

Transfer to state as reserve law enf. off.

Number: INFORMAL

Date: December 13, 2006

Mr. Nick Loeb
1850 Lake Drive
Delray Beach, Florida 33444

Dear Mr. Loeb:

Thank you for contacting the Florida Attorney General's Office regarding the requirements established by the Florida Department of Law Enforcement to transfer to Florida as a reserve law enforcement officer. Attorney General Crist has asked me to respond to your letter.

After reviewing the information you have forwarded, it does not appear that this is a matter upon which this office may comment. The Florida Attorney General is statutorily authorized to provide legal opinions to governmental officers on questions relating to their own official duties.[1] This office has no statutory authority to comment on the administrative rules of other state agencies, such as the Department of Law Enforcement nor are we authorized to provide Attorney General Opinions to individuals other than governmental officers.

However, in an effort to be of some assistance to you, I would note that section 943.13(9), Florida Statutes provides certain minimum qualifications for employment or appointment as a law enforcement officer in this state. Pursuant to this statute, any person employed or appointed as a full-time, part-time, or auxiliary law enforcement officer shall:

"Complete a commission-approved basic recruit training program for the applicable criminal justice discipline, unless exempt under this subsection. An applicant who has:

- (a) Completed a comparable basic recruit training program for the applicable criminal justice discipline in another state or for the Federal Government; and
- (b) Served as a full-time sworn officer in another state or for the Federal Government for at least 1 year provided there is no more than an 8-year break in employment, as measured from the separation date of the most recent qualifying employment to the time a complete application is submitted for an exemption under this section,

is exempt in accordance with s. 943.131(2) from completing the commission-approved basic recruit training program."

While the statute does not mention "reserve officers," the definition of an "[a]uxiliary law enforcement officer" is "any person employed or appointed, with or without compensation, who aids or assists a full-time or part-time law enforcement officer and who, while under the direct supervision of a full-time or part-time law enforcement officer, has the authority to arrest and perform law enforcement functions." [2]

It is a general rule of statutory construction that where a statute sets forth exceptions, no others may be implied to be intended.[3] Thus, the exemptions contained in section 943.13(9), Florida Statutes, must be understood to be the only allowed exemptions.

This office is without authority to qualify or read into this statute an interpretation or define words in the statute in such a manner which would result in a construction that seems more equitable under circumstances presented by a particular factual situation; such construction when the language of the statute is clear would in effect be an act of legislation which is exclusively the prerogative of the Legislature.[4] Thus, you may wish to continue working with your local legislators, including Senator Aronberg, in an effort to amend this statute.

We will maintain the information you have forwarded to us and will be happy to work with Senator Aronberg in crafting more equitable statutory language addressing your concerns.

Thank you for contacting the Florida Attorney General's Office.

Sincerely,

Gerry Hammond
Senior Assistant Attorney General

GH/tfl

[1] See section 16.01(3), Florida Statutes.

[2] Section 943.10(8), Fla. Stat.

[3] See *Dobbs v. Sea Isle Hotel*, 56 So. 2d 341, 342 (Fla. 1952); *Biddle v. State Beverage Department*, 187 So. 2d 65, 67 (Fla. 4th DCA 1966); *Williams v. American Surety Company of New York*, 99 So. 2d 877, 880 (Fla. 2nd DCA 1958).

[4] *Cf.*, *Chaffee v. Miami Transfer Company, Inc.*, 288 So. 2d 209 (Fla. 1974), and Op. Att'y Gen. Fla. 81-10 (1981).