

ABANDONED VEHICLE LAW OVERVIEW

Attention Dealers: Changes to the Abandoned Motor Vehicle law took effect on September 1, 2019. Below is a summary of the changes.

Abandoned Vehicle Liens: Overview of the New Process

The new process for handling abandoned vehicles is similar to the old process except for a few important differences:

- If you receive a written demand from an owner of the vehicle contesting the lien or the amount owed, you must initiate foreclosure proceedings within 30 days, or you will forfeit your lien.
- You can now recover the cost of repairing the vehicle using the abandoned vehicle lien. Under prior law, repair costs were recoverable only by using the mechanic's lien, not the abandoned vehicle lien.
- New forms are required, and can be found [HERE](#).

STEP 1: Request Owner Information from the Georgia Department of Revenue (GADOR)

- When a vehicle is left at a repair facility for at least 15 days but not more than 180 days without communication from an owner or insurance company, the repair facility can begin the process of asserting an abandoned vehicle lien.
- The first step is to request information about the vehicle's owner(s) from GADOR. To request the information on-line, the DOR website recommends using [Auto Data Direct](#); to request the information in person, complete an [MV-603](#) and submit to your local tag agent or to the Motor Vehicle Division at GADOR located at 4125 Welcome All Road, Atlanta, Georgia 30349
- The Department must furnish this information within five (5) days. Under the new law, the definition of "day" is a business day not including Saturday, Sunday or legal holidays.

STEP 2: Send Notice to Owners

- Once the owner information is received from GADOR, the next step is to send all owners a notification letter by certified mail using form [MAG-40-05 "AMV Notice \(Repair Facility\)"](#). This notification letter may be sent no earlier than 15 days from the day the vehicle was left at the repair facility without payment of amounts owed, and no later than 180 days.
- If the Department fails to furnish the information regarding additional owners requested by the repair facility, the repair facility must, within 60 days of such failure, place an advertisement in a newspaper of general circulation or the legal organ in the county where the repair facility is located. The advertisement must run in the newspaper once a week for two consecutive weeks. For the advertisement, use form [MAG-40-06 "AMV Legal Notice for Newspaper"](#).

Warning: If you receive a written demand or objection from an owner, you have 30 days from the receipt of this written demand to institute foreclosure proceedings or your lien is forfeited.

STEP 3: Petition to Foreclose

- Once notice is provided to the vehicle owner(s), the next step is to file a petition to foreclose the lien in magistrate court. Use Form [MAG 40-01 "Petition for Abandoned Motor Vehicle Lien Foreclosure"](#). This petition may be filed 10 days after the notice requirements are met and must be filed within six months after the notice requirements are met.
- The repair facility must send a copy of the oath/affirmation page of the filed petition and the standardized answer form [MAG 40-02](#) to any person known to be an owner of the vehicle by certified mail or statutory overnight delivery, return receipt requested.
- If the notice requirement from Step 2 was satisfied by advertisement, or if the signed proof of receipt of a copy of the petition required to be sent is not returned after 10 days of such mailing, or if the receipt has been returned as unclaimed, the repair facility must, within 60 days, place an advertisement in a newspaper of general circulation or the legal organ where such action was filed. If the mailing receipt is returned with a notification that the notice of the filing of the petition was refused, then you do not have to run an ad.
- If an ad is required, the ad must run in the newspaper once a week for two consecutive weeks, and you must use [Form MAG 40-10](#) for the Petition Advertisement Notice.

STEP 4: Obtain Judgment

- If no answer is filed by an owner of the vehicle in response to the petition, the repair facility may seek to foreclose the lien by filing a Motion for Order on Foreclosure with the magistrate court. [Use Form MAG 40-11](#).
- The motion must attach proof that all owners were served either by mail or by advertisement in the newspaper. When a judgment is granted, the vehicle is considered abandoned and, within five (5) days, the court will issue an order for the vehicle to be sold at a public sale. If an answer is filed by an owner of the vehicle, the court will schedule a hearing or trial to resolve the issue.

STEP 5: Public Sale

- Once the magistrate court enters the judgment of foreclosure, the repair facility is authorized to sell the vehicle to the highest and best bidder at a public sale.
- The public sale must be advertised once a week for two weeks in the newspaper in which the sheriff's advertisements are published in the county

where the sale is to be held. The advertisement must state the day and hour, between 9:00 a.m. and 5:00 p.m., and the place of sale and must briefly identify the vehicle to be sold.

If you have any questions or need additional information, email legal@gada.com or ben_jordan@gada.com.

