

MAINE STATE LEGISLATURE

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LEGISLATION
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STATE OF MAINE

DEPARTMENT OF THE ATTORNEY GENERAL

AUGUSTA, MAINE 04333

September 1, 1978

Honorable Rodney Quinn
Office of the Majority Leader
State House
Augusta, Maine 04333

Dear Representative Quinn:

This responds to your request for advice regarding residency requirements for Representatives to the Legislature.

The Maine Constitution establishes the residency requirements for members of the House of Representatives at Article IV, Part First, Section 4. That section basically provides that a person cannot be a member of the House of Representatives unless the person is 21 years of age, has been a citizen of the United States for 5 years, a resident of Maine for 1 year, and a resident of the district that person seeks to represent for at least 3 months prior to the date of the election. Further, a person, once elected, must continue to be a resident of the district from which that person is elected in order to continue to be qualified to be a member of the House of Representatives.

Deciding what is a person's residence is not, unfortunately, an exact science. Rather, it is a combination of determination of facts and the person's intent. Thus, the election laws define "residence" as: "that place in which a person's habitation is fixed and to which that person, whenever absent, has the intention to return." 21 M.R.S.A. § 1-35.

Residency may be determined by various attributes, including the place where a person is living, the address on a person's driving license or auto registration, addresses on tax forms and/or payment of taxes, or addresses on other official forms. See, for example, the criteria used in the fish and game laws, 12 M.R.S.A. § 1901-14-A.

For purposes of voter registration and thus qualification for election to membership in the House of Representatives a person might need to demonstrate some, but not all, of the attributes of residence, such as those suggested above. Further, as indicated in the election laws, intent does play a role in determinations for election law and office qualification purposes.

Should any dispute develop regarding the residency of a person who is elected to office, the House of Representatives would be the ultimate judge of that dispute. Article IV, Part Third, Section 3 of the Constitution provides that:

"Each House shall be the judge of the elections and qualifications of its own members. . . . "

I hope this information is helpful. If you need further advice on this matter, I will try to provide it.

Sincerely,



DONALD G. ALEXANDER
Deputy Attorney General

DA/ec