

## No. 2006-137

## AN ACT

## HB 469

Amending the act of June 3, 1937 (P.L.1333, No.320), entitled "An act concerning elections, including general, municipal, special and primary elections, the nomination of candidates, primary and election expenses and election contests; creating and defining membership of county boards of elections; imposing duties upon the Secretary of the Commonwealth, courts, county boards of elections, county commissioners; imposing penalties for violation of the act, and codifying, revising and consolidating the laws relating thereto; and repealing certain acts and parts of acts relating to elections," further providing for date of application for absentee ballot, for voting by absentee electors and for canvassing of official absentee ballots; and limiting contributions by partnerships, limited partnerships and limited liability companies.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 1302.1 of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, amended May 12, 2006 (P.L.178, No.45), is amended to read:

Section 1302.1. Date of Application for Absentee Ballot.—(a) **[Applications for absentee ballots unless otherwise specified]** *Except as provided in subsections (a.1) and (a.2), applications for absentee ballots* shall be received in the office of the county board of elections not earlier than fifty (50) days before the primary or election and not later than five o'clock P.M. of the first Tuesday prior to the day of any primary or election. **[: Provided, however, That]**

*(a.1) Except as provided in subsection (a.2), in the event any elector otherwise qualified who is so physically disabled or ill on or before the first Tuesday prior to any primary or election that he is unable to file his application or who becomes physically disabled or ill after the first Tuesday prior to any primary or election and is unable to appear at his polling place or any elector otherwise qualified who because of the conduct of his business, duties or occupation will necessarily be absent from the municipality of his residence on the day of the primary or election, which fact was not and could not reasonably be known to said elector on or before the first Tuesday prior to any primary or election, the elector shall be entitled to an absentee ballot at any time prior to five o'clock P.M. on the first Friday preceding any primary or election upon execution of an Emergency Application in such form prescribed by the Secretary of the Commonwealth.*

*(a.2) In the event any elector otherwise qualified who becomes so physically disabled or ill between five o'clock P.M. on the first Friday preceding any primary or election and eight o'clock P.M. on the day of any primary or election that he is unable to appear at his polling place or any*

*elector otherwise qualified who because of the conduct of his business, duties or occupation will necessarily be absent from the municipality of his residence on the day of the primary or election, which fact was not and could not reasonably be known to said elector prior to five o'clock P.M. on the first Friday preceding any primary or election, the elector shall be entitled to an absentee ballot if the elector completes and files with the court of common pleas in the county in which the elector is qualified to vote an Emergency Application or a letter or other signed document, which includes the same information as is provided on the Emergency Application. Upon a determination that the elector is a qualified absentee elector under section 1301, the judge shall issue an absentee ballot to the elector. If the elector is unable to appear in court to receive the ballot, the judge shall give the elector's absentee ballot to an authorized representative of the elector who is designated in writing by the elector. The authorized representative shall deliver the absentee ballot to the elector and return the completed absentee ballot, sealed in the official absentee ballot envelopes, to the county board of elections, who shall distribute the ballot, unopened, to the absentee voter's election district. If the elector is unable to appear in court or unable to obtain assistance from an authorized representative, the judge shall direct a deputy sheriff of the county to deliver the absentee ballot to the elector if the elector is at a physical location within the county and return the completed absentee ballot, sealed in the official absentee ballot envelopes, to the county board of elections, who shall distribute the ballots, unopened, to the absentee voter's respective election district. If there is no authorized representative and a deputy sheriff is unavailable to deliver an absentee ballot under this section, the judge may direct a constable to make such delivery in accordance with the provisions of this section. In the case of an elector who requires assistance in marking the elector's ballot, the elector shall designate in writing the person who will assist in marking the ballot. Such person shall be otherwise eligible to provide assistance to electors eligible for assistance, and such person shall declare in writing that assistance was rendered. Any person other than the designee who shall render assistance in marking a ballot or any person rendering assistance who shall fail to execute a declaration shall be guilty of a violation of this act. No absentee ballot under this subsection shall be counted which is received in the office of the county board of elections later than eight o'clock P.M. on the day of the primary or election.*

(b) In the case of an elector whose application for an absentee ballot is received by the office of the county board of elections earlier than fifty (50) days before the primary or election, the application shall be held and processed upon commencement of the fifty-day period.

(c) In the case of an elector who is physically disabled or ill on or before the first Tuesday prior to a primary or election or becomes physically disabled or ill after the first Tuesday prior to a primary or election, such

Emergency Application, *letter or other signed document* shall contain a supporting affidavit from his attending physician stating that due to physical disability or illness said elector was unable to apply for an absentee ballot on or before the first Tuesday prior to the primary or election or became physically disabled or ill after that period.

(d) In the case of an elector who is necessarily absent because of the conduct of his business, duties or occupation under the unforeseen circumstances specified in **[this subsection] subsections (a.1) and (a.2)**, such Emergency Application, *letter or other signed document* shall contain a supporting affidavit from such elector stating that because of the conduct of his business, duties or occupation said elector will necessarily be absent from the municipality of his residence on the day of the primary or election which fact was not and could not reasonably be known to said elector on or before the first Tuesday prior to the primary or election.

Section 2. Section 1306(a) of the act, amended February 13, 1998 (P.L.72, No.18), is amended to read:

Section 1306. Voting by Absentee Electors.—(a) **[At] *Except as provided in paragraphs (1), (2) and (3), at*** any time after receiving an official absentee ballot, but on or before five o'clock P. M. on the Friday prior to the primary or election, the elector shall, in secret, proceed to mark the ballot only in black lead pencil, indelible pencil or blue, black or blue-black ink, in fountain pen or ball point pen, and then fold the ballot, enclose and securely seal the same in the envelope on which is printed, stamped or endorsed "Official Absentee Ballot."

**(1) *Any elector who submits an Emergency Application and receives an absentee ballot in accordance with section 1302.1(a.2) or (c) shall mark the ballot on or before eight o'clock P.M. on the day of the primary or election.*** This envelope shall then be placed in the second one, on which is printed the form of declaration of the elector, and the address of the elector's county board of election and the local election district of the elector. The elector shall then fill out, date and sign the declaration printed on such envelope. Such envelope shall then be securely sealed and the elector shall send same by mail, postage prepaid, except where franked, or deliver it in person to said county board of election[:].

**[Provided, however, That any] (2) *Any*** elector, spouse of the elector or dependent of the elector, qualified in accordance with the provisions of section 1301, subsections (e), (f), (g) and (h) to vote by absentee ballot as herein provided, shall be required to include on the form of declaration a supporting declaration in form prescribed by the Secretary of the Commonwealth, to be signed by the head of the department or chief of division or bureau in which the elector is employed, setting forth the identity of the elector, spouse of the elector or dependent of the elector[:].

**[Provided further, That any] (3) *Any*** elector who has filed his application in accordance with section 1302 subsection (e) (2), and is unable to sign his declaration because of illness or physical disability, shall be

excused from signing upon making a declaration which shall be witnessed by one adult person in substantially the following form: I hereby declare that I am unable to sign my declaration for voting my absentee ballot without assistance because I am unable to write by reason of my illness or physical disability. I have made or received assistance in making my mark in lieu of my signature.

..... (Mark)

.....

(Date)

.....

(Signature of Witness)

.....

(Complete Address of Witness)

\*\*\*

Section 3. Section 1308(a) of the act, amended May 12, 2006 (P.L.178, No.45), is amended to read:

Section 1308. Canvassing of Official Absentee Ballots.—

(a) The county boards of election, upon receipt of official absentee ballots in such envelopes, shall safely keep the same in sealed or locked containers until they distribute same to the appropriate local election districts in a manner prescribed by the Secretary of the Commonwealth.

[The] *Except as provided in section 1302.1(a.2), the* county board of elections shall then distribute the absentee ballots, unopened, to the absentee voter’s respective election district concurrently with the distribution of the other election supplies. Absentee ballots shall be canvassed immediately and continuously without interruption until completed after the close of the polls on the day of the election in each election district. The results of the canvass of the absentee ballots shall then be included in and returned to the county board with the returns of that district. Except as provided in *section 1302.1(a.2) and* subsection (g), no<sup>1</sup> absentee ballot shall be counted which is received in the office of the county board of election later than five o’clock P.M. on the Friday immediately preceding the primary or November election.

\*\*\*

Section 4. Section 1633 is amended by adding a subsection to read:

Section 1633. Contributions or Expenditures by National Banks, Corporations or Unincorporated Associations.—

\*\*\*

*(d) No contribution from a partnership, limited partnership or limited liability company may be made from funds of any partner, limited partner or member that is a corporation. A limited liability company that makes a contribution shall affirm to the recipient candidate or committee that the limited liability company is treated as a partnership for Federal tax*

---

<sup>1</sup>“Except as provided in section 1302.1(a.2) and subsection (g.1), no” in enrolled bill.

***purposes and that the contribution from the limited liability company does not contain corporate funds.***

Section 5. The amendment of sections 1302.1, 1306(a) and 1308(a) of the act shall apply to elections held on or after January 1, 2007.

Section 6. This act shall take effect immediately.

APPROVED—The 9th day of November, A.D. 2006.

EDWARD G. RENDELL