

DE 78-16 - March 21, 1978

Voter Identification
ss. 98.091, 98.471 & 101.11, F.S. (1977).

To: Honorable Joyce Dieffenderfer, Supervisor of Elections, Metropolitan Dade County, P.O. Box 012241, Miami, Florida 33101

Prepared by: Division of Elections

By your letter of February 15, 1978, an opinion of this office was requested in response to the following two questions:

1. What documents can be considered satisfactory and acceptable proof of a residence address for the purpose of s. 98.091(2), F.S. (1977)?
2. What forms of identification will be approved by the Department of State pursuant to ss. 98.461 and 98.471, F.S. (1977)?

The 1977 revision of the election laws substantially altered the procedures for voting by an elector whose address has changed. No longer does he/she vote in the precinct of former residence. Instead, the elector will vote in the precinct to which he has moved, provided it is in the same county in which he was previously registered, s. 98.081(2), F.S. (1977).

The new law prescribes an affidavit which the voter must execute. To substantiate the new place of residence, the person seeking to vote must present "proof" of the new residence address. The latter requirement helps to insure that no fraudulent act is being attempted and that the person is in fact qualified to vote in that precinct as a result of his new address.

The quantum of proof required is that which is sufficient to satisfy the clerk of the precinct that the person's address is indeed what he/she says it to be. Should there be any question, the voter is subject to being challenged, s. 101.111, F.S. (1977).

Proof of residence required by the statute is, in fact, presentation of sufficient evidence of residency to satisfy the election clerk. The concept of legal residency is a subjective one. See DE 077-21 (August 22, 1977); Op. Atty Gen. 070-97 (August 3, 1970). However, various documents indicate that the person is residing at a certain specified address. These may include driver's license, automobile registration, rent receipt, mortgage payment receipt, deed, leases, or utility receipt. This should not be construed as an exhaustive list, but merely a brief compilation of certain items which can constitute evidence of residency.

The ultimate determination of whether or not a person has presented satisfactory and acceptable proof of a new residence address rests in the sound and reasonable discretion of the precinct clerk at the

polling place at the time of the elector presenting himself to vote. It is suggested that the supervisor prepare guidelines for the poll workers and take care to avoid inconsistent determination of sufficient proof within the same county. A procedure for processing such situations in the event of a questionable residency with the consultation and advice of the supervisor would appear proper.

In answer to your second question, the Department of state has not approved any specific forms of identification.

It seems likely that any approval promulgated by the department would be general in scope by delineating certain standards to be met by any proffered identification, rather than any enumeration of the specific forms. Such identification would probably include generally acceptable items used for that purpose containing the elector's name, residence address, and, preferably, signature.

SUMMARY

Satisfactory proof of a new residence for the purpose of s. 98.091(2), F.S. (1977), shall be that amount of evidence deemed by the precinct clerk in the exercise of his/her discretion to be sufficient to indicate the electors residence at the indicated address. Various forms of identification may be used. Forms of identification required to be approved by the Department of State by ss. 98.461 and 98.481, F.S. (1977), will include generally accepted forms of identification containing the elector's name, residence address, and preferably, signature.