

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1302
Committee Substitute Favorable 5/9/89

Short Title: Residence for Registration.

(Public)

Sponsors:

Referred to:

April 12, 1989

A BILL TO BE ENTITLED
AN ACT TO CLARIFY THE QUESTION OF RESIDENCE FOR THE PURPOSE OF
VOTER REGISTRATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-57 reads as rewritten:

"§ 163-57. Residence defined for registration and voting.

All registrars and judges, in determining the residence of a person offering to register or vote, shall be governed by the following rules, so far as they may apply:

~~(1) That place shall be considered the residence of a person in which his habitation is fixed, and to which, whenever he is absent, he has the intention of returning.~~

(1a) For the purposes of this Chapter, residence and domicile are synonymous. They are that place to which a person intends to return when absent therefrom and the place where that person intends to remain permanently, or for an indefinite length of time, or until some unexpected event shall occur to induce him to leave.

(2) A person shall not be considered to have lost his residence who leaves his home and goes into another state or county of this State, for temporary purposes only, with the intention of returning.

(3) A person shall not be considered to have gained a residence in any county of this State, into which he comes for temporary purposes only, without the intention of making such county his permanent place of abode.

- 1 (4) If a person removes to another state or county within this State, with
2 the intention of making such state or county his permanent residence,
3 he shall be considered to have lost his residence in the state or county
4 from which he has removed.
- 5 (5) If a person removes to another state or county within this State, with
6 the intention of remaining there an indefinite time and making such
7 state or county his place of residence, he shall be considered to have
8 lost his place of residence in this State or the county from which he has
9 removed, notwithstanding he may entertain an intention to return at
10 some future time.
- 11 (6) If a person goes into another state or county, or into the District of
12 Columbia, and while there exercises the right of a citizen by voting in
13 an election, he shall be considered to have lost his residence in this
14 State or county.
- 15 (7) School teachers who remove to a county for the purpose of teaching in
16 the schools of that county temporarily and with the intention or
17 expectation of returning during vacation periods to live in the county
18 in which their parents or other relatives reside, and who do not have
19 the intention of becoming residents of the county to which they have
20 moved to teach, for purposes of registration and voting shall be
21 considered residents of the county in which their parents or other
22 relatives reside.
- 23 (8) If a person removes to the District of Columbia or other federal
24 territory to engage in the government service, he shall not be
25 considered to have lost his residence in this State during the period of
26 such service unless he votes there, and the place at which he resided at
27 the time of his removal shall be considered and held to be his place of
28 residence.
- 29 (9) If a person removes to a county to engage in the service of the State
30 government, he shall not be considered to have lost his residence in the
31 county from which he removed, unless he demonstrates a contrary
32 intention.
- 33 (10) For the purpose of voting a spouse shall be eligible to establish a
34 separate domicile."

35 Sec. 2. G.S. 163-85 reads as rewritten:

36 **"§ 163-85. Challenge procedure other than on day of primary or election.**

37 (a) Right to Challenge; When Challenge May Be Made. – Any registered voter
38 of the county may challenge the right of any person to register, remain registered or vote
39 in such county. No such challenge may be made after the close of the registration books,
40 pursuant to G.S. 163-67, before each primary, general, or special election.

41 (b) Challenges Shall Be Made to the County Board of Elections. – Each
42 challenge shall be made separately, in writing, under oath and on forms prescribed by
43 the State Board of Elections, and shall specify the reasons why the challenged voter is
44 not entitled to register, remain registered, or vote. When a challenge is made, the board

1 of elections shall cause the word 'challenged' to be written in pencil on the registration
2 records of the voter challenged. The challenge shall be signed by the challenger and
3 shall set forth the challenger's address.

4 (c) Grounds for Challenge. – Such challenge may be made only for one or more
5 of the following reasons:

6 (1) That a person is not a resident of the State of North Carolina, or

7 (2) That a person is not a resident of the county in which the person is
8 registered, provided that no such challenge may be made if the person
9 removed his residency and the period of removal has been less than 30
10 days, or

11 (3) That a person is not a resident of the precinct in which the person is
12 registered, provided that no such challenge may be made if the person
13 removed his residency and the period of removal has been less than 30
14 days, or

15 (4) That a person is not 18 years of age, or if the challenge is made within
16 60 days before a primary, that the person will not be 18 years of age by
17 the next general election, or

18 (5) That a person has been adjudged guilty of a felony and is ineligible to
19 vote under G.S. 163-55(2), or

20 (6),(7) Repealed by Session Laws 1985, c. 563, ss. 11.1, 11.2, effective
21 September 1, 1985.

22 (7a) That a person is dead,

23 (8) That a person is not a citizen of the United States, or

24 (9) With respect to municipal registration only, that a person is not a
25 resident of the municipality in which the person is registered.

26 (d) Preliminary Hearing. – When a challenge is made, the county board of
27 election shall schedule a preliminary hearing on the challenge, and shall take such
28 testimony under oath and receive such other evidence proffered by the challenger as
29 may be offered. The burden of proof shall be on the challenger, and if no testimony is
30 presented, the board shall dismiss the challenge. If the challenger presents evidence and
31 if the board finds that probable cause exists that the person challenged is not qualified to
32 vote, then the board shall schedule a hearing on the challenge.

33 (e) **Prima Facie** Evidence That Voter No Longer Resides in Precinct. – The
34 presentation of a letter mailed by returnable first-class mail to the voter at the address
35 listed on the voter registration card and returned because the person does not live at the
36 address shall constitute **prima facie** evidence that the person no longer resides in the
37 precinct. The fact that a person who has been registered in the precinct for more than a
38 year has not maintained a general physical presence in the precinct for at least seven of
39 the twelve months immediately prior to a challenge shall also constitute **prima facie**
40 evidence that the person does not reside in the precinct."

41 Sec. 3. This act is effective upon ratification.