

Residency, determination of

Number: INFORMAL

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The Honorable Joseph H. Arnall
Representative, District 18
Florida House of Representatives
2320 South Third Street, Suite 4
Jacksonville Beach, Florida 32250-4057

Dear Representative Arnall:

Thank you for considering this office as a source for assistance. You state that one of your constituents is unsure whether he became a Florida resident when he moved to Florida or when he filed a Declaration of Domicile and Citizenship with the circuit court. Attorney General Butterworth has asked me to respond to your letter.

Florida courts have stated that residency generally means an actual presence in a place and the intention to remain in that place.[1] As evidence of that intent, public officials will generally consider such things as a driver license, automobile registration, voter registration, declarations of domicile, location of bank account, rent receipts, home mortgage, tax returns, and employment documents.

In some cases, however, the Legislature has specified the criteria to be used. For example, section 240.1201(2)(a)1., Florida Statutes, requires that to qualify as a resident for tuition purposes, a person must have established legal residence in this state and maintained legal residence in this state for at least 12 months immediately prior to qualifying.[2] Section 240.1201(1)(c), Florida Statutes, defines "legal resident" or "resident" as "a person who has maintained his or her residence in this state for the preceding year, has purchased a home which is occupied by him or her as his or her residence, or has established a domicile in this state pursuant to s. 222.17." [3]

In determining eligibility for an exemption from taxation, however, section 196.015, Florida Statutes, provides:

"Intention to establish a permanent residence in this state is a factual determination to be made, in the first instance, by the property appraiser. Although any one factor is not conclusive of the establishment or nonestablishment of permanent residence, the following are relevant factors that may be considered by the property appraiser in making his or her determination as to the intent of a person claiming a homestead exemption to establish a permanent residence in this state:

- (1) Formal declarations of the applicant.
- (2) Informal statements of the applicant.
- (3) The place of employment of the applicant.
- (4) The previous permanent residency by the applicant in a state other than Florida or in another

- country and the date non-Florida residency was terminated.
- (5) The place where the applicant is registered to vote.
 - (6) The place of issuance of a driver's license to the applicant.
 - (7) The place of issuance of a license tag on any motor vehicle owned by the applicant.
 - (8) The address as listed on federal income tax returns filed by the applicant.
 - (9) The previous filing of Florida intangible tax returns by the applicant."

Thus, determining residency often depends on the purpose for which such residency is to be used.

I trust the above informal advisory comments may be of assistance.

Sincerely,

Joslyn Wilson
Assistant Attorney General
Director, Opinions Division

JW/tzg

cc: Mr. Thomas McLeod

[1] See 77 C.J.S. *Residence* p. 295; *Kiplinger v. Kiplinger*, 2 So. 2d 870 (Fla. 1941); *Fowler v. Fowler*, 22 So. 2d 817 (Fla. 1945); *Cruickshank v. Cruickshank*, 420 So. 2d 914 (Fla. 1st DCA 1982); *Gillman v. Gillman*, 413 So. 2d 412 (Fla. 4th DCA 1982).

[2] *Cf.* s. 61.021, Fla. Stat., providing that to obtain a dissolution of marriage, one of the parties must reside six months in the state before the filing of the petition.

[3] *Cf.* s. 154.309, Fla. Stat., requiring the Department of Health to adopt rules for certification determination procedures which provide criteria to be used for determining a qualified indigent's county of residence.