

RESCINDED

DE 88-16 - April 27, 1988

Resign-to-Run Law Section 99.012(2), (7), F.S.

To: Honorable Holly Whidden Green, Supervisor of Elections, Glades County, Post Office Box 668, Moore Haven, Florida 33471

Prepared by: Division of Elections

This is in reference to your request for an advisory opinion on the Resign-to-Run Law. You are the Glades County Supervisor of Elections and the Division of Elections has authority under Section 106.23(2), Florida Statutes, to issue an advisory opinion to you relating to the Florida Election Code, Chapters 97-106, Florida Statutes. Your specific question is as follows:

Does the chief deputy property appraiser need to resign to run for county commissioner?

The Resign-to-Run Law requires an elected or appointed officer to irrevocably resign when seeking an elected office which runs concurrently with the term of office he presently holds. Section 99.012(2), Fla. Stat.

Section 99.012(7), Florida Statutes, provides an exemption from the Resign-to-Run Law for three categories of person: _an officer who is a subordinate personnel, a deputy sheriff or police officer. Each of these three need not resign unless seeking to qualify for a public office which is currently held by an individual who has the authority to appoint, employ, promote or otherwise supervise that person and has qualified for reelection to that office.

In reference to your question, the first consideration is whether a chief deputy property appraiser is an officer within the meaning of the Resign-to-Run Law.

An officer is defined as one who exercises some portion of the sovereign power either in making, executing or administering the law. State ex. rel. Clyatt v. Hocker, 39 Fla. 477, 22 So. 721 (1887). See also State ex rel. Holloway v. Sheats, 83 So. 508 (Fla. 1919).

The property appraiser is a constitutional officer who exercises a share of the sovereign power in determining the value of all property within a county and determining the tax on taxable property after taxes have been levied. Section 192.001(3), Fla. Stat. The property appraiser has the authority to appoint deputy property appraisers to "act in their behalf in carrying out the duties prescribed by law." Section 193.024, Fla. Stat. Therefore, a deputy property appraiser shares in the exercise of sovereign power vested in the property appraiser and is an officer for the purposes of the Resign-to-Run Law.

Our second consideration is whether the chief deputy property appraiser is a subordinate personnel for the purpose of the Resign-to-Run Law and exempt from the resignation requirements of Section 99.012

(2), Florida Statutes. Since the chief deputy property appraiser is appointed by the property appraiser, he is subordinate to the property appraiser and is a subordinate personnel. The exemption contained in Section 99.012(7), Florida Statutes, from the Resign-to-Run Law for an officer who is also a subordinate personnel provides that the chief deputy property appraiser need not resign unless he is running against the incumbent property appraiser.

SUMMARY

A chief deputy property appraiser is both an officer and a subordinate personnel for the purposed of the Resign-to-Run Law. The chief deputy property appraiser does not need to resign to run for county commissioner. He must, however, take a leave of absence when he seeks election to public office.