

Representative Hall, Atlanta, Georgia

Monday, March 2, 2015

Twenty-Fourth Legislative Day

The House met pursuant to adjournment at 10:00 o'clock, A.M., this day and was called to order by the Speaker.

The roll was called and the following Representatives answered to their names:

| | | | | |
|------------------|-------------------|-------------|---------------|------------------|
| Abrams | Cooke | Harbin | Mitchell | Smith, L |
| Alexander | Coomer | Harden | Morris | Smith, M |
| Allison | Cooper | Hatchett | Nimmer | Smith, R |
| E Anderson | Corbett | Hawkins | Nix | E Smyre |
| Atwood | E Dawkins-Haigler | E Henson | Oliver | Spencer |
| E Ballinger | Deffenbaugh | Hightower | O'Neal | Stephens, M |
| Barr | Dempsey | Hitchens | Pak | Stephens, R |
| E Battles | Dickerson | Holcomb | Parrish | E Stovall |
| E Beasley-Teague | Dickey | Holmes | Parsons | Stover |
| Bell | Dickson | Houston | Peake | Strickland |
| Belton | Douglas | Howard | Petrea | Tankersley |
| Bennett | Drenner | E Hugley | Pezold | Tanner |
| Bentley | Dudgeon | Jackson | Powell, A | Tarvin |
| Benton | E Dukes | Jasperse | Powell, J | Taylor, D |
| Beskin | Dunahoo | Jones, J | Prince | Taylor, T |
| Broadrick | E Duncan | Jones, J.B. | Pruett | Teasley |
| Brockway | Ealum | E Jones, L | Quick | Thomas, E |
| Brooks | Efstration | Jones, S | Raffensperger | Trammell |
| Bruce | Ehrhart | E Jordan | Rakestraw | Turner |
| Bryant | England | Kaiser | Ramsey | Waites |
| Buckner | Epps | Kelley | Reeves | Watson |
| Burns | E Evans | Kendrick | Rhodes | Welch |
| E Caldwell, J | Fleming | Kidd | Rice | E Weldon |
| Caldwell, M | Fludd | Knight | Roberts | Werkheiser |
| Cantrell | Frazier | LaRiccica | Rogers, C | Wilkerson |
| Carson | E Frye | Lumsden | Rogers, T | Wilkinson |
| Carter | Gasaway | Mabra | Rutledge | Willard |
| E Casas | Geisinger | E Marin | Rynders | Williams, A |
| Chandler | Glanton | Martin | Scott | Williams, C |
| Cheokas | Golick | Maxwell | Setzler | Williams, E |
| Clark, D | Gordon | Mayo | Sharper | Williamson |
| Clark, H | Gravley | McCall | Shaw | Yates |
| Clark, V | Greene | McClain | Sims | Ralston, Speaker |
| Coleman | Hamilton | Meadows | Smith, E | |

The following members were off the floor of the House when the roll was called:

Representatives Beverly of the 143rd, Dollar of the 45th, Gardner of the 57th, Jacobs of the 80th, Kirby of the 114th, Mosby of the 83rd, Randall of the 142nd, Stephenson of the 90th, and Thomas of the 56th.

They wished to be recorded as present.

Prayer was offered by Reverend Eric W. Lee, Pastor, Springfield Baptist Church, Conyers, Georgia.

The members pledged allegiance to the flag.

Representative Cheokas of the 138th, Chairman of the Committee on Information and Audits, reported that the Journal of the previous legislative day had been read and found to be correct.

By unanimous consent, the reading of the Journal was dispensed with.

The Journal was confirmed.

By unanimous consent, the following was established as the order of business during the first part of the period of unanimous consents:

1. Introduction of Bills and Resolutions.
2. First reading and reference of House Bills and Resolutions.
3. Second reading of Bills and Resolutions.
4. Reports of Standing Committees.
5. Third reading and passage of Local uncontested Bills.
6. First reading and reference of Senate Bills and Resolutions.

By unanimous consent, the following Bills of the House were introduced, read the first time and referred to the Committees:

HB 3. By Representative Fleming of the 121st:

A BILL to be entitled an Act to amend Part 14 of Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to other educational programs, so as to provide sanctions for persons that enter into or solicit a transaction with a student-athlete that would result in sanctions to the student-athlete; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Higher Education.

- HB 40. By Representatives Waites of the 60th, Scott of the 76th, Jones of the 53rd, Brooks of the 55th and Stovall of the 74th:

A BILL to be entitled an Act to amend Part 2 of Article 16 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to discipline of students in elementary and secondary education, so as to revise provisions relating to bullying; to prohibit bullying and harassment of students and school employees; to require annual reporting of bullying and harassment incidents; to provide for definitions; to provide for requirements for local boards of education, state charter schools, and private schools; to provide for requirements for the Department of Education; to provide for statutory construction; to provide for legislative findings; to provide for an effective date; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Education.

- HB 503. By Representatives Fleming of the 121st, Hightower of the 68th, Mabra of the 63rd, Douglas of the 78th, Frye of the 118th and others:

A BILL to be entitled an Act to amend Part 14 of Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to other educational programs, so as to prohibit persons from entering into or soliciting a transaction with a student-athlete that would result in sanctions to the student-athlete; to provide for a right of action by a postsecondary institution; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Higher Education.

- HB 507. By Representatives Oliver of the 82nd, Willard of the 51st, Jacobs of the 80th, Fleming of the 121st and Ballinger of the 23rd:

A BILL to be entitled an Act to amend Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to programs and protection for children, so as to repeal certain provisions deemed unconstitutional regarding a central child abuse registry; to enact new provisions to provide for the establishment of a central child abuse registry; to provide for definitions; to provide for the reporting of convictions relating to child abuse to the Division of Family and Children Services; to provide for entry of reported convictions into the registry; to provide for a hearing to contest inclusion of a name in the registry; to limit access to information in the registry; to provide for

confidentiality; to provide for immunity; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Juvenile Justice.

HB 508. By Representatives Fleming of the 121st, Atwood of the 179th, Weldon of the 3rd, Hightower of the 68th, Williams of the 87th and others:

A BILL to be entitled an Act to amend Code Section 47-2-244 of the Official Code of Georgia Annotated, relating to optional benefits available to appellate court judges, notice of election of benefits, eligibility for benefits, disability benefits and survivors benefits, so as to decrease the age of eligibility for certain benefits; to provide conditions for an effective date and automatic repeal; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Retirement.

HB 509. By Representatives Petrea of the 166th, Stephens of the 164th, Tankersley of the 160th, Hitchens of the 161st and Williams of the 119th:

A BILL to be entitled an Act to amend Chapter 7 of Title 31 of the Official Code of Georgia Annotated, relating to health care facilities, so as to implement initiatives to improve quality and delivery of patient centered and family focused palliative care in this state; to provide for legislative intent; to provide for definitions; to create the Georgia Palliative Care and Quality of Life Advisory Council; to establish a state-wide Palliative Care Consumer and Professional Information and Education Program; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Health & Human Services.

HB 510. By Representative Stephens of the 164th:

A BILL to be entitled an Act to amend Chapter 34 of Title 50 of the Official Code of Georgia Annotated, relating to the OneGeorgia Authority, so as to provide for the creation of the Georgia Sports Commission Fund; to define certain terms; to provide for gifts and contributions; to provide for a committee to manage such fund; to provide for members; to provide conditions for obtaining grants and loans from such fund; to provide for an accounting; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Economic Development & Tourism.

HB 511. By Representative Stephens of the 164th:

A BILL to be entitled an Act to amend Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to pharmacists and pharmacies, so as to authorize pharmacy technicians to fill remote automated medication systems in skilled nursing facilities and hospices; to provide for certain requirements; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Health & Human Services.

HB 512. By Representatives Jasperse of the 11th and Dempsey of the 13th:

A BILL to be entitled an Act to amend Title 37 of the Official Code of Georgia Annotated, relating to mental health, so as to change certain terminology and provisions relating to the governing and regulation of mental health and to the administration of mental health as it relates to regional and local administration and services; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Human Relations & Aging.

HB 513. By Representative Stephens of the 164th:

A BILL to be entitled an Act to amend Article 3 of Chapter 11 of Title 9 of the Official Code of Georgia Annotated, relating to pleadings and motions, so as to revise provisions regarding the procedure for claims asserted against a person or entity arising from an act by that person or entity which could reasonably be construed as an act in furtherance of the right of free speech or the right to petition government for a redress of grievances; to revise definitions; to amend Chapter 5 of Title 51 of the Official Code of Georgia Annotated, relating to libel and slander, so as to revise a cross-reference; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

Referred to the Committee on State Planning & Community Affairs.

By unanimous consent, the rules were suspended in order that the following Bills and Resolution of the House could be introduced, read the first time and referred to the Committees:

HB 515. By Representatives Mitchell of the 88th, Holcomb of the 81st and Henson of the 86th:

A BILL to be entitled an Act to incorporate the City of Tucker in DeKalb County; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Governmental Affairs.

HB 519. By Representatives Brockway of the 102nd, Hawkins of the 27th and Gasaway of the 28th:

A BILL to be entitled an Act to amend Chapter 25 of Title 33 of the Official Code of Georgia Annotated, relating to life insurance, so as to provide for notice of certain premium increases; to provide for definitions; to provide for disclosure; to provide for a mandatory statement; to provide for penalties; to provide for related matters; to provide for applicability; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Insurance.

HB 520. By Representatives Taylor of the 79th, Holcomb of the 81st, Fleming of the 121st and Rynders of the 152nd:

A BILL to be entitled an Act to incorporate the City of LaVista Hills in DeKalb County; and for other purposes.

Referred to the Committee on Governmental Affairs.

HR 519. By Representatives Roberts of the 155th, Houston of the 170th, Carter of the 175th, England of the 116th and LaRiccia of the 169th:

A RESOLUTION recognizing Mr. Harry Mixon and Mr. Brad Dorminy and naming a building in their honor; and for other purposes.

Referred to the Committee on State Planning & Community Affairs.

By unanimous consent, the following Bills and Resolution of the House were read the second time:

HB 487
HB 489
HB 491
HB 493
HB 495
HB 497
HB 499

HB 488
HB 490
HB 492
HB 494
HB 496
HB 498
HB 500

HB 501
HB 504
HB 506

HB 502
HB 505
HR 502

Representative Willard of the 51st District, Chairman of the Committee on Judiciary, submitted the following report:

Mr. Speaker:

Your Committee on Judiciary has had under consideration the following Bills of the House and has instructed me to report the same back to the House with the following recommendations:

HB 267 Do Pass, by Substitute
HB 377 Do Pass, by Substitute

Respectfully submitted,
/s/ Fleming of the 121st
Vice-Chairman

Representative Maxwell of the 17th District, Chairman of the Committee on Regulated Industries, submitted the following report:

Mr. Speaker:

Your Committee on Regulated Industries has had under consideration the following Bill of the House and has instructed me to report the same back to the House with the following recommendation:

HB 276 Do Pass, by Substitute

Respectfully submitted,
/s/ Maxwell of the 17th
Chairman

Representative Powell of the 171st District, Chairman of the Committee on Ways and Means, submitted the following report:

Mr. Speaker:

Your Committee on Ways and Means has had under consideration the following Bills and Resolution of the House and has instructed me to report the same back to the House with the following recommendations:

| | | | |
|--------|------------------------|--------|------------------------|
| HB 200 | Do Pass, by Substitute | HB 237 | Do Pass, by Substitute |
| HB 275 | Do Pass | HB 312 | Do Pass |
| HB 319 | Do Pass | HB 339 | Do Pass, by Substitute |
| HR 397 | Do Pass | | |

Respectfully submitted,
/s/ Powell of the 171st
Chairman

The following report of the Committee on Rules was read and adopted:

HOUSE RULES CALENDAR
MONDAY, MARCH 2, 2015

Mr. Speaker and Members of the House:

The Committee on Rules has fixed the calendar for this 24th Legislative Day as enumerated below:

DEBATE CALENDAR

Open Rule

None

Modified Open Rule

| | |
|--------|--|
| HB 51 | Taxes; amount payable at redemption of property; change provisions (Substitute)(Judy-Benton-31st) |
| HB 99 | Property; joint tenants divorce or have marriage annulled under certain circumstances; provide tenancy in common (Substitute)(Judy-Lumsden-12th) |
| HB 185 | Insurance; Standard Valuation Law; extensively revise (Ins-Shaw-176th) |

Modified Structured Rule

| | |
|--------|--|
| HB 18 | Professional engineers and land surveyors; defense, aviation, space or aerospace companies from complying with provisions; exempt (RegI-Spencer-180th) |
| HB 197 | Debtor-Creditor Uniform Law Modernization Act of 2015; enact (Substitute)(Judy-Jacobs-80th) |
| HB 233 | Georgia Uniform Civil Forfeiture Procedure Act; enact (Substitute)(Judy-Atwood-179th) |

- HB 316 Professional corporations; practice of medicine and surgery and optometry shall be considered the practice of only one profession; provide (Substitute)(RegI-Reeves-34th)
- HB 340 Alcoholic beverages; sales on Sunday during Saint Patrick's Day holiday period; change certain provisions (Substitute)(RegI-Petrea-166th)
- HB 394 Georgia Board of Nursing; revise provisions relating to powers and duties; provisions (H&HS-Cooper-43rd)

Structured Rule

- HB 234 Tax collection; days in which the Federal Reserve Bank is closed in the list of days that excuse late filing or payment; include (W&M-Rutledge-109th)

Bills and Resolutions on this calendar may be called in any order the Speaker desires.

Respectfully submitted,
/s/ Meadows of the 5th
Chairman

The following message was received from the Senate through Mr. Cook, the Secretary thereof:

Mr. Speaker:

The Senate has adopted by the requisite constitutional majority the following resolution of the Senate:

- SR 378. By Senators Orrock of the 36th, Miller of the 49th, Unterman of the 45th, Millar of the 40th, Lucas of the 26th and others:

A RESOLUTION honoring the life and memory of Eston Wycliffe "Wyc" Orr, Sr.; and for other purposes.

The Senate has passed by the requisite constitutional majority the following bills of the Senate:

- SB 88. By Senators Jones of the 25th, Hill of the 6th, Mullis of the 53rd, Jeffares of the 17th, Burke of the 11th and others:

A BILL to be entitled an Act to amend Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations, so as to provide for the payment of wages by credit to a payroll card; to change certain

provisions relating to payment of wages by lawful money, checks, or credit transfer and selection of payment dates by employers; to require employers to offer employees certain choices and information relating to the payment of wages; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

SB 94. By Senators Bethel of the 54th and Cowsert of the 46th:

A BILL to be entitled an Act to amend Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, so as to require a procedure for enhancing witness identification accuracy; to provide for definitions; to provide for written policies relating to witness identification protocol; to provide for policy requirements; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

SB 139. By Senators Harper of the 7th, Mullis of the 53rd, Wilkinson of the 50th, Tolleson of the 20th, Sims of the 12th and others:

A BILL to be entitled an Act to amend Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other trade practices, so as to provide that any regulation regarding the use, disposition, or sale or any imposition of any prohibition, restriction, fee imposition, or taxation of auxiliary containers shall be done only by general law; to provide for legislative findings; to provide for a definition; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The Senate has adopted by the requisite constitutional majority the following resolution of the House:

HR 480. By Representatives Dawkins-Haigler of the 91st, Quick of the 117th, Anderson of the 92nd, Chandler of the 105th, Stephenson of the 90th and others:

A RESOLUTION recognizing September 28-October 2, 2015, as Malnutrition Awareness Week in the State of Georgia; and for other purposes.

By unanimous consent, the following Bills of the Senate were read the first time and referred to the Committees:

SB 88. By Senators Jones of the 25th, Hill of the 6th, Mullis of the 53rd, Jeffares of the 17th, Burke of the 11th and others:

A BILL to be entitled an Act to amend Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations, so as to provide for the payment of wages by credit to a payroll card; to change certain provisions relating to payment of wages by lawful money, checks, or credit transfer and selection of payment dates by employers; to require employers to offer employees certain choices and information relating to the payment of wages; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Industry and Labor.

SB 94. By Senators Bethel of the 54th and Cowser of the 46th:

A BILL to be entitled an Act to amend Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, so as to require a procedure for enhancing witness identification accuracy; to provide for definitions; to provide for written policies relating to witness identification protocol; to provide for policy requirements; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Judiciary Non-Civil.

SB 139. By Senators Harper of the 7th, Mullis of the 53rd, Wilkinson of the 50th, Tolleson of the 20th, Sims of the 12th and others:

A BILL to be entitled an Act to amend Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other trade practices, so as to provide that any regulation regarding the use, disposition, or sale or any imposition of any prohibition, restriction, fee imposition, or taxation of auxiliary containers shall be done only by general law; to provide for legislative findings; to provide for a definition; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Agriculture & Consumer Affairs.

The following members were recognized during the period of Morning Orders and addressed the House:

Representatives Peake of the 141st, Beverly of the 143rd, Clark of the 101st et al., Bennett of the 94th, Nix of the 69th, Geisinger of the 48th, and Gravely of the 67th.

Pursuant to HR 344, the House commended David Byers and invited him to be recognized by the House of Representatives.

Pursuant to HR 422, the House commended Lucas Teague and invited him to be recognized by the House of Representatives.

Pursuant to HR 342, the House commended the Sequoyah High School volleyball team for winning the 2014-2015 Class 5A State Championship and invited them to be recognized by the House of Representatives.

By order of the Committee on Rules, the following Bill of the House was withdrawn from the General Calendar and recommitted to the Committee on Health & Human Services:

HB 436. By Representatives Clark of the 101st, Cooper of the 43rd, Sims of the 123rd, Kaiser of the 59th, Hawkins of the 27th and others:

A BILL to be entitled an Act to amend Chapter 17 of Title 31 of the Official Code of Georgia Annotated, relating to control of venereal disease, so as to require that physicians and health care providers offer HIV and syphilis testing of pregnant women in their third trimester of pregnancy; to provide for refusal of testing by a pregnant woman; to provide for related matters; to repeal conflicting laws; and for other purposes.

Under the general order of business, established by the Committee on Rules, the following Bills of the House were taken up for consideration and read the third time:

HB 233. By Representatives Atwood of the 179th, Dudgeon of the 25th, Geisinger of the 48th, Dunahoo of the 30th and Jasperse of the 11th:

A BILL to be entitled an Act to amend Title 9 of the O.C.G.A., relating to civil practice; to amend Title 16 of the O.C.G.A., relating to crimes and offenses; to amend Titles 3, 5, 7, 10, 12, 15, 17, 27, 36, 38, 40, 45, 46, 48, 49, and 52 of the O.C.G.A., relating to alcoholic beverages, appeal and error, banking and finance, commerce and trade, conservation and natural resources, courts, criminal procedure, game and fish, local government, military, emergency management, veterans affairs, motor vehicles and traffic, public officers and employees, public utilities and public transportation, revenue and taxation, social services, waters of the state, ports, and watercraft; to provide for related matters; to repeal conflicting laws; and for other purposes.

The following Committee substitute was read and adopted:

A BILL TO BE ENTITLED
AN ACT

To amend Title 9 of the Official Code of Georgia Annotated, relating to civil practice, so as to provide a comprehensive civil forfeiture procedure; to provide for a short title; to provide for definitions; to provide for jurisdiction and venue; to provide for innocent owners; to provide for seizure of property; to provide for notice and time frames for notice to interested parties; to provide for forfeiture liens; to provide for storage of property; to provide for quasi-judicial forfeiture, in rem forfeiture, and in personam forfeiture; to provide for temporary relief and stays of criminal proceedings; to provide for intervention by certain parties under certain circumstances; to provide for presumptions and the burden of proof; to provide for the disposition of seized property and reporting; to provide for the effect of federal law forfeitures; to amend Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, so as to conform provisions to the new Chapter 16 of Title 9, correct cross-references, and remove obsolete or improper references to forfeiture; to amend Titles 3, 5, 7, 10, 12, 15, 17, 27, 36, 38, 40, 45, 46, 48, 49, and 52 of the Official Code of Georgia Annotated, relating to alcoholic beverages, appeal and error, banking and finance, commerce and trade, conservation and natural resources, courts, criminal procedure, game and fish, local government, military, emergency management, and veterans affairs, motor vehicles and traffic, public officers and employees, public utilities and public transportation, revenue and taxation, social services, and waters of the state, ports, and watercraft, respectively, so as to conform provisions to the new Chapter 16 of Title 9, correct cross-references, and remove obsolete or improper references to forfeiture; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I
CIVIL FORFEITURE PROCEDURE
SECTION 1-1.

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

"CHAPTER 16

9-16-1.

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

9-16-2.

As used in this chapter, the term:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(10) 'Property' means anything of value and includes any interest in anything of value, including real property and any fixtures thereon, and tangible and intangible

personal property, including but not limited to currency, instruments, securities, or any other kind of privilege, interest, claim, or right.

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

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

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

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

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

(B) Such term shall not include the following:

(i) Any person appointed or acting as:

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

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

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

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

9-16-3.

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

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

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

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

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

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

9-16-4.

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

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

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

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

9-16-5.

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

9-16-6.

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

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

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

9-16-7.

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

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

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

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

(c) If the seizing officer fails to comply with subsection (a) of this Code section or the state attorney fails to comply with subsection (b) of this Code section, the property shall be released on the request of an owner or interest holder, pending a complaint for

forfeiture pursuant to Code Section 9-16-12 or 9-16-13, unless the property is being held as evidence. When the court releases property pursuant to this subsection, upon application by the state attorney, it may impose conditions as specified in paragraph (1) of Code Section 9-16-14.

9-16-8.

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

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

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

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

(1) The described property;

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

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

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

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

(e) A trustee, constructive or otherwise, who has notice that a forfeiture lien, a notice of pending forfeiture, or a complaint for forfeiture has been filed against the property or

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

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

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

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

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

9-16-9.

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

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

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

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

9-16-10.

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

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

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

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

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

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

(b)(1) The court, upon motion of the state attorney, a claimant, or the custodian of the property, may order property or any portion thereof to be sold upon such terms and conditions as may be prescribed by the court if the expense of keeping such property which has been attached or seized is excessive or disproportionate to the value of such property or such property:

(A) Is a depreciating asset;

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

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

(2) The income from such sale shall be paid into the registry of the court pending final disposition of a civil forfeiture proceeding.

(c)(1) If the property is currency and is not needed for evidentiary purposes, within 60 days of the seizure the seizing agency, or the state attorney if he or she has possession of such currency, shall deposit the currency into an account:

(A) That is separate from other operating accounts;

(B) That bears interest, if such account is available; and

(C) At a financial institution that has a branch location within the county where the civil forfeiture proceeding is located, and if such financial institution is not available, at a financial institution approved by the chief superior court judge of the circuit in which such county is located.

(2) If the property is a negotiable instrument and is not needed for evidentiary purposes, within 60 days of the seizure the seizing agency, or the state attorney if he or she has possession of such item, shall secure the negotiable instrument in a financial institution that has a branch location within the county where the civil forfeiture proceeding is located, and if such financial institution is not available, at a financial institution approved by the chief superior court judge of the circuit in which such county is located. If such instrument is converted to currency, it shall be deposited in accordance with paragraph (1) of this subsection.

(3) The account holder shall annually pay any interest that accrues under this subsection into the County Drug Abuse Treatment and Education Fund established pursuant to Article 6 of Chapter 21 of Title 15 at the same time the account holder files its annual report in accordance with subsection (g) of Code Section 9-16-19.

9-16-11.

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

(1) A description of the property;

(2) The date and place of seizure;

(3) The conduct giving rise to forfeiture;

(4) The alleged violation of law; and

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

(A) The name of the claimant;

(B) The address at which the claimant resides;

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

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

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

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

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

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

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

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

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

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

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

(A) The name of the claimant;

(B) The address at which the claimant resides;

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

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

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

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

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

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

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

9-16-12.

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

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

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

(3) If real property is the subject of the complaint for forfeiture or the owner or interest holder is unknown or resides out of this state or departs this state or cannot after due diligence be found within this state or conceals himself or herself so as to avoid service, a copy of the notice of the complaint for forfeiture shall be published once a week for two consecutive weeks in the legal organ of the county in which the complaint for forfeiture is pending. Such publication shall be deemed notice to any

and all persons having an interest in or right affected by such complaint for forfeiture and from any sale of the property resulting therefrom, but shall not constitute notice to an interest holder unless that person is unknown or resides out of this state or departs this state or cannot after due diligence be found within this state or conceals himself or herself to avoid service.

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

(c)(1) An owner of or interest holder in the property may file an answer asserting a claim against the property in the action in rem. Any such answer shall be filed within 30 days after the service of the summons and complaint. If service is made by publication and personal service has not been made, an owner or interest holder shall file an answer within 30 days of the date of final publication. An answer shall be verified by the owner or interest holder under penalty of perjury. In addition to complying with the general rules applicable to filing an answer in civil actions as set forth in Article 3 of Chapter 11 of this title, the answer shall set forth:

(A) The name of the claimant;

(B) The address at which the claimant resides;

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

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

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

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

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

(2) If the state attorney determines that an answer is deficient in some manner, he or she may file a motion for a more definite statement. The motion shall point out the defects complained of and the details desired. If the motion is granted and the order of the court is not obeyed within 15 days after notice of the order, or within such other time as the court may fix, the court may strike the pleading to which the motion was directed or make such order as it deems just. If a motion for a more definite statement

is filed, the time requirements for a trial set forth in subsection (f) of this Code section shall not commence until a sufficient answer has been filed.

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

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

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

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

9-16-13.

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

- (1) Describe with reasonable particularity the property which is sought to be forfeited;
- (2) State the property's present custodian;
- (3) State the name of the owner or interest holder, if known;
- (4) Allege the essential elements of the criminal violation which is claimed to exist;
- (5) State the place of seizure, if the property was seized; and
- (6) Conclude with a prayer of due process to enforce the forfeiture.

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

- (1) Except as otherwise provided in this Code section, issuance of the summons, form of the summons, and service of the complaint and summons shall be as provided by subsections (a), (b), (c), and (d) of Code Section 9-11-4; and
- (2) If the defendant is unknown or resides out of this state or departs this state or cannot after due diligence be found within this state or conceals himself or herself so as to avoid service, notice of the complaint for forfeiture shall be published once a week for two consecutive weeks in the legal organ of the county in which the

complaint for forfeiture is pending. Such publication shall be deemed sufficient notice to any such defendant.

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

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

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

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

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

9-16-14.

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

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

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

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

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

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

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

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

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

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

(A) The interest holder has filed a proper claim and has an interest that the state attorney has stipulated is exempt from forfeiture, provided that if the interest holder is a financial institution, it is also authorized to do business in this state and is under the jurisdiction of a governmental agency which regulates financial institutions, securities, insurance, or real estate;

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

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

9-16-15.

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

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

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

9-16-16.

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

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

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

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

9-16-17.

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

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

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

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

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

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

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

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

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

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

(I) Acquired the interest:

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

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

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

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

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

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

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

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

9-16-18.

(a) All property declared to be forfeited vests in the state at the time of commission of the conduct giving rise to forfeiture together with the proceeds of the property after that time. Any property or proceeds transferred later to any person remain subject to forfeiture and thereafter shall be ordered to be forfeited unless the transferee claims and establishes in a hearing under this chapter that the transferee is a bona fide purchaser for value and the transferee's interest is exempt under paragraph (2) of subsection (a) of Code Section 9-16-17.

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

9-16-19.

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

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

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

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

(4) 'Official law enforcement purpose' means expenditures associated with investigations; training; travel; the purchase, lease, maintenance, and improvement of equipment, law enforcement facilities, and detention facilities; capital improvements; victim assistance and witness assistance services; the costs of accounting, auditing, and tracking of expenditures for federally shared cash, proceeds, and tangible property; awards, museums, and memorials directly related to law enforcement; drug and gang education and awareness programs; the payment of matching funds for state or federal grant programs that enhance law enforcement services to the community or judicial circuit; and reimbursement to a governing authority for a pro rata share of the indirect costs incurred by the governing authority for a common or joint purpose

benefiting the law enforcement agency and other local government agencies which are not readily assignable to any particular agency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Property distribution shall be as follows:

(A) With respect to political subdivisions:

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

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

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

(iv) When a chief officer of a law enforcement agency does not qualify as a candidate for reelection or has been defeated in any election, he or she shall not

transfer any currency or property received due to civil forfeiture proceedings to any other entity prior to leaving office; provided, however, that he or she may continue to expend such currency or make use of such property for any official law enforcement purpose within his or her law enforcement agency; and

(B) With respect to the state:

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

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

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

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

(2) Any law enforcement agency, multijurisdictional task force, district attorney, or state agency receiving property and proceeds forfeited pursuant to this chapter and any income resulting from the sale of forfeited property, including property distributed in kind, shall submit an annual report specifying the property and proceeds

forfeited pursuant to this chapter and any income resulting from the sale of forfeited property received during its reporting year and shall clearly identify the use of such property, proceeds, and income, including the specifics of all monetary expenditures and funds on deposit with a financial institution. Such report shall not include any information that is likely to disclose the identity of a confidential source, disclose confidential investigative or prosecution material which could endanger the life or physical safety of any person, disclose the existence of a confidential surveillance or investigation, or disclose techniques and procedures for law enforcement investigations or prosecutions. Such annual report shall be appropriately completed and legible. Such report shall be:

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

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

(ii) Submitted by each local law enforcement agency to the political subdivision governing its jurisdiction;

(iii) Submitted by multijurisdictional task forces to each political subdivision governing the jurisdictions involved;

(iv) Submitted by state agencies to the state auditor;

(v) Submitted by January 31 each year for the previous calendar year; and

(vi) Copied and submitted to the Carl Vinson Institute of Government of the University of Georgia as provided in Code Section 36-80-21; and

(B) With respect to district attorneys:

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

(ii) Submitted by district attorneys to the Prosecuting Attorneys' Council according to the rules and regulations adopted by the Prosecuting Attorneys' Council;

(iii) Submitted to the state auditor;

(iv) Submitted by January 31 each year for the previous calendar year; and

(v) Copied and submitted to the Carl Vinson Institute of Government of the University of Georgia as provided in Code Section 36-80-21.

(3)(A) The Prosecuting Attorneys' Council shall promulgate and from time to time amend as necessary and post on its website an annual reporting form for use by law enforcement agencies, multijurisdictional task forces, and state agencies to report the information required by this subsection. In creating this form, the Prosecuting Attorneys' Council shall consider input from the Georgia Peace Officer Standards and Training Council, the Georgia Sheriffs' Association, and the Georgia Association of Chiefs of Police. Such form shall include, but shall not be limited to, the following information:

(i) As to property, other than currency, an itemization specifying:

(I) The date the property was received by the entity;

(II) The make, model, and serial number, when relevant; provided, however, that such details shall not be required when such details would disclose the identification of property being used in a confidential investigation or would compromise an ongoing investigation;

(III) The statutes upon which the property was subject to forfeiture;

(IV) The estimated value of the property received;

(V) If the property was sold, the date of the sale and the gross and net income received;

(VI) If the property was retained, the purpose for which it was used; provided, however, that such details shall not be required when such details would disclose the identification of property being used in a confidential investigation or would compromise an ongoing investigation; and

(VII) If the property was destroyed, the date of the destruction;

(ii) As to currency, an itemization specifying:

(I) The amount of currency forfeited and the date the currency was received; and

(II) The statutes upon which the currency was subject to forfeiture;

(iii) If property was returned to an owner or interest holder, by the seizing law enforcement agency or in the order of distribution, a description of such property and date of return of such property;

(iv) The total for the reporting year of the amount of currency forfeited and net income from the sale of forfeited property which the entity received;

(v) A description of the use and expenditure of forfeited funds for the reporting year, specifying for each expenditure the amount expended and the purpose for which each expenditure was made; and

(vi) The total amount of forfeited currency held in a financial institution at the end of the reporting year, including the net income from the sale of forfeited property and interest earned.

(B) The Prosecuting Attorneys' Council shall promulgate and from time to time amend as necessary and post on its website an annual reporting form for district attorneys to use to report the information required by this subsection. In creating this form, the Prosecuting Attorneys' Council shall consider input from the District Attorneys' Association of Georgia. Such form shall include, but shall not be limited to, the following information:

(i) As to in-kind property received, an itemization specifying:

(I) The date the property was received;

(II) The make, model, and serial number, when relevant; provided, however, that such details shall not be required when such details would disclose the identification of property being used in a confidential investigation or would compromise an ongoing investigation;

(III) The statutes upon which the property was subject to forfeiture; and

(IV) A description of the purpose to which the property was put;

(ii) As to currency received, an itemization specifying:

- (I) The amount of currency and the date the currency was received; and
 - (II) A description of the use and expenditure of forfeited currency for the reporting year, specifying for each expenditure the amount expended and the purpose for which each expenditure was made; and
 - (iii) The total amount of currency received by the district attorney during the reporting year and the amount remaining that has not been expended, including any interest earned.
- (4) The annual report required by this subsection may be submitted electronically, provided the submission complies with Chapter 12 of Title 10.
- (5)(A) The district attorney having jurisdiction where the local law enforcement agency or multijurisdictional task force is located shall be authorized to conduct an investigation and bring any criminal prosecution or civil action he or she deems necessary to ensure compliance with this subsection. The district attorney shall provide an entity required to comply with the reporting requirements of this subsection and found to have committed a violation of this subsection 60 days to demonstrate to the district attorney that such entity has come into compliance with this subsection. If, after 60 days, the entity has failed to correct all deficiencies, such entity shall be prohibited from being eligible to receive property derived or resulting from civil forfeiture proceedings until such time as the entity demonstrates to the district attorney that such entity has corrected all deficiencies and is in compliance with this subsection; provided, however, that if the chief officer of the entity has resigned or has been removed from office, the prohibition shall not apply so long as his or her successor in office corrects all deficiencies within 180 days of taking office. At any time after the district attorney finds an entity to be in violation of this subsection, such entity may seek administrative relief through the Office of State Administrative Hearings. If an entity seeks administrative relief, the time for correcting deficiencies shall be tolled, and any action to exclude the entity from receiving property derived or resulting from civil forfeiture proceedings shall be suspended until such time as a final ruling upholding the findings of the district attorney is issued.
- (B) If the district attorney is disqualified from conducting any investigation under this paragraph, the district attorney shall notify the Attorney General in accordance with Code Section 15-18-5.
- (6) If an audit concludes that a district attorney has used property in violation of this Code section and the auditor notifies the district attorney of such violation, he or she shall take appropriate action to remedy the audit's findings and repay or redistribute property improperly used. If the district attorney fails to remedy the audit's findings within 60 days of such notification, the auditor shall notify the Attorney General for further legal action.
- (7) Any person who knowingly and willfully makes a false, fictitious, or fraudulent annual report pursuant to this subsection shall be guilty of a violation of Code Section 16-10-20 and, upon conviction, shall be punished as provided in such Code section. Any entity that employed a person convicted of false statements based on a violation

of this subsection shall be prohibited from being eligible to receive property derived or resulting from civil forfeiture proceedings for a period of two years commencing from the date of such conviction, unless such entity no longer employs such person.

9-16-20.

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

(1) Cannot be located;

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

(3) Is beyond the jurisdiction of the court;

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

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

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

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

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

(e) A civil forfeiture proceeding shall be commenced within four years after the last conduct giving rise to forfeiture or to the claim for relief became known or should have become known, excluding any time during which either the property or defendant is out

of the state or in confinement or during which criminal proceedings relating to the same conduct are in progress.

9-16-21.

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

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

9-16-22.

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

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

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

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

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

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

SECTION 2-2.

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

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

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

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

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

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

SECTION 2-3.

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

"16-6-13.2.

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

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

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

SECTION 2-4.

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

"16-6-13.3.

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

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

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

SECTION 2-5.

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

"16-7-95.

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

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

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

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

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

SECTION 2-6.

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

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

(2) Any property constituting proceeds derived from or realized through which is, directly or indirectly, used or intended for use in any manner to facilitate a violation

~~of this Code section shall be subject to forfeiture to the State of Georgia except that and any proceeds are declared to be contraband and no person shall have a property right in them; provided, however, that notwithstanding paragraph (2) of subsection (a) of Code Section 9-16-17, no property of any owner shall be forfeited under this subsection, to the extent of the interest of such owner, by reason of an act or omission established by such owner to have been committed or omitted without knowledge or consent of such owner. The procedure for forfeiture and disposition of forfeited property under this subsection shall be as provided for under Code Section 16-13-49.~~
(3) Any property subject to forfeiture pursuant to paragraph (2) of this subsection shall be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9."

SECTION 2-7.

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

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

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

SECTION 2-8.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

place for at least 30 days prior to the sale on the premises where the motor vehicle or motor vehicle part has been stored.

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

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

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

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

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

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

SECTION 2-9.

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

"16-8-106.

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

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

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

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

SECTION 2-10.

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

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

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

(3) Any property subject to forfeiture pursuant to paragraph (2) of this subsection shall be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9. If property subject to forfeiture cannot be located; has been transferred or conveyed to, sold to, or deposited with a third party; is beyond the jurisdiction of the court; has

~~been substantially diminished in value while not in the actual physical custody of a receiver or governmental agency directed to maintain custody of the property; or has been commingled with other property that cannot be divided without difficulty, the court shall order the forfeiture of any property of a claimant or defendant up to the value of property found by the court to be subject to forfeiture under this subsection in accordance with the procedures set forth in subsection (x) of Code Section 16-13-49.~~

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

SECTION 2-11.

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

"16-11-11.

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

SECTION 2-12.

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

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

SECTION 2-13.

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

"16-12-30.

Reserved.

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

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

SECTION 2-14.

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

"16-12-32.

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

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

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

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

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

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

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

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

SECTION 2-15.

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(g)(f)(1) Except as otherwise provided in paragraphs (2) and (3) of this subsection, any person who violates a provision of this Code section shall be guilty of a felony~~

and, upon conviction thereof, shall be punished by imprisonment for not less than five nor more than 20 years and by a fine of not more than \$100,000.00; provided, however, that if the person so convicted is a member of the immediate family of the victim, no fine shall be imposed.

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

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

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

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

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

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

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

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

(II) For any commercial purpose."

SECTION 2-16.

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

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

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

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

SECTION 2-17.

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

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

SECTION 2-18.

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

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

SECTION 2-19.

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

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

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

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

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

SECTION 2-20.

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

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

SECTION 2-21.

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

SECTION 2-22.

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

"16-13-49.

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

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

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

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

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

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

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

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

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

(3) Any property located in this state which was, directly or indirectly, used or intended for use in any manner to facilitate a violation of this article or the laws of the

United States relating to controlled substances that is punishable by imprisonment for more than one year and any proceeds;

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

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

(6) Any weapon available for any use in any manner to facilitate a violation of this article.

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

(d) Property shall not be subject to forfeiture under this Code section for a violation involving only one gram or less of a mixture containing cocaine or four ounces or less of marijuana unless such property was used to facilitate a transaction in or a purchase of or sale of a controlled substance.

(e) In addition to persons authorized to seize property pursuant to Code Section 9-16-6, property which is subject to forfeiture under this Code section may be seized by the director of the Georgia Drugs and Narcotics Agency or by any drug agent of this state or any political subdivision thereof who has power to make arrests or execute process or a search warrant issued by any court having jurisdiction over the property.

(f) Controlled substances included in Schedule I which are contraband and any controlled substance whose owners are unknown shall be summarily forfeited to the state. The court may include in any judgment of conviction under this article an order forfeiting any controlled substance involved in the offense to the extent of the defendant's interest."

SECTION 2-23.

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

"16-13-53.

Reserved.

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

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

~~(c) All administrative proceedings pending under prior laws which were superseded by this article shall be continued and brought to a final determination in accord with the laws and rules in effect prior to July 1, 1974. Any substance controlled under prior law~~

~~which is not listed within Schedules I through V is automatically controlled without further proceedings and shall be listed in the appropriate schedule.~~

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

SECTION 2-24.

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

"16-13-58.

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

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

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

SECTION 2-25.

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

"CHAPTER 14

16-14-1.

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

16-14-2.

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

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

16-14-3.

As used in this chapter, the term:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(xiii) Robbery in violation of Article 2 of Chapter 8 of this title;

(xiv) Criminal reproduction and sale of recorded material in violation of Article 3 of Chapter 8 of this title;

(xv) The 'Georgia Residential Mortgage Fraud Act' in violation of Article 5 of Chapter 8 of this title;

(xvi) Forgery in any degree in violation of Code Section 16-9-1;

(xvii) Illegal use of financial transaction cards in violation of Code Sections 16-9-31, 16-9-32, 16-9-33, and 16-9-34;

(xviii) Use of an article with an altered identification mark in violation of Code Section 16-9-70;

- (xix) The 'Georgia Computer Systems Protection Act' in violation of Article 6 of Chapter 9 of this title;
- (xx) Identity fraud in violation of Article 8 of Chapter 9 of this title;
- (xxi) Bribery in violation of Code Section 16-10-2;
- (xxii) False statements and writings or false lien statements against public officers or public employees in violation of Code Section 16-10-20 or 16-10-20.1;
- (xxiii) Impersonating a public officer or employee in violation of Code Section 16-10-23;
- (xxiv) Attempted murder or threatening of witnesses in official proceedings in violation of Code Section 16-10-32;
- (xxv) Perjury and other related offenses in violation of Article 4 of Chapter 10 of this title;
- (xxvi) Embracery in violation of Code Section 16-10-91;
- (xxvii) Influencing witnesses in violation of Code Section 16-10-93;
- (xxviii) Tampering with evidence in violation of Code Section 16-10-94;
- (xxix) Intimidation or injury of grand or trial juror or court officer in violation of Code Section 16-10-97;
- (xxx) Terroristic threats and acts in violation of Code Section 16-11-37;
- (xxxi) The 'Georgia Firearms and Weapons Act' in violation of Part 2 of Article 4 of Chapter 11 of this title;
- (xxxii) Commercial gambling in violation of Code Section 16-12-22;
- (xxxiii) Distributing obscene materials in violation of Code Section 16-12-80;
- (xxxiv) The 'Georgia Controlled Substances Act' in violation of Article 2 of Chapter 13 of this title;
- (xxxv) The 'Dangerous Drug Act' in violation of Article 3 of Chapter 13 of this title;
- (xxxvi) Marijuana in violation of subsection (j) of Code Section 16-13-30;
- (xxxvii) Payday loans in violation of Chapter 17 of this title;
- (xxxviii) Insurance fraud in violation of Code Section 33-1-9;
- (xxxix) Certain felonies involving certificates of title, security interest, or liens in violation of Code Section 40-3-90;
- (xl) Removal or falsification of identification numbers in violation of Code Section 40-4-21; or
- (xli) Possession of motor vehicle parts from which the identification has been removed in violation of Code Section 40-4-22.
- ~~(i) Article 2 of Chapter 13 of this title, relating to controlled substances;~~
- ~~(ii) Article 3 of Chapter 13 of this title, known as the 'Dangerous Drugs Act';~~
- ~~(iii) Subsection (j) of Code Section 16-13-30, relating to marijuana;~~
- ~~(iv) Article 1 of Chapter 5 of this title, relating to homicide;~~
- ~~(v) Article 2 of Chapter 5 of this title, relating to bodily injury and related offenses;~~
- ~~(vi) Articles 3 and 4 of Chapter 7 of this title, relating to arson and destructive devices, respectively;~~

- ~~(vii) Code Section 16-7-1, relating to burglary, or Code Section 16-7-2, relating to smash and grab burglary;~~
- ~~(viii) Code Section 16-9-1, relating to forgery in any degree;~~
- ~~(ix) Article 1 of Chapter 8 of this title, relating to theft;~~
- ~~(x) Article 2 of Chapter 8 of this title, relating to robbery;~~
- ~~(xi) Code Sections 16-6-9 through 16-6-12 and 16-6-14, relating to prostitution and pandering;~~
- ~~(xii) Code Section 16-12-80, relating to distributing obscene materials;~~
- ~~(xiii) Code Section 16-10-2, relating to bribery;~~
- ~~(xiv) Code Section 16-10-93, relating to influencing witnesses;~~
- ~~(xv) Article 4 of Chapter 10 of this title and Code Sections 16-10-20, 16-10-20.1, 16-10-23, and 16-10-91, relating to perjury and other falsifications;~~
- ~~(xvi) Code Section 16-10-94, relating to tampering with evidence;~~
- ~~(xvii) Code Section 16-12-22, relating to commercial gambling;~~
- ~~(xviii) Code Section 3-3-27, relating to distilling or making liquors;~~
- ~~(xix) Part 2 of Article 4 of Chapter 11 of this title, known as the 'Georgia Firearms and Weapons Act';~~
- ~~(xx) Code Section 16-8-60, relating to unauthorized transfers and reproductions of recorded material;~~
- ~~(xxi) Chapter 5 of Title 10, relating to violations of the 'Georgia Uniform Securities Act of 2008';~~
- ~~(xxii) Code Section 3-3-27, relating to the unlawful distillation, manufacture, and transportation of alcoholic beverages;~~
- ~~(xxiii) Code Sections 16-9-31, 16-9-32, 16-9-33, and 16-9-34, relating to the unlawful use of financial transaction cards;~~
- ~~(xxiv) Code Section 40-3-90, relating to certain felonies involving certificates of title, security interest, or liens concerning motor vehicles;~~
- ~~(xxv) Code Section 40-4-21, relating to removal or falsification of identification numbers;~~
- ~~(xxvi) Code Section 40-4-22, relating to possession of motor vehicle parts from which the identification has been removed;~~
- ~~(xxvii) Code Section 16-9-70, relating to use of an article with an altered identification mark;~~
- ~~(xxviii) Article 6 of Chapter 9 of this title, known as the 'Georgia Computer Systems Protection Act';~~
- ~~(xxix) Any conduct defined as 'racketeering activity' under 18 U.S.C. Section 1961 (1)(A), (B), (C), and (D);~~
- ~~(xxx) Article 3 of Chapter 5 of this title, relating to kidnapping, false imprisonment, and related offenses, except for Code Section 16-5-44, relating to aircraft hijacking;~~
- ~~(xxxi) Code Section 16-11-37, relating to terroristic threats and acts;~~
- ~~(xxxii) Code Section 16-5-44.1, relating to motor vehicle hijacking;~~

~~(xxxiii) Code Section 16-10-32, relating to tampering with witnesses, victims, or informants;~~

~~(xxxiv) Code Section 16-10-97, relating to intimidation of grand or trial juror or court officer;~~

~~(xxxv) Article 11 of Chapter 1 of Title 7 and Sections 5311 through 5330 of Title 31 of the United States Code relating to records and reports of currency transactions;~~

~~(xxxvi) Article 8 of Chapter 9 of this title, relating to identity fraud, and Section 1028 of Title 18 of the United States Code, relating to fraudulent identification documents and information;~~

~~(xxxvii) Code Section 33-1-9, relating to insurance fraud;~~

~~(xxxviii) Code Section 16-17-2, relating to payday loans;~~

~~(xxxix) Code Section 16-9-101, relating to deceptive commercial e-mail;~~

~~(xl) Code Section 16-8-102, relating to residential mortgage fraud; or~~

~~(xli) Code Section 16-5-5, relating to assisted suicide.~~

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

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

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

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

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

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

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

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

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

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

16-14-4.

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

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

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

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

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

16-14-5.

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

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

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

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

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

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

16-14-6.

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

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

(2) Imposing reasonable restrictions upon the future activities or investments of any defendant, including, but not limited to, prohibiting any defendant from engaging in

the same type of endeavor as the enterprise in which he or she was engaged in violation of Code Section 16-14-4;

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

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

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

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

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

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

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

16-14-7.

(a) All property of every kind used or intended for use in the course of, derived from, or realized through a pattern of racketeering activity is shall be subject to forfeiture to the state. ~~Forfeiture shall be had by a civil procedure known as a RICO forfeiture proceeding under the following rules. The Attorney General shall be specifically~~

authorized to commence any civil forfeiture proceeding under this chapter in matters arising under Code Section 45-15-10.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(1) The net proceeds of any sale or disposition after satisfaction of the interest of any innocent party, less the greater of one half thereof or the costs borne by the county in bringing the forfeiture action, shall be paid into the general fund of the state treasury. The costs borne by the county or one half of the net proceeds of sale or disposition, whichever is greater, shall be paid into the treasury of the county where the forfeiture action is brought. Notwithstanding any other provision in this Code section, the court may, after satisfaction of the interest of any innocent party, make any other division of the proceeds among the state, county, or municipalities or agencies of the state, county, or municipalities, which is commensurate with the proportion of the assistance that each contributed to the underlying criminal action, forfeiture, or criminal action and forfeiture.~~

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

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

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

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

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

16-14-8.

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

16-14-9.

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

16-14-10.

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

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

16-14-11.

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

16-14-12.

~~The~~ This state may, in any civil action or civil forfeiture proceeding brought pursuant to this chapter, file with the clerk of the ~~superior~~ court a certificate stating that the case is of special public importance. A copy of ~~that~~ such certificate shall be furnished immediately by such clerk to the chief judge or, in his or her absence, the presiding chief judge of the ~~superior~~ court in which such civil action or civil forfeiture proceeding is pending; and, upon receipt of such ~~copy~~ certificate, the judge shall immediately designate a judge to hear and determine ~~the~~ such civil action or civil forfeiture

proceeding. The judge so designated shall promptly assign such civil action or civil forfeiture proceeding for hearing, participate in the hearings and determination, and cause ~~the~~ such civil action or civil forfeiture proceeding to be expedited.

~~16-14-13.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- ~~(2) The amount of proceeds received by the trustee as a result of the conveyance and distributed to the person named in the RICO lien notice; or~~
- ~~(3) The fair market value of the interest of the person named in the RICO lien notice in the real property so conveyed; however, if the trustee conveys the real property and holds the proceeds that would otherwise be paid or distributed to the beneficiary or at the direction of the beneficiary or his designee, the trustee's liability shall not exceed the amount of the proceeds so held for so long as the proceeds are held by the trustee.~~
- ~~(j) The filing of a RICO lien notice shall not constitute a lien on the record title to real property as owned by the trustee except to the extent the trustee is named in the RICO lien notice. The investigative agency may bring a civil proceeding in any superior court against the trustee to recover from the trustee the amounts set forth in subsection (I), and the state shall also be entitled to recover investigative costs and attorney's fees incurred by the investigative agency.~~
- ~~(k) The filing of a RICO lien notice shall not affect the use to which real property or a beneficial interest owned by the person named in the RICO lien notice may be put or the right of the person to receive any avails, rents, or other proceeds resulting from the use and ownership, but not the sale, of the property until a judgment of forfeiture is entered.~~
- ~~(1)(1) The provisions of this Code section shall not apply to any conveyance by a trustee pursuant to a court order unless such court order is entered in an action between the trustee and the beneficiary.~~
- ~~(2) Unless the trustee has actual knowledge that a person owning a beneficial interest in the trust is named in a RICO lien notice or is otherwise a defendant in a civil proceeding, the provisions of this Code section shall not apply to:~~
- ~~(A) Any conveyance by a trustee required under the terms of any trust agreement, which trust agreement is a matter of public record prior to the filing of any RICO lien notice; or~~
- ~~(B) Any conveyance by a trustee to all of the persons who own a beneficial interest in the trust.~~
- ~~(m) All forfeitures or dispositions under this Code section shall be made with due provision for the rights of innocent persons.~~

~~16-14-14.~~

- ~~(a) The term of a RICO lien notice shall be for a period of six years from the date of filing unless a renewal RICO lien notice has been filed by the investigative agency; and, in such case, the term of the renewal RICO lien notice shall be for a period of six years from the date of its filing. The investigative agency shall be entitled to only one renewal of the RICO lien notice.~~
- ~~(b) The investigative agency filing the RICO lien notice may release in whole or in part any RICO lien notice or may release any specific real property or beneficial interest from the RICO lien notice upon such terms and conditions as it may determine. Any release of a RICO lien notice executed by the investigative agency may be filed in the~~

~~official records of any county. No charge or fee shall be imposed for the filing of any release of a RICO lien notice.~~

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

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

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

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

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

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

~~16-14-15.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 2-26.

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

"16-15-5.

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

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

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

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

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

SECTION 2-27.

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

"16-16-2.

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

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

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

PART III
CONFORMING TITLES 3, 5, 7, 10, 12,
15, 17, 27, 36, 38, 40, 45, 46, 48, 49, AND 52
TO THE NEW CIVIL FORFEITURE PROCEDURE
AND CORRECTING TERMINOLOGY
SECTION 3-1.

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

"3-10-10.

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

SECTION 3-2.

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

"3-10-11.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 3-3.

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

"3-10-12.

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

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

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

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

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

SECTION 3-4.

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

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

SECTION 3-5.

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

"7-1-11.

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

SECTION 3-6.

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

"7-1-916.

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

SECTION 3-7.

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 3-8.

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

"(b) Any cigarettes that have been sold, offered for sale, or possessed for sale in this state in violation of Code Section 10-13A-5 shall be deemed contraband under Code

Section 48-11-9 and such cigarettes shall be subject to seizure and forfeiture as provided in ~~such Code section~~ Chapter 16 of Title 9."

SECTION 3-9.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 3-10.

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

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

SECTION 3-11.

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

"12-5-137.

~~(a) All drilling rigs or commercial vehicles used to drill any well and other equipment used to drill any well by a person who is not a licensed water well contractor or driller or who is not acting under the direction of a professional engineer or professional geologist as required by this part are declared to be contraband subject to forfeiture and~~

~~confiscation and seizure by any peace officer, who shall forthwith deliver such rigs and equipment to the district attorney whose circuit includes the county in which a seizure is made or to his duly authorized agent within ten days of the seizure in accordance with Chapter 16 of Title 9.~~

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

- ~~(1) To the payment of proper costs and expenses, including expenses incurred in the seizure;~~
- ~~(2) To the payment of the cost of the court and its officers;~~
- ~~(3) To the payment of any cost incurred in the storage, advertisement, maintenance, or care of such property; and~~
- ~~(4) If any money remains, to the general funds of the county.~~

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

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

~~(e) Any party at interest may appear, by answer under oath, and make his defense. The owner, lessee, security interest holder, or lienholder shall be permitted to defend by showing that the property seized, if illegally used by another, was used without the knowledge, connivance, or consent, expressed or implied, of the owner, lessee, security interest holder, or lienholder. The holder of any bona fide lien on or security interest in the property shall be protected to the full extent of his lien or security interest,~~

~~respectively; provided, however, that nothing contained in this Code section shall be construed to obligate the district attorney whose circuit includes the county in which a seizure is made beyond the proceeds of any such sale less the actual costs incurred by him."~~

SECTION 3-12.

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

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

SECTION 3-13.

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

"15-6-95.

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

- (1) The amount provided for in Chapter 17 of Title 47 for the Peace Officers' Annuity and Benefit Fund;
- (2) The amount provided for in Chapter 14 of Title 47 for the Superior Court Clerks' Retirement Fund of Georgia;
- (3) The amount provided for in Chapter 16 of Title 47 for the Sheriffs' Retirement Fund of Georgia;
- (4) The amounts provided under subparagraphs (a)(1)(A) and (a)(2)(A) of Code Section 15-21-73;
- (5) The amounts provided for under subparagraphs (a)(1)(B) and (a)(2)(B) of Code Section 15-21-73;
- (6) The amounts provided for in Code Section 15-21-93 for jail construction and staffing;
- (7) The amount provided for in Code Section 15-21-131 for funding local victim assistance programs;
- (8) The amount provided for in Code Section 36-15-9 for county law libraries;
- (9) The balance of the base fine owed to the county;
- (10) The amount provided for in cases of driving under the influence for purposes of the Georgia Crime Victims Emergency Fund under Code Section 15-21-112;

- (11) The application fee provided for in subsection (c) or (e) of Code Section 15-21A-6;
- (12) The amount provided for in cases of driving under the influence for purposes of the Brain and Spinal Injury Trust Fund under Code Section 15-21-149;
- (13) The amount provided for in Code Section 15-21-100 for the Drug Abuse Treatment and Education Fund; and
- (14) The amounts provided for in subsection (d) of Code Section 42-8-34."

SECTION 3-14.

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

"17-5-51.

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

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

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

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

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

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

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

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

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

~~(d) The costs of returning the firearm to the innocent owner shall be borne by the innocent owner. Such costs shall be limited to the actual costs of shipping and~~

~~associated costs from any transfer and background check fees charged when delivering the firearm to the innocent owner.~~

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

SECTION 3-15.

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

"17-5-52.

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

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

~~(c) Any law enforcement agency that retains, destroys, or sells any weapon or device pursuant to this Code section shall maintain records that include an accurate description~~

~~of each weapon or device along with records of whether each weapon or device was retained, sold, or destroyed."~~

SECTION 3-16.

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

SECTION 3-17.

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

"17-5-54.

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

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

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

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

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

(b) This Code section shall not apply to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Otherwise, an unclaimed firearm:

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

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

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

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

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

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

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

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

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

SECTION 3-18.

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

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

SECTION 3-19.

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

"(c) Any person violating the provisions of this Code section ~~is~~ shall be guilty of a misdemeanor of a high and aggravated nature, and, upon conviction, may be punished by a fine of not less than \$500.00 ~~and not to exceed~~ nor more than \$5,000.00, ~~or~~ by

confinement for a term not to exceed 12 months, or both. The court may order that restitution be paid to the department of not less than \$1,500.00 for each bear or bear part which is the subject of a violation of this Code section. Any equipment which is used or intended for use in a violation of this Code section, excluding motor vehicles, is declared to be contraband and is forfeited ~~to the state~~ in accordance with the procedures set forth in Chapter 16 of Title 9. The hunting and fishing privileges of any person convicted of violating the provisions of this Code section shall be suspended for three years."

SECTION 3-20.

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

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

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

SECTION 3-21.

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

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

SECTION 3-22.

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

~~"27-4-137.~~

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

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

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

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

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

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

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

~~any such person shall not be admissible as evidence in any proceeding under this Code section.~~

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

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

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

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

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

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

SECTION 3-23.

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

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

SECTION 3-24.

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

"40-6-391.2.

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

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

~~(c) Within 60 days from the date of the seizure, the district attorney of the judicial circuit, or the director on his behalf, shall cause to be filed in the superior court of the county in which the motor vehicle is seized or detained an action for condemnation of such motor vehicle. The proceedings shall be brought in the name of the state by the district attorney of the circuit in which the motor vehicle was seized, and the action shall be verified by a duly authorized agent of the state in a manner required by the law of this state. The action shall describe the motor vehicle and state its location, present custodian, and the name of the owner, if known, to the duly authorized agent of the state; allege the essential elements of the violation which is claimed to exist; and conclude with a prayer of due process to enforce the forfeiture. Upon the filing of such an action, the court shall promptly cause process to issue to the present custodian in possession of the motor vehicle described in the action, commanding him to seize the motor vehicle in the action and to hold that motor vehicle for further order of the court. The owner, lessee, or any person having a duly recorded security interest in or lien on such motor vehicle shall be notified by any means of service provided for in Title 9 or by delivery of a copy of the complaint and summons by certified mail or statutory overnight delivery to said owner or lienholder or a person of suitable age or discretion having charge of said owner's premises. For purposes of this subsection, where forfeiture of a motor vehicle titled or registered in Georgia is sought, notice to the titleholder shall be deemed adequate if a copy of the complaint and summons is mailed by certified mail or statutory overnight delivery to the titleholder at the address set out in the title and an additional copy is mailed by certified mail or statutory overnight delivery to the firm, person, or corporation which holds the current registration for said motor vehicle, who shall be deemed agent for service for said titleholder, and said complaint is advertised once a week for two weeks as set out in this subsection. If the~~

~~owner, lessee, or person having a duly recorded security interest in or lien on the contraband motor vehicle is unknown or resides out of the state or departs the state or cannot after due diligence be found within the state or conceals himself so as to avoid notice, notice of the proceedings shall be published once a week for two weeks in the newspaper in which the sheriff's advertisements are published. Such publication shall be deemed notice to any and all persons having an interest in or right affected by such proceeding and any sale of the motor vehicle resulting therefrom, but shall not constitute notice to any person having a duly recorded security interest in or lien upon such motor vehicle and required to be served under this Code section unless that person is unknown or resides out of the state or departs the state or cannot after due diligence be found within the state or conceals himself to avoid notice.~~

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

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

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

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

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

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

~~(g) The proceeds arising from such sale shall be deposited into the general treasury of the state or any other governmental unit whose law enforcement agency it was that originally seized the motor vehicle. It is the intent of the General Assembly that, where possible, proceeds deposited into the state treasury should be used and that proceeds~~

~~vested in any local governmental unit shall be applied to fund alcohol or drug treatment, rehabilitation, and prevention and education programs, after making the necessary expenditures for:~~

- ~~(1) Any costs incurred in the seizure;~~
- ~~(2) The costs of the court and its officers; and~~
- ~~(3) Any cost incurred in the storage, advertisement, maintenance, or care of the motor vehicle.~~

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

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

SECTION 3-25.

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

"ARTICLE 2

40-11-20.

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

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

~~40-11-21.~~

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

~~40-11-22.~~

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

~~40-11-23.~~

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

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

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

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

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

SECTION 3-26.

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

"45-15-10.

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

SECTION 3-27.

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

"46-9-253.

Any person who causes more than five pounds of gunpowder, or any amount of dynamite or other dangerous explosive, to be transported upon water, by railroad, or otherwise shall have the word 'Gunpowder,' 'Dynamite,' or other name of the explosive marked in large letters upon each package so transported. Gunpowder, dynamite, or other dangerous explosive transported in violation of ~~said provision shall be liable to seizure and forfeiture by any officer who may execute a criminal warrant, under warrant for that purpose, issued by any officer who may issue such first-named~~

~~warrants, one half of the same to go to the informer, the other half to go to the military fund of the state, after public sale by order of the officer issuing the warrant, or one of like authority this Code section are declared contraband and shall be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9.~~"

SECTION 3-28.

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

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

SECTION 3-29.

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

"49-4-146.3.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- ~~(2) Had not acquired and did not stand to acquire substantial proceeds from the conduct giving rise to its forfeiture other than as an interest holder in an arm's length commercial transaction;~~
- ~~(3) With respect to conveyances for transportation only, did not hold the property jointly, in common, or in community with a person whose conduct gave rise to its forfeiture;~~
- ~~(4) Does not hold the property for the benefit of or as nominee for any person whose conduct gave rise to its forfeiture, and, if the owner or interest holder acquired the interest through any such person, the owner or interest holder acquired it as a bona fide purchaser for value without knowingly taking part in an illegal transaction; and~~
- ~~(5) Acquired the interest:~~
- ~~(A) Before the completion of the conduct giving rise to its forfeiture, and the person whose conduct gave rise to its forfeiture did not have the authority to convey the interest to a bona fide purchaser for value at the time of the conduct; or~~
- ~~(B) After the completion of the conduct giving rise to its forfeiture:~~
- ~~(i) As a bona fide purchaser for value without knowingly taking part in an illegal transaction;~~
- ~~(ii) Before the filing of a lien on it and before the effective date of a notice of pending forfeiture relating to it and without notice of its seizure for forfeiture under this article; and~~
- ~~(iii) At the time the interest was acquired, was reasonably without cause to believe that the property was subject to forfeiture or likely to become subject to forfeiture under this article.~~

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

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

~~(g)(1) Property which is subject to forfeiture under this Code section may be seized by any law enforcement officer of this state or of any political subdivision thereof who has power to make arrests or execute process or a search warrant issued by any superior court having jurisdiction over the property. A search warrant authorizing seizure of property which is subject to forfeiture pursuant to this Code section may be issued at an ex parte hearing before a superior court judge of a county where the forfeiture action may be brought demonstrating that probable cause exists for its forfeiture or that the property has been the subject of a previous final judgment of~~

~~forfeiture in the courts of this state, any other state, or the United States. The court may order that the property be seized on such terms and conditions as are reasonable. In entering any such seizure order, the court shall determine that appropriate conditions are included to ensure the physical safety and well-being of any recipients or patients who may be affected by such warrant and that sufficient steps will be taken to ensure that patient medical records are kept confidential. The property owner or interest holder, within ten days of the seizure of property taken pursuant to a search warrant, may make a written demand to the court with notice to the prosecutor for a hearing to determine if probable cause still exists for the seized property to be subject to forfeiture pursuant to this Code section. Said hearing shall be held within 20 days of said demand unless continued by the court for good cause.~~

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

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

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

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

- ~~(i)(1) Seizure of property by a law enforcement officer constitutes notice of such seizure to any person who was present at the time of seizure who may assert an interest in the property.~~
- ~~(2) When property is seized pursuant to this article, the prosecutor or the sheriff or law enforcement officer seizing the same shall give notice of the seizure to any owner or interest holder who is not present at the time of seizure by personal service, publication, or the mailing of written notice:~~
- ~~(A) If the owner's or interest holder's name and current address are known, by either personal service or mailing a copy of the notice by certified mail or statutory overnight delivery to that address;~~
- ~~(B) If the owner's or interest holder's name and address are required by law to be on record with a government agency to perfect an interest in the property but the owner's or interest holder's current address is not known, by mailing a copy of the notice by certified mail or statutory overnight delivery, return receipt requested, to any address on the record; or~~
- ~~(C) If the owner's or interest holder's address is not known and is not on record as provided in subparagraph (B) of this paragraph or the owner's or interest holder's interest is not known, by publication in two consecutive issues of a newspaper of general circulation in the county in which the seizure occurs.~~
- ~~(3) Notice of seizure must include a description of the property, the date and place of seizure, the conduct giving rise to forfeiture, and the violation of law alleged.~~
- ~~(j) A prosecutor may file, without a filing fee, a lien for forfeiture of property upon the initiation of any civil proceeding under this article or upon seizure for forfeiture. The filing constitutes notice to any person claiming an interest in the property owned by the named person. The filing shall include the following:~~
- ~~(1) The lien notice must set forth:~~
- ~~(A) The name of the person and, in the discretion of the state, any alias and any corporations, partnerships, trusts, or other entities, including nominees, that are either owned entirely or in part or controlled by the person; and~~
- ~~(B) The description of the property, the civil proceeding that has been brought under this article, the amount claimed by the state, the name of the court where the proceeding or action has been brought, and the case number of the proceeding or action if known at the time of filing;~~
- ~~(2) A lien under this subsection applies to the described property and to one named person and to any aliases, fictitious names, or other names, including names of corporations, partnerships, trusts, or other entities, that are either owned entirely or in part or controlled by the named person and any interest in real property owned or controlled by the named person. A separate lien for forfeiture of property must be filed for any other person;~~
- ~~(3) The lien creates, upon filing, a lien in favor of the state as it relates to the seized property or to the named person or related entities with respect to said property. The lien secures the amount of potential liability for civil judgment and, if applicable, the fair market value of seized property relating to all proceedings under this article~~

~~enforcing the lien. The forfeiture lien referred to in this subsection must be filed in accordance with the provisions of the laws in this state pertaining to the type of property that is subject to the lien. The state may amend or release, in whole or in part, a lien filed under this subsection at any time by filing, without a filing fee, an amended lien in accordance with this subsection which identifies the lien amended. The state, as soon as practical after filing a lien, shall furnish to any person named in the lien a notice of the filing of the lien;~~

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

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

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

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

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

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

~~(k) Property taken or detained under this Code section is not subject to replevin, conveyance, sequestration, or attachment. The seizing law enforcement agency or the prosecutor may authorize the release of the property if the forfeiture or retention is unnecessary or may transfer the action to another agency or prosecutor by discontinuing forfeiture proceedings in favor of forfeiture proceedings initiated by the other law enforcement agency or prosecutor. An action under this Code section may be consolidated with any other action or proceeding under this article relating to the same property on motion by an interest holder and must be so consolidated on motion by the prosecutor in either proceeding or action. The property is deemed to be in the custody of the State of Georgia subject only to the orders and decrees of the superior court having jurisdiction over the forfeiture proceedings.~~

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

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

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

~~(C) Remove the property to a storage area, within the jurisdiction of the court, for safekeeping or, if the property is a negotiable instrument or money and is not needed for evidentiary purposes, the prosecutor may authorize its being deposited in~~

~~an interest bearing account in a financial institution in this state. Any accrued interest shall follow the principal in any judgment with respect thereto;~~

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

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

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

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

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

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

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

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

~~(4) The claim must be signed by the owner or interest holder under penalty of perjury and must substantially set forth:~~

- ~~(A) The caption of the proceedings as set forth on the notice of pending forfeiture and the name of the claimant;~~
 - ~~(B) The address at which the claimant will accept mail;~~
 - ~~(C) The nature and extent of the claimant's interest in the property;~~
 - ~~(D) The date, identity of the transferor, and circumstances of the claimant's acquisition of the interest in the property;~~
 - ~~(E) The specific provision of this Code section relied on in asserting that the property is not subject to forfeiture; and~~
 - ~~(F) The precise relief sought;~~
- ~~(5) If a claim is filed, the prosecutor shall file a complaint for forfeiture as provided in subsection (o) or (p) of this Code section within 30 days of the actual receipt of the claim. A person who files a claim shall be joined as a party; and~~
- ~~(6) If no claim is filed within 30 days after the second publication of the notice of forfeiture, all right, title, and interest in the property are forfeited to the state and the prosecutor shall dispose of the property as provided in subsection (u) of this Code section.~~
- ~~(o) In rem proceedings.~~
- ~~(1) In actions in rem, the property which is the subject of the action shall be named as the defendant. The complaint shall be verified on oath or affirmation by a duly authorized agent of the state in a manner required by the laws of this state. Such complaint shall describe the property with reasonable particularity; state that it is located within the county or will be located within the county during the pendency of the action; state its present custodian; state the name of the owner or interest holder, if known; allege the essential elements of the violation which is claimed to exist; state the place of seizure, if the property was seized; and conclude with a prayer of due process to enforce the forfeiture.~~
 - ~~(2) A copy of the complaint and summons shall be served on any person known to be an owner or interest holder and any person who is in possession of the property.~~
 - ~~(A) Service of the complaint and summons shall be as provided in subsections (a), (b), (c), and (e) of Code Section 9-11-4.~~
 - ~~(B) If real property is the subject of the action or the owner or interest holder is unknown or resides out of the state or departs the state or cannot after due diligence be found within the state or conceals himself or herself so as to avoid service, notice of the proceeding shall be published once a week for two successive weeks in the newspaper in which the sheriff's advertisements are published. Such publication shall be deemed notice to any and all persons having an interest in or right affected by such proceeding and from any sale of the property resulting therefrom, but shall not constitute notice to an interest holder unless that person is unknown or resides out of the state or departs the state or cannot after due diligence be found within the state or conceals himself or herself to avoid service.~~
 - ~~(C) If tangible property which has not been seized is the subject of the action, the court may order the sheriff or another law enforcement officer to take possession of the property. If the character or situation of the property is such that the taking of~~

~~actual possession is impracticable, the sheriff shall execute process by affixing a copy of the complaint and summons to the property in a conspicuous place and by leaving another copy of the complaint and summons with the person having possession or such person's agent. In cases involving a vessel or aircraft, the sheriff or other law enforcement officer is authorized to make a written request with the appropriate governmental agency not to permit the departure of such vessel or aircraft until notified by the sheriff or the sheriff's deputy that the vessel or aircraft has been released.~~

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

- ~~(A) The caption of the proceedings as set forth in the complaint and the name of the claimant;~~
- ~~(B) The address at which the claimant will accept mail;~~
- ~~(C) The nature and extent of the claimant's interest in the property;~~
- ~~(D) The date, identity of transferor, and circumstances of the claimant's acquisition of the interest in the property;~~
- ~~(E) The specific provision of this Code section relied on in asserting that the property is not subject to forfeiture; and~~
- ~~(F) The precise relief sought.~~

~~(4) If at the expiration of the period set forth in paragraph (3) of this subsection no answer has been filed, the court shall order the disposition of the seized property as provided for in this Code section.~~

~~(5) If an answer is filed, a hearing must be held within 60 days after service of the complaint unless continued for good cause and must be held by the court with a jury unless waived by the claimant.~~

~~(6) An action in rem may be brought by the state in addition to or in lieu of any other in rem or in personam action brought pursuant to this article.~~

~~(p) In personam proceedings:~~

~~(1) The complaint shall be verified on oath or affirmation by a duly authorized agent of the state in a manner required by the laws of this state. It shall describe with reasonable particularity the property which is sought to be forfeited; state its present custodian; state the name of the owner or interest holder, if known; allege the essential elements of the violation which is claimed to exist; state the place of seizure, if the property was seized; and conclude with a prayer of due process to enforce the forfeiture.~~

~~(2) Service of the complaint and summons shall be as follows:~~

- ~~(A) Except as otherwise provided in this subsection, service of the complaint and summons shall be as provided by subsections (a), (b), (c), and (d) of Code Section 9-11-4; and~~
- ~~(B) If the defendant is unknown or resides out of the state or departs the state or cannot after due diligence be found within the state or conceals himself or herself so as to avoid service, notice of the proceedings shall be published once a week for two successive weeks in the newspaper in which the sheriff's advertisements are published. Such publication shall be deemed sufficient notice to any such defendant.~~
- ~~(3) A defendant shall file a verified answer within 30 days after the service of the summons and complaint. Where service is made by publication and personal service has not been made, a defendant shall file such answer within 30 days of the date of final publication. In addition to complying with the general rules applicable to an answer in civil actions, the answer must contain all of the elements set forth in paragraph (3) of subsection (o) of this Code section.~~
- ~~(4) Any interest holder or person in possession of the property may join any action brought pursuant to this subsection as provided by Chapter 11 of Title 9, known as the 'Georgia Civil Practice Act.'~~
- ~~(5) If at the expiration of the period set forth in paragraph (3) of this subsection no answer has been filed, the court shall order the disposition of the seized property as provided for in this Code section.~~
- ~~(6) If an answer is filed, a hearing must be held within 60 days after service of the complaint unless continued for good cause and must be held by the court with a jury unless waived by the claimant.~~
- ~~(7) On a determination of liability of a person for conduct giving rise to forfeiture under this Code section, the court must enter a judgment of forfeiture of the property described in the complaint and must also authorize the prosecutor or the prosecutor's agent or any law enforcement officer or peace officer to seize all property ordered to be forfeited which was not previously seized or was not then under seizure. Following the entry of an order declaring the property forfeited, the court, on application of the state, may enter any appropriate order to protect the interest of the state in the property ordered to be forfeited.~~
- ~~(q) In conjunction with any civil action brought pursuant to this article:~~
- ~~(1) The court, on application of the prosecutor, may enter any restraining order or injunction; require the execution of satisfactory performance bonds; appoint receivers, conservators, appraisers, accountants, or trustees; or take any action to seize, secure, maintain, or preserve the availability of property subject to forfeiture under this article, including issuing a warrant for its seizure and writ of attachment, whether before or after the filing of a complaint for forfeiture;~~
- ~~(2) A temporary restraining order under this Code section may be entered on application of the prosecutor, without notice or an opportunity for a hearing, if the prosecutor demonstrates that:~~

- ~~(A) There is probable cause to believe that the property with respect to which the order is sought, in the event of final judgment or conviction, would be subject to forfeiture under this article; and~~
- ~~(B) Provision of notice would jeopardize the availability of the property for forfeiture;~~
- ~~(3) Notice of the entry of a restraining order and an opportunity for a hearing must be afforded to persons known to have an interest in the property. The hearing must be held at the earliest possible date consistent with the date set in subsection (b) of Code Section 9-11-65 and is limited to the issues of whether:~~
- ~~(A) There is a probability that the state will prevail on the issue of forfeiture and that failure to enter the order will result in the property's being destroyed, conveyed, encumbered, removed from the jurisdiction of the court, concealed, or otherwise made unavailable for forfeiture; and~~
- ~~(B) The need to preserve the availability of property through the entry of the requested order outweighs the hardship on any owner or interest holder against whom the order is to be entered;~~
- ~~(4) If property is seized for forfeiture or a forfeiture lien is filed without a previous judicial determination of probable cause or order of forfeiture or a hearing under paragraph (2) of this subsection, the court, on an application filed by an owner or interest holder in the property within 30 days after notice of its seizure or lien or actual knowledge of such seizure or lien, whichever is earlier, and complying with the requirements for an answer to an in rem complaint, and after five days' notice to the prosecutor of the judicial circuit where the property was seized or, in the case of a forfeiture lien, to the prosecutor filing such lien, may issue an order to show cause to the seizing law enforcement agency for a hearing on the sole issue of whether probable cause for forfeiture of the property then exists. The hearing must be held within 30 days unless continued for good cause on motion of either party. If the court finds that there is no probable cause for forfeiture of the property, the property must be released pending the outcome of a judicial proceeding which may be filed pursuant to this Code section; and~~
- ~~(5) The court may order property that has been seized for forfeiture to be sold to satisfy a specified interest of any interest holder, on motion of any party, and after notice and a hearing, on the conditions that:~~
- ~~(A) The interest holder has filed a proper claim and:~~
- ~~(i) Is authorized to do business in this state and is under the jurisdiction of a governmental agency of this state or of the United States which regulates financial institutions, securities, insurance, or real estate; or~~
- ~~(ii) Has an interest that the prosecutor has stipulated is exempt from forfeiture;~~
- ~~(B) The interest holder must dispose of the property by commercially reasonable public sale and apply the proceeds first to its interest and then to its reasonable expenses incurred in connection with the sale or disposal; and~~

~~(C) The balance of the proceeds, if any, must be returned to the actual or constructive custody of the court, in an interest bearing account, subject to further proceedings under this Code section.~~

~~(r) An acquittal or a dismissal or a conviction in any criminal proceeding, either by a verdict or a plea of guilty or nolo contendere, shall be admissible in evidence in any proceeding pursuant to this Code section.~~

~~(s) In hearings and determinations pursuant to this Code section:~~

~~(1) The court may receive and consider, in making any determination of probable cause or reasonable cause, all evidence admissible in determining probable cause at a preliminary hearing or by a magistrate pursuant to Article 1 of Chapter 5 of Title 17, together with inferences therefrom; and~~

~~(2) The fact that the state has established probable cause to believe that a person has engaged in conduct giving rise to forfeiture or that the property was acquired by a person during a period of the conduct giving rise to forfeiture or within a reasonable time thereafter shall not give rise to any presumption, rebuttable or otherwise, that the property is subject to forfeiture. The state shall, at all times, have the burden to prove, by a preponderance of the evidence, that the property is subject to forfeiture under this Code section.~~

~~(t)(1) All property declared to be forfeited under this Code section vests in this state at the time of commission of the conduct giving rise to forfeiture together with the proceeds of the property after that time. Any property or proceeds transferred later to any person remain subject to forfeiture and thereafter must be ordered to be forfeited unless the transferee claims and establishes in a hearing under this Code section that the transferee is a bona fide purchaser for value and the transferee's interest is exempt under subsection (e) of this Code section.~~

~~(2) On entry of judgment for a person claiming an interest in the property that is subject to proceedings to forfeit property under this Code section, the court shall order that the property or interest in property be released or delivered promptly to that person free of liens and encumbrances, as provided under this article.~~

~~(3) The court is authorized to order a claimant who files a frivolous claim to pay the reasonable costs relating to the disproving of the claim which were incurred by the state, including costs for investigation, prosecution, and attorney's fees.~~

~~(u)(1) The court may, after judgment of forfeiture, make any of the following orders for disposition of the property:~~

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

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

~~(C) Destruction of any contraband, the possession of which is illegal.~~

~~(2) The proceeds from any judicial sale or payments from a party having a property interest as described in paragraph (1) of this subsection shall be delivered to the Department of Community Health. The proceeds shall then be disbursed in accordance with the requirements of federal law.~~

~~(v) An acquittal or dismissal in a criminal proceeding does not preclude civil proceedings under this article, provided that no property shall be forfeited after an acquittal or dismissal in a criminal proceeding unless the state obtains a civil judgment for forfeiture under this article.~~

~~(w) For good cause shown, the court may stay civil forfeiture proceedings during the criminal trial resulting from a related indictment or information alleging a violation of this article.~~

~~(x)(1) The court shall order the forfeiture of any property of a claimant or defendant up to the value of property found by the court to be subject to forfeiture under the provisions of this Code section if any of the forfeited property:~~

~~(A) Cannot be located;~~

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

~~(C) Is beyond the jurisdiction of the court;~~

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

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

~~(2) In addition to any other remedy provided for by law, a prosecutor on behalf of the state may institute an action in any court of this state or of the United States or any of the several states against any person acting with knowledge or any person to whom notice of a lien for forfeiture of property has been provided in accordance with subsection (j) of this Code section; to whom notice of seizure has been provided in accordance with subsection (i) of this Code section; or to whom notice of a civil proceeding alleging conduct giving rise to forfeiture under this Code section has been provided, if property subject to forfeiture is conveyed, alienated, disposed of, or otherwise rendered unavailable for forfeiture after the filing of a forfeiture lien notice or notice of seizure or after the filing and notice of a civil proceeding alleging conduct giving rise to forfeiture under this Code section, as the case may be. The state may recover judgment in an amount equal to the value of the lien but not to exceed the fair market value of the property or, if there is no lien, in an amount not to exceed the fair market value of the property, together with reasonable investigative expenses and attorney's fees. If a civil proceeding is pending, the action must be heard by the court in which the civil proceeding is pending.~~

~~(3) A prosecutor may file and prosecute in any of the courts of this state or of the United States or of any of the several states such civil actions as may be necessary to enforce any judgment rendered pursuant to this Code section.~~

~~(4) No person claiming an interest in property subject to forfeiture under this article may commence or maintain any action against the state concerning the validity of the alleged interest other than as provided in this Code section. Except as specifically authorized by this Code section, no person claiming an interest in such property may file any counterclaim or cross claim to any action brought pursuant to this Code section.~~

~~(5) A civil action under this article must be commenced within five years after the last conduct giving rise to forfeiture or to the claim for relief became known or should have become known, excluding any time during which either the property or defendant is out of the state or in confinement or during which criminal proceedings relating to the same conduct are in progress.~~

~~(y) In the event the state fails to prove that the property is subject to forfeiture under this Code section, the property may still be subject to lien, levy, and other processes in order to satisfy any judgment which orders the payment of restitution based upon a conviction or judgment of Medicaid fraud.~~

~~(z) This Code section must be liberally construed to effectuate its remedial purposes."~~

SECTION 3-30.

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

"52-7-7.3.

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

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

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

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

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

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

SECTION 3-31.

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

"52-7-7.4.

Reserved.

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

~~(b) The law enforcement agency having possession of any property subject to forfeiture under Code Section 52-7-7.3 shall report such fact within ten days of taking possession to the district attorney of the judicial circuit having jurisdiction in the county where the property is located. Within 30 days from the date he or she receives such notice, the district attorney of the judicial circuit shall file in the superior court of the county in which the property is located an action for condemnation of the property. The proceedings shall be brought in the name of the state, and the action shall be verified by a duly authorized agent of the state in the manner required by law. The action shall describe the property, state its location, state its present custodian, state the name of the owner, if known, state the duly authorized agent of the state, allege the essential elements which are claimed to exist, and shall conclude with a prayer of due process to enforce the forfeiture. Upon the filing of such an action, the court shall promptly cause process to issue to the present custodian in possession of the property described in the action, commanding him or her to seize the property described in the action and to hold that property for further order of the court. A copy of the action shall be served on the owner, if known. If the owner is known, a copy of the action shall also be served upon any person having a duly recorded security interest in or lien upon that property. If the owner is unknown or resides out of the state or departs the state or cannot after due diligence be found within the state or conceals himself or herself so as to avoid service, notice of the proceedings shall be published once a week for two weeks in the newspaper in which the sheriff's advertisements are published. Such publication shall be deemed notice to any and all persons having an interest in or right affected by such proceeding and from any sale of the property resulting therefrom but shall not constitute notice to any person having a duly recorded security interest in or lien upon such property and required to be served under this Code section unless that person is unknown or resides out of the state or departs the state or cannot after due diligence be found within the state or conceals himself or herself to avoid service. At the expiration of 30 days after such filing, if no claimant has appeared to defend the action, the court shall order the disposition of the seized property as provided for in this~~

~~Code section. If the owner of the vessel appears and defends the action and can show that he or she was unaware of the fact that the hull identification number had been removed, altered, defaced, falsified, or destroyed, the court shall order the property returned to the owner upon the owner's paying proper expenses relating to proceedings for forfeiture, including the expenses of the maintenance of custody, advertising, and court costs and upon the vessel being assigned a new hull identification number as provided in this article.~~

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

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

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

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

SECTION 3-32.

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

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

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

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

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

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

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

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

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

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

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

- (11) Code Section 15-21-58, relating to effect of article upon Acts pertaining to courts in particular counties or cities;
- (12) Code Section 27-1-14, relating to disposition of fines and forfeitures;
- (13) Code Section 36-30-9, relating to compensation of law enforcement officers;
- (14) Code Section 36-31-8, relating to transition periods for governmental functions;
- (15) Code Section 36-32-6, relating to relating to jurisdiction in marijuana possession cases;
- (16) Code Section 36-32-7, relating to jurisdiction in cases of operating a motor vehicle without effective insurance;
- (17) Code Section 36-32-8, relating to jurisdiction of cases of operating a motor vehicle without emission inspection;
- (18) Code Section 36-32-9, relating to jurisdiction of cases of shoplifting;
- (19) Code Section 36-32-10, relating to jurisdiction of cases of furnishing alcoholic beverages to and purchase and possession of alcoholic beverages by underage persons;
- (20) Code Section 36-32-10.1, relating to jurisdiction in counties without state court to try violations of Code Section 16-7-21;
- (21) Code Section 36-35-6, relating to limitation on home rule powers;
- (22) Code Section 38-2-464, relating to payment of fines;
- (23) Code Section 40-5-124, relating to jurisdiction of offenses;
- (24) Code Section 40-13-22, relating to jurisdiction over offenses under Code Section 40-2-8;
- (25) Code Section 40-16-7, relating to budget of the Department of Driver Services; and
- (26) Code Section 42-9-45, relating to general rule-making power of the State Board of Pardons and Paroles.

SECTION 3-33.

The following Code sections of the Official Code of Georgia Annotated are amended by replacing "fine and forfeitures fund", "fines and forfeitures fund", and "fine and forfeiture fund" wherever such terms occur with "fine and bond forfeiture fund":

- (1) Code Section 4-3-8, relating to return and disposition of proceeds of sale;
- (2) Code Section 15-21-5, relating to procedure for filing and payment of claims of officers of court where defendant acquitted or person liable for payment of costs is insolvent;
- (3) Code Section 15-21-50, relating to limitation period for claims against fine and forfeiture fund;
- (4) Code Section 15-21-51, relating to the procedure for extension of limitation period;
- (5) Code Section 15-21-52, relating to payment into county treasury of funds received as part of fine and forfeiture fund;
- (6) Code Section 15-21-54, relating to creation of claim for benefit of county against fine and forfeiture fund;
- (7) Code Section 15-21-55, relating to disposition of funds remaining after claims against fine and forfeiture fund paid or barred by limitation;

- (8) Code Section 15-21-56, relating to proceedings by persons claiming interest in fine and forfeiture fund;
- (9) Code Section 24-13-132, relating to appointment of counsel and payment of costs and expenses;
- (10) Code Section 36-15-9, relating to collection of additional costs in court cases; and
- (11) Code Section 40-16-7, relating to budget of the Department of Driver Services.

PART IV
EFFECTIVE DATE,
APPLICABILITY, AND REPEALER
SECTION 4-1.

This Act shall become effective on July 1, 2015, and shall apply to seizures of property for forfeiture that occur on or after that date. Any such seizure that occurs before July 1, 2015, shall be governed by the statute in effect at the time of such seizure.

SECTION 4-2.

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

The report of the Committee, which was favorable to the passage of the Bill, by substitute, was agreed to.

On the passage of the Bill, by substitute, the roll call was ordered and the vote was as follows:

| | | | | |
|------------------|-------------------|---------------|-----------------|----------------|
| Y Abrams | Y Coomer | Y Harbin | Y Meadows | Y Smith, E |
| Y Alexander | Y Cooper | Y Harden | Y Mitchell | Y Smith, L |
| Y Allison | Y Corbett | Y Harrell | E Morris | Y Smith, M |
| E Anderson | E Dawkins-Haigler | Y Hatchett | Mosby | Y Smith, R |
| Y Atwood | Y Deffenbaugh | Y Hawkins | Y Nimmer | E Smyre |
| Y Ballinger | Y Dempsey | Y Henson | Y Nix | Y Spencer |
| Y Barr | Y Dickerson | Y Hightower | Y Oliver | Y Stephens, M |
| E Battles | Y Dickey | Y Hitchens | Y O'Neal | Y Stephens, R |
| E Beasley-Teague | Y Dickson | Y Holcomb | Y Pak | Stephenson |
| Y Bell | Dollar | Y Holmes | Y Parrish | Y Stovall |
| Y Belton | Y Douglas | Y Houston | Y Parsons | Y Stover |
| E Bennett | Y Drenner | Y Howard | Y Peake | Y Strickland |
| Y Bentley | Y Dudgeon | E Hugley | Y Petrea | Y Tankersley |
| Y Benton | E Dukes | Y Jackson | Y Pezold | Y Tanner |
| Y Beskin | Y Dunahoo | Y Jacobs | Y Powell, A | Y Tarvin |
| Y Beverly | E Duncan | Y Jasperse | Y Powell, J | Y Taylor, D |
| Y Broadrick | Y Ealum | Y Jones, J | Y Prince | Y Taylor, T |
| Y Brockway | Y Efrstration | Y Jones, J.B. | Y Pruett | Y Teasley |
| Y Brooks | Y Ehrhart | E Jones, L | Y Quick | Y Thomas, A.M. |
| Y Bruce | Y England | Y Jones, S | Y Raffensperger | Y Thomas, E |
| Y Bryant | Y Epps | E Jordan | Y Rakestraw | Y Trammell |
| Y Buckner | E Evans | Kaiser | Y Ramsey | Y Turner |
| Y Burns | Y Fleming | Y Kelley | E Randall | Y Waites |

| | | | | |
|---------------|-------------|-------------|-------------|------------------|
| E Caldwell, J | Floyd | Y Kendrick | Y Reeves | Y Watson |
| Y Caldwell, M | Y Fludd | Y Kidd | Y Rhodes | Y Welch |
| Y Cantrell | Y Frazier | Y Kirby | Y Rice | E Weldon |
| Y Carson | E Frye | Y Knight | Y Roberts | Y Werkheiser |
| Y Carter | Y Gardner | Y LaRiccica | Y Rogers, C | Y Wilkerson |
| E Casas | Y Gasaway | Y Lumsden | Y Rogers, T | Y Wilkinson |
| Y Chandler | Y Geisinger | Y Mabra | Y Rutledge | Y Willard |
| Y Cheokas | Y Glanton | E Marin | Y Rynders | Y Williams, A |
| Y Clark, D | Y Golick | Y Martin | Y Scott | Y Williams, C |
| Y Clark, H | Y Gordon | Y Maxwell | Y Setzler | Y Williams, E |
| Y Clark, V | Y Gravley | Y Mayo | Y Sharper | Y Williamson |
| Y Coleman | Y Greene | Y McCall | Y Shaw | Y Yates |
| E Cooke | Y Hamilton | Y McClain | Y Sims | Ralston, Speaker |

On the passage of the Bill, by substitute, the ayes were 154, nays 0.

The Bill, having received the requisite constitutional majority, was passed, by substitute.

HB 340. By Representatives Petrea of the 166th, Stephens of the 164th, Hitchens of the 161st, Bryant of the 162nd and Gordon of the 163rd:

A BILL to be entitled an Act to amend Code Section 3-3-7 of the Official Code of Georgia Annotated, relating to local authorization and regulation of sales of alcoholic beverages on Sunday, so as to change certain provisions relating to such sales on Sunday during the St. Patrick's Day holiday period; to provide an effective date; to repeal conflicting laws; and for other purposes.

The following Committee substitute was read and adopted:

**A BILL TO BE ENTITLED
AN ACT**

To amend Code Section 3-3-7 of the Official Code of Georgia Annotated, relating to local authorization and regulation of sales of alcoholic beverages on Sunday, so as to change certain provisions relating to such sales on Sunday during the St. Patrick's Day holiday period; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 3-3-7 of the Official Code of Georgia Annotated, relating to local authorization and regulation of sales of alcoholic beverages on Sunday, is amended by revising subsection (r) as follows:

"(r) Notwithstanding any other provisions of law, in all counties or municipalities in which the sale of alcoholic beverages is lawful for consumption on the premises, the governing authority of the county or municipality, as appropriate, may by adoption of a resolution or ordinance authorize the sale of alcoholic beverages for consumption on the premises from 12:30 P.M. until 12:00 Midnight on any Sunday which occurs during the St. Patrick's Day holiday period. Any sales for consumption on the premises made pursuant to this subsection shall be subject to such terms and conditions as may be required by the governing authority of the county or municipality. As used in this subsection, the term 'St. Patrick's Day holiday period' means ~~March 16 through March 18 of each year~~ an annual period of consecutive calendar days, not exceeding five days, which shall include March 17 as part of such period, as specified in a resolution or ordinance adopted pursuant to this subsection."

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 3.

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

Pursuant to Rule 133, Representative Cheokas of the 138th was excused from voting on HB 340.

The report of the Committee, which was favorable to the passage of the Bill, by substitute, was agreed to.

On the passage of the Bill, by substitute, the roll call was ordered and the vote was as follows:

| | | | | |
|------------------|-------------------|---------------|-------------|---------------|
| Y Abrams | N Coomer | Y Harbin | Y Meadows | Y Smith, E |
| Y Alexander | Y Cooper | Y Harden | Y Mitchell | Y Smith, L |
| N Allison | N Corbett | Y Harrell | E Morris | Y Smith, M |
| E Anderson | E Dawkins-Haigler | Y Hatchett | Mosby | Y Smith, R |
| Y Atwood | Y Deffenbaugh | Y Hawkins | N Nimmer | E Smyre |
| Y Ballinger | Y Dempsey | Y Henson | N Nix | Y Spencer |
| Y Barr | Y Dickerson | Y Hightower | Y Oliver | Y Stephens, M |
| E Battles | Y Dickey | Y Hitchens | Y O'Neal | Y Stephens, R |
| E Beasley-Teague | Y Dickson | Y Holcomb | Y Pak | Stephenson |
| Y Bell | Dollar | Y Holmes | Y Parrish | Y Stovall |
| Y Belton | Y Douglas | N Houston | Y Parsons | Y Stover |
| E Bennett | Y Drenner | Y Howard | Y Peake | Y Strickland |
| Y Bentley | Y Dudgeon | E Hugley | Y Petrea | Y Tankersley |
| Y Benton | E Dukes | Y Jackson | Y Pezold | N Tanner |
| Y Beskin | Y Dunahoo | Y Jacobs | Y Powell, A | Y Tarvin |
| Y Beverly | E Duncan | Y Jasperse | Y Powell, J | N Taylor, D |
| Y Broadrick | Y Ealum | Y Jones, J | Y Prince | Y Taylor, T |
| Y Brockway | Y Efrstration | Y Jones, J.B. | Y Pruett | Y Teasley |

| | | | | |
|---------------|-------------|-------------|-----------------|------------------|
| Y Brooks | Ehrhart | E Jones, L | Y Quick | Y Thomas, A.M. |
| Y Bruce | N England | Y Jones, S | Y Raffensperger | Y Thomas, E |
| Y Bryant | Y Epps | E Jordan | Y Rakestraw | Y Trammell |
| Y Buckner | E Evans | Y Kaiser | Y Ramsey | Y Turner |
| N Burns | Y Fleming | Y Kelley | E Randall | Y Waites |
| E Caldwell, J | Y Floyd | Y Kendrick | Y Reeves | Y Watson |
| Y Caldwell, M | Y Fludd | Y Kidd | Y Rhodes | Welch |
| Y Cantrell | Y Frazier | N Kirby | Y Rice | E Weldon |
| Y Carson | E Frye | Y Knight | Y Roberts | Y Werkheiser |
| Y Carter | Y Gardner | N LaRiccica | Y Rogers, C | Y Wilkerson |
| E Casas | Y Gasaway | Y Lumsden | Y Rogers, T | Y Wilkinson |
| Y Chandler | Y Geisinger | Y Mabra | Y Rutledge | Y Willard |
| Cheokas | Y Glanton | E Marin | Y Rynders | Y Williams, A |
| Y Clark, D | Y Golick | Y Martin | Y Scott | Y Williams, C |
| Y Clark, H | Y Gordon | Y Maxwell | Y Setzler | Y Williams, E |
| Y Clark, V | Y Gravley | Y Mayo | Y Sharper | N Williamson |
| Y Coleman | Y Greene | Y McCall | Y Shaw | Y Yates |
| E Cooke | Y Hamilton | Y McClain | Y Sims | Ralston, Speaker |

On the passage of the Bill, by substitute, the ayes were 140, nays 13.

The Bill, having received the requisite constitutional majority, was passed, by substitute.

HB 394. By Representatives Cooper of the 43rd, Clark of the 101st, Hatchett of the 150th, Smith of the 134th, Rynders of the 152nd and others:

A BILL to be entitled an Act to amend Chapter 26 of Title 43 of the Official Code of Georgia Annotated, relating to nurses, so as to revise various provisions relating to the licensure of registered professional nurses and licensed practical nurses; to revise provisions relating to the powers and duties of the Georgia Board of Nursing; to provide for acceptance of nursing education programs located outside the United States; to provide for a time period for applicants who do not pass the licensing examination; to revise provisions relating to renewal of licensure; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

The report of the Committee, which was favorable to the passage of the Bill, was agreed to.

On the passage of the Bill, the roll call was ordered and the vote was as follows:

| | | | | |
|-------------|-------------------|------------|------------|------------|
| Y Abrams | E Coomer | Y Harbin | Y Meadows | Y Smith, E |
| Y Alexander | Y Cooper | Y Harden | Y Mitchell | Y Smith, L |
| Y Allison | Y Corbett | Y Harrell | E Morris | Y Smith, M |
| E Anderson | E Dawkins-Haigler | Y Hatchett | Mosby | Y Smith, R |
| Y Atwood | Y Deffenbaugh | Y Hawkins | Y Nimmer | E Smyre |

| | | | | |
|------------------|--------------|---------------|-----------------|------------------|
| Y Ballinger | Y Dempsey | Y Henson | Y Nix | Y Spencer |
| Y Barr | Y Dickerson | Y Hightower | Y Oliver | Y Stephens, M |
| E Battles | Y Dickey | Y Hitchens | Y O'Neal | Y Stephens, R |
| E Beasley-Teague | Y Dickson | Y Holcomb | Y Pak | Y Stephenson |
| Y Bell | Dollar | Y Holmes | Y Parrish | Y Stovall |
| Y Belton | Y Douglas | Y Houston | Y Parsons | Y Stover |
| E Bennett | Y Drenner | Y Howard | Y Peake | Y Strickland |
| Y Bentley | Y Dudgeon | Hugley | Y Petrea | Y Tankersley |
| Y Benton | E Dukes | Y Jackson | Y Pezold | Y Tanner |
| Y Beskin | Y Dunahoo | Y Jacobs | Y Powell, A | Y Tarvin |
| Y Beverly | E Duncan | Y Jasperse | Y Powell, J | Y Taylor, D |
| Y Broadrick | Y Ealum | Y Jones, J | Y Prince | Taylor, T |
| Y Brockway | Y Efstration | Y Jones, J.B. | Y Pruett | Y Teasley |
| Y Brooks | Ehrhart | E Jones, L | Y Quick | Y Thomas, A.M. |
| Y Bruce | Y England | Y Jones, S | Y Raffensperger | Y Thomas, E |
| Y Bryant | Y Epps | E Jordan | Y Rakestraw | Y Trammell |
| Y Buckner | E Evans | Y Kaiser | Y Ramsey | Y Turner |
| Y Burns | Y Fleming | Y Kelley | E Randall | Y Waites |
| E Caldwell, J | Y Floyd | Y Kendrick | Y Reeves | Y Watson |
| Y Caldwell, M | Y Fludd | Y Kidd | Y Rhodes | Y Welch |
| Y Cantrell | Y Frazier | Y Kirby | Y Rice | E Weldon |
| Y Carson | E Frye | Y Knight | Y Roberts | Y Werkheiser |
| Y Carter | Y Gardner | Y LaRiccia | Y Rogers, C | Y Wilkerson |
| E Casas | Y Gasaway | Y Lumsden | Y Rogers, T | Y Wilkinson |
| Y Chandler | Y Geisinger | Y Mabra | Y Rutledge | Y Willard |
| Y Cheokas | Y Glanton | E Marin | Y Rynders | Y Williams, A |
| Y Clark, D | Y Golick | Y Martin | Y Scott | Y Williams, C |
| Y Clark, H | Y Gordon | Y Maxwell | Y Setzler | Y Williams, E |
| Y Clark, V | Y Gravley | Y Mayo | Y Sharper | Y Williamson |
| Y Coleman | Y Greene | Y McCall | Y Shaw | Y Yates |
| E Cooke | Y Hamilton | Y McClain | Y Sims | Ralston, Speaker |

On the passage of the Bill, the ayes were 154, nays 0.

The Bill, having received the requisite constitutional majority, was passed.

HB 99. By Representatives Lumsden of the 12th, Caldwell of the 131st, Willard of the 51st, Powell of the 171st, Quick of the 117th and others:

A BILL to be entitled an Act to amend Article 8 of Chapter 6 of Title 44 of the Official Code of Georgia Annotated, relating to joint tenancy with survivorship, so as to provide for tenancy in common when joint tenants divorce or have their marriage annulled, under certain circumstances; to provide for related matters; to repeal conflicting laws; and for other purposes.

The following Committee substitute was read and adopted:

A BILL TO BE ENTITLED
AN ACT

To amend Article 8 of Chapter 6 of Title 44 of the Official Code of Georgia Annotated, relating to joint tenancy with survivorship, so as to provide a procedure for tenancy in common when joint tenants divorce or have their marriage annulled, under certain circumstances; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 8 of Chapter 6 of Title 44 of the Official Code of Georgia Annotated, relating to joint tenancy with survivorship, is amended by revising Code Section 44-6-190, relating to creating joint tenancy with right of survivorship and severance, as follows:

"44-6-190.

(a)(1) Deeds and other instruments of title, including any instrument in which one person conveys to himself or herself and one or more other persons, any instrument in which two or more persons convey to themselves or to themselves and another or others, and wills, taking effect after January 1, 1977, may create a joint interest with survivorship in two or more persons.

(2) Any instrument of title in favor of two or more persons shall be construed to create interests in common without survivorship between or among the owners unless the instrument expressly refers to the takers as 'joint tenants,' 'joint tenants and not as tenants in common,' or 'joint tenants with survivorship' or as taking 'jointly with survivorship.'

(3) Any instrument of title using one of the forms of expression referred to in ~~the preceding sentence~~ paragraph (2) of this subsection or language essentially the same as one of these forms of expression shall create a joint tenancy estate or interest that may be severed as to the interest of any owner by the recording of an instrument which results in his or her lifetime transfer of all or a part of his or her interest; provided, however, that, if all persons owning joint tenant interests in a property join in the same recorded lifetime transfer, no severance shall occur.

(4) Unless the joint tenancy with the right of survivorship is otherwise disposed of in a final order of divorce or annulment, if either party to an instrument of title creating a joint tenancy with the right of survivorship files an affidavit in the real property records maintained by the clerk of superior court of the county in which the real property is located averring that the parties have been lawfully divorced or their marriage has been annulled and attaches a copy of the final order of divorce or annulment and a legal description of the property, the party's interests shall be converted into tenants in common.

(b) Neither this Code section nor Code Section 44-6-120 shall ~~be~~:

(1) ~~Be~~ construed to repeal, modify, or limit in any way ~~either~~:

(A) ~~Code Section 14-5-8, relative to joint tenancy of shares and securities of corporations;~~ or

~~(B) Article 8 of Chapter 1 of Title 7, relative to multiple party accounts in financial institutions, or any other law relative to multiple-party accounts in financial institutions. Neither this Code section nor Code Section 44-6-120 shall apply; or~~
(2) Apply to any document, transaction, or right to which Code Section 14-5-8 applies or to multiple-party deposit accounts in any financial institution."

SECTION 2.

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

The report of the Committee, which was favorable to the passage of the Bill, by substitute, was agreed to.

On the passage of the Bill, by substitute, the roll call was ordered and the vote was as follows:

| | | | | |
|------------------|-------------------|---------------|-----------------|------------------|
| Y Abrams | Y Coomer | Y Harbin | Y Meadows | Y Smith, E |
| Y Alexander | Y Cooper | Y Harden | Y Mitchell | Y Smith, L |
| Y Allison | Y Corbett | N Harrell | E Morris | Y Smith, M |
| E Anderson | E Dawkins-Haigler | Y Hatchett | Mosby | Y Smith, R |
| Y Atwood | Y Deffenbaugh | Y Hawkins | Y Nimmer | E Smyre |
| Y Ballinger | Y Dempsey | Y Henson | Y Nix | Y Spencer |
| Y Barr | Y Dickerson | Y Hightower | Y Oliver | Y Stephens, M |
| E Battles | Y Dickey | Y Hitchens | Y O'Neal | Y Stephens, R |
| E Beasley-Teague | Y Dickson | Y Holcomb | Y Pak | Y Stephenson |
| Y Bell | Dollar | Y Holmes | Y Parrish | Y Stovall |
| Y Belton | Y Douglas | Y Houston | Y Parsons | Y Stover |
| E Bennett | Y Drenner | Y Howard | Y Peake | Y Strickland |
| Y Bentley | Y Dudgeon | Y Hugley | Y Petrea | Y Tankersley |
| Y Benton | E Dukes | Y Jackson | Y Pezold | Y Tanner |
| Y Beskin | Y Dunahoo | Y Jacobs | Y Powell, A | Y Tarvin |
| Y Beverly | E Duncan | Y Jasperse | Y Powell, J | Y Taylor, D |
| Y Broadrick | Y Ealum | Y Jones, J | Y Prince | Y Taylor, T |
| Y Brockway | Y Efrstration | Y Jones, J.B. | Y Pruett | Y Teasley |
| Y Brooks | Y Ehrhart | E Jones, L | Y Quick | Y Thomas, A.M. |
| Y Bruce | Y England | Y Jones, S | Y Raffensperger | Y Thomas, E |
| Y Bryant | Y Epps | E Jordan | Y Rakestraw | Y Trammell |
| Y Buckner | E Evans | Y Kaiser | Y Ramsey | Y Turner |
| Y Burns | Y Fleming | Y Kelley | E Randall | Y Waites |
| E Caldwell, J | Y Floyd | Y Kendrick | Y Reeves | Y Watson |
| Y Caldwell, M | Y Fludd | Y Kidd | Y Rhodes | Y Welch |
| Y Cantrell | Y Frazier | Y Kirby | Y Rice | E Weldon |
| Y Carson | E Frye | Y Knight | Y Roberts | Y Werkheiser |
| Y Carter | Y Gardner | Y LaRiccica | Y Rogers, C | Y Wilkerson |
| E Casas | Y Gasaway | Y Lumsden | Y Rogers, T | Y Wilkinson |
| Y Chandler | Y Geisinger | Y Mabra | Y Rutledge | Y Willard |
| Y Cheokas | Y Glanton | E Marin | Y Rynders | Y Williams, A |
| Clark, D | Y Golick | Y Martin | Y Scott | Y Williams, C |
| Y Clark, H | Y Gordon | Y Maxwell | Y Setzler | Y Williams, E |
| Y Clark, V | Y Gravley | E Mayo | Y Sharper | Y Williamson |
| Y Coleman | Y Greene | Y McCall | Y Shaw | Y Yates |
| E Cooke | Y Hamilton | Y McClain | Y Sims | Ralston, Speaker |

On the passage of the Bill, by substitute, the ayes were 155, nays 1.

The Bill, having received the requisite constitutional majority, was passed, by substitute.

HB 185. By Representatives Shaw of the 176th, Efstration of the 104th, Taylor of the 173rd, Smith of the 134th, Williamson of the 115th and others:

A BILL to be entitled an Act to amend Title 33 of the O.C.G.A., relating to insurance, so as to extensively revise the "Standard Valuation Law"; to provide for related matters; to repeal conflicting laws; and for other purposes.

The report of the Committee, which was favorable to the passage of the Bill, was agreed to.

On the passage of the Bill, the roll call was ordered and the vote was as follows:

| | | | | |
|------------------|-------------------|---------------|-----------------|----------------|
| Y Abrams | Y Coomer | Y Harbin | Y Meadows | Y Smith, E |
| Y Alexander | Y Cooper | Y Harden | Y Mitchell | Y Smith, L |
| Y Allison | Y Corbett | Y Harrell | E Morris | Y Smith, M |
| E Anderson | E Dawkins-Haigler | Y Hatchett | Mosby | Y Smith, R |
| Y Atwood | Y Deffenbaugh | Y Hawkins | Y Nimmer | E Smyre |
| Y Ballinger | Y Dempsey | Y Henson | Y Nix | Y Spencer |
| Y Barr | Y Dickerson | Y Hightower | Y Oliver | Y Stephens, M |
| E Battles | Y Dickey | Y Hitchens | Y O'Neal | Y Stephens, R |
| E Beasley-Teague | Y Dickson | Y Holcomb | N Pak | Y Stephenson |
| Y Bell | Dollar | Y Holmes | Y Parrish | Y Stovall |
| Y Belton | Y Douglas | Y Houston | Y Parsons | Y Stover |
| E Bennett | Y Drenner | Y Howard | Y Peake | Y Strickland |
| Y Bentley | Y Dudgeon | Y Hugley | Y Petrea | Y Tankersley |
| Y Benton | E Dukes | Y Jackson | Y Pezold | Y Tanner |
| Y Beskin | Y Dunahoo | Y Jacobs | Y Powell, A | Y Tarvin |
| Y Beverly | E Duncan | Jasperse | Y Powell, J | Y Taylor, D |
| Y Broadrick | Y Ealum | Y Jones, J | Y Prince | Y Taylor, T |
| Y Brockway | Y Efstration | Y Jones, J.B. | Y Pruett | Y Teasley |
| Y Brooks | Y Ehrhart | E Jones, L | Y Quick | Y Thomas, A.M. |
| Y Bruce | Y England | Y Jones, S | Y Raffensperger | Y Thomas, E |
| Y Bryant | Y Epps | E Jordan | Y Rakestraw | Y Trammell |
| Y Buckner | E Evans | Y Kaiser | Y Ramsey | Y Turner |
| Y Burns | Y Fleming | Y Kelley | E Randall | Y Waites |
| E Caldwell, J | Y Floyd | Y Kendrick | Y Reeves | Y Watson |
| Y Caldwell, M | Y Fludd | Y Kidd | Y Rhodes | Y Welch |
| Y Cantrell | Y Frazier | Y Kirby | Y Rice | E Weldon |
| Y Carson | E Frye | Y Knight | Y Roberts | Y Werkheiser |
| Y Carter | Y Gardner | Y LaRiccica | Y Rogers, C | Y Wilkerson |
| E Casas | Y Gasaway | Y Lumsden | Y Rogers, T | Y Wilkinson |
| Y Chandler | Y Geisinger | Y Mabra | Y Rutledge | Y Willard |
| Y Cheokas | Y Glanton | E Marin | Y Rynders | Y Williams, A |
| Y Clark, D | Y Golick | Y Martin | Y Scott | Y Williams, C |
| Y Clark, H | Y Gordon | Y Maxwell | Y Setzler | Y Williams, E |
| Y Clark, V | Y Gravley | E Mayo | Y Sharper | Y Williamson |

| | | | | |
|-----------|------------|-----------|--------|------------------|
| Y Coleman | Y Greene | Y McCall | Y Shaw | Y Yates |
| E Cooke | Y Hamilton | Y McClain | Y Sims | Ralston, Speaker |

On the passage of the Bill, the ayes were 155, nays 1.

The Bill, having received the requisite constitutional majority, was passed.

HB 234. By Representatives Rutledge of the 109th, Powell of the 171st, Duncan of the 26th, Pak of the 108th, Strickland of the 111th and others:

A BILL to be entitled an Act to amend Article 2 of Chapter 2 of Title 48 of the Official Code of Georgia Annotated, relating to administration and enforcement of tax collection, so as to include days on which the Federal Reserve Bank is closed in the list of days that excuse late filing or payment; to provide for an effective date; to repeal conflicting laws; and for other purposes.

The report of the Committee, which was favorable to the passage of the Bill, was agreed to.

On the passage of the Bill, the roll call was ordered and the vote was as follows:

| | | | | |
|------------------|-------------------|---------------|-----------------|----------------|
| Y Abrams | Y Coomer | Harbin | Y Meadows | Y Smith, E |
| Y Alexander | Y Cooper | Y Harden | Y Mitchell | Y Smith, L |
| Y Allison | Y Corbett | Y Harrell | E Morris | Y Smith, M |
| E Anderson | E Dawkins-Haigler | Y Hatcher | Mosby | Y Smith, R |
| Y Atwood | Y Deffenbaugh | Y Hawkins | Y Nimmer | E Smyre |
| Y Ballinger | Y Dempsey | Y Henson | Y Nix | Y Spencer |
| Y Barr | Y Dickerson | Y Hightower | Y Oliver | Y Stephens, M |
| E Battles | Y Dickey | Y Hitchens | Y O'Neal | Y Stephens, R |
| E Beasley-Teague | Y Dickson | Y Holcomb | Y Pak | Y Stephenson |
| Y Bell | Dollar | Y Holmes | Y Parrish | Y Stovall |
| Y Belton | Y Douglas | Y Houston | Y Parsons | Y Stover |
| E Bennett | Y Drenner | Y Howard | Y Peake | Y Strickland |
| Y Bentley | Y Dudgeon | Y Hugley | Y Petrea | Y Tankersley |
| Y Benton | E Dukes | Y Jackson | Y Pezold | Y Tanner |
| Y Beskin | Y Dunahoo | Y Jacobs | Y Powell, A | Y Tarvin |
| Y Beverly | E Duncan | Y Jasperse | Y Powell, J | Y Taylor, D |
| Y Broadrick | Y Ealum | Y Jones, J | Y Prince | Y Taylor, T |
| Y Brockway | Y Efrstration | Y Jones, J.B. | Y Pruet | Y Teasley |
| Y Brooks | Y Ehrhart | E Jones, L | Y Quick | Y Thomas, A.M. |
| Y Bruce | Y England | Y Jones, S | Y Raffensperger | Y Thomas, E |
| Y Bryant | Y Epps | E Jordan | Y Rakestraw | Y Trammell |
| Y Buckner | E Evans | Y Kaiser | Y Ramsey | Y Turner |
| Y Burns | Y Fleming | Y Kelley | E Randall | Y Waites |
| E Caldwell, J | Y Floyd | Kendrick | Y Reeves | Y Watson |
| Y Caldwell, M | Y Fludd | Y Kidd | Y Rhodes | Y Welch |
| Y Cantrell | Y Frazier | Y Kirby | Y Rice | E Weldon |
| Y Carson | E Frye | Y Knight | Y Roberts | Y Werkheiser |
| Y Carter | Y Gardner | Y LaRiccica | Y Rogers, C | Y Wilkerson |

| | | | | |
|------------|-------------|-----------|-------------|------------------|
| E Casas | Y Gasaway | Y Lumsden | Y Rogers, T | Y Wilkinson |
| Y Chandler | Y Geisinger | Y Mabra | Y Rutledge | Y Willard |
| Y Cheokas | Y Glanton | E Marin | Y Rynders | Y Williams, A |
| Y Clark, D | Y Golick | Y Martin | Y Scott | Y Williams, C |
| Y Clark, H | Y Gordon | Y Maxwell | Y Setzler | Y Williams, E |
| Y Clark, V | Y Gravley | E Mayo | Y Sharper | Y Williamson |
| Y Coleman | Y Greene | Y McCall | Y Shaw | Y Yates |
| E Cooke | Y Hamilton | Y McClain | Y Sims | Ralston, Speaker |

On the passage of the Bill, the ayes were 155, nays 0.

The Bill, having received the requisite constitutional majority, was passed.

HB 51. By Representatives Benton of the 31st, Stephens of the 164th and Werkheiser of the 157th:

A BILL to be entitled an Act to amend Article 3 of Chapter 4 of Title 48 of the Official Code of Georgia Annotated, relating to redemption of property sold for taxes, so as to change provisions relating to the amount payable at redemption; to provide for related matters; to repeal conflicting laws; and for other purposes.

The following Committee substitute was read and adopted:

A BILL TO BE ENTITLED
AN ACT

To amend Article 3 of Chapter 4 of Title 48 of the Official Code of Georgia Annotated, relating to redemption of property sold for taxes, so as to change provisions relating to the amount payable at redemption; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 3 of Chapter 4 of Title 48 of the Official Code of Georgia Annotated, relating to redemption of property sold for taxes, is amended by revising Code Section 48-4-40, relating to persons entitled to redeem land sold under tax execution, as follows:

"48-4-40.

Whenever any real property is sold under or by virtue of an execution issued for the collection of state, county, municipal, or school taxes or for special assessments, the defendant in fi. fa. or any person having any right, title, or interest in or lien upon such property may redeem the property from the sale by the payment of ~~the redemption price~~ or the amount required for redemption, as fixed and provided in Code Section 48-4-42:

(1) At any time within 12 months from the date of the sale; and

(2) At any time after the sale until the right to redeem is foreclosed by the giving of the notice provided for in Code Section 48-4-45."

SECTION 2.

Said article is further amended by revising Code Section 48-4-42, relating to the amount payable for redemption, as follows:

"48-4-42.

(a) The amount required to be paid for redemption of property from any sale for taxes as provided in this chapter, ~~or the redemption price~~, shall with respect to any sale made after July 1, 2002, be the amount paid for the property at the tax sale, as shown by the recitals in the tax deed, plus: ~~any~~

(1) Any taxes paid on the property by the purchaser after the sale for taxes, plus any;

(2) Any special assessments on the property, plus a; and

(3) A premium of 20 percent of the amount for the first year or fraction of a year which has elapsed between the date of the sale and the date on which the redemption payment is made and 10 percent for each year or fraction of a year thereafter.

(b) If redemption is not made until more than 30 days after the notice provided for in Code Section 48-4-45 has been given, there shall be added to the ~~redemption price sums set forth in subsection (a) of this Code section~~ the sheriff's cost in connection with serving the notice and the cost of publication of the notice, if any.

(c) With respect to any sale made after July 1, 2015, there shall be added to the sums set forth in subsections (a) and (b) of this Code section any sums:

(1) Paid from the date of the tax sale to the date of redemption to a property owners' association, as defined in Code Section 44-3-221, in accordance with Code Section 44-3-232;

(2) Paid to a condominium association, as defined in Code Section 44-3-71, in accordance with Code Section 44-3-109; or

(3) Paid to a homeowners' association established by covenants restricting land to certain uses related to planned residential subdivisions.

(d) All of the amounts required to be paid by this Code section shall be paid in lawful money of the United States to the purchaser at the tax sale or to the purchaser's successors."

SECTION 3.

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

The report of the Committee, which was favorable to the passage of the Bill, by substitute, was agreed to.

On the passage of the Bill, by substitute, the roll call was ordered and the vote was as follows:

| | | | | |
|------------------|-------------------|---------------|-----------------|------------------|
| Y Abrams | Y Coomer | Y Harbin | Y Meadows | Y Smith, E |
| Y Alexander | Y Cooper | Y Harden | Y Mitchell | Y Smith, L |
| Allison | Y Corbett | Y Harrell | E Morris | Y Smith, M |
| E Anderson | E Dawkins-Haigler | Y Hatchett | Y Mosby | Y Smith, R |
| Y Atwood | Y Deffenbaugh | Y Hawkins | Y Nimmer | E Smyre |
| Y Ballinger | Y Dempsey | Y Henson | Y Nix | Y Spencer |
| Y Barr | Y Dickerson | Y Hightower | Y Oliver | Y Stephens, M |
| E Battles | Y Dickey | Y Hitchens | Y O'Neal | Y Stephens, R |
| E Beasley-Teague | Y Dickson | Y Holcomb | Y Pak | Y Stephenson |
| Y Bell | Dollar | Y Holmes | Y Parrish | Y Stovall |
| Y Belton | Y Douglas | Y Houston | Y Parsons | Y Stover |
| E Bennett | Y Drenner | Y Howard | Y Peake | Y Strickland |
| Y Bentley | Y Dudgeon | Y Hugley | Y Petrea | Y Tankersley |
| Y Benton | E Dukes | Y Jackson | Y Pezold | Y Tanner |
| Y Beskin | Y Dunahoo | Y Jacobs | Y Powell, A | Y Tarvin |
| Y Beverly | E Duncan | Y Jasperse | Y Powell, J | Y Taylor, D |
| Y Broadrick | Y Ealum | Y Jones, J | Y Prince | Y Taylor, T |
| Y Brockway | Y Efrstration | Y Jones, J.B. | Y Pruet | Y Teasley |
| Y Brooks | Ehrhart | E Jones, L | Y Quick | Thomas, A.M. |
| Y Bruce | Y England | Y Jones, S | Y Raffensperger | Y Thomas, E |
| Y Bryant | Epps | E Jordan | Y Rakestraw | Y Trammell |
| Y Buckner | E Evans | Y Kaiser | Y Ramsey | Y Turner |
| Y Burns | Y Fleming | Y Kelley | E Randall | Y Waites |
| E Caldwell, J | Y Floyd | Y Kendrick | Y Reeves | Y Watson |
| Y Caldwell, M | Y Fludd | Y Kidd | Y Rhodes | Y Welch |
| Y Cantrell | Y Frazier | Y Kirby | Y Rice | E Weldon |
| Y Carson | E Frye | Y Knight | Y Roberts | Y Werkheiser |
| Y Carter | Y Gardner | Y LaRiccica | Y Rogers, C | Y Wilkerson |
| E Casas | Y Gasaway | Y Lumsden | Y Rogers, T | Y Wilkinson |
| Y Chandler | Y Geisinger | Y Mabra | Y Rutledge | Y Willard |
| Y Cheokas | Y Glanton | E Marin | Y Rynders | Y Williams, A |
| Y Clark, D | Y Golick | Y Martin | Y Scott | Y Williams, C |
| N Clark, H | Y Gordon | Y Maxwell | Setzler | Y Williams, E |
| Y Clark, V | Y Gravley | E Mayo | Y Sharper | Y Williamson |
| Y Coleman | Y Greene | Y McCall | Y Shaw | Y Yates |
| E Cooke | Y Hamilton | Y McClain | Y Sims | Ralston, Speaker |

On the passage of the Bill, by substitute, the ayes were 152, nays 1.

The Bill, having received the requisite constitutional majority, was passed, by substitute.

HB 197. By Representatives Jacobs of the 80th, Willard of the 51st, Fleming of the 121st, Evans of the 42nd, Welch of the 110th and others:

A BILL to be entitled an Act to amend Chapter 12 of Title 9, Title 11, and Chapter 2 of Title 18 of the O.C.G.A., relating to verdict and judgment, the commercial code, and debtor and creditor relations; to repeal the "Georgia Foreign Money Judgments Recognition Act" and enact the "Uniform Foreign-Country Money Judgments Recognition Act"; to amend Titles 7, 10, 40, and 52 of the O.C.G.A., relating to banking and finance, commerce and

trade, motor vehicles and traffic, and waters of the state, ports, and watercraft; to amend Article 3 of Chapter 3 of Title 9 and Code Section 17-14-17 of the O.C.G.A., relating to limitations on recovery for deficiencies connected with improvements to realty and resulting injuries and fraudulent transfers; to provide for related matters; to repeal conflicting laws; and for other purposes.

The following Committee substitute was read and adopted:

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 12 of Title 9, Title 11, and Chapter 2 of Title 18 of the Official Code of Georgia Annotated, relating to verdict and judgment, the commercial code, and debtor and creditor relations, respectively, so as to change provisions in uniform Acts relating to debts and other obligations; to repeal the "Georgia Foreign Money Judgments Recognition Act" and enact the "Uniform Foreign-Country Money Judgments Recognition Act"; to provide for definitions; to provide for applicability; to provide for standards for recognition of foreign-country judgments; to provide for jurisdiction; to provide for procedure; to provide for the effect of recognition of foreign-country judgments; to provide for a stay of proceedings pending an appeal; to provide for uniformity; to provide for situations not covered by the "Uniform Foreign-Country Money Judgments Recognition Act"; to update and modernize various statutes in the commercial code relating to commercial transactions in order to maintain uniformity in this state's statutes governing commercial transactions as recommended by the National Conference of Commissioners on Uniform State Laws; to revise, add, and move defined terms; to reorganize Article 1, relating to general provisions, of the "Uniform Commercial Code"; to make conforming amendments to other articles of the "Uniform Commercial Code" to provide for accurate cross-references to the revised "Uniform Commercial Code"; to amend Titles 7, 10, 40, and 52 of the Official Code of Georgia Annotated, relating to banking and finance, commerce and trade, motor vehicles and traffic, and waters of the state, ports, and watercraft, respectively, so as to make conforming cross-references to the revised "Uniform Commercial Code"; to revise the "Uniform Fraudulent Transfers Act" and enact the "Uniform Voidable Transactions Act"; to reform terminology and revise and add definitions; to provide the allocation of the burden of proof and define the standard of proof with respect to claims and defenses; to provide for governing law; to provide for the application to a series organization; to provide for uniformity of application and construction; to amend Article 3 of Chapter 3 of Title 9 and Code Section 17-14-17 of the Official Code of Georgia Annotated, relating to limitations on recovery for deficiencies connected with improvements to realty and resulting injuries and fraudulent transfers, respectively, so as to correct cross-references to the "Uniform Voidable Transactions Act"; to amend Article 6 of Chapter 12 of Title 9 of the Official Code of Georgia Annotated, relating to the "Uniform Enforcement of

Foreign Judgments Law," so as to provide for applicability of certain provisions in Chapter 11 of Title 9, the "Georgia Civil Practice Act"; to provide for a short title; to provide for legislative intent; to provide for related matters; to provide for effective dates and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I
SHORT TITLE
SECTION 1-1.

(a) This Act shall be known and may be cited as the "Debtor-Creditor Uniform Law Modernization Act of 2015."

(b) It is the intent of the General Assembly to modernize certain existing uniform laws in the debtor-creditor arena and to adapt the most correct version promulgated by the National Conference of Commissioners on Uniform State Laws, known as the Uniform Law Commission.

PART II
"UNIFORM FOREIGN-COUNTRY
MONEY JUDGMENTS RECOGNITION ACT"
SECTION 2-1.

Chapter 12 of Title 9 of the Official Code of Georgia Annotated, relating to verdict and judgment, is amended by revising Article 5, relating to the "Georgia Foreign Money Judgments Recognition Act," as follows:

"ARTICLE 5

9-12-110.

This article shall be known and may be cited as the 'Uniform Foreign-Country Georgia Foreign Money Judgments Recognition Act.'

9-12-111.

As used in this article, the term:

(1) 'Foreign country' means a government other than:

(A) The United States;

(B) Any state, district, commonwealth, territory, or insular possession of the United States; or

(C) Any other government with regard to which the decision in this state as to whether to recognize a judgment of such government's court is initially subject to determination under the Full Faith and Credit Clause of the United States Constitution.

~~(1)(2) 'Foreign-country judgment' 'Foreign judgment' means any judgment of a foreign state granting or denying recovery of a sum of money other than a judgment for taxes, a fine or other penalty, or a judgment for support in matrimonial or family matters court of a foreign country.~~

~~(2) 'Foreign state' means any governmental unit other than:~~

~~(A) The United States;~~

~~(B) Any state, district, commonwealth, territory, or insular possession of the United States; or~~

~~(C) The Trust Territory of the Pacific Islands.~~

9-12-112.

(a) Except as otherwise provided in subsection (b) of this Code section, this This article applies to any foreign foreign-country judgment to the extent that such judgment:

(1) Grants or denies recovery of a sum of money; and

(2) Under the law of the foreign country where rendered, is final, conclusive, and enforceable where rendered even though an appeal therefrom is pending or it is subject to appeal.

(b) This article shall not apply to a foreign-country judgment, even if such judgment grants or denies recovery of a sum of money, to the extent that such judgment is:

(1) A judgment for taxes;

(2) A fine or other penalty; or

(3) A judgment for divorce, support, or maintenance, or any other judgment rendered in connection with domestic relations.

(c) A party seeking recognition of a foreign-country judgment has the burden of establishing that this article applies to such foreign-country judgment.

9-12-113.

(a) Except as otherwise provided in Code Sections 9-12-114 and 9-12-115, a foreign subsections (b) and (c) of this Code section, a court of this state shall recognize a foreign-country judgment meeting the requirements of Code Section 9-12-112 is conclusive between the parties to the extent that it grants or denies recovery of a sum of money. The foreign judgment is enforceable in the same manner as the judgment of a sister state which is entitled to full faith and credit.

9-12-114.

(b) A court of this state shall not recognize a foreign-country judgment A foreign judgment shall not be recognized if:

(1) The judgment was rendered under a judicial system which that does not provide impartial tribunals or procedures compatible with the requirements of due process of law;

(2) The foreign court did not have personal jurisdiction over the defendant; or

(3) The foreign court did not have jurisdiction over the subject matter;.

(c) A court of this state may not recognize a foreign-country judgment if:

- ~~(4)~~(1) The defendant in the proceedings in the foreign court did not receive notice of the proceedings in sufficient time to enable ~~him~~ the defendant to defend;
- ~~(5)~~(2) The judgment was obtained by fraud that deprived the losing party of an adequate opportunity to present its case;
- ~~(6)~~(3) The judgment or cause of action on which the judgment is based is repugnant to the public policy of this state or of the United States;
- ~~(7)~~(4) The judgment conflicts with another final and conclusive judgment;
- ~~(8)~~(5) The proceedings in the foreign court were contrary to an agreement between the parties under which the dispute in question was to be ~~settled~~ determined otherwise than by proceedings in ~~that~~ such foreign court;
- ~~(9)~~(6) In the case of jurisdiction based only on personal service, the foreign court was a seriously inconvenient forum for the trial of the action; ~~or~~
- ~~(10)~~ ~~The party seeking to enforce the judgment fails to demonstrate that judgments of courts of the United States and of states thereof of the same type and based on substantially similar jurisdictional grounds are recognized and enforced in the courts of the foreign state.~~
- (7) The judgment was rendered in circumstances that raise substantial doubt about the integrity of the rendering court with respect to such judgment; or
- (8) The specific proceeding in the foreign court leading to the judgment was not compatible with the requirements of due process of law.
- (d) A party resisting recognition of a foreign-country judgment has the burden of establishing that a ground for nonrecognition stated in subsection (b) or (c) of this Code section exists.

~~9-12-115.~~ 9-12-114.

- (a) A ~~foreign~~ foreign-country judgment shall not be refused recognition for lack of personal jurisdiction if:
- (1) The defendant was served personally in the foreign ~~state~~ country;
 - (2) The defendant voluntarily appeared in the proceedings other than for the purpose of protecting property seized or threatened with seizure in the proceedings or of contesting the jurisdiction of the court over ~~him~~ the defendant;
 - (3) Prior to the commencement of the proceedings, the defendant had agreed ~~expressly in writing~~ to submit to the jurisdiction of the foreign court, with respect to the subject matter involved ~~in such proceedings, in an action by the party seeking to enforce the judgment~~;
 - (4) The defendant was domiciled in the foreign ~~state~~ country when the proceedings were instituted or, ~~being a body corporate, then~~ was a corporation or other form of business organization that had its principal place of business in or was ~~incorporated in~~ organized under the laws of the foreign ~~state~~ country;
 - (5) The defendant had a business office in the foreign ~~state~~ country and the proceedings in the foreign court involved a cause of action arising out of business done by the defendant through that office in the foreign ~~state~~; ~~provided, however, that a business office in the foreign state which it maintained for the transaction of~~

~~business by a subsidiary corporation of the defendant but which is not held out as a business office of the defendant shall not be deemed to be a business office of the defendant~~ country; or

(6) The defendant operated a motor vehicle or airplane in the foreign state country and the proceedings involved a cause of action arising out of such operation.

(b) The courts of this state may recognize other bases of personal jurisdiction; ~~provided, however, that if the proceedings in the foreign court involved a cause of action arising out of business activities in the foreign state, the judgment shall not be recognized unless there is a basis for personal jurisdiction as specified~~ other than those listed in subsection (a) of this Code section.

9-12-115.

(a) If recognition of a foreign-country judgment is sought as an original matter, the issue of recognition shall be raised by filing an action seeking recognition of such foreign-country judgment.

(b) If recognition of a foreign-country judgment is sought in a pending action, the issue of recognition may be raised by counterclaim, cross-claim, or third-party claim.

(c) Chapter 11 of this title shall apply to any claim, counterclaim, cross-claim, or third-party claim for recognition of a foreign-country judgment.

9-12-116.

If the court in a proceeding under Code Section 9-12-115 finds that the foreign-country judgment is entitled to recognition under this article then, to the extent that the foreign-country judgment grants or denies recovery of a sum of money, the foreign-country judgment is:

(1) Conclusive between the parties to the same extent as the judgment of a sister state entitled to full faith and credit in this state would be conclusive; and

(2) Enforceable in the same manner and to the same extent as a judgment rendered in this state.

9-12-116. 9-12-117.

~~If the defendant satisfies the court either a party establishes that an appeal from a foreign-country judgment is pending or that he is entitled and intends to appeal from the foreign judgment will be taken, the court may stay the proceedings with regard to the foreign-country judgment until the time for appeal expires or the appellant has had sufficient time been determined or until the expiration of a period of time sufficient to enable the defendant to prosecute the appeal and has failed to do so.~~

9-12-118.

In applying and construing this article, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact the 'Uniform Foreign-Country Money Judgments Recognition Act.'

~~9-12-117.~~ 9-12-119.

This article does not prevent the recognition under principles of comity or otherwise of a foreign foreign-country judgment in situations not covered by not within the scope of this article."

**PART IIIA
NATIONAL CONFERENCE OF
COMMISSIONERS ON UNIFORM STATE LAWS
RECOMMENDED CHANGES TO THE COMMERCIAL CODE
SECTION 3A-1.**

Title 11 of the Official Code of Georgia Annotated, relating to the commercial code, is amended by revising Article 1, relating to general provisions, as follows:

"ARTICLE 1
GENERAL PROVISIONS

Part 1

~~Short Title, Construction, Application, and Subject Matter of Title~~
General Provisions

11-1-101. Short title titles.

(a) This Title 11 shall be known as and may be cited as the 'Uniform Commercial Code.'

(b) This article shall be known as and may be cited as the 'Uniform Commercial Code – General Provisions.'

11-1-102. Scope of article.

This article shall apply to a transaction to the extent that it is governed by another article of this title.

~~11-1-102.~~ 11-1-103. Rules of construction to promote purposes and policies; applicability of supplemental principles of law. Purposes; rules of construction; variation by agreement.

~~(1)(a)~~ This title shall be liberally construed and applied to promote its underlying purposes and policies:

~~(2)~~ Underlying purposes and policies of this title which are:

~~(a)~~(1) To simplify, clarify, and modernize the law governing commercial transactions;

~~(b)~~(2) To permit the continued expansion of commercial practices through custom, usage, and agreement of the parties; and

~~(c)~~(3) To make uniform the law among the various jurisdictions.

(b) Unless displaced by the particular provisions of this title, the principles of law and equity, including the law merchant and the law relative to capacity to contract, principal

and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, and other validating or invalidating cause shall supplement its provisions.

~~(3) The effect of provisions of this title may be varied by agreement, except as otherwise provided in this title and except that the obligations of good faith, diligence, reasonableness, and care prescribed by this title may not be disclaimed by agreement but the parties may by agreement determine the standards by which the performance of such obligations is to be measured if such standards are not manifestly unreasonable.~~

~~(4) The presence in certain provisions of this title of the words 'unless otherwise agreed' or words of similar import does not imply that the effect of other provisions may not be varied by agreement under subsection (3) of this Code section.~~

~~(5) In this title unless the context otherwise requires:~~

~~(a) Words in the singular number include the plural, and in the plural include the singular;~~

~~(b) Words of the masculine gender include the feminine and the neuter, and when the sense so indicates words of the neuter gender may refer to any gender.~~

~~11-1-103. **Supplementary general principles of law applicable.**~~

~~Unless displaced by the particular provisions of this title, the principles of law and equity, including the law merchant and the law relative to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating cause shall supplement its provisions.~~

11-1-104. Construction against implicit repeal.

This title being a general act intended as a unified coverage of its subject matter, no part of it shall be deemed to be impliedly repealed by subsequent legislation if such construction can reasonably be avoided.

11-1-105. Severability. ~~Territorial application of the title; parties' power to choose applicable law.~~

If any provision or clause of this title or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this title which can be given effect without the invalid provision or application, and to this end the provisions of this title are declared to be severable.

~~(1) Except as provided hereafter in this Code section, when a transaction bears a reasonable relation to this state and also to another state or nation the parties may agree that the law either of this state or of such other state or nation shall govern their rights and duties. Failing such agreement this title applies to transactions bearing an appropriate relation to this state.~~

~~(2) Where one of the following provisions of this title specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law (including the conflict of laws rules) so specified:~~

~~Rights of creditors against sold goods. Code Section 11-2-402.~~

~~Applicability of the article of this title on leases (Article 2A of this title). Code Sections 11-2A-105 and 11-2A-106.~~

~~Applicability of the article of this title on bank deposits and collections (Article 4 of this title). Code Section 11-4-102.~~

~~Bulk transfers subject to the article of this title on bulk transfers (Article 6 of this title). Code Section 11-6-102.~~

~~Applicability of the article of this title on investment securities (Article 8 of this title). Code Section 11-8-110.~~

~~Law governing perfection, the effect of perfection or nonperfection, and the priority of security interests and agricultural liens. Code Sections 11-9-301 through 11-9-307.~~

~~Governing law in the article on funds transfers (Article 4A of this title). Code Section 11-4A-507.~~

11-1-106. **Use of singular and plural; gender. Remedies to be liberally administered.**

In this title unless the statutory context otherwise requires:

(1) Words in the singular number include the plural, and words in the plural include the singular; and The remedies provided by this title shall be liberally administered to the end that the aggrieved party may be put in as good a position as if the other party had fully performed but neither consequential or special nor penal damages may be had except as specifically provided in this title or by other rule of law.

(2) Words of any gender also refer to any other gender. Any right or obligation declared by this title is enforceable by action unless the provision declaring it specifies a different and limited effect.

11-1-107. **Section captions. Waiver or renunciation of claim or right after breach.**
Section captions are parts of this title. Any claim or right arising out of an alleged breach can be discharged in whole or in part without consideration by a written waiver or renunciation signed and delivered by the aggrieved party.

11-1-108. **Relation to electronic signatures in Global and National Commerce Act. Severability.**

~~If any provision or clause of this title or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the title which can be given effect without the invalid provision or application, and to this end the provisions of this title are declared to be severable.~~

This article modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq., but shall not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

~~11-1-109. Section captions.~~~~Section captions are parts of this title.~~

Part 2

General Definitions and Principles of Interpretation

11-1-201. **General definitions.**

(a) Unless the context otherwise requires, words or phrases defined in this Code section, or in the additional definitions contained in other articles of this title that apply to particular articles or parts thereof, have the meanings stated.

(b) Subject to additional definitions contained in the subsequent other articles of this title which that are applicable to specific articles or parts thereof, and unless the context otherwise requires, in this title:

(1) 'Action' in the sense of a judicial proceeding includes recoupment, counterclaim, setoff, suit in equity, and any other proceedings in which rights are determined.

(2) 'Aggrieved party' means a party entitled to ~~resort to~~ pursue a remedy.

(3) 'Agreement,' as distinguished from 'contract,' 'Agreement' means the bargain of the parties in fact as found in their language or ~~by implication~~ inferred from other circumstances including course of performance, course of dealing, or usage of trade ~~or course of performance as provided in this title (Code Sections 11-1-205 and 11-2-208). Whether an agreement has legal consequences is determined by the provisions of this title, if applicable; otherwise by the law of contracts (Code Section 11-1-103) Code Section 11-1-303.~~

(4) 'Bank' means any a person engaged in the business of banking. ~~Wherever the word 'branch' is used in this title, with reference to a bank, it shall mean 'branch office' as that term is defined in Code Section 7-1-600 and includes a savings bank, savings and loan association, credit union, or trust company.~~

(5) 'Bearer' means a person in control of a negotiable ~~electronic~~ instrument, document of title, ~~or a person in possession of an instrument, a negotiable tangible document of title, or a certificated security payable to bearer or indorsed in blank.~~

(6) 'Bill of lading' means a document ~~of title~~ evidencing the receipt of goods for shipment issued by a person engaged in the business of ~~directly or indirectly~~ transporting or forwarding goods. ~~The term does not include a warehouse receipt.~~

(7) 'Branch' includes a separately incorporated foreign branch of a bank.

(8) 'Burden of establishing' a fact means the burden of persuading the ~~triers~~ trier of fact that the existence of the fact is more probable than its nonexistence.

(9) 'Buyer in ordinary course of business' means a person that buys goods in good faith without knowledge that the sale violates the rights of another person in the goods, and in the ordinary course from a person, other than a pawnbroker, in the business of selling goods of that kind. A person buys goods in the ordinary course if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged or with the seller's own usual or customary practices. A person that sells oil, gas, or other minerals at the wellhead or minehead

is a person in the business of selling goods of that kind. A buyer in the ordinary course of business may buy for cash, by exchange of other property, or on secured or unsecured credit, and may acquire goods or documents of title under a preexisting contract for sale. Only a buyer that takes possession of the goods or has a right to recover the goods from the seller under Article 2 of this title may be a buyer in ordinary course of business. A person that acquires goods in a transfer in bulk or as security for or in total or partial satisfaction of a money debt is not a buyer in ordinary course of business.

(10) 'Conspicuous,' with reference to a term, means so written, displayed, or presented that a reasonable person against which it is to operate ought to have noticed it. Whether a term is 'conspicuous' or not is a decision for the court. Conspicuous terms include the following:

- (A) A heading in capitals equal to or greater in size than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same or lesser size; and
- (B) Language in the body of a record or display in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols or other marks that call attention to the language.

(11) 'Consumer' means an individual who enters into a transaction primarily for personal, family, or household purposes.

~~(11)~~(12) 'Contract,' as distinguished from 'agreement,' means the total legal obligation which that results from the parties' agreement as affected determined by this title and any other applicable ~~rules~~ of law.

~~(12)~~(13) 'Creditor' includes a general creditor, a secured creditor, a lien creditor and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity, and an executor or administrator of an insolvent debtor's or assignor's estate.

~~(13)~~(14) 'Defendant' includes a person in the position of defendant in a ~~cross-action or counterclaim, cross-claim, or third-party claim.~~

~~(14)~~(15) 'Delivery' with respect to an electronic instrument, document of title, or chattel paper means voluntary transfer of ~~control and with respect to instruments, tangible documents of title, chattel paper, or certificated securities~~ means voluntary transfer of possession.

~~(15)~~(16) 'Document of title' means ~~a record (a) that in the regular course of business or financing is treated as adequately evidencing that the person in possession or control of the record is entitled to receive, control, hold, and dispose of the record and the goods the record covers and (b) that purports to be issued by or addressed to a bailee and to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass. The term includes a bill of lading, transport document, dock warrant, dock receipt, warehouse receipt, and or order for delivery of goods. An electronic document of title means a document of title evidenced by a record consisting of information stored in an electronic medium. A tangible document of title means a document of title evidenced by a record consisting of~~

~~information that is inscribed on a tangible medium and any other document which in the regular course of business or financing is treated as adequately evidencing that the person in possession of it is entitled to receive, hold, and dispose of the document and the goods it covers. To be a document of title, a document must purport to be issued by or addressed to a bailee and purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass.~~

~~(16)~~(17) 'Fault' means a default, breach, or wrongful act, or omission, ~~or breach.~~

~~(17)~~(18) 'Fungible goods' ~~with respect to goods or securities means goods or securities;~~

(A) Goods of which any unit is, by nature or usage of trade, the equivalent of any other like unit; ~~or~~

(B) ~~Goods which are not fungible shall be deemed fungible for the purposes of this title to the extent that under a particular~~ by agreement or document unlike units are treated as equivalents equivalent.

~~(18)~~(19) 'Genuine' means free of forgery or counterfeiting.

~~(19)~~(20) 'Good faith,' ~~except as otherwise provided in Article 5 of this title,~~ means honesty in fact ~~in the conduct or transaction concerned~~ and the observance of reasonable commercial standards of fair dealing.

~~(20)~~(21) 'Holder' means:

~~(a)~~(A) The person in possession of a negotiable instrument that is payable either to bearer or to an identified person that is the person in possession; or

~~(b)~~(B) The person in possession of a ~~negotiable tangible~~ document of title if the goods are deliverable either to bearer or to the order of the person in possession; ~~or~~

~~(c)~~ The person in control of a negotiable electronic document of title.

~~(21)~~ To 'honor' is ~~to pay or to accept and pay, or where a credit so engages to purchase or discount a draft complying with the terms of the credit.~~

(22) 'Insolvency ~~proceedings'~~ proceeding' includes any assignment for the benefit of creditors or other ~~proceedings~~ proceeding intended to liquidate or rehabilitate the estate of the person involved.

(23) 'Insolvent' means:

(A) Having generally ~~A person is 'insolvent' who either has ceased to pay his debts in the ordinary course of business other than as a result of bona fide dispute; or cannot pay his~~

(B) Being unable to pay debts as they become due; ~~or is insolvent~~

(C) Being insolvent within the meaning of the federal bankruptcy law.

(24) 'Money' means a medium of exchange authorized or adopted by a domestic or foreign government and includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more ~~nations~~ countries.

~~(25)~~ Subject to subsection (27) of this Code section, a person has 'notice' of a fact if ~~the person:~~

(a) Has actual knowledge of it;

(b) ~~Has received a notice or notification of it; or~~

~~(c) From all the facts and circumstances known to the person at the time in question, has reason to know that it exists.~~

~~A person 'knows' or has 'knowledge' of a fact when the person has actual knowledge of it. 'Discover' or 'learn' or a word or phrase of similar import refers to knowledge rather than to reason to know. The time and circumstances under which a notice or notification may cease to be effective are not determined by this title.~~

~~(26) A person 'notifies' or 'gives' a notice or notification to another person by taking such steps as may be reasonably required to inform the other person in ordinary course, whether or not the other person actually comes to know of it. Subject to subsection (27) of this Code section, a person 'receives' a notice or notification when:~~

~~(a) It comes to that person's attention; or~~

~~(b) It is duly delivered in a form reasonable under the circumstances at the place of business through which the contract was made or at another location held out by that person as the place for receipt of such communications.~~

~~(27) Notice, knowledge, or a notice or notification received by an organization is effective for a particular transaction from the time when it is brought to the attention of the individual conducting that transaction, and in any event, from the time when it would have been brought to the individual's attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless such communication is part of the individual's regular duties or the individual has reason to know of the transaction and that the transaction would be materially affected by the information.~~

~~(28)(25) 'Organization' includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity means a person other than an individual.~~

~~(29)(26) 'Party,' as distinct from 'third party,' means a person who has engaged in a transaction or made an agreement ~~within~~ subject to this title.~~

~~(30)(27) 'Person' ~~includes~~ means an individual, ~~or an organization~~ (see Code Section 11-1-102) corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity.~~

~~(28) 'Present value' means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain by use of either an interest rate specified by the parties if that rate is not manifestly unreasonable at the time the transaction is entered into or, if an interest rate is not so specified, a commercially reasonable rate that takes into account the facts and circumstances at the time the transaction is entered into.~~

~~(31) 'Presumption' or 'presumed' means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.~~

~~(31.1) 'Public sale' means a sale:~~

~~(A) Held at a place reasonably available to persons who might desire to attend and submit bids; and~~

~~(B) At which those attending shall be given the opportunity to bid on a competitive basis; and~~

~~(C) At which the sale, if made, shall be made to the highest and best bidder; and~~

~~(D) Except as otherwise provided in this title for advertising or dispensing with the advertising of public sales, of which notice is given by advertisement once a week for two weeks in the newspaper in which the sheriff's advertisements are published in the county where the sale is to be held, and which notice shall state the day and hour, between 10:00 A.M. and 4:00 P.M., and the place of sale and shall briefly identify the goods to be sold.~~

~~The provisions of this paragraph shall not be in derogation of any additional requirements relating to notice of and conduct of any such public sale as may be contained in other provisions of this title but shall be supplementary thereto.~~

~~(32)(29) 'Purchase' includes means taking by sale, discount, negotiation, mortgage, pledge, lien, security interest, issue or reissue, gift, or any other voluntary transaction creating an interest in property.~~

~~(33)(30) 'Purchaser' means a person who takes by purchase.~~

~~(31) 'Record' means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.~~

~~(34)(32) 'Remedy' means any remedial right to which an aggrieved party is entitled with or without resort to a tribunal.~~

~~(35)(33) 'Representative' means a person empowered to act for another, including ~~includes~~ an agent, an officer of a corporation or association, and a trustee, executor or administrator of an estate, ~~or any other person empowered to act for another.~~~~

~~(36)(34) 'Rights' includes remedies.~~

~~(37)(35) 'Security interest' means an interest in personal property or fixtures which secures payment or performance of an obligation. The term also includes any interest of a consignor and a buyer of accounts, chattel paper, a payment intangible, or a promissory note in a transaction that is subject to Article 9 of this title. The term does not include the special property interest of a buyer of goods on identification of those goods to a contract for sale under Code Section 11-2-401, ~~is not a 'security interest,'~~ but a buyer may also acquire a 'security interest' by complying with Article 9 of this title. Except as otherwise provided in Code Section 11-2-505, the right of a seller or lessor of goods under Article 2 or 2A of this title to retain or acquire possession of the goods is not a 'security interest,' but a seller or lessor may also acquire a 'security interest' by complying with Article 9 of this title. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer ~~(under Code Section 11-2-401)~~ is limited in effect to a reservation of a 'security interest.'~~

~~Whether a transaction creates in the form of a lease or creates a 'security interest' shall be determined pursuant to Code Section 11-1-203, by the facts of each case; however, a transaction creates a security interest if the consideration the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease not subject to termination by the lessee, and~~

~~(a) The original term of the lease is equal to or greater than the remaining economic life of the goods,~~

~~(b) The lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods,~~

~~(c) The lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement, or~~

~~(d) The lessee has an option to become the owner of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement.~~

~~A transaction does not create a security interest merely because it provides that~~

~~(a) The present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into,~~

~~(b) The lessee assumes risk of loss of the goods, or agrees to pay taxes, insurance, filing, recording, or registration fees, or service or maintenance costs with respect to the goods,~~

~~(c) The lessee has an option to renew the lease or to become the owner of the goods,~~

~~(d) The lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed, or~~

~~(e) The lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.~~

~~For purposes of this subsection (37):~~

~~(x) Additional consideration is not nominal if (i) when the option to renew the lease is granted to the lessee the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed, or (ii) when the option to become the owner of the goods is granted to the lessee the price is stated to be the fair market value of the goods determined at the time the option is to be performed. Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised;~~

~~(y) 'Reasonably predictable' and 'remaining economic life of the goods' are to be determined with reference to the facts and circumstances at the time the transaction is entered into; and~~

~~(z) 'Present value' means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the~~

~~interest rate specified by the parties if the rate is not manifestly unreasonable at the time the transaction is entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.~~

~~(38)~~(36) 'Send' in connection with a writing, record, or notice means:

~~(a)~~(A) To deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and, in the case of an instrument, to an address specified thereon or otherwise agreed, or if there be none to any address reasonable under the circumstances; or

~~(b)~~(B) In any other way to cause to be received any record or notice within the time it would have arrived if properly sent.

~~(39)~~(37) 'Signed' includes using any symbol executed or adopted ~~by a party~~ with present intention to authenticate adopt or accept a writing.

~~(38)~~ 'State' means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

~~(40)~~(39) 'Surety' includes a guarantor or other secondary obligor.

~~(41)~~ 'Telegram' includes ~~a message transmitted by radio, teletype, cable, any mechanical method of transmission, or the like.~~

~~(42)~~(40) 'Term' means that portion of an agreement ~~which~~ that relates to a particular matter.

~~(43)~~(41) 'Unauthorized' signature' means ~~one~~ a signature made without actual, implied, or apparent authority. The term ~~and~~ includes a forgery.

~~(44)~~ 'Value': ~~Except as otherwise provided with respect to negotiable instruments and bank collections (Code Sections 11-3-303, 11-4-208, and 11-4-209) a person gives 'value' for rights if he acquires them:~~

~~(a)~~ ~~In return for a binding commitment to extend credit or for the extension of immediately available credit whether or not drawn upon and whether or not a charge-back is provided for in the event of difficulties in collection; or~~

~~(b)~~ ~~As security for or in total or partial satisfaction of a preexisting claim; or~~

~~(c)~~ ~~By accepting delivery pursuant to a preexisting contract for purchase; or~~

~~(d)~~ ~~Generally, in return for any consideration sufficient to support a simple contract.~~

~~(45)~~(42) 'Warehouse receipt' means ~~a document of title~~ receipt issued by a person engaged in the business of storing goods for hire.

~~(46)~~(43) 'Written' or 'writing' includes printing, typewriting, or any other intentional reduction to tangible form.

11-1-202. **Notice; knowledge. Prima-facie evidence by third party documents.**

~~A document in due form purporting to be a bill of lading, policy or certificate of insurance, official weigher's or inspector's certificate, consular invoice, or any other document authorized or required by the contract to be issued by a third party shall be~~

~~prima facie evidence of its own authenticity and genuineness and of the facts stated in the document by the third party.~~

(a) Subject to subsection (f) of this Code section, a person has 'notice' of a fact if the person:

(1) Has actual knowledge of it;

(2) Has received a notice or notification of it; or

(3) From all the facts and circumstances known to the person at the time in question, has reason to know that it exists.

(b) 'Knows' or 'knowledge' means actual knowledge.

(c) 'Discover,' 'learn,' or words of similar import refer to knowledge rather than to reason to know.

(d) A person 'notifies' or 'gives' a notice or notification to another person by taking such steps as may be reasonably required to inform the other person in the ordinary course, whether or not the other person actually comes to know of it.

(e) Subject to subsection (f) of this Code section, a person 'receives' a notice or notification when:

(1) It comes to that person's attention; or

(2) It is duly delivered in a form reasonable under the circumstances at the place of business through which the contract was made or at another location held out by that person as the place for receipt of such communications.

(f) Notice, knowledge, or a notice or notification received by an organization shall be effective for a particular transaction from the time it is brought to the attention of the individual conducting that transaction and, in any event, from the time it would have been brought to the individual's attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless the communication is part of the individual's regular duties or the individual has reason to know of the transaction and that the transaction would be materially affected by the information.

11-1-203. **Lease distinguished from security interest. Obligation of good faith.**

~~Every contract or duty within this title imposes an obligation of good faith in its performance or enforcement.~~

(a) Whether a transaction in the form of a lease creates a security interest is determined by the facts of each case.

(b) A transaction in the form of a lease creates a security interest if the consideration that the lessee is to pay to the lessor for the right to possession and use of the goods is an obligation for the term of the lease and is not subject to termination by the lessee, and:

(1) The original term of the lease is equal to or greater than the remaining economic life of the goods;

- (2) The lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods;
- (3) The lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement; or
- (4) The lessee has an option to become the owner of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement.
- (c) A transaction in the form of a lease does not create a security interest merely because:
- (1) The present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into;
- (2) The lessee assumes risk of loss of the goods;
- (3) The lessee agrees to pay, with respect to the goods, taxes, insurance, filing, recording, or registration fees, or service or maintenance costs;
- (4) The lessee has an option to renew the lease or to become the owner of the goods;
- (5) The lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed; or
- (6) The lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.
- (d) Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised. Additional consideration is not nominal if:
- (1) When the option to renew the lease is granted to the lessee, the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed; or
- (2) When the option to become the owner of the goods is granted to the lessee, the price is stated to be the fair market value of the goods determined at the time the option is to be performed.
- (e) The 'remaining economic life of the goods' and 'reasonably predictable' fair market rent, fair market value, or cost of performing under the lease agreement must be determined with reference to the facts and circumstances at the time the transaction is entered into.

11-1-204. Value.

Except as otherwise provided in Articles 3, 4, 5, and 6 of this title, a person gives value for rights if the person acquires them:

- (1) In return for a binding commitment to extend credit or for the extension of immediately available credit, whether or not drawn upon and whether or not a charge-back is provided for in the event of difficulties in collection;

- (2) As security for, or in total or partial satisfaction of, a preexisting claim;
- (3) By accepting delivery under a preexisting contract for purchase; or
- (4) In return for any consideration sufficient to support a simple contract.

~~11-1-204. 11-1-205. **Reasonable time; seasonableness. Time; reasonable time; 'seasonably.'**~~

~~(1) Whenever this title requires any action to be taken within a reasonable time, any time which is not manifestly unreasonable may be fixed by agreement.~~

~~(2) What is a reasonable~~

~~(a) Whether a time for taking any action required by this title is reasonable depends on the nature, purpose, and circumstances of such action.~~

~~(3)(b) An action is taken 'seasonably' when if it is taken at or within the time agreed, or if no time is agreed, at or within a reasonable time.~~

~~11-1-205. **Course of dealing and usage of trade.**~~

~~(1) A course of dealing is a sequence of previous conduct between the parties to a particular transaction which is fairly to be regarded as establishing a common basis of understanding for interpreting their expressions and other conduct.~~

~~(2) A usage of trade is any practice or method of dealing having such regularity of observance in a place, vocation, or trade as to justify an expectation that it will be observed with respect to the transaction in question. The existence and scope of such a usage are to be proved as facts. If it is established that such a usage is embodied in a written trade code or similar writing the interpretation of the writing is for the court.~~

~~(3) A course of dealing between parties and any usage of trade in the vocation or trade in which they are engaged or of which they are or should be aware give particular meaning to and supplement or qualify terms of an agreement.~~

~~(4) The express terms of an agreement and an applicable course of dealing or usage of trade shall be construed wherever reasonable as consistent with each other; but when such construction is unreasonable express terms control both course of dealing and usage of trade and course of dealing controls usage of trade.~~

~~(5) An applicable usage of trade in the place where any part of performance is to occur shall be used in interpreting the agreement as to that part of the performance.~~

~~(6) Evidence of a relevant usage of trade offered by one party is not admissible unless and until he has given the other party such notice as the court finds sufficient to prevent unfair surprise to the latter.~~

~~11-1-206. **Presumptions. Statute of frauds for kinds of personal property not otherwise covered.**~~

~~Whenever this title creates a 'presumption' with respect to a fact, or provides that a fact is 'presumed,' the trier of fact must find the existence of the fact presumed unless and until evidence is introduced that supports a finding of its nonexistence.~~

~~(1) Except in the cases described in subsection (2) of this Code section a contract for the sale of personal property is not enforceable by way of action or defense beyond~~

~~\$5,000.00 in amount or value of remedy unless there is some writing which indicates that a contract for sale has been made between the parties at a defined or stated price, reasonably identifies the subject matter, and is signed by the party against whom enforcement is sought or by his authorized agent.~~

~~(2) Subsection (1) of this Code section does not apply to contracts for the sale of goods (Code Section 11-2-201) nor of securities (Code Section 11-8-113) nor to security agreements (Code Section 11-9-203).~~

~~11-1-207. **Performance or acceptance under reservation of rights.**~~

~~(1) A party who, with explicit reservation of rights, performs or promises performance or assents to performance in a manner demanded or offered by the other party does not thereby prejudice the rights reserved. Such words as 'without prejudice,' 'under protest' or the like are sufficient.~~

~~(2) Subsection (1) of this Code section does not apply to an accord and satisfaction.~~

~~11-1-208. **Option to accelerate at will.**~~

~~A term providing that one party or his successor in interest may accelerate payment or performance or require collateral or additional collateral 'at will' or 'when he deems himself insecure' or in words of similar import shall be construed to mean that he shall have power to do so only if he in good faith believes that the prospect of payment or performance is impaired. The burden of establishing lack of good faith is on the party against whom the power has been exercised.~~

~~11-1-209. **Subordinated obligations.**~~

~~An obligation may be issued as subordinated to payment of another obligation of the person obligated, or a creditor may subordinate his right to payment of an obligation by agreement with either the person obligated or another creditor of the person obligated. Such a subordination does not create a security interest as against either the common debtor or a subordinated creditor. This Code section shall be construed as declaring the law as it existed prior to the enactment of this Code section and not as modifying it.~~

Part 3

Territorial Applicability and General Rules

11-1-301. **Territorial applicability; parties' power to choose applicable law.**

(a) Except as otherwise provided in this Code section, when a transaction bears a reasonable relation to this state and also to another state or nation the parties may agree that the law either of this state or of such other state or nation shall govern their rights and duties.

(b) In the absence of an agreement under subsection (a) of this Code section, and except as provided in subsection (c) of this Code section, this title applies to transactions bearing an appropriate relation to this state.

(c) If one of the following provisions of this title specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law so specified:

- (1) Code Section 11-2-402;
- (2) Code Sections 11-2A-105 and 11-2A-106;
- (3) Code Section 11-4-102;
- (4) Code Section 11-4A-507;
- (5) Code Section 11-5-116;
- (6) Code Section 11-6-103;
- (7) Code Section 11-8-110; or
- (8) Code Sections 11-9-301 through 11-9-307.

11-1-302. Variation by agreement.

(a) Except as otherwise provided in subsection (b) of this Code section or elsewhere in this title, the effect of provisions of this title may be varied by agreement.

(b) The obligations of good faith, diligence, reasonableness, and care prescribed by this title may not be disclaimed by agreement. The parties may by agreement determine the standards by which the performance of such obligations is to be measured if such standards are not manifestly unreasonable. Whenever this title requires an action to be taken within a reasonable time, a time that is not manifestly unreasonable may be fixed by agreement.

(c) The presence in certain provisions of this title of the phrase 'unless otherwise agreed' or words of similar import does not imply that the effect of other provisions may not be varied by agreement under this Code section.

11-1-303. Course of performance, course of dealing, and usage of trade.

(a) A 'course of performance' is a sequence of conduct between the parties to a particular transaction that exists if:

- (1) The agreement of the parties with respect to the transaction involves repeated occasions for performance by a party; and
- (2) The other party, with knowledge of the nature of the performance and opportunity for objection to it, accepts the performance or acquiesces in it without objection.

(b) A 'course of dealing' is a sequence of conduct concerning previous transactions between the parties to a particular transaction that is fairly to be regarded as establishing a common basis of understanding for interpreting their expressions and other conduct.

(c) A 'usage of trade' is any practice or method of dealing having such regularity of observance in a place, vocation, or trade as to justify an expectation that it will be observed with respect to the transaction in question. The existence and scope of such a usage must be proved as facts. If it is established that such a usage is embodied in a trade code or similar record, the interpretation of the record is a question of law.

(d) A course of performance or course of dealing between the parties or usage of trade in the vocation or trade in which they are engaged or of which they are or should be

aware is relevant in ascertaining the meaning of the parties' agreement, may give particular meaning to specific terms of the agreement, and may supplement or qualify the terms of the agreement. A usage of trade applicable in the place in which part of the performance under the agreement is to occur may be so utilized as to that part of the performance.

(e) Except as otherwise provided in subsection (f) of this Code section, the express terms of an agreement and any applicable course of performance, course of dealing, or usage of trade shall be construed whenever reasonable as consistent with each other. If such a construction is unreasonable:

(1) Express terms prevail over course of performance, course of dealing, and usage of trade;

(2) Course of performance prevails over course of dealing and usage of trade; and

(3) Course of dealing prevails over usage of trade.

(f) Subject to Code Section 11-2-209, a course of performance is relevant to show a waiver or modification of any term inconsistent with the course of performance.

(g) Evidence of a relevant usage of trade offered by one party shall not be admissible unless that party has given the other party notice that the court finds sufficient to prevent unfair surprise to the other party.

11-1-304. Obligation of good faith.

Every contract or duty within this title imposes an obligation of good faith in its performance and enforcement.

11-1-305. Remedies to be liberally administered.

(a) The remedies provided by this title shall be liberally administered to the end that the aggrieved party may be put in as good a position as if the other party had fully performed but neither consequential or special damages nor penal damages may be had except as specifically provided in this title or by other rule of law.

(b) Any right or obligation declared by this title shall be enforceable by action unless the provision declaring it specifies a different and limited effect.

11-1-306. Waiver or renunciation of claim or right after breach.

A claim or right arising out of an alleged breach may be discharged in whole or in part without consideration by agreement of the aggrieved party in an authenticated record.

11-1-307. Prima-facie evidence by third party documents.

A document in due form purporting to be a bill of lading, policy or certificate of insurance, official weigher's or inspector's certificate, consular invoice, or any other document authorized or required by the contract to be issued by a third party shall be prima-facie evidence of its own authenticity and genuineness and of the facts stated in the document by the third party.

11-1-308. Performance or acceptance under reservation of rights.

(a) A party who, with explicit reservation of rights, performs or promises performance or assents to performance in a manner demanded or offered by the other party does not thereby prejudice the rights reserved. Such words as 'without prejudice,' 'under protest,' or the like are sufficient.

(b) Subsection (a) of this Code section shall not apply to an accord and satisfaction.

11-1-309. Option to accelerate at will.

A term providing that one party or that party's successor in interest may accelerate payment or performance or require collateral or additional collateral 'at will' or when the party 'deems itself insecure' or words of similar import shall be construed to mean that the party shall have power to do so only if that party in good faith believes that the prospect of payment or performance is impaired. The burden of establishing lack of good faith is on the party against whom the power has been exercised.

11-1-310. Subordinated obligations.

An obligation may be issued as subordinated to performance of another obligation of the person obligated, or a creditor may subordinate its right to performance of an obligation by agreement with either the person obligated or another creditor of the person obligated. Such a subordination does not create a security interest as against either the common debtor or a subordinated creditor."

**PART IIIB
CONFORMING CROSS-REFERENCES
IN THE UCC TO PART IIIA
SECTION 3B-1.**

Said title is further amended by revising subsection (1) of Code Section 11-2-103, relating to definitions and index of definitions, as follows:

"(1) In this article unless the context otherwise requires:

- (a) 'Buyer' means a person who buys or contracts to buy goods.
- (b) Reserved. ~~'Good faith' in the case of a merchant means honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade.~~
- (c) 'Receipt' of goods means taking physical possession of them.
- (d) 'Seller' means a person who sells or contracts to sell goods."

SECTION 3B-2.

Said title is further amended by revising Code Section 11-2-202, relating to final written expression and parol or extrinsic evidence, as follows:

"11-2-202. **Final written expression; parol or extrinsic evidence.**

Terms with respect to which the confirmatory memoranda of the parties agree or which are otherwise set forth in a writing intended by the parties as a final expression of their agreement with respect to such terms as are included therein may not be contradicted by

evidence of any prior agreement or of a contemporaneous oral agreement but may be explained or supplemented:

- (a) ~~By course of dealing or usage of trade (Code Section 11-1-205) or by course of performance, course of dealing, or usage of trade (Code Section 11-2-208 11-1-303);~~ and
- (b) By evidence of consistent additional terms unless the court finds the writing to have been intended also as a complete and exclusive statement of the terms of the agreement."

SECTION 3B-3.

Said title is further amended by revising Code Section 11-2-208, relating to course of performance or practical construction, as follows:

"11-2-208. ~~Course of performance or practical construction.~~
Reserved.

- (1) ~~Where the contract for sale involves repeated occasions for performance by either party with knowledge of the nature of the performance and opportunity for objection to it by the other, any course of performance accepted or acquiesced in without objection shall be relevant to determine the meaning of the agreement.~~
- (2) ~~The express terms of the agreement and any such course of performance, as well as any course of dealing and usage of trade, shall be construed whenever reasonable as consistent with each other; but when such construction is unreasonable, express terms shall control course of performance and course of performance shall control both course of dealing and usage of trade (Code Section 11-1-205).~~
- (3) ~~Subject to the provisions of Code Section 11-2-209 on modification and waiver, such course of performance shall be relevant to show a waiver or modification of any term inconsistent with such course of performance."~~

SECTION 3B-4.

Said title is further amended by revising subsection (3) of Code Section 11-2A-103, relating to definitions and index of definitions, as follows:

- "(3) The following definitions in other articles of this title apply to this article:
- 'Account.' Code Section 11-9-102(a).
 - 'Between merchants.' Code Section 11-2-104(3).
 - 'Buyer.' Code Section 11-2-103(1)(a).
 - 'Chattel paper.' Code Section 11-9-102(a).
 - 'Consumer goods.' Code Section 11-9-102(a).
 - 'Document.' Code Section 11-9-102(a).
 - 'Entrusting.' Code Section 11-2-403(3).
 - 'General intangible.' Code Section 11-9-102(a).
 - ~~'Good faith.' Code Section 11-2-103(1)(b).~~
 - 'Instrument.' Code Section 11-9-102(a).
 - 'Merchant.' Code Section 11-2-104(1).
 - 'Mortgage.' Code Section 11-9-102(a).

'Pursuant to commitment.' Code Section 11-9-102(a).
 'Receipt.' Code Section 11-2-103(1)(c).
 'Sale.' Code Section 11-2-106(1).
 'Sale on approval.' Code Section 11-2-326.
 'Sale or return.' Code Section 11-2-326.
 'Seller.' Code Section 11-2-103(1)(d)."

SECTION 3B-5.

Said title is further amended by revising Code Section 11-2A-207, relating to course of performance or practical construction, as follows:

"11-2A-207. ~~Course of performance or practical construction.~~

Reserved.

~~(1) If a lease contract involves repeated occasions for performance by either party with knowledge of the nature of the performance and opportunity for objection to it by the other, any course of performance accepted or acquiesced in without objection is relevant to determine the meaning of the lease agreement.~~

~~(2) The express terms of a lease agreement and any course of performance, as well as any course of dealing and usage of trade, must be construed whenever reasonable as consistent with each other; but if that construction is unreasonable, express terms control course of performance, course of performance controls both course of dealing and usage of trade, and course of dealing controls usage of trade.~~

~~(3) Subject to the provisions of Code Section 11-2A-208 on modification and waiver, course of performance is relevant to show a waiver or modification of any term inconsistent with the course of performance."~~

SECTION 3B-6.

Said title is further amended by revising subsection (4) of Code Section 11-2A-501, relating to default and procedure, as follows:

"(4) Except as otherwise provided in Code Section ~~11-1-106(1)~~ 11-1-305(a) or this article or the lease agreement, the rights and remedies referred to in subsections (2) and (3) are cumulative."

SECTION 3B-7.

Said title is further amended by revising subsection (2) of Code Section 11-2A-518, relating to cover and substitute goods, as follows:

"(2) Except as otherwise provided with respect to damages liquidated in the lease agreement (Code Section 11-2A-504) or otherwise determined pursuant to agreement of the parties (Code Sections ~~11-1-102(3)~~ 11-1-302 and 11-2A-503), if a lessee's cover is by a lease agreement substantially similar to the original lease agreement and the new lease agreement is made in good faith and in a commercially reasonable manner, the lessee may recover from the lessor as damages (i) the present value, as of the date of the commencement of the term of the new lease agreement, of the rent under the new lease agreement applicable to that period of the new lease term which is comparable to the

then remaining term of the original lease agreement minus the present value as of the same date of the total rent for the then remaining lease term of the original lease agreement, and (ii) any incidental or consequential damages, less expenses saved in consequence of the lessor's default."

SECTION 3B-8.

Said title is further amended by revising subsection (1) of Code Section 11-2A-519, relating to lessee's damages for non-delivery, repudiation, default, and breach of warranty in regard to accepted goods, as follows:

"(1) Except as otherwise provided with respect to damages liquidated in the lease agreement (Code Section 11-2A-504) or otherwise determined pursuant to agreement of the parties (Code Sections ~~11-1-102(3)~~ 11-1-302 and 11-2A-503), if a lessee elects not to cover or a lessee elects to cover and the cover is by lease agreement that for any reason does not qualify for treatment under Code Section 11-2A-518(2), or is by purchase or otherwise, the measure of damages for non-delivery or repudiation by the lessor or for rejection or revocation of acceptance by the lessee is the present value, as of the date of the default, of the then market rent minus the present value as of the same date of the original rent, computed for the remaining lease term of the original lease agreement, together with incidental and consequential damages, less expenses saved in consequence of the lessor's default."

SECTION 3B-9.

Said title is further amended by revising subsection (2) of Code Section 11-2A-527, relating to lessor's rights to dispose of goods, as follows:

"(2) Except as otherwise provided with respect to damages liquidated in the lease agreement (Code Section 11-2A-504) or otherwise determined pursuant to agreement of the parties (Code Sections ~~11-1-102(3)~~ 11-1-302 and 11-2A-503), if the disposition is by lease agreement substantially similar to the original lease agreement and the new lease agreement is made in good faith and in a commercially reasonable manner, the lessor may recover from the lessee as damages (i) accrued and unpaid rent as of the date of the commencement of the term of the new lease agreement, (ii) the present value, as of the same date, of the total rent for the then remaining lease term of the original lease agreement minus the present value, as of the same date, of the rent under the new lease agreement applicable to that period of the new lease term which is comparable to the then remaining term of the original lease agreement, and (iii) any incidental damages allowed under Code Section 11-2A-530, less expenses saved in consequence of the lessee's default."

SECTION 3B-10.

Said title is further amended by revising subsection (1) of Code Section 11-2A-528, relating to lessor's damages for nonacceptance, failure to pay, repudiation, or other default, as follows:

"(1) Except as otherwise provided with respect to damages liquidated in the lease agreement (Code Section 11-2A-504) or otherwise determined pursuant to agreement of the parties (Code Sections ~~11-1-102(3)~~ 11-1-302 and 11-2A-503), if a lessor elects to retain the goods or a lessor elects to dispose of the goods and the disposition is by lease agreement that for any reason does not qualify for treatment under Code Section 11-2A-527(2), or is by sale or otherwise, the lessor may recover from the lessee as damages for a default of the type described in Code Section 11-2A-523(1) or 11-2A-523(3)(a), or, if agreed, for other default of the lessee, (i) accrued and unpaid rent as of the date of default if the lessee has never taken possession of the goods, or, if the lessee has taken possession of the goods, as of the date the lessor repossesses the goods or an earlier date on which the lessee makes a tender of the goods to the lessor, (ii) the present value as of the date determined under clause (i) of the total rent for the then remaining lease term of the original lease agreement minus the present value as of the same date of the market rent at the place where the goods are located computed for the same lease term, and (iii) any incidental damages allowed under Code Section 11-2A-530, less expenses saved in consequence of the lessee's default."

SECTION 3B-11.

Said title is further amended by revising paragraphs (4) and (10) of subsection (a) of Code Section 11-3-103, relating to definitions, as follows:

"(4) Reserved. ~~'Good faith' means honesty in fact and the observance of reasonable commercial standards of fair dealing."~~

"(10) 'Prove' with respect to a fact means to meet the burden of establishing the fact as ~~'burden of establishing' is defined in subsection (8) of~~ within the meaning of Code Section 11-1-201(b)(8)."

SECTION 3B-12.

Said title is further amended by revising subsection (c) of Code Section 11-4-104, relating to definitions and index of definitions, as follows:

"(c) 'Control' as provided in Code Section 11-7-106 and the following definitions in other articles of this title apply to this article:

'Acceptance.' Code Section 11-3-409.

'Alteration.' Code Section 11-3-407.

'Cashier's check.' Code Section 11-3-104.

'Certificate of deposit.' Code Section 11-3-104.

'Certified check.' Code Section 11-3-409.

'Check.' Code Section 11-3-104.

~~'Good faith.' Code Section 11-3-103.~~

'Holder in due course.' Code Section 11-3-302.

'Instrument.' Code Section 11-3-104.

'Notice of dishonor.' Code Section 11-3-503.

'Order.' Code Section 11-3-103.

'Ordinary care.' Code Section 11-3-103.

'Person entitled to enforce.' Code Section 11-3-301.

'Presentment.' Code Section 11-3-501.

'Promise.' Code Section 11-3-103.

'Prove.' Code Section 11-3-103.

'Teller's check.' Code Section 11-3-104.

'Unauthorized signature.' Code Section 11-3-403."

SECTION 3B-13.

Said title is further amended by revising paragraphs (6) and (7) of subsection (a) of Code Section 11-4A-105, relating to other definitions, as follows:

"(6) Reserved. ~~'Good faith' means honesty in fact and the observance of reasonable commercial standards of fair dealing.~~

(7) 'Prove' with respect to a fact means to meet the burden of establishing the fact (Code Section 11-1-201**(b)(8)**)."

SECTION 3B-14.

Said title is further amended by revising subsection (a) of Code Section 11-4A-106, relating to time payment order is received, as follows:

"(a) The time of receipt of a payment order or communication canceling or amending a payment order is determined by the rules applicable to receipt of a notice stated in Code Section ~~11-1-201(27)~~ 11-1-202. A receiving bank may fix a cut-off time or times on a funds-transfer business day for the receipt and processing of payment orders and communications canceling or amending payment orders. Different cut-off times may apply to payment orders, cancellations, or amendments, or to different categories of payment orders, cancellations, or amendments. A cut-off time may apply to senders generally or different cut-off times may apply to different senders or categories of payment orders. If a payment order or communication canceling or amending a payment order is received after the close of a funds-transfer business day or after the appropriate cut-off time on a funds-transfer business day, the receiving bank may treat the payment order or communication as received at the opening of the next funds-transfer business day."

SECTION 3B-15.

Said title is further amended by revising subsection (b) of Code Section 11-4A-204, relating to refund of payment and duty of customer to report with respect to unauthorized payment order, as follows:

"(b) Reasonable time under subsection (a) of this Code section may be fixed by agreement as stated in subsection (b) of Code Section ~~11-1-204(1)~~ 11-1-302, but the obligation of a receiving bank to refund payment as stated in subsection (a) of this Code section may not otherwise be varied by agreement."

SECTION 3B-16.

Said title is further amended by revising subsection (c) of Code Section 11-5-103, relating to scope, as follows:

"(c) With the exception of subsections (a), (b), and (d) of this Code section, paragraphs (9) and (10) of subsection (a) of Code Section 11-5-102, subsection (d) of Code Section 11-5-106, and subsection (d) of Code Section 11-5-114 and except to the extent prohibited in ~~subsection (3) of Code Section 11-1-102~~ 11-1-302 and subsection (d) of Code Section 11-5-117, the effect of this article may be varied by agreement or by a provision stated or incorporated by reference in an undertaking. A term in an agreement or undertaking generally excusing liability or generally limiting remedies for failure to perform obligations is not sufficient to vary obligations prescribed by this article."

SECTION 3B-17.

Said title is further amended by revising paragraph (10) of subsection (a) of Code Section 11-8-102, relating to definitions, as follows:

"(10) Reserved. ~~'Good faith,' for purposes of the obligation of good faith in the performance or enforcement of contracts or duties within this article, means honesty in fact and the observance of reasonable commercial standards of fair dealing.~~"

SECTION 3B-18.

Said title is further amended by revising paragraph (44) of subsection (a) of Code Section 11-9-102, relating to definitions and index of definitions, as follows:

"(44) Reserved. ~~'Good faith' means honesty in fact and the observance of reasonable commercial standards of fair dealing.~~"

SECTION 3B-19.

Said title is further amended by revising Code Section 11-11-101, relating to effective date and definition, as follows:

"11-11-101. **Effective date; definitions.**

~~(1)~~ This Act shall become effective at 12:01 A.M. on July 1, 1978.

~~(2)~~ As used in this article:

~~(a) 'Old Article 9 of this title' means Code Sections 11-1-105, 11-1-201(9), 11-1-201(37), 11-2-107, 11-5-116, and Article 9 of this title, as they are in effect on June 30, 1978, immediately prior to the effective date of this Act.~~

~~(b) 'Revised Article 9 of this title' means Code Sections 11-1-105, 11-1-201(9), 11-1-201(37), 11-1-209, 11-2-107, 11-5-116, and Article 9 of this title as said provisions are enacted pursuant to this Act.~~"

**PART IIIC
CONFORMING CROSS-REFERENCES
IN THE CODE TO PART IIIA
SECTION 3C-1.**

Title 7 of the Official Code of Georgia Annotated, relating to banking and finance, is amended by revising paragraph (29) of Code Section 7-1-4, relating to definitions, as follows:

"(29) 'Public sale' means a sale ~~as defined in paragraph (31.1) of Code Section 11-1-201~~;

(A) Held at a place reasonably available to persons who might desire to attend and submit bids;

(B) At which those attending shall be given the opportunity to bid on a competitive basis;

(C) At which the sale, if made, shall be made to the highest and best bidder; and

(D) Except as otherwise provided in Title 11 for advertising or dispensing with the advertising of public sales, of which notice is given by advertisement once a week for two weeks in the newspaper in which the sheriff's advertisements are published in the county where the sale is to be held, and which notice shall state the day and hour, between 9:00 A.M. and 5:00 P.M., and the place of sale and shall briefly identify the goods to be sold."

SECTION 3C-2.

Said title is further amended by revising paragraph (23) of Code Section 7-1-680, relating to definitions, as follows:

"(23) 'Signed' shall have the same meaning as provided in ~~paragraph (39) of Code Section 11-1-201~~."

SECTION 3C-3.

Title 10 of the Official Code of Georgia Annotated, relating to commerce and trade, is amended by revising paragraph (8) of Code Section 10-1-622, relating to definitions, as follows:

"(8) 'Good faith' means honesty in fact and the observation of reasonable commercial standards of fair dealing in the trade as defined ~~and interpreted~~ in Code Section ~~11-1-203~~ 11-1-201."

SECTION 3C-4.

Said title is further amended by revising subsection (b) of Code Section 10-12-3, relating to the applicability to electronic records and signatures relating to a transaction, as follows:

"(b) This chapter shall not apply to a transaction to the extent it is governed by:

(1) A law governing the creation and execution of wills, codicils, or testamentary trusts;

(2) Title 11 other than ~~Code Sections 11-1-107 and 11-1-206~~ Code Section 11-1-306, Article 2, and Article 2A; or

(3) The Uniform Computer Information Transactions Act."

SECTION 3C-5.

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is amended by revising subsection (a) of Code Section 40-11-6, relating to sale of vehicle pursuant to foreclosure, as follows:

"(a)(1) As used in this subsection, the term 'public sale' means a sale:

(A) Held at a place reasonably available to persons who might desire to attend and submit bids;

(B) At which those attending shall be given the opportunity to bid on a competitive basis;

(C) At which the sale, if made, shall be made to the highest and best bidder; and

(D) Except as otherwise provided in Title 11 for advertising or dispensing with the advertising of public sales, of which notice is given by advertisement once a week for two weeks in the newspaper in which the sheriff's advertisements are published in the county where the sale is to be held, and which notice shall state the day and hour, between 9:00 A.M. and 5:00 P.M., and the place of sale and shall briefly identify the goods to be sold.

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

SECTION 3C-6.

Title 52 of the Official Code of Georgia Annotated, relating to waters of the state, ports, and watercraft, is amended by revising subsection (a) of Code Section 52-7-75, relating to public sale of vessel and disposition of excess proceeds, as follows:

"(a)(1) As used in this subsection, the term 'public sale' means a sale:

(A) Held at a place reasonably available to persons who might desire to attend and submit bids;

(B) At which those attending shall be given the opportunity to bid on a competitive basis;

(C) At which the sale, if made, shall be made to the highest and best bidder; and

(D) Except as otherwise provided in Title 11 for advertising or dispensing with the advertising of public sales, of which notice is given by advertisement once a week for two weeks in the newspaper in which the sheriff's advertisements are published in the county where the sale is to be held, and which notice shall state the day and hour, between 9:00 A.M. and 5:00 P.M., and the place of sale and shall briefly identify the goods to be sold.

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

**PART IVA
UNIFORM VOIDABLE TRANSACTIONS ACT
SECTION 4A-1.**

Chapter 2 of Title 18 of the Official Code of Georgia Annotated, relating to debtor and creditor relations, is amended by revising Article 4, relating to the "Uniform Fraudulent Transfers Act," as follows:

"ARTICLE 4

18-2-70.

This article, which was formerly known and cited as the 'Uniform Fraudulent Transfers Act,' shall be known and may be cited as the 'Uniform Fraudulent Transfers Voidable Transactions Act.'

18-2-71.

As used in this article, the term:

(1) 'Affiliate' means:

(A) A person who directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than a person who holds the securities:

(i) As a fiduciary or agent without sole discretionary power to vote the securities; or

(ii) Solely to secure a debt, if the person has not exercised the power to vote;

(B) A corporation 20 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the debtor or a person who directly or indirectly owns, controls, or holds with power to vote 20 percent or more of the outstanding voting securities of the debtor, other than a person who holds the securities:

(i) As a fiduciary or agent without sole power to vote the securities; or

(ii) Solely to secure a debt, if the person has not in fact exercised the power to vote;

(C) A person whose business is operated by the debtor under a lease or other agreement, or a person substantially all of whose assets are controlled by the debtor; or

(D) A person who operates the debtor's business under a lease or other agreement or controls substantially all of the debtor's assets.

(2) 'Asset' means property of a debtor, but the term does not include:

(A) Property to the extent it is encumbered by a valid lien;

(B) Property to the extent it is generally exempt under nonbankruptcy law; or

(C) An interest in property held in tenancy by the entirety to the extent it is not subject to process by a creditor holding a claim against only one tenant.

(3) 'Claim,' except for claim for relief, means a right to payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured.

(4) 'Creditor' means a person who has a claim, regardless of when the person acquired the claim, together with any successors or assigns.

(5) 'Debt' means liability on a claim.

(6) 'Debtor' means a person who is liable on a claim.

(7) 'Electronic' means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

~~(7)~~(8) 'Insider' includes:

(A) If the debtor is an individual:

(i) A relative of the debtor or of a general partner of the debtor;

(ii) A partnership in which the debtor is a general partner;

(iii) A general partner in a partnership described in division (ii) of this subparagraph; or

(iv) A corporation of which the debtor is a director, officer, or person in control;

(B) If the debtor is a corporation:

(i) A director of the debtor;

(ii) An officer of the debtor;

(iii) A person in control of the debtor;

(iv) A partnership in which the debtor is a general partner;

(v) A general partner in a partnership described in division (iv) of this subparagraph; or

(vi) A relative of a general partner, director, officer, or person in control of the debtor;

(C) If the debtor is a partnership:

(i) A general partner in the debtor;

(ii) A relative of a general partner in, or a general partner of, or a person in control of the debtor;

(iii) Another partnership in which the debtor is a general partner;

(iv) A general partner in a partnership described in division (iii) of this subparagraph; or

(v) A person in control of the debtor;

(D) An affiliate, or an insider of an affiliate as if the affiliate were the debtor; and

(E) A managing agent of the debtor.

~~(8)~~(9) 'Lien' means a charge against or an interest in property to secure payment of a debt or performance of an obligation and includes a security interest created by agreement, a judicial lien obtained by legal or equitable process or proceedings, a common-law lien, or a statutory lien.

(10) 'Organization' means a person other than an individual.

~~(9)~~(11) 'Person' means an individual, ~~partnership~~, public corporation, ~~association~~, ~~organization~~, government or governmental subdivision ~~or~~ agency or instrumentality, business ~~trust~~ or nonprofit entity, estate, ~~trust~~, or ~~any~~ other legal ~~or commercial~~ entity.

~~(10)~~(12) 'Property' means anything that may be the subject of ownership.

(13) 'Record' means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

~~(11)~~(14) 'Relative' means an individual related by consanguinity within the third degree as determined by the common law, a spouse, or an individual related to a

spouse within the third degree as so determined and includes an individual in an adoptive relationship within the third degree.

(15) 'Sign' means, with present intent to authenticate or adopt a record:

(A) To execute or adopt a tangible symbol; or

(B) To attach to or logically associate with the record an electronic symbol, sound, or process.

~~(12)~~(16) 'Transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset and includes payment of money, release, lease, and creation of a lien or other encumbrance.

~~(13)~~(17) 'Valid lien' means a lien that is effective against the holder of a judicial lien subsequently obtained by legal or equitable process or proceedings.

18-2-72.

~~(a)~~ A debtor is insolvent if, at a fair valuation, the sum of the debtor's debts is greater than ~~all of the~~ sum of the debtor's assets, ~~at a fair valuation.~~

~~(b)~~ A debtor who is generally not paying his or her debts as they become due other than as a result of a bona fide dispute is presumed to be insolvent. The presumption imposes on the party against which the presumption is directed the burden of proving that the nonexistence of insolvency is more probable than its existence.

~~(c)~~ ~~A partnership is insolvent under subsection (a) of this Code section if the sum of the partnership's debts is greater than the aggregate of all of the partnership's assets, at a fair valuation, and the sum of the excess of the value of each general partner's nonpartnership assets over the partner's nonpartnership debts.~~

~~(d)~~(c) Assets under this Code section do not include property that has been transferred, concealed, or removed with intent to hinder, delay, or defraud creditors or that has been transferred in a manner making the transfer voidable under this article.

~~(e)~~(d) Debts under this Code section do not include an obligation to the extent it is secured by a valid lien on property of the debtor not included as an asset.

18-2-73.

(a) Value is given for a transfer or an obligation if, in exchange for the transfer or obligation, property is transferred or an antecedent debt is secured or satisfied, but value does not include an unperformed promise made otherwise than in the ordinary course of the promisor's business to furnish support to the debtor or another person.

(b) For the purposes of paragraph (2) of subsection (a) of Code Section 18-2-74 and Code Section 18-2-75, a person gives a reasonably equivalent value if the person acquires an interest of the debtor in an asset pursuant to a regularly conducted, noncollusive foreclosure sale or execution of a power of sale for the acquisition or disposition of the interest of the debtor upon default under a mortgage, deed of trust, or security agreement.

(c) A transfer is made for present value if the exchange between the debtor and the transferee is intended by them to be contemporaneous and is in fact substantially contemporaneous.

18-2-74.

(a) A transfer made or obligation incurred by a debtor is ~~fraudulent~~ voidable as to a creditor, whether the creditor's claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation:

- (1) With actual intent to hinder, delay, or defraud any creditor of the debtor; or
- (2) Without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the debtor:

(A) Was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction; or

(B) Intended to incur, or believed or reasonably should have believed that he or she would incur, debts beyond his or her ability to pay as they became due.

(b) In determining actual intent under paragraph (1) of subsection (a) of this Code section, consideration may be given, among other factors, to whether:

- (1) The transfer or obligation was to an insider;
- (2) The debtor retained possession or control of the property transferred after the transfer;
- (3) The transfer or obligation was disclosed or concealed;
- (4) Before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit;
- (5) The transfer was of substantially all the debtor's assets;
- (6) The debtor absconded;
- (7) The debtor removed or concealed assets;
- (8) The value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred;
- (9) The debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred;
- (10) The transfer occurred shortly before or shortly after a substantial debt was incurred; and
- (11) The debtor transferred the essential assets of the business to a lienor who transferred the assets to an insider of the debtor.

(c) If a creditor is a successor or assignee, a right of action under subsection (a) or (b) of this Code section is automatically assigned to such successor or assignee.

(d) A creditor making a claim for relief under subsection (a) of this Code section has the burden of proving the elements of the claim for relief by a preponderance of the evidence.

18-2-75.

(a) A transfer made or obligation incurred by a debtor is ~~fraudulent~~ voidable as to a creditor whose claim arose before the transfer was made or the obligation was incurred if the debtor made the transfer or incurred the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation and the debtor was insolvent at that time or the debtor became insolvent as a result of the transfer or obligation.

(b) A transfer made by a debtor is ~~fraudulent~~ voidable as to a creditor whose claim arose before the transfer was made if the transfer was made to an insider for an antecedent debt, the debtor was insolvent at that time, and the insider had reasonable cause to believe that the debtor was insolvent.

(c) If a creditor is a successor or assignee, a right of action under subsection (a) or (b) of this Code section is automatically assigned to such successor or assignee.

(d) Subject to subsection (b) of Code Section 18-2-72, a creditor making a claim for relief under subsection (a) or (b) of this Code section has the burden of proving the elements of the claim for relief by a preponderance of the evidence.

18-2-76.

For the purposes of this article:

(1) A transfer is made:

(A) With respect to an asset that is real property other than a fixture, but including the interest of a seller or purchaser under a contract for the sale of the asset, when the transfer is so far perfected that a good faith purchaser of the asset from the debtor against whom applicable law permits the transfer to be perfected cannot acquire an interest in the asset that is superior to the interest of the transferee; and

(B) With respect to an asset that is not real property or that is a fixture, when the transfer is so far perfected that a creditor on a simple contract cannot acquire a judicial lien otherwise than under this article that is superior to the interest of the transferee;

(2) If applicable law permits the transfer to be perfected as provided in paragraph (1) of this Code section and the transfer is not so perfected before the commencement of an action for relief under this article, the transfer is deemed made immediately before the commencement of the action;

(3) If applicable law does not permit the transfer to be perfected as provided in paragraph (1) of this Code section, the transfer is made when it becomes effective between the debtor and the transferee;

(4) A transfer is not made until the debtor has acquired rights in the asset transferred; and

(5) An obligation is incurred:

(A) If oral, when it becomes effective between the parties; or

(B) If evidenced by a ~~writing~~ record, when the ~~writing~~ executed record signed by the obligor is delivered to or for the benefit of the obligee.

18-2-77.

(a) In an action for relief against a transfer or obligation under this article, a creditor, subject to the limitations in Code Section 18-2-78, may obtain:

(1) Avoidance of the transfer or obligation to the extent necessary to satisfy the creditor's claim;

(2) An attachment or other provisional remedy against the asset transferred or other property of the transferee in accordance with the procedure prescribed by Chapter 3 of this title; and

(3) Subject to applicable principles of equity and in accordance with applicable rules of civil procedure:

(A) An injunction against further disposition by the debtor or a transferee, or both, of the asset transferred or of other property;

(B) Appointment of a receiver to take charge of the asset transferred or of other property of the transferee; or

(C) Any other relief the circumstances may require.

(b) If a creditor has obtained a judgment on a claim against the debtor, the creditor, if the court so orders, may levy execution on the asset transferred or its proceeds.

18-2-78.

(a) A transfer or obligation is not voidable under paragraph (1) of subsection (a) of Code Section 18-2-74 against a person who took in good faith and for a reasonably equivalent value or against any subsequent transferee or obligee.

(b) To the extent a transfer is avoidable in an action by a creditor under paragraph (1) of subsection (a) of Code Section 18-2-77, the following rules apply:

(1) Except as otherwise provided in this Code section, ~~to the extent a transfer is voidable in an action by a creditor under paragraph (1) of subsection (a) of Code Section 18-2-77,~~ the creditor may recover judgment for the value of the asset transferred, as adjusted under subsection (c) of this Code section, or the amount necessary to satisfy the creditor's claim, whichever is less. The judgment may be entered against:

(1)(A) The first transferee of the asset or the person for whose benefit the transfer was made; or

(2) ~~Any subsequent transferee other than a~~

(B) An immediate or mediate transferee of the first transferee, other than:

(i) A good faith transferee or obligee who took for value; or ~~from any subsequent transferee or obligee~~

(ii) An immediate or mediate good faith transferee of a person described in division (i) of this subparagraph.

(2) Recovery pursuant to paragraph (1) of subsection (a) or subsection (b) of Code Section 18-2-77 of or from the asset transferred or its proceeds, by levy or otherwise, is available only against a person described in paragraph (1) of this subsection.

(c) If the judgment under subsection (b) of this Code section is based upon the value of the asset transferred, the judgment must be for an amount equal to the value of the asset at the time of the transfer, subject to adjustment as the equities may require.

(d) Notwithstanding voidability of a transfer or an obligation under this article, a good faith transferee or obligee is entitled, to the extent of the value given the debtor for the transfer or obligation, to:

- (1) A lien on or a right to retain any interest in the asset transferred;
- (2) Enforcement of any obligation incurred; or
- (3) A reduction in the amount of the liability on the judgment.

(e) A transfer is not voidable under paragraph (2) of subsection (a) of Code Section 18-2-74 or Code Section 18-2-75 if the transfer results from:

- (1) Termination of a lease upon default by the debtor when the termination is pursuant to the lease and applicable law; or
- (2) Enforcement of a security interest in compliance with Article 9 of the Uniform Commercial Code, other than acceptance of collateral in full or partial satisfaction of the obligation it secures.

(f) A transfer is not voidable under subsection (b) of Code Section 18-2-75:

- (1) To the extent the insider gave new value to or for the benefit of the debtor after the transfer was made unless the new value was secured by a valid lien;
- (2) If made in the ordinary course of business or financial affairs of the debtor and the insider; or
- (3) If made pursuant to a good faith effort to rehabilitate the debtor and the transfer secured the present value given for that purpose as well as an antecedent debt of the debtor.

(g) The following rules determine the burden of proving matters referred to in this Code section:

- (1) A party that seeks to invoke subsection (a), (d), (e), or (f) of this Code section has the burden of proving the applicability of that subsection;
- (2) Except as otherwise provided in paragraphs (3) and (4) of this subsection, the creditor has the burden of proving each applicable element of subsection (b) or (c) of this Code section;
- (3) The transferee has the burden of proving the applicability to the transferee of subparagraph (b)(1)(B) of this Code section; and
- (4) A party that seeks adjustment under subsection (c) of this Code section has the burden of proving the adjustment.

(h) The standard of proof required to establish matters referred to in this Code section is preponderance of the evidence.

18-2-79.

A cause of action with respect to a fraudulent transfer or obligation under this article is extinguished unless action is brought:

- (1) Under paragraph (1) of subsection (a) of Code Section 18-2-74, within four years after the transfer was made or the obligation was incurred or, if later, within one year

after the transfer or obligation was or could reasonably have been discovered by the claimant;

(2) Under paragraph (2) of subsection (a) of Code Section 18-2-74 or subsection (a) of Code Section 18-2-75, within four years after the transfer was made or the obligation was incurred; or

(3) Under subsection (b) of Code Section 18-2-75, within one year after the transfer was made or the obligation was incurred.

18-2-80.

(a) In this Code section, the following rules determine a debtor's location:

(1) A debtor who is an individual is located at the individual's principal residence;

(2) A debtor that is an organization and has only one place of business is located at its place of business; and

(3) A debtor that is an organization and has more than one place of business is located at its chief executive office.

(b) A cause of action in the nature of a claim for relief under this article is governed by the law of the jurisdiction in which the debtor is located when the transfer is made or the obligation is incurred.

18-2-81.

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

(1) 'Protected series' means an arrangement, however denominated, created by a series organization that, pursuant to the law under which the series organization is organized, has the characteristics set forth in paragraph (2) of this subsection.

(2) 'Series organization' means an organization that, pursuant to the law under which it is organized, has the following characteristics:

(A) The organic record of the organization provides for creation by the organization of one or more protected series, however denominated, with respect to specified property of the organization, and for records to be maintained for each protected series that identify the property of or associated with the protected series;

(B) Debt incurred or existing with respect to the activities of, or property of or associated with, a particular protected series is enforceable against the property of or associated with the protected series only, and not against the property of or associated with the organization or other protected series of the organization; or

(C) Debt incurred or existing with respect to the activities or property of the organization is enforceable against the property of the organization only, and not against the property of or associated with a protected series of the organization.

(b) A series organization and each protected series of the organization is a separate person for purposes of this article, even if for other purposes a protected series is not a person separate from the organization or other protected series of the organization.

~~18-2-80.~~ 18-2-82.

(a) Unless displaced by the provisions of this article, the principles of law and equity, including the law merchant and the law relating to principal and agent, estoppel, laches, fraud, misrepresentation, duress, coercion, mistake, insolvency, or other validating or invalidating cause, supplement its provisions.

~~(b) The provisions of this article do not create a cause of action for a governmental entity or its agent or assignee with respect to a transaction which may otherwise constitute a fraudulent transfer or obligation under this article if the transaction complies with the applicable state and federal laws concerning transfers of property in the determination of eligibility for public benefits.~~

18-2-83.

This article shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this article among states enacting the 'Uniform Voidable Transactions Act.'

18-2-84.

This article modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq., but shall not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

~~18-2-81.~~ 18-2-85.

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

(1) 'Charitable organization' means an organization which has qualified as tax-exempt under Section 501(c)(3) of the federal Internal Revenue Code of 1986 and has been so qualified for not less than two years preceding any transfer pursuant to this Code section, other than a private foundation or family trust.

(2) 'Private foundation' shall have the same meaning as set forth in 26 U.S.C. Section 509(a).

(b) A transfer made to a charitable organization shall be considered ~~complete unless voidable only if~~ it is established that a ~~fraudulent~~ voidable transfer has occurred as described in Code Section 18-2-74 or 18-2-75, and such charitable organization had actual or constructive knowledge of the ~~fraudulent~~ voidable nature of the transfer.

(c) The statute of limitations for a civil action with respect to a voidable transfer to a charitable organization under this Code section shall be within two years after such transfer was made."

**PART IVB
CONFORMING CROSS-REFERENCES TO
THE UNIFORM VOIDABLE TRANSACTIONS ACT
SECTION 4B-1.**

Article 3 of Chapter 3 of Title 9 of the Official Code of Georgia Annotated, relating to limitations on recovery for deficiencies connected with improvements to realty and resulting injuries, is amended by revising Code Section 9-3-35, relating to actions by creditors seeking relief under Uniform Fraudulent Transfers Act, as follows:

"9-3-35.

An action by a creditor seeking relief under the provisions of Article 4 of Chapter 2 of Title 18, known as the 'Uniform ~~Fraudulent Transfers~~ Voidable Transactions Act,' shall be brought within the applicable period set out in Code Section 18-2-79."

SECTION 4B-2.

Code Section 17-14-17 of the Official Code of Georgia Annotated, relating to fraudulent transfers, is amended by revising subsection (a) as follows:

"(a) The state or the victim of a crime may institute an action against an offender pursuant to Article 4 of Chapter 2 of Title 18, the 'Uniform ~~Fraudulent Transfers~~ Voidable Transactions Act,' to set aside a transfer of real, personal, or other property made voluntarily by the offender on or after the date of the crime committed by the offender against the victim with the intent to:

- (1) Conceal the crime or the fruits of the crime;
- (2) Hinder, delay, or defraud any victim; or
- (3) Avoid the payment of restitution."

PART V UNIFORM ENFORCEMENT OF FOREIGN JUDGMENTS LAW SECTION 5-1.

Article 6 of Chapter 12 of Title 9 of the Official Code of Georgia Annotated, relating to the "Uniform Enforcement of Foreign Judgments Law," is amended by adding a new subsection to Code Section 9-12-133, relating to the affidavit concerning judgment creditor and debtor and notice to the judgment debtor of filing of judgment, as follows:

"(c) The provisions of Code Section 9-11-4 shall not apply to this article."

PART VI EFFECTIVE DATE; APPLICABILITY; AND REPEALER SECTION 6-1.

- (a) Except as provided in subsection (c) of this section, this Act shall become effective on July 1, 2015.
- (b) Part 2 of this Act shall apply to all actions filed on or after July 1, 2015, in which the recognition of a foreign-country judgment is raised.
- (c) Parts 3A, 3B, and 3C of this Act shall become effective on January 1, 2016.
- (d) The amendments made by Parts 4A and 4B of this Act shall:

- (1) Apply to a transfer made or obligation incurred on or after July 1, 2015;
- (2) Not apply to a transfer made or obligation incurred before July 1, 2015;
- (3) Not apply to a right of action that has accrued before July 1, 2015; and
- (4) For purposes of this subsection, a transfer is made and an obligation is incurred at the time provided in Code Section 18-7-76.

SECTION 6-2.

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

The report of the Committee, which was favorable to the passage of the Bill, by substitute, was agreed to.

On the passage of the Bill, by substitute, the roll call was ordered and the vote was as follows:

| | | | | |
|------------------|-------------------|---------------|-----------------|------------------|
| Y Abrams | Y Coomer | Y Harbin | Y Meadows | Y Smith, E |
| Y Alexander | Y Cooper | Y Harden | Y Mitchell | Y Smith, L |
| Y Allison | Y Corbett | Y Harrell | E Morris | Y Smith, M |
| E Anderson | E Dawkins-Haigler | Y Hatcher | Y Mosby | Y Smith, R |
| Y Atwood | Y Deffenbaugh | Y Hawkins | Y Nimmer | E Smyre |
| Y Ballinger | Y Dempsey | Y Henson | Y Nix | Y Spencer |
| Y Barr | Y Dickerson | Y Hightower | Y Oliver | Y Stephens, M |
| E Battles | Y Dickey | Y Hitchens | Y O'Neal | Y Stephens, R |
| E Beasley-Teague | Y Dickson | Y Holcomb | Y Pak | Y Stephenson |
| Y Bell | Dollar | Y Holmes | Y Parrish | Y Stovall |
| Y Belton | Y Douglas | Y Houston | Y Parsons | Y Stover |
| E Bennett | Y Drenner | Y Howard | Y Peake | Y Strickland |
| Y Bentley | Y Dudgeon | Y Hugley | Y Petrea | Y Tankersley |
| Y Benton | E Dukes | Y Jackson | Y Pezold | Y Tanner |
| Y Beskin | Y Dunahoo | Y Jacobs | Y Powell, A | Y Tarvin |
| Y Beverly | E Duncan | Y Jasperse | Y Powell, J | Y Taylor, D |
| Y Broadrick | Y Ealum | Y Jones, J | Y Prince | Y Taylor, T |
| Y Brockway | Y Efrstration | Y Jones, J.B. | Y Pruett | Y Teasley |
| Y Brooks | Ehrhart | E Jones, L | Y Quick | Y Thomas, A.M. |
| Y Bruce | Y England | Y Jones, S | Y Raffensperger | Y Thomas, E |
| Y Bryant | Y Epps | E Jordan | Y Rakestraw | Y Trammell |
| Y Buckner | E Evans | Y Kaiser | Y Ramsey | Y Turner |
| Y Burns | Y Fleming | Kelley | E Randall | Y Waites |
| E Caldwell, J | Y Floyd | Y Kendrick | Y Reeves | Y Watson |
| Y Caldwell, M | Y Fludd | Y Kidd | Y Rhodes | Y Welch |
| Y Cantrell | Y Frazier | Y Kirby | Y Rice | E Weldon |
| Y Carson | E Frye | Y Knight | Y Roberts | Y Werkheiser |
| Y Carter | Y Gardner | Y LaRiccica | Y Rogers, C | Y Wilkerson |
| E Casas | Y Gasaway | Y Lumsden | Y Rogers, T | Y Wilkinson |
| Y Chandler | Y Geisinger | Y Mabra | Y Rutledge | Y Willard |
| Y Cheokas | Y Glanton | E Marin | Y Rynders | Y Williams, A |
| Y Clark, D | Y Golic | Y Martin | Y Scott | Y Williams, C |
| Y Clark, H | Y Gordon | Y Maxwell | Y Setzler | Y Williams, E |
| Y Clark, V | Y Gravley | E Mayo | Y Sharper | Y Williamson |
| Y Coleman | Y Greene | Y McCall | Y Shaw | Y Yates |
| E Cooke | Y Hamilton | Y McClain | Y Sims | Ralston, Speaker |

On the passage of the Bill, by substitute, the ayes were 156, nays 0.

The Bill, having received the requisite constitutional majority, was passed, by substitute.

HB 18. By Representatives Spencer of the 180th, Pruett of the 149th, Stephens of the 164th, Atwood of the 179th, Werkheiser of the 157th and others:

A BILL to be entitled an Act to amend Chapter 15 of Title 43 of the Official Code of Georgia Annotated, relating to professional engineers and land surveyors, so as to exempt defense, aviation, space, or aerospace companies and those who work for them and who provide engineering for certain products or services from complying with the provisions of said chapter; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

The report of the Committee, which was favorable to the passage of the Bill, was agreed to.

On the passage of the Bill, the roll call was ordered and the vote was as follows:

| | | | | |
|------------------|-------------------|---------------|-----------------|----------------|
| Y Abrams | Y Coomer | N Harbin | Y Meadows | Y Smith, E |
| Y Alexander | Y Cooper | Y Harden | Y Mitchell | Y Smith, L |
| Y Allison | Y Corbett | Y Harrell | E Morris | Y Smith, M |
| E Anderson | E Dawkins-Haigler | Y Hatchett | Y Mosby | Y Smith, R |
| Y Atwood | Y Deffenbaugh | Y Hawkins | Y Nimmer | E Smyre |
| Y Ballinger | Y Dempsey | Y Henson | Y Nix | Y Spencer |
| Y Barr | Y Dickerson | Y Hightower | Y Oliver | Y Stephens, M |
| E Battles | Y Dickey | Y Hitchens | Y O'Neal | Y Stephens, R |
| E Beasley-Teague | Y Dickson | Y Holcomb | Y Pak | Y Stephenson |
| Y Bell | Dollar | Y Holmes | Y Parrish | Y Stovall |
| Y Belton | Y Douglas | Y Houston | Y Parsons | Y Stover |
| E Bennett | Y Drenner | Y Howard | Y Peake | Y Strickland |
| Y Bentley | Y Dudgeon | Y Hugley | Y Petrea | Y Tankersley |
| Y Benton | E Dukes | Y Jackson | N Pezold | Y Tanner |
| Y Beskin | Y Dunahoo | Y Jacobs | Y Powell, A | Y Tarvin |
| Y Beverly | E Duncan | Y Jasperse | Y Powell, J | Y Taylor, D |
| Y Broadrick | Y Ealum | Y Jones, J | Y Prince | Y Taylor, T |
| Y Brockway | Y Efstration | Y Jones, J.B. | Y Pruett | Y Teasley |
| Y Brooks | Y Ehrhart | E Jones, L | Y Quick | Y Thomas, A.M. |
| Y Bruce | Y England | Y Jones, S | Y Raffensperger | Y Thomas, E |
| Y Bryant | Y Epps | E Jordan | Y Rakestraw | Y Trammell |
| Y Buckner | E Evans | Y Kaiser | Y Ramsey | Y Turner |
| Y Burns | Y Fleming | Y Kelley | E Randall | Y Waites |
| E Caldwell, J | Y Floyd | Y Kendrick | Y Reeves | Y Watson |
| Y Caldwell, M | Y Fludd | Y Kidd | Y Rhodes | Y Welch |
| Y Cantrell | Y Frazier | Y Kirby | Y Rice | E Weldon |
| Y Carson | E Frye | Y Knight | Y Roberts | Y Werkheiser |
| Y Carter | Gardner | Y LaRiccica | Y Rogers, C | Y Wilkerson |
| E Casas | Y Gasaway | Y Lumsden | Y Rogers, T | Y Wilkinson |

| | | | | |
|------------|-------------|-----------|------------|------------------|
| Y Chandler | Y Geisinger | Y Mabra | Y Rutledge | Y Willard |
| Y Cheokas | Y Glanton | E Marin | Y Rynders | Y Williams, A |
| Y Clark, D | Y Golick | Y Martin | Y Scott | Y Williams, C |
| Y Clark, H | Y Gordon | Y Maxwell | Y Setzler | Y Williams, E |
| Y Clark, V | Y Gravley | E Mayo | Y Sharper | Y Williamson |
| Y Coleman | Y Greene | Y McCall | Y Shaw | Y Yates |
| E Cooke | Y Hamilton | Y McClain | Y Sims | Ralston, Speaker |

On the passage of the Bill, the ayes were 155, nays 2.

The Bill, having received the requisite constitutional majority, was passed.

HB 316. By Representatives Reeves of the 34th, Meadows of the 5th, Smith of the 134th and Ehrhart of the 36th:

A BILL to be entitled an Act to amend Code Section 14-7-4 of the Official Code of Georgia Annotated, relating to professional services provided by professional corporations, so as to provide that the practice of medicine and surgery and optometry shall be considered the practice of only one profession for purposes of professional corporations; to provide for related matters; to repeal conflicting laws; and for other purposes.

The following Committee substitute was read and adopted:

A BILL TO BE ENTITLED
AN ACT

To amend Code Section 14-7-4 of the Official Code of Georgia Annotated, relating to professional services provided by professional corporations, so as to provide that the practice of medicine and surgery and optometry shall be considered the practice of only one profession for purposes of professional corporations; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 14-7-4 of the Official Code of Georgia Annotated, relating to professional services provided by professional corporations, is amended by revising subsection (a) as follows:

"(a) A professional corporation may practice only one profession, but for the purpose of this chapter, (1) the practice of architecture, professional engineering, and land surveying shall be considered the practice of only one profession to the extent that existing laws permit overlapping practices by members of those specific professions not inconsistent with the ethics of the professions involved, and (2) to the extent not

inconsistent with the ethics of the professions involved or otherwise prohibited by law, physicians specializing in ophthalmology that are practicing within their scope of practice as established by law may organize and jointly own a professional corporation with optometrists that are practicing within their scope of practice as established by law; provided, however, that nothing in this paragraph shall authorize optometrists to attach the title 'physician' to such optometrists' names or to the name of the professional corporation."

SECTION 2.

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

The report of the Committee, which was favorable to the passage of the Bill, by substitute, was agreed to.

On the passage of the Bill, by substitute, the roll call was ordered and the vote was as follows:

| | | | | |
|------------------|-------------------|---------------|-----------------|----------------|
| Y Abrams | Y Coomer | Y Harbin | Y Meadows | Y Smith, E |
| Y Alexander | Y Cooper | Y Harden | Y Mitchell | Y Smith, L |
| Y Allison | Y Corbett | Y Harrell | E Morris | Y Smith, M |
| E Anderson | E Dawkins-Haigler | Y Hatchett | Y Mosby | Y Smith, R |
| Y Atwood | Y Deffenbaugh | Y Hawkins | Y Nimmer | E Smyre |
| Y Ballinger | Y Dempsey | Y Henson | Y Nix | Y Spencer |
| Y Barr | Y Dickerson | Y Hightower | Y Oliver | Y Stephens, M |
| E Battles | Y Dickey | Y Hitchens | Y O'Neal | Y Stephens, R |
| E Beasley-Teague | Y Dickson | Y Holcomb | Y Pak | Y Stephenson |
| Y Bell | Dollar | Y Holmes | Y Parrish | Y Stovall |
| Y Belton | Y Douglas | Y Houston | Y Parsons | Y Stover |
| E Bennett | Y Drenner | Y Howard | Y Peake | Y Strickland |
| Y Bentley | Y Dudgeon | Y Hugley | Y Petrea | Y Tankersley |
| Y Benton | E Dukes | Y Jackson | Y Pezold | Y Tanner |
| Y Beskin | Y Dunahoo | Y Jacobs | Y Powell, A | Y Tarvin |
| Y Beverly | Y Duncan | Y Jasperse | Y Powell, J | Y Taylor, D |
| Y Broadrick | Y Ealum | Y Jones, J | Y Prince | Y Taylor, T |
| Y Brockway | Y Efstration | Y Jones, J.B. | Y Pruett | Y Teasley |
| Y Brooks | Y Ehrhart | E Jones, L | Y Quick | Y Thomas, A.M. |
| E Bruce | Y England | Y Jones, S | Y Raffensperger | Y Thomas, E |
| Y Bryant | Y Epps | E Jordan | Y Rakestraw | Y Trammell |
| Y Buckner | E Evans | Y Kaiser | Y Ramsey | Y Turner |
| Y Burns | Y Fleming | Y Kelley | E Randall | Y Waites |
| E Caldwell, J | Y Floyd | Y Kendrick | Y Reeves | Y Watson |
| Y Caldwell, M | Y Fludd | Y Kidd | Y Rhodes | Y Welch |
| Y Cantrell | Y Frazier | Y Kirby | Y Rice | E Weldon |
| Y Carson | E Frye | Y Knight | Y Roberts | Y Werkheiser |
| Y Carter | Gardner | Y LaRiccica | Y Rogers, C | Y Wilkerson |
| E Casas | Y Gasaway | Y Lumsden | Y Rogers, T | Y Wilkinson |
| Y Chandler | Y Geisinger | Y Mabra | Y Rutledge | Y Willard |
| Y Cheokas | Y Glanton | E Marin | Y Rynders | Y Williams, A |
| Y Clark, D | Y Golick | Y Martin | Y Scott | Y Williams, C |
| Y Clark, H | Y Gordon | Y Maxwell | Y Setzler | Y Williams, E |
| Y Clark, V | Y Gravley | E Mayo | Y Sharper | Y Williamson |

Y Coleman
E Cooke

Y Greene
Y Hamilton

Y McCall
Y McClain

Y Shaw
Y Sims

Y Yates
Ralston, Speaker

On the passage of the Bill, by substitute, the ayes were 157, nays 0.

The Bill, having received the requisite constitutional majority, was passed, by substitute.

The following Bills of the House, having been postponed from the previous legislative day, were taken up for consideration and read the third time:

HB 210. By Representatives Rogers of the 10th, Mayo of the 84th, Jasperse of the 11th, Dempsey of the 13th, Rice of the 95th and others:

A BILL to be entitled an Act to amend Chapter 5 of Title 40 of the O.C.G.A., relating to drivers' licenses, so as to provide for the dissemination of certain information by the Department of Driver Services; to provide for participation in an anatomical gift donation program when obtaining a personal identification card through the department; to provide for the designation of such participation on personal identification cards; to provide for the dissemination of identifying information for applicants making such election; to provide for legislative findings; to provide for the option of a voluntary contribution from applicants of personal identification cards to prevent blindness and preserve sight; to provide for related matters; to repeal conflicting laws; and for other purposes.

The following Committee substitute was read and adopted:

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses, so as to provide for the dissemination of certain information by the Department of Driver Services; to provide for participation in an anatomical gift donation program when obtaining a personal identification card through the department; to provide for the designation of such participation on personal identification cards; to provide for the dissemination of identifying information for applicants making such election; to provide for legislative findings; to provide for the option of a voluntary contribution from applicants of personal identification cards to prevent blindness and preserve sight; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses, is amended in Code Section 40-5-2, relating to information which may be disseminated by the Department of Driver Services, by revising paragraph (5) of subsection (f) as follows:

"(5) The information required to be made available to organ procurement organizations pursuant to subsection (d) of Code Section 40-5-25 and subsection (e) of Code Section 40-5-100 and for the purposes set forth in such Code ~~section~~ sections;"

SECTION 2.

Said chapter is further amended by revising Code Section 40-5-6, relating to forms for making anatomical gifts, as follows:

"40-5-6.

(a) Whenever any person applies for or requests the issuance, reissuance, or renewal of any class of driver's license or personal identification card, the department shall furnish ~~that~~ such person with a form, sufficient under Article 6 of Chapter 5 of Title 44, the 'Georgia Revised Uniform Anatomical Gift Act,' for the gift of all or part of the donor's body conditioned upon the donor's death. If any such person, legally authorized to execute such a gift as provided for pursuant to Code Section 44-5-142, desires to execute a gift, the department shall provide ~~that~~ such person with appropriate assistance and the presence of the legally required number of witnesses.

(b) A notation shall be affixed to or made a part of every driver's license and personal identification card issued in this state indicating whether or not the licensee or cardholder has executed, under Article 6 of Chapter 5 of Title 44, the 'Georgia Revised Uniform Anatomical Gift Act,' a gift, by will or otherwise, of all or part of his or her body conditioned upon the donor's death."

SECTION 3.

Said chapter is further amended in Code Section 40-5-25, relating to indication of participation in voluntary programs on an application for a driver's license, by revising subsection (d) and paragraph (1) of subsection (e) as follows:

"(d)(1) The General Assembly finds that it is in the best interest of ~~the~~ this state to encourage improved public education and awareness regarding anatomical gifts of human organs and tissues and to address the ever increasing need for donations of anatomical gifts for the benefit of the citizens of Georgia.

(2) The department shall make available to ~~those federally designated organ~~ procurement organizations or secure data centers maintained and managed at the direction of a procurement organization information provided for in Article 6 of Chapter 5 of Title 44, the 'Georgia Revised Uniform Anatomical Gift Act,' including the name, license number, date of birth, gender, and most recent address of any person eligible pursuant to Code Section 44-5-142 who obtains an organ donor driver's license; provided, however, that the gender information shall be made available only

to a procurement organization or secure data center if such organization or center has sufficient funds to cover the associated costs of providing such information. Information so obtained by such organizations and centers shall be used for the purpose of establishing a state-wide organ donor registry accessible to organ tissue and eye banks authorized to function as such in this state and shall not be further disseminated.

(e)(1) The General Assembly finds that it is in the best ~~interests~~ interest of ~~the~~ this state to encourage improved public education and awareness regarding blindness and to address the need for blindness prevention screenings, ~~and~~ treatments, and rehabilitation for the benefit of the citizens of Georgia."

SECTION 4.

Said chapter is further amended in Code Section 40-5-100, relating to the issuance of personal identification cards, by revising subsection (a) and adding new subsections to read as follows:

"(a) The department shall issue personal identification cards to all residents as defined in Code Section 40-5-1 who make application to the department in accordance with rules and regulations prescribed by the commissioner. Cards issued to applicants under 21 years of age shall contain the distinctive characteristics of drivers' licenses issued pursuant to Code Section 40-5-26. The identification card shall be similar in form but distinguishable in color from motor vehicle drivers' licenses and may contain a recent color photograph of the applicant and include the following information:

- (1) Full legal name;
- (2) Address of residence;
- (3) Birth date;
- (4) Date identification card was issued;
- (5) Sex;
- (6) Height;
- (7) Weight;
- (8) Eye color;
- (9) Signature of person identified or facsimile thereof; ~~and~~
- (10) Designation of participation in an anatomical gift donation program when such person is eligible to make such gift pursuant to Code Section 44-5-142; and
- (11) Such other information or identification as required by the department; provided, however, that the department shall not require an applicant to submit or otherwise obtain from an applicant any fingerprints or any other biological characteristic or information which uniquely identifies an individual, including without limitation deoxyribonucleic acid (DNA) and retinal scan identification characteristics but not including a photograph, by any means upon application."

"(e)(1) The General Assembly finds that it is in the best interest of this state to encourage improved public education and awareness regarding anatomical gifts of human organs and tissues and to address the ever increasing need for donations of anatomical gifts for the benefit of the citizens of Georgia.

(2) The department shall make available to procurement organizations or secure data centers maintained and managed at the direction of a procurement organization information provided for in Article 6 of Chapter 5 of Title 44, the 'Georgia Revised Uniform Anatomical Gift Act,' including the name, personal identification card number, date of birth, gender, and most recent address of any person who obtains an organ donor identification card; provided, however, that the gender information shall be made available only to a procurement organization or secure data center if such organization or center has sufficient funds to cover the associated costs of providing such information. Information so obtained by such organizations and centers shall be used for a state-wide organ donor registry accessible to organ tissue and eye banks authorized to function as such in this state and shall not be further disseminated.

(f)(1) The General Assembly finds that it is in the best interest of this state to encourage improved public education and awareness regarding blindness and to address the need for blindness prevention screenings, treatments, and rehabilitation for the benefit of the citizens of Georgia.

(2) Each application form for issuance, reissuance, or renewal of a personal identification card under this Code section shall include language permitting the applicant to make a voluntary contribution of \$1.00 to be used for purposes of preventing blindness and preserving the sight of residents of this state. Any such voluntary contribution shall be made at the discretion of the applicant at the time of application in addition to payment of the personal identification card fee prescribed by the commissioner.

(3) Voluntary contributions made pursuant to this subsection shall be transmitted to the Department of Public Health for use thereby in providing the blindness education, screening, and treatment program provided by Code Section 31-1-23."

SECTION 5.

This Act shall become effective on January 1, 2016.

SECTION 6.

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

The report of the Committee, which was favorable to the passage of the Bill, by substitute, was agreed to.

On the passage of the Bill, by substitute, the roll call was ordered and the vote was as follows:

| | | | | |
|-------------|-------------------|------------|------------|------------|
| Y Abrams | Y Coomer | Y Harbin | Y Meadows | Y Smith, E |
| Y Alexander | Y Cooper | Y Harden | Y Mitchell | Y Smith, L |
| Y Allison | Y Corbett | Y Harrell | E Morris | Y Smith, M |
| E Anderson | E Dawkins-Haigler | Y Hatchett | Y Mosby | Y Smith, R |
| Y Atwood | Y Deffenbaugh | Y Hawkins | Y Nimmer | E Smyre |
| Y Ballinger | Y Dempsey | Y Henson | Y Nix | Y Spencer |

| | | | | |
|------------------|--------------|---------------|-----------------|------------------|
| Y Barr | Y Dickerson | Y Hightower | Y Oliver | Y Stephens, M |
| E Battles | Y Dickey | Y Hitchens | Y O'Neal | Y Stephens, R |
| E Beasley-Teague | Y Dickson | Y Holcomb | Y Pak | Y Stephenson |
| Y Bell | Y Dollar | Y Holmes | Y Parrish | Y Stovall |
| Y Belton | Y Douglas | Y Houston | Y Parsons | Y Stover |
| E Bennett | Y Drenner | Y Howard | Y Peake | Y Strickland |
| Y Bentley | Y Dudgeon | Y Hugley | Y Petrea | Y Tankersley |
| Y Benton | E Dukes | Y Jackson | Y Pezold | Y Tanner |
| Y Beskin | Y Dunahoo | Y Jacobs | Y Powell, A | Y Tarvin |
| Beverly | Y Duncan | Y Jasperse | Y Powell, J | Y Taylor, D |
| Y Broadrick | Y Ealum | Y Jones, J | Y Prince | Y Taylor, T |
| Y Brockway | Y Efstration | Y Jones, J.B. | Y Pruett | Y Teasley |
| Y Brooks | Y Ehrhart | E Jones, L | Y Quick | Y Thomas, A.M. |
| E Bruce | Y England | Y Jones, S | Y Raffensperger | Y Thomas, E |
| Y Bryant | Y Epps | E Jordan | Y Rakestraw | Y Trammell |
| Y Buckner | E Evans | Y Kaiser | Y Ramsey | Y Turner |
| Y Burns | Y Fleming | Y Kelley | E Randall | Y Waites |
| E Caldwell, J | Y Floyd | Y Kendrick | Y Reeves | Y Watson |
| Y Caldwell, M | Y Fludd | Y Kidd | Y Rhodes | Y Welch |
| Y Cantrell | Y Frazier | Y Kirby | Y Rice | E Weldon |
| Y Carson | E Frye | Y Knight | Y Roberts | Y Werkheiser |
| Y Carter | Y Gardner | Y LaRiccica | Y Rogers, C | Y Wilkerson |
| E Casas | Y Gasaway | Y Lumsden | Y Rogers, T | Y Wilkinson |
| Y Chandler | Y Geisinger | Y Mabra | Y Rutledge | Y Willard |
| Y Cheokas | Y Glanton | E Marin | Y Rynders | Y Williams, A |
| Y Clark, D | Y Golick | Y Martin | Y Scott | Y Williams, C |
| Y Clark, H | Y Gordon | Y Maxwell | Y Setzler | Y Williams, E |
| Y Clark, V | Y Gravley | E Mayo | Y Sharper | Y Williamson |
| Y Coleman | Y Greene | Y McCall | Y Shaw | Y Yates |
| E Cooke | Y Hamilton | Y McClain | Y Sims | Ralston, Speaker |

On the passage of the Bill, by substitute, the ayes were 158, nays 0.

The Bill, having received the requisite constitutional majority, was passed, by substitute.

HB 362. By Representatives Clark of the 101st, Cooper of the 43rd, Fleming of the 121st, Coleman of the 97th, Carter of the 175th and others:

A BILL to be entitled an Act to amend Part 3 of Article 16 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to student health in elementary and secondary education; to amend Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to pharmacists and pharmacies, so as to authorize licensed health practitioners to prescribe albuterol sulfate for schools; to authorize pharmacists to fill such prescriptions; to provide for related matters; to repeal conflicting laws; and for other purposes.

The following Committee substitute was read and adopted:

A BILL TO BE ENTITLED
AN ACT

To amend Part 3 of Article 16 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to student health in elementary and secondary education, so as to authorize public and private schools to stock a supply of levalbuterol sulfate; to provide for definitions; to provide for requirements and reporting; to provide for arrangements with manufacturers; to provide for rules and regulations; to provide for local board of education policies authorizing school personnel to administer levalbuterol sulfate to students who are in perceived respiratory distress; to provide for information for school personnel; to provide for limited liability; to amend Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to pharmacists and pharmacies, so as to authorize licensed health practitioners to prescribe levalbuterol sulfate for schools; to authorize pharmacists to fill such prescriptions; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 3 of Article 16 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to student health in elementary and secondary education, is amended by adding a new Code section to read as follows:

"20-2-776.3.

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

(1) 'Levalbuterol sulfate' means an orally inhaled medication that contains a premeasured single dose of levalbuterol sulfate or albuterol sulfate delivered by a nebulizer or compressor device or by a pressurized metered dose inhaler used to treat perceived respiratory distress including, but not limited to, wheezing, shortness of breath, and difficulty breathing.

(2) 'Licensed practitioner' means a physician licensed to practice medicine in this state, an advanced practice registered nurse acting pursuant to the authority of Code Section 43-34-25, and a physician assistant acting pursuant to the authority of subsection (e.1) of Code Section 43-34-103.

(b) A public or private school in this state may acquire and stock a supply of levalbuterol sulfate pursuant to a prescription issued in accordance with Code Section 26-4-116.3. A public or private school may designate an employee or agent trained in the possession and administration of levalbuterol sulfate to be responsible for the storage, maintenance, and distribution of the levalbuterol sulfate stocked by the school.

(c) Any school employee or agent of a public or private school who has completed training or received information pursuant to subsection (c) of Code Section 20-2-776.4 in recognizing the symptoms of respiratory distress and the correct method of administering the levalbuterol sulfate may:

- (1) Provide levalbuterol sulfate to any student such employee or agent believes in good faith is experiencing a perceived respiratory distress for immediate self-administration; or
- (2) Administer levalbuterol sulfate to any student such employee or agent believes in good faith is experiencing a perceived respiratory distress, regardless of whether the student has a prescription for levalbuterol sulfate.
- (d) A public or private school may enter into arrangements with manufacturers of approved levalbuterol sulfate or third-party suppliers of levalbuterol sulfate to obtain the products free of charge or at fair market or reduced prices.
- (e) No later than July 1, 2015, the State Board of Education, in consultation with the Department of Public Health, shall adopt regulations as necessary to implement the provisions of this Code section.
- (f)(1) Any school personnel who in good faith administers or chooses not to administer levalbuterol sulfate to a student pursuant to this Code section shall be immune from civil liability for any act or omission to act related to the administration of levalbuterol sulfate, except that such immunity shall not apply to an act of willful or wanton misconduct.
- (2) Any licensed practitioner who prescribes levalbuterol sulfate pursuant to Code Section 26-4-116.3 for use by a school in accordance with this Code section shall be immune from civil liability for any act or omission to act related to the administration of such levalbuterol sulfate, except that such immunity shall not apply to an act of willful or wanton misconduct.

20-2-776.4.

- (a) As used in this Code section, the term 'levalbuterol sulfate' means an orally inhaled medication that contains a premeasured single dose of levalbuterol sulfate or albuterol sulfate delivered by a nebulizer or compressor device or by a pressurized metered dose inhaler used to treat perceived respiratory distress including, but not limited to, wheezing, shortness of breath, and difficulty breathing.
- (b) Each local board of education shall adopt a policy authorizing school personnel to administer levalbuterol sulfate, if available, to a student upon the occurrence of perceived respiratory distress by the student, whether or not such student has a prescription for levalbuterol sulfate.
- (c) Each local board of education shall provide information to school personnel on how to recognize the symptoms of respiratory distress and the correct method of administering the levalbuterol sulfate.
- (d) Any school personnel who in good faith administers or chooses not to administer levalbuterol sulfate to a student pursuant to this Code section shall be immune from civil liability for any act or omission to act related to the administration of levalbuterol sulfate, except that such immunity shall not apply to an act of willful or wanton misconduct."

SECTION 2.

Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to pharmacists and pharmacies, is amended by adding a new Code section to read as follows:

"26-4-116.3.

(a) A physician licensed to practice medicine in this state, an advanced practice registered nurse acting pursuant to the authority of Code Section 43-34-25, and a physician assistant acting pursuant to the authority of subsection (e.1) of Code Section 43-34-103 may prescribe levalbuterol sulfate or albuterol sulfate in the name of a public or private school for use in accordance with Code Section 20-2-776.3.

(b) A pharmacist may dispense levalbuterol sulfate or albuterol sulfate pursuant to a prescription issued in accordance with subsection (a) of this Code section."

SECTION 3.

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

The report of the Committee, which was favorable to the passage of the Bill, by substitute, was agreed to.

On the passage of the Bill, by substitute, the roll call was ordered and the vote was as follows:

| | | | | |
|------------------|-------------------|---------------|-----------------|----------------|
| Y Abrams | Y Coomer | Y Harbin | Y Meadows | Y Smith, E |
| Y Alexander | Y Cooper | Y Harden | Y Mitchell | Y Smith, L |
| Y Allison | Y Corbett | Y Harrell | E Morris | Y Smith, M |
| E Anderson | E Dawkins-Haigler | Y Hatcher | Y Mosby | Y Smith, R |
| Y Atwood | Y Deffenbaugh | Y Hawkins | Y Nimmer | E Smyre |
| Y Ballinger | Y Dempsey | Y Henson | Y Nix | Y Spencer |
| Y Barr | Y Dickerson | Y Hightower | Y Oliver | Y Stephens, M |
| E Battles | Y Dickey | Y Hitchens | Y O'Neal | Y Stephens, R |
| E Beasley-Teague | Y Dickson | Y Holcomb | Y Pak | Y Stephenson |
| Y Bell | Y Dollar | Y Holmes | Y Parrish | Y Stovall |
| Y Belton | Y Douglas | Y Houston | Y Parsons | Y Stover |
| E Bennett | Y Drenner | Y Howard | Y Peake | Y Strickland |
| Y Bentley | Y Dudgeon | Y Hugley | Y Petrea | Y Tankersley |
| Y Benton | E Dukes | Y Jackson | Y Pezold | Y Tanner |
| Y Beskin | Y Dunahoo | Y Jacobs | Y Powell, A | Y Tarvin |
| Y Beverly | Y Duncan | Y Jasperse | Y Powell, J | Y Taylor, D |
| Y Broadrick | Y Ealum | Y Jones, J | Y Prince | Y Taylor, T |
| Y Brockway | Y Efstration | Y Jones, J.B. | Y Pruett | Y Teasley |
| Y Brooks | E Ehrhart | E Jones, L | Y Quick | Y Thomas, A.M. |
| E Bruce | Y England | Y Jones, S | Y Raffensperger | Y Thomas, E |
| Y Bryant | Y Epps | E Jordan | Y Rakestraw | Y Trammell |
| Y Buckner | E Evans | Kaiser | Y Ramsey | Y Turner |
| Y Burns | Y Fleming | Y Kelley | E Randall | Y Waites |
| E Caldwell, J | Y Floyd | Y Kendrick | Y Reeves | Y Watson |
| Y Caldwell, M | Y Fludd | Y Kidd | Y Rhodes | Y Welch |
| Y Cantrell | Y Frazier | Y Kirby | Y Rice | E Weldon |
| Y Carson | E Frye | Y Knight | Y Roberts | Y Werkheiser |
| Y Carter | Y Gardner | Y LaRiccica | Y Rogers, C | Y Wilkerson |
| E Casas | Y Gasaway | Y Lumsden | Y Rogers, T | Y Wilkinson |

| | | | | |
|------------|-------------|-----------|------------|------------------|
| Y Chandler | Y Geisinger | Y Mabra | Y Rutledge | Y Willard |
| Y Cheokas | Y Glanton | E Marin | Y Rynders | Y Williams, A |
| Y Clark, D | Y Golick | Y Martin | Y Scott | Y Williams, C |
| Y Clark, H | Y Gordon | Y Maxwell | Y Setzler | Y Williams, E |
| Y Clark, V | Y Gravley | E Mayo | Y Sharper | Y Williamson |
| Y Coleman | Y Greene | Y McCall | Y Shaw | Y Yates |
| E Cooke | Y Hamilton | Y McClain | Y Sims | Ralston, Speaker |

On the passage of the Bill, by substitute, the ayes were 157, nays 0.

The Bill, having received the requisite constitutional majority, was passed, by substitute.

HB 325. By Representatives Hitchens of the 161st, Tanner of the 9th, Lumsden of the 12th, Wilkinson of the 52nd, Atwood of the 179th and others:

A BILL to be entitled an Act to amend Code Section 40-8-76.1 of the Official Code of Georgia Annotated, relating to use of safety belts in passenger vehicles, so as to modify the definition of the term "passenger vehicle" to which the safety belt law applies; to provide for the imposition of fines; to provide for related matters; to repeal conflicting laws; and for other purposes.

The following Committee substitute was read and adopted:

**A BILL TO BE ENTITLED
AN ACT**

To amend Code Section 40-8-76.1 of the Official Code of Georgia Annotated, relating to use of safety belts in passenger vehicles, so as to modify the definition of the term "passenger vehicle" to which the safety belt law applies; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 40-8-76.1 of the Official Code of Georgia Annotated, relating to use of safety belts in passenger vehicles, is amended by revising subsection (a) as follows:

"(a) As used in this Code section, the term 'passenger vehicle' means every motor vehicle, including, but not limited to, pickup trucks, vans, and sport utility vehicles, designed to carry ~~ten~~ 15 passengers or fewer and used for the transportation of persons; provided, however, that such term shall not include motorcycles; motor driven cycles; or off-road vehicles or pickup trucks being used by an owner, driver, or occupant 18 years of age or older in connection with agricultural pursuits that are usual and normal

to the user's farming operation; and provided, further, that such term shall not include motor vehicles designed to carry 11 to 15 passengers which were manufactured prior to July 1, 2015, and which, as of such date, did not have manufacturer installed seat safety belts."

SECTION 2.

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

The report of the Committee, which was favorable to the passage of the Bill, by substitute, was agreed to.

On the passage of the Bill, by substitute, the roll call was ordered and the vote was as follows:

| | | | | |
|------------------|-------------------|---------------|-----------------|------------------|
| Y Abrams | Y Coomer | Y Harbin | Y Meadows | Y Smith, E |
| Y Alexander | Y Cooper | Y Harden | Y Mitchell | Y Smith, L |
| N Allison | Y Corbett | N Harrell | E Morris | Y Smith, M |
| E Anderson | E Dawkins-Haigler | Y Hatchett | Y Mosby | Y Smith, R |
| Y Atwood | Y Deffenbaugh | Y Hawkins | Y Nimmer | E Smyre |
| Y Ballinger | Y Dempsey | N Henson | Y Nix | N Spencer |
| Barr | Y Dickerson | Y Hightower | Y Oliver | Y Stephens, M |
| E Battles | Y Dickey | Y Hitchens | Y O'Neal | Y Stephens, R |
| E Beasley-Teague | Y Dickson | Y Holcomb | Y Pak | Y Stephenson |
| Y Bell | Y Dollar | Y Holmes | Y Parrish | Y Stovall |
| Y Belton | Y Douglas | Y Houston | Y Parsons | N Stover |
| E Bennett | Y Drenner | Y Howard | Y Peake | Y Strickland |
| Y Bentley | N Dudgeon | Y Hugley | Y Petrea | Y Tankersley |
| Y Benton | E Dukes | Y Jackson | N Pezold | Y Tanner |
| Y Beskin | N Dunahoo | Y Jacobs | Y Powell, A | N Tarvin |
| Y Beverly | N Duncan | Y Jasperse | Y Powell, J | Y Taylor, D |
| Y Broadrick | Y Ealum | Y Jones, J | Y Prince | Y Taylor, T |
| N Brockway | Y Efrstration | Y Jones, J.B. | Y Pruet | N Teasley |
| Y Brooks | Y Ehrhart | E Jones, L | N Quick | Y Thomas, A.M. |
| E Bruce | Y England | Y Jones, S | Y Raffensperger | Y Thomas, E |
| Y Bryant | Y Epps | E Jordan | N Rakestraw | Y Trammell |
| Y Buckner | E Evans | Y Kaiser | Y Ramsey | N Turner |
| Y Burns | Y Fleming | N Kelley | E Randall | Y Waites |
| E Caldwell, J | Y Floyd | Y Kendrick | Y Reeves | Y Watson |
| N Caldwell, M | Y Fludd | Y Kidd | Y Rhodes | Y Welch |
| Y Cantrell | Y Frazier | Y Kirby | Y Rice | E Weldon |
| Y Carson | E Frye | Y Knight | N Roberts | Y Werkheiser |
| Y Carter | Y Gardner | Y LaRiccia | Rogers, C | Y Wilkerson |
| E Casas | Y Gasaway | Y Lumsden | Y Rogers, T | Y Wilkinson |
| Y Chandler | Y Geisinger | Y Mabra | N Rutledge | Y Willard |
| Y Cheokas | Y Glanton | E Marin | Y Rynders | Y Williams, A |
| N Clark, D | Y Golick | Y Martin | Y Scott | Y Williams, C |
| N Clark, H | Y Gordon | N Maxwell | Y Setzler | Y Williams, E |
| Y Clark, V | N Gravley | E Mayo | Y Sharper | Y Williamson |
| Y Coleman | Y Greene | N McCall | Y Shaw | Y Yates |
| E Cooke | Y Hamilton | Y McClain | Y Sims | Ralston, Speaker |

On the passage of the Bill, by substitute, the ayes were 133, nays 24.

The Bill, having received the requisite constitutional majority, was passed, by substitute.

HB 207. By Representatives Beskin of the 54th, Willard of the 51st, Pak of the 108th, Caldwell of the 131st, Quick of the 117th and others:

A BILL to be entitled an Act to amend Title 15 of the Official Code of Georgia Annotated, relating to courts, so as to change provisions relating to when a judge, judicial officer, grand juror, or trial juror may be disqualified from presiding or serving, as applicable, due to being related by consanguinity or affinity to a party; to provide for related matters; to repeal conflicting laws; and for other purposes.

The report of the Committee, which was favorable to the passage of the Bill, was agreed to.

On the passage of the Bill, the roll call was ordered and the vote was as follows:

| | | | | |
|------------------|-------------------|---------------|-----------------|----------------|
| Y Abrams | Y Coomer | Y Harbin | Y Meadows | Y Smith, E |
| Y Alexander | Y Cooper | Y Harden | Y Mitchell | Y Smith, L |
| Y Allison | Y Corbett | Y Harrell | E Morris | Y Smith, M |
| E Anderson | E Dawkins-Haigler | Y Hatcher | Y Mosby | Y Smith, R |
| Y Atwood | Y Deffenbaugh | Y Hawkins | Y Nimmer | E Smyre |
| Y Ballinger | Y Dempsey | Y Henson | Y Nix | Y Spencer |
| Y Barr | Y Dickerson | Y Hightower | Y Oliver | Y Stephens, M |
| E Battles | Y Dickey | Y Hitchens | Y O'Neal | Y Stephens, R |
| E Beasley-Teague | Y Dickson | Y Holcomb | Y Pak | Y Stephenson |
| Y Bell | Y Dollar | Y Holmes | Y Parrish | Y Stovall |
| Y Belton | Y Douglas | Y Houston | Y Parsons | Y Stover |
| E Bennett | Y Drenner | Y Howard | Y Peake | Y Strickland |
| Y Bentley | Y Dudgeon | Y Hugley | Y Petrea | Y Tankersley |
| Y Benton | E Dukes | Y Jackson | Y Pezold | Y Tanner |
| Y Beskin | Y Dunahoo | Y Jacobs | Y Powell, A | Y Tarvin |
| Y Beverly | Y Duncan | Y Jasperse | Y Powell, J | Y Taylor, D |
| Y Broadrick | Y Ealum | Y Jones, J | Y Prince | Y Taylor, T |
| Y Brockway | Y Efstraction | Y Jones, J.B. | Y Pruet | Y Teasley |
| Y Brooks | Y Ehrhart | E Jones, L | Y Quick | Y Thomas, A.M. |
| E Bruce | Y England | Y Jones, S | Y Raffensperger | Y Thomas, E |
| Y Bryant | Y Epps | E Jordan | Y Rakestraw | N Trammell |
| Y Buckner | E Evans | Y Kaiser | Y Ramsey | Y Turner |
| Y Burns | Y Fleming | Y Kelley | E Randall | Y Waites |
| E Caldwell, J | Y Floyd | Y Kendrick | Y Reeves | Y Watson |
| Y Caldwell, M | Y Fludd | Y Kidd | Y Rhodes | Y Welch |
| Y Cantrell | Y Frazier | Y Kirby | Y Rice | E Weldon |
| Y Carson | E Frye | Y Knight | Y Roberts | Y Werkheiser |
| Y Carter | N Gardner | Y LaRiccica | N Rogers, C | Y Wilkerson |
| E Casas | Y Gasaway | Y Lumsden | Y Rogers, T | Y Wilkinson |
| Y Chandler | Y Geisinger | Y Mabra | Y Rutledge | Y Willard |

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|------------|------------|-----------|-----------|------------------|
| Y Cheokas | Y Glanton | E Marin | Y Rynders | Y Williams, A |
| Y Clark, D | Y Golick | Y Martin | Y Scott | Y Williams, C |
| Y Clark, H | Y Gordon | Y Maxwell | Y Setzler | Y Williams, E |
| Y Clark, V | Y Gravley | E Mayo | Y Sharper | Williamson |
| Y Coleman | Y Greene | Y McCall | Y Shaw | Y Yates |
| E Cooke | Y Hamilton | Y McClain | Y Sims | Ralston, Speaker |

On the passage of the Bill, the ayes were 155, nays 3.

The Bill, having received the requisite constitutional majority, was passed.

HB 184. By Representatives Williamson of the 115th, Morris of the 156th, Fludd of the 64th, Knight of the 130th, Coomer of the 14th and others:

A BILL to be entitled an Act to amend Title 7 of the Official Code of Georgia Annotated, relating to banking and finance, so to extensively revise said title; to provide for definitions relative to banking and finance; to provide for standards of notice for the Department of Banking and Finance; to provide for rules and regulations of the department; to provide for the deposit of funds in merchant acquirer limited purpose banks; to provide for related matters; to repeal conflicting laws; and for other purposes.

The report of the Committee, which was favorable to the passage of the Bill, was agreed to.

On the passage of the Bill, the roll call was ordered and the vote was as follows:

| | | | | |
|------------------|-------------------|---------------|-----------------|----------------|
| Y Abrams | Y Coomer | Y Harbin | Y Meadows | Y Smith, E |
| Y Alexander | Y Cooper | Y Harden | Y Mitchell | Y Smith, L |
| Y Allison | Y Corbett | Y Harrell | E Morris | Y Smith, M |
| E Anderson | E Dawkins-Haigler | Y Hatcher | Y Mosby | Y Smith, R |
| Y Atwood | Y Deffenbaugh | Y Hawkins | Y Nimmer | E Smyre |
| Y Ballinger | Y Dempsey | Y Henson | Y Nix | Y Spencer |
| Y Barr | Y Dickerson | Y Hightower | Y Oliver | Y Stephens, M |
| E Battles | Y Dickey | Y Hitchens | Y O'Neal | Y Stephens, R |
| E Beasley-Teague | Y Dickson | Y Holcomb | Y Pak | Y Stephenson |
| Bell | Y Dollar | Y Holmes | Y Parrish | Y Stovall |
| Y Belton | Y Douglas | Y Houston | Y Parsons | Y Stover |
| E Bennett | Y Drenner | Y Howard | Y Peake | Y Strickland |
| Y Bentley | Y Dudgeon | Y Hugley | Y Petrea | Y Tankersley |
| Y Benton | E Dukes | Y Jackson | Y Pezold | Y Tanner |
| Y Beskin | Y Dunahoo | Y Jacobs | Y Powell, A | Y Tarvin |
| Y Beverly | Y Duncan | Y Jasperse | Y Powell, J | Y Taylor, D |
| Y Broadrick | Y Ealum | Y Jones, J | Y Prince | Y Taylor, T |
| Y Brockway | Y Efrstration | Y Jones, J.B. | Y Pruet | Y Teasley |
| Y Brooks | Y Ehrhart | E Jones, L | Y Quick | Y Thomas, A.M. |
| E Bruce | Y England | Y Jones, S | Y Raffensperger | Y Thomas, E |
| Y Bryant | Y Epps | E Jordan | Y Rakestraw | Y Trammell |
| Y Buckner | E Evans | Y Kaiser | Y Ramsey | Y Turner |
| Y Burns | Y Fleming | Y Kelley | E Randall | Y Waites |

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|---------------|-------------|-------------|-------------|------------------|
| E Caldwell, J | Y Floyd | Y Kendrick | Y Reeves | Y Watson |
| Y Caldwell, M | Y Fludd | Y Kidd | Y Rhodes | Y Welch |
| Y Cantrell | Y Frazier | Y Kirby | Y Rice | E Weldon |
| Y Carson | E Frye | Y Knight | Y Roberts | Y Werkheiser |
| Y Carter | Y Gardner | Y LaRiccica | Y Rogers, C | Y Wilkerson |
| E Casas | Y Gasaway | Y Lumsden | Y Rogers, T | Y Wilkinson |
| Y Chandler | Y Geisinger | Y Mabra | Y Rutledge | Y Willard |
| Y Cheokas | Y Glanton | E Marin | Y Rynders | Y Williams, A |
| Y Clark, D | Y Golick | Y Martin | Y Scott | Y Williams, C |
| Y Clark, H | Y Gordon | Y Maxwell | Y Setzler | Y Williams, E |
| Y Clark, V | Y Gravley | E Mayo | Y Sharper | Y Williamson |
| Y Coleman | Y Greene | Y McCall | Y Shaw | Y Yates |
| E Cooke | Y Hamilton | Y McClain | Y Sims | Ralston, Speaker |

On the passage of the Bill, the ayes were 158, nays 0.

The Bill, having received the requisite constitutional majority, was passed.

HB 118. By Representatives Tanner of the 9th, Powell of the 32nd, Lumsden of the 12th and Hitchens of the 161st:

A BILL to be entitled an Act to amend Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses, so as to amend certain provisions relative to the issuance of commercial drivers' licenses and commercial drivers' instruction permits so as to comply with federal law; to amend Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating to uniform rules of the road, so as to prohibit certain activities with wireless telecommunications devices by drivers of commercial motor vehicles; to provide for related matters; to repeal conflicting laws; and for other purposes.

The report of the Committee, which was favorable to the passage of the Bill, was agreed to.

On the passage of the Bill, the roll call was ordered and the vote was as follows:

| | | | | |
|------------------|-------------------|-------------|------------|---------------|
| Y Abrams | Y Coomer | Y Harbin | Y Meadows | Y Smith, E |
| Y Alexander | Y Cooper | Y Harden | Y Mitchell | Y Smith, L |
| N Allison | Y Corbett | Y Harrell | E Morris | Y Smith, M |
| E Anderson | E Dawkins-Haigler | Y Hatchett | Y Mosby | Y Smith, R |
| Y Atwood | Y Deffenbaugh | Y Hawkins | Y Nimmer | E Smyre |
| Y Ballinger | Y Dempsey | Y Henson | Y Nix | N Spencer |
| Y Barr | Y Dickerson | N Hightower | Y Oliver | Y Stephens, M |
| E Battles | Y Dickey | Y Hitchens | Y O'Neal | Y Stephens, R |
| E Beasley-Teague | Y Dickson | Y Holcomb | Y Pak | Y Stephenson |
| Bell | Y Dollar | Y Holmes | Y Parrish | Y Stovall |
| Y Belton | Y Douglas | Y Houston | Y Parsons | N Stover |
| E Bennett | Y Drenner | Y Howard | Y Peake | Y Strickland |
| Y Bentley | Y Dudgeon | Y Hugley | Y Petrea | Y Tankersley |

| | | | | |
|---------------|---------------|---------------|-----------------|------------------|
| Y Benton | E Dukes | Y Jackson | N Pezold | Y Tanner |
| Y Beskin | Y Dunahoo | Y Jacobs | Y Powell, A | N Tarvin |
| Y Beverly | Y Duncan | Y Jasperse | Y Powell, J | N Taylor, D |
| Y Broadrick | Y Ealum | Y Jones, J | Y Prince | Y Taylor, T |
| Y Brockway | Y Efrstration | Y Jones, J.B. | Y Pruet | Y Teasley |
| Y Brooks | Y Ehrhart | E Jones, L | Y Quick | Y Thomas, A.M. |
| E Bruce | Y England | Y Jones, S | Y Raffensperger | Y Thomas, E |
| Y Bryant | Y Epps | E Jordan | Y Rakestraw | Y Trammell |
| Y Buckner | E Evans | Y Kaiser | Y Ramsey | N Turner |
| Y Burns | Y Fleming | Y Kelley | E Randall | Y Waites |
| E Caldwell, J | Y Floyd | Y Kendrick | Y Reeves | Y Watson |
| N Caldwell, M | Y Fludd | Y Kidd | Y Rhodes | Y Welch |
| Y Cantrell | Y Frazier | Y Kirby | Y Rice | E Weldon |
| Y Carson | E Frye | Y Knight | Y Roberts | Y Werkheiser |
| Y Carter | Y Gardner | Y LaRiccia | Y Rogers, C | Y Wilkerson |
| E Casas | Y Gasaway | Y Lumsden | Y Rogers, T | Y Wilkinson |
| Y Chandler | Y Geisinger | Y Mabra | Y Rutledge | Y Willard |
| Y Cheokas | Y Glanton | E Marin | Y Rynders | Y Williams, A |
| Y Clark, D | Y Golick | Y Martin | Y Scott | Y Williams, C |
| N Clark, H | Y Gordon | Y Maxwell | N Setzler | Y Williams, E |
| Y Clark, V | Y Gravley | E Mayo | Y Sharper | Y Williamson |
| Y Coleman | Y Greene | Y McCall | Y Shaw | Y Yates |
| E Cooke | Y Hamilton | Y McClain | Y Sims | Ralston, Speaker |

On the passage of the Bill, the ayes were 147, nays 11.

The Bill, having received the requisite constitutional majority, was passed.

By unanimous consent, the following Bills of the House, having been previously postponed, were again postponed until the next legislative day:

HB 71. By Representatives Tanner of the 9th, Golick of the 40th, Caldwell of the 131st, Atwood of the 179th, Oliver of the 82nd and others:

A BILL to be entitled an Act to amend Chapter 17 of Title 17 and Chapter 9 of Title 42 of the O.C.G.A., relating to the Crime Victims' Bill of Rights and pardons and paroles, respectively, so as to provide for input and transparency relative to the granting of a pardon or commutation of a death sentence to a life sentence; to change provisions relating to notifications by the State Board of Pardons and Paroles; to change provisions relating to the State Board of Pardons and Paroles procedure and information gathering when considering the grant of pardon, clemency, or commutation of a death sentence; to provide for exemptions from disclosure; to amend Code Section 50-13-9.1 of the O.C.G.A., relating to variance or waiver to rules, so as to correct an incorrect reference; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 192. By Representatives Powell of the 32nd and Taylor of the 79th:

A BILL to be entitled an Act to amend Chapter 80 of Title 36 of the Official Code of Georgia Annotated, relating to general provisions regarding counties, municipal corporations, and other governmental entities, so as to provide that elected officials of counties, municipal corporations, school districts, and consolidated governments shall be reimbursed for expenses only through the submission of expense reimbursement requests; to prohibit an elected official of a county, municipal corporation, school district, or consolidated government from being issued or authorized to use a government purchasing card or government credit card; to provide for the promulgation of certain policies; to provide for access to certain records; to provide for related matters; to repeal conflicting laws; and for other purposes.

The following Resolutions of the House were read and referred to the Committee on Rules:

HR 520. By Representatives Rogers of the 29th, Parrish of the 158th, Smyre of the 135th, Ehrhart of the 36th, Williams of the 119th and others:

A RESOLUTION commending Tom Daniel for his many years of service to the State of Georgia; congratulating him upon the grand occasion of his retirement; and inviting him to be recognized by the House of Representatives; and for other purposes.

HR 527. By Representative Cooper of the 43rd:

A RESOLUTION recognizing and commending Ms. Patricia S. King, of the Department of Human Services, Division of Aging Services, Forensic Special Investigations Unit, based upon her contributions to the law enforcement profession in Georgia, and inviting her to be recognized by the House of Representatives; and for other purposes.

The following Resolution of the House, referred to the House Rules Subcommittee on Invites, was reported by the Committee on Rules with the following recommendation:

HR 527 Do Pass

The following Resolution of the House, favorably reported by the Committee on Rules, was read and adopted:

HR 527. By Representative Cooper of the 43rd:

A RESOLUTION recognizing and commending Ms. Patricia S. King, of the Department of Human Services, Division of Aging Services, Forensic Special Investigations Unit, based upon her contributions to the law enforcement profession in Georgia, and inviting her to be recognized by the House of Representatives; and for other purposes.

The following Resolutions of the House and Senate were read and adopted:

HR 521. By Representative Cheokas of the 138th:

A RESOLUTION recognizing and commending Ms. Julia Caroline Bailey, outstanding Georgia citizen and Georgia Youth Equine Champion; and for other purposes.

HR 522. By Representative Cheokas of the 138th:

A RESOLUTION recognizing and commending Ms. Morgan Weaver, outstanding Georgia citizen and Georgia Youth Equine Champion; and for other purposes.

HR 523. By Representative Yates of the 73rd:

A RESOLUTION recognizing and commending Major General Thomas R. Moore on the grand occasion of his retirement; and for other purposes.

HR 524. By Representative Efstration of the 104th:

A RESOLUTION congratulating the Hebron Christian Academy boys cross country team for their victorious performance in the 2014 GHSA Class A Cross Country Championship; and for other purposes.

HR 525. By Representative Allison of the 8th:

A RESOLUTION commending Rabun County and recognizing March 3, 2015, as Rabun County Day at the state capitol; and for other purposes.

HR 526. By Representatives Gravley of the 67th, Hitchens of the 161st, Atwood of the 179th, Maxwell of the 17th, Waites of the 60th and others:

A RESOLUTION commending E-911 directors and personnel and recognizing March 4, 2015, as E-911 Directors Day at the state capitol; and for other purposes.

SR 378. By Senators Orrock of the 36th, Miller of the 49th, Unterman of the 45th, Millar of the 40th, Lucas of the 26th and others:

A RESOLUTION honoring the life and memory of Eston Wycliffe "Wyc" Orr, Sr.; and for other purposes.

Representative Stephens of the 164th moved that the following Bill of the House be withdrawn from the Committee on State Planning & Community Affairs and recommitted to the Committee on Judiciary Non-Civil:

HB 513. By Representative Stephens of the 164th:

A BILL to be entitled an Act to amend Article 3 of Chapter 11 of Title 9 of the Official Code of Georgia Annotated, relating to pleadings and motions, so as to revise provisions regarding the procedure for claims asserted against a person or entity arising from an act by that person or entity which could reasonably be construed as an act in furtherance of the right of free speech or the right to petition government for a redress of grievances; to revise definitions; to amend Chapter 5 of Title 51 of the Official Code of Georgia Annotated, relating to libel and slander, so as to revise a cross-reference; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

The motion prevailed.

Representative Dollar of the 45th District, Chairman of the Committee on Interstate Cooperation, submitted the following report:

Mr. Speaker:

Your Committee on Interstate Cooperation has had under consideration the following Resolution of the House and has instructed me to report the same back to the House with the following recommendation:

HR 395 Do Pass

Respectfully submitted,
/s/ Dollar of the 45th
Chairman

Representative Golick of the 40th District, Chairman of the Committee on Judiciary Non-Civil, submitted the following report:

Mr. Speaker:

Your Committee on Judiciary Non-Civil has had under consideration the following Bills of the House and has instructed me to report the same back to the House with the following recommendations:

HB 103 Do Pass, by Substitute
HB 310 Do Pass, by Substitute
HB 328 Do Pass, by Substitute

Respectfully submitted,
/s/ Golick of the 40th
Chairman

Representative Weldon of the 3rd District, Chairman of the Committee on Juvenile Justice, submitted the following report:

Mr. Speaker:

Your Committee on Juvenile Justice has had under consideration the following Bill of the House and has instructed me to report the same back to the House with the following recommendation:

HB 268 Do Pass, by Substitute

Respectfully submitted,
/s/ Quick of the 117th
Vice-Chairman

Representative Roberts of the 155th District, Chairman of the Committee on Transportation, submitted the following report:

Mr. Speaker:

Your Committee on Transportation has had under consideration the following Bill of the House and has instructed me to report the same back to the House with the following recommendation:

HB 170 Do Pass, by Substitute

Respectfully submitted,
/s/ Roberts of the 155th
Chairman

Representative O'Neal of the 146th moved that the House stand in recess until 4:00 o'clock, P.M., at which time the House will stand adjourned until 10:00 o'clock, tomorrow morning.

The Speaker announced the House in recess until 4:00 o'clock, P.M., at which time the House will stand adjourned until 10:00 o'clock, tomorrow morning.