

1978 WL 34752 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 8, 1978

\*1 D. N. Holt, Jr.  
Vice Chairman  
House Delegation  
Charleston County Legislative Delegation  
P. O. Box 487  
Charleston, SC

Dear Mr. Holt:

Mr. McLeod has referred your recent letter to me for reply. You have asked the following question:

Does any elected official in this state, in which geographical boundaries have been established for the purpose of determining a residency requirement necessary to offer for such office, vacate such elected office if during his term, removes his residency from the area from which he was elected?

A requirement that a candidate be a resident of a district in which he is elected is in derogations of common law; and, therefore, must be expressly stated in the law as a requirement. 29 C.J.S. Elections, § 130. However, it is general law that if the law imposes a residency requirement, the official must be a resident of that area. [State v. City Council of Union, 95 S.C. 131, 78 S.E. 738 \(1913\)](#). If that official thereafter moves from the area he represents, he cannot continue to serve. 1955-56 Att'y. Gen. Ops. 261; 63 Am.Jur.2d, Public Officers and Employees, § 42.

Very truly yours,

Treva G. Ashworth  
Assistant Attorney General

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