

COUNTY CLERKS:
DEPUTIES:
DEPUTY COUNTY CLERKS:

Because of the absence of constitutional or statutory provisions requiring that a deputy county clerk be a resident of the county in which he or she serves, it is

permissible for such person to reside in another county in this state.

December 23, 1969

OPINION NO. 552

Honorable Donald L. Gann
Representative - District 146
P. O. Box 302
Ozark, Missouri 65721



Dear Representative Gann:

In your recent opinion request, you asked the following question:

"Please advise me as to whether or not it is permissible for a duly appointed Deputy County Clerk in a Third Class County to continue as such in the event she moves her residence to an adjoining County."

Chapter 51 of the Revised Statutes of Missouri contains legislation pertaining to county clerks. Clearly, the county clerk is required to be a resident of the county in which he is elected. Section 51.050, RSMo 1959. Section 51.450, RSMo 1959, provides, in part:

"The clerk of the county court in each county of the third class is entitled to employ deputies and assistants . . ."

However, no county residency qualifications are established by statute or constitutional provision for these deputies or assistants. Of course, the deputy county clerk could not move to another state and be eligible to continue in her office as

Honorable Donald L. Gann

Article VII, Section 8 of the Missouri Constitution establishes a state residency requirement.

The absence of any statutory or constitutional provisions establishing qualifications for a deputy county clerk in a third class county compels the conclusion that one need not be a resident of the county to be appointed deputy clerk thereof. 20 C.J.S., Counties, Section 102, states:

"In the absence of exceptional circumstances otherwise disqualifying him, qualifications not prescribed by constitution or statute need not be possessed by persons to make them eligible for county offices or positions; but the nominee or appointee must possess the qualifications required by the constitution or applicable statutes."

In this case, there are no constitutional provisions or applicable statutes which require deputy county clerks to be residents of the county in which such officers serve.

CONCLUSION

Because of the absence of constitutional or statutory provisions requiring that a deputy county clerk be a resident of the county in which he or she serves, it is permissible for such person to reside in another county in this state.

The foregoing opinion, which I hereby approve, was prepared for me by my assistant, Peter H. Ruger.

Very truly yours,



JOHN C. DANFORTH
Attorney General