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I N S E N A T E

February 14, 2014

Introduced by COMMITTEE ON RULES -- (at request of the Attorney General)
-- read twice and ordered printed, and when printed to be committed to
the Committee on Rules

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

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

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1 2002; (e) instructions for first-time voters; (f) a voter's bill of
2 rights describing voter's rights under applicable federal and state law,
3 including the right of accessibility and alternate language accessibil-
4 ity; (g) information pertaining to voting by election day paper ballot,
5 including information about the consequence of casting an overvote,
6 steps to prevent unintentional undervoting and spoiled ballots; (h)
7 instructions on how to contact the appropriate officials if a voter's
8 right to vote or right to otherwise participate in the electoral process
9 has been violated; [and] (i) general information on federal and state
10 laws regarding prohibitions on acts of fraud and misrepresentation; AND
11 (J) INFORMATION ABOUT THE REQUIREMENTS OF A CHALLENGE ON ELECTION DAY AS
12 PROVIDED IN SUBDIVISION THREE OF SECTION 8-502 OF THIS ARTICLE. The
13 state board of elections shall prescribe the form and content of the
14 voter information posting, which may be comprised of one or more pages,
15 provided each page shall be posted separately. The state board of
16 elections shall prescribe an official version of such voter information
17 posting for every language which appears on any general, primary or
18 special election ballot in any election district in the state and for
19 such other languages as such board, in its opinion, determines is appro-
20 priate. Such posting shall be used in all jurisdictions, and a separate
21 posting shall be made by election inspectors for each language appearing
22 on the ballot and for such additional languages as the board of
23 elections may require. A board of elections may modify or supplement the
24 voter information posting used in its jurisdiction to provide additional
25 or local information; provided, however, any such modification or
26 supplementation shall be submitted to the state board of elections for
27 prior approval.

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

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

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

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

55 3. The appointment of watchers for any election shall be by a certifi-
56 cate in writing issued by the [chairman] CHAIRPERSON or secretary of

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

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

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

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

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

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

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

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

1 AFFIANT SHALL TAKE AND SIGN SUCH OATH, AN INSPECTOR SHALL SIGN HIS OR
2 HER NAME AS A WITNESS BELOW THE AFFIANT'S SUBSCRIPTION TO SUCH OATH.
3 EACH CHALLENGE AFFIDAVIT MAY ONLY CHALLENGE THE QUALIFICATIONS OF ONE
4 VOTER.

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

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

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

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

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

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

54 S 8. Subdivisions 1 and 2 of section 17-108 of the election law, as
55 amended by chapter 373 of the laws of 1978, are amended to read as
56 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.