

The House Committee on Governmental Affairs offers the following substitute to SB 264:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to  
2 elections and primaries generally, so as to provide for the burden of proof in hearings  
3 challenging a candidate's qualifications based upon residency; to provide for an award of  
4 costs and attorneys' fees for frivolous or harassing candidate qualification challenges; to  
5 provide for certain rebuttable presumptions concerning residency; to provide for certain  
6 requirements to qualify for a party's nomination or to run for public office; to repeal  
7 conflicting laws; and for other purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

10 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections and  
11 primaries generally, is amended by revising Code Section 21-2-5, relating to the  
12 determinations of qualifications of candidates for federal and state office, by adding new  
13 subsections to read as follows:

14 "(b.1) If a challenge to a candidate's qualifications is based upon whether the candidate  
15 meets the residency requirements to seek the office for which such candidate is offering for  
16 nomination or election, the burden of proof at the hearing shall be on such candidate to  
17 demonstrate that such candidate meets the residency requirements to seek such office."

18 "(f) If the Secretary of State finds that the challenge filed by an elector under this Code  
19 section was frivolous, was totally without a legal or factual basis, or was brought solely for  
20 the purpose of harassment of the candidate, the Secretary of State may award costs and  
21 reasonable attorneys' fees in defending such challenge to the candidate and against the  
22 elector."



**SECTION 4.**

Said chapter is further amended by revising Code Section 21-2-217, relating to rules for determining residency, by adding a new subsection to read as follows:

"(c) In hearings to determine a challenge to the qualifications of a candidate based upon residency, the following presumptions shall apply, but may be rebutted by a preponderance of the evidence adduced at a hearing on such challenge:

(1) The legal residence or domicile of a candidate shall be presumed to be at the residence for which the candidate has a current homestead exemption;

(2) The legal residence or domicile of a candidate shall be presumed not to be in any vehicle, motor home, camper, or other vehicle, trailer, or other conveyance which is readily movable and is not permanently affixed to the property on which it is located;

(3) The legal residence or domicile of a candidate shall be presumed not to be on any property on which there is no permanent dwelling structure;

(4) In the case of a candidate who moves his or her place of residency from a location outside the district from which such candidate desires to be elected to a residence located within such district within the 60 day period prior to the date on which such candidate must be a resident of the district in order to qualify to seek such office or within 60 days prior to qualifying to seek the office, the legal residence or domicile of such candidate for purposes of seeking elective office shall be presumed to remain at the site of such candidate's previous residence; and

(5) The legal residence or domicile of a candidate shall be presumed to be at the dwelling place where such candidate resides a majority of his or her nonworking hours."

**SECTION 5.**

All laws and parts of laws in conflict with this Act are repealed.