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RECORDS—ORIGINAL STATE—MICROFILMED IN MANNER AND UNDER PROCEDURES PROVIDED FOR BY SECTION 32-1 G. C.—MAY BE DESTROYED AT ANY TIME BY ORDER OF STATE RECORDS COMMISSION—SECTION 1465-119 G. C., SUB. S. B. 44, 99 GENERAL ASSEMBLY.

SYLLABUS:

Under the provisions of Section 1465-119, General Code, as enacted by Substitute Senate Bill No. 44 of the Ninety-Ninth General Assembly, effective September 10, 1951, upon proper request being made, original state records which have been microfilmed in the manner and under the procedures provided for by Section 32-1, General Code, may be destroyed at any time by order of the State Records Commission.

Columbus, Ohio, August 23, 1951

Hon. Walter Brahm, Chairman, Ohio State Records Commission
Columbus, Ohio

Dear Sir:

Your request for my opinion reads in part as follows:

“Does the State Records Commission have authority to order the destruction of original state records which have been micro-filmed but are less than six years old?”

The answer to this question depends upon the interpretation to be given newly enacted Section 1465-119, General Code, as compared with Section 1465-116, General Code.

Section 1465-116, *supra*, became effective September 29, 1945 and provides for the general powers of the State Records Commission. It reads in part:

“In accordance with the procedure hereinafter set forth the commission shall have power to authorize the destruction or other disposition of records that are six (6) or more years old * * *”

Section 1465-119, enacted by Substitute Senate Bill No. 44 of the Ninety-Ninth General Assembly, provides:

“The state records commission shall have the authority to order the destruction or other disposition, *at any time*, of any state record, document, plat, court file, paper or instrument in writing that has been copied or reproduced in the manner and under the procedure prescribed in section 32-1 of the General Code. Provided, however, that before such order may be given by the state records commission, the officer or person in charge, or the majority where there are more than one, of any office, court, commission, board, institution, department or agency of the state shall request, in writing, that such permission be granted.” (Emphasis added.)

The microfilm process is one of the manners for reproduction of records provided for by Section 32-1, General Code.

It is apparent, upon examination of the legislation creating the State Records Commission (Sections 1465-114 through 1465-118, General Code), that the six-year destruction rule provided for by Section 1465-116, *supra*, was intended to operate in cases where no reproduction of the original record was to be preserved. It is significant that when establishing the six-year rule, the legislature contemplated that exceptions, such as that under consideration, might be made. Section 1465-118, General Code, part of the original creating legislation, provides:

“Nothing in this act * * * shall impair or restrict authority to destroy records given by other statutes to any officer, department, board, commission or agency * * *”

Section 1465-119, *supra*, applies only to those cases where a repro-

duction of the original record is to be preserved. Thus, it would seem that Section 1465-119, *supra*, establishes exactly the kind of exception contemplated in Section 1465-118, *supra*. In addition, it is clear that in the construction of statutes, specific provisions control over general. *State, ex rel. Myers, v. Industrial Commission*, 105 O. S., 103, 136, N. E. 896. This would indicate, in the present situation, that the specific rule for reproduced records controls over the general rule for destruction of unreproduced records.

I think it clear that the legislature, in enacting Section 1465-119, *supra*, intended to facilitate storage of records by providing an exception to the six-year rule. Of course, the exception allowing destruction at any time is strictly limited to those records reproduced in accordance with the provisions of Section 32-1, *supra*.

It is therefore my opinion that under the provisions of Section 1465-119, General Code, as enacted by Substitute Senate Bill No. 44 of the Ninety-Ninth General Assembly, effective September 10, 1951, upon proper request being made, original state records which have been micro-filmed in the manner and under the procedures provided for by Section 32-1, General Code, may be destroyed at any time by order of the State Records Commission.

Respectfully,

C. WILLIAM O'NEILL
Attorney General