

# Supervisor's Handbook on Candidate Qualifying



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## Chapter 1: Background

This handbook is for use by supervisors of elections and other qualifying officers. The handbook explains the process for them to qualify candidates.

**Attention:** This handbook serves only as a reference guide. It is not a substitute for governing laws and rules. To the extent that this handbook covers material beyond that contained in law or rule, applicable provisions of the Florida Election Code ([Chapters 97-106](#), Florida Statutes), the [Constitution of the State of Florida](#), and Division of Elections advisory [opinions](#) and [rules](#), the texts of which control, should be reviewed in their entirety for complete information regarding qualifying.

If further assistance is necessary, Supervisors may request an advisory opinion from the Division under Section [106.23\(2\)](#), F.S.

Please direct any procedural questions to the Bureau of Election Records at 850.245.6280. Any legal questions about your role as a qualifying officer may be directed to the General Counsel's Office at 850.245.6536.

This publication is available at:  
<http://soe.dos.state.fl.us/>

All other applicable Division forms and publications are available on the Division's website at:

<http://dos.myflorida.com/elections/forms-publications/>

## Chapter 2: Responsibilities of a Qualifying officer

### **What is the scope of my responsibility as a qualifying officer?**

The qualifying officer's duties are ministerial in nature.

In determining whether a candidate is qualified, the qualifying officer shall review the qualifying papers to determine whether all items required have been properly filed and whether each item is complete on its face, including whether items that must be verified have been properly verified pursuant to Section [92.525\(1\)\(a\)](#), F.S.

The qualifying officer may not determine whether the contents of the qualifying papers are accurate.

*(See Section [99.061\(7\)\(c\)](#), F.S.)*

Any question as to the truth or accuracy of matters stated in a candidate's qualifying papers becomes a judicial question if and when an appropriate challenge is made in the courts.

*(See State ex rel Shevin v. Stone, 279 So.2d 17 (Fla. 1972))*

## Chapter 3: Resign-to-Run

### What is the “resign-to-run” law?

The “resign-to-run” law essentially prohibits an elected or appointed “officer” from qualifying as a candidate for another state, district, county, or municipal public office if the terms or any part of the terms overlap with each other if the person did not resign from the office the person presently holds.

(See Section [99.012\(3\)](#), F.S.)

### As a qualifying officer am I responsible for enforcing the “resign-to-run” law?

No. It is not the responsibility of the qualifying officer to ensure compliance with the “resign-to-run” law. The best practice is to inform a candidate regarding the “resign-to-run” law if you are aware that the requirements would apply to him.

A qualifying officer **cannot**:

- Refuse to qualify a candidate even when the officer knows that the person has not complied with the requirements of the law; or
- Remove a candidate’s name from the ballot if the qualifying officer becomes aware after qualifying closes that the candidate has not complied with the “resign-to-run” law.

Once a candidate is qualified to be on the ballot, his or her name cannot be removed from the ballot without a court order.

(See Section [99.012\(5\)](#), F.S.)

### May a person qualify to run for more than one office?

No, persons are prohibited from qualifying for more than one federal, state, district, county, or municipal office if the terms or any part thereof run concurrently with each other. For example: (a) a person may not qualify in Florida to run for more than more than one U.S. House of Representatives seat at a time; or (b) a person may not qualify for both a state office and a county office if the terms or any part of the two offices overlap.

(See Section [99.012\(2\)](#), F.S.)

### Does the “resign-to-run” law apply to federal officers?

No. The “resign-to-run” portion of Section [99.012](#), F.S., only applies to state, district, county, and municipal officers. However, as stated in the answer to the prior question, persons are prohibited from qualifying for more than one federal, state, district, county, or municipal office if the terms or any part thereof run concurrently with each other. Thus, a federal officer would not have to resign prior to qualifying for a state, district, county, or municipal office. For example, a U.S. Senator from Florida with two years left on his or her Senate term could qualify to run for Governor of Florida without resigning because the “resign-to-run” law does not apply to federal officers; however, the senator could not qualify for re-election to the U.S. Senate from Florida and also qualify for Governor of Florida because the terms of office would overlap.

(See Section [99.012](#), F.S.)

**Does the “resign-to-run” law require a state, district, county, or municipal officer to resign before running for federal office?**

No. The “resign-to-run” law prohibits an officer from qualifying as a candidate for another state, district, county, or municipal public office if the terms or any part overlap with each other unless the officer submits a resignation from the office the person presently holds. Therefore, the “resign-to-run” law would not preclude a sitting state, district, county, or municipal officer from qualifying as a candidate for *federal* office without resigning from the office the person presently holds as long as the officer does not also qualify for re-election to his or her present office.

For more questions and information regarding the Resign-to-Run Laws see [Appendix B, DE Reference Guide 0016 Resign-to Run Law](#).

## Chapter 4: Qualifications for Office

### When must qualifications for office be met?

Generally, the statutory oath a person is required to take upon qualifying for office refers to qualifications applicable **when the term of the office he or she seeks begins.**

(See *State ex rel. Fair v. Adams*, 139 So.2d 879 (Fla. 1962), *Davis ex rel. Taylor v. Crawford*, 116 So. 41 (Fla. 1928), *State ex rel. Knott v. Haskell*, 72 So. 651 (Fla. 1916), [DE Opinion 94-04](#), and [DE Opinion 92-10](#))

However, exceptions to this general rule exist for certain offices for requirements such as bar membership, age and residency for some candidates:

### Bar membership for judges:

- Circuit Court Judge – at the time of assuming office  
(See *cases cited above and In re the Advisory Opinion to the Governor*, 192 So.2d 757 (Fla.1966)).
- County Court Judge – **prior to qualifying.**  
(See *Section 34.021(1), F.S.*, and *Newman v. State*, 602 So.2d 1351 (Fla. 3d DCA 1992))

**Note:** If the county has a population of 40,000 or less, the county court judge candidate need only be a member in good standing of the Florida Bar – no requirement for any length of bar membership.

(See [Art. V., s.8, Fla. Const.](#); [Section 34.021\(1\), Fla. Stat.](#))

### Age:

Age requirement must be met at the time of assuming office.

(See [DE Opinion 92-10](#))

### Residency:

- Unless otherwise provided for constitutionally, legislatively, or judicially, the residency requirement for an office must be met at the time of assuming office.

(See [DE Reference Guide 0008 When Residency Qualifications for Elected Officials Must be Met.](#))

- School board and write-in candidates must meet the residency requirements **at the time of qualifying.**

### How is residency determined?

Ultimately, whether a candidate or office holder is a resident is a determination for a court and not for a qualifying officer. A key element of residency is the intent of the individual.

(See [DE Opinion 80-27](#) and [DE Opinion 93-05.](#))

No single piece of evidence is decisive in determining residency. A person's legal residence is wherever a person intends to make a permanent domicile, which can be factually supported. Examples of evidence that may be considered in determining whether legal residency has been established include driver's license, tax receipts, bank accounts, homestead exemption documents, the relocation of personal effects, and the purchase or rental of property.

**If I have questions regarding residency requirements, who should I contact?**

Questions regarding residency that are stated in the Florida Elections Code may be addressed to the:

Department of State,  
Office of General Counsel  
Telephone: 850.245.6536

Email:

[DOS.GeneralCounsel@DOS.MyFlorida.com](mailto:DOS.GeneralCounsel@DOS.MyFlorida.com)

Questions regarding residency not otherwise expressly stated in the Florida Election Code should be addressed to the Florida Attorney General's Office:

<http://myfloridalegal.com/opinions>

**If I know that a candidate will not meet one or more of the qualifications for office upon taking office if elected, can I, as the qualifying officer, refuse to qualify the candidate or refuse to put the candidate's name on the ballot?**

No. A qualifying officer's duties are ministerial in nature. Any question as to a candidate's eligibility becomes a judicial question if and when an appropriate challenge is made in the courts.

(See Section [99.061\(7\)\(c\)](#), F.S., and *State ex rel Shevin v. Stone*, 279 So.2d 17 (Fla. 1972))

**Best Practice:** Inform the candidate of the concerns and allow the candidate to take any necessary action.

## Chapter 5: Qualifying Documents

### General Information

In order to qualify a candidate:

- You must have timely received all of the required documents;
- Each of the required documents must be “complete on its face;”
- Each of the required documents that must be verified must have been “properly verified” pursuant to section [92.525\(1\)\(a\)](#), i.e., by an authorized officer who affixed his or her official seal and signature.

You do not and should not determine whether the contents of any of the documents are accurate; you must essentially assume that the contents are true. If any of these requirements are not met, then you can conclude that the candidate failed to qualify. For example, if a required document is missing an entry, then it is not “complete on its face.” If [Form DS-DE 301SL](#) is missing the signature of the Notary, then it is not “complete on its face” or “properly verified.”

**Note:** If challenged in court on a disqualification, the court may disagree and find that the candidate “substantially complied” with the requirements. “Substantial compliance” generally means that the candidate met all legal requirements but did not meet some technical requirement.

You may similarly decide to qualify someone based on “substantial compliance.” However, it is best to consult with your attorney before making this decision.

(See [DE Opinion 09-01](#) and *Browning v. Young*, 993 So. 2d 64 (Fla. 1<sup>st</sup> DCA 2008))

### When can a qualifying officer begin accepting qualifying documents?

A qualifying officer may accept and hold qualifying papers beginning 14 days prior to the first day of qualifying period.

(See Section [99.061\(8\)](#), F.S.)

Qualifying documents can be postmarked prior to these dates; however, they cannot be used for qualifying purposes if **received** prior to the above referenced dates.

Upon receiving the documents, review them for completeness and notify immediately the candidate of problems or discrepancies. If there are no problems, put the documents aside and on the first day of qualifying, process and update the candidate as “qualified.”

### If I receive documents by mail after the close of qualifying that are postmarked prior to the last day of qualifying, do I qualify the candidate if all the paperwork is correct?

No. In order for a candidate to be qualified, all qualifying documents must be received by the qualifying officer by the end of the qualifying period.

(See Section [99.061\(7\)\(a\)](#), F.S.)

**What documents must a candidate submit in order to be properly qualified?**

See Rule [1S-2.0001](#), F.A.C., for a listing of applicable qualifying forms.

Current forms are available on the Division of Elections' website at:

<http://dos.myflorida.com/elections/forms-publications/forms/>

[CE Form 6](#) or [CE Form 1](#) are Commission on Ethics forms, which may be found at:

<http://www.ethics.state.fl.us>

**Note:** Candidates should not be using older versions of forms. Check to be sure that they have used the most current version of a form. Use of old forms may delay qualifying or disqualify a person from qualifying.

**Partisan Office:**

1. [Form DS-DE 9](#), Appointment of Campaign Treasurer and Designation of Campaign Depository. (If the original [DS-DE 9](#) was previously filed with the SOE, a copy is not required to be filed during the qualifying period.)
2. [Form DS-DE 301SL](#), Candidate Oath – State and Local Partisan Office
3. Financial Disclosure (one of the following, as applicable):

[Form 6](#), Full and Public Disclosure of Financial Interests for the previous year (and any other forms applicable as identified on [Form 6](#)). A public officer who has filed the full and public

disclosure for the previous year with the Commission on Ethics prior to qualifying for office may file a copy of that disclosure (in lieu of another original) at the time of qualifying.

[Form 1](#), Statement of Financial Interests for the previous year. A public officer who has filed a statement of financial interests for the previous year with the Commission on Ethics or the Supervisor of Elections prior to qualifying for office may file a copy at the time of qualifying.

4. Qualifying Fee (except a person certified to qualify by the petition method or seeking to qualify as a write-in candidate)

**Non-Partisan Office (Other than School Board and Judicial):**

1. [Form DS-DE 9](#), Appointment of Campaign Treasurer and Designation of Campaign Depository. (If the original [DS-DE 9](#) was previously filed with the SOE, a copy is not required to be filed during the qualifying period.)
2. [Form DS-DE 302NP](#), Candidate Oath – Nonpartisan Office
3. Financial Disclosure (one of the following, as applicable):

[Form 6](#), Full and Public Disclosure of Financial Interests for the previous year (and any other forms applicable as identified on [Form 6](#)). A public officer who has filed the full and public disclosure for the previous year with the Commission on Ethics prior to qualifying for office may file a copy of that

disclosure (in lieu of another original) at the time of qualifying.

[Form 1](#), Statement of Financial Interests for the previous year. A public officer who has filed a statement of financial interests for the previous year with the Commission on Ethics or the Supervisor of Elections prior to qualifying for office may file a copy at the time of qualifying.

4. Qualifying Fee (except a person certified to qualify by the petition method or seeking to qualify as a write-in candidate)

### **School Board:**

1. [Form DS-DE 9](#), Appointment of Campaign Treasurer and Designation of Campaign Depository. (If the original [DS-DE 9](#) was previously filed with the SOE, a copy is not required to be filed during the qualifying period.)
2. [Form DSDE 304SB](#), Candidate Oath – School Board Nonpartisan Office
3. Financial Disclosure (one of the following, as applicable):

[Form 6](#), Full and Public Disclosure of Financial Interests for the previous year (and any other forms applicable as identified on [Form 6](#)). A public officer who has filed the full and public disclosure for the previous year with the Commission on Ethics prior to qualifying for office may file a copy of that disclosure (in lieu of another original) at the time of qualifying.

[Form 1](#), Statement of Financial Interests for the previous year. A public officer who has filed a statement of financial interests for the previous year with the Commission on Ethics or the Supervisor of Elections prior to qualifying for office may file a copy at the time of qualifying.

4. Qualifying Fee (except a person certified to qualify by the petition method or seeking to qualify as a write-in candidate)

### **Judicial Office:**

1. [Form DS-DE 9](#), Appointment of Campaign Treasurer and Designation of Campaign Depository. (If the original [DS-DE 9](#) was previously filed with the SOE, a copy is not required to be filed during the qualifying period.)
2. [Form DS-DE 303JU](#), Candidate Oath – Judicial Office
3. [Form 6](#), Full and Public Disclosure of Financial Interests for the previous year (and any other forms applicable as identified on [Form 6](#)). A public officer who has filed the full and public disclosure for the previous year with the Commission on Ethics prior to qualifying for office may file a copy of that disclosure (in lieu of another original) at the time of qualifying.
4. Qualifying Fee (except a person certified to qualify by the petition method or seeking to qualify as a write-in candidate)

### Are faxed or emailed copies of the qualifying documents acceptable?

No. All documents must be original documents with original signatures.

**Exception:** A public officer who has filed the full and public disclosure or statement of financial interests with the Commission on Ethics or the supervisor of elections prior to qualifying for office may file a copy of that disclosure at the time of qualifying.

(See Section [99.061\(7\)\(a\)5](#), F.S.)

### Is the Statement of Candidate required to be filed in order to be properly qualified?

No. Although not required for qualifying, each candidate must file a Statement of Candidate ([DS-DE 84](#)) with the Division within 10 days after filing the Appointment of Campaign Treasurer and Designation of Campaign Depository ([DS-DE 9](#)). Willful failure to file these forms is a violation of [Chapter 106](#), Florida Statutes.

### Is the Statement of Judicial Candidate required to be filed in order for a judicial candidate to be properly qualified?

No. Although not required for qualifying, each judicial candidate must file a Statement of Judicial Candidate ([DS-DE 83](#)) with the qualifying officer within 10 days after filing the Appointment of Campaign Treasurer and Designation of Campaign Depository ([DS-DE 9](#)). Willful failure to file this form is a violation of [Chapter 105](#), F.S.

### What do I do if a candidate does not submit all of the required documents or the documents are incomplete?

The qualifying officer shall make a reasonable effort to notify the candidate of the missing or incomplete items and shall inform the candidate that all required items must be received by the close of qualifying.

(See Section [99.061\(7\)\(b\)](#), F.S.)

Candidates should be providing a telephone number and email address on the applicable Candidate Oath where they can be reached during the day and after normal working hours. The filing officer should make every effort to contact the candidate if there is a problem with the paperwork.

Document all your efforts to contact the candidate and any conversations with the candidate.

If the complete or correct documents are not submitted prior to the end of qualifying, the candidate should not be qualified.

### If a candidate is standing in line to qualify at noon, but the papers have not been accepted, do I still accept the paperwork after the end of qualifying?

Yes. If the candidate is in line prior to the end of qualifying, accept the paperwork. Note in the file that although the documents were time-stamped after the end of qualifying, the candidate was waiting to have the documents processed prior to the close of qualifying.

**Best Practice:** Have someone announce a countdown to the noon closing time for qualifying. At noon, announce that qualifying is closed and do not let anyone else come into the line after the announcement.

**If a candidate comes in right before the end of qualifying and has not opened a campaign account and insists on paying the qualifying fee with something other than a campaign check, do I accept the qualifying papers?**

Yes. A qualifying officer must put on file the documents that are submitted. However, you should not qualify the candidate. The qualifying fee must be paid with a check drawn on the candidate's campaign account, unless the candidate is a special district candidate.

*(See Section [99.061\(7\)\(a\)](#), F.S.)*

## Chapter 6: Candidate/Party Oath

### May a candidate use a nickname on the ballot?

The candidate oath states "Print name above as you wish it to appear on the ballot." A nickname may be printed along with one's legal name if the candidate is generally known by that name or the name is used as part of his or her legal name.

(See [DE Opinion 86-06](#).)

### May a candidate use descriptive information on the ballot?

No. A candidate may not use descriptive information such as Dr., Reverend, Colonel, Esquire, M.D., etc., *unless* two persons of the same name, or whose names are so similar as to reasonably cause confusion, seek the same office.

### On the candidate oath, may a candidate just indicate a first or last name?

No. It is the Division of Elections' interpretation that a candidate cannot designate only a first or last name as the name he desires to have written in on a ballot as a write-in candidate.

"Under common law principles, not abrogated by Florida law, a name consists of one Christian or given name and one surname, patronymic or family name; therefore, the name printed on the ballot ordinarily should be the Christian or given name and surname, 29 C.J.S. Elections §161.

In Florida, a person's legal name is his Christian or given name and family surname, *Carlton vs. Phalan*, 100 Fla. 1164, 131 So. 117 (Fla. 1930)." (*Underline added for emphasis.*)  
(See [DE Opinion 86-06](#))

Applying the common law principles and the Florida case law, when the oath form says to print the "name," it must be the Christian or given name and surname.

### Can a married woman use her maiden name on the ballot?

Yes. In Florida, a woman does not lose her birth given name upon marriage.

(See *Levey v. Dijols*, 990 So. 2d 688 (Fla. 4<sup>th</sup> DCA 2008))

### If a candidate misspells his or her name on the loyalty oath or changes his or her mind about how the name should appear on the ballot after qualifying closes, can the candidate submit something to change the name on the ballot?

No. "A candidate's name as it is to appear on the ballot may not be changed after the end of qualifying." You cannot change the name.

(See Section [99.061\(7\)\(b\)](#), F.S.)

### If the candidate oath is missing an applicable district, group or seat number, is it acceptable for qualifying?

No, the district, group, or seat number, if applicable, is required.

(See Section [99.061\(7\)\(a\)2.](#), F.S.)

**If the candidate does not provide the county in which he or she is registered to vote on the candidate oath, is the candidate oath acceptable for qualifying?**

No. This information is required.

(See Section [99.021\(1\)\(a\)1.](#), F.S.)

**If the candidate does not provide a political party on the Statement of Party, is it acceptable for qualifying?**

No. This information is required.

(See Section [99.021\(1\)\(b\)1.](#), F.S.)

**If the candidate oath is not notarized, is it acceptable for qualifying?**

No. The candidate oath must be verified under oath or affirmation pursuant to Section [92.525\(1\)\(a\)](#), F.S.. This means that it must be taken or administered before an officer authorized under Section [92.50](#), F.S., to administer oaths, and contain a jurat authenticated by the officer's signature and seal.

(See Section [99.061\(7\)\(a\)2.](#), F.S.)

## Chapter 7: DS-DE 9 - Appointment of Campaign Treasurer and Designation of Campaign Depository

**If box 6 of the [DS-DE 9](#) does not include the district, circuit, or group number, is it acceptable for qualifying?**

No. If the candidate is running for an office which will be grouped on the ballot with two or more similar offices to be filled at the same election, the candidate must indicate for which group or district he or she is running.

Examples:

- County Court Judge, **Group 3**
- County Commissioner, **District 2**  
(See Section [106.021\(1\)\(a\)](#), F.S.)

## Chapter 8: Financial Disclosure Forms

### Can I accept a copy of an incumbent's financial disclosure documents from two years ago, or older?

No. Since qualifying occurs prior to the deadline for office holders to file their financial disclosure documents for the previous year, a candidate must file the financial disclosure statement that covers the candidate's taxable year immediately preceding the qualifying date. For example, a candidate must file the 2017 financial disclosure documents for the 2018 qualifying period.

(See [Appendix C - CEO 82-72](#))

### Is a copy of the [CE Form 6](#) Financial Disclosure acceptable?

A public officer who has filed the full and public disclosure or statement of financial interests for the required year with the Commission on Ethics prior to qualifying for office may file a copy of that disclosure (in lieu of another original) at the time of qualifying. If the candidate has not filed the original [CE Form 6](#) with the Florida Commission on Ethics, the candidate must file an original with the qualifying officer.

Candidates who are non-incumbents must file an **original** [CE Form 6](#) with the qualifying officer.

### Is a copy of the [CE Form 1](#) Statement of Financial Interests acceptable?

A public officer who has filed a financial disclosure statement for the required year with the Commission on Ethics or the Supervisor of Elections prior to qualifying for office may file a copy at the time of qualifying. If the candidate has not filed an original financial disclosure form with the Commission on Ethics or a supervisor of elections, the candidate must file an original with the qualifying officer.

Candidates who are non-incumbents must file an **original** [CE Form 1](#) with the qualifying officer.

### Part D of the [CE Form 6](#) Financial Disclosure requires a candidate to complete this portion of the form or indicate that the candidate will attach a copy of the candidate's federal income tax return. If the box is checked and the income tax return is not attached, is the form still acceptable?

No. In order to qualify, Part D must either be filled in or have the box is checked. If the box is checked, the candidate must attach a copy of his federal income tax return.

**PART D - INCOME**

You may **EITHER** (1) file a complete copy of your 2009 federal income tax return, including all attachments, **OR** (2) file a sworn statement identifying each separate source and amount of income which exceeds \$1,000, including secondary sources of income, by completing the remainder of Part D, below:

☐ I elect to file a copy of my 2009 federal income tax return. (If you check this box and attach a copy of your 2009 tax return, you need not complete the remainder of Part D.)

NAME OF SOURCE OF INCOME EXCEEDING \$1,000	ADDRESS OF SOURCE OF INCOME	AMOUNT
<b>REQUIRED IF TAX RETURN NOT ATTACHED</b>		

**SECONDARY SOURCES OF INCOME** (Major customers, clients, etc., of businesses owned by reporting person; see instructions)

NAME OF BUSINESS ENTITY	NAME OF MAJOR SOURCES OF BUSINESS INCOME	ADDRESS OF SOURCE	PRINCIPAL BUSINESS ACTIVITY OF SOURCE

**If a candidate has a question about how to fill out the financial disclosure forms, should my staff or I try to assist the candidate?**

No. Questions regarding how to complete [CE Form 6](#) or [CE Form 1](#) financial disclosure forms should be directed to the Florida Commission on Ethics at 850.488.7864 or you can direct the candidate to the Commission's website:

<http://www.ethics.state.fl.us/>

**If the [CE Form 1](#) or the [CE Form 6](#) is not signed by the candidate, is the form acceptable for qualifying?**

No. The form must be signed by the candidate.

**Where should the qualifying officer transmit the [CE Form 6](#)?**

If an incumbent in an elective office has filed [CE Form 6](#) to qualify for election to the same office or if a candidate for office holds another office subject to the annual [CE Form 6](#) requirement, the qualifying officer shall forward an electronic copy of the [CE Form 6](#) to the Florida Commission on Ethics no later than July 1.

*(See Section [112.3144\(2\)](#), F.S.)*

## Chapter 9: Notarization

### Who can notarize qualifying documents?

#### 1. In Florida:

- A Florida notary; or
- A Florida judge, clerk, or deputy clerk of a court of record:

**NOTE:** The acknowledgment shall be authenticated by the signature and seal of the person administering the oath. When the acknowledgment is taken before any judge, clerk or deputy clerk of court of record, the seal of such court may be fixed as the seal of the judge or clerk.

(See Section [92.50\(1\)](#), F.S.)

#### 2. In another state:

- A notary or justice of the peace in that state; or
- A judge, clerk or deputy of a court of record in that state.

(See Section [92.50\(2\)](#), F.S.)

#### 3. In a foreign country:

- Judge or justice of a court of last resort;
- foreign notary;
- Any minister, consul general, charge d'affaires, or consul of the United States resident in such country.

(See Section [92.50\(3\)](#), F.S.)

#### 4. By a Commissioned Officer of the United States Armed Forces

"...Oaths, affidavits, and acknowledgements may be taken or administered within or without the United States by or before any commissioned officer in active service of the Armed Forces of the United States with the rank of second lieutenant or higher in the Army, Air Force or Marine Corps or ensign or higher in the Navy or Coast Guard *when the person required or authorized to make and execute the oath, affidavit, or acknowledgment is a member of the Armed Forces of the United States, the spouse of such member or a person whose duties require the person's presence with the Armed Forces of the United States.*

A certificate endorsed upon the instrument which shows the date of the oath, affidavit, or acknowledgment and which states in substance that the person appearing before the officer acknowledged the instrument as the person's act or made or signed the instrument under oath shall be sufficient for all intents and purposes. The instrument shall not be rendered invalid by the failure to state the place of execution or acknowledgment..."

(See Section [92.51 \(1\)-\(2\)](#), F.S.)

## Chapter 10: Qualifying Fees/Checks

### **May I accept cash, a money order, cashier's check, or a personal check from a candidate to pay the qualifying fee?**

No. The qualifying fee must be paid by check drawn on the campaign account.

**Exception:** A special district candidate may pay the \$25 qualifying fee using any of the above methods.

### **May I accept a cashier's check if it is drawn on the campaign account to pay the qualifying fee?**

No. The candidate must pay the qualifying fee using a campaign check.

### **If the amount of the qualifying check is less than the amount of the qualifying fee, may I accept a second check that equals the difference?**

No. The qualifying fee must be paid with one check that is not less than the fee required. Have the candidate submit one new check for the total amount.

### **If the amount of the qualifying check is more than the qualifying fee, may I accept the check?**

Yes. The qualifying fee has to be **not less than** the fee required. Therefore, a check in an amount that is more than the qualifying fee is acceptable.

### **If the qualifying check has different amounts in the numeric and written portions, may I accept the check?**

Under Florida's Uniform Commercial Code, the amount in the written portion controls the check's value. Therefore, if the amount in the written portion is not less than the qualifying fee, you may accept the check even though the written and the numeric amounts differ.

(See Section [673.1141](#), F.S.)

**Best Practice:** If there is time, have the candidate provide a new check.

### **If the qualifying check is signed by the candidate, but the candidate has not designated himself a treasurer or deputy treasurer, may I accept the check?**

No. A campaign check must contain the signature of a treasurer or deputy treasurer.

(See Section [106.11\(1\)\(b\)4.](#), F.S.)

### **If the qualifying check is not dated, may I accept the check?**

Yes. Under Florida's Uniform Commercial Code, if an instrument is undated, its date is the date of its issue. The term "issue" means the first delivery of an instrument by the maker for the purpose of giving rights on the instrument to any person. Therefore, for purposes of qualifying, an undated check is a negotiable instrument with its date being the date it is delivered to the qualifying officer.

(See Section [673.1131](#), F.S.)

**Best Practice:** Even though the check is acceptable, if there is time, it is best to have the candidate provide a new check.

**If the qualifying check is a starter or other check and the candidate has not typed or hand-written "Campaign Account," or words to that effect, on the check may I accept the check?**

Yes, you have no authority to determine whether the account is a campaign account.  
(See Section [99.061\(7\)\(c\)](#), F.S.)

**Best Practice:** If the check is hand delivered by the candidate or treasurer, ask the person if the check is a campaign check. If the person indicates that it is a campaign check, have the person write "campaign account" on the check.

If the candidate or treasurer is not on hand to verify that it is a campaign check, call and request something in writing from the candidate or treasurer indicating that the qualifying check is drawn on the campaign account. The Division of Elections accepts this information by fax or email as long as it contains a signature from the candidate or treasurer.

**The qualifying fee is based upon the annual salary of the office as of July 1, immediately preceding the first day of qualifying. If there is a salary change in the interval before qualifying, does this change the qualifying fee?**

No. Regardless of whether the salary is increased or decreased, the qualifying fee is based upon what it was as of July 1.

**Exception:** if a salary change is made retroactive, and is therefore, in effect as of July 1, the salary would be based upon the new amount.

**What are my responsibilities as a qualifying officer if the qualifying check is returned by the bank?**

If a candidate's check is returned by the bank for any reason, the qualifying officer shall immediately notify the candidate. The candidate shall, the end of qualifying notwithstanding, have 48 hours from the time such notification is received, excluding Saturdays, Sundays, and legal holidays, to pay the fee with a cashier's check purchased from funds of the campaign account. Failure to pay the fee as provided in this subparagraph shall disqualify the candidate.

(See Section [105.031\(5\)\(a\) 1](#), Fla. Stat. and *Wright v. City of Miami Gardens*, 200 So.3d 765 (Fla. 2016))

**If the candidate withdraws after submitting complete qualifying papers, do I return his or her qualifying fee?**

The qualifying fee cannot be returned to a candidate unless the candidate withdraws, in writing, **before** the close of qualifying. The withdrawal statement must contain the candidate's signature. A fax withdrawal is acceptable (Division of Elections' fax: 850-245-6260).

(See Section [99.092\(1\)](#), F.S. and Rule [1S-2.0001](#), F.A.C.)

**If the candidate submits the qualifying fee but for other reasons fails to qualify, do I return the qualifying fee to the candidate?**

Yes. Return the check to the candidate along with a letter explaining why the candidate did not qualify.

**If a candidate pays the qualifying fee drawn on a campaign account that was opened prior to filing the DS-DE 9, does this mean that the check is not a “properly executed campaign check” as required by Chapter 99 and 105, F.S.?**

No. It is a violation of Florida Statute, but it does not disqualify the candidate.

*(See Section [106.021](#), F.S.)*

**If a special district candidate has opened a campaign depository and is collecting and spending money, is the special district candidate required to pay the qualifying fee with a check drawn on the campaign account?**

No. The filing fee for a special district candidate is not required to be drawn upon the candidate's campaign account.

*(See Section [99.061\(7\)\(a\)](#), F.S.)*

## Chapter 11: Reporting Qualified Candidates to the Division of Elections

### How do I report the names of the candidates who qualified to the Division?

“The Supervisor of Elections shall, immediately after the last day for qualifying, submit to the Department of State a list containing the names, party affiliations, and addresses of all candidates and the office for which they qualified.”

*(See Section [99.092\(2\)](#), F.S.)*

This information is reported using the Electronic DS-DE 80 system accessible through the SOE Administrative Services Portal. Once in the portal, click on **Local Candidates** menu item under Application Links.

Please contact your County Security Manager for any questions on how to access the portal.

## Chapter 12: Distribution of Qualifying Fees

### Where do I distribute the fees that I collect from candidates?

#### County Judge and School Board Candidates:

- 4% qualifying fees (1% election assessment and 3% filing fee), forward to the Florida Elections Commission.

(See Section [105.031\(3\)](#), F.S.)

#### Partisan Candidates:

- 1% election assessment, forward to the Florida Elections Commission.
- 5% (3% filing fee and 2% party assessment), forward to the state executive committee of the political party of the candidate.

(See Section [99.061\(2\)](#), F.S.)

#### NPA Candidates Filing for a Partisan Office:

- 1% election assessment, forward to the Florida Elections Commission.
- 3% filing fee, deposit in the general revenue fund of the county.

(See Section [99.0955\(2\)](#), F.S.)

#### Special District Candidates:

- \$25 filing fee, deposit in the general revenue fund of the county.

(See Section [189.04\(1\)\(c\)](#), F.S., and [Appendix D – DOS Memo RE: Filing Fee for Community Development District](#))

### What address do I use when submitting fees to the Florida Elections Commission?

107 West Gaines Street  
Collins Building, Suite 224  
Tallahassee, Florida 32399-1050

### Are there forms to use for transmitting the various types of fees to the Florida Elections Commission?

Forms are available on the Florida Elections Commission's website:

<http://www.fec.state.fl.us/>

There are three types of forms for county fee remittance:

- [County Candidate One Percent Remittance Fee Form](#)
- [County Judicial Candidate Fee Remittance Form](#)
- [County School Board Candidate Fee Remittance Form](#)

### If I have questions regarding the forms or fees that are forwarded to the Florida Elections Commission, who should I call?

Business Manager  
Florida Elections Commission  
850.922.4539  
Florida Elections Commission

## **Appendices**

## Appendix A: Legal References and Rules Cited

### Florida Statutes

- [34.021](#) Qualifications of county court judges
- [92.50](#) Oaths, affidavits, and acknowledgments; who may take or administer; requirements.
- [92.51](#) Oaths, affidavits, and acknowledgments; taken or administered by commissioned officer of United States Armed Forces.
- [92.525](#) Verification of documents; perjury by false written declaration, penalty.
- [99.012](#) Restrictions on individuals qualifying for public office.
- [99.021](#) Form of candidate oath.
- [99.061](#) Method of qualifying for nomination or election to federal, state, county, or district office.
- [99.092](#) Qualifying fee of candidate; notification of Department of State.
- [99.0955](#) Candidates with no party affiliation; name on general election ballot.
- [99.096](#) Minor political party candidates; names on ballot.
- [100.041](#) Officers chosen at general election.
- [105.031](#) Qualification; filing fee; candidate's oath; items required to be filed.
- [105.035](#) Petition process of qualifying for certain judicial offices and the office of school board member.
- [106.021](#) Campaign treasurers; deputies; primary and secondary depositories.
- [106.11](#) Expenses of and expenditures by candidates and political committees.
- [106.141](#) Disposition of surplus funds by candidates.
- [106.23](#) Powers of the Division of Elections.
- [112.3144](#) Full and public disclosure of financial interests.
- [673.1131](#) Date of instrument.
- [673.1141](#) Contradictory terms of instrument.

### Florida Election Code

- [Chapters 97 – 106, Florida Statutes](#)

### Florida Case Law

- *Advisory Opinion to the Governor*, 192 So.2d 757 (Fla. 1966)
- *Browning v. Young*, 993 So.2d 64 (Fla. 1<sup>st</sup> DCA 2008)
- *Carlton v. Phalan*, 100 Fla. 1164, 131 So. 117 (Fla. 1930)
- *Davis ex rel. Taylor v. Crawford*, 116 So. 41 (Fla. 1928)
- *Levey v. Dijols*, 668 So.2d 688 (Fla. 4<sup>th</sup> DCA 2008)
- *Newman v. State*, 602 So.2d 1351 (Fla. 3<sup>rd</sup> DCA 1992)
- *State ex rel. Fair v. Adams*, 139 So.2d 879 (Fla. 1962)
- *State ex rel. Knott v. Haskell*, 72 So. 651 (Fla. 1916)
- *State ex rel. Shevin v. Stone*, 279 So.2d 17 (Fla. 1972)
- *Wright v. City of Miami Gardens*, 200 So.3d 765 (Fla. 2016)

### Constitutions

- [United State Constitution](#)
- [Constitution of the State of Florida; Art. V., s. 8](#)

### Florida Administrative Code

- Rule [1S-2.0001](#)

### Forms

- [DS-DE 9](#) Appointment of Campaign Treasurer and Designation of Campaign Depository
- [DS-DE 301SL](#) Candidate Oath – State and Local Partisan Office
- [DS-DE 302NP](#) Candidate Oath – Nonpartisan Office
- [DS-DE 303JU](#) Candidate Oath – Judicial Office
- [DS-DE 304SB](#) Candidate Oath – School Board Nonpartisan Office
- [DS-DE 83](#) Statement of Candidate for Judicial Office
- [DS-DE 84](#) Statement of Candidate
- [Form 1](#) Statement of Financial Interests for the calendar year 2017
- [Form 6](#) Full and Public Disclosure of Financial Interests for the year 2017
- [County Candidate One Percent Remittance Fee Form](#)
- [County Judicial Candidate Fee Remittance Form](#)
- [County School Board Candidate Fee Remittance Form](#)

### Division of Elections

- [Advisory Opinions](#)
  - [DE Opinion 80-27](#): Residence Requirement for a County Commission Candidate
  - [DE Opinion 86-06](#): Ballot Name; Use of Nickname
  - [DE Opinion 92-10](#): Preregistration and Subsequent Qualification for Office
  - [DE Opinion 93-05](#): Residency
  - [DE Opinion 94-04](#): When Qualifications for Selected Offices Must Be Met; Residency
  - [DE Opinion 09-01](#): Qualifying - City Council Candidate; Mistaken Group Number Designation §99.061, Fla. Stat.
- [DE Reference Guide 0008](#): Guidelines for Determining When Residency Qualifications for Elected Office Must be Met
- [DE Reference Guide 0016](#): Resign-to-Run Law
- Supervisor of Elections' (SOE) Portal – Please contact your County Security Manager for link.
- Division of Elections – Forms & Publications: <http://dos.myflorida.com/elections/forms-publications>

### Florida Attorney General

- <http://myfloridalegal.com/opinions>

### Florida Commission on Ethics

- <http://www.ethics.state.fl.us>

### Florida Elections Commission

- <http://www.fec.state.fl.us>

### The Federal Hatch Act

- <https://osc.gov/Pages/HatchAct.aspx>
- [5 U.S.C. §§ 1501- 1508](#)

## Appendix B: DE Reference Guide 0016 Resign-to Run



### Resign-to-Run Law

*DE Reference Guide 0016 (Updated 01/2018)*

*These guidelines are for reference only. They are not to be construed as legal advice or representation. For any particular set of facts or circumstances, refer to the applicable state, federal law, and case law, and/or consult a private attorney before drawing any legal conclusions or relying upon this information.*

#### RESIGN-TO-RUN LAW – GENERAL OVERVIEW

- **Governing law:** An elected or appointed “officer” may not qualify as a candidate for another state, district, county or municipal public office if the terms or any part of the terms would overlap with each other if the person were to be elected or appointed and did not resign from the office the person presently holds. (s. [99.012](#)(3), F.S.)
- **Who is an “officer”?** An “officer” is any elected or appointed person who has the authority to exercise the sovereign powers pertaining to an office recognized under the State Constitution or state laws. With respect to a municipality, an “officer” means a person, whether elected or appointed, who has the authority to exercise municipal power as provided by the State Constitution, state laws, or municipal charter. (s. [99.012](#)(1), F.S.)<sup>1</sup> “Officers” include, but are not limited to: mayors, city and county commissioners, state legislators, supervisors of elections, sheriffs, property appraisers, judges, school board members, superintendents of school, state attorneys and public defenders, municipal fire chiefs, medical examiners, and elected hospital board and airport authority members.
- **Exceptions to the resign-to-run law:**
  - Political party offices; or
  - Persons serving without salary on an appointed board or authority.
  - Candidates for federal office;
  - Persons seeking the office of President or Vice President. (ss. [99.012](#)(3)(a), (6), and (7), F.S.)
- **How to submit a resignation:**
  - In writing at least 10 days prior to the first day of qualifying for the office the officer seeks. (s. [99.012](#)(3)(c), F.S.)
  - Submitted to:
    - *For elected district, county, or municipal officers:*
      - To the officer before whom he or she qualified for the office he or she holds,
      - Copy to the Governor and the Department of State.
    - *For appointed district, county, or municipal officers:*
      - To the officer or authority which appointed him or her to the office he or she holds
      - Copy to the Governor and the Department of State.
    - *For all other officers:*
      - To the Governor
      - Copy to the Department of State. (s. [99.012](#)(3)(e), F.S.)

Address for Governor's office	Address for Department of State
The Honorable Rick Scott, Governor The Capitol 400 S. Monroe St. Tallahassee, FL 32399-0001 Email: <a href="mailto:Rick.Scott@myflorida.com">Rick.Scott@myflorida.com</a> Fax: (850) 922-9002	Kristi Willis, Chief, Bureau of Election Records Department of State R.A. Gray Building, Room 316, 500 S. Bronough Street Tallahassee, Florida 32399-0250 Email: <a href="mailto:kristi.willis@dos.myflorida.com">kristi.willis@dos.myflorida.com</a> Fax: 850-245-6259 or -6290

<sup>1</sup> Florida case law further explains that an “officer” is someone who exercises sovereign power, in part or wholly, either in making, executing or administering the laws and who derives his or her position from a duly and legally authorized election or appointment, whose duties are continuous in nature and defined by law, not contract. See *State ex rel. Holloway v. Sheats*, 83 So. 508, 509 (Fla. 1919). And see *State ex rel. Chyatt v. Hocker*, 22 So. 721 (Fla. 1897).

- **Effective date of the resignation:** The resignation must take effect no later than the earlier of the following dates:
  - The date the officer would take office, if elected; or
  - The date the officer's successor is required to take office. (s. [99.012](#)(3)(d), F.S.)
- **Resignation is irrevocable.** Once submitted, the resignation is irrevocable (s. [99.012](#)(3)(b), F.S.)

### FREQUENTLY ASKED QUESTIONS – RESIGN-TO-RUN LAW:

- **I am a school board member and I will not seek re-election at the next general election; instead, I wish to qualify to run for state representative. Do I have to submit a resignation under the resign-to-run law?**
  - Yes. Section [100.041](#), F.S., reflects that the term of office of a state representative begins upon election for a term of two years and the term of office for a school board member begins on the second Tuesday following the general election for a term of four years. Therefore, your term as a school board member, if elected as a state representative, will not expire until two weeks after you take office as a state representative. This two-week overlap requires you to submit a resignation under the resign-to-run law at least 10 days prior to qualifying as a candidate as a state representative.
- **What can an officer do if he or she missed the deadline for submitting the resignation 10 days prior to the beginning of the qualifying period?**
  - If the officer still wishes to run for office, the officer may submit his or her resignation to take effect immediately or to take effect on a date prior to qualifying for office. In this situation, the officer qualifies as a non-officeholder and the "resign-to-run" law does not apply. (s. [99.012](#)(3)(g), F.S.)
- **What happens to an elected officer's term of office if he or she submits a resignation under the "resign-to-run" law?**
  - Except as noted in the next paragraph, when an elected official resigns, it creates a vacancy in office to be filled by election. The election is held to fill the office for the remaining unexpired term. So, if an officer had one year left in his or her four-year term of office on the effective date of his or her resignation, persons would qualify as a candidate for the office and, if elected, would serve the one year remaining in the former officer's term.
  - If the officer resigning under the "resign-to-run" law occupies an elective charter county office or elective municipal office, the vacancy created by the resignation may be filled for that portion of the remaining unexpired term in the manner specified by the county or municipal charter, as applicable. (s. [99.012](#)(3)(f), Florida Statutes.)
- **Does the "resign-to-run" law apply to subordinate officers, deputy sheriffs, or police officers?**
  - Generally no, but the law will apply in a limited situation. A subordinate officer, deputy sheriff, or police officer is exempt from the resign-to-run law unless the person is seeking to qualify for a public office which is currently held by "an officer who has authority to appoint, employ, promote or otherwise supervise that person and who has qualified as a candidate for reelection to that office." If the subordinate officer, deputy sheriff, or police officer must resign, the resignation must be effective upon qualifying for the office, not the later times specified above for an "officer."
  - So, a deputy sheriff wishing to run for sheriff against an incumbent sheriff would have to resign, but if the incumbent sheriff is not seeking reelection, the deputy sheriff would not have to resign. Also, if a deputy sheriff wishes to run for a non-sheriff office (for example, state representative or city council), he or she would not have to resign under the "resign-to-run" law.
  - If a subordinate officer, deputy sheriff, or police officer must resign under this provision, he or she may not take an unpaid leave of absence instead of resigning. (The Legislature removed the alternative approach of taking an unpaid leave of absence from the statute in 2000.)

- Subordinate officers would include, among others: assistant public defenders, assistant state attorneys, and deputy supervisors of elections. (s. 99.012(4), F.S.; see also, for example, Division of Elections advisory opinions DE 08-04, DE 07-08, and 99-01, which can be found at the [Advisory Opinions webpage](#).)
- **Does a city's Chief of Police have to resign in order to run for another public office?**
  - It depends. The exemption mentioned in the answer to the question immediately above applies to a "police officer." A "chief of police" is a police officer; therefore, the chief of police need only resign to run for public office if the chief is seeking to qualify for a public office which is currently held by "an officer who has authority to appoint, employ, promote or otherwise supervise that person and who has qualified as a candidate for reelection to that office." For example, a city's chief of police would not have to resign to run for county sheriff unless the sheriff has the authority to appoint, employ, promote or otherwise supervise the chief of police and the incumbent sheriff has also qualified as a candidate for reelection. In the typical county-city relationship, the sheriff does not have the authority to appoint, employ, promote or otherwise supervise a city's chief of police. However, for example, if a city mayor has the authority to hire and fire the chief of police, the chief of police could not run for city mayor without resigning as chief of police if the incumbent mayor is seeking re-election. (s. [99.012](#)(4), F.S.)
- **What happens if an officer does not comply with the "resign-to-run" law?**
  - If an order of a court that has become final determines that a person did not comply with the resign-to-run law, the person may not be qualified as a candidate for an election or appear on the ballot. (s. 99.012(5), F.S.) Note, however, that the filing officer performs only a ministerial function in reviewing qualifying papers and cannot determine whether the contents of the qualifying papers are accurate. (s. 99.061(7)(c), F. S.) One of the qualifying papers is the candidate oath in which the candidate states that he or she has resigned from any office from which the candidate is required to resign; therefore, the filing officer may not look beyond the oath. As stated above, it will take a court order to remove the person's name from the ballot.
- **What's the difference in the treatment of "district" officers under the resign-to-run law and the dual office-holding constitutional provision?**
  - The Attorney General has opined that district offices are not within the purview of the dual office-holding provisions of the Constitution. However, district offices, by express statutory provision, are subject to the provisions of the "resign-to-run" law. For example, an elected state or county officer may be appointed also to a district office. However, if the state or county officer later seeks reelection to the state or county office while occupying the district office, he or she would have to submit a resignation under the "resign-to-run" law from the district office before qualifying and running for reelection if the terms of office overlap, unless the district office consists of being a member on an appointed board or authority and the county or state officer receives no salary for being on the board or authority.
- **How does the "resign-to-run" law relate to the federal "Hatch Act?"**
  - The state resign-to-run law is entirely separate from the federal "Hatch Act." (5 U.S.C. §§ 1501- 1508).
  - The federal Hatch Act applies to executive branch state and local employees who are principally employed in connection with programs financed in whole or in part by loans or grants made by the United States or a federal agency. The Act prohibits a state, county, or municipal employee from being a candidate for public office in a partisan election *if the employee's salary is completely funded with federal dollars*. It is only when the covered employee's entire salary is paid from federal funds that the employee would have to resign *under the Hatch Act* before becoming a candidate for partisan office. See 5 U.S.C. § 1502 (Hatch Act Modernization Act of 2012 (eff. 1.27.2013)).

- Governors, Lieutenant Governors, mayors, elected heads of executive departments, and individuals holding elective office are specifically exempt from the Hatch Act prohibition against being a candidate for public office.
- A partisan election means one in which any candidate will be listed on the ballot as a candidate for a political party.
- Additionally, an employee's conduct is also subject to the laws of the state and the regulations of the employing agency, so the employee should check with his or her supervisor, personnel office, or the agency's general counsel to determine what state or local law or agency rules or policies may apply regarding the employee's political activities.
- **For questions or requests for advisory opinions about the Hatch Act** and how it may affect an employee who seeks to run for office, the employee should contact:

Hatch Act Unit  
U.S. Office of Special Counsel  
1730 M Street, N.W., Suite 218  
Washington, D.C. 20036-4505  
Tel: (800) 85-HATCH or (800) 854-2824  
(202) 254-3650;  
Email: [hatchact@osc.gov](mailto:hatchact@osc.gov)  
website: [osc.gov/Pages/HatchAct.aspx](http://osc.gov/Pages/HatchAct.aspx)

- **Who can I contact about questions concerning Florida's "Resign-to-Run" law?**

Office of General Counsel  
Florida Department of State  
R.A. Gray Building  
500 S. Bronough Street  
Tallahassee, Florida 32399-0250  
Telephone: (850) 245-6536  
Email: [DOS.GeneralCounsel@DOS.MyFlorida.com](mailto:DOS.GeneralCounsel@DOS.MyFlorida.com)

## Appendix C: CEO 82-72 Financial Disclosure

CEO 82-72 -- September 20, 1982

### FINANCIAL DISCLOSURE

#### DISCLOSURE PERIOD TO BE USED BY A MUNICIPAL CANDIDATE IN FILING FINANCIAL DISCLOSURE

To: *Mr. David M. Carr, Attorney for Tampa City Council*

#### SUMMARY:

A candidate for a 1983 city election who qualifies after January 1, 1983 is required to file Form 1, Part 1, Statement of Financial Interests, as reflecting his financial interests for the tax year ending December 31, 1982, rather than for the tax year ending December 31, 1981. The disclosure period for which a statement of financial interests is to be filed is defined in Section 112.312(8), Florida Statutes, to mean the taxable year immediately preceding the date on which the disclosure statement is required to be filed. As most individuals' taxable year is the calendar year, a candidate's statement of financial interests should be based on the most recently completed calendar year. Similarly, an incumbent who qualifies as a candidate for a 1983 city election after January 1, 1983 should file a new disclosure form reflecting his financial interests for the year ending December 31, 1982, rather than a copy of the disclosure form previously filed for the tax year ending December 31, 1981.

#### QUESTION 1:

Is a candidate for the 1983 City of Tampa election who qualifies after January 1, 1983 required to file Form 1, Part 1, Statement of Financial Interests, as reflecting his financial interests for the tax year ending December 31, 1982 or for the tax year ending December 31, 1981?

The financial disclosure law applicable to elected municipal officials and candidates for elective municipal office, Section 112.3145, Florida Statutes, is based upon the concept of a "disclosure period." That term is defined in Section 112.312(8), Florida Statutes, as follows:

'Disclosure period' means the taxable year for the person or business entity, whether based on a calendar or fiscal year, immediately preceding the date on which, or the last day of the period during which, the financial disclosure statement required by this part is required to be filed.

For the vast majority of individuals, the taxable year will be the calendar year ending on December 31. Section 441, U.S. Internal Revenue Code. Therefore, when a statement of financial interests is filed, the statement should include the most recently completed calendar year.

Accordingly, when a candidate files a statement of financial interests (Form 1, Part 1) as part of his qualifying papers after January 1, 1983, the statement should reflect the candidate's financial interests for the calendar year ending December 31, 1982 -- the most recently completed calendar year.

#### QUESTION 2:

May an incumbent who qualifies as a candidate for the 1983 City of Tampa election after

January 1, 1983 file a copy of the disclosure form previously filed for the tax year ending December 31, 1981, or must the incumbent file a new disclosure form reflecting his financial interests for the year ending December 31, 1982?

In our view, this question is substantially the same as the first question you have posed. Since the "disclosure period" for which the candidate will be filing will be the most recently completed calendar year, a new financial disclosure form reflecting financial interests for the tax year ending December 31, 1982 should be filed with the candidate's qualifying papers.


## Appendix D: Department of State Memo RE: Filing Fee for Community Development District



### Department of State Memorandum

*Office of the General Counsel*

**TO:** Kristi Bronson  
Chief, Bureau of Election Records

**FROM:**  Gary J. Holland  
Assistant General Counsel

**DATE:** April 22, 2010

**RE:** Filing Fee for Community Development District

You have inquired about the proper disposition of the \$25 filing fee for candidates seeking to be elected to the Board of Supervisors for a Community Development District (CDD).

Section 190.003(6), Florida Statutes (2009), defines Community Development District as "a local unit of special-purpose government which is created pursuant to [chapter 190] and limited to the performance of those specialized functions authorized by [chapter 190]. . . .". Candidates for a CCD board qualify under s. 99.061. § 190.006(3)(c), Fla. Stat. (2009). Thus, a CDD candidate qualifies as a special district candidate by either paying the \$25 election fee or qualify by the petition process. § 99.061(3), Florida Statutes (2009).

Section 189.405(1)(c), Florida Statutes (2009), provides that a special district candidate's \$25 filing fee is to be paid "to the general revenue fund of the qualifying officer to help defray the cost of the election." However, s. 189.405(6), Florida Statutes (2009), expressly states that the provisions of section 189.405 do not apply to CDDs. Chapter 190, Florida Statutes, entitled "Community Development Districts," contains specific differences in the election procedures for a CDD as opposed to other special district elections; therefore, it is understandable why s. 189.405, Florida Statutes does not apply to CDDs. However, chapter 190, Florida Statutes, contains no provision about where the CDD candidate's filing fee is to go. This appears to be an inadvertent omission.

Because the Florida statutes are silent on the issue and in the absence of other specific applicable directives, it is appropriate to apply the general qualifying fee disposition provisions for special districts to CDD candidates. Therefore, the CDD candidate qualifying fee should be treated like that of any other special district candidate, i.e., it is to be paid "to the general revenue fund of the qualifying officer to help defray the cost of the election."