

House Bill 233 (AS PASSED HOUSE AND SENATE)

By: Representatives Atwood of the 179<sup>th</sup>, Dudgeon of the 25<sup>th</sup>, Geisinger of the 48<sup>th</sup>, Dunahoo of the 30<sup>th</sup>, and Jasperse of the 11<sup>th</sup>

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 quasi-judicial forfeiture, in rem forfeiture, and in personam forfeiture; to provide for  
7 temporary relief and stays of criminal proceedings; to provide for intervention by certain  
8 parties under certain circumstances; to provide for presumptions and the burden of proof; to  
9 provide for the disposition of seized property and reporting; to provide for the effect of  
10 federal law forfeitures; to amend Code Section 15-12-60 of the Official Code of Georgia  
11 Annotated, relating to the qualifications for grand jurors, so as to prohibit certain individuals  
12 from serving as grand jurors; to prohibit quashing of indictments when ineligible grand jurors  
13 serve on a grand jury; to amend Title 16 of the Official Code of Georgia Annotated, relating  
14 to crimes and offenses, so as to conform provisions to the new Chapter 16 of Title 9, correct  
15 cross-references, and remove obsolete or improper references to forfeiture; to amend Titles  
16 3, 5, 7, 10, 12, 15, 17, 27, 36, 38, 40, 45, 46, 48, 49, and 52 of the Official Code of Georgia  
17 Annotated, relating to alcoholic beverages, appeal and error, banking and finance, commerce  
18 and trade, conservation and natural resources, courts, criminal procedure, game and fish,  
19 local government, military, emergency management, and veterans affairs, motor vehicles and  
20 traffic, public officers and employees, public utilities and public transportation, revenue and  
21 taxation, social services, and waters of the state, ports, and watercraft, respectively, so as to  
22 conform provisions to the new Chapter 16 of Title 9, correct cross-references, and remove  
23 obsolete or improper references to forfeiture; to provide for related matters; to provide for  
24 an effective date and applicability; to repeal conflicting laws; and for other purposes.

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

26 **PART I**  
 27 **CIVIL FORFEITURE PROCEDURE**  
 28 **SECTION 1-1.**

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

31 "CHAPTER 16

32 9-16-1.

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

35 9-16-2.

36 As used in this chapter, the term:

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

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

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

44 (B) Such term shall not include the interest of a stockholder in a corporation, the  
 45 interest of a partner in either a general partnership or limited partnership, or an  
 46 equitable interest.

47 (2) 'Civil forfeiture proceeding' means a quasi-judicial forfeiture initiated pursuant to  
 48 Code Section 9-16-11 or a complaint for forfeiture initiated pursuant to Code Section  
 49 9-16-12 or 9-16-13.

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

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

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

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

56 (A) Charges and fees taxed by the court, including filing, transcription, and court  
 57 reporter fees, and advertisement costs; and

58 (B) Payment of receivers, conservators, appraisers, accountants, or trustees appointed  
 59 by the court pursuant to Code Section 9-16-10 or 9-16-14.

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

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

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

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

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

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

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

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

85 (13)(A) 'Trustee' means either of the following:

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

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

89 (B) Such term shall not include the following:

90 (i) Any person appointed or acting as:

91 (I) A guardian, conservator, or personal representative under Title 29 or Chapters  
 92 1 through 11 of Title 53, the 'Revised Probate Code of 1998'; or

93 (II) A personal representative under former Chapter 6 of Title 53 as such existed  
 94 on December 31, 1997; or

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

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

99 9-16-3.

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

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

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

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

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

110 (c) A civil forfeiture proceeding may be compromised or settled in the same manner as  
 111 other civil actions.

112 9-16-4.

113 A complaint for forfeiture pursuant to Code Section 9-16-12 or 9-16-13 shall be tried:

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

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

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

122 9-16-5.

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

128 9-16-6.

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

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

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

143 9-16-7.

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

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

150 (1) Initiate a quasi-judicial forfeiture as provided for in Code Section 9-16-11; or

151 (2) File a complaint for forfeiture as provided for in Code Section 9-16-12 or 9-16-13.

152 (c) If the seizing officer fails to comply with subsection (a) of this Code section or the state  
153 attorney fails to comply with subsection (b) of this Code section, the property shall be  
154 released on the request of an owner or interest holder, pending a complaint for forfeiture  
155 pursuant to Code Section 9-16-12 or 9-16-13, unless the property is being held as evidence.  
156 When the court releases property pursuant to this subsection, upon application by the state  
157 attorney, it may impose conditions as specified in paragraph (1) of Code Section 9-16-14.

158 9-16-8.

159 (a) A state attorney may file, without a filing fee, a forfeiture lien upon the initiation of any  
160 civil forfeiture proceeding or criminal proceeding or upon seizure for forfeiture. The  
161 forfeiture lien filing shall constitute notice to any person claiming an interest in the

162 property owned by the named person. The forfeiture lien shall include the following  
163 information:

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

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

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

173 (1) The described property;

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

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

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

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

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

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

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

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

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

205 9-16-9.

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

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

213 (c) A complaint for forfeiture pursuant to Code Section 9-16-12 or 9-16-13 may be  
 214 assigned to the same judge hearing any other complaint for forfeiture or criminal  
 215 proceeding involving substantially the same parties or same property in accordance with  
 216 the Uniform Superior Court Rules.

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

220 9-16-10.

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

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

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

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

231 (4) Provide for another governmental agency, a receiver appointed by the court pursuant  
 232 to Chapter 8 of this title, an owner, or an interest holder to take custody of the property

233 and remove it to an appropriate location within the county where the property was seized;  
234 or  
235 (5) Require the sheriff or chief of police of the political subdivision where the property  
236 was seized to take custody of the property and remove it to an appropriate location for  
237 disposition in accordance with law.  
238 (b)(1) The court, upon motion of the state attorney, a claimant, or the custodian of the  
239 property, may order property or any portion thereof to be sold upon such terms and  
240 conditions as may be prescribed by the court if the expense of keeping such property  
241 which has been attached or seized is excessive or disproportionate to the value of such  
242 property or such property:  
243 (A) Is a depreciating asset;  
244 (B) Is perishable or is liable to perish or waste; or  
245 (C) May be greatly reduced in value by keeping it.  
246 (2) The income from such sale shall be paid into the registry of the court pending final  
247 disposition of a civil forfeiture proceeding.  
248 (c)(1) If the property is currency and is not needed for evidentiary purposes, within 60  
249 days of the seizure the seizing agency, or the state attorney if he or she has possession of  
250 such currency, shall deposit the currency into an account:  
251 (A) That is separate from other operating accounts;  
252 (B) That bears interest, if such account is available; and  
253 (C) At a financial institution that has a branch location within the county where the  
254 civil forfeiture proceeding is located, and if such financial institution is not available,  
255 at a financial institution approved by the chief superior court judge of the circuit in  
256 which such county is located.  
257 (2) If the property is a negotiable instrument and is not needed for evidentiary purposes,  
258 within 60 days of the seizure the seizing agency, or the state attorney if he or she has  
259 possession of such item, shall secure the negotiable instrument in a financial institution  
260 that has a branch location within the county where the civil forfeiture proceeding is  
261 located, and if such financial institution is not available, at a financial institution  
262 approved by the chief superior court judge of the circuit in which such county is located.  
263 If such instrument is converted to currency, it shall be deposited in accordance with  
264 paragraph (1) of this subsection.  
265 (3) The account holder shall annually pay any interest that accrues under this subsection  
266 into the County Drug Abuse Treatment and Education Fund established pursuant to  
267 Article 6 of Chapter 21 of Title 15 at the same time the account holder files its annual  
268 report in accordance with subsection (g) of Code Section 9-16-19.

269 9-16-11.

270 (a) If the estimated value of personal property seized is \$25,000.00 or less, the state  
 271 attorney shall post a notice of the seizure of such property in a prominent location in the  
 272 courthouse of the county in which the property was seized. Such notice shall include:

273 (1) A description of the property;

274 (2) The date and place of seizure;

275 (3) The conduct giving rise to forfeiture;

276 (4) The alleged violation of law; and

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

281 (A) The name of the claimant;

282 (B) The address at which the claimant resides;

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

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

287 (E) The nature of the relationship between the claimant and the person who possessed  
 288 the property at the time of the seizure;

289 (F) A copy of any documentation in the claimant's possession supporting his or her  
 290 claim; and

291 (G) Any additional facts supporting his or her claim.

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

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

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

304 (3) If the current address of the person in possession of the property at the time of the  
 305 seizure, owner, or interest holder is not known and is not on record as provided in

306 paragraph (2) of this subsection or the name of the person in possession of the property  
 307 at the time of the seizure, owner, or interest holder is not known, publish a copy of the  
 308 notice of seizure once a week for two consecutive weeks in the legal organ for the county  
 309 in which the seizure occurs.

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

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

315 (A) The name of the claimant;

316 (B) The address at which the claimant resides;

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

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

321 (E) The nature of the relationship between the claimant and the person who possessed  
 322 the property at the time of the seizure;

323 (F) A copy of any documentation in the claimant's possession supporting his or her  
 324 claim; and

325 (G) Any additional facts supporting his or her claim.

326 (3) If any claim is served, even when the state attorney determines that the information  
 327 provided by the claimant pursuant to paragraph (2) of this subsection is insufficient, the  
 328 state attorney shall file a complaint for forfeiture as provided in Code Section 9-16-12 or  
 329 9-16-13 within 30 days of the actual receipt of the claim. Such complaint shall be filed  
 330 specifically as to the property claimed and the state attorney shall join as a party any  
 331 person who serves the state attorney with a claim.

332 (4) As to any property to which no claim is received within 30 days after service of the  
 333 notice of seizure or the second publication of the notice of seizure, whichever occurs last,  
 334 all right, title, and interest in the property shall be forfeited to the state by operation of  
 335 law and the state attorney shall dispose of the property as provided in Code Section  
 336 9-16-19. The state attorney shall serve a copy of the order forfeiting the property by  
 337 first-class mail upon any person who was served with a notice of seizure.

338 9-16-12.

339 (a) In actions in rem, the property which is the subject of the complaint for forfeiture shall  
 340 be named as the defendant. The complaint shall be verified on oath or affirmation by a  
 341 duly authorized agent of the state in a manner consistent with Article 5 of Chapter 10 of

342 this title. Such complaint shall describe the property with reasonable particularity; state  
343 that it is located within the county or will be located within the county during the pendency  
344 of the action; state its present custodian; state the name of the owner or interest holder, if  
345 known; allege the essential elements of the criminal violation which is claimed to exist;  
346 state the place of seizure, if the property was seized; and conclude with a prayer of due  
347 process to enforce the forfeiture.

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

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

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

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

372 (c)(1) An owner of or interest holder in the property may file an answer asserting a claim  
373 against the property in the action in rem. Any such answer shall be filed within 30 days  
374 after the service of the summons and complaint. If service is made by publication and  
375 personal service has not been made, an owner or interest holder shall file an answer  
376 within 30 days of the date of final publication. An answer shall be verified by the owner  
377 or interest holder under penalty of perjury. In addition to complying with the general

378 rules applicable to filing an answer in civil actions as set forth in Article 3 of Chapter 11  
379 of this title, the answer shall set forth:

380 (A) The name of the claimant;

381 (B) The address at which the claimant resides;

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

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

386 (E) The nature of the relationship between the claimant and the person who possessed  
387 the property at the time of the seizure;

388 (F) A copy of any documentation in the claimant's possession supporting his or her  
389 answer; and

390 (G) Any additional facts supporting the claimant's answer.

391 (2) If the state attorney determines that an answer is deficient in some manner, he or she  
392 may file a motion for a more definite statement. The motion shall point out the defects  
393 complained of and the details desired. If the motion is granted and the order of the court  
394 is not obeyed within 15 days after notice of the order, or within such other time as the  
395 court may fix, the court may strike the pleading to which the motion was directed or  
396 make such order as it deems just. If a motion for a more definite statement is filed, the  
397 time requirements for a trial set forth in subsection (f) of this Code section shall not  
398 commence until a sufficient answer has been filed.

399 (d) In addition to any injured person's right of intervention pursuant to Code Section  
400 9-16-16, any owner or interest holder or person in possession of the property who suffers  
401 a pecuniary loss or physical injury due to a violation of Code Section 16-5-46, Article 4 or  
402 5 of Chapter 8 of Title 16, or Chapter 14 of Title 16 may be permitted to intervene in any  
403 civil action brought pursuant to this Code section or Code Section 9-16-13 as provided by  
404 Chapter 11 of this title.

405 (e) If at the expiration of the period set forth in subsection (c) of this Code section no  
406 answer has been filed, the state attorney may seek a default judgment as provided in Code  
407 Section 9-11-55 and, if granted, the court shall order the disposition of the seized property  
408 as provided for in Code Section 9-16-19.

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

414 duration of discovery and may continue the trial to a date not more than 60 days after the  
 415 end of the discovery period unless continued by the court for good cause shown.

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

418 9-16-13.

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

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

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

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

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

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

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

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

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

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

437 (c) A defendant shall file a verified answer within 30 days after the service of the  
 438 summons and complaint. If service is made by publication and personal service has not  
 439 been made, a defendant shall file such answer within 30 days of the date of final  
 440 publication. In addition to complying with the general rules applicable to filing an answer  
 441 in civil actions as set forth in Article 3 of Chapter 11 of this title, the answer shall contain  
 442 all of the elements set forth in subsection (c) of Code Section 9-16-12. If the state attorney  
 443 determines that an answer is deficient in some manner, he or she may file a motion for a  
 444 more definite statement. The motion shall point out the defects complained of and the  
 445 details desired. If the motion is granted and the order of the court is not obeyed within 15  
 446 days after notice of the order, or within such other time as the court may fix, the court may  
 447 strike the pleading to which the motion was directed or make such order as it deems just.  
 448 If a motion for a more definite statement is filed, the time requirements for a trial set forth

449 in subsection (f) of this Code section shall not commence until a sufficient answer has been  
450 filed.

451 (d) In addition to any injured person's right of intervention pursuant to Code Section  
452 9-16-16, any owner or interest holder or person in possession of the property who suffers  
453 a pecuniary loss or physical injury due to a violation of Code Section 16-5-46, Article 4 or  
454 5 of Chapter 8 of Title 16, or Chapter 14 of Title 16 may be permitted to intervene in any  
455 civil action brought pursuant to this Code section or Code Section 9-16-12 as provided by  
456 Chapter 11 of this title.

457 (e) If at the expiration of the period set forth in subsection (c) of this Code section no  
458 answer has been filed, the state attorney may seek a default judgment as provided in Code  
459 Section 9-11-55 and, if granted, the court shall order the disposition of the seized property  
460 as provided for in Code Section 9-16-19.

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

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

475 9-16-14.

476 In conjunction with any civil forfeiture proceeding or criminal proceeding involving  
477 forfeiture:

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

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

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

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

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

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

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

501 (4) If property is seized for forfeiture or a forfeiture lien is filed without a previous  
502 judicial determination of probable cause or order of forfeiture or a hearing under  
503 paragraph (2) of this Code section, the court, on an application filed by an owner of or  
504 interest holder in the property within 30 days after notice of its seizure or forfeiture lien  
505 or actual knowledge of such seizure or lien, whichever is earlier, and complying with the  
506 requirements for an answer to an in rem complaint, and after five days' notice to the  
507 district attorney of the judicial circuit where the property was seized or, in the case of a  
508 forfeiture lien, to the state attorney filing such lien, may issue an order to show cause to  
509 the state attorney and seizing law enforcement agency for a hearing on the sole issue of  
510 whether probable cause for forfeiture of the property then exists. The hearing shall be  
511 held within 30 days unless continued for good cause on motion of either party. If the  
512 court finds that there is no probable cause for forfeiture of the property, the property shall  
513 be released. In determining probable cause, the court shall apply the rules of evidence;  
514 provided, however, that hearsay shall be admissible; and

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

518 (A) The interest holder has filed a proper claim and has an interest that the state  
519 attorney has stipulated is exempt from forfeiture, provided that if the interest holder is  
520 a financial institution, it is also authorized to do business in this state and is under the

521 jurisdiction of a governmental agency which regulates financial institutions, securities,  
 522 insurance, or real estate;  
 523 (B) The interest holder shall dispose of the property by commercially reasonable public  
 524 sale and apply the income first to its interest and then to its reasonable expenses  
 525 incurred in connection with the sale or disposal; and  
 526 (C) The balance of the income, if any, shall be returned to the actual or constructive  
 527 custody of the court, in an interest bearing account, subject to further proceedings under  
 528 this chapter.

529 9-16-15.

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

535 (b) An acquittal or dismissal in a criminal proceeding shall not preclude civil forfeiture  
 536 proceedings.

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

544 9-16-16.

545 (a) As used in this Code section, the term 'injured person' means any person who suffers  
 546 a pecuniary loss or physical injury due to a violation of Code Section 16-5-46, Article 4 or  
 547 5 of Chapter 8 of Title 16, or Chapter 14 of Title 16. In the event that such person is a  
 548 child or deceased, the provisions of subparagraphs (B) and (C) of paragraph (11) of Code  
 549 Section 17-17-3 shall apply.

550 (b) If an injured person has provided contact information pursuant to Chapter 17 of Title  
 551 17, a state attorney shall serve every known injured person, if he or she has not previously  
 552 been served, with a copy of the complaint for forfeiture and a notice of such person's right  
 553 of intervention at least 30 days prior to the entry of a final judgment.

554 (c) Notwithstanding the distribution of forfeiture proceeds as set forth in Code Section  
 555 9-16-19, any injured person shall have a right or claim to forfeited property or to the

556 proceeds superior to any right or claim the state or local government has in the same  
 557 property or proceeds other than for costs. To enforce such a claim, the injured person must  
 558 intervene in the civil forfeiture proceeding prior to the entry of a final judgment.

559 9-16-17.

560 (a)(1) The state's burden of proof shall be to show by a preponderance of the evidence  
 561 that seized property is subject to forfeiture.

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

564 (A) Is not privy to criminal conduct giving rise to its forfeiture;

565 (B) Did not consent to the conduct giving rise to the forfeiture;

566 (C) Did not know of the conduct giving rise to the forfeiture;

567 (D) Did not know the conduct giving rise to the forfeiture was likely to occur;

568 (E) Should not have reasonably known the conduct giving rise to the forfeiture was  
 569 likely to occur;

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

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

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

580 (I) Acquired the interest:

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

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

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

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

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

592 (b) There shall be a rebuttable presumption that any property of a person is subject to  
 593 forfeiture under this chapter if the state attorney establishes by a preponderance of the  
 594 evidence that:

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

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

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

600 9-16-18.

601 (a) All property declared to be forfeited vests in the state at the time of commission of the  
 602 conduct giving rise to forfeiture together with the proceeds of the property after that time.

603 Any property or proceeds transferred later to any person remain subject to forfeiture and  
 604 thereafter shall be ordered to be forfeited unless the transferee claims and establishes in a  
 605 hearing under this chapter that the transferee is a bona fide purchaser for value and the  
 606 transferee's interest is exempt under paragraph (2) of subsection (a) of Code Section  
 607 9-16-17.

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

611 9-16-19.

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

613 (1) 'Entity' means and includes, but shall not be limited to, a law enforcement agency,  
 614 multijurisdictional task force, or office, agency, authority, department, commission,  
 615 board, body, division, instrumentality, or institution of the state or any political  
 616 subdivision.

617 (2) 'Law enforcement agency' means a governmental unit of one or more persons  
 618 employed full time or part time by the state, a state agency or department, or a political  
 619 subdivision for the purposes of preventing and detecting crime and enforcing state laws  
 620 or local ordinances, employees of which unit are authorized to make arrests for crimes  
 621 or seize property while acting within the scope of their authority.

622 (3) 'Multijurisdictional task force' means a cooperative law enforcement effort involving  
 623 personnel from two or more law enforcement agencies who are employed by or acting  
 624 under the authority of different governmental authorities.

625 (4) 'Official law enforcement purpose' means expenditures associated with  
 626 investigations; training; travel; the purchase, lease, maintenance, and improvement of

627 equipment, law enforcement facilities, and detention facilities; capital improvements;  
 628 victim assistance and witness assistance services; the costs of accounting, auditing, and  
 629 tracking of expenditures for federally shared cash, proceeds, and tangible property;  
 630 awards, museums, and memorials directly related to law enforcement; drug and gang  
 631 education and awareness programs; the payment of matching funds for state or federal  
 632 grant programs that enhance law enforcement services to the community or judicial  
 633 circuit; and reimbursement to a governing authority for a pro rata share of the indirect  
 634 costs incurred by the governing authority for a common or joint purpose benefiting the  
 635 law enforcement agency and other local government agencies which are not readily  
 636 assignable to any particular agency.

637 (5) 'Official prosecutorial purpose' means expenditures associated with investigations;  
 638 hearings; trials; appeals; forensic services; language interpreters or interpreters for the  
 639 hearing impaired; travel expenses that conform to the provisions set forth in Code  
 640 Sections 15-18-12 and 50-5B-5; training related to the official functions of the district  
 641 attorney; the purchase, lease, maintenance, and improvement of equipment; victim  
 642 assistance and witness assistance services; the payment of matching funds for state or  
 643 federal grant programs that enhance prosecution, victim, or witness services to the  
 644 community or judicial circuit; reimbursement to a governing authority for a pro rata share  
 645 of the indirect costs incurred by the governing authority for a common or joint purpose  
 646 benefiting the district attorney's office and other local government agencies which are not  
 647 readily assignable to any particular agency; and the payment of salaries and benefits in  
 648 conformity with subsection (e) of Code Section 15-18-19 and Code Section 15-18-20.1.

649 (6) 'Prosecuting Attorneys' Council' means the Prosecuting Attorneys' Council of the  
 650 State of Georgia.

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

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

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

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

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

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

667 (2) The title to the real property be placed in the name of the political subdivision which  
668 will be taking charge of such property. Such political subdivision shall then:

669 (A) Sell the property with such conditions as the court deems proper and distribute the  
670 income as provided in subsection (f) of this Code section; or

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

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

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

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

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

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

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

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

685 (2) The income from such sale shall be paid into the registry of the court or deposited  
686 into an account as specified in paragraph (1) of subsection (c) of Code Section 9-16-10  
687 as directed by the court.

688 (f)(1) The state attorney shall submit a proposed order of distribution to the court and the  
689 court shall issue an order of distribution. Such order shall specify the time frame for the  
690 transfer of forfeited property and the entity responsible for effectuating the transfer of  
691 such property. The state attorney shall provide a copy of the order of distribution to any  
692 entity responsible for effectuating such transfer. The state attorney shall provide a copy  
693 of the order of distribution to the chief executive officer of each political subdivision  
694 whose law enforcement agency will receive a distribution pursuant to such order.

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

700 (3)(A) The first distribution from the pool shall be to pay costs and court costs to the  
 701 entity incurring the costs or court costs.

702 (B) Except as provided in subparagraph (E) of this paragraph, the second distribution  
 703 from the pool, upon the request of the district attorney, shall be 10 percent of such pool  
 704 which shall be paid to the district attorney's office, in recognition of the district  
 705 attorney's effort in completing the civil forfeiture proceeding, and shall be used by a  
 706 district attorney for official prosecutorial purposes. Forfeited property and the sums  
 707 held by a district attorney shall be in addition to the respective budgets of the state and  
 708 the counties comprising the judicial circuit for a district attorney and shall not supplant  
 709 such appropriations.

710 (C) Except as provided in subparagraph (E) of this paragraph, the third distribution  
 711 from the pool shall be pro rata to law enforcement agencies and multijurisdictional task  
 712 forces according to the role each law enforcement agency or multijurisdictional task  
 713 force played in the seizure and forfeiture of the forfeited property up to the limits set  
 714 forth in division (4)(A)(ii) of this subsection.

715 (D) If there remains currency in the pool after the distributions set forth in  
 716 subparagraphs (A) through (C) of this paragraph, it may be distributed as further set  
 717 forth in division (4)(A)(iii) or (4)(B)(ii) of this subsection, as applicable.

718 (E) If the civil forfeiture proceeding results from criminal conduct in violation of  
 719 Article 11 of Chapter 1 of Title 7, Code Section 16-5-46, Article 5 of Chapter 8 of Title  
 720 16, or Chapter 14 of Title 16, after satisfaction of the interest of any innocent party, the  
 721 court may make any division of the pool among the state, political subdivisions, or  
 722 agencies or departments of the state or political subdivisions commensurate with the  
 723 assistance each contributed to the underlying criminal prosecution or civil forfeiture  
 724 proceeding, or both such actions.

725 (4) Property distribution shall be as follows:

726 (A) With respect to political subdivisions:

727 (i) Property distributed in kind to a political subdivision or multijurisdictional task  
 728 force for use by an agency, department, or officer of a political subdivision for official  
 729 law enforcement purposes shall be designated in the order of distribution and shall be  
 730 titled accordingly; provided, however, that property may be distributed for other  
 731 purposes to any other entity so long as such designation is made in the order of  
 732 distribution and reported in accordance with subsection (g) of this Code section. If  
 733 real property is distributed to a political subdivision, the political subdivision may  
 734 transfer the real property to a land bank authority as provided in Article 4 of Chapter  
 735 4 of Title 48. When in-kind property is no longer needed by the recipient, it shall be  
 736 disposed of in accordance with the political subdivision's policy and procedure;

737 (ii) Currency distributed to local law enforcement agencies or to multijurisdictional  
 738 task forces shall be paid or credited to such agencies or task forces as provided in the  
 739 order of distribution; provided, however, that such agency or task force shall not be  
 740 eligible to receive more than 33 1/3 percent of the amount of local funds appropriated  
 741 or otherwise made available to such agency or task force for the fiscal year in which  
 742 such funds are distributed. Such currency may be used for any official law  
 743 enforcement purpose at the discretion of the chief officer of the law enforcement  
 744 agency receiving such distribution, provided that such distribution shall not be used  
 745 to supplant any other local, state, or federal funds appropriated for staff or operations  
 746 or to pay salaries or rewards to law enforcement personnel;

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

754 (iv) When a chief officer of a law enforcement agency does not qualify as a candidate  
 755 for reelection or has been defeated in any election, he or she shall not transfer any  
 756 currency or property received due to civil forfeiture proceedings to any other entity  
 757 prior to leaving office; provided, however, that he or she may continue to expend such  
 758 currency or make use of such property for any official law enforcement purpose  
 759 within his or her law enforcement agency; and

760 (B) With respect to the state:

761 (i) Property distributed in kind to the state for use by a state agency, officer of the  
 762 state, or district attorney shall be designated in the order of distribution; provided,  
 763 however, that property may be distributed for other purposes to any other entity so  
 764 long as such designation is made in the order of distribution and reported in  
 765 accordance with subsection (g) of this Code section. When a state agency, officer of  
 766 the state, or district attorney determines that in-kind property is no longer needed by  
 767 the recipient, it shall be delivered over to the Department of Administrative Services  
 768 for such use or disposition as may be determined by the commissioner of  
 769 administrative services;

770 (ii) Currency distributed to the state for use by a state agency, officer of the state,  
 771 district attorney, or as further set forth in this division shall be paid as provided in the  
 772 order of distribution. It is the intent of the General Assembly that the currency  
 773 otherwise distributed to the state be used, subject to appropriation from the general

774 fund in the manner provided by law, for funding of Article 2 of Chapter 12 of Title  
 775 17, the 'Georgia Indigent Defense Act of 2003,' for representation of indigents in  
 776 criminal cases; for funding of the Georgia Crime Victims Emergency Fund; for law  
 777 enforcement and prosecution agency programs and particularly for funding of  
 778 advanced drug investigation and prosecution training for law enforcement officers and  
 779 prosecuting attorneys; for drug treatment, mental health treatment, rehabilitation,  
 780 prevention, or education or any other program which deters drug or substance abuse  
 781 or responds to problems created by drug or substance abuse; for use as matching  
 782 funds for grant programs related to drug treatment or prevention; or for financing the  
 783 judicial system of the state; and

784 (iii) When a district attorney does not qualify as a candidate for reelection or has been  
 785 defeated in any election, he or she shall not transfer any currency or property received  
 786 due to civil forfeiture proceedings to any other entity prior to leaving office; provided,  
 787 however, that he or she may continue to expend such currency or make use of such  
 788 property for any official prosecutorial purpose within his or her office.

789 (g)(1) Property and proceeds forfeited pursuant to this chapter and any income resulting  
 790 from the sale of forfeited property is government property. It is the intent of the General  
 791 Assembly that there be accountability and transparency applicable to the distribution of  
 792 forfeited property and income from the sale of forfeited property. The appropriate  
 793 accounting and auditing standards shall be applicable to such distribution.

794 (2) Any law enforcement agency, multijurisdictional task force, district attorney, or state  
 795 agency receiving property and proceeds forfeited pursuant to this chapter and any income  
 796 resulting from the sale of forfeited property, including property distributed in kind, shall  
 797 submit an annual report specifying the property and proceeds forfeited pursuant to this  
 798 chapter and any income resulting from the sale of forfeited property received during its  
 799 reporting year and shall clearly identify the use of such property, proceeds, and income,  
 800 including the specifics of all monetary expenditures and funds on deposit with a financial  
 801 institution. Such report shall not include any information that is likely to disclose the  
 802 identity of a confidential source, disclose confidential investigative or prosecution  
 803 material which could endanger the life or physical safety of any person, disclose the  
 804 existence of a confidential surveillance or investigation, or disclose techniques and  
 805 procedures for law enforcement investigations or prosecutions. Such annual report shall  
 806 be appropriately completed and legible. Such report shall be:

807 (A) With respect to law enforcement agencies, multijurisdictional task forces, and state  
 808 agencies:

809 (i) Submitted on a form promulgated by the Prosecuting Attorneys' Council, as  
 810 provided in subparagraph (A) of paragraph (3) of this subsection;

- 811 (ii) Submitted by each local law enforcement agency to the political subdivision  
 812 governing its jurisdiction;
- 813 (iii) Submitted by multijurisdictional task forces to each political subdivision  
 814 governing the jurisdictions involved;
- 815 (iv) Submitted by state agencies to the state auditor;
- 816 (v) Submitted by January 31 each year for the previous calendar year; and
- 817 (vi) Copied and submitted to the Carl Vinson Institute of Government of the  
 818 University of Georgia as provided in Code Section 36-80-21; and
- 819 (B) With respect to district attorneys:
- 820 (i) Submitted on a form promulgated by the Prosecuting Attorneys' Council, as  
 821 provided in subparagraph (B) of paragraph (3) of this subsection;
- 822 (ii) Submitted by district attorneys to the Prosecuting Attorneys' Council according  
 823 to the rules and regulations adopted by the Prosecuting Attorneys' Council;
- 824 (iii) Submitted to the state auditor;
- 825 (iv) Submitted by January 31 each year for the previous calendar year; and
- 826 (v) Copied and submitted to the Carl Vinson Institute of Government of the  
 827 University of Georgia as provided in Code Section 36-80-21.
- 828 (3)(A) The Prosecuting Attorneys' Council shall promulgate and from time to time  
 829 amend as necessary and post on its website an annual reporting form for use by law  
 830 enforcement agencies, multijurisdictional task forces, and state agencies to report the  
 831 information required by this subsection. In creating this form, the Prosecuting  
 832 Attorneys' Council shall consider input from the Georgia Peace Officer Standards and  
 833 Training Council, the Georgia Sheriffs' Association, and the Georgia Association of  
 834 Chiefs of Police. Such form shall include, but shall not be limited to, the following  
 835 information:
- 836 (i) As to property, other than currency, an itemization specifying:
- 837 (I) The date the property was received by the entity;
- 838 (II) The make, model, and serial number, when relevant; provided, however, that  
 839 such details shall not be required when such details would disclose the identification  
 840 of property being used in a confidential investigation or would compromise an  
 841 ongoing investigation;
- 842 (III) The statutes upon which the property was subject to forfeiture;
- 843 (IV) The estimated value of the property received;
- 844 (V) If the property was sold, the date of the sale and the gross and net income  
 845 received;
- 846 (VI) If the property was retained, the purpose for which it was used; provided,  
 847 however, that such details shall not be required when such details would disclose

848 the identification of property being used in a confidential investigation or would  
849 compromise an ongoing investigation; and  
850 (VII) If the property was destroyed, the date of the destruction;  
851 (ii) As to currency, an itemization specifying:  
852 (I) The amount of currency forfeited and the date the currency was received; and  
853 (II) The statutes upon which the currency was subject to forfeiture;  
854 (iii) If property was returned to an owner or interest holder, by the seizing law  
855 enforcement agency or in the order of distribution, a description of such property and  
856 date of return of such property;  
857 (iv) The total for the reporting year of the amount of currency forfeited and net  
858 income from the sale of forfeited property which the entity received;  
859 (v) A description of the use and expenditure of forfeited funds for the reporting year,  
860 specifying for each expenditure the amount expended and the purpose for which each  
861 expenditure was made; and  
862 (vi) The total amount of forfeited currency held in a financial institution at the end  
863 of the reporting year, including the net income from the sale of forfeited property and  
864 interest earned.  
865 (B) The Prosecuting Attorneys' Council shall promulgate and from time to time amend  
866 as necessary and post on its website an annual reporting form for district attorneys to  
867 use to report the information required by this subsection. In creating this form, the  
868 Prosecuting Attorneys' Council shall consider input from the District Attorneys'  
869 Association of Georgia. Such form shall include, but shall not be limited to, the  
870 following information:  
871 (i) As to in-kind property received, an itemization specifying:  
872 (I) The date the property was received;  
873 (II) The make, model, and serial number, when relevant; provided, however, that  
874 such details shall not be required when such details would disclose the identification  
875 of property being used in a confidential investigation or would compromise an  
876 ongoing investigation;  
877 (III) The statutes upon which the property was subject to forfeiture; and  
878 (IV) A description of the purpose to which the property was put;  
879 (ii) As to currency received, an itemization specifying:  
880 (I) The amount of currency and the date the currency was received; and  
881 (II) A description of the use and expenditure of forfeited currency for the reporting  
882 year, specifying for each expenditure the amount expended and the purpose for  
883 which each expenditure was made; and

884 (iii) The total amount of currency received by the district attorney during the  
885 reporting year and the amount remaining that has not been expended, including any  
886 interest earned.

887 (4) The annual report required by this subsection may be submitted electronically,  
888 provided the submission complies with Chapter 12 of Title 10.

889 (5)(A) The district attorney having jurisdiction where the local law enforcement  
890 agency or multijurisdictional task force is located shall be authorized to conduct an  
891 investigation and bring any criminal prosecution or civil action he or she deems  
892 necessary to ensure compliance with this subsection. The district attorney shall provide  
893 an entity required to comply with the reporting requirements of this subsection and  
894 found to have committed a violation of this subsection 60 days to demonstrate to the  
895 district attorney that such entity has come into compliance with this subsection. If, after  
896 60 days, the entity has failed to correct all deficiencies, such entity shall be prohibited  
897 from being eligible to receive property derived or resulting from civil forfeiture  
898 proceedings until such time as the entity demonstrates to the district attorney that such  
899 entity has corrected all deficiencies and is in compliance with this subsection; provided,  
900 however, that if the chief officer of the entity has resigned or has been removed from  
901 office, the prohibition shall not apply so long as his or her successor in office corrects  
902 all deficiencies within 180 days of taking office. At any time after the district attorney  
903 finds an entity to be in violation of this subsection, such entity may seek administrative  
904 relief through the Office of State Administrative Hearings. If an entity seeks  
905 administrative relief, the time for correcting deficiencies shall be tolled, and any action  
906 to exclude the entity from receiving property derived or resulting from civil forfeiture  
907 proceedings shall be suspended until such time as a final ruling upholding the findings  
908 of the district attorney is issued.

909 (B) If the district attorney is disqualified from conducting any investigation under this  
910 paragraph, the district attorney shall notify the Attorney General in accordance with  
911 Code Section 15-18-5.

912 (6) If an audit concludes that a district attorney has used property in violation of this  
913 Code section and the auditor notifies the district attorney of such violation, he or she shall  
914 take appropriate action to remedy the audit's findings and repay or redistribute property  
915 improperly used. If the district attorney fails to remedy the audit's findings within 60  
916 days of such notification, the auditor shall notify the Attorney General for further legal  
917 action.

918 (7) Any person who knowingly and willfully makes a false, fictitious, or fraudulent  
919 annual report pursuant to this subsection shall be guilty of a violation of Code Section  
920 16-10-20 and, upon conviction, shall be punished as provided in such Code section. Any

921 entity that employed a person convicted of false statements based on a violation of this  
 922 subsection shall be prohibited from being eligible to receive property derived or resulting  
 923 from civil forfeiture proceedings for a period of two years commencing from the date of  
 924 such conviction, unless such entity no longer employs such person.

925 9-16-20.

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

929 (1) Cannot be located;

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

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

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

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

935 (b) In addition to any other remedy provided for by law, a state attorney on behalf of the  
 936 state may institute a civil action in any court of the United States against any person acting  
 937 with knowledge or any person to whom notice of a forfeiture lien has been provided in  
 938 accordance with Code Section 9-16-8; to whom notice of seizure has been provided in  
 939 accordance with Code Section 9-16-11; or to whom notice of a civil forfeiture proceeding  
 940 has been provided, if property subject to forfeiture is conveyed, alienated, disposed of, or  
 941 otherwise rendered unavailable for forfeiture after the filing of a forfeiture lien, filing of  
 942 a complaint for forfeiture pursuant to Code Section 9-16-12 or 9-16-13, or the service of  
 943 a notice of seizure pursuant to Code Section 9-16-11, as the case may be. The state may  
 944 recover judgment in an amount equal to the value of the forfeiture lien but not to exceed  
 945 the fair market value of the property or, if there is no forfeiture lien, in an amount not to  
 946 exceed the fair market value of the property, together with reasonable investigative  
 947 expenses and attorney's fees.

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

950 (d) No person claiming an interest in property subject to forfeiture may commence or  
 951 maintain any civil action concerning the validity of the alleged interest other than as  
 952 provided in this chapter. No person claiming an interest in property subject to forfeiture  
 953 may file any counterclaim or cross-claim to any action brought pursuant to this chapter.  
 954 Except as specifically authorized by subsection (d) of Code Section 9-16-12, subsection (d)  
 955 of Code Section 9-16-13, or Code Section 9-16-16, providing for intervention, no person  
 956 claiming an interest in such property may intervene in any civil forfeiture proceeding.

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

962 9-16-21.

963 (a) Property seized or forfeited pursuant to federal law, and such property or proceeds,  
 964 authorized by such federal law to be transferred to a cooperating law enforcement agency  
 965 of this state or any political subdivision thereof shall be utilized by the law enforcement  
 966 agency or political subdivision to which the property or proceeds are so transferred as  
 967 authorized by such federal law and regulations or guidelines promulgated thereunder. If  
 968 federal law and regulations or guidelines promulgated thereunder are silent as to the  
 969 utilization of such property or proceeds, the property and proceeds shall be disposed of and  
 970 utilized as set forth in Code Section 9-16-19.

971 (b) Any law enforcement agency receiving property or proceeds pursuant to federal law  
 972 shall also comply with subsection (g) of Code Section 9-16-19.

973 9-16-22.

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

975 **PART I-A**

976 **SECTION 1A-1.**

977 Code Section 15-12-60 of the Official Code of Georgia Annotated, relating to the  
 978 qualifications for grand jurors, is amended by revising subsection (c) and adding a new  
 979 subsection to read as follows:

980 "(c) The following individuals shall not be eligible to serve as a grand juror:

981 (1) Any ~~person~~ individual who has been convicted of a felony in a state or federal court  
 982 who has not had his or her civil rights restored; ~~and any person~~

983 (2) Any individual who has been judicially determined to be mentally incompetent ~~shall~~  
 984 not be eligible to serve as a grand juror;

985 (3) Any individual charged with a felony offense and who is in a pretrial release  
 986 program, a pretrial release and diversion program, or a pretrial intervention and diversion  
 987 program, as provided for in Article 4 of Chapter 18 of Title 15 or Article 5 of Chapter 8  
 988 of Title 42 or pursuant to Uniform Superior Court Rule 27, a similar diversion program  
 989 from another state, or a similar federal court diversion program for a felony offense;

990 (4) Any individual sentenced for a felony offense pursuant to Code Section 16-13-2 who  
 991 has not completed the terms of his or her sentence;

992 (5) Any individual serving a sentence for a felony offense pursuant to Article 3 of  
 993 Chapter 8 of Title 42 or serving a first offender sentence for a felony offense pursuant to  
 994 another state's law; and

995 (6) Any individual who is participating in a drug court division, mental health court  
 996 division, veterans court division, a similar court program from another state, or a similar  
 997 federal court program for a felony offense.

998 (d) If an indictment is returned, and a grand juror was ineligible to serve as a grand juror  
 999 pursuant to subsection (c) of this Code section, such indictment shall not be quashed solely  
 1000 as a result of such ineligibility."

1001 **PART II**

1002 **CONFORMING TITLE 16 TO**

1003 **THE NEW CIVIL FORFEITURE PROCEDURE**

1004 **SECTION 2-1.**

1005 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is  
 1006 amended by revising subsection (e) of Code Section 16-5-44.1, relating to highjacking a  
 1007 motor vehicle, as follows:

1008 "(e)(1) As used in this subsection, the terms 'proceeds' and 'property' shall have the same  
 1009 meanings as set forth in Code Section 9-16-2.

1010 (2) Any property which is, ~~directly or indirectly,~~ used; ~~or~~ intended for use; ~~derived, or~~  
 1011 ~~realized, directly or indirectly, from~~ in any manner to facilitate a violation of this Code  
 1012 section ~~is forfeited to the state and no property interest shall exist therein. Any action~~  
 1013 ~~declaring such forfeiture shall be governed by the provisions of Code Section 16-13-49~~  
 1014 and any proceeds are declared to be contraband and no person shall have a property right  
 1015 in them.

1016 (3) Any property subject to forfeiture pursuant to paragraph (2) of this subsection shall  
 1017 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9."

1018 **SECTION 2-2.**

1019 Said title is further amended by revising subsection (g) of Code Section 16-5-46, relating to  
 1020 trafficking of persons for labor or sexual servitude, as follows:

1021 "(g)(1) As used in this subsection, the terms 'civil forfeiture proceedings,' 'proceeds,' and  
 1022 'property' shall have the same meanings as set forth in Code Section 9-16-2. ~~All real and~~  
 1023 personal property of every kind used or intended for use in the course of, derived from,

1024 ~~or realized through a violation of this Code section shall be subject to forfeiture to the~~  
 1025 ~~state. Forfeiture shall be had by the same procedure set forth in Code Section 16-14-7.~~  
 1026 ~~Prosecuting attorneys and the Attorney General may commence forfeiture proceedings~~  
 1027 ~~under this Code section.~~

1028 (2) Any property which is, directly or indirectly, used or intended for use in any manner  
 1029 to facilitate a violation of this Code section and any proceeds are declared to be  
 1030 contraband and no person shall have a property right in them.

1031 (3) Any property subject to forfeiture pursuant to paragraph (2) of this subsection shall  
 1032 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9.

1033 (4) The Attorney General shall be specifically authorized to commence civil forfeiture  
 1034 proceedings under this Code section."

1035 **SECTION 2-3.**

1036 Said title is further amended by repealing in its entirety Code Section 16-6-13.2, relating to  
 1037 forfeiture and seizure of property involving pimping and pandering, and enacting a new Code  
 1038 Section 16-6-13.2 to read as follows:

1039 "16-6-13.2.

1040 (a) As used in this Code section, the term 'motor vehicle' shall have the same meaning as  
 1041 set forth in Code Section 40-1-1.

1042 (b) Any motor vehicle used by a person to facilitate a violation of Code Section 16-6-11  
 1043 when the offense involved the pimping of a person to perform an act of prostitution is  
 1044 declared to be contraband and no person shall have a property right in it.

1045 (c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall  
 1046 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9."

1047 **SECTION 2-4.**

1048 Said title is further amended by repealing in its entirety Code Section 16-6-13.3, relating to  
 1049 proceeds from pimping, forfeiture, and distribution, and enacting a new Code Section  
 1050 16-6-13.3 to read as follows:

1051 "16-6-13.3.

1052 (a) As used in this Code section, the terms 'proceeds' and 'property' shall have the same  
 1053 meanings as set forth in Code Section 9-16-2.

1054 (b) Any property which is, directly or indirectly, used or intended for use in any manner  
 1055 to facilitate a violation of Code Section 16-6-11 and any proceeds are declared to be  
 1056 contraband and no person shall have a property right in them.

1057 (c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall  
 1058 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9."

**SECTION 2-5.**

1059  
1060 Said title is further amended by revising Code Section 16-7-95, relating to forfeiture and  
1061 destruction or disposition of property, as follows:

1062 "16-7-95.

1063 (a) As used in this Code section, the terms 'proceeds' and 'property' shall have the same  
1064 meanings as set forth in Code Section 9-16-2. All property which is subject to forfeiture  
1065 pursuant to Code Section 16-13-49 which is, directly or indirectly, used or intended for use  
1066 in any manner to facilitate a violation of this article or any proceeds derived or realized  
1067 therefrom shall be considered contraband. Except as provided in subsection (b) of this  
1068 Code section, such property may be seized and shall be forfeited to the state as provided  
1069 in Code Section 16-13-49. A property interest shall not be subject to forfeiture under this  
1070 Code section if the owner of such interest or interest holder establishes any of the  
1071 provisions of subsection (e) of Code Section 16-13-49.

1072 (b) Any property which is, directly or indirectly, used or intended for use in any manner  
1073 to facilitate a violation of this article and any proceeds are declared to be contraband and  
1074 no person shall have a property right in them.

1075 (c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall  
1076 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9.

1077 ~~(b)~~(d) On application of the seizing law enforcement agency, the superior court may  
1078 authorize the seizing law enforcement agency to destroy or transfer to any agency of this  
1079 state or of the United States which can safely store or render harmless any destructive  
1080 device, explosive, poison gas, or detonator which is subject to forfeiture pursuant to this  
1081 Code section if the court finds that it is impractical or unsafe for the seizing law  
1082 enforcement agency to store such destructive device, explosive, poison gas, or detonator.  
1083 Such application may be made at any time after seizure. Any destruction authorized  
1084 pursuant to this subsection shall be made in the presence of at least one credible witness  
1085 or shall be recorded on film, videotape, or other electronic imaging method. Any such  
1086 film, videotape, or other electronic imaging method shall be admissible as evidence in lieu  
1087 of such destructive device, explosive, poison gas, or detonator. The court may also direct  
1088 the seizing agency or an agency to which such destructive device, explosive, poison gas,  
1089 or detonator is transferred to make a report of the destruction, take samples, or both.

1090 ~~(c)~~(e) The provisions of subsection ~~(b)~~ (d) of this Code section shall not prohibit an  
1091 explosive ordnance technician, other law enforcement officer, or fire service personnel  
1092 from taking action which will render safe an explosive, destructive device, poison gas, or  
1093 detonator or any object which is suspected of being an explosive, destructive device, poison  
1094 gas, or detonator without the prior approval of a court when such action is intended to  
1095 protect lives or property."

**SECTION 2-6.**

1096  
 1097 Said title is further amended by revising subsection (e) of Code Section 16-8-5.2, relating to  
 1098 retail property fencing and forfeiture, as follows:

1099 "(e)(1) As used in this subsection, the terms 'proceeds' and 'property' shall have the same  
 1100 meanings as set forth in Code Section 9-16-2.

1101 ~~(2) Any property constituting proceeds derived from or realized through which is,~~  
 1102 ~~directly or indirectly, used or intended for use in any manner to facilitate a violation of~~  
 1103 ~~this Code section shall be subject to forfeiture to the State of Georgia except that and any~~  
 1104 ~~proceeds are declared to be contraband and no person shall have a property right in them;~~  
 1105 ~~provided, however, that notwithstanding paragraph (2) of subsection (a) of Code Section~~  
 1106 ~~9-16-17, no property of any owner shall be forfeited under this subsection, to the extent~~  
 1107 ~~of the interest of such owner, by reason of an act or omission established by such owner~~  
 1108 ~~to have been committed or omitted without knowledge or consent of such owner. The~~  
 1109 ~~procedure for forfeiture and disposition of forfeited property under this subsection shall~~  
 1110 ~~be as provided for under Code Section 16-13-49.~~

1111 (3) Any property subject to forfeiture pursuant to paragraph (2) of this subsection shall  
 1112 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9."

**SECTION 2-7.**

1113  
 1114 Said title is further amended by revising subsection (f) of Code Section 16-8-60, relating to  
 1115 reproduction of recorded material, transfer, sale, distribution, circulation, and forfeiture, as  
 1116 follows:

1117 "(f)(1) Any phonograph record, disc, wire, tape, videotape, film, or other article onto  
 1118 which sounds or visual images have been transferred shall be subject to forfeiture to the  
 1119 State of Georgia except that in violation of this Code section are declared to be  
 1120 contraband and no person shall have a property right in them; provided, however, that  
 1121 notwithstanding paragraph (2) of subsection (a) of Code Section 9-16-17, no property of  
 1122 any owner shall be forfeited under this paragraph, to the extent of the interest of such  
 1123 owner, by reason of an act or omission established by such owner to have been  
 1124 committed or omitted without knowledge or consent of such owner.

1125 (2) Any property subject to forfeiture pursuant to paragraph (1) of this subsection shall  
 1126 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9. The  
 1127 procedure for forfeiture and disposition of forfeited property under this subsection shall  
 1128 be as provided for under Code Section 16-13-49."

1129 **SECTION 2-8.**

1130 Said title is further amended by revising subsections (c) through (r) of Code Section 16-8-85,  
1131 relating to forfeiture of personal property seized, as follows:

1132 ~~“(c)(1) Any motor vehicle, motor vehicle part, other conveyance, tool, implement, or  
1133 instrumentality is not subject to forfeiture under this Code section by reason of any act  
1134 or omission which the owner proves to have been committed or omitted without the  
1135 owner's knowledge or consent.~~

1136 ~~(2) Seizing agencies shall utilize their best efforts to identify any seized motor vehicle  
1137 or motor vehicle part to determine ownership or the identity of any other person having  
1138 a right or interest in a seized motor vehicle or motor vehicle part. In its reasonable  
1139 identification and owner location attempts, the seizing agency shall cause the stolen  
1140 motor vehicle files of the Georgia Bureau of Investigation to be searched for stolen or  
1141 wanted information on motor vehicles similar to the seized motor vehicle or consistent  
1142 with the seized motor vehicle part.~~

1143 ~~(3)(c) If~~ Where a motor vehicle part has an apparent value in excess of \$1,000.00:

1144 ~~(A)(1)~~ The seizing agency shall consult with an expert of the type specified in  
1145 paragraph (4) of Code Section 16-8-82; and

1146 ~~(B)(2)~~ The seizing agency shall also request searches of the ~~on-line~~ online and ~~off-line~~  
1147 offline files of the National Crime Information Center and the National Automobile Theft  
1148 Bureau when the Georgia Bureau of Investigation and Georgia Crime Information Center  
1149 files have been searched with negative results.

1150 (d) Any property subject to forfeiture pursuant to this Code section shall be forfeited in  
1151 accordance with the procedures set forth in Chapter 16 of Title 9, except as specifically set  
1152 forth in subsections (g) through (j) of this Code section. ~~A forfeiture of a motor vehicle,  
1153 motor vehicle part, or other conveyance encumbered by a bona fide security interest is  
1154 subject to the interest of the secured party where the secured party neither had knowledge  
1155 of nor consented to the act or omission forming the ground for the forfeiture.~~

1156 ~~(e) Property, as described in subsection (a) of this Code section, which is seized and held  
1157 for forfeiture shall not be subject to replevin and is subject only to the order and judgments  
1158 of a court of competent jurisdiction hearing the forfeiture proceedings.~~

1159 ~~(f)(1) A prosecutor in the county where the seizure occurs shall bring an action for  
1160 forfeiture in a court of competent jurisdiction. The forfeiture action shall be brought  
1161 within 60 days from the date of seizure except where the prosecutor in the sound exercise  
1162 of discretion determines that no forfeiture action should be brought because of the rights  
1163 of property owners, lienholders, or secured creditors or because of exculpatory,  
1164 exonerating, or mitigating facts and circumstances.~~

1165 ~~(2) The prosecutor shall give notice of the forfeiture proceeding by mailing a copy of the~~  
 1166 ~~complaint in the forfeiture proceeding to each person whose right, title, or interest is of~~  
 1167 ~~record in the Department of Revenue, the Department of Transportation, the Federal~~  
 1168 ~~Aviation Agency, or any other department or agency of this state, any other state or~~  
 1169 ~~territory of the United States, or of the federal government if such property is required to~~  
 1170 ~~be registered with any such department or agency.~~

1171 ~~(3) Notice of the forfeiture proceeding shall be given to any other such person as may~~  
 1172 ~~appear, from the facts and circumstances, to have any right, title, or interest in or to the~~  
 1173 ~~property.~~

1174 ~~(4) The owner of the property or any person having or claiming right, title, or interest in~~  
 1175 ~~the property may within 60 days after the mailing of such notice file a verified answer to~~  
 1176 ~~the complaint and may appear at the hearing on the action for forfeiture.~~

1177 ~~(5) The prosecutor shall show at a forfeiture hearing, by a preponderance of the~~  
 1178 ~~evidence, that such property was used in the commission of a violation of Code Section~~  
 1179 ~~16-8-83 or was used or possessed to facilitate such violation.~~

1180 ~~(6) The owner of such property may show by a preponderance of the evidence that the~~  
 1181 ~~owner did not know, and did not have reason to know, that the property was to be used~~  
 1182 ~~or possessed in the commission of any violation or that any of the exceptions to forfeiture~~  
 1183 ~~are applicable.~~

1184 ~~(7) Unless the prosecutor shall make the showing required of it, the court shall order the~~  
 1185 ~~property released to the owner. Where the prosecutor has made such a showing, the court~~  
 1186 ~~may order that:~~

1187 ~~(A) The property be destroyed by the agency which seized it or some other agency~~  
 1188 ~~designated by the court;~~

1189 ~~(B) The property be delivered and retained for use by the agency which seized it or~~  
 1190 ~~some other agency designated by the court; or~~

1191 ~~(C) The property be sold at public sale.~~

1192 ~~(g)(e)~~ A copy of a forfeiture order shall be filed with the sheriff of the county in which the  
 1193 forfeiture occurs and with each federal or state department or agency with which such  
 1194 property is required to be registered. Such order, when filed, constitutes authority for the  
 1195 issuance to the agency to whom the property is delivered and retained for use or to any  
 1196 purchaser of the property of a certificate of title, registration certificate, or other special  
 1197 certificate as may be required by law in consideration of the condition of the property.

1198 ~~(h) Proceeds from sale at public auction, after payment of all reasonable charges and~~  
 1199 ~~expenses incurred by the agency designated by the court to conduct the sale in storing and~~  
 1200 ~~selling the property, shall be paid into the general fund of the county of seizure.~~

1201 ~~(i)~~(f) No motor vehicle, either seized under Code Section 16-8-84 or forfeited under this  
 1202 Code section, shall be released by the seizing agency or used or sold by an agency  
 1203 designated by the court unless any altered, counterfeited, defaced, destroyed, disguised,  
 1204 falsified, forged, obliterated, or removed vehicle identification number is corrected by the  
 1205 issuance and affixing of either an assigned or replacement vehicle identification number  
 1206 plate as may be appropriate under laws or regulations of this state.

1207 ~~(j)~~(g) No motor vehicle part having any altered, counterfeited, defaced, destroyed,  
 1208 disguised, falsified, forged, obliterated, or removed vehicle identification number may be  
 1209 disposed of upon forfeiture except by destruction thereof, except that this subsection shall  
 1210 not apply to any such motor vehicle part which is assembled with and constitutes part of  
 1211 a motor vehicle.

1212 ~~(k)~~(h) No motor vehicle or motor vehicle part shall be forfeited under this Code section  
 1213 solely on the basis that it is unidentifiable. Instead of forfeiture, any seized motor vehicle  
 1214 or motor vehicle part which is unidentifiable shall be the subject of a written report sent by  
 1215 the seizing agency to the Department of Revenue; which ~~report~~ shall include a description  
 1216 of the motor vehicle or motor vehicle part, including its color, if any; the date, time, and  
 1217 place of its seizure; the name of the person from whose possession or control it was seized;  
 1218 the grounds for its seizure; and the location where the same is held or stored.

1219 ~~(h)~~(i) When a seized unidentifiable motor vehicle or motor vehicle part has been held for  
 1220 60 days or more after the notice to the Department of Revenue specified in  
 1221 subsection ~~(k)~~ (h) of this Code section has been given, the seizing agency, or its agent, shall  
 1222 cause the motor vehicle or motor vehicle part to be sold at a public sale to the highest  
 1223 bidder. Notice of the time and place of sale shall be posted in a conspicuous place for at  
 1224 least 30 days prior to the sale on the premises where the motor vehicle or motor vehicle  
 1225 part has been stored.

1226 ~~(m)~~(j)(1) When a seized unidentifiable motor vehicle or motor vehicle part has an  
 1227 apparent value of \$1,000.00 or less, the seizing agency shall authorize the disposal of the  
 1228 motor vehicle or motor vehicle part, provided that no such disposition shall be made  
 1229 sooner than 60 days after the date of seizure.

1230 ~~(n)~~(2) The proceeds of the public sale of an unidentifiable motor vehicle or motor vehicle  
 1231 part shall be deposited into the general fund of the state, county, or municipal corporation  
 1232 employing the seizing agency after deduction of any reasonable and necessary towing and  
 1233 storage charges.

1234 ~~(o)~~(k) Seizing agencies shall utilize their best efforts to arrange for the towing and storing  
 1235 of motor vehicles and motor vehicle parts in the most economical manner possible. In no  
 1236 event shall the owner of a motor vehicle or a motor vehicle part be required to pay more  
 1237 than the minimum reasonable costs of towing and storage.

1238 ~~(p)~~(l) A seized motor vehicle or motor vehicle part that is neither forfeited nor  
 1239 unidentifiable shall be held subject to the order of the court in which the criminal action is  
 1240 pending or, if a request for its release from such custody is made, until the prosecutor has  
 1241 notified the defendant or the defendant's attorney of such request and both the prosecution  
 1242 and defense have been afforded a reasonable opportunity for an examination of the  
 1243 property to determine its true value and to produce or reproduce, by photographs or other  
 1244 identifying techniques, legally sufficient evidence for introduction at trial or other criminal  
 1245 proceedings. Upon expiration of a reasonable time for the completion of the examination,  
 1246 which in no event shall exceed 14 days from the date of service upon the defense of the  
 1247 notice of request for return of property as provided in this subsection, the property shall be  
 1248 released to the person making such request after satisfactory proof of such person's  
 1249 entitlement to the possession thereof. Notwithstanding the foregoing, upon application by  
 1250 either party with notice to the other, the court may order retention of the property if it  
 1251 determines that retention is necessary in the furtherance of justice.

1252 ~~(q)~~(m) When a seized vehicle is forfeited, restored to its owner, or disposed of as  
 1253 unidentifiable, the seizing agency shall retain a report of the transaction for a period of at  
 1254 least one year from the date of the transaction.

1255 ~~(r)~~(n) When an applicant for a certificate of title or salvage certificate of title presents to  
 1256 the Department of Revenue proof that the applicant purchased or acquired a motor vehicle  
 1257 at public sale conducted pursuant to this Code section and such fact is attested to by the  
 1258 seizing agency, the Department of Revenue shall issue a certificate of title or a salvage  
 1259 certificate of title, as determined by the state revenue commissioner, for such motor vehicle  
 1260 upon receipt of the statutory fee, a properly executed application for a certificate of title or  
 1261 other certificate of ownership, and the affidavit of the seizing agency that a state assigned  
 1262 number was applied for and affixed to the motor vehicle prior to the time that the motor  
 1263 vehicle was released by the seizing agency to the purchaser."

#### 1264 **SECTION 2-9.**

1265 Said title is further amended by revising Code Section 16-8-106, relating to forfeiture under  
 1266 the "Georgia Residential Mortgage Fraud Act," as follows:

1267 "16-8-106.

1268 (a) As used in this Code section, the terms 'civil forfeiture proceedings,' 'proceeds,' and  
 1269 'property' shall have the same meanings as set forth in Code Section 9-16-2. All real and  
 1270 personal property of every kind used or intended for use in the course of, derived from, or  
 1271 realized through a violation of this article shall be subject to forfeiture to the state.  
 1272 Forfeiture shall be had by the same procedure set forth in Code Section 16-14-7. District

1273 ~~attorneys and the Attorney General may commence forfeiture proceedings under this~~  
 1274 ~~article.~~

1275 (b) Any property which is, directly or indirectly, used or intended for use in any manner  
 1276 to facilitate a violation of this article and any proceeds are declared to be contraband and  
 1277 no person shall have a property right in them.

1278 (c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall  
 1279 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9.

1280 (d) The Attorney General shall be specifically authorized to commence civil forfeiture  
 1281 proceedings under this Code section."

1282 **SECTION 2-10.**

1283 Said title is further amended by revising subsection (h) of Code Section 16-9-4, relating to  
 1284 manufacturing, selling, or distributing false identification documents, as follows:

1285 "(h)(1) As used in this subsection, the terms 'proceeds' and 'property' shall have the same  
 1286 meanings as set forth in Code Section 9-16-2. Any property which is used, intended for  
 1287 use, or used in any manner to facilitate a violation of this Code section is contraband and  
 1288 forfeited to the state and no person shall have a property interest in it. Such property may  
 1289 be seized or detained in the same manner as provided in Code Section 16-13-49 and shall  
 1290 not be subject to replevin, conveyance, sequestration, or attachment.

1291 (2) Any property which is, directly or indirectly, used or intended for use in any manner  
 1292 to facilitate a violation of this Code section and any proceeds are declared to be  
 1293 contraband and no person shall have a property right in them. Within 60 days of the date  
 1294 of the seizure of contraband pursuant to this Code section, the district attorney shall  
 1295 initiate forfeiture or other proceedings as provided in Code Section 16-13-49. An owner  
 1296 or interest holder, as defined by subsection (a) of Code Section 16-13-49, may establish  
 1297 as a defense to the forfeiture of property which is subject to forfeiture under this Code  
 1298 section the applicable provisions of subsection (e) or (f) of Code Section 16-13-49.  
 1299 Property which is forfeited pursuant to this Code section shall be disposed of and  
 1300 distributed as provided in Code Section 16-13-49.

1301 (3) Any property subject to forfeiture pursuant to paragraph (2) of this subsection shall  
 1302 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9. If  
 1303 property subject to forfeiture cannot be located; has been transferred or conveyed to, sold  
 1304 to, or deposited with a third party; is beyond the jurisdiction of the court; has been  
 1305 substantially diminished in value while not in the actual physical custody of a receiver  
 1306 or governmental agency directed to maintain custody of the property; or has been  
 1307 commingled with other property that cannot be divided without difficulty, the court shall  
 1308 order the forfeiture of any property of a claimant or defendant up to the value of property

1309 found by the court to be subject to forfeiture under this subsection in accordance with the  
 1310 procedures set forth in subsection (x) of Code Section 16-13-49.  
 1311 (4) The provisions of paragraphs (3), (4), and (5) of subsection (x) and subsection (z) of  
 1312 Code Section 16-13-49 shall be applicable to any proceedings brought pursuant to this  
 1313 subsection."

#### 1314 SECTION 2-11.

1315 Said title is further amended by revising Code Section 16-11-11, relating to dissolution of  
 1316 subversive organizations and forfeiture, as follows:

1317 "16-11-11.

1318 It shall be unlawful for any subversive organization or foreign subversive organization to  
 1319 exist or function in this state. Any organization which by a court of competent jurisdiction  
 1320 is found to have violated this Code section shall be dissolved and, if it is a corporation  
 1321 organized and existing under the laws of this state, a finding by a court of competent  
 1322 jurisdiction that it has violated this Code section shall constitute legal cause for ~~forfeiture~~  
 1323 revocation of its charter and its charter shall be ~~forfeited~~ revoked. All funds, books,  
 1324 records, and files of every kind and all other property of any organization found to have  
 1325 violated this Code section shall be seized by and for this state, the funds to be deposited in  
 1326 the state treasury and the books, records, files, and other property to be turned over to the  
 1327 Attorney General."

#### 1328 SECTION 2-12.

1329 Said title is further amended by revising paragraph (3) of subsection (b) of Code Section  
 1330 16-12-24, relating to possession, manufacture, or transfer of gambling devices or parts, as  
 1331 follows:

1332 "(3) Any antique slot machine seized as a result of a violation of this Code section shall  
 1333 be contraband and subject to seizure and destruction as provided in Code Section  
 1334 ~~16-12-30~~ 16-12-32. An antique slot machine seized for a violation of this Code section  
 1335 shall not be destroyed, altered, or sold until the owner has been afforded a reasonable  
 1336 opportunity to present evidence that the device was not operated for unlawful gambling  
 1337 or in violation of this Code section. If the court determines that the device is an antique  
 1338 slot machine and was not operated or possessed in violation of this or any other Code  
 1339 section, such device shall be returned to its owner."

#### 1340 SECTION 2-13.

1341 Said title is further amended by revising Code Section 16-12-30, relating to seizure and  
 1342 destruction of gambling devices, as follows:

1343 "16-12-30.

1344 Reserved.

1345 ~~(a) Except as provided in subsection (b) of Code Section 16-12-24, every gambling device~~  
 1346 ~~is declared to be contraband and subject to seizure and confiscation by any state or local~~  
 1347 ~~authority within whose jurisdiction the same may be found.~~

1348 ~~(b) At such time as there shall be a final judgment entered in any case or cases in which~~  
 1349 ~~a seized gambling device is necessary evidence or at such time as the state shall determine~~  
 1350 ~~that the continued physical existence of the seized gambling device is no longer necessary,~~  
 1351 ~~the same shall be turned over by that person having custody of the device to the sheriff of~~  
 1352 ~~the county wherein the device was confiscated. The sheriff shall within ten days after~~  
 1353 ~~receiving the device destroy the same in the presence of the district attorney of the circuit~~  
 1354 ~~in which such county is located and shall forward to the state revenue commissioner a~~  
 1355 ~~certificate so stating which shall include the serial number of the device so destroyed."~~

1356

#### SECTION 2-14.

1357 Said title is amended by repealing in its entirety Code Section 16-12-32, relating to seizure  
 1358 and disposition of property used in or derived from a violation of the article proscribing  
 1359 gambling and related offenses, and enacting a new Code Section 16-12-32 to read as follows:

1360 "16-12-32.

1361 (a) As used in this Code section, the terms 'proceeds,' 'property,' and 'United States' shall  
 1362 have the same meanings as set forth in Code Section 9-16-2, and 'enterprise' means any  
 1363 person, sole proprietorship, partnership, corporation, trust, association, or other legal entity  
 1364 created under the laws the United States or any foreign nation or a group of individuals  
 1365 associated in fact although not a legal entity and includes illicit as well as licit enterprises  
 1366 and governmental as well as other entities.

1367 (b) The following are declared to be contraband, and no person shall have a property right  
 1368 in them:

1369 (1) Every gambling device except antique slot machines as provided for in subsection (b)  
 1370 of Code Section 16-12-24;

1371 (2) Any property which is, directly or indirectly, used or intended for use in any manner  
 1372 to facilitate a violation of this article and any proceeds;

1373 (3) Any property located in this state which was, directly or indirectly, used or intended  
 1374 for use in any manner to facilitate a violation of this article or of the laws of the United  
 1375 States relating to gambling and any proceeds;

1376 (4) Any interest, security, claim, or property or contractual right of any kind affording  
 1377 a source of influence over any enterprise that a person has established, operated,

1378 controlled, conducted, or participated in the conduct of in violation of this article or any  
 1379 of the laws of the United States relating to gambling and any proceeds; and  
 1380 (5) Any property found in close proximity to any gambling device or other property  
 1381 subject to forfeiture under this Code section.  
 1382 (c) Any property declared as contraband pursuant to subsection (b) of this Code section  
 1383 shall be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9."

#### 1384 SECTION 2-15.

1385 Said title is further amended by revising subsections (e) through (g) of Code Section  
 1386 16-12-100, relating to sexual exploitation of children, as follows:

1387 "(e)(1) As used in this subsection, the terms 'proceeds' and 'property' shall have the same  
 1388 meaning as set forth in Code Section 9-16-2. A person who is convicted of an offense  
 1389 under this Code section shall forfeit to the State of Georgia such interest as the person  
 1390 may have in:

1391 (A) Any property constituting or directly derived from gross profits or other proceeds  
 1392 obtained from such offense; and

1393 (B) Any property used, or intended to be used, to commit such offense.

1394 (2) Any property which is, directly or indirectly, used or intended to be used in any  
 1395 manner to facilitate a violation of this Code section and any proceeds are declared to be  
 1396 contraband and no person shall have a property right in them. In any action under this  
 1397 Code section, the court may enter such restraining orders or take other appropriate action,  
 1398 including acceptance of performance bonds, in connection with any interest that is subject  
 1399 to forfeiture.

1400 (3) Any property subject to forfeiture pursuant to paragraph (2) of this subsection shall  
 1401 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9. The  
 1402 court shall order forfeiture of property referred to in paragraph (1) of this subsection if  
 1403 the trier of fact determines, beyond a reasonable doubt, that such property is subject to  
 1404 forfeiture.

1405 (4) The provisions of subsection (u) of Code Section 16-13-49 shall apply for the  
 1406 disposition of any property forfeited under this subsection. In any disposition of property  
 1407 under this subsection, a convicted person shall not be permitted to acquire property  
 1408 forfeited by such person.

1409 (f)(1) The following property shall be subject to forfeiture to the State of Georgia:

1410 (A) Any material or equipment used, or intended for use, in producing, reproducing,  
 1411 transporting, shipping, or receiving any visual medium in violation of this Code section;

1412 (B) Any visual medium produced, transported, shipped, or received in violation of this  
 1413 Code section, or any material containing such depiction, provided, however, that any

1414 ~~such property so forfeited shall be destroyed by the appropriate law enforcement~~  
 1415 ~~agency after it is no longer needed in any court proceedings; or~~

1416 ~~(C) Any property constituting or directly derived from gross profits or other proceeds~~  
 1417 ~~obtained from a violation of this Code section;~~

1418 ~~except that no property of any owner shall be forfeited under this paragraph, to the extent~~  
 1419 ~~of the interest of such owner, by reason of an act or omission established by such owner~~  
 1420 ~~to have been committed or omitted without knowledge or consent of such owner.~~

1421 ~~(2) The procedure for forfeiture and disposition of forfeited property under this~~  
 1422 ~~subsection shall be as provided for forfeitures under Code Section 16-13-49.~~

1423 ~~(g)(f)(1)~~ Except as otherwise provided in paragraphs (2) and (3) of this subsection, any  
 1424 person who violates a provision of this Code section shall be guilty of a felony and, upon  
 1425 conviction thereof, shall be punished by imprisonment for not less than five nor more  
 1426 than 20 years and by a fine of not more than \$100,000.00; provided, however, that if the  
 1427 person so convicted is a member of the immediate family of the victim, no fine shall be  
 1428 imposed.

1429 (2) Any person who violates subsection (c) of this Code section shall be guilty of a  
 1430 misdemeanor.

1431 (3) Any person who violates paragraph (1), (5), (7), or (8) of subsection (b) of this Code  
 1432 section shall be guilty of a misdemeanor if:

1433 (A) The minor depicted was at least 14 years of age at the time the visual medium was  
 1434 created;

1435 (B) The visual medium was created with the permission of the minor depicted; and

1436 (C) The defendant was 18 years of age or younger at the time of the offense and:

1437 (i) The defendant's violation of such paragraphs did not involve the distribution of  
 1438 such visual medium to another person; or

1439 (ii) In the court's discretion, and when the prosecuting attorney and the defendant  
 1440 have agreed, if the defendant's violation of such paragraphs involved the distribution  
 1441 of such visual medium to another person but such distribution was not for the purpose  
 1442 of:

1443 (I) Harassing, intimidating, or embarrassing the minor depicted; or

1444 (II) For any commercial purpose."

1445 **SECTION 2-16.**

1446 Said title is further amended by revising subsection (f) of Code Section 16-13-30.1, relating  
 1447 to unlawful manufacture, delivery, distribution, possession, or sale of noncontrolled  
 1448 substances, as follows:

1449 "(f)(1) As used in this subsection, the terms 'proceeds' and 'property' shall have the same  
 1450 meanings as set forth in Code Section 9-16-2.

1451 (2) Any property which is, directly or indirectly, used or intended for use in any manner  
 1452 All property which would be subject to forfeiture under the provisions of subsection (d)  
 1453 of Code Section 16-13-49 for a violation of this article which is used, or intended for use,  
 1454 to facilitate, or is derived from, a violation of this Code section, and any proceeds, and  
 1455 any noncontrolled substance which is manufactured, distributed, dispensed, possessed  
 1456 with the intent to distribute, or sold in violation of this Code section are declared to be  
 1457 contraband and there shall be no property interest therein no person shall have a property  
 1458 right in them.

1459 (3) Any property or noncontrolled substance which is subject to the provisions of  
 1460 forfeiture pursuant to paragraph (2) of this subsection shall be forfeited in accordance  
 1461 with the procedures of Code Section 16-13-49 set forth in Chapter 16 of Title 9."

1462 **SECTION 2-17.**

1463 Said title is further amended by revising subsection (d) of Code Section 16-13-30.2, relating  
 1464 to unlawful manufacture, distribution, or possession with intent to distribute imitation  
 1465 controlled substances, as follows:

1466 "(d) All materials which are manufactured, distributed, or possessed in violation of this  
 1467 Code section and any proceeds are declared to be contraband and no person shall have a  
 1468 property right in them and shall be forfeited according to the procedure described in Code  
 1469 Section 16-13-49 set forth in Chapter 16 of Title 9. As used in this subsection, the term  
 1470 'proceeds' shall have the same meaning as set forth in Code Section 9-16-2."

1471 **SECTION 2-18.**

1472 Said title is further amended by revising subsection (f) of Code Section 16-13-30.4, relating  
 1473 to licenses for sale, transfer, or purchase for resale of products containing pseudoephedrine,  
 1474 as follows:

1475 "(f) Any AH products containing pseudoephedrine that have been or that are intended to  
 1476 be sold, transferred, purchased for resale, possessed, or otherwise transferred in violation  
 1477 of a provision of this Code section shall be subject to forfeiture to the state and no property  
 1478 right shall exist in them and any proceeds are declared to be contraband and no person shall  
 1479 have a property right in them and shall be forfeited according to the procedure set forth in  
 1480 Chapter 16 of Title 9. As used in this subsection, the term 'proceeds' shall have the same  
 1481 meaning as set forth in Code Section 9-16-2."

**SECTION 2-19.**

1482  
 1483 Said title is further amended by revising subsections (e) through (g) of Code Section  
 1484 16-13-32, relating to transactions in drug related objects and forfeitures, as follows:

1485 "(e) All instruments, devices, and objects which are distributed or possessed in violation  
 1486 of this Code section and any proceeds are declared to be contraband and no person shall  
 1487 have a property right in them and shall be forfeited according to the procedure set forth in  
 1488 Chapter 16 of Title 9. As used in this subsection, the term 'proceeds' shall have the same  
 1489 meaning as set forth in Code Section 9-16-2.

1490 ~~(f) After conviction and after all direct appeals from the conviction have been exhausted,~~  
 1491 ~~any instruments, devices, or objects which are the subject of prosecution under this Code~~  
 1492 ~~section may be destroyed by the state or any county or municipality thereof without court~~  
 1493 ~~order.~~

1494 ~~(g) Any instruments, devices, or objects which are seized after July 1, 1980, on~~  
 1495 ~~condemnation as being distributed or possessed in violation of this Code section and which~~  
 1496 ~~are not made the subject of prosecution under this Code section may be destroyed by the~~  
 1497 ~~state or any county or municipality thereof if within 90 days after such seizures are made,~~  
 1498 ~~the district attorney or the solicitor-general of any court that has jurisdiction to try~~  
 1499 ~~misdemeanors in the county where the seizure occurred shall institute condemnation~~  
 1500 ~~proceedings in the court by petition, a copy of which shall be served upon the owner of the~~  
 1501 ~~seized items, if known; and if the owner is unknown, notice of such proceedings shall be~~  
 1502 ~~published once a week for two weeks in the newspaper in which the sheriff's~~  
 1503 ~~advertisements are published. The petition shall allege that the seized items were~~  
 1504 ~~distributed or possessed in violation of this Code section; and, if no defense is filed within~~  
 1505 ~~30 days from the filing of the petition, judgment by default shall be entered by the court at~~  
 1506 ~~chambers, and the court shall order the seized items to be destroyed; otherwise, the case~~  
 1507 ~~shall proceed as other civil cases in the court. Should the state prove, by a preponderance~~  
 1508 ~~of the evidence, that the seized items were distributed or possessed in violation of this Code~~  
 1509 ~~section, the court shall order the seized items to be destroyed."~~

**SECTION 2-20.**

1510  
 1511 Said title is further amended by revising subsection (e) of Code Section 16-13-32.1, relating  
 1512 to transactions in drug related objects, evidence, and forfeiture, as follows:

1513 "(e) All objects and materials which are distributed or possessed in violation of this Code  
 1514 section and any proceeds are declared to be contraband and no person shall have a property  
 1515 right in them and shall be forfeited according to the procedure ~~described in Code Section~~  
 1516 ~~16-13-49~~ set forth in Chapter 16 of Title 9. As used in this subsection, the term 'proceeds'  
 1517 shall have the same meaning as set forth in Code Section 9-16-2."

1518 **SECTION 2-21.**

1519 Said title is further amended by repealing Code Section 16-13-48.1, relating to funds or  
1520 property transferred to state or local agencies under federal drug laws, in its entirety.

1521 **SECTION 2-22.**

1522 Said title is further amended by repealing in its entirety Code Section 16-13-49, relating to  
1523 forfeitures, and enacting a new Code Section 16-13-49 to read as follows:

1524 "16-13-49.

1525 (a) As used in this Code section, the term:

1526 (1) 'Controlled substance' shall have the same meaning as set forth in Code Section  
1527 16-13-21 and shall include marijuana, as such term is defined in Code Section 16-13-21.

1528 (2) 'Enterprise' means any person, sole proprietorship, partnership, corporation, trust,  
1529 association, or other legal entity created under the laws of the United States or any  
1530 foreign nation or a group of individuals associated in fact although not a legal entity and  
1531 includes illicit as well as licit enterprises and governmental as well as other entities.

1532 (3) 'Proceeds' shall have the same meaning as set forth in Code Section 9-16-2.

1533 (4) 'Property' shall have the same meaning as set forth in Code Section 9-16-2.

1534 (5) 'United States' shall have the same meaning as set forth in Code Section 9-16-2.

1535 (b) Except as provided in subsection (d) of this Code section, the following are declared  
1536 to be contraband and no person shall have a property right in them:

1537 (1) Any controlled substances, raw materials, or controlled substance analogs that have  
1538 been manufactured, distributed, dispensed, possessed, or acquired in violation of this  
1539 article;

1540 (2) Any property which is, directly or indirectly, used or intended for use in any manner  
1541 to facilitate a violation of this article and any proceeds;

1542 (3) Any property located in this state which was, directly or indirectly, used or intended  
1543 for use in any manner to facilitate a violation of this article or the laws of the United  
1544 States relating to controlled substances that is punishable by imprisonment for more than  
1545 one year and any proceeds;

1546 (4) Any interest, security, claim, or property or contractual right of any kind affording  
1547 a source of influence over any enterprise that a person has established, operated,  
1548 controlled, conducted, or participated in the conduct of in violation of this article or the  
1549 laws of the United States relating to controlled substances that is punishable by  
1550 imprisonment for more than one year and any proceeds;

1551 (5) Any property found in close proximity to any controlled substance or other property  
1552 subject to forfeiture under this Code section; and

- 1553 (6) Any weapon available for any use in any manner to facilitate a violation of this  
 1554 article.
- 1555 (c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall  
 1556 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9.
- 1557 (d) Property shall not be subject to forfeiture under this Code section for a violation  
 1558 involving only one gram or less of a mixture containing cocaine or four ounces or less of  
 1559 marijuana unless such property was used to facilitate a transaction in or a purchase of or  
 1560 sale of a controlled substance.
- 1561 (e) In addition to persons authorized to seize property pursuant to Code Section 9-16-6,  
 1562 property which is subject to forfeiture under this Code section may be seized by the  
 1563 director of the Georgia Drugs and Narcotics Agency or by any drug agent of this state or  
 1564 any political subdivision thereof who has power to make arrests or execute process or a  
 1565 search warrant issued by any court having jurisdiction over the property.
- 1566 (f) Controlled substances included in Schedule I which are contraband and any controlled  
 1567 substance whose owners are unknown shall be summarily forfeited to the state. The court  
 1568 may include in any judgment of conviction under this article an order forfeiting any  
 1569 controlled substance involved in the offense to the extent of the defendant's interest."

1570 **SECTION 2-23.**

1571 Said title is further amended by revising Code Section 16-13-53, relating to pending  
 1572 proceedings, as follows:

1573 "16-13-53.

1574 Reserved.

1575 ~~(a) Prosecution for any violation of law occurring prior to July 1, 1974, is not affected or~~  
 1576 ~~abated by this article. If the offense which was being prosecuted is similar to one set out~~  
 1577 ~~in this article, then the penalties under this article apply if they are less than those under~~  
 1578 ~~prior law.~~

1579 ~~(b) Civil seizures or forfeitures and injunctive proceedings commenced prior to July 1,~~  
 1580 ~~1974, are not affected by this article.~~

1581 ~~(c) All administrative proceedings pending under prior laws which were superseded by this~~  
 1582 ~~article shall be continued and brought to a final determination in accord with the laws and~~  
 1583 ~~rules in effect prior to July 1, 1974. Any substance controlled under prior law which is not~~  
 1584 ~~listed within Schedules I through V is automatically controlled without further proceedings~~  
 1585 ~~and shall be listed in the appropriate schedule.~~

1586 ~~(d) This article applies to violations of law, seizures, forfeitures, injunctive proceedings,~~  
 1587 ~~administrative proceedings, and investigations occurring after July 1, 1974."~~

**SECTION 2-24.**

1588

1589 Said title is further amended by revising Code Section 16-13-58, relating to funds for  
1590 development and maintenance of program, as follows:

1591 "16-13-58.

1592 (a) The agency shall be authorized to apply for available grants and may accept any gifts,  
1593 grants, donations, and other funds, ~~including funds from the disposition of forfeited~~  
1594 ~~property~~, to assist in developing and maintaining the program established pursuant to Code  
1595 Section 16-13-57; provided, however, that neither the board, agency, nor any other state  
1596 entity shall accept a grant that requires as a condition of the grant any sharing of  
1597 information that is inconsistent with this part.

1598 (b) The agency shall be authorized to grant funds to dispensers for the purpose of covering  
1599 costs for dedicated equipment and software for dispensers to use in complying with the  
1600 reporting requirements of Code Section 16-13-59. Such grants to dispensers shall be  
1601 funded by gifts, grants, donations, or other funds, ~~including funds from the disposition of~~  
1602 ~~forfeited property~~, received by the agency for the operation of the program established  
1603 pursuant to Code Section 16-13-57. The agency shall be authorized to establish standards  
1604 and specifications for any equipment and software purchased pursuant to a grant received  
1605 by a dispenser pursuant to this Code section. Nothing in this part shall be construed to  
1606 require a dispenser to incur costs to purchase equipment or software to comply with this  
1607 part.

1608 (c) Nothing in this part shall be construed to require any appropriation of state funds."

**SECTION 2-25.**

1609

1610 Said title is further amended by revising Chapter 14, the "Georgia RICO (Racketeer  
1611 Influenced and Corrupt Organizations) Act," as follows:

1612

**"CHAPTER 14**

1613 16-14-1.

1614 This chapter shall be known and may be cited as the 'Georgia RICO (Racketeer Influenced  
1615 and Corrupt Organizations) Act.'

1616 16-14-2.

1617 (a) The General Assembly finds that a severe problem is posed in this state by the  
1618 increasing sophistication of various criminal elements and the increasing extent to which  
1619 the state and its citizens are harmed as a result of the activities of these elements.

1620 (b) The General Assembly declares that the intent of this chapter is to impose sanctions  
 1621 against those who violate this chapter and to provide compensation to persons injured or  
 1622 aggrieved by such violations. It is not the intent of the General Assembly that isolated  
 1623 incidents of misdemeanor conduct or acts of civil disobedience be prosecuted under this  
 1624 chapter. It is the intent of the General Assembly, however, that this chapter apply to an  
 1625 interrelated pattern of criminal activity motivated by or the effect of which is pecuniary  
 1626 gain or economic or physical threat or injury. This chapter shall be liberally construed to  
 1627 effectuate the remedial purposes embodied in its operative provisions.

1628 16-14-3.

1629 As used in this chapter, the term:

1630 ~~(1) 'Alien corporation' means a corporation organized under laws other than the laws of~~  
 1631 ~~the United States or the laws of any state of the United States.~~

1632 ~~(2)(A) 'Beneficial interest' means either of the following:~~

1633 ~~(i) The interest of a person as a beneficiary under any other trust arrangement~~  
 1634 ~~pursuant to which a trustee holds legal or record title to real property for the benefit~~  
 1635 ~~of such person; or~~

1636 ~~(ii) The interest of a person under any other form of express fiduciary arrangement~~  
 1637 ~~pursuant to which any other person holds legal or record title to real property for the~~  
 1638 ~~benefit of such person.~~

1639 ~~(B) 'Beneficial interest' does not include the interest of a stockholder in a corporation~~  
 1640 ~~or the interest of a partner in either a general partnership or limited partnership. A~~  
 1641 ~~beneficial interest shall be deemed to be located where the real property owned by the~~  
 1642 ~~trustee is located.~~

1643 ~~(3) 'Civil proceeding' means any civil proceeding commenced by an investigative agency~~  
 1644 ~~under any provision of this chapter.~~

1645 (1) 'Civil forfeiture proceeding' shall have the same meaning as set forth in Code Section  
 1646 9-16-2.

1647 ~~(4)(2) 'Criminal proceeding' means any criminal proceeding commenced by an~~  
 1648 ~~investigative agency the Department of Law or the office of any district attorney under~~  
 1649 ~~any provision of this chapter.~~

1650 ~~(5) 'Documentary material' means any book, paper, document, writing, drawing, graph,~~  
 1651 ~~chart, photograph, phonorecord, magnetic tape, computer printout, other data compilation~~  
 1652 ~~from which information can be obtained or from which information can be translated into~~  
 1653 ~~usable form, or other tangible item.~~

1654 ~~(6)(3) 'Enterprise' means any person, sole proprietorship, partnership, corporation,~~  
 1655 ~~business trust, union chartered under the laws of this state, or other legal entity; or any~~

1656 unchartered union, association, or group of individuals associated in fact although not a  
 1657 legal entity; and it includes illicit as well as licit enterprises and governmental as well as  
 1658 other entities.

1659 ~~(7) 'Investigative agency' means the Department of Law or the office of any district~~  
 1660 ~~attorney.~~

1661 ~~(8)~~(4) 'Pattern of racketeering activity' means:

1662 (A) Engaging in at least two acts of racketeering activity in furtherance of one or more  
 1663 incidents, schemes, or transactions that have the same or similar intents, results,  
 1664 accomplices, victims, or methods of commission or otherwise are interrelated by  
 1665 distinguishing characteristics and are not isolated incidents, provided at least one of  
 1666 such acts occurred after July 1, 1980, and that the last of such acts occurred within four  
 1667 years, excluding any periods of imprisonment, after the commission of a prior act of  
 1668 racketeering activity; or

1669 (B) Engaging in any one or more acts of domestic terrorism as described in subsection  
 1670 (a) of Code Section 16-4-10 or any criminal attempt, criminal solicitation, or criminal  
 1671 conspiracy related thereto.

1672 ~~(9)~~(5)(A) 'Racketeering activity' means to commit, to attempt to commit, or to solicit,  
 1673 coerce, or intimidate another person to commit any crime which is chargeable by  
 1674 indictment under the ~~following~~ laws of this state involving:

1675 (i) Unlawful distillation, manufacture, and transportation of alcoholic beverages in  
 1676 violation of Code Section 3-3-27;

1677 (ii) Records and reports of currency transactions in violation of Article 11 of Chapter  
 1678 1 of Title 7;

1679 (iii) The 'Georgia Uniform Securities Act of 2008' in violation of Chapter 5 of Title  
 1680 10;

1681 (iv) Homicide in violation of Article 1 of Chapter 5 of this title;

1682 (v) Assault and battery in violation of Article 2 of Chapter 5 of this title;

1683 (vi) Kidnapping, false imprisonment, and related offenses in violation of Article 3 of  
 1684 Chapter 5 of this title;

1685 (vii) Prostitution, keeping a place of prostitution, pimping, pandering, and pandering  
 1686 by compulsion in violation of Code Sections 16-6-9 through 16-6-12 and 16-6-14;

1687 (viii) Burglary in violation of Code Section 16-7-1;

1688 (ix) Smash and grab burglary in violation of Code Section 16-7-2;

1689 (x) Arson and explosives in violation of Article 3 of Chapter 7 of this title;

1690 (xi) Bombs, explosives, and chemical and biological weapons in violation of Article  
 1691 4 of Chapter 7 of this title;

1692 (xii) Theft in violation of Article 1 of Chapter 8 of this title;

- 1693 (xiii) Robbery in violation of Article 2 of Chapter 8 of this title;  
1694 (xiv) Criminal reproduction and sale of recorded material in violation of Article 3 of  
1695 Chapter 8 of this title;  
1696 (xv) The 'Georgia Residential Mortgage Fraud Act' in violation of Article 5 of  
1697 Chapter 8 of this title;  
1698 (xvi) Forgery in any degree in violation of Code Section 16-9-1;  
1699 (xvii) Illegal use of financial transaction cards in violation of Code Sections 16-9-31,  
1700 16-9-32, 16-9-33, and 16-9-34;  
1701 (xviii) Use of an article with an altered identification mark in violation of Code  
1702 Section 16-9-70;  
1703 (xix) The 'Georgia Computer Systems Protection Act' in violation of Article 6 of  
1704 Chapter 9 of this title;  
1705 (xx) Identity fraud in violation of Article 8 of Chapter 9 of this title;  
1706 (xxi) Bribery in violation of Code Section 16-10-2;  
1707 (xxii) False statements and writings or false lien statements against public officers  
1708 or public employees in violation of Code Section 16-10-20 or 16-10-20.1;  
1709 (xxiii) Impersonating a public officer or employee in violation of Code Section  
1710 16-10-23;  
1711 (xxiv) Attempted murder or threatening of witnesses in official proceedings in  
1712 violation of Code Section 16-10-32;  
1713 (xxv) Perjury and other related offenses in violation of Article 4 of Chapter 10 of this  
1714 title;  
1715 (xxvi) Embracery in violation of Code Section 16-10-91;  
1716 (xxvii) Influencing witnesses in violation of Code Section 16-10-93;  
1717 (xxviii) Tampering with evidence in violation of Code Section 16-10-94;  
1718 (xxix) Intimidation or injury of grand or trial juror or court officer in violation of  
1719 Code Section 16-10-97;  
1720 (xxx) Terroristic threats and acts in violation of Code Section 16-11-37;  
1721 (xxxi) The 'Georgia Firearms and Weapons Act' in violation of Part 2 of Article 4 of  
1722 Chapter 11 of this title;  
1723 (xxxii) Commercial gambling in violation of Code Section 16-12-22;  
1724 (xxxiii) Distributing obscene materials in violation of Code Section 16-12-80;  
1725 (xxxiv) The 'Georgia Controlled Substances Act' in violation of Article 2 of Chapter  
1726 13 of this title;  
1727 (xxxv) The 'Dangerous Drug Act' in violation of Article 3 of Chapter 13 of this title;  
1728 (xxxvi) Marijuana in violation of subsection (j) of Code Section 16-13-30;  
1729 (xxxvii) Payday loans in violation of Chapter 17 of this title;

1730 (xxxviii) Insurance fraud in violation of Code Section 33-1-9;  
 1731 (xxxix) Certain felonies involving certificates of title, security interest, or liens in  
 1732 violation of Code Section 40-3-90;  
 1733 (xl) Removal or falsification of identification numbers in violation of Code Section  
 1734 40-4-21; or  
 1735 (xli) Possession of motor vehicle parts from which the identification has been  
 1736 removed in violation of Code Section 40-4-22.  
 1737 ~~(i) Article 2 of Chapter 13 of this title, relating to controlled substances;~~  
 1738 ~~(ii) Article 3 of Chapter 13 of this title, known as the 'Dangerous Drugs Act';~~  
 1739 ~~(iii) Subsection (j) of Code Section 16-13-30, relating to marijuana;~~  
 1740 ~~(iv) Article 1 of Chapter 5 of this title, relating to homicide;~~  
 1741 ~~(v) Article 2 of Chapter 5 of this title, relating to bodily injury and related offenses;~~  
 1742 ~~(vi) Articles 3 and 4 of Chapter 7 of this title, relating to arson and destructive~~  
 1743 ~~devices, respectively;~~  
 1744 ~~(vii) Code Section 16-7-1, relating to burglary, or Code Section 16-7-2, relating to~~  
 1745 ~~smash and grab burglary;~~  
 1746 ~~(viii) Code Section 16-9-1, relating to forgery in any degree;~~  
 1747 ~~(ix) Article 1 of Chapter 8 of this title, relating to theft;~~  
 1748 ~~(x) Article 2 of Chapter 8 of this title, relating to robbery;~~  
 1749 ~~(xi) Code Sections 16-6-9 through 16-6-12 and 16-6-14, relating to prostitution and~~  
 1750 ~~pandering;~~  
 1751 ~~(xii) Code Section 16-12-80, relating to distributing obscene materials;~~  
 1752 ~~(xiii) Code Section 16-10-2, relating to bribery;~~  
 1753 ~~(xiv) Code Section 16-10-93, relating to influencing witnesses;~~  
 1754 ~~(xv) Article 4 of Chapter 10 of this title and Code Sections 16-10-20, 16-10-20.1,~~  
 1755 ~~16-10-23, and 16-10-91, relating to perjury and other falsifications;~~  
 1756 ~~(xvi) Code Section 16-10-94, relating to tampering with evidence;~~  
 1757 ~~(xvii) Code Section 16-12-22, relating to commercial gambling;~~  
 1758 ~~(xviii) Code Section 3-3-27, relating to distilling or making liquors;~~  
 1759 ~~(xix) Part 2 of Article 4 of Chapter 11 of this title, known as the 'Georgia Firearms~~  
 1760 ~~and Weapons Act';~~  
 1761 ~~(xx) Code Section 16-8-60, relating to unauthorized transfers and reproductions of~~  
 1762 ~~recorded material;~~  
 1763 ~~(xxi) Chapter 5 of Title 10, relating to violations of the 'Georgia Uniform Securities~~  
 1764 ~~Act of 2008';~~  
 1765 ~~(xxii) Code Section 3-3-27, relating to the unlawful distillation, manufacture, and~~  
 1766 ~~transportation of alcoholic beverages;~~

1767 ~~(xxiii) Code Sections 16-9-31, 16-9-32, 16-9-33, and 16-9-34, relating to the~~  
 1768 ~~unlawful use of financial transaction cards;~~  
 1769 ~~(xxiv) Code Section 40-3-90, relating to certain felonies involving certificates of title,~~  
 1770 ~~security interest, or liens concerning motor vehicles;~~  
 1771 ~~(xxv) Code Section 40-4-21, relating to removal or falsification of identification~~  
 1772 ~~numbers;~~  
 1773 ~~(xxvi) Code Section 40-4-22, relating to possession of motor vehicle parts from~~  
 1774 ~~which the identification has been removed;~~  
 1775 ~~(xxvii) Code Section 16-9-70, relating to use of an article with an altered~~  
 1776 ~~identification mark;~~  
 1777 ~~(xxviii) Article 6 of Chapter 9 of this title, known as the 'Georgia Computer Systems~~  
 1778 ~~Protection Act';~~  
 1779 ~~(xxix) Any conduct defined as 'racketeering activity' under 18 U.S.C. Section 1961~~  
 1780 ~~(1)(A), (B), (C), and (D);~~  
 1781 ~~(xxx) Article 3 of Chapter 5 of this title, relating to kidnapping, false imprisonment,~~  
 1782 ~~and related offenses, except for Code Section 16-5-44, relating to aircraft hijacking;~~  
 1783 ~~(xxxi) Code Section 16-11-37, relating to terroristic threats and acts;~~  
 1784 ~~(xxxii) Code Section 16-5-44.1, relating to motor vehicle hijacking;~~  
 1785 ~~(xxxiii) Code Section 16-10-32, relating to tampering with witnesses, victims, or~~  
 1786 ~~informants;~~  
 1787 ~~(xxxiv) Code Section 16-10-97, relating to intimidation of grand or trial juror or court~~  
 1788 ~~officer;~~  
 1789 ~~(xxxv) Article 11 of Chapter 1 of Title 7 and Sections 5311 through 5330 of Title 31~~  
 1790 ~~of the United States Code relating to records and reports of currency transactions;~~  
 1791 ~~(xxxvi) Article 8 of Chapter 9 of this title, relating to identity fraud, and Section 1028~~  
 1792 ~~of Title 18 of the United States Code, relating to fraudulent identification documents~~  
 1793 ~~and information;~~  
 1794 ~~(xxxvii) Code Section 33-1-9, relating to insurance fraud;~~  
 1795 ~~(xxxviii) Code Section 16-17-2, relating to payday loans;~~  
 1796 ~~(xxxix) Code Section 16-9-101, relating to deceptive commercial e-mail;~~  
 1797 ~~(xl) Code Section 16-8-102, relating to residential mortgage fraud; or~~  
 1798 ~~(xli) Code Section 16-5-5, relating to assisted suicide.~~  
 1799 (B) 'Racketeering activity' shall also mean any act or threat involving murder,  
 1800 kidnapping, gambling, arson, robbery, theft, receipt of stolen property, bribery,  
 1801 extortion, obstruction of justice, dealing in narcotic or dangerous drugs, or dealing in  
 1802 securities which is chargeable under the laws of the United States or, any territory of

1803 the ~~several states~~ United States, or any state and which is punishable by imprisonment  
1804 for more than one year.

1805 (C) 'Racketeering activity' shall also mean any conduct defined as 'racketeering  
1806 activity' under 18 U.S.C. Section 1961 (1), any violation of 18 U.S.C. Section 1028, or  
1807 any violation of 31 U.S.C. Sections 5311 through 5330.

1808 ~~(10)(6)~~ 'Real property' means any real property situated in this state or any interest in  
1809 such real property, including, but not limited to, any lease of or mortgage upon such real  
1810 property.

1811 ~~(11) 'RICO lien notice' means the notice described in Code Section 16-14-13.~~

1812 ~~(12)(A) 'Trustee' means either of the following:~~

1813 ~~(i) Any person who holds legal or record title to real property for which any other~~  
1814 ~~person has a beneficial interest; or~~

1815 ~~(ii) Any successor trustee or trustees to any of the foregoing persons.~~

1816 ~~(B) 'Trustee' does not include the following:~~

1817 ~~(i) Any person appointed or acting as a guardian or conservator under Title 29,~~  
1818 ~~relating to guardian and ward, or personal representative under former Chapter 6 of~~  
1819 ~~Title 53 as such existed on December 31, 1997, relating to the administration of~~  
1820 ~~estates, if applicable, or Chapter 6 of Title 53 and other provisions in Chapter 1~~  
1821 ~~through 11 of Title 53, the 'Revised Probate Code of 1998,' relating to the~~  
1822 ~~administration of estates; or~~

1823 ~~(ii) Any person appointed or acting as a trustee of any testamentary trust or as trustee~~  
1824 ~~of any indenture of trust under which any bonds are or are to be issued.~~

1825 16-14-4.

1826 (a) It is shall be unlawful for any person, through a pattern of racketeering activity or  
1827 proceeds derived therefrom, to acquire or maintain, directly or indirectly, any interest in  
1828 or control of any enterprise, real property, or personal property of any nature, including  
1829 money.

1830 (b) It is shall be unlawful for any person employed by or associated with any enterprise  
1831 to conduct or participate in, directly or indirectly, such enterprise through a pattern of  
1832 racketeering activity.

1833 (c) It is shall be unlawful for any person to conspire or endeavor to violate any of the  
1834 provisions of subsection (a) or (b) of this Code section. A person violates this subsection  
1835 when:

1836 (1) He or she together with one or more persons conspires to violate any of the  
1837 provisions of subsection (a) or (b) of this Code section and any one or more of such  
1838 persons commits any overt act to effect the object of the conspiracy; or

1839 (2) He or she endeavors to violate any of the provisions of subsection (a) or (b) of this  
 1840 Code section and commits any overt act to effect the object of the endeavor.

1841 16-14-5.

1842 (a) Any person convicted of the offense of engaging in activity in violation of Code  
 1843 Section 16-14-4 ~~is~~ shall be guilty of a felony and shall be punished by not less than five nor  
 1844 more than 20 years' imprisonment or the fine specified in subsection (b) of this Code  
 1845 section, or both.

1846 (b) In lieu of any fine otherwise authorized by law, any person convicted of the offense of  
 1847 engaging in conduct in violation of Code Section 16-14-4 may be sentenced to pay a fine  
 1848 that does not exceed the greater of \$25,000.00 or three times the amount of any pecuniary  
 1849 value gained by him or her from such violation.

1850 (c) The court shall hold a hearing to determine the amount of the fine authorized by  
 1851 subsection (b) of this Code section.

1852 (d) For the purposes of subsection (b) of this Code section, the term 'pecuniary value'  
 1853 means:

1854 (1) Anything of value in the form of money, a negotiable instrument, a commercial  
 1855 interest, or anything else, the primary significance of which is economic advantage; or

1856 (2) Any other property or service that has a value in excess of \$100.00.

1857 16-14-6.

1858 (a) Any superior court may, after making due provisions for the rights of innocent persons,  
 1859 enjoin violations of Code Section 16-14-4 by issuing appropriate orders and judgments,  
 1860 including, but not limited to:

1861 (1) Ordering any defendant to divest himself or herself of any interest in any enterprise,  
 1862 real property, or personal property;

1863 (2) Imposing reasonable restrictions upon the future activities or investments of any  
 1864 defendant, including, but not limited to, prohibiting any defendant from engaging in the  
 1865 same type of endeavor as the enterprise in which he or she was engaged in violation of  
 1866 Code Section 16-14-4;

1867 (3) Ordering the dissolution or reorganization of any enterprise;

1868 (4) Ordering the suspension or revocation of any license, permit, or prior approval  
 1869 granted to any enterprise by any agency of the state; or

1870 (5) Ordering the forfeiture of the charter of a corporation organized under the laws of this  
 1871 state or the revocation of a certificate authorizing a foreign corporation to conduct  
 1872 business within this state upon a finding that the board of directors or a managerial agent  
 1873 acting on behalf of the corporation, in conducting affairs of the corporation, has

1874 authorized or engaged in conduct in violation of Code Section 16-14-4 and that, for the  
 1875 prevention of future criminal activity, the public interest requires that the charter of the  
 1876 corporation be forfeited and that the corporation be dissolved or the certificate be  
 1877 revoked.

1878 (b) Any aggrieved person or the state may institute a ~~proceeding~~ civil action under  
 1879 subsection (a) of this Code section. In such ~~proceeding~~ civil action, relief shall be granted  
 1880 in conformity with the principles that govern the granting of injunctive relief from  
 1881 threatened loss or damage in other civil cases, provided that no showing of special or  
 1882 irreparable damage to the person shall have to be made. Upon the execution of proper  
 1883 bond against damages for an injunction improvidently granted and a showing of immediate  
 1884 danger of significant loss or damage, a temporary restraining order and a preliminary  
 1885 injunction may be issued in any such action before a final determination on the merits.

1886 (c) Any person who is injured by reason of any violation of Code Section 16-14-4 shall  
 1887 have a cause of action for three times the actual damages sustained and, where appropriate,  
 1888 punitive damages. Such person shall also recover ~~attorneys'~~ attorney's fees in the trial and  
 1889 appellate courts and costs of investigation and litigation reasonably incurred. The  
 1890 defendant or any injured person may demand a trial by jury in any civil action brought  
 1891 pursuant to this Code section.

1892 (d) Any injured person shall have a right or claim to forfeited property or to the proceeds  
 1893 derived therefrom ~~superior to any right or claim the state or the county (other than for~~  
 1894 ~~costs) has in the same property or proceeds. To enforce such a claim, the injured person~~  
 1895 ~~must intervene in the forfeiture proceeding prior to its final disposition as set forth in Code~~  
 1896 Section 9-16-16.

1897 (e) A conviction in any criminal proceeding ~~under this chapter~~ shall estop the defendant  
 1898 in any subsequent civil action or civil forfeiture proceeding under this chapter as to all  
 1899 matters proved in the criminal proceeding.

1900 16-14-7.

1901 (a) All property of every kind used or intended for use in the course of, derived from, or  
 1902 realized through a pattern of racketeering activity is shall be subject to forfeiture to the  
 1903 state. ~~Forfeiture shall be had by a civil procedure known as a RICO forfeiture proceeding~~  
 1904 ~~under the following rules. The Attorney General shall be specifically authorized to~~  
 1905 commence any civil forfeiture proceeding under this chapter in matters arising under Code  
 1906 Section 45-15-10.

1907 (b) Any property subject to forfeiture pursuant to subsection (a) of this Code section and  
 1908 any proceeds are declared to be contraband and no person shall have a property right in  
 1909 them and shall be forfeited in accordance with the procedure set forth in Chapter 16 of Title

1910 ~~9. A RICO forfeiture proceeding shall be governed by Chapter 11 of Title 9, the 'Georgia~~  
1911 ~~Civil Practice Act,' except to the extent that special rules of procedure are stated in this~~  
1912 ~~chapter.~~

1913 ~~(c) A RICO forfeiture proceeding shall be an in rem proceeding against the property.~~

1914 ~~(d) A RICO forfeiture proceeding shall be instituted by complaint and prosecuted by the~~  
1915 ~~district attorney of the county in which the property is located or seized. The proceeding~~  
1916 ~~may be commenced before or after seizure of the property.~~

1917 ~~(e) If the complaint is filed before seizure, it shall state what property is sought to be~~  
1918 ~~forfeited, that the property is within the jurisdiction of the court, the grounds for forfeiture,~~  
1919 ~~and the names of all persons known to have or claim an interest in the property. The court~~  
1920 ~~shall determine ex parte whether there is reasonable cause to believe that the property is~~  
1921 ~~subject to forfeiture and that notice to those persons having or claiming an interest in the~~  
1922 ~~property prior to seizure would cause the loss or destruction of the property. If the court~~  
1923 ~~finds that reasonable cause does not exist to believe the property is subject to forfeiture, it~~  
1924 ~~shall dismiss the complaint. If the court finds that reasonable cause does exist to believe~~  
1925 ~~the property is subject to forfeiture but there is not reasonable cause to believe that prior~~  
1926 ~~notice would result in loss or destruction, it shall order service on all persons known to~~  
1927 ~~have or claim an interest in the property prior to a further hearing on whether a writ of~~  
1928 ~~seizure should issue. If the court finds that there is reasonable cause to believe that the~~  
1929 ~~property is subject to forfeiture and to believe that prior notice would cause loss or~~  
1930 ~~destruction, it shall without any further hearing or notice issue a writ of seizure directing~~  
1931 ~~the sheriff of the county where the property is found to seize it.~~

1932 ~~(f) Seizure may be effected by a law enforcement officer authorized to enforce the penal~~  
1933 ~~laws of this state prior to the filing of the complaint and without a writ of seizure if the~~  
1934 ~~seizure is incident to a lawful arrest, search, or inspection and the officer has probable~~  
1935 ~~cause to believe the property is subject to forfeiture and will be lost or destroyed if not~~  
1936 ~~seized. Within ten days of the date of seizure, the seizure shall be reported by the officer~~  
1937 ~~to the district attorney of the circuit in which the seizure is effected; and the district~~  
1938 ~~attorney shall, within a reasonable time after receiving notice of seizure, file a complaint~~  
1939 ~~for forfeiture. The complaint shall state, in addition to the information required in~~  
1940 ~~subsection (e) of this Code section, the date and place of seizure.~~

1941 ~~(g) After the complaint is filed or the seizure effected, whichever is later, every person~~  
1942 ~~known to have or claim an interest in the property shall be served, if not previously served,~~  
1943 ~~with a copy of the complaint and a notice of seizure in the manner provided by Chapter 11~~  
1944 ~~of Title 9, the 'Georgia Civil Practice Act.' Service by publication may be ordered upon any~~  
1945 ~~party whose whereabouts cannot be determined.~~

1946 ~~(h)(1) Any person claiming an interest in the property may become a party to the action~~  
 1947 ~~at any time prior to judgment whether named in the complaint or not. Any party claiming~~  
 1948 ~~a substantial interest in the property may upon motion be allowed by the court to take~~  
 1949 ~~possession of the property upon posting bond with good and sufficient security in double~~  
 1950 ~~the amount of the property's value conditioned to pay the value of any interest in the~~  
 1951 ~~property found to be subject to forfeiture or the value of any interest of another not~~  
 1952 ~~subject to forfeiture. Such a party taking possession shall not remove the property from~~  
 1953 ~~the territorial jurisdiction of the court without written permission from the court.~~

1954 ~~(2) The court may, upon such terms and conditions as prescribed by it, order that the~~  
 1955 ~~property be sold by an innocent party who holds a lien on or security interest in the~~  
 1956 ~~property at any time during the proceedings. Any proceeds from such sale over and~~  
 1957 ~~above the amount necessary to satisfy the lien or security interest shall be paid into court~~  
 1958 ~~pending final judgment in the forfeiture proceeding. No such sale shall be ordered,~~  
 1959 ~~however, unless the obligation upon which the lien or security interest is based is in~~  
 1960 ~~default.~~

1961 ~~(3) Pending final judgment in the forfeiture proceeding, the court may make any other~~  
 1962 ~~disposition of the property which is in the interest of substantial justice.~~

1963 ~~(i) After service of process, all further proceedings shall be as provided in Chapter 11 of~~  
 1964 ~~Title 9, the 'Georgia Civil Practice Act,' except that any party may bring one motion to~~  
 1965 ~~dismiss at any time and such motion shall be heard and ruled on within ten days. Any party~~  
 1966 ~~may demand a jury trial.~~

1967 ~~(j) The interest of an innocent party in the property shall not be subject to forfeiture. An~~  
 1968 ~~innocent party is one who did not have actual or constructive knowledge that the property~~  
 1969 ~~was subject to forfeiture.~~

1970 ~~(k) Subject to the requirement of protecting the interest of all innocent parties, the court~~  
 1971 ~~may, after judgment of forfeiture, make any of the following orders for disposition of the~~  
 1972 ~~property:~~

1973 ~~(1) Destruction of contraband, the possession of which is illegal;~~

1974 ~~(2) Retention for official use by any agency of this state or any political subdivision~~  
 1975 ~~thereof. When such agency or political subdivision no longer has use for such property,~~  
 1976 ~~it shall be disposed of by judicial sale;~~

1977 ~~(3) Transfer to the Division of Archives and History of property useful for historical or~~  
 1978 ~~instructional purposes;~~

1979 ~~(4) Retention of the property by any innocent party having an interest therein, upon~~  
 1980 ~~payment or approval of a plan for payment into court of the value of any forfeited interest~~  
 1981 ~~in the property. The plan may include, in the case of an innocent party who holds a lien~~  
 1982 ~~on or security interest in the property, the sale of the property by the innocent party under~~

1983 ~~such terms and conditions as may be prescribed by the court and the payment into court~~  
 1984 ~~of any proceeds from such sale over and above the amount necessary to satisfy the lien~~  
 1985 ~~or security interest;~~  
 1986 ~~(5) Judicial sale of the property;~~  
 1987 ~~(6) Transfer of the property to any innocent party having an interest therein equal to or~~  
 1988 ~~greater than the value of the property; or~~  
 1989 ~~(7) Any other disposition of the property which is in the interest of substantial justice and~~  
 1990 ~~adequately protects innocent parties.~~  
 1991 ~~(f) The net proceeds of any sale or disposition after satisfaction of the interest of any~~  
 1992 ~~innocent party, less the greater of one-half thereof or the costs borne by the county in~~  
 1993 ~~bringing the forfeiture action, shall be paid into the general fund of the state treasury. The~~  
 1994 ~~costs borne by the county or one-half of the net proceeds of sale or disposition, whichever~~  
 1995 ~~is greater, shall be paid into the treasury of the county where the forfeiture action is~~  
 1996 ~~brought. Notwithstanding any other provision in this Code section, the court may, after~~  
 1997 ~~satisfaction of the interest of any innocent party, make any other division of the proceeds~~  
 1998 ~~among the state, county, or municipalities or agencies of the state, county, or~~  
 1999 ~~municipalities, which is commensurate with the proportion of the assistance that each~~  
 2000 ~~contributed to the underlying criminal action, forfeiture, or criminal action and forfeiture.~~  
 2001 ~~(m) In lieu of the provisions of subsections (c) through (g) of this Code section, the state~~  
 2002 ~~may bring an in personam action for the forfeiture of any property subject to forfeiture~~  
 2003 ~~under subsection (a) of this Code section.~~  
 2004 ~~(n)(1) Upon the entry of a final judgment of forfeiture in favor of the state, the title of the~~  
 2005 ~~state to the forfeited property shall:~~  
 2006 ~~(A) In the case of real property or beneficial interest, relate back to the date of filing~~  
 2007 ~~of the RICO lien notice in the official records of the county where the real property or~~  
 2008 ~~beneficial trust is located and, if no RICO lien notice is filed, then to the date of the~~  
 2009 ~~filing of any notice of lis pendens under Article 9 of Chapter 14 of Title 44 in the~~  
 2010 ~~official records of the county where the real property or beneficial interest is located~~  
 2011 ~~and, if no RICO lien notice or notice of lis pendens is so filed, then to the date of~~  
 2012 ~~recording of the final judgment of forfeiture in the official records of the county where~~  
 2013 ~~the real property or beneficial interest is located; and~~  
 2014 ~~(B) In the case of personal property, relate back to the date the personal property was~~  
 2015 ~~seized by the investigating agency.~~  
 2016 ~~(2) If property subject to forfeiture is conveyed, alienated, disposed of, or otherwise~~  
 2017 ~~rendered unavailable for forfeiture after the filing of a RICO lien notice or after the filing~~  
 2018 ~~of a civil proceeding or criminal proceeding, whichever is earlier, the investigative~~  
 2019 ~~agency may, on behalf of the state, institute an action in the appropriate superior court~~

2020 against the person named in the RICO lien notice or the defendant in the civil proceeding  
 2021 or criminal proceeding; and the court shall enter final judgment against the person named  
 2022 in the RICO lien notice or the defendant in the civil proceeding or criminal proceeding  
 2023 in an amount equal to the fair market value of the property, together with investigative  
 2024 costs and attorney's fees incurred by the investigative agency in the action. If a civil  
 2025 proceeding is pending, such action shall be filed only in the court where such civil  
 2026 proceeding is pending.

2027 16-14-8.

2028 Notwithstanding any other provision of law setting forth a statute of limitations, a criminal  
 2029 proceeding or civil action ~~or proceeding under this chapter may brought pursuant to Code~~  
 2030 Section 16-14-6 shall be commenced up until five years after the conduct in violation of  
 2031 a provision of this chapter terminates ~~or the cause of action accrues~~. If a criminal  
 2032 ~~prosecution~~ proceeding or civil action forfeiture proceeding is brought by the state to  
 2033 ~~punish or prevent any violation of pursuant to this chapter~~, then the running of this period  
 2034 of limitations, with respect to any cause of action arising under subsection (b) or (c) of  
 2035 Code Section 16-14-6 which is based upon any matter complained of in such ~~prosecution~~  
 2036 criminal proceeding or ~~action~~ civil forfeiture proceeding by the state, shall be suspended  
 2037 during the pendency of the ~~prosecution~~ criminal proceeding or ~~action~~ civil forfeiture  
 2038 proceeding by the state and for two years thereafter.

2039 16-14-9.

2040 The application of one civil remedy under this chapter shall not preclude the application  
 2041 of any other remedy, civil or criminal, under this chapter or any other provision of law.  
 2042 Civil remedies under this chapter are supplemental and not mutually exclusive.

2043 16-14-10.

2044 (a) ~~A Notwithstanding any other provision of law~~, a valid judgment rendered by a court  
 2045 of a jurisdiction having a law substantially similar to this chapter ~~will~~ shall be recognized  
 2046 and enforced by the courts of this state to the extent that a judgment rendered by a court of  
 2047 this state pursuant to this chapter would be enforced in such other jurisdiction.

2048 (b) The Attorney General ~~is~~ shall be authorized to enter into reciprocal agreements with  
 2049 the attorney general or chief prosecuting attorney of any jurisdiction having a law  
 2050 substantially similar to this chapter so as to further the purposes of this chapter.

2051 16-14-11.

2052 In any criminal proceeding ~~brought pursuant to this chapter~~, the crime shall be considered  
 2053 to have been committed in any county in which an incident of racketeering occurred or in  
 2054 which an interest or control of an enterprise or real or personal property is acquired or  
 2055 maintained.

2056 16-14-12.

2057 ~~The~~ This state may, in any civil action or civil forfeiture proceeding brought pursuant to  
 2058 this chapter, file with the clerk of the superior court a certificate stating that the case is of  
 2059 special public importance. A copy of ~~that~~ such certificate shall be furnished immediately  
 2060 by such clerk to the chief judge or, in his or her absence, the presiding chief judge of the  
 2061 superior court in which such civil action or civil forfeiture proceeding is pending; and,  
 2062 upon receipt of such copy certificate, the judge shall immediately designate a judge to hear  
 2063 and determine ~~the~~ such civil action or civil forfeiture proceeding. The judge so designated  
 2064 shall promptly assign such civil action or civil forfeiture proceeding for hearing, participate  
 2065 in the hearings and determination, and cause ~~the~~ such civil action or civil forfeiture  
 2066 proceeding to be expedited.

2067 ~~16-14-13.~~

2068 ~~(a) Upon the institution of any civil proceeding, the investigative agency then or at any~~  
 2069 ~~time during the pendency of the proceeding may file in the official records of any one or~~  
 2070 ~~more counties a RICO lien notice. No filing fee or other charge shall be required as a~~  
 2071 ~~condition for filing the RICO lien notice; and the clerk of the superior court shall, upon the~~  
 2072 ~~presentation of a RICO lien notice, immediately record it in the official records.~~

2073 ~~(b) The RICO lien notice shall be signed by the Attorney General or his designee or by a~~  
 2074 ~~district attorney or his designee. The notice shall be in such form as the Attorney General~~  
 2075 ~~prescribes and shall set forth the following information:~~

2076 ~~(1) The name of the person against whom the civil proceeding has been brought. In its~~  
 2077 ~~discretion, the investigative agency may also name in the RICO lien notice any other~~  
 2078 ~~aliases, names, or fictitious names under which the person may be known. In its~~  
 2079 ~~discretion, the investigative agency may also name in the RICO lien notice any~~  
 2080 ~~corporation, partnership, or other entity that is either controlled by or entirely owned by~~  
 2081 ~~the person;~~

2082 ~~(2) If known to the investigative agency, the present residence and business addresses~~  
 2083 ~~of the person named in the RICO lien notice and of the other names set forth in the RICO~~  
 2084 ~~lien notice;~~

- 2085 ~~(3) A reference to the civil proceeding stating that a proceeding under this chapter has~~  
 2086 ~~been brought against the person named in the RICO lien notice, the name of the county~~  
 2087 ~~or counties where the proceeding has been brought, and, if known to the investigative~~  
 2088 ~~agency at the time of filing the RICO lien notice, the case number of the proceeding;~~  
 2089 ~~(4) A statement that the notice is being filed pursuant to this chapter; and~~  
 2090 ~~(5) The name and address of the investigative agency filing the RICO lien notice and the~~  
 2091 ~~name of the individual signing the RICO lien notice.~~
- 2092 ~~(c) A RICO lien notice shall apply only to one person and, to the extent applicable, any~~  
 2093 ~~aliases, fictitious names, or other names, including names of corporations, partnerships, or~~  
 2094 ~~other entities, to the extent permitted in paragraph (1) of subsection (b) of this Code~~  
 2095 ~~section. A separate RICO lien notice shall be filed for any other person against whom the~~  
 2096 ~~investigative agency desires to file a RICO lien notice under this Code section.~~
- 2097 ~~(d) The investigative agency shall, as soon as practicable after the filing of each RICO lien~~  
 2098 ~~notice, furnish to the person named in the notice either a copy of the recorded notice or a~~  
 2099 ~~copy of the notice with a notation thereon of the county or counties in which the notice has~~  
 2100 ~~been recorded. The failure of the investigative agency to so furnish a copy of the notice~~  
 2101 ~~under this subsection shall not invalidate or otherwise affect the notice.~~
- 2102 ~~(e) The filing of a RICO lien notice creates, from the time of its filing, a lien in favor of~~  
 2103 ~~the state on the following property of the person named in the notice and against any other~~  
 2104 ~~names set forth in the notice:~~
- 2105 ~~(1) Any real property situated in the county where the notice is filed then or thereafter~~  
 2106 ~~owned by the person or under any of the names; and~~
- 2107 ~~(2) Any beneficial interest situated in the county where the notice is filed then or~~  
 2108 ~~thereafter owned by the person or under any of the names.~~
- 2109 ~~(f) The lien shall commence and attach as of the time of filing of the RICO lien notice and~~  
 2110 ~~shall continue thereafter until expiration, termination, or release pursuant to Code Section~~  
 2111 ~~16-14-14. The lien created in favor of the state shall be superior and prior to the interest~~  
 2112 ~~of any other person in the real property or beneficial interest if the interest is acquired~~  
 2113 ~~subsequent to the filing of the notice.~~
- 2114 ~~(g) In conjunction with any civil proceedings:~~
- 2115 ~~(1) The investigative agency may file without prior court order in any county a lis~~  
 2116 ~~pendens and, in such case, any person acquiring an interest in the subject real property~~  
 2117 ~~or beneficial interest, if the real property or beneficial interest is acquired subsequent to~~  
 2118 ~~the filing of lis pendens, shall take the interest subject to the civil proceeding and any~~  
 2119 ~~subsequent judgment of forfeiture; and~~
- 2120 ~~(2) If a RICO lien notice has been filed, the investigative agency may name as~~  
 2121 ~~defendants, in addition to the person named in the notice, any persons acquiring an~~

2122 interest in the real property or beneficial interest subsequent to the filing of the notice.  
 2123 If a judgment of forfeiture is entered in the proceeding in favor of the state, the interest  
 2124 of any person in the property that was acquired subsequent to the filing of the notice shall  
 2125 be subject to the notice and judgment of forfeiture.

2126 ~~(h)(1) A trustee who acquires actual knowledge that a RICO lien notice or a civil~~  
 2127 ~~proceeding or criminal proceeding has been filed against any person for whom he holds~~  
 2128 ~~legal or record title to real property shall immediately furnish to the investigative agency~~  
 2129 ~~the following:~~

2130 ~~(A) The name and address of the person, as known to the trustee;~~

2131 ~~(B) The name and address, as known to the trustee, of all other persons for whose~~  
 2132 ~~benefit the trustee holds title to the real property; and~~

2133 ~~(C) If requested by the investigative agency, a copy of the trust agreement or other~~  
 2134 ~~instrument pursuant to which the trustee holds legal or record title to the real property.~~

2135 ~~(2) Any trustee who fails to comply with the provisions of this subsection is guilty of a~~  
 2136 ~~misdemeanor.~~

2137 ~~(i) Any trustee who conveys title to real property for which a RICO lien notice has been~~  
 2138 ~~filed at the time of the conveyance in the county where the real property is situated naming~~  
 2139 ~~a person who, to the actual knowledge of the trustee, holds a beneficial interest in the trust~~  
 2140 ~~shall be liable to the state for the greater of:~~

2141 ~~(1) The amount of proceeds received directly by the person named in the RICO lien~~  
 2142 ~~notice as a result of the conveyance;~~

2143 ~~(2) The amount of proceeds received by the trustee as a result of the conveyance and~~  
 2144 ~~distributed to the person named in the RICO lien notice; or~~

2145 ~~(3) The fair market value of the interest of the person named in the RICO lien notice in~~  
 2146 ~~the real property so conveyed; however, if the trustee conveys the real property and holds~~  
 2147 ~~the proceeds that would otherwise be paid or distributed to the beneficiary or at the~~  
 2148 ~~direction of the beneficiary or his designee, the trustee's liability shall not exceed the~~  
 2149 ~~amount of the proceeds so held for so long as the proceeds are held by the trustee.~~

2150 ~~(j) The filing of a RICO lien notice shall not constitute a lien on the record title to real~~  
 2151 ~~property as owned by the trustee except to the extent the trustee is named in the RICO lien~~  
 2152 ~~notice. The investigative agency may bring a civil proceeding in any superior court against~~  
 2153 ~~the trustee to recover from the trustee the amounts set forth in subsection (I), and the state~~  
 2154 ~~shall also be entitled to recover investigative costs and attorney's fees incurred by the~~  
 2155 ~~investigative agency.~~

2156 ~~(k) The filing of a RICO lien notice shall not affect the use to which real property or a~~  
 2157 ~~beneficial interest owned by the person named in the RICO lien notice may be put or the~~

2158 right of the person to receive any avails, rents, or other proceeds resulting from the use and  
 2159 ownership, but not the sale, of the property until a judgment of forfeiture is entered:

2160 (1)(1) ~~The provisions of this Code section shall not apply to any conveyance by a trustee~~  
 2161 ~~pursuant to a court order unless such court order is entered in an action between the~~  
 2162 ~~trustee and the beneficiary.~~

2163 (2) ~~Unless the trustee has actual knowledge that a person owning a beneficial interest in~~  
 2164 ~~the trust is named in a RICO lien notice or is otherwise a defendant in a civil proceeding,~~  
 2165 ~~the provisions of this Code section shall not apply to:~~

2166 (A) ~~Any conveyance by a trustee required under the terms of any trust agreement,~~  
 2167 ~~which trust agreement is a matter of public record prior to the filing of any RICO lien~~  
 2168 ~~notice; or~~

2169 (B) ~~Any conveyance by a trustee to all of the persons who own a beneficial interest in~~  
 2170 ~~the trust.~~

2171 (m) ~~All forfeitures or dispositions under this Code section shall be made with due~~  
 2172 ~~provision for the rights of innocent persons.~~

2173 ~~16-14-14.~~

2174 (a) ~~The term of a RICO lien notice shall be for a period of six years from the date of filing~~  
 2175 ~~unless a renewal RICO lien notice has been filed by the investigative agency; and, in such~~  
 2176 ~~case, the term of the renewal RICO lien notice shall be for a period of six years from the~~  
 2177 ~~date of its filing. The investigative agency shall be entitled to only one renewal of the~~  
 2178 ~~RICO lien notice.~~

2179 (b) ~~The investigative agency filing the RICO lien notice may release in whole or in part~~  
 2180 ~~any RICO lien notice or may release any specific real property or beneficial interest from~~  
 2181 ~~the RICO lien notice upon such terms and conditions as it may determine. Any release of~~  
 2182 ~~a RICO lien notice executed by the investigative agency may be filed in the official records~~  
 2183 ~~of any county. No charge or fee shall be imposed for the filing of any release of a RICO~~  
 2184 ~~lien notice.~~

2185 (c) ~~If no civil proceeding has been instituted by the investigative agency seeking a~~  
 2186 ~~forfeiture of any property owned by the person named in the RICO lien notice, the acquittal~~  
 2187 ~~in the criminal proceeding of the person named in the RICO lien notice or the dismissal of~~  
 2188 ~~the criminal proceeding shall terminate the RICO lien notice; and, in such case, the filing~~  
 2189 ~~of the RICO lien notice shall have no effect. In the event the criminal proceeding has been~~  
 2190 ~~dismissed or the person named in the RICO lien notice has been acquitted in the criminal~~  
 2191 ~~proceeding, the RICO lien notice shall continue for the duration of the civil proceeding.~~

2192 (d) ~~If no civil proceeding is then pending against the person named in a RICO lien notice,~~  
 2193 ~~the person named in a RICO lien notice may institute an action against the investigative~~

2194 agency filing the notice in the county where the notice has been filed seeking a release or  
2195 extinguishment of the notice; and, in such case:

2196 (1) ~~The court shall, upon the motion of such person, immediately enter an order setting~~  
2197 ~~a date for hearing, which date shall be not less than five nor more than ten days after the~~  
2198 ~~action has been filed, and the order, along with a copy of the complaint, shall be served~~  
2199 ~~on the investigative agency within three days after the institution of the action. At the~~  
2200 ~~hearing, the court shall take evidence on the issue of whether any real property or~~  
2201 ~~beneficial interest owned by such person is covered by the RICO lien notice or otherwise~~  
2202 ~~subject to forfeiture under this chapter, and, if such person shows by the preponderance~~  
2203 ~~of the evidence that the RICO lien notice is not applicable to him or that any real property~~  
2204 ~~or beneficial interest owned by him is not subject to forfeiture under this chapter, the~~  
2205 ~~court shall enter a judgment extinguishing the RICO lien notice or releasing the real~~  
2206 ~~property or beneficial interest from the RICO lien notice;~~

2207 (2) ~~The court shall immediately enter its order releasing from the RICO lien notice any~~  
2208 ~~specific real property or beneficial interest if a sale of the real property or beneficial~~  
2209 ~~interest is pending and the filing of the notice prevents the sale of the property or interest;~~  
2210 ~~however, the proceeds resulting from the sale of the real property or beneficial interest~~  
2211 ~~shall be deposited into the registry of the court, subject to the further order of the court;~~  
2212 ~~and~~

2213 (3) ~~At the hearing set forth in paragraph (1), the court may release from the RICO lien~~  
2214 ~~notice any real property or beneficial interest upon the posting by such person of such~~  
2215 ~~security as is equal to the value of the real property or beneficial interest owned by such~~  
2216 ~~person.~~

2217 (e) ~~In the event a civil proceeding is pending against a person named in a RICO lien~~  
2218 ~~notice, the court, upon motion by said person, may grant the relief set forth in this Code~~  
2219 ~~section.~~

2220 ~~16-14-15:~~

2221 (a) ~~Each alien corporation desiring to acquire of record any real property shall have, prior~~  
2222 ~~to acquisition, and shall continuously maintain in this state during any year thereafter in~~  
2223 ~~which such real property is owned by the alien corporation:~~

2224 (1) ~~A registered office; and~~

2225 (2) ~~A registered agent, which agent may be either:~~

2226 (A) ~~An individual resident in this state whose business office is identical with such~~  
2227 ~~registered office; or~~

2228 (B) ~~Another corporation authorized to transact business in this state having a business~~  
2229 ~~office identical with such registered office.~~

- 2230 ~~(b) Each registered agent appointed pursuant to this Code section, on whom process may~~  
 2231 ~~be served, shall file a statement in writing with the Secretary of State accepting the~~  
 2232 ~~appointment as registered agent simultaneously with being designated.~~
- 2233 ~~(c) Each alien corporation shall file with the Secretary of State an annual registration~~  
 2234 ~~setting forth:~~
- 2235 ~~(1) The name of the alien corporation and the country under whose law it is incorporated;~~  
 2236 ~~(2) The mailing address of the principal office of the alien corporation;~~  
 2237 ~~(3) The name and mailing address of each officer and each director of the alien~~  
 2238 ~~corporation;~~  
 2239 ~~(4) The name and street address of the registered agent and registered office of the alien~~  
 2240 ~~corporation; and~~  
 2241 ~~(5) The signature of the corporate president, vice-president, secretary, assistant secretary,~~  
 2242 ~~or treasurer attesting to the accuracy of the report as of the date the annual registration is~~  
 2243 ~~executed on behalf of the corporation.~~
- 2244 ~~(d) The first annual registration must be delivered to the Secretary of State between~~  
 2245 ~~January 1 and April 1, or such other date as the Secretary of State may specify by rules or~~  
 2246 ~~regulations, of the year following a calendar year in which an alien corporation filed its~~  
 2247 ~~initial application pursuant to subsection (a) of this Code section. Subsequent annual~~  
 2248 ~~registrations must be delivered to the Secretary of State between January 1 and April 1, or~~  
 2249 ~~such other date as the Secretary of State may specify by rules or regulations, of the~~  
 2250 ~~following calendar years.~~
- 2251 ~~(e) For filing reports required pursuant to this Code section, the Secretary of State shall~~  
 2252 ~~collect a filing fee as set out in Code Section 14-2-122 for the filing of annual registrations.~~
- 2253 ~~(f) If an annual registration does not contain the information required by this Code section,~~  
 2254 ~~the Secretary of State shall promptly notify the reporting domestic, foreign, or alien~~  
 2255 ~~corporation in writing and return the report to it for correction. If the report is corrected~~  
 2256 ~~to contain the information required by this Code section and delivered to the Secretary of~~  
 2257 ~~State within 30 days after the effective date of notice, it is deemed to be timely filed.~~
- 2258 ~~(g) The Secretary of State shall record the status of any alien corporation that fails to~~  
 2259 ~~comply with the requirements of this Code section.~~
- 2260 ~~(h) Each alien corporation that fails to file a report as required by subsection (c) of this~~  
 2261 ~~Code section or fails to maintain a registered office and a registered agent as required by~~  
 2262 ~~subsection (a) of this Code section shall not be entitled to own, purchase, or sell any real~~  
 2263 ~~property and shall not be entitled to bring an action or defend in the courts of the state until~~  
 2264 ~~such requirements have been complied with.~~
- 2265 ~~(i) The filing of a report by a corporation as required by subsection (c) of this Code section~~  
 2266 ~~shall be solely for the purposes of this chapter and, notwithstanding Code Section 14-2-510~~

2267 ~~or any other relevant law, shall not be used as a determination of whether the corporation~~  
 2268 ~~is actually doing business in this state."~~

2269 **SECTION 2-26.**

2270 Said title is further amended by revising Code Section 16-15-5, relating to contraband,  
 2271 seizure, and forfeiture under the "Georgia Street Gang Terrorism and Prevention Act," as  
 2272 follows:

2273 "16-15-5.

2274 (a) As used in this Code section, the terms 'proceeds' and 'property' shall have the same  
 2275 meanings as set forth in Code Section 9-16-2. ~~The following are declared to be contraband~~  
 2276 and no person shall have a property interest in them:

2277 ~~(1)(b)~~ Any ~~All~~ property which is, directly or indirectly, used or intended for use in any  
 2278 manner to facilitate a violation of this chapter; and proceeds are declared to be contraband  
 2279 and no person shall have a property right in them.

2280 ~~(2) Any property constituting or derived from gross profits or other proceeds obtained~~  
 2281 ~~from a violation of this chapter.~~

2282 ~~(b) In any action under this Code section, the court may enter such restraining orders or~~  
 2283 ~~take other appropriate action, including acceptance of performance bonds, in connection~~  
 2284 ~~with any interest that is subject to forfeiture.~~

2285 (c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall  
 2286 be forfeited in accordance with Chapter 16 of Title 9. ~~Within 60 days of the date of the~~  
 2287 ~~seizure of contraband pursuant to this Code section, the district attorney shall initiate a~~  
 2288 ~~forfeiture proceeding as provided in Code Section 16-13-49. An owner or interest holder,~~  
 2289 ~~as defined by subsection (a) of Code Section 16-13-49, may establish as a defense to the~~  
 2290 ~~forfeiture of property which is subject to forfeiture under this Code section the applicable~~  
 2291 ~~provisions of subsection (e) or (f) of Code Section 16-13-49. Property which is forfeited~~  
 2292 ~~pursuant to this Code section shall be disposed of as provided in Code Section 16-13-49~~  
 2293 ~~and the proceeds of such disposition shall be paid to the Criminal Justice Coordinating~~  
 2294 ~~Council for use in funding gang prevention projects."~~

2295 **SECTION 2-27.**

2296 Said title is further amended by repealing in its entirety Code Section 16-16-2, relating to  
 2297 motor vehicles, tools, and weapons subject to forfeiture, and enacting a new Code Section  
 2298 16-16-2 to read as follows:

2299 "16-16-2.

2300 (a) As used in this Code section, the terms 'proceeds' and 'property' shall have the same  
 2301 meanings as set forth in Code Section 9-16-2.

2302 (b) Any property which is, directly or indirectly, used or intended for use in any manner  
 2303 to facilitate the commission of a burglary, home invasion, or armed robbery and any  
 2304 proceeds are declared to be contraband and no person shall have a property right in them.  
 2305 (c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall  
 2306 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9."

2307 **PART III**

2308 **CONFORMING TITLES 3, 5, 7, 10, 12,**

2309 **15, 17, 27, 36, 38, 40, 45, 46, 48, 49, AND 52**

2310 **TO THE NEW CIVIL FORFEITURE PROCEDURE**

2311 **AND CORRECTING TERMINOLOGY**

2312 **SECTION 3-1.**

2313 Title 3 of the Official Code of Georgia Annotated, relating to alcoholic beverages, is  
 2314 amended by revising Code Section 3-10-10, relating to existence of property rights in  
 2315 distilled spirits or vessels kept or used in violation of the chapter, as follows:

2316 "3-10-10.

2317 No property rights of any kind shall exist in distilled spirits or in the vessels kept or used  
 2318 for the purpose of violating this chapter, or in any such liquors when received, possessed,  
 2319 or stored at any forbidden place or anywhere in a quantity forbidden by law or when kept,  
 2320 stored, or deposited for the purpose of sale or unlawful disposition, furnishing, or  
 2321 distribution. In all such cases the distilled spirits, the vessels and receptacles in which the  
 2322 distilled spirits are contained, and any property kept or used for the purpose of violating  
 2323 this chapter are declared to be contraband; and are to be forfeited to the state when seized;  
 2324 ~~and may be condemned to be destroyed after seizure by order of the court that has acquired~~  
 2325 ~~jurisdiction over them, or by order of the judge or court after conviction when the distilled~~  
 2326 ~~spirits and property have been seized for use as evidence~~ in accordance with the procedures  
 2327 set forth in Chapter 16 of Title 9."

2328 **SECTION 3-2.**

2329 Said title is further amended by revising Code Section 3-10-11, relating to contraband  
 2330 apparatus and appliances, existence of property rights therein, summary destruction of  
 2331 contraband, and procedure for seizure and condemnation of vehicles and conveyances and  
 2332 boats and vessels, as follows:

2333 "3-10-11.

2334 (a)(1) All apparatus or appliances which are used for the unlawful purpose of distilling  
 2335 or manufacturing any distilled spirits are declared to be contraband.

2336 (2) No person shall have any property right in or to the contraband specified in this  
2337 subsection.

2338 (3) Whenever apparatus or appliances used or about to be used for the unlawful purpose  
2339 of manufacturing, using, holding, or containing any distilled spirits are found or  
2340 discovered by any sheriff, deputy sheriff, or other law enforcement officer of this state,  
2341 the same shall be summarily destroyed and rendered useless by him or her without any  
2342 formal order of the court.

2343 (b)(1) All vehicles and conveyances of every kind and description in this state and all  
2344 boats and vessels of every kind and description in any of the waters of this state, ~~which~~  
2345 ~~vehicles and vessels are used in conveying, removing, concealing, or storing any distilled~~  
2346 ~~spirits, the transportation, possession, or storing of which is in violation of law, are~~  
2347 declared to be contraband and shall be seized ~~and condemned~~ by any sheriff or other  
2348 arresting law enforcement officer. Such ~~vehicles, conveyances, boats, and vessels~~  
2349 contraband shall be subject to ~~seizure and condemnation as specified in this Code section~~  
2350 ~~in any county or municipality of this state~~ forfeiture in accordance with the procedures set  
2351 forth in Chapter 16 of Title 9, including those counties and municipalities in which the sale  
2352 of distilled spirits is lawful. ~~The law enforcement officer making a seizure shall report the~~  
2353 ~~seizure within ten days after the seizure to the prosecuting attorney of the county, city, or~~  
2354 ~~superior court having jurisdiction in the county where the seizure was made.~~

2355 (2) ~~Within 30 days from the time the prosecuting attorney receives the notice, he shall~~  
2356 ~~institute condemnation proceedings by petition, a copy of which shall be served upon the~~  
2357 ~~owner or lessee, if known, and, if the owner or lessee is unknown, notice of the~~  
2358 ~~proceedings shall be published once a week for two weeks in the newspaper in which the~~  
2359 ~~sheriff's advertisements are published.~~

2360 (3) ~~If at the expiration of 30 days after the filing of a petition pursuant to paragraph (2)~~  
2361 ~~of this subsection no claimant has appeared to defend against the petition, the court shall~~  
2362 ~~order the disposition of the property as otherwise provided in this subsection.~~

2363 (4) ~~Should it appear upon the trial of the case that the vehicle, conveyance, boat, or~~  
2364 ~~vessel was used as provided in paragraph (1) of this subsection with the knowledge of the~~  
2365 ~~owner or lessee, it shall be disposed of by order of the court after such advertisement as~~  
2366 ~~the court may direct.~~

2367 (5) ~~Except as otherwise provided in this Code section, property forfeited pursuant to this~~  
2368 ~~subsection shall be disposed of by order of the court as follows:~~

2369 (A) ~~Upon application of the seizing law enforcement agency or any other law~~  
2370 ~~enforcement agency of state, county, or municipal government, the court shall permit~~  
2371 ~~the agency to retain the property for official use in law enforcement work;~~

2372 ~~(B) That property which is not required to be destroyed by law and which is not~~  
2373 ~~harmful to the public shall be sold. The proceeds of such sale shall be used for payment~~  
2374 ~~of all proper expenses of the forfeiture and sale, including, but not limited to, the~~  
2375 ~~expenses of seizure, maintenance of custody, advertising, and court costs. The~~  
2376 ~~remainder of the proceeds of a sale of forfeited property, after the deductions authorized~~  
2377 ~~in this subparagraph for proper expenses, shall be paid into the general fund of the~~  
2378 ~~county in which the seizure is made.~~

2379 ~~(c) Where the owner or lessee of any property seized for purposes of condemnation~~  
2380 ~~absconds or conceals himself so that actual notice of the condemnation proceeding cannot~~  
2381 ~~be served upon him, he shall be served by publication as provided for in paragraph (2) of~~  
2382 ~~subsection (b) of this Code section in the case of an unknown owner or lessee.~~

2383 ~~(d)(1) All condemnation proceedings against any vehicle, conveyance, boat, or vessel~~  
2384 ~~shall be proceedings in rem against the property seized. The property shall be described~~  
2385 ~~only in general terms, and it is no ground for defense that the person who had the~~  
2386 ~~property in possession at the time of its illegal use and seizure had not been convicted of~~  
2387 ~~such violation.~~

2388 ~~(2) Any party at interest may appear, by answer under oath, and make defense. The~~  
2389 ~~owner or lessee shall be permitted to defend by showing that the property seized, if used~~  
2390 ~~illegally by another, was used without the knowledge, connivance, or consent, express~~  
2391 ~~or implied, of the owner or lessee and by showing also that the property seized, if a motor~~  
2392 ~~vehicle, was legally registered with the department in the true name and address of the~~  
2393 ~~owner or his predecessor in title, unless the vehicle is a new vehicle bought from a dealer~~  
2394 ~~within 30 days of the time of seizure. The holder of any bona fide lien on the property~~  
2395 ~~so seized shall be protected to the full extent of his lien if the holder shows that the illegal~~  
2396 ~~use of the property was without his knowledge, connivance, or consent, express or~~  
2397 ~~implied.~~

2398 ~~(e) The court to whom a petition for condemnation is referred may at its discretion allow~~  
2399 ~~any party at interest to give bond and take possession of the vehicle seized. In such cases~~  
2400 ~~the court shall determine whether the bond shall be a forthcoming bond or an eventual~~  
2401 ~~condemnation money bond and shall also determine the amount of the bond. The~~  
2402 ~~enforcement of any bond so given shall be regulated by the general law applicable to such~~  
2403 ~~cases.~~

2404 ~~(f) The court may permit a settlement between the parties at any stage of the proceeding~~  
2405 ~~by permitting the value of the vehicle or the value of the equity in the vehicle, as~~  
2406 ~~determined by the court, to be paid into court. Money so paid shall be distributed as~~  
2407 ~~provided by law in all cases of condemnation.~~

2408 ~~(g) The agency, state, county, or municipality seizing any contraband article may use any~~  
 2409 ~~vessel, vehicle, aircraft, or other conveyance described in subsection (b) of this Code~~  
 2410 ~~section for covert police activity for a period of up to 60 days prior to the sale of such~~  
 2411 ~~vessel, vehicle, aircraft, or other conveyance, except that no vessel, vehicle, aircraft, or~~  
 2412 ~~other conveyance shall be utilized for covert police activity prior to final judicial~~  
 2413 ~~adjudication of lawful seizure."~~

### 2414 SECTION 3-3.

2415 Said title is further amended by revising Code Section 3-10-12, relating to raw materials or  
 2416 substances, fixtures, implements, or apparatus intended for use in unlawful distillation or  
 2417 manufacture of distilled spirits declared contraband, property rights in contraband, and  
 2418 procedures for seizure and disposition of contraband, as follows:

2419 "3-10-12.

2420 (a) Any raw materials or substances, including, but not limited to, sugar of any grade or  
 2421 type, and any fixture, implement, or apparatus used or intended for use in the unlawful  
 2422 distilling or manufacturing of any distilled spirits are declared to be contraband.

2423 (b) No person shall have any property right in or to any contraband specified in  
 2424 subsection (a) of this Code section.

2425 (c) Whenever any property item used or about to be used as specified in subsection (a) of  
 2426 this Code section is found or discovered, whether in transit, in storage, or at a site of  
 2427 unlawful distillation or manufacture, by any ~~sheriff, deputy sheriff, revenue agent, or any~~  
 2428 ~~other~~ law enforcement officer, it is ~~declared forfeited and~~ shall be subject to the following  
 2429 dispositions, ~~or any of them~~:

2430 (1) When found or discovered at a site of unlawful distillation or manufacture, it may be  
 2431 summarily destroyed and rendered useless by any ~~of the officers named in this subsection~~  
 2432 law enforcement officer without any formal order of the court or, in the event any of the  
 2433 raw materials or substances are fit for human consumption or if any of the fixtures,  
 2434 implements, or apparatus are of any beneficial use to the educational authorities of the  
 2435 county for use in any of their educational programs, they may be delivered to the public  
 2436 schools of the county in which seized for use in the schools. When any of the foregoing  
 2437 items are delivered to a public school system, the officer delivering the items shall obtain  
 2438 from the appropriate school authorities an itemized receipt detailing all items delivered  
 2439 to the system and report such information as provided in subsection (g) of Code Section  
 2440 9-16-19. In the event any of the foregoing items are destroyed by a law enforcement  
 2441 officer, ~~he~~ the officer shall execute an affidavit of such fact in which ~~he shall list~~ all items  
 2442 destroyed ~~by him~~ shall be listed. The receipts and affidavits shall be maintained by the  
 2443 officer and shall be open to inspection by the public upon request; or

2444 (2) When found or discovered in transit or in storage by any ~~of the officers named in this~~  
 2445 ~~subsection, the property law enforcement officer, the items~~ shall be seized by the officer  
 2446 and the ~~procedures of notice, condemnation, and sale provided in Code Section 3-10-11,~~  
 2447 ~~applicable to vehicles and conveyances, shall be followed~~ forfeited in accordance with  
 2448 the procedures set forth in Chapter 16 of Title 9."

2449 **SECTION 3-4.**

2450 Title 5 of the Official Code of Georgia Annotated, relating to appeal and error, is amended  
 2451 by revising paragraph (8) of subsection (c) of Code Section 5-5-41, relating to requirements  
 2452 as to extraordinary motions for new trial generally, as follows:

2453 "(8) If the court orders testing pursuant to this subsection, the court shall determine the  
 2454 method of testing and responsibility for payment for the cost of testing, if necessary, and  
 2455 may require the petitioner to pay the costs of testing if the court determines that the  
 2456 petitioner has the ability to pay. If the petitioner is indigent, the cost shall be paid from  
 2457 the fine and bond forfeiture fund as provided in Article 3 of Chapter 5 21 of Title 15."

2458 **SECTION 3-5.**

2459 Title 7 of the Official Code of Georgia Annotated, relating to banks and banking, is amended  
 2460 by revising Code Section 7-1-11, relating to registration of nonresident corporations, as  
 2461 follows:

2462 "7-1-11.

2463 Whenever any financial institution or other corporation domiciled outside this state,  
 2464 including domestic international banking facilities, international bank agencies,  
 2465 international bank representative offices, and representative offices of federally and state  
 2466 chartered financial institutions, is required to register with the department as a prerequisite  
 2467 to the conduct of business in this state or for the purpose of taking title or liens against  
 2468 property located in this state, such registration shall be in lieu of further registration  
 2469 pursuant to ~~Code Section 16-14-15~~ or any other provisions of law."

2470 **SECTION 3-6.**

2471 Said title is further amended by revising Code Section 7-1-916, relating to forfeiture of  
 2472 property involved in illegal transactions, as follows:

2473 "7-1-916.

2474 All property of every kind used or intended for use in the course of, derived from, or  
 2475 realized through a transaction which in fact involves the proceeds of unlawful activity  
 2476 specified in Chapter 14 of Title 16 or otherwise subject to the provisions of this article shall  
 2477 be subject to forfeiture to the state. Forfeiture shall be had by the same procedure as is set

2478 forth in ~~Code Section 16-14-7~~ Chapter 16 of Title 9. As used in this Code section, the  
 2479 terms 'proceeds' and 'property' shall have the same meaning as set forth in Code Section  
 2480 9-16-2."

2481

### SECTION 3-7.

2482 Title 10 of the Official Code of Georgia Annotated, relating to commerce and trade, is  
 2483 amended by revising subsection (d) of Code Section 10-1-454, relating to forged or  
 2484 counterfeited trademarks, service marks, or copyrighted or registered designs, as follows:

2485 "(d)(1) The State of Georgia finds and declares that the citizens of this state have a right  
 2486 to receive those goods and services which they reasonably believe they are purchasing  
 2487 or for which they contract. The state further finds that the manufacture and sale of  
 2488 counterfeit goods or goods which are not what they purport to be and the offering of  
 2489 services through the use of counterfeit service marks constitutes a fraud on the public and  
 2490 results in economic disruption to the legitimate businesses of this state. In order to  
 2491 protect the citizens and businesses of this state it is necessary to take appropriate actions  
 2492 to remove counterfeit goods from the channels of commerce and prevent the  
 2493 manufacture, sale, and distribution of such goods or the offering of such services through  
 2494 the use of counterfeit service marks.

2495 (2) As used in this subsection, the terms 'proceeds' and 'property' shall have the same  
 2496 meanings as set forth in Code Section 9-16-2.

2497 (3) Any property which is, directly or indirectly, used or intended for use in any manner  
 2498 to facilitate a violation of this Code section and any proceeds are declared to be  
 2499 contraband and no person shall have a property right in them.

2500 (4) Any property subject to forfeiture pursuant to paragraph (3) of this subsection shall  
 2501 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9.

2502 ~~(2) For the purposes expressed in paragraph (1) of this subsection, a person who is~~  
 2503 ~~convicted of or pleads nolo contendere to a felony offense under this Code section shall~~  
 2504 ~~forfeit to the State of Georgia such interest as the person may have in:~~

2505 ~~(A) Any goods, labels, products, or other property containing or constituting forged or~~  
 2506 ~~counterfeit trademarks, service marks, or copyrighted or registered designs or~~  
 2507 ~~constituting or directly derived from gross profits or other proceeds obtained from such~~  
 2508 ~~offense;~~

2509 ~~(B) Any property or any interest in any property, including but not limited to any~~  
 2510 ~~reproduction equipment, scanners, computer equipment, printing equipment, plates,~~  
 2511 ~~dies, sewing or embroidery equipment, motor vehicle, or other asset, used to commit~~  
 2512 ~~a violation of this Code section; and~~

2513 ~~(C) Any property constituting or directly derived from gross profits or other proceeds~~  
 2514 ~~obtained from a violation of this Code section.~~

2515 ~~(3) In any action under this Code section, the court may enter such restraining orders or~~  
 2516 ~~take other appropriate action, including acceptance of performance bonds, in connection~~  
 2517 ~~with any interest that is subject to forfeiture.~~

2518 ~~(4) The court shall order forfeiture of property referred to in paragraph (2) of this~~  
 2519 ~~subsection if the trier of fact determines beyond a reasonable doubt that such property is~~  
 2520 ~~subject to forfeiture.~~

2521 ~~(5) The provisions of subsection (u) of Code Section 16-13-49 shall apply for the~~  
 2522 ~~disposition of any property forfeited under this subsection, provided that any property~~  
 2523 ~~containing a counterfeit trademark, service mark, or copyrighted or registered design~~  
 2524 ~~shall be destroyed unless the owner of the trademark, service mark, or copyrighted or~~  
 2525 ~~registered design gives prior written consent to the sale of such property or such~~  
 2526 ~~trademark, service mark, or copyrighted or registered design is obliterated or removed~~  
 2527 ~~from such property prior to the disposition thereof. Any forfeited goods which are~~  
 2528 ~~hazardous to the health, welfare, or safety of the public shall be destroyed. In any~~  
 2529 ~~disposition of property under this subsection, a person who has been convicted of or who~~  
 2530 ~~has entered a plea of nolo contendere to a violation of this Code section shall not be~~  
 2531 ~~permitted to acquire property forfeited by such person.~~

2532 ~~(6) The procedure for forfeiture and disposition of forfeited property under this~~  
 2533 ~~subsection shall be as provided for forfeitures under Code Section 16-13-49."~~

2534 **SECTION 3-8.**

2535 Said title is further amended by revising subsection (b) of Code Section 10-13A-8, relating  
 2536 to suspension of distributor's license, as follows:

2537 "(b) Any cigarettes that have been sold, offered for sale, or possessed for sale in this state  
 2538 in violation of Code Section 10-13A-5 shall be deemed contraband under Code Section  
 2539 48-11-9 and such cigarettes shall be subject to seizure and forfeiture as provided in ~~such~~  
 2540 ~~Code section~~ Chapter 16 of Title 9."

2541 **SECTION 3-9.**

2542 Title 12 of the Official Code of Georgia Annotated, relating to conservation and natural  
 2543 resources, is amending by revising subsection (e) of Code Section 12-4-48, relating to actions  
 2544 by director to enforce part relating to deep drilling for oil, gas, and other minerals, as follows:

2545 "(e)(1) In addition to any other enforcement remedy available to the director under this  
 2546 part, all illegal minerals and illegal products are declared to be contraband and forfeited to

2547 ~~the state and shall be confiscated and seized by any peace officer who shall forthwith~~  
 2548 ~~deliver it in accordance with the procedures set forth in Chapter 16 of Title 9, except that:~~

2549 ~~(1) Any seizure of contraband shall be delivered to the director or his or her duly~~  
 2550 ~~authorized agent within ten days of the seizure;~~

2551 ~~(2) Illegal minerals shall only be forfeited as provided for in Code Section 9-16-12; and~~

2552 ~~(3) Property seized pursuant to this subsection shall not be required to be stored in an~~  
 2553 ~~area within the jurisdiction of the court if such storage is not possible.~~

2554 ~~(2) The district attorney whose circuit includes the county in which the seizure is made,~~  
 2555 ~~within 30 days after the seizure of any illegal minerals or illegal products, shall institute~~  
 2556 ~~proceedings by petition in the superior court of any county where the seizure was made~~  
 2557 ~~against the property so seized and against any and all persons known to have an interest~~  
 2558 ~~in or right affected by the seizure or sale of such property. A copy of such petition shall~~  
 2559 ~~be served upon the owner or lessee of such property, if known, and upon the person or~~  
 2560 ~~persons having custody or possession of such property at the time of the confiscation or~~  
 2561 ~~seizure. If the owner or lessee or person or persons having custody or possession of such~~  
 2562 ~~property at the time of seizure is unknown, notice of such proceedings shall be published~~  
 2563 ~~once a week for two consecutive weeks in the newspaper in which sheriff's~~  
 2564 ~~advertisements of the county are published. Such publication shall be deemed notice to~~  
 2565 ~~any and all persons having an interest in or right affected by such proceeding and any sale~~  
 2566 ~~of the property resulting therefrom. If no defense or intervention shall be filed within 30~~  
 2567 ~~days from the filing of the petition, judgment by default shall be entered by the court;~~  
 2568 ~~otherwise the case shall proceed as civil cases. Should the mineral or mineral product be~~  
 2569 ~~found to be illegal within the sense of this part, the same shall be decreed to be~~  
 2570 ~~contraband and ordered sold under such terms as the judge in his order may direct. The~~  
 2571 ~~judge may order the same sold in bulk, in lots, in parcels, or under such other regulations~~  
 2572 ~~as may be deemed proper. The proceeds arising from such sale shall be applied:~~

2573 ~~(A) To the payment of proper costs and expenses, including expenses incurred in the~~  
 2574 ~~seizure;~~

2575 ~~(B) To the payment of the cost of the court and its officers;~~

2576 ~~(C) To the payment of any cost incurred in the storage, advertisement, maintenance,~~  
 2577 ~~or care of such property; and~~

2578 ~~(D) If any money remains, to the state treasury to the credit of the general fund.~~

2579 ~~(3) Where the owner or lessee of any property seized for purpose of condemnation shall~~  
 2580 ~~abscond or conceal himself so that the actual notice of the condemnation proceedings~~  
 2581 ~~cannot be served upon him, he shall be served by publication as is provided in this Code~~  
 2582 ~~section in the case of an unknown owner or lessee.~~

2583 ~~(4) All proceedings against any alleged illegal minerals or for the purpose of~~  
 2584 ~~condemnation shall be proceedings in rem against the property, and the property shall be~~  
 2585 ~~described only in general terms. It is the intent and purpose of the procedure provided~~  
 2586 ~~by this Code section to provide a civil remedy for the condemnation and sale of~~  
 2587 ~~contraband property.~~

2588 ~~(5) The court shall have full discretion and authority to permit a settlement between the~~  
 2589 ~~parties at any stage of the proceedings by permitting the value of the alleged illegal~~  
 2590 ~~minerals or illegal products to be paid into court, as determined by the court, which~~  
 2591 ~~money when so paid in shall be distributed as provided by law in all cases of~~  
 2592 ~~condemnation.~~

2593 ~~(6)(f) Nothing in this Code section shall deny or abridge any cause of action a royalty~~  
 2594 ~~owner, lienholder, or other claimant may have against any persons whose acts result in the~~  
 2595 ~~forfeiture of the illegal oil, illegal gas, or illegal product."~~

### 2596 **SECTION 3-10.**

2597 Said title is further amended by revising subsection (a) of Code Section 12-5-133, relating  
 2598 to penalty and confiscation of equipment, as follows:

2599 "(a) Any person who engages in or follows the business or occupation of, or advertises,  
 2600 holds himself or herself out, or acts, temporarily or otherwise, as a water well contractor  
 2601 without having first secured the required license or renewal thereof or any person who  
 2602 otherwise violates any provisions of this part shall be guilty of a misdemeanor and, upon  
 2603 conviction thereof, shall be fined not less than \$100.00 and not more than \$1,000.00. Each  
 2604 day during which such violation exists or continues shall constitute a separate offense. ~~In~~  
 2605 ~~addition to or in lieu of any fine imposed for acting without the required license, any person~~  
 2606 ~~violating any provision of this part may have his or her drilling rigs and commercial~~  
 2607 ~~vehicles confiscated in accordance with Code Section 12-5-137."~~

### 2608 **SECTION 3-11.**

2609 Said title is further amended by revising Code Section 12-5-137, relating to the procedure  
 2610 for confiscation and sale of contraband equipment and defenses, as follows:

2611 "12-5-137.

2612 ~~(a) All drilling rigs or commercial vehicles used to drill any well and other equipment used~~  
 2613 ~~to drill any well by a person who is not a licensed water well contractor or driller or who~~  
 2614 ~~is not acting under the direction of a professional engineer or professional geologist as~~  
 2615 ~~required by this part are declared to be contraband subject to forfeiture and confiscation~~  
 2616 ~~and seizure by any peace officer, who shall forthwith deliver such rigs and equipment to~~  
 2617 ~~the district attorney whose circuit includes the county in which a seizure is made or to his~~

2618 ~~duly authorized agent within ten days of the seizure~~ in accordance with Chapter 16 of  
2619 Title 9.

2620 ~~(b) The district attorney whose circuit includes the county in which the seizure is made,~~  
2621 ~~within 30 days after the seizure of any illegal drilling equipment, shall institute proceedings~~  
2622 ~~by petition in the superior court of any county where the seizure was made against the~~  
2623 ~~property so seized and against any and all persons known to have an interest in or right~~  
2624 ~~affected by the seizure or sale of such property. A copy of such petition shall be served~~  
2625 ~~upon the owner or lessee of such property, if known, and upon the person or persons~~  
2626 ~~having custody or possession of such property at the time of the confiscation or seizure.~~  
2627 ~~If the owner or lessee, or person or persons having custody or possession of such property~~  
2628 ~~at the time of seizure is unknown, notice of such proceedings shall be published once a~~  
2629 ~~week for two consecutive weeks in the newspaper in which sheriff's advertisements of the~~  
2630 ~~county are published. Such publication shall be deemed notice to any and all persons~~  
2631 ~~having an interest in or right affected by such proceedings and any sale of the property~~  
2632 ~~resulting therefrom. If no defense or intervention shall be filed within 30 days from the~~  
2633 ~~filing of the petition, judgment by default shall be entered by the court; otherwise the case~~  
2634 ~~shall proceed as in other civil cases. Should the drilling equipment be found to be illegal~~  
2635 ~~within the sense of this part, the same shall be decreed to be contraband and ordered sold~~  
2636 ~~under such terms as the judge in his order may direct. The proceeds arising from such sale~~  
2637 ~~shall be applied:~~

2638 ~~(1) To the payment of proper costs and expenses, including expenses incurred in the~~  
2639 ~~seizure;~~

2640 ~~(2) To the payment of the cost of the court and its officers;~~

2641 ~~(3) To the payment of any cost incurred in the storage, advertisement, maintenance, or~~  
2642 ~~care of such property; and~~

2643 ~~(4) If any money remains, to the general funds of the county.~~

2644 ~~(c) Where the owner or lessee of any property seized for purpose of condemnation shall~~  
2645 ~~abscond or conceal himself so that the actual notice of the condemnation proceedings~~  
2646 ~~cannot be served upon him, he shall be served by publication as is provided in this Code~~  
2647 ~~section in the case of an unknown owner or lessee.~~

2648 ~~(d) All proceedings against any alleged illegal drilling equipment for the purpose of~~  
2649 ~~condemnation shall be proceedings in rem against the property, and the property shall be~~  
2650 ~~described only in general terms. It is the intent and purpose of the procedure provided by~~  
2651 ~~this Code section to provide a civil remedy for the condemnation and sale of contraband~~  
2652 ~~property.~~

2653 ~~(e) Any party at interest may appear, by answer under oath, and make his defense. The~~  
2654 ~~owner, lessee, security interest holder, or lienholder shall be permitted to defend by~~

2655 ~~showing that the property seized, if illegally used by another, was used without the~~  
 2656 ~~knowledge, connivance, or consent, expressed or implied, of the owner, lessee, security~~  
 2657 ~~interest holder, or lienholder. The holder of any bona fide lien on or security interest in the~~  
 2658 ~~property shall be protected to the full extent of his lien or security interest, respectively;~~  
 2659 ~~provided, however, that nothing contained in this Code section shall be construed to~~  
 2660 ~~obligate the district attorney whose circuit includes the county in which a seizure is made~~  
 2661 ~~beyond the proceeds of any such sale less the actual costs incurred by him."~~

### 2662 SECTION 3-12.

2663 Said title is further amended by revising subsection (c) of Code Section 12-8-2, relating to  
 2664 dumping sanitary sewer, kitchen, or toilet wastes in storm or sanitary sewers prohibited, as  
 2665 follows:

2666 "(c) Any motor vehicle, trailer, and all other ~~articles~~ property and ~~contrivances~~ instruments  
 2667 utilized in the hauling, transporting, dumping, placing, or disposition of any contents or  
 2668 matter in any public sewer in violation of subsection (a) of this Code section are declared  
 2669 to be contraband and shall be subject to ~~seizure, confiscation, and~~ forfeiture according to  
 2670 the terms, provisions, conditions, and procedures set out in ~~Code Section 3-10-11, as far~~  
 2671 ~~as such terms and procedures can be made to apply~~ Chapter 16 of Title 9."

### 2672 SECTION 3-13.

2673 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising  
 2674 Code Section 15-6-95, relating to priorities of fines, forfeitures, surcharges, additional fees,  
 2675 and costs in partial payments into the court, as follows:

2676 "15-6-95.

2677 Notwithstanding any law to the contrary, a clerk of any superior court of this state who  
 2678 receives partial payments, as ordered by the court, of criminal fines, bond forfeitures, or  
 2679 costs shall distribute ~~said~~ such sums in the order of priority set forth below:

- 2680 (1) The amount provided for in Chapter 17 of Title 47 for the Peace Officers' Annuity  
 2681 and Benefit Fund;
- 2682 (2) The amount provided for in Chapter 14 of Title 47 for the Superior Court Clerks'  
 2683 Retirement Fund of Georgia;
- 2684 (3) The amount provided for in Chapter 16 of Title 47 for the Sheriffs' Retirement Fund  
 2685 of Georgia;
- 2686 (4) The amounts provided under subparagraphs (a)(1)(A) and (a)(2)(A) of Code Section  
 2687 15-21-73;
- 2688 (5) The amounts provided for under subparagraphs (a)(1)(B) and (a)(2)(B) of Code  
 2689 Section 15-21-73;

- 2690 (6) The amounts provided for in Code Section 15-21-93 for jail construction and staffing;  
 2691 (7) The amount provided for in Code Section 15-21-131 for funding local victim  
 2692 assistance programs;  
 2693 (8) The amount provided for in Code Section 36-15-9 for county law libraries;  
 2694 (9) The balance of the base fine owed to the county;  
 2695 (10) The amount provided for in cases of driving under the influence for purposes of the  
 2696 Georgia Crime Victims Emergency Fund under Code Section 15-21-112;  
 2697 (11) The application fee provided for in subsection (c) or (e) of Code Section 15-21A-6;  
 2698 (12) The amount provided for in cases of driving under the influence for purposes of the  
 2699 Brain and Spinal Injury Trust Fund under Code Section 15-21-149;  
 2700 (13) The amount provided for in Code Section 15-21-100 for the Drug Abuse Treatment  
 2701 and Education Fund; and  
 2702 (14) The amounts provided for in subsection (d) of Code Section 42-8-34."

### 2703 SECTION 3-14.

2704 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is  
 2705 amended by revising Code Section 17-5-51, relating to forfeiture of weapons used in  
 2706 commission of crime, possession of which constitutes crime or delinquent act, or illegal  
 2707 concealment generally, motor vehicles, definitions, and return of firearm to innocent owner,  
 2708 as follows:

2709 "17-5-51.

2710 (a) ~~Any Except as provided in subsection (c) of this Code section, any device which is~~  
 2711 ~~used as a weapon in the commission of any crime against any person or any attempt to~~  
 2712 ~~commit any crime against any person, any weapon the possession or carrying of which~~  
 2713 ~~constitutes a crime or delinquent act, and any weapon for which a person has been~~  
 2714 ~~convicted of violating Code Section 16-11-126 are declared to be contraband and are shall~~  
 2715 ~~be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9,~~  
 2716 ~~notwithstanding the time frames set forth in Code Section 9-16-7. For the purposes of this~~  
 2717 ~~article, a motor vehicle shall not be deemed to be a weapon or device and shall not be~~  
 2718 ~~contraband or forfeited under this article; provided, however, that this exception shall not~~  
 2719 ~~be construed to prohibit the seizure, condemnation, and sale of motor vehicles used in the~~  
 2720 ~~illegal transportation of alcoholic beverages.~~

2721 (b) ~~As used in this Code section, the term:~~

2722 (1) ~~'Firearm' shall have the same meaning as set forth in Code Section 16-11-171.~~

2723 (2) ~~'Innocent owner' means a person who:~~

2724 (A) ~~Did not beforehand know or in the exercise of ordinary care would not have known~~  
 2725 ~~of the conduct which caused his or her firearm to be forfeited, seized, or abandoned to~~

2726 ~~any law enforcement agency of this state or a political subdivision of this state,~~  
 2727 ~~including the Department of Natural Resources;~~  
 2728 ~~(B) Did not participate in the commission of a crime or delinquent act involving his or~~  
 2729 ~~her firearm;~~  
 2730 ~~(C) Legally owned and presently owns the firearm forfeited, seized, or abandoned; and~~  
 2731 ~~(D) Is authorized by state and federal law to receive and possess his or her firearm.~~  
 2732 ~~(c) A firearm that is the property of an innocent owner shall be returned to such person~~  
 2733 ~~when such firearm is no longer needed for evidentiary purposes.~~  
 2734 ~~(d) The costs of returning the firearm to the innocent owner shall be borne by the innocent~~  
 2735 ~~owner. Such costs shall be limited to the actual costs of shipping and associated costs from~~  
 2736 ~~any transfer and background check fees charged when delivering the firearm to the~~  
 2737 ~~innocent owner.~~  
 2738 ~~(e) If six months elapse after notification to the innocent owner of the possession of the~~  
 2739 ~~firearm by a political subdivision or state custodial agency and the innocent owner fails to~~  
 2740 ~~bear the costs of return of his or her firearm or fails to respond to the political subdivision~~  
 2741 ~~or state custodial agency, then the political subdivision or state custodial agency may~~  
 2742 ~~follow the procedures under subsection (d) of Code Section 17-5-52.1."~~

### 2743 SECTION 3-15.

2744 Said title is further amended by revising Code Section 17-5-52, relating to sale or destruction  
 2745 of weapons used in commission of crime or delinquent act involving possession, sale of  
 2746 weapons not the property of the defendant, disposition of proceeds of sale, and record  
 2747 keeping, as follows:

2748 "17-5-52.

2749 (a) When a final judgment is entered finding a defendant guilty of the commission or  
 2750 attempted commission of a crime against any person or guilty of the commission of a crime  
 2751 or delinquent act involving the illegal possession or carrying of a weapon, any device  
 2752 which was used as a weapon in the commission of the crime or delinquent act shall be  
 2753 turned over by the person having custody of the weapon or device to the sheriff, chief of  
 2754 police, or other executive officer of the law enforcement agency that originally confiscated  
 2755 the weapon or device when the weapon or device is no longer needed for evidentiary  
 2756 purposes. Within one year ~~With the exception of firearms, as such term is defined in Code~~  
 2757 ~~Section 17-5-51, which shall be disposed of in accordance with Code Section 17-5-52.1,~~  
 2758 ~~within 90 days~~ after receiving the weapon or device, the sheriff, chief of police, or other  
 2759 executive officer of the law enforcement agency shall ~~retain the weapon or device for use~~  
 2760 ~~in law enforcement, destroy the same, or sell the weapon or device pursuant to judicial sale~~  
 2761 ~~as provided in Article 7 of Chapter 13 of Title 9 or by any commercially feasible means;~~

2762 ~~provided that if the weapon or device used as a weapon in the crime is not the property of~~  
 2763 ~~the defendant, there shall be no forfeiture of such weapon or device return or sell the~~  
 2764 ~~weapon as provided in Code Section 17-5-54, or if the weapon or device is subject to~~  
 2765 ~~forfeiture, the procedures set forth in Chapter 16 of Title 9 shall be followed~~  
 2766 ~~notwithstanding the time frames set forth in Code Section 9-16-7. A state attorney seeking~~  
 2767 ~~forfeiture under this Code section shall commence civil forfeiture proceedings within 60~~  
 2768 ~~days of the entry of a final judgment as contemplated by this Code section; the remaining~~  
 2769 ~~provisions of Chapter 16 of Title 9 shall be applicable.~~

2770 ~~(b) The proceeds derived from all sales of such weapons or devices, after deducting the~~  
 2771 ~~costs of the advertising and the sale, shall be turned in to the treasury of the county or the~~  
 2772 ~~municipal corporation that sold the weapon or device. The proceeds derived from the sale~~  
 2773 ~~of such weapons or devices confiscated by a state law enforcement agency shall be paid~~  
 2774 ~~into the state treasury.~~

2775 ~~(c) Any law enforcement agency that retains, destroys, or sells any weapon or device~~  
 2776 ~~pursuant to this Code section shall maintain records that include an accurate description of~~  
 2777 ~~each weapon or device along with records of whether each weapon or device was retained,~~  
 2778 ~~sold, or destroyed."~~

### 2779 **SECTION 3-16.**

2780 Said title is further amended by repealing in its entirety Code Section 17-5-52.1, relating to  
 2781 disposal of forfeited or abandoned firearms, innocent owners, auctions, record keeping, and  
 2782 liability of government entities.

### 2783 **SECTION 3-17.**

2784 Said title is further amended by revising Code Section 17-5-54, relating to disposition of  
 2785 personal property in custody of law enforcement agencies, as follows:

2786 "17-5-54.

2787 (a) As used in this Code section, the term:

2788 (1) 'Civil forfeiture proceeding' shall have the same meaning as set forth in Code Section  
 2789 9-16-2.

2790 (2) 'Firearm' means any handgun, rifle, shotgun, or similar device or weapon which will  
 2791 or can be converted to expel a projectile by the action of an explosive or electrical charge.

2792 (3) 'Law enforcement agency' means a law enforcement agency of this state or a political  
 2793 subdivision of this state, including the Department of Natural Resources.

2794 (4) 'Rightful owner' means a person claiming ownership of property which is the subject  
 2795 of a crime or has been abandoned.

2796 (b) This Code section shall not apply to:

2797 (1) Personal property which is the subject of any civil forfeiture proceeding;  
 2798 (2) Any property which is the subject of a disposition pursuant to Code Sections 17-5-50  
 2799 through 17-5-53; and  
 2800 (3) Any abandoned motor vehicle for which the provisions of Chapter 11 of Title 40 are  
 2801 applicable.

2802 ~~(a)(c)~~(1) Except as provided in Chapter 16 of Title 9, Code Sections 17-5-55 and  
 2803 17-5-56, and subsections (d), (e), and (f) subsection (b) of this Code section, when a law  
 2804 enforcement agency assumes custody of any personal property which is the subject of a  
 2805 crime or has been abandoned or is otherwise seized, a disposition of such property shall  
 2806 be made in accordance with the provisions of this Code section.

2807 (2) When a final verdict and judgment is entered finding a defendant guilty of the  
 2808 commission of a crime, any personal property used as evidence in the trial shall be  
 2809 returned to the rightful owner of the property within 30 days following the final  
 2810 judgment; provided, however, that if the judgment is appealed or if the defendant files a  
 2811 motion for a new trial and if photographs, videotapes, or other identification or analysis  
 2812 of the personal property will not be sufficient evidence for the appeal of the case or new  
 2813 trial of the case, such personal property shall be returned to the rightful owner within 30  
 2814 days of the conclusion of the appeal or new trial, whichever occurs last.

2815 (3) Any person claiming to be a rightful owner of property shall make an application to  
 2816 the entity holding his or her property and shall furnish satisfactory proof of ownership of  
 2817 such property and present personal identification. The person in charge of such property  
 2818 may return such property to the applicant. The person to whom property is delivered  
 2819 shall sign, under penalty of false swearing, a declaration of ownership, which shall be  
 2820 retained by the person in charge of the property. Such declaration, absent any other proof  
 2821 of ownership, shall be deemed satisfactory proof of ownership for the purposes of this  
 2822 Code section; provided, however, that with respect to motor vehicles, paragraph (3) of  
 2823 subsection (b) and subsection (f) of this Code section shall govern the return of motor  
 2824 vehicles.

2825 (4) If more than one person claims ownership of property, a court with jurisdiction over  
 2826 the property shall conduct a hearing to determine the ownership of such property.

2827 (d) After a period of 90 days following the final verdict and judgment, when All personal  
 2828 property that is in the custody of a law enforcement agency, including personal property  
 2829 was used as evidence in a criminal trial, which is unclaimed after a period of 90 days  
 2830 following its seizure, or following the final verdict and judgment in the case of property  
 2831 used as evidence, and which is no or was abandoned, it shall be subject to disposition as  
 2832 provided in subsection (e) of this Code section if the property is not a firearm and as  
 2833 provided in subsection (g) of this Code section if the property is a firearm if it is:

2834 (1) No longer needed in a criminal investigation or for evidentiary purposes in  
 2835 accordance with Code Section 17-5-55 or 17-5-56 shall be subject to disposition by the  
 2836 law enforcement agency;

2837 (2) Not claimed pursuant to Code Section 17-5-50; and

2838 (3) Not claimed pursuant to subsection (c) of this Code section.

2839 (e) For any unclaimed personal property that is not a firearm, the The sheriff, chief of  
 2840 police, or other executive officer of a law enforcement agency shall make application to  
 2841 the superior court for an order to retain, sell, or discard such property. In the application  
 2842 the officer shall state each item of personal property to be retained, sold, or discarded.  
 2843 Upon the superior court's granting an order for the law enforcement agency to retain such  
 2844 property, the law enforcement agency shall retain such property for official use. Upon the  
 2845 superior court's granting an order which authorizes that the property be discarded, the law  
 2846 enforcement agency shall dispose of the property as other salvage or nonserviceable  
 2847 equipment. Upon the superior court's granting an order for the sale of personal property,  
 2848 the officer shall provide for a notice to be placed once a week for four weeks in the legal  
 2849 organ of the county specifically describing each item and advising possible owners of items  
 2850 of the method of contacting the law enforcement agency; provided, however, that  
 2851 miscellaneous items having an estimated fair market value of \$75.00 or less may be  
 2852 advertised or sold, or both, in lots. Such notice shall also stipulate a date, time, and place  
 2853 said items will be placed for public sale if not claimed. Such notice shall also stipulate  
 2854 whether said items or groups of items are to be sold in blocks, by lot numbers, by entire list  
 2855 of items, or separately.

2856 ~~(2)~~ Such unclaimed personal property ~~Items not claimed by the owners~~ shall be sold at a  
 2857 sale which shall be conducted not less than seven nor more than 15 days after the final  
 2858 advertised notice has been run. The sale shall be to the highest bidder.

2859 ~~(3)~~ If such personal property has not been bid on in two successive sales, the law  
 2860 enforcement agency may retain the property for official use or the property will be  
 2861 considered as salvage and disposed of as other county or municipal salvage or  
 2862 nonserviceable equipment.

2863 ~~(4)~~ With respect to unclaimed perishable personal property or animals or other wildlife,  
 2864 ~~the~~ an officer may make application to the superior court for an order authorizing the  
 2865 disposition of such property prior to the expiration of 90 days.

2866 ~~(5)~~(f) With respect to a ~~seized~~ motor vehicle which is the subject of a crime or has been  
 2867 abandoned but which is not the subject of any civil forfeiture ~~proceedings~~ proceeding, the  
 2868 law enforcement agency shall be required to contact the Georgia Crime Information Center  
 2869 to determine if such motor vehicle has been stolen and to follow generally the procedures  
 2870 of Code Section 40-11-2 to ascertain the registered owner of such vehicle.

2871 (g)(1) With respect to unclaimed firearms, if the sheriff, chief of police, agency director,  
 2872 or designee of such official certifies that a firearm is unsafe because of wear, damage,  
 2873 age, or modification or because any federal or state law prohibits the sale or distribution  
 2874 of such firearm, at the discretion of such official, it shall be transferred to the Division of  
 2875 Forensic Sciences of the Georgia Bureau of Investigation, a municipal or county law  
 2876 enforcement forensic laboratory for training or experimental purposes, or be destroyed.

2877 (2) Otherwise, an unclaimed firearm:

2878 (A) Possessed by a municipal corporation shall be disposed of as provided for in Code  
 2879 Section 36-37-6; provided, however, that municipal corporations shall not have the  
 2880 right to reject any bids or to cancel any proposed sale of such firearms, and all sales  
 2881 shall be to persons who are licensed as firearms collectors, dealers, importers, or  
 2882 manufacturers under the provisions of 18 U.S.C. Section 921, et seq., and who are  
 2883 authorized to receive such firearms under the terms of such license; or

2884 (B) Possessed by the state or a political subdivision other than a municipal corporation,  
 2885 shall be disposed of by sale at public auction to persons who are licensed as firearms  
 2886 collectors, dealers, importers, or manufacturers under the provisions of 18 U.S.C.  
 2887 Section 921, et seq., and who are authorized to receive such firearms under the terms  
 2888 of such license. Auctions required by this subparagraph may occur online on a rolling  
 2889 basis or at live events, but in no event shall such auctions occur less frequently than  
 2890 once every 12 months during any time in which the political subdivision or state  
 2891 custodial agency has an inventory of five or more saleable firearms.

2892 (3) If no bids from eligible recipients are received within six months from when bidding  
 2893 opened on a firearm offered for sale pursuant to paragraph (2) of this subsection, the  
 2894 firearm shall be transferred to the Division of Forensic Sciences of the Georgia Bureau  
 2895 of Investigation, a municipal or county law enforcement forensic laboratory for training  
 2896 or experimental purposes, or be destroyed.

2897 ~~(b)~~(h) Records will shall be maintained showing the manner in which each personal  
 2898 property item came into possession of the law enforcement agency, a description of the  
 2899 property, all efforts to locate the owner, any case or docket number, the date of publication  
 2900 of any newspaper notices, and the date on which the property was retained by the law  
 2901 enforcement agency, sold, or discarded. All agencies subject to the provisions of this Code  
 2902 section shall keep records of the firearms acquired and disposed of as provided by this  
 2903 Code section as well as records of the proceeds of the sales thereof and the disbursement  
 2904 of such proceeds in accordance with records retention schedules adopted in accordance  
 2905 with Article 5 of Chapter 18 of Title 50, the 'Georgia Records Act.'

2906 ~~(e)~~(i) The proceeds from the sale of personal property by the sheriff or other county law  
 2907 enforcement agency pursuant to this Code section shall be paid into the general fund of the

2908 county treasury. The proceeds from the sale of personal property by a municipal law  
 2909 enforcement agency pursuant to this Code section shall be paid into the general fund of the  
 2910 municipal treasury. The proceeds from the sale of personal property by a state agency  
 2911 pursuant to this Code section shall be paid into the general fund of the state.

2912 ~~(d) The provisions of this Code section shall not apply to personal property which is the~~  
 2913 ~~subject of forfeiture proceedings as otherwise provided by law.~~

2914 ~~(e) The provisions of this Code section shall not apply to any property which is the subject~~  
 2915 ~~of a disposition pursuant to Code Sections 17-5-50 through 17-5-53.~~

2916 ~~(f) The provisions of this Code section shall not apply to any abandoned motor vehicle for~~  
 2917 ~~which the provisions of Chapter 11 of Title 40 are applicable.~~

2918 (j) Neither the state nor any political subdivision of the state nor any of its officers, agents,  
 2919 or employees shall be liable to any person, including the purchaser of a firearm, for  
 2920 personal injuries or damage to property arising from the sale of a firearm under  
 2921 subsection (g) of this Code section unless the state or political subdivision acted with gross  
 2922 negligence or willful or wanton misconduct."

2923 **SECTION 3-18.**

2924 Title 27 of the Official Code of Georgia Annotated, relating to game and fish, is amended by  
 2925 revising subparagraph (b)(3)(B) of Code Section 27-3-12, relating to unlawful substances and  
 2926 equipment relating to hunting, as follows:

2927 "(B) Any equipment used or intended for use in a violation of this Code section,  
 2928 excluding motor vehicles, is declared to be contraband and shall be forfeited ~~to the state~~  
 2929 in accordance with the procedures set forth in Chapter 16 of Title 9."

2930 **SECTION 3-19.**

2931 Said title is further amended by revising subsection (c) of Code Section 27-3-26, relating to  
 2932 hunting bears, as follows:

2933 "(c) Any person violating the provisions of this Code section ~~is~~ shall be guilty of a  
 2934 misdemeanor of a high and aggravated nature, and, upon conviction, may be punished by  
 2935 a fine of not less than \$500.00 ~~and not to exceed~~ nor more than \$5,000.00, ~~or~~ by  
 2936 confinement for a term not to exceed 12 months, or both. The court may order that  
 2937 restitution be paid to the department of not less than \$1,500.00 for each bear or bear part  
 2938 which is the subject of a violation of this Code section. Any equipment which is used or  
 2939 intended for use in a violation of this Code section, excluding motor vehicles, is declared  
 2940 to be contraband and is forfeited ~~to the state~~ in accordance with the procedures set forth in  
 2941 Chapter 16 of Title 9. The hunting and fishing privileges of any person convicted of  
 2942 violating the provisions of this Code section shall be suspended for three years."

**SECTION 3-20.**

2943  
2944 Said title is further amended by revising subsection (a.1) of Code Section 27-4-133, relating  
2945 to lawful net fishing for shrimp, as follows:

2946 "(a.1)(1) It shall be unlawful to fish for shrimp for human consumption with any trawl  
2947 or trawls having a total foot-rope length greater than 220 feet, not including the foot-rope  
2948 length of a single trawl not greater than 16 feet when used as a try net. Foot-rope shall  
2949 be measured from brail line to brail line, first tie to last tie on the bottom line. The  
2950 provisions of this subsection shall not apply to vessels having a maximum draft of seven  
2951 feet or less when fully loaded. The department is authorized to exempt trawls used by  
2952 persons holding a valid scientific collection permit granted by the department.

2953 (2) A vessel operator who violates the provisions of this subsection shall be guilty of a  
2954 misdemeanor and, upon conviction, shall be fined not less than \$500.00 nor more than  
2955 \$2,500.00, ~~or imprisoned for not longer than 30 days, or both,~~ and any trawl on board the  
2956 vessel shall be contraband and ~~may be seized~~ forfeited in accordance with the procedures  
2957 set forth in Chapter 16 of Title 9."

**SECTION 3-21.**

2958  
2959 Said title is further amended by revising subsection (c) of Code Section 27-4-134, relating  
2960 to the requirements for commercial fishing boat licenses, as follows:

2961 "(c) Every breach or violation shall carry over to all succeeding bonds filed under this  
2962 Code section. The aggregate liability shall not exceed the amount of the bond. However,  
2963 in the event that the total amount of any bond is forfeited, the commercial fishing boat  
2964 license shall be suspended until a new bond in the amount of \$10,000.00 is filed covering  
2965 the remainder of the period of the license. Until the new bond is filed, any commercial use  
2966 of the boat shall be unlawful; and the owner shall be guilty of a misdemeanor of a high and  
2967 aggravated nature. Nothing in this subsection shall be construed so as to alter or affect the  
2968 seizure and ~~condemnation~~ civil forfeiture, under Code Section 27-4-137, of any boat not  
2969 covered by the bonds provided for in paragraphs (1) and (2) of subsection (a) of this Code  
2970 section."

**SECTION 3-22.**

2971  
2972 Said title is further amended by revising Code Section 27-4-137, relating to condemnation  
2973 proceedings, as follows:

2974 "27-4-137.

2975 (a) Each boat, propulsion unit, net, door, boom, winch, cable, electronic device, or  
2976 accessory equipment used in violation of Code Section 27-4-133 or 27-4-171 is declared  
2977 to be contraband and forfeited to the state ~~and shall be confiscated and seized by any peace~~

2978 officer, who shall impound it in the name of the district attorney whose circuit includes the  
2979 county in which a seizure is made. The district attorney whose circuit includes the county  
2980 in which a seizure is made, within 30 days after the seizure of any such equipment, shall  
2981 institute proceedings by petition in the superior court of any county where the seizure was  
2982 made against the property so seized and against any and all persons having an interest in  
2983 or right affected by the seizure or sale of the equipment. A copy of the petition shall be  
2984 served upon the owner or lessee of the equipment, if known, and upon the person having  
2985 custody or possession of the equipment at the time of the confiscation or seizure. If the  
2986 owner, lessee, or person having custody or possession of the equipment at the time of  
2987 seizure is unknown, notice of such proceedings shall be published once a week for two  
2988 consecutive weeks in the newspaper in which sheriff's advertisements of the county are  
2989 published. Such publication shall be deemed notice to any and all persons having an  
2990 interest in or right affected by such proceedings and any sale of the equipment resulting  
2991 therefrom. If no defense or intervention shall be filed within 30 days from the filing of the  
2992 petition, judgment by default shall be entered by the court; otherwise, the case shall  
2993 proceed as other civil cases. Should it appear upon the trial of the case or upon default that  
2994 such equipment was used in violation of the Code sections heretofore cited in this  
2995 subsection, the equipment shall be sold by order of the court after such advertisement as  
2996 the court may direct. The proceeds arising from the sale shall be applied:

2997 (1) To the payment of proper costs and expenses, including expenses incurred in the  
2998 seizure;

2999 (2) To the payment of the costs of the court and its officers;

3000 (3) To the payment of any costs incurred in the storage, advertisement, maintenance, or  
3001 care of such property; and

3002 (4) If any money remains, to the general funds of the county.

3003 (b) Where the owner or lessee of any equipment seized for purposes of condemnation shall  
3004 abscond or conceal himself so that actual notice of the condemnation proceedings cannot  
3005 be served upon him, he shall be served by publication as is provided in subsection (a) of  
3006 this Code section in the case of an unknown owner or lessee.

3007 (c) All proceedings against any such equipment for the purpose of condemnation shall be  
3008 proceedings in rem against the equipment, and the equipment shall be described only in  
3009 general terms. It shall be no ground for defense that the person who had the equipment in  
3010 possession at the time of its use and seizure has not been convicted or acquitted of any  
3011 criminal proceedings resulting from or arising out of such use. It is the intent and purpose  
3012 of the procedure provided by this Code section to provide a civil remedy for the  
3013 condemnation and sale of equipment used in violation of Code Section 27-4-133,  
3014 notwithstanding the conviction or acquittal of the person having possession or custody of

3015 ~~the equipment at the time of its seizure. The conviction or acquittal of any such person~~  
 3016 ~~shall not be admissible as evidence in any proceeding under this Code section.~~

3017 ~~(d) Any party at interest may appear, by answer under oath, and make his defense. in~~  
 3018 ~~accordance with the procedures set forth in Chapter 16 of Title 9; provided, however, that:~~

3019 ~~(1) Forfeiture shall only be done in accordance with Code Section 9-16-12 and the~~  
 3020 ~~property shall be described only in general terms; and~~

3021 ~~(2) The holder of any bona fide lien on the property shall be protected to the full extent~~  
 3022 ~~of his the lien, but only if the lien was perfected prior to the filing by the department of~~  
 3023 ~~the affidavit provided for in paragraph (3) of subsection (a) of Code Section 27-4-134,~~  
 3024 ~~provided that ~~nothing contained in this Code section shall be construed to obligate the~~~~  
 3025 ~~district attorney whose circuit includes the county in which a seizure is made the state~~  
 3026 ~~shall not be obligated beyond the proceeds of any such sale less the actual costs incurred~~  
 3027 ~~by him.~~

3028 ~~(e) The court to which any such petition for condemnation may be referred may, in its~~  
 3029 ~~discretion, allow any party at interest to give bond and take possession of the equipment~~  
 3030 ~~seized. The court shall determine whether the bond shall be a forthcoming bond or an~~  
 3031 ~~eventual condemnation money bond and shall determine the amount of such bond. The~~  
 3032 ~~enforcement of any bond so given shall be regulated by the general law applicable in such~~  
 3033 ~~cases.~~

3034 ~~(f) The court shall have full discretion and authority to permit a settlement between the~~  
 3035 ~~parties at any stage of the proceedings by permitting to be paid into court the value of the~~  
 3036 ~~equipment or the value of the equity therein, as determined by the court, which money,~~  
 3037 ~~when so paid in, shall be distributed as provided by law in all cases of condemnation.~~

3038 ~~(g)(b) The Attorney General may, upon the request of the commissioner, aid the district~~  
 3039 ~~attorney in the in rem proceeding arising from any seizure or confiscation of property."~~

3040

### SECTION 3-23.

3041 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended  
 3042 by revising subsection (e) of Code Section 36-80-21, relating to electronic transmissions of  
 3043 budgets, as follows:

3044 "(e) Concurrent with the submission of the annual report by local law enforcement  
 3045 agencies required by ~~division (u)(4)(D)(iii) of Code Section 16-13-49~~ subsection (g) of  
 3046 Code Section 9-16-19, a copy of such report shall be electronically transmitted in a  
 3047 Portable Document Format (PDF) file to the Vinson Institute and posted on the website by  
 3048 the Vinson Institute as soon as practicable."

**SECTION 3-24.**

3049  
 3050 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles, is amended  
 3051 by revising Code Section 40-6-391.2, relating to seizure and forfeiture of motor vehicles  
 3052 operated by habitual violators, as follows:

3053 "40-6-391.2.

3054 (a) ~~Any~~ Except as provided in this Code section, any motor vehicle operated by a person  
 3055 who has been declared a habitual violator for three violations of Code Section 40-6-391  
 3056 and, whose license has been revoked, and who is arrested and charged with a violation of  
 3057 Code Section 40-6-391; is declared to be contraband and subject to forfeiture to the state,  
 3058 as provided in this Code section, provided that said forfeiture shall not be absolute unless  
 3059 the defendant is finally convicted of such offense in accordance with the procedures set  
 3060 forth in Chapter 16 of Title 9.

3061 (b) ~~Any motor vehicle subject to forfeiture under subsection (a) of this Code section shall~~  
 3062 ~~be seized immediately upon discovery by any law enforcement officer, peace officer, or~~  
 3063 ~~law enforcement agency of this state or any political subdivision thereof who has the power~~  
 3064 ~~to make arrests and whose duty it is to enforce this article, that said motor vehicle has been~~  
 3065 ~~declared contraband. Said motor vehicle shall be delivered within 20 days to the district~~  
 3066 ~~attorney whose circuit includes the county in which a seizure is made or to his duly~~  
 3067 ~~authorized agent. At any time subsequent to the seizure, the chief officer of the seizing~~  
 3068 ~~agency, his designee, or the district attorney may release the vehicle upon bond being~~  
 3069 ~~posted in like manner as authorized in subsection (e) of this Code section.~~

3070 (c) ~~Within 60 days from the date of the seizure, the district attorney of the judicial circuit,~~  
 3071 ~~or the director on his behalf, shall cause to be filed in the superior court of the county in~~  
 3072 ~~which the motor vehicle is seized or detained an action for condemnation of such motor~~  
 3073 ~~vehicle. The proceedings shall be brought in the name of the state by the district attorney~~  
 3074 ~~of the circuit in which the motor vehicle was seized, and the action shall be verified by a~~  
 3075 ~~duly authorized agent of the state in a manner required by the law of this state. The action~~  
 3076 ~~shall describe the motor vehicle and state its location, present custodian, and the name of~~  
 3077 ~~the owner, if known, to the duly authorized agent of the state; allege the essential elements~~  
 3078 ~~of the violation which is claimed to exist; and conclude with a prayer of due process to~~  
 3079 ~~enforce the forfeiture. Upon the filing of such an action, the court shall promptly cause~~  
 3080 ~~process to issue to the present custodian in possession of the motor vehicle described in the~~  
 3081 ~~action, commanding him to seize the motor vehicle in the action and to hold that motor~~  
 3082 ~~vehicle for further order of the court. The owner, lessee, or any person having a duly~~  
 3083 ~~recorded security interest in or lien on such motor vehicle shall be notified by any means~~  
 3084 ~~of service provided for in Title 9 or by delivery of a copy of the complaint and summons~~  
 3085 ~~by certified mail or statutory overnight delivery to said owner or lienholder or a person of~~

3086 ~~suitable age or discretion having charge of said owner's premises. For purposes of this~~  
3087 ~~subsection, where forfeiture of a motor vehicle titled or registered in Georgia is sought,~~  
3088 ~~notice to the titleholder shall be deemed adequate if a copy of the complaint and summons~~  
3089 ~~is mailed by certified mail or statutory overnight delivery to the titleholder at the address~~  
3090 ~~set out in the title and an additional copy is mailed by certified mail or statutory overnight~~  
3091 ~~delivery to the firm, person, or corporation which holds the current registration for said~~  
3092 ~~motor vehicle, who shall be deemed agent for service for said titleholder, and said~~  
3093 ~~complaint is advertised once a week for two weeks as set out in this subsection. If the~~  
3094 ~~owner, lessee, or person having a duly recorded security interest in or lien on the~~  
3095 ~~contraband motor vehicle is unknown or resides out of the state or departs the state or~~  
3096 ~~cannot after due diligence be found within the state or conceals himself so as to avoid~~  
3097 ~~notice, notice of the proceedings shall be published once a week for two weeks in the~~  
3098 ~~newspaper in which the sheriff's advertisements are published. Such publication shall be~~  
3099 ~~deemed notice to any and all persons having an interest in or right affected by such~~  
3100 ~~proceeding and any sale of the motor vehicle resulting therefrom, but shall not constitute~~  
3101 ~~notice to any person having a duly recorded security interest in or lien upon such motor~~  
3102 ~~vehicle and required to be served under this Code section unless that person is unknown~~  
3103 ~~or resides out of the state or departs the state or cannot after due diligence be found within~~  
3104 ~~the state or conceals himself to avoid notice.~~

3105 ~~(d)(1) Any party at interest may appear, by answer under oath, and file an intervention~~  
3106 ~~or defense within 30 days from the date of service on the condemnee of the action for~~  
3107 ~~condemnation. The owner, lessee, security interest holder, or lienholder shall be~~  
3108 ~~permitted to defend by showing that the motor vehicle seized was not subject to forfeiture~~  
3109 ~~under this Code section:~~

3110 ~~(2) A rented or leased vehicle shall not be subject to forfeiture unless it is established in~~  
3111 ~~the forfeiture proceedings that the owner of the rented or leased vehicle knew or should~~  
3112 ~~have known of or consented to the operation of such motor vehicle in a manner which~~  
3113 ~~would subject the vehicle to forfeiture. Upon learning of the address or phone number~~  
3114 ~~of the rental or leasing company which owns such vehicle, the district attorney shall~~  
3115 ~~immediately contact the company to inform it that the vehicle is available for the~~  
3116 ~~company to take possession:~~

3117 ~~(e) The court to which any such petition for condemnation may be referred may, in its~~  
3118 ~~discretion, allow any party at interest, after making said defense under subsection (d) of~~  
3119 ~~this Code section, to give bond and take possession of the motor vehicle seized. Such~~  
3120 ~~motor vehicle shall not be sold or leased without prior approval of the court. In the event~~  
3121 ~~the court approves such sale or lease, the proceeds arising therefrom shall be deposited in~~  
3122 ~~the registry of the court, pending final adjudication of the forfeiture proceeding. The court~~

3123 shall determine whether the bond shall be a forthcoming bond or an eventual condemnation  
 3124 money bond and shall also determine the amount of the bond. The enforcement of any  
 3125 bond so given shall be regulated by the general law applicable to such cases.

3126 (f) ~~If no defense or intervention is filed within 30 days from the date of service on the~~  
 3127 ~~condemnee of the petition, judgment shall be entered by the court and the motor vehicle~~  
 3128 ~~shall be sold. The court may direct that such property be sold by:~~

3129 ~~(1) Judicial sale as provided in Article 7 of Chapter 13 of Title 9; provided, however, that~~  
 3130 ~~the court may establish a minimum acceptable price for such property; or~~

3131 ~~(2) Any commercially feasible means.~~

3132 ~~(g) The proceeds arising from such sale shall be deposited into the general treasury of the~~  
 3133 ~~state or any other governmental unit whose law enforcement agency it was that originally~~  
 3134 ~~seized the motor vehicle. It is the intent of the General Assembly that, where possible,~~  
 3135 ~~proceeds deposited into the state treasury should be used and that proceeds vested in any~~  
 3136 ~~local governmental unit shall be applied to fund alcohol or drug treatment, rehabilitation,~~  
 3137 ~~and prevention and education programs, after making the necessary expenditures for:~~

3138 ~~(1) Any costs incurred in the seizure;~~

3139 ~~(2) The costs of the court and its officers; and~~

3140 ~~(3) Any cost incurred in the storage, advertisement, maintenance, or care of the motor~~  
 3141 ~~vehicle.~~

3142 ~~(h) The interest of an owner, lessee, security interest holder, or lienholder shall not be~~  
 3143 ~~subject to forfeiture unless the condemnor shows by a preponderance of evidence that such~~  
 3144 ~~person knew or reasonably should have known that the operator was a habitual violator as~~  
 3145 ~~set forth in subsection (a) of this Code section and knew or reasonably should have known~~  
 3146 ~~that such person would operate or was operating the vehicle while in violation of Code~~  
 3147 ~~Section 40-6-391.~~

3148 ~~(i)~~(b) In any case where a vehicle which is the only family vehicle is determined to be  
 3149 subject to forfeiture, the court may, if it determines that the financial hardship to the family  
 3150 as a result of the forfeiture and sale outweighs the benefit to the state from such forfeiture,  
 3151 order the title to the vehicle transferred to such other family member who is a duly licensed  
 3152 operator and who requires the use of such vehicle for employment or family transportation  
 3153 purposes. Such transfer shall be subject to any valid liens and shall be granted only once."

3154 **SECTION 3-25.**

3155 Said title is further amended by revising Article 2 of Chapter 11, relating to forfeiture of  
 3156 vehicles and components, as follows:

## "ARTICLE 2

3157

3158 40-11-20.

3159 The following items are declared to be contraband and are subject to forfeiture in  
 3160 accordance with the procedures set forth in Chapter 16 of Title 9:

3161 (1) Any motor vehicle the manufacturer's vehicle identification number of which has  
 3162 been removed, altered, defaced, falsified, or destroyed; and

3163 (2) Any component part of a motor vehicle the manufacturer's identification number of  
 3164 which has been removed, altered, defaced, falsified, or destroyed.

3165 ~~40-11-21.~~

3166 ~~Property subject to forfeiture under Code Section 40-11-20 and in the possession of any~~  
 3167 ~~state or local law enforcement agency shall not be subject to replevin but is deemed to be~~  
 3168 ~~in the custody of the superior court of the county wherein the property is located subject~~  
 3169 ~~only to the orders and decrees of the court having jurisdiction over the forfeiture~~  
 3170 ~~proceedings.~~

3171 ~~40-11-22.~~

3172 ~~The law enforcement agency having possession of any property subject to forfeiture under~~  
 3173 ~~Code Section 40-11-20 shall report such fact, within ten days of taking possession, to the~~  
 3174 ~~district attorney of the judicial circuit having jurisdiction in the county where the property~~  
 3175 ~~is located. Within 30 days from the date he or she receives such notice, the district attorney~~  
 3176 ~~of the judicial circuit shall file in the superior court of the county in which the property is~~  
 3177 ~~located an action for condemnation of the property. The proceedings shall be brought in~~  
 3178 ~~the name of the state, and the action shall be verified by a duly authorized agent of the state~~  
 3179 ~~in the manner required by law. The action shall describe the property, state its location,~~  
 3180 ~~state its present custodian, state the name of the owner, if known, to the duly authorized~~  
 3181 ~~agent of the state, allege the essential elements which are claimed to exist, and shall~~  
 3182 ~~conclude with a prayer of due process to enforce the forfeiture. Upon the filing of such an~~  
 3183 ~~action, the court shall promptly cause process to issue to the present custodian in~~  
 3184 ~~possession of the property described in the action, commanding him or her to seize the~~  
 3185 ~~property described in the action and to hold that property for further order of the court. A~~  
 3186 ~~copy of the action shall be served on the owner, if known. If the owner is known, a copy~~  
 3187 ~~of the action shall also be served upon any person having a duly recorded security interest~~  
 3188 ~~in or lien upon that property. If the owner is unknown or resides out of the state or departs~~  
 3189 ~~the state or cannot after due diligence be found within the state or conceals himself or~~  
 3190 ~~herself so as to avoid service, notice of the proceedings shall be published once a week for~~

3191 ~~two weeks in the newspaper in which the sheriff's advertisements are published. Such~~  
 3192 ~~publication shall be deemed notice to any and all persons having an interest in or right~~  
 3193 ~~affected by such proceeding and from any sale of the property resulting therefrom but shall~~  
 3194 ~~not constitute notice to any person having a duly recorded security interest in or lien upon~~  
 3195 ~~such property and required to be served under this Code section unless that person is~~  
 3196 ~~unknown or resides out of the state or departs the state or cannot after due diligence be~~  
 3197 ~~found within the state or conceals himself or herself to avoid service. At the expiration of~~  
 3198 ~~30 days after such filing, if no claimant has appeared to defend the action, the court shall~~  
 3199 ~~order the disposition of the seized property as provided for in this Code section. If the~~  
 3200 ~~owner of the property appears and defends the action and can show that he or she was~~  
 3201 ~~unaware of the fact that the identification number had been removed, altered, defaced,~~  
 3202 ~~falsified, or destroyed, the court shall order the property returned to the owner upon the~~  
 3203 ~~owner's paying proper expenses relating to proceedings for forfeiture, including the~~  
 3204 ~~expenses of the maintenance of custody, advertising, and court costs and upon the~~  
 3205 ~~property's being assigned a new identification number as provided in this article.~~

3206 ~~40-11-23.~~

3207 ~~Except as otherwise provided in this article, when property is forfeited under this article,~~  
 3208 ~~the court may:~~

3209 ~~(1) Order that the property be retained by the law enforcement agency or the county in~~  
 3210 ~~which the property is located; or~~

3211 ~~(2) Order that the property be disposed of by sale, the proceeds of which shall be used~~  
 3212 ~~to pay the proper expenses relating to the proceedings for forfeiture, including the~~  
 3213 ~~expenses of maintenance of custody, advertising, and court costs, with the remaining~~  
 3214 ~~funds to be paid into the general fund of the county.~~

3215 ~~40-11-24.~~ 40-11-21.

3216 Prior to the property's being sold or returned to the owner or otherwise disposed of, the  
 3217 Department of Revenue shall assign it a new identification number. If the property is to  
 3218 be returned to the owner, the court shall order that such return is conditioned on the owner  
 3219 paying the expenses relating to the civil forfeiture, including the expenses of maintenance  
 3220 of custody, advertising, and court costs."

3221 **SECTION 3-26.**

3222 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,  
 3223 is amended by revising Code Section 45-15-10, relating to the Attorney General's authority

3224 to prosecute officials, persons, firms, or corporations for violations while dealing with or for  
3225 the state, as follows:

3226 "45-15-10.

3227 The Attorney General, as the head of the Department of Law and the chief legal officer of  
3228 the state, is authorized to prosecute in the criminal courts of this state any official, person,  
3229 firm, or corporation which violates any criminal statute while dealing with or for the state  
3230 or any official, employee, department, agency, board, bureau, commission, institution, or  
3231 appointee thereof; and the Attorney General is authorized to call upon the district attorney  
3232 or the prosecuting officer of any state court to assist in or to conduct such prosecution; and,  
3233 when so requested by the Attorney General, it shall be the duty of any such district attorney  
3234 or prosecuting officer of this state to assist in or to conduct such prosecution for and on  
3235 behalf of the Attorney General and the state. The Attorney General shall be authorized to  
3236 commence civil forfeiture proceedings, as such term is defined in Code Section 9-16-2,  
3237 pursuant to Code Section 16-14-7 whenever he or she is authorized to prosecute a case  
3238 pursuant to this Code section."

3239 **SECTION 3-27.**

3240 Title 46 of the Official Code of Georgia Annotated, relating to public utilities and public  
3241 transportation, is amended by revising Code Section 46-9-253, relating to transportation of  
3242 gunpowder, dynamite, or other explosives, as follows:

3243 "46-9-253.

3244 Any person who causes more than five pounds of gunpowder, or any amount of dynamite  
3245 or other dangerous explosive, to be transported upon water, by railroad, or otherwise shall  
3246 have the word 'Gunpowder,' 'Dynamite,' or other name of the explosive marked in large  
3247 letters upon each package so transported. Gunpowder, dynamite, or other dangerous  
3248 explosive transported in violation of ~~said provision shall be liable to seizure and forfeiture~~  
3249 ~~by any officer who may execute a criminal warrant, under warrant for that purpose, issued~~  
3250 ~~by any officer who may issue such first-named warrants, one-half of the same to go to the~~  
3251 ~~informer, the other half to go to the military fund of the state, after public sale by order of~~  
3252 ~~the officer issuing the warrant, or one of like authority~~ this Code section are declared  
3253 contraband and shall be forfeited in accordance with the procedures set forth in Chapter 16  
3254 of Title 9."

3255 **SECTION 3-28.**

3256 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is  
3257 amended by revising subsection (b) of Code Section 48-4-61, relating to land bank authority  
3258 established by interlocal cooperation agreement, as follows:

3259 "(b) The authority shall be a public body corporate and politic with the power to sue and  
 3260 be sued, to accept and issue deeds in its name, including without limitation the acceptance  
 3261 of real property in accordance with the provisions of ~~paragraph (2.1) of subsection (a) (f)~~  
 3262 of Code Section ~~16-13-49~~ 9-16-19, and to institute quia timet actions and shall have any  
 3263 other powers necessary and incidental to carry out the powers granted by this article."

### 3264 SECTION 3-29.

3265 Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended  
 3266 by revising Code Section 49-4-146.3, relating to forfeiture of property and proceeds obtained  
 3267 through Medicaid fraud, as follows:

3268 "49-4-146.3.

3269 (a) As used in this Code section, the term:

3270 (1) 'Civil forfeiture proceeding' shall have the same meaning as set forth in Code Section  
 3271 9-16-2. ~~'Costs' means, but is not limited to:~~

3272 ~~(A) All expenses associated with the seizure, towing, storage, maintenance, custody,  
 3273 preservation, operation, or sale of the property; and~~

3274 ~~(B) Satisfaction of any security interest or lien not subject to forfeiture under this Code  
 3275 section.~~

3276 ~~(2) 'Court costs' means, but is not limited to:~~

3277 ~~(A) All court costs, including the costs of advertisement, transcripts, and court reporter  
 3278 fees; and~~

3279 ~~(B) Payment of receivers, conservators, appraisers, accountants, or trustees appointed  
 3280 by the court pursuant to this Code section.~~

3281 ~~(3) 'Interest holder' means a secured party within the meaning of Code Section 11-9-102  
 3282 or the beneficiary of a perfected encumbrance pertaining to an interest in property.~~

3283 ~~(4)~~(2) 'Medicaid fraud' means:

3284 (A) A violation of Code Section 49-4-146.1; or

3285 (B) A violation relating to the obtaining of medical assistance benefits or payments  
 3286 under this article of any provision of:

3287 (i) Chapter 8 of Title 16, relating to offenses involving theft;

3288 (ii) Code Section 16-10-20, relating to false statements and writings, concealment of  
 3289 facts, and fraudulent documents in matters within jurisdiction of state or political  
 3290 subdivisions; or

3291 (iii) Code Section 16-10-21, relating to conspiracy to defraud the state or its political  
 3292 subdivisions.

3293 (5) ~~'Owner' means a person, other than an interest holder, who has an interest in property~~  
 3294 ~~and is in compliance with any statute requiring its recordation or reflection in public~~  
 3295 ~~records in order to perfect the interest against a bona fide purchaser for value.~~

3296 (6)(3) ~~'Proceeds' means property derived from or realized through, directly or indirectly,~~  
 3297 ~~Medicaid fraud and includes property of any kind without reduction for expenses incurred~~  
 3298 ~~for acquisition, maintenance, or any other purpose shall have the same meaning as set~~  
 3299 ~~forth in Code Section 9-16-2.~~

3300 (7)(4) ~~'Property' means anything of value and includes any interest in anything of value,~~  
 3301 ~~including real property and any fixtures thereon, and tangible and intangible personal~~  
 3302 ~~property, including but not limited to currency, instruments, securities, or any kind of~~  
 3303 ~~privilege, interest, claim, or right shall have the same meaning as set forth in Code~~  
 3304 ~~Section 9-16-2.~~

3305 (8) ~~'Prosecutor' means a district attorney or his or her designee or the Attorney General~~  
 3306 ~~or his or her designee.~~

3307 (b) ~~Any property which is directly or indirectly~~ All property and proceeds obtained by a  
 3308 person or entity through or as a result of Medicaid fraud in the provision of services or  
 3309 equipment under this article are and any proceeds shall be subject to civil forfeiture ~~to the~~  
 3310 ~~state by a Medicaid fraud forfeiture action brought by the state~~ proceedings in accordance  
 3311 with ~~this Code section~~ Chapter 16 of Title 9. This Code section shall not apply to cases  
 3312 involving alleged fraud by Medicaid recipients in obtaining medical assistance benefits.

3313 (c) ~~A Medicaid fraud forfeiture proceeding shall be initiated by a complaint filed in the~~  
 3314 ~~name of the State of Georgia and may be brought in the case of:~~

3315 (1) ~~An in rem action, by the prosecutor in the county in which the property is located or~~  
 3316 ~~seized; or~~

3317 (2) ~~An in personam action, by the prosecutor in the county in which the defendant~~  
 3318 ~~resides.~~

3319 (d)(1) ~~An action pursuant to this Code section may be commenced before or after the~~  
 3320 ~~seizure of property.~~

3321 (2) ~~Any Medicaid fraud forfeiture action filed under this Code section shall be limited~~  
 3322 ~~to a civil action.~~

3323 (e) ~~A property interest shall not be subject to forfeiture under this Code section if the~~  
 3324 ~~owner of such interest or interest holder establishes that the owner or interest holder:~~

3325 (1) ~~Is not legally accountable for the conduct giving rise to its forfeiture, did not consent~~  
 3326 ~~to it, and did not know and there is no reason why he or she should have known of the~~  
 3327 ~~conduct or that it was likely to occur;~~

3328 ~~(2) Had not acquired and did not stand to acquire substantial proceeds from the conduct~~  
 3329 ~~giving rise to its forfeiture other than as an interest holder in an arm's length commercial~~  
 3330 ~~transaction;~~

3331 ~~(3) With respect to conveyances for transportation only, did not hold the property jointly,~~  
 3332 ~~in common, or in community with a person whose conduct gave rise to its forfeiture;~~

3333 ~~(4) Does not hold the property for the benefit of or as nominee for any person whose~~  
 3334 ~~conduct gave rise to its forfeiture, and, if the owner or interest holder acquired the interest~~  
 3335 ~~through any such person, the owner or interest holder acquired it as a bona fide purchaser~~  
 3336 ~~for value without knowingly taking part in an illegal transaction; and~~

3337 ~~(5) Acquired the interest:~~

3338 ~~(A) Before the completion of the conduct giving rise to its forfeiture, and the person~~  
 3339 ~~whose conduct gave rise to its forfeiture did not have the authority to convey the~~  
 3340 ~~interest to a bona fide purchaser for value at the time of the conduct; or~~

3341 ~~(B) After the completion of the conduct giving rise to its forfeiture:~~

3342 ~~(i) As a bona fide purchaser for value without knowingly taking part in an illegal~~  
 3343 ~~transaction;~~

3344 ~~(ii) Before the filing of a lien on it and before the effective date of a notice of pending~~  
 3345 ~~forfeiture relating to it and without notice of its seizure for forfeiture under this~~  
 3346 ~~article; and~~

3347 ~~(iii) At the time the interest was acquired, was reasonably without cause to believe~~  
 3348 ~~that the property was subject to forfeiture or likely to become subject to forfeiture~~  
 3349 ~~under this article.~~

3350 ~~Upon the request of the owner or interest holder, for good cause shown, the court shall hold~~  
 3351 ~~an expedited hearing to determine whether the property is subject to forfeiture under this~~  
 3352 ~~Code section.~~

3353 ~~(f) A rented or leased vehicle shall not be subject to forfeiture unless it is established in~~  
 3354 ~~forfeiture proceedings that the owner of the rented or leased vehicle is legally accountable~~  
 3355 ~~for the conduct which would otherwise subject the vehicle to forfeiture, consented to the~~  
 3356 ~~conduct, or knew or reasonably should have known of the conduct or that it was likely to~~  
 3357 ~~occur. Upon learning of the address or phone number of the company which owns any~~  
 3358 ~~rented or leased vehicle which is present at the scene of an arrest or other action taken~~  
 3359 ~~pursuant to this Code section, the duly authorized authorities shall immediately contact the~~  
 3360 ~~company to inform it that the vehicle is available for the company to take possession.~~

3361 ~~(g)(1) Property which is subject to forfeiture under this Code section may be seized by~~  
 3362 ~~any law enforcement officer of this state or of any political subdivision thereof who has~~  
 3363 ~~power to make arrests or execute process or a search warrant issued by any superior court~~  
 3364 ~~having jurisdiction over the property. A search warrant authorizing seizure of property~~

3365 which is subject to forfeiture pursuant to this Code section may be issued at an ex parte  
3366 hearing before a superior court judge of a county where the forfeiture action may be  
3367 brought demonstrating that probable cause exists for its forfeiture or that the property has  
3368 been the subject of a previous final judgment of forfeiture in the courts of this state, any  
3369 other state, or the United States. The court may order that the property be seized on such  
3370 terms and conditions as are reasonable. In entering any such seizure order, the court shall  
3371 determine that appropriate conditions are included to ensure the physical safety and  
3372 well-being of any recipients or patients who may be affected by such warrant and that  
3373 sufficient steps will be taken to ensure that patient medical records are kept confidential.  
3374 The property owner or interest holder, within ten days of the seizure of property taken  
3375 pursuant to a search warrant, may make a written demand to the court with notice to the  
3376 prosecutor for a hearing to determine if probable cause still exists for the seized property  
3377 to be subject to forfeiture pursuant to this Code section. Said hearing shall be held within  
3378 20 days of said demand unless continued by the court for good cause.

3379 (2) At the ex parte hearing for the issuance of a search warrant authorizing the seizure  
3380 of property under paragraph (1) of this subsection, a reasonable estimate of the  
3381 approximate fair market value of the property sought to be seized shall be presented to  
3382 the court. Based upon such evidence, the court shall establish a bond amount for the  
3383 release of any property ordered seized, not to exceed double the fair market value of that  
3384 property. The property owner or interest holder may file in the clerk's office of the court  
3385 where the forfeiture action is brought, a bond with good security, conditioned for the  
3386 payment of the bond amount established by the court. The bond shall be subject to  
3387 approval by the clerk of the court. Upon receipt of a bond deemed acceptable by the  
3388 clerk, the court which ordered the seizure of the property shall issue an order to the  
3389 persons having custody of the seized property to release such property to the property  
3390 owner or interest holder filing such bond, unless the property is being held as evidence.  
3391 If the seized property so released is ordered to be forfeited, the state shall be entitled to  
3392 entry of judgment upon such bond against the principal and sureties therein, as judgment  
3393 may be entered against securities upon appeal. If the property seized is released pursuant  
3394 to this paragraph and is later otherwise required to be released under any other provision  
3395 of this Code section, the principal and sureties upon any bond given for the release of  
3396 such property under this paragraph shall also be released from their obligations under that  
3397 bond.

3398 (h)(1) When property is seized pursuant to this article, the sheriff or law enforcement  
3399 officer seizing the same shall report the fact of seizure, in writing, within 20 days thereof  
3400 to the prosecutor of the judicial circuit having jurisdiction in the county where the seizure  
3401 was made.

- 3402 ~~(2) Within 30 days from the date of seizure, a complaint for forfeiture shall be initiated~~  
 3403 ~~as provided for in subsection (n), (o), or (p) of this Code section.~~
- 3404 ~~(3) If the state fails to initiate forfeiture proceedings against property seized for forfeiture~~  
 3405 ~~by notice of pending forfeiture within the time limits specified in paragraphs (1) and (2)~~  
 3406 ~~of this subsection, the property must be released on the request of an owner or interest~~  
 3407 ~~holder, pending further proceedings pursuant to this Code section, unless the property is~~  
 3408 ~~being held as evidence.~~
- 3409 ~~(i)(1) Seizure of property by a law enforcement officer constitutes notice of such seizure~~  
 3410 ~~to any person who was present at the time of seizure who may assert an interest in the~~  
 3411 ~~property.~~
- 3412 ~~(2) When property is seized pursuant to this article, the prosecutor or the sheriff or law~~  
 3413 ~~enforcement officer seizing the same shall give notice of the seizure to any owner or~~  
 3414 ~~interest holder who is not present at the time of seizure by personal service, publication,~~  
 3415 ~~or the mailing of written notice:~~
- 3416 ~~(A) If the owner's or interest holder's name and current address are known, by either~~  
 3417 ~~personal service or mailing a copy of the notice by certified mail or statutory overnight~~  
 3418 ~~delivery to that address;~~
- 3419 ~~(B) If the owner's or interest holder's name and address are required by law to be on~~  
 3420 ~~record with a government agency to perfect an interest in the property but the owner's~~  
 3421 ~~or interest holder's current address is not known, by mailing a copy of the notice by~~  
 3422 ~~certified mail or statutory overnight delivery, return receipt requested, to any address~~  
 3423 ~~on the record; or~~
- 3424 ~~(C) If the owner's or interest holder's address is not known and is not on record as~~  
 3425 ~~provided in subparagraph (B) of this paragraph or the owner's or interest holder's~~  
 3426 ~~interest is not known, by publication in two consecutive issues of a newspaper of~~  
 3427 ~~general circulation in the county in which the seizure occurs.~~
- 3428 ~~(3) Notice of seizure must include a description of the property, the date and place of~~  
 3429 ~~seizure, the conduct giving rise to forfeiture, and the violation of law alleged.~~
- 3430 ~~(j) A prosecutor may file, without a filing fee, a lien for forfeiture of property upon the~~  
 3431 ~~initiation of any civil proceeding under this article or upon seizure for forfeiture. The filing~~  
 3432 ~~constitutes notice to any person claiming an interest in the property owned by the named~~  
 3433 ~~person. The filing shall include the following:~~
- 3434 ~~(1) The lien notice must set forth:~~
- 3435 ~~(A) The name of the person and, in the discretion of the state, any alias and any~~  
 3436 ~~corporations, partnerships, trusts, or other entities, including nominees, that are either~~  
 3437 ~~owned entirely or in part or controlled by the person; and~~

3438 ~~(B) The description of the property, the civil proceeding that has been brought under~~  
 3439 ~~this article, the amount claimed by the state, the name of the court where the proceeding~~  
 3440 ~~or action has been brought, and the case number of the proceeding or action if known~~  
 3441 ~~at the time of filing;~~

3442 ~~(2) A lien under this subsection applies to the described property and to one named~~  
 3443 ~~person and to any aliases, fictitious names, or other names, including names of~~  
 3444 ~~corporations, partnerships, trusts, or other entities, that are either owned entirely or in part~~  
 3445 ~~or controlled by the named person and any interest in real property owned or controlled~~  
 3446 ~~by the named person. A separate lien for forfeiture of property must be filed for any~~  
 3447 ~~other person;~~

3448 ~~(3) The lien creates, upon filing, a lien in favor of the state as it relates to the seized~~  
 3449 ~~property or to the named person or related entities with respect to said property. The lien~~  
 3450 ~~secures the amount of potential liability for civil judgment and, if applicable, the fair~~  
 3451 ~~market value of seized property relating to all proceedings under this article enforcing the~~  
 3452 ~~lien. The forfeiture lien referred to in this subsection must be filed in accordance with~~  
 3453 ~~the provisions of the laws in this state pertaining to the type of property that is subject to~~  
 3454 ~~the lien. The state may amend or release, in whole or in part, a lien filed under this~~  
 3455 ~~subsection at any time by filing, without a filing fee, an amended lien in accordance with~~  
 3456 ~~this subsection which identifies the lien amended. The state, as soon as practical after~~  
 3457 ~~filing a lien, shall furnish to any person named in the lien a notice of the filing of the lien;~~

3458 ~~(4) Upon entry of judgment in favor of the state, the state may proceed to execute on the~~  
 3459 ~~lien as in the case of any other judgment;~~

3460 ~~(5) A trustee, constructive or otherwise, who has notice that a lien for forfeiture of~~  
 3461 ~~property, a notice of pending forfeiture, or a civil forfeiture proceeding has been filed~~  
 3462 ~~against the property or against any person or entity for whom the person holds title or~~  
 3463 ~~appears as the owner of record shall furnish, within ten days, to the prosecutor or the~~  
 3464 ~~prosecutor's designee the following information:~~

3465 ~~(A) The name and address of the person or entity for whom the property is held;~~

3466 ~~(B) The names and addresses of all beneficiaries for whose benefit legal title to the~~  
 3467 ~~seized property, or property of the named person or related entity, is held; and~~

3468 ~~(C) A copy of the applicable trust agreement or other instrument, if any, under which~~  
 3469 ~~the trustee or other person holds legal title or appears as the owner of record of the~~  
 3470 ~~property; and~~

3471 ~~(6) A trustee, constructive or otherwise, who fails to comply with this subsection shall~~  
 3472 ~~be guilty of a misdemeanor.~~

3473 ~~(k) Property taken or detained under this Code section is not subject to replevin,~~  
 3474 ~~conveyance, sequestration, or attachment. The seizing law enforcement agency or the~~

3475 ~~prosecutor may authorize the release of the property if the forfeiture or retention is~~  
 3476 ~~unnecessary or may transfer the action to another agency or prosecutor by discontinuing~~  
 3477 ~~forfeiture proceedings in favor of forfeiture proceedings initiated by the other law~~  
 3478 ~~enforcement agency or prosecutor. An action under this Code section may be consolidated~~  
 3479 ~~with any other action or proceeding under this article relating to the same property on~~  
 3480 ~~motion by an interest holder and must be so consolidated on motion by the prosecutor in~~  
 3481 ~~either proceeding or action. The property is deemed to be in the custody of the State of~~  
 3482 ~~Georgia subject only to the orders and decrees of the superior court having jurisdiction over~~  
 3483 ~~the forfeiture proceedings.~~

3484 ~~(1)(1) If property is seized under this article, the prosecutor may:~~

3485 ~~(A) Remove the property to a place designated by the superior court having jurisdiction~~  
 3486 ~~over the forfeiture proceeding;~~

3487 ~~(B) Place the property under constructive seizure by posting notice of pending~~  
 3488 ~~forfeiture, by giving notice of pending forfeiture to its owners and interest holders, or~~  
 3489 ~~by filing notice of seizure in any appropriate public record relating to the property;~~

3490 ~~(C) Remove the property to a storage area, within the jurisdiction of the court, for~~  
 3491 ~~safekeeping or, if the property is a negotiable instrument or money and is not needed~~  
 3492 ~~for evidentiary purposes, the prosecutor may authorize its being deposited in an~~  
 3493 ~~interest-bearing account in a financial institution in this state. Any accrued interest~~  
 3494 ~~shall follow the principal in any judgment with respect thereto;~~

3495 ~~(D) Provide for another governmental agency, a receiver appointed by the court~~  
 3496 ~~pursuant to Chapter 8 of Title 9, an owner, or an interest holder to take custody of the~~  
 3497 ~~property and remove it to an appropriate location within the county where the property~~  
 3498 ~~was seized; or~~

3499 ~~(E) Require the sheriff or chief of police of the political subdivision where the property~~  
 3500 ~~was seized to take custody of the property and remove it to an appropriate location for~~  
 3501 ~~disposition in accordance with law.~~

3502 ~~(2) If any property which has been attached or seized pursuant to this Code section is~~  
 3503 ~~perishable or is liable to perish, waste, or be greatly reduced in value by keeping or if the~~  
 3504 ~~expense of keeping the same is excessive or disproportionate to the value thereof, the~~  
 3505 ~~court, upon motion of the state, a claimant, or the custodian, may order the property or~~  
 3506 ~~any portion thereof to be sold upon such terms and conditions as may be prescribed by~~  
 3507 ~~the court; and the proceeds shall be paid into the registry of the court pending final~~  
 3508 ~~disposition of the action.~~

3509 ~~(m) As soon as possible, but not more than 30 days after the seizure of property, the~~  
 3510 ~~seizing law enforcement agency shall conduct an inventory and estimate the value of the~~  
 3511 ~~property seized. All reasonable steps shall be taken so as not to interfere with or disrupt~~

3512 ~~the provision of medical care by the provider when such inventory is conducted. Such~~  
3513 ~~inventory shall be conducted in a manner which assures the confidentiality of patient~~  
3514 ~~medical records.~~

3515 ~~(n) If the estimated value of personal property seized is \$25,000.00 or less, the prosecutor~~  
3516 ~~may elect to proceed under the provisions of this subsection in the following manner:~~

3517 ~~(1) Notice of the seizure of such property shall be posted in a prominent location in the~~  
3518 ~~courthouse of the county in which the property was seized. Such notice shall include a~~  
3519 ~~description of the property, the date and place of seizure, the conduct giving rise to~~  
3520 ~~forfeiture, a statement that the owner of such property has 30 days within which a claim~~  
3521 ~~must be filed, and the violation of law alleged;~~

3522 ~~(2) A copy of the notice, which shall include a statement that the owner of such property~~  
3523 ~~has 30 days within which a claim must be filed, shall be served upon an owner, interest~~  
3524 ~~holder, or person in possession of the property at the time of seizure as provided in~~  
3525 ~~subsection (i) of this Code section and shall be published for at least three successive~~  
3526 ~~weeks in a newspaper of general circulation in the county where the seizure was made;~~

3527 ~~(3) The owner or interest holder may file a claim within 30 days after the second~~  
3528 ~~publication of the notice of forfeiture by sending the claim to the seizing law enforcement~~  
3529 ~~agency and to the prosecutor by certified mail or statutory overnight delivery, return~~  
3530 ~~receipt requested;~~

3531 ~~(4) The claim must be signed by the owner or interest holder under penalty of perjury~~  
3532 ~~and must substantially set forth:~~

3533 ~~(A) The caption of the proceedings as set forth on the notice of pending forfeiture and~~  
3534 ~~the name of the claimant;~~

3535 ~~(B) The address at which the claimant will accept mail;~~

3536 ~~(C) The nature and extent of the claimant's interest in the property;~~

3537 ~~(D) The date, identity of the transferor, and circumstances of the claimant's acquisition~~  
3538 ~~of the interest in the property;~~

3539 ~~(E) The specific provision of this Code section relied on in asserting that the property~~  
3540 ~~is not subject to forfeiture; and~~

3541 ~~(F) The precise relief sought;~~

3542 ~~(5) If a claim is filed, the prosecutor shall file a complaint for forfeiture as provided in~~  
3543 ~~subsection (o) or (p) of this Code section within 30 days of the actual receipt of the claim.~~  
3544 ~~A person who files a claim shall be joined as a party; and~~

3545 ~~(6) If no claim is filed within 30 days after the second publication of the notice of~~  
3546 ~~forfeiture, all right, title, and interest in the property are forfeited to the state and the~~  
3547 ~~prosecutor shall dispose of the property as provided in subsection (u) of this Code~~  
3548 ~~section.~~

3549 ~~(o) In rem proceedings:~~

3550 ~~(1) In actions in rem, the property which is the subject of the action shall be named as~~  
 3551 ~~the defendant. The complaint shall be verified on oath or affirmation by a duly~~  
 3552 ~~authorized agent of the state in a manner required by the laws of this state. Such~~  
 3553 ~~complaint shall describe the property with reasonable particularity; state that it is located~~  
 3554 ~~within the county or will be located within the county during the pendency of the action;~~  
 3555 ~~state its present custodian; state the name of the owner or interest holder, if known; allege~~  
 3556 ~~the essential elements of the violation which is claimed to exist; state the place of seizure;~~  
 3557 ~~if the property was seized; and conclude with a prayer of due process to enforce the~~  
 3558 ~~forfeiture.~~

3559 ~~(2) A copy of the complaint and summons shall be served on any person known to be an~~  
 3560 ~~owner or interest holder and any person who is in possession of the property.~~

3561 ~~(A) Service of the complaint and summons shall be as provided in subsections (a), (b),~~  
 3562 ~~(c), and (e) of Code Section 9-11-4.~~

3563 ~~(B) If real property is the subject of the action or the owner or interest holder is~~  
 3564 ~~unknown or resides out of the state or departs the state or cannot after due diligence be~~  
 3565 ~~found within the state or conceals himself or herself so as to avoid service, notice of the~~  
 3566 ~~proceeding shall be published once a week for two successive weeks in the newspaper~~  
 3567 ~~in which the sheriff's advertisements are published. Such publication shall be deemed~~  
 3568 ~~notice to any and all persons having an interest in or right affected by such proceeding~~  
 3569 ~~and from any sale of the property resulting therefrom, but shall not constitute notice to~~  
 3570 ~~an interest holder unless that person is unknown or resides out of the state or departs the~~  
 3571 ~~state or cannot after due diligence be found within the state or conceals himself or~~  
 3572 ~~herself to avoid service.~~

3573 ~~(C) If tangible property which has not been seized is the subject of the action, the court~~  
 3574 ~~may order the sheriff or another law enforcement officer to take possession of the~~  
 3575 ~~property. If the character or situation of the property is such that the taking of actual~~  
 3576 ~~possession is impracticable, the sheriff shall execute process by affixing a copy of the~~  
 3577 ~~complaint and summons to the property in a conspicuous place and by leaving another~~  
 3578 ~~copy of the complaint and summons with the person having possession or such person's~~  
 3579 ~~agent. In cases involving a vessel or aircraft, the sheriff or other law enforcement~~  
 3580 ~~officer is authorized to make a written request with the appropriate governmental~~  
 3581 ~~agency not to permit the departure of such vessel or aircraft until notified by the sheriff~~  
 3582 ~~or the sheriff's deputy that the vessel or aircraft has been released.~~

3583 ~~(3) An owner of or interest holder in the property may file an answer asserting a claim~~  
 3584 ~~against the property in the action in rem. Any such answer shall be filed within 30 days~~  
 3585 ~~after the service of the summons and complaint. Where service is made by publication~~

3586 and personal service has not been made, an owner or interest holder shall file an answer  
 3587 within 30 days of the date of final publication. An answer must be verified by the owner  
 3588 or interest holder under penalty of perjury. In addition to complying with the general  
 3589 rules applicable to an answer in civil actions, the answer must substantially set forth:

3590 (A) The caption of the proceedings as set forth in the complaint and the name of the  
 3591 claimant;

3592 (B) The address at which the claimant will accept mail;

3593 (C) The nature and extent of the claimant's interest in the property;

3594 (D) The date, identity of transferor, and circumstances of the claimant's acquisition of  
 3595 the interest in the property;

3596 (E) The specific provision of this Code section relied on in asserting that the property  
 3597 is not subject to forfeiture; and

3598 (F) The precise relief sought.

3599 (4) If at the expiration of the period set forth in paragraph (3) of this subsection no  
 3600 answer has been filed, the court shall order the disposition of the seized property as  
 3601 provided for in this Code section.

3602 (5) If an answer is filed, a hearing must be held within 60 days after service of the  
 3603 complaint unless continued for good cause and must be held by the court with a jury  
 3604 unless waived by the claimant.

3605 (6) An action in rem may be brought by the state in addition to or in lieu of any other in  
 3606 rem or in personam action brought pursuant to this article.

3607 (p) In personam proceedings:

3608 (1) The complaint shall be verified on oath or affirmation by a duly authorized agent of  
 3609 the state in a manner required by the laws of this state. It shall describe with reasonable  
 3610 particularity the property which is sought to be forfeited; state its present custodian; state  
 3611 the name of the owner or interest holder, if known; allege the essential elements of the  
 3612 violation which is claimed to exist; state the place of seizure, if the property was seized;  
 3613 and conclude with a prayer of due process to enforce the forfeiture.

3614 (2) Service of the complaint and summons shall be as follows:

3615 (A) Except as otherwise provided in this subsection, service of the complaint and  
 3616 summons shall be as provided by subsections (a), (b), (c), and (d) of Code Section  
 3617 9-11-4; and

3618 (B) If the defendant is unknown or resides out of the state or departs the state or cannot  
 3619 after due diligence be found within the state or conceals himself or herself so as to  
 3620 avoid service, notice of the proceedings shall be published once a week for two  
 3621 successive weeks in the newspaper in which the sheriff's advertisements are published.  
 3622 Such publication shall be deemed sufficient notice to any such defendant.

3623 ~~(3) A defendant shall file a verified answer within 30 days after the service of the~~  
 3624 ~~summons and complaint. Where service is made by publication and personal service has~~  
 3625 ~~not been made, a defendant shall file such answer within 30 days of the date of final~~  
 3626 ~~publication. In addition to complying with the general rules applicable to an answer in~~  
 3627 ~~civil actions, the answer must contain all of the elements set forth in paragraph (3) of~~  
 3628 ~~subsection (o) of this Code section.~~

3629 ~~(4) Any interest holder or person in possession of the property may join any action~~  
 3630 ~~brought pursuant to this subsection as provided by Chapter 11 of Title 9, known as the~~  
 3631 ~~'Georgia Civil Practice Act.'~~

3632 ~~(5) If at the expiration of the period set forth in paragraph (3) of this subsection no~~  
 3633 ~~answer has been filed, the court shall order the disposition of the seized property as~~  
 3634 ~~provided for in this Code section.~~

3635 ~~(6) If an answer is filed, a hearing must be held within 60 days after service of the~~  
 3636 ~~complaint unless continued for good cause and must be held by the court with a jury~~  
 3637 ~~unless waived by the claimant.~~

3638 ~~(7) On a determination of liability of a person for conduct giving rise to forfeiture under~~  
 3639 ~~this Code section, the court must enter a judgment of forfeiture of the property described~~  
 3640 ~~in the complaint and must also authorize the prosecutor or the prosecutor's agent or any~~  
 3641 ~~law enforcement officer or peace officer to seize all property ordered to be forfeited~~  
 3642 ~~which was not previously seized or was not then under seizure. Following the entry of~~  
 3643 ~~an order declaring the property forfeited, the court, on application of the state, may enter~~  
 3644 ~~any appropriate order to protect the interest of the state in the property ordered to be~~  
 3645 ~~forfeited.~~

3646 ~~(q) In conjunction with any civil action brought pursuant to this article:~~

3647 ~~(1) The court, on application of the prosecutor, may enter any restraining order or~~  
 3648 ~~injunction; require the execution of satisfactory performance bonds; appoint receivers;~~  
 3649 ~~conservators, appraisers, accountants, or trustees; or take any action to seize, secure,~~  
 3650 ~~maintain, or preserve the availability of property subject to forfeiture under this article,~~  
 3651 ~~including issuing a warrant for its seizure and writ of attachment, whether before or after~~  
 3652 ~~the filing of a complaint for forfeiture;~~

3653 ~~(2) A temporary restraining order under this Code section may be entered on application~~  
 3654 ~~of the prosecutor, without notice or an opportunity for a hearing, if the prosecutor~~  
 3655 ~~demonstrates that:~~

3656 ~~(A) There is probable cause to believe that the property with respect to which the order~~  
 3657 ~~is sought, in the event of final judgment or conviction, would be subject to forfeiture~~  
 3658 ~~under this article; and~~

3659 ~~(B) Provision of notice would jeopardize the availability of the property for forfeiture;~~

3660 ~~(3) Notice of the entry of a restraining order and an opportunity for a hearing must be~~  
 3661 ~~afforded to persons known to have an interest in the property. The hearing must be held~~  
 3662 ~~at the earliest possible date consistent with the date set in subsection (b) of Code Section~~  
 3663 ~~9-11-65 and is limited to the issues of whether:~~

3664 ~~(A) There is a probability that the state will prevail on the issue of forfeiture and that~~  
 3665 ~~failure to enter the order will result in the property's being destroyed, conveyed,~~  
 3666 ~~encumbered, removed from the jurisdiction of the court, concealed, or otherwise made~~  
 3667 ~~unavailable for forfeiture; and~~

3668 ~~(B) The need to preserve the availability of property through the entry of the requested~~  
 3669 ~~order outweighs the hardship on any owner or interest holder against whom the order~~  
 3670 ~~is to be entered;~~

3671 ~~(4) If property is seized for forfeiture or a forfeiture lien is filed without a previous~~  
 3672 ~~judicial determination of probable cause or order of forfeiture or a hearing under~~  
 3673 ~~paragraph (2) of this subsection, the court, on an application filed by an owner or or~~  
 3674 ~~interest holder in the property within 30 days after notice of its seizure or lien or actual~~  
 3675 ~~knowledge of such seizure or lien, whichever is earlier, and complying with the~~  
 3676 ~~requirements for an answer to an in rem complaint, and after five days' notice to the~~  
 3677 ~~prosecutor of the judicial circuit where the property was seized or, in the case of a~~  
 3678 ~~forfeiture lien, to the prosecutor filing such lien, may issue an order to show cause to the~~  
 3679 ~~seizing law enforcement agency for a hearing on the sole issue of whether probable cause~~  
 3680 ~~for forfeiture of the property then exists. The hearing must be held within 30 days unless~~  
 3681 ~~continued for good cause on motion of either party. If the court finds that there is no~~  
 3682 ~~probable cause for forfeiture of the property, the property must be released pending the~~  
 3683 ~~outcome of a judicial proceeding which may be filed pursuant to this Code section; and~~  
 3684 ~~(5) The court may order property that has been seized for forfeiture to be sold to satisfy~~  
 3685 ~~a specified interest of any interest holder, on motion of any party, and after notice and a~~  
 3686 ~~hearing, on the conditions that:~~

3687 ~~(A) The interest holder has filed a proper claim and:~~

3688 ~~(i) Is authorized to do business in this state and is under the jurisdiction of a~~  
 3689 ~~governmental agency of this state or of the United States which regulates financial~~  
 3690 ~~institutions, securities, insurance, or real estate; or~~

3691 ~~(ii) Has an interest that the prosecutor has stipulated is exempt from forfeiture;~~

3692 ~~(B) The interest holder must dispose of the property by commercially reasonable public~~  
 3693 ~~sale and apply the proceeds first to its interest and then to its reasonable expenses~~  
 3694 ~~incurred in connection with the sale or disposal; and~~

3695 ~~(C) The balance of the proceeds, if any, must be returned to the actual or constructive~~  
3696 ~~custody of the court, in an interest-bearing account, subject to further proceedings under~~  
3697 ~~this Code section.~~

3698 ~~(r) An acquittal or a dismissal or a conviction in any criminal proceeding, either by a~~  
3699 ~~verdict or a plea of guilty or nolo contendere, shall be admissible in evidence in any~~  
3700 ~~proceeding pursuant to this Code section.~~

3701 ~~(s) In hearings and determinations pursuant to this Code section:~~

3702 ~~(1) The court may receive and consider, in making any determination of probable cause~~  
3703 ~~or reasonable cause, all evidence admissible in determining probable cause at a~~  
3704 ~~preliminary hearing or by a magistrate pursuant to Article 1 of Chapter 5 of Title 17,~~  
3705 ~~together with inferences therefrom; and~~

3706 ~~(2) The fact that the state has established probable cause to believe that a person has~~  
3707 ~~engaged in conduct giving rise to forfeiture or that the property was acquired by a person~~  
3708 ~~during a period of the conduct giving rise to forfeiture or within a reasonable time~~  
3709 ~~thereafter shall not give rise to any presumption, rebuttable or otherwise, that the property~~  
3710 ~~is subject to forfeiture. The state shall, at all times, have the burden to prove, by a~~  
3711 ~~preponderance of the evidence, that the property is subject to forfeiture under this Code~~  
3712 ~~section.~~

3713 ~~(t)(1) All property declared to be forfeited under this Code section vests in this state at~~  
3714 ~~the time of commission of the conduct giving rise to forfeiture together with the proceeds~~  
3715 ~~of the property after that time. Any property or proceeds transferred later to any person~~  
3716 ~~remain subject to forfeiture and thereafter must be ordered to be forfeited unless the~~  
3717 ~~transferee claims and establishes in a hearing under this Code section that the transferee~~  
3718 ~~is a bona fide purchaser for value and the transferee's interest is exempt under subsection~~  
3719 ~~(e) of this Code section.~~

3720 ~~(2) On entry of judgment for a person claiming an interest in the property that is subject~~  
3721 ~~to proceedings to forfeit property under this Code section, the court shall order that the~~  
3722 ~~property or interest in property be released or delivered promptly to that person free of~~  
3723 ~~liens and encumbrances, as provided under this article.~~

3724 ~~(3) The court is authorized to order a claimant who files a frivolous claim to pay the~~  
3725 ~~reasonable costs relating to the disproving of the claim which were incurred by the state,~~  
3726 ~~including costs for investigation, prosecution, and attorney's fees.~~

3727 ~~(u)(1) The court may, after judgment of forfeiture, make any of the following orders for~~  
3728 ~~disposition of the property:~~

3729 ~~(A) Judicial sale of the property;~~

3730 ~~(B) Retention of the property by any party having a property interest therein, as such~~  
3731 ~~interest is described in subsection (e) of this Code section, upon payment or approval~~

3732 ~~of a plan for payment into court of the value of any forfeited interest in the property.~~  
 3733 ~~The plan may include, in the case of a party having such a property interest who holds~~  
 3734 ~~a lien on or security interest in the property, the sale of the property by any such party~~  
 3735 ~~under such terms and conditions as may be prescribed by the court and the payment into~~  
 3736 ~~court of any proceeds from such sale over and above the amount necessary to satisfy~~  
 3737 ~~the lien or security interest, or~~

3738 ~~(C) Destruction of any contraband, the possession of which is illegal.~~

3739 ~~(2) The proceeds from any judicial sale or payments from a party having a property~~  
 3740 ~~interest as described in paragraph (1) of this subsection shall be delivered to the~~  
 3741 ~~Department of Community Health. The proceeds shall then be disbursed in accordance~~  
 3742 ~~with the requirements of federal law.~~

3743 ~~(v) An acquittal or dismissal in a criminal proceeding does not preclude civil proceedings~~  
 3744 ~~under this article, provided that no property shall be forfeited after an acquittal or dismissal~~  
 3745 ~~in a criminal proceeding unless the state obtains a civil judgment for forfeiture under this~~  
 3746 ~~article.~~

3747 ~~(w) For good cause shown, the court may stay civil forfeiture proceedings during the~~  
 3748 ~~criminal trial resulting from a related indictment or information alleging a violation of this~~  
 3749 ~~article.~~

3750 ~~(x)(1) The court shall order the forfeiture of any property of a claimant or defendant up~~  
 3751 ~~to the value of property found by the court to be subject to forfeiture under the provisions~~  
 3752 ~~of this Code section if any of the forfeited property:~~

3753 ~~(A) Cannot be located;~~

3754 ~~(B) Has been transferred or conveyed to, sold to, or deposited with a third party;~~

3755 ~~(C) Is beyond the jurisdiction of the court;~~

3756 ~~(D) Has been substantially diminished in value while not in the actual physical custody~~  
 3757 ~~of the receiver or governmental agency directed to maintain custody of the property;~~  
 3758 ~~or~~

3759 ~~(E) Has been commingled with other property that cannot be divided without~~  
 3760 ~~difficulty.~~

3761 ~~(2) In addition to any other remedy provided for by law, a prosecutor on behalf of the~~  
 3762 ~~state may institute an action in any court of this state or of the United States or any of the~~  
 3763 ~~several states against any person acting with knowledge or any person to whom notice~~  
 3764 ~~of a lien for forfeiture of property has been provided in accordance with subsection (j) of~~  
 3765 ~~this Code section; to whom notice of seizure has been provided in accordance with~~  
 3766 ~~subsection (i) of this Code section; or to whom notice of a civil proceeding alleging~~  
 3767 ~~conduct giving rise to forfeiture under this Code section has been provided, if property~~  
 3768 ~~subject to forfeiture is conveyed, alienated, disposed of, or otherwise rendered~~

3769 ~~unavailable for forfeiture after the filing of a forfeiture lien notice or notice of seizure or~~  
 3770 ~~after the filing and notice of a civil proceeding alleging conduct giving rise to forfeiture~~  
 3771 ~~under this Code section, as the case may be. The state may recover judgment in an~~  
 3772 ~~amount equal to the value of the lien but not to exceed the fair market value of the~~  
 3773 ~~property or, if there is no lien, in an amount not to exceed the fair market value of the~~  
 3774 ~~property, together with reasonable investigative expenses and attorney's fees. If a civil~~  
 3775 ~~proceeding is pending, the action must be heard by the court in which the civil proceeding~~  
 3776 ~~is pending.~~

3777 ~~(3) A prosecutor may file and prosecute in any of the courts of this state or of the United~~  
 3778 ~~States or of any of the several states such civil actions as may be necessary to enforce any~~  
 3779 ~~judgment rendered pursuant to this Code section.~~

3780 ~~(4) No person claiming an interest in property subject to forfeiture under this article may~~  
 3781 ~~commence or maintain any action against the state concerning the validity of the alleged~~  
 3782 ~~interest other than as provided in this Code section. Except as specifically authorized by~~  
 3783 ~~this Code section, no person claiming an interest in such property may file any~~  
 3784 ~~counterclaim or cross-claim to any action brought pursuant to this Code section.~~

3785 ~~(5) A civil action under this article must be commenced within five years after the last~~  
 3786 ~~conduct giving rise to forfeiture or to the claim for relief became known or should have~~  
 3787 ~~become known, excluding any time during which either the property or defendant is out~~  
 3788 ~~of the state or in confinement or during which criminal proceedings relating to the same~~  
 3789 ~~conduct are in progress.~~

3790 ~~(y) In the event the state fails to prove that the property is subject to forfeiture under this~~  
 3791 ~~Code section, the property may still be subject to lien, levy, and other processes in order~~  
 3792 ~~to satisfy any judgment which orders the payment of restitution based upon a conviction~~  
 3793 ~~or judgment of Medicaid fraud.~~

3794 ~~(z) This Code section must be liberally construed to effectuate its remedial purposes."~~

3795 **SECTION 3-30.**

3796 Title 52 of the Official Code of Georgia Annotated, relating to waters of the state, ports, and  
 3797 watercraft, is amended by revising Code Section 52-7-7.3, relating to seizure of vessels  
 3798 without hull identification numbers, seizure of related property, and inspections, as follows:  
 3799 "52-7-7.3.

3800 (a) If the hull identification number on a vessel required by Code Section 52-7-7.1 or  
 3801 52-7-7.2 to have a hull identification number does not exist or has been altered, removed,  
 3802 destroyed, covered, or defaced or the real identity of the vessel cannot be determined, the  
 3803 vessel, and any items used while towing ~~said~~ such vessel, may be seized as contraband

3804 ~~property~~ by a law enforcement agency or the department and shall be subject to forfeiture  
 3805 in accordance with the procedures set forth in Chapter 16 of Title 9.

3806 (b) A vessel described in subsection (a) of this Code section ~~Such vessel~~ shall not be sold  
 3807 or operated on the waters of the state unless the department:

3808 (1) Receives a request from a law enforcement agency providing adequate  
 3809 documentation for a replacement hull identification number; or

3810 (2) Is directed by written order of a court of competent jurisdiction to issue to the vessel  
 3811 a replacement hull identification number.

3812 ~~Thereafter, the replacement HIN shall be used for identification purposes. No vessel shall~~  
 3813 ~~be forfeited if the owner was unaware the vessel's HIN had been altered, removed,~~  
 3814 ~~destroyed, covered, or defaced.~~

3815 ~~(b)~~(c) The failure to have the hull identification number clearly displayed in compliance  
 3816 with this article shall be probable cause for any law enforcement officer to make further  
 3817 inspection of the vessel in question to ascertain the true identity thereof.

3818 (d) Prior to the vessel being sold or returned to the owner or otherwise disposed of, the  
 3819 department shall assign it a new hull identification number in accordance with federal law."

### 3820 SECTION 3-31.

3821 Said title is further amended by revising Code Section 52-7-7.4, relating to property not  
 3822 subject to replevin, as follows:

3823 "52-7-7.4.

3824 Reserved.

3825 ~~(a) Property subject to forfeiture under Code Section 52-7-7.3 and in the possession of any~~  
 3826 ~~state or local law enforcement agency shall not be subject to replevin but shall be deemed~~  
 3827 ~~to be in the custody of the superior court of the county wherein the property is located~~  
 3828 ~~subject only to the orders and decrees of the court having jurisdiction over the forfeiture~~  
 3829 ~~proceedings.~~

3830 ~~(b) The law enforcement agency having possession of any property subject to forfeiture~~  
 3831 ~~under Code Section 52-7-7.3 shall report such fact within ten days of taking possession to~~  
 3832 ~~the district attorney of the judicial circuit having jurisdiction in the county where the~~  
 3833 ~~property is located. Within 30 days from the date he or she receives such notice, the~~  
 3834 ~~district attorney of the judicial circuit shall file in the superior court of the county in which~~  
 3835 ~~the property is located an action for condemnation of the property. The proceedings shall~~  
 3836 ~~be brought in the name of the state, and the action shall be verified by a duly authorized~~  
 3837 ~~agent of the state in the manner required by law. The action shall describe the property,~~  
 3838 ~~state its location, state its present custodian, state the name of the owner, if known, state~~  
 3839 ~~the duly authorized agent of the state, allege the essential elements which are claimed to~~

3840 ~~exist, and shall conclude with a prayer of due process to enforce the forfeiture. Upon the~~  
3841 ~~filing of such an action, the court shall promptly cause process to issue to the present~~  
3842 ~~custodian in possession of the property described in the action, commanding him or her to~~  
3843 ~~seize the property described in the action and to hold that property for further order of the~~  
3844 ~~court. A copy of the action shall be served on the owner, if known. If the owner is known,~~  
3845 ~~a copy of the action shall also be served upon any person having a duly recorded security~~  
3846 ~~interest in or lien upon that property. If the owner is unknown or resides out of the state~~  
3847 ~~or departs the state or cannot after due diligence be found within the state or conceals~~  
3848 ~~himself or herself so as to avoid service, notice of the proceedings shall be published once~~  
3849 ~~a week for two weeks in the newspaper in which the sheriff's advertisements are published.~~  
3850 ~~Such publication shall be deemed notice to any and all persons having an interest in or right~~  
3851 ~~affected by such proceeding and from any sale of the property resulting therefrom but shall~~  
3852 ~~not constitute notice to any person having a duly recorded security interest in or lien upon~~  
3853 ~~such property and required to be served under this Code section unless that person is~~  
3854 ~~unknown or resides out of the state or departs the state or cannot after due diligence be~~  
3855 ~~found within the state or conceals himself or herself to avoid service. At the expiration of~~  
3856 ~~30 days after such filing, if no claimant has appeared to defend the action, the court shall~~  
3857 ~~order the disposition of the seized property as provided for in this Code section. If the~~  
3858 ~~owner of the vessel appears and defends the action and can show that he or she was~~  
3859 ~~unaware of the fact that the hull identification number had been removed, altered, defaced,~~  
3860 ~~falsified, or destroyed, the court shall order the property returned to the owner upon the~~  
3861 ~~owner's paying proper expenses relating to proceedings for forfeiture, including the~~  
3862 ~~expenses of the maintenance of custody, advertising, and court costs and upon the vessel~~  
3863 ~~being assigned a new hull identification number as provided in this article.~~  
3864 ~~(c) Except as otherwise provided in this article, when property is forfeited under this~~  
3865 ~~article, the court may:~~  
3866 ~~(1) Order that the vessel be retained by the law enforcement agency or the county in~~  
3867 ~~which the vessel is located; or~~  
3868 ~~(2) Order that the vessel be disposed of by sale, the proceeds of which shall be used to~~  
3869 ~~pay the proper expenses relating to the proceedings for forfeiture, including the expenses~~  
3870 ~~of maintenance of custody, advertising, and court costs, with the remaining funds to be~~  
3871 ~~paid into the general fund of the county.~~  
3872 ~~(d) Prior to the vessel being sold or returned to the owner or otherwise disposed of, the~~  
3873 ~~department shall assign it a new hull identification number in accordance with federal law."~~

**SECTION 3-32.**

3874

3875 The following Code sections of the Official Code of Georgia Annotated are amended by  
 3876 replacing "fines and forfeitures" wherever such term occurs with "fines and bond forfeitures":

3877 (1) Code Section 15-21-2, relating to payment into county treasury of fines and forfeitures;

3878 (2) Code Section 15-21-3, relating to maintenance of moneys from fines and forfeitures in  
 3879 county treasury;

3880 (3) Code Section 15-21-4, relating to distribution of fines and forfeitures generally;

3881 (4) Code Section 15-21-5, relating to procedure for filing and payment of claims of officers  
 3882 of court where defendant acquitted or person liable for payment of costs is insolvent;

3883 (5) Code Section 15-21-7, relating to the report by county treasurer to grand jury as to fines  
 3884 and forfeitures received and disbursed;

3885 (6) Code Section 15-21-8, relating to applicability and effect of Code Sections 15-21-2  
 3886 through 15-21-7;

3887 (7) Code Section 15-21-9, relating to lien of officers for payment of insolvent costs;

3888 (8) Code Section 15-21-13, relating to priority of payment of claims for fees of solicitors of  
 3889 city courts, sheriffs, clerks, and district attorneys;

3890 (9) Code Section 15-21-56, relating to proceedings by persons claiming interest in fine and  
 3891 forfeiture fund;

3892 (10) Code Section 15-21-57, relating to effect of article upon duty of prosecution officers  
 3893 and county treasurers relating to account for fines and forfeitures;

3894 (11) Code Section 15-21-58, relating to effect of article upon Acts pertaining to courts in  
 3895 particular counties or cities;

3896 (12) Code Section 27-1-14, relating to disposition of fines and forfeitures;

3897 (13) Code Section 36-30-9, relating to compensation of law enforcement officers;

3898 (14) Code Section 36-31-8, relating to transition periods for governmental functions;

3899 (15) Code Section 36-32-6, relating to relating to jurisdiction in marijuana possession cases;

3900 (16) Code Section 36-32-7, relating to jurisdiction in cases of operating a motor vehicle  
 3901 without effective insurance;

3902 (17) Code Section 36-32-8, relating to jurisdiction of cases of operating a motor vehicle  
 3903 without emission inspection;

3904 (18) Code Section 36-32-9, relating to jurisdiction of cases of shoplifting;

3905 (19) Code Section 36-32-10, relating to jurisdiction of cases of furnishing alcoholic  
 3906 beverages to and purchase and possession of alcoholic beverages by underage persons;

3907 (20) Code Section 36-32-10.1, relating to jurisdiction in counties without state court to try  
 3908 violations of Code Section 16-7-21;

3909 (21) Code Section 36-35-6, relating to limitation on home rule powers;

3910 (22) Code Section 38-2-464, relating to payment of fines;

- 3911 (23) Code Section 40-5-124, relating to jurisdiction of offenses;  
 3912 (24) Code Section 40-13-22, relating to jurisdiction over offenses under Code Section  
 3913 40-2-8;  
 3914 (25) Code Section 40-16-7, relating to budget of the Department of Driver Services; and  
 3915 (26) Code Section 42-9-45, relating to general rule-making power of the State Board of  
 3916 Pardons and Paroles.

3917 **SECTION 3-33.**

3918 The following Code sections of the Official Code of Georgia Annotated are amended by  
 3919 replacing "fine and forfeitures fund", "fines and forfeitures fund", and "fine and forfeiture  
 3920 fund" wherever such terms occur with "fine and bond forfeiture fund":

- 3921 (1) Code Section 4-3-8, relating to return and disposition of proceeds of sale;  
 3922 (2) Code Section 15-21-5, relating to procedure for filing and payment of claims of officers  
 3923 of court where defendant acquitted or person liable for payment of costs is insolvent;  
 3924 (3) Code Section 15-21-50, relating to limitation period for claims against fine and forfeiture  
 3925 fund;  
 3926 (4) Code Section 15-21-51, relating to the procedure for extension of limitation period;  
 3927 (5) Code Section 15-21-52, relating to payment into county treasury of funds received as  
 3928 part of fine and forfeiture fund;  
 3929 (6) Code Section 15-21-54, relating to creation of claim for benefit of county against fine  
 3930 and forfeiture fund;  
 3931 (7) Code Section 15-21-55, relating to disposition of funds remaining after claims against  
 3932 fine and forfeiture fund paid or barred by limitation;  
 3933 (8) Code Section 15-21-56, relating to proceedings by persons claiming interest in fine and  
 3934 forfeiture fund;  
 3935 (9) Code Section 24-13-132, relating to appointment of counsel and payment of costs and  
 3936 expenses;  
 3937 (10) Code Section 36-15-9, relating to collection of additional costs in court cases; and  
 3938 (11) Code Section 40-16-7, relating to budget of the Department of Driver Services.

3939 **PART IV**

3940 **EFFECTIVE DATE,**

3941 **APPLICABILITY, AND REPEALER**

3942 **SECTION 4-1.**

3943 This Act shall become effective on July 1, 2015, and shall apply to seizures of property for  
3944 forfeiture that occur on or after that date. Any such seizure that occurs before July 1, 2015,  
3945 shall be governed by the statute in effect at the time of such seizure.

3946

**SECTION 4-2.**

3947 All laws and parts of laws in conflict with this Act are repealed.