

The House Committee on Judiciary offers the following substitute to HB 1:

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 9 of the Official Code of Georgia Annotated, relating to civil practice, so as
 2 to provide a comprehensive civil forfeiture procedure; to provide for a short title; to provide
 3 for definitions; to provide for jurisdiction and venue; to provide for innocent owners; to
 4 provide for seizure of property; to provide for notice and time frames for notice to interested
 5 parties; to provide for forfeiture liens; to provide for storage of property; to provide for
 6 nonjudicial forfeiture, in rem forfeiture, and in personam forfeiture; to provide for temporary
 7 relief and stays of criminal proceedings; to provide for intervention by certain parties under
 8 certain circumstances; to provide for presumptions and the burden of proof; to provide for
 9 the disposition of seized property and reporting; to provide for the effect of federal law
 10 forfeitures; to amend Chapter 18 of Title 15 of the Official Code of Georgia Annotated,
 11 relating to prosecuting attorneys, so as to create the Forfeiture and Investigative Support
 12 Trust Fund for the purpose of distributing forfeited property and income resulting from
 13 forfeited property to district attorneys; to provide for procedure; to provide for district
 14 attorney's use of forfeited property; to amend Title 16 of the Official Code of Georgia
 15 Annotated, relating to crimes and offenses, so as to conform provisions to the new Chapter
 16 16 of Title 9, correct cross-references, and remove obsolete or improper references to
 17 forfeiture; to amend Titles 3, 5, 7, 10, 12, 15, 17, 27, 36, 38, 40, 45, 46, 48, 49, and 52 of the
 18 Official Code of Georgia Annotated, relating to alcoholic beverages, appeal and error,
 19 banking and finance, commerce and trade, conservation and natural resources, courts,
 20 criminal procedure, game and fish, local government, military, emergency management, and
 21 veterans affairs, motor vehicles and traffic, public officers and employees, public utilities and
 22 public transportation, revenue and taxation, social services, and waters of the state, ports, and
 23 watercraft, respectively, so as to conform provisions to the new Chapter 16 of Title 9, correct
 24 cross-references, and remove obsolete or improper references to forfeiture; to provide for
 25 related matters; to provide for an effective date and applicability; to repeal conflicting laws;
 26 and for other purposes.

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B. 1 (SUB)

- 1 -

28 **PART I**
29 **CIVIL FORFEITURE PROCEDURE**
30 **SECTION 1-1.**

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

33 "CHAPTER 16

34 9-16-1.

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

37 9-16-2.

38 As used in this chapter, the term:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

92 (i) Any person appointed or acting as a guardian or conservator under Title 29,
 93 relating to guardian and ward, or personal representative under former Chapter 6 of
 94 Title 53 as such existed on December 31, 1997, relating to the administration of
 95 estates, if applicable, or Chapter 6 of Title 53 and other provisions in Chapters 1

96 through 11 of Title 53, the 'Revised Probate Code of 1998,' relating to the
 97 administration of estates; or

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

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

102 9-16-3.

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

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

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

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

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

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

115 9-16-4.

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

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

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

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

125 9-16-5.

126 If a seized vehicle is registered to a person or entity that was not present at the scene of the
 127 seizure and whose conduct did not give rise to the seizure, the seizing officer or his or her
 128 designee shall make a reasonable effort to determine the name of the registered owner of

129 the seized vehicle and, upon learning such registered owner's telephone number or address,
130 inform such registered owner that the vehicle has been seized.

131 9-16-6.

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

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

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

146 9-16-7.

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

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

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

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

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

161 9-16-8.

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

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

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

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

176 (1) The described property;

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

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

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

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

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

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

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

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

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

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

208 9-16-9.

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

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

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

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

223 9-16-10.

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

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

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

- 232 (3) Remove the property to a storage area within the jurisdiction of the court for
 233 safekeeping;
- 234 (4) Provide for another governmental agency, a receiver appointed by the court pursuant
 235 to Chapter 8 of this title, an owner, or an interest holder to take custody of the property
 236 and remove it to an appropriate location within the county where the property was seized;
 237 or
- 238 (5) Require the sheriff or chief of police of the political subdivision where the property
 239 was seized to take custody of the property and remove it to an appropriate location for
 240 disposition in accordance with law.
- 241 (b) If the expense of keeping any property which has been attached or seized is excessive
 242 or disproportionate to the value of the property or the property:
- 243 (1) Is a depreciating asset;
 244 (2) Is perishable or is liable to perish or waste; or
 245 (3) May be greatly reduced in value by keeping it,
 246 the court, upon motion of the state attorney, a claimant, or the custodian of the property,
 247 may order the property or any portion thereof to be sold upon such terms and conditions
 248 as may be prescribed by the court. The income from the sale shall be paid into the registry
 249 of the court pending final disposition of a civil forfeiture proceeding.
- 250 (c)(1) If the property is currency and is not needed for evidentiary purposes, within 60
 251 days of the seizure the seizing agency, or the state attorney if he or she has possession of
 252 such currency, shall deposit the currency into an account:
- 253 (A) That is separate from other operating accounts;
 254 (B) That bears interest, if such account is available; and
 255 (C) At a financial institution that has a branch location within the county where the
 256 civil forfeiture proceeding is located, and if such financial institution is not available,
 257 at a financial institution approved by the chief superior court judge of the circuit in
 258 which such county is located.
- 259 (2) If the property is a negotiable instrument and is not needed for evidentiary purposes,
 260 within 60 days of the seizure the seizing agency, or the state attorney if he or she has
 261 possession of such item, shall secure the negotiable instrument in a financial institution
 262 that has a branch location within the county where the civil forfeiture proceeding is
 263 located, and if such financial institution is not available, at a financial institution
 264 approved by the chief superior court judge of the circuit in which such county is located.
 265 If such instrument is converted to currency, it shall be deposited in accordance with
 266 paragraph (1) of this subsection.
- 267 (3) The account holder shall annually pay any interest that accrues under this subsection
 268 into the County Drug Abuse Treatment and Education Fund established pursuant to

269 Article 6 of Chapter 21 of Title 15 at the same time the account holder files its annual
 270 report in accordance with subsection (g) of Code Section 9-16-19.

271 9-16-11.

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

275 (1) A description of the property;

276 (2) The date and place of seizure;

277 (3) The conduct giving rise to forfeiture;

278 (4) The alleged violation of law; and

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

283 (A) The name of the claimant;

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

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

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

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

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

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

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

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

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

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

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

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

317 (A) The name of the claimant;
318 (B) The address at which the claimant resides;
319 (C) A description of the claimant's interest in the property;
320 (D) A description of the circumstances of the claimant's obtaining an interest in the
321 property and, to the best of the claimant's knowledge, the date the claimant obtained the
322 interest and the name of the person or entity that transferred the interest to the claimant;
323 (E) The nature of the relationship between the claimant and the person who possessed
324 the property at the time of the seizure;
325 (F) A copy of any documentation in the claimant's possession supporting his or her
326 claim; and
327 (G) Any additional facts supporting his or her claim.

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

334 (4) As to any property to which no claim is received within 30 days after service of the
335 notice of seizure or the second publication of the notice of seizure, whichever occurs last,
336 all right, title, and interest in the property shall be forfeited to the state by operation of
337 law and the state attorney shall dispose of the property as provided in Code Section
338 9-16-19. The state attorney shall serve a copy of the order forfeiting the property by
339 first-class mail upon any person who was served with a notice of seizure.

340 9-16-12.

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

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

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

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

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

374 (c)(1) An owner of or interest holder in the property may file an answer asserting a claim
375 against the property in the action in rem. Any such answer shall be filed within 30 days
376 after the service of the summons and complaint. If service is made by publication and

377 personal service has not been made, an owner or interest holder shall file an answer
 378 within 30 days of the date of final publication. An answer shall be verified by the owner
 379 or interest holder under penalty of perjury. In addition to complying with the general
 380 rules applicable to filing an answer in civil actions as set forth in Article 3 of Chapter 11
 381 of this title, the answer shall set forth:

382 (A) The name of the claimant;

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

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

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

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

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

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

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

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

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

411 (f) If an answer is filed, a bench trial shall be held within 60 days after the last claimant
 412 was served with the complaint; provided, however, that such trial may be continued by the
 413 court for good cause shown. Discovery as provided for in Article 5 of Chapter 11 of this

414 title shall not be allowed; however, prior to trial, any party may apply to the court to allow
415 for such discovery, and if discovery is allowed, the court may provide for the scope and
416 duration of discovery and may continue the trial to a date not more than 60 days after the
417 end of the discovery period unless continued by the court for good cause shown.

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

420 9-16-13.

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

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

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

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

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

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

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

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

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

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

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

450 If a motion for a more definite statement is filed, the time requirements for a trial set forth
 451 in subsection (f) of this Code section shall not commence until a sufficient answer has been
 452 filed.

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

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

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

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

477 9-16-14.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

531 9-16-15.

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

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

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

546 9-16-16.

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

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

556 (c) Notwithstanding the distribution of forfeiture proceeds as set forth in Code Section
 557 9-16-19, any injured person shall have a right or claim to forfeited property or to the

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

562 9-16-17.

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

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

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

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

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

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

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

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

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

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

583 (I) Acquired the interest:

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

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

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

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

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

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

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

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

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

603 9-16-18.

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

606 Any property or proceeds transferred later to any person remain subject to forfeiture and
 607 thereafter shall be ordered to be forfeited unless the transferee claims and establishes in a

608 hearing under this chapter that the transferee is a bona fide purchaser for value and the
 609 transferee's interest is exempt under paragraph (2) of subsection (a) of Code Section

610 9-16-17.

611 (b) On entry of judgment for a person claiming an interest in the property that is subject
 612 to a civil forfeiture proceeding, the court shall order that the property or interest in the

613 property be released or delivered promptly to that person free of liens and encumbrances.

614 9-16-19.

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

616 (1) 'Entity' means and includes, but shall not be limited to, a law enforcement agency,
 617 multijurisdictional task force, or office, agency, authority, department, commission,

618 board, body, division, instrumentality, or institution of the state or any political
 619 subdivision.

620 (2) 'Law enforcement agency' means a governmental unit of one or more persons
 621 employed full time or part time by the state, a state agency or department, or a political

622 subdivision for the purposes of preventing and detecting crime and enforcing state laws
 623 or local ordinances, employees of which unit are authorized to make arrests for crimes

624 or seize property while acting within the scope of their authority.

625 (3) 'Multijurisdictional task force' means a cooperative law enforcement effort involving
 626 personnel from two or more law enforcement agencies who are employed by or acting

627 under the authority of different governmental authorities.

628 (4) 'Official law enforcement purpose' means expenditures for public safety purposes for
 629 equipment, training, investigations, capital improvements, and victim assistance.

630 (5) 'Political subdivision' means any county, municipality, or consolidated government
 631 or authority of this state.

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

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

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

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

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

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

649 (1) The title to the real property be placed in the name of the state or Prosecuting
 650 Attorneys' Council;

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

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

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

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

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

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

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

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

664 (A) Judicial sale as provided in Article 7 of Chapter 13 of this title; provided, however,
665 that the court may establish a minimum acceptable price for such property; or
666 (B) Any commercially feasible means, including, but not limited to, in the case of real
667 property, listing such property with a licensed real estate broker, selected by a state
668 attorney through competitive bids; and

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

672 (f)(1) The state attorney shall submit a proposed order of distribution to the court and the
673 court shall issue an order of distribution. Such order shall specify the time frame for the
674 transfer of forfeited property and the entity responsible for effectuating the transfer of
675 such property. The state attorney shall provide a copy of the order of distribution to any
676 entity responsible for effectuating such transfer and to the Prosecuting Attorneys' Council
677 if a distribution is designated to a district attorney. The state attorney shall provide a
678 copy of the order of distribution to the chief executive officer of each political
679 subdivision whose law enforcement agency will receive a distribution pursuant to such
680 order.

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

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

688 (B) Except as provided in subparagraph (E) of this paragraph, the second distribution
689 from the pool, upon the request of the district attorney, shall be 10 percent of such pool
690 which shall be paid to the Forfeiture and Investigative Support Trust Fund, as set forth
691 in Code Section 15-18-48, in recognition of the district attorney's effort in completing
692 the civil forfeiture proceeding.

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

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

701 (E) If the civil forfeiture proceeding results from criminal conduct in violation of
702 Article 11 of Chapter 1 of Title 7, Code Section 16-5-46, Article 5 of Chapter 8 of Title
703 16, or Chapter 14 of Title 16, after satisfaction of the interest of any innocent party, the
704 court may make any division of the pool among the state, political subdivisions, or
705 agencies or departments of the state or political subdivisions commensurate with the
706 assistance each contributed to the underlying criminal prosecution or civil forfeiture
707 proceeding, or both such actions.

708 (4) Property distribution shall be as follows:

709 (A) With respect to political subdivisions:

710 (i) Property distributed in kind to a political subdivision or multijurisdictional task
711 force for use by an agency, department, or officer of a political subdivision for official
712 law enforcement purposes shall be designated in the order of distribution and shall be
713 titled accordingly; provided, however, that property may be distributed for other
714 purposes to any other entity so long as such designation is made in the order of
715 distribution and reported in accordance with subsection (g) of this Code section. If
716 real property is distributed to a political subdivision, the political subdivision may
717 transfer the real property to a land bank authority as provided in Article 4 of Chapter
718 4 of Title 48. When in-kind property is no longer needed by the recipient, it shall be
719 disposed of in accordance with the political subdivision's policy and procedure;

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

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

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

743 (B) With respect to the state:

744 (i) Property distributed in kind to the state for use by an agency or officer of the state,
 745 or distributed in kind to the Prosecuting Attorneys' Council for use by a district
 746 attorney, shall be designated in the order of distribution; provided, however, that
 747 property may be distributed for other purposes to any other entity so long as such
 748 designation is made in the order of distribution and reported in accordance with
 749 subsection (g) of this Code section. When a district attorney determines that in-kind
 750 property is no longer needed, he or she shall dispose of such property in accordance
 751 with the rules and regulations of the Prosecuting Attorneys' Council. When any other
 752 state agency determines that in-kind property is no longer needed by the recipient, it
 753 shall be delivered over to the Department of Administrative Services for such use or
 754 disposition as may be determined by the commissioner of administrative services; and
 755 (ii) Currency distributed to a district attorney shall be paid as provided in the order
 756 of distribution to the Prosecuting Attorneys' Council and shall be administered by the
 757 Prosecuting Attorneys' Council in accordance with Code Section 15-18-48. Currency
 758 otherwise distributed to the state shall be paid as provided in the order of distribution.
 759 It is the intent of the General Assembly that the currency otherwise distributed to the
 760 state be used, subject to appropriation from the general fund in the manner provided
 761 by law, for funding of Article 2 of Chapter 12 of Title 17, the 'Georgia Indigent
 762 Defense Act of 2003,' for representation of indigents in criminal cases; for funding
 763 of the Georgia Crime Victims Emergency Fund; for law enforcement and prosecution
 764 agency programs and particularly for funding of advanced drug investigation and
 765 prosecution training for law enforcement officers and prosecuting attorneys; for drug
 766 treatment, mental health treatment, rehabilitation, prevention, or education or any
 767 other program which deters drug or substance abuse or responds to problems created
 768 by drug or substance abuse; for use as matching funds for grant programs related to
 769 drug treatment or prevention; or for financing the judicial system of the state.

770 (g)(1) Property and proceeds forfeited pursuant to this chapter and any income resulting
 771 from the sale of forfeited property is government property. It is the intent of the General
 772 Assembly that there be accountability and transparency applicable to the distribution of

773 forfeited property and income from the sale of forfeited property. The appropriate
 774 accounting and auditing standards shall be applicable to such distribution.

775 (2) Any law enforcement agency, multijurisdictional task force, district attorney, or state
 776 agency receiving property and proceeds forfeited pursuant to this chapter and any income
 777 resulting from the sale of forfeited property, including property distributed in kind, shall
 778 submit an annual report specifying the property and proceeds forfeited pursuant to this
 779 chapter and any income resulting from the sale of forfeited property received during its
 780 fiscal year and shall clearly identify the use of such property, proceeds, and income,
 781 including the specifics of all monetary expenditures and funds on deposit with a financial
 782 institution. Such report shall not include any information that is likely to disclose the
 783 identity of a confidential source, disclose confidential investigative or prosecution
 784 material which could endanger the life or physical safety of any person, disclose the
 785 existence of a confidential surveillance or investigation, or disclose techniques and
 786 procedures for law enforcement investigations or prosecutions. Such annual report shall
 787 be appropriately completed and legible and shall be:

788 (A) Submitted on a form promulgated by the Carl Vinson Institute of Government of
 789 the University of Georgia, as provided in paragraph (3) of this subsection;

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

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

794 (D) Submitted by district attorneys to the Prosecuting Attorneys' Council;

795 (E) Submitted by state agencies to the state auditor, provided that the Prosecuting
 796 Attorneys' Council's report shall detail information for each of the judicial circuits;

797 (F) Submitted at the same time as such entity's budget request; and

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

800 (3)(A) The Carl Vinson Institute of Government of the University of Georgia shall
 801 promulgate and from time to time amend as necessary and post on its website an annual
 802 reporting form for use to report the information required by this subsection. In creating
 803 this form, the Carl Vinson Institute of Government of the University of Georgia shall
 804 consider input from the Prosecuting Attorneys' Council, the Administrative Office of
 805 the Courts, and the Attorney General.

806 (B) The annual reporting form shall include, but shall not be limited to, the following
 807 information:

808 (i) General information:

809 (I) With respect to a seizing agency, the date the property was seized, the name of
810 any alleged crime that caused the seizure of the property, and the name of the court
811 where the criminal proceeding occurred, if applicable;

812 (II) With respect to entities other than seizing agencies, the applicable Code section
813 that caused the forfeiture of the property and the name of the court where the
814 criminal proceeding occurred, if applicable;

815 (III) A description of and amount of the costs associated with the forfeiture;

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

819 (V) The total amount of funds on deposit with a financial institution, including
820 interest earned, at the end of the reporting period;

821 (ii) As to property:

822 (I) The date the property was received pursuant to an order of distribution;

823 (II) The type of property received pursuant to an order of distribution;

824 (III) The estimated value of the property received pursuant to an order of
825 distribution;

826 (IV) If the property was not an in-kind property distribution, and if such property
827 was sold, the seizing agency shall report the date of the sale and the gross and net
828 income received, and the state attorney shall report to whom a distribution of such
829 income was made;

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

831 (VI) A description of the use to which the property received as an in-kind
832 distribution was put; provided, however, that such details shall not be required when
833 such details would disclose the identification of property being used in a
834 confidential investigation and such information would compromise an ongoing
835 investigation; and

836 (VII) If the property was a vehicle of any type, the vehicle's make, model, and
837 identification number; provided, however, that such details shall not be required
838 when such details would disclose the identification of a vehicle being used in a
839 confidential investigation and such information would compromise an ongoing
840 investigation; and

841 (iii) As to currency, including income from the sale of property:

842 (I) The amount of currency forfeited;

843 (II) The date the currency was received pursuant to an order of distribution; and

844 (III) A description of the use or expenditure of currency and income during the
845 reporting period.

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

848 (5)(A) The district attorney having jurisdiction where the local law enforcement
 849 agency or multijurisdictional task force is located shall be authorized to conduct an
 850 investigation and bring any criminal prosecution or civil action he or she deems
 851 necessary to ensure compliance with this subsection. The district attorney shall provide
 852 an entity required to comply with the reporting requirements of this subsection and
 853 found to have committed a violation of this subsection 60 days to demonstrate to the
 854 district attorney that such entity has come into compliance with this subsection. If, after
 855 60 days, the entity has failed to correct all deficiencies, such entity shall be prohibited
 856 from being eligible to receive property derived or resulting from civil forfeiture
 857 proceedings until such time as the entity demonstrates to the district attorney that such
 858 entity has corrected all deficiencies and is in compliance with this subsection. At any
 859 time after the district attorney finds an entity to be in violation of this subsection, such
 860 entity may seek administrative relief through the Office of State Administrative
 861 Hearings. If an entity seeks administrative relief, the time for correcting deficiencies
 862 shall be tolled, and any action to exclude the entity from receiving property derived or
 863 resulting from civil forfeiture proceedings shall be suspended until such time as a final
 864 ruling upholding the findings of the district attorney is issued.

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

868 (6) Any person who knowingly and willfully makes a false, fictitious, or fraudulent
 869 annual report pursuant to this subsection shall be guilty of a violation of Code Section
 870 16-10-20 and, upon conviction, shall be punished as provided in such Code section. Any
 871 entity that employed a person convicted of false statements based on a violation of this
 872 subsection shall be prohibited from being eligible to receive property derived or resulting
 873 from civil forfeiture proceedings for a period of two years commencing from the date of
 874 such conviction, unless such entity no longer employs such person.

875 9-16-20.

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

879 (1) Cannot be located;

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

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

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

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

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

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

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

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

912 9-16-21.

913 (a) Property seized or forfeited pursuant to federal law, and such property or proceeds
914 derived therefrom, authorized by such federal law to be transferred to a cooperating law
915 enforcement agency of this state or any political subdivision thereof shall be utilized by the
916 law enforcement agency or political subdivision to which the property or proceeds are so
917 transferred as authorized by such federal law and regulations or guidelines promulgated

918 thereunder. If federal law and regulations or guidelines promulgated thereunder are silent
 919 as to the utilization of such property or proceeds, the property and proceeds shall be
 920 disposed of and utilized as set forth in Code Section 9-16-19.

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

923 9-16-22.

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

925 **PART II**
 926 **FORFEITURE AND INVESTIGATIVE TRUST FUND**
 927 **SECTION 2-1.**

928 Chapter 18 of Title 15 of the Official Code of Georgia Annotated, relating to prosecuting
 929 attorneys, is amended by revising subsection (c) of Code Section 15-18-19, relating to state
 930 paid personnel, as follows:

931 "(c) Subject to the provisions of this chapter, the Prosecuting Attorneys' Council of the
 932 State of Georgia shall, with the advice and consent of a majority of the district attorneys,
 933 adopt and amend uniform ~~policies~~; rules; and regulations which shall apply to all state paid
 934 personnel employed by the district attorneys. Such ~~policies~~; rules; and regulations may
 935 include provisions for the appointment, classification, promotion, transfer, demotion, and
 936 ~~leave, travel, records, reports, and training~~ of personnel. Such ~~policies~~; rules; and
 937 regulations shall be consistent with the duties, responsibilities, and powers of the district
 938 attorneys under the Constitution and laws of this state and the rules of the trial and
 939 appellate courts. Not less than 30 days prior to taking final action on any proposed ~~policy~~;
 940 rule; or regulation adopted pursuant to this Code section, or any amendment thereto, the
 941 council shall transmit a copy of said ~~policy~~; rule, regulation, or amendment to all district
 942 attorneys and the presiding officers of the House Committee on Judiciary ~~Committee of the~~
 943 ~~House of Representatives~~ and the Senate Judiciary Committee ~~of the Senate."~~

944 **SECTION 2-2.**

945 Said chapter is further amended by revising subsections (c) and (d) of Code Section
 946 15-18-40, relating to the establishment of the Prosecuting Attorneys' Council of the State of
 947 Georgia, as follows:

948 "(c) The council:
 949 (1) Shall be the fiscal officer for the prosecuting attorneys and shall prepare and submit
 950 budget estimates of state appropriations necessary for the maintenance and operation of
 951 the district attorneys' and solicitors-general's offices; ~~and~~
 952 (2) From such funds as may be appropriated or otherwise available for the operation of
 953 prosecuting attorneys, may provide such administrative functions, services, supplies,
 954 equipment, or operating expenses as may be necessary for the fulfillment of the duties
 955 and responsibilities of such prosecuting attorneys ~~and may~~;
 956 (3) May contract with any other department, bureau, agency, commission, institution, or
 957 authority of this state or any other entity for such purpose: as may be necessary for the
 958 fulfillment of the duties and responsibilities of prosecuting attorneys;
 959 ~~(d) Effective July 1, 2008, the ministerial functions of the commissioner of administrative~~
 960 ~~services or of the Department of Administrative Services relating to the payment of~~
 961 (4) Shall pay the salaries, benefits, and expenses for district attorneys and district
 962 attorney personnel appointed pursuant to Article 1 of this chapter or solicitors-general
 963 ~~shall be transferred to and performed by the council; and~~
 964 (5) Shall administer the Forfeiture and Investigative Support Trust Fund as set forth in
 965 Code Section 15-18-48."

966 **SECTION 2-3.**

967 Said chapter is further amended by adding a new Code section to read as follows:

968 "15-18-48.

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

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

971 (2) 'Financial institution' shall have the same meaning as set forth in Code Section
 972 9-16-2.

973 (3) 'Fund' means the Forfeiture and Investigative Support Trust Fund.

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

975 (b) There is created for each district attorney a trust fund to be known as the Forfeiture and
 976 Investigative Support Trust Fund which shall be administered by the council.

977 (c) Any property distributed to a district attorney's office pursuant to Code Section 9-16-19
 978 shall be remitted to the council; provided, however, that when property is distributed in
 979 kind, it shall be physically transferred to the district attorney. Title for in-kind property
 980 shall be held by the council for the use of a district attorney. The council shall establish
 981 rules and regulations governing the maintenance, use, and disposal of in-kind property that
 982 conforms with rules applicable to other state agencies.

983 (d) The council shall deposit currency or income from the sale of forfeited property into
984 the fund in an interest-bearing account at a financial institution. The council shall establish
985 separate accounting for each district attorney's judicial circuit. Notwithstanding any rules
986 or regulations governing Interest on Lawyers' Trust Accounts, any interest earned on such
987 deposits shall be credited to the account for the individual district attorney's judicial circuit
988 and may be utilized as provided in this Code section.

989 (e) The actual and reasonable costs incurred by the council in directly administering the
990 fund shall be apportioned among the accounts for the individual district attorney's judicial
991 circuits and paid from the fund.

992 (f)(1) Property held by the council shall be used by a district attorney for expenses
993 associated with investigations; hearings; trials; appeals; forensic services; language
994 interpreters or interpreters for the hearing impaired; travel; training; the purchase, lease,
995 maintenance, and improvement of equipment; victim assistance and witness assistance
996 services; and for the payment of salaries and benefits in conformity with subsection (e)
997 of Code Section 15-18-19 and Code Section 15-18-20.1. Travel expenses shall conform
998 to the provisions set forth in Code Sections 15-18-12 and 50-5B-5. Training expenses
999 shall be related to the official functions of the district attorney. Forfeited property and
1000 the sums held in each district attorney's account within the fund shall be in addition to the
1001 respective budgets of the state and the counties comprising the judicial circuit for a
1002 district attorney and shall not supplant such appropriations.

1003 (2) The council shall develop rules and regulations for a district attorney to use forfeited
1004 property and the sums held in each district attorney's account within the fund consistent
1005 with this subsection; provided, however, that such rules and regulations shall not be
1006 subject to the provisions of subsection (c) of Code Section 15-18-19.

1007 (3) Forfeited property and the sums held in each district attorney's account within the
1008 fund shall not be used for scholarships, financial aid, nonlaw enforcement training,
1009 personal or political purposes, or the payment of any expense that would be considered
1010 a gratuity under the Constitution.

1011 (g) When a district attorney does not qualify as a candidate for reelection or has been
1012 defeated in any election, he or she shall not expend any sums held in his or her account
1013 within the fund or transfer any in-kind property without the written approval of the council.

1014 (h) The council shall not use property in violation of this Code section.

1015 (i) If an audit concludes that a district attorney has used property in violation of this Code
1016 section or the rules and regulations of the council pursuant to subsection (f) of this Code
1017 section, the council shall require the district attorney to take appropriate action to remedy
1018 the audit's findings and repay or redistribute property improperly used. If the district
1019 attorney fails to remedy the audit's findings within 90 days of the council notifying the

1020 district attorney of the need to take corrective action, the council shall prohibit the district
 1021 attorney's use of the fund until such time as the district attorney demonstrates to the council
 1022 that all deficiencies have been corrected."

1023 **PART III**
 1024 **CONFORMING TITLE 16 TO THE NEW**
 1025 **CIVIL FORFEITURE PROCEDURE**
 1026 **SECTION 3-1.**

1027 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
 1028 amended by revising subsection (e) of Code Section 16-5-44.1, relating to highjacking a
 1029 motor vehicle, as follows:

1030 "(e)(1) As used in this subsection, the terms 'proceeds' and 'property' shall have the same
 1031 meanings as set forth in Code Section 9-16-2.

1032 (2) Any property which is, directly or indirectly, used; or intended for use; derived, or
 1033 realized, directly or indirectly, from in any manner to facilitate a violation of this Code
 1034 section is forfeited to the state and no property interest shall exist therein. Any action
 1035 declaring such forfeiture shall be governed by the provisions of Code Section 16-13-49
 1036 and any proceeds derived or realized therefrom are declared to be contraband and no
 1037 person shall have a property right in them.

1038 (3) Any property subject to forfeiture pursuant to paragraph (2) of this subsection shall
 1039 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9."

1040 **SECTION 3-2.**

1041 Said title is further amended by revising subsection (g) of Code Section 16-5-46, relating to
 1042 trafficking of persons for labor or sexual servitude, as follows:

1043 "(g)(1) As used in this subsection, the terms 'civil forfeiture proceedings,' 'proceeds,' and
 1044 'property' shall have the same meanings as set forth in Code Section 9-16-2. All real and
 1045 personal property of every kind used or intended for use in the course of, derived from,
 1046 or realized through a violation of this Code section shall be subject to forfeiture to the
 1047 state. Forfeiture shall be had by the same procedure set forth in Code Section 16-14-7.
 1048 Prosecuting attorneys and the Attorney General may commence forfeiture proceedings
 1049 under this Code section.

1050 (2) Any property which is, directly or indirectly, used or intended for use in any manner
 1051 to facilitate a violation of this Code section and any proceeds derived or realized
 1052 therefrom are declared to be contraband and no person shall have a property right in
 1053 them.

1054 (3) Any property subject to forfeiture pursuant to paragraph (2) of this subsection shall
 1055 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9.
 1056 (4) The Attorney General shall be specifically authorized to commence civil forfeiture
 1057 proceedings under this Code section."

1058 **SECTION 3-3.**

1059 Said title is further amended by repealing in its entirety Code Section 16-6-13.2, relating to
 1060 forfeiture and seizure of property involving pimping and pandering, and enacting a new Code
 1061 Section 16-6-13.2 to read as follows:

1062 "16-6-13.2.

1063 (a) As used in this Code section, the term 'motor vehicle' shall have the same meaning as
 1064 set forth in Code Section 40-1-1.

1065 (b) Any motor vehicle used by a person to facilitate a violation of Code Section 16-6-11
 1066 when the offense involved the pimping of a person to perform an act of prostitution is
 1067 declared to be contraband and no person shall have a property right in it.

1068 (c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall
 1069 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9."

1070 **SECTION 3-4.**

1071 Said title is further amended by repealing in its entirety Code Section 16-6-13.3, relating to
 1072 proceeds from pimping, forfeiture, and distribution, and enacting a new Code Section
 1073 16-6-13.3 to read as follows:

1074 "16-6-13.3.

1075 (a) As used in this Code section, the terms 'proceeds' and 'property' shall have the same
 1076 meanings as set forth in Code Section 9-16-2.

1077 (b) Any property which is, directly or indirectly, used or intended for use in any manner
 1078 to facilitate a violation of Code Section 16-6-11 and any proceeds derived or realized
 1079 therefrom are declared to be contraband and no person shall have a property right in them.

1080 (c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall
 1081 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9."

1082 **SECTION 3-5.**

1083 Said title is further amended by revising Code Section 16-7-95, relating to forfeiture and
 1084 destruction or disposition of property, as follows:

1085 "16-7-95.

1086 (a) As used in this Code section, the terms 'proceeds' and 'property' shall have the same
 1087 meanings as set forth in Code Section 9-16-2. ~~All property which is subject to forfeiture~~

1088 ~~pursuant to Code Section 16-13-49 which is, directly or indirectly, used or intended for use~~
 1089 ~~in any manner to facilitate a violation of this article or any proceeds derived or realized~~
 1090 ~~therefrom shall be considered contraband. Except as provided in subsection (b) of this~~
 1091 ~~Code section, such property may be seized and shall be forfeited to the state as provided~~
 1092 ~~in Code Section 16-13-49. A property interest shall not be subject to forfeiture under this~~
 1093 ~~Code section if the owner of such interest or interest holder establishes any of the~~
 1094 ~~provisions of subsection (e) of Code Section 16-13-49.~~

1095 (b) Any property which is, directly or indirectly, used or intended for use in any manner
 1096 to facilitate a violation of this article and any proceeds derived or realized therefrom are
 1097 declared to be contraband and no person shall have a property right in them.

1098 (c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall
 1099 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9.

1100 ~~(b)~~(d) On application of the seizing law enforcement agency, the superior court may
 1101 authorize the seizing law enforcement agency to destroy or transfer to any agency of this
 1102 state or of the United States which can safely store or render harmless any destructive
 1103 device, explosive, poison gas, or detonator which is subject to forfeiture pursuant to this
 1104 Code section if the court finds that it is impractical or unsafe for the seizing law
 1105 enforcement agency to store such destructive device, explosive, poison gas, or detonator.
 1106 Such application may be made at any time after seizure. Any destruction authorized
 1107 pursuant to this subsection shall be made in the presence of at least one credible witness
 1108 or shall be recorded on film, videotape, or other electronic imaging method. Any such
 1109 film, videotape, or other electronic imaging method shall be admissible as evidence in lieu
 1110 of such destructive device, explosive, poison gas, or detonator. The court may also direct
 1111 the seizing agency or an agency to which such destructive device, explosive, poison gas,
 1112 or detonator is transferred to make a report of the destruction, take samples, or both.

1113 ~~(e)~~(e) The provisions of subsection ~~(b)~~ (d) of this Code section shall not prohibit an
 1114 explosive ordnance technician, other law enforcement officer, or fire service personnel
 1115 from taking action which will render safe an explosive, destructive device, poison gas, or
 1116 detonator or any object which is suspected of being an explosive, destructive device, poison
 1117 gas, or detonator without the prior approval of a court when such action is intended to
 1118 protect lives or property."

1119 **SECTION 3-6.**

1120 Said title is further amended by revising subsection (e) of Code Section 16-8-5.2, relating to
 1121 retail property fencing and forfeiture, as follows:

1122 "(e)(1) As used in this subsection, the terms 'proceeds' and 'property' shall have the same
 1123 meanings as set forth in Code Section 9-16-2.

H. B. 1 (SUB)

1124 ~~(2) Any property constituting proceeds derived from~~ proceeds which are, directly or
 1125 indirectly, derived or realized through a violation of this Code section ~~shall be subject to~~
 1126 ~~forfeiture to the State of Georgia except that~~ are declared to be contraband and no person
 1127 shall have a property right in them; provided, however, that notwithstanding paragraph
 1128 (2) of subsection (a) of Code Section 9-16-17, no property of any owner shall be forfeited
 1129 under this subsection, to the extent of the interest of such owner, by reason of an act or
 1130 omission established by such owner to have been committed or omitted without
 1131 knowledge or consent of such owner. The procedure for forfeiture and disposition of
 1132 forfeited property under this subsection shall be as provided for under Code Section
 1133 16-13-49.

1134 (3) Any property subject to forfeiture pursuant to paragraph (2) of this subsection shall
 1135 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9."

1136 SECTION 3-7.

1137 Said title is further amended by revising subsection (f) of Code Section 16-8-60, relating to
 1138 reproduction of recorded material, transfer, sale, distribution, circulation, and forfeiture, as
 1139 follows:

1140 "(f)(1) Any phonograph record, disc, wire, tape, videotape, film, or other article onto
 1141 which sounds or visual images have been transferred shall be subject to forfeiture to the
 1142 State of Georgia except that in violation of this Code section are declared to be
 1143 contraband and no person shall have a property right in them; provided, however, that
 1144 notwithstanding paragraph (2) of subsection (a) of Code Section 9-16-17, no property of
 1145 any owner shall be forfeited under this paragraph, to the extent of the interest of such
 1146 owner, by reason of an act or omission established by such owner to have been
 1147 committed or omitted without knowledge or consent of such owner.

1148 (2) Any property subject to forfeiture pursuant to paragraph (1) of this subsection shall
 1149 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9. The
 1150 procedure for forfeiture and disposition of forfeited property under this subsection shall
 1151 be as provided for under Code Section 16-13-49."

1152 SECTION 3-8.

1153 Said title is further amended by revising subsections (c) through (r) of Code Section 16-8-85,
 1154 relating to forfeiture of personal property seized, as follows:

1155 ~~"(c)(1) Any motor vehicle, motor vehicle part, other conveyance, tool, implement, or~~
 1156 ~~instrumentality is not subject to forfeiture under this Code section by reason of any act~~
 1157 ~~or omission which the owner proves to have been committed or omitted without the~~
 1158 ~~owner's knowledge or consent.~~

1159 ~~(2) Seizing agencies shall utilize their best efforts to identify any seized motor vehicle~~
 1160 ~~or motor vehicle part to determine ownership or the identity of any other person having~~
 1161 ~~a right or interest in a seized motor vehicle or motor vehicle part. In its reasonable~~
 1162 ~~identification and owner location attempts, the seizing agency shall cause the stolen~~
 1163 ~~motor vehicle files of the Georgia Bureau of Investigation to be searched for stolen or~~
 1164 ~~wanted information on motor vehicles similar to the seized motor vehicle or consistent~~
 1165 ~~with the seized motor vehicle part.~~

1166 ~~(3)(c) If~~ Where a motor vehicle part has an apparent value in excess of \$1,000.00:

1167 ~~(A)(1)~~ The seizing agency shall consult with an expert of the type specified in
 1168 paragraph (4) of Code Section 16-8-82; and

1169 ~~(B)(2)~~ The seizing agency shall also request searches of the ~~on-line~~ online and ~~off-line~~
 1170 offline files of the National Crime Information Center and the National Automobile Theft
 1171 Bureau when the Georgia Bureau of Investigation and Georgia Crime Information Center
 1172 files have been searched with negative results.

1173 (d) Any property subject to forfeiture pursuant to this Code section shall be forfeited in
 1174 accordance with the procedures set forth in Chapter 16 of Title 9, except as specifically set
 1175 forth in subsections (g) through (j) of this Code section. ~~A forfeiture of a motor vehicle,~~
 1176 ~~motor vehicle part, or other conveyance encumbered by a bona fide security interest is~~
 1177 ~~subject to the interest of the secured party where the secured party neither had knowledge~~
 1178 ~~of nor consented to the act or omission forming the ground for the forfeiture.~~

1179 ~~(e) Property, as described in subsection (a) of this Code section, which is seized and held~~
 1180 ~~for forfeiture shall not be subject to replevin and is subject only to the order and judgments~~
 1181 ~~of a court of competent jurisdiction hearing the forfeiture proceedings.~~

1182 ~~(f)(1) A prosecutor in the county where the seizure occurs shall bring an action for~~
 1183 ~~forfeiture in a court of competent jurisdiction. The forfeiture action shall be brought~~
 1184 ~~within 60 days from the date of seizure except where the prosecutor in the sound exercise~~
 1185 ~~of discretion determines that no forfeiture action should be brought because of the rights~~
 1186 ~~of property owners, lienholders, or secured creditors or because of exculpatory,~~
 1187 ~~exonerating, or mitigating facts and circumstances.~~

1188 ~~(2) The prosecutor shall give notice of the forfeiture proceeding by mailing a copy of the~~
 1189 ~~complaint in the forfeiture proceeding to each person whose right, title, or interest is of~~
 1190 ~~record in the Department of Revenue, the Department of Transportation, the Federal~~
 1191 ~~Aviation Agency, or any other department or agency of this state, any other state or~~
 1192 ~~territory of the United States, or of the federal government if such property is required to~~
 1193 ~~be registered with any such department or agency.~~

1194 ~~(3) Notice of the forfeiture proceeding shall be given to any other such person as may~~
 1195 ~~appear, from the facts and circumstances, to have any right, title, or interest in or to the~~
 1196 ~~property.~~

1197 ~~(4) The owner of the property or any person having or claiming right, title, or interest in~~
 1198 ~~the property may within 60 days after the mailing of such notice file a verified answer to~~
 1199 ~~the complaint and may appear at the hearing on the action for forfeiture.~~

1200 ~~(5) The prosecutor shall show at a forfeiture hearing, by a preponderance of the~~
 1201 ~~evidence, that such property was used in the commission of a violation of Code Section~~
 1202 ~~16-8-83 or was used or possessed to facilitate such violation.~~

1203 ~~(6) The owner of such property may show by a preponderance of the evidence that the~~
 1204 ~~owner did not know, and did not have reason to know, that the property was to be used~~
 1205 ~~or possessed in the commission of any violation or that any of the exceptions to forfeiture~~
 1206 ~~are applicable.~~

1207 ~~(7) Unless the prosecutor shall make the showing required of it, the court shall order the~~
 1208 ~~property released to the owner. Where the prosecutor has made such a showing, the court~~
 1209 ~~may order that:~~

1210 ~~(A) The property be destroyed by the agency which seized it or some other agency~~
 1211 ~~designated by the court;~~

1212 ~~(B) The property be delivered and retained for use by the agency which seized it or~~
 1213 ~~some other agency designated by the court; or~~

1214 ~~(C) The property be sold at public sale.~~

1215 ~~(g)(e)~~ A copy of a forfeiture order shall be filed with the sheriff of the county in which the
 1216 forfeiture occurs and with each federal or state department or agency with which such
 1217 property is required to be registered. Such order, when filed, constitutes authority for the
 1218 issuance to the agency to whom the property is delivered and retained for use or to any
 1219 purchaser of the property of a certificate of title, registration certificate, or other special
 1220 certificate as may be required by law in consideration of the condition of the property.

1221 ~~(h) Proceeds from sale at public auction, after payment of all reasonable charges and~~
 1222 ~~expenses incurred by the agency designated by the court to conduct the sale in storing and~~
 1223 ~~selling the property, shall be paid into the general fund of the county of seizure.~~

1224 ~~(i)(f)~~ No motor vehicle, either seized under Code Section 16-8-84 or forfeited under this
 1225 Code section, shall be released by the seizing agency or used or sold by an agency
 1226 designated by the court unless any altered, counterfeited, defaced, destroyed, disguised,
 1227 falsified, forged, obliterated, or removed vehicle identification number is corrected by the
 1228 issuance and affixing of either an assigned or replacement vehicle identification number
 1229 plate as may be appropriate under laws or regulations of this state.

1230 ~~(j)~~(g) No motor vehicle part having any altered, counterfeited, defaced, destroyed,
 1231 disguised, falsified, forged, obliterated, or removed vehicle identification number may be
 1232 disposed of upon forfeiture except by destruction thereof, except that this subsection shall
 1233 not apply to any such motor vehicle part which is assembled with and constitutes part of
 1234 a motor vehicle.

1235 ~~(k)~~(h) No motor vehicle or motor vehicle part shall be forfeited under this Code section
 1236 solely on the basis that it is unidentifiable. Instead of forfeiture, any seized motor vehicle
 1237 or motor vehicle part which is unidentifiable shall be the subject of a written report sent by
 1238 the seizing agency to the Department of Revenue; which report shall include a description
 1239 of the motor vehicle or motor vehicle part, including its color, if any; the date, time, and
 1240 place of its seizure; the name of the person from whose possession or control it was seized;
 1241 the grounds for its seizure; and the location where the same is held or stored.

1242 ~~(h)~~(i) When a seized unidentifiable motor vehicle or motor vehicle part has been held for
 1243 60 days or more after the notice to the Department of Revenue specified in
 1244 subsection ~~(k)~~ (h) of this Code section has been given, the seizing agency, or its agent, shall
 1245 cause the motor vehicle or motor vehicle part to be sold at a public sale to the highest
 1246 bidder. Notice of the time and place of sale shall be posted in a conspicuous place for at
 1247 least 30 days prior to the sale on the premises where the motor vehicle or motor vehicle
 1248 part has been stored.

1249 ~~(m)~~(j)(1) When a seized unidentifiable motor vehicle or motor vehicle part has an
 1250 apparent value of \$1,000.00 or less, the seizing agency shall authorize the disposal of the
 1251 motor vehicle or motor vehicle part, provided that no such disposition shall be made
 1252 sooner than 60 days after the date of seizure.

1253 ~~(n)~~(2) The proceeds of the public sale of an unidentifiable motor vehicle or motor vehicle
 1254 part shall be deposited into the general fund of the state, county, or municipal corporation
 1255 employing the seizing agency after deduction of any reasonable and necessary towing and
 1256 storage charges.

1257 ~~(o)~~(k) Seizing agencies shall utilize their best efforts to arrange for the towing and storing
 1258 of motor vehicles and motor vehicle parts in the most economical manner possible. In no
 1259 event shall the owner of a motor vehicle or a motor vehicle part be required to pay more
 1260 than the minimum reasonable costs of towing and storage.

1261 ~~(p)~~(l) A seized motor vehicle or motor vehicle part that is neither forfeited nor
 1262 unidentifiable shall be held subject to the order of the court in which the criminal action is
 1263 pending or, if a request for its release from such custody is made, until the prosecutor has
 1264 notified the defendant or the defendant's attorney of such request and both the prosecution
 1265 and defense have been afforded a reasonable opportunity for an examination of the
 1266 property to determine its true value and to produce or reproduce, by photographs or other

1267 identifying techniques, legally sufficient evidence for introduction at trial or other criminal
 1268 proceedings. Upon expiration of a reasonable time for the completion of the examination,
 1269 which in no event shall exceed 14 days from the date of service upon the defense of the
 1270 notice of request for return of property as provided in this subsection, the property shall be
 1271 released to the person making such request after satisfactory proof of such person's
 1272 entitlement to the possession thereof. Notwithstanding the foregoing, upon application by
 1273 either party with notice to the other, the court may order retention of the property if it
 1274 determines that retention is necessary in the furtherance of justice.

1275 ~~(q)~~(m) When a seized vehicle is forfeited, restored to its owner, or disposed of as
 1276 unidentifiable, the seizing agency shall retain a report of the transaction for a period of at
 1277 least one year from the date of the transaction.

1278 ~~(r)~~(n) When an applicant for a certificate of title or salvage certificate of title presents to
 1279 the Department of Revenue proof that the applicant purchased or acquired a motor vehicle
 1280 at public sale conducted pursuant to this Code section and such fact is attested to by the
 1281 seizing agency, the Department of Revenue shall issue a certificate of title or a salvage
 1282 certificate of title, as determined by the state revenue commissioner, for such motor vehicle
 1283 upon receipt of the statutory fee, a properly executed application for a certificate of title or
 1284 other certificate of ownership, and the affidavit of the seizing agency that a state assigned
 1285 number was applied for and affixed to the motor vehicle prior to the time that the motor
 1286 vehicle was released by the seizing agency to the purchaser."

1287 SECTION 3-9.

1288 Said title is further amended by revising Code Section 16-8-106, relating to forfeiture under
 1289 the "Georgia Residential Mortgage Fraud Act," as follows:

1290 "16-8-106.

1291 (a) As used in this Code section, the terms 'civil forfeiture proceedings,' 'proceeds,' and
 1292 'property' shall have the same meanings as set forth in Code Section 9-16-2. All real and
 1293 personal property of every kind used or intended for use in the course of, derived from, or
 1294 realized through a violation of this article shall be subject to forfeiture to the state.
 1295 Forfeiture shall be had by the same procedure set forth in Code Section 16-14-7. District
 1296 attorneys and the Attorney General may commence forfeiture proceedings under this
 1297 article.

1298 (b) Any property which is, directly or indirectly, used or intended for use in any manner
 1299 to facilitate a violation of this article and any proceeds derived or realized therefrom are
 1300 declared to be contraband and no person shall have a property right in them.

1301 (c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall
 1302 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9.

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1303 (d) The Attorney General shall be specifically authorized to commence civil forfeiture
 1304 proceedings under this Code section."

1305 **SECTION 3-10.**

1306 Said title is further amended by revising subsection (h) of Code Section 16-9-4, relating to
 1307 manufacturing, selling, or distributing false identification documents, as follows:

1308 "(h)(1) As used in this subsection, the terms 'proceeds' and 'property' shall have the same
 1309 meanings as set forth in Code Section 9-16-2. Any property which is used, intended for
 1310 use, or used in any manner to facilitate a violation of this Code section is contraband and
 1311 forfeited to the state and no person shall have a property interest in it. Such property may
 1312 be seized or detained in the same manner as provided in Code Section 16-13-49 and shall
 1313 not be subject to replevin, conveyance, sequestration, or attachment.

1314 (2) Any property which is, directly or indirectly, used or intended for use in any manner
 1315 to facilitate a violation of this Code section and any proceeds derived or realized
 1316 therefrom are declared to be contraband and no person shall have a property right in
 1317 them. Within 60 days of the date of the seizure of contraband pursuant to this Code
 1318 section, the district attorney shall initiate forfeiture or other proceedings as provided in
 1319 Code Section 16-13-49. An owner or interest holder, as defined by subsection (a) of
 1320 Code Section 16-13-49, may establish as a defense to the forfeiture of property which is
 1321 subject to forfeiture under this Code section the applicable provisions of subsection (e)
 1322 or (f) of Code Section 16-13-49. Property which is forfeited pursuant to this Code section
 1323 shall be disposed of and distributed as provided in Code Section 16-13-49.

1324 (3) Any property subject to forfeiture pursuant to paragraph (2) of this subsection shall
 1325 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9. If
 1326 property subject to forfeiture cannot be located; has been transferred or conveyed to, sold
 1327 to, or deposited with a third party; is beyond the jurisdiction of the court; has been
 1328 substantially diminished in value while not in the actual physical custody of a receiver
 1329 or governmental agency directed to maintain custody of the property; or has been
 1330 commingled with other property that cannot be divided without difficulty, the court shall
 1331 order the forfeiture of any property of a claimant or defendant up to the value of property
 1332 found by the court to be subject to forfeiture under this subsection in accordance with the
 1333 procedures set forth in subsection (x) of Code Section 16-13-49.

1334 (4) The provisions of paragraphs (3), (4), and (5) of subsection (x) and subsection (z) of
 1335 Code Section 16-13-49 shall be applicable to any proceedings brought pursuant to this
 1336 subsection."

SECTION 3-11.

1337
 1338 Said title is further amended by revising Code Section 16-11-11, relating to dissolution of
 1339 subversive organizations and forfeiture, as follows:

1340 "16-11-11.

1341 It shall be unlawful for any subversive organization or foreign subversive organization to
 1342 exist or function in this state. Any organization which by a court of competent jurisdiction
 1343 is found to have violated this Code section shall be dissolved and, if it is a corporation
 1344 organized and existing under the laws of this state, a finding by a court of competent
 1345 jurisdiction that it has violated this Code section shall constitute legal cause for ~~forfeiture~~
 1346 revocation of its charter and its charter shall be ~~forfeited~~ revoked. All funds, books,
 1347 records, and files of every kind and all other property of any organization found to have
 1348 violated this Code section shall be seized by and for this state, the funds to be deposited in
 1349 the state treasury and the books, records, files, and other property to be turned over to the
 1350 Attorney General."

SECTION 3-12.

1351
 1352 Said title is further amended by revising paragraph (3) of subsection (b) of Code Section
 1353 16-12-24, relating to possession, manufacture, or transfer of gambling devices or parts, as
 1354 follows:

1355 "(3) Any antique slot machine seized as a result of a violation of this Code section shall
 1356 be contraband and subject to seizure and destruction as provided in Code Section
 1357 ~~16-12-30~~ 16-12-32. An antique slot machine seized for a violation of this Code section
 1358 shall not be destroyed, altered, or sold until the owner has been afforded a reasonable
 1359 opportunity to present evidence that the device was not operated for unlawful gambling
 1360 or in violation of this Code section. If the court determines that the device is an antique
 1361 slot machine and was not operated or possessed in violation of this or any other Code
 1362 section, such device shall be returned to its owner."

SECTION 3-13.

1363
 1364 Said title is further amended by revising Code Section 16-12-30, relating to seizure and
 1365 destruction of gambling devices, as follows:

1366 "16-12-30.

1367 ~~(a) Except as provided in subsection (b) of Code Section 16-12-24, every gambling device~~
 1368 ~~is declared to be contraband and subject to seizure and confiscation by any state or local~~
 1369 ~~authority within whose jurisdiction the same may be found.~~

1370 ~~(b) At such time as there shall be a final judgment entered in any case or cases in which~~
 1371 ~~a seized gambling device is necessary evidence or at such time as the state shall determine~~

1372 that the continued physical existence of the seized gambling device is no longer necessary,
 1373 the same shall be turned over by that person having custody of the device to the sheriff of
 1374 the county wherein the device was confiscated. The sheriff shall within ten days after
 1375 receiving the device destroy the same in the presence of the district attorney of the circuit
 1376 in which such county is located and shall forward to the state revenue commissioner a
 1377 certificate so stating which shall include the serial number of the device so destroyed.
 1378 Reserved."

1379 SECTION 3-14.

1380 Said title is amended by repealing in its entirety Code Section 16-12-32, relating to seizure
 1381 and disposition of property used in or derived from a violation of the article proscribing
 1382 gambling and related offenses, and enacting a new Code Section 16-12-32 to read as follows:
 1383 "16-12-32.

1384 (a) As used in this Code section, the terms 'proceeds,' 'property,' and 'United States' shall
 1385 have the same meanings as set forth in Code Section 9-16-2, and 'enterprise' means any
 1386 person, sole proprietorship, partnership, corporation, trust, association, or other legal entity
 1387 created under the laws the United States or any foreign nation or a group of individuals
 1388 associated in fact although not a legal entity and includes illicit as well as licit enterprises
 1389 and governmental as well as other entities.

1390 (b) The following are declared to be contraband, and no person shall have a property right
 1391 in them:

1392 (1) Every gambling device except antique slot machines as provided for in subsection (b)
 1393 of Code Section 16-12-24;

1394 (2) Any property which is, directly or indirectly, used or intended for use in any manner
 1395 to facilitate a violation of this article and any proceeds derived or realized therefrom;

1396 (3) Any property located in this state which was, directly or indirectly, used or intended
 1397 for use in any manner to facilitate a violation of this article or of the laws of the United
 1398 States relating to gambling and any proceeds derived or realized therefrom;

1399 (4) Any interest, security, claim, or property or contractual right of any kind affording
 1400 a source of influence over any enterprise that a person has established, operated,
 1401 controlled, conducted, or participated in the conduct of in violation of this article or any
 1402 of the laws of the United States relating to gambling and any proceeds derived or realized
 1403 therefrom; and

1404 (5) Any property found in close proximity to any gambling device or other property
 1405 subject to forfeiture under this Code section.

1406 (c) Any property declared as contraband pursuant to subsection (b) of this Code section
 1407 shall be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9."

SECTION 3-15.

1408
1409 Said title is further amended by revising subsections (e) through (g) of Code Section
1410 16-12-100, relating to sexual exploitation of children, as follows:

1411 ~~"(e)(1) As used in this subsection, the terms 'proceeds' and 'property' shall have the same~~
1412 ~~meaning as set forth in Code Section 9-16-2. A person who is convicted of an offense~~
1413 ~~under this Code section shall forfeit to the State of Georgia such interest as the person~~
1414 ~~may have in:~~

1415 ~~(A) Any property constituting or directly derived from gross profits or other proceeds~~
1416 ~~obtained from such offense; and~~

1417 ~~(B) Any property used, or intended to be used, to commit such offense.~~

1418 ~~(2) Any property which is, directly or indirectly, used or intended to be used in any~~
1419 ~~manner to facilitate a violation of this Code section and any proceeds derived or realized~~
1420 ~~therefrom are declared to be contraband and no person shall have a property right in~~
1421 ~~them. In any action under this Code section, the court may enter such restraining orders~~
1422 ~~or take other appropriate action, including acceptance of performance bonds, in~~
1423 ~~connection with any interest that is subject to forfeiture.~~

1424 ~~(3) Any property subject to forfeiture pursuant to paragraph (2) of this subsection shall~~
1425 ~~be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9. The~~
1426 ~~court shall order forfeiture of property referred to in paragraph (1) of this subsection if~~
1427 ~~the trier of fact determines, beyond a reasonable doubt, that such property is subject to~~
1428 ~~forfeiture.~~

1429 ~~(4) The provisions of subsection (u) of Code Section 16-13-49 shall apply for the~~
1430 ~~disposition of any property forfeited under this subsection. In any disposition of property~~
1431 ~~under this subsection, a convicted person shall not be permitted to acquire property~~
1432 ~~forfeited by such person.~~

1433 ~~(f)(1) The following property shall be subject to forfeiture to the State of Georgia:~~

1434 ~~(A) Any material or equipment used, or intended for use, in producing, reproducing,~~
1435 ~~transporting, shipping, or receiving any visual medium in violation of this Code section;~~

1436 ~~(B) Any visual medium produced, transported, shipped, or received in violation of this~~
1437 ~~Code section, or any material containing such depiction; provided, however, that any~~
1438 ~~such property so forfeited shall be destroyed by the appropriate law enforcement~~
1439 ~~agency after it is no longer needed in any court proceedings; or~~

1440 ~~(C) Any property constituting or directly derived from gross profits or other proceeds~~
1441 ~~obtained from a violation of this Code section;~~

1442 ~~except that no property of any owner shall be forfeited under this paragraph, to the extent~~
1443 ~~of the interest of such owner, by reason of an act or omission established by such owner~~
1444 ~~to have been committed or omitted without knowledge or consent of such owner.~~

1445 ~~(2) The procedure for forfeiture and disposition of forfeited property under this~~
 1446 ~~subsection shall be as provided for forfeitures under Code Section 16-13-49.~~

1447 ~~(g)(f)(1)~~ Except as otherwise provided in paragraphs (2) and (3) of this subsection, any
 1448 person who violates a provision of this Code section shall be guilty of a felony and, upon
 1449 conviction thereof, shall be punished by imprisonment for not less than five nor more
 1450 than 20 years and by a fine of not more than \$100,000.00; provided, however, that if the
 1451 person so convicted is a member of the immediate family of the victim, no fine shall be
 1452 imposed.

1453 (2) Any person who violates subsection (c) of this Code section shall be guilty of a
 1454 misdemeanor.

1455 (3) Any person who violates paragraph (1), (5), (7), or (8) of subsection (b) of this Code
 1456 section shall be guilty of a misdemeanor if:

1457 (A) The minor depicted was at least 14 years of age at the time the visual medium was
 1458 created;

1459 (B) The visual medium was created with the permission of the minor depicted; and

1460 (C) The defendant was 18 years of age or younger at the time of the offense and:

1461 (i) The defendant's violation of such paragraphs did not involve the distribution of
 1462 such visual medium to another person; or

1463 (ii) In the court's discretion, and when the prosecuting attorney and the defendant
 1464 have agreed, if the defendant's violation of such paragraphs involved the distribution
 1465 of such visual medium to another person but such distribution was not for the purpose
 1466 of:

1467 (I) Harassing, intimidating, or embarrassing the minor depicted; or

1468 (II) For any commercial purpose."

1469 **SECTION 3-16.**

1470 Said title is further amended by revising subsection (f) of Code Section 16-13-30.1, relating
 1471 to unlawful manufacture, delivery, distribution, possession, or sale of noncontrolled
 1472 substances, as follows:

1473 "(f)(1) As used in this subsection, the terms 'proceeds' and 'property' shall have the same
 1474 meanings as set forth in Code Section 9-16-2.

1475 ~~(2) Any~~ All property which would be subject to forfeiture under the provisions of
 1476 ~~subsection (d) of Code Section 16-13-49 for a violation of this article which is, directly~~
 1477 or indirectly, used; or intended for use; in any manner to facilitate; ~~or is derived from;~~ a
 1478 violation of this Code section, and any proceeds derived or realized therefrom, and any
 1479 noncontrolled substance which is manufactured, distributed, dispensed, possessed with
 1480 the intent to distribute, or sold in violation of this Code section are declared to be

1481 contraband and ~~there shall be no property interest therein~~ no person shall have a property
 1482 right in them.

1483 (3) Any property or noncontrolled substance ~~which is subject to the provisions of~~
 1484 forfeiture pursuant to paragraph (2) of this subsection shall be forfeited in accordance
 1485 with the procedures of Code Section 16-13-49 set forth in Chapter 16 of Title 9."

1486 **SECTION 3-17.**

1487 Said title is further amended by revising subsection (d) of Code Section 16-13-30.2, relating
 1488 to unlawful manufacture, distribution, or possession with intent to distribute imitation
 1489 controlled substances, as follows:

1490 "(d) All materials which are manufactured, distributed, or possessed in violation of this
 1491 Code section and any proceeds derived or realized therefrom are declared to be contraband
 1492 and no person shall have a property right in them and shall be forfeited according to the
 1493 procedure described in Code Section 16-13-49 set forth in Chapter 16 of Title 9. As used
 1494 in this subsection, the term 'proceeds' shall have the same meaning as set forth in Code
 1495 Section 9-16-2."

1496 **SECTION 3-18.**

1497 Said title is further amended by revising subsection (f) of Code Section 16-13-30.4, relating
 1498 to licenses for sale, transfer, or purchase for resale of products containing pseudoephedrine,
 1499 as follows:

1500 "(f) Any ~~All~~ products containing pseudoephedrine that have been or that are intended to
 1501 be sold, transferred, purchased for resale, possessed, or otherwise transferred in violation
 1502 of a provision of this Code section ~~shall be subject to forfeiture to the state and no property~~
 1503 right shall exist in them and any proceeds derived or realized therefrom are declared to be
 1504 contraband and no person shall have a property right in them and shall be forfeited
 1505 according to the procedure set forth in Chapter 16 of Title 9. As used in this subsection,
 1506 the term 'proceeds' shall have the same meaning as set forth in Code Section 9-16-2."

1507 **SECTION 3-19.**

1508 Said title is further amended by revising subsections (e) through (g) of Code Section
 1509 16-13-32, relating to transactions in drug related objects and forfeitures, as follows:

1510 "(e) All instruments, devices, and objects which are distributed or possessed in violation
 1511 of this Code section and any proceeds derived or realized therefrom are declared to be
 1512 contraband and no person shall have a property right in them and shall be forfeited
 1513 according to the procedure set forth in Chapter 16 of Title 9. As used in this subsection,
 1514 the term 'proceeds' shall have the same meaning as set forth in Code Section 9-16-2.

1515 ~~(f) After conviction and after all direct appeals from the conviction have been exhausted,~~
 1516 ~~any instruments, devices, or objects which are the subject of prosecution under this Code~~
 1517 ~~section may be destroyed by the state or any county or municipality thereof without court~~
 1518 ~~order.~~

1519 ~~(g) Any instruments, devices, or objects which are seized after July 1, 1980, on~~
 1520 ~~condemnation as being distributed or possessed in violation of this Code section and which~~
 1521 ~~are not made the subject of prosecution under this Code section may be destroyed by the~~
 1522 ~~state or any county or municipality thereof if within 90 days after such seizures are made,~~
 1523 ~~the district attorney or the solicitor-general of any court that has jurisdiction to try~~
 1524 ~~misdemeanors in the county where the seizure occurred shall institute condemnation~~
 1525 ~~proceedings in the court by petition, a copy of which shall be served upon the owner of the~~
 1526 ~~seized items, if known; and if the owner is unknown, notice of such proceedings shall be~~
 1527 ~~published once a week for two weeks in the newspaper in which the sheriff's~~
 1528 ~~advertisements are published. The petition shall allege that the seized items were~~
 1529 ~~distributed or possessed in violation of this Code section; and, if no defense is filed within~~
 1530 ~~30 days from the filing of the petition, judgment by default shall be entered by the court at~~
 1531 ~~chambers, and the court shall order the seized items to be destroyed; otherwise, the case~~
 1532 ~~shall proceed as other civil cases in the court. Should the state prove, by a preponderance~~
 1533 ~~of the evidence, that the seized items were distributed or possessed in violation of this Code~~
 1534 ~~section, the court shall order the seized items to be destroyed."~~

1535 **SECTION 3-20.**

1536 Said title is further amended by revising subsection (e) of Code Section 16-13-32.1, relating
 1537 to transactions in drug related objects, evidence, and forfeiture, as follows:

1538 "(e) All objects and materials which are distributed or possessed in violation of this Code
 1539 section and any proceeds derived or realized therefrom are declared to be contraband and
 1540 no person shall have a property right in them and shall be forfeited according to the
 1541 procedure ~~described in Code Section 16-13-49~~ set forth in Chapter 16 of Title 9. As used
 1542 in this subsection, the term 'proceeds' shall have the same meaning as set forth in Code
 1543 Section 9-16-2."

1544 **SECTION 3-21.**

1545 Said title is further amended by repealing Code Section 16-13-48.1, relating to funds or
 1546 property transferred to state or local agencies under federal drug laws, in its entirety.

1547 **SECTION 3-22.**

1548 Said title is further amended by repealing in its entirety Code Section 16-13-49, relating to
1549 forfeitures, and enacting a new Code Section 16-13-49 to read as follows:

1550 "16-13-49.

1551 (a) As used in this Code section, the term:

1552 (1) 'Controlled substance' shall have the same meaning as set forth in Code Section
1553 16-13-21 and shall include marijuana, as such term is defined in Code Section 16-13-21.

1554 (2) 'Enterprise' means any person, sole proprietorship, partnership, corporation, trust,
1555 association, or other legal entity created under the laws of the United States or any
1556 foreign nation or a group of individuals associated in fact although not a legal entity and
1557 includes illicit as well as licit enterprises and governmental as well as other entities.

1558 (3) 'Proceeds' shall have the same meaning as set forth in Code Section 9-16-2.

1559 (4) 'Property' shall have the same meaning as set forth in Code Section 9-16-2.

1560 (5) 'United States' shall have the same meaning as set forth in Code Section 9-16-2.

1561 (b) Except as provided in subsection (d) of this Code section, the following are declared
1562 to be contraband and no person shall have a property right in them:

1563 (1) Any controlled substances, raw materials, or controlled substance analogs that have
1564 been manufactured, distributed, dispensed, possessed, or acquired in violation of this
1565 article;

1566 (2) Any property which is, directly or indirectly, used or intended for use in any manner
1567 to facilitate a violation of this article and any proceeds derived or realized therefrom;

1568 (3) Any property located in this state which was, directly or indirectly, used or intended
1569 for use in any manner to facilitate a violation of this article or the laws of the United
1570 States relating to controlled substances that is punishable by imprisonment for more than
1571 one year and any proceeds derived or realized therefrom;

1572 (4) Any interest, security, claim, or property or contractual right of any kind affording
1573 a source of influence over any enterprise that a person has established, operated,
1574 controlled, conducted, or participated in the conduct of in violation of this article or the
1575 laws of the United States relating to controlled substances that is punishable by
1576 imprisonment for more than one year and any proceeds derived or realized therefrom;

1577 (5) Any property found in close proximity to any controlled substance or other property
1578 subject to forfeiture under this Code section; and

1579 (6) Any weapon available for any use in any manner to facilitate a violation of this
1580 article.

1581 (c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall
1582 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9.

1583 (d) Property shall not be subject to forfeiture under this Code section for a violation
 1584 involving only one gram or less of a mixture containing cocaine or four ounces or less of
 1585 marijuana unless such property was used to facilitate a transaction in or a purchase of or
 1586 sale of a controlled substance.

1587 (e) In addition to persons authorized to seize property pursuant to Code Section 9-16-6,
 1588 property which is subject to forfeiture under this Code section may be seized by the
 1589 director of the Georgia Drugs and Narcotics Agency or by any drug agent of this state or
 1590 any political subdivision thereof who has power to make arrests or execute process or a
 1591 search warrant issued by any court having jurisdiction over the property.

1592 (f) Controlled substances included in Schedule I which are contraband and any controlled
 1593 substance whose owners are unknown shall be summarily forfeited to the state. The court
 1594 may include in any judgment of conviction under this article an order forfeiting any
 1595 controlled substance involved in the offense to the extent of the defendant's interest."

1596 **SECTION 3-23.**

1597 Said title is further amended by revising Code Section 16-13-53, relating to pending
 1598 proceedings, as follows:

1599 "16-13-53.

1600 ~~(a) Prosecution for any violation of law occurring prior to July 1, 1974, is not affected or~~
 1601 ~~abated by this article. If the offense which was being prosecuted is similar to one set out~~
 1602 ~~in this article, then the penalties under this article apply if they are less than those under~~
 1603 ~~prior law.~~

1604 ~~(b) Civil seizures or forfeitures and injunctive proceedings commenced prior to July 1,~~
 1605 ~~1974, are not affected by this article.~~

1606 ~~(c) All administrative proceedings pending under prior laws which were superseded by this~~
 1607 ~~article shall be continued and brought to a final determination in accord with the laws and~~
 1608 ~~rules in effect prior to July 1, 1974. Any substance controlled under prior law which is not~~
 1609 ~~listed within Schedules I through V is automatically controlled without further proceedings~~
 1610 ~~and shall be listed in the appropriate schedule.~~

1611 ~~(d) This article applies to violations of law, seizures, forfeitures, injunctive proceedings,~~
 1612 ~~administrative proceedings, and investigations occurring after July 1, 1974. Reserved."~~

1613 **SECTION 3-24.**

1614 Said title is further amended by revising Code Section 16-13-58, relating to funds for
 1615 development and maintenance of program, as follows:

1616 "16-13-58.

1617 (a) The agency shall be authorized to apply for available grants and may accept any gifts,
1618 grants, donations, and other funds, ~~including funds from the disposition of forfeited~~
1619 ~~property~~, to assist in developing and maintaining the program established pursuant to Code
1620 Section 16-13-57; provided, however, that neither the board, agency, nor any other state
1621 entity shall accept a grant that requires as a condition of the grant any sharing of
1622 information that is inconsistent with this part.

1623 (b) The agency shall be authorized to grant funds to dispensers for the purpose of covering
1624 costs for dedicated equipment and software for dispensers to use in complying with the
1625 reporting requirements of Code Section 16-13-59. Such grants to dispensers shall be
1626 funded by gifts, grants, donations, or other funds, ~~including funds from the disposition of~~
1627 ~~forfeited property~~, received by the agency for the operation of the program established
1628 pursuant to Code Section 16-13-57. The agency shall be authorized to establish standards
1629 and specifications for any equipment and software purchased pursuant to a grant received
1630 by a dispenser pursuant to this Code section. Nothing in this part shall be construed to
1631 require a dispenser to incur costs to purchase equipment or software to comply with this
1632 part.

1633 (c) Nothing in this part shall be construed to require any appropriation of state funds."

1634

SECTION 3-25.

1635 Said title is further amended by revising Chapter 14, the "Georgia RICO (Racketeer
1636 Influenced and Corrupt Organizations) Act," as follows:

1637

"CHAPTER 14

1638 16-14-1.

1639 This chapter shall be known and may be cited as the 'Georgia RICO (Racketeer Influenced
1640 and Corrupt Organizations) Act.'

1641 16-14-2.

1642 (a) The General Assembly finds that a severe problem is posed in this state by the
1643 increasing sophistication of various criminal elements and the increasing extent to which
1644 the state and its citizens are harmed as a result of the activities of these elements.

1645 (b) The General Assembly declares that the intent of this chapter is to impose sanctions
1646 against those who violate this chapter and to provide compensation to persons injured or
1647 aggrieved by such violations. It is not the intent of the General Assembly that isolated
1648 incidents of misdemeanor conduct or acts of civil disobedience be prosecuted under this

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1649 chapter. It is the intent of the General Assembly, however, that this chapter apply to an
 1650 interrelated pattern of criminal activity motivated by or the effect of which is pecuniary
 1651 gain or economic or physical threat or injury. This chapter shall be liberally construed to
 1652 effectuate the remedial purposes embodied in its operative provisions.

1653 16-14-3.

1654 As used in this chapter, the term:

1655 ~~(1) 'Alien corporation' means a corporation organized under laws other than the laws of~~
 1656 ~~the United States or the laws of any state of the United States.~~

1657 ~~(2)(A) 'Beneficial interest' means either of the following:~~

1658 ~~(i) The interest of a person as a beneficiary under any other trust arrangement~~
 1659 ~~pursuant to which a trustee holds legal or record title to real property for the benefit~~
 1660 ~~of such person; or~~

1661 ~~(ii) The interest of a person under any other form of express fiduciary arrangement~~
 1662 ~~pursuant to which any other person holds legal or record title to real property for the~~
 1663 ~~benefit of such person.~~

1664 ~~(B) 'Beneficial interest' does not include the interest of a stockholder in a corporation~~
 1665 ~~or the interest of a partner in either a general partnership or limited partnership. A~~
 1666 ~~beneficial interest shall be deemed to be located where the real property owned by the~~
 1667 ~~trustee is located.~~

1668 ~~(3) 'Civil proceeding' means any civil proceeding commenced by an investigative agency~~
 1669 ~~under any provision of this chapter.~~

1670 (1) 'Civil forfeiture proceeding' shall have the same meaning as set forth in Code Section
 1671 9-16-2.

1672 ~~(4)(2) 'Criminal proceeding' means any criminal proceeding commenced by an~~
 1673 ~~investigative agency the Department of Law or the office of any district attorney under~~
 1674 ~~any provision of this chapter.~~

1675 ~~(5) 'Documentary material' means any book, paper, document, writing, drawing, graph,~~
 1676 ~~chart, photograph, phonorecord, magnetic tape, computer printout, other data compilation~~
 1677 ~~from which information can be obtained or from which information can be translated into~~
 1678 ~~usable form, or other tangible item.~~

1679 ~~(6)(3) 'Enterprise' means any person, sole proprietorship, partnership, corporation,~~
 1680 ~~business trust, union chartered under the laws of this state, or other legal entity; or any~~
 1681 ~~unchartered union, association, or group of individuals associated in fact although not a~~
 1682 ~~legal entity; and it includes illicit as well as licit enterprises and governmental as well as~~
 1683 ~~other entities.~~

1684 ~~(7) 'Investigative agency' means the Department of Law or the office of any district~~
 1685 ~~attorney.~~

1686 ~~(8)~~(4) 'Pattern of racketeering activity' means:

1687 (A) Engaging in at least two acts of racketeering activity in furtherance of one or more
 1688 incidents, schemes, or transactions that have the same or similar intents, results,
 1689 accomplices, victims, or methods of commission or otherwise are interrelated by
 1690 distinguishing characteristics and are not isolated incidents, provided at least one of
 1691 such acts occurred after July 1, 1980, and that the last of such acts occurred within four
 1692 years, excluding any periods of imprisonment, after the commission of a prior act of
 1693 racketeering activity; or

1694 (B) Engaging in any one or more acts of domestic terrorism as described in subsection
 1695 (a) of Code Section 16-4-10 or any criminal attempt, criminal solicitation, or criminal
 1696 conspiracy related thereto.

1697 ~~(9)~~(5)(A) 'Racketeering activity' means to commit, to attempt to commit, or to solicit,
 1698 coerce, or intimidate another person to commit any crime which is chargeable by
 1699 indictment under the ~~following~~ laws of this state involving:

1700 (i) Unlawful distillation, manufacture, and transportation of alcoholic beverages in
 1701 violation of Code Section 3-3-27;

1702 (ii) Records and reports of currency transactions in violation of Article 11 of Chapter
 1703 1 of Title 7;

1704 (iii) The 'Georgia Uniform Securities Act of 2008' in violation of Chapter 5 of Title
 1705 10;

1706 (iv) Homicide in violation of Article 1 of Chapter 5 of this title;

1707 (v) Assault and battery in violation of Article 2 of Chapter 5 of this title;

1708 (vi) Kidnapping, false imprisonment, and related offenses in violation of Article 3 of
 1709 Chapter 5 of this title;

1710 (vii) Prostitution, keeping a place of prostitution, pimping, pandering, and pandering
 1711 by compulsion in violation of Code Sections 16-6-9 through 16-6-12 and 16-6-14;

1712 (viii) Burglary in violation of Code Section 16-7-1;

1713 (ix) Smash and grab burglary in violation of Code Section 16-7-2;

1714 (x) Arson and explosives in violation of Article 3 of Chapter 7 of this title;

1715 (xi) Bombs, explosives, and chemical and biological weapons in violation of Article
 1716 4 of Chapter 7 of this title;

1717 (xii) Theft in violation of Article 1 of Chapter 8 of this title;

1718 (xiii) Robbery in violation of Article 2 of Chapter 8 of this title;

1719 (xiv) Criminal reproduction and sale of recorded material in violation of Article 3 of
 1720 Chapter 8 of this title;

- 1721 (xv) The 'Georgia Residential Mortgage Fraud Act' in violation of Article 5 of
1722 Chapter 8 of this title;
- 1723 (xvi) Forgery in any degree in violation of Code Section 16-9-1;
1724 (xvii) Illegal use of financial transaction cards in violation of Code Sections 16-9-31,
1725 16-9-32, 16-9-33, and 16-9-34;
- 1726 (xviii) Use of an article with an altered identification mark in violation of Code
1727 Section 16-9-70;
- 1728 (xix) The 'Georgia Computer Systems Protection Act' in violation of Article 6 of
1729 Chapter 9 of this title;
- 1730 (xx) Identity fraud in violation of Article 8 of Chapter 9 of this title;
1731 (xxi) Bribery in violation of Code Section 16-10-2;
1732 (xxii) False statements and writings or false lien statements against public officers
1733 or public employees in violation of Code Section 16-10-20 or 16-10-20.1;
- 1734 (xxiii) Impersonating a public officer or employee in violation of Code Section
1735 16-10-23;
- 1736 (xxiv) Attempted murder or threatening of witnesses in official proceedings in
1737 violation of Code Section 16-10-32;
- 1738 (xxv) Perjury and other related offenses in violation of Article 4 of Chapter 10 of this
1739 title;
- 1740 (xxvi) Embracery in violation of Code Section 16-10-91;
1741 (xxvii) Influencing witnesses in violation of Code Section 16-10-93;
1742 (xxviii) Tampering with evidence in violation of Code Section 16-10-94;
1743 (xxvix) Intimidation or injury of grand or trial juror or court officer in violation of
1744 Code Section 16-10-97;
- 1745 (xxx) Terroristic threats and acts in violation of Code Section 16-11-37;
1746 (xxxi) The 'Georgia Firearms and Weapons Act' in violation of Part 2 of Article 4 of
1747 Chapter 11 of this title;
- 1748 (xxxii) Commercial gambling in violation of Code Section 16-12-22;
1749 (xxxiii) Distributing obscene materials in violation of Code Section 16-12-80;
1750 (xxxiv) The 'Georgia Controlled Substances Act' in violation of Article 2 of Chapter
1751 13 of this title;
- 1752 (xxxv) The 'Dangerous Drug Act' in violation of Article 3 of Chapter 13 of this title;
1753 (xxxvi) Marijuana in violation of subsection (j) of Code Section 16-13-30;
1754 (xxxvii) Payday loans in violation of Chapter 17 of this title;
1755 (xxxviii) Insurance fraud in violation of Code Section 33-1-9;
1756 (xxxix) Certain felonies involving certificates of title, security interest, or liens in
1757 violation of Code Section 40-3-90;

1758 ~~(xl) Removal or falsification of identification numbers in violation of Code Section~~
 1759 ~~40-4-21; or~~
 1760 ~~(xli) Possession of motor vehicle parts from which the identification has been~~
 1761 ~~removed in violation of Code Section 40-4-22.~~
 1762 ~~(i) Article 2 of Chapter 13 of this title, relating to controlled substances;~~
 1763 ~~(ii) Article 3 of Chapter 13 of this title, known as the 'Dangerous Drugs Act';~~
 1764 ~~(iii) Subsection (j) of Code Section 16-13-30, relating to marijuana;~~
 1765 ~~(iv) Article 1 of Chapter 5 of this title, relating to homicide;~~
 1766 ~~(v) Article 2 of Chapter 5 of this title, relating to bodily injury and related offenses;~~
 1767 ~~(vi) Articles 3 and 4 of Chapter 7 of this title, relating to arson and destructive~~
 1768 ~~devices, respectively;~~
 1769 ~~(vii) Code Section 16-7-1, relating to burglary, or Code Section 16-7-2, relating to~~
 1770 ~~smash and grab burglary;~~
 1771 ~~(viii) Code Section 16-9-1, relating to forgery in any degree;~~
 1772 ~~(ix) Article 1 of Chapter 8 of this title, relating to theft;~~
 1773 ~~(x) Article 2 of Chapter 8 of this title, relating to robbery;~~
 1774 ~~(xi) Code Sections 16-6-9 through 16-6-12 and 16-6-14, relating to prostitution and~~
 1775 ~~pandering;~~
 1776 ~~(xii) Code Section 16-12-80, relating to distributing obscene materials;~~
 1777 ~~(xiii) Code Section 16-10-2, relating to bribery;~~
 1778 ~~(xiv) Code Section 16-10-93, relating to influencing witnesses;~~
 1779 ~~(xv) Article 4 of Chapter 10 of this title and Code Sections 16-10-20, 16-10-20.1,~~
 1780 ~~16-10-23, and 16-10-91, relating to perjury and other falsifications;~~
 1781 ~~(xvi) Code Section 16-10-94, relating to tampering with evidence;~~
 1782 ~~(xvii) Code Section 16-12-22, relating to commercial gambling;~~
 1783 ~~(xviii) Code Section 3-3-27, relating to distilling or making liquors;~~
 1784 ~~(xix) Part 2 of Article 4 of Chapter 11 of this title, known as the 'Georgia Firearms~~
 1785 ~~and Weapons Act';~~
 1786 ~~(xx) Code Section 16-8-60, relating to unauthorized transfers and reproductions of~~
 1787 ~~recorded material;~~
 1788 ~~(xxi) Chapter 5 of Title 10, relating to violations of the 'Georgia Uniform Securities~~
 1789 ~~Act of 2008';~~
 1790 ~~(xxii) Code Section 3-3-27, relating to the unlawful distillation, manufacture, and~~
 1791 ~~transportation of alcoholic beverages;~~
 1792 ~~(xxiii) Code Sections 16-9-31, 16-9-32, 16-9-33, and 16-9-34, relating to the~~
 1793 ~~unlawful use of financial transaction cards;~~

1794 ~~(xxiv) Code Section 40-3-90, relating to certain felonies involving certificates of title,~~
 1795 ~~security interest, or liens concerning motor vehicles;~~
 1796 ~~(xxv) Code Section 40-4-21, relating to removal or falsification of identification~~
 1797 ~~numbers;~~
 1798 ~~(xxvi) Code Section 40-4-22, relating to possession of motor vehicle parts from~~
 1799 ~~which the identification has been removed;~~
 1800 ~~(xxvii) Code Section 16-9-70, relating to use of an article with an altered~~
 1801 ~~identification mark;~~
 1802 ~~(xxviii) Article 6 of Chapter 9 of this title, known as the 'Georgia Computer Systems~~
 1803 ~~Protection Act';~~
 1804 ~~(xxix) Any conduct defined as 'racketeering activity' under 18 U.S.C. Section 1961~~
 1805 ~~(1)(A), (B), (C), and (D);~~
 1806 ~~(xxx) Article 3 of Chapter 5 of this title, relating to kidnapping, false imprisonment,~~
 1807 ~~and related offenses, except for Code Section 16-5-44, relating to aircraft hijacking;~~
 1808 ~~(xxxi) Code Section 16-11-37, relating to terroristic threats and acts;~~
 1809 ~~(xxxii) Code Section 16-5-44.1, relating to motor vehicle hijacking;~~
 1810 ~~(xxxiii) Code Section 16-10-32, relating to tampering with witnesses, victims, or~~
 1811 ~~informants;~~
 1812 ~~(xxxiv) Code Section 16-10-97, relating to intimidation of grand or trial juror or court~~
 1813 ~~officer;~~
 1814 ~~(xxxv) Article 11 of Chapter 1 of Title 7 and Sections 5311 through 5330 of Title 31~~
 1815 ~~of the United States Code relating to records and reports of currency transactions;~~
 1816 ~~(xxxvi) Article 8 of Chapter 9 of this title, relating to identity fraud, and Section 1028~~
 1817 ~~of Title 18 of the United States Code, relating to fraudulent identification documents~~
 1818 ~~and information;~~
 1819 ~~(xxxvii) Code Section 33-1-9, relating to insurance fraud;~~
 1820 ~~(xxxviii) Code Section 16-17-2, relating to payday loans;~~
 1821 ~~(xxxix) Code Section 16-9-101, relating to deceptive commercial e-mail;~~
 1822 ~~(xl) Code Section 16-8-102, relating to residential mortgage fraud; or~~
 1823 ~~(xli) Code Section 16-5-5, relating to assisted suicide.~~
 1824 (B) 'Racketeering activity' shall also mean any act or threat involving murder,
 1825 kidnapping, gambling, arson, robbery, theft, receipt of stolen property, bribery,
 1826 extortion, obstruction of justice, dealing in narcotic or dangerous drugs, or dealing in
 1827 securities which is chargeable under the laws of the United States or, any territory of
 1828 the ~~several states~~ United States, or any state and which is punishable by imprisonment
 1829 for more than one year.

1830 (C) 'Racketeering activity' shall also mean any conduct defined as 'racketeering
 1831 activity' under 18 U.S.C. Section 1961 (1), any violation of 18 U.S.C. Section 1028, or
 1832 any violation of 31 U.S.C. Sections 5311 through 5330.

1833 ~~(10)(6)~~ 'Real property' means any real property situated in this state or any interest in
 1834 such real property, including, but not limited to, any lease of or mortgage upon such real
 1835 property.

1836 ~~(11) 'RICO lien notice' means the notice described in Code Section 16-14-13.~~

1837 ~~(12)(A) 'Trustee' means either of the following:~~

1838 ~~(i) Any person who holds legal or record title to real property for which any other~~
 1839 ~~person has a beneficial interest; or~~

1840 ~~(ii) Any successor trustee or trustees to any of the foregoing persons.~~

1841 ~~(B) 'Trustee' does not include the following:~~

1842 ~~(i) Any person appointed or acting as a guardian or conservator under Title 29,~~
 1843 ~~relating to guardian and ward, or personal representative under former Chapter 6 of~~
 1844 ~~Title 53 as such existed on December 31, 1997, relating to the administration of~~
 1845 ~~estates, if applicable, or Chapter 6 of Title 53 and other provisions in Chapter 1~~
 1846 ~~through 11 of Title 53, the 'Revised Probate Code of 1998,' relating to the~~
 1847 ~~administration of estates; or~~

1848 ~~(ii) Any person appointed or acting as a trustee of any testamentary trust or as trustee~~
 1849 ~~of any indenture of trust under which any bonds are or are to be issued.~~

1850 16-14-4.

1851 (a) It is shall be unlawful for any person, through a pattern of racketeering activity or
 1852 proceeds derived therefrom, to acquire or maintain, directly or indirectly, any interest in
 1853 or control of any enterprise, real property, or personal property of any nature, including
 1854 money.

1855 (b) It is shall be unlawful for any person employed by or associated with any enterprise
 1856 to conduct or participate in, directly or indirectly, such enterprise through a pattern of
 1857 racketeering activity.

1858 (c) It is shall be unlawful for any person to conspire or endeavor to violate any of the
 1859 provisions of subsection (a) or (b) of this Code section. A person violates this subsection
 1860 when:

1861 (1) He or she together with one or more persons conspires to violate any of the
 1862 provisions of subsection (a) or (b) of this Code section and any one or more of such
 1863 persons commits any overt act to effect the object of the conspiracy; or

1864 (2) He or she endeavors to violate any of the provisions of subsection (a) or (b) of this
 1865 Code section and commits any overt act to effect the object of the endeavor.

1866 16-14-5.

1867 (a) Any person convicted of the offense of engaging in activity in violation of Code
1868 Section 16-14-4 ~~is~~ shall be guilty of a felony and shall be punished by not less than five nor
1869 more than 20 years' imprisonment or the fine specified in subsection (b) of this Code
1870 section, or both.

1871 (b) In lieu of any fine otherwise authorized by law, any person convicted of the offense of
1872 engaging in conduct in violation of Code Section 16-14-4 may be sentenced to pay a fine
1873 that does not exceed the greater of \$25,000.00 or three times the amount of any pecuniary
1874 value gained by him or her from such violation.

1875 (c) The court shall hold a hearing to determine the amount of the fine authorized by
1876 subsection (b) of this Code section.

1877 (d) For the purposes of subsection (b) of this Code section, the term 'pecuniary value'
1878 means:

1879 (1) Anything of value in the form of money, a negotiable instrument, a commercial
1880 interest, or anything else, the primary significance of which is economic advantage; or

1881 (2) Any other property or service that has a value in excess of \$100.00.

1882 16-14-6.

1883 (a) Any superior court may, after making due provisions for the rights of innocent persons,
1884 enjoin violations of Code Section 16-14-4 by issuing appropriate orders and judgments,
1885 including, but not limited to:

1886 (1) Ordering any defendant to divest himself or herself of any interest in any enterprise,
1887 real property, or personal property;

1888 (2) Imposing reasonable restrictions upon the future activities or investments of any
1889 defendant, including, but not limited to, prohibiting any defendant from engaging in the
1890 same type of endeavor as the enterprise in which he or she was engaged in violation of
1891 Code Section 16-14-4;

1892 (3) Ordering the dissolution or reorganization of any enterprise;

1893 (4) Ordering the suspension or revocation of any license, permit, or prior approval
1894 granted to any enterprise by any agency of the state; or

1895 (5) Ordering the forfeiture of the charter of a corporation organized under the laws of this
1896 state or the revocation of a certificate authorizing a foreign corporation to conduct
1897 business within this state upon a finding that the board of directors or a managerial agent
1898 acting on behalf of the corporation, in conducting affairs of the corporation, has
1899 authorized or engaged in conduct in violation of Code Section 16-14-4 and that, for the
1900 prevention of future criminal activity, the public interest requires that the charter of the

1901 corporation be forfeited and that the corporation be dissolved or the certificate be
1902 revoked.

1903 (b) Any aggrieved person or the state may institute a ~~proceeding~~ civil action under
1904 subsection (a) of this Code section. In such ~~proceeding~~ civil action, relief shall be granted
1905 in conformity with the principles that govern the granting of injunctive relief from
1906 threatened loss or damage in other civil cases, provided that no showing of special or
1907 irreparable damage to the person shall have to be made. Upon the execution of proper
1908 bond against damages for an injunction improvidently granted and a showing of immediate
1909 danger of significant loss or damage, a temporary restraining order and a preliminary
1910 injunction may be issued in any such action before a final determination on the merits.

1911 (c) Any person who is injured by reason of any violation of Code Section 16-14-4 shall
1912 have a cause of action for three times the actual damages sustained and, where appropriate,
1913 punitive damages. Such person shall also recover ~~attorneys'~~ attorney's fees in the trial and
1914 appellate courts and costs of investigation and litigation reasonably incurred. The
1915 defendant or any injured person may demand a trial by jury in any civil action brought
1916 pursuant to this Code section.

1917 (d) Any injured person shall have a right or claim to forfeited property or to the proceeds
1918 derived therefrom ~~superior to any right or claim the state or the county (other than for~~
1919 ~~costs) has in the same property or proceeds. To enforce such a claim, the injured person~~
1920 ~~must intervene in the forfeiture proceeding prior to its final disposition~~ as set forth in Code
1921 Section 9-16-16.

1922 (e) A conviction in any criminal proceeding ~~under this chapter~~ shall estop the defendant
1923 in any subsequent civil action or civil forfeiture proceeding under this chapter as to all
1924 matters proved in the criminal proceeding.

1925 16-14-7.

1926 (a) All property of every kind used or intended for use in the course of, derived from, or
1927 realized through a pattern of racketeering activity is shall be subject to forfeiture to the
1928 state. ~~Forfeiture shall be had by a civil procedure known as a RICO forfeiture proceeding~~
1929 ~~under the following rules. The Attorney General shall be specifically authorized to~~
1930 commence any civil forfeiture proceeding under this chapter in matters arising under Code
1931 Section 45-15-10.

1932 (b) Any property subject to forfeiture pursuant to subsection (a) of this Code section and
1933 any proceeds derived or realized therefrom are declared to be contraband and no person
1934 shall have a property right in them and shall be forfeited in accordance with the procedure
1935 set forth in Chapter 16 of Title 9. A RICO forfeiture proceeding shall be governed by

1936 ~~Chapter 11 of Title 9, the 'Georgia Civil Practice Act,' except to the extent that special rules~~
1937 ~~of procedure are stated in this chapter.~~

1938 ~~(c) A RICO forfeiture proceeding shall be an in rem proceeding against the property.~~

1939 ~~(d) A RICO forfeiture proceeding shall be instituted by complaint and prosecuted by the~~
1940 ~~district attorney of the county in which the property is located or seized. The proceeding~~
1941 ~~may be commenced before or after seizure of the property.~~

1942 ~~(e) If the complaint is filed before seizure, it shall state what property is sought to be~~
1943 ~~forfeited, that the property is within the jurisdiction of the court, the grounds for forfeiture,~~
1944 ~~and the names of all persons known to have or claim an interest in the property. The court~~
1945 ~~shall determine ex parte whether there is reasonable cause to believe that the property is~~
1946 ~~subject to forfeiture and that notice to those persons having or claiming an interest in the~~
1947 ~~property prior to seizure would cause the loss or destruction of the property. If the court~~
1948 ~~finds that reasonable cause does not exist to believe the property is subject to forfeiture, it~~
1949 ~~shall dismiss the complaint. If the court finds that reasonable cause does exist to believe~~
1950 ~~the property is subject to forfeiture but there is not reasonable cause to believe that prior~~
1951 ~~notice would result in loss or destruction, it shall order service on all persons known to~~
1952 ~~have or claim an interest in the property prior to a further hearing on whether a writ of~~
1953 ~~seizure should issue. If the court finds that there is reasonable cause to believe that the~~
1954 ~~property is subject to forfeiture and to believe that prior notice would cause loss or~~
1955 ~~destruction, it shall without any further hearing or notice issue a writ of seizure directing~~
1956 ~~the sheriff of the county where the property is found to seize it.~~

1957 ~~(f) Seizure may be effected by a law enforcement officer authorized to enforce the penal~~
1958 ~~laws of this state prior to the filing of the complaint and without a writ of seizure if the~~
1959 ~~seizure is incident to a lawful arrest, search, or inspection and the officer has probable~~
1960 ~~cause to believe the property is subject to forfeiture and will be lost or destroyed if not~~
1961 ~~seized. Within ten days of the date of seizure, the seizure shall be reported by the officer~~
1962 ~~to the district attorney of the circuit in which the seizure is effected; and the district~~
1963 ~~attorney shall, within a reasonable time after receiving notice of seizure, file a complaint~~
1964 ~~for forfeiture. The complaint shall state, in addition to the information required in~~
1965 ~~subsection (e) of this Code section, the date and place of seizure.~~

1966 ~~(g) After the complaint is filed or the seizure effected, whichever is later, every person~~
1967 ~~known to have or claim an interest in the property shall be served, if not previously served,~~
1968 ~~with a copy of the complaint and a notice of seizure in the manner provided by Chapter 11~~
1969 ~~of Title 9, the 'Georgia Civil Practice Act.' Service by publication may be ordered upon any~~
1970 ~~party whose whereabouts cannot be determined.~~

1971 ~~(h)(1) Any person claiming an interest in the property may become a party to the action~~
1972 ~~at any time prior to judgment whether named in the complaint or not. Any party claiming~~

1973 a substantial interest in the property may upon motion be allowed by the court to take
 1974 possession of the property upon posting bond with good and sufficient security in double
 1975 the amount of the property's value conditioned to pay the value of any interest in the
 1976 property found to be subject to forfeiture or the value of any interest of another not
 1977 subject to forfeiture. Such a party taking possession shall not remove the property from
 1978 the territorial jurisdiction of the court without written permission from the court.

1979 ~~(2) The court may, upon such terms and conditions as prescribed by it, order that the~~
 1980 ~~property be sold by an innocent party who holds a lien on or security interest in the~~
 1981 ~~property at any time during the proceedings. Any proceeds from such sale over and~~
 1982 ~~above the amount necessary to satisfy the lien or security interest shall be paid into court~~
 1983 ~~pending final judgment in the forfeiture proceeding. No such sale shall be ordered,~~
 1984 ~~however, unless the obligation upon which the lien or security interest is based is in~~
 1985 ~~default.~~

1986 ~~(3) Pending final judgment in the forfeiture proceeding, the court may make any other~~
 1987 ~~disposition of the property which is in the interest of substantial justice.~~

1988 ~~(i) After service of process, all further proceedings shall be as provided in Chapter 11 of~~
 1989 ~~Title 9, the 'Georgia Civil Practice Act,' except that any party may bring one motion to~~
 1990 ~~dismiss at any time and such motion shall be heard and ruled on within ten days. Any party~~
 1991 ~~may demand a jury trial.~~

1992 ~~(j) The interest of an innocent party in the property shall not be subject to forfeiture. An~~
 1993 ~~innocent party is one who did not have actual or constructive knowledge that the property~~
 1994 ~~was subject to forfeiture.~~

1995 ~~(k) Subject to the requirement of protecting the interest of all innocent parties, the court~~
 1996 ~~may, after judgment of forfeiture, make any of the following orders for disposition of the~~
 1997 ~~property:~~

1998 ~~(1) Destruction of contraband, the possession of which is illegal;~~

1999 ~~(2) Retention for official use by any agency of this state or any political subdivision~~
 2000 ~~thereof. When such agency or political subdivision no longer has use for such property,~~
 2001 ~~it shall be disposed of by judicial sale;~~

2002 ~~(3) Transfer to the Division of Archives and History of property useful for historical or~~
 2003 ~~instructional purposes;~~

2004 ~~(4) Retention of the property by any innocent party having an interest therein, upon~~
 2005 ~~payment or approval of a plan for payment into court of the value of any forfeited interest~~
 2006 ~~in the property. The plan may include, in the case of an innocent party who holds a lien~~
 2007 ~~on or security interest in the property, the sale of the property by the innocent party under~~
 2008 ~~such terms and conditions as may be prescribed by the court and the payment into court~~

2009 of any proceeds from such sale over and above the amount necessary to satisfy the lien
 2010 or security interest;

2011 ~~(5) Judicial sale of the property;~~

2012 ~~(6) Transfer of the property to any innocent party having an interest therein equal to or~~
 2013 ~~greater than the value of the property; or~~

2014 ~~(7) Any other disposition of the property which is in the interest of substantial justice and~~
 2015 ~~adequately protects innocent parties.~~

2016 ~~(f) The net proceeds of any sale or disposition after satisfaction of the interest of any~~
 2017 ~~innocent party, less the greater of one-half thereof or the costs borne by the county in~~
 2018 ~~bringing the forfeiture action, shall be paid into the general fund of the state treasury. The~~
 2019 ~~costs borne by the county or one-half of the net proceeds of sale or disposition, whichever~~
 2020 ~~is greater, shall be paid into the treasury of the county where the forfeiture action is~~
 2021 ~~brought. Notwithstanding any other provision in this Code section, the court may, after~~
 2022 ~~satisfaction of the interest of any innocent party, make any other division of the proceeds~~
 2023 ~~among the state, county, or municipalities or agencies of the state, county, or~~
 2024 ~~municipalities, which is commensurate with the proportion of the assistance that each~~
 2025 ~~contributed to the underlying criminal action, forfeiture, or criminal action and forfeiture.~~

2026 ~~(m) In lieu of the provisions of subsections (c) through (g) of this Code section, the state~~
 2027 ~~may bring an in personam action for the forfeiture of any property subject to forfeiture~~
 2028 ~~under subsection (a) of this Code section.~~

2029 ~~(n)(1) Upon the entry of a final judgment of forfeiture in favor of the state, the title of the~~
 2030 ~~state to the forfeited property shall:~~

2031 ~~(A) In the case of real property or beneficial interest, relate back to the date of filing~~
 2032 ~~of the RICO lien notice in the official records of the county where the real property or~~
 2033 ~~beneficial trust is located and, if no RICO lien notice is filed, then to the date of the~~
 2034 ~~filing of any notice of lis pendens under Article 9 of Chapter 14 of Title 44 in the~~
 2035 ~~official records of the county where the real property or beneficial interest is located~~
 2036 ~~and, if no RICO lien notice or notice of lis pendens is so filed, then to the date of~~
 2037 ~~recording of the final judgment of forfeiture in the official records of the county where~~
 2038 ~~the real property or beneficial interest is located; and~~

2039 ~~(B) In the case of personal property, relate back to the date the personal property was~~
 2040 ~~seized by the investigating agency.~~

2041 ~~(2) If property subject to forfeiture is conveyed, alienated, disposed of, or otherwise~~
 2042 ~~rendered unavailable for forfeiture after the filing of a RICO lien notice or after the filing~~
 2043 ~~of a civil proceeding or criminal proceeding, whichever is earlier, the investigative~~
 2044 ~~agency may, on behalf of the state, institute an action in the appropriate superior court~~
 2045 ~~against the person named in the RICO lien notice or the defendant in the civil proceeding~~

2046 ~~or criminal proceeding; and the court shall enter final judgment against the person named~~
 2047 ~~in the RICO lien notice or the defendant in the civil proceeding or criminal proceeding~~
 2048 ~~in an amount equal to the fair market value of the property, together with investigative~~
 2049 ~~costs and attorney's fees incurred by the investigative agency in the action. If a civil~~
 2050 ~~proceeding is pending, such action shall be filed only in the court where such civil~~
 2051 ~~proceeding is pending.~~

2052 16-14-8.

2053 Notwithstanding any other provision of law setting forth a statute of limitations, a criminal
 2054 proceeding or civil action ~~or proceeding under this chapter may~~ brought pursuant to Code
 2055 Section 16-14-6 shall be commenced up until five years after the conduct in violation of
 2056 a provision of this chapter terminates ~~or the cause of action accrues~~. If a criminal
 2057 ~~prosecution~~ proceeding or civil action forfeiture proceeding is brought by the state ~~to~~
 2058 ~~punish or prevent any violation of~~ pursuant to this chapter, then the running of this period
 2059 of limitations, with respect to any cause of action arising under subsection (b) or (c) of
 2060 Code Section 16-14-6 which is based upon any matter complained of in such ~~prosecution~~
 2061 criminal proceeding or ~~action~~ civil forfeiture proceeding by the state, shall be suspended
 2062 during the pendency of the ~~prosecution~~ criminal proceeding or ~~action~~ civil forfeiture
 2063 proceeding by the state and for two years thereafter.

2064 16-14-9.

2065 The application of one civil remedy under this chapter shall not preclude the application
 2066 of any other remedy, civil or criminal, under this chapter or any other provision of law.
 2067 Civil remedies under this chapter are supplemental and not mutually exclusive.

2068 16-14-10.

2069 (a) ~~A Notwithstanding any other provision of law,~~ a valid judgment rendered by a court
 2070 of a jurisdiction having a law substantially similar to this chapter ~~will~~ shall be recognized
 2071 and enforced by the courts of this state to the extent that a judgment rendered by a court of
 2072 this state pursuant to this chapter would be enforced in such other jurisdiction.

2073 (b) The Attorney General ~~is~~ shall be authorized to enter into reciprocal agreements with
 2074 the attorney general or chief prosecuting attorney of any jurisdiction having a law
 2075 substantially similar to this chapter so as to further the purposes of this chapter.

2076 16-14-11.

2077 In any criminal proceeding ~~brought pursuant to this chapter~~, the crime shall be considered
 2078 to have been committed in any county in which an incident of racketeering occurred or in

2079 which an interest or control of an enterprise or real or personal property is acquired or
 2080 maintained.

2081 16-14-12.

2082 ~~The~~ This state may, in any civil action or civil forfeiture proceeding brought pursuant to
 2083 this chapter, file with the clerk of the superior court a certificate stating that the case is of
 2084 special public importance. A copy of ~~that~~ such certificate shall be furnished immediately
 2085 by such clerk to the chief judge or, in his or her absence, the presiding chief judge of the
 2086 superior court in which such civil action or civil forfeiture proceeding is pending; and,
 2087 upon receipt of such ~~copy~~ certificate, the judge shall immediately designate a judge to hear
 2088 and determine ~~the~~ such civil action or civil forfeiture proceeding. The judge so designated
 2089 shall promptly assign such civil action or civil forfeiture proceeding for hearing, participate
 2090 in the hearings and determination, and cause ~~the~~ such civil action or civil forfeiture
 2091 proceeding to be expedited.

2092 ~~16-14-13.~~

2093 ~~(a) Upon the institution of any civil proceeding, the investigative agency then or at any~~
 2094 ~~time during the pendency of the proceeding may file in the official records of any one or~~
 2095 ~~more counties a RICO lien notice. No filing fee or other charge shall be required as a~~
 2096 ~~condition for filing the RICO lien notice; and the clerk of the superior court shall, upon the~~
 2097 ~~presentation of a RICO lien notice, immediately record it in the official records:~~

2098 ~~(b) The RICO lien notice shall be signed by the Attorney General or his designee or by a~~
 2099 ~~district attorney or his designee. The notice shall be in such form as the Attorney General~~
 2100 ~~prescribes and shall set forth the following information:~~

2101 ~~(1) The name of the person against whom the civil proceeding has been brought. In its~~
 2102 ~~discretion, the investigative agency may also name in the RICO lien notice any other~~
 2103 ~~aliases, names, or fictitious names under which the person may be known. In its~~
 2104 ~~discretion, the investigative agency may also name in the RICO lien notice any~~
 2105 ~~corporation, partnership, or other entity that is either controlled by or entirely owned by~~
 2106 ~~the person;~~

2107 ~~(2) If known to the investigative agency, the present residence and business addresses~~
 2108 ~~of the person named in the RICO lien notice and of the other names set forth in the RICO~~
 2109 ~~lien notice;~~

2110 ~~(3) A reference to the civil proceeding stating that a proceeding under this chapter has~~
 2111 ~~been brought against the person named in the RICO lien notice, the name of the county~~
 2112 ~~or counties where the proceeding has been brought, and, if known to the investigative~~
 2113 ~~agency at the time of filing the RICO lien notice, the case number of the proceeding;~~

- 2114 ~~(4) A statement that the notice is being filed pursuant to this chapter; and~~
- 2115 ~~(5) The name and address of the investigative agency filing the RICO lien notice and the~~
- 2116 ~~name of the individual signing the RICO lien notice.~~
- 2117 ~~(c) A RICO lien notice shall apply only to one person and, to the extent applicable, any~~
- 2118 ~~aliases, fictitious names, or other names, including names of corporations, partnerships, or~~
- 2119 ~~other entities, to the extent permitted in paragraph (1) of subsection (b) of this Code~~
- 2120 ~~section. A separate RICO lien notice shall be filed for any other person against whom the~~
- 2121 ~~investigative agency desires to file a RICO lien notice under this Code section.~~
- 2122 ~~(d) The investigative agency shall, as soon as practicable after the filing of each RICO lien~~
- 2123 ~~notice, furnish to the person named in the notice either a copy of the recorded notice or a~~
- 2124 ~~copy of the notice with a notation thereon of the county or counties in which the notice has~~
- 2125 ~~been recorded. The failure of the investigative agency to so furnish a copy of the notice~~
- 2126 ~~under this subsection shall not invalidate or otherwise affect the notice.~~
- 2127 ~~(e) The filing of a RICO lien notice creates, from the time of its filing, a lien in favor of~~
- 2128 ~~the state on the following property of the person named in the notice and against any other~~
- 2129 ~~names set forth in the notice:~~
- 2130 ~~(1) Any real property situated in the county where the notice is filed then or thereafter~~
- 2131 ~~owned by the person or under any of the names; and~~
- 2132 ~~(2) Any beneficial interest situated in the county where the notice is filed then or~~
- 2133 ~~thereafter owned by the person or under any of the names.~~
- 2134 ~~(f) The lien shall commence and attach as of the time of filing of the RICO lien notice and~~
- 2135 ~~shall continue thereafter until expiration, termination, or release pursuant to Code Section~~
- 2136 ~~16-14-14. The lien created in favor of the state shall be superior and prior to the interest~~
- 2137 ~~of any other person in the real property or beneficial interest if the interest is acquired~~
- 2138 ~~subsequent to the filing of the notice.~~
- 2139 ~~(g) In conjunction with any civil proceedings:~~
- 2140 ~~(1) The investigative agency may file without prior court order in any county a lis~~
- 2141 ~~pendens and, in such case, any person acquiring an interest in the subject real property~~
- 2142 ~~or beneficial interest, if the real property or beneficial interest is acquired subsequent to~~
- 2143 ~~the filing of lis pendens, shall take the interest subject to the civil proceeding and any~~
- 2144 ~~subsequent judgment of forfeiture; and~~
- 2145 ~~(2) If a RICO lien notice has been filed, the investigative agency may name as~~
- 2146 ~~defendants, in addition to the person named in the notice, any persons acquiring an~~
- 2147 ~~interest in the real property or beneficial interest subsequent to the filing of the notice.~~
- 2148 ~~If a judgment of forfeiture is entered in the proceeding in favor of the state, the interest~~
- 2149 ~~of any person in the property that was acquired subsequent to the filing of the notice shall~~
- 2150 ~~be subject to the notice and judgment of forfeiture.~~

2151 ~~(h)(1) A trustee who acquires actual knowledge that a RICO lien notice or a civil~~
 2152 ~~proceeding or criminal proceeding has been filed against any person for whom he holds~~
 2153 ~~legal or record title to real property shall immediately furnish to the investigative agency~~
 2154 ~~the following:~~

2155 ~~(A) The name and address of the person, as known to the trustee;~~

2156 ~~(B) The name and address, as known to the trustee, of all other persons for whose~~
 2157 ~~benefit the trustee holds title to the real property; and~~

2158 ~~(C) If requested by the investigative agency, a copy of the trust agreement or other~~
 2159 ~~instrument pursuant to which the trustee holds legal or record title to the real property.~~

2160 ~~(2) Any trustee who fails to comply with the provisions of this subsection is guilty of a~~
 2161 ~~misdemeanor.~~

2162 ~~(i) Any trustee who conveys title to real property for which a RICO lien notice has been~~
 2163 ~~filed at the time of the conveyance in the county where the real property is situated naming~~
 2164 ~~a person who, to the actual knowledge of the trustee, holds a beneficial interest in the trust~~
 2165 ~~shall be liable to the state for the greater of:~~

2166 ~~(1) The amount of proceeds received directly by the person named in the RICO lien~~
 2167 ~~notice as a result of the conveyance;~~

2168 ~~(2) The amount of proceeds received by the trustee as a result of the conveyance and~~
 2169 ~~distributed to the person named in the RICO lien notice; or~~

2170 ~~(3) The fair market value of the interest of the person named in the RICO lien notice in~~
 2171 ~~the real property so conveyed; however, if the trustee conveys the real property and holds~~
 2172 ~~the proceeds that would otherwise be paid or distributed to the beneficiary or at the~~
 2173 ~~direction of the beneficiary or his designee, the trustee's liability shall not exceed the~~
 2174 ~~amount of the proceeds so held for so long as the proceeds are held by the trustee.~~

2175 ~~(j) The filing of a RICO lien notice shall not constitute a lien on the record title to real~~
 2176 ~~property as owned by the trustee except to the extent the trustee is named in the RICO lien~~
 2177 ~~notice. The investigative agency may bring a civil proceeding in any superior court against~~
 2178 ~~the trustee to recover from the trustee the amounts set forth in subsection (i), and the state~~
 2179 ~~shall also be entitled to recover investigative costs and attorney's fees incurred by the~~
 2180 ~~investigative agency.~~

2181 ~~(k) The filing of a RICO lien notice shall not affect the use to which real property or a~~
 2182 ~~beneficial interest owned by the person named in the RICO lien notice may be put or the~~
 2183 ~~right of the person to receive any avails, rents, or other proceeds resulting from the use and~~
 2184 ~~ownership, but not the sale, of the property until a judgment of forfeiture is entered.~~

2185 ~~(l)(1) The provisions of this Code section shall not apply to any conveyance by a trustee~~
 2186 ~~pursuant to a court order unless such court order is entered in an action between the~~
 2187 ~~trustee and the beneficiary.~~

2188 ~~(2) Unless the trustee has actual knowledge that a person owning a beneficial interest in~~
2189 ~~the trust is named in a RICO lien notice or is otherwise a defendant in a civil proceeding,~~
2190 ~~the provisions of this Code section shall not apply to:~~

2191 ~~(A) Any conveyance by a trustee required under the terms of any trust agreement,~~
2192 ~~which trust agreement is a matter of public record prior to the filing of any RICO lien~~
2193 ~~notice; or~~

2194 ~~(B) Any conveyance by a trustee to all of the persons who own a beneficial interest in~~
2195 ~~the trust.~~

2196 ~~(m) All forfeitures or dispositions under this Code section shall be made with due~~
2197 ~~provision for the rights of innocent persons.~~

2198 ~~16-14-14.~~

2199 ~~(a) The term of a RICO lien notice shall be for a period of six years from the date of filing~~
2200 ~~unless a renewal RICO lien notice has been filed by the investigative agency; and, in such~~
2201 ~~case, the term of the renewal RICO lien notice shall be for a period of six years from the~~
2202 ~~date of its filing. The investigative agency shall be entitled to only one renewal of the~~
2203 ~~RICO lien notice.~~

2204 ~~(b) The investigative agency filing the RICO lien notice may release in whole or in part~~
2205 ~~any RICO lien notice or may release any specific real property or beneficial interest from~~
2206 ~~the RICO lien notice upon such terms and conditions as it may determine. Any release of~~
2207 ~~a RICO lien notice executed by the investigative agency may be filed in the official records~~
2208 ~~of any county. No charge or fee shall be imposed for the filing of any release of a RICO~~
2209 ~~lien notice.~~

2210 ~~(c) If no civil proceeding has been instituted by the investigative agency seeking a~~
2211 ~~forfeiture of any property owned by the person named in the RICO lien notice, the acquittal~~
2212 ~~in the criminal proceeding of the person named in the RICO lien notice or the dismissal of~~
2213 ~~the criminal proceeding shall terminate the RICO lien notice; and, in such case, the filing~~
2214 ~~of the RICO lien notice shall have no effect. In the event the criminal proceeding has been~~
2215 ~~dismissed or the person named in the RICO lien notice has been acquitted in the criminal~~
2216 ~~proceeding, the RICO lien notice shall continue for the duration of the civil proceeding.~~

2217 ~~(d) If no civil proceeding is then pending against the person named in a RICO lien notice,~~
2218 ~~the person named in a RICO lien notice may institute an action against the investigative~~
2219 ~~agency filing the notice in the county where the notice has been filed seeking a release or~~
2220 ~~extinguishment of the notice; and, in such case:~~

2221 ~~(1) The court shall, upon the motion of such person, immediately enter an order setting~~
2222 ~~a date for hearing, which date shall be not less than five nor more than ten days after the~~
2223 ~~action has been filed; and the order, along with a copy of the complaint, shall be served~~

2224 ~~on the investigative agency within three days after the institution of the action. At the~~
 2225 ~~hearing, the court shall take evidence on the issue of whether any real property or~~
 2226 ~~beneficial interest owned by such person is covered by the RICO lien notice or otherwise~~
 2227 ~~subject to forfeiture under this chapter; and, if such person shows by the preponderance~~
 2228 ~~of the evidence that the RICO lien notice is not applicable to him or that any real property~~
 2229 ~~or beneficial interest owned by him is not subject to forfeiture under this chapter, the~~
 2230 ~~court shall enter a judgment extinguishing the RICO lien notice or releasing the real~~
 2231 ~~property or beneficial interest from the RICO lien notice;~~

2232 ~~(2) The court shall immediately enter its order releasing from the RICO lien notice any~~
 2233 ~~specific real property or beneficial interest if a sale of the real property or beneficial~~
 2234 ~~interest is pending and the filing of the notice prevents the sale of the property or interest;~~
 2235 ~~however, the proceeds resulting from the sale of the real property or beneficial interest~~
 2236 ~~shall be deposited into the registry of the court, subject to the further order of the court;~~
 2237 ~~and~~

2238 ~~(3) At the hearing set forth in paragraph (1), the court may release from the RICO lien~~
 2239 ~~notice any real property or beneficial interest upon the posting by such person of such~~
 2240 ~~security as is equal to the value of the real property or beneficial interest owned by such~~
 2241 ~~person.~~

2242 ~~(e) In the event a civil proceeding is pending against a person named in a RICO lien~~
 2243 ~~notice, the court, upon motion by said person, may grant the relief set forth in this Code~~
 2244 ~~section.~~

2245 ~~16-14-15.~~

2246 ~~(a) Each alien corporation desiring to acquire of record any real property shall have, prior~~
 2247 ~~to acquisition, and shall continuously maintain in this state during any year thereafter in~~
 2248 ~~which such real property is owned by the alien corporation:~~

2249 ~~(1) A registered office; and~~

2250 ~~(2) A registered agent, which agent may be either:~~

2251 ~~(A) An individual resident in this state whose business office is identical with such~~
 2252 ~~registered office; or~~

2253 ~~(B) Another corporation authorized to transact business in this state having a business~~
 2254 ~~office identical with such registered office.~~

2255 ~~(b) Each registered agent appointed pursuant to this Code section, on whom process may~~
 2256 ~~be served, shall file a statement in writing with the Secretary of State accepting the~~
 2257 ~~appointment as registered agent simultaneously with being designated.~~

2258 ~~(c) Each alien corporation shall file with the Secretary of State an annual registration~~
 2259 ~~setting forth:~~

2260 (1) ~~The name of the alien corporation and the country under whose law it is incorporated;~~
2261 (2) ~~The mailing address of the principal office of the alien corporation;~~
2262 (3) ~~The name and mailing address of each officer and each director of the alien~~
2263 ~~corporation;~~
2264 (4) ~~The name and street address of the registered agent and registered office of the alien~~
2265 ~~corporation; and~~
2266 (5) ~~The signature of the corporate president, vice-president, secretary, assistant secretary,~~
2267 ~~or treasurer attesting to the accuracy of the report as of the date the annual registration is~~
2268 ~~executed on behalf of the corporation.~~
2269 (d) ~~The first annual registration must be delivered to the Secretary of State between~~
2270 ~~January 1 and April 1, or such other date as the Secretary of State may specify by rules or~~
2271 ~~regulations, of the year following a calendar year in which an alien corporation filed its~~
2272 ~~initial application pursuant to subsection (a) of this Code section. Subsequent annual~~
2273 ~~registrations must be delivered to the Secretary of State between January 1 and April 1, or~~
2274 ~~such other date as the Secretary of State may specify by rules or regulations, of the~~
2275 ~~following calendar years.~~
2276 (e) ~~For filing reports required pursuant to this Code section, the Secretary of State shall~~
2277 ~~collect a filing fee as set out in Code Section 14-2-122 for the filing of annual registrations.~~
2278 (f) ~~If an annual registration does not contain the information required by this Code section,~~
2279 ~~the Secretary of State shall promptly notify the reporting domestic, foreign, or alien~~
2280 ~~corporation in writing and return the report to it for correction. If the report is corrected~~
2281 ~~to contain the information required by this Code section and delivered to the Secretary of~~
2282 ~~State within 30 days after the effective date of notice, it is deemed to be timely filed.~~
2283 (g) ~~The Secretary of State shall record the status of any alien corporation that fails to~~
2284 ~~comply with the requirements of this Code section.~~
2285 (h) ~~Each alien corporation that fails to file a report as required by subsection (c) of this~~
2286 ~~Code section or fails to maintain a registered office and a registered agent as required by~~
2287 ~~subsection (a) of this Code section shall not be entitled to own, purchase, or sell any real~~
2288 ~~property and shall not be entitled to bring an action or defend in the courts of the state until~~
2289 ~~such requirements have been complied with.~~
2290 (i) ~~The filing of a report by a corporation as required by subsection (c) of this Code section~~
2291 ~~shall be solely for the purposes of this chapter and, notwithstanding Code Section 14-2-510~~
2292 ~~or any other relevant law, shall not be used as a determination of whether the corporation~~
2293 ~~is actually doing business in this state."~~

SECTION 3-26.

2294

2295 Said title is further amended by revising Code Section 16-15-5, relating to contraband,
 2296 seizure, and forfeiture under the "Georgia Street Gang Terrorism and Prevention Act," as
 2297 follows:

2298 "16-15-5.

2299 (a) As used in this Code section, the terms 'proceeds' and 'property' shall have the same
 2300 meanings as set forth in Code Section 9-16-2. ~~The following are declared to be contraband~~
 2301 ~~and no person shall have a property interest in them:~~

2302 ~~(1)(b) Any All property which is, directly or indirectly, used or intended for use in any~~
 2303 ~~manner to facilitate a violation of this chapter; and proceeds derived or realized therefrom~~
 2304 ~~are declared to be contraband and no person shall have a property right in them.~~

2305 ~~(2) Any property constituting or derived from gross profits or other proceeds obtained~~
 2306 ~~from a violation of this chapter.~~

2307 ~~(b) In any action under this Code section, the court may enter such restraining orders or~~
 2308 ~~take other appropriate action, including acceptance of performance bonds, in connection~~
 2309 ~~with any interest that is subject to forfeiture.~~

2310 (c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall
 2311 be forfeited in accordance with Chapter 16 of Title 9. ~~Within 60 days of the date of the~~
 2312 ~~seizure of contraband pursuant to this Code section, the district attorney shall initiate a~~
 2313 ~~forfeiture proceeding as provided in Code Section 16-13-49. An owner or interest holder,~~
 2314 ~~as defined by subsection (a) of Code Section 16-13-49, may establish as a defense to the~~
 2315 ~~forfeiture of property which is subject to forfeiture under this Code section the applicable~~
 2316 ~~provisions of subsection (e) or (f) of Code Section 16-13-49. Property which is forfeited~~
 2317 ~~pursuant to this Code section shall be disposed of as provided in Code Section 16-13-49~~
 2318 ~~and the proceeds of such disposition shall be paid to the Criminal Justice Coordinating~~
 2319 ~~Council for use in funding gang prevention projects."~~

2320

SECTION 3-27.

2321 Said title is further amended by repealing in its entirety Code Section 16-16-2, relating to
 2322 motor vehicles, tools, and weapons subject to forfeiture, and enacting a new Code Section
 2323 16-16-2 to read as follows:

2324 "16-16-2.

2325 (a) As used in this Code section, the terms 'proceeds' and 'property' shall have the same
 2326 meanings as set forth in Code Section 9-16-2.

2327 (b) Any property which is, directly or indirectly, used or intended for use in any manner
 2328 to facilitate the commission of a burglary or armed robbery and any proceeds derived or

2329 realized therefrom are declared to be contraband and no person shall have a property right
 2330 in them.
 2331 (c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall
 2332 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9."

2333 **PART IV**
 2334 **CONFORMING TITLES 3, 5, 7, 10, 12, 15, 17, 27, 36, 38, 40, 45, 46, 48, 49, AND 52**
 2335 **TO THE NEW CIVIL FORFEITURE PROCEDURE**
 2336 **AND CORRECTING TERMINOLOGY**
 2337 **SECTION 4-1.**

2338 Title 3 of the Official Code of Georgia Annotated, relating to alcoholic beverages, is
 2339 amended by revising Code Section 3-10-10, relating to existence of property rights in
 2340 distilled spirits or vessels kept or used in violation of the chapter, as follows:

2341 "3-10-10.

2342 No property rights of any kind shall exist in distilled spirits or in the vessels kept or used
 2343 for the purpose of violating this chapter, or in any such liquors when received, possessed,
 2344 or stored at any forbidden place or anywhere in a quantity forbidden by law or when kept,
 2345 stored, or deposited for the purpose of sale or unlawful disposition, furnishing, or
 2346 distribution. In all such cases the distilled spirits, the vessels and receptacles in which the
 2347 distilled spirits are contained, and any property kept or used for the purpose of violating
 2348 this chapter are declared to be contraband; and are to be forfeited to the state when seized;
 2349 ~~and may be condemned to be destroyed after seizure by order of the court that has acquired~~
 2350 ~~jurisdiction over them, or by order of the judge or court after conviction when the distilled~~
 2351 ~~spirits and property have been seized for use as evidence~~ in accordance with the procedures
 2352 set forth in Chapter 16 of Title 9."

2353 **SECTION 4-2.**

2354 Said title is further amended by revising Code Section 3-10-11, relating to contraband
 2355 apparatus and appliances, existence of property rights therein, summary destruction of
 2356 contraband, and procedure for seizure and condemnation of vehicles and conveyances and
 2357 boats and vessels, as follows:

2358 "3-10-11.

2359 (a)(1) All apparatus or appliances which are used for the unlawful purpose of distilling
 2360 or manufacturing any distilled spirits are declared to be contraband.

2361 (2) No person shall have any property right in or to the contraband specified in this
 2362 subsection.

2363 (3) Whenever apparatus or appliances used or about to be used for the unlawful purpose
 2364 of manufacturing, using, holding, or containing any distilled spirits are found or
 2365 discovered by any sheriff, deputy sheriff, or other law enforcement officer of this state,
 2366 the same shall be summarily destroyed and rendered useless by him or her without any
 2367 formal order of the court.

2368 ~~(b)(1)~~ All vehicles and conveyances of every kind and description in this state and all
 2369 boats and vessels of every kind and description in any of the waters of this state, ~~which~~
 2370 ~~vehicles and vessels are used in conveying, removing, concealing, or storing any distilled~~
 2371 ~~spirits, the transportation, possession, or storing of which is in violation of law, are~~
 2372 ~~declared to be contraband and shall be seized and condemned by any sheriff or other~~
 2373 ~~arresting law enforcement officer. Such vehicles, conveyances, boats, and vessels~~
 2374 ~~contraband shall be subject to seizure and condemnation as specified in this Code section~~
 2375 ~~in any county or municipality of this state forfeiture in accordance with the procedures set~~
 2376 ~~forth in Chapter 16 of Title 9, including those counties and municipalities in which the sale~~
 2377 ~~of distilled spirits is lawful. The law enforcement officer making a seizure shall report the~~
 2378 ~~seizure within ten days after the seizure to the prosecuting attorney of the county, city, or~~
 2379 ~~superior court having jurisdiction in the county where the seizure was made.~~

2380 ~~(2) Within 30 days from the time the prosecuting attorney receives the notice, he shall~~
 2381 ~~institute condemnation proceedings by petition, a copy of which shall be served upon the~~
 2382 ~~owner or lessee, if known, and, if the owner or lessee is unknown, notice of the~~
 2383 ~~proceedings shall be published once a week for two weeks in the newspaper in which the~~
 2384 ~~sheriff's advertisements are published.~~

2385 ~~(3) If at the expiration of 30 days after the filing of a petition pursuant to paragraph (2)~~
 2386 ~~of this subsection no claimant has appeared to defend against the petition, the court shall~~
 2387 ~~order the disposition of the property as otherwise provided in this subsection.~~

2388 ~~(4) Should it appear upon the trial of the case that the vehicle, conveyance, boat, or~~
 2389 ~~vessel was used as provided in paragraph (1) of this subsection with the knowledge of the~~
 2390 ~~owner or lessee, it shall be disposed of by order of the court after such advertisement as~~
 2391 ~~the court may direct.~~

2392 ~~(5) Except as otherwise provided in this Code section, property forfeited pursuant to this~~
 2393 ~~subsection shall be disposed of by order of the court as follows:~~

2394 ~~(A) Upon application of the seizing law enforcement agency or any other law~~
 2395 ~~enforcement agency of state, county, or municipal government, the court shall permit~~
 2396 ~~the agency to retain the property for official use in law enforcement work;~~

2397 ~~(B) That property which is not required to be destroyed by law and which is not~~
 2398 ~~harmful to the public shall be sold. The proceeds of such sale shall be used for payment~~
 2399 ~~of all proper expenses of the forfeiture and sale, including, but not limited to, the~~

2400 ~~expenses of seizure, maintenance of custody, advertising, and court costs. The~~
2401 ~~remainder of the proceeds of a sale of forfeited property, after the deductions authorized~~
2402 ~~in this subparagraph for proper expenses, shall be paid into the general fund of the~~
2403 ~~county in which the seizure is made.~~

2404 ~~(c) Where the owner or lessee of any property seized for purposes of condemnation~~
2405 ~~absconds or conceals himself so that actual notice of the condemnation proceeding cannot~~
2406 ~~be served upon him, he shall be served by publication as provided for in paragraph (2) of~~
2407 ~~subsection (b) of this Code section in the case of an unknown owner or lessee.~~

2408 ~~(d)(1) All condemnation proceedings against any vehicle, conveyance, boat, or vessel~~
2409 ~~shall be proceedings in rem against the property seized. The property shall be described~~
2410 ~~only in general terms, and it is no ground for defense that the person who had the~~
2411 ~~property in possession at the time of its illegal use and seizure had not been convicted of~~
2412 ~~such violation.~~

2413 ~~(2) Any party at interest may appear, by answer under oath, and make defense. The~~
2414 ~~owner or lessee shall be permitted to defend by showing that the property seized, if used~~
2415 ~~illegally by another, was used without the knowledge, connivance, or consent, express~~
2416 ~~or implied, of the owner or lessee and by showing also that the property seized, if a motor~~
2417 ~~vehicle, was legally registered with the department in the true name and address of the~~
2418 ~~owner or his predecessor in title, unless the vehicle is a new vehicle bought from a dealer~~
2419 ~~within 30 days of the time of seizure. The holder of any bona fide lien on the property~~
2420 ~~so seized shall be protected to the full extent of his lien if the holder shows that the illegal~~
2421 ~~use of the property was without his knowledge, connivance, or consent, express or~~
2422 ~~implied.~~

2423 ~~(e) The court to whom a petition for condemnation is referred may at its discretion allow~~
2424 ~~any party at interest to give bond and take possession of the vehicle seized. In such cases~~
2425 ~~the court shall determine whether the bond shall be a forthcoming bond or an eventual~~
2426 ~~condemnation money bond and shall also determine the amount of the bond. The~~
2427 ~~enforcement of any bond so given shall be regulated by the general law applicable to such~~
2428 ~~cases.~~

2429 ~~(f) The court may permit a settlement between the parties at any stage of the proceeding~~
2430 ~~by permitting the value of the vehicle or the value of the equity in the vehicle, as~~
2431 ~~determined by the court, to be paid into court. Money so paid shall be distributed as~~
2432 ~~provided by law in all cases of condemnation.~~

2433 ~~(g) The agency, state, county, or municipality seizing any contraband article may use any~~
2434 ~~vessel, vehicle, aircraft, or other conveyance described in subsection (b) of this Code~~
2435 ~~section for covert police activity for a period of up to 60 days prior to the sale of such~~
2436 ~~vessel, vehicle, aircraft, or other conveyance, except that no vessel, vehicle, aircraft, or~~

2437 ~~other conveyance shall be utilized for covert police activity prior to final judicial~~
 2438 ~~adjudication of lawful seizure."~~

2439

SECTION 4-3.

2440 Said title is further amended by revising Code Section 3-10-12, relating to raw materials or
 2441 substances, fixtures, implements, or apparatus intended for use in unlawful distillation or
 2442 manufacture of distilled spirits declared contraband, property rights in contraband, and
 2443 procedures for seizure and disposition of contraband, as follows:

2444 "3-10-12.

2445 (a) Any raw materials or substances, including, but not limited to, sugar of any grade or
 2446 type, and any fixture, implement, or apparatus used or intended for use in the unlawful
 2447 distilling or manufacturing of any distilled spirits are declared to be contraband.

2448 (b) No person shall have any property right in or to any contraband specified in
 2449 subsection (a) of this Code section.

2450 (c) Whenever any property item used or about to be used as specified in subsection (a) of
 2451 this Code section is found or discovered, whether in transit, in storage, or at a site of
 2452 unlawful distillation or manufacture, by any ~~sheriff, deputy sheriff, revenue agent, or any~~
 2453 ~~other~~ law enforcement officer, it is ~~declared forfeited~~ and shall be subject to the following
 2454 dispositions, ~~or any of them~~:

2455 (1) When found or discovered at a site of unlawful distillation or manufacture, it may be
 2456 summarily destroyed and rendered useless by any ~~of the officers named in this subsection~~
 2457 law enforcement officer without any formal order of the court or, in the event any of the
 2458 raw materials or substances are fit for human consumption or if any of the fixtures,
 2459 implements, or apparatus are of any beneficial use to the educational authorities of the
 2460 county for use in any of their educational programs, they may be delivered to the public
 2461 schools of the county in which seized for use in the schools. When any of the foregoing
 2462 items are delivered to a public school system, the officer delivering the items shall obtain
 2463 from the appropriate school authorities an itemized receipt detailing all items delivered
 2464 to the system and report such information as provided in subsection (g) of Code Section
 2465 9-16-19. In the event any of the foregoing items are destroyed by a law enforcement
 2466 officer, ~~he~~ the officer shall execute an affidavit of such fact in which ~~he shall list~~
 2467 ~~destroyed by him shall be listed~~. The receipts and affidavits shall be maintained by the
 2468 officer and shall be open to inspection by the public upon request; or

2469 (2) When found or discovered in transit or in storage by any ~~of the officers named in this~~
 2470 ~~subsection~~ law enforcement officer, the property items shall be seized by the officer and
 2471 ~~the procedures of notice, condemnation, and sale provided in Code Section 3-10-11;~~

2472 ~~applicable to vehicles and conveyances, shall be followed~~ forfeited in accordance with
 2473 the procedures set forth in Chapter 16 of Title 9."

2474 **SECTION 4-4.**

2475 Title 5 of the Official Code of Georgia Annotated, relating to appeal and error, is amended
 2476 by revising paragraph (8) of subsection (c) of Code Section 5-5-41, relating to requirements
 2477 as to extraordinary motions for new trial generally, as follows:

2478 "(8) If the court orders testing pursuant to this subsection, the court shall determine the
 2479 method of testing and responsibility for payment for the cost of testing, if necessary, and
 2480 may require the petitioner to pay the costs of testing if the court determines that the
 2481 petitioner has the ability to pay. If the petitioner is indigent, the cost shall be paid from
 2482 the fine and bond forfeiture fund as provided in Article 3 of Chapter 5 21 of Title 15."

2483 **SECTION 4-5.**

2484 Title 7 of the Official Code of Georgia Annotated, relating to banks and banking, is amended
 2485 by revising Code Section 7-1-11, relating to registration of nonresident corporations, as
 2486 follows:

2487 "7-1-11.

2488 Whenever any financial institution or other corporation domiciled outside this state,
 2489 including domestic international banking facilities, international bank agencies,
 2490 international bank representative offices, and representative offices of federally and state
 2491 chartered financial institutions, is required to register with the department as a prerequisite
 2492 to the conduct of business in this state or for the purpose of taking title or liens against
 2493 property located in this state, such registration shall be in lieu of further registration
 2494 pursuant to ~~Code Section 16-14-15~~ or any other provisions of law."

2495 **SECTION 4-6.**

2496 Said title is further amended by revising Code Section 7-1-916, relating to forfeiture of
 2497 property involved in illegal transactions, as follows:

2498 "7-1-916.

2499 All property of every kind used or intended for use in the course of, derived from, or
 2500 realized through a transaction which in fact involves the proceeds of unlawful activity
 2501 specified in Chapter 14 of Title 16 or otherwise subject to the provisions of this article shall
 2502 be subject to forfeiture to the state. Forfeiture shall be had by the same procedure as is set
 2503 forth in ~~Code Section 16-14-7~~ Chapter 16 of Title 9. As used in this Code section, the
 2504 terms 'proceeds' and 'property' shall have the same meaning as set forth in Code Section
 2505 9-16-2."

2506 **SECTION 4-7.**

2507 Title 10 of the Official Code of Georgia Annotated, relating to commerce and trade, is
 2508 amended by revising subsection (d) of Code Section 10-1-454, relating to forged or
 2509 counterfeited trademarks, service marks, or copyrighted or registered designs, as follows:

2510 "(d)(1) The State of Georgia finds and declares that the citizens of this state have a right
 2511 to receive those goods and services which they reasonably believe they are purchasing
 2512 or for which they contract. The state further finds that the manufacture and sale of
 2513 counterfeit goods or goods which are not what they purport to be and the offering of
 2514 services through the use of counterfeit service marks constitutes a fraud on the public and
 2515 results in economic disruption to the legitimate businesses of this state. In order to
 2516 protect the citizens and businesses of this state it is necessary to take appropriate actions
 2517 to remove counterfeit goods from the channels of commerce and prevent the
 2518 manufacture, sale, and distribution of such goods or the offering of such services through
 2519 the use of counterfeit service marks.

2520 (2) As used in this subsection, the terms 'proceeds' and 'property' shall have the same
 2521 meanings as set forth in Code Section 9-16-2.

2522 (3) Any property which is, directly or indirectly, used or intended for use in any manner
 2523 to facilitate a violation of this Code section and any proceeds derived or realized
 2524 therefrom are declared to be contraband and no person shall have a property right in
 2525 them.

2526 (4) Any property subject to forfeiture pursuant to paragraph (3) of this subsection shall
 2527 be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9.

2528 ~~(2) For the purposes expressed in paragraph (1) of this subsection, a person who is~~
 2529 ~~convicted of or pleads nolo contendere to a felony offense under this Code section shall~~
 2530 ~~forfeit to the State of Georgia such interest as the person may have in:~~

2531 ~~(A) Any goods, labels, products, or other property containing or constituting forged or~~
 2532 ~~counterfeit trademarks, service marks, or copyrighted or registered designs or~~
 2533 ~~constituting or directly derived from gross profits or other proceeds obtained from such~~
 2534 ~~offense;~~

2535 ~~(B) Any property or any interest in any property, including but not limited to any~~
 2536 ~~reproduction equipment, scanners, computer equipment, printing equipment, plates,~~
 2537 ~~dies, sewing or embroidery equipment, motor vehicle, or other asset, used to commit~~
 2538 ~~a violation of this Code section; and~~

2539 ~~(C) Any property constituting or directly derived from gross profits or other proceeds~~
 2540 ~~obtained from a violation of this Code section.~~

2541 ~~(3) In any action under this Code section, the court may enter such restraining orders or~~
 2542 ~~take other appropriate action, including acceptance of performance bonds, in connection~~
 2543 ~~with any interest that is subject to forfeiture.~~

2544 ~~(4) The court shall order forfeiture of property referred to in paragraph (2) of this~~
 2545 ~~subsection if the trier of fact determines beyond a reasonable doubt that such property is~~
 2546 ~~subject to forfeiture.~~

2547 ~~(5) The provisions of subsection (u) of Code Section 16-13-49 shall apply for the~~
 2548 ~~disposition of any property forfeited under this subsection, provided that any property~~
 2549 ~~containing a counterfeit trademark, service mark, or copyrighted or registered design~~
 2550 ~~shall be destroyed unless the owner of the trademark, service mark, or copyrighted or~~
 2551 ~~registered design gives prior written consent to the sale of such property or such~~
 2552 ~~trademark, service mark, or copyrighted or registered design is obliterated or removed~~
 2553 ~~from such property prior to the disposition thereof. Any forfeited goods which are~~
 2554 ~~hazardous to the health, welfare, or safety of the public shall be destroyed. In any~~
 2555 ~~disposition of property under this subsection, a person who has been convicted of or who~~
 2556 ~~has entered a plea of nolo contendere to a violation of this Code section shall not be~~
 2557 ~~permitted to acquire property forfeited by such person.~~

2558 ~~(6) The procedure for forfeiture and disposition of forfeited property under this~~
 2559 ~~subsection shall be as provided for forfeitures under Code Section 16-13-49."~~

2560 **SECTION 4-8.**

2561 Said title is further amended by revising subsection (b) of Code Section 10-13A-8, relating
 2562 to suspension of distributor's license, as follows:

2563 "(b) Any cigarettes that have been sold, offered for sale, or possessed for sale in this state
 2564 in violation of Code Section 10-13A-5 shall be deemed contraband under Code Section
 2565 48-11-9 and such cigarettes shall be subject to seizure and forfeiture as provided in ~~such~~
 2566 ~~Code section~~ Chapter 16 of Title 9."

2567 **SECTION 4-9.**

2568 Title 12 of the Official Code of Georgia Annotated, relating to conservation and natural
 2569 resources, is amending by revising subsection (e) of Code Section 12-4-48, relating to actions
 2570 by director to enforce part relating to deep drilling for oil, gas, and other minerals, as follows:

2571 "(e)~~(1)~~ In addition to any other enforcement remedy available to the director under this
 2572 part, all illegal minerals and illegal products are declared to be contraband and forfeited to
 2573 the state ~~and shall be confiscated and seized by any peace officer who shall forthwith~~
 2574 ~~deliver it~~ in accordance with the procedures set forth in Chapter 16 of Title 9, except that:

2575 (1) Any seizure of contraband shall be delivered to the director or his or her duly
 2576 authorized agent within ten days of the seizure;

2577 (2) Illegal minerals shall only be forfeited as provided for in Code Section 9-16-12; and
 2578 (3) Property seized pursuant to this subsection shall not be required to be stored in an
 2579 area within the jurisdiction of the court if such storage is not possible.

2580 ~~(2) The district attorney whose circuit includes the county in which the seizure is made,~~
 2581 ~~within 30 days after the seizure of any illegal minerals or illegal products, shall institute~~
 2582 ~~proceedings by petition in the superior court of any county where the seizure was made~~
 2583 ~~against the property so seized and against any and all persons known to have an interest~~
 2584 ~~in or right affected by the seizure or sale of such property. A copy of such petition shall~~
 2585 ~~be served upon the owner or lessee of such property, if known, and upon the person or~~
 2586 ~~persons having custody or possession of such property at the time of the confiscation or~~
 2587 ~~seizure. If the owner or lessee or person or persons having custody or possession of such~~
 2588 ~~property at the time of seizure is unknown, notice of such proceedings shall be published~~
 2589 ~~once a week for two consecutive weeks in the newspaper in which sheriff's~~
 2590 ~~advertisements of the county are published. Such publication shall be deemed notice to~~
 2591 ~~any and all persons having an interest in or right affected by such proceeding and any sale~~
 2592 ~~of the property resulting therefrom. If no defense or intervention shall be filed within 30~~
 2593 ~~days from the filing of the petition, judgment by default shall be entered by the court;~~
 2594 ~~otherwise the case shall proceed as civil cases. Should the mineral or mineral product be~~
 2595 ~~found to be illegal within the sense of this part, the same shall be decreed to be~~
 2596 ~~contraband and ordered sold under such terms as the judge in his order may direct. The~~
 2597 ~~judge may order the same sold in bulk, in lots, in parcels, or under such other regulations~~
 2598 ~~as may be deemed proper. The proceeds arising from such sale shall be applied:~~

2599 ~~(A) To the payment of proper costs and expenses, including expenses incurred in the~~
 2600 ~~seizure;~~

2601 ~~(B) To the payment of the cost of the court and its officers;~~

2602 ~~(C) To the payment of any cost incurred in the storage, advertisement, maintenance,~~
 2603 ~~or care of such property; and~~

2604 ~~(D) If any money remains, to the state treasury to the credit of the general fund.~~

2605 ~~(3) Where the owner or lessee of any property seized for purpose of condemnation shall~~
 2606 ~~abscond or conceal himself so that the actual notice of the condemnation proceedings~~
 2607 ~~cannot be served upon him, he shall be served by publication as is provided in this Code~~
 2608 ~~section in the case of an unknown owner or lessee.~~

2609 ~~(4) All proceedings against any alleged illegal minerals or for the purpose of~~
 2610 ~~condemnation shall be proceedings in rem against the property, and the property shall be~~
 2611 ~~described only in general terms. It is the intent and purpose of the procedure provided~~

2612 ~~by this Code section to provide a civil remedy for the condemnation and sale of~~
 2613 ~~contraband property.~~

2614 ~~(5) The court shall have full discretion and authority to permit a settlement between the~~
 2615 ~~parties at any stage of the proceedings by permitting the value of the alleged illegal~~
 2616 ~~minerals or illegal products to be paid into court, as determined by the court, which~~
 2617 ~~money when so paid in shall be distributed as provided by law in all cases of~~
 2618 ~~condemnation.~~

2619 ~~(6)~~(f) Nothing in this Code section shall deny or abridge any cause of action a royalty
 2620 owner, lienholder, or other claimant may have against any persons whose acts result in the
 2621 forfeiture of the illegal oil, illegal gas, or illegal product."

2622 **SECTION 4-10.**

2623 Said title is further amended by revising subsection (a) of Code Section 12-5-133, relating
 2624 to penalty and confiscation of equipment, as follows:

2625 "(a) Any person who engages in or follows the business or occupation of, or advertises,
 2626 holds himself or herself out, or acts, temporarily or otherwise, as a water well contractor
 2627 without having first secured the required license or renewal thereof or any person who
 2628 otherwise violates any provisions of this part shall be guilty of a misdemeanor and, upon
 2629 conviction thereof, shall be fined not less than \$100.00 and not more than \$1,000.00. Each
 2630 day during which such violation exists or continues shall constitute a separate offense. ~~In~~
 2631 ~~addition to or in lieu of any fine imposed for acting without the required license, any person~~
 2632 ~~violating any provision of this part may have his or her drilling rigs and commercial~~
 2633 ~~vehicles confiscated in accordance with Code Section 12-5-137."~~

2634 **SECTION 4-11.**

2635 Said title is further amended by revising Code Section 12-5-137, relating to the procedure
 2636 for confiscation and sale of contraband equipment and defenses, as follows:

2637 "12-5-137.

2638 (a) All drilling rigs or commercial vehicles used to drill any well and other equipment used
 2639 to drill any well by a person who is not a licensed water well contractor or driller or who
 2640 is not acting under the direction of a professional engineer or professional geologist as
 2641 required by this part are declared to be contraband subject to forfeiture ~~and confiscation~~
 2642 ~~and seizure by any peace officer, who shall forthwith deliver such rigs and equipment to~~
 2643 ~~the district attorney whose circuit includes the county in which a seizure is made or to his~~
 2644 ~~duly authorized agent within ten days of the seizure~~ in accordance with Chapter 16 of
 2645 Title 9.

2646 ~~(b) The district attorney whose circuit includes the county in which the seizure is made,~~
2647 ~~within 30 days after the seizure of any illegal drilling equipment, shall institute proceedings~~
2648 ~~by petition in the superior court of any county where the seizure was made against the~~
2649 ~~property so seized and against any and all persons known to have an interest in or right~~
2650 ~~affected by the seizure or sale of such property. A copy of such petition shall be served~~
2651 ~~upon the owner or lessee of such property, if known, and upon the person or persons~~
2652 ~~having custody or possession of such property at the time of the confiscation or seizure.~~
2653 ~~If the owner or lessee, or person or persons having custody or possession of such property~~
2654 ~~at the time of seizure is unknown, notice of such proceedings shall be published once a~~
2655 ~~week for two consecutive weeks in the newspaper in which sheriff's advertisements of the~~
2656 ~~county are published. Such publication shall be deemed notice to any and all persons~~
2657 ~~having an interest in or right affected by such proceedings and any sale of the property~~
2658 ~~resulting therefrom. If no defense or intervention shall be filed within 30 days from the~~
2659 ~~filing of the petition, judgment by default shall be entered by the court; otherwise the case~~
2660 ~~shall proceed as in other civil cases. Should the drilling equipment be found to be illegal~~
2661 ~~within the sense of this part, the same shall be decreed to be contraband and ordered sold~~
2662 ~~under such terms as the judge in his order may direct. The proceeds arising from such sale~~
2663 ~~shall be applied:~~

- 2664 ~~(1) To the payment of proper costs and expenses, including expenses incurred in the~~
2665 ~~seizure;~~
2666 ~~(2) To the payment of the cost of the court and its officers;~~
2667 ~~(3) To the payment of any cost incurred in the storage, advertisement, maintenance, or~~
2668 ~~care of such property; and~~
2669 ~~(4) If any money remains, to the general funds of the county.~~

2670 ~~(c) Where the owner or lessee of any property seized for purpose of condemnation shall~~
2671 ~~abscond or conceal himself so that the actual notice of the condemnation proceedings~~
2672 ~~cannot be served upon him, he shall be served by publication as is provided in this Code~~
2673 ~~section in the case of an unknown owner or lessee.~~

2674 ~~(d) All proceedings against any alleged illegal drilling equipment for the purpose of~~
2675 ~~condemnation shall be proceedings in rem against the property, and the property shall be~~
2676 ~~described only in general terms. It is the intent and purpose of the procedure provided by~~
2677 ~~this Code section to provide a civil remedy for the condemnation and sale of contraband~~
2678 ~~property.~~

2679 ~~(e) Any party at interest may appear, by answer under oath, and make his defense. The~~
2680 ~~owner, lessee, security interest holder, or lienholder shall be permitted to defend by~~
2681 ~~showing that the property seized, if illegally used by another, was used without the~~
2682 ~~knowledge, connivance, or consent, expressed or implied, of the owner, lessee, security~~

2683 ~~interest holder, or lienholder. The holder of any bona fide lien on or security interest in the~~
 2684 ~~property shall be protected to the full extent of his lien or security interest, respectively;~~
 2685 ~~provided, however, that nothing contained in this Code section shall be construed to~~
 2686 ~~obligate the district attorney whose circuit includes the county in which a seizure is made~~
 2687 ~~beyond the proceeds of any such sale less the actual costs incurred by him."~~

2688 **SECTION 4-12.**

2689 Said title is further amended by revising subsection (c) of Code Section 12-8-2, relating to
 2690 dumping sanitary sewer, kitchen, or toilet wastes in storm or sanitary sewers prohibited, as
 2691 follows:

2692 "(c) Any motor vehicle, trailer, and all other ~~articles property and contrivances instruments~~
 2693 utilized in the hauling, transporting, dumping, placing, or disposition of any contents or
 2694 matter in any public sewer in violation of subsection (a) of this Code section are declared
 2695 to be contraband and shall be subject to ~~seizure, confiscation, and~~ forfeiture according to
 2696 the terms, provisions, conditions, and procedures set out in ~~Code Section 3-10-11, as far~~
 2697 ~~as such terms and procedures can be made to apply~~ Chapter 16 of Title 9."

2698 **SECTION 4-13.**

2699 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising
 2700 Code Section 15-6-95, relating to priorities of fines, forfeitures, surcharges, additional fees,
 2701 and costs in partial payments into the court, as follows:

2702 "15-6-95.

2703 Notwithstanding any law to the contrary, a clerk of any superior court of this state who
 2704 receives partial payments, as ordered by the court, of criminal fines, bond forfeitures, or
 2705 costs shall distribute ~~said~~ such sums in the order of priority set forth below:

- 2706 (1) The amount provided for in Chapter 17 of Title 47 for the Peace Officers' Annuity
 2707 and Benefit Fund;
- 2708 (2) The amount provided for in Chapter 14 of Title 47 for the Superior Court Clerks'
 2709 Retirement Fund of Georgia;
- 2710 (3) The amount provided for in Chapter 16 of Title 47 for the Sheriffs' Retirement Fund
 2711 of Georgia;
- 2712 (4) The amounts provided under subparagraphs (a)(1)(A) and (a)(2)(A) of Code Section
 2713 15-21-73;
- 2714 (5) The amounts provided for under subparagraphs (a)(1)(B) and (a)(2)(B) of Code
 2715 Section 15-21-73;
- 2716 (6) The amounts provided for in Code Section 15-21-93 for jail construction and staffing;

- 2717 (7) The amount provided for in Code Section 15-21-131 for funding local victim
2718 assistance programs;
- 2719 (8) The amount provided for in Code Section 36-15-9 for county law libraries;
- 2720 (9) The balance of the base fine owed to the county;
- 2721 (10) The amount provided for in cases of driving under the influence for purposes of the
2722 Georgia Crime Victims Emergency Fund under Code Section 15-21-112;
- 2723 (11) The application fee provided for in subsection (c) or (e) of Code Section 15-21A-6;
- 2724 (12) The amount provided for in cases of driving under the influence for purposes of the
2725 Brain and Spinal Injury Trust Fund under Code Section 15-21-149;
- 2726 (13) The amount provided for in Code Section 15-21-100 for the Drug Abuse Treatment
2727 and Education Fund; and
- 2728 (14) The amounts provided for in subsection (d) of Code Section 42-8-34."

2729 **SECTION 4-14.**

2730 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is
2731 amended by revising Code Section 17-5-51, relating to forfeiture of weapons used in
2732 commission of crime, possession of which constitutes crime or delinquent act, or illegal
2733 concealment generally, motor vehicles, definitions, and return of firearm to innocent owner,
2734 as follows:

2735 "17-5-51.

2736 (a) ~~Any Except as provided in subsection (c) of this Code section, any device which is~~
2737 ~~used as a weapon in the commission of any crime against any person or any attempt to~~
2738 ~~commit any crime against any person, any weapon the possession or carrying of which~~
2739 ~~constitutes a crime or delinquent act, and any weapon for which a person has been~~
2740 ~~convicted of violating Code Section 16-11-126 are declared to be contraband and are shall~~
2741 ~~be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9,~~
2742 ~~notwithstanding the time frames set forth in Code Section 9-16-7. For the purposes of this~~
2743 ~~article, a motor vehicle shall not be deemed to be a weapon or device and shall not be~~
2744 ~~contraband or forfeited under this article; provided, however, that this exception shall not~~
2745 ~~be construed to prohibit the seizure, condemnation, and sale of motor vehicles used in the~~
2746 ~~illegal transportation of alcoholic beverages.~~

2747 (b) ~~As used in this Code section, the term:~~

2748 (1) ~~'Firearm' shall have the same meaning as set forth in Code Section 16-11-171.~~

2749 (2) ~~'Innocent owner' means a person who:~~

2750 (A) ~~Did not beforehand know or in the exercise of ordinary care would not have known~~
2751 ~~of the conduct which caused his or her firearm to be forfeited, seized, or abandoned to~~

2752 ~~any law enforcement agency of this state or a political subdivision of this state,~~
 2753 ~~including the Department of Natural Resources;~~
 2754 ~~(B) Did not participate in the commission of a crime or delinquent act involving his or~~
 2755 ~~her firearm;~~
 2756 ~~(C) Legally owned and presently owns the firearm forfeited, seized, or abandoned; and~~
 2757 ~~(D) Is authorized by state and federal law to receive and possess his or her firearm.~~
 2758 ~~(c) A firearm that is the property of an innocent owner shall be returned to such person~~
 2759 ~~when such firearm is no longer needed for evidentiary purposes.~~
 2760 ~~(d) The costs of returning the firearm to the innocent owner shall be borne by the innocent~~
 2761 ~~owner. Such costs shall be limited to the actual costs of shipping and associated costs from~~
 2762 ~~any transfer and background check fees charged when delivering the firearm to the~~
 2763 ~~innocent owner.~~
 2764 ~~(e) If six months elapse after notification to the innocent owner of the possession of the~~
 2765 ~~firearm by a political subdivision or state custodial agency and the innocent owner fails to~~
 2766 ~~bear the costs of return of his or her firearm or fails to respond to the political subdivision~~
 2767 ~~or state custodial agency, then the political subdivision or state custodial agency may~~
 2768 ~~follow the procedures under subsection (d) of Code Section 17-5-52.1."~~

2769 **SECTION 4-15.**

2770 Said title is further amended by revising Code Section 17-5-52, relating to sale or destruction
 2771 of weapons used in commission of crime or delinquent act involving possession, sale of
 2772 weapons not the property of the defendant, disposition of proceeds of sale, and record
 2773 keeping, as follows:

2774 "17-5-52.

2775 (a) When a final judgment is entered finding a defendant guilty of the commission or
 2776 attempted commission of a crime against any person or guilty of the commission of a crime
 2777 or delinquent act involving the illegal possession or carrying of a weapon, any device
 2778 which was used as a weapon in the commission of the crime or delinquent act shall be
 2779 turned over by the person having custody of the weapon or device to the sheriff, chief of
 2780 police, or other executive officer of the law enforcement agency that originally confiscated
 2781 the weapon or device when the weapon or device is no longer needed for evidentiary
 2782 purposes. Within one year ~~With the exception of firearms, as such term is defined in Code~~
 2783 ~~Section 17-5-51, which shall be disposed of in accordance with Code Section 17-5-52.1,~~
 2784 ~~within 90 days~~ after receiving the weapon or device, the sheriff, chief of police, or other
 2785 executive officer of the law enforcement agency shall ~~retain the weapon or device for use~~
 2786 ~~in law enforcement, destroy the same, or sell the weapon or device pursuant to judicial sale~~
 2787 ~~as provided in Article 7 of Chapter 13 of Title 9 or by any commercially feasible means,~~

2788 ~~provided that if the weapon or device used as a weapon in the crime is not the property of~~
 2789 ~~the defendant, there shall be no forfeiture of such weapon or device return or sell the~~
 2790 ~~weapon as provided in Code Section 17-5-54, or if the weapon or device is subject to~~
 2791 ~~forfeiture, the procedures set forth in Chapter 16 of Title 9 shall be followed~~
 2792 ~~notwithstanding the time frames set forth in Code Section 9-16-7. A state attorney seeking~~
 2793 ~~forfeiture under this Code section shall commence civil forfeiture proceedings within 60~~
 2794 ~~days of the entry of a final judgment as contemplated by this Code section; the remaining~~
 2795 ~~provisions of Chapter 16 of Title 9 shall be applicable.~~

2796 ~~(b) The proceeds derived from all sales of such weapons or devices, after deducting the~~
 2797 ~~costs of the advertising and the sale, shall be turned in to the treasury of the county or the~~
 2798 ~~municipal corporation that sold the weapon or device. The proceeds derived from the sale~~
 2799 ~~of such weapons or devices confiscated by a state law enforcement agency shall be paid~~
 2800 ~~into the state treasury.~~

2801 ~~(c) Any law enforcement agency that retains, destroys, or sells any weapon or device~~
 2802 ~~pursuant to this Code section shall maintain records that include an accurate description of~~
 2803 ~~each weapon or device along with records of whether each weapon or device was retained,~~
 2804 ~~sold, or destroyed."~~

2805 **SECTION 4-16.**

2806 Said title is further amended by repealing Code Section 17-5-52.1, relating to disposal of
 2807 forfeited or abandoned firearms, innocent owners, auctions, record keeping, and liability of
 2808 government entities.

2809 **SECTION 4-17.**

2810 Said title is further amended by revising Code Section 17-5-54, relating to disposition of
 2811 personal property in custody of law enforcement agencies, as follows:

2812 "17-5-54.

2813 (a) As used in this Code section, the term:

2814 (1) 'Civil forfeiture proceeding' shall have the same meaning as set forth in Code Section
 2815 9-16-2.

2816 (2) 'Firearm' means any handgun, rifle, shotgun, or similar device or weapon which will
 2817 or can be converted to expel a projectile by the action of an explosive or electrical charge.

2818 (3) 'Law enforcement agency' means a law enforcement agency of this state or a political
 2819 subdivision of this state, including the Department of Natural Resources.

2820 (4) 'Rightful owner' means a person claiming ownership of property which is the subject
 2821 of a crime or has been abandoned.

2822 (b) This Code section shall not apply to:

H. B. 1 (SUB)

- 2823 (1) Personal property which is the subject of any civil forfeiture proceeding;
 2824 (2) Any property which is the subject of a disposition pursuant to Code Sections 17-5-50
 2825 through 17-5-53; and
 2826 (3) Any abandoned motor vehicle for which the provisions of Chapter 11 of Title 40 are
 2827 applicable.
- 2828 ~~(a)(c)~~(1) Except as provided in Chapter 16 of Title 9, Code Sections 17-5-55 and
 2829 17-5-56, and ~~subsections (d), (e), and (f)~~ subsection (b) of this Code section, when a law
 2830 enforcement agency assumes custody of any personal property which is the subject of a
 2831 crime or has been abandoned ~~or is otherwise seized~~, a disposition of such property shall
 2832 be made in accordance with the provisions of this Code section.
- 2833 (2) When a final verdict and judgment is entered finding a defendant guilty of the
 2834 commission of a crime, any personal property used as evidence in the trial shall be
 2835 returned to the rightful owner of the property within 30 days following the final
 2836 judgment; provided, however, that if the judgment is appealed or if the defendant files a
 2837 motion for a new trial and if photographs, videotapes, or other identification or analysis
 2838 of the personal property will not be sufficient evidence for the appeal of the case or new
 2839 trial of the case, such personal property shall be returned to the rightful owner within 30
 2840 days of the conclusion of the appeal or new trial, whichever occurs last.
- 2841 (3) Any person claiming to be a rightful owner of property shall make an application to
 2842 the entity holding his or her property and shall furnish satisfactory proof of ownership of
 2843 such property and present personal identification. The person in charge of such property
 2844 may return such property to the applicant. The person to whom property is delivered
 2845 shall sign, under penalty of false swearing, a declaration of ownership, which shall be
 2846 retained by the person in charge of the property. Such declaration, absent any other proof
 2847 of ownership, shall be deemed satisfactory proof of ownership for the purposes of this
 2848 Code section; provided, however, that with respect to motor vehicles, paragraph (3) of
 2849 subsection (b) and subsection (f) of this Code section shall govern the return of motor
 2850 vehicles.
- 2851 (4) If more than one person claims ownership of property, a court with jurisdiction over
 2852 the property shall conduct a hearing to determine the ownership of such property.
- 2853 (d) All personal property in the custody of a law enforcement agency, including personal
 2854 property used as evidence in a criminal trial, which is ~~unclaimed after a period of 90 days~~
 2855 ~~following its seizure, or following the final verdict and judgment in the case of property~~
 2856 ~~used as evidence, and which is no:~~
- 2857 (1) No longer needed in a criminal investigation or for evidentiary purposes in
 2858 accordance with Code Section 17-5-55 or 17-5-56;
 2859 (2) Not claimed pursuant to Code Section 17-5-50; and

2860 (3) Not claimed pursuant to subsection (c) of this Code section
 2861 after a period of 90 days following the final verdict and judgment in the case of property
 2862 used as evidence or following the property being abandoned shall be subject to disposition
 2863 by the law enforcement agency as provided in subsection (e) of this Code section if the
 2864 property is not a firearm and as provided in subsection (g) of this Code section if the
 2865 property is a firearm.

2866 (e) For any unclaimed personal property that is not a firearm, the The sheriff, chief of
 2867 police, or other executive officer of a law enforcement agency shall make application to
 2868 the superior court for an order to retain, sell, or discard such property. In the application
 2869 the officer shall state each item of personal property to be retained, sold, or discarded.
 2870 Upon the superior court's granting an order for the law enforcement agency to retain such
 2871 property, the law enforcement agency shall retain such property for official use. Upon the
 2872 superior court's granting an order which authorizes that the property be discarded, the law
 2873 enforcement agency shall dispose of the property as other salvage or nonserviceable
 2874 equipment. Upon the superior court's granting an order for the sale of personal property,
 2875 the officer shall provide for a notice to be placed once a week for four weeks in the legal
 2876 organ of the county specifically describing each item and advising possible owners of items
 2877 of the method of contacting the law enforcement agency; provided, however, that
 2878 miscellaneous items having an estimated fair market value of \$75.00 or less may be
 2879 advertised or sold, or both, in lots. Such notice shall also stipulate a date, time, and place
 2880 said items will be placed for public sale if not claimed. Such notice shall also stipulate
 2881 whether said items or groups of items are to be sold in blocks, by lot numbers, by entire list
 2882 of items, or separately.

2883 ~~(2) Such unclaimed personal property~~ ~~Items not claimed by the owners~~ shall be sold at a
 2884 sale which shall be conducted not less than seven nor more than 15 days after the final
 2885 advertised notice has been run. The sale shall be to the highest bidder.

2886 ~~(3)~~ If such personal property has not been bid on in two successive sales, the law
 2887 enforcement agency may retain the property for official use or the property will be
 2888 considered as salvage and disposed of as other county or municipal salvage or
 2889 nonserviceable equipment.

2890 ~~(4)~~ With respect to unclaimed perishable personal property or animals or other wildlife,
 2891 ~~the~~ an officer may make application to the superior court for an order authorizing the
 2892 disposition of such property prior to the expiration of 90 days.

2893 ~~(5)~~(f) With respect to a ~~seized~~ motor vehicle which is the subject of a crime or has been
 2894 abandoned but which is not the subject of any civil forfeiture ~~proceedings~~ proceeding, the
 2895 law enforcement agency shall be required to contact the Georgia Crime Information Center

2896 to determine if such motor vehicle has been stolen and to follow generally the procedures
2897 of Code Section 40-11-2 to ascertain the registered owner of such vehicle.

2898 (g)(1) With respect to unclaimed firearms, if the sheriff, chief of police, agency director,
2899 or designee of such official certifies that a firearm is unsafe because of wear, damage,
2900 age, or modification or because any federal or state law prohibits the sale or distribution
2901 of such firearm, at the discretion of such official, it shall be transferred to the Division of
2902 Forensic Sciences of the Georgia Bureau of Investigation, a municipal or county law
2903 enforcement forensic laboratory for training or experimental purposes, or be destroyed.

2904 (2) Otherwise, an unclaimed firearm:

2905 (A) Possessed by a municipal corporation shall be disposed of as provided for in Code
2906 Section 36-37-6; provided, however, that municipal corporations shall not have the
2907 right to reject any bids or to cancel any proposed sale of such firearms, and all sales
2908 shall be to persons who are licensed as firearms collectors, dealers, importers, or
2909 manufacturers under the provisions of 18 U.S.C. Section 921, et seq., and Chapter 16
2910 of Title 43 and who are authorized to receive such firearms under the terms of such
2911 license; or

2912 (B) Possessed by the state or a political subdivision other than a municipal corporation,
2913 shall be disposed of by sale at public auction to persons who are licensed as firearms
2914 collectors, dealers, importers, or manufacturers under the provisions of 18 U.S.C.
2915 Section 921, et seq., and Chapter 16 of Title 43 and who are authorized to receive such
2916 firearms under the terms of such license. Auctions required by this subparagraph may
2917 occur online on a rolling basis or at live events, but in no event shall such auctions
2918 occur less frequently than once every 12 months during any time in which the political
2919 subdivision or state custodial agency has an inventory of five or more saleable firearms.

2920 (3) If no bids from eligible recipients are received within six months from when bidding
2921 opened on a firearm offered for sale pursuant to paragraph (2) of this subsection, the
2922 firearm shall be transferred to the Division of Forensic Sciences of the Georgia Bureau
2923 of Investigation, a municipal or county law enforcement forensic laboratory for training
2924 or experimental purposes, or be destroyed.

2925 ~~(b)~~(h) Records shall be maintained showing the manner in which each personal
2926 property item came into possession of the law enforcement agency, a description of the
2927 property, all efforts to locate the owner, any case or docket number, the date of publication
2928 of any newspaper notices, and the date on which the property was retained by the law
2929 enforcement agency, sold, or discarded. All agencies subject to the provisions of this Code
2930 section shall keep records of the firearms acquired and disposed of as provided by this
2931 Code section as well as records of the proceeds of the sales thereof and the disbursement

2932 of such proceeds in accordance with records retention schedules adopted in accordance
 2933 with Article 5 of Chapter 18 of Title 50, the 'Georgia Records Act.'

2934 ~~(c)(i)~~ The proceeds from the sale of personal property by the sheriff or other county law
 2935 enforcement agency pursuant to this Code section shall be paid into the general fund of the
 2936 county treasury. The proceeds from the sale of personal property by a municipal law
 2937 enforcement agency pursuant to this Code section shall be paid into the general fund of the
 2938 municipal treasury. The proceeds from the sale of personal property by a state agency
 2939 pursuant to this Code section shall be paid into the general fund of the state.

2940 ~~(d)~~ The provisions of this Code section shall not apply to personal property which is the
 2941 subject of forfeiture proceedings as otherwise provided by law.

2942 ~~(e)~~ The provisions of this Code section shall not apply to any property which is the subject
 2943 of a disposition pursuant to Code Sections 17-5-50 through 17-5-53.

2944 ~~(f)~~ The provisions of this Code section shall not apply to any abandoned motor vehicle for
 2945 which the provisions of Chapter 11 of Title 40 are applicable.

2946 (j) Neither the state nor any political subdivision of the state nor any of its officers, agents,
 2947 or employees shall be liable to any person, including the purchaser of a firearm, for
 2948 personal injuries or damage to property arising from the sale of a firearm under subsection

2949 (g) of this Code section unless the state or political subdivision acted with gross negligence
 2950 or willful or wanton misconduct."

2951 **SECTION 4-18.**

2952 Title 27 of the Official Code of Georgia Annotated, relating to game and fish, is amended by
 2953 revising subparagraph (b)(3)(B) of Code Section 27-3-12, relating to unlawful substances and
 2954 equipment relating to hunting, as follows:

2955 "(B) Any equipment used or intended for use in a violation of this Code section,
 2956 excluding motor vehicles, is declared to be contraband and shall be forfeited to the state
 2957 in accordance with the procedures set forth in Chapter 16 of Title 9."

2958 **SECTION 4-19.**

2959 Said title is further amended by revising subsection (c) of Code Section 27-3-26, relating to
 2960 hunting bears, as follows:

2961 "(c) Any person violating the provisions of this Code section is shall be guilty of a
 2962 misdemeanor of a high and aggravated nature, and, upon conviction, may be punished by
 2963 a fine of not less than \$500.00 ~~and not to exceed~~ nor more than \$5,000.00, ~~or~~ by
 2964 confinement for a term not to exceed 12 months, or both. The court may order that
 2965 restitution be paid to the department of not less than \$1,500.00 for each bear or bear part
 2966 which is the subject of a violation of this Code section. Any equipment which is used or

2967 intended for use in a violation of this Code section, excluding motor vehicles, is declared
 2968 to be contraband and is forfeited ~~to the state~~ in accordance with the procedures set forth in
 2969 Chapter 16 of Title 9. The hunting and fishing privileges of any person convicted of
 2970 violating the provisions of this Code section shall be suspended for three years."

2971 **SECTION 4-20.**

2972 Said title is further amended by revising subsection (a.1) of Code Section 27-4-133, relating
 2973 to lawful net fishing for shrimp, as follows:

2974 "(a.1)(1) It shall be unlawful to fish for shrimp for human consumption with any trawl
 2975 or trawls having a total foot-rope length greater than 220 feet, not including the foot-rope
 2976 length of a single trawl not greater than 16 feet when used as a try net. Foot-rope shall
 2977 be measured from brail line to brail line, first tie to last tie on the bottom line. The
 2978 provisions of this subsection shall not apply to vessels having a maximum draft of seven
 2979 feet or less when fully loaded. The department is authorized to exempt trawls used by
 2980 persons holding a valid scientific collection permit granted by the department.

2981 (2) A vessel operator who violates the provisions of this subsection shall be guilty of a
 2982 misdemeanor and, upon conviction, shall be fined not less than \$500.00 nor more than
 2983 \$2,500.00, ~~or imprisoned for not longer than 30 days,~~ or both, and any trawl on board the
 2984 vessel shall be contraband and ~~may be seized~~ forfeited in accordance with the procedures
 2985 set forth in Chapter 16 of Title 9."

2986 **SECTION 4-21.**

2987 Said title is further amended by revising subsection (c) of Code Section 27-4-134, relating
 2988 to the requirements for commercial fishing boat licenses, as follows:

2989 "(c) Every breach or violation shall carry over to all succeeding bonds filed under this
 2990 Code section. The aggregate liability shall not exceed the amount of the bond. However,
 2991 in the event that the total amount of any bond is forfeited, the commercial fishing boat
 2992 license shall be suspended until a new bond in the amount of \$10,000.00 is filed covering
 2993 the remainder of the period of the license. Until the new bond is filed, any commercial use
 2994 of the boat shall be unlawful; and the owner shall be guilty of a misdemeanor of a high and
 2995 aggravated nature. Nothing in this subsection shall be construed so as to alter or affect the
 2996 seizure and ~~condemnation~~ civil forfeiture, under Code Section 27-4-137, of any boat not
 2997 covered by the bonds provided for in paragraphs (1) and (2) of subsection (a) of this Code
 2998 section."

SECTION 4-22.

2999

3000 Said title is further amended by revising Code Section 27-4-137, relating to condemnation
 3001 proceedings, as follows:

3002 "27-4-137.

3003 (a) Each boat, propulsion unit, net, door, boom, winch, cable, electronic device, or
 3004 accessory equipment used in violation of Code Section 27-4-133 or 27-4-171 is declared
 3005 to be contraband and forfeited to the state ~~and shall be confiscated and seized by any peace~~
 3006 ~~officer, who shall impound it in the name of the district attorney whose circuit includes the~~
 3007 ~~county in which a seizure is made. The district attorney whose circuit includes the county~~
 3008 ~~in which a seizure is made, within 30 days after the seizure of any such equipment, shall~~
 3009 ~~institute proceedings by petition in the superior court of any county where the seizure was~~
 3010 ~~made against the property so seized and against any and all persons having an interest in~~
 3011 ~~or right affected by the seizure or sale of the equipment. A copy of the petition shall be~~
 3012 ~~served upon the owner or lessee of the equipment, if known, and upon the person having~~
 3013 ~~custody or possession of the equipment at the time of the confiscation or seizure. If the~~
 3014 ~~owner, lessee, or person having custody or possession of the equipment at the time of~~
 3015 ~~seizure is unknown, notice of such proceedings shall be published once a week for two~~
 3016 ~~consecutive weeks in the newspaper in which sheriff's advertisements of the county are~~
 3017 ~~published. Such publication shall be deemed notice to any and all persons having an~~
 3018 ~~interest in or right affected by such proceedings and any sale of the equipment resulting~~
 3019 ~~therefrom. If no defense or intervention shall be filed within 30 days from the filing of the~~
 3020 ~~petition, judgment by default shall be entered by the court, otherwise, the case shall~~
 3021 ~~proceed as other civil cases. Should it appear upon the trial of the case or upon default that~~
 3022 ~~such equipment was used in violation of the Code sections heretofore cited in this~~
 3023 ~~subsection, the equipment shall be sold by order of the court after such advertisement as~~
 3024 ~~the court may direct. The proceeds arising from the sale shall be applied:~~

3025 (1) ~~To the payment of proper costs and expenses, including expenses incurred in the~~
 3026 ~~seizure;~~

3027 (2) ~~To the payment of the costs of the court and its officers;~~

3028 (3) ~~To the payment of any costs incurred in the storage, advertisement, maintenance, or~~
 3029 ~~care of such property; and~~

3030 (4) ~~If any money remains, to the general funds of the county.~~

3031 (b) ~~Where the owner or lessee of any equipment seized for purposes of condemnation shall~~
 3032 ~~abscond or conceal himself so that actual notice of the condemnation proceedings cannot~~
 3033 ~~be served upon him, he shall be served by publication as is provided in subsection (a) of~~
 3034 ~~this Code section in the case of an unknown owner or lessee.~~

3035 ~~(c) All proceedings against any such equipment for the purpose of condemnation shall be~~
 3036 ~~proceedings in rem against the equipment, and the equipment shall be described only in~~
 3037 ~~general terms. It shall be no ground for defense that the person who had the equipment in~~
 3038 ~~possession at the time of its use and seizure has not been convicted or acquitted of any~~
 3039 ~~criminal proceedings resulting from or arising out of such use. It is the intent and purpose~~
 3040 ~~of the procedure provided by this Code section to provide a civil remedy for the~~
 3041 ~~condemnation and sale of equipment used in violation of Code Section 27-4-133,~~
 3042 ~~notwithstanding the conviction or acquittal of the person having possession or custody of~~
 3043 ~~the equipment at the time of its seizure. The conviction or acquittal of any such person~~
 3044 ~~shall not be admissible as evidence in any proceeding under this Code section.~~

3045 ~~(d) Any party at interest may appear, by answer under oath, and make his defense. in~~
 3046 ~~accordance with the procedures set forth in Chapter 16 of Title 9; provided, however, that:~~

3047 ~~(1) Forfeiture shall only be done in accordance with Code Section 9-16-12 and the~~
 3048 ~~property shall be described only in general terms; and~~

3049 ~~(2) The holder of any bona fide lien on the property shall be protected to the full extent~~
 3050 ~~of his the lien, but only if the lien was perfected prior to the filing by the department of~~
 3051 ~~the affidavit provided for in paragraph (3) of subsection (a) of Code Section 27-4-134,~~
 3052 ~~provided that nothing contained in this Code section shall be construed to obligate the~~
 3053 ~~district attorney whose circuit includes the county in which a seizure is made the state~~
 3054 ~~shall not be obligated beyond the proceeds of any such sale less the actual costs incurred~~
 3055 ~~by him.~~

3056 ~~(e) The court to which any such petition for condemnation may be referred may, in its~~
 3057 ~~discretion, allow any party at interest to give bond and take possession of the equipment~~
 3058 ~~seized. The court shall determine whether the bond shall be a forthcoming bond or an~~
 3059 ~~eventual condemnation money bond and shall determine the amount of such bond. The~~
 3060 ~~enforcement of any bond so given shall be regulated by the general law applicable in such~~
 3061 ~~cases.~~

3062 ~~(f) The court shall have full discretion and authority to permit a settlement between the~~
 3063 ~~parties at any stage of the proceedings by permitting to be paid into court the value of the~~
 3064 ~~equipment or the value of the equity therein, as determined by the court, which money,~~
 3065 ~~when so paid in, shall be distributed as provided by law in all cases of condemnation.~~

3066 ~~(g)(b) The Attorney General may, upon the request of the commissioner, aid the district~~
 3067 ~~attorney in the in rem proceeding arising from any seizure or confiscation of property."~~

SECTION 4-23.

3068

3069 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
 3070 by revising subsection (e) of Code Section 36-80-21, relating to electronic transmissions of
 3071 budgets, as follows:

3072 "(e) Concurrent with the submission of the annual report by local law enforcement
 3073 agencies required by ~~division (u)(4)(D)(iii) of Code Section 16-13-49~~ subsection (g) of
 3074 Code Section 9-16-19, a copy of such report shall be electronically transmitted in a
 3075 Portable Document Format (PDF) file to the Vinson Institute and posted on the website by
 3076 the Vinson Institute as soon as practicable."

SECTION 4-24.

3077

3078 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles, is amended
 3079 by revising Code Section 40-6-391.2, relating to seizure and forfeiture of motor vehicles
 3080 operated by habitual violators, as follows:

3081 "40-6-391.2.

3082 (a) ~~Any~~ Except as provided in this Code section, any motor vehicle operated by a person
 3083 who has been declared a habitual violator for three violations of Code Section 40-6-391
 3084 ~~and, whose license has been revoked, and who is arrested and charged with a violation of~~
 3085 ~~Code Section 40-6-391; is declared to be contraband and subject to forfeiture to the state,~~
 3086 ~~as provided in this Code section, provided that said forfeiture shall not be absolute unless~~
 3087 ~~the defendant is finally convicted of such offense~~ in accordance with the procedures set
 3088 forth in Chapter 16 of Title 9.

3089 ~~(b) Any motor vehicle subject to forfeiture under subsection (a) of this Code section shall~~
 3090 ~~be seized immediately upon discovery by any law enforcement officer, peace officer, or~~
 3091 ~~law enforcement agency of this state or any political subdivision thereof who has the power~~
 3092 ~~to make arrests and whose duty it is to enforce this article, that said motor vehicle has been~~
 3093 ~~declared contraband. Said motor vehicle shall be delivered within 20 days to the district~~
 3094 ~~attorney whose circuit includes the county in which a seizure is made or to his duly~~
 3095 ~~authorized agent. At any time subsequent to the seizure, the chief officer of the seizing~~
 3096 ~~agency, his designee, or the district attorney may release the vehicle upon bond being~~
 3097 ~~posted in like manner as authorized in subsection (e) of this Code section.~~

3098 ~~(c) Within 60 days from the date of the seizure, the district attorney of the judicial circuit,~~
 3099 ~~or the director on his behalf, shall cause to be filed in the superior court of the county in~~
 3100 ~~which the motor vehicle is seized or detained an action for condemnation of such motor~~
 3101 ~~vehicle. The proceedings shall be brought in the name of the state by the district attorney~~
 3102 ~~of the circuit in which the motor vehicle was seized, and the action shall be verified by a~~
 3103 ~~duly authorized agent of the state in a manner required by the law of this state. The action~~

3104 shall describe the motor vehicle and state its location, present custodian, and the name of
3105 the owner, if known, to the duly authorized agent of the state; allege the essential elements
3106 of the violation which is claimed to exist, and conclude with a prayer of due process to
3107 enforce the forfeiture. Upon the filing of such an action, the court shall promptly cause
3108 process to issue to the present custodian in possession of the motor vehicle described in the
3109 action, commanding him to seize the motor vehicle in the action and to hold that motor
3110 vehicle for further order of the court. The owner, lessee, or any person having a duly
3111 recorded security interest in or lien on such motor vehicle shall be notified by any means
3112 of service provided for in Title 9 or by delivery of a copy of the complaint and summons
3113 by certified mail or statutory overnight delivery to said owner or lienholder or a person of
3114 suitable age or discretion having charge of said owner's premises. For purposes of this
3115 subsection, where forfeiture of a motor vehicle titled or registered in Georgia is sought,
3116 notice to the titleholder shall be deemed adequate if a copy of the complaint and summons
3117 is mailed by certified mail or statutory overnight delivery to the titleholder at the address
3118 set out in the title and an additional copy is mailed by certified mail or statutory overnight
3119 delivery to the firm, person, or corporation which holds the current registration for said
3120 motor vehicle, who shall be deemed agent for service for said titleholder, and said
3121 complaint is advertised once a week for two weeks as set out in this subsection. If the
3122 owner, lessee, or person having a duly recorded security interest in or lien on the
3123 contraband motor vehicle is unknown or resides out of the state or departs the state or
3124 cannot after due diligence be found within the state or conceals himself so as to avoid
3125 notice, notice of the proceedings shall be published once a week for two weeks in the
3126 newspaper in which the sheriff's advertisements are published. Such publication shall be
3127 deemed notice to any and all persons having an interest in or right affected by such
3128 proceeding and any sale of the motor vehicle resulting therefrom, but shall not constitute
3129 notice to any person having a duly recorded security interest in or lien upon such motor
3130 vehicle and required to be served under this Code section unless that person is unknown
3131 or resides out of the state or departs the state or cannot after due diligence be found within
3132 the state or conceals himself to avoid notice.

3133 (d)(1) Any party at interest may appear, by answer under oath, and file an intervention
3134 or defense within 30 days from the date of service on the condemnee of the action for
3135 condemnation. The owner, lessee, security interest holder, or lienholder shall be
3136 permitted to defend by showing that the motor vehicle seized was not subject to forfeiture
3137 under this Code section.

3138 (2) A rented or leased vehicle shall not be subject to forfeiture unless it is established in
3139 the forfeiture proceedings that the owner of the rented or leased vehicle knew or should
3140 have known of or consented to the operation of such motor vehicle in a manner which

3141 ~~would subject the vehicle to forfeiture. Upon learning of the address or phone number~~
 3142 ~~of the rental or leasing company which owns such vehicle, the district attorney shall~~
 3143 ~~immediately contact the company to inform it that the vehicle is available for the~~
 3144 ~~company to take possession.~~

3145 ~~(e) The court to which any such petition for condemnation may be referred may, in its~~
 3146 ~~discretion, allow any party at interest, after making said defense under subsection (d) of~~
 3147 ~~this Code section, to give bond and take possession of the motor vehicle seized. Such~~
 3148 ~~motor vehicle shall not be sold or leased without prior approval of the court. In the event~~
 3149 ~~the court approves such sale or lease, the proceeds arising therefrom shall be deposited in~~
 3150 ~~the registry of the court, pending final adjudication of the forfeiture proceeding. The court~~
 3151 ~~shall determine whether the bond shall be a forthcoming bond or an eventual condemnation~~
 3152 ~~money bond and shall also determine the amount of the bond. The enforcement of any~~
 3153 ~~bond so given shall be regulated by the general law applicable to such cases.~~

3154 ~~(f) If no defense or intervention is filed within 30 days from the date of service on the~~
 3155 ~~condemnee of the petition, judgment shall be entered by the court and the motor vehicle~~
 3156 ~~shall be sold. The court may direct that such property be sold by:~~

3157 ~~(1) Judicial sale as provided in Article 7 of Chapter 13 of Title 9; provided, however, that~~
 3158 ~~the court may establish a minimum acceptable price for such property; or~~

3159 ~~(2) Any commercially feasible means.~~

3160 ~~(g) The proceeds arising from such sale shall be deposited into the general treasury of the~~
 3161 ~~state or any other governmental unit whose law enforcement agency it was that originally~~
 3162 ~~seized the motor vehicle. It is the intent of the General Assembly that, where possible,~~
 3163 ~~proceeds deposited into the state treasury should be used and that proceeds vested in any~~
 3164 ~~local governmental unit shall be applied to fund alcohol or drug treatment, rehabilitation,~~
 3165 ~~and prevention and education programs, after making the necessary expenditures for:~~

3166 ~~(1) Any costs incurred in the seizure;~~

3167 ~~(2) The costs of the court and its officers; and~~

3168 ~~(3) Any cost incurred in the storage, advertisement, maintenance, or care of the motor~~
 3169 ~~vehicle.~~

3170 ~~(h) The interest of an owner, lessee, security interest holder, or lienholder shall not be~~
 3171 ~~subject to forfeiture unless the condemnor shows by a preponderance of evidence that such~~
 3172 ~~person knew or reasonably should have known that the operator was a habitual violator as~~
 3173 ~~set forth in subsection (a) of this Code section and knew or reasonably should have known~~
 3174 ~~that such person would operate or was operating the vehicle while in violation of Code~~
 3175 ~~Section 40-6-391.~~

3176 ~~(i)(b) In any case where a vehicle which is the only family vehicle is determined to be~~
 3177 ~~subject to forfeiture, the court may, if it determines that the financial hardship to the family~~

3178 as a result of the forfeiture and sale outweighs the benefit to the state from such forfeiture,
 3179 order the title to the vehicle transferred to such other family member who is a duly licensed
 3180 operator and who requires the use of such vehicle for employment or family transportation
 3181 purposes. Such transfer shall be subject to any valid liens and shall be granted only once."

3182 **SECTION 4-25.**

3183 Said title is further amended by revising Article 2 of Chapter 11, relating to forfeiture of
 3184 vehicles and components, as follows:

3185 "ARTICLE 2

3186 40-11-20.

3187 The following items are declared to be contraband and are subject to forfeiture in
 3188 accordance with the procedures set forth in Chapter 16 of Title 9:

- 3189 (1) Any motor vehicle the manufacturer's vehicle identification number of which has
 3190 been removed, altered, defaced, falsified, or destroyed; and
 3191 (2) Any component part of a motor vehicle the manufacturer's identification number of
 3192 which has been removed, altered, defaced, falsified, or destroyed.

3193 40-11-21.

3194 ~~Property subject to forfeiture under Code Section 40-11-20 and in the possession of any~~
 3195 ~~state or local law enforcement agency shall not be subject to replevin but is deemed to be~~
 3196 ~~in the custody of the superior court of the county wherein the property is located subject~~
 3197 ~~only to the orders and decrees of the court having jurisdiction over the forfeiture~~
 3198 ~~proceedings.~~

3199 40-11-22.

3200 ~~The law enforcement agency having possession of any property subject to forfeiture under~~
 3201 ~~Code Section 40-11-20 shall report such fact, within ten days of taking possession, to the~~
 3202 ~~district attorney of the judicial circuit having jurisdiction in the county where the property~~
 3203 ~~is located. Within 30 days from the date he or she receives such notice, the district attorney~~
 3204 ~~of the judicial circuit shall file in the superior court of the county in which the property is~~
 3205 ~~located an action for condemnation of the property. The proceedings shall be brought in~~
 3206 ~~the name of the state, and the action shall be verified by a duly authorized agent of the state~~
 3207 ~~in the manner required by law. The action shall describe the property, state its location,~~
 3208 ~~state its present custodian, state the name of the owner, if known, to the duly authorized~~
 3209 ~~agent of the state, allege the essential elements which are claimed to exist, and shall~~

3210 ~~conclude with a prayer of due process to enforce the forfeiture. Upon the filing of such an~~
3211 ~~action, the court shall promptly cause process to issue to the present custodian in~~
3212 ~~possession of the property described in the action, commanding him or her to seize the~~
3213 ~~property described in the action and to hold that property for further order of the court. A~~
3214 ~~copy of the action shall be served on the owner, if known. If the owner is known, a copy~~
3215 ~~of the action shall also be served upon any person having a duly recorded security interest~~
3216 ~~in or lien upon that property. If the owner is unknown or resides out of the state or departs~~
3217 ~~the state or cannot after due diligence be found within the state or conceals himself or~~
3218 ~~herself so as to avoid service, notice of the proceedings shall be published once a week for~~
3219 ~~two weeks in the newspaper in which the sheriff's advertisements are published. Such~~
3220 ~~publication shall be deemed notice to any and all persons having an interest in or right~~
3221 ~~affected by such proceeding and from any sale of the property resulting therefrom but shall~~
3222 ~~not constitute notice to any person having a duly recorded security interest in or lien upon~~
3223 ~~such property and required to be served under this Code section unless that person is~~
3224 ~~unknown or resides out of the state or departs the state or cannot after due diligence be~~
3225 ~~found within the state or conceals himself or herself to avoid service. At the expiration of~~
3226 ~~30 days after such filing, if no claimant has appeared to defend the action, the court shall~~
3227 ~~order the disposition of the seized property as provided for in this Code section. If the~~
3228 ~~owner of the property appears and defends the action and can show that he or she was~~
3229 ~~unaware of the fact that the identification number had been removed, altered, defaced,~~
3230 ~~falsified, or destroyed, the court shall order the property returned to the owner upon the~~
3231 ~~owner's paying proper expenses relating to proceedings for forfeiture, including the~~
3232 ~~expenses of the maintenance of custody, advertising, and court costs and upon the~~
3233 ~~property's being assigned a new identification number as provided in this article.~~

3234 ~~40-11-23.~~

3235 ~~Except as otherwise provided in this article, when property is forfeited under this article,~~
3236 ~~the court may:~~

3237 ~~(1) Order that the property be retained by the law enforcement agency or the county in~~
3238 ~~which the property is located; or~~

3239 ~~(2) Order that the property be disposed of by sale, the proceeds of which shall be used~~
3240 ~~to pay the proper expenses relating to the proceedings for forfeiture, including the~~
3241 ~~expenses of maintenance of custody, advertising, and court costs, with the remaining~~
3242 ~~funds to be paid into the general fund of the county.~~

3243 ~~40-11-24.~~
 3244 Prior to the property's being sold or returned to the owner or otherwise disposed of, the
 3245 Department of Revenue shall assign it a new identification number. If the property is to
 3246 be returned to the owner, the court shall order that such return is conditioned on the owner
 3247 paying the expenses relating to the civil forfeiture, including the expenses of maintenance
 3248 of custody, advertising, and court costs."

3249 **SECTION 4-26.**

3250 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,
 3251 is amended by revising Code Section 45-15-10, relating to the Attorney General's authority
 3252 to prosecute officials, persons, firms, or corporations for violations while dealing with or for
 3253 the state, as follows:

3254 "45-15-10.

3255 The Attorney General, as the head of the Department of Law and the chief legal officer of
 3256 the state, is authorized to prosecute in the criminal courts of this state any official, person,
 3257 firm, or corporation which violates any criminal statute while dealing with or for the state
 3258 or any official, employee, department, agency, board, bureau, commission, institution, or
 3259 appointee thereof; and the Attorney General is authorized to call upon the district attorney
 3260 or the prosecuting officer of any state court to assist in or to conduct such prosecution; and,
 3261 when so requested by the Attorney General, it shall be the duty of any such district attorney
 3262 or prosecuting officer of this state to assist in or to conduct such prosecution for and on
 3263 behalf of the Attorney General and the state. The Attorney General shall be authorized to
 3264 commence civil forfeiture proceedings, as such term is defined in Code Section 9-16-2,
 3265 pursuant to Code Section 16-14-7 whenever he or she is authorized to prosecute a case
 3266 pursuant to this Code section."

3267 **SECTION 4-27.**

3268 Title 46 of the Official Code of Georgia Annotated, relating to public utilities and public
 3269 transportation, is amended by revising Code Section 46-9-253, relating to transportation of
 3270 gunpowder, dynamite, or other explosives, as follows:

3271 "46-9-253.

3272 Any person who causes more than five pounds of gunpowder, or any amount of dynamite
 3273 or other dangerous explosive, to be transported upon water, by railroad, or otherwise shall
 3274 have the word 'Gunpowder,' 'Dynamite,' or other name of the explosive marked in large
 3275 letters upon each package so transported. Gunpowder, dynamite, or other dangerous
 3276 explosive transported in violation of ~~said provision shall be liable to seizure and forfeiture~~
 3277 ~~by any officer who may execute a criminal warrant, under warrant for that purpose, issued~~

3278 by any officer who may issue such first-named warrants, one-half of the same to go to the
 3279 informer, the other half to go to the military fund of the state, after public sale by order of
 3280 the officer issuing the warrant, or one of like authority this Code section are declared
 3281 contraband and shall be forfeited in accordance with the procedures set forth in Chapter 16
 3282 of Title 9."

3283 SECTION 4-28.

3284 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
 3285 amended by revising subsection (b) of Code Section 48-4-61, relating to land bank authority
 3286 established by interlocal cooperation agreement, as follows:

3287 "(b) The authority shall be a public body corporate and politic with the power to sue and
 3288 be sued, to accept and issue deeds in its name, including without limitation the acceptance
 3289 of real property in accordance with the provisions of ~~paragraph (2.1)~~ of subsection ~~(u)~~ (f)
 3290 of Code Section ~~16-13-49~~ 9-16-19, and to institute quia timet actions and shall have any
 3291 other powers necessary and incidental to carry out the powers granted by this article."

3292 SECTION 4-29.

3293 Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended
 3294 by revising Code Section 49-4-146.3, relating to forfeiture of property and proceeds obtained
 3295 through Medicaid fraud, as follows:

3296 "49-4-146.3.

3297 (a) As used in this Code section, the term:

3298 (1) ~~'Costs'~~ means, but is not limited to:

3299 (A) ~~All expenses associated with the seizure, towing, storage, maintenance, custody,~~
 3300 ~~preservation, operation, or sale of the property; and~~

3301 (B) ~~Satisfaction of any security interest or lien not subject to forfeiture under this Code~~
 3302 ~~section.~~

3303 (2) ~~'Court costs'~~ means, but is not limited to:

3304 (A) ~~All court costs, including the costs of advertisement, transcripts, and court reporter~~
 3305 ~~fees; and~~

3306 (B) ~~Payment of receivers, conservators, appraisers, accountants, or trustees appointed~~
 3307 ~~by the court pursuant to this Code section.~~

3308 (3) ~~'Interest holder'~~ means a secured party within the meaning of Code Section ~~11-9-102~~
 3309 ~~or the beneficiary of a perfected encumbrance pertaining to an interest in property.~~

3310 (1) 'Civil forfeiture proceeding' shall have the same meaning as set forth in Code Section
 3311 9-16-2.

3312 (4)(2) 'Medicaid fraud' means:

- 3313 (A) A violation of Code Section 49-4-146.1; or
- 3314 (B) A violation relating to the obtaining of medical assistance benefits or payments
- 3315 under this article of any provision of:
- 3316 (i) Chapter 8 of Title 16, relating to offenses involving theft;
- 3317 (ii) Code Section 16-10-20, relating to false statements and writings, concealment of
- 3318 facts, and fraudulent documents in matters within jurisdiction of state or political
- 3319 subdivisions; or
- 3320 (iii) Code Section 16-10-21, relating to conspiracy to defraud the state or its political
- 3321 subdivisions.
- 3322 ~~(5) 'Owner' means a person, other than an interest holder, who has an interest in property~~
- 3323 ~~and is in compliance with any statute requiring its recordation or reflection in public~~
- 3324 ~~records in order to perfect the interest against a bona fide purchaser for value.~~
- 3325 ~~(6)(3) 'Proceeds' means property derived from or realized through, directly or indirectly,~~
- 3326 ~~Medicaid fraud and includes property of any kind without reduction for expenses incurred~~
- 3327 ~~for acquisition, maintenance, or any other purpose shall have the same meaning as set~~
- 3328 ~~forth in Code Section 9-16-2.~~
- 3329 ~~(7)(4) 'Property' means anything of value and includes any interest in anything of value,~~
- 3330 ~~including real property and any fixtures thereon, and tangible and intangible personal~~
- 3331 ~~property, including but not limited to currency, instruments, securities, or any kind of~~
- 3332 ~~privilege, interest, claim, or right shall have the same meaning as set forth in Code~~
- 3333 ~~Section 9-16-2.~~
- 3334 ~~(8) 'Prosecutor' means a district attorney or his or her designee or the Attorney General~~
- 3335 ~~or his or her designee.~~
- 3336 (b) ~~All~~ Any property which is directly or indirectly and proceeds obtained by a person or
- 3337 entity through or as a result of Medicaid fraud in the provision of services or equipment
- 3338 under this article are and any proceeds derived or realized therefrom shall be subject to
- 3339 civil forfeiture to the state by a Medicaid fraud forfeiture action brought by the state
- 3340 proceedings in accordance with ~~this Code section~~ Chapter 16 of Title 9. This Code section
- 3341 shall not apply to cases involving alleged fraud by Medicaid recipients in obtaining medical
- 3342 assistance benefits.
- 3343 (c) ~~A Medicaid fraud forfeiture proceeding shall be initiated by a complaint filed in the~~
- 3344 ~~name of the State of Georgia and may be brought in the case of:~~
- 3345 ~~(1) An in rem action, by the prosecutor in the county in which the property is located or~~
- 3346 ~~seized; or~~
- 3347 ~~(2) An in personam action, by the prosecutor in the county in which the defendant~~
- 3348 ~~resides.~~

3349 ~~(d)(1) An action pursuant to this Code section may be commenced before or after the~~
 3350 ~~seizure of property.~~

3351 ~~(2) Any Medicaid fraud forfeiture action filed under this Code section shall be limited~~
 3352 ~~to a civil action.~~

3353 ~~(e) A property interest shall not be subject to forfeiture under this Code section if the~~
 3354 ~~owner of such interest or interest holder establishes that the owner or interest holder:~~

3355 ~~(1) Is not legally accountable for the conduct giving rise to its forfeiture, did not consent~~
 3356 ~~to it, and did not know and there is no reason why he or she should have known of the~~
 3357 ~~conduct or that it was likely to occur;~~

3358 ~~(2) Had not acquired and did not stand to acquire substantial proceeds from the conduct~~
 3359 ~~giving rise to its forfeiture other than as an interest holder in an arm's length commercial~~
 3360 ~~transaction;~~

3361 ~~(3) With respect to conveyances for transportation only, did not hold the property jointly,~~
 3362 ~~in common, or in community with a person whose conduct gave rise to its forfeiture;~~

3363 ~~(4) Does not hold the property for the benefit of or as nominee for any person whose~~
 3364 ~~conduct gave rise to its forfeiture, and, if the owner or interest holder acquired the interest~~
 3365 ~~through any such person, the owner or interest holder acquired it as a bona fide purchaser~~
 3366 ~~for value without knowingly taking part in an illegal transaction; and~~

3367 ~~(5) Acquired the interest:~~

3368 ~~(A) Before the completion of the conduct giving rise to its forfeiture, and the person~~
 3369 ~~whose conduct gave rise to its forfeiture did not have the authority to convey the~~
 3370 ~~interest to a bona fide purchaser for value at the time of the conduct; or~~

3371 ~~(B) After the completion of the conduct giving rise to its forfeiture:~~

3372 ~~(i) As a bona fide purchaser for value without knowingly taking part in an illegal~~
 3373 ~~transaction;~~

3374 ~~(ii) Before the filing of a lien on it and before the effective date of a notice of pending~~
 3375 ~~forfeiture relating to it and without notice of its seizure for forfeiture under this~~
 3376 ~~article; and~~

3377 ~~(iii) At the time the interest was acquired, was reasonably without cause to believe~~
 3378 ~~that the property was subject to forfeiture or likely to become subject to forfeiture~~
 3379 ~~under this article.~~

3380 ~~Upon the request of the owner or interest holder, for good cause shown, the court shall hold~~
 3381 ~~an expedited hearing to determine whether the property is subject to forfeiture under this~~
 3382 ~~Code section.~~

3383 ~~(f) A rented or leased vehicle shall not be subject to forfeiture unless it is established in~~
 3384 ~~forfeiture proceedings that the owner of the rented or leased vehicle is legally accountable~~
 3385 ~~for the conduct which would otherwise subject the vehicle to forfeiture, consented to the~~

3386 ~~conduct, or knew or reasonably should have known of the conduct or that it was likely to~~
3387 ~~occur. Upon learning of the address or phone number of the company which owns any~~
3388 ~~rented or leased vehicle which is present at the scene of an arrest or other action taken~~
3389 ~~pursuant to this Code section, the duly authorized authorities shall immediately contact the~~
3390 ~~company to inform it that the vehicle is available for the company to take possession.~~

3391 ~~(g)(1) Property which is subject to forfeiture under this Code section may be seized by~~
3392 ~~any law enforcement officer of this state or of any political subdivision thereof who has~~
3393 ~~power to make arrests or execute process or a search warrant issued by any superior court~~
3394 ~~having jurisdiction over the property. A search warrant authorizing seizure of property~~
3395 ~~which is subject to forfeiture pursuant to this Code section may be issued at an ex parte~~
3396 ~~hearing before a superior court judge of a county where the forfeiture action may be~~
3397 ~~brought demonstrating that probable cause exists for its forfeiture or that the property has~~
3398 ~~been the subject of a previous final judgment of forfeiture in the courts of this state, any~~
3399 ~~other state, or the United States. The court may order that the property be seized on such~~
3400 ~~terms and conditions as are reasonable. In entering any such seizure order, the court shall~~
3401 ~~determine that appropriate conditions are included to ensure the physical safety and~~
3402 ~~well-being of any recipients or patients who may be affected by such warrant and that~~
3403 ~~sufficient steps will be taken to ensure that patient medical records are kept confidential.~~
3404 ~~The property owner or interest holder, within ten days of the seizure of property taken~~
3405 ~~pursuant to a search warrant, may make a written demand to the court with notice to the~~
3406 ~~prosecutor for a hearing to determine if probable cause still exists for the seized property~~
3407 ~~to be subject to forfeiture pursuant to this Code section. Said hearing shall be held within~~
3408 ~~20 days of said demand unless continued by the court for good cause.~~

3409 ~~(2) At the ex parte hearing for the issuance of a search warrant authorizing the seizure~~
3410 ~~of property under paragraph (1) of this subsection, a reasonable estimate of the~~
3411 ~~approximate fair market value of the property sought to be seized shall be presented to~~
3412 ~~the court. Based upon such evidence, the court shall establish a bond amount for the~~
3413 ~~release of any property ordered seized, not to exceed double the fair market value of that~~
3414 ~~property. The property owner or interest holder may file in the clerk's office of the court~~
3415 ~~where the forfeiture action is brought, a bond with good security, conditioned for the~~
3416 ~~payment of the bond amount established by the court. The bond shall be subject to~~
3417 ~~approval by the clerk of the court. Upon receipt of a bond deemed acceptable by the~~
3418 ~~clerk, the court which ordered the seizure of the property shall issue an order to the~~
3419 ~~persons having custody of the seized property to release such property to the property~~
3420 ~~owner or interest holder filing such bond, unless the property is being held as evidence.~~
3421 ~~If the seized property so released is ordered to be forfeited, the state shall be entitled to~~
3422 ~~entry of judgment upon such bond against the principal and sureties therein, as judgment~~

3423 ~~may be entered against securities upon appeal. If the property seized is released pursuant~~
 3424 ~~to this paragraph and is later otherwise required to be released under any other provision~~
 3425 ~~of this Code section, the principal and sureties upon any bond given for the release of~~
 3426 ~~such property under this paragraph shall also be released from their obligations under that~~
 3427 ~~bond.~~

3428 ~~(h)(1) When property is seized pursuant to this article, the sheriff or law enforcement~~
 3429 ~~officer seizing the same shall report the fact of seizure, in writing, within 20 days thereof~~
 3430 ~~to the prosecutor of the judicial circuit having jurisdiction in the county where the seizure~~
 3431 ~~was made.~~

3432 ~~(2) Within 30 days from the date of seizure, a complaint for forfeiture shall be initiated~~
 3433 ~~as provided for in subsection (n), (o), or (p) of this Code section.~~

3434 ~~(3) If the state fails to initiate forfeiture proceedings against property seized for forfeiture~~
 3435 ~~by notice of pending forfeiture within the time limits specified in paragraphs (1) and (2)~~
 3436 ~~of this subsection, the property must be released on the request of an owner or interest~~
 3437 ~~holder, pending further proceedings pursuant to this Code section, unless the property is~~
 3438 ~~being held as evidence.~~

3439 ~~(i)(1) Seizure of property by a law enforcement officer constitutes notice of such seizure~~
 3440 ~~to any person who was present at the time of seizure who may assert an interest in the~~
 3441 ~~property.~~

3442 ~~(2) When property is seized pursuant to this article, the prosecutor or the sheriff or law~~
 3443 ~~enforcement officer seizing the same shall give notice of the seizure to any owner or~~
 3444 ~~interest holder who is not present at the time of seizure by personal service, publication,~~
 3445 ~~or the mailing of written notice:~~

3446 ~~(A) If the owner's or interest holder's name and current address are known, by either~~
 3447 ~~personal service or mailing a copy of the notice by certified mail or statutory overnight~~
 3448 ~~delivery to that address;~~

3449 ~~(B) If the owner's or interest holder's name and address are required by law to be on~~
 3450 ~~record with a government agency to perfect an interest in the property but the owner's~~
 3451 ~~or interest holder's current address is not known, by mailing a copy of the notice by~~
 3452 ~~certified mail or statutory overnight delivery, return receipt requested, to any address~~
 3453 ~~on the record; or~~

3454 ~~(C) If the owner's or interest holder's address is not known and is not on record as~~
 3455 ~~provided in subparagraph (B) of this paragraph or the owner's or interest holder's~~
 3456 ~~interest is not known, by publication in two consecutive issues of a newspaper of~~
 3457 ~~general circulation in the county in which the seizure occurs.~~

3458 ~~(3) Notice of seizure must include a description of the property, the date and place of~~
 3459 ~~seizure, the conduct giving rise to forfeiture, and the violation of law alleged.~~

3460 ~~(j) A prosecutor may file, without a filing fee, a lien for forfeiture of property upon the~~
3461 ~~initiation of any civil proceeding under this article or upon seizure for forfeiture. The filing~~
3462 ~~constitutes notice to any person claiming an interest in the property owned by the named~~
3463 ~~person. The filing shall include the following:~~

3464 ~~(1) The lien notice must set forth:~~

3465 ~~(A) The name of the person and, in the discretion of the state, any alias and any~~
3466 ~~corporations, partnerships, trusts, or other entities, including nominees, that are either~~
3467 ~~owned entirely or in part or controlled by the person; and~~

3468 ~~(B) The description of the property, the civil proceeding that has been brought under~~
3469 ~~this article, the amount claimed by the state, the name of the court where the proceeding~~
3470 ~~or action has been brought, and the case number of the proceeding or action if known~~
3471 ~~at the time of filing;~~

3472 ~~(2) A lien under this subsection applies to the described property and to one named~~
3473 ~~person and to any aliases, fictitious names, or other names, including names of~~
3474 ~~corporations, partnerships, trusts, or other entities, that are either owned entirely or in part~~
3475 ~~or controlled by the named person and any interest in real property owned or controlled~~
3476 ~~by the named person. A separate lien for forfeiture of property must be filed for any other~~
3477 ~~person;~~

3478 ~~(3) The lien creates, upon filing, a lien in favor of the state as it relates to the seized~~
3479 ~~property or to the named person or related entities with respect to said property. The lien~~
3480 ~~secures the amount of potential liability for civil judgment and, if applicable, the fair~~
3481 ~~market value of seized property relating to all proceedings under this article enforcing the~~
3482 ~~lien. The forfeiture lien referred to in this subsection must be filed in accordance with the~~
3483 ~~provisions of the laws in this state pertaining to the type of property that is subject to the~~
3484 ~~lien. The state may amend or release, in whole or in part, a lien filed under this subsection~~
3485 ~~at any time by filing, without a filing fee, an amended lien in accordance with this~~
3486 ~~subsection which identifies the lien amended. The state, as soon as practical after filing~~
3487 ~~a lien, shall furnish to any person named in the lien a notice of the filing of the lien;~~

3488 ~~(4) Upon entry of judgment in favor of the state, the state may proceed to execute on the~~
3489 ~~lien as in the case of any other judgment;~~

3490 ~~(5) A trustee, constructive or otherwise, who has notice that a lien for forfeiture of~~
3491 ~~property, a notice of pending forfeiture, or a civil forfeiture proceeding has been filed~~
3492 ~~against the property or against any person or entity for whom the person holds title or~~
3493 ~~appears as the owner of record shall furnish, within ten days, to the prosecutor or the~~
3494 ~~prosecutor's designee the following information:~~

3495 ~~(A) The name and address of the person or entity for whom the property is held;~~

3496 ~~(B) The names and addresses of all beneficiaries for whose benefit legal title to the~~
3497 ~~seized property, or property of the named person or related entity, is held; and~~
3498 ~~(C) A copy of the applicable trust agreement or other instrument, if any, under which~~
3499 ~~the trustee or other person holds legal title or appears as the owner of record of the~~
3500 ~~property; and~~
3501 ~~(6) A trustee, constructive or otherwise, who fails to comply with this subsection shall~~
3502 ~~be guilty of a misdemeanor.~~
3503 ~~(k) Property taken or detained under this Code section is not subject to replevin,~~
3504 ~~conveyance, sequestration, or attachment. The seizing law enforcement agency or the~~
3505 ~~prosecutor may authorize the release of the property if the forfeiture or retention is~~
3506 ~~unnecessary or may transfer the action to another agency or prosecutor by discontinuing~~
3507 ~~forfeiture proceedings in favor of forfeiture proceedings initiated by the other law~~
3508 ~~enforcement agency or prosecutor. An action under this Code section may be consolidated~~
3509 ~~with any other action or proceeding under this article relating to the same property on~~
3510 ~~motion by an interest holder and must be so consolidated on motion by the prosecutor in~~
3511 ~~either proceeding or action. The property is deemed to be in the custody of the State of~~
3512 ~~Georgia subject only to the orders and decrees of the superior court having jurisdiction over~~
3513 ~~the forfeiture proceedings.~~
3514 ~~(l)(1) If property is seized under this article, the prosecutor may:~~
3515 ~~(A) Remove the property to a place designated by the superior court having jurisdiction~~
3516 ~~over the forfeiture proceeding;~~
3517 ~~(B) Place the property under constructive seizure by posting notice of pending~~
3518 ~~forfeiture, by giving notice of pending forfeiture to its owners and interest holders, or~~
3519 ~~by filing notice of seizure in any appropriate public record relating to the property;~~
3520 ~~(C) Remove the property to a storage area, within the jurisdiction of the court, for~~
3521 ~~safekeeping or, if the property is a negotiable instrument or money and is not needed~~
3522 ~~for evidentiary purposes, the prosecutor may authorize its being deposited in an~~
3523 ~~interest-bearing account in a financial institution in this state. Any accrued interest shall~~
3524 ~~follow the principal in any judgment with respect thereto;~~
3525 ~~(D) Provide for another governmental agency, a receiver appointed by the court~~
3526 ~~pursuant to Chapter 8 of Title 9, an owner, or an interest holder to take custody of the~~
3527 ~~property and remove it to an appropriate location within the county where the property~~
3528 ~~was seized; or~~
3529 ~~(E) Require the sheriff or chief of police of the political subdivision where the property~~
3530 ~~was seized to take custody of the property and remove it to an appropriate location for~~
3531 ~~disposition in accordance with law.~~

3532 ~~(2) If any property which has been attached or seized pursuant to this Code section is~~
 3533 ~~perishable or is liable to perish, waste, or be greatly reduced in value by keeping or if the~~
 3534 ~~expense of keeping the same is excessive or disproportionate to the value thereof, the~~
 3535 ~~court, upon motion of the state, a claimant, or the custodian, may order the property or~~
 3536 ~~any portion thereof to be sold upon such terms and conditions as may be prescribed by~~
 3537 ~~the court; and the proceeds shall be paid into the registry of the court pending final~~
 3538 ~~disposition of the action.~~

3539 ~~(m) As soon as possible, but not more than 30 days after the seizure of property, the~~
 3540 ~~seizing law enforcement agency shall conduct an inventory and estimate the value of the~~
 3541 ~~property seized. All reasonable steps shall be taken so as not to interfere with or disrupt the~~
 3542 ~~provision of medical care by the provider when such inventory is conducted. Such~~
 3543 ~~inventory shall be conducted in a manner which assures the confidentiality of patient~~
 3544 ~~medical records.~~

3545 ~~(n) If the estimated value of personal property seized is \$25,000.00 or less, the prosecutor~~
 3546 ~~may elect to proceed under the provisions of this subsection in the following manner:~~

3547 ~~(1) Notice of the seizure of such property shall be posted in a prominent location in the~~
 3548 ~~courthouse of the county in which the property was seized. Such notice shall include a~~
 3549 ~~description of the property, the date and place of seizure, the conduct giving rise to~~
 3550 ~~forfeiture, a statement that the owner of such property has 30 days within which a claim~~
 3551 ~~must be filed, and the violation of law alleged;~~

3552 ~~(2) A copy of the notice, which shall include a statement that the owner of such property~~
 3553 ~~has 30 days within which a claim must be filed, shall be served upon an owner, interest~~
 3554 ~~holder, or person in possession of the property at the time of seizure as provided in~~
 3555 ~~subsection (i) of this Code section and shall be published for at least three successive~~
 3556 ~~weeks in a newspaper of general circulation in the county where the seizure was made;~~

3557 ~~(3) The owner or interest holder may file a claim within 30 days after the second~~
 3558 ~~publication of the notice of forfeiture by sending the claim to the seizing law enforcement~~
 3559 ~~agency and to the prosecutor by certified mail or statutory overnight delivery, return~~
 3560 ~~receipt requested;~~

3561 ~~(4) The claim must be signed by the owner or interest holder under penalty of perjury~~
 3562 ~~and must substantially set forth:~~

3563 ~~(A) The caption of the proceedings as set forth on the notice of pending forfeiture and~~
 3564 ~~the name of the claimant;~~

3565 ~~(B) The address at which the claimant will accept mail;~~

3566 ~~(C) The nature and extent of the claimant's interest in the property;~~

3567 ~~(D) The date, identity of the transferor, and circumstances of the claimant's acquisition~~
 3568 ~~of the interest in the property;~~

3569 ~~(E) The specific provision of this Code section relied on in asserting that the property~~
 3570 ~~is not subject to forfeiture; and~~

3571 ~~(F) The precise relief sought;~~

3572 ~~(5) If a claim is filed, the prosecutor shall file a complaint for forfeiture as provided in~~
 3573 ~~subsection (o) or (p) of this Code section within 30 days of the actual receipt of the claim.~~
 3574 ~~A person who files a claim shall be joined as a party; and~~

3575 ~~(6) If no claim is filed within 30 days after the second publication of the notice of~~
 3576 ~~forfeiture, all right, title, and interest in the property are forfeited to the state and the~~
 3577 ~~prosecutor shall dispose of the property as provided in subsection (u) of this Code~~
 3578 ~~section.~~

3579 ~~(o) In rem proceedings.~~

3580 ~~(1) In actions in rem, the property which is the subject of the action shall be named as~~
 3581 ~~the defendant. The complaint shall be verified on oath or affirmation by a duly authorized~~
 3582 ~~agent of the state in a manner required by the laws of this state. Such complaint shall~~
 3583 ~~describe the property with reasonable particularity; state that it is located within the~~
 3584 ~~county or will be located within the county during the pendency of the action; state its~~
 3585 ~~present custodian; state the name of the owner or interest holder, if known; allege the~~
 3586 ~~essential elements of the violation which is claimed to exist; state the place of seizure, if~~
 3587 ~~the property was seized; and conclude with a prayer of due process to enforce the~~
 3588 ~~forfeiture.~~

3589 ~~(2) A copy of the complaint and summons shall be served on any person known to be an~~
 3590 ~~owner or interest holder and any person who is in possession of the property.~~

3591 ~~(A) Service of the complaint and summons shall be as provided in subsections (a), (b),~~
 3592 ~~(c), and (e) of Code Section 9-11-4.~~

3593 ~~(B) If real property is the subject of the action or the owner or interest holder is~~
 3594 ~~unknown or resides out of the state or departs the state or cannot after due diligence be~~
 3595 ~~found within the state or conceals himself or herself so as to avoid service, notice of the~~
 3596 ~~proceeding shall be published once a week for two successive weeks in the newspaper~~
 3597 ~~in which the sheriff's advertisements are published. Such publication shall be deemed~~
 3598 ~~notice to any and all persons having an interest in or right affected by such proceeding~~
 3599 ~~and from any sale of the property resulting therefrom, but shall not constitute notice to~~
 3600 ~~an interest holder unless that person is unknown or resides out of the state or departs the~~
 3601 ~~state or cannot after due diligence be found within the state or conceals himself or~~
 3602 ~~herself to avoid service.~~

3603 ~~(C) If tangible property which has not been seized is the subject of the action, the court~~
 3604 ~~may order the sheriff or another law enforcement officer to take possession of the~~
 3605 ~~property. If the character or situation of the property is such that the taking of actual~~

3606 ~~possession is impracticable, the sheriff shall execute process by affixing a copy of the~~
 3607 ~~complaint and summons to the property in a conspicuous place and by leaving another~~
 3608 ~~copy of the complaint and summons with the person having possession or such person's~~
 3609 ~~agent. In cases involving a vessel or aircraft, the sheriff or other law enforcement~~
 3610 ~~officer is authorized to make a written request with the appropriate governmental~~
 3611 ~~agency not to permit the departure of such vessel or aircraft until notified by the sheriff~~
 3612 ~~or the sheriff's deputy that the vessel or aircraft has been released.~~

3613 ~~(3) An owner of or interest holder in the property may file an answer asserting a claim~~
 3614 ~~against the property in the action in rem. Any such answer shall be filed within 30 days~~
 3615 ~~after the service of the summons and complaint. Where service is made by publication~~
 3616 ~~and personal service has not been made, an owner or interest holder shall file an answer~~
 3617 ~~within 30 days of the date of final publication. An answer must be verified by the owner~~
 3618 ~~or interest holder under penalty of perjury. In addition to complying with the general~~
 3619 ~~rules applicable to an answer in civil actions, the answer must substantially set forth:~~

3620 ~~(A) The caption of the proceedings as set forth in the complaint and the name of the~~
 3621 ~~claimant;~~

3622 ~~(B) The address at which the claimant will accept mail;~~

3623 ~~(C) The nature and extent of the claimant's interest in the property;~~

3624 ~~(D) The date, identity of transferor, and circumstances of the claimant's acquisition of~~
 3625 ~~the interest in the property;~~

3626 ~~(E) The specific provision of this Code section relied on in asserting that the property~~
 3627 ~~is not subject to forfeiture; and~~

3628 ~~(F) The precise relief sought.~~

3629 ~~(4) If at the expiration of the period set forth in paragraph (3) of this subsection no~~
 3630 ~~answer has been filed, the court shall order the disposition of the seized property as~~
 3631 ~~provided for in this Code section.~~

3632 ~~(5) If an answer is filed, a hearing must be held within 60 days after service of the~~
 3633 ~~complaint unless continued for good cause and must be held by the court with a jury~~
 3634 ~~unless waived by the claimant.~~

3635 ~~(6) An action in rem may be brought by the state in addition to or in lieu of any other in~~
 3636 ~~rem or in personam action brought pursuant to this article.~~

3637 ~~(p) In personam proceedings:~~

3638 ~~(1) The complaint shall be verified on oath or affirmation by a duly authorized agent of~~
 3639 ~~the state in a manner required by the laws of this state. It shall describe with reasonable~~
 3640 ~~particularity the property which is sought to be forfeited; state its present custodian; state~~
 3641 ~~the name of the owner or interest holder, if known; allege the essential elements of the~~

3642 violation which is claimed to exist; state the place of seizure, if the property was seized;
 3643 and conclude with a prayer of due process to enforce the forfeiture.

3644 ~~(2) Service of the complaint and summons shall be as follows:~~

3645 ~~(A) Except as otherwise provided in this subsection, service of the complaint and~~
 3646 ~~summons shall be as provided by subsections (a), (b), (c), and (d) of Code Section~~
 3647 ~~9-11-4; and~~

3648 ~~(B) If the defendant is unknown or resides out of the state or departs the state or cannot~~
 3649 ~~after due diligence be found within the state or conceals himself or herself so as to~~
 3650 ~~avoid service, notice of the proceedings shall be published once a week for two~~
 3651 ~~successive weeks in the newspaper in which the sheriff's advertisements are published.~~
 3652 ~~Such publication shall be deemed sufficient notice to any such defendant.~~

3653 ~~(3) A defendant shall file a verified answer within 30 days after the service of the~~
 3654 ~~summons and complaint. Where service is made by publication and personal service has~~
 3655 ~~not been made, a defendant shall file such answer within 30 days of the date of final~~
 3656 ~~publication. In addition to complying with the general rules applicable to an answer in~~
 3657 ~~civil actions, the answer must contain all of the elements set forth in paragraph (3) of~~
 3658 ~~subsection (o) of this Code section.~~

3659 ~~(4) Any interest holder or person in possession of the property may join any action~~
 3660 ~~brought pursuant to this subsection as provided by Chapter 11 of Title 9, known as the~~
 3661 ~~'Georgia Civil Practice Act.'~~

3662 ~~(5) If at the expiration of the period set forth in paragraph (3) of this subsection no~~
 3663 ~~answer has been filed, the court shall order the disposition of the seized property as~~
 3664 ~~provided for in this Code section.~~

3665 ~~(6) If an answer is filed, a hearing must be held within 60 days after service of the~~
 3666 ~~complaint unless continued for good cause and must be held by the court with a jury~~
 3667 ~~unless waived by the claimant.~~

3668 ~~(7) On a determination of liability of a person for conduct giving rise to forfeiture under~~
 3669 ~~this Code section, the court must enter a judgment of forfeiture of the property described~~
 3670 ~~in the complaint and must also authorize the prosecutor or the prosecutor's agent or any~~
 3671 ~~law enforcement officer or peace officer to seize all property ordered to be forfeited~~
 3672 ~~which was not previously seized or was not then under seizure. Following the entry of an~~
 3673 ~~order declaring the property forfeited, the court, on application of the state, may enter any~~
 3674 ~~appropriate order to protect the interest of the state in the property ordered to be forfeited.~~

3675 ~~(q) In conjunction with any civil action brought pursuant to this article:~~

3676 ~~(1) The court, on application of the prosecutor, may enter any restraining order or~~
 3677 ~~injunction; require the execution of satisfactory performance bonds; appoint receivers;~~
 3678 ~~conservators, appraisers, accountants, or trustees; or take any action to seize, secure,~~

3679 ~~maintain, or preserve the availability of property subject to forfeiture under this article,~~
3680 ~~including issuing a warrant for its seizure and writ of attachment, whether before or after~~
3681 ~~the filing of a complaint for forfeiture;~~

3682 ~~(2) A temporary restraining order under this Code section may be entered on application~~
3683 ~~of the prosecutor, without notice or an opportunity for a hearing, if the prosecutor~~
3684 ~~demonstrates that:~~

3685 ~~(A) There is probable cause to believe that the property with respect to which the order~~
3686 ~~is sought, in the event of final judgment or conviction, would be subject to forfeiture~~
3687 ~~under this article; and~~

3688 ~~(B) Provision of notice would jeopardize the availability of the property for forfeiture;~~

3689 ~~(3) Notice of the entry of a restraining order and an opportunity for a hearing must be~~
3690 ~~afforded to persons known to have an interest in the property. The hearing must be held~~
3691 ~~at the earliest possible date consistent with the date set in subsection (b) of Code Section~~
3692 ~~9-11-65 and is limited to the issues of whether:~~

3693 ~~(A) There is a probability that the state will prevail on the issue of forfeiture and that~~
3694 ~~failure to enter the order will result in the property's being destroyed, conveyed,~~
3695 ~~encumbered, removed from the jurisdiction of the court, concealed, or otherwise made~~
3696 ~~unavailable for forfeiture; and~~

3697 ~~(B) The need to preserve the availability of property through the entry of the requested~~
3698 ~~order outweighs the hardship on any owner or interest holder against whom the order~~
3699 ~~is to be entered;~~

3700 ~~(4) If property is seized for forfeiture or a forfeiture lien is filed without a previous~~
3701 ~~judicial determination of probable cause or order of forfeiture or a hearing under~~
3702 ~~paragraph (2) of this subsection, the court, on an application filed by an owner of or~~
3703 ~~interest holder in the property within 30 days after notice of its seizure or lien or actual~~
3704 ~~knowledge of such seizure or lien, whichever is earlier, and complying with the~~
3705 ~~requirements for an answer to an in rem complaint, and after five days' notice to the~~
3706 ~~prosecutor of the judicial circuit where the property was seized or, in the case of a~~
3707 ~~forfeiture lien, to the prosecutor filing such lien, may issue an order to show cause to the~~
3708 ~~seizing law enforcement agency for a hearing on the sole issue of whether probable cause~~
3709 ~~for forfeiture of the property then exists. The hearing must be held within 30 days unless~~
3710 ~~continued for good cause on motion of either party. If the court finds that there is no~~
3711 ~~probable cause for forfeiture of the property, the property must be released pending the~~
3712 ~~outcome of a judicial proceeding which may be filed pursuant to this Code section; and~~
3713 ~~(5) The court may order property that has been seized for forfeiture to be sold to satisfy~~
3714 ~~a specified interest of any interest holder, on motion of any party, and after notice and a~~
3715 ~~hearing, on the conditions that:~~

3716 ~~(A) The interest holder has filed a proper claim and:~~
3717 ~~(i) Is authorized to do business in this state and is under the jurisdiction of a~~
3718 ~~governmental agency of this state or of the United States which regulates financial~~
3719 ~~institutions, securities, insurance, or real estate; or~~
3720 ~~(ii) Has an interest that the prosecutor has stipulated is exempt from forfeiture;~~
3721 ~~(B) The interest holder must dispose of the property by commercially reasonable public~~
3722 ~~sale and apply the proceeds first to its interest and then to its reasonable expenses~~
3723 ~~incurred in connection with the sale or disposal; and~~
3724 ~~(C) The balance of the proceeds, if any, must be returned to the actual or constructive~~
3725 ~~custody of the court, in an interest-bearing account, subject to further proceedings under~~
3726 ~~this Code section.~~

3727 ~~(r) An acquittal or a dismissal or a conviction in any criminal proceeding, either by a~~
3728 ~~verdict or a plea of guilty or nolo contendere, shall be admissible in evidence in any~~
3729 ~~proceeding pursuant to this Code section.~~

3730 ~~(s) In hearings and determinations pursuant to this Code section:~~
3731 ~~(1) The court may receive and consider, in making any determination of probable cause~~
3732 ~~or reasonable cause, all evidence admissible in determining probable cause at a~~
3733 ~~preliminary hearing or by a magistrate pursuant to Article 1 of Chapter 5 of Title 17,~~
3734 ~~together with inferences therefrom; and~~
3735 ~~(2) The fact that the state has established probable cause to believe that a person has~~
3736 ~~engaged in conduct giving rise to forfeiture or that the property was acquired by a person~~
3737 ~~during a period of the conduct giving rise to forfeiture or within a reasonable time~~
3738 ~~thereafter shall not give rise to any presumption, rebuttable or otherwise, that the property~~
3739 ~~is subject to forfeiture. The state shall, at all times, have the burden to prove, by a~~
3740 ~~preponderance of the evidence, that the property is subject to forfeiture under this Code~~
3741 ~~section.~~

3742 ~~(t)(1) All property declared to be forfeited under this Code section vests in this state at~~
3743 ~~the time of commission of the conduct giving rise to forfeiture together with the proceeds~~
3744 ~~of the property after that time. Any property or proceeds transferred later to any person~~
3745 ~~remain subject to forfeiture and thereafter must be ordered to be forfeited unless the~~
3746 ~~transferee claims and establishes in a hearing under this Code section that the transferee~~
3747 ~~is a bona fide purchaser for value and the transferee's interest is exempt under subsection~~
3748 ~~(e) of this Code section.~~

3749 ~~(2) On entry of judgment for a person claiming an interest in the property that is subject~~
3750 ~~to proceedings to forfeit property under this Code section, the court shall order that the~~
3751 ~~property or interest in property be released or delivered promptly to that person free of~~
3752 ~~liens and encumbrances, as provided under this article.~~

3753 ~~(3) The court is authorized to order a claimant who files a frivolous claim to pay the~~
 3754 ~~reasonable costs relating to the disproving of the claim which were incurred by the state,~~
 3755 ~~including costs for investigation, prosecution, and attorney's fees.~~

3756 ~~(u)(1) The court may, after judgment of forfeiture, make any of the following orders for~~
 3757 ~~disposition of the property:~~

3758 ~~(A) Judicial sale of the property;~~

3759 ~~(B) Retention of the property by any party having a property interest therein, as such~~
 3760 ~~interest is described in subsection (e) of this Code section, upon payment or approval~~
 3761 ~~of a plan for payment into court of the value of any forfeited interest in the property.~~
 3762 ~~The plan may include, in the case of a party having such a property interest who holds~~
 3763 ~~a lien on or security interest in the property, the sale of the property by any such party~~
 3764 ~~under such terms and conditions as may be prescribed by the court and the payment into~~
 3765 ~~court of any proceeds from such sale over and above the amount necessary to satisfy~~
 3766 ~~the lien or security interest; or~~

3767 ~~(C) Destruction of any contraband, the possession of which is illegal.~~

3768 ~~(2) The proceeds from any judicial sale or payments from a party having a property~~
 3769 ~~interest as described in paragraph (1) of this subsection shall be delivered to the~~
 3770 ~~Department of Community Health. The proceeds shall then be disbursed in accordance~~
 3771 ~~with the requirements of federal law.~~

3772 ~~(v) An acquittal or dismissal in a criminal proceeding does not preclude civil proceedings~~
 3773 ~~under this article, provided that no property shall be forfeited after an acquittal or dismissal~~
 3774 ~~in a criminal proceeding unless the state obtains a civil judgment for forfeiture under this~~
 3775 ~~article.~~

3776 ~~(w) For good cause shown, the court may stay civil forfeiture proceedings during the~~
 3777 ~~criminal trial resulting from a related indictment or information alleging a violation of this~~
 3778 ~~article.~~

3779 ~~(x)(1) The court shall order the forfeiture of any property of a claimant or defendant up~~
 3780 ~~to the value of property found by the court to be subject to forfeiture under the provisions~~
 3781 ~~of this Code section if any of the forfeited property:~~

3782 ~~(A) Cannot be located;~~

3783 ~~(B) Has been transferred or conveyed to, sold to, or deposited with a third party;~~

3784 ~~(C) Is beyond the jurisdiction of the court;~~

3785 ~~(D) Has been substantially diminished in value while not in the actual physical custody~~
 3786 ~~of the receiver or governmental agency directed to maintain custody of the property;~~
 3787 ~~or~~

3788 ~~(E) Has been commingled with other property that cannot be divided without~~
 3789 ~~difficulty.~~

3790 ~~(2) In addition to any other remedy provided for by law, a prosecutor on behalf of the~~
3791 ~~state may institute an action in any court of this state or of the United States or any of the~~
3792 ~~several states against any person acting with knowledge or any person to whom notice~~
3793 ~~of a lien for forfeiture of property has been provided in accordance with subsection (j) of~~
3794 ~~this Code section; to whom notice of seizure has been provided in accordance with~~
3795 ~~subsection (i) of this Code section; or to whom notice of a civil proceeding alleging~~
3796 ~~conduct giving rise to forfeiture under this Code section has been provided, if property~~
3797 ~~subject to forfeiture is conveyed, alienated, disposed of, or otherwise rendered~~
3798 ~~unavailable for forfeiture after the filing of a forfeiture lien notice or notice of seizure or~~
3799 ~~after the filing and notice of a civil proceeding alleging conduct giving rise to forfeiture~~
3800 ~~under this Code section, as the case may be. The state may recover judgment in an~~
3801 ~~amount equal to the value of the lien but not to exceed the fair market value of the~~
3802 ~~property or, if there is no lien, in an amount not to exceed the fair market value of the~~
3803 ~~property, together with reasonable investigative expenses and attorney's fees. If a civil~~
3804 ~~proceeding is pending, the action must be heard by the court in which the civil proceeding~~
3805 ~~is pending.~~

3806 ~~(3) A prosecutor may file and prosecute in any of the courts of this state or of the United~~
3807 ~~States or of any of the several states such civil actions as may be necessary to enforce any~~
3808 ~~judgment rendered pursuant to this Code section.~~

3809 ~~(4) No person claiming an interest in property subject to forfeiture under this article may~~
3810 ~~commence or maintain any action against the state concerning the validity of the alleged~~
3811 ~~interest other than as provided in this Code section. Except as specifically authorized by~~
3812 ~~this Code section, no person claiming an interest in such property may file any~~
3813 ~~counterclaim or cross-claim to any action brought pursuant to this Code section.~~

3814 ~~(5) A civil action under this article must be commenced within five years after the last~~
3815 ~~conduct giving rise to forfeiture or to the claim for relief became known or should have~~
3816 ~~become known, excluding any time during which either the property or defendant is out~~
3817 ~~of the state or in confinement or during which criminal proceedings relating to the same~~
3818 ~~conduct are in progress.~~

3819 ~~(y) In the event the state fails to prove that the property is subject to forfeiture under this~~
3820 ~~Code section, the property may still be subject to lien, levy, and other processes in order~~
3821 ~~to satisfy any judgment which orders the payment of restitution based upon a conviction~~
3822 ~~or judgment of Medicaid fraud.~~

3823 ~~(z) This Code section must be liberally construed to effectuate its remedial purposes."~~

3824 **SECTION 4-30.**

3825 Title 52 of the Official Code of Georgia Annotated, relating to waters of the state, ports, and
3826 watercraft, is amended by revising Code Section 52-7-7.3, relating to seizure of vessels
3827 without hull identification numbers, seizure of related property, and inspections, as follows:

3828 "52-7-7.3.

3829 (a) If the hull identification number on a vessel required by Code Section 52-7-7.1 or
3830 52-7-7.2 to have a hull identification number does not exist or has been altered, removed,
3831 destroyed, covered, or defaced or the real identity of the vessel cannot be determined, the
3832 vessel, and any items used while towing ~~said~~ such vessel, may be seized as contraband
3833 ~~property~~ by a law enforcement agency or the department and shall be subject to forfeiture
3834 in accordance with the procedures set forth in Chapter 16 of Title 9.

3835 (b) A ~~Such~~ vessel described in subsection (a) of this Code section shall not be sold or
3836 operated on the waters of the state unless the department:

3837 (1) Receives a request from a law enforcement agency providing adequate
3838 documentation for a replacement hull identification number; or

3839 (2) Is directed by written order of a court of competent jurisdiction to issue to the vessel
3840 a replacement hull identification number.

3841 ~~Thereafter, the replacement HIN shall be used for identification purposes. No vessel shall~~
3842 ~~be forfeited if the owner was unaware the vessel's HIN had been altered, removed,~~
3843 ~~destroyed, covered, or defaced.~~

3844 ~~(b)(c)~~ (c) The failure to have the hull identification number clearly displayed in compliance
3845 with this article shall be probable cause for any law enforcement officer to make further
3846 inspection of the vessel in question to ascertain the true identity thereof.

3847 (d) Prior to the vessel being sold or returned to the owner or otherwise disposed of, the
3848 department shall assign it a new hull identification number in accordance with federal law."

3849 **SECTION 4-31.**

3850 Said title is further amended by revising Code Section 52-7-7.4, relating to property not
3851 subject to replevin, as follows:

3852 "52-7-7.4.

3853 ~~(a) Property subject to forfeiture under Code Section 52-7-7.3 and in the possession of any~~
3854 ~~state or local law enforcement agency shall not be subject to replevin but shall be deemed~~
3855 ~~to be in the custody of the superior court of the county wherein the property is located~~
3856 ~~subject only to the orders and decrees of the court having jurisdiction over the forfeiture~~
3857 ~~proceedings.~~

3858 ~~(b) The law enforcement agency having possession of any property subject to forfeiture~~
3859 ~~under Code Section 52-7-7.3 shall report such fact within ten days of taking possession to~~

3860 ~~the district attorney of the judicial circuit having jurisdiction in the county where the~~
3861 ~~property is located. Within 30 days from the date he or she receives such notice, the~~
3862 ~~district attorney of the judicial circuit shall file in the superior court of the county in which~~
3863 ~~the property is located an action for condemnation of the property. The proceedings shall~~
3864 ~~be brought in the name of the state, and the action shall be verified by a duly authorized~~
3865 ~~agent of the state in the manner required by law. The action shall describe the property,~~
3866 ~~state its location, state its present custodian, state the name of the owner, if known, state~~
3867 ~~the duly authorized agent of the state, allege the essential elements which are claimed to~~
3868 ~~exist, and shall conclude with a prayer of due process to enforce the forfeiture. Upon the~~
3869 ~~filing of such an action, the court shall promptly cause process to issue to the present~~
3870 ~~custodian in possession of the property described in the action, commanding him or her to~~
3871 ~~seize the property described in the action and to hold that property for further order of the~~
3872 ~~court. A copy of the action shall be served on the owner, if known. If the owner is known,~~
3873 ~~a copy of the action shall also be served upon any person having a duly recorded security~~
3874 ~~interest in or lien upon that property. If the owner is unknown or resides out of the state~~
3875 ~~or departs the state or cannot after due diligence be found within the state or conceals~~
3876 ~~himself or herself so as to avoid service, notice of the proceedings shall be published once~~
3877 ~~a week for two weeks in the newspaper in which the sheriff's advertisements are published.~~
3878 ~~Such publication shall be deemed notice to any and all persons having an interest in or right~~
3879 ~~affected by such proceeding and from any sale of the property resulting therefrom but shall~~
3880 ~~not constitute notice to any person having a duly recorded security interest in or lien upon~~
3881 ~~such property and required to be served under this Code section unless that person is~~
3882 ~~unknown or resides out of the state or departs the state or cannot after due diligence be~~
3883 ~~found within the state or conceals himself or herself to avoid service. At the expiration of~~
3884 ~~30 days after such filing, if no claimant has appeared to defend the action, the court shall~~
3885 ~~order the disposition of the seized property as provided for in this Code section. If the~~
3886 ~~owner of the vessel appears and defends the action and can show that he or she was~~
3887 ~~unaware of the fact that the hull identification number had been removed, altered, defaced,~~
3888 ~~falsified, or destroyed, the court shall order the property returned to the owner upon the~~
3889 ~~owner's paying proper expenses relating to proceedings for forfeiture, including the~~
3890 ~~expenses of the maintenance of custody, advertising, and court costs and upon the vessel~~
3891 ~~being assigned a new hull identification number as provided in this article.~~
3892 ~~(c) Except as otherwise provided in this article, when property is forfeited under this~~
3893 ~~article, the court may:~~
3894 ~~(1) Order that the vessel be retained by the law enforcement agency or the county in~~
3895 ~~which the vessel is located; or~~

3896 ~~(2) Order that the vessel be disposed of by sale, the proceeds of which shall be used to~~
 3897 ~~pay the proper expenses relating to the proceedings for forfeiture, including the expenses~~
 3898 ~~of maintenance of custody, advertising, and court costs, with the remaining funds to be~~
 3899 ~~paid into the general fund of the county.~~

3900 ~~(d) Prior to the vessel being sold or returned to the owner or otherwise disposed of, the~~
 3901 ~~department shall assign it a new hull identification number in accordance with federal law.~~

3902 Reserved."

3903

SECTION 4-32.

3904 The following Code sections of the Official Code of Georgia Annotated are amended by
 3905 replacing "fines and forfeitures" wherever such term occurs with "fines and bond forfeitures":

3906 (1) Code Section 15-21-2, relating to payment into county treasury of fines and forfeitures;

3907 (2) Code Section 15-21-3, relating to maintenance of moneys from fines and forfeitures in
 3908 county treasury;

3909 (3) Code Section 15-21-4, relating to distribution of fines and forfeitures generally;

3910 (4) Code Section 15-21-5, relating to procedure for filing and payment of claims of officers
 3911 of court where defendant acquitted or person liable for payment of costs is insolvent;

3912 (5) Code Section 15-21-7, relating to the report by county treasurer to grand jury as to fines
 3913 and forfeitures received and disbursed;

3914 (6) Code Section 15-21-8, relating to applicability and effect of Code Sections 15-21-2
 3915 through 15-21-7;

3916 (7) Code Section 15-21-9, relating to lien of officers for payment of insolvent costs;

3917 (8) Code Section 15-21-13, relating to priority of payment of claims for fees of solicitors of
 3918 city courts, sheriffs, clerks, and district attorneys;

3919 (9) Code Section 15-21-56, relating to proceedings by persons claiming interest in fine and
 3920 forfeiture fund;

3921 (10) Code Section 15-21-57, relating to effect of article upon duty of prosecution officers
 3922 and county treasurers relating to account for fines and forfeitures;

3923 (11) Code Section 15-21-58, relating to effect of article upon Acts pertaining to courts in
 3924 particular counties or cities;

3925 (12) Code Section 27-1-14, relating to disposition of fines and forfeitures;

3926 (13) Code Section 36-30-9, relating to compensation of law enforcement officers;

3927 (14) Code Section 36-31-8, relating to transition periods for governmental functions;

3928 (15) Code Section 36-32-6, relating to relating to jurisdiction in marijuana possession cases;

3929 (16) Code Section 36-32-7, relating to jurisdiction in cases of operating a motor vehicle
 3930 without effective insurance;

- 3931 (17) Code Section 36-32-8, relating to jurisdiction of cases of operating a motor vehicle
 3932 without emission inspection;
- 3933 (18) Code Section 36-32-9, relating to jurisdiction of cases of shoplifting;
- 3934 (19) Code Section 36-32-10, relating to jurisdiction of cases of furnishing alcoholic
 3935 beverages to and purchase and possession of alcoholic beverages by underage persons;
- 3936 (20) Code Section 36-32-10.1, relating to jurisdiction in counties without state court to try
 3937 violations of Code Section 16-7-21;
- 3938 (21) Code Section 36-35-6, relating to limitation on home rule powers;
- 3939 (22) Code Section 38-2-464, relating to payment of fines;
- 3940 (23) Code Section 40-5-124, relating to jurisdiction of offenses;
- 3941 (24) Code Section 40-13-22, relating to jurisdiction over offenses under Code Section
 3942 40-2-8;
- 3943 (25) Code Section 40-16-7, relating to budget of the Department of Driver Services; and
- 3944 (26) Code Section 42-9-45, relating to general rule-making power of the State Board of
 3945 Pardons and Paroles.

3946 **SECTION 4-33.**

- 3947 The following Code sections of the Official Code of Georgia Annotated are amended by
 3948 replacing "fine and forfeitures fund", "fines and forfeitures fund", and "fine and forfeiture
 3949 fund" wherever such terms occur with "fine and bond forfeiture fund":
- 3950 (1) Code Section 4-3-8, relating to return and disposition of proceeds of sale;
- 3951 (2) Code Section 15-21-5, relating to procedure for filing and payment of claims of officers
 3952 of court where defendant acquitted or person liable for payment of costs is insolvent;
- 3953 (3) Code Section 15-21-50, relating to limitation period for claims against fine and forfeiture
 3954 fund;
- 3955 (4) Code Section 15-21-51, relating to the procedure for extension of limitation period;
- 3956 (5) Code Section 15-21-52, relating to payment into county treasury of funds received as
 3957 part of fine and forfeiture fund;
- 3958 (6) Code Section 15-21-54, relating to creation of claim for benefit of county against fine
 3959 and forfeiture fund;
- 3960 (7) Code Section 15-21-55, relating to disposition of funds remaining after claims against
 3961 fine and forfeiture fund paid or barred by limitation;
- 3962 (8) Code Section 15-21-56, relating to proceedings by persons claiming interest in fine and
 3963 forfeiture fund;
- 3964 (9) Code Section 24-13-132, relating to appointment of counsel and payment of costs and
 3965 expenses;
- 3966 (10) Code Section 36-15-9, relating to collection of additional costs in court cases; and

3967 (11) Code Section 40-16-7, relating to budget of the Department of Driver Services.

3968

PART V

3969

EFFECTIVE DATE, APPLICABILITY, AND REPEALER

3970

SECTION 5-1.

3971 This Act shall become effective on July 1, 2014, and shall apply to seizures of property for
3972 forfeiture that occur on or after that date. Any such seizure that occurs before July 1, 2014,
3973 shall be governed by the statute in effect at the time of such seizure.

3974

SECTION 5-2.

3975 All laws and parts of laws in conflict with this Act are repealed.