

House Bill 1082

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

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1A of Chapter 11 of Title 40 of the Official Code of Georgia Annotated,
2 relating to abandoned motor vehicles, so as to provide for notification letter for retrieving a
3 motor vehicle held by a towing and storage firm, repair facility, or salvage dealer; to provide
4 for fees relating to filing of a petition of foreclosure for an abandoned motor vehicle; to
5 provide for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 1A of Chapter 11 of Title 40 of the Official Code of Georgia Annotated, relating to
9 abandoned motor vehicles, is amended in Code Section 40-11-19, relating to notification
10 letter to owners, advertisement, lien upon vehicle, recoverable fees, form disclaiming
11 ownership, and demand letter, by revising the introductory language of paragraph (1) of
12 subsections (a), (b), and (c) as follows:

13 "(a)(1) Within ~~15~~ ten calendar days of removal or initial storage of a motor vehicle, a
14 towing and storage firm shall send all owners the notification letter form developed by
15 the Council of Magistrate Court Judges for such purpose. Such notification shall be by
16 certified mail or by hand delivery with acknowledgment of such receipt by signature of
17 the owner and a copy of such owner's driver's license. Such notification letter shall
18 include, at a minimum:"

19 "(b)(1) When a motor vehicle has been left with a repair facility for at least ~~15~~ ten days,
20 and no later than 180 days, without payment of amounts owed, the repair facility desiring
21 to file a petition pursuant to Code Section 40-11-19.1 shall send all owners by certified
22 mail the notification letter form developed by the Council of Magistrate Court Judges for
23 such purpose. Such notification letter shall include, at a minimum:"

24 "(c)(1) When a motor vehicle has been left with a salvage dealer for at least ~~15~~ ten days,
25 and no later than 60 days, after determination by an insurance company to deny the
26 owner's claim has been communicated to the salvage dealer, the salvage dealer desiring

27 to file a petition to foreclose a lien pursuant to Code Section 40-11-19.1 shall send all
 28 owners by certified mail, the notification letter form developed by the Council of
 29 Magistrate Court Judges for such purpose. Such notification letter shall include, at a
 30 minimum:"

31 SECTION 2.

32 Said article is further amended in Code Section 40-11-19.1, relating to petition to foreclose
 33 a lien on motor vehicle, answer, motion for judgment, timing, and fees, by revising
 34 subsections (a), (d), and (e) and adding a new subsection to read as follows:

35 "(a) Not sooner than ten calendar days and not later than six months after compliance with
 36 the notice requirements set forth in Code Section 40-11-19, a towing and storage firm,
 37 repair facility, or salvage dealer may file an action for a petition to foreclose a lien against
 38 the motor vehicle in any magistrate court in the county where the motor vehicle is located.
 39 An action filed pursuant to this Code section shall be on a form provided by the Council
 40 of Magistrate Court Judges for such purpose and shall be accompanied by a filing fee of
 41 no more than \$11.00, which amount shall not be subject to any other tax, fee, or surcharge
 42 otherwise authorized to be collected. Any person bringing such action shall include with
 43 such form a copy of the owner information obtained pursuant to the request required by
 44 Code Section 40-11-15 or 40-11-16 and proof of compliance with the notice requirements
 45 set forth in Code Section 40-11-19. The petition to foreclose a lien shall be verified by
 46 oath or affirmation by the towing and storage firm, repair facility, or salvage dealer in a
 47 manner consistent with Article 5 of Chapter 10 of Title 9. The court receiving a properly
 48 filed petition pursuant to this Code section shall assign a case or docket number to such
 49 petition no later than three business days after such filing."

50 "(d) If no answer has been filed at the expiration of the period set forth in subsection (c)
 51 of this Code section, the towing and storage firm, repair facility, or salvage dealer may seek
 52 to foreclose the lien through a judgment as provided in Code Section 15-10-43 by making
 53 such request in writing and submitting to the court proof of service as set forth in
 54 subsection (b) of this Code section. Unless providentially hindered, it shall be the duty of
 55 the judge to decide all motions for judgment submitted pursuant to this subsection no later
 56 than 15 days from when such motion has been made. When a judgment is granted, the
 57 vehicle shall be considered abandoned and within five days the court shall issue an order
 58 for the disposition of the motor vehicle as provided for in Code Section 40-11-19.2. A
 59 certified copy of such order shall be issued by the clerk of court. A fee of no more than
 60 \$14.00 may be charged for a such certified copy of such order, which shall be issued by the
 61 clerk of court, which amount shall not be subject to any other tax, fee, or surcharge
 62 otherwise authorized to be collected and only upon issuance of such order. Such \$14.00

63 fee shall include any authorized additional taxes, fees, or surcharges and shall not be
64 collected in combination with any other fees required by this Code section. If no answer
65 has been filed but the court finds that a petition fails to comply with the requirements of
66 this article, a petition may be refiled for such action once within six months of the issuance
67 of denial of a judgment.

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

71 (2) At the trial, the court shall hear evidence of and determine whether the removal of
72 the vehicle was lawful, whether the lien amount is based upon recoverable fees as set
73 forth in subsection (d) of Code Section 40-11-19, and whether notice to all owners was
74 proper, and shall hear any other facts pertinent to the case to reach a decision on
75 foreclosure of the lien. The court may hear evidence of and make a determination on
76 whether storage fees should accrue after the filing date of the petition. Upon conclusion
77 of the trial, the court shall issue a decision on whether to foreclose the lien for the
78 recoverable fees set forth in subsection (d) of Code Section 40-11-19 and, if foreclosure
79 is granted, the court shall order the disposition of the motor vehicle as provided for in
80 Code Section 40-11-19.2. A fee of no more than \$14.00 may be charged for a certified
81 copy of such order which shall be issued by the clerk of court and may only be collected
82 at the time of issuance.

83 (f) The provisions of Chapter 10 of Title 15 and any other provision of law to the contrary
84 notwithstanding, the fees charged by a court or clerk of court shall be limited to those
85 provided for by this article and such fees shall not be taxed nor shall any additional penalty,
86 fee, or surcharge be assessed."

87 **SECTION 3.**

88 This Act shall become effective upon its approval by the Governor or upon its becoming law
89 without such approval.

90 **SECTION 4.**

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