

1973 S.C. Op. Atty. Gen. 282 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3611, 1973 WL 21066

Office of the Attorney General

State of South Carolina

Opinion No. 3611

August 30, 1973

**\*1 This liens of the South Carolina Tax Commission attach to the personal property of the defaulting taxpayer upon recordation, provided however, a merchant may continue to sell merchandise in the normal course of business until a levy is made.**

Attorney

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Reference is made to the provisions of Section 65–68.1 of the 1962 Code. Factually, the South Carolina Tax Commission issued warrants for distraint against a corporation doing business in Myrtle Beach and recorded the same in the office of the Clerk of Court of Horry County. Subsequent to the recordation of the warrants for distraint, the corporation sold its inventory and assets and has no other property. The inquiry is whether the purchaser acquired the inventory and assets impressed with the liens for the unpaid taxes.

The above Section provides as follows:

‘The liens effected for the Commission, pursuant to authority vested in the Commission, shall attach to and become a lien upon the title to and interest in personal property of chattels defined as personal property of the taxpayer against whom they are issued. The lien shall attach when duly filed and recorded in the office of the clerk of court of the county in which the taxpayer resides or possesses such property. No such lien shall operate so as to prevent a merchant from selling items from his stock of goods in trade for a fair consideration in the normal and ordinary course of business until and unless a levy shall have been made thereupon. As used in this section, the word ‘merchant’ includes a retailer, a wholesaler, or a jobber.

Under the language of this Section, the liens of the South Carolina Tax Commission that were duly recorded on the date of the purchase and sale had attached to the inventory and assets. The purchaser, therefore, acquired such property impressed with the liens and the Commission can demand payment therefrom.

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South Carolina Tax Commission

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