

DE 90-40 - August 20, 1990

**Contributions to Candidates and Political Parties by Credit Card
Section 106.011, F.S.**

To: Mr. John H. French, Messers, Vickers, Caparello, French, Madsen & Lewis, Post Office Box 1876, Tallahassee, Florida 32302-1876

Prepared by: Division of Elections

This is in reference to your letter requesting an opinion on the legality of contributions to candidates and political parties by credit card. You are counsel for the Florida Democratic Party and pursuant to 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 political parties.

You ask:

May the Florida Democratic Party and its candidates for public office accept contributions via credit card?

In DE 77-27, the Division of Elections opined that the use of credit cards to make political campaign contributions was not permitted under Chapter 106, Florida Statutes. We hereby recede from that opinion because we find that the use of a credit card does not constitute an indirect payment nor do we find that a credit card charge paid by a political party or candidate is an unauthorized expenditure. Therefore, we answer your question in the affirmative.

The use and acceptance of bank credit cards as a convenient substitute for cash has expanded tremendously over the past two decades. The use of a credit card is merely a loan from the institution issuing the credit card. There is nothing in Chapter 106, Florida Statutes, which prohibits a person from borrowing money and then contributing that money to a political party or candidate.

In addition, the state has a vested interest in guaranteeing that electors are encouraged to be involved in the election process. Political contributions by way of a credit card may give some electors more financial freedom and opportunity to make political contributions and, consequently, become more involved in the political process.

Finally, political contributions are protected by the First Amendment as a form of free speech and expression. See Buckley v. Valeo, 424 U.S. 1 (1976). Thus, statutes which regulate contributions should not be interpreted in a way which infringe on First Amendment freedoms more than necessary in order to protect the state's interest of disclosure. However, if contributions are made to a political party or to candidates by credit card, such contributions must meet the disclosure requirements of Chapter 106, Florida Statutes. For contributions of \$100 or less, the campaign finance report must

contain the name and address of the contributor and the amount of the contribution. When the contribution exceeds \$100, the occupation of the contributor must also be reported. See Section 106.07 (4)(a)1., Fla. Stat.

Therefore, it is the opinion of the Division of Elections that contributions made by credit card to a political party or candidate for public office are permitted if such contributions meet the disclosure requirements of Chapter 106.

SUMMARY

Contributions made by credit card to a political party or candidate for public office are permitted; however, such contributions must meet the disclosure requirements of Chapter 106, Florida Statutes.