

Obsolete. Please consult current Florida law.

DE 88-37 - August 25, 1988

Voting When an Elector Has Moved Sections 97.102(1),(2); 101.62; 101.67(1),(2), F.S.

To: Honorable Billie Jean Nuckolls, Supervisor of Elections, Lee County, Post Office Box 2545, Fort Myers, Florida 33902-2545

Prepared by: Division of Elections

This is in reference to your request for an advisory opinion on the Florida Election Code, Chapters 97-106, Florida Statutes. Section 106.23(2), Florida Statutes, provides that the division may issue an advisory opinion to several categories of persons including supervisors of elections. Therefore, we have jurisdiction to issue this opinion to you.

Your specific question is:

May an elector vote for the offices provided in Section 97.102(1), Florida Statutes, at the polls if the elector moved to another county after the books closed or may the elector only vote by absentee ballot?

Section 97.102(1), Florida Statutes, provides that an elector who moves his residence to another county in Florida after the voter registration books have closed, may vote in any general, primary or special election for President and Vice President, United States Senator, statewide offices and statewide issues. However, this section mandates that the elector must vote by absentee ballot in this situation. In addition, this person is not allowed to vote in the county of his former residence after the general election.

Section 97.102(2), Florida Statutes, provides that an elector who moves his permanent residence to another state and who is prohibited by the laws of that state from voting for the offices of President and Vice President will be permitted to vote by absentee ballot in the county of his former residence for those offices only.

Both subsections are specific in that the elector who has moved can only vote by absentee ballot. Therefore, should an elector who has moved return to his former polling place on election day, he must be advised that he may only vote by absentee ballot.

Pursuant to Sections 101.62(1) and 101.67(2), Florida Statutes, the person may request an absentee ballot in person from the supervisor of elections anytime prior to 7:00 p.m. of the election day and that all absentee ballots received by the supervisor by 7:00 p.m. election day will be counted.

SUMMARY

An elector who changes his residence to another county in Florida or moves his permanent residence to another state and who is prohibited by the laws of the state from voting for President and Vice President may vote in his county of previous residence by absentee ballot pursuant to Section 97.102 (1) and (2), Florida Statutes. The person who maintains his Florida residency may vote for President and Vice President, United States Senator, statewide offices and statewide issues. The person who has moved his permanent residency to another state may only vote for the offices of President and Vice President. If the voter appears at his previous polling place on election day he should be instructed that he may obtain an absentee ballot from the supervisor of elections in that county anytime prior to 7:00 p.m. of that day and that all absentee ballots received by the supervisor by 7:00 p.m. election day will be counted.