

Obsolete. Please consult current Florida law.

DE 90-07 - March 12, 1990

Voter Registration Procedures Sections 97.041(2), 98.111, and 98.211, F.S.

To: Honorable Betty Carter, Supervisor of Elections, Orange County, 119 West Kaley Street, Orlando, Florida 32806

Prepared by: Division of Elections

This is in reference to your letter regarding various voter registration procedures. The Division of Elections has authority under Section 106.23(2), Florida Statutes, to issue advisory opinions to several categories of persons including supervisors of elections. You have asked a series of questions relating to registering persons to vote and, for clarity, we will state your question and then the answer. Your questions and our answers are as follows:

1) What is an acceptable rental receipt? If the deputy questions the authenticity of the receipt, can the deputy call the rental agency/landlord to verify?

Section 97.041(2), Florida Statutes, provides that when any person presents himself to register and there is any question regarding his qualifications, the supervisor may require satisfactory proof of his qualifications. This statute allows a supervisor to require a person to provide a rental receipt as proof of residency in the county if there is some question as to the person's qualifications. What constitutes an acceptable rental receipt and whether to call a rental agency to verify the receipt are discretionary decisions to be made by the supervisor based on the situation at hand.

2) If a female comes in to register for the first time in Orange County, and all her identification has her maiden name but she wants to use her new married name, can we accept her ID and use the name of her choice?

3) If there is a discrepancy in a voter's date of birth, should the voter be required to produce his birth certificate?

With regard to your second and third questions, these also fall within the supervisor's discretion. If there is reason to believe that a person is not qualified to vote or there is possibly some attempt at election fraud, it is well within the supervisor's authority to require proof of a person's name or age, etc.

4) When registering the homeless, should some proof of residency be required?

No. The Florida Election Code does not require a person to provide proof of residency before he is registered to vote. As discussed in Division of Elections' Opinion, DE 89-04, the homeless may not be discriminated against in voter registration as long as the applicant intends to remain in a certain locale.

However, if the supervisor questions whether a person is a bona fide resident of the county, under Section 97.041(2), Florida Statutes, it would be within the supervisor's discretion to require proof of residency.

5) If someone comes in to register claiming to have only a first name, can we register him? Should we demand a copy of his birth certificate? May we register him even if his ID has only the first name on it?

Section 98.111, Florida Statutes, provides in part that standard registration forms will contain an individual's "[f]ull name." In AGO 74-348, the Attorney General opined that a person may not register as an elector under an assumed name. Op. Att'y Gen. Fla. 74-348. In registering as an elector, "the person must be identified by his or her 'true' name, i.e., one's given name and family surname." The Attorney General stated that using a name other than a true name for voting purposes would be authorized only when a name has been changed because of marriage or other legal process.

The Attorney General emphasized that the language of the various oaths required in Florida voter registration laws indicate that the legislature is concerned primarily with voter identity and the prevention of election fraud. The state, by its registration requirements, does not prevent or interfere with a person using an assumed name for other purposes; it merely requires true identity for voting.

Therefore, when registering to vote, a person must use his "true" name, i.e., one's given name and family surname, unless the name has been changed by marriage or other legal process.

6) In a prior memo, the registration department was instructed not to volunteer the availability of certificates of registration. Please advise if this policy has changed. Should a certificate be produced for a new registrant, if that registrant insists on an official document?

Chapter 119, Florida Statutes, provides that certified copies of public records must be furnished when requested. However, Section 98.211, Florida Statutes, provides that while registration books are public records, only certain limited categories of persons may receive copies of such information. Therefore, a supervisor cannot furnish a copy of the voter registration record to an individual. A supervisor may, in his discretion, provide a certificate to a voter certifying the information in the voter registration records which pertains to that voter. Many times the certificate is useful in establishing eligibility for Social Security benefits as well as other benefits.

SUMMARY

What constitutes an acceptable rental receipt and whether to call a rental agency to verify the receipt are discretionary decisions to be made by the supervisor based on the situation at hand. If there is reason to believe that a person is not qualified to vote or there is possibly some attempt at election fraud, it is well within the supervisor's authority to require proof of a person's name or age, etc. The Florida Election Code does not require a person to provide proof of residency before he is registered to vote. However, if the supervisor questions whether a person is a bona fide resident of the county, under Section 97.041(2), Florida Statutes, it would be within the supervisor's discretion to require

proof of residency. When registering to vote, a person must use his "true" name, i.e., one's given name and family surname, unless the name has been changed by marriage or other legal process.

A supervisor may, in his discretion, provide a certificate to a voter certifying the information in the voter registration records which pertains to that voter.