

DE 92-05 - January 14, 1992

**Candidate Acting As Treasurer; Removal of Treasurer
Sections 106.021 and 106.06, F.S.**

TO: Honorable A. Earl Cheal, Monroe County Commissioner, 5192 Overseas Highway, Marathon, Florida 33050

Prepared by: Division of Elections

This is in response to your request for an advisory opinion on the provisions of the Florida Election Code regarding the appointment and removal of a campaign treasurer. The Division of Elections has authority under Section 106.23(2), Florida Statutes, to issue advisory opinions relating to the Florida Election Code, Chapters 97-106, Florida Statutes, to several categories of persons, including candidates.

You essentially ask the following:

- 1) Whether you may become the custodian of your campaign records?
- 2) If you can become the custodian of your campaign records, what procedure should you follow to do so?

It is the opinion of the Division of Elections that you may become the custodian of your campaign records by removing your campaign treasurer and appointing yourself as your own campaign treasurer.

Under the Florida Election Code, a campaign treasurer is deemed to be custodian of a candidate's campaign records. Sections 106.06(1) and (3), Florida Statutes, charge the candidate's campaign treasurer with the following statutory duties:

(1) The campaign treasurer of each candidate ... shall keep detailed accounts, current within not more than 2 days after the date of receiving a contribution or making an expenditure, of all contributions received and all expenditures made by or on behalf of the candidate.... The campaign treasurer shall also keep detailed accounts of all deposits made in any separate interest-bearing account or certificate of deposit and of all withdrawals made therefrom to the primary depository and of all interest earned thereon.

....

(3) Accounts kept by a campaign treasurer of a candidate shall be preserved by the campaign treasurer for a number of years equal to the term of office of the office to which the candidate seeks election....

Moreover, Section 106.021(1)(c), Florida Statutes, provides that "[a] candidate may appoint himself as his own campaign treasurer."

Thus, based on these statutory provisions, a candidate may appoint himself as his own campaign treasurer and become the custodian of his campaign records. However, in so appointing himself as his own campaign treasurer, the candidate is required to keep detailed records of, among other things, all contributions received and all expenditures made by or on his behalf. Additionally, he is required to keep and preserve these records for a number of years equal to the term of office of the office to which the candidate seeks election.

You indicate in your letter, however, that you now have someone other than yourself appointed as your campaign treasurer. Therefore, in order for you to now appoint yourself as your campaign treasurer, you must remove the individual who is presently appointed as your campaign treasurer.

Section 106.021(2), Florida Statutes, provides the following procedures by which the removal of a campaign treasurer shall occur:

In case of the ... removal of a campaign treasurer before compliance with all obligations of a campaign treasurer under this chapter, the candidate ... shall appoint a successor and certify the name and address of the successor in the manner provided in the case of an original appointment.... No treasurer or deputy treasurer shall be deemed removed by a candidate or political committee until written notice of such removal has been given to such treasurer ... and has been filed with the officer before whom such candidate is required to qualify or with the officer with whom such committee is required to file reports.

Therefore, you must comply with the above removal procedure in order to remove the person who is presently appointed as your campaign treasurer and to appoint yourself as your campaign treasurer. See, DE 87-11.

SUMMARY

A candidate may appoint himself as his own campaign treasurer and thereby become the custodian of his campaign records by removing his campaign treasurer and appointing himself as his own campaign treasurer in accordance with Section 106.021(2), Florida Statutes.