

CHAPTER 131

(SB 1)

AN ACT relating to governmental operations and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. KRS CHAPTER 117A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

This chapter may be cited as the Uniform Military and Overseas Voters Act.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 117A IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context otherwise requires:

- (1) *"Covered voter" means:*
- (a) *A uniformed-service voter or an overseas voter who is registered to vote in the Commonwealth of Kentucky;*
 - (b) *A uniformed-service voter defined in subsection (9)(a) of this section whose voting residence is in the Commonwealth of Kentucky and who otherwise satisfies the Commonwealth of Kentucky's voter eligibility requirements;*
 - (c) *An overseas voter who, before leaving the United States, was last eligible to vote in the Commonwealth of Kentucky and, except for his or her absence from the state, otherwise satisfies the Commonwealth of Kentucky's voter eligibility requirements;*
 - (d) *An overseas voter who, before leaving the United States, would have been last eligible to vote in the Commonwealth of Kentucky had the voter then been of voting age and, except for his or her absence from the state, otherwise satisfies the Commonwealth of Kentucky's voter eligibility requirements; or*
 - (e) *An overseas voter who was born outside the United States, is not described in paragraph (c) or (d) of this subsection, and, except for his or her absence from the state, otherwise satisfies the Commonwealth of Kentucky's voter eligibility requirements, if:*
 - 1. *The last place where a parent or legal guardian of the voter was, or under this chapter would have been, eligible to vote before leaving the United States is within the Commonwealth of Kentucky; and*
 - 2. *The voter has not previously registered to vote in any other state;*
- (2) *"Dependent" means an individual recognized as a dependent by a uniformed service;*
- (3) *"Federal postcard application" means the application prescribed under Section 101(b)(2) of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. sec. 1973ff(b)(2);*
- (4) *"Federal write-in absentee ballot" means the ballot described in Section 103 of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. sec. 1973ff-2;*
- (5) *"Military-overseas ballot" means:*
- (a) *A federal write-in absentee ballot;*
 - (b) *A ballot specifically prepared or distributed for use by a covered voter in accordance with this chapter; or*
 - (c) *A ballot cast by a covered voter in accordance with this chapter;*
- (6) *"Overseas voter" means a United States citizen who is outside the United States;*
- (7) *"State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States;*
- (8) *"Uniformed service" means:*
- (a) *Active and reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States;*

- (b) *The Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or*
- (c) *The National Guard and state militia;*
- (9) *"Uniformed-service voter" means an individual who is qualified to vote and is:*
 - (a) *A member of the active or reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States who is on active duty;*
 - (b) *A member of the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States;*
 - (c) *A member on activated status of the National Guard or state militia; or*
 - (d) *A spouse or dependent of a member referred to in this subsection; and*
- (10) *"United States," used in the territorial sense, means the several states, the District of Columbia, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 117A IS CREATED TO READ AS FOLLOWS:

The voting procedures in this chapter apply to:

- (1) *A primary, regular, or special election for federal office;*
- (2) *A primary, regular, or special election for statewide or state legislative office or concerning a state ballot measure; and*
- (3) *A primary, regular, or special election for county or local government office, judicial office, Commonwealth's Attorney, property valuation administrator, school board members, and circuit clerk or concerning a local ballot measure for which in-person or mail-in absentee voting is available for other qualified voters.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 117A IS CREATED TO READ AS FOLLOWS:

- (1) *The Secretary of State is the state official responsible for implementing this chapter and the Commonwealth of Kentucky's responsibilities under the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. sec. 1973ff et seq.*
- (2) *The Secretary of State may delegate to the State Board of Elections responsibilities under this chapter, including but not limited to the promulgation of administrative regulations necessary to implement this chapter.*
- (3) *The Secretary of State shall make available to covered voters information regarding voter registration procedures for covered voters and procedures for casting military-overseas ballots.*
- (4) *The Secretary of State shall establish an electronic transmission system through which a covered voter may apply for and receive voter registration materials, military-overseas ballots, and other information authorized under this chapter.*
- (5) *The Secretary of State shall:*
 - (a) *Develop standardized absentee-voting materials, including privacy and transmission envelopes and their electronic equivalents, authentication materials, and voting instructions, to be used with the military-overseas ballot of a voter authorized to vote in any jurisdiction in the Commonwealth of Kentucky; and*
 - (b) *To the extent reasonably possible, coordinate with other states to carry out this section.*
- (6) *The Secretary of State shall prescribe the form and content of a declaration for use by a covered voter to swear or affirm specific representations pertaining to the voter's identity, eligibility to vote, status as a covered voter, and timely and proper completion of a military-overseas ballot. The declaration shall be based on the declaration prescribed to accompany a federal write-in absentee ballot, as modified to be consistent with this chapter. The Secretary of State shall ensure that a form for the execution of the declaration, including an indication of the date of execution of the declaration, is a prominent part of all balloting materials for which the declaration is required.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 117A IS CREATED TO READ AS FOLLOWS:

- (1) *In registering to vote, an overseas voter who is eligible to vote in the Commonwealth of Kentucky shall use and shall be assigned to the voting precinct of the address of the last place of residence of the voter in the Commonwealth of Kentucky, or, in the case of a voter described by subsection (1)(e) of Section 2 of this Act, the address of the last place of residence in the Commonwealth of Kentucky of the parent or legal guardian of the voter. If that address is no longer a recognized residential address, the voter shall be assigned an address for voting purposes.*
- (2) *The Secretary of State shall promulgate administrative regulations covering the procedures for assigning an address for voting purposes for an overseas voter whose last place of residence is no longer a recognized residential address, provided that any regulations promulgated under this section shall specify that the overseas voter's assigned address shall be located in the same voting precinct as the overseas voter's last place of residence would have been located if the address were still a recognized residential address.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 117A IS CREATED TO READ AS FOLLOWS:

- (1) *To apply to register to vote, in addition to any other approved method, a covered voter may use a federal postcard application, or the application's electronic equivalent.*
- (2) *A covered voter may use the declaration accompanying a federal write-in absentee ballot to apply to register to vote simultaneously with the submission of the federal write-in absentee ballot, if the declaration is received during the period registration is open under KRS 116.045. If the declaration is received after the last day of registration under KRS 116.045, it shall be treated as an application to register to vote for subsequent elections.*
- (3) *The Secretary of State shall ensure that the electronic transmission system described in subsection (4) of Section 4 of this Act is capable of accepting both a federal postcard application and any other approved electronic registration application sent to the appropriate election official. The voter may use the electronic transmission system or any other approved method to register to vote.*

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 117A IS CREATED TO READ AS FOLLOWS:

- (1) *A covered voter who is registered to vote in the Commonwealth of Kentucky may apply for a military-overseas ballot using either the regular absentee ballot application in use in the voter's jurisdiction under KRS 117.085 or the federal postcard application or the application's electronic equivalent.*
- (2) *A covered voter who is not registered to vote in the Commonwealth of Kentucky may use a federal postcard application or the application's electronic equivalent to apply simultaneously to register to vote under Section 6 of this Act and for a military-overseas ballot.*
- (3) *The Secretary of State shall ensure that the electronic transmission system described in subsection (4) of Section 4 of this Act is capable of accepting the submission of both a federal postcard application and any other approved electronic military-overseas ballot application sent to the appropriate election official. The covered voter may use the electronic transmission system or any other approved method to apply for a military-overseas ballot.*
- (4) *A covered voter may use the declaration accompanying a federal write-in absentee ballot as an application for a military-overseas ballot simultaneously with the submission of the federal write-in absentee ballot, if the declaration is received by the appropriate election official by the close of business hours seven (7) days before the election.*
- (5) *To receive the benefits of this chapter, a covered voter shall inform the appropriate election official that the voter is a covered voter. Methods of informing the appropriate election official that a voter is a covered voter include:*
 - (a) *The use of a federal postcard application or federal write-in absentee ballot; and*
 - (b) *The use of the electronic transmission system established under subsection (4) of Section 4 of this Act.*
- (6) *This chapter does not preclude a covered voter from voting using the regular absentee ballot provisions under KRS 117.075 and 117.077 and Sections 22 and 23 of this Act.*

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 117A IS CREATED TO READ AS FOLLOWS:

An application for a military-overseas ballot is timely if received by the close of business hours seven (7) days before the election. An application for a military-overseas ballot for a primary, whether or not timely, is effective as an application for a military-overseas ballot for the regular election.

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 117A IS CREATED TO READ AS FOLLOWS:

- (1) *For an election described in Section 3 of this Act, not later than forty-five (45) days before the election or, if the forty-fifth day before the election is a weekend or holiday, not later than the business day preceding the forty-fifth day, the election official in each jurisdiction charged with distributing a ballot and balloting materials shall transmit a ballot and balloting materials to all covered voters who by that date submit a valid military-overseas ballot application.*
- (2) *A covered voter who requests that a ballot and balloting materials be sent to the voter by electronic transmission may choose facsimile transmission or the electronic transmission system established under subsection (4) of Section 4 of this Act. The election official in each jurisdiction charged with distributing a ballot and balloting materials shall transmit the ballot and balloting materials to the voter using the means of transmission chosen by the voter.*
- (3) *If a ballot application from a covered voter arrives fewer than forty-five (45) days before the election, the official charged with distributing a ballot and balloting materials shall transmit them to the voter not later than three (3) business days after the application arrives.*

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 117A IS CREATED TO READ AS FOLLOWS:

To be valid, a military-overseas ballot shall be received by the appropriate local election official not later than the time established by the election laws generally for the closing of the polls, which time shall not include the extra hour during which those voters may vote who were waiting in line to vote at the scheduled poll closing time.

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 117A IS CREATED TO READ AS FOLLOWS:

A covered voter may use a federal write-in absentee ballot to vote for all offices and ballot measures in an election described in Section 3 of this Act.

➔SECTION 12. A NEW SECTION OF KRS CHAPTER 117A IS CREATED TO READ AS FOLLOWS:

A valid military-overseas ballot cast in accordance with Section 10 of this Act shall be counted if it is received by the appropriate local election official not later than the time established by the election laws generally for the closing of the polls, which time shall not include the extra hour during which those voters may vote who were waiting in line to vote at the scheduled poll closing time, and the ballot may not be rejected on the basis that it has a late postmark, an unreadable postmark, or no postmark.

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 117A IS CREATED TO READ AS FOLLOWS:

A military-overseas ballot shall include or be accompanied by a declaration signed by the voter that a material misstatement of fact in completing the ballot may be grounds for a conviction of perjury under the laws of the United States or the Commonwealth of Kentucky.

➔SECTION 14. A NEW SECTION OF KRS CHAPTER 117A IS CREATED TO READ AS FOLLOWS:

The Secretary of State, in coordination with local election officials, shall implement an electronic free-access system by which a covered voter may determine by telephone, electronic mail, or Internet whether:

- (1) *The voter's federal postcard application or other registration or military-overseas ballot application has been received and accepted; and*
- (2) *The voter's military-overseas ballot has been received.*

➔SECTION 15. A NEW SECTION OF KRS CHAPTER 117A IS CREATED TO READ AS FOLLOWS:

- (1) *The local election official shall request an electronic mail address from each covered voter who applies to register to vote after the effective date of this Act. An electronic mail address provided by any voter may not be made available to the public or any individual or organization other than an authorized agent of the local election official and is exempt from disclosure under the Kentucky Open Records Act, KRS 61.870 to 61.884. The address may be used only for official communication with the voter about the voting process, including transmitting military-overseas ballots and election materials if the voter has requested electronic transmission, and verifying the voter's mailing address and physical location. The request for an electronic mail address shall describe the purposes for which the electronic mail address may be used and include a statement that any other use or disclosure of the electronic mail address is prohibited.*
- (2) *A covered voter who provides an electronic mail address may request that the voter's application for a military-overseas ballot be considered a standing request for electronic delivery of a ballot for all elections held after the date of the application through the next regular election or December 31 of the year of the*

application, whichever is later, or another shorter period the voter specifies. An election official shall provide a military-overseas ballot to a voter who makes a standing request for each election to which the request is applicable. A covered voter who is entitled to receive a military-overseas ballot for a primary under this subsection is entitled to receive a military-overseas ballot for the regular election.

➔SECTION 16. A NEW SECTION OF KRS CHAPTER 117A IS CREATED TO READ AS FOLLOWS:

- (1) *At least fifty (50) days before a regularly scheduled election and forty-five (45) days before an election not regularly scheduled, an official in each jurisdiction charged with printing and distributing ballots and balloting material shall make available a sample ballot that includes all of the ballot measures and federal, state, and local offices provided in Section 3 of this Act that will be on the ballot on the date of the election, and shall provide an electronic copy of the sample ballot to the Secretary of State.*
- (2) *The Secretary of State and any local election jurisdiction that maintains an Internet Web site shall make the sample ballot required under subsection (1) of this section available on their Web sites.*
- (3) *A covered voter may request a copy of a sample ballot from either the Secretary of State or the local election official, who shall send the sample ballot to the voter by facsimile, electronic mail, or regular mail, as the voter requests.*

➔SECTION 17. A NEW SECTION OF KRS CHAPTER 117A IS CREATED TO READ AS FOLLOWS:

- (1) *If a voter's mistake or omission in the completion of a document under this chapter does not prevent determining whether a covered voter is eligible to vote, the mistake or omission does not invalidate the document. Failure to satisfy a nonsubstantive requirement, such as using paper or envelopes of a specified size or weight, does not invalidate a document submitted under this chapter. In a write-in ballot authorized by this chapter or in a vote for a write-in candidate on a regular ballot, if the intention of the voter is discernible under the Commonwealth of Kentucky's uniform definition of what constitutes a vote, an abbreviation, misspelling, or other minor variation in the form of the name of a candidate or a political party shall be accepted as a valid vote.*
- (2) *Notarization is not required for the execution of a document under this chapter. An authentication, other than the declaration specified in Section 13 of this Act or the declaration on the federal postcard application and federal write-in absentee ballot, is not required for execution of a document under this chapter. The declaration and any information in the declaration may be compared with information on file to ascertain the validity of the document.*

➔SECTION 18. A NEW SECTION OF KRS CHAPTER 117A IS CREATED TO READ AS FOLLOWS:

A court may issue an injunction or grant other equitable relief appropriate to ensure substantial compliance with, or enforce, this chapter on application by:

- (1) *A covered voter alleging a grievance under this chapter; or*
- (2) *An election official in the Commonwealth of Kentucky.*

➔SECTION 19. A NEW SECTION OF KRS CHAPTER 117A IS CREATED TO READ AS FOLLOWS:

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

➔SECTION 20. A NEW SECTION OF KRS CHAPTER 117A IS CREATED TO READ AS FOLLOWS:

To the extent permitted by Section 102 of the Electronic Signatures in Global and National Commerce Act, Public Law 106-229, 15 U.S.C. sec. 7002, this chapter may modify or supersede provisions of that act.

➔Section 21. KRS 117.079 is amended to read as follows:

The provisions of KRS 117.085, ~~and~~ 117.086, **and Chapter 117A** notwithstanding, the State Board of Elections shall, as circumstances warrant and with the concurrence of the Attorney General, promulgate necessary administrative regulations to preserve the absentee voting rights of residents of Kentucky who are **covered voters as defined in Section 2 of this Act** ~~{military personnel serving on active duty outside the United States and other residents of Kentucky residing outside the United States}.~~

➔Section 22. KRS 117.085 is amended to read as follows:

- (1) All requests for an application for an absentee ballot may be transmitted by telephone, facsimile machine, by mail, by electronic mail, or in person. Except as provided in paragraph (b) of this subsection, all applications

for an absentee ballot shall be transmitted only by mail to the voter or in person at the option of the voter, except that the county clerk shall hand an application for an absentee ballot to a voter permitted to vote by absentee ballot who appears in person to request the application, or shall mail the application to a voter permitted to vote by absentee ballot who requests the application by telephone, facsimile machine, or mail. The absentee ballot application may be requested by the voter or the spouse, parents, or children of the voter, but shall be restricted to the use of the voter. Except for qualified voters who apply pursuant to the requirements of KRS 117.075 and 117.077, those who are incarcerated in jail but have yet to be convicted, **those who are uniformed-service voters as defined in Section 2 of this Act that are ~~military personnel~~** confined to a military base on election day, and persons who qualify under paragraph (a)7. of this subsection, absentee ballots shall not be mailed to a voter's residential address located in the county in which the voter is registered. In the case of ballots returned by mail, the county clerk shall provide an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting to a voter who presents a completed application for an absentee ballot as provided in this section and who is properly registered as stated in his or her application.

- (a) The following voters may apply to cast their votes by mail-in absentee ballot if the application is received not later than the close of business hours seven (7) days before the election:
1. Voters permitted to vote by absentee ballot pursuant to KRS 117.075;
 2. Voters who are residents of Kentucky who are **covered voters as defined in Section 2 of this Act**~~members of the Armed Forces, dependents of members of the Armed Forces, and citizens residing overseas~~;
 3. Voters who are students who temporarily reside outside the county of their residence;
 4. Voters who are incarcerated in jail who have been charged with a crime but have not been convicted of the crime;
 5. Voters who change their place of residence to a different state while the registration books are closed in the new state of residence before an election of electors for President and Vice President of the United States, who shall be permitted to cast an absentee ballot for electors for President and Vice President of the United States only;
 6. Voters who temporarily reside outside the state but who are still eligible to vote in this state; and
 7. Voters who are prevented from voting in person at the polls on election day and from casting an absentee ballot in person in the county clerk's office on all days absentee voting is conducted prior to election day because their employment location requires them to be absent from the county all hours and all days absentee voting is conducted in the county clerk's office.
- (b) Residents of Kentucky who are **covered voters as defined in Section 2 of this Act**~~members of the Armed Forces, dependents of members of the Armed Forces, and overseas citizens~~ may apply for an absentee ballot by means of the federal post-card application, which may be transmitted to the county clerk's office by mail, ~~or~~ by facsimile machine, **or by means of the electronic transmission system established under subsection (4) of Section 4 of this Act**. The application may be used to register, reregister, and to apply for an absentee ballot. If the federal post-card application is received at any time not less than seven (7) days before the election, the county clerk shall affix his or her seal to the application form upon receipt.
- (c) Absentee voting shall be conducted in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections during normal business hours for at least the twelve (12) working days before the election. A county board of elections may permit absentee voting to be conducted on a voting machine for a period longer than the twelve (12) working days before the election.
- (d) Any qualified voter in the county who is not permitted to vote by absentee ballot under paragraph (a) of this subsection who will be absent from the county on any election day may, at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
- (e) The following voters may, at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application in person to the county clerk to vote on a voting

machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections:

1. Voters who are residents of Kentucky who are ***covered voters as defined in Section 2 of this Act*** ~~members of the Armed Forces, dependents of members of the Armed Forces, and citizens residing overseas~~, who will be absent from the county on any election day;
 2. Voters who are students who temporarily reside outside the county of their residence;
 3. Voters who have surgery scheduled that will require hospitalization on election day, and the spouse of the voter;
 4. Voters who temporarily reside outside the state but who are still eligible to vote in this state and who will be absent from the county on any election day;
 5. Voters who are residents of Kentucky who are ***uniformed-service voters as defined in Section 2 of this Act*** ~~members of the Armed Forces~~ confined to a military base on election day and who learn of that confinement within seven (7) days or less of an election and are not eligible for a paper absentee ballot under this subsection; and
 6. A voter who is a pregnant woman in her last trimester of pregnancy at the time she wishes to vote under this paragraph. The application form for a voter under this subparagraph shall be prescribed by the State Board of Elections, which shall contain the woman's sworn statement that she is in fact in her last trimester of pregnancy at the time she wishes to vote.
- (f) Voters who change their place of residence to a different state while the registration books are closed in the new state of residence before a presidential election shall be permitted to cast an absentee ballot for President and Vice President only, by making application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
- (g) Any member of the county board of elections, any precinct election officer appointed to serve in a precinct other than that in which he or she is registered, any alternate precinct election officer, any deputy county clerk, any staff for the State Board of Elections, and any staff for the county board of elections may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. The application form for those persons shall be prescribed by the State Board of Elections and, in the case of application by precinct election officers, shall contain a verification of appointment signed by a member of the county board of elections. If an alternate precinct election officer or a precinct election officer appointed to serve in a precinct other than that in which he or she is registered receives his or her appointment while absentee voting is being conducted in the county, such officer may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. In case of such voters, the verification of appointment shall also contain the date of appointment. The applications shall be restricted to the use of the voter only.
- (h) The members of the county board of elections or their designees who provide equal representation of both political parties may serve as precinct election officers, without compensation, for all absentee voting performed on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. If the members of the county board of elections or their designees serve as precinct election officers for the absentee voting, they shall perform the same duties and exercise the same authority as precinct election officers who serve on the day of an election. If the members of the county board of elections or their designees do not serve as precinct election officers for the absentee voting, the county clerk or deputy county clerks shall supervise the absentee voting.
- (i) Any individual qualified to appoint challengers for the day of an election may also appoint challengers to observe all absentee voting performed at the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, and those challengers may exercise the same privileges as challengers appointed for observing voting on the day of an election at a regular polling place.

- (2) The clerk shall type the name of the voter permitted to vote by absentee ballot on the application form for that person's use and no other. The absentee ballot application form shall be in the form prescribed by the State Board of Elections, shall bear the seal of the county clerk, and shall contain the following information: name, residential address, precinct, party affiliation, statement of the reason the person cannot vote in person on election day, statement of where the voter shall be on election day, statement of compliance with residency requirements for voting in the precinct, and the voter's mailing address for an absentee ballot. The form shall be verified and signed by the voter. A notice of the actual penalty provisions in KRS 117.995(2) and (5) shall be printed on the application.
- (3) If the county clerk finds that the voter is properly registered as stated in his or her application and qualifies to receive an absentee ballot by mail, he or she shall mail to the voter an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting. The county clerk shall complete a postal form for a certificate of mailing for ballots mailed within the fifty (50) states, and it shall be stamped by the postal service when the ballots are mailed. An absentee ballot may be transmitted by facsimile machine *or by the electronic transmission system established under subsection (4) of Section 4 of this Act to a covered voter as defined in Section 2 of this Act. The covered voter shall be notified of the options for transmittal of the absentee ballot, and the absentee ballot shall be transmitted by the method chosen for receipt by the* resident of Kentucky who is a *covered voter* ~~member of the Armed Forces, a dependent of a member of the Armed Forces, or a citizen residing overseas~~.
- (4) Absentee ballots which are requested prior to the printing of the ballots shall be mailed *or otherwise transmitted as provided in subsection (3) of this section* by the county clerk to the voter within three (3) days of the receipt of the printed ballots; and absentee ballots which are requested subsequent to the receipt of the ballots by the county clerk shall be mailed *or otherwise transmitted as provided in subsection (3) of this section* to the voter within three (3) days of the receipt of the request.
- (5) The clerk shall cause ballots to be printed fifty (50) days prior to each primary or *regular* ~~general~~ election, *and forty-five (45) days prior to a special election.*
- (6) The outer envelope shall bear the words "Absentee Ballot" and the address and official title of the county clerk and shall provide space for the voter's signature, voting address, precinct number, and signatures of two (2) witnesses if the voter signs the form with the use of a mark instead of the voter's signature. A detachable flap on the inner envelope shall provide space for the voter's signature, voting address, precinct number, signatures of two (2) witnesses if the voter signs the form with the use of a mark instead of the voter's signature and notice of penalty provided in KRS 117.995(5). The clerk shall type the voter's address and precinct number in the upper left hand corner of the outer envelope and of the detachable flap on the inner envelope immediately below the blank space for the voter's signature. The inner envelope shall be blank. The clerk shall retain the application and the postal form required by subsection (3) of this section for twenty-two (22) months after the election.
- (7) Any person who has received an absentee ballot by mail but who knows at least seven (7) days before the date of the election that he or she will be in the county on election day and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his or her absentee ballot and vote in person. The voter shall return the absentee ballot to the county clerk's office no later than seven (7) days prior to the date of the election. Upon the return of the absentee ballot, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Canceled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The clerk shall remove the voter's name from the list of persons who were sent absentee ballots, and the voter may vote in the precinct in which he or she is properly registered.
- (8) Any voter qualified for a mail-in absentee ballot who does not receive a requested mail-in ballot within a reasonable amount of time shall contact the county clerk, who shall reissue a second ballot. The county clerk shall keep a record of the absentee ballots issued and returned by mail, and the absentee voting that is performed on the voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections, to verify that only the first voted ballot to be returned by the voter is counted. Upon the return of any ballot after the first ballot is returned, the clerk shall mark on the outer envelope of the sealed ballot the words "Canceled because ballot reissued."
- (9) Any *covered voter as defined in Section 2 of this Act* ~~member of the military~~ who has received an absentee ballot ~~by mail~~ but who knows that he or she will be in the county on election day and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his or her absentee ballot and vote in person. The voter shall return the absentee ballot to the county clerk's office on or before election day. Upon the return of the absentee ballot, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Canceled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened.

If the covered voter is unable to return the absentee ballot to the county clerk's office on or before election day, at the time he or she votes in person, he or she shall sign a written oath as to his or her qualifications on the form prescribed by the State Board of Elections pursuant to KRS 117.245. The clerk shall remove the voter's name from the list of persons who were sent absentee ballots, provide the voter with written authorization to vote at the precinct, and the voter may vote in the precinct in which he or she is properly registered.

- (10) *Notwithstanding the provisions of the Kentucky Open Records Act, KRS 61.870 to 61.884, the information contained in an application for an absentee ballot shall not be made public until after the close of business hours on the election day for which the application applies. This subsection shall not prohibit at any time the disclosure, upon request, of the total number of applications for absentee ballots that have been filed, or the disclosure to the Secretary of State or the State Board of Elections, if requested or if otherwise required by law, of any information in an application for an absentee ballot.*

➔ Section 23. KRS 117.086 is amended to read as follows:

- (1) The voter returning his absentee ballot by mail shall mark his ballot, seal it in the inner envelope and then in the outer envelope, and mail it to the county clerk as shall be provided by this chapter. The voter shall sign the detachable flap and the outer envelope in order to validate the ballot. A person having power of attorney for the voter and who signs the detachable flap and outer envelope for the voter shall complete the voter assistance form as required by KRS 117.255. The signatures of two (2) witnesses are required if the voter signs the form with the use of a mark instead of the voter's signature. A resident of Kentucky who is a **covered voter as defined in Section 2 of this Act** ~~member of the Armed Forces, a dependent of a member of the Armed Forces, or a citizen residing overseas~~ who has received an absentee ballot transmitted by facsimile machine **or by means of the electronic transmission system established under subsection (4) of Section 4 of this Act** shall transmit the voted ballot to the county clerk by mail only, conforming with ballot security requirements that may be promulgated by the state board by administrative regulation. In order to be counted, the ballots shall be received by the clerk by at least the time established by the election laws generally for the closing of the polls, which time shall not include the extra hour during which those voters may vote who were waiting in line to vote at the scheduled poll closing time.
- (2) Any voter who shall be absent from the county on election day, but who does not qualify to receive an absentee ballot by mail under the provisions of KRS 117.085, and all voters qualified to vote prior to the election under the provisions of KRS 117.085, shall vote at the main office of the county clerk or other place designated by the county board of elections, and approved by the State Board of Elections, prior to the day of election. The clerk may provide for such voting by the voting equipment in general use in the county either at the precinct, the equipment as may be used to tabulate absentee ballots, or any other voting equipment approved by the State Board of Elections for use in Kentucky, except as follows:
 - (a) Any voter qualifying to vote in the clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, who receives assistance to vote shall complete the voter assistance form required by KRS 117.255.
 - (b) Any voter qualifying to vote in the clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, whose qualifications are challenged by any clerk or deputy shall complete an "Oath of Voter" affidavit.
- (3) When the clerk uses general voting equipment as provided for in subsection (2) of this section, each voter casting his vote at the clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, shall sign an "Absentee Ballot Signature Roster."
- (4) The clerk shall designate a location within his office where the ballots shall be cast secretly. The county clerk, with the approval of the State Board of Elections, may establish locations other than his main office in which the voters may execute their ballots. Public notice of the locations shall be given pursuant to KRS Chapter 424 and similar notice by mail shall be given to the county chairmen of the two (2) political parties whose candidates polled the largest number of votes in the county at the last general election.
- (5) The State Board of Elections shall promulgate administrative regulations to provide for casting ballots as provided in subsection (2) of this section.
- (6) The clerk shall deposit all of the absentee ballots returned by mail in a locked ballot box immediately upon receipt without opening the outer envelope. The ballot box shall be locked with three (3) locks. The keys to the box shall be retained by the three (3) members of the central absentee ballot counting board, if one is appointed, or by the members of the board of elections, and the box shall remain locked until the ballots are

counted. All voting equipment on which ballots are cast as permitted in subsection (2) of this section shall also remain locked and the keys shall be retained by the three (3) members of the central absentee ballot counting board, if one is appointed, or by the members of the board of elections, and the equipment shall remain locked until the ballots are counted.

- (7) The clerk shall keep a list *for each election* of all persons who return their absentee ballots by mail or *who* cast their ballots in the clerk's office or other place designated by the county board of elections~~[-]~~ and approved by the State Board of Elections, and *shall* send a copy of *each*~~[that]~~ list to the state board after *the* election day *for which the list applies. Notwithstanding the provisions of the Kentucky Open Records Act, KRS 61.870 to 61.884, each list of all persons who return their absentee ballots by mail or cast their ballots in the clerk's office or other designated and approved place shall not be made public until after the close of business hours on the election day for which the list applies.* The county clerk and the Secretary of State shall keep a record of the number of votes cast by absentee ballots returned by mail and *cast* on the voting machine in the county clerk's office or other place designated by the county board of elections~~[-]~~ and approved by the State Board of Elections, *which are* cast in any election as a part of the official returns of the election.
- (8) The county board of elections shall report to the State Board of Elections within ten (10) days after any primary or general election as to the number of rejected absentee ballots and the reasons for rejected absentee ballots on a form prescribed by the State Board of Elections in administrative regulations promulgated under KRS Chapter 13A.

➔Section 24. KRS 118.740 is amended to read as follows:

- (1) A copy of a proclamation issued under KRS 118.710 or 118.720, or a writ of election issued under KRS 118.730 shall be forwarded by mail to the sheriff of each county in the district in which the election is to be held, at least *fifty-six (56)*~~[thirty-five (35)]~~ days before the election. The sheriff of each county in which an election is to be held shall give notice at least *forty-nine (49)*~~[twenty-eight (28)]~~ days before the day of election. If, from any cause, the sheriff cannot properly act, he shall immediately hand the writ or proclamation to the person authorized to act in his place.
- (2) If a special election is administered under KRS 118.730(2), the notice required by subsection (1) of this section shall include the location of the election.

➔Section 25. KRS 118.770 is amended to read as follows:

When a writ of election or proclamation is issued to fill a vacancy as prescribed in KRS 118.710, 118.720, or 118.730, independent, or political organization, or political group petitions and certificates of nomination shall be filed at least *forty-nine (49)*~~[twenty-eight (28)]~~ days before the day of election, and if filed with the Secretary of State shall be immediately certified by him or her to the proper county clerks.

➔Section 26. The Legislative Research Commission is hereby directed to create a Military and Overseas Voting Assistance Task Force that shall study the election laws and absentee ballot procedures of the Commonwealth relating to military and overseas voters.

➔Section 27. The Military and Overseas Voting Assistance Task Force shall study and report on the following issues:

- (1) The current statutory time period available to military and overseas voters to request, receive, and return absentee ballots;
- (2) The factors, if any, that limit the ability of military and overseas voters to request, receive, and return absentee ballots within the current statutory time period for casting absentee ballots;
- (3) Any procedures that have been adopted in other states to facilitate more timely absentee ballot voting for military and overseas voters; and
- (4) The feasibility of military and overseas voters using a secure electronic transmission system to send voted absentee ballots.

➔Section 28. The Military and Overseas Voting Assistance Task Force shall consist of the following members, with final membership of the task force being subject to the consideration and approval of the Legislative Research Commission:

- (1) The chair of the Senate State and Local Government Committee, who shall be co-chair of the task force;

(2) The chair of the House of Representatives Elections, Constitutional Amendments, and Intergovernmental Affairs Committee, who shall be co-chair of the task force;

(3) The chair of the Senate Veterans, Military Affairs, and Public Protection Committee;

(4) The chair of the House Veterans, Military Affairs, and Public Safety Committee;

(5) The Secretary of State or his or her designee;

(6) The Adjutant General of the Kentucky National Guard or his or her designee;

(7) The Commissioner of the Commonwealth Office of Technology or his or her designee;

(8) A current county clerk recommended by the task force co-chairs in consultation with the Kentucky County Clerk's Association;

(9) An active or retired member of the United States Armed Forces that has served in some capacity at an overseas duty station recommended by the task force co-chairs.

➔Section 29. The task force shall submit a final report, along with recommendations and any proposed legislation, to the Legislative Research Commission by November 27, 2013, for referral to the appropriate committee.

➔Section 30. Provisions of Sections 26 to 29 of this Act to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified in those sections to an interim joint committee or subcommittee thereof and to designate a study completion date.

➔Section 31. Sections 26 to 29 of this Act shall have the same legal status as a Senate Concurrent Resolution.

➔SECTION 32. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) *For purposes of this section:*

(a) *"Donor" means a qualified taxpayer who provides free of fee or charge edible agricultural products to a nonprofit food program operating in Kentucky;*

(b) *"Edible agricultural products" means fruits, vegetables, beef, poultry, pork, fish, or any other edible product raised or grown in Kentucky that is intended for and fit for human consumption;*

(c) *"Nonprofit food program" means a surplus food collection and distribution program operated and established to collect donated food for redistribution to persons in need and is recognized as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code; and*

(d) *"Qualified taxpayer" means a person responsible for and deriving income from:*

1. *Growing fruits, vegetables, or other edible agricultural products; or*

2. *Raising beef, poultry, pork, fish, or other edible agricultural products.*

(2) (a) *For taxable years beginning on or after January 1, 2014, but before January 1, 2018, any donor shall be allowed a nonrefundable credit against the tax imposed by KRS 141.020, or 141.040 and 141.0401, with the ordering of credits as provided in Section 33 of this Act, in the amount equal to ten percent (10%) of the value of the donated edible agricultural products as determined under subsection (3)(b) of this section.*

(b) *A qualified taxpayer that is a pass-through entity not subject to the tax imposed by KRS 141.040 and that has tax credits approved under this section shall apply the credits against the limited liability entity tax imposed by KRS 141.0401, and shall also distribute the amount of the approved tax credits to each partner, member, or shareholder based on the partner's, member's, or shareholder's distributive share of income as determined for the year during which the tax credits are approved, with the ordering of credits as provided in Section 33 of this Act.*

(3) (a) *At the time of the donation, the donor shall provide to the nonprofit food program the estimated value of the donated edible agricultural products as determined under paragraph (b) of this subsection. The nonprofit food program shall provide to the donor, on a form prescribed by the department, a signed and dated statement containing, at a minimum:*

1. *The type and quantity of product donated;*

2. *The name, address, and taxpayer identification number of the donor or donors;*

3. *The name and address of the donee nonprofit food program; and*
 4. *The estimated value of the donated edible agricultural products, as provided by the donor.*
- (b) *The donor shall determine the value of the donated edible agricultural products as follows:*
1. *If there was a previous sale of the edible agricultural products to a buyer, the donor should retain a copy of an invoice or other statement identifying the price received by the donor for the edible agricultural products of comparable grade or quality; or*
 2. *If there is no previous sale to a buyer, the donor shall on the date of the donation, determine the value of the donated edible agricultural products based on the fair market value as determined by average weekly regional produce auction prices or United States Department of Agriculture prices for meat, fish, and dairy products.*
- (4) *A qualified taxpayer claiming the tax credit permitted under this section shall attach the form prescribed under subsection (3) of this section to the tax return claiming the credit.*
- (5) *Any tax credit allowable under this section that is not used by the qualified taxpayer in the current tax year may be carried forward for up to four (4) succeeding years, until the credit has been exhausted.*
- (6) *The department may promulgate administrative regulations to carry out this section.*

➔Section 33. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of the credits shall be determined as follows:

- (1) The nonrefundable business incentive credits against the tax imposed by KRS 141.020 shall be taken in the following order:
 - (a) 1. For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(a);
 2. For taxable years beginning after December 31, 2006, the limited liability entity tax credit permitted by KRS 141.0401;
- (b) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-2088, and 154.27-080;
- (c) *The qualified farming operation credit permitted by KRS 141.412;*
- (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- ~~(e)~~(d) The health insurance credit permitted by KRS 141.062;
- ~~(f)~~(e) The tax paid to other states credit permitted by KRS 141.070;
- ~~(g)~~(f) The credit for hiring the unemployed permitted by KRS 141.065;
- ~~(h)~~(g) The recycling or composting equipment credit permitted by KRS 141.390;
- ~~(i)~~(h) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
- ~~(j)~~(i) The coal incentive credit permitted under KRS 141.0405;
- ~~(k)~~(j) The research facilities credit permitted under KRS 141.395;
- ~~(l)~~(k) The employer GED incentive credit permitted under KRS 151B.127;
- ~~(m)~~(l) The voluntary environmental remediation credit permitted by KRS 141.418;
- ~~(n)~~(m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- ~~(o)~~(n) The environmental stewardship credit permitted by KRS 154.48-025;
- ~~(p)~~(o) The clean coal incentive credit permitted by KRS 141.428;
- ~~(q)~~(p) The ethanol credit permitted by KRS 141.4242;
- ~~(r)~~(q) The cellulosic ethanol credit permitted by KRS 141.4244;
- ~~(s)~~(r) The energy efficiency credits permitted by KRS 141.436;

- (~~t~~)(~~s~~) The railroad maintenance and improvement credit permitted by KRS 141.385;
- (~~u~~)(~~t~~) The Endow Kentucky ~~tax~~ credit permitted by KRS 141.438; ~~and~~
- (~~v~~)(~~u~~) The New Markets Development Program ~~tax~~ credit permitted by KRS 141.434; **and**
- (~~w~~) ***The food donation credit permitted by Section 32 of this Act.***
- (2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) The individual credits permitted by KRS 141.020(3);
 - (b) The credit permitted by KRS 141.066;
 - (c) The tuition credit permitted by KRS 141.069;
 - (d) The household and dependent care credit permitted by KRS 141.067; and
 - (e) The new home credit permitted by KRS 141.388.
- (3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) The individual withholding tax credit permitted by KRS 141.350;
 - (b) The individual estimated tax payment credit permitted by KRS 141.305;
 - (c) For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(c);
 - (d) The certified rehabilitation credit permitted by KRS **171.397(1)(b)**~~141.382(1)(b)~~; and
 - (e) The film industry tax credit allowed by KRS 141.383.
- (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the tax imposed by KRS 141.040.
- (5) The following nonrefundable credits shall be applied against the sum of the tax imposed by KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and the tax imposed by KRS 141.0401 in the following order:
- (a) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-2088, and 154.27-080;
 - (b) ***The qualified farming operation credit permitted by KRS 141.412;***
 - (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
 - (~~d~~)(~~e~~) The health insurance credit permitted by KRS 141.062;
 - (~~e~~)(~~d~~) The unemployment credit permitted by KRS 141.065;
 - (~~f~~)(~~e~~) The recycling or composting equipment credit permitted by KRS 141.390;
 - (~~g~~)(~~f~~) The coal conversion credit permitted by KRS 141.041;
 - (~~h~~)(~~g~~) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;
 - (~~i~~)(~~h~~) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
 - (~~j~~)(~~i~~) The coal incentive credit permitted under KRS 141.0405;
 - (~~k~~)(~~j~~) The research facilities credit permitted under KRS 141.395;
 - (~~l~~)(~~k~~) The employer GED incentive credit permitted under KRS 151B.127;
 - (~~m~~)(~~l~~) The voluntary environmental remediation credit permitted by KRS 141.418;
 - (~~n~~)(~~m~~) The biodiesel and renewable diesel credit permitted by KRS 141.423;
 - (~~o~~)(~~n~~) The environmental stewardship credit permitted by KRS 154.48-025;

- (p)~~(o)~~ The clean coal incentive credit permitted by KRS 141.428;
 - (q)~~(p)~~ The ethanol credit permitted by KRS 141.4242;
 - (r)~~(q)~~ The cellulosic ethanol credit permitted by KRS 141.4244;
 - (s)~~(r)~~ The energy efficiency credits permitted by KRS 141.436;
 - (t)~~(s)~~ The ENERGY STAR home or ENERGY STAR manufactured home credit permitted by KRS 141.437;
 - (u)~~(t)~~ The railroad maintenance and improvement credit permitted by KRS 141.385;
 - (v)~~(u)~~ The railroad expansion credit permitted by KRS 141.386;
 - (w)~~(v)~~ The Endow Kentucky ~~tax~~ credit permitted by KRS 141.438; ~~and~~
 - (x)~~(w)~~ The New Markets Development Program ~~tax~~ credit permitted by KRS 141.434; *and*
 - (y) *The food donation credit permitted by Section 32 of this Act.*
- (6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable credits shall be taken in the following order:
- (a) The corporation estimated tax payment credit permitted by KRS 141.044;
 - (b) The certified rehabilitation credit permitted by KRS ~~171.397~~~~[141.382]~~(1)(b); and
 - (c) The film industry tax credit allowed in KRS 141.383.

➔Section 34. Sections 1 to 23 of this Act shall take effect July 1, 2014.

➔Section 35. Because the provisions in Section 24 and 25 of this Act are essential to protect the right of all military and overseas voters to cast a vote in elections in the Commonwealth of Kentucky and to have those votes counted, an emergency is declared to exist, and Sections 24 and 25 of this Act take effect upon the Act's passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 5, 2013.