

**VOTER RESIDENCE WHERE LOT IS
DIVIDED BY COUNTY BOUNDARY LINE**

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Carlene M. Walker

This act modifies the Election Code to provide for the determination of residency for voting purposes when a person's residence is divided by a county boundary line. The act provides an effective date.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

20A-2-105, as last amended by Chapter 3, Laws of Utah 1996, Second Special Session

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **20A-2-105** is amended to read:

20A-2-105. Determining residency.

(1) Except as provided in Subsection (4), election officials and judges shall apply the standards and requirements of this section when determining whether or not a person is a resident for purposes of interpreting this title or the Utah constitution.

(2) A "resident" is a person who resides within a specific voting precinct in Utah.

(3) (a) A person resides in Utah if the person:

(i) has his principal place of residence within Utah; and

(ii) has a present intention to continue residency within Utah permanently or indefinitely.

(b) A person resides within a particular voting precinct if the person has, or will have as of the date of the election, his principal place of residence in the voting precinct.

(4) (a) The principal place of residence of any person shall be determined by applying the rules contained in this Subsection (4).

(b) A person's "principal place of residence" is that place in which the person's habitation is fixed and to which, whenever he is absent, he has the intention of returning.

(c) A person has not gained or lost a residence solely because he is present in Utah or in a voting precinct or absent from Utah or his voting precinct because he is:

- (i) employed in the service of the United States or of Utah;
- (ii) a student at any institution of learning;
- (iii) incarcerated in prison or jail; or
- (iv) residing upon any Indian or military reservation.

(d) (i) A member of the armed forces of the United States is not a resident of Utah merely because that member is stationed at any military facility within Utah.

(ii) In order to be a resident of Utah, that member must meet the other requirements of this section.

(e) (i) Except as provided in Subsection (4)(e)(ii), a person has not lost his residence if that person leaves his home to go into a foreign country or into another state or into another voting precinct within Utah for temporary purposes with the intention of returning.

(ii) If that person has voted in that state or voting precinct, the person is a resident of that state or voting precinct.

(f) A person is not a resident of any county or voting precinct if that person comes for temporary purposes without intending to make that county his home.

(g) If a person removes to another state with the intention of making it his principal place of residence, he loses his residence in Utah.

(h) If a person moves to another state with the intent of remaining there for an indefinite time as a place of permanent residence, he loses his residence in Utah, even though he intends to return at some future time.

(i) (i) Except as provided in Subsection (4)(i)(ii) the place where a person's family resides is presumed to be his place of residence.

(ii) A person may rebut the presumption established in Subsection (4)(i)(i) by proving his intent to remain at a place other than where his family resides.

(j) (i) A person has changed his residence if:

- (A) the person has acted affirmatively to remove himself from one geographic location; and
- (B) the person has an intent to remain in another place.

(ii) There can only be one residence.

(iii) A residence cannot be lost until another is gained.

(5) In computing the period of residence, a person shall:

(a) include the day on which the person's residence begins; and

(b) exclude the day of the next election.

(6) (a) There is a presumption that a person is a resident of Utah and a voting precinct and intends to remain in Utah permanently or indefinitely if the person makes an oath or affirmation upon a registration application form that his residence address and place of residence is within a specific voting precinct in Utah.

(b) The election officers and election officials shall allow that person to register and vote unless, upon a challenge by the satellite registrar or some other person, it is shown by law or by clear and compelling evidence that:

(i) the person does not intend to remain permanently or indefinitely in Utah; or

(ii) the person is incarcerated in prison or jail.

(7) (a) The rules set forth in this section for determining place of residence for voting purposes do not apply to a person incarcerated in prison or jail.

(b) For voting registration purposes, a person incarcerated in prison or jail is considered to reside in the voting precinct in which his place of residence was located before incarceration.

(8) If a person's principal place of residence is a residential parcel of one acre in size or smaller that is divided by the boundary line between two or more counties, that person shall be considered a resident of the county in which a majority of the residential parcel lies.

Section 2. Effective date.

If approved by two-thirds of all the members elected to each house, this act takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.