

House Bill 1339

By: Representatives Powell of the 29th, Rice of the 51st, Benton of the 31st, and Bearden of the 68th

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 abandoned or derelict vehicles and their contents; to provide for towing and storage of
4 vehicles; to provide for notice of abandonment; to provide notice of redemption; to provide
5 for duties of law enforcement officers; to enumerate appropriate towing and storage fees; to
6 provide for the sale of abandoned vehicles; to provide for lien foreclosure; to provide for
7 hearings in magistrate court; to provide for derelict motor vehicles; to provide for related
8 matters; to 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 revising Article 1, relating to abandoned motor vehicles
13 generally, as follows:

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 repair facility for repair or for
20 some other reason and has not been called for by such owner or other person within a
21 period of 30 days after the time agreed upon; or within 30 days after such vehicle is
22 turned over to such dealer, ~~repairman, or wrecker service~~ or repair facility when no time
23 is agreed upon; or within 30 days after the completion of 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~~
 5 ~~system, any law enforcement officer may authorize the immediate removal of vehicles~~
 6 ~~posing a threat to public health or safety or to mitigate congestion has been left by the~~
 7 ~~owner or some person acting for the owner with a towing and storage facility for a~~
 8 ~~period of not less than 30 days without anyone having paid all reasonable current~~
 9 ~~charges for such towing and storage;~~

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

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
 19 storage; or

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

24 (2) 'Derelict vehicle' means any motor vehicle that meets the criteria for determining a
 25 derelict motor vehicle as prescribed in this Code section.

26 ~~(2)~~(3) 'Motor vehicle' or 'vehicle' means a motor vehicle or trailer and its contents.

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

30 40-11-2.

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

1 ~~The local law enforcement agency shall furnish such information to the person removing~~
 2 ~~such vehicle within three business days after receipt of such request~~ or facility who legally
 3 tows, transports, or stores any motor vehicle shall have a possessory lien on the vehicle
 4 limited to towing and storage fees, plus the costs, of notification, advertisement, and
 5 disposal where applicable. The vehicle's owner shall be liable for all fees incurred.
 6 Further, such lien shall include the vehicle's contents with the following exceptions:
 7 prescription drugs or eyewear, child safety restraining devices, house keys, and personal
 8 documentation such as birth or death records. This lien attaches when the person or facility
 9 acts:

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

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

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

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

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

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

1 pursuant to subsection ~~(a) or~~ (b) of this Code section, whichever is later, notify all owners,
 2 if known, by written acknowledgment signed thereby or by certified or registered mail or
 3 ~~statutory overnight delivery~~ other third-party verifiable delivery method, of the location of
 4 such motor vehicle, the fees connected with removal and storage of such motor vehicle,
 5 and the fact that such motor vehicle will be deemed abandoned under this chapter unless
 6 the owner, security interest holder, or lienholder redeems such motor vehicle within 30
 7 days of the day such vehicle was removed. Further, such notification shall not be required
 8 if the vehicle is being repaired by a repair facility or being stored at the request of the
 9 vehicle owner or someone acting for the owner or if the vehicle is being stored by
 10 agreement for an insurance company that is providing insurance to cover damages to the
 11 vehicle.

12 (e) If none of the owners redeems such motor vehicle as described in subsection (d) of this
 13 Code section, or if a vehicle being repaired by a repair facility or being stored at the request
 14 of the vehicle owner or someone acting for the owner or by an insurance company that is
 15 providing insurance to cover damages to the vehicle becomes abandoned, the person
 16 ~~removing~~ or facility storing such motor vehicle shall, within seven ~~calendar~~ business days
 17 of the day such vehicle became an abandoned motor vehicle, give notice in writing, by
 18 sworn statement, on the form prescribed by the state revenue commissioner, to the
 19 Department of Revenue with a research fee as fixed by rule or regulation payable to the
 20 Department of Revenue, stating the manufacturer's vehicle identification number, the
 21 license number, the fact that such vehicle is an abandoned motor vehicle, the model, year,
 22 and make of the vehicle, the date the vehicle became an abandoned motor vehicle, the date
 23 the vehicle was removed, and the present location of such vehicle and requesting the name
 24 and address of all owners of such vehicle. If the form submitted is rejected because of
 25 inaccurate or missing information, the person removing or storing the vehicle shall
 26 resubmit, within seven calendar days of the date of the rejection, a corrected notice form
 27 together with an additional research fee as fixed by rule or regulation ~~payable to the~~
 28 ~~Department of Revenue~~. Each subsequent corrected notice, if required, shall be submitted
 29 with an additional research fee as fixed by rule or regulation ~~payable to the Department of~~
 30 ~~Revenue~~. If a person removing or storing the vehicle has knowledge of facts which
 31 reasonably indicate that the vehicle is registered or titled in a certain other state, such
 32 person shall check the motor vehicle records of that other state in the attempt to ascertain
 33 the identity of the owner of the vehicle. Research requests may be submitted and research
 34 fees made payable to the office of the tax commissioner and deposited in the general fund
 35 for the county in which the ~~remover's or storer's~~ place of business is located in lieu of the
 36 Department of Revenue, but in like manner, if such office processes motor vehicle records
 37 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~~ other third-party verifiable delivery method, notify all
4 known owners of the vehicle of the location of such vehicle and of the fact that such
5 vehicle is deemed abandoned and shall be disposed of if not redeemed and make a demand
6 for the payment of all applicable fees including repairs, towing, storage, and the costs of
7 any advertisement and notification. Such written demand shall be on a form prescribed by
8 the Department of Revenue. No such notice or written demand shall be required if, after
9 a good faith effort, the identity of the owner 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 ~~who does not provide the notice and information required by this Code~~
35 ~~section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished~~
36 ~~as for a misdemeanor, shall not be entitled to any storage fees, shall not be eligible to~~
37 ~~contract with or serve on a rotation list providing wrecker services for this state or any~~

1 ~~political subdivision thereof, and shall not be licensed by any municipal authority to~~
 2 ~~provide removal of improperly parked cars under Code Section 44-1-13~~ or facility who
 3 provides wrecker services for this state or any political subdivision thereof, either by
 4 contract, rotation list, or by other agreement, must demonstrate that they are familiar with
 5 the provisions of this article, as well as their ability and willingness to comply with such
 6 provisions prior to participating in any such contract, agreement, or rotation list. Further,
 7 any person or facility who does not provide the notice and information required by this
 8 Code section shall be guilty of a misdemeanor and, upon conviction thereof, shall be
 9 punished as for a misdemeanor, and shall be entitled to storage fees only for the period that
 10 the Department of Revenue deems such person or facility was in compliance with this
 11 Code section.

12 (l) Any person or facility who knowingly provides false or misleading information when
 13 providing any notice or information as required by this Code section shall be guilty of a
 14 misdemeanor and, upon conviction thereof, shall be punished as for a misdemeanor and
 15 shall be removed from any contract or rotation list providing wrecker services for this state
 16 or any political subdivision thereof, and shall not be licensed by the Public Service
 17 Commission or any municipal authority to provide removal of improperly parked vehicles
 18 under Code Section 44-1-3 for a period of six months, and shall not be eligible for
 19 reinstatement of such authority or license until all abandoned vehicles being stored by that
 20 person or facility are legally disposed of.

21 40-11-3.

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

28 (b) Any law enforcement officer who finds a motor vehicle which has been left unattended
 29 on the state highway system shall be authorized to cause such motor vehicle to be removed
 30 immediately to ~~a garage or other place of safety~~ an automotive storage facility when such
 31 motor vehicle poses a threat to public health or safety or to mitigate congestion. Any peace
 32 officer who finds a motor vehicle which has been left unattended on a public street, road,
 33 or highway or other public property, other than the state highway system, shall be
 34 authorized immediately to cause such motor vehicle to be removed immediately to ~~a garage~~
 35 ~~or other place of safety~~ an automotive storage facility when such motor vehicle poses a
 36 threat to public health or safety or to mitigate congestion.

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

4 (d)(1) Any peace officer or the law enforcement agency which causes a motor vehicle
 5 to be removed to a ~~garage or other place of safety~~ an automotive storage facility or which
 6 is notified of the removal of a motor vehicle from private property shall within 72 hours
 7 from the time of removal or notice and if the owner is unknown attempt to determine
 8 vehicle ownership through official inquiries to the Department of Revenue vehicle
 9 registration and vehicle title files. These inquiries shall be made from authorized criminal
 10 justice information system network terminals.

11 (2) If the name and address of the last known registered owner of the motor vehicle is
 12 obtained from the Georgia Crime Information Center, the peace officer who causes the
 13 motor vehicle to be removed shall, within three calendar days, make available to the
 14 person removing such motor vehicle the name and address of the last known registered
 15 owner of such motor vehicle, the owner of the motor vehicle as recorded on the title of
 16 such vehicle, and all security interest holders or lienholders. If such information is not
 17 available, the peace officer shall, within three calendar days, notify the person removing
 18 or storing such vehicle of such fact.

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

23 40-11-3.1.

24 (a) It shall be the duty of any peace officer who discovers a motor vehicle which has been
 25 left unattended on a public street, road, or highway or other public property to immediately
 26 perform an unattended vehicle check on such motor vehicle, unless there is displayed on
 27 such motor vehicle an unattended vehicle check card indicating that another peace officer
 28 has already performed such an unattended vehicle check. For purposes of this Code
 29 section, an unattended vehicle check shall consist of such actions as are reasonably
 30 necessary to determine that the unattended vehicle does not contain an injured or
 31 incapacitated person and to determine that the unattended vehicle does not pose a threat to
 32 public health or safety.

33 (b) A peace officer completing an unattended vehicle check shall complete and attach to
 34 the vehicle an unattended vehicle check card. Unattended vehicle check cards shall be in
 35 such form, and shall be attached to vehicles in such manner, as may be specified by rule
 36 or regulation of the Department of Public Safety; and to the extent that sufficient funds are

1 available to the department, the department may distribute such forms free of charge to law
2 enforcement agencies in this state. Unattended vehicle check cards shall be serially
3 numbered; shall be of a distinctive color and shape, so as to be readily visible to passing
4 motorists; and shall contain spaces for the investigating police officer to indicate the
5 location of the vehicle, the date and time of the completion of the unattended vehicle check,
6 and the name of such peace officer's law enforcement agency. A detachable stub, which
7 shall be filed with the investigating peace officer's law enforcement agency, shall bear the
8 same serial number and shall contain the same information, together with the identity of
9 the investigating peace officer and the license plate number and other pertinent identifying
10 information relating to the abandoned vehicle.

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

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

17 40-11-3.2.

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

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

1 40-11-4.

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

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

11 40-11-5.

12 All liens acquired under Code Section 40-11-4 shall be foreclosed as follows:

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

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

33 (3)(A) If, within ten days of delivery to the appropriate address of the written demand
 34 required by paragraph (2) of this Code section, the owner of the abandoned motor
 35 vehicle fails to pay or file with the court a petition for a judicial hearing with a copy to
 36 the lien claimant in accordance with the notice provided pursuant to paragraph (2) of

1 this Code section, or if the owner of the abandoned motor vehicle cannot be
2 ascertained, the person or facility removing or storing the abandoned motor vehicle
3 may foreclose such lien. The person asserting such lien may move to foreclose by
4 making an affidavit to a court of competent jurisdiction, on a form prescribed by rule
5 or regulation of the Department of Revenue, showing all facts necessary to constitute
6 such lien and the amount claimed to be due. Such affidavit shall aver that the notice
7 requirements of Code Section 40-11-2 have been complied with, and such affidavit
8 shall also aver that a demand for payment in accordance with paragraph (2) of this
9 Code section has been made without satisfaction or without a timely filing of a petition
10 for a judicial hearing or that the identity of the owner cannot be ascertained. The
11 person foreclosing shall verify the statement by oath or affirmation and shall affix his
12 or her signature thereto.

13 (B) Regardless of the court in which the affidavit required by this paragraph is filed,
14 the fee for filing such affidavit shall be \$10.00 per motor vehicle upon which a lien is
15 asserted, plus \$15.00 for the state indigent defense fund. No additional fees or moneys
16 shall be added to the cost of this filing, except where a full hearing is requested and
17 subsequently granted by the court. In such case, the court hearing the case will be
18 authorized to assess its normal fee for such a hearing;

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

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

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

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

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

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

11 40-11-6.

12 (a) Upon order of the court, the person or facility holding the lien on the abandoned motor
 13 vehicle shall be authorized to sell such motor vehicle at public sale, as defined by Code
 14 Section 11-1-201.

15 (b) After satisfaction of the lien, the person or facility selling such motor vehicle shall, not
 16 later than 30 days after the date of such sale, provide the clerk of the court with a copy of
 17 the bill of sale as provided to the purchaser and turn the remaining proceeds of such sale,
 18 if any, over to the clerk of the court. Any person or facility who fails to comply with the
 19 requirements of this subsection shall be guilty of a misdemeanor and, upon conviction
 20 thereof, shall be punished as for a misdemeanor.

21 40-11-7.

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

28 40-11-8.

29 The clerk of the court shall retain the remaining balance of the proceeds of a sale under
 30 Code Section 40-11-6, after satisfaction of liens, security interests, and debts, for a period
 31 of 12 months; and, if no claim has been filed against such proceeds by the owner of the
 32 abandoned motor vehicle or any interested party, then he or she shall pay return such
 33 remaining balance as follows: to the repair or towing and storage facility that initiated the
 34 foreclosure.

1 ~~(1) If the abandoned motor vehicle came into the possession of the person creating the~~
 2 ~~lien other than at the request of a peace officer, the proceeds of the sale shall be divided~~
 3 ~~equally and paid into the general fund of the county in which the sale was made and into~~
 4 ~~the general fund of the municipality, if any, in which the sale was made;~~

5 ~~(2) If the abandoned motor vehicle came into the possession of the person creating the~~
 6 ~~lien at the request of a police officer of a municipality, the proceeds of the sale shall be~~
 7 ~~paid into the general fund of the municipality;~~

8 ~~(3) If the abandoned motor vehicle came into the possession of the person creating the~~
 9 ~~lien at the request of a county sheriff, deputy sheriff, or county police officer, the~~
 10 ~~proceeds of the sale shall be paid into the general fund of the county in which the sale~~
 11 ~~was made;~~

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

16 40-11-9.

17 (a) If a motor vehicle has been left unattended on private property for not less than two
 18 days or on public property for not less than three days without the owner or driver making
 19 any attempt to recover such vehicle or to leave a conspicuously placed note that such owner
 20 or driver intends to return for such vehicle; or, if a conspicuous note was left, if the motor
 21 vehicle has been left unattended for not less than five days and if because of damage,
 22 vandalism, theft, or fire the vehicle is damaged to the extent that its restoration to an
 23 operable condition would require the replacement of one or more major component parts
 24 or involves any structural damage that would affect the safety of the vehicle; or if there is
 25 evidence that the vehicle was inoperable due to major mechanical breakdown at the time
 26 it was left on the property, such as the engine, transmission, or wheels missing, no coolant
 27 in the cooling system, no oil in the engine, or burned fluid in the transmission; or if the
 28 vehicle is seven or more years old; or if the vehicle is not currently tagged or is not
 29 verifiable by the state as to who is the current owner or lienholder of the vehicle; or if the
 30 vehicle has been abandoned to a wrecker service by an insurance company and the owner
 31 following the insurance company's making a total loss payment, then any person removing
 32 such vehicle shall within ~~72 hours~~ three business days of removing such vehicle obtain the
 33 identity of and address of the last known registered owner of the vehicle, the owner of the
 34 vehicle as recorded on the certificate of title of such vehicle, and any security interest
 35 holder or lienholder on such vehicle from the local law enforcement agency of the
 36 jurisdiction in which the vehicle was located. If the law enforcement agency shows no

1 information on the vehicle, then a request for such information shall be sent to the
2 Department of Revenue. Within ~~72 hours~~ three business days after obtaining such
3 information, the person removing such vehicle shall, by certified mail or statutory
4 overnight delivery, return receipt requested, or personal written acknowledgment, or other
5 third-party verifiable delivery method requiring signature, notify the registered owner, title
6 owner, and security interest holder or lienholder of the vehicle that such vehicle will be
7 declared a derelict vehicle and the title to such vehicle will be canceled by the Department
8 of Revenue if such person or persons fail to respond within ten days of receipt of such
9 notice. The state revenue commissioner shall prescribe the form and content of such
10 notice. If the registered owner, title owner, or security interest holder or lienholder fails
11 to respond within 30 business days from the date of such notice by certified mail or
12 statutory overnight delivery, and if the vehicle is appraised as having a total value of less
13 than \$300.00, the vehicle shall be considered to be a derelict vehicle. The value of the
14 vehicle shall be determined as 50 percent of the wholesale value of a similar car in the
15 rough section of the *National Auto Research Black Book, Georgia Edition*, or if a similar
16 vehicle is not listed in such book or, regardless of the model year or book value of the
17 vehicle, if the vehicle is completely destroyed by fire, flood, or vandalism or is otherwise
18 damaged to the extent that restoration of the vehicle to a safe operable condition would
19 require replacement of more than 50 percent of its major component parts, the person shall
20 obtain an appraisal of the motor vehicle from the local law enforcement agency's auto theft
21 section with jurisdiction in the county or municipality where such vehicle is located. Any
22 person removing a vehicle shall complete a form, to be provided by the Department of
23 Revenue, indicating that the vehicle meets at least four of the above-stated eight conditions
24 for being a derelict vehicle and shall file such form with the Department of Revenue and
25 the law enforcement agency with jurisdiction from which such vehicle was removed.

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

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

4 (d) Any owner or person acting for the owner who abandons a derelict motor vehicle on
 5 public or private property shall be ~~guilty of a misdemeanor and upon conviction shall be~~
 6 ~~finned not more than \$500.00 and shall pay~~ liable for all costs of having such derelict motor
 7 vehicle removed, stored, and sold as provided for in this Code section. ~~Notwithstanding~~
 8 ~~any other provision of law to the contrary, such fines shall be disposed as follows:~~

9 ~~(1) If the abandoned motor vehicle was removed other than at the request of a peace~~
 10 ~~officer, the moneys arising from the fine shall be divided equally and paid into the~~
 11 ~~general fund of the county in which the offense was committed and into the general fund~~
 12 ~~of the municipality, if any, in which the offense was committed;~~

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

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

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

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

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

31 SECTION 2.

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