

House Bill 1422

By: Representative Cox of the 102<sup>nd</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 11 of Title 40 of the Official Code of Georgia Annotated, relating to  
2 abandoned motor vehicles, so as to define relevant terms; to provide for possessory liens on  
3 vehicles and their contents; to provide for towing and storage of vehicles; to provide for  
4 notice of abandonment; to provide notice of redemption; to provide for duties of law  
5 enforcement officers; to enumerate appropriate towing and storage fees; to provide for the  
6 sale of abandoned vehicles; to provide for lien foreclosure; to provide for hearings in  
7 magistrate court; to provide for derelict motor vehicles; to provide for related matters; to  
8 repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Chapter 11 of Title 40 of the Official Code of Georgia Annotated, relating to abandoned  
12 motor vehicles, is amended by striking Article 1, relating to abandoned motor vehicles  
13 generally, and inserting in its place the following:

14 style="text-align:center">"ARTICLE 1

15 40-11-1.

16 As used in this article, the term:

17 (1) 'Abandoned motor vehicle' means a motor vehicle or trailer and its contents:

18 (A) Which has been left by the owner or some person acting for the owner with an  
19 automobile dealer, ~~repairman, or wrecker service~~ or any automobile repair facility for  
20 repair or for some other reason and has not been called for by such owner or other  
21 person within a period of 30 days after the time agreed upon; or within 30 days after  
22 such vehicle is turned over to such dealer, ~~repairman, or wrecker service~~ or automobile  
23 repair facility when no time is agreed upon; or within 30 days after the completion of  
24 necessary repairs;

1 ~~(B) Which is left unattended on a public street, road, or highway or other public~~  
 2 ~~property for a period of at least five days and when it reasonably appears to a law~~  
 3 ~~enforcement officer that the individual who left such motor vehicle unattended does not~~  
 4 ~~intend to return and remove such motor vehicle. However, on the state highway system,~~  
 5 ~~any law enforcement officer may authorize the immediate removal of vehicles posing~~  
 6 ~~a threat to public health or safety or to mitigate congestion has been left by the owner~~  
 7 ~~or some person acting for the owner with a towing and storage facility for a period of~~  
 8 ~~not less than 30 days without anyone having paid all reasonable current charges for~~  
 9 ~~such towing and storage;~~

10 (C) Which has been lawfully towed ~~onto the property of another~~ to an automotive  
 11 storage facility at the request of a law enforcement officer and left there for a period of  
 12 not less than 30 days without anyone having paid all reasonable current charges for  
 13 such towing and storage; or

14 (D) Which has been lawfully towed ~~onto the property of another~~ from private property  
 15 to an automotive storage facility at the request of a property owner ~~on whose property~~  
 16 ~~the vehicle was abandoned~~ or person acting for the property owner under the provisions  
 17 set forth in Code Section 44-1-13 and left there for a period of not less than 30 days  
 18 without anyone having paid all reasonable current charges for such towing and storage;  
 19 ~~or~~

20 (E) Which has been left unattended on private property ~~was being stored by agreement~~  
 21 ~~for an insurance company providing insurance to cover damages to the vehicle and was~~  
 22 ~~left~~ for a period of not less than 30 days past the agreed upon date.

23 (2) 'Derelict vehicle' means any motor vehicle that meets the criteria for determining a  
 24 derelict motor vehicle as prescribed in Code Section 40-11-6.

25 ~~(2)~~(3) 'Motor vehicle' or 'vehicle' means a motor vehicle or trailer and its contents.

26 ~~(3)~~(4) 'Owner' or 'owners' means the registered owner, the owner as recorded on the title,  
 27 lessor, lessee, security interest holders, and all lienholders as shown on the records of the  
 28 Department of Revenue or the records from the vehicle's state of registration.

29 40-11-2.

30 (a) Any person ~~who removes a motor vehicle from public property at the request of a law~~  
 31 ~~enforcement officer or stores such vehicle shall, if the owner of the vehicle or some person~~  
 32 ~~acting for the owner is not present, seek the identity of and address of all known owners~~  
 33 ~~of such vehicle from the law enforcement officer requesting removal of such, from such~~  
 34 ~~officer's agency, or from a local law enforcement agency for the jurisdiction in which the~~  
 35 ~~remover's or storer's place of business is located, within three business days of removal.~~  
 36 ~~The local law enforcement agency shall furnish such information to the person removing~~

1 ~~such vehicle within three business days after receipt of such request~~ or facility who legally  
 2 tows, transports, or stores any motor vehicle shall have a possessory lien on the vehicle.  
 3 The lien shall remain in effect while the motor vehicle is in the possession of the person  
 4 or facility and is limited to reasonable towing and storage fees, plus notification,  
 5 advertisement, or disposal costs where applicable. Such lien shall include vehicle contents  
 6 with the following exceptions: prescription drugs or eyewear, child passenger restraining  
 7 system, house keys, and personal documentation such as birth or death records. This lien  
 8 attaches when the person or facility acts:

9 (1) Under a contract with the owner or someone representing the owner;

10 (2) At the direction of a law enforcement officer; or

11 (3) At the direction of an owner or lessor, or a person authorized by the owner or lessor,  
 12 of private property on which such vehicle is wrongfully located, and the vehicle was  
 13 removed in accordance with Code Section 44-1-13.

14 (b) Any person or facility who ~~removes~~ stores a motor vehicle that was removed from  
 15 public or private property at the request of the property owner or stores such vehicle shall,  
 16 if the owner of the vehicle or some person acting for the owner is not present, someone  
 17 other than the vehicle owner or some person acting for the owner shall notify in writing a  
 18 local law enforcement agency of the location of the vehicle, the manufacturer's vehicle  
 19 identification number, license number, model, year, and make of the vehicle within three  
 20 business days of the removal of such vehicle and shall seek from the local law enforcement  
 21 agency the identity and address of all known owners of such vehicle, and any information  
 22 indicating that such vehicle is a stolen motor vehicle. The local law enforcement agency  
 23 shall furnish such information to the person ~~removing~~ or facility storing such vehicle within  
 24 three business days after receipt of such request.

25 (c) If any motor vehicle removed under conditions set forth in subsection ~~(a)~~ or (b) of this  
 26 Code section is determined to be a stolen motor vehicle, the local law enforcement officer  
 27 or agency shall immediately notify the storage facility of such determination, and provide  
 28 to such storage facility the names and addresses of all owners, if ascertainable, and shall  
 29 further notify the Georgia Crime Information Center of the location of such motor vehicle  
 30 within 72 hours after receiving notice that such motor vehicle is a stolen vehicle.

31 (d) When If any motor vehicle is removed under conditions set forth in subsection ~~(a)~~  
 32 ~~or (b) of this Code section is determined not to be a stolen vehicle or is not a vehicle being~~  
 33 ~~repaired by a repair facility or is not being stored by an insurance company providing~~  
 34 ~~insurance to cover damages to the vehicle,~~ the person ~~removing~~ or facility storing such  
 35 motor vehicle shall, within seven ~~calendar~~ business days of the day such motor vehicle was  
 36 removed or one business day after the information is furnished to the ~~remover~~ or storer  
 37 pursuant to subsection ~~(a)~~ or (b) of this Code section, whichever is later, notify all owners,

1 if known, by written acknowledgment signed thereby or by certified or registered mail or  
 2 statutory overnight delivery, of the location of such motor vehicle, the fees connected with  
 3 removal and storage of such motor vehicle, and the fact that such motor vehicle will be  
 4 deemed abandoned under this chapter unless the owner, security interest holder, or  
 5 lienholder redeems such motor vehicle within 30 days of the day such vehicle was  
 6 removed. Further, such notification shall not be required if the vehicle is being repaired  
 7 by a repair facility or being stored at the request of the vehicle owner or someone acting  
 8 for the owner or an insurance company that is providing insurance to cover damages to the  
 9 vehicle.

10 (e) If none of the owners redeems such motor vehicle as described in subsection (d) of this  
 11 Code section, or if a vehicle being repaired by a repair facility or being stored at the request  
 12 of the vehicle owner or someone acting for the owner or by an insurance company that is  
 13 providing insurance to cover damages to the vehicle becomes abandoned, the person  
 14 ~~removing~~ or facility storing such motor vehicle shall, within seven ~~calendar~~ business days  
 15 of the day such vehicle became an abandoned motor vehicle, give notice in writing, by  
 16 sworn statement, on the form prescribed by the commissioner, or via direct electronic  
 17 access as provided by the Department of Revenue, to the Department of Revenue with a  
 18 research fee as fixed by rule or regulation payable to the Department of Revenue, stating  
 19 the manufacturer's vehicle identification number, the license number, the fact that such  
 20 vehicle is an abandoned motor vehicle, the model, year, and make of the vehicle, the date  
 21 the vehicle became an abandoned motor vehicle, the date the vehicle was removed, and the  
 22 present location of such vehicle and requesting the name and address of all owners of such  
 23 vehicle. If the form submitted is rejected because of inaccurate or missing information, the  
 24 person ~~removing~~ or facility storing the vehicle shall resubmit, within seven ~~calendar~~  
 25 business days of the date of the rejection, a corrected notice form together with an  
 26 additional research fee as fixed by rule or regulation ~~payable to the Department of~~  
 27 ~~Revenue.~~ Each subsequent corrected notice, if required, shall be submitted with an  
 28 additional research fee as fixed by rule or regulation ~~payable to the Department of~~  
 29 ~~Revenue.~~ ~~If a person removing or storing the vehicle has knowledge of facts which~~  
 30 ~~reasonably indicate that the vehicle is registered or titled in a certain other state, such~~  
 31 ~~person~~ If the vehicle displays registration from another state, then the person or facility  
 32 storing such vehicle shall check the motor vehicle records of that other state in the attempt  
 33 to ascertain the identity of the owner of the vehicle. Research requests may be submitted  
 34 and research fees made payable to the office of the tax commissioner and deposited in the  
 35 general fund for the county in which the ~~remover's~~ or ~~storer's~~ place of business is located  
 36 in lieu of the Department of Revenue, but in like manner, if such office processes motor  
 37 vehicle records of the Department of Revenue.

1 (f) Upon ascertaining the owners of such motor vehicle, the person ~~removing~~ or facility  
2 storing such vehicle shall, within five ~~calendar~~ business days, by certified or registered mail  
3 or statutory overnight delivery, notify all known owners of the vehicle of the location of  
4 such vehicle and of the fact that such vehicle is deemed abandoned and shall be disposed  
5 of if not redeemed and make a demand for the payment of all applicable fees including  
6 repairs, towing, storage, and the costs of any advertisement and notification. Such written  
7 demand shall be on a form prescribed by the Department of Revenue. No such notice or  
8 written demand shall be required if, after a good faith effort, the identity of the owner  
9 cannot be ascertained.

10 (g) If the identity of the owners of such motor vehicle cannot be ascertained, the person  
11 ~~removing~~ or facility storing such vehicle shall place an advertisement in a newspaper of  
12 general circulation in the county where such vehicle was obtained or, if there is no  
13 newspaper in such county, shall post such advertisement at the county courthouse in such  
14 place where other public notices are posted. Such advertisement shall run in the newspaper  
15 once a week for two consecutive weeks or shall remain posted at the courthouse for two  
16 consecutive weeks. The advertisement shall contain a complete description of the motor  
17 vehicle, its license and manufacturer's vehicle identification numbers, the location from  
18 where such vehicle was initially removed, the present location of such vehicle, and the fact  
19 that such vehicle is deemed abandoned and shall be disposed of if not redeemed.

20 (h) The Department of Revenue shall provide to the Georgia Crime Information Center all  
21 relevant information from sworn statements described in subsection (e) of this Code section  
22 for a determination of whether the vehicles removed have been entered into the criminal  
23 justice information system as stolen vehicles. The results of the determination shall be  
24 provided electronically to the Department of Revenue and to the person or facility storing  
25 such vehicle.

26 (i) Any person or facility storing a vehicle under the provisions of this Code section shall  
27 notify the Department of Revenue if the vehicle is recovered, is claimed by the owner, is  
28 determined to be stolen, or for any reason is no longer an abandoned motor vehicle. Such  
29 notice shall be provided within seven ~~calendar~~ business days of such event.

30 (j) If vehicle information on the abandoned motor vehicle is not in the files of the  
31 Department of Revenue, the department may require such other information or  
32 confirmation as it determines is necessary or appropriate to determine the identity of the  
33 vehicle.

34 (k) Any person or facility who does not provide the notice and information required by this  
35 Code section shall be guilty of a misdemeanor and, upon conviction thereof, shall be  
36 punished as for a misdemeanor, ~~shall not be entitled to any storage fees~~, shall not be  
37 eligible to contract with or serve on a rotation list providing wrecker services for this state

1 or any political subdivision thereof, and shall not be licensed by any municipal authority  
 2 to provide removal of improperly parked cars under Code Section 44-1-13 for six months  
 3 and until legal disposition of all abandoned vehicles in that person's or facility's  
 4 possession.

5 (l) Any person or facility who knowingly provides false or misleading information when  
 6 providing any notice or information as required by this Code section shall be guilty of a  
 7 misdemeanor and, upon conviction thereof, shall be punished as for a misdemeanor.

8 40-11-3.

9 (a) Any peace officer who finds a motor vehicle which has been left unattended on a  
 10 public street, road, or highway or other public property for a period of at least ~~five~~ two days  
 11 shall be authorized to cause such motor vehicle to be removed to ~~a garage or other place~~  
 12 ~~of safety, if such peace officer reasonably believes that the person who left such motor~~  
 13 ~~vehicle unattended does not intend to return and remove such motor vehicle~~ an automotive  
 14 storage facility.

15 (b) Any law enforcement officer who finds a motor vehicle which has been left unattended  
 16 on the state highway system shall be authorized to cause such motor vehicle to be removed  
 17 immediately to ~~a garage or other place of safety~~ an automotive storage facility when such  
 18 motor vehicle poses a threat to public health or safety or to mitigate congestion. Any peace  
 19 officer who finds a motor vehicle which has been left unattended on a public street, road,  
 20 or highway or other public property, other than the state highway system, shall be  
 21 authorized immediately to cause such motor vehicle to be removed immediately to ~~a garage~~  
 22 ~~or other place of safety~~ an automotive storage facility when such motor vehicle poses a  
 23 threat to public health or safety or to mitigate congestion.

24 (c) Any peace officer who, under this Code section, causes any motor vehicle to be  
 25 removed to ~~a garage or other place of safety~~ an automotive storage facility shall be liable  
 26 for gross negligence only.

27 ~~(d)(1) Any peace officer or the law enforcement agency which causes a motor vehicle~~  
 28 ~~to be removed to a garage or other place of safety or which is notified of the removal of~~  
 29 ~~a motor vehicle from private property shall within 72 hours from the time of removal or~~  
 30 ~~notice and if the owner is unknown attempt to determine vehicle ownership through~~  
 31 ~~official inquiries to the Department of Revenue vehicle registration and vehicle title files.~~  
 32 ~~These inquiries shall be made from authorized criminal justice information system~~  
 33 ~~network terminals.~~

34 ~~(2) If the name and address of the last known registered owner of the motor vehicle is~~  
 35 ~~obtained from the Georgia Crime Information Center, the peace officer who causes the~~  
 36 ~~motor vehicle to be removed shall, within three calendar days, make available to the~~

1 ~~person removing such motor vehicle the name and address of the last known registered~~  
2 ~~owner of such motor vehicle, the owner of the motor vehicle as recorded on the title of~~  
3 ~~such vehicle, and all security interest holders or lienholders. If such information is not~~  
4 ~~available, the peace officer shall, within three calendar days, notify the person removing~~  
5 ~~or storing such vehicle of such fact.~~

6 ~~(3) Law enforcement agencies shall make record entries in Georgia criminal justice~~  
7 ~~information system files through authorized criminal justice information system network~~  
8 ~~terminals after an unsuccessful attempt to obtain vehicle ownership information and shall~~  
9 ~~remove the record entries when ownership is determined.~~

10 (d) Any person or towing service that is instructed by a law enforcement officer or an  
11 official of the Department of Transportation to remove vehicles and cargo that pose a threat  
12 to public health or safety or to mitigate congestion shall be liable for gross negligence only.

13 40-11-3.1.

14 (a) It shall be the duty of any peace officer who discovers a motor vehicle which has been  
15 left unattended on a public street, road, or highway or other public property to immediately  
16 perform an unattended vehicle check on such motor vehicle, unless there is displayed on  
17 such motor vehicle an unattended vehicle check card indicating that another peace officer  
18 has already performed such an unattended vehicle check. For purposes of this Code  
19 section, an unattended vehicle check shall consist of such actions as are reasonably  
20 necessary to determine that the unattended vehicle does not contain an injured or  
21 incapacitated person and to determine that the unattended vehicle does not pose a threat to  
22 public health or safety.

23 (b) A peace officer completing an unattended vehicle check shall complete and attach to  
24 the vehicle an unattended vehicle check card. Unattended vehicle check cards shall be in  
25 such form, and shall be attached to vehicles in such manner, as may be specified by rule  
26 or regulation of the Department of Public Safety; and to the extent that sufficient funds are  
27 available to the department, the department may distribute such forms free of charge to law  
28 enforcement agencies in this state. Unattended vehicle check cards shall be serially  
29 numbered; shall be of a distinctive color and shape, so as to be readily visible to passing  
30 motorists; and shall contain spaces for the investigating police officer to indicate the  
31 location of the vehicle, the date and time of the completion of the unattended vehicle check,  
32 and the name of such peace officer's law enforcement agency. A detachable stub, which  
33 shall be filed with the investigating peace officer's law enforcement agency, shall bear the  
34 same serial number and shall contain the same information, together with the identity of  
35 the investigating peace officer and the license plate number and other pertinent identifying  
36 information relating to the abandoned vehicle.

1 (c) Nothing in the Code section shall limit the otherwise applicable authority of a peace  
 2 officer to have an unattended motor vehicle removed to a garage or other place of safety  
 3 an automotive storage facility.

4 (d) It shall be unlawful for any person other than a peace officer to attach a genuine or  
 5 counterfeit unattended motor vehicle check card to a motor vehicle; and any person  
 6 convicted of violating this subsection shall be guilty of a misdemeanor.

7 ~~40-11-3.2.~~

8 ~~(a) It shall be unlawful for the owner or operator of a paid private parking lot or paid  
 9 private parking facility located within 500 feet of an establishment which serves alcoholic  
 10 beverages for consumption on the premises to remove, tow, or immobilize or cause to be  
 11 removed, towed, or immobilized a motor vehicle left in such lot or facility between  
 12 midnight and noon of the following day. Nothing in this Code section shall prohibit the  
 13 owner of such a parking lot or facility from charging a penalty not to exceed \$25.00 in  
 14 excess of normal parking fees for vehicles which remain on the property during such period  
 15 without authorization. No owner or operator of such a parking lot or facility shall be liable  
 16 for any damages to any motor vehicle remaining on the property during such period  
 17 without authorization. Nothing in this Code section shall prohibit a resident or a business  
 18 owner from towing or removing or causing to be towed or removed a motor vehicle left on  
 19 private property. For purposes of this subsection, the terms 'paid private parking lot' and  
 20 'paid private parking facility' mean private parking lots where the owner or operator of a  
 21 motor vehicle pays a valuable consideration for the right to park in such parking lot or  
 22 parking facility.~~

23 ~~(b) Any person violating the provisions of subsection (a) of this Code section shall be  
 24 guilty of a misdemeanor.~~

25 ~~40-11-4.~~

26 ~~(a) Any person who removes or stores any motor vehicle which is or becomes an  
 27 abandoned motor vehicle shall have a lien on such vehicle for the reasonable fees  
 28 connected with such removal or storage plus the cost of any notification or advertisement.  
 29 Such lien shall exist if the person moving or storing such vehicle is in compliance with  
 30 Code Section 40-11-2.~~

31 ~~(b) The lien acquired under subsection (a) of this Code section~~ Code Section 40-11-2 may  
 32 be foreclosed in any court which is competent to hear civil cases, including, but not limited  
 33 to, magistrate courts. Liens shall be foreclosed in magistrate courts only when the amount  
 34 of the lien does not exceed the jurisdictional limits established by law for such courts.

1 40-11-5.

2 All liens acquired under ~~Code Section 40-11-4~~ subsection (a) of Code Section 40-11-2 shall  
3 be foreclosed as follows:

4 (1) Any proceeding to foreclose a lien on an abandoned motor vehicle must be instituted  
5 within one year from the time the lien is recorded or is asserted by retention;

6 (2) The person desiring to foreclose a lien on an abandoned motor vehicle shall, by  
7 certified or registered mail or statutory overnight delivery, make a demand upon the  
8 owners for the payment of the reasonable fees for removal and storage plus the costs of  
9 any notification or advertisement. Such written demand shall include an itemized  
10 statement of all charges and may be made concurrent with the notice required by  
11 subsection (f) of Code Section 40-11-2. Such demand shall be made on a form prescribed  
12 by rule or regulation of the Department of Revenue and shall notify the owner of his or  
13 her right to a judicial hearing to determine the validity of the lien. The demand shall  
14 further state that failure to return the written demand to the lien claimant, file with a court  
15 of competent jurisdiction a petition for a judicial hearing, and provide the lien claimant  
16 with a copy of such petition, all within ten days of delivery of the lien claimant's written  
17 demand, shall effect a waiver of the owner's right to such a hearing prior to sale. The  
18 form shall also provide the suspected owner with the option of disclaiming any ownership  
19 of the vehicle, and his or her affidavit to that effect shall control over anything contrary  
20 in the records of the Department of Revenue. No such written demand shall be required  
21 if the identity of the owner cannot be ascertained and the notice requirements of  
22 subsection (g) of Code Section 40-11-2 have been complied with;

23 (3)(A) If, within ten days of delivery to the appropriate address of the written demand  
24 required by paragraph (2) of this Code section, the owner of the abandoned motor  
25 vehicle fails to pay or file with the court a petition for a judicial hearing with a copy to  
26 the lien claimant in accordance with the notice provided pursuant to paragraph (2) of  
27 this Code section, or if the owner of the abandoned motor vehicle cannot be  
28 ascertained, the person ~~removing~~ or facility storing the abandoned motor vehicle may  
29 foreclose such lien. The person or facility asserting such lien may move to foreclose  
30 by making an affidavit to a court of competent jurisdiction, on a form prescribed by rule  
31 or regulation of the Department of Revenue, showing all facts necessary to constitute  
32 such lien and the amount claimed to be due. Such affidavit shall aver that the notice  
33 requirements of Code Section 40-11-2 have been complied with, and such affidavit  
34 shall also aver that a demand for payment in accordance with paragraph (2) of this Code  
35 section has been made without satisfaction or without a timely filing of a petition for  
36 a judicial hearing or that the identity of the owner cannot be ascertained. The person

1     or facility foreclosing shall verify the statement by oath or affirmation and shall affix  
2     his or her signature thereto.

3     (B) Regardless of the court in which the affidavit required by this paragraph is filed,  
4     the fee for filing such affidavit shall be \$10.00 per motor vehicle upon which a lien is  
5     asserted;

6     (4) If no timely petition for a hearing has been filed with a court of competent  
7     jurisdiction, then, upon such affidavit's being filed by the lien claimant pursuant to  
8     paragraph (3) of this Code section, the lien will conclusively be deemed a valid one and  
9     foreclosure thereof allowed;

10    (5) If a petition for a hearing is filed with a court of competent jurisdiction within ten  
11    days after delivery of the lien claimant's demand, a copy of which demand shall be  
12    attached to the petition, the court shall set such a hearing within ten days of filing of the  
13    petition;

14    (6) Upon the filing of such petition by an owner, neither the lien claimant nor the court  
15    may sell the motor vehicle, although possession of the motor vehicle may be retained by  
16    the lien claimant or obtained by the court in accordance with the order of the court which  
17    sets the date for the hearing;

18    (7) If, after a full hearing, the court finds that a valid debt exists, then the court shall  
19    authorize foreclosure upon and sale of the motor vehicle subject to the lien to satisfy the  
20    debt if such debt is not otherwise immediately paid;

21    (8) If the court finds the actions of the person or facility asserting the lien in retaining  
22    possession of the motor vehicle were not taken in good faith, then the court, in its  
23    discretion, may award damages to the owner, any party which has been deprived of the  
24    rightful use of the vehicle, or the lessee due to the deprivation of the use of the motor  
25    vehicle; and

26    (9) If an affidavit meeting the requirements of paragraph (3) of this Code section is filed  
27    and no petition for a hearing is timely filed, or if, after a full hearing, the court determines  
28    that a valid debt exists, the court shall issue an order authorizing the sale of such motor  
29    vehicle. However, the holder of a security interest in or a lien on the vehicle, other than  
30    the holder of a lien created by ~~Code Section 40-11-4~~ subsection (a) of Code Section  
31    40-11-2, shall have the right, in the order of priority of such security interest or lien, to  
32    pay the debt and court costs. If the holder of a security interest or lien does so pay the  
33    debt and court costs, he or she shall have the right to possession of the vehicle, and his  
34    or her security interest in or lien on such vehicle shall be increased by the amount so paid.  
35    A court order shall be issued to this effect, and in this instance there shall not be a sale  
36    of the vehicle.

1 40-11-6.

2 ~~(a) Upon order of the court, the person holding the lien on the abandoned motor vehicle~~  
 3 ~~shall be authorized to sell such motor vehicle at public sale, as defined by Code Section~~  
 4 ~~11-1-201.~~

5 ~~(b)~~ After satisfaction of the lien, the person or facility selling such motor vehicle shall, not  
 6 later than 30 days after the date of such sale, provide the clerk of the court with a copy of  
 7 the bill of sale as provided to the purchaser and turn the remaining proceeds of such sale,  
 8 if any, over to the clerk of the court. Any person or facility who fails to comply with the  
 9 requirements of this ~~subsection~~ Code section shall be guilty of a misdemeanor and, upon  
 10 conviction thereof, shall be punished as for a misdemeanor.

11 40-11-7.

12 The purchaser at a sale as authorized in this article shall receive a certified copy of the  
 13 court order authorizing such sale. Any such purchaser may obtain a certificate of title to  
 14 such motor vehicle by filing the required application, paying the required fees, and filing  
 15 a certified copy of the order of the court with the Department of Revenue. The Department  
 16 of Revenue shall then issue a certificate of title, which shall be free and clear of all liens  
 17 and encumbrances.

18 40-11-8.

19 The clerk of the court shall retain the remaining balance of the proceeds of a sale under  
 20 Code Section 40-11-6, after satisfaction of liens, security interests, and debts, for a period  
 21 of 12 months; and, if no claim has been filed against such proceeds by the owner of the  
 22 abandoned motor vehicle or any interested party, then he or she shall ~~pay such remaining~~  
 23 ~~balance~~ return 75 percent of the proceeds to the repair facility or towing and storage facility  
 24 that initiated the foreclosure and the remaining 25 percent shall be disbursed as follows:

25 (1) If the abandoned motor vehicle came into the possession of the person or facility  
 26 creating the lien other than at the request of a peace officer, the remaining 25 percent of  
 27 the proceeds of the sale shall be divided equally and paid into the general fund of the  
 28 county in which the sale was made and into the general fund of the municipality, if any,  
 29 in which the sale was made;

30 (2) If the abandoned motor vehicle came into the possession of the person or facility  
 31 creating the lien at the request of a police officer of a municipality, the remaining 25  
 32 percent of the proceeds of the sale shall be paid into the general fund of the municipality;

33 (3) If the abandoned motor vehicle came into the possession of the person or facility  
 34 creating the lien at the request of a county sheriff, deputy sheriff, or county police officer;  
 35 or at the request of a member of the Georgia State Patrol or other employee of the State

1 of Georgia, the remaining 25 percent of the proceeds of the sale shall be paid into the  
 2 general fund of the county in which the sale was made;

3 ~~(4) If the abandoned motor vehicle came into the possession of the person creating the~~  
 4 ~~lien at the request of a member of the Georgia State Patrol or other employee of the State~~  
 5 ~~of Georgia, the proceeds of the sale shall be paid into the general fund of the county in~~  
 6 ~~which the sale was made.~~

7 40-11-9.

8 (a) If a motor vehicle has been left unattended on private property for not less than two  
 9 days or on public property for not less than three days without the owner or driver making  
 10 any attempt to recover such vehicle or to leave a conspicuously placed note that such owner  
 11 or driver intends to return for such vehicle; or, if a conspicuous note was left, if the motor  
 12 vehicle has been left unattended for not less than five days and if because of damage,  
 13 vandalism, theft, or fire the vehicle is damaged to the extent that its restoration to an  
 14 operable condition would require the replacement of one or more major component parts  
 15 or involves any structural damage that would affect the safety of the vehicle; or if there is  
 16 evidence that the vehicle was inoperable due to major mechanical breakdown at the time  
 17 it was left on the property, such as the engine, transmission, or wheels missing, no coolant  
 18 in the cooling system, no oil in the engine, or burned fluid in the transmission; or if the  
 19 vehicle is seven or more years old; or if the vehicle is not currently tagged or is not  
 20 verifiable by the state as to who is the current owner or lienholder of the vehicle; or if the  
 21 vehicle has been abandoned to a wrecker service by an insurance company and the owner  
 22 following the insurance company's making a total loss payment, then any person removing  
 23 such vehicle shall within ~~72 hours~~ three business days of removing such vehicle obtain the  
 24 identity of and address of the last known registered owner of the vehicle, the owner of the  
 25 vehicle as recorded on the certificate of title of such vehicle, and any security interest  
 26 holder or lienholder on such vehicle from the local law enforcement agency of the  
 27 jurisdiction in which the vehicle was located. If the law enforcement agency shows no  
 28 information on the vehicle, then a request for such information shall be sent to the  
 29 Department of Revenue. Within ~~72 hours~~ three business days after obtaining such  
 30 information, the person removing such vehicle shall, by certified mail or statutory  
 31 overnight delivery, return receipt requested, notify the registered owner, title owner, and  
 32 security interest holder or lienholder of the vehicle that such vehicle will be declared a  
 33 derelict vehicle and the title to such vehicle will be canceled by the Department of Revenue  
 34 if such person or persons fail to respond within ten days of receipt of such notice. The state  
 35 revenue commissioner shall prescribe the form and content of such notice. If the registered  
 36 owner, title owner, or security interest holder or lienholder fails to respond within 30 days

1 from the date of such notice by certified mail or statutory overnight delivery, and if the  
2 vehicle is appraised as having a total value of less than \$300.00, the vehicle shall be  
3 considered to be a derelict vehicle. The value of the vehicle shall be determined as 50  
4 percent of the wholesale value of a similar car in the rough section of the *National Auto*  
5 *Research Black Book, Georgia Edition*, or if a similar vehicle is not listed in such book or,  
6 regardless of the model year or book value of the vehicle, if the vehicle is completely  
7 destroyed by fire, flood, or vandalism or is otherwise damaged to the extent that restoration  
8 of the vehicle to a safe operable condition would require replacement of more than 50  
9 percent of its major component parts, the person shall obtain an appraisal of the motor  
10 vehicle from the local law enforcement agency's auto theft section with jurisdiction in the  
11 county or municipality where such vehicle is located. Any person removing a vehicle shall  
12 complete a form, to be provided by the Department of Revenue, indicating that the vehicle  
13 meets at least four of the above-stated eight conditions for being a derelict vehicle and shall  
14 file such form with the Department of Revenue and the law enforcement agency with  
15 jurisdiction from which such vehicle was removed.

16 (b) Upon determination that a vehicle is a derelict motor vehicle as provided in  
17 subsection (a) of this Code section, it may be disposed of by sale to a person who scraps,  
18 dismantles, or demolishes motor vehicles, provided that such vehicle may be sold for scrap  
19 or parts only and shall in no event be rebuilt or sold to the general public. Any person  
20 disposing of a derelict motor vehicle shall, prior to disposing of such vehicle, photograph  
21 such vehicle and retain with such photograph the appraisal required in subsection (a) of this  
22 Code section and the notice to the Department of Revenue required in this subsection for  
23 a period of three years after its disposition. Such person shall also notify the Department  
24 of Revenue of the disposition of such vehicle in such manner as may be prescribed by the  
25 state revenue commissioner. The Department of Revenue shall cancel the certificate of title  
26 for such vehicle and shall not issue a rebuilt or salvage title for such vehicle.

27 (c) For purposes of this Code section, the term 'derelict vehicle' shall not include a vehicle  
28 which does not bear a manufacturer's vehicle identification number plate or a vehicle  
29 identification number plate assigned by a state jurisdiction.

30 (d) Any person who abandons a derelict motor vehicle on public or private property shall  
31 be guilty of a misdemeanor and upon conviction shall be fined not more than \$500.00 and  
32 shall pay all costs of having such derelict motor vehicle removed, stored, and sold as  
33 provided for in this Code section. Notwithstanding any other provision of law to the  
34 contrary, such fines shall be disposed as follows:

- 35 (1) If the ~~abandoned~~ derelict motor vehicle was removed other than at the request of a  
36 peace officer, the moneys arising from the fine shall be divided equally and paid into the

1 general fund of the county in which the offense was committed and into the general fund  
2 of the municipality, if any, in which the offense was committed;

3 (2) If the ~~abandoned~~ derelict motor vehicle was removed at the request of a police officer  
4 of a municipality, the moneys arising from the fine shall be paid into the general fund of  
5 the municipality;

6 (3) If the ~~abandoned~~ derelict motor vehicle was removed at the request of a county  
7 sheriff, deputy sheriff, or county police officer, the moneys arising from the fine shall be  
8 paid into the general fund of the county in which the offense was committed; and

9 (4) If the ~~abandoned~~ derelict motor vehicle was removed at the request of a member of  
10 the Georgia State Patrol or other employee of the State of Georgia, the moneys arising  
11 from the fine shall be paid into the general fund of the county in which the offense was  
12 committed.

13 (e) Any person removing a derelict motor vehicle who fails to comply with the  
14 requirements of this Code section or who knowingly provides false or misleading  
15 information when providing any notice or information required by this Code section shall  
16 be guilty of a misdemeanor.

17 (f) Neither the State of Georgia nor any state agency nor the person removing, storing, and  
18 processing the vehicle unless recklessly or grossly negligent shall be liable to the owner of  
19 a vehicle declared to be a derelict motor vehicle pursuant to this Code section or an  
20 abandoned motor vehicle."

## 21 SECTION 2.

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