



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER
ATTORNEY GENERAL

October 28, 2004

The Honorable Herb Kirsh
Member, House of Representatives
Box 31
Clover, South Carolina 29710

Dear Representative Kirsh:

In a letter to this office you referenced the situation involving a vehicle that was totaled by State Farm Insurance Company and deemed "nonrebuildable". As a result, the title was cancelled. Subsequently the vehicle was purchased at a public sale. However, the purchaser has been unable to obtain a title to the vehicle due to its classification as "nonrebuildable". The State Department of Motor Vehicles ("DMV") has denied the request for such classification to be removed from the vehicle.

According to my understanding, State Farm Fire and Casualty Company submitted documentation to the DMV acknowledging its acquiring of the vehicle which was deemed to have been a total loss and requested that the title be cancelled based upon State Farm's determination that the vehicle was "nonrebuildable". State Farm has refused to change its classification of the vehicle as "nonrebuildable". According to DMV Policy No. 97-501,

(u)nless an insurance company provides documentation that a vehicle is rebuildable, the Department cannot issue another title to the vehicle. A vehicle marked non rebuildable cannot be retitled.

Based upon my review, the position taken by the DMV in its referenced policy is in compliance with S.C. Code Ann. Sections 56-19-480 and 56-19-485. Such provisions give the insurance company the authority to review and conclude whether a vehicle is rebuildable or not. Section 56-19-480 states in part:

(A) An owner who scraps, dismantles, destroys, or in any manner disposes to another as wreckage or salvage, a motor vehicle otherwise required to be titled in this State immediately shall mail or deliver to the department the vehicle's certificate of title notifying the department to whom the vehicle is delivered together with a report indicating the type and severity of any damage to the vehicle.

(B) If a vehicle is acquired by an insurance company in settlement of a claim to the vehicle by fire, flood, collision, or other causes, or is left with the claimant after

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being declared a total loss by the insurance company, the company or its agent immediately shall deliver to the department the certificate of title together with a report indicating the type and severity of damage to the vehicle. At such time as the insurance company may thereafter transfer the damaged vehicle, the company or its agent shall notify the department to whom the transfer was made on a form prescribed by the department. Notwithstanding another provision of law, when an insurance company obtains title to a vehicle from settling a total loss claim, the insurance company may obtain a title to the vehicle designated as "salvage". The insurance company must pay the title fee contained in Section 56-19-420...

(G) For purposes of this section, a "wrecked vehicle", a "salvage vehicle", and a "vehicle declared to be a total loss" are all synonyms and are defined to be any motor vehicle which is damaged to the extent that the cost of repairing the motor vehicle, including both parts and reasonable market charges for labor, equal or exceed seventy-five percent of the fair market value of the motor vehicle. The provisions contained in this section do not apply to a motor vehicle that has a fair market value of two thousand dollars or less, or an antique motor vehicle as defined by Section 56-3-2210. When an insurance company is involved, the fair market value of the vehicle must be determined as of the date immediately before the event which gave rise to the claim. When an insurance company is not involved, then the fair market value must be determined as of the last day on which the vehicle was lawfully operated on a public highway or the last day on which it was registered, whichever is later.

In my opinion, such provision gives an insurance company the authority to inspect and make a determination as to whether a vehicle is rebuildable or not.¹ As noted in the referenced DMV policy,

¹Section 56-19-485 also provides that:

Notwithstanding any other provision of law, whenever any motor vehicle which qualifies as "wreckage" or "salvage" is transferred in this State pursuant to Section 56-19-480, whether the vehicle was, immediately before such transfer, titled in this State or in another state, the vehicle shall be designated as "wreckage" or "salvage", as may be applicable, to the extent necessary to inform the transferee of the exact condition of the vehicle. No wrecked or salvaged out-of-state vehicle or South Carolina registered vehicle shall be registered under the laws of this State without such designation, and this designation must be applied to all subsequent transfers of the vehicle.

The provisions of this section apply to transfers of vehicles in all of the circumstances described in Section 56-19-480, whether the vehicle is "totaled", declared a total loss, "junked", or "salvaged".

Notwithstanding the provisions of this section, the owner of a vehicle whose total

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“a vehicle marked nonrebuildable cannot be retitled.”

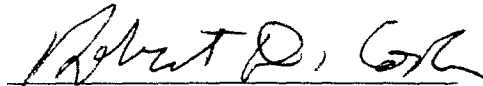
With kind regards, I am,

Very truly yours,



Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Assistant Deputy Attorney General

¹(...continued)

cost of repair, including all labor and parts, is estimated to be seventy-five percent or more of the fair market value of the vehicle must provide the department an affidavit from a person who reconstructs or rebuilds a vehicle indicating the cost of repair along with other data the department may prescribe to obtain a certificate of title. The provisions contained in this section do not apply to a motor vehicle that has a fair market value of two thousand dollars or less, or an antique motor vehicle as defined by Section 56-3-2210. A certificate of title issued for a vehicle described in this paragraph must be annotated to indicate the motor vehicle is designated “wreckage” or “salvage” as applicable to the extent necessary to inform the transferee of the exact condition of the vehicle. A wrecked or salvaged out-of-state vehicle or South Carolina registered vehicle may not be registered in this State without this designation, and this designation must be applied to subsequent transfer of the vehicle.