

# ABANDONED MOTOR VEHICLE FILING PROCEDURES

## I. If Removing Vehicle at Request of Law Enforcement (OCCA 40-11-16)

1. *Within 24 Hours* of Removal-I-EO checks to see if stolen
2. *Within 3 days* of Removal-Request Owner's Info from DMV
  - a. If out of state license-request owner's info from that state
    - i. State must return info within 5 days, if not, publish notice

## II. If Removing at Request of Private Property Owner (OCCA 40-11-16)

1. *Within 3 days*, request owner info from DMV
  - a. If Out of State License Plate, request info from that state
    - i. State must return in within 5 days, if not, publish notice
2. *Within 24 hours* of DMV Request, run LEO check to see if stolen

## III. Notice Advertisement Lien Demand Letter (OCGA 40-11-19)

### A. For Towing/Storage Facilities (40-11-19(a))

1. *Within 15 days* of removal, send notice (Form 40-03) by cert. mail or hand delivery
2. *Within 60 days* of removal, if the owner is unknown or DMV fails to respond in 5 days, publish notice in paper once a week for two weeks (Form 40-04)
  - i. If owner identified during the two weeks of advertisement, send notice (Form 40-03) by cert. main or hand delivery, within 10 days of learning the identity of the owner

### B. For Repair Facilities (40-11-19(b))

1. *After 15 days w/o payment, but no more than 180 days*, send notice {Form 40-5} with disclaimer form to all owners (must request additional owner's info from DMV)
2. IF DMV request for additional owner's info not returned in *60 days*, publish notice {Form 40-6} where repair facility located
  - i. If owner identified during the two weeks of advertisement, send notice {Form 40-05} by cert. main or hand delivery, *within 10 days* of learning the identity of the owner

### C. For Salvage Dealers (40-11-19(c))

1. *After 15 days, but no more than 60 days* after insurer's determination to deny owner's claim has been communicated to salvage dealer send notice (Form 40-07) with disclaimer form to all owners (must request additional owner's info from DMV)
2. IF DMV request for additional owner's info not returned in *60 days* from the last communication from the insurer, publish notice {Form 40-08} in newspaper
  - i. If owner identified during the two weeks of advertisement, send notice {Form 40-07} by cert. main or hand delivery, *within 10 days* of learning the identity of the owner

#### IV. Petition to Foreclose: Answer: Motion for Judgment (OCGA 40-11-19.1)

##### **A. Petition to Foreclose**

1. File **No Sooner than 10 days and No later than 6 months** after notice (40-11-19)
2. Items to File with the Magistrate Court
  - i. Petition (Form 40-01)
  - ii. \$40.00 Filing Fee
  - iii. Copy of Owner's Info as required by 40-11-15 & 40-11-16
  - iv. Proof of Compliance with notice statute (copies letters & proof of delivery)

##### **B. Send Notice of Petition**

1. Send copy of signed petition and Answer form (Form 40-02) to all owners
2. Send notice the same way notice was sent originally
  - i. If notice sent by certified mail was returned unclaimed *or undeliverable*, petitioner must place ad in the newspaper where the petition was filed
  - ii. If notice was sent by certified mail was marked *refused*, no advertisement needed

##### **D. Answer and Motion for Order**

1. Answer must be returned **within 10 days of receipt** (OCGA 40-11-19.1(c))
2. No Answer. If Answer **not returned within 10 days**, file Motion for Order (Form 40-11) and proof of notice (OCGA 40-11-19.1(e))
3. Judge has **15 days** to rule on the motion and an additional **5 days** to issue an order for the sale of the vehicle as outlined in OCGA 40-11-19.2
4. The clerk shall issue a certified copy of the order for \$14 fee.
5. Denial of Motion. If the court finds that the petition and supporting documents fail to meet the legal requirements under this law, the petition may be refiled once **within 6 months of the denial of judgment** (OCGA 40-11-19.1(d))
6. When Answer Filed. If Owner(s) files an answer, a trial should be held within 10 days of the date answer filed. A continuance may be granted for good cause shown by either party. (OCGA 40-11-19.1(e)(1))
  - i. The trial Court may hear evidence on whether removal was lawful, notice was proper, whether fees charged and lien amount are lawful, and other relevant facts
  - ii. If foreclosure granted, the court shall issue an order for the sale of the vehicle and the clerk shall issue a certified copy for \$14

# **Checklist for Processing Abandoned Motor Vehicles For Use by Towing and Storage Firm {09-01-19}**

**The vehicle was impounded at the request of:**

- Private Individual
- City Officer/Official
- County Officer/Official
- Georgia State Patrol

Date of tow or impound \_\_\_\_\_

(Attach towing documentation to Petition)

**If towed from public or private property – Within (3) business days of removal of vehicle**

Request from (local law enforcement, County Tax & Tag, the Department of Revenue, or Auto Data Direct), the identification and addresses of all owners/lienholders of the towed vehicle. If such vehicle has an out-of-state license plate, such request shall be made to the state where the vehicle is registered or to an entity with access to such state's vehicle registration information. [40-11-15(d)] and [40-11-16(a)(l)]

Date information requested \_\_\_\_\_

(Attach copy of request and the return to Petition)

**If Towed From Private Property - Within (1) business day from the above date information requested**

Submit notification of the removal by hand delivery, electronic transmission, or telephonic facsimile transmission to the law enforcement agency with jurisdiction over the location from where the motor vehicle was removed. [40-11-16(a)(2)]

Date Notified \_\_\_\_\_

(Attach copy of notification to Petition)

**If Towed From Public or Private Property-Within (15) calendar days of removal or initial storage**

Send all owners/lienholders the notification letter form, (MAG 40-03),(2 pages), developed by the Council of Magistrate Court Judges for such purpose by certified mail or by hand delivery with acknowledgement of such receipt by signature of the owner and a copy of such owner's driver's license. [40-11-19(a)(l)]

Date notice mailed or delivered \_\_\_\_\_

(Attach copy of letter and certified receipt or requirements for proof of hand delivery to Petition)

**If the Identity of the Owner/Lienholder Cannot be Obtained- Within (60) days of removal of vehicle**

Place an advertisement in a newspaper of general circulation or the legal organ in the county where such vehicle was obtained, once a week for two consecutive weeks using the form (MAG40-04) provided by the council of Magistrate Court Judges for such purpose. [40-II-19(a)(2)]

Date of Publications \_\_\_\_\_  
(Attach copy to Petition)

**If the Identity of an Owner/Lienholder Becomes Known While an Advertisement is Run- Within (10) Days of Obtaining Information**

Send a notification letter to owners/lienholders pursuant to the same requirements set forth in 40-11-19(a)(l) as stated above. [40-11-19(a)(3)]

Date notice mailed or delivered \_\_\_\_\_  
(Attach copy of letter and certified receipt or requirements for proof of hand delivery to Petition)

### PUBLIC TOW-KNOWN OWNER

Tow Date	
Request Owner Info from Department	Within 3 days of removal
Send First Notices	Within 15 days of removal
Petition Filing	No sooner than 10 days but not later than 6 months of compliance with notice requirements

#### Important Documents

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

### PUBLIC TOW-UNKNOWN OWNER

Tow Date	
Request Owner Info	Within 3 days of removal
Advertise Two Consecutive Weeks	Within 60 days of removal
Petition Filing	No sooner than 10 days but not later than 6 months of compliance with notice requirements

#### Important Documents

- D Authority to tow
- D Request for owner/lienholder info
- D Response from department (if applicable)
- D First notice advertisement
- D Petition advertisement
- D 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).

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

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

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 ADVERTISEMENT NOTICE

(TOWING OR STORAGE COMPANY)

You are hereby notified, in accordance with OCGA 40-11-19 (a) (2), that each of the below-referenced vehicles are 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 vehicles are currently located at \_\_\_\_\_.

The vehicles subject to liens as stated above are identified as:

Vehicle Make: \_\_\_\_\_ Year: \_\_\_\_\_ Model: \_\_\_\_\_

Vehicle ID #: \_\_\_\_\_ Vehicle License #: \_\_\_\_\_ State \_\_\_\_\_

Vehicle Make: \_\_\_\_\_ Year: \_\_\_\_\_ Model: \_\_\_\_\_

Vehicle ID #: \_\_\_\_\_ Vehicle License #: \_\_\_\_\_ State \_\_\_\_\_

Vehicle Make: \_\_\_\_\_ Year: \_\_\_\_\_ Model: \_\_\_\_\_

Vehicle ID #: \_\_\_\_\_ Vehicle License #: \_\_\_\_\_ State \_\_\_\_\_

List additional vehicles as necessary.

Anyone with an ownership interest in any of these vehicles should contact the following business immediately:

Business Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone #: \_\_\_\_\_

ABANDONED MOTOR VEHICLE NOTICE  
(TOWING OR STORAGE COMPANY)

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(a)(1). The following fees are currently due:

\$ \_\_\_\_\_ Fees associated with removal of the vehicle

\$ \_\_\_\_\_ Daily fee for storage of the vehicle

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

The towing and storage firm 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  
My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Vehicle Owner

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

\_\_\_\_\_  
(name and address of party owed fees)