



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

July 24, 1962

Honorable Jules Damiani, Jr.
Criminal District Attorney
Galveston County
Galveston, Texas

Opinion No. WW-1399

Re: Whether, under Article 6574b, Vernon's Civil Statutes, original deed records, deed of trust records, mechanic's lien records and minute books may be removed from the County Clerk's vaults for the purpose of storage in a bonded warehouse located in the County seat, after the said records have been microfilmed, and alternative question.

Dear Mr. Damiani:

You have requested the opinion of the Attorney General with regard to the following questions:

1. After deed records, deed of trust records, mechanic's lien records and minute books of any Courts have been microfilmed in accordance with the provisions of Article 6574b, may the original bound volumes be removed from the Clerk's vaults for the purpose of storage in a bonded warehouse located in the County seat?
2. In the alternative, could the storage facilities provided for legal records in the new County Court House, for the benefit of the public, house only microfilm reproductions of all deed records, deed of trust records, mechanic's lien records and any minute books of any Courts for prior years only, and the original bound volumes be stored in another building nominally designated as a sub-office of the County Clerk or District Clerk in space which would be under the sole jurisdiction and control of such County or District Clerk?

The pertinent portions of Article 6574b are set forth below:

"Section 1. The Commissioners Court of any county in Texas, or the governing body of

any political subdivision of Texas, may, at its discretion, order, authorize and provide for the duplication of all public records by photostatic, photographic, miniature photographic, film microfilm or micro-photographic process which correctly and legibly copies and reproduces, or which forms a medium of copying or reproducing, such public records, when, in the judgment of a Commissioners Court, or of the governing body of any political subdivision of Texas, a necessity exists for the photographic duplication of said public records for the purpose of recording, preserving and protecting same, or for the purpose of reducing space required for filing, storing and safekeeping of same, or for any similar purpose."

"Sec. 4. Said photographic duplicates of all public records shall be placed in conveniently accessible files and provisions shall be made for preserving, safekeeping, using, examining, exhibiting, projecting and enlarging the same whenever requested during regular office hours. Whenever photographic duplicates of public records are so made, certified and placed, the original public records may be, by order of the Commissioners Court of the county, or of the governing body of any political subdivision of Texas, destroyed or otherwise disposed of, provided, however, that no original record shall be destroyed or otherwise disposed of unless or until the time for filing legal proceedings based on any such record shall have elapsed, and, in no event, shall any original public record be destroyed or otherwise disposed of until said public record is at least five (5) years old; and provided further, that notice of such proposed destruction or disposition of original public records shall first be given to the State Librarian, and if such records are, in his opinion, needed for the Texas State Library, they shall be transferred thereto in the manner provided in Article 5439, Revised Civil Statutes, 1925."

"Sec. 5. Nothing in this Act shall authorize the destruction or disposition of any deed record, deed of trust record, mechanic's lien record or any

minute book of any Court or any minute book of any political subdivision of Texas."

This statute clearly authorizes the reproduction of records of the type in question here. It is equally obvious that Section 5 precludes any destruction or disposition of these original records once they have been reproduced on microfilm. This is not to say, however, that the statute demands that these original records continue to be kept in the vaults of the County Clerk, for such a holding would render the statute purposeless with regard to these particular records.

Article 6574b, Section 5, forbids any destruction or disposition of deed records, deed of trust records, mechanic's lien records and minute books. Black's Law Dictionary defines the word "disposition" as follows: "The parting with, alienation of, or giving up property," "a destruction of property." It would thus appear that the Clerk would be permitted to make any arrangement desired for these old original records, so long as some element of control was retained over them. So long as the micro-filmed records are available to the public in the office of the Clerk, and reasonable access may be had to the original records in case of need, it is the opinion of this office that the records may be stored at any place located in the County seat, under such terms and conditions deemed sufficient for their safeguard as may be set by the Clerk and the Commissioners Court.

S U M M A R Y

Under the authority of Article 6574b, Vernon's Civil Statutes, deed records, deed of trust records, mechanic's lien records and minute books may be microfilmed. The original records may not then be destroyed, but may be stored at any place located in the County seat, under such terms and conditions deemed sufficient for their

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safeguard as may be set by the County
Clerk and the Commissioners Court.

Yours very truly,

WILL WILSON
Attorney General of Texas

By 
Malcolm L. Quick
Assistant

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APPROBED:

OPINION COMMITTEE
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REVIEWED FOR THE ATTORNEY GENERAL
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