

DE 82-24--October 18, 1982

PERSONAL LOANS TO CANDIDATES

To: Mr. Gerald Nyren, 2113 3rd Street, Neptune, Florida 32233

Prepared by: Division of Elections

Your letter of October 8, 1982 requested an elections opinion regarding the precise meaning of the word "contribution" as defined in Section 106.011(3), Florida Statutes, particularly as it relates to a personal loan from a lending institution to a candidate.

Section 106.011(3) defines the term "contribution" to mean:

"(a) A gift, subscription, conveyance, deposit, loan, payment, or distribution of money or anything of value, including contributions in kind having an attributable monetary value in any form, made for the purpose of influencing the results of an election.

(b) A transfer of funds between political committees, between committees of continuous existence, or between a political committee and a committee of continuous existence.

(c) The payment by any person other than a candidate or political committee of compensation for the personal services of another person which are rendered to a candidate or political committee without charge to the candidate or committee for such services.

(d) The transfer of funds by a campaign treasurer or deputy campaign treasurer between a primary depository and a campaign savings account or certificate of deposit, and the term includes any interest earned on such account or certificate.

Notwithstanding the foregoing meanings of "contribution," the word shall not be construed to include services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee."

Essentially, a contribution is a transfer of funds or anything of value into a campaign account made for the purposes of influencing an election. In your letter you described a personal loan from a lending institution to a candidate, some or all of which might be contributed or loaned to a campaign account. If the loan is not made to the campaign account but to the candidate personally, the campaign account would not be responsible for the repayment of the loan; the candidate would bear the personal responsibility to repay the loan out of his personal assets. Therefore, a loan made to a candidate personally which does not obligate or bind the campaign account of the

candidate is not a contribution subject to the contribution limitations of Section 106.08, Florida Statutes.

While there are no previous elections opinions, court cases or Attorney General's opinions directly on this point, I believe the elections statutes are unequivocal. A personal loan to a candidate which does not bind a campaign account is not a contribution within the meaning of Section 106.011(3), Florida Statutes, and therefore is not subject to the campaign contributions limitations of Section 106.08, Florida Statutes.

However, a loan to a political campaign which obligates the campaign account to repay the loan is a contribution for purposes of Chapter 106, Florida Statutes, and is subject to the appropriate reporting requirements. Furthermore, such a loan is subject to the statutory limitations on contributions imposed by Section 106.08, Florida Statutes. See Division of Elections Opinion DE 78-6 (February 14, 1982).