

House Bill 83

By: Representatives Powell of the 29th, Bearden of the 68th, and Levitas of the 82nd

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;

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

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

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

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

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

49 ~~(2)(3)~~ (3) 'Motor vehicle' or 'vehicle' means a motor vehicle or trailer and its contents.

50 ~~(3)(4)~~ (4) 'Owner' or 'owners' means the registered owner, the owner as recorded on the title,
 51 lessor, lessee, security interest holders, and all lienholders as shown on the records of the
 52 Department of Revenue or the records from the vehicle's state of registration.

53 40-11-2.

54 ~~(a) Any person who removes a motor vehicle from public property at the request of a law~~
 55 ~~enforcement officer or stores such vehicle shall, if the owner of the vehicle or some person~~
 56 ~~acting for the owner is not present, seek the identity of and address of all known owners~~
 57 ~~of such vehicle from the law enforcement officer requesting removal of such, from such~~
 58 ~~officer's agency, from a local law enforcement agency for the jurisdiction in which the~~
 59 ~~remover's or storer's place of business is located, or from the State of Georgia by direct~~

60 ~~electronic access as provided through its agencies and authorities within three business~~
 61 ~~days of removal. The local law enforcement agency shall furnish such information to the~~
 62 ~~person removing such vehicle within three business days after receipt of such request or~~
 63 ~~facility who legally tows, transports, or stores any motor vehicle shall have a possessory~~
 64 ~~lien on the vehicle limited to towing and storage fees, plus the costs of notification,~~
 65 ~~advertisement, and disposal where applicable. The vehicle's owner shall be liable for all~~
 66 ~~fees incurred. Further, such lien shall include the vehicle's contents with the following~~
 67 ~~exceptions: prescription drugs or eyewear, child safety restraining devices, house keys, and~~
 68 ~~personal documentation such as birth or death records. This lien attaches when the person~~
 69 ~~or facility acts:~~

70 (1) Under a contract with the owner or someone representing the owner;
 71 (2) At the direction of a law enforcement officer; or
 72 (3) At the direction of an owner or lessor, or a person authorized by the owner or lessor,
 73 of private property on which such vehicle is located, and the vehicle was removed in
 74 accordance with Code Section 44-1-13.

75 (b) Any person or facility who ~~removes~~ stores a motor vehicle that was removed from
 76 public or private property at the request of the property owner or stores such vehicle shall,
 77 if the owner of the vehicle or some person acting for the owner is not present, someone
 78 other than the vehicle owner or some person acting for the owner shall notify in writing a
 79 local law enforcement agency of the location of the vehicle, the manufacturer's vehicle
 80 identification number, license number, model, year, and make of the vehicle within three
 81 business days of the removal of such vehicle and shall seek from the local law enforcement
 82 agency or from the State of Georgia by direct electronic access as provided through its
 83 agencies and authorities the identity and address of all known owners of such vehicle and
 84 any information indicating that such vehicle is a stolen motor vehicle. The local law
 85 enforcement agency shall furnish such information to the person ~~removing~~ or facility
 86 storing such vehicle within three business days after receipt of such request.

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

93 (d) ~~If~~ When any motor vehicle is removed under conditions set forth in subsection ~~(a)~~ or
 94 ~~(b)~~ of this Code section ~~is determined not to be a stolen vehicle or is not a vehicle being~~
 95 ~~repaired by a repair facility or is not being stored by an insurance company providing~~
 96 ~~insurance to cover damages to the vehicle,~~ the person ~~removing~~ or facility storing such

97 motor vehicle shall, within seven ~~calendar~~ business days of the day such motor vehicle was
 98 removed or one business day after the information is furnished to the ~~remover~~ or storer
 99 pursuant to subsection ~~(a)~~ or (b) of this Code section, whichever is later, notify all owners,
 100 if known, by written acknowledgment signed thereby or by certified or registered mail or
 101 ~~statutory overnight delivery~~ other third-party verifiable delivery method, of the location of
 102 such motor vehicle, the fees connected with removal and storage of such motor vehicle,
 103 and the fact that such motor vehicle ~~will~~ shall be deemed abandoned under this chapter
 104 unless the owner, security interest holder, or lienholder redeems such motor vehicle within
 105 30 days of the day such vehicle was removed. Further, such notification shall not be
 106 required if the vehicle is being repaired by a repair facility or being stored at the request
 107 of the vehicle owner or someone acting for the owner or if the vehicle is being stored by
 108 agreement for an insurance company that is providing insurance to cover damages to the
 109 vehicle.

110 (e) If none of the owners redeems such motor vehicle as described in subsection (d) of this
 111 Code section, or if a vehicle being repaired by a repair facility or being stored at the request
 112 of the vehicle owner or someone acting for the owner or by an insurance company that is
 113 providing insurance to cover damages to the vehicle becomes abandoned, the person
 114 ~~removing~~ or facility storing such motor vehicle shall, within seven ~~calendar~~ business days
 115 of the day such vehicle became an abandoned motor vehicle, give notice by electronic
 116 means as provided by the State of Georgia through its agencies and authorities, in writing,
 117 or by sworn statement, on the form prescribed by the state revenue commissioner, to the
 118 Department of Revenue with a research fee as fixed by rule or regulation payable to the
 119 Department of Revenue, stating the manufacturer's vehicle identification number, the
 120 license number, the fact that such vehicle is an abandoned motor vehicle, the model, year,
 121 and make of the vehicle, the date the vehicle became an abandoned motor vehicle, the date
 122 the vehicle was removed, and the present location of such vehicle and requesting the name
 123 and address of all owners of such vehicle. If the form submitted is rejected because of
 124 inaccurate or missing information, the person ~~removing~~ or facility storing the vehicle shall
 125 resubmit, within seven ~~calendar~~ business days of the date of the rejection, a corrected
 126 notice form together with an additional research fee as fixed by rule or regulation ~~payable~~
 127 ~~to the Department of Revenue~~. Each subsequent corrected notice, if required, shall be
 128 submitted with an additional research fee as fixed by rule or regulation ~~payable to the~~
 129 ~~Department of Revenue~~. If a person ~~removing~~ or facility storing the vehicle has knowledge
 130 of facts which reasonably indicate that the vehicle is registered or titled in a certain other
 131 state, such person or facility shall check the motor vehicle records of that other state in the
 132 attempt to ascertain the identity of the owner of the vehicle. Research requests may be
 133 submitted and research fees made payable to the office of the tax commissioner and

134 deposited in the general fund for the county in which the ~~remover's or storer's~~ place of
135 business is located in lieu of the Department of Revenue, but in like manner, if such office
136 processes motor vehicle records of the Department of Revenue.

137 (f) Upon ascertaining the owners of such motor vehicle, the person ~~removing~~ or facility
138 storing such vehicle shall, within five ~~calendar~~ business days, by certified or registered mail
139 or ~~statutory overnight delivery~~ other third-party verifiable delivery method, notify all
140 known owners of the vehicle of the location of such vehicle and of the fact that such
141 vehicle is deemed abandoned and shall be disposed of if not redeemed and make a demand
142 for the payment of all applicable fees including repairs, towing, storage, and the costs of
143 any advertisement and notification. Such written demand shall be on a form prescribed by
144 the Department of Revenue. No such notice or written demand shall be required if, after
145 a good faith effort, the identity of the owner cannot be ascertained.

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

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

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

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

170 (k) Any person ~~who does not provide the notice and information required by this Code~~
 171 ~~section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished~~
 172 ~~as for a misdemeanor, shall not be entitled to any storage fees, shall not be eligible to~~
 173 ~~contract with or serve on a rotation list providing wrecker services for this state or any~~
 174 ~~political subdivision thereof, and shall not be licensed by any municipal authority to~~
 175 ~~provide removal of improperly parked cars under Code Section 44-1-13 or facility who~~
 176 provides wrecker services for this state or any political subdivision thereof, either by
 177 contract, rotation list, or by other agreement, shall prove their knowledge of the provisions
 178 of this article, as well as their ability and willingness to comply with such provisions prior
 179 to participating in any such contract, agreement, or rotation list. Further, any person or
 180 facility who does not provide the notice and information required by this Code section shall
 181 be guilty of a misdemeanor and, upon conviction thereof, shall be punished as for a
 182 misdemeanor and shall be entitled to storage fees only for the period that the Department
 183 of Revenue deems such person or facility was in compliance with this Code section.

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

193 40-11-3.

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

200 (b) Any law enforcement officer who finds a motor vehicle which has been left unattended
 201 on the state highway system shall be authorized to cause such motor vehicle to be removed
 202 immediately to a ~~garage or other place of safety~~ an automotive storage facility when such
 203 motor vehicle poses a threat to public health or safety or to mitigate congestion. Any peace
 204 officer who finds a motor vehicle which has been left unattended on a public street, road,
 205 or highway or other public property, other than the state highway system, shall be

206 authorized immediately to cause such motor vehicle to be removed immediately to a ~~garage~~
207 ~~or other place of safety~~ an automotive storage facility when such motor vehicle poses a
208 threat to public health or safety or to mitigate congestion.

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

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

219 (2) If the name and address of the last known registered owner of the motor vehicle is
220 obtained from the Georgia Crime Information Center, the peace officer who causes the
221 motor vehicle to be removed shall, within three calendar days, make available to the
222 person or facility removing such motor vehicle the name and address of the last known
223 registered owner of such motor vehicle, the owner of the motor vehicle as recorded on
224 the title of such vehicle, and all security interest holders or lienholders. If such
225 information is not available, the peace officer shall, within three calendar days, notify the
226 person or facility removing or storing such vehicle of such fact.

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

231 40-11-3.1.

232 (a) It shall be the duty of any peace officer who discovers a motor vehicle which has been
233 left unattended on a public street, road, or highway or other public property to immediately
234 perform an unattended vehicle check on such motor vehicle, unless there is displayed on
235 such motor vehicle an unattended vehicle check card indicating that another peace officer
236 has already performed such an unattended vehicle check. For purposes of this Code
237 section, an unattended vehicle check shall consist of such actions as are reasonably
238 necessary to determine that the unattended vehicle does not contain an injured or
239 incapacitated person and to determine that the unattended vehicle does not pose a threat to
240 public health or safety.

241 (b) A peace officer completing an unattended vehicle check shall complete and attach to
242 the vehicle an unattended vehicle check card. Unattended vehicle check cards shall be in
243 such form, and shall be attached to vehicles in such manner, as may be specified by rule
244 or regulation of the Department of Public Safety; and to the extent that sufficient funds are
245 available to the department, the department may distribute such forms free of charge to law
246 enforcement agencies in this state. Unattended vehicle check cards shall be serially
247 numbered; shall be of a distinctive color and shape, so as to be readily visible to passing
248 motorists; and shall contain spaces for the investigating police officer to indicate the
249 location of the vehicle, the date and time of the completion of the unattended vehicle check,
250 and the name of such peace officer's law enforcement agency. A detachable stub, which
251 shall be filed with the investigating peace officer's law enforcement agency, shall bear the
252 same serial number and shall contain the same information, together with the identity of
253 the investigating peace officer and the license plate number and other pertinent identifying
254 information relating to the abandoned vehicle.

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

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

261 40-11-3.2.

262 (a) It shall be unlawful for the owner or operator of a paid private parking lot or paid
263 private parking facility located within 500 feet of an establishment which serves alcoholic
264 beverages for consumption on the premises to remove, tow, or immobilize or cause to be
265 removed, towed, or immobilized a motor vehicle left in such lot or facility between
266 midnight and noon of the following day. Nothing in this Code section shall prohibit the
267 owner of such a parking lot or facility from charging a penalty not to exceed \$25.00 in
268 excess of normal parking fees for vehicles which remain on the property during such
269 period without authorization. No owner or operator of such a parking lot or facility shall
270 be liable for any damages to any motor vehicle remaining on the property during such
271 period without authorization. Nothing in this Code section shall prohibit a resident or a
272 business owner from towing or removing or causing to be towed or removed a motor
273 vehicle left on private property. For purposes of this subsection, the terms 'paid private
274 parking lot' and 'paid private parking facility' mean private parking lots where the owner
275 or operator of a motor vehicle pays a valuable consideration for the right to park in such
276 parking lot or parking facility.

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

279 40-11-4.

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

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

289 40-11-5.

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

291 (1) Any proceeding to foreclose a lien on an abandoned motor vehicle ~~must~~ shall be
 292 instituted within one year from the time the lien is recorded or is asserted by retention;
 293 (2) The person desiring to foreclose a lien on an abandoned motor vehicle shall, by
 294 certified or registered mail or ~~statutory overnight delivery~~ other third-party verifiable
 295 delivery method, make a demand upon the owners for the payment of the reasonable fees
 296 for removal and storage plus the costs of any notification or advertisement. Such written
 297 demand shall include an itemized statement of all charges and may be made concurrent
 298 with the notice required by subsection (f) of Code Section 40-11-2. Such demand shall
 299 be made on a form prescribed by rule or regulation of the Department of Revenue and
 300 shall notify the owner of his or her right to a judicial hearing to determine the validity of
 301 the lien. The demand shall further state that failure to return the written demand to the
 302 lien claimant, file with a court of competent jurisdiction a petition for a judicial hearing,
 303 and provide the lien claimant with a copy of such petition, all within ten days of delivery
 304 of the lien claimant's written demand, shall effect a waiver of the owner's right to such
 305 a hearing prior to sale. The form shall also provide the suspected owner with the option
 306 of disclaiming any ownership of the vehicle, and his or her affidavit to that effect shall
 307 control over anything contrary in the records of the Department of Revenue. No such
 308 written demand shall be required if the identity of the owner cannot be ascertained and
 309 the notice requirements of subsection (g) of Code Section 40-11-2 have been complied
 310 with;

311 (3)(A) If, within ten days of delivery to the appropriate address of the written demand
312 required by paragraph (2) of this Code section, the owner of the abandoned motor
313 vehicle fails to pay or file with the court a petition for a judicial hearing with a copy to
314 the lien claimant in accordance with the notice provided pursuant to paragraph (2) of
315 this Code section, or if the owner of the abandoned motor vehicle cannot be
316 ascertained, the person or facility ~~removing or~~ storing the abandoned motor vehicle
317 may foreclose such lien. The person or facility asserting such lien may move to
318 foreclose by making an affidavit to a court of competent jurisdiction, on a form
319 prescribed by rule or regulation of the Department of Revenue, showing all facts
320 necessary to constitute such lien and the amount claimed to be due. Such affidavit shall
321 aver that the notice requirements of Code Section 40-11-2 have been complied with,
322 and such affidavit shall also aver that a demand for payment in accordance with
323 paragraph (2) of this Code section has been made without satisfaction or without a
324 timely filing of a petition for a judicial hearing or that the identity of the owner cannot
325 be ascertained. The person or facility foreclosing shall verify the statement by oath or
326 affirmation and shall affix his, ~~or her,~~ or its agent's signature thereto.

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

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

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

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

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

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

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

363 40-11-6.

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

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

373 40-11-7.

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

380 40-11-8.

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

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

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

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

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

402 40-11-9.

403 (a) If a motor vehicle has been left unattended on private property for not less than two
404 days or on public property for not less than three days without the owner or driver making
405 any attempt to recover such vehicle or to leave a conspicuously placed note that such owner
406 or driver intends to return for such vehicle; or, if a conspicuous note was left, if the motor
407 vehicle has been left unattended for not less than five days and if because of damage,
408 vandalism, theft, or fire the vehicle is damaged to the extent that its restoration to an
409 operable condition would require the replacement of one or more major component parts
410 or involves any structural damage that would affect the safety of the vehicle; or if there is
411 evidence that the vehicle was inoperable due to major mechanical breakdown at the time
412 it was left on the property, such as the engine, transmission, or wheels missing, no coolant
413 in the cooling system, no oil in the engine, or burned fluid in the transmission; or if the
414 vehicle is seven or more years old; or if the vehicle is not currently tagged or is not
415 verifiable by the state as to who is the current owner or lienholder of the vehicle; or if the

416 vehicle has been abandoned to a wrecker service by an insurance company and the owner
 417 following the insurance company's making a total loss payment, then any person or facility
 418 removing such vehicle shall within ~~72 hours~~ three business days of removing such vehicle
 419 obtain the identity of and address of the last known registered owner of the vehicle, the
 420 owner of the vehicle as recorded on the certificate of title of such vehicle, and any security
 421 interest holder or lienholder on such vehicle from the local law enforcement agency of the
 422 jurisdiction in which the vehicle was located. If the law enforcement agency shows no
 423 information on the vehicle, then a request for such information shall be sent to the
 424 Department of Revenue. Within ~~72 hours~~ three business days after obtaining such
 425 information, the person or facility removing such vehicle shall, by certified mail ~~or~~
 426 ~~statutory overnight delivery~~, return receipt requested, or personal written acknowledgment,
 427 or other third-party verifiable delivery method requiring signature, notify the registered
 428 owner, title owner, and security interest holder or lienholder of the vehicle that such vehicle
 429 ~~will~~ shall be declared a derelict vehicle and the title to such vehicle ~~will~~ shall be canceled
 430 by the Department of Revenue if such person or persons fail to respond within ten business
 431 days of receipt of such notice. The state revenue commissioner shall prescribe the form
 432 and content of such notice. If the registered owner, title owner, or security interest holder
 433 or lienholder fails to respond within 30 business days from the date of such notice by
 434 certified mail or ~~statutory overnight delivery~~ other third-party verifiable delivery method,
 435 and if the vehicle is appraised as having a total value of less than \$300.00, the vehicle shall
 436 be considered to be a derelict vehicle. The value of the vehicle shall be determined as 50
 437 percent of the wholesale value of a similar car in the rough section of the *National Auto*
 438 *Research Black Book, Georgia Edition*, or if a similar vehicle is not listed in such book or,
 439 regardless of the model year or book value of the vehicle, if the vehicle is completely
 440 destroyed by fire, flood, or vandalism or is otherwise damaged to the extent that restoration
 441 of the vehicle to a safe operable condition would require replacement of more than 50
 442 percent of its major component parts, the person or facility shall obtain an appraisal of the
 443 motor vehicle from the local law enforcement agency's auto theft section with jurisdiction
 444 in the county or municipality where such vehicle is located. Any person or facility
 445 removing a vehicle shall complete a form, to be provided by the Department of Revenue,
 446 indicating that the vehicle meets at least four of the above-stated eight conditions for being
 447 a derelict vehicle and shall file such form with the Department of Revenue and the law
 448 enforcement agency with jurisdiction from which such vehicle was removed.

449 (b) Upon determination that a vehicle is a derelict motor vehicle as provided in
 450 subsection (a) of this Code section, it may be disposed of by sale to a person ~~who~~ or facility
 451 which scraps, dismantles, or demolishes motor vehicles, provided that such vehicle may
 452 be sold for scrap or parts only and shall in no event be rebuilt or sold to the general public.

453 Any person disposing of a derelict motor vehicle shall, prior to disposing of such vehicle,
454 photograph such vehicle and retain with such photograph the appraisal required in
455 subsection (a) of this Code section and the notice to the Department of Revenue required
456 in this subsection for a period of three years after its disposition. Such person shall also
457 notify the Department of Revenue of the disposition of such vehicle in such manner as may
458 be prescribed by the state revenue commissioner. The Department of Revenue shall cancel
459 the certificate of title for such vehicle and shall not issue a rebuilt or salvage title for such
460 vehicle.

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

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

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

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

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

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

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

487 (f) Neither the State of Georgia nor any state agency nor the person or facility removing,
488 storing, and processing the vehicle unless recklessly or grossly negligent shall be liable to

489 the owner of a vehicle declared to be a derelict motor vehicle pursuant to this Code section
490 or an abandoned motor vehicle."

491 **SECTION 2.**

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