

## Proposed Rule Draft for December 2011 Public Hearing

### 1S-2.049 Absentee Ballots – Absent Stateside Uniformed Services Voters.

(1) Application. This rule applies solely to the request for, absentee ballot requests and to the delivery and return of absentee ballots for uniformed services members who are absent stateside. Such persons are defined to include:

(a) A member of a uniformed service on active duty who, by reason of active duty, is absent (but not overseas) from the place of residence where the member is otherwise qualified to vote,

(b) A member of the Merchant Marine who, by reason of service, is absent (but not overseas) from the place of residence where the member is otherwise qualified to vote, or

(c) A spouse or dependent of a member described in paragraph (a) or (b) who, by reason of the active duty or service of the member, is also absent (but not overseas) from the place of residence where the spouse or dependent is otherwise qualified to vote.

#### (2) Requests.

(a) The absent stateside uniformed services voter, or on behalf of the voter, the voter's ~~an~~ immediate family member ~~of the voter,~~ or the legal guardian ~~of the voter,~~ may request an absentee ballot via:

1. Telephone.

2. Fax.

3. E-mail.

4. Online access.

5. Any other form of written request.

(b) The request for an absentee ballot must include:

1. The name of the voter for whom the ballot is requested.

2. The voter's date of birth.

3. The voter's legal residence in Florida.

4. An indication of how the voter wants the ballot to be delivered (mail, fax, or e-mail) and include one of the corresponding destinations for delivery.

5. One of the following:

a. An out-of-county mailing address.

b. A fax machine number, and an out-of-county address (only for purposes of affirming absence from county).

c. An e-mail address, and an out-of-county address (only for purposes of affirming absence from county).

iv. The voter's signature (written requests only other than through e-mail or through online request), or if the requester is other than the voter, the requester's name, address, driver's license number (if available), signature, and relationship to the voter.

(3) Processing requests. When a supervisor receives an absentee ballot request from an absent stateside uniformed services voter, the supervisor shall:

(a) Verify the information provided to determine if the voter is a qualified and registered voter for the election.

(b) Provide in the manner requested by the voter the appropriate absentee ballot, the instructions for voting and returning the ballot, and the Voter's Certificate.

(c) Record the receipt date of the request, the date and manner in which the Supervisor made the absentee ballot available to the voter, and the mailing address, e-mail address, or fax number provided by the voter.

(d) Ensure that the Supervisor of Elections' office transmitting and receiving equipment is in a secure location with access limited to the Supervisor's employees and that the absentee ballot is sent directly to the mailing or e-mail address or fax number or other transmission destination made available to the absent stateside uniformed services voter.

(4) Return of voted absentee ballot. A voted ballot by an absent stateside uniformed services voter returned by e-mail or by fax shall not be accepted. An absent uniformed services voter may return a voted absentee ballot by mail, in person (if he or she returns to county of residence) or through someone else on behalf of the voter. To be accepted and counted, a voted absentee ballot must be received by the supervisor of elections no later than 7:00 p.m. on election day in the time zone for the county in which the absent uniformed services voter is registered.

(5) Voter's Certificate. The Voter's Certificate for absentee ballots being sent to absent stateside uniformed services voters shall be in substantially the following form:

Note: Please Read Instructions Carefully Before Marking Ballot and Completing Voter's Certificate

**VOTER'S CERTIFICATE**

I, \_\_\_\_\_, swear or affirm, under penalty of perjury, that I am:

1. A member of the Uniformed Services or merchant marine on active duty; or an eligible spouse or dependent of such a member; or a U.S. citizen temporarily residing outside the U.S.; or Other U.S. citizen residing outside the U.S.

2. I am a U.S. citizen, at least 18 years of age (or will be by the date of the election), and I am eligible to vote in the requested jurisdiction; and

3. I have not been convicted of a felony, or other disqualifying offense, or been adjudicated mentally incompetent, or, if so, my voting rights have been reinstated; and

4. I am not registering, requesting a ballot, or voting in any other jurisdiction in the U.S., except the jurisdiction cited in this voting form.

In voting, I have marked and sealed my ballot in private and have not allowed any person to observe the marking of the ballot, except for those authorized to assist voters under State or Federal law. I have not been influenced.

My signature and date below indicate when I completed this document. The information on this form is true, accurate and complete to the best of my knowledge. I understand that a material misstatement of fact in completion of this document may constitute grounds for a conviction for perjury.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Month/Day/Year

(6) Ballot instructions. Ballot instructions in substantially the following form must be provided with each absentee ballot to an absent stateside uniformed services voter:

### INSTRUCTIONS

1. In order to ensure that your absentee ballot is counted, complete and return the ballot soon as possible to the supervisor of elections of the county in which you are registered so that the ballot is received no later than 7:00 p.m. on the election day in the time zone for the county in which you are registered.

2. Mark your ballot in secret as instructed on the ballot. You must mark your own ballot unless you are unable to do so because of blindness, disability, or inability to read or write.

3. Mark only the number of candidate or issue choices for a race as indicated on the ballot. If you are allowed to "Vote for One" candidate and you vote for more than one candidate, your vote in that race will not be counted.

4. VERY IMPORTANT. In order for your ballot to be counted, you must also complete the Voter's Certificate, which must include your signature. Failure to include a signature or a date means your ballot may not be counted. Your absentee ballot will not be counted if your signature on the Voter's Certificate does not match your signature on record. If you need to update your signature for this election, you must send your signature update on a voter registration application to your supervisor of elections so that it is received before absentee ballots are canvassed which could start as early as 15 days before election day. Your ballot will be rejected also if the signature on the certificate does not match the signature on the voter registration record.

5. To return your voted absentee ballot and voter's certificate:

a. Place your marked ballot in a secrecy envelope or sleeve, as provided to you or in an unmarked envelope (if the ballot was faxed or e-mailed to you).

b. Insert the secrecy envelope or sleeve, or unmarked envelope inside a separate mailing envelope. If the ballot was mailed to you, use the mailing envelope provided and complete the Voter's Certificate on the back. If the ballot was faxed or e-mailed to you, place the secrecy envelope or sleeve or unmarked envelope and the completed Voter's Certificate in another envelope for mailing. Do not enclose the Voter's Certificate in the secrecy envelope or sleeve, or unmarked envelope with the ballot. Clearly mark the mailing envelope "Absentee Ballot Enclosed."

6. You may mail, deliver or have delivered by someone else your absentee ballot to the supervisor of elections. Faxed or e-mailed voted ballots will not be accepted. To mail your ballot free of postage, use the template provided at <http://www.fvap.gov/resources/media/returnenvelope.pdf> to print directly onto the mailing envelope or otherwise affix to the mailing envelope. Otherwise, clearly mark the mailing envelope "Absentee Ballot Enclosed" and provide sufficient postage.

7. FELONY NOTICE. It is a felony under Florida law to accept any gift, payment, or gratuity in exchange for your vote for a candidate. It is also a felony under Florida law to vote in an election using a false identity or false address, or under any circumstances making your ballot false or fraudulent.

(7) Processing returned absentee ballots.

(a) The supervisor shall record the date the voted absentee ballot is received from the absent stateside uniformed services voter.

(b) If an absent stateside uniformed services voters returns the voted ballot to the supervisor in an envelope other than an absentee ballot mailing envelope provided by the supervisor, the canvassing board is authorized to open the mailing envelope to determine if the Voter's Certificate is enclosed in the mailing envelope. If the Voter's Certificate is not enclosed, the envelope or sleeve containing the ballot shall not be opened and the envelope shall be marked "Rejected as Illegal." If the Voter's Certificate is enclosed, the Voter's Certificate shall be reviewed.

(c) If the canvassing board determines that the voter is eligible to vote, the ballot shall be processed as other absentee ballots. If the returned absentee ballot was originally faxed or e-mailed or accessed electronically by some other means, the ballot shall be removed from the envelope and duplicated so that it can be processed through the tabulating equipment.

*Rulemaking Authority 20.10(3), 97.012(1), 101.697 FS. Law Implemented 101.62, 101.64, 101.65, 101.6923, 101.697 FS. History—  
New 8-25-10, \_\_\_\_\_.*