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## CHAPTER 171. VOTING RIGHTS

### GENERAL PROVISIONS

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### ABSENTEE BALOTTING

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### Authority

The provisions of this Chapter 171 issued under the Pennsylvania Election Code (25 P.S. §§ 2601—3573), unless otherwise noted.

171-1

(294753) No. 340 Mar. 03
§ 171.1. Scope and purpose.

This chapter serves to insure application of the Federal Voting Rights Act Amendments (42 U.S.C.A. § 1973aa et seq.) in this Commonwealth.

§ 171.2. Penalty.

Local election officials who fail to make Federal voting rights available to all qualified voters are subject to fines of up to $5,000 or imprisonment of up to 5 years, or both.

§ 171.3. Special separate ballots.

A special separate ballot shall be prepared and available for persons who only qualify to vote under the 1970 Federal Voting Rights Act Amendments (42 U.S.C.A. § 1973aa et seq.). This ballot will consist of the party block column and the names of the candidates for President and Vice President of the recognized parties in the Commonwealth, specifically, Democratic, Republican, Constitutional, Socialist Workers and Communist. Other matters may not be placed on this ballot. Presidential ballots shall be available in voting precincts for those who can qualify to vote in person under the provision of the 1970 Federal Voting Rights Act Amendments (42 U.S.C.A. § 1973aa et seq.).

ABSENTEE BALOTTING

§ 171.11. Absentee balloting for President and Vice President.

(a) An individual who would be qualified to vote in person under Commonwealth law, shall be allowed to cast an absentee ballot for President and Vice President if the individual properly submits the following affidavit:

I hereby swear (or affirm) that I am unable to vote in person on the day of the next ensuing election by reason of absence from my voting district.

(b) Affirmation of absence from the voting district on election day for any reason qualifies an individual to cast an absentee ballot for President and Vice President. As under Commonwealth law, final application for an absentee ballot must be received by proper election officials within 7 days of the election; fur-
ther, emergency absentee ballot provisions under Commonwealth law apply to the Presidential and Vice Presidential elector.

(c) A person who is otherwise eligible to vote and who affirms that he has ceased to reside in an election district in this Commonwealth and established residence in another election district in this Commonwealth or in another state within 30 days of an election for President and Vice President and is not eligible to register and vote in his new election district or state because of the recent change of residence shall be allowed to vote for President and Vice President by absentee ballot in the former election district providing that application for such absentee ballot is made within the standards set by the 1970 Voting Rights Act Amendments (42 U.S.C.A. § 1973aa et seq.) for absentee ballots.

§ 171.12. Absentee registration for President and Vice President.

(a) A person qualified to vote for President and Vice President under the provisions of the 1970 Voting Rights Act Amendments (42 U.S.C.A. § 1973aa et seq.) as described in the opinion of the Attorney General which appears at 2 Pa.B. 1913, shall be allowed to register absentee for the purposes of voting for the President and Vice President if they submit the following affidavit:

I hereby swear (or affirm) that I am unable to register in person by reason of absence from my election district, that on the day of the next ensuing election I shall have been a citizen of the United States for at least one month, that I will be 18 years of age, on the day after the election, that I will have been a resident of the Commonwealth and my election district for at least thirty (30) days, that I will be legally qualified to vote, and that I have read (or have had read to me) the foregoing statements made in connection with my registration and that they are true and correct.

(b) Final application for absentee registration may only be honored during the time the registration books are open.

(c) As with absentee balloting, absentee registration for purposes of Presidential and Vice Presidential balloting under the 1970 Voting Rights Act Amendments (42 U.S.C.A. § 1973aa et seq.) shall be extended without reference to the reason for the absence. Absence from the election district refers to an absence during such times as the registration books are open. Further, that an individual who affirms that he is a qualified absentee elector shall be permitted to register absentee for purposes of Presidential and Vice Presidential elections. Challenges to registrations shall come under relevant provisions of Commonwealth law governing challenges to registered voters. An election official who refuses to register or forward an absentee ballot to a voter who has properly completed the required affidavit subjects himself to the penalties provided under Federal and Commonwealth laws.

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(201031) No. 253 Dec. 95
§ 171.13. Absentee electors outside the country.

(a) A registered voter making application for an absentee ballot from outside the country is not required to do anything more than any other registered voter applying for an absentee ballot. The individual need only swear or affirm that he is unable to vote in person by reason of absence from the voting district on election day.

(b) An absentee elector applying for absentee registration from a foreign country may not be specially hindered. An individual need not have a present physical residence in a locality in order to qualify as an elector for Presidential and Vice Presidential elections. Individuals without a present physical residence in the voting district, but who affirm they remain residents of a district while away, are valid absentee electors for President and Vice President under the provisions of the 1970 Voting Rights Act Amendments (42 U.S.C.A. § 1973aa et seq.).

(c) For example, an individual residing in this Commonwealth sells his house and moves to France as a result of a job transfer. If he affirms that he remains a resident of the district in this Commonwealth, he shall be granted absentee balloting or absentee registration rights for Presidential and Vice Presidential elections under the provisions of the 1970 Voting Rights Act Amendments (42 U.S.C.A. § 1973aa et seq.). If he has no specific address at which to register, the voter shall be listed on the voters list as a general resident of the declared voting district.

(d) If there is a substantial basis for doubting the United States citizenship of an applicant, as an absentee elector, after registration of the individual, a challenge should be made under existing Commonwealth election laws.

§ 171.14. Time and date of receipt verification.

(a) Returned absentee ballots shall be immediately stamped showing the time and date of receipt. It is suggested that a continuing list be kept as absentee ballots are received showing the date and time of receipt and the name of the elector.

(b) At 5 p.m. on the Friday before the election, a complete list showing the name of elector, time and date of receipt of all absentee ballots received up until that time shall be verified and signed by the county board of commissioners. This list shall be made immediately available to all interested persons upon request.

(c) A ballot received after 5 p.m. on the Friday before the election but before the closing of the polls on election day and therefore not on this list are only valid insofar as Presidential and Vice Presidential votes.

(d) The proper and timely distribution of this list at 5 p.m. on the Friday before the election shall be the basis for protecting local election officials from Federal penalties in the event of later appeals relating to charges of possible
impropriety in the voiding or validating of votes for State and local offices resulting from the time of receipt of the ballots in the appropriate election office.

§ 171.15. Counting of absentee ballots valid for President and Vice President only.

(a) Before and after the counting of ballots, those absentee ballots valid only for the Presidential and Vice Presidential election under the 1970 Voting Rights Act Amendments (42 U.S.C.A. § 1973aa et seq.), as detailed in the September 15, 1972, Attorney General’s opinion which appears at 2 Pa.B. 1913, shall be kept absolutely separate from other ballots. The ballots, valid only for Presidential and Vice Presidential electors and required to be kept separate from other ballots, are limited to the following:

(1) Absentee ballots from voters who, under the 1970 Voting Rights Act Amendments (42 U.S.C.A. § 1973aa et seq.), have registered absentee or received absentee ballots. The voters shall only be using the special separate ballots listing only candidates for President and Vice President.

(2) Absentee ballots from voters who are qualified to vote for State and local candidates, as well as President and Vice President under the election laws of the Commonwealth, but which ballots have been received after 5 p.m. of the Friday before the election, but before the closing of the polls on election day. Only votes for President and Vice President on such ballots are valid. Votes for State and local officials on such ballots are void and may not be counted.

(b) Special ballots listing only President and Vice President candidates shall be counted at the court house commencing at the closing of the polls. Ballots from voters who are qualified to vote for State and local candidates as well as President and Vice President, but which ballots have been received after 5 p.m. of the Friday before the election, but before the closing of the polls on election day shall be counted at the court house at the closing of the polls. A special election return board shall be convened on election night in order to count these ballots at the Court House. Members of that special board shall be appointed in teams of three by the County Board of Elections. Each County Commissioner must appoint one member of each team.

(c) Those absentee ballots valid only for Presidential and Vice Presidential elections which are counted at the Court House on election day, shall be kept separate from all other ballots, even after the count has been made.

§ 171.16. Form of affidavit for absentee ballot registration.

The following form of affidavit for absentee ballot registration due to illness or permanent physical disability is attached hereto and made a part of this section:
AFFIDAVIT OF ILLNESS OR PERMANENT PHYSICAL DISABILITY AND PHYSICIAN’S CERTIFICATE

This form properly executed and returned to the County Board of Elections will maintain your eligibility to vote without requesting an application for an absentee ballot under Act 301 of 1972 for a period to two years.

Commonwealth of Pennsylvania
County of ____________________________
City ____________________
Boro. of ________________________ Ward _________ District _________

I, ____________________________ declare that I am a qualified and registered elector of the district stated above and that I am permanently disabled.

(Enter here the nature of your illness or disability)

Because of my disability, I am (check one):
[ ] Unable to attend my polling place.
[ ] Able to attend my polling place, but would be physically unable both to operate a voting machine (or mark the ballot) and to orally request assistance to do so.

Signature or Mark of Elector

(To be completed only if you made your mark in above section)

I hereby state that I am unable to sign my application for an absentee ballot without assistance because I am unable to write by reason of my illness or physical disability. I have made or have received assistance in making my mark in lieu of my signature.

(Date) (Mark)

(Complete address of witness) (Signature of witness)

Physician’s Certificate of Permanent Disability

I hereby certify that the above named voter is permanently disabled, and either physically unable to attend the polls or physically unable to operate a voting machine (or mark the ballot) and to orally request assistance to do so.
SHOULD YOU LOSE YOUR DISABILITY, YOU MUST INFORM THE COUNTY BOARD OF ELECTIONS OF THE COUNTY WHEREIN YOU RESIDE.

Source
The provisions of this § 171.16 adopted August 17, 1973, 3 Pa.B. 1721.

NOMINATION PAPERS

§ 171.21. Preamble of nomination papers.
The preamble of all nomination papers shall read as follows:

NOMINATION PAPER

We, the undersigned, all of whom are qualified electors of Pennsylvania and of ___________ County, hereby nominate the following persons as candidates representing the ___________ Body:

Source
The provisions of this § 171.21 adopted August 31, 1973, 3 Pa.B. 1839.

§ 171.22. Ethics affidavit.
An affidavit that the candidate has filed a statement of financial interests with the State Ethics Commission may be included on the nomination petition or nomination paper.

Authority
The provisions of this § 171.22 issued under section 506 of The Administrative Code of 1929 (71 P. S. § 186); sections 201(a) and 907 of the Pennsylvania Election Code (25 P. S. §§ 2621(a) and 2867); and section 4(b) of the act of October 4, 1978 (P.L. 883, No. 170) (65 P. S. § 404(b)).

Source