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I N A S S E M B L Y

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Introduced by M. of A. GALEF, MONTESANO, CROUCH, FINCH, STECK -- Multi-Sponsored by -- M. of A. HAWLEY, MAGEE, McDONOUGH, RIVERA, THIELE -- read once and referred to the Committee on Local Governments -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Local Governments in accordance with Assembly Rule 3, sec. 2 -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the town law, in relation to absentee ballots for fire district elections and improvement district elections

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

1 Section 1. Subdivision 2 of section 175-b of the town law, as amended
2 by chapter 401 of the laws of 1996, is amended to read as follows:
3 2. a. [An applicant for such an absentee ballot shall submit an appli-
4 cation setting forth (1) his or her name and residence address, includ-
5 ing the street and number, if any, or town and rural delivery route, if
6 any; (2) that he or she is or will be, on the day of the election, a
7 qualified voter of the district in which he or she resides in that he or
8 she is or will be, on such date, over eighteen years of age, a citizen
9 of the United States and has or will have resided in the district for
10 thirty days next preceding such date; (3) that he or she is registered
11 in the town; (4) that he or she will be unable to appear to vote in
12 person on the day of the election for which the absentee ballot is
13 requested because he or she is, or will be on such day (a) a patient in
14 a hospital, or unable to appear personally at the polling place on such
15 day because of illness or physical disability or (b) because of his or
16 her duties, occupation or business will require him or her to be outside
17 of the county of his or her residence on such day, (c) because he or she
18 will be on vacation outside the county of his or her residence on such
19 day; or, (d) absent from his or her voting residence because he or she

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

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1 is detained in jail awaiting action by a grand jury or awaiting trial or
2 is confined in prison after conviction for an offense other than a felony.
3 Such application must be received by the district secretary at
4 least seven days before the election if the ballot is to be mailed to
5 the voter, or the day before the election, if the ballot is to be delivered
6 personally to the voter or his or her agent.

7 b. (1) Where such duties, occupation or business are of such a
8 nature as ordinarily to require such absence, a brief description of
9 such duties, occupation or business shall be set forth in such affidavit.
10 (2) Where such duties, occupation or business are not of such a
11 nature as ordinarily to require such absence, such application shall
12 contain a statement of the special circumstances on account of which
13 such absence is required.

14 c. Where the applicant expects in good faith to be absent on the day
15 of the election because he or she will be on vacation elsewhere on such
16 day, such application shall also contain the dates upon which he or she
17 expects to begin and end such vacation, the place or places where he or
18 she expects to be on such vacation, the name and address of his or her
19 employer, if any, and if self-employed, a statement to that effect.

20 d. Where the absence is because of detention or confinement to jail,
21 such affidavit shall state whether the voter is detained awaiting action
22 of the grand jury or is confined after conviction for an offense other
23 than a felony.

24 e. Where a person is or would be, if he or she were a qualified
25 voter, entitled to apply for the right to vote by absentee ballot under
26 the provisions of this section, his or her spouse, parent or child, if a
27 qualified voter and a resident of the same district, shall be entitled
28 to vote as an absentee voter upon personally making and signing an
29 application in accordance with the preceding provisions of this subdivision
30 and showing that he or she expects to be absent from the district
31 on the day of the district election by reason of accompanying or being
32 with the spouse, child or parent who is or would be, if he or she were a
33 qualified voter, so entitled to apply for the right to vote by absentee
34 ballot, and, in the event no application is made by such spouse, child
35 or parent, such further information as the fire district shall require.

36 f.] A QUALIFIED VOTER MAY VOTE AS AN ABSENTEE VOTER UNDER THIS SECTION
37 IF DURING ALL THE HOURS OF VOTING ON THE DAY OF A FIRE DISTRICT ELECTION
38 HE OR SHE EXPECTS TO BE:

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

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

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

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

50 B. EACH PERSON ENTITLED TO VOTE AS AN ABSENTEE VOTER PURSUANT TO THIS
51 SECTION AND DESIROUS OF OBTAINING AN ABSENTEE BALLOT SHALL MAKE WRITTEN
52 APPLICATION THEREFOR TO THE DISTRICT SECRETARY. APPLICATION FORMS FOR
53 USE PURSUANT TO THIS SECTION SHALL BE IN A FORM PRESCRIBED BY THE STATE
54 BOARD OF ELECTIONS. THE USE OF ANY APPLICATION WHICH IS ON A FORM
55 PRESCRIBED BY THE STATE BOARD OF ELECTIONS SHALL BE ACCEPTABLE. Such

1 application shall include the following statement to be signed by the
2 voter.

3 I hereby declare that the foregoing is a true statement to the best of
4 my knowledge and belief, and I understand that if I make any material
5 false statement in the foregoing statement of application for absentee
6 ballots, I shall be guilty of a misdemeanor.

7 Date.....Signature of Voter.....

8 [g.] C. THE APPLICATION FOR AN ABSENTEE BALLOT WHEN FILED MUST CONTAIN
9 IN EACH INSTANCE THE FOLLOWING INFORMATION:

10 (1) APPLICANT'S FULL NAME, DATE OF BIRTH, AND RESIDENCE ADDRESS,
11 INCLUDING THE STREET AND NUMBER, IF ANY, RURAL DELIVERY ROUTE, IF ANY,
12 MAILING ADDRESS IF DIFFERENT FROM THE RESIDENCE ADDRESS AND AN ADDRESS
13 TO WHICH THE BALLOT SHALL BE MAILED.

14 (2) A STATEMENT THAT THE APPLICANT IS A QUALIFIED AND REGISTERED
15 VOTER.

16 (3) A STATEMENT, AS APPROPRIATE, THAT ON THE DAY OF SUCH ELECTION THE
17 APPLICANT EXPECTS IN GOOD FAITH TO BE IN ONE OF THE FOLLOWING Catego-
18 ries:

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

24 (B) UNABLE TO APPEAR AT A POLLING PLACE BECAUSE OF ILLNESS OR PHYSICAL
25 DISABILITY OR DUTIES RELATED TO THE PRIMARY CARE OF ONE OR MORE INDIVID-
26 UALS WHO ARE ILL OR PHYSICALLY DISABLED; OR

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

28 (D) DETAINED IN JAIL AWAITING ACTION BY A GRAND JURY OR AWAITING TRIAL
29 OR CONFINED IN JAIL OR PRISON AFTER A CONVICTION FOR AN OFFENSE OTHER
30 THAN A FELONY AND STATING THE PLACE WHERE HE OR SHE IS SO DETAINED OR
31 CONFINED.

32 (4) SUCH APPLICATION SHALL PERMIT THE APPLICANT TO APPLY FOR AN ABSEN-
33 TEE BALLOT IN ANY YEAR. A VOTER WHO APPLIES FOR AN ABSENTEE BALLOT
34 SHALL BE SENT AN ABSENTEE BALLOT FOR ANY FIRE DISTRICT ELECTION THAT
35 OCCURS DURING THE PERIOD OF ABSENCE SPECIFIED IN THE APPLICATION.

36 D. An applicant whose ability to appear personally at the polling
37 place of the district of which he or she is a qualified voter is
38 substantially impaired by reason of permanent illness or physical disa-
39 bility and whose registration record has been marked "permanently disa-
40 bled" by the board of elections pursuant to the provisions of the
41 election law shall be entitled to receive an absentee ballot pursuant to
42 the provisions of this section without making separate application for
43 such absentee ballot, and the secretary of the fire district, upon being
44 advised by the board of elections on or with the list of registered
45 voters that the registration record of a voter is marked "permanently
46 disabled", shall send an absentee ballot to such voter at his or her
47 last known address by first class mail with a request to the postal
48 authorities not to forward same but to return same in five days in the
49 event that it cannot be delivered to the addressee. The election
50 inspectors of the fire district shall make an appropriate entry on the
51 registration record indicating the fact that an absentee ballot has been
52 sent and the date of mailing.

53 E. AN APPLICATION MUST BE RECEIVED BY THE DISTRICT SECRETARY NO EARLI-
54 ER THAN THE THIRTIETH DAY BEFORE THE ELECTION FOR WHICH AN ABSENTEE
55 BALLOT IS SOUGHT. IF THE APPLICATION REQUESTS THAT THE ABSENTEE BALLOT
56 BE MAILED, SUCH APPLICATION MUST BE RECEIVED NOT LATER THAN SEVEN DAYS

BEFORE THE ELECTION. IF THE APPLICANT OR HIS OR HER AGENT DELIVERS THE APPLICATION TO THE DISTRICT SECRETARY IN PERSON, SUCH APPLICATION MUST BE RECEIVED NOT LATER THAN THE DAY BEFORE THE ELECTION. THE DISTRICT SECRETARY SHALL EXAMINE EACH APPLICATION AND SHALL DETERMINE FROM THE INFORMATION CONTAINED THEREIN WHETHER THE APPLICANT IS QUALIFIED UNDER THIS SECTION TO RECEIVE AN ABSENTEE BALLOT.

F. NO LATER THAN SIX DAYS BEFORE THE ELECTION FOR WHICH AN APPLICATION HAS BEEN RECEIVED AND FOR WHICH THE DISTRICT SECRETARY HAS DETERMINED THE APPLICANT TO BE QUALIFIED TO VOTE BY ABSENTEE BALLOT THE DISTRICT SECRETARY SHALL MAIL, BY REGULAR MAIL, AN ABSENTEE BALLOT TO EACH QUALIFIED APPLICANT WHO HAS APPLIED BEFORE SUCH DAY AND WHO HAS REQUESTED THAT SUCH ABSENTEE BALLOT BE MAILED TO HIM OR HER AT THE ADDRESS SET FORTH IN HIS OR HER APPLICATION. IF THE APPLICANT OR HIS OR HER AGENT DELIVERS THE APPLICATION TO THE DISTRICT SECRETARY IN PERSON AFTER THE SEVENTH DAY BEFORE THE ELECTION AND NOT LATER THAN THE DAY BEFORE THE ELECTION, THE DISTRICT SECRETARY SHALL FORTHWITH DELIVER SUCH ABSENTEE BALLOTS FOR THOSE APPLICANTS WHOM HE OR SHE DETERMINES ARE QUALIFIED TO MAKE SUCH APPLICATIONS AND TO RECEIVE SUCH BALLOTS TO SUCH APPLICANTS OR THE AGENTS NAMED IN THE APPLICATIONS WHEN SUCH APPLICANTS OR AGENTS APPEAR IN THE DISTRICT SECRETARY'S OFFICE.

S 2. Subdivision 2 of section 213-b of the town law, as added by chapter 400 of the laws of 1985, is amended to read as follows:

2. a. [An applicant for such an absentee ballot shall submit an application setting forth (1) his name and residence address, including the street and number, if any, or town and rural delivery route, if any; (2) that he is or will be, on the day of the election, a qualified voter of the district in which he resides in that he is or will be, on such date, over eighteen years of age, a citizen of the United States and has or will have resided in the district for thirty days next preceding such date; (3) that he is registered in the town; (4) that he will be unable to appear to vote in person on the day of the election for which the absentee ballot is requested because he is, or will be on such day (a) a patient in a hospital, or unable to appear personally at the polling place on such day because of illness or physical disability or (b) because his duties, occupation or business will require him to be outside of the county or city of his residence on such day, (c) because he will be on vacation outside the county or city of his residence on such day; or, (d) absent from his voting residence because he is detained in jail awaiting action by a grand jury or awaiting trial or is confined in prison after conviction for an offense other than a felony. Such application must be received by the district secretary at least seven days before the election if the ballot is to be mailed to the voter, or the day before the election, if the ballot is to be delivered personally to the voter or his agent.

b. (1) Where such duties, occupation or business are of such a nature as ordinarily to require such absence, a brief description of such duties, occupation or business shall be set forth in such affidavit. (2) Where such duties, occupation or business are not of such a nature as ordinarily to require such absence, such application shall contain a statement of the special circumstances on account of which such absence is required.

c. Where the applicant expects in good faith to be absent on the day of the election because he will be on vacation elsewhere on such day, such application shall also contain the dates upon which he expects to begin and end such vacation, the place or places where he expects to be

on such vacation, the name and address of his employer, if any, and if self-employed, a statement to that effect.

d. Where the absence is because of detention or confinement to jail, such affidavit shall state whether the voter is detained awaiting action of the grand jury or is confined after conviction for an offense other than a felony.

e. Where a person is or would be, if he were a qualified voter, entitled to apply for the right to vote by absentee ballot under the provisions of this section, his spouse, parent or child, if a qualified voter and a resident of the same district, shall be entitled to vote as an absentee voter upon personally making and signing an application in accordance with the preceding provisions of this subdivision and showing that he expects to be absent from the district on the day of the district election by reason of accompanying or being with the spouse, child or parent who is or would be, if he were a qualified voter, so entitled to apply for the right to vote by absentee ballot, and, in the event no application is made by such spouse, child or parent, such further information as the improvement district shall require.

f.] A QUALIFIED VOTER MAY VOTE AS AN ABSENTEE VOTER UNDER THIS SECTION IF DURING ALL THE HOURS OF VOTING ON THE DAY OF AN IMPROVEMENT DISTRICT ELECTION HE OR SHE EXPECTS TO BE:

- (1) ABSENT FROM THE COUNTY OF HIS OR HER RESIDENCE; OR
- (2) 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
- (3) AN INMATE OR PATIENT OF A VETERAN'S ADMINISTRATION HOSPITAL; OR
- (4) 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.

B. 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 DISTRICT SECRETARY. 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. Such application shall include the following statement to be signed by the voter.

I hereby declare that the foregoing is a true statement to the best of my knowledge and belief, and I understand that if I make any material false statement in the foregoing statement of application for absentee ballots, I shall be guilty of a misdemeanor.

Date Signature of Voter

[g.] C. THE APPLICATION FOR AN ABSENTEE BALLOT WHEN FILED MUST CONTAIN IN EACH INSTANCE THE FOLLOWING INFORMATION:

(1) 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 AN ADDRESS TO WHICH THE BALLOT SHALL BE MAILED.

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

(3) 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:

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

6 (B) UNABLE TO APPEAR AT A POLLING PLACE BECAUSE OF ILLNESS OR PHYSICAL
7 DISABILITY OR DUTIES RELATED TO THE PRIMARY CARE OF ONE OR MORE INDIVID-
8 UALS WHO ARE ILL OR PHYSICALLY DISABLED; OR

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

10 (D) DETAINED IN JAIL AWAITING ACTION BY A GRAND JURY OR AWAITING TRIAL
11 OR CONFINED IN JAIL OR PRISON AFTER A CONVICTION FOR AN OFFENSE OTHER
12 THAN A FELONY AND STATING THE PLACE WHERE HE OR SHE IS SO DETAINED OR
13 CONFINED.

14 (4) SUCH APPLICATION SHALL PERMIT THE APPLICANT TO APPLY FOR AN ABSEN-
15 TEE BALLOT IN ANY YEAR. A VOTER WHO APPLIES FOR AN ABSENTEE BALLOT
16 SHALL BE SENT AN ABSENTEE BALLOT FOR ANY IMPROVEMENT DISTRICT ELECTION.

17 D. An applicant whose ability to appear personally at the polling
18 place of the district of which he is a qualified voter is substantially
19 impaired by reason of permanent illness or physical disability and whose
20 registration record has been marked "permanently disabled" by the board
21 of elections pursuant to the provisions of the election law shall be
22 entitled to receive an absentee ballot pursuant to the provisions of
23 this section without making separate application for such absentee
24 ballot, and the secretary of the improvement district, upon being
25 advised by the board of elections on or with the list of registered
26 voters that the registration record of a voter is marked "permanently
27 disabled", shall send an absentee ballot to such voter at his last known
28 address by first class mail with a request to the postal authorities not
29 to forward same but to return same in five days in the event that it
30 cannot be delivered to the addressee. The board of inspectors of the
31 improvement district shall make an appropriate entry on the registration
32 record indicating the fact that an absentee ballot has been sent and the
33 date of mailing.

34 E. AN APPLICATION MUST BE RECEIVED BY THE DISTRICT SECRETARY NO EARLI-
35 ER THAN THE THIRTIETH DAY BEFORE THE ELECTION FOR WHICH AN ABSENTEE
36 BALLOT IS SOUGHT. IF THE APPLICATION REQUESTS THAT THE ABSENTEE BALLOT
37 BE MAILED, SUCH APPLICATION MUST BE RECEIVED NOT LATER THAN SEVEN DAYS
38 BEFORE THE ELECTION. IF THE APPLICANT OR HIS OR HER AGENT DELIVERS THE
39 APPLICATION TO THE DISTRICT SECRETARY IN PERSON, SUCH APPLICATION MUST
40 BE RECEIVED NOT LATER THAN THE DAY BEFORE THE ELECTION. THE DISTRICT
41 SECRETARY SHALL EXAMINE EACH APPLICATION AND SHALL DETERMINE FROM THE
42 INFORMATION CONTAINED THEREIN WHETHER THE APPLICANT IS QUALIFIED UNDER
43 THIS SECTION TO RECEIVE AN ABSENTEE BALLOT.

44 F. NO LATER THAN SIX DAYS BEFORE THE ELECTION FOR WHICH AN APPLICATION
45 HAS BEEN RECEIVED AND FOR WHICH THE DISTRICT SECRETARY HAS DETERMINED
46 THE APPLICANT TO BE QUALIFIED TO VOTE BY ABSENTEE BALLOT THE DISTRICT
47 SECRETARY SHALL MAIL, BY REGULAR MAIL, AN ABSENTEE BALLOT TO EACH QUALI-
48 FIED APPLICANT WHO HAS APPLIED BEFORE SUCH DAY AND WHO HAS REQUESTED
49 THAT SUCH ABSENTEE BALLOT BE MAILED TO HIM OR HER AT THE ADDRESS SET
50 FORTH IN HIS OR HER APPLICATION. IF THE APPLICANT OR HIS OR HER AGENT
51 DELIVERS THE APPLICATION TO THE DISTRICT SECRETARY IN PERSON AFTER THE
52 SEVENTH DAY BEFORE THE ELECTION AND NOT LATER THAN THE DAY BEFORE THE
53 ELECTION, THE DISTRICT SECRETARY SHALL FORTHWITH DELIVER SUCH ABSENTEE
54 BALLOTS FOR THOSE APPLICANTS WHOM HE OR SHE DETERMINES ARE QUALIFIED TO
55 MAKE SUCH APPLICATIONS AND TO RECEIVE SUCH BALLOTS TO SUCH APPLICANTS OR

1 THE AGENTS NAMED IN THE APPLICATIONS WHEN SUCH APPLICANTS OR AGENTS
2 APPEAR IN THE DISTRICT SECRETARY'S OFFICE.
3 S 3. This act shall take effect on the first of January next succeed-
4 ing the date on which it shall have become a law.