CHAPTER 1

General Provisions

**SECTION 7‑1‑10.** Short title.

This Title shall be known as the “South Carolina Election Law.”

HISTORY: 1962 Code Section 23‑1; 1952 Code Section 23‑1; 1950 (46) 2059.

CROSS REFERENCES

Constitutional provision for free and open elections, see SC Const, Art 1, Section 5.

**SECTION 7‑1‑20.** Definitions.

The following words and phrases, unless the same be plainly inconsistent with the context, shall be construed as follows:

(1) “General election” means the election to be held for the election of officers to the regular terms of office provided by law, whether State, United States, county, municipal, or of any other political subdivision of the State, and for voting on constitutional amendments proposed by the General Assembly.

(2) “Special election” means any other election including any referendum provided by law to be held under the provisions of law applicable to general elections.

(3) “Primary” means a party primary election held by a political party under the provisions of this title.

(4) “Inhabitants” means the number of inhabitants according to the federal census last taken.

(5) “Electoral board” means the board or other authority empowered to hold a general or special election.

(6) A “voting or polling precinct” means an area created by the legislature for convenient localization of polling places and which administers and counts votes therein as a local unit in all elections.

A “voting place” is a place within a voting or polling precinct where ballots may be cast.

(7) “Political party” means a political party, organization, or association certified by the State Election Commission as provided for in this title.

(8) “State committee” means the state executive committee of a political party.

(9) “State chairman” means the chairman of the state executive committee of a political party.

(10) “County committee” means the county executive committee of a political party.

(11) “County chairman” means the chairman of the county executive committee of a political party.

(12) “Booth” includes a voting machine booth, curtain, or enclosure.

(13) “Legal holiday” means a holiday recognized by state or federal law.

(14) “Voter”, “registered voter”, “elector”, “registered elector”, “qualified elector”, or “qualified registered elector” means a person whose name is contained on the active roster of voters maintained by the State Election Commission and whose name has not been removed from the roster for any of the reasons named in Section 7‑3‑20(C)(2) and (3) and who possesses a valid registration certificate.

HISTORY: 1962 Code Section 23‑2; 1952 Code Section 23‑2; 1950 (46) 2059; 1967 (55) 634; 1984 Act No. 264, eff January 27, 1984; 1986 Act No. 346, Section 1, eff March 7, 1986; 2010 Act No. 245, Section 1, eff June 2, 2010.

Effect of Amendment

The 1984 amendment added item (15).

The 1986 amendment, in item (7), substituted “State Election Commission” for “Secretary of State” and made grammatical changes.

The 2010 amendment deleted subsection (12) relating to the definition of “Club district”; redesignated former subsections (13) through (15) as subsections (12) through (14); and made other nonsubstantive changes.

RESEARCH REFERENCES

ALR Library

60 ALR 6th 481 , Validity, Construction and Application of State Statutory Limitations Periods Governing Election Contests.

Attorney General’s Opinions

Under Section 7‑7‑10 and Section 5‑15‑50, South Carolina Code of Laws, 1976, the General Assembly is the only authority which should draw ward lines for voting purposes; municipalities can draw ward lines pursuant to Section 5‑15‑50, South Carolina Code of Laws, 1976, for other than election purposes; if the General Assembly fails to designate a voting place another authority may designate the voting place; municipalities can not be able to pool all the precincts in municipality for municipal election. 1978 Op Atty Gen, No. 78‑70, p 99.

**SECTION 7‑1‑25.** “Domicile” defined.

(A) A person’s residence is his domicile. “Domicile” means a person’s fixed home where he has an intention of returning when he is absent. A person has only one domicile.

(B) For voting purposes, a person has changed his domicile if he (1) has abandoned his prior home and (2) has established a new home, has a present intention to make that place his home, and has no present intention to leave that place.

(C) For voting purposes, a spouse may establish a separate domicile.

(D) For voting purposes, factors to consider in determining a person’s intention regarding his domicile include, but are not limited to:

(1) a voter’s address reported on income tax returns;

(2) a voter’s real estate interests, including the address for which the legal residence tax assessment ratio is claimed pursuant to Section 12‑43‑220(C);

(3) a voter’s physical mailing address;

(4) a voter’s address on driver’s license or other identification issued by the Department of Motor Vehicles;

(5) a voter’s address on legal and financial documents;

(6) a voter’s address utilized for educational purposes, such as public school assignment and determination of tuition at institutions of higher education;

(7) a voter’s address on an automobile registration;

(8) a voter’s address utilized for membership in clubs and organizations;

(9) the location of a voter’s personal property;

(10) residence of a voter’s parents, spouse, and children; and

(11) whether a voter temporarily relocated due to medical care for the voter or for a member of the voter’s immediate family.

HISTORY: 1999 Act No. 103, Section 1, eff June 30, 1999; 2011 Act No. 27, Section 1, eff May 18, 2011.

Editor’s Note

2011 Act No. 27, Sections 7 and 8, provide as follows:

“SECTION 7. The State Elections Commission must establish an aggressive voter education program concerning the provisions contained in this legislation. The State Elections Commission must educate the public as follows:

“(1) Post information concerning changes contained in this legislation in a conspicuous location at each county board of registration and elections, each satellite office, the State Elections Commission office, and their respective websites.

“(2) Train poll managers and poll workers at their mandatory training sessions to answer questions by electors concerning the changes in this legislation.

“(3) Require documentation describing the changes in this legislation to be disseminated by poll managers and poll workers at every election held following preclearance by the United States Department of Justice or approval by a declaratory judgment issued by the United States District Court for the District of Columbia, whichever occurs first.

“(4) Coordinate with each county board of registration and elections so that at least two seminars are conducted in each county prior to December 15, 2011.

“(5) Coordinate with local and service organizations to provide for additional informational seminars at a local or statewide level.

“(6) Place an advertisement describing the changes in this legislation in South Carolina newspapers of general circulation by no later than December 15, 2011.

“(7) Coordinate with local media outlets to disseminate information concerning the changes in this legislation.

“(8) Notify each registered elector who does not have a South Carolina issued driver’s license or identification card a notice of the provisions of this act by no later than December 1, 2011. This notice must include the requirements to vote absentee, early, or on election day and a description of voting by provisional ballot. It also must state the availability of a free South Carolina identification card pursuant to Section 56‑1‑3350.

“In addition to the items above, the State Elections Commission may implement additional educational programs in its discretion.

“SECTION 8. The State Election Commission is directed to create a list containing all registered voters of South Carolina who are otherwise qualified to vote but do not have a South Carolina driver’s license or other form of identification containing a photograph issued by the Department of Motor Vehicles as of December 1, 2011. The list must be made available to any registered voter upon request. The Department of Motor Vehicles must provide the list of persons with a South Carolina driver’s license or other form of identification containing a photograph issued by the Department of Motor Vehicles at no cost to the commission. The commission may charge a reasonable fee for the provision of the list in order to recover associated costs of producing the list.”

Effect of Amendment

The 2011 amendment added subsection (D).

CROSS REFERENCES

Voting, legal qualification, challenges to proof of residency or domicile, see Section 7‑5‑230.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Elections Section 20, Residency and Domicile.

S.C. Jur. Elections Section 33, Sufficiency of Application.

Attorney General’s Opinions

Discussion of residency and military deployment with respect to members of municipal councils. S.C. Op.Atty.Gen. (July 11, 2016) 2016 WL 3946156.

The particular candidate’s wife’s primary residence in a different Congressional District does not defeat that candidate’s eligibility to represent the Congressional District on the Board of Trustees of the Medical University of South Carolina for the county he claims as his residence. S.C. Op.Atty.Gen. (April 5, 2013) 2013 WL 1695516.

**SECTION 7‑1‑30.** Receipt of public aid does not disfranchise any citizen.

Nothing in this Title shall disfranchise any citizen, if otherwise qualified, who may receive any public aid from the State or Federal Government through the Department of Social Services or any other State or Federal agency.

HISTORY: 1962 Code Section 23‑3; 1952 Code Section 23‑3; 1950 (46) 2059.

CROSS REFERENCES

Protection of right of suffrage, see SC Const, Art 2.

**SECTION 7‑1‑40.** Title applicable to all elections.

This Title shall apply to and control all elections, including elections for the issuance of bonds and other elections in which any question or issue is submitted to a vote of the people.

HISTORY: 1962 Code Section 23‑4; 1952 Code Section 23‑4; 1950 (46) 2059, 2355.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Clerks of Court Section 10, Duties.

**SECTION 7‑1‑50.** Contesting election of Governor.

In case of a contest of the election of Governor, if the General Assembly by concurrent resolution shall entertain the same, the Senate and House of Representatives shall, each separately, proceed to hear and determine the facts in the case, so far as they deem necessary, and decide thereon who is entitled to be declared elected. If the two branches of the General Assembly come to the same decision, they shall, by concurrent resolution, declare who is duly elected and entitled to enter upon and exercise the office of Governor; and such person thereupon shall, upon taking the oath prescribed in the Constitution, be inducted into office. If the two branches of the General Assembly do not come to the same decision, then an election shall be called by the Governor, to take place in not less than sixty nor more than ninety days, at which the qualified electors shall proceed to vote for a suitable person to fill the office of Governor.

HISTORY: 1962 Code Section 23‑5; 1952 Code Section 23‑5; 1942 Code Section 2324; 1932 Code Section 2324; Civ. C. ‘22 Section 258; Civ. C. ‘12 Section 256; Civ. C. ‘02 Section 230; G. S. 134; R. S. 188; 1882 (17) 1121; Const, Art 4 Section 4; 1961 (52) 48.

CROSS REFERENCES

Constitutional oath of office, see SC Const, Art 3, Section 26.

Constitutional provision regarding election contests, see SC Const, Art 2, Section 10.

Constitutional provision that person who has highest number of votes is to be governor, see SC Const, Art 4, Section 5.

**SECTION 7‑1‑60.** Each multiple office is separate and distinct; candidate is to qualify for one specific office; ballots for multiple offices.

Each multiple office in this State shall constitute a separate and distinct office to which a separate number shall be assigned within each election district for such an office. A candidate for such an office shall be required to qualify for a specific office and shall not be permitted to qualify for more than one such office in any one election.

The election ballots for multiple offices shall reflect the number assigned to each office and the names of the candidates.

HISTORY: 1962 Code Section 23‑5.1; 1972 (57) 2383.

CROSS REFERENCES

Similar provisions as to House of Representatives offices, see Section 2‑1‑30.

**SECTION 7‑1‑70.** Catawba Indians, if otherwise qualified, are citizens.

All Catawba Indians, otherwise qualified, are hereby declared to be citizens of the State of South Carolina and shall enjoy and have all the rights and privileges belonging to other citizens of the State.

HISTORY: 1962 Code Section 23‑6; 1952 Code Section 23‑6; 1944 (43) 1208.

**SECTION 7‑1‑80.** Liability of broadcasting station for defamatory statement by candidate.

The owner, licensee or operator of a visual or sound radio broadcasting station or network of stations and the agents or employees of any such owner, licensee or operator shall not be liable for any damages for any defamatory statement published or uttered in or as a part of a visual or sound radio broadcast by a candidate for political office in those instances where, under the acts of Congress or the rules and regulations of the Federal Communications Commission, the broadcasting station or network of stations, is prohibited from censoring the material broadcast by such candidate, provided the owner, licensee, or operator shall cause to be made at the conclusion of the broadcast the following announcement in substance; “The broadcast you have just heard was not censored in accord with the immunity from censorship extended legally qualified political candidates.”

HISTORY: 1962 Code Section 23‑7; 1952 (47) 1939.

RESEARCH REFERENCES

Encyclopedias

128 Am. Jur. Trials 1, Litigating Defamation Claims.

S.C. Jur. Libel and Slander Section 58, Discharge of Duty.

S.C. Jur. Telecommunications Section 34, Slander and Libel.

LAW REVIEW AND JOURNAL COMMENTARIES

Libel. 39 S.C. L. Rev. 200, Autumn 1987.

Attorney General’s Opinions

“Candidate for public office”. “Candidate for political office” as used in Code 1962 Section 24‑552 means the same as “candidate for public office” as used in this section [Code 1962 Section 23‑7]. 1963‑64 Op Atty Gen, No. 1727, p 212.

Exemptions from liability extend to primary candidates. The exemptions from liability provided broadcasting stations by this section [Code 1962 Section 23‑7] are commonly and without question extended to primary candidates. 1963‑64 Op Atty Gen, No. 1727, p 212.

**SECTION 7‑1‑100.** Availability to media of local ballot question and simplified explanation thereof.

(A) If a countywide or less than countywide referendum is held on a question, the electoral board charged with conducting the referendum shall make the ballot question available to the news media in the county at least forty‑five days in advance of the date of the referendum.

(B) If the electoral board determines that a referendum question is of a nature that it might not be clearly understood by the voters, it may prepare a simplified or, when appropriate, more detailed explanation of the question that must be placed on the ballot along with the referendum question. When mechanical devices for voting are used, printed copies of the explanation must be made available at each voting precinct. The explanation provided must be made available to the news media in the county on the same schedule provided in subsection (A).

(C) No referendum may be challenged on the grounds that the electoral board failed to act in a timely manner to implement this section.

(D) The provisions of Section 7‑13‑2130 apply with respect to any proceeding challenging a referendum based on any explanation provided by the electoral board.

(E) The provisions of this section do not apply to a referendum for which the General Assembly provides the ballot question.

HISTORY: 1999 Act No. 2, Section 1, eff January 1, 1999 (became law without the Governor’s signature January 14, 1999).