

1979 WL 43146 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 31, 1979

**\*1 RE: Filing of continuation statements for chattel mortgages which were on record prior to January 1, 1968**

Joseph H. Earle, Jr., Esquire  
Greenville County Attorney  
County Court House  
Greenville, South Carolina 29601

Dear Mr. Earle:

You have asked if it is still the view of this Office that chattel mortgages filed prior to January 1, 1968, have to be refiled every three years under 1962 Code §§ 60-306 and 60-301 as the May 9, 1968, opinion of Mr. Parker of this Office has said. We no longer feel that such refileing is available to a chattel mortgagee. It is not available because the Code sections (60-301 and 60-306 of the 1962 Code) cited, correctly we feel, by Mr. Parker have been repealed by implication in the 1976 Code of Laws for the State of South Carolina. Act 95 of the 1977 General Assembly, 60 Stat. 168 (1977), establishes the 1976 Code as the sole statutory authority in South Carolina and §§ 60-301 and 60-306 are listed as repealed by implication in the 1976 Code. If the 1976 Code contains the only general statutory law of the State, there can be none other. [Nexsen v. Ward](#), 96 S.C. 313, 80 S.E. 599 (1914); [Paris Mountain Water Co. v. Greenville](#), 105 S.C. 180, 89 S.E. 669 (1916).

Therefore, there seems to be no present statutory authority for the filing of such continuances of these pre-1968 chattel mortgages.

This opinion should not be interpreted as in any way addressing the effect that ceasing to file these documents will have on any priorities between creditors or the like. It is simply that there seems now to be no legal method for continuing to file these papers.

Further, I might suggest that a supplemental 'transaction,' as that term is used in the Uniform Commercial Code, could occur between the interested parties now, and a UCC-1 could be filed therefrom and could presumably preserve the status quo under the old chattel mortgage.

If you have any questions about this please feel free to contact me.

Sincerely yours,

William P. Simpson  
State Attorney

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