

DE 84-1 - January 18, 1984

**RESIGN TO RUN
s. 99.012(2), F.S.**

To: Ms. Earline Watkins Watts, 1395 Semoran Boulevard, Casselberry Florida 32707

Prepared by: Division of Elections

This is in response to your question regarding the Resign to Run Law, s. 99.012(2), F.S.

As you have stated in our telephone conversation, you are a city commissioner in the City of Eatonville whose term expires in 1986. You wish to qualify for the Office of Mayor of Eatonville. The mayor is a council member and an elective office. The election will take place March 3, 1984, and, if elects, you would take office on March 6, 1984.

Under the Resign to Run Law, which is applicable to municipal offices, an individual who holds office, the term of which or any part thereof runs concurrently with the term of office for which he seeks to qualify, must resign not less than 10 days prior to the first day of qualifying for the office he intends to seek. s. 99.012(2), F.S. The resignation shall be effective at the earlier of the following dates: (1) the day upon which you would assume office as mayor if elected, (2) the expiration date of the term of office which you presently hold, or (3) the general election day at which your successor is elected.

According to the City Charter, Section 13, Vacancy in the office of town council member:

The town council shall have the power to fill a vacancy in the office of a town council member until a successor is elected and qualified at the next regular municipal election.

The Town Charter seeks to fill vacancies in office "at the next regular municipal election." The Charter appears to permit the election of your successor at the upcoming election, March 3, 1984.

One of the purposes of the Resign to Run Law is to avoid costly special elections to fill vacancies in office occasioned by the resignation of an elected officer who wishes to seek other elective office. Because the law requires that a resignation must be submitted ten days in advance of the first day of qualifying for office, other candidates are able to qualify for the office being vacated and to seek election at the next regular election. In this case, your resignation ten days prior to the first day of qualifying will enable others to qualify for the vacancy in office at the upcoming regular municipal

election.

Accordingly, the earliest effective date for your resignation would be the municipal election day at which your successor is elected.

I enclose several Advisory Opinions issued by our office on the Resign to Run Law as it affects municipal elected offices, which I hope will be of assistance to you. If you have any further questions, please do not hesitate to contact me.