

The House Committee on Judiciary offers the following substitute to HB 1:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 9 of the Official Code of Georgia Annotated, relating to civil practice, so as  
2 to provide a comprehensive civil forfeiture procedure; to provide for a short title; to provide  
3 for definitions; to provide for jurisdiction and venue; to provide for innocent owners; to  
4 provide for seizure of property; to provide for notice and time frames for notice to interested  
5 parties; to provide for forfeiture liens; to provide for storage of property; to provide for  
6 nonjudicial forfeiture, in rem forfeiture, and in personam forfeiture; to provide for temporary  
7 relief and stays of criminal proceedings; to provide for intervention by certain parties under  
8 certain circumstances; to provide for presumptions and the burden of proof; to provide for  
9 the disposition of seized property and reporting; to provide for the effect of federal law  
10 forfeitures; to amend Title 16 of the Official Code of Georgia Annotated, relating to crimes  
11 and offenses, so as to conform provisions to the new Chapter 16 of Title 9, correct  
12 cross-references, and remove obsolete or improper references to forfeiture; to amend Titles  
13 3, 5, 7, 10, 12, 15, 17, 27, 36, 38, 40, 45, 46, 48, and 52 of the Official Code of Georgia  
14 Annotated, relating to alcoholic beverages, appeal and error, banking and finance, commerce  
15 and trade, conservation and natural resources, courts, criminal procedure, game and fish,  
16 local government, military, emergency management, and veterans affairs, motor vehicles and  
17 traffic, public officers and employees, public utilities and public transportation, revenue and  
18 taxation, and waters of the state, ports, and watercraft, respectively, so as to conform  
19 provisions to the new Chapter 16 of Title 9, correct cross-references, and remove obsolete  
20 or improper references to forfeiture; to provide for related matters; to provide for an effective  
21 date and applicability; to repeal conflicting laws; and for other purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

23 **PART I**  
 24 **CIVIL FORFEITURE PROCEDURE**  
 25 **SECTION 1-1.**

26 Title 9 of the Official Code of Georgia Annotated, relating to civil practice, is amended by  
 27 adding a new chapter to read as follows:

28 "CHAPTER 16

29 9-16-1.

30 This chapter shall be known and may be cited as the 'Georgia Uniform Civil Forfeiture  
 31 Procedure Act.'

32 9-16-2.

33 As used in this chapter, the term:

34 (1)(A) 'Beneficial interest' means either of the following:

35 (i) The interest of a person as a beneficiary under any other trust arrangement  
 36 pursuant to which a trustee holds legal or record title to real property for the benefit  
 37 of such person; or

38 (ii) The interest of a person under any other form of express fiduciary arrangement  
 39 pursuant to which any other person holds legal or record title to real property for the  
 40 benefit of such person.

41 (B) 'Beneficial interest' does not include the interest of a stockholder in a corporation  
 42 or the interest of a partner in either a general partnership or limited partnership nor shall  
 43 it include an equitable interest. A beneficial interest shall be deemed to be located  
 44 where the real property owned by the trustee is located.

45 (2) 'Clear and convincing evidence' means proof that will produce in the mind of the trier  
 46 of facts a firm belief or conviction as to the allegations sought to be established; it is  
 47 intermediate, being more than a mere preponderance, but not to the extent of certainty as  
 48 is required for beyond a reasonable doubt.

49 (3) 'Costs' means, but shall not be limited to:

50 (A) All expenses associated with the seizure, towing, storage, maintenance, custody,  
 51 preservation, operation, or sale of property; and

52 (B) Satisfaction of any security interest or lien not subject to forfeiture under this  
 53 chapter.

54 (4) 'Court costs' means, but shall not be limited to:

- 55 (A) All court costs, including the costs of advertisement, transcripts, and court reporter  
 56 fees; and
- 57 (B) Payment of receivers, conservators, appraisers, accountants, or trustees appointed  
 58 by the court pursuant to Code Section 9-16-11 or 9-16-15.
- 59 (5) 'Financial institution' means a bank, trust company, national banking association,  
 60 industrial bank, savings institution, or credit union chartered and supervised under state  
 61 or federal law.
- 62 (6) 'Governmental agency' means any department, office, council, commission,  
 63 committee, authority, board, bureau, or division of the executive, judicial, or legislative  
 64 branch of a state, the United States, or any political subdivision thereof.
- 65 (7) 'Interest holder' means a secured party within the meaning of Code Section 11-9-102,  
 66 the claim of a beneficial interest, or a perfected encumbrance pertaining to an interest in  
 67 property.
- 68 (8) 'Owner' means a person, other than an interest holder, who has an interest in property  
 69 and is in compliance with any statute requiring its recordation or reflection in public  
 70 records in order to perfect the interest against a bona fide purchaser for value.
- 71 (9) 'Proceeds' means property derived directly or indirectly from, maintained by, or  
 72 realized through an act or omission relating to criminal conduct and includes any benefit,  
 73 interest, or property of any kind without reduction for expenses incurred for acquisition,  
 74 maintenance, or any other purpose.
- 75 (10) 'Property' means anything of value and includes any interest in anything of value,  
 76 including real property and any fixtures thereon, and tangible and intangible personal  
 77 property, including but not limited to currency, instruments, securities, or any other kind  
 78 of privilege, interest, claim, or right.
- 79 (11) 'Real property' means any real property situated in this state or any interest in such  
 80 real property, including, but not limited to, any lease of or mortgage upon such real  
 81 property.
- 82 (12) 'State attorney' means a district attorney of this state or his or her designee or, when  
 83 specifically authorized by law, the Attorney General or his or her designee.
- 84 (13)(A) 'Trustee' means either of the following:
- 85 (i) Any person who holds legal or record title to real property for which any other  
 86 person has a beneficial interest; or
- 87 (ii) Any successor trustee or trustees to any of the foregoing persons.
- 88 (B) 'Trustee' does not include the following:
- 89 (i) Any person appointed or acting as a guardian or conservator under Title 29,  
 90 relating to guardian and ward, or personal representative under former Chapter 6 of  
 91 Title 53 as such existed on December 31, 1997, relating to the administration of

92 estates, if applicable, or Chapter 6 of Title 53 and other provisions in Chapters 1  
 93 through 11 of Title 53, the 'Revised Probate Code of 1998,' relating to the  
 94 administration of estates; or

95 (ii) Any person appointed or acting as a trustee of any testamentary trust or as trustee  
 96 of any indenture of trust under which any bonds are issued.

97 (14) 'United States' means the United States and its territories and possessions, the 50  
 98 states, and the District of Columbia.

99 9-16-3.

100 (a) A civil forfeiture action shall be filed by a state attorney in the name of the State of  
 101 Georgia in any superior court of this state and may be brought:

102 (1) In the case of an in rem action, in the judicial circuit where the property is located;

103 (2) In the case of an in personam action, in the judicial circuit in which the defendant  
 104 resides; or

105 (3) By the state attorney having jurisdiction over any offense which arose out of the same  
 106 conduct which made the property subject to forfeiture.

107 (b) If more than one state attorney has jurisdiction to file a civil action pursuant to this  
 108 chapter, the state attorney having primary jurisdiction over the conduct giving rise to the  
 109 forfeiture shall, in the event of a conflict, have priority over any other state attorney.

110 (c) Any civil action brought pursuant to this chapter may be compromised or settled in the  
 111 same manner as other civil actions.

112 9-16-4.

113 A civil forfeiture action shall be tried:

114 (1) If the civil forfeiture action is in rem against real property, in the county where the  
 115 property is located, except where a single tract is divided by a county line, in which case  
 116 the superior court of either county shall have jurisdiction;

117 (2) If the civil forfeiture action is in rem against tangible or intangible personal property,  
 118 in any county where the property is located or will be located during the pendency of the  
 119 action; or

120 (3) If the civil forfeiture action is in personam, as provided in Article VI, Section II of  
 121 the Constitution.

122 9-16-5.

123 Reserved.

124 9-16-6.

125 If a seized vehicle is registered to a person or entity that was not present at the scene of the  
126 seizure and whose conduct did not give rise to the forfeiture, the seizing officer or his or  
127 her designee shall make a reasonable effort to determine the name of the registered owner  
128 of the seized vehicle and, upon learning such registered owner's telephone number or  
129 address, inform such registered owner that the vehicle has been seized.

130 9-16-7.

131 (a) Property subject to forfeiture may be seized by any law enforcement officer of this  
132 state or any political subdivision thereof who has power to make arrests or execute process  
133 or a search warrant issued by any court having jurisdiction over the property. A court  
134 issued warrant authorizing seizure of property subject to forfeiture may be issued on an  
135 affidavit demonstrating that probable cause exists for its forfeiture or that the property has  
136 been the subject of a previous final judgment of forfeiture in the courts of the United States.  
137 The court may order that the property be seized on such terms and conditions as are  
138 reasonable.

139 (b) Property subject to forfeiture may be seized without process if probable cause exists  
140 to believe that the property is subject to forfeiture or the seizure is incident to an arrest or  
141 search pursuant to a search warrant or to an inspection under an inspection warrant.

142 (c) The court's jurisdiction over civil forfeiture actions shall not be affected by a seizure  
143 in violation of the Constitution of Georgia or the Constitution of the United States made  
144 with process or in a good faith belief of probable cause.

145 9-16-8.

146 (a) When property that is intended to be forfeited is taken by any law enforcement officer  
147 of this state, within 30 days thereof the seizing officer shall, in writing, report the fact of  
148 seizure and conduct an inventory and estimate the value of the property seized and provide  
149 such information to the district attorney of the judicial circuit having jurisdiction in the  
150 county where the seizure was made.

151 (b) Within 60 days from the date of seizure, the state attorney shall:

152 (1) Initiate a notice of nonjudicial forfeiture as provided for in Code Section 9-16-12; or

153 (2) File a complaint for forfeiture as provided for in Code Section 9-16-13 or 9-16-14.

154 (c) If the seizing officer fails to comply with subsection (a) of this Code section or the state  
155 attorney fails to comply with subsection (b) of this Code section, the property shall be  
156 released on the request of an owner or interest holder, pending a judicial forfeiture action  
157 pursuant to this chapter, unless the property is being held as evidence.

158 9-16-9.

159 (a) A state attorney may file, without a filing fee, a forfeiture lien upon the initiation of any  
160 civil action under this chapter or criminal proceeding or upon seizure for forfeiture. The  
161 forfeiture lien filing shall constitute notice to any person claiming an interest in the  
162 property owned by the named person. The forfeiture lien shall include the following  
163 information:

164 (1) The name of each person who has a known interest in the seized property and, in the  
165 discretion of the state attorney, any alias and any corporations, partnerships, trusts, or  
166 other entities, including nominees, that are either owned entirely or in part or controlled  
167 by such persons; and

168 (2) A description of the property, the value of the property claimed by the state attorney,  
169 the name of the court where the civil action or criminal proceeding has been brought, and  
170 the case number of the civil action or criminal proceeding if known at the time of filing  
171 the forfeiture lien.

172 (b) A forfeiture lien filed pursuant to this Code section shall apply to:

173 (1) The described property;

174 (2) Each named person and any aliases, fictitious names, or other names, including  
175 names of corporations, partnerships, trusts, or other entities that are either owned entirely  
176 or in part or controlled by each named person; and

177 (3) Any interest in real property owned or controlled by each named person.

178 (c) A forfeiture lien creates, upon filing, a lien in favor of the state as it relates to the  
179 seized property or to any named person or related entities with respect to such property.  
180 Such forfeiture lien secures the amount of potential liability for civil judgment and, if  
181 applicable, the fair market value of seized property relating to all civil forfeiture actions  
182 under this chapter enforcing such lien. A forfeiture lien referred to in this Code section  
183 shall be filed in accordance with the provisions of the laws in this state pertaining to the  
184 type of property that is subject to the forfeiture lien. The state attorney may amend or  
185 release, in whole or in part, a forfeiture lien filed under this Code section at any time by  
186 filing, without a filing fee, an amended forfeiture lien in accordance with this Code section  
187 which identifies the forfeiture lien amended. The state attorney, as soon as practical after  
188 filing a forfeiture lien, shall furnish to any person named in the forfeiture lien a notice of  
189 the filing of the forfeiture lien. Failure to furnish such notice shall not invalidate or  
190 otherwise affect a forfeiture lien filed in accordance with this Code section.

191 (d) Upon entry of judgment in favor of the state, the state attorney may proceed to execute  
192 on the forfeiture lien as in the case of any other judgment.

193 (e) A trustee, constructive or otherwise, who has notice that a forfeiture lien, a notice of  
194 pending forfeiture, or a civil forfeiture action has been filed against the property or against

195 any person or entity for whom the person holds title or appears as the owner of record shall  
 196 furnish, within ten days of receiving notice as provided by this subsection, to the state  
 197 attorney the following information:

198 (1) The name and address of the person or entity for whom the property is held;

199 (2) The names and addresses of all beneficiaries for whose benefit legal title to the seized  
 200 property, or property of the named person or related entity, is held; and

201 (3) A copy of the applicable trust agreement or other instrument, if any, under which the  
 202 trustee or other person holds legal title or appears as the owner of record of the property.

203 (f) A trustee, constructive or otherwise, who fails to comply with subsection (e) of this  
 204 Code section shall be guilty of a misdemeanor.

205 9-16-10.

206 (a) Property attached or seized under this chapter shall not be subject to replevin,  
 207 conveyance, sequestration, or attachment.

208 (b) The seizing law enforcement agency or the state attorney may authorize the release of  
 209 the attached or seized property if the forfeiture or retention is unnecessary or may transfer  
 210 the civil forfeiture action to another agency or state attorney by discontinuing a civil  
 211 forfeiture action in favor of a civil forfeiture action initiated by another law enforcement  
 212 agency or state attorney.

213 (c) A civil forfeiture action filed pursuant to this chapter may be assigned to the same  
 214 judge hearing any other civil forfeiture action or criminal proceeding involving  
 215 substantially the same parties or same property in accordance with the Uniform Superior  
 216 Court Rules.

217 (d) Property shall be deemed to be in the custody of the State of Georgia subject only to  
 218 the orders and decrees of the superior court having jurisdiction over the civil forfeiture  
 219 action.

220 9-16-11.

221 (a) If property is seized, the state attorney may:

222 (1) Remove the property to a place designated by the superior court having jurisdiction  
 223 over the civil forfeiture action;

224 (2) Place the property under constructive seizure by giving notice of pending forfeiture  
 225 to its owners and interest holders and filing notice of seizure in any appropriate public  
 226 record relating to the property. Notice of a pending forfeiture may be posted in a  
 227 prominent location in the courthouse for the jurisdiction having venue for the forfeiture  
 228 if the owners' and interest holders' names are not known;

229 (3) Remove the property to a storage area within the jurisdiction of the court for  
 230 safekeeping;

231 (4) Provide for another governmental agency, a receiver appointed by the court pursuant  
 232 to Chapter 8 of this title, an owner, or an interest holder to take custody of the property  
 233 and remove it to an appropriate location within the county where the property was seized;  
 234 or

235 (5) Require the sheriff or chief of police of the political subdivision where the property  
 236 was seized to take custody of the property and remove it to an appropriate location for  
 237 disposition in accordance with law.

238 (b) If the expense of keeping any property which has been attached or seized is excessive  
 239 or disproportionate to the value of the property or the property:

240 (1) Is a depreciating asset;

241 (2) Is perishable or is liable to perish or waste; or

242 (3) May be greatly reduced in value by keeping it,

243 the court, upon motion of the state attorney, a claimant, or the custodian of the property,  
 244 may order the property or any portion thereof to be sold upon such terms and conditions  
 245 as may be prescribed by the court. The income from the sale shall be paid into the registry  
 246 of the court pending final disposition of the civil action.

247 (c) If the property is currency and is not needed for evidentiary purposes, within 60 days  
 248 of the seizure the seizing agency shall submit the currency to the clerk of court and such  
 249 currency shall be deposited in an interest-bearing account in a financial institution that has  
 250 a branch location within the county where the civil forfeiture action is located. Any  
 251 accrued interest shall follow the principal in any judgment with respect thereto.

252 9-16-12.

253 (a) If the estimated value of personal property seized is \$5,000.00 or less, the state attorney  
 254 shall post a notice of the seizure of such property in a prominent location in the courthouse  
 255 of the county in which the property was seized. Such notice shall include:

256 (1) A description of the property;

257 (2) The date and place of seizure;

258 (3) The conduct giving rise to forfeiture;

259 (4) The alleged violation of law; and

260 (5) A statement that the owner or interest holder of such property has 30 days within  
 261 which a claim must be served on the state attorney by certified mail or statutory overnight  
 262 delivery, return receipt requested, and that such claim must be signed by the owner or  
 263 interest holder and provide:

264 (A) The name of the claimant;

265 (B) The address at which the claimant resides;  
 266 (C) A description of the claimant's interest in the property; and  
 267 (D) A description of the circumstances of the claimant's obtaining an interest in the  
 268 property and, to the best of the claimant's knowledge, the date the claimant obtained the  
 269 interest and the name of the person or entity that transferred the interest to the claimant.

270 (b) The state attorney shall serve a copy of the notice specified in subsection (a) of this  
 271 Code section upon an owner, interest holder, and person in possession of the property at  
 272 the time of seizure as follows:

273 (1) If the name and current address of the person in possession of the property at the time  
 274 of the seizure, owner, or interest holder are known, provide notice by either personal  
 275 service or mailing a copy of the notice by certified mail or statutory overnight delivery,  
 276 return receipt requested, to that address;

277 (2) If the name and address of the person in possession of the property at the time of  
 278 seizure, owner, or interest holder are required by law to be on public record with a  
 279 governmental agency to perfect an interest in the property but the owner's or interest  
 280 holder's current address is not known, mail a copy of the notice by certified mail or  
 281 statutory overnight delivery, return receipt requested, to any address on the record; or

282 (3) If the current address of the person in possession of the property at the time of the  
 283 seizure, owner, or interest holder is not known and is not on record as provided in  
 284 paragraph (2) of this subsection or the name of the person in possession of the property  
 285 at the time of the seizure, owner, or interest holder is not known, publish a copy of the  
 286 notice of the civil forfeiture action once a week for two consecutive weeks in the legal  
 287 organ for the county in which the seizure occurs.

288 (c)(1) The owner or interest holder may serve a claim to the seized property within 30  
 289 days after being served or within 30 days after the second publication of the notice of  
 290 forfeiture, whichever occurs last, by sending the claim to the state attorney by certified  
 291 mail or statutory overnight delivery, return receipt requested.

292 (2) The claim shall be signed by the owner or interest holder and shall provide:

293 (A) The name of the claimant;  
 294 (B) The address at which the claimant resides;  
 295 (C) A description of the claimant's interest in the property; and  
 296 (D) A description of the circumstances of the claimant's obtaining an interest in the  
 297 property and, to the best of the claimant's knowledge, the date the claimant obtained the  
 298 interest and the name of the person or entity that transferred the interest to the claimant.

299 (3) If any claim is served, even when the state attorney determines that insufficient  
 300 information has been provided by the claimant, the state attorney shall file a complaint  
 301 for forfeiture as provided in Code Section 9-16-13 or 9-16-14 within 30 days of the actual

302 receipt of the claim. Any person who serves the state attorney with a claim shall be  
303 joined as a party.

304 (4) If no claim is received within 33 days after service of the notice of forfeiture or the  
305 second publication of the notice of forfeiture, whichever occurs last, all right, title, and  
306 interest in the property shall be forfeited to the state by operation of law and the state  
307 attorney shall dispose of the property as provided in Code Section 9-16-20. The state  
308 attorney shall serve a copy of the order forfeiting the property by first-class mail upon  
309 any person who was served with a notice of seized property.

310 9-16-13.

311 (a) In actions in rem, the property which is the subject of the civil action shall be named  
312 as the defendant. The complaint shall be verified on oath or affirmation by a duly  
313 authorized agent of the state in a manner consistent with Article 5 of Chapter 10 of this  
314 title. Such complaint shall describe the property with reasonable particularity; state that  
315 it is located within the county or will be located within the county during the pendency of  
316 the action; state its present custodian; state the name of the owner or interest holder, if  
317 known; allege the essential elements of the criminal violation which is claimed to exist;  
318 state the place of seizure, if the property was seized; and conclude with a prayer of due  
319 process to enforce the forfeiture.

320 (b)(1) A copy of the complaint and summons shall be served on any person known to be  
321 an owner or interest holder and any person who is in possession of the property.

322 (2) Issuance of the summons, form of the summons, and service of the complaint and  
323 summons shall be as provided in subsections (a), (b), (c), and (e) of Code Section 9-11-4.

324 (3) If real property is the subject of the civil forfeiture action or the owner or interest  
325 holder is unknown or resides out of this state or departs this state or cannot after due  
326 diligence be found within this state or conceals himself or herself so as to avoid service,  
327 a copy of the notice of the civil forfeiture action shall be published once a week for two  
328 consecutive weeks in the legal organ of the county in which the civil forfeiture action is  
329 pending. Such publication shall be deemed notice to any and all persons having an  
330 interest in or right affected by such civil forfeiture action and from any sale of the  
331 property resulting therefrom, but shall not constitute notice to an interest holder unless  
332 that person is unknown or resides out of this state or departs this state or cannot after due  
333 diligence be found within this state or conceals himself or herself to avoid service.

334 (4) If tangible property which has not been seized is the subject of the civil action, the  
335 court may order the sheriff or another law enforcement officer to take possession of the  
336 property. If the character or situation of the property is such that the taking of actual  
337 possession is impracticable, the sheriff shall execute process by affixing a copy of the

338 complaint and summons to the property in a conspicuous place and by leaving another  
 339 copy of the complaint and summons with the person having possession or his or her  
 340 agent. In cases involving a vessel or aircraft, the sheriff or other law enforcement officer  
 341 shall be authorized to make a written request with the appropriate governmental agency  
 342 not to permit the departure of such vessel or aircraft until notified by the sheriff or the  
 343 sheriff's deputy that the vessel or aircraft has been released.

344 (c) An owner of or interest holder in the property may file an answer asserting a claim  
 345 against the property in the action in rem. Any such answer shall be filed within 30 days  
 346 after the service of the summons and complaint. Where service is made by publication and  
 347 personal service has not been made, an owner or interest holder shall file an answer within  
 348 30 days of the date of final publication. An answer shall be verified by the owner or  
 349 interest holder under penalty of perjury. In addition to complying with the general rules  
 350 applicable to filing an answer in civil actions as set forth in Article 3 of Chapter 11 of this  
 351 title, the answer shall set forth:

352 (1) The name of the claimant;

353 (2) The address at which the claimant resides;

354 (3) The claimant's interest in the property; and

355 (4) A description of the circumstances of the claimant's obtaining an interest in the  
 356 property and, to the best of the claimant's knowledge, the date the claimant obtained the  
 357 interest and the name of the person or entity that transferred the interest to the claimant.

358 (d) In addition to any injured person's right of intervention pursuant to Code Section  
 359 9-16-17, any owner or interest holder or person in possession of the property who suffers  
 360 a pecuniary loss or physical injury due to a violation of Code Section 16-5-46, Article 4 or  
 361 5 of Chapter 8 of Title 16, Article 8 of Chapter 9 of Title 16, or Chapter 14 of Title 16 may  
 362 be permitted to intervene in any civil forfeiture action brought pursuant to this chapter as  
 363 provided by Chapter 11 of this title.

364 (e) If at the expiration of the period set forth in subsection (c) of this Code section no  
 365 answer has been filed, the state attorney may seek a default judgment as provided in Code  
 366 Section 9-11-55 and, if granted, the court shall order the disposition of the seized property  
 367 as provided for in Code Section 9-16-20.

368 (f) If an answer is filed, a bench trial shall be held within 60 days after the last claimant  
 369 was served with the complaint; provided, however, that such trial may be continued by the  
 370 court for good cause shown. Discovery as provided for in Article 5 of Chapter 11 of this  
 371 title shall not be allowed; however, prior to trial, any party may apply to the court to allow  
 372 for such discovery, and if discovery is allowed, the court may continue the trial to a date  
 373 not more than 60 days after the end of the discovery period unless continued by the court  
 374 for good cause shown.

375 (g) An action in rem may be brought by the state attorney in addition to or in lieu of any  
 376 other in rem or in personam action brought pursuant to this chapter.

377 9-16-14.

378 (a) In actions in personam, the complaint shall be verified on oath or affirmation by a duly  
 379 authorized agent of the state in a manner consistent with Article 5 of Chapter 10 of this  
 380 title. The complaint shall:

381 (1) Describe with reasonable particularity the property which is sought to be forfeited;

382 (2) State the property's present custodian;

383 (3) State the name of the owner or interest holder, if known;

384 (4) Allege the essential elements of the criminal violation which is claimed to exist;

385 (5) State the place of seizure, if the property was seized; and

386 (6) Conclude with a prayer of due process to enforce the forfeiture.

387 (b) Service of the complaint and summons shall be as follows:

388 (1) Except as otherwise provided in this Code section, issuance of the summons, form  
 389 of the summons, and service of the complaint and summons shall be as provided by  
 390 subsections (a), (b), (c), and (d) of Code Section 9-11-4; and

391 (2) If the defendant is unknown or resides out of this state or departs this state or cannot  
 392 after due diligence be found within this state or conceals himself or herself so as to avoid  
 393 service, notice of the civil forfeiture action shall be published once a week for two  
 394 consecutive weeks in the legal organ of the county in which the civil forfeiture action is  
 395 pending. Such publication shall be deemed sufficient notice to any such defendant.

396 (c) A defendant shall file a verified answer within 30 days after the service of the  
 397 summons and complaint. If service is made by publication and personal service has not  
 398 been made, a defendant shall file such answer within 30 days of the date of final  
 399 publication. In addition to complying with the general rules applicable to filing an answer  
 400 in civil actions as set forth in Article 3 of Chapter 11 of this title, the answer shall contain  
 401 all of the elements set forth in subsection (c) of Code Section 9-16-13.

402 (d) In addition to any injured person's right of intervention pursuant to Code Section  
 403 9-16-17, any owner or interest holder or person in possession of the property who suffers  
 404 a pecuniary loss or physical injury due to a violation of Code Section 16-5-46, Article 4 or  
 405 5 of Chapter 8 of Title 16, Article 8 of Chapter 9 of Title 16, or Chapter 14 of Title 16 may  
 406 be permitted to intervene in any civil forfeiture action brought pursuant to this chapter as  
 407 provided by Chapter 11 of this title.

408 (e) If at the expiration of the period set forth in subsection (c) of this Code section no  
 409 answer has been filed, the state attorney may seek a default judgment as provided in Code

410 Section 9-11-55 and, if granted, the court shall order the disposition of the seized property  
 411 as provided for in Code Section 9-16-20.

412 (f) If an answer is filed, a bench trial shall be held within 60 days after the last claimant  
 413 was served with the complaint; provided, however, that such trial may be continued by the  
 414 court for good cause shown. Discovery as provided for in Article 5 of Chapter 11 of this  
 415 title shall not be allowed; however, prior to trial any party may apply to the court to allow  
 416 for such discovery, and if discovery is allowed, the court may continue the trial to a date  
 417 not more than 60 days after the end of the discovery period unless continued by the court  
 418 for good cause shown.

419 (g) On a determination of liability of a person for conduct giving rise to forfeiture, the  
 420 court shall enter a judgment of forfeiture of the property described in the complaint and  
 421 shall also authorize the state attorney or his or her agent or any law enforcement officer or  
 422 peace officer to seize all property ordered to be forfeited which was not previously seized  
 423 or was not then under seizure. Following the entry of an order declaring the property  
 424 forfeited, the court, on application of the state attorney, may enter any appropriate order  
 425 to protect the interest of the state in the property ordered to be forfeited.

426 9-16-15.

427 In conjunction with any civil forfeiture action brought pursuant to this chapter or criminal  
 428 proceeding involving forfeiture:

429 (1) The court, upon application of the state attorney, may enter any restraining order or  
 430 injunction; require the execution of satisfactory performance bonds; appoint receivers,  
 431 conservators, appraisers, accountants, or trustees; or take any action to seize, secure,  
 432 maintain, or preserve the availability of property subject to forfeiture, including issuing  
 433 a warrant for its seizure and writ of attachment, whether before or after the filing of a  
 434 complaint for forfeiture;

435 (2) A temporary restraining order under this Code section may be entered on application  
 436 of the state attorney, without notice or an opportunity for a hearing, if the state attorney  
 437 demonstrates that:

438 (A) There is probable cause to believe that the property subject to the order, in the  
 439 event of final judgment or conviction, would be subject to forfeiture; and

440 (B) Provision of notice would jeopardize the availability of the property for forfeiture;

441 (3) Notice of the entry of a restraining order and an opportunity for a hearing shall be  
 442 afforded to persons known to have an interest in the property. The hearing shall be held  
 443 at the earliest possible date consistent with subsection (b) of Code Section 9-11-65 and  
 444 shall be limited to the issues of whether:

445 (A) There is a probability that the state will prevail on the issue of forfeiture and that  
 446 failure to enter the order will result in the property's being destroyed, conveyed,  
 447 encumbered, removed from the jurisdiction of the court, concealed, or otherwise made  
 448 unavailable for forfeiture; and

449 (B) The need to preserve the availability of the property through the entry of the  
 450 requested order outweighs the hardship on any owner or interest holder against whom  
 451 the order is to be entered;

452 (4) If property is seized for forfeiture or a forfeiture lien is filed without a previous  
 453 judicial determination of probable cause or order of forfeiture or a hearing under  
 454 paragraph (2) of this Code section, the court, on an application filed by an owner of or  
 455 interest holder in the property within 30 days after notice of its seizure or forfeiture lien  
 456 or actual knowledge of such seizure or lien, whichever is earlier, and complying with the  
 457 requirements for an answer to an in rem complaint, and after five days' notice to the  
 458 district attorney of the judicial circuit where the property was seized or, in the case of a  
 459 forfeiture lien, to the state attorney filing such lien, may issue an order to show cause to  
 460 the state attorney and seizing law enforcement agency for a hearing on the sole issue of  
 461 whether probable cause for forfeiture of the property then exists. The hearing shall be  
 462 held within 30 days unless continued for good cause on motion of either party. If the  
 463 court finds that there is no probable cause for forfeiture of the property, the property shall  
 464 be released. In determining probable cause, the court shall apply the rules of evidence;  
 465 provided, however, that hearsay shall be admissible; and

466 (5) The court may order property that has been seized for forfeiture to be sold to satisfy  
 467 a specified interest of any interest holder, on motion of any party, and after notice and a  
 468 hearing, on the conditions that:

469 (A) The interest holder has filed a proper claim and if the interest holder is a financial  
 470 institution:

471 (i) Is authorized to do business in this state and is under the jurisdiction of a  
 472 governmental agency which regulates financial institutions, securities, insurance, or  
 473 real estate; or

474 (ii) Has an interest that the state attorney has stipulated is exempt from forfeiture;

475 (B) The interest holder shall dispose of the property by commercially reasonable public  
 476 sale and apply the income first to its interest and then to its reasonable expenses  
 477 incurred in connection with the sale or disposal; and

478 (C) The balance of the income, if any, shall be returned to the actual or constructive  
 479 custody of the court, in an interest bearing account, subject to further proceedings under  
 480 this chapter.

481 9-16-16.

482 (a) For good cause shown by the state or the owner or interest holder of the property, the  
483 court may stay civil forfeiture actions during the pendency of criminal proceedings  
484 resulting from a related indictment or accusation until such time as the criminal  
485 proceedings result in a plea of guilty, a conviction after trial, or an acquittal after trial or  
486 are otherwise concluded before the trial court.

487 (b) An acquittal or dismissal in a criminal proceeding shall not preclude civil forfeiture  
488 actions pursuant to this chapter.

489 (c) A defendant convicted in any criminal proceeding shall be precluded from later  
490 denying the essential allegations of the criminal offense of which the defendant was  
491 convicted in any civil forfeiture action against such defendant pursuant to this chapter,  
492 regardless of the pendency of an appeal from that conviction; provided, however, that the  
493 evidence of the pendency of an appeal shall be admissible. For the purposes of this  
494 subsection, the term 'conviction' means the result from a verdict or plea of guilty, including  
495 a plea of nolo contendere.

496 9-16-17.

497 (a) As used in this Code section, the term 'injured person' means any person who suffers  
498 a pecuniary loss or physical injury due to a violation of Code Section 16-5-46, Article 4 or  
499 5 of Chapter 8 of Title 16, Article 8 of Chapter 9 of Title 16, or Chapter 14 of Title 16. In  
500 the event that such person is a child or deceased, the provisions of subparagraphs (B) and  
501 (C) of paragraph (11) of Code Section 17-17-3 shall apply.

502 (b) If an injured person has provided contact information pursuant to Chapter 17 of Title  
503 17, a state attorney shall serve every known injured person, if he or she has not previously  
504 been served, with a copy of the notice or complaint for civil forfeiture and a notice of such  
505 person's right of intervention at least 30 days prior to the entry of a final judgment.

506 (c) Notwithstanding the distribution of forfeiture proceeds as set forth in Code Section  
507 9-16-20, any injured person shall have a right or claim to forfeited property or to the  
508 proceeds derived therefrom superior to any right or claim the state or local government has  
509 in the same property or proceeds other than for costs. To enforce such a claim, the injured  
510 person must intervene in the civil forfeiture action prior to the entry of a final judgment.

511 9-16-18.

512 (a)(1) The state's burden of proof shall be to show by clear and convincing evidence that  
513 seized property is subject to forfeiture.

514 (2) As an affirmative defense, a property interest shall not be subject to forfeiture under  
 515 this chapter if the owner of the interest or interest holder establishes that the owner or  
 516 interest holder:

517 (A) Is not privy to criminal conduct for the conduct giving rise to its forfeiture;

518 (B) Did not consent to it;

519 (C) Did not know of the conduct or that it was likely to occur;

520 (D) Had not acquired and did not stand to acquire substantial proceeds from the  
 521 conduct giving rise to its forfeiture other than as an interest holder in an arm's length  
 522 commercial transaction;

523 (E) With respect to conveyances for transportation only, did not hold the property  
 524 jointly, in common, or in community with a person whose conduct gave rise to the  
 525 forfeiture;

526 (F) Does not hold the property for the benefit of or as nominee for any person whose  
 527 conduct gave rise to its forfeiture, and, if the owner or interest holder acquired the  
 528 interest through any such person, the owner or interest holder acquired it as a bona fide  
 529 purchaser for value without knowingly taking part in an illegal transaction; and

530 (G) Acquired the interest:

531 (i) Before the completion of the conduct giving rise to its forfeiture and the person  
 532 whose conduct gave rise to its forfeiture did not have the authority to convey the  
 533 interest to a bona fide purchaser for value at the time of the conduct; or

534 (ii) After the completion of the conduct giving rise to its forfeiture:

535 (I) As a bona fide purchaser for value without knowingly taking part in an illegal  
 536 transaction;

537 (II) Before the filing of a forfeiture lien on it and before the effective date of a  
 538 notice of pending forfeiture relating to it and without notice of its seizure for  
 539 forfeiture; and

540 (III) At the time the interest was acquired, was reasonably without cause to believe  
 541 that the property was subject to forfeiture or likely to become subject to forfeiture.

542 (b) The fact that currency or a negotiable instrument was found in proximity to contraband  
 543 or to an instrumentality of conduct giving rise to forfeiture shall authorize the trier of fact  
 544 to infer that the currency or negotiable instrument was the proceeds of conduct giving rise  
 545 to forfeiture or was used or intended to be used to facilitate such conduct.

546 (c) There shall be a rebuttable presumption that any property of a person is subject to  
 547 forfeiture under this chapter if the state attorney establishes by clear and convincing  
 548 evidence that:

549 (1) The person has engaged in conduct giving rise to forfeiture;

550 (2) The property was acquired by the person during the period of the conduct giving rise  
551 to forfeiture or within a reasonable time after such period; and  
552 (3) There was no likely source for the property other than the conduct giving rise to  
553 forfeiture.

554 9-16-19.

555 (a) All property declared to be forfeited vests in the state at the time of commission of the  
556 conduct giving rise to forfeiture together with the proceeds of the property after that time.  
557 Any property or proceeds transferred later to any person remain subject to forfeiture and  
558 thereafter shall be ordered to be forfeited unless the transferee claims and establishes in a  
559 hearing under this chapter that the transferee is a bona fide purchaser for value and the  
560 transferee's interest is exempt under paragraph (2) of subsection (a) of Code Section  
561 9-16-18.

562 (b) On entry of judgment for a person claiming an interest in the property that is subject  
563 to a civil forfeiture action, the court shall order that the property or interest in the property  
564 be released or delivered promptly to that person free of liens and encumbrances.

565 9-16-20.

566 (a) As used in this Code section, the term:

567 (1) 'Official law enforcement purpose' means expenditures for law enforcement  
568 equipment, training expenses, and investigative expenses; such term shall not include the  
569 payment of salaries or rewards to law enforcement personnel.

570 (2) 'Political subdivision' means any county, municipality, or consolidated government  
571 of this state.

572 (b) Whenever property is forfeited under this chapter, any property which is required by  
573 order of the court or by law to be destroyed or which is harmful to the public shall, when  
574 no longer needed for evidentiary purposes, be destroyed or forwarded to the Division of  
575 Forensic Sciences of the Georgia Bureau of Investigation or any other agency of state or  
576 local government for destruction or for any medical or scientific use not prohibited under  
577 the laws of the United States.

578 (c) When property, other than currency or real property, is forfeited under this chapter, the  
579 court may:

580 (1) Order the property to be sold, with the income from the sale to be distributed as  
581 provided in subsection (f) of this Code section; or

582 (2) Provide for the in-kind distribution of the property as provided for in subsection (f)  
583 of this Code section.

584 (d) When real property is forfeited, the court may appoint a person to act as the receiver  
 585 of such property for the limited purpose of holding and transferring title and may order  
 586 that:

587 (1) The title to the real property be placed in the name of the state;

588 (2) The appropriate political subdivision take charge of the property and:

589 (A) Sell the property with such conditions as the court deems proper and distribute the  
 590 income in such manner as the court so orders; or

591 (B) Hold the property for use by one or more law enforcement agencies;

592 (3) The real property be turned over to an appropriate political subdivision without  
 593 restrictions;

594 (4) The real property be deeded to a land bank authority as provided in Article 4 of  
 595 Chapter 4 of Title 48; or

596 (5) The real property be disposed of in any commercially reasonable manner as the court  
 597 deems proper.

598 (e) When property is to be sold pursuant to this Code section:

599 (1) The court may direct that such property be sold by:

600 (A) Judicial sale as provided in Article 7 of Chapter 13 of this title; provided, however,  
 601 that the court may establish a minimum acceptable price for such property; or

602 (B) Any commercially feasible means, including, but not limited to, in the case of real  
 603 property, listing such property with a licensed real estate broker, selected by a state  
 604 attorney through competitive bids; and

605 (2) The proceeds of such sale shall be paid into the registry of the court.

606 (f)(1) The state attorney shall submit a proposed order of distribution to the court and the  
 607 court shall issue an order of distribution. The state attorney shall provide a copy of the  
 608 order of distribution to the chief executive officer of any political subdivision that will  
 609 receive a distribution pursuant to such order.

610 (2) All property forfeited in the same civil forfeiture action shall be pooled together and  
 611 a fair market value shall be assigned to each item of property other than currency in such  
 612 pool. A total value shall be established for the pool by adding together the fair market  
 613 value of all such property in the pool, the amount of currency in the pool, and any  
 614 accrued interest.

615 (3) The first distribution from the pool shall be to pay all costs and expenses, including  
 616 court costs, to the entity incurring the cost or expense. As further set forth in paragraphs

617 (4) and (5) of this subsection, the remaining pool shall be distributed pro rata to law  
 618 enforcement agencies and multijurisdictional task forces, according to the role which  
 619 each law enforcement agency or multijurisdictional task force played in the seizure of the  
 620 property, and may be distributed to the district attorney's office.

621 (4) After the payment of costs, expenses, and court costs and upon the request of the  
622 district attorney, the order of distribution may provide that up to 10 percent of the  
623 remaining pool be paid to the district attorney's office for its efforts in prosecuting the  
624 forfeiture proceedings. Any sum paid to the district attorney's office shall only be utilized  
625 for the payment of the office's trial expenses, victim-witness services, training expenses,  
626 travel expenses, and maintenance or improvement of equipment.

627 (5) Property distribution shall be as follows:

628 (A) With respect to political subdivisions:

629 (i) Property distributed in kind to a political subdivision or multijurisdictional task  
630 force for use by an agency, department, or officer of a political subdivision for official  
631 law enforcement purposes shall be designated in the order of distribution and shall be  
632 titled accordingly. If real property is distributed to a political subdivision, the  
633 political subdivision may transfer the real property to a land bank authority as  
634 provided in Article 4 of Chapter 4 of Title 48. When in kind property is no longer  
635 needed by the recipient, it shall be disposed of in accordance with the political  
636 subdivision's policy and procedure;

637 (ii) Currency distributed to local law enforcement agencies or to multijurisdictional  
638 task forces shall be paid or credited to such agencies or task forces within 15 days of  
639 the date of the order of distribution; provided, however, that such agency or task force  
640 shall not be eligible to receive more than 33 1/3 percent of the amount of local funds  
641 appropriated or otherwise made available to such agency or task force for the fiscal  
642 year in which such funds are distributed. Such currency may be used for any official  
643 law enforcement purpose and shall not be used to supplant any other local, state, or  
644 federal funds appropriated for staff or operations; and

645 (iii) Currency not distributed pursuant to division (ii) of this subparagraph shall be  
646 expended for any official law enforcement purpose; for the representation of indigents  
647 in criminal cases; for drug treatment, mental health treatment, rehabilitation,  
648 prevention, or education or any other program which responds to problems created  
649 by drug or substance abuse; for use as matching funds for grant programs related to  
650 drug treatment or prevention; to fund victim-witness assistance programs; or for any  
651 combination of the foregoing; and

652 (B) With respect to the state:

653 (i) Property distributed in kind to the state for use by an agency or officer of the state  
654 shall be designated in the order of distribution and shall be delivered over to the  
655 Department of Administrative Services for such use or disposition as may be  
656 determined by the commissioner of administrative services; and

657 (ii) Currency distributed to the state shall be paid into the general fund of the state  
 658 treasury within 15 days of the date of the order of distribution, it being the intent of  
 659 the General Assembly that the same be used, subject to appropriation from the general  
 660 fund in the manner provided by law, for funding of Article 2 of Chapter 12 of  
 661 Title 17, the 'Georgia Indigent Defense Act of 2003,' for representation of indigents  
 662 in criminal cases; for funding of the Georgia Crime Victims Emergency Fund; for law  
 663 enforcement and prosecution agency programs and particularly for funding of  
 664 advanced drug investigation and prosecution training for law enforcement officers and  
 665 prosecuting attorneys; for drug treatment, mental health treatment, rehabilitation,  
 666 prevention, or education or any other program which responds to problems created  
 667 by drug or substance abuse; for use as matching funds for grant programs related to  
 668 drug treatment or prevention; or for financing the judicial system of the state.

669 (g)(1) The Administrative Office of the Courts shall promulgate and from time to time  
 670 amend as necessary and post on its website an annual reporting form for use by local law  
 671 enforcement agencies and multijurisdictional task forces to report forfeited property as  
 672 set forth in this subsection. Such reporting form shall include, but shall not be limited  
 673 to the following information:

- 674 (A) The date the property was seized;
- 675 (B) The type of property seized, including the make, model, and serial number, when  
 676 relevant;
- 677 (C) The name of the alleged crime or crimes that caused the seizure of the property;
- 678 (D) The disposition of the seized property and whether the property was returned to the  
 679 owner, sold, destroyed, or retained and if retained, by whom;
- 680 (E) The date of the action described in subparagraph (D) of this paragraph;
- 681 (F) The estimated value of the property;
- 682 (G) The gross amount received from the forfeiture;
- 683 (H) A description of and amount of the expenses associated with the forfeiture;
- 684 (I) The net amount received from the forfeiture and to whom distribution was made;  
 685 and
- 686 (J) A description of the use and expenditure of the property.

687 (2) Every local law enforcement agency and multijurisdictional task force receiving  
 688 forfeiture property, including property distributed in kind, shall submit an annual report  
 689 to the political subdivision and the district attorney governing its jurisdiction specifying  
 690 the property received during the fiscal year and clearly identifying the use of such  
 691 property, including the specifics of all monetary expenditures. Such annual report shall  
 692 be submitted to the applicable political subdivision and district attorney at the same time  
 693 as such agency's or task force's budget request. No political subdivision shall accept for

694 filing any annual report unless the report is on a form promulgated by the Administrative  
 695 Office of the Courts and such form is appropriately and legibly completed.

696 (3) A copy of the annual report required by this subsection shall also be submitted by  
 697 every local law enforcement agency and multijurisdictional task force to the Carl Vinson  
 698 Institute of Government of the University of Georgia as provided in Code Section 36-80-21.

699 (4) If a local law enforcement agency or multijurisdictional task force fails to comply  
 700 with this subsection or misuses property derived or resulting from civil forfeiture actions,  
 701 such agency or task force shall not be eligible to receive property derived or resulting  
 702 from civil forfeiture actions for a period of two years commencing on a date determined  
 703 by the district attorney of the judicial circuit having appropriate jurisdiction. Such district  
 704 attorney shall also be responsible for determining whether or not all of the local law  
 705 enforcement agencies or multijurisdictional task forces within his or her judicial circuit  
 706 have complied with this subsection. Any property forfeited during a two-year suspension  
 707 period shall be shall be paid over into the general fund of the state treasury. Each district  
 708 attorney shall ensure that civil forfeiture disposition orders reflect the disposition of such  
 709 property.

710 9-16-21.

711 (a) The court shall order the forfeiture of any property of a claimant or defendant up to the  
 712 value of property found by the court to be subject to forfeiture if any of the forfeited  
 713 property:

714 (1) Cannot be located;

715 (2) Has been transferred or conveyed to, sold to, or deposited with a third party;

716 (3) Is beyond the jurisdiction of the court;

717 (4) Has been substantially diminished in value while not in the actual physical custody  
 718 of the receiver or governmental agency directed to maintain custody of the property; or

719 (5) Has been commingled with other property that cannot be divided without difficulty.

720 (b) In addition to any other remedy provided for by law, a state attorney on behalf of the  
 721 state may institute a civil action in any court of the United States against any person acting  
 722 with knowledge or any person to whom notice of a forfeiture lien has been provided in  
 723 accordance with Code Section 9-16-9; to whom notice of seizure has been provided in  
 724 accordance with Code Section 9-16-8; or to whom notice of a civil forfeiture action  
 725 alleging conduct giving rise to forfeiture under this chapter has been provided, if property  
 726 subject to forfeiture is conveyed, alienated, disposed of, or otherwise rendered unavailable  
 727 for forfeiture after the filing of a forfeiture lien notice or notice of seizure or after the filing  
 728 and notice of a civil forfeiture action alleging conduct giving rise to forfeiture under this  
 729 chapter, as the case may be. The state may recover judgment in an amount equal to the

730 value of the forfeiture lien but not to exceed the fair market value of the property or, if  
731 there is no forfeiture lien, in an amount not to exceed the fair market value of the property,  
732 together with reasonable investigative expenses and attorney's fees.

733 (c) A state attorney may file and prosecute in any of the courts of the United States or as  
734 may be necessary to enforce any judgment rendered pursuant to this chapter.

735 (d) No person claiming an interest in property subject to forfeiture may commence or  
736 maintain any civil action concerning the validity of the alleged interest other than as  
737 provided in this chapter. No person claiming an interest in property subject to forfeiture  
738 may file any counterclaim or cross-claim to any action brought pursuant to this chapter.  
739 Except as specifically authorized by subsection (d) of Code Section 9-16-13, subsection  
740 (d) of Code Section 9-16-14, or Code Section 9-16-17, providing for intervention, no  
741 person claiming an interest in such property may intervene in any civil forfeiture action  
742 brought pursuant to this chapter.

743 (e) A civil forfeiture action under this chapter shall be commenced within four years after  
744 the last conduct giving rise to forfeiture or to the claim for relief became known or should  
745 have become known, excluding any time during which either the property or defendant is  
746 out of the state or in confinement or during which criminal proceedings relating to the same  
747 conduct are in progress.

748 9-16-22.

749 (a) Property seized or forfeited pursuant to federal law, and such property or proceeds  
750 derived therefrom, authorized by such federal law to be transferred to a cooperating law  
751 enforcement agency of this state or any political subdivision thereof shall be utilized by the  
752 law enforcement agency or political subdivision to which the property or proceeds are so  
753 transferred as authorized by such federal law and regulations or guidelines promulgated  
754 thereunder. If federal law is silent as to the utilization of such property or proceeds, the  
755 property and proceeds shall be disposed of and utilized as set forth in Code Section  
756 9-16-20.

757 (b) Any law enforcement agency receiving property or proceeds pursuant to federal law  
758 shall also comply with subsection (g) of Code Section 9-16-20.

759 9-16-23.

760 This chapter shall be liberally construed to effectuate its remedial purposes."

761 **PART II**  
 762 **CONFORMING TITLE 16 TO THE NEW**  
 763 **CIVIL FORFEITURE PROCEDURE**  
 764 **SECTION 2-1.**

765 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is  
 766 amended by revising subsection (e) of Code Section 16-5-44.1, relating to highjacking a  
 767 motor vehicle, as follows:

768 "(e)(1) As used in this subsection, the terms 'proceeds' and 'property' shall have the same  
 769 meanings as set forth in Code Section 9-16-2.

770 (2) Any property which is, directly or indirectly, used, or intended for use, derived, or  
 771 realized, directly or indirectly, from in any manner to facilitate a violation of this Code  
 772 section is forfeited to the state and no property interest shall exist therein. Any action  
 773 declaring such forfeiture shall be governed by the provisions of Code Section 16-13-49  
 774 and any proceeds derived or realized therefrom are declared to be contraband and no  
 775 person shall have a property right in them.

776 (3) Any property subject to forfeiture pursuant to paragraph (2) of this subsection shall  
 777 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9."

778 **SECTION 2-2.**

779 Said title is further amended by revising subsection (g) of code section 16-5-46, relating to  
 780 trafficking of persons for labor or sexual servitude, as follows:

781 "(g)(1) As used in this subsection, the terms 'proceeds' and 'property' shall have the same  
 782 meanings as set forth in Code Section 9-16-2. All real and personal property of every  
 783 kind used or intended for use in the course of, derived from, or realized through a  
 784 violation of this Code section shall be subject to forfeiture to the state. Forfeiture shall  
 785 be had by the same procedure set forth in Code Section 16-14-7. Prosecuting attorneys  
 786 and the Attorney General may commence forfeiture proceedings under this Code section.

787 (2) Any property which is, directly or indirectly, used or intended for use in any manner  
 788 to facilitate a violation of this Code section and any proceeds derived or realized  
 789 therefrom are declared to be contraband and no person shall have a property right in  
 790 them.

791 (3) Any property subject to forfeiture pursuant to paragraph (2) of this subsection shall  
 792 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9.

793 (4) The Attorney General shall be specifically authorized to commence forfeiture  
 794 proceedings under this Code section."

795 **SECTION 2-3.**

796 Said title is further amended by repealing in its entirety Code Section 16-6-13.2, relating to  
 797 forfeiture and seizure of property involving pimping and pandering, and enacting a new Code  
 798 Section 16-6-13.2 to read as follows:

799 "16-6-13.2.

800 (a) As used in this Code section, the term 'motor vehicle' shall have the same meaning as  
 801 set forth in Code Section 40-1-1.

802 (b) Any motor vehicle used by a person to facilitate a violation of Code Section 16-6-11  
 803 when the offense involved the pimping of a person to perform an act of prostitution is  
 804 declared to be contraband and no person shall have a property right in it.

805 (c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall  
 806 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9."

807 **SECTION 2-4.**

808 Said title is further amended by repealing in its entirety Code Section 16-6-13.3, relating to  
 809 proceeds from pimping, forfeiture, and distribution, and enacting a new Code Section  
 810 16-6-13.3 to read as follows:

811 "16-6-13.3.

812 (a) As used in this Code section, the terms 'proceeds' and 'property' shall have the same  
 813 meanings as set forth in Code Section 9-16-2.

814 (b) Any property which is, directly or indirectly, used or intended for use in any manner  
 815 to facilitate a violation of Code Section 16-6-11 and any proceeds derived or realized  
 816 therefrom are declared to be contraband and no person shall have a property right in them.

817 (c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall  
 818 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9."

819 **SECTION 2-5.**

820 Said title is further amended by revising Code Section 16-7-95, relating to forfeiture and  
 821 destruction or disposition of property, as follows:

822 "16-7-95.

823 (a) As used in this Code section, the terms 'proceeds' and 'property' shall have the same  
 824 meanings as set forth in Code Section 9-16-2. ~~All property which is subject to forfeiture~~  
 825 ~~pursuant to Code Section 16-13-49 which is, directly or indirectly, used or intended for use~~  
 826 ~~in any manner to facilitate a violation of this article or any proceeds derived or realized~~  
 827 ~~therefrom shall be considered contraband. Except as provided in subsection (b) of this~~  
 828 ~~Code section, such property may be seized and shall be forfeited to the state as provided~~  
 829 ~~in Code Section 16-13-49. A property interest shall not be subject to forfeiture under this~~

830 ~~Code section if the owner of such interest or interest holder establishes any of the~~  
 831 ~~provisions of subsection (e) of Code Section 16-13-49.~~

832 (b) Any property which is, directly or indirectly, used or intended for use in any manner  
 833 to facilitate a violation of this article and any proceeds derived or realized therefrom are  
 834 declared to be contraband and no person shall have a property right in them.

835 (c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall  
 836 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9.

837 ~~(b)~~(d) On application of the seizing law enforcement agency, the superior court may  
 838 authorize the seizing law enforcement agency to destroy or transfer to any agency of this  
 839 state or of the United States which can safely store or render harmless any destructive  
 840 device, explosive, poison gas, or detonator which is subject to forfeiture pursuant to this  
 841 Code section if the court finds that it is impractical or unsafe for the seizing law  
 842 enforcement agency to store such destructive device, explosive, poison gas, or detonator.  
 843 Such application may be made at any time after seizure. Any destruction authorized  
 844 pursuant to this subsection shall be made in the presence of at least one credible witness  
 845 or shall be recorded on film, videotape, or other electronic imaging method. Any such  
 846 film, videotape, or other electronic imaging method shall be admissible as evidence in lieu  
 847 of such destructive device, explosive, poison gas, or detonator. The court may also direct  
 848 the seizing agency or an agency to which such destructive device, explosive, poison gas,  
 849 or detonator is transferred to make a report of the destruction, take samples, or both.

850 ~~(c)~~(e) The provisions of subsection ~~(b)~~ (d) of this Code section shall not prohibit an  
 851 explosive ordnance technician, other law enforcement officer, or fire service personnel  
 852 from taking action which will render safe an explosive, destructive device, poison gas, or  
 853 detonator or any object which is suspected of being an explosive, destructive device, poison  
 854 gas, or detonator without the prior approval of a court when such action is intended to  
 855 protect lives or property."

856 **SECTION 2-6.**

857 Said title is further amended by revising subsection (e) of Code Section 16-8-5.2, relating to  
 858 retail property fencing and forfeiture, as follows:

859 "(e)(1) As used in this subsection, the terms 'proceeds' and 'property' shall have the same  
 860 meanings as set forth in Code Section 9-16-2.

861 (2) Any property constituting proceeds derived from proceeds which are, directly or  
 862 indirectly, derived or realized through a violation of this Code section shall be subject to  
 863 forfeiture to the State of Georgia except that are declared to be contraband and no person  
 864 shall have a property right in them; provided, however, that notwithstanding paragraph  
 865 (2) of subsection (a) of Code Section 9-16-18, no property of any owner shall be forfeited

866 under this subsection, to the extent of the interest of such owner, by reason of an act or  
 867 omission established by such owner to have been committed or omitted without  
 868 knowledge or consent of such owner. ~~The procedure for forfeiture and disposition of~~  
 869 ~~forfeited property under this subsection shall be as provided for under Code Section~~  
 870 ~~16-13-49.~~

871 (3) Any property subject to forfeiture pursuant to paragraph (2) of this subsection shall  
 872 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9."

873 **SECTION 2-7.**

874 Said title is further amended by revising subsection (f) of Code Section 16-8-60, relating to  
 875 reproduction of recorded material, transfer, sale, distribution, circulation, and forfeiture, as  
 876 follows:

877 "(f)(1) Any phonograph record, disc, wire, tape, videotape, film, or other article onto  
 878 which sounds or visual images have been transferred ~~shall be subject to forfeiture to the~~  
 879 ~~State of Georgia except that~~ in violation of this Code section are declared to be  
 880 contraband and no person shall have a property right in them; provided, however, that  
 881 notwithstanding paragraph (2) of subsection (a) of Code Section 9-16-18, no property of  
 882 any owner shall be forfeited under this paragraph, to the extent of the interest of such  
 883 owner, by reason of an act or omission established by such owner to have been  
 884 committed or omitted without knowledge or consent of such owner.

885 (2) Any property subject to forfeiture pursuant to paragraph (1) of this subsection shall  
 886 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9. The  
 887 ~~procedure for forfeiture and disposition of forfeited property under this subsection shall~~  
 888 ~~be as provided for under Code Section 16-13-49."~~

889 **SECTION 2-8.**

890 Said title is further amended by revising subsections (c) through (r) of Code Section 16-8-85,  
 891 relating to forfeiture of personal property seized, as follows:

892 ~~"(c)(1) Any motor vehicle, motor vehicle part, other conveyance, tool, implement, or~~  
 893 ~~instrumentality is not subject to forfeiture under this Code section by reason of any act~~  
 894 ~~or omission which the owner proves to have been committed or omitted without the~~  
 895 ~~owner's knowledge or consent.~~

896 ~~(2) Seizing agencies shall utilize their best efforts to identify any seized motor vehicle~~  
 897 ~~or motor vehicle part to determine ownership or the identity of any other person having~~  
 898 ~~a right or interest in a seized motor vehicle or motor vehicle part. In its reasonable~~  
 899 ~~identification and owner location attempts, the seizing agency shall cause the stolen~~  
 900 ~~motor vehicle files of the Georgia Bureau of Investigation to be searched for stolen or~~

901 ~~wanted information on motor vehicles similar to the seized motor vehicle or consistent~~  
 902 ~~with the seized motor vehicle part.~~

903 ~~(3)(c) If~~ Where a motor vehicle part has an apparent value in excess of \$1,000.00:

904 ~~(A)(1)~~ The seizing agency shall consult with an expert of the type specified in  
 905 paragraph (4) of Code Section 16-8-82; and

906 ~~(B)(2)~~ The seizing agency shall also request searches of the ~~on-line~~ online and ~~off-line~~  
 907 offline files of the National Crime Information Center and the National Automobile Theft  
 908 Bureau when the Georgia Bureau of Investigation and Georgia Crime Information Center  
 909 files have been searched with negative results.

910 ~~(d)~~ Any property subject to forfeiture pursuant to this Code section shall be forfeited in  
 911 accordance with the procedures set forth in Chapter 16 of Title 9, except as specifically set  
 912 forth in subsections (g) through (j) of this Code section. ~~A forfeiture of a motor vehicle,~~  
 913 ~~motor vehicle part, or other conveyance encumbered by a bona fide security interest is~~  
 914 ~~subject to the interest of the secured party where the secured party neither had knowledge~~  
 915 ~~of nor consented to the act or omission forming the ground for the forfeiture.~~

916 ~~(e)~~ Property, as described in subsection (a) of this Code section, which is seized and held  
 917 for forfeiture shall not be subject to replevin and is subject only to the order and judgments  
 918 of a court of competent jurisdiction hearing the forfeiture proceedings.

919 ~~(f)(1)~~ A prosecutor in the county where the seizure occurs shall bring an action for  
 920 forfeiture in a court of competent jurisdiction. The forfeiture action shall be brought  
 921 within 60 days from the date of seizure except where the prosecutor in the sound exercise  
 922 of discretion determines that no forfeiture action should be brought because of the rights  
 923 of property owners, lienholders, or secured creditors or because of exculpatory,  
 924 exonerating, or mitigating facts and circumstances.

925 ~~(2)~~ The prosecutor shall give notice of the forfeiture proceeding by mailing a copy of the  
 926 complaint in the forfeiture proceeding to each person whose right, title, or interest is of  
 927 record in the Department of Revenue, the Department of Transportation, the Federal  
 928 Aviation Agency, or any other department or agency of this state, any other state or  
 929 territory of the United States, or of the federal government if such property is required to  
 930 be registered with any such department or agency.

931 ~~(3)~~ Notice of the forfeiture proceeding shall be given to any other such person as may  
 932 appear, from the facts and circumstances, to have any right, title, or interest in or to the  
 933 property.

934 ~~(4)~~ The owner of the property or any person having or claiming right, title, or interest in  
 935 the property may within 60 days after the mailing of such notice file a verified answer to  
 936 the complaint and may appear at the hearing on the action for forfeiture.

937 ~~(5) The prosecutor shall show at a forfeiture hearing, by a preponderance of the~~  
 938 ~~evidence, that such property was used in the commission of a violation of Code Section~~  
 939 ~~16-8-83 or was used or possessed to facilitate such violation.~~

940 ~~(6) The owner of such property may show by a preponderance of the evidence that the~~  
 941 ~~owner did not know, and did not have reason to know, that the property was to be used~~  
 942 ~~or possessed in the commission of any violation or that any of the exceptions to forfeiture~~  
 943 ~~are applicable.~~

944 ~~(7) Unless the prosecutor shall make the showing required of it, the court shall order the~~  
 945 ~~property released to the owner. Where the prosecutor has made such a showing, the court~~  
 946 ~~may order that:~~

947 ~~(A) The property be destroyed by the agency which seized it or some other agency~~  
 948 ~~designated by the court;~~

949 ~~(B) The property be delivered and retained for use by the agency which seized it or~~  
 950 ~~some other agency designated by the court; or~~

951 ~~(C) The property be sold at public sale.~~

952 ~~(g)~~(e) A copy of a forfeiture order shall be filed with the sheriff of the county in which the  
 953 forfeiture occurs and with each federal or state department or agency with which such  
 954 property is required to be registered. Such order, when filed, constitutes authority for the  
 955 issuance to the agency to whom the property is delivered and retained for use or to any  
 956 purchaser of the property of a certificate of title, registration certificate, or other special  
 957 certificate as may be required by law in consideration of the condition of the property.

958 ~~(h) Proceeds from sale at public auction, after payment of all reasonable charges and~~  
 959 ~~expenses incurred by the agency designated by the court to conduct the sale in storing and~~  
 960 ~~selling the property, shall be paid into the general fund of the county of seizure.~~

961 ~~(i)~~(f) No motor vehicle, either seized under Code Section 16-8-84 or forfeited under this  
 962 Code section, shall be released by the seizing agency or used or sold by an agency  
 963 designated by the court unless any altered, counterfeited, defaced, destroyed, disguised,  
 964 falsified, forged, obliterated, or removed vehicle identification number is corrected by the  
 965 issuance and affixing of either an assigned or replacement vehicle identification number  
 966 plate as may be appropriate under laws or regulations of this state.

967 ~~(j)~~(g) No motor vehicle part having any altered, counterfeited, defaced, destroyed,  
 968 disguised, falsified, forged, obliterated, or removed vehicle identification number may be  
 969 disposed of upon forfeiture except by destruction thereof, except that this subsection shall  
 970 not apply to any such motor vehicle part which is assembled with and constitutes part of  
 971 a motor vehicle.

972 ~~(k)~~(h) No motor vehicle or motor vehicle part shall be forfeited under this Code section  
 973 solely on the basis that it is unidentifiable. Instead of forfeiture, any seized motor vehicle

974 or motor vehicle part which is unidentifiable shall be the subject of a written report sent by  
 975 the seizing agency to the Department of Revenue; which report shall include a description  
 976 of the motor vehicle or motor vehicle part, including its color, if any; the date, time, and  
 977 place of its seizure; the name of the person from whose possession or control it was seized;  
 978 the grounds for its seizure; and the location where the same is held or stored.

979 ~~(h)~~(i) When a seized unidentifiable motor vehicle or motor vehicle part has been held for  
 980 60 days or more after the notice to the Department of Revenue specified in  
 981 subsection ~~(k)~~ (h) of this Code section has been given, the seizing agency, or its agent, shall  
 982 cause the motor vehicle or motor vehicle part to be sold at a public sale to the highest  
 983 bidder. Notice of the time and place of sale shall be posted in a conspicuous place for at  
 984 least 30 days prior to the sale on the premises where the motor vehicle or motor vehicle  
 985 part has been stored.

986 ~~(m)~~(j)(1) When a seized unidentifiable motor vehicle or motor vehicle part has an  
 987 apparent value of \$1,000.00 or less, the seizing agency shall authorize the disposal of the  
 988 motor vehicle or motor vehicle part, provided that no such disposition shall be made  
 989 sooner than 60 days after the date of seizure.

990 ~~(n)~~(2) The proceeds of the public sale of an unidentifiable motor vehicle or motor vehicle  
 991 part shall be deposited into the general fund of the state, county, or municipal corporation  
 992 employing the seizing agency after deduction of any reasonable and necessary towing and  
 993 storage charges.

994 ~~(o)~~(k) Seizing agencies shall utilize their best efforts to arrange for the towing and storing  
 995 of motor vehicles and motor vehicle parts in the most economical manner possible. In no  
 996 event shall the owner of a motor vehicle or a motor vehicle part be required to pay more  
 997 than the minimum reasonable costs of towing and storage.

998 ~~(p)~~(l) A seized motor vehicle or motor vehicle part that is neither forfeited nor  
 999 unidentifiable shall be held subject to the order of the court in which the criminal action is  
 1000 pending or, if a request for its release from such custody is made, until the prosecutor has  
 1001 notified the defendant or the defendant's attorney of such request and both the prosecution  
 1002 and defense have been afforded a reasonable opportunity for an examination of the  
 1003 property to determine its true value and to produce or reproduce, by photographs or other  
 1004 identifying techniques, legally sufficient evidence for introduction at trial or other criminal  
 1005 proceedings. Upon expiration of a reasonable time for the completion of the examination,  
 1006 which in no event shall exceed 14 days from the date of service upon the defense of the  
 1007 notice of request for return of property as provided in this subsection, the property shall be  
 1008 released to the person making such request after satisfactory proof of such person's  
 1009 entitlement to the possession thereof. Notwithstanding the foregoing, upon application by

1010 either party with notice to the other, the court may order retention of the property if it  
 1011 determines that retention is necessary in the furtherance of justice.

1012 ~~(q)(m)~~ When a seized vehicle is forfeited, restored to its owner, or disposed of as  
 1013 unidentifiable, the seizing agency shall retain a report of the transaction for a period of at  
 1014 least one year from the date of the transaction.

1015 ~~(r)(n)~~ When an applicant for a certificate of title or salvage certificate of title presents to  
 1016 the Department of Revenue proof that the applicant purchased or acquired a motor vehicle  
 1017 at public sale conducted pursuant to this Code section and such fact is attested to by the  
 1018 seizing agency, the Department of Revenue shall issue a certificate of title or a salvage  
 1019 certificate of title, as determined by the state revenue commissioner, for such motor vehicle  
 1020 upon receipt of the statutory fee, a properly executed application for a certificate of title or  
 1021 other certificate of ownership, and the affidavit of the seizing agency that a state assigned  
 1022 number was applied for and affixed to the motor vehicle prior to the time that the motor  
 1023 vehicle was released by the seizing agency to the purchaser."

#### 1024 SECTION 2-9.

1025 Said title is further amended by revising Code Section 16-8-106, relating to forfeiture under  
 1026 the "Georgia Residential Mortgage Fraud Act," as follows:

1027 "16-8-106.

1028 (a) As used in this Code section, the terms 'proceeds' and 'property' shall have the same  
 1029 meanings as set forth in Code Section 9-16-2. All real and personal property of every kind  
 1030 used or intended for use in the course of, derived from, or realized through a violation of  
 1031 this article shall be subject to forfeiture to the state. Forfeiture shall be had by the same  
 1032 procedure set forth in Code Section 16-14-7. District attorneys and the Attorney General  
 1033 may commence forfeiture proceedings under this article.

1034 (b) Any property which is, directly or indirectly, used or intended for use in any manner  
 1035 to facilitate a violation of this article and any proceeds derived or realized therefrom are  
 1036 declared to be contraband and no person shall have a property right in them.

1037 (c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall  
 1038 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9.

1039 (d) The Attorney General shall be specifically authorized to commence forfeiture  
 1040 proceedings under this Code section."

#### 1041 SECTION 2-10.

1042 Said title is further amended by revising subsection (h) of Code Section 16-9-4, relating to  
 1043 manufacturing, selling, or distributing false identification documents, as follows:

1044 "(h)(1) As used in this subsection, the terms 'proceeds' and 'property' shall have the same  
 1045 meanings as set forth in Code Section 9-16-2. Any property which is used, intended for  
 1046 use, or used in any manner to facilitate a violation of this Code section is contraband and  
 1047 forfeited to the state and no person shall have a property interest in it. Such property may  
 1048 be seized or detained in the same manner as provided in Code Section 16-13-49 and shall  
 1049 not be subject to replevin, conveyance, sequestration, or attachment.

1050 (2) Any property which is, directly or indirectly, used or intended for use in any manner  
 1051 to facilitate a violation of this Code section and any proceeds derived or realized  
 1052 therefrom are declared to be contraband and no person shall have a property right in  
 1053 them. Within 60 days of the date of the seizure of contraband pursuant to this Code  
 1054 section, the district attorney shall initiate forfeiture or other proceedings as provided in  
 1055 Code Section 16-13-49. An owner or interest holder, as defined by subsection (a) of  
 1056 Code Section 16-13-49, may establish as a defense to the forfeiture of property which is  
 1057 subject to forfeiture under this Code section the applicable provisions of subsection (e)  
 1058 or (f) of Code Section 16-13-49. Property which is forfeited pursuant to this Code section  
 1059 shall be disposed of and distributed as provided in Code Section 16-13-49.

1060 (3) Any property subject to forfeiture pursuant to paragraph (2) of this subsection shall  
 1061 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9. If  
 1062 property subject to forfeiture cannot be located; has been transferred or conveyed to, sold  
 1063 to, or deposited with a third party; is beyond the jurisdiction of the court; has been  
 1064 substantially diminished in value while not in the actual physical custody of a receiver  
 1065 or governmental agency directed to maintain custody of the property; or has been  
 1066 commingled with other property that cannot be divided without difficulty, the court shall  
 1067 order the forfeiture of any property of a claimant or defendant up to the value of property  
 1068 found by the court to be subject to forfeiture under this subsection in accordance with the  
 1069 procedures set forth in subsection (x) of Code Section 16-13-49.

1070 (4) The provisions of paragraphs (3), (4), and (5) of subsection (x) and subsection (z) of  
 1071 Code Section 16-13-49 shall be applicable to any proceedings brought pursuant to this  
 1072 subsection."

1073 **SECTION 2-11.**

1074 Said title is further amended by revising Code Section 16-11-11, relating to dissolution of  
 1075 subversive organizations and forfeiture, as follows:

1076 "16-11-11.

1077 It shall be unlawful for any subversive organization or foreign subversive organization to  
 1078 exist or function in this state. Any organization which by a court of competent jurisdiction  
 1079 is found to have violated this Code section shall be dissolved and, if it is a corporation

1080 organized and existing under the laws of this state, a finding by a court of competent  
 1081 jurisdiction that it has violated this Code section shall constitute legal cause for ~~forfeiture~~  
 1082 revocation of its charter and its charter shall be ~~forfeited~~ revoked. All funds, books,  
 1083 records, and files of every kind and all other property of any organization found to have  
 1084 violated this Code section shall be seized by and for this state, the funds to be deposited in  
 1085 the state treasury and the books, records, files, and other property to be turned over to the  
 1086 Attorney General."

#### 1087 **SECTION 2-12.**

1088 Said title is further amended by revising paragraph (3) of subsection (b) of Code Section  
 1089 16-12-24, relating to possession, manufacture, or transfer of gambling devices or parts, as  
 1090 follows:

1091 "(3) Any antique slot machine seized as a result of a violation of this Code section shall  
 1092 be contraband and subject to seizure and destruction as provided in Code Section  
 1093 ~~16-12-30~~ 16-12-32. An antique slot machine seized for a violation of this Code section  
 1094 shall not be destroyed, altered, or sold until the owner has been afforded a reasonable  
 1095 opportunity to present evidence that the device was not operated for unlawful gambling  
 1096 or in violation of this Code section. If the court determines that the device is an antique  
 1097 slot machine and was not operated or possessed in violation of this or any other Code  
 1098 section, such device shall be returned to its owner."

#### 1099 **SECTION 2-13.**

1100 Said title is further amended by revising Code Section 16-12-30, relating to seizure and  
 1101 destruction of gambling devices, as follows:

1102 "16-12-30.

1103 ~~(a) Except as provided in subsection (b) of Code Section 16-12-24, every gambling device~~  
 1104 ~~is declared to be contraband and subject to seizure and confiscation by any state or local~~  
 1105 ~~authority within whose jurisdiction the same may be found.~~

1106 ~~(b) At such time as there shall be a final judgment entered in any case or cases in which~~  
 1107 ~~a seized gambling device is necessary evidence or at such time as the state shall determine~~  
 1108 ~~that the continued physical existence of the seized gambling device is no longer necessary,~~  
 1109 ~~the same shall be turned over by that person having custody of the device to the sheriff of~~  
 1110 ~~the county wherein the device was confiscated. The sheriff shall within ten days after~~  
 1111 ~~receiving the device destroy the same in the presence of the district attorney of the circuit~~  
 1112 ~~in which such county is located and shall forward to the state revenue commissioner a~~  
 1113 ~~certificate so stating which shall include the serial number of the device so destroyed.~~

1114 Reserved."

1115 **SECTION 2-14.**

1116 Said title is amended by repealing in its entirety Code Section 16-12-32, relating to seizure  
1117 and disposition of property used in or derived from a violation of the article proscribing  
1118 gambling and related offenses, and enacting a new Code Section 16-12-32 to read as follows:

1119 "16-12-32.

1120 (a) As used in this Code section, the terms 'proceeds,' 'property,' and 'United States' shall  
1121 have the same meanings as set forth in Code Section 9-16-2, and 'enterprise' means any  
1122 person, sole proprietorship, partnership, corporation, trust, association, or other legal entity  
1123 created under the laws the United States or any foreign nation or a group of individuals  
1124 associated in fact although not a legal entity and includes illicit as well as licit enterprises  
1125 and governmental as well as other entities.

1126 (b) The following are declared to be contraband, and no person shall have a property right  
1127 in them:

1128 (1) Every gambling device except antique slot machines as provided for in subsection (b)  
1129 of Code Section 16-12-24;

1130 (2) Any property which is, directly or indirectly, used or intended for use in any manner  
1131 to facilitate a violation of this article and any proceeds derived or realized therefrom;

1132 (3) Any property located in this state which was, directly or indirectly, used or intended  
1133 for use in any manner to facilitate a violation of this article or of the laws of the United  
1134 States relating to gambling and any proceeds derived or realized therefrom;

1135 (4) Any interest, security, claim, or property or contractual right of any kind affording  
1136 a source of influence over any enterprise that a person has established, operated,  
1137 controlled, conducted, or participated in the conduct of in violation of this article or any  
1138 of the laws of the United States relating to gambling and any proceeds derived or realized  
1139 therefrom; and

1140 (5) Any property found in close proximity to any gambling device or other property  
1141 subject to forfeiture under this Code section.

1142 (c) Any property declared as contraband pursuant to subsection (b) of this Code section  
1143 shall be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9."

1144 **SECTION 2-15.**

1145 Said title is further amended by revising subsections (e) through (g) of Code Section  
1146 16-12-100, relating to sexual exploitation of children, as follows:

1147 "(e)(1) As used in this subsection, the terms 'proceeds' and 'property' shall have the same  
1148 meaning as set forth in Code Section 9-16-2. A person who is convicted of an offense  
1149 under this Code section shall forfeit to the State of Georgia such interest as the person  
1150 may have in:

1151 ~~(A) Any property constituting or directly derived from gross profits or other proceeds~~  
 1152 ~~obtained from such offense; and~~

1153 ~~(B) Any property used, or intended to be used, to commit such offense.~~

1154 ~~(2) Any property which is, directly or indirectly, used or intended to be used in any~~  
 1155 ~~manner to facilitate a violation of this Code section and any proceeds derived or realized~~  
 1156 ~~therefrom are declared to be contraband and no person shall have a property right in~~  
 1157 ~~them. In any action under this Code section, the court may enter such restraining orders~~  
 1158 ~~or take other appropriate action, including acceptance of performance bonds, in~~  
 1159 ~~connection with any interest that is subject to forfeiture.~~

1160 ~~(3) Any property subject to forfeiture pursuant to paragraph (2) of this subsection shall~~  
 1161 ~~be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9. The~~  
 1162 ~~court shall order forfeiture of property referred to in paragraph (1) of this subsection if~~  
 1163 ~~the trier of fact determines, beyond a reasonable doubt, that such property is subject to~~  
 1164 ~~forfeiture.~~

1165 ~~(4) The provisions of subsection (u) of Code Section 16-13-49 shall apply for the~~  
 1166 ~~disposition of any property forfeited under this subsection. In any disposition of property~~  
 1167 ~~under this subsection, a convicted person shall not be permitted to acquire property~~  
 1168 ~~forfeited by such person.~~

1169 ~~(f)(1) The following property shall be subject to forfeiture to the State of Georgia:~~

1170 ~~(A) Any material or equipment used, or intended for use, in producing, reproducing,~~  
 1171 ~~transporting, shipping, or receiving any visual medium in violation of this Code section;~~

1172 ~~(B) Any visual medium produced, transported, shipped, or received in violation of this~~  
 1173 ~~Code section, or any material containing such depiction; provided, however, that any~~  
 1174 ~~such property so forfeited shall be destroyed by the appropriate law enforcement~~  
 1175 ~~agency after it is no longer needed in any court proceedings; or~~

1176 ~~(C) Any property constituting or directly derived from gross profits or other proceeds~~  
 1177 ~~obtained from a violation of this Code section;~~

1178 ~~except that no property of any owner shall be forfeited under this paragraph, to the extent~~  
 1179 ~~of the interest of such owner, by reason of an act or omission established by such owner~~  
 1180 ~~to have been committed or omitted without knowledge or consent of such owner.~~

1181 ~~(2) The procedure for forfeiture and disposition of forfeited property under this~~  
 1182 ~~subsection shall be as provided for forfeitures under Code Section 16-13-49.~~

1183 ~~(g)(f)(1) Except as otherwise provided in paragraph (2) of this subsection, any person~~  
 1184 ~~who violates a provision of this Code section shall be guilty of a felony and, upon~~  
 1185 ~~conviction thereof, shall be punished by imprisonment for not less than five nor more~~  
 1186 ~~than 20 years and by a fine of not more than \$100,000.00. In the event, however, that the~~

1187 person so convicted is a member of the immediate family of the victim, no fine shall be  
 1188 imposed.  
 1189 (2) Any person who violates subsection (c) of this Code section shall be guilty of a  
 1190 misdemeanor."

1191 **SECTION 2-16.**

1192 Said title is further amended by revising subsection (f) of Code Section 16-13-30.1, relating  
 1193 to unlawful manufacture, delivery, distribution, possession, or sale of noncontrolled  
 1194 substances, as follows:

1195 "(f)(1) As used in this subsection, the terms 'proceeds' and 'property' shall have the same  
 1196 meanings as set forth in Code Section 9-16-2.

1197 ~~(2) Any~~ All property ~~which would be subject to forfeiture under the provisions of~~  
 1198 ~~subsection (d) of Code Section 16-13-49 for a violation of this article which is, directly~~  
 1199 ~~or indirectly, used; or intended for use; in any manner to facilitate; or is derived from; a~~  
 1200 ~~violation of this Code section, and any proceeds derived or realized therefrom, and any~~  
 1201 ~~noncontrolled substance which is manufactured, distributed, dispensed, possessed with~~  
 1202 ~~the intent to distribute, or sold in violation of this Code section are declared to be~~  
 1203 ~~contraband and there shall be no property interest therein~~ no person shall have a property  
 1204 right in them.

1205 ~~(3) Any property or noncontrolled substance which is subject to the provisions of~~  
 1206 ~~forfeiture pursuant to paragraph (2) of this subsection shall be forfeited in accordance~~  
 1207 ~~with the procedures of Code Section 16-13-49~~ set forth in Chapter 16 of Title 9."

1208 **SECTION 2-17.**

1209 Said title is further amended by revising subsection (d) of Code Section 16-13-30.2, relating  
 1210 to unlawful manufacture, distribution, or possession with intent to distribute imitation  
 1211 controlled substances, as follows:

1212 "(d) All materials which are manufactured, distributed, or possessed in violation of this  
 1213 Code section and any proceeds derived or realized therefrom are declared to be contraband  
 1214 and no person shall have a property right in them and shall be forfeited according to the  
 1215 procedure described in Code Section 16-13-49 set forth in Chapter 16 of Title 9. As used  
 1216 in this subsection, the term 'proceeds' shall have the same meaning as set forth in Code  
 1217 Section 9-16-2."

**SECTION 2-18.**

1218  
 1219 Said title is further amended by revising subsection (f) of Code Section 16-13-30.4, relating  
 1220 to licenses for sale, transfer, or purchase for resale of products containing pseudoephedrine,  
 1221 as follows:

1222 "(f) Any ~~All~~ products containing pseudoephedrine that have been or that are intended to  
 1223 be sold, transferred, purchased for resale, possessed, or otherwise transferred in violation  
 1224 of a provision of this Code section ~~shall be subject to forfeiture to the state and no property~~  
 1225 ~~right shall exist in them~~ and any proceeds derived or realized therefrom are declared to be  
 1226 contraband and no person shall have a property right in them and shall be forfeited  
 1227 according to the procedure set forth in Chapter 16 of Title 9. As used in this subsection,  
 1228 the term 'proceeds' shall have the same meaning as set forth in Code Section 9-16-2."

**SECTION 2-19.**

1229  
 1230 Said title is further amended by revising subsections (e) through (g) of Code Section  
 1231 16-13-32, relating to transactions in drug related objects and forfeitures, as follows:

1232 "(e) All instruments, devices, and objects which are distributed or possessed in violation  
 1233 of this Code section and any proceeds derived or realized therefrom are declared to be  
 1234 contraband and no person shall have a property right in them and shall be forfeited  
 1235 according to the procedure set forth in Chapter 16 of Title 9. As used in this subsection,  
 1236 the term 'proceeds' shall have the same meaning as set forth in Code Section 9-16-2.

1237 ~~(f) After conviction and after all direct appeals from the conviction have been exhausted,~~  
 1238 ~~any instruments, devices, or objects which are the subject of prosecution under this Code~~  
 1239 ~~section may be destroyed by the state or any county or municipality thereof without court~~  
 1240 ~~order.~~

1241 ~~(g) Any instruments, devices, or objects which are seized after July 1, 1980, on~~  
 1242 ~~condemnation as being distributed or possessed in violation of this Code section and which~~  
 1243 ~~are not made the subject of prosecution under this Code section may be destroyed by the~~  
 1244 ~~state or any county or municipality thereof if within 90 days after such seizures are made,~~  
 1245 ~~the district attorney or the solicitor-general of any court that has jurisdiction to try~~  
 1246 ~~misdemeanors in the county where the seizure occurred shall institute condemnation~~  
 1247 ~~proceedings in the court by petition, a copy of which shall be served upon the owner of the~~  
 1248 ~~seized items, if known; and if the owner is unknown, notice of such proceedings shall be~~  
 1249 ~~published once a week for two weeks in the newspaper in which the sheriff's~~  
 1250 ~~advertisements are published. The petition shall allege that the seized items were~~  
 1251 ~~distributed or possessed in violation of this Code section; and, if no defense is filed within~~  
 1252 ~~30 days from the filing of the petition, judgment by default shall be entered by the court at~~  
 1253 ~~chambers, and the court shall order the seized items to be destroyed; otherwise, the case~~

1254 ~~shall proceed as other civil cases in the court. Should the state prove, by a preponderance~~  
 1255 ~~of the evidence, that the seized items were distributed or possessed in violation of this Code~~  
 1256 ~~section, the court shall order the seized items to be destroyed."~~

1257 **SECTION 2-20.**

1258 Said title is further amended by revising subsection (e) of Code Section 16-13-32.1, relating  
 1259 to transactions in drug related objects, evidence, and forfeiture, as follows:

1260 "(e) All objects and materials which are distributed or possessed in violation of this Code  
 1261 section and any proceeds derived or realized therefrom are declared to be contraband and  
 1262 no person shall have a property right in them and shall be forfeited according to the  
 1263 procedure ~~described in Code Section 16-13-49~~ set forth in Chapter 16 of Title 9. As used  
 1264 in this subsection, the term 'proceeds' shall have the same meaning as set forth in Code  
 1265 Section 9-16-2."

1266 **SECTION 2-21.**

1267 Said title is further amended by repealing Code Section 16-13-48.1, relating to funds or  
 1268 property transferred to state or local agencies under federal drug laws, in its entirety.

1269 **SECTION 2-22.**

1270 Said title is further amended by repealing in its entirety Code Section 16-13-49, relating to  
 1271 forfeitures, and enacting a new Code Section 16-13-49 to read as follows:

1272 "16-13-49.

1273 (a) As used in this Code section, the term:

1274 (1) 'Controlled substance' shall have the same meaning as set forth in Code Section  
 1275 16-13-21 and shall include marijuana, as such term is defined in Code Section 16-13-21.

1276 (2) 'Enterprise' means any person, sole proprietorship, partnership, corporation, trust,  
 1277 association, or other legal entity created under the laws of the United States or any  
 1278 foreign nation or a group of individuals associated in fact although not a legal entity and  
 1279 includes illicit as well as licit enterprises and governmental as well as other entities.

1280 (3) 'Proceeds' shall have the same meaning as set forth in Code Section 9-16-2.

1281 (4) 'Property' shall have the same meaning as set forth in Code Section 9-16-2.

1282 (5) 'United States' shall have the same meaning as set forth in Code Section 9-16-2.

1283 (b) Except as provided in subsection (d) of this Code section, the following are declared  
 1284 to be contraband and no person shall have a property right in them:

1285 (1) Any controlled substances, raw materials, or controlled substance analogs that have  
 1286 been manufactured, distributed, dispensed, possessed, or acquired in violation of this  
 1287 article;

- 1288 (2) Any property which is, directly or indirectly, used or intended for use in any manner  
 1289 to facilitate a violation of this article and any proceeds derived or realized therefrom;
- 1290 (3) Any property located in this state which was, directly or indirectly, used or intended  
 1291 for use in any manner to facilitate a violation of this article or the laws of the United  
 1292 States relating to controlled substances that is punishable by imprisonment for more than  
 1293 one year and any proceeds derived or realized therefrom;
- 1294 (4) Any interest, security, claim, or property or contractual right of any kind affording  
 1295 a source of influence over any enterprise that a person has established, operated,  
 1296 controlled, conducted, or participated in the conduct of in violation of this article or the  
 1297 laws of the United States relating to controlled substances that is punishable by  
 1298 imprisonment for more than one year and any proceeds derived or realized therefrom;
- 1299 (5) Any property found in close proximity to any controlled substance or other property  
 1300 subject to forfeiture under this Code section; and
- 1301 (6) Any weapon available for any use in any manner to facilitate a violation of this  
 1302 article.
- 1303 (c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall  
 1304 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9.
- 1305 (d) Property shall not be subject to forfeiture under this Code section for a violation  
 1306 involving only one gram or less of a mixture containing cocaine or four ounces or less of  
 1307 marijuana unless such property was used to facilitate a transaction in or a purchase of or  
 1308 sale of a controlled substance.
- 1309 (e) In addition to persons authorized to seize property pursuant to Code Section 9-16-7,  
 1310 property which is subject to forfeiture under this Code section may be seized by the  
 1311 director of the Georgia Drugs and Narcotics Agency or by any drug agent of this state or  
 1312 any political subdivision thereof who has power to make arrests or execute process or a  
 1313 search warrant issued by any court having jurisdiction over the property.
- 1314 (f) Controlled substances included in Schedule I which are contraband and any controlled  
 1315 substance whose owners are unknown shall be summarily forfeited to the state. The court  
 1316 may include in any judgment of conviction under this article an order forfeiting any  
 1317 controlled substance involved in the offense to the extent of the defendant's interest."

1318 **SECTION 2-23.**

1319 Said title is further amended by revising Code Section 16-13-53, relating to pending  
 1320 proceedings, as follows:

1321 "16-13-53.  
 1322 ~~(a) Prosecution for any violation of law occurring prior to July 1, 1974, is not affected or~~  
 1323 ~~abated by this article. If the offense which was being prosecuted is similar to one set out~~  
 1324 ~~in this article, then the penalties under this article apply if they are less than those under~~  
 1325 ~~prior law.~~  
 1326 ~~(b) Civil seizures or forfeitures and injunctive proceedings commenced prior to July 1,~~  
 1327 ~~1974, are not affected by this article.~~  
 1328 ~~(c) All administrative proceedings pending under prior laws which were superseded by this~~  
 1329 ~~article shall be continued and brought to a final determination in accord with the laws and~~  
 1330 ~~rules in effect prior to July 1, 1974. Any substance controlled under prior law which is not~~  
 1331 ~~listed within Schedules I through V is automatically controlled without further proceedings~~  
 1332 ~~and shall be listed in the appropriate schedule.~~  
 1333 ~~(d) This article applies to violations of law, seizures, forfeitures, injunctive proceedings,~~  
 1334 ~~administrative proceedings, and investigations occurring after July 1, 1974. Reserved."~~

#### 1335 SECTION 2-24.

1336 Said title is further amended by revising Code Section 16-13-58, relating to funds for  
 1337 development and maintenance of program, as follows:

1338 "16-13-58.

1339 (a) The agency shall be authorized to apply for available grants and may accept any gifts,  
 1340 grants, donations, and other funds, ~~including funds from the disposition of forfeited~~  
 1341 ~~property~~, to assist in developing and maintaining the program established pursuant to Code  
 1342 Section 16-13-57; provided, however, that neither the board, agency, nor any other state  
 1343 entity shall accept a grant that requires as a condition of the grant any sharing of  
 1344 information that is inconsistent with this part.

1345 (b) The agency shall be authorized to grant funds to dispensers for the purpose of covering  
 1346 costs for dedicated equipment and software for dispensers to use in complying with the  
 1347 reporting requirements of Code Section 16-13-59. Such grants to dispensers shall be  
 1348 funded by gifts, grants, donations, or other funds, ~~including funds from the disposition of~~  
 1349 ~~forfeited property~~, received by the agency for the operation of the program established  
 1350 pursuant to Code Section 16-13-57. The agency shall be authorized to establish standards  
 1351 and specifications for any equipment and software purchased pursuant to a grant received  
 1352 by a dispenser pursuant to this Code section. Nothing in this part shall be construed to  
 1353 require a dispenser to incur costs to purchase equipment or software to comply with this  
 1354 part.

1355 (c) Nothing in this part shall be construed to require any appropriation of state funds."

1356 **SECTION 2-25.**

1357 Said title is further amended by revising Chapter 14, the "Georgia RICO (Racketeer  
1358 Influenced and Corrupt Organizations) Act," as follows:

1359 "CHAPTER 14

1360 16-14-1.

1361 This chapter shall be known and may be cited as the 'Georgia RICO (Racketeer Influenced  
1362 and Corrupt Organizations) Act.'

1363 16-14-2.

1364 (a) The General Assembly finds that a severe problem is posed in this state by the  
1365 increasing sophistication of various criminal elements and the increasing extent to which  
1366 the state and its citizens are harmed as a result of the activities of these elements.

1367 (b) The General Assembly declares that the intent of this chapter is to impose sanctions  
1368 against those who violate this chapter and to provide compensation to persons injured or  
1369 aggrieved by such violations. It is not the intent of the General Assembly that isolated  
1370 incidents of misdemeanor conduct or acts of civil disobedience be prosecuted under this  
1371 chapter. It is the intent of the General Assembly, however, that this chapter apply to an  
1372 interrelated pattern of criminal activity motivated by or the effect of which is pecuniary  
1373 gain or economic or physical threat or injury. This chapter shall be liberally construed to  
1374 effectuate the remedial purposes embodied in its operative provisions.

1375 16-14-3.

1376 As used in this chapter, the term:

1377 ~~(1) 'Alien corporation' means a corporation organized under laws other than the laws of~~  
1378 ~~the United States or the laws of any state of the United States.~~

1379 ~~(2)(A) 'Beneficial interest' means either of the following:~~

1380 ~~(i) The interest of a person as a beneficiary under any other trust arrangement~~  
1381 ~~pursuant to which a trustee holds legal or record title to real property for the benefit~~  
1382 ~~of such person; or~~

1383 ~~(ii) The interest of a person under any other form of express fiduciary arrangement~~  
1384 ~~pursuant to which any other person holds legal or record title to real property for the~~  
1385 ~~benefit of such person.~~

1386 ~~(B) 'Beneficial interest' does not include the interest of a stockholder in a corporation~~  
1387 ~~or the interest of a partner in either a general partnership or limited partnership. A~~

1388 ~~beneficial interest shall be deemed to be located where the real property owned by the~~  
 1389 ~~trustee is located.~~

1390 ~~(3) 'Civil proceeding' means any civil proceeding commenced by an investigative agency~~  
 1391 ~~under any provision of this chapter.~~

1392 ~~(4)(1) 'Criminal proceeding' means any criminal proceeding commenced by an~~  
 1393 ~~investigative agency the Department of Law or the office of any district attorney under~~  
 1394 ~~any provision of this chapter.~~

1395 ~~(5) 'Documentary material' means any book, paper, document, writing, drawing, graph,~~  
 1396 ~~chart, photograph, phonorecord, magnetic tape, computer printout, other data compilation~~  
 1397 ~~from which information can be obtained or from which information can be translated into~~  
 1398 ~~usable form, or other tangible item.~~

1399 ~~(6)(2) 'Enterprise' means any person, sole proprietorship, partnership, corporation,~~  
 1400 ~~business trust, union chartered under the laws of this state, or other legal entity; or any~~  
 1401 ~~unchartered union, association, or group of individuals associated in fact although not a~~  
 1402 ~~legal entity; and it includes illicit as well as licit enterprises and governmental as well as~~  
 1403 ~~other entities.~~

1404 ~~(7) 'Investigative agency' means the Department of Law or the office of any district~~  
 1405 ~~attorney.~~

1406 ~~(8)(3) 'Pattern of racketeering activity' means:~~

1407 (A) Engaging in at least two acts of racketeering activity in furtherance of one or more  
 1408 incidents, schemes, or transactions that have the same or similar intents, results,  
 1409 accomplices, victims, or methods of commission or otherwise are interrelated by  
 1410 distinguishing characteristics and are not isolated incidents, provided at least one of  
 1411 such acts occurred after July 1, 1980, and that the last of such acts occurred within four  
 1412 years, excluding any periods of imprisonment, after the commission of a prior act of  
 1413 racketeering activity; or

1414 (B) Engaging in any one or more acts of domestic terrorism as described in subsection  
 1415 (a) of Code Section 16-4-10 or any criminal attempt, criminal solicitation, or criminal  
 1416 conspiracy related thereto.

1417 ~~(9)(4)(A) 'Racketeering activity' means to commit, to attempt to commit, or to solicit,~~  
 1418 ~~coerce, or intimidate another person to commit any crime which is chargeable by~~  
 1419 ~~indictment under the following laws of this state involving:~~

1420 (i) Unlawful distillation, manufacture, and transportation of alcoholic beverages in  
 1421 violation of Code Section 3-3-27;

1422 (ii) Records and reports of currency transactions in violation of Article 11 of Chapter  
 1423 1 of Title 7;

- 1424 (iii) The 'Georgia Uniform Securities Act of 2008' in violation of Chapter 5 of Title  
 1425 10;
- 1426 (iv) Homicide in violation of Article 1 of Chapter 5 of this title;
- 1427 (v) Assault and battery in violation of Article 2 of Chapter 5 of this title;
- 1428 (vi) Kidnapping, false imprisonment, and related offenses in violation of Article 3 of  
 1429 Chapter 5 of this title;
- 1430 (vii) Prostitution, keeping a place of prostitution, pimping, pandering, and pandering  
 1431 by compulsion in violation of Code Sections 16-6-9 through 16-6-12 and 16-6-14;
- 1432 (viii) Burglary in violation of Code Section 16-7-1;
- 1433 (ix) Smash and grab burglary in violation of Code Section 16-7-2;
- 1434 (x) Arson and explosives in violation of Article 3 of Chapter 7 of this title;
- 1435 (xi) Bombs, explosives, and chemical and biological weapons in violation of Article  
 1436 4 of Chapter 7 of this title;
- 1437 (xii) Theft in violation of Article 1 of Chapter 8 of this title;
- 1438 (xiii) Robbery in violation of Article 2 of Chapter 8 of this title;
- 1439 (xiv) Criminal reproduction and sale of recorded material in violation of Article 3 of  
 1440 Chapter 8 of this title;
- 1441 (xv) The 'Georgia Residential Mortgage Fraud Act' in violation of Article 5 of  
 1442 Chapter 8 of this title;
- 1443 (xvi) Forgery in any degree in violation of Code Section 16-9-1;
- 1444 (xvii) Illegal use of financial transaction cards in violation of Code Sections 16-9-31,  
 1445 16-9-32, 16-9-33, and 16-9-34;
- 1446 (xviii) Use of an article with an altered identification mark in violation of Code  
 1447 Section 16-9-70;
- 1448 (xix) The 'Georgia Computer Systems Protection Act' in violation of Article 6 of  
 1449 Chapter 9 of this title;
- 1450 (xx) Identity fraud in violation of Article 8 of Chapter 9 of this title;
- 1451 (xxi) Bribery in violation of Code Section 16-10-2;
- 1452 (xxii) False statements and writings or false lien statements against public officers  
 1453 or public employees in violation of Code Section 16-10-20 or 16-10-20.1;
- 1454 (xxiii) Impersonating a public officer or employee in violation of Code Section  
 1455 16-10-23;
- 1456 (xxiv) Attempted murder or threatening of witnesses in official proceedings in  
 1457 violation of Code Section 16-10-32;
- 1458 (xxv) Perjury and other related offenses in violation of Article 4 of Chapter 10 of this  
 1459 title;
- 1460 (xxvi) Embracery in violation of Code Section 16-10-91;

- 1461 (xxvii) Influencing witnesses in violation of Code Section 16-10-93;  
 1462 (xxviii) Tampering with evidence in violation of Code Section 16-10-94;  
 1463 (xxvix) Intimidation or injury of grand or trial juror or court officer in violation of  
 1464 Code Section 16-10-97;  
 1465 (xxx) Terroristic threats and acts in violation of Code Section 16-11-37;  
 1466 (xxxi) The 'Georgia Firearms and Weapons Act' in violation of Part 2 of Article 4 of  
 1467 Chapter 11 of this title;  
 1468 (xxxii) Commercial gambling in violation of Code Section 16-12-22;  
 1469 (xxxiii) Distributing obscene materials in violation of Code Section 16-12-80;  
 1470 (xxxiv) The 'Georgia Controlled Substances Act' in violation of Article 2 of Chapter  
 1471 13 of this title;  
 1472 (xxxv) The 'Dangerous Drug Act' in violation of Article 3 of Chapter 13 of this title;  
 1473 (xxxvi) Marijuana in violation of subsection (j) of Code Section 16-13-30;  
 1474 (xxxvii) Payday loans in violation of Chapter 17 of this title;  
 1475 (xxxviii) Insurance fraud in violation of Code Section 33-1-9;  
 1476 (xxxix) Certain felonies involving certificates of title, security interest, or liens in  
 1477 violation of Code Section 40-3-90;  
 1478 (xl) Removal or falsification of identification numbers in violation of Code Section  
 1479 40-4-21; or  
 1480 (xli) Possession of motor vehicle parts from which the identification has been  
 1481 removed in violation of Code Section 40-4-22.  
 1482 ~~(i) Article 2 of Chapter 13 of this title, relating to controlled substances;~~  
 1483 ~~(ii) Article 3 of Chapter 13 of this title, known as the 'Dangerous Drugs Act';~~  
 1484 ~~(iii) Subsection (j) of Code Section 16-13-30, relating to marijuana;~~  
 1485 ~~(iv) Article 1 of Chapter 5 of this title, relating to homicide;~~  
 1486 ~~(v) Article 2 of Chapter 5 of this title, relating to bodily injury and related offenses;~~  
 1487 ~~(vi) Articles 3 and 4 of Chapter 7 of this title, relating to arson and destructive~~  
 1488 ~~devices, respectively;~~  
 1489 ~~(vii) Code Section 16-7-1, relating to burglary, or Code Section 16-7-2, relating to~~  
 1490 ~~smash and grab burglary;~~  
 1491 ~~(viii) Code Section 16-9-1, relating to forgery in any degree;~~  
 1492 ~~(ix) Article 1 of Chapter 8 of this title, relating to theft;~~  
 1493 ~~(x) Article 2 of Chapter 8 of this title, relating to robbery;~~  
 1494 ~~(xi) Code Sections 16-6-9 through 16-6-12 and 16-6-14, relating to prostitution and~~  
 1495 ~~pandering;~~  
 1496 ~~(xii) Code Section 16-12-80, relating to distributing obscene materials;~~  
 1497 ~~(xiii) Code Section 16-10-2, relating to bribery;~~

- 1498 ~~(xiv) Code Section 16-10-93, relating to influencing witnesses;~~
- 1499 ~~(xv) Article 4 of Chapter 10 of this title and Code Sections 16-10-20, 16-10-20.1,~~
- 1500 ~~16-10-23, and 16-10-91, relating to perjury and other falsifications;~~
- 1501 ~~(xvi) Code Section 16-10-94, relating to tampering with evidence;~~
- 1502 ~~(xvii) Code Section 16-12-22, relating to commercial gambling;~~
- 1503 ~~(xviii) Code Section 3-3-27, relating to distilling or making liquors;~~
- 1504 ~~(xix) Part 2 of Article 4 of Chapter 11 of this title, known as the 'Georgia Firearms~~
- 1505 ~~and Weapons Act';~~
- 1506 ~~(xx) Code Section 16-8-60, relating to unauthorized transfers and reproductions of~~
- 1507 ~~recorded material;~~
- 1508 ~~(xxi) Chapter 5 of Title 10, relating to violations of the 'Georgia Uniform Securities~~
- 1509 ~~Act of 2008';~~
- 1510 ~~(xxii) Code Section 3-3-27, relating to the unlawful distillation, manufacture, and~~
- 1511 ~~transportation of alcoholic beverages;~~
- 1512 ~~(xxiii) Code Sections 16-9-31, 16-9-32, 16-9-33, and 16-9-34, relating to the~~
- 1513 ~~unlawful use of financial transaction cards;~~
- 1514 ~~(xxiv) Code Section 40-3-90, relating to certain felonies involving certificates of title,~~
- 1515 ~~security interest, or liens concerning motor vehicles;~~
- 1516 ~~(xxv) Code Section 40-4-21, relating to removal or falsification of identification~~
- 1517 ~~numbers;~~
- 1518 ~~(xxvi) Code Section 40-4-22, relating to possession of motor vehicle parts from~~
- 1519 ~~which the identification has been removed;~~
- 1520 ~~(xxvii) Code Section 16-9-70, relating to use of an article with an altered~~
- 1521 ~~identification mark;~~
- 1522 ~~(xxviii) Article 6 of Chapter 9 of this title, known as the 'Georgia Computer Systems~~
- 1523 ~~Protection Act';~~
- 1524 ~~(xxix) Any conduct defined as 'racketeering activity' under 18 U.S.C. Section 1961~~
- 1525 ~~(1)(A), (B), (C), and (D);~~
- 1526 ~~(xxx) Article 3 of Chapter 5 of this title, relating to kidnapping, false imprisonment,~~
- 1527 ~~and related offenses, except for Code Section 16-5-44, relating to aircraft hijacking;~~
- 1528 ~~(xxxi) Code Section 16-11-37, relating to terroristic threats and acts;~~
- 1529 ~~(xxxii) Code Section 16-5-44.1, relating to motor vehicle hijacking;~~
- 1530 ~~(xxxiii) Code Section 16-10-32, relating to tampering with witnesses, victims, or~~
- 1531 ~~informants;~~
- 1532 ~~(xxxiv) Code Section 16-10-97, relating to intimidation of grand or trial juror or court~~
- 1533 ~~officer;~~

1534 ~~(xxxv) Article 11 of Chapter 1 of Title 7 and Sections 5311 through 5330 of Title 31~~  
 1535 ~~of the United States Code relating to records and reports of currency transactions;~~  
 1536 ~~(xxxvi) Article 8 of Chapter 9 of this title, relating to identity fraud, and Section 1028~~  
 1537 ~~of Title 18 of the United States Code, relating to fraudulent identification documents~~  
 1538 ~~and information;~~  
 1539 ~~(xxxvii) Code Section 33-1-9, relating to insurance fraud;~~  
 1540 ~~(xxxviii) Code Section 16-17-2, relating to payday loans;~~  
 1541 ~~(xxxix) Code Section 16-9-101, relating to deceptive commercial e-mail;~~  
 1542 ~~(xl) Code Section 16-8-102, relating to residential mortgage fraud; or~~  
 1543 ~~(xli) Code Section 16-5-5, relating to assisted suicide.~~  
 1544 (B) 'Racketeering activity' shall also mean any act or threat involving murder,  
 1545 kidnapping, gambling, arson, robbery, theft, receipt of stolen property, bribery,  
 1546 extortion, obstruction of justice, dealing in narcotic or dangerous drugs, or dealing in  
 1547 securities which is chargeable under the laws of the United States ~~or~~ any territory of  
 1548 the ~~several states~~ United States, or any state and which is punishable by imprisonment  
 1549 for more than one year.  
 1550 (C) 'Racketeering activity' shall also mean any conduct defined as 'racketeering  
 1551 activity' under 18 U.S.C. Section 1961 (1), any violation of 18 U.S.C. Section 1028, or  
 1552 any violation of 31 U.S.C. Sections 5311 through 5330.  
 1553 ~~(10)(5)~~ 'Real property' means any real property situated in this state or any interest in  
 1554 such real property, including, but not limited to, any lease of or mortgage upon such real  
 1555 property.  
 1556 ~~(11) 'RICO lien notice' means the notice described in Code Section 16-14-13.~~  
 1557 ~~(12)(A) 'Trustee' means either of the following:~~  
 1558 ~~(i) Any person who holds legal or record title to real property for which any other~~  
 1559 ~~person has a beneficial interest; or~~  
 1560 ~~(ii) Any successor trustee or trustees to any of the foregoing persons.~~  
 1561 (B) 'Trustee' does not include the following:  
 1562 ~~(i) Any person appointed or acting as a guardian or conservator under Title 29,~~  
 1563 ~~relating to guardian and ward, or personal representative under former Chapter 6 of~~  
 1564 ~~Title 53 as such existed on December 31, 1997, relating to the administration of~~  
 1565 ~~estates, if applicable, or Chapter 6 of Title 53 and other provisions in Chapter 1~~  
 1566 ~~through 11 of Title 53, the 'Revised Probate Code of 1998,' relating to the~~  
 1567 ~~administration of estates; or~~  
 1568 ~~(ii) Any person appointed or acting as a trustee of any testamentary trust or as trustee~~  
 1569 ~~of any indenture of trust under which any bonds are or are to be issued.~~

1570 16-14-4.

1571 (a) It ~~is~~ shall be unlawful for any person, through a pattern of racketeering activity or  
 1572 proceeds derived therefrom, to acquire or maintain, directly or indirectly, any interest in  
 1573 or control of any enterprise, real property, or personal property of any nature, including  
 1574 money.

1575 (b) It ~~is~~ shall be unlawful for any person employed by or associated with any enterprise  
 1576 to conduct or participate in, directly or indirectly, such enterprise through a pattern of  
 1577 racketeering activity.

1578 (c) It ~~is~~ shall be unlawful for any person to conspire or endeavor to violate any of the  
 1579 provisions of subsection (a) or (b) of this Code section. A person violates this subsection  
 1580 when:

1581 (1) He or she together with one or more persons conspires to violate any of the  
 1582 provisions of subsection (a) or (b) of this Code section and any one or more of such  
 1583 persons commits any overt act to effect the object of the conspiracy; or

1584 (2) He or she endeavors to violate any of the provisions of subsection (a) or (b) of this  
 1585 Code section and commits any overt act to effect the object of the endeavor.

1586 16-14-5.

1587 (a) Any person convicted of the offense of engaging in activity in violation of Code  
 1588 Section 16-14-4 ~~is~~ shall be guilty of a felony and shall be punished by not less than five nor  
 1589 more than 20 years' imprisonment or the fine specified in subsection (b) of this Code  
 1590 section, or both.

1591 (b) In lieu of any fine otherwise authorized by law, any person convicted of the offense of  
 1592 engaging in conduct in violation of Code Section 16-14-4 may be sentenced to pay a fine  
 1593 that does not exceed the greater of \$25,000.00 or three times the amount of any pecuniary  
 1594 value gained by him or her from such violation.

1595 (c) The court shall hold a hearing to determine the amount of the fine authorized by  
 1596 subsection (b) of this Code section.

1597 (d) For the purposes of subsection (b) of this Code section, the term 'pecuniary value'  
 1598 means:

1599 (1) Anything of value in the form of money, a negotiable instrument, a commercial  
 1600 interest, or anything else, the primary significance of which is economic advantage; or

1601 (2) Any other property or service that has a value in excess of \$100.00.

1602 16-14-6.

1603 (a) Any superior court may, after making due provisions for the rights of innocent persons,  
1604 enjoin violations of Code Section 16-14-4 by issuing appropriate orders and judgments,  
1605 including, but not limited to:

1606 (1) Ordering any defendant to divest himself or herself of any interest in any enterprise,  
1607 real property, or personal property;

1608 (2) Imposing reasonable restrictions upon the future activities or investments of any  
1609 defendant, including, but not limited to, prohibiting any defendant from engaging in the  
1610 same type of endeavor as the enterprise in which he or she was engaged in violation of  
1611 Code Section 16-14-4;

1612 (3) Ordering the dissolution or reorganization of any enterprise;

1613 (4) Ordering the suspension or revocation of any license, permit, or prior approval  
1614 granted to any enterprise by any agency of the state; or

1615 (5) Ordering the forfeiture of the charter of a corporation organized under the laws of this  
1616 state or the revocation of a certificate authorizing a foreign corporation to conduct  
1617 business within this state upon a finding that the board of directors or a managerial agent  
1618 acting on behalf of the corporation, in conducting affairs of the corporation, has  
1619 authorized or engaged in conduct in violation of Code Section 16-14-4 and that, for the  
1620 prevention of future criminal activity, the public interest requires that the charter of the  
1621 corporation be forfeited and that the corporation be dissolved or the certificate be  
1622 revoked.

1623 (b) Any aggrieved person or the state may institute a proceeding under subsection (a) of  
1624 this Code section. In such proceeding, relief shall be granted in conformity with the  
1625 principles that govern the granting of injunctive relief from threatened loss or damage in  
1626 other civil cases, provided that no showing of special or irreparable damage to the person  
1627 shall have to be made. Upon the execution of proper bond against damages for an  
1628 injunction improvidently granted and a showing of immediate danger of significant loss or  
1629 damage, a temporary restraining order and a preliminary injunction may be issued in any  
1630 such action before a final determination on the merits.

1631 (c) Any person who is injured by reason of any violation of Code Section 16-14-4 shall  
1632 have a cause of action for three times the actual damages sustained and, where appropriate,  
1633 punitive damages. Such person shall also recover ~~attorneys'~~ attorney's fees in the trial and  
1634 appellate courts and costs of investigation and litigation reasonably incurred. The  
1635 defendant or any injured person may demand a trial by jury in any civil action brought  
1636 pursuant to this Code section.

1637 (d) Any injured person shall have a right or claim to forfeited property or to the proceeds  
1638 derived therefrom ~~superior to any right or claim the state or the county (other than for~~

1639 costs) has in the same property or proceeds. To enforce such a claim, the injured person  
 1640 must intervene in the forfeiture proceeding prior to its final disposition as set forth in Code  
 1641 Section 9-16-17.

1642 (e) A conviction in any criminal proceeding ~~under this chapter~~ shall estop the defendant  
 1643 in any subsequent civil forfeiture action or other civil proceeding as to all matters proved  
 1644 in the criminal proceeding.

1645 16-14-7.

1646 (a) All property of every kind used or intended for use in the course of, derived from, or  
 1647 realized through a pattern of racketeering activity is shall be subject to forfeiture to the  
 1648 state. ~~Forfeiture shall be had by a civil procedure known as a RICO forfeiture proceeding~~  
 1649 ~~under the following rules:~~ The Attorney General shall be specifically authorized to  
 1650 commence forfeiture proceedings under this chapter in matters arising under Code  
 1651 Section 45-15-10.

1652 (b) Any property subject to forfeiture pursuant to subsection (a) of this Code section and  
 1653 any proceeds derived or realized therefrom are declared to be contraband and no person  
 1654 shall have a property right in them and shall be forfeited in accordance with the procedure  
 1655 set forth in Chapter 16 of Title 9. A RICO forfeiture proceeding shall be governed by  
 1656 Chapter 11 of Title 9, the 'Georgia Civil Practice Act,' except to the extent that special rules  
 1657 of procedure are stated in this chapter.

1658 (c) ~~A RICO forfeiture proceeding shall be an in rem proceeding against the property.~~

1659 (d) ~~A RICO forfeiture proceeding shall be instituted by complaint and prosecuted by the~~  
 1660 ~~district attorney of the county in which the property is located or seized. The proceeding~~  
 1661 ~~may be commenced before or after seizure of the property.~~

1662 (e) ~~If the complaint is filed before seizure, it shall state what property is sought to be~~  
 1663 ~~forfeited, that the property is within the jurisdiction of the court, the grounds for forfeiture,~~  
 1664 ~~and the names of all persons known to have or claim an interest in the property. The court~~  
 1665 ~~shall determine ex parte whether there is reasonable cause to believe that the property is~~  
 1666 ~~subject to forfeiture and that notice to those persons having or claiming an interest in the~~  
 1667 ~~property prior to seizure would cause the loss or destruction of the property. If the court~~  
 1668 ~~finds that reasonable cause does not exist to believe the property is subject to forfeiture, it~~  
 1669 ~~shall dismiss the complaint. If the court finds that reasonable cause does exist to believe~~  
 1670 ~~the property is subject to forfeiture but there is not reasonable cause to believe that prior~~  
 1671 ~~notice would result in loss or destruction, it shall order service on all persons known to~~  
 1672 ~~have or claim an interest in the property prior to a further hearing on whether a writ of~~  
 1673 ~~seizure should issue. If the court finds that there is reasonable cause to believe that the~~  
 1674 ~~property is subject to forfeiture and to believe that prior notice would cause loss or~~

1675 ~~destruction, it shall without any further hearing or notice issue a writ of seizure directing~~  
1676 ~~the sheriff of the county where the property is found to seize it.~~

1677 ~~(f) Seizure may be effected by a law enforcement officer authorized to enforce the penal~~  
1678 ~~laws of this state prior to the filing of the complaint and without a writ of seizure if the~~  
1679 ~~seizure is incident to a lawful arrest, search, or inspection and the officer has probable~~  
1680 ~~cause to believe the property is subject to forfeiture and will be lost or destroyed if not~~  
1681 ~~seized. Within ten days of the date of seizure, the seizure shall be reported by the officer~~  
1682 ~~to the district attorney of the circuit in which the seizure is effected; and the district~~  
1683 ~~attorney shall, within a reasonable time after receiving notice of seizure, file a complaint~~  
1684 ~~for forfeiture. The complaint shall state, in addition to the information required in~~  
1685 ~~subsection (e) of this Code section, the date and place of seizure.~~

1686 ~~(g) After the complaint is filed or the seizure effected, whichever is later, every person~~  
1687 ~~known to have or claim an interest in the property shall be served, if not previously served,~~  
1688 ~~with a copy of the complaint and a notice of seizure in the manner provided by Chapter 11~~  
1689 ~~of Title 9, the 'Georgia Civil Practice Act.' Service by publication may be ordered upon any~~  
1690 ~~party whose whereabouts cannot be determined.~~

1691 ~~(h)(1) Any person claiming an interest in the property may become a party to the action~~  
1692 ~~at any time prior to judgment whether named in the complaint or not. Any party claiming~~  
1693 ~~a substantial interest in the property may upon motion be allowed by the court to take~~  
1694 ~~possession of the property upon posting bond with good and sufficient security in double~~  
1695 ~~the amount of the property's value conditioned to pay the value of any interest in the~~  
1696 ~~property found to be subject to forfeiture or the value of any interest of another not~~  
1697 ~~subject to forfeiture. Such a party taking possession shall not remove the property from~~  
1698 ~~the territorial jurisdiction of the court without written permission from the court.~~

1699 ~~(2) The court may, upon such terms and conditions as prescribed by it, order that the~~  
1700 ~~property be sold by an innocent party who holds a lien on or security interest in the~~  
1701 ~~property at any time during the proceedings. Any proceeds from such sale over and~~  
1702 ~~above the amount necessary to satisfy the lien or security interest shall be paid into court~~  
1703 ~~pending final judgment in the forfeiture proceeding. No such sale shall be ordered,~~  
1704 ~~however, unless the obligation upon which the lien or security interest is based is in~~  
1705 ~~default.~~

1706 ~~(3) Pending final judgment in the forfeiture proceeding, the court may make any other~~  
1707 ~~disposition of the property which is in the interest of substantial justice.~~

1708 ~~(i) After service of process, all further proceedings shall be as provided in Chapter 11 of~~  
1709 ~~Title 9, the 'Georgia Civil Practice Act,' except that any party may bring one motion to~~  
1710 ~~dismiss at any time and such motion shall be heard and ruled on within ten days. Any party~~  
1711 ~~may demand a jury trial.~~

1712 ~~(j) The interest of an innocent party in the property shall not be subject to forfeiture. An~~  
 1713 ~~innocent party is one who did not have actual or constructive knowledge that the property~~  
 1714 ~~was subject to forfeiture.~~

1715 ~~(k) Subject to the requirement of protecting the interest of all innocent parties, the court~~  
 1716 ~~may, after judgment of forfeiture, make any of the following orders for disposition of the~~  
 1717 ~~property:~~

1718 ~~(1) Destruction of contraband, the possession of which is illegal;~~

1719 ~~(2) Retention for official use by any agency of this state or any political subdivision~~  
 1720 ~~thereof. When such agency or political subdivision no longer has use for such property,~~  
 1721 ~~it shall be disposed of by judicial sale;~~

1722 ~~(3) Transfer to the Division of Archives and History of property useful for historical or~~  
 1723 ~~instructional purposes;~~

1724 ~~(4) Retention of the property by any innocent party having an interest therein, upon~~  
 1725 ~~payment or approval of a plan for payment into court of the value of any forfeited interest~~  
 1726 ~~in the property. The plan may include, in the case of an innocent party who holds a lien~~  
 1727 ~~on or security interest in the property, the sale of the property by the innocent party under~~  
 1728 ~~such terms and conditions as may be prescribed by the court and the payment into court~~  
 1729 ~~of any proceeds from such sale over and above the amount necessary to satisfy the lien~~  
 1730 ~~or security interest;~~

1731 ~~(5) Judicial sale of the property;~~

1732 ~~(6) Transfer of the property to any innocent party having an interest therein equal to or~~  
 1733 ~~greater than the value of the property; or~~

1734 ~~(7) Any other disposition of the property which is in the interest of substantial justice and~~  
 1735 ~~adequately protects innocent parties.~~

1736 ~~(l) The net proceeds of any sale or disposition after satisfaction of the interest of any~~  
 1737 ~~innocent party, less the greater of one-half thereof or the costs borne by the county in~~  
 1738 ~~bringing the forfeiture action, shall be paid into the general fund of the state treasury. The~~  
 1739 ~~costs borne by the county or one-half of the net proceeds of sale or disposition, whichever~~  
 1740 ~~is greater, shall be paid into the treasury of the county where the forfeiture action is~~  
 1741 ~~brought. Notwithstanding any other provision in this Code section, the court may, after~~  
 1742 ~~satisfaction of the interest of any innocent party, make any other division of the proceeds~~  
 1743 ~~among the state, county, or municipalities or agencies of the state, county, or~~  
 1744 ~~municipalities, which is commensurate with the proportion of the assistance that each~~  
 1745 ~~contributed to the underlying criminal action, forfeiture, or criminal action and forfeiture.~~

1746 ~~(m) In lieu of the provisions of subsections (c) through (g) of this Code section, the state~~  
 1747 ~~may bring an in personam action for the forfeiture of any property subject to forfeiture~~  
 1748 ~~under subsection (a) of this Code section.~~

1749 ~~(n)(1) Upon the entry of a final judgment of forfeiture in favor of the state, the title of the~~  
 1750 ~~state to the forfeited property shall:~~

1751 ~~(A) In the case of real property or beneficial interest, relate back to the date of filing~~  
 1752 ~~of the RICO lien notice in the official records of the county where the real property or~~  
 1753 ~~beneficial trust is located and, if no RICO lien notice is filed, then to the date of the~~  
 1754 ~~filing of any notice of lis pendens under Article 9 of Chapter 14 of Title 44 in the~~  
 1755 ~~official records of the county where the real property or beneficial interest is located~~  
 1756 ~~and, if no RICO lien notice or notice of lis pendens is so filed, then to the date of~~  
 1757 ~~recording of the final judgment of forfeiture in the official records of the county where~~  
 1758 ~~the real property or beneficial interest is located; and~~

1759 ~~(B) In the case of personal property, relate back to the date the personal property was~~  
 1760 ~~seized by the investigating agency.~~

1761 ~~(2) If property subject to forfeiture is conveyed, alienated, disposed of, or otherwise~~  
 1762 ~~rendered unavailable for forfeiture after the filing of a RICO lien notice or after the filing~~  
 1763 ~~of a civil proceeding or criminal proceeding, whichever is earlier, the investigative~~  
 1764 ~~agency may, on behalf of the state, institute an action in the appropriate superior court~~  
 1765 ~~against the person named in the RICO lien notice or the defendant in the civil proceeding~~  
 1766 ~~or criminal proceeding; and the court shall enter final judgment against the person named~~  
 1767 ~~in the RICO lien notice or the defendant in the civil proceeding or criminal proceeding~~  
 1768 ~~in an amount equal to the fair market value of the property, together with investigative~~  
 1769 ~~costs and attorney's fees incurred by the investigative agency in the action. If a civil~~  
 1770 ~~proceeding is pending, such action shall be filed only in the court where such civil~~  
 1771 ~~proceeding is pending.~~

1772 16-14-8.

1773 Notwithstanding any other provision of law setting forth a statute of limitations, a criminal  
 1774 proceeding or civil action or proceeding under this chapter may brought pursuant to Code  
 1775 Section 16-14-6 shall be commenced up until five years after the conduct in violation of  
 1776 a provision of this chapter terminates ~~or the cause of action accrues~~. If a criminal  
 1777 prosecution or civil forfeiture action is brought by the state ~~to punish or prevent any~~  
 1778 ~~violation of pursuant to~~ this chapter, then the running of this period of limitations, with  
 1779 respect to any cause of action arising under subsection (b) or (c) of Code Section 16-14-6  
 1780 which is based upon any matter complained of in such prosecution or action by the state,  
 1781 shall be suspended during the pendency of the criminal prosecution or civil forfeiture  
 1782 action by the state and for two years thereafter.

1783 16-14-9.

1784 The application of one civil remedy under this chapter shall not preclude the application  
 1785 of any other remedy, civil or criminal, under this chapter or any other provision of law.  
 1786 Civil remedies under this chapter are supplemental and not mutually exclusive.

1787 16-14-10.

1788 (a) ~~A Notwithstanding any other provision of law,~~ a valid judgment rendered by a court  
 1789 of a jurisdiction having a law substantially similar to this chapter ~~with~~ shall be recognized  
 1790 and enforced by the courts of this state to the extent that a judgment rendered by a court of  
 1791 this state pursuant to this chapter would be enforced in such other jurisdiction.

1792 (b) The Attorney General ~~is~~ shall be authorized to enter into reciprocal agreements with  
 1793 the attorney general or chief prosecuting attorney of any jurisdiction having a law  
 1794 substantially similar to this chapter so as to further the purposes of this chapter.

1795 16-14-11.

1796 In any criminal proceeding ~~brought pursuant to this chapter,~~ the crime shall be considered  
 1797 to have been committed in any county in which an incident of racketeering occurred or in  
 1798 which an interest or control of an enterprise or real or personal property is acquired or  
 1799 maintained.

1800 16-14-12.

1801 This state may, in any civil action or civil forfeiture action brought pursuant to this chapter,  
 1802 file with the clerk of the ~~superior~~ court a certificate stating that the case is of special public  
 1803 importance. A copy of ~~that~~ such certificate shall be furnished immediately by such clerk  
 1804 to the chief judge or, in his or her absence, the presiding chief judge of the ~~superior~~ court  
 1805 in which such civil action or civil forfeiture action is pending; and, upon receipt of such  
 1806 ~~copy~~ certificate, the judge shall immediately designate a judge to hear and determine the  
 1807 civil action or civil forfeiture action. The judge so designated shall promptly assign such  
 1808 civil action or civil forfeiture action for hearing, participate in the hearings and  
 1809 determination, and cause the civil action or civil forfeiture action to be expedited.

1810 ~~16-14-13.~~

1811 ~~(a) Upon the institution of any civil proceeding, the investigative agency then or at any~~  
 1812 ~~time during the pendency of the proceeding may file in the official records of any one or~~  
 1813 ~~more counties a RICO lien notice. No filing fee or other charge shall be required as a~~  
 1814 ~~condition for filing the RICO lien notice, and the clerk of the superior court shall, upon the~~  
 1815 ~~presentation of a RICO lien notice, immediately record it in the official records.~~

1816 ~~(b) The RICO lien notice shall be signed by the Attorney General or his designee or by a~~  
 1817 ~~district attorney or his designee. The notice shall be in such form as the Attorney General~~  
 1818 ~~prescribes and shall set forth the following information:~~

1819 ~~(1) The name of the person against whom the civil proceeding has been brought. In its~~  
 1820 ~~discretion, the investigative agency may also name in the RICO lien notice any other~~  
 1821 ~~aliases, names, or fictitious names under which the person may be known. In its~~  
 1822 ~~discretion, the investigative agency may also name in the RICO lien notice any~~  
 1823 ~~corporation, partnership, or other entity that is either controlled by or entirely owned by~~  
 1824 ~~the person;~~

1825 ~~(2) If known to the investigative agency, the present residence and business addresses~~  
 1826 ~~of the person named in the RICO lien notice and of the other names set forth in the RICO~~  
 1827 ~~lien notice;~~

1828 ~~(3) A reference to the civil proceeding stating that a proceeding under this chapter has~~  
 1829 ~~been brought against the person named in the RICO lien notice, the name of the county~~  
 1830 ~~or counties where the proceeding has been brought, and, if known to the investigative~~  
 1831 ~~agency at the time of filing the RICO lien notice, the case number of the proceeding;~~

1832 ~~(4) A statement that the notice is being filed pursuant to this chapter; and~~

1833 ~~(5) The name and address of the investigative agency filing the RICO lien notice and the~~  
 1834 ~~name of the individual signing the RICO lien notice.~~

1835 ~~(c) A RICO lien notice shall apply only to one person and, to the extent applicable, any~~  
 1836 ~~aliases, fictitious names, or other names, including names of corporations, partnerships, or~~  
 1837 ~~other entities, to the extent permitted in paragraph (1) of subsection (b) of this Code~~  
 1838 ~~section. A separate RICO lien notice shall be filed for any other person against whom the~~  
 1839 ~~investigative agency desires to file a RICO lien notice under this Code section.~~

1840 ~~(d) The investigative agency shall, as soon as practicable after the filing of each RICO lien~~  
 1841 ~~notice, furnish to the person named in the notice either a copy of the recorded notice or a~~  
 1842 ~~copy of the notice with a notation thereon of the county or counties in which the notice has~~  
 1843 ~~been recorded. The failure of the investigative agency to so furnish a copy of the notice~~  
 1844 ~~under this subsection shall not invalidate or otherwise affect the notice.~~

1845 ~~(e) The filing of a RICO lien notice creates, from the time of its filing, a lien in favor of~~  
 1846 ~~the state on the following property of the person named in the notice and against any other~~  
 1847 ~~names set forth in the notice:~~

1848 ~~(1) Any real property situated in the county where the notice is filed then or thereafter~~  
 1849 ~~owned by the person or under any of the names; and~~

1850 ~~(2) Any beneficial interest situated in the county where the notice is filed then or~~  
 1851 ~~thereafter owned by the person or under any of the names.~~

1852 ~~(f) The lien shall commence and attach as of the time of filing of the RICO lien notice and~~  
 1853 ~~shall continue thereafter until expiration, termination, or release pursuant to Code Section~~  
 1854 ~~16-14-14. The lien created in favor of the state shall be superior and prior to the interest~~  
 1855 ~~of any other person in the real property or beneficial interest if the interest is acquired~~  
 1856 ~~subsequent to the filing of the notice.~~

1857 ~~(g) In conjunction with any civil proceedings:~~

1858 ~~(1) The investigative agency may file without prior court order in any county a lis~~  
 1859 ~~pendens and, in such case, any person acquiring an interest in the subject real property~~  
 1860 ~~or beneficial interest, if the real property or beneficial interest is acquired subsequent to~~  
 1861 ~~the filing of lis pendens, shall take the interest subject to the civil proceeding and any~~  
 1862 ~~subsequent judgment of forfeiture; and~~

1863 ~~(2) If a RICO lien notice has been filed, the investigative agency may name as~~  
 1864 ~~defendants, in addition to the person named in the notice, any persons acquiring an~~  
 1865 ~~interest in the real property or beneficial interest subsequent to the filing of the notice.~~  
 1866 ~~If a judgment of forfeiture is entered in the proceeding in favor of the state, the interest~~  
 1867 ~~of any person in the property that was acquired subsequent to the filing of the notice shall~~  
 1868 ~~be subject to the notice and judgment of forfeiture.~~

1869 ~~(h)(1) A trustee who acquires actual knowledge that a RICO lien notice or a civil~~  
 1870 ~~proceeding or criminal proceeding has been filed against any person for whom he holds~~  
 1871 ~~legal or record title to real property shall immediately furnish to the investigative agency~~  
 1872 ~~the following:~~

1873 ~~(A) The name and address of the person, as known to the trustee;~~

1874 ~~(B) The name and address, as known to the trustee, of all other persons for whose~~  
 1875 ~~benefit the trustee holds title to the real property; and~~

1876 ~~(C) If requested by the investigative agency, a copy of the trust agreement or other~~  
 1877 ~~instrument pursuant to which the trustee holds legal or record title to the real property.~~

1878 ~~(2) Any trustee who fails to comply with the provisions of this subsection is guilty of a~~  
 1879 ~~misdemeanor.~~

1880 ~~(i) Any trustee who conveys title to real property for which a RICO lien notice has been~~  
 1881 ~~filed at the time of the conveyance in the county where the real property is situated naming~~  
 1882 ~~a person who, to the actual knowledge of the trustee, holds a beneficial interest in the trust~~  
 1883 ~~shall be liable to the state for the greater of:~~

1884 ~~(1) The amount of proceeds received directly by the person named in the RICO lien~~  
 1885 ~~notice as a result of the conveyance;~~

1886 ~~(2) The amount of proceeds received by the trustee as a result of the conveyance and~~  
 1887 ~~distributed to the person named in the RICO lien notice; or~~

1888 ~~(3) The fair market value of the interest of the person named in the RICO lien notice in~~  
 1889 ~~the real property so conveyed; however, if the trustee conveys the real property and holds~~  
 1890 ~~the proceeds that would otherwise be paid or distributed to the beneficiary or at the~~  
 1891 ~~direction of the beneficiary or his designee, the trustee's liability shall not exceed the~~  
 1892 ~~amount of the proceeds so held for so long as the proceeds are held by the trustee.~~

1893 ~~(j) The filing of a RICO lien notice shall not constitute a lien on the record title to real~~  
 1894 ~~property as owned by the trustee except to the extent the trustee is named in the RICO lien~~  
 1895 ~~notice. The investigative agency may bring a civil proceeding in any superior court against~~  
 1896 ~~the trustee to recover from the trustee the amounts set forth in subsection (i), and the state~~  
 1897 ~~shall also be entitled to recover investigative costs and attorney's fees incurred by the~~  
 1898 ~~investigative agency.~~

1899 ~~(k) The filing of a RICO lien notice shall not affect the use to which real property or a~~  
 1900 ~~beneficial interest owned by the person named in the RICO lien notice may be put or the~~  
 1901 ~~right of the person to receive any avails, rents, or other proceeds resulting from the use and~~  
 1902 ~~ownership, but not the sale, of the property until a judgment of forfeiture is entered.~~

1903 ~~(l)(1) The provisions of this Code section shall not apply to any conveyance by a trustee~~  
 1904 ~~pursuant to a court order unless such court order is entered in an action between the~~  
 1905 ~~trustee and the beneficiary.~~

1906 ~~(2) Unless the trustee has actual knowledge that a person owning a beneficial interest in~~  
 1907 ~~the trust is named in a RICO lien notice or is otherwise a defendant in a civil proceeding,~~  
 1908 ~~the provisions of this Code section shall not apply to:~~

1909 ~~(A) Any conveyance by a trustee required under the terms of any trust agreement,~~  
 1910 ~~which trust agreement is a matter of public record prior to the filing of any RICO lien~~  
 1911 ~~notice; or~~

1912 ~~(B) Any conveyance by a trustee to all of the persons who own a beneficial interest in~~  
 1913 ~~the trust.~~

1914 ~~(m) All forfeitures or dispositions under this Code section shall be made with due~~  
 1915 ~~provision for the rights of innocent persons.~~

1916 ~~16-14-14.~~

1917 ~~(a) The term of a RICO lien notice shall be for a period of six years from the date of filing~~  
 1918 ~~unless a renewal RICO lien notice has been filed by the investigative agency; and, in such~~  
 1919 ~~case, the term of the renewal RICO lien notice shall be for a period of six years from the~~  
 1920 ~~date of its filing. The investigative agency shall be entitled to only one renewal of the~~  
 1921 ~~RICO lien notice.~~

1922 ~~(b) The investigative agency filing the RICO lien notice may release in whole or in part~~  
 1923 ~~any RICO lien notice or may release any specific real property or beneficial interest from~~

1924 ~~the RICO lien notice upon such terms and conditions as it may determine. Any release of~~  
1925 ~~a RICO lien notice executed by the investigative agency may be filed in the official records~~  
1926 ~~of any county. No charge or fee shall be imposed for the filing of any release of a RICO~~  
1927 ~~lien notice.~~

1928 ~~(c) If no civil proceeding has been instituted by the investigative agency seeking a~~  
1929 ~~forfeiture of any property owned by the person named in the RICO lien notice, the acquittal~~  
1930 ~~in the criminal proceeding of the person named in the RICO lien notice or the dismissal of~~  
1931 ~~the criminal proceeding shall terminate the RICO lien notice; and, in such case, the filing~~  
1932 ~~of the RICO lien notice shall have no effect. In the event the criminal proceeding has been~~  
1933 ~~dismissed or the person named in the RICO lien notice has been acquitted in the criminal~~  
1934 ~~proceeding, the RICO lien notice shall continue for the duration of the civil proceeding.~~

1935 ~~(d) If no civil proceeding is then pending against the person named in a RICO lien notice,~~  
1936 ~~the person named in a RICO lien notice may institute an action against the investigative~~  
1937 ~~agency filing the notice in the county where the notice has been filed seeking a release or~~  
1938 ~~extinguishment of the notice; and, in such case:~~

1939 ~~(1) The court shall, upon the motion of such person, immediately enter an order setting~~  
1940 ~~a date for hearing, which date shall be not less than five nor more than ten days after the~~  
1941 ~~action has been filed, and the order, along with a copy of the complaint, shall be served~~  
1942 ~~on the investigative agency within three days after the institution of the action. At the~~  
1943 ~~hearing, the court shall take evidence on the issue of whether any real property or~~  
1944 ~~beneficial interest owned by such person is covered by the RICO lien notice or otherwise~~  
1945 ~~subject to forfeiture under this chapter; and, if such person shows by the preponderance~~  
1946 ~~of the evidence that the RICO lien notice is not applicable to him or that any real property~~  
1947 ~~or beneficial interest owned by him is not subject to forfeiture under this chapter, the~~  
1948 ~~court shall enter a judgment extinguishing the RICO lien notice or releasing the real~~  
1949 ~~property or beneficial interest from the RICO lien notice;~~

1950 ~~(2) The court shall immediately enter its order releasing from the RICO lien notice any~~  
1951 ~~specific real property or beneficial interest if a sale of the real property or beneficial~~  
1952 ~~interest is pending and the filing of the notice prevents the sale of the property or interest;~~  
1953 ~~however, the proceeds resulting from the sale of the real property or beneficial interest~~  
1954 ~~shall be deposited into the registry of the court, subject to the further order of the court;~~  
1955 ~~and~~

1956 ~~(3) At the hearing set forth in paragraph (1), the court may release from the RICO lien~~  
1957 ~~notice any real property or beneficial interest upon the posting by such person of such~~  
1958 ~~security as is equal to the value of the real property or beneficial interest owned by such~~  
1959 ~~person.~~

1960 ~~(e) In the event a civil proceeding is pending against a person named in a RICO lien~~  
 1961 ~~notice, the court, upon motion by said person, may grant the relief set forth in this Code~~  
 1962 ~~section.~~

1963 ~~16-14-15.~~

1964 ~~(a) Each alien corporation desiring to acquire of record any real property shall have, prior~~  
 1965 ~~to acquisition, and shall continuously maintain in this state during any year thereafter in~~  
 1966 ~~which such real property is owned by the alien corporation:~~

1967 ~~(1) A registered office; and~~

1968 ~~(2) A registered agent, which agent may be either:~~

1969 ~~(A) An individual resident in this state whose business office is identical with such~~  
 1970 ~~registered office; or~~

1971 ~~(B) Another corporation authorized to transact business in this state having a business~~  
 1972 ~~office identical with such registered office.~~

1973 ~~(b) Each registered agent appointed pursuant to this Code section, on whom process may~~  
 1974 ~~be served, shall file a statement in writing with the Secretary of State accepting the~~  
 1975 ~~appointment as registered agent simultaneously with being designated.~~

1976 ~~(c) Each alien corporation shall file with the Secretary of State an annual registration~~  
 1977 ~~setting forth:~~

1978 ~~(1) The name of the alien corporation and the country under whose law it is incorporated;~~

1979 ~~(2) The mailing address of the principal office of the alien corporation;~~

1980 ~~(3) The name and mailing address of each officer and each director of the alien~~  
 1981 ~~corporation;~~

1982 ~~(4) The name and street address of the registered agent and registered office of the alien~~  
 1983 ~~corporation; and~~

1984 ~~(5) The signature of the corporate president, vice-president, secretary, assistant secretary,~~  
 1985 ~~or treasurer attesting to the accuracy of the report as of the date the annual registration is~~  
 1986 ~~executed on behalf of the corporation.~~

1987 ~~(d) The first annual registration must be delivered to the Secretary of State between~~  
 1988 ~~January 1 and April 1, or such other date as the Secretary of State may specify by rules or~~  
 1989 ~~regulations, of the year following a calendar year in which an alien corporation filed its~~  
 1990 ~~initial application pursuant to subsection (a) of this Code section. Subsequent annual~~  
 1991 ~~registrations must be delivered to the Secretary of State between January 1 and April 1, or~~  
 1992 ~~such other date as the Secretary of State may specify by rules or regulations, of the~~  
 1993 ~~following calendar years.~~

1994 ~~(e) For filing reports required pursuant to this Code section, the Secretary of State shall~~  
 1995 ~~collect a filing fee as set out in Code Section 14-2-122 for the filing of annual registrations.~~

1996 ~~(f) If an annual registration does not contain the information required by this Code section,~~  
 1997 ~~the Secretary of State shall promptly notify the reporting domestic, foreign, or alien~~  
 1998 ~~corporation in writing and return the report to it for correction. If the report is corrected~~  
 1999 ~~to contain the information required by this Code section and delivered to the Secretary of~~  
 2000 ~~State within 30 days after the effective date of notice, it is deemed to be timely filed.~~  
 2001 ~~(g) The Secretary of State shall record the status of any alien corporation that fails to~~  
 2002 ~~comply with the requirements of this Code section.~~  
 2003 ~~(h) Each alien corporation that fails to file a report as required by subsection (c) of this~~  
 2004 ~~Code section or fails to maintain a registered office and a registered agent as required by~~  
 2005 ~~subsection (a) of this Code section shall not be entitled to own, purchase, or sell any real~~  
 2006 ~~property and shall not be entitled to bring an action or defend in the courts of the state until~~  
 2007 ~~such requirements have been complied with.~~  
 2008 ~~(i) The filing of a report by a corporation as required by subsection (c) of this Code section~~  
 2009 ~~shall be solely for the purposes of this chapter and, notwithstanding Code Section 14-2-510~~  
 2010 ~~or any other relevant law, shall not be used as a determination of whether the corporation~~  
 2011 ~~is actually doing business in this state."~~

## 2012 SECTION 2-26.

2013 Said title is further amended by revising Code Section 16-15-5, relating to contraband,  
 2014 seizure, and forfeiture under the "Georgia Street Gang Terrorism and Prevention Act," as  
 2015 follows:

2016 "16-15-5.

2017 (a) As used in this Code section, the terms 'proceeds' and 'property' shall have the same  
 2018 meanings as set forth in Code Section 9-16-2. ~~The following are declared to be contraband~~  
 2019 ~~and no person shall have a property interest in them:~~

2020 ~~(1)(b) Any All property which is, directly or indirectly, used or intended for use in any~~  
 2021 ~~manner to facilitate a violation of this chapter; and proceeds derived or realized therefrom~~  
 2022 ~~are declared to be contraband and no person shall have a property right in them.~~

2023 ~~(2) Any property constituting or derived from gross profits or other proceeds obtained~~  
 2024 ~~from a violation of this chapter.~~

2025 ~~(b) In any action under this Code section, the court may enter such restraining orders or~~  
 2026 ~~take other appropriate action, including acceptance of performance bonds, in connection~~  
 2027 ~~with any interest that is subject to forfeiture.~~

2028 ~~(c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall~~  
 2029 ~~be forfeited in accordance with Chapter 16 of Title 9. Within 60 days of the date of the~~  
 2030 ~~seizure of contraband pursuant to this Code section, the district attorney shall initiate a~~  
 2031 ~~forfeiture proceeding as provided in Code Section 16-13-49. An owner or interest holder,~~

2032 ~~as defined by subsection (a) of Code Section 16-13-49, may establish as a defense to the~~  
 2033 ~~forfeiture of property which is subject to forfeiture under this Code section the applicable~~  
 2034 ~~provisions of subsection (e) or (f) of Code Section 16-13-49. Property which is forfeited~~  
 2035 ~~pursuant to this Code section shall be disposed of as provided in Code Section 16-13-49~~  
 2036 ~~and the proceeds of such disposition shall be paid to the Criminal Justice Coordinating~~  
 2037 ~~Council for use in funding gang prevention projects."~~

2038 **SECTION 2-27.**

2039 Said title is further amended by repealing in its entirety Code Section 16-16-2, relating to  
 2040 motor vehicles, tools, and weapons subject to forfeiture, and enacting a new Code Section  
 2041 16-16-2 to read as follows:

2042 "16-16-2.

2043 (a) As used in this Code section, the terms 'proceeds' and 'property' shall have the same  
 2044 meanings as set forth in Code Section 9-16-2.

2045 (b) Any property which is, directly or indirectly, used or intended for use in any manner  
 2046 to facilitate the commission of a burglary or armed robbery and any proceeds derived or  
 2047 realized therefrom are declared to be contraband and no person shall have a property right  
 2048 in them

2049 (c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall  
 2050 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9."

2051 **PART III**

2052 **CONFORMING TITLES 3, 5, 7, 10, 12, 15, 17, 27, 36, 38, 40, 45, 46, 48, AND 52**

2053 **TO THE NEW CIVIL FORFEITURE PROCEDURE**

2054 **AND CORRECTING TERMINOLOGY**

2055 **SECTION 3-1.**

2056 Title 3 of the Official Code of Georgia Annotated, relating to alcoholic beverages, is  
 2057 amended by revising Code Section 3-10-10, relating to existence of property rights in  
 2058 distilled spirits or vessels kept or used in violation of the chapter, as follows:

2059 "3-10-10.

2060 No property rights of any kind shall exist in distilled spirits or in the vessels kept or used  
 2061 for the purpose of violating this chapter, or in any such liquors when received, possessed,  
 2062 or stored at any forbidden place or anywhere in a quantity forbidden by law or when kept,  
 2063 stored, or deposited for the purpose of sale or unlawful disposition, furnishing, or  
 2064 distribution. In all such cases the distilled spirits, the vessels and receptacles in which the  
 2065 distilled spirits are contained, and any property kept or used for the purpose of violating

2066 this chapter are declared to be contraband; and are to be forfeited to the state when seized;  
 2067 ~~and may be condemned to be destroyed after seizure by order of the court that has acquired~~  
 2068 ~~jurisdiction over them, or by order of the judge or court after conviction when the distilled~~  
 2069 ~~spirits and property have been seized for use as evidence in accordance with the procedures~~  
 2070 ~~set forth in Chapter 16 of Title 9."~~

### 2071 SECTION 3-2.

2072 Said title is further amended by revising Code Section 3-10-11, relating to contraband  
 2073 apparatus and appliances, existence of property rights therein, summary destruction of  
 2074 contraband, and procedure for seizure and condemnation of vehicles and conveyances and  
 2075 boats and vessels, as follows:

2076 "3-10-11.

2077 (a)(1) All apparatus or appliances which are used for the unlawful purpose of distilling  
 2078 or manufacturing any distilled spirits are declared to be contraband.

2079 (2) No person shall have any property right in or to the contraband specified in this  
 2080 subsection.

2081 (3) Whenever apparatus or appliances used or about to be used for the unlawful purpose  
 2082 of manufacturing, using, holding, or containing any distilled spirits are found or  
 2083 discovered by any sheriff, deputy sheriff, or other law enforcement officer of this state,  
 2084 the same shall be summarily destroyed and rendered useless by him or her without any  
 2085 formal order of the court.

2086 (b)(1) All vehicles and conveyances of every kind and description in this state and all  
 2087 boats and vessels of every kind and description in any of the waters of this state; ~~which~~  
 2088 ~~vehicles and vessels are used in conveying, removing, concealing, or storing any distilled~~  
 2089 ~~spirits, the transportation, possession, or storing of which is in violation of law, are~~  
 2090 ~~declared to be contraband and shall be seized and condemned by any sheriff or other~~  
 2091 ~~arresting law enforcement officer. Such ~~vehicles, conveyances, boats, and vessels~~~~  
 2092 ~~contraband shall be subject to seizure and condemnation as specified in this Code section~~  
 2093 ~~in any county or municipality of this state forfeiture in accordance with the procedures set~~  
 2094 ~~forth in Chapter 16 of Title 9, including those counties and municipalities in which the sale~~  
 2095 ~~of distilled spirits is lawful. The law enforcement officer making a seizure shall report the~~  
 2096 ~~seizure within ten days after the seizure to the prosecuting attorney of the county, city, or~~  
 2097 ~~superior court having jurisdiction in the county where the seizure was made.~~

2098 (2) ~~Within 30 days from the time the prosecuting attorney receives the notice, he shall~~  
 2099 ~~institute condemnation proceedings by petition, a copy of which shall be served upon the~~  
 2100 ~~owner or lessee, if known, and, if the owner or lessee is unknown, notice of the~~

2101 proceedings shall be published once a week for two weeks in the newspaper in which the  
 2102 sheriff's advertisements are published.

2103 ~~(3) If at the expiration of 30 days after the filing of a petition pursuant to paragraph (2)~~  
 2104 ~~of this subsection no claimant has appeared to defend against the petition, the court shall~~  
 2105 ~~order the disposition of the property as otherwise provided in this subsection.~~

2106 ~~(4) Should it appear upon the trial of the case that the vehicle, conveyance, boat, or~~  
 2107 ~~vessel was used as provided in paragraph (1) of this subsection with the knowledge of the~~  
 2108 ~~owner or lessee, it shall be disposed of by order of the court after such advertisement as~~  
 2109 ~~the court may direct.~~

2110 ~~(5) Except as otherwise provided in this Code section, property forfeited pursuant to this~~  
 2111 ~~subsection shall be disposed of by order of the court as follows:~~

2112 ~~(A) Upon application of the seizing law enforcement agency or any other law~~  
 2113 ~~enforcement agency of state, county, or municipal government, the court shall permit~~  
 2114 ~~the agency to retain the property for official use in law enforcement work;~~

2115 ~~(B) That property which is not required to be destroyed by law and which is not~~  
 2116 ~~harmful to the public shall be sold. The proceeds of such sale shall be used for payment~~  
 2117 ~~of all proper expenses of the forfeiture and sale, including, but not limited to, the~~  
 2118 ~~expenses of seizure, maintenance of custody, advertising, and court costs. The~~  
 2119 ~~remainder of the proceeds of a sale of forfeited property, after the deductions authorized~~  
 2120 ~~in this subparagraph for proper expenses, shall be paid into the general fund of the~~  
 2121 ~~county in which the seizure is made.~~

2122 ~~(c) Where the owner or lessee of any property seized for purposes of condemnation~~  
 2123 ~~absconds or conceals himself so that actual notice of the condemnation proceeding cannot~~  
 2124 ~~be served upon him, he shall be served by publication as provided for in paragraph (2) of~~  
 2125 ~~subsection (b) of this Code section in the case of an unknown owner or lessee.~~

2126 ~~(d)(1) All condemnation proceedings against any vehicle, conveyance, boat, or vessel~~  
 2127 ~~shall be proceedings in rem against the property seized. The property shall be described~~  
 2128 ~~only in general terms, and it is no ground for defense that the person who had the~~  
 2129 ~~property in possession at the time of its illegal use and seizure had not been convicted of~~  
 2130 ~~such violation.~~

2131 ~~(2) Any party at interest may appear, by answer under oath, and make defense. The~~  
 2132 ~~owner or lessee shall be permitted to defend by showing that the property seized, if used~~  
 2133 ~~illegally by another, was used without the knowledge, connivance, or consent, express~~  
 2134 ~~or implied, of the owner or lessee and by showing also that the property seized, if a motor~~  
 2135 ~~vehicle, was legally registered with the department in the true name and address of the~~  
 2136 ~~owner or his predecessor in title, unless the vehicle is a new vehicle bought from a dealer~~  
 2137 ~~within 30 days of the time of seizure. The holder of any bona fide lien on the property~~

2138 so seized shall be protected to the full extent of his lien if the holder shows that the illegal  
 2139 use of the property was without his knowledge, connivance, or consent, express or  
 2140 implied.

2141 (e) ~~The court to whom a petition for condemnation is referred may at its discretion allow~~  
 2142 ~~any party at interest to give bond and take possession of the vehicle seized. In such cases~~  
 2143 ~~the court shall determine whether the bond shall be a forthcoming bond or an eventual~~  
 2144 ~~condemnation money bond and shall also determine the amount of the bond. The~~  
 2145 ~~enforcement of any bond so given shall be regulated by the general law applicable to such~~  
 2146 ~~cases.~~

2147 (f) ~~The court may permit a settlement between the parties at any stage of the proceeding~~  
 2148 ~~by permitting the value of the vehicle or the value of the equity in the vehicle, as~~  
 2149 ~~determined by the court, to be paid into court. Money so paid shall be distributed as~~  
 2150 ~~provided by law in all cases of condemnation.~~

2151 (g) ~~The agency, state, county, or municipality seizing any contraband article may use any~~  
 2152 ~~vessel, vehicle, aircraft, or other conveyance described in subsection (b) of this Code~~  
 2153 ~~section for covert police activity for a period of up to 60 days prior to the sale of such~~  
 2154 ~~vessel, vehicle, aircraft, or other conveyance, except that no vessel, vehicle, aircraft, or~~  
 2155 ~~other conveyance shall be utilized for covert police activity prior to final judicial~~  
 2156 ~~adjudication of lawful seizure."~~

2157 **SECTION 3-3.**

2158 Said title is further amended by revising Code Section 3-10-12, relating to raw materials or  
 2159 substances, fixtures, implements, or apparatus intended for use in unlawful distillation or  
 2160 manufacture of distilled spirits declared contraband, property rights in contraband, and  
 2161 procedures for seizure and disposition of contraband, as follows:

2162 "3-10-12.

2163 (a) Any raw materials or substances, including, but not limited to, sugar of any grade or  
 2164 type, and any fixture, implement, or apparatus used or intended for use in the unlawful  
 2165 distilling or manufacturing of any distilled spirits are declared to be contraband.

2166 (b) No person shall have any property right in or to any contraband specified in  
 2167 subsection (a) of this Code section.

2168 (c) Whenever any property item used or about to be used as specified in subsection (a) of  
 2169 this Code section is found or discovered, whether in transit, in storage, or at a site of  
 2170 unlawful distillation or manufacture, by any ~~sheriff, deputy sheriff, revenue agent, or any~~  
 2171 ~~other~~ law enforcement officer, it is ~~declared forfeited~~ and shall be subject to the following  
 2172 dispositions, ~~or any of them:~~

2173 (1) When found or discovered at a site of unlawful distillation or manufacture, it may be  
 2174 summarily destroyed and rendered useless by any ~~of the officers named in this subsection~~  
 2175 law enforcement officer without any formal order of the court or, in the event any of the  
 2176 raw materials or substances are fit for human consumption or if any of the fixtures,  
 2177 implements, or apparatus are of any beneficial use to the educational authorities of the  
 2178 county for use in any of their educational programs, they may be delivered to the public  
 2179 schools of the county in which seized for use in the schools. When any of the foregoing  
 2180 items are delivered to a public school system, the officer delivering the items shall obtain  
 2181 from the appropriate school authorities an itemized receipt detailing all items delivered  
 2182 to the system and report such information as provided in subsection (g) of Code Section  
 2183 9-16-20. In the event any of the foregoing items are destroyed by a law enforcement  
 2184 officer, ~~he~~ the officer shall execute an affidavit of such fact in which ~~he shall list~~ all items  
 2185 destroyed ~~by him shall be listed~~. The receipts and affidavits shall be maintained by the  
 2186 officer and shall be open to inspection by the public upon request; or  
 2187 (2) When found or discovered in transit or in storage by any ~~of the officers named in this~~  
 2188 ~~subsection~~ law enforcement officer, the property items shall be seized by the officer and  
 2189 ~~the procedures of notice, condemnation, and sale provided in Code Section 3-10-11,~~  
 2190 ~~applicable to vehicles and conveyances, shall be followed~~ forfeited in accordance with  
 2191 the procedures set forth in Chapter 16 of Title 9."

2192 **SECTION 3-4.**

2193 Title 5 of the Official Code of Georgia Annotated, relating to appeal and error, is amended  
 2194 by revising paragraph (8) of subsection (c) of Code Section 5-5-41, relating to requirements  
 2195 as to extraordinary motions for new trial generally, as follows:

2196 "(8) If the court orders testing pursuant to this subsection, the court shall determine the  
 2197 method of testing and responsibility for payment for the cost of testing, if necessary, and  
 2198 may require the petitioner to pay the costs of testing if the court determines that the  
 2199 petitioner has the ability to pay. If the petitioner is indigent, the cost shall be paid from  
 2200 the fine and bond forfeiture fund as provided in Article 3 of Chapter 5 21 of Title 15."

2201 **SECTION 3-5.**

2202 Title 7 of the Official Code of Georgia Annotated, relating to banks and banking, is amended  
 2203 by revising Code Section 7-1-11, relating to registration of nonresident corporations, as  
 2204 follows:

2205 "7-1-11.

2206 Whenever any financial institution or other corporation domiciled outside this state,  
 2207 including domestic international banking facilities, international bank agencies,

2208 international bank representative offices, and representative offices of federally and state  
 2209 chartered financial institutions, is required to register with the department as a prerequisite  
 2210 to the conduct of business in this state or for the purpose of taking title or liens against  
 2211 property located in this state, such registration shall be in lieu of further registration  
 2212 pursuant to ~~Code Section 16-14-15~~ or any other provisions of law."

2213 **SECTION 3-6.**

2214 Said title is further amended by revising Code Section 7-1-916, relating to forfeiture of  
 2215 property involved in illegal transactions, as follows:

2216 "7-1-916.

2217 All property of every kind used or intended for use in the course of, derived from, or  
 2218 realized through a transaction which in fact involves the proceeds of unlawful activity  
 2219 specified in Chapter 14 of Title 16 or otherwise subject to the provisions of this article shall  
 2220 be subject to forfeiture to the state. Forfeiture shall be had by the same procedure as is set  
 2221 forth in ~~Code Section 16-14-7~~ Chapter 16 of Title 9. As used in this Code section, the  
 2222 terms 'proceeds' and 'property' shall have the same meaning as set forth in Code Section  
 2223 9-16-2."

2224 **SECTION 3-7.**

2225 Title 10 of the Official Code of Georgia Annotated, relating to commerce and trade, is  
 2226 amended by revising subsection (d) of Code Section 10-1-454, relating to forged or  
 2227 counterfeited trademarks, service marks, or copyrighted or registered designs, as follows:

2228 "(d)(1) The State of Georgia finds and declares that the citizens of this state have a right  
 2229 to receive those goods and services which they reasonably believe they are purchasing  
 2230 or for which they contract. The state further finds that the manufacture and sale of  
 2231 counterfeit goods or goods which are not what they purport to be and the offering of  
 2232 services through the use of counterfeit service marks constitutes a fraud on the public and  
 2233 results in economic disruption to the legitimate businesses of this state. In order to  
 2234 protect the citizens and businesses of this state it is necessary to take appropriate actions  
 2235 to remove counterfeit goods from the channels of commerce and prevent the  
 2236 manufacture, sale, and distribution of such goods or the offering of such services through  
 2237 the use of counterfeit service marks.

2238 (2) As used in this subsection, the terms 'proceeds' and 'property' shall have the same  
 2239 meanings as set forth in Code Section 9-16-2.

2240 (3) Any property which is, directly or indirectly, used or intended for use in any manner  
 2241 to facilitate a violation of this Code section and any proceeds derived or realized

2242 therefrom are declared to be contraband and no person shall have a property right in  
 2243 them.

2244 (4) Any property subject to forfeiture pursuant to paragraph (3) of this subsection shall  
 2245 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9.

2246 ~~(2) For the purposes expressed in paragraph (1) of this subsection, a person who is~~  
 2247 ~~convicted of or pleads nolo contendere to a felony offense under this Code section shall~~  
 2248 ~~forfeit to the State of Georgia such interest as the person may have in:~~

2249 ~~(A) Any goods, labels, products, or other property containing or constituting forged or~~  
 2250 ~~counterfeit trademarks, service marks, or copyrighted or registered designs or~~  
 2251 ~~constituting or directly derived from gross profits or other proceeds obtained from such~~  
 2252 ~~offense;~~

2253 ~~(B) Any property or any interest in any property, including but not limited to any~~  
 2254 ~~reproduction equipment, scanners, computer equipment, printing equipment, plates,~~  
 2255 ~~dies, sewing or embroidery equipment, motor vehicle, or other asset, used to commit~~  
 2256 ~~a violation of this Code section; and~~

2257 ~~(C) Any property constituting or directly derived from gross profits or other proceeds~~  
 2258 ~~obtained from a violation of this Code section.~~

2259 ~~(3) In any action under this Code section, the court may enter such restraining orders or~~  
 2260 ~~take other appropriate action, including acceptance of performance bonds, in connection~~  
 2261 ~~with any interest that is subject to forfeiture.~~

2262 ~~(4) The court shall order forfeiture of property referred to in paragraph (2) of this~~  
 2263 ~~subsection if the trier of fact determines beyond a reasonable doubt that such property is~~  
 2264 ~~subject to forfeiture.~~

2265 ~~(5) The provisions of subsection (u) of Code Section 16-13-49 shall apply for the~~  
 2266 ~~disposition of any property forfeited under this subsection, provided that any property~~  
 2267 ~~containing a counterfeit trademark, service mark, or copyrighted or registered design~~  
 2268 ~~shall be destroyed unless the owner of the trademark, service mark, or copyrighted or~~  
 2269 ~~registered design gives prior written consent to the sale of such property or such~~  
 2270 ~~trademark, service mark, or copyrighted or registered design is obliterated or removed~~  
 2271 ~~from such property prior to the disposition thereof. Any forfeited goods which are~~  
 2272 ~~hazardous to the health, welfare, or safety of the public shall be destroyed. In any~~  
 2273 ~~disposition of property under this subsection, a person who has been convicted of or who~~  
 2274 ~~has entered a plea of nolo contendere to a violation of this Code section shall not be~~  
 2275 ~~permitted to acquire property forfeited by such person.~~

2276 ~~(6) The procedure for forfeiture and disposition of forfeited property under this~~  
 2277 ~~subsection shall be as provided for forfeitures under Code Section 16-13-49."~~

2278 **SECTION 3-8.**

2279 Said title is further amended by revising subsection (b) of Code Section 10-13A-8, relating  
2280 to suspension of distributor's license, as follows:

2281 "(b) Any cigarettes that have been sold, offered for sale, or possessed for sale in this state  
2282 in violation of Code Section 10-13A-5 shall be deemed contraband under Code Section  
2283 48-11-9 and such cigarettes shall be subject to seizure and forfeiture as provided in ~~such~~  
2284 ~~Code section~~ Chapter 16 of Title 9."

2285 **SECTION 3-9.**

2286 Title 12 of the Official Code of Georgia Annotated, relating to conservation and natural  
2287 resources, is amending by revising subsection (e) of Code Section 12-4-48, relating to actions  
2288 by director to enforce part relating to deep drilling for oil, gas, and other minerals, as follows:

2289 "~~(e)(1)~~ In addition to any other enforcement remedy available to the director under this  
2290 part, all illegal minerals and illegal products are declared to be contraband and forfeited to  
2291 the state ~~and shall be confiscated and seized by any peace officer who shall forthwith~~  
2292 ~~deliver it~~ in accordance with the procedures set forth in Chapter 16 of Title 9, except that:

2293 (1) Any seizure of contraband shall be delivered to the director or his or her duly  
2294 authorized agent ~~within ten days of the seizure;~~

2295 (2) Illegal minerals shall only be forfeited as provided for in Code Section 9-16-13; and

2296 (3) Property seized pursuant to this subsection shall not be required to be stored in an  
2297 area within the jurisdiction of the court if such storage is not possible.

2298 ~~(2) The district attorney whose circuit includes the county in which the seizure is made,~~  
2299 ~~within 30 days after the seizure of any illegal minerals or illegal products, shall institute~~  
2300 ~~proceedings by petition in the superior court of any county where the seizure was made~~  
2301 ~~against the property so seized and against any and all persons known to have an interest~~  
2302 ~~in or right affected by the seizure or sale of such property. A copy of such petition shall~~  
2303 ~~be served upon the owner or lessee of such property, if known, and upon the person or~~  
2304 ~~persons having custody or possession of such property at the time of the confiscation or~~  
2305 ~~seizure. If the owner or lessee or person or persons having custody or possession of such~~  
2306 ~~property at the time of seizure is unknown, notice of such proceedings shall be published~~  
2307 ~~once a week for two consecutive weeks in the newspaper in which sheriff's~~  
2308 ~~advertisements of the county are published. Such publication shall be deemed notice to~~  
2309 ~~any and all persons having an interest in or right affected by such proceeding and any sale~~  
2310 ~~of the property resulting therefrom. If no defense or intervention shall be filed within 30~~  
2311 ~~days from the filing of the petition, judgment by default shall be entered by the court;~~  
2312 ~~otherwise the case shall proceed as civil cases. Should the mineral or mineral product be~~  
2313 ~~found to be illegal within the sense of this part, the same shall be decreed to be~~

2314 ~~contraband and ordered sold under such terms as the judge in his order may direct. The~~  
 2315 ~~judge may order the same sold in bulk, in lots, in parcels, or under such other regulations~~  
 2316 ~~as may be deemed proper. The proceeds arising from such sale shall be applied:~~

2317 ~~(A) To the payment of proper costs and expenses, including expenses incurred in the~~  
 2318 ~~seizure;~~

2319 ~~(B) To the payment of the cost of the court and its officers;~~

2320 ~~(C) To the payment of any cost incurred in the storage, advertisement, maintenance,~~  
 2321 ~~or care of such property; and~~

2322 ~~(D) If any money remains, to the state treasury to the credit of the general fund.~~

2323 ~~(3) Where the owner or lessee of any property seized for purpose of condemnation shall~~  
 2324 ~~abscond or conceal himself so that the actual notice of the condemnation proceedings~~  
 2325 ~~cannot be served upon him, he shall be served by publication as is provided in this Code~~  
 2326 ~~section in the case of an unknown owner or lessee.~~

2327 ~~(4) All proceedings against any alleged illegal minerals or for the purpose of~~  
 2328 ~~condemnation shall be proceedings in rem against the property, and the property shall be~~  
 2329 ~~described only in general terms. It is the intent and purpose of the procedure provided~~  
 2330 ~~by this Code section to provide a civil remedy for the condemnation and sale of~~  
 2331 ~~contraband property.~~

2332 ~~(5) The court shall have full discretion and authority to permit a settlement between the~~  
 2333 ~~parties at any stage of the proceedings by permitting the value of the alleged illegal~~  
 2334 ~~minerals or illegal products to be paid into court, as determined by the court, which~~  
 2335 ~~money when so paid in shall be distributed as provided by law in all cases of~~  
 2336 ~~condemnation.~~

2337 ~~(6)(f) Nothing in this Code section shall deny or abridge any cause of action a royalty~~  
 2338 ~~owner, lienholder, or other claimant may have against any persons whose acts result in the~~  
 2339 ~~forfeiture of the illegal oil, illegal gas, or illegal product."~~

2340 **SECTION 3-10.**

2341 Said title is further amended by revising subsection (a) of Code Section 12-5-133, relating  
 2342 to penalty and confiscation of equipment, as follows:

2343 "(a) Any person who engages in or follows the business or occupation of, or advertises,  
 2344 holds himself or herself out, or acts, temporarily or otherwise, as a water well contractor  
 2345 without having first secured the required license or renewal thereof or any person who  
 2346 otherwise violates any provisions of this part shall be guilty of a misdemeanor and, upon  
 2347 conviction thereof, shall be fined not less than \$100.00 and not more than \$1,000.00. Each  
 2348 day during which such violation exists or continues shall constitute a separate offense. ~~In~~  
 2349 ~~addition to or in lieu of any fine imposed for acting without the required license, any person~~

2350 ~~violating any provision of this part may have his or her drilling rigs and commercial~~  
 2351 ~~vehicles confiscated in accordance with Code Section 12-5-137."~~

2352 **SECTION 3-11.**

2353 Said title is further amended by revising Code Section 12-5-137, relating to the procedure  
 2354 for confiscation and sale of contraband equipment and defenses, as follows:

2355 "12-5-137.

2356 (a) All drilling rigs or commercial vehicles used to drill any well and other equipment used  
 2357 to drill any well by a person who is not a licensed water well contractor or driller or who  
 2358 is not acting under the direction of a professional engineer or professional geologist as  
 2359 required by this part are declared to be contraband subject to forfeiture ~~and confiscation~~  
 2360 ~~and seizure by any peace officer, who shall forthwith deliver such rigs and equipment to~~  
 2361 ~~the district attorney whose circuit includes the county in which a seizure is made or to his~~  
 2362 ~~duly authorized agent within ten days of the seizure~~ in accordance with Chapter 16 of  
 2363 Title 9.

2364 (b) ~~The district attorney whose circuit includes the county in which the seizure is made,~~  
 2365 ~~within 30 days after the seizure of any illegal drilling equipment, shall institute proceedings~~  
 2366 ~~by petition in the superior court of any county where the seizure was made against the~~  
 2367 ~~property so seized and against any and all persons known to have an interest in or right~~  
 2368 ~~affected by the seizure or sale of such property. A copy of such petition shall be served~~  
 2369 ~~upon the owner or lessee of such property, if known, and upon the person or persons~~  
 2370 ~~having custody or possession of such property at the time of the confiscation or seizure.~~  
 2371 ~~If the owner or lessee, or person or persons having custody or possession of such property~~  
 2372 ~~at the time of seizure is unknown, notice of such proceedings shall be published once a~~  
 2373 ~~week for two consecutive weeks in the newspaper in which sheriff's advertisements of the~~  
 2374 ~~county are published. Such publication shall be deemed notice to any and all persons~~  
 2375 ~~having an interest in or right affected by such proceedings and any sale of the property~~  
 2376 ~~resulting therefrom. If no defense or intervention shall be filed within 30 days from the~~  
 2377 ~~filing of the petition, judgment by default shall be entered by the court; otherwise the case~~  
 2378 ~~shall proceed as in other civil cases. Should the drilling equipment be found to be illegal~~  
 2379 ~~within the sense of this part, the same shall be decreed to be contraband and ordered sold~~  
 2380 ~~under such terms as the judge in his order may direct. The proceeds arising from such sale~~  
 2381 ~~shall be applied:~~

2382 (1) ~~To the payment of proper costs and expenses, including expenses incurred in the~~  
 2383 ~~seizure;~~

2384 (2) ~~To the payment of the cost of the court and its officers;~~



2420 "15-6-95.

2421 Notwithstanding any law to the contrary, a clerk of any superior court of this state who  
 2422 receives partial payments, as ordered by the court, of criminal fines, bond forfeitures, or  
 2423 costs shall distribute ~~said~~ such sums in the order of priority set forth below:

2424 (1) The amount provided for in Chapter 17 of Title 47 for the Peace Officers' Annuity  
 2425 and Benefit Fund;

2426 (2) The amount provided for in Chapter 14 of Title 47 for the Superior Court Clerks'  
 2427 Retirement Fund of Georgia;

2428 (3) The amount provided for in Chapter 16 of Title 47 for the Sheriffs' Retirement Fund  
 2429 of Georgia;

2430 (4) The amounts provided under subparagraphs (a)(1)(A) and (a)(2)(A) of Code Section  
 2431 15-21-73;

2432 (5) The amounts provided for under subparagraphs (a)(1)(B) and (a)(2)(B) of Code  
 2433 Section 15-21-73;

2434 (6) The amount as may be provided in Chapter 15 of Title 36 for county law libraries;

2435 (7) The surcharge provided for in Chapter 21 of this title for jail construction and  
 2436 staffing;

2437 (8) The surcharge provided for in cases of driving under the influence for purposes of  
 2438 state crime victim compensation under Code Section 15-21-112;

2439 (9) The application fee provided for in subsection (c) of Code Section 15-21A-6;

2440 (10) The balance of the fine shall be paid to the county; and

2441 (11) After the final partial or installment payment, the surcharge provided for in Code  
 2442 Sections 15-21-100 and 15-21-101 for the Drug Abuse Treatment and Education Fund."

2443 **SECTION 3-14.**

2444 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is  
 2445 amended by revising Code Section 17-5-51, relating to forfeiture of weapons used in  
 2446 commission of crime, possession of which constitutes crime or delinquent act, or illegal  
 2447 concealment generally, motor vehicles, definitions, and return of firearm to innocent owner,  
 2448 as follows:

2449 "17-5-51.

2450 (a) ~~Any~~ Except as provided in subsection (c) of this Code section, any device which is  
 2451 used as a weapon in the commission of any crime against any person or any attempt to  
 2452 commit any crime against any person, any weapon the possession or carrying of which  
 2453 constitutes a crime or delinquent act, and any weapon for which a person has been  
 2454 convicted of violating Code Section 16-11-126 are declared to be contraband and ~~are~~ shall  
 2455 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9,

2456 ~~notwithstanding the time frames set forth in Code Section 9-16-8. For the purposes of this~~  
 2457 ~~article, a motor vehicle shall not be deemed to be a weapon or device and shall not be~~  
 2458 ~~contraband or forfeited under this article; provided, however, that this exception shall not~~  
 2459 ~~be construed to prohibit the seizure, condemnation, and sale of motor vehicles used in the~~  
 2460 ~~illegal transportation of alcoholic beverages.~~

2461 ~~(b) As used in this Code section, the term:~~

2462 ~~(1) 'Firearm' shall have the same meaning as set forth in Code Section 16-11-171.~~

2463 ~~(2) 'Innocent owner' means a person who:~~

2464 ~~(A) Did not beforehand know or in the exercise of ordinary care would not have known~~  
 2465 ~~of the conduct which caused his or her firearm to be forfeited, seized, or abandoned to~~  
 2466 ~~any law enforcement agency of this state or a political subdivision of this state,~~  
 2467 ~~including the Department of Natural Resources;~~

2468 ~~(B) Did not participate in the commission of a crime or delinquent act involving his or~~  
 2469 ~~her firearm;~~

2470 ~~(C) Legally owned and presently owns the firearm forfeited, seized, or abandoned; and~~

2471 ~~(D) Is authorized by state and federal law to receive and possess his or her firearm.~~

2472 ~~(c) A firearm that is the property of an innocent owner shall be returned to such person~~  
 2473 ~~when such firearm is no longer needed for evidentiary purposes.~~

2474 ~~(d) The costs of returning the firearm to the innocent owner shall be borne by the innocent~~  
 2475 ~~owner. Such costs shall be limited to the actual costs of shipping and associated costs from~~  
 2476 ~~any transfer and background check fees charged when delivering the firearm to the~~  
 2477 ~~innocent owner.~~

2478 ~~(e) If six months elapse after notification to the innocent owner of the possession of the~~  
 2479 ~~firearm by a political subdivision or state custodial agency and the innocent owner fails to~~  
 2480 ~~bear the costs of return of his or her firearm or fails to respond to the political subdivision~~  
 2481 ~~or state custodial agency, then the political subdivision or state custodial agency may~~  
 2482 ~~follow the procedures under subsection (d) of Code Section 17-5-52.1."~~

### 2483 **SECTION 3-15.**

2484 Said title is further amended by revising Code Section 17-5-52, relating to sale or destruction  
 2485 of weapons used in commission of crime or delinquent act involving possession, sale of  
 2486 weapons not the property of the defendant, disposition of proceeds of sale, and record  
 2487 keeping, as follows:

2488 "17-5-52.

2489 (a) When a final judgment is entered finding a defendant guilty of the commission or  
 2490 attempted commission of a crime against any person or guilty of the commission of a crime  
 2491 or delinquent act involving the illegal possession or carrying of a weapon, any device

2492 which was used as a weapon in the commission of the crime or delinquent act shall be  
 2493 turned over by the person having custody of the weapon or device to the sheriff, chief of  
 2494 police, or other executive officer of the law enforcement agency that originally confiscated  
 2495 the weapon or device when the weapon or device is no longer needed for evidentiary  
 2496 purposes. Within ~~With the exception of firearms, as such term is defined in Code Section~~  
 2497 ~~17-5-51, which shall be disposed of in accordance with Code Section 17-5-52.1, within 90~~  
 2498 days after receiving the weapon or device, the sheriff, chief of police, or other executive  
 2499 officer of the law enforcement agency shall ~~retain the weapon or device for use in law~~  
 2500 ~~enforcement, destroy the same, or sell the weapon or device pursuant to judicial sale as~~  
 2501 ~~provided in Article 7 of Chapter 13 of Title 9 or by any commercially feasible means,~~  
 2502 ~~provided that if the weapon or device used as a weapon in the crime is not the property of~~  
 2503 ~~the defendant, there shall be no forfeiture of such weapon or device~~ return or sell the  
 2504 weapon as provided in Code Section 17-5-54, or if the weapon or device is subject to  
 2505 forfeiture, the procedures set forth in Chapter 16 of Title 9 shall be followed  
 2506 notwithstanding the time frames set forth in Code Section 9-16-8. A state attorney seeking  
 2507 forfeiture under this Code section shall initiate forfeiture proceedings within 60 days of the  
 2508 entry of a final judgment as contemplated by this Code section; the remaining provisions  
 2509 of Chapter 16 of Title 9 shall be applicable.  
 2510 ~~(b) The proceeds derived from all sales of such weapons or devices, after deducting the~~  
 2511 ~~costs of the advertising and the sale, shall be turned in to the treasury of the county or the~~  
 2512 ~~municipal corporation that sold the weapon or device. The proceeds derived from the sale~~  
 2513 ~~of such weapons or devices confiscated by a state law enforcement agency shall be paid~~  
 2514 ~~into the state treasury.~~  
 2515 ~~(c) Any law enforcement agency that retains, destroys, or sells any weapon or device~~  
 2516 ~~pursuant to this Code section shall maintain records that include an accurate description of~~  
 2517 ~~each weapon or device along with records of whether each weapon or device was retained,~~  
 2518 ~~sold, or destroyed."~~

### 2519 SECTION 3-16.

2520 Said title is further amended by repealing Code Section 17-5-52.1, relating to disposal of  
 2521 forfeited or abandoned firearms, innocent owners, auctions, record keeping, and liability of  
 2522 government entities, which reads as follows:

2523 "17-5-52.1.

2524 (a) As used in this Code section, the terms 'firearm' and 'innocent owner' shall have the  
 2525 same meaning as set forth in Code Section 17-5-51.

2526 (b) Notwithstanding any other provision of law to the contrary and subject to the duty to  
 2527 return firearms to innocent owners pursuant to subsection (c) of Code Section 17-5-51 and

2528 this Code section, all firearms that are forfeited or abandoned to any law enforcement  
2529 agency of this state or a political subdivision of this state, including the Department of  
2530 Natural Resources, or that are otherwise acquired by the state or a political subdivision and  
2531 are no longer needed, shall be disposed of as provided in this Code section.

2532 (c) Prior to the disposal of any firearm that has been forfeited or abandoned to the state or  
2533 a political subdivision of the state, the political subdivision or state custodial agency with  
2534 possession of the firearm shall use its best efforts to determine if the firearm has been lost  
2535 by, stolen from, or otherwise illegally obtained from an innocent owner and, if so, shall  
2536 return the firearm to its innocent owner in accordance with Code Section 17-5-51.

2537 (d) If an innocent owner of a firearm cannot be located or after proper notification he or  
2538 she fails to pay for the return of his or her firearm, if the political subdivision is:

2539 (1) A municipal corporation, it shall dispose of its firearms as provided for in Code  
2540 Section 36-37-6; provided, however, that municipal corporations shall not have the right  
2541 to reject any and all bids or to cancel any proposed sale of such firearms, and all sales  
2542 shall be to persons who are licensed as firearms collectors, dealers, importers, or  
2543 manufacturers under the provisions of 18 U.S.C. Section 921, et seq., and Chapter 16 of  
2544 Title 43 and who are authorized to receive such firearms under the terms of such license.  
2545 Any political subdivision which disposes of firearms shall use proceeds from the sale of  
2546 a firearm as are necessary to cover the costs of administering this Code section, with any  
2547 surplus to be transferred to the general fund of the political subdivision; or

2548 (2) Not a municipal corporation, the state custodial agency or the political subdivision  
2549 shall dispose of its firearms by sale at public auction to persons who are licensed as  
2550 firearms collectors, dealers, importers, or manufacturers under the provisions of 18  
2551 U.S.C. Section 921, et seq., and Chapter 16 of Title 43 and who are authorized to receive  
2552 such firearms under the terms of such license. A state custodial agency shall retain only  
2553 such proceeds as are necessary to cover the costs of administering this Code section, with  
2554 any surplus to be transferred to the general fund of the state, provided that a state  
2555 custodial agency may be reimbursed for any firearms formerly in use by the state  
2556 custodial agency that are sold under this Code section.

2557 (e) Auctions required by paragraph (2) of subsection (d) of this Code section may occur  
2558 online on a rolling basis or at live events, but in no event shall such auctions occur less  
2559 frequently than once every six months during any time in which the political subdivision  
2560 or state custodial agency has an inventory of saleable firearms.

2561 (f) The requirements of subsection (d) of this Code section shall not apply to a firearm if  
2562 no bids from eligible recipients are received within six months from when bidding opened  
2563 on such firearm or the sheriff, chief of police, agency director, or designee of such official  
2564 certifies the firearm is unsafe for use because of wear, damage, age, or modification or

2565 because any federal or state law prohibits the sale or distribution of such firearm. Any such  
 2566 firearm shall, at the discretion of the sheriff, chief of police, agency director, or designee  
 2567 of such official, be transferred to the Division of Forensic Sciences of the Georgia Bureau  
 2568 of Investigation, a municipal or county law enforcement forensic laboratory for training or  
 2569 experimental purposes, or be destroyed.

2570 (g) All agencies subject to the provisions of this Code section shall keep records of the  
 2571 firearms acquired and disposed of as provided by this Code section as well as records of  
 2572 the proceeds of the sales thereof and the disbursement of such proceeds in accordance with  
 2573 records retention schedules adopted in accordance with Article 5 of Chapter 18 of Title 50,  
 2574 the 'Georgia Records Act.'

2575 (h) Neither the state nor any political subdivision of the state nor any of its officers, agents,  
 2576 or employees shall be liable to any person, including the purchaser of a firearm, for  
 2577 personal injuries or damage to property arising from the sale of a firearm under this Code  
 2578 section unless the state or political subdivision acted with gross negligence or willful or  
 2579 wanton misconduct."

### 2580 SECTION 3-17.

2581 Said title is further amended by revising Code Section 17-5-54, relating to disposition of  
 2582 personal property in custody of law enforcement agencies, as follows:

2583 "17-5-54.

2584 (a) As used in this Code section, the term:

2585 (1) 'Firearm' means any handgun, rifle, shotgun, or similar device or weapon which will  
 2586 or can be converted to expel a projectile by the action of an explosive or electrical charge.

2587 (2) 'Law enforcement agency' means a law enforcement agency of this state or a political  
 2588 subdivision of this state, including the Department of Natural Resources.

2589 (3) 'Rightful owner' means a person claiming ownership of property which is the subject  
 2590 of a crime or has been abandoned.

2591 (b) This Code section shall not apply to:

2592 (1) Personal property which is the subject of forfeiture proceedings as otherwise  
 2593 provided by law;

2594 (2) Any property which is the subject of a disposition pursuant to Code Sections 17-5-50  
 2595 through 17-5-53; and

2596 (3) Any abandoned motor vehicle for which the provisions of Chapter 11 of Title 40 are  
 2597 applicable.

2598 ~~(a)~~(c)(1) Except as provided in Chapter 16 of Title 9, Code Sections 17-5-55 and  
 2599 17-5-56, and ~~subsections (d), (e), and (f)~~ subsection (b) of this Code section, when a law  
 2600 enforcement agency assumes custody of any personal property which is the subject of a

2601 crime or has been abandoned ~~or is otherwise seized~~, a disposition of such property shall  
 2602 be made in accordance with the provisions of this Code section.

2603 (2) When a final verdict and judgment is entered finding a defendant guilty of the  
 2604 commission of a crime, any personal property used as evidence in the trial shall be  
 2605 returned to the rightful owner of the property within 30 days following the final  
 2606 judgment; provided, however, that if the judgment is appealed or if the defendant files a  
 2607 motion for a new trial and if photographs, videotapes, or other identification or analysis  
 2608 of the personal property will not be sufficient evidence for the appeal of the case or new  
 2609 trial of the case, such personal property shall be returned to the rightful owner within 30  
 2610 days of the conclusion of the appeal or new trial, whichever occurs last.

2611 (3) Any person claiming to be a rightful owner of property shall make an application to  
 2612 the entity holding his or her property and shall furnish satisfactory proof of ownership of  
 2613 such property and present personal identification. The person in charge of such property  
 2614 may return such property to the applicant. The person to whom property is delivered  
 2615 shall sign, under penalty of false swearing, a declaration of ownership, which shall be  
 2616 retained by the person in charge of the property. Such declaration, absent any other proof  
 2617 of ownership, shall be deemed satisfactory proof of ownership for the purposes of this  
 2618 Code section; provided, however, that with respect to motor vehicles, paragraph (3) of  
 2619 subsection (b) and subsection (f) of this Code section shall govern the return of motor  
 2620 vehicles.

2621 (4) If more than one person claims ownership of property, a court with jurisdiction over  
 2622 the property shall conduct a hearing to determine the ownership of such property.

2623 (d) All personal property in the custody of a law enforcement agency, including personal  
 2624 property used as evidence in a criminal trial, which is ~~unclaimed after a period of 90 days~~  
 2625 ~~following its seizure, or following the final verdict and judgment in the case of property~~  
 2626 ~~used as evidence, and which is no:~~

2627 (1) No longer needed in a criminal investigation or for evidentiary purposes in  
 2628 accordance with Code Section 17-5-55 or 17-5-56;

2629 (2) Not claimed pursuant to Code Section 17-5-50; and

2630 (3) Not claimed pursuant to subsection (c) of this Code section  
 2631 after a period of 90 days following the final verdict and judgment in the case of property  
 2632 used as evidence or following the property being abandoned shall be subject to disposition  
 2633 by the law enforcement agency as provided in subsection (e) of this Code section if the  
 2634 property is not a firearm and as provided in subsection (g) of this Code section if the  
 2635 property is a firearm.

2636 (e) For any unclaimed personal property that is not a firearm, the ~~The~~ sheriff, chief of  
 2637 police, or other executive officer of a law enforcement agency shall make application to

2638 the superior court for an order to retain, sell, or discard such property. In the application  
 2639 the officer shall state each item of personal property to be retained, sold, or discarded.  
 2640 Upon the superior court's granting an order for the law enforcement agency to retain such  
 2641 property, the law enforcement agency shall retain such property for official use. Upon the  
 2642 superior court's granting an order which authorizes that the property be discarded, the law  
 2643 enforcement agency shall dispose of the property as other salvage or nonserviceable  
 2644 equipment. Upon the superior court's granting an order for the sale of personal property,  
 2645 the officer shall provide for a notice to be placed once a week for four weeks in the legal  
 2646 organ of the county specifically describing each item and advising possible owners of items  
 2647 of the method of contacting the law enforcement agency; provided, however, that  
 2648 miscellaneous items having an estimated fair market value of \$75.00 or less may be  
 2649 advertised or sold, or both, in lots. Such notice shall also stipulate a date, time, and place  
 2650 said items will be placed for public sale if not claimed. Such notice shall also stipulate  
 2651 whether said items or groups of items are to be sold in blocks, by lot numbers, by entire list  
 2652 of items, or separately.

2653 ~~(2) Such unclaimed personal property~~ ~~Items not claimed by the owners~~ shall be sold at a  
 2654 sale which shall be conducted not less than seven nor more than 15 days after the final  
 2655 advertised notice has been run. The sale shall be to the highest bidder.

2656 ~~(3)~~ If such personal property has not been bid on in two successive sales, the law  
 2657 enforcement agency may retain the property for official use or the property will be  
 2658 considered as salvage and disposed of as other county or municipal salvage or  
 2659 nonserviceable equipment.

2660 ~~(4)~~ With respect to unclaimed perishable personal property or animals or other wildlife,  
 2661 ~~the~~ an officer may make application to the superior court for an order authorizing the  
 2662 disposition of such property prior to the expiration of 90 days.

2663 ~~(5)(f)~~ With respect to a ~~seized~~ motor vehicle which is the subject of a crime or has been  
 2664 abandoned but which is not the subject of forfeiture proceedings, the law enforcement  
 2665 agency shall be required to contact the Georgia Crime Information Center to determine if  
 2666 such motor vehicle has been stolen and to follow generally the procedures of Code Section  
 2667 40-11-2 to ascertain the registered owner of such vehicle.

2668 (g)(1) With respect to unclaimed firearms, if the sheriff, chief of police, agency director,  
 2669 or designee of such official certifies that a firearm is unsafe because of wear, damage,  
 2670 age, or modification or because any federal or state law prohibits the sale or distribution  
 2671 of such firearm, at the discretion of such official, it shall be transferred to the Division of  
 2672 Forensic Sciences of the Georgia Bureau of Investigation, a municipal or county law  
 2673 enforcement forensic laboratory for training or experimental purposes, or be destroyed.

2674 (2) Otherwise, an unclaimed firearm:

2675 (A) Possessed by a municipal corporation shall be disposed of as provided for in Code  
 2676 Section 36-37-6; provided, however, that municipal corporations shall not have the  
 2677 right to reject any bids or to cancel any proposed sale of such firearms, and all sales  
 2678 shall be to persons who are licensed as firearms collectors, dealers, importers, or  
 2679 manufacturers under the provisions of 18 U.S.C. Section 921, et seq., and Chapter 16  
 2680 of Title 43 and who are authorized to receive such firearms under the terms of such  
 2681 license; or

2682 (B) Possessed by the state or a political subdivision other than a municipal corporation,  
 2683 shall be disposed of by sale at public auction to persons who are licensed as firearms  
 2684 collectors, dealers, importers, or manufacturers under the provisions of 18 U.S.C.  
 2685 Section 921, et seq., and Chapter 16 of Title 43 and who are authorized to receive such  
 2686 firearms under the terms of such license. Auctions required by this subparagraph may  
 2687 occur online on a rolling basis or at live events, but in no event shall such auctions  
 2688 occur less frequently than once every six months during any time in which the political  
 2689 subdivision or state custodial agency has an inventory of salable firearms.

2690 (3) If no bids from eligible recipients are received within six months from when bidding  
 2691 opened on a firearm offered for sale pursuant to paragraph (2) of this subsection, the  
 2692 firearm shall be transferred to the Division of Forensic Sciences of the Georgia Bureau  
 2693 of Investigation, a municipal or county law enforcement forensic laboratory for training  
 2694 or experimental purposes, or be destroyed.

2695 ~~(b)~~(h) Records ~~will~~ shall be maintained showing the manner in which each personal  
 2696 property item came into possession of the law enforcement agency, a description of the  
 2697 property, all efforts to locate the owner, any case or docket number, the date of publication  
 2698 of any newspaper notices, and the date on which the property was retained by the law  
 2699 enforcement agency, sold, or discarded. All agencies subject to the provisions of this Code  
 2700 section shall keep records of the firearms acquired and disposed of as provided by this  
 2701 Code section as well as records of the proceeds of the sales thereof and the disbursement  
 2702 of such proceeds in accordance with records retention schedules adopted in accordance  
 2703 with Article 5 of Chapter 18 of Title 50, the 'Georgia Records Act.'

2704 ~~(e)~~(i) The proceeds from the sale of personal property by the sheriff or other county law  
 2705 enforcement agency pursuant to this Code section shall be paid into the general fund of the  
 2706 county treasury. The proceeds from the sale of personal property by a municipal law  
 2707 enforcement agency pursuant to this Code section shall be paid into the general fund of the  
 2708 municipal treasury. The proceeds from the sale of personal property by a state agency  
 2709 pursuant to this Code section shall be paid into the general fund of the state.

2710 ~~(d) The provisions of this Code section shall not apply to personal property which is the~~  
 2711 ~~subject of forfeiture proceedings as otherwise provided by law.~~

2712 ~~(e) The provisions of this Code section shall not apply to any property which is the subject~~  
 2713 ~~of a disposition pursuant to Code Sections 17-5-50 through 17-5-53.~~

2714 ~~(f) The provisions of this Code section shall not apply to any abandoned motor vehicle for~~  
 2715 ~~which the provisions of Chapter 11 of Title 40 are applicable.~~

2716 (j) Neither the state nor any political subdivision of the state nor any of its officers, agents,  
 2717 or employees shall be liable to any person, including the purchaser of a firearm, for  
 2718 personal injuries or damage to property arising from the sale of a firearm under subsection  
 2719 (g) of this Code section unless the state or political subdivision acted with gross negligence  
 2720 or willful or wanton misconduct."

2721 **SECTION 3-18.**

2722 Title 27 of the Official Code of Georgia Annotated, relating to game and fish, is amended by  
 2723 revising subparagraph (b)(3)(B) of Code Section 27-3-12, relating to unlawful substances and  
 2724 equipment relating to hunting, as follows:

2725 "(B) Any equipment used or intended for use in a violation of this Code section,  
 2726 excluding motor vehicles, is declared to be contraband and shall be forfeited to the state  
 2727 in accordance with the procedures set forth in Chapter 16 of Title 9."

2728 **SECTION 3-19.**

2729 Said title is further amended by revising subsection (c) of Code Section 27-3-26, relating to  
 2730 hunting bears, as follows:

2731 "(c) Any person violating the provisions of this Code section is ~~shall be~~ guilty of a  
 2732 misdemeanor of a high and aggravated nature, and, upon conviction, may be punished by  
 2733 a fine of not less than \$500.00 ~~and not to exceed~~ nor more than \$5,000.00, or by  
 2734 confinement for a term not to exceed 12 months, or both. The court may order that  
 2735 restitution be paid to the department of not less than \$1,500.00 for each bear or bear part  
 2736 which is the subject of a violation of this Code section. Any equipment which is used or  
 2737 intended for use in a violation of this Code section, excluding motor vehicles, is declared  
 2738 to be contraband and is forfeited to the state ~~in accordance with the procedures set forth in~~  
 2739 Chapter 16 of Title 9. The hunting and fishing privileges of any person convicted of  
 2740 violating the provisions of this Code section shall be suspended for three years."

2741 **SECTION 3-20.**

2742 Said title is further amended by revising subsection (a.1) of Code Section 27-4-133, relating  
 2743 to lawful net fishing for shrimp, as follows:

2744 "(a.1)(1) It shall be unlawful to fish for shrimp for human consumption with any trawl  
 2745 or trawls having a total foot-rope length greater than 220 feet, not including the foot-rope

2746 length of a single trawl not greater than 16 feet when used as a try net. Foot-rope shall  
 2747 be measured from brail line to brail line, first tie to last tie on the bottom line. The  
 2748 provisions of this subsection shall not apply to vessels having a maximum draft of seven  
 2749 feet or less when fully loaded. The department is authorized to exempt trawls used by  
 2750 persons holding a valid scientific collection permit granted by the department.

2751 (2) A vessel operator who violates the provisions of this subsection shall be guilty of a  
 2752 misdemeanor and, upon conviction, shall be fined not less than \$500.00 nor more than  
 2753 \$2,500.00, ~~or imprisoned for not longer than 30 days,~~ or both, and any trawl on board the  
 2754 vessel shall be contraband and ~~may be seized~~ forfeited in accordance with the procedures  
 2755 set forth in Chapter 16 of Title 9."

2756 **SECTION 3-21.**

2757 Said title is further amended by revising subsection (c) of Code Section 27-4-134, relating  
 2758 to the requirements for commercial fishing boat licenses, as follows:

2759 "(c) Every breach or violation shall carry over to all succeeding bonds filed under this  
 2760 Code section. The aggregate liability shall not exceed the amount of the bond. However,  
 2761 in the event that the total amount of any bond is forfeited, the commercial fishing boat  
 2762 license shall be suspended until a new bond in the amount of \$10,000.00 is filed covering  
 2763 the remainder of the period of the license. Until the new bond is filed, any commercial use  
 2764 of the boat shall be unlawful; and the owner shall be guilty of a misdemeanor of a high and  
 2765 aggravated nature. Nothing in this subsection shall be construed so as to alter or affect the  
 2766 seizure and ~~condemnation~~ civil forfeiture, under Code Section 27-4-137, of any boat not  
 2767 covered by the bonds provided for in paragraphs (1) and (2) of subsection (a) of this Code  
 2768 section."

2769 **SECTION 3-22.**

2770 Said title is further amended by revising Code Section 27-4-137, relating to condemnation  
 2771 proceedings, as follows:

2772 "27-4-137.

2773 (a) Each boat, propulsion unit, net, door, boom, winch, cable, electronic device, or  
 2774 accessory equipment used in violation of Code Section 27-4-133 or 27-4-171 is declared  
 2775 to be contraband and forfeited to the state ~~and shall be confiscated and seized by any peace~~  
 2776 ~~officer, who shall impound it in the name of the district attorney whose circuit includes the~~  
 2777 ~~county in which a seizure is made. The district attorney whose circuit includes the county~~  
 2778 ~~in which a seizure is made, within 30 days after the seizure of any such equipment, shall~~  
 2779 ~~institute proceedings by petition in the superior court of any county where the seizure was~~  
 2780 ~~made against the property so seized and against any and all persons having an interest in~~

2781 ~~or right affected by the seizure or sale of the equipment. A copy of the petition shall be~~  
 2782 ~~served upon the owner or lessee of the equipment, if known, and upon the person having~~  
 2783 ~~custody or possession of the equipment at the time of the confiscation or seizure. If the~~  
 2784 ~~owner, lessee, or person having custody or possession of the equipment at the time of~~  
 2785 ~~seizure is unknown, notice of such proceedings shall be published once a week for two~~  
 2786 ~~consecutive weeks in the newspaper in which sheriff's advertisements of the county are~~  
 2787 ~~published. Such publication shall be deemed notice to any and all persons having an~~  
 2788 ~~interest in or right affected by such proceedings and any sale of the equipment resulting~~  
 2789 ~~therefrom. If no defense or intervention shall be filed within 30 days from the filing of the~~  
 2790 ~~petition, judgment by default shall be entered by the court; otherwise, the case shall~~  
 2791 ~~proceed as other civil cases. Should it appear upon the trial of the case or upon default that~~  
 2792 ~~such equipment was used in violation of the Code sections heretofore cited in this~~  
 2793 ~~subsection, the equipment shall be sold by order of the court after such advertisement as~~  
 2794 ~~the court may direct. The proceeds arising from the sale shall be applied:~~

2795 ~~(1) To the payment of proper costs and expenses, including expenses incurred in the~~  
 2796 ~~seizure;~~

2797 ~~(2) To the payment of the costs of the court and its officers;~~

2798 ~~(3) To the payment of any costs incurred in the storage, advertisement, maintenance, or~~  
 2799 ~~care of such property; and~~

2800 ~~(4) If any money remains, to the general funds of the county.~~

2801 ~~(b) Where the owner or lessee of any equipment seized for purposes of condemnation shall~~  
 2802 ~~abscond or conceal himself so that actual notice of the condemnation proceedings cannot~~  
 2803 ~~be served upon him, he shall be served by publication as is provided in subsection (a) of~~  
 2804 ~~this Code section in the case of an unknown owner or lessee.~~

2805 ~~(c) All proceedings against any such equipment for the purpose of condemnation shall be~~  
 2806 ~~proceedings in rem against the equipment, and the equipment shall be described only in~~  
 2807 ~~general terms. It shall be no ground for defense that the person who had the equipment in~~  
 2808 ~~possession at the time of its use and seizure has not been convicted or acquitted of any~~  
 2809 ~~criminal proceedings resulting from or arising out of such use. It is the intent and purpose~~  
 2810 ~~of the procedure provided by this Code section to provide a civil remedy for the~~  
 2811 ~~condemnation and sale of equipment used in violation of Code Section 27-4-133,~~  
 2812 ~~notwithstanding the conviction or acquittal of the person having possession or custody of~~  
 2813 ~~the equipment at the time of its seizure. The conviction or acquittal of any such person~~  
 2814 ~~shall not be admissible as evidence in any proceeding under this Code section.~~

2815 ~~(d) Any party at interest may appear, by answer under oath, and make his defense. in~~  
 2816 ~~accordance with the procedures set forth in Chapter 16 of Title 9; provided, however, that:~~

2817 (1) Forfeiture shall only be done in accordance with Code Section 9-16-13 and the  
 2818 property shall be described only in general terms; and  
 2819 (2) The holder of any bona fide lien on the property shall be protected to the full extent  
 2820 of his the lien, but only if the lien was perfected prior to the filing by the department of  
 2821 the affidavit provided for in paragraph (3) of subsection (a) of Code Section 27-4-134,  
 2822 provided that ~~nothing contained in this Code section shall be construed to obligate the~~  
 2823 ~~district attorney whose circuit includes the county in which a seizure is made~~ the state  
 2824 shall not be obligated beyond the proceeds of any such sale less the actual costs incurred  
 2825 by him.

2826 ~~(e) The court to which any such petition for condemnation may be referred may, in its~~  
 2827 ~~discretion, allow any party at interest to give bond and take possession of the equipment~~  
 2828 ~~seized. The court shall determine whether the bond shall be a forthcoming bond or an~~  
 2829 ~~eventual condemnation money bond and shall determine the amount of such bond. The~~  
 2830 ~~enforcement of any bond so given shall be regulated by the general law applicable in such~~  
 2831 ~~cases.~~

2832 ~~(f) The court shall have full discretion and authority to permit a settlement between the~~  
 2833 ~~parties at any stage of the proceedings by permitting to be paid into court the value of the~~  
 2834 ~~equipment or the value of the equity therein, as determined by the court, which money,~~  
 2835 ~~when so paid in, shall be distributed as provided by law in all cases of condemnation.~~

2836 ~~(g)~~(b) The Attorney General may, upon the request of the commissioner, aid the district  
 2837 attorney in the in rem proceeding arising from any seizure or confiscation of property."

### 2838 **SECTION 3-23.**

2839 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended  
 2840 by revising subsection (e) of Code Section 36-80-21, relating to electronic transmissions of  
 2841 budgets, as follows:

2842 "(e) Concurrent with the submission of the annual report by local law enforcement  
 2843 agencies required by ~~division (u)(4)(D)(iii) of Code Section 16-13-49~~ subsection (g) of  
 2844 Code Section 9-16-20, a copy of such report shall be electronically transmitted in a  
 2845 Portable Document Format (PDF) file to the Vinson Institute and posted on the website by  
 2846 the Vinson Institute as soon as practicable."

### 2847 **SECTION 3-24.**

2848 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles, is amended  
 2849 by revising Code Section 40-6-391.2, relating to seizure and forfeiture of motor vehicles  
 2850 operated by habitual violators, as follows:

2851 "40-6-391.2.

2852 (a) ~~Any~~ Except as provided in this Code section, any motor vehicle operated by a person  
2853 who has been declared a habitual violator for three violations of Code Section 40-6-391  
2854 and, whose license has been revoked, and who is arrested and charged with a violation of  
2855 Code Section 40-6-391; is declared to be contraband and subject to forfeiture to the state,  
2856 as provided in this Code section, provided that said forfeiture shall not be absolute unless  
2857 the defendant is finally convicted of such offense in accordance with the procedures set  
2858 forth in Chapter 16 of Title 9.

2859 (b) ~~Any~~ motor vehicle subject to forfeiture under subsection (a) of this Code section shall  
2860 be seized immediately upon discovery by any law enforcement officer, peace officer, or  
2861 law enforcement agency of this state or any political subdivision thereof who has the power  
2862 to make arrests and whose duty it is to enforce this article, that said motor vehicle has been  
2863 declared contraband. ~~Said motor vehicle shall be delivered within 20 days to the district~~  
2864 ~~attorney whose circuit includes the county in which a seizure is made or to his duly~~  
2865 ~~authorized agent. At any time subsequent to the seizure, the chief officer of the seizing~~  
2866 ~~agency, his designee, or the district attorney may release the vehicle upon bond being~~  
2867 ~~posted in like manner as authorized in subsection (e) of this Code section.~~

2868 (c) ~~Within 60 days from the date of the seizure, the district attorney of the judicial circuit,~~  
2869 ~~or the director on his behalf, shall cause to be filed in the superior court of the county in~~  
2870 ~~which the motor vehicle is seized or detained an action for condemnation of such motor~~  
2871 ~~vehicle. The proceedings shall be brought in the name of the state by the district attorney~~  
2872 ~~of the circuit in which the motor vehicle was seized, and the action shall be verified by a~~  
2873 ~~duly authorized agent of the state in a manner required by the law of this state. The action~~  
2874 ~~shall describe the motor vehicle and state its location, present custodian, and the name of~~  
2875 ~~the owner, if known, to the duly authorized agent of the state; allege the essential elements~~  
2876 ~~of the violation which is claimed to exist; and conclude with a prayer of due process to~~  
2877 ~~enforce the forfeiture. Upon the filing of such an action, the court shall promptly cause~~  
2878 ~~process to issue to the present custodian in possession of the motor vehicle described in the~~  
2879 ~~action, commanding him to seize the motor vehicle in the action and to hold that motor~~  
2880 ~~vehicle for further order of the court. The owner, lessee, or any person having a duly~~  
2881 ~~recorded security interest in or lien on such motor vehicle shall be notified by any means~~  
2882 ~~of service provided for in Title 9 or by delivery of a copy of the complaint and summons~~  
2883 ~~by certified mail or statutory overnight delivery to said owner or lienholder or a person of~~  
2884 ~~suitable age or discretion having charge of said owner's premises. For purposes of this~~  
2885 ~~subsection, where forfeiture of a motor vehicle titled or registered in Georgia is sought,~~  
2886 ~~notice to the titleholder shall be deemed adequate if a copy of the complaint and summons~~  
2887 ~~is mailed by certified mail or statutory overnight delivery to the titleholder at the address~~

2888 ~~set out in the title and an additional copy is mailed by certified mail or statutory overnight~~  
2889 ~~delivery to the firm, person, or corporation which holds the current registration for said~~  
2890 ~~motor vehicle, who shall be deemed agent for service for said titleholder, and said~~  
2891 ~~complaint is advertised once a week for two weeks as set out in this subsection. If the~~  
2892 ~~owner, lessee, or person having a duly recorded security interest in or lien on the~~  
2893 ~~contraband motor vehicle is unknown or resides out of the state or departs the state or~~  
2894 ~~cannot after due diligence be found within the state or conceals himself so as to avoid~~  
2895 ~~notice, notice of the proceedings shall be published once a week for two weeks in the~~  
2896 ~~newspaper in which the sheriff's advertisements are published. Such publication shall be~~  
2897 ~~deemed notice to any and all persons having an interest in or right affected by such~~  
2898 ~~proceeding and any sale of the motor vehicle resulting therefrom, but shall not constitute~~  
2899 ~~notice to any person having a duly recorded security interest in or lien upon such motor~~  
2900 ~~vehicle and required to be served under this Code section unless that person is unknown~~  
2901 ~~or resides out of the state or departs the state or cannot after due diligence be found within~~  
2902 ~~the state or conceals himself to avoid notice.~~

2903 ~~(d)(1) Any party at interest may appear, by answer under oath, and file an intervention~~  
2904 ~~or defense within 30 days from the date of service on the condemnee of the action for~~  
2905 ~~condemnation. The owner, lessee, security interest holder, or lienholder shall be~~  
2906 ~~permitted to defend by showing that the motor vehicle seized was not subject to forfeiture~~  
2907 ~~under this Code section.~~

2908 ~~(2) A rented or leased vehicle shall not be subject to forfeiture unless it is established in~~  
2909 ~~the forfeiture proceedings that the owner of the rented or leased vehicle knew or should~~  
2910 ~~have known of or consented to the operation of such motor vehicle in a manner which~~  
2911 ~~would subject the vehicle to forfeiture. Upon learning of the address or phone number~~  
2912 ~~of the rental or leasing company which owns such vehicle, the district attorney shall~~  
2913 ~~immediately contact the company to inform it that the vehicle is available for the~~  
2914 ~~company to take possession.~~

2915 ~~(e) The court to which any such petition for condemnation may be referred may, in its~~  
2916 ~~discretion, allow any party at interest, after making said defense under subsection (d) of~~  
2917 ~~this Code section, to give bond and take possession of the motor vehicle seized. Such~~  
2918 ~~motor vehicle shall not be sold or leased without prior approval of the court. In the event~~  
2919 ~~the court approves such sale or lease, the proceeds arising therefrom shall be deposited in~~  
2920 ~~the registry of the court, pending final adjudication of the forfeiture proceeding. The court~~  
2921 ~~shall determine whether the bond shall be a forthcoming bond or an eventual condemnation~~  
2922 ~~money bond and shall also determine the amount of the bond. The enforcement of any~~  
2923 ~~bond so given shall be regulated by the general law applicable to such cases.~~

2924 ~~(f) If no defense or intervention is filed within 30 days from the date of service on the~~  
 2925 ~~condemnee of the petition, judgment shall be entered by the court and the motor vehicle~~  
 2926 ~~shall be sold. The court may direct that such property be sold by:~~

2927 ~~(1) Judicial sale as provided in Article 7 of Chapter 13 of Title 9; provided, however, that~~  
 2928 ~~the court may establish a minimum acceptable price for such property; or~~

2929 ~~(2) Any commercially feasible means.~~

2930 ~~(g) The proceeds arising from such sale shall be deposited into the general treasury of the~~  
 2931 ~~state or any other governmental unit whose law enforcement agency it was that originally~~  
 2932 ~~seized the motor vehicle. It is the intent of the General Assembly that, where possible,~~  
 2933 ~~proceeds deposited into the state treasury should be used and that proceeds vested in any~~  
 2934 ~~local governmental unit shall be applied to fund alcohol or drug treatment, rehabilitation,~~  
 2935 ~~and prevention and education programs, after making the necessary expenditures for:~~

2936 ~~(1) Any costs incurred in the seizure;~~

2937 ~~(2) The costs of the court and its officers; and~~

2938 ~~(3) Any cost incurred in the storage, advertisement, maintenance, or care of the motor~~  
 2939 ~~vehicle.~~

2940 ~~(h) The interest of an owner, lessee, security interest holder, or lienholder shall not be~~  
 2941 ~~subject to forfeiture unless the condemnor shows by a preponderance of evidence that such~~  
 2942 ~~person knew or reasonably should have known that the operator was a habitual violator as~~  
 2943 ~~set forth in subsection (a) of this Code section and knew or reasonably should have known~~  
 2944 ~~that such person would operate or was operating the vehicle while in violation of Code~~  
 2945 ~~Section 40-6-391.~~

2946 ~~(i)~~(b) In any case where a vehicle which is the only family vehicle is determined to be  
 2947 subject to forfeiture, the court may, if it determines that the financial hardship to the family  
 2948 as a result of the forfeiture and sale outweighs the benefit to the state from such forfeiture,  
 2949 order the title to the vehicle transferred to such other family member who is a duly licensed  
 2950 operator and who requires the use of such vehicle for employment or family transportation  
 2951 purposes. Such transfer shall be subject to any valid liens and shall be granted only once."

2952 **SECTION 3-25.**

2953 Said title is further amended by revising Article 2 of Chapter 11, relating to forfeiture of  
 2954 vehicles and components, as follows:

## "ARTICLE 2

2955

2956 40-11-20.

2957 The following items are declared to be contraband and are subject to forfeiture in  
 2958 accordance with the procedures set forth in Chapter 16 of Title 9:

2959 (1) Any motor vehicle the manufacturer's vehicle identification number of which has  
 2960 been removed, altered, defaced, falsified, or destroyed; and

2961 (2) Any component part of a motor vehicle the manufacturer's identification number of  
 2962 which has been removed, altered, defaced, falsified, or destroyed.

2963 40-11-21.

2964 ~~Property subject to forfeiture under Code Section 40-11-20 and in the possession of any~~  
 2965 ~~state or local law enforcement agency shall not be subject to replevin but is deemed to be~~  
 2966 ~~in the custody of the superior court of the county wherein the property is located subject~~  
 2967 ~~only to the orders and decrees of the court having jurisdiction over the forfeiture~~  
 2968 ~~proceedings.~~

2969 ~~40-11-22.~~

2970 ~~The law enforcement agency having possession of any property subject to forfeiture under~~  
 2971 ~~Code Section 40-11-20 shall report such fact, within ten days of taking possession, to the~~  
 2972 ~~district attorney of the judicial circuit having jurisdiction in the county where the property~~  
 2973 ~~is located. Within 30 days from the date he or she receives such notice, the district attorney~~  
 2974 ~~of the judicial circuit shall file in the superior court of the county in which the property is~~  
 2975 ~~located an action for condemnation of the property. The proceedings shall be brought in~~  
 2976 ~~the name of the state, and the action shall be verified by a duly authorized agent of the state~~  
 2977 ~~in the manner required by law. The action shall describe the property, state its location,~~  
 2978 ~~state its present custodian, state the name of the owner, if known, to the duly authorized~~  
 2979 ~~agent of the state, allege the essential elements which are claimed to exist, and shall~~  
 2980 ~~conclude with a prayer of due process to enforce the forfeiture. Upon the filing of such an~~  
 2981 ~~action, the court shall promptly cause process to issue to the present custodian in~~  
 2982 ~~possession of the property described in the action, commanding him or her to seize the~~  
 2983 ~~property described in the action and to hold that property for further order of the court. A~~  
 2984 ~~copy of the action shall be served on the owner, if known. If the owner is known, a copy~~  
 2985 ~~of the action shall also be served upon any person having a duly recorded security interest~~  
 2986 ~~in or lien upon that property. If the owner is unknown or resides out of the state or departs~~  
 2987 ~~the state or cannot after due diligence be found within the state or conceals himself or~~  
 2988 ~~herself so as to avoid service, notice of the proceedings shall be published once a week for~~

2989 ~~two weeks in the newspaper in which the sheriff's advertisements are published. Such~~  
 2990 ~~publication shall be deemed notice to any and all persons having an interest in or right~~  
 2991 ~~affected by such proceeding and from any sale of the property resulting therefrom but shall~~  
 2992 ~~not constitute notice to any person having a duly recorded security interest in or lien upon~~  
 2993 ~~such property and required to be served under this Code section unless that person is~~  
 2994 ~~unknown or resides out of the state or departs the state or cannot after due diligence be~~  
 2995 ~~found within the state or conceals himself or herself to avoid service. At the expiration of~~  
 2996 ~~30 days after such filing, if no claimant has appeared to defend the action, the court shall~~  
 2997 ~~order the disposition of the seized property as provided for in this Code section. If the~~  
 2998 ~~owner of the property appears and defends the action and can show that he or she was~~  
 2999 ~~unaware of the fact that the identification number had been removed, altered, defaced,~~  
 3000 ~~falsified, or destroyed, the court shall order the property returned to the owner upon the~~  
 3001 ~~owner's paying proper expenses relating to proceedings for forfeiture, including the~~  
 3002 ~~expenses of the maintenance of custody, advertising, and court costs and upon the~~  
 3003 ~~property's being assigned a new identification number as provided in this article.~~

3004 ~~40-11-23.~~

3005 ~~Except as otherwise provided in this article, when property is forfeited under this article,~~  
 3006 ~~the court may:~~

3007 ~~(1) Order that the property be retained by the law enforcement agency or the county in~~  
 3008 ~~which the property is located; or~~

3009 ~~(2) Order that the property be disposed of by sale, the proceeds of which shall be used~~  
 3010 ~~to pay the proper expenses relating to the proceedings for forfeiture, including the~~  
 3011 ~~expenses of maintenance of custody, advertising, and court costs, with the remaining~~  
 3012 ~~funds to be paid into the general fund of the county.~~

3013 ~~40-11-24.~~

3014 ~~Prior to the property's being sold or returned to the owner or otherwise disposed of, the~~  
 3015 ~~Department of Revenue shall assign it a new identification number. If the property is to~~  
 3016 ~~be returned to the owner, the court shall order that such return is conditioned on the owner~~  
 3017 ~~paying the expenses relating to the civil forfeiture, including the expenses of maintenance~~  
 3018 ~~of custody, advertising, and court costs.~~

3019 **SECTION 3-26**

3020 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,  
 3021 is amended by revising Code Section 45-15-10, relating to the Attorney General's authority

3022 to prosecute officials, persons, firms, or corporations for violations while dealing with or for  
3023 the state, as follows:

3024 "45-15-10.

3025 The Attorney General, as the head of the Department of Law and the chief legal officer of  
3026 the state, is authorized to prosecute in the criminal courts of this state any official, person,  
3027 firm, or corporation which violates any criminal statute while dealing with or for the state  
3028 or any official, employee, department, agency, board, bureau, commission, institution, or  
3029 appointee thereof; and the Attorney General is authorized to call upon the district attorney  
3030 or the prosecuting officer of any state court to assist in or to conduct such prosecution; and,  
3031 when so requested by the Attorney General, it shall be the duty of any such district attorney  
3032 or prosecuting officer of this state to assist in or to conduct such prosecution for and on  
3033 behalf of the Attorney General and the state. The Attorney General shall be authorized to  
3034 commence civil forfeiture proceedings pursuant to Code Section 16-14-7 whenever he or  
3035 she is authorized to prosecute a case pursuant to this Code section."

3036 **SECTION 3-27.**

3037 Title 46 of the Official Code of Georgia Annotated, relating to public utilities and public  
3038 transportation, is amended by revising Code Section 46-9-253, relating to transportation of  
3039 gunpowder, dynamite, or other explosives, as follows:

3040 "46-9-253.

3041 Any person who causes more than five pounds of gunpowder, or any amount of dynamite  
3042 or other dangerous explosive, to be transported upon water, by railroad, or otherwise shall  
3043 have the word 'Gunpowder,' 'Dynamite,' or other name of the explosive marked in large  
3044 letters upon each package so transported. Gunpowder, dynamite, or other dangerous  
3045 explosive transported in violation of ~~said provision shall be liable to seizure and forfeiture~~  
3046 ~~by any officer who may execute a criminal warrant, under warrant for that purpose, issued~~  
3047 ~~by any officer who may issue such first-named warrants, one-half of the same to go to the~~  
3048 ~~informer, the other half to go to the military fund of the state, after public sale by order of~~  
3049 ~~the officer issuing the warrant, or one of like authority~~ this Code section are declared  
3050 contraband and shall be forfeited in accordance with the procedures set forth in Chapter 16  
3051 of Title 9."

3052 **SECTION 3-28.**

3053 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is  
3054 amended by revising subsection (b) of Code Section 48-4-61, relating to land bank authority  
3055 established by interlocal cooperation agreement, as follows:

3056 "(b) The authority shall be a public body corporate and politic with the power to sue and  
 3057 be sued, to accept and issue deeds in its name, including without limitation the acceptance  
 3058 of real property in accordance with the provisions of ~~paragraph (2.1)~~ of subsection (a) (f)  
 3059 of Code Section ~~16-13-49~~ 9-16-20, and to institute quia timet actions and shall have any  
 3060 other powers necessary and incidental to carry out the powers granted by this article."

### 3061 SECTION 3-29.

3062 Title 52 of the Official Code of Georgia Annotated, relating to waters of the state, ports, and  
 3063 watercraft, is amended by revising Code Section 52-7-7.3, relating to seizure of vessels  
 3064 without hull identification numbers, seizure of related property, and inspections, as follows:

3065 "52-7-7.3.

3066 (a) If the hull identification number on a vessel required by Code Section 52-7-7.1 or  
 3067 52-7-7.2 to have a hull identification number does not exist or has been altered, removed,  
 3068 destroyed, covered, or defaced or the real identity of the vessel cannot be determined, the  
 3069 vessel, and any items used while towing ~~said~~ such vessel, may be seized as contraband  
 3070 ~~property~~ by a law enforcement agency or the department and shall be subject to forfeiture  
 3071 in accordance with the procedures set forth in Chapter 16 of Title 9.

3072 (b) A ~~Such~~ vessel described in subsection (a) of this Code section shall not be sold or  
 3073 operated on the waters of the state unless the department:

- 3074 (1) Receives a request from a law enforcement agency providing adequate  
 3075 documentation for a replacement hull identification number; or  
 3076 (2) Is directed by written order of a court of competent jurisdiction to issue to the vessel  
 3077 a replacement hull identification number.

3078 ~~Thereafter, the replacement HIN shall be used for identification purposes. No vessel shall~~  
 3079 ~~be forfeited if the owner was unaware the vessel's HIN had been altered, removed,~~  
 3080 ~~destroyed, covered, or defaced.~~

3081 ~~(b)(c)~~ (c) The failure to have the hull identification number clearly displayed in compliance  
 3082 with this article shall be probable cause for any law enforcement officer to make further  
 3083 inspection of the vessel in question to ascertain the true identity thereof.

3084 (d) Prior to the vessel being sold or returned to the owner or otherwise disposed of, the  
 3085 department shall assign it a new hull identification number in accordance with federal law."

### 3086 SECTION 3-30.

3087 Said title is further amended by revising Code Section 52-7-7.4, relating to property not  
 3088 subject to replevin, as follows:

3089 ~~"52-7-7.4.~~

3090 ~~(a) Property subject to forfeiture under Code Section 52-7-7.3 and in the possession of any~~  
3091 ~~state or local law enforcement agency shall not be subject to replevin but shall be deemed~~  
3092 ~~to be in the custody of the superior court of the county wherein the property is located~~  
3093 ~~subject only to the orders and decrees of the court having jurisdiction over the forfeiture~~  
3094 ~~proceedings.~~

3095 ~~(b) The law enforcement agency having possession of any property subject to forfeiture~~  
3096 ~~under Code Section 52-7-7.3 shall report such fact within ten days of taking possession to~~  
3097 ~~the district attorney of the judicial circuit having jurisdiction in the county where the~~  
3098 ~~property is located. Within 30 days from the date he or she receives such notice, the~~  
3099 ~~district attorney of the judicial circuit shall file in the superior court of the county in which~~  
3100 ~~the property is located an action for condemnation of the property. The proceedings shall~~  
3101 ~~be brought in the name of the state, and the action shall be verified by a duly authorized~~  
3102 ~~agent of the state in the manner required by law. The action shall describe the property,~~  
3103 ~~state its location, state its present custodian, state the name of the owner, if known, state~~  
3104 ~~the duly authorized agent of the state, allege the essential elements which are claimed to~~  
3105 ~~exist, and shall conclude with a prayer of due process to enforce the forfeiture. Upon the~~  
3106 ~~filing of such an action, the court shall promptly cause process to issue to the present~~  
3107 ~~custodian in possession of the property described in the action, commanding him or her to~~  
3108 ~~seize the property described in the action and to hold that property for further order of the~~  
3109 ~~court. A copy of the action shall be served on the owner, if known. If the owner is known,~~  
3110 ~~a copy of the action shall also be served upon any person having a duly recorded security~~  
3111 ~~interest in or lien upon that property. If the owner is unknown or resides out of the state~~  
3112 ~~or departs the state or cannot after due diligence be found within the state or conceals~~  
3113 ~~himself or herself so as to avoid service, notice of the proceedings shall be published once~~  
3114 ~~a week for two weeks in the newspaper in which the sheriff's advertisements are published.~~  
3115 ~~Such publication shall be deemed notice to any and all persons having an interest in or right~~  
3116 ~~affected by such proceeding and from any sale of the property resulting therefrom but shall~~  
3117 ~~not constitute notice to any person having a duly recorded security interest in or lien upon~~  
3118 ~~such property and required to be served under this Code section unless that person is~~  
3119 ~~unknown or resides out of the state or departs the state or cannot after due diligence be~~  
3120 ~~found within the state or conceals himself or herself to avoid service. At the expiration of~~  
3121 ~~30 days after such filing, if no claimant has appeared to defend the action, the court shall~~  
3122 ~~order the disposition of the seized property as provided for in this Code section. If the~~  
3123 ~~owner of the vessel appears and defends the action and can show that he or she was~~  
3124 ~~unaware of the fact that the hull identification number had been removed, altered, defaced,~~  
3125 ~~falsified, or destroyed, the court shall order the property returned to the owner upon the~~

3126 ~~owner's paying proper expenses relating to proceedings for forfeiture, including the~~  
 3127 ~~expenses of the maintenance of custody, advertising, and court costs and upon the vessel~~  
 3128 ~~being assigned a new hull identification number as provided in this article.~~

3129 ~~(c) Except as otherwise provided in this article, when property is forfeited under this~~  
 3130 ~~article, the court may:~~

3131 ~~(1) Order that the vessel be retained by the law enforcement agency or the county in~~  
 3132 ~~which the vessel is located; or~~

3133 ~~(2) Order that the vessel be disposed of by sale, the proceeds of which shall be used to~~  
 3134 ~~pay the proper expenses relating to the proceedings for forfeiture, including the expenses~~  
 3135 ~~of maintenance of custody, advertising, and court costs, with the remaining funds to be~~  
 3136 ~~paid into the general fund of the county.~~

3137 ~~(d) Prior to the vessel being sold or returned to the owner or otherwise disposed of, the~~  
 3138 ~~department shall assign it a new hull identification number in accordance with federal law.~~

3139 Reserved."

### 3140 **SECTION 3-31.**

3141 The following Code sections of the Official Code of Georgia Annotated are amended by  
 3142 replacing "fines and forfeitures" wherever such term occurs with "fines and bond forfeitures":

3143 (1) Code Section 15-21-2, relating to payment into county treasury of fines and forfeitures;

3144 (2) Code Section 15-21-3, relating to maintenance of moneys from fines and forfeitures in  
 3145 county treasury;

3146 (3) Code Section 15-21-4, relating to distribution of fines and forfeitures generally;

3147 (4) Code Section 15-21-5, relating to procedure for filing and payment of claims of officers  
 3148 of court where defendant acquitted or person liable for payment of costs is insolvent;

3149 (5) Code Section 15-21-7, relating to the report by county treasurer to grand jury as to fines  
 3150 and forfeitures received and disbursed;

3151 (6) Code Section 15-21-8, relating to applicability and effect of Code Sections 15-21-2  
 3152 through 15-21-7;

3153 (7) Code Section 15-21-9, relating to lien of officers for payment of insolvent costs;

3154 (8) Code Section 15-21-13, relating to priority of payment of claims for fees of solicitors of  
 3155 city courts, sheriffs, clerks, and district attorneys;

3156 (9) Code Section 15-21-56, relating to proceedings by persons claiming interest in fine and  
 3157 forfeiture fund;

3158 (10) Code Section 15-21-57, relating to effect of article upon duty of prosecution officers  
 3159 and county treasurers relating to account for fines and forfeitures;

3160 (11) Code Section 15-21-58, relating to effect of article upon Acts pertaining to courts in  
 3161 particular counties or cities;

- 3162 (12) Code Section 27-1-14, relating to disposition of fines and forfeitures;  
 3163 (13) Code Section 36-30-9, relating to compensation of law enforcement officers;  
 3164 (14) Code Section 36-31-8, relating to transition periods for governmental functions;  
 3165 (15) Code Section 36-32-6, relating to relating to jurisdiction in marijuana possession cases;  
 3166 (16) Code Section 36-32-7, relating to jurisdiction in cases of operating a motor vehicle  
 3167 without effective insurance;  
 3168 (17) Code Section 36-32-8, relating to jurisdiction of cases of operating a motor vehicle  
 3169 without emission inspection;  
 3170 (18) Code Section 36-32-9, relating to jurisdiction of cases of shoplifting;  
 3171 (19) Code Section 36-32-10, relating to jurisdiction of cases of furnishing alcoholic  
 3172 beverages to and purchase and possession of alcoholic beverages by underage persons;  
 3173 (20) Code Section 36-32-10.1, relating to jurisdiction in counties without state court to try  
 3174 violations of Code Section 16-7-21;  
 3175 (21) Code Section 36-35-6, relating to limitation on home rule powers;  
 3176 (22) Code Section 38-2-464, relating to payment of fines;  
 3177 (23) Code Section 40-5-124, relating to jurisdiction of offenses;  
 3178 (24) Code Section 40-13-22, relating to jurisdiction over offenses under Code Section  
 3179 40-2-8;  
 3180 (25) Code Section 40-16-7, relating to budget of the Department of Driver Services; and  
 3181 (26) Code Section 42-9-45, relating to general rule-making power of the State Board of  
 3182 Pardons and Paroles.

3183 **SECTION 3-32.**

- 3184 The following Code sections of the Official Code of Georgia Annotated are amended by  
 3185 replacing "fine and forfeitures fund", "fines and forfeitures fund", and "fine and forfeiture  
 3186 fund" wherever such terms occur with "fine and bond forfeiture fund":  
 3187 (1) Code Section 4-3-8, relating to return and disposition of proceeds of sale;  
 3188 (2) Code Section 15-21-5, relating to procedure for filing and payment of claims of officers  
 3189 of court where defendant acquitted or person liable for payment of costs is insolvent;  
 3190 (3) Code Section 15-21-50, relating to limitation period for claims against fine and forfeiture  
 3191 fund;  
 3192 (4) Code Section 15-21-51, relating to the procedure for extension of limitation period;  
 3193 (5) Code Section 15-21-52, relating to payment into county treasury of funds received as  
 3194 part of fine and forfeiture fund;  
 3195 (6) Code Section 15-21-54, relating to creation of claim for benefit of county against fine  
 3196 and forfeiture fund;

- 3197 (7) Code Section 15-21-55, relating to disposition of funds remaining after claims against  
3198 fine and forfeiture fund paid or barred by limitation;
- 3199 (8) Code Section 15-21-56, relating to proceedings by persons claiming interest in fine and  
3200 forfeiture fund;
- 3201 (9) Code Section 24-13-132, relating to appointment of counsel and payment of costs and  
3202 expenses;
- 3203 (10) Code Section 36-15-9, relating to collection of additional costs in court cases; and  
3204 (11) Code Section 40-16-7, relating to budget of the Department of Driver Services.

3205 **PART IV**

3206 **EFFECTIVE DATE, APPLICABILITY, AND REPEALER**

3207 **SECTION 4-1.**

3208 This Act shall become effective on July 1, 2013, and shall apply to seizures of property for  
3209 forfeiture that occur on or after that date. Any such seizure that occurs before July 1, 2013,  
3210 shall be governed by the statute in effect at the time of such seizure.

3211 **SECTION 4-2.**

3212 All laws and parts of laws in conflict with this Act are repealed.