

Senate Bill 446

By: Senators Harper of the 7th and Mullis of the 53rd

AS PASSED SENATE

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 revise the times for which a motor vehicle or trailer
 3 becomes an abandoned motor vehicle; to revise and provide for definitions; to revise
 4 requirements for the identification of removed or stored motor vehicles; to revise and provide
 5 for notice requirements; to revise requirements for the process of selling abandoned motor
 6 vehicles that have acquired a lien; to provide for a lien foreclosure process through the
 7 Department of Revenue for the sale of abandoned motor vehicles that have acquired a lien
 8 where no petition for a judicial hearing is filed; to revise requirements for the determination
 9 and disposition of derelict motor vehicles; to provide for related matters; to repeal conflicting
 10 laws; and for other purposes.

11 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

12 **SECTION 1.**

13 Chapter 11 of Title 40 of the Official Code of Georgia Annotated, relating to abandoned
 14 motor vehicles, is amended by revising Article 1, relating to general provisions, as follows:

15 "ARTICLE 1

16 40-11-1.

17 As used in this article, the term:

18 (1) 'Abandoned motor vehicle' means a motor vehicle ~~or trailer~~:

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

25 (B) Which ~~is~~ has been left unattended on a public street, road, or highway or other
 26 public property for a period of at least five days and when it reasonably appears to a law
 27 enforcement officer that the individual who left such motor vehicle unattended does not
 28 intend to return and remove such motor vehicle. However, on the state highway
 29 system, any law enforcement officer may authorize the immediate removal of vehicles
 30 posing a threat to public health or safety or to mitigate congestion;

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

34 (D) Which has been lawfully towed onto the property of another at the request of a
 35 property owner on whose property the vehicle was abandoned and left there for a period
 36 of not less than 30 days without anyone having paid all reasonable current charges for
 37 such towing and storage; or

38 (E) Which has been left unattended on private property for a period of not less than 30
 39 days.

40 (2) 'Authorized entity' means the Department of Revenue or any other public or private
 41 entity with access to owner records through contract or agreement with the state.

42 (3) 'Motor vehicle' or 'vehicle' means a ~~motor vehicle~~ every device which is
 43 self-propelled other than an electric personal assistive mobility device, or a trailer.

44 ~~(3)~~(4) 'Owner' or 'owners' means the registered owner, the owner as recorded on the title,
 45 lessor, lessee, security interest holders, and all lienholders as shown on the records of the
 46 Department of Revenue or the records from the vehicle's state of registration.

47 (5) 'Trailer' means every device, with or without motive power, designed for carrying
 48 persons or property and for being drawn by a device which is self-propelled.

49 40-11-2.

50 (a) ~~Any person who removes a motor vehicle from public property at the request of a law~~
 51 ~~enforcement officer or stores such vehicle shall, if the owner of the vehicle or some person~~
 52 ~~acting for the owner is not present, seek the identity of and address of all known owners~~
 53 ~~of such vehicle from the law enforcement officer requesting removal of such, from such~~
 54 ~~officer's agency, from a local law enforcement agency for the jurisdiction in which the~~
 55 ~~remover's or storer's place of business is located, or from the State of Georgia by direct~~
 56 ~~electronic access as provided through its agencies and authorities within three business~~
 57 ~~days of removal. The local law enforcement agency shall furnish such information to the~~
 58 ~~person removing such vehicle within three business days after receipt of such request.~~

59 (b) Any person who removes a motor vehicle from private property at the request of the
 60 property owner or stores such vehicle shall, if the owner of the vehicle or some person

61 acting for the owner is not present, notify ~~in writing~~ a local law enforcement agency of the
 62 location of the vehicle, the manufacturer's vehicle identification number, license number,
 63 model, year, and make of the vehicle within three business days of the removal of such
 64 vehicle ~~and shall seek from the local law enforcement agency or from the State of Georgia~~
 65 ~~by direct electronic access as provided through its agencies and authorities the identity and~~
 66 ~~address of all known owners of such vehicle and any information indicating that such~~
 67 ~~vehicle is a stolen motor vehicle. The local law enforcement agency shall furnish such~~
 68 ~~information to the person removing such vehicle within three business days after receipt~~
 69 ~~of such request. Any person who removes a motor vehicle from public property at the~~
 70 ~~request of a law enforcement officer or from private property at the request of the property~~
 71 ~~owner or any person who stores such vehicle shall seek the identity and address of all~~
 72 ~~known owners and lienholders from a local law enforcement agency or from the state by~~
 73 ~~direct electronic access through an authorized entity within three business days of removal.~~
 74 Such person shall, within three business days of the removal of such vehicle, confirm
 75 whether there is any information indicating whether such vehicle is a stolen vehicle through
 76 an authorized entity or local law enforcement agency.

77 ~~(e)(b)~~ If any motor vehicle removed under conditions set forth in subsection (a) ~~or (b)~~ of
 78 this Code section is determined to be a stolen motor vehicle, the local law enforcement
 79 officer or agency or authorized entity shall notify the Georgia Crime Information Center
 80 of the location of such motor vehicle within 72 hours after receiving notice that such motor
 81 vehicle is a stolen vehicle.

82 ~~(d)(c)~~ If any motor vehicle removed under conditions set forth in subsection (a) ~~or (b)~~ of
 83 this Code section is determined not to be a stolen vehicle or is not a vehicle being repaired
 84 by a repair facility or is not being stored by an insurance company providing insurance to
 85 cover damages to the vehicle, the person removing or storing such motor vehicle shall,
 86 within seven calendar days of the day such motor vehicle was removed or one business day
 87 after the information is furnished to the remover or storer pursuant to subsection (a) ~~or (b)~~
 88 of this Code section, whichever is later, notify or cause to be notified all owners, if known,
 89 by written acknowledgment signed thereby or by certified or registered mail or statutory
 90 overnight delivery, of the location of such motor vehicle, the fees connected with removal
 91 and storage of such motor vehicle, and the fact that such motor vehicle will be deemed
 92 abandoned under this chapter unless the owner, security interest holder, or lienholder
 93 redeems such motor vehicle within 30 days of the day such vehicle was removed.

94 ~~(e)(d)~~ If none of the owners redeems such motor vehicle as described in subsection ~~(d)~~ (c)
 95 of this Code section, or if a vehicle being repaired by a repair facility or being stored by an
 96 insurance company providing insurance to cover damages to the vehicle becomes
 97 abandoned, the person removing or storing such motor vehicle shall, within seven calendar

98 days of the day such vehicle became an abandoned motor vehicle, give notice by electronic
 99 means, as provided by the State of Georgia through its ~~agencies~~ authorized entities and
 100 authorities, in writing; or by sworn statement; on the form prescribed by the state revenue
 101 commissioner, to the Department of Revenue with a research fee as fixed by rule or
 102 regulation payable to the Department of Revenue, stating the manufacturer's vehicle
 103 identification number; the license number; the fact that such vehicle is an abandoned
 104 motor vehicle; the model, year, and make of the vehicle; the date the vehicle became an
 105 abandoned motor vehicle; the date the vehicle was removed; and the present location of
 106 such vehicle; and requesting the name and address of all owners of such vehicle. If the
 107 ~~form~~ submitted form is rejected because of inaccurate or missing information, the person
 108 removing or storing the vehicle shall resubmit, within seven calendar days of the date of
 109 the rejection, a corrected ~~notice~~ form together with an additional research fee as fixed by
 110 rule or regulation payable to the Department of Revenue. Each subsequent corrected ~~notice~~
 111 form, if required, shall be submitted with an additional research fee as fixed by rule or
 112 regulation payable to the Department of Revenue. If a person removing or storing the
 113 vehicle has knowledge of facts which reasonably indicate that the vehicle is registered or
 114 titled in ~~a certain other~~ another state, such person shall check the motor vehicle records of
 115 that other state in the attempt to ascertain the identity of the owner of the vehicle. Research
 116 requests may be submitted and research fees made payable to the office of the tax
 117 commissioner and deposited in the general fund for the county in which the remover's or
 118 storer's place of business is located in lieu of the Department of Revenue, but in like
 119 manner, if such office processes motor vehicle records of the Department of Revenue.

120 ~~(f) Upon ascertaining the owners of such motor vehicle, the person removing or storing~~
 121 ~~such vehicle shall, within five calendar days, by certified or registered mail or statutory~~
 122 ~~overnight delivery, notify all known owners of the vehicle of the location of such vehicle~~
 123 ~~and of the fact that such vehicle is deemed abandoned and shall be disposed of if not~~
 124 ~~redeemed.~~

125 (e) Upon ascertaining the owners of such motor vehicle, the person removing or storing
 126 such motor vehicle shall, within five calendar days, notify or cause to be notified all known
 127 owners of the vehicle by certified or registered mail, or statutory overnight delivery, of the
 128 location of such vehicle and of the fact that such vehicle is deemed abandoned and shall
 129 be disposed of if not redeemed or if an owner has not filed a petition for a judicial hearing
 130 within ten days of delivery or attempted delivery of the notice to the appropriate address.
 131 Any such vehicle owner who files a petition for a judicial hearing shall pay all filing fees
 132 required by the court and shall also notify the person storing the vehicle of such filing
 133 within three business days of such filing date by certified or registered mail or statutory
 134 overnight delivery.

135 ~~(g)~~(f) If the identity of the owners of such motor vehicle cannot be ascertained, the person
 136 removing or storing such vehicle shall place an advertisement in a newspaper of general
 137 circulation in the county where such vehicle was obtained or, if there is no newspaper in
 138 such county, shall post such advertisement at the county courthouse in such place where
 139 other public notices are posted. Such advertisement shall run in the newspaper once a
 140 week for two consecutive weeks or shall remain posted at the courthouse for two
 141 consecutive weeks. The advertisement shall contain a complete description of the motor
 142 vehicle, its license and manufacturer's vehicle identification numbers, the location from
 143 where such vehicle was initially removed, the present location of such vehicle, and the fact
 144 that such vehicle is deemed abandoned and shall be disposed of if not redeemed.

145 ~~(h)~~(g) The Department of Revenue shall provide to the Georgia Crime Information Center
 146 all relevant information from sworn statements described in subsection ~~(e)~~ (d) of this Code
 147 section for a determination of whether the vehicles removed have been entered into the
 148 criminal justice information system as stolen vehicles. The results of the determination
 149 shall be provided electronically to the Department of Revenue.

150 ~~(i)~~(h) Any person storing a vehicle under the provisions of this Code section shall notify
 151 the Department of Revenue or other authorized agency if the vehicle is recovered, is
 152 claimed by the owner, is determined to be stolen, or for any reason is no longer an
 153 abandoned motor vehicle. Such notice shall be provided within seven calendar days of
 154 such event.

155 ~~(j)~~(i) If vehicle information on the abandoned motor vehicle is not in the files of the
 156 Department of Revenue, the department may require such other information or
 157 confirmation as it ~~determines~~ deems necessary or appropriate to determine the identity
 158 of the vehicle.

159 ~~(k)~~(j) Any person who does not provide the notice and information required by this Code
 160 section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished
 161 as for a misdemeanor, shall not be entitled to any storage fees, shall not be eligible to
 162 contract with or serve on a rotation list providing wrecker services for this state or any
 163 political subdivision thereof, and shall not be licensed by any municipal authority to
 164 provide removal of improperly parked cars under Code Section 44-1-13.

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

168 40-11-3.

169 (a) Any peace officer who finds a motor vehicle which has been left unattended on a
 170 public street, road, or highway or other public property for a period of at least five days

171 shall be authorized to cause such motor vehicle to be removed to a garage or other place
172 of safety, if such peace officer reasonably believes that the person who left such motor
173 vehicle unattended does not intend to return and remove such motor vehicle.

174 (b) Any law enforcement officer who finds a motor vehicle which has been left unattended
175 on the state highway system shall be authorized to cause such motor vehicle to be removed
176 immediately to a garage or other place of safety when such motor vehicle poses a threat to
177 public health or safety, or to mitigate congestion. Any peace officer who finds a motor
178 vehicle which has been left unattended on a public street, road, or highway or other public
179 property, other than the state highway system, shall be authorized ~~immediately~~ to cause
180 such motor vehicle to be removed immediately to a garage or other place of safety when
181 such motor vehicle poses a threat to public health or safety, or to mitigate congestion.

182 (c) Any peace officer who, under this Code section, causes any motor vehicle to be
183 removed to a garage or other place of safety shall be liable for gross negligence only.

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

191 (2) If the name and address of the last known registered owner of the motor vehicle is
192 are obtained from the Georgia Crime Information Center, the peace officer who causes
193 the motor vehicle to be removed shall, within three calendar days, make available to the
194 person removing such motor vehicle the name and address of the last known registered
195 owner of such motor vehicle, the owner of the motor vehicle as recorded on the title of
196 such vehicle, and all security interest holders or lienholders. If such information is not
197 available, the peace officer shall, within three calendar days, notify the person removing
198 or storing such vehicle of such fact.

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

203 40-11-3.1.

204 (a) It shall be the duty of any peace officer who discovers a motor vehicle which has been
205 left unattended on a public street, road, or highway or other public property to immediately
206 perform an unattended vehicle check on such motor vehicle, unless there is displayed on

207 such motor vehicle an unattended vehicle check card indicating that another peace officer
208 has already performed such an unattended vehicle check. For purposes of this Code
209 section, an unattended vehicle check shall consist of such actions as are reasonably
210 necessary to determine that the unattended vehicle does not contain an injured or
211 incapacitated person and to determine that the unattended vehicle does not pose a threat to
212 public health or safety.

213 (b) A peace officer completing an unattended vehicle check shall complete and attach to
214 the vehicle an unattended vehicle check card. Unattended vehicle check cards shall be in
215 such form, and shall be attached to vehicles in such manner, as may be specified by rule
216 or regulation of the Department of Public Safety; and to the extent that sufficient funds are
217 available to the department, the department may distribute such forms free of charge to law
218 enforcement agencies in this state. Unattended vehicle check cards shall be serially
219 numbered; shall be of a distinctive color and shape, so as to be readily visible to passing
220 motorists; and shall contain spaces for the investigating police officer to indicate the
221 location of the vehicle, the date and time of the completion of the unattended vehicle check,
222 and the name of such peace officer's law enforcement agency. A detachable stub, which
223 shall be filed with the investigating peace officer's law enforcement agency, shall bear the
224 same serial number and shall contain the same information, together with the identity of
225 the investigating peace officer and the license plate number and other pertinent identifying
226 information relating to the abandoned vehicle.

227 (c) Nothing in the Code section shall limit the otherwise applicable authority of a peace
228 officer to have an unattended motor vehicle removed to a garage or other place of safety.

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

232 40-11-3.2.

233 (a) It shall be unlawful for the owner or operator of a paid private parking lot or paid
234 private parking facility located within 500 feet of an establishment which serves alcoholic
235 beverages for consumption on the premises to remove, tow, or immobilize or cause to be
236 removed, towed, or immobilized a motor vehicle left in such lot or facility between
237 midnight and noon of the following day. Nothing in this Code section shall prohibit the
238 owner of such a parking lot or facility from charging a penalty not to exceed \$25.00 in
239 excess of normal parking fees for vehicles which remain on the property during such period
240 without authorization. No owner or operator of such a parking lot or facility shall be liable
241 for any damages to any motor vehicle remaining on the property during such period
242 without authorization. Nothing in this Code section shall prohibit a resident or a business

243 owner from towing or removing or causing to be towed or removed a motor vehicle left on
 244 private property. For purposes of this subsection, the terms 'paid private parking lot' and
 245 'paid private parking facility' mean private parking lots where the owner or operator of a
 246 motor vehicle pays a valuable consideration for the right to park in such parking lot or
 247 parking facility.

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

250 40-11-4.

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

256 (b) The lien acquired under subsection (a) of this Code section may be foreclosed in any
 257 court which is competent to hear civil cases, including, but not limited to, magistrate courts
 258 or by affidavit to the Department of Revenue, as provided for in Code Section 40-11-5.
 259 Liens shall be foreclosed in magistrate courts only when the amount of the lien does not
 260 exceed the jurisdictional limits established by law for such courts.

261 40-11-5.

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

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

265 (2) The person desiring to foreclose a lien on an abandoned motor vehicle shall, by
 266 certified or registered mail or statutory overnight delivery, make a demand upon the
 267 owners for the payment of the reasonable fees for removal and storage plus the costs of
 268 any notification or advertisement up to the date of retrieval or public sale of such vehicle
 269 with a copy to the Department of Revenue. Such written demand shall include an
 270 itemized statement of all charges and may be made concurrent with the notice required
 271 by subsection (f) of Code Section 40-11-2. Such demand shall be made on a form
 272 prescribed by rule or regulation of the Department of Revenue and shall notify the owner
 273 of his or her right to a judicial hearing to determine the validity of the lien. The demand
 274 shall further state that failure to return the written demand to the lien claimant, file with
 275 a court of competent jurisdiction a petition for a judicial hearing with a copy to the
 276 Department of Revenue, and provide the lien claimant with a copy of such petition, all
 277 within ten days of delivery of the lien claimant's written demand, shall effect a waiver of

278 the owner's right to such a hearing prior to sale. The form shall also provide the
 279 suspected owner with the option of disclaiming any ownership of the vehicle, and his or
 280 her affidavit to that effect shall control over anything contrary in the records of the
 281 Department of Revenue. No such written demand shall be required if the identity of the
 282 owner cannot be ascertained and the notice requirements of subsection ~~(g)~~ (f) of Code
 283 Section 40-11-2 have been complied with;

284 (3)~~(A)~~ If, within ten days of delivery to the appropriate address of the written demand
 285 required by paragraph (2) of this Code section, the owner of the abandoned motor vehicle
 286 fails to pay or file with the court a petition for a judicial hearing with a copy to the lien
 287 claimant and the Department of Revenue in accordance with the notice provided pursuant
 288 to paragraph (2) of this Code section, or if the owner of the abandoned motor vehicle
 289 cannot be ascertained, the person removing or storing the abandoned motor vehicle may
 290 foreclose such lien. The person asserting such lien may move to foreclose by making an
 291 affidavit to ~~a court of competent jurisdiction~~ the Department of Revenue, on a form
 292 prescribed by rule or regulation of the Department of Revenue, showing all facts
 293 necessary to constitute such lien and the amount claimed to be due. The Department of
 294 Revenue shall provide for a filing fee of not more than \$20.00 per motor vehicle for such
 295 affidavit by rules and regulations. Such affidavit shall aver that the notice requirements
 296 of Code Section 40-11-2 have been complied with, and such affidavit shall also aver that
 297 a demand for payment in accordance with paragraph (2) of this Code section has been
 298 made without satisfaction or without a timely filing of a petition for a judicial hearing or
 299 that the identity of the owner cannot be ascertained. Such affidavit shall aver that three
 300 business days have passed since the expiration of such ten days. The person foreclosing
 301 shall verify the statement by oath or affirmation and shall affix his or her signature
 302 thereto. The Department of Revenue shall verify such affidavit against its records and
 303 publicly post such affidavit on its website in a searchable capacity within five business
 304 days of receiving such affidavit where, after five business days of such posting, the
 305 Department of Revenue shall issue a decision authorizing the sale of such motor vehicle;
 306 provided, however, that the holder of a security interest in or a lien on the vehicle, other
 307 than the holder of a lien created by Code Section 40-11-4, shall have the right, in the
 308 order of priority of such security interest or lien, to pay the debt and costs within the five
 309 business days. If the holder of a security interest or lien does so pay the debt and costs,
 310 he or she shall have the right to possession of the vehicle, and his or her security interest
 311 in or lien on such vehicle shall be increased by the amount so paid; provided, however,
 312 that this shall not be construed to be a sale of the vehicle;

313 ~~(B) Regardless of the court in which the affidavit required by this paragraph is filed,~~
 314 ~~the fee for filing such affidavit shall only be \$10.00 per motor vehicle upon which a lien~~

315 ~~is asserted. Notwithstanding any law to the contrary, the affidavit filing fee shall not~~
 316 ~~be taxed nor shall any additional fee or surcharge be assessed for such filing.~~

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

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

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

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

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

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

346 40-11-6.

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

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

350 (B) At which those attending shall be given the opportunity to bid on a competitive
351 basis;

352 (C) At which the sale, if made, shall be made to the highest and best bidder; and

353 (D) Except as otherwise provided in Title 11 for advertising or dispensing with the
354 advertising of public sales, of which notice is given by advertisement once a week for
355 two weeks in the newspaper in which the sheriff's advertisements are published in the
356 county where the sale is to be held, and which notice shall state the day and hour,
357 between 9:00 A.M. and 5:00 P.M., and the place of sale and shall briefly identify the
358 goods to be sold.

359 (2) Upon order of the court or authorization of sale by the Department of Revenue, the
360 person holding the lien on the abandoned motor vehicle shall be authorized to sell such
361 motor vehicle at public sale.

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

368 40-11-7.

369 The purchaser at a sale as authorized in this article shall receive a ~~certified~~ copy of the
370 court order ~~authorizing~~ or authorization for such sale. Any such purchaser may obtain a
371 certificate of title to such motor vehicle by filing the required application; paying the
372 required fees, and filing a ~~certified~~ copy of the ~~court order of the court~~ or authorization with
373 the Department of Revenue. The Department of Revenue shall then issue a certificate of
374 title, which shall be free and clear of all liens and encumbrances.

375 40-11-8.

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

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

384 general fund of the municipality, if any, in which the sale was made; and to the person
385 who placed the lien on the motor vehicle which resulted in foreclosure;

386 (2) If the abandoned motor vehicle came into the possession of the person creating the
387 lien at the request of a police officer of a municipality, the proceeds of the sale shall be
388 divided equally and paid into the state treasury, if sold pursuant to paragraph (3) of Code
389 Section 40-11-5; the general fund of the municipality; and to the person who placed the
390 lien on the motor vehicle which resulted in foreclosure;

391 (3) If the abandoned motor vehicle came into the possession of the person creating the
392 lien at the request of a county sheriff, deputy sheriff, or county police officer, the
393 proceeds of the sale shall be divided equally and paid into the state treasury, if sold
394 pursuant to paragraph (3) of Code Section 40-11-5; the general fund of the county in
395 which the sale was made; and to the person who placed the lien on the motor vehicle
396 which resulted in foreclosure; or

397 (4) If the abandoned motor vehicle came into the possession of the person creating the
398 lien at the request of a member of the Georgia State Patrol or other employee of the State
399 of Georgia, the proceeds of the sale shall be divided equally and paid into the state
400 treasury, if sold pursuant to paragraph (3) of Code Section 40-11-5; the general fund of
401 the county in which the sale was made; and to the person who placed the lien on the
402 motor vehicle which resulted in foreclosure.

403 40-11-9.

404 (a) If a motor vehicle has been left unattended on private property for not less than two
405 days or on public property for not less than three days without the owner or driver making
406 any attempt to recover such vehicle or to leave a conspicuously placed note that such owner
407 or driver intends to return for such vehicle; or, if a conspicuous note was left, if the motor
408 vehicle has been left unattended for not less than five days and if because of damage,
409 vandalism, theft, or fire the vehicle is damaged to the extent that its restoration to an
410 operable condition would require the replacement of one or more major component parts
411 or involves any structural damage that would affect the safety of the vehicle; or if there is
412 evidence that the vehicle was inoperable due to major mechanical breakdown at the time
413 it was left on the property, such as the engine, transmission, or wheels missing, no coolant
414 in the cooling system, no oil in the engine, or burned fluid in the transmission; or if the
415 vehicle is seven or more years old; or if the vehicle is not currently tagged or is not
416 verifiable by the state as to who is the current owner or lienholder of the vehicle; or if the
417 vehicle has been abandoned to a wrecker service by an insurance company and the owner
418 following the insurance company's making a total loss payment, then any person removing
419 such vehicle shall within 72 hours of removing such vehicle obtain the identity of and

420 address of the last known registered owner of the vehicle, the owner of the vehicle as
421 recorded on the certificate of title of such vehicle, and any security interest holder or
422 lienholder on such vehicle from the local law enforcement agency of the jurisdiction in
423 which the vehicle was located. If the law enforcement agency shows no information on the
424 vehicle, then a request for such information shall be sent to the Department of Revenue.
425 Within 72 hours after obtaining such information, the person removing such vehicle shall,
426 by certified ~~mail~~ or registered mail or statutory overnight delivery, return receipt requested,
427 notify the registered owner, title owner, and security interest holder or lienholder of the
428 vehicle that such vehicle will be declared a derelict vehicle and the title to such vehicle will
429 be canceled by the Department of Revenue if such person or persons fail to respond within
430 ten days of receipt of such notice. The state revenue commissioner shall prescribe the form
431 and content of such notice. If the registered owner, title owner, or security interest holder
432 or lienholder fails to respond within 30 days from the date of such notice by certified or
433 registered mail or statutory overnight delivery, and if the vehicle is appraised as having a
434 total value of less than ~~\$300.00~~ \$600.00, the vehicle shall be considered to be a derelict
435 vehicle. The value of the vehicle shall be determined as 50 percent of the wholesale value
436 of a similar car in the rough section of the *National Auto Research Black Book, Georgia*
437 *Edition*, or if a similar vehicle is not listed in such book or, regardless of the model year or
438 book value of the vehicle, if the vehicle is completely destroyed by fire, flood, or
439 vandalism or is otherwise damaged to the extent that restoration of the vehicle to a safe
440 operable condition would require replacement of more than 50 percent of its major
441 component parts, the person who removed the vehicle shall obtain an appraisal of the motor
442 vehicle from the local law enforcement ~~agency's auto-theft section~~ agency with jurisdiction
443 in the county or municipality where such vehicle is located. Any person removing a
444 vehicle shall complete a form, to be provided by the Department of Revenue, indicating
445 that the vehicle meets at least four of the above-stated eight conditions for being a derelict
446 vehicle and shall file such form with the Department of Revenue and the law enforcement
447 agency with jurisdiction from which such vehicle was removed.

448 (b) Upon determination that a vehicle is a derelict motor vehicle as provided in subsection
449 (a) of this Code section, it may be disposed of by sale to a person who scraps, dismantles,
450 or demolishes motor vehicles, provided that such vehicle may be sold for scrap or parts
451 only and shall in no event be rebuilt or sold to the general public. Any person disposing
452 of a derelict motor vehicle shall, prior to disposing of such vehicle, photograph such
453 vehicle and retain with such photograph the appraisal required in subsection (a) of this
454 Code section and the notice to the Department of Revenue required in this subsection for
455 a period of three years after its disposition. Such person shall also notify the Department
456 of Revenue of the disposition of such vehicle in such manner as may be prescribed by the

457 state revenue commissioner. The Department of Revenue shall cancel the certificate of
458 title for such vehicle and shall not issue a rebuilt or salvage title for such vehicle.

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

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

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

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

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

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

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

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

489 40-11-10.

490 (a) As used in this Code section, the term 'contents' means only the following:

491 (1) Prescription drugs or eyewear;

- 492 (2) Personal documents, including, but not limited to, birth records, passports, or death
493 records;
- 494 (3) Firearms;
- 495 (4) Medical devices;
- 496 (5) Child safety restraining devices; or
- 497 (6) Keys, except the keys to the abandoned motor vehicle.
- 498 (b) Any person who stores an abandoned motor vehicle pursuant to the provisions of this
499 article shall allow the owner of such vehicle to retrieve the contents from such vehicle, and
500 the owner of a motor vehicle shall be allowed to retrieve contents and any other item from
501 such vehicle if such retrieval occurs within the first 30 days that such vehicle is stored.
- 502 (c) Prior to the sale or other final disposition of an abandoned motor vehicle, if the person
503 who stores such vehicle locates contents, as defined in paragraphs (1) through (3) of
504 subsection (a) of this Code section, in such vehicle, such person shall surrender such
505 contents to the nearest law enforcement agency."

506 **SECTION 2.**

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