

HOUSE BILL 365

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By: **Delegates F. Turner, Anderson, Bates, Bobo, Cane, Dumais, Guzzone, Haynes, Healey, Heller, Howard, Hubbard, Jones, Lee, Manno, Miller, Pendergrass, Rice, and Taylor**

Introduced and read first time: February 2, 2007

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Election Law – Absentee Ballots – Timely Receipt**

3 FOR the purpose of establishing criteria to be used to evaluate and determine whether
4 an absentee ballot is deemed to be timely received; repealing the authority of
5 the State Board of Elections to establish certain regulations and guidelines
6 relating to the timely receipt of absentee ballots; defining a certain term; and
7 generally relating to the timely receipt of absentee ballots.

8 BY repealing and reenacting, with amendments,
9 Article – Election Law
10 Section 11–302
11 Annotated Code of Maryland
12 (2003 Volume and 2006 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article – Election Law**

16 11–302.

17 (a) Following an election, each local board shall meet at its designated
18 counting center to canvass the absentee ballots cast in that election in accordance with
19 the regulations and guidelines established by the State Board.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) (1) A local board may not open any envelope of an absentee ballot
2 prior to 8 a.m. on the Wednesday following election day.

3 (2) A local board may not delay the commencement of the canvass to
4 await the receipt of late-arriving, timely absentee ballots.

5 (c) (1) (I) [An absentee ballot shall be deemed timely received if it is
6 received in accordance with the regulations and guidelines established by the State
7 Board] **IN THIS SUBSECTION, "UNITED STATES" MEANS:**

8 1. THE SEVERAL STATES;

9 2. THE DISTRICT OF COLUMBIA;

10 3. THE COMMONWEALTH OF PUERTO RICO; AND

11 4. THE VIRGIN ISLANDS.

12 (II) "UNITED STATES" DOES NOT INCLUDE:

13 1. AMERICAN SAMOA;

14 2. THE CANAL ZONE;

15 3. GUAM;

16 4. THE TRUST TERRITORY OF THE PACIFIC
17 ISLANDS;

18 5. ANY OTHER TERRITORY OR POSSESSION OF THE
19 UNITED STATES;

20 6. AN ARMY POST OFFICE ADDRESS; OR

21 7. A FLEET POST OFFICE ADDRESS.

22 (2) AN ABSENTEE BALLOT SHALL BE DEEMED TIMELY RECEIVED
23 ONLY IF:

1 (I) **THE BALLOT IS RECEIVED BY THE LOCAL BOARD OFFICE**
2 **BEFORE THE POLLS CLOSE ON ELECTION DAY; OR**

3 (II) **THE BALLOT:**

4 1. **IS RECEIVED BY THE LOCAL BOARD OFFICE FROM**
5 **THE UNITED STATES POSTAL SERVICE:**

6 A. **ON OR BEFORE 10 A.M. ON THE SECOND**
7 **WEDNESDAY AFTER A PRIMARY ELECTION PRECEDING A GUBERNATORIAL**
8 **ELECTION; OR**

9 B. **ON OR BEFORE 10 A.M. ON THE SECOND FRIDAY**
10 **AFTER A GENERAL OR SPECIAL ELECTION OR IN A PRIMARY ELECTION**
11 **PRECEDING A PRESIDENTIAL ELECTION; AND**

12 2. **WAS MAILED ON OR BEFORE ELECTION DAY, AS**
13 **VERIFIED BY:**

14 A. **A POSTMARK OF THE UNITED STATES POSTAL**
15 **SERVICE, AN ARMY POST OFFICE, A FLEET POST OFFICE, OR THE POSTAL**
16 **SERVICE OF ANY OTHER COUNTRY; OR**

 B. **THE VOTER'S AFFIDAVIT THAT THE BALLOT WAS**
COMPLETED AND MAILED ON OR BEFORE ELECTION DAY, IF THE RETURN
ENVELOPE DOES NOT CONTAIN A POSTMARK OR THE POSTMARK IS ILLEGIBLE.

17 [(2)] (3) An absentee ballot that is received after the deadline
18 specified [by the regulations and guidelines] **UNDER PARAGRAPH (2) OF THIS**
19 **SUBSECTION** may not be counted.

20 (d) (1) The State Board shall adopt regulations that reflect the policy that
21 the clarity of the intent of the voter is the overriding consideration in determining the
22 validity of an absentee ballot or the vote cast in a particular contest.

23 (2) A local board may not reject an absentee ballot except by
24 unanimous vote and in accordance with regulations of the State Board.

25 (3) The local board shall reject an absentee ballot if:

1 (i) before the ballot is canvassed, the local board determines
2 that the voter died before election day;

3 (ii) the voter failed to sign the oath on the ballot envelope;

4 (iii) the local board received more than one ballot from the same
5 individual for the same election in the same ballot envelope; or

6 (iv) the local board determines that an absentee ballot is
7 intentionally marked with an identifying mark that is clearly evident and placed on
8 the ballot for the purpose of identifying the ballot.

9 (4) If the local board receives more than one legally sufficient ballot, in
10 separate envelopes, from the same individual, the local board shall:

11 (i) count only the ballot with the latest properly signed oath;
12 and

13 (ii) reject any other ballot.

14 (5) If the intent of the voter is not clearly demonstrated, the local
15 board shall reject only the vote for that office or question.

16 (6) If an absentee voter casts a vote for an individual who has ceased
17 to be a candidate, the vote for that candidate may not be counted, but that vote does
18 not invalidate the remainder of the ballot.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2007.