

**IN THE MAGISTRATE COURT OF DOUGLAS COUNTY  
STATE OF GEORGIA**

\_\_\_\_\_  
Plaintiff

VS

\_\_\_\_\_  
Case Number

\_\_\_\_\_  
Motor Vehicle

\_\_\_\_\_  
Vehicle Identification Number

\_\_\_\_\_  
Tag Number

**Abandoned Motor Vehicle Checklist**

The following copies are attached:

\_\_\_\_\_ One (1) copy of Abandoned Motor Vehicle Checklist;

\_\_\_\_\_ One (1) copy of Judgment;

\_\_\_\_\_ One (1) copy of the Affidavit for Foreclosure of Abandoned Motor Vehicle;

\_\_\_\_\_ One (1) copy of request from law enforcement requesting name and address of owner and one (1) copy of their reply;

\_\_\_\_\_ One (1) copy of MV-603 from the Department of Motor Vehicle;

\_\_\_\_\_ One (1) copy of Georgia Motor Vehicle Division Vehicle, Title and Tag Information;

\_\_\_\_\_ One (1) copy of T-22B form completed by law enforcement;

\_\_\_\_\_ One (1) copy of letter sent to owner(s), lessor(s), lessee(s), security interest holder(s), and lienholder(s) by certified mail and one (1) copy of certified letter return receipt or unclaimed mail;

--- or ---

\_\_\_\_\_ One (1) copy of affidavit from paper of general circulation with copy of advertisement;

\_\_\_\_\_ If vehicle repaired, proof showing date vehicle was dropped off for repairs and date the vehicle was to be picked up.

\*\*\* After the sale of the vehicle, please submit the Report of Sale Or  
Disposition of Abandoned Motor Vehicle along with a copy of the Bill of Sale. \*\*\*

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**JUDGMENT**

Last known registered owner and lienholder: \_\_\_\_\_  
\_\_\_\_\_

The above-styled case having come before this Court, and the last known registered owner and/or lienholder having  made  not made an appearance in the above-captioned case, and service having been perfected according to law:

- initial notice was sent within seven days of date vehicle removed to last known registered owner and/or lienholder; or  last known registered owner/lienholder are unknown;
- thirty days have passed since removal;
- notice has been given to Department of Revenue;
- demand made by certified mail to last known registered owner/lienholder for payment; or  last known registered owner/lienholder are unknown;
- more than ten days have passed since this action was filed with notice as required;
- action filed within one year from date lien recorded or vehicle retained;
- the case being in default; or  trial of case.

And, this is/is not a case involving a vehicle which has been stolen, repaired by repair facility, or being stored by an insurance company.

IT IS HEREBY ORDERED THAT: the Court finds that a valid debt exists against the above listed motor vehicle and that the Plaintiff is entitled to a valid lien on said motor vehicle in the amount of \$ \_\_\_\_\_ plus future storage at \$ \_\_\_\_\_ per day to the date of sale.

The Plaintiff is hereby authorized to foreclose upon and sell said motor vehicle to satisfy said lien upon public auction as authorized by O.C.G.A. § 40-11-6, if not immediately paid.

The public auction sale of said automobile shall in all respects be in accordance with the terms and provisions of O.C.G.A. §40-11-6 and shall be free and clear of all liens and encumbrances on said motor vehicle.

Within thirty days of the date of such sale, the Plaintiff shall: (1) file a written return with this Court, under oath, setting forth the following: (a) style of this case; (b) date of public auction; (c) amount of court ordered lien; (d) amount received for vehicle at public sale; (e) requestor of service, private individual, city officer/official, county officer/official, Georgia State Patrol; (2) file with the Court with a copy of the bill of sale of the vehicle; and (3) pay to the Clerk of Magistrate Court, all sums collected over and above the amount of the court ordered lien set forth herein from the proceeds of said public auction.

SO ORDERED, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Judge, Magistrate Court

# IN THE MAGISTRATE COURT OF DOUGLAS COUNTY STATE OF GEORGIA

\_\_\_\_\_  
Plaintiff

VS

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Vehicle Identification Number

\_\_\_\_\_  
Tag Number

## AFFIDAVIT FOR FORECLOSURE OF ABANDONED MOTOR VEHICLE

The name(s) and address(es) of the last known registered owner(s) and/or all lienholder(s) of the vehicle is/are:

Unknown  
 Owner(s): \_\_\_\_\_

Lienholder(s): \_\_\_\_\_

Personally appeared before the undersigned officer, duly authorized to administer oaths, \_\_\_\_\_, who being duly sworn, deposes and states as follows:

1. The Plaintiff is in possession of the above-described motor vehicle. The vehicle was impounded at the request of:  
 private individual     city officer/official     county officer/official     Georgia State Patrol  
 N/A – repaired     N/A – stored for insurance company.
2. The Plaintiff has taken the following described actions to perfect the lien on the vehicle as set forth below:  
 Notices have been provided to the last known owner and lienholder as follows: (See O.C.G.A § 40-11-2)

Event	Deadline	Date Completed
Vehicle Towed or, date to be picked up after repairs or, stored for insurance company.	N/A	
Owner and lien information requested from law enforcement. 40-11-2(a)(b)	Within 72 hours of towing.	
First Notice to owner and lienholder by certified or registered mail. 40-11-2(d)	Within seven (7) days (or forfeit storage fees).	
DMV Statement filed within seven (7) days of vehicle becoming abandoned. 40-11-2(e)	Within seven (7) days of the thirty-day deadline from date vehicle removed.	
Information received from DMV.	N/A	
<i><u>This notice applies ONLY when owner/lienholder ascertained solely through DMV: Notice(s) to owner/lienholder by certified or registered mail of vehicle location. is deemed abandoned if not redeemed. 40-11-2(f)</u></i>	Within five (5) days of receipt of DMV information, excluding Saturday, Sunday, and legal holiday.	
Additional notice(s) to owner & lienholder by certified or registered mail of itemized statement of removal, storage, and advertising fees, if applicable. (May be combined with preceding notice if owner info ascertained only from DMV.) 40-11-5(2)	After thirty (30) days from the date vehicle removed and before one year from removal date or date lien recorded.	

The above notices were not sent because the identity of the owner and/or lienholder cannot be ascertained. Proper notice has been given by running an advertisement as required by O.C.G.A. § 40-11-2(g).

More than ten days prior to filing this Affidavit, demand was made by certified or registered mail upon the last known registered owner of the vehicle for the payment of the reasonable fees for removal and storage plus the costs of any applicable advertisement, including an itemized statement of all charges.

3. The Plaintiff has complied with the notice requirements of O.C.G.A. § 40-11-2 by one or more of the following methods:

seeking the identity of the last known registered owner from a local law enforcement agency and the identity of the last known registered owners, lessors, lessees, security interest holders, and lienholders from the Department of Motor Vehicle Safety.

checking the motor vehicle records of another state if the Plaintiff has knowledge of facts which reasonably indicate that the vehicle is registered in another state.

placing an advertisement in a general circulation in \_\_\_\_\_ County once a week for two consecutive weeks for vehicles of which the identity of the owner cannot be ascertained.

notifying the owner by certified or registered mail of the owner's right to redeem the vehicle.

4. This Affidavit is made within a period of one year from:

the recording of a lien on the vehicle with the Department of Motor Vehicles, as set forth in paragraph 2, above.

the assertion of a lien by retention of the vehicle from date vehicle removed/retained as set forth in paragraph 2, above.

5. Address vehicle was towed from: \_\_\_\_\_

6. Address where vehicle is being stored: \_\_\_\_\_

WHEREFORE, Plaintiff makes this Affidavit for the purpose of foreclosing the lien upon the above described vehicle and prays that execution issue for:

Removal Fee \$ \_\_\_\_\_

Accrued Storage Fee \$ \_\_\_\_\_

Other \$ \_\_\_\_\_

Advertising Costs \$ \_\_\_\_\_

Court Costs \$ \_\_\_\_\_

Total \$ \_\_\_\_\_

Future Storage Fees \$ \_\_\_\_\_ per day from date of filing this action.

Sworn to and subscribed before me,  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
 Plaintiff  Agent For Plaintiff

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, & Zip Code

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Deputy Clerk / Notary Public

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\_\_\_\_\_  
Plaintiff  
VS

\_\_\_\_\_  
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Vehicle Identification Number

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Tag Number

**REPORT OF SALE OR DISPOSITION OF ABANDONED MOTOR VEHICLE**

Last known registered owner(s) and lienholder(s): \_\_\_\_\_

\_\_\_\_\_  
Comes now, \_\_\_\_\_, [ ] the Plaintiff [ ] agent  
for the Plaintiff herein, who after having been duly sworn or affirmed states that the following facts are true and  
correct to the best of his/her knowledge:

[ ] The vehicle was redeemed by owner/lienholder prior to public auction. No sums are due and payable.

[ ] The vehicle was sold at public auction on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_, said

address being within:

[ ] the city limits of \_\_\_\_\_;

[ ] unincorporated \_\_\_\_\_ County.

The sale was conducted in compliance with the provisions of O.C.G.A. § 40-11-6.

1. The vehicle was impounded at the request of a:

[ ] private individual

[ ] city officer/official of \_\_\_\_\_ (Name of Municipality)

[ ] county officer/official

[ ] Georgia State Patrol

[ ] insurance company

[ ] not impounded, was repaired.

2. The amount received for the vehicle at public sale \$ \_\_\_\_\_

3. The amount of the lien on the vehicle \$ \_\_\_\_\_

4. The amount due to Clerk of Magistrate Court and submitted herewith \$ \_\_\_\_\_

5. A true and correct copy of the bill of sale of the vehicle is attached hereto as "Exhibit A".

\_\_\_\_\_  
[ ] Plaintiff [ ] Agent For Plaintiff

Sworn to and subscribed before me

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Deputy Clerk / Notary Public

## 40-11-1. Definitions.

As used in this article, the term:

(1) "Abandoned motor vehicle" means a motor vehicle or trailer:

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

(B) Which is left unattended on a public street, road, or highway or other public property for a period of at least five days and when it reasonably appears to a law enforcement officer that the individual who left such motor vehicle unattended does not intend to return and remove such motor vehicle. However, on the state highway system, any law enforcement officer or employee of the Department of Motor Vehicle Safety to whom enforcement authority has been designated pursuant to Code Section 32-6-29 may authorize the immediate removal of vehicles posing a threat to public health or safety or to mitigate congestion;

(C) Which has been lawfully towed onto the property of another at the request of a law enforcement officer and left there for a period of not less than 30 days without anyone's having made claim thereto;

(D) Which has been lawfully towed onto the property of another at the request of a property owner on whose property the vehicle was abandoned and left there for a period of not less than 30 days without the owner's having made claim thereto; or

(E) Which has been left unattended on private property for a period of not less than 30 days without anyone's having made claim thereto.

(2) "Motor vehicle" or "vehicle" means motor vehicle or trailer.

(3) "Owner" means the owner, lessor, lessee, security interest holders, and all lienholders as shown on the records of the Department of Motor Vehicle Safety.

History

(Ga. L. 1972, p. 342, § 1; Ga. L. 1977, p. 253, § 1; Ga. L. 1980, p. 995, § 1; Ga. L. 1981, p. 469, § 1; Ga. L. 1984, p. 548, § 1; Ga. L. 1985, p. 1265, § 1; Ga. L. 1993, p. 370, § 3; Ga. L. 2000, p. 951, § 7-1.)

**The 2000 amendment**, effective July 1, 2001, substituted "Motor Vehicle Safety" for "Transportation" in subparagraph (1)(B); and substituted "Motor Vehicle Safety" for "Revenue" in paragraph (3).

**Editor's notes.** - Ga. L. 2000, p. 951, § 13-1, not codified by the General Assembly, provides that the 2000 Act which amended this Code section becomes fully effective July 1, 2001, but authorizes administrative action commencing April 28, 2000, for purposes of appointing certain officials, adopting rules and regulations, employing personnel, and preparing for and phasing in full implementation; provided, however, that the Governor may by executive order extend the date for full implementation of the Act to no later than July 1, 2003. In accordance with an executive order issued June 29, 2001, by the Governor, the amendment of this Code section by Ga. L. 2000, p. 951, became fully effective July 1, 2001.

## JUDICIAL DECISIONS

**Mobile home.** - The Abandoned Motor Vehicle Act did not apply in an action for a writ of possession of a mobile home brought by a creditor against a towing service since the mobile home was not "abandoned" as outlined by this section. *Coweta County Impound & Storage, Inc. v. Security Pacific Fin. Servs.*, 216 Ga. App. 664, 455 S.E.2d 370 (1995).

**Cited** in *Miller v. Self*, 137 Ga. App. 717, 224 S.E.2d 823 (1976); *Shaw v. Wheat St. Baptist Church*, 141 Ga. App. 883, 234 S.E.2d 711 (1977); *Atlanta Truck Serv., Inc. v. Associates Com. Corp.*, 146 Ga. App. 170, 246 S.E.2d 2 (1978); *Walker v. Crane*, 243 Ga. App. 838, 534 S.E.2d 520 (2000).

## RESEARCH REFERENCES

**Am. Jur. 2d.** - 1 Am. Jur. 2d, Abandoned, Lost, and Unclaimed Property, §§ 112, 113. 7A Am. Jur. 2d, Automobiles and Highway Traffic, §§ 1, 2, 8.

### **40-11-2. Duty of person removing or storing motor vehicle.**

(a) Any person who removes a motor vehicle from public property at the request of a law enforcement officer or stores such vehicle shall, if the owner of the vehicle or some person acting for the owner is not present, seek the identity of and address of the last known registered owner of such vehicle, the owner of the vehicle as recorded on the title of such vehicle, and any security interest holder or lienholder from the law enforcement officer requesting removal of such or from such officer's agency within 72 hours of removal. The local law enforcement agency shall furnish such information to the person removing such vehicle within 72 hours after receipt of such request.

(b) Any person who removes a motor vehicle from private property at the request of the property owner or stores such vehicle shall, if the owner of the vehicle or some person acting for the owner is not present, notify in writing a local law enforcement agency of the location of the vehicle, the manufacturer's vehicle identification number, license number, model, year, and make of the vehicle within 72 hours of the removal of such vehicle and shall seek from the local law enforcement agency the identity and address of the last known registered owner of such vehicle, the owner of the vehicle as recorded on the title, and any security interest holder or lienholder and any information indicating that such vehicle is a stolen motor vehicle. The local law enforcement agency shall furnish such information to the person removing such vehicle within 72 hours after receipt of such request.

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

(d) If any motor vehicle removed under conditions set forth in subsection (a) or (b) of this Code section is determined not to be a stolen vehicle or is not a vehicle being repaired by a repair facility or is not being stored by an insurance company providing insurance to cover damages to the vehicle, the person removing or storing such motor vehicle shall, within seven calendar days of the day such motor vehicle was removed, notify the owner and any security interest holder or lienholder, if known, by certified or registered mail or statutory overnight delivery of the location of such motor vehicle, the fees connected with removal and storage of such motor vehicle, and the fact that such motor vehicle will be deemed abandoned under this chapter unless the owner, security interest holder, or lienholder redeems such motor vehicle within 30 days of the day such vehicle was removed.

(e) If the owner, security interest holder, or lienholder fails to redeem such motor vehicle as described in subsection (d) of this Code section, or if a vehicle being repaired by a repair facility or being stored by an

insurance company providing insurance to cover damages to the vehicle becomes abandoned, the person removing or storing such motor vehicle shall, within seven calendar days of the day such vehicle became an abandoned motor vehicle, give notice in writing, by sworn statement, on the form prescribed by the commissioner, to the Department of Motor Vehicle Safety with a research fee of \$2.00 payable to the Department of Motor Vehicle Safety, stating the manufacturer's vehicle identification number, the license number, the fact that such vehicle is an abandoned motor vehicle, the model, year, and make of the vehicle, the date the vehicle became an abandoned motor vehicle, the date the vehicle was removed, and the present location of such vehicle and requesting the name and address of all owners, lessors, lessees, security interest holders, and lienholders of such vehicle. If the form submitted to the Department of Motor Vehicle Safety is rejected because of inaccurate or missing information, the person removing or storing the vehicle shall resubmit, within seven calendar days of the date of the rejection, a corrected notice form to the Department of Motor Vehicle Safety together with an additional research fee of \$2.00 payable to the Department of Motor Vehicle Safety. Each subsequent corrected notice, if required, shall be submitted with an additional research fee of \$2.00 payable to the Department of Motor Vehicle Safety. If a person removing or storing the vehicle has knowledge of facts which reasonably indicate that the vehicle is registered or titled in a certain other state, such person shall check the motor vehicle records of that other state in the attempt to ascertain the identity of the owner of the vehicle.

(f) Upon ascertaining the owner of such motor vehicle, the person removing or storing such vehicle shall, within five calendar days, by certified or registered mail or statutory overnight delivery, notify the owner, lessors, lessees, security interest holders, and lienholders of the vehicle of the location of such vehicle and of the fact that such vehicle is deemed abandoned and shall be disposed of if not redeemed.

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

(h) The Department of Motor Vehicle Safety shall provide to the Georgia Crime Information Center all relevant information from sworn statements described in subsection (e) of this Code section for a determination of whether the vehicles removed have been entered into the criminal justice information system as stolen vehicles. The results of the determination shall be provided electronically to the Department of Motor Vehicle Safety.

(i) Any person storing a vehicle under the provisions of this Code section shall notify the Department of Motor Vehicle Safety if the vehicle is recovered, is claimed by the owner, is determined to be stolen, or for any reason is no longer an abandoned motor vehicle. Such notice shall be provided within seven calendar days of such event.

(j) If vehicle information on the abandoned motor vehicle is not in the files of the Department of Motor Vehicle Safety, the department may require such other information or confirmation as it determines is necessary or appropriate to determine the identity of the vehicle.

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

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

#### History

(Ga. L. 1972, p. 342, § 2; Ga. L. 1977, p. 253, § 2; Ga. L. 1980, p. 995, § 2; Ga. L. 1981, p. 469, § 2; Ga. L. 1982, p. 3, § 40; Ga. L. 1985, p. 1265, § 2; Ga. L. 1988, p. 1750, § 1; Ga. L. 1990, p. 1657, § 6; Ga. L. 1992, p. 2978, § 10; Ga. L. 1993, p. 772, § 1; Ga. L. 1995, p. 663, § 1; Ga. L. 1996, p. 6, § 40; Ga. L. 1998, p. 1305, § 1; Ga. L. 2000, p. 951, § 7-1; Ga. L. 2000, p. 1589, § 4.)

**The 2000 amendments.** The first 2000 amendment, effective July 1, 2001, substituted "Motor Vehicle Safety" for "Revenue" throughout this Code section; and, in subsection (e), deleted "Motor Vehicle Division of the" following "payable to the" in the first and second sentences, substituted "Department of Motor Vehicle Safety" for "commissioner" in two places in the second sentence, and substituted "Department of Motor Vehicle Safety" for "Motor Vehicle Division of the Department of Revenue". The second 2000 amendment, effective July 1, 2000, and applicable with respect to notices delivered on or after July 1, 2000, substituted "registered mail or statutory overnight delivery" for "registered mail" in subsections (d) and (f).

**Code Commission notes.** - Pursuant to Code Section 28-9-5, in 1992, "this chapter" was substituted for "Chapter 11 of this title" in subsection (d).

**Editor's notes.** - Ga. L. 2000, p. 951, § 13-1, not codified by the General Assembly, provides that the first 2000 Act which amended this Code section becomes fully effective July 1, 2001, but authorizes administrative action commencing April 28, 2000, for purposes of appointing certain officials, adopting rules and regulations, employing personnel, and preparing for and phasing in full implementation; provided, however, that the Governor may by executive order extend the date for full implementation of the Act to no later than July 1, 2003. In accordance with an executive order issued June 29, 2001, by the Governor, the amendment of this Code section by Ga. L. 2000, p. 951, became fully effective July 1, 2001.

**Law reviews.** - For note on 1990 amendment of this Code section, see 7 Ga. St. U.L. Rev. 329 (1990).

### JUDICIAL DECISIONS

**No conversion where attempt to notify vehicle owner.** - The fact that garagemen were not in strict compliance with the notice requirements of this section did not mandate a conclusion that their actions amounted to a conversion, where they made several attempts to notify the vehicle owner formally and spoke with him several times over the telephone, and the owner knew the vehicle would be sold if he did not claim it. *Gearing v. Complete Wrecker Serv., Inc.*, 187 Ga. App. 242, 370 S.E.2d 9 (1988).

**Automobile repair shop that failed to comply with the notice requirement** of this section could not take advantage of the provision for payment of storage costs by a lienholder in an action by a bank for possession of a vehicle following default by the debtor. *First Nat'l Bank v. Alvin Worley & Sons*, 221 Ga. App. 820, 472 S.E.2d 568 (1996).

**Failure to comply with the notice provisions.** - Because a vehicle-towing company failed to notify a car owner as required by this section, it was liable to the owner for conversion as a matter of law where it refuses to allow the owner to retrieve the car without the owner first paying storage and towing costs. *A Tow, Inc. v. Williams*, 245 Ga. App. 661, 538 S.E.2d 542 (2000).

**Notice not required where owner known.** - Under the 1994 version of subsection (b), a wrecker service which pulled and stored a vehicle in the good faith belief that the owner was known was exempt from compliance with the notice requirements of this section. *Walker v. Crane*, 243 Ga. App. 838, 534 S.E.2d 520 (2000).

**Cited in** Shaw v. Wheat St. Baptist Church, 141 Ga. App. 883, 234 S.E.2d 711 (1977).

## RESEARCH REFERENCES

**Am. Jur. 2d.** - 7A Am. Jur. 2d, Automobiles and Highway Traffic, § 30 et seq.

### **40-11-3. When peace officers may remove vehicles from public property; notification requirements.**

(a) Any peace officer who finds a motor vehicle which has been left unattended on a public street, road, or highway or other public property for a period of at least five days shall be authorized to cause such motor vehicle to be removed to a garage or other place of safety, if such peace officer reasonably believes that the person who left such motor vehicle unattended does not intend to return and remove such motor vehicle.

(b) Any law enforcement officer or employee of the Department of Motor Vehicle Safety to whom law enforcement authority has been designated pursuant to Code Section 32-6-29 who finds a motor vehicle which has been left unattended on the state highway system shall be authorized to cause such motor vehicle to be removed immediately to a garage or other place of safety when such motor vehicle poses a threat to public health or safety or to mitigate congestion. Any peace officer who finds a motor vehicle which has been left unattended on a public street, road, or highway or other public property, other than the state highway system, shall be authorized immediately to cause such motor vehicle to be removed immediately to a garage or other place of safety when such motor vehicle poses a threat to public health or safety or to mitigate congestion.

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

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

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

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

History

(Ga. L. 1972, p. 342, § 3; Ga. L. 1980, p. 995, § 3; Ga. L. 1984, p. 548, § 2; Ga. L. 1988, p. 1750, § 2; Ga. L. 1990, p. 1657, § 7; Ga. L. 1993, p. 370, § 4; Ga. L. 1995, p. 663, § 2; Ga. L. 1996, p. 6, § 40; Ga. L. 1997, p. 143, § 40; Ga. L. 2000, p. 951, § 7-1.)

**The 2000 amendment**, effective July 1, 2001, substituted "Motor Vehicle Safety" for "Transportation" in the first sentence of subsection (b) and substituted "Motor Vehicle Safety" for "Revenue" in paragraph (d)(1).

**Editor's notes.** - Ga. L. 2000, p. 951, § 13-1, not codified by the General Assembly, provides that the 2000 Act which amended this Code section becomes fully effective July 1, 2001, but authorizes administrative action commencing April 28, 2000, for purposes of appointing certain officials, adopting rules and regulations, employing personnel, and preparing for and phasing in full implementation; provided, however, that the Governor may by executive order extend the date for full implementation of the Act to no later than July 1, 2003. In accordance with an executive order issued June 29, 2001, by the Governor, the amendment of this Code section by Ga. L. 2000, p. 951, became fully effective July 1, 2001.

**Law reviews.** - For note on 1990 amendment of this Code section, see 7 Ga. St. U.L. Rev. 329 (1990).

### **JUDICIAL DECISIONS**

**Authority to tow cars limited.** - Wrecker service acting under a contract with a subdivision of townhouses did not have authority to tow a car from a public street within the subdivision. *Hardin v. City Wide Wrecker Serv., Inc.*, 232 Ga. App. 617, 502 S.E.2d 548 (1998).

**Indefinite retention of vehicles not authorized.** - Enforcement officers initially authorized to remove or impound a vehicle do not have a duty to retain possession indefinitely; the statutes require only the removal to a "garage or other place of safety," not necessarily into the custody of the authorities, and there is nothing about its ultimate disposition. *Strickland v. Vaughn*, 221 Ga. App. 636, 472 S.E.2d 159 (1996).

### **RESEARCH REFERENCES**

**Am. Jur. 2d.** - 7A Am. Jur. 2d, Automobiles and Highway Traffic, § 9.

**ALR.** - State or municipal towing, impounding, or destruction of motor vehicles parked or abandoned on streets or highways, 32 ALR4th 728.

## **40-11-3.1. Unattended vehicle checks.**

(a) It shall be the duty of any peace officer who discovers a motor vehicle which has been left unattended on a public street, road, or highway or other public property to immediately perform an unattended vehicle check on such motor vehicle, unless there is displayed on such motor vehicle an unattended vehicle check card indicating that another peace officer has already performed such an unattended vehicle check. For purposes of this Code section, an unattended vehicle check shall consist of such actions as are reasonably necessary to determine that the unattended vehicle does not contain an injured or incapacitated person and to determine that the unattended vehicle does not pose a threat to public health or safety.

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

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

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

History

(Code 1981, § 40-11-3.1, enacted by Ga. L. 1988, p. 688, § 1; Ga. L. 2000, p. 951, § 7-1.)

**Editor's notes.** - Ga. L. 2000, p. 951, § 7-1, effective as provided in the editor's notes, reenacted this Code section without change.

Ga. L. 2000, p. 951, § 13-1, not codified by the General Assembly, provides that the 2000 Act which reenacted this Code section becomes fully effective July 1, 2001, but authorizes administrative action commencing April 28, 2000, for purposes of appointing certain officials, adopting rules and regulations, employing personnel, and preparing for and phasing in full implementation; provided, however, that the Governor may by executive order extend the date for full implementation of the Act to no later than July 1, 2003. In accordance with an executive order issued June 29, 2001, by the Governor, the amendment of this Code section by Ga. L. 2000, p. 951, became fully effective July 1, 2001.

#### **40-11-4. Creation of lien; courts authorized to foreclose lien.**

(a) Any person who removes or stores any motor vehicle which is or becomes an abandoned motor vehicle shall have a lien on such vehicle for the reasonable fees connected with such removal or storage plus the cost of any notification or advertisement. Such lien shall exist if the person moving or storing such vehicle is in compliance with Code Section 40-11-2.

(b) The lien acquired under subsection (a) of this Code section may be foreclosed in any court which is competent to hear civil cases, including, but not limited to, magistrate courts. Liens shall be foreclosed in magistrate courts only when the amount of the lien does not exceed the jurisdictional limits established by law for such courts.

History

(Ga. L. 1972, p. 342, § 3; Ga. L. 1980, p. 995, § 4; Ga. L. 1981, p. 469, § 3; Ga. L. 1983, p. 884, § 3-28; Ga. L. 1984, p. 22, § 40; Ga. L. 1998, p. 1305, § 2; Ga. L. 2000, p. 951, § 7-1.)

**Editor's notes.** - Ga. L. 2000, p. 951, § 7-1, effective as provided in the editor's notes, reenacted this Code section without change.

Ga. L. 2000, p. 951, § 13-1, not codified by the General Assembly, provides that the 2000 Act which reenacted this Code section becomes fully effective July 1, 2001, but authorizes administrative action commencing April 28, 2000, for purposes of appointing certain officials, adopting rules and regulations, employing personnel, and preparing for and phasing in full implementation; provided, however, that the Governor may by executive order extend the date for full implementation of the Act to no later than July 1, 2003. In accordance with an executive order issued June 29, 2001, by the Governor, the amendment of this Code section by Ga. L. 2000, p. 951, became fully effective July 1, 2001.

## JUDICIAL DECISIONS

**Satisfaction of abandoned motor vehicle lien.** - A holder of a security interest in an automobile was entitled to the foreclosure and possession of the vehicle, subject to satisfaction of an abandoned motor vehicle lien acquired by a towing company where the towing company had complied with § 40-11-2 and had a proper lien. *Atlantic Steel Credit Union v. Shephard*, 204 Ga. App. 297, 419 S.E.2d 132 (1992).

**Owner's claims for vehicle which was not abandoned.** - Repeated and timely claims by owner for his tractor made this section inapplicable as vehicle was not "abandoned." *Mays v. Lampkin*, 207 Ga. App. 737, 429 S.E.2d 113 (1993).

**Cited in** *Gearing v. Complete Wrecker Serv., Inc.*, 187 Ga. App. 242, 370 S.E.2d 9 (1988); *A Tow, Inc. v. Williams*, 245 Ga. App. 661, 538 S.E.2d 542 (2000).

### **40-11-5. Lien foreclosure procedure.**

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

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

(2) The person desiring to foreclose a lien on an abandoned motor vehicle shall, by certified or registered mail or statutory overnight delivery, make a demand upon the owner for the payment of the reasonable fees for removal and storage plus the costs of any notification or advertisement. Such written demand shall include an itemized statement of all charges. No such written demand shall be required if the identity of the owner cannot be ascertained and the notice requirements of subsection (g) of Code Section 40-11-2 have been complied with;

(3)(A) If, within ten days of delivery to the appropriate address of the written demand required by paragraph (2) of this Code section, the owner of the abandoned motor vehicle fails to respond to such demand or refuses to pay, or if the owner of the abandoned motor vehicle cannot be ascertained, the person removing or storing the abandoned motor vehicle may foreclose such lien. The person asserting such lien may move to foreclose by making an affidavit to a court of competent jurisdiction showing all facts necessary to constitute such lien and the amount claimed to be due. Such affidavit shall aver that the notice requirements of Code Section 40-11-2 have been complied with, and such affidavit shall also aver that a demand for payment has been made and refused or that the identity of the owner cannot be ascertained. The person foreclosing shall verify the statement by oath or affirmation and shall affix his or her signature thereto.

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

(4)(A) Upon such affidavit's being filed, the lien claimant shall give the clerk or judge of the court the address (if known) of the owner, lessor, lessee, security interest holders, and lienholders of the abandoned vehicle. The clerk or judge of the court shall serve notice upon such owner, lessor, lessee, security interest holders, and lienholders of the abandoned motor vehicle of a right to a hearing to determine if reasonable cause exists to believe that a valid debt exists; that such hearing must be petitioned for within ten days after receipt of such notice; and that, if no petition for such hearing is filed within the time allowed, the lien will conclusively be deemed a valid one and foreclosure thereof allowed.

(B) Any notice required by this paragraph shall be by certified mail or statutory overnight delivery or, if the owner, lessor, lessee, security interest holder, or lienholder is unknown, by posting such notice at the county courthouse in such place where other public notices are posted;

(5) If a petition for a probable cause hearing is filed within the time allowed, the court shall set such a hearing within ten days of filing of the petition. If, at the hearing, the court determines that reasonable cause exists to believe that a valid debt exists, then the person asserting the lien shall retain possession of the motor vehicle or the court shall obtain possession of the motor vehicle, as ordered by the court. The owner-debtor may obtain possession of the motor vehicle by giving bond and security in the amount determined to be probably due and costs of the action;

(6) Within five days of the probable cause hearing, a party defendant must petition the court for a full hearing on the validity of the debt if a further determination of the validity of the debt is desired. If no such petition is filed, the lien for the amount determined reasonably due shall conclusively be deemed a valid one and foreclosure thereof allowed. If such a petition is filed, the court shall set a full hearing thereon within 15 days of the filing of the petition. Upon the filing of such petition by a party defendant, neither the prosecuting lienholder nor the court may sell the motor vehicle, although possession of the motor vehicle may be retained;

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

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

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

History

(Ga. L. 1980, p. 995, § 5; Ga. L. 1982, p. 1650, §§ 1, 2; Ga. L. 1983, p. 3, § 29; Ga. L. 1984, p. 22, § 40; Ga. L. 1985, p. 1265, § 3; Ga. L. 1988, p. 1750, § 3; Ga. L. 1998, p. 1305, § 3; Ga. L. 2000, p. 951, § 7-1; Ga. L. 2000, p. 1589, §§ 3, 4.)

**The 2000 amendment**, effective July 1, 2000, and applicable with respect to notices delivered on or after July 1, 2000, substituted "registered mail or statutory overnight delivery" for "registered mail" in paragraph (2) and substituted "certified mail or statutory overnight delivery" for "certified mail" in subparagraph (4)(B).

**Editor's notes.** - Ga. L. 2000, p. 951, § 7-1, effective as provided in the editor's notes, reenacted this Code section without change.

Ga. L. 2000, p. 951, § 13-1, not codified by the General Assembly, provides that the first 2000 Act which reenacted this Code section becomes fully effective July 1, 2001, but authorizes administrative action commencing April 28, 2000, for purposes of appointing certain officials, adopting rules and regulations, employing personnel, and preparing for and phasing in full implementation; provided, however, that the Governor may by executive order extend the date for full implementation of the Act to no later than July 1, 2003. In accordance with an executive order issued June 29, 2001, by the Governor, the amendment of this Code section by Ga. L. 2000, p. 951, became fully effective July 1, 2001.

## JUDICIAL DECISIONS

**Cited in** Atlanta Truck Serv., Inc. v. Associates Com. Corp., 146 Ga. App. 170, 246 S.E.2d 2 (1978); Gearing v. Complete Wrecker Serv., Inc., 187 Ga. App. 242, 370 S.E.2d 9 (1988).

## OPINIONS OF THE ATTORNEY GENERAL

**Affidavit filing fee in foreclosure of lien on abandoned motor vehicle.** - The magistrate court should collect only a \$5.00 fee per vehicle upon the filing of an affidavit in support of the foreclosure of a lien on any abandoned motor vehicle pursuant to subparagraph (3)(B) of this section; the \$20.00 filing fee for civil actions in magistrate court should not be collected until the filing of a petition for probable cause hearing pursuant to paragraph (5) of this section. 1989 Op. Att'y Gen. U89-13.

## RESEARCH REFERENCES

**Am. Jur. 2d.** - 1 Am. Jur. 2d, Abandoned, Lost, and Unclaimed Property, § 34.

### **40-11-6. Sale of vehicle pursuant to foreclosure.**

(a) Upon order of the court, the person holding the lien on the abandoned motor vehicle shall be authorized to sell such motor vehicle at public sale, as defined by Code Section 11-1-201.

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

History

(Ga. L. 1980, p. 995, § 6; Ga. L. 1998, p. 1305, § 4; Ga. L. 2000, p. 951, § 7-1.)

**Editor's notes.** - Ga. L. 2000, p. 951, § 7-1, effective as provided in the editor's notes, reenacted this Code section without change.

Ga. L. 2000, p. 951, § 13-1, not codified by the General Assembly, provides that the 2000 Act which reenacted this Code section becomes fully effective July 1, 2001, but authorizes administrative action commencing April 28, 2000, for purposes of appointing certain officials, adopting rules and regulations, employing personnel, and preparing for and phasing in full implementation; provided, however, that the Governor may by executive order extend the date for full implementation of the Act to no later than July 1, 2003. In accordance with an executive order issued June 29, 2001, by the Governor, the amendment of this Code section by Ga. L. 2000, p. 951, became fully effective July 1, 2001.

### **40-11-7. How purchaser at foreclosure sale may obtain certificate of title.**

The purchaser at a sale as authorized in this article shall receive a certified copy of the court order authorizing such sale. Any such purchaser may obtain a certificate of title to such motor vehicle by filing the required application, paying the required fees, and filing a certified copy of the order of the court with the

Department of Motor Vehicle Safety. The Department of Motor Vehicle Safety shall then issue a certificate of title, which shall be free and clear of all liens and encumbrances.

(Ga. L. 1972, p. 342, § 4; Ga. L. 1975, p. 913, § 1; Ga. L. 1977, p. 253, § 3; Ga. L. 1980, p. 995, § 7; Ga. L. 2000, p. 951, § 7-1.)

**The 2000 amendment**, effective July 1, 2001, substituted "Motor Vehicle Safety" for "Revenue" in two places.

**Editor's notes.** - Ga. L. 2000, p. 951, § 13-1, not codified by the General Assembly, provides that the 2000 Act which amended this Code section becomes fully effective July 1, 2001, but authorizes administrative action commencing April 28, 2000, for purposes of appointing certain officials, adopting rules and regulations, employing personnel, and preparing for and phasing in full implementation; provided, however, that the Governor may by executive order extend the date for full implementation of the Act to no later than July 1, 2003. In accordance with an executive order issued June 29, 2001, by the Governor, the amendment of this Code section by Ga. L. 2000, p. 951, became fully effective July 1, 2001.

## **40-11-8. Disposition of proceeds of foreclosure sale.**

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

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

(2) If the abandoned motor vehicle came into the possession of the person creating the lien at the request of a police officer of a municipality, the proceeds of the sale shall be paid into the general fund of the municipality;

(3) If the abandoned motor vehicle came into the possession of the person creating the lien at the request of a county sheriff, deputy sheriff, or county police officer, the proceeds of the sale shall be paid into the general fund of the county in which the sale was made;

(4) If the abandoned motor vehicle came into the possession of the person creating the lien at the request of a member of the Georgia State Patrol or other employee of the State of Georgia, the proceeds of the sale shall be paid into the general fund of the county in which the sale was made.

History

(Ga. L. 1972, p. 342, § 8; Ga. L. 1977, p. 253, § 5; Ga. L. 1980, p. 995, § 8; Ga. L. 2000, p. 951, § 7-1.)

**The 2000 amendment**, effective July 1, 2001, inserted "or she" in the introductory language.

**Editor's notes.** - Ga. L. 2000, p. 951, § 13-1, not codified by the General Assembly, provides that the 2000 Act which amended this Code section becomes fully effective July 1, 2001, but authorizes administrative action commencing April 28, 2000, for purposes of appointing certain officials, adopting rules and regulations, employing personnel, and preparing for and phasing in full implementation; provided, however, that the Governor may by executive order extend the date for full implementation of the Act to no later than July 1, 2003. In accordance with

an executive order issued June 29, 2001, by the Governor, the amendment of this Code section by Ga. L. 2000, p. 951, became fully effective July 1, 2001.

#### **40-11-9. Derelict motor vehicles; determination of status; disposition; violations and penalties.**

(a) If a motor vehicle has been left unattended on private property for not less than two days or on public property for not less than three days without the owner or driver making any attempt to recover such vehicle or to leave a conspicuously placed note that such owner or driver intends to return for such vehicle; or, if a conspicuous note was left, if the motor vehicle has been left unattended for not less than five days and if because of damage, vandalism, theft, or fire the vehicle is damaged to the extent that its restoration to an operable condition would require the replacement of one or more major component parts or involves any structural damage that would affect the safety of the vehicle; or if there is evidence that the vehicle was inoperable due to major mechanical breakdown at the time it was left on the property, such as the engine, transmission, or wheels missing, no coolant in the cooling system, no oil in the engine, or burned fluid in the transmission; or if the vehicle is seven or more years old; or if the vehicle is not currently tagged or is not verifiable by the state as to who is the current owner or lienholder of the vehicle; or if the vehicle has been abandoned to a wrecker service by an insurance company and the owner following the insurance company's making a total loss payment, then any person removing such vehicle shall within 72 hours of removing such vehicle obtain the identity of and address of the last known registered owner of the vehicle, the owner of the vehicle as recorded on the certificate of title of such vehicle, and any security interest holder or lienholder on such vehicle from the local law enforcement agency of the jurisdiction in which the vehicle was located. If the law enforcement agency shows no information on the vehicle, then a request for such information shall be sent to the Department of Motor Vehicle Safety. Within 72 hours after obtaining such information, the person removing such vehicle shall, by certified mail or statutory overnight delivery, return receipt requested, notify the registered owner, title owner, and security interest holder or lienholder of the vehicle that such vehicle will be declared a derelict vehicle and the title to such vehicle will be canceled by the Department of Motor Vehicle Safety if such person or persons fail to respond within ten days of receipt of such notice. The commissioner of motor vehicle safety shall prescribe the form and content of such notice. If the registered owner, title owner, or security interest holder or lienholder fails to respond within 30 days from the date of such notice by certified mail or statutory overnight delivery, and if the vehicle is appraised as having a total value of less than \$300.00, the vehicle shall be considered to be a derelict vehicle. The value of the vehicle shall be determined as 50 percent of the wholesale value of a similar car in the rough section of the National Auto Research Black Book, Georgia Edition, or if a similar vehicle is not listed in such book or, regardless of the model year or book value of the vehicle, if the vehicle is completely destroyed by fire, flood, or vandalism or is otherwise damaged to the extent that restoration of the vehicle to a safe operable condition would require replacement of more than 50 percent of its major component parts, the person shall obtain an appraisal of the motor vehicle from the local law enforcement agency's auto theft section with jurisdiction in the county or municipality where such vehicle is located. Any person removing a vehicle shall complete a form, to be provided by the Department of Motor Vehicle Safety, indicating that the vehicle meets at least four of the above-stated eight conditions for being a derelict vehicle and shall file such form with the Department of Motor Vehicle Safety and the law enforcement agency with jurisdiction from which such vehicle was removed.

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

manner as may be prescribed by the commissioner of motor vehicle safety. The Department of Motor Vehicle Safety shall cancel the certificate of title for such vehicle and shall not issue a rebuilt or salvage title for such vehicle.

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

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

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

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

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

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

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

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

History

(Code 1981, § 40-11-9, enacted by Ga. L. 1993, p. 772, § 2; Ga. L. 1994, p. 97, § 40; Ga. L. 1998, p. 1305, § 5; Ga. L. 2000, p. 951, § 7-1; Ga. L. 2000, p. 1589, § 3.)

**The 2000 amendments.** The first 2000 amendment, effective July 1, 2001, in subsection (a), substituted "Motor Vehicle Safety" for "Revenue" in two places, substituted "Department of Motor Vehicle Safety" for "state revenue commissioner" in two places, and substituted "commissioner of motor vehicle safety" for "state revenue commissioner" in the fourth sentence; in subsection (b), substituted "Department of Motor Vehicle Safety" for "state revenue commissioner" in three places and substituted "commissioner of motor vehicle safety" for "state revenue commissioner"; and, in subsection (f), substituted "Neither" for "The Department of Revenue, the state revenue commissioner, and" and substituted "nor any state agency nor" for "and". The second 2000 amendment, effective July 1, 2000, and applicable with respect to notices delivered on or after July 1, 2000, substituted "certified mail or statutory overnight delivery" for "certified mail" in the third and fifth sentences in subsection (a).

**Code Commission notes.** - Pursuant to Code Section 28-9-5, in 1993, "fail to respond" was substituted for "fails to respond" in the third sentence in subsection (a) and "manufacturer's vehicle" was substituted for "manufactured vehicle" in subsection (c).

**Editor's notes.** - Ga. L. 2000, p. 951, § 13-1, not codified by the General Assembly, provides that the first 2000 Act which amended this Code section becomes fully effective July 1, 2001, but authorizes administrative action commencing April 28, 2000, for purposes of appointing certain officials, adopting rules and regulations, employing personnel, and preparing for and phasing in full implementation; provided, however, that the Governor may by executive order extend the date for full implementation of the Act to no later than July 1, 2003. In accordance with an executive order issued June 29, 2001, by the Governor, the amendment of this Code section by Ga. L. 2000, p. 951, became fully effective July 1, 2001.

## Department Of Motor Vehicle Safety

RESPONSIBILITY	ACTION	TIME PERIOD
Wrecker Service (if owner unknown)	Requests name and address of owner from law enforcement ordering removal.	72 hours after removal
Wrecker Service (if owner unknown)	Notifies in writing local law enforcement that vehicle removed from private property.	72 hours after removal
Law Enforcement (if vehicle stolen)	Notifies GCIC	72 hours after receiving notice of stolen
Wrecker Service (if owner known)	If vehicle not stolen, <u>notifies</u> owner and any security interest holder or lienholder. NOTE: Notification to include location, fees, and that vehicle will be abandoned in 30 days. Notice by certified or registered mail.	7 days of vehicle's removal
Law Enforcement (if vehicle not stolen)	Provides name and address of owner to wrecker service if information available. If owner information is not available, advises wrecker service.	72 hours of request
Wrecker Service (if owner does not redeem or vehicle being repaired or being stored by insurance company becomes abandoned.)	Notifies Motor Vehicle Division on form MV-603 with \$2.00 fee. If wrecker service knows that vehicle might be registered out-of-state, ownership information should be requested from that state.	7 days of the date the vehicle becomes abandoned
Motor Vehicle Division	Provides a printout of both tag and title information for vehicle ID# recorded on form MV-603 if form properly executed and fees paid. Places a stop notation on vehicle ID# recorded on form MV-603.	Every effort will be made to complete request within 7 days of receipt.
Wrecker Service (once information received from Motor Vehicle Division)	Notifies owner, lessors, lessees, security interest holders, and lienholders by certified or registered mail of location of vehicle, and that vehicle is abandoned and will be disposed of if not redeemed.	5 days
Wrecker Service (if Motor Vehicle Division records have no information regarding owner)	Advertise in paper of general circulation in county where vehicle obtained -or- if no paper, at county courthouse	1 time a week for 2 consecutive weeks  2 consecutive weeks
Motor Vehicle Division (notice of abandonment)	Provides information regarding abandoned vehicle to National Crime Information Center (GCIC).	
Wrecker Service (after final disposition of vehicle)	Notifies MVD by sending applicable copy of MV-603	Within 7 days after final disposition of vehicle
Motor Vehicle Division	Removes stop notification from vehicle ID# when disposition copy of MV-603 is received	

\*\*\* **NOTE:** For simplification purposes, the term "wrecker service" has been used to denote the person removing or storing the vehicle. \*\*\*



## FORM MV-603

### (NOTICE OF ABANDONED VEHICLE AND REQUEST FOR INFORMATION)

Upon receipt of Form MV-603, the Motor Vehicle Division will provide computer printouts of all owner, lessor, lessee, security interest holder, and lienholder information found in their records for a specific vehicle identification number. If a vehicle is both registered and titled in the State of Georgia, two (2) printouts will be provided – one will contain the owner and lienholder information and the other will contain the information relating to the registered owner. If the vehicle is only titled in this State and not registered, then along with the title printout, a printout will be provided indicating that there is no registration information in the Motor Vehicle Division's files. If the vehicle is only registered here and not titled, again, two (2) printouts will be provided – one will contain the registered owner's name and address and the other will indicate that there is no record of a title in the Motor Vehicle Division's file.

The Motor Vehicle Division will also place "stop notations" in its files on vehicle identification numbers recorded on Form MV-603. These "stop notations" will indicate that vehicles with these notations have been reported as being abandoned.

The other part of the Form MV-603 must be retained by the person removing or storing the vehicle until final disposition of the vehicle is made.

Within seven (7) days of the final disposition of the vehicle, the reverse side of the retained copy of Form MV-603 must be completed and mailed to:

Attn: Stop File  
Motor Vehicle Division  
Post Office Box 740384  
Atlanta, GA 30374-0384.

Failure to comply with all provision of O.C.G.A. § 40-11-02 will result in the loss of storage fees.

## **ABANDONED MOTOR VEHICLES**

In order for a Georgia Certificate of Title to be issued on an abandoned motor vehicle, the Abandoned Motor Vehicle Law requires the vehicle to be sold at a public sale.\* A certificate of title cannot be obtained for an abandoned vehicle on the basis of a surety bond. Therefore, the following documents must be forwarded to the Motor Vehicle Division or the County Tag Office.

1. **Title Application (MV-1Z)**  
Must be completed in detail. The application must be typed in full and signed by the applicant(s).
2. **Court Order**  
A certified copy of the Court Order which authorized the sale of the vehicle.
3. **Bill of Sale**  
A signed bill of sale from the person authorized by the court to sell the vehicle to the applicant.
4. **\*Certificate of Title**  
The current certificate of title (if available).
5. **Certification of Inspection**  
A T-22B completed by a law enforcement officer after visual inspection of the vehicle's serial plate has been made (if there is no Georgia Title on record).
6. If the applicant and the party that was authorized to sell the vehicle are the same, a signed and notarized affidavit must be submitted stating that a public sale was held and the applicant was the highest and best bidder.
7. **Lien or Security Interest Release**  
Form T-4 (lien or security interest release) for all liens or security interest holders shown on our files records, if the court order does not state that the vehicle is to be sold free of all liens or encumbrances.
8. **Advertisement**  
The vehicle must be advertised for sale in the newspaper. The advertisement must reflect a full vehicle description (year, make, VIN). If the purchaser of the abandoned vehicle is also the seller of the abandoned vehicle, a copy of the newspaper advertisement is needed.
9. **Surrender of License Plates (Form T-158)**  
The pink copy of Form T-158 which indicated that the license plate was surrendered to the Motor Vehicle Division or County Tag Office or that there was no license plate on the vehicle must be submitted if the current tag receipt is unavailable for transfer.
10. **Processing Fee**  
\$18.00 (check or money order)

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### **PUBLIC SALE**

“Public Sale” means a sale:

1. Held at a place reasonably available to persons who might desire to attend and submit bids; and
2. At which those attending shall be given the opportunity to bid on a competitive basis; and
3. At which the sale, if made, shall be made to the highest and best bidder; and
4. Except as otherwise provided in this title for advertising or dispensing with the advertising of public sales, of which notice is given by advertisement once a week for two weeks in the newspaper in which the sheriff's advertisements are published in the county where the sale is to be held, and which notice shall state the day and hour, between 10:00 a.m. and 4:00 p.m., and the place of sale and shall briefly identify the goods to be sold.