

5065--A

Cal. No. 225

2013-2014 Regular Sessions

I N   A S S E M B L Y

February 20, 2013

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Introduced by M. of A. GALEF, PAULIN -- Multi-Sponsored by -- M. of A. BROOK-KRASNY, CLARK, CROUCH -- read once and referred to the Committee on Election Law -- ordered to a third reading -- passed by Assembly and delivered to the Senate, recalled from the Senate, vote reconsidered, bill amended, ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the election law, in relation to absentee voting at village elections

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

1     Section 1. Section 15-120 of the election law, paragraph (b) of subdi-  
2     vision 1 and subdivision 8 as amended by chapter 373 of the laws of  
3     1978, subdivision 2 as amended by chapter 279 of the laws of 1983,  
4     subdivision 3 as amended by chapter 333 of the laws of 1983, subdivi-  
5     sions 4 and 5 as amended by chapter 84 of the laws of 1986 and subdivi-  
6     sion 6 as amended by chapter 216 of the laws of 1982, is amended to read  
7     as follows:  
8     S 15-120. Absentee voting at village elections. 1. A qualified [elec-  
9     tor] VOTER of a village may vote as an absentee voter under this section  
10    if during all the hours of voting on the day of a general or special  
11    village election he OR SHE will be:  
12    [(a) Unavoidably absent from the county in which his residence is  
13    located because:  
14    i. he is a member of the armed forces of the United States of America;  
15    or  
16    ii. he is a student matriculated at an institution of learning located  
17    outside such county; or  
18    iii. he is a patient at a veterans administration hospital; or  
19    iv. his duties, occupation or business require him to be so absent,  
20    provided, however, such absence is not caused by the fact that his regu-  
21    lar and daily place of business is located outside of said county.

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

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(b) Absent from the county in which his residence is located because he is on vacation outside said county.

(c) He is the spouse, parent or child of, and resides in the same household with, a person qualified under any of the foregoing paragraphs of this subdivision and will also be absent from said county by reason of accompanying the person so qualified.]

(A) ABSENT FROM THE COUNTY OF HIS OR HER RESIDENCE; OR

(B) UNABLE TO APPEAR AT THE POLLING PLACE BECAUSE OF ILLNESS OR PHYSICAL DISABILITY, OR DUTIES RELATED TO THE PRIMARY CARE OF ONE OR MORE INDIVIDUALS WHO ARE ILL OR PHYSICALLY DISABLED, OR BECAUSE HE OR SHE WILL BE OR IS A PATIENT IN A HOSPITAL; OR

(C) AN INMATE OR PATIENT OF A VETERAN'S ADMINISTRATION HOSPITAL; OR

(D) ABSENT FROM HIS OR HER VOTING RESIDENCE BECAUSE HE OR SHE IS DETAINED IN JAIL AWAITING ACTION BY A GRAND JURY OR AWAITING TRIAL, OR CONFINED IN JAIL OR PRISON AFTER A CONVICTION FOR AN OFFENSE OTHER THAN A FELONY, PROVIDED THAT HE OR SHE IS QUALIFIED TO VOTE IN THE ELECTION DISTRICT OF HIS OR HER RESIDENCE.

2. Each person entitled to vote as an absentee voter pursuant to this section and desirous of obtaining an absentee ballot shall make written application therefor to the village clerk. Application forms for use pursuant to this section shall be in a form prescribed by the state board of elections. The use of any application which is on a form prescribed by the state board of elections shall be acceptable.

3. An application for an absentee ballot must be signed by the applicant. Such application may require that the applicant submit a certificate in lieu of any affidavit which shall state that the information contained in the application is true. Such certificate shall be accepted for all purposes as the equivalent of an affidavit and shall have the following language printed in bold face type above the signature line:

"I UNDERSTAND THAT THIS CERTIFICATE WILL BE ACCEPTED FOR ALL PURPOSES AS THE EQUIVALENT OF AN AFFIDAVIT AND, IF IT CONTAINS A MATERIAL FALSE STATEMENT, SHALL SUBJECT ME TO THE SAME PENALTIES AS IF I HAD BEEN DULY SWORN."

4. THE APPLICATION FOR AN ABSENTEE BALLOT WHEN FILED MUST CONTAIN IN EACH INSTANCE THE FOLLOWING INFORMATION:

(A) APPLICANT'S FULL NAME, DATE OF BIRTH, AND RESIDENCE ADDRESS, INCLUDING THE STREET AND NUMBER, IF ANY, RURAL DELIVERY ROUTE, IF ANY, MAILING ADDRESS IF DIFFERENT FROM THE RESIDENCE ADDRESS AND HIS OR HER VILLAGE AND AN ADDRESS TO WHICH THE BALLOT SHALL BE MAILED.

(B) A STATEMENT THAT THE APPLICANT IS A QUALIFIED AND REGISTERED VOTER.

(C) A STATEMENT, AS APPROPRIATE, THAT ON THE DAY OF SUCH ELECTION THE APPLICANT EXPECTS IN GOOD FAITH TO BE IN ONE OF THE FOLLOWING CATEGORIES:

(I) ABSENT FROM THE COUNTY OF HIS OR HER RESIDENCE; PROVIDED, HOWEVER, IF THE APPLICANT EXPECTS TO BE ABSENT FROM SUCH COUNTY FOR A DURATION COVERING MORE THAN ONE ELECTION AND SEEKS AN ABSENTEE BALLOT FOR EACH ELECTION, HE OR SHE SHALL STATE THE DATES WHEN HE OR SHE EXPECTS TO BEGIN AND END SUCH ABSENCE; OR

(II) UNABLE TO APPEAR AT A POLLING PLACE BECAUSE OF ILLNESS OR PHYSICAL DISABILITY OR DUTIES RELATED TO THE PRIMARY CARE OF ONE OR MORE INDIVIDUALS WHO ARE ILL OR PHYSICALLY DISABLED; OR

(III) AN INMATE OR PATIENT OF A VETERAN'S ADMINISTRATION HOSPITAL; OR

(IV) DETAINED IN JAIL AWAITING ACTION BY A GRAND JURY OR AWAITING TRIAL OR CONFINED IN JAIL OR PRISON AFTER A CONVICTION FOR AN OFFENSE

1 OTHER THAN A FELONY AND STATING THE PLACE WHERE HE OR SHE IS SO DETAINED  
2 OR CONFINED.

3 (D) SUCH APPLICATION SHALL PERMIT THE APPLICANT TO APPLY FOR AN ABSEN-  
4 TEE BALLOT FOR EITHER A PRIMARY ELECTION OR THE GENERAL ELECTION IN ANY  
5 YEAR AND FOR THOSE PERSONS WHO WILL BE CONTINUOUSLY ABSENT FROM THEIR  
6 COUNTY OF RESIDENCE DURING THE PERIOD BETWEEN THE FALL PRIMARY ELECTION  
7 AND THE GENERAL ELECTION IN ANY YEAR TO APPLY FOR BALLOTS FOR BOTH SUCH  
8 ELECTIONS IN SUCH YEAR. A VOTER WHO APPLIES FOR AN ABSENTEE BALLOT SHALL  
9 BE SENT AN ABSENTEE BALLOT FOR ANY SPECIAL ELECTION OR WINTER PRIMARY  
10 THAT OCCURS DURING THE PERIOD OF ABSENCE SPECIFIED IN THE APPLICATION.

11 5. An application must be received by the village clerk no earlier  
12 than four months before the election for which an absentee ballot is  
13 sought. If the application requests that the absentee ballot be mailed,  
14 such application must be received not later than seven days before the  
15 election. If the applicant or his OR HER agent delivers the application  
16 to the village clerk in person, such application must be received not  
17 later than the day before the election. The village clerk shall examine  
18 each application and shall determine from the information contained  
19 therein whether the applicant is qualified under this section to receive  
20 an absentee ballot. The clerk in making such decision shall not deter-  
21 mine whether the applicant is a qualified elector, said determination  
22 being reserved to the inspectors of election as is hereinafter provided  
23 in subdivision [eight] NINE of this section.

24 [5] 6. No later than six days before the election for which an appli-  
25 cation has been received and for which the village clerk has determined  
26 the applicant to be qualified to vote by absentee ballot the village  
27 clerk shall mail, by regular mail, an absentee ballot to each qualified  
28 applicant who has applied before such day and who has requested that  
29 such absentee ballot be mailed to him OR HER at the address set forth in  
30 his OR HER application. If the applicant or his OR HER agent delivers  
31 the application to the village clerk in person after the seventh day  
32 before the village election and not later than the day before the  
33 election, the village clerk shall forthwith deliver such absentee  
34 ballots for those applicants whom he OR SHE determines are qualified to  
35 make such applications and to receive such ballots to such applicants or  
36 the agents named in the applications when such applicants or agents  
37 appear in the village clerk's office.

38 [6] 7. The absentee ballot shall be caused to be prepared and printed  
39 by the village clerk as provided by law for paper ballots or machine  
40 ballots, whichever are to be used in said election and appropriate  
41 modifications for the purposes of this section. He OR SHE shall also  
42 cause to be prepared and printed return envelopes addressed to him OR  
43 HER, conforming so far as may be practicable to the provisions of this  
44 chapter stating thereon that in order for the ballot contained therein  
45 to be counted it must be received by the village clerk not later than  
46 the close of the polls on election day. On the reverse side of each  
47 return envelope there shall be written instructions for the voter to  
48 insert at designated places his OR HER signature, his OR HER name print-  
49 ed, his OR HER residence address within the village and his OR HER  
50 village election district if there be more than one district within the  
51 village.

52 [7] 8. The method of marking, preparing and mailing such ballot for  
53 voting shall conform, wherever practicable, to the methods used for  
54 absentee ballots for a general election, except that the envelope in  
55 which it is contained shall be returned to the village clerk. On the day  
56 of the election, the village clerk shall deliver all such ballots, which

1 have been returned to him OR HER, in the sealed envelopes to the board  
2 of inspectors of election of the proper election district. No such  
3 ballot shall be deemed to have been voted unless or until it shall have  
4 been delivered to the board of inspectors of election of the election  
5 district in which the elector casting the ballot resides and shall have  
6 been deposited by the chairman of such board in the box provided for  
7 receiving such ballot.

8 [8] 9. When such ballots shall have been delivered to the board of  
9 inspectors of election of the proper election district and shall have  
10 been duly determined by such board to have been lawfully cast by a qual-  
11 ified elector of such district, the chairman of such board shall, after  
12 the close of the polls, open the envelopes containing such ballots and,  
13 without unfolding such ballots or permitting the face thereof to be  
14 exposed to the view of anyone, shall deposit each such ballot in a box  
15 specifically furnished for such purpose by the village clerk. If the  
16 board of inspectors shall determine that any such ballot has been cast  
17 by an elector who would not be qualified under the provisions of this  
18 section, then such ballot shall not be counted.

19 [9] 10. After all the ballots shall have been deposited, the box  
20 shall be opened and such ballots canvassed in the same manner as other  
21 ballots cast at such election and shall be counted and included in the  
22 total of all ballots cast at such election.

23 S 2. This act shall take effect immediately.