

10-1-1956

Summary of Attorney General's Opinions

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Recommended Citation

Summary of Attorney General's Opinions, 11 U. Miami L. Rev. 129 (1956)

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SUMMARY OF ATTORNEY GENERAL'S OPINIONS*

ADMINISTRATIVE LAW. Barbers' Sanitary Commission: Hearings. Although it is provided that the duties and powers of the Barbers' Sanitary Commission may be exercised only by a majority in a duly assembled meeting,¹ the Commission is not precluded from appointing one of its members to conduct authorized investigations.² Such an appointee has authority to subpoena witnesses, administer oaths and interrogate on any lawful matter.³

Florida Avocado and Lime Commission: Public Inspection of Records. Because the Avocado and Lime Commission is an agency of the State government, its records are subject to public inspection.⁴ However, the individual returns of growers and processors upon which the agency records are based, are not so subject.⁵

Florida Merit System: Transfer of Employees. Regulations providing for an appeal by an employee from a job transfer may be adopted by the Personnel Board which has authority to adopt regulations that will insure a proper function of the Merit System.⁶

State Board of Medical Examiners: Applicants. The State Board of Medical Examiners is under a duty to examine all properly qualified applicants for a license to practice medicine. It is, therefore, neither expressly or impliedly authorized to limit the number of qualified candidates.⁷

State Welfare Board: Adoption Proceedings. The State Welfare Board has the responsibility of concerning itself with every step relative to adoption proceedings, including appeals to the Supreme Court.⁸

*This issue of the Summary contains those opinions of general or public interest from Op. Att'y Gen. 056-63 March 1, 1956, through 056-186 June 29, 1956.

The Summary of Opinions was prepared for publication by Iva W. Kay, Jr., and was edited by Patrick McGrotty. We are grateful to Hon. Richard W. Ervin, Attorney General of the State of Florida, for supplying copies of these opinions.

1. FLA. STAT. § 476.18 (1955).
2. FLA. STAT. § 476 (1955).
3. OP. ATT'Y GEN. 056-85 (March 20, 1956).
4. FLA. STAT. § 119.01 (1955).
5. OP. ATT'Y GEN. 056-102 (March 28, 1956).
6. FLA. STAT. § 110.03 (2) (1955); OP. ATT'Y GEN. 056-138 (May 10, 1956).
7. FLA. STAT. § 458.05 (1955); OP. ATT'Y GEN. 056-103 (March 28, 1956).
8. *In re Brock*, 157 Fla. 291; 25 So.2d 659 (1946); OP. ATT'Y GEN. 056-137 (May 10, 1956).

Trustees of the Internal Improvement Fund: Construction of Break-water Facilities. The Trustees of the Internal Improvement Fund⁹ have authority to grant to the city of Pahokee a lease or permit to construct break-water facilities upon submerged lands lying in Lake Okeechobee since such construction is for a public purpose.¹⁰

Trustees of the Internal Improvement Fund: Conveyance of Land. The Trustees of the Internal Improvement Fund may convey title to land without advertising it for sale and accepting bids thereon when the quantity of the land does not exceed a half section.¹¹ If land exceeding a half section was dedicated to a school board, its transfer by the Trustees would be legal only after enactment of appropriate legislation.¹²

Weight Committee: Hearings and Penalties. The Florida Weight Committee consists of representatives from the four agencies¹³ designated to enforce the Florida State Motor Vehicle Safety Laws.¹⁴ Although the Legislature did not directly provide for the establishment of this committee, its actions of holding hearings and invoking penalties are within the "spirit" of the act.¹⁵

AUTOPSIES. Post-mortem Examinations: Consent. Generally, in the absence of testamentary provisions to the contrary, the surviving spouse, or, if no surviving spouse, the next of kin, may give consent to the performance of an autopsy on the decedent. In lieu thereof, the person or persons charged with the responsibility of burial may give consent.¹⁶

CONSTITUTIONAL LAW. Extraordinary Session. In emergencies, the Governor has power and authority to call an extraordinary session of the legislature¹⁷ during a recess of an extraordinary session previously called to enforce reappointment of representation in the legislature.¹⁸

CORPORATIONS. Bankruptcy Reorganization Stock: Exemption. Corporate Stock issued under the supervision and direction of a federal court in connection with a bankruptcy reorganization of a Florida partnership, is exempt from qualification under the Uniform Sale of Securities Act.¹⁹ This exemption extends only to the immediate transaction and not to future sale and transfer of the securities.²⁰

9. FLA. STAT. § 253.03 (1955).

10. OP. ATT'Y GEN. 056-112 (April 6, 1956).

11. FLA. STAT. § 270.09 (1955).

12. OP. ATT'Y GEN. 056-114 (April 8, 1956).

13. FLA. STAT. § 317.94 (1955).

14. FLA. STAT. § 317.73, § 317.95 (1955).

15. OP. ATT'Y GEN. 056-80 (March 19, 1956).

16. OP. ATT'Y GEN. 056-129 (April 30, 1956).

17. FLA. CONST. Art. IV, § 8.

18. FLA. CONST. Art. VII, § 3, as amended. OP. ATT'Y GEN. 056-166 (June 5, 1956).

19. FLA. STAT. § 517.06 (1955).

20. OP. ATT'Y GEN. 056-167 (June 6, 1956).

Development Credit Corporations. In granting development credit corporations the powers, duties, rights and privileges accorded to business corporations,²¹ it was the legislative intent that they be exercised in accordance with the specific powers, duties, rights and privileges mentioned in Chapter 289, Florida Statutes.²²

Qualification of Stock. A non-exempt stock issue of a Florida corporation, a portion to be sold in another state and a portion to be sold in this state, must qualify under Florida Law.²³ If any act whatsoever is performed in Florida in connection with the sale of an issue which in its entirety is to be sold in another state, the issue must be qualified in this state.²⁴

COUNTIES. Advertising and Publicity: Bids. Generally the media used for county advertising does not fall within the purview of the statutory requirement that all contracts for goods, supplies, and materials that exceed a certain amount shall be let to the lowest and best bidder.²⁵ There may be instances, however, when the media used would come within this statute.²⁶

County Commissioners: Revenue from Death and Birth Certificates. A board of county commissioners has no authority to allocate or appropriate funds received for certified copies of death and birth certificates. All such fees are required to be paid into the general revenue fund of the state.²⁷

County Officers: Compensation Reports. County officers who are compensated in whole or in part by fees or commissions are required to submit an annual report to the State Comptroller.²⁸ This report is required although a county officer may receive a salary instead of fees and commissions under local, special or population acts.²⁹

County Public Health Units: Personnel. All personnel of county public health units, including the county health officer, are either state employees or employees of a department or a branch of the state government.³⁰

Expenditure of Funds by Non-county Agency. County commissioners have no authority to approve the expenditure of county funds by a non-county agency, association or corporation. Where such has been done, the State Comptroller should require a detailed audit. If funds have been expended for a non-county purpose, not contemplated by the county budget, there is positive liability on the part of both the county commissioners and the Clerk of the Circuit Court, who is county auditor ex-officio.³¹

21. FLA. STAT. § 289.03 (1955).

22. OP. ATT'Y GEN. 056-087 (March 21, 1956).

23. FLA. STAT. § 517 (1955).

24. OP. ATT'Y GEN. 056-152 (May 17, 1956).

25. FLA. STAT. § 125.08 (1955).

26. OP. ATT'Y GEN. 056-155 (May 21, 1956).

27. FLA. STAT. § 382.35 (8) (1955); OP. ATT'Y GEN. 056-174 (June 14, 1956).

28. FLA. STAT. § 116.03 (1955).

29. OP. ATT'Y GEN. 056-74 (March 9, 1956).

30. FLA. STAT. § 154 (1955); OP. ATT'Y GEN. 056-174 (June 14, 1956).

31. FLA. STAT. § 129.08, 129.09 (1955); OP. ATT'Y GEN. 056-151 (May 16, 1956).

Petition to Move County Seat. Upon receiving a petition signed by one third of the qualified electors, who are taxpayers on real or personal property, requesting a change in the county seat,³² the county commissioners are required to hold an election in regard to such change.³³ Such a petition is not defective by reason of being filed in two or more parts. If a person be otherwise qualified, his signature on the petition is valid although it is made by mark or by his agent. Where property is held in some form of cotenancy, all the tenants should be considered as taxpayers in lieu of contra evidence, and if qualified electors, each of their signatures is valid.³⁴

COURTS. Clerk of Court: Proprietary Functions. The Clerk of the Circuit Court is made *ex-officio* auditor of the county³⁵ to provide a check and balance against the illegal expenditure of county funds. This responsibility extends only to keeping control accounts prescribed by law and attesting the warrants issued.³⁶ It does not impose the duty of providing an accounting system sufficient for management purposes.³⁷

Court Registry Funds Deposited with State Treasurer: Individual Accounts. When a clerk of a court deposits court registry funds with the State Treasurer, the latter is not required to do more than receive and maintain all such deposits in one fund. Although it has been customary for the State Treasurer to maintain records of the particular cases in which court registry funds are deposited, he is under no duty to do so.³⁸

CRIMINAL LAW. Bail Bond: Automobile Club Membership Cards. Since the law gives a guaranteed arrest bond certificate the same status as cash money, the arresting officer is required to enter the name of the automobile club on the citation or summons and the bail required for the alleged traffic violation.³⁹

Bookmaking. One is guilty of bookmaking⁴⁰ upon receipt of the bet or wager, and it is immaterial that the event does not take place and the wager is subsequently returned.⁴¹

A sheriff is a state law enforcement officer within the meaning of the anti-bookie law⁴² and may proceed directly to order a public utility to discontinue telephone or telegraph service which is being used illegally. How-

32. FLA. STAT. § 138.01 (1955).

33. FLA. STAT. § 138.02 (1955).

34. OP. ATT'Y GEN. 056-106 (March 30, 1956).

35. FLA. CONST. ART. V, § 15.

36. State *ex rel* Landis v. Wheat, 103 Fla. 1, 137 So. 277 (1931).

37. OP. ATT'Y GEN. 056-170 (June 12, 1956).

38. OP. ATT'Y GEN. 056-164 (June 5, 1956).

39. FLA. STAT. § 648.19, 903.36 (1955); OP. ATT'Y GEN. 056-184 (June 26, 1956).

40. FLA. STAT. § 849.25 (1955).

41. OP. ATT'Y GEN. 056-81 (March 19, 1956).

42. FLA. STAT. § 365.08 (1955).

ever, this statute does not authorize a municipal police officer to take the same direct course of action.⁴³

Coroner's Inquest: Juvenile Court Act. A justice of the peace, acting as coroner, has jurisdiction to hold an inquest although all parties involved are juveniles.⁴⁴ Such a hearing is not in violation of the Juvenile Court Act,⁴⁵ for technically there is no criminal charge pending at the outset of the inquest. Where the verdict indicates that a felony has been committed, the case should be transferred to the appropriate juvenile court.⁴⁶

Court Costs: Withholding the Imposition of Sentence. After an adjudication of guilt in a criminal case, the trial court may assess court costs against the defendant and withhold entering sentence without losing jurisdiction to impose a sentence at a subsequent term.⁴⁷

Drunken Driving: Admissions. In a prosecution for driving while under the influence of intoxicating liquor, an admission by the accused that he was driving the automobile in question is inadmissible before prima facie proof of the corpus delicti.⁴⁸

Dumping Trash on Highways. The State Road Department has authority to erect warning signs upon public highways⁴⁹ as to penalties for throwing trash on the right-of-way.⁵⁰ Persons in violation of this law are subject to arrest by the Highway Patrol.⁵¹

Extradition. The Governor may surrender fugitives who are under criminal prosecution in Florida⁵² to another state under principles of comity. However, such power is not to be interpreted as authority for extradition when the fugitives are serving a sentence in this state and are wanted by another state for the purpose of serving a sentence there.⁵³

Forfeiture. The forfeiture of arms or weapons used in the commission of a crime⁵⁴ is additional punishment for the convicted. Since process need not be issued against the res, the forfeiture is in personam. Where the res is the property of one other than the convicted, knowledge of, or consent to the criminal act, must be shown before forfeiture.⁵⁵

Lotteries. A promotion scheme, whereby a bank would give one additional chance toward winning a new automobile for each deposit of a speci-

43. OP. ATT'Y GEN. 056-116 (April 9, 1956).

44. FLA. STAT. § 39.01 (6) (1955).

45. FLA. STAT. § 39.02 (3) (1955).

46. OP. ATT'Y GEN. 056-124 (April 25, 1956).

47. OP. ATT'Y GEN. 056-186 (June 29, 1956).

48. OP. ATT'Y GEN. 056-145 (May 11, 1956).

49. FLA. STAT. § 335.14 (1955).

50. FLA. STAT. §§ 339.29, 821.36, 861.10 (1955).

51. FLA. STAT. § 321.05 (1) (1955); OP. ATT'Y GEN. 056-91 (March 22, 1956).

52. FLA. STAT. § 941.19 (1955).

53. OP. ATT'Y GEN. 056-65 (March 1, 1956).

54. FLA. STAT. § 790.08 (2) (1955).

55. OP. ATT'Y GEN. 056-70 (March 5, 1956).

fied amount, constitutes a lottery since chance and consideration are present.⁵⁶

Reckless Driving and Driving While Intoxicated. Even though a public way or road has not been created upon a beach, the county sheriff has the power and duty to enforce the reckless driving statute⁵⁷ and the driving while intoxicated statute⁵⁸ since no mention is made of highway or public way in defining these crimes.⁵⁹

Venue. When a person charged with a crime in one county is arrested in another, and while in the custody of the sheriff of the first county escapes when in the second county, the prosecution for the escape can be maintained only in the second county.⁶⁰

ELECTIONS. Merit System Employees. Restrictions against the participation in elections by merit system employees, refer to political activities of a partisan nature only. Non-partisan activity, such as temporary service upon an election board, or as a deputy at the election poll, is not restricted.⁶²

Public School Teachers. Where a teacher is employed by an educational agency or system that is wholly or partially supported by the state or a county, he may actively campaign for his own election to a public office.⁶³

Qualifications Fees. Qualifying fees for county judge, tax collector and tax assessor are based upon the basic income of the office and also upon compensation received for ex-officio duties.⁶⁴

FEDERAL SOCIAL SECURITY. Referendums. Under the 1954 amendment to the Federal Social Security Act,⁶⁵ O.A.S.I. coverage of public employees, in positions covered by a retirement system, is permitted if the employees so desire. It is the duty of the Governor of the governing body of any political subdivision, upon request, to authorize a referendum to determine if O.A.S.I. coverage is desired.⁶⁶

GRAND JURY. Expert Witness Fees. No statute authorizes the payment of additional compensation to an expert witness appearing before a grand jury. Therefore, a witness, testifying as to the mental condition of a person under investigation by a grand jury, may be paid only the usual compensation.⁶⁷

56. OP. ATT'Y GEN. 056-135 (May 10, 1956).

57. FLA. STAT. § 317.21 (1955).

58. FLA. STAT. § 317.20 (1955).

59. OP. ATT'Y GEN. 056-78 (March 15, 1956).

60. FLA. CONST. D.R. § 11; OP. ATT'Y GEN. 056-165 (June 6, 1956).

61. FLA. STAT. § 110.13 (4) (1955).

62. OP. ATT'Y GEN. 056-107 (April 2, 1956).

63. FLA. STAT. § 104.31 (1) (1955); OP. ATT'Y GEN. 056-90 (March 22, 1956).

64. OP. ATT'Y GEN. 056-89 (March 21, 1956).

65. 68 STAT. 1056 (1954), 42 U.S.C. § 418 (d) (3) (Supp. III 1956).

66. FLA. STAT. § 650.10 (1955); OP. ATT'Y GEN. 056-130 (May 3, 1956).

67. FLA. STAT. § 90.14 (1955); OP. ATT'Y GEN. 056-133 (May 10, 1956).

INSURANCE. *Acceptability of Securities.* Securities of a fire, casualty or title insurer, which would be accepted as admitted assets by an examiner of the Florida Insurance Department, may be accepted by the Insurance Commissioner as a voluntary deposit of the insurer.⁶⁸

Credit Insurance: Cancellation upon Payment of Debt. Credit life and credit accident and health insurance policies are terminated upon payment of the loan or the amount involved in a credit transaction, although the payment was made prior to the due date. Where the creditor and debtor agree to new terms extending the time for payment, coverage will not be extended for more than fifteen days beyond the original term of indebtedness, except where there is no additional cost to the debtor.⁶⁹

Investors: Group Life Insurance. A foreign insurer, authorized to do business in Florida, may extend coverage under a group life insurance policy to residents of Florida who participate in an investment plan.⁷⁰ As the sale of these investment plans, with the insurance feature, does not constitute the sale of insurance, salesmen do not have to qualify as agents for the insurer.⁷¹

Premium Finance Companies: Ratings. An agreement, between an insurer and a company engaged in financing premiums on insurance policies, that the insurer will pay to the financing company unearned premiums on policies that have been canceled because of default by the insurer, is in violation of Florida Law. Such an agreement is discriminatory within the meaning of the rating statutes.⁷²

LIMITED PARTNERSHIP. *Corporations.* The word "person," as used in the Uniform Limited Partnership Act,⁷³ is construed as meaning a natural person. Therefore, a corporation may not be a member of a limited partnership.⁷⁴

MOTOR VEHICLES. *Licenses.* In the process of apprehending a juvenile for violating the law relating to the operation of a motor vehicle on the public highways, a police officer would be justified in retaining a restricted driver's license when it would be evidence of the violation.⁷⁵

MUNICIPAL CORPORATIONS. *Zoning: Intoxicating Liquors.* The state in the exercise of its police power may enact a law forbidding the sale of intoxicating liquors in a particular locality and may confer similar power⁷⁶ upon municipalities. A liquor licensee, in accepting the license, is put on

68. FLA. STAT. § 626.25 (1955); OP. ATT'Y GEN. 056-98 (March 27, 1956).

69. FLA. STAT. § 646.06 (1955); OP. ATT'Y GEN. 056-117 (April 12, 1956).

70. FLA. STAT. § 631.151 (1955).

71. OP. ATT'Y GEN. 056-169 (June 6, 1956).

72. FLA. STAT. §§ 629.06, 630.02 (4) (1955); OP. ATT'Y GEN. 056-162 (May 31, 1956).

73. FLA. STAT. § 620 (1955).

74. OP. ATT'Y GEN. 056-128 (April 30, 1956).

75. OP. ATT'Y GEN. 056-111 (April 5, 1956).

76. FLA. STAT. §§ 561.44, 562.45 (1955).

notice that the municipality may zone a particular area so as to prohibit sales of intoxicating liquors therein.⁷⁷

PERMITS. Solicitations for Charity. Applications for permits to solicit funds for charitable purposes⁷⁸ need not be manually signed by the applicant or his agent, but the clerk of a circuit court, if in doubt as to the genuineness of a facsimile signature, may require a manual signature.⁷⁹

REAL PROPERTY. Declaration of Trust. A trust is not created where title to real property is taken in the name of a trustee or trustees with the agreement that they are to perform only perfunctory duties and have no power or sale.⁸⁰

RIPARIAN RIGHTS. Private Industry. Water may be taken from public lakes, streams and rivers for use by private industry only after the primary or domestic purposes of the abutting owners have been satisfied. Whether one is taking water in excess of his needs is determined by taking into account the requirements of other abutting proprietors. In no case may a proprietor reduce the normal level of a lake without consent of all other proprietors.⁸¹

SHERIFFS. Office Expense: Educational Programs. As a sound educational program on crime prevention is consistent with good law enforcement, a sheriff may charge a reasonable amount of his office expense for educational and informational materials, and for sponsorship of auxiliary organizations designed to deter crime.⁸²

Office Expense: Insurance. A sheriff is not normally held liable for false arrest, false imprisonment, unlawful detention, malicious prosecution or assault and battery committed by his deputies, since such acts are not considered performed in an official capacity. Therefore, insurance affording a sheriff protection for these acts is not a necessary expenditure of his office.

Insurance premiums against public liability and property damage caused by the operation of vehicles in the discharge of the official duties of the sheriff is a necessary expenditure. This applies whether the vehicle is owned by the office of the sheriff, or is privately owned and partly used in official duties, or, in instances where the vehicle of an arrested person is required to be driven by the sheriff or his deputies.⁸³

STATE AND COUNTY RETIREMENT SYSTEM. Citizenship. A citizen of another state or country, employed by the State of Florida, or by one of its

77. *State ex rel. Hoffman v. Vocelle*, 31 So.2d 52 (Fla. 1947); OP. ATT'Y GEN. 056-150 (May 16, 1956).

78. FLA. STAT. § 617.22 (1955).

79. OP. ATT'Y GEN. 056-69 (March 2, 1956).

80. FLA. STAT. § 609 (1955); OP. ATT'Y GEN. 056-159 (May 23, 1956).

81. OP. ATT'Y GEN. 056-113 (April 6, 1956).

82. OP. ATT'Y GEN. 056-172 (June 12, 1956).

83. FLA. STAT. § 455.06 (1955); OP. ATT'Y GEN. 056-153 (May 18, 1956).

agencies, may become a member of the State and County Officers and Employees Retirement System. Although statutes prescribe that an employee of the state take an oath that he is a citizen of Florida and of the United States,⁸⁴ there is no legal reason why such an employee could not use the term "resident" in lieu of the term "citizen." The purpose of this statute was to insure loyalty to Florida and to the United States, and not to require that all such employees be citizens.⁸⁵

Coverage: Mosquito Control Districts. Officers and employees of Mosquito Control Districts are within the definition of state and county officers and employees and, therefore, come within the purview of the State and County Officers and Employees Retirement System.⁸⁶

Postponement of Retirement. Where a state or county officer or employee remains in state or county employment after reaching sufficient age and service to qualify for retirement, he may not be paid back retirement compensation upon his subsequent retirement.⁸⁷

STATE FUNDS. Collateral Securities. Collateral security may be pledged by a bank jointly to the (1) State Treasurer for deposit of state funds, and (2) to the State Treasurer as Treasurer of the State Board of Administration and County Treasurer ex-officio to secure deposit of funds made in that capacity. These securities may be considered as collateral to secure either or both of said accounts provided statutory safeguards for each are met.⁸⁸

TAXATION. Ad Valorem Tax: Unrecorded Plats. Where real property is described by a plat incorporated into the deed of conveyance by reference, and the plat is not properly of record in the office of the clerk of the circuit court, the tax assessor may assess the property by reference to the plat in question.⁸⁹

Drainage Tax Assessments. Where there are drainage tax assessments against lands acquired by the county,⁹⁰ the extent of the rights of drainage districts upon subsequent sale can not exceed the total of its assessments due on the date of the foreclosure decree. When there are insufficient funds to pay the liens in full, they will be paid ratably with county and municipal taxes.⁹¹

Exemption: Stock Held by Foreign Educational Institution. Lands in this state which are owned by a Florida corporation, which is neither an educational institution nor a non-profit corporation, are subject to ad

84. FLA. STAT. § 876.05 (1955).

85. OP. ATT'Y GEN. 056-183 (June 26, 1956).

86. FLA. STAT. § 122.02 (1955); OP. ATT'Y GEN. 056-157 (May 23, 1956).

87. OP. ATT'Y GEN. 056-142 (May 11, 1956).

88. FLA. STAT. §§ 18.10, 18.11, 344.17, 344.171 (1955); OP. ATT'Y GEN. 056-179 (June 22, 1956).

89. OP. ATT'Y GEN. 056-121 (April 20, 1956).

90. FLA. STAT. § 194.55 (1955).

91. OP. ATT'Y GEN. 056-83 (March 20, 1956).

valorem taxes even though the corporate stock is held by an educational institution in another state.⁹²

Homestead: Separate Premises. Homestead tax exemption may not be granted to a wife for a permanent home for herself and husband, and to the husband for a permanent home for his minor daughter. Provision is made for exemption of the permanent home of the owner or someone legally or naturally dependent upon him.⁹³

Homestead: Unrecorded Deed. Where a deed of conveyance from a homesteader, to whom homestead exemption has been granted, bears a date several years prior to the filing for record, the property should be back-assessed. The tax assessor is justified in presuming the delivery was on the date of the conveyance. However, this presumption can be overcome by evidence showing the actual date of delivery.⁹⁴

Hotels: Licenses. Hotels paying an occupational license tax are exempt from license taxes for dancing and other entertainment facilities when such facilities are provided primarily for the entertainment of guests.⁹⁵ However, when operated for the purpose of producing profit, rather than to provide a mere service to guests, these facilities are subject to license taxes.⁹⁶

Military Reservations. Exclusive of an express federal statute, a municipality cannot require businesses operated on military reservations to pay license taxes, although a portion of the reservation extends into the municipality.⁹⁷

Mortgage Recording Tax. Mortgages given to the United States in return for the insurance of a loan, made to the mortgagor by a third person, are not subject to a state mortgage recording tax unless specifically authorized by federal statutes.⁹⁸

Out-of-state Publications: Soliciting Advertisements. A distinction has been drawn between advertising and printing in newspapers and magazines, contracted for in interstate commerce, and the printing, publication and distribution of such newspapers and magazines.⁹⁹ A foreign publisher maintaining an office and agents in Florida for the purpose of selling advertising, is not subject to a license tax¹⁰⁰ where the applications for printing and advertising do not become binding contracts within this state.¹⁰¹

92. OP. ATT'Y GEN. 056-110 (April 4, 1956).

93. OP. ATT'Y GEN. 056-84 (March 20, 1956).

94. OP. ATT'Y GEN. 056-108 (April 3, 1956).

95. FLA. STAT. 205.37 (1955).

96. OP. ATT'Y GEN. 056-68 (March 1, 1956).

97. OP. ATT'Y GEN. 056-72 (March 8, 1956).

98. OP. ATT'Y GEN. 056-143 (May 11, 1956).

99. *Blumenstock Bros. Advertising Agency v. Curtis Publishing Co.*, 252 U. S. 436 (1920).

100. FLA. STAT. 205.53 (1955).

101. OP. ATT'Y GEN. 056-177 (June 20, 1956).

State Lands: Tax Sale Certificate. Where lands belonging to the state prison farm are assessed in the name of the former owner, and subsequently are sold for taxes, the tax sale certificates are void and do not constitute liens upon the lands.¹⁰²

Tax Deed Sale: Distribution of Excess Proceeds. Where there are state judgments and mortgage liens, and a federal internal revenue tax lien, the priority of the former is determined by statutes of the state, and of the latter, by federal statutes. If the federal tax lien was filed prior to the tax sale it will attach to the real property and take priority over the mortgage and judgment liens; if filed subsequent to the tax sale, it attaches to the proceeds of the sale and takes priority with duly recorded mortgages and judgments in order of recording. Ad valorem taxes and special assessment liens take priority over a federal tax lien according to the date of their attachment as tax liens.¹⁰³

UNEMPLOYMENT COMPENSATION. *Supplemental Benefits: Guaranteed Annual Wage.* Receipt of benefits pursuant to a guaranteed annual wage plan will not reduce or prevent the receipt of benefits under the Florida Unemployment Compensation Law¹⁰⁴ The Florida Unemployment Compensation Fund is not entitled to contributions of monies paid into funds established by these supplemental benefit agreements.¹⁰⁵

102. *State v. Caldwell*, 160 Fla. 355, 35 So.2d 642 (1948); OP. ATT'Y GEN. 056-173 (June 13, 1956).

103. OP. ATT'Y GEN. 056-73 (March 8, 1956).

104. FLA. STAT. § 443 (1955).

105. OP. ATT'Y GEN. 056-182 (June 25, 1956).