

House Bill 307 (COMMITTEE SUBSTITUTE)

By: Representatives Powell of the 32nd, Ridley of the 6th, Corbett of the 174th, and Harrell of the 106th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 10 of Title 15 of the Official Code of Georgia Annotated, relating to
2 magistrate courts, so as to provide for jurisdiction of such courts; to provide for filing certain
3 documents electronically; to amend Chapter 3 and Chapter 11 of Title 40 of the Official
4 Code of Georgia Annotated, relating to certificates of title, security interests, and liens and
5 abandoned motor vehicles, respectively, so as to provide for issuance of a replacement
6 certificate of title under certain conditions, to repeal Article 1 of Chapter 11, relating to
7 abandoned and derelict vehicles, and to enact a new Article 1; to provide for a short title; to
8 provide for legislative intent; to provide for definitions; to provide for unattended motor
9 vehicle checks by peace officers; to provide for procedures, conditions, and limitations for
10 the removal of unattended motor vehicles from public or private property; to prohibit the
11 removal of vehicles left in private lots in certain instances; to provide for conditions for the
12 removal of items from a motor vehicle stored without the consent of the owner; to provide
13 for notice of certain information relating to a motor vehicle removed and stored without the
14 consent of the owner; to provide for the creation of a lien upon a motor vehicle removed and
15 stored without the consent of an owner; to provide for recoverable fees; to provide for
16 procedures, conditions, and limitations for the foreclosure of such lien; to provide for a
17 public sale process; to provide for submission of proceeds from such public sale to the
18 Department of Revenue to be treated as unclaimed property; to provide for a process for
19 obtaining a new motor vehicle title for a motor vehicle purchased at a public sale; to amend
20 Article 5 of Chapter 12 of Title 44 of the Official Code of Georgia Annotated, relating to
21 disposition of unclaimed property, so as to provide for proceeds from the sale of an
22 abandoned motor vehicle after satisfaction of a lien to be deposited with the commissioner
23 of revenue; to provide for publication of "Georgia Unclaimed Property List"; to provide for
24 related matters; to repeal conflicting laws; and for other purposes.

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B. 307 (SUB)

26 **SECTION 1.**

27 Chapter 10 of Title 15 of the Official Code of Georgia Annotated, relating to magistrate
28 courts, is amended by revising Code Section 15-10-2, relating to general jurisdiction, as
29 follows:

30 "15-10-2.

31 Each magistrate court and each magistrate thereof shall have jurisdiction and power over
32 the following matters:

- 33 (1) The hearing of applications for and the issuance of arrest and search warrants;
34 (2) Issuance of warrants and related proceedings as provided in Article 4 of Chapter 6
35 of Title 17, relating to bonds for good behavior and bonds to keep the peace;
36 (3) The holding of courts of inquiry;
37 (4) The trial of charges of violations of county ordinances and penal ordinances of state
38 authorities;
39 (5) The trial of civil claims including garnishment and attachment in which exclusive
40 jurisdiction is not vested in the superior court and the amount demanded or the value of
41 the property claimed does not exceed \$15,000.00, provided that no prejudgment
42 attachment may be granted;
43 (6) The issuance of summons, trial of issues, and issuance of writs and judgments in
44 dispossessory proceedings and distress warrant proceedings as provided in Articles 3 and
45 4 of Chapter 7 of Title 44;
46 (7) The punishment of contempts by fine not exceeding \$200.00 or by imprisonment not
47 exceeding ten days or both;
48 (8) The administration of any oath which is not required by law to be administered by
49 some other officer;
50 (9) The granting of bail in all cases where the granting of bail is not exclusively
51 committed to some other court or officer;
52 (10) The issuing of subpoenas to compel attendance of witnesses in the magistrate court
53 and subpoenas for the production of documentary evidence before the magistrate court;
54 (11) Such other matters as are committed to their jurisdiction by other general laws;
55 (12) The trial and sentencing of misdemeanor violations of Code Section 16-9-20,
56 relating to criminal issuance of bad checks, as provided by Article 10 of this chapter;
57 (13) The execution or subscribing and the acceptance of written waivers of extradition
58 in the same manner provided for in Code Section 17-13-46;
59 (14) The trial and sentencing of misdemeanor violations of other Code sections as
60 provided by Article 13 of this chapter;
61 (15) The foreclosure of liens on animals as established in Title 4; and

- 62 (16) The foreclosure of liens on abandoned mobile homes as established in Article 6 of
 63 Chapter 7 of Title 44; and
 64 (17) The foreclosure of liens on abandoned motor vehicles as established in Article 1 of
 65 Chapter 11 of Title 40, "The Abandoned Motor Vehicle Act."

66 **SECTION 2.**

67 Said chapter is further amended in Code Section 15-10-53, relating to filing of documents
 68 in magistrate court by electronic means, by revising subsection (a) as follows:

69 "(a) Any magistrate court may provide for the filing of civil, garnishment, distress warrant,
 70 dispossessory, foreclosure, ~~abandoned motor vehicle~~, and all other noncriminal actions,
 71 claims, answers, counterclaims, pleadings, postjudgment interrogatories, and other
 72 documents by electronic means."

73 **SECTION 3.**

74 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is
 75 amended in Code Section 40-3-36, relating to cancellation of certificate of title for scrap,
 76 dismantled, or demolished vehicles or trailers, salvage certificate of title, administrative
 77 enforcement, and removal of license plates, by revising subparagraph (a)(4)(C) as follows:

78 "(C)(i) Any insurance company which acquires a damaged motor vehicle by virtue
 79 of having paid a total loss claim shall mail or deliver the certificate of title to the
 80 commissioner for cancellation. If an insurance company or its authorized agent is
 81 unable to obtain a certificate of title within 30 days after acceptance by the motor
 82 vehicle owner of a total loss claim through a signed settlement agreement which
 83 contains a condition that the certificate of title shall be transferred to the insurance
 84 company or its authorized agent, the insurance company or its authorized agent may
 85 apply to the department for a replacement certificate of title on a form provided by the
 86 department for such purpose. Such application shall require submission of evidence
 87 that the insurance company or its authorized agent has fulfilled the settlement
 88 agreement through payment of a total loss claim and has made two or more written
 89 or other verifiable forms of communication with the owner in order to obtain such
 90 owner's certificate of title. Any replacement certificate of title issued by the
 91 department pursuant to this subdivision shall comply with any applicable
 92 requirements relating to salvage, rebuilt, or restored certificates of title in this Code
 93 section and Code Section 40-3-37.

94 (ii) In every case in which a total loss claim is paid and the insurance company does
 95 not acquire such damaged motor vehicle, the insurance company paying such total
 96 loss claim, the vehicle owner, and the lienholder or security interest holder, as

97 applicable, shall take the following steps to secure a salvage certificate of title for
98 such motor vehicle:

99 (i)(I) If the vehicle owner is in possession of the certificate of title, the owner shall
100 deliver the certificate of title to the insurance company prior to any payment of the
101 claim, and the insurance company shall mail or deliver the certificate of title, an
102 application for a salvage certificate of title, and the form provided by the
103 commissioner for issuance of a salvage certificate of title;

104 (ii)(II) If the certificate of title has been lost, destroyed, or misplaced, the vehicle
105 owner shall, prior to payment of the claim on such vehicle, complete an application
106 for a replacement title on the form provided by the commissioner and deliver such
107 application and form to the insurance company and the insurance company shall
108 mail or deliver such application and form to the commissioner for issuance of a
109 replacement original title marked salvage;

110 (iii)(III) If the lienholder or security interest holder has possession of the certificate
111 of title, the vehicle owner shall complete an application for a replacement title on
112 a form provided by the commissioner and shall deliver the completed form to the
113 insurance company prior to the payment of the claim; the insurance company shall
114 thereafter mail or deliver the application to the commissioner with notice of the
115 payment of the total loss claim and the name and address of the lienholder or
116 security interest holder in possession of the title. The commissioner shall mail
117 notice to the lienholder or security interest holder that a total loss claim has been
118 paid on the vehicle and that the title to such vehicle has been canceled, and the
119 commissioner shall provide to the lienholder or security interest holder a salvage
120 certificate of title for such vehicle, provided that the validity of the security interest
121 shall not be affected by issuance of a salvage certificate of title. The lienholder or
122 security interest holder shall, within ten days after receipt of such notice of total loss
123 claim and cancellation of the original certificate of title, mail or deliver the canceled
124 original certificate of title to the commissioner; or

125 (iv)(IV) For the sole purpose of payment of a total loss claim, for any vehicle ten
126 years of age or older for which neither the vehicle owner nor the lienholder or
127 security interest holder, if any, possesses a certificate of title, the vehicle owner
128 shall deliver the vehicle license plate and certificate of registration for such vehicle
129 to the insurance company prior to payment of any claim and the insurance company
130 shall mail or deliver the license plate and certificate of registration to the
131 commissioner with a completed form provided by the commissioner; provided,
132 however, that the vehicle owner shall not operate such vehicle and the owner shall

133 obtain a certificate of title for such vehicle as provided by law, which certificate of
 134 title shall then be subject to cancellation as provided in this paragraph."

135 **SECTION 4.**

136 Said title is further amended in Chapter 11 relating to abandoned motor vehicles by repealing
 137 Article 1, relating to abandoned and derelict vehicles, and enacting a new Article 1 to read
 138 as follows:

139 "ARTICLE 1

140 40-11-1.

141 The article shall be known and may be cited as the 'Abandoned Motor Vehicle Act.'

142 40-11-2.

143 The intent of the General Assembly is to provide a comprehensive and streamlined process
 144 for businesses removing motor vehicles from public rights of way and private or public
 145 property to recover the costs associated with this work while balancing the rights of a
 146 motor vehicle owner, when a motor vehicle has been abandoned or unclaimed. Businesses
 147 removing motor vehicles from public rights of way and private property without the
 148 consent of an owner are regulated by the Department of Public Safety pursuant to Code
 149 Section 44-1-13 and, as such, the recoverable fees for these businesses are limited. When
 150 executed at the request of law enforcement, these businesses perform an essential public
 151 function of keeping highways in this state free from obstructions that could cause a threat
 152 to public health or safety or cause traffic congestion. As a result of licensure, these
 153 businesses often incur great costs in performing this service but are unable to recover the
 154 full amounts expended. The intent of the General Assembly is to allow such businesses to
 155 continue to remove abandoned vehicles at the request of law enforcement and private
 156 property owners, by providing a method for obtaining excess funds from the sale of
 157 abandoned and unclaimed vehicles and applying those funds as reimbursements for
 158 unrecovered expenses of such businesses, which will allow them to remain viable and to
 159 minimize any financial loss in performing this important public safety function.

160 40-11-3.

161 As used in this article, the term:

162 (1) 'Day' means a business day unless otherwise stated and shall not include Saturdays,
 163 Sundays, and legal holidays recognized by the state.

164 (2) 'Department' means the Department of Revenue or any entity that has an agreement
165 with such department to serve as an authorized entity to access information relating to
166 motor vehicle ownership and disseminate such information upon request.

167 (3) 'Motor vehicle' means every trailer and vehicle which is self-propelled.

168 (4) 'Owner' means any secured interest holder and person listed on the registration of a
169 motor vehicle found in the records of the department or in the records of the state where
170 the vehicle is registered.

171 (5) 'Paid private parking lot' means private property where the owner or operator of a
172 motor vehicle pays a valuable consideration for the right to park in such location and
173 which is located within 500 feet of an establishment that serves alcoholic beverages for
174 consumption on the premises.

175 (6) 'Repair facility' means any person maintaining physical custody of a motor vehicle
176 for repairs that have been requested or authorized by an owner or by an insurance
177 company acting on behalf of an owner.

178 (7) 'Salvage dealer' means any person taking possession of a motor vehicle from or upon
179 request from an insurance company which is damaged to the extent that its restoration to
180 an operable condition would require the replacement of two or more major component
181 parts or for which the insurance company has paid a total loss claim and has been unable
182 to obtain a certificate of title.

183 (8) 'Secured interest holder' means a secured party within the meaning of Code Section
184 11-9-102 or a person with a perfected encumbrance pertaining to an interest in a motor
185 vehicle.

186 (9) 'Towing and storage firm' means any person regulated by the Department of Public
187 Safety and in compliance with requirements set forth in Code Section 44-1-13 who
188 removes a motor vehicle from private or public property with or without the consent of
189 the motor vehicle owner or authorized user and provides storage for such motor vehicle
190 after removal.

191 (10) 'Trailer' means a vehicle with or without motive power designed to be drawn by a
192 motor vehicle; provided, however, that such term shall not include a mobile home as such
193 term is set forth in Code Section 8-2-160 unless such vehicle was left unattended on
194 public property and its removal was requested by a peace officer.

195 40-11-4.

196 (a) Any peace officer who discovers a motor vehicle which has been left unattended on a
197 highway or other public property shall immediately perform an unattended vehicle check
198 on such motor vehicle, unless an unattended vehicle check card is displayed on such motor
199 vehicle, indicating that an unattended vehicle check has been previously performed. For

200 purposes of this Code section, an unattended vehicle check shall consist of such actions as
201 are reasonably necessary to determine that the unattended vehicle does not contain an
202 injured or incapacitated person and to determine that the unattended vehicle does not pose
203 a threat to public health or safety or traffic congestion.

204 (b) A peace officer who completes an unattended motor vehicle check shall attach the
205 completed check card to the vehicle. Unattended vehicle check cards shall be in such form
206 and shall be attached to vehicles in such manner as may be specified by rule or regulation
207 of the Department of Public Safety. Unattended vehicle check cards shall be serially
208 numbered; shall be of a distinctive color and shape, so as to be readily visible to passing
209 motorists; and shall contain spaces for the investigating peace officer to set forth the
210 location of the vehicle, the date and time of the completion of the unattended vehicle check,
211 and the name of his or her law enforcement agency. Detachable stubs shall be included
212 upon such unattended vehicle check cards and shall bear the same serial number and
213 provide for the same information as the portion of the unattended vehicle check card to be
214 left on the vehicle, shall include a space to identify the investigating peace officer, and shall
215 include a space for the officer to set forth the license plate number and other pertinent
216 identifying information relating to the unattended vehicle. Completed detachable stubs
217 shall be filed with the investigating peace officer's law enforcement agency. The
218 Department of Public Safety may provide unattended vehicle check cards free of charge
219 to law enforcement agencies in this state if sufficient funds for such purpose are available
220 to the Department of Public Safety.

221 (c) It shall be unlawful for any person other than a peace officer to attach any type of
222 unattended motor vehicle check card to a motor vehicle. Any person convicted of violating
223 this subsection shall be guilty of a misdemeanor.

224 (d) Within 24 hours of completing an unattended vehicle check, an investigating peace
225 officer shall contact the Georgia Crime Information Center to determine if the unattended
226 motor vehicle has been entered into the criminal justice information system as a stolen
227 vehicle. If an unattended vehicle has been reported as stolen, the peace officer shall place
228 a phone call to the law enforcement agency that filed such report, providing the location
229 of the motor vehicle. The law enforcement agency receiving such phone call shall notify
230 the owner of the vehicle of the location of the motor vehicle.

231 40-11-5.

232 (a) Any peace officer who finds a motor vehicle which has been left unattended on a
233 highway for more than five days, as evidenced by the date on an unattended vehicle check
234 card, may cause such motor vehicle to be removed to a garage or other place of safety.

235 (b) Any peace officer who finds a motor vehicle which has been left unattended on a
236 highway and which poses an immediate threat to public health or safety or traffic
237 congestion, may cause such motor vehicle to be removed to a garage or other place of
238 safety. Within 24 hours of causing an unattended motor vehicle to be removed pursuant
239 to this subsection, the peace officer shall contact the Georgia Crime Information Center to
240 determine if the unattended motor vehicle has been entered into the criminal justice
241 information system as a stolen vehicle. If a removed vehicle has been reported as stolen,
242 the peace officer shall place a phone call to the law enforcement agency that filed such
243 report, providing the name and address of the towing and storage firm that removed the
244 motor vehicle. The law enforcement agency receiving such phone call shall notify the
245 owner of the vehicle of the location of the motor vehicle.

246 (c) Any peace officer who causes an unattended motor vehicle to be removed pursuant to
247 this Code section shall be liable only for gross negligence.

248 (d) A towing and storage firm that has removed an unattended motor vehicle from public
249 property at the request of a peace officer shall, within one day of the removal, request from
250 the department the identification and addresses of all owners of such vehicle contained in
251 the records of the department and data bases of the state where such vehicle is registered.
252 The department shall furnish the requested owner information no later than five days from
253 the date the request was received. The department may charge a fee of no more than \$2.00
254 for such owner information.

255 40-11-6.

256 (a)(1) Any towing and storage firm which has removed an unattended motor vehicle
257 from private property at the request of the property owner shall, within one day of the
258 removal, request from the department the identification and addresses of all owners of
259 such vehicle contained in the records of the department and data bases of the state where
260 such vehicle is registered. The department shall furnish the requested owner information
261 no later than five days from the date the request was received. The department may
262 charge a fee of no more than \$2.00 for such owner information.

263 (2) The towing and storage firm shall submit a copy of the request described in
264 subsection (a) of this Code section by hand delivery, electronic transmission, or
265 telephonic facsimile transmission to the law enforcement agency with jurisdiction over
266 the location from where the motor vehicle was removed no later than one day after
267 submission of the request to the department. Within 24 hours of receipt of the copy of
268 the request described in subsection (a) of this Code section, the local law enforcement
269 agency shall contact the Georgia Crime Information Center to determine if such motor
270 vehicle has been entered into the criminal justice information system as a stolen vehicle.

271 If such vehicle has been reported as stolen, the local law enforcement agency shall place
 272 a phone call to the law enforcement agency that filed such report, providing the name and
 273 address of the towing and storage firm who submitted a copy of the request described in
 274 subsection (a) of this Code section. The law enforcement agency receiving such phone
 275 call shall notify the owner of the vehicle of the location of the vehicle and contact
 276 information for the towing and storage firm and shall inform the towing and storage firm
 277 that the vehicle has been reported as stolen.

278 (b) Any salvage dealer which has been in possession of a motor vehicle for 15 days
 279 without communication from an owner or insurance company, shall request from the
 280 department the identification and addresses of all owners of such vehicle contained in the
 281 records of the department and data bases of the state where such vehicle is registered. The
 282 department shall furnish the requested owner information no later than five days from the
 283 date the request was received. The department may charge a fee of no more than \$2.00 for
 284 such owner information.

285 40-11-7.

286 (a) It shall be unlawful for any person to remove, tow, or immobilize or cause to be
 287 removed, towed, or immobilized a motor vehicle left in a paid private parking lot between
 288 midnight and noon of the following day. Nothing in this Code section shall prohibit the
 289 owner or operator of a paid private parking lot from charging a penalty for vehicles which
 290 remain in a paid private parking lot during such period without authorization. Such penalty
 291 shall not exceed \$25.00 in excess of normal parking fees. No owner or operator of a paid
 292 private parking lot shall be liable for any damages to any motor vehicle remaining in a paid
 293 private parking lot during such period without authorization. Nothing in this Code section
 294 shall prohibit a resident or a business owner who is not an owner or operator of a paid
 295 private parking lot from towing, removing, immobilizing, or causing to be towed, removed,
 296 or immobilized a motor vehicle left without authorization on private property.

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

299 40-11-8.

300 (a) For purposes of this Code section, the term 'personal items' shall include only the
 301 following:

302 (1) Prescription drugs or eyewear;

303 (2) Personal documents, including, but not limited to, birth records, passports, or death
 304 records;

305 (3) Firearms;

306 (4) Medical devices;

307 (5) Child safety restraining devices; or

308 (6) Keys, except the keys to the stored motor vehicle.

309 (b) A towing and storage firm, repair facility, or salvage dealer shall allow an owner of a
 310 vehicle to retrieve any items within a stored vehicle for up to 15 days from the date which
 311 notice was sent pursuant to Code Section 40-11-9. After the passage of 15 days from the
 312 date such notice was sent pursuant to Code Section 40-11-9, a towing and storage firm,
 313 repair facility, or salvage dealer shall allow an owner of a vehicle to retrieve personal items
 314 within a stored vehicle.

315 40-11-9.

316 (a)(1) Within 15 calendar days of removal or initial storage of a motor vehicle, a towing
 317 and storage firm shall send all owners by certified mail or statutory overnight delivery,
 318 return receipt requested, the notification letter form developed by the Council of
 319 Magistrate Court Judges for such purpose. Such notification letter shall include, at a
 320 minimum:

321 (A) The location of the vehicle;

322 (B) The fees connected with the removal of the vehicle, which shall be the maximum
 323 allowable charge for the removal of the motor vehicle as set forth by rule and regulation
 324 of the Department of Public Safety for maximum state-wide rate tariffs or the rate
 325 specified pursuant to an agreement with a local governing authority;

326 (C) The daily fees for storage of the vehicle, which shall be the maximum allowable
 327 daily rate for the storage of the motor vehicle as set forth by rule and regulation of the
 328 Department of Public Safety for maximum state-wide rate tariffs or the rate specified
 329 pursuant to an agreement with a local governing authority;

330 (D) A statement informing the recipient that daily fees will accrue until full payment
 331 has been made;

332 (E) A statement informing the recipient that the fees which are recoverable by a towing
 333 and storage firm include costs for obtaining the owner's information and notifying the
 334 owner, court filing costs, attorney's fees, and interest;

335 (F) A statement informing the recipient that the towing and storage firm has the right
 336 to petition a court to foreclose a lien for all amounts owed after 15 calendar days from
 337 the date such notice is received;

338 (G) A statement informing the recipient that a court may order the sale of the vehicle
 339 to satisfy the debt; and

340 (H) A form to disclaim ownership interest in the motor vehicle by oath or affirmation,
 341 with instructions and a brief summary of the legal consequences of executing such
 342 form.

343 (2) If the identity of the owners cannot be ascertained by the department, the department
 344 fails to timely furnish the owner information requested pursuant to Code Section 40-11-5
 345 or 40-11-6, or the proof that the notification letter required to be sent pursuant to this
 346 subsection has not been returned after ten days of such mailing, the towing and storage
 347 firm shall place an advertisement in a newspaper of general circulation or the legal organ
 348 in the county where such vehicle was obtained and shall post notice at the county
 349 courthouse in such place where other public notices are posted; provided, however, that
 350 in the event that a courthouse does not provide ability to post such notices, no posting
 351 shall be required. Such advertisements shall be placed no later than seven days after the
 352 vehicle was removed and shall run in the newspaper once a week for two consecutive
 353 weeks and shall remain posted at the courthouse for two consecutive weeks. The
 354 advertisement shall be in the form provided by the Council of Magistrate Court Judges
 355 for such purpose. Such advertisement form shall include, at a minimum, a space for
 356 describing the motor vehicle, its license and manufacturer's vehicle identification
 357 numbers, the location from where such vehicle was initially removed, the present location
 358 of such vehicle, any information available relating to an owner, the fact that such vehicle
 359 is subject to a lien which can be foreclosed upon, and the fact that such vehicle may be
 360 ordered sold to satisfy such lien.

361 (b) When a motor vehicle has been left with a repair facility for at least 15 days without
 362 payment of amounts owed or communication to the repair facility, the repair facility
 363 desiring to file a claim pursuant to 40-11-10 shall send all owners by certified mail or
 364 statutory overnight delivery, return receipt requested, the notification letter form developed
 365 by the Council of Magistrate Court Judges for such purpose. Such notification letter shall
 366 include, at a minimum:

367 (A) The location of the vehicle;

368 (B) The fees owed for the repair of the vehicle;

369 (C) The daily fees for storage of the vehicle after completion of the repairs, which shall
 370 be the maximum allowable daily rate for the storage of the motor vehicle as set forth
 371 by rule and regulation of the Department of Public Safety for maximum state-wide rate
 372 tariffs;

373 (D) A statement informing the recipient that daily fees will accrue until full payment
 374 has been made;

375 (E) A statement informing the recipient that the fees which are recoverable by the
 376 repair facility include costs for obtaining the owner's information and notifying the
 377 owner, court filing costs, attorney's fees, and interest;

378 (F) A statement informing the recipient that the repair facility has the right to petition
 379 a court to foreclose a lien for all amounts owed in 15 calendar days; and

380 (G) A statement informing the recipient that a court may order the sale of the vehicle
 381 to satisfy the debt; and

382 (H) A form to disclaim ownership interest in the motor vehicle by oath or affirmation,
 383 with instructions and a brief summary of the legal consequences of executing such
 384 form.

385 (c)(1) When a motor vehicle has been left with a salvage dealer for at least 15 days after
 386 determination by an insurance company to deny the owner's claim has been communicated
 387 to the salvage dealer, the salvage dealer desiring to file a claim pursuant to Code Section
 388 40-11-10 shall send all owners by certified mail or statutory overnight delivery, return
 389 receipt requested, the notification letter form developed by the Council of Magistrate Court
 390 Judges for such purpose. Such notification letter shall include, at a minimum:

391 (A) The location of the vehicle;

392 (B) The daily fees for storage of the vehicle, which shall be the maximum allowable
 393 daily rate for the storage of the motor vehicle as set forth by rule and regulation of the
 394 Department of Public Safety for maximum state-wide rate tariffs;

395 (D) A statement informing the recipient that daily fees will accrue until full payment
 396 has been made;

397 (E) A statement informing the recipient that the fees which are recoverable by the
 398 salvage dealer include costs for obtaining the owner's information and notifying the
 399 owner, court filing costs, attorney's fees, and interest;

400 (F) A statement informing the recipient that the salvage dealer has the right to petition
 401 a court to foreclose a lien for all amounts owed in 15 calendar days; and

402 (G) A statement informing the recipient that a court may order the sale of the vehicle
 403 to satisfy the debt; and

404 (H) A form to disclaim ownership interest in the motor vehicle by oath or affirmation,
 405 with instructions and a brief summary of the legal consequences of executing such
 406 form.

407 (2) If the identity of the owners cannot be ascertained by the department, the department
 408 fails to timely furnish the owner information requested pursuant to Code Section 40-11-6,
 409 or the proof that the notification letter required to be sent pursuant to this subsection has
 410 not been returned after ten days of such mailing, the salvage dealer shall place an
 411 advertisement in a newspaper of general circulation or the legal organ in the county

412 where such vehicle was obtained and shall post such notice at the county courthouse in
 413 such place where other public notices are posted; provided, however, that in the event a
 414 courthouse does not provide ability to post such notices, no such posting shall be
 415 required. Such advertisement shall be placed no later than seven days after the vehicle
 416 was removed and shall run in the newspaper once a week for two consecutive weeks and
 417 shall remain posted at the courthouse for two consecutive weeks. The advertisement shall
 418 be in the form provided by the Council of Magistrate Court Judges for such purpose.
 419 Such advertisement form shall include, at a minimum, a space for describing the motor
 420 vehicle, its license and manufacturer's vehicle identification numbers, the name of the
 421 insurance company from which the vehicle was obtained or which requested the vehicle
 422 removal, the present location of such vehicle, any information available relating to an
 423 owner, the fact that such vehicle is subject to a lien which can be foreclosed upon, and
 424 the fact that such vehicle may be ordered sold to satisfy such lien.

425 (d) Any towing and storage firm, repair facility, or salvage dealer shall have a lien upon
 426 a motor vehicle located upon its property in the amount of any unpaid recoverable fees
 427 upon compliance with the notice requirements of this Code section. Fees recoverable
 428 under such lien shall include:

429 (1)(A) The maximum allowable charge for the removal of the motor vehicle as set
 430 forth by rule and regulation of the Department of Public Safety for maximum state-wide
 431 rate tariffs; or

432 (B) For a towing and storage firm, the rate specified pursuant to an agreement with a
 433 local governing authority if the removal was upon the request of a peace officer, or the
 434 maximum allowable charge for the removal of the motor vehicle as set forth by rule and
 435 regulation of the Department of Public Safety for maximum state-wide rate tariffs if the
 436 removal was not upon the request of a peace officer;

437 (2)(A) The maximum allowable daily rate for the storage of the motor vehicle as set
 438 forth by rule and regulation of the Department of Public Safety for maximum state-wide
 439 rate tariffs multiplied by the number of days such motor vehicle has been stored minus
 440 one day; or

441 (B) For a towing and storage firm, the daily storage rate specified pursuant to an
 442 agreement with a local governing authority if the removal was upon the request of a
 443 peace officer, or the maximum allowable daily rate for storage of the motor vehicle as
 444 set forth by rule and regulation of the Department of Public Safety for maximum
 445 state-wide rate tariffs if the removal was not upon the request of a peace officer,
 446 multiplied by the number of days such motor vehicle has been stored minus one;

447 (3) The cost of obtaining owner information from the department pursuant to this article;

448 (4) The cost of any notification to owners required by this article, including any costs of
 449 advertising;

450 (5) The cost to file an action pursuant to Code Section 40-11-10;

451 (6) Attorney's fees, which shall be 15 percent of the total amount of the lien for
 452 recoverable fees; and

453 (7) Any prejudgment interest at a rate of 4 percent per annum.

454 Any fees listed as recoverable in this subsection paid to a towing and storage firm, repair
 455 facility, or salvage dealer by an owner or any third party shall not be included in a lien.

456 (e) The receipt of a properly notarized form disclaiming ownership in a motor vehicle shall
 457 be filed with the action provided for in Code Section 40-11-10, but shall not be deemed to
 458 relieve a towing and storage firm, repair facility, or salvage dealer of any obligation to any
 459 other owners of such vehicle under this article. Such form shall be evidence to be
 460 considered by the court in any action filed pursuant to Code Section 40-11-10.

461 40-11-10.

462 (a) Not sooner than 15 calendar days and not later than six months after compliance with
 463 the notice requirements set forth in Code Section 40-11-9, a towing and storage firm, repair
 464 facility, or salvage dealer may file an action for a statement of claim against the motor
 465 vehicle in any magistrate court in the judicial circuit where the motor vehicle is located.

466 An action filed pursuant to this Code section shall be on a form provided by the Council
 467 of Magistrate Court Judges for such purpose and shall be accompanied by a filing fee of
 468 no more than \$25.00. A towing and storage firm or salvage dealer bringing such action
 469 shall include with such form a copy of the owner information obtained pursuant to the
 470 request required by Code Section 40-11-5 or 40-11-6 and proof of compliance with the
 471 notice requirements set forth in Code Section 40-11-9. A repair facility bringing such
 472 action shall include with such form proof of compliance with the notice requirements set
 473 forth in Code Section 40-11-9. The statement of claim shall be verified by oath or
 474 affirmation by the towing and storage firm, repair facility, or salvage dealer in a manner
 475 consistent with Article 5 of Chapter 10 of Title 9.

476 (b)(1) The party bringing such claim shall send a copy of the filed claim to any person
 477 known to be an owner of the motor vehicle by certified mail or statutory overnight
 478 delivery, return receipt requested. Included in such mailing shall be a copy of a
 479 standardized answer form provided by the Council of Magistrate Court Judges for such
 480 purpose. Such form shall require oath or affirmation of the respondent and shall include
 481 space to set forth:

482 (A) The name of the owner;

483 (B) The address at which the owner resides;

484 (C) A description of the motor vehicle, including the license plate number and the
 485 model, make, and year of the vehicle;

486 (D) A description of the date the owner obtained an interest in the motor vehicle;
 487 (E) A brief statement as to why the towing and storage firm was not authorized to
 488 remove the vehicle, if applicable;

489 (F) Any other brief statement as to why the lien claimed by the towing and storage
 490 firm, repair facility, or salvage dealer is invalid;

491 (G) A copy of any documentation in the owner's possession supporting his or her
 492 answer; and

493 (H) Any additional facts supporting the owner's answer or as to why the lien should not
 494 be foreclosed upon.

495 (2) If notice required under Code Section 40-11-9 was satisfied by advertisement, or the
 496 proof of receipt of a copy of the claim required to be sent under paragraph (1) of this
 497 subsection has not been returned after ten days of such mailing, the party filing the claim
 498 shall place an advertisement in a newspaper of general circulation or the legal organ
 499 where such action has been filed and post a copy of the notice of the statement of claim
 500 at the county courthouse where the claim is pending, in such a place where other public
 501 notices are posted; provided, however, that in the event a courthouse does not provide
 502 ability to post such notices, no such posting shall be required. Such notice shall run in
 503 the newspaper once a week for two consecutive weeks and shall remain posted at the
 504 courthouse for two consecutive weeks. Such notice shall include instructions for how an
 505 owner may obtain the standardized answer form described in this subsection and shall be
 506 deemed as notice to any and all persons having an interest in or right affected by such
 507 claim and from any sale of the motor vehicle resulting therefrom.

508 (c) An owner may file an answer to the claim no later than ten days after receipt by using
 509 the standardized answer form provided. If service is made by posting pursuant to
 510 paragraph (2) of subsection (b) of this Code section, an owner may file an answer no later
 511 than ten days after the expiration of the required two-week posting.

512 (d) If no answer has been filed at the expiration of the period set forth in subsection (c) of
 513 this Code section, the towing and storage firm, repair facility, or salvage dealer may seek
 514 to foreclose the lien through a default judgment as provided in Code Section 15-10-43 by
 515 amending the claim filed to add proof of receipt of copy of the claim as set forth in
 516 subsection (b) of this Code section. No later than two days after the expiration of the
 517 period set forth in subsection (c) has elapsed the court shall grant a default judgment if the
 518 amended claim complies with the requirements set forth in this article. When a default
 519 judgment is granted, the vehicle shall be considered abandoned and within five days the
 520 court shall transmit an order for the disposition of the motor vehicle as provided for in

521 Code Section 40-11-11. A fee of no more than \$5.00 may be charged for a certified copy
 522 of such order. If no answer has been filed but the court finds that an amended claim fails
 523 to comply with the requirements of this article, a claim may be refiled for such action once
 524 within six months of the issuance of denial of a default judgment.

525 (e)(1) If an answer is returned to the court, a trial shall be held within ten days after
 526 receipt of such answer; provided, however, that such trial may be continued by the court
 527 for good cause shown by either party.

528 (2) At the trial, the court shall hear evidence of and determine whether the removal of
 529 the vehicle was lawful, whether the lien amount is based upon recoverable fees as set
 530 forth in subsection (d) of Code Section 40-11-9, and whether notice to all owners was
 531 proper, and shall hear any other facts pertinent to the case to reach a decision on
 532 foreclosure of the lien. The court may hear evidence of and make a determination on
 533 whether storage fees should accrue after the filing date of the claim. Upon conclusion of
 534 the trial, the court shall issue a decision on whether to foreclose the lien for the
 535 recoverable fees set forth in subsection (d) of Code Section 40-11-9 and, if foreclosure
 536 is granted, the court shall order the disposition of the motor vehicle as provided for in
 537 Code Section 40-11-11. A fee of no more than \$5.00 may be charged for a certified copy
 538 of such order.

539 40-11-11.

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

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

543 (B) At which those attending shall be given the opportunity to bid on a competitive
 544 basis; and

545 (C) Except as otherwise provided in Title 11 for advertising or dispensing with the
 546 advertising of public sales, of which notice is given by advertisement once a week for
 547 two weeks in the newspaper in which the sheriff's advertisements are published in the
 548 county where the sale is to be held, and which notice shall state the day and hour,
 549 between 9:00 A.M. and 5:00 P.M., and the place of sale and shall briefly identify the
 550 motor vehicle to be sold.

551 (2) Upon order of the court issued pursuant to Code Section 40-11-10, the towing and
 552 storage firm, repair facility, or salvage dealer shall be authorized to sell the motor vehicle
 553 to the highest and best bidder at public sale.

554 (b) After satisfaction of the lien, the towing and storage firm, repair facility, or salvage
 555 dealer selling such motor vehicle shall, not later than 30 days after the date of such sale,
 556 provide the Department of Revenue with a copy of the bill of sale as provided to the

557 purchaser and turn the remaining proceeds of such sale, if any, over to the department to
 558 be treated as unclaimed property pursuant to Article 5 of Chapter 12 of Title 44, the
 559 'Disposition of Unclaimed Property Act.' The towing and storage firm, repair facility, or
 560 salvage dealer selling such vehicle may deduct from such proceeds the cost incurred by the
 561 advertisement of the public sale, provided that such amount is no greater than \$120.00, and
 562 the cost incurred by the holding of the public sale, provided that the cost is no greater than
 563 \$200.00. Any deduction so made shall be evidenced by receipts or on a form prescribed
 564 by the Department of Revenue for such purpose through rule and regulation. Any person
 565 convicted of failing to comply with the requirements of this subsection shall be subject to
 566 a civil penalty as provided for in Article 5 of Chapter 12 of Title 44.

567 40-11-12.

568 The purchaser of a motor vehicle at a sale authorized in this article shall receive a certified
 569 copy of the court order authorizing such sale. Any such purchaser may obtain a certificate
 570 of title to such motor vehicle by filing the required application, paying the required fees,
 571 and filing a certified copy of the order of the court with the department. The Department
 572 of Revenue shall then issue a certificate of title, which shall be free and clear of all liens
 573 and encumbrances.

574 40-11-13.

575 Any forms required to be made available by the Council of Magistrate Court Judges under
 576 this article shall be developed and published no later than September 1, 2019."

577 **SECTION 5.**

578 Article 5 of Chapter 12 of Title 44 of the Official Code of Georgia Annotated, relating to
 579 disposition of unclaimed property, is amended by adding a new Code section to read as
 580 follows:

581 "44-12-211.1.

582 (a) Within ten days of the sale of a motor vehicle pursuant to Article 1 of Chapter 11 of
 583 Title 40, 'The Abandoned Motor Vehicle Act,' and the satisfaction of the amounts owed for
 584 liens upon such motor vehicle, any towing and storage firm, repair facility, or salvage
 585 dealer selling such motor vehicle shall provide to the commissioner any excess funds minus
 586 the allowable costs incurred for the public sale of such motor vehicle. The funds turned
 587 over to the department shall be accompanied by the court order issued pursuant to Code
 588 Section 40-11-10, a copy of the bill of sale, and a copy of the receipt for the costs
 589 associated with the sale held pursuant to Code Section 40-11-11 on a form prescribed by
 590 the department for such purpose.

591 (b)(1) Any person claiming a property interest in the motor vehicle sold pursuant to
592 Article 1 of Chapter 11 of Title 40, 'The Abandoned Motor Vehicle Act,' and the excess
593 funds from such sale may make such claim to the department upon a form provided for
594 such purpose through rule or regulation within six months of the sale.

595 (2) If such excess funds remain unclaimed for more than six months, any person
596 authorized to make a claim under paragraph (1) of this subsection, or the towing and
597 storage firm, repair facility, or salvage dealer selling such motor vehicle may make a
598 claim to the department for such excess funds. If more than one claim is made during this
599 six month period, the party first making a claim determined by the department as
600 authorized shall be entitled to the excess funds. No claim shall be authorized after one
601 year from the date excess funds are provided to the commissioner.

602 (c) For purposes of this Code section, the terms 'repair facility,' 'salvage dealer,' and
603 'towing and storage firm' shall have the same meanings as provided for in Code Section
604 40-11-3."

605 **SECTION 6.**

606 Said article is further amended in Code Section 44-12-215, relating to publication of
607 "Georgia Unclaimed Property List" and contents of notice, by revising subsection (c) as
608 follows:

609 "(c) The notice shall contain a statement that information concerning the amount or
610 description of the property and the name of the holder may be obtained by any persons
611 possessing an interest in the property by addressing an inquiry to the commissioner. In
612 cases of property submitted pursuant to Code Section 44-12-211.1, the notice shall also
613 contain the year, make, model, and vehicle identification number of the motor vehicle sold
614 pursuant to Article 1 of Chapter 11 of Title 40, 'The Abandoned Motor Vehicle Act.'"

615 **SECTION 7.**

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