

If no one is elected to the office of town clerk at the annual town meeting, can the selectboard appoint the assistant clerk, who is a non-resident, to serve that term until the next election?

No, only a resident will do. The law is very clear in this regard, "*if no person is ... elected to fill the office, a majority of the legislative body may appoint a voter of the municipality to fill the office until the next annual meeting.*" 17 V.S.A. § 2682(d).

It is interesting to note that the board's authority to fill a vacancy when there is no one elected to office is more restrictive than the board's general authority to fill a vacancy caused by other reasons. Generally speaking, if an elected town officer resigns, is removed from office, moves out of town, dies, or becomes insane, the selectboard is charged with filling the vacancy "forthwith" without fulfilling a residency requirement. Perhaps this is the result of the required haste, or perhaps it was just a legislative oversight - we can only speculate. The fact remains, however, that under these vacancy conditions, there is no clear restriction against the appointment of a non-resident to fill the office until the next general or special election. The only exception to that rule is when a majority of selectboard seats are vacant at the same time. In this case, a special town meeting for the purpose of electing replacements is required. If there are *no* selectpersons in office, then the Secretary of State is responsible for calling a special election. 24 V.S.A. § 963. And, to be elected, the person must be a resident.

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