

1973 S.C. Op. Atty. Gen. 202 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3560, 1973 WL 21017

Office of the Attorney General

State of South Carolina

Opinion No. 3560

July 3, 1973

***1 The County Treasurer may remit funds that are considered to be abandoned to the South Carolina Tax Commission at any time prior to seven years.**

Hampton County Attorney

Reference is made to your request concerning the disposition by the County Treasurer of a sum of money in the hands of the County Treasurer. Certain real property has been sold for nonpayment of taxes thereon and the sales price of the property exceeded the amount of the unpaid taxes and the costs of the sale. It is the amount that is in excess of the taxes and costs that is involved and you request the opinion of this office as to the disposition to be made by the Treasurer of such funds.

The owner of the property, after diligent search cannot be located and there are no mortgage or other liens of record upon the property.

Under such circumstances, the Treasurer may pay over the excess to the Tax Commission. Section 57–240.13(2) provides: ‘Any person holding property as specified in Sections 57–240.2 to 57–240.9 inclusive, and who has reason to believe that the same is abandoned and that the true owner thereof cannot be located with reasonable diligence and effort, may make his report and deliver such property to the Tax Commission prior to the expiration of the time provided. * * *.’

Section 57–240.8 would require the Treasurer to remit the excess to the Tax Commission after it had remained in the possession of the Treasurer and unclaimed for a period of seven years. The Section above quoted eliminates the need for the holding period and payment can be made directly to the Commission.

In the event that the conditions of Section 57–240.13(2) are not satisfied, then it would be the opinion of this office that the County Treasurer could retain possession and custody of the funds for a period of seven years, after which the same should, if unclaimed, be remitted to the Commission.

We find no express authority for the above statement; however, we believe the same to be implied under the provisions of Chapter 7 of Title 14 and the provisions of the Abandoned Property Act.

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South Carolina Tax Commission

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