

## ON ENFORCEMENT PROCEEDINGS

### Chapter I

#### General Provisions

##### Article 1 - Scope of application of the Law

This Law governs the procedures and conditions for the enforcement of acts adopted by the common courts, administrative authorities (officials), arbitration, the Restitution and Compensation Commission and its Committee, the European Court of Human Rights, and by the International Criminal Court, as well as the procedures and conditions for enforcement of decisions enforceable under this Law.

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 1596 of 25 June 2002 – LHG 1, No 22, 13.7.2002, Art. 103*

*Law of Georgia No 2988 of 14 August 2003 – LHG 1, No 26, 15.9.2003, Art. 194*

*Law of Georgia No 248 of 25 June 2004 – LHG 1, No 18, 9.7.2004, Article 66*

*Law of Georgia No 4285 of 29 December 2006 – LHG 1, No 51, 31.12.2006, Art. 444*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 3167 of 28 June 2010 – LHG 1, No 34, 9.7.2010, Art. 203*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

##### Article 2 - Enforceable acts

Enforcement as provided by this Law shall be an individual administrative act issued by an authorised administrative body (official) for an administrative offence and, in the cases expressly provided by law, an individual administrative act imposing a penalty as a sanction adopted by national regulatory authorities, the National Bank of Georgia, and the Legal Entity under Public Law – the Insurance State Supervision Service of Georgia, an administrative act on compensation for damages incurred to state property and/or to the property of a local self-governing unit as a result of an administrative offence, a decision of the Restitution and Compensation Commission and its Committee, a notary act, a mortgage certificate, the relevant individual administrative act of the Minister of Finance of Georgia provided by the Budget Code of Georgia, a debt recovery order ('the Debt Recovery Order') and an enforcement order issued by the Chairperson of the Legal Entity under Public Law within the Ministry of Justice of Georgia – the National Bureau of Enforcement, the application of the buyer of immovable property (during enforcement proceedings – the buyer of property by auction, the buyer of property without auction, the receiver of property in-kind) for reclaiming immovable property from the possession and use of another person, the decision of the Medical Mediation Agency set up with the authorised office of the Ministry of Labour, Health and Social Affairs of Georgia, and the following judicial acts ('the Decision):

- a) a court judgement, decision and decree in force in private and administrative law cases except for decisions made in cases related to child transfer and/or the exercise of the right of the other parent or other family member to interact with the child
- b) a court judgement, decision, decree and order in force in a criminal law case in the part of recovery of property
- c) a court judgment of conviction in force delivered against a natural and/or legal person in a criminal case imposing a fine and/or deprivation of property as a measure of punishment
- d) a court ruling in force in an administrative case in the part of recovery of property and imposition of a fine as an administrative penalty
- e) a payment order and an order for returning a leased asset to the lessor
- f) an arbitral award
- g) a decision referred by court for immediate enforcement under Article 268 of the Civil Procedure Code of Georgia
- h) an arbitral award enforceable under international agreements of Georgia
- i) the decisions of a foreign court as well as of an International Criminal Court, enforceable under the legislation of Georgia
- j) the judgement of the European Court of Human Rights binding upon Georgia under the European Convention on Human Rights and Fundamental Freedoms
- k) a court decision on the sale of a debtor's (taxpayer's) tax lien/mortgaged or attached property



l) an order of fine or detention issued by the chairperson or presiding judge (judge) of a Georgian common court against a person being in contempt of court

m) a judge's ruling on the matters provided in Chapter VII<sup>8</sup> of the Administrative Procedure Code of Georgia.

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 1397 of 7 May 2002 – LHG 1, No 13, 28.5.2002, Art. 54*

*Law of Georgia No 2988 of 14 August 2003 – LHG 1, No 26, 5.9.2003, Art. 194*

*Law of Georgia No 248 of 25 June 2004 – LHG 1, No 18, 9.7.2004, Art. 66*

*Law of Georgia No 784 of 23 December 2004 – LHG 1, No 5, 18.1.2005, Art. 23*

*Law of Georgia No 1828 of 30 June 2005 – LHG 1, No 41, 19.7.2005, Art. 285*

*Law of Georgia No 2407 of 22 December 2005 – LHG 1, No 1, 4.1.2006, Art. 6*

*Law of Georgia No 3384 of 23 June 2006 – LHG 1, No 24, 29.6.2006, Art. 192*

*Law of Georgia No 3534 of 25 July 2006 – LHG 1, No 37, 27.8.2006, Art. 275*

*Law of Georgia No 4210 of 29 December 2006 – LHG 1, No 4, 12.1.2007, Art. 52*

*Law of Georgia No 4285 of 29 December 2006 – LHG 1, No 51, 31.12.2006, Art. 444*

*Law of Georgia No 822 of 19 December 2008 – LHG 1, No 41, 30.12.2008, Art. 300*

*Law of Georgia No 1282 of 19 June 2009 – LHG 1, No 13, 2.7.2009, Art. 65*

*Law of Georgia No 1542 of 17 July 2009 – LHG 1, No 21, 3.8.2009, Art. 125*

*Law of Georgia No 1687 of 24 September 2009 – LHG 1, No 29, 12.10.2009, Art. 170*

*Law of Georgia No 2183 of 1 December 2009 – LHG 1, No 38, 1.12.2009, Art. 283*

*Law of Georgia No 2459 of 25 December 2009 – LHG 1, No 49, 30.12.2009, Art. 371*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 4073 of 15 December 2010 – LHG 1, No 76, 29.12.2010, Art. 503*

*Law of Georgia No 5355 of 25 November 2011 – website, 8.12.2011*

*Law of Georgia No 5665 of 28 December 2011 – website, 11.1.2012*

*Law of Georgia No 5641 of 27 December 2011 – website, 12.1.2012*

*Law of Georgia No 6145 of 8 May 2012 – website, 17.5.2012*

*Law of Georgia No 6433 of 12 June 2012 – website, 25.6.2012*

*Law of Georgia No 466 of 25 March 2013 – website, 5.4.2013*

*Law of Georgia No 1467 of 4 October 2013 – website, 16.10.2013*

*Law of Georgia No 1589 of 20 November 2013 – website, 3.12.2013*

*Law of Georgia No 2049 of 5 March 2014 – website, 17.3.2014*

## **Article 2<sup>1</sup> - Limitation on the exercise of compulsory enforcement measures**

1. The property under Article 4 of the Law of Georgia on State Property shall not be subject to compulsory enforcement, compulsory auction, attachment, or sequestration.

2. The compulsory enforcement measures under this Law shall not apply to the financial collateral (object of financial collateral) under the Law of Georgia on Payment Systems and Payment Services.

3. The compulsory enforcement measures under this Law, other than a collection order, shall not apply to the settlement account of a participant of the systemically important payment system under the Law of Georgia on Payment Systems and Payment Services.

4. In exercising compulsory enforcement measures against a licenced central security depository, a stock market broker, a bank as a stock market broker, a brokerage company, a notary or an important payment service provider as a payer, such measures cannot be enforced upon assets that are placed on



the nominal holder's account and/or that are not such nominal holder's property but rather the assets of his/her/its clients (namely, securities and funds held nominally, securities and funds deposited in the deposit account of a notary, the user's funds placed on accounts of an important payment provider). Such assets of a client must be accounted for separately from one's own assets, in compliance with the legislation of Georgia.

*Law of Georgia No 1284 of 14 February 2002 – LHG 1, No 4, 5.3.2002, Art. 19*

*Decision of the first Collegium of the Constitutional Court of Georgia No 1/14/184,228 of 28 July 2005 – LHG IV, No 19, 29.7.2005, p. 5*

*Law of Georgia No 1321 of 19 June 2009 – LHG 1, No 12, 29.6.2009, Art. 57*

*Law of Georgia No 1945 of 3 November 2009 – LHG 1, No 35, 19.11.2009, Art. 250*

*Law of Georgia No 3520 of 21 November 2010 – LHG 1, No 48, 9.8.2010, Art. 321*

*Law of Georgia No 6310 of 25 May 2012 – website, 12.6.2012*

## **Chapter II**

### **Enforcement Authorities**

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

#### **Article 3 - Enforcement agencies**

1. The compulsory enforcement of decisions enforceable under Article 2 of this Law shall be carried out by the National Bureau of Enforcement - a legal entity under public law within the Ministry of Justice of Georgia ('the National Bureau of Enforcement').

1<sup>1</sup>. Under a contract (if any) between the National Bureau of Enforcement and a tax authority, to ensure the recovery of a tax liability falling within the right of the tax authority under the tax legislation of Georgia, the National Bureau of Enforcement requests from the taxpayer a list of assets in order to enforce attachment of such taxpayer's assets, taking inventory of and evaluating a person's property, executing a property attachment report, placing a seal upon the property, ensuring registration of attachment of the taxpayer's property with the registration authority, where so provided by the Tax Code of Georgia, executing a tax offence report, filing with the court a motion on behalf of the tax authority for the sale or direct transfer to the state of the assets of a person where the National Bureau of Enforcement has enforced attachment of such assets, and performing other necessary acts for the purpose identified by this article.

1<sup>2</sup>. The National Bureau of Enforcement may, depending on the goals of an enforcement proceeding, apply, as provided by the legislation of Georgia, to the relevant administrative authority for identification of the parcel of land allotted to the building owned by a debtor and to the National Agency of Public Registry - a legal entity under public law within the Ministry of Justice of Georgia, for registration of title to such parcel of land.

1<sup>3</sup>. Based on a person's application, the National Bureau of Enforcement may provide evaluation services. The fee for such services shall be determined by the order of the Minister of Justice of Georgia.

1<sup>4</sup>. In respect of an insolvency proceeding, the National Bureau of Enforcement shall discharge the functions of a guardian and/or a bankruptcy commissioner and also provide auction services as provided by the Law of Georgia on Insolvency Proceedings. The fee for such services of the National Bureau of Enforcement shall be determined by an order of the Minister of Justice of Georgia.

1<sup>5</sup>. The National Bureau of Enforcement may enter into contracts, use the services of third persons, and perform other acts ensuring the fulfilment of its functions.

1<sup>6</sup>. The National Bureau of Enforcement may perform an activity defined by an order of the Minister of Justice of Georgia that is not expressly provided by this Law.

2. (Deleted)

3. Where so provided by this Law, the compulsory enforcement of the decisions enforceable under Article 2 of this Law shall also be performed by the private bailiff defined in Chapter III<sup>2</sup> of this Law. *Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 1596 of 25 June 2002 – LHG 1, No 22, 13.7.2002, Art. 103*

*Law of Georgia No 4230 of 29 December 2006 – LHG 1, No 50, 30.12.2006, Art. 381*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 822 of 19 December 2008 – LHG 1, No 41, 30.12.2008, Art. 300*

*Law of Georgia No 1914 of 3 November 2009 – LHG 1, No 35, 19.11.2009, Art. 224*

*Law of Georgia No 2183 of 1 December 2009 – LHG 1, No 38, 1.12.2009, Art. 283*

*Law of Georgia No 2459 of 25 December 2009 – LHG 1, No 49, 30.12.2009, Art. 371*



*Law of Georgia No 3598 of 17 September 2010 – LHG 1, No 54, 12.10.2010, Art. 350*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 3970 of 10 December 2010 – LHG 1, No 72, 22.12.2010, Art. 434*

*Law of Georgia No 4207 of 22 February 2011 – website, 10.3.2011*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

*Law of Georgia No 5171 of 28 October 2011 – website, 7.11.2011*

*Law of Georgia No 6145 of 8 May 2012 – website, 17.5.2012*

*Law of Georgia No 6433 of 12 June 2012 – website, 25.6.2012*

#### **Article 4 - National bureau of enforcement**

1. The National Bureau of Enforcement is a legal entity under public law falling within the governance of the Ministry of Justice of Georgia.
2. State control over the activities of the National Bureau of Enforcement shall be provided by the Ministry of Justice of Georgia.
3. The Statute of the National Bureau of Enforcement shall be approved by the Minister of Justice of Georgia.
4. (Deleted)
5. The National Bureau of Enforcement shall be managed by the Chairperson who is appointed to and removed from office by the Minister of Justice of Georgia.
6. The Deputy Chairperson of the National Bureau of Enforcement and the Head of the Enforcement Police Division shall be appointed to and removed from office by the Chairperson of the National Bureau of Enforcement in agreement with the Minister of Justice of Georgia. Other employees of the National Bureau of Enforcement shall be appointed to and removed from office by the Chairperson of the National Bureau of Enforcement.
7. The Chairperson of the National Bureau of Enforcement may delegate his/her authority to an employee(s) of the National Bureau of Enforcement. Such employees shall be prohibited from further assigning the authority delegated to them to any other person, unless specifically indicated in a decision on the delegation of authority.
8. The cost estimate, staff list and wage fund of the National Bureau of Enforcement shall be approved by the Chairperson of the National Bureau of Enforcement in agreement with the Minister of Justice of Georgia.
9. The National Bureau of Enforcement shall be funded from the State Budget of Georgia and other revenues identified by the legislation of Georgia.
10. The National Bureau of Enforcement possesses a seal bearing the National Coat of Arms of Georgia, and holds bank, including deposit, accounts. Any amount accrued as interest in the bank account shall belong to the National Bureau of Enforcement.

*Law of Georgia No 2394 of 9 September 1999 – LHG 1, No 44(51), 29.9.1999, Art. 232*

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 2459 of 25 December 2009 – LHG 1, No 49, 30.12.2009, Art. 371*

*Law of Georgia No 3167 of 28 June 2010 – LHG 1, No 34, 9.7.2010, Art. 203*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

#### **Article 5 - Enforcement bureau**

1. The National Bureau of Enforcement ensures enforcement through its structural units and territorial authorities – enforcement bureaus. The system of enforcement bureaus shall be determined by the Chairperson of the National Bureau of Enforcement in agreement with the Minister of Justice of Georgia.
2. The decisions enforceable under Article 2 of this Law shall be directly enforced on behalf of the National Bureau of Enforcement by the bailiffs of an enforcement bureau and based on the order of the Chairperson of the National Bureau of Enforcement as well as by persons employed in the National Bureau of Enforcement and the trainees of the National Bureau of Enforcement ('the bailiff').
3. The enforcement bureau shall be managed by the head of the bureau that is appointed to and removed from office by the Chairperson of the National Bureau of Enforcement in agreement with the Minister of Justice of Georgia.

3<sup>1</sup>. The procedure for conducting a bailiff qualification test, the amount of the fee for participation in the bailiff qualification test and the procedure for



conducting a competition and going through a trainee program in the National Bureau of Enforcement shall be determined by an order of the Minister of Justice of Georgia.

4. The enforcement bureau shall conduct its activity according to this Law, other normative acts of Georgia, and the statute of the enforcement bureau.

5. The statute and staff list of the enforcement bureau shall be approved by the Chairperson of the National Bureau of Enforcement in agreement with the Minister of Justice of Georgia.

6. The enforcement bureau possesses a seal bearing the National Coat of Arms of Georgia.

7. (Deleted)

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 822 of 19 December 2008 – LHG 1, No 41, 30.12.2008, Art. 300*

*Law of Georgia No 2459 of 25 December 2009 – LHG 1, No 49, 30.12.2009, Art. 371*

*Law of Georgia No 3167 of 28 June 2010 – LHG 1, No 34, 9.7.2010, Art. 203*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

*Law of Georgia No 5668 of 28 December 2011 – website, 16.1.2012*

### **Chapter III**

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*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

#### **Article 6 - (Deleted)**

*Law of Georgia No 941 of 19 June 2001 – LHG 1, No 20, 3.7.2001, Art. 68*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 824 of 19 December 2008 – LHG 1, No 41, 30.12.2008, Art. 302*

*Law of Georgia No 2797 of 23 March 2010 – LHG 1, No 14, 30.3.2010, Art. 84*

*Law of Georgia No 3167 of 28 June 2010 – LHG 1, No 34, 9.7.2010, Art. 203*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

#### **Article 7 - (Deleted)**

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 2459 of 25 December 2009 – LHG 1, No 49, 30.12.2009, Art. 371*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

#### **Article 8 - (Deleted)**

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 2459 of 25 December 2009 – LHG 1, No 49, 30.12.2009, Art. 371*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*



#### **Article 9 - (Deleted)**

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

#### **Article 10 - (Deleted)**

*Law of Georgia No 2394 of 9 September 1999 – LHG 1, No 44(51), 29.9.1999, Art. 232*

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 1596 of 25 December 2002 – LHG 1, No 22, 13.7.2002, Art. 103*

*Law of Georgia No 885 of 29 December 2004 – LHG 1, No 6, 19.1.2005, Art. 40*

*Law of Georgia No 4230 of 29 December 2006 – LHG 1, No 50, 30.12.2006, Art. 381*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

#### **Article 11 - (Deleted)**

*Law of Georgia No 2394 of 9 September 1999 – LHG 1, No 44(51), 29.9.1999, Art. 232*

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 941 of 19 June 2001 – LHG 1, No 20, 3.7.2001, Art. 68*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

#### **Article 12 - (Deleted)**

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 3167 of 28 June 2010 – LHG 1, No 34, 9.7.2010, Art. 203*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

#### **Article 13 - (Deleted)**

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

#### **Article 14 - (Deleted)**

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

### **Chapter III<sup>1</sup>**

#### **Enforcement Police**

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*



## **Article 14<sup>1</sup> - Enforcement police division**

1. The Enforcement Police Division ('the Division') is a structural unit of the National Bureau of Enforcement.
2. The Division is managed by the Head of Division who is appointed to and removed from office by the Chairperson of the National Bureau of Enforcement in agreement with the Minister of Justice of Georgia.
3. The Division shall conduct its activity according to this Law, other normative acts of Georgia, and the statute of the Enforcement Police Division.
4. The rights and duties of the enforcement police officers, organisation and procedures of operation of the Division, shall be defined by the Statute of the Enforcement Police Division approved by the Chairperson of the National Bureau of Enforcement with the approval of the Minister of Justice of Georgia.
5. The legal grounds for serving in the Division shall be as follows: this Law, the legislation of Georgia on Special State Ranks and on Public Service, the Statute of the Enforcement Police Division and other legal acts.

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

## **Article 14<sup>2</sup> - Enforcement police officer**

1. An enforcement police officer is a civil servant who is appointed to and removed from office by the Chairperson of the National Bureau of Enforcement.
2. In exercising his/her official powers an enforcement police officer is a government representative and his/her legal request related to official duty shall be binding. The rights of an enforcement police officer in cases involving disobedience to the legal instructions or requests of the enforcement police officer on duty shall be defined by the Administrative Offences Code of Georgia.
3. Failure to fulfil a legal request of an enforcement police officer shall incur liability as provided by law.
4. (Deleted)
5. When on duty, an enforcement police officer shall wear the uniform provided by the National Bureau of Enforcement. The Minister of Justice of Georgia shall approve the attributes of such uniform. The enforcement police officer shall be given an ID card of a pattern approved by the Minister of Justice of Georgia.

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 5171 of 28 October 2011 – website, 7.11.2011*

## **Article 14<sup>3</sup> - (Deleted)**

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

## **Article 14<sup>4</sup> - Use of physical coercion, special devices, and firearms**

1. When on duty, an enforcement police officer may resort to physical coercion, including special single combat methods, to protect his/her personal safety and that of the personnel of the National Bureau of Enforcement and the persons involved in the performance of the enforcement activity, if the enforcement police officer is unable to ensure the fulfilment of his/her duties without the resort to force.

1<sup>1</sup>. When on duty, an enforcement police officer may keep, carry, and use firearms and special devices as provided by the legislation of Georgia.

2. When on duty, an enforcement police officer may use the following special devices:

- a) handcuffs and other means of restraint against the person who resists him/her
- b) a rubber baton and an electric shock device against persons who attack him/her.

3. When on duty, an enforcement police officer may use a firearm as a last resort to:



a) protect employees of the National Bureau of Enforcement as well as persons involved in the performance of the enforcement activity, and him/herself against any violation jeopardising their lives or health as well as against the attack of a dangerous animal;

b) prevent the robbing of a firearm;

c) give a sign of alarm.

4. Physical coercion, special devices, and a firearm may in no event be used against persons that are clearly pregnant, underage, disabled or elderly, except when they are staging an armed or group attack or putting up armed resistance against an enforcement police officer that jeopardises the lives and health of persons involved in the performance of the enforcement act, unless such attack cannot be repulsed by other methods or means.

5. When using physical coercion, special devices, and a firearm, an enforcement police officer shall make his/her best efforts to ensure the safety of other persons and provide emergency medical aid to the victim.

6. An enforcement police officer shall forthwith give notice of using a firearm to the immediate superior and the prosecutor.

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

## **Article 14<sup>5</sup> - Social security of enforcement police officers**

1. The State shall provide social protection to enforcement police officers.

2. The working hours of an enforcement police officer shall be irregular.

3. An enforcement police officer shall be subject to mandatory public insurance.

4. (Deleted)

5. Any harm inflicted on an enforcement police officer while on duty shall be fully compensated from the state budget as provided by the legislation of Georgia.

6. If an enforcement police officer dies while on duty, his/her family (heir) shall be paid a one-off allowance of GEL 10 000. The costs associated with the burial of the enforcement police officer shall be borne by the National Bureau of Enforcement.

7. If an enforcement police officer is maimed and/or disabled while on duty, he/she shall be paid, as provided by the legislation of Georgia, a one-off allowance of maximum GEL 5 000 to the extent of the bodily injury.

8. (Deleted)

9. Social security measures and benefits in addition to the measures and benefits under this Law may be approved for an enforcement police officer within the funds allocated from the state budget under the legislation of Georgia.

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

## **Chapter III<sup>2</sup>**

### **Private Bailiff**

*Law of Georgia No 822 of 19 December 2008 – LHG 1, No 41, 30.12.2008, Art. 300*

## **Article 14<sup>6</sup> - Private bailiff**

1. A private bailiff is a natural person who exercises public authority – enforcement activity across the whole territory of Georgia under an enforcement licence issued by the National Bureau of Enforcement.

2. A private bailiff must necessarily have a place of business (office, bureau) and a settlement (current) account with a bank. He may hire and fire workers according to the labour legislation of Georgia and dispose of fees earned for the performance of enforcement activities.

3. Two or more private bailiffs may have a common place of business (office, bureau). The rights and duties of private bailiffs, in respect of such a common place of business, shall be identified by an agreement between them. In such case, each private bailiff shall perform enforcement activity on his/her own behalf and be personally liable for his/her official activity.

3<sup>1</sup>. To organise enforcement activity, a private bailiff may join any other private bailiff, lawyer and/or auditor in a partnership or any other legal entity





defined by the Law of Georgia on Entrepreneurs except for a joint-stock company, as provided by the Law of Georgia on the Notary System. At least one notary must be involved in such a joint venture.

4. For the purposes of this Chapter, enforcement activity shall also include the delivery of legal advice to interested persons on enforcement matters.

5. National Bureau of Enforcement shall maintain the Register of Private Bailiffs.

6. The enforcement activity of a private bailiff, in view of the specifics of this Chapter, shall be governed by this Law other than Article 2(c, d, i-m) of this Law, the enforcement proceedings related to the application of the buyer of an immovable estate, Debt Recovery Order (if under a summary proceedings the applicant requests the enforcement of the Debt Recovery Order) and enforcement orders referred to in Article 2, and Article 3(1-1<sup>4</sup>), Articles 4 and 5, Chapter III<sup>1</sup>, Article 15<sup>2</sup>, Article 17(11), Article 18<sup>1</sup>(2), Article 21(5,6), Article 25(4, 4<sup>1</sup>, 13), Article 28<sup>1</sup>, Article 35(1)(f), Article 38, Article 39, Article 47(4), Article 49(2), Article 50, Article 62, Article 69(1-1<sup>2</sup>), Article 75, Article 76, Article 77<sup>1</sup>, Article 77<sup>2</sup>, Article 82<sup>3</sup>(2)(e), Article 91 and Articles 90<sup>3</sup> - 91, Chapters XVI<sup>1</sup>-XVI<sup>3</sup>, Article 113(1-6, 9-11, 12(a-f), 13-16) and Article 113<sup>2</sup> of this Law.

*Law of Georgia No 822 of 19 December 2008 – LHG 1, No 41, 30.12.2008, Art. 300*

*Law of Georgia No 1323 of 19 June 2009 – LHG 1, No 12, 29.6.2009, Art. 58*

*Law of Georgia No 2459 of 25 December 2009 – LHG 1, No 49, 30.12.2009, Art. 371*

*Law of Georgia No 3167 of 28 June 2010 – LHG 1, No 34, 9.7.2010, Art. 203*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

*Law of Georgia No 5851 of 16 March 2012 – website, 23.3.2012*

*Law of Georgia No 6145 of 8 May 2012 – website, 17.5.2012*

*Law of Georgia No 6255 of 22 May 2012 – website, 6.6.2012*

*Law of Georgia No 6433 of 12 June 2012 – website, 25.6.2012*

## **Article 14<sup>7</sup> - Authority of a private bailiff**

1. A private bailiff shall enforce, as prescribed by this Law, the acts (decisions) referred to in Article 2(a, b, e-h), and the notary acts and mortgage certificates referred to in the above Article of this Law.

2. A private bailiff shall perform enforcement based on an application filed by and the contract made with a creditor.

3. A private bailiff shall perform enforcement only if the parties to enforcement are natural persons and/or legal entities under private law and if the monetary claim enforceable under the enforcement document does not exceed GEL 500 000.

4. When a private bailiff exercises the rights under Article 17(5)(a.c) of this Law, to ensure the recovery of the creditor's claim and the enforcement fee, collection orders against the debtor's bank account shall be presented separately.

4<sup>1</sup>. The private bailiff may apply to the National Bureau of Enforcement for posting public notices of his/her proceedings at the official website of the National Bureau of Enforcement. Such application may be lodged via automated management tools. The fee for such service of the National Bureau of Enforcement for a private bailiff is fixed by an order of the Minister of Justice of Georgia.

5. To sell attached property at a public auction, a private bailiff shall:

a) independently perform auction preparation procedures provided by this Law based on an application from a creditor;

b) file an application for auction services with the National Bureau of Enforcement, furnishing it with copies of auction documents (the relevant materials of enforcement proceedings) certified by him/her and deposit the auction service fee, the amount of which is determined by an order of the Minister of Justice of Georgia, into the account of the National Bureau of Enforcement. If the application for providing auction services is lodged via automated management tools, the materials of enforcement proceedings will not need certification;

c) if necessary, ensure the preparation of repeated and new auctions as provided by this article.

6. A private bailiff shall be responsible for the accuracy of the facts of the auction documents lodged by him/her.

6<sup>1</sup>. In receiving a writ of execution for enforcement and returning it to the creditor, the private bailiff's signature, date, and official seal shall be added at the end of the writ of execution.

7. The National Bureau of Enforcement shall grant or refuse the private bailiff's application for auction services referred to in paragraph 5 of this Article within five business days after receipt of such application.

8. While receiving an application within the time indicated in paragraph 7 of this Article the National Bureau of Enforcement may find a defect for private bailiff where the auction documents presented do not comply with the requirements of this Law and/or the fee for auction services is not paid. The time granted to a private bailiff for remedying the defect shall not exceed one month. If the time granted by the National Bureau of Enforcement to



the private bailiff for remedying the defect lapses, the National Bureau of Enforcement shall deny auction services to the private bailiff. The private bailiff shall be entitled to a refund of one-half of the auction service fee paid by him/her. When the circumstances, which served as the basis for denial by the National Bureau of Enforcement, have been eliminated, the private bailiff may file a new application for auction services with the National Bureau of Enforcement. In re-submitting the auction documents to the National Bureau of Enforcement, the private bailiff shall pay the auction service fee in full.

9. A private bailiff may appeal a denial of an application by the National Bureau of Enforcement in court within one month after becoming aware of it.

10. A private bailiff may retract an application before a public announcement of the first auction is posted and he/she shall be entitled to a refund of half of the auction service fee paid by him/her.

11. Auction services shall include the following:

a) due posting of public information on the auction;

b) conducting the auction by the National Bureau of Enforcement as provided by the legislation of Georgia;

c) holding of the first auction within one month after granting the application referred to in this article) apportioning, as provided by this Law, the proceeds from the sale of property at the auction that have been transferred to the account of the National Bureau of Enforcement as provided by this Law.

12. The National Bureau of Enforcement shall be responsible only for compliance of the property sale procedures performed on the auction day with this Law. All the other preparatory or post-auction actions shall be performed by the private bailiff under his/her own responsibility.

13. When providing auction services, a private bailiff shall forthwith give the National Bureau of Enforcement a notice of suspension and resumption of the enforcement by the creditor. If a private bailiff's enforcement proceeding is suspended due to the creditor's application and it is not resumed within three months after its suspension, the auction services shall be terminated and the private bailiff shall be entitled to a refund of one-half of the auction service fee paid by him/her. In re-submitting the auction documents to the National Bureau of Enforcement, the private bailiff shall pay the auction service fee in full.

*Law of Georgia No 822 of 19 December 2008 – LHG 1, No 41, 30.12.2008, Art. 300*

*Law of Georgia No 1323 of 19 June 2009 – LHG 1, No 12, 29.6.2009, Art. 58*

*Law of Georgia No 1542 of 17 July 2009 – LHG 1, No 21, 3.8.2009, Art. 125*

*Law of Georgia No 1687 of 24 September 2009 – LHG 1, No 29, 12.10.2009, Art. 170*

*Law of Georgia No 2459 of 25 December 2009 – LHG 1, No 49, 30.12.2009, Art. 371*

*Law of Georgia No 3167 of 28 June 2010 – LHG 1, No 34, 9.7.2010, Art. 203*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

*Law of Georgia No 5171 of 28 October 2011 – website, 7.11.2011*

*Law of Georgia No 5668 of 28 December 2011 – website, 16.1.2012*

## **Article 14<sup>8</sup> - Granting an enforcement licence**

1. The National Bureau of Enforcement shall grant an enforcement licence to a private bailiff.

2. An enforcement licence shall be granted as provided by this Chapter and the Law of Georgia on Licences and Permits.

3. To obtain an enforcement licence, in addition to the requirements determined by the Law of Georgia on Licences and Permits, a natural person must meet the following requirements:

a) be a legally competent citizen of Georgia;

b) have a higher legal education;

c) have passed a bailiff qualification test or a judge qualification test in the specialty of general or civil and administrative field of law;

d) have a place of business equipped according to rules determined by an order of the Minister of Justice of Georgia.

*Law of Georgia No 822 of 19 December 2008 – LHG 1, No 41, 30.12.2008, Art. 300*

*Law of Georgia No 6255 of 22 May 2012 – website, 6.6.2012*

## **Article 14<sup>9</sup> - Grounds for denial of an enforcement licence**



1. An enforcement licence shall be denied to a natural person:

- a) who does not meet the requirements of Article 14<sup>8</sup> (3) of this Law;
- b) who has been convicted of/or is being prosecuted for a deliberate crime;
- c) against whom a criminal case on the charge of deliberate crime has been dismissed because of a period of limitation or amnesty;
- d) who has been dismissed from public service or notary office or disbarred for misconduct, gross and/or repeated violations, misuse of office to the prejudice of justice and official interests or a crime of corruption;
- e) whose activity amounts to public service under the Law of Georgia on Public Service;
- f) whose enforcement licence has been revoked by the National Bureau of Enforcement except as provided by Article 14<sup>14</sup>(a) of this Law;
- g) who is a practicing notary, lawyer, an employee, or trainee of the National Bureau of Enforcement;
- h) who has been deprived of the right to engage in enforcement activities under a judgment of conviction in force;
- i) whose enforcement licence has been revoked by the National Bureau of Enforcement on the basis provided in Article 14<sup>14</sup>(a) of this Law and one year has not elapsed since the revocation of the licence.

2. A private bailiff cannot be a member of arbitration.

*Law of Georgia No 822 of 19 December 2008 – LHG 1, No 41, 30.12.2008, Art. 300*

*Law of Georgia No 2459 of 25 December 2009 – LHG 1, No 49, 30.12.2009, Art. 371*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

*Law of Georgia No 6255 of 22 May 2012 – website, 6.6.2012*

#### **Article 14<sup>10</sup> - Application for an enforcement licence**

1. To obtain an enforcement licence a natural person shall apply to the National Bureau of Enforcement which, within five business days, shall take a decision on granting an enforcement licence.

2. In addition to the documents required by the Law of Georgia on Licences and Permits, the application shall have appended:

- a) documents evidencing compliance with the requirements of Article 14<sup>8</sup>(3) of this Law;
- b) a document signed by the natural person confirming the lack of the circumstances indicated in Article 14<sup>9</sup>(1) of this Law;
- c) the address of the workplace and the extract from the Public Registry on title to the immovable property where the private bailiff's place of business shall be located, or the consent of the owner of such immovable property for the performance of enforcement activities.

3. In changing his/her place of business, the private bailiff shall forthwith notify the National Bureau of Enforcement and shall provide the documents required by paragraph 2(c) of this article.

*Law of Georgia No 822 of 19 December 2008 – LHG 1, No 41, 30.12.2008, Art. 300*

*Law of Georgia No 2459 of 25 December 2009 – LHG 1, No 49, 30.12.2009, Art. 371*

*Law of Georgia No 6255 of 22 May 2012 – website, 6.6.2012*

#### **Article 14<sup>11</sup> - Registration of a private bailiff in the register of private bailiffs and starting enforcement activities by a private bailiff**

1. Within five business days after the National Bureau of Enforcement grants an enforcement licence, the private bailiff shall provide the National Bureau of Enforcement with:

- a) the official seal (bearing the private bailiff's first and last names, and the private bailiff's enforcement licence number), and a specimen signature certified as provided by the legislation of Georgia;
- b) a document evidencing the opening of a settlement (current) account with a bank and the account number;
- c) a document evidencing mandatory civil liability insurance; the Minister of Justice of Georgia shall determine the amount and terms of insurance.

2. Immediately, but not later than five business days after all the documents required by paragraph 1 of this Article have been submitted, the National Bureau of Enforcement shall list the private bailiff in the Register of Private Bailiffs, after which the private bailiff may start his/her enforcement activities. The form of and procedure for maintaining the Register of Private Bailiffs shall be determined by the Minister of Justice of Georgia.



*Law of Georgia No 822 of 19 December 2008 – LHG 1, No 41, 30.12.2008, Art. 300*

*Law of Georgia No 2459 of 25 December 2009 – LHG 1, No 49, 30.12.2009, Art. 371*

*Law of Georgia No 4566 of 19 April 2011 – website, 5.5.2011*

*Law of Georgia No 6255 of 22 May 2012 – website, 6.6.2012*

#### **Article 14<sup>12</sup> - Filing statistical information**

Annually, but not later than 1 February of the following accounting year, a private bailiff shall file with the National Bureau of Enforcement statistical information on his/her enforcement proceedings.

*Law of Georgia No 822 of 19 December 2008 – LHG 1, No 41, 30.12.2008, Art. 300*

*Law of Georgia No 2459 of 25 December 2009 – LHG 1, No 49, 30.12.2009, Art. 371*

*Law of Georgia No 2797 of 23 March 2010 – LHG 1, No 14, 30.3.2010, Art. 84*

*Law of Georgia No 6255 of 22 May 2012 – website, 6.6.2012*

#### **Article 14<sup>13</sup> - Suspending the right to enforcement activity**

1. For breach of a licence condition indicated in Article 14<sup>8</sup> (3)(d) of this Law, a private bailiff's right to enforcement activity shall be suspended until the breach of the licence condition is remedied. The private bailiff shall ensure compliance with the licence requirement indicated in Article 14<sup>8</sup> (3)(d) of this Law as soon as reasonably practicable but in any case within not later than 10 days.

2. If the private bailiff is prosecuted, his/her right to enforcement activities shall be suspended until a final decision is made in the criminal case.

3. If a private bailiff is prosecuted under criminal procedures, the authority/person in charge of the proceedings shall forthwith, but not later than the next business day give the National Bureau of Enforcement a notice to that effect.

4. The relevant record concerning the suspension of a private bailiff's right to enforcement activity shall be filed by the National Bureau of Enforcement in the Register of Private Bailiffs. If the grounds for suspending the private bailiff's right to enforcement activities are eliminated, the National Bureau of Enforcement shall cancel the relevant record, after which the private bailiff may resume his/her enforcement activities.

*Law of Georgia No 822 of 19 December 2008 – LHG 1, No 41, 30.12.2008, Art. 300*

*Law of Georgia No 6255 of 22 May 2012 – website, 6.6.2012*

#### **Article 14<sup>14</sup> - Revocation of an enforcement licence**

In addition to those grounds provided by the Law of Georgia on Licences and Permits, the grounds for revoking an enforcement licence shall be as follows:

a) the private bailiff's written application for termination of his/her rights, which shall be filed with the National Bureau of Enforcement;

b) the death of the private bailiff or if a court finds the private bailiff dead or with limited capacity to contract/without capacity to contract or missing;

c) failure to fulfil the requirements of Article 14<sup>11</sup> (1) of this Law within the fixed terms;

d) entry into force of a judgment of conviction against the private bailiff or the dismissal of a criminal case on the charge of a deliberate crime against the private bailiff due to period of limitation or amnesty;

e) termination of the citizenship of Georgia of the private bailiff under the Organic Law of Georgia on Georgian Citizenship;

f) depriving a private bailiff's right to enforcement activity under a judgment of conviction in force;

g) material or routine breach of the requirements provided by this Law or by the normative act issued under this Law that substantially prejudices private or public interests;

h) performance of any activity that is incompatible for a private bailiff;

i) failure to fulfil the requirements under Article 14<sup>13</sup>(1) of this Law within the fixed time.

*Law of Georgia No 822 of 19 December 2008 – LHG 1, No 41, 30.12.2008, Art. 300*

*Law of Georgia No 1323 of 19 June 2009 – LHG 1, No 12, 29.6.2009, Art. 58*



#### **Article 14<sup>15</sup> - Procedure for enforcing pending cases due to suspension of the right to enforcement activity or revocation of an enforcement licence**

1. If the private bailiff's right to enforcement activity is suspended or the enforcement licence is revoked under Articles 14<sup>13</sup> or 14<sup>14</sup> of this Law, the enforcement of the private bailiff's pending enforcement cases shall be ensured by the National Bureau of Enforcement as provided by this Law. The National Bureau of Enforcement shall resume the enforcement of such cases from the enforcement activity last performed by the private bailiff.
2. The creditor in an enforcement case under paragraph 1 of this Article shall be exempt from the part of enforcement fee payable in advance.
3. The creditor shall be given a refund of the fee prepaid to the private bailiff pro rata to the amount recovered as a result of the enforcement.

*Law of Georgia No 822 of 19 December 2008 – LHG 1, No 41, 30.12.2008, Art. 300*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 6255 of 22 May 2012 – website, 6.6.2012*

#### **Article 14<sup>16</sup> - Liability of a private bailiff**

1. A private bailiff shall be liable to the parties to enforcement proceedings for damages inflicted by him/her.
2. The Minister of Justice of Georgia shall determine the procedure for monitoring the activities of a private bailiff and imposing liability upon him/her for breaches under Article 14<sup>14</sup>(g and h) of this Law.
3. A private bailiff shall be obliged to conduct an enforcement proceeding under the conditions and in the form defined by the Minister of Justice of Georgia.

*Law of Georgia No 822 of 19 December 2008 – LHG 1, No 41, 30.12.2008, Art. 300*

*Law of Georgia No 1323 of 19 June 2009 – LHG 1, No 12, 29.6.2009, Art. 58*

*Law of Georgia No 2797 of 23 March 2010 – LHG 1, No 14, 30.3.2010, Art. 84*

#### **Article 14<sup>17</sup> – Fees**

1. A private bailiff shall receive a fee for enforcement activities and for legal advice and technical works related to such activity; the amount and payment terms of the fee shall be determined by a contract made with a concerned party.
2. The fee paid or payable by the creditor shall be borne by the debtor and shall be recovered along with the claim to be enforced. The debtor cannot be held liable to pay a fee in excess of the maximum amount of the enforcement fee fixed by Article 38 of this Law.
3. Out of amounts recovered as a result of an auction service delivered by the enforcement bureau to the private bailiff:
  - a) the fee paid by the creditor within the maximum amount of the fee fixed by Article 38 of this Law shall be transferred to the creditor pro rata with the recovered claim. The recovered claim shall also be transferred to the creditor;
  - b) the fee to be paid by the creditor within the maximum amount of the fee fixed by this paragraph (a) shall be transferred to the private bailiff pro rata with the recovered claim.

*Law of Georgia No 822 of 19 December 2008 – LHG 1, No 41, 30.12.2008, Art. 300*

*Law of Georgia No 2459 of 25 December 2009 – LHG 1, No 49, 30.12.2009, Art. 371*

#### **Article 14<sup>18</sup> - Participation of the enforcement police in the activities of a private bailiff**

1. In exercising his/her rights, where necessary, the private bailiff shall apply to the Division for assistance, which, within five days after receipt of such application, shall inform the private bailiff of the possibility of provision of services within its authority.
2. If the Division agrees to provide services under paragraph 1 of this article, the private bailiff shall prepay the National Bureau of Enforcement the fee for the Division's services, the amount of which by categories of enforcement activities shall be determined by the Order of the Minister of Justice of Georgia.

*Law of Georgia No 822 of 19 December 2008 – LHG 1, No 41, 30.12.2008, Art. 300*



## **Article 14<sup>19</sup> - Grounds for challenging a private bailiff, procedure for recusal and self-recusal**

1. A private bailiff may be recused on the grounds provided by Article 31 of the Civil Procedure Code of Georgia.
2. The issue of recusing a private bailiff based on a debtor's relevant motion shall be decided by the court within the jurisdictional territory in which the enforcement takes place.

*Law of Georgia No 2797 of 23 March 2010 – LHG 1, No 14, 30.3.2010, Art. 84*

## **Chapter IV**

### **Persons Involved in Enforcement Proceedings**

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

## **Article 15 - Persons involved in enforcement proceedings**

The following persons are involved in enforcement proceedings:

- a) a creditor and a debtor ('the parties to the enforcement proceedings')
- b) a bailiff/a private bailiff
- d) other persons participating in the enforcement proceedings.

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

## **Article 15<sup>1</sup> - Parties to the enforcement proceedings**

1. The creditor in enforcement proceedings shall mean a natural or legal person, or any other establishment, or unincorporated association of persons, governmental and local self-government authorities, for the benefit and/or in the interests of which the decision enforceable under Article 2 of this Law has been made.
2. The debtor, in enforcement proceedings, shall mean a natural or legal person or any other establishment, unincorporated association of persons, governmental and local self-government authorities that are bound by a decision enforceable under Article 2 of this Law to perform or refrain from performing certain actions. The debtor, in enforcement proceedings, initiated on application of the buyer of immovable property, shall mean a person having failed to submit within the fixed period to the National Bureau of Enforcement, a document required by this Law for legitimate possession and use of the immovable property.

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

## **Article 15<sup>2</sup> - Grounds for challenging a bailiff; procedure for recusal and self-recusal**

1. A bailiff may be recused on the grounds provided by Article 31 of the Civil Procedure Code of Georgia. A motion for recusal or self-recusal of the bailiff may be raised by parties to the enforcement proceedings and/or by the bailiff him/herself.
2. An issue for recusal or self-recusal of a bailiff within the territorial scope shall be reviewed and decided by the head of enforcement bureau and an issue for recusal or self-recusal of an employee of National Bureau of Enforcement referred to in Article 5(2) of this Law – by the Chairperson of the National Bureau of Enforcement. The parties to the enforcement proceedings shall be informed of the decision.
3. The decision of the head of an enforcement bureau concerning recusal or self-recusal may be appealed in a judicial procedure.

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

## **Article 16 - (Deleted)**

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*



## **Article 17 - Rights and duties of a bailiff**

1. A bailiff's requests related to the performance of official duties shall be binding upon all natural and legal persons irrespective of their subordination and organisational-legal status.
2. If so requested by the National Bureau of Enforcement, all administrative authorities, bank institutions, natural and legal persons, being in a contractual relationship with the debtor shall furnish it with information on the debtor's property condition, revenues, bank accounts, balance, and cash flow of such accounts.
3. A bailiff shall protect the confidentiality of such information and use it only for official purposes. Violation of this requirement shall entail a liability as provided by the legislation of Georgia.
4. In performing enforcement activities, a bailiff may enter a debtor's apartment and inspect all of the rooms and the debtor's assets. Concerning the inspection, the bailiff shall prepare a report.
5. Under compulsory enforcement, a bailiff may:
  - a) perform recovery;
    - a.a) from the debtor's property by attaching and selling such property and, where the state property or that of a local self-governing unit is involved, the bailiff may give the relevant state or local self-government authority notice thereof;
    - a.b) from the debtor's wages, pension, scholarship, and other revenues;
    - a.c) from the debtor's funds and assets with other persons as well as from the debtor's bank accounts by collection orders;
  - b) deprive the debtor of objects that must be transferred to a creditor by a court decision;
  - c) perform any other measures indicated in the decision enforceable according to the law.
6. (Deleted)
7. A bailiff shall take all legitimate measures for enforcing a decision rapidly and effectively, inform the parties of their rights and duties, the substance of and possibilities for individual types of enforcement, and assist them in protecting their rights and legitimate interests.
8. If a debtor does not allow a bailiff to perform the rights vested in him/her by law, the bailiff may seek assistance from the enforcement police or the relevant territorial authority of the Ministry of Internal Affairs, which shall be obliged to provide the bailiff with necessary assistance.
9. If a bailiff is resisted or if neither the debtor nor any adult member of his/her family is present to witness the enforcement activity to be performed in the debtor's apartment, the bailiff shall prepare a report and proceed with the enforcement activity in the presence of a representative of the local self-government or the relevant territorial authority of the Ministry of Internal Affairs of Georgia.
10. In the course of enforcement, the bailiff may call in parties to the enforcement proceedings for consulting the enforcement documents, and taking part in the enforcement activities; the bailiff may obtain verbal and written information, if this is necessary for enforcement purposes.
11. In conducting enforcement proceedings under his/her jurisdiction, a bailiff may perform an enforcement activity in relation to chattels and bank accounts within the jurisdiction of any other enforcement bureau.
12. A bailiff may perform an enforcement activity at any time, including non-business hours and holidays, if this is necessary, due to the facts of particular enforcement proceedings.

*Law of Georgia No 2394 of 9 September 1999 – LHG 1, No 44(51), 29.9.1999, Art. 232*

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 3648 of 10 November 2006 – LHG 1, No 44, 27.11.2006, Art. 296*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 1321 of 19 June 2009 – LHG 1, No 12, 29.6.2009, Art. 57*

*Law of Georgia No 2459 of 25 December 2009 – LHG 1, No 49, 30.12.2009, Art. 371*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

## **Article 17<sup>1</sup> - (Deleted)**

*Law of Georgia No 941 of 19 June 2001 – LHG 1, No 20, 3.7.2001, Art. 68*

*Law of Georgia No 1596 of 25 June 2002 – LHG 1, No 22, 13.7.2002, Art. 103*

*Law of Georgia No 4230 of 29 December 2006 – LHG 1, No 50, 30.12.2006, Art. 381*



*Law of Georgia No 210 of 15 July 2010 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 2459 of 25 December 2009 – LHG 1, No 49, 30.12.2009, Art. 371*

*Law of Georgia No 3598 of 17 September 2010 – LHG 1, No 54, 12.10.2010, Art. 350*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 3970 of 10 December 2010 – LHG 1, No 72, 22.12.2010, Art. 434*

## **Article 18 - Creditor and debtor rights**

1. The creditor and the debtor may:

a) attend an enforcement process, consult enforcement materials, obtain necessary information other than the information containing commercial (tax and bank) secrets or other confidential information related to enforcement;

b) reach a settlement;

c) dispute the title or price of property;

d) present persons interested in the acquisition of property to be sold to the National Bureau of Enforcement;

e) appeal a bailiff's act with the Chairperson of the National Bureau of Enforcement within 15 calendar days after the performance of such act, or directly in court within one month after the performance of such act;

f) appeal a decision made by the Chairperson of the National Bureau of Enforcement with regard to the appeal within one month after being served with such decision.

2. In the case of reaching a settlement in the process of enforcement, the creditor and the debtor shall file with the National Bureau of Enforcement a written agreement of settlement. For deciding whether or not to approve the settlement between the parties to the enforcement proceedings, within three days the National Bureau of Enforcement shall send the agreement to court within the jurisdictional territory of which the enforcement is pending, and where the enforcement is pending in the jurisdictional territories of more than one court simultaneously – to one of such courts.

3. The creditor and the debtor may apply to the court for deferment, rescheduling of enforcement or any other act related to enforcement.

4. In a dispute over the market value of property, the evaluation of such property and the enforcement activity performed based on such an evaluation or the auction results may not be cancelled, unless the starting price of the property announced at the first auction exceeds the market value of such property.

*Law of Georgia No 2394 of 9 September 1999 – LHG 1, No 44(51), 29.9.1999, Art. 232*

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 822 of 19 December 2008 – LHG 1, No 41, 30.12.2008, Art. 300*

*Law of Georgia No 1321 of 19 June 2009 – LHG 1, No 12, 29.6.2009, Art. 57*

*Law of Georgia No 2459 of 25 December 2009 – LHG 1, No 49, 30.12.2009, Art. 371*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

## **Article 18<sup>1</sup> - Representation of parties in enforcement proceedings**

1. The representation of parties in enforcement proceedings shall be determined as provided by the Civil Procedure Code of Georgia.

2. If the State Budget, the budget of an autonomous republic or the budget of the local self-governing unit is indicated as a creditor in the decision, in respect to the enforcement of such decision the State, the autonomous republic or the local self-governing unit shall be represented by a government agency/person, based on whose decisions the enforcement is conducted and/or based on whose application the court has delivered an enforceable decision. In enforcing such decision, under the agreement between the National Bureau of Enforcement and the government agency/person indicated in this paragraph, the National Bureau of Enforcement may represent the State, the autonomous republic, or the local self-governing unit.

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*





## **Article 18<sup>2</sup> - Keeping the documents of completed enforcement proceedings**

It shall be mandatory to keep the documents of completed enforcement proceedings. The rules and conditions for keeping such documents and the amount of fees payable for obtaining a copy of such documentation shall be determined by order of the Minister of Justice of Georgia.

*Law of Georgia No 822 of 19 December 2008 – LHG 1, No 41, 30.12.2008, Art. 300*

*Law of Georgia No 2797 of 23 March 2010 – LHG 1, No 14, 30.3.2010, Art. 84*

## **Article 18<sup>3</sup> - Appealing a bailiff's act to the National Bureau of Enforcement**

1. The party to an enforcement proceeding or an interested person whose legitimate interests are directly and proximately affected by a bailiff's act may file, on a one-off basis, with the Chairperson of the National Bureau of Enforcement, an appeal against the bailiff's act within 15 calendar days after the performance of such act. Such appeal cannot automatically suspend the appealed enforcement act. The Chairperson of the National Bureau of Enforcement may suspend the appealed enforcement act ex officio or based on submission of the concerned person/party to enforcement proceedings.

2. The appeal shall be lodged with the National Bureau of Enforcement. It shall state:

- a) the identity/name, identification details, actual place of residence and contact details of the appellant;
- b) the details of the case of the enforcement proceedings: enforcement case number, writ of execution/enforceable decision, parties to the enforcement proceedings;
- c) the identity of the bailiff whose act is appealed;
- d) the substance of the appealed act;
- e) the appellant's claim and its grounds as a matter of fact and as a matter of law;
- f) the list of the documents appended to the appeal, if any;
- g) the date of lodging the appeal and the signature of the authorised person.

2<sup>1</sup>. An appeal shall be filed in writing, as a rule, typed, and meet the requirements of this article and shall correspond with the sample forms approved by the Minister of Justice of Georgia.

3. The appeal shall be appended with evidence, if any.

4. The National Bureau of Enforcement shall not admit any appeal if it fails to meet the requirements under paragraphs 2(a),(g) and 2<sup>1</sup> of this article.

5. The Chairperson of the National Bureau of Enforcement shall not consider an appeal if:

- a) it does not meet the requirements under paragraph 2(e) of this article;
- b) there is a court judgment or decision of the claimant's withdrawal of a claim on the same subject in dispute, the respondent's admission of the claim and approval of a settlement between the parties to the enforcement proceedings;
- c) the case over a dispute between the same parties, over the same subject, and on the same grounds is pending before a court;
- d) there is a decision of a court or of the Chairperson of the National Bureau of Enforcement on the same matter;
- e) the appeal has been lodged by a person without capacity to contract;
- f) (deleted – 8.5.2012, No 6145)
- g) the term fixed by this Law for lodging the appeal has expired.

6. If the appeal fails to meet the requirements under paragraphs 2(b-d, and f) and 3 of this article or has been lodged by an unauthorised person, the appellant shall be informed within seven calendar days and shall be given a term within which he/she must submit additional documents and/or information.

7. The period for considering the appeal shall be suspended until such information and/or additional documents are presented. It shall resume upon presentation of relevant documents and/or information.

8. If the appellant fails to present relevant documents and/or information within the fixed term, the appeal shall not be considered.

9. The Chairperson of the National Bureau of Enforcement shall consider the appeal within 30 calendar days after receipt and inform the appellant of whether the appeal is allowed or denied. Depending on the complexity of a case, the Chairperson of the National Bureau of Enforcement may prolong the term for making a decision on the appeal for no more than 15 calendar days, of which he/she shall inform the appellant. The denial of an appeal by



the Chairperson of the National Bureau of Enforcement shall be substantiated. The appellant may appeal the denial of his/her appeal in court within the term fixed by this Law. The breach of the term for making a decision on the appeal by the Chairperson of the National Bureau of Enforcement shall be deemed denial of the appeal.

10. An order granting title to the buyer of property in enforcement proceedings is an individual administrative act and may be appealed in court.

11. The Chairperson of the National Bureau of Enforcement may ex officio abrogate an enforcement activity performed by a bailiff.

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

*Law of Georgia No 5171 of 28 October 2011 – website, 7.11.2011*

*Law of Georgia No 6145 of 8 May 2012 – website, 17.5.2012*

#### **Article 18<sup>4</sup> - Rescheduling the debtor's fulfilment of an obligation**

In a case involving the recovery of money, the Chairperson of the National Bureau of Enforcement may make a decision to reschedule the fulfilment of a debtor's obligation for up to 12 months: in enforcement proceedings enforceable in favour of the State Budget, the budget of an autonomous republic or the budget of the local self-governing unit, the decision shall be made ex officio and in any other case - with the consent of the creditor. If the conditions of rescheduling are breached, the enforcement proceedings shall be resumed.

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

#### **Article 19 - Consulting and handing over copies of materials of enforcement proceedings**

The party to enforcement proceedings may consult and obtain copies of materials of the enforcement proceedings other than the documents containing commercial (tax and bank) secrets and other confidential documents and their copies. A person involved in the enforcement proceedings may consult and obtain copies of the materials of the enforcement proceedings directly and proximately affecting his/her/its rights and/or legitimate interests other than the documents containing commercial (tax and bank) secrets and other confidential materials.

*Law of Georgia No 822 of 19 December 2008 – LHG 1, No 41, 30.12.2008, Art. 300*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

### **Chapter IV<sup>1</sup>**

#### **Register of Debtors**

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

#### **Article 19<sup>1</sup> - Maintaining the Register of Debtors**

1. The Register of Debtors is a means maintained prior to enforcing a monetary claim. This is a record of systematised electronic data on natural and legal persons and other organisational formations, against which enforcement has been initiated since the first of January 2010 other than the state and local self-government authorities and the debtor of a secured claim. A person shall be listed in the Register of Debtors immediately after the enforcement proceedings against him/her/it are opened.

<sup>1</sup>. The listing of a person in the Register of Debtors, the enforcement against whom started prior to 1 January 2010, may be performed on the initiative of the National Bureau of Enforcement.

2. The Register of Debtors ('the 'Register') shall be maintained by the National Bureau of Enforcement. The procedure for maintaining the Register shall be approved by the Minister of Justice of Georgia.

3. Listing in the Register shall not release a person from enforcement of monetary recovery.

4. The records of the Register are public and the National Bureau of Enforcement shall ensure the accessibility of such records for the authorities indicated in Article 19<sup>2</sup> of this Law and shall ensure regular updating of such records.

5. Based on the records of the Register, the duly authorised persons of the National Bureau of Enforcement and those of enforcement bureaus shall release certificates and extracts to natural and legal persons no later than the following business day after an application is submitted. The relevant certificate and extract from the Register shall be issued against prepayment of a fixed fee and based on the interested person's application.

6. The amount and procedure of payment of the fee for obtaining the relevant certificates and extracts from the Register shall be determined by an order of the Minister of Justice of Georgia.



*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 2461 of 25 December 2009 – LHG 1, No 49, 30.12.2009, Art. 373*

*Law of Georgia No 2797 of 23 March 2010 – LHG 1, No 14, 30.3.2010, Art. 84*

*Law of Georgia No 3167 of 28 June 2010 – LHG 1, No 34, 9.7.2010, Art. 203*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

## **Article 19<sup>2</sup> - Obligations of the state, bank, and other institutions in connection with the register**

1. Immediately after the registration of a vehicle and a civil weapon for a person listed in the Register, the authorized bodies of the Ministry of Internal Affairs of Georgia shall give the National Bureau of Enforcement/private bailiff a notice thereof and shall suspend the registration of any further disposal of the debtor's property until the person is struck off the Register, save with a compulsory disposal of such property according to the legislation of Georgia and except as provided by Article 19<sup>4</sup>(3) of this Law.

2. Immediately after a person listed in the Register registers title or any other right to property, the National Agency of Public Registry, a legal entity under public law operating under the governance of the Ministry of Justice of Georgia, shall give the National Bureau of Enforcement/private bailiff a notice on the cases conducted by the latter and shall suspend the registration of any further disposal of the debtor's property until the person is struck off the Register save with a compulsory disposal of such property according to the legislation of Georgia and except as provided by Article 19<sup>4</sup>(3) of this Law.

3. No later than the following banking day after the listing of a person in the Register, a banking institution shall give the National Bureau of Enforcement/private bailiff, for the proceeding conducted by him/her/it, a notice of the accounts and balances of accounts of the person listed in the Register. Furthermore, the bank institution shall attach the person's account(s) to the extent of the enforceable claim. The banking institution shall forthwith give the National Bureau of Enforcement a notice of the opening of any new account(s) by a person listed in the Register and of any transactions performed in such account(s), and shall attach such account(s), as well, if the attachment enforced against the account(s) has failed to apply to the full extent of the enforceable claim.

4. Correspondence between the National Bureau of Enforcement and the institutions referred to in this article shall be performed by automated management tools. The rules and conditions for such correspondence shall be determined by an agreement between the National Bureau of Enforcement and the institutions referred to in this article.

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 2461 of 25 December 2009 – LHG 1, No 49, 30.12.2009, Art. 373*

*Law of Georgia No 2797 of 23 March 2010 – LHG 1, No 14, 30.3.2010, Art. 84*

*Law of Georgia No 3167 of 28 June 2010 – LHG 1, No 34, 9.7.2010, Art. 203*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

## **Article 19<sup>3</sup> - Restriction of the rights of a person listed in the register**

Upon being listed in the Register, person's right to dispose of (encumber) movable and immovable assets and other intangible assets subject to registration in the relevant register shall be restricted except as provided by Article 19<sup>4</sup>(3) of this Law.

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 2461 of 25 December 2009 – LHG 1, No 49, 30.12.2009, Art. 373*

*Law of Georgia No 2797 of 23 March 2010 – LHG 1, No 14, 30.3.2010, Art. 84*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

## **Article 19<sup>4</sup> - Cancelling restrictions imposed upon a person listed in the register and striking such person off the register**

1. The restrictions imposed upon a person listed in the Register shall be cancelled in full upon striking the person off the Register.

2. The grounds for striking a person off the Register shall be:

a) full enforcement of the recovery of money



- b) replacing the fine with any other penalty
- c) cases provided by Articles 34 and 35 of this Law
- d) court decision
- e) (deleted – 17.06.2011, No 4827).

3. If the National Bureau of Enforcement agrees in the cases enforceable in favour of the State Budget, the budget of an autonomous republic, or the budget of a local self-governing unit, and in other cases - if the creditor agrees as well, a person listed in the Register may dispose of the assets restricted as a result of listing in the Register.

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 2797 of 23 March 2010 – LHG 1, No 14, 30.3.2010, Art. 84*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

## **Chapter V**

### **Enforcement**

#### **Article 20 - Writ of execution**

1. No enforcement proceedings may take place without a writ of execution (original copy) except in the cases related to the enforcement of judgements of the European Court of Human Rights, the mortgage certificate defined by Article 258<sup>1</sup> of the Civil Code of Georgia, the immovable property buyer's application, a debt recovery order and enforcement order under Article 2 of this Law.
2. A writ of execution shall be issued for the decisions enforceable under this Law. The writ of execution shall be issued to the creditor.
3. A court decision that is made in the process of enforcement proceedings and is subject to enforcement shall be enforced without any writ of execution, based on the court decision in force or the decision against which a complaint subject to time limit may be lodged.
4. Enforcement may be terminated without a writ of execution based on the court judgement in force.

*Law of Georgia No 1865 of 7 July 2005 – LHG 1, No 38, 15.7.2005, Art. 261*

*Law of Georgia No 3384 of 23 June 2006 – LHG 1, No 24, 29.6.2006, Art. 192*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 1542 of 17 July 2009 – LHG 1, No 21, 3.8.2009, Art. 125*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 6145 of 8 May 2012 – website, 17.5.2012*

*Law of Georgia No 6433 of 12 June 2012 – website, 25.6.2012*

*Law of Georgia No 2049 of 5 March 2014 – website, 17.3.2014*

#### **Article 21 - Details of a writ of execution**

1. (Deleted)
2. The decision-making authority shall release a writ of execution to the creditor after the decision comes into effect except for immediately enforceable cases provided by the Civil Procedure Code of Georgia, when the writ of execution is released as soon as the decision is delivered.
3. The writ of execution shall state:
  - a) the name of the court issuing the writ of execution or of the authority making an enforceable decision
  - b) the case, for which the writ of execution has been issued
  - c) the date of making the decision
  - d) substantive provisions of the decision
  - e) the date of issue of the writ of execution



f) the creditor's and debtor's names and details, including personal numbers or taxpayer identification numbers and any other contact details known to the authority issuing the writ of execution. This rule shall not apply to the enforcement of foreign court decisions in the territory of Georgia where so provided under the international agreements of Georgia.

3<sup>1</sup>. In addition to the details referred to in paragraph 3 of this article, the writ of execution issued by a notary shall state:

- a) the name and surname of the notary issuing the writ of execution and the address of the notary office
- b) the basis for the origin of the obligation
- c) the time for performing the obligation
- d) the type and scope of the obligation to be enforced
- e) the registration number of the writ of execution in the register of notary acts.

3<sup>2</sup>. In addition to the details referred to in paragraph 3 of this article, the writ of execution issued by the Ministry of Finance of Georgia shall state:

- a) basis for issuing the loan (issuer of the order and its issue date)
- b) the date of issue of an individual administrative-legal act and of making an extract of the writ of execution
- c) substantive provisions of the individual administrative act, with reference to the rule and means of enforcement.

4. The writ of execution shall be certified with the signature and seal of the decision-maker except for arbitral awards, for which the court issuing the writ of execution shall certify the writ of execution, and except for a writ of execution issued via automated management tools.

5. The individual administrative act on the enforcement of judgements of the European Court of Human Rights shall be issued by the Minister of Justice of Georgia within two weeks after the delivery of such judgement.

6. Deleted – 5.3.2014, No 2049).

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 1828 of 30 June 2005 – LHG 1, No 41, 19.7.2005, Art. 285*

*Law of Georgia No 1865 of 7 July 2005 – LHG 1, No 38, 15.7.2005, Art. 261*

*Law of Georgia No 3384 of 23 June 2006 – LHG 1, No 24, 29.6.2006, Art. 192*

*Law of Georgia No 822 of 19 December 2008 – LHG 1, No 41, 30.12.2008, Art. 300*

*Law of Georgia No 1321 of 19 June 2009 – LHG 1, No 12, 29.6.2009, Art. 57*

*Law of Georgia No 1282 of 19 June 2009 – LHG 1, No 13, 2.7.2009, Art. 65*

*Law of Georgia No 2183 of 1 December 2009 – LHG 1, No 38, 1.12.2009, Art. 283*

*Law of Georgia No 2459 of 25 December 2009 – LHG 1, No 49, 30.12.2009, Art. 371*

*Law of Georgia No 2797 of 23 March 2010 – LHG 1, No 14, 30.3.2010, Art. 84*

*Law of Georgia No 3167 of 28 June 2010 – LHG 1, No 34, 9.7.2010, Art. 203*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

*Law of Georgia No 2049 of 5 March 2014 – website, 17.3.2014*

## **Article 22 - Issuing several writs of execution for a single decision**

Where enforcement is to take place at different places or where a decision is issued for several claimants or against several respondents, the court may issue several writs of execution by specifying the place of enforcement and the part of a decision enforceable under the writ of execution.

## **Article 23 - Issuing a duplicate writ of execution**

If a writ of execution is lost, the authority having issued the first counterpart may issue a duplicate writ of execution.

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*



## Article 24 - Issuing a writ of execution for or against assignees

A writ of execution may be issued for the assignee of a creditor or against the assignee of the debtor named in the decision if succession is clear or the document of succession is executed by the relevant authorised body or certified by a notary. If the necessary verification cannot be evidenced from the document executed by the relevant authorised body or certified by the notary, then the creditor or his/her assignee shall file an application for establishing the status of assignment and issuing the writ of execution with the decision-making court.

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

## Article 25 - Initiation of enforcement

1. The National Bureau of Enforcement shall initiate enforcement proceedings based on a creditor's written application for compulsory enforcement and the writ of execution, in connection with a judgement of the European Court of Human Rights - based on the individual administrative act of the Minister of Justice of Georgia, in connection with the enforcement of a mortgage certificate defined by Article 258<sup>1</sup> of the Civil Code of Georgia - based on an application of the mortgagee holding the mortgage certificate and the mortgage certificate, in connection with the application of the immovable property buyer referred to in Article 2 of this Law - based on the application of the immovable property buyer for reclaiming the immovable property from the possession and use of the other person, in connection with the enforcement of the debt recovery order - based on the debt recovery order and a creditor's application, in connection with the enforcement order - based on the enforcement order and the creditor's application. Where a summary proceeding of claims for the recovery of a monetary debt involves a preliminary claim for enforcement of the debt recovery order, the creditor shall no longer file an application for initiation of enforcement. The creditor's application for initiation of enforcement may not be required, either, if the enforcement order is to be immediately enforced. Enforcement of a decision defined by Article 2 of this Law, for which a writ of execution is required, may be initiated only when the persons, for or against whom/which enforcement is to occur, are specifically named in the writ of execution. If the creditor's claim is secured with a hypothecation or registered mortgage, compulsory enforcement shall be conducted even when the owner of the property used as collateral is not the debtor mentioned in the writ of execution. In such case, the registered owner of the property shall be presumed to be the debtor's assignee until proved otherwise. If the decision is to be enforced in favour of the State Budget, the budget of an autonomous republic or the budget of a local self-governing unit, the court shall send the writ of execution to the territorial authority of the National Bureau of Enforcement according to the location of the debtor.

2. When enforcing decisions for increasing a creditor's claim by charging interest and/or default surcharge penalties on the principal amount, the charging of interest and/or default surcharge penalties on the principal amount of the creditor's claim shall stop from the day of initiation of the enforcement proceedings except where a tax claim is involved. Charging of interest and/or default surcharge penalties on the principal amount of a creditor's claim shall be resumed from the day when the National Bureau of Enforcement returns the writ of execution to the creditor under Article 35 of this Law.

3. The writ of execution and/or the enforceable decision shall be presented to the territorial authority of the National Bureau of Enforcement according to the location of the debtor and/or the debtor's property and where so provided by Chapter III<sup>2</sup> of this Law - to a private bailiff. When applying to the National Bureau of Enforcement for initiation of enforcement proceedings, it is not mandatory to adhere to the territorial principle, if the creditor is a natural person, a legal entity under private law or an association of persons not created as a legal entity. A certified copy of the enforceable decision shall be appended to the writ of execution.

4. Where the property is reclaimed from the possession and/or use of another person, a document evidencing the market value of the property issued by an authorised person or body shall be presented together with the writ of execution or the application of the mortgagee holding the mortgage certificate or the application of the immovable property buyer referred to in Article 2 of this Law. The National Bureau of Enforcement may not rely on the presented property evaluation and may evaluate the property on its own. If the evaluation finds that the value of the property is higher than stated in the application presented by the person, and the enforcement proceedings have been initiated, the National Bureau of Enforcement shall set a time frame for the creditor to increase the amount of the fee already paid by the creditor up to the full amount. Failure to meet the obligation shall result in returning the writ of execution/enforceable decision to the creditor without enforcing it.

4<sup>1</sup>. Based on the application of the person wishing to present the writ of execution/enforceable decision referred to in paragraph 4 of this article for enforcement, the National Bureau of Enforcement may evaluate the property in return for the fee fixed pursuant to the service fee determined by an order of the Minister of Justice of Georgia. In such case, the enforcement proceedings may be initiated even without presentation of the document certifying the market value of the property. After it has evaluated the property, the National Bureau of Enforcement shall set a time frame for the creditor to pay the fixed preliminary fee. The creditor's failure to pay the fee within such time frame shall result in returning the writ of execution/enforceable decision to the creditor without enforcing it.

5. When presenting an application for reclaiming the property from the possession or use of other person for enforcement, the immovable property buyer referred to in Article 2 of this Law shall append to it the order of the National Bureau of Enforcement on the origin of title to property or an equal document issued by the National Bureau of Enforcement, and the Extract from Public Registry evidencing such buyer's title to the property.

6. The National Bureau of Enforcement shall inform the parties to the enforcement proceedings on the initiation of enforcement according to this article, as determined by the Civil Procedure Code of Georgia for service of notice.

7. The National Bureau of Enforcement shall inform the debtor within no later than five days after the initiation of the enforcement proceedings. The debtor shall be informed of:

- a) the imposition of only the relevant part of enforcement fee prepaid by the creditor in the event of voluntary fulfilment of claim or of the full amount of enforcement fee in the event of voluntary non-fulfilment of the claim within seven days of information;
- b) the rights defined by Article 18 of this Law;
- c) legal implications of the initiation of the enforcement proceedings;



d) the possible measures to be implemented under this Law for the compulsory enforcement;

e) the rules and means of obtaining specific information on enforcement.

8. The debtor shall not be given any additional notice of a particular time and place of the enforcement measure.

9. In the cases for the recovery of a monetary amount, reclaiming property from other person's possession, transfer of property or in such other categories of cases when enforcement is conducted upon or at the expense of the debtor's property, upon serving an offer (or if the offer cannot be served in a timely manner) the bailiff shall immediately start locating, taking inventory of and attaching the debtor's property as provided by this Law.

10. In enforcing the decision referred to in Article 2(l) of this Law, the National Bureau of Enforcement shall not attach the debtor's (taxpayer's) property if such property has been attached under Article 3(1<sup>1</sup>) of this Law.

10<sup>1</sup>. In enforcing the debt recovery referred to in Article 2 of this Law, the National Bureau of Enforcement shall not re-attach the debtor's property if such property has been attached in a summary proceeding over the claims for the recovery of a monetary debt under Chapter XVI<sup>1</sup> of this Law.

11. If a decision is immediately enforceable, the debtor shall be given a notice of immediate and voluntary fulfilment of the decision.

12. Where so provided by this Law, the notices, offers, decisions, and other documents sent by the National Bureau of Enforcement shall be served upon the persons involved in an enforcement proceeding as provided by the Civil Procedure Code of Georgia. When the receipt of correspondence is confirmed with the recipient's signature, such signature shall be deemed authentic even if it is made by using an electronic and/or technical device.

13. Upon receiving the creditor's application for enforcing a court decision with the funds of the State Budget, the budget of an autonomous republic, or the budget of the local self-governing unit, the National Bureau of Enforcement shall inform the indebted public authority and the Ministry of Finance of Georgia on voluntary fulfilment of the decision with the budget funds.

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 822 of 19 December 2008 – LHG 1, No 41, 30.12.2008, Art. 300*

*Law of Georgia No 1321 of 19 June 2009 – LHG 1, No 12, 29.6.2009, Art. 57*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

*Law of Georgia No 5668 of 28 December 2011 – website, 16.1.2012*

*Law of Georgia No 6145 of 8 May 2012 – website, 17.5.2012*

*Law of Georgia No 6433 of 12 June 2012 – website, 25.6.2012*

*Law of Georgia No 2049 of 5 March 2014 – website, 17.3.2014*

## **Article 25<sup>1</sup> - Stages of enforcement proceedings**

The stages of enforcement proceedings for the recovery of a monetary amount shall be as follows:

a) initiation of enforcement;

b) attachment of property;

c) holding an auction;

d) giving an amount to the creditor.

*Law of Georgia No 5668 of 28 December 2011 – website, 16.1.2012*

## **Article 26 - (Deleted)**

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 1865 of 7 July 2005 – LHG 1, No 38, 15.7.2005, Art. 261*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 2459 of 25 December 2009 – LHG 1, No 49, 30.12.2009, Art. 371*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*



## **Article 27 - Clarification toward enforceable decisions**

An enforceable decision shall be clarified upon application from the parties to the enforcement proceedings or application from the National Bureau of Enforcement, as provided by the Civil Procedure Code of Georgia.

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

## **Article 28 - (Deleted)**

*Law of Georgia No 485 of 13 July 2000 – LHG 1, No 30, 27.7.2000, Art. 95*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 1321 of 19 June 2009 – LHG 1, No 12, 29.6.2009, Art. 57*

*Law of Georgia No 3167 of 28 June 2010 – LHG 1, No 34, 9.7.2010, Art. 203*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

*Law of Georgia No 5171 of 28 October 2011 – website, 7.11.2011*

*Law of Georgia No 5668 of 28 December 2011 – website, 16.1.2012*

## **Article 28<sup>1</sup> - Procedure for enforcement of the fine imposed under the sentence in the case of the restraining measure of bail**

Within 10 days after the writ of execution has been lodged with an enforcement bureau, the National Bureau of Enforcement shall, by a written consent from the convict and the bailor (or where the bailor is a convict himself/herself or bail has been posted on behalf of the convict - without his/her consent), enforce a claim upon the amount of bail deposited to the deposit account of the National Bureau of Enforcement as provided by this Law.

*Law of Georgia No 3167 of 28 June 2010 – LHG 1, No 34, 9.7.2010, Art. 203*

*Law of Georgia No 2939 of 28 April 2006 – LHG 1, No 14, 15.5.2006, Art. 91*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 2797 of 23 March 2010 – LHG 1, No 14, 30.3.2010, Art. 84*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

## **Article 28<sup>2</sup> - Enforcing a claim upon the immovable property posted as bail in a criminal case**

1. Where bail is secured with immovable property, within seven days after being informed from the National Bureau of Enforcement, the owner of such property (concerned person) shall deposit a certain amount as bail to the deposit account of the National Bureau of Enforcement, after which such property shall be discharged from attachment.

2. In case of non-fulfilment of the obligation under paragraph 1 of this article, with the purpose of enforcing recovery of a certain amount as a bail, the sale of the immovable property shall be enforced in accordance with the rules provided by Chapter XIII of this Law.

3. (Deleted)

*Law of Georgia No 822 of 19 December 2008 – LHG 1, No 41, 30.12.2008, Art. 300*

*Law of Georgia No 1321 of 19 June 2009 – LHG 1, No 12, 29.6.2009, Art. 57*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 5668 of 28 December 2011 – website, 16.1.2012*

## **Article 29 - Report**

1. A bailiff shall execute a report on performing enforcement acts other than the holding of an auction. 2. The report shall include:

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- a) place and time of execution
- b) the identity of the bailiff executing the report
- c) the identity of the persons attending the enforcement activity
- d) the name of the writ of execution/enforceable decision, under which the proceeding is enforced
- e) the names of the creditor and debtor
- f) the name of the enforcement activity.

3. The report shall be signed by the bailiff and the persons attending the enforcement activity. Any refusal to sign shall be indicated in the report. Where the enforcement activity is videoed, the report shall include the details referred to in paragraph 2 of this article other than those given in paragraph (2)(c) of this article.

4. (Deleted – 17.6.2011, No 4827).

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

## Chapter VI

### Judicial Competence

#### Article 30 - Finding the debtor

If the debtor's whereabouts is unknown or if the debtor avoids the obligation on purpose, the National Bureau of Enforcement may lodge a reasonable motion with the court, based on which the court shall issue a writ of finding the debtor and bringing him/her before the court through police authorities.

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

#### Article 31 - Safeguarding the debtor's interests upon the compulsory enforcement

1. In exercising the rights under Article 17(4) of this Law and in performing the acts under Articles 83, 84 and 90<sup>1</sup> of this Law, if the continuation of the relevant act does not comply with the general principles and standards of moral due to the special circumstances (debtor's or his/her family member's illness, death or other emergency circumstance) at the place of enforcement, upon the debtor's application the National Bureau of Enforcement may postpone this or that compulsory enforcement measure, for not more than six months. The National Bureau of Enforcement may prolong the time frame it has set to six more months on a one-off basis.

2. If the actual situation does not change despite the expiry of the time frame indicated in paragraph 1 of this article, upon the debtor's application the National Bureau of Enforcement may fully or partly cancel the compulsory enforcement measure, prohibit or temporarily suspend this or that measure for not more than three months.

3. If the actual situation changes, the court may cancel or modify the judgment on enforcement upon the creditor's application.

4. In the cases provided by this article applications shall be considered as provided by Article 263 of the Civil Procedure Code of Georgia.

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 1321 of 19 June 2009 – LHG 1, No 12, 29.6.2009, Art. 57*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

#### Article 32 - Third person's claim of title to property distrained due to other's debts



1. If a third person claims any right to an object of enforcement, the third person may file a claim with the court within the jurisdictional territory of which enforcement is pending. The court shall hear such claim in an action proceeding (claim for discharge of property from attachment).
2. The claim for discharge of property from attachment shall be presented to the debtor and the creditor.
3. If the attached property has already been sold, the third person may claim for the compensation of damages from the debtor, due to the obligation of which/whom the third person's property was sold. *Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

## Chapter VII

### Postponement, Termination, Suspension of Enforcement, Returning of the Enforceable Documents

#### Article 33 - (Deleted)

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

#### Article 34 - Termination of enforcement

1. Enforcement shall be terminated if:
  - a) the creditor drops the enforcement;
  - b) the creditor and the debtor reach a settlement;
  - c) the claims or obligations ascertained after the death of the creditor or debtor cannot be transferred to the decedent's legal successor;
  - d) the decision, for the enforcement of which the enforcement proceedings are pending, has been cancelled;
  - e) limitation period for a compulsory enforcement of the enforceable decision has expired;
  - f) the decision cannot be enforced due to amendments introduced in the legislation of Georgia;
  - g) the legal person (creditor or debtor) has been liquidated and succession is impermissible or a legal successor does not exist under the legal relationship ascertained by court;
  - h) the immovable property holder identified by Article 84 of this Law submits, within the period fixed by the same article, to the National Bureau of Enforcement the document of a legitimate possession and use of the property defined by this Law;
  - i) upon the property buyer's application referred to in Article 2 of this Law, the enforcement debtor presents the document of a legitimate possession and use of the property defined by this Law before the end of the enforcement proceedings;
  - j) 10 years has elapsed since the initiation of the enforcement proceedings in an action for the recovery of a monetary amount other than the claim for the recovery of alimony, claim for damages arising from labour relations, maiming or other health impairment as well as from the loss of a breadwinner or claim for damages arising from an offence or an administrative offence or the enforcement proceedings for or against the State Budget, the budget of an autonomous republic or the budget of the local self-governing unit;
  - k) five years has elapsed since the initiation of the enforcement proceedings related to the imposition of fine as an administrative penalty;
  - l) (deleted – 25.3.2013, No 466).

2. In the event of termination of the enforcement proceedings, all the measures performed for enforcement shall be cancelled.

3. In the event of termination of the enforcement proceedings, the proceedings cannot be renewed based on the same decision.

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 3167 of 28 June 2010 – LHG 1, No 34, 9.7.2010, Art. 203*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

*Law of Georgia No 5171 of 28 October 2011 – website, 7.11.2011*

*Law of Georgia No 5916 of 20 March 2012 – website, 30.3.2012*

*Law of Georgia No 466 of 25 March 2013 – website, 5.4.2013*



## **Article 35 - Returning the writ of execution/enforceable decision**

1. The writ of execution/enforceable decision, under which no or only partial enforcement has occurred, shall be returned to the creditor:

- a) at the creditor's application;
- b) if the debtor does not reside or the property is not located at the address indicated by the creditor except where the debtor is wanted through the police authorities;
- c) if despite a warning by the National Bureau of Enforcement, the creditor does not fulfil the rights and duties provided by this Law within one month after such warning, due to which the decision cannot be enforced;
- d) in the case provided by Article 36(2)(a) of this Law;
- e) if the decision cannot be enforced due to the actual circumstance and/or a legal ground. In such case, the decision on returning the writ of execution/enforceable decision shall be made by the Chairperson of the National Bureau of Enforcement;
- f) if in the case provided by Article 25(4, 4<sup>1</sup>) of this Law and within the period set by the National Bureau of Enforcement the creditor does not top the preliminary fee up to the amount fixed by the National Bureau of Enforcement as a result of evaluation of the property or does not pay the preliminary fee if the enforcement proceedings have been initiated without payment of any preliminary fee by the creditor.

1<sup>1</sup>. If the creditor's claim cannot be allowed within two years after the initiation of the enforcement proceedings for recovery of a monetary amount due to the fact that the debtor has no property recoverable, the writ of execution/enforceable decision shall be returned to the creditor other than the claim for the recovery of alimony, claim for damages arising from labour relations, maiming or other health impairment as well as from the loss of a breadwinner or claim for damages arising from an offence or an administrative offence or the enforcement proceedings for or against the State Budget, the budget of an autonomous republic or the budget of the local self-governing unit.

1<sup>2</sup>. In the case provided and prior to the expiry of the period fixed by paragraph 1<sup>1</sup> of this article, the creditor may apply to the National Bureau of Enforcement for prolongation of the period of enforcement proceedings by one year, for which the creditor shall pay the fee of GEL 200. Prior to the expiry of the period fixed by Article 34(1)(j) of this Law, the creditor may apply to the National Bureau of Enforcement annually for prolongation of the period of enforcement proceedings provided he/she/it has paid the fee under Article 35(1<sup>2</sup>) of this Law.

2. If the writ of execution/enforceable decision is returned, all the measures performed for enforcement shall be cancelled and the limitation period on the enforcement of the decision under this Law shall be suspended until the new enforcement proceedings regarding the same case is initiated.

*Law of Georgia No 941 of 19 June 2001 – LHG 1, No 20, 3.7.2001, Art. 68*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 1321 of 19 June 2009 – LHG 1, No 12, 29.6.2009, Art. 57*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

## **Article 36 - Suspension of enforcement and its periods**

1. The court may suspend enforcement:

- a) in the event of liquidation of a corporate debtor, until its legal successor is identified, if succession is allowed under the legal relationship ascertained by court;
- b) where the debtor has lost capacity to contract, until his/her representative is appointed;
- c) where an appeal is lodged against the action of the body (official) authorised to hear the case of an administrative offence until the decision is made;
- d) in lodging a claim for discharging property from attachment; in respect of enforcement upon the disputed property and until the relevant decision is made;
- e) if a claim/application for suspension of enforcement proceedings initiated upon the immovable property buyer's application referred to in Article 2 of this Law is lodged; until a decision is made;
- f) In other cases provided by the legislation of Georgia.

2. The National Bureau of Enforcement may suspend enforcement:

- a) by request of the creditor, on one-off basis, for not more than three months. After the expiry of this period, the writ of execution shall be returned to the creditor unless he/she/it requests prolongation of enforcement;
- b) if the National Bureau of Enforcement lodges a motion with the court for clarification toward the enforceable decision for the period fixed for making the decision by the court;



- c) if the creditor or debtor dies before the court identifies the legal successor and before the debtor's property is transferred to the legal successor;
- d) if the fulfilment of his/her/its obligation by the debtor is rescheduled under Article 18<sup>4</sup> of this Law before the proceedings are resumed;
- e) in connection with the examination of an appeal of a party to the enforcement proceedings as provided by Article 18<sup>3</sup> of this Law by decision of the Chairperson of the National Bureau of Enforcement;
- f) in fixing a period for the creditor to pay fee under Article 25(4)(4<sup>1</sup>) of this Law; before such period expires;
- g) in special cases, by decision of the Chairperson of the National Bureau of Enforcement, for the period fixed under the same decision.

3. Before or after the National Bureau of Enforcement attaches the debtor's property, if under the Criminal Procedure Code of Georgia the court has attached the same property to secure a possible deprivation of property, a coercive measure under the criminal procedure, the National Bureau of Enforcement shall suspend enforcement upon the property before the prosecutor's written consent is obtained.

*Law of Georgia No 2394 of 9 September 1999 – LHG 1, No 44(51), 29.9.1999, Art. 232*

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 3437 of 13 July 2006 – LHG 1, No 32, 31.7.2006, Art. 244*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 2459 of 25 December 2009 – LHG 1, No 49, 30.12.2009, Art. 371*

*Law of Georgia No 3167 of 28 June 2010 – LHG 1, No 34, 9.7.2010, Art. 203*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

#### **Article 37 - (Deleted)**

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

### **Chapter VIII**

#### **Enforcement Fee and Expenses**

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

#### **Article 38 - Enforcement fee**

1. Enforcement fee ('the Fee') is a mandatory fee (gross of VAT) payable under the legislation of Georgia for the services provided by the National Bureau of Enforcement to the account of the National Bureau of Enforcement.
2. The fee revenues (net of VAT) shall be fully used for the benefit of the National Bureau of Enforcement.
3. The amounts charged as interests by bank institutions to the deposit accounts of the National Bureau of Enforcement as well as other revenues of the National Bureau of Enforcement shall be fully used for the benefit of the National Bureau of Enforcement.
4. The amount and terms of payment of the fee shall be determined by the order of the Minister of Justice of Georgia.
5. The fee shall be payable by the debtor. The fee related to the cases for the recovery of money shall be recovered together with the enforceable claim.
6. The amount of the fee payable in connection with the cases for the recovery of money shall not exceed 7% of the enforceable claim except as provided by paragraph 6<sup>1</sup> of this article. The amount of the fee in connection with the cases for the recovery of money shall not be less than GEL 50 other than the fee fixed for the enforcement of the decisions under Article 268(1)(a-c) of the Civil Procedure Code of Georgia.

6<sup>1</sup>. The fee in enforcement proceedings for enforcing the state dues, the fine imposed under administrative procedure, the compensation of damages and/or the fee for enforcing payment of default surcharge penalties shall be determined as follows:

- a) if the state due or the fine imposed in an administrative procedure, compensation of damages and/or default surcharge penalties are under GEL 100 – 25% of the state due or of the fine imposed in an administrative procedure, compensation of damages and/or default surcharge penalties, but not less than GEL 20;
- b) if the state due or the fine imposed in administrative proceedings, compensation of damages and/or default surcharge penalties are from GEL 100 to GEL 200 – 20% of the state due or of the fine imposed in an administrative proceedings, compensation of damages and/or default surcharge penalties but not less than GEL 30;



c) if the state due or the fine imposed in administrative proceedings, compensation of damages and/or default surcharge penalties are from GEL 200 to GEL 500 – 10% of the state due or of the fine imposed in an administrative proceedings, compensation of damages and/or default surcharge penalties but not less than GEL 40;

d) if the state due or the fine imposed in an administrative proceedings, compensation of damages and/or default surcharge penalties are GEL 500 or over – 7% of the state due or of the fine imposed in an administrative proceedings, compensation of damages and/or default surcharge penalties but not less than GEL 50.

7. In lodging a writ of execution with the National Bureau of Enforcement by the creditor in a case for the recovery of money, the amount of the fee payable by the creditor shall not exceed 2% of the enforceable claim and shall not be less than GEL 50. The amount paid in the form of the fee shall be refunded to the creditor pro rata to the amount recovered.

7<sup>1</sup>. In initiating enforcement proceedings for the enforcement of the debt recovery order referred to in Article 2 of this Law, the preliminary enforcement fee shall be deemed to have been paid by the creditor, if the creditor has fully posted the fee as a bond with the National Bureau of Enforcement in summary proceedings.

8. Where so provided by Articles 34 and 35 of this Law, also if the writ of execution/enforceable decision is retracted, modified or cancelled by the authority/person having issued such decision, the prepaid fee shall not be refunded to the creditor.

9. If a claim is allowed in part or stage by stage, the enforcement costs are covered in the first place, then – the fee and the enforceable claim pro rata to the amount recovered.

10. The amount and terms of payment of the fee payable by the creditor when lodging a writ of execution/enforceable decision with the National Bureau of Enforcement for enforcing the cases involving the recovery/transfer of an object from an illegal possession, the immovable property buyer's application referred to in Article 2 of this Law, a measure of security of action over each object subject to registration and other categories of cases shall be determined by the order of the Minister of Justice of Georgia. The creditor may claim the paid fee and relevant expenses through court.

11. The fee for the enforcement of decisions under Article 268(1)(a-d) of the Civil Procedure Code of Georgia and the fines imposed under criminal proceedings (except as provided by paragraph 15 of this Article) and the amounts payable to National Bank of Georgia, the Legal Entity under Public Law (LEPL) – the State Insurance Supervision Service of Georgia, the Legal Entity under Public Law (LEPL) within the governance of the Ministry of Finance of Georgia – the Revenue Service, the central and local self-government authorities, amounts payable to the State Budget, the budget of an autonomous republic and/or the budget of the local self-governing unit, including state due, and the fee for the enforcement of the decisions under Article 2(l) of this Law shall not be collected in advance. The fee shall be paid by the debtor upon initiation of enforcement.

12. The following shall be exempt from the obligation to prepay the fee:

a) a person filed in the integrated database of socially vulnerable families, as evidenced with the relevant certificate;

b) a creditor under the court decision (considering the creditor's material status, the court may exempt the creditor from prepayment of court costs in the cases and as provided by the Civil Procedure Code of Georgia for exemption);

c) a creditor by the time of enforcement of the enforcement order.

13. Exemption from payment and imposition of the fee shall be granted to the authorities of the State, autonomous republics and local self-governing units, including in connection with the in-kind transfer, as provided by this Law, to the State/autonomous republic/local self-governing unit (except as provided by paragraph 16 of this article), and the creditors of these authorities. The fee shall not be paid or imposed for the cases related to the judgement of the European Court of Human Rights.

13<sup>1</sup>. No exemption from prepayment and imposition of the fee shall be granted to legal entities under public law other than the National Bank of Georgia, the LEPL State Insurance Supervision Service of Georgia and the LEPL Revenue Service within the governance of the Ministry of Finance of Georgia.

14. The amount of the fee payable if the debtors of the creditors with monetary claims identified in the twelfth paragraph of this article have fully fulfilled the claims within the period fixed by this Law shall not exceed 2% of the enforceable monetary claim and shall not be less than GEL 50.

15. The fee shall not be collected for the amounts placed on the deposit account of the National Bureau of Enforcement prior to the initiation of enforcement, including for the amounts deposited under Article 200(1) of the Criminal Procedure Code of Georgia.

16. Where property is transferred in kind to the State/autonomous republic/local self-governing unit, the fee shall be recovered if the State/autonomous republic/local self-governing unit subsequently sells the property and such fee shall account for 7% of the sales proceeds.

*Law of Georgia No 3384 of 23 June 2006 – LHG 1, No 24, 29.6.2006, Art. 192*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 822 of 19 December 2008 – LHG 1, No 41, 30.12.2008, Art. 300*

*Law of Georgia No 1321 of 19 June 2009 – LHG 1, No 12, 29.6.2009, Art. 57*

*Law of Georgia No 1542 of 17 July 2009 – LHG 1, No 21, 3.8.2009, Art. 125*

*Law of Georgia No 2459 of 25 December 2009 – LHG 1, No 49, 30.12.2009, Art. 371*

*Law of Georgia No 3167 of 28 June 2010 – LHG 1, No 34, 9.7.2010, Art. 203*

*Law of Georgia No 3374 of 6 July 2010 – LHG 1, No 39, 19.7.2010, Art. 243*



*Law of Georgia No 3619 of 24 September 2010 – LHG 1, No 51, 29.9.2010, Art. 332*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

*Law of Georgia No 5171 of 28 October 2011 – website, 7.11.2011*

*Law of Georgia No 6145 of 8 May 2012 – website, 17.5.2012*

*Law of Georgia No 6433 of 12 June 2012 – website, 25.6.2012*

*Law of Georgia No 1467 of 4 October 2013 – website, 16.10.2013*

*Law of Georgia No 2049 of 5 March 2014 – website, 17.3.2014*

## **Article 39 - Enforcement costs**

1. The funding of the enforcement of the decisions under Article 268(1)(a-d) of the Civil Procedure Code of Georgia, fines imposed under criminal and administrative procedures, amounts, including state due payable to the State Budget, the budget of an autonomous republic or the budget of the local self-governing unit, the acts under Article 90<sup>1</sup> of this Law, judgments of the European Court of Human Rights and of the enforcement under Article 38(13) of this Law may be provided from the State budget, the budget of an autonomous republic or the budget of the local self-governing unit.

2. (Deleted)

3. (Deleted – 5.3.2014, No 2049)

4. The costs incurred by the National Bureau of Enforcement in connection with the enforcement of the decision on the maintenance and transportation of property, performance of the procedures under the legislation of Georgia for recognition and/or establishment of title to such property shall be charged against the debtor and recovered together with the enforceable claim, if such costs have been borne by the National Bureau of Enforcement under a contract with the third person and if it may be verified by the relevant documents.

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 822 of 19 December 2008 – LHG 1, No 41, 30.12.2008, Art. 300*

*Law of Georgia No 2459 of 25 December 2009 – LHG 1, No 49, 30.12.2009, Art. 371*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

*Law of Georgia No 2049 of 5 March 2014 – website, 17.3.2014*

## **Article 39<sup>1</sup> - Refund**

1. A person may claim a refund of his/her amount placed on the deposit account of the National Bureau of Enforcement and the amount shall be refundable within one month after receipt of a notice from the National Bureau of Enforcement.

2. If the person fails to exercise the right under paragraph 1 of this article, the amount shall become the property of the National Bureau of Enforcement.

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

*Law of Georgia No 5171 of 28 October 2011 – website, 7.11.2011*

## **Chapter IX**

### **Enforcement upon Chattels**

## **Article 40 - Attachment of chattels**

1. Attachment of chattels means taking inventory of the debtor's assets, pronouncing a prohibition to the debtor to dispose of such chattels, to alienate them in any form or enter into a mortgage and lease agreement on the chattels and/or to deposit the chattels for keeping. The bailiff shall list the attached goods in the chattels inventory and attachment report.



2. Any transaction referred to in paragraph 1 of this article in connection with attached chattels shall be void after the attachment of such chattels.

3. (Deleted)

4. The bailiff shall immediately deposit attached money to a deposit account of the National Bureau of Enforcement (private bailiff – to the settlement (current) account), and shall take attached securities and valuables and keep them in a specially designated protected vault. The same holds with other attached goods, if there is a danger that such goods may be encroached. If the attached goods are left with the debtor or deposited with any other person for keeping, then such goods may be levied by attaching a seal to them. Any disposal of attached chattels by the debtor or guardian depositary shall entail the liability as provided by the Criminal Law of Georgia. If necessary, the bailiff may seal the attached goods ex officio or by request of the creditor and make a note of it in the chattels inventory and attachment report.

5. Any fruit not yet separated from soil may be attached until a claim against the immovable property is enforced. No attachment may be allowed one month prior to the yield time.

6. If any third person claims the debtor's chattels when the debtor's assets are attached, such chattels shall nevertheless be recorded in the chattels inventory and attachment report and a note shall be made. At the same time, the bailiff shall inform the third person of his/her right to file an action with the court for discharge of the chattels from attachment. If the third person produces his/her title deed to the chattels, the bailiff may, by consent of the creditor, strike the chattels off the chattels inventory and attachment report.

6<sup>1</sup>. (Deleted – 8.5.2012, No 6145)

7. (Deleted – 8.5.2012, No 6145)

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 1828 of 30 June 2005 – LHG 1, No 41, 19.7.2005, Art. 285*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 1321 of 19 June 2009 – LHG 1, No 12, 29.6.2009, Art. 57*

*Law of Georgia No 2459 of 25 December 2009 – LHG 1, No 49, 30.12.2009, Art. 371*

*Law of Georgia No 3167 of 28 June 2010 – LHG 1, No 34, 9.7.2010, Art. 203*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

*Law of Georgia No 5668 of 28 December 2011 – website, 16.1.2012*

*Law of Georgia No 6145 of 8 May 2012 – website, 17.5.2012*

## **Article 40<sup>1</sup> - Discharging the debtor's chattels from attachment**

1. If an enforcement proceeding is pending on an action for the recovery of a monetary amount for an unsecured creditor, the National Bureau of Enforcement may discharge the debtor from attachment of chattels, if the debtor pays the market value of the chattels prior to the announcement of an enforced auction for such chattels. If any pledge (including tax lien/mortgage) upon the attached chattels is registered in favour of any other person(s), the pledge shall remain unchanged even if attachment is cancelled as provided by this article.

2. If an enforcement proceeding is pending in order to enforce a decision on the sale of attached tax-liened /mortgaged chattels under Article 2(l) of this Law, the National Bureau of Enforcement may discharge the chattels from attachment if no security interest is recorded in respect to the chattels in favour of any other pledgee(s) and if the debtor pays market value for the chattels prior to the announcement of an enforced auction for such chattels.

3. Where so provided by paragraphs 1 and 2 of this article, based on the debtor's application, the market value of chattels shall be determined by the National Bureau of Enforcement or any other authorised person by instruction from the National Bureau of Enforcement. The debtor may append the application for discharge of chattels from attachment with a report on the market value of chattels issued by an authorised person or authority within six months prior to the initiation of the enforcement proceeding. The admissibility of such report shall be decided by the National Bureau of Enforcement.

4. If the debtor's chattels are discharged from attachment as provided by Article 40<sup>1</sup>(1)(2) of this Law, no enforcement shall be levied upon such chattels within the same enforcement proceedings, and the market value of chattels paid by the debtor shall be deemed as a discharged part of the enforceable claim.

5. Discharging chattels as the object of a pledge as provided by paragraph 2 of this article shall result in the cancellation of the tax lien referred to in Article 2(l) of this Law.

6. Based on the creditor's application, the National Bureau of Enforcement may strike the attached chattels off the chattels inventory and attachment report before making a public announcement of an enforced auction.

7. In the event of a compulsory enforcement in favour of an unsecured creditor, if consequent to the attachment of the debtor's chattels but no later than the making of a public announcement of an enforced auction, the pledgor claims his/her right to the chattels and produces for the National Bureau of Enforcement the extract from the relevant register evidencing a security interest, the National Bureau of Enforcement shall discharge the chattels from attachment.



## **Article 41 - (Deleted)**

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

## **Article 42 - Examination of the debtor's material status**

1. (Deleted)
2. The National Bureau of Enforcement may assign the debtor to produce a list of his/her assets and information on the legal relations pertaining to the assets. In the list of assets the debtor shall also indicate the basis for his/her claim against a third person and the relevant evidence. The list of assets shall also indicate the assets that the debtor may claim from third persons.
3. The debtor shall give a written undertaking that all the information requested from him/her is accurate and complete to the best of his/her knowledge. If, after giving such written undertaking, the debtor acquires any assets and/or property rights or if any legal relations pertaining to the assets arise, he/she shall give an additional written notice to the National Bureau of Enforcement.
4. If the debtor fails to present the list of assets to the National Bureau of Enforcement within five days of the receipt of the request from the National Bureau of Enforcement or refuses to give a written undertaking or deliberately presents inaccurate information to the National Bureau of Enforcement, he/she shall be held liable as provided by the legislation of Georgia.
- 4<sup>1</sup>. The National Bureau of Enforcement shall check the debtor's information for accuracy and completeness.
5. (Deleted)
6. (Deleted)
7. (Deleted)
8. (Deleted)

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 1321 of 19 June 2009 – LHG 1, No 12, 29.6.2009, Art. 57*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

## **Article 43 - (Deleted)**

*Law of Georgia No 1828 of 30 June 2005 – LHG 1, No 41, 19.7.2005, Art. 285*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

## **Article 44 - Object of attachment**

1. All the debtor's goods other than the assets listed in Article 45 of this Law (the goods found with the debtor are presumed to be owned by the debtor) shall be subject to attachment.
2. (Deleted)

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

## **Article 45 - Assets not subject to levy**

1. The following shall be exempted from attachment:
  - a) personal effects and household items necessary for the debtor's professional activity, personal life and household;
  - b) four weeks' of food, fuel, and light for the debtor, his/her family and persons living with him/her or the money needed to buy them if there is no such





supply for this period of time or they cannot be bought otherwise;

c) small livestock of limited quantity, also one milk cow or the debtor's choice of two pigs, sheep, or goats, if they are necessary to feed the debtor, his/her family and persons living with him; also, three months' supply of forage and dry grass or the money needed to buy them if there is no such supply and it cannot presently be bought otherwise;

d) for persons engaged in agriculture – agricultural equipment and tools, cattle, fertilizers, and agrarian products insofar as they are needed to maintain the debtor, his/her family, and hired workers, or the same and/or similar products until the next crops are harvested from subsequent farming;

e) for persons earning revenues from their physical or mental labour or other activity – the items needed for such activity;

f) special allowances granted by the State;

g) the assets of a family member filed in the integrated database of socially vulnerable families (other than the assets used as security for claims) whose social-economic indicator is lower than the level fixed by the Government of Georgia.

2. The amount of minimum subsistence necessary for a person's daily needs shall be determined as provided by the legislation of Georgia.

3. Discharge from attachment on the grounds indicated above shall apply to revenues below the minimum subsistence.

4. Any dispute concerning the discharge of assets shall be heard judicially.

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 5668 of 28 December 2011 – website, 16.1.2012*

#### **Article 46 - (Deleted)**

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

#### **Article 47 - Evaluation of attached property**

1. When taking inventory of property, if its market value is determinable, the market value of the property shall be indicated in a property inventory and attachment report.

2. If prices cannot be determined when taking inventory of the property, after registration of attachment of the property, it shall be evaluated by the National Bureau of Enforcement or any other authorised person on behalf of the National Bureau of Enforcement.

3. Under a contract between the National Bureau of Enforcement and a tax authority, when evaluating the taxpayer's property for the National Bureau of Enforcement to attach such property with the purpose of securing the recovery of a tax liability, it shall not be mandatory to re-evaluate such property in enforcement proceedings if the evaluation of the property to be sold was conducted within one year prior to initiation of the enforcement proceedings.

4. In initiating enforcement proceedings or prior to the evaluation of property by the National Bureau of Enforcement, any party to the enforcement proceedings may present an expert's report of determination of the market value of the property, pursuant to which the property has been evaluated within six months prior to the initiation of the enforcement proceeding. The National Bureau of Enforcement may rely on the report presented by a party to the enforcement proceedings or where reports on one and the same property have been presented by both parties, the National Bureau of Enforcement may rely on one of such reports. The National Bureau of Enforcement shall make the decision on the advisability of finding admissible the report presented by a party to the enforcement proceedings.

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 1321 of 19 June 2009 – LHG 1, No 12, 29.6.2009, Art. 57*

*Law of Georgia No 2797 of 23 March 2010 – LHG 1, No 14, 30.3.2010, Art. 84*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 4207 of 22 February 2011 – website, 10.3.2011*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

*Law of Georgia No 6145 of 8 May 2012 – website, 17.5.2012*

#### **Article 48 - Property inventory and attachment report**



1. The property inventory and attachment report shall indicate:

a) the time and place of execution of the Report

b) the name of the enforcement bureau, within the jurisdictional territory of which the enforcement takes place, also the bailiff's name and surname or, in the cases provided by Chapter III<sup>2</sup> of this Law, the private bailiff's name and surname, business address, and the persons attending the execution of the report

c) the name of the court and the decision being enforced or the name of any other enforcement document and the authority issuing such document

d) the names of the creditor and debtor

e) the name of each item included in the report, their distinguishing marks (quantity, size, weight, wear and tear, etc.)

f) the separate value of each item included in the report and the total property value, if the prices can be determined by the bailiff during the inventory

g) if items and/or rooms are sealed, which items and/or rooms are sealed, and the seal numbers

h) the name of the person with whom the property has been deposited for keeping and his/her address, if the debtor has not been assigned to keep the property

i) confirmation of the fact that the procedure for appealing the bailiff's acts have been explained to the debtor and other persons; that the duty to keep the property as well as the liability for squandering, transferring, or concealing the assigned property have been explained to the debtor or the depositary

j) the creditor's and the debtor's notes and statements and the bailiff's clarifications of them.

2. In addition to attaching the property, the property inventory and attachment report shall list, with reference to values, the items left with the debtor under Article 45(2) of this Law and any other property which is owned by the debtor jointly with other persons and which has not been attached.

3. The bailiff, the depositary, the creditor, the debtor, and any other persons attending the attachment of property shall sign the property inventory and the attachment report.

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 822 of 19 December 2008 – LHG 1, No 41, 30.12.2008, Art. 300*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

## **Article 49 – Sales**

1. The National Bureau of Enforcement shall give the creditor any amount attached or paid by the debtor after deduction of fees and enforcement costs.

2. Other attached items shall be sold by the National Bureau of Enforcement at a public auction.

3. (Deleted)

4. The National Bureau of Enforcement may give the debtor an opportunity to sell the property on his/her own before making a public announcement of the auction, under the control of the National Bureau of Enforcement, but only if the sale of the property covers the fee, the enforcement costs, and the creditor's claims.

5. The National Bureau of Enforcement may recover an attached item from the debtor's possession before or after the chattels are sold as provided by the legislation of Georgia.

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 822 of 19 December 2008 – LHG 1, No 41, 30.12.2008, Art. 300*

*Law of Georgia No 1321 of 19 June 2009 – LHG 1, No 12, 29.6.2009, Art. 57*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

## **Article 50 – Sales of attached chattels by auction**

1. Within one month after the attachment of chattels or, within two weeks after the initiation of an enforcement proceeding in the cases provided by Article 47(3) of this Law, the National Bureau of Enforcement or any other person, based on the contract with the National Bureau of Enforcement, shall announce a public auction to sell such chattels.

2. Attached chattels shall be sold by auction as provided by Chapter XIII of this Law, in consideration of the requirements of this Article.



3. If any pledge in favour of any other pledgee(s) is recorded with respect to the debtor's attached chattels, a compulsory sale of which is claimed by the creditor, the National Bureau of Enforcement shall give, as provided by the Civil Procedure Code of Georgia, a notice of initiation of enforcement proceedings for the sale of the object of the pledge and set a term for such pledgee(s) to present his/her/their claim. When serving such notice, the pledgee(s) shall be informed of the implications of his/her/their failure to present his/her/their claim within the fixed period as well as of the consequences of the sale of the object of the pledge. The pledgee(s) shall be given no additional notice of a particular time for enforcement activities and measures to be taken.

4. If any tax lien is recorded with respect to the attached chattels to be sold, the National Bureau of Enforcement shall not send the notice indicated in Article 50(3) of this Law to the tax authority, and the claim of the tax authority shall be defined according to the information (taxpayer's tax liability) that has been published by the tax authority by the closing day of the enforced auction. The National Bureau of Enforcement may apply to the tax authority to ascertain the claim.

5. Any other pledgee(s) shall present his/her/their claims expressed in money to the National Bureau of Enforcement within 10 calendar days after receipt of the notice. The pledgee(s) shall be responsible for the accuracy of the claims presented by him/her/them. The pledgee(s) shall bear liability for damages that may arise from the apportionment of the proceeds of the sale of chattels based on the claims presented by him/her/them.

6. The proceeds from the sale of the object of a pledge shall first go toward the fees and enforcement costs; then the pledgees' claims by their seniority and according to the claims presented to the National Bureau of Enforcement shall be discharged. The claim of the next senior pledgee shall be discharged after the claim of the previous senior pledgee has been fully discharged.

7. If any tax lien is recorded with respect to the attached chattels to be sold, after the fees and enforcement costs have been cleared, the proceeds from the sale of the object of the pledge shall first go toward a claim of the tax authority, irrespective of what seniority it has been registered as a pledgee.

8. If any tax lien recorded with respect to the attached chattels to be sold is predated by a security interest for a commercial bank, microfinance organisation, insurance company registered in Georgia, or international financial institutions or the financial institutions of developing countries identified under Article 1(e) of the Law of Georgia on Commercial Banking, after the fees and enforcement costs have been cleared, the proceeds from the sale of the object of pledge shall first go toward the claims of such financial institutions and then toward the claim of the tax authority.

9. The transfer of attached chattels to a buyer shall cancel all the attachments, real rights and obligations, unless a buyer expresses his/her wish to become a party to the obligations with regard to such chattels.

10. If an enforcement proceeding is pending in favour of the State Budget, the budget of an autonomous republic or the budget of a local self-governing unit for the purpose, inter alia, of enforcing the decision referred to in Article 2(l) of this Law, and the first auction fails to identify the winner, or if the winner of the auction does not pay the price of chattels within the period fixed by this Law, the National Bureau of Enforcement may issue, within 15 days after the end of the auction, an order of transfer of chattels in kind to the State/autonomous republic/local self-governing unit and such an order shall be given to the body authorised to manage/dispose of the property. If the order is not issued within the required period, the National Bureau of Enforcement shall hold the first repeat auction (if the first auction fails to identify the winner) or a new auction (if the winner of the auction has not paid the price of chattels within the period fixed by this Law).

11. If the first repeat auction also fails to identify the winner or if the winner of the auction does not pay the price of chattels within the period fixed by this Law, the National Bureau of Enforcement may issue, within 15 days after the end of the auction, an order of transfer of chattels in kind to the State/autonomous republic/local self-governing unit and such an order shall be given to the body authorised to manage/dispose of the property. If the order is not issued within the required period, the National Bureau of Enforcement shall hold a second repeat auction (if the first auction fails to identify the winner) or a new auction (if the winner of the auction has not paid the price of chattels within the period fixed by this Law).

12. If the second repeat auction also fails to identify the winner or if the winner of the auction does not pay the price of chattels within the period fixed by this Law, the National Bureau of Enforcement may issue, within 15 days after the end of the auction, an order of transfer of chattels in kind to the State/autonomous republic/local self-governing unit and such an order shall be given to the body authorised to manage/dispose of the property. If the order is not issued within such period, the chattels shall be discharged from attachment effected in favour of the creditor of the compulsory sale and shall be returned to the debtor.

12<sup>1</sup>. If enforcement proceedings are pending in favour of the State Budget, the budget of an autonomous republic or the budget of a local self-governing unit for the purpose, inter alia, of enforcing the decision referred to in Article 2(l) of this Law, and one auction under Article 75(8<sup>1</sup>) of this Law has been held without identifying the winner or if the winner of the auction has not paid the price of chattels within the period fixed by this Law, the National Bureau of Enforcement may issue, within 15 days after the end of the auction, an order of transfer of chattels in kind to the State/autonomous republic/local self-governing unit and such order shall be given to the body authorised to manage/dispose of property. If the order is not issued within such period, the chattels shall be discharged from attachment effected in favour of the creditor of the compulsory sale and shall be returned to the debtor.

13. The value of chattels, when transferred in kind, shall be determined by an order of the Minister of Justice of Georgia.

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 1321 of 19 June 2009 – LHG 1, No 12, 29.6.2009, Art. 57*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 4207 of 22 February 2011 – website, 10.3.2011*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

*Law of Georgia No 5171 of 28 October 2011 – website, 7.11.2011*

*Law of Georgia No 5265 of 11 November 2011 – website, 24.11.2011*



*Law of Georgia No 5668 of 28 December 2011 – website, 16.1.2012*

*Law of Georgia No 5978 of 30 March 2012 – website, 19.4.2012*

*Law of Georgia No 1865 of 25 December 2013 – website, 30.12.2013*

## **Article 51 - (Deleted)**

*Law of Georgia No 210 of 15 July 2008 - LHG I, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 822 of 19 December 2008 – LHG 1, No 41, 30.12.2008, Art. 300*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

## **Article 52 - Securities**

The rules for attachment and sale of chattels shall apply to securities.

## **Article 53 - Other sales**

The National Bureau of Enforcement may rule that attached property be sold otherwise than provided by this Law if the creditor and the debtor so agree based on their application, before a public announcement of the auction is made.

*Law of Georgia No 210 of 15 July 2008 - LHG I, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

## **Article 54 - Multiple attachments and seniority of enforcing monetary claims**

1. Property may simultaneously be attached in favour of plurality of creditors. Property that has already been attached may subsequently be re-attached in favour of any other (next) creditor. If the first attachment of the property is effected by another bailiff, he/she shall be informed of the registration of a subsequent attachment.

2. Where the claims under various writs of execution against one debtor are enforced by different bailiffs, one and the same property of the debtor shall be auctioned or otherwise sold by the bailiff who was the first to register attachment of weapons, vehicles and ancillary technical means of an agricultural machine defined under paragraph 1 of Article 53 of the Law of Georgia on Traffic with the relevant authority of the Ministry of Internal Affairs of Georgia, upon civil aircraft with the State Register of Civil Aircraft, upon seagoing ships with the State Register of Georgian Ships, upon stocks with the relevant person maintaining the stock register, and upon any other property with the Public Registry. The seniority of enforcements shall be determined according to the time of registration of attachment of property (in hours and minutes).

2<sup>1</sup>. To determine seniority of enforcing the claims under this article when conducting a compulsory enforcement of a Debt Recovery Order referred to in Article 2 of this Law, the attachment of the debtor's property shall be deemed effected by the bailiff upon initiation of the enforcement proceedings in connection with the Order.

3. Attachment shall be registered based on an attachment document (report), an electronic copy of such document (report), as well as based on a motion of attachment from the National Bureau of Enforcement.

4. When the sale of property is suspended on the grounds provided under this Law the enforcement of the sale of such property in favour of the next creditor shall be resumed by the bailiff whose attachment is registered next. The next creditor's bailiff shall be immediately informed of the suspension of the sale of property.

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 822 of 19 December 2008 – LHG 1, No 41, 30.12.2008, Art. 300*

*Law of Georgia No 58 of 19 June 2009 – LHG 1, No 12, 29.6.2009, Art. 58*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 6145 of 8 May 2012 – website, 17.5.2012*

*Law of Georgia No 1834 of 24 December 2013 – website, 3.1.2014*



### Article 55 - Principle of attachment

1. A debtor's claims may be attached if the assignment or attachment of such claims is not restricted by law. 2. Claims that are to become due and payable in the future may be attached if they can be clearly identified.

### Article 56 - Attachment order

1. If a claim is to be attached, based on a creditor's application the National Bureau of Enforcement shall issue an attachment order against such claim. The warrant shall indicate the basis for the creditor's claim and the requirements to be met by the creditor and persons against whom the debtor's claim is raised (third-party debtor). In addition to the attachment order, an order for payment to the creditor shall also be issued.

2. The attachment order shall be served upon the third-party debtor (the person, against whom levy upon the respondent's assets deposited with him/her is enforced). A warrant must be sent to the creditor and the debtor. Serving a warrant upon the third-party debtor makes the attachment effective to the extent of the creditor's claim. The debtor shall no longer be entitled to dispose of claims and the third-party debtor shall no longer be entitled to perform an act being the subject-matter of an obligation. He/she must pay the attached amount to the creditor. Any other act that is the subject-matter of the obligation must be performed by the bailiff.

3. The attachment order issued for the allowance of such claim may concurrently touch upon the part of the creditor's claim that will become enforceable in the future.

4. The attachment order involving claims for salary or the debtor's claims comprising similar regular revenues against the third-party debtor shall apply to the amounts due and payable after attachment.

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

### Article 57 - Consequences of attachment

1. An attachment order shall authorise a creditor to demand that a third person perform, in favour of him/her, an act that the latter must have performed in relation to his/her debtor.

2. An attachment order shall be valid even if it is issued unreasonably in favour of the third-party debtor against the debtor until it is cancelled and such cancellation becomes known to the third-party debtor.

3. The debtor shall give a creditor the information necessary for raising a claim and the documents for such claim. The creditor may obtain them through compulsory enforcement.

4. A creditor may file an action in court against the third-party debtor based on an attachment order.

*Law of Georgia No 636 of 5 December 2000 – LHG I, No 48, 16.12.2000, Art. 136*

### Article 58 - Statement of third-party debtor

Within two weeks after receipt of an attachment order, the third-party debtor shall state to the bailiff and the creditor:

- a) whether he/she admits the objection and if he/she does, how prepared he/she is to pay;
- b) whether other persons raise claims against the claim and if they do, what claims;
- c) whether the debtor's claim has been attached and if it has been, due to which claim.

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

### Article 59 - Multiple attachments; waiver of attached claim

1. In the event of multiple attachments of a claim, the creditors' claims shall be allowed in the order that the third person – third-party debtor has been served with an attachment order against the claim. If applications for attachment of a claim are submitted simultaneously, the creditors' claims shall be allowed pro rata.

2. In the event of multiple attachments, the third-party debtor shall make payment through the National Bureau of Enforcement that will apportion the



recovered amount in a manner provided by this article.

3. A creditor may waive the claims obtained by means of an attachment order without prejudice to his/her rights indicated in the enforcement documents. In the event of such waiver, an application shall be filed with the National Bureau of Enforcement. The application shall be served upon the third-party debtor as well.

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

## **Article 60 - Vindications**

1. In connection with claims for surrender of a thing, the vindication warrant must stipulate that the third-party debtor shall surrender the thing to the National Bureau of Enforcement. A coercive act against the third-party debtor may be performed only if the creditor obtains an enforcement document for the surrender of the thing against the third-party debtor.

2. If a movable thing is surrendered, the procedure for the sale of attached chattels shall apply to the sale of such thing.

3. If an immovable thing is surrendered, the procedure for enforcing the sale of immovable property shall apply to the sale of such thing.

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

## **Chapter XI**

### **Enforcement upon Immovable Property**

## **Article 61 - Scope**

The rules of enforcement upon immovable property shall apply to parcels of land, buildings and structures, and a share of the joint ownership of the immovable property filed with the Public Registry.

*Law of Georgia No 2394 of 9 September 1999 - LHG I, No 44(51), 29.9.1999, Art. 232*

## **Article 62 - Jurisdiction over enforcement**

1. The enforcement bureau, within the jurisdictional territory in which the immovable property is located, shall carry out enforcement.

2. If any immovable property is located within the jurisdictional territories of different enforcement bureaus and/or enforcement against one and the same debtor is carried out by two or more enforcement bureaus, a decision on jurisdiction over enforcement shall be made by the Chairperson of the National Bureau of Enforcement.

3. (Deleted – 17.6.2011, No 4827)

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 1321 of 19 June 2009 – LHG 1, No 12, 29.6.2009, Art. 57*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

## **Article 63 - Types of enforcement**

1. Enforcement upon immovable property shall be carried out by means of registration of a compulsory mortgage or an enforced auction, or sequestration (compulsory management of the property).

2. The creditor shall identify the type of enforcement when lodging an application for an initiation of enforcement with the National Bureau of Enforcement. The creditor may not request more than one type of enforcement simultaneously.

3. The creditor may request the replacement of one type of enforcement with another several times until his/her claim is satisfied in full, and may also request to use a type of enforcement that has been used before replacement of the type of such enforcement.

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*



## **Article 63<sup>1</sup> - Attachment of immovable property**

1. Attachment of immovable property means taking inventory of such property and prohibiting the owner from disposing of it, alienating it in any form, encumbering it with a mortgage, usufruct or easement or building leasehold, or entering into loan, tenancy, and/or lease contracts on such property. Property subject to registration shall be attached based on an application to the National Bureau of Enforcement and movable property located on the immovable property shall be attached based on the inventory and attachment report. Attachment of immovable property shall be conducted in the same manner as for movable property. A report of/application for attachment or cancellation of attachment shall be immediately sent to the relevant registration authority.

2. All transactions under paragraph 1 of this article on attached immovable property shall be void after attachment.

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 2640 of 28 December 2005 – LHG 1, No 5, 20.1.2006, Art. 48*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

## **Article 63<sup>2</sup> - Other sale of immovable property**

1. A debtor, against whom enforcement for recovery of money is pending, may apply to a bailiff to provide preliminary auction services for the immovable property owned by him/her. Such application shall include precise inventory of the property to be sold and starting price of such property that shall be determined by the owner and that shall not be less than the total of the enforceable claim, enforcement fee, enforcement costs and the costs for rendering auction services. The bailiff shall be obliged to fulfil the claim regarding provision of preliminary auction services. The application shall be submitted to the bailiff in writing. It shall be appended with a check confirming the payment of the fee for auction services that shall be determined by the order of the Minister of Justice of Georgia. The claim for providing preliminary auction services shall also have appended an extract from the Public Registry regarding the immovable property to be sold, updated no earlier than two business days prior to applying with such application, together with descriptive material of the property inventory (photographs, drawings, and other information necessary for the sale of property). The debtor shall be held responsible for the accuracy and authenticity of information and documents submitted by him/her. The bailiff shall be held responsible only if the damage is caused by his/her own fault.

2. The application for providing preliminary auction services submitted to the bailiff shall be allowed within three business days after its submittal and the auction shall be declared within the following two business days according to the determined procedure. If the mentioned application is submitted without complying with the conditions under paragraph 1 of this article, the bailiff shall be obliged to inform the person submitting the application about such fault, precisely indicating the fault and requiring elimination of such fault within three business days. If the fault is not eliminated within this period, the application shall not be considered, although this shall not prejudice the same person's right to re-submit the same application after an appropriate period. The period determined for the elimination of fault shall be counted from the day of serving a notice on the debtor as provided by this Law, which shall be carried out according to the procedure determined under Articles 70-78 of the Civil Procedure Code of Georgia. The bailiff's written decision on determining such period shall be immediately recorded in the electronic records management programme. The debtor may, during the period determined for the elimination of fault, request extension of the period by not more than two business days. Such request must be satisfied.

3. A preliminary auction shall be held according to the procedure of holding auctions under this Law. The starting price of the property shall be the price indicated in the claim on providing auction services submitted by the debtor. A preliminary auction shall be held once and in the event it ends without any result it shall not create an obligation for holding a repeat or additional auction.

4. In the event the property is sold at the preliminary auction, an order shall be issued for the purchaser as provided by this Law. The winner of the auction shall undertake the obligations considered under this Law.

5. If for the date of submitting an application under paragraph 1 of this article another enforcement is initiated and is pending against the debtor mentioned in the same paragraph, the starting price of the property to be sold at the auction shall not be less than the total of such enforceable claim, enforcement fee, enforcement costs and the cost of auction services.

6. The application under paragraph 1 of this article may be submitted within 15 calendar days following the date that the debtor has been informed of the initiation of enforcement according to the determined procedure. After expiry of this period, according to the procedures determined under this article, a preliminary auction may be held only with prior consent of the creditor.

7. A preliminary auction as provided by this article may be held only once within single enforcement proceedings. Any further use of this right shall be allowed only with the creditor's written consent.

8. The application on holding a preliminary auction as provided by this article shall not be satisfied if the debtor has missed the period in other enforcement proceedings as determined under paragraph 6 of this article and if such enforcement proceedings have not then been finished.

9. Before a public announcement of the auction is made, the National Bureau of Enforcement may rule that attached property to be sold otherwise than provided by this Law where the creditor and the debtor so agree and submit an application thereto.

*Law of Georgia No 1865 of 25 December 2013 – website, 30.12.2013*



## Chapter XII

### Compulsory Mortgage

#### Article 64 - Application of compulsory mortgage

1. The Registry shall record a compulsory mortgage based on a creditor's application. A compulsory mortgage shall start with registration. Immovable property shall also serve as a bond for registration costs; the responsibility for which rests with the debtor.
2. If several immovable properties of the debtor are encumbered with a compulsory mortgage, then the amount of a claim shall be apportioned to the relevant immovable property. The percentage of apportionment shall be determined by the creditor.

*Law of Georgia No 2394 of 9 September 1999 - LHG I, No 44(51), 29.9.1999, Art. 232*

#### Article 65 - (Deleted)

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

#### Article 66 - Obtaining a compulsory mortgage by an owner

Where an enforcement document is cancelled or enforcement is declared inadmissible under an enforceable decision, a compulsory mortgage shall be transferred to the owner of a parcel of land. This rule shall also apply if the debtor satisfies the creditor.

## Chapter XIII

### Enforced Auction

#### Article 67 - (Deleted)

*Law of Georgia No 2394 of 9 September 1999 - LHG I, No 44(51), 29.9.1999, Art. 232*

*Law of Georgia No 636 of 5 December 2000 - LHG I, No 48, 16.12.2000, Art. 136*

#### Article 68 - (Deleted)

*Law of Georgia No 636 of 5 December 2000 - LHG I, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 - LHG I, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 1321 of 19 June 2009 - LHG I, No 12, 29.6.2009, Art. 57*

*Law of Georgia No 2459 of 25 December 2009 - LHG I, No 49, 30.12.2009, Art. 371*

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 5668 of 28 December 2011 - website, 16.1.2012*

#### Article 69 - Terms of an enforced auction

1. The National Bureau of Enforcement or any other person under contract with the National Bureau of Enforcement shall conduct a compulsory auction as provided by this Law. If the debtor is registered as the owner of property with the Public Registry, the National Bureau of Enforcement shall conduct an enforced auction as provided by this Law. In such case, the enforced auction shall be conducted within one month after the property is attached or in the case provided by Article 47(3) of this Law within two weeks after initiation of the enforcement proceedings.

<sup>1</sup> If the debtor is not registered as the owner of the immovable property with the Public Registry, the National Bureau of Enforcement shall, through the Public Registry, obtain information from the Technical Inventory Bureau on the legal status of the immovable thing and/or on the property registered for the debtor with the Technical Inventory Bureau.

<sup>2</sup> If the relevant certificate issued by the Technical Inventory Bureau confirms that the immovable property is registered to the debtor, the National Bureau of Enforcement may attach such property and perform enforcement as provided by this Law. The debtor or the person claiming the property may provide the National Bureau of Enforcement with evidence of title. If such evidence is found to be reliable, the National Bureau of Enforcement





shall not perform and/or shall cancel compulsory enforcement measures against such property. The buyer shall become the owner of the property if any property is sold in the enforcement proceedings. A third person believing that his/her right has been breached and/or he/she has suffered damages as a result of the sale of such property may raise an objection against the debtor.

1<sup>3</sup>. If enforcement proceedings are pending to enforce a decision referred to in Article 2(l) of this Law and the title to the debtor's property subject to registration is not established, the National Bureau of Enforcement shall petition the court for recognition of the debtor's title to the property. In this respect, the court shall deliver a judgement, based on which the National Bureau of Enforcement may apply to the appropriate registration authority for registration of the property, including the property with unspecified particulars.

2. (Deleted)

3. After a public announcement of an enforced auction of attached property has been made, the claim under any other pending enforcement proceedings shall be allowed only if the proceeds from the enforced auction exceed the fee, the enforcement costs, and the claims of the creditors, for whom the enforced auction is held. Besides, the remaining amount shall not be refunded to the debtor and the National Bureau of Enforcement shall attach it in favour of other creditors.

4. If any property is encumbered with multiple attachments by different bailiffs the auction for such property shall be held by the bailiff being the first in registering the attachment with the registration authority.

4<sup>1</sup>. When enforcing a decision referred to in Article 2(l) of this Law, the auction for the property to be sold shall be conducted by the bailiff in charge of such decision irrespective of any attachment registered by any other bailiff upon such property.

5. (Deleted)

*Law of Georgia No 2394 of 9 September 1999 - LHG I, No 44(51), 29.9.1999, Art. 232*

*Law of Georgia No 636 of 5 December 2000 - LHG I, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 822 of 19 December 2008 – LHG 1, No 41, 30.12.2008, Art. 300*

*Law of Georgia No 2459 of 25 December 2009 – LHG 1, No 49, 30.12.2009, Art. 371*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 4207 of 22 February 2011 – website, 10.3.2011*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

*Law of Georgia No 5668 of 28 December 2011 – website, 16.1.2012*

*Law of Georgia No 6145 of 8 May 2012 – website, 17.5.2012*

## **Article 70 - No suspension or termination of an auction**

1. Starting from the day an enforced auction is announced, it shall be impermissible to terminate, suspend, or postpone the auction (enforcement proceedings) or release the property from distraint, or return a writ of execution/enforceable decision on the grounds provided by Article 35 of this Law except where a prosecutor in a criminal case files a reasonable written request with the National Bureau of Enforcement or due to a special circumstance such a decision is made ex officio by the Chairperson of the National Bureau of Enforcement.

2. (Deleted)

3. The debtor or any other person acting on behalf of the debtor's interests may pay the amount needed to cover the fee, enforcement costs, and the creditor's claim before a public announcement of an enforced auction is made. If the debtor or any other person acting on behalf of the debtor's interests transfers the amount needed to cover the fee, enforcement costs, and the creditor's claim to the account of the National Bureau of Enforcement after a public announcement of an enforced auction has been made, the National Bureau of Enforcement shall apportion the amount as per the standard procedure after the end of the auction. If the total of the amount transferred by the debtor to the account of the National Bureau of Enforcement and of the proceeds of the sale of property at the auction exceeds the amount needed to cover the fee, enforcement costs, and the creditor's claim, the National Bureau of Enforcement shall refund the surplus amount to the debtor, if no other enforcement proceedings are pending against the debtor in favour of the same and/or any other creditor, and such proceedings shall not involve any claim for recovery against the creditor.

4. (Deleted)

*Law of Georgia No 4524 of 28 March 2007 - LHG I, No 9, 31.3.2007, Art. 89*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 2459 of 25 December 2009 – LHG 1, No 49, 30.12.2009, Art. 371*

*Law of Georgia No 3884 of 7 December 2010 – LHG 1, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*



## **Article 71 - Enforced auction procedure**

The forms and rules for conducting an enforced auction and other procedures related to such auction shall be determined by the order of the Minister of Justice of Georgia.

*Law of Georgia No 2394 of 9 September 1999 – LHG 1, No 44(51), 29.9.1999, Art. 232*

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 1321 of 19 June 2009 – LHG 1, No 12, 29.6.2009, Art. 57*

*Law of Georgia No 2459 of 25 December 2009 – LHG 1, No 49, 30.12.2009, Art. 371*

*Law of Georgia No 2797 of 23 March 2010 – LHG 1, No 14, 30.3.2010, Art. 84*

*Law of Georgia No 3167 of 28 June 2010 – LHG 1, No 34, 9.7.2010, Art. 203*

## **Article 72 - (Deleted)**

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 822 of 19 December 2008 – LHG 1, No 41, 30.12.2008, Art. 300*

*Law of Georgia No 1321 of 19 June 2009 – LHG 1, No 12, 29.6.2009, Art. 57*

*Law of Georgia No 2459 of 25 December 2009 – LHG 1, No 49, 30.12.2009, Art. 371*

*Law of Georgia No 2798 of 23 March 2010 – LHG 1, No 14, 30.3.2010, Art. 85*

*Law of Georgia No 2797 of 23 March 2010 – LHG 1, No 14, 30.3.2010, Art. 84*

*Law of Georgia No 3167 of 28 June 2010 – LHG 1, No 34, 9.7.2010, Art. 203*

## **Article 73 - (Deleted)**

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 3167 of 28 June 2010 – LHG 1, No 34, 9.7.2010, Art. 203*

## **Article 74 - (Deleted)**

*Law of Georgia No 636 of 5 December 2000 – LHG 1, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 – LHG 1, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 1321 of 19 June 2009 – LHG 1, No 12, 29.6.2009, Art. 57*

*Law of Georgia No 3167 of 28 June 2010 – LHG 1, No 34, 9.7.2010, Art. 203*

## **Article 75 - Acquiring title to property purchased at auction**

1. (Deleted – 17.6.2011, No 4827)

2. The person winning the auction shall pay the price of the property in full within 10 calendar days after the end of the auction.

3. After the person winning the auction has paid the price of the property in full, the National Bureau of Enforcement shall issue an order of title to the property purchased at the auction.

4. If compulsory enforcement is conducted by a creditor whose claim is not secured, irrespective of the transfer of title, the rights registered with the Public Registry to the property shall remain intact. If a compulsory enforcement is conducted by the mortgagee/pledgee, the transfer of title shall abolish all rights in rem (other than tax lien/mortgage rights) registered with respect to the property subsequently to the mortgage of the enforcement creditor. If the enforcement mortgagees are a commercial bank, a microfinance organisation, an insurance company incorporated in Georgia, or international financial institutions, or the financial institutions of developing countries identified under Article 1(e) of the Law of Georgia on



Commercial Banking, the transfer of title shall also abolish tax lien/mortgage rights registered subsequently to such a creditor's mortgage. Rights (including tax lien/mortgage rights) previously registered in respect to the property shall remain intact in any case.

4<sup>1</sup>. (Deleted)

5. In an enforcement proceeding, the new owner of the sold property shall take the place of the previous owner and become a party to legal relations on the possession and/or use of the property existing at the moment of the transfer of title.

6. Upon the transfer of the property to the new owner, the previous owner shall forfeit all rights to the property.

7. (Deleted – 17.6.2011, No 4827)

8. If any duly held auction consisting of a first and two repeat auctions fails and the property is not sold, such property shall be discharged from the attachment effected in favour of the creditor carrying out compulsory sale. No enforcement proceeding involving the same claim in favour of the same creditor shall be conducted with respect to such property. The property shall be returned to the debtor except as provided by Article 69(4) of this Law, where enforcement on the property shall be resumed by the bailiff whose attachment ranks next in seniority.

8<sup>1</sup>. If the market value of any property is less than GEL 5000, only one auction shall be conducted as provided by the legislation of Georgia and the starting price of such property shall be fixed by an order of the Minister of Justice of Georgia. If the auction so held identifies no winner, the procedure under Paragraph 8 of this article shall apply.

9. (Deleted – 28.10.2011, No 5171)

*Law of Georgia No 2394 of 9 September 1999 - LHG I, No 44(51), 29.9.1999, Art. 232*

*Law of Georgia No 636 of 5 December 2000 - LHG I, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 - LHG I, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 822 of 19 December 2008 - LHG I, No 41, 30.12.2008, Art. 300*

*Law of Georgia No 2459 of 25 December 2009 - LHG I, No 49, 30.12.2009, Art. 371*

*Law of Georgia No 2798 of 23 March 2010 - LHG I, No 14, 30.3.2010, Art. 85*

*Law of Georgia No 2797 of 23 March 2010 - LHG I, No 14, 30.3.2010, Art. 84*

*Law of Georgia No 3167 of 28 June 2010 - LHG I, No 34, 09.7.2010, Art. 203*

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

*Law of Georgia No 5171 of 28 October 2011 – website, 7.11.2011*

*Law of Georgia No 5265 of 11 November 2011 – website, 24.11.2011*

*Law of Georgia No 5668 of 28 December 2011 – website, 16.1.2012*

*Law of Georgia No 5978 of 30 March 2012 – website, 19.4.2012*

*Law of Georgia No 1865 of 25 December 2013 – website, 30.12.2013*

## **Article 76 - Cancellation of auction results**

If the person winning an auction fails to pay the price of the property within the period fixed by Article 75 of this Law, he/she/it shall forfeit the bond posted on the auction day when the claim of the National Bureau of Enforcement shall be enforced in ownership. The National Bureau of Enforcement shall issue an order of cancellation of the auction results and within three days after issuance of such order shall announce a new auction that shall not be regarded as a repeat auction.

*Law of Georgia No 636 of 5 December 2000 - LHG I, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 - LHG I, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 2459 of 25 December 2009 - LHG I, No 49, 30.12.2009, Art. 371*

*Law of Georgia No 3167 of 28 June 2010 - LHG I, No 34, 09.7.2010, Art. 203*

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 5668 of 28 December 2011 – website, 16.1.2012*



## **Article 76 - (Deleted)**

*Law of Georgia No 1321 of 19 June 2009 - LHG I, No 12, 29.6.2009, Art. 57*

*Law of Georgia No 2459 of 25 December 2009 - LHG I, No 49, 30.12.2009, Art. 371*

*Law of Georgia No 2798 of 23 March 2010 - LHG I, No 14, 30.3.2010, Art. 85*

*Law of Georgia No 2797 of 23 March 2010 - LHG I, No 14, 30.3.2010, Art. 84*

*Law of Georgia No 3167 of 28 June 2010 - LHG I, No 34, 09.7.2010, Art. 203*

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

## **Article 77 - (Deleted)**

*Law of Georgia No 636 of 5 December 2000 - LHG I, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 - LHG I, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 822 of 19 December 2008 - LHG I, No 41, 30.12.2008, Art. 300*

*Law of Georgia No 1321 of 19 June 2009 - LHG I, No 12, 29.6.2009, Art. 57*

*Law of Georgia No 2459 of 25 December 2009 - LHG I, No 49, 30.12.2009, Art. 371*

*Law of Georgia No 3167 of 28 June 2010 - LHG I, No 34, 09.7.2010, Art. 203*

## **Article 77<sup>1</sup> - Transfer of property in kind to the State**

1. If an enforcement proceeding is pending in favour of the State Budget, the budget of an autonomous republic or the budget of a local self-governing unit, inter alia, for the purpose of enforcing the decision referred to in Article 2(l) of this Law, and the first auction fails to identify a winner or if the winner of the auction fails to pay the price of the property within the period fixed by this Law, the National Bureau of Enforcement may issue, within 15 days after the end of the auction, an order of transfer of the property in kind to the State/autonomous republic/local self-governing unit and such an order shall be sent to the registration authority for registration of title to such property for the State/autonomous republic/local self-governing unit. If such an order is not issued within the above period, the National Bureau of Enforcement shall hold the first repeat auction (if the first auction fails to identify a winner) or a new auction (if the winner fails to pay the price of the property within the period fixed by this Law).

2. If the first repeat auction fails to identify the winner or if the winner fails to pay the price of the property within the period fixed by this Law, the National Bureau of Enforcement may issue, within 15 days after the end of the auction, an order of transfer of property in kind to the State/autonomous republic/local self-governing unit and such order shall be sent to the registration authority for the registration of title to such property for the State/autonomous republic/local self-governing unit. If the order is not issued within such period, the National Bureau of Enforcement shall hold a second repeat auction (if the first repeated auction fails to identify a winner) or a new auction (if the winner fails to pay the price of the property within the period fixed by this Law).

2<sup>1</sup>. If the second repeat auction fails to identify a winner or if the winner fails to pay the price of the property within the period fixed by this Law, the National Bureau of Enforcement may issue, within 15 days after the end of the auction, an order of transfer of property in kind to the State/autonomous republic/local self-governing unit and such order shall be sent to the registration authority for the registration of title to such property for the State/autonomous republic/local self-governing unit. If the order is not issued within such period, the property shall be discharged from the attachment effected in favour of the creditor carrying out the compulsory sale and shall be returned to the debtor.

2<sup>2</sup>. If an enforcement proceeding is pending in favour of the State Budget, the budget of an autonomous republic, or the budget of a local self-governing unit for the purpose, inter alia, of enforcing a decision referred to in Article 2(l) of this Law, and one auction under Article 75(8<sup>1</sup>) of this Law is held without identifying a winner or if the winner of the auction fails to pay the price of the property within the period fixed by this Law, the National Bureau of Enforcement may issue, within 15 days after the end of the auction, an order of transfer of the property in kind to the State/autonomous republic/local self-governing unit and such order shall be sent to the registration authority for registration of title to such property for the State/autonomous republic/local self-governing unit. If the order is not issued within such period, the property shall be discharged from the attachment effected in favour of the creditor carrying out the compulsory sale and shall be returned to the debtor.

3. A copy of the order of transfer of the property in kind to the State/autonomous republic/local self-governing unit shall be sent to the body authorised to manage/dispose of state property and to the body that was involved in the enforcement proceeding.

4. The order of transfer of the property in kind to the State/autonomous republic/local self-governing unit shall contain:

- a) details of the property owner (debtor)
- b) the name (location) and brief description of the property
- c) the name of the recipient of the property



d) the value of the property.

5. When transferred in kind, the value of property shall be determined by an order of the Minister of Justice of Georgia.

6. In the case of an unsecured claim, when transferring property in kind to the State/autonomous republic/local self-governing unit, the real rights recorded in the Public Registry in respect of such property shall remain intact.

7. In the case of a secured claim, including when there are records of tax lien/mortgage interests with respect to any property, if such property is transferred in kind to the State/autonomous republic/local self-governing unit, the real rights recorded in the Public Registry subsequently to such lien/mortgage shall be cancelled.

8. Upon receipt of any property in kind, the State/autonomous republic/local self-governing unit shall take the place of the previous owner and become a party to the legal relations for the possession and/or use of such property existing at the moment of transfer of title, unless otherwise specified by legislation of Georgia.

*Law of Georgia No 636 of 5 December 2000 - LHG I, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 - LHG I, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 822 of 19 December 2008 - LHG I, No 41, 30.12.2008, Art. 300*

*Law of Georgia No 1321 of 19 June 2009 - LHG I, No 12, 29.6.2009, Art. 57*

*Law of Georgia No 1323 of 19 June 2009 - LHG I, No 12, 29.6.2009, Art. 58*

*Law of Georgia No 2459 of 25 December 2009 - LHG I, No 49, 30.12.2009, Art. 371*

*Law of Georgia No 2798 of 23 March 2010 - LHG I, No 14, 30.3.2010, Art. 85*

*Law of Georgia No 2797 of 23 March 2010 - LHG I, No 14, 30.3.2010, Art. 84*

*Law of Georgia No 3167 of 28 June 2010 - LHG I, No 34, 09.7.2010, Art. 203*

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

*Law of Georgia No 5171 of 28 October 2011 – website, 7.11.2011*

*Law of Georgia No 5265 of 11 November 2011 – website, 24.11.2011*

*Law of Georgia No 5668 of 28 December 2011 – website, 16.1.2012*

*Law of Georgia No 5978 of 30 March 2012 – website, 19.4.2012*

*Law of Georgia No 1865 of 25 December 2013 – website, 30.12.2013*

## **Article 77<sup>2</sup> - Issuing legal acts by using computer-aided control systems**

1. The legal acts of the National Bureau of Enforcement, including orders for the origin of title to property and cancellation of auction results, may be issued by using computer-aided control systems and promulgated on the website of the National Bureau of Enforcement or any other official website identified by the Minister of Justice of Georgia.

2. The printout of any legal act or other document issued by the National Bureau of Enforcement by using computer-aided control systems shall be as valid as the act or document issued by using the computer-aided control systems. Such printout shall require no certification that it is an authentic copy of the original version.

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

*Law of Georgia No 5668 of 28 December 2011 – website, 16.1.2012*

## **Chapter XIV**

### **Sequestration (Enforced Administration)**

## **Article 78 – Sequestration**

1. At all stages of a compulsory enforcement, based on a creditor's application and as provided under this Law, the debtor's enforceable property may be assigned for enforced administration to an administrator appointed by the court, or if the enforcement against property has been initiated by the National Bureau of Enforcement, the enforceable property may be assigned for enforced administration to an administrator appointed by the National Bureau of Enforcement or to the owner him/her/it-self.



2. The intent of enforced administration is to satisfy liabilities using the revenues obtained by use of debtor's property for economic purposes, thus avoiding the sale of property through an auction for the debtor's interests.
3. If the enforceable claim is expected to be allowed in not less than three months by means of enforced administration and if the market value of the debtor's property by at least ten times exceeds the amount of the enforceable claim, the National Bureau of Enforcement may, at the substantiated request of the debtor and as determined under this Law, irrespective of the creditor's consent, take a decision on using the right of enforced administration for not more than three months period. This period may be extended only once, but not for more than a month.
4. If there are conditions under paragraph 3 of this article and if the case is being enforced by the private bailiff, the debtor may request the private bailiff to use the right of enforced administration. The National Bureau of Enforcement may use the right of enforced administration on the private bailiff's enforcement case at the stage of rendering auction services, before the public announcement of the enforced auction is made. The National Bureau of Enforcement shall carry out enforced administration of the private bailiff's enforcement case as determined under this chapter.
5. The property listed in Article 45 of this Law shall not be subject to enforced administration except in the cases when the debtor agrees to surrender the property for enforced administration, if the administration results in the satisfaction of the liability.
6. The proceeds recovered as a result of enforced administration (net of current costs) shall be transferred to the deposit account of the National Bureau of Enforcement, in respect of which the administrator shall give a notice to the bailiff.
7. The administrator and the bailiff shall be obliged to give the court, or if the decision for enforced administration is taken by the National Bureau of Enforcement – the National Bureau of Enforcement, a notice on satisfaction of the creditors' claims. In such case, the court/the National Bureau of Enforcement shall deliver a decision on termination of enforced administration.
8. Enforced administration ordered by court/the National Bureau of Enforcement under this article shall be governed by the provisions of Article 310 of the Civil Code of Georgia.
9. Enforced administration shall not take place if the debtor objects to it or if he/she fails to ensure conditions necessary for carrying out enforced administration under normal conditions.
10. During enforced administration other enforcement measures shall be suspended for the period of the enforced administration. Within this period the limitations established before the enforced administration of the property shall apply.
11. Enforced administration shall be terminated and the enforcement according to the general procedure shall continue, if:
- a) the liability is not fulfilled as a result of enforced administration and, at the same time, there is no grounds for taking a decision on extending the period of enforced administration;
  - b) the conditions of enforced administration are violated (except for the cases, when it is possible to eliminate such violation shortly, before the question on terminating enforced administration is decided);
  - c) during the enforced administration period it is found that there is another circumstance, which in legal or factual point-of-view excludes the use of enforced administration.
12. Enforced administration may not take place if during the enforced administration process the third person's interests are restricted in any form. In such case, enforced administration may take place only with a prior consent of the third person. The enforced administration shall be ceased immediately after the information on restricting the third person's interests is obtained.

*Law of Georgia No 210 of 15 July 2008 - LHG I, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 1865 of 25 December 2013 – website, 30.12.2013*

## **Article 79 - Administrator**

1. An administrator shall be appointed by the person making a decision on using enforced administration. The administrator cannot be a bailiff or a member of the decision-making court or a close relative to the person making the decision on enforced administration.
2. The person making a decision on using enforced administration shall, when making a decision, after hearing the creditor and the debtor, give the administrator necessary instructions, fix the remuneration payable to the administrator, and follow up on the activities of the administrator. He/she/it may discharge the administrator for material reasons.
3. When the National Bureau of Enforcement makes a decision on using enforced administration, an employee of the National Bureau of Enforcement shall be designated as the administrator. The procedure of defining remuneration for performing the functions of the administrator shall be approved by the order of the Minister of Justice of Georgia. If the process of enforced administration requires involvement of a specialist with specific knowledge, the National Bureau of Enforcement may use a part of the income obtained from the enforced administration to finance involvement of this person in the administration process or to designate this person as the administrator.
4. To designate a creditor as an administrator, the creditor's consent shall be required. The court/National Bureau of Enforcement shall designate an overseer to the creditor appointed as an administrator and fix the remuneration payable to the overseer. If the debtor breaches his/her duties or the duties of the administrator, the overseer shall forthwith give a notice to the court/National Bureau of Enforcement. The procedure of determining remuneration for performing the functions of overseer shall be approved by the order of the Minister of Justice of Georgia.

*Law of Georgia No 210 of 15 July 2008 - LHG I, No 17, 28.7.2008, Art. 126*



## **Article 80 - Costs**

The costs related to property administration and to ordinary economic use of a parcel of land shall be covered by the administrator directly from revenues.

*Law of Georgia No 1865 of 25 December 2013 – website, 30.12.2013*

## **Article 81 - Administrator's liability, reporting**

The administrator shall be liable for all the obligations that he/she has before all stakeholders. The administrator shall submit reports semi-annually and at the end of the administration. Such reports shall be submitted to the National Bureau of Enforcement that, in turn, shall submit them to the creditor and the debtor.

*Law of Georgia No 210 of 15 July 2008 - LHG I, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 1865 of 25 December 2013 – website, 30.12.2013*

## **Article 82 - Debtor in the capacity of an administrator**

1. When sequestering agricultural or forestry business or a garden plot, the debtor shall be appointed as the administrator except when it is assumed that the debtor cannot administer in a sound way.

2. The court/National Bureau of Enforcement shall designate an overseer to the debtor appointed as an administrator and fix the remuneration payable to the overseer. If the debtor breaches his/her duties or those of the administrator, the overseer shall forthwith give the court a notice thereof. The procedure for determining compensation for performing the functions of overseer shall be approved by the order of the Minister of Justice of Georgia.

3. A debtor in the capacity of an administrator shall receive no remuneration. If necessary, after hearing the overseer, the court/National Bureau of Enforcement shall determine the extent, to which the debtor can use the revenues from the parcel of land and its proceeds to meet his/her necessary needs and those of his/her family.

*Law of Georgia No 1865 of 25 December 2013 – website, 30.12.2013*

# **Chapter XIV<sup>1</sup>**

## **Apportionment of Recovered Funds among Creditors**

### **Article 82<sup>1</sup> - Procedure for apportioning the funds recovered from the debtor**

1. The funds recovered by the National Bureau of Enforcement from the debtor (as a result of selling the debtor's property) shall first go toward fees and enforcement costs under Article 39(4) of this Law, and the remaining sums shall be disbursed to meet the claims of the compulsory enforcement creditors. The money remaining after all the claims have been paid shall be returned to the debtor or attached in favour of any other creditor.

2. The amount recovered from the debtor shall be transferred by the National Bureau of Enforcement to its deposit account and then shall be duly disbursed.

*Law of Georgia No 636 of 5 December 2000 - LHG I, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 - LHG I, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 822 of 19 December 2008 - LHG I, No 41, 30.12.2008, Art. 300*

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

### **Article 82<sup>2</sup> - Order of precedence of granting satisfaction to the claims of creditors**

1. If the amount recovered from the debtor is not enough to satisfy all the claims of creditors, then such amount shall be apportioned among the creditors in accordance with the seniority established by Article 82<sup>3</sup> of this Law.

2. Each junior ranking claim shall be paid only after preceding claims have been paid in full.



3. If the amount to be apportioned is not enough to grant full satisfaction to all the claims of the same rank, then such claims shall be paid pro rata to the amount assigned to each creditor.

*Law of Georgia No 636 of 5 December 2000 - LHG I, No 48, 16.12.2000, Art. 136*

### **Article 82<sup>3</sup> - Claims of the first, second, and third orders**

1. The proceeds from the sale of any mortgaged and pledged property shall first go towards covering the enforceable claims secured with a tax lien/mortgage, if any, then other mortgaged and pledged claims by seniority. If enforcement proceedings simultaneously involves as creditors the Legal Entity under Public Law - the Revenue Service with a claim secured with a tax lien/mortgage and commercial banks, microfinance organisations, insurance companies incorporated in Georgia or international financial institutions or the financial institutions of developed countries identified under Article 1(e) of the Law of Georgia on Commercial Banking, whose security/mortgage interest predates the tax lien/mortgage, the amount recovered shall first go toward covering the claims of the above financial institutions on account of the obligation arising prior to the registration of the tax lien/mortgage, and then to the claims secured by the tax lien/mortgage.

1<sup>1</sup>. If the pledge/mortgage of commercial banks, microfinance organisations, insurance companies incorporated in Georgia or international financial institutions or the financial institutions of developing countries identified under Article 1(e) of the Law of Georgia on Commercial Banking, whose security/mortgage interest predates the tax lien/mortgage predating any tax lien/mortgage is predated by the pledge/mortgage of any other person, then the claims of such person shall be granted prior satisfaction on account of the pledged/mortgaged claims of commercial banks, microfinance organisations, insurance companies incorporated in Georgia or international financial institutions or the financial institutions of developing countries identified under Article 1(e) of the Law of Georgia on Commercial Banking, the obligation to grant satisfaction to which predates the tax lien/mortgage on the sold thing. The remaining part of the proceeds from the sale of such thing shall go towards the claim secured by the tax lien/mortgage, and then towards the remaining creditors in precedence of their claims.

2. The amount indicated in paragraph 1 of this article shall go by the second precedence and any other amounts shall go by the first precedent toward satisfaction of the claims:

- a) for recovery of alimony;
- b) arising from labour relations;
- c) for damages resulting from maiming or other health injury as well as from the loss of a breadwinner;
- d) for damages resulting from a crime or administrative offence;
- e) payment of money to the State Budget, the budget of an autonomous republic and/or budget of a local self-governing unit and to non-budget funds;
- f) arising from cheques and bills of exchange.

3. All other claims shall be satisfied from the amounts indicated in paragraph 1 of this article by the third precedence and from any other amounts – by the second precedence.

*Law of Georgia No 636 of 5 December 2000 - LHG I, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 1321 of 19 June 2009 - LHG I, No 12, 29.6.2009, Art. 57*

*Law of Georgia No 2459 of 25 December 2009 - LHG I, No 49, 30.12.2009, Art. 371*

*Law of Georgia No 2798 of 23 March 2010 - LHG I, No 14, 30.3.2010, Art. 85*

*Law of Georgia No 2797 of 23 March 2010 - LHG I, No 14, 30.3.2010, Art. 84*

*Law of Georgia No 3167 of 28 June 2010 - LHG I, No 34, 09.7.2010, Art. 203*

*Law of Georgia No 4827 of 17 June 2011 – website, 28.6.2011*

*Law of Georgia No 5171 of 28 October 2011 – website, 7.11.2011*

*Law of Georgia No 5978 of 30 March 2012 – website, 19.4.2012*

### **Article 82<sup>4</sup> - Compilation of estimates**

1. Where there is plurality of creditors and the amount recoverable from the debtor is not enough to cover all the claims, the National Bureau of Enforcement shall compile an estimate for apportionment of funds among creditors and pay creditors according to such estimate.

2. If any creditor objects to the estimate, the National Bureau of Enforcement shall submit the estimate to a court within three days for approval.

3. A complaint subject to time limit may be lodged against a court decision on approval or modification of the estimate compiled by the National Bureau of Enforcement.

*Law of Georgia No 636 of 5 December 2000 - LHG I, No 48, 16.12.2000, Art. 136*





## **Chapter XV**

### **Enforcement for the Surrender of Things and Performance of Acts**

#### **Article 83 - Surrender of a movable thing**

1. If a debtor is to surrender a movable thing, then the National Bureau of Enforcement shall take away the thing from the debtor and and surrender it to the creditor.

2. If the thing to be surrendered cannot be located, the debtor shall be obliged to give the National Bureau of Enforcement notice of the location of the thing. If the debtor states he/she is unable to do so, he/she shall make a written guarantee in the enforcement report that the thing is not in his/her possession.

3. The debtor not fulfilling his/her duty shall be held liable as provided by law.

*Law of Georgia No 2394 of 9 September 1999 - LHG I, No 44(51), 29.9.1999, Art. 232*

*Law of Georgia No 636 of 5 December 2000 - LHG I, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

#### **Article 83<sup>1</sup> - Surrender of a movable thing to the pledgee against a mortgage certificate**

1. If the pledgee submits a mortgage certificate to the enforcement authority, he/she shall take possession of the pledged vehicles and ancillary technical means of the agricultural machines defined under paragraph 1 of Article 53 of the Law of Georgia on Traffic according to the procedures for surrender of a movable thing under this Law.

2. The responsibility for justification of submitting a mortgage certificate to the enforcement authority shall rest with the pledgee.

*Law of Georgia No 1542 of 17 July 2009 - LHG I, No 21, 3.8.2009, Art. 125*

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 1834 of 24 December 2013 – website, 3.1.2014*

#### **Article 84 - Dispossession of immovable property from another's possession and/or use**

1. On the cases of dispossession of immovable property from another's possession and/or use where the enforceable decision provides for the transfer of immovable property to the creditor's possession and use and/or eviction (moving out) of persons from immovable property, the National Bureau of Enforcement shall transfer such immovable property in a vacated condition to the creditor.

2. The debtor and the persons with him/her shall be evicted (moved out) from the immovable property indicated in the writ of execution or in the application of the buyer of immovable property referred to in Article 2 of this Law along with the movable property owned by them.

3. The National Bureau of Enforcement shall serve, as provided by the Civil Procedure Code of Georgia, upon the debtor or, in the event of the application of the buyer of immovable property referred to in Article 2 of this Law, upon the immovable property possessor indicated in the application a written warning indicating:

a) a period of 10 calendar days for voluntary fulfilment of the decision;

b) a forced eviction (moving out) possibility if the decision is not fulfilled within the period fixed by the National Bureau of Enforcement;

c) a forced eviction (moving out) possibility on the day of enforcement activity in the absence of the debtor if the latter is absent;

d) the date and time of a forced eviction (moving out).

4. The National Bureau of Enforcement shall inform the creditor of the date and time of a forced eviction (moving out). The creditor shall be obliged to attend the debtor's eviction (moving out) from the immovable property. The creditor's absence shall serve as the basis for postponing the enforcement activity. If the enforcement activity is postponed due to the creditor's absence, the National Bureau of Enforcement shall repeatedly inform the parties to the enforcement activity of the date and time of a forced eviction (moving out). The creditor's repeated absence shall end the enforcement proceeding on the grounds of returning the writ of execution to the creditor or in the event of the application of the buyer of immovable property on the grounds of denial of enforcement.

5. If the debtor or his/her representative attends the eviction (moving out) from the immovable property and would not vacate the immovable property, the bailiff may cause the removal of the debtor's chattels. In such case, the National Bureau of Enforcement shall not be liable for any loss, damage or



destruction of the chattels.

6. If despite being warned the debtor or his/her representative does not attend the eviction (moving out) from the immovable property, the bailiff may, with permission from the Chairperson of the National Bureau of Enforcement, break into the immovable property without the consent of the owner/possessor of the immovable property. The National Bureau of Enforcement and the bailiff shall not be liable for any damage arising from the acts performed to break into the immovable property, if such damage could not be avoided by using other means. When breaking into the immovable property, the bailiff shall make his/her best efforts to avoid any harm to human life and health. The bailiff shall take inventory of the things located in the immovable property, execute a property inventory report, and give a copy of it to the creditor. If the creditor refuses to accept the copy of the property inventory report, the bailiff shall make a note of it in the report. The creditor shall make sure the things are kept or transferred to the debtor. The costs related to the eviction and keeping and transferring of the things shall be borne by the debtor.

7. The bailiff shall execute an eviction (moving out) report that is signed by the bailiff as well as by the parties to the enforcement proceeding and the attending persons. If the parties to the enforcement proceeding refuse to sign the report, the bailiff shall make a relevant note in the report.

8. If during the eviction (moving out) from the immovable property the persons being in the immovable property fail to comply with the bailiff's legal requests, upon application by the bailiff the enforcement police and/or the relevant territorial authority of the Ministry of Internal Affairs of Georgia shall provide the necessary assistance to the bailiff.

9. In enforcement proceedings initially based on the application of the buyer of immovable property referred to in Article 2 of this Law, within the period of 10 calendar days after being served a warning from the National Bureau of Enforcement, the immovable property possessor shall produce a document of legitimate possession and use of the property or voluntarily fulfil a request of the National Bureau of Enforcement to abandon the possession and use of the immovable property and transfer it in a vacated condition to the creditor. If the possessor petitions before the expiry of such period, the National Bureau of Enforcement may prolong the period for producing the document by a maximum of 10 additional days.

10. The document of legitimate possession and use of property indicated in paragraph 9 of this article shall be: an extract from the Public Registry, a court decision in force, a document issued by an authorised body/person identified by the legislation of Georgia granting the possessor the right to possess and use the immovable property.

11. If the document of legitimate possession and use of the immovable property is not produced within the period fixed by the National Bureau of Enforcement, the National Bureau of Enforcement shall perform, as provided by this article, the enforcement activity for the dispossession of the immovable property from the debtor's possession and the use and transfer of such property to the creditor.

12. Legal relations that cannot be confirmed against documents of a legitimate possession and use identified by this article can be confirmed by the possessor of the immovable property by applying to court. In such case, the liability for damages incurred to the possessor shall rest with the immovable property buyer, based on whose application the enforcement acts have been performed.

*Law of Georgia No 210 of 15 July 2008 - LHG I, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 822 of 19 December 2008 - LHG I, No 41, 30.12.2008, Art. 300*

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

## **Article 85 – Safekeeping by third persons**

If a thing to be surrendered is held under safekeeping with a third person and such third person refuses to surrender the thing voluntarily, based on a creditor's application, the National Bureau of Enforcement shall issue an attachment order.

*Law of Georgia No 210 of 15 July 2008 - LHG I, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

## **Article 86 – Act that can be performed by any other person**

If the debtor does not perform an obligation that can be performed by a third person, through the National Bureau of Enforcement, the creditor may perform such an act himself/herself and at his/her own cost, which shall be charged against the debtor judicially.

*Law of Georgia No 210 of 15 July 2008 - LHG I, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

## **Article 87 – Act that cannot be performed by any other person**

1. If any act cannot be performed by a third person as it depends only on the will of the debtor who would not perform such act, the debtor may be held liable to the extent provided by the Criminal Code of Georgia.

2. Paragraph 1 of this article shall not apply in enforcing the decisions delivered in connection with marital relationships and provision of services under a labour contract.

*Law of Georgia No 210 of 15 July 2008 - LHG I, No 17, 28.7.2008, Art. 126*



**Article 88 - (Deleted)**

*Law of Georgia No 210 of 15 July 2008 - LHG I, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 4073 of 15 December 2010 - LHG I, No 76, 29.12.2010, Art. 503*

**Article 89 - Enforcing decisions in cases of alimony**

When enforcing a decision in a case of alimony, if the agreed amount recoverable monthly from the debtor is less than the minimum limit set by law, a claim of alimony arrears may be duly enforced against the debtor's property, according to the determined procedure.

**Article 90 - (Deleted)**

*Law of Georgia No 2394 of 9 September 1999 - LHG I, No 44(51), 29.9.1999, Art. 232*

*Law of Georgia No 636 of 5 December 2000 - LHG I, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 3648 of 10 November 2006 - LHG I, No 44, 27.11.2006, Art. 296*

*Law of Georgia No 210 of 15 July 2008 - LHG I, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

**Article 90<sup>1</sup> - Enforcing decisions suspending construction, suspending unauthorised demolition, fully or partially demolishing buildings and structures constructed in violation of the legislation of Georgia, fully or partially suspending the construction and demolition of the buildings and structures under construction, imposing fines for violations in architectural-construction activity**

1. The National Bureau of Enforcement shall proceed with a compulsory enforcement of a decision suspending construction or suspending unauthorised demolition subsequently to the violator's failure to perform the decision immediately and voluntarily.

2. The National Bureau of Enforcement shall proceed with a compulsory enforcement of a decision fully or partially demolishing buildings and structures constructed in violation of the legislation of Georgia if the violator fails to fulfil the obligation voluntarily within seven days after being informed to that effect.

3. If the violator fails to comply with the request of the National Bureau of Enforcement, the National Bureau of Enforcement shall seek assistance from the local self-governing authority, the relevant territorial authority of the Ministry of Internal Affairs of Georgia and/or the enforcement police.

4. The costs related to a compulsory enforcement of a decision suspending construction, suspending unauthorised demolition, fully or partially demolishing buildings and structures constructed in violation of the legislation of Georgia, and fully or partially suspending construction and demolition of buildings and structures under construction shall be borne by the violator.

5. A decision imposing a fine for violations in architectural-construction activity shall be enforced as provided by this Law.

*Law of Georgia No 2407 of 22 December 2005 - LHG I, No 17, 4.1.2006, Art. 6*

*Law of Georgia No 210 of 15 July 2008 - LHG I, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 5668 of 28 December 2011 – website, 16.1.2012*

**Article 90<sup>2</sup> - Enforcing decisions on a financial obligation to be discharged from time to time by public authorities**

1. In the course of enforcing a decision on a financial obligation to be discharged from time to time by public authorities, the creditor may request, by means of a written application, the discharge of such an obligation in advance as a one-off compensation. The decision on payment of the amount as a one-off compensation shall be made by the Government of Georgia that shall serve as the basis for a compulsory enforcement. The amount and period of payment of a one-off compensation shall be approved by the Government of Georgia upon proposal of the Ministry of Justice of Georgia. The creditor need not produce the new writ of execution for the amount to be paid as one-off compensation.

2. After the decision has been enforced as provided by paragraph 1 of this article, the enforcement shall be terminated under Article 34(a) of this Law.



### **Article 90<sup>3</sup> - Compulsory enforcement against a legal entity under public law**

A compulsory enforcement against a legal entity under public law in terms of recovery of a sum of money shall be initiated after elapse of one month after being informed by the National Bureau of Enforcement of a voluntary fulfilment of the decision except immediately enforceable court decisions under Article 268(1) of the Civil Procedure Code of Georgia.

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 5668 of 28 December 2011 – website, 16.1.2012*

### **Article 90<sup>4</sup> - Compulsory enforcement against a budgetary organisation**

A compulsory enforcement against a budgetary organisation in terms of recovery of a sum of money shall be initiated after elapse of one month after being informed by the National Bureau of Enforcement of a voluntary fulfilment of the decision.

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 5668 of 28 December 2011 – website, 16.1.2012*

### **Article 90<sup>5</sup> - (Deleted)**

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 2049 of 5 March 2014 – website, 17.3.2014*

### **Article 90<sup>6</sup> - Enforcing decisions imposing administrative penalty**

1. The following decisions shall be enforced as provided by this Law:

- a) imposing fines
- b) depriving of special rights
- c) (deleted – 5.3.2014, No 2049).

2. Compulsory enforcement of a fine as well as the measures related to the enforcement of a default surcharge penalty shall be carried out as provided by this Law.

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 2049 of 5 March 2014 – website, 17.3.2014*

### **Article 90<sup>7</sup> - Enforcing a decision imposing administrative penalty and the procedures of enforcement**

- 1. A decision imposing administrative penalty shall be enforced by the issuing authority (official).
- 2. A decision replacing one administrative penalty with another administrative penalty shall be enforced as provided in the enforcement of the decision imposing an administrative penalty.
- 3. If several decisions imposing administrative penalty are issued against one person, each decision shall be enforced independently.
- 4. A decision imposing administrative penalty shall be enforced by the duly authorised person according to this Law unless otherwise provided by the legislation of Georgia.

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

### **Article 90<sup>8</sup> - Terminating enforcement of a decision imposing administrative penalty**

The authority (official) issuing a decision imposing administrative penalty shall terminate the enforcement of such decision if:



a) the normative act prescribing administrative liability for the relevant violations has been abolished;

b) the decision has been rescinded based on an appeal;

c) the person against whom the decision is issued has passed away.

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

#### **Article 90<sup>9</sup> - Compulsory enforcement of decisions imposing fines**

1. If a violator fails to pay a fine, the decision imposing the fine shall be sent to the violator's workplace for deducting the fine amount from his/her salary or other revenues.

2. If the fined person is unemployed or the fine cannot be recovered from the violator's salary or other revenues, based on the order of an administrative authority (official), the fine shall be recovered by the National Bureau of Enforcement by taking recourse against the violator's personal property; but if this cannot be done either, the National Bureau of Enforcement may apply to the issuing administrative authority (official) for replacing the fine with another type of punishment.

3. A fine cannot be recovered from property that is not leviable under the legislation of Georgia.

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

#### **Article 90<sup>10</sup> - Procedure for enforcement of decisions revoking driving licences**

1. A decision revoking a driving licence shall be enforced by depriving the driver of his/her licence.

2. If a driver whose driving licence has been revoked avoids surrendering the driving licence, the bailiff shall deprive him/her of the driving licence by force.

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

#### **Article 90<sup>11</sup> - Enforcing writs imposing fines issued by the chairperson or presiding judge (judge) of the Common Court of Georgia against a person being held in contempt of court**

1. If a person being held in contempt of court is fined, the person shall pay the fine within 30 days after the writ imposing the fine is announced by the chairperson or presiding judge (judge) of the Common Court of Georgia or served upon the person.

2. Compulsory enforcement of a fine as well as measures related to the enforcement of a default surcharge penalty shall be carried out as provided by this Law.

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

#### **Article 90<sup>12</sup> - Procedure and periods for enforcing a decision in terms of compensation of pecuniary damages/an administrative act of compensation of pecuniary damages**

1. A decision made on the case of administrative offence in terms of the compensation of pecuniary damages/an administrative act of compensation of pecuniary damages shall be enforced as provided by this Law.

2. Pecuniary damages shall be paid by the violator no later than 30 days after being served with the decision (if an administrative act is issued, within a reasonable period not in excess of 30 days fixed by the same act) and if the decision/administrative act is appealed, not later than 15 days after receipt of notice of dismissal of the appeal.

3. In the case of a failure to fulfil a decision in terms of compensation of pecuniary damages/an administrative act for compensation of pecuniary damages within the period under paragraph 2 of this article, such documents shall serve as the basis for compulsory enforcement.

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

*Law of Georgia No 4073 of 15 December 2010 - LHG I, No 76, 29.12.2010, Art. 503*

#### **Article 91 - Enforcement of foreign court judgements**

1. A decision recognised in the territory of Georgia, as provided by the legislation of Georgia, in accordance with international private law and the mutual legal assistance treaties between states, and the writ of execution copied out by a Georgian court of appropriate jurisdiction shall be forwarded for enforcement to the National Bureau of Enforcement through the Ministry of Justice of Georgia.

2. The decision referred to in paragraph 1 of this article shall be enforced as provided by this Law.



## **Article 91<sup>1</sup> - Enforcing a judge's ruling attaching the property of a person involved in terrorism or a person identified by UN resolutions**

1. The property of a person involved in terrorism or a person identified by a UN resolution shall be attached and such person shall be recorded in the Register of Debtors based on judge's ruling.
2. The National Bureau of Enforcement shall effect attachment of the property of a person involved in terrorism or a person identified by a UN resolution and record the person in the Register of Debtors based on the details provided in the ruling issued by a judge against the person involved in terrorism or the person identified by a UN resolution.
3. The attachment of the property of a person involved in terrorism or a person identified by a UN resolution shall be cancelled and such person shall be struck off the Register of Debtors based on a relevant order of a judge.

*Law of Georgia No 5355 of 25 November 2011 – website, 8.12.2011*

## **Chapter XVI<sup>1</sup>**

### **Summary Proceedings for Claims for Recovery of Monetary Debts**

*Law of Georgia No 6145 of 8 May 2012 – website, 17.5.2012*

## **Article 91<sup>2</sup> - General principles of a summary proceeding for claims for recovery of monetary debts**

1. The National Bureau of Enforcement shall conduct, as provided by this Chapter, a summary proceeding for claims for recovery of monetary debts.
2. No summary proceeding shall be allowed if the raising of a claim depends on a counter obligation still outstanding.
3. A summary proceeding in the National Bureau of Enforcement shall be allowed even if the contract between the parties provides different rules for hearing and resolving disputes except where the contract provides for resolution of disputes by arbitration.

*Law of Georgia No 6145 of 8 May 2012 – website, 17.5.2012*

## **Article 91<sup>3</sup> - Parties to a summary proceeding**

1. The parties to a summary proceeding are an applicant and a respondent.
2. The applicant is a person having a documented matured monetary claim who files with the National Bureau of Enforcement an application for recovery of the debt, and the respondent is a person against whom the applicant's claim is filed.
3. The co-participation and representation of parties shall be allowed in a summary proceeding.

*Law of Georgia No 6145 of 8 May 2012 – website, 17.5.2012*

## **Article 91<sup>4</sup> - Application for recovery of debt**

1. The application for recovery of debt that is the basis for initiating a summary proceeding shall be aimed at issuing a Debt Recovery Order by the Chairperson of the National Bureau of Enforcement.
2. The application for recovery of debt shall include:
  - a) the names, personal/identification numbers, addresses (actual residential address and/or place of business), other known contact details of the parties and their representatives (if any)
  - b) the bank details of the applicant
  - c) the applicant's claim
  - d) a list of documents by which the applicant substantiates his/her claim and which are annexed to the application for recovery of debt
  - e) an indication of whether the applicant claims compensation for the additional costs of a summary proceeding (comprising application and attachment fees)
  - f) an indication of whether the raised claim is dependent on the applicant's discharge of any counter obligation or that the applicant has already discharged such obligation



g) an indication of whether the applicant requests enforcement of the Debt Recovery Order

h) an indication of whether the applicant requests attachment as security for the claim

i) the signature of the applicant or his/her representative.

3. The documents relevant to the evidence indicated in the application for recovery of debt shall be presented in original counterparts and/or certified copies.

4. The application for recovery of a debt shall be attached to the document evidencing the representative's authority if the application is lodged by a representative.

5. In lodging the application for recovery of debt, the applicant shall pay the application fee. The applicant shall be exempt from the application fee where so provided by Article 38(12) of this Law. The amount of the application fee shall be determined by an order of the Minister of Justice of Georgia.

6. If the applicant requests enforcement of a Debt Recovery Order, the applicant shall deposit as a bond the preliminary enforcement fee under this Law to the account of the National Bureau of Enforcement. The exemptions provided by Article 38(12) of this Law shall not apply to the payment of such fee.

7. If the applicant requests to effect attachment as a security for the claim, he/she shall indicate the respondent's property, the property identification details, and pay the fee required for such security. *Law of Georgia No 6145 of 8 May 2012 – website, 17.5.2012*

#### **Article 91<sup>5</sup> - Finding defects**

1. Within five business days after a filing of an application for recovery of a debt, the National Bureau of Enforcement shall examine the application and the documents annexed thereto as a matter of law and as a matter of fact and may set a period of not more than 10 calendar days for the applicant to remedy a defect if the defect is remediable in terms of its substance.

2. Until any additional document and/or information are presented, the period for notice of the initiation of a summary proceeding shall be suspended. It shall be resumed upon presentation of the relevant document and/or information.

3. In examining the applicant's right of claim, the National Bureau of Enforcement shall rely only on the application for recovery of the debt and the information presented in the evidence annexed to such application.

4. The amount of the claim indicated by the applicant in the application for recovery of debt shall be deemed as the amount of debt sought by the applicant to be recovered from the respondent.

*Law of Georgia No 6145 of 8 May 2012 – website, 17.5.2012*

#### **Article 91<sup>6</sup> - Returning an application for recovery of debt**

1. The National Bureau of Enforcement shall return an application for recovery of debt to the applicant if:

a) a proceeding between the same parties over the same subject-matter and on the same ground is pending before a court;

b) there is a court decision in connection with the same case as well as a decision or judgment on the claimant's withdrawal of claim, the respondent's admission of a claim or approval of a settlement between the parties;

c) there is an order by the Chairperson of the National Bureau of Enforcement on recovery of a debt or approval of the terms of a settlement or a decision denying the application for the Debt Recovery Order in connection with the same case;

d) the applicant has failed to remedy the defect within the fixed period;

e) the application has been lodged by an unauthorised person;

f) a legally incompetent person has lodged the application.

2. Returning the application to the applicant shall end the summary proceeding.

3. If the application is returned, the preliminary enforcement fee deposited by the applicant as a bond and the attachment fee shall be refunded to the applicant.

4. In the event of circumstances provided by Paragraph (a), (e) and (f) of this article or if a defect is subsequently remedied, the applicant may re-lodge, as provided by this Chapter, the application for recovery of debt with the National Bureau of Enforcement.

*Law of Georgia No 6145 of 8 May 2012 – website, 17.5.2012*

#### **Article 91<sup>7</sup> - Notice of an initiation of a summary proceeding**

1. Within five business days after filing the registration, the National Bureau of Enforcement shall give the respondent notice of the initiation of a



summary proceeding against him/her.

2. The notice of initiation of a summary proceeding shall contain:

- a) the number of the summary proceeding
- b) the applicant's name, the claim raised, and the basis of the claim
- c) an indication of the respondent's obligation to pay the debt in full within 10 calendar days after receipt of the notice if the respondent finds the claim reasonable or to perform one of the acts stated below:
  - c.a) pay a part of the debt if he/she finds the claim to be reasonable in part;
  - c.b) state a written objection to the applicant's claim if he/she disagrees with the claim;
  - c.c) acknowledge the claim in full in writing, if he/she finds the claim to be reasonable;
  - c.d) acknowledge the claim in part in writing, if he/she finds the claim to be reasonable in part;
  - c.e) present an application proposing a settlement;
- d) information on the legal implication of issuing the Debt Recovery Order;
- e) the amount of the summary proceeding fee, terms of payment, and the bank details of the National Bureau of Enforcement.

3. The documents presented by the respondent under paragraph 2(c) of this article shall contain:

- a) the respondent's name, personal/identification number, address
- b) the number of the summary proceeding, the applicant's name
- c) in the case of an objection – full denial of the claim (if the claims of several applicants are raised against the respondent – indication of the claim denied by the respondent); if the claim is acknowledged in full – indication of full acknowledgement of the claim; if only a part of the claim is acknowledged – indication of which part of the claim is admitted by the respondent)
- d) the respondent's (authorised person's) signature.

4. The National Bureau of Enforcement shall issue a Debt Recovery Order in the following cases:

- a) if the respondent does not perform any of the acts referred to in paragraph 2(c) of this article, the Debt Recovery Order shall be issued for the full amount of the claim;
- b) if the respondent acknowledges the claim in full – the Debt Recovery Order shall be issued for the full amount of the claim;
- c) if the respondent acknowledges the claim in part – the Debt Recovery Order shall be issued for the acknowledged part of the claim;
- d) if the terms of a settlement between the parties are violated – for the amount of the claim indicated in the terms of the settlement and not paid by the respondent.

5. Under a Debt Recovery Order, the respondent shall be required to pay the principal claim of the applicant as well as any additional costs incurred by the applicant in the course of the summary proceeding; such costs comprise the application and attachment fees paid. The respondent shall be required to pay additional costs if the applicant has sought compensation for such costs.

6. The National Bureau of Enforcement shall make a decision of denial of the application for the Debt Recovery Order:

- a) if the respondent presents an objection against the claim – the decision of denial of the application for the Debt Recovery Order shall be made for the full amount of the claim;
- b) if the respondent pays a part of the debt – the decision of denial of the application for the Debt Recovery Order shall be made for the outstanding amount of the claim;
- c) if the respondent acknowledges a part of the debt – the decision of denial of the application for the Debt Recovery Order shall be made for the outstanding amount of the claim.

7. The applicant shall be informed of the decision of denial of the application for the Debt Recovery Order as provided by the Civil Procedure Code of Georgia.

8. The decision of denial of an application for the Debt Recovery Order shall subsequently preclude a summary proceeding in the National Bureau of Enforcement between the same parties, over the same subject-matter and on the same ground.

9. The decision of the National Bureau of Enforcement of denial of an application for a Debt Recovery Order shall not deprive the applicant of the right to file an action against the respondent under general judicial procedures.

10. In a case of a summary proceeding, the notice of initiation of a summary proceeding shall be served upon the respondent as provided by the Civil Procedure Code of Georgia. The respondent shall in no event be informed of a notice of initiation of a summary proceeding by means of a public announcement.





## **Article 91<sup>8</sup> - Application proposing a settlement**

1. Within 10 calendar days after receipt of a notice of initiation of a summary proceeding the respondent may lodge with the National Bureau of Enforcement an application proposing a settlement. The respondent shall be deemed to have proposed a settlement if the respondent finds the amount of the claim or its part reasonable but seeks prolongation of the term of payment or rescheduling the claim or part of it.

2. The application proposing a settlement shall contain the respondent's name, personal/identification number, the applicant's name, the summary proceeding number, the full amount of the claim raised by the applicant, the amount of debt admitted by the respondent, terms of payment of such debt, and, if rescheduling is requested – the payment schedule.

3. The National Bureau of Enforcement shall send the respondent's application proposing a settlement to the applicant and set a period for the applicant to either accept or reject the settlement. By request of the applicant, the National Bureau of Enforcement may prolong the period by not more than 30 days. Failure of the parties to reach agreement shall produce the legal consequence provided in the event of the respondent's objection. If the respondent agrees, a Debt Recovery Order may be issued for the amount of debt admitted by the respondent, and in respect of the part of claim denied by the respondent the decision on denial of the application for the Debt Recovery Order shall be made that does not deprive the applicant of the right to apply to court.

4. During the period indicated in paragraph 3 of this article, the parties may agree on any other amount of debt and terms of payment of such amount. The agreement of the parties shall be made in writing.

5. Under the agreement reached between the parties on the amount of debt and terms of payment of such amount, the National Bureau of Enforcement shall approve the terms of a settlement between the parties. The settlement shall not contain a condition for the applicant to perform any counter obligation.

6. If the respondent breaches the terms of the settlement, based on the applicant's application, the National Bureau of Enforcement shall issue a Debt Recovery Order for the amount of debt indicated in the terms of the settlement but not paid by the respondent.

7. If a Debt Recovery Order is issued due to a breach of the terms of the settlement, the applicant shall be given a refund of that part of the preliminary enforcement fee deposited by him as bond that exceeds the amount of debt indicated in the Debt Recovery Order. If the respondent duly fulfils the terms of the settlement that precludes the issue of a Debt Recovery Order, the applicant shall be given a refund of the preliminary enforcement fee deposited by him as bond.

Law of Georgia No 6145 of 8 May 2012 – website, 17.5.2012

## **Article 91<sup>9</sup> - Debt recovery order**

1. A Debt Recovery Order shall contain:

a) number and place of issue of the Order

b) number of the summary proceeding

c) date of issue of the Order

d) names, personal/identification numbers, addresses (actual residential address and/or place of business) and other contact details of the parties

e) amount of the debt

f) amount of expenses incurred by the applicant in connection with the summary proceeding

g) signature of an authorised person.

2. The amount of the expenses incurred by the applicant shall be indicated in the Debt Recovery Order and recovered if the applicant has claimed compensation for such expenses.

3. The Debt Recovery Order may be appealed if there has been a substantial violation in the summary procedure under this Chapter.

4. The Debt Recovery Order shall take effect from the date of issue. It shall be immediately enforced by the National Bureau of Enforcement, if the applicant requests enforcement of the Debt Recovery Order and has posted the preliminary enforcement fee as a bond. A copy of the Debt Recovery Order shall be sent to the applicant and the respondent as provided by the Civil Procedure Code of Georgia.

5. If the applicant does not request immediate enforcement, the Debt Recovery Order, if so requested, shall be given to the applicant. The period for presenting it for enforcement is five years after the date of issue.

Law of Georgia No 6145 of 8 May 2012 – website, 17.5.2012

## **Article 91<sup>10</sup> - Security for a claim**



1. To secure an applicant's claim, the National Bureau of Enforcement shall effect attachment of the respondent's assets registered with the registration authority in the event of a simultaneous presence of the circumstances stated below:

- a) the applicant claims attachment of the respondent's assets as a security for his/her claim;
- b) the applicant claims enforcement of a Debt Recovery Order and the amount posted as bond meets the amount required for a preliminary enforcement fee;
- c) the applicant identifies which of the respondent's assets shall be used as security;
- d) the applicant has paid the fee required for attachment.

2. The amount of the fee for effecting attachment as security for a claim shall be determined by an order of the Minister of Justice of Georgia.

3. Attachment shall be discharged if:

- a) the application for debt recovery is returned to the applicant;
- b) the applicant withdraws his/her application for debt recovery;
- c) the applicant claims discharge of attachment;
- d) the respondent fully pays the debt as provided by this Chapter.

4. If the respondent lodges an objection against the applicant's claim or pays part of the debt within the relevant period, the attachment effected on the respondent's asset in the summary proceeding shall be discharged one month after serving the applicant with a decision of denial of the application for a Debt Recovery Order, unless the National Bureau of Enforcement is informed of the initiation of a hearing on the merits in the same court in connection with the same case. The court may repeal or replace the security used for the claim.

5. If the terms of the settlement between the parties are approved, the National Bureau of Enforcement shall discharge the attachment, if the applicant so requests.

6. The applicant shall be responsible for damages incurred to the respondent if the attachment used as a security for the claim proves to be unwarranted.

*Law of Georgia No 6145 of 8 May 2012 – website, 17.5.2012*

#### **Article 91<sup>11</sup> - Summary proceeding fee**

1. The summary proceeding fee is the fee for the services provided by the National Bureau of Enforcement in the enforcement proceeding that is recovered if the debt is paid in full or in part. The amount of the summary proceeding fee shall be determined by an order of the Minister of Justice of Georgia.

2. The summary proceeding fee shall be paid by the respondent when paying the debt in full or in part.

3. Payment between the parties in connection with a summary proceeding shall be deemed made if it is made through the National Bureau of Enforcement.

4. The National Bureau of Enforcement shall direct the summary proceeding fee deposited to its account by the respondent to the applicant's bank account by deducting the summary proceeding fee. The summary proceeding fee shall be proportionately deducted from any amount deposited from time to time.

5. The day the respondent deposits any amount to the account of the National Bureau of Enforcement shall be deemed to be the day of his/her payment to the applicant.

*Law of Georgia No 6145 of 8 May 2012 – website, 17.5.2012*

#### **Article 91<sup>12</sup> - Withdrawing the application**

1. Before a Debt Recovery Order is issued, a decision of denial of the application for a Debt Recovery Order is made or if the terms of a settlement are approved, the applicant may withdraw his/her application for a Debt Recovery Order by filing an application with the National Bureau of Enforcement.

2. If an application is withdrawn after the notice has been served upon the respondent, the applicant shall be refunded only half of the prepaid bond but if the application is withdrawn before the notice has been served upon the respondent, the applicant shall be refunded the prepaid bond in full.

3. If the application is withdrawn, the applicant shall be refunded the fee paid for levying of attachment if the registration authority has not registered the attachment by then.

*Law of Georgia No 6145 of 8 May 2012 – website, 17.5.2012*



**Article 91<sup>13</sup> - General principles of statement of facts**

1. The National Bureau of Enforcement shall obtain a statement of facts based on a stakeholder's application or court order.
2. A statement of facts means reflecting the current condition of facts as provided by this Chapter.
3. A statement of facts shall be used in respect of perceptible and describable circumstances.
4. A statement of facts may be obtained at any time of the day.
5. The bailiff's act related to a statement of facts shall not be subject to appeal.

*Law of Georgia No 6145 of 8 May 2012 – website, 17.5.2012*

**Article 91<sup>14</sup> - Basis for a statement of facts**

1. The basis for a statement of facts shall be an application from a stakeholder for a statement of facts.
2. The stakeholder, based on whose/which application the National Bureau of Enforcement obtains a statement of facts, can be a natural person, a legal person, an association of persons, or an administrative authority.
3. The application from a stakeholder shall contain information on the stakeholder's identification details, address, fact to be established, location where facts shall be stated, the possessor of the asset, in whose ownership and/or possession the facts shall be stated, etc.
4. The National Bureau of Enforcement may request from the stakeholder any additional information necessary for and/or conducive to the statement of facts. Failure to provide information shall serve as a basis for denial of the statement of facts.

*Law of Georgia No 6145 of 8 May 2012 – website, 17.5.2012*

**Article 91<sup>15</sup> - Bars to a statement of facts**

1. Bars to a statement of facts are the circumstances under which it is impossible to gather evidence.
2. A statement of facts in a territory being in the ownership and/or legitimate possession of the person who is not a stakeholder shall be permitted with such person's consent. Such consent may be written or captured by a technical device.
3. If a person refuses to grant the representative of the National Bureau of Enforcement access to the territory being in his/her ownership and/or legitimate possession for statement of facts, Article 91<sup>17</sup>(2) of this Law shall apply.

*Law of Georgia No 6145 of 8 May 2012 – website, 17.5.2012*

**Article 91<sup>16</sup> - Statement of facts at public places**

The National Bureau of Enforcement may obtain a statement of facts in the territory being in the ownership and/or legitimate possession of the State, an autonomous republic or a self-governing unit as well as in the territory being in private ownership and/or legitimate possession that is an object of public use.

*Law of Georgia No 6145 of 8 May 2012 – website, 17.5.2012*

**Article 91<sup>17</sup> - Report on statement of facts**

1. A report of statement of facts shall contain:
  - a) date and time of executing the report
  - b) basis for the statement of facts
  - c) where the stakeholder's application is involved – name, identification number and address of the stakeholder
  - d) reference to the location where the statement of facts has been obtained and where any private ownership and/or legitimate possession are involved, name of the person, on whose privately owned and/or legitimately possessed territory the statement of facts has been obtained



e) reference to the circumstance, the ascertainment of which has been sought

f) precise description of factual circumstances

g) reference to the technical device that has been used and the list of materials attached

h) identity and signature of the representative of the National Bureau of Enforcement who has obtained the statement of facts.

2. If it is impossible to obtain a statement of facts, the representative of the National Bureau of Enforcement shall execute a report and indicate the circumstances preventing the statement of facts.

*Law of Georgia No 6145 of 8 May 2012 – website, 17.5.2012*

### **Article 91<sup>18</sup> – Compensation**

1. The statement of facts is a chargeable activity of the National Bureau of Enforcement.

2. By request of the stakeholder or court, the National Bureau of Enforcement shall retain the evidence obtained as a result of the statement of facts.

3. The amount and terms of payment of the fee for a statement of facts as well as the period of retention of the evidence obtained as a result of the statement of facts, the amount and terms of payment of fee shall be determined by an order of the Minister of Justice of Georgia.

*Law of Georgia No 6145 of 8 May 2012 – website, 17.5.2012*

## **Chapter XVI<sup>3</sup>**

### **Registration of a Loan Agreement and Following Up on Fulfilment of the Payment Obligation**

*Law of Georgia No 6433 of 12 June 2012 – website, 25.6.2012*

### **Article 91<sup>19</sup> - Registration of a loan agreement**

1. By agreement of the parties, the National Bureau of Enforcement shall register a loan agreement (including a bank facility) not secured with pledge and/or mortgage ('the Loan Agreement') and shall follow up on the borrower's fulfilment of the payment obligation under the Loan Agreement. The procedure for registering the Loan Agreement and following up on fulfilment of the payment obligation shall be determined by an order of the Minister of Justice of Georgia.

2. The National Bureau of Enforcement shall not register the Loan Agreement unless it contains the main terms and conditions typical of a loan agreement, the names, personal/identification numbers, addresses of the parties (lender and borrower) and their representatives (if the Loan Agreement is signed through a representative), and the lender's bank details.

3. If the Loan Agreement is made through a representative, the document evidencing the representative's authority shall be presented.

4. The registered Loan Agreement shall be amended or terminated through registration with the National Bureau of Enforcement.

5. The National Bureau of Enforcement shall maintain the Register of Loan Agreements. Except as provided by law, the records of the Register shall not be disclosed without the consent of the parties to the relevant Loan Agreement. The procedure for maintaining the Register of Loan Agreements shall be determined by an order of the Minister of Justice of Georgia.

*Law of Georgia No 6433 of 12 June 2012 – website, 25.6.2012*

### **Article 91<sup>20</sup> - Procedure for fulfilment of the payment obligation**

The procedure for the borrower to fulfil the payment obligation under the Loan Agreement and the National Bureau of Enforcement to follow up on the fulfilment of such obligation shall be determined by an order of the Minister of Justice of Georgia.

*Law of Georgia No 6433 of 12 June 2012 – website, 25.6.2012*

### **Article 91<sup>21</sup> - Order of enforcement**

1. If the borrower does not fulfil or improperly fulfils a payment obligation under the Loan Agreement, the Chairperson of the National Bureau of Enforcement shall issue an order of enforcement.

2. The order of enforcement shall be issued 15 days after the borrower's non-fulfilment or improper fulfilment of the payment obligation unless the Loan Agreement provides for a longer period or unless the borrower requests prolongation of such period.



3. The order of enforcement shall contain:

- a) number and place of issue of the order
- b) date of issue of the order
- c) number of the Loan Agreement
- d) lender's (creditor's) name, personal/identification number, address
- e) borrower's (debtor's) name, personal/identification number, address
- f) amount of debt
- g) signature of the authorised person.

4. The order of enforcement shall take effect from the date of issue. It shall be immediately enforced by the National Bureau of Enforcement unless the lender states his/her refusal for immediate enforcement prior to the issue of the order of enforcement. The period for presenting for enforcement the order of enforcement shall be five years from the date of issue. Copies of the order of enforcement shall be sent to the lender and the borrower as provided by the Civil Procedure Code of Georgia.

*Law of Georgia No 6433 of 12 June 2012 – website, 25.6.2012*

#### **Article 91<sup>22</sup> - Fee for the registration of the Loan Agreement and following up on the fulfilment of the payment obligation**

The amount and terms of payment of the fee to the National Bureau of Enforcement for registration of the Loan Agreement and following up on the fulfilment of the payment obligation shall be determined by an order of the Minister of Justice of Georgia.

*Law of Georgia No 6433 of 12 June 2012 – website, 25.6.2012*

### **Chapter XVII**

**(Deleted)**

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

#### **Article 92 - (Deleted)**

*Law of Georgia No 210 of 15 July 2008 - LHG I, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

#### **Article 92<sup>1</sup> - (Deleted)**

*Law of Georgia No 485 of 13 July 2000 - LHG I, No 30, 27.7.2000, Art. 95*

*Law of Georgia No 636 of 5 December 2000 - LHG I, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 - LHG I, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 2797 of 23 March 2010 - LHG I, No 14, 30.3.2010, Art. 84*

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

#### **Article 92<sup>2</sup> - (Deleted)**

*Law of Georgia No 3385 of 23 June 2006 – LHG I, No 24, 29.6.2006, Art. 192*

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

### **Chapter XVIII**

**(Deleted)**



**Article 93 - (Deleted)**

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

**Article 94 - (Deleted)**

*Law of Georgia No 2963 of 28 April 2006 - LHG I, No 15, 16.5.2006, Art. 111*

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

**Article 95 - (Deleted)**

*Law of Georgia No 2963 of 28 April 2006 - LHG I, No 15, 16.5.2006, Art. 111*

*Law of Georgia No 210 of 15 July 2008 - LHG I, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 3167 28 June 2010 – LHG I, No 34, 9.7.2010, Art. 203*

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

**Article 96 - (Deleted)**

*Law of Georgia No 3167 28 June 2010 – LHG I, No 34, 9.7.2010, Art. 203*

**Article 97 - (Deleted)**

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

**Article 98 - (Deleted)**

*Law of Georgia No 210 of 15 July 2008 - LHG I, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

**Article 99 - (Deleted)**

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

**Article 100 - (Deleted)**

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

**Article 101 - (Deleted)**

*Law of Georgia No 210 of 15 July 2008 - LHG I, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

**Article 102. (Deleted)**

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*



**Article 103 - (Deleted)**

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

**Article 104 - (Deleted)**

*Law of Georgia No 210 of 15 July 2008 - LHG I, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

**Article 105 - (Deleted)**

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

**Article 106 - (Deleted)**

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

**Article 107 - (Deleted)**

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

**Article 108 - (Deleted)**

*Law of Georgia No 636 of 5 December 2000 - LHG I, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

**Article 109 - (Deleted)**

*Law of Georgia No 3648 of 10 November 2006 - LHG I, No 44, 27.11.2006, Art. 296*

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

**Chapter XVIII<sup>1</sup>**

**(Deleted)**

*Law of Georgia No 2963 of 28 April 2006 - LHG I, No 15, 16.5.2006, Art. 111*

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

**Article 109<sup>1</sup> - (Deleted)**

*Law of Georgia No 2963 of 28 April 2006 - LHG I, No 15, 16.5.2006, Art. 111*

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

**Article 109<sup>2</sup> - (Deleted)**

*Law of Georgia No 2963 of 28 April 2006 - LHG I, No 15, 16.5.2006, Art. 111*

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*



**Article 109<sup>3</sup> - (Deleted)**

*Law of Georgia No 2963 of 28 April 2006 - LHG I, No 15, 16.5.2006, Art. 111*

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

**Article 109<sup>4</sup> - (Deleted)**

*Law of Georgia No 2963 of 28 April 2006 - LHG I, No 15, 16.5.2006, Art. 111*

*Law of Georgia No 210 of 15 July 2008 - LHG I, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

**Article 109<sup>5</sup> - (Deleted)**

*Law of Georgia No 2963 of 28 April 2006 - LHG I, No 15, 16.5.2006, Art. 111*

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

**Article 109<sup>6</sup> - (Deleted)**

*Law of Georgia No 2963 of 28 April 2006 - LHG I, No 15, 16.5.2006, Art. 111*

*Law of Georgia No 210 of 15 July 2008 - LHG I, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

**Chapter XVIII<sup>2</sup>**

**(Deleted)**

*Law of Georgia No 4210 of 29 December 2006 – LHG I, No 4, 12.1.2007, Art. 52*

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

**Article 109<sup>7</sup> - (Deleted)**

*Law of Georgia No 4210 of 29 December 2006 – LHG I, No 4, 12.1.2007, Art. 52*

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

**Chapter XIX**

**(Deleted)**

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

**Article 110 - (Deleted)**

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*

**Article 111 - (Deleted)**

*Law of Georgia No 3884 of 7 December 2010 - LHG I, No 72, 22.12.2010, Art. 438*





## Chapter XX

(Deleted)

*Law of Georgia No 940 of 19 June 2001 - LHG I, No 20, 3.7.2001, Art. 67*

### Article 112 - (Deleted)

*Law of Georgia No 636 of 5 December 2000 - LHG I, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 940 of 19 June 2001 - LHG I, No 20, 3.7.2001, Art. 67*

## Chapter XXI

### Transitional and Final Provisions

*Law of Georgia No 210 of 15 July 2008 - LHG I, No 17, 28.7.2008, Art. 126*

### Article 113 - Transitional provisions

1. Court decisions delivered prior to enactment of this Law shall only be enforced as provided by this Law.
2. The writs of execution of notary bodies predating enactment of this Law shall be enforced as provided by this Law.
3. The training and qualification tests of the bailiffs defined by this Law shall be conducted before 1 September 1999.
4. The normative acts identified by this Law shall be adopted before 15 May 1999.
5. Upon adoption of the law, the Ministry of Justice of Georgia shall form enforcement offices and organise the training for the bailiff.
6. Enforcement bureaus shall be accommodated in regional (city) courts.
7. (Deleted)
8. (Deleted)
9. To determine the amount of the enforcement fund in the State Budget of 2011, the Enforcement Office of the Ministry of Justice of Georgia shall submit to the Ministry of Finance the list of the decisions enforceable with public funds before 15 August 2000.
10. LEPL National Bureau of Enforcement within the Ministry of Justice of Georgia is a successor to the Enforcement Department of the Ministry of Justice of Georgia. LEPL National Bureau of Enforcement shall carry out the measures related to enforcement of the cases pending before the Enforcement Department of the Ministry of Justice of Georgia and the enforcement bureaus – the territorial bodies of the Ministry of Justice of Georgia.
11. In connection with the formation of LEPL National Bureau of Enforcement within the Ministry of Justice of Georgia, the Government of Georgia shall ensure:
  - a) entry of the relevant changes in the Statute of the Ministry of Justice of Georgia;
  - b) transfer, as provided by the legislation of Georgia, of the budget appropriations of the Enforcement Department of the Ministry of Justice of Georgia to LEPL National Bureau of Enforcement;
  - c) transfer, as provided by the legislation of Georgia, of the assets necessary for the operation of LEPL National Bureau of Enforcement within the Ministry of Justice of Georgia, to LEPL National Bureau of Enforcement.
12. The Ministry of Justice of Georgia shall ensure:
  - a) approval of the Statute of LEPL National Bureau of Enforcement
  - b) approval of the instruction for enforcement proceedings
  - c) approval of the regulation on the bailiff's disciplinary liability
  - d) approval of the uniform attributes of an enforcement police officer
  - e) identification of the types of enforcement costs
  - f) implementation of other organisational measures in connection with the formation of LEPL National Bureau of Enforcement
  - g) approval of the procedure for setting up a private bailiff's place of work before 1 July 2009
  - h) definition of the amount and terms of private bailiff's mandatory civil liability insurance before 1 July 2009



- i) approval of the procedure for maintaining the register of private bailiffs before 1 July 2009
- j) approval of the form of enforcement licence before 1 July 2009
- k) determination of the amount of the fee for services provided by the Enforcement Police Division to private bailiffs by categories of enforcement activities before 1 July 2009
- l) approval of the forms and procedure for holding enforced auctions before 1 August 2010
- m) approval of the amounts and terms of payment of the fees identified by this Law before 1 August 2010.

13. The Chairperson of the National Bureau of Enforcement shall approve the Statute of the Enforcement Police Division.

14. The enforcement fees charged against a debtor before 1 October 2008 shall be recovered together with an enforceable claim in the form of an enforcement fee, out of which the preliminary costs incurred by the creditor shall be covered and the remaining part of such fee shall be directed to the account of the National Bureau of Enforcement.

15. No enforcement fee shall be recovered for the cases referred to in Article 38(11) of this Law pending prior to 1 October 2008.

16. Enforcement proceedings pending prior to 1 July 2009, for which an enforced auction has been appointed, shall be completed before 1 July 2009 under the current procedure.

17. (The effective term has expired).

18. The order of precedence of enforcement upon chattels attached before 2 July 2009 shall be determined against the date of execution of the document evidencing the origin of attachment.

19. In cases admitted by Enforcement Bureaus before 1 September 2009, the fee for the enforcement of the decisions identified by Subparagraphs 1 (a-d) of Article 268 of the Civil Procedure Code of Georgia as well as of the fines imposed in criminal and administrative proceedings shall account for 2% of the enforceable monetary claim and shall be recoverable from the debtor.

20. For cases pending before the Enforcement Bureau, in which the first and repeat failed auctions were held as provided by this Law prior to 1 July 2009 and the property was not transferred in kind to the creditor, the auction (first, repeat) may be conducted, based on the creditor's application, as provided by this Law and if the thing is not sold at such auction, such thing shall be transferred to the creditor in kind.

21. With the purpose to define the terms of giving an electronic notice of the opening of a bank account by any person registered in the Register of Debtors, banking institutions operating in Georgia shall sign a relevant contract with the National Bureau of Enforcement before 1 March 2010.

22. In the relevant case admitted by the Enforcement Bureau before 1 April 2010, the budgetary organisation being a debtor shall be granted three months to fulfil the court decision voluntarily.

23. Before 1 January 2011, the bodies (persons) maintaining the National Weapons Register, the Power-driven Vehicles Registration Database, the National Register of Civil Aircraft, the National Register of Georgian Ships, Registers of Stocks, and the Public Registry shall provide LEPL National Bureau of Enforcement with access to the relevant databases.

24. In the cases admitted by Enforcement Bureaus prior to 1 August 2010, the part of an enforcement fee to be prepaid by secured creditors shall be paid and things shall be transferred in kind to secured creditors as applicable prior to 1 August 2010.

25. Enforcement proceedings initiated by the Enforcement Bureaus prior to 1 August 2010, in which an enforced auction has been appointed, shall be completed as applicable prior to 1 August 2010.

*Law of Georgia No 2394 of 9 September 1999 - LHG I, No 44(51), 29.9.1999, Art. 232*

*Law of Georgia No 485 of 13 July 2000 - LHG I, No 30, 27.7.2000, Art. 95*

*Law of Georgia No 636 of 5 December 2000 - LHG I, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 210 of 15 July 2008 - LHG I, No 17, 28.7.2008, Art. 126*

*Law of Georgia No 822 of 19 December 2008 - LHG I, No 41, 30.12.2008, Art. 300*

*Law of Georgia No 1028 of 10 March 2009 - LHG I, No 5, 24.3.2009, Art. 18*

*Law of Georgia No 1321 of 19 June 2009 - LHG I, No 12, 29.6.2009, Art. 57*

*Law of Georgia No 1323 of 19 June 2009 - LHG I, No 12, 29.6.2009, Art. 58*

*Law of Georgia No 1542 of 17 July 2009 - LHG I, No 21, 3.8.2009, Art. 125*

*Law of Georgia No 2459 of 25 December 2009 - LHG I, No 49, 30.12.2009, Art. 371*

*Law of Georgia No 2797 of 23 March 2010 - LHG I, No 14, 30.3.2010, Art. 84*

*Law of Georgia No 3167 of 28 June 2010 - LHG I, No 34, 09.7.2010, Art. 203*



**Article 113<sup>1</sup> - (Deleted)**

*Law of Georgia No 636 of 5 December 2000 - LHG I, No 48, 16.12.2000, Art. 136*

*Law of Georgia No 1865 of 7 July 2005 – LHG I, No 38, 15.07.2005, Art. 261*

*Law of Georgia No 210 of 15 July 2008 - LHG I, No 17, 28.7.2008, Art. 126*

**Article 113<sup>2</sup> - Liquidation of enforcement offices**

Upon adoption of this Law, the Ministry of Justice of Georgia shall implement the organisational measures necessary for the liquidation of the enforcement offices and adoption of the subordinate normative acts provided by this Law.

*Law of Georgia No 636 of 5 December 2000 - LHG I, No 48, 16.12.2000, Art. 136*

**Article 114 - Enactment of the Law**

1. This Law shall enter into force as from 15 May 1999.

2. Article 19<sup>2</sup>(3) of this Law shall take into force as from 1 March 2010.

*Law of Georgia No 2459 of 25 December 2009 - LHG I, No 49, 30.12.2009, Art. 371*

**President of Georgia**

**Eduard Shevardnadze**

**Tbilisi**

**16 April 1999**

**No 1908-IIS**

