

**3 GCA ELECTIONS
CH. 14 PROVISIONAL VOTING**

**CHAPTER 14
PROVISIONAL VOTING**

NOTE: Unless otherwise noted, all sections within this chapter were included in the original Government Code of Guam enacted by P.L. 1-088 (Nov. 29, 1952), and repealed and reenacted by P.L. 7-164 (Aug. 28, 1964). During the Fifteenth Guam Legislature, the Compiler announced that Title 3 - Elections had been added to the new, permanent Guam Code Annotated. *See* 4 Guam Sess. L. Introduction (Mar. 1981).

2012 NOTE: This chapter was formerly entitled “*Penal Provisions.*” Repealed and reenacted by P.L. 31-255:2 (Dec. 11, 2012).

- § 14101. Definition.
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§ 14101. Definition.

Provisional ballot is a ballot issued at the polling place on election day for any reason authorized by the Help America Vote Act, and other applicable federal or Guam laws granted to a person who otherwise would be denied an opportunity to vote on a regular ballot.

SOURCE: Added by P.L. 31-255:2 (Dec. 11, 2012).

2012 NOTE: This section was originally codified from GC § 2700, entitled “*Application of Chapter.*” Repealed by P.L. 31-255:2 (Dec. 11, 2012).

§ 14102. Provisional Ballot Design: Visually Distinguishable from Regular Ballot.

Provisional ballots shall be visually distinguishable from regular ballots, and shall be designed so that they are unable to be tallied by precinct voting machine tabulators.

(a) Voter Registration Application: Provisional ballot envelopes shall be designed so as to also serve as a voter registration application.

(b) Ease of Use: Provisional ballots shall be clear and easy to read.

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SOURCE: Added by P.L. 31-255:2 (Dec. 11, 2012).

2012 NOTE: This section was originally codified from GC § 2701, entitled “*Wilful Violations of Election Laws.*” Repealed and reenacted as 3 GCA § 8102 by P.L. 31-255:2 (Dec. 11, 2012).

§ 14103. Qualifications.

Any person who would otherwise be denied an opportunity to vote a regular ballot may vote a provisional ballot in accordance with the procedures set forth in § 14104, for any reason authorized by the Help America Vote Act, and other applicable federal and Guam laws, including, but not limited, to the following:

- (a) the person’s name does not appear in the precinct signature roster which lists all registered voters within the polling area;
- (b) there is an indication in the precinct signature roster that the person has requested an absentee ballot, but wishes to vote at the polling place;
- (c) the person is voting during polling hours that have been extended by court order; or
- (d) any other reason outlined in statute.

SOURCE: Added by P.L. 31-255:2 (Dec. 11, 2012).

2012 NOTE: This section was originally codified from GC § 2702, entitled “*Fraud.*” Repealed and reenacted as 3 GCA § 8405 by P.L. 31-255:2 (Dec. 11, 2012).

§ 14104. Procedures.

(a) Precinct Board Training. Precinct board members shall be trained to administer provisional voting in an accurate and consistent manner, and shall also be trained when to use provisional ballots, and when not to use them. Precinct officials shall also be able to communicate clearly to voters the prerequisites for provisional voting.

(b) Correct Polling Location. Prior to providing a person with a provisional ballot, precinct officials shall make every effort to determine a person’s voter registration status and correct voting location. When a precinct official determines that the person is registered to vote at another location, the precinct official shall inform and direct the individual to the correct precinct polling place.

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(c) Refusal. Only when such a person refuses to proceed to the correct polling location, or, if in the shared judgment of the precinct official and the potential voter, the person will not reach the correct polling location in time to cast a regular ballot before polls close, shall the precinct official offer the person a provisional ballot.

(d) Issuing Provisional Ballots. Provisional ballots shall be issued, accompanied with a provisional ballot outer envelope on which an affidavit and provisional ballot record of disposition shall be printed, and an inner security envelope that will contain the ballot.

(e) Commission to Provide Means to Assess Registration Status and Precinct Location of Voters. The Election Commission shall provide the precinct boards with the necessary means to determine a person's registration status and correct voting location, including a list of all registered voters in the polling area, directions to all polling locations, and the means to place a person's full name and address within the correct polling jurisdiction.

(f) Minimum Number of Provisional Ballots. Each precinct shall be issued a minimum number of provisional ballots equal to five percent (5%) of the total registered voters for that precinct and not less than fifteen (15), whichever is greater.

(g) Requirement of Provisional Voter Affidavit. Any person who will vote a provisional ballot shall first complete and sign the affidavit printed on a provisional ballot outer envelope attesting that he or she believes himself or herself to be a registered voter in Guam and eligible to vote under Guam law.

(h) Contents of Provisional Ballot Envelope. The provisional ballot outer envelope shall include a place for the provisional voter's full name; address, both present and former, if applicable; date of birth; reason for the provisional ballot; the precinct number and the precinct polling location at which he or she has voted; and a provisional ballot record of disposition. The provisional ballot outer envelope shall also contain a place for the person to sign the oath and a summary of the applicable penalty provisions outlined in Chapter 8 of this Title.

(i) Voting In Secret. The provisional voter shall mark the provisional ballot in secrecy and place the completed provisional ballot in the inner

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security envelope provided, place the inner security envelope into the outer envelope, and return it to the precinct official.

(j) **Completeness of Provisional Ballot Envelope.** The precinct official shall ensure that all the required information is completed on the outer envelope, signed by the provisional voter in the appropriate space, and then place the envelope in a secure container.

(k) **Informing Voters of Notification System.** The precinct official shall present the provisional voter written information advising how to ascertain whether the vote was counted and, if applicable, the reason the vote was not counted.

SOURCE: Added by P.L. 31-255:2 (Dec. 11, 2012).

2012 NOTE: This section was originally codified from GC § 2703, entitled "*Forging or Counterfeiting Returns.*" Repealed and reenacted as 3 GCA § 8307 by P.L. 31-255:2 (Dec. 11, 2012).

§ 14105. Disposition.

(a) **Counting Provisional Ballots.** Within ten (10) days after any election, the Commission shall count the provisional voter's choices for every race for which the voter was eligible to vote. When a provisional voter casts a provisional ballot in the incorrect precinct, election officials shall count the votes on that ballot in every race for which the voter would be entitled to vote if he or she had been in the correct precinct.

(b) **Opportunity to Remedy Incomplete Provisional Ballots.** Provisional voters who lacked required information, such as proof of identity or failure to sign, shall be notified and shall be granted a seven (7)-day period to comply or supply missing information. Failure to abide shall constitute a spoiled provisional ballot.

(c) **Provisional Ballots as a Remedy for Incomplete or Deficient Registration Applications.** Provisional ballots shall serve to remedy incomplete or otherwise deficient voter registration applications. In the event that a voter is denied the right to vote a regular ballot because of an incomplete or otherwise deficient voter registration application, the provisional ballot shall be used to complete said voter's application. The provisional voter shall be deemed registered as of the date of the original application. Within ten (10) days after an election, when the voter's application shall have been satisfactorily completed and deemed valid, the provisional ballot shall be counted.

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(d) Registration of Unregistered Provisional Voters. Election officials shall register provisional voters, if they are not already registered or who are eligible to be registered, based on the information provided on the provisional ballot envelope.

SOURCE: Added by P.L. 31-255:2 (Dec. 11, 2012).

2012 NOTE: This section was codified from GC § 2704, entitled "*Adding or Removing Votes; Altering Returns.*" Repealed and reenacted as 3 GCA § 8209 by P.L. 31-255:2 (Dec. 11, 2012).

§ 14106. Data Availability and Collection.

(a) Free Notification System. The Commission shall identify and implement, through an internet website, toll-free telephone number, or other means, a system whereby an individual who voted a provisional ballot may, free of charge, determine if his or her vote was counted, and, if the vote was not counted, the reason the vote was not tabulated.

(b) Data Collection and Reporting Requirements. The Commission shall collect data on provisional voting and include such data in its Election Comparative Analysis Report following an election. Provisional ballots issued, counted, and rejected shall be tracked by precinct. In the case of rejected or spoiled provisional ballots, the Commission shall report the basis for such rejections.

SOURCE: Added by P.L. 31-255:2 (Dec. 11, 2012).

2012 NOTE: This section was originally codified from GC § 2706, entitled "*Unlawful Acts as to Poll List, Ballots and Ballot Boxes.*" Repealed and reenacted as 3 GCA § 8308 by P.L. 31-255:2 (Dec. 11, 2012).
