



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**JOHN BEN SHEPPERD
ATTORNEY GENERAL**

May 19, 1954

Hon. Robert S. Calvert
Comptroller of Public Accounts
Austin, Texas

Letter Opinion No. MS-131

Re: Disposition of tax
revenue collected
under Art. 881a-6,
V.C.S.

Dear Mr. Calvert:

We have your request for an opinion on whether the annual franchise tax revenue collected by the Banking Commissioner from domestic building and loan associations under Article 881a-6, Vernon's Civil Statutes, should be deposited in the State Treasury or in the fund created for the support of the Banking Department of Texas by Chapter 139, Acts of the Fifty-second Legislature, 1951.

In 1951 the traditional system of financing the Banking Department through biennial appropriations of funds in the State Treasury was abolished and a plan of "self-support and independent administration" was substituted. This new system was accomplished by detailed amendments to existing statutes authorizing collection of fees, penalties and other revenues by the Banking Department so as to permit the Department to retain and hold out of the State Treasury the designated revenues and to permit the Department to independently account for and report its receipts and expenditures. Acts 52nd Leg., 1951, ch. 139, p. 233.

The terminology of Article 881a-6 (Acts 41st Leg., 2nd C.S.1929, ch.61, sec.6) was not altered by the Legislature. It provides:

"Every domestic building and loan association shall pay to the State Treasurer, through the Banking Commissioner of Texas, an annual franchise tax of ten dollars."

Thus it would appear on first reading that the Legislature intended no change in the long-standing procedure whereby such money was, prior to 1951, deposited in the State Treasury.

But in Section 8 of the Banking Department Self-Support and Administration Act (See Article 3921a, V.C.S.) the Legislature forestalled such a construction by providing that

"Notwithstanding anything to the contrary contained in any other law of this State, all fees, penalties and other revenues which are collected by the Banking Department of Texas shall be retained and held by said Department, and no part of such fees, penalties and other revenues shall ever be paid into the General Revenue Fund of this State."

You are respectfully advised that the annual franchise tax revenue collected by the Banking Commissioner under Article 881a-6, V.C.S., should be retained by the Banking Department.

Yours very truly,

JOHN BEN SHEPPERD
Attorney General

By
Phillip Robinson
Assistant

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