

DE 90-06 - February 8, 1990

**Authority to Request Voter Information
Section 98.211, F.S.**

To: Honorable Kurt Browning, Supervisor of Elections, Pasco County, County Courthouse, 705 East Live Oak Avenue, Dade City, Florida 33525

To: Honorable Peggy S. Robbins, Supervisor Of Elections, Martin County, Post Office Box 1257, Stuart, Florida 34995

Prepared by: Division of Elections

This is in reference to your requests for advisory opinions. Under Section 106.23(2), Florida Statutes, the Division of Elections has authority to issue advisory opinions relating to the Florida Election Code, Chapters 97-106, Florida Statutes, to several categories of persons, including supervisors of elections.

Your specific questions are:

- 1) May any of the entities listed in Section 98.211(2), Florida Statutes, give their authority to request voter information from the supervisor of elections to a third party, such as a mailing house or data processing firm?
- 2) If the answer to question number one is in the affirmative, who is responsible for completing the Oath of Acquisition: The entity specified by statute or the third party?
- 3) Is a supervisor prohibited by Section 98.211(1)(b), Florida Statutes, from furnishing information to an agent other than information relating to electors who voted in the most recent election?

Section 98.211(1), Florida Statutes, provides that while the voter registration books are public records, only the following categories of persons may receive copies of voter registration information:

- 1) the courts for purpose of jury selection;
- 2) municipalities;
- 3) other governmental agencies;
- 4) candidates to further their candidacies;
- 5) registered political committees, registered committees on continuous existence, and political parties or officials thereof, for political purposes only; and

6) incumbent office holders, to report to their constituents.

In addition, Section 98.211(2), Florida Statutes, provides that voter registration information may not be used for commercial purposes and can only be used for purposes which are related to elections, political or governmental activities, voter registration, law enforcement or jury selection.

Section 98.211(3), Florida Statutes, provides that anyone who acquires a precinct list from the office of the supervisor must take and subscribe to an oath that he is authorized by the statutes to acquire the information, that the information will be used only for the purposes outlined in Section 98.211, Florida Statutes, and for no other purposes, and that the person subscribing to the oath will not permit the use or copying of such information by persons not authorized by the election code.

In reference to your first question, as a general rule, a person may properly appoint an agent to do the same acts and to achieve the same legal consequences by the performance of an act as if he had acted personally, unless public policy or an agreement requires personal performance. See 3 Am. Jur. 2d Agency Section 20. Therefore, the entities listed in Section 98.211, Florida Statutes, may give their authority to request voter information to a third party.

However, the entity authorizing the release of voter information to a third party will remain responsible for any misuse of the information. In addition, there should be a binding agreement between the entity authorizing the release of voter information and the third party to insure this information is used only for purposes subscribed by the statutes and is not copied or distributed to persons not authorized by the election code. The entity authorizing the release of voter information to a third party should furnish a copy of this agreement to the supervisor of elections and must furnish a statement under oath that he is authorizing the supervisor of elections to furnish the information on his behalf to a third party.

In reference to your second question, both the entity specified in the statute and the third party must complete an Oath of Acquisition to be retained by the supervisor of elections.

In reference to your third question, Section 98.211(1)(a), Florida Statutes, provides in pertinent part, "the supervisor shall furnish any requested information, excluding a voter's signature, which the supervisor maintains pursuant to the `Florida Election Code'." Thus, information which the supervisor must provide upon request is not limited to information relating to the most recent election. It includes any information which the supervisor maintains pursuant to the election code, excluding voters' signatures which are specifically exempted by the statute.

SUMMARY

The entities listed in Section 98.211, Florida Statutes, may give their authority to request voter information to a third party. Both the entity specified in the statute and the third party must complete an Oath of Acquisition. Information which the supervisor must provide upon request is not limited to information relating to the most recent election. It includes any information which the supervisor

maintains pursuant to the election code, excluding voters' signatures which are specifically exempted by the statute.