DECLARATION OF EMERGENCY

(effective October 12, 2020)

Department of State
Elections Division

Opportunity to Cure Deficiencies in Absentee By Mail Ballots (LAC 31:I:Chapter 3)

The Louisiana Department of State has exercised the emergency provisions of the Administrative Procedure Act, specifically R.S. 18:18(A)(3) and R.S. 36:742, the Louisiana Department of State, Elections Division, is requesting Emergency Rules, which will add language to Part I, Chapter 3. The added chapter will allow a procedure for absentee by mail ballot envelope flaps with deficiencies to be cured. An emergency rule is necessary so that a procedure may be provided for curing absentee by mail ballot envelope flaps with deficiencies prior to the November 3, 2020 and December 5, 2020 elections. A prior rule of a similar nature was made effective on June 15, 2020, and will expire on October 12, 2020. This emergency rule, in effect, renews the prior rule for 120 days to include the November 3, 2020 and December 5, 2020 election days. Only provisions relating to the July 11, 2020 and August 15, 2020 election have been removed. The absence of such a procedure creates an imminent peril to the welfare of the citizens of Louisiana and their right to vote, thereby making this emergency rule necessary. This emergency rule shall have the force and effect of law on October 12, 2020, and will remain in effect 120 days, unless renewed by the Department of State, or until permanent rules are promulgated in accordance with law.

Title 31

ELECTIONS

Part I. Election Process

Chapter 3. Opportunity to Cure Deficiencies in Absentee by Mail Ballots

§301. Absentee by mail ballot deficiencies that may be cured:

A. Each registrar of voters shall review the absentee by mail ballot envelope flap for the following deficiencies:

   1. Missing voter signature;
   2. Missing witness signature; and
   3. Incomplete affidavit information, including but not limited to missing election date and voter information.

B. This review shall be conducted immediately upon receipt of the absentee by mail ballot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18(A)(3) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR _____.

§303. Absentee Ballot Deficiency Notification

A. Upon receipt of an absentee by mail ballot envelope flap with one or more of the above identified deficiencies, the registrar of voters shall segregate the ballot envelope and promptly notify the voter of the ballot envelope flap deficiency and of the opportunity to cure the deficiency.
B. The registrar of voters shall identify the ballot in the voter's absentee record and notate it as "deficient with opportunity to cure."
C. The registrar shall contact the voter using the telephone number and email address available in the voter's registration record. The registrar shall also mail a written notice of the ballot envelope flap deficiency and the opportunity to cure the deficiency.
D. All deficiency notifications shall inform the voter of the type of deficiency, the process for curing the deficiency, and the deadline and method to cure the deficiency. The registrar shall make a log of the date and methods of contact for each voter.
E. Voters are required to appear in person at their registrar of voters office during normal business hours until 4:30 p.m. the day before the election to cure the ballot envelope flap deficiency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18(A)(3) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR _____.

§305. Curing Absentee By Mail Ballot Deficiencies

A. To cure a missing voter signature, the voter shall appear at the office of the registrar and sign the ballot envelope flap in the presence of an employee of the registrar of voters. The employee of the registrar who observes the signature shall also sign the ballot envelope flap as witness.
B. To cure a missing witness signature, the voter shall appear at the office of the registrar and resign the ballot envelope flap in the presence of an employee of the registrar of voters. The employee of the registrar who observes the signature shall sign the ballot envelope flap as witness.
C. To cure an incomplete affidavit, the voter shall appear at the office of the registrar and complete the affidavit on the ballot envelope flap.
D. If the voter appears at the office of the registrar to cure the deficiency, the notation in the voter's absentee record shall be updated to so reflect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18(A)(3) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR _____.

Interested persons may submit written comments to Lani Durio, Deputy Commissioner of Elections, 8585 Archives Ave., Baton Rouge, LA 70809, or emailed to lani.durio@sos.la.gov.

R. Kyle Ardoin, Louisiana Secretary of State

Date: October 8, 2020