

## **Georgian Law on Enforcement Proceedings**

### **Article 1. The Scope of Law**

The Law regulates the execution of the regulations and conditions of enforcement of the decisions issued by the courts of general jurisdiction, administrative authorities (public officials), arbitration, restitution and compensation commission and its committee, European Court of Human Rights and International Criminal Court.

### **Article 2. Subordinate Acts of Enforcement**

According to the rule stated by this law, the subject to enforcement is the administrative-legal act on an administrative tort of the authorized administrative body (public official) and in cases directly referred to by the law, an administrative-legal act on imposing a penalty as a sanction issued by independent national regulating authorities and the National Bank of Georgia, an administrative-legal act on compensation of damages to the property of the state and/or local self-government unit arising as a result of an administrative tort, resolution of the commission of restitution and compensation and its committee, notary act, mortgage certificate, corresponding individual administrative-legal act issued by the minister of Finance of Georgia and provided in the budgetary code of Georgia, a decision of the Ministry of Justice of Georgia on expulsion of foreign individuals from Georgia, an order on debt payment issued by the Chairman of the National Bureau of Enforcement, a legal entity of public law under the governance of the Ministry of Justice of Georgia (later – Debt Payment Order) and an enforcement order the request of the buyer of the immovable property (during the enforcement proceeding – the purchaser of the immovable property on auction, purchaser of the property without auction, receiver of the property in-kind) to reclaim the immovable property from the ownership and use of the other person, the resolution of the Medical Mediation Service existing at the competent office of the Ministry of Labor, Health and Social Affairs, an Individual administrative act – claim for damage imposed on environment issued by the supervising body prescribed by Chapter II<sup>1</sup> of the Georgian Law on “Environmental Protection” and the following court acts (later- “decision”):

- a. Rule of court, verdict and resolution issued on court cases of private and administrative law and entered into legal force, except the decisions of the court cases on conveying the child and/or regulating the relationship of another parent or other family member with a child;
- b. Court sentence, verdict, resolution and property payment decree issued on criminal cases and entered into legal force;
- c. Guilty sentence made to an individual or/and legal entity by court, imposing a penalty or/and property confiscation issued on criminal case and entered into legal force;
- d. Rule of court entered into legal force ascertaining administrative offence in part of property levy and imposing a fine as an administrative sanction;
- e. Payment order and an order on returning the leased object into the possession of a leaser;
- f. Arbitration decision;
- g. Decision prescribed as to be immediately enforced in article 268 of Civil Procedure Code of Georgia;

- h. Arbitration decision, enforcement of which is ascertained by the international agreements of Georgia;
- i. Decision of a foreign court and International Criminal Court enforcement of which is determined by the Georgian Legislation;
- j. Decisions of European Court of Human Rights, which are obligatory for Georgia according to the European Convention for the Protection of Human Rights and Fundamental Freedoms;
- k. Court decision on expulsion of foreign individuals from Georgia;
- l. Court decision about sale of debtor's (tax payer's) seized property under mortgage/pledge;
- m. Order of the chairman of Georgian court of general jurisdiction or the chairman of the sitting (the judge) on imposition of a fine or an arrest of an individual violating order in the court;
- n. Order of a judge on issues prescribed by Chapter VII<sup>8</sup> of General Administrative Procedure Code of Georgia;

### **Article 2.<sup>1</sup>. restriction of compulsory enforcement measures**

- 1. Property specified in the Article 4 of the law of Georgia on "State Property" is not subject to Enforcement, auction, seizure or sequestration under compulsion;
- 2. Compulsory enforcement measures prescribed by this law do not apply to the financial collateral prescribed by the law of Georgia on „Payment Systems and Payment Services“
- 3. Compulsory enforcement measures prescribed by this law, except of the encashment task, do not apply to the system's settlement account prescribed by the law of Georgia on „Payment Systems and Payment Services“
- 4. During Using of compulsory enforcement measures toward taxpayers: Licensed securities depository, licensed securities market mediatory, brokerage company, notary or important provider of payment service, measures should not apply to those assets, which are located in the nominal ownership of the account and/or who do not belong to his/her client's property and assets.(in particular, nominal ownership of securities and loans, as well as money and securities deposited with a notary deposit account, an important payment service providers' account of the user). Such assets should be registered separately from the client's own assets, in accordance with the law.(enacted on July 1, 2012)

## **Chapter 2 ENFORCEMENT AUTHORITIES**

### **Article 3. Enforcement Authorities**

- 1. Compulsory enforcement of the decisions ascertained by Article 2 of the aforementioned law is carried out by the National Bureau of Enforcement, a legal entity of public law under the governance of the Ministry of Justice of Georgia (later - National Bureau of Enforcement).
- 1<sup>1</sup>. In case of the agreement between the National Bureau of Enforcement and Tax Authority and based on the provisions of this agreement, for the purpose of securing payment of the tax

liability being under the competence of the tax authority pursuant to the Tax legislation of Georgia, in order to seize the property of the tax payer, National Bureau of Enforcement reclaims property list of the tax payer, appraise the property, draws the act on the seizure, seals, registers the seizure of the tax payer's property in the registration body, draws the tax violation record in the cases proscribed by the Tax Code of Georgia, addresses the court on behalf of the Tax Authority in case of the executions of the seizure procedures on the tax payer's property with the purpose to sale such property or directly transfer it under the possession of state and fulfills any other necessary acts proscribed by this subparagraph.

- 1<sup>2</sup>. In the scope of the enforcement proceedings and pursuant to the rule established by the Georgian Legislation, National Bureau of Enforcement is entitled to address the relevant administrative body in order to determine the plot on which stands the building owned by the debtor, and the Public Registry, a legal entity of public law under the governance of the Ministry of Justice of Georgia, to register the right of property on the aforementioned plot.
- 1<sup>3</sup>. Pursuant to the request of a person, National Bureau of Enforcement is entitled to appraise the property. The fee for such service shall be determined by the decree of the Minister of Justice.
- 1<sup>4</sup>. National Bureau of Enforcement shall perform the function of a trustee and/or the function of the manager of the insolvency case during the insolvency case proceeding pursuant to the rule proscribed by the Law of Georgia on "Insolvency Case Proceedings". The fee for the service shall be determined by the decree of the Minister of Justice of Georgia.
- 1<sup>5</sup> National Bureau of Enforcement shall be entitled to enter into the agreement, use the service of the third parties and fulfill other activities that ensure proper implementation of its functions.
- 1<sup>6</sup>. National Bureau of Enforcement is authorized to carry out the activity defined by the Minister of Justice of Georgia, which is not directly foreseen by this law.
2. Extracted
3. A private enforcement officer, determined by Chapter III<sup>2</sup> of this law, shall also be responsible for the compulsory execution of the decisions, prescribed by Article 2 of this law.

#### **Article 4. National Bureau of Enforcement**

1. National Bureau of Enforcement is a legal entity of public law under the governance of the Ministry of Justice of Georgia.
2. State control over the activities of the National Bureau of Enforcement is exercised by the Ministry of Justice of Georgia.
3. Statute of National Bureau of Enforcement is ascertained by the Minister of Justice of Georgia.
4. **Extracted**
5. National Bureau of Enforcement is headed by a chairman, which is appointed and dismissed by the Minister of Justice of Georgia.
6. The deputy chairmen of National Bureau of Enforcement and the head of Enforcement Police Division are appointed and dismissed by the chairman of National Bureau of Enforcement upon the agreement with the Minister of Justice of Georgia. Other officials of National Bureau of Enforcement are appointed and dismissed by the chairman of National Bureau of Enforcement.

7. The Chairman of the National Bureau of Enforcement is entitled to delegate his authority to the person employed by the National Bureau of Enforcement. The aforementioned person shall be forbidden to assign the delegated authority to other person, if such is not explicitly stated in the decision on delegation of authority.
8. Expenditures, staff list and the payroll are ascertained by the chairman of National Bureau of Enforcement upon the agreement with the Minister of Justice of Georgia.
9. Financial means of the National Bureau of Enforcement are provided from the state budget and other income prescribed by the Georgian Legislation
10. National Bureau of Enforcement possesses an official stamp with National Emblem illustration and a bank account, including current accounts. National Bureau of enforcement owns the amounts paid on the bank account as interest rate.

#### **Article 5. Enforcement Bureau**

1. National Bureau of Enforcement ensures enforcement through its structural units and territorial bodies – through Enforcement bureaus. The system of Enforcement Bureaus is determined by the Chairman on the National Bureau of Enforcement upon the agreement with the Minister of Justice of Georgia.
2. Decisions to be enforced pursuant to Article 2 of this law are directly enforced by the bailiffs of the Enforcement Bureaus on behalf of the National Bureau of Enforcement and based on the order issues by the Chairman of the National Bureau of Enforcement, as well as the individuals employed at the National Bureau of Enforcement and interns of the National Bureau of Enforcement (later – “bailiff”).
3. Enforcement Bureau is headed by the Chairman of the Bureau, who is appointed and dismissed by the chairman of National Bureau of Enforcement upon the agreement with the Minister of Justice of Georgia.”
- 3<sup>1</sup>. Conditions and regulations of appointing and dismissing the bailiff, the amount for participation in the Bailiff Qualification Exams, the rule for conducting recruitment and internship shall be defined by the order of the Minister of Justice of Georgia.
4. Enforcement Bureau is guided in its activities by this law, other normative acts of Georgia and the statute of Enforcement Bureau.
5. The Statute of Enforcement Bureau and its staff list are approved by the chairman of National Bureau of Enforcement upon the agreement with the Minister of Justice of Georgia.
6. National Bureau of Enforcement possesses an official stamp with National Emblem illustration.

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

#### **Article 14<sup>1</sup>. Enforcement Police Division**

1. Enforcement Police Division (later-division) is a structural unit of National Bureau of Enforcement.

2. The division is led by a chairman of division, which is appointed and dismissed by the chairman of National Bureau of Enforcement upon the agreement with the Minister of Justice of Georgia.
3. Division acts in accordance with this law, other normative acts of Georgia and the statute of Enforcement Police division.
4. Rights and responsibilities of enforcement policeman, organization of the division and the rules of activities are determined by the statute of enforcement police division, which is approved by the chairman of National Bureau of Enforcement upon the agreement with the Minister of Justice of Georgia.
5. The following legislation is the legal base for serving in the division: this law, the laws of Georgia “on special state ranks” and “on public service”, also the statute of Enforcement Police division and other normative acts.

#### **Article 14<sup>2</sup>. Enforcement Policeman**

1. Enforcement Policeman is a public official, which is appointed and dismissed by the chairman of National Bureau of Enforcement.
2. While carrying out his official duties, the enforcement police officer is a government representative and the fulfillment of his lawful demands related to his official duties are compulsory. While carrying out official duties, the disregard of legal demands or request of an enforcement police officer, the authority of the enforcement police officer shall be prescribed by the Code of Administrative Violations of Georgia.
3. Disregard of the lawful demands of an enforcement policeman are subject to legal liability as prescribed in legislation.
4. Extracted
5. While carrying out his official duties an enforcement policeman is wearing a service uniform, which is provided to him by National Bureau of Enforcement. The attributes of the service uniform is approved by The Minister of Justice of Georgia. An enforcement policeman is given an identification card according to the sample approved by The Minister of Justice of Georgia.

#### **Article 14<sup>3</sup>. Extracted**

#### **Article 14<sup>4</sup>. Use of physical force, special means and firearms**

1. While carrying out official responsibilities an enforcement policeman is entitled to use physical force, including martial arts, in order to protect the safety of the personnel of National Bureau of Enforcement and other individuals involved in the enforcement process, if without using force it is impossible to carry out the responsibilities placed upon him by law.
- 1<sup>1</sup>. While carrying out official duties enforcement policeman shall be entitled to carrying, keeping and using the firearms pursuant the rules established by the Georgian Legislation.
2. While carrying out official responsibilities an enforcement policeman is entitled to use the following special means:

- a) Handcuffs and other means of cuffing towards the disobedient individuals;
- b) Rubber truncheon and electric shock equipment-towards the offender;
3. While carrying out official responsibilities an enforcement policeman is entitled to using a firearm as an extreme mean:
  - a) To protect the employees of National Bureau of Enforcement, as well as other individuals participating in the enforcement process and himself, from an encroachment, which threatens their life or health; as well as in the case of attack by a dangerous animal;
  - b) To prevent loss of firearm;
  - c) To send an alarming signal.
4. The use of physical force, special means and firearms is forbidden against individuals having obvious signs of being pregnant, under age, handicapped or elderly, except for those cases when they perform armed or group attack or render an armed resistance against an enforcement policeman, which threatens the life and health of the individuals involved in the enforcement process, if it is impossible to repeal an attack by other mean or method.
5. In case of use of physical force, special means and firearms an enforcement policeman is obliged to use all possible means to protect the safety of the individuals and to ensure the emergency medical care for the injured.
6. An enforcement policeman is obliged to report immediately the fact of use of firearms to the direct supervisor and the prosecutor.

#### **Article 14<sup>5</sup>. Social Protection of an enforcement policeman**

1. The state ensures social protection of an enforcement policeman.
2. An enforcement policeman works non-regular working hours.
3. An enforcement policeman is entitled to compulsory state insurance.
4. Extracted
5. Injury which an enforcement policeman was subject to while carrying out his official duties will be fully reimbursed from the state budget of Georgia as prescribed by Georgian legislation.
6. In case of death of an enforcement policeman while carrying out his official duties, his family (heir) will receive one-time financial assistance from the state budget in the amount of 10 thousand GEL. The funeral expenses of the bailiff will be borne by National Bureau of Enforcement.
7. In case of an enforcement policeman being injured or/and handicapped while carrying out his official duties, in proportion of the harm, the state will allocate one-time financial assistance up to 5 thousand GEL.
8. Extracted (7.12.2010. #3884)
9. According to Georgian legislation within the frames of the amounts allocated from state budget, an enforcement policeman might become entitled to additional measures and privileges of social protection not specified in this law.

## **Article 14<sup>6</sup>. Private Bailiff**

1. Private Bailiff is a physical entity, which carries out his public duties-enforcement activities on the entire territory of Georgia, based on the license issued by the National Bureau of Enforcement.
2. Private Bailiff is obliged to have working place (office, bureau) and settlement (current) account in a bank. He is entitled to hiring and dismissing an employee in accordance with Georgian Labor legislation and managing the payment received for carrying out enforcement activities.
3. Two or more private bailiffs can have common working place (office, bureau). Rights and responsibilities of private bailiffs concerning the common working place are defined by an agreement established between them. In such cases each private bailiff carries out enforcement activities with his own name and is solely responsible for his official activities.
- 3<sup>1</sup> Private enforcement officer shall be entitled to unite with other enforcement officers, attorneys and/or auditor for the purpose of organizing enforcement activities in the legal form of partnership or legal commercial entity under the Georgian law on Entrepreneurship, except the Joint Stock Company, pursuant to rule prescribed by Georgian Law on Notary. At least one notary should participate in such unification
4. For the objectives of this chapter, providing legal consultation about enforcement issues for interested individuals is also considered as bailiff activities.
5. Registry of private bailiffs is maintained by the National Bureau of Enforcement.
6. Considering the peculiarities of this chapter, this law will be used to govern the enforcement activities of a private bailiff, except for the paragraphs “c”, “d” and “l”-“m” of article 2, enforcement proceedings regarding the address of the buyer of the immovable property and the debt payment order (upon applicant’s request to enforce the order about the debt payment during the summary proceedings) according to Article 2, paragraph 1<sup>4</sup> of Article 3, Article 4 and 5, Chapter III<sup>1</sup>, Articles 15<sup>2</sup>, paragraph 11 of Article 17, paragraph 2 of article 18<sup>1</sup>, paragraphs 5 and 6 of article 21, paragraphs 4, 4<sup>1</sup> and 13 of article 25, Article 28<sup>1</sup>, subparagraph “f” of paragraph 1 of Article 35, Articles 38 and 39, Paragraph 4 of Article 47, paragraph 2 of article 49, articles 50 and 62, Paragraph 1<sup>2</sup> of Article 69, Articles 75, 76, 77<sup>1</sup> and 77<sup>2</sup>, subparagraph “e” of paragraph 2 of article 82<sup>3</sup>, articles 90<sup>1</sup>, 90<sup>3</sup>- 91, Chapters XVI<sup>1</sup>- XVI<sup>3</sup> paragraphs 1, 6, 9 and 11 of Article 113, subparagraphs “a” to “f” of paragraph 12 as well as paragraphs 13-16 and Article 113<sup>2</sup>.

## **Article 14<sup>7</sup>. The scope of the private bailiff**

1. Private Bailiff carries out the enforcement of the acts (decisions) prescribed in subparagraphs “a”, “b” and “e”-“t” of article 2 of this law, enforcement of notary acts prescribed in this article and the lien licenses according to the rule prescribed in this law.
2. Enforcement by a private bailiff takes place upon the address of a creditor and based on the agreement with him.
3. Enforcement by private bailiff takes place only in the cases when the enforcement parties are physical or/and legal entities of public law and the monetary claim to be enforced according to the enforcement document does not exceed 500 000 Gel.

4. While implementing the duties under subparagraph “a.c” of paragraph 5 of article 17 by private bailiff, in the cash delivery order presented to the bank account of the debtor the account of the receiver (creditor) of the amount (order), and in the part of enforcement fee (payment)-the account of the private bailiff, as a receiver of this part of the amount.
- 4<sup>1</sup> The private enforcement officer shall be entitled to address the National Bureau of Enforcement with the request to place the public notification regarding the cases under its competence on the official website of the National Bureau of enforcement. The address can be done through the automatic means. The fee for such services for the private enforcement officer shall be determined by the decree of the Minister of Justice of Georgia.
5. In order to sell the seized property on a public auction, a private bailiff:
  - a) Based on a corresponding address from a creditor, carries out the preparatory procedures for this auction independently, as ascertained by law;
  - b) Addresses National Bureau of Enforcement with a request to render auction service, presents copies of the auction documentation (relevant materials for the enforcement proceedings) certified by him, and deposits on the account of the National Bureau of Enforcement fee established for conducting auction, which is determined by the order of the Minister of Justice of Georgia. If the request on rendering auction service has been filed through the request processing electronic means, materials of the enforcement proceeding are not required to be certified.
  - c) ensures preparation of another auction pursuant to the rules prescribed in this article, if required
6. Private bailiff is responsible for the correctness of the factual data of the presented auction documentation.
- 6<sup>1</sup>. Upon receiving the enforcement sheet for enforcement and upon returning it to a creditor, the signature of the private bailiff, date and the official stamp shall be added at the end of the enforcement sheet.
7. National Bureau of Enforcement grants or rejects the private bailiff’s request on rendering auction service, specified in paragraph 5 of this Article, within 5 days after receiving such request.
8. Upon the receipt of a request and within the timeframe specified in subparagraph 7 of this article, National Bureau of Enforcement shall be entitled to identify a flaw to the private bailiff’s request on the grounds of inconsistency of auction documentation with the requirements of this law and/or nonpayment of the auction fees. The grace period granted to the private bailiff to remedy the flaw shall not exceed 1 month. After the expiration of the grace period established for the private bailiff to remedy the flaw, the National Bureau of Enforcement rejects the private bailiff’s request on rendering the auction services. The private bailiff shall be compensated half of the paid auction service fee. Private bailiff shall be entitled to readdress the National Bureau of Enforcement with the request on rendering auction services upon expunging the rejections grounds of such request. In case of presenting the auction documentation to the National Bureau of Enforcement for the second time, private bailiff shall pay the auction service fee fully.
9. Private enforcement officer can appeal a rejection notice from an Enforcement Bureau in the court within one month of its receipt.



10. Private enforcement officer is entitled to withdraw the address before publicly announcing the auction. In this case, private bailiff shall receive half of the auction fee paid.
11. Auction service implies:
  - a. Placing public announcement about the auction according to the established rule;
  - b. Conducting auction by the National Bureau on Enforcement pursuant to the rules ascertained by the Georgian legislation.
12. National Bureau of Enforcement shall be responsible for consistency of the carried out procedure with the law only on the day of the auction. All other preparatory or post auction activities shall be carried out under the responsibility of the private bailiff.
13. While rendering auction service private bailiff shall immediately notify the National Bureau of Enforcement regarding the suspension and re-starting the enforcement by the creditor. If the enforcement suspended based on the creditor's address shall not be restarted within 3 months after its suspension, auction service shall be stopped and the private bailiff shall be reimbursed half of the amount paid for the auction service. If the private bailiff submits auction documentation to the National Bureau of Enforcement again, he fully pays the auction service fee.

#### **Article 14<sup>8</sup>. Issuing a license for enforcement activities**

1. License for enforcement activities is issued to a private bailiff by the National Bureau of Enforcement.
2. License for enforcement activities is issued based on this chapter and the rule prescribed in the law of Georgia "on licenses and permits".
3. In order to receive the license for enforcement activities, an individual, except for meeting the requirements set in the law of Georgia "on licenses and permits", should meet the following requirements:
  - a) Be a capable citizen of Georgia;
  - b) Have a higher education in law;
  - c) Have passed the bailiff qualification exam or judicial qualification exam with the specialization in public or civil and administrative law;
  - d) Have a working placed equipped according to the rule prescribed in the order of The Minister of Justice of Georgia.

#### **Article 14<sup>9</sup>. Reasons for rejecting the application for the license for enforcement activities**

1. License for enforcement activities will not be given to an individual:
  - a) Which does not meet the requirements defined in paragraph 3 of Article 14<sup>8</sup>;
  - b) Which has been convicted for committing a deliberate crime or which is a subject to a criminal prosecution for committing a deliberate crime;
  - c) Towards which a criminal case for committing a deliberate crime was terminated due to remoteness or amnesty;
  - d) Which was dismissed from public service or the position of the notary or the lawyer association membership of which was terminated based on disciplinary misconduct, significant or repeated

violation of law, use of official status in detriment to justice and official duties or due to corruption crime;

- e) Whose employment is considered to be public service according to the law of Georgia “on Public Service”;
  - f) Whose license has been cancelled by the National Bureau of Enforcement, except for the cases prescribed in subparagraph “a” of article 14<sup>14</sup>;
  - g) Who is an acting Notary, defense attorney, person employed in the National Bureau of Enforcement of the intern of the National Bureau of Enforcement;
  - h) Whose right to enforcement activities was cancelled based on court verdict, entered into force, of being guilty.
  - i) Whose license for enforcement activities has been revoked by the National Bureau of Enforcement on the grounds of paragraph ‘a” of Article 14<sup>14</sup> and 1 year has not been elapsed since the revocation of the license.
2. Private Enforcement officer cannot be the member of the arbitration.

#### **Article 14<sup>10</sup>. Application for receiving a license for enforcement activities**

- 1. An individual addresses the National Bureau of Enforcement in order to receive a license for enforcement activities, which makes a decision about giving license for enforcement activities within 5 working days.
- 2. Additionally to the documentation indicated in the law of Georgia “on Licenses and Permits”, the application should include:
  - a) The documents certifying the compliance with the requirements provided in paragraph 3 of article 14<sup>8</sup> of this law;
  - b) A document signed by an individual, which confirms the existence of the conditions indicated in paragraph 1 of article 14<sup>9</sup>;
  - c) The address of the working location and a extract from public registry about owning the real estate, where the working place of the private bailiff will be located, or a consent from the owner of the real estate to carrying out enforcement activities on his property.
- 3. In case of a change of working place, private bailiff is obliged to notify the National Bureau of Enforcement immediately and present the documentation indicated in subparagraph “c” of article 2.

#### **Article 14<sup>11</sup>. Registration of a private bailiff in the private bailiff registry and commencement of enforcement activities**

- 1. Within 5 working days of issuing of a license for enforcement activities by the National Bureau of Enforcement, a private bailiff will present to the National Bureau of Enforcement:
  - a) A service stamp (which will include the first and the last names of the private bailiff, and the number of a license for enforcement activities of the private bailiff) and a sample of signature certified by a method prescribed in Georgian legislation;

- b) A document confirming the opening of a settlement (current) account in a bank and the number of the account;
  - c) A document confirming possession of compulsory civil liability insurance; the amount of the insurance and its conditions are defined by The Minister of Justice of Georgia.
2. After presenting all the documentation prescribed in the first paragraph of this article, the National Bureau of Enforcement immediately, but no later than within 5 working days, registers the private bailiff in the registry of private bailiffs, following which the private bailiff is entitled to commence the enforcement activities. The form of registry as well as the rules of proceedings is defined by The Minister of Justice of Georgia.

#### **Article 14<sup>12</sup>. Presentation of statistical information**

Once a year, before February 1 of the year following the reporting year, the private bailiff is obliged to present to the National Bureau of Enforcement statistical information about the cases being in his proceedings.

#### **Article 14<sup>13</sup>. Suspension of a right to enforcement activities**

1. In case of violation of a licensing condition prescribed in subparagraph “d” of paragraph 3 of article 14<sup>8</sup>, a right of the private bailiff to enforcement activities will be suspended until the elimination of the violating conditions. A private bailiff is obliged to meet the requirements prescribed in subparagraph “d” or paragraph 3 of article 14<sup>8</sup> within a reasonable timeframe, but no later than 10 days.
2. In case a criminal liability is imposed upon a private bailiff, all his rights to enforcement activities will be suspended until the final decision on the criminal case.
3. In case a criminal liability is imposed upon a private bailiff, an authority/a party in charge of the proceedings is obliged to notify the National Bureau of Enforcement immediately, but no later than the next working day.
4. A corresponding record about the suspension of a right to enforcement activities of the private bailiff is entered into the registry of private bailiffs by the National Bureau of Enforcement. If the grounds for suspending the private bailiff’s enforcement activities have been remedied, National Bureau of Enforcement revokes the records and the private bailiff shall be entitled to continue enforcement activities.

#### **Article 14<sup>14</sup>. Termination of a license for enforcement activities**

The bases for terminating the license for enforcement activities, except for the bases prescribed in the law of Georgia “on licenses and permits”, is:

- a) A written statement from the private bailiff about discontinuing his duties presented to the National Bureau of Enforcement;

- b) Death of a private bailiff, or a court declaring a private bailiff dead, partially capable/incapable or missing;
- c) Not meeting the requirements indicated in paragraph 1 of the article 14<sup>11</sup> of this law within the given term;
- d) A guilty verdict in criminal case entering into force of towards a private bailiff or termination of criminal case towards a private bailiff based on remoteness or amnesty;
- e) Suspension of the Georgian citizenship of a private bailiff based on the organic law of Georgia “on citizenship of Georgia”;
- f) Suspension of a right to enforcement activities of a private bailiff based on a guilty verdict of a court entered into force;
- g) Considerable or repeated violation of the requirements prescribed by this law and the normative acts based on it, which causes substantial harm to private or public interests;
- h) Carrying out the activities incompatible to a private bailiff;
- i) Not meeting the requirements prescribed in paragraph 1 of article 14<sup>13</sup> of this law.

**Article 14<sup>15</sup>. The rule of enforcement of cases discontinued based on suspension of a right to enforcement activities or cancellation of a license to enforcement activities**

1. In cases prescribed in the articles 14<sup>13</sup> and 14<sup>14</sup> when suspending the right to enforcement activity or revocation of the license for enforcement activities, the enforcement cases in his proceedings will be enforced by the National Bureau of enforcement according to the rule prescribed in this law. National Bureau of Enforcement shall continue the enforcement of received cases from the last enforcement measure carried out by the private bailiff.
2. On enforcement cases prescribed in paragraph 1 of this article, the creditor is exempt from payment of the advance part of the enforcement fee.
3. Creditor shall be reimbursed the amount paid to a private bailiff as an advance payment in proportion of the amount recovered as a result of enforcement.

**Article 14<sup>16</sup>. Responsibilities of the Private Enforcement Officer**

1. Private enforcement officer is responsible to the parties of enforcement proceeding for the harm caused by him.
2. Monitoring of the activities of a private enforcement officer as well as the rule for imposing the responsibility on a private bailiff for the violations indicated in the subparagraphs of “g” and “h” of the article 14<sup>14</sup> is defined by The Minister of Justice of Georgia.
3. Private enforcement officer is obliged to implement the proceedings of the enforcement case in accordance with conditions and form defined by The Minister of Justice of Georgia.

**Article 14<sup>17</sup>. Fee**

1. For enforcement activities as well as the legal advice and technical work related to it, a private bailiff receives a fee - amount, the method of payment and the conditions of which are defined by the agreement made with interested party.

2. The reimbursement of the fee paid or to be paid by the creditor is the obligation of the debtor and it is recovered together with the claim to be enforced. The debtor cannot be obliged to pay a fee more than the maximum amount indicated in the article 38 of this law.
3. From the amounts received by Enforcement Bureau for rendering the auction services to a private bailiff:
  - a) The fee paid by the creditor within the limits of the maximum amount indicated in the article 38 of this law will be transferred to the creditor. The creditor will also receive the claim recovered.
  - b) The fee to be paid by the creditor within the limits of the maximum amount indicated in the subparagraph “a” of this paragraph will be transferred to the private bailiff in proportion to the claim recovered.

**Article 14<sup>18</sup>. Participation of the Enforcement an enforcement policeman in the activities of a Private bailiff.**

1. While carrying out his duties a private bailiff in case of need addresses the division with a request for help, which within 5 working days of the address notifies the private bailiff about rendering the service in its competence.
2. According to the rule prescribed in the paragraph 1 of this article, in case the division agrees to render the service, private bailiff must reimburse the Division in advance for the services rendered, the amount of which is defined by The Minister of Justice of Georgia according to the categories of enforcement proceedings.

**Article 14<sup>19</sup>. The bases for prevention, the rule of prevention and self-prevention of a private bailiff**

1. Prevention of a private bailiff is possible based on article 31 of civil procedure code of Georgia.
2. The case of prevention of a private bailiff upon the corresponding request of a debtor is decided by a court, on the territory of activity of which the enforcement is in process.

## **Chapter IV**

### **INDIVIDUALS PARTICIPATING IN THE ENFORCEMENT PROCEEDINGS**

**Article 15. Individuals participating in the enforcement proceedings**

Participants of the enforcement proceedings are:

1. Creditor and debtor (later – “Parties to the Enforcement Proceedings”)
2. Enforcement Officer;
3. Private Enforcement Officer;
4. Other individuals participating in the enforcement proceedings.

**Article 15<sup>1</sup> Parties of the Enforcement Proceedings**

1. A creditor shall be represented in the enforcement proceedings by a physical person or legal entity, other organizational unit, group of people without forming a legal entity, state and local self-government authorities, in whose favor and/or interest the decision subordinate to enforcement has been issued pursuant to the Article of this law.
2. A debtor shall be represented in the enforcement proceedings by a physical person or legal entity, other organizational unit, group of people without forming a legal entity, state and local self-government authorities, on whom decisions prescribed by Article 2 of this law places under the responsibility to perform or refrain from certain action. During the enforcement proceedings based on address of the buyer of the immovable property, the debtor shall be a person who in the given term will not present to the National bureau of Enforcement a document certifying the legal ownership and use of the immovable property as defined by this law.

### **15<sup>2</sup> Grounds for the recusal of the Enforcement Officer, Rules of recusal and self-recusal**

1. Recusal shall be possible under the grounds stipulated by Article 31 of the Civil Procedure Code. The recusal or self-recusal of the enforcement officer shall be initiated by the parties of the enforcement proceedings and/or the enforcement officer.
2. The issue of recusal or self-recusal on the site shall be heard and decided by the head of the Enforcement Bureau; recusal or self-recusal of the person stipulated under the subparagraph 2 of Article 5 of this law and employed in the National Bureau of Enforcement shall be head by the head of the National Bureau of Enforcement. Parties to the enforcement proceedings shall be notified regarding the decision.
3. The decision of the head of the Enforcement Bureau on recusal or self-recusal may be appealed in the court.

### **Article 16. Organizational provision for enforcement by the Enforcement Bureau - extracted**

#### **Article 17. The rights and responsibilities of a bailiff**

1. Fulfillment of the demands of the bailiff related to his official duties is obligatory for all physical as well as legal entities, despite their subordination and organizational-legal form.
2. All the state administrative, banking institutions, physical and legal entities being in contract relationship with the debtor, in case of a demand of a National Bureau of Enforcement, are obliged to provide the body with the information on the debtor's property conditions, incomes, bank accounts, balances and cash flow.
3. A bailiff is obliged to keep the information confidential and use it only for official purposes. Violation of this requirement results in liability according to the rules prescribed in Georgian legislation.
4. While carrying out his enforcement activities, a bailiff is entitled to entering the debtor's apartment, examining all the facilities and the property of the debtor. A protocol is drawn after the examination.
5. In the conditions of involuntary enforcement a bailiff is entitled to carrying out:
  - a) A levy;

- a.a) by seizing the debtor's property and selling it, or if the case is about the property item of a state or local self-government, notify the state authority or the local self-government authority about it;
  - a.b) from the salary, pension, stipend or other incomes of the debtor;
  - a.c) from the debtor's monetary amounts and property located with other individuals, as well as based on income orders from the debtor's bank account;
  - b) by seizing the items from the owner, which should be transferred to the creditor based on court decision;
  - c) other measures indicated in the enforcement decision based on law.
6. A bailiff is obliged to take all legal measures for implementing the decision rapidly and substantially, explain the rights and responsibilities to the parties as well as the contents and possibilities of specific enforcement methods and help them in protecting their rights and legal interests.
  7. If the debtor will not allow the bailiff to carry out his legal duties, the bailiff is entitled to address the enforcement police or corresponding territorial authority of the Ministry of Justice of Georgia for help, which is obliged to provide the assistance.
  8. In case of showing resistance towards a bailiff or in case during the enforcement activity to be implemented in the debtor's apartment neither the debtor nor any member of the legal age of his family was present, the bailiff draws the protocol and continues the enforcement activity in the presence of a representative of local self-government or a representative of the corresponding territorial authority of The Ministry of Internal Affairs
  9. During the course of enforcement a bailiff is entitled to calling parties of the enforcement proceedings in order to communicate enforcement documents, receive verbal information or written message, if this is necessary for implementing the enforce
  10. A bailiff, while carrying out his enforcement on the movable property and bank accounts, is entitled to carrying out an enforcement activity on the territory of activity of other enforcement bureau.
  11. A bailiff is entitled to carrying out the enforcement activity at any time, including the weekends and holidays, if this is necessary based on the factual conditions of the enforcement proceedings.

**Article 17<sup>1</sup>. Enforcement of exceptionally significant cases as well as the enforcement cases in favor of state budget or against it** - Extracted

**Article 18. The Rights and responsibilities of a creditor and a debtor**

1. A creditor and a debtor are entitled to:
  - a) Attending the process of enforcement, familiarizing themselves with enforcement material, receiving the necessary information, except for the information containing a commercial (tax and bank) secret and other confidential information concerning the enforcement;
  - b) Making an agreement;
  - c) Discussing the ownership of property and its price;
  - d) Presenting to a National Bureau of Enforcement individuals interested in purchasing the property subject to selling;

- e) Appealing against the action of a bailiff at the chairman of the National Bureau of Enforcement within 15 days after performing such action or directly in the court within 1 month after performing such action
  - f) Appeal the decision of the Head of the National Bureau of Enforcement regarding the complaint within 1 month after its receipt
2. In case of reaching an agreement during enforcement process, a creditor and a debtor present to National Bureau of Enforcement a written proof of an agreement, which it sends for settlement to the court on the territory of activities of which the enforcement is being carried out within three days, and when the enforcement is in process in more than one territory of activities-to one of the courts.
    3. A creditor and a debtor have a right to address a court about postponing, partition or other issues related to enforcement.
    4. On disputes regarding the market value, the cancellation of auction results shall be forbidden, if the starting price of the property announced on the first auction does not exceed the market value of this property

**Article 18<sup>1</sup>. Representation of the parties during the enforcement process**

1. Representation of the parties during the enforcement process is regulated by the rules prescribed in the civil procedure code of Georgia.
2. If in the decision the budgets of the state, Autonomous Republics or the local self-government unit, is indicated as a creditor, the state, Autonomous Republic or local self-government shall be represented during the enforcement by the state authority/official, based on whose decision the proceeding is carried out and/or based on whose address the court took the enforcement decision. While enforcing such decision, National Bureau of Enforcement shall be entitled to represent the state, Autonomous Republic or local self-government unit on the grounds of the Agreement between the National Bureau of Enforcement and the state authority/official stipulated by this paragraph.

**Article 18<sup>2</sup>. Keeping the documentation related to the completed enforcement proceeding**

Keeping the documentation related to the completed enforcement proceeding is mandatory. The rule and conditions of keeping it and the amount of fee payable for receiving a copy of such a document is determined by an order from The Minister of Justice of Georgia.

**Article 18<sup>3</sup> Appeal of the Enforcement Officer's Action in the National Bureau of Enforcement**

1. The party of the enforcement proceedings and the interested party whose legal interests are directly affected by the Enforcement Officer's actions, are entitled to appeal his actions with the head of the National Bureau of Enforcement once within 15 calendar days after performing such action. Such appeal does not automatically terminate appealed enforcement activity. Head of



National Bureau of Enforcement is entitled to the right to stop the appealed enforcement activity upon his own initiative or upon the mediation of a party.

2. The appeal shall be filed to National Bureau of Enforcement. It shall indicate
  - a. The name/title, identification data, factual residence, contact information of the appellant;
  - b. Requisites of the enforcement proceedings case: number of the enforcement case, enforcement sheet/enforcement decision, parties to the enforcement proceedings;
  - c. The identity of the enforcement officer, whose actions are appealed;
  - d. The summary of the appealed action;
  - e. The request of the appellant, his legal and factual grounds;
  - f. The list of the documents attached to the appeal if such exists;
  - g. Date of submitting the appeal and the signature of the authorized person
- 2<sup>1</sup>. The appeal should be in a written, printed; It should meet all the requirements stipulated by this article and should correspond to the template approved by the Minister of the Justice of Georgia.
3. Evidence should be enclosed to the appeal, if they exist
4. National Bureau of Enforcement shall not accept the complaint if it does not satisfy the requirements stipulated in subparagraph "a" and "z" of paragraph 2 of this article and in 2<sup>1</sup>
5. The head of the National Bureau of enforcement shall not consider the complaint, if:
  - a. It does not meet the requirements indicated in subparagraph "e" of paragraph 2;
  - b. If a court decision or verdict exists about the rejection of the object of the dispute by appellant, acknowledgement of the appeal by the respondent or approval of the agreement between the parties;
  - c. There is a case in the court proceedings about the dispute between the same parties, over the same subject and the same grounds;
  - d. There is the decision of the court or the Chairman of the National Bureau of Enforcement on the same subject;
  - e. The complaint was submitted by incapable person;
  - f. Extracted.
6. If the complaint does not meet the requirements of subparagraphs "b" – "d" and "f" of paragraph 2 of this Article, as well as the requirements of paragraph 3, or if it has been filed by unauthorized person, the appellant should be informed about it within 7 calendar days and should be given the term within which he/she should present additional documents and/or information.
7. Before the submission of additional documents and/or information, the duration of the appeal is suspended. It will be resumed after submitting the appropriate documents.
8. In case of not presenting the requisite documents and/or information within the established term, the complaint shall not be heard
9. The head of the National Bureau of Enforcement examines the appeal within 30 calendar days of its receipts and notifies the appellant about its satisfaction or rejection. Based on the gravity of the case the National Bureau of Enforcement is entitled to prolong the term for issuing the decision for maximum 15 calendar days, about which the appellant shall be notified. The satisfaction of the appeal causes the cancellation of appealed action and the results of such an auction. The rejection of the appeal by the head of the National Bureau of Enforcement should be explained. The appellant shall be entitled to a right to appeal the rejection in the court according to the rules

prescribed in this law. The failure to comply with the terms by the head on the National Bureau of Enforcement shall be considered as a rejection of the appeal.

10. The order about granting property right to the purchaser of the property during the enforcement proceedings is an individual administrative legal act and it shall be appealed in the court.
11. The chairman of the National Bureau of Enforcement shall be entitled to cancel the enforcement activity of the enforcement officer.

#### **Article 18<sup>4</sup> Disbursement of fulfilling the liability by the debtor**

On cases related to the payment of the amount, the Chairman of the National Bureau of Enforcement shall be entitled to taking the decision of dividing the liability of a debtor for 12 months: on cases to be enforced in favor of state, Autonomous Republics' or local self-government units' budgets – by his initiative, on other cases – by the creditor's approval. In case of violation the terms of the division the enforcement proceeding shall be resumed.

#### **Article 19. Familiarization with enforcement documentation and handing of its copies**

The party of the enforcement proceeding shall be entitled to familiarize with enforcement documents and receive the copies, except for those possessing commercial (tax and bank) secrecy and other confidential documentation and their copies. The party of the enforcement proceeding shall be entitled to familiarize with and receive the copies of the material of the enforcement case, which directly effects his right and/or legal interest, except for those possessing commercial (tax and bank) secrecy and other confidential documentation.

### **Chapter IV<sup>1</sup>. Debtor Registry**

#### **Article 19<sup>1</sup>. Keeping a Debtor Registry**

1. A debtor registry is a sanction before enforcing the financial claim; it is a systematized electronic database containing the physical and legal as well as other organizational entities, enforcement towards which commenced from January 1, 2010, except state and self-government bodies and the debtor of secured claim. The person shall be immediately included in the debtors' registry, after enforcement proceedings is commenced against him.
- 1<sup>1</sup> The registration of the individuals in the debtors' registry, against whom the enforcement has commenced before January 1<sup>st</sup> 2010, may be executed by the initiative of National Bureau of Enforcement.
2. Debtor registry (later-registry) is maintained by National Bureau of Enforcement. The rule of maintaining the registry is approved by The Minister of Justice of Georgia.
3. Registration in the registry does not exempt an individual from enforcement of monetary levy.
4. The data of the registry is public and National Bureau of Enforcement ensures its availability to the authorities indicated in article 19<sup>2</sup> of this law, as well as its continuous update.

5. The entitled representatives of National Bureau of Enforcement and Enforcement bureaus ensure distribution of corresponding certificates and records to the individuals and legal entities based on registry data, no later than the next working day after the presentation of a request. Corresponding certificates and records are distributed from the registry upon advance payment of the fee and upon the request of an interested individual. The amount of the fees, in order to receive the corresponding certificate and record from the registry, is defined by the order of The Minister of Justice of Georgia.

#### **Article 19<sup>2</sup>. Liabilities of state, banking and other institutions arising from the registry**

1. The entitled authorities of The Ministry of Internal Affairs of Georgia should immediately inform the National Bureau of Enforcement/private enforcement officer in case of registration of a transportation vehicle or civil firearm on the name of an individual listed in the registry and terminate further registration until the individual is released from the registry, except for the cases of compulsory management of this property based on Georgian legislation and except for the cases stipulated in paragraph 3 of Article 19<sup>4</sup> of this law.
2. Legal entity of public law under the governance of The Ministry of Justice of Georgia, national agency of public registry, should immediately notify National Bureau of Enforcement/private enforcement officer upon the registration of property or other rights to the individual listed in the registry and terminate further registration until the individual is released from the registry, except for the cases of compulsory management of this property based on Georgian legislation and except for the cases stipulated in paragraph 3 of Article 19<sup>4</sup> of this law.
3. A banking institution shall be responsible for informing the National Bureau of Enforcement .private enforcement officer regarding the accounts of the individuals listed in the debtors' registry and existing balances no later than next working day after the registration of an individual in the registry. Moreover, the banking institution executes seizure on the bank account(s) of such individual within the scope of enforceable claim. The banking institution shall immediately not notify the National Bureau of Enforcement regarding the opening of new accounts or operations made and shall be obliged to execute seizure on these accounts, if the prior seizure of the account(s) was not enough remedy for ensuring executions of seizure within the full scope of the enforceable claim
4. The correspondence between the National Bureau of Enforcement and the institutions stipulated in this article shall be carried out by means of electronic case management. The rules and conditions of such correspondence shall be regulated pursuant to the Agreement between the National Bureau of Enforcement and the institutions stipulated in this article.

#### **Article 19<sup>3</sup>. Restrictions to rights of a person listed in the registry**

Upon being listed in the registry an individual is restricted the right to dispose (exercise a right over) any immovable and movable property as well as other non-material property subject to registration in the corresponding registry, except for the cases stipulated by subparagraph 3 of Article 19<sup>4</sup> of this law.

**Article 19<sup>4</sup>. Lifting the restrictions imposed upon the individuals listed in the registry and release from the registry**

1. Restrictions imposed on the individuals listed in the registry are fully lifted upon the release from the registry.
2. Bases for releasing an individual from the registry are:
  - a) Full enforcement of the monetary levy;
  - b) Change of the imposed fine by other kind of penalty;
  - c) Cases indicated in articles 34 and 35 of this law;
  - d) Court resolution.
  - e) Extracted
3. Based on the approval of the National Bureau of Enforcement on cases in favor of state, Autonomous Republic's republican and local self government budgets, and also based on the creditor's approval on other type of cases, the individual listed in the registry shall be entitled to handling the property limited upon the registration in the registry.

**Chapter V  
ENFORCEMENT**

**Article 20. Enforcement Sheet**

1. Enforcement proceedings will not be allowed without the enforcement sheet (original), except for the decisions of European Court of Human Rights, expulsion of foreign individuals from Georgia and the cases related to enforcement of mortgage certificate as prescribed in article 258<sup>1</sup> of civil code of Georgia, enforcement of the cases regarding the address of the purchaser of the immovable property and enforcement of debt payment order prescribed by Article 2 of this law.
2. Enforcement sheet will be produced for those decisions, which according to this law are subject to enforcement. Enforcement sheet shall be issued for creditor.
3. Court decision taken during the enforcement proceeding and is subject to enforcement, shall be enforced without enforcement sheet, on the grounds of court ruling entered into legal force or the ruling upon which private suit may be filed.
4. Termination of the enforcement without the enforcement sheet shall be possible on the ground of the enacted court decision.

**Article 21. Requisites of an enforcement sheet**

1. Extracted
2. The body issuing the decision shall hand the enforcement sheet after the enactment of the decision to the creditor, except for the cases of immediate enforcement prescribed by the civil procedure code of Georgia when the enforcement sheet is issued upon the issuing of the decision.
3. Enforcement sheet should indicate:

- a) The name of the court issuing the enforcement sheet or of another authority, which took the enforcement decision;
- b) The case, based on which the enforcement sheet was issued;
- c) The date of decision;
- d) Resolution part of the decision;
- e) The date of issuing the enforcement sheet;
- f) Names and requisites of the creditor and the debtor, including the private numbers or identification numbers of tax payer, also other contact details known to the body issuing the enforcement sheet. This rule is not applied in case indicated by the international agreement of Georgia when the decision of a court of other state is enforced on the territory of Georgia.

3<sup>1</sup>. Besides those stipulated in paragraph 3 of this law, the following should be indicated In the enforcement sheet issued by a Notary:

In the enforcement sheet issued by a Notary the following should be indicated:

- a) A name and a last name of the notary issuing the enforcement sheet as well as the address of the notary bureau;
- b) The base for arising a liability
- c) Time for fulfilling the liability
- d) Form and volume of the liability to be enforced;
- e) The number of the enforcement sheet in the registry of notary deeds

3<sup>2</sup>. Besides those stipulated in paragraph 3 of this law, the following should be indicated in the enforcement sheet issued Minister of Finance of Georgia:

- a) The base for issuing the credit (an individual that took an order and the date the order was taken);
- b) The date for issuing individual administrative-legal act and of issuing the enforcement sheet;
- c) Resolution part of the individual administrative-legal act indicating the rule and the methods and means of execution.

4. An enforcement sheet should be certified by a decision-making individual and a stamp, except for arbitrage decision, when the enforcement sheet should be certified by the court issuing the enforcement sheet and an automatically generated enforcement sheet.

5. An administrative act of the minister of justice of Georgia about enforcement of the decision of the European Court of Human Rights is issued within two weeks after the court has taken the decision.

6. In cases indicated in the subparagraphs “a” and “b” of article 53 of the law of Georgia “on the legal status of foreigners” about implementing the decision of expulsion of foreigners from Georgia is issued by the Minister of Justice of Georgia.

## **Article 22. Issuing several enforcement sheets on one decision**

If the enforcement should take place on various places, or if the decision is taken in favour of several suitors or against several defendants, then the court can issue several enforcement sheets indicated the place of enforcement and the exact part of the decision, which should be enforced by this sheet.

### **Article 23. Issuing the copy of the enforcement sheet**

In case of loss of the enforcement sheet, the body which issued the original can issue a copy.

### **Article 24. Issuing the enforcement sheet in favour or against of assignee**

Enforcement sheet can be issued in favor of the creditor's assignee named in the decision or against the debtor's assignee, if the assignability is explicit or the confirming document was issued by an entitled authority, or certified by a notary. If the necessary confirmation is impossible with the means of the documents issued by an entitled authority or certified by a notary, then the creditor or his assignee should file a suit about issuing an enforcement sheet in the decision taking court.

### **Article 25. Commencement of enforcement**

1. National Bureau of Enforcement commences the enforcement proceedings based on the creditor's written request on compulsory enforcement and enforcement sheet, in cases of the decisions of European Court of Human Rights and on expulsion of foreigners from Georgia, based on the legal act issued by the Minister of Justice of Georgia, in cases stipulated by Article 258<sup>1</sup> of Civil Code of Georgia on the enforcement of lease certificate –the owner of the lease certificate on the grounds of the leaser's address and lease certificate regarding the address of the purchaser of the immovable property stipulated in Article 2 of this law - regarding the recalling the immovable property from other's ownership and usage based on the address of the purchaser of the immovable property, regarding the enforcement of debt payment order- based on debt payment order and the creditor's application. If the enforcement of debt payment order was requested in advance together with the monetary debt payment claim during the summary proceedings, creditor shall not file an application requesting the commencement of enforcement. A creditor's application regarding the commencement of enforcement also is not requested, if the order about the enforcement shall be immediately transferred to enforce. When enforcing the decision stipulated by Article 2 of this law, for which the enforcement sheet is necessary, enforcement may commence only if the individuals in favor or against whom the enforcement should start are named in the enforcement sheet. If the creditor's demand is secured by seizure or is registered by mortgage, the compulsory enforcement proceeds even if the owner of the means of security is not the debtor named in the enforcement sheet. In such cases the presumption of being the debtor's assignee works for the registered owner of the property, unless proved otherwise. If the decision should be enforced in favor budgets of state, Autonomous republics or local self government units, the court shall send the enforcement sheet to the territorial unit of the National Bureau of Enforcement based on the debtor's location.
2. While enforcing the decisions, which stipulate the growth of the creditor's claim as an Interest and/or penalty to the base amount, the accrual of the interest and/or penalty on the base amount of the creditor's claim since the commencement of the enforcement proceedings, except for the tax liabilities. The accrual of interest and/or penalty on the base amount of the creditor's claim shall

resume from the day when the National Bureau of enforcement returns the enforcement sheet to the creditor pursuant to Article 35 of this law.

3. Enforcement sheet and/or enforceable decision shall be submitted to the territorial unit of the National Bureau of Enforcement based on the location of the debtor and his/her property, and in cases stipulated by Chapter III<sup>2</sup> of this law – to the private enforcement officer. It is not necessary to comply with the principle of territoriality when addressing the National Bureau of Enforcement with the request to commence the enforcement proceedings, if the creditor is the physical person, legal entity of private law or group of individuals without forming the legal entity. Certified copy of the enforceable decision shall be enclosed to the enforcement sheet.
4. While retrieving the property from other's illegal ownership and/or usage, together with the enforcement sheet or as indicated in Article 2 of this law an address of a leaser having a lease certificate and the buyer of immovable property, a document about the market value of the property issued by the competent authority or person should be submitted together with the enforcement sheet or as indicated in Article 2 of this law an address of a lessor having a lease certificate and the buyer of immovable property. The national Bureau of Enforcement shall be entitled not to depend on the presented evaluation of the property and evaluate the property itself. If during the evaluation the higher price than that indicated in the individual's address is revealed, and at the same time enforcement proceeding has commenced, National Bureau of Enforcement shall determine the term for the creditor, in which he/she is obliged to pay the full amount. The failure to comply with this requirement shall result in the return of the enforcement sheet/enforceable decision to the creditor without its enforcement.
- 4<sup>1</sup> On the grounds of the announcement of the person, who wished to present the enforcement sheet/enforceable decision prescribed by Paragraph 4 of this Article for initiating the enforcement, the National Bureau of Enforcement shall be entitled to appraise the property subject to payment the fee for the services prescribed by the Minister of Justice of Georgia. In such case enforcement proceeding may commence without presenting the certified document of the market value of the property. After the appraisal of the property, the National Bureau of Enforcement shall establish the term for the creditor to make the advance payment for the service. The nonpayment of the fee within the established term shall result in the return of the enforcement sheet/enforceable decision without being enforced.
5. The buyer of immovable property indicated in article 2 of this law, while presenting an address about retrieving the immovable property from ownership and use of other entity for enforcement, attached to it the order of National Bureau of Enforcement about arising the right on ownership or the equivalent document issued by the National Bureau of Enforcement and the extract from the public registry for certifying his ownership on the property.
6. The notification of the parties by the National Bureau of Enforcement regarding the commencement of the enforcement proceedings shall be served pursuant to this Article according to the rules ascertained by Civil Procedure Code of Georgia.
7. National Bureau of Enforcement shall notify the debtor no later than 5 days after the commencement of enforcement proceedings. The debtor shall be notified regarding the following:

- a. In case of voluntary fulfillment of the claim, the imposition of the relevant part of enforcement fees paid in advance by the creditor within 7 days after the notification and in case of not fulfilling the claim voluntarily – regarding the imposition of the full enforcement fee;
  - b. The rights prescribed by Article 18 of this law;
  - c. Legal consequences of the commencement of the enforcement proceedings;
  - d. Possible measures prescribed by this law for the compulsory enforcement;
  - e. The rules and means of receiving the specific information regarding enforcement.
8. The debtor shall not be additionally notified regarding the specific time and location of the compulsory enforcement measures.
  9. On the cases regarding monetary payment, reclaim of the property from the illegal ownership, transfer of the property or on other categories of the cases when the enforcement should be exercised on the property of the debtor or at the expense of this property, upon the serving of the proposal (or if the proposal cannot be served on time) the enforcement officer immediately starts the quest, description and attachment of the property pursuant to the rules prescribed by this Law.
  10. When enforcing the decisions prescribed by Paragraph “1” of Article 2 of this Law, National Bureau of Enforcement shall not attach the debtor’s (tax payer’s) property, if such property has been attached in the cases prescribed by paragraph 1<sup>1</sup> of Article 3 of this Law.
  - 10<sup>1</sup>. When enforcing the debt payment order pursuant to the rule prescribed in Article 2 of this law, The National Bureau of Enforcement shall not impose a repeated seizure on debtor’s property, if the seizure was imposed as a measure of summary proceedings on monetary debt claims according to the chapter XVI<sup>1</sup> of this law.
  11. If the decision is the subject to the immediate enforcement, the debtor shall be served a notification regarding the immediate and voluntary fulfillment of the decision.
  12. In cases prescribed by this Law, notifications, proposals, decisions and other documents sent by the National Bureau of Enforcement shall be delivered to people participating in the enforcement proceedings pursuant to the rules prescribed by Civil Procedure Code of Georgia. When the acceptance of the correspondence is verified by the recipient’s signature, such signature shall be deemed as authentic even though it is done through electronic and/or technical means.
  13. Upon receiving the creditor’s application regarding enforcement of the court decision at the expense of state, Autonomous Republic’s republican and local self government unit’s budget, National Bureau of Enforcement shall ensure the notification of the debtor state institution and Ministry of Finance of Georgia on the voluntary fulfillment of the decision using the budgetary funds.

#### **Article 25<sup>1</sup>. Stages of the Enforcement Proceedings**

On the cases of the monetary payment the stages of the enforcement proceedings are the following:

- a. Commencement of the enforcement;
- b. Attachment of the property;
- c. Conducting of the auction;
- d. Handing the amount to the creditor.



## **Article 26. Commencement of enforcement proceedings Extracted**

## **Article 27. Clarification of enforcement decision**

Clarification of enforcement decision take place based on the request from parties or the solicitation of the National Bureau of Enforcement, according to the rule prescribed in the civil procedure code of Georgia.

## **Article 28. A proposal to fulfill the resolution – Extracted**

### **Article 28<sup>1</sup>. The rules for enforcement of the imposed penalty in case of imposing a mortgage as a restrictive measure**

Within 10 days of presenting an enforcement sheet to an Enforcement bureau, the National Bureau of Enforcement is obliged, based on the written agreement from the defendant and the guarantee payer (and in case the guarantee payer is a defendant himself-without his consent), to carry out the enforcement on the monetary amount placed upon the deposit account of the National Bureau of Enforcement as a deposit according to the rule prescribed by this law.

### **Article 28<sup>2</sup>. Implementing enforcement on the real estate paid as a deposit on criminal case.**

1. In case of securing a mortgage with immovable property, the owner of this property (interested person) shall be obliged, within 7 days after being notified by the National Bureau of Enforcement, deposit the amount defined as a mortgage on a deposit account of the National Bureau of Enforcement following which the corresponding property will be released from Attachment.
2. In case of not fulfilling the requirement prescribed in paragraph one of this article, the real estate will be a subject to selling according to the rules prescribed in chapter XIII of this law in order to recover the amount defined as a mortgage under compulsion.

## **Article 29. Protocol**

1. A bailiff should record a protocol about carrying out of each enforcement activity, except rendering the auction.
2. The protocol should include:
  - a. Place and time of recording;
  - b. The identity of the bailiff, which recorded a protocol;
  - c. The identity of the individuals present during the enforcement activity;
  - d. The name of the enforcement sheet/enforceable decision, based on which the enforcement is implemented;
  - e. Names of the creditor and the debtor;
  - f. The name of the enforcement activity;

3. The protocol is signed by a enforcement officer and individuals present when the protocol was recorded. Refusal to sign should be indicated in the protocol. In case of videotaping the enforcement activity, the protocol should include the data stipulated by paragraph 2 of this Article, except of the data in subparagraph “c” of the same paragraph.

## **Chapter IV**

### **JUDICIAL COMPETENCE**

#### **Article 30. Search of a debtor**

When the location of the debtor is unknown, or when he deliberately declines from fulfillment of his duties, National Bureau of Enforcement shall be entitled to address the court with a justified motion, based on which the court issues the ruling for searching and delivering the debtor by means of police authorities.

#### **Article 31. Protection of debtor interests during compulsory enforcement**

1. While using the rights prescribed in paragraph 4 of article 17, as well as during implementing the actions prescribed in articles 83, 84, and 90<sup>1</sup> of this law, if due to the special circumstances(illness of a debtor or his family member, death or other emergency), continuation of this action is against norms of morale, upon the request of the debtor, the National Bureau of Enforcement bailiff, based on the consent of the chairperson of Bureau, can temporarily postpone enforcement activities for no longer than 6 months. National Bureau of Enforcement shall be entitled to prolong the established term once for up to additional 6 months.
2. If the circumstances do not change during the term indicated in paragraph 1 of this article, upon the request of a debtor court can fully or partially cancel the compulsory enforcement measure, prohibit or temporarily suspend the activity for no longer than 3 months.
3. If the circumstances change, upon the request of the creditor the court can cancel or change the verdict taken about the enforcement.
4. In the cases indicated in this article the requests will be reviewed according to the rule prescribed in article 263 of civil procedure code of Georgia.

#### **Article 32. A suit from a third party about the ownership rights on property seized because of other persons debts**

1. If a third party claims that he has a right to an item subject to enforcement, then in the court, on the territory of activities of which the enforcement is taking place, the third party can file a suit. Such a suit is reviewed by a court with the regulation of suit proceedings (A suit about releasing a seized property).
2. A suit about releasing a property from seizure is presented to a debtor and a creditor.
3. If the seized property is already sold, the third party shall be entitled to demand compensation of damages from the debtor, due to whose liabilities the property of the third party has been sold.

**Chapter VII**  
**POSTPONING, STOPPING AND TERMINATION OF ENFORCEMENT; RETURN OF ENFORCEMENT**  
**DOCUMENTS**

**Article 33.** Extracted

**Article 34. Termination of enforcement**

1. Enforcement is terminated, if:
  - a. A creditor refuses the enforcement;
  - b. A creditor and a debtor make an agreement;
  - c. After the death of a creditor or a debtor liabilities or responsibilities ascertained by the decision cannot be transferred to the assignee of a deceased person;
  - d. Resolution upon which the enforcement proceedings has been initiated, was revoked;
  - e. The term of remoteness of the enforcement of the enforceable decision has expired;
  - f. It is impossible to enforce the decision due to the amendments introduced in the Georgian Legislation.
  - g. Liquidation of a legal entity (creditor or debtor) took place and according to the legal relationship defined by court assignability is inadmissible or there is no assignee.
  - h. The owner of the immovable property, prescribed by Article 84 of this Law, within the terms stipulated by the same article, submits the document certifying legal ownership and usage on the property to the National Bureau of Enforcement.
  - i. Debtor, against whom the enforcement is being carried out, based on the address of the purchaser of the property pursuant to paragraph 2 of this Law, presents the documents certifying his/her legal ownership and use of the property specified by this Law before the end of the enforcement proceedings.
  - j. 10 years have elapsed since the beginning of the enforcement proceedings on cases related to the monetary levies, except the cases on the alimony, on labor relationships, on injury or the type of harm to the health, on the cases about the reimbursement of the harm caused by the death of the bread winner, request about reimbursement of harm caused by a crime or administrative offence, as well as the enforcement cases in favor or against budgets of state, Autonomous Republic or local self government;
  - k. 5 years have elapsed since commencement of the enforcement proceedings on cases of imposing the fine as a mean of an administrative penalty.
  - l. 1. An agreement envisaged by Article 57<sup>10</sup> of Georgian Law on Environment Protection shall be concluded

“Note:

Enforcement shall be terminated on the basis of subparagraph “l” of this paragraph, if an agreement envisaged by Article 57<sup>10</sup> of Georgian Law on Environment Protection shall be concluded by a person, against whom an enforcement has been exercised or by a person who has been acting under the scope of his capacity while performing the action, regarding what compulsory enforcement has been rendered. Moreover, necessary precondition for termination

the enforcement is that the act on which a decision on compulsory enforcement has been rendered has been committed/done within the period of the above-mentioned agreement.”

2. subparagraph “l” of this paragraph applies only to the decision enforced in favor of state and/or local self-government bodies.

2. In case of termination of the enforcement proceedings all the activities conducted for the enforcement shall be revoked.
3. In case of termination of the enforcement proceedings, resuming of the enforcement on the same decision shall be prohibited.

### **Article 35. Return of the Enforcement sheet/ enforcement decision**

1. Enforcement sheet/enforceable decision, based on which no or partial levy was paid, is returned to the creditor:
  - a. Upon a creditor’s request;
  - b. If the debtor does not live at the address indicated by the creditor, or if the property is not there, except for the cases, when the debtor is being searched by police;
  - c. If the creditor, notwithstanding the warning of the National Bureau of Enforcement, within one month from such warning shall not fulfill the duties and responsibilities assigned by this Law, due to which the enforcement of the decision becomes impossible.
  - d. In case prescribed in subparagraph “a” of paragraph 2 of article 36.
  - e. If the enforcement of the decision is impossible due to the factual circumstances and/or legal grounds. In this case the return of the enforcement sheet/enforceable decision shall be determined by the head of the National Bureau of Enforcement.
  - f. If in cases prescribed by paragraphs 4 and 4<sup>1</sup> of Article 25 of this Law, the creditor, within the time limit specified by the National Bureau of Enforcement shall not fully pay the amount determined by the National Bureau of Enforcement after the appraisal of the property or shall not deposit the advance payment, if the enforcement has started without the advance payment by the creditor.

<sup>1</sup> If within 2 years after the commencement of the enforcement proceedings on monetary levy, the creditor’s request has not been satisfied due to the fact that the debtor does not have the property from which the levy can be taken, enforcement sheet/enforceable decision is returned to the creditor, except the cases on the alimony, on labor relationships, on injury or the type of harm to the health, on the cases about the reimbursement of the harm caused by the death of the bread winner, request about reimbursement of harm caused by a crime or administrative offence, as well as the enforcement cases in favor or against budgets of state, Autonomous Republic or local self government;

<sup>2</sup> In cases indicated in paragraph 1<sup>1</sup> before the expiration of the term prescribed by the same paragraph, the creditor shall be entitled to address the National Bureau of Enforcement and request the prolongation of the enforcement proceeding for one additional year, for which he/she pays fee in the amount of 200 GEL. Before the expiration of the term prescribed by subparagraph “j” of Paragraph 1 of Article 34, in case of payment the fee within the term specified by this Article, the creditor shall be entitled to address annually the National Bureau of Enforcement with the request to prolong the enforcement proceeding.

2. Upon the return of enforcement sheet/enforceable decision all the measures carried out for enforcement are cancelled and the term of remoteness of the enforcement of the decision determined by this Law shall be suspended until the commencement of the new enforcement proceedings on the same cases.

#### **Article 36. Suspension of the enforcement and its terms**

1. The court shall be entitled to suspend the enforcement:
  - a. Upon liquidation of a debtor the legal entity-until appointing the assignee, if in the legal affairs defined by the court assignability is allowed;
  - b. Upon the loss of the capability of the debtor – before appointing his representative;
  - c. Upon filing a suit for the action of an entitled authority (official) for discussing a case of administrative violation – before reaching the decision;
  - d. Upon presenting a suit about releasing this property from seizure, which was subject to payment – in the enforcement part of the disputable property and before taking the corresponding resolution;
  - e. Upon the address of the purchaser of the immovable property pursuant to article 2 of this Law, requesting the termination of the commences enforcement proceeding – before taking the decision;
  - f. In other cases prescribed by Georgian Legislation;
2. The National Bureau of Enforcement shall be entitled to suspend the enforcement proceedings:
  - a. Once, upon the request of the creditor for no longer that 3 months. After the expiration of the terms the enforcement sheet is returned to the creditor, if he/she does not request the prolongation of the enforcement proceedings;
  - b. In case of National Bureau of Enforcement addressing the court with solicitation to define the enforcement decision, for the term defined by a court for taking the resolution;
  - c. Upon the death of the creditor or debtor – before identifying the assignee by the court and before transferring the debtor’s property to the assignee;
  - d. Upon dividing the liability of the debtor as indicated in Article 18<sup>1</sup> of this Law – before resuming the case proceeding
  - e. Upon hearing the complaint of the party of the enforcement proceeding pursuant to the rule prescribed by Article 18<sup>3</sup> of this Law, with the decision of the head of the National Bureau of Enforcement;
  - f. Upon determining the term for the creditor for paying the fee in cases prescribed by paragraphs 4 and 4<sup>1</sup> of Article 25 of this Law – until the expiration of such term.
  - g. In special circumstances – with the decision of the head of the National Bureau of Enforcement - until the expiration of such term.
3. Before or after seizure of the debtor’s property by bailiff, if according to criminal procedure code of Georgia this property was seized by a court in order to ensure compulsory measure of criminal procedure-possible seizure of property. A bailiff stops the enforcement on this property before receiving a written consent from prosecutor.

#### **Article 37. Court Resolution - Extracted**

**Chapter VIII.**  
**ENFORCEMENT FEE AND EXPENDITURES**

**Article 38. Enforcement Fee**

1. Enforcement Fee (Later – “Fee”) is a compulsory fee (including VAT) determined by the Georgian legislation for rendering the services of the National Bureau of enforcement, which is transferred to the account of the National Bureau of Enforcement.
2. The income received from the fee (minus the VAT) is fully used by National Bureau of Enforcement.
3. The amounts gathered as interest in the banking institutions on the deposit accounts of National Bureau of Enforcement, as well as other incomes are completely used by National Bureau of Enforcement.
4. The amount of the fee and the method of payment are defined by the order of the Ministry of Justice of Georgia.
5. Payment of the fee is a responsibility of a debtor. The fee related to the matters of monetary levy is recovered together with enforcement request.
6. The amount of fee to be paid related to the matters of monetary levy should not exceed 7% of enforcement request except the cases prescribed by paragraph 6<sup>1</sup> of this Article. The fee on the cases of the monetary levy should not be less than 50 GEL, except the fees for the enforcement of the cases prescribed by the subparagraphs “a”-“c” of paragraph one of Article 268 of Civil Procedure Code of Georgia.

6<sup>1</sup> The fee for the enforcement of the cases on customs fee, fine imposed as an administrative sentence, compensation of damages, and/or penalty shall be determined as following:

- a. Up to 100 GEL on cases of customs fee, fine imposed as an administrative sentence, compensation of damages, and/or penalty – 25% of the customs fee, fine imposed as an administrative sentence, compensation of damages, and/or penalty, but no less than 20 GEL;
  - b. 100-200 GEL on cases of customs fee, fine imposed as an administrative sentence, compensation of damages, and/or penalty – 20% of the customs fee, fine imposed as an administrative sentence, compensation of damages, and/or penalty, but no less than 30 GEL;
  - c. 200-500 on cases of customs fee, fine imposed as an administrative sentence, compensation of damages, and/or penalty – 10% of the customs fee, fine imposed as an administrative sentence, compensation of damages, and/or penalty, but no less than 40 GEL
  - d. 500 GEL and above on cases of customs fee, fine imposed as an administrative sentence, compensation of damages, and/or penalty – 7% of the customs fee, fine imposed as an administrative sentence, compensation of damages, and/or penalty, but no less than 50 GEL
7. On cases related to monetary levy while presenting the enforcement sheet by an enforcement officer to National Bureau of Enforcement, the fee to be paid should not exceed 2% of enforcement request and should not be less than 50 GEL. The amount paid as a fee shall be returned to the creditor in proportion to the recovered request.
- 7<sup>1</sup>. Pursuant to the rule prescribed by Article 2 of this law a pre payment made by the creditor for enforcement of debt payment order shall be considered incurred from the moment when during

the summary proceeding, the abovementioned fee will be fully deposited to the National Bureau of Enforcement.

8. In cases prescribed in articles 34 and 35 of this law and in cases of taking back the enforcement sheet/enforcement decision by the issuing body/person of such decision, introducing amendment in it or revoking it, an advance payment of fee is not returned to the creditor.
9. In case the enforcement request is satisfied partially or incompletely, at first the expenses for enforcement is covered and then the fee and enforcement request in proportion to the amount recovered.
10. While recovering an item from illegal ownership or/and transferring it, for the address of the buyer of the immovable property pursuant to Article 2 of this Law, for the measure of satisfying a suit on each item subject to registration and for enforcement of the matters of other category, while presenting an enforcement sheet/enforcement document to National Bureau of Enforcement by a creditor, the amount of a fee to be paid and the method of payment is defined by the order of The Minister of Justice of Georgia. The creditor is entitled to demanding a reimbursement from a debtor of a fee paid by him and of corresponding expenses in a court.
11. On resolutions defined in subparagraphs "a"- "d" of a first part of article 268 of a civil procedure code of Georgia, as well as the criminal cases (except for those prescribed in paragraph 15 of this article) and the amounts to be paid in favor of National Bank of Georgia, legal entity of public law of Ministry of Finance of Georgia, Revenue Service, state and local self-government bodies, and the amounts to be paid in favor of budgets of state, Autonomous Republic, local self-government, including state customs fee and a fee for enforcing a decision based on subparagraph "l" of article 2 of this law are not to be paid in advance. Payment of the enforcement fee is to be paid by a debtor at the beginning of enforcement.
12. The following individuals are exempt from payment of the fee in advance:
  - A. Individuals listed in the database of socially vulnerable families, which is to be confirmed by corresponding certificate;
  - B. A Creditor upon the resolution of a court (a court can, upon considering his property conditions, release the creditor from advance payment of court expenses in cases of exemption from payment prescribed in cases of civil procedure code of Georgia and according to the method prescribed)
  - C. A creditor while execution of the enforcement order.
13. The state/Autonomous Republic/ local self-government authorities, are exempt from an advance payment and imposing of advance payment, including, while transferring the property under the possession of state/Autonomous Republic/ local self-government authorities in-kind by the rule prescribed by this Law (except the cases prescribed in Article 16 of this Law) and the creditors of these bodies. The decisions of the cases of the European Court of Human Rights and on the expulsion of the foreigners from Georgia are also exempt from imposition and payment of fee.
- 13<sup>1</sup> Legal entities of the public law, except of the National Bank of Georgia and Revenue Service, the legal entity of the public law under the governance of the Ministry of Finance of Georgia, shall not be exempt from an advance payment and imposing of advance payment.

14. Upon the full satisfaction within the terms prescribed by the law by the debtors of a monetary demand of a creditors ascertained by paragraph 12 of his article, the amount of a fee to be paid should not exceed 2% of the monetary demand to be enforced and should not be less than 50 GEL.
15. The fee does not have to be paid on the deposit account of National Bureau of Enforcement before the start of the enforcement on depositing amounts, including depositing the amounts pursuant to part one of Article 200 of Criminal Procedure Code of Georgia.
16. In case of in-kind contribution of the property in the possession of state/Autonomous Republic/local self-government, the fee shall be paid by state/Autonomous Republic/local self-government in case of subsequent sale of such property and shall constitute 7% of the recovered amount.

### **Chapter XVI<sup>3</sup>**

#### **Registration of a Loan Agreement and Monitoring of the Payment Liability Performance**

##### **Article 91<sup>19</sup>. Registration of a Loan Agreement**

1. National Bureau of Enforcement, on the grounds of an agreement between the parties, registers a loan agreement (including the bank loan), which is not secured by the mortgage or/and seizure (later – the loan agreement), and controls the borrower’s loan repayment liability under the contract. The rule of loan agreement registration and monitoring of the payment liability performance is defined by the order of the Minister of Justice of Georgia.
2. National Bureau of Enforcement does not register the loan agreement, if it does not contain the basic terms of the loan contract, the parties (lender and borrower), the names of their representatives (if the loan agreement is signed by a representative), personal / identification number, address, a lender’s bank account details.
3. If a loan agreement is signed by a representative, an authorization document of a representative should be presented.
4. By the registration in the National Bureau of Enforcement it is also possible to make any amendments to the registered loan agreement or to terminate this contract.
5. National Bureau of Enforcement maintains a register of loan agreements. Disclosure of the registry data, except as provided by law, is prohibited without the consent of the parties to the relevant loan agreement. The rule of maintaining the loan agreement register is determined by the order of the Minister of Justice of Georgia.

##### **Article 91<sup>20</sup>. The Rule of Performance of Payment Liability**

A borrower’s payment liability performance stipulated by the loan agreement and the rule of conducting the monitoring by the National Bureau of Enforcement on the fulfillment of this liability is determined by the order of the Minister of Justice of Georgia.

##### **Article 91<sup>21</sup>. An Enforcement Order**

1. In case of non-fulfillment of the payment liability or improper performance by a borrower foreseen by the loan agreement, the Chairman of the National Bureau of Enforcement issues the enforcement order.



2. An enforcement order shall be issued within 15 days after the non-fulfillment of the payment liability or improper performance by a borrower, if the longer period of time is not predetermined by the loan agreement or a lender does not demand to increase the mentioned time period.
3. The enforcement order must include:
  - a) The order number and place of publication;
  - b) The publication date of the order;
  - c) The loan agreement number;
  - b) The name of a lender (creditor), personal / identification number, address;
  - e) The name of a borrower (debtor), personal / identification number, address;
  - f) The amount of debt;
  - g) The signature from an authorized person.
4. An enforcement order is valid from the date of publication. It will be given to enforcement immediately by the National Bureau of Enforcement, if a lender does not deny its immediate enforcement before the issuance of the enforcement order. The date of presentation of an enforcement order for the execution is 5 years from the date of its publication. Copies of the enforcement order shall be sent to the lender and borrower according to the rule of the Civil Procedure Code of Georgia.

**Article 91<sup>22</sup>. The Fee Defined for Registration of a Loan Agreement and Monitoring the Performance of Payment Liability**

The amount of fee and payment order for the registration of a loan agreement and monitoring the performance payment liability by the National Bureau of Enforcement is determined by the order of the Minister of Justice of Georgia.

**Article 39. Enforcement Expenditures**

1. Financing of the resolutions prescribed in subparagraphs “a”-“d” of part one of article 268 of civil procedure code of Georgia, as well as the fines imposed according to criminal and administrative-legal regulations, amounts to be paid in favor of the budgets of state/autonomous republic/local self-government, including state customs fee, enforcement acts prescribed in article 90<sup>1</sup> of this law, enforcement of decision of European Court of Human Rights and the cases prescribed in paragraph 13 of article 38 of this law, is carried out by means provided from the state/autonomous republic/local self-government budgets.
2. Extracted
3. Expenses related to expulsion of foreign individuals from Georgia will be finance according to article 59 of the law of Georgia “on legal conditions of foreigners
4. The debtor shall be imposed the liability to reimburse the expenses incurred by the National Bureau of Enforcement in connection with keeping and transporting the property, expenses incurred due to the procedures in connection with claiming and/or ascertaining the property rights prescribed by Georgian legislation. The amount shall be recovered together with the enforcement demand, if the expenses had been incurred by the National Bureau of Enforcement on the grounds of the Agreement concluded with the third parties and it can be certified by the corresponding documents.

## **Article 39<sup>1</sup> Return of the Amount**

1. An individual shall be entitled to request the return of the amount deposited by him/her on the account of the National Bureau of Enforcement, which is subject to return within 1 month after the receipt of the notification by the National Bureau of enforcement.
2. In an individual shall not exercise the right prescribed by paragraph 1 of this Article, the amount shall be the property of the National Bureau of Enforcement.

## **Chapter IX ENFORCEMENT ON MOVABLE PROPERTY**

### **Article 40. Seizure of Movable Property**

1. Seizure of movable property is defined as evaluation of a debtor's property, prohibiting the owner from property management in any form of transfer, mortgage, rent or lease or/and transfer of the property for keeping purposes. The bailiff records the seized items in the property evaluation and seizure protocol.
2. On the seized movably property after the seizure the agreement indicated in paragraph one of this article is void.
3. Extracted
4. The bailiff immediately transfers the seized money to the corresponding deposit account (private bailiff-settlement (current) account) of the National Bureau of Enforcement, while the seized securities and valuables are taken and kept in an especially assigned, protected container. This also concerns the other seized items, if there is a possibility of encroachment of seized items. If the seized movable items are left with the debtor or given to a third party for keeping, then the seizure is made by applying a seal. Disposal of any kind of the seized items by a debtor of a seized property or the trustee -keeper results in liability according to the regulation prescribed in the criminal legislation of Georgia. Upon the request of a debtor or at his/her own initiative, in case of necessity, the enforcement officer may seal the appraised items, which is recorded in the property appraisal and seizure protocol.
5. Crop, which is not removed from the ground, can be seized until the enforcement on movable property takes place. Seizure cannot be made on month before taking the harvest.

If while seizing a debtor's property, third parties present their rights on this property, it is still entered in the evaluation and seizure protocol and a notice is made. A bailiff simultaneously explains to the individuals his right to address the court with a suit about releasing the property from seizure. If the third party presents the documents certifying his/her ownership of the seized property, the enforcement officer, upon the approval of the creditor, shall be entitled to remove the mentioned property from the appraisal and seizure protocol.

<sup>6</sup> Before announcing the compulsory auction publicly, the enforcement officer shall remove the seizure property from the appraisal and seizure protocol, upon the address of the creditor

6. While carrying out compulsory enforcement in favor of an unsecured creditor, if after seizure of a debtor's property, but not later than issuing order on sale of the property through auction, the

collateral holder presents his rights to this property and presents the National Bureau of Enforcement the record from the registry confirming the collateral right, the National Bureau of Enforcement releases the property from seizure.

#### **Article 40<sup>1</sup> Releasing the seizure from the debtor's movable property**

1. When dealing with monetary claims against unsecured creditor, The National Bureau of Enforcement is entitled to release the seizure from the debtor's movable property if the debtor will cover market value of the property prior to public announcement of a compulsory auction upon this property. In case of registered lease (tax lease, mortgage) in favor of other person/persons exists on the seized movable property, pursuant to the rule prescribed by this article, leasing remains unchanged, despite the seizure release.
2. During the enforcement proceeding pursuant to the rule prescribed in Article 2 subparagraph "L" regarding the enforcement on sale of seized movable property under mortgage /lease, National Bureau of Enforcement is entitled to release the seizure from the movable property if a registered lease in favor of other leasor/lessors does not exist and the debtor covers market value of the item prior to public announcement of the auction.
3. In cases prescribed in paragraphs 1 and 2 of this article, market value of the property shall be determined by the National Bureau of Enforcement or other competent body upon assignment of the National Bureau of Enforcement. The debtor shall be entitled to present together with the application on release of seizure from the movable property, the decision of an expert on determining the market value of the property, according to which the property is evaluated 6 months prior to the commencement of the enforcement proceedings. The admissibility of the presented document shall be decided by The National Bureau of Enforcement.
4. Pursuant to the rules prescribed in paragraph 2 of this article in cases of releasing seizure from the debtor's property, enforcement upon this property within the same enforcement proceeding shall be prohibited. Payment of the market value by the debtor shall be considered as fulfillment of the enforcement claim.
5. Pursuant to the rule prescribed in paragraph 2 of this article release of seizure from movable property- the subject of lease shall result in suspension of the tax lease upon this property as stated in Article 2 paragraph "L" of this law.
6. The National Bureau of Enforcement is entitled to remove the seized property from the appraisal and seizure protocol upon request of the creditor, prior to public announcement of compulsory auction.

7. While carrying out compulsory enforcement in favor of an unsecured creditor, if after seizure of a debtor's property, but not later than issuing order on sale of the property through auction, the collateral holder presents his rights to this property and presents the National Bureau of Enforcement the record from the registry confirming the collateral right, the National Bureau of Enforcement releases the property from seizure.

**Article 41. Preferential settlement of a suit - Extracted**

**Article 42. Conditional research of the debtor's property**

1. Extracted
2. A bailiff can oblige the debtor to present the list of his property and information regarding the legal liability on the property. In the list of the property the debtor must indicate the basis of his demand and proves towards the third party. The property which he is entitled to receive from others should also be indicated in the list of the property.
3. A debtor gives a written guarantee that all the data, which was demanded, was presented by him in a maximum correct and complete way. After giving the written guarantee by a debtor, in case of purchasing the property and/or property right, arising legal relationships in connection to the property, he/she shall be obliged to notify the National Bureau of Enforcement additionally in a written form.
4. If a debtor will not present the list of property to the bailiff within 5 days of a request, or refuses to give a written guarantee, or intentionally presents wrong information to National Bureau of Enforcement, he will be a subject to a responsibility according to the regulations of the Georgian legislation.

4<sup>1</sup>. The bailiff approves the correctness and completeness of the debtor's data.

5-8. Extracted

**Article 43. Extracted**

**Article 44. An object of seizure**

1. All the items of the debtor are subject to seizure, except for the property listed in article 45 of this law (It is considered, that the items found with the debtor, belong to him)
2. Extracted.

**Article 45. Property, from which levy cannot be demanded**

1. The following are not subject to seizure:
  - a) Personal or family items, which are necessary to a debtor for his professional activity, life and household;

- b) Enough food, fuel and lightning means for four weeks for the debtor, his family and the individuals living with them, or if there is no reserve for this time term and it is impossible to purchase them, then the amount for their purchase;
  - c) Small-size cattle in a limited number, also one milk cow, or upon the debtor's choice two pigs, sheep or goats, if they are necessary for feeding a debtor, his family and the individuals living with them; Also the provisions for the cattle and stubble enough for three months, or if such a reserve does not exist and it is not possible to ensure its purchase, then the necessary monetary amount for their purchase;
  - d) For individuals engaged in agriculture, all the tools, animal, fertilizers and household items necessary for agricultural production, in so far as it is necessary for debtor, his family and keeping the hired workers, or before taking a harvest such and similar products for further leading the agricultural activities;
  - e) For individuals which receive the income with their physical or mental work or other activities, the items necessary for such activities.
  - f) Purposeful allowance allocated by the state
  - g) The property of the family member of those families that are registered in socially vulnerable families database, except the property used for the security of the claim, whose social-economic condition is below the limit ascertained by the Government of Georgia.
2. The regulation prescribed by Georgian legislation defines the amount of survival minimum, which is necessary for a person's survival needs.
  3. According to above-mentioned base, an income lowers than the survival minimum is subject to the release from seizure.
  4. An argument about releasing a property from levy is examined in the court

#### **Article 46. Temporary stop of sale - Extracted**

#### **Article 47. Evaluation of seized property**

1. While appraisal of the property, in case of the possibility to determine the market value, the market value of the property shall be indicated in the appraisal and seizure protocol.
2. If determining prices during the appraisal of the property is impossible, the property shall be evaluated by the National Bureau of Enforcement or by other competent body based on the assignment from the National Bureau of Enforcement.
3. On the ground of the agreement concluded between the National Bureau of Enforcement and Tax Authority, in order to seize the property of the tax payer for securing the payment of the tax liability, the National Bureau of Enforcement evaluated the property of the tax payer, it shall not be necessary to evaluate the property again during the enforcement proceedings, if the property on sale has been evaluated within 1 year since the commencement of the enforcement proceedings
4. Upon the commencement of the enforcement proceedings or before the appraisal of the property by the National Bureau of Enforcement, the Party of the enforcement proceedings shall be entitled to present the decision of an expert on determining the market value of the property, according to which the property is evaluated 6 months prior to the commencement of the enforcement

proceedings. The National Bureau of Enforcement shall be entitled to depend on the presented decision and if the decision is presented both parties on one and the same property – on one of the decision. The National Bureau of Enforcement decides the admissibility of the presented decision of the party of the enforcement proceedings

#### **Article 48. Property appraisal and seizure protocol**

1. Following shall be indicated in the property appraisal and seizure protocol:
  - a. Time and place of recording a protocol;
  - b. The name of enforcement bureau, on the territory of activities the enforcement is taking place, also the name and the last name of the bailiff, in the case prescribed in chapter III<sup>2</sup> of this law- the name and the last name of the private bailiff, the address of work and the individuals present during the recording of protocol;
  - c. The name of a court and the resolution which is enforced or the name of other enforcement documents and the authority which issued it;
  - d. The name of the creditor and the debtor
  - e. The name of each item in the act, its specific attributes (number, measure, weight, depreciation and others);
  - f. Separate evaluation of each item in the protocol and the value of the whole property, if during the evaluation it is possible that the bailiff ascertains the prices;
  - g. If the items or/and facilities are sealed-which items or/and facilities are sealed and the numbers of seals placed on them;
  - h. The name of the person, to whom the property was given for keeping and his address, if it was not the debtor himself who had to keep the property;
  - i. That the debtor and other individuals were explained the regulation for appealing the activities of a bailiff. That the debtor and the keeper of the property was explained his responsibility for keeping the property and the possible liability for spending, giving away or hiding the property given to him for keeping;
  - j. The notes and comments of a creditor, debtor, and the bailiff's explanations to them;
2. Together with seizure of property, the restriction protocol should also list the items with their values, which according to paragraph 2 of article 45 were left with the debtor, also other property of the debtor, in common property with other parties and which were not seized.
3. The property appraisal and seizure protocol is signed by a bailiff, keeper of a property, creditor, debtor and other individuals present during seizure.

#### **Article 49. Sale**

1. The National Bureau of Enforcement gives to the creditor, the seized amount or the amount paid by the debtor, minus the fee and the enforcement expanses.
2. The National Bureau of Enforcement sells other seized items publicly on auction.
3. Extracted

4. The National Bureau of Enforcement can, before holding an auction, give an opportunity to a debtor to sell the property himself under the control of a the National Bureau of Enforcement, but only in those cases, if with the sale of property the fee, enforcement expenses and creditor's claims will be satisfied
5. Before the sale of movable property according to the regulations of Georgian legislation the National Bureau of Enforcement has a right to take out the seized item from debtor's property before sale or after the sale.

#### **Article 50. Selling seized movable property on auction**

1. The National Bureau of Enforcement or other party based on the agreement concluded with the National Bureau of Enforcement, within 1 month after the seizure of the movable property and in case prescribed by paragraph 3 of Article 47 of this law – within 2 weeks after the commencement of the enforcement proceedings, announces public auction for sale.
2. The sale of the seized movable property on auction is carried out pursuant to the rule prescribed by Chapter XVIII of this Law, considering the requirements set forth by this Article.
3. If the lease right has been registered in favor of other leaser/lessors on the debtor's seized movable property, on which the credit demands the compulsory sale, National Bureau of Enforcement, according to the rule prescribed by Civil Procedure Code of Georgia, notifies the leaser/lessors regarding the commencement of the enforcement proceedings for the sale of the leased item and determines the term for submitting his/their demand. Upon handing the notification, the leaser(s) shall be notified the legal consequences of not presenting their demand or the sale of the leased property. The leaser(s) shall not be notified additionally specific time of the enforcement activities and measures.
4. In case of existence of tax lease right on the seized movable property on sale, National Bureau of Enforcement shall not send the notification indicated in paragraph 3 of this Article to tax authority, and the demand of the tax authority shall be determined by the day of the end of the compulsory auction according to the data (tax liability of the tax payer) published by the tax authority. National Bureau of Enforcement shall be entitled to address the Tax Authority to clarify the demand.
5. Other leaser(s) should present their monetary claims to National Bureau of Enforcement within 10 calendar days from the receipt of the notification. The leaser(s) shall be responsible for the accuracy of the presented claim. The Leaser(s) shall be responsible for the harm arisen as result of their claim by distributing the amount recovered from the sale of the property.
6. From the amount recovered as a result of sale of lease item, first the enforcement fee and enforcement expenses shall be covered, then the demands of the lessors shall be satisfied according to their sequences and the order of presenting demands to the National Bureau of Enforcement. Every other leaser shall be satisfied after the full satisfaction of the first in line leaser.
7. If the tax lease right is registered on a seized movable property, the demand of the tax authority shall be satisfied from the amount recovered from the sale of the lease item after covering the fee and the enforcement expenses, notwithstanding the registration order of the leaser.
8. If lease right of the commercial bank, the microfinance institution, insurance company registered in Georgia or financial institutions of the developed countries determined by subparagraph "e" of

Article 1 of Georgian Law on the Activities of International or Commercial Banks, on seized property has been registered before tax lease rights, the amount recovered shall cover the claims of the above mentioned financial institutions and afterwards the claim of tax authority after first covering fees and expenses of enforcement.

9. After the transfer of the seized movable property in the ownership of the purchaser, all the seizures, property and liability rights shall be cancelled if the purchaser does not express the wish to become the party of the liabilities regarding the property.
10. If the enforcement proceedings have been initiated in favor of the state/Autonomous Republic/Local Self-Government budget, including the enforcement of the decision prescribed by "I" subparagraph of Article 2 of this Law and in case the winner has not been revealed on the first auction or if the winner does not pay the amount within the terms established by this Law, the National Bureau of Enforcement shall be entitled to issue the resolution within 15 days after the end of the auction on transferring the property in kind in the ownership of the state/Autonomous Republic/Local Self Government, which shall be handed to the body authorized to manage/handle the property. If the resolution is not issued within the determined timeline, The National Enforcement Bureau ensures rendering the repeated auction (if the winner has not been revealed during the first auction) or the new auction (if the winner has not paid the price of the property within the time term prescribed by this Law).
11. If the winner has not been revealed on the repeated auction, or the winner has not paid the price of the property within the time term established by this Law the National Bureau of Enforcement shall be entitled to issue the resolution within 15 days after the end of the auction on transferring the property in kind in the ownership of the state/Autonomous Republic/Local Self Government, which shall be handed to the body authorized to manage/handle the property. If the resolution is not issued within the determined time term, this property is released from the mortgage exercised in favor of the creditor requesting the compulsory sale and is returned to the debtor.
12. If the enforcement proceedings have been initiated in favor of the state/Autonomous Republic/Local Self-Government budget, including with the purpose of enforcement of the decisions prescribed by "I" subparagraph of Article 2 of this Law and if one auction prescribed by paragraph 8<sup>1</sup> of Article 75 of this Law has been already conducted and the winner has not been revealed or the winner have not paid the price of the property within the timeline prescribed by this law, the National Bureau of Enforcement shall be entitled to issue the resolution within 15 days after the end of the auction on transferring the property in kind in the ownership of the state/Autonomous Republic/Local Self Government, which shall be handed to the body authorized to manage/handle the property. If the resolution has not been issued within the determined time term, this property is released from the mortgage exercised in favor of the creditor requesting the compulsory sale and is returned to the debtor.
13. While in-kind transfer of the property, the price of the property shall be determined by the decree of the Minister of Justice of Georgia.

#### **Article 51. Stopping the auction - Extracted**

#### **Article 52. Securities**



The rules of seizing and sale of movable items are applied to securities.

#### **Article 53. Other methods of sale**

In case of agreement of a creditor and a debtor, upon their request the National Bureau of Enforcement can ascertain that the sale of seized items should be carried out by other methods than prescribed in this law.

#### **Article 54. Multiple seizure and the sequence of enforcement of monetary claims**

1. An item can be simultaneously seized in favor of several creditors. The item already seized can be seized again in favor of another (next) creditor. If the item was first seized by other bailiff, he should be notified about the registration of the seizure.
2. In case of enforcement by different bailiffs of monetary demands prescribed in several enforcement sheet by one debtor, the sale of the same property of debtor with auction or otherwise is carried out by the bailiff which was the earliest to register the seizure on fire-arms and mechanical transport means in the corresponding authority of the ministry of internal affairs of Georgia, on civil air transport-in the state registry of civil air transport, on sea vessels-in the state registry of vessels of Georgia, on securities-with the corresponding individual of security register, and on other property-in the civil register. The sequence of enforcement shall be determined by the time the seizure has been imposed. (By hour and minute)
- 2<sup>1</sup>. Serving the purpose of defining the enforcement sequence pursuant to the rules prescribed by Article 2 of this law regarding the compulsory enforcement of the debt payment order, seizure upon debtor's property shall be considered as imposed by enforcement officer since the commencement of enforcement proceeding.
3. Registration of seizure is carried out based on either document (protocol) confirming the seizure or the electronic copy of this document (protocol) and the address of the National Bureau of Enforcement regarding the seizure.
4. In case of stopping the sale of property based on the reasons provided in this law, the enforcement activities are continued on this property in favor of the next creditor by the enforcement officer whose seizure is registered next. Stopping the property sale should be immediately communicated to the bailiff of the next creditor

### **Chapter X**

#### **CLAIM ENFORCEMENT**

#### **Article 55. Principles of seizure**

1. A debtor's request can be seized, if the legislation does not limit their transfer or seizure.
2. Claims, which will be payable in future can be seized, if they can be clearly defined.

#### **Article 56. Order on seizure**

1. If the claim should be seized, the National Bureau of Enforcement, upon the creditors request issues an order about its seizure. The order should indicate the basis of creditor's claim, demands to be satisfied by him and against whom is the debtor's claim (assigned person) is directed. Together with the seizure the order should be issued about payment to the creditor.
2. The order on seizure should be given to the assigned person (a person, a property of defendant kept with which is compulsory restricted), the order should be sent to the creditor and the debtor. Upon giving an order to an assigned person the seizure enters into force within the limits of creditor's claim. A debtor is not entitled to govern demands and the assigned person is no more entitled to carry out the activity, which is the basis of the responsibility. He should pay the seized amount to the creditor. Other action, which is a basis for liability, should be carried out by the bailiff.
3. The order issued to satisfy the indicated demand can also apply to the part of the creditor's demand, which will become enforceable in the future.
4. The order on seizure, which concerns the salary claims or the claims on similar regular income of the debtor against the assigned person, also applies to the amounts, which are payable after seizure.

#### **Article 57. Results of seizure**

1. An order against seizure entitles the creditors to demand from a third party carrying out such an action in his favor, which he should have carried out towards his debtor.
2. The order on seizure is in force, even if it is issued unjustly in favor of assigned person, against the debtor, until it is cancelled and this cancellation is communicated to an assigned person.
3. A debtor is obliged to give the creditor the necessary information for filing a claim and also, give him the existing documents about the claim. A creditor can attain them with compulsory methods.
4. Based on order about seizure of a claim, a creditor has a right to file a suit in a court against the assigned person.

#### **Article 58. A note from an assigned person**

An assigned person within two weeks of receipt of the order about seizure should inform the bailiff and a creditor:

- a) Whether or not he accepts the claim and if he is ready to pay;
- b) If the other parties will file a claim on this demand and if yes-which one;
- c) If the debtor's claim was seized and if yes-based on which claim.

#### **Article 59. Multiple seizures. Rejection of seized claim**

1. When a multiple seizure is place upon the claim, the claims of creditors will be satisfied in the sequence, based on which the third assigned person was communicated an order about seizure of

claim. Upon the simultaneous presentation of a note about seizure of a claim, the creditors will be satisfied proportionally to their claims.

2. Upon placement of a multiple seizure an assigned person is obliged to carry out the payment with the help of a National Bureau of Enforcement, which distributes the amount recovered according to this article.
3. A creditor is entitled to refuse the claims acquired by the order of seizure in a way that his rights listed in the enforcement documents not be violated. During refusal the National Bureau of Enforcement is given a note. A note should also be given to an assigned person.

#### **Article 60. Seizure of the Vindication**

1. The resolution about the mortgages during the claim of transferring the item during shall determine that the assigned person should transfer the item to the National Bureau of Enforcement. Compulsory activity against the assigned person shall be used only, if the creditor obtains enforcement documents on transfer of property against the assigned person.
2. If the movable item is transferred, the rule prescribed for the sale of the items under mortgage shall apply for its sale.
3. If the immovable item is transferred, the rule prescribed for the sale immovable property shall apply.

### **Chapter XI**

#### **ENFORCEMENT ON IMMOVABLE PROPERTY**

#### **Article 61. Scope of application**

Subject to enforcement on immovable property can be land premises, buildings and a share of common immovable property listed in the public registry.

#### **Article 62. Subjugation to enforcement**

1. Enforcement is carried out by the enforcement bureau, on the territory of activities of which the real estate is located.
2. If the real estate is located on the territories of activities of several Enforcement bureaus, and/or if the enforcement proceedings have been carried out against one and the same debtor by two or more Enforcement bureaus the chairman of National Bureau of Enforcement is entitled to assign the implementation of the resolution to the bailiff of one of the Enforcement bureaus
3. Extracted

#### **Article 63. Types of enforcement**

1. Enforcement on real estate is implemented by registration of a compulsory mortgage, compulsory auction or sequester (compulsory property management).
2. While submitting an application to the National Bureau of Enforcement for initiating the compulsory enforcement, the creditor determines the type of enforcement. He shall not be entitled to request the initiation of several enforcement type simultaneously.
3. A creditor is entitled to a right to demand change of type one of enforcement with another before the complete satisfaction of his claim.

#### **Article 63<sup>1</sup>. Seizure of real estate**

1. Seizure of real estate is defined as an evaluation of the property and prohibition of the owner from its management in any way-transferring to another person, mortgage, usufruct, servitude or structure, lending, renting or/and leasing agreement. The seizure of the property subject to the registration shall be carried out based on the address of the National Bureau of Enforcement, and the seizure of the movable property in the immovable property shall be carried out based on the property appraisal and seizure protocol. Seizure of a immovable property shall be carried out with the rule of seizure for movable property. The protocol of seizure or release of seizure is immediately sent to the relevant registration agency.
2. After seizure of a real estate all the agreements indicated in paragraph one of this article are void.

### **Chapter XII COMPULSORY MORTGAGE**

#### **Article 64. Use of a compulsory mortgage**

1. Listing of a compulsory mortgage in the registry is carried out upon the note of a creditor. Compulsory mortgage begins with the registration; real estate is also a guarantee for registration fees placed upon the debtor.
2. If a compulsory mortgage is applied to several items of a debtor's real estate, then the amount claimed should be distributed among the corresponding items of real estate. The distribution is defined by a creditor.

#### **Article 65.–Extracted**

#### **Article 66. Acquiring a compulsory mortgage by an owner**

If an enforcement document is revoked or the enforcement is announced to be inadmissible, then the compulsory mortgage is transferred to the owner of a land premise. The above mentioned is applied in the cases, when the debtor satisfies the creditor.

## Chapter XIII COMPULSORY AUCTION

### **Article 67. Extracted**

### **Article 68. A request for a compulsory auction**

### **Article 69. Conditions of a compulsory auction**

1. Compulsory auction shall be conducted by the National Bureau of Enforcement pursuant to the rule established by this Law or other person on the grounds of the agreement concluded with it. If the debtor is registered in the public registry as the owner of the property, the National Bureau of Enforcement ensures conducting the compulsory auction according to the rule prescribed by Georgian legislation. In this case, compulsory auction shall be carried out within 1 month after the seizure of the property and in the cases prescribed by paragraph 3 of Article 47 of this Law – within 2 weeks after the beginning of the enforcement proceedings.

<sup>1</sup> If the debtor is not registered in the public registry as the owner of the immovable property, National Bureau of Enforcement ensures finding the registered ownership on the property with the help of Public Registry in the technical inventory archive and or in the technical inventory archive regarding the property listed under the ownership of the debtor.

<sup>2</sup> If the information obtained from the technical inventory archive certifies that certain immovable property is registered on the name of the debtor, National Bureau of Enforcement shall be entitled to seize the property and initiate the enforcement pursuant to the rule prescribed by this Law. The debtor or the person, who claims that he/she is the owner of the property, shall be entitled to present to the National Bureau of Enforcement evidence of the property right, which if deemed plausible, National Bureau of Enforcement shall not exercise and/or cancels the measures of the compulsory enforcement against such property. In case of the sale of property within the scope of the enforcement proceedings, the purchaser of the property shall become the owner of the property. The third party, who claims that his/her right has been violated due to the sale of the property and/or has suffered harm, shall be entitled to present the claim against the debtor.

<sup>3</sup>. During the enforcement proceeding pursuant to the rule prescribed in Article 2 subparagraph “L” and if the identification of the debtor’s right on ownership of the property, subject to registration is impossible, the National Bureau of enforcement shall address the court with the motion on ascertaining the property right of the debtor. Based on the ruling of the court the National Bureau of enforcement is entitled to address a corresponding registration body, requesting the registration of property including uncertain data.

2. After issuing an order on holding a compulsory auction on a seized property, a claim received by another enforcement sheet will be satisfied only in those cases, if the amount recovered on a compulsory action exceeds the fee, enforcement expenses and the claims of the creditors in favor of which the compulsory auction is held. Also, the amount left does not go back to the debtor and the National Bureau of Enforcement seizes it in favor of another creditor.

3. After publicly announcing a compulsory auction on a seized property, a claim envisaged by other enforceable decisions will be satisfied only in case, if the amount recovered as a result of a compulsory action exceeds the fee, enforcement expenses and the claims of the creditors in favor of whom the compulsory auction was held. At the same time, the amount left does not go back to the debtor and the National Bureau of Enforcement seizes it in favor of other creditor.

3<sup>1</sup> In case of enforcement of a decision defined by subparagraph “l” of article 2 of this law, the enforcement officer of this case conducts auction of the property, despite the sequence of the seizure registered by him in the public registry.

4. In case of a multiple seizure of a real estate to be sold on a compulsory auction, the auction on the item is carried out by the bailiff, which first registered the seizure on a real estate in public registry.

4<sup>1</sup>. In case of enforcement of a decision prescribed by subparagraph “l” of article 2 of this law, the auction of the property to be sold is conducted by the enforcement officer enforcing the decision, despite the seizure registered on this property by other enforcement officers.

5. Extracted

#### **Article 70. Inadmissibility of suspension and termination of the auction**

1. Since the day of publicly announcing the compulsory auction, the termination, suspension, postponing, release of the property from the seizure, the return of the enforcement sheet/enforceable decision based on the grounds prescribed by Article 35 of this Law is prohibited, except of the cases when the prosecutor presents to the National Bureau of Enforcement grounded written request regarding the criminal cases or due to the special circumstances the decision is made by the head of the National Bureau of Enforcement.

2. Extracted

3. Debtor or other person in the interest of the debtor is authorized to pay the fee, the amount necessary to cover the enforcement expenses and creditor’s claim before announcing the auction publicly. After announcing the compulsory auction publicly, in case of depositing amount on the account of the National Bureau of Enforcement by the debtor or other person in the interest of the debtor to pay the fee, the amount necessary to cover the enforcement expenses and creditor’s claim, the National Bureau of the Enforcement shall disseminate the amount after the end of the auction by a general rule. IF the amount deposited by the debtor on the account of the National Bureau of Enforcement and the amount recovered by the sale of the property on the auction exceeds enforcement fee, enforcement expenses and the creditor’s claim, National Bureau of Enforcement shall return the surplus amount to the debtor if the another enforcement proceedings is not carried out against the debtor in favor of the same and/or other creditor and the debtor is not subject to any other payment within the scope of such proceedings

4. Extracted

#### **Article 71. Method for holding a compulsory auction**

The forms, method and other related procedures for holding a compulsory auction are defined by the order of the minister of justice of Georgia.

## **Article 72 -74. Extracted**

### **Article 75. Obtaining rights on the property purchased on the auction**

1. **Extracted** (17.06.2011 #4827 enters into force from July 1<sup>st</sup>, 2011).
- 2 The winner of the auction shall pay the full price of the property within 10 calendar days after the completion of the auction.
3. Upon the payment of the full price of the property by the winner of the auction, National Bureau of Enforcement issues the resolution regarding the property right on the property purchased on the auction.
- 4 If compulsory enforcement is carried out by a creditor, whose claim is not secured, despite the transfer of the property, the rights registered on the item in the public registry stay unchanged. If the mortgage holder is carrying out the compulsory enforcement, the entire mortgage and the rights to item (except the tax mortgage/mortgage right) are cancelled after transfer of the property, which are registered on the item after the mortgage of the creditor carrying out a compulsory enforcement. If the mortgage holder carrying out compulsory enforcement is a commercial bank registered in Georgia, microfinance organization, insurance organization, international or financial institution of developed countries correspondingly indicated in subparagraph “e” of article on of the law of Georgia “on the activities of commercial banks”, as a result of property transfer the right of registered tax mortgage/mortgage is cancelled on an item. The rights earlier registered on the item (including the right to tax mortgage/biotech) stay unchanged in every case.  
4<sup>1</sup> Extracted (28.06.2010. N3167 enters into force on August 1, 2010)
- 5 During the enforcement proceedings, the new owner of the sold item takes the place of an old owner and becomes the co-participant of legal relations related to the ownership and/or use of such item at the moment of ownership transfer.
- 6 From the moment of transfer of property to a new owner the old owner loses all rights to this item.
- 7 Extracted (17.06.2011 #4827 enters into force from July 1<sup>st</sup>, 2011).
- 8 If the auction rendered pursuant to the ascertained rule, which consists of the first and repeated auctions, turned out to be fruitless and the property was not sold, the seizure administered in favor of the creditor carrying out the compulsory sale, is removed. The enforcement proceedings shall not be carried out on the same claim of this property in favor of the same creditor. The mentioned property is returned to the debtor, except of the cases prescribed by paragraph 4 of Article 69 of this Law, when the enforcement is continued by an enforcement officer whose seizure is registered second in the sequence.
- 8<sup>1</sup> If the market value of the property is bellow 5000 GEL, only one auction shall be conducted pursuant to the rule prescribed by Georgian legislation, when the initial price is established by the decree of the Minister of Justice of Georgia. In case if the winner is not revealed on auctions conducted pursuant to such a rule, the rules prescribed by paragraph 8 of this Article shall work.
- 9 Extracted (17.06.2011 #4827 enters into force from July 1<sup>st</sup>, 2011).

### **Article 76. Cancellation of auction results**

If the winner of the auction did not pay the price of the property within the time term indicated in Article 75 of this Law, he/she lost the amount deposited as the security during the auction, which is transferred to the ownership of the National Bureau of Enforcement. The National Bureau of Enforcement issues a resolution regarding cancellation of the results of the auction and conducts the new auction within 3 days from its issuance, which shall not be considered as a repeated auction.

#### **Article 76<sup>1</sup> Extracted**

#### **Article 77. Extracted**

#### **Article 77<sup>1</sup>. Transfer of an item in kind**

1. If the enforcement proceedings is carried out in favor of state, Autonomous Republic or local self government budgets, including, for enforcement of the decision prescribed by subparagraph “l” of Article 2 of this Law and the winner was not revealed on the first auction or the winner did not pay the full amount within the time term prescribed by this Law, the National Bureau of Enforcement shall be entitled to issue within 15 days from the completion of the auction the resolution regarding transferring the property in kind in the ownership of state/autonomous republic/local self-government, which is sent to the registration body with the request to register the property right of the state/autonomous republic/local self government on the property. If the resolution is not issued within the prescribed time term the National Bureau of Enforcement conducts the repeated auction (if the winner was not revealed on the first auction) or carries out the new auction (if the winner did not pay the full amount within the term prescribed by this Law).
2. IF the winner is not revealed on the repeated auction or the winner did not pay the full amount within the term prescribed by this Law the National Bureau of Enforcement shall be entitled to issue within 15 days from the completion of the auction the resolution regarding transferring the property in kind in the ownership of state/autonomous republic/local self-government, which is sent to the registration body with the request to register the property right of the state/autonomous republic/local self government on the property. If the resolution is not issued within the prescribed time, the property shall be released from the mortgage exercised in favor of the creditor requesting the compulsory sale and the property is returned to the debtor.
- 2<sup>1</sup> If the enforcement proceedings have been initiated in favor of the state/Autonomous Republic/Local Self-Government budget, including with the purpose of enforcement of the decisions prescribed by “l” subparagraph of Article 2 of this Law and if one auction prescribed by paragraph 8<sup>1</sup> of Article 75 of this Law has been already conducted and the winner has not been revealed or the winner have not paid the price of the property within the timeline prescribed by this law, the National Bureau of Enforcement shall be entitled to issue the resolution within 15 days after the end of the auction on transferring the property in kind in the ownership of the state/Autonomous Republic/Local Self Government, which is sent to the registering body with the request to register the ownership of the state/Autonomous Republic/Local Self Government on this property. If the resolution has not been issued within the determined time term, this property is released from the mortgage exercised in favor of the creditor requesting the compulsory sale and the property is returned to the debtor.



3. In case of the receipt of the approval on transfer of the property in kind in the ownership of the state/autonomous republic/local self-government within the term prescribed by paragraph 2 of this Article, the National Bureau of Enforcement issues the resolution on the transfer of the property in kind in the ownership of the state/autonomous republic/local self-government, which is handed to the body responsible for management/handling the property and the copy is sent to the body, which was participating in the enforcement proceedings.
4. The resolution about a transfer of a property in kind in the possession of the state/autonomous republic/local self-government must include:
  - a. Information about the owner (debtor) of the property;
  - b. The name (location) and the brief description of the property;
  - c. The name of the receiver of the property;
  - d. The value of the property
5. When transferred the property in kind, the value is defined according to the decree of Minister of Justice of Georgia.
6. In case of the unsecured claim, while transferring an item in kind in the ownership of the state/autonomous republic/local self-government, the rights on the item registered in the public registry on this property shall stay unchanged
7. In case of the existence of the secured claim, including, the right of tax mortgage/seizure registered on the property, while transferring the property in kind in the ownership of state/autonomous republic/local self-government, the rights on the item registered in the public registry shall be revoked after this mortgage/seizure.
8. In case on the acceptance of the property in kind, state/autonomous republic/local self-government takes the place of the previous owner and becomes the participant of the legal relationship in connection with the use of such property while transferring the property, if not otherwise stated by the Georgian Legislation.

**Article 77<sup>2</sup> The issuance of the legal acts by means of the electronic processing**

1. Legal acts of the National Bureau of Enforcement, including, raising the property right on the property, resolutions on the cancellation of the auction results, may be issued by means of the electronic processing and published on the website of the National Bureau of Enforcement on other official websites, which are determined by the Minister of Justice of Georgia.
2. The print-outs of the acts of the National Enforcement Bureau, issued by means of electronic processing and other documents have the equal legal force, as the acts and documents issued by means of electronic processing. Such print-outs do not need the certification of authenticity with the original.

**Chapter XIV**  
**SEQUESTER (COMPULSORY MANAGEMENT)**

**Article 78. Sequester**

1. On each stage of compulsory enforcement, upon the request of a creditor and according to this law, a property belonging to the debtor subject to enforcement can be transferred to the manager assigned by court or the owner himself for the reason of compulsory management.
2. Property listed in article 45 of this law cannot be subject to compulsory management.
3. The amounts recovered as a result of compulsory management (excluding the current expenses) should be paid to the deposit account of National Bureau of Enforcement, about which the manager notifies the bailiff.
4. The manager and the bailiff are obliged to notify the court about satisfaction of creditor's demands. In such a case a court takes a decision about stopping a compulsory management.
5. According to this article, during a compulsory management imposed by court the norms indicated in article 310 of civil code of Georgia are used.

#### **Article 79. Manager**

1. Extracted
2. A manager cannot be an enforcement officer or member of the court issuing the decision or a close relative of any of them
3. A court after listening to a creditor and a debtor should give the necessary instructions to the manager, identify the wages of a manager and follow the proceedings of these cases. He can dismiss the manager because of significant reasons.

#### **Article 80. Expenses**

Expenses related to property management and normal agricultural use of a land premise should be paid by a manager from his direct income.

#### **Article 81. Responsibility of a manager, report presentation**

A manager is responsible for all the obligations, which he has towards the participating parties. He is responsible once in half a year and upon the completion of management to present a report. The report should be presented to the National Bureau of Enforcement, which, in his part should present it to the creditor and the debtor.

#### **Article 82. A debtor in the role of a manager**

1. During a sequester of agricultural or forest premises or a garden land premises, the court should appoint a debtor as a manager. His appointment is admissible only in those cases when he cannot be expected to manage with integrity.
2. A court appoints a supervisor to the debtor appointed as a manager and establishes the wages of the latter. If the debtor does not carry out properly his as well as the managers responsibilities, the supervisor should immediately notify the court.

3. A debtor, as a manager, does not receive wages. In case of need a court after listening to the supervisor decides, in what quantity the debtor can use the revenue and the returns of land premises for satisfying his and his family's necessities.

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

#### **DISTRIBUTION OF PAID LEVIES AMONG THE CREDITORS**

##### **Article 82<sup>1</sup>. The rule for distribution of an amount recovered from a debtor**

1. A sum of money paid by a debtor upon the National Bureau of Enforcement excretions will cover the fee (received from the sale of his property) and the enforcement expenses prescribed by paragraph 4 of Article 39 of this Law, and the remaining amount will be issued to the creditors in favor of which compulsory enforcement was carried out. After satisfying all the claims the remaining amount is returned to the debtor or it will be seized in favor of other creditor.

A money paid by the debtor should be paid or/and transferred to the deposit account of National Bureau of Enforcement and then given or transferred according to regulations.

##### **Article 82<sup>2</sup>. Sequence for satisfying requests of creditors**

1. If the amount paid by a debtor is not enough to satisfy all the claims of the creditor, then this amount will be distributed among the creditors according to the sequence prescribed in article 82<sup>3</sup> of this sequence.
2. Every claim next in sequence will be settled after the full satisfaction of the previous one.

If the amount to be distributed is not enough for full satisfaction of all claims of similar sequence, then these claims will be satisfied proportionally to the amounts owed to each creditor.

##### **Article 82<sup>3</sup>. Claims of first, second and third sequence**

1. From the amount recovered from sale of seized and mortgaged property, in the first sequence tax mortgage/mortgage secured claims presented for enforcement will be satisfied in case of their existence, and later-other claims secured by mortgage and mortgage according to their sequence. In case if in the enforcement process legal entity of public law –revenue service with the claims secured by mortgage/tax lease and commercial banks registered in Georgia, microfinance organizations, insurance organizations, international or financial institutions of developed countries correspondingly indicated in subparagraph “e” of article on of the law of Georgia “on the activities of commercial banks”, whose mortgage/seizure rights were created before the registration of the tax mortgage/seizure, simultaneously participate in the proceedings as a creditor, the recovered amount shall first cover the claim of the above mentioned institutions in the part of the liabilities initiated before the registration of the tax lease/mortgage and afterwards the claims secured by tax lease/mortgage

<sup>1</sup> If the mortgage/mortgage of commercial banks registered in Georgia, microfinance organizations, insurance organizations, international or financial institutions of developed countries correspondingly indicated in subparagraph “e” of article on of the law of Georgia “on the activities of commercial banks”, which is registered before tax mortgage/seizure is preceded by the registration of other persons mortgage/seizure, then the claims of this person will be satisfied preferentially before registration of tax mortgage/mortgage, in the part of claims of commercial banks registered in Georgia, microfinance organizations, insurance organizations, international or financial institutions of developed countries correspondingly indicated in subparagraph “e” of article on of the law of Georgia “on the activities of commercial banks” indicated in this paragraph, the obligation for satisfaction of which existed before the registration of tax mortgage/mortgage and then the remaining creditors will be satisfied according to the sequence of claims.

2. In the second sequence from an amount identified in paragraph one of this article, and in the first sequence from other amounts the following claims will be satisfied:
  - a. On paying alimony;
  - b. Based on work relationships;
  - c. About mutilation or other damages to health, as well as about the compensation of the loss caused by loss of the bread-winner;
  - d. On compensation of harm caused by a crime or administrative offence;
  - e. On paying the amounts to the state/autonomous republic/local self government budget and to non-budgetary funds.
  - f. Claims based on checks and promissory
3. In the third sequence from an amount identified in paragraph one of this article, an in the second sequence from other amounts the following claims will be satisfied.

#### **Article 82<sup>4</sup>. Setting-up of a calculation by a bailiff**

1. When several creditors exist, if the amount that a debtor was enforced to pay is not enough to satisfy all the claims, the National Bureau of Enforcement sets up the calculation for dividing the sum among the creditors and allocates the amounts accordingly.
2. If one of the creditors expresses disagreement about the calculation, the National Bureau of Enforcement presents the calculation to the court within the three days.
3. About proving or changing the calculation set up by the National Bureau of Enforcement a private suit may be filed in the court.

### **Chapter XV**

#### **FOR THE PURPOSE OF TRANSFER OF ENFORCEMENT ITEMS AND IMPLEMENTING THE ACTIONS**

#### **Article 83. Transfer of movable item**

1. If the debtor should transfer a movable item, then the National Bureau of Enforcement takes the item and transfers it to the creditor.

2. If the item to be transferred cannot be found, then the debtor must notify the National Bureau of Enforcement about the location of the item. If the debtor claims that he is not able to do it, then he is obliged to indicate in the enforcement protocol as a written guarantee that he does not own this item.
3. A debtor who is not carrying out his responsibility is a subject to legal measures prescribed in law.

#### **Article 83<sup>1</sup>. Transfer of a movable item to a mortgage taker based on mortgage certificate**

1. In case of presentation of a mortgage certificate in an enforcement body by a mortgage taker, the transfer of mortgaged mechanical transportation item into his ownership is carried out by a regulation provided by this law about transferring the movable item.
2. A mortgage taker is responsible about the lawfulness of presenting a mortgage certificate to an enforcement institution.

#### **Article 84. Claiming of the immovable property from the ownership and/or use of other party**

1. On the cases of claiming of immovable property from the ownership and/or use of other party, when the decision to be enforced includes the transfer of the immovable property in the ownership and use of creditor and/or eviction (moving out) the individuals from immovable property, National Bureau of Enforcement ensures the transfer of the immovable property to the creditor in a vacated condition.
2. Eviction of the debtor and people living with him from the immovable property as indicated in the enforcement sheet or in the address of the purchaser of immovable property as indicated in Article 2 is carried out together with the movable property that belongs to them.
3. National Bureau of Enforcement issues a written warning to the debtor , or in case of the address from the purchaser of immovable property as defined in Article 2 of this Law – to the in the owner of the immovable property indicated in the announcement, according to the Civil Procedure Code of Georgia which indicates:
  - a. The terms of the voluntary fulfillment of the decision, which is the 10 calendar day;
  - b. In case of the not fulfilling the decision within the term prescribed by the National Bureau of Enforcement on the compulsory eviction (moving out)
  - c. On a day of enforcement, in case of the absence of the debtor about carrying out the enforcement decision of compulsory eviction (moving out);
  - d. Time and date of the compulsory eviction (moving out);
4. National Bureau of Enforcement notifies the creditor about the date and time of compulsory eviction (moving out). The creditor is obliged to attend the eviction (moving out) of the debtor from the immovable property. The absence of the creditor is a basis for the postponing of the indicated enforcement action. In case of postponing the enforcement action because of the absence of the creditor, National Bureau of Enforcement will again notify the parties about the date and time of compulsory eviction (moving out) of a debtor. The repeated absence of a creditor results in ending

the enforcement proceedings for the creditor by returning an enforcement sheet to the creditor, and in case of an address by the buyer of the immovable property – refusal to enforcement.

5. If a debtor or his representative is attending the eviction (moving out) from the immovable property and does not collect the items from it, the enforcement officer is entitled to a right to manage the collection of debtor's property. In such case, National Bureau of Enforcement is not responsible for loss, harm or destruction of the property.
6. If despite the warning the debtor or his representative does not attend the enforcement action of eviction (moving out) from the immovable property, upon the permission of the chairman of National Bureau of Enforcement, the bailiff is responsible for accessing the immovable property without the consent of the owner of the immovable property. National Bureau of Enforcement and the enforcement officer are not responsible for any damage caused by the effort to access the property premises, if it was impossible to avoid this damage by other means. The Bailiff is obliged to use all available means while accessing the property to avoid harm to human life and health. The bailiff lists the items located in the immovable property, draws the property appraisal protocol and transfers the copy to the creditor. In case of refusal by the creditor to receive the copy of the property appraisal protocol, the bailiff indicated this in the protocol. The creditor should ensure the keeping of the debtor's items or their transfer. The debtor is liable for the expenses of eviction (moving out) and keeping and transferring of items.
7. A bailiff draws a protocol about eviction (moving out) from the immovable property, which is together with him signed by the parties of enforcement action and the individuals present. In case of refusal to sign the protocol by the parties of the enforcement action, bailiff makes a corresponding notice in the protocol.
8. During eviction (moving out) from the immovable property, in case of disobedience of the persons in the immovable property to the lawful demands of the bailiff, upon the request of the bailiff, enforcement police officer and/or corresponding territorial authorities of the Ministry of the Internal Affairs of Georgia, are obliged to provide necessary assistance.
9. Based on the address of the purchaser of the immovable property pursuant to Article 2 of this Law, the owner of the immovable property, within 10 calendar days of submitting the warning by the National Bureau of Enforcement, should present the documents certifying the legal ownership and use of the property and voluntarily carry out the demand of the National Bureau of enforcement on releasing the ownership and use of immovable property and submit it in the vacated condition to the creditor. Before the expiration of the indicated term based on the solicitation presented by the owner, National Bureau of Enforcement is entitled to prolong the term of presenting the document up to additional 10 days.
10. The document of lawful ownership and use of property as indicated in paragraph 9 are: excerpt from the public registry, decision of the court entered into legal force, document issued by an authorized authority/individual as defined by legislation, which grants the owner the right to own and use the immovable property.
11. In case of failure to present the document to the National Bureau of Enforcement by the owner certifying the lawful ownership and use of the property, National Bureau of Enforcement carries out the enforcement measures to get the immovable property out of the ownership and use of the debtor and transfer it to the creditor according to the rules prescribed by this Article.

12. Legal relationships that are not confirmed by the documents of the lawful ownership and use of the property prescribed by this Article can be confirmed by the property owner by addressing the court. In such case, the purchaser of the immovable property, based on whose address the enforcement proceedings have been carried out, shall be responsible for the harm suffered by the owner.

**Article 85. Keeping by third party**

If an item to be transferred is kept with a third party for keeping and he refuses the voluntary transfer of an item, the National Bureau of Enforcement issues an order about seizing the item upon the request of a creditor.

**Article 86. An action which can be carried out by another person**

If a debtor does not carry out such obligations which can be carried out by a third party, then the creditor with the help of a National Bureau of Enforcement is entitled to a right, to carry out this action himself with his expenses which become a liability of a debtor upon the rule of a court.

**Article 87. An action that cannot be carried out by a third party**

1. If an action cannot be carried out by a third party, as it depends exceptionally on the will of a debtor, which does not carry out this action, then the debtor can be a subject to a liability according to the criminal code of Georgia.
2. First paragraph of this article is not used for implementing the decisions, which apply to marital relationships and services based on work contracts.

**Chapter XVI**

**ENFORCEMENT REGULATIONS ON SOME CATEGORIES OF CASES**

**Article 88.** Extracted

**Article 89. Resolution enforcement on child support levy case**

If the amount to be paid during child support levy case, which is paid by the debtor monthly upon the agreement, is less than approved minimal limit, upon the existence of a debt of child support payment can be paid from the debtor's property, according to the regulation.

**Article 90.** Extracted

**Article 90<sup>1</sup>.** Enforcement of resolution on stopping construction, unpermitted destruction, deconstruction or partial deconstruction of premises built against the legislation of Georgia and about

**stopping the construction, partially stopping the construction or destruction of premises under construction, about imposing a fine for committing an error in architectural-construction activities**

1. Compulsory enforcement of a resolution about stopping the construction or stopping unpermitted deconstruction is commenced by National Bureau of Enforcement, after disobedience of the offender to fulfill the resolution immediately and voluntarily.
2. National Bureau of Enforcement commences the compulsory enforcement of a resolution about deconstruction or partial deconstruction of premises built against the legislation of Georgia if the offender does not fulfill the obligation voluntarily within 7 days after being informed.
3. If an offender does not obey the National Bureau of Enforcement instructions, the National Bureau of Enforcement can address the local self-government authorities, corresponding territorial authorities of the ministry of internal affairs or enforcement police for help.
4. Reimbursement of expenses related to enforcement of resolution on stopping construction, unpermitted destruction, deconstruction or partial deconstruction of premises built against the legislation of Georgia and about stopping the construction, partially stopping the construction or destruction of premises under construction is a liability of an offender.
5. A resolution for imposing a fine on the error committed in architectural-construction activities will be enforced by the regulations provided in this law.

**Article 90<sup>2</sup>. Resolution enforcement on financial liabilities to be periodically met by state authorities**

1. In the process of resolution enforcement on financial liabilities to be periodically met by state authorities, the creditor is authorized to claim the fulfillment of the liability in advance upon a written request, as a once time compensation. A decision on giving out a sum as a one-time compensation is taken by the government of Georgia, which is a base for enforcement under compulsion. The sum to be given as a one-time compensation and the method of payment is identified by the government of Georgia upon the proposition of the ministry of justice of Georgia. The presentation of a new enforcement sheet by a creditor on the sum to be given as a one-time compensation is not necessary.
2. Enforcement is terminated after the enforcement of the resolution provided in paragraph one of this article according to the subparagraph "a" of article 34 of this law.

**Article 90<sup>3</sup> Compulsory enforcement against the legal entity of the public law**

Compulsory enforcement towards legal entities of public law in the part of the monetary levy commences within one month after being informed about voluntary fulfillment of a decision by the National Bureau of Enforcement, except of the cases of the court decisions to be immediately enforced as prescribed by part 1 of Article 268 of Civil Procedure Code of Georgia.

**Article 90<sup>4</sup> Compulsory enforcement the budgetary institutions**



Compulsory enforcement towards the budgetary institutions in the part of the monetary levy shall commence within one month after being informed about voluntary fulfillment of a decision by the National Bureau of Enforcement.

#### **Article 90<sup>5</sup> Enforcement of the decision on the expulsion of the foreigners from Georgia**

The specific rules for the expulsion of a foreign individual from Georgia are defined by chapter IX of the law of Georgia “on the Legal Status of foreign Individuals”.

#### **Article 90<sup>6</sup> Enforcement of the resolution on imposing the administrative penalty**

1. Pursuant to the rule prescribed by this Law, following resolutions are subject to enforcement:
  - a. On imposing the fine;
  - b. On deprivation of special rights;
  - c. On expulsion of the citizens of the foreign country from Georgia;
2. Compulsory enforcement of a fine, as well as the measures related to the fine enforcement are carried out according to rules prescribed by this Law;

#### **Article 90<sup>7</sup> Enforcement of the resolution on imposing the administrative penalty and rules of its enforcement**

1. The body issuing the resolution (official) delivers resolution on the imposition of the administrative penalty
2. The resolutions regarding the change of one administrative penalty with the other administrative penalty shall be enforced according to the rules prescribed for enforcing the resolutions on imposing the administrative penalties;
3. While issuing several resolutions on imposing the administrative penalties on one person, each resolution shall be enforced independently;
4. The duly authorized person enforces the resolutions on imposing the administrative penalties pursuant to this Law, if not otherwise stated by Georgian legislation.

#### **Article 90<sup>8</sup> Termination of the enforcement of the resolution on imposing the administrative penalties**

An authority (official) issuing a resolution on imposing the administrative penalty terminates its enforcement if:

- a. An act imposing an administrative responsibility for such offence is revoked;
- b. The resolution has been revoked based on the appeal;
- c. The person, against whom the resolution was issued, passed away.

#### **Article 90<sup>9</sup> Compulsory enforcement of the resolution on imposing the fine**

1. In case an offender fails to pay the penalty, the resolution on the penalty is sent to the offender's working place to compulsorily deduct the amount from his salary or from other income;
2. If the offender does not work or it is impossible to deduct the fine from the offender's salary or other income, upon the resolution of the authority (official) the payment of the fine is carried out by the National Bureau of Enforcement from the property of the offender or in case it is impossible, National Bureau of Enforcement is entitled to address the administrative authority (official) issuing the resolution to change the fine with other means of penalty.
3. The payment of the amount cannot be imposed on a property, which is not subject to enforcement based on the documents, pursuant to the Georgian legislation.

**Article 9<sup>10</sup> The enforcement of the resolution on confiscating the driving right of the transportation means**

1. A resolution on confiscating the driving right shall be enforced by confiscating the driver's driving license.
2. If the driver, who is deprived of the driving license, avoids submitting the driving license, enforcement officer shall deprive him of the document with force.

**Article 90<sup>11</sup> Enforcement of the resolution of the chairman of the common court of Georgia or chairman of the session (judge) on imposing the fine on the person violating the court order**

1. In case of imposing the fine on the person violating the court order, the offender has to pay the fine within 30 days from the issuing of the resolution by the chairman of the common court of Georgia or chairman of the session (judge) or handing it to the offender;
2. The compulsory enforcement of the fine and also the measures for the enforcement of the penalty shall be conducted pursuant to the rules prescribed by this Law.

**Article 90<sup>12</sup> Rules and terms of enforcement of the resolution in the part of the reimbursement of property loss**

1. A resolution received on the cases of the administrative violation, in the part of the reimbursement the property loss/ the issued administrative-legal act shall be enforced according to the rule prescribed by this Law.
2. The violator of the property loss should reimburse within 30 days from delivering the resolution to him (in case of issuing the administrative legal act – within the reasonable time term prescribed by the same act, which shall not exceed 30 days), and in the case of appealing the resolution/administrative legal act – no later than within 15 days from excepting the notification on remaining the complaint unsatisfied.
3. Within the term prescribed by paragraph 2 of this Article, in the part of reimbursement the property loss, upon the non-fulfillment of the resolution/administrative –legal act on the

reimbursement of the property loss, the documents are the grounds for the compulsory enforcement.

#### **Article 91. Enforcement of a resolution taken by a court of another state**

1. According to the agreement about the international private law and on legal assistance among the states, a resolution known by the regulation established by legislation on the territory of Georgia and the enforcement sheet issued by the competent court of Georgia is, by the ministry of justice of Georgia, sent for enforcement to the national Bureau of Enforcement.
2. The enforcement of the resolution indicated in paragraph one of these articles takes place according to this law.

#### **Article 91<sup>1</sup> Enforcement the decision of a judge regarding the seizure of a property of a person involved in terrorism or prescribed by the UN resolutions**

1. The attachment of the property of a person involved in terrorism or of a person prescribed by UN Resolutions and inclusion of such a person in the debtor' registry shall be exercised on basis of the judicial decision.
2. National Bureau of Enforcement conducts the seizure of the property of a person involved in terrorism or of a person prescribed by UN Resolutions and registers him/her in the debtors' registry on the basis of the information provided in the court decision issued on the seizure of the property of a person involved in terrorism or of a person prescribed by UN Resolutions.
3. The seizure of the property of a person involved in terrorism or of a person prescribed by UN Resolutions shall be revoked and such person shall be removed from the debtors' registry based on the relevant ruling.

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

#### **Summary proceedings on monetary debt claims**

#### **Article 91<sup>2</sup> General principles of Summary proceedings on monetary debt claims**

1. National Bureau of Enforcement implements Summary proceedings on monetary debt claims pursuant to the rule prescribed by this chapter.
2. Summary proceedings will not be initiated if claim depends on unfulfilled reciprocal liability
3. Summary proceedings may also be initiated in the National Bureau of Enforcement even if the parties have stipulated different rule of dispute resolution in the agreement.
4. Summary proceedings may also be initiated in the National Bureau of Enforcement even if the parties have stipulated different rule of dispute resolution in the agreement except for agreement arbitration court hearing.

#### **Article 91<sup>3</sup> Parties of the Summary Proceedings**

1. Parties of the summary proceedings are the applicant and the respondent.
2. The applicant is a person who possesses a well documented and approved overdue claim and files an application at the National Bureau of Enforcement with the request of payment. The respondent is a person against whom the applicant's claim is filed.
3. Parties in summary proceedings are permitted to represent themselves or be represented by other person(s).

#### **Article 91<sup>4</sup> Debt payment application**

1. Debt payment application, the basis of initiation of summary proceedings, should be aimed at issuing the debt payment order by the Chairman of the National Bureau of Enforcement.
2. Debt payment application should indicate:
  - a) Names of the parties or their representatives (in case parties are represented by other persons), personal/identification numbers, address (the actual residence address and/or place of occupation), other contact information;
  - b) Applicant's bank requisites;
  - c) Applicant's claim;
  - d) A list of documents on which the applicant grounds the claim and which is enclosed to the application;
  - e) Indication whether the applicant is requesting reimbursement of additional expenses (application and seizure) occurred during the summary proceedings.
  - f) Indication of the fact that the filed claim does not depend on meeting other reciprocal liabilities from the applicant's side, or otherwise, indication of the fact that such liabilities have already been met;
  - g) Indication whether the applicant requests enforcement of the payment order;
  - h) Indication whether the applicant request seizure as a means of securing the claim;
  - i) Signature of the applicant or its representative.
3. Documents indicated in the application should either be originals or legalized copies.
4. If the application is submitted by the applicant's representative, a power of attorney should be attached to the application.
5. While submitting the application, the applicant shall pay the application fee.
6. Applicants who may exempt from the fee are indicated in the Article 38, paragraph 12 of this law. The fee of application shall be determined by the decree of Minister of Justice of Georgia.
7. In case the applicant requests enforcement of the payment order, the pre-payment to the NBE bank account should be made according to the rules prescribed by this law. This payment rules do not apply to the cases indicated in Article 38, paragraph 12 of this law.
8. If the applicant requests seizure as a means of securing the claim, property and requisites of the respondent on which the seizure is requested should be indicated, as well as incur payment for such measure.

#### **Article 91<sup>5</sup> Identifying the flaws**

1. Within 5 working days after the Debt Payment Application is submitted, the National Bureau of Enforcement inspects the formal side and the content of application form and the attached documents and is entitled to grant the grace period to remedy the flaw for not later than 10 calendar days, if the fault can be remedied.
2. Before the submission of additional documents and/or information, the duration of the summary proceedings is suspended. It will be resumed after submitting the appropriate documents.
3. When inspecting the applicant's right to claim, the National Bureau of enforcement shall rely only on the application requesting payment and the data indicated in the written evidence enclosed to the application.
4. The amount indicated in the application shall be considered as the sum, which the applicant is requesting from the respondent.

#### **Article 91<sup>6</sup> Return of the debt payment application**

1. National Bureau of Enforcement shall return the application of debt payment in case if:
  - a. A court case dealing with the same dispute, same parties, on the same grounds is underway.
  - b. There is a court decision on the same case, or a court verdict on withdrawing the claim by the plaintiff, accepting the motion by the defendant or on approving reconciliation among the parties;
  - c. There is a payment order issued by the chairman of the National Bureau of Enforcement, resolution on refusing to issue the debt payment order or on conditions of reconciliation on the same case;
  - d. The applicant fails to remedy the flaws within determined timeframe;
  - e. The application was submitted by a unauthorized person;
  - f. The application was submitted by an incapable person;
2. The return of the application to the applicant causes the termination of the summary proceedings.
3. In case the application is returned the applicant shall be reimbursed the deposited security amount and the fee for seizure.
4. If the circumstances prescribed in the subparagraphs "a", "e", "f" of this Article and the flaws are remedied, the applicant is eligible to file another application on payment the debt in the National Bureau of Enforcement pursuant to the rule determined by this chapter.

#### **Article 91<sup>7</sup> Notification about the start of the summary proceedings**

1. National Bureau of Enforcement notifies respondent about commencement of the summary proceedings against him/her within 5 working days from the submission (registration) of the application.
2. The notification on commencement of summary proceedings shall indicate:
  - a) registration number of summery proceedings;
  - b) Name of the applicant, presented claim and ground of the claim;

- c) Indication that if the respondent accepts the claim he shall cover the debt fully within the 10 working days upon receipt, or carry out one of the following actions:
    - c.a) In case agreeing with the claim partially, cover the debt partially;
    - c.b) In case not accepting the claim, protest the applicant's claim in writing;
    - c.c) In case agreeing with the claim, accept the claim in writing;
    - c.d) In case accepting the claim, accept the claim in writing;
    - c.e) File the application offering reconciliation.
  - d) Clarification of legal consequences of issuing a debt payment order.
  - e) Fee for summary proceedings, payment rule and bank requisites of the National Bureau of Enforcement.
3. According to this Article's paragraph 2, subparagraph c, document submitted by the respondent should indicate:
- a. Name of the respondent, private/identification number, address;
  - b. Registration number of summary proceedings, name of applicant;
  - c. In case of contest: Complete rejection of claim (If there is several applicants' claim against the respondent, indication of the one the respondent rejects); In case of complete acknowledgement of the claim- indication of complete acknowledgement; In case of partial acknowledgement –indication to which part has been acknowledged by the respondent.
  - d. Signature of a respondent (authorized person).
4. National Bureau of Enforcement issues a debt payment order in following cases:
- a. In case respondent shall not fulfill any of the actions listed in this Article's paragraph 2, subparagraph "c"- the debt payment order shall be issued on imposition of full claim.
  - b. In case the respondent fully acknowledges the claim - the debt payment order shall be issued on imposition of full claim.
  - c. In case the respondent partially acknowledges the claim, - the debt payment order shall be issued on imposition of the acknowledged part of the claim.
  - d. Violation of reconciliation conditions of the parties – Debt according to reconciliation agreement and unpaid debt of the respondent.
5. According to the Debt yment Order, aside from the basic claim the respodent will be imposed to cover expenses incurred by the applicant, which includes fees for application and seizure measures. Upon the applicant's initial request, the respondent may be imposed with the payment of other additional costs.
6. National Bureau of Enforcement makes a decision on Rejection of issuing a debt payment order:
- a. If the respondent submits the contest- Rejection of National Bureau of Enforcement on issuing the debt payment order will affect the full claim.
  - b. If the respondent covers the debt partially- Rejection of National Bureau of Enforcement on issuing the debt payment order will affect the rest of the claim.
  - c. If the respondent acknowledges the part of the claim- Rejection of National Bureau of Enforcement on issuing the debt payment order will affect the rest of the claim.

7. Applicant shall be informed upon the decision on rejection to issue a debt payment order pursuant to the rules prescribed by the Civil Procedure Code of Georgia.
8. The rejection to issue the debt payment order further excludes summary proceedings in the National Bureau of Enforcement between the same parties, on the same item and on the same grounds.
9. The rejection of the National Bureau of Enforcement on issuing the debt payment order does not deprive the applicant from the right to appeal in the court.
10. Notice on commencement of the summary proceedings shall be submitted to the respondent pursuant to the rules prescribed by the Civil Procedure Code of Georgia. Public notification to the respondent regarding the summary proceedings shall be forbidden.

#### **Article 91<sup>8</sup> Application to settle a dispute by reconciliation**

1. Upon receipt of the summary proceeding notification the respondent is entitled to submit the application on reconciliation to the National Bureau of Enforcement in no later than 10 calendar days. Application on reconciliation shall be submitted in case respondent acknowledges the debt fully or partially, but requests increased time frame for covering the debt or offers to cover in installments.
2. Application on reconciliation should indicate name of the respondent, private/identification number, name of applicant, registration number of summary proceedings, sum of applicant's claim, sum of the debt acknowledged by the respondent, time frame of coverage, in case of installments- schedule of payment.
3. The National Bureau of Enforcement sends the respondent's application about the recognition of a part of a claim to the applicant and sets a timeframe to agree or refuse the reconciliation. The National Bureau of Enforcement shall be entitled to prolong the timeframe by no more than 30 days pursuant to the applicant's request. The failure to reach an agreement between the parties causes the prescribed legal consequences in case of the respondent's contest. Upon respondent's consent it is possible to issue debt payment order on the amount acknowledged by the respondent. Decision on rejection to issue a debt payment order then shall be made on the part of the claim which was rejected by the respondent. The applicant shall remain the right to appeal in court.
4. Within the time period stipulated in paragraph 3 of this article, the parties may come to an agreement upon a different sum of money or conditions to cover the debt. The parties' agreement should be concluded in a written form.
5. Based on the agreement between the parties on the amount of the debt and conditions of payment, the National Bureau of Enforcement approves the conditions of reconciliation by a resolution. The reconciliation should not contain any kind of reciprocal liability from the side of the applicant.
6. If conditions defined by the agreement are breached by the respondent, the National Bureau of Enforcement issues a Debt Payment Order on the basis of the applicant's application on the amount indicated in the reconciliation conditions and the portion uncovered by the respondent.

7. In case of issuance the debt payment order due to the breach of the reconciliation conditions, the applicant shall be reimbursed the portion of the advance fee of enforcement deposited as a security amount, which exceeds the amount indicated in the debt payment order. If the respondent fulfils the reconciliation conditions with due diligence, which excludes issuance of the debt payment order, the applicant shall be reimbursed the advance enforcement fee deposited as a security amount.

#### **Article 91<sup>9</sup> Debt Payment Order**

1. The Debt Payment Order should include:
  - a) Number of the order and the date of its issuance;
  - b) Registration number of the summary proceedings;
  - c) The date of receipt of the Order;
  - d) Names of the parties, personal/ID number, address (actual resident address or/and place of occupation), other contact information (Telephone number, e-mail)
  - e) Amount of the debt;
  - f) Expenses incurred by the applicant during the summary proceeding
  - g) Signature of the authorized person;
2. Amount of expenses incurred by the applicant shall be indicated in the debt payment order only upon applicant's prior request.
3. Debt payment order may be a subject to appeal in case of considerable procedural violation of summary proceedings prescribed by this chapter.
4. Debt Payment orders is a subject of immediate entry into force. It shall be immediately transferred to enforcement by the National Bureau of Enforcement if the applicant requests enforcement of the payment order and has deposited advance enforcement fee. Copy of the Debt payment order shall be served both to the applicant and the respondent pursuant to the rule prescribed by the Civil Procedure Code of Georgia.
5. If the applicant does not request immediate enforcement, the Debt Payment Order, in case of claim, shall be sent to the applicant. Time frame of enforcement shall be 5 years upon issuance.

#### **Article 91<sup>10</sup> Measure on securing the claim**

1. For securing the applicant's claim, the National Bureau of Enforcement imposes a seizure on the registered property of the respondent in the registration body in case of existence of the following conditions:
  - a. The applicant requests imposing a seizure as a means of securing the claim;
  - b. The applicant request enforcement of the Debt Payment Order and deposited security amount corresponds to amount prescribed for the advance enforcement fee.
  - c. The applicant indicates the respondent's property on which the security of the claim should be imposed;
  - d. The applicant has paid the fee prescribed for imposing the seizure.



2. The fee for imposing a seizure on the property as a means of securing the claim shall be determined by the decree of the Minister of Justice of Georgia.
3. The seizure shall be revoked if:
  - a. The application on payment the debt shall be returned to the applicant;
  - b. The applicant shall retrieve the application on payment the debt;
  - c. The applicant requests the revocation of the seizure;
  - d. The respondent fully covers the debt pursuant to the rule prescribed by this chapter.
4. If the respondent contests within the deadline or covers the debt partially, seizure shall be revoked after 1 month upon serving the decision on rejection of issuing the debt payment order to the applicant and if the National Bureau of Enforcement shall not be notified regarding commencement of court hearing on that same case. Court is entitled to terminate or change the imposed security measure.
5. In case of approving the reconciliation conditions among the parties, the National Bureau of Enforcement shall revoke the seizure if requested by the applicant.
6. The applicant shall be responsible for damages incurred to the respondent, if the seizure used for securing the claim was unreasonable.

#### **Article 91<sup>11</sup> Fee for Summary Proceedings**

1. The fee of summary proceedings is the amount for the service provided by the National Bureau of Enforcement during the summary proceedings which is paid in case of full or partial covering of the debt. The fee for summary proceedings shall be determined by the Decree of the Minister of Justice of Georgia.
2. The fee of the summary proceeding shall be paid by the respondent during the full or partial covering of the debt.
3. The payment between the parties shall be considered completed during the summary proceedings if it is done through the National Bureau of Enforcement.
4. The National Bureau of Enforcement transfers the amount deposited on its account by the respondent on the applicant's account excluding the summary proceedings service fee. If the debt is covered in installments, the summary proceeding service fee shall be deducted proportionately.
5. The day of depositing the amount on the account of the National Bureau of Enforcement by the respondent shall be considered as a day of payment to the applicant.

#### **Article 91<sup>12</sup> Withdrawal of application**

1. The applicant is entitled to withdraw his debt payment application before the issuance of the Debt Payment Order, or before approving the conditions of the reconciliation pursuant to the application submitted to the National Bureau of Enforcement.
2. In case of withdrawal of application after serving to the respondent, the applicant shall be reimbursed half of the security deposit paid in advance and in case of withdrawal of the

application before serving to the respondent, the applicant shall be reimbursed security deposit in full.

3. In case of withdrawal of the application, the applicant shall be reimbursed the fee deposited for imposing the seizure, if by that time, the seizure is not registered in the registration body.

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

### **Statement of facts**

#### **Article 91<sup>13</sup>. General principles of Statement of facts**

1. Statement of Facts is carried out by the National Bureau of Enforcement upon request of the interested party or the court.
2. Statement of facts implies describing the factual circumstances pursuant to the rule prescribed by this chapter.
3. Statement of facts is applies to the facts that can be described and comprehended.
4. Performing Statement of facts shall be possible during night and day.
5. Actions of the enforcement officer related to carrying out the statement of facts may not become a subject to appeal.

#### **Article 91<sup>14</sup>. Grounds for Statement of Facts**

1. Basis for the Statement of Facts is the request of the interested party to the NBE.
2. Pursuant to the request of third party the NBE performs Statement of Facts. Interested party can be a physical person, legal entity, a group of people without forming a legal entity and state administrative body.
3. Application of the interested party to NBE should indicate the applicant's identification data, address, description of the circumstances, the address and the owner of the property where the statement of facts has to be performed.
4. NBE is entitled to request additional information from the interested party, which can be of importance for performing the Statement of facts. Not providing the information is the ground for rejecting the application of Statement of Facts.

#### **Article 91<sup>15</sup>. Drawbacks in performing Statement of facts**

1. Drawbacks in performing the Statement of facts are considered the circumstances which hinder the process of acquiring the facts.
2. Performing Statement of Facts on the property of another person, other than the interested party requires an approval of the owner. Approval can be in written form or expressed by means of technical devices.
3. In case the enforcement officer is refused to enter the premises of the owner to perform statement of facts , Article 91<sup>17</sup> paragraph 2 of this law shall apply.

### **Article 91<sup>16</sup>. Statement of facts in public places**

NBE is entitled to perform Statement of facts without a special approval on the territories of state, autonomous republic or local governance properties; also privately owned territories of public character.

### **Article 91<sup>17</sup>. Report on statement of facts**

1. The report on statement of facts should indicate:
  - a) Date and time of the report
  - b) Grounds for performing the statement of facts
  - c) In case application filed by the interested party- name of the party, ID number, address.
  - d) Indication to the location where statement of facts was performed. In case of private property or ownership indication of the name of the owner.
  - e) Indication to the circumstances/facts whereupon statement of facts was requested to be performed.
  - f) Detailed description of the fact
  - g) Indication to the technical devices and the list of annexed documentation
  - h) Name and signature of the NBE employee who performed the statement of facts
2. In case it was impossible to perform statement of facts, NBE representative shall write a report with indication to the circumstance which hindered the process.

### **Article 91<sup>18</sup>. Fees**

1. Statement of facts is NBE activity performed upon payment of application fee.
2. NBE ensures the storage of collected evidence through statement of facts upon request of the interested party or court.
3. Application fee of the statement of facts, payment conditions, timeframe for evidence storage shall be determined by the decree of the Minister of Justice.

ChapterXVII (extracted)

**Article 92. (extracted)**

**Article 92<sup>1</sup>. (extracted)**

**Article 92<sup>2</sup>. (extracted)**

Chapter XVIII (extracted)

**Article 93 -109. (extracted)**

Chapter XVIII<sup>1</sup> (extracted)

**Article 109<sup>1</sup>-109<sup>6</sup>. (extracted)**

**Chapter XVIII<sup>2</sup> (extracted)**

**Article 109<sup>7</sup>. (extracted)**

**Chapter XIX (extracted)**

**Article 110 -111. (extracted)**

**Chapter XX (extracted)**

**Article 112. (extracted)**

**Chapter XXI**

**TRANSITIONAL AND FINAL REGULATIONS**

**Article 113. Transitional regulations**

1. The enforcement of a court resolution taken before this law entered into force takes place only according to this law.
2. The enforcement of enforcement records of notary authorities issued before this law entered into force takes place only according to this law.
3. Preparation of court bailiffs and holding qualification examinations according to this law should be implemented before September 1, 1999.
4. The normative acts defined by this law should be issued before May 15, 1999.
5. The ministry of justice of Georgia should immediately after the law enters into force ensure the creation of enforcement authorities and organization of education of court bailiffs.
6. Enforcement Bureaus should be located in regional (urban) courts.
7. Extracted (5.12.2000 N636)
8. Extracted (5.12.2000 N636)
9. In order to ensure the provision of means for enforcement fund in the state budget of 2001, the enforcement service of the ministry of justice of Georgia should present the ministry of finance before August 15, 2000, the list of resolutions to be enforced by state budget. (13.07.2000)
10. The legal entity of public law in the sphere of influence of the ministry of justice of Georgia-National Bureau of Enforcement is the assignee of the enforcement department of ministry of justice of Georgia. The legal entity of public law-National Bureau of Enforcement should carry out the measures related to the cases in proceedings of the enforcement department of the ministry of justice of Georgia and the territorial authorities of the ministry of justice.

11. The government of Georgia should ensure the following for the creation of National Bureau of Enforcement-a legal entity of public law in the sphere of influence of the ministry of justice of Georgia:
  - a) Carrying out the corresponding changes in the regulations of the ministry of justice;
  - b) Transfer of budget assignees of the enforcement department of the ministry of justice of Georgia according to Georgian legislation to the legal entity of public law-National Bureau of Enforcement;
  - c) Transfer of necessary property to the legal entity of public law-National Bureau of Enforcement according to Georgian legislation for the functions of National Bureau of Enforcement- the legal entity of public law.
12. The ministry of justice of Georgia should ensure the following:
  - a) Approval of the legal entity of public law- National Bureau of Enforcement;
  - b) Approval of instructions on enforcement proceedings;
  - c) Approval of a resolution about the disciplinary responsibility of a bailiff;
  - d) Approval of a service uniform attributes of an enforcement policemen;
  - e) Indication of the kinds of enforcement expenses;
  - f) Implementing other organizational measures related to the creation of the legal entity of public law- National Bureau of Enforcement;
  - g) The approval of the rule of arranging a working place of a private bailiff before July 1, 2009;
  - h) Identification of the amount of compulsory insurance for the civil responsibility of a private bailiff and its conditions before July 1, 2009;
  - i) Approval of a registry rule of private bailiffs before July 1, 2009;
  - j) Approval of a form of license of enforcement activities before July 1, 2009;
  - k) Identification of a fee for the services rendered by the enforcement police to the private bailiff according to the categories of enforcement measures before July 1, 2009; (19.12.2008. N822)
  - l) Identical of forms and methods for holding an auction under compulsion before August 1, 2010; (28.06.2010. N3167)
  - m) Identification of the amounts of fees and the methods of payments indicated in this law before August 1, 2010; (28.06.2010. N3167)
13. The head of National Bureau of Enforcement should ensure the approval of the statute of enforcement police division
14. Enforcement fees imposed on a debtor before October 1, 2008 are collected together with the claim as an enforcement fee, from which the expenses occurred before October 1, 2008 are reimbursed, and the rest of the fee is allocated to the account of National Bureau of Enforcement.
15. On cases indicated in paragraph 11 of article 38, which were in proceedings before October 1, 2008, no enforcement fee is to be paid. (15.07.2008. N210 enters into force on October 1, 2008)
16. Enforcement cases existing in proceedings before July 1, 2009, on which the compulsory auction is to be held should be completed before July 1, 2009 according the existing regulations.
17. A person pays the fee of 200 Gel for participation in the qualification examination prescribed by this law.

18. The sequence of enforcement on movable item seized before July 2, 2009 is defined by the date of issuing a document indicating the placement of seizure.
19. The fee of enforcement for the decisions defined by subparagraphs “a”-“d” of part one of article 268 of the civil procedure code of Georgia, as well as the fines imposed by criminal and administrative-legal regulations in cases received into proceedings by enforcement bureaus before September 1, 2009, is 2% of monetary claim, which is a debtor’s liability.
20. On the cases being in proceedings of enforcement bureaus, on which according to the regulations of this law before July 1, 2009 first and the repeated auctions were held without a result and transfer of a property in kind to the creditor did not take place, upon the creditor’s request it is possible to hold an auction (first, repeated) according to this law, and if the item is not sold on this auction-to transfer the item to the creditor in kind.
21. In order to define the conditions for delivering the electronic information about opening a bank account by a person registered in the debtor registry, the existing banking institutions in Georgia should ensure setting up a corresponding agreement with National Bureau of Enforcement before March 1, 2010.
22. On the case received in proceedings by a National Bureau of Enforcement before April 1, 2010, the debtor budget organization has three months for voluntarily fulfilling the court decision.
23. Proceeding authorities (entities) of state cadastre of arms, database of mechanical transportation means, state registry of civil air vessels, state registry of ships of Georgia, registry of securities and public registry should ensure the availability of corresponding database for the National Bureau of Enforcement-legal entity of public law.
24. Payment of the advance part of the enforcement fee by provided creditors on cases received into proceedings by enforcement bureaus before August 1, 2010, as well as transfer of them in nature to the provided creditors should be carried by according to existing regulations before August, 1, 2010.
25. Enforcement cases taken into proceedings by enforcement bureaus before August 1, 2010, on which the compulsory auction is to be held, should be finished before August, 1, 2010.

#### **Article 113<sup>1</sup>. Extracted**

#### **Article 113<sup>2</sup>. Liquidation of enforcement service**

The ministry of justice of Georgia upon issuing this law should ensure the necessary organizational measure for liquidation of enforcement service and issuing the subordinate normative acts.

*Law of Georgia dated as of December 5, 2000 #636 – SSM I, #48, 16.12.2000, Article 136*

#### **Article 114. Entry into force of the law**

1. This law enters into force from May 15, 1999
2. Paragraph 3 of article 19<sup>2</sup> of this law enters into force on March 1, 2010

President of Georgia  
Tbilisi,  
April 16, 1999  
N 1908 IIS

Eduard Shevardnadze