

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.

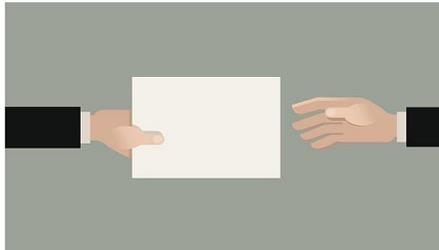
Repair facilities, towing firms, and storage firms must allow the owner of the vehicle to retrieve any personal property left in the vehicle up to 30 days after sending notice.

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. The Department will charge no more than \$2.00 for the information.



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, 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; and
- 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. 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. 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

Step 4: Foreclose on the Lien

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 \$11.00
- 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.

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:

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

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.

MAGISTRATE COURT FULTON COUNTY

ABANDONED MOTOR VEHICLES (AMV)

REPAIR FACILITIES AND SALVAGE DEALERS



**Chief Magistrate
Judge Cassandra Kirk**

**Justice Center Tower
185 Central Avenue S.W.
Atlanta, Ga 30303**

HOURS OF OPERATION

**Monday – Friday
8:30 am - 5:00 pm**

CONTACT

Telephone: 404-613-5360

www.magistratefulton.org



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Our Community***

DISCLAIMER: The information in this pamphlet is not legal advice. It is intended to give a general overview of the forms and procedures of the Magistrate Court of Fulton County. Consult an attorney with specific questions about your case.