THE CITY OF PROVIDENCE

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

RESOLUTION OF THE CITY COUNCIL

No. 376

Approved May 3, 1983

WHEREAS, House Bill 83-H 5147 makes substantial revisions in the election laws regarding residency, mail ballot voting and the investigatory powers of the Board of Elections, and

WHEREAS, It defines residency in terms of a factual physical presence in the voting district on a regular basis incorporating an intention to reside for an indefinite period and sets forth criteria, and

WHEREAS, Said act provides for a number of new safeguards in the mail ballot process to guarantee that only electors truly eligible to vote by mail ballots are allowed to do so, and

WHEREAS, The authority of the Board of Elections to initiate an investigation of error, irregularity or impropriety in the election system has been greatly expanded,

NOW, THEREFORE, BE IT RESOLVED, That the Providence City Council hereby endorses House Bill 83-H 5147, as it relates to Elections.

IN CITY COUNCIL
MAY 2 1983
READ AND PASSED

PRES.

CLERK

APPROVED
MAY 3 1983

MAYOR

Councilwoman Farquhar

83-H 5147

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 1983

A N ACT

RELATING TO ELECTIONS

Introduced By: Representatives Teitz, DeAngelis, Horan SaoBento, Maigret

Date Introduced: January 14, 1983

Referred To: House Commiteee on Judiciary

It is enacted by the General Assembly as follows:

SECTION 1. This act shall be known as "The Voting Reform Act of 1983".

Residency

SECTION 2. Section 17-1-3 of the General Laws in Chapter 17-1 entitled "General Provisions" is hereby amended to read as follows:

17-1-3. Eligibility to vote. -- Every citizen of the United States who is at least eighteen (18) years of age, whose residence and home as defined in section 17-1-3.1 has been in this state for at least thirty (30) days, and in the town or city in which he desires to cast his vote at least thirty (30) days next preceding the election, and who shall be registered in that city or town at least thirty (30) days next preceding any election, shall be entitled to vote in the election; provided such person may vote in a primary election only if he is eligible under the

provisions of this title, and in a financial town meeting only if he is eligible under the additional qualifications required by the constitution of this state.

SECTION 3. Sections 17-1-3.1 and 17-1-3.2 of Chapter 17-1 of the General Laws entitled "General Provisions" are hereby repealed in their entirety. Chapter 17-1 of the General Laws entitled "General Provisions" is hereby amended by adding thereto the following sections:

17-1-3.1. Residence for voting purposes. -- A person's residence for voting purposes is his or her fixed and established domicile. The determinant of one's domicile is a question of factual physical presence in the voting district on a regular basis incorporating an intention to reside for an indefinite period. This domicile is the place to which, upon temporary absence, he or she has the intention of returning. Once acquired, this domicile continues until another such domicile is established. A person can have only one such domicile, and such domicile shall not be considered lost solely by reason of absence for any of the following reasons:

1. employment or service outside of the state intimately connected with military operations or with the federal government, including the spouse and dependants of an elector so employed;

2. confinement in a correctional facility;

3. confinement in a hospital, convalescent home, nursing home or rest home or like facility; or

4. attendance as a student at an academic institution including the spouse and dependants of an elector who is such a student.

The following shall be considered prima facie evidence of a person's residence for voting purposes:

1. the address furnished to the registry of motor vehicles for the voter's operator's license;

2. the address from which the voter's motor vehicle is registered;

3. the address from which the voter filed his last federal income tax return;

4. the address from which the voter filed his last state income tax return;

5. the address furnished to the companies from which the voter has obtained retail credit cards;

6. the address furnished to the financial institutions where the voter maintains accounts;

7. the address furnished to the tax collector and/or assessor in those communities where the voter owns taxable real or personal property for the purpose of notification to him;

8. the address furnished to the insurance companies with which the voter maintains policies;

9. the address furnished to the voter's employer;

10. the address furnished by the voter to any business, professional, union or fraternal organizations of which he or she is a member;

11. the address furnished to governmental agencies with which the voter has contact.

17-1-3.2. Identification of voter at time of registration. -- No registration or change of residence for voting purposes shall be accepted by a voter registrar unless he is presented with at least two (2) of the forms of identification listed in section 17-1-3.1 showing that the prospective voter resides at the address from which he wishes to vote.

17-1-3.3. Verification of residence. -- The board of canvassers of each city and town shall mail a card to each newly registered voter and to each voter who changes his voting residence within seven (7) days after registration or change of residence. Said card shall be mailed to the elector at the address

from which he or she has registered and shall be clearly marked "do not forward". It shall instruct the voter to sign the card as he or she did the registration form and return it to the appropriate board of canvassers within fifteen (15) days. It shall also inform the voter that if the signature on the card does not match the one appearing on the registration form or if the signed card is not returned within the time provided, that person's name will be placed on a list of inactive voters who will not be permitted to vote until proof of residency in accordance with section 17-1-3.1 is provided to the board. If the board receives any card with a signature that does not match the one appearing on the registration form, it shall immediately notify the voter in writing at his or her voting address. The board of canvassers shall not permit any voter who has failed to comply with the requirements of this section or whose card has been returned by the postal authorities as undeliverable to vote until it receives satisfactory proof of residency. This provision shall apply to all registrations or changes of residence filed with a board of canvassers after the effective date of this act.

<u>17-1-3.4. Procedure on challenge. --</u> At any time up to twenty (20) days prior to an election, any elector may challenge the registration of any registered voter by submitting to the local board an affidavit stating the voter is not qualified to vote and setting forth evidence which would create a reasonable cause to suspect that the challenged voter is not in fact qualified. The local board, upon receipt of the affidavit, shall cause to be mailed by certified mail a notification of the challenge to the challenged voter, at his or her registered address. The return of such notice, or acknowledgment of its receipt, may be admitted as evidence at the hearing. The challenged voter shall appear before the local board at a time and place to be

determined by the local board. The objector shall also be notified of the hearing. If the board finds that the affidavit does set forth reasonable cause to suspect that the challenged voter is not qualified, such voter, upon taking the following oath or affirmation, shall answer pertinent questions as hereinafter provided, and any other questions necessary to establish his qualifications.

The oath or affirmation shall be as follows:

"You do voluntarily swear (or affirm) that you will fully and truly answer all questions put to you regarding your place of residence and qualifications as an elector."

There shall then be asked of him or her by the local board those of the following questions which are appropriate to test his or her qualifications:

1. If challenged as unqualified on the ground that he or she is not a citizen: Are you a citizen of the United States?

2. If challenged as unqualified on the ground that he or she has not resided in this state for thirty (30) days immediately preceding the election;

a) How long have you resided in this state immediately preceding your registration?

b) Have you been absent from this state within the thirty (30) days immediately preceding this election? If yes, then --

c) When you left, did you leave for a temporary purpose, with the intent of returning, or for the purpose of remaining away?

d) What state or territory did you regard as your home while absent?

e) Did you, while absent, vote in any other state or territory?

3. If challenged as unqualified on the ground that he or she is not a resident of the district where seeking to vote:

a) When did you last come into this district?

b) Did you come for a temporary purpose only, or for the purpose of making it your home?

c) Did you come into this district solely for the purpose of voting here?

d) Have you now and have you had for the last thirty (30) days a voting residence in this district? If so, what is the particular description, name and location of your residence?

e) If the answer to paragraph (d) is no, then: Have you moved from the district after registering?

f) Have you registered to vote at any other place within or outside this state?

g) Have you applied for an absentee ballot at any place in this or any other state?

h) What is the address furnished to the registry of motor vehicles for your operator's license?

i) What is the address from which your motor vehicle is registered?

j) What is the address from which you filed your last federal income tax return?

k) What is the address from which you filed your last state income tax return?

l) What is the address furnished to the companies from which you have obtained retail credit cards?

m) What is the address furnished to the financial institutions where you maintain accounts?

n) What is the address furnished to the tax collector and/or assessor in those communities where you own taxable real or personal property for the purpose of notification to you?

o) What is the address furnished to the insurance companies with which you maintain policies?

p) What is the address furnished to your employer?

q) What is the address furnished by you to any business, professional, union or fraternal organizations of which you are a member?

r) What is the address furnished to governmental agencies with which you have contact?

4. If challenged as unqualified on the ground that registrant is under eighteen (18) years of age: Are you eighteen (18) years of age to the best of your knowledge and belief?

5. If challenged as unqualified on the ground registrant has been finally convicted of a felony and not been subsequently restored to civil rights:

a) Have you ever been tried or convicted in this state or any other state of any crime? If yes, then --

b) Of what crime, when and in what court were you so convicted?

c) Have you in any manner since the conviction been restored to civil rights, and if yes, how?

6. The local board shall ask the challenged person any other or further questions to test his or her qualifications as an elector.

17-1-3.5. Penalty for unsubstantiated challenge. -- Every person who shall wilfully and maliciously challenge the registration of a voter without reasonable cause to suspect that that voter is not qualified shall be guilty of a misdemeanor and shall, in addition thereto, be liable to the challenged voter for compensatory and punitive damages as well as for his or her counsel fees. The mere fact that a challenge was not sustained by the board shall not give rise to any civil or criminal liability of the objector.

Mail Ballots

SECTION 4. Chapter 17-20 of the General Laws entitled "Mail Ballots" is hereby amended by adding thereto the following section:

17-20-1.1. Declaration of policy. -- Those electors who are unable to vote in person at the polls for the reasons set forth in section 17-20-2 are entitled to vote in a manner which reasonably guarantees the secrecy of their ballots. The procedures set forth in this chapter are designed to promote the effective exercise of their rights while safeguarding those voters who utilize the mail ballot process from harassment, intimidation and invasion of privacy. Furthermore, the procedures are intended to prevent misuse of the electoral system by persons who are not eligible to vote by mail ballot. The provisions of this chapter shall be interpreted so as to effectuate the policies set forth above.

SECTION 5. Section 17-20-2 of the General Laws in Chapter 17-20 entitled "Mail Ballots" is hereby amended to read as follows:

17-20-2. Eligibility for mail ballots. -- ~~Anyone~~ Any elector otherwise qualified may vote by mail ballot in the following circumstances:

1. ~~A voter~~ An elector who will be absent from the state on the day of election during the entire period of time when the polls are to be open;

2. ~~A voter~~ An elector who will be absent from the city or town of his voting residence on the day of election during ~~all the hours~~ the entire period of time when the polls are to be open ~~because of his or her~~ due to said elector's status as a student or the spouse of a student ~~in any~~ at an institution of higher learning located within this state ~~other than such city or town of voting residence, or because he or she is the spouse of, and lives with such student;~~ more than twenty miles from his or her polling place;

~~3) A voter absent from the city or town of his or her voting residence during all of such hours because of a temporary place~~

~~of-abode-in-a-city-or-town-other-than-that-of-his-or--her--voting residence-because-of-membership-in-a-religious-community;~~

3. An elector who is incapacitated by illness or physical or mental disability to such an extent that it would be an undue hardship to vote at the polls; provided that said illness or disability is attested to by a physician or a christian science practitioner who is familiar with said elector's medical condition.

~~4)-On-account-of-a-voter's-illness--or--physical--or--mental disability;~~

4. An elector who is forbidden by the tenets of his or her religious faith from engaging in secular activity including voting on the day of election;

~~5)-By-virtue-of-a-voter-being-age-sixty-five-(65)-or-older;~~

5. An elector who will be absent form his or her voting residence because of confinement in any hospital, convalescent home, nursing home, rest home or similar institution, public or private;

~~6)-Because-the-tenets-of-a-voter's-religion--forbid--secular activity;~~

6) An elector who is being detained while awaiting trial or is being imprisoned for any cause other than final conviction of a felony and by reason thereof is unable to vote at the polls;

~~7)-By--virtue--of-a-voter's-temporary-absence-from-the-state because-of-employment;-or-service-intimately-connected-with-military-operations-and-any-spouse-or-dependent-of-such-person-who-is temporarily-absent-from-the-state-by-virtue-of--being--with--such person--during-his-absence-from-the-state-because-of-such-employment-or-service;~~

7. An elector who will be temporarily absent from the state because of employment or service intimately connected with military operations or who is a spouse or legal dependent residing with such person;

~~8)-By--virtue-of-of-a-voter's-absence-from-his-or-her-voting residence-because-of-confinement-in--any--hospital,--convalescent home,--nursing--home,-rest-home-or-similar-institution,-public-or private.~~

~~9)-Any-voter--who--is--detained--while--awaiting--trial,--or imprisoned--for-any-cause-other-than-final-conviction-of-a-felony and-by-reason-thereof-is-unable-to-vote-in-person-in-the-city--or town-in-which-he-or-she-is-registered.~~

SECTION 6. Chapter 17-20 of the General Laws entitled "Mail Ballots" is hereby amended by adding thereto the following section:

<u>17-20-2.1. Requirements for validity of mail ballots. --</u> In addition to those requirements set forth elsewhere in this chapter, a mail ballot in order to be valid must have been cast in conformance with the following procedures:

1. All applications for mail ballots pursuant to subsection 1 of section 17-20-2 must state under oath the locality where the elector will be on election day and the reason for his or her absence from the state. All mail ballots issued pursuant to said subsection shall be mailed to the elector at an address outside the state of Rhode Island to be provided by the elector on the application or at the board of canvassers in the city or town where the elector maintains his or her voting residence. In order to be valid all ballots mailed to the elector out of state must be voted outside the state of Rhode Island and the signature of the elector notarized by a person authorized by law to administer oaths in that state or country and must be postmarked from that state or country. In order to be valid, all ballots sent to the elector at the board of canvassers must be voted in private at said board and the signature of the elector witnessed by a bipartisan pair of supervisors, appointed in conformance with this chapter, who shall return said completed ballot to the board of elections for certification.

2. All applications for mail ballots pursuant to subsection 2 of section 17-20-2 must state under oath the institution of higher learning at which the elector or spouse of the elector is a student and that said institution is located more than twenty miles from the elector's polling place. All mail ballots issued pursuant to said subsection shall be mailed to the elector at the board of canvassers in the city or town where the institution of higher learning is located and must be voted in private at said board and the signature of the elector witnessed by a bipartisan pair of supervisors, appointed in conformance with this chapter, who shall return said completed ballot to the board of elections for certification.

3. All applications for mail ballots pursuant to subsection 3 of section 17-20-2 must be accompanied by a certificate from a physician licensed to practice in this state or a christian science practitioner stating the nature of the elector's illness or disability, the date when that physician or practitioner last examined the elector and attesting that it would be an undue hardship for the elector to vote at the polls. An elector who is permanently disabled may file a certificate by a physician licensed to practice in this state or a christian science practitioner attesting to the nature and permanency of the disability with the appropriate board of canvassers and thereafter shall be relieved of the requirement of filing a physician's certificate with subsequent applications for a mail ballot. Any physician knowingly making a false certification shall be guilty of a felony, and upon conviction shall be imprisoned for not more than three (3) years or fined not more than five thousand ($5000) dollars or both. All mail ballots issued pursuant to said subsection shall be mailed to the elector at his or her voting residence.

4. All mail ballots issued pursuant to subsection 4 of section 17-20-2 shall be mailed to the elector at the board of canvassers in the city or town where he or she resides and must be voted in private at said board and the signature of the elector witnessed by a bipartisan pair of supervisors, appointed in conformance with this chapter, who shall return said completed ballot to the board of elections for certification.

5. All applications for mail ballots pursuant to subsection 5 of section 17-20-2 must state under oath the name and location of the hospital, convalescent home, nursing home or similar institution where the elector is confined. All mail ballots issued pursuant to subsection 5 of section 17-20-2 shall be mailed to the elector at the hospital, convalescent home, nursing home or similar institution where the elector is confined; and said ballots shall be voted and witnessed in conformance with the provisions of section 17-20-14.

6. All mail ballots issued pursuant to subsection 6 of section 17-20-2 shall be mailed to the elector at his place of confinement.

SECTION 7. Section 17-20-8 of the General Laws in Chapter 17-20 entitled "Mail Ballots" is hereby amended to read as follows:

<u>17-20-8. Application for ballot. --</u> Any legally qualified elector of this state whose name appears upon the official voting list of the town, or district of the city or town where he is so qualified, and desiring to avail himself of the right granted to him by the constitution and declared in this chapter, may obtain from the local board in such city or town an affidavit form prepared by the secretary of state as hereinafter prescribed, setting forth his application for a mail ballot.

The mail voter shall duly execute the application form in full and subscribe his name thereto. The application shall be

subscribed to before a notary public or two (2) witnesses who shall affix their respective signatures and addresses thereto under the pain and penalty of perjury.

Whenever any person shall be unable to sign his name because of physical incapacity or otherwise he shall make his mark "(X)."

The application, when duly executed, shall be delivered in person or by mail so that it shall be received by said local board not later than 4:00 P.M. on the twenty-first day before the day of any election referred to in Section 17-20-1.

The local board shall maintain a separate list of names and addresses of all applicants and their subscribing witnesses and a copy of said list shall be made available for inspection to any person upon request.

Any legally qualified elector of this state whose name appears upon the official voting list of the town or district of the city or town where he is so qualified, who on account of circumstances manifested twenty (20) days or less prior to any such election becomes eligible to vote according to this chapter may obtain from the local board an application for an emergency mail ballot. Such elector shall execute such application in accordance with the requirements of this chapter, which application shall be accompanied by a certificate setting forth the facts relating to the circumstances necessitating such application or in the case of a voter requesting such ballot on medical grounds, a certificate of a physician ~~or other medical person~~ licensed to practice in this state or of a christian science practitioner setting forth ~~facts showing~~ the nature of the elector's illness or disability, the date when that physician or practitioner last examined the elector and attesting that the illness or disability did not manifest itself until twenty (20) days or less prior to the date of such election and that as a result it would be an undue hardship for the elector to vote at the polls based upon a physi-

cal examination performed by that physician or practitioner and may be delivered to the local board not later than 12:00 noon of the last day preceding the date of such election. Any person making a false certification shall be guilty of a ~~misdemeanor~~ felony and upon conviction shall be imprisoned for not more than three (3) years or fined not more than five thousand ($5000) dollars or both. Notwithstanding any other provision of this chapter as to time and manner thereof, it shall be the duty of the applicant to cause the application to be processed by the local board so that the applicant may receive such ballot, cast the same and cause delivery thereof to be made to the state board not later than 9:00 P.M. on the date of election. The secretary of state shall provide each of the several boards of canvassers ~~except-that-of-the-City-of-Providence~~ with a sufficient number of mail ballots for their voting districts so that such local boards may provide the appropriate ballot or ballots to such applicants. It shall be the duty of each board of canvassers to process each such emergency ballot application in accordance with this chapter, and it shall be the further duty of each such board to return to the Secretary of State forthwith after each election any ballots not so issued. ~~Applicants-for-emergency-mail-ballots from-the-City-of-Providence-shall-have--their--applications--processed--by--the--Providence-Board-of-Canvassers,-but-shall-obtain their-ballots-from-the-office-of--the--Secretary--of--State.~~ All emergency mail ballots, other than those obtained on medical grounds pursuant to subsection 3 of section 17-20-2 or confinement pursuant to subsections 5 and 6 of section 17-20-2, must be voted by the elector in private at the board of canvassers where he or she resides or at the board of elections and the signature of the elector witnessed by a bipartisan pair of supervisors, appointed in conformance with this chapter, who shall return said completed ballot to the board of elections for certification.

All emergency mail ballots obtained pursuant to subsections 3, 5 or 6 of section 17-20-2 shall be mailed to the elector as provided in section 17-20-2.1 or delivered to a person presenting written authorization from the elector to receive the ballot.

SECTION 8. Section 17-20-9 of the General Laws in Chapter 17-20 entitled "Mail Ballots" is hereby amended to read as follows:

17-20-9. Application by permanently disabled or incapacitated. -- A voter who is indefinitely confined because of physical illness or infirmity or is disabled for an indefinite period may, by signing an affidavit to that effect and submitting certification by a physician licensed to practice medicine in this state or by a christian science practitioner, require that an absentee ballot application be sent to him automatically for every election. The affidavit form and instructions shall be prescribed by the secretary of state, and furnished upon request to any elector by each local board of canvassers. The certification by the physician or practitioner shall state the nature and permanency of the illness or disability, the date when that physician or practitioner last examined the elector and attesting that it would be an undue hardship for the elector to vote at the polls. The envelope containing the absentee ballot application shall be clearly marked as not forwardable. If any elector is no longer indefinitely confined, he shall so notify the clerk of the local board of canvassers. The clerk shall remove the name of any voter from the mailing list established under this section upon receipt of reliable information that a voter no longer qualifies for the service. The voter shall be notified of such action within five (5) days.

SECTION 9. Section 17-20-10 of the General Laws in Chapter 17-20 entitled "Mail Ballots" is hereby amended to read as follows:

17-20-10. Certification of applications -- Issuance of ballots -- Marking of lists -- Mailing address. --

(a) Upon receipt by it of such application, the local board shall immediately examine it and determine ~~its--sufficiency~~ whether it complies with each of the requirements set forth by this chapter and compare the signature on the ballot application with the signature contained on the original registration card, except as may be otherwise provided by law, to satisfy itself that the applicant is a qualified voter. Upon ~~such determination,~~ determining that it does meet each such requirement and that the signature appears to be the same the local board shall mark the application "accepted" and record in the space provided therefor on the ballot application the senatorial, representative and voting district in which the applicant should vote. The local board shall also record the information required in the "Notice to applicant" on the upper portion of the application.

(b) Not later than 4:00 P.M. on the eighteenth day before the day of any election referred to in this chapter the local board shall certify said applications and shall cause delivery of the same together with the notices to applicants appended and seven (7) certified listings thereof in sealed packages to the secretary of state. The secretary of state shall give a dated receipt acknowledging delivery and stating the number of such applications received. Upon the certification of a mail ballot application to the secretary of state, the local board shall make a copy of said certification, and enter on the voting list the fact that a mail ballot application for the voter has been certified to the secretary of state.

(c) Upon receipt by the secretary of state of such applications, he shall forthwith upon such ballots becoming available issue and mail, by first class mail, postage prepaid, a mail ballot, together with the completed "Notice to applicant" received

from the local board and detached by him from the application to each eligible voter. He shall forthwith thereafter indicate on the certified lists the names to which he has sent mail ballots and shall return one (1) of said lists to the local board whence it came and shall deliver another of said lists together with the certified applications to the state board. The state board shall keep all such applications in safe custody together with the voters' ballots, both of which shall be sealed after the completion of the count and canvass of the ballots.

(d) Prior to each election the secretary of state shall also furnish to the chairman of the state committee of each political party, a list of the names and residence addresses of all persons to whom mail ballots have been issued. The secretary of state shall also furnish to a candidate for political office upon request a list of the names and residence addresses of all persons to whom mail ballots have been issued within his district.

(e) Upon return to it of the certified list with the names to which the secretary of state has sent mail ballots the local board shall:

(1) promptly mark the voting record of each qualified voter who has been issued a mail ballot with a mark written or stamped in red ink in the place provided on the registration card for the record of voting in the election in question; provided that any such mark shall serve solely to indicate that an absentee ballot has been issued and shall not be construed as voting in the election;

(2) upon the completion of the final canvass, as provided 7 law; for any election mentioned in Section 17-20-1, forthwith certify, seal up, label with proper designation, and transmit duly certified lists of the qualified electors in their respective cities and towns who have been so designated on the official voting lists as mail voters to the state board.

(f) Notwithstanding any other provisions of the general laws to the contrary, every ballot required by this chapter to be mailed to any elector shall be mailed to said elector at his registered voting address or at the board of canvassers of the city or town in which the elector maintains his or her voting residence as provided in section 17-20-2.1; provided, however, that applicants who claim eligibility to vote by mail by virtue of categories 1, 5, 6 and 7, ~~8 and 9~~ as set forth in section 17-20-2 may direct that their ballot be mailed to some other address which is outside the state of Rhode Island or which is the place where incarcerated or which is the hospital, convalescent home, nursing home, rest home or similar institution where the applicant is ~~residing~~ confined.

(g) If a ballot is returned to the secretary of state by the postal service as undeliverable the ballot may be reissued by him only to the ~~applicant personally upon proper affidavit~~ board of canvassers in the city or town where the voter resides. Said ballot must be voted and witnessed in accordance with the provisions of section 17-20-14.1.

(h) The acceptance of a mail ballot application by the board of canvassers and the issuance of a mail ballot by the Secretary of State shall not create any presumption as to the accuracy of the information provided by the applicant or as to the applicant's compliance with the provisions of this chapter. Any inaccuracy in the information so provided or irregularity in the application may be raised as a challenge to the ballot before the board of elections at the time of certification. If the challenge raised at that time is meritorious, the ballot shall be voided.

(i) The board of elections shall make inquiry into the legitimacy of the certifications issued pursuant to subsection (3) of section 17-20-2.1 by any physician or practitioner who

issues more than fifty (50) such certifications in any one election. Said inquiry shall include a determination as to whether the physician or practitioner conducted an examination of the electors he certified as ill or disabled so as to determine whether it would be an undue hardship on them to go to the polls. The boards of canvassers shall immediately notify the board of elections of any physician who has issued more than twenty-five (25) certifications in their city or town in the same election.

SECTION 10. Section 17-20-13 of the General Laws in Chapter 17-20 entitled "Mail Ballots" is hereby amended to read as follows:

17-20-13. Form of application. -- The following in addition to such directions as may be printed, stamped or written thereon by authority of the secretary of state, shall be the form of application to be subscribed by voters before receiving a mail ballot, viz.:

NOTICE TO APPLICANT

This application is a matter of public record -- But your vote is confidential.

(Applicant should not write in this space -- to be filled in by local board.)

Name

Voting address

(Street) (City or Town)

You are in senatorial district #

Representative district #

(Perforation)

APPLICATION OF VOTER FOR BALLOT

(Applicant should not write in this space -- to be filled in by local board)

Senatorial district

Representative district

Voting district

(City) (town) of

(Date)

Accepted

State of

City or town of

(Applicant shall complete form starting here)

Applicant says that I reside at No. _____ street in city or town of _____ in the state of Rhode Island, and that I am a qualified voter of said city or town.

I further state that I am not a qualified voter of any other state and have not claimed and do not intend to claim the right to vote in any other state; that I apply in good faith for a mail ballot or set of ballots, as the case may be, to be used for an election on _____.

(Date of election)

I certify that I am eligible for a mail ballot on the following basis: (check one)

1) I will be absent from the state on the day of election during the entire period of time when the polls are to be open. I will be in _____
(name of city, state and country)
on election day for the following reason: _____
_____; ( )
(state reason)

2) I will be absent from the city or town of my voting residence during all the hours polls are open because of my status as a student or spouse of a student in an institution of higher

learning, _____, located within this
(name of school)

state more than twenty (20) miles from my polling place. other than--such-city-or-town-of-voting-residence;-or-because-I-am-the spouse-of;-and-live-with-such-student; ( )

3)-I-will-be-absent-from-the-city-or-town-of-my-voting-residence-during-all-of-such-hours-because-of-a--temporary--place--of abode--in--a--city-or-town-other-than-that-of-my-voting-residence because-of-membership-in-a-religious-community;-(----)

4) 3) On-account-of I am incapacitated by illness or physical or mental disability to such an extent that it would be an undue hardship to vote at the polls. (Must be accompanied by a certification from a physician); ( )

5)-By-virtue-of-being-age-65-or-older;-(----)

6) 4) Because tenets of my religion forbid secular activity including voting on the day of election; ( )

5) I am absent from the city or town of voting residence because of confinement in a hospital, convalescent home, nursing home, rest home or similar institution, public or private _____;( )
(name and address of institution)

6) I am detained while awaiting trial or imprisoned for a cause other than final conviction of a felony and by reason thereof I am unable to vote in person in the city or town in which I am registered; ( )

7) By-virtue-of-my-temporary-absence I am temporarily absent from the state because of employment or service intimately connected with military operations or my-being because I am a spouse or dependent of such person who-is-temporarily--absent--from--the state-by-virtue-of-being-with-such-person-during-his-absence-from the-state-because-of-such-employment-or-service; ( )

8)-By--virtue--of-my-absence-from-the-city-or-town-of-voting residence-because-of-confinement-in--any--hospital;--convalescent

~~home;--nursing--home;-rest-home-or-similar-institution;-public-or private;;-(----)~~

~~9)-I-am-detained-while-awaiting-trial;-or-imprisoned-for-any cause-other-than-final-conviction--of--a--felony--and--by--reason thereof--I--am--unable--to--vote-in-person-in-the-city-or-town-in which-I-am-registered.-(----)~~

Applicant further says that, if this application is accepted, I understand that my ballot will be mailed to me ~~at-my-registered--voting--address-;-unless-I-am-eligible-by-virtue-of-making application-under-categories-1,7,8;-or-9-above;-in-which--case--I direct--that--my-ballot-be-mailed-to-me-at-the-following-address: which-is-outside-the-State-of-Rhode-Island-or-which-is-the--place where--incarcerated--or-which-is-the-hospital;-nursing-home;-rest home-or-similar-institution-where-I-am-residing~~, depending on my category of eligibility, at the following location:

(1) at an address out of state to be designated by me or at my local board of canvassers if no other address is designated; ( ) (List out-of-state address)

2) at the board of canvassers in the city or town where my institution of higher learning is located; ( )

3) at my registered voting address; ( )

4) at my local board of canvassers; ( )

5) at the hospital, convalescent home, nursing home or rest home where I am confined; ( ) (List name and address of institution)

6) at the prison where I am confined; ( ) (List name and address of prison)

7) at an address out of state to be designated by me. ( ) (List out-of-state address)

I DECLARE UNDER PENALTIES OF PERJURY THAT ALL OF THE INFORMATION I HAVE PROVIDED ON THIS FORM IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

(Date of birth)

(Sign in full on this line)

(If unable to sign name because of physical incapacity or otherwise applicant shall make his mark "(X)")

Sworn to (or affirmed) before me, this ____ day of ____ 19__

(If executed outside of Rhode Island)

(Attest in manner authorized by law of place where taken)

Witnesses:

(Signature)	(Residence)
(Signature)	(Residence)

(This application need not be subscribed and sworn to before an officer authorized to administer oaths, if it is subscribed to before two (2) witnesses who affix their respective signatures and addresses hereto.)

Note -- This application must be received by your local canvassing authority not later than 4:00 P.M. on the twenty-first day before the day of any election. If this application is for an emergency ballot it must be accompanied by certificate as to the circumstances requiring the emergency ballot and must be received by the local canvassing authority not later than 12 o'clock noon on the last day before the day of the election.)

Mail to:

Board of Canvassers
(City) (Town) of

Street

(Not to be filled in by Applicant, to be completed by Local Board).

This application is returned for the following reason(s)

(Check appropriate boxes):

( ) Application not sufficient;

( ) Applicant not a qualified elector;

( ) Signature does not compare;

( ) Application received later than 4:00 P.M. local time on the twenty-first day before the day of election.

( ) Application for emergency ballot received later than 12 o'clock noon on the last day before the day of election.

( ) Other

Signatures of local board members

SECTION 11. Chapter 17-20 of the General Laws entitled "Mail Ballots" is hereby amended by adding thereto the following section:

17-20-14.1. Voting from board of canvassers. -- The state board of elections shall appoint as many bipartisan pairs of supervisors as are necessary whose duty it shall be to attend each board of canvassers in the state on each of the six business days prior to the election and on election day to supervise the casting of votes by persons using mail ballots at such place so as to preserve their secrecy and to take acknowledgements or serve as witnesses and jointly provide assistance, if requested, to assure proper marking, sealing and mailing of ballots as voted. Every mail ballot cast at a board of canvassers must be witnessed by such state supervisors. Every person who shall wil-

fully hinder the state supervisors in performing their duties as set forth herein shall be guilty of a misdemeanor.

SECTION 12. Section 17-20-24 of the General Laws in Chapter 17-20 entitled "Mail Ballots" is hereby amended to read as follows:

17-20-24. Irregularities not impairing validity of ballots. -- No ballot transmitted under the provisions of this chapter shall be rejected for any immaterial addition, omission or irregularity in the preparation or execution of ~~any-writing, printing-or-certification-required-by-this-chapter~~ the paper ballot, nor for failure of the voter to affix sufficient postage. No ballot shall be invalid by reason of mistake or omission in writing in the name of any candidate where the candidate intended by the voter is plainly identifiable. Where, because of any defect in marking, a ballot is held invalid as to any particular candidate for office, it shall remain valid as to the candidates for other offices. No ballot shall be invalid by reason of the voter writing upon the inner envelope the name of a community within a town in place of the name of said town. No defect in the marking of a cross shall invalidate any ballot or a vote for any candidate, where the intention of the voter is clearly indicated.

No ballot shall be rejected if the intention of the voter is clear unless it contains clear evidence of the identity of the voter.

SECTION 13. Chapter 17-20 of the General Laws entitled "Mail Ballots" is hereby amended by adding thereto the following section:

17-20-24.1. Irregularities on mail ballot application and on mail ballot envelope. -- The requirements set forth by this chapter controlling mail ballot eligibility and the procedure by which such ballots are obtained and cast shall be strictly applied so as to assure the integrity of the electoral system.

1 No mail ballot not obtained and cast in material conformance with
2 the provisions of this chapter shall be certified by the board of
3 elections. Nothing herein shall be construed to require the dis-
4 qualification of a ballot merely because the elector did not sign
5 his full name as it is listed on the voter registration list, but
6 omitted or included a middle initial or name or abbreviated a
7 first and/or middle name or made a similar omission or inclusion;
8 so long as the board of elections can reasonably determine the
9 identity of the voter.
10 SECTION 14. Section 17-20-26 of the General Laws in Chapter
11 17-20 entitled "Mail Ballots" is hereby amended to read as fol-
12 lows:
13 17-20-26. Opening and counting of ballots. -- Beginning
14 prior to and continuing on election day the state board, upon
15 receipt of mail ballots shall keep said ballots in a safe and
16 secure place which shall be separate and apart from the general
17 public area, and hold sessions, at which in each instance it
18 shall:
19 (a) Open the outer envelope and attach the matching ballot
20 application to the inner certifying envelope;
21 (b) Write or fill in the name or number of the city or town,
22 senatorial and representative and/or voting district, as the case
23 may be, on the inner certifying envelope, as the same appear on
24 the ballot application;
25 (c) Number consecutively for identification the inner certi-
26 fying envelopes and matching ballot applications;
27 (d) Beginning five days prior to and continuing on election
28 day, proceed to certify the mail ballots. Notice of such sessions
29 shall be given to the public by announcements in newspapers of
30 general circulation published at least twenty-four (24) hours
31 before the commencing of any such session. All candidates for
32 state and federal office, as well as all state party chairmen,

shall be given notice by telephone or otherwise of the day on which ballots effecting that candidate's district will be certified; provided, however, failure to effect such notice shall in no way invalidate the ballots.

Such processing shall be done within a railed space in the room in which it takes place, and said board shall admit within such railed space, in accordance with such rules as the board shall adopt, to witness the processing and certification of said ballots, the voter interested or his representative, the candidates, or at least one (1) representative of each candidate for whom votes are at the time being processed, and an equal number of representatives of each political party. Such representatives shall be authorized in writing by the voter, the candidate or the chairman of the state committee of the political party, respectively, as the case may be. The board shall also, in accordance with such rules, admit representatives of the press and newscasting agencies and such other persons as it deems proper.

At such sessions, and before certifying any ballot, the state board shall:

(a) Determine the city or town, and senatorial, representative, and voting district in which the voter cast his ballot and classify accordingly.

(b) Compare the name, residence and signature of the voter with the name, residence and signature on the ballot application for mail ballots and satisfy itself that both signatures are identical.

If, during such processing and certification of mail ballots no objection has been raised against the certification of a ballot, the outer envelope shall be discarded. However, if an objection has been raised that entails further consideration and determination by the board, the outer envelope shall remain attached to the certifying inner envelope for identification purposes.

The board shall establish guidelines setting forth the grounds for challenging the certification of mail ballots. These guidelines shall recognize that if a ballot can be reasonably identified to be that of the voter it purports to be, ~~it--should not be subject to frivolous or technical challenge. The burden of proof--in--challenging a mail ballot shall be on the person challenging the ballot.~~ and if it can reasonably be determined that the voter was eligible to vote by mail ballot and if the requirements of section 17-20-2.1 were complied with, it should not be subject to frivolous or technical challenge. The burden of proof in challenging a mail ballot as not obtained and/or cast in conformance with this chapter is on the person challenging the ballot. Once the irregularity is proven, the burden of proof shall shift to the person defending the ballot to demonstrate that it is the ballot of the voter it purports to be, that the voter was eligible to vote by mail ballot and that all of the applicable requirements of section 17-20-2.1 were complied with. The guidelines shall be adopted at a public meeting of the board and shall be made available prior to the start of the certification process for mail ballots.

After processing and certification of said mail ballots, they shall be separated in packages in accordance with their respective cities and towns, senatorial, representative, and voting districts in the presence of the board and all other interested parties. Thereupon, in each instance the board shall open the enclosing envelope, and without looking at the inside of the state ballot enclosed therein deposit said ballot in a covered locked box. After the last of such ballots has been so deposited the state board shall forthwith proceed to count said ballots with the same effect as if said ballots had been cast by said electors in open town, or district meetings.

At the same time as the state ballots are deposited as aforesaid municipal mail ballots shall be segregated by said board according to cities and towns after first marking on each city ballot the appropriate ward and school district numbers and on each town ballot the appropriate district numbers. Upon the completion of the segregation of such municipal mail ballots, they shall be promptly delivered in sealed packages, bearing upon the seals the signatures of all members of said board, to the appropriate local boards which shall thereupon proceed to count said ballots in the same manner and with the same effect as the state mail ballots are counted by the state board.

SECTION 15. Sections 17-20-31 and 17-20-32 of Chapter 17-20 of the General Laws entitled "Mail Ballots" are hereby repealed in their entirety.

SECTION 16. Chapter 17-20 of the General Laws entitled "Mail Ballots" is hereby amended by adding thereto the following sections:

17-20-31. Investigation of complaints. -- The board of elections shall consider all complaints alleging criminal violations of this chapter and shall refer those complaints which it deems to be more the frivolous to the state police for investigation.

17-20-32. Inquiry by Board of Elections. -- The board of elections shall, on its own motion, make inquiry into any notary public or witness who witnesses the voter signatures on more than fifty (50) mail ballot applications or more than fifty (50) mail ballot envelopes in any one election. The inquiry shall attempt to determine whether said notary public or witness was actually present when the aforementioned documents were signed by the voters and whether all other applicable requirements set forth in this chapter were complied with. Any criminal violation of this chapter uncovered by the board of elections shall be referred to the state police for further investigation.

17-20-33. Disqualification of ballot by board of elections. -- The board of elections shall, on its own motion, disqualify any mail ballot which it has reasonable grounds to believe was not voted by the elector who purportedly cast it, or was voted by an elector who was not eligible to vote by mail ballot, or was not obtained and voted in the manner prescribed by this chapter. The board of elections may take such action even in the absence of a challenge to the ballot and may take such action at any time prior to the separation of the ballot from its application and envelope.

17-20-34. Liberal construction. -- This chapter shall be construed liberally to effect the purposes of maintaining the integrity and the secrecy of the mail ballot by assuring that only electors eligible to vote by mail ballot are allowed to utilize that method of voting, by assuring that the procedures set forth in this chapter controlling the application and balloting processes are strictly enforced and by safeguarding the mail ballot voter from harassment, intimidation and invasion of privacy.

17-20-35. Severability of provisions. -- If any provision of this chapter, or the application thereof to any persons or circumstances, is held invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

Priority for Elderly Voters

SECTION 17. Chapter 17-19 of the General Laws entitled "Conduct of Election and Voting Machines and Supplies" is hereby amended by adding thereto the following section:

17-19-51. Priority for elderly voters. -- At each polling place, one voting machine shall be designated for priority use by electors over sixty-five (65) years of age. Such electors, once they have complied with the requirements of section 17-19-24

shall, upon request, be permitted to vote immediately on the voting machine so designated. Other voters below the age of 65 years may use the voting machine so designated when there are no voters above that age waiting to vote.

Powers of Board of Elections

SECTION 18. Section 17-14-13 of the General Laws in Chapter 17-14 entitled "Nominations Subject to Primary" is hereby amended to read as follows:

17-14-13. Objections to eligibility of candidate or sufficiency of papers. -- When nomination papers have been duly filed, and are in apparent conformity with 17-14-11, they shall be conclusively presumed to be valid, unless written objections thereto are made as to the eligibility of the candidate or the sufficiency of the nomination papers or the signatures thereon. All such objections shall be filed in the office of the secretary of state or of the local board, as the case may be, four (4) o'clock on the next business day after the last day fixed for filing such nomination papers in the appropriate office as heretofore provided. Nothing herein shall be construed to prevent the secretary of state or the local board, as the case may be, from disqualifying a candidate based on the determination of the secretary of state or the local board, acting on its own motion, that the candidate is ineligible or the nomination papers or the signatures thereon are invalid or insufficient.

SECTION 19. Section 17-15-34 of the General Laws in Chapter 17-15 entitled "Primary Elections" is hereby amended to read as follows:

17-15-34. Recount petition or other protest. -- Any candidate whose name was on the primary ballot label on a particular voting machine may file with the state board his request for the recounting of the votes upon such machine, or other protest concerning the primary and any candidate whose name was on the pri-

mary paper ballot (in case voting machines were not used) may file with such board his request for the recounting of the votes of his party cast at a particular voting place or places, or other protest concerning the primary, provided in either case he files such request or protest no later than 4 p.m. on the day following the primary. Said request or protest shall contain the candidate's reason for making the same. Nothing herein shall be construed to prevent the state board, acting on its own motion, from ordering a recount or taking appropriate action in response to any error, irregularity or impropriety in the conduct of any facet of the primary which comes to its attention at any time prior to the certification of the results of said primary.

SECTION 20. Section 17-16-16 of the General Laws in Chapter 17-16 entitled "Independent Candidates on Final Nomination Papers" is hereby amended to read as follows:

17-16-16. Objections to eligibility of candidate or sufficiency of papers. -- When nomination papers have been duly filed, and are in apparent conformity with 17-16-11, they shall be conclusively presumed to be valid, unless written objections thereto are made as to the eligibility of the candidate or the sufficiency of the nomination papers or the signatures thereon. All such objections shall be filed in the office of the secretary of state or of the local board, as the case may be, by 4:00 P.M. on the next business day after the last day fixed for filing such nomination papers in the appropriate office as heretofore provided. Nothing herein shall be construed to prevent the secretary of state or the local board, as the case may be, from disqualifying a candidate based on the determination of the secretary of state or the local board, acting on its own motion, that the candidate is ineligible or the nomination papers or the signatures thereon are invalid or insufficient.

1 SECTION 21. Chapter 17-22 of the General Laws entitled
2 "Tabulation and Certification of Returns" is hereby amended by
3 adding thereto the following section:
4 17-22-5.1. Investigation by board of elections prior to
5 certification. -- At any time prior to the certification of the
6 results of a particular election, the board of elections may,
7 upon its own motion, investigate any allegation of error, irregu-
8 larity or impropriety in the conduct of any facet of the election
9 which comes to its attention and may, upon its own motion, take
10 appropriate action based upon the findings of said investigation.
11 SECTION 22. This act shall take effect on July 1, 1983.

LM001/OD

EXPLANATION

OF

AN ACT
RELATING TO ELECTIONS

***

1 "The Voter Reform Act of 1983" makes substantial revisions
2 in the election laws regarding residency, mail ballot voting and
3 the investigatory powers of the board of elections.
4 It defines residency in terms of a factual physical presence in
5 the voting district on a regular basis incorporating an intention
6 to reside for an indefinite period, and sets forth criteria which
7 shall constitute prima facie evidence of a person's residence for
8 voting purposes.
9 It provides for a number of new safeguards in the mail bal-
10 lot process to guarantee that only electors truly eligible to
11 vote by mail ballot are allowed to do so and to protect mail bal-
12 lot voters from harassment, intimidation and invasion of privacy.
13 It requires that all persons who obtain mail ballots because they
14 will be absent from the state on election day must be absent
15 during the entire period of time when the polls are to be open.
16 Such persons must vote their mail ballots out of state or at the
17 local board of canvassers prior to leaving the state. Persons
18 applying for a mail ballot because they are ill or disabled must
19 present a doctor's certificate with their application. Voters
20 over 65 years of age who are healthy will no longer be able to
21 vote by mail ballot but will be given priority when voting at the
22 polls.
23 The authority of the board of elections to initiate an
24 investigation of error, irregularity or impropriety in the elec-
25 toral system has been greatly expanded.
26 This act will take effect on July 1, 1983.

May 9, 1983

His Excellency J. Joseph Garrahy
222 State House
Providence, RI 02903

Dear Governor:

Enclosed herewith is certified copy of Resolution No. 376, approved May 3, 1983, the same being self-explanatory.

Councilwoman Evelyn V. Fargnoli is sponsor of said Resolution.

Very truly yours,

Rose M. Mendonca,
City Clerk.

May 9, 1983

His Honor Thomas R. DiLuglio
Lieutenant Governor
316 State House
Providence, RI 02903

Dear Lieutenant Governor,

Enclosed herewith is certified copy of Resolution No. 376, approved May 3, 1983, the same being self-explanatory.

Councilwoman Evelyn V. Fargnoli is sponsor of said Resolution.

Very truly yours,

Rose M. Mendonca,
City Clerk.

May 9, 1983

Senator Rocco A. Quattrocchi
Majority Leader
318 State House
Providence, RI 02903

Dear Senator Quattrocchi,

Enclosed herewith is certified copy of Resolution No. 376, approved May 3, 1983, the same being self-explanatory.

Councilwoman Evelyn V. Fargnoli is sponsor of said Resolution.

Very truly yours,

Rose M. Mendonca,
City Clerk.

May 9, 1983

Senator Lila M. Sapinsley
Minority Leader
350 Cole Avenue
Providence, RI 02906

Dear Senator Sapinsley,

Enclosed herewith is certified copy of Resolution No. 376, approved May 3, 1983, the same being self-explanatory.

Councilwoman Evelyn V. Fargnoli is sponsor of said Resolution.

Very truly yours,

Rose M. Mendonca,
City Clerk.

May 9, 1983

Representative Joseph DeAngelis
Majority Leader
2 Whitman Street
Esmond, RI 02917

Dear Representative DeAngelis:

Enclosed herewith is certified copy of Resolution No. 376, approved May 3, 1983, the same being self-explanatory.

Councilwoman Evelyn V. Faranoli is sponsor of said Resolution.

Very truly yours,

Rose M. Mendonca,
City Clerk.

May 9, 1983

Representative Bradford Gorham
Minority Leader
Cucumber Hill Road
Foster, RI 02825

Dear Representative Gorham:

Enclosed herewith is certified copy of Resolution No. 376, approved May 3, 1983, the same being self-explanatory.

Councilwoman Evelyn V. Fargnoli is sponsor of said Resolution.

Very truly yours,

Rose M. Mendonca,
City Clerk.

May 9, 1983

Representative Aldo Freda
115 Vinton Street
Providence, RI 02909

Dear Representative Freda,

Enclosed herewith is certified copy of Resolution No. 376, approved May 3, 1983, the same being self-explanatory.

Councilwoman Evelyn V. Fargnoli is sponsor of said Resolution.

Very truly yours,

Rose M. Mendonca,
City Clerk.

May 9, 1983

Matthew J. Smith
Speaker of the House
323 State House
Providence, RI 02903

Dear Speaker of the House,

Enclosed herewith is certified copy of Resolution No. 376, approved May 3, 1983, the same being self-explanatory.

Councilwoman Evelyn V. Fargnoli is sponsor of said Resolution.

Very truly yours,

Rose M. Mendonca,
City Clerk.