

ADOPTED

Senators Mullis of the 53rd and Harper of the 7th offered the following amendment:

1 *Amend the Senate Public Safety Committee substitute to HB 753 (LC 41 0243S) by inserting*
 2 *after the first semicolon on line 7 the following:*

3 to provide that certain fees may be included in liens upon abandoned motor vehicles; to
 4 provide for the disposition of proceeds from the public sale of an abandoned motor vehicle;

5 *By redesignating Section 4 as Section 7 and by inserting between lines 182 and 183 the*
 6 *following:*

SECTION 4.

8 Said title is further amended by revising Code Section 40-11-4, relating to the creation of
 9 liens and court authority to foreclose, as follows:

10 "40-11-4.

11 (a) Any person who removes or stores any motor vehicle which is or becomes an
 12 abandoned motor vehicle shall have a lien on such vehicle for the reasonable fees
 13 connected with such removal or storage plus the cost of any notification or advertisement
 14 up to the date of retrieval or public sale of such vehicle. Such lien shall exist if the person
 15 moving or storing such vehicle is in compliance with Code Section 40-11-2.

16 (b) The lien acquired under subsection (a) of this Code section may be foreclosed in any
 17 court which is competent to hear civil cases, including, but not limited to, magistrate
 18 courts. Liens shall be foreclosed in magistrate courts only when the amount of the lien
 19 does not exceed the jurisdictional limits established by law for such courts."

SECTION 5.

21 Said title is further amended by revising paragraph (2) of Code Section 40-11-5, relating to
 22 lien foreclosure procedure for abandoned motor vehicles, as follows:

23 "(2) The person desiring to foreclose a lien on an abandoned motor vehicle shall, by
 24 certified or registered mail or statutory overnight delivery, make a demand upon the
 25 owners for the payment of the reasonable fees for removal and storage plus the costs
 26 of any notification or advertisement up to the date of retrieval or public sale of such
 27 vehicle. Such written demand shall include an itemized statement of all charges and
 28 may be made concurrent with the notice required by subsection (f) of Code Section
 29 40-11-2. Such demand shall be made on a form prescribed by rule or regulation of the
 30 Department of Revenue and shall notify the owner of his or her right to a judicial
 31 hearing to determine the validity of the lien. The demand shall further state that failure

32 to return the written demand to the lien claimant, file with a court of competent
 33 jurisdiction a petition for a judicial hearing, and provide the lien claimant with a copy
 34 of such petition, all within ten days of delivery of the lien claimant's written demand,
 35 shall effect a waiver of the owner's right to such a hearing prior to sale. The form shall
 36 also provide the suspected owner with the option of disclaiming any ownership of the
 37 vehicle, and his or her affidavit to that effect shall control over anything contrary in the
 38 records of the Department of Revenue. No such written demand shall be required if the
 39 identity of the owner cannot be ascertained and the notice requirements of subsection
 40 (g) of Code Section 40-11-2 have been complied with;"

41 **SECTION 6.**

42 Said title is further amended by revising Code Section 40-11-8, relating to the disposition of
 43 proceeds from a foreclosure sale of an abandoned motor vehicle, as follows:

44 "40-11-8.

45 The clerk of the court shall retain the remaining balance of the proceeds of a sale under
 46 Code Section 40-11-6, after satisfaction of liens, security interests, and debts, for a period
 47 of 12 months; and, if no claim has been filed against such proceeds by the owner of the
 48 abandoned motor vehicle or any interested party, then he or she shall pay such remaining
 49 balance as follows:

50 (1) If the abandoned motor vehicle came into the possession of the person creating the
 51 lien other than at the request of a peace officer, the proceeds of the sale shall be divided
 52 equally and paid into the general fund of the county in which the sale was made, and into
 53 the general fund of the municipality, if any, in which the sale was made, and to the person
 54 who placed the lien on the motor vehicle which resulted in foreclosure;

55 (2) If the abandoned motor vehicle came into the possession of the person creating the
 56 lien at the request of a police officer of a municipality, the proceeds of the sale shall be
 57 divided equally and paid into the general fund of the municipality and to the person who
 58 placed the lien on the motor vehicle which resulted in foreclosure;

59 (3) If the abandoned motor vehicle came into the possession of the person creating the
 60 lien at the request of a county sheriff, deputy sheriff, or county police officer, the
 61 proceeds of the sale shall be divided equally and paid into the general fund of the county
 62 in which the sale was made; and to the person who placed the lien on the motor vehicle
 63 which resulted in foreclosure; or

64 (4) If the abandoned motor vehicle came into the possession of the person creating the
 65 lien at the request of a member of the Georgia State Patrol or other employee of the State
 66 of Georgia, the proceeds of the sale shall be divided equally and paid into the general

67 fund of the county in which the sale was made and to the person who placed the lien on
68 the motor vehicle which resulted in foreclosure."