

SENATE BILL No. 1407

June 24, 2008, Introduced by Senator THOMAS and referred to the Committee on Campaign and Election Oversight.

A bill to amend 1954 PA 116, entitled
"Michigan election law,"
(MCL 168.1 to 168.992) by adding section 527.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 527. (1) A STATE OR LOCAL ELECTION OFFICIAL SHALL NOT
2 PREVENT AN INDIVIDUAL FROM REGISTERING TO VOTE OR VOTING IN ANY
3 ELECTION OR PERMIT IN CONNECTION WITH ANY ELECTION A FORMAL
4 CHALLENGE UNDER THIS ACT TO AN INDIVIDUAL'S REGISTRATION STATUS OR
5 ELIGIBILITY TO VOTE IF THE DECISION IS BASED UPON ANY OF THE
6 FOLLOWING:

7 (A) A VOTER CAGING DOCUMENT.

8 (B) A VOTER CAGING LIST.

9 (C) AN UNVERIFIED MATCH LIST.

1 (D) AN ERROR OR OMISSION ON ANY RECORD OR PAPER RELATED TO ANY
2 APPLICATION, REGISTRATION, OR OTHER ACT REQUISITE TO VOTING, IF THE
3 ERROR OR OMISSION IS NOT MATERIAL TO THE INDIVIDUAL'S ELIGIBILITY
4 TO VOTE UNDER THIS ACT.

5 (2) IF A CHALLENGE BY A STATE OR LOCAL ELECTION OFFICIAL IS
6 RESOLVED AGAINST AN ELECTOR ON THE DAY OF AN ELECTION, THE ELECTOR
7 SHALL BE ENTITLED TO VOTE BY PROVISIONAL BALLOT. IF A CHALLENGE BY
8 A STATE OR LOCAL ELECTION OFFICIAL IS RESOLVED IN FAVOR OF AN
9 ELECTOR ON THE DAY OF AN ELECTION, THE ELECTOR SHALL BE ENTITLED TO
10 VOTE BY REGULAR BALLOT.

11 (3) A PERSON, OTHER THAN A STATE OR LOCAL ELECTION OFFICIAL,
12 SHALL NOT SUBMIT A FORMAL CHALLENGE TO AN INDIVIDUAL'S ELIGIBILITY
13 TO REGISTER TO VOTE IN AN ELECTION OR TO VOTE IN AN ELECTION IF THE
14 CHALLENGE IS BASED UPON ANY OF THE FOLLOWING:

15 (A) A VOTER CAGING DOCUMENT.

16 (B) A VOTER CAGING LIST.

17 (C) AN UNVERIFIED MATCH LIST.

18 (D) AN ERROR OR OMISSION ON ANY RECORD OR PAPER RELATING TO
19 ANY APPLICATION, REGISTRATION, OR OTHER ACT REQUISITE TO VOTING, IF
20 THE ERROR OR OMISSION IS NOT MATERIAL TO AN INDIVIDUAL'S
21 ELIGIBILITY TO VOTE UNDER THIS ACT.

22 (4) A PERSON MAY SUBMIT A FORMAL CHALLENGE TO AN INDIVIDUAL'S
23 ELIGIBILITY TO REGISTER TO VOTE IN AN ELECTION OR TO VOTE IN AN
24 ELECTION IF ALL OF THE FOLLOWING APPLY:

25 (A) THE PERSON IS A REGISTERED ELECTOR IN THE PRECINCT WHERE
26 THE CHALLENGE IS MADE.

27 (B) THE CHALLENGE IS SUPPORTED BY PERSONAL, FIRSTHAND

1 KNOWLEDGE REGARDING THE GROUNDS FOR INELIGIBILITY OF THE
2 INDIVIDUAL.

3 (C) THE CHALLENGE IS DOCUMENTED IN WRITING.

4 (D) THE PERSON CHALLENGING AN INDIVIDUAL'S ELIGIBILITY MAKES
5 AN OATH OR ATTESTATION UNDER PENALTY OF PERJURY THAT THE INDIVIDUAL
6 WHO IS THE SUBJECT OF THE CHALLENGE IS INELIGIBLE TO REGISTER TO
7 VOTE OR VOTE IN THE ELECTION BECAUSE OF AGE, RESIDENCY,
8 CITIZENSHIP, COMPETENCY, OR PENAL STATUS.

9 (5) A PERSON WHO CHALLENGES AN ELECTOR SHALL FILE THE
10 CHALLENGE WITH THE LOCAL ELECTION COMMISSION AT LEAST 30 DAYS
11 BEFORE THE ELECTION. THE LOCAL ELECTION COMMISSION SHALL SERVE THE
12 ELECTOR WITH NOTICE BY MAIL AT THE ELECTOR'S LAST KNOWN ADDRESS.
13 NOTICE SHALL ALSO BE PUBLISHED IN A PERIODICAL OF GENERAL
14 CIRCULATION AT LEAST 21 DAYS BEFORE THE ELECTION. AT LEAST 14 DAYS
15 BEFORE THE ELECTION, THE LOCAL ELECTION COMMISSION SHALL HOLD A
16 PUBLIC HEARING AT WHICH THE CHALLENGER SHALL APPEAR AND PRESENT
17 GROUNDS FOR THE CHALLENGE. IF THE CHALLENGER FAILS TO APPEAR, THE
18 CHALLENGE AGAINST THE ELECTOR SHALL BE DISMISSED. THE BURDEN OF
19 PROOF IS ON THE CHALLENGER TO SHOW BY CLEAR AND CONVINCING EVIDENCE
20 THAT THE ELECTOR IS INELIGIBLE TO VOTE. THE CHALLENGED ELECTOR MAY
21 SUBMIT EVIDENCE OR OTHERWISE REBUT THE CHALLENGE. IF THE ELECTOR
22 FAILS TO APPEAR, THE LOCAL ELECTION COMMISSION SHALL EVALUATE THE
23 CHALLENGE ON ITS FACE AND SUSTAIN OR DISMISS THE CHALLENGE UNDER
24 THE CLEAR AND CONVINCING STANDARD. THE LOCAL ELECTION COMMISSION
25 SHALL RENDER ITS DECISION AND DELIVER IT BY CERTIFIED MAIL, RETURN
26 RECEIPT REQUESTED, TO THE ELECTOR NOT LESS THAN 7 DAYS BEFORE THE
27 ELECTION. IF THE DECISION OF THE LOCAL ELECTION COMMISSION IS

1 ADVERSE TO THE ELECTOR, HE OR SHE SHALL BE ALLOWED TO VOTE AT THE
2 ELECTION BY PROVISIONAL BALLOT.

3 (6) A PERSON WHO CHALLENGES THE ELIGIBILITY OF AN INDIVIDUAL
4 TO REGISTER TO VOTE OR WHO CAUSES THE ELIGIBILITY OF AN INDIVIDUAL
5 TO BE CHALLENGED IN VIOLATION OF THIS SECTION WITH THE INTENT TO
6 DISQUALIFY 1 OR MORE ELIGIBLE ELECTORS IS GUILTY OF A FELONY
7 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A FINE OF
8 NOT MORE THAN \$1,000.00, OR BOTH. EACH VIOLATION CONSTITUTES A
9 SEPARATE OFFENSE.

10 (7) AS USED IN THIS SECTION:

11 (A) "VOTER CAGING DOCUMENT" MEANS ANY OF THE FOLLOWING:

12 (i) A NONFORWARDABLE DOCUMENT THAT IS RETURNED TO THE SENDER OR
13 A THIRD PARTY AS UNDELIVERED OR UNDELIVERABLE DESPITE AN ATTEMPT TO
14 DELIVER THE DOCUMENT TO THE ADDRESS OF A REGISTERED ELECTOR OR
15 APPLICANT FOR VOTER REGISTRATION.

16 (ii) ANY DOCUMENT WITH INSTRUCTIONS TO AN ADDRESSEE THAT THE
17 DOCUMENT BE RETURNED TO THE SENDER OR A THIRD PARTY BUT IS NOT
18 RETURNED DESPITE AN ATTEMPT TO DELIVER THE DOCUMENT TO THE ADDRESS
19 OF A REGISTERED ELECTOR OR APPLICANT FOR VOTER REGISTRATION, UNLESS
20 AT LEAST 2 GENERAL ELECTIONS FOR FEDERAL OFFICE HAVE OCCURRED SINCE
21 THE DATE OF THE ATTEMPTED DELIVERY.

22 (iii) ANY REPORT FROM A UNITED STATES POST OFFICE OR OTHER MAIL
23 CARRIER THAT LISTS THE REGISTERED ELECTOR OR APPLICANT FOR VOTER
24 REGISTRATION AS HAVING BEEN THE RECIPIENT OF UNDELIVERABLE MAIL
25 REGARDLESS OF THE REASON FOR THE FAILURE OF AN ATTEMPT TO DELIVER A
26 DOCUMENT IN SUBPARAGRAPH (i) OR (ii).

27 (B) "VOTER CAGING LIST" MEANS A LIST OF INDIVIDUALS COMPILED

1 FROM VOTER CAGING DOCUMENTS.

2 (C) "UNVERIFIED MATCH LIST" MEANS A LIST PRODUCED BY MATCHING
3 THE INFORMATION OF REGISTERED ELECTORS OR APPLICANTS FOR VOTER
4 REGISTRATION TO A LIST OF INDIVIDUALS WHO ARE INELIGIBLE TO VOTE IN
5 THE LOCAL JURISDICTION BY VIRTUE OF DEATH, CHANGE OF ADDRESS, OR
6 OTHERWISE, UNLESS 1 OF THE PIECES OF INFORMATION MATCHED INCLUDES A
7 SIGNATURE, PHOTOGRAPH, OR UNIQUE IDENTIFYING NUMBER ENSURING THAT
8 THE INFORMATION FROM EACH SOURCE REFERS TO THE SAME INDIVIDUAL.