



OFFICES OF THE  
ATTORNEY GENERAL OF MISSOURI  
JEFFERSON CITY

JOHN C. DANFORTH  
ATTORNEY GENERAL

November 26, 1975

OPINION LETTER NO. 237

Mr. Warren L. McElwain  
Prosecuting Attorney  
DeKalb County  
Post Office Box 512  
Maysville, Missouri 64469

Dear Mr. McElwain:

This letter is in response to your request for an opinion asking as follows:

"Does there exist any statute or Attorney General's opinion upon any statute that would prohibit the Ex-Officio Recorder of Deeds of DeKalb County, Missouri, to destroy lapsed financing statements filed in his office pursuant 400 9-403(3) R.S. Mo. 1969?"

You also have called to our attention the fact that the provisions of Section 400.9-403(3), RSMo, provide in part:

". . . Unless a statute on disposition of public records provides otherwise, the filing officer may remove the lapsed statement from the files and destroy it."

We direct your attention, however, to Sections 109.210, et seq., RSMo 1973 Supp., which now govern the handling of state and local records as therein defined. A county officer such as the recorder of deeds is within the definition of "agency" in Section 109.210(1) and the financial statements you refer to would be within the definition of "record" under subsection 5 thereof.

Mr. Warren L. McElwain

Section 109.260 expressly provides that no record shall be destroyed or otherwise disposed of unless it is determined by the State Records Commission or the local records board, as the case may be, that the record has no further administrative, legal, fiscal, research or historical value. Further, Section 109.310 provides:

"Records shall be destroyed according to the provisions of existing law and administrative regulations until the state records commission or local records board promulgates rules and regulations for the destruction of records. All provisions of law and all administrative rules and regulations for the destruction of records are repealed upon the effective date of the rules and regulations for the destruction of records adopted and promulgated by the commission or board pursuant to sections 109.200 to 109.310."

We further wish to advise that we have consulted with a representative of the Secretary of State's Office of the State of Missouri and that such statutes have been implemented. Requests for the destruction of records, we understand, should be forwarded to: James C. Kirkpatrick, Secretary of State, Chairman, Local Records Board, State Capitol Building, Jefferson City, Missouri.

Very truly yours,



JOHN C. DANFORTH  
Attorney General