

investment firm which is licensed by the state comptroller and does business with cities other than his own, within the state, file a sworn statement disclosing such interest as required by §112.313, F. S.?

2. If the answer to question 1 is in the affirmative, must the statement be filed with the secretary of state as well as with the clerk of the circuit court?

SUMMARY:

A mayor who also serves as a senior vice president of a corporation regulated by the state, which does substantial business with cities in the state, should file a sworn statement disclosing such interest with the clerk of the circuit court of the county in which he is principally employed pursuant to §112.313(2), F. S.

I shall assume for the purposes of answering the questions that the corporation of which the mayor serves as an officer is "regulated" by the state and has "substantial business commitments" from cities in the State of Florida. The Standards of Conduct Law, §112.313(2), F. S., requires a public officer or employee who is "an officer . . . in any corporation . . . which is subject to the regulation of, or which has any substantial business commitments from *any* state agency, county, city, or other political subdivision of the state" to file a sworn statement disclosing such interest with the appropriate official. (Emphasis supplied.) Clearly this section would apply to a mayor who is also a senior vice president of a corporation regulated by the state, which does business of a substantial nature with cities within the state.

As noted in AGO 072-172 "the purpose of the disclosure requirement apparently is to bring out into the open any interests that are presently or potentially the source of a conflict between public duties and private interests" There is no doubt, then, as to the applicability of §112.313(2), *supra*, in the situation before me for consideration. Question 1 is answered in the affirmative.

With regard to question 2, we should look again to §112.313(2), *supra*. The section requires *state* officers or employees who are, among other things, officers of a corporation that is regulated by the state or have substantial business commitments from any state agency, county, city or other political subdivision of the state to file a sworn statement disclosing such interest with the Department of State. On the other hand, if the person comes within the purview of §112.313(2), *supra*, but is not a state but a *city*, county, or other state political subdivision employee or officer, he shall file the sworn statement with the clerk of the circuit court of the county in which he is principally employed. As the mayor is not a state employee but a city employee, he need only file with the clerk of the circuit court of the county in which he is principally employed.

073-107—April 6, 1973

FLORIDA FACTORY-BUILT HOUSING ACT OF 1971 APPLICATION TO CONFLICTING LOCAL ORDINANCES ADOPTED PURSUANT TO FLORIDA ELECTRICAL CODE

To: Edward J. Trombetta, Secretary, Department of Community Affairs,
Tallahassee

Prepared by: Joseph C. Mellichamp III, Assistant Attorney General

QUESTION:

If a local governmental entity enacts an electrical code pursuant

to §553.18(2), F. S., which differs from the electrical code adopted by the Department of Community Affairs for factory-built housing pursuant to §553.38(1), F. S., may such local governmental entity require additional approval of factory-built housing units bearing the department's insignia of approval which are subsequently sold or installed within said entity's jurisdiction?

SUMMARY:

A local governmental entity which enacts an electrical code pursuant to §553.18(2), F. S., which differs from the electrical code adopted by the Department of Community Affairs for factory-built housing pursuant to §553.38(1), F. S., may not require additional approval of factory-built housing units bearing the department's insignia of approval which are subsequently sold or installed within said entity's jurisdiction.

Your question is answered in the negative.

Part II of Ch. 553, F. S., establishes an electrical code for the State of Florida in order to provide certain uniform minimum standards, regulations, and requirements for safe and stable design, methods of construction, and uses of materials in the electrical wiring, apparatus, or equipment used for heat, light, or power. Section 553.16. The standards prescribed by the Florida Electrical Code apply statewide in both incorporated and unincorporated areas to all new buildings and structures, both private and public, and to all alterations in any new or existing buildings or structures, but do not apply to nonresidential farm buildings. Section 553.17. However, county, municipal, or state governing bodies or improvement districts may adopt and enforce additional or more stringent standards if the standards are in conformity with the standards set forth in §553.19. Section 553.18(2).

Part IV of Ch. 553, F. S., the Florida Factory-Built Housing Act of 1971, provides for a central agency (the Department of Community Affairs) to promulgate and enforce uniform health and safety standards and inspection procedures in the area of mass production of housing which consists primarily of factory-manufactured dwelling units or habitable rooms. Section 553.38(1) provides that the Department of Community Affairs shall promulgate rules and regulations which protect the health, safety, and property of the people of this state by assuring that all factory-built housing is structurally sound and that the plumbing, heating, and electrical and other components thereof are reasonably safe.

The department promulgated and adopted Rule 9B-1.04(2), Florida Administrative Code, which states that the design, fabrication, and installation of electrical systems and equipment in or on factory-built housing shall comply with the requirements of the Florida Electrical Code (part II, Ch. 553, F. S.). Thus, it is seen that the department's electrical standards for factory-built housing meet the state requirements as contained in the Florida Electrical Code.

The department inspects and approves proposed plans for all factory-built housing units and, through a third party inspection process, inspects the units as they are being built in the factory. If these units pass inspection at the factory, an insignia is affixed to each unit by the third party inspection team. All factory-built housing bearing this insignia of approval shall be deemed to comply with the requirements of all ordinances or regulations enacted by any local government relating to the construction of housing. Section 553.37(3), F. S. Further, all factory-built housing which has been issued the insignia of approval upon its manufacture or first sale (pursuant to part IV, Ch. 553, *supra*) shall not require an additional approval or insignia by the government of a local area in which such housing is subsequently sold or installed. Section 553.37(5), F. S.

Therefore, it is my opinion based on the above authority and in view of the express legislative intent that there be established uniform health and safety standards and inspection procedures in regard to factory-built housing, that a local governmental entity which enacts an electrical code pursuant to §553.18(2), *supra*, which differs from the electrical code adopted by the Department of Community Affairs for factory-built housing pursuant to §553.38(1), *supra*, may not require additional approval of factory-built housing units bearing the department's insignia of approval which are subsequently sold or installed within said entity's jurisdiction.

073-108—April 6, 1973

PEACE BOND PROCEEDINGS

AUTHORIZED BEFORE JUDGE OF CIRCUIT OR COUNTY COURT

To: *Monroe W. Treiman, Executive Secretary, Conference of County Court Judges of Florida, Brooksville*

Prepared by: *Andrew W. Lindsey and Reeves Bowen, Assistant Attorneys General*

QUESTION:

Since the repeal of §37.21, F. S. 1971, which authorized peace bond proceedings before justices of the peace, is there any authorization for peace bond proceedings in this state and, if there is, may they be conducted before a judge of a county court?

SUMMARY:

Peace bond proceedings are still authorized by Florida law and they may be held before either a circuit judge or a judge of a county court. The forms set forth in §§923.04 through 923.07, F. S., for use by justices of the peace (which office was abolished by revised Art. V of the State Constitution) may be adapted for use in current peace bond proceedings. Although §37.21, F. S., relating to peace bond proceedings before justices of the peace, has been repealed by the legislature, its principles may be followed in current peace bond proceedings.

Section 37.21, F. S., provided that:

37.21 Justice may bind over to keep the peace.—After an affidavit is made before any justice of the peace by any person that he has reason to believe, and does believe, that he will suffer personal violence at the hands of another, he shall issue his warrant for the arrest of the party against whom the affidavit has been made, commanding the officer into whose hands the warrant has been placed, to bring the said person against whom the warrant has issued before him, and if, after a full and thorough examination, he shall have reason to believe, from evidence produced before him, that there is just cause for said complaint, he shall bind the person so arrested over by bond, with two or more good and sufficient sureties, said bond to be approved by the justice, for one year, to keep the peace, and, upon failure of said person to give bond as aforesaid, he shall commit such person to jail until the required bond is given, but the said commitment shall not be for more than three months.

Revised Art. V, State Const., which became effective at 11:59 p.m., Eastern Standard Time, on January 1, 1973, abolished the office of justice of the peace.