

Residency requirement for voting

Number: INFORMAL

Date: October 27, 2000

The Honorable Anthony "Tony" Suarez
Representative, District 35
6586 University Boulevard, Suite 7
Winter Park, Florida 32792-7495

RE: ELECTIONS--VOTING--RESIDENCE--residence qualification for voting. Art. VI, s. 2, Fla. Const.; ss. 97.041 and 97.052, Fla. Stat.

Dear Representative Suarez:

Thank you for contacting this office regarding what may be considered "residence" for purposes of the Florida Election Code, Chapters 97-106, Florida Statutes.

The residence requirement for voters in Florida is established in Article VI, section 2, of the Florida Constitution. That provision reads:

"Every citizen of the United States who is at least eighteen years of age and who is a permanent resident of the state, if registered as provided by law, shall be an elector of the county where registered."

In 1998 the Florida Constitution was amended to delete a voting residence requirement of one year in the state and six months in a county. Florida's constitutional requirements now conform to the United States Constitution and federal case law in this regard.

Section 97.041, Florida Statutes, establishes qualifications to register or vote in this state. The statute requires that:

"A person may become a registered voter only if that person:

1. Is at least 18 years of age;
2. Is a citizen of the United States;
3. Is a legal resident of the State of Florida;
4. Is a legal resident of the county in which that person seeks to be registered; and
5. Registers pursuant to the Florida Election Code."^[1]

While the Election Code does not define the term "residence", the uniform statewide voter registration application requires certain evidence which goes to establishing residence. Section 97.052(2), Florida Statutes, provides:

"The uniform statewide voter registration application must be designed to elicit the following information from the applicant:

- (a) Full name.

- (b) Date of birth.
- (c) *Address of legal residence.*
- (d) Mailing address, if different.
- (e) *County of legal residence.*
- (f) Address of property for which the applicant has been granted a homestead exemption, if any.

* * *

- (k) Name and address where last registered.
- (l) Last four digits of the applicant's social security number.
- (m) Florida Driver's license number or the identification number from a Florida identification card issued under s. 322.051.
- (n) Telephone number (optional).

* * *

(q) Whether the applicant is a citizen of the United States. . . ." (e.s.)

In 1994, section 97.041(2), Florida Statutes, was amended to remove the authority of the supervisory of elections' to require proof of the qualifications of a person registering to vote. Rather, a person who is registering is required by section 97.051, Florida Statutes, to subscribe to an oath, swearing that he or she is qualified to register as an elector under the Constitution and laws of the State of Florida, and is a citizen of the United States and a legal resident of Florida. Pursuant to section 97.053(1), Florida Statutes,

"Voter registration applications, changes in registration, and requests for a replacement registration identification card *must be accepted* in the office of any supervisor, the division, a driver license office, a voter registration agency, or an armed forces recruitment office when hand delivered by the applicant or a third party during the hours that office is open or when mailed." (e.s.)

A completed voter registration application is one that contains the information necessary to establish an applicant's eligibility pursuant to section 97.041, Florida Statutes.[2]

I trust that these informal comments will be of assistance to you.

Sincerely,

Gerry Hammond
Assistant Attorney General

GH/tgk

[1] Section 97.041(1)(a), Fla. Stat.

[2] Section 97.053(2), Fla. Stat.