



New York State law is clear. Citizens with dual residences have the right to choose where they want to vote. They do not have to vote where they maintain their primary residence.

Second homeowners have a major stake in the rural communities where they maintain a home, but most have no say in how their tax dollars are being spent, or in decisions that will affect the future of their community for years to come. In swing districts, dual resident voters can determine the outcome of congressional elections.

What the law says: The term “residence” shall be deemed to mean “that place where a person maintains a fixed, permanent and principal home and to which he, wherever temporarily located, always intends to return.” (Election Law § 1-104 [22])

In 2008 the Appellate Division of the NYS Supreme Court ordered the Delaware County Board of Elections to reinstate eight weekend homeowners who had been stricken from the voting rolls. The court noted, “Election Law ‘does not preclude a person from having two residences and choosing one for election purposes provided he or she has ‘legitimate, significant and continuing attachments’ to that residence.” (*Willkie et al v. the Delaware County Board of Elections*, No. 504004 NYS Sup. Ct. App. 3d, Oct. 23, 2008)

An absentee ballot can make second home voting easy. Voters can have an absentee ballot sent to their primary residence and vote by mail. Absentee ballots can be obtained at the Board of Elections, or online at <https://www.elections.ny.gov/votingabsentee.html>. Remember, if you vote by absentee ballot, you must apply for an absentee ballot every year. You can find the Board of Elections office in your county at <https://www.elections.ny.gov/countyboards.html>.

Voter registration forms are available at most post offices. You can also download a form online at <http://www.elections.ny.gov/NYSBOE/download/voting/voteform.pdf>.



DUAL RESIDENT VOTING: FREQUENTLY ASKED QUESTIONS

If I register to vote from my second home, can I also vote where I maintain my primary residence?

No. You can choose where you want to vote, but you can only vote in one location.

If I register to vote from my vacation home, will it affect my STAR exemption?

A voter is permitted to vote from a home that is not a primary residence while STAR exemptions are granted for primary residence only, therefore a change in voter registration does not affect eligibility for a STAR exemption.

If I register to vote from my second home, can my landlord use that as evidence that my country home is actually my primary residence?

Because New York State permits voters to register at their second homes, voter registration is not proof of primary residence. That said, tenants in rent-controlled or rent-stabilized apartments should consider their particular circumstances when deciding where to register.

If I register to vote from my second home, where will I be called for jury duty?

New York State relies on information from five state agencies to generate lists of potential jurors: the DMV, the Department of Labor, the Department of Social Services, the Board of Elections and the NYS Department of Taxation and Finance. That means New Yorkers with two homes could conceivably be called for jury duty in either location based on information provided by the different state agencies. But that does not mean second homeowners are liable to serve more often than others because jury duty in one jurisdiction is credited as service by other jurisdictions.

If I rent a vacation home in the country, can I vote from that location?

Probably not. A legal voting residence must be a "fixed, permanent and principal home" to which the prospective voter "always intends to return." Short-term vacation rentals simply do not meet that standard. However if someone has rented the same vacation home year after year, has furnished it etc., then the case might be made that this is a permanent residence.

Should I tell the Board of Elections that I am changing my registration to vote from a vacation home, or a home that is not my primary residence?

Perhaps not. The fact is, many Board of Elections employees are not well versed in the law concerning dual resident voting. There have been recent instances where local election officials have told prospective voters that they are not allowed to vote from homes that are not their primary residence despite the fact that NYS Election Law clearly gives them that right.

*For more information visit votewhereitcounts.org
Email votewhereitcounts@gmail.com.*