



Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert R. Corbin

LAW LIBRARY  
ARIZONA ATTORNEY GENERAL

June 18, 1985

Mr. Jerry Ward  
Motor Vehicle Division  
1801 West Jefferson Street  
Phoenix, Arizona 85007

Re: I85-080 (R85-044)

Dear Mr. Ward:

By letter of March 12, 1985, you have asked whether the Motor Vehicle Division can honor out-of-state repossession documents for the issuance of an Arizona title and registration and if so, must this authority be established by administrative rule.

The method in Arizona for recording and releasing liens and encumbrances on titles to motor vehicles is set forth in A.R.S. § 28-325. The statute generally deals with the method of creating and evidencing a lien or encumbrance on a title to a motor vehicle registered in Arizona. It relates primarily to the recording and release of liens on titles to vehicles registered in Arizona or to vehicles for which an application for original registration is made. A.R.S. § 28-325(I) does, however, address the satisfaction of a lien or encumbrance on a certificate of title issued in another jurisdiction by providing:

I. The division may satisfy a lien or encumbrance against a vehicle on its records by accepting a certificate of title to the vehicle issued by another jurisdiction if the lien previously recorded in this state does not appear on the title presented from another jurisdiction, the title was issued

Mr. Jerry Ward  
June 18, 1985  
Page 2

by the other jurisdiction not less than one year prior to the time it was presented to this state and the law of the other jurisdiction requires a lien or encumbrance to be recorded on that state's certificate of title.

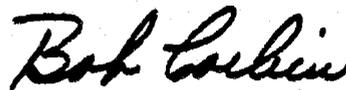
The legislature has granted no authority to the Motor Vehicle Division (MVD) to issue a clear title for a vehicle from another state to a lienholder who has repossessed the vehicle until the lien has been cleared from the foreign title by the State in which the lien was recorded.

This conclusion is reinforced by the rule of statutory construction "expressio unius est exclusio alterius." Elfbrandt v. Russell, 97 Ariz. 140, 397 P.2d 944, reversed on other grounds, 86 S.Ct. 1238, 384 U.S. 11 (1965). By providing circumstances in A.R.S. § 28-325 under which a lien may be cleared on title to a vehicle, no other lien clearances other than those specifically mentioned are permitted.

Statutes relating to recording and release of liens on titles to motor vehicles were enacted to protect both the lienholder and the owner of the vehicle against invalid interference with their respective interests. To permit an MVD officer to accept repossession documents to clear a lien on a foreign title requires the MVD officer to adjudicate the validity of the repossession without having knowledge of the repossession requirements of the law of the state where the lien was perfected. The Motor Vehicle Division has no authority to adjudicate the validity of repossession documents for a title to a foreign vehicle.

In view of our opinion that MVD lacks statutory authority to honor out-of-state repossession documents for the issuance of an Arizona title and registration, we do not reach your inquiry regarding establishing such a procedure by administrative rule.

Sincerely,



BOB CORBIN  
Attorney General