WEST VIRGINIA CODE: §3-3-10

§3-3-10. Challenging of absent voters' ballots.

(a) The official designated to supervise and conduct absentee voting may challenge an absent voter's ballot on any of the following grounds:

(1) That the application for an absent voter's ballot has not been completed as required by law;

(2) That any statement or declaration contained in the application for an absent voter's ballot is not true;

(3) That the applicant for an absent voter's ballot is not registered to vote in the precinct of his or her residence as provided by law;

(4) That the person voting an absent voter's ballot by personal appearance in his or her office had assistance in voting the ballot when the person was not qualified for voting assistance because: (A) The affidavit of the person who received assistance does not indicate a legally sufficient reason for assistance; or (B) the person who received assistance did not make an affidavit as required by this article; or (C) the person who received assistance is not so illiterate as to have been unable to read the names on the ballot or that he or she is not so physically disabled as to have been unable to see or mark the absent voter's ballot;

(5) That the person who voted an absent voter's ballot by mail and received assistance in voting the ballot was not qualified under the provisions of this article for assistance; and

(6) That the person has voted absentee by mail as a result of being out of the county more than four consecutive times: Provided, That the determination as to whether the person has voted more than four consecutive times does not apply if the person is a citizen residing out of the United States; or a member, spouse or dependent of a member serving in the uniformed services; or a college student living outside of his or her home county.

(b) Any one or more of the election commissioners or poll clerks in a precinct may challenge an absent voter's ballot on any of the following grounds:

(1) That the application for an absent voter's ballot was not completed as required by law;

(2) That any statement or declaration contained in the application for an absent voter's ballot is not true;

(3) That the person voting an absent voter's ballot is not registered to vote in the precinct of his or her residence as provided by law;

(4) That the signatures of the person voting an absent voter's ballot as they appear on his or

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her registration record, his or her application for an absent voter's ballot and the absent voter's ballot envelope are not in the same handwriting;

(5) That the person voting an absent voter's ballot by personal appearance had assistance in voting the ballot when the person was not qualified for assistance because: (A) The affidavit of the person who received assistance does not indicate a legally sufficient reason for assistance; or (B) the person who received assistance did not make an affidavit as required by this article; or (C) the person who received assistance is not so illiterate as to have been unable to read the names on the ballot or that he or she was not so physically disabled as to have been unable to see or mark the absent voter's ballot;

(6) That the person voted an absent voter's ballot by mail and received assistance in voting the ballot when not qualified under the provisions of this article for assistance;

(7) That the person who voted the absent voter's ballot voted in person at the polls on election day;

(8) That the person voted an absent voter's ballot under authority of subdivision (3), subsection (b), section one of this article and is or was present in the county in which he or she is registered to vote between the opening and closing of the polls on election day; and

(9) On any other ground or for any reason on which or for which the ballot of a voter voting in person at the polls on election day may be challenged.

No challenge may be made to any absent voter ballot if the voter was registered and qualified to vote pursuant to the provisions of subsection (a), section one of this article.

(c) Forms for, and the manner of, challenging an absent voter's ballot under the provisions of this article are to be prescribed by the Secretary of State.

(d) Absent voters' ballots challenged by the official designated to supervise and conduct absentee voting under the provisions of this article are to be transmitted by the official directly to the county commission sitting as a board of canvassers. The absent voters' ballots challenged by the election commissioners and poll clerks under the provisions of this article may not be counted by the election officials but are to be transmitted by them to the county commission sitting as a board of canvassers. Action by the board of canvassers on challenged absent voters' ballots is to be governed by the provisions of section forty-one, article one of this chapter.

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