

The
Louisiana State Archives
Records Management
Handbook
APPENDICES

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Appendix A - Directory

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revised 7/16/02

Appendix B - Forms

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Appendix C - Public Records (General) and Selections from La. Revised Statute 44

PUBLIC RECORDS General

The basic premise of the Title 44 Public Records Law is that all records, of all public agencies and quasi-public entities, that perform governmental functions, are subject to inspection. But remember what Article XII, Section 3 of the Louisiana Constitution says:

“No person shall be denied the right to...examine public documents, except in cases established by law.”

Thus, much of the remainder of Title 44 is devoted to the exceptions that the Legislature has established. Among the exemptions are:

1. Electric logs and seismic data pertaining to oil and gas wells, which are in the custody of the Department of Natural Resources.
2. Records involved in legislative investigations.
3. Records of law enforcement agencies pertaining to pending criminal investigations or prosecution.
4. Tax returns.
5. Welfare recipient rolls.
6. The commissioner of Financial Institutions' records relative to liquidation of banks or savings and loan associations.
7. Insurance companies' reports.
8. Evaluation of persons by the State board of Medical Examiners, for their fitness to practice medicine.
9. Office of Conservation mineral reserve records.
10. Evaluations of persons licensed by the Board of Nurse Examiners.
11. Records of the U.S. Department of Energy which have been transmitted to the Louisiana Department of Natural Resources.
12. Records relative to the evaluation of dentists or dental hygienists of the State Board of Dentistry.
13. Records relative to the licensure of Veterinarians.
14. Shipping manifests in the custody of port authorities.
15. Trade secrets regarding sewage treatment plants held by the Department of Health and Human Resources.
16. Records in the custody of the Governor.
17. Reports of the Legislative Auditor until three days after completion.
18. Hospital records.
19. Records of misdemeanor convictions which have been “expunged”.
20. Records of the Judiciary Commission relating to discipline of a judge, until a report is filed with the Louisiana Supreme Court.
21. Home telephone numbers of state employees which are unlisted.
22. Medical records of public employees maintained by the State Group Benefits Program.
23. Records of public libraries as to what book a person has checked out.

24. Mental impressions of attorneys or experts prepared in anticipation of litigation or preparation for trial. Additionally, there are numerous laws, usually found in the public agency's substantive statutes, that exempt records from inspection. Finally, the right to privacy has been extended to apply to prevent inspection of public records that contain highly personal information.

La. R.S. 44:1

TITLE 44

PUBLIC RECORDS AND RECORDERS

CHAPTER 1. PUBLIC RECORDS

PART I. SCOPE

§1. General definitions

A.(1) As used in this Chapter, the phrase "public body" means any branch, department, office, agency, board, commission, district, governing authority, political subdivision, or any committee, subcommittee, advisory board, or task force thereof, or any other instrumentality of state, parish, or municipal government, including a public or quasi-public nonprofit corporation designated as an entity to perform a governmental or proprietary function.

(2)(a) All books, records, writings, accounts, letters and letter books, maps, drawings, photographs, cards, tapes, recordings, memoranda, and papers, and all copies, duplicates, photographs, including microfilm, or other reproductions thereof, or any other documentary materials, regardless of physical form or characteristics, including information contained in electronic data processing equipment, having been used, being in use, or prepared, possessed, or retained for use in the conduct, transaction, or performance of any business, transaction, work, duty, or function which was conducted, transacted, or performed by or under the authority of the constitution or laws of this state, or by or under the authority of any ordinance, regulation, mandate, or order of any public body or concerning the receipt or payment of any money received or paid by or under the authority of the constitution or the laws of this state, are "public records", except as otherwise provided in this Chapter or the Constitution of Louisiana.

(b) Notwithstanding Subparagraph (a), any documentary material of a security feature of a public body's electronic data processing system, information technology system, telecommunications network, or electronic security system, including hardware or software security, password, or security procedure, process, configuration, software, and code is not a "public record".

(3) As used in this Chapter, the word "custodian" means the public official or head of any public body having custody or control of a public record, or a representative specifically authorized by him to respond to requests to inspect any such public records.

B. Electrical well surveys produced from wells drilled in search of oil and gas located in established units and which are filed with the assistant secretary of the office of conservation shall be placed in the open files of the office of conservation. Any party or firm shall have the right to examine or reproduce, or both, at their own expense, copies of said survey, by photography or other means not injurious to said records. All other electric logs and other electronic surveys, other than seismic data, produced from wells drilled in search of oil and gas which are filed with the assistant secretary of the office of conservation shall remain confidential upon the request of the owner so filing for periods as follows:

For wells shallower than fifteen thousand feet a period of one year, plus one additional year when evidence is submitted to the assistant secretary of the office of conservation that the owner of the log has a leasehold interest in the general area in which the well was drilled and the log produced; for wells fifteen thousand feet deep or deeper, a period of two years, plus two additional years when evidence is submitted to the assistant secretary of the office of conservation that the owner of the log has such an interest in the general area in which the well was drilled and the log produced; and for wells drilled in the offshore area, subsequent to July 1, 1977, regardless of depth, a period of two years from the filing of the log with the office of conservation, plus two additional years where evidence is submitted to the assistant secretary of the office of conservation that the owner of the log

has such an interest in the general area in which the well was drilled and the log produced and has immediate plans to develop the said general area, unless a shorter period of confidentiality is specifically provided in the existing lease.

At the expiration of time in which any log or electronic surveys, other than seismic data, shall be held as confidential by the assistant secretary of the office of conservation as provided for above, said log or logs shall be placed in the open files of the office of conservation and any party or firm shall have the right to examine or reproduce, or both, at their own expense, copies of said log or electronic survey, other than seismic data, by photography or other means not injurious to said records.

Amended by Acts 1973, No. 135, § 1; Acts 1973, Ex.Sess., No. 4, § 1; Acts 1978, No. 686, § 1; Acts 1979, No. 691, § 1; Acts 1980, No. 248, § 1; Acts 2001, No. 707, § 1, eff. June 25, 2001; Acts 2001, No. 882, § 1.

La. R.S. 44:3

§3. Records of prosecutive, investigative, and law enforcement agencies, and communications districts

A. Nothing in this Chapter shall be construed to require disclosures of records, or the information contained therein, held by the offices of the attorney general, district attorneys, sheriffs, police departments, Department of Public Safety and Corrections, marshals, investigators, public health investigators, correctional agencies, communications districts, or intelligence agencies of the state, which records are:

(1) Records pertaining to pending criminal litigation or any criminal litigation which can be reasonably anticipated, until such litigation has been finally adjudicated or otherwise settled, except as otherwise provided in Subsection F of this Section; or

(2) Records containing the identity of a confidential source of information or records which would tend to reveal the identity of a confidential source of information; or

(3) Records containing security procedures, investigative training information or aids, investigative techniques, investigative technical equipment or instructions on the use thereof, or internal security information; or

(4)(a) The records of the arrest of a person, other than the report of the officer or officers investigating a complaint, until a final judgment of conviction or the acceptance of a plea of guilty by a court of competent jurisdiction. However, the initial report of the officer or officers investigating a complaint, but not to apply to any followup or subsequent report or investigation, records of the booking of a person as provided in Louisiana Code of Criminal Procedure Article 228, records of the issuance of a summons or citation, and records of the filing of a bill of information shall be a public record.

(b) The initial report shall set forth:

(i) A narrative description of the alleged offense, including appropriate details thereof as determined by the law enforcement agency.

(ii) The name and identification of each person charged with or arrested for the alleged offense.

(iii) The time and date of the alleged offense.

(iv) The location of the alleged offense.

(v) The property involved.

(vi) The vehicles involved.

(vii) The names of investigating officers.

(c) Nothing herein shall be construed to require the disclosure of information which would reveal undercover or intelligence operations.

- (d) Nothing herein shall be construed to require the disclosure of information which would reveal the identity of the victim of a sexual offense.
- (5) Records containing the identity of an undercover police officer or records which would tend to reveal the identity of an undercover police officer; or
- (6) Records concerning status offenders as defined in the Code of Juvenile Procedure.
- (7) Repealed by Acts 1990, No. 59, § 3, eff. June 26, 1990.

B. All records, files, documents, and communications, and information contained therein, pertaining to or tending to impart the identity of any confidential source of information of any of the state officers, agencies, or departments mentioned in Paragraph A above, shall be privileged, and no court shall order the disclosure of same except on grounds of due process or constitutional law. No officer or employee of any of the officers, agencies, or departments mentioned in Paragraph A above shall disclose said privileged information or produce said privileged records, files, documents, or communications, except on a court order as provided above or with the written consent of the chief officer of the agency or department where he is employed or in which he holds office, and to this end said officer or employee shall be immune from contempt of court and from any and all other criminal penalties for compliance with this paragraph.

C. Whenever the same is necessary, judicial determination pertaining to compliance with this section or with constitutional law shall be made after a contradictory hearing as provided by law. An appeal by the state or an officer, agency, or department thereof shall be suspensive.

D. Nothing in this Section shall be construed to prevent any and all prosecutive, investigative, and law enforcement agencies and communications districts from having among themselves a free flow of information for the purpose of achieving coordinated and effective criminal justice.

E. Nothing in this Section shall be construed as forbidding the release of all or part of investigative files of fires classified as arson, incendiary, or suspicious unless, after consultation with the appropriate law enforcement agency, any sheriff, district attorney, or other law enforcement agency directs that the records not be disclosed because of pending or anticipated criminal adjudication.

F. Notwithstanding any other provision of law to the contrary, after a period of ten years has lapsed from the date of death of a person by other than natural causes, and upon approval by the district court having jurisdiction over any criminal prosecution which may result due to the death of such person, any prosecutive, investigative, and other law enforcement agency, or any other governmental agency in possession of investigative files or evidence or potential evidence, or any other record, document, or item relating to said death shall, upon request, provide copies of all such files, records, and documents to immediate family members of the victim and shall provide unlimited access for any and all purposes to all such evidence, potential evidence, and other items to any member of the immediate family and to any person or persons whom any member of the immediate family has designated for such purposes. The access granted shall include but not be limited to the examination, inspection, photographing, copying, testing, making impressions, and the use in any court proceeding of and conducting forensic studies on such evidence, potential evidence, and other items. For the purposes of this Subsection, the term "immediate family" shall mean the surviving spouse, children, grandchildren, and siblings of the victim.

Amended by Acts 1972, No. 448, § 1; Acts 1978, No. 313, § 1; Acts 1978, No. 686, § 1; Acts 1979, No. 336, § 1; Acts 1983, No. 247, § 1; Acts 1984, No. 945, § 1; S.C.R. No. 139, 1985 R.S.; Acts 1986, No. 785, § 1; Acts 1988, No. 438, § 1; Acts 1990, No. 59, § 2 and 3, eff. June 26, 1990; Acts 1990, No. 218, § 1, eff. July 2, 1990; Acts 1991, No. 86, § 1; Acts 1995, No. 519, § 1, eff. June 18, 1995; Acts 1999, No. 484, § 1, eff. June 18, 1999; Acts 1999, No. 1189, § 1.

La. R.S. 44:36

§36. Preservation of records

A. All persons and public bodies having custody or control of any public record, other than conveyance, probate, mortgage, or other permanent records required by existing law to be kept for all time, shall exercise diligence and care in preserving the public record for the period or periods of time specified for such public records in formal records retention schedules developed and approved by the state archivist and director of the division of archives, records management, and history of the Department of State. However, in all instances in which a formal retention schedule has not been executed, such public records shall be preserved and maintained for a period of at least three years from the date on which the public record was made. However, where copies of an original record exist, the original alone shall be kept; when only duplicate copies of a record exist, only one copy of the

duplicate copies shall be required to be kept. Where an appropriate form of the microphotographic process has been utilized to record, file, and otherwise preserve such public records with microforms produced in compliance with the provisions of R.S. 44:415, the microforms shall be deemed originals in themselves, as provided by R.S. 44:39(B), and disposition of original documents which have been microphotographically preserved and of duplicates and other copies thereof shall proceed as provided in R.S. 44:411.

B. All existing records or records hereafter accumulated by the Department of Revenue may be destroyed after five years from the thirty-first day of December of the year in which the tax to which the records pertain became due; provided that these records shall not be destroyed in any case where there is a contest relative to the payment of taxes or where a claim has been made for a refund or where litigation with reference thereto is pending.

C. All existing records or records hereafter accumulated by the various services of the state or its subdivisions which participate in federal programs or receive federal grants may be destroyed after three years from the date on which the records were made in those cases where this provision is not superseded by guidelines for the operative federal program or grant requiring longer retention periods for the records in question; provided that these records shall not be destroyed in any case where litigation with reference thereto is pending, or until the appropriate state or federal audits have been conducted.

D. All existing records or records hereafter accumulated by the Department of Public Safety and Corrections, Corrections Services, pertaining to any adult offender may not be destroyed until after fifteen years from the date the full term sentence imposed upon such offender expires.

E.(1) The public records of a prosecuting agency, pertaining to a criminal prosecution that results in a conviction, in a manner other than a plea, shall be retained for a period of three years from the date on which a court of appeal affirms the conviction, the Louisiana Supreme Court denies writs, or the Louisiana Supreme Court makes its final ruling on the appeal, whichever occurs last.

(2) The provisions of this Subsection shall not apply to any records expunged as provided by law.

(3) Nothing in this Subsection shall be construed in any manner to affect or alter the provisions of R.S. 44:3 regarding the records of prosecuting agencies.

Amended by Acts 1950, No. 134, § 1; Acts 1954, No. 473, § 1; Acts 1978, No. 43, § 1; Acts 1983, 1st Ex. Sess., No. 11, § 1, eff. Jan. 19, 1983; Acts 1986, No. 1075, § 1; Acts 1991, No. 310, § 1; Acts 1997, No. 1269, § 1, eff. July 15, 1997.

La. R.S. 44:37

§37. Penalties for violation by custodians of records

Any person having custody or control of a public record, who violates any of the provisions of this Chapter, or any person not having such custody or control who by any conspiracy, understanding or cooperation with any other person hinders or attempts to hinder the inspection of any public records declared by this Chapter to be subject to inspection, shall upon first conviction be fined not less than one hundred dollars, and not more than one thousand dollars, or shall be imprisoned for not less than one month, nor more than six months. Upon any subsequent conviction he shall be fined not less than two hundred fifty dollars, and not more than two thousand dollars, or imprisoned for not less than two months, nor more than six months, or both.

La. R.S. 44:39

§39. Microfilm and electronic digitized records; use as evidence

A.(1) All persons and public bodies having custody or control of any public records of the state of Louisiana or any of its subdivisions may utilize any appropriate form of the microphotographic process, or an electronic digitizing process capable of reproducing an unalterable image of the original source document, for the recordation, filing, and preservation of all existing public records, forms, and documents or records, forms, and documents hereafter accumulated which pertain to their functions and operations in order to maintain efficient and economical records management programs and to conserve storage space, provided that the use of such microphotographic or electronic digitizing processes are not otherwise prohibited by law and

that all microforms produced comply with standards established by the division of archives, records management, and history of the Department of State in accordance with the provisions of R.S. 44:415.

(2)(a) However, when electronic digitizing is utilized, the original source document or microfilm of such source document shall be maintained until such time as electronic digitizing is recognized as an acceptable means of records preservation.

(b) Notwithstanding the provisions of this Subsection, the agencies and entities set forth in this Subparagraph shall not be required to maintain the original source document or microfilm thereof when such document has been preserved utilizing electronic digitizing pursuant to written operating standards providing for retention and back-up schedules in accordance with recognized computer operating practices which at a minimum provide the technical equivalent of back-up copies:

(i) Public safety services within the Department of Public Safety and Corrections.

(ii) All public retirement systems, plans, and funds.

(iii) Any further exceptions to the provision to maintain original source documents or microfilm thereof under this Subsection must be approved in writing by the state archivist.

B. Any microfilm or electronically digitized copy, when satisfactorily identified, shall be deemed to be an original itself, and shall be admissible in evidence in all courts or administrative proceedings in any agency, whether the original document is in existence or not, and an enlargement or facsimile of a reproduction is likewise admissible in evidence, if the original reproduction is in existence and available for inspection under direction of the court or the administrative agency. Original records shall remain subject to subpoena.

Amended by Acts 1950, No. 134, § 1; Acts 1978, No. 364, § 1; Acts 1986, No. 1075, § 1; Acts 1987, No. 621, § 1; Acts 1997, No. 373, § 1; Acts 1998, 1st Ex. Sess., No. 73, § 1, eff. May 1, 1998; Acts 1999, No. 301, § 1, eff. July 1, 1999.

La. R.S. 44:40

§40. Additional copies of records by microphotographic process; purchase of equipment; funds available for payment; copies of suit records

A. The several clerks of court and ex officio recorders and registers of conveyances and recorders of mortgages, throughout the state, are hereby authorized at their option to make additional copies, by means of the microphotographic process, of all original acts and/or records thereof, including criminal records, of every nature and kind in their custody by virtue of their various official capacities as such clerks of court and ex officio recorders and registers of conveyances and recorders of mortgages, filed or recorded in their offices prior to July 29, 1964 and subsequent thereto.

B. Such clerks of court and ex officio recorders and registers are hereby authorized to purchase the necessary microphotographic equipment and equipment used to retrieve from storage microfilm copies, to lease such equipment or to contract with competent independent contractors, or both, according to the discretion of said clerks of court and ex officio recorders and registers, to cause the records described in this section to be copied and reproduced by means of the microphotographic process.

C. Each such clerk of court and ex officio recorder and register is hereby authorized to defray the cost of copying, reproducing and retrieving the records described in this section, including the cost of microphotographic and retrieval equipment and services, out of any funds available in the clerk's salary fund.

D. In the parish of Orleans the judges of the civil district court and the criminal district court, and in the remainder of the state the respective police juries or other governing authorities of the several parishes, are authorized to provide the necessary funds, when such funds are not already available, to enable said clerk of courts and ex officio recorders and registers to carry out the provisions of this section.

E. The several clerks of court, including the clerks of the Criminal or Civil District Courts for the parish of Orleans, shall make and retain in their custody, by means of the microphotographic process, a copy of all original criminal and civil records of every nature and kind, which are deemed permanent under a record retention and disposal schedule adopted by the secretary of state and the clerks of court in accordance with R.S. 44:410, and which have been in their custody for a period of five or more years. The clerks of court may then destroy the original criminal records and any other records, the destruction of which is authorized by R.S. 13:917, which have been so copied and retained. However, all records in suits affecting

records relating to immovable property, or adoption, interdiction, successions, trusts, or emancipation, shall be retained in their original form, even though they have been copied as provided herein.

F. Five years after rendition of a final judgment from which no appeal may be taken, in any suit, except suits affecting records relating to immovable property, adoption, interdiction, successions, trusts or emancipation, the clerk of court, including the clerk of the Criminal or Civil District Court in the parish of Orleans, shall transfer at the direction of the state archivist all permanent records in the suit to the Department of State, as custodian of the official archives of the state, for safe and secure storage, service, restoration, and preservation. The state archivist shall establish a schedule by which all suit records heretofore accumulated by various clerks of court shall be transferred. The schedule shall include provisions for transfer from the parishes, in alphabetical order, of records from the years 1699 through 1921, to be completed by December 31, 1980, and for transfer, in the same order, of records from the years since 1921 in which the final judgment was rendered prior to September 8, 1973, to be completed by December 31, 1981. Upon receipt, the department shall make reproductions of the original records by the microphotographic process, retain a master negative thereof, and transmit to the sending clerk a copy of the reproductions of the records. The department shall maintain the confidentiality of any records, or parts thereof, which are so classified by law. Thereafter, notwithstanding the provisions of R.S. 44:421, the department shall not make or authenticate copies or reproductions of those records but, upon receipt of any request for service or of any inquiry relating to those records, the department shall forward the request or inquiry to the appropriate clerk of court, who may render the necessary services and charge the appropriate fees, as provided in R.S. 13:841 or 844, or in Orleans Parish by R.S. 13:1213 or 1381.

The provisions of this Subsection shall not apply to any records, the destruction of which is authorized by Subsection E of this section or by R.S. 13:917.

Acts 1958, No. 350, § 1 to 4. Amended by Acts 1964, No. 415, § 1; Acts 1972, No. 498, § 1, 2; Acts 1978, No. 365, § 1; Acts 1978, No. 396, § 1.

La. R.S. 44:401

CHAPTER 5. STATE ARCHIVAL, HISTORICAL, AND PUBLIC RECORDS SERVICES

§401. Division of archives, records management, and history

The division of archives, records management, and history is hereby created and established as a division of the Department of State, to perform all duties, functions, and responsibilities and to exercise all authority or authorities heretofore assigned to the State Archives and Records Service by providing for a statewide system of managing and preserving government records which will meet informational requirements and serve the rights and interests of government and its citizens, and specifically to:

- (1) Provide that these records are created and managed efficiently, economically, and in a manner to insure their integrity and availability.
- (2) Preserve for use, by the government and citizens, those records which, because of their intrinsic, historical, or evidentiary values become a part of the legacy government leaves for the state.

Acts 1985, No. 238, § 1, eff. July 6, 1985.

La. R.S. 44:402

§402. Definitions

For the purpose of this Chapter:

- (1) "Secretary" means secretary of state.
- (2) "State archivist" means the state archivist and director of the division of archives, records management, and history, appointed by the secretary to serve as director of that division and as state archivist.

(3) "Division" means the division of archives, records management, and history.

(4) "Records" means all documents, papers, letters, books, drawings, maps, plats, photographs, magnetic or optical media, microfilm, microphotograph, motion picture film, or other document or any other material, regardless of physical form or characteristic, generated or received under law or in connection with the transaction of official business, or preserved by an agency or political subdivision because of other informational or legal value. This term shall not be construed to include library and museum material developed or acquired and preserved solely for reference or exhibition purposes, extra copies maintained for convenience in reference or stocks of standard publications, or processed documents.

(5) "Agency" means any state, parish and municipal office, department, division, board, bureau, commission, authority, or other separate unit of state, parish, or municipal government created or established by the constitution, law, resolution, proclamation, or ordinance.

(6) "State archives" means an establishment maintained by the division to administer a program to provide for the preservation of those records and other papers that have been determined by the state archivist to have sufficient historical, fiscal, or legal value to warrant their continued preservation by the state, whether they have been deposited with the state archives or are to be maintained in agency custody.

(7) "Records management" means the systematic application of management techniques to the creation, utilization, maintenance, retention, preservation, and disposal of records for the purpose of reducing costs and improving efficiency of records keeping. "Records management" includes management of filing and microfilming equipment and supplies; filing and information retrieval systems; files, correspondence, reports, and forms management; historical documentation; micrographics; retention programming; and vital records protection.

(8) "Records center" means an establishment maintained by the division primarily for the economical storage, processing, servicing, and security of inactive public records that must be retained for varying periods of time but which need not be held in agency offices for the entire periods.

(9) "Retention and disposal schedule" means a set of disposition instructions prescribing how long, in what location, under what conditions, and in what form records series shall be kept.

(10) "Vital records" means any record essential to either or both the resumption or continuation of operations, to verification or re-creation of the legal and financial status of government in the state, or to the protection and fulfillment of obligations to citizens of the state.

(11) "Destruction" means to destroy by shredding, burning, or other suitable means of obliteration.

(12) "Disposal" means destruction in any manner approved by the environmental authority; or, transferral into the custody of the repository designated by the state archivist as most appropriate for continued maintenance.

Acts 1985, No. 238, § 1, eff. July 6, 1985.

La. R.S. 44:403

§403. Counsel

Legal services for the division shall be provided by the secretary or the attorney general and the various district attorneys in their various districts.

Acts 1985, No. 238, § 1, eff. July 6, 1985.

La. R.S. 44:404

§404. State archivist

The secretary will appoint a professionally qualified state archivist and director of the division of archives, records management, and history who shall have administrative responsibility for the division and shall serve as the archivist of the state of Louisiana. All administrative duties and functions of this Chapter shall be exercised by the state archivist acting under the direction and supervision of the secretary.

Acts 1956, No. 337, § 4; Acts 1985, No. 238, § 1, eff. July 6, 1985.

La. R.S. 44:405

§405. Powers and duties

A. The secretary shall enforce the provisions of this Chapter and pursuant thereto may promulgate, or authorize the state archivist to promulgate, policies not inconsistent with law and in accordance with the Administrative Procedure Act, establishing:

- (1) Procedures for the compiling and submitting to the division heretofore created, of lists and schedules of records proposed for disposal.
- (2) Procedures for the disposal of records authorized for disposal, whether in agency custody or in the possession of the division.
- (3) Procedures for the reproduction of public records by photographic, microphotographic, or other appropriate process when necessary to assure the preservation thereof.
- (4) Procedures for preservation, repair, treatment, and restoration of old, discolored, worn, fragile, faded, or torn documents, or records which are declared by the state archivist to have historical or archival value, whether stored in the state archives, the records center, or held in the custody of the repository agency.

B. It is intended that such policies, rules, and regulations be formulated after surveying and evaluating the circumstances of and receiving advice from the various state agencies and the governing authorities of the various subdivisions of the state. Such policies, rules, and regulations thereafter shall be binding upon all the agencies of the state and its subdivisions. The secretary shall employ such personnel, purchase such equipment, and provide such facilities as may be required in the execution of the powers and duties imposed upon the secretary. The secretary shall perform any acts deemed necessary, legal and proper to carry out the duties and responsibilities imposed upon him pursuant to the authority granted herein.

Acts 1956, No. 337, § 5; Acts 1985, No. 238, § 1, eff. July 6, 1985.

La. R.S. 44:406

§406. Collection of records

The state archivist shall collect court records, official documents, reports, newspapers, church records, private papers, and other historical materials and data pertaining to the colonial, territorial, and statehood periods from the earliest times to the present, to have said documents, records, and material properly repaired, filed, indexed, and preserved, whether physically or by micrographic or other appropriate process or both, and, when deemed desirable, edited and published to encourage historical investigation and research in the history of the state. When original documents or records are to be maintained in the possession of a custodial agency, the division may provide for the making of a microphotographic security copy or other appropriate facsimile for deposit with the state archives.

Acts 1956, No. 337, § 6; Acts 1985, No. 238, § 1, eff. July 6, 1985.

La. R.S. 44:407

§407. Records management; reports

The state archivist is authorized to make continuing surveys of government records and records management and disposal practices and obtain reports thereon from the state and local governmental agencies; to promulgate, on the basis of information obtained from those surveys and reports, such policies, rules, and regulations as are necessary to produce improved records management practices and controls in the various state and local agencies, including the central storage or disposition of records not needed by such agencies for their current use; and to report to the legislature and to the

governor from time to time on such activities. Such reports shall be issued at the discretion of the state archivist or as prescribed by the governor or the legislature.

Acts 1956, No. 337, § 7; Acts 1985, No. 238, § 1, eff. July 6, 1985.

La. R.S. 44:408

§408. Archives and records center building; duty custody and control

A. The secretary shall have custody and control of the Louisiana State Archives and its contents to house and facilitate operations of the various archives and records management programs, including the records center establishment, and through the Louisiana State Building Authority or its successors shall have authority to design, build, purchase, lease, maintain, operate, protect, and improve buildings or facilities used for the storage of inactive records of state and local agencies of Louisiana.

B. The records center or centers shall accept all records transferred to it or them through the operation of retention schedules approved by the state archivist, provide secure storage and reference service for the same, and submit written notice to inform the applicable agency of intended destruction or disposal of records in accordance with approved retention schedules.

C. Confidential or restricted records shall remain confidential or restricted and, whenever usage of records in the custody of the division is restricted by or pursuant to law or for reasons of security and the public interest, such records shall be inspected, surveyed, or otherwise used only in accordance with law and the policies and regulations imposed by the secretary acting through the state archivist.

D. Records listed for disposal shall either be destroyed in any manner approved by the environmental authority or transferred in accordance with established policies to the most appropriate repository.

Acts 1956, No. 337, § 8; Acts 1985, No. 238, § 1, eff. July 6, 1985.

La. R.S. 44:409

§409. Appointment of advisory groups

The secretary may from time to time appoint advisory groups to more effectively obtain the best professional thinking of groups including but not limited to the bar, historians, political scientists, accountants, genealogists, patriotic groups, associations of public officials, et cetera, concerning the steps to be taken with regard to any particular group or type of records. Advisory group members shall receive no salary.

Acts 1956, No. 337, § 9; Acts 1985, No. 238, § 1, eff. July 6, 1985.

La. R.S. 44:410

§410. Records management programs; policies and principles

A. The secretary, acting through the state archivist, shall, with due regard to the program activities of the state and local agencies concerned, prescribe policies and principles to be followed by state and local governmental agencies in the conduct of their records management programs and make provision for the economical and efficient management of records by state and local governmental agencies; by analyzing, developing, prescribing, and coordinating the implementation of standards, procedures, and techniques designed to improve the management of records, to insure the maintenance and security of records deemed appropriate for preservation, and to facilitate the segregation and disposal of records of temporary value; and by effecting the efficient and economical utilization of space, equipment, and supplies needed for the purpose of creating, maintaining, storing, and servicing records.

B. The division also shall formulate and execute a program to inventory, schedule, and microfilm official parish, municipal, and other local records which are determined by the state archivist to have permanent value, to provide safe storage for microfilm copies of such records, and to give advice and assistance to local officials in their programs for creating, preserving, filing, and making available public records in their custody. The division may assist any state, parish, municipal, or other local agency to implement a records program by providing records analysts and consultants in records management, conducting surveys in order to recommend more efficient records management practices, and providing training for records management personnel.

Acts 1956, No. 337, § 10; Acts 1985, No. 238, § 1, eff. July 6, 1985.

La. R.S. 44:411

§411. Selective retention of records; actions for recovery of records

A. The secretary, acting through the state archivist, shall establish standards for the selective retention of records of continuing value, and monitor state and local agencies in the application of such standards to all records in their custody. To facilitate this application:

- (1) The head of each agency shall submit to the state archivist, in accordance with the policies, rules, and regulations prescribed by the secretary and the implementational standards and procedures established by the state archivist, schedules proposing the length of time each state record series warrants retention for administrative, legal, or fiscal purposes after it has been created or received by the agency.
- (2) The head of each agency shall also submit to the state archivist lists of state records in the custody of that agency which are not required for the transaction of current business and which lack sufficient administrative, legal, or fiscal value to warrant further retention and request that the state archivist authorize appropriate disposal.
- (3) Upon termination of employment with the state, unless otherwise directed by law, each agency head prior to transfer of his records to a successor, shall notify the state archivist to arrange for an appraisal to determine which record or records series should be retained in the agency office and which should be transferred to the custody of the division for permanent retention.
- (4) The records of any state agency, upon termination of its existence or functions, shall automatically be transferred into the custody of the division, unless otherwise directed by law.

B. The secretary, acting through the state archivist, shall also notify the head of any such agency of any actual, impending, or threatening unlawful removal, defacing, alteration, or destruction of records in the custody of such agency that shall come to his attention, and initiate action through the attorney general for the recovery of such records as shall have been unlawfully removed and for such other redress as may be provided by law. In any case in which records or other materials of actual or potential archival significance are determined by the state archivist to be in jeopardy of destruction or deterioration, and such material is not essential to the conduct of daily business in the agency of origin, the secretary shall have authority to require and schedule transfer of said records to the physical and legal custody of the division and the state archivist.

C. To insure that the above enumerated reports and notifications are submitted and implemented, the chief executive officer of each state agency shall designate a records officer to act as liaison between the division and the agency on all matters relating to records management.

Acts 1956, No. 337, § 11; Acts 1985, No. 238, § 1, eff. July 6, 1985.

La. R.S. 44:412

§412. Agency head to maintain active records management programs; use of records center by state and subdivisions

A. The head of each agency of the state and its subdivisions shall establish and maintain an active, continuing program for the economical and efficient management of the records of the agency. Such program shall provide for: effective controls over the creation, maintenance, and use of records in the conduct of current business; cooperation with the division in applying standards, procedures, and techniques designed to improve the management of

records, promote the maintenance and security of records deemed appropriate for preservation, and facilitate the segregation and disposal of records of temporary value; and compliance with the provisions of this Chapter and the rules, and regulations of the division.

B. Whenever the head of an agency of the state or its subdivisions is notified of the substantial economics or increased operating efficiency that can be effected thereby, he shall provide for the storage, processing, and servicing of records that are appropriate therefor in the records center maintained and operated by the division or, when approved by the director in such location maintained and operated by the head of such agency.

Acts 1956, No. 337, § 12; Acts 1985, No. 238, § 1, eff. July 6, 1985.

La. R.S. 44:413

§413. Surveys and inspections

The state archivist is authorized to inspect or survey the records of any state or local agency, as well as to make surveys of records management and records disposal practices in such agencies, and he shall be given full cooperation of officials and employees of agencies in such inspection and surveys; provided, that records, the use of which is restricted by or pursuant to law or for reasons of security or the public interest, shall be inspected or surveyed only in accordance with law, and the policies established by the secretary, acting through the state archivist and the division.

Acts 1956, No. 337, § 13; Acts 1985, No. 238, § 1, eff. July 6, 1985.

La. R.S. 44:414

§414. Interim records centers; photostating, and repair

The secretary is authorized to establish an interim records center or centers and, acting through the state archivist and the division, to promulgate policies, rules, and regulations and institute and implement programs for the storage, processing, and servicing of records of state and local governmental agencies pending their deposit in the state archives or the records center or their disposition in any other manner authorized by law; and to establish, maintain, and operate facilities for microfilming, photostating, indexing, deacidification, decontamination, archival lamination and encapsulation and any other records repair and rehabilitation services for state and local agencies.

Acts 1956, No. 337, § 14; Acts 1985, No. 238, § 1, eff. July 6, 1985

La. R.S. 44:415

§415. Centralized microfilm service

The microfilm section of the records management program of the division shall be the centralized microfilm center for the state. All state agencies lacking existing internally established microfilming systems of their own, and those state agencies whose equipment or facilities are no longer adequate to meet the agency's need, shall contract with the division for microfilming services or shall obtain division approval for any such contract with any other vendor. All microfilming produced by state agency microfilming systems shall comply with standards established by the division in accordance with R.S. 44:405(A)(3). This provision shall not be applicable to any state agency where it can be demonstrated to be more economically feasible to continue the microfilming within the agency.

Acts 1956, No. 337, § 15; Acts 1985, No. 238, § 1, eff. July 6, 1985; Acts 1986, No. 913, § 1.

La. R.S. 44:416

§416. Retention of records for longer periods than scheduled

The director of the archives and records service state archivist may upon determining a need therefor authorize the retention of records in possession of the division or the custody of an agency for a longer period than that specified in any approved disposal schedule, or by law .

Acts 1956, No. 337,§ 16; Acts 1985, No. 238,§ 1, eff. July 6, 1985.

La. R.S. 44:417

§417. Deposit of records of historical value; transfer of deposited records to public or educational institutions

A. The records and associated historical materials of any governor of the state of Louisiana, or any other official of the state, shall be transferred to the custody of the state archivist and deposited with the state archives program within the division when the governor, or other official of the state, leaves office. This Section shall not affect the confidentiality of such records as established by law, nor require the transfer of any document certified by the governor, governor elect, or other official of the state, to be essential for the continued efficient operation of the relevant governmental office; nor shall the provisions of this Section be construed to apply to demonstrably personal and private papers.

B. The state archivist is authorized:

(1) To accept for deposit in the state archives those records of any state or local agency or of the legislature that are determined by the director to have sufficient historical or other value to warrant their continued preservation by the state government of Louisiana.

(2) To direct and effect the transfer to the state archives of any records that have been in existence for more than fifty years and that are determined by the state archivist to have sufficient historical or other value to warrant their continued preservation by the state, unless the head of the state or local agency having custody of the records shall certify in writing to the state archivist that those records must be retained in agency custody because they are essential in the conducting of the regular current business of the said agency.

C. The state archivist is also authorized:

(1) To direct and effect, in accordance with law, with the policies of the division, and with any restrictions or stipulations agreed upon between the division and the head of the originating agency, or its successor, if any, the transfer of records deposited or approved for deposit in the state archives or the records center to public or educational institutions for special research or exhibit purposes. It is prescribed and provided that title to such records shall remain vested in the state of Louisiana unless otherwise authorized by law or, in the absence of legal provision, through policies established by the division. It is further provided that such records may be recalled after reasonable notice in writing.

(2) To direct and effect the transfer to the division from private sources of materials which the state archivist is authorized to receive, and to hold in the custody of the division under the provisions of R.S. 44:406 and R.S. 44:420.

Acts 1956, No. 337,§ 17; Acts 1985, No. 238,§ 1, eff. July 6, 1985.

La. R.S. 44:418

§418. Responsibility for custody, use, and withdrawal of records

The state archivist shall be responsible for the custody, use, and withdrawal of records transferred to the division and shall, whenever the usage of any records is subject to statutory limitation and restrictions, then properly enforce such limitations and restrictions. Such limitations and restrictions shall not remain in force or effect after the records have been in existence for fifty years. Other limiting agreements, nonstatutory in nature, established between the division and the donor or donors, shall likewise remain in force for no more than fifty years.

Acts 1956, No. 337,§ 18; Acts 1985, No. 238,§ 1, eff. July 6, 1985.

La. R.S. 44:419

§419. Preservation, repair, exhibition of records; finding aids

A. The state archivist shall make provisions for the preservation, management, repair, and rehabilitation, duplication and reproduction, description, and exhibition of records or related documentary material transferred to him as may be needful or appropriate, including the preparation and duplication of inventories, indexes, catalogs, and other finding aids or guides facilitating their use.

B. The state archivist shall make provisions for the display or exhibition of photographic copies of microphotographic copies of records in his or the agency's custody, in lieu of the original records, if he deems it necessary to protect old, fragile, or damaged records from further damage or loss.

Acts 1956, No. 337, § 19; Acts 1985, No. 238, § 1, eff. July 6, 1985.

La. R.S. 44:420

§420. Deposit of papers and other historical materials of officials and individuals

The state archivist is authorized to accept for deposit: the records, papers, and other historical materials of former governors of the state of Louisiana, or of any other official or former official of the state and its subdivisions, and other papers relating to and contemporary with any governor or former governor of Louisiana, subject to restrictions mutually acceptable to the division and the donor; and documentary materials, including motion picture films, still pictures, sound recordings, maps, and papers from private sources that are appropriate for preservation by the state government as evidence of its organization, functions, policies, and transactions, or those of its subdivisions.

Acts 1956, No. 337, § 20; Acts 1985, No. 238, § 1, eff. July 6, 1985.

La. R.S. 44:421

§421. Authorization to certify facts; evidentiary status of any reproductions

A. Any official who is authorized to certify to facts on the basis of records in his custody is authorized to certify to facts on the basis of records that have been transferred by him or his predecessors to the division; however, any fee due any official of the state or its subdivisions shall not be eliminated by this Chapter.

B. Whenever any officer of the state of Louisiana, any political subdivision, municipal corporation, or public corporation is required or authorized by law to record, copy, file, recopy, or replace any document, plat, paper, voucher, receipt, or book on file, or record in his office, he may do so by photostatic, microphotographic, microfilm, or other mechanical process which produces a clear, accurate, and permanent copy, reproduction, or facsimile of the original in accordance with standards not less than those established by the division for permanent records under the authority conveyed by R.S. 44:405(A)(3). Any document, when so reproduced and properly identified and certified, shall have full evidentiary value and force in law.

Acts 1956, No. 337, § 21; Acts 1985, No. 238, § 1, eff. July 6, 1985.

La. R.S. 44:422

§422. Safeguards against removal or loss of records

The head of each agency of the state or its subdivisions shall establish such safeguards against removal or loss of records as he shall deem necessary and as may be required by rules and regulations issued under authority of this Chapter. Such safeguards shall include making it known to all officials and employees of the agency that no records are to be alienated or destroyed except in accordance with law and the policies, rules, and regulations developed therefrom by the state archivist and the division, and calling their attention to the penalties provided by law for the unlawful removal or destruction of records.

Acts 1956, No. 337, § 22; Acts 1985, No. 238, § 1, eff. July 6, 1985.

La. R.S. 44:423

§423. Notification of actual or threatened unlawful removal or destruction

The head of each agency of the state or any of its subdivisions shall notify the secretary through the state archivist of any actual, impending, or threatened unlawful removal, defacing, alteration, or destruction of records in the custody of the agency that shall come to his attention and shall assist the secretary in initiating action through the attorney general for recovery.

Acts 1956, No. 337, § 23; Acts 1985, No. 238, § 1, eff. July 6, 1985.

La. R.S. 44:426

§426. Transfer of inactive legislative records to archives

A. The secretary of the Senate and the clerk of the House of Representatives shall, unless otherwise directed by the Senate or House of Representatives, obtain at the close of each session of the legislature all of the inactive records of the legislature and of each committee thereof and transfer them to the custody of the division for preservation or other appropriate disposition.

B. Upon request, the state archivist shall assist and advise in the establishment of records management programs in the legislative and judicial branches of state government and may, if those branches desire, provide program services similar to those available to the executive branch of state government.

Acts 1956, No. 337, § 26; Acts 1985, No. 238, § 1, eff. July 6, 1985.

La. R.S. 44:427

§427. Suit records; inquiries or request for service

A. Five years after rendition of a final judgment from which no appeal may be taken, in any suit, except suits affecting records relating to immovable property, adoption, interdiction, successions, trusts, or emancipation, the clerk of court, including the clerk of the Criminal or Civil District Court in the parish of Orleans, shall transfer at the direction of the state archivist all permanent records in the suit to the Department of State, as custodian of the official archives of the state, for safe and secure storage, service, restoration, and preservation. The state archivist shall direct the transfer of records from the various parishes in accordance with the schedule established by him pursuant to R.S. 44:40(F). The department shall make reproductions of the original records by the microphotographic process, retain a master negative thereof, and transmit to the sending clerk a copy of the reproductions of the records. The department shall maintain the confidentiality of any records, or parts thereof, which are so classified by law. Thereafter, notwithstanding the provisions of R.S. 44:421, the department shall not make or authenticate copies or reproductions of those records but, upon receipt of any requests for service or of any inquiry relating to those records, the department shall forward the request or inquiry to the appropriate clerk of court, who may render the necessary services and charge the appropriate fees, as provided in R.S. 13:841 or 844, or in Orleans Parish by R.S. 13:1213 or 1381.

B. The provisions of this Section shall not apply to any records, the destruction of which is authorized by R.S. 44:40(E) or by R.S. 13:917.

Acts 1956, No. 337, § 27; Acts 1985, No. 238, § 1, eff. July 6, 1985.

Appendix D - Imaging Policy

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Appendix E - References

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