

**DE 92-16 - August 19, 1992**

**Reporting of Loans to a Candidate**  
**Sections 106.011(3)(a); 106.07(1); 106.075(1); and 106.08(1)(a), F.S.**

*TO: Honorable Donna Bryant, Supervisor of Elections, Osceola County, Osceola County Courthouse, Kissimmee, Florida 34742*

*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 reporting of loans to a candidate. You are the Osceola County Supervisor of Elections, and 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 certain categories of persons including, supervisors of elections. Therefore, the division has authority to issue this opinion to you.

Specifically, you ask:

1. Would 106.075(1), Florida Statutes, permit someone to loan a candidate any amount in excess of \$500 for campaign purposes without having to disclose the person making the loan prior to being either elected or defeated?
2. If the answer to question one is in the affirmative, doesn't 106.075(1), Florida Statutes, contradict 106.08(1)(a), Florida Statutes, relating to contribution limits, and 106.08(5), Florida Statutes, relating to making a contribution to a candidate through or in the name of another person, directly or indirectly?

The answer to each question is no.

Section 106.075(1), Florida Statutes, is a reporting requirement for an individual who has been elected to public office. An elected official must, within ten days after the election, report all loans which meet the following criteria:

1. Exceed \$500 in value;
2. Made to the elected official;
3. Used by the elected official for campaign purposes; and
4. Made within 12 months preceding the elected official's election to office.

Section 106.07(1), Florida Statutes, is a reporting requirement for a candidate seeking public office. A

candidate must file regular reports of all contributions received and expenditures made by or on behalf of the candidate. Contributions are defined in Section 106.011(3)(a), Florida Statutes, as:

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.

Since gifts or loans are included as contributions, a candidate must report all gifts or loans received on his behalf which were made for the purpose of influencing the results of his election.

The legal question in determining what gifts or loans must be reported by a candidate is whether the person giving the gift or making the loan to the candidate has the intent of making the gift or loan for the purpose of influencing the results of an election. Thus, a candidate might go in to a bank and personally borrow \$10,000 and put a portion of this into his campaign account as a contribution from himself. The contribution is not from the bank, but that portion put into the campaign account by the candidate is a contribution from the candidate and must be reported as such. However, should that same candidate go in to the bank and receive a \$10,000 campaign loan from the bank, the Florida Election Law would be violated in that Section 106.08(1)(a), Florida Statutes, limits contributions to candidates to \$500 per election.

In summary, a candidate must report, in each campaign treasurer's report, all contributions which are loans or gifts and which are made for the purpose of influencing the results of his election. By contrast, Section 106.075(1), Florida Statutes, provides that an elected public officer must report all loans, exceeding \$500 in value, made to him and used by him for campaign purposes and made within 12 months preceding his election to office.

For the reasons stated above, there is not a contradiction between Sections 106.075(1) and 106.08(1)(a), Florida Statutes.

## **SUMMARY**

Section 106.075(1), Florida Statutes, is a reporting requirement for an individual who has been elected to public office. An elected official must, within ten days of the election, report all loans which meet the following criteria:

1. Exceeds \$500 in value;
2. Made to the elected official;
3. Used by the elected official for campaign purposes; and
4. Made within 12 months preceding the elected official's election to office.

Since gifts or loans are included as contributions, a candidate seeking public office must report all

campaign gifts or loans received on his behalf which were made for the purpose of influencing the results of his election.