

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Ethics and Elections

BILL: CS/SB 744

INTRODUCER: Ethics and Elections Committee and Senator Bean

SUBJECT: Addresses of Legal Residence

DATE: January 20, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carlton	Roberts	EE	Fav/CS
2.			CA	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 744 defines “address of legal residence.” The bill requires voter registration applications to contain the applicant’s address of legal residence, including an apartment, suite, lot, room, dormitory room number, or other appropriate identifier. The bill states that failure to provide a distinguishing apartment, suite, lot, room, or dormitory room or other identifier on a voter registration application does not impact a voter’s eligibility to register to vote or to cast a ballot. The bill also provides that failure to provide a distinguishing apartment, suite, lot, room, or dormitory room or other identifier on a voter registration application may not serve as the basis for a challenge to a voter’s eligibility or reason to not count a ballot.

Under the bill, Supervisors of Elections are required to include within their list of valid residential street addresses all information necessary to distinguish residences including a distinguishing apartment, suite, lot, room, dormitory room, or other identifier.

The bill is effective July 1, 2016.

II. Present Situation:

The Florida Voter Registration Act (FVRA)¹ delineates the qualifications and requirements necessary for a person to register to vote in Florida.² In order to be a registered voter in Florida, a

¹ Part II, ch. 97, F.S.

² See ss. 97.041-97.105, F.S.

person must be at least 18 years of age, a citizen of the United States, a legal resident of Florida, a legal resident of the county in which the person seeks to be registered, and register pursuant to the Florida Election Code.³

The Department of State must prescribe by rule a uniform statewide voter registration application.⁴ The uniform statewide voter registration application must be designed to elicit certain information from the applicant.⁵ A voter registration application is considered complete if it contains the following information necessary to establish the applicant's eligibility:⁶

- The applicant's name, legal residence address,⁷ and date of birth.
- A mark in the checkbox affirming the applicant is a citizen of the United States.
- The applicant's current and valid Florida driver license number or identification number, or if the applicant does not have a Florida driver's license or identification card, then the last four numbers of his or her social security number.⁸
- A mark in the checkbox affirming that the applicant has not been convicted of a felony or that, if convicted, has had his or her civil rights restored.
- A mark in the checkbox affirming that the applicant has not been adjudicated mentally incapacitated with respect to voting or that, if so adjudicated, has had his or her right to vote restored.
- The applicant's signature or a digital signature transmitted by the Department of Highway Safety and Motor Vehicles.

The term "legal residence" is not defined in the Florida Election Code;⁹ however, the term has been defined in case law.¹⁰ A legal residence "is the place where a person has fixed an abode with the present intention of making it their permanent home."¹¹ According to the Florida Supreme Court a "legal residence consists of the concurrence of both fact and intention."¹²

Supervisors of elections (supervisors) act as the receiver and custodian of new voter registrations, as well as the receiver and custodian of any changes in the status of current registered electors within their respective counties.¹³ Each supervisor must maintain a list of

³ Section 97.041(1)(a), F.S.

⁴ Section 97.052(1), F.S.; Fla. Admin. Code R. 1S-2.040 incorporating form DS-DE 39.

⁵ See s. 97.052(2), F.S.

⁶ Section 97.053(5)(a), F.S.

⁷ The Florida Voter Registration Application, incorporated by the Division of Elections into rule, has distinct sections for an applicant's: street address, apt/lot/unit number, city, county, and zip code. Fla. Admin. Code R. 1S-2.040 incorporating form DS-DE 39.

⁸ If an applicant has not been issued a current and valid Florida driver license, identification card, or social security number, the applicant must affirm this fact in the manner prescribed in the uniform statewide voter registration application.

⁹ "No provision of the Florida Election Code defines legal residency. However, this office and Florida courts have consistently construed legal residence to mean a permanent residence, domicile, or permanent abode, rather than a residence that is temporary." Op. Div. of Elections, DE 93-05.

¹⁰ *Minick v. Minick*, 149 So. 483 (Fla. 1933).

¹¹ *Id.*

¹² *Bloomfield v. City of St. Petersburg Beach*, 82 So.2d 364 (Fla. 1955).

¹³ Section 98.015(3), F.S.

valid residential street addresses¹⁴ for the purpose of verifying the legal addresses of voters residing within his or her county.¹⁵

III. Effect of Proposed Changes:

CS/SB 744 defines the term “address of legal residence” for purposes of the Florida Election Code. It defines “address of legal residence” to mean the legal residential address of the elector and includes all information necessary to differentiate one residence from another, including, but not limited to, a distinguishing apartment, suite, lot, room, or dormitory room number or other identifier.

The bill requires the voter registration application to include the applicant’s address of legal residence in order to be considered complete. However, the bill states that failure to provide a distinguishing apartment, suite, lot, room, or dormitory room or other identifier on a voter registration application does not impact a voter’s eligibility to register to vote or to cast a ballot. The bill also provides that failure to provide a distinguishing apartment, suite, lot, room, or dormitory room or other identifier on a voter registration application may not serve as the basis for a challenge to a voter’s eligibility or as a reason to not count a ballot.

Lastly, the bill requires supervisors to include within their list of valid residential addresses, to the maximum extent practicable, information necessary to differentiate one address from another, such as an apartment, suite, lot, room, dormitory room number, or other appropriate identifier.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

¹⁴ “Each county Supervisor shall submit electronically, at least monthly, by the 10th of each month, to the Division of Elections to the FVRS [Florida Voter Registration System] an uploaded index of valid residential street addresses so that the legal addresses on application can be verified as valid at the time of registering or updating a registration record.” Fla. Admin. Code R 1S-2.039(12)(a).

¹⁵ Section 98.015(12), F.S.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Supervisors may experience a cost associated with revising their list of valid residential addresses to include information such as an apartment, suite, lot, room, or dormitory room number; however, it is likely the cost will be insignificant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 97.021, 97.053, and 98.015.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Ethics and Elections on January 20, 2016:

The committee substitute differs from the original bill in that it:

- Provides that failure to provide a distinguishing apartment, suite, lot, room, or dormitory room or other identifier on a voter registration application does not impact a voter's eligibility to register to vote or to cast a ballot; and,
- Provides that failure to provide a distinguishing apartment, suite, lot, room, or dormitory room or other identifier on a voter registration application may not serve as the basis for a challenge to a voter's eligibility or reason to not count a ballot.

B. Amendments:

None.