

House Bill 75

By: Representatives Ridley of the 22<sup>nd</sup>, Ridley of the 6<sup>th</sup>, Horner of the 3<sup>rd</sup>, Tarvin of the 2<sup>nd</sup>,  
Chastain of the 7<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 1 of Chapter 11 of Title 4 of the Official Code of Georgia Annotated,  
2 relating to general provisions relative to animal protection, so as to revise certain provisions  
3 relating to the impounding of domesticated animals by a government agency and the care of  
4 such impounded domesticated animals; to require a court order prior to the euthanasia of any  
5 impounded domesticated animal; to provide for state or local liability in cases of the death  
6 of, loss of, or injury to an impounded domesticated animal under certain circumstances; to  
7 provide for notice and hearings; to provide a definition; to provide for a short title; to provide  
8 for an effective date and applicability; to provide for related matters; to repeal conflicting  
9 laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 This Act shall be known and may be cited as the "Justice for Peanut and Fred Act."

**SECTION 2.**

Article 1 of Chapter 11 of Title 4 of the Official Code of Georgia Annotated, relating to general provisions relative to animal protection, is amended by adding a new paragraph to Code Section 4-11-2, relating to definitions, to read as follows:

"(2.1) 'Domesticated animal' means a dog, cat, bird, fish, reptile, or other animal customarily kept as a pet in this state and maintained in or near to the household of its owner or an animal lawfully taken or possessed after procuring all licenses, stamps, tags, or permits required under Title 27 and maintained in or near to the household of its owner. Such term does not include livestock as defined in Code Section 4-3-2."

**SECTION 3.**

Said article is further amended by revising Code Section 4-11-9.3, relating to caring for an impounded animal, as follows:

"4-11-9.3.

(a) It shall be the duty of any person impounding an animal under this article or Code Section 4-8-24, 4-11-9.2, 16-12-4, or 16-12-37 to make reasonable and proper arrangements to provide the impounded animal with humane care and adequate and necessary veterinary services. Such arrangements may include, but shall not be limited to, providing shelter and care for the animal at any state, federal, county, municipal, or governmental facility or shelter; contracting with a private individual, partnership, corporation, association, or other entity to provide humane care and adequate and necessary veterinary services for a reasonable fee; or allowing a private individual, partnership, corporation, association, or other entity to provide humane care and adequate and necessary veterinary services as a volunteer and at no cost.

(b) Any person impounding an animal under this article or Code Section 4-8-24, 16-12-4, or 16-12-37 or providing care for an impounded animal shall have a lien on such animal for the reasonable costs of caring for such animal. Such lien may be foreclosed in any

39 court of competent jurisdiction to hear civil cases. Liens shall be foreclosed in magistrate  
40 courts only when the amount of the lien does not exceed the jurisdictional limits  
41 established by law for such courts.

42 (c) Any person impounding an animal under this article shall be authorized to return such  
43 animal to its owner, upon payment by the owner of all costs of impoundment and care and  
44 upon the entry of a consent order, unless such owner has been convicted of, pled guilty to,  
45 or pled nolo contendere to animal cruelty or dog fighting under any local, state, or federal  
46 law, regulation, or ordinance, or in a prior administrative or legal action in this state or any  
47 other state, was found to have failed to provide humane care to an animal, committed  
48 cruelty to animals, or committed an act prohibited under Code Section 16-12-37 in  
49 violation of the laws of this state or of the United States or any of the several states. Such  
50 consent order shall provide conditions relating to the care and treatment of such animal,  
51 including, but not limited to, the following, that:

52 (1) Such animal shall be given humane care and adequate and necessary veterinary  
53 services;

54 (2) Such animal shall not be subjected to cruelty; and

55 (3) The owner shall comply with this article.

56 (d)(1) The provisions of subsection (c) of this Code section shall not apply to an animal  
57 that was an object or instrumentality of a crime. Any government agency impounding  
58 an animal as a result of a violation of this article or Code Section ~~4-11-9.2~~, 16-12-4;  
59 or 16-12-37 shall not return such animal to its owner.

60 (2) Any government agency having custody of an animal that was seized as an object or  
61 instrumentality of a crime may, with the consent of the prosecuting attorney, apply to the  
62 court having jurisdiction over the offense for an order authorizing such agency to dispose  
63 of the animal prior to trial of the criminal case as provided by law.

64 (e) Any government agency in custody of a domesticated animal impounded pursuant to  
65 this article or Code Section 4-8-24 shall be subject to liability for up to \$5,000.00 for any

66 failure of its officers or employees to exercise due care in the execution of their official  
67 duties under subsection (a) of this Code section that results in the death of, loss of, or any  
68 injury to such domesticated animal. This subsection shall be a limited waiver of the  
69 defense of sovereign immunity of a state or local government."

70

#### SECTION 4.

71 Said article is further amended by revising Code Section 4-11-9.6, relating to disposal of  
72 impounded animal, as follows:

73 "4-11-9.6.

74 (a)(1) The government agency having custody of an animal impounded pursuant to this  
75 article which is not returned to the owner as provided in Code Sections 4-11-9.3  
76 and 4-11-9.5, or ~~when ownership of the animal is relinquished by the owner~~ for which  
77 the owner has relinquished ownership, may dispose of the animal through sale by any  
78 commercially feasible means, at a public auction or by sealed bids, adoption, or, if in the  
79 opinion of a licensed accredited veterinarian or a veterinarian employed by a state or  
80 federal government and approved by the Commissioner such animal has a temperament  
81 or condition such that euthanasia is the only reasonable course of action, by humanely  
82 ~~disposing of~~ euthanizing the animal, subject to paragraph (2) of this subsection.

83 (2) Except as otherwise provided in Code Sections 4-8-25, 4-8-26, and 4-8-30, in cases  
84 involving an impounded domesticated animal for which the owner has not relinquished  
85 ownership, the government agency may humanely euthanize such domesticated animal  
86 only if a judge of any court of competent jurisdiction within this state finds, after notice  
87 and opportunity for hearing as provided by subsection (b) of this Code section, that such  
88 domesticated animal has a temperament or condition such that euthanasia is the only  
89 reasonable course of action and enters an order for the euthanasia of such domesticated  
90 animal.

91 (b)(1) It shall be the duty of the government agency to immediately notify the owner of  
92 any veterinarian opinion to euthanize a domesticated animal as provided in paragraph (1)  
93 of subsection (a) of this Code section. Such notice shall include a summary of the  
94 veterinarian's findings and a statement of the time limits for the owner to respond and  
95 request a hearing as provided in paragraph (2) of this subsection. Such notice shall be  
96 provided by personal service or by registered mail, certified mail, or statutory overnight  
97 delivery sent to the last known address of the owner. If the owner of the domesticated  
98 animal is unknown or cannot be found, service of the notice of euthanasia on such owner  
99 shall be made by posting the notice in a conspicuous place at the location where the  
100 domesticated animal was impounded and by publishing a notice once in a newspaper of  
101 general circulation in the county where the domesticated animal was impounded.

102 (2) An owner may request, in writing, a hearing within ten business days of the date the  
103 notice of euthanasia was served, or, if the owner could not be served, such owner may  
104 request, in writing, a hearing within 30 days of the date of publication of the notice of  
105 euthanasia. Such request for hearing shall be served upon the government agency having  
106 custody of the domesticated animal. If no hearing is requested within the time limits  
107 specified in this paragraph, such domesticated animal may be humanely euthanized in  
108 accordance with paragraph (2) of subsection (a) of this Code section.

109 (3) The scope of the hearing shall be limited to whether euthanasia of the domesticated  
110 animal is the only reasonable course of action.

111 (4) The hearing shall be conducted in accordance with the hearing procedures set forth  
112 in subsection (b) of Code Section 4-11-9.5.

113 (5) Within five business days after such hearing, the hearing officer shall forward a copy  
114 of the decision to the owner. If such decision is that euthanasia of the domesticated  
115 animal is the only reasonable course of action, the hearing officer shall include a notice  
116 of the date by which the euthanasia shall occur with a copy of the decision.

117 (6) If the hearing officer finds that euthanasia of the domesticated animal is not the only  
 118 reasonable course of action, the hearing officer shall recommend that the government  
 119 agency having custody of the domesticated animal dispose of such domesticated animal  
 120 in any manner provided for in paragraph (1) of subsection (a) of this Code section except  
 121 euthanasia.

122 (c)(1) Any proceeds from the sale of such an animal pursuant to paragraph (1) of  
 123 subsection (a) of this Code section shall be used first to pay the costs associated with the  
 124 impoundment, including, but not limited to, removal of the animal from the premises,  
 125 shelter and care of the animal, notice, hearing, and disposition of the animal. Any funds  
 126 remaining shall:

127 (H)(A) If the owner is unknown or cannot be found, be paid into the state treasury if the  
 128 animal was impounded by the Commissioner or his or her designated agent or into the  
 129 treasury of the local government if the animal was impounded by the sheriff, a deputy  
 130 sheriff, another law enforcement officer, or an animal control officer; or

131 (2)(B) If the owner is known, be paid to the owner.

132 (e)(2) The government agency responsible for conducting the sale shall keep a record of  
 133 all sales, disbursements, and distributions made under this article."

134 **SECTION 5.**

135 (a) This Act shall become effective upon its approval by the Governor or upon its becoming  
 136 law without such approval.

137 (b) This Act shall apply to any impounding of animals and related causes of action occurring  
 138 on or after the effective date of this Act.

139 **SECTION 6.**

140 All laws and parts of laws in conflict with this Act are repealed.