

Opinion No. 57-54

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BY: OPINION OF FRED M. STANDLEY, Attorney General Fred M. Calkins, Jr.,
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TO: Major General Charles G. Sage, Office of the Adjutant General, Santa Fe, New
Mexico

QUESTIONS

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Is it necessary to retain copies of insurance policies which have either expired or been renewed by a substitute policy?

CONCLUSION

No.

OPINION

ANALYSIS

The parties to an insurance policy, like in any other contract, are bound by the provisions of the contract expressed therein. Every insurance policy contains a policy period, stating the commencement date of the policy and the date of termination. The insurer is obligated to indemnify the assured only if the loss occurs during the policy period, and before the date of termination. Any loss occurring after the expiration date would, of course, not be covered by the policy.

It is our understanding that the policies of insurance in the instant case are for protection against fire and other losses, under a fire and extended coverage policy. Naturally, no policy should be destroyed if there still remains a loss to be settled or adjudicated thereunder. In addition to the above, in most cases a loss does not occur until it becomes known to the policyholder and knowledge of the loss could occur after the expiration date of the policy. In conclusion, we believe it would be proper to destroy expired policies if there remains no loss to be adjudicated or settled thereunder, and if you are absolutely certain that any losses which might be claimed under the policy has not been overlooked.