

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
State Board of Elections
(DLS Control No. 15-196)**

Overview and Legal and Fiscal Impact

The regulation alters the circumstances under which an individual must be issued a provisional ballot.

The regulation presents no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulation of COMAR Affected

State Board of Elections:

Provisional Voting: Issuance of Provisional Ballot: COMAR 33.16.03.01

Legal Analysis

Summary of Regulation

The regulation requires that a voter be issued a provisional ballot if the voter's registration status is pending and, if the voter appeared to vote during early voting, the voter did not provide the necessary information to complete the verification inquiry. This change results in individuals being able to complete voter registrations during early voting and vote a regular ballot. Additionally, the regulation requires that a voter be issued a provisional ballot if the voter is not eligible to vote a regular ballot because, during early voting, the individual was not a pre-qualified voter or could not provide proof of residency in the county where the individual was attempting to vote.

Legal Issue

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The State Board of Elections cites §§ 2-102(b), 2-202(b), 3-305(e), 9-402, 9-403, 9-404, 9-406, and 11-303(c) and (e) of the Election Law Article as statutory authority for the regulation. More specifically, § 2-102(b) requires the State board to adopt regulations to implement its powers and duties. Section 2-202(b) requires each local board, in accordance with the Election

Law Article and regulations adopted by the State board, to oversee the conduct of all elections held in its county. Section 3-305(e), which takes effect January 1, 2016, requires the State board to adopt regulations and procedures for the administration of voter registration during early voting. Section 9-403 requires the State board to establish guidelines for the administration of provisional ballot voting by the local boards. The guidelines must provide for the provisional ballot application process. Finally, § 9-404 states the circumstances under which an individual is eligible to cast a provisional ballot. The circumstances include not having the necessary identification.

The remaining cited authority is not relevant for these regulations.

The relevant cited authority is correct and complete. The regulation complies with the legislative intent of the law.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The State Board of Elections advises that the regulation has no impact on State or local governments. The Department of Legislative Services concurs. The regulation (along with other proposed regulations) implements Chapters 157 and 158 of 2013. The fiscal and policy notes for Senate Bill 279 and House Bill 224 of 2013 (enacted as Chapters 157 and 158) included costs for additional election judges (borne by local governments) and for epollbook programming (assumed, in the fiscal and policy notes, to be shared by the State and local governments) to implement voter registration and voter registration address changes during early voting. This regulation should not have an independent fiscal impact.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The State Board of Elections advises that the regulation has minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

Contact Information

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