

House Bill 307 (AS PASSED HOUSE AND SENATE)

By: Representatives Powell of the 32<sup>nd</sup>, Ridley of the 6<sup>th</sup>, Corbett of the 174<sup>th</sup>, and Harrell of the 106<sup>th</sup>

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, except when  
 359 otherwise exempted or provided for by federal law, rule, or regulation;

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

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

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

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

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

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

376 (2) If the identity of the owners cannot be ascertained by the department or the  
 377 department fails to timely furnish the owner information requested pursuant to Code  
 378 Section 40-11-15 or 40-11-16, the towing and storage firm shall, within 60 days of such

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

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

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

397 (A) The location of the vehicle;

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

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

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

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

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

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

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

414 (2) If the department fails to timely furnish the information regarding additional owners  
 415 requested pursuant to Code Section 40-11-16, the repair facility shall, within 60 days of

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

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

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

436 (A) The location of the vehicle;

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

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

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

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

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

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

451 (2) If the department fails to timely furnish the information regarding additional owners  
 452 requested pursuant to Code Section 40-11-16, the salvage dealer shall, within 60 days of

453 the last communication described in paragraph (1) of this subsection, place an  
 454 advertisement in a newspaper of general circulation or the legal organ in the county  
 455 where the salvage dealer is located. Any advertisement required by this paragraph shall  
 456 run in the newspaper once a week for two consecutive weeks. The advertisement shall  
 457 be in the form provided by the Council of Magistrate Court Judges for such purpose.  
 458 Such advertisement form shall include, at a minimum, a space for describing the motor  
 459 vehicle, its license and manufacturer's vehicle identification numbers, the name of the  
 460 insurance company from which the vehicle was obtained or which requested the vehicle  
 461 removal, the present location of such vehicle, any information available relating to an  
 462 owner, the fact that such vehicle is subject to a lien which can be foreclosed upon, and  
 463 the fact that such vehicle may be ordered sold to satisfy such lien.

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

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

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

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

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

490 (B) For a repair facility or salvage dealer, the maximum allowable daily rate for the  
 491 storage of the motor vehicle as set forth by rule and regulation of the Department of  
 492 Public Safety for maximum state-wide rate tariffs multiplied by the number of days  
 493 such motor vehicle has been stored from the date notification required under this Code  
 494 section was received to the date any judgment is issued plus 25 days;

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

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

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

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

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

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

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

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

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

521 40-11-19.1.

522 (a) Not sooner than ten calendar days and not later than six months after compliance with  
 523 the notice requirements set forth in Code Section 40-11-19, a towing and storage firm,  
 524 repair facility, or salvage dealer may file an action for a petition to foreclose a lien against  
 525 the motor vehicle in any magistrate court in the county where the motor vehicle is located.

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

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

542 (A) The name of the owner;

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

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

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

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

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

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

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

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



563 the standardized answer form described in this subsection and shall be deemed as notice  
564 to any and all persons having an interest in or right affected by such petition and from any  
565 sale of the motor vehicle resulting therefrom.

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

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

575 (d) If no answer has been filed at the expiration of the period set forth in subsection (c) of  
576 this Code section, the towing and storage firm, repair facility, or salvage dealer may seek  
577 to foreclose the lien through a judgment as provided in Code Section 15-10-43 by making  
578 such request in writing and submitting to the court proof of service as set forth in  
579 subsection (b) of this Code section. Unless providentially hindered, it shall be the duty of  
580 the judge to decide all motions for judgment submitted pursuant to this subsection no later  
581 than 15 days from when such motion has been made. When a judgment is granted, the  
582 vehicle shall be considered abandoned and within five days the court shall issue an order  
583 for the disposition of the motor vehicle as provided for in Code Section 40-11-19.2. A  
584 certified copy of such order shall be issued by the clerk of court. A fee of no more than  
585 \$14.00 may be charged for a certified copy of such order, which shall be issued by the clerk  
586 of court. If no answer has been filed but the court finds that a petition fails to comply with  
587 the requirements of this article, a petition may be refiled for such action once within six  
588 months of the issuance of denial of a judgment.

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

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

600 is granted, the court shall order the disposition of the motor vehicle as provided for in  
601 Code Section 40-11-19.2. A fee of no more than \$14.00 may be charged for a certified  
602 copy of such order which shall be issued by the clerk of court.

603 40-11-19.2.

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

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

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

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

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

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

631 40-11-19.3.

632 The purchaser of a motor vehicle at a sale authorized in this article shall receive a certified  
 633 copy of the court order from the seller of the vehicle authorizing such sale. Any such  
 634 purchaser may obtain a certificate of title to such motor vehicle by filing the required  
 635 application, paying the required fees, and filing a certified copy of the order of the court  
 636 with the Department of Revenue. The Department of Revenue shall then issue a certificate  
 637 of title, which shall be free and clear of all liens and encumbrances.

638 40-11-19.4.

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

643 40-11-19.5.

644 DISCLAIMER OF MOTOR VEHICLE OWNERSHIP INTEREST

645 Georgia, \_\_\_\_\_ County

646 I, \_\_\_\_\_ (name of motor vehicle owner) do hereby swear that I disclaim any  
 647 and all ownership interest in:

648 \_\_\_\_\_ (motor vehicle year, model, and make)

649 \_\_\_\_\_ (vehicle identification number (VIN))

650 \_\_\_\_\_ (vehicle registration number, if available)

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

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

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

659

660

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Owner signature
661 Sworn to and subscribed in \_\_\_\_\_ County, Georgia,662 This \_\_\_\_\_ (date)663 Before me:

664 \_\_\_\_\_

665 (Notary public signature, seal, and commission expiration date).666 If you wish to disclaim ownership, return this completed and notarized form to667 \_\_\_\_\_ (name and address of party owed fees)."

668

**SECTION 6.**

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

672 "44-12-211.1.

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

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

686 (2) If such excess funds remain unclaimed for more than six months, any person  
 687 authorized to make a claim under paragraph (1) of this subsection, or the towing and  
 688 storage firm, repair facility, or salvage dealer selling such motor vehicle may make a  
 689 claim to the department for such excess funds. If more than one claim is made during this  
 690 six month period, the party first making a claim determined by the department as

691 authorized shall be entitled to the excess funds. No claim shall be authorized after one  
692 year from the date excess funds are provided to the commissioner.  
693 (c) For purposes of this Code section, the terms 'repair facility,' 'salvage dealer,' and  
694 'towing and storage firm' shall have the same meanings as provided for in Code Section  
695 40-11-13."

696 **SECTION 7.**

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

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

706 **SECTION 8.**

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

710 **SECTION 9.**

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