

**Opinion No. 41-3906 (a)**

September 23, 1941

**BY:** EDWARD P. CHASE, Attorney General

**TO:** Mr. J. O. Garcia Motor Vehicle Commissioner Santa Fe, New Mexico. Attention: Alfonso C. de Baca

{\*102} This will acknowledge receipt of your letter dated September 22, 1941, wherein you enclosed a letter from Simms, Modrall & Seymour, attorneys, Albuquerque, New Mexico requesting an opinion by this office as to whether or not Chapter 140, Laws of 1941, requires that all lien instruments on motor vehicles be filed with the Motor Vehicle Department, and no longer in the office of the county clerk.

This question was answered in an opinion dated July 25, 1941, addressed to your department, which opinion was written by Mr. Edward P. Chase, Attorney General, and myself. In Paragraph 6 thereof we said:

"6. Further, inasmuch as Section 10 provides that all lien instruments on vehicles 'shall hereafter be filed with the Motor Vehicle Department', it is our opinion that all lien instruments which are not filed with the department are void as to those persons described in Section 13. (See Section 13, Chapter 140, Laws of 1941.) We view this new registration law not as one which repeals the provisions of the law allowing the filing of liens with the county clerk, but merely as a law which supersedes it as to those vehicles defined in subsection (a) and subsection (b), Section 1, Chapter 140, Laws of 1941. In order for persons to obtain the protection of filing, we are of the opinion that those persons must file their lien instruments with the Motor Vehicle Department here in Santa Fe."

I do not deem it necessary to make any further statement with regard to the filing of lien instruments in the office of the county clerk. Practically speaking, since a man obtains no protection by the filing of a lien instrument upon a motor vehicle in the county clerk's office, I would advise all persons who take lien instruments upon motor vehicle to file the instruments with the Motor Vehicle Department only. I see no reason why these persons should make two expeditures for one protection service.

Trusting that the foregoing sufficiently answers your inquiry, I am.

By GEO. H. HUNKER, Jr.

Asst. Atty. General