

CHAPTER 262

ELECTIONS

HOUSE BILL 09-1337

BY REPRESENTATIVE(S) Todd and Murray, Apuan, Casso, Court, Kerr J., Labuda, Priola, Ryden, Schafer S., Vigil;
also SENATOR(S) Williams and Carroll M., Cadman, Kester, Spence, White.

AN ACT

**CONCERNING CHANGES TO CERTAIN BALLOT PROCESSING DEADLINES CONTAINED IN THE STATE
ELECTION CODE.**

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

SECTION 1. 1-7.5-107 (3.5) (d), Colorado Revised Statutes, is amended to read:

1-7.5-107. Procedures for conducting mail ballot election - first-time voters casting a mail ballot after having registered by mail to vote. (3.5) (d) Any person who desires to cast his or her ballot by mail but does not satisfy the requirements of ~~paragraph (c)~~ PARAGRAPH (b) of this subsection (3.5) may cast such ballot by mail. ~~and the ballot shall be treated as a provisional ballot in accordance with the requirements of article 8.5 of this title.~~ THE DESIGNATED ELECTION OFFICIAL SHALL, WITHIN THREE DAYS AFTER THE RECEIPT OF A MAIL BALLOT THAT DOES NOT CONTAIN A COPY OF IDENTIFICATION AS DEFINED IN SECTION 1-1-104 (19.5), BUT IN NO EVENT LATER THAN TWO DAYS AFTER ELECTION DAY, SEND TO THE ELIGIBLE ELECTOR AT THE ADDRESS INDICATED IN THE REGISTRATION RECORDS A LETTER EXPLAINING THE LACK OF COMPLIANCE WITH PARAGRAPH (b) OF THIS SUBSECTION (3.5). IF THE DESIGNATED ELECTION OFFICIAL RECEIVES A COPY OF IDENTIFICATION IN COMPLIANCE WITH PARAGRAPH (b) OF THIS SUBSECTION (3.5) WITHIN EIGHT DAYS AFTER ELECTION DAY, AND IF THE MAIL BALLOT IS OTHERWISE VALID, THE MAIL BALLOT SHALL BE COUNTED.

SECTION 2. 1-7.5-107.3 (2) (a), Colorado Revised Statutes, is amended to read:

1-7.5-107.3. Verification of signatures - November coordinated elections. (2) (a) If, upon comparing the signature of an eligible elector on the self-affirmation on the return envelope with the signature of the eligible elector on file with the county clerk and recorder or in the statewide voter registration system, the election

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

judge determines that the signatures do not match, or if a signature verification device used pursuant to subsection (5) of this section is unable to determine that the signatures match, two other election judges of different political party affiliations shall simultaneously compare the signatures. If both other election judges agree that the signatures do not match, the county clerk and recorder shall, within ~~two~~ THREE days after ~~election day~~ THE SIGNATURE DEFICIENCY HAS BEEN CONFIRMED, BUT IN NO EVENT LATER THAN TWO DAYS AFTER ELECTION DAY, send to the eligible elector at the address indicated in the registration records a letter explaining the discrepancy in signatures and a form for the eligible elector to confirm that the elector returned a ballot to the county clerk and recorder. If the county clerk and recorder receives the form within eight days after election day confirming that the elector returned a ballot to the county clerk and recorder and enclosing a copy of the elector's identification as defined in section 1-1-104 (19.5), and if the ballot is otherwise valid, the ballot shall be counted. If the eligible elector returns the form indicating that the elector did not return a ballot to the county clerk and recorder, or if the eligible elector does not return the form within eight days after election day, the self-affirmation on the return envelope shall be categorized as incorrect, the ballot shall not be counted, and the county clerk and recorder shall send copies of the eligible elector's signature on the return envelope and the signature on file with the county clerk and recorder or in the statewide voter registration system to the district attorney for investigation.

SECTION 3. 1-8-111 (1), Colorado Revised Statutes, is amended to read:

1-8-111. Delivery of mail-in ballots and replacement mail-in ballots. (1) The mail-in ballot and other materials shall be delivered or mailed to the elector within seventy-two hours after the receipt of the application, if the official ballots are then printed, or, if not then printed, within seventy-two hours after the printed ballots are delivered to the designated election official, BUT NO SOONER THAN TWENTY-TWO DAYS BEFORE EVERY ODD-YEAR, CONGRESSIONAL VACANCY, PRIMARY, AND GENERAL ELECTION. If the mail-in ballot and other materials are mailed, the envelope shall be marked "DO NOT FORWARD" or by any other similar statement that is in accordance with United States postal service regulations. NOTHING IN THIS SUBSECTION (1) SHALL AFFECT ANY PROVISION OF THIS CODE GOVERNING THE DELIVERY OF MAIL OR MAIL-IN BALLOTS TO AN ABSENT UNIFORMED SERVICES ELECTOR, NONRESIDENT OVERSEAS ELECTOR, OR RESIDENT OVERSEAS ELECTOR COVERED BY THE FEDERAL "UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT", 42 U.S.C. SEC. 1973ff ET SEQ.

SECTION 4. 1-8-114.5 (2) (a), Colorado Revised Statutes, is amended to read:

1-8-114.5. Verification of signatures - rules. (2) (a) If, upon comparing the signature of an eligible elector on the self-affirmation on the return envelope with the signature of that eligible elector on file with the county clerk and recorder or in the statewide voter registration system, the election judge determines that the signatures do not match, or if a signature verification device used pursuant to subsection (5) of this section is unable to determine that the signatures match, two other election judges of different political party affiliations shall simultaneously compare the signatures. If both other election judges agree that the signatures do not match, the county clerk and recorder shall, within ~~two~~ THREE days after ~~election day~~ THE SIGNATURE DEFICIENCY HAS BEEN CONFIRMED, BUT IN NO EVENT LATER

THAN TWO DAYS AFTER ELECTION DAY, send to the eligible elector at the address indicated in the registration records a letter explaining the discrepancy in signatures and a form for the eligible elector to confirm that the elector voted, signed the self-affirmation, and returned a ballot to the county clerk and recorder. If the county clerk and recorder receives the form within eight days after election day confirming that the elector voted, signed the self-affirmation, and returned a ballot to the county clerk and recorder and enclosing a copy of the elector's identification as defined in section 1-1-104 (19.5), and if the ballot is otherwise valid, the ballot shall be counted. If the eligible elector does not enclose a copy of the elector's identification as defined in section 1-1-104 (19.5) along with the form, the self-affirmation on the return envelope shall be categorized as incorrect and the ballot shall not be counted. If the eligible elector returns the form indicating that the elector did not vote, sign the self-affirmation, or return a ballot to the county clerk and recorder, or if the eligible elector does not return the form within eight days after election day, the self-affirmation on the return envelope shall be categorized as incorrect, the ballot shall not be counted, and the county clerk and recorder shall send copies of the eligible elector's signature on the return envelope and the signature on file with the county clerk and recorder or in the statewide voter registration system to the district attorney for investigation.

SECTION 5. 1-8-302 (2), Colorado Revised Statutes, is amended to read:

1-8-302. Hours mail-in and early voters' counting place open for receiving and counting ballots. (2) (a) The election officials at the mail-in and early voters' counting place may receive, cast, and prepare for tabulation mail-in and early voters' ballots delivered and turned over to them by the designated election official.

(b) COUNTING OF THE MAIL-IN BALLOTS MAY BEGIN FIFTEEN DAYS PRIOR TO THE ELECTION AND SHALL CONTINUE UNTIL COUNTING IS COMPLETED.

(c) Counting of the ~~mail-in and~~ early voters' ballots may begin ten days prior to the election and SHALL continue until counting is completed.

(d) The election officials in charge of the mail-in AND EARLY VOTERS' ballot counting place shall take all precautions necessary to ensure the secrecy of the counting procedures, and no information concerning the count shall be released by the election officials or watchers until after 7 p.m. on election day.

SECTION 6. 1-8.5-105 (3) (a), Colorado Revised Statutes, is amended to read:

1-8.5-105. Verification of provisional ballot information - counting procedure. (3) (a) If a provisional ballot affidavit is not signed, the designated election official shall send a letter to the elector ~~no~~ WITHIN THREE DAYS AFTER THE SIGNATURE DEFICIENCY HAS BEEN CONFIRMED, BUT IN NO EVENT later than two days after the election, informing the elector that the affidavit was not signed and that the provisional ballot cannot be counted unless the affidavit is signed. The letter shall state that the elector may come to the office of the county clerk and recorder to sign the provisional ballot affidavit no later than eight days after the election.

SECTION 7. Act subject to petition - effective date. (1) Except as set forth in subsection (2), 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 5, 2009, if adjournment sine die is on May 6, 2009); 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.

(2) This act shall take effect either upon the applicable effective date of this act or upon the applicable effective date of House Bill 09-1015, whichever is later; except that this act shall only take effect if House Bill 09-1015 is enacted and becomes law.

Approved: May 15, 2009