

Effective 5/13/2014

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20A-4-107 Review and disposition of provisional ballot envelopes.

- (1) As used in this section, a person is "legally entitled to vote" if:
 - (a) the person:
 - (i) is registered to vote in the state;
 - (ii) votes the ballot for the voting precinct in which the person resides; and
 - (iii) provides valid voter identification to the poll worker;
 - (b) the person:
 - (i) is registered to vote in the state;
 - (ii)
 - (A) provided valid voter identification to the poll worker; or
 - (B) either failed to provide valid voter identification or the documents provided as valid voter identification were inadequate and the poll worker recorded that fact in the official register but the county clerk verifies the person's identity and residence through some other means; and
 - (iii) did not vote in the person's precinct of residence, but the ballot that the person voted was from the person's county of residence and includes one or more candidates or ballot propositions on the ballot voted in the person's precinct of residence; or
 - (c) the person:
 - (i) is registered to vote in the state;
 - (ii) either failed to provide valid voter identification or the documents provided as valid voter identification were inadequate and the poll worker recorded that fact in the official register; and
 - (iii)
 - (A) the county clerk verifies the person's identity and residence through some other means as reliable as photo identification; or
 - (B) the person provides valid voter identification to the county clerk or an election officer who is administering the election by the close of normal office hours on Monday after the date of the election.
- (2)
 - (a) Upon receipt of provisional ballot envelopes, the election officer shall review the affirmation on the face of each provisional ballot envelope and determine if the person signing the affirmation is:
 - (i) registered to vote in this state; and
 - (ii) legally entitled to vote:
 - (A) the ballot that the person voted; or
 - (B) if the ballot is from the person's county of residence, for at least one ballot proposition or candidate on the ballot that the person voted.
 - (b) Except as provided in Subsection 20A-4-108(10), if the election officer determines that the person is not registered to vote in this state or is not legally entitled to vote in the county or for any of the ballot propositions or candidates on the ballot that the person voted, the election officer shall retain the ballot envelope, unopened, for the period specified in Section 20A-4-202 unless ordered by a court to produce or count it.
 - (c) If the election officer determines that the person is registered to vote in this state and is legally entitled to vote in the county and for at least one of the ballot propositions or candidates on the ballot that the person voted, the election officer shall remove the ballot from the

provisional ballot envelope and place the ballot with the absentee ballots to be counted with those ballots at the canvass.

- (d) The election officer may not count, or allow to be counted a provisional ballot unless the person's identity and residence is established by a preponderance of the evidence.
- (3) If the election officer determines that the person is registered to vote in this state, or if the voter is, in accordance with the pilot project, registered to vote under Subsection 20A-4-108(10), the election officer shall ensure that the voter registration records are updated to reflect the information provided on the provisional ballot envelope.
- (4) Except as provided in Subsection 20A-4-108(12), if the election officer determines that the person is not registered to vote in this state and the information on the provisional ballot envelope is complete, the election officer shall:
 - (a) consider the provisional ballot envelope a voter registration form for the person's county of residence; and
 - (b)
 - (i) register the person if the voter's county of residence is within the county; or
 - (ii) forward the voter registration form to the election officer of the person's county of residence, which election officer shall register the person.
- (5) Notwithstanding any provision of this section, the election officer shall remove the ballot from a provisional ballot envelope and place the ballot with the absentee ballots to be counted with those ballots at the canvass, if:
 - (a)
 - (i) the election officer determines, in accordance with the provisions of this section, that the sole reason a provisional ballot may not otherwise be counted is because the voter registration was filed less than eight days before the election;
 - (ii) eight or more days before the election, the individual who cast the provisional ballot:
 - (A) completed and signed the voter registration; and
 - (B) provided the voter registration to another person to file;
 - (iii) the late filing was made due to the person described in Subsection (5)(a)(ii)(B) filing the voter registration less than eight days before the election; and
 - (iv) the election officer receives the voter registration no later than one day before the day of the election; or
 - (b) the provisional ballot is cast on or before election day in a county or municipality that is approved by the lieutenant governor to participate in the pilot project and the provisional ballot is not otherwise prohibited from being counted under the provisions of this chapter.