

This pamphlet is for owners of repair facilities and salvage dealers to help navigate the statutes on abandoned motor vehicles (AMV). **If you are asking the Court to foreclose on an abandoned motor vehicle, follow the instructions below.**

OVERVIEW

Vehicles that have been left with an automobile dealer, repairmen, or wrecker service for repair or other service and have not been picked up for 30 days after the time agreed upon OR those left unattended on a public street, road or highway, or on private property, are considered **abandoned**.

A **salvage dealer** is: 1) a person or entity who possesses a vehicle at the request of an insurance company or 2) one who holds a vehicle the insurance company has totaled but is unable to obtain title. O.C.G.A § 40-11-13(7).

Repair facilities and salvage dealers may petition the Court for repayment of outstanding fees and storage costs by placing a lien on the vehicle and then holding a public sale to satisfy the debt. A **lien** is a right to keep possession of property belonging to another until a debt owed is paid.

Repair facilities, towing companies, and storage firms must strictly follow certain criteria before the court can order a lien and sale of the vehicle. If these requirements are not met, the court may deny the lien request, or reduce the amount of the requested lien. Petitioners (those seeking to foreclose on the lien) must provide notice to all owners and lienholders of the vehicle.

Repair facilities, towing firms, and storage firms must allow the owner of the vehicle to retrieve any personal property left in the vehicle up to 30 days after sending notice.

Step 1: Identify the Car and Locate the Owner

Any repair facility or salvage dealer in possession of a vehicle without communication or payment from the owner or insurance company for at least 15 days, but no later than 180 days (6 months), should ask the Department of Revenue for the addresses of all of the vehicle's owners.

If the license plate shows the vehicle is from out-of- state, request owner information in the state where the vehicle is registered or from an entity with the information needed.

Note: the Department of Revenue should provide the information within 5 days from the date of the request.

Step 2: Notify the Owner

Repair Facilities

Repair Facilities must send all owners of the vehicle a notification letter by certified mail. The Council of Magistrate Court Judges developed an approved letter (MAG 40-1 & MAG 40-2), which is available on our website. If you use your own, the letter must include:

- Location of the vehicle;
- Fees owed;
- Daily fees for storage after completion of the repairs. The maximum allowable storage fee is set by the Department of Public Safety;

A statement informing the owner that daily fees will continue to add up until full payment has been made;

- Notice that the following fees will be sought:
- Costs for obtaining the owner's information and notifying the owner;
- The court filing costs; and
- Attorney's fees, and interest;

- Notice that within 10 calendar days the repair facility has the right to petition the Court to foreclose a lien on the vehicle for all the amounts owed;
- A statement informing the owner that a court may order the sale of the vehicle to satisfy the debt;
- A notarized form for the owner to disclaim any ownership interest in the vehicle.

Salvage Dealer

Salvage Dealers must also notify the owner before requesting to foreclose the lien. (MAG 40-1 & MAG 40-2) If the Department of Revenue fails to give the information on additional owners, the salvage dealer shall, within 60 days of the last communication, place an ad in the newspaper of general circulation or the legal organ of the county where the salvage dealer is located.

The advertisement must run in the newspaper for 2 consecutive weeks. And, it must be in the form provided by the Council of Magistrate Court Judges for such purpose. (MAG 40-10)

The advertisement shall include:

- A description of the vehicle;
- The license plate and VIN number;
- The name of the insurance company which obtained the vehicle or requested the removal;
- The current location of the vehicle;
- Any information relating to the owner; and
- The fact that the vehicle is connected to a lien which may be foreclosed on, and that the vehicle may be sold to satisfy the lien

If the identity of the owner becomes known during the advertisement period, the salvage dealer has 10 days from obtaining the information to send the owner a notification letter.

Step 3: Place a Lien on the Motor Vehicle

Repair facilities and salvage dealers may place a lien on a motor vehicle located on their property for any unpaid and incurred fees. This is only possible when the notice requirements are met. Fees that have been incurred and are documented to the court are recoverable under the lien.

Fees are limited to:

- The maximum allowable charge for the removal of the motor vehicle. This is set by the Department of Public Safety;
- The maximum allowable daily rate for the storage of the motor vehicle. This is set by the Department of Public Safety;
- The rate is multiplied by the number of days the motor vehicle has been stored from the date notification was received to the date any judgement is issued plus 25 days.

Sample calculation to obtain cost:

If daily storage rate is **\$15.00** and the motor vehicle has been stored for **30 days**, the repair facility would calculate:

\$15 x (30 days of storage + 25 extra days)

All outstanding charges for repairs, and the following costs related to the filing may be sought:

- Cost of obtaining owner information;
- Cost of any notification;
- Cost to file the action;
- Attorney's fees (15% of total lien amount); and
- Any prejudgment interest from the date notification was received.

If any of these fees have been paid by the owner or a third party, they may not be included in the petition.

Step 4: Foreclose on the Lien

Forms MAG 40-11

If the owner fails to respond to the notice in 10 days, and you have complied with the notice requirements, you may file a petition to foreclose a lien against the motor vehicle and submit proof of notice to the owner(s). This petition must be filed using the form provided by the Council of Magistrate Court Judges.

- You must file the petition before six months have elapsed.
- The filing fee will be no more than \$40.00
- Include a copy of the owner information and proof of compliance with the notice requirements O.C.G.A. § 40-11-19.
- A copy of the oath and affirmation page must be sent to the owner of the vehicle (if known) or run in the newspaper once a week for two consecutive weeks (if the owner is unknown)
- An owner may file an answer to the petition no later than 10 days after receipt using the Magistrate Council form.
- If the owner answers, the court will have a hearing to determine whether the removal was lawful, whether the lien amount is calculated correctly, and whether notice was properly given.

Step 5: Sell the Vehicle and Notify the Court

When a judgment is granted, the vehicle is considered abandoned. The court will issue an Order for the disposition of the motor vehicle.

- With this Order, you will be able to sell the vehicle to the highest bidder at a public sale.
- A **public sale** requires an auction of the vehicle open to any and all persons. The property must be sold to the highest bidder.
- Once you sell the vehicle, you must give the Department of Revenue a copy of the bill of sale within 15 days.
- You must file a notice disposition of the proceeds with the court. (MAG 40-04)

REPAIR FACILITY – KNOWN OWNER

Date of Last Communication with Owner	
Request Driver Info from Department	No sooner than 15 days or later than 180 days after last communication with owner
Send First Notices	No sooner than 15 days or later than 180 days after last communication with owner
Petition Filing	No sooner than 10 days but not later than 6 months of compliance with notice requirements

Important Documents

- Repair invoice
- Request for owner/lienholder info
- Response from department
- First notices
- Petition notices and evidence of delivery/refusal
- Request for order/SCRA affidavit

REPAIR FACILITY – UNKNOWN OWNER

Date of Last Communication with Owner	
Request Driver Info from Department	No sooner than 15 days or later than 180 days after last communication with owner
Advertise Two Consecutive Weeks	Within 60 days of Department's failure to send owner information
Petition Filing	No sooner than 10 days but not later than 6 months of compliance with notice requirements

Important Documents

- Repair invoice
- Request for owner/lienholder info
- Response from department (if applicable)
- Advertisement
- Petition advertisement
- Request for order

“Day’ means a business day unless otherwise stated and shall not include Saturdays, Sundays, and legal holidays recognized by the state.” OCGA § 40-11-13 (1).

The term "communication" includes any form of communication which can be verifiably documented. OCGA § 40-11-16 (b)(1).

If owner becomes known while first advertisement is running, first notices must be sent within 10 days of receiving that information. If owner becomes known while petition advertisement is running, petition notices must be sent.

IF A REPAIR FACILITY RECEIVES A DEMAND PURSUANT TO OCGA § 40-3-54 (b), THE REPAIR FACILITY HAS 30 DAYS TO INSTITUTE FORECLOSURE PROCEEDINGS (AS EITHER AN ABANDONED MOTOR VEHICLE OR A MECHANIC’S LIEN). FAILURE TO DO SO FORFEITS THE LIEN. THIS DEMAND WAIVES ALL FIRST NOTICE REQUIREMENTS. OCGA § 40-10-19 (f).

SALVAGE FACILITY – KNOWN OWNER

Date of Last Communication with Owner	
Request Driver Info from Department	No sooner than 15 days or later than 60 days after last communication with owner
Send First Notices	No sooner than 15 days or later than 60 days after last communication with owner
Petition Filing	No sooner than 10 days but not later than 6 months of compliance with notice requirements

Important Documents

- Request for owner/lienholder info
- Response from department
- First notices
- Petition notices and evidence of delivery/refusal
- Request for order/SCRA affidavit

SALVAGE FACILITY – UNKNOWN OWNER

Date of Last Communication with Owner	
Request Driver Info from Department	No sooner than 15 days or later than 60 days after last communication with owner
Advertise Two Consecutive Weeks	Within 60 days of Department’s failure to send owner information
Petition Filing	No sooner than 10 days but not later than 6 months of compliance with notice requirements

Important Documents

- Request for owner/lienholder info
- Response from department (if applicable)
- Advertisement
- Petition advertisement
- Request for order

”Day’ means a business day unless otherwise stated and shall not include Saturdays, Sundays, and legal holidays recognized by the state.” OCGA § 40-11-13 (1).

The term "communication" includes any form of communication which can be verifiably documented.
OCGA § 40-11-16 (b)(1).

If owner becomes known while first advertisement is running, first notices must be sent within 10 days of receiving that information. If owner becomes known while petition advertisement is running, petition notices must be sent.

MAGISTRATE COURT OF LEE COUNTY, GEORGIA

Date Filed _____

Case No: _____

Plaintiff(s) Name, Address

vs

Vehicle Owner Name, Address

Motor Vehicle Description and VIN

Lien Holders Notified

PETITION FOR ABANDONED MOTOR VEHICLE LIEN FORECLOSURE

NOW COMES PETITIONER, a [] towing or storage facility [] repair facility [] salvage dealer, and files this petition to foreclose on the above-referenced abandoned motor vehicle.

_____ Date vehicle was [] towed [] left at repair facility [] left with salvage dealer (authority to tow attached)
_____ Date information was requested from Department of Revenue or authorized entity (copy of owner information attached)
_____ Date and method of first notice [] mailed [] hand delivery [] advertised [] disclaimer (proof of compliance attached for all owners)

The accrued fees allowed under OCGA § 40-11-19, as set forth below, have not been paid.

PETITIONER PRAYS that the lien be foreclosed and an order be issued to allow for public sale of the vehicle to satisfy a lien for the following amounts:

Removal (Towing) Fee: _____
Storage: (At\$ _____ per day for _____ days) \$ _____
Future Storage Fee per day from date of filing this \$ _____
action through 25 Days after judgment is rendered \$ _____
Repair Fees (if applicable, with invoice attached): \$ _____
Cost of Obtaining Owner Information: \$ _____
Notification/Advertising Fees: \$ _____
TOTAL: \$ _____

PETITIONER ALSO PRAYS for prejudgment interest at the rate of 4% per annum from which the OCGA § 40-11-19 notification was received, 15% attorney's fees (if applicable), and all costs of court.

Sworn to and Subscribed before me
This _____ day of _____ 20____

Notary Public or Clerk
My Commission Expires: — — — —

Plaintiff/Attorney for Plaintiff

SUMMONS

YOU MUST FILE AN ANSWER TO THIS CLAIM NO LATER THAN TEN (10) DAYS FROM RECEIPT OF THIS NOTICE USING THE STANDARDIZED ANSWER FORM PROVIDED. FAILURE TO FILE A TIMELY ANSWER WILL RESULT IN FORECLOSURE OF THE LIEN AND A COURT ORDER AUTHORIZING DISPOSITION OF THE VEHICLE PURSUANT TO OCGA 40-11-19.2.

MAGISTRATE COURT OF LEE COUNTY
104 A LESLIE HWY
PO BOX 522
LEESBURG, GA 31763

MAGISTRATE COURT OF LEE COUNTY, GEORGIA

Date Filed _____

Case No: _____

Plaintiff(s) Name, Address

vs Vehicle Owner Name, Address

Motor Vehicle Description and VIN

Lien Holders Notified

ANSWER TO PETITION FOR ABANDONED MOTOR VEHICLE LIEN FORECLOSURE

NOW COMES RESPONDENT, Owner of the above-referenced vehicle, and files this answer to the petition to foreclose lien on the above-referenced abandoned motor vehicle.

Owner Name: _____

Owner Address: _____

Date owner obtained an interest in the motor vehicle: _____

Check all that apply, and explain in the space provided (attach additional sheets if necessary).

The towing or storage firm was not authorized to remove the vehicle for the following reason(s):

The lien claimed is not valid because:

Additional facts that support why the lien should not be foreclosed upon:

I dispute the following charges:

THEREFORE, Respondent prays for a hearing on all relevant issues within ten (10) days.

Sworn to and Subscribed before me

This ____ day of _____ 20____

Notary Public or Clerk
My Commission Expires: _____

Defendant/Attorney for Defendant

Date Filed: _____

Case No: _____

Plaintiff(s) Name, Address

Motor Vehicle Description and VIN

Vehicle Owner Name, Address

Lien Holders Notified

vs

AFFIDAVIT OF MILITARY SERVICE

Personally appeared before me, the undersigned notary public or clerk, _____
(name of Affiant), who after being duly sworn, deposes and states as follows:

I am the [] Plaintiff, [] Attorney of Record for the Plaintiff, or [] the duly authorized agent for the Plaintiff, and I am executing this affidavit as required by Uniform Magistrate Court Rule 43.1 and the Service members Civil Relief Act, 50 U.S.C. § 3931. To the best of my knowledge and belief:

[] I have searched the website for the Department of Defense Manpower Data Center and have been able to ascertain that the vehicle Owner/Lien Holder in the above-styled action is in military service as defined by 50 U.S.C. § 3911. The status report from the Department of Defense is attached.

[] I have searched the website for the Department of Defense Manpower Data Center and have found no indication that the vehicle Owner/Lien holder in the above-styled action is in military service. Therefore, to the best of my knowledge and belief, the vehicle Owner is not in military service as defined by 50 U.S.C. § 3911. The status report from the Department of Defense is attached.

[] I have not been able to ascertain whether or not the vehicle Owner/Lien Holder in the above-styled action is in military service as defined by 50 U.S.C. § 3911 after making a good faith effort.

Sworn to and Subscribed before me

This ____ day of _____ 20 ____

Notary Public or Clerk
My Commission Expires: _____

Authorized Signature of Affiant

MAGISTRATE COURT OF LEE COUNTY, GEORGIA

Date Filed _____

Case No: _____

Plaintiff(s) Name, Address

vs

Vehicle Owner Name, Address

Motor Vehicle Description and VIN

Lien Holders Notified

MOTION FOR ORDER ON MOTOR VEHICLE LEIN FORECLOSURE

NOW COMES PETITIONER, [] a towing or storage facility [] repair facility [] salvage dealer and shows the following

1. A petition was filed to foreclose on the lien placed on the above-referenced vehicle on _____ [date petition filed]
2. Service of a copy of the oath or affirmation page of the filed petition and of a copy of the answer form was perfected on all owners by [] certified mail return receipt requested [] advertisement (see attached);
3. No answer has been filed as required by OCGA § 40-11-19.1 (c).
4. I am attaching an Affidavit of Military Service indicating that the Petitioner has no knowledge that the Owner/Lien Holder is in military service and entitled to protection under the Service members Civil Relief Act. 50 U.S. § 3931.

WHEREFORE, PETITIONER PRAYS that (a) an order be issued declaring the vehicle to be abandoned and the lien to be valid, and (b) an order be issued authorizing public sale of the vehicle to satisfy the lien as prayed for in the complaint.

Sworn to and Subscribed before me
This ____ day of _____ 20 ____

Notary Public or Clerk
My Commission Expires: _____

Authorized Signature of Affiant

MAGISTRATE COURT OF LEE COUNTY, GEORGIA

Date Filed _____

Case No: _____

Plaintiff(s) Name

vs.

Motor Vehicle

Vehicle Identification Number

Tag Number

AFFIDAVIT OF DISPOSITION OF ABANDONED MOTOR VEHICLE

Last known registered owner(s) & lienholder(s): _____

Comes now _____ [] the Plaintiff [] agent for the Plaintiff herein, who after having been duly sworn or affirmed states that the following facts are true and correct to the best of his/her knowledge:

[] The vehicle was redeemed by owner/lienholder prior to public auction. No sums are due and payable.
Or

[] The vehicle was sold at public auction on _____, at _____ said address being within:

[] the city limits of _____

[] unincorporated _____ County.

The sale was conducted in compliance with the provisions of O.C.G.A. §40-11-6.

1. The vehicle was impounded at the request of a:

[] private individual

[] city officer/official of _____ (Name of Municipality)

[] county officer/official

[] Georgia State Patrol

2. The amount received for the vehicle at public sale \$ _____

3. The amount of the lien on the vehicle \$ _____

4. The amount due to the Clerk of Court and submitted herewith \$ _____

5. A true and correct copy of the bill of sale of the vehicle is attached hereto as Exhibit A

Sworn to and Subscribed before me
This _____ day of _____ 20 _____

Notary Public or Clerk
My Commission Expires: _____

Authorized Signature of Affiant

ABANDONED MOTOR VEHICLE PETITION ADVERTISEMENT

Vehicle Make: _____ Year: _____ Model: _____

Vehicle ID #: _____ Vehicle License #: _____ State _____

Present location of vehicle: _____.

You are hereby notified that a petition was filed in the Magistrate Court of _____ County to foreclose a lien for all amounts owed. If the lien is foreclosed, a court shall order the sale of the vehicle to satisfy the debt.

Anyone with an ownership interest in this vehicle may file an answer to this petition on or before:

Answer forms may be found in the Magistrate Court Clerk's office located at:

Lee County Magistrate Court
104 A Leslie Hwy
PO Box 522
Leesburg, GA 31763

ABANDONED MOTOR VEHICLE ADVERTISEMENT NOTICE
(SALVAGE DEALER)

Vehicle Make: _____ Year: _____ Model: _____

Vehicle ID #: _____ Vehicle License #: _____ State _____

Person who left vehicle at facility: _____

Any information relating to owner: _____

You are hereby notified, in accordance with OCGA 40-11-19 (b) (2), that the above-referenced vehicle is subject to a lien and a petition may be filed in court to foreclose a lien for all amounts owed. If the lien is foreclosed, a court shall order the sale of the vehicle to satisfy the debt.

The vehicle is currently located at _____.

Anyone with an ownership interest in this vehicle should contact the following business immediately:

Business Name: _____

Address: _____

Telephone #: _____

ABANDONED MOTOR VEHICLE NOTICE
(SALVAGE DEALER)

Owner Name: _____

Owner Address: _____

Vehicle Make: _____ Year: _____ Model: _____

Vehicle ID (VIN) #: _____ Vehicle License #: _____ State _____

Dear Owner:

You have been identified as an owner of the above-referenced vehicle, which is currently being held at the business listed below, and are being notified in accordance with OCGA 40-11-19(c)(1). The following fees are currently due:

\$ _____ Fee for storage of the vehicle. (\$ _____ per day for _____ days.)

Daily fees will accrue until full payment has been made at the rate of \$ _____ per day from the date of this notice. Additional fees that are recoverable by a salvage dealer include fees for obtaining the owner's information, notifying the owner (including advertising, if necessary), court filing costs, attorney's fees, and interest.

The salvage dealer has the right to petition a court to foreclose a lien for all amounts owed after 10 calendar days from the date this notice was sent. If the lien is foreclosed, a court shall order the sale of the vehicle to satisfy the debt.

If you wish to disclaim ownership in this vehicle, complete and return the form found on the next page/back of this letter. Disclaiming ownership and judgment of foreclosure being entered shall result in the holding of an auction. The excess proceeds (if any), that may exist shall be deposited with the Department of Revenue and be treated as unclaimed property. Disposition of such property shall be governed pursuant to O.C.G.A. § 44-12-211.1.

Please contact us immediately, or we will avail ourselves of all remedies allowed by law.

The vehicle is currently located at _____.

Anyone with an ownership interest in this vehicle should contact the following business immediately.

Business Name: _____

Address: _____

Telephone #: _____

DISCLAIMER OF MOTOR VEHICLE OWNERSHIP INTEREST

Georgia, _____ County

I, _____ (name of motor vehicle owner) do hereby swear that I disclaim any and all ownership interest in:

Vehicle Make: _____ Year: _____ Model: _____

Vehicle ID #: _____ Vehicle License #: _____ State _____

I understand that by signing this form I will no longer hold any rights to the above listed vehicle and such vehicle may be sold at auction to satisfy a debt related to a lien filed against the vehicle.

I further understand that disclaiming an ownership interest in this vehicle does not relieve me of any other debts related to such vehicle, such as a debt entered into for the purchase of such vehicle.

By signing this form, I understand that I waive all future notices to which I am entitled under Article 1A of Chapter 11 of Title 40, "The Abandoned Motor Vehicle Act."

Sworn to and Subscribed before me

This ____ day of _____ 20 ____

Notary Public or Clerk

Owner of Vehicle

My Commission Expires: _____

If you wish to disclaim ownership, return this completed and notarized form to _____

(name and address of party owed fees)

ABANDONED MOTOR VEHICLE NOTICE
(REPAIR FACILITY)

Owner Name: _____

Owner Address: _____

Vehicle Make: _____ Year: _____ Model: _____

Vehicle ID #: _____ Vehicle License #: _____ State _____

Dear Owner:

You have been identified as an owner of the above-referenced vehicle, which is currently being held at the business listed below, and are being notified in accordance with OCGA 40-11-19(b)(1). The following fees are currently due:

\$ _____ Fees owed for repair of vehicle

\$ _____ Daily fee for storage of vehicle after completion of repairs

Daily fees will accrue until full payment has been made at the rate of \$ _____ per day. Additional fees that are recoverable by a repair facility include fees for obtaining the owner's information, notifying the owner (including advertising, if necessary), and court filing costs, attorney's fees, and interest.

The repair facility has the right to petition a court to foreclose a lien for all amounts owed after 10 calendar days from the date this notice was sent. If the lien is foreclosed, a court shall order the sale of the vehicle to satisfy the debt.

If you wish to disclaim ownership in this vehicle, complete and return the form found on the next page/back of this letter. Disclaiming ownership and judgment of foreclosure being entered shall result in the holding of an auction. The excess proceeds (if any), that may exist shall be deposited with the Department of Revenue and be treated as unclaimed property. Disposition of such property shall be governed pursuant to O.C.G.A. § 44-12-211.1.

Please contact us immediately, or we will avail ourselves of all remedies allowed by law.

The vehicle is currently located at _____.

Anyone with an ownership interest in this vehicle should contact the following business immediately.

Business Name: _____

Address: _____

Telephone #: _____

DISCLAIMER OF MOTOR VEHICLE OWNERSHIP INTEREST

Georgia, _____ County

I, _____ (name of motor vehicle owner) do hereby swear that I disclaim any and all ownership interest in:

Vehicle Make: _____ Year: _____ Model: _____

Vehicle ID #: _____ Vehicle License #: _____ State _____

I understand that by signing this form I will no longer hold any rights to the above listed vehicle and such vehicle may be sold at auction to satisfy a debt related to a lien filed against the vehicle.

I further understand that disclaiming an ownership interest in this vehicle does not relieve me of any other debts related to such vehicle, such as a debt entered into for the purchase of such vehicle.

By signing this form, I understand that I waive all future notices to which I am entitled under Article 1A of Chapter 11 of Title 40, "The Abandoned Motor Vehicle Act."

Sworn to and Subscribed before me

This ____ day of _____ 20__

Notary Public or Clerk

Owner of Vehicle

My Commission Expires: _____

If you wish to disclaim ownership, return this completed and notarized form to _____

(name and address of party owed fees)

ABANDONED MOTOR VEHICLE ADVERTISEMENT NOTICE
(REPAIR FACILITY)

Vehicle Make: _____ Year: _____ Model: _____

Vehicle ID #: _____ Vehicle License #: _____ State _____

Person who left vehicle at facility: _____

Any information relating to owner: _____

You are hereby notified, in accordance with OCGA 40-11-19 (b) (2), that the above-referenced vehicle is subject to a lien and a petition may be filed in court to foreclose a lien for all amounts owed. If the lien is foreclosed, a court shall order the sale of the vehicle to satisfy the debt.

The vehicle is currently located at _____.

Anyone with an ownership interest in this vehicle should contact the following business immediately:

Business Name: _____

Address: _____

Telephone #: _____