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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

April 19, 1996

The Honorable Dewitt Williams
Member, House of Representatives
Post Office Box 296
St. Stephen, South Carolina 29479

RE: Informal Opinion

Dear Representative Williams:

By your letter recent letter to Attorney General Condon, you have inquired about the number of days that a candidate has, after filing, to move into a district if he or she does not live in the district.

The qualifications to hold public office in South Carolina are fixed and established by Article VI, Section 1 of the South Carolina Constitution, wherein it is stated that "[n]o person shall be popularly elected to any office in this State or its political subdivisions unless he possess the qualifications of an elector. ..." "Qualified elector" means "registered elector" or registered voter, and one who has not been registered to vote cannot be elected to and hold a public office. See also Article XVII of the South Carolina Constitution; Mew v. Charleston & S. Ry. Co., 55 S.C. 90, 32 S.E. 828 (1899); Blalock v. Johnston, 180 S.C. 40, 185 S.E. 51 (1936); Wright v. State Board, 76 S.C. 574, 57 S.E. 536 (1907). Article II, Section 4 of the South Carolina Constitution provides in part that "[e]very citizen of the United States and of this State of the age of eighteen and upwards who is properly registered shall be entitled to vote in the precinct of his residence and not elsewhere. ..." [Emphasis added.]

Ordinarily, candidates' qualifications are determined at the time of the election and not at the time of nomination. State ex rel. Harrelson v. Williams, 157 S.C. 290, 154 S.E. 164 (1930). I am aware that there may be a few possible exceptions to this general rule, however, one being for candidates who would offer for election as sheriff and another

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being for candidates who would offer for election to the South Carolina House of Representatives. As to candidates for sheriff, see an Informal Opinion dated November 15, 1995; as to candidates for the House of Representatives, see S.C. Code Ann. §2-1-40 and the decision in The Charleston County Democratic Party v. The Charleston County Republican Party and the Charleston County Election Commission, Court of Common Pleas of Charleston County, 82-CP-10-3370, Order filed September 10, 1982 (copies enclosed). The Court of Common Pleas construed §2-1-40 to mean that a candidate must reside in the House district at the time of filing and not merely at the time of the general election. Therefore, the answer to your question depends upon the office for which one would offer as a candidate.

I hope that the foregoing has been helpful in resolving your question. If you have additional questions about a particular office, please feel free to call me and discuss the matter.

This letter is an informal opinion only. It has been written by a designated Senior Assistant Attorney General and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kindest regards, I am

Sincerely,

Patricia D. Petway

Patricia D. Petway
Senior Assistant Attorney General

Enclosures