
320 purposes of this paragraph, the term 'communication' includes any form of
321 communication which can be verifiably documented.

322 (2) The department shall furnish the requested owner information no later than five days
323 from the date the request was received. The department may charge a fee of no more
324 than \$2.00 for such owner information.

325 40-11-17.

326 (a) It shall be unlawful for any person to remove, tow, or immobilize or cause to be
327 removed, towed, or immobilized a motor vehicle left in a paid private parking lot between
328 midnight and 9 A.M. of the following day. Nothing in this Code section shall prohibit the
329 owner or operator of a paid private parking lot from charging a penalty for vehicles which
330 remain in a paid private parking lot during such period without authorization. Such penalty
331 shall not exceed \$25.00 in excess of normal parking fees. No owner or operator of a paid
332 private parking lot shall be liable for any damages to any motor vehicle remaining in a paid
333 private parking lot during such period without authorization. Nothing in this Code section
334 shall prohibit a resident or a business owner who is not an owner or operator of a paid
335 private parking lot from towing, removing, immobilizing, or causing to be towed, removed,
336 or immobilized a motor vehicle left without authorization on private property.

337 (b) Any person violating the provisions of subsection (a) of this Code section shall be
338 guilty of a misdemeanor.

339 40-11-18.

340 (a) A towing and storage firm, repair facility, or salvage dealer shall allow an owner of
341 a vehicle to retrieve any personal property within a stored vehicle for up to 30 days from
342 the date which notice was sent pursuant to Code Section 40-11-19.

343 (b) Any personal property left in a vehicle after 30 days from the date which notice was
 344 sent pursuant to Code Section 40-11-19 shall be considered abandoned.

345 (c) For purposes of this code section, the term 'personal property' shall not include any
 346 items attached or affixed to the motor vehicle.

347 40-11-19.

348 (a)(1) Within 15 calendar days of removal or initial storage of a motor vehicle, a towing
 349 and storage firm shall send all owners the notification letter form developed by the
 350 Council of Magistrate Court Judges for such purpose. Such notification shall be by
 351 certified mail or by hand delivery with acknowledgment of such receipt by signature of
 352 the owner and a copy of such owner's driver's license. Such notification letter shall
 353 include, at a minimum:

354 (A) The location of the vehicle;

355 (B) The fees connected with the removal of the vehicle, which shall be the maximum
 356 allowable charge for the removal of the motor vehicle as set forth by rule and regulation
 357 of the Department of Public Safety for maximum state-wide rate tariffs or the rate
 358 specified pursuant to an agreement with a local governing authority;

359 (C) The daily fees for storage of the vehicle, which shall be the maximum allowable
 360 daily rate for the storage of the motor vehicle as set forth by rule and regulation of the
 361 Department of Public Safety for maximum state-wide rate tariffs or the rate specified
 362 pursuant to an agreement with a local governing authority;

363 (D) A statement informing the recipient that daily fees will accrue until full payment
 364 has been made;

365 (E) A statement informing the recipient that the fees which are recoverable by a towing
 366 and storage firm include costs for obtaining the owner's information and notifying the
 367 owner, court filing costs, attorney's fees, and interest;

368 (F) A statement informing the recipient that the towing and storage firm has the right
 369 to petition a court to foreclose a lien for all amounts owed after ten calendar days from
 370 the date such notice is sent;

371 (G) A statement informing the recipient that a court may order the sale of the vehicle
 372 to satisfy the debt; and

373 (H) A form to disclaim ownership interest in the motor vehicle by oath or affirmation
 374 as set forth in Code Section 40-11-19.5.

375 (2) If the identity of the owners cannot be ascertained by the department or the
 376 department fails to timely furnish the owner information requested pursuant to Code
 377 Section 40-11-15 or 40-11-16, the towing and storage firm shall, within 60 days of such
 378 removal, place an advertisement in a newspaper of general circulation or the legal organ

379 in the county where such vehicle was obtained. Any advertisement required by this
380 paragraph shall run in the newspaper once a week for two consecutive weeks. The
381 advertisement shall be in the form provided by the Council of Magistrate Court Judges
382 for such purpose. Such advertisement form shall include a space for describing the motor
383 vehicle's year, make, model, and manufacturer's vehicle identification number, the
384 present location of such vehicle, the fact that such vehicle is subject to a lien which can
385 be foreclosed upon, and the fact that such vehicle may be ordered sold to satisfy such
386 lien.

387 (3) If the identity of an owner which was previously not ascertained becomes known
388 while an advertisement is run pursuant to paragraph (2) of this subsection, the towing and
389 storage firm shall send a notification letter pursuant to the same requirements set forth in
390 paragraph (1) of this subsection within ten days of obtaining such information.

391 (b)(1) When a motor vehicle has been left with a repair facility for at least 15 days, and
392 no later than 180 days, without payment of amounts owed, the repair facility desiring to
393 file a petition pursuant to 40-11-19.1 shall send all owners by certified mail the
394 notification letter form developed by the Council of Magistrate Court Judges for such
395 purpose. Such notification letter shall include, at a minimum:

396 (A) The location of the vehicle;

397 (B) The fees owed for the repair of the vehicle;

398 (C) The daily fees for storage of the vehicle after completion of the repairs, which shall
399 be the maximum allowable daily rate for the storage of the motor vehicle as set forth
400 by rule and regulation of the Department of Public Safety for maximum state-wide rate
401 tariffs;

402 (D) A statement informing the recipient that daily fees will accrue until full payment
403 has been made;

404 (E) A statement informing the recipient that the fees which are recoverable by the
405 repair facility include costs for obtaining the owner's information and notifying the
406 owner, court filing costs, attorney's fees, and interest;

407 (F) A statement informing the recipient that the repair facility has the right to petition
408 a court to foreclose a lien for all amounts owed in ten calendar days;

409 (G) A statement informing the recipient that a court may order the sale of the vehicle
410 to satisfy the debt; and

411 (H) A form to disclaim ownership interest in the motor vehicle by oath or affirmation
412 as set forth in Code Section 40-11-19.5.

413 (2) If the department fails to timely furnish the information regarding additional owners
414 requested pursuant to Code Section 40-11-16, the repair facility shall, within 60 days of
415 such failure, place an advertisement in a newspaper of general circulation or the legal

416 organ in the county where the repair facility is located. Any advertisement required by
 417 this paragraph shall run in the newspaper once a week for two consecutive weeks. The
 418 advertisement shall be in the form provided by the Council of Magistrate Court Judges
 419 for such purpose. Such advertisement form shall include, at a minimum, a space for
 420 describing the motor vehicle, its license and manufacturer's vehicle identification
 421 numbers, the name of the person who left the vehicle with the repair facility, the present
 422 location of such vehicle, any information available relating to an owner, the fact that such
 423 vehicle is subject to a lien which can be foreclosed upon, and the fact that such vehicle
 424 may be ordered sold to satisfy such lien.

425 (3) If the identity of an owner which was previously not ascertained becomes known
 426 while an advertisement is run pursuant to paragraph (2) of this subsection, the repair
 427 facility shall send a notification letter pursuant to the same requirements set forth in
 428 paragraph (1) of this subsection within ten days of obtaining such information.

429 (c)(1) When a motor vehicle has been left with a salvage dealer for at least 15 days, and
 430 no later than 60 days, after determination by an insurance company to deny the owner's
 431 claim has been communicated to the salvage dealer, the salvage dealer desiring to file a
 432 petition to foreclose a lien pursuant to Code Section 40-11-19.1 shall send all owners by
 433 certified mail, the notification letter form developed by the Council of Magistrate Court
 434 Judges for such purpose. Such notification letter shall include, at a minimum:

435 (A) The location of the vehicle;

436 (B) The daily fees for storage of the vehicle, which shall be the maximum allowable
 437 daily rate for the storage of the motor vehicle as set forth by rule and regulation of the
 438 Department of Public Safety for maximum state-wide rate tariffs;

439 (C) A statement informing the recipient that daily fees will accrue until full payment
 440 has been made;

441 (D) A statement informing the recipient that the fees which are recoverable by the
 442 salvage dealer include costs for obtaining the owner's information and notifying the
 443 owner, court filing costs, attorney's fees, and interest;

444 (E) A statement informing the recipient that the salvage dealer has the right to petition
 445 a court to foreclose a lien for all amounts owed in ten calendar days;

446 (F) A statement informing the recipient that a court may order the sale of the vehicle
 447 to satisfy the debt; and

448 (G) A form to disclaim ownership interest in the motor vehicle by oath or affirmation
 449 as set forth in Code Section 40-11-19.5.

450 (2) If the department fails to timely furnish the information regarding additional owners
 451 requested pursuant to Code Section 40-11-16, the salvage dealer shall, within 60 days of
 452 the last communication described in paragraph (1) of this subsection, place an

453 advertisement in a newspaper of general circulation or the legal organ in the county
454 where the salvage dealer is located. Any advertisement required by this paragraph shall
455 run in the newspaper once a week for two consecutive weeks. The advertisement shall
456 be in the form provided by the Council of Magistrate Court Judges for such purpose.
457 Such advertisement form shall include, at a minimum, a space for describing the motor
458 vehicle, its license and manufacturer's vehicle identification numbers, the name of the
459 insurance company from which the vehicle was obtained or which requested the vehicle
460 removal, the present location of such vehicle, any information available relating to an
461 owner, the fact that such vehicle is subject to a lien which can be foreclosed upon, and
462 the fact that such vehicle may be ordered sold to satisfy such lien.

463 (3) If the identity of an owner which was previously not ascertained becomes known
464 while an advertisement is run pursuant to paragraph (2) of this subsection, the salvage
465 dealer shall send a notification letter pursuant to the same requirements set forth in
466 paragraph (1) of this subsection within ten days of obtaining such information.

467 (d) Any towing and storage firm, repair facility, or salvage dealer shall have a lien on a
468 motor vehicle located on its property in the amount of any unpaid and incurred fees upon
469 compliance with the notice requirements of this Code section. Fees that have actually been
470 incurred by any towing and storage firm, repair facility, or salvage dealer and which are
471 documented to the court are recoverable under such lien and shall be limited to the
472 following:

473 (1)(A) For a towing and storage firm, the rate specified pursuant to an agreement with
474 a local governing authority if the removal was upon the request of a peace officer, or
475 the maximum allowable charge for the removal of the motor vehicle as set forth by rule
476 and regulation of the Department of Public Safety for maximum state-wide rate tariffs
477 if the removal was not upon the request of a peace officer; or

478 (B) For a repair facility or salvage dealer, the maximum allowable charge for the
479 removal of the motor vehicle as set forth by rule and regulation of the Department of
480 Public Safety for maximum state-wide rate tariffs;

481 (2)(A) For a towing and storage firm, the daily storage rate specified pursuant to an
482 agreement with a local governing authority if the removal was upon the request of a
483 peace officer, or the maximum allowable daily rate for storage of the motor vehicle as
484 set forth by rule and regulation of the Department of Public Safety for maximum
485 state-wide rate tariffs if the removal was not upon the request of a peace officer,
486 multiplied by the number of days such motor vehicle has been stored to the date any
487 judgment is issued plus 25 days; or

488 (B) For a repair facility or salvage dealer, the maximum allowable daily rate for the
489 storage of the motor vehicle as set forth by rule and regulation of the Department of

490 Public Safety for maximum state-wide rate tariffs multiplied by the number of days
 491 such motor vehicle has been stored from the date notification required under this Code
 492 section was received to the date any judgment is issued plus 25 days;

493 (3) For a repair facility, all outstanding charges or fees for repairs;

494 (4) The cost of obtaining owner information from the department pursuant to this article;

495 (5) The cost of any notification to owners required by this article, including any costs of
 496 advertising;

497 (6) The cost to file an action pursuant to Code Section 40-11-19.1 and the cost of the
 498 certified order;

499 (7) Attorney's fees, which shall be 15 percent of the total amount of the lien for
 500 recoverable fees and shall be awarded for appearance as attorney of record on the matter
 501 before the court; and

502 (8) Any prejudgment interest from the date which notification pursuant to this Code
 503 section was deemed received at a rate of 4 percent per annum.

504 Any fees listed in this subsection which have been paid to a towing and storage firm, repair
 505 facility, or salvage dealer by an owner or any third party shall not be included in a lien.

506 (e) The receipt of a properly notarized form disclaiming ownership in a motor vehicle shall
 507 be filed with the action provided for in Code Section 40-11-19.1, but shall not be deemed
 508 to relieve a towing and storage firm, repair facility, or salvage dealer of any obligation to
 509 any other owners of such vehicle under this article. Such form shall be evidence to be
 510 considered by the court in any action filed pursuant to Code Section 40-11-19.1.

511 (f) If at any time prior to filing a petition to foreclose a lien pursuant to Code Section
 512 40-11-19.1, a repair facility receives a demand from an owner pursuant to subsection (b)
 513 of Code Section 40-3-54, such repair facility shall, within 30 days, institute foreclosure
 514 proceedings pursuant to such Code section or to Code Section 40-11-19.1. If upon receipt
 515 of such demand a repair facility fails to institute foreclosure proceedings pursuant to either
 516 Code section, the lien is forfeited. Receipt of such demand shall relieve the repair facility
 517 from the notification requirement set forth in paragraph (1) of subsection (b) of this Code
 518 section.

519 40-11-19.1.

520 (a) Not sooner than ten calendar days and not later than six months after compliance with
 521 the notice requirements set forth in Code Section 40-11-19, a towing and storage firm,
 522 repair facility, or salvage dealer may file an action for a petition to foreclose a lien against
 523 the motor vehicle in any magistrate court in the county where the motor vehicle is located.
 524 An action filed pursuant to this Code section shall be on a form provided by the Council
 525 of Magistrate Court Judges for such purpose and shall be accompanied by a filing fee of

526 no more than \$11.00. Any person bringing such action shall include with such form a copy
527 of the owner information obtained pursuant to the request required by Code Section
528 40-11-15 or 40-11-16 and proof of compliance with the notice requirements set forth in
529 Code Section 40-11-19. The petition to foreclose a lien shall be verified by oath or
530 affirmation by the towing and storage firm, repair facility, or salvage dealer in a manner
531 consistent with Article 5 of Chapter 10 of Title 9.

532 (b)(1) The party bringing such action shall send a copy of the oath or affirmation page
533 of the filed petition to any person known to be an owner of the motor vehicle by certified
534 mail or statutory overnight delivery, return receipt requested. The court shall accept
535 electronic documentation as proof that such copy of the filed petition was sent and
536 delivered in accordance with the requirements of this subsection. Included in such
537 mailing shall be a copy of a standardized answer form provided by the Council of
538 Magistrate Court Judges for such purpose. Such form shall require oath or affirmation
539 of the respondent and shall include space to set forth:

540 (A) The name of the owner;

541 (B) The address at which the owner resides;

542 (C) A description of the motor vehicle, including the license plate number and the
543 model, make, and year of the vehicle;

544 (D) A description of the date the owner obtained an interest in the motor vehicle;

545 (E) A brief statement as to why removal of the vehicle was unauthorized, if applicable;

546 (F) Any other brief statement as to why the lien claimed by the towing and storage
547 firm, repair facility, or salvage dealer is invalid;

548 (G) A copy of any documentation in the owner's possession supporting his or her
549 answer; and

550 (H) Any additional facts supporting the owner's answer or as to why the lien should not
551 be foreclosed upon.

552 (2) If notice required under Code Section 40-11-19 was satisfied by advertisement, or
553 the signed proof of receipt of a copy of the petition required to be sent under paragraph
554 (1) of this subsection has not been returned after ten days of such mailing or has been
555 returned as unclaimed, the party filing the petition shall, within 60 days, place an
556 advertisement in a newspaper of general circulation or the legal organ where such action
557 has been filed. No such advertisement shall be required if the return receipt required as
558 proof of delivery has been returned with a notation that the notice of the filing of the
559 petition has been refused. Such notice shall run in the newspaper once a week for two
560 consecutive weeks. Such notice shall include instructions for how an owner may obtain
561 the standardized answer form described in this subsection and shall be deemed as notice

562 to any and all persons having an interest in or right affected by such petition and from any
563 sale of the motor vehicle resulting therefrom.

564 (3) If the identity of an owner which was previously not ascertained becomes known
565 while an advertisement is run pursuant to paragraph (2) of this subsection, the party filing
566 a petition to foreclose shall send a copy of the filed petition pursuant to the same
567 requirements set forth in paragraph (1) of this subsection within ten days of obtaining
568 such information.

569 (c) An owner may file an answer to the petition no later than ten days after receipt by using
570 the standardized answer form provided. If service is made by advertisement pursuant to
571 paragraph (2) of subsection (b) of this Code section, an owner may file an answer no later
572 than ten days after the expiration of the required two-week advertisement.

573 (d) If no answer has been filed at the expiration of the period set forth in subsection (c) of
574 this Code section, the towing and storage firm, repair facility, or salvage dealer may seek
575 to foreclose the lien through a judgment as provided in Code Section 15-10-43 by making
576 such request in writing and submitting to the court proof of service as set forth in
577 subsection (b) of this Code section. Unless providentially hindered, it shall be the duty of
578 the judge to decide all motions for judgment submitted pursuant to this subsection no later
579 than 15 days from when such motion has been made. When a judgment is granted, the
580 vehicle shall be considered abandoned and within five days the court shall issue an order
581 for the disposition of the motor vehicle as provided for in Code Section 40-11-19.2. A
582 certified copy of such order shall be issued by the clerk of court. If no answer has been
583 filed but the court finds that a petition fails to comply with the requirements of this article,
584 a petition may be refiled for such action once within six months of the issuance of denial
585 of a judgment.

586 (e)(1) If an answer is returned to the court, a trial shall be held within ten days after
587 receipt of such answer; provided, however, that such trial may be continued by the court
588 for good cause shown by either party.

589 (2) At the trial, the court shall hear evidence of and determine whether the removal of
590 the vehicle was lawful, whether the lien amount is based upon recoverable fees as set
591 forth in subsection (d) of Code Section 40-11-19, and whether notice to all owners was
592 proper, and shall hear any other facts pertinent to the case to reach a decision on
593 foreclosure of the lien. The court may hear evidence of and make a determination on
594 whether storage fees should accrue after the filing date of the petition. Upon conclusion
595 of the trial, the court shall issue a decision on whether to foreclose the lien for the
596 recoverable fees set forth in subsection (d) of Code Section 40-11-19 and, if foreclosure
597 is granted, the court shall order the disposition of the motor vehicle as provided for in

598 Code Section 40-11-19.2. A fee of no more than \$14.00 may be charged for a certified
599 copy of such order which shall be issued by the clerk of court.

600 40-11-19.2.

601 (a)(1) As used in this subsection, the term 'public sale' means a sale:

602 (A) Held at a place reasonably available to persons who might desire to attend and
603 submit bids;

604 (B) At which those attending shall be given the opportunity to bid on a competitive
605 basis; and

606 (C) Except as otherwise provided in Title 11 for advertising or dispensing with the
607 advertising of public sales, of which notice is given by advertisement once a week for
608 two weeks in the newspaper in which the sheriff's advertisements are published in the
609 county where the sale is to be held, and which notice shall state the day and hour,
610 between 9:00 A.M. and 5:00 P.M., and the place of sale and shall briefly identify the
611 motor vehicle to be sold.

612 (2) Upon order of the court issued pursuant to Code Section 40-11-19.1, the towing and
613 storage firm, repair facility, or salvage dealer shall be authorized to sell the motor vehicle
614 to the highest and best bidder at public sale.

615 (b) After satisfaction of the lien, the towing and storage firm, repair facility, or salvage
616 dealer selling such motor vehicle shall, not later than 15 days after the date of such sale,
617 provide the Department of Revenue with a copy of the bill of sale as provided to the
618 purchaser and turn the remaining proceeds of such sale, if any, over to the department to
619 be treated as unclaimed property pursuant to Article 5 of Chapter 12 of Title 44, the
620 'Disposition of Unclaimed Property Act.' The towing and storage firm, repair facility, or
621 salvage dealer selling such vehicle may deduct from such proceeds the cost incurred by the
622 advertisement of the public sale, provided that such amount is no greater than \$120.00, and
623 the cost incurred by the holding of the public sale, provided that the cost is no greater than
624 \$200.00. Any deduction so made shall be evidenced by receipts or on a form prescribed
625 by the Department of Revenue for such purpose through rule and regulation. Any person
626 convicted of failing to comply with the requirements of this subsection shall be subject to
627 a civil penalty as provided for in Article 5 of Chapter 12 of Title 44.

628 40-11-19.3.

629 The purchaser of a motor vehicle at a sale authorized in this article shall receive a certified
630 copy of the court order from the seller of the vehicle authorizing such sale. Any such
631 purchaser may obtain a certificate of title to such motor vehicle by filing the required
632 application, paying the required fees, and filing a certified copy of the order of the court

633 with the Department of Revenue. The Department of Revenue shall then issue a certificate
634 of title, which shall be free and clear of all liens and encumbrances.

635 40-11-19.4.

636 Any forms required to be made available by the Council of Magistrate Court Judges under
637 this article shall be developed and published no later than September 1, 2019. Such forms
638 shall be no longer than one page per form, front and back, and every effort shall be made
639 to consolidate any required notice or mailing to a single page.

640 40-11-19.5.

641 DISCLAIMER OF MOTOR VEHICLE OWNERSHIP INTEREST

642 Georgia, _____ County

643 I, _____ (name of motor vehicle owner) do hereby swear that I disclaim any
644 and all ownership interest in:

645 _____ (motor vehicle year, model, and make)

646 _____ (vehicle identification number (VIN))

647 _____ (vehicle registration number, if available)

648 I understand that by signing this form I will no longer hold any rights to the above listed
649 vehicle and such vehicle may be sold at auction to satisfy a debt related to a lien filed against
650 the vehicle.

651 I further understand that disclaiming an ownership interest in this vehicle does not relieve me
652 of any other debts related to such vehicle, such as a debt entered into for the purchase of such
653 vehicle.

654 By signing this form, I understand that I waive all future notices to which I am entitled under
655 Article 1A of Chapter 11 of Title 40, 'The Abandoned Motor Vehicle Act.'

656 _____
657 Owner signature

658 Sworn to and subscribed in _____ County, Georgia,

659 This _____ (date)

660 Before me:

661 _____

662 (Notary public signature, seal, and commission expiration date).

663 If you wish to disclaim ownership, return this completed and notarized form to

664 _____ (name and address of party owed fees)."

665

SECTION 6.

666 Article 5 of Chapter 12 of Title 44 of the Official Code of Georgia Annotated, relating to
667 disposition of unclaimed property, is amended by adding a new Code section to read as
668 follows:

669 "44-12-211.1.

670 (a) Within 15 days of the sale of a motor vehicle pursuant to Article 1A of Chapter 11 of
671 Title 40, 'The Abandoned Motor Vehicle Act,' and the satisfaction of the amounts owed for
672 liens on such motor vehicle, any towing and storage firm, repair facility, or salvage dealer
673 selling such motor vehicle shall provide to the commissioner any excess funds minus the
674 allowable costs incurred for the public sale of such motor vehicle as set forth in
675 subsection (b) of Code Section 40-11-19.2. The funds turned over to the department shall
676 be accompanied by copies of the court order issued pursuant to Code Section 40-11-19.1,
677 the bill of sale, and the receipt for the costs associated with the sale held pursuant to Code
678 Section 40-11-19.2 on a form prescribed by the department for such purpose.

679 (b)(1) Any person claiming a property interest in the motor vehicle sold pursuant to
680 Article 1A of Chapter 11 of Title 40, 'The Abandoned Motor Vehicle Act,' and the excess
681 funds from such sale may make such claim to the department upon a form provided for
682 such purpose through rule or regulation within six months of the sale.

683 (2) If such excess funds remain unclaimed for more than six months, any person
684 authorized to make a claim under paragraph (1) of this subsection, or the towing and
685 storage firm, repair facility, or salvage dealer selling such motor vehicle may make a
686 claim to the department for such excess funds. If more than one claim is made during this
687 six month period, the party first making a claim determined by the department as
688 authorized shall be entitled to the excess funds. No claim shall be authorized after one
689 year from the date excess funds are provided to the commissioner.

690 (c) For purposes of this Code section, the terms 'repair facility,' 'salvage dealer,' and
691 'towing and storage firm' shall have the same meanings as provided for in Code Section
692 40-11-13."

693

SECTION 7.

694 Said article is further amended in Code Section 44-12-215, relating to publication of
695 "Georgia Unclaimed Property List" and contents of notice, by revising subsection (c) as
696 follows:

697 "(c) The notice shall contain a statement that information concerning the amount or
698 description of the property and the name of the holder may be obtained by any persons
699 possessing an interest in the property by addressing an inquiry to the commissioner. In
700 cases of property submitted pursuant to Code Section 44-12-211.1, the notice shall also
701 contain the year, make, model, and vehicle identification number of the motor vehicle sold
702 pursuant to Article 1A of Chapter 11 of Title 40, 'The Abandoned Motor Vehicle Act.'"

703

SECTION 8.

704 This Act shall become effective upon approval by the Governor or upon its becoming law
705 without such approval for purposes of developing the required forms and shall become
706 effective on September 1, 2019, for all other purposes.

707

SECTION 9.

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