

1975 WL 29002 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 11, 1975

\*1 The filings of UCC financing statements held by Chesterfield County may not be destroyed until a schedule for their disposition is prepared in cooperation with the Department of Archives and History.

Honorable C. Anthony Harris  
Senator  
District No. 9

QUESTION PRESENTED:

At what time may filings of UCC financing statements held by Chesterfield County be destroyed?

STATUTES CITED:

Code of Laws of South Carolina, 1962, as amended, Sections 1-581 through 1-594 and Section 10.9-403.

DISCUSSION OF ISSUE:

Sections 1-581 through 1-594, Code of Laws of South Carolina, 1962, provide for the supervision of the preservation and disposition of records by the Department of Archives and History. Although Section 10.9-403, Code of Laws of South Carolina 1962, as amended, provides for the destruction of filings of UCC financing statements which have lapsed after a five year period, it does so only if there are no other statutes governing the disposition of public records. Since provisions for record retention are contained in the Department of Archives and History Sections, the Archives Sections should control.

That the Archives statutes are applicable is made clear by Section 1-588, Code of Laws of South Carolina, 1962, as amended, which requires the cooperation of the governing bodies of subdivisions with the Archives in setting up a program for record retention. In addition, the Archives by § 1-589, Code of Laws of South Carolina 1962, as amended, may request the preparation of a schedule for record retention, which, upon approval, would serve as the authorization for the destruction of the records. Before disposing of its old UCC filings, the governing body of Chesterfield County should contact the Department of Archives to set up a schedule for the preservation and destruction of the records.

CONCLUSION:

The filings of UCC financing statements held by Chesterfield County may not be destroyed until a schedule for their disposition is prepared in cooperation with the Department of Archives and History.

Victor S. Evans  
Deputy Attorney General

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