

ELECTION CODE

TITLE 7. EARLY VOTING

SUBTITLE B. SPECIAL FORMS OF EARLY VOTING

CHAPTER 101. VOTING BY RESIDENT FEDERAL POSTCARD APPLICANT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 101.001. ELIGIBILITY. A person is eligible for early voting by mail as provided by this chapter if:

(1) the person is qualified to vote in this state or, if not registered to vote in this state, would be qualified if registered; and

(2) the person is:

(A) a member of the armed forces of the United States, or the spouse or a dependent of a member;

(B) a member of the merchant marine of the United States, or the spouse or a dependent of a member; or

(C) domiciled in this state but temporarily living outside the territorial limits of the United States and the District of Columbia.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.24; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011.

Sec. 101.002. GENERAL CONDUCT OF VOTING. Voting under this chapter shall be conducted and the results shall be processed as provided by Subtitle A for early voting by mail, except as otherwise provided by this chapter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.24; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011.

Sec. 101.003. DEFINITIONS. In this chapter:

(1) "Federal postcard application" means an application for a ballot to be voted under this chapter submitted on the official federal form prescribed under the federal Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. Section 1973ff et seq.).

(2) "FPCA registrant" means a person registered to vote under Section [101.055](#).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.24; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1349, Sec. 42, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. [100](#)), Sec. 1, eff. September 1, 2011.

Sec. 101.004. NOTING FPCA REGISTRATION ON POLL LIST. For each FPCA registrant accepted to vote, a notation shall be made beside the voter's name on the early voting poll list indicating that the voter is an FPCA registrant.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 1.32; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1349, Sec. 43, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 5.10, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 687, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1107 (H.B. [2309](#)), Sec. 1.21, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 501 (S.B. [361](#)), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 310 (H.B. [551](#)), Sec. 1, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. [100](#)), Sec. 1, eff. September 1, 2011.

Sec. 101.005. NOTING FPCA REGISTRATION AND E-MAIL ON EARLY VOTING ROSTER. The entry on the early voting roster pertaining to a voter under this chapter who is an FPCA registrant must include a notation indicating that the voter is an FPCA registrant. The early voting clerk shall note on the early voting by mail roster each e-mail of a ballot under Subchapter C.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 7.06, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 203, Sec. 2.24; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 1315, Sec. 46, eff. Jan. 1, 2004.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011.

Sec. 101.006. EXCLUDING FPCA REGISTRANT FROM PRECINCT EARLY VOTING LIST. A person to whom a ballot is provided under this chapter is not required to be included on the precinct early voting list if the person is an FPCA registrant.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.24; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 1315, Sec. 47, eff. Jan. 1, 2004.

Amended by:

Acts 2005, 79th Leg., Ch. 993 (H.B. 2059), Sec. 1, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 91 (H.B. 536), Sec. 2, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011.

Sec. 101.007. DESIGNATION OF SECRETARY OF STATE. (a) The secretary of state is designated as the state office to provide information regarding voter registration procedures and absentee ballot procedures, including procedures related to the federal write-in absentee ballot, to be used by persons eligible to vote under the federal Uniformed and Overseas Citizens Absentee Voting

Act (42 U.S.C. Section 1973ff et seq.).

(b) The secretary of state is designated as the state coordinator between military and overseas voters and county election officials. A county election official shall:

(1) cooperate with the secretary of state to ensure that military and overseas voters timely receive accurate balloting materials that a voter is able to cast in time for the election; and

(2) otherwise comply with the federal Military and Overseas Voter Empowerment Act (Pub. L. No. 111-84, Div. A, Title V, Subt. H).

(c) The secretary of state may adopt rules as necessary to implement this section.

(d) The secretary of state shall make a checklist or similar guidelines available for optional use by early voting clerks in processing an application and providing balloting materials under this chapter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 1.33; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1349, Sec. 44, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 589 (S.B. 904), Sec. 1, eff. September 1, 2013.

Sec. 101.008. STATUS OF APPLICATION OR BALLOT VOTED. The secretary of state, in coordination with local election officials, shall implement an electronic free-access system by which a person eligible for early voting by mail under this chapter or Chapter 114 may determine by telephone, by e-mail, or over the Internet whether:

(1) the person's federal postcard application or other registration or ballot application has been received and accepted; and

(2) the person's ballot has been received and the current status of the ballot.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.24; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011.

#### SUBCHAPTER B. SUBMISSION OF FEDERAL POSTCARD APPLICATION

Sec. 101.051. FORM AND CONTENTS OF APPLICATION. An application for a ballot to be voted under this subchapter must:

(1) be submitted on an official federal postcard application form; and

(2) include the information necessary to indicate that the applicant is eligible to vote in the election for which the ballot is requested.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011.

Sec. 101.052. SUBMITTING APPLICATION. (a) A federal postcard application must be submitted to the early voting clerk for the election who serves the election precinct of the applicant's residence.

(a-1) A federal postcard application must be submitted by:

(1) mail; or

(2) electronic transmission of an image of the application under procedures prescribed by the secretary of state.

(b) A federal postcard application may be submitted at any time during the calendar year in which the election for which a ballot is requested occurs, but not later than the deadline for submitting a regular application for a ballot to be voted by mail for a voter to be entitled to receive a ballot by mail for that election.

(c) A federal postcard application requesting a ballot for an election to be held in January or February may be submitted in the preceding calendar year but not earlier than the earliest date

for submitting a regular application for a ballot to be voted by mail.

(d) A timely application that is addressed to the wrong early voting clerk shall be forwarded to the proper early voting clerk not later than the day after the date it is received by the wrong clerk.

(e) An applicant who otherwise complies with applicable requirements is entitled to receive a full ballot to be voted by mail under this chapter if:

(1) the applicant submits a federal postcard application to the early voting clerk on or before the 20th day before election day; and

(2) the application contains the information that is required for registration under Title 2.

(f) The applicant is entitled to receive only a federal ballot to be voted by mail under Chapter 114 if:

(1) the applicant submits the federal postcard application to the early voting clerk after the date provided by Subsection (e)(1) and before the deadline for submitting a regular application for a ballot to be voted by mail; and

(2) the application contains the information that is required for registration under Title 2.

(g) Repealed by Acts 2015, 84th Leg., R.S., Ch. 84 , Sec. 31, eff. September 1, 2015.

(h) If the applicant submits the federal postcard application within the time prescribed by Subsection (f)(1) and is a registered voter at the address contained on the application, the applicant is entitled to receive a full ballot to be voted by mail under this chapter.

(i) Except as provided by Subsections (l) and (m), for purposes of determining the date a federal postcard application is submitted to the early voting clerk, an application is considered to be submitted on the date it is placed and properly addressed in the United States mail. An application mailed from an Army/Air Force Post Office (APO) or Fleet Post Office (FPO) is considered placed in the United States mail. The date indicated by the post office cancellation mark, including a United States military post

office cancellation mark, is considered to be the date the application was placed in the mail unless proven otherwise. For purposes of an application made under Subsection (e):

(1) an application that does not contain a cancellation mark is considered to be timely if it is received by the early voting clerk on or before the 15th day before election day; and

(2) if the 20th day before the date of an election is a Saturday, Sunday, or legal state or national holiday, an application is considered to be timely if it is submitted to the early voting clerk on or before the next regular business day.

(j) If the early voting clerk determines that an application that is submitted before the time prescribed by Subsection (e)(1) does not contain the information that is required for registration under Title 2, the clerk shall notify the applicant of that fact. If the applicant has provided a telephone number or an address for receiving mail over the Internet, the clerk shall notify the applicant by that medium.

(k) If the applicant submits the missing information before the time prescribed by Subsection (e)(1), the applicant is entitled to receive a full ballot to be voted by mail under this chapter. If the applicant submits the missing information after the time prescribed by Subsection (e)(1), the applicant is entitled to receive a full ballot to be voted by mail for the next election that occurs:

(1) in the same calendar year; and

(2) after the 30th day after the date the information is submitted.

(l) For purposes of determining the end of the period that an application may be submitted under Subsection (f)(1), an application is considered to be submitted at the time it is received by the early voting clerk.

(m) The secretary of state by rule shall establish the date on which a federal postcard application is considered to be electronically submitted to the early voting clerk.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff.

September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 8, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 31, eff. September 1, 2015.

Sec. 101.053. ACTION BY EARLY VOTING CLERK ON CERTAIN APPLICATIONS. (a) The early voting clerk shall notify the voter registrar of a federal postcard application submitted by an applicant that states a voting residence address located outside the registrar's county.

(b) If an applicant provides a date of birth, driver's license number, or social security number on the applicant's federal postcard application that is different from or in addition to the information maintained by the voter registrar in accordance with Title 2, the early voting clerk shall notify the voter registrar. The voter registrar shall update the voter's record with the information provided by the applicant.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 713 (H.B. 4034), Sec. 7, eff. June 12, 2017.

Sec. 101.054. APPLYING FOR MORE THAN ONE ELECTION IN SAME APPLICATION. (a) A person may apply with a single federal postcard application for a ballot for any one or more elections in which the person is eligible to vote as provided by this section.

(b) An application that does not identify the election for which a ballot is requested shall be treated as if it requests a ballot for:

(1) except as provided by Subdivision (3), each general election in which the clerk conducts early voting;

(2) the general primary election if the application indicates party preference and is submitted to the early voting clerk for the primary; and

(3) each general or special election held by a county,



a municipality, or an independent school district in the calendar year in which the application is received and in which the person is eligible to vote.

(b-1) If an application under Subsection (b) indicates the person is eligible to vote in an election described by Subsection (b)(3) in which the early voting clerk who received the application does not conduct early voting, the clerk shall forward a copy of the application in a form prescribed by the secretary of state to each early voting clerk who conducts early voting for that election.

(c) An application shall be treated as if it requests a ballot for a runoff election that results from an election for which a ballot is requested.

(d) An application requesting a ballot for more than one election shall be preserved for the period for preserving the precinct election records for the last election for which the application is effective.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 856 (H.B. 396), Sec. 1, eff. September 1, 2013.

Sec. 101.055. FPCA VOTER REGISTRATION. (a) The submission of a federal postcard application that complies with the applicable requirements by an unregistered applicant constitutes registration by the applicant:

(1) for the purpose of voting in the election for which a ballot is requested; and

(2) under Title 2 unless the person indicates on the application that the person is residing outside the United States indefinitely.

(b) For purposes of registering to vote under this chapter, a person shall provide the address of the last place of residence of the person in this state or the last place of residence in this state of the person's parent or legal guardian.

(c) The registrar shall register the person at the address provided under Subsection (b) unless that address no longer is

recognized as a residential address, in which event the registrar shall assign the person to an address under procedures prescribed by the secretary of state.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011.

Sec. 101.056. METHOD OF PROVIDING BALLOT; REQUIRED ADDRESS.

(a) The balloting materials provided under this subchapter shall be airmailed to the voter free of United States postage, as provided by the federal Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. Section 1973ff et seq.), in an envelope labeled "Official Election Balloting Material - via Airmail." The secretary of state shall provide early voting clerks with instructions on compliance with this subsection.

(b) The address to which the balloting materials are sent to a voter must be:

(1) an address outside the county of the voter's residence; or

(2) an address in the United States for forwarding or delivery to the voter at a location outside the United States.

(c) If the address to which the balloting materials are to be sent is within the county served by the early voting clerk, the federal postcard application must indicate that the balloting materials will be forwarded or delivered to the voter at a location outside the United States.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011.

Sec. 101.057. RETURN OF VOTED BALLOT. (a) A ballot voted under this subchapter may be returned to the early voting clerk by mail, common or contract carrier, or courier.

(b) A ballot voted by a voter described by Section 101.001(2)(A) or (B) shall be counted if the ballot arrives at the address on the carrier envelope not later than the sixth day after the date of the election, except that if that date falls on a

Saturday, Sunday, or legal state or national holiday, then the deadline is extended to the next regular business day.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 992 (H.B. 929), Sec. 2, eff. September 1, 2017.

Sec. 101.058. OFFICIAL CARRIER ENVELOPE. The officially prescribed carrier envelope for voting under this subchapter shall be prepared so that it can be mailed free of United States postage, as provided by the federal Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. Section 1973ff et seq.), and must contain the label prescribed by Section 101.056(a) for the envelope in which the balloting materials are sent to a voter. The secretary of state shall provide early voting clerks with instructions on compliance with this section.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011.

#### SUBCHAPTER C. E-MAIL TRANSMISSION OF BALLOTING MATERIALS

Sec. 101.101. PURPOSE. The purpose of this subchapter is to implement the federal Military and Overseas Voter Empowerment Act (Pub. L. No. 111-84, Div. A, Title V, Subt. H).

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011.

Sec. 101.102. REQUEST FOR BALLOTING MATERIALS. (a) A person eligible to vote under this chapter may request from the appropriate early voting clerk e-mail transmission of balloting materials under this subchapter.

(b) The early voting clerk shall grant a request made under this section for the e-mail transmission of balloting materials if:

(1) the requestor has submitted a valid federal

postcard application and:

(A) if the requestor is a person described by Section 101.001(2)(C), has provided a current mailing address that is located outside the United States; or

(B) if the requestor is a person described by Section 101.001(2)(A) or (B), has provided a current mailing address that is located outside the requestor's county of residence;

(2) the requestor provides an e-mail address:

(A) that corresponds to the address on file with the requestor's federal postcard application; or

(B) stated on a newly submitted federal postcard application;

(3) the request is submitted on or before the seventh day before the date of the election; and

(4) a marked ballot for the election from the requestor has not been received by the early voting clerk.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011.

Sec. 101.103. CONFIDENTIALITY OF E-MAIL ADDRESS. An e-mail address used under this subchapter to request balloting materials is confidential and does not constitute public information for purposes of Chapter 552, Government Code. An early voting clerk shall ensure that a voter's e-mail address provided under this subchapter is excluded from public disclosure.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011.

Sec. 101.104. ELECTIONS COVERED. Balloting materials may be sent by e-mail under this subchapter for any election in which the voter who registers under this chapter is eligible to vote.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 570 (H.B. 2778), Sec. 1, eff. September 1, 2015.

Sec. 101.105. BALLOTING MATERIALS TO BE SENT BY E-MAIL. Balloting materials to be sent by e-mail under this subchapter include:

- (1) the appropriate ballot;
- (2) ballot instructions, including instructions that inform a voter that the ballot must be returned by mail to be counted;
- (3) instructions prescribed by the secretary of state on:
  - (A) how to print a return envelope from the federal Voting Assistance Program website; and
  - (B) how to create a carrier envelope or signature sheet for the ballot; and
- (4) a list of certified write-in candidates, if applicable.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011.

Sec. 101.106. METHODS OF TRANSMISSION TO VOTER. (a) The balloting materials may be provided by e-mail to the voter in PDF format, through a scanned format, or by any other method of electronic transmission authorized by the secretary of state in writing.

(b) The secretary of state shall prescribe procedures for the retransmission of balloting materials following an unsuccessful transmission of the materials to a voter.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011.

Sec. 101.107. RETURN OF BALLOT. (a) A voter described by Section 101.001(2)(A) or (B) must be voting from outside the voter's county of residence. A voter described by Section

101.001(2)(C) must be voting from outside the United States.

(b) A voter who receives a ballot under this subchapter must return the ballot in the same manner as required under Section 101.057 except that a voter who completes a signature sheet is not required to complete a carrier envelope. Except as provided by Chapter 105, the voter may not return the ballot by electronic transmission.

(c) A ballot that is not returned as required by Subsection (b) is considered a ballot not timely returned and is not sent to the early voting ballot board for processing.

(d) The deadline for the return of a ballot under this section is the same deadline as provided in Section 86.007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 589 (S.B. 904), Sec. 2, eff. September 1, 2013.

Sec. 101.108. TRACKING OF BALLOTING MATERIALS. The secretary of state by rule shall create a tracking system under which an FPCA registrant may determine whether a voted ballot has been received by the early voting clerk. Each county that sends ballots to FPCA registrants shall provide information required by the secretary of state to implement the system.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011.

Sec. 101.109. RULES. (a) The secretary of state may adopt rules as necessary to implement this subchapter.

(b) The secretary of state may provide for an alternate secure method of electronic ballot transmission under this subchapter instead of transmission by e-mail.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011.