

House Bill 1

By: Representatives Willard of the 51st, Lindsey of the 54th, Abrams of the 89th, Ehrhart of the 36th, Parsons of the 44th, and others

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:

PART I**CIVIL FORFEITURE PROCEDURE****SECTION 1-1.**

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

"CHAPTER 16**9-16-1.**

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

9-16-2.

As used in this chapter, the term:

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

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

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

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

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

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

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

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

(A) All court costs, including the costs of advertisement, transcripts, and court reporter fees; and

(B) Payment of receivers, conservators, appraisers, accountants, or trustees appointed by the court pursuant to Code Section 9-16-11 or 9-16-15.

(4) 'Financial institution' means a bank, trust company, national banking association, industrial bank, savings institution, or credit union chartered and supervised under state or federal law.

(5) 'Governmental agency' means any department, office, council, commission, committee, authority, board, bureau, or division of the executive, judicial, or legislative branch of a state, the United States, or any political subdivision thereof.

(6) 'Interest holder' means a secured party within the meaning of Code Section 11-9-102, the claim of a beneficial interest, or a perfected encumbrance pertaining to an interest in property.

(7) 'Owner' means a person, other than an interest holder, who has an interest in property and is in compliance with any statute requiring its recordation or reflection in public records in order to perfect the interest against a bona fide purchaser for value.

(8) 'Proceeds' means property derived directly or indirectly from, maintained by, or realized through an act or omission relating to criminal conduct and includes any benefit, interest, or property of any kind without reduction for expenses incurred for acquisition, maintenance, or any other purpose.

(9) 'Property' means anything of value and includes any interest in anything of value, including real property and any fixtures thereon, and tangible and intangible personal property, including but not limited to currency, instruments, securities, or any other kind of privilege, interest, claim, or right.

(10) 'Real property' means any real property situated in this state or any interest in such real property, including, but not limited to, any lease of or mortgage upon such real property.

(11) 'State attorney' means a district attorney of this state or his or her designee or, when specifically authorized by law, the Attorney General or his or her designee.

(12)(A) 'Trustee' means either of the following:

(i) Any person who holds legal or record title to real property for which any other person has a beneficial interest; or

(ii) Any successor trustee or trustees to any of the foregoing persons.

(B) 'Trustee' does not include the following:

(i) Any person appointed or acting as a guardian or conservator under Title 29, relating to guardian and ward, or personal representative under former Chapter 6 of Title 53 as such existed on December 31, 1997, relating to the administration of estates, if applicable, or Chapter 6 of Title 53 and other provisions in Chapters 1 through 11 of Title 53, the 'Revised Probate Code of 1998,' relating to the administration of estates; or

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

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

9-16-3.

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

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

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

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

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

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

9-16-4.

A civil forfeiture action shall be tried:

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

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

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

9-16-5.

A property interest shall not be subject to forfeiture under this chapter if the owner of the interest or interest holder establishes that the owner or interest holder:

(1) Is not legally accountable for the conduct giving rise to its forfeiture;

(2) Did not consent to it;

(3) Did not know and could not reasonably have known of the conduct or that it was likely to occur;

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

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

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

(7) Acquired the interest:

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

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

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

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

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

9-16-6.

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

9-16-7.

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

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

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

9-16-8.

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

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

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

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

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

9-16-9.

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

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

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

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

(1) The described property:

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

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

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

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

(e) A trustee, constructive or otherwise, who has notice that a forfeiture lien, a notice of pending forfeiture, or a civil forfeiture action has been filed against the property or against any person or entity for whom the person holds title or appears as the owner of record shall furnish, within ten days of receiving notice as provided by this subsection, to the state attorney the following information:

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

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

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

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

9-16-10.

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

(b) The seizing law enforcement agency or the state attorney may authorize the release of the attached or seized property if the forfeiture or retention is unnecessary or may transfer

the civil forfeiture action to another agency or state attorney by discontinuing a civil forfeiture action in favor of a civil forfeiture action initiated by another law enforcement agency or state attorney.

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

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

9-16-11.

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

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

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

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

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

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

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

(1) Is a depreciating asset;

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

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

the court, upon motion of the state attorney, a claimant, or the custodian of the property, may order the property or any portion thereof to be sold upon such terms and conditions

as may be prescribed by the court. The income from the sale shall be paid into the registry of the court pending final disposition of the civil action.

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

9-16-12.

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

(1) A description of the property;

(2) The date and place of seizure;

(3) The conduct giving rise to forfeiture;

(4) The alleged violation of law; and

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

(A) The name of the claimant;

(B) The address at which the claimant resides;

(C) A description of the claimant's interest in the property; and

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

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

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

(2) If the name and address of the person in possession of the property at the time of seizure, owner, or interest holder are required by law to be on public record with a governmental agency to perfect an interest in the property but the owner's or interest

holder's current address is not known, mail a copy of the notice by certified mail or statutory overnight delivery, return receipt requested, to any address on the record; or (3) If the current address of the person in possession of the property at the time of the seizure, owner, or interest holder is not known and is not on record as provided in paragraph (2) of this subsection or the name of the person in possession of the property at the time of the seizure, owner, or interest holder is not known, publish a copy of the notice of the civil forfeiture action once a week for two consecutive weeks in the legal organ for the county in which the seizure occurs.

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

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

(A) The name of the claimant;

(B) The address at which the claimant resides;

(C) A description of the claimant's interest in the property; and

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

(3) If any claim is served, even when the state attorney determines that insufficient information has been provided by the claimant, the state attorney shall file a complaint for forfeiture as provided in Code Section 9-16-13 or 9-16-14 within 30 days of the actual receipt of the claim. Any person who serves the state attorney with a claim shall be joined as a party.

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

9-16-13.

(a) In actions in rem, the property which is the subject of the civil action shall be named as the defendant. The complaint shall be verified on oath or affirmation by a duly authorized agent of the state in a manner consistent with Article 5 of Chapter 10 of this title. Such complaint shall describe the property with reasonable particularity; state that it is located within the county or will be located within the county during the pendency of

the action; state its present custodian; state the name of the owner or interest holder, if known; allege the essential elements of the criminal violation which is claimed to exist; state the place of seizure, if the property was seized; and conclude with a prayer of due process to enforce the forfeiture.

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

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

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

(4) If tangible property which has not been seized is the subject of the civil action, the court may order the sheriff or another law enforcement officer to take possession of the property. If the character or situation of the property is such that the taking of actual possession is impracticable, the sheriff shall execute process by affixing a copy of the complaint and summons to the property in a conspicuous place and by leaving another copy of the complaint and summons with the person having possession or his or her agent. In cases involving a vessel or aircraft, the sheriff or other law enforcement officer shall be authorized to make a written request with the appropriate governmental agency not to permit the departure of such vessel or aircraft until notified by the sheriff or the sheriff's deputy that the vessel or aircraft has been released.

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

(1) The name of the claimant;

(2) The address at which the claimant resides;

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

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

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

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

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

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

9-16-14.

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

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

(2) State the property's present custodian;

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

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

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

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

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

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

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

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

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

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

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

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

forfeited, the court, on application of the state attorney, may enter any appropriate order to protect the interest of the state in the property ordered to be forfeited.

9-16-15.

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

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

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

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

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

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

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

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

(4) If property is seized for forfeiture or a forfeiture lien is filed without a previous judicial determination of probable cause or order of forfeiture or a hearing under paragraph (2) of this Code section, the court, on an application filed by an owner of or interest holder in the property within 30 days after notice of its seizure or forfeiture lien or actual knowledge of such seizure or lien, whichever is earlier, and complying with the requirements for an answer to an in rem complaint, and after five days' notice to the district attorney of the judicial circuit where the property was seized or, in the case of a forfeiture lien, to the state attorney filing such lien, may issue an order to show cause to

the state attorney and seizing law enforcement agency for a hearing on the sole issue of whether probable cause for forfeiture of the property then exists. The hearing shall be held within 30 days unless continued for good cause on motion of either party. If the court finds that there is no probable cause for forfeiture of the property, the property shall be released. In determining probable cause, the court shall apply the rules of evidence; provided, however, that hearsay shall be admissible; and

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

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

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

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

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

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

9-16-16.

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

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

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

517 9-16-17.

518 (a) As used in this Code section, the term 'injured person' means any person who suffers
519 a pecuniary loss or physical injury due to a violation of Code Section 16-5-46, Article 4 or
520 5 of Chapter 8 of Title 16, Article 8 of Chapter 9 of Title 16, or Chapter 14 of Title 16. In
521 the event that such person is a child or deceased, the provisions of subparagraphs (B) and
522 (C) of paragraph (11) of Code Section 17-17-3 shall apply.

523 (b) If an injured person has provided contact information pursuant to Chapter 17 of Title
524 17, a state attorney shall serve every known injured person, if he or she has not previously
525 been served, with a copy of the notice or complaint for civil forfeiture and a notice of such
526 person's right of intervention at least 30 days prior to the entry of a final judgment.

527 (c) Notwithstanding the distribution of forfeiture proceeds as set forth in Code Section
528 9-16-20, any injured person shall have a right or claim to forfeited property or to the
529 proceeds derived therefrom superior to any right or claim the state or local government has
530 in the same property or proceeds other than for costs. To enforce such a claim, the injured
531 person must intervene in the civil forfeiture action prior to the entry of a final judgment.

532 9-16-18.

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

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

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

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

543 (2) The property was acquired by the person during the period of the conduct giving rise
544 to forfeiture or within a reasonable time after such period; and

545 (3) There was no likely source for the property other than the conduct giving rise to
546 forfeiture.

547 9-16-19.

548 (a) All property declared to be forfeited vests in the state at the time of commission of the
549 conduct giving rise to forfeiture together with the proceeds of the property after that time.
550 Any property or proceeds transferred later to any person remain subject to forfeiture and
551 thereafter shall be ordered to be forfeited unless the transferee claims and establishes in a

hearing under this chapter that the transferee is a bona fide purchaser for value and the transferee's interest is exempt under Code Section 9-16-5.

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

9-16-20.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) The first distribution from the pool shall be to pay all costs and expenses, including court costs, to the entity incurring the cost or expense. As further set forth in paragraphs (4) and (5) of this subsection, the currency portion of the remaining pool shall be distributed pro rata to law enforcement agencies and multijurisdictional task forces, according to the role which each law enforcement agency or multijurisdictional task force played in the seizure of the property, and may be distributed to the district attorney's office.

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

(5) Property distribution shall be as follows:

(A) With respect to political subdivisions:

(i) Property distributed in kind to a political subdivision or multijurisdictional task force for use by an agency, department, or officer of a political subdivision for official law enforcement purposes shall be designated in the order of distribution and shall be

titled accordingly. If real property is distributed to a political subdivision, the political subdivision may transfer the real property to a land bank authority as provided in Article 4 of Chapter 4 of Title 48. When in kind property is no longer needed by the recipient, it shall be disposed of in accordance with the political subdivision's policy and procedure;

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

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

(B) With respect to the state:

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

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

(g)(1) The Administrative Office of the Courts shall promulgate and from time to time amend as necessary and post on its website an annual reporting form for use by local law enforcement agencies and multijurisdictional task forces to report forfeited property as set forth in this subsection.

(2) Every local law enforcement agency and multijurisdictional task force receiving forfeiture property, including property distributed in kind, shall submit an annual report to the political subdivision and the district attorney governing its jurisdiction specifying the property received during the fiscal year and clearly identifying the use of such property, including the specifics of all monetary expenditures. Such annual report shall be submitted to the applicable political subdivision and district attorney at the same time as such agency's or task force's budget request. No political subdivision shall accept for filing any annual report unless the report is on a form promulgated by the Administrative Office of the Courts and such form is appropriately and legibly completed.

(3) A copy of the annual report required by this subsection shall also be submitted to the Carl Vinson Institute of Government of the University of Georgia as provided in Code Section 36-80-21.

(4) If a local law enforcement agency or multijurisdictional task force fails to comply with this subsection or misuses property derived or resulting from civil forfeiture actions, such agency or task force shall not be eligible to receive property derived or resulting from civil forfeiture actions for a period of two years commencing on a date determined by the district attorney of the judicial circuit having appropriate jurisdiction. Any property forfeited during a two-year suspension period shall be shall be paid over into the general fund of the state treasury. The district attorney shall ensure that civil forfeiture disposition orders reflect the disposition of such property.

9-16-21.

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

(1) Cannot be located;

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

(3) Is beyond the jurisdiction of the court;

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

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

(b) In addition to any other remedy provided for by law, a state attorney on behalf of the state may institute a civil action in any court of the United States against any person acting

with knowledge or any person to whom notice of a forfeiture lien has been provided in accordance with Code Section 9-16-9; to whom notice of seizure has been provided in accordance with Code Section 9-16-8; or to whom notice of a civil forfeiture action alleging conduct giving rise to forfeiture under this chapter has been provided, if property subject to forfeiture is conveyed, alienated, disposed of, or otherwise rendered unavailable for forfeiture after the filing of a forfeiture lien notice or notice of seizure or after the filing and notice of a civil forfeiture action alleging conduct giving rise to forfeiture under this chapter, as the case may be. The state may recover judgment in an amount equal to the value of the forfeiture lien but not to exceed the fair market value of the property or, if there is no forfeiture lien, in an amount not to exceed the fair market value of the property, together with reasonable investigative expenses and attorney's fees.

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

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

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

9-16-22.

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

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

734 9-16-23.

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

736 **PART II**
737 **CONFORMING TITLE 16 TO THE NEW**
738 **CIVIL FORFEITURE PROCEDURE**
739 **SECTION 2-1.**

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

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

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

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

753 **SECTION 2-2.**

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

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

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

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

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

770 **SECTION 2-3.**

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

774 "16-6-13.2.

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

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

779 (1) Any motor vehicle used by a person to facilitate a violation of Code Section 16-6-11
780 when the offense involved the pimping of a person under 18 years of age to perform an
781 act of prostitution; and

782 (2) Any motor vehicle used by a person to facilitate a violation of Code Section 16-6-11
783 when such person has been convicted of or pled nolo contendere for two previous
784 violations of Code Section 16-6-11 or 16-6-12 within a five-year period and who is
785 convicted of or pleads nolo contendere to a third violation of Code Section 16-6-11 or
786 16-6-12 within the same five-year period.

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

789 **SECTION 2-4.**

790 Said title is further amended by repealing in its entirety Code Section 16-6-13.3, relating to
791 proceeds from pimping, forfeiture, and distribution, and enacting a new Code Section
792 16-6-13.3 to read as follows:

793 "16-6-13.3.

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

796 (b) Any property which is, directly or indirectly, used or intended for use in any manner
797 to facilitate a violation of Code Section 16-6-11 when any of the persons involved in
798 performing an action of prostitution is under the age of 18 and any proceeds derived or
799 realized therefrom are declared to be contraband and no person shall have a property right
800 in them.

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

SECTION 2-5.

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

"16-7-95.

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

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

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

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

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

SECTION 2-6.

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

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

(2) Any property constituting proceeds derived from proceeds which are, directly or indirectly, derived or realized through a violation of this Code section shall be subject to forfeiture to the State of Georgia except that are declared to be contraband and no person shall have a property right in them; provided, however, that notwithstanding Code Section 9-16-5, no property of any owner shall be forfeited under this subsection, to the extent of the interest of such owner, by reason of an act or omission established by such owner to have been committed or omitted without knowledge or consent of such owner. The procedure for forfeiture and disposition of forfeited property under this subsection shall be as provided for under Code Section 16-13-49.

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

SECTION 2-7.

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

"(f)(1) Any phonograph record, disc, wire, tape, videotape, film, or other article onto which sounds or visual images have been transferred shall be subject to forfeiture to the State of Georgia except that in violation of this Code section are declared to be contraband and no person shall have a property right in them; provided, however, that notwithstanding Code Section 9-16-5, no property of any owner shall be forfeited under this paragraph, to the extent of the interest of such owner, by reason of an act or omission established by such owner to have been committed or omitted without knowledge or consent of such owner.

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

SECTION 2-8.

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

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

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

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

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

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

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

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

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

~~“(2) The prosecutor shall give notice of the forfeiture proceeding by mailing a copy of the complaint in the forfeiture proceeding to each person whose right, title, or interest is of record in the Department of Revenue, the Department of Transportation, the Federal Aviation Agency, or any other department or agency of this state, any other state or~~

territory of the United States, or of the federal government if such property is required to be registered with any such department or agency.

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

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

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

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

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

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

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

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

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

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

~~(i)~~(f) No motor vehicle, either seized under Code Section 16-8-84 or forfeited under this Code section, shall be released by the seizing agency or used or sold by an agency designated by the court unless any altered, counterfeited, defaced, destroyed, disguised, falsified, forged, obliterated, or removed vehicle identification number is corrected by the

issuance and affixing of either an assigned or replacement vehicle identification number plate as may be appropriate under laws or regulations of this state.

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

~~(k)(h)~~ No motor vehicle or motor vehicle part shall be forfeited under this Code section solely on the basis that it is unidentifiable. Instead of forfeiture, any seized motor vehicle or motor vehicle part which is unidentifiable shall be the subject of a written report sent by the seizing agency to the Department of Revenue; which ~~report~~ shall include a description of the motor vehicle or motor vehicle part, including its color, if any; the date, time, and place of its seizure; the name of the person from whose possession or control it was seized; the grounds for its seizure; and the location where the same is held or stored.

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

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

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

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

~~(p)(l)~~ A seized motor vehicle or motor vehicle part that is neither forfeited nor unidentifiable shall be held subject to the order of the court in which the criminal action is pending or, if a request for its release from such custody is made, until the prosecutor has notified the defendant or the defendant's attorney of such request and both the prosecution

and defense have been afforded a reasonable opportunity for an examination of the property to determine its true value and to produce or reproduce, by photographs or other identifying techniques, legally sufficient evidence for introduction at trial or other criminal proceedings. Upon expiration of a reasonable time for the completion of the examination, which in no event shall exceed 14 days from the date of service upon the defense of the notice of request for return of property as provided in this subsection, the property shall be released to the person making such request after satisfactory proof of such person's entitlement to the possession thereof. Notwithstanding the foregoing, upon application by either party with notice to the other, the court may order retention of the property if it determines that retention is necessary in the furtherance of justice.

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

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

SECTION 2-9.

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

"16-8-106.

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

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

1020 (c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall
1021 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9.
1022 (d) The Attorney General shall be specifically authorized to commence forfeiture
1023 proceedings under this Code section."

1024 SECTION 2-10.

1025 Said title is further amended by revising subsection (h) of Code Section 16-9-4, relating to
1026 manufacturing, selling, or distributing false identification documents, as follows:

1027 "(h)(1) As used in this subsection, the terms 'proceeds' and 'property' shall have the same
1028 meanings as set forth in Code Section 9-16-2. Any property which is used, intended for
1029 use, or used in any manner to facilitate a violation of this Code section is contraband and
1030 forfeited to the state and no person shall have a property interest in it. Such property may
1031 be seized or detained in the same manner as provided in Code Section 16-13-49 and shall
1032 not be subject to replevin, conveyance, sequestration, or attachment.

1033 (2) Any property which is, directly or indirectly, used or intended for use in any manner
1034 to facilitate a violation of this Code section and any proceeds derived or realized
1035 therefrom are declared to be contraband and no person shall have a property right in
1036 them. Within 60 days of the date of the seizure of contraband pursuant to this Code
1037 section, the district attorney shall initiate forfeiture or other proceedings as provided in
1038 Code Section 16-13-49. An owner or interest holder, as defined by subsection (a) of
1039 Code Section 16-13-49, may establish as a defense to the forfeiture of property which is
1040 subject to forfeiture under this Code section the applicable provisions of subsection (e)
1041 or (f) of Code Section 16-13-49. Property which is forfeited pursuant to this Code section
1042 shall be disposed of and distributed as provided in Code Section 16-13-49.

1043 (3) Any property subject to forfeiture pursuant to paragraph (2) of this subsection shall
1044 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9. If
1045 property subject to forfeiture cannot be located; has been transferred or conveyed to, sold
1046 to, or deposited with a third party; is beyond the jurisdiction of the court; has been
1047 substantially diminished in value while not in the actual physical custody of a receiver
1048 or governmental agency directed to maintain custody of the property; or has been
1049 commingled with other property that cannot be divided without difficulty, the court shall
1050 order the forfeiture of any property of a claimant or defendant up to the value of property
1051 found by the court to be subject to forfeiture under this subsection in accordance with the
1052 procedures set forth in subsection (x) of Code Section 16-13-49.

1053 (4) The provisions of paragraphs (3), (4), and (5) of subsection (x) and subsection (z) of
1054 Code Section 16-13-49 shall be applicable to any proceedings brought pursuant to this
1055 subsection."

SECTION 2-11.

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

"16-11-11.

It shall be unlawful for any subversive organization or foreign subversive organization to exist or function in this state. Any organization which by a court of competent jurisdiction is found to have violated this Code section shall be dissolved and, if it is a corporation organized and existing under the laws of this state, a finding by a court of competent jurisdiction that it has violated this Code section shall constitute legal cause for ~~forfeiture~~ revocation of its charter and its charter shall be ~~forfeited~~ revoked. All funds, books, records, and files of every kind and all other property of any organization found to have violated this Code section shall be seized by and for this state, the funds to be deposited in the state treasury and the books, records, files, and other property to be turned over to the Attorney General."

SECTION 2-12.

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

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

SECTION 2-13.

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

"16-12-30.

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

~~(b) At such time as there shall be a final judgment entered in any case or cases in which a seized gambling device is necessary evidence or at such time as the state shall determine~~

1091 ~~that the continued physical existence of the seized gambling device is no longer necessary,~~
 1092 ~~the same shall be turned over by that person having custody of the device to the sheriff of~~
 1093 ~~the county wherein the device was confiscated. The sheriff shall within ten days after~~
 1094 ~~receiving the device destroy the same in the presence of the district attorney of the circuit~~
 1095 ~~in which such county is located and shall forward to the state revenue commissioner a~~
 1096 ~~certificate so stating which shall include the serial number of the device so destroyed.~~
 1097 Reserved."

1098 SECTION 2-14.

1099 Said title is amended by repealing in its entirety Code Section 16-12-32, relating to seizure
 1100 and disposition of property used in or derived from a violation of the article proscribing
 1101 gambling and related offenses, and enacting a new Code Section 16-12-32 to read as follows:
 1102 "16-12-32.

1103 (a) As used in this Code section, the terms 'proceeds,' 'property,' and 'United States' shall
 1104 have the same meanings as set forth in Code Section 9-16-2, and 'enterprise' means any
 1105 person, sole proprietorship, partnership, corporation, trust, association, or other legal entity
 1106 created under the laws the United States or any foreign nation or a group of individuals
 1107 associated in fact although not a legal entity and includes illicit as well as licit enterprises
 1108 and governmental as well as other entities.

1109 (b) The following are declared to be contraband, and no person shall have a property right
 1110 in them:

1111 (1) Every gambling device except antique slot machines as provided for in subsection (b)
 1112 of Code Section 16-12-24;

1113 (2) Any property which is, directly or indirectly, used or intended for use in any manner
 1114 to facilitate a violation of this article and any proceeds derived or realized therefrom;

1115 (3) Any property located in this state which was, directly or indirectly, used or intended
 1116 for use in any manner to facilitate a violation of this article or of the laws of the United
 1117 States relating to gambling and any proceeds derived or realized therefrom;

1118 (4) Any interest, security, claim, or property or contractual right of any kind affording
 1119 a source of influence over any enterprise that a person has established, operated,
 1120 controlled, conducted, or participated in the conduct of in violation of this article or any
 1121 of the laws of the United States relating to gambling and any proceeds derived or realized
 1122 therefrom; and

1123 (5) Any property found in close proximity to any gambling device or other property
 1124 subject to forfeiture under this Code section.

1125 (c) Any property declared as contraband pursuant to subsection (b) of this Code section
 1126 shall be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9."

SECTION 2-15.

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(g)(f)(1)~~ Except as otherwise provided in paragraph (2) of this subsection, any person who violates a provision of this Code section shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than five nor more than 20 years and by a fine of not more than \$100,000.00. In the event, however, that the person so convicted is a member of the immediate family of the victim, no fine shall be imposed.

(2) Any person who violates subsection (c) of this Code section shall be guilty of a misdemeanor."

SECTION 2-16.

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

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

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

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

SECTION 2-17.

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

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

1199 in this subsection, the term 'proceeds' shall have the same meaning as set forth in Code
1200 Section 9-16-2."

1201 **SECTION 2-18.**

1202 Said title is further amended by revising subsection (f) of Code Section 16-13-30.4, relating
1203 to licenses for sale, transfer, or purchase for resale of products containing pseudoephedrine,
1204 as follows:

1205 "(f) Any ~~All~~ products containing pseudoephedrine that have been or that are intended to
1206 be sold, transferred, purchased for resale, possessed, or otherwise transferred in violation
1207 of a provision of this Code section ~~shall be subject to forfeiture to the state and no property~~
1208 ~~right shall exist in them~~ and any proceeds derived or realized therefrom are declared to be
1209 contraband and no person shall have a property right in them and shall be forfeited
1210 according to the procedure set forth in Chapter 16 of Title 9. As used in this subsection,
1211 the term 'proceeds' shall have the same meaning as set forth in Code Section 9-16-2."

1212 **SECTION 2-19.**

1213 Said title is further amended by revising subsections (e) through (g) of Code Section
1214 16-13-32, relating to transactions in drug related objects and forfeitures, as follows:

1215 "(e) All instruments, devices, and objects which are distributed or possessed in violation
1216 of this Code section and any proceeds derived or realized therefrom are declared to be
1217 contraband and no person shall have a property right in them and shall be forfeited
1218 according to the procedure set forth in Chapter 16 of Title 9. As used in this subsection,
1219 the term 'proceeds' shall have the same meaning as set forth in Code Section 9-16-2.

1220 ~~(f) After conviction and after all direct appeals from the conviction have been exhausted,~~
1221 ~~any instruments, devices, or objects which are the subject of prosecution under this Code~~
1222 ~~section may be destroyed by the state or any county or municipality thereof without court~~
1223 ~~order.~~

1224 ~~(g) Any instruments, devices, or objects which are seized after July 1, 1980, on~~
1225 ~~condemnation as being distributed or possessed in violation of this Code section and which~~
1226 ~~are not made the subject of prosecution under this Code section may be destroyed by the~~
1227 ~~state or any county or municipality thereof if within 90 days after such seizures are made,~~
1228 ~~the district attorney or the solicitor-general of any court that has jurisdiction to try~~
1229 ~~misdemeanors in the county where the seizure occurred shall institute condemnation~~
1230 ~~proceedings in the court by petition, a copy of which shall be served upon the owner of the~~
1231 ~~seized items, if known; and if the owner is unknown, notice of such proceedings shall be~~
1232 ~~published once a week for two weeks in the newspaper in which the sheriff's~~
1233 ~~advertisements are published. The petition shall allege that the seized items were~~

1234 ~~distributed or possessed in violation of this Code section; and, if no defense is filed within~~
 1235 ~~30 days from the filing of the petition, judgment by default shall be entered by the court at~~
 1236 ~~chambers, and the court shall order the seized items to be destroyed; otherwise, the case~~
 1237 ~~shall proceed as other civil cases in the court. Should the state prove, by a preponderance~~
 1238 ~~of the evidence, that the seized items were distributed or possessed in violation of this Code~~
 1239 ~~section, the court shall order the seized items to be destroyed."~~

1240 **SECTION 2-20.**

1241 Said title is further amended by revising subsection (e) of Code Section 16-13-32.1, relating
 1242 to transactions in drug related objects, evidence, and forfeiture, as follows:

1243 "(e) All objects and materials which are distributed or possessed in violation of this Code
 1244 section and any proceeds derived or realized therefrom are declared to be contraband and
 1245 no person shall have a property right in them and shall be forfeited according to the
 1246 procedure ~~described in Code Section 16-13-49~~ set forth in Chapter 16 of Title 9. As used
 1247 in this subsection, the term 'proceeds' shall have the same meaning as set forth in Code
 1248 Section 9-16-2."

1249 **SECTION 2-21.**

1250 Said title is further amended by repealing Code Section 16-13-48.1, relating to funds or
 1251 property transferred to state or local agencies under federal drug laws, in its entirety.

1252 **SECTION 2-22.**

1253 Said title is further amended by repealing in its entirety Code Section 16-13-49, relating to
 1254 forfeitures, and enacting a new Code Section 16-13-49 to read as follows:

1255 "16-13-49.

1256 (a) As used in this Code section, the term:

1257 (1) 'Controlled substance' shall have the same meaning as set forth in Code Section
 1258 16-13-21 and shall include marijuana, as such term is defined in Code Section 16-13-21.

1259 (2) 'Enterprise' means any person, sole proprietorship, partnership, corporation, trust,
 1260 association, or other legal entity created under the laws of the United States or any
 1261 foreign nation or a group of individuals associated in fact although not a legal entity and
 1262 includes illicit as well as licit enterprises and governmental as well as other entities.

1263 (3) 'Proceeds' shall have the same meaning as set forth in Code Section 9-16-2.

1264 (4) 'Property' shall have the same meaning as set forth in Code Section 9-16-2.

1265 (5) 'United States' shall have the same meaning as set forth in Code Section 9-16-2.

1266 (b) Except as provided in subsection (d) of this Code section, the following are declared
 1267 to be contraband and no person shall have a property right in them:

- 1268 (1) Any controlled substances, raw materials, or controlled substance analogs that have
1269 been manufactured, distributed, dispensed, possessed, or acquired in violation of this
1270 article;
- 1271 (2) Any property which is, directly or indirectly, used or intended for use in any manner
1272 to facilitate a violation of this article and any proceeds derived or realized therefrom;
- 1273 (3) Any property located in this state which was, directly or indirectly, used or intended
1274 for use in any manner to facilitate a violation of this article or the laws of the United
1275 States relating to controlled substances that is punishable by imprisonment for more than
1276 one year and any proceeds derived or realized therefrom;
- 1277 (4) Any interest, security, claim, or property or contractual right of any kind affording
1278 a source of influence over any enterprise that a person has established, operated,
1279 controlled, conducted, or participated in the conduct of in violation of this article or the
1280 laws of the United States relating to controlled substances that is punishable by
1281 imprisonment for more than one year and any proceeds derived or realized therefrom; and
- 1282 (5) Any property found in close proximity to any controlled substance or other property
1283 subject to forfeiture under this Code section.
- 1284 (c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall
1285 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9.
- 1286 (d) Property shall not be subject to forfeiture under this Code section for a violation
1287 involving only one gram or less of a mixture containing cocaine or four ounces or less of
1288 marijuana unless such property was used to facilitate a transaction in or a purchase of or
1289 sale of a controlled substance.
- 1290 (e) In addition to persons authorized to seize property pursuant to Code Section 9-16-7,
1291 property which is subject to forfeiture under this Code section may be seized by the
1292 director of the Georgia Drugs and Narcotics Agency or by any drug agent of this state or
1293 any political subdivision thereof who has power to make arrests or execute process or a
1294 search warrant issued by any court having jurisdiction over the property.
- 1295 (f) Controlled substances included in Schedule I which are contraband and any controlled
1296 substance whose owners are unknown shall be summarily forfeited to the state. The court
1297 may include in any judgment of conviction under this article an order forfeiting any
1298 controlled substance involved in the offense to the extent of the defendant's interest."

1299 **SECTION 2-23.**

1300 Said title is further amended by revising Code Section 16-13-53, relating to pending
1301 proceedings, as follows:

"16-13-53.

~~(a) Prosecution for any violation of law occurring prior to July 1, 1974, is not affected or abated by this article. If the offense which was being prosecuted is similar to one set out in this article, then the penalties under this article apply if they are less than those under prior law.~~

~~(b) Civil seizures or forfeitures and injunctive proceedings commenced prior to July 1, 1974, are not affected by this article.~~

~~(c) All administrative proceedings pending under prior laws which were superseded by this article shall be continued and brought to a final determination in accord with the laws and rules in effect prior to July 1, 1974. Any substance controlled under prior law which is not listed within Schedules I through V is automatically controlled without further proceedings and shall be listed in the appropriate schedule.~~

~~(d) This article applies to violations of law, seizures, forfeitures, injunctive proceedings, administrative proceedings, and investigations occurring after July 1, 1974. Reserved.~~

SECTION 2-24.

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

"16-13-58.

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

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

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

SECTION 2-25.

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

"CHAPTER 14

16-14-1.

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

16-14-2.

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

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

16-14-3.

As used in this chapter, the term:

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

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

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

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

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

1369 ~~beneficial interest shall be deemed to be located where the real property owned by the~~
 1370 ~~trustee is located.~~

1371 (3) ~~'Civil proceeding'~~ means any civil proceeding commenced by an investigative agency
 1372 ~~under any provision of this chapter.~~

1373 ~~(4)~~(1) 'Criminal proceeding' means any criminal proceeding commenced by an
 1374 ~~investigative agency~~ the Department of Law or the office of any district attorney under
 1375 any provision of this chapter.

1376 (5) ~~'Documentary material'~~ means any book, paper, document, writing, drawing, graph,
 1377 ~~chart, photograph, phonorecord, magnetic tape, computer printout, other data compilation~~
 1378 ~~from which information can be obtained or from which information can be translated into~~
 1379 ~~usable form, or other tangible item.~~

1380 ~~(6)~~(2) 'Enterprise' means any person, sole proprietorship, partnership, corporation,
 1381 business trust, union chartered under the laws of this state, or other legal entity; or any
 1382 unchartered union, association, or group of individuals associated in fact although not a
 1383 legal entity; and it includes illicit as well as licit enterprises and governmental as well as
 1384 other entities.

1385 ~~(7) 'Investigative agency' means the Department of Law or the office of any district~~
 1386 ~~attorney.~~

1387 ~~(8)~~(3) 'Pattern of racketeering activity' means:

1388 (A) Engaging in at least two acts of racketeering activity in furtherance of one or more
 1389 incidents, schemes, or transactions that have the same or similar intents, results,
 1390 accomplices, victims, or methods of commission or otherwise are interrelated by
 1391 distinguishing characteristics and are not isolated incidents, provided at least one of
 1392 such acts occurred after July 1, 1980, and that the last of such acts occurred within four
 1393 years, excluding any periods of imprisonment, after the commission of a prior act of
 1394 racketeering activity; or

1395 (B) Engaging in any one or more acts of domestic terrorism as described in subsection
 1396 (a) of Code Section 16-4-10 or any criminal attempt, criminal solicitation, or criminal
 1397 conspiracy related thereto.

1398 ~~(9)~~(4)(A) 'Racketeering activity' means to commit, to attempt to commit, or to solicit,
 1399 coerce, or intimidate another person to commit any crime which is chargeable by
 1400 indictment under the ~~following~~ laws of this state involving:

1401 (i) Unlawful distillation, manufacture, and transportation of alcoholic beverages in
 1402 violation of Code Section 3-3-27;

1403 (ii) Records and reports of currency transactions in violation of Article 11 of Chapter
 1404 1 of Title 7;

1405 (iii) The 'Georgia Uniform Securities Act of 2008' in violation of Chapter 5 of Title
1406 10;
1407 (iv) Homicide in violation of Article 1 of Chapter 5 of this title;
1408 (v) Assault and battery in violation of Article 2 of Chapter 5 of this title;
1409 (vi) Kidnapping, false imprisonment, and related offenses in violation of Article 3 of
1410 Chapter 5 of this title;
1411 (vii) Prostitution, keeping a place of prostitution, pimping, pandering, and pandering
1412 by compulsion in violation of Code Sections 16-6-9 through 16-6-12 and 16-6-14;
1413 (viii) Burglary in violation of Code Section 16-7-1;
1414 (ix) Smash and grab burglary in violation of Code Section 16-7-2;
1415 (x) Arson and explosives in violation of Article 3 of Chapter 7 of this title;
1416 (xi) Bombs, explosives, and chemical and biological weapons in violation of Article
1417 4 of Chapter 7 of this title;
1418 (xii) Theft in violation of Article 1 of Chapter 8 of this title;
1419 (xiii) Robbery in violation of Article 2 of Chapter 8 of this title;
1420 (xiv) Criminal reproduction and sale of recorded material in violation of Article 3 of
1421 Chapter 8 of this title;
1422 (xv) The 'Georgia Residential Mortgage Fraud Act' in violation of Article 5 of
1423 Chapter 8 of this title;
1424 (xvi) Forgery in any degree in violation of Code Section 16-9-1;
1425 (xvii) Illegal use of financial transaction cards in violation of Code Sections 16-9-31,
1426 16-9-32, 16-9-33, and 16-9-34;
1427 (xviii) Use of an article with an altered identification mark in violation of Code
1428 Section 16-9-70;
1429 (xix) The 'Georgia Computer Systems Protection Act' in violation of Article 6 of
1430 Chapter 9 of this title;
1431 (xx) Identity fraud in violation of Article 8 of Chapter 9 of this title;
1432 (xxi) Bribery in violation of Code Section 16-10-2;
1433 (xxii) False statements and writings or false lien statements against public officers
1434 or public employees in violation of Code Section 16-10-20 or 16-10-20.1;
1435 (xxiii) Impersonating a public officer or employee in violation of Code Section
1436 16-10-23;
1437 (xxiv) Attempted murder or threatening of witnesses in official proceedings in
1438 violation of Code Section 16-10-32;
1439 (xxv) Perjury and other related offenses in violation of Article 4 of Chapter 10 of this
1440 title;
1441 (xxvi) Embracery in violation of Code Section 16-10-91;

1442 (xxvii) Influencing witnesses in violation of Code Section 16-10-93;
 1443 (xxviii) Tampering with evidence in violation of Code Section 16-10-94;
 1444 (xxvix) Intimidation or injury of grand or trial juror or court officer in violation of
 1445 Code Section 16-10-97;
 1446 (xxx) Terroristic threats and acts in violation of Code Section 16-11-37;
 1447 (xxxi) The 'Georgia Firearms and Weapons Act' in violation of Part 2 of Article 4 of
 1448 Chapter 11 of this title;
 1449 (xxxii) Commercial gambling in violation of Code Section 16-12-22;
 1450 (xxxiii) Distributing obscene materials in violation of Code Section 16-12-80;
 1451 (xxxiv) The 'Georgia Controlled Substances Act' in violation of Article 2 of Chapter
 1452 13 of this title;
 1453 (xxxv) The 'Dangerous Drug Act' in violation of Article 3 of Chapter 13 of this title;
 1454 (xxxvi) Marijuana in violation of subsection (j) of Code Section 16-13-30;
 1455 (xxxvii) Payday loans in violation of Chapter 17 of this title;
 1456 (xxxviii) Insurance fraud in violation of Code Section 33-1-9;
 1457 (xxxix) Certain felonies involving certificates of title, security interest, or liens in
 1458 violation of Code Section 40-3-90;
 1459 (xl) Removal or falsification of identification numbers in violation of Code Section
 1460 40-4-21; or
 1461 (xli) Possession of motor vehicle parts from which the identification has been
 1462 removed in violation of Code Section 40-4-22.
 1463 ~~(i) Article 2 of Chapter 13 of this title, relating to controlled substances;~~
 1464 ~~(ii) Article 3 of Chapter 13 of this title, known as the 'Dangerous Drugs Act';~~
 1465 ~~(iii) Subsection (j) of Code Section 16-13-30, relating to marijuana;~~
 1466 ~~(iv) Article 1 of Chapter 5 of this title, relating to homicide;~~
 1467 ~~(v) Article 2 of Chapter 5 of this title, relating to bodily injury and related offenses;~~
 1468 ~~(vi) Articles 3 and 4 of Chapter 7 of this title, relating to arson and destructive~~
 1469 ~~devices, respectively;~~
 1470 ~~(vii) Code Section 16-7-1, relating to burglary, or Code Section 16-7-2, relating to~~
 1471 ~~smash and grab burglary;~~
 1472 ~~(viii) Code Section 16-9-1, relating to forgery in any degree;~~
 1473 ~~(ix) Article 1 of Chapter 8 of this title, relating to theft;~~
 1474 ~~(x) Article 2 of Chapter 8 of this title, relating to robbery;~~
 1475 ~~(xi) Code Sections 16-6-9 through 16-6-12 and 16-6-14, relating to prostitution and~~
 1476 ~~pandering;~~
 1477 ~~(xii) Code Section 16-12-80, relating to distributing obscene materials;~~
 1478 ~~(xiii) Code Section 16-10-2, relating to bribery;~~

1479 ~~(xiv) Code Section 16-10-93, relating to influencing witnesses;~~
1480 ~~(xv) Article 4 of Chapter 10 of this title and Code Sections 16-10-20, 16-10-20.1,~~
1481 ~~16-10-23, and 16-10-91, relating to perjury and other falsifications;~~
1482 ~~(xvi) Code Section 16-10-94, relating to tampering with evidence;~~
1483 ~~(xvii) Code Section 16-12-22, relating to commercial gambling;~~
1484 ~~(xviii) Code Section 3-3-27, relating to distilling or making liquors;~~
1485 ~~(xix) Part 2 of Article 4 of Chapter 11 of this title, known as the 'Georgia Firearms~~
1486 ~~and Weapons Act';~~
1487 ~~(xx) Code Section 16-8-60, relating to unauthorized transfers and reproductions of~~
1488 ~~recorded material;~~
1489 ~~(xxi) Chapter 5 of Title 10, relating to violations of the 'Georgia Uniform Securities~~
1490 ~~Act of 2008';~~
1491 ~~(xxii) Code Section 3-3-27, relating to the unlawful distillation, manufacture, and~~
1492 ~~transportation of alcoholic beverages;~~
1493 ~~(xxiii) Code Sections 16-9-31, 16-9-32, 16-9-33, and 16-9-34, relating to the~~
1494 ~~unlawful use of financial transaction cards;~~
1495 ~~(xxiv) Code Section 40-3-90, relating to certain felonies involving certificates of title,~~
1496 ~~security interest, or liens concerning motor vehicles;~~
1497 ~~(xxv) Code Section 40-4-21, relating to removal or falsification of identification~~
1498 ~~numbers;~~
1499 ~~(xxvi) Code Section 40-4-22, relating to possession of motor vehicle parts from~~
1500 ~~which the identification has been removed;~~
1501 ~~(xxvii) Code Section 16-9-70, relating to use of an article with an altered~~
1502 ~~identification mark;~~
1503 ~~(xxviii) Article 6 of Chapter 9 of this title, known as the 'Georgia Computer Systems~~
1504 ~~Protection Act';~~
1505 ~~(xxix) Any conduct defined as 'racketeering activity' under 18 U.S.C. Section 1961~~
1506 ~~(1)(A), (B), (C), and (D);~~
1507 ~~(xxx) Article 3 of Chapter 5 of this title, relating to kidnapping, false imprisonment,~~
1508 ~~and related offenses, except for Code Section 16-5-44, relating to aircraft hijacking;~~
1509 ~~(xxxi) Code Section 16-11-37, relating to terroristic threats and acts;~~
1510 ~~(xxxii) Code Section 16-5-44.1, relating to motor vehicle hijacking;~~
1511 ~~(xxxiii) Code Section 16-10-32, relating to tampering with witnesses, victims, or~~
1512 ~~informants;~~
1513 ~~(xxxiv) Code Section 16-10-97, relating to intimidation of grand or trial juror or court~~
1514 ~~officer;~~

~~(xxxv) Article 11 of Chapter 1 of Title 7 and Sections 5311 through 5330 of Title 31 of the United States Code relating to records and reports of currency transactions;~~
~~(xxxvi) Article 8 of Chapter 9 of this title, relating to identity fraud, and Section 1028 of Title 18 of the United States Code, relating to fraudulent identification documents and information;~~
~~(xxxvii) Code Section 33-1-9, relating to insurance fraud;~~
~~(xxxviii) Code Section 16-17-2, relating to payday loans;~~
~~(xxxix) Code Section 16-9-101, relating to deceptive commercial e-mail;~~
~~(xl) Code Section 16-8-102, relating to residential mortgage fraud; or~~
~~(xli) Code Section 16-5-5, relating to assisted suicide.~~

(B) 'Racketeering activity' shall also mean any act or threat involving murder, kidnapping, gambling, arson, robbery, theft, receipt of stolen property, bribery, extortion, obstruction of justice, dealing in narcotic or dangerous drugs, or dealing in securities which is chargeable under the laws of the United States ~~or, any territory of the several states~~ United States, or any state and which is punishable by imprisonment for more than one year.

(C) 'Racketeering activity' shall also mean any conduct defined as 'racketeering activity' under 18 U.S.C. Section 1961 (1), any violation of 18 U.S.C. Section 1028, or any violation of 31 U.S.C. Sections 5311 through 5330.

~~(10)~~(5) 'Real property' means any real property situated in this state or any interest in such real property, including, but not limited to, any lease of or mortgage upon such real property.

~~(11) 'RICO lien notice' means the notice described in Code Section 16-14-13.~~

~~(12)(A) 'Trustee' means either of the following:~~

- ~~(i) Any person who holds legal or record title to real property for which any other person has a beneficial interest; or~~
- ~~(ii) Any successor trustee or trustees to any of the foregoing persons.~~

~~(B) 'Trustee' does not include the following:~~

- ~~(i) Any person appointed or acting as a guardian or conservator under Title 29, relating to guardian and ward, or personal representative under former Chapter 6 of Title 53 as such existed on December 31, 1997, relating to the administration of estates, if applicable, or Chapter 6 of Title 53 and other provisions in Chapter 1 through 11 of Title 53, the 'Revised Probate Code of 1998,' relating to the administration of estates; or~~
- ~~(ii) Any person appointed or acting as a trustee of any testamentary trust or as trustee of any indenture of trust under which any bonds are or are to be issued.~~

1551 16-14-4.

1552 (a) It ~~is~~ shall be unlawful for any person, through a pattern of racketeering activity or
1553 proceeds derived therefrom, to acquire or maintain, directly or indirectly, any interest in
1554 or control of any enterprise, real property, or personal property of any nature, including
1555 money.

1556 (b) It ~~is~~ shall be unlawful for any person employed by or associated with any enterprise
1557 to conduct or participate in, directly or indirectly, such enterprise through a pattern of
1558 racketeering activity.

1559 (c) It ~~is~~ shall be unlawful for any person to conspire or endeavor to violate any of the
1560 provisions of subsection (a) or (b) of this Code section. A person violates this subsection
1561 when:

1562 (1) He or she together with one or more persons conspires to violate any of the
1563 provisions of subsection (a) or (b) of this Code section and any one or more of such
1564 persons commits any overt act to effect the object of the conspiracy; or

1565 (2) He or she endeavors to violate any of the provisions of subsection (a) or (b) of this
1566 Code section and commits any overt act to effect the object of the endeavor.

1567 16-14-5.

1568 (a) Any person convicted of the offense of engaging in activity in violation of Code
1569 Section 16-14-4 ~~is~~ shall be guilty of a felony and shall be punished by not less than five nor
1570 more than 20 years' imprisonment or the fine specified in subsection (b) of this Code
1571 section, or both.

1572 (b) In lieu of any fine otherwise authorized by law, any person convicted of the offense of
1573 engaging in conduct in violation of Code Section 16-14-4 may be sentenced to pay a fine
1574 that does not exceed the greater of \$25,000.00 or three times the amount of any pecuniary
1575 value gained by him or her from such violation.

1576 (c) The court shall hold a hearing to determine the amount of the fine authorized by
1577 subsection (b) of this Code section.

1578 (d) For the purposes of subsection (b) of this Code section, the term 'pecuniary value'
1579 means:

1580 (1) Anything of value in the form of money, a negotiable instrument, a commercial
1581 interest, or anything else, the primary significance of which is economic advantage; or

1582 (2) Any other property or service that has a value in excess of \$100.00.

16-14-6.

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

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

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

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

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

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

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

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

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

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

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

16-14-7.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16-14-8.

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

1764 16-14-9.

1765 The application of one civil remedy under this chapter shall not preclude the application
1766 of any other remedy, civil or criminal, under this chapter or any other provision of law.
1767 Civil remedies under this chapter are supplemental and not mutually exclusive.

1768 16-14-10.

1769 (a) ~~A Notwithstanding any other provision of law,~~ a valid judgment rendered by a court
1770 of a jurisdiction having a law substantially similar to this chapter ~~will~~ shall be recognized
1771 and enforced by the courts of this state to the extent that a judgment rendered by a court of
1772 this state pursuant to this chapter would be enforced in such other jurisdiction.

1773 (b) The Attorney General is shall be authorized to enter into reciprocal agreements with
1774 the attorney general or chief prosecuting attorney of any jurisdiction having a law
1775 substantially similar to this chapter so as to further the purposes of this chapter.

1776 16-14-11.

1777 In any criminal proceeding ~~brought pursuant to this chapter,~~ the crime shall be considered
1778 to have been committed in any county in which an incident of racketeering occurred or in
1779 which an interest or control of an enterprise or real or personal property is acquired or
1780 maintained.

1781 16-14-12.

1782 This state may, in any civil action or civil forfeiture action brought pursuant to this chapter,
1783 file with the clerk of the ~~superior~~ court a certificate stating that the case is of special public
1784 importance. A copy of ~~that~~ such certificate shall be furnished immediately by such clerk
1785 to the chief judge or, in his or her absence, the presiding chief judge of the ~~superior~~ court
1786 in which such civil action or civil forfeiture action is pending; and, upon receipt of such
1787 ~~copy certificate,~~ the judge shall immediately designate a judge to hear and determine the
1788 civil action or civil forfeiture action. The judge so designated shall promptly assign such
1789 civil action or civil forfeiture action for hearing, participate in the hearings and
1790 determination, and cause the civil action or civil forfeiture action to be expedited.

1791 ~~16-14-13.~~

1792 ~~(a) Upon the institution of any civil proceeding, the investigative agency then or at any~~
1793 ~~time during the pendency of the proceeding may file in the official records of any one or~~
1794 ~~more counties a RICO lien notice. No filing fee or other charge shall be required as a~~
1795 ~~condition for filing the RICO lien notice, and the clerk of the superior court shall, upon the~~
1796 ~~presentation of a RICO lien notice, immediately record it in the official records.~~

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

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

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

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

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

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

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

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

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

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

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

1833 ~~(f) The lien shall commence and attach as of the time of filing of the RICO lien notice and~~
1834 ~~shall continue thereafter until expiration, termination, or release pursuant to Code Section~~
1835 ~~16-14-14. The lien created in favor of the state shall be superior and prior to the interest~~
1836 ~~of any other person in the real property or beneficial interest if the interest is acquired~~
1837 ~~subsequent to the filing of the notice.~~

1838 ~~(g) In conjunction with any civil proceedings:~~

1839 ~~(1) The investigative agency may file without prior court order in any county a lis~~
1840 ~~pendens and, in such case, any person acquiring an interest in the subject real property~~
1841 ~~or beneficial interest, if the real property or beneficial interest is acquired subsequent to~~
1842 ~~the filing of lis pendens, shall take the interest subject to the civil proceeding and any~~
1843 ~~subsequent judgment of forfeiture; and~~

1844 ~~(2) If a RICO lien notice has been filed, the investigative agency may name as~~
1845 ~~defendants, in addition to the person named in the notice, any persons acquiring an~~
1846 ~~interest in the real property or beneficial interest subsequent to the filing of the notice.~~
1847 ~~If a judgment of forfeiture is entered in the proceeding in favor of the state, the interest~~
1848 ~~of any person in the property that was acquired subsequent to the filing of the notice shall~~
1849 ~~be subject to the notice and judgment of forfeiture.~~

1850 ~~(h)(1) A trustee who acquires actual knowledge that a RICO lien notice or a civil~~
1851 ~~proceeding or criminal proceeding has been filed against any person for whom he holds~~
1852 ~~legal or record title to real property shall immediately furnish to the investigative agency~~
1853 ~~the following:~~

1854 ~~(A) The name and address of the person, as known to the trustee;~~

1855 ~~(B) The name and address, as known to the trustee, of all other persons for whose~~
1856 ~~benefit the trustee holds title to the real property; and~~

1857 ~~(C) If requested by the investigative agency, a copy of the trust agreement or other~~
1858 ~~instrument pursuant to which the trustee holds legal or record title to the real property.~~

1859 ~~(2) Any trustee who fails to comply with the provisions of this subsection is guilty of a~~
1860 ~~misdemeanor.~~

1861 ~~(i) Any trustee who conveys title to real property for which a RICO lien notice has been~~
1862 ~~filed at the time of the conveyance in the county where the real property is situated naming~~
1863 ~~a person who, to the actual knowledge of the trustee, holds a beneficial interest in the trust~~
1864 ~~shall be liable to the state for the greater of:~~

1865 ~~(1) The amount of proceeds received directly by the person named in the RICO lien~~
1866 ~~notice as a result of the conveyance;~~

1867 ~~(2) The amount of proceeds received by the trustee as a result of the conveyance and~~
1868 ~~distributed to the person named in the RICO lien notice; or~~

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

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

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

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

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

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

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

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

~~16-14-14.~~

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

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

1905 ~~the RICO lien notice upon such terms and conditions as it may determine. Any release of~~
1906 ~~a RICO lien notice executed by the investigative agency may be filed in the official records~~
1907 ~~of any county. No charge or fee shall be imposed for the filing of any release of a RICO~~
1908 ~~lien notice.~~

1909 ~~(c) If no civil proceeding has been instituted by the investigative agency seeking a~~
1910 ~~forfeiture of any property owned by the person named in the RICO lien notice, the acquittal~~
1911 ~~in the criminal proceeding of the person named in the RICO lien notice or the dismissal of~~
1912 ~~the criminal proceeding shall terminate the RICO lien notice; and, in such case, the filing~~
1913 ~~of the RICO lien notice shall have no effect. In the event the criminal proceeding has been~~
1914 ~~dismissed or the person named in the RICO lien notice has been acquitted in the criminal~~
1915 ~~proceeding, the RICO lien notice shall continue for the duration of the civil proceeding.~~

1916 ~~(d) If no civil proceeding is then pending against the person named in a RICO lien notice,~~
1917 ~~the person named in a RICO lien notice may institute an action against the investigative~~
1918 ~~agency filing the notice in the county where the notice has been filed seeking a release or~~
1919 ~~extinguishment of the notice; and, in such case:~~

1920 ~~(1) The court shall, upon the motion of such person, immediately enter an order setting~~
1921 ~~a date for hearing, which date shall be not less than five nor more than ten days after the~~
1922 ~~action has been filed; and the order, along with a copy of the complaint, shall be served~~
1923 ~~on the investigative agency within three days after the institution of the action. At the~~
1924 ~~hearing, the court shall take evidence on the issue of whether any real property or~~
1925 ~~beneficial interest owned by such person is covered by the RICO lien notice or otherwise~~
1926 ~~subject to forfeiture under this chapter; and, if such person shows by the preponderance~~
1927 ~~of the evidence that the RICO lien notice is not applicable to him or that any real property~~
1928 ~~or beneficial interest owned by him is not subject to forfeiture under this chapter, the~~
1929 ~~court shall enter a judgment extinguishing the RICO lien notice or releasing the real~~
1930 ~~property or beneficial interest from the RICO lien notice;~~

1931 ~~(2) The court shall immediately enter its order releasing from the RICO lien notice any~~
1932 ~~specific real property or beneficial interest if a sale of the real property or beneficial~~
1933 ~~interest is pending and the filing of the notice prevents the sale of the property or interest;~~
1934 ~~however, the proceeds resulting from the sale of the real property or beneficial interest~~
1935 ~~shall be deposited into the registry of the court, subject to the further order of the court;~~
1936 ~~and~~

1937 ~~(3) At the hearing set forth in paragraph (1), the court may release from the RICO lien~~
1938 ~~notice any real property or beneficial interest upon the posting by such person of such~~
1939 ~~security as is equal to the value of the real property or beneficial interest owned by such~~
1940 ~~person.~~

1941 ~~(e) In the event a civil proceeding is pending against a person named in a RICO lien~~
1942 ~~notice, the court, upon motion by said person, may grant the relief set forth in this Code~~
1943 ~~section.~~

1944 ~~16-14-15.~~

1945 ~~(a) Each alien corporation desiring to acquire of record any real property shall have, prior~~
1946 ~~to acquisition, and shall continuously maintain in this state during any year thereafter in~~
1947 ~~which such real property is owned by the alien corporation:~~

1948 ~~(1) A registered office; and~~

1949 ~~(2) A registered agent, which agent may be either:~~

1950 ~~(A) An individual resident in this state whose business office is identical with such~~
1951 ~~registered office; or~~

1952 ~~(B) Another corporation authorized to transact business in this state having a business~~
1953 ~~office identical with such registered office.~~

1954 ~~(b) Each registered agent appointed pursuant to this Code section, on whom process may~~
1955 ~~be served, shall file a statement in writing with the Secretary of State accepting the~~
1956 ~~appointment as registered agent simultaneously with being designated.~~

1957 ~~(c) Each alien corporation shall file with the Secretary of State an annual registration~~
1958 ~~setting forth:~~

1959 ~~(1) The name of the alien corporation and the country under whose law it is incorporated;~~

1960 ~~(2) The mailing address of the principal office of the alien corporation;~~

1961 ~~(3) The name and mailing address of each officer and each director of the alien~~
1962 ~~corporation;~~

1963 ~~(4) The name and street address of the registered agent and registered office of the alien~~
1964 ~~corporation; and~~

1965 ~~(5) The signature of the corporate president, vice-president, secretary, assistant secretary,~~
1966 ~~or treasurer attesting to the accuracy of the report as of the date the annual registration is~~
1967 ~~executed on behalf of the corporation.~~

1968 ~~(d) The first annual registration must be delivered to the Secretary of State between~~
1969 ~~January 1 and April 1, or such other date as the Secretary of State may specify by rules or~~
1970 ~~regulations, of the year following a calendar year in which an alien corporation filed its~~
1971 ~~initial application pursuant to subsection (a) of this Code section. Subsequent annual~~
1972 ~~registrations must be delivered to the Secretary of State between January 1 and April 1, or~~
1973 ~~such other date as the Secretary of State may specify by rules or regulations, of the~~
1974 ~~following calendar years.~~

1975 ~~(e) For filing reports required pursuant to this Code section, the Secretary of State shall~~
1976 ~~collect a filing fee as set out in Code Section 14-2-122 for the filing of annual registrations.~~

1977 ~~(f) If an annual registration does not contain the information required by this Code section,~~
 1978 ~~the Secretary of State shall promptly notify the reporting domestic, foreign, or alien~~
 1979 ~~corporation in writing and return the report to it for correction. If the report is corrected~~
 1980 ~~to contain the information required by this Code section and delivered to the Secretary of~~
 1981 ~~State within 30 days after the effective date of notice, it is deemed to be timely filed.~~
 1982 ~~(g) The Secretary of State shall record the status of any alien corporation that fails to~~
 1983 ~~comply with the requirements of this Code section.~~
 1984 ~~(h) Each alien corporation that fails to file a report as required by subsection (c) of this~~
 1985 ~~Code section or fails to maintain a registered office and a registered agent as required by~~
 1986 ~~subsection (a) of this Code section shall not be entitled to own, purchase, or sell any real~~
 1987 ~~property and shall not be entitled to bring an action or defend in the courts of the state until~~
 1988 ~~such requirements have been complied with.~~
 1989 ~~(i) The filing of a report by a corporation as required by subsection (c) of this Code section~~
 1990 ~~shall be solely for the purposes of this chapter and, notwithstanding Code Section 14-2-510~~
 1991 ~~or any other relevant law, shall not be used as a determination of whether the corporation~~
 1992 ~~is actually doing business in this state."~~

1993 SECTION 2-26.

1994 Said title is further amended by revising Code Section 16-15-5, relating to contraband,
 1995 seizure, and forfeiture under the "Georgia Street Gang Terrorism and Prevention Act," as
 1996 follows:

1997 "16-15-5.

1998 (a) As used in this Code section, the terms 'proceeds' and 'property' shall have the same
 1999 meanings as set forth in Code Section 9-16-2. ~~The following are declared to be contraband~~
 2000 ~~and no person shall have a property interest in them:~~

2001 ~~(1)(b) Any~~ Any ~~Alt~~ property which is, directly or indirectly, used or intended for use in any
 2002 manner to facilitate a violation of this chapter; and proceeds derived or realized therefrom
 2003 are declared to be contraband and no person shall have a property right in them.

2004 ~~(2) Any property constituting or derived from gross profits or other proceeds obtained~~
 2005 ~~from a violation of this chapter.~~

2006 ~~(b) In any action under this Code section, the court may enter such restraining orders or~~
 2007 ~~take other appropriate action, including acceptance of performance bonds, in connection~~
 2008 ~~with any interest that is subject to forfeiture.~~

2009 (c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall
 2010 be forfeited in accordance with Chapter 16 of Title 9. ~~Within 60 days of the date of the~~
 2011 ~~seizure of contraband pursuant to this Code section, the district attorney shall initiate a~~
 2012 ~~forfeiture proceeding as provided in Code Section 16-13-49. An owner or interest holder,~~

2013 ~~as defined by subsection (a) of Code Section 16-13-49, may establish as a defense to the~~
2014 ~~forfeiture of property which is subject to forfeiture under this Code section the applicable~~
2015 ~~provisions of subsection (e) or (f) of Code Section 16-13-49. Property which is forfeited~~
2016 ~~pursuant to this Code section shall be disposed of as provided in Code Section 16-13-49~~
2017 ~~and the proceeds of such disposition shall be paid to the Criminal Justice Coordinating~~
2018 ~~Council for use in funding gang prevention projects."~~

2019 SECTION 2-27.

2020 Said title is further amended by repealing in its entirety Code Section 16-16-2, relating to
2021 motor vehicles, tools, and weapons subject to forfeiture, and enacting a new Code Section
2022 16-16-2 to read as follows:

2023 "16-16-2.

2024 (a) As used in this Code section, the terms 'proceeds' and 'property' shall have the same
2025 meanings as set forth in Code Section 9-16-2.

2026 (b) Any property which is, directly or indirectly, used or intended for use in any manner
2027 to facilitate the commission of a burglary or armed robbery and any proceeds derived or
2028 realized therefrom are declared to be contraband and no person shall have a property right
2029 in them

2030 (c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall
2031 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9."

2032 PART III

2033 CONFORMING TITLES 3, 5, 7, 10, 12, 15, 17, 27, 36, 38, 40, 45, 46, 48, AND 52

2034 TO THE NEW CIVIL FORFEITURE PROCEDURE

2035 AND CORRECTING TERMINOLOGY

2036 SECTION 3-1.

2037 Title 3 of the Official Code of Georgia Annotated, relating to alcoholic beverages, is
2038 amended by revising Code Section 3-10-10, relating to existence of property rights in
2039 distilled spirits or vessels kept or used in violation of the chapter, as follows:

2040 "3-10-10.

2041 No property rights of any kind shall exist in distilled spirits or in the vessels kept or used
2042 for the purpose of violating this chapter, or in any such liquors when received, possessed,
2043 or stored at any forbidden place or anywhere in a quantity forbidden by law or when kept,
2044 stored, or deposited for the purpose of sale or unlawful disposition, furnishing, or
2045 distribution. In all such cases the distilled spirits, the vessels and receptacles in which the
2046 distilled spirits are contained, and any property kept or used for the purpose of violating

2047 this chapter are declared to be contraband; and are to be forfeited to the state when seized;
2048 ~~and may be condemned to be destroyed after seizure by order of the court that has acquired~~
2049 ~~jurisdiction over them, or by order of the judge or court after conviction when the distilled~~
2050 ~~spirits and property have been seized for use as evidence in accordance with the procedures~~
2051 ~~set forth in Chapter 16 of Title 9."~~

2052 SECTION 3-2.

2053 Said title is further amended by revising Code Section 3-10-11, relating to contraband
2054 apparatus and appliances, existence of property rights therein, summary destruction of
2055 contraband, and procedure for seizure and condemnation of vehicles and conveyances and
2056 boats and vessels, as follows:

2057 "3-10-11.

2058 (a)(1) All apparatus or appliances which are used for the unlawful purpose of distilling
2059 or manufacturing any distilled spirits are declared to be contraband.

2060 (2) No person shall have any property right in or to the contraband specified in this
2061 subsection.

2062 (3) Whenever apparatus or appliances used or about to be used for the unlawful purpose
2063 of manufacturing, using, holding, or containing any distilled spirits are found or
2064 discovered by any sheriff, deputy sheriff, or other law enforcement officer of this state,
2065 the same shall be summarily destroyed and rendered useless by him or her without any
2066 formal order of the court.

2067 (b)(1) All vehicles and conveyances of every kind and description in this state and all
2068 boats and vessels of every kind and description in any of the waters of this state; ~~which~~
2069 ~~vehicles and vessels are used in conveying, removing, concealing, or storing any distilled~~
2070 ~~spirits, the transportation, possession, or storing of which is in violation of law, are~~
2071 ~~declared to be contraband and shall be seized and condemned by any sheriff or other~~
2072 ~~arresting law enforcement officer. Such vehicles, conveyances, boats, and vessels~~
2073 ~~contraband shall be subject to seizure and condemnation as specified in this Code section~~
2074 ~~in any county or municipality of this state forfeiture in accordance with the procedures set~~
2075 ~~forth in Chapter 16 of Title 9, including those counties and municipalities in which the sale~~
2076 ~~of distilled spirits is lawful. The law enforcement officer making a seizure shall report the~~
2077 ~~seizure within ten days after the seizure to the prosecuting attorney of the county, city, or~~
2078 ~~superior court having jurisdiction in the county where the seizure was made.~~

2079 (2) ~~Within 30 days from the time the prosecuting attorney receives the notice, he shall~~
2080 ~~institute condemnation proceedings by petition, a copy of which shall be served upon the~~
2081 ~~owner or lessee, if known, and, if the owner or lessee is unknown, notice of the~~

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

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

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

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

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

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

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

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

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

2119 so seized shall be protected to the full extent of his lien if the holder shows that the illegal
 2120 use of the property was without his knowledge, connivance, or consent, express or
 2121 implied.

2122 (e) The court to whom a petition for condemnation is referred may at its discretion allow
 2123 any party at interest to give bond and take possession of the vehicle seized. In such cases
 2124 the court shall determine whether the bond shall be a forthcoming bond or an eventual
 2125 condemnation money bond and shall also determine the amount of the bond. The
 2126 enforcement of any bond so given shall be regulated by the general law applicable to such
 2127 cases.

2128 (f) The court may permit a settlement between the parties at any stage of the proceeding
 2129 by permitting the value of the vehicle or the value of the equity in the vehicle, as
 2130 determined by the court, to be paid into court. Money so paid shall be distributed as
 2131 provided by law in all cases of condemnation.

2132 (g) The agency, state, county, or municipality seizing any contraband article may use any
 2133 vessel, vehicle, aircraft, or other conveyance described in subsection (b) of this Code
 2134 section for covert police activity for a period of up to 60 days prior to the sale of such
 2135 vessel, vehicle, aircraft, or other conveyance, except that no vessel, vehicle, aircraft, or
 2136 other conveyance shall be utilized for covert police activity prior to final judicial
 2137 adjudication of lawful seizure."

2138 SECTION 3-3.

2139 Said title is further amended by revising Code Section 3-10-12, relating to raw materials or
 2140 substances, fixtures, implements, or apparatus intended for use in unlawful distillation or
 2141 manufacture of distilled spirits declared contraband, property rights in contraband, and
 2142 procedures for seizure and disposition of contraband, as follows:

2143 "3-10-12.

2144 (a) Any raw materials or substances, including, but not limited to, sugar of any grade or
 2145 type, and any fixture, implement, or apparatus used or intended for use in the unlawful
 2146 distilling or manufacturing of any distilled spirits are declared to be contraband.

2147 (b) No person shall have any property right in or to any contraband specified in
 2148 subsection (a) of this Code section.

2149 (c) Whenever any property item used or about to be used as specified in subsection (a) of
 2150 this Code section is found or discovered, whether in transit, in storage, or at a site of
 2151 unlawful distillation or manufacture, by any ~~sheriff, deputy sheriff, revenue agent, or any~~
 2152 ~~other~~ law enforcement officer, it is declared forfeited and shall be subject to the following
 2153 dispositions, ~~or any of them:~~

2154 (1) When found or discovered at a site of unlawful distillation or manufacture, it may be
 2155 summarily destroyed and rendered useless by any ~~of the officers named in this subsection~~
 2156 law enforcement officer without any formal order of the court or, in the event any of the
 2157 raw materials or substances are fit for human consumption or if any of the fixtures,
 2158 implements, or apparatus are of any beneficial use to the educational authorities of the
 2159 county for use in any of their educational programs, they may be delivered to the public
 2160 schools of the county in which seized for use in the schools. When any of the foregoing
 2161 items are delivered to a public school system, the officer delivering the items shall obtain
 2162 from the appropriate school authorities an itemized receipt detailing all items delivered
 2163 to the system and report such information as provided in subsection (g) of Code Section
 2164 9-16-20. In the event any of the foregoing items are destroyed by a law enforcement
 2165 officer, ~~he~~ the officer shall execute an affidavit of such fact in which ~~he shall list~~ all items
 2166 destroyed ~~by him shall be listed~~. The receipts and affidavits shall be maintained by the
 2167 officer and shall be open to inspection by the public upon request; or
 2168 (2) When found or discovered in transit or in storage by any ~~of the officers named in this~~
 2169 ~~subsection~~ law enforcement officer, the property items shall be seized by the officer and
 2170 ~~the procedures of notice, condemnation, and sale provided in Code Section 3-10-11,~~
 2171 ~~applicable to vehicles and conveyances, shall be followed~~ forfeited in accordance with
 2172 the procedures set forth in Chapter 16 of Title 9."

2173 SECTION 3-4.

2174 Title 5 of the Official Code of Georgia Annotated, relating to appeal and error, is amended
 2175 by revising paragraph (8) of subsection (c) of Code Section 5-5-41, relating to requirements
 2176 as to extraordinary motions for new trial generally, as follows:

2177 "(8) If the court orders testing pursuant to this subsection, the court shall determine the
 2178 method of testing and responsibility for payment for the cost of testing, if necessary, and
 2179 may require the petitioner to pay the costs of testing if the court determines that the
 2180 petitioner has the ability to pay. If the petitioner is indigent, the cost shall be paid from
 2181 the fine and bond forfeiture fund as provided in Article 3 of Chapter 5 21 of Title 15."

2182 SECTION 3-5.

2183 Title 7 of the Official Code of Georgia Annotated, relating to banks and banking, is amended
 2184 by revising Code Section 7-1-11, relating to registration of nonresident corporations, as
 2185 follows:

2186 "7-1-11.

2187 Whenever any financial institution or other corporation domiciled outside this state,
 2188 including domestic international banking facilities, international bank agencies,

2189 international bank representative offices, and representative offices of federally and state
2190 chartered financial institutions, is required to register with the department as a prerequisite
2191 to the conduct of business in this state or for the purpose of taking title or liens against
2192 property located in this state, such registration shall be in lieu of further registration
2193 pursuant to ~~Code Section 16-14-15~~ or any other provisions of law."

2194 SECTION 3-6.

2195 Said title is further amended by revising Code Section 7-1-916, relating to forfeiture of
2196 property involved in illegal transactions, as follows:

2197 "7-1-916.

2198 All property of every kind used or intended for use in the course of, derived from, or
2199 realized through a transaction which in fact involves the proceeds of unlawful activity
2200 specified in Chapter 14 of Title 16 or otherwise subject to the provisions of this article shall
2201 be subject to forfeiture to the state. Forfeiture shall be had by the same procedure as is set
2202 forth in ~~Code Section 16-14-7~~ Chapter 16 of Title 9. As used in this Code section, the
2203 terms 'proceeds' and 'property' shall have the same meaning as set forth in Code Section
2204 9-16-2."

2205 SECTION 3-7.

2206 Title 10 of the Official Code of Georgia Annotated, relating to commerce and trade, is
2207 amended by revising subsection (d) of Code Section 10-1-454, relating to forged or
2208 counterfeited trademarks, service marks, or copyrighted or registered designs, as follows:

2209 "(d)(1) The State of Georgia finds and declares that the citizens of this state have a right
2210 to receive those goods and services which they reasonably believe they are purchasing
2211 or for which they contract. The state further finds that the manufacture and sale of
2212 counterfeit goods or goods which are not what they purport to be and the offering of
2213 services through the use of counterfeit service marks constitutes a fraud on the public and
2214 results in economic disruption to the legitimate businesses of this state. In order to
2215 protect the citizens and businesses of this state it is necessary to take appropriate actions
2216 to remove counterfeit goods from the channels of commerce and prevent the
2217 manufacture, sale, and distribution of such goods or the offering of such services through
2218 the use of counterfeit service marks.

2219 (2) As used in this subsection, the terms 'proceeds' and 'property' shall have the same
2220 meanings as set forth in Code Section 9-16-2.

2221 (3) Any property which is, directly or indirectly, used or intended for use in any manner
2222 to facilitate a violation of this Code section and any proceeds derived or realized

2223 therefrom are declared to be contraband and no person shall have a property right in
2224 them.

2225 (4) Any property subject to forfeiture pursuant to paragraph (3) of this subsection shall
2226 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9.

2227 ~~(2) For the purposes expressed in paragraph (1) of this subsection, a person who is~~
2228 ~~convicted of or pleads nolo contendere to a felony offense under this Code section shall~~
2229 ~~forfeit to the State of Georgia such interest as the person may have in:~~

2230 ~~(A) Any goods, labels, products, or other property containing or constituting forged or~~
2231 ~~counterfeit trademarks, service marks, or copyrighted or registered designs or~~
2232 ~~constituting or directly derived from gross profits or other proceeds obtained from such~~
2233 ~~offense;~~

2234 ~~(B) Any property or any interest in any property, including but not limited to any~~
2235 ~~reproduction equipment, scanners, computer equipment, printing equipment, plates,~~
2236 ~~dies, sewing or embroidery equipment, motor vehicle, or other asset, used to commit~~
2237 ~~a violation of this Code section; and~~

2238 ~~(C) Any property constituting or directly derived from gross profits or other proceeds~~
2239 ~~obtained from a violation of this Code section.~~

2240 ~~(3) In any action under this Code section, the court may enter such restraining orders or~~
2241 ~~take other appropriate action, including acceptance of performance bonds, in connection~~
2242 ~~with any interest that is subject to forfeiture.~~

2243 ~~(4) The court shall order forfeiture of property referred to in paragraph (2) of this~~
2244 ~~subsection if the trier of fact determines beyond a reasonable doubt that such property is~~
2245 ~~subject to forfeiture.~~

2246 ~~(5) The provisions of subsection (u) of Code Section 16-13-49 shall apply for the~~
2247 ~~disposition of any property forfeited under this subsection, provided that any property~~
2248 ~~containing a counterfeit trademark, service mark, or copyrighted or registered design~~
2249 ~~shall be destroyed unless the owner of the trademark, service mark, or copyrighted or~~
2250 ~~registered design gives prior written consent to the sale of such property or such~~
2251 ~~trademark, service mark, or copyrighted or registered design is obliterated or removed~~
2252 ~~from such property prior to the disposition thereof. Any forfeited goods which are~~
2253 ~~hazardous to the health, welfare, or safety of the public shall be destroyed. In any~~
2254 ~~disposition of property under this subsection, a person who has been convicted of or who~~
2255 ~~has entered a plea of nolo contendere to a violation of this Code section shall not be~~
2256 ~~permitted to acquire property forfeited by such person.~~

2257 ~~(6) The procedure for forfeiture and disposition of forfeited property under this~~
2258 ~~subsection shall be as provided for forfeitures under Code Section 16-13-49."~~

SECTION 3-8.

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

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

SECTION 3-9.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 3-10.

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

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

2331 ~~violating any provision of this part may have his or her drilling rigs and commercial~~
2332 ~~vehicles confiscated in accordance with Code Section 12-5-137."~~

2333 **SECTION 3-11.**

2334 Said title is further amended by revising Code Section 12-5-137, relating to the procedure
2335 for confiscation and sale of contraband equipment and defenses, as follows:

2336 "12-5-137.

2337 (a) All drilling rigs or commercial vehicles used to drill any well and other equipment used
2338 to drill any well by a person who is not a licensed water well contractor or driller or who
2339 is not acting under the direction of a professional engineer or professional geologist as
2340 required by this part are declared to be contraband subject to forfeiture and confiscation
2341 and seizure by any peace officer, who shall forthwith deliver such rigs and equipment to
2342 the district attorney whose circuit includes the county in which a seizure is made or to his
2343 duly authorized agent within ten days of the seizure in accordance with Chapter 16 of
2344 Title 9.

2345 (b) ~~The district attorney whose circuit includes the county in which the seizure is made,~~
2346 ~~within 30 days after the seizure of any illegal drilling equipment, shall institute proceedings~~
2347 ~~by petition in the superior court of any county where the seizure was made against the~~
2348 ~~property so seized and against any and all persons known to have an interest in or right~~
2349 ~~affected by the seizure or sale of such property. A copy of such petition shall be served~~
2350 ~~upon the owner or lessee of such property, if known, and upon the person or persons~~
2351 ~~having custody or possession of such property at the time of the confiscation or seizure.~~
2352 ~~If the owner or lessee, or person or persons having custody or possession of such property~~
2353 ~~at the time of seizure is unknown, notice of such proceedings shall be published once a~~
2354 ~~week for two consecutive weeks in the newspaper in which sheriff's advertisements of the~~
2355 ~~county are published. Such publication shall be deemed notice to any and all persons~~
2356 ~~having an interest in or right affected by such proceedings and any sale of the property~~
2357 ~~resulting therefrom. If no defense or intervention shall be filed within 30 days from the~~
2358 ~~filing of the petition, judgment by default shall be entered by the court; otherwise the case~~
2359 ~~shall proceed as in other civil cases. Should the drilling equipment be found to be illegal~~
2360 ~~within the sense of this part, the same shall be decreed to be contraband and ordered sold~~
2361 ~~under such terms as the judge in his order may direct. The proceeds arising from such sale~~
2362 ~~shall be applied:~~

2363 (1) ~~To the payment of proper costs and expenses, including expenses incurred in the~~
2364 ~~seizure;~~

2365 (2) ~~To the payment of the cost of the court and its officers;~~

2366 (3) ~~To the payment of any cost incurred in the storage, advertisement, maintenance, or~~
 2367 ~~care of such property; and~~

2368 (4) ~~If any money remains, to the general funds of the county.~~

2369 (c) ~~Where the owner or lessee of any property seized for purpose of condemnation shall~~
 2370 ~~abscond or conceal himself so that the actual notice of the condemnation proceedings~~
 2371 ~~cannot be served upon him, he shall be served by publication as is provided in this Code~~
 2372 ~~section in the case of an unknown owner or lessee.~~

2373 (d) ~~All proceedings against any alleged illegal drilling equipment for the purpose of~~
 2374 ~~condemnation shall be proceedings in rem against the property, and the property shall be~~
 2375 ~~described only in general terms. It is the intent and purpose of the procedure provided by~~
 2376 ~~this Code section to provide a civil remedy for the condemnation and sale of contraband~~
 2377 ~~property.~~

2378 (e) ~~Any party at interest may appear, by answer under oath, and make his defense. The~~
 2379 ~~owner, lessee, security interest holder, or lienholder shall be permitted to defend by~~
 2380 ~~showing that the property seized, if illegally used by another, was used without the~~
 2381 ~~knowledge, connivance, or consent, expressed or implied, of the owner, lessee, security~~
 2382 ~~interest holder, or lienholder. The holder of any bona fide lien on or security interest in the~~
 2383 ~~property shall be protected to the full extent of his lien or security interest, respectively;~~
 2384 ~~provided, however, that nothing contained in this Code section shall be construed to~~
 2385 ~~obligate the district attorney whose circuit includes the county in which a seizure is made~~
 2386 ~~beyond the proceeds of any such sale less the actual costs incurred by him."~~

2387 SECTION 3-12.

2388 Said title is further amended by revising subsection (c) of Code Section 12-8-2, relating to
 2389 dumping sanitary sewer, kitchen, or toilet wastes in storm or sanitary sewers prohibited, as
 2390 follows:

2391 "(c) Any motor vehicle, trailer, and all other ~~articles~~ property and ~~contrivances~~ instruments
 2392 utilized in the hauling, transporting, dumping, placing, or disposition of any contents or
 2393 matter in any public sewer in violation of subsection (a) of this Code section are declared
 2394 to be contraband and shall be subject to ~~seizure, confiscation, and~~ forfeiture according to
 2395 the terms, provisions, conditions, and procedures set out in ~~Code Section 3-10-11, as far~~
 2396 ~~as such terms and procedures can be made to apply~~ Chapter 16 of Title 9."

2397 SECTION 3-13.

2398 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising
 2399 Code Section 15-6-95, relating to priorities of fines, forfeitures, surcharges, additional fees,
 2400 and costs in partial payments into the court, as follows:

2401 "15-6-95.

2402 Notwithstanding any law to the contrary, a clerk of any superior court of this state who
 2403 receives partial payments, as ordered by the court, of criminal fines, bond forfeitures, or
 2404 costs shall distribute ~~said~~ such sums in the order of priority set forth below:

2405 (1) The amount provided for in Chapter 17 of Title 47 for the Peace Officers' Annuity
 2406 and Benefit Fund;

2407 (2) The amount provided for in Chapter 14 of Title 47 for the Superior Court Clerks'
 2408 Retirement Fund of Georgia;

2409 (3) The amount provided for in Chapter 16 of Title 47 for the Sheriffs' Retirement Fund
 2410 of Georgia;

2411 (4) The amounts provided under subparagraphs (a)(1)(A) and (a)(2)(A) of Code Section
 2412 15-21-73;

2413 (5) The amounts provided for under subparagraphs (a)(1)(B) and (a)(2)(B) of Code
 2414 Section 15-21-73;

2415 (6) The amount as may be provided in Chapter 15 of Title 36 for county law libraries;

2416 (7) The surcharge provided for in Chapter 21 of this title for jail construction and
 2417 staffing;

2418 (8) The surcharge provided for in cases of driving under the influence for purposes of
 2419 state crime victim compensation under Code Section 15-21-112;

2420 (9) The application fee provided for in subsection (c) of Code Section 15-21A-6;

2421 (10) The balance of the fine shall be paid to the county; and

2422 (11) After the final partial or installment payment, the surcharge provided for in Code
 2423 Sections 15-21-100 and 15-21-101 for the Drug Abuse Treatment and Education Fund."

2424 **SECTION 3-14.**

2425 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is
 2426 amended by revising Code Section 17-5-51, relating to forfeiture of weapons used in
 2427 commission of crime, possession of which constitutes crime or delinquent act, or illegal
 2428 concealment generally, motor vehicles, definitions, and return of firearm to innocent owner,
 2429 as follows:

2430 "17-5-51.

2431 ~~(a) Any~~ Except as provided in subsection (c) of this Code section, any device which is
 2432 used as a weapon in the commission of any crime against any person or any attempt to
 2433 commit any crime against any person, any weapon the possession or carrying of which
 2434 constitutes a crime or delinquent act, and any weapon for which a person has been
 2435 convicted of violating Code Section 16-11-126 are declared to be contraband and ~~are~~ shall
 2436 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9,

2437 ~~notwithstanding the time frames set forth in Code Section 9-16-8. For the purposes of this~~
2438 ~~article, a motor vehicle shall not be deemed to be a weapon or device and shall not be~~
2439 ~~contraband or forfeited under this article; provided, however, that this exception shall not~~
2440 ~~be construed to prohibit the seizure, condemnation, and sale of motor vehicles used in the~~
2441 ~~illegal transportation of alcoholic beverages.~~

2442 ~~(b) As used in this Code section, the term:~~

2443 ~~(1) 'Firearm' shall have the same meaning as set forth in Code Section 16-11-171.~~

2444 ~~(2) 'Innocent owner' means a person who:~~

2445 ~~(A) Did not beforehand know or in the exercise of ordinary care would not have known~~
2446 ~~of the conduct which caused his or her firearm to be forfeited, seized, or abandoned to~~
2447 ~~any law enforcement agency of this state or a political subdivision of this state,~~
2448 ~~including the Department of Natural Resources;~~

2449 ~~(B) Did not participate in the commission of a crime or delinquent act involving his or~~
2450 ~~her firearm;~~

2451 ~~(C) Legally owned and presently owns the firearm forfeited, seized, or abandoned; and~~

2452 ~~(D) Is authorized by state and federal law to receive and possess his or her firearm.~~

2453 ~~(c) A firearm that is the property of an innocent owner shall be returned to such person~~
2454 ~~when such firearm is no longer needed for evidentiary purposes.~~

2455 ~~(d) The costs of returning the firearm to the innocent owner shall be borne by the innocent~~
2456 ~~owner. Such costs shall be limited to the actual costs of shipping and associated costs from~~
2457 ~~any transfer and background check fees charged when delivering the firearm to the~~
2458 ~~innocent owner.~~

2459 ~~(e) If six months elapse after notification to the innocent owner of the possession of the~~
2460 ~~firearm by a political subdivision or state custodial agency and the innocent owner fails to~~
2461 ~~bear the costs of return of his or her firearm or fails to respond to the political subdivision~~
2462 ~~or state custodial agency, then the political subdivision or state custodial agency may~~
2463 ~~follow the procedures under subsection (d) of Code Section 17-5-52.1."~~

2464 **SECTION 3-15.**

2465 Said title is further amended by revising Code Section 17-5-52, relating to sale or destruction
2466 of weapons used in commission of crime or delinquent act involving possession, sale of
2467 weapons not the property of the defendant, disposition of proceeds of sale, and record
2468 keeping, as follows:

2469 "17-5-52.

2470 (a) When a final judgment is entered finding a defendant guilty of the commission or
2471 attempted commission of a crime against any person or guilty of the commission of a crime
2472 or delinquent act involving the illegal possession or carrying of a weapon, any device

which was used as a weapon in the commission of the crime or delinquent act shall be turned over by the person having custody of the weapon or device to the sheriff, chief of police, or other executive officer of the law enforcement agency that originally confiscated the weapon or device when the weapon or device is no longer needed for evidentiary purposes. ~~Within~~ With the exception of firearms, as such term is defined in Code Section 17-5-51, which shall be disposed of in accordance with Code Section 17-5-52.1, within 90 days after receiving the weapon or device, the sheriff, chief of police, or other executive officer of the law enforcement agency shall retain the weapon or device for use in law enforcement, destroy the same, or sell the weapon or device pursuant to judicial sale as provided in Article 7 of Chapter 13 of Title 9 or by any commercially feasible means, provided that if the weapon or device used as a weapon in the crime is not the property of the defendant, there shall be no forfeiture of such weapon or device return or sell the weapon as provided in Code Section 17-5-54, or if the weapon or device is subject to forfeiture, the procedures set forth in Chapter 16 of Title 9 shall be followed notwithstanding the time frames set forth in Code Section 9-16-8. A state attorney seeking forfeiture under this Code section shall initiate forfeiture proceedings within 60 days of the entry of a final judgment as contemplated by this Code section; the remaining provisions of Chapter 16 of Title 9 shall be applicable.

~~(b) The proceeds derived from all sales of such weapons or devices, after deducting the costs of the advertising and the sale, shall be turned in to the treasury of the county or the municipal corporation that sold the weapon or device. The proceeds derived from the sale of such weapons or devices confiscated by a state law enforcement agency shall be paid into the state treasury.~~

~~(c) Any law enforcement agency that retains, destroys, or sells any weapon or device pursuant to this Code section shall maintain records that include an accurate description of each weapon or device along with records of whether each weapon or device was retained, sold, or destroyed."~~

SECTION 3-16.

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

"17-5-52.1.

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

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

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

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

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

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

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

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

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

2546 because any federal or state law prohibits the sale or distribution of such firearm. Any such
 2547 firearm shall, at the discretion of the sheriff, chief of police, agency director, or designee
 2548 of such official, be transferred to the Division of Forensic Sciences of the Georgia Bureau
 2549 of Investigation, a municipal or county law enforcement forensic laboratory for training or
 2550 experimental purposes, or be destroyed.

2551 (g) All agencies subject to the provisions of this Code section shall keep records of the
 2552 firearms acquired and disposed of as provided by this Code section as well as records of
 2553 the proceeds of the sales thereof and the disbursement of such proceeds in accordance with
 2554 records retention schedules adopted in accordance with Article 5 of Chapter 18 of Title 50,
 2555 the 'Georgia Records Act.'

2556 (h) Neither the state nor any political subdivision of the state nor any of its officers, agents,
 2557 or employees shall be liable to any person, including the purchaser of a firearm, for
 2558 personal injuries or damage to property arising from the sale of a firearm under this Code
 2559 section unless the state or political subdivision acted with gross negligence or willful or
 2560 wanton misconduct."

2561 SECTION 3-17.

2562 Said title is further amended by revising Code Section 17-5-54, relating to disposition of
 2563 personal property in custody of law enforcement agencies, as follows:

2564 "17-5-54.

2565 (a) As used in this Code section, the term:

2566 (1) 'Firearm' means any handgun, rifle, shotgun, or similar device or weapon which will
 2567 or can be converted to expel a projectile by the action of an explosive or electrical charge.

2568 (2) 'Law enforcement agency' means a law enforcement agency of this state or a political
 2569 subdivision of this state, including the Department of Natural Resources.

2570 (3) 'Rightful owner' means a person claiming ownership of property which is the subject
 2571 of a crime or has been abandoned.

2572 (b) This Code section shall not apply to:

2573 (1) Personal property which is the subject of forfeiture proceedings as otherwise
 2574 provided by law;

2575 (2) Any property which is the subject of a disposition pursuant to Code Sections 17-5-50
 2576 through 17-5-53; and

2577 (3) Any abandoned motor vehicle for which the provisions of Chapter 11 of Title 40 are
 2578 applicable.

2579 ~~(a)(c)~~(1) Except as provided in Chapter 16 of Title 9, Code Sections 17-5-55 and
 2580 17-5-56, and ~~subsections (d), (e), and (f)~~ subsection (b) of this Code section, when a law
 2581 enforcement agency assumes custody of any personal property which is the subject of a

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

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

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

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

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

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

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

(3) Not claimed pursuant to subsection (c) of this Code section

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

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

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

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

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

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

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

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

(2) Otherwise, an unclaimed firearm:

2656 (A) Possessed by a municipal corporation shall be disposed of as provided for in Code
2657 Section 36-37-6; provided, however, that municipal corporations shall not have the
2658 right to reject any bids or to cancel any proposed sale of such firearms, and all sales
2659 shall be to persons who are licensed as firearms collectors, dealers, importers, or
2660 manufacturers under the provisions of 18 U.S.C. Section 921, et seq., and Chapter 16
2661 of Title 43 and who are authorized to receive such firearms under the terms of such
2662 license; or

2663 (B) Possessed by the state or a political subdivision other than a municipal corporation,
2664 shall be disposed of by sale at public auction to persons who are licensed as firearms
2665 collectors, dealers, importers, or manufacturers under the provisions of 18 U.S.C.
2666 Section 921, et seq., and Chapter 16 of Title 43 and who are authorized to receive such
2667 firearms under the terms of such license. Auctions required by this subparagraph may
2668 occur online on a rolling basis or at live events, but in no event shall such auctions
2669 occur less frequently than once every six months during any time in which the political
2670 subdivision or state custodial agency has an inventory of salable firearms.

2671 (3) If no bids from eligible recipients are received within six months from when bidding
2672 opened on a firearm offered for sale pursuant to paragraph (2) of this subsection, the
2673 firearm shall be transferred to the Division of Forensic Sciences of the Georgia Bureau
2674 of Investigation, a municipal or county law enforcement forensic laboratory for training
2675 or experimental purposes, or be destroyed.

2676 ~~(b)~~(h) Records shall be maintained showing the manner in which each personal
2677 property item came into possession of the law enforcement agency, a description of the
2678 property, all efforts to locate the owner, any case or docket number, the date of publication
2679 of any newspaper notices, and the date on which the property was retained by the law
2680 enforcement agency, sold, or discarded. All agencies subject to the provisions of this Code
2681 section shall keep records of the firearms acquired and disposed of as provided by this
2682 Code section as well as records of the proceeds of the sales thereof and the disbursement
2683 of such proceeds in accordance with records retention schedules adopted in accordance
2684 with Article 5 of Chapter 18 of Title 50, the 'Georgia Records Act.'

2685 ~~(c)~~(i) The proceeds from the sale of personal property by the sheriff or other county law
2686 enforcement agency pursuant to this Code section shall be paid into the general fund of the
2687 county treasury. The proceeds from the sale of personal property by a municipal law
2688 enforcement agency pursuant to this Code section shall be paid into the general fund of the
2689 municipal treasury. The proceeds from the sale of personal property by a state agency
2690 pursuant to this Code section shall be paid into the general fund of the state.

2691 ~~(d) The provisions of this Code section shall not apply to personal property which is the~~
2692 ~~subject of forfeiture proceedings as otherwise provided by law.~~

2693 ~~(e) The provisions of this Code section shall not apply to any property which is the subject~~
2694 ~~of a disposition pursuant to Code Sections 17-5-50 through 17-5-53.~~
2695 ~~(f) The provisions of this Code section shall not apply to any abandoned motor vehicle for~~
2696 ~~which the provisions of Chapter 11 of Title 40 are applicable.~~
2697 (j) Neither the state nor any political subdivision of the state nor any of its officers, agents,
2698 or employees shall be liable to any person, including the purchaser of a firearm, for
2699 personal injuries or damage to property arising from the sale of a firearm under subsection
2700 (g) of this Code section unless the state or political subdivision acted with gross negligence
2701 or willful or wanton misconduct."

2702 **SECTION 3-18.**

2703 Title 27 of the Official Code of Georgia Annotated, relating to game and fish, is amended by
2704 revising subparagraph (b)(3)(B) of Code Section 27-3-12, relating to unlawful substances and
2705 equipment relating to hunting, as follows:

2706 "(B) Any equipment used or intended for use in a violation of this Code section,
2707 excluding motor vehicles, is declared to be contraband and shall be forfeited to the state
2708 in accordance with the procedures set forth in Chapter 16 of Title 9."

2709 **SECTION 3-19.**

2710 Said title is further amended by revising subsection (c) of Code Section 27-3-26, relating to
2711 hunting bears, as follows:

2712 "(c) Any person violating the provisions of this Code section is shall be guilty of a
2713 misdemeanor of a high and aggravated nature, and, upon conviction, may be punished by
2714 a fine of not less than \$500.00 and not to exceed nor more than \$5,000.00, or by
2715 confinement for a term not to exceed 12 months, or both. The court may order that
2716 restitution be paid to the department of not less than \$1,500.00 for each bear or bear part
2717 which is the subject of a violation of this Code section. Any equipment which is used or
2718 intended for use in a violation of this Code section, excluding motor vehicles, is declared
2719 to be contraband and is forfeited to the state in accordance with the procedures set forth in
2720 Chapter 16 of Title 9. The hunting and fishing privileges of any person convicted of
2721 violating the provisions of this Code section shall be suspended for three years."

2722 **SECTION 3-20.**

2723 Said title is further amended by revising subsection (a.1) of Code Section 27-4-133, relating
2724 to lawful net fishing for shrimp, as follows:

2725 "(a.1)(1) It shall be unlawful to fish for shrimp for human consumption with any trawl
2726 or trawls having a total foot-rope length greater than 220 feet, not including the foot-rope

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

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

SECTION 3-21.

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

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

SECTION 3-22.

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

"27-4-137.

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

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

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

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

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

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

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

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

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

2798 (1) Forfeiture shall only be done in accordance with Code Section 9-16-13 and the
 2799 property shall be described only in general terms; and
 2800 (2) The holder of any bona fide lien on the property shall be protected to the full extent
 2801 of his the lien, but only if the lien was perfected prior to the filing by the department of
 2802 the affidavit provided for in paragraph (3) of subsection (a) of Code Section 27-4-134,
 2803 provided that nothing contained in this Code section shall be construed to obligate the
 2804 district attorney whose circuit includes the county in which a seizure is made the state
 2805 shall not be obligated beyond the proceeds of any such sale less the actual costs incurred
 2806 by him.
 2807 ~~(e) The court to which any such petition for condemnation may be referred may, in its~~
 2808 ~~discretion, allow any party at interest to give bond and take possession of the equipment~~
 2809 ~~seized. The court shall determine whether the bond shall be a forthcoming bond or an~~
 2810 ~~eventual condemnation money bond and shall determine the amount of such bond. The~~
 2811 ~~enforcement of any bond so given shall be regulated by the general law applicable in such~~
 2812 ~~cases.~~
 2813 ~~(f) The court shall have full discretion and authority to permit a settlement between the~~
 2814 ~~parties at any stage of the proceedings by permitting to be paid into court the value of the~~
 2815 ~~equipment or the value of the equity therein, as determined by the court, which money,~~
 2816 ~~when so paid in, shall be distributed as provided by law in all cases of condemnation.~~
 2817 ~~(g)~~(b) The Attorney General may, upon the request of the commissioner, aid the district
 2818 attorney in the in rem proceeding arising from any seizure or confiscation of property."

2819 SECTION 3-23.

2820 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
 2821 by revising subsection (e) of Code Section 36-80-21, relating to electronic transmissions of
 2822 budgets, as follows:

2823 "(e) Concurrent with the submission of the annual report by local law enforcement
 2824 agencies required by ~~division (u)(4)(D)(iii) of Code Section 16-13-49~~ subsection (g) of
 2825 Code Section 9-16-20, a copy of such report shall be electronically transmitted in a
 2826 Portable Document Format (PDF) file to the Vinson Institute and posted on the website by
 2827 the Vinson Institute as soon as practicable."

2828 SECTION 3-24.

2829 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles, is amended
 2830 by revising Code Section 40-6-391.2, relating to seizure and forfeiture of motor vehicles
 2831 operated by habitual violators, as follows:

2832 "40-6-391.2.

2833 (a) ~~Any~~ Except as provided in this Code section, any motor vehicle operated by a person
2834 who has been declared a habitual violator for three violations of Code Section 40-6-391
2835 and, whose license has been revoked, and who is arrested and charged with a violation of
2836 Code Section 40-6-391; is declared to be contraband and subject to forfeiture ~~to the state,~~
2837 as provided in this Code section, provided that said forfeiture shall not be absolute unless
2838 the defendant is finally convicted of such offense in accordance with the procedures set
2839 forth in Chapter 16 of Title 9.

2840 (b) ~~Any motor vehicle subject to forfeiture under subsection (a) of this Code section shall~~
2841 ~~be seized immediately upon discovery by any law enforcement officer, peace officer, or~~
2842 ~~law enforcement agency of this state or any political subdivision thereof who has the power~~
2843 ~~to make arrests and whose duty it is to enforce this article, that said motor vehicle has been~~
2844 ~~declared contraband. Said motor vehicle shall be delivered within 20 days to the district~~
2845 ~~attorney whose circuit includes the county in which a seizure is made or to his duly~~
2846 ~~authorized agent. At any time subsequent to the seizure, the chief officer of the seizing~~
2847 ~~agency, his designee, or the district attorney may release the vehicle upon bond being~~
2848 ~~posted in like manner as authorized in subsection (e) of this Code section.~~

2849 (c) ~~Within 60 days from the date of the seizure, the district attorney of the judicial circuit,~~
2850 ~~or the director on his behalf, shall cause to be filed in the superior court of the county in~~
2851 ~~which the motor vehicle is seized or detained an action for condemnation of such motor~~
2852 ~~vehicle. The proceedings shall be brought in the name of the state by the district attorney~~
2853 ~~of the circuit in which the motor vehicle was seized, and the action shall be verified by a~~
2854 ~~duly authorized agent of the state in a manner required by the law of this state. The action~~
2855 ~~shall describe the motor vehicle and state its location, present custodian, and the name of~~
2856 ~~the owner, if known, to the duly authorized agent of the state; allege the essential elements~~
2857 ~~of the violation which is claimed to exist; and conclude with a prayer of due process to~~
2858 ~~enforce the forfeiture. Upon the filing of such an action, the court shall promptly cause~~
2859 ~~process to issue to the present custodian in possession of the motor vehicle described in the~~
2860 ~~action, commanding him to seize the motor vehicle in the action and to hold that motor~~
2861 ~~vehicle for further order of the court. The owner, lessee, or any person having a duly~~
2862 ~~recorded security interest in or lien on such motor vehicle shall be notified by any means~~
2863 ~~of service provided for in Title 9 or by delivery of a copy of the complaint and summons~~
2864 ~~by certified mail or statutory overnight delivery to said owner or lienholder or a person of~~
2865 ~~suitable age or discretion having charge of said owner's premises. For purposes of this~~
2866 ~~subsection, where forfeiture of a motor vehicle titled or registered in Georgia is sought,~~
2867 ~~notice to the titleholder shall be deemed adequate if a copy of the complaint and summons~~
2868 ~~is mailed by certified mail or statutory overnight delivery to the titleholder at the address~~

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

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

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

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

2905 ~~(f) If no defense or intervention is filed within 30 days from the date of service on the~~
2906 ~~condemnee of the petition, judgment shall be entered by the court and the motor vehicle~~
2907 ~~shall be sold. The court may direct that such property be sold by:~~

2908 ~~(1) Judicial sale as provided in Article 7 of Chapter 13 of Title 9; provided, however, that~~
2909 ~~the court may establish a minimum acceptable price for such property; or~~

2910 ~~(2) Any commercially feasible means.~~

2911 ~~(g) The proceeds arising from such sale shall be deposited into the general treasury of the~~
2912 ~~state or any other governmental unit whose law enforcement agency it was that originally~~
2913 ~~seized the motor vehicle. It is the intent of the General Assembly that, where possible,~~
2914 ~~proceeds deposited into the state treasury should be used and that proceeds vested in any~~
2915 ~~local governmental unit shall be applied to fund alcohol or drug treatment, rehabilitation,~~
2916 ~~and prevention and education programs, after making the necessary expenditures for:~~

2917 ~~(1) Any costs incurred in the seizure;~~

2918 ~~(2) The costs of the court and its officers; and~~

2919 ~~(3) Any cost incurred in the storage, advertisement, maintenance, or care of the motor~~
2920 ~~vehicle.~~

2921 ~~(h) The interest of an owner, lessee, security interest holder, or lienholder shall not be~~
2922 ~~subject to forfeiture unless the condemnor shows by a preponderance of evidence that such~~
2923 ~~person knew or reasonably should have known that the operator was a habitual violator as~~
2924 ~~set forth in subsection (a) of this Code section and knew or reasonably should have known~~
2925 ~~that such person would operate or was operating the vehicle while in violation of Code~~
2926 ~~Section 40-6-391.~~

2927 ~~(i)~~(b) In any case where a vehicle which is the only family vehicle is determined to be
2928 subject to forfeiture, the court may, if it determines that the financial hardship to the family
2929 as a result of the forfeiture and sale outweighs the benefit to the state from such forfeiture,
2930 order the title to the vehicle transferred to such other family member who is a duly licensed
2931 operator and who requires the use of such vehicle for employment or family transportation
2932 purposes. Such transfer shall be subject to any valid liens and shall be granted only once."

2933 **SECTION 3-25.**

2934 Said title is further amended by revising Article 2 of Chapter 11, relating to forfeiture of
2935 vehicles and components, as follows:

"ARTICLE 2

40-11-20.

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

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

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

40-11-21.

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

~~40-11-22.~~

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

2970 ~~two weeks in the newspaper in which the sheriff's advertisements are published. Such~~
2971 ~~publication shall be deemed notice to any and all persons having an interest in or right~~
2972 ~~affected by such proceeding and from any sale of the property resulting therefrom but shall~~
2973 ~~not constitute notice to any person having a duly recorded security interest in or lien upon~~
2974 ~~such property and required to be served under this Code section unless that person is~~
2975 ~~unknown or resides out of the state or departs the state or cannot after due diligence be~~
2976 ~~found within the state or conceals himself or herself to avoid service. At the expiration of~~
2977 ~~30 days after such filing, if no claimant has appeared to defend the action, the court shall~~
2978 ~~order the disposition of the seized property as provided for in this Code section. If the~~
2979 ~~owner of the property appears and defends the action and can show that he or she was~~
2980 ~~unaware of the fact that the identification number had been removed, altered, defaced,~~
2981 ~~falsified, or destroyed, the court shall order the property returned to the owner upon the~~
2982 ~~owner's paying proper expenses relating to proceedings for forfeiture, including the~~
2983 ~~expenses of the maintenance of custody, advertising, and court costs and upon the~~
2984 ~~property's being assigned a new identification number as provided in this article.~~

2985 ~~40-11-23.~~

2986 ~~Except as otherwise provided in this article, when property is forfeited under this article,~~
2987 ~~the court may:~~

2988 ~~(1) Order that the property be retained by the law enforcement agency or the county in~~
2989 ~~which the property is located; or~~

2990 ~~(2) Order that the property be disposed of by sale, the proceeds of which shall be used~~
2991 ~~to pay the proper expenses relating to the proceedings for forfeiture, including the~~
2992 ~~expenses of maintenance of custody, advertising, and court costs, with the remaining~~
2993 ~~funds to be paid into the general fund of the county.~~

2994 ~~40-11-24.~~

2995 ~~Prior to the property's being sold or returned to the owner or otherwise disposed of, the~~
2996 ~~Department of Revenue shall assign it a new identification number. If the property is to~~
2997 ~~be returned to the owner, the court shall order that such return is conditioned on the owner~~
2998 ~~paying the expenses relating to the civil forfeiture, including the expenses of maintenance~~
2999 ~~of custody, advertising, and court costs.~~

3000 SECTION 3-26

3001 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,
3002 is amended by revising Code Section 45-15-10, relating to the Attorney General's authority

3003 to prosecute officials, persons, firms, or corporations for violations while dealing with or for
3004 the state, as follows:

3005 "45-15-10.

3006 The Attorney General, as the head of the Department of Law and the chief legal officer of
3007 the state, is authorized to prosecute in the criminal courts of this state any official, person,
3008 firm, or corporation which violates any criminal statute while dealing with or for the state
3009 or any official, employee, department, agency, board, bureau, commission, institution, or
3010 appointee thereof; and the Attorney General is authorized to call upon the district attorney
3011 or the prosecuting officer of any state court to assist in or to conduct such prosecution; and,
3012 when so requested by the Attorney General, it shall be the duty of any such district attorney
3013 or prosecuting officer of this state to assist in or to conduct such prosecution for and on
3014 behalf of the Attorney General and the state. The Attorney General shall be authorized to
3015 commence civil forfeiture proceedings pursuant to Code Section 16-14-7 whenever he or
3016 she is authorized to prosecute a case pursuant to this Code section."

3017 **SECTION 3-27.**

3018 Title 46 of the Official Code of Georgia Annotated, relating to public utilities and public
3019 transportation, is amended by revising Code Section 46-9-253, relating to transportation of
3020 gunpowder, dynamite, or other explosives, as follows:

3021 "46-9-253.

3022 Any person who causes more than five pounds of gunpowder, or any amount of dynamite
3023 or other dangerous explosive, to be transported upon water, by railroad, or otherwise shall
3024 have the word 'Gunpowder,' 'Dynamite,' or other name of the explosive marked in large
3025 letters upon each package so transported. Gunpowder, dynamite, or other dangerous
3026 explosive transported in violation of ~~said provision shall be liable to seizure and forfeiture~~
3027 ~~by any officer who may execute a criminal warrant, under warrant for that purpose, issued~~
3028 ~~by any officer who may issue such first-named warrants, one-half of the same to go to the~~
3029 ~~informer, the other half to go to the military fund of the state, after public sale by order of~~
3030 ~~the officer issuing the warrant, or one of like authority~~ this Code section are declared
3031 contraband and shall be forfeited in accordance with the procedures set forth in Chapter 16
3032 of Title 9."

3033 **SECTION 3-28.**

3034 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
3035 amended by revising subsection (b) of Code Section 48-4-61, relating to land bank authority
3036 established by interlocal cooperation agreement, as follows:

3037 "(b) The authority shall be a public body corporate and politic with the power to sue and
 3038 be sued, to accept and issue deeds in its name, including without limitation the acceptance
 3039 of real property in accordance with the provisions of ~~paragraph (2.1) of subsection (u) (f)~~
 3040 of Code Section ~~16-13-49~~ 9-16-20, and to institute quia timet actions and shall have any
 3041 other powers necessary and incidental to carry out the powers granted by this article."

3042 SECTION 3-29.

3043 Title 52 of the Official Code of Georgia Annotated, relating to waters of the state, ports, and
 3044 watercraft, is amended by revising Code Section 52-7-7.3, relating to seizure of vessels
 3045 without hull identification numbers, seizure of related property, and inspections, as follows:
 3046 "52-7-7.3.

3047 (a) If the hull identification number on a vessel required by Code Section 52-7-7.1 or
 3048 52-7-7.2 to have a hull identification number does not exist or has been altered, removed,
 3049 destroyed, covered, or defaced or the real identity of the vessel cannot be determined, the
 3050 vessel, and any items used while towing ~~said~~ such vessel, may be seized as contraband
 3051 ~~property~~ by a law enforcement agency or the department and shall be subject to forfeiture
 3052 in accordance with the procedures set forth in Chapter 16 of Title 9.

3053 (b) A Such vessel described in subsection (a) of this Code section shall not be sold or
 3054 operated on the waters of the state unless the department:

- 3055 (1) Receives a request from a law enforcement agency providing adequate
 3056 documentation for a replacement hull identification number; or
 3057 (2) Is directed by written order of a court of competent jurisdiction to issue to the vessel
 3058 a replacement hull identification number.

3059 ~~Thereafter, the replacement HIN shall be used for identification purposes. No vessel shall~~
 3060 ~~be forfeited if the owner was unaware the vessel's HIN had been altered, removed,~~
 3061 ~~destroyed, covered, or defaced.~~

3062 ~~(b)(c)~~ The failure to have the hull identification number clearly displayed in compliance
 3063 with this article shall be probable cause for any law enforcement officer to make further
 3064 inspection of the vessel in question to ascertain the true identity thereof.

3065 (d) Prior to the vessel being sold or returned to the owner or otherwise disposed of, the
 3066 department shall assign it a new hull identification number in accordance with federal law."

3067 SECTION 3-30.

3068 Said title is further amended by revising Code Section 52-7-7.4, relating to property not
 3069 subject to replevin, as follows:

3070 "52-7-7.4.

3071 ~~(a) Property subject to forfeiture under Code Section 52-7-7.3 and in the possession of any~~
3072 ~~state or local law enforcement agency shall not be subject to replevin but shall be deemed~~
3073 ~~to be in the custody of the superior court of the county wherein the property is located~~
3074 ~~subject only to the orders and decrees of the court having jurisdiction over the forfeiture~~
3075 ~~proceedings.~~

3076 ~~(b) The law enforcement agency having possession of any property subject to forfeiture~~
3077 ~~under Code Section 52-7-7.3 shall report such fact within ten days of taking possession to~~
3078 ~~the district attorney of the judicial circuit having jurisdiction in the county where the~~
3079 ~~property is located. Within 30 days from the date he or she receives such notice, the~~
3080 ~~district attorney of the judicial circuit shall file in the superior court of the county in which~~
3081 ~~the property is located an action for condemnation of the property. The proceedings shall~~
3082 ~~be brought in the name of the state, and the action shall be verified by a duly authorized~~
3083 ~~agent of the state in the manner required by law. The action shall describe the property,~~
3084 ~~state its location, state its present custodian, state the name of the owner, if known, state~~
3085 ~~the duly authorized agent of the state, allege the essential elements which are claimed to~~
3086 ~~exist, and shall conclude with a prayer of due process to enforce the forfeiture. Upon the~~
3087 ~~filing of such an action, the court shall promptly cause process to issue to the present~~
3088 ~~custodian in possession of the property described in the action, commanding him or her to~~
3089 ~~seize the property described in the action and to hold that property for further order of the~~
3090 ~~court. A copy of the action shall be served on the owner, if known. If the owner is known,~~
3091 ~~a copy of the action shall also be served upon any person having a duly recorded security~~
3092 ~~interest in or lien upon that property. If the owner is unknown or resides out of the state~~
3093 ~~or departs the state or cannot after due diligence be found within the state or conceals~~
3094 ~~himself or herself so as to avoid service, notice of the proceedings shall be published once~~
3095 ~~a week for two weeks in the newspaper in which the sheriff's advertisements are published.~~
3096 ~~Such publication shall be deemed notice to any and all persons having an interest in or right~~
3097 ~~affected by such proceeding and from any sale of the property resulting therefrom but shall~~
3098 ~~not constitute notice to any person having a duly recorded security interest in or lien upon~~
3099 ~~such property and required to be served under this Code section unless that person is~~
3100 ~~unknown or resides out of the state or departs the state or cannot after due diligence be~~
3101 ~~found within the state or conceals himself or herself to avoid service. At the expiration of~~
3102 ~~30 days after such filing, if no claimant has appeared to defend the action, the court shall~~
3103 ~~order the disposition of the seized property as provided for in this Code section. If the~~
3104 ~~owner of the vessel appears and defends the action and can show that he or she was~~
3105 ~~unaware of the fact that the hull identification number had been removed, altered, defaced,~~
3106 ~~falsified, or destroyed, the court shall order the property returned to the owner upon the~~

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

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

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

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

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

Reserved."

SECTION 3-31.

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

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

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

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

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

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

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

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

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

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

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

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

- 3143 (12) Code Section 27-1-14, relating to disposition of fines and forfeitures;
3144 (13) Code Section 36-30-9, relating to compensation of law enforcement officers;
3145 (14) Code Section 36-31-8, relating to transition periods for governmental functions;
3146 (15) Code Section 36-32-6, relating to relating to jurisdiction in marijuana possession cases;
3147 (16) Code Section 36-32-7, relating to jurisdiction in cases of operating a motor vehicle
3148 without effective insurance;
3149 (17) Code Section 36-32-8, relating to jurisdiction of cases of operating a motor vehicle
3150 without emission inspection;
3151 (18) Code Section 36-32-9, relating to jurisdiction of cases of shoplifting;
3152 (19) Code Section 36-32-10, relating to jurisdiction of cases of furnishing alcoholic
3153 beverages to and purchase and possession of alcoholic beverages by underage persons;
3154 (20) Code Section 36-32-10.1, relating to jurisdiction in counties without state court to try
3155 violations of Code Section 16-7-21;
3156 (21) Code Section 36-35-6, relating to limitation on home rule powers;
3157 (22) Code Section 38-2-464, relating to payment of fines;
3158 (23) Code Section 40-5-124, relating to jurisdiction of offenses;
3159 (24) Code Section 40-13-22, relating to jurisdiction over offenses under Code Section
3160 40-2-8;
3161 (25) Code Section 40-16-7, relating to budget of the Department of Driver Services; and
3162 (26) Code Section 42-9-45, relating to general rule-making power of the State Board of
3163 Pardons and Paroles.

3164 **SECTION 3-32.**

- 3165 The following Code sections of the Official Code of Georgia Annotated are amended by
3166 replacing "fine and forfeitures fund", "fines and forfeitures fund", and "fine and forfeiture
3167 fund" wherever such terms occur with "fine and bond forfeiture fund":
3168 (1) Code Section 4-3-8, relating to return and disposition of proceeds of sale;
3169 (2) Code Section 15-21-5, relating to procedure for filing and payment of claims of officers
3170 of court where defendant acquitted or person liable for payment of costs is insolvent;
3171 (3) Code Section 15-21-50, relating to limitation period for claims against fine and forfeiture
3172 fund;
3173 (4) Code Section 15-21-51, relating to the procedure for extension of limitation period;
3174 (5) Code Section 15-21-52, relating to payment into county treasury of funds received as
3175 part of fine and forfeiture fund;
3176 (6) Code Section 15-21-54, relating to creation of claim for benefit of county against fine
3177 and forfeiture fund;

- 3178 (7) Code Section 15-21-55, relating to disposition of funds remaining after claims against
3179 fine and forfeiture fund paid or barred by limitation;
- 3180 (8) Code Section 15-21-56, relating to proceedings by persons claiming interest in fine and
3181 forfeiture fund;
- 3182 (9) Code Section 24-13-132, relating to appointment of counsel and payment of costs and
3183 expenses;
- 3184 (10) Code Section 36-15-9, relating to collection of additional costs in court cases; and
- 3185 (11) Code Section 40-16-7, relating to budget of the Department of Driver Services.

3186 **PART IV**

3187 **EFFECTIVE DATE, APPLICABILITY, AND REPEALER**

3188 **SECTION 4-1.**

3189 This Act shall become effective on July 1, 2013, and shall apply to seizures of property for
3190 forfeiture that occur on or after that date. Any such seizure that occurs before July 1, 2013,
3191 shall be governed by the statute in effect at the time of such seizure.

3192 **SECTION 4-2.**

3193 All laws and parts of laws in conflict with this Act are repealed.