

1973 S.C. Op. Atty. Gen. 290 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3619, 1973 WL 21073

Office of the Attorney General

State of South Carolina

Opinion No. 3619

September 11, 1973

**\*1 The State Highway Department must issue a new certificate of title, with all existing recorded security interests noted thereon, upon receiving application from a motor vehicle owner who has acquired the vehicle through involuntary transfer, such as a sale by a sheriff to satisfy a mechanic's lien - - - in cases where there is an existing, recorded, prior lien.**

Title Supervisor

State Highway Department

You have inquired as to the duty of the Department upon receiving application for a new certificate of title from a motor vehicle owner who has acquired the vehicle through involuntary transfer, such as a sale by a sheriff to satisfy a mechanic's lien—in cases where there is an existing, recorded, prior lien.

Section 46–150.18, 1962 Code of Laws of South Carolina, reads in part:

‘(1) If the interest of an owner in a vehicle passes to another other than by voluntary transfer, the transferee shall—promptly mail or deliver to the Department the last certificate of title, if available, proof of the transfer and his application for a new certificate . . .’

Section 46–150.19:

‘The Department, upon receipt of an application for a new certificate of title by a transferee other than by voluntary transfer, with proof of the transfer,—shall issue a new certificate of title in the name of the transferee as owner. If the outstanding certificate of title is not delivered to it, the Department shall make demand therefor from the holder thereof.’

Section 46–150.20, in part:

‘. . . the action of the Department in issuing a new certificate of title—is not conclusive upon the rights of an owner or lienholder named in the old certificate.’

The Department's duties under the quoted Sections are limited to the issuance of a new certificate of title in stipulated circumstances. Nothing is said with reference to prior recorded liens. Further, nothing in the title law indicates that it was the intent of the General Assembly that the Department be required or authorized to make the judicial or quasi-judicial determination as to the validity of the involuntary transfer or as to conflicting interests of prior recorded lienholders and new owners.

In view of the foregoing, it is the advice of this Office that in subject circumstances the Department issue a new certificate of title with all existing recorded security interests noted thereon.

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