**South Carolina General Assembly**

123rd Session, 2019-2020

**A133, R138, S635**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Young

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Introduced in the Senate on March 12, 2019

Introduced in the House on May 8, 2019

Last Amended on May 12, 2020

Passed by the General Assembly on May 12, 2020

Governor's Action: May 13, 2020, Signed

Summary: Absentee ballot provisions for June 2020 primary

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 3/12/2019 Senate Introduced and read first time ([Senate Journal‑page 8](file:///h%3A%5Csj%5C20190312.docx))

 3/12/2019 Senate Referred to Committee on **Transportation** ([Senate Journal‑page 8](file:///h%3A%5Csj%5C20190312.docx))

 4/24/2019 Senate Committee report: Favorable **Transportation** ([Senate Journal‑page 7](file:///h%3A%5Csj%5C20190424.docx))

 5/7/2019 Senate Read second time ([Senate Journal‑page 32](file:///h%3A%5Csj%5C20190507.docx))

 5/7/2019 Senate Roll call Ayes‑43 Nays‑0 ([Senate Journal‑page 32](file:///h%3A%5Csj%5C20190507.docx))

 5/8/2019 Senate Read third time and sent to House ([Senate Journal‑page 50](file:///h%3A%5Csj%5C20190508.docx))

 5/8/2019 House Introduced and read first time ([House Journal‑page 89](file:///h%3A%5Chj%5C20190508.docx))

 5/8/2019 House Referred to Committee on **Education and Public Works** ([House Journal‑page 89](file:///h%3A%5Chj%5C20190508.docx))

 2/27/2020 House Committee report: Favorable with amendment **Education and Public Works** ([House Journal‑page 6](file:///h%3A%5Chj%5C20200227.docx))

 3/4/2020 House Amended ([House Journal‑page 27](file:///h%3A%5Chj%5C20200304.docx))

 3/4/2020 House Read second time ([House Journal‑page 27](file:///h%3A%5Chj%5C20200304.docx))

 3/4/2020 House Roll call Yeas‑106 Nays‑2 ([House Journal‑page 29](file:///h%3A%5Chj%5C20200304.docx))

 3/5/2020 House Read third time and returned to Senate with amendments ([House Journal‑page 14](file:///h%3A%5Chj%5C20200305.docx))

 3/11/2020 House amendment amended ([Senate Journal‑page 27](file:///h%3A%5Csj%5C20200311.docx))

 3/11/2020 Senate Roll call Ayes‑40 Nays‑0 ([Senate Journal‑page 27](file:///h%3A%5Csj%5C20200311.docx))

 3/11/2020 Senate Returned to House with amendments ([Senate Journal‑page 27](file:///h%3A%5Csj%5C20200311.docx))

 5/12/2020 House Non‑concurrence in Senate amendment

 5/12/2020 House Roll call Yeas‑10 Nays‑106

 5/12/2020 Senate Senate insists upon amendment and conference committee appointed Campsen, Hutto, and Massey ([Senate Journal‑page 24](file:///h%3A%5Csj%5C20200512.docx))

 5/12/2020 House Conference committee appointed Simrill, Clary, Rutherford

 5/12/2020 Senate Free conference powers granted ([Senate Journal‑page 25](file:///h%3A%5Csj%5C20200512.docx))

 5/12/2020 Senate Free conference committee appointed Campsen, Hutto, Massey ([Senate Journal‑page 25](file:///h%3A%5Csj%5C20200512.docx))

 5/12/2020 Senate Free conference report received and adopted ([Senate Journal‑page 25](file:///h%3A%5Csj%5C20200512.docx))

 5/12/2020 Senate Roll call Ayes‑37 Nays‑0 ([Senate Journal‑page 25](file:///h%3A%5Csj%5C20200512.docx))

 5/12/2020 House Free conference powers granted

 5/12/2020 House Roll call Yeas‑97 Nays‑15

 5/12/2020 House Free conference committee appointed Simrill, Clary, Rutherford

 5/12/2020 House Free conference report adopted

 5/12/2020 House Roll call Yeas‑108 Nays‑0

 5/12/2020 House Ordered enrolled for ratification

 5/12/2020 Ratified R 138

 5/13/2020 Signed By Governor

 5/14/2020 Effective date See Act for Effective Date

 5/14/2020 Act No.  133

View the latest [legislative information](http://www.scstatehouse.gov/billsearch.php?billnumbers=635&session=123&summary=B) at the website

**VERSIONS OF THIS BILL**

[3/12/2019](file:///p%3A%5Cpprever%5C2019-20%5C635_20190312.docx)

[4/24/2019](file:///p%3A%5Cpprever%5C2019-20%5C635_20190424.docx)

[2/27/2020](file:///p%3A%5Cpprever%5C2019-20%5C635_20200227.docx)

[3/4/2020](file:///p%3A%5Cpprever%5C2019-20%5C635_20200304.docx)

[3/11/2020](file:///p%3A%5Cpprever%5C2019-20%5C635_20200311.docx)

[5/12/2020](file:///p%3A%5Cpprever%5C2019-20%5C635_20200512.docx)

(A133, R138, S635)

**AN ACT TO AMEND SECTION 7‑13‑35, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE NOTICE OF GENERAL, MUNICIPAL, SPECIAL, AND PRIMARY ELECTIONS, SO AS TO REQUIRE THE NOTICE TO STATE THAT THE PROCESS OF EXAMINING THE RETURN‑ADDRESSED ENVELOPES CONTAINING THE ABSENTEE BALLOTS MAY BEGIN AT 9:00 A.M. ON THE CALENDAR DAY IMMEDIATELY PRECEDING ELECTION DAY; TO AMEND SECTION 7‑15‑420, RELATING TO THE RECEIPT, TABULATION, AND REPORTING OF ABSENTEE BALLOTS, SO AS TO PROVIDE THAT THE PROCESS OF EXAMINING THE RETURN‑ADDRESSED ENVELOPES THAT HAVE BEEN RECEIVED BY THE COUNTY BOARD OF VOTER REGISTRATION AND ELECTIONS MAY BEGIN AT 9:00 A.M. ON THE CALENDAR DAY IMMEDIATELY PRECEDING ELECTION DAY; TO AMEND SECTION 7‑15‑470, RELATING TO ABSENTEE BALLOTS OTHER THAN PAPER BALLOTS, SO AS TO MODIFY THE REQUIREMENTS NEEDED TO OBTAIN THE STATE ELECTION COMMISSION CERTIFICATION BEFORE USING A NONPAPER‑BASED VOTING MACHINE OR VOTING SYSTEM FOR IN‑PERSON ABSENTEE VOTING; TO REQUIRE THE STATE ELECTION COMMISSION TO IMPLEMENT A SOFTWARE UPDATE TO ITS ELECTRONIC VOTING MACHINES TO ALLOW FOR CHALLENGES TO ABSENTEE VOTES CAST USING THE MACHINES IN AN EQUIVALENT MANNER TO CHALLENGES TO ABSENTEE VOTES CAST ON ELECTRONIC VOTING MACHINES IN THE 2018 GENERAL ELECTION; TO AMEND SECTION 7‑15‑330, RELATING TO THE TIME OF APPLICATION FOR ABSENTEE BALLOTS AND APPLICATIONS IN PERSON, SO AS TO REQUIRE THE BOARD OF VOTER REGISTRATION AND ELECTIONS TO KEEP A RECORD OF THE DATE AND METHOD UPON WHICH THE ABSENTEE BALLOT IS RETURNED; TO AMEND SECTION 7‑15‑440, RELATING TO THE LIST OF PERSONS ISSUED AND WHO MAY CAST ABSENTEE BALLOTS, SO AS TO CLARIFY THAT THE LIST IS IN ADDITION TO THE INFORMATION PROVIDED PURSUANT TO SECTION 7‑15‑330; BY ADDING SECTION 7‑13‑825 SO AS TO PROVIDE THAT THE STATE ELECTION COMMISSION AND EACH COUNTY BOARD OF VOTER REGISTRATION AND ELECTIONS MUST POST THE REQUIREMENTS TO CHALLENGE A BALLOT IN A CONSPICUOUS LOCATION IN THEIR RESPECTIVE OFFICES AND WEBSITES; TO REPEAL CERTAIN SUBSECTIONS OF SECTION 1 OF THE ACT ON DECEMBER 31, 2021; AND TO PROVIDE THAT A QUALIFIED ELECTOR MUST BE PERMITTED TO VOTE BY ABSENTEE BALLOT IN AN ELECTION IF THE QUALIFIED ELECTOR’S PLACE OF RESIDENCE OR POLLING PLACE IS LOCATED IN AN AREA SUBJECT TO A STATE OF EMERGENCY DECLARED BY THE GOVERNOR AND THERE ARE FEWER THAN FORTY‑SIX DAYS REMAINING UNTIL THE DATE OF THE ELECTION AND PROVIDE THAT THIS PROVISION EXPIRES ON JULY 1, 2020.**

Be it enacted by the General Assembly of the State of South Carolina:

**Elections, absentee ballots, examination of absentee ballots**

SECTION 1.A. Section 7‑13‑35 of the 1976 Code is amended to read:

 “Section 7‑13‑35. The authority charged by law with conducting an election must publish two notices of general, municipal, special, and primary elections held in the county in a newspaper of general circulation in the county or municipality, as appropriate. Included in each notice must be a reminder of the last day persons may register to be eligible to vote in the election for which notice is given, notification of the date, time, and location of the hearing on ballots challenged in the election, a list of the precincts involved in the election, the location of the polling places in each of the precincts, and notification that the process of examining the return‑addressed envelopes containing absentee ballots may begin at 9:00 a.m. on the calendar day immediately preceding election day at a place designated in the notice by the authority charged with conducting the election. The first notice must appear no later than sixty days before the election and the second notice must appear no later than two weeks after the first notice.”

B. Section 7‑15‑420 of the 1976 Code is amended to read:

 “Section 7‑15‑420. (A) The county board of voter registration and elections, municipal election commission, or executive committee of each municipal party in the case of municipal primary elections is responsible for the tabulation and reporting of absentee ballots.

 (B) At 9:00 a.m. on the calendar day immediately preceding election day, the managers appointed pursuant to Section 7‑5‑10, and in the presence of any watchers who have been appointed pursuant to Section 7‑13‑860, may begin the process of examining the return‑addressed envelopes that have been received by the county board of voter registration and elections making certain that each oath has been properly signed and witnessed and includes the address of the witness. All return‑addressed envelopes received by the county board of voter registration and elections before the time for closing the polls must be examined in this manner. A ballot may not be counted unless the oath is properly signed and witnessed nor may any ballot be counted which is received by the county board of voter registration and elections after time for closing of the polls. The printed instructions required by Section 7‑15‑370(2) to be sent each absentee ballot applicant must notify him that his vote will not be counted in either of these events. If a ballot is not challenged, the sealed return‑addressed envelope must be opened by the managers, and the enclosed envelope marked ‘Ballot Herein’ removed and placed in a locked box or boxes.

 (C) After all return‑addressed envelopes have been emptied, but no earlier than 9:00 a.m. on election day, the managers shall remove the ballots contained in the envelopes marked ‘Ballot Herein’, placing each one in the ballot box provided for the applicable contest.

 (D) Beginning at 9:00 a.m. on election day, the absentee ballots may be tabulated, including any absentee ballots received on election day before the polls are closed. If any ballot is challenged, the return‑addressed envelope must not be opened, but must be put aside and the procedure set forth in Section 7‑13‑830 must be utilized; but the absentee voter must be given reasonable notice of the challenged ballot. Results of the tabulation must not be publicly reported until after the polls are closed.”

C. Section 7‑15‑470 of the 1976 Code is amended to read:

 “Section 7‑15‑470. (A) Notwithstanding the provisions of this chapter, a county board of voter registration and elections may use other methods of voting by absentee ballot instead of by paper ballot. No voting machine or voting system, other than a paper‑based system, may be used for in‑person absentee voting that has not received written certification from the State Election Commission that:

 (1) the voting machine or voting system meets all statutory requirements for use in the State;

 (2) the voting machine or voting system can be secured against voting at times other than business hours of the county board of voter registration and elections; and

 (3) the results of elections can be held secure from release until the time for counting ballots at any polling place.

 (B) The State Election Commission must develop standards and guidelines for these purposes.”

D. The State Election Commission is directed to implement a software update to its electronic voting machines to allow for challenges to absentee votes cast using the machines in an equivalent manner to challenges to absentee votes cast on electronic voting machines in the 2018 General Election.

E. Section 7‑15‑330 of the 1976 Code is amended to read:

 “Section 7‑15‑330. To vote by absentee ballot, a qualified elector or a member of his immediate family must request an application to vote by absentee ballot in person, by telephone, or by mail from the county board of voter registration and elections, or at an extension office of the board of voter registration and elections as established by the county governing body, for the county of the voter’s residence. A person requesting an application for a qualified elector as the qualified elector’s authorized representative must request an application to vote by absentee ballot in person or by mail only and must himself be a registered voter and must sign an oath to the effect that he fits the statutory definition of a representative. This signed oath must be kept on file with the board of voter registration and elections until the end of the calendar year or until all contests concerning a particular election have been finally determined, whichever is later. A candidate or a member of a candidate’s paid campaign staff, including volunteers reimbursed for time expended on campaign activity, is not allowed to request applications for absentee voting for any person designated in this section unless the person is a member of the immediate family. A request for an application to vote by absentee ballot may be made anytime during the calendar year in which the election in which the qualified elector desires to be permitted to vote by absentee ballot is being held. However, completed applications must be returned to the county board of voter registration and elections in person or by mail before 5:00 p.m. on the fourth day before the day of the election. Applications must be accepted by the county board of voter registration and elections until 5:00 p.m. on the day immediately preceding the election for those who appear in person and are qualified to vote absentee pursuant to Section 7‑15‑320. A member of the immediate family of a person who is admitted to a hospital as an emergency patient on the day of an election or within a four‑day period before the election may obtain an application from the board on the day of an election, complete it, receive the ballot, deliver it personally to the patient who shall vote, and personally carry the ballot back to the board of voter registration and elections. The board of voter registration and elections shall serially number each absentee ballot application form and keep a record book in which must be recorded the number of the form, the name, home address, and absentee mailing address of the person for whom the absentee ballot application form is requested; the name, address, voter registration number, and relationship of the person requesting the form, if other than the applicant; the date upon which the form is requested; the date upon which the form is issued; and the date and method upon which the absentee ballot is returned. This information becomes a public record at 9:00 a.m. on the day immediately preceding the election, except that forms issued for emergency hospital patients must be made public by 9:00 a.m. on the day following an election. A person who violates the provisions of this section is subject to the penalties provided in Section 7‑25‑170.”

F. Section 7‑15‑440 of the 1976 Code is amended to read:

 “Section 7‑15‑440. The county board of voter registration and elections shall, after each election, prepare a list of all persons to whom absentee ballots were issued and all persons who cast absentee ballots. The list so compiled shall be made available for public inspection upon request. This list is in addition to the information provided pursuant to Section 7‑15‑330.”

G. Article 7, Chapter 13, Title 7 of the 1976 Code is amended by adding:

 “Section 7‑13‑825. The State Election Commission and each county board of voter registration and elections must post the requirements to challenge a ballot pursuant to the provisions of Section 7‑13‑810 in a conspicuous location in their respective offices and on their respective websites.”

H. The amendments contained in subsections A., B., and C. of this SECTION are repealed on December 31, 2021, and the text of these code sections therefore shall revert back to the language as contained in the South Carolina Code of Laws as of January 23, 2020.

**Elections, absentee ballots during the state of emergency, expiring on July 1, 2020**

SECTION 2. A. A qualified elector must be permitted to vote by absentee ballot in an election if the qualified elector’s place of residence or polling place is located in an area subject to a state of emergency declared by the Governor and there are fewer than forty‑six days remaining until the date of the election.

B. This SECTION takes effect upon approval by the Governor and expires on July 1, 2020.

**Time effective**

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 12th day of May, 2020.

Approved the 13th day of May, 2020.

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