

1983 WL 181805 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 18, 1983

***1 SUBJECT: Taxation and Revenue—Notice to Mortgagees, Judgment or Other Lien Creditors of Tax Sale.**

A separate notice of a tax sale must be given to the holder of a mortgage upon real property. Other lien creditors are given notice by the advertisement and posting of the execution and sale.

James L. Bridges, Esquire
Charleston Deputy County Attorney

QUESTION:

Must a separate notice be given to judgment or other lien creditors of tax sales?

APPLICABLE LAW:

§§ 12-49-210 through 12-49-300, 12-49-460(2), 12-49-580 and 15-39-650 through 15-39-670 of the 1976 Code of Laws.

DISCUSSION:

The ad valorem tax on property, the value of which generates the tax, is a first lien. § 12-49-10, et seq. When real property is sold that is encumbered by a mortgage, notice must be given the mortgagee by § 12-49-290. (See also 68-69 O.A.G. 2662, page 79) This Office does not know of any requirement for a separate notice to judgment creditors or other lien holders. Notice to those creditors would be by the advertisement and posting of execution and sale as required by §§ 12-49-460(2), 12-49-580 and 15-39-650 through 15-39-670.

CONCLUSION:

A separate notice of a tax sale must be given by § 12-49-290 to the holder of a mortgage upon real property. Other lien creditors are given notice by the advertisement and posting of execution and sale.

Joe L. Allen, Jr.
Deputy Attorney General

1983 WL 181805 (S.C.A.G.)