

S T A T E O F N E W Y O R K

4015--A

2009-2010 Regular Sessions

I N A S S E M B L Y

January 29, 2009

Introduced by M. of A. KAVANAGH, FARRELL, BING, CASTRO, DINOWITZ, REILLY, CAMARA, KELLNER, BARRON, MILLMAN -- Multi-Sponsored by -- M. of A. GOTTFRIED, HEVESI, JEFFRIES, LUPARDO, MENG, WEINSTEIN, WRIGHT -- read once and referred to the Committee on Election Law -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the election law, in relation to requests for affidavit ballots including application for registration and enrollment

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 5 of section 5-210 of the election law is
2 amended by adding a new paragraph (m) to read as follows:
3 (M) THE FORM OF AFFIDAVIT PRESCRIBED BY THE STATE BOARD OF ELECTIONS
4 FOR REQUESTS FOR AFFIDAVIT BALLOT PURSUANT TO SUBDIVISION THREE OF
5 SECTION 8-302 OF THIS CHAPTER SHALL BE DEEMED TO MEET THE REQUIREMENTS
6 OF THIS SECTION. ANY APPLICATION FOR REGISTRATION RECEIVED ON THE FORM
7 OF AFFIDAVIT SHALL BE ACCEPTED IF THE APPLICANT IS OTHERWISE ELIGIBLE TO
8 REGISTER TO VOTE PURSUANT TO THE PROVISIONS OF THIS ARTICLE, HOWEVER THE
9 FAILURE TO COMPLETE THE VOTER REGISTRATION APPLICATION APPEARING ON SUCH
10 AFFIDAVIT ENVELOPE SHALL NOT OTHERWISE INVALIDATE THE AFFIDAVIT BALLOT.
11 S 2. Subdivision 4 of section 5-304 of the election law, as amended by
12 chapter 659 of the laws of 1994, is amended to read as follows:
13 4. Registered voters may apply for change of enrollment personally by
14 mail to or by appearing before a county board of elections or by appear-
15 ing before a board of inspectors. If the applicant has appeared in
16 person and if the board finds that he OR SHE is properly registered, it
17 shall provide the applicant with an application form for voter registra-
18 tion by mail which shall be treated as an application for change of
19 enrollment filed pursuant to this section. If the voter has applied
20 personally by mail, the county board of elections shall mail him OR HER
21 an application form for voter registration by mail as provided by this

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 chapter. If a registered voter submits an application form for registra-
2 tion or enrollment as provided by this chapter, from the residence
3 address from which he OR SHE is then registered, and such form reflects
4 a change of enrollment, the county board of elections shall treat such
5 form as an application for change of enrollment filed pursuant to this
6 section. If such application form also sets forth a new address within
7 the same city or county, the board of elections shall also treat such
8 form as an application for transfer of registration pursuant to section
9 5-208 of this article. IF A VOTER HAS CAST A BALLOT IN AN AFFIDAVIT
10 BALLOT ENVELOPE ON WHICH SUCH VOTER CLAIMS A PARTY ENROLLMENT DIFFERENT
11 FROM THE ENROLLMENT IN THE RECORDS OF THE BOARD OF ELECTIONS, SUCH AFFI-
12 DAVIT SHALL BE TREATED AS AN APPLICATION FOR CHANGE OF ENROLLMENT.

13 S 3. Section 5-403 of the election law is amended to read as follows:

14 S 5-403. Rejection of ballot of unqualified voter; notice of action by
15 board. [Whenever] IF the ballot of any person, voted in an affidavit
16 envelope in the manner prescribed by this chapter, is rejected under the
17 provisions of this chapter on the grounds that such person is not a
18 qualified voter of the election district wherein he OR SHE sought to
19 vote, or is not duly enrolled in the party in whose primary he OR SHE
20 sought to vote AND IF SUCH PERSON HAS COMPLETED THE APPLICATION FOR
21 REGISTRATION AND ENROLLMENT OR CHANGE OF ENROLLMENT ON SUCH AFFIDAVIT
22 ENVELOPE, the board of elections shall PROCESS SUCH AN APPLICATION IN
23 THE SAME MANNER AS OTHER APPLICATIONS FOR REGISTRATION AND ENROLLMENT OR
24 CHANGE OF ENROLLMENT. THE BOARD OF ELECTIONS SHALL immediately notify
25 such person by first class mail directed to the address given in his OR
26 HER affidavit, of the rejection of his OR HER ballot, together with the
27 reason [therefore] THEREFOR and, IF SUCH PERSON HAS NOT COMPLETED THE
28 APPLICATION FOR REGISTRATION BY MAIL, the appropriate information on the
29 times and places where he OR SHE may register, re-register, enroll, or
30 change or correct his OR HER enrollment. Where appropriate, a form of
31 application for personal registration by mail shall be included with
32 such notice.

33 S 4. Subparagraph (ii) of paragraph (e) of subdivision 3 of section
34 8-302 of the election law, as amended by chapter 200 of the laws of
35 1996, is amended to read as follows:

36 (ii) He OR SHE may swear to and subscribe an affidavit stating that he
37 OR SHE has duly registered to vote, the address in such election
38 district from which he OR SHE registered, that he OR SHE remains a duly
39 qualified voter in such election district, that his OR HER registration
40 poll record appears to be lost or misplaced or that his OR HER name
41 and/or his OR HER signature was omitted from the computer generated
42 registration list or that he OR SHE has moved within the county or city
43 since he OR SHE last registered, the address from which he OR SHE was
44 previously registered and the address at which he OR SHE currently
45 resides, and at a primary election, the party in which he OR SHE is
46 enrolled. The inspectors of election shall offer such an affidavit to
47 each such voter whose residence address is in such election district.
48 Each such affidavit shall be in a form prescribed by the state board of
49 elections, shall be printed on an envelope of the size and quality used
50 for an absentee ballot envelope, and shall contain an acknowledgment
51 that the affiant understands that any false statement made therein is
52 perjury punishable according to law. SUCH FORM PRESCRIBED BY THE STATE
53 BOARD OF ELECTIONS SHALL REQUEST INFORMATION REQUIRED TO REGISTER SUCH
54 VOTER SHOULD THE COUNTY BOARD DETERMINE THAT SUCH VOTER IS NOT REGIS-
55 TERED AND SHALL CONSTITUTE AN APPLICATION TO REGISTER TO VOTE. The
56 voter's name and the entries required shall then be entered without

1 delay and without further inquiry in the fourth section of the challenge
2 report or in the place provided at the end of the computer generated
3 registration list, with the notation that the voter has executed the
4 affidavit hereinabove prescribed, or, if such person's name appears on
5 the computer generated registration list, the board of elections may
6 provide a place to make such entry next to his OR HER name on such list.
7 The voter shall then, without further inquiry, be permitted to vote an
8 emergency ballot provided for by this chapter. Such ballot shall there-
9 upon be placed in the envelope containing his OR HER affidavit, and the
10 envelope sealed and returned to the board of elections in the manner
11 provided by this chapter for protested official ballots, including a
12 statement of the number of such ballots.

13 S 5. This act shall take effect immediately.