

1973 S.C. Op. Atty. Gen. 306 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3631, 1973 WL 21083

Office of the Attorney General

State of South Carolina

Opinion No. 3631

September 26, 1973

**All properly perfected and unsatisfied liens against a motor vehicle must be included on the certificate of title of said motor vehicle issued by the State Highway Department subsequent to a Federal tax sale.**

\*1 Supervisor

Vehicle Title & Registration

South Carolina State Highway Department

You have inquired as to whether the Department is required to include properly perfected and unsatisfied liens on certificates of title issued subsequent to a federal tax sale.

A federal public auction sale in a distraint proceeding for taxes transfers to the purchaser all right, title, and interest which the delinquent taxpayer had in the property sold. [26 U.S.C.A. § 6339 \(1967\)](#), General tax liens created by the Internal Revenue Code do not confer priority over competing liens and other interest. [26 U.S.C.A. § 6321 \(1967\)](#).

In South Carolina '(t)he names and addresses of any lienholders . . .' must be included on certificates of title issued by the Department. Recordation by the lienholder of a properly perfected lien will protect his interest. *Code of Laws of South Carolina*, § 46-150.2, 46-150.8, 46-150.43 (1962). In addition, the issuance of a certificate of title after an involuntary transfer or repossession of the motor vehicle 'is not conclusive on the rights of an owner or lienholder named in the old certificate.' *Code of Laws of South Carolina*, § 46-150.20 (1962). Our conclusion, therefore, is that the Department must include on motor vehicle certificate of title issued subsequent to a federal tax sale all properly perfected and unsatisfied liens.

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Deputy Attorney General

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