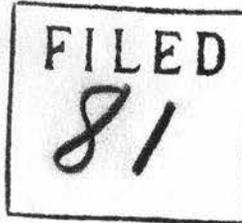


FINANCE) No statutory authority exists authorizing Commissioner
RECORDS) of the Division of Finance to dispose of records required
) to be maintained by Section 7884, R. S. Missouri, 1939,
) as amended, except as provided in House Substitute for
) House Bill No. 626, Laws of Missouri, 1945, page 1427.

October 30, 1950



11-8-50

Honorable H. G. Shaffner
Commissioner, Division of Finance
Department of Business and Administration
Jefferson City, Missouri

Dear Sir:

The following opinion is rendered in compliance with your recent request reading as follows:

"Our storage vault has become over-taxed with many years of records pertaining to state chartered banks and trust companies.

"May we be favored with an opinion regarding the length of time such records should be preserved?"

Section 7884, R. S. Missouri, 1939, as re-enacted by the Sixty-fifth General Assembly in House Bill (Revision) No. 2084 provides as follows:

"The Commissioners of Finance shall preserve all records, reports and papers pertaining to the Division of Finance, and shall make a report in writing to the Governor whenever required by the Governor."

The general rule governing the care and custody of public records is stated in 45 Am. Jur., Records and Recording Laws, Section 12, as follows:

"Public records and documents are the property of the state and not of the

Honorable H. G. Shaffner

individual who happens, at the moment, to have them in his possession; and when they are deposited in the place designated for them by law, there they must remain and can be removed only under authority of an act of the Legislature and in the manner and for the purpose designated by law. The custodian of a public record cannot destroy it, deface it, or give it up without authority from the same source which required it to be made."

In 1945 the Sixty-third General Assembly of Missouri passed an act, Laws of Missouri, 1945, page 1427 (Mo. R.S.A., Sections 1880.1-1880.4) providing for preservation of official records by photographing, micro-photographing or photostating the same and subsequent disposal of the original records on authorization of the Governor. This law is directed to a manner of preservation and does not contain authority to diminish or destroy contents of records to be preserved.

CONCLUSION

It is the opinion of this department that the Commissioner of the Division of Finance is without authority to dispose of records required to be kept in his office by virtue of the provisions of Section 7884, R. S. Missouri, 1939, as amended, except in the manner provided in House Substitute for House Bill No. 626, Laws of Missouri, 1945, page 1427.

Respectfully submitted,

APPROVED:

JULIAN L. O'MALLEY
Assistant Attorney General

JEB
J. E. TAYLOR
Attorney General

JLO'M/feh