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I N   A S S E M B L Y

February 12, 2014

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Introduced by M. of A. CAMARA -- (at request of the Department of Law)  
-- read once and referred to the Committee on Election Law

AN ACT to amend the election law, in relation to completing and filing  
watcher certificates and the form and manner of challenges of voter  
qualifications

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

1     Section 1. Section 4-117 of the election law is amended by adding a  
2     new subdivision 4 to read as follows:  
3     4. ANY PERSON, OTHER THAN AN ELECTION OFFICER, WHO MAILS OR CAUSES TO  
4     BE MAILED, BETWEEN AUGUST FIRST AND DECEMBER THIRTY-FIRST OF ANY CALEN-  
5     DAR YEAR, ANY FIRST CLASS NONFORWARDABLE MAIL, WHERE SUCH PERSON KNOWS  
6     OR REASONABLY SHOULD KNOW THAT SUCH NONFORWARDABLE MAIL: (A) IS INTENDED  
7     TO BE DELIVERED TO A REGISTERED VOTER OR VOTER REGISTRATION APPLICANT;  
8     AND (B) MAY BE USED BY A CHALLENGER, OTHER THAN AN ELECTION OFFICER, ON  
9     ELECTION DAY TO CHALLENGE THE QUALIFICATIONS OF A VOTER, SHALL FILE  
10    WITHIN TWO BUSINESS DAYS OF SUCH MAILING, A DUPLICATE COPY OF SUCH  
11    NONFORWARDABLE MAIL, A DUPLICATE COPY OF NAMES AND ADDRESSES TO WHICH  
12    SUCH NONFORWARDABLE MAIL WAS SENT, AND A COMPLETED FORM PRESCRIBED BY  
13    THE STATE BOARD OF ELECTIONS. THE FAILURE TO COMPLY WITH THE PROVISIONS  
14    OF THIS SUBDIVISION SHALL BE PUNISHABLE AS A MISDEMEANOR.  
15    S 2. Subdivision 1-a of section 8-104 of the election law, as amended  
16    by chapter 164 of the laws of 2010, is amended to read as follows:  
17    1-a. The election inspectors shall conspicuously post in the polling  
18    place before the opening of the polls, a voter information posting,  
19    which shall include: (a) the sample ballot and instructions for the use  
20    of ballot scanners and ballot marking devices required pursuant to  
21    section 7-118 of this chapter; (b) a statement that "today is election  
22    day" and the hours during which polling places will be open; (c)  
23    instructions on how to cast an affidavit ballot and a concise statement  
24    of a voter's right to such a ballot; (d) instructions relating to  
25    requirements for voting on ballot scanners by those registrants who must  
26    provide identification pursuant to the federal Help America Vote Act of  
27    2002; (e) instructions for first-time voters; (f) a voter's bill of

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

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1 rights describing voter's rights under applicable federal and state law,  
2 including the right of accessibility and alternate language accessibil-  
3 ity; (g) information pertaining to voting by election day paper ballot,  
4 including information about the consequence of casting an overvote,  
5 steps to prevent unintentional undervoting and spoiled ballots; (h)  
6 instructions on how to contact the appropriate officials if a voter's  
7 right to vote or right to otherwise participate in the electoral process  
8 has been violated; [and] (i) general information on federal and state  
9 laws regarding prohibitions on acts of fraud and misrepresentation; AND  
10 (J) INFORMATION ABOUT THE REQUIREMENTS OF A CHALLENGE ON ELECTION DAY AS  
11 PROVIDED IN SUBDIVISION THREE OF SECTION 8-502 OF THIS ARTICLE. The  
12 state board of elections shall prescribe the form and content of the  
13 voter information posting, which may be comprised of one or more pages,  
14 provided each page shall be posted separately. The state board of  
15 elections shall prescribe an official version of such voter information  
16 posting for every language which appears on any general, primary or  
17 special election ballot in any election district in the state and for  
18 such other languages as such board, in its opinion, determines is appro-  
19 priate. Such posting shall be used in all jurisdictions, and a separate  
20 posting shall be made by election inspectors for each language appearing  
21 on the ballot and for such additional languages as the board of  
22 elections may require. A board of elections may modify or supplement the  
23 voter information posting used in its jurisdiction to provide additional  
24 or local information; provided, however, any such modification or  
25 supplementation shall be submitted to the state board of elections for  
26 prior approval.

27 S 3. Section 8-500 of the election law, as amended by chapter 9 of the  
28 laws of 1978, subdivisions 1 and 3 as amended by chapter 373 of the laws  
29 of 1978, is amended to read as follows:

30 S 8-500. Watchers; provision for. 1. At any general, special, town or  
31 village election, any party committee or independent body whose candi-  
32 dates are upon the ballot, and at any primary election, any two or more  
33 candidates and any political committee may have for each election  
34 district three watchers at any one time, not more than one of whom may  
35 be within the guard rail at any one time. Watchers shall be appointed by  
36 the [chairman] CHAIRPERSON OR SECRETARY of any such party, committee or  
37 independent body or by the candidates.

38 2. Watchers may be present at the polling place at least fifteen  
39 minutes before the unlocking and examination of any voting machine or  
40 ballot box at the opening of the polls, until after the signing of the  
41 inspectors' returns and proclamation of the result; PROVIDED, HOWEVER,  
42 THAT UPON ENTERING ANY POLLING PLACE, EACH WATCHER SHALL DELIVER A  
43 COMPLETED CERTIFICATE, ISSUED PURSUANT TO SUBDIVISION THREE OF THIS  
44 SECTION, TO THE APPOINTED OR DESIGNATED CHAIRPERSON OF THE ELECTION  
45 INSPECTORS, AS PROVIDED FOR IN SECTION 3-400 OF THIS CHAPTER, AT EACH  
46 ELECTION DISTRICT WHERE SUCH WATCHER IS PERMITTED TO SERVE BY SUCH  
47 CERTIFICATE.

48 2-A. THE APPOINTED OR DESIGNATED CHAIRPERSON OF THE ELECTION INSPEC-  
49 TORS, AS PROVIDED FOR IN SECTION 3-400 OF THIS CHAPTER, SHALL INITIAL  
50 EACH WATCHER CERTIFICATE UPON DELIVERY. AT THE CLOSE OF AN ELECTION,  
51 THE INSPECTORS SHALL PLACE EACH WATCHER CERTIFICATE INSIDE THE LEDGER OF  
52 REGISTRATION RECORDS OR COMPUTER GENERATED REGISTRATION LIST, AS  
53 PROVIDED FOR IN SECTION 8-510 OF THIS TITLE.

54 3. The appointment of watchers for any election shall be by a certifi-  
55 cate in writing issued by the [chairman] CHAIRPERSON or secretary of  
56 the political party, PARTY COMMITTEE or independent body, or the candi-

1 dates. [Such certificate shall be delivered to an inspector at the  
2 election district.] THE STATE BOARD OF ELECTIONS SHALL PRESCRIBE THE  
3 CONTENT AND FORM OF WATCHER CERTIFICATES FOR USE AT ANY GENERAL,  
4 SPECIAL, TOWN OR VILLAGE ELECTION AND AT ANY PRIMARY ELECTION. THE  
5 INFORMATION PROVIDED ON SUCH CERTIFICATE SHALL INCLUDE, BUT NOT BE  
6 LIMITED TO, THE WATCHER'S FIRST AND LAST NAME, THE WATCHER'S RESIDENTIAL  
7 ADDRESS, THE FIRST AND LAST NAME OF THE CHAIRPERSON OR SECRETARY OF THE  
8 POLITICAL PARTY, COMMITTEE OR INDEPENDENT BODY, OR THE CANDIDATES THAT  
9 ISSUED SUCH CERTIFICATE, THE SIGNATURE OF SUCH CHAIRPERSON OR SECRETARY  
10 OF THE POLITICAL PARTY, COMMITTEE OR INDEPENDENT BODY, AND THE TOWN OR  
11 CITY, WARD (IF APPLICABLE) AND ELECTION DISTRICT FOR WHICH THE WATCHER  
12 CERTIFICATE WAS ISSUED.

13 4. Each watcher must be a qualified voter of the city or county in  
14 which he OR SHE is to serve.

15 S 4. Section 8-502 of the election law, as amended by chapter 373 of  
16 the laws of 1978, is amended to read as follows:

17 S 8-502. Challenges; generally. 1. Before his OR HER vote is cast at  
18 an election any person may, IN ACCORDANCE WITH THE PROVISIONS OF THIS  
19 SECTION, be challenged as to his OR HER right to vote, or his OR HER  
20 right to vote by absentee, military, special federal or special presi-  
21 dential ballot. Such challenge may be made by an inspector or clerk, by  
22 any duly appointed watcher, or by any registered voter properly in the  
23 polling place.

24 2. An inspector shall challenge every person offering to vote, whom he  
25 OR SHE shall know or suspect is not entitled to vote in the district,  
26 and every person whose name appears on the list of persons to be chal-  
27 lenged on election day which is furnished by the board of elections.

28 3. ANY PERSON, OTHER THAN AN INSPECTOR OR CLERK, MAY CHALLENGE THE  
29 QUALIFICATIONS OF A VOTER ONLY BY COMPLETING, EXECUTING AND DELIVERING  
30 TO THE BOARD OF INSPECTORS A CHALLENGE AFFIDAVIT THAT SATISFIES THE  
31 REQUIREMENTS OF SECTION 8-503 OF THIS TITLE.

32 S 5. The election law is amended by adding a new section 8-503 to read  
33 as follows:

34 S 8-503. CHALLENGE AFFIDAVIT. 1. THE STATE BOARD OF ELECTIONS SHALL  
35 PRESCRIBE THE CONTENT AND FORM OF A CHALLENGE AFFIDAVIT FOR USE AT ANY  
36 GENERAL, SPECIAL, TOWN OR VILLAGE ELECTION AND AT ANY PRIMARY ELECTION.  
37 SUCH AFFIDAVIT SHALL CONTAIN THE AFFIANT'S FULL NAME, RESIDENCE, AND  
38 BUSINESS ADDRESS, THE NAME OF HIS OR HER EMPLOYER, THE REGISTRATION  
39 SERIAL NUMBER OF THE PERSON CHALLENGED AND A RECITAL OF THE REASONS AND  
40 THE FACTS SUPPORTING THE AFFIANT'S BELIEF THAT THE PERSON CHALLENGED  
41 LACKS ONE OR MORE OF THE QUALIFICATIONS FOR VOTING PRESCRIBED IN SECTION  
42 5-102 OR 5-106 OF THIS CHAPTER AND SPECIFIED IN SUCH AFFIDAVIT. THE  
43 AFFIDAVIT SHALL STATE IF THE REASONS FOR CHALLENGE ARE BASED UPON THE  
44 AFFIANT'S PERSONAL KNOWLEDGE, OR UPON INFORMATION RECEIVED FROM ANOTHER  
45 PERSON. IF THE AFFIANT'S BELIEF IS BASED UPON INFORMATION FURNISHED BY  
46 ANOTHER, THE AFFIDAVIT SHALL RECITE THE NAME OF THE PERSON FURNISHING  
47 THE INFORMATION AND THE BASIS FOR HIS OR HER INFORMATION. AFTER THE  
48 AFFIANT HAS SIGNED SUCH AFFIDAVIT, AN INSPECTOR SHALL READ TO HIM OR HER  
49 AND REQUEST HIM OR HER TO SIGN THE FOLLOWING OATH, WHICH SHALL BE  
50 SUBSCRIBED BY SUCH AFFIANT: "I DO SOLEMNLY SWEAR (OR AFFIRM) THAT I AM  
51 A QUALIFIED VOTER OF THE CITY OR COUNTY IN WHICH THIS AFFIDAVIT IS  
52 SIGNED AND THAT THE FOREGOING STATEMENT MADE BY ME ON (INSERT DAY, MONTH  
53 AND YEAR) IS A TRUTHFUL DISCLOSURE OF THE REASONS FOR MY BELIEF THAT THE  
54 REGISTERED VOTER THEREIN NAMED IS NOT QUALIFIED TO CONTINUE TO VOTE IN  
55 THE ELECTION DISTRICT IN WHICH HE OR SHE IS NOW REGISTERED." IF THE  
56 AFFIANT SHALL TAKE AND SIGN SUCH OATH, AN INSPECTOR SHALL SIGN HIS OR

1 HER NAME AS A WITNESS BELOW THE AFFIANT'S SUBSCRIPTION TO SUCH OATH.  
2 EACH CHALLENGE AFFIDAVIT MAY ONLY CHALLENGE THE QUALIFICATIONS OF ONE  
3 VOTER.

4 2. THE BOARD OF ELECTIONS SHALL MAKE CHALLENGE AFFIDAVIT FORMS AVAIL-  
5 ABLE TO ALL QUALIFIED VOTERS.

6 S 6. Paragraphs (b) and (e) of subdivision 2 of section 8-508 of the  
7 election law, as amended by chapter 200 of the laws of 1996, are amended  
8 to read as follows:

9 (b) The second section of such report shall be reserved for the board  
10 of inspectors to enter the name, address and registration serial number  
11 of each person who is challenged on the day of election, together with  
12 the reason for the challenge, THE NAME AND ADDRESS OF THE PERSON CHAL-  
13 LENGING THE QUALIFICATIONS OF SUCH VOTER, IF SUCH PERSON CHALLENGING THE  
14 QUALIFICATIONS IS NOT AN INSPECTOR OR CLERK, AND THE WORDS "PERMITTED TO  
15 VOTE" OR "REFUSED TO TAKE OATH". If no voters are challenged, the board  
16 of inspectors shall enter the words "No Challenges" across the space  
17 reserved for such names. In lieu of preparing section two of the chal-  
18 lenge report, the board of elections may provide, next to the name of  
19 each voter on the computer generated registration list, a place for the  
20 inspectors of election to record the information required to be entered  
21 in such section two, or provide at the end of such computer generated  
22 registration list, a place for the inspectors of election to enter such  
23 information.

24 (e) At the foot of such report and at the end of any such computer  
25 generated registration list shall be printed a certificate that such  
26 report contains the names of all persons who were challenged on the day  
27 of election, and [that each voter so reported as having been challenged  
28 took the oaths as required] THE REASON FOR SUCH CHALLENGE AND THE NAMES  
29 AND ADDRESSES OF ALL CHALLENGERS WHO ARE NOT INSPECTORS OR CLERKS, that  
30 such report contains the names of all voters to whom such board gave or  
31 allowed assistance and lists the nature of the disability which required  
32 such assistance to be given and the names and family relationship, if  
33 any, to the voter of the persons by whom such assistance was rendered;  
34 that each such assisted voter informed such board under oath that he OR  
35 SHE required such assistance and that each person rendering such assist-  
36 ance took the required oath; that such report contains the names of all  
37 voters who were permitted to vote although their registration poll  
38 records were missing; that the entries made by such board are a true and  
39 accurate record of its proceedings with respect to the persons named in  
40 such report.

41 S 7. Subdivision 3 of section 8-510 of the election law, as amended by  
42 chapter 43 of the laws of 1988, is amended to read as follows:

43 3. The inspectors shall place such completed report, EACH CHALLENGE  
44 AFFIDAVIT, EACH WATCHER CERTIFICATE and each court order, if any,  
45 directing that a person be permitted to vote, inside a ledger of regis-  
46 tration records or computer generated registration lists between the  
47 front cover, and the first registration record and then shall close and  
48 seal each ledger of registration records or computer generated registra-  
49 tion lists, affix their signature to the seal, lock such ledger in the  
50 carrying case furnished for that purpose and enclose the keys in a  
51 sealed package or seal such list in the envelope provided for that  
52 purpose.

53 S 8. Subdivisions 1 and 2 of section 17-108 of the election law, as  
54 amended by chapter 373 of the laws of 1978, are amended to read as  
55 follows:

1 1. Any person who wilfully loses, alters, destroys or mutilates A  
2 WATCHER CERTIFICATE, the list of voters or registration poll ledgers , A  
3 CHALLENGE AFFIDAVIT, OR A CHALLENGE REPORT in any election district, or  
4 a certified copy thereof, is guilty of a misdemeanor.

5 2. An applicant for registration who shall make, incorporate or cause  
6 to be incorporated a material false statement in an application for  
7 registration, or in any challenge or other affidavit required for or  
8 made or filed in connection with registration or voting, and any person  
9 who knowingly takes a false oath before a board of inspectors of  
10 election, and any person who makes a material false statement in a  
11 medical certificate, CHALLENGE AFFIDAVIT or an affidavit filed in  
12 connection with an application for registration, is guilty of a misde-  
13 meanor.

14 S 9. Section 17-150 of the election law is amended to read as follows:

15 S 17-150. Duress and intimidation of voters. 1. Any person or corpo-  
16 ration who directly or indirectly:

17 [1.] (A) Uses or threatens to use any force, violence or restraint, or  
18 inflicts or threatens to inflict any injury, damage, harm or loss, or in  
19 any other manner practices intimidation upon or against any person in  
20 order to induce or compel such person to vote or refrain from voting for  
21 or against any particular person or for or against any proposition  
22 submitted to voters at such election, or to place or cause to be placed  
23 or refrain from placing or causing to be placed his OR HER name upon a  
24 registry of voters, or on account of such person having voted or  
25 refrained from voting at such election, or having voted or refrained  
26 from voting for or against any particular person or persons, or for or  
27 against any proposition submitted to voters at such election, or having  
28 registered or refrained from registering as a voter; or,

29 [2.] (B) By abduction, duress or any forcible or fraudulent device or  
30 contrivance whatever impedes, prevents or otherwise interferes with the  
31 free exercise of the elective franchise by any voter, or compels,  
32 induces or prevails upon any voter to give or refrain from giving his OR  
33 HER vote for or against any particular person at any election; or,

34 [3.] (C) Being an employer pays his [employess] OR HER EMPLOYEES the  
35 salary or wages due in "pay envelopes," in which there is enclosed or  
36 upon which there is written or printed political motto, device or argu-  
37 ment containing threats, express or implied, intended or calculated to  
38 influence the political opinions or actions of such employees, or within  
39 ninety days of a general election puts or otherwise exhibits in the  
40 establishment or place where his OR HER employees are engaged in labor,  
41 any handbill or placard containing any threat, notice or information,  
42 that if any particular ticket or candidate is elected or defeated, work  
43 in his OR HER place or establishment will cease, in whole or in part,  
44 his OR HER establishment will be closed up, or the wages of his OR HER  
45 employees reduced, or other threats, express or implied, intended or  
46 calculated to influence the political opinions or actions of his OR HER  
47 employees, is guilty of a misdemeanor, and, if a corporation, shall in  
48 addition forfeit its charter.

49 2. IT SHALL BE PRESUMPTIVE EVIDENCE THAT A PERSON HAS PRACTICED INTIM-  
50 IDATION UPON OR AGAINST ANOTHER PERSON IN ORDER TO INDUCE SUCH OTHER  
51 PERSON TO REFRAIN FROM VOTING FOR OR AGAINST ANY PARTICULAR PERSON OR  
52 FOR OR AGAINST ANY PROPOSITION, WITHIN THE MEANING OF PARAGRAPH (A) OF  
53 SUBDIVISION ONE OF THIS SECTION, WHERE HE OR SHE:

54 (A) BEING OTHER THAN AN INSPECTOR OR CLERK, CHALLENGES THE QUALIFICA-  
55 TIONS OF MORE THAN TEN VOTERS DURING AN ELECTION, AND WHERE THE BOARD OF  
56 ELECTIONS, FOLLOWING AN INVESTIGATION PURSUANT TO PARAGRAPH (F) OF

1 SUBDIVISION TWO OF SECTION 8-508 OF THIS CHAPTER, FINDS AT LEAST TEN OF  
2 SUCH CHALLENGED VOTERS TO BE QUALIFIED VOTERS; OR

3 (B) BEING OTHER THAN AN INSPECTOR OR CLERK, CHALLENGES THE QUALIFICA-  
4 TIONS OF A VOTER AT ANY GENERAL, PRIMARY, SPECIAL, TOWN OR VILLAGE  
5 ELECTION AND THEREAFTER, WITHOUT GOOD CAUSE, FAILS TO COMPLY WITH THE  
6 REQUIREMENTS OF SECTION 8-503 OF THIS CHAPTER.

7 S 10. Subdivision 1 of section 17-154 of the election law is amended  
8 to read as follows:

9 1. (A) Intimidate, threaten or coerce, or to attempt to intimidate,  
10 threaten or coerce, any other person for the purpose of interfering with  
11 the right of such other person to vote or to vote as he may choose, or  
12 for the purpose of causing such other person to vote for, or not to vote  
13 for, any candidate for the office of governor, lieutenant-governor,  
14 attorney-general, comptroller, judge of any court, member of the senate,  
15 or member of the assembly at any election held solely or in part for the  
16 purpose of selecting a governor, lieutenant-governor, attorney-general,  
17 comptroller, any judge or any member of the senate or any member of the  
18 assembly; [or,]

19 (B) IT SHALL BE PRESUMPTIVE EVIDENCE THAT A PERSON HAS VIOLATED PARA-  
20 GRAPH (A) OF THIS SUBDIVISION WHEN, DURING ANY ELECTION ENUMERATED IN  
21 SUCH SUBDIVISION, HE OR SHE:

22 (I) BEING OTHER THAN AN INSPECTOR OR CLERK, CHALLENGES THE QUALIFICA-  
23 TIONS OF MORE THAN TEN VOTERS DURING SUCH ELECTION, AND WHERE THE BOARD  
24 OF ELECTIONS, FOLLOWING AN INVESTIGATION PURSUANT TO PARAGRAPH (F) OF  
25 SUBDIVISION TWO OF SECTION 8-508 OF THIS CHAPTER, FINDS AT LEAST TEN OF  
26 SUCH CHALLENGED VOTERS TO BE QUALIFIED VOTERS; OR

27 (II) BEING OTHER THAN AN INSPECTOR OR CLERK, CHALLENGES THE QUALIFICA-  
28 TIONS OF A VOTER AT ANY SUCH ELECTION AND FAILS TO COMPLY WITH THE  
29 REQUIREMENTS OF SECTION 8-503 OF THIS CHAPTER; OR

30 S 11. This act shall take effect one year after it shall have become a  
31 law.