

The House Committee on Judiciary offers the following substitute to HB 233:

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 Title 16 of the Official Code of Georgia Annotated, relating  
11 to crimes and offenses, so as to conform provisions to the new Chapter 16 of Title 9, correct  
12 cross-references, and remove obsolete or improper references to forfeiture; to amend Titles  
13 3, 5, 7, 10, 12, 15, 17, 27, 36, 38, 40, 45, 46, 48, 49, and 52 of the Official Code of Georgia  
14 Annotated, relating to alcoholic beverages, appeal and error, banking and finance, commerce  
15 and trade, conservation and natural resources, courts, criminal procedure, game and fish,  
16 local government, military, emergency management, and veterans affairs, motor vehicles and  
17 traffic, public officers and employees, public utilities and public transportation, revenue and  
18 taxation, social services, and waters of the state, ports, and watercraft, respectively, so as to  
19 conform provisions to the new Chapter 16 of Title 9, correct cross-references, and remove  
20 obsolete or improper references to forfeiture; to provide for related matters; to provide for  
21 an effective date and applicability; to repeal conflicting laws; and for other purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

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

28 "CHAPTER 16

29 9-16-1.

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

32 9-16-2.

33 As used in this chapter, the term:

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

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

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

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

44 (2) 'Civil forfeiture proceeding' means a quasi-judicial forfeiture initiated pursuant to  
 45 Code Section 9-16-11 or a complaint for forfeiture initiated pursuant to Code Section  
 46 9-16-12 or 9-16-13.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

87 (i) Any person appointed or acting as:

88 (I) A guardian, conservator, or personal representative under Title 29 or Chapters  
 89 1 through 11 of Title 53, the 'Revised Probate Code of 1998'; or

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

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

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

96 9-16-3.

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

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

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

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

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

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

109 9-16-4.

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

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

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

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

119 9-16-5.

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

125 9-16-6.

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

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

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

140 9-16-7.

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

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

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

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

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

155 9-16-8.

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

159 property owned by the named person. The forfeiture lien shall include the following  
160 information:

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

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

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

170 (1) The described property;

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

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

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

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

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

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

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

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

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

202 9-16-9.

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

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

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

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

217 9-16-10.

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

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

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

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

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

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



266 9-16-11.

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

270 (1) A description of the property;

271 (2) The date and place of seizure;

272 (3) The conduct giving rise to forfeiture;

273 (4) The alleged violation of law; and

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

278 (A) The name of the claimant;

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

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

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

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

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

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

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

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

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

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

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

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

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

312 (A) The name of the claimant;

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

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

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

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

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

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

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

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

335 9-16-12.

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

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

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

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

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

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

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

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

377 (A) The name of the claimant;  
378 (B) The address at which the claimant resides;  
379 (C) A description of the claimant's interest in the property;  
380 (D) A description of the circumstances of the claimant's obtaining an interest in the  
381 property and, to the best of the claimant's knowledge, the date the claimant obtained the  
382 interest and the name of the person or entity that transferred the interest to the claimant;  
383 (E) The nature of the relationship between the claimant and the person who possessed  
384 the property at the time of the seizure;  
385 (F) A copy of any documentation in the claimant's possession supporting his or her  
386 answer; and  
387 (G) Any additional facts supporting the claimant's answer.

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

396 (d) In addition to any injured person's right of intervention pursuant to Code Section  
397 9-16-16, any owner or interest holder or person in possession of the property who suffers  
398 a pecuniary loss or physical injury due to a violation of Code Section 16-5-46, Article 4 or  
399 5 of Chapter 8 of Title 16, or Chapter 14 of Title 16 may be permitted to intervene in any  
400 civil action brought pursuant to this Code section or Code Section 9-16-13 as provided by  
401 Chapter 11 of this title.

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

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

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

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

415 9-16-13.

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

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

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

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

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

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

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

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

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

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

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

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

448 (d) In addition to any injured person's right of intervention pursuant to Code Section  
 449 9-16-16, any owner or interest holder or person in possession of the property who suffers  
 450 a pecuniary loss or physical injury due to a violation of Code Section 16-5-46, Article 4 or  
 451 5 of Chapter 8 of Title 16, or Chapter 14 of Title 16 may be permitted to intervene in any  
 452 civil action brought pursuant to this Code section or Code Section 9-16-12 as provided by  
 453 Chapter 11 of this title.

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

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

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

472 9-16-14.

473 In conjunction with any civil forfeiture proceeding or criminal proceeding involving  
 474 forfeiture:

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

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

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

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

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

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

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

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

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

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

518 jurisdiction of a governmental agency which regulates financial institutions, securities,  
519 insurance, or real estate;

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

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

526 9-16-15.

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

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

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

541 9-16-16.

542 (a) As used in this Code section, the term 'injured person' means any person who suffers  
543 a pecuniary loss or physical injury due to a violation of Code Section 16-5-46, Article 4 or  
544 5 of Chapter 8 of Title 16, or Chapter 14 of Title 16. In the event that such person is a  
545 child or deceased, the provisions of subparagraphs (B) and (C) of paragraph (11) of Code  
546 Section 17-17-3 shall apply.

547 (b) If an injured person has provided contact information pursuant to Chapter 17 of Title  
548 17, a state attorney shall serve every known injured person, if he or she has not previously  
549 been served, with a copy of the complaint for forfeiture and a notice of such person's right  
550 of intervention at least 30 days prior to the entry of a final judgment.

551 (c) Notwithstanding the distribution of forfeiture proceeds as set forth in Code Section  
552 9-16-19, any injured person shall have a right or claim to forfeited property or to the



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

556 9-16-17.

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

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

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

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

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

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

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

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

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

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

577 (I) Acquired the interest:

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

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

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

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

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

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

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

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

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

597 9-16-18.

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

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

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

608 9-16-19.

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

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

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

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

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

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

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

646 (6) 'Prosecuting Attorneys' Council' means the Prosecuting Attorneys' Council of the  
 647 State of Georgia.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

715 (E) If the civil forfeiture proceeding results from criminal conduct in violation of  
 716 Article 11 of Chapter 1 of Title 7, Code Section 16-5-46, Article 5 of Chapter 8 of Title  
 717 16, or Chapter 14 of Title 16, after satisfaction of the interest of any innocent party, the  
 718 court may make any division of the pool among the state, political subdivisions, or  
 719 agencies or departments of the state or political subdivisions commensurate with the  
 720 assistance each contributed to the underlying criminal prosecution or civil forfeiture  
 721 proceeding, or both such actions.

722 (4) Property distribution shall be as follows:

723 (A) With respect to political subdivisions:

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

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

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

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

757 (B) With respect to the state:

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

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

771 fund in the manner provided by law, for funding of Article 2 of Chapter 12 of Title  
 772 17, the 'Georgia Indigent Defense Act of 2003,' for representation of indigents in  
 773 criminal cases; for funding of the Georgia Crime Victims Emergency Fund; for law  
 774 enforcement and prosecution agency programs and particularly for funding of  
 775 advanced drug investigation and prosecution training for law enforcement officers and  
 776 prosecuting attorneys; for drug treatment, mental health treatment, rehabilitation,  
 777 prevention, or education or any other program which deters drug or substance abuse  
 778 or responds to problems created by drug or substance abuse; for use as matching  
 779 funds for grant programs related to drug treatment or prevention; or for financing the  
 780 judicial system of the state; and

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

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

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

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

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

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



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

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

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

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

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

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

915 (7) Any person who knowingly and willfully makes a false, fictitious, or fraudulent  
916 annual report pursuant to this subsection shall be guilty of a violation of Code Section  
917 16-10-20 and, upon conviction, shall be punished as provided in such Code section. Any

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

922 9-16-20.

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

926 (1) Cannot be located;

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

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

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

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

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

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

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

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

959 9-16-21.

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

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

970 9-16-22.

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

972 **PART II**  
 973 **CONFORMING TITLE 16 TO**  
 974 **THE NEW CIVIL FORFEITURE PROCEDURE**  
 975 **SECTION 2-1.**

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

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

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

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

989 **SECTION 2-2.**

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

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

999 (2) Any property which is, directly or indirectly, used or intended for use in any manner  
 1000 to facilitate a violation of this Code section and any proceeds are declared to be  
 1001 contraband and no person shall have a property right in them.

1002 (3) Any property subject to forfeiture pursuant to paragraph (2) of this subsection shall  
 1003 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9.

1004 (4) The Attorney General shall be specifically authorized to commence civil forfeiture  
 1005 proceedings under this Code section."

1006 **SECTION 2-3.**

1007 Said title is further amended by repealing in its entirety Code Section 16-6-13.2, relating to  
 1008 forfeiture and seizure of property involving pimping and pandering, and enacting a new Code  
 1009 Section 16-6-13.2 to read as follows:

1010 "16-6-13.2.

1011 (a) As used in this Code section, the term 'motor vehicle' shall have the same meaning as  
 1012 set forth in Code Section 40-1-1.

1013 (b) Any motor vehicle used by a person to facilitate a violation of Code Section 16-6-11  
 1014 when the offense involved the pimping of a person to perform an act of prostitution is  
 1015 declared to be contraband and no person shall have a property right in it.

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

**SECTION 2-4.**

1018  
 1019 Said title is further amended by repealing in its entirety Code Section 16-6-13.3, relating to  
 1020 proceeds from pimping, forfeiture, and distribution, and enacting a new Code Section  
 1021 16-6-13.3 to read as follows:

1022 "16-6-13.3.

1023 (a) As used in this Code section, the terms 'proceeds' and 'property' shall have the same  
 1024 meanings as set forth in Code Section 9-16-2.

1025 (b) Any property which is, directly or indirectly, used or intended for use in any manner  
 1026 to facilitate a violation of Code Section 16-6-11 and any proceeds are declared to be  
 1027 contraband and no person shall have a property right in them.

1028 (c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall  
 1029 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9."

**SECTION 2-5.**

1030  
 1031 Said title is further amended by revising Code Section 16-7-95, relating to forfeiture and  
 1032 destruction or disposition of property, as follows:

1033 "16-7-95.

1034 (a) As used in this Code section, the terms 'proceeds' and 'property' shall have the same  
 1035 meanings as set forth in Code Section 9-16-2. All property which is subject to forfeiture  
 1036 pursuant to Code Section 16-13-49 which is, directly or indirectly, used or intended for use  
 1037 in any manner to facilitate a violation of this article or any proceeds derived or realized  
 1038 therefrom shall be considered contraband. Except as provided in subsection (b) of this  
 1039 Code section, such property may be seized and shall be forfeited to the state as provided  
 1040 in Code Section 16-13-49. A property interest shall not be subject to forfeiture under this  
 1041 Code section if the owner of such interest or interest holder establishes any of the  
 1042 provisions of subsection (e) of Code Section 16-13-49.

1043 (b) Any property which is, directly or indirectly, used or intended for use in any manner  
 1044 to facilitate a violation of this article and any proceeds are declared to be contraband and  
 1045 no person shall have a property right in them.

1046 (c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall  
 1047 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9.

1048 ~~(b)~~(d) On application of the seizing law enforcement agency, the superior court may  
 1049 authorize the seizing law enforcement agency to destroy or transfer to any agency of this  
 1050 state or of the United States which can safely store or render harmless any destructive  
 1051 device, explosive, poison gas, or detonator which is subject to forfeiture pursuant to this  
 1052 Code section if the court finds that it is impractical or unsafe for the seizing law  
 1053 enforcement agency to store such destructive device, explosive, poison gas, or detonator.

1054 Such application may be made at any time after seizure. Any destruction authorized  
 1055 pursuant to this subsection shall be made in the presence of at least one credible witness  
 1056 or shall be recorded on film, videotape, or other electronic imaging method. Any such  
 1057 film, videotape, or other electronic imaging method shall be admissible as evidence in lieu  
 1058 of such destructive device, explosive, poison gas, or detonator. The court may also direct  
 1059 the seizing agency or an agency to which such destructive device, explosive, poison gas,  
 1060 or detonator is transferred to make a report of the destruction, take samples, or both.  
 1061 ~~(c)~~(e) The provisions of subsection ~~(b)~~ (d) of this Code section shall not prohibit an  
 1062 explosive ordnance technician, other law enforcement officer, or fire service personnel  
 1063 from taking action which will render safe an explosive, destructive device, poison gas, or  
 1064 detonator or any object which is suspected of being an explosive, destructive device, poison  
 1065 gas, or detonator without the prior approval of a court when such action is intended to  
 1066 protect lives or property."

#### 1067 SECTION 2-6.

1068 Said title is further amended by revising subsection (e) of Code Section 16-8-5.2, relating to  
 1069 retail property fencing and forfeiture, as follows:

1070 "(e)(1) As used in this subsection, the terms 'proceeds' and 'property' shall have the same  
 1071 meanings as set forth in Code Section 9-16-2.

1072 (2) Any property constituting proceeds derived from or realized through which is,  
 1073 directly or indirectly, used or intended for use in any manner to facilitate a violation of  
 1074 this Code section shall be subject to forfeiture to the State of Georgia except that and any  
 1075 proceeds are declared to be contraband and no person shall have a property right in them;  
 1076 provided, however, that notwithstanding paragraph (2) of subsection (a) of Code Section  
 1077 9-16-17, no property of any owner shall be forfeited under this subsection, to the extent  
 1078 of the interest of such owner, by reason of an act or omission established by such owner  
 1079 to have been committed or omitted without knowledge or consent of such owner. The  
 1080 procedure for forfeiture and disposition of forfeited property under this subsection shall  
 1081 be as provided for under Code Section 16-13-49.

1082 (3) Any property subject to forfeiture pursuant to paragraph (2) of this subsection shall  
 1083 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9."

#### 1084 SECTION 2-7.

1085 Said title is further amended by revising subsection (f) of Code Section 16-8-60, relating to  
 1086 reproduction of recorded material, transfer, sale, distribution, circulation, and forfeiture, as  
 1087 follows:

1088 "(f)(1) Any phonograph record, disc, wire, tape, videotape, film, or other article onto  
 1089 which sounds or visual images have been transferred ~~shall be subject to forfeiture to the~~  
 1090 ~~State of Georgia except that~~ in violation of this Code section are declared to be  
 1091 contraband and no person shall have a property right in them; provided, however, that  
 1092 notwithstanding paragraph (2) of subsection (a) of Code Section 9-16-17, no property of  
 1093 any owner shall be forfeited under this paragraph, to the extent of the interest of such  
 1094 owner, by reason of an act or omission established by such owner to have been  
 1095 committed or omitted without knowledge or consent of such owner.

1096 (2) Any property subject to forfeiture pursuant to paragraph (1) of this subsection shall  
 1097 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9. The  
 1098 procedure for forfeiture and disposition of forfeited property under this subsection shall  
 1099 be as provided for under Code Section 16-13-49."

### 1100 SECTION 2-8.

1101 Said title is further amended by revising subsections (c) through (r) of Code Section 16-8-85,  
 1102 relating to forfeiture of personal property seized, as follows:

1103 ~~"(c)(1) Any motor vehicle, motor vehicle part, other conveyance, tool, implement, or~~  
 1104 ~~instrumentality is not subject to forfeiture under this Code section by reason of any act~~  
 1105 ~~or omission which the owner proves to have been committed or omitted without the~~  
 1106 ~~owner's knowledge or consent.~~

1107 ~~(2) Seizing agencies shall utilize their best efforts to identify any seized motor vehicle~~  
 1108 ~~or motor vehicle part to determine ownership or the identity of any other person having~~  
 1109 ~~a right or interest in a seized motor vehicle or motor vehicle part. In its reasonable~~  
 1110 ~~identification and owner location attempts, the seizing agency shall cause the stolen~~  
 1111 ~~motor vehicle files of the Georgia Bureau of Investigation to be searched for stolen or~~  
 1112 ~~wanted information on motor vehicles similar to the seized motor vehicle or consistent~~  
 1113 ~~with the seized motor vehicle part.~~

1114 ~~(3)(c) If Where~~ a motor vehicle part has an apparent value in excess of \$1,000.00:

1115 ~~(A)(1)~~ The seizing agency shall consult with an expert of the type specified in  
 1116 paragraph (4) of Code Section 16-8-82; and

1117 ~~(B)(2)~~ The seizing agency shall also request searches of the ~~on-line~~ online and ~~off-line~~  
 1118 offline files of the National Crime Information Center and the National Automobile Theft  
 1119 Bureau when the Georgia Bureau of Investigation and Georgia Crime Information Center  
 1120 files have been searched with negative results.

1121 (d) Any property subject to forfeiture pursuant to this Code section shall be forfeited in  
 1122 accordance with the procedures set forth in Chapter 16 of Title 9, except as specifically set  
 1123 forth in subsections (g) through (j) of this Code section. A forfeiture of a motor vehicle,



1124 ~~motor vehicle part, or other conveyance encumbered by a bona fide security interest is~~  
 1125 ~~subject to the interest of the secured party where the secured party neither had knowledge~~  
 1126 ~~of nor consented to the act or omission forming the ground for the forfeiture.~~

1127 ~~(e) Property, as described in subsection (a) of this Code section, which is seized and held~~  
 1128 ~~for forfeiture shall not be subject to replevin and is subject only to the order and judgments~~  
 1129 ~~of a court of competent jurisdiction hearing the forfeiture proceedings.~~

1130 ~~(f)(1) A prosecutor in the county where the seizure occurs shall bring an action for~~  
 1131 ~~forfeiture in a court of competent jurisdiction. The forfeiture action shall be brought~~  
 1132 ~~within 60 days from the date of seizure except where the prosecutor in the sound exercise~~  
 1133 ~~of discretion determines that no forfeiture action should be brought because of the rights~~  
 1134 ~~of property owners, lienholders, or secured creditors or because of exculpatory,~~  
 1135 ~~exonerating, or mitigating facts and circumstances.~~

1136 ~~(2) The prosecutor shall give notice of the forfeiture proceeding by mailing a copy of the~~  
 1137 ~~complaint in the forfeiture proceeding to each person whose right, title, or interest is of~~  
 1138 ~~record in the Department of Revenue, the Department of Transportation, the Federal~~  
 1139 ~~Aviation Agency, or any other department or agency of this state, any other state or~~  
 1140 ~~territory of the United States, or of the federal government if such property is required to~~  
 1141 ~~be registered with any such department or agency.~~

1142 ~~(3) Notice of the forfeiture proceeding shall be given to any other such person as may~~  
 1143 ~~appear, from the facts and circumstances, to have any right, title, or interest in or to the~~  
 1144 ~~property.~~

1145 ~~(4) The owner of the property or any person having or claiming right, title, or interest in~~  
 1146 ~~the property may within 60 days after the mailing of such notice file a verified answer to~~  
 1147 ~~the complaint and may appear at the hearing on the action for forfeiture.~~

1148 ~~(5) The prosecutor shall show at a forfeiture hearing, by a preponderance of the~~  
 1149 ~~evidence, that such property was used in the commission of a violation of Code Section~~  
 1150 ~~16-8-83 or was used or possessed to facilitate such violation.~~

1151 ~~(6) The owner of such property may show by a preponderance of the evidence that the~~  
 1152 ~~owner did not know, and did not have reason to know, that the property was to be used~~  
 1153 ~~or possessed in the commission of any violation or that any of the exceptions to forfeiture~~  
 1154 ~~are applicable.~~

1155 ~~(7) Unless the prosecutor shall make the showing required of it, the court shall order the~~  
 1156 ~~property released to the owner. Where the prosecutor has made such a showing, the court~~  
 1157 ~~may order that:~~

1158 ~~(A) The property be destroyed by the agency which seized it or some other agency~~  
 1159 ~~designated by the court;~~

1160 ~~(B) The property be delivered and retained for use by the agency which seized it or~~  
 1161 ~~some other agency designated by the court; or~~

1162 ~~(C) The property be sold at public sale.~~

1163 ~~(g)~~(e) A copy of a forfeiture order shall be filed with the sheriff of the county in which the  
 1164 forfeiture occurs and with each federal or state department or agency with which such  
 1165 property is required to be registered. Such order, when filed, constitutes authority for the  
 1166 issuance to the agency to whom the property is delivered and retained for use or to any  
 1167 purchaser of the property of a certificate of title, registration certificate, or other special  
 1168 certificate as may be required by law in consideration of the condition of the property.

1169 ~~(h) Proceeds from sale at public auction, after payment of all reasonable charges and~~  
 1170 ~~expenses incurred by the agency designated by the court to conduct the sale in storing and~~  
 1171 ~~selling the property, shall be paid into the general fund of the county of seizure.~~

1172 ~~(i)~~(f) No motor vehicle, either seized under Code Section 16-8-84 or forfeited under this  
 1173 Code section, shall be released by the seizing agency or used or sold by an agency  
 1174 designated by the court unless any altered, counterfeited, defaced, destroyed, disguised,  
 1175 falsified, forged, obliterated, or removed vehicle identification number is corrected by the  
 1176 issuance and affixing of either an assigned or replacement vehicle identification number  
 1177 plate as may be appropriate under laws or regulations of this state.

1178 ~~(j)~~(g) No motor vehicle part having any altered, counterfeited, defaced, destroyed,  
 1179 disguised, falsified, forged, obliterated, or removed vehicle identification number may be  
 1180 disposed of upon forfeiture except by destruction thereof, except that this subsection shall  
 1181 not apply to any such motor vehicle part which is assembled with and constitutes part of  
 1182 a motor vehicle.

1183 ~~(k)~~(h) No motor vehicle or motor vehicle part shall be forfeited under this Code section  
 1184 solely on the basis that it is unidentifiable. Instead of forfeiture, any seized motor vehicle  
 1185 or motor vehicle part which is unidentifiable shall be the subject of a written report sent by  
 1186 the seizing agency to the Department of Revenue; which ~~report~~ shall include a description  
 1187 of the motor vehicle or motor vehicle part, including its color, if any; the date, time, and  
 1188 place of its seizure; the name of the person from whose possession or control it was seized;  
 1189 the grounds for its seizure; and the location where the same is held or stored.

1190 ~~(l)~~(i) When a seized unidentifiable motor vehicle or motor vehicle part has been held for  
 1191 60 days or more after the notice to the Department of Revenue specified in  
 1192 subsection ~~(k)~~ (h) of this Code section has been given, the seizing agency, or its agent, shall  
 1193 cause the motor vehicle or motor vehicle part to be sold at a public sale to the highest  
 1194 bidder. Notice of the time and place of sale shall be posted in a conspicuous place for at  
 1195 least 30 days prior to the sale on the premises where the motor vehicle or motor vehicle  
 1196 part has been stored.

1197 ~~(m)~~(j)(1) When a seized unidentifiable motor vehicle or motor vehicle part has an  
 1198 apparent value of \$1,000.00 or less, the seizing agency shall authorize the disposal of the  
 1199 motor vehicle or motor vehicle part, provided that no such disposition shall be made  
 1200 sooner than 60 days after the date of seizure.

1201 ~~(n)~~(2) The proceeds of the public sale of an unidentifiable motor vehicle or motor vehicle  
 1202 part shall be deposited into the general fund of the state, county, or municipal corporation  
 1203 employing the seizing agency after deduction of any reasonable and necessary towing and  
 1204 storage charges.

1205 ~~(o)~~(k) Seizing agencies shall utilize their best efforts to arrange for the towing and storing  
 1206 of motor vehicles and motor vehicle parts in the most economical manner possible. In no  
 1207 event shall the owner of a motor vehicle or a motor vehicle part be required to pay more  
 1208 than the minimum reasonable costs of towing and storage.

1209 ~~(p)~~(l) A seized motor vehicle or motor vehicle part that is neither forfeited nor  
 1210 unidentifiable shall be held subject to the order of the court in which the criminal action is  
 1211 pending or, if a request for its release from such custody is made, until the prosecutor has  
 1212 notified the defendant or the defendant's attorney of such request and both the prosecution  
 1213 and defense have been afforded a reasonable opportunity for an examination of the  
 1214 property to determine its true value and to produce or reproduce, by photographs or other  
 1215 identifying techniques, legally sufficient evidence for introduction at trial or other criminal  
 1216 proceedings. Upon expiration of a reasonable time for the completion of the examination,  
 1217 which in no event shall exceed 14 days from the date of service upon the defense of the  
 1218 notice of request for return of property as provided in this subsection, the property shall be  
 1219 released to the person making such request after satisfactory proof of such person's  
 1220 entitlement to the possession thereof. Notwithstanding the foregoing, upon application by  
 1221 either party with notice to the other, the court may order retention of the property if it  
 1222 determines that retention is necessary in the furtherance of justice.

1223 ~~(q)~~(m) When a seized vehicle is forfeited, restored to its owner, or disposed of as  
 1224 unidentifiable, the seizing agency shall retain a report of the transaction for a period of at  
 1225 least one year from the date of the transaction.

1226 ~~(r)~~(n) When an applicant for a certificate of title or salvage certificate of title presents to  
 1227 the Department of Revenue proof that the applicant purchased or acquired a motor vehicle  
 1228 at public sale conducted pursuant to this Code section and such fact is attested to by the  
 1229 seizing agency, the Department of Revenue shall issue a certificate of title or a salvage  
 1230 certificate of title, as determined by the state revenue commissioner, for such motor vehicle  
 1231 upon receipt of the statutory fee, a properly executed application for a certificate of title or  
 1232 other certificate of ownership, and the affidavit of the seizing agency that a state assigned

1233 number was applied for and affixed to the motor vehicle prior to the time that the motor  
 1234 vehicle was released by the seizing agency to the purchaser."

1235 **SECTION 2-9.**

1236 Said title is further amended by revising Code Section 16-8-106, relating to forfeiture under  
 1237 the "Georgia Residential Mortgage Fraud Act," as follows:

1238 "16-8-106.

1239 (a) As used in this Code section, the terms 'civil forfeiture proceedings,' 'proceeds,' and  
 1240 'property' shall have the same meanings as set forth in Code Section 9-16-2. All real and  
 1241 personal property of every kind used or intended for use in the course of, derived from, or  
 1242 realized through a violation of this article shall be subject to forfeiture to the state.  
 1243 Forfeiture shall be had by the same procedure set forth in Code Section 16-14-7. District  
 1244 attorneys and the Attorney General may commence forfeiture proceedings under this  
 1245 article.

1246 (b) Any property which is, directly or indirectly, used or intended for use in any manner  
 1247 to facilitate a violation of this article and any proceeds are declared to be contraband and  
 1248 no person shall have a property right in them.

1249 (c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall  
 1250 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9.

1251 (d) The Attorney General shall be specifically authorized to commence civil forfeiture  
 1252 proceedings under this Code section."

1253 **SECTION 2-10.**

1254 Said title is further amended by revising subsection (h) of Code Section 16-9-4, relating to  
 1255 manufacturing, selling, or distributing false identification documents, as follows:

1256 "(h)(1) As used in this subsection, the terms 'proceeds' and 'property' shall have the same  
 1257 meanings as set forth in Code Section 9-16-2. Any property which is used, intended for  
 1258 use, or used in any manner to facilitate a violation of this Code section is contraband and  
 1259 forfeited to the state and no person shall have a property interest in it. Such property may  
 1260 be seized or detained in the same manner as provided in Code Section 16-13-49 and shall  
 1261 not be subject to replevin, conveyance, sequestration, or attachment.

1262 (2) Any property which is, directly or indirectly, used or intended for use in any manner  
 1263 to facilitate a violation of this Code section and any proceeds are declared to be  
 1264 contraband and no person shall have a property right in them. Within 60 days of the date  
 1265 of the seizure of contraband pursuant to this Code section, the district attorney shall  
 1266 initiate forfeiture or other proceedings as provided in Code Section 16-13-49. An owner  
 1267 or interest holder, as defined by subsection (a) of Code Section 16-13-49, may establish

1268 ~~as a defense to the forfeiture of property which is subject to forfeiture under this Code~~  
 1269 ~~section the applicable provisions of subsection (e) or (f) of Code Section 16-13-49.~~  
 1270 ~~Property which is forfeited pursuant to this Code section shall be disposed of and~~  
 1271 ~~distributed as provided in Code Section 16-13-49.~~

1272 (3) Any property subject to forfeiture pursuant to paragraph (2) of this subsection shall  
 1273 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9. ~~If~~  
 1274 ~~property subject to forfeiture cannot be located, has been transferred or conveyed to, sold~~  
 1275 ~~to, or deposited with a third party; is beyond the jurisdiction of the court; has been~~  
 1276 ~~substantially diminished in value while not in the actual physical custody of a receiver~~  
 1277 ~~or governmental agency directed to maintain custody of the property; or has been~~  
 1278 ~~commingled with other property that cannot be divided without difficulty, the court shall~~  
 1279 ~~order the forfeiture of any property of a claimant or defendant up to the value of property~~  
 1280 ~~found by the court to be subject to forfeiture under this subsection in accordance with the~~  
 1281 ~~procedures set forth in subsection (x) of Code Section 16-13-49.~~

1282 (4) ~~The provisions of paragraphs (3), (4), and (5) of subsection (x) and subsection (z) of~~  
 1283 ~~Code Section 16-13-49 shall be applicable to any proceedings brought pursuant to this~~  
 1284 ~~subsection."~~

#### 1285 **SECTION 2-11.**

1286 Said title is further amended by revising Code Section 16-11-11, relating to dissolution of  
 1287 subversive organizations and forfeiture, as follows:

1288 "16-11-11.

1289 It shall be unlawful for any subversive organization or foreign subversive organization to  
 1290 exist or function in this state. Any organization which by a court of competent jurisdiction  
 1291 is found to have violated this Code section shall be dissolved and, if it is a corporation  
 1292 organized and existing under the laws of this state, a finding by a court of competent  
 1293 jurisdiction that it has violated this Code section shall constitute legal cause for ~~forfeiture~~  
 1294 revocation of its charter and its charter shall be ~~forfeited~~ revoked. All funds, books,  
 1295 records, and files of every kind and all other property of any organization found to have  
 1296 violated this Code section shall be seized by and for this state, the funds to be deposited in  
 1297 the state treasury and the books, records, files, and other property to be turned over to the  
 1298 Attorney General."

#### 1299 **SECTION 2-12.**

1300 Said title is further amended by revising paragraph (3) of subsection (b) of Code Section  
 1301 16-12-24, relating to possession, manufacture, or transfer of gambling devices or parts, as  
 1302 follows:

1303 "(3) Any antique slot machine seized as a result of a violation of this Code section shall  
 1304 be contraband and subject to seizure and destruction as provided in Code Section  
 1305 ~~16-12-30~~ 16-12-32. An antique slot machine seized for a violation of this Code section  
 1306 shall not be destroyed, altered, or sold until the owner has been afforded a reasonable  
 1307 opportunity to present evidence that the device was not operated for unlawful gambling  
 1308 or in violation of this Code section. If the court determines that the device is an antique  
 1309 slot machine and was not operated or possessed in violation of this or any other Code  
 1310 section, such device shall be returned to its owner."

### 1311 SECTION 2-13.

1312 Said title is further amended by revising Code Section 16-12-30, relating to seizure and  
 1313 destruction of gambling devices, as follows:

1314 "16-12-30.

1315 Reserved.

1316 ~~(a) Except as provided in subsection (b) of Code Section 16-12-24, every gambling device~~  
 1317 ~~is declared to be contraband and subject to seizure and confiscation by any state or local~~  
 1318 ~~authority within whose jurisdiction the same may be found.~~

1319 ~~(b) At such time as there shall be a final judgment entered in any case or cases in which~~  
 1320 ~~a seized gambling device is necessary evidence or at such time as the state shall determine~~  
 1321 ~~that the continued physical existence of the seized gambling device is no longer necessary,~~  
 1322 ~~the same shall be turned over by that person having custody of the device to the sheriff of~~  
 1323 ~~the county wherein the device was confiscated. The sheriff shall within ten days after~~  
 1324 ~~receiving the device destroy the same in the presence of the district attorney of the circuit~~  
 1325 ~~in which such county is located and shall forward to the state revenue commissioner a~~  
 1326 ~~certificate so stating which shall include the serial number of the device so destroyed."~~

### 1327 SECTION 2-14.

1328 Said title is amended by repealing in its entirety Code Section 16-12-32, relating to seizure  
 1329 and disposition of property used in or derived from a violation of the article proscribing  
 1330 gambling and related offenses, and enacting a new Code Section 16-12-32 to read as follows:

1331 "16-12-32.

1332 (a) As used in this Code section, the terms 'proceeds,' 'property,' and 'United States' shall  
 1333 have the same meanings as set forth in Code Section 9-16-2, and 'enterprise' means any  
 1334 person, sole proprietorship, partnership, corporation, trust, association, or other legal entity  
 1335 created under the laws the United States or any foreign nation or a group of individuals  
 1336 associated in fact although not a legal entity and includes illicit as well as licit enterprises  
 1337 and governmental as well as other entities.

- 1338 (b) The following are declared to be contraband, and no person shall have a property right  
 1339 in them:
- 1340 (1) Every gambling device except antique slot machines as provided for in subsection (b)  
 1341 of Code Section 16-12-24;
- 1342 (2) Any property which is, directly or indirectly, used or intended for use in any manner  
 1343 to facilitate a violation of this article and any proceeds;
- 1344 (3) Any property located in this state which was, directly or indirectly, used or intended  
 1345 for use in any manner to facilitate a violation of this article or of the laws of the United  
 1346 States relating to gambling and any proceeds;
- 1347 (4) Any interest, security, claim, or property or contractual right of any kind affording  
 1348 a source of influence over any enterprise that a person has established, operated,  
 1349 controlled, conducted, or participated in the conduct of in violation of this article or any  
 1350 of the laws of the United States relating to gambling and any proceeds; and
- 1351 (5) Any property found in close proximity to any gambling device or other property  
 1352 subject to forfeiture under this Code section.
- 1353 (c) Any property declared as contraband pursuant to subsection (b) of this Code section  
 1354 shall be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9."

#### 1355 **SECTION 2-15.**

1356 Said title is further amended by revising subsections (e) through (g) of Code Section  
 1357 16-12-100, relating to sexual exploitation of children, as follows:

1358 "(e)(1) As used in this subsection, the terms 'proceeds' and 'property' shall have the same  
 1359 meaning as set forth in Code Section 9-16-2. A person who is convicted of an offense  
 1360 under this Code section shall forfeit to the State of Georgia such interest as the person  
 1361 may have in:

1362 (A) Any property constituting or directly derived from gross profits or other proceeds  
 1363 obtained from such offense; and

1364 (B) Any property used, or intended to be used, to commit such offense.

1365 (2) Any property which is, directly or indirectly, used or intended to be used in any  
 1366 manner to facilitate a violation of this Code section and any proceeds are declared to be  
 1367 contraband and no person shall have a property right in them. In any action under this  
 1368 Code section, the court may enter such restraining orders or take other appropriate action,  
 1369 including acceptance of performance bonds, in connection with any interest that is subject  
 1370 to forfeiture.

1371 (3) Any property subject to forfeiture pursuant to paragraph (2) of this subsection shall  
 1372 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9. The  
 1373 court shall order forfeiture of property referred to in paragraph (1) of this subsection if

1374 ~~the trier of fact determines, beyond a reasonable doubt, that such property is subject to~~  
 1375 ~~forfeiture.~~

1376 ~~(4) The provisions of subsection (u) of Code Section 16-13-49 shall apply for the~~  
 1377 ~~disposition of any property forfeited under this subsection. In any disposition of property~~  
 1378 ~~under this subsection, a convicted person shall not be permitted to acquire property~~  
 1379 ~~forfeited by such person.~~

1380 ~~(f)(1) The following property shall be subject to forfeiture to the State of Georgia:~~

1381 ~~(A) Any material or equipment used, or intended for use, in producing, reproducing,~~  
 1382 ~~transporting, shipping, or receiving any visual medium in violation of this Code section;~~

1383 ~~(B) Any visual medium produced, transported, shipped, or received in violation of this~~  
 1384 ~~Code section, or any material containing such depiction; provided, however, that any~~  
 1385 ~~such property so forfeited shall be destroyed by the appropriate law enforcement~~  
 1386 ~~agency after it is no longer needed in any court proceedings; or~~

1387 ~~(C) Any property constituting or directly derived from gross profits or other proceeds~~  
 1388 ~~obtained from a violation of this Code section;~~

1389 ~~except that no property of any owner shall be forfeited under this paragraph, to the extent~~  
 1390 ~~of the interest of such owner, by reason of an act or omission established by such owner~~  
 1391 ~~to have been committed or omitted without knowledge or consent of such owner.~~

1392 ~~(2) The procedure for forfeiture and disposition of forfeited property under this~~  
 1393 ~~subsection shall be as provided for forfeitures under Code Section 16-13-49.~~

1394 ~~(g)(f)(1) Except as otherwise provided in paragraphs (2) and (3) of this subsection, any~~  
 1395 ~~person who violates a provision of this Code section shall be guilty of a felony and, upon~~  
 1396 ~~conviction thereof, shall be punished by imprisonment for not less than five nor more~~  
 1397 ~~than 20 years and by a fine of not more than \$100,000.00; provided, however, that if the~~  
 1398 ~~person so convicted is a member of the immediate family of the victim, no fine shall be~~  
 1399 ~~imposed.~~

1400 (2) Any person who violates subsection (c) of this Code section shall be guilty of a  
 1401 misdemeanor.

1402 (3) Any person who violates paragraph (1), (5), (7), or (8) of subsection (b) of this Code  
 1403 section shall be guilty of a misdemeanor if:

1404 (A) The minor depicted was at least 14 years of age at the time the visual medium was  
 1405 created;

1406 (B) The visual medium was created with the permission of the minor depicted; and

1407 (C) The defendant was 18 years of age or younger at the time of the offense and:

1408 (i) The defendant's violation of such paragraphs did not involve the distribution of  
 1409 such visual medium to another person; or



1410 (ii) In the court's discretion, and when the prosecuting attorney and the defendant  
 1411 have agreed, if the defendant's violation of such paragraphs involved the distribution  
 1412 of such visual medium to another person but such distribution was not for the purpose  
 1413 of:

- 1414 (I) Harassing, intimidating, or embarrassing the minor depicted; or  
 1415 (II) For any commercial purpose."

1416 **SECTION 2-16.**

1417 Said title is further amended by revising subsection (f) of Code Section 16-13-30.1, relating  
 1418 to unlawful manufacture, delivery, distribution, possession, or sale of noncontrolled  
 1419 substances, as follows:

1420 "(f)(1) As used in this subsection, the terms 'proceeds' and 'property' shall have the same  
 1421 meanings as set forth in Code Section 9-16-2.

1422 (2) Any property which is, directly or indirectly, used or intended for use in any manner  
 1423 All property which would be subject to forfeiture under the provisions of subsection (d)  
 1424 of Code Section 16-13-49 for a violation of this article which is used, or intended for use,  
 1425 to facilitate, or is derived from, a violation of this Code section, and any proceeds, and  
 1426 any noncontrolled substance which is manufactured, distributed, dispensed, possessed  
 1427 with the intent to distribute, or sold in violation of this Code section are declared to be  
 1428 contraband and there shall be no property interest therein no person shall have a property  
 1429 right in them.

1430 (3) Any property or noncontrolled substance which is subject to the provisions of  
 1431 forfeiture pursuant to paragraph (2) of this subsection shall be forfeited in accordance  
 1432 with the procedures of Code Section 16-13-49 set forth in Chapter 16 of Title 9."

1433 **SECTION 2-17.**

1434 Said title is further amended by revising subsection (d) of Code Section 16-13-30.2, relating  
 1435 to unlawful manufacture, distribution, or possession with intent to distribute imitation  
 1436 controlled substances, as follows:

1437 "(d) All materials which are manufactured, distributed, or possessed in violation of this  
 1438 Code section and any proceeds are declared to be contraband and no person shall have a  
 1439 property right in them and shall be forfeited according to the procedure described in Code  
 1440 Section 16-13-49 set forth in Chapter 16 of Title 9. As used in this subsection, the term  
 1441 'proceeds' shall have the same meaning as set forth in Code Section 9-16-2."

1442 **SECTION 2-18.**

1443 Said title is further amended by revising subsection (f) of Code Section 16-13-30.4, relating  
1444 to licenses for sale, transfer, or purchase for resale of products containing pseudoephedrine,  
1445 as follows:

1446 "(f) Any ~~All~~ products containing pseudoephedrine that have been or that are intended to  
1447 be sold, transferred, purchased for resale, possessed, or otherwise transferred in violation  
1448 of a provision of this Code section ~~shall be subject to forfeiture to the state and no property~~  
1449 ~~right shall exist in them~~ and any proceeds are declared to be contraband and no person shall  
1450 have a property right in them and shall be forfeited according to the procedure set forth in  
1451 Chapter 16 of Title 9. As used in this subsection, the term 'proceeds' shall have the same  
1452 meaning as set forth in Code Section 9-16-2."

1453 **SECTION 2-19.**

1454 Said title is further amended by revising subsections (e) through (g) of Code Section  
1455 16-13-32, relating to transactions in drug related objects and forfeitures, as follows:

1456 "(e) All instruments, devices, and objects which are distributed or possessed in violation  
1457 of this Code section and any proceeds are declared to be contraband and no person shall  
1458 have a property right in them and shall be forfeited according to the procedure set forth in  
1459 Chapter 16 of Title 9. As used in this subsection, the term 'proceeds' shall have the same  
1460 meaning as set forth in Code Section 9-16-2.

1461 ~~(f) After conviction and after all direct appeals from the conviction have been exhausted,~~  
1462 ~~any instruments, devices, or objects which are the subject of prosecution under this Code~~  
1463 ~~section may be destroyed by the state or any county or municipality thereof without court~~  
1464 ~~order.~~

1465 ~~(g) Any instruments, devices, or objects which are seized after July 1, 1980, on~~  
1466 ~~condemnation as being distributed or possessed in violation of this Code section and which~~  
1467 ~~are not made the subject of prosecution under this Code section may be destroyed by the~~  
1468 ~~state or any county or municipality thereof if within 90 days after such seizures are made,~~  
1469 ~~the district attorney or the solicitor-general of any court that has jurisdiction to try~~  
1470 ~~misdemeanors in the county where the seizure occurred shall institute condemnation~~  
1471 ~~proceedings in the court by petition, a copy of which shall be served upon the owner of the~~  
1472 ~~seized items, if known; and if the owner is unknown, notice of such proceedings shall be~~  
1473 ~~published once a week for two weeks in the newspaper in which the sheriff's~~  
1474 ~~advertisements are published. The petition shall allege that the seized items were~~  
1475 ~~distributed or possessed in violation of this Code section; and, if no defense is filed within~~  
1476 ~~30 days from the filing of the petition, judgment by default shall be entered by the court at~~  
1477 ~~chambers, and the court shall order the seized items to be destroyed; otherwise, the case~~

1478 ~~shall proceed as other civil cases in the court. Should the state prove, by a preponderance~~  
 1479 ~~of the evidence, that the seized items were distributed or possessed in violation of this Code~~  
 1480 ~~section, the court shall order the seized items to be destroyed."~~

1481 **SECTION 2-20.**

1482 Said title is further amended by revising subsection (e) of Code Section 16-13-32.1, relating  
 1483 to transactions in drug related objects, evidence, and forfeiture, as follows:

1484 "(e) All objects and materials which are distributed or possessed in violation of this Code  
 1485 section and any proceeds are declared to be contraband and no person shall have a property  
 1486 right in them and shall be forfeited according to the procedure ~~described in Code Section~~  
 1487 ~~16-13-49~~ set forth in Chapter 16 of Title 9. As used in this subsection, the term 'proceeds'  
 1488 shall have the same meaning as set forth in Code Section 9-16-2."

1489 **SECTION 2-21.**

1490 Said title is further amended by repealing Code Section 16-13-48.1, relating to funds or  
 1491 property transferred to state or local agencies under federal drug laws, in its entirety.

1492 **SECTION 2-22.**

1493 Said title is further amended by repealing in its entirety Code Section 16-13-49, relating to  
 1494 forfeitures, and enacting a new Code Section 16-13-49 to read as follows:

1495 "16-13-49.

1496 (a) As used in this Code section, the term:

1497 (1) 'Controlled substance' shall have the same meaning as set forth in Code Section  
 1498 16-13-21 and shall include marijuana, as such term is defined in Code Section 16-13-21.

1499 (2) 'Enterprise' means any person, sole proprietorship, partnership, corporation, trust,  
 1500 association, or other legal entity created under the laws of the United States or any  
 1501 foreign nation or a group of individuals associated in fact although not a legal entity and  
 1502 includes illicit as well as licit enterprises and governmental as well as other entities.

1503 (3) 'Proceeds' shall have the same meaning as set forth in Code Section 9-16-2.

1504 (4) 'Property' shall have the same meaning as set forth in Code Section 9-16-2.

1505 (5) 'United States' shall have the same meaning as set forth in Code Section 9-16-2.

1506 (b) Except as provided in subsection (d) of this Code section, the following are declared  
 1507 to be contraband and no person shall have a property right in them:

1508 (1) Any controlled substances, raw materials, or controlled substance analogs that have  
 1509 been manufactured, distributed, dispensed, possessed, or acquired in violation of this  
 1510 article;

- 1511 (2) Any property which is, directly or indirectly, used or intended for use in any manner  
 1512 to facilitate a violation of this article and any proceeds;
- 1513 (3) Any property located in this state which was, directly or indirectly, used or intended  
 1514 for use in any manner to facilitate a violation of this article or the laws of the United  
 1515 States relating to controlled substances that is punishable by imprisonment for more than  
 1516 one year and any proceeds;
- 1517 (4) Any interest, security, claim, or property or contractual right of any kind affording  
 1518 a source of influence over any enterprise that a person has established, operated,  
 1519 controlled, conducted, or participated in the conduct of in violation of this article or the  
 1520 laws of the United States relating to controlled substances that is punishable by  
 1521 imprisonment for more than one year and any proceeds;
- 1522 (5) Any property found in close proximity to any controlled substance or other property  
 1523 subject to forfeiture under this Code section; and
- 1524 (6) Any weapon available for any use in any manner to facilitate a violation of this  
 1525 article.
- 1526 (c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall  
 1527 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9.
- 1528 (d) Property shall not be subject to forfeiture under this Code section for a violation  
 1529 involving only one gram or less of a mixture containing cocaine or four ounces or less of  
 1530 marijuana unless such property was used to facilitate a transaction in or a purchase of or  
 1531 sale of a controlled substance.
- 1532 (e) In addition to persons authorized to seize property pursuant to Code Section 9-16-6,  
 1533 property which is subject to forfeiture under this Code section may be seized by the  
 1534 director of the Georgia Drugs and Narcotics Agency or by any drug agent of this state or  
 1535 any political subdivision thereof who has power to make arrests or execute process or a  
 1536 search warrant issued by any court having jurisdiction over the property.
- 1537 (f) Controlled substances included in Schedule I which are contraband and any controlled  
 1538 substance whose owners are unknown shall be summarily forfeited to the state. The court  
 1539 may include in any judgment of conviction under this article an order forfeiting any  
 1540 controlled substance involved in the offense to the extent of the defendant's interest."

1541 **SECTION 2-23.**

- 1542 Said title is further amended by revising Code Section 16-13-53, relating to pending  
 1543 proceedings, as follows:  
 1544 "16-13-53.  
 1545 Reserved.

1546 ~~(a) Prosecution for any violation of law occurring prior to July 1, 1974, is not affected or~~  
 1547 ~~abated by this article. If the offense which was being prosecuted is similar to one set out~~  
 1548 ~~in this article, then the penalties under this article apply if they are less than those under~~  
 1549 ~~prior law.~~

1550 ~~(b) Civil seizures or forfeitures and injunctive proceedings commenced prior to July 1,~~  
 1551 ~~1974, are not affected by this article.~~

1552 ~~(c) All administrative proceedings pending under prior laws which were superseded by this~~  
 1553 ~~article shall be continued and brought to a final determination in accord with the laws and~~  
 1554 ~~rules in effect prior to July 1, 1974. Any substance controlled under prior law which is not~~  
 1555 ~~listed within Schedules I through V is automatically controlled without further proceedings~~  
 1556 ~~and shall be listed in the appropriate schedule.~~

1557 ~~(d) This article applies to violations of law, seizures, forfeitures, injunctive proceedings,~~  
 1558 ~~administrative proceedings, and investigations occurring after July 1, 1974."~~

1559 **SECTION 2-24.**

1560 Said title is further amended by revising Code Section 16-13-58, relating to funds for  
 1561 development and maintenance of program, as follows:

1562 "16-13-58.

1563 (a) The agency shall be authorized to apply for available grants and may accept any gifts,  
 1564 grants, donations, and other funds, ~~including funds from the disposition of forfeited~~  
 1565 ~~property~~, to assist in developing and maintaining the program established pursuant to Code  
 1566 Section 16-13-57; provided, however, that neither the board, agency, nor any other state  
 1567 entity shall accept a grant that requires as a condition of the grant any sharing of  
 1568 information that is inconsistent with this part.

1569 (b) The agency shall be authorized to grant funds to dispensers for the purpose of covering  
 1570 costs for dedicated equipment and software for dispensers to use in complying with the  
 1571 reporting requirements of Code Section 16-13-59. Such grants to dispensers shall be  
 1572 funded by gifts, grants, donations, or other funds, ~~including funds from the disposition of~~  
 1573 ~~forfeited property~~, received by the agency for the operation of the program established  
 1574 pursuant to Code Section 16-13-57. The agency shall be authorized to establish standards  
 1575 and specifications for any equipment and software purchased pursuant to a grant received  
 1576 by a dispenser pursuant to this Code section. Nothing in this part shall be construed to  
 1577 require a dispenser to incur costs to purchase equipment or software to comply with this  
 1578 part.

1579 (c) Nothing in this part shall be construed to require any appropriation of state funds."

**SECTION 2-25.**

1580  
 1581 Said title is further amended by revising Chapter 14, the "Georgia RICO (Racketeer  
 1582 Influenced and Corrupt Organizations) Act," as follows:

**"CHAPTER 14**

1583  
 1584 16-14-1.

1585 This chapter shall be known and may be cited as the 'Georgia RICO (Racketeer Influenced  
 1586 and Corrupt Organizations) Act.'

1587 16-14-2.

1588 (a) The General Assembly finds that a severe problem is posed in this state by the  
 1589 increasing sophistication of various criminal elements and the increasing extent to which  
 1590 the state and its citizens are harmed as a result of the activities of these elements.

1591 (b) The General Assembly declares that the intent of this chapter is to impose sanctions  
 1592 against those who violate this chapter and to provide compensation to persons injured or  
 1593 aggrieved by such violations. It is not the intent of the General Assembly that isolated  
 1594 incidents of misdemeanor conduct or acts of civil disobedience be prosecuted under this  
 1595 chapter. It is the intent of the General Assembly, however, that this chapter apply to an  
 1596 interrelated pattern of criminal activity motivated by or the effect of which is pecuniary  
 1597 gain or economic or physical threat or injury. This chapter shall be liberally construed to  
 1598 effectuate the remedial purposes embodied in its operative provisions.

1599 16-14-3.

1600 As used in this chapter, the term:

1601 ~~(1) 'Alien corporation' means a corporation organized under laws other than the laws of~~  
 1602 ~~the United States or the laws of any state of the United States.~~

1603 ~~(2)(A) 'Beneficial interest' means either of the following:~~

1604 ~~(i) The interest of a person as a beneficiary under any other trust arrangement~~  
 1605 ~~pursuant to which a trustee holds legal or record title to real property for the benefit~~  
 1606 ~~of such person; or~~

1607 ~~(ii) The interest of a person under any other form of express fiduciary arrangement~~  
 1608 ~~pursuant to which any other person holds legal or record title to real property for the~~  
 1609 ~~benefit of such person.~~

1610 ~~(B) 'Beneficial interest' does not include the interest of a stockholder in a corporation~~  
 1611 ~~or the interest of a partner in either a general partnership or limited partnership. A~~

1612 ~~beneficial interest shall be deemed to be located where the real property owned by the~~  
 1613 ~~trustee is located.~~

1614 ~~(3) 'Civil proceeding' means any civil proceeding commenced by an investigative agency~~  
 1615 ~~under any provision of this chapter.~~

1616 (1) 'Civil forfeiture proceeding' shall have the same meaning as set forth in Code Section  
 1617 9-16-2.

1618 ~~(4)(2) 'Criminal proceeding' means any criminal proceeding commenced by an~~  
 1619 ~~investigative agency the Department of Law or the office of any district attorney under~~  
 1620 ~~any provision of this chapter.~~

1621 ~~(5) 'Documentary material' means any book, paper, document, writing, drawing, graph,~~  
 1622 ~~chart, photograph, phonorecord, magnetic tape, computer printout, other data compilation~~  
 1623 ~~from which information can be obtained or from which information can be translated into~~  
 1624 ~~usable form, or other tangible item.~~

1625 ~~(6)(3) 'Enterprise' means any person, sole proprietorship, partnership, corporation,~~  
 1626 ~~business trust, union chartered under the laws of this state, or other legal entity; or any~~  
 1627 ~~unchartered union, association, or group of individuals associated in fact although not a~~  
 1628 ~~legal entity; and it includes illicit as well as licit enterprises and governmental as well as~~  
 1629 ~~other entities.~~

1630 ~~(7) 'Investigative agency' means the Department of Law or the office of any district~~  
 1631 ~~attorney.~~

1632 ~~(8)(4) 'Pattern of racketeering activity' means:~~

1633 (A) Engaging in at least two acts of racketeering activity in furtherance of one or more  
 1634 incidents, schemes, or transactions that have the same or similar intents, results,  
 1635 accomplices, victims, or methods of commission or otherwise are interrelated by  
 1636 distinguishing characteristics and are not isolated incidents, provided at least one of  
 1637 such acts occurred after July 1, 1980, and that the last of such acts occurred within four  
 1638 years, excluding any periods of imprisonment, after the commission of a prior act of  
 1639 racketeering activity; or

1640 (B) Engaging in any one or more acts of domestic terrorism as described in subsection  
 1641 (a) of Code Section 16-4-10 or any criminal attempt, criminal solicitation, or criminal  
 1642 conspiracy related thereto.

1643 ~~(9)(5)(A) 'Racketeering activity' means to commit, to attempt to commit, or to solicit,~~  
 1644 ~~coerce, or intimidate another person to commit any crime which is chargeable by~~  
 1645 ~~indictment under the ~~following~~ laws of this state involving:~~

1646 (i) Unlawful distillation, manufacture, and transportation of alcoholic beverages in  
 1647 violation of Code Section 3-3-27;

- 1648 (ii) Records and reports of currency transactions in violation of Article 11 of Chapter  
1649 1 of Title 7;
- 1650 (iii) The 'Georgia Uniform Securities Act of 2008' in violation of Chapter 5 of Title  
1651 10;
- 1652 (iv) Homicide in violation of Article 1 of Chapter 5 of this title;
- 1653 (v) Assault and battery in violation of Article 2 of Chapter 5 of this title;
- 1654 (vi) Kidnapping, false imprisonment, and related offenses in violation of Article 3 of  
1655 Chapter 5 of this title;
- 1656 (vii) Prostitution, keeping a place of prostitution, pimping, pandering, and pandering  
1657 by compulsion in violation of Code Sections 16-6-9 through 16-6-12 and 16-6-14;
- 1658 (viii) Burglary in violation of Code Section 16-7-1;
- 1659 (ix) Smash and grab burglary in violation of Code Section 16-7-2;
- 1660 (x) Arson and explosives in violation of Article 3 of Chapter 7 of this title;
- 1661 (xi) Bombs, explosives, and chemical and biological weapons in violation of Article  
1662 4 of Chapter 7 of this title;
- 1663 (xii) Theft in violation of Article 1 of Chapter 8 of this title;
- 1664 (xiii) Robbery in violation of Article 2 of Chapter 8 of this title;
- 1665 (xiv) Criminal reproduction and sale of recorded material in violation of Article 3 of  
1666 Chapter 8 of this title;
- 1667 (xv) The 'Georgia Residential Mortgage Fraud Act' in violation of Article 5 of  
1668 Chapter 8 of this title;
- 1669 (xvi) Forgery in any degree in violation of Code Section 16-9-1;
- 1670 (xvii) Illegal use of financial transaction cards in violation of Code Sections 16-9-31,  
1671 16-9-32, 16-9-33, and 16-9-34;
- 1672 (xviii) Use of an article with an altered identification mark in violation of Code  
1673 Section 16-9-70;
- 1674 (xix) The 'Georgia Computer Systems Protection Act' in violation of Article 6 of  
1675 Chapter 9 of this title;
- 1676 (xx) Identity fraud in violation of Article 8 of Chapter 9 of this title;
- 1677 (xxi) Bribery in violation of Code Section 16-10-2;
- 1678 (xxii) False statements and writings or false lien statements against public officers  
1679 or public employees in violation of Code Section 16-10-20 or 16-10-20.1;
- 1680 (xxiii) Impersonating a public officer or employee in violation of Code Section  
1681 16-10-23;
- 1682 (xxiv) Attempted murder or threatening of witnesses in official proceedings in  
1683 violation of Code Section 16-10-32;



- 1684 (xxv) Perjury and other related offenses in violation of Article 4 of Chapter 10 of this  
 1685 title;
- 1686 (xxvi) Embracery in violation of Code Section 16-10-91;
- 1687 (xxvii) Influencing witnesses in violation of Code Section 16-10-93;
- 1688 (xxviii) Tampering with evidence in violation of Code Section 16-10-94;
- 1689 (xxix) Intimidation or injury of grand or trial juror or court officer in violation of  
 1690 Code Section 16-10-97;
- 1691 (xxx) Terroristic threats and acts in violation of Code Section 16-11-37;
- 1692 (xxxi) The 'Georgia Firearms and Weapons Act' in violation of Part 2 of Article 4 of  
 1693 Chapter 11 of this title;
- 1694 (xxxii) Commercial gambling in violation of Code Section 16-12-22;
- 1695 (xxxiii) Distributing obscene materials in violation of Code Section 16-12-80;
- 1696 (xxxiv) The 'Georgia Controlled Substances Act' in violation of Article 2 of Chapter  
 1697 13 of this title;
- 1698 (xxxv) The 'Dangerous Drug Act' in violation of Article 3 of Chapter 13 of this title;
- 1699 (xxxvi) Marijuana in violation of subsection (j) of Code Section 16-13-30;
- 1700 (xxxvii) Payday loans in violation of Chapter 17 of this title;
- 1701 (xxxviii) Insurance fraud in violation of Code Section 33-1-9;
- 1702 (xxxix) Certain felonies involving certificates of title, security interest, or liens in  
 1703 violation of Code Section 40-3-90;
- 1704 (xl) Removal or falsification of identification numbers in violation of Code Section  
 1705 40-4-21; or
- 1706 (xli) Possession of motor vehicle parts from which the identification has been  
 1707 removed in violation of Code Section 40-4-22.
- 1708 ~~(i) Article 2 of Chapter 13 of this title, relating to controlled substances;~~
- 1709 ~~(ii) Article 3 of Chapter 13 of this title, known as the 'Dangerous Drugs Act';~~
- 1710 ~~(iii) Subsection (j) of Code Section 16-13-30, relating to marijuana;~~
- 1711 ~~(iv) Article 1 of Chapter 5 of this title, relating to homicide;~~
- 1712 ~~(v) Article 2 of Chapter 5 of this title, relating to bodily injury and related offenses;~~
- 1713 ~~(vi) Articles 3 and 4 of Chapter 7 of this title, relating to arson and destructive~~  
 1714 ~~devices, respectively;~~
- 1715 ~~(vii) Code Section 16-7-1, relating to burglary, or Code Section 16-7-2, relating to~~  
 1716 ~~smash and grab burglary;~~
- 1717 ~~(viii) Code Section 16-9-1, relating to forgery in any degree;~~
- 1718 ~~(ix) Article 1 of Chapter 8 of this title, relating to theft;~~
- 1719 ~~(x) Article 2 of Chapter 8 of this title, relating to robbery;~~

- 1720 ~~(xi) Code Sections 16-6-9 through 16-6-12 and 16-6-14, relating to prostitution and~~  
 1721 ~~pandering;~~
- 1722 ~~(xii) Code Section 16-12-80, relating to distributing obscene materials;~~
- 1723 ~~(xiii) Code Section 16-10-2, relating to bribery;~~
- 1724 ~~(xiv) Code Section 16-10-93, relating to influencing witnesses;~~
- 1725 ~~(xv) Article 4 of Chapter 10 of this title and Code Sections 16-10-20, 16-10-20.1,~~  
 1726 ~~16-10-23, and 16-10-91, relating to perjury and other falsifications;~~
- 1727 ~~(xvi) Code Section 16-10-94, relating to tampering with evidence;~~
- 1728 ~~(xvii) Code Section 16-12-22, relating to commercial gambling;~~
- 1729 ~~(xviii) Code Section 3-3-27, relating to distilling or making liquors;~~
- 1730 ~~(xix) Part 2 of Article 4 of Chapter 11 of this title, known as the 'Georgia Firearms~~  
 1731 ~~and Weapons Act';~~
- 1732 ~~(xx) Code Section 16-8-60, relating to unauthorized transfers and reproductions of~~  
 1733 ~~recorded material;~~
- 1734 ~~(xxi) Chapter 5 of Title 10, relating to violations of the 'Georgia Uniform Securities~~  
 1735 ~~Act of 2008';~~
- 1736 ~~(xxii) Code Section 3-3-27, relating to the unlawful distillation, manufacture, and~~  
 1737 ~~transportation of alcoholic beverages;~~
- 1738 ~~(xxiii) Code Sections 16-9-31, 16-9-32, 16-9-33, and 16-9-34, relating to the~~  
 1739 ~~unlawful use of financial transaction cards;~~
- 1740 ~~(xxiv) Code Section 40-3-90, relating to certain felonies involving certificates of title,~~  
 1741 ~~security interest, or liens concerning motor vehicles;~~
- 1742 ~~(xxv) Code Section 40-4-21, relating to removal or falsification of identification~~  
 1743 ~~numbers;~~
- 1744 ~~(xxvi) Code Section 40-4-22, relating to possession of motor vehicle parts from~~  
 1745 ~~which the identification has been removed;~~
- 1746 ~~(xxvii) Code Section 16-9-70, relating to use of an article with an altered~~  
 1747 ~~identification mark;~~
- 1748 ~~(xxviii) Article 6 of Chapter 9 of this title, known as the 'Georgia Computer Systems~~  
 1749 ~~Protection Act';~~
- 1750 ~~(xxix) Any conduct defined as 'racketeering activity' under 18 U.S.C. Section 1961~~  
 1751 ~~(1)(A), (B), (C), and (D);~~
- 1752 ~~(xxx) Article 3 of Chapter 5 of this title, relating to kidnapping, false imprisonment,~~  
 1753 ~~and related offenses, except for Code Section 16-5-44, relating to aircraft hijacking;~~
- 1754 ~~(xxxi) Code Section 16-11-37, relating to terroristic threats and acts;~~
- 1755 ~~(xxxii) Code Section 16-5-44.1, relating to motor vehicle hijacking;~~

1756 ~~(xxxiii) Code Section 16-10-32, relating to tampering with witnesses, victims, or~~  
 1757 ~~informants;~~  
 1758 ~~(xxxiv) Code Section 16-10-97, relating to intimidation of grand or trial juror or court~~  
 1759 ~~officer;~~  
 1760 ~~(xxxv) Article 11 of Chapter 1 of Title 7 and Sections 5311 through 5330 of Title 31~~  
 1761 ~~of the United States Code relating to records and reports of currency transactions;~~  
 1762 ~~(xxxvi) Article 8 of Chapter 9 of this title, relating to identity fraud, and Section 1028~~  
 1763 ~~of Title 18 of the United States Code, relating to fraudulent identification documents~~  
 1764 ~~and information;~~  
 1765 ~~(xxxvii) Code Section 33-1-9, relating to insurance fraud;~~  
 1766 ~~(xxxviii) Code Section 16-17-2, relating to payday loans;~~  
 1767 ~~(xxxix) Code Section 16-9-101, relating to deceptive commercial e-mail;~~  
 1768 ~~(xl) Code Section 16-8-102, relating to residential mortgage fraud; or~~  
 1769 ~~(xli) Code Section 16-5-5, relating to assisted suicide.~~  
 1770 (B) 'Racketeering activity' shall also mean any act or threat involving murder,  
 1771 kidnapping, gambling, arson, robbery, theft, receipt of stolen property, bribery,  
 1772 extortion, obstruction of justice, dealing in narcotic or dangerous drugs, or dealing in  
 1773 securities which is chargeable under the laws of the United States or, any territory of  
 1774 the ~~several states~~ United States, or any state and which is punishable by imprisonment  
 1775 for more than one year.  
 1776 (C) 'Racketeering activity' shall also mean any conduct defined as 'racketeering  
 1777 activity' under 18 U.S.C. Section 1961 (1), any violation of 18 U.S.C. Section 1028, or  
 1778 any violation of 31 U.S.C. Sections 5311 through 5330.  
 1779 ~~(10)(6)~~ 'Real property' means any real property situated in this state or any interest in  
 1780 such real property, including, but not limited to, any lease of or mortgage upon such real  
 1781 property.  
 1782 ~~(11) 'RICO lien notice' means the notice described in Code Section 16-14-13.~~  
 1783 ~~(12)(A) 'Trustee' means either of the following:~~  
 1784 ~~(i) Any person who holds legal or record title to real property for which any other~~  
 1785 ~~person has a beneficial interest; or~~  
 1786 ~~(ii) Any successor trustee or trustees to any of the foregoing persons.~~  
 1787 ~~(B) 'Trustee' does not include the following:~~  
 1788 ~~(i) Any person appointed or acting as a guardian or conservator under Title 29,~~  
 1789 ~~relating to guardian and ward, or personal representative under former Chapter 6 of~~  
 1790 ~~Title 53 as such existed on December 31, 1997, relating to the administration of~~  
 1791 ~~estates, if applicable, or Chapter 6 of Title 53 and other provisions in Chapter 1~~

1792 ~~through 11 of Title 53, the 'Revised Probate Code of 1998,' relating to the~~  
 1793 ~~administration of estates; or~~  
 1794 ~~(ii) Any person appointed or acting as a trustee of any testamentary trust or as trustee~~  
 1795 ~~of any indenture of trust under which any bonds are or are to be issued.~~

1796 16-14-4.

1797 (a) It is shall be unlawful for any person, through a pattern of racketeering activity or  
 1798 proceeds derived therefrom, to acquire or maintain, directly or indirectly, any interest in  
 1799 or control of any enterprise, real property, or personal property of any nature, including  
 1800 money.

1801 (b) It is shall be unlawful for any person employed by or associated with any enterprise  
 1802 to conduct or participate in, directly or indirectly, such enterprise through a pattern of  
 1803 racketeering activity.

1804 (c) It is shall be unlawful for any person to conspire or endeavor to violate any of the  
 1805 provisions of subsection (a) or (b) of this Code section. A person violates this subsection  
 1806 when:

1807 (1) He or she together with one or more persons conspires to violate any of the  
 1808 provisions of subsection (a) or (b) of this Code section and any one or more of such  
 1809 persons commits any overt act to effect the object of the conspiracy; or

1810 (2) He or she endeavors to violate any of the provisions of subsection (a) or (b) of this  
 1811 Code section and commits any overt act to effect the object of the endeavor.

1812 16-14-5.

1813 (a) Any person convicted of the offense of engaging in activity in violation of Code  
 1814 Section 16-14-4 is shall be guilty of a felony and shall be punished by not less than five nor  
 1815 more than 20 years' imprisonment or the fine specified in subsection (b) of this Code  
 1816 section, or both.

1817 (b) In lieu of any fine otherwise authorized by law, any person convicted of the offense of  
 1818 engaging in conduct in violation of Code Section 16-14-4 may be sentenced to pay a fine  
 1819 that does not exceed the greater of \$25,000.00 or three times the amount of any pecuniary  
 1820 value gained by him or her from such violation.

1821 (c) The court shall hold a hearing to determine the amount of the fine authorized by  
 1822 subsection (b) of this Code section.

1823 (d) For the purposes of subsection (b) of this Code section, the term 'pecuniary value'  
 1824 means:

1825 (1) Anything of value in the form of money, a negotiable instrument, a commercial  
 1826 interest, or anything else, the primary significance of which is economic advantage; or

1827 (2) Any other property or service that has a value in excess of \$100.00.

1828 16-14-6.

1829 (a) Any superior court may, after making due provisions for the rights of innocent persons,  
1830 enjoin violations of Code Section 16-14-4 by issuing appropriate orders and judgments,  
1831 including, but not limited to:

1832 (1) Ordering any defendant to divest himself or herself of any interest in any enterprise,  
1833 real property, or personal property;

1834 (2) Imposing reasonable restrictions upon the future activities or investments of any  
1835 defendant, including, but not limited to, prohibiting any defendant from engaging in the  
1836 same type of endeavor as the enterprise in which he or she was engaged in violation of  
1837 Code Section 16-14-4;

1838 (3) Ordering the dissolution or reorganization of any enterprise;

1839 (4) Ordering the suspension or revocation of any license, permit, or prior approval  
1840 granted to any enterprise by any agency of the state; or

1841 (5) Ordering the forfeiture of the charter of a corporation organized under the laws of this  
1842 state or the revocation of a certificate authorizing a foreign corporation to conduct  
1843 business within this state upon a finding that the board of directors or a managerial agent  
1844 acting on behalf of the corporation, in conducting affairs of the corporation, has  
1845 authorized or engaged in conduct in violation of Code Section 16-14-4 and that, for the  
1846 prevention of future criminal activity, the public interest requires that the charter of the  
1847 corporation be forfeited and that the corporation be dissolved or the certificate be  
1848 revoked.

1849 (b) Any aggrieved person or the state may institute a proceeding civil action under  
1850 subsection (a) of this Code section. In such proceeding civil action, relief shall be granted  
1851 in conformity with the principles that govern the granting of injunctive relief from  
1852 threatened loss or damage in other civil cases, provided that no showing of special or  
1853 irreparable damage to the person shall have to be made. Upon the execution of proper  
1854 bond against damages for an injunction improvidently granted and a showing of immediate  
1855 danger of significant loss or damage, a temporary restraining order and a preliminary  
1856 injunction may be issued in any such action before a final determination on the merits.

1857 (c) Any person who is injured by reason of any violation of Code Section 16-14-4 shall  
1858 have a cause of action for three times the actual damages sustained and, where appropriate,  
1859 punitive damages. Such person shall also recover ~~attorneys'~~ attorney's fees in the trial and  
1860 appellate courts and costs of investigation and litigation reasonably incurred. The  
1861 defendant or any injured person may demand a trial by jury in any civil action brought  
1862 pursuant to this Code section.

1863 (d) Any injured person shall have a right or claim to forfeited property or to the proceeds  
 1864 derived therefrom ~~superior to any right or claim the state or the county (other than for~~  
 1865 ~~costs) has in the same property or proceeds. To enforce such a claim, the injured person~~  
 1866 ~~must intervene in the forfeiture proceeding prior to its final disposition as set forth in Code~~  
 1867 Section 9-16-16.

1868 (e) A conviction in any criminal proceeding ~~under this chapter~~ shall estop the defendant  
 1869 in any subsequent civil action or civil forfeiture proceeding under this chapter as to all  
 1870 matters proved in the criminal proceeding.

1871 16-14-7.

1872 (a) All property of every kind used or intended for use in the course of, derived from, or  
 1873 realized through a pattern of racketeering activity is shall be subject to forfeiture to the  
 1874 state. ~~Forfeiture shall be had by a civil procedure known as a RICO forfeiture proceeding~~  
 1875 ~~under the following rules. The Attorney General shall be specifically authorized to~~  
 1876 commence any civil forfeiture proceeding under this chapter in matters arising under Code  
 1877 Section 45-15-10.

1878 (b) Any property subject to forfeiture pursuant to subsection (a) of this Code section and  
 1879 any proceeds are declared to be contraband and no person shall have a property right in  
 1880 them and shall be forfeited in accordance with the procedure set forth in Chapter 16 of Title  
 1881 9. A RICO forfeiture proceeding shall be governed by Chapter 11 of Title 9, the 'Georgia  
 1882 Civil Practice Act,' except to the extent that special rules of procedure are stated in this  
 1883 chapter.

1884 (c) ~~A RICO forfeiture proceeding shall be an in rem proceeding against the property.~~

1885 (d) ~~A RICO forfeiture proceeding shall be instituted by complaint and prosecuted by the~~  
 1886 ~~district attorney of the county in which the property is located or seized. The proceeding~~  
 1887 ~~may be commenced before or after seizure of the property.~~

1888 (e) ~~If the complaint is filed before seizure, it shall state what property is sought to be~~  
 1889 ~~forfeited, that the property is within the jurisdiction of the court, the grounds for forfeiture,~~  
 1890 ~~and the names of all persons known to have or claim an interest in the property. The court~~  
 1891 ~~shall determine ex parte whether there is reasonable cause to believe that the property is~~  
 1892 ~~subject to forfeiture and that notice to those persons having or claiming an interest in the~~  
 1893 ~~property prior to seizure would cause the loss or destruction of the property. If the court~~  
 1894 ~~finds that reasonable cause does not exist to believe the property is subject to forfeiture, it~~  
 1895 ~~shall dismiss the complaint. If the court finds that reasonable cause does exist to believe~~  
 1896 ~~the property is subject to forfeiture but there is not reasonable cause to believe that prior~~  
 1897 ~~notice would result in loss or destruction, it shall order service on all persons known to~~  
 1898 ~~have or claim an interest in the property prior to a further hearing on whether a writ of~~

1899 ~~seizure should issue. If the court finds that there is reasonable cause to believe that the~~  
1900 ~~property is subject to forfeiture and to believe that prior notice would cause loss or~~  
1901 ~~destruction, it shall without any further hearing or notice issue a writ of seizure directing~~  
1902 ~~the sheriff of the county where the property is found to seize it.~~

1903 ~~(f) Seizure may be effected by a law enforcement officer authorized to enforce the penal~~  
1904 ~~laws of this state prior to the filing of the complaint and without a writ of seizure if the~~  
1905 ~~seizure is incident to a lawful arrest, search, or inspection and the officer has probable~~  
1906 ~~cause to believe the property is subject to forfeiture and will be lost or destroyed if not~~  
1907 ~~seized. Within ten days of the date of seizure, the seizure shall be reported by the officer~~  
1908 ~~to the district attorney of the circuit in which the seizure is effected; and the district~~  
1909 ~~attorney shall, within a reasonable time after receiving notice of seizure, file a complaint~~  
1910 ~~for forfeiture. The complaint shall state, in addition to the information required in~~  
1911 ~~subsection (e) of this Code section, the date and place of seizure.~~

1912 ~~(g) After the complaint is filed or the seizure effected, whichever is later, every person~~  
1913 ~~known to have or claim an interest in the property shall be served, if not previously served,~~  
1914 ~~with a copy of the complaint and a notice of seizure in the manner provided by Chapter 11~~  
1915 ~~of Title 9, the 'Georgia Civil Practice Act.' Service by publication may be ordered upon any~~  
1916 ~~party whose whereabouts cannot be determined.~~

1917 ~~(h)(1) Any person claiming an interest in the property may become a party to the action~~  
1918 ~~at any time prior to judgment whether named in the complaint or not. Any party claiming~~  
1919 ~~a substantial interest in the property may upon motion be allowed by the court to take~~  
1920 ~~possession of the property upon posting bond with good and sufficient security in double~~  
1921 ~~the amount of the property's value conditioned to pay the value of any interest in the~~  
1922 ~~property found to be subject to forfeiture or the value of any interest of another not~~  
1923 ~~subject to forfeiture. Such a party taking possession shall not remove the property from~~  
1924 ~~the territorial jurisdiction of the court without written permission from the court.~~

1925 ~~(2) The court may, upon such terms and conditions as prescribed by it, order that the~~  
1926 ~~property be sold by an innocent party who holds a lien on or security interest in the~~  
1927 ~~property at any time during the proceedings. Any proceeds from such sale over and~~  
1928 ~~above the amount necessary to satisfy the lien or security interest shall be paid into court~~  
1929 ~~pending final judgment in the forfeiture proceeding. No such sale shall be ordered,~~  
1930 ~~however, unless the obligation upon which the lien or security interest is based is in~~  
1931 ~~default.~~

1932 ~~(3) Pending final judgment in the forfeiture proceeding, the court may make any other~~  
1933 ~~disposition of the property which is in the interest of substantial justice.~~

1934 ~~(i) After service of process, all further proceedings shall be as provided in Chapter 11 of~~  
1935 ~~Title 9, the 'Georgia Civil Practice Act,' except that any party may bring one motion to~~

1936 ~~dismiss at any time and such motion shall be heard and ruled on within ten days. Any party~~  
 1937 ~~may demand a jury trial.~~

1938 ~~(j) The interest of an innocent party in the property shall not be subject to forfeiture. An~~  
 1939 ~~innocent party is one who did not have actual or constructive knowledge that the property~~  
 1940 ~~was subject to forfeiture.~~

1941 ~~(k) Subject to the requirement of protecting the interest of all innocent parties, the court~~  
 1942 ~~may, after judgment of forfeiture, make any of the following orders for disposition of the~~  
 1943 ~~property:~~

1944 ~~(1) Destruction of contraband, the possession of which is illegal;~~  
 1945 ~~(2) Retention for official use by any agency of this state or any political subdivision~~  
 1946 ~~thereof. When such agency or political subdivision no longer has use for such property,~~  
 1947 ~~it shall be disposed of by judicial sale;~~

1948 ~~(3) Transfer to the Division of Archives and History of property useful for historical or~~  
 1949 ~~instructional purposes;~~

1950 ~~(4) Retention of the property by any innocent party having an interest therein, upon~~  
 1951 ~~payment or approval of a plan for payment into court of the value of any forfeited interest~~  
 1952 ~~in the property. The plan may include, in the case of an innocent party who holds a lien~~  
 1953 ~~on or security interest in the property, the sale of the property by the innocent party under~~  
 1954 ~~such terms and conditions as may be prescribed by the court and the payment into court~~  
 1955 ~~of any proceeds from such sale over and above the amount necessary to satisfy the lien~~  
 1956 ~~or security interest;~~

1957 ~~(5) Judicial sale of the property;~~

1958 ~~(6) Transfer of the property to any innocent party having an interest therein equal to or~~  
 1959 ~~greater than the value of the property; or~~

1960 ~~(7) Any other disposition of the property which is in the interest of substantial justice and~~  
 1961 ~~adequately protects innocent parties.~~

1962 ~~(l) The net proceeds of any sale or disposition after satisfaction of the interest of any~~  
 1963 ~~innocent party, less the greater of one-half thereof or the costs borne by the county in~~  
 1964 ~~bringing the forfeiture action, shall be paid into the general fund of the state treasury. The~~  
 1965 ~~costs borne by the county or one-half of the net proceeds of sale or disposition, whichever~~  
 1966 ~~is greater, shall be paid into the treasury of the county where the forfeiture action is~~  
 1967 ~~brought. Notwithstanding any other provision in this Code section, the court may, after~~  
 1968 ~~satisfaction of the interest of any innocent party, make any other division of the proceeds~~  
 1969 ~~among the state, county, or municipalities or agencies of the state, county, or~~  
 1970 ~~municipalities, which is commensurate with the proportion of the assistance that each~~  
 1971 ~~contributed to the underlying criminal action, forfeiture, or criminal action and forfeiture.~~



1972 ~~(m) In lieu of the provisions of subsections (c) through (g) of this Code section, the state~~  
 1973 ~~may bring an in personam action for the forfeiture of any property subject to forfeiture~~  
 1974 ~~under subsection (a) of this Code section.~~

1975 ~~(n)(1) Upon the entry of a final judgment of forfeiture in favor of the state, the title of the~~  
 1976 ~~state to the forfeited property shall:~~

1977 ~~(A) In the case of real property or beneficial interest, relate back to the date of filing~~  
 1978 ~~of the RICO lien notice in the official records of the county where the real property or~~  
 1979 ~~beneficial trust is located and, if no RICO lien notice is filed, then to the date of the~~  
 1980 ~~filing of any notice of lis pendens under Article 9 of Chapter 14 of Title 44 in the~~  
 1981 ~~official records of the county where the real property or beneficial interest is located~~  
 1982 ~~and, if no RICO lien notice or notice of lis pendens is so filed, then to the date of~~  
 1983 ~~recording of the final judgment of forfeiture in the official records of the county where~~  
 1984 ~~the real property or beneficial interest is located; and~~

1985 ~~(B) In the case of personal property, relate back to the date the personal property was~~  
 1986 ~~seized by the investigating agency.~~

1987 ~~(2) If property subject to forfeiture is conveyed, alienated, disposed of, or otherwise~~  
 1988 ~~rendered unavailable for forfeiture after the filing of a RICO lien notice or after the filing~~  
 1989 ~~of a civil proceeding or criminal proceeding, whichever is earlier, the investigative~~  
 1990 ~~agency may, on behalf of the state, institute an action in the appropriate superior court~~  
 1991 ~~against the person named in the RICO lien notice or the defendant in the civil proceeding~~  
 1992 ~~or criminal proceeding; and the court shall enter final judgment against the person named~~  
 1993 ~~in the RICO lien notice or the defendant in the civil proceeding or criminal proceeding~~  
 1994 ~~in an amount equal to the fair market value of the property, together with investigative~~  
 1995 ~~costs and attorney's fees incurred by the investigative agency in the action. If a civil~~  
 1996 ~~proceeding is pending, such action shall be filed only in the court where such civil~~  
 1997 ~~proceeding is pending.~~

1998 16-14-8.

1999 Notwithstanding any other provision of law setting forth a statute of limitations, a criminal  
 2000 proceeding or civil action or proceeding under this chapter may brought pursuant to Code  
 2001 Section 16-14-6 shall be commenced up until five years after the conduct in violation of  
 2002 a provision of this chapter terminates ~~or the cause of action accrues~~. If a criminal  
 2003 prosecution proceeding or civil action forfeiture proceeding is brought by the state to  
 2004 punish or prevent any violation of pursuant to this chapter, then the running of this period  
 2005 of limitations, with respect to any cause of action arising under subsection (b) or (c) of  
 2006 Code Section 16-14-6 which is based upon any matter complained of in such prosecution  
 2007 criminal proceeding or action civil forfeiture proceeding by the state, shall be suspended

2008 during the pendency of the ~~prosecution~~ criminal proceeding or ~~action~~ civil forfeiture  
 2009 proceeding by the state and for two years thereafter.

2010 16-14-9.

2011 The application of one civil remedy under this chapter shall not preclude the application  
 2012 of any other remedy, civil or criminal, under this chapter or any other provision of law.  
 2013 Civil remedies under this chapter are supplemental and not mutually exclusive.

2014 16-14-10.

2015 (a) ~~A Notwithstanding any other provision of law,~~ a valid judgment rendered by a court  
 2016 of a jurisdiction having a law substantially similar to this chapter ~~will~~ shall be recognized  
 2017 and enforced by the courts of this state to the extent that a judgment rendered by a court of  
 2018 this state pursuant to this chapter would be enforced in such other jurisdiction.

2019 (b) The Attorney General ~~is~~ shall be authorized to enter into reciprocal agreements with  
 2020 the attorney general or chief prosecuting attorney of any jurisdiction having a law  
 2021 substantially similar to this chapter so as to further the purposes of this chapter.

2022 16-14-11.

2023 In any criminal proceeding ~~brought pursuant to this chapter,~~ the crime shall be considered  
 2024 to have been committed in any county in which an incident of racketeering occurred or in  
 2025 which an interest or control of an enterprise or real or personal property is acquired or  
 2026 maintained.

2027 16-14-12.

2028 ~~The~~ This state may, in any civil action or civil forfeiture proceeding brought pursuant to  
 2029 this chapter, file with the clerk of the ~~superior~~ court a certificate stating that the case is of  
 2030 special public importance. A copy of ~~that~~ such certificate shall be furnished immediately  
 2031 by such clerk to the chief judge or, in his or her absence, the presiding chief judge of the  
 2032 ~~superior~~ court in which such civil action or civil forfeiture proceeding is pending; and,  
 2033 upon receipt of such ~~copy~~ certificate, the judge shall immediately designate a judge to hear  
 2034 and determine ~~the~~ such civil action or civil forfeiture proceeding. The judge so designated  
 2035 shall promptly assign such civil action or civil forfeiture proceeding for hearing, participate  
 2036 in the hearings and determination, and cause ~~the~~ such civil action or civil forfeiture  
 2037 proceeding to be expedited.

2038 ~~16-14-13.~~

2039 ~~(a) Upon the institution of any civil proceeding, the investigative agency then or at any~~  
 2040 ~~time during the pendency of the proceeding may file in the official records of any one or~~  
 2041 ~~more counties a RICO lien notice. No filing fee or other charge shall be required as a~~  
 2042 ~~condition for filing the RICO lien notice, and the clerk of the superior court shall, upon the~~  
 2043 ~~presentation of a RICO lien notice, immediately record it in the official records.~~

2044 ~~(b) The RICO lien notice shall be signed by the Attorney General or his designee or by a~~  
 2045 ~~district attorney or his designee. The notice shall be in such form as the Attorney General~~  
 2046 ~~prescribes and shall set forth the following information:~~

2047 ~~(1) The name of the person against whom the civil proceeding has been brought. In its~~  
 2048 ~~discretion, the investigative agency may also name in the RICO lien notice any other~~  
 2049 ~~aliases, names, or fictitious names under which the person may be known. In its~~  
 2050 ~~discretion, the investigative agency may also name in the RICO lien notice any~~  
 2051 ~~corporation, partnership, or other entity that is either controlled by or entirely owned by~~  
 2052 ~~the person;~~

2053 ~~(2) If known to the investigative agency, the present residence and business addresses~~  
 2054 ~~of the person named in the RICO lien notice and of the other names set forth in the RICO~~  
 2055 ~~lien notice;~~

2056 ~~(3) A reference to the civil proceeding stating that a proceeding under this chapter has~~  
 2057 ~~been brought against the person named in the RICO lien notice, the name of the county~~  
 2058 ~~or counties where the proceeding has been brought, and, if known to the investigative~~  
 2059 ~~agency at the time of filing the RICO lien notice, the case number of the proceeding;~~

2060 ~~(4) A statement that the notice is being filed pursuant to this chapter; and~~

2061 ~~(5) The name and address of the investigative agency filing the RICO lien notice and the~~  
 2062 ~~name of the individual signing the RICO lien notice.~~

2063 ~~(c) A RICO lien notice shall apply only to one person and, to the extent applicable, any~~  
 2064 ~~aliases, fictitious names, or other names, including names of corporations, partnerships, or~~  
 2065 ~~other entities, to the extent permitted in paragraph (1) of subsection (b) of this Code~~  
 2066 ~~section. A separate RICO lien notice shall be filed for any other person against whom the~~  
 2067 ~~investigative agency desires to file a RICO lien notice under this Code section.~~

2068 ~~(d) The investigative agency shall, as soon as practicable after the filing of each RICO lien~~  
 2069 ~~notice, furnish to the person named in the notice either a copy of the recorded notice or a~~  
 2070 ~~copy of the notice with a notation thereon of the county or counties in which the notice has~~  
 2071 ~~been recorded. The failure of the investigative agency to so furnish a copy of the notice~~  
 2072 ~~under this subsection shall not invalidate or otherwise affect the notice.~~

2073 ~~(e) The filing of a RICO lien notice creates, from the time of its filing, a lien in favor of~~  
 2074 ~~the state on the following property of the person named in the notice and against any other~~  
 2075 ~~names set forth in the notice:~~

2076 ~~(1) Any real property situated in the county where the notice is filed then or thereafter~~  
 2077 ~~owned by the person or under any of the names; and~~

2078 ~~(2) Any beneficial interest situated in the county where the notice is filed then or~~  
 2079 ~~thereafter owned by the person or under any of the names.~~

2080 ~~(f) The lien shall commence and attach as of the time of filing of the RICO lien notice and~~  
 2081 ~~shall continue thereafter until expiration, termination, or release pursuant to Code Section~~  
 2082 ~~16-14-14. The lien created in favor of the state shall be superior and prior to the interest~~  
 2083 ~~of any other person in the real property or beneficial interest if the interest is acquired~~  
 2084 ~~subsequent to the filing of the notice.~~

2085 ~~(g) In conjunction with any civil proceedings:~~

2086 ~~(1) The investigative agency may file without prior court order in any county a lis~~  
 2087 ~~pendens and, in such case, any person acquiring an interest in the subject real property~~  
 2088 ~~or beneficial interest, if the real property or beneficial interest is acquired subsequent to~~  
 2089 ~~the filing of lis pendens, shall take the interest subject to the civil proceeding and any~~  
 2090 ~~subsequent judgment of forfeiture; and~~

2091 ~~(2) If a RICO lien notice has been filed, the investigative agency may name as~~  
 2092 ~~defendants, in addition to the person named in the notice, any persons acquiring an~~  
 2093 ~~interest in the real property or beneficial interest subsequent to the filing of the notice.~~  
 2094 ~~If a judgment of forfeiture is entered in the proceeding in favor of the state, the interest~~  
 2095 ~~of any person in the property that was acquired subsequent to the filing of the notice shall~~  
 2096 ~~be subject to the notice and judgment of forfeiture.~~

2097 ~~(h)(1) A trustee who acquires actual knowledge that a RICO lien notice or a civil~~  
 2098 ~~proceeding or criminal proceeding has been filed against any person for whom he holds~~  
 2099 ~~legal or record title to real property shall immediately furnish to the investigative agency~~  
 2100 ~~the following:~~

2101 ~~(A) The name and address of the person, as known to the trustee;~~

2102 ~~(B) The name and address, as known to the trustee, of all other persons for whose~~  
 2103 ~~benefit the trustee holds title to the real property; and~~

2104 ~~(C) If requested by the investigative agency, a copy of the trust agreement or other~~  
 2105 ~~instrument pursuant to which the trustee holds legal or record title to the real property.~~

2106 ~~(2) Any trustee who fails to comply with the provisions of this subsection is guilty of a~~  
 2107 ~~misdemeanor.~~

2108 ~~(i) Any trustee who conveys title to real property for which a RICO lien notice has been~~  
 2109 ~~filed at the time of the conveyance in the county where the real property is situated naming~~

2110 a person who, to the actual knowledge of the trustee, holds a beneficial interest in the trust  
 2111 shall be liable to the state for the greater of:

2112 (1) ~~The amount of proceeds received directly by the person named in the RICO lien~~  
 2113 ~~notice as a result of the conveyance;~~

2114 (2) ~~The amount of proceeds received by the trustee as a result of the conveyance and~~  
 2115 ~~distributed to the person named in the RICO lien notice; or~~

2116 (3) ~~The fair market value of the interest of the person named in the RICO lien notice in~~  
 2117 ~~the real property so conveyed; however, if the trustee conveys the real property and holds~~  
 2118 ~~the proceeds that would otherwise be paid or distributed to the beneficiary or at the~~  
 2119 ~~direction of the beneficiary or his designee, the trustee's liability shall not exceed the~~  
 2120 ~~amount of the proceeds so held for so long as the proceeds are held by the trustee.~~

2121 (j) ~~The filing of a RICO lien notice shall not constitute a lien on the record title to real~~  
 2122 ~~property as owned by the trustee except to the extent the trustee is named in the RICO lien~~  
 2123 ~~notice. The investigative agency may bring a civil proceeding in any superior court against~~  
 2124 ~~the trustee to recover from the trustee the amounts set forth in subsection (f), and the state~~  
 2125 ~~shall also be entitled to recover investigative costs and attorney's fees incurred by the~~  
 2126 ~~investigative agency.~~

2127 (k) ~~The filing of a RICO lien notice shall not affect the use to which real property or a~~  
 2128 ~~beneficial interest owned by the person named in the RICO lien notice may be put or the~~  
 2129 ~~right of the person to receive any avails, rents, or other proceeds resulting from the use and~~  
 2130 ~~ownership, but not the sale, of the property until a judgment of forfeiture is entered:~~

2131 (l)(1) ~~The provisions of this Code section shall not apply to any conveyance by a trustee~~  
 2132 ~~pursuant to a court order unless such court order is entered in an action between the~~  
 2133 ~~trustee and the beneficiary.~~

2134 (2) ~~Unless the trustee has actual knowledge that a person owning a beneficial interest in~~  
 2135 ~~the trust is named in a RICO lien notice or is otherwise a defendant in a civil proceeding,~~  
 2136 ~~the provisions of this Code section shall not apply to:~~

2137 (A) ~~Any conveyance by a trustee required under the terms of any trust agreement,~~  
 2138 ~~which trust agreement is a matter of public record prior to the filing of any RICO lien~~  
 2139 ~~notice; or~~

2140 (B) ~~Any conveyance by a trustee to all of the persons who own a beneficial interest in~~  
 2141 ~~the trust.~~

2142 (m) ~~All forfeitures or dispositions under this Code section shall be made with due~~  
 2143 ~~provision for the rights of innocent persons.~~

2144 ~~16-14-14.~~

2145 ~~(a) The term of a RICO lien notice shall be for a period of six years from the date of filing~~  
 2146 ~~unless a renewal RICO lien notice has been filed by the investigative agency, and, in such~~  
 2147 ~~case, the term of the renewal RICO lien notice shall be for a period of six years from the~~  
 2148 ~~date of its filing. The investigative agency shall be entitled to only one renewal of the~~  
 2149 ~~RICO lien notice.~~

2150 ~~(b) The investigative agency filing the RICO lien notice may release in whole or in part~~  
 2151 ~~any RICO lien notice or may release any specific real property or beneficial interest from~~  
 2152 ~~the RICO lien notice upon such terms and conditions as it may determine. Any release of~~  
 2153 ~~a RICO lien notice executed by the investigative agency may be filed in the official records~~  
 2154 ~~of any county. No charge or fee shall be imposed for the filing of any release of a RICO~~  
 2155 ~~lien notice.~~

2156 ~~(c) If no civil proceeding has been instituted by the investigative agency seeking a~~  
 2157 ~~forfeiture of any property owned by the person named in the RICO lien notice, the acquittal~~  
 2158 ~~in the criminal proceeding of the person named in the RICO lien notice or the dismissal of~~  
 2159 ~~the criminal proceeding shall terminate the RICO lien notice; and, in such case, the filing~~  
 2160 ~~of the RICO lien notice shall have no effect. In the event the criminal proceeding has been~~  
 2161 ~~dismissed or the person named in the RICO lien notice has been acquitted in the criminal~~  
 2162 ~~proceeding, the RICO lien notice shall continue for the duration of the civil proceeding.~~

2163 ~~(d) If no civil proceeding is then pending against the person named in a RICO lien notice,~~  
 2164 ~~the person named in a RICO lien notice may institute an action against the investigative~~  
 2165 ~~agency filing the notice in the county where the notice has been filed seeking a release or~~  
 2166 ~~extinguishment of the notice; and, in such case:~~

2167 ~~(1) The court shall, upon the motion of such person, immediately enter an order setting~~  
 2168 ~~a date for hearing, which date shall be not less than five nor more than ten days after the~~  
 2169 ~~action has been filed; and the order, along with a copy of the complaint, shall be served~~  
 2170 ~~on the investigative agency within three days after the institution of the action. At the~~  
 2171 ~~hearing, the court shall take evidence on the issue of whether any real property or~~  
 2172 ~~beneficial interest owned by such person is covered by the RICO lien notice or otherwise~~  
 2173 ~~subject to forfeiture under this chapter; and, if such person shows by the preponderance~~  
 2174 ~~of the evidence that the RICO lien notice is not applicable to him or that any real property~~  
 2175 ~~or beneficial interest owned by him is not subject to forfeiture under this chapter, the~~  
 2176 ~~court shall enter a judgment extinguishing the RICO lien notice or releasing the real~~  
 2177 ~~property or beneficial interest from the RICO lien notice;~~

2178 ~~(2) The court shall immediately enter its order releasing from the RICO lien notice any~~  
 2179 ~~specific real property or beneficial interest if a sale of the real property or beneficial~~  
 2180 ~~interest is pending and the filing of the notice prevents the sale of the property or interest;~~

2181 however, the proceeds resulting from the sale of the real property or beneficial interest  
 2182 shall be deposited into the registry of the court, subject to the further order of the court;  
 2183 and

2184 ~~(3) At the hearing set forth in paragraph (1), the court may release from the RICO lien~~  
 2185 ~~notice any real property or beneficial interest upon the posting by such person of such~~  
 2186 ~~security as is equal to the value of the real property or beneficial interest owned by such~~  
 2187 ~~person.~~

2188 ~~(e) In the event a civil proceeding is pending against a person named in a RICO lien~~  
 2189 ~~notice, the court, upon motion by said person, may grant the relief set forth in this Code~~  
 2190 ~~section.~~

2191 ~~16-14-15.~~

2192 ~~(a) Each alien corporation desiring to acquire of record any real property shall have, prior~~  
 2193 ~~to acquisition, and shall continuously maintain in this state during any year thereafter in~~  
 2194 ~~which such real property is owned by the alien corporation:~~

2195 ~~(1) A registered office; and~~

2196 ~~(2) A registered agent, which agent may be either:~~

2197 ~~(A) An individual resident in this state whose business office is identical with such~~  
 2198 ~~registered office; or~~

2199 ~~(B) Another corporation authorized to transact business in this state having a business~~  
 2200 ~~office identical with such registered office.~~

2201 ~~(b) Each registered agent appointed pursuant to this Code section, on whom process may~~  
 2202 ~~be served, shall file a statement in writing with the Secretary of State accepting the~~  
 2203 ~~appointment as registered agent simultaneously with being designated.~~

2204 ~~(c) Each alien corporation shall file with the Secretary of State an annual registration~~  
 2205 ~~setting forth:~~

2206 ~~(1) The name of the alien corporation and the country under whose law it is incorporated;~~

2207 ~~(2) The mailing address of the principal office of the alien corporation;~~

2208 ~~(3) The name and mailing address of each officer and each director of the alien~~  
 2209 ~~corporation;~~

2210 ~~(4) The name and street address of the registered agent and registered office of the alien~~  
 2211 ~~corporation; and~~

2212 ~~(5) The signature of the corporate president, vice-president, secretary, assistant secretary,~~  
 2213 ~~or treasurer attesting to the accuracy of the report as of the date the annual registration is~~  
 2214 ~~executed on behalf of the corporation.~~

2215 ~~(d) The first annual registration must be delivered to the Secretary of State between~~  
 2216 ~~January 1 and April 1, or such other date as the Secretary of State may specify by rules or~~

2217 ~~regulations, of the year following a calendar year in which an alien corporation filed its~~  
 2218 ~~initial application pursuant to subsection (a) of this Code section. Subsequent annual~~  
 2219 ~~registrations must be delivered to the Secretary of State between January 1 and April 1, or~~  
 2220 ~~such other date as the Secretary of State may specify by rules or regulations, of the~~  
 2221 ~~following calendar years.~~

2222 ~~(e) For filing reports required pursuant to this Code section, the Secretary of State shall~~  
 2223 ~~collect a filing fee as set out in Code Section 14-2-122 for the filing of annual registrations.~~

2224 ~~(f) If an annual registration does not contain the information required by this Code section,~~  
 2225 ~~the Secretary of State shall promptly notify the reporting domestic, foreign, or alien~~  
 2226 ~~corporation in writing and return the report to it for correction. If the report is corrected~~  
 2227 ~~to contain the information required by this Code section and delivered to the Secretary of~~  
 2228 ~~State within 30 days after the effective date of notice, it is deemed to be timely filed.~~

2229 ~~(g) The Secretary of State shall record the status of any alien corporation that fails to~~  
 2230 ~~comply with the requirements of this Code section.~~

2231 ~~(h) Each alien corporation that fails to file a report as required by subsection (c) of this~~  
 2232 ~~Code section or fails to maintain a registered office and a registered agent as required by~~  
 2233 ~~subsection (a) of this Code section shall not be entitled to own, purchase, or sell any real~~  
 2234 ~~property and shall not be entitled to bring an action or defend in the courts of the state until~~  
 2235 ~~such requirements have been complied with.~~

2236 ~~(i) The filing of a report by a corporation as required by subsection (c) of this Code section~~  
 2237 ~~shall be solely for the purposes of this chapter and, notwithstanding Code Section 14-2-510~~  
 2238 ~~or any other relevant law, shall not be used as a determination of whether the corporation~~  
 2239 ~~is actually doing business in this state."~~

2240 **SECTION 2-26.**

2241 Said title is further amended by revising Code Section 16-15-5, relating to contraband,  
 2242 seizure, and forfeiture under the "Georgia Street Gang Terrorism and Prevention Act," as  
 2243 follows:

2244 "16-15-5.

2245 (a) As used in this Code section, the terms 'proceeds' and 'property' shall have the same  
 2246 meanings as set forth in Code Section 9-16-2. The following are declared to be contraband  
 2247 and no person shall have a property interest in them:

2248 ~~(1)~~(b) Any All property which is, directly or indirectly, used or intended for use in any  
 2249 manner to facilitate a violation of this chapter; and proceeds are declared to be contraband  
 2250 and no person shall have a property right in them.

2251 ~~(2) Any property constituting or derived from gross profits or other proceeds obtained~~  
 2252 ~~from a violation of this chapter.~~



2253 ~~(b) In any action under this Code section, the court may enter such restraining orders or~~  
 2254 ~~take other appropriate action, including acceptance of performance bonds, in connection~~  
 2255 ~~with any interest that is subject to forfeiture.~~

2256 ~~(c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall~~  
 2257 ~~be forfeited in accordance with Chapter 16 of Title 9. Within 60 days of the date of the~~  
 2258 ~~seizure of contraband pursuant to this Code section, the district attorney shall initiate a~~  
 2259 ~~forfeiture proceeding as provided in Code Section 16-13-49. An owner or interest holder,~~  
 2260 ~~as defined by subsection (a) of Code Section 16-13-49, may establish as a defense to the~~  
 2261 ~~forfeiture of property which is subject to forfeiture under this Code section the applicable~~  
 2262 ~~provisions of subsection (e) or (f) of Code Section 16-13-49. Property which is forfeited~~  
 2263 ~~pursuant to this Code section shall be disposed of as provided in Code Section 16-13-49~~  
 2264 ~~and the proceeds of such disposition shall be paid to the Criminal Justice Coordinating~~  
 2265 ~~Council for use in funding gang prevention projects."~~

#### 2266 SECTION 2-27.

2267 Said title is further amended by repealing in its entirety Code Section 16-16-2, relating to  
 2268 motor vehicles, tools, and weapons subject to forfeiture, and enacting a new Code Section  
 2269 16-16-2 to read as follows:

2270 "16-16-2.

2271 (a) As used in this Code section, the terms 'proceeds' and 'property' shall have the same  
 2272 meanings as set forth in Code Section 9-16-2.

2273 (b) Any property which is, directly or indirectly, used or intended for use in any manner  
 2274 to facilitate the commission of a burglary, home invasion, or armed robbery and any  
 2275 proceeds are declared to be contraband and no person shall have a property right in them.

2276 (c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall  
 2277 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9."

### 2278 PART III

#### 2279 CONFORMING TITLES 3, 5, 7, 10, 12,

#### 2280 15, 17, 27, 36, 38, 40, 45, 46, 48, 49, AND 52

#### 2281 TO THE NEW CIVIL FORFEITURE PROCEDURE

#### 2282 AND CORRECTING TERMINOLOGY

#### 2283 SECTION 3-1.

2284 Title 3 of the Official Code of Georgia Annotated, relating to alcoholic beverages, is  
 2285 amended by revising Code Section 3-10-10, relating to existence of property rights in  
 2286 distilled spirits or vessels kept or used in violation of the chapter, as follows:

2287 "3-10-10.  
 2288 No property rights of any kind shall exist in distilled spirits or in the vessels kept or used  
 2289 for the purpose of violating this chapter, or in any such liquors when received, possessed,  
 2290 or stored at any forbidden place or anywhere in a quantity forbidden by law or when kept,  
 2291 stored, or deposited for the purpose of sale or unlawful disposition, furnishing, or  
 2292 distribution. In all such cases the distilled spirits, the vessels and receptacles in which the  
 2293 distilled spirits are contained, and any property kept or used for the purpose of violating  
 2294 this chapter are declared to be contraband; and are to be forfeited to the state when seized;  
 2295 ~~and may be condemned to be destroyed after seizure by order of the court that has acquired~~  
 2296 ~~jurisdiction over them, or by order of the judge or court after conviction when the distilled~~  
 2297 ~~spirits and property have been seized for use as evidence in accordance with the procedures~~  
 2298 ~~set forth in Chapter 16 of Title 9."~~

### 2299 SECTION 3-2.

2300 Said title is further amended by revising Code Section 3-10-11, relating to contraband  
 2301 apparatus and appliances, existence of property rights therein, summary destruction of  
 2302 contraband, and procedure for seizure and condemnation of vehicles and conveyances and  
 2303 boats and vessels, as follows:

2304 "3-10-11.

2305 (a)(1) All apparatus or appliances which are used for the unlawful purpose of distilling  
 2306 or manufacturing any distilled spirits are declared to be contraband.

2307 (2) No person shall have any property right in or to the contraband specified in this  
 2308 subsection.

2309 (3) Whenever apparatus or appliances used or about to be used for the unlawful purpose  
 2310 of manufacturing, using, holding, or containing any distilled spirits are found or  
 2311 discovered by any sheriff, deputy sheriff, or other law enforcement officer of this state,  
 2312 the same shall be summarily destroyed and rendered useless by him or her without any  
 2313 formal order of the court.

2314 (b)(~~1~~) All vehicles and conveyances of every kind and description in this state and all  
 2315 boats and vessels of every kind and description in any of the waters of this state; ~~which~~  
 2316 ~~vehicles and vessels are used in conveying, removing, concealing, or storing any distilled~~  
 2317 ~~spirits, the transportation, possession, or storing of which is in violation of law, are~~  
 2318 ~~declared to be contraband and shall be seized and condemned by any sheriff or other~~  
 2319 ~~arresting law enforcement officer. Such vehicles, conveyances, boats, and vessels~~  
 2320 ~~contraband shall be subject to seizure and condemnation as specified in this Code section~~  
 2321 ~~in any county or municipality of this state forfeiture in accordance with the procedures set~~  
 2322 ~~forth in Chapter 16 of Title 9, including those counties and municipalities in which the sale~~

2323 of distilled spirits is lawful. The law enforcement officer making a seizure shall report the  
 2324 seizure within ten days after the seizure to the prosecuting attorney of the county, city, or  
 2325 superior court having jurisdiction in the county where the seizure was made.

2326 (2) Within 30 days from the time the prosecuting attorney receives the notice, he shall  
 2327 institute condemnation proceedings by petition, a copy of which shall be served upon the  
 2328 owner or lessee, if known, and, if the owner or lessee is unknown, notice of the  
 2329 proceedings shall be published once a week for two weeks in the newspaper in which the  
 2330 sheriff's advertisements are published.

2331 (3) If at the expiration of 30 days after the filing of a petition pursuant to paragraph (2)  
 2332 of this subsection no claimant has appeared to defend against the petition, the court shall  
 2333 order the disposition of the property as otherwise provided in this subsection.

2334 (4) Should it appear upon the trial of the case that the vehicle, conveyance, boat, or  
 2335 vessel was used as provided in paragraph (1) of this subsection with the knowledge of the  
 2336 owner or lessee, it shall be disposed of by order of the court after such advertisement as  
 2337 the court may direct.

2338 (5) Except as otherwise provided in this Code section, property forfeited pursuant to this  
 2339 subsection shall be disposed of by order of the court as follows:

2340 (A) Upon application of the seizing law enforcement agency or any other law  
 2341 enforcement agency of state, county, or municipal government, the court shall permit  
 2342 the agency to retain the property for official use in law enforcement work;

2343 (B) That property which is not required to be destroyed by law and which is not  
 2344 harmful to the public shall be sold. The proceeds of such sale shall be used for payment  
 2345 of all proper expenses of the forfeiture and sale, including, but not limited to, the  
 2346 expenses of seizure, maintenance of custody, advertising, and court costs. The  
 2347 remainder of the proceeds of a sale of forfeited property, after the deductions authorized  
 2348 in this subparagraph for proper expenses, shall be paid into the general fund of the  
 2349 county in which the seizure is made.

2350 (c) Where the owner or lessee of any property seized for purposes of condemnation  
 2351 absconds or conceals himself so that actual notice of the condemnation proceeding cannot  
 2352 be served upon him, he shall be served by publication as provided for in paragraph (2) of  
 2353 subsection (b) of this Code section in the case of an unknown owner or lessee.

2354 (d)(1) All condemnation proceedings against any vehicle, conveyance, boat, or vessel  
 2355 shall be proceedings in rem against the property seized. The property shall be described  
 2356 only in general terms, and it is no ground for defense that the person who had the  
 2357 property in possession at the time of its illegal use and seizure had not been convicted of  
 2358 such violation.

2359 ~~(2) Any party at interest may appear, by answer under oath, and make defense. The~~  
 2360 ~~owner or lessee shall be permitted to defend by showing that the property seized, if used~~  
 2361 ~~illegally by another, was used without the knowledge, connivance, or consent, express~~  
 2362 ~~or implied, of the owner or lessee and by showing also that the property seized, if a motor~~  
 2363 ~~vehicle, was legally registered with the department in the true name and address of the~~  
 2364 ~~owner or his predecessor in title, unless the vehicle is a new vehicle bought from a dealer~~  
 2365 ~~within 30 days of the time of seizure. The holder of any bona fide lien on the property~~  
 2366 ~~so seized shall be protected to the full extent of his lien if the holder shows that the illegal~~  
 2367 ~~use of the property was without his knowledge, connivance, or consent, express or~~  
 2368 ~~implied.~~

2369 ~~(e) The court to whom a petition for condemnation is referred may at its discretion allow~~  
 2370 ~~any party at interest to give bond and take possession of the vehicle seized. In such cases~~  
 2371 ~~the court shall determine whether the bond shall be a forthcoming bond or an eventual~~  
 2372 ~~condemnation money bond and shall also determine the amount of the bond. The~~  
 2373 ~~enforcement of any bond so given shall be regulated by the general law applicable to such~~  
 2374 ~~cases.~~

2375 ~~(f) The court may permit a settlement between the parties at any stage of the proceeding~~  
 2376 ~~by permitting the value of the vehicle or the value of the equity in the vehicle, as~~  
 2377 ~~determined by the court, to be paid into court. Money so paid shall be distributed as~~  
 2378 ~~provided by law in all cases of condemnation.~~

2379 ~~(g) The agency, state, county, or municipality seizing any contraband article may use any~~  
 2380 ~~vessel, vehicle, aircraft, or other conveyance described in subsection (b) of this Code~~  
 2381 ~~section for covert police activity for a period of up to 60 days prior to the sale of such~~  
 2382 ~~vessel, vehicle, aircraft, or other conveyance, except that no vessel, vehicle, aircraft, or~~  
 2383 ~~other conveyance shall be utilized for covert police activity prior to final judicial~~  
 2384 ~~adjudication of lawful seizure."~~

2385

### SECTION 3-3.

2386 Said title is further amended by revising Code Section 3-10-12, relating to raw materials or  
 2387 substances, fixtures, implements, or apparatus intended for use in unlawful distillation or  
 2388 manufacture of distilled spirits declared contraband, property rights in contraband, and  
 2389 procedures for seizure and disposition of contraband, as follows:

2390 "3-10-12.

2391 (a) Any raw materials or substances, including, but not limited to, sugar of any grade or  
 2392 type, and any fixture, implement, or apparatus used or intended for use in the unlawful  
 2393 distilling or manufacturing of any distilled spirits are declared to be contraband.

2394 (b) No person shall have any property right in or to any contraband specified in  
2395 subsection (a) of this Code section.

2396 (c) Whenever any property item used or about to be used as specified in subsection (a) of  
2397 this Code section is found or discovered, whether in transit, in storage, or at a site of  
2398 unlawful distillation or manufacture, by any ~~sheriff, deputy sheriff, revenue agent, or any~~  
2399 ~~other~~ law enforcement officer, it is ~~declared forfeited and~~ shall be subject to the following  
2400 dispositions, ~~or any of them~~:

2401 (1) When found or discovered at a site of unlawful distillation or manufacture, it may be  
2402 summarily destroyed and rendered useless by any ~~of the officers named in this subsection~~  
2403 law enforcement officer without any formal order of the court or, in the event any of the  
2404 raw materials or substances are fit for human consumption or if any of the fixtures,  
2405 implements, or apparatus are of any beneficial use to the educational authorities of the  
2406 county for use in any of their educational programs, they may be delivered to the public  
2407 schools of the county in which seized for use in the schools. When any of the foregoing  
2408 items are delivered to a public school system, the officer delivering the items shall obtain  
2409 from the appropriate school authorities an itemized receipt detailing all items delivered  
2410 to the system and report such information as provided in subsection (g) of Code Section  
2411 9-16-19. In the event any of the foregoing items are destroyed by a law enforcement  
2412 officer, ~~he~~ the officer shall execute an affidavit of such fact in which ~~he shall list~~ all items  
2413 destroyed ~~by him~~ shall be listed. The receipts and affidavits shall be maintained by the  
2414 officer and shall be open to inspection by the public upon request; or

2415 (2) When found or discovered in transit or in storage by any ~~of the officers named in this~~  
2416 ~~subsection, the property~~ law enforcement officer, the items shall be seized by the officer  
2417 and ~~the procedures of notice, condemnation, and sale provided in Code Section 3-10-11,~~  
2418 ~~applicable to vehicles and conveyances, shall be followed~~ forfeited in accordance with  
2419 the procedures set forth in Chapter 16 of Title 9."

2420

#### SECTION 3-4.

2421 Title 5 of the Official Code of Georgia Annotated, relating to appeal and error, is amended  
2422 by revising paragraph (8) of subsection (c) of Code Section 5-5-41, relating to requirements  
2423 as to extraordinary motions for new trial generally, as follows:

2424 "(8) If the court orders testing pursuant to this subsection, the court shall determine the  
2425 method of testing and responsibility for payment for the cost of testing, if necessary, and  
2426 may require the petitioner to pay the costs of testing if the court determines that the  
2427 petitioner has the ability to pay. If the petitioner is indigent, the cost shall be paid from  
2428 the fine and bond forfeiture fund as provided in Article 3 of Chapter 5 21 of Title 15."

2429 **SECTION 3-5.**

2430 Title 7 of the Official Code of Georgia Annotated, relating to banks and banking, is amended  
2431 by revising Code Section 7-1-11, relating to registration of nonresident corporations, as  
2432 follows:

2433 "7-1-11.

2434 Whenever any financial institution or other corporation domiciled outside this state,  
2435 including domestic international banking facilities, international bank agencies,  
2436 international bank representative offices, and representative offices of federally and state  
2437 chartered financial institutions, is required to register with the department as a prerequisite  
2438 to the conduct of business in this state or for the purpose of taking title or liens against  
2439 property located in this state, such registration shall be in lieu of further registration  
2440 pursuant to ~~Code Section 16-14-15~~ or any other provisions of law."

2441 **SECTION 3-6.**

2442 Said title is further amended by revising Code Section 7-1-916, relating to forfeiture of  
2443 property involved in illegal transactions, as follows:

2444 "7-1-916.

2445 All property of every kind used or intended for use in the course of, derived from, or  
2446 realized through a transaction which in fact involves the proceeds of unlawful activity  
2447 specified in Chapter 14 of Title 16 or otherwise subject to the provisions of this article shall  
2448 be subject to forfeiture to the state. Forfeiture shall be had by the same procedure as is set  
2449 forth in ~~Code Section 16-14-7~~ Chapter 16 of Title 9. As used in this Code section, the  
2450 terms 'proceeds' and 'property' shall have the same meaning as set forth in Code Section  
2451 9-16-2."

2452 **SECTION 3-7.**

2453 Title 10 of the Official Code of Georgia Annotated, relating to commerce and trade, is  
2454 amended by revising subsection (d) of Code Section 10-1-454, relating to forged or  
2455 counterfeited trademarks, service marks, or copyrighted or registered designs, as follows:

2456 "(d)(1) The State of Georgia finds and declares that the citizens of this state have a right  
2457 to receive those goods and services which they reasonably believe they are purchasing  
2458 or for which they contract. The state further finds that the manufacture and sale of  
2459 counterfeit goods or goods which are not what they purport to be and the offering of  
2460 services through the use of counterfeit service marks constitutes a fraud on the public and  
2461 results in economic disruption to the legitimate businesses of this state. In order to  
2462 protect the citizens and businesses of this state it is necessary to take appropriate actions  
2463 to remove counterfeit goods from the channels of commerce and prevent the

2464 manufacture, sale, and distribution of such goods or the offering of such services through  
 2465 the use of counterfeit service marks.

2466 (2) As used in this subsection, the terms 'proceeds' and 'property' shall have the same  
 2467 meanings as set forth in Code Section 9-16-2.

2468 (3) Any property which is, directly or indirectly, used or intended for use in any manner  
 2469 to facilitate a violation of this Code section and any proceeds are declared to be  
 2470 contraband and no person shall have a property right in them.

2471 (4) Any property subject to forfeiture pursuant to paragraph (3) of this subsection shall  
 2472 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9.

2473 ~~(2) For the purposes expressed in paragraph (1) of this subsection, a person who is~~  
 2474 ~~convicted of or pleads nolo contendere to a felony offense under this Code section shall~~  
 2475 ~~forfeit to the State of Georgia such interest as the person may have in:~~

2476 ~~(A) Any goods, labels, products, or other property containing or constituting forged or~~  
 2477 ~~counterfeit trademarks, service marks, or copyrighted or registered designs or~~  
 2478 ~~constituting or directly derived from gross profits or other proceeds obtained from such~~  
 2479 ~~offense;~~

2480 ~~(B) Any property or any interest in any property, including but not limited to any~~  
 2481 ~~reproduction equipment, scanners, computer equipment, printing equipment, plates,~~  
 2482 ~~dies, sewing or embroidery equipment, motor vehicle, or other asset, used to commit~~  
 2483 ~~a violation of this Code section; and~~

2484 ~~(C) Any property constituting or directly derived from gross profits or other proceeds~~  
 2485 ~~obtained from a violation of this Code section.~~

2486 ~~(3) In any action under this Code section, the court may enter such restraining orders or~~  
 2487 ~~take other appropriate action, including acceptance of performance bonds, in connection~~  
 2488 ~~with any interest that is subject to forfeiture.~~

2489 ~~(4) The court shall order forfeiture of property referred to in paragraph (2) of this~~  
 2490 ~~subsection if the trier of fact determines beyond a reasonable doubt that such property is~~  
 2491 ~~subject to forfeiture.~~

2492 ~~(5) The provisions of subsection (u) of Code Section 16-13-49 shall apply for the~~  
 2493 ~~disposition of any property forfeited under this subsection, provided that any property~~  
 2494 ~~containing a counterfeit trademark, service mark, or copyrighted or registered design~~  
 2495 ~~shall be destroyed unless the owner of the trademark, service mark, or copyrighted or~~  
 2496 ~~registered design gives prior written consent to the sale of such property or such~~  
 2497 ~~trademark, service mark, or copyrighted or registered design is obliterated or removed~~  
 2498 ~~from such property prior to the disposition thereof. Any forfeited goods which are~~  
 2499 ~~hazardous to the health, welfare, or safety of the public shall be destroyed. In any~~  
 2500 ~~disposition of property under this subsection, a person who has been convicted of or who~~

2501 ~~has entered a plea of nolo contendere to a violation of this Code section shall not be~~  
 2502 ~~permitted to acquire property forfeited by such person.~~

2503 ~~(6) The procedure for forfeiture and disposition of forfeited property under this~~  
 2504 ~~subsection shall be as provided for forfeitures under Code Section 16-13-49."~~

2505 **SECTION 3-8.**

2506 Said title is further amended by revising subsection (b) of Code Section 10-13A-8, relating  
 2507 to suspension of distributor's license, as follows:

2508 "(b) Any cigarettes that have been sold, offered for sale, or possessed for sale in this state  
 2509 in violation of Code Section 10-13A-5 shall be deemed contraband under Code Section  
 2510 48-11-9 and such cigarettes shall be subject to seizure and forfeiture as provided in ~~such~~  
 2511 ~~Code section~~ Chapter 16 of Title 9."

2512 **SECTION 3-9.**

2513 Title 12 of the Official Code of Georgia Annotated, relating to conservation and natural  
 2514 resources, is amending by revising subsection (e) of Code Section 12-4-48, relating to actions  
 2515 by director to enforce part relating to deep drilling for oil, gas, and other minerals, as follows:

2516 "(e)~~(1)~~ In addition to any other enforcement remedy available to the director under this  
 2517 part, all illegal minerals and illegal products are declared to be contraband and forfeited to  
 2518 the state ~~and shall be confiscated and seized by any peace officer who shall forthwith~~  
 2519 ~~deliver it~~ in accordance with the procedures set forth in Chapter 16 of Title 9, except that:

2520 (1) Any seizure of contraband shall be delivered to the director or his or her duly  
 2521 authorized agent within ten days of the seizure;

2522 (2) Illegal minerals shall only be forfeited as provided for in Code Section 9-16-12; and

2523 (3) Property seized pursuant to this subsection shall not be required to be stored in an  
 2524 area within the jurisdiction of the court if such storage is not possible.

2525 ~~(2) The district attorney whose circuit includes the county in which the seizure is made,~~  
 2526 ~~within 30 days after the seizure of any illegal minerals or illegal products, shall institute~~  
 2527 ~~proceedings by petition in the superior court of any county where the seizure was made~~  
 2528 ~~against the property so seized and against any and all persons known to have an interest~~  
 2529 ~~in or right affected by the seizure or sale of such property. A copy of such petition shall~~  
 2530 ~~be served upon the owner or lessee of such property, if known, and upon the person or~~  
 2531 ~~persons having custody or possession of such property at the time of the confiscation or~~  
 2532 ~~seizure. If the owner or lessee or person or persons having custody or possession of such~~  
 2533 ~~property at the time of seizure is unknown, notice of such proceedings shall be published~~  
 2534 ~~once a week for two consecutive weeks in the newspaper in which sheriff's~~  
 2535 ~~advertisements of the county are published. Such publication shall be deemed notice to~~



2536 any and all persons having an interest in or right affected by such proceeding and any sale  
 2537 of the property resulting therefrom. If no defense or intervention shall be filed within 30  
 2538 days from the filing of the petition, judgment by default shall be entered by the court;  
 2539 otherwise the case shall proceed as civil cases. Should the mineral or mineral product be  
 2540 found to be illegal within the sense of this part, the same shall be decreed to be  
 2541 contraband and ordered sold under such terms as the judge in his order may direct. The  
 2542 judge may order the same sold in bulk, in lots, in parcels, or under such other regulations  
 2543 as may be deemed proper. The proceeds arising from such sale shall be applied:

2544 (A) To the payment of proper costs and expenses, including expenses incurred in the  
 2545 seizure;

2546 (B) To the payment of the cost of the court and its officers;

2547 (C) To the payment of any cost incurred in the storage, advertisement, maintenance,  
 2548 or care of such property; and

2549 (D) If any money remains, to the state treasury to the credit of the general fund.

2550 (3) Where the owner or lessee of any property seized for purpose of condemnation shall  
 2551 abscond or conceal himself so that the actual notice of the condemnation proceedings  
 2552 cannot be served upon him, he shall be served by publication as is provided in this Code  
 2553 section in the case of an unknown owner or lessee.

2554 (4) All proceedings against any alleged illegal minerals or for the purpose of  
 2555 condemnation shall be proceedings in rem against the property, and the property shall be  
 2556 described only in general terms. It is the intent and purpose of the procedure provided  
 2557 by this Code section to provide a civil remedy for the condemnation and sale of  
 2558 contraband property.

2559 (5) The court shall have full discretion and authority to permit a settlement between the  
 2560 parties at any stage of the proceedings by permitting the value of the alleged illegal  
 2561 minerals or illegal products to be paid into court, as determined by the court, which  
 2562 money when so paid in shall be distributed as provided by law in all cases of  
 2563 condemnation.

2564 (6)(f) Nothing in this Code section shall deny or abridge any cause of action a royalty  
 2565 owner, lienholder, or other claimant may have against any persons whose acts result in the  
 2566 forfeiture of the illegal oil, illegal gas, or illegal product."

2567 **SECTION 3-10.**

2568 Said title is further amended by revising subsection (a) of Code Section 12-5-133, relating  
 2569 to penalty and confiscation of equipment, as follows:

2570 "(a) Any person who engages in or follows the business or occupation of, or advertises,  
 2571 holds himself or herself out, or acts, temporarily or otherwise, as a water well contractor

2572 without having first secured the required license or renewal thereof or any person who  
 2573 otherwise violates any provisions of this part shall be guilty of a misdemeanor and, upon  
 2574 conviction thereof, shall be fined not less than \$100.00 and not more than \$1,000.00. Each  
 2575 day during which such violation exists or continues shall constitute a separate offense. ~~In~~  
 2576 ~~addition to or in lieu of any fine imposed for acting without the required license, any person~~  
 2577 ~~violating any provision of this part may have his or her drilling rigs and commercial~~  
 2578 ~~vehicles confiscated in accordance with Code Section 12-5-137."~~

### 2579 SECTION 3-11.

2580 Said title is further amended by revising Code Section 12-5-137, relating to the procedure  
 2581 for confiscation and sale of contraband equipment and defenses, as follows:

2582 "12-5-137.

2583 (a) All drilling rigs or commercial vehicles used to drill any well and other equipment used  
 2584 to drill any well by a person who is not a licensed water well contractor or driller or who  
 2585 is not acting under the direction of a professional engineer or professional geologist as  
 2586 required by this part are declared to be contraband subject to forfeiture ~~and confiscation~~  
 2587 ~~and seizure by any peace officer, who shall forthwith deliver such rigs and equipment to~~  
 2588 ~~the district attorney whose circuit includes the county in which a seizure is made or to his~~  
 2589 ~~duly authorized agent within ten days of the seizure~~ in accordance with Chapter 16 of  
 2590 Title 9.

2591 (b) ~~The district attorney whose circuit includes the county in which the seizure is made,~~  
 2592 ~~within 30 days after the seizure of any illegal drilling equipment, shall institute proceedings~~  
 2593 ~~by petition in the superior court of any county where the seizure was made against the~~  
 2594 ~~property so seized and against any and all persons known to have an interest in or right~~  
 2595 ~~affected by the seizure or sale of such property. A copy of such petition shall be served~~  
 2596 ~~upon the owner or lessee of such property, if known, and upon the person or persons~~  
 2597 ~~having custody or possession of such property at the time of the confiscation or seizure.~~  
 2598 ~~If the owner or lessee, or person or persons having custody or possession of such property~~  
 2599 ~~at the time of seizure is unknown, notice of such proceedings shall be published once a~~  
 2600 ~~week for two consecutive weeks in the newspaper in which sheriff's advertisements of the~~  
 2601 ~~county are published. Such publication shall be deemed notice to any and all persons~~  
 2602 ~~having an interest in or right affected by such proceedings and any sale of the property~~  
 2603 ~~resulting therefrom. If no defense or intervention shall be filed within 30 days from the~~  
 2604 ~~filing of the petition, judgment by default shall be entered by the court; otherwise the case~~  
 2605 ~~shall proceed as in other civil cases. Should the drilling equipment be found to be illegal~~  
 2606 ~~within the sense of this part, the same shall be decreed to be contraband and ordered sold~~

2607 under such terms as the judge in his order may direct. The proceeds arising from such sale  
 2608 shall be applied:

2609 (1) ~~To the payment of proper costs and expenses, including expenses incurred in the~~  
 2610 ~~seizure;~~

2611 (2) ~~To the payment of the cost of the court and its officers;~~

2612 (3) ~~To the payment of any cost incurred in the storage, advertisement, maintenance, or~~  
 2613 ~~care of such property; and~~

2614 (4) ~~If any money remains, to the general funds of the county.~~

2615 (c) ~~Where the owner or lessee of any property seized for purpose of condemnation shall~~  
 2616 ~~abscond or conceal himself so that the actual notice of the condemnation proceedings~~  
 2617 ~~cannot be served upon him, he shall be served by publication as is provided in this Code~~  
 2618 ~~section in the case of an unknown owner or lessee.~~

2619 (d) ~~All proceedings against any alleged illegal drilling equipment for the purpose of~~  
 2620 ~~condemnation shall be proceedings in rem against the property, and the property shall be~~  
 2621 ~~described only in general terms. It is the intent and purpose of the procedure provided by~~  
 2622 ~~this Code section to provide a civil remedy for the condemnation and sale of contraband~~  
 2623 ~~property.~~

2624 (e) ~~Any party at interest may appear, by answer under oath, and make his defense. The~~  
 2625 ~~owner, lessee, security interest holder, or lienholder shall be permitted to defend by~~  
 2626 ~~showing that the property seized, if illegally used by another, was used without the~~  
 2627 ~~knowledge, connivance, or consent, expressed or implied, of the owner, lessee, security~~  
 2628 ~~interest holder, or lienholder. The holder of any bona fide lien on or security interest in the~~  
 2629 ~~property shall be protected to the full extent of his lien or security interest, respectively;~~  
 2630 ~~provided, however, that nothing contained in this Code section shall be construed to~~  
 2631 ~~obligate the district attorney whose circuit includes the county in which a seizure is made~~  
 2632 ~~beyond the proceeds of any such sale less the actual costs incurred by him."~~

2633

### SECTION 3-12.

2634 Said title is further amended by revising subsection (c) of Code Section 12-8-2, relating to  
 2635 dumping sanitary sewer, kitchen, or toilet wastes in storm or sanitary sewers prohibited, as  
 2636 follows:

2637 "(c) Any motor vehicle, trailer, and all other ~~articles~~ property and contrivances instruments  
 2638 utilized in the hauling, transporting, dumping, placing, or disposition of any contents or  
 2639 matter in any public sewer in violation of subsection (a) of this Code section are declared  
 2640 to be contraband and shall be subject to seizure, confiscation, and forfeiture according to  
 2641 the terms, provisions, conditions, and procedures set out in Code Section 3-10-11, as far  
 2642 as such terms and procedures can be made to apply Chapter 16 of Title 9."

**SECTION 3-13.**

2643

2644 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising  
 2645 Code Section 15-6-95, relating to priorities of fines, forfeitures, surcharges, additional fees,  
 2646 and costs in partial payments into the court, as follows:

2647 "15-6-95.

2648 Notwithstanding any law to the contrary, a clerk of any superior court of this state who  
 2649 receives partial payments, as ordered by the court, of criminal fines, bond forfeitures, or  
 2650 costs shall distribute ~~said~~ such sums in the order of priority set forth below:

2651 (1) The amount provided for in Chapter 17 of Title 47 for the Peace Officers' Annuity  
 2652 and Benefit Fund;

2653 (2) The amount provided for in Chapter 14 of Title 47 for the Superior Court Clerks'  
 2654 Retirement Fund of Georgia;

2655 (3) The amount provided for in Chapter 16 of Title 47 for the Sheriffs' Retirement Fund  
 2656 of Georgia;

2657 (4) The amounts provided under subparagraphs (a)(1)(A) and (a)(2)(A) of Code Section  
 2658 15-21-73;

2659 (5) The amounts provided for under subparagraphs (a)(1)(B) and (a)(2)(B) of Code  
 2660 Section 15-21-73;

2661 (6) The amounts provided for in Code Section 15-21-93 for jail construction and staffing;

2662 (7) The amount provided for in Code Section 15-21-131 for funding local victim  
 2663 assistance programs;

2664 (8) The amount provided for in Code Section 36-15-9 for county law libraries;

2665 (9) The balance of the base fine owed to the county;

2666 (10) The amount provided for in cases of driving under the influence for purposes of the  
 2667 Georgia Crime Victims Emergency Fund under Code Section 15-21-112;

2668 (11) The application fee provided for in subsection (c) or (e) of Code Section 15-21A-6;

2669 (12) The amount provided for in cases of driving under the influence for purposes of the  
 2670 Brain and Spinal Injury Trust Fund under Code Section 15-21-149;

2671 (13) The amount provided for in Code Section 15-21-100 for the Drug Abuse Treatment  
 2672 and Education Fund; and

2673 (14) The amounts provided for in subsection (d) of Code Section 42-8-34."

2674

**SECTION 3-14.**

2675 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is  
 2676 amended by revising Code Section 17-5-51, relating to forfeiture of weapons used in  
 2677 commission of crime, possession of which constitutes crime or delinquent act, or illegal

2678 concealment generally, motor vehicles, definitions, and return of firearm to innocent owner,  
2679 as follows:

2680 "17-5-51.

2681 (a) ~~Any~~ Except as provided in subsection (c) of this Code section, any device which is  
2682 used as a weapon in the commission of any crime against any person or any attempt to  
2683 commit any crime against any person, any weapon the possession or carrying of which  
2684 constitutes a crime or delinquent act, and any weapon for which a person has been  
2685 convicted of violating Code Section 16-11-126 are declared to be contraband and are shall  
2686 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9,  
2687 notwithstanding the time frames set forth in Code Section 9-16-7. For the purposes of this  
2688 article, a motor vehicle shall not be deemed to be a weapon or device and shall not be  
2689 contraband or forfeited under this article; provided, however, that this exception shall not  
2690 be construed to prohibit the seizure, condemnation, and sale of motor vehicles used in the  
2691 illegal transportation of alcoholic beverages.

2692 (b) As used in this Code section, the term:

2693 (1) 'Firearm' shall have the same meaning as set forth in Code Section 16-11-171.

2694 (2) 'Innocent owner' means a person who:

2695 (A) Did not beforehand know or in the exercise of ordinary care would not have known  
2696 of the conduct which caused his or her firearm to be forfeited, seized, or abandoned to  
2697 any law enforcement agency of this state or a political subdivision of this state,  
2698 including the Department of Natural Resources;

2699 (B) Did not participate in the commission of a crime or delinquent act involving his or  
2700 her firearm;

2701 (C) Legally owned and presently owns the firearm forfeited, seized, or abandoned; and

2702 (D) Is authorized by state and federal law to receive and possess his or her firearm.

2703 (c) A firearm that is the property of an innocent owner shall be returned to such person  
2704 when such firearm is no longer needed for evidentiary purposes.

2705 (d) The costs of returning the firearm to the innocent owner shall be borne by the innocent  
2706 owner. Such costs shall be limited to the actual costs of shipping and associated costs from  
2707 any transfer and background check fees charged when delivering the firearm to the  
2708 innocent owner.

2709 (e) If six months elapse after notification to the innocent owner of the possession of the  
2710 firearm by a political subdivision or state custodial agency and the innocent owner fails to  
2711 bear the costs of return of his or her firearm or fails to respond to the political subdivision  
2712 or state custodial agency, then the political subdivision or state custodial agency may  
2713 follow the procedures under subsection (d) of Code Section 17-5-52.1."

2714 **SECTION 3-15.**

2715 Said title is further amended by revising Code Section 17-5-52, relating to sale or destruction  
 2716 of weapons used in commission of crime or delinquent act involving possession, sale of  
 2717 weapons not the property of the defendant, disposition of proceeds of sale, and record  
 2718 keeping, as follows:

2719 "17-5-52.

2720 (a) When a final judgment is entered finding a defendant guilty of the commission or  
 2721 attempted commission of a crime against any person or guilty of the commission of a crime  
 2722 or delinquent act involving the illegal possession or carrying of a weapon, any device  
 2723 which was used as a weapon in the commission of the crime or delinquent act shall be  
 2724 turned over by the person having custody of the weapon or device to the sheriff, chief of  
 2725 police, or other executive officer of the law enforcement agency that originally confiscated  
 2726 the weapon or device when the weapon or device is no longer needed for evidentiary  
 2727 purposes. Within one year ~~With the exception of firearms, as such term is defined in Code~~  
 2728 ~~Section 17-5-51, which shall be disposed of in accordance with Code Section 17-5-52.1,~~  
 2729 ~~within 90 days~~ after receiving the weapon or device, the sheriff, chief of police, or other  
 2730 executive officer of the law enforcement agency shall ~~retain the weapon or device for use~~  
 2731 ~~in law enforcement, destroy the same, or sell the weapon or device pursuant to judicial sale~~  
 2732 ~~as provided in Article 7 of Chapter 13 of Title 9 or by any commercially feasible means,~~  
 2733 ~~provided that if the weapon or device used as a weapon in the crime is not the property of~~  
 2734 ~~the defendant, there shall be no forfeiture of such weapon or device~~ return or sell the  
 2735 weapon as provided in Code Section 17-5-54, or if the weapon or device is subject to  
 2736 forfeiture, the procedures set forth in Chapter 16 of Title 9 shall be followed  
 2737 notwithstanding the time frames set forth in Code Section 9-16-7. A state attorney seeking  
 2738 forfeiture under this Code section shall commence civil forfeiture proceedings within 60  
 2739 days of the entry of a final judgment as contemplated by this Code section; the remaining  
 2740 provisions of Chapter 16 of Title 9 shall be applicable.

2741 (b) ~~The proceeds derived from all sales of such weapons or devices, after deducting the~~  
 2742 ~~costs of the advertising and the sale, shall be turned in to the treasury of the county or the~~  
 2743 ~~municipal corporation that sold the weapon or device. The proceeds derived from the sale~~  
 2744 ~~of such weapons or devices confiscated by a state law enforcement agency shall be paid~~  
 2745 ~~into the state treasury.~~

2746 (c) ~~Any law enforcement agency that retains, destroys, or sells any weapon or device~~  
 2747 ~~pursuant to this Code section shall maintain records that include an accurate description of~~  
 2748 ~~each weapon or device along with records of whether each weapon or device was retained,~~  
 2749 ~~sold, or destroyed."~~

2750 **SECTION 3-16.**

2751 Said title is further amended by repealing in its entirety Code Section 17-5-52.1, relating to  
 2752 disposal of forfeited or abandoned firearms, innocent owners, auctions, record keeping, and  
 2753 liability of government entities.

2754 **SECTION 3-17.**

2755 Said title is further amended by revising Code Section 17-5-54, relating to disposition of  
 2756 personal property in custody of law enforcement agencies, as follows:

2757 "17-5-54.

2758 (a) As used in this Code section, the term:

2759 (1) 'Civil forfeiture proceeding' shall have the same meaning as set forth in Code Section  
 2760 9-16-2.

2761 (2) 'Firearm' means any handgun, rifle, shotgun, or similar device or weapon which will  
 2762 or can be converted to expel a projectile by the action of an explosive or electrical charge.

2763 (3) 'Law enforcement agency' means a law enforcement agency of this state or a political  
 2764 subdivision of this state, including the Department of Natural Resources.

2765 (4) 'Rightful owner' means a person claiming ownership of property which is the subject  
 2766 of a crime or has been abandoned.

2767 (b) This Code section shall not apply to:

2768 (1) Personal property which is the subject of any civil forfeiture proceeding;

2769 (2) Any property which is the subject of a disposition pursuant to Code Sections 17-5-50  
 2770 through 17-5-53; and

2771 (3) Any abandoned motor vehicle for which the provisions of Chapter 11 of Title 40 are  
 2772 applicable.

2773 ~~(a)~~(c)(1) Except as provided in Chapter 16 of Title 9, Code Sections 17-5-55 and  
 2774 17-5-56, and ~~subsections (d), (e), and (f)~~ subsection (b) of this Code section, when a law  
 2775 enforcement agency assumes custody of any personal property which is the subject of a  
 2776 crime or has been abandoned ~~or is otherwise seized~~, a disposition of such property shall  
 2777 be made in accordance with the provisions of this Code section.

2778 (2) When a final verdict and judgment is entered finding a defendant guilty of the  
 2779 commission of a crime, any personal property used as evidence in the trial shall be  
 2780 returned to the rightful owner of the property within 30 days following the final  
 2781 judgment; provided, however, that if the judgment is appealed or if the defendant files a  
 2782 motion for a new trial and if photographs, videotapes, or other identification or analysis  
 2783 of the personal property will not be sufficient evidence for the appeal of the case or new  
 2784 trial of the case, such personal property shall be returned to the rightful owner within 30  
 2785 days of the conclusion of the appeal or new trial, whichever occurs last.

2786 (3) Any person claiming to be a rightful owner of property shall make an application to  
 2787 the entity holding his or her property and shall furnish satisfactory proof of ownership of  
 2788 such property and present personal identification. The person in charge of such property  
 2789 may return such property to the applicant. The person to whom property is delivered  
 2790 shall sign, under penalty of false swearing, a declaration of ownership, which shall be  
 2791 retained by the person in charge of the property. Such declaration, absent any other proof  
 2792 of ownership, shall be deemed satisfactory proof of ownership for the purposes of this  
 2793 Code section; provided, however, that with respect to motor vehicles, paragraph (3) of  
 2794 subsection (b) and subsection (f) of this Code section shall govern the return of motor  
 2795 vehicles.

2796 (4) If more than one person claims ownership of property, a court with jurisdiction over  
 2797 the property shall conduct a hearing to determine the ownership of such property.

2798 (d) After a period of 90 days following the final verdict and judgment, when All personal  
 2799 property that is in the custody of a law enforcement agency, including personal property  
 2800 was used as evidence in a criminal trial, which is unclaimed after a period of 90 days  
 2801 following its seizure, or following the final verdict and judgment in the case of property  
 2802 used as evidence, and which is no or was abandoned, it shall be subject to disposition as  
 2803 provided in subsection (e) of this Code section if the property is not a firearm and as  
 2804 provided in subsection (g) of this Code section if the property is a firearm if it is:

2805 (1) No longer needed in a criminal investigation or for evidentiary purposes in  
 2806 accordance with Code Section 17-5-55 or 17-5-56 shall be subject to disposition by the  
 2807 law enforcement agency;

2808 (2) Not claimed pursuant to Code Section 17-5-50; and

2809 (3) Not claimed pursuant to subsection (c) of this Code section.

2810 (e) For any unclaimed personal property that is not a firearm, the ~~The~~ sheriff, chief of  
 2811 police, or other executive officer of a law enforcement agency shall make application to  
 2812 the superior court for an order to retain, sell, or discard such property. In the application  
 2813 the officer shall state each item of personal property to be retained, sold, or discarded.  
 2814 Upon the superior court's granting an order for the law enforcement agency to retain such  
 2815 property, the law enforcement agency shall retain such property for official use. Upon the  
 2816 superior court's granting an order which authorizes that the property be discarded, the law  
 2817 enforcement agency shall dispose of the property as other salvage or nonserviceable  
 2818 equipment. Upon the superior court's granting an order for the sale of personal property,  
 2819 the officer shall provide for a notice to be placed once a week for four weeks in the legal  
 2820 organ of the county specifically describing each item and advising possible owners of items  
 2821 of the method of contacting the law enforcement agency; provided, however, that  
 2822 miscellaneous items having an estimated fair market value of \$75.00 or less may be



2823 advertised or sold, or both, in lots. Such notice shall also stipulate a date, time, and place  
 2824 said items will be placed for public sale if not claimed. Such notice shall also stipulate  
 2825 whether said items or groups of items are to be sold in blocks, by lot numbers, by entire list  
 2826 of items, or separately.

2827 ~~(2) Such unclaimed personal property Items not claimed by the owners shall be sold at a~~  
 2828 sale which shall be conducted not less than seven nor more than 15 days after the final  
 2829 advertised notice has been run. The sale shall be to the highest bidder.

2830 ~~(3)~~ If such personal property has not been bid on in two successive sales, the law  
 2831 enforcement agency may retain the property for official use or the property will be  
 2832 considered as salvage and disposed of as other county or municipal salvage or  
 2833 nonserviceable equipment.

2834 ~~(4)~~ With respect to unclaimed perishable personal property or animals or other wildlife,  
 2835 ~~the~~ an officer may make application to the superior court for an order authorizing the  
 2836 disposition of such property prior to the expiration of 90 days.

2837 ~~(5)(f)~~ With respect to a ~~seized~~ motor vehicle which is the subject of a crime or has been  
 2838 abandoned but which is not the subject of any civil forfeiture proceedings proceeding, the  
 2839 law enforcement agency shall be required to contact the Georgia Crime Information Center  
 2840 to determine if such motor vehicle has been stolen and to follow generally the procedures  
 2841 of Code Section 40-11-2 to ascertain the registered owner of such vehicle.

2842 (g)(1) With respect to unclaimed firearms, if the sheriff, chief of police, agency director,  
 2843 or designee of such official certifies that a firearm is unsafe because of wear, damage,  
 2844 age, or modification or because any federal or state law prohibits the sale or distribution  
 2845 of such firearm, at the discretion of such official, it shall be transferred to the Division of  
 2846 Forensic Sciences of the Georgia Bureau of Investigation, a municipal or county law  
 2847 enforcement forensic laboratory for training or experimental purposes, or be destroyed.

2848 (2) Otherwise, an unclaimed firearm:

2849 (A) Possessed by a municipal corporation shall be disposed of as provided for in Code  
 2850 Section 36-37-6; provided, however, that municipal corporations shall not have the  
 2851 right to reject any bids or to cancel any proposed sale of such firearms, and all sales  
 2852 shall be to persons who are licensed as firearms collectors, dealers, importers, or  
 2853 manufacturers under the provisions of 18 U.S.C. Section 921, et seq., and who are  
 2854 authorized to receive such firearms under the terms of such license; or

2855 (B) Possessed by the state or a political subdivision other than a municipal corporation,  
 2856 shall be disposed of by sale at public auction to persons who are licensed as firearms  
 2857 collectors, dealers, importers, or manufacturers under the provisions of 18 U.S.C.  
 2858 Section 921, et seq., and who are authorized to receive such firearms under the terms  
 2859 of such license. Auctions required by this subparagraph may occur online on a rolling

2860 basis or at live events, but in no event shall such auctions occur less frequently than  
 2861 once every 12 months during any time in which the political subdivision or state  
 2862 custodial agency has an inventory of five or more saleable firearms.

2863 (3) If no bids from eligible recipients are received within six months from when bidding  
 2864 opened on a firearm offered for sale pursuant to paragraph (2) of this subsection, the  
 2865 firearm shall be transferred to the Division of Forensic Sciences of the Georgia Bureau  
 2866 of Investigation, a municipal or county law enforcement forensic laboratory for training  
 2867 or experimental purposes, or be destroyed.

2868 ~~(b)~~(h) Records ~~will~~ shall be maintained showing the manner in which each personal  
 2869 property item came into possession of the law enforcement agency, a description of the  
 2870 property, all efforts to locate the owner, any case or docket number, the date of publication  
 2871 of any newspaper notices, and the date on which the property was retained by the law  
 2872 enforcement agency, sold, or discarded. All agencies subject to the provisions of this Code  
 2873 section shall keep records of the firearms acquired and disposed of as provided by this  
 2874 Code section as well as records of the proceeds of the sales thereof and the disbursement  
 2875 of such proceeds in accordance with records retention schedules adopted in accordance  
 2876 with Article 5 of Chapter 18 of Title 50, the 'Georgia Records Act.'

2877 ~~(c)~~(i) The proceeds from the sale of personal property by the sheriff or other county law  
 2878 enforcement agency pursuant to this Code section shall be paid into the general fund of the  
 2879 county treasury. The proceeds from the sale of personal property by a municipal law  
 2880 enforcement agency pursuant to this Code section shall be paid into the general fund of the  
 2881 municipal treasury. The proceeds from the sale of personal property by a state agency  
 2882 pursuant to this Code section shall be paid into the general fund of the state.

2883 ~~(d) The provisions of this Code section shall not apply to personal property which is the~~  
 2884 ~~subject of forfeiture proceedings as otherwise provided by law.~~

2885 ~~(e) The provisions of this Code section shall not apply to any property which is the subject~~  
 2886 ~~of a disposition pursuant to Code Sections 17-5-50 through 17-5-53.~~

2887 ~~(f) The provisions of this Code section shall not apply to any abandoned motor vehicle for~~  
 2888 ~~which the provisions of Chapter 11 of Title 40 are applicable.~~

2889 (j) Neither the state nor any political subdivision of the state nor any of its officers, agents,  
 2890 or employees shall be liable to any person, including the purchaser of a firearm, for  
 2891 personal injuries or damage to property arising from the sale of a firearm under  
 2892 subsection (g) of this Code section unless the state or political subdivision acted with gross  
 2893 negligence or willful or wanton misconduct."

**SECTION 3-18.**

2894

2895 Title 27 of the Official Code of Georgia Annotated, relating to game and fish, is amended by  
 2896 revising subparagraph (b)(3)(B) of Code Section 27-3-12, relating to unlawful substances and  
 2897 equipment relating to hunting, as follows:

2898 "(B) Any equipment used or intended for use in a violation of this Code section,  
 2899 excluding motor vehicles, is declared to be contraband and shall be forfeited ~~to the state~~  
 2900 in accordance with the procedures set forth in Chapter 16 of Title 9."

**SECTION 3-19.**

2901

2902 Said title is further amended by revising subsection (c) of Code Section 27-3-26, relating to  
 2903 hunting bears, as follows:

2904 "(c) Any person violating the provisions of this Code section ~~is~~ shall be guilty of a  
 2905 misdemeanor of a high and aggravated nature, and, upon conviction, may be punished by  
 2906 a fine of not less than \$500.00 ~~and not to exceed~~ nor more than \$5,000.00, ~~or~~ by  
 2907 confinement for a term not to exceed 12 months, or both. The court may order that  
 2908 restitution be paid to the department of not less than \$1,500.00 for each bear or bear part  
 2909 which is the subject of a violation of this Code section. Any equipment which is used or  
 2910 intended for use in a violation of this Code section, excluding motor vehicles, is declared  
 2911 to be contraband and is forfeited ~~to the state~~ in accordance with the procedures set forth in  
 2912 Chapter 16 of Title 9. The hunting and fishing privileges of any person convicted of  
 2913 violating the provisions of this Code section shall be suspended for three years."

**SECTION 3-20.**

2914

2915 Said title is further amended by revising subsection (a.1) of Code Section 27-4-133, relating  
 2916 to lawful net fishing for shrimp, as follows:

2917 "(a.1)(1) It shall be unlawful to fish for shrimp for human consumption with any trawl  
 2918 or trawls having a total foot-rope length greater than 220 feet, not including the foot-rope  
 2919 length of a single trawl not greater than 16 feet when used as a try net. Foot-rope shall  
 2920 be measured from brail line to brail line, first tie to last tie on the bottom line. The  
 2921 provisions of this subsection shall not apply to vessels having a maximum draft of seven  
 2922 feet or less when fully loaded. The department is authorized to exempt trawls used by  
 2923 persons holding a valid scientific collection permit granted by the department.

2924 (2) A vessel operator who violates the provisions of this subsection shall be guilty of a  
 2925 misdemeanor and, upon conviction, shall be fined not less than \$500.00 nor more than  
 2926 \$2,500.00, ~~or~~ imprisoned for not longer than 30 days, or both, and any trawl on board the  
 2927 vessel shall be contraband and ~~may be seized~~ forfeited in accordance with the procedures  
 2928 set forth in Chapter 16 of Title 9."

2929 **SECTION 3-21.**

2930 Said title is further amended by revising subsection (c) of Code Section 27-4-134, relating  
2931 to the requirements for commercial fishing boat licenses, as follows:

2932 "(c) Every breach or violation shall carry over to all succeeding bonds filed under this  
2933 Code section. The aggregate liability shall not exceed the amount of the bond. However,  
2934 in the event that the total amount of any bond is forfeited, the commercial fishing boat  
2935 license shall be suspended until a new bond in the amount of \$10,000.00 is filed covering  
2936 the remainder of the period of the license. Until the new bond is filed, any commercial use  
2937 of the boat shall be unlawful; and the owner shall be guilty of a misdemeanor of a high and  
2938 aggravated nature. Nothing in this subsection shall be construed so as to alter or affect the  
2939 seizure and ~~condemnation~~ civil forfeiture, under Code Section 27-4-137, of any boat not  
2940 covered by the bonds provided for in paragraphs (1) and (2) of subsection (a) of this Code  
2941 section."

2942 **SECTION 3-22.**

2943 Said title is further amended by revising Code Section 27-4-137, relating to condemnation  
2944 proceedings, as follows:

2945 "27-4-137.

2946 (a) Each boat, propulsion unit, net, door, boom, winch, cable, electronic device, or  
2947 accessory equipment used in violation of Code Section 27-4-133 or 27-4-171 is declared  
2948 to be contraband and forfeited to the state ~~and shall be confiscated and seized by any peace~~  
2949 ~~officer, who shall impound it in the name of the district attorney whose circuit includes the~~  
2950 ~~county in which a seizure is made. The district attorney whose circuit includes the county~~  
2951 ~~in which a seizure is made, within 30 days after the seizure of any such equipment, shall~~  
2952 ~~institute proceedings by petition in the superior court of any county where the seizure was~~  
2953 ~~made against the property so seized and against any and all persons having an interest in~~  
2954 ~~or right affected by the seizure or sale of the equipment. A copy of the petition shall be~~  
2955 ~~served upon the owner or lessee of the equipment, if known, and upon the person having~~  
2956 ~~custody or possession of the equipment at the time of the confiscation or seizure. If the~~  
2957 ~~owner, lessee, or person having custody or possession of the equipment at the time of~~  
2958 ~~seizure is unknown, notice of such proceedings shall be published once a week for two~~  
2959 ~~consecutive weeks in the newspaper in which sheriff's advertisements of the county are~~  
2960 ~~published. Such publication shall be deemed notice to any and all persons having an~~  
2961 ~~interest in or right affected by such proceedings and any sale of the equipment resulting~~  
2962 ~~therefrom. If no defense or intervention shall be filed within 30 days from the filing of the~~  
2963 ~~petition, judgment by default shall be entered by the court, otherwise, the case shall~~  
2964 ~~proceed as other civil cases. Should it appear upon the trial of the case or upon default that~~

2965 ~~such equipment was used in violation of the Code sections heretofore cited in this~~  
 2966 ~~subsection, the equipment shall be sold by order of the court after such advertisement as~~  
 2967 ~~the court may direct. The proceeds arising from the sale shall be applied:~~

2968 ~~(1) To the payment of proper costs and expenses, including expenses incurred in the~~  
 2969 ~~seizure;~~

2970 ~~(2) To the payment of the costs of the court and its officers;~~

2971 ~~(3) To the payment of any costs incurred in the storage, advertisement, maintenance, or~~  
 2972 ~~care of such property; and~~

2973 ~~(4) If any money remains, to the general funds of the county.~~

2974 ~~(b) Where the owner or lessee of any equipment seized for purposes of condemnation shall~~  
 2975 ~~abscond or conceal himself so that actual notice of the condemnation proceedings cannot~~  
 2976 ~~be served upon him, he shall be served by publication as is provided in subsection (a) of~~  
 2977 ~~this Code section in the case of an unknown owner or lessee.~~

2978 ~~(c) All proceedings against any such equipment for the purpose of condemnation shall be~~  
 2979 ~~proceedings in rem against the equipment, and the equipment shall be described only in~~  
 2980 ~~general terms. It shall be no ground for defense that the person who had the equipment in~~  
 2981 ~~possession at the time of its use and seizure has not been convicted or acquitted of any~~  
 2982 ~~criminal proceedings resulting from or arising out of such use. It is the intent and purpose~~  
 2983 ~~of the procedure provided by this Code section to provide a civil remedy for the~~  
 2984 ~~condemnation and sale of equipment used in violation of Code Section 27-4-133,~~  
 2985 ~~notwithstanding the conviction or acquittal of the person having possession or custody of~~  
 2986 ~~the equipment at the time of its seizure. The conviction or acquittal of any such person~~  
 2987 ~~shall not be admissible as evidence in any proceeding under this Code section.~~

2988 ~~(d) Any party at interest may appear, by answer under oath, and make his defense. in~~  
 2989 ~~accordance with the procedures set forth in Chapter 16 of Title 9; provided, however, that:~~

2990 ~~(1) Forfeiture shall only be done in accordance with Code Section 9-16-12 and the~~  
 2991 ~~property shall be described only in general terms; and~~

2992 ~~(2) The holder of any bona fide lien on the property shall be protected to the full extent~~  
 2993 ~~of his the lien, but only if the lien was perfected prior to the filing by the department of~~  
 2994 ~~the affidavit provided for in paragraph (3) of subsection (a) of Code Section 27-4-134,~~  
 2995 ~~provided that nothing contained in this Code section shall be construed to obligate the~~  
 2996 ~~district attorney whose circuit includes the county in which a seizure is made the state~~  
 2997 ~~shall not be obligated beyond the proceeds of any such sale less the actual costs incurred~~  
 2998 ~~by him.~~

2999 ~~(e) The court to which any such petition for condemnation may be referred may, in its~~  
 3000 ~~discretion, allow any party at interest to give bond and take possession of the equipment~~  
 3001 ~~seized. The court shall determine whether the bond shall be a forthcoming bond or an~~

3002 ~~eventual condemnation money bond and shall determine the amount of such bond. The~~  
 3003 ~~enforcement of any bond so given shall be regulated by the general law applicable in such~~  
 3004 ~~cases.~~

3005 ~~(f) The court shall have full discretion and authority to permit a settlement between the~~  
 3006 ~~parties at any stage of the proceedings by permitting to be paid into court the value of the~~  
 3007 ~~equipment or the value of the equity therein, as determined by the court, which money,~~  
 3008 ~~when so paid in, shall be distributed as provided by law in all cases of condemnation.~~

3009 ~~(g)(b) The Attorney General may, upon the request of the commissioner, aid the district~~  
 3010 ~~attorney in the in rem proceeding arising from any seizure or confiscation of property."~~

3011 **SECTION 3-23.**

3012 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended  
 3013 by revising subsection (e) of Code Section 36-80-21, relating to electronic transmissions of  
 3014 budgets, as follows:

3015 "(e) Concurrent with the submission of the annual report by local law enforcement  
 3016 agencies required by ~~division (u)(4)(D)(iii) of Code Section 16-13-49~~ subsection (g) of  
 3017 Code Section 9-16-19, a copy of such report shall be electronically transmitted in a  
 3018 Portable Document Format (PDF) file to the Vinson Institute and posted on the website by  
 3019 the Vinson Institute as soon as practicable."

3020 **SECTION 3-24.**

3021 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles, is amended  
 3022 by revising Code Section 40-6-391.2, relating to seizure and forfeiture of motor vehicles  
 3023 operated by habitual violators, as follows:

3024 "40-6-391.2.

3025 (a) ~~Any~~ Except as provided in this Code section, any motor vehicle operated by a person  
 3026 who has been declared a habitual violator for three violations of Code Section 40-6-391  
 3027 ~~and,~~ whose license has been revoked, and who is arrested and charged with a violation of  
 3028 Code Section 40-6-391; is declared to be contraband and subject to forfeiture ~~to the state,~~  
 3029 ~~as provided in this Code section, provided that said forfeiture shall not be absolute unless~~  
 3030 ~~the defendant is finally convicted of such offense~~ in accordance with the procedures set  
 3031 forth in Chapter 16 of Title 9.

3032 ~~(b) Any motor vehicle subject to forfeiture under subsection (a) of this Code section shall~~  
 3033 ~~be seized immediately upon discovery by any law enforcement officer, peace officer, or~~  
 3034 ~~law enforcement agency of this state or any political subdivision thereof who has the power~~  
 3035 ~~to make arrests and whose duty it is to enforce this article, that said motor vehicle has been~~  
 3036 ~~declared contraband. Said motor vehicle shall be delivered within 20 days to the district~~

3037 ~~attorney whose circuit includes the county in which a seizure is made or to his duly~~  
3038 ~~authorized agent. At any time subsequent to the seizure, the chief officer of the seizing~~  
3039 ~~agency, his designee, or the district attorney may release the vehicle upon bond being~~  
3040 ~~posted in like manner as authorized in subsection (e) of this Code section.~~

3041 ~~(c) Within 60 days from the date of the seizure, the district attorney of the judicial circuit,~~  
3042 ~~or the director on his behalf, shall cause to be filed in the superior court of the county in~~  
3043 ~~which the motor vehicle is seized or detained an action for condemnation of such motor~~  
3044 ~~vehicle. The proceedings shall be brought in the name of the state by the district attorney~~  
3045 ~~of the circuit in which the motor vehicle was seized, and the action shall be verified by a~~  
3046 ~~duly authorized agent of the state in a manner required by the law of this state. The action~~  
3047 ~~shall describe the motor vehicle and state its location, present custodian, and the name of~~  
3048 ~~the owner, if known, to the duly authorized agent of the state; allege the essential elements~~  
3049 ~~of the violation which is claimed to exist; and conclude with a prayer of due process to~~  
3050 ~~enforce the forfeiture. Upon the filing of such an action, the court shall promptly cause~~  
3051 ~~process to issue to the present custodian in possession of the motor vehicle described in the~~  
3052 ~~action, commanding him to seize the motor vehicle in the action and to hold that motor~~  
3053 ~~vehicle for further order of the court. The owner, lessee, or any person having a duly~~  
3054 ~~recorded security interest in or lien on such motor vehicle shall be notified by any means~~  
3055 ~~of service provided for in Title 9 or by delivery of a copy of the complaint and summons~~  
3056 ~~by certified mail or statutory overnight delivery to said owner or lienholder or a person of~~  
3057 ~~suitable age or discretion having charge of said owner's premises. For purposes of this~~  
3058 ~~subsection, where forfeiture of a motor vehicle titled or registered in Georgia is sought,~~  
3059 ~~notice to the titleholder shall be deemed adequate if a copy of the complaint and summons~~  
3060 ~~is mailed by certified mail or statutory overnight delivery to the titleholder at the address~~  
3061 ~~set out in the title and an additional copy is mailed by certified mail or statutory overnight~~  
3062 ~~delivery to the firm, person, or corporation which holds the current registration for said~~  
3063 ~~motor vehicle, who shall be deemed agent for service for said titleholder, and said~~  
3064 ~~complaint is advertised once a week for two weeks as set out in this subsection. If the~~  
3065 ~~owner, lessee, or person having a duly recorded security interest in or lien on the~~  
3066 ~~contraband motor vehicle is unknown or resides out of the state or departs the state or~~  
3067 ~~cannot after due diligence be found within the state or conceals himself so as to avoid~~  
3068 ~~notice, notice of the proceedings shall be published once a week for two weeks in the~~  
3069 ~~newspaper in which the sheriff's advertisements are published. Such publication shall be~~  
3070 ~~deemed notice to any and all persons having an interest in or right affected by such~~  
3071 ~~proceeding and any sale of the motor vehicle resulting therefrom, but shall not constitute~~  
3072 ~~notice to any person having a duly recorded security interest in or lien upon such motor~~  
3073 ~~vehicle and required to be served under this Code section unless that person is unknown~~

3074 ~~or resides out of the state or departs the state or cannot after due diligence be found within~~  
 3075 ~~the state or conceals himself to avoid notice.~~

3076 ~~(d)(1) Any party at interest may appear, by answer under oath, and file an intervention~~  
 3077 ~~or defense within 30 days from the date of service on the condemnee of the action for~~  
 3078 ~~condemnation. The owner, lessee, security interest holder, or lienholder shall be~~  
 3079 ~~permitted to defend by showing that the motor vehicle seized was not subject to forfeiture~~  
 3080 ~~under this Code section.~~

3081 ~~(2) A rented or leased vehicle shall not be subject to forfeiture unless it is established in~~  
 3082 ~~the forfeiture proceedings that the owner of the rented or leased vehicle knew or should~~  
 3083 ~~have known of or consented to the operation of such motor vehicle in a manner which~~  
 3084 ~~would subject the vehicle to forfeiture. Upon learning of the address or phone number~~  
 3085 ~~of the rental or leasing company which owns such vehicle, the district attorney shall~~  
 3086 ~~immediately contact the company to inform it that the vehicle is available for the~~  
 3087 ~~company to take possession.~~

3088 ~~(e) The court to which any such petition for condemnation may be referred may, in its~~  
 3089 ~~discretion, allow any party at interest, after making said defense under subsection (d) of~~  
 3090 ~~this Code section, to give bond and take possession of the motor vehicle seized. Such~~  
 3091 ~~motor vehicle shall not be sold or leased without prior approval of the court. In the event~~  
 3092 ~~the court approves such sale or lease, the proceeds arising therefrom shall be deposited in~~  
 3093 ~~the registry of the court, pending final adjudication of the forfeiture proceeding. The court~~  
 3094 ~~shall determine whether the bond shall be a forthcoming bond or an eventual condemnation~~  
 3095 ~~money bond and shall also determine the amount of the bond. The enforcement of any~~  
 3096 ~~bond so given shall be regulated by the general law applicable to such cases.~~

3097 ~~(f) If no defense or intervention is filed within 30 days from the date of service on the~~  
 3098 ~~condemnee of the petition, judgment shall be entered by the court and the motor vehicle~~  
 3099 ~~shall be sold. The court may direct that such property be sold by:~~

3100 ~~(1) Judicial sale as provided in Article 7 of Chapter 13 of Title 9; provided, however, that~~  
 3101 ~~the court may establish a minimum acceptable price for such property; or~~

3102 ~~(2) Any commercially feasible means.~~

3103 ~~(g) The proceeds arising from such sale shall be deposited into the general treasury of the~~  
 3104 ~~state or any other governmental unit whose law enforcement agency it was that originally~~  
 3105 ~~seized the motor vehicle. It is the intent of the General Assembly that, where possible,~~  
 3106 ~~proceeds deposited into the state treasury should be used and that proceeds vested in any~~  
 3107 ~~local governmental unit shall be applied to fund alcohol or drug treatment, rehabilitation,~~  
 3108 ~~and prevention and education programs, after making the necessary expenditures for:~~

3109 ~~(1) Any costs incurred in the seizure;~~

3110 ~~(2) The costs of the court and its officers; and~~



3111 ~~(3) Any cost incurred in the storage, advertisement, maintenance, or care of the motor~~  
 3112 ~~vehicle.~~

3113 ~~(h) The interest of an owner, lessee, security interest holder, or lienholder shall not be~~  
 3114 ~~subject to forfeiture unless the condemnor shows by a preponderance of evidence that such~~  
 3115 ~~person knew or reasonably should have known that the operator was a habitual violator as~~  
 3116 ~~set forth in subsection (a) of this Code section and knew or reasonably should have known~~  
 3117 ~~that such person would operate or was operating the vehicle while in violation of Code~~  
 3118 ~~Section 40-6-391.~~

3119 ~~(i)(b)~~ In any case where a vehicle which is the only family vehicle is determined to be  
 3120 subject to forfeiture, the court may, if it determines that the financial hardship to the family  
 3121 as a result of the forfeiture and sale outweighs the benefit to the state from such forfeiture,  
 3122 order the title to the vehicle transferred to such other family member who is a duly licensed  
 3123 operator and who requires the use of such vehicle for employment or family transportation  
 3124 purposes. Such transfer shall be subject to any valid liens and shall be granted only once."

### 3125 SECTION 3-25.

3126 Said title is further amended by revising Article 2 of Chapter 11, relating to forfeiture of  
 3127 vehicles and components, as follows:

#### 3128 "ARTICLE 2

3129 40-11-20.

3130 The following items are declared to be contraband and are subject to forfeiture in  
 3131 accordance with the procedures set forth in Chapter 16 of Title 9:

3132 (1) Any motor vehicle the manufacturer's vehicle identification number of which has  
 3133 been removed, altered, defaced, falsified, or destroyed; and

3134 (2) Any component part of a motor vehicle the manufacturer's identification number of  
 3135 which has been removed, altered, defaced, falsified, or destroyed.

3136 ~~40-11-21.~~

3137 ~~Property subject to forfeiture under Code Section 40-11-20 and in the possession of any~~  
 3138 ~~state or local law enforcement agency shall not be subject to replevin but is deemed to be~~  
 3139 ~~in the custody of the superior court of the county wherein the property is located subject~~  
 3140 ~~only to the orders and decrees of the court having jurisdiction over the forfeiture~~  
 3141 ~~proceedings.~~

3142 ~~40-11-22.~~  
3143 ~~The law enforcement agency having possession of any property subject to forfeiture under~~  
3144 ~~Code Section 40-11-20 shall report such fact, within ten days of taking possession, to the~~  
3145 ~~district attorney of the judicial circuit having jurisdiction in the county where the property~~  
3146 ~~is located. Within 30 days from the date he or she receives such notice, the district attorney~~  
3147 ~~of the judicial circuit shall file in the superior court of the county in which the property is~~  
3148 ~~located an action for condemnation of the property. The proceedings shall be brought in~~  
3149 ~~the name of the state, and the action shall be verified by a duly authorized agent of the state~~  
3150 ~~in the manner required by law. The action shall describe the property, state its location,~~  
3151 ~~state its present custodian, state the name of the owner, if known, to the duly authorized~~  
3152 ~~agent of the state, allege the essential elements which are claimed to exist, and shall~~  
3153 ~~conclude with a prayer of due process to enforce the forfeiture. Upon the filing of such an~~  
3154 ~~action, the court shall promptly cause process to issue to the present custodian in~~  
3155 ~~possession of the property described in the action, commanding him or her to seize the~~  
3156 ~~property described in the action and to hold that property for further order of the court. A~~  
3157 ~~copy of the action shall be served on the owner, if known. If the owner is known, a copy~~  
3158 ~~of the action shall also be served upon any person having a duly recorded security interest~~  
3159 ~~in or lien upon that property. If the owner is unknown or resides out of the state or departs~~  
3160 ~~the state or cannot after due diligence be found within the state or conceals himself or~~  
3161 ~~herself so as to avoid service, notice of the proceedings shall be published once a week for~~  
3162 ~~two weeks in the newspaper in which the sheriff's advertisements are published. Such~~  
3163 ~~publication shall be deemed notice to any and all persons having an interest in or right~~  
3164 ~~affected by such proceeding and from any sale of the property resulting therefrom but shall~~  
3165 ~~not constitute notice to any person having a duly recorded security interest in or lien upon~~  
3166 ~~such property and required to be served under this Code section unless that person is~~  
3167 ~~unknown or resides out of the state or departs the state or cannot after due diligence be~~  
3168 ~~found within the state or conceals himself or herself to avoid service. At the expiration of~~  
3169 ~~30 days after such filing, if no claimant has appeared to defend the action, the court shall~~  
3170 ~~order the disposition of the seized property as provided for in this Code section. If the~~  
3171 ~~owner of the property appears and defends the action and can show that he or she was~~  
3172 ~~unaware of the fact that the identification number had been removed, altered, defaced,~~  
3173 ~~falsified, or destroyed, the court shall order the property returned to the owner upon the~~  
3174 ~~owner's paying proper expenses relating to proceedings for forfeiture, including the~~  
3175 ~~expenses of the maintenance of custody, advertising, and court costs and upon the~~  
3176 ~~property's being assigned a new identification number as provided in this article.~~

3177 ~~40-11-23.~~

3178 ~~Except as otherwise provided in this article, when property is forfeited under this article,~~  
 3179 ~~the court may:~~

3180 ~~(1) Order that the property be retained by the law enforcement agency or the county in~~  
 3181 ~~which the property is located; or~~

3182 ~~(2) Order that the property be disposed of by sale, the proceeds of which shall be used~~  
 3183 ~~to pay the proper expenses relating to the proceedings for forfeiture, including the~~  
 3184 ~~expenses of maintenance of custody, advertising, and court costs, with the remaining~~  
 3185 ~~funds to be paid into the general fund of the county.~~

3186 ~~40-11-24.~~ 40-11-21.

3187 Prior to the property's being sold or returned to the owner or otherwise disposed of, the  
 3188 Department of Revenue shall assign it a new identification number. If the property is to  
 3189 be returned to the owner, the court shall order that such return is conditioned on the owner  
 3190 paying the expenses relating to the civil forfeiture, including the expenses of maintenance  
 3191 of custody, advertising, and court costs."

3192 **SECTION 3-26.**

3193 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,  
 3194 is amended by revising Code Section 45-15-10, relating to the Attorney General's authority  
 3195 to prosecute officials, persons, firms, or corporations for violations while dealing with or for  
 3196 the state, as follows:

3197 "45-15-10.

3198 The Attorney General, as the head of the Department of Law and the chief legal officer of  
 3199 the state, is authorized to prosecute in the criminal courts of this state any official, person,  
 3200 firm, or corporation which violates any criminal statute while dealing with or for the state  
 3201 or any official, employee, department, agency, board, bureau, commission, institution, or  
 3202 appointee thereof; and the Attorney General is authorized to call upon the district attorney  
 3203 or the prosecuting officer of any state court to assist in or to conduct such prosecution; and,  
 3204 when so requested by the Attorney General, it shall be the duty of any such district attorney  
 3205 or prosecuting officer of this state to assist in or to conduct such prosecution for and on  
 3206 behalf of the Attorney General and the state. The Attorney General shall be authorized to  
 3207 commence civil forfeiture proceedings, as such term is defined in Code Section 9-16-2,  
 3208 pursuant to Code Section 16-14-7 whenever he or she is authorized to prosecute a case  
 3209 pursuant to this Code section."

**SECTION 3-27.**

3210

3211 Title 46 of the Official Code of Georgia Annotated, relating to public utilities and public  
3212 transportation, is amended by revising Code Section 46-9-253, relating to transportation of  
3213 gunpowder, dynamite, or other explosives, as follows:

3214 "46-9-253.

3215 Any person who causes more than five pounds of gunpowder, or any amount of dynamite  
3216 or other dangerous explosive, to be transported upon water, by railroad, or otherwise shall  
3217 have the word 'Gunpowder,' 'Dynamite,' or other name of the explosive marked in large  
3218 letters upon each package so transported. Gunpowder, dynamite, or other dangerous  
3219 explosive transported in violation of said ~~provision shall be liable to seizure and forfeiture~~  
3220 ~~by any officer who may execute a criminal warrant, under warrant for that purpose, issued~~  
3221 ~~by any officer who may issue such first-named warrants, one-half of the same to go to the~~  
3222 ~~informer, the other half to go to the military fund of the state, after public sale by order of~~  
3223 ~~the officer issuing the warrant, or one of like authority~~ this Code section are declared  
3224 contraband and shall be forfeited in accordance with the procedures set forth in Chapter 16  
3225 of Title 9."

**SECTION 3-28.**

3226

3227 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is  
3228 amended by revising subsection (b) of Code Section 48-4-61, relating to land bank authority  
3229 established by interlocal cooperation agreement, as follows:

3230 "(b) The authority shall be a public body corporate and politic with the power to sue and  
3231 be sued, to accept and issue deeds in its name, including without limitation the acceptance  
3232 of real property in accordance with the provisions of ~~paragraph (2.1) of subsection (u) (f)~~  
3233 of Code Section ~~16-13-49~~ 9-16-19, and to institute quia timet actions and shall have any  
3234 other powers necessary and incidental to carry out the powers granted by this article."

**SECTION 3-29.**

3235

3236 Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended  
3237 by revising Code Section 49-4-146.3, relating to forfeiture of property and proceeds obtained  
3238 through Medicaid fraud, as follows:

3239 "49-4-146.3.

3240 (a) As used in this Code section, the term:

3241 (1) 'Civil forfeiture proceeding' shall have the same meaning as set forth in Code Section  
3242 9-16-2. 'Costs' means, but is not limited to:

3243 ~~(A) All expenses associated with the seizure, towing, storage, maintenance, custody,~~  
3244 ~~preservation, operation, or sale of the property, and~~

- 3245 ~~(B) Satisfaction of any security interest or lien not subject to forfeiture under this Code~~  
 3246 ~~section.~~
- 3247 ~~(2) 'Court costs' means, but is not limited to:~~
- 3248 ~~(A) All court costs, including the costs of advertisement, transcripts, and court reporter~~  
 3249 ~~fees; and~~
- 3250 ~~(B) Payment of receivers, conservators, appraisers, accountants, or trustees appointed~~  
 3251 ~~by the court pursuant to this Code section.~~
- 3252 ~~(3) 'Interest holder' means a secured party within the meaning of Code Section 11-9-102~~  
 3253 ~~or the beneficiary of a perfected encumbrance pertaining to an interest in property.~~
- 3254 ~~(4)(2) 'Medicaid fraud' means:~~
- 3255 ~~(A) A violation of Code Section 49-4-146.1; or~~
- 3256 ~~(B) A violation relating to the obtaining of medical assistance benefits or payments~~  
 3257 ~~under this article of any provision of:~~
- 3258 ~~(i) Chapter 8 of Title 16, relating to offenses involving theft;~~
- 3259 ~~(ii) Code Section 16-10-20, relating to false statements and writings, concealment of~~  
 3260 ~~facts, and fraudulent documents in matters within jurisdiction of state or political~~  
 3261 ~~subdivisions; or~~
- 3262 ~~(iii) Code Section 16-10-21, relating to conspiracy to defraud the state or its political~~  
 3263 ~~subdivisions.~~
- 3264 ~~(5) 'Owner' means a person, other than an interest holder, who has an interest in property~~  
 3265 ~~and is in compliance with any statute requiring its recordation or reflection in public~~  
 3266 ~~records in order to perfect the interest against a bona fide purchaser for value.~~
- 3267 ~~(6)(3) 'Proceeds' means property derived from or realized through, directly or indirectly,~~  
 3268 ~~Medicaid fraud and includes property of any kind without reduction for expenses incurred~~  
 3269 ~~for acquisition, maintenance, or any other purpose shall have the same meaning as set~~  
 3270 ~~forth in Code Section 9-16-2.~~
- 3271 ~~(7)(4) 'Property' means anything of value and includes any interest in anything of value,~~  
 3272 ~~including real property and any fixtures thereon, and tangible and intangible personal~~  
 3273 ~~property, including but not limited to currency, instruments, securities, or any kind of~~  
 3274 ~~privilege, interest, claim, or right shall have the same meaning as set forth in Code~~  
 3275 ~~Section 9-16-2.~~
- 3276 ~~(8) 'Prosecutor' means a district attorney or his or her designee or the Attorney General~~  
 3277 ~~or his or her designee.~~
- 3278 (b) Any property which is directly or indirectly All property and proceeds obtained by a  
 3279 person or entity through or as a result of Medicaid fraud in the provision of services or  
 3280 equipment under this article are and any proceeds shall be subject to civil forfeiture ~~to the~~  
 3281 state by a Medicaid fraud forfeiture action brought by the state proceedings in accordance

3282 with ~~this Code section~~ Chapter 16 of Title 9. This Code section shall not apply to cases  
 3283 involving alleged fraud by Medicaid recipients in obtaining medical assistance benefits.

3284 ~~(c) A Medicaid fraud forfeiture proceeding shall be initiated by a complaint filed in the~~  
 3285 ~~name of the State of Georgia and may be brought in the case of:~~

3286 ~~(1) An in rem action, by the prosecutor in the county in which the property is located or~~  
 3287 ~~seized; or~~

3288 ~~(2) An in personam action, by the prosecutor in the county in which the defendant~~  
 3289 ~~resides.~~

3290 ~~(d)(1) An action pursuant to this Code section may be commenced before or after the~~  
 3291 ~~seizure of property.~~

3292 ~~(2) Any Medicaid fraud forfeiture action filed under this Code section shall be limited~~  
 3293 ~~to a civil action.~~

3294 ~~(e) A property interest shall not be subject to forfeiture under this Code section if the~~  
 3295 ~~owner of such interest or interest holder establishes that the owner or interest holder:~~

3296 ~~(1) Is not legally accountable for the conduct giving rise to its forfeiture, did not consent~~  
 3297 ~~to it, and did not know and there is no reason why he or she should have known of the~~  
 3298 ~~conduct or that it was likely to occur;~~

3299 ~~(2) Had not acquired and did not stand to acquire substantial proceeds from the conduct~~  
 3300 ~~giving rise to its forfeiture other than as an interest holder in an arm's length commercial~~  
 3301 ~~transaction;~~

3302 ~~(3) With respect to conveyances for transportation only, did not hold the property jointly,~~  
 3303 ~~in common, or in community with a person whose conduct gave rise to its forfeiture;~~

3304 ~~(4) Does not hold the property for the benefit of or as nominee for any person whose~~  
 3305 ~~conduct gave rise to its forfeiture, and, if the owner or interest holder acquired the interest~~  
 3306 ~~through any such person, the owner or interest holder acquired it as a bona fide purchaser~~  
 3307 ~~for value without knowingly taking part in an illegal transaction; and~~

3308 ~~(5) Acquired the interest:~~

3309 ~~(A) Before the completion of the conduct giving rise to its forfeiture, and the person~~  
 3310 ~~whose conduct gave rise to its forfeiture did not have the authority to convey the~~  
 3311 ~~interest to a bona fide purchaser for value at the time of the conduct; or~~

3312 ~~(B) After the completion of the conduct giving rise to its forfeiture:~~

3313 ~~(i) As a bona fide purchaser for value without knowingly taking part in an illegal~~  
 3314 ~~transaction;~~

3315 ~~(ii) Before the filing of a lien on it and before the effective date of a notice of pending~~  
 3316 ~~forfeiture relating to it and without notice of its seizure for forfeiture under this~~  
 3317 ~~article; and~~

3318 ~~(iii) At the time the interest was acquired, was reasonably without cause to believe~~  
3319 ~~that the property was subject to forfeiture or likely to become subject to forfeiture~~  
3320 ~~under this article.~~

3321 ~~Upon the request of the owner or interest holder, for good cause shown, the court shall hold~~  
3322 ~~an expedited hearing to determine whether the property is subject to forfeiture under this~~  
3323 ~~Code section.~~

3324 ~~(f) A rented or leased vehicle shall not be subject to forfeiture unless it is established in~~  
3325 ~~forfeiture proceedings that the owner of the rented or leased vehicle is legally accountable~~  
3326 ~~for the conduct which would otherwise subject the vehicle to forfeiture, consented to the~~  
3327 ~~conduct, or knew or reasonably should have known of the conduct or that it was likely to~~  
3328 ~~occur. Upon learning of the address or phone number of the company which owns any~~  
3329 ~~rented or leased vehicle which is present at the scene of an arrest or other action taken~~  
3330 ~~pursuant to this Code section, the duly authorized authorities shall immediately contact the~~  
3331 ~~company to inform it that the vehicle is available for the company to take possession.~~

3332 ~~(g)(1) Property which is subject to forfeiture under this Code section may be seized by~~  
3333 ~~any law enforcement officer of this state or of any political subdivision thereof who has~~  
3334 ~~power to make arrests or execute process or a search warrant issued by any superior court~~  
3335 ~~having jurisdiction over the property. A search warrant authorizing seizure of property~~  
3336 ~~which is subject to forfeiture pursuant to this Code section may be issued at an ex parte~~  
3337 ~~hearing before a superior court judge of a county where the forfeiture action may be~~  
3338 ~~brought demonstrating that probable cause exists for its forfeiture or that the property has~~  
3339 ~~been the subject of a previous final judgment of forfeiture in the courts of this state, any~~  
3340 ~~other state, or the United States. The court may order that the property be seized on such~~  
3341 ~~terms and conditions as are reasonable. In entering any such seizure order, the court shall~~  
3342 ~~determine that appropriate conditions are included to ensure the physical safety and~~  
3343 ~~well-being of any recipients or patients who may be affected by such warrant and that~~  
3344 ~~sufficient steps will be taken to ensure that patient medical records are kept confidential.~~  
3345 ~~The property owner or interest holder, within ten days of the seizure of property taken~~  
3346 ~~pursuant to a search warrant, may make a written demand to the court with notice to the~~  
3347 ~~prosecutor for a hearing to determine if probable cause still exists for the seized property~~  
3348 ~~to be subject to forfeiture pursuant to this Code section. Said hearing shall be held within~~  
3349 ~~20 days of said demand unless continued by the court for good cause.~~

3350 ~~(2) At the ex parte hearing for the issuance of a search warrant authorizing the seizure~~  
3351 ~~of property under paragraph (1) of this subsection, a reasonable estimate of the~~  
3352 ~~approximate fair market value of the property sought to be seized shall be presented to~~  
3353 ~~the court. Based upon such evidence, the court shall establish a bond amount for the~~  
3354 ~~release of any property ordered seized, not to exceed double the fair market value of that~~

3355 ~~property. The property owner or interest holder may file in the clerk's office of the court~~  
 3356 ~~where the forfeiture action is brought, a bond with good security, conditioned for the~~  
 3357 ~~payment of the bond amount established by the court. The bond shall be subject to~~  
 3358 ~~approval by the clerk of the court. Upon receipt of a bond deemed acceptable by the~~  
 3359 ~~clerk, the court which ordered the seizure of the property shall issue an order to the~~  
 3360 ~~persons having custody of the seized property to release such property to the property~~  
 3361 ~~owner or interest holder filing such bond, unless the property is being held as evidence.~~  
 3362 ~~If the seized property so released is ordered to be forfeited, the state shall be entitled to~~  
 3363 ~~entry of judgment upon such bond against the principal and sureties therein, as judgment~~  
 3364 ~~may be entered against securities upon appeal. If the property seized is released pursuant~~  
 3365 ~~to this paragraph and is later otherwise required to be released under any other provision~~  
 3366 ~~of this Code section, the principal and sureties upon any bond given for the release of~~  
 3367 ~~such property under this paragraph shall also be released from their obligations under that~~  
 3368 ~~bond.~~

3369 ~~(h)(1) When property is seized pursuant to this article, the sheriff or law enforcement~~  
 3370 ~~officer seizing the same shall report the fact of seizure, in writing, within 20 days thereof~~  
 3371 ~~to the prosecutor of the judicial circuit having jurisdiction in the county where the seizure~~  
 3372 ~~was made.~~

3373 ~~(2) Within 30 days from the date of seizure, a complaint for forfeiture shall be initiated~~  
 3374 ~~as provided for in subsection (n), (o), or (p) of this Code section.~~

3375 ~~(3) If the state fails to initiate forfeiture proceedings against property seized for forfeiture~~  
 3376 ~~by notice of pending forfeiture within the time limits specified in paragraphs (1) and (2)~~  
 3377 ~~of this subsection, the property must be released on the request of an owner or interest~~  
 3378 ~~holder, pending further proceedings pursuant to this Code section, unless the property is~~  
 3379 ~~being held as evidence.~~

3380 ~~(i)(1) Seizure of property by a law enforcement officer constitutes notice of such seizure~~  
 3381 ~~to any person who was present at the time of seizure who may assert an interest in the~~  
 3382 ~~property.~~

3383 ~~(2) When property is seized pursuant to this article, the prosecutor or the sheriff or law~~  
 3384 ~~enforcement officer seizing the same shall give notice of the seizure to any owner or~~  
 3385 ~~interest holder who is not present at the time of seizure by personal service, publication,~~  
 3386 ~~or the mailing of written notice:~~

3387 ~~(A) If the owner's or interest holder's name and current address are known, by either~~  
 3388 ~~personal service or mailing a copy of the notice by certified mail or statutory overnight~~  
 3389 ~~delivery to that address;~~

3390 ~~(B) If the owner's or interest holder's name and address are required by law to be on~~  
 3391 ~~record with a government agency to perfect an interest in the property but the owner's~~



3392 ~~or interest holder's current address is not known, by mailing a copy of the notice by~~  
 3393 ~~certified mail or statutory overnight delivery, return receipt requested, to any address~~  
 3394 ~~on the record; or~~

3395 ~~(C) If the owner's or interest holder's address is not known and is not on record as~~  
 3396 ~~provided in subparagraph (B) of this paragraph or the owner's or interest holder's~~  
 3397 ~~interest is not known, by publication in two consecutive issues of a newspaper of~~  
 3398 ~~general circulation in the county in which the seizure occurs.~~

3399 ~~(3) Notice of seizure must include a description of the property, the date and place of~~  
 3400 ~~seizure, the conduct giving rise to forfeiture, and the violation of law alleged.~~

3401 ~~(j) A prosecutor may file, without a filing fee, a lien for forfeiture of property upon the~~  
 3402 ~~initiation of any civil proceeding under this article or upon seizure for forfeiture. The filing~~  
 3403 ~~constitutes notice to any person claiming an interest in the property owned by the named~~  
 3404 ~~person. The filing shall include the following:~~

3405 ~~(1) The lien notice must set forth:~~

3406 ~~(A) The name of the person and, in the discretion of the state, any alias and any~~  
 3407 ~~corporations, partnerships, trusts, or other entities, including nominees, that are either~~  
 3408 ~~owned entirely or in part or controlled by the person; and~~

3409 ~~(B) The description of the property, the civil proceeding that has been brought under~~  
 3410 ~~this article, the amount claimed by the state, the name of the court where the proceeding~~  
 3411 ~~or action has been brought, and the case number of the proceeding or action if known~~  
 3412 ~~at the time of filing;~~

3413 ~~(2) A lien under this subsection applies to the described property and to one named~~  
 3414 ~~person and to any aliases, fictitious names, or other names, including names of~~  
 3415 ~~corporations, partnerships, trusts, or other entities, that are either owned entirely or in part~~  
 3416 ~~or controlled by the named person and any interest in real property owned or controlled~~  
 3417 ~~by the named person. A separate lien for forfeiture of property must be filed for any~~  
 3418 ~~other person;~~

3419 ~~(3) The lien creates, upon filing, a lien in favor of the state as it relates to the seized~~  
 3420 ~~property or to the named person or related entities with respect to said property. The lien~~  
 3421 ~~secures the amount of potential liability for civil judgment and, if applicable, the fair~~  
 3422 ~~market value of seized property relating to all proceedings under this article enforcing the~~  
 3423 ~~lien. The forfeiture lien referred to in this subsection must be filed in accordance with~~  
 3424 ~~the provisions of the laws in this state pertaining to the type of property that is subject to~~  
 3425 ~~the lien. The state may amend or release, in whole or in part, a lien filed under this~~  
 3426 ~~subsection at any time by filing, without a filing fee, an amended lien in accordance with~~  
 3427 ~~this subsection which identifies the lien amended. The state, as soon as practical after~~  
 3428 ~~filing a lien, shall furnish to any person named in the lien a notice of the filing of the lien;~~

- 3429 ~~(4) Upon entry of judgment in favor of the state, the state may proceed to execute on the~~  
 3430 ~~lien as in the case of any other judgment;~~
- 3431 ~~(5) A trustee, constructive or otherwise, who has notice that a lien for forfeiture of~~  
 3432 ~~property, a notice of pending forfeiture, or a civil forfeiture proceeding has been filed~~  
 3433 ~~against the property or against any person or entity for whom the person holds title or~~  
 3434 ~~appears as the owner of record shall furnish, within ten days, to the prosecutor or the~~  
 3435 ~~prosecutor's designee the following information:~~
- 3436 ~~(A) The name and address of the person or entity for whom the property is held;~~  
 3437 ~~(B) The names and addresses of all beneficiaries for whose benefit legal title to the~~  
 3438 ~~seized property, or property of the named person or related entity, is held; and~~  
 3439 ~~(C) A copy of the applicable trust agreement or other instrument, if any, under which~~  
 3440 ~~the trustee or other person holds legal title or appears as the owner of record of the~~  
 3441 ~~property; and~~
- 3442 ~~(6) A trustee, constructive or otherwise, who fails to comply with this subsection shall~~  
 3443 ~~be guilty of a misdemeanor.~~
- 3444 ~~(k) Property taken or detained under this Code section is not subject to replevin,~~  
 3445 ~~conveyance, sequestration, or attachment. The seizing law enforcement agency or the~~  
 3446 ~~prosecutor may authorize the release of the property if the forfeiture or retention is~~  
 3447 ~~unnecessary or may transfer the action to another agency or prosecutor by discontinuing~~  
 3448 ~~forfeiture proceedings in favor of forfeiture proceedings initiated by the other law~~  
 3449 ~~enforcement agency or prosecutor. An action under this Code section may be consolidated~~  
 3450 ~~with any other action or proceeding under this article relating to the same property on~~  
 3451 ~~motion by an interest holder and must be so consolidated on motion by the prosecutor in~~  
 3452 ~~either proceeding or action. The property is deemed to be in the custody of the State of~~  
 3453 ~~Georgia subject only to the orders and decrees of the superior court having jurisdiction over~~  
 3454 ~~the forfeiture proceedings.~~
- 3455 ~~(l)(1) If property is seized under this article, the prosecutor may:~~
- 3456 ~~(A) Remove the property to a place designated by the superior court having jurisdiction~~  
 3457 ~~over the forfeiture proceeding;~~
- 3458 ~~(B) Place the property under constructive seizure by posting notice of pending~~  
 3459 ~~forfeiture, by giving notice of pending forfeiture to its owners and interest holders, or~~  
 3460 ~~by filing notice of seizure in any appropriate public record relating to the property;~~
- 3461 ~~(C) Remove the property to a storage area, within the jurisdiction of the court, for~~  
 3462 ~~safekeeping or, if the property is a negotiable instrument or money and is not needed~~  
 3463 ~~for evidentiary purposes, the prosecutor may authorize its being deposited in an~~  
 3464 ~~interest-bearing account in a financial institution in this state. Any accrued interest~~  
 3465 ~~shall follow the principal in any judgment with respect thereto;~~

3466 ~~(D) Provide for another governmental agency, a receiver appointed by the court~~  
 3467 ~~pursuant to Chapter 8 of Title 9, an owner, or an interest holder to take custody of the~~  
 3468 ~~property and remove it to an appropriate location within the county where the property~~  
 3469 ~~was seized; or~~

3470 ~~(E) Require the sheriff or chief of police of the political subdivision where the property~~  
 3471 ~~was seized to take custody of the property and remove it to an appropriate location for~~  
 3472 ~~disposition in accordance with law.~~

3473 ~~(2) If any property which has been attached or seized pursuant to this Code section is~~  
 3474 ~~perishable or is liable to perish, waste, or be greatly reduced in value by keeping or if the~~  
 3475 ~~expense of keeping the same is excessive or disproportionate to the value thereof, the~~  
 3476 ~~court, upon motion of the state, a claimant, or the custodian, may order the property or~~  
 3477 ~~any portion thereof to be sold upon such terms and conditions as may be prescribed by~~  
 3478 ~~the court; and the proceeds shall be paid into the registry of the court pending final~~  
 3479 ~~disposition of the action.~~

3480 ~~(m) As soon as possible, but not more than 30 days after the seizure of property, the~~  
 3481 ~~seizing law enforcement agency shall conduct an inventory and estimate the value of the~~  
 3482 ~~property seized. All reasonable steps shall be taken so as not to interfere with or disrupt~~  
 3483 ~~the provision of medical care by the provider when such inventory is conducted. Such~~  
 3484 ~~inventory shall be conducted in a manner which assures the confidentiality of patient~~  
 3485 ~~medical records.~~

3486 ~~(n) If the estimated value of personal property seized is \$25,000.00 or less, the prosecutor~~  
 3487 ~~may elect to proceed under the provisions of this subsection in the following manner:~~

3488 ~~(1) Notice of the seizure of such property shall be posted in a prominent location in the~~  
 3489 ~~courthouse of the county in which the property was seized. Such notice shall include a~~  
 3490 ~~description of the property, the date and place of seizure, the conduct giving rise to~~  
 3491 ~~forfeiture, a statement that the owner of such property has 30 days within which a claim~~  
 3492 ~~must be filed, and the violation of law alleged;~~

3493 ~~(2) A copy of the notice, which shall include a statement that the owner of such property~~  
 3494 ~~has 30 days within which a claim must be filed, shall be served upon an owner, interest~~  
 3495 ~~holder, or person in possession of the property at the time of seizure as provided in~~  
 3496 ~~subsection (i) of this Code section and shall be published for at least three successive~~  
 3497 ~~weeks in a newspaper of general circulation in the county where the seizure was made;~~

3498 ~~(3) The owner or interest holder may file a claim within 30 days after the second~~  
 3499 ~~publication of the notice of forfeiture by sending the claim to the seizing law enforcement~~  
 3500 ~~agency and to the prosecutor by certified mail or statutory overnight delivery, return~~  
 3501 ~~receipt requested;~~

- 3502 ~~(4) The claim must be signed by the owner or interest holder under penalty of perjury~~  
 3503 ~~and must substantially set forth:~~
- 3504 ~~(A) The caption of the proceedings as set forth on the notice of pending forfeiture and~~  
 3505 ~~the name of the claimant;~~
  - 3506 ~~(B) The address at which the claimant will accept mail;~~
  - 3507 ~~(C) The nature and extent of the claimant's interest in the property;~~
  - 3508 ~~(D) The date, identity of the transferor, and circumstances of the claimant's acquisition~~  
 3509 ~~of the interest in the property;~~
  - 3510 ~~(E) The specific provision of this Code section relied on in asserting that the property~~  
 3511 ~~is not subject to forfeiture; and~~
  - 3512 ~~(F) The precise relief sought;~~
- 3513 ~~(5) If a claim is filed, the prosecutor shall file a complaint for forfeiture as provided in~~  
 3514 ~~subsection (o) or (p) of this Code section within 30 days of the actual receipt of the claim.~~  
 3515 ~~A person who files a claim shall be joined as a party; and~~
- 3516 ~~(6) If no claim is filed within 30 days after the second publication of the notice of~~  
 3517 ~~forfeiture, all right, title, and interest in the property are forfeited to the state and the~~  
 3518 ~~prosecutor shall dispose of the property as provided in subsection (u) of this Code~~  
 3519 ~~section.~~
- 3520 ~~(o) In rem proceedings:~~
- 3521 ~~(1) In actions in rem, the property which is the subject of the action shall be named as~~  
 3522 ~~the defendant. The complaint shall be verified on oath or affirmation by a duly~~  
 3523 ~~authorized agent of the state in a manner required by the laws of this state. Such~~  
 3524 ~~complaint shall describe the property with reasonable particularity; state that it is located~~  
 3525 ~~within the county or will be located within the county during the pendency of the action;~~  
 3526 ~~state its present custodian; state the name of the owner or interest holder, if known; allege~~  
 3527 ~~the essential elements of the violation which is claimed to exist; state the place of seizure,~~  
 3528 ~~if the property was seized; and conclude with a prayer of due process to enforce the~~  
 3529 ~~forfeiture.~~
  - 3530 ~~(2) A copy of the complaint and summons shall be served on any person known to be an~~  
 3531 ~~owner or interest holder and any person who is in possession of the property.~~
    - 3532 ~~(A) Service of the complaint and summons shall be as provided in subsections (a), (b),~~  
 3533 ~~(c), and (e) of Code Section 9-11-4.~~
    - 3534 ~~(B) If real property is the subject of the action or the owner or interest holder is~~  
 3535 ~~unknown or resides out of the state or departs the state or cannot after due diligence be~~  
 3536 ~~found within the state or conceals himself or herself so as to avoid service, notice of the~~  
 3537 ~~proceeding shall be published once a week for two successive weeks in the newspaper~~  
 3538 ~~in which the sheriff's advertisements are published. Such publication shall be deemed~~

3539 notice to any and all persons having an interest in or right affected by such proceeding  
 3540 and from any sale of the property resulting therefrom, but shall not constitute notice to  
 3541 an interest holder unless that person is unknown or resides out of the state or departs the  
 3542 state or cannot after due diligence be found within the state or conceals himself or  
 3543 herself to avoid service.

3544 ~~(C) If tangible property which has not been seized is the subject of the action, the court  
 3545 may order the sheriff or another law enforcement officer to take possession of the  
 3546 property. If the character or situation of the property is such that the taking of actual  
 3547 possession is impracticable, the sheriff shall execute process by affixing a copy of the  
 3548 complaint and summons to the property in a conspicuous place and by leaving another  
 3549 copy of the complaint and summons with the person having possession or such person's  
 3550 agent. In cases involving a vessel or aircraft, the sheriff or other law enforcement  
 3551 officer is authorized to make a written request with the appropriate governmental  
 3552 agency not to permit the departure of such vessel or aircraft until notified by the sheriff  
 3553 or the sheriff's deputy that the vessel or aircraft has been released.~~

3554 ~~(3) An owner of or interest holder in the property may file an answer asserting a claim  
 3555 against the property in the action in rem. Any such answer shall be filed within 30 days  
 3556 after the service of the summons and complaint. Where service is made by publication  
 3557 and personal service has not been made, an owner or interest holder shall file an answer  
 3558 within 30 days of the date of final publication. An answer must be verified by the owner  
 3559 or interest holder under penalty of perjury. In addition to complying with the general  
 3560 rules applicable to an answer in civil actions, the answer must substantially set forth:~~

3561 ~~(A) The caption of the proceedings as set forth in the complaint and the name of the  
 3562 claimant;~~

3563 ~~(B) The address at which the claimant will accept mail;~~

3564 ~~(C) The nature and extent of the claimant's interest in the property;~~

3565 ~~(D) The date, identity of transferor, and circumstances of the claimant's acquisition of  
 3566 the interest in the property;~~

3567 ~~(E) The specific provision of this Code section relied on in asserting that the property  
 3568 is not subject to forfeiture; and~~

3569 ~~(F) The precise relief sought.~~

3570 ~~(4) If at the expiration of the period set forth in paragraph (3) of this subsection no  
 3571 answer has been filed, the court shall order the disposition of the seized property as  
 3572 provided for in this Code section.~~

3573 ~~(5) If an answer is filed, a hearing must be held within 60 days after service of the  
 3574 complaint unless continued for good cause and must be held by the court with a jury  
 3575 unless waived by the claimant.~~

3576 ~~(6) An action in rem may be brought by the state in addition to or in lieu of any other in~~  
3577 ~~rem or in personam action brought pursuant to this article.~~

3578 ~~(p) In personam proceedings:~~

3579 ~~(1) The complaint shall be verified on oath or affirmation by a duly authorized agent of~~  
3580 ~~the state in a manner required by the laws of this state. It shall describe with reasonable~~  
3581 ~~particularity the property which is sought to be forfeited; state its present custodian; state~~  
3582 ~~the name of the owner or interest holder, if known; allege the essential elements of the~~  
3583 ~~violation which is claimed to exist; state the place of seizure, if the property was seized;~~  
3584 ~~and conclude with a prayer of due process to enforce the forfeiture.~~

3585 ~~(2) Service of the complaint and summons shall be as follows:~~

3586 ~~(A) Except as otherwise provided in this subsection, service of the complaint and~~  
3587 ~~summons shall be as provided by subsections (a), (b), (c), and (d) of Code Section~~  
3588 ~~9-11-4; and~~

3589 ~~(B) If the defendant is unknown or resides out of the state or departs the state or cannot~~  
3590 ~~after due diligence be found within the state or conceals himself or herself so as to~~  
3591 ~~avoid service, notice of the proceedings shall be published once a week for two~~  
3592 ~~successive weeks in the newspaper in which the sheriff's advertisements are published.~~  
3593 ~~Such publication shall be deemed sufficient notice to any such defendant.~~

3594 ~~(3) A defendant shall file a verified answer within 30 days after the service of the~~  
3595 ~~summons and complaint. Where service is made by publication and personal service has~~  
3596 ~~not been made, a defendant shall file such answer within 30 days of the date of final~~  
3597 ~~publication. In addition to complying with the general rules applicable to an answer in~~  
3598 ~~civil actions, the answer must contain all of the elements set forth in paragraph (3) of~~  
3599 ~~subsection (o) of this Code section.~~

3600 ~~(4) Any interest holder or person in possession of the property may join any action~~  
3601 ~~brought pursuant to this subsection as provided by Chapter 11 of Title 9, known as the~~  
3602 ~~'Georgia Civil Practice Act.'~~

3603 ~~(5) If at the expiration of the period set forth in paragraph (3) of this subsection no~~  
3604 ~~answer has been filed, the court shall order the disposition of the seized property as~~  
3605 ~~provided for in this Code section.~~

3606 ~~(6) If an answer is filed, a hearing must be held within 60 days after service of the~~  
3607 ~~complaint unless continued for good cause and must be held by the court with a jury~~  
3608 ~~unless waived by the claimant.~~

3609 ~~(7) On a determination of liability of a person for conduct giving rise to forfeiture under~~  
3610 ~~this Code section, the court must enter a judgment of forfeiture of the property described~~  
3611 ~~in the complaint and must also authorize the prosecutor or the prosecutor's agent or any~~  
3612 ~~law enforcement officer or peace officer to seize all property ordered to be forfeited~~

3613 which was not previously seized or was not then under seizure. Following the entry of  
 3614 an order declaring the property forfeited, the court, on application of the state, may enter  
 3615 any appropriate order to protect the interest of the state in the property ordered to be  
 3616 forfeited.

3617 ~~(g) In conjunction with any civil action brought pursuant to this article:~~

3618 ~~(1) The court, on application of the prosecutor, may enter any restraining order or~~  
 3619 ~~injunction; require the execution of satisfactory performance bonds; appoint receivers,~~  
 3620 ~~conservators, appraisers, accountants, or trustees; or take any action to seize, secure,~~  
 3621 ~~maintain, or preserve the availability of property subject to forfeiture under this article,~~  
 3622 ~~including issuing a warrant for its seizure and writ of attachment, whether before or after~~  
 3623 ~~the filing of a complaint for forfeiture;~~

3624 ~~(2) A temporary restraining order under this Code section may be entered on application~~  
 3625 ~~of the prosecutor, without notice or an opportunity for a hearing, if the prosecutor~~  
 3626 ~~demonstrates that:~~

3627 ~~(A) There is probable cause to believe that the property with respect to which the order~~  
 3628 ~~is sought, in the event of final judgment or conviction, would be subject to forfeiture~~  
 3629 ~~under this article; and~~

3630 ~~(B) Provision of notice would jeopardize the availability of the property for forfeiture;~~

3631 ~~(3) Notice of the entry of a restraining order and an opportunity for a hearing must be~~  
 3632 ~~afforded to persons known to have an interest in the property. The hearing must be held~~  
 3633 ~~at the earliest possible date consistent with the date set in subsection (b) of Code Section~~  
 3634 ~~9-11-65 and is limited to the issues of whether:~~

3635 ~~(A) There is a probability that the state will prevail on the issue of forfeiture and that~~  
 3636 ~~failure to enter the order will result in the property's being destroyed, conveyed,~~  
 3637 ~~encumbered, removed from the jurisdiction of the court, concealed, or otherwise made~~  
 3638 ~~unavailable for forfeiture; and~~

3639 ~~(B) The need to preserve the availability of property through the entry of the requested~~  
 3640 ~~order outweighs the hardship on any owner or interest holder against whom the order~~  
 3641 ~~is to be entered;~~

3642 ~~(4) If property is seized for forfeiture or a forfeiture lien is filed without a previous~~  
 3643 ~~judicial determination of probable cause or order of forfeiture or a hearing under~~  
 3644 ~~paragraph (2) of this subsection, the court, on an application filed by an owner of or~~  
 3645 ~~interest holder in the property within 30 days after notice of its seizure or lien or actual~~  
 3646 ~~knowledge of such seizure or lien, whichever is earlier, and complying with the~~  
 3647 ~~requirements for an answer to an in rem complaint, and after five days' notice to the~~  
 3648 ~~prosecutor of the judicial circuit where the property was seized or, in the case of a~~  
 3649 ~~forfeiture lien, to the prosecutor filing such lien, may issue an order to show cause to the~~

3650 seizing law enforcement agency for a hearing on the sole issue of whether probable cause  
 3651 for forfeiture of the property then exists. The hearing must be held within 30 days unless  
 3652 continued for good cause on motion of either party. If the court finds that there is no  
 3653 probable cause for forfeiture of the property, the property must be released pending the  
 3654 outcome of a judicial proceeding which may be filed pursuant to this Code section; and  
 3655 (5) The court may order property that has been seized for forfeiture to be sold to satisfy  
 3656 a specified interest of any interest holder, on motion of any party, and after notice and a  
 3657 hearing, on the conditions that:

3658 (A) The interest holder has filed a proper claim and:

3659 (i) Is authorized to do business in this state and is under the jurisdiction of a  
 3660 governmental agency of this state or of the United States which regulates financial  
 3661 institutions, securities, insurance, or real estate; or

3662 (ii) Has an interest that the prosecutor has stipulated is exempt from forfeiture;

3663 (B) The interest holder must dispose of the property by commercially reasonable public  
 3664 sale and apply the proceeds first to its interest and then to its reasonable expenses  
 3665 incurred in connection with the sale or disposal; and

3666 (C) The balance of the proceeds, if any, must be returned to the actual or constructive  
 3667 custody of the court, in an interest-bearing account, subject to further proceedings under  
 3668 this Code section.

3669 (r) An acquittal or a dismissal or a conviction in any criminal proceeding, either by a  
 3670 verdict or a plea of guilty or nolo contendere, shall be admissible in evidence in any  
 3671 proceeding pursuant to this Code section.

3672 (s) In hearings and determinations pursuant to this Code section:

3673 (1) The court may receive and consider, in making any determination of probable cause  
 3674 or reasonable cause, all evidence admissible in determining probable cause at a  
 3675 preliminary hearing or by a magistrate pursuant to Article 1 of Chapter 5 of Title 17,  
 3676 together with inferences therefrom; and

3677 (2) The fact that the state has established probable cause to believe that a person has  
 3678 engaged in conduct giving rise to forfeiture or that the property was acquired by a person  
 3679 during a period of the conduct giving rise to forfeiture or within a reasonable time  
 3680 thereafter shall not give rise to any presumption, rebuttable or otherwise, that the property  
 3681 is subject to forfeiture. The state shall, at all times, have the burden to prove, by a  
 3682 preponderance of the evidence, that the property is subject to forfeiture under this Code  
 3683 section.

3684 (t)(1) All property declared to be forfeited under this Code section vests in this state at  
 3685 the time of commission of the conduct giving rise to forfeiture together with the proceeds  
 3686 of the property after that time. Any property or proceeds transferred later to any person



3687 ~~remain subject to forfeiture and thereafter must be ordered to be forfeited unless the~~  
 3688 ~~transferee claims and establishes in a hearing under this Code section that the transferee~~  
 3689 ~~is a bona fide purchaser for value and the transferee's interest is exempt under subsection~~  
 3690 ~~(e) of this Code section.~~

3691 ~~(2) On entry of judgment for a person claiming an interest in the property that is subject~~  
 3692 ~~to proceedings to forfeit property under this Code section, the court shall order that the~~  
 3693 ~~property or interest in property be released or delivered promptly to that person free of~~  
 3694 ~~liens and encumbrances, as provided under this article.~~

3695 ~~(3) The court is authorized to order a claimant who files a frivolous claim to pay the~~  
 3696 ~~reasonable costs relating to the disproving of the claim which were incurred by the state,~~  
 3697 ~~including costs for investigation, prosecution, and attorney's fees.~~

3698 ~~(u)(1) The court may, after judgment of forfeiture, make any of the following orders for~~  
 3699 ~~disposition of the property:~~

3700 ~~(A) Judicial sale of the property;~~

3701 ~~(B) Retention of the property by any party having a property interest therein, as such~~  
 3702 ~~interest is described in subsection (e) of this Code section, upon payment or approval~~  
 3703 ~~of a plan for payment into court of the value of any forfeited interest in the property.~~  
 3704 ~~The plan may include, in the case of a party having such a property interest who holds~~  
 3705 ~~a lien on or security interest in the property, the sale of the property by any such party~~  
 3706 ~~under such terms and conditions as may be prescribed by the court and the payment into~~  
 3707 ~~court of any proceeds from such sale over and above the amount necessary to satisfy~~  
 3708 ~~the lien or security interest; or~~

3709 ~~(C) Destruction of any contraband, the possession of which is illegal.~~

3710 ~~(2) The proceeds from any judicial sale or payments from a party having a property~~  
 3711 ~~interest as described in paragraph (1) of this subsection shall be delivered to the~~  
 3712 ~~Department of Community Health. The proceeds shall then be disbursed in accordance~~  
 3713 ~~with the requirements of federal law.~~

3714 ~~(v) An acquittal or dismissal in a criminal proceeding does not preclude civil proceedings~~  
 3715 ~~under this article, provided that no property shall be forfeited after an acquittal or dismissal~~  
 3716 ~~in a criminal proceeding unless the state obtains a civil judgment for forfeiture under this~~  
 3717 ~~article.~~

3718 ~~(w) For good cause shown, the court may stay civil forfeiture proceedings during the~~  
 3719 ~~criminal trial resulting from a related indictment or information alleging a violation of this~~  
 3720 ~~article.~~

3721 ~~(x)(1) The court shall order the forfeiture of any property of a claimant or defendant up~~  
 3722 ~~to the value of property found by the court to be subject to forfeiture under the provisions~~  
 3723 ~~of this Code section if any of the forfeited property:~~

3724 ~~(A) Cannot be located;~~  
 3725 ~~(B) Has been transferred or conveyed to, sold to, or deposited with a third party;~~  
 3726 ~~(C) Is beyond the jurisdiction of the court;~~  
 3727 ~~(D) Has been substantially diminished in value while not in the actual physical custody~~  
 3728 ~~of the receiver or governmental agency directed to maintain custody of the property;~~  
 3729 ~~or~~  
 3730 ~~(E) Has been commingled with other property that cannot be divided without~~  
 3731 ~~difficulty.~~

3732 ~~(2) In addition to any other remedy provided for by law, a prosecutor on behalf of the~~  
 3733 ~~state may institute an action in any court of this state or of the United States or any of the~~  
 3734 ~~several states against any person acting with knowledge or any person to whom notice~~  
 3735 ~~of a lien for forfeiture of property has been provided in accordance with subsection (j) of~~  
 3736 ~~this Code section; to whom notice of seizure has been provided in accordance with~~  
 3737 ~~subsection (i) of this Code section; or to whom notice of a civil proceeding alleging~~  
 3738 ~~conduct giving rise to forfeiture under this Code section has been provided, if property~~  
 3739 ~~subject to forfeiture is conveyed, alienated, disposed of, or otherwise rendered~~  
 3740 ~~unavailable for forfeiture after the filing of a forfeiture lien notice or notice of seizure or~~  
 3741 ~~after the filing and notice of a civil proceeding alleging conduct giving rise to forfeiture~~  
 3742 ~~under this Code section, as the case may be. The state may recover judgment in an~~  
 3743 ~~amount equal to the value of the lien but not to exceed the fair market value of the~~  
 3744 ~~property or, if there is no lien, in an amount not to exceed the fair market value of the~~  
 3745 ~~property, together with reasonable investigative expenses and attorney's fees. If a civil~~  
 3746 ~~proceeding is pending, the action must be heard by the court in which the civil proceeding~~  
 3747 ~~is pending.~~

3748 ~~(3) A prosecutor may file and prosecute in any of the courts of this state or of the United~~  
 3749 ~~States or of any of the several states such civil actions as may be necessary to enforce any~~  
 3750 ~~judgment rendered pursuant to this Code section.~~

3751 ~~(4) No person claiming an interest in property subject to forfeiture under this article may~~  
 3752 ~~commence or maintain any action against the state concerning the validity of the alleged~~  
 3753 ~~interest other than as provided in this Code section. Except as specifically authorized by~~  
 3754 ~~this Code section, no person claiming an interest in such property may file any~~  
 3755 ~~counterclaim or cross-claim to any action brought pursuant to this Code section.~~

3756 ~~(5) A civil action under this article must be commenced within five years after the last~~  
 3757 ~~conduct giving rise to forfeiture or to the claim for relief became known or should have~~  
 3758 ~~become known, excluding any time during which either the property or defendant is out~~  
 3759 ~~of the state or in confinement or during which criminal proceedings relating to the same~~  
 3760 ~~conduct are in progress.~~

3761 ~~(y) In the event the state fails to prove that the property is subject to forfeiture under this~~  
 3762 ~~Code section, the property may still be subject to lien, levy, and other processes in order~~  
 3763 ~~to satisfy any judgment which orders the payment of restitution based upon a conviction~~  
 3764 ~~or judgment of Medicaid fraud.~~

3765 ~~(z) This Code section must be liberally construed to effectuate its remedial purposes."~~

3766 **SECTION 3-30.**

3767 Title 52 of the Official Code of Georgia Annotated, relating to waters of the state, ports, and  
 3768 watercraft, is amended by revising Code Section 52-7-7.3, relating to seizure of vessels  
 3769 without hull identification numbers, seizure of related property, and inspections, as follows:

3770 "52-7-7.3.

3771 (a) If the hull identification number on a vessel required by Code Section 52-7-7.1 or  
 3772 52-7-7.2 to have a hull identification number does not exist or has been altered, removed,  
 3773 destroyed, covered, or defaced or the real identity of the vessel cannot be determined, the  
 3774 vessel, and any items used while towing ~~said~~ such vessel, may be seized as contraband  
 3775 ~~property~~ by a law enforcement agency or the department and shall be subject to forfeiture  
 3776 in accordance with the procedures set forth in Chapter 16 of Title 9.

3777 (b) A vessel described in subsection (a) of this Code section ~~Such vessel~~ shall not be sold  
 3778 or operated on the waters of the state unless the department:

3779 (1) Receives a request from a law enforcement agency providing adequate  
 3780 documentation for a replacement hull identification number; or

3781 (2) Is directed by written order of a court of competent jurisdiction to issue to the vessel  
 3782 a replacement hull identification number.

3783 ~~Thereafter, the replacement HIN shall be used for identification purposes. No vessel shall~~  
 3784 ~~be forfeited if the owner was unaware the vessel's HIN had been altered, removed,~~  
 3785 ~~destroyed, covered, or defaced.~~

3786 ~~(b)~~(c) The failure to have the hull identification number clearly displayed in compliance  
 3787 with this article shall be probable cause for any law enforcement officer to make further  
 3788 inspection of the vessel in question to ascertain the true identity thereof.

3789 (d) Prior to the vessel being sold or returned to the owner or otherwise disposed of, the  
 3790 department shall assign it a new hull identification number in accordance with federal law."

3791 **SECTION 3-31.**

3792 Said title is further amended by revising Code Section 52-7-7.4, relating to property not  
 3793 subject to replevin, as follows:

3794 "52-7-7.4.

3795 Reserved.

3796 ~~(a) Property subject to forfeiture under Code Section 52-7-7.3 and in the possession of any~~  
3797 ~~state or local law enforcement agency shall not be subject to replevin but shall be deemed~~  
3798 ~~to be in the custody of the superior court of the county wherein the property is located~~  
3799 ~~subject only to the orders and decrees of the court having jurisdiction over the forfeiture~~  
3800 ~~proceedings.~~

3801 ~~(b) The law enforcement agency having possession of any property subject to forfeiture~~  
3802 ~~under Code Section 52-7-7.3 shall report such fact within ten days of taking possession to~~  
3803 ~~the district attorney of the judicial circuit having jurisdiction in the county where the~~  
3804 ~~property is located. Within 30 days from the date he or she receives such notice, the~~  
3805 ~~district attorney of the judicial circuit shall file in the superior court of the county in which~~  
3806 ~~the property is located an action for condemnation of the property. The proceedings shall~~  
3807 ~~be brought in the name of the state, and the action shall be verified by a duly authorized~~  
3808 ~~agent of the state in the manner required by law. The action shall describe the property,~~  
3809 ~~state its location, state its present custodian, state the name of the owner, if known, state~~  
3810 ~~the duly authorized agent of the state, allege the essential elements which are claimed to~~  
3811 ~~exist, and shall conclude with a prayer of due process to enforce the forfeiture. Upon the~~  
3812 ~~filing of such an action, the court shall promptly cause process to issue to the present~~  
3813 ~~custodian in possession of the property described in the action, commanding him or her to~~  
3814 ~~seize the property described in the action and to hold that property for further order of the~~  
3815 ~~court. A copy of the action shall be served on the owner, if known. If the owner is known,~~  
3816 ~~a copy of the action shall also be served upon any person having a duly recorded security~~  
3817 ~~interest in or lien upon that property. If the owner is unknown or resides out of the state~~  
3818 ~~or departs the state or cannot after due diligence be found within the state or conceals~~  
3819 ~~himself or herself so as to avoid service, notice of the proceedings shall be published once~~  
3820 ~~a week for two weeks in the newspaper in which the sheriff's advertisements are published.~~  
3821 ~~Such publication shall be deemed notice to any and all persons having an interest in or right~~  
3822 ~~affected by such proceeding and from any sale of the property resulting therefrom but shall~~  
3823 ~~not constitute notice to any person having a duly recorded security interest in or lien upon~~  
3824 ~~such property and required to be served under this Code section unless that person is~~  
3825 ~~unknown or resides out of the state or departs the state or cannot after due diligence be~~  
3826 ~~found within the state or conceals himself or herself to avoid service. At the expiration of~~  
3827 ~~30 days after such filing, if no claimant has appeared to defend the action, the court shall~~  
3828 ~~order the disposition of the seized property as provided for in this Code section. If the~~  
3829 ~~owner of the vessel appears and defends the action and can show that he or she was~~  
3830 ~~unaware of the fact that the hull identification number had been removed, altered, defaced,~~  
3831 ~~falsified, or destroyed, the court shall order the property returned to the owner upon the~~  
3832 ~~owner's paying proper expenses relating to proceedings for forfeiture, including the~~

3833 ~~expenses of the maintenance of custody, advertising, and court costs and upon the vessel~~  
 3834 ~~being assigned a new hull identification number as provided in this article.~~

3835 ~~(c) Except as otherwise provided in this article, when property is forfeited under this~~  
 3836 ~~article, the court may:~~

3837 ~~(1) Order that the vessel be retained by the law enforcement agency or the county in~~  
 3838 ~~which the vessel is located; or~~

3839 ~~(2) Order that the vessel be disposed of by sale, the proceeds of which shall be used to~~  
 3840 ~~pay the proper expenses relating to the proceedings for forfeiture, including the expenses~~  
 3841 ~~of maintenance of custody, advertising, and court costs, with the remaining funds to be~~  
 3842 ~~paid into the general fund of the county.~~

3843 ~~(d) Prior to the vessel being sold or returned to the owner or otherwise disposed of, the~~  
 3844 ~~department shall assign it a new hull identification number in accordance with federal law."~~

3845

### **SECTION 3-32.**

3846 The following Code sections of the Official Code of Georgia Annotated are amended by  
 3847 replacing "fines and forfeitures" wherever such term occurs with "fines and bond forfeitures":

3848 (1) Code Section 15-21-2, relating to payment into county treasury of fines and forfeitures;

3849 (2) Code Section 15-21-3, relating to maintenance of moneys from fines and forfeitures in  
 3850 county treasury;

3851 (3) Code Section 15-21-4, relating to distribution of fines and forfeitures generally;

3852 (4) Code Section 15-21-5, relating to procedure for filing and payment of claims of officers  
 3853 of court where defendant acquitted or person liable for payment of costs is insolvent;

3854 (5) Code Section 15-21-7, relating to the report by county treasurer to grand jury as to fines  
 3855 and forfeitures received and disbursed;

3856 (6) Code Section 15-21-8, relating to applicability and effect of Code Sections 15-21-2  
 3857 through 15-21-7;

3858 (7) Code Section 15-21-9, relating to lien of officers for payment of insolvent costs;

3859 (8) Code Section 15-21-13, relating to priority of payment of claims for fees of solicitors of  
 3860 city courts, sheriffs, clerks, and district attorneys;

3861 (9) Code Section 15-21-56, relating to proceedings by persons claiming interest in fine and  
 3862 forfeiture fund;

3863 (10) Code Section 15-21-57, relating to effect of article upon duty of prosecution officers  
 3864 and county treasurers relating to account for fines and forfeitures;

3865 (11) Code Section 15-21-58, relating to effect of article upon Acts pertaining to courts in  
 3866 particular counties or cities;

3867 (12) Code Section 27-1-14, relating to disposition of fines and forfeitures;

3868 (13) Code Section 36-30-9, relating to compensation of law enforcement officers;

- 3869 (14) Code Section 36-31-8, relating to transition periods for governmental functions;  
 3870 (15) Code Section 36-32-6, relating to relating to jurisdiction in marijuana possession cases;  
 3871 (16) Code Section 36-32-7, relating to jurisdiction in cases of operating a motor vehicle  
 3872 without effective insurance;  
 3873 (17) Code Section 36-32-8, relating to jurisdiction of cases of operating a motor vehicle  
 3874 without emission inspection;  
 3875 (18) Code Section 36-32-9, relating to jurisdiction of cases of shoplifting;  
 3876 (19) Code Section 36-32-10, relating to jurisdiction of cases of furnishing alcoholic  
 3877 beverages to and purchase and possession of alcoholic beverages by underage persons;  
 3878 (20) Code Section 36-32-10.1, relating to jurisdiction in counties without state court to try  
 3879 violations of Code Section 16-7-21;  
 3880 (21) Code Section 36-35-6, relating to limitation on home rule powers;  
 3881 (22) Code Section 38-2-464, relating to payment of fines;  
 3882 (23) Code Section 40-5-124, relating to jurisdiction of offenses;  
 3883 (24) Code Section 40-13-22, relating to jurisdiction over offenses under Code Section  
 3884 40-2-8;  
 3885 (25) Code Section 40-16-7, relating to budget of the Department of Driver Services; and  
 3886 (26) Code Section 42-9-45, relating to general rule-making power of the State Board of  
 3887 Pardons and Paroles.

3888

**SECTION 3-33.**

3889 The following Code sections of the Official Code of Georgia Annotated are amended by  
 3890 replacing "fine and forfeitures fund", "fines and forfeitures fund", and "fine and forfeiture  
 3891 fund" wherever such terms occur with "fine and bond forfeiture fund":

- 3892 (1) Code Section 4-3-8, relating to return and disposition of proceeds of sale;  
 3893 (2) Code Section 15-21-5, relating to procedure for filing and payment of claims of officers  
 3894 of court where defendant acquitted or person liable for payment of costs is insolvent;  
 3895 (3) Code Section 15-21-50, relating to limitation period for claims against fine and forfeiture  
 3896 fund;  
 3897 (4) Code Section 15-21-51, relating to the procedure for extension of limitation period;  
 3898 (5) Code Section 15-21-52, relating to payment into county treasury of funds received as  
 3899 part of fine and forfeiture fund;  
 3900 (6) Code Section 15-21-54, relating to creation of claim for benefit of county against fine  
 3901 and forfeiture fund;  
 3902 (7) Code Section 15-21-55, relating to disposition of funds remaining after claims against  
 3903 fine and forfeiture fund paid or barred by limitation;

- 3904 (8) Code Section 15-21-56, relating to proceedings by persons claiming interest in fine and  
3905 forfeiture fund;
- 3906 (9) Code Section 24-13-132, relating to appointment of counsel and payment of costs and  
3907 expenses;
- 3908 (10) Code Section 36-15-9, relating to collection of additional costs in court cases; and
- 3909 (11) Code Section 40-16-7, relating to budget of the Department of Driver Services.

3910 **PART IV**  
3911 **EFFECTIVE DATE,**  
3912 **APPLICABILITY, AND REPEALER**  
3913 **SECTION 4-1.**

3914 This Act shall become effective on July 1, 2015, and shall apply to seizures of property for  
3915 forfeiture that occur on or after that date. Any such seizure that occurs before July 1, 2015,  
3916 shall be governed by the statute in effect at the time of such seizure.

3917 **SECTION 4-2.**  
3918 All laws and parts of laws in conflict with this Act are repealed.