

## CHAPTER 266

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**ELECTIONS**

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**HOUSE BILL 07-1149**

BY REPRESENTATIVE(S) Rice, Balmer, Buescher, Carroll M., Carroll T., Casso, Frangas, Gallegos, Garcia, Gardner B., Gibbs, Hodge, Jahn, Kefalas, Kerr A., Kerr J., King, Labuda, Lambert, Levy, Liston, Lundberg, Madden, Marostica, Marshall, Massey, McFadyen, McNulty, Mitchell V., Primavera, Roberts, Romanoff, Solano, Stafford, Stephens, Summers, Swalm, Todd, Vaad, White, Witwer, Borodkin, Cadman, Hicks, Looper, McGihon, Rose, and Soper;  
also SENATOR(S) Ward, Bacon, Brophy, Gordon, Isgar, Kester, Kopp, May R., Mitchell S., Penry, Renfroe, Schultheis, Schwartz, Shaffer, Spence, Taylor, Tupa, Veiga, Wiens, Fitz-Gerald, McElhany, and Sandoval.

**AN ACT**

**CONCERNING VOTING BY CITIZENS RESIDING OVERSEAS, AND, IN CONNECTION THEREWITH, EXPANDING THE OPPORTUNITIES FOR MILITARY PERSONNEL AND OTHER CITIZENS RESIDING OUTSIDE THE UNITED STATES TO REGISTER AND VOTE BY ABSENTEE BALLOT.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 1-2-209, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**1-2-209. Registration of citizens who reside outside the United States - federal law.** (1.5) NOTWITHSTANDING SECTION 1-2-101 (1) (b), A PERSON WHO IS A CITIZEN OF THE UNITED STATES, WILL BE EIGHTEEN YEARS OF AGE OR OLDER ON THE DATE OF THE NEXT ELECTION, AND HAS NEVER BEEN A RESIDENT OF ANY STATE BUT WHOSE PARENT IS ELIGIBLE TO REGISTER AND VOTE IN THIS STATE MAY REGISTER TO VOTE BY FEDERAL POSTCARD APPLICATION OR BY STATE APPLICATION AND VOTE IN ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION.

**SECTION 2.** 1-2-209.5 (2) (b), Colorado Revised Statutes, is amended to read:

**1-2-209.5. Absent uniformed services and overseas electors - simultaneous voter registration and absentee ballot application - designated office - cooperation with military units.** (2) (b) The secretary of state ~~may~~ SHALL cooperate with the voting assistance officer of any unit of the armed forces of the United States, AN OFFICER OF THE COLORADO NATIONAL GUARD, OR AN OFFICER OF A UNIT OF THE RESERVE COMPONENTS OF THE UNIFORMED SERVICES OF THE UNITED

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

STATES BASED IN COLORADO to assist with voter registration and absentee ballot applications.

**SECTION 3.** Part 1 of article 8 of title 1, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**1-8-103.3. Application for absentee ballots by persons residing overseas and military personnel.** (1) AN ABSENT UNIFORMED SERVICES ELECTOR, NONRESIDENT OVERSEAS ELECTOR, OR RESIDENT OVERSEAS ELECTOR, AS DEFINED IN SECTION 1-2-208 (2.5), MAY APPLY FOR AN ABSENTEE BALLOT BY THE USE OF A PROPERLY EXECUTED FEDERAL POSTCARD APPLICATION PRESCRIBED IN ACCORDANCE WITH THE FEDERAL "UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT", PUB.L. 99-410 OR BY A LETTER OF APPLICATION THAT MEETS THE REQUIREMENTS OF SECTION 1-8-104 (1). THE ELECTOR MAY SUBMIT THE APPLICATION OR LETTER TO THE COUNTY CLERK AND RECORDER BY ELECTRONIC MEANS, AS DEFINED IN SECTION 1-8-103.5 (4).

(2) (a) NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION AND SECTION 1-8-104 (2), A COUNTY CLERK AND RECORDER SHALL ACCEPT AN UNSIGNED FEDERAL POSTCARD APPLICATION OR AN UNSIGNED LETTER OF APPLICATION FOR AN ABSENTEE BALLOT THAT MEETS THE REQUIREMENTS OF SECTION 1-8-104 (1) SUBMITTED ON BEHALF OF AN ABSENT UNIFORMED SERVICES ELECTOR IF THE:

(I) APPLICATION IS RECEIVED FROM A COMMISSIONED OFFICER IN THE UNIT TO WHICH THE ELECTOR IS ASSIGNED, ATTACHED, OR UNDER OPERATIONAL CONTROL OR FROM AN AUTHORIZED VOTING ASSISTANCE OFFICER;

(II) OFFICER FROM WHOM THE APPLICATION IS RECEIVED IS AUTHORIZED TO ADMINISTER OATHS; AND

(III) OFFICER SUBMITS WITH THE APPLICATION A SIGNED STATEMENT THAT THE:

(A) ELECTOR REQUESTED AN ABSENTEE BALLOT EITHER DIRECTLY FROM THE OFFICER OR THROUGH THE ELECTOR'S CHAIN OF COMMAND;

(B) OFFICER IS A COMMISSIONED OFFICER IN THE UNIT TO WHICH THE ELECTOR IS ASSIGNED, ATTACHED, OR UNDER OPERATIONAL CONTROL OR IS AN AUTHORIZED VOTING ASSISTANCE OFFICER;

(C) ELECTOR IS SERVING OUTSIDE THE UNITED STATES, IS ENTITLED TO ADDITIONAL PAYMENT FOR SERVING IN A ZONE OF HOSTILE FIRE OR IMMINENT DANGER, AND DOES NOT HAVE ACCESS TO FACILITIES OR EQUIPMENT NECESSARY TO SEND THE APPLICATION DUE TO MILITARY CIRCUMSTANCES; AND

(D) ELECTOR PROVIDED TO THE OFFICER, IN WRITING, THE INFORMATION REQUIRED TO APPLY FOR AN ABSENTEE BALLOT PURSUANT TO SECTION 1-8-104 (1).

(b) IF THE ABSENT UNIFORMED SERVICES ELECTOR WISHES TO REGISTER TO VOTE USING THE FEDERAL POSTCARD APPLICATION, THE OFFICER SHALL STATE IN THE SIGNED STATEMENT SUBMITTED BY THE OFFICER PURSUANT TO SUBPARAGRAPH (III) OF PARAGRAPH (a) OF THIS SUBSECTION (2) THAT AN OFFICER

ADMINISTERED TO THE ELECTOR THE AFFIRMATION REQUIRED ON THE FEDERAL POSTCARD APPLICATION.

(c) A COUNTY CLERK AND RECORDER WHO ACCEPTS AN UNSIGNED FEDERAL POSTCARD APPLICATION PURSUANT TO THIS SUBSECTION (2) SHALL CAUSE THE ABSENTEE BALLOT TO BE DELIVERED TO THE ELECTOR AT THE ADDRESS SHOWN ON THE APPLICATION.

(3) IF AN ABSENT UNIFORMED SERVICES ELECTOR, NONRESIDENT OVERSEAS ELECTOR, OR RESIDENT OVERSEAS ELECTOR, AS DEFINED IN SECTION 1-2-208 (2.5), SUBMITS A PROPERLY EXECUTED FEDERAL POSTCARD APPLICATION PURSUANT TO SUBSECTION (1) OF THIS SECTION AND THE COUNTY CLERK AND RECORDER RECEIVING THE APPLICATION DETERMINES THAT THE APPLICANT IS OTHERWISE ELIGIBLE BUT NOT REGISTERED TO VOTE, THE COUNTY CLERK AND RECORDER SHALL REGISTER THE APPLICANT IN ACCORDANCE WITH SECTION 1-2-208 AND DELIVER AN ABSENTEE BALLOT AND OTHER VOTING MATERIALS TO THE ELECTOR.

**SECTION 4.** 1-8-103.5 (1), Colorado Revised Statutes, is amended to read:

**1-8-103.5. Voting by persons residing overseas and military personnel - definitions.** (1) The designated or coordinated election official of a county or other political subdivision that meets the requirements of the rules promulgated by the secretary of state pursuant to subsection (3) of this section shall provide an absentee ballot by electronic means to an eligible elector who is an absent uniformed services elector, a nonresident overseas elector, or a resident overseas elector, as defined in section 1-2-208 (2.5), ~~and~~ IF THE ELECTOR timely filed an absentee ballot application with the designated or coordinated election official REQUESTING THAT THE ABSENTEE BALLOT BE SENT BY ELECTRONIC MEANS.

**SECTION 5.** 1-8-117 (2), (3), (4) (a), (5), and (6), Colorado Revised Statutes, are amended, and the said 1-8-117 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**1-8-117. Federal write-in absentee ballots pursuant to the "Uniformed and Overseas Citizens Absentee Voting Act".** (2) ~~An absent uniformed services elector, nonresident overseas elector, or resident overseas elector may apply for an absentee ballot by the use of a properly executed federal postcard application, as provided for in the federal "Uniformed and Overseas Citizens Absentee Voting Act of 1986", P.L. 99-410.~~

(3) ~~If an absent uniformed services elector, nonresident overseas elector, or resident overseas elector submits a properly executed federal postcard application pursuant to this section and the county clerk and recorder receiving it determines that the applicant is not properly registered, the county clerk and recorder shall register the applicant in accordance with section 1-2-208 and shall then deliver to the applicant the official absentee ballot and other materials necessary for the applicant to vote properly.~~

(4) (a) In ~~accord~~ ACCORDANCE with the "Uniformed and Overseas Citizens Absentee Voting Act", ~~Public Law 99-410, the~~ PUB.L. 99-410, AN ABSENT UNIFORMED SERVICES ELECTOR, NONRESIDENT OVERSEAS ELECTOR, OR RESIDENT

OVERSEAS ELECTOR, AS DEFINED IN SECTION 1-2-208 (2.5), MAY VOTE BY federal write-in absentee ballot ~~shall be provided to an eligible elector who has applied~~ IF THE ELECTOR MADE A TIMELY APPLICATION for a ~~Colorado~~ STATE absentee ballot but believes that he or she will be unable to vote and return the ballot by normal mail delivery within the period of time provided for the state absentee ballot.

~~(5) (a) If an application for a Colorado absentee ballot has been received and processed by the county clerk and recorder but a federal write-in absentee ballot, and not the state absentee ballot, is returned, only those votes cast for the federal officers on the federal write-in absentee ballot shall be counted.~~

~~(b) If both a Colorado absentee ballot and a federal write-in absentee ballot are returned, the federal write-in absentee ballot shall be deemed void and votes shall be counted from the state absentee ballot only.~~

(6) EXCEPT AS OTHERWISE PROVIDED BY SUBSECTION (7) OF THIS SECTION, A federal write-in absentee ~~ballots~~ BALLOT shall be counted in ~~accord~~ ACCORDANCE with ~~section 1-8-302~~ PART 3 OF THIS ARTICLE.

(7) A FEDERAL WRITE-IN ABSENTEE BALLOT SHALL NOT BE COUNTED IF:

(a) THE BALLOT WAS SUBMITTED BY A NONRESIDENT OVERSEAS ELECTOR OR A RESIDENT OVERSEAS ELECTOR FROM A LOCATION IN THE UNITED STATES;

(b) THE BALLOT WAS SUBMITTED BY AN ELECTOR WHOSE APPLICATION FOR A STATE ABSENTEE BALLOT WAS RECEIVED AFTER THE CLOSE OF BUSINESS ON THE FRIDAY IMMEDIATELY PRECEDING THE ELECTION; OR

(c) THE DESIGNATED ELECTION OFFICIAL RECEIVED A STATE ABSENTEE BALLOT FROM THE ELECTOR BY 7 P.M. ON THE DAY OF THE ELECTION.

**SECTION 6. Effective date.** This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 8, 2007, if adjournment sine die is on May 9, 2007); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: May 22, 2007