

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 72
91ST GENERAL ASSEMBLY

Reported from the Committee on Civil and Administrative Law, April 26, 2001, with recommendation that the House Committee Substitute for Senate Bill No. 72 Do Pass.

TED WEDEL, Chief Clerk

0448L.04C

AN ACT

To repeal sections 109.005, 109.120 and 109.241, RSMo 2000, and to enact in lieu thereof three new sections relating to public and business records.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 109.005, 109.120 and 109.241, RSMo 2000, are repealed and three new sections enacted in lieu thereof, to be known as sections 109.005, 109.120 and 109.241, to read as follows:

109.005. 1. There is hereby established in the state treasury a special fund to be known as the "State Document Preservation Fund". The fund shall consist of all moneys received from gifts, bequests, or contributions for the specific purpose of preserving legal, historical and genealogical materials and making them available to the public.

2. The state treasurer shall invest moneys in the state document preservation fund in the same manner as surplus state funds are invested pursuant to section 30.260, RSMo. All earnings which result from the investment of moneys in the state document preservation fund shall be credited to the fund.

3. Any unexpended balance in the state document preservation fund at the end of any appropriation period shall not be transferred to the general revenue fund of the state treasury and, accordingly, shall be exempt from the provisions of section 33.080, RSMo, relating to the transfer of funds to the general revenue fund of the state treasury.

4. Any fees collected for services provided by the archives division of the office of the secretary of state that are related to copying records, duplicating microfilm, or certifying records or documents and all other service fees shall be deposited in the state treasury and credited to the state document preservation fund.

109.120. 1. The head of any business, industry, profession, occupation or calling, or the head of any state, county or municipal department, commission, bureau or board may cause any and all records kept by such official, department, commission, bureau, board or business to be photographed, microphotographed, photostated or transferred to other material using photographic, video, or electronic processes, **including a computer-generated electronic or digital retrieval system**, and the judges and justices of the several courts of record within this state may cause all closed case files more than five years old to be photographed, microphotographed, photostated, or transferred to other material using photographic, video, or electronic processes, **including a computer-generated electronic or digital**

retrieval system. Such reproducing material shall be of durable material and the device used to reproduce the records shall be such as to accurately reproduce and perpetuate the original records in all details and ensure their proper retention and integrity in accordance with standards established by the state records commission.

2. The cost of reproduction of closed files of the several courts of record as provided herein shall be chargeable to the county and paid out of the county treasury wherein the court is situated.

3. When any recorder of deeds in this state is required or authorized by law to record, copy, file, recopy, replace or index any document, plat, map or written instrument, the recorder may do so by photostatic, photographic, microphotographic, microfilm, or electronic process, **including a computer-generated electronic or digital retrieval system**, which produces a clear, accurate and permanent copy of the original, provided they meet the standards for permanent retention and integrity as promulgated by the local records board. The reproductions so made may be used as permanent records of the original. When microfilm or electronic reproduction is used as a permanent record by recorder of deeds, duplicate reproductions of all recorded documents, indexes and files required by law to be kept by the recorder shall be made and one copy of each document shall be stored in a fireproof vault and the other copy shall be readily available in the recorder's office together with suitable equipment for viewing the record by projection to a size not smaller than the original and for reproducing copies of the recorded or filmed documents for any person entitled thereto. In all cases where instruments are recorded pursuant to this section by microfilm or electronic process, any release, assignment or other instrument affecting a previously recorded instrument by microfilm or electronic process shall be filed and recorded as a separate instrument and shall be cross-indexed to the document which it affects.

109.241. The head of each local agency shall:

(1) Submit within six months after a call to do so from the secretary of state in accordance with standards established by the local records board and promulgated by the director of records management and archives, schedules proposing the length of time each local records series warrants retention for administrative, legal, historical or fiscal purposes after it has been received or created by the local agency;

(2) Submit lists of local records that are not needed in the transaction of current business and that do not have sufficient administrative, legal, historical or fiscal value to warrant their further retention;

(3) Cooperate with the director in the conduct of surveys made by the director pursuant to the provisions of sections 109.200 to 109.310;

(4) When files in the custody of a local governmental agency are microfilmed or otherwise reproduced through photographic, video, electronic, or other reproduction processes, **including a computer-generated electronic or digital retrieval system**, the public official having custody of the reproduced records shall, before disposing of the originals, certify to the director that the official has made provisions for preserving the microfilms or electronically created records for viewing and recalling images to paper or original form, as appropriate, and that the official has done so in a manner guaranteeing the proper retention and integrity of the records in accordance with standards established by the local records board. Certification shall include a statement, written plan, or reputable vendor's certificate, as appropriate, that any microfilm or document reproduced through electronic process meets the standards for archival permanence established by the United States of America Standards Institute or similar agency, or local records board. If records are microfilmed, original camera masters shall not be used for frequent reference or reading purposes, but copies shall be made for such purposes.