

MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN

SECRETARY OF STATE

STATE TREASURY BUILDING



LANSING

MICHIGAN 48918

July 26, 1977

Mr. James R. Killeen
Wayne County Clerk
Detroit, Michigan 48226

Attention: Orville L. Tungate
Chief Deputy County Clerk

Dear Mr. Killeen:

This is in response to your letter of June 17, 1977, requesting a declaratory ruling regarding the mailing of notices by registered mail pursuant to P.A. 388 of 1976 ("The Act").

Your letter quotes MCLA §8.11, a statute of general statutory construction. This provision states that wherever the words "registered mail" are used in any statute of the state of Michigan, they may be interpreted as "certified mail." Your question is whether this statute applies to the Act so that notices required to be sent by registered mail may be sent by certified mail instead.

The Department of State has considered and discussed a substantive response to your ruling request but has concluded that a declaratory ruling would be inappropriate under Section 15(1)(e) of the Act and R.169.6. The latter rule, promulgated pursuant to the Act, provides in part that declaratory rulings must concern the applicability of the Act or rules to an actual statement of facts. Your question actually concerns the applicability of another act to this Act, for which a declaratory ruling would not be suitable.

However, the Department's reading of MCLA §8.11, as administrative supervisor of the Act and as a filing official, is that the statute in question does apply to Section 16(6) of the Act. This viewpoint is based in part upon an Attorney General's letter opinion to the Secretary of State, dated April 27, 1973, wherein the Attorney General stated a particular statute of general statutory construction applies to the Motor Vehicle Code. Analogously, the statute of general construction in question applies with equal force of law to the Campaign Finance Act.

Consequently, whenever "registered mail" is required by the Act for notices of "errors or omissions," the use of certified mail by a filing official shall be in compliance with the Act. It should be noted that the Department has

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(Cont.)

found certified mail would be less expensive and more rapid than registered mail, while entailing no sacrifice of legislatively contemplated safeguards for legal notice.

It should be stated the Act in Section 16(6) only mandates registered or certified mail for notices of "errors or omissions" in a filed statement or report. Notices of failure to file need not be sent by registered or certified mail. However, the Department highly recommends, if registered or certified mail is not used for the latter, the filing official maintain some form of record or log that the notice was sent in the event the notice is questioned. For example, a log may be kept recording notices by telephone or, more effectively, an affidavit of mailing might be maintained for each notice sent by first class mail.

The same conclusion is reached with respect to the use of registered mail in Section 16(9) of the Act. Certified mail may be used in place of registered mail by filers.

Very truly yours,



Phillip T. Frangos, Director
Office of Hearings and Legislation

PTF:mc