



ALAN WILSON
ATTORNEY GENERAL

September 29, 2015

Marci Andino
Executive Director
South Carolina Election Commission
Post Office Box 5987
Columbia, South Carolina 29250

Dear Ms. Andino:

You have requested the opinion of this Office regarding the statutory construction of S.C. Code Ann. § 7-15-700, a provision of the South Carolina Uniform Military and Overseas Voters Act. Concerning the receipt and tabulation of a voted military-overseas absentee ballot, Section 7-15-700 reads as follows:

- (A) A *valid* military-overseas ballot must be counted if it is delivered to the address that the State Election Commission or county board of voter registration and elections, as appropriate, has specified by the close of business on the business day before the county canvass.
- (B) If, at the time of completing a military-overseas ballot and balloting materials, the voter has declared under penalty of perjury that the ballot was *timely submitted*, the ballot may not be rejected on the basis that it has a late postmark, an unreadable postmark, or no postmark as long as the ballot was received in accordance with subsection (A).

S.C. Code Ann. § 7-15-700 (emphasis added). You ask whether the term “timely submitted” means prior to the close of polls on election day, which is the deadline for receipt of absentee ballots, and whether, in addition to ballots submitted by mail, this section also applies to military-overseas ballots cast by other available electronic transmission methods. To answer these questions, we believe it is also necessary to ascertain what is meant by a “valid” military-overseas ballot, as used in subsection (A).

Background

The South Carolina Uniform Military and Overseas Voters Act (SCUMOVA) was enacted by Act Number 79 of the 2015 General Assembly to provide registration and absentee

voting alternatives for certain military and overseas voters. Act No. 79, 2015 S.C. Acts. With the enactment of the SCUMOVA, South Carolina became the most recent of the sixteen states that have passed a version of the Uniform Military and Overseas Voters Act (UMOVA): a uniform law promulgated by the Uniform Law Commission (ULC) in 2010 for enactment in all states. See Military and Overseas Voters Act, Uniform Law Commission, <http://www.uniformlaws.org/Act.aspx?title=Military+and+Overseas+Voters+Act> (last visited Sept. 22, 2015). As noted in the Prefatory Note of the UMOVA, the Act was drafted in an effort to improve legal and logistical obstacles that military personnel and overseas civilians face despite federal efforts – including the Uniform and Overseas Citizens Absentee Voting Act of 1968 (UOCAVA) and its amendment with the Military and Overseas Voter Empowerment Act of 2009 (MOVE) – to facilitate military and overseas voters with the ability to vote. Unif. Military & Overseas Voters Act, Prefatory Note (2010). As the ULC highlights, one of the most critical problems facing overseas voters is having adequate time to request, receive, vote, and return an absentee ballot before the state deadlines. Id.

With the overall objective to facilitate uniformed military and overseas voters with the ability to vote, the ULC specifies that the UMOVA:

has two independent purposes that can only be achieved through uniform state legislation. The first is to extend to state elections the assistance and protections for military and overseas voters currently found in federal law, which covers only biennial federal elections. The second is to bring greater uniformity to the military and overseas voting processes, which the several states will continue to have primary responsibility for administering, in both federal and non-federal elections. In addition to these two primary purposes, many provisions of the act also enhance the assistance and protections provided to military and overseas voters, wherever this can be done without compromising the integrity of the voting process or imposing inappropriately on election officials.

Id. Like the purposes of the UMOVA stated above, we believe the overall intent of the Legislature in passing the SCUMOVA was to facilitate uniformed military and overseas voters, as covered by the Act, with the ability to vote in state and federal elections while maintaining the integrity of the democratic election process.

Law / Analysis

Turning to your questions regarding S.C. Code Ann. § 7-15-700, our research reveals that the promulgated UMOVA and all states other than South Carolina that have enacted some version of the UMOVA have included a provision as to what constitutes a valid or timely cast voted military-overseas ballot within the Act.¹ Section 10 of the UMOVA provides the recommended provision of what constitutes a timely-cast ballot:

[t]o be valid, a military-overseas ballot must be received by the appropriate local election official not later than the close of the polls, or the voter must submit the ballot for mailing[, electronic transmission], or other authorized means of delivery

not later than 12:01 a.m., at the place where the voter completes the ballot, on the date of the election.

Unif. Military & Overseas Voters Act, § 10 (2010). The ULC's Comments indicate the rationale behind this section, explaining that:

[r]equiring that the ballot be completed by 12:01 a.m. local time on Election Day ensures that covered voters will not be able to cast a vote with knowledge of the election night returns of the jurisdiction whose ballot the voter is voting. One way in which a military-overseas ballot may be submitted for mailing by a uniformed service member is by giving the ballot to the mail clerk or designated service member responsible for handling mail for a particular unit of the uniformed services. Also allowing a valid ballot to be received by local officials through the close of the polls will increase the voting time available in those circumstances in which facsimile or other electronic transmission of voted ballots is permitted.

Id. at § 10 cmt. It is evident Section 10 of the UMOVA seeks to accommodate the unique voting challenges of military and overseas voters by providing voters covered by the Act as much time as possible to cast their votes without jeopardizing the fairness and reliability of the election process. Thus, the UMOVA considers a ballot timely cast if received by the close of polls or submitted at the latest time that the ULC deemed sufficient to guard against voting an absentee ballot after election day – 12:01 a.m. at the place where the voter completes the ballot, on the date of the election.

Several adopting states have strayed from the UMOVA's recommendations and have imposed a strict deadline that military-overseas ballots must be received by the close of polls on election day to be valid or timely-cast. See *infra* note 1 (including Nevada, Virginia, Hawaii, Montana, Kentucky, and New Mexico). However, legislation in these States does not also include a general extension of the deadline permitting military-overseas ballots received after the close of the polls on election day to be counted. Id. For those states that do permit counting military-overseas ballots received after the close of the polls on election day, a specific deadline for *submission* of the military-overseas ballot has been implemented. See *infra* note 1 (including Colorado, North Dakota, North Carolina, Utah, D.C., Pennsylvania, and Missouri).

While our Legislature defines the term “military-overseas ballot,”² no provision in the SCUMOVA speaks to what constitutes a “valid” or “timely submitted” military-overseas ballot. Accordingly, we must look to the rules of statutory construction for guidance. “All rules of statutory construction are subservient to the one that the legislative intent must prevail if it can be reasonably discovered in the language used, and that language must be construed in light of the intended purpose of the statute.” Sonoco Products Co. v. South Carolina Dep’t of Revenue, 378 S.C. 385, 391, 662 S.E.2d 599, 602 (2008) (citations omitted). If a statute’s language is plain and unambiguous, there is no need to employ the rules of statutory construction and courts do not have the right to look for or impose another meaning. Paschal v. State Election Comm’n, 317 S.C. 434, 436, 454 S.E.2d 890, 892 (1995) (citations omitted). However, where a statute is ambiguous, it is necessary to construe the terms of the statute

according to settled rules of construction. Grant v. City of Folly Beach, 346 S.C. 74, 79, 551 S.E.2d 229, 231 (2001) (citations omitted).

As the rules of statutory construction dictate, courts may properly consider the legislative history to effectuate the purpose of the statute. Hyde v. South Carolina Dep't of Mental Health, 314 S.C. 207, 210, 442 S.E.2d 582, 583 (1994) (citations omitted). In construing a statute, the court looks to the language as a whole, in light of its manifest purpose. Simmons v. City of Columbia, 280 S.C. 163, 164, 311 S.E.2d 732, 733 (1984). Furthermore, the legislature is presumed to intend that its statutes accomplish something. State v. Long, 363 S.C. 360, 364, 610 S.E.2d 809, 812 (2005). When faced with an undefined statutory term, a court must interpret the term in accord with its usual and customary meaning. Branch v. City of Myrtle Beach, 340 S.C. 405, 409-10, 532 S.E.2d 298, 292 (2000). Courts should consider not merely the language of the particular clause being construed, but the word and its meaning in conjunction with the purpose of the whole statute and the policy of the law. Whitner v. State, 328 S.C. 1, 6, 492 S.E.2d 777, 779 (1997). Finally, we note that Act 79 of 2015 also amended S.C. Code Ann. § 7-15-20, which now provides that Article 3, Article 5, and *Article 9* [the SCUMOVA] shall be liberally construed in order to effectuate their purposes. Act No. 79, 2015 S.C. Acts (emphasis added). Articles 3, 5, and 9 referenced by S.C. Code Ann. § 7-15-20 are all part of Title 7, Chapter 15 of the South Carolina Code titled Absentee Registration and Voting.

While not part of the SCUMOVA, the only sections in Title 7, Chapter 15 that speak to what is considered a timely submitted absentee ballot are S.C. Code Ann. §§ 7-15-230 and 7-15-420 (Supp. 2014). Both sections provide that to count as validly-cast, absentee ballots in South Carolina must be *received* by the close of the polls and must contain a properly signed and witnessed oath. S.C. Code Ann. § 7-15-230 (Supp. 2014) (“No ballot shall be counted unless the oath is properly signed and enclosed therewith nor shall any ballot be counted which is received . . . after time for closing of the polls”); S.C. Code Ann. § 7-15-420 (Supp. 2014) (“A ballot may not be counted unless the oath is properly signed and witnessed nor may any ballot be counted which is received by the county board of voter registration and elections after the time for closing of the polls”). With the enactment of the SCUMOVA, however, the Legislature makes clear that authentication requirements other than the declaration specified in S.C. Code Ann. § 7-15-710 are not required for military-overseas ballots. See 7-15-750(B) (“Notarization is not required for the execution of a document pursuant to this article. An authentication, other than the declaration specified in Section 7-15-710, or the declaration on the federal postcard application and federal write-in absentee ballot, is not required for execution of a document pursuant to this article”); see also S.C. Code Ann. § 7-15-710 (“A military-overseas ballot must include, or be accompanied by, a declaration signed by the voter that a material misstatement of fact in completing the ballot may be grounds for a conviction of perjury under the laws of the United States or this State”).

In addition, with the enactment of S.C. Code Ann. § 7-15-700, it is our opinion that the SCUMOVA expands the statutory deadline for receipt of an absentee ballot by the close of the polls on election day, as imposed by S.C. Code Ann. §§ 7-15-230 and 7-15-420, for validly-cast military-overseas ballots. If we were to interpret *receipt* of the ballot by the close of the polls as the only method in which to constitute a military-overseas ballot as valid, it is our opinion that such interpretation would render Section 7-15-700 meaningless and without purpose. For

Section 7-15-700(A) to have purpose – again providing that “[a] valid military-overseas ballot must be counted if it is delivered to the address that the State Election Commission or county board of voter registration and elections, as appropriate, has specified by the close of business on the business day before the county canvass” – it is our opinion that the Legislature intended for a valid military-overseas ballot received after the close of the polls but before the close of business on the day prior to the official tabulation of the ballots by the county canvass as ballots that must be counted.

As to what constitutes a “valid” military-overseas ballot, it is our opinion that in addition to ballots received by the close of the polls, the Legislature also intended that a military-overseas ballot submitted by the close of the polls on the day of the election and at a time that would ensure the voter is without knowledge of the election results be considered valid. This conclusion is supported by the UMOVA and the several adopting states that permit the receipt of military-overseas ballots after the close of the polls if those ballots are cast in accordance with the specific deadlines imposed to guard against casting a military-overseas ballot after election day. Furthermore, we believe interpretation of this section differently would call into question the integrity of the election.

Finally, S.C. Code Ann. § 7-15-700(A) provides that a *valid military-overseas ballot* must be counted if it is delivered to the address specified by the State Election Commission or county board of voter registration and elections by the close of business on the business day before the county canvass. Therefore, as to the type of ballot (submitted by mail or other authorized mode of electronic transmission) to which this section applies, the only requirement is that the ballot be “valid,” and no specific reference is made to distinguish between ballots cast by mail and ballot cast by authorized electronic means. However, applying our opinion of what constitutes a valid military-overseas ballot, *i.e.* a ballot received by the close of the polls on election day or a ballot submitted by the close of the polls on election day at a specified time that ensures the voter has no knowledge of the election results and received by the close of business on the day prior to the official tabulation of votes by the county canvass, would, in our opinion, make application of this section only logical to ballots submitted by mail. To explain, a military-overseas ballot placed into the mail by the close of the polls on election day at a specified time that would ensure the voter has no knowledge of the election results may not reach its destination for several days, despite having been timely cast. Therefore, we believe this this section seeks to accommodate for the delay in mail delivery when a ballot has been timely cast. A military-overseas ballot cast electronically by email or fax, on the other hand, should reach its destination almost immediately. Therefore, if a military-overseas ballot is submitted by fax or email by the close of the polls on election day at a specified time that would ensure the voter is without knowledge of the election results, the ballot should be received by the close of the polls. Furthermore, the language “*delivered* to the *address* that the State Election Commission or county board of voter registration and elections, as appropriate, has specified” as is used in this section, further supports the conclusion that this section applies to ballots cast by mail that require an *address* and will be *delivered* by a mail carrier. While a unique set of facts involving a delay in electronic transmission could technically make this section applicable to a ballot submitted by electronic means if the ballot was timely submitted, we believe an inquiry into the cause for the delay in receipt would also be necessary to validate the ballot.

Standing apart from subsection (A), we believe S.C. Code Ann. § 7-15-700(B) – again proving that “[i]f, at the time of completing a military-overseas ballot and balloting materials, the voter has declared under penalty of perjury that the ballot was timely submitted, the ballot may not be rejected on the basis that it has a late postmark, an unreadable postmark, or no postmark as long as the ballot was received in accordance with subsection (A) – is an added precaution pertaining to military overseas ballots submitted by mail under the reasoning that a postmark, or lack thereof, may not be contemporaneous with the date the ballot was submitted. As one scholar explained: “although in theory all military mail should receive a postmark at some point in its processing, in a small portion of cases the postmarking may not occur for several days after the mail has been placed into the military mail system and, therefore, may not accurately reflect when the ballot was voted.” Steven F. Huefner, Lessons From Improvements in Military and Overseas Voting, 47 U. Rich. L. Rev. 833, 878 (March 2013). As with the term “valid” in subsection (A), if “timely submitted” were to be construed as a military-overseas ballot received before the close of the polls on election day as the only manner for valid submission, subsection (B) of section 7-15-700 would lack purpose. In other words, if such ballot was received prior to the close of the polls, submission would without question be timely. Thus, we believe it was the Legislature’s intent for “timely submitted” as used in subsection (B) to mean submitted by the close of the polls on election day at a specified time that would ensure the voter is without knowledge of the election results. If the voter has declared the ballot has been timely submitted, it must be counted despite a late postmark, no postmark, or unreadable postmark, so long as it is received by the close of business on the day prior to the official tabulation of votes during the county canvass.

We note that Section 7-15-700 is nearly identical to Section 12 of the UMOVA titled “Receipt of Voted Ballot,” except it lacks cross reference to another provision explaining what is meant by a valid military-overseas ballot. Specifically, Section 12 of the UMOVA provides:

- (a) A valid military-overseas ballot cast in accordance with Section 10 must be counted if it is delivered by the end of business on the business day before [the latest deadline for completing the county canvass or other local tabulation used to determine the final official results] to the address that the appropriate state or local election office has specified.
- (b) If, at the time of completing military-overseas ballot and balloting materials, the voter has declared under penalty and perjury that the ballot was timely submitted, the ballot may not be rejected on the basis that it has a late postmark, an unreadable postmark, or no postmark.

Unif. Military & Overseas Voters Act, § 12 (2010) (brackets in original). The ULC’s comment expanding on this section is helpful, stating that:

[t]he bracketed language in subsection (a) is intended to capture the deadline for the event when local election officials complete or certify their official counting of ballots, by whatever name that event is known in the state. Even those ballots of overseas military voters that arrive after Election Day can and must be included in these official results if local election officials have received them by the day

before the deadline for this event, giving local election officials that day to process them before making their return of certification.

The act precludes rejecting a military-overseas ballot for lack of a postmark (or for a late postmark) in light of the fact that many pieces of military mail enter the postal system through delivery to a mail clerk in a remote location without a postmark, and are only postmarked some days later when they reach a more established facility.

Id. at § 12 cmt.

By enacting a nearly identical statute to the UMOVA's § 12, it is logical to think that our Legislature's intent in the enactment of Section 7-15-700 closely parallels the purpose of the UMOVA's Section 12, as explained in the Comment authored by the ULC above.

While we believe the above analysis reflects the Legislature's intent in what should constitute a valid and timely cast military-overseas ballot, because the SCUMOVA does not expressly speak on the subject, it is our opinion that the Legislature has tasked the South Carolina Election's Commission with the duty of specifically defining these terms by promulgating regulations. S.C. Code Ann. § 7-15-10 provides that: "[t]he State Election Commission is responsible for carrying out the provisions of this chapter. The commission may promulgate regulations, and must have drafted, printed, and distributed all forms that are required to make it possible for persons eligible to vote by absentee ballot in primary, general, and special elections. . . ." Furthermore, S.C. Code Ann. 7-15-690, part of the SCUMOVA, provides that:

(A) To ensure that all South Carolina residents eligible to vote as provided by the Uniformed and Overseas Citizens Absentee Voting Act, set forth in the 42 U.S.C. Section 1973ff, et seq., or its successor, have the opportunity to receive and *cast* any ballot they would have been *eligible* to cast if they resided in and had remained in South Carolina, the State Election Commission must, in cooperation with United States government agencies, *take all steps and action as may be necessary* including, but not limited to, electronic transmissions of Standard Form 76A, or its successor form, issued by the federal government as an application for voter registration and an application for absentee ballots and electronic transmissions of absentee ballots for all elections for federal, state, and local offices to voters in accordance with his preferred method of transmission.

(B) The State Election Commission shall *promulgate regulations necessary* for the implementation of this section.

(emphasis added). Accordingly, we believe the South Carolina Election Commission should promulgate the necessary regulations to clearly establish what will be considered a timely submitted and valid military-overseas ballot as such is vital in carrying out the provisions of the SCUMOVA and ensuring the votes of covered voters are properly cast and counted.

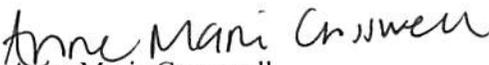
Conclusion

Pursuant to the legislative intent of the SCUMOVA to facilitate military and overseas voters with the ability to vote, the legislative history of the SCUMOVA's enactment, for Section 7-15-700 to have meaning, and by imposing a liberal construal of the Act as directed by our Legislature, it is our opinion that:

- (1) Pursuant to S.C. Code Ann. § 7-15-700(A), to be valid, a military-overseas ballot must be (1) received by the close of the polls on election day or (2) submitted by the close of the polls on election day at a specified time that ensures the voter has no knowledge of the election results and received by the close of business on the day prior to the official tabulation of votes by the county canvass.
- (2) Section 7-15-700(A) can only logically be applied to military-overseas ballots cast by mail that consequently have a delay in delivery, unlike military-overseas ballots submitted by authorized electronic means that should be delivered almost simultaneously with the time submitted.
- (3) S.C. Code Ann. § 7-15-700(B), was enacted as an extra precaution under the acknowledgement that a postmark provided by the military mail system, or lack thereof, may not be contemporaneous with or indicative of the time the military-overseas ballot was cast. As explained above, we believe to be valid, a military-overseas ballot must be received by the close of the polls on election day or, as would be applicable to this subsection as "timely submitted," submitted by the close of the polls on election day at a specified time that ensures the voter has no knowledge of the election results and received by the close of business on the day prior to the official tabulation of votes by the county canvass.
- (4) The Legislature has tasked the State Election Commission with promulgating the regulations necessary to specifically define what constitutes a valid and timely submitted military-overseas ballot.

If I can be of further assistance, please feel free to contact me.

Very truly yours,


Anne Marie Crosswell
Assistant Attorney General

REVIEWED AND APPROVED BY:


Robert D. Cook
Solicitor General

¹ See Unif. Military & Overseas Voters Act, § 10, (Supp. 2012); see also (Colorado) Colo. Rev. Stat. Ann. § 1-8.3-111 (effective 5-13-2011) (“To be valid, a ballot shall be received by the appropriate local election official not later than the close of the polls, or the voter shall submit the ballot for mailing, electronic submission, or other authorized means of delivery not later than 7:00 p.m. mountain time on the date of the election”); § 1-8.3-113(b) (extending deadline for receipt of ballots cast in accordance with 1-8.3.111); (Nevada) Nev. Rev. Stat. § 293D.400 (effective 6-13-2011) (“A military-overseas ballot must be received by the appropriate local elections official not later than the close of the polls”); (North Dakota) N.D. Cent. Code 16.1-07-24 (effective 8-1-2011) (“To be valid, a military-overseas ballot must be submitted for mailing or other authorized means of delivery not later than 11:59 p.m. on the day before the election at the place where the voter completes the ballot. A military-overseas ballot must be received by the appropriate election official before the canvassing board meeting”); § 16.1-07-26 (extending deadline for receipt of ballots cast in accordance with 16.1-07-24); (Oklahoma) 26 Okl. St. Ann. tit. 26, § 14-145 (effective 11-1-2011) (“To be valid, a military overseas ballot must be received by the appropriate local election official not later than the close of polls, or the voter must submit the ballot for electronic transmission or other authorized means of delivery not later than 12:01 a.m., at the place where the voter completes the ballot, on the date of the election”); § 14-147 (“A. A valid military-overseas ballot cast in accordance with Section 10 of this act must be counted if it is delivered by 7:00 p.m. the day of the election to the address that the appropriate state or local election office has specified. B. If, at the time of completing a military-overseas ballot and balloting materials, the voter has declared under penalty and perjury that the ballot was timely submitted, the ballot may not be rejected on the basis that it has a late postmark, an unreadable postmark, or no postmark”) (N.C.) N.C. Gen. Stat. Ann. § 163-258.10 (effective 1-1-2012) (“To be valid, a military-overseas ballot shall either be received by the appropriate county board of elections no later than the close of the polls, or the covered voter shall submit the ballot for mailing, electronic transmission, or other authorized means of delivery not later than 12:01 A.M., at the place where the voter completes the ballot, on the date of the election.”); § 163-258.12 (extending deadline for receipt of ballots cast in accordance with § 163-258.10); (Utah) Utah Code Ann. § 20A-16-404 (effective 1-1-2012) (“... to be valid, a military-overseas ballot shall be: (1) received by the appropriate election official not later than the close of the polls; or (2) submitted for mailing, electronic transmission, or other authorized means of delivery not later than 12:01 a.m., at the place where the voter completes the ballot, on the date of the election”); § 20A-16-408 (extending deadline for receipt of ballots cast in accordance with § 20A-16-404); (D.C.) D.C. Code § 1-1061.10 (effective 6-5-2012) (“To be valid, a military-overseas ballot must be submitted by the voter on the date of the election by mailing or other authorized means of delivery no later than 12:01 a.m. at the place where the voter completes the ballot”); § 1-1061.12 (extending deadline for receipt of ballots cast in accordance with § 1-1061.10); (Virginia) Va. Code Ann. § 24.2-462 (effective 7-1-2012) (“A valid military-overseas ballot must be counted if it is delivered to the address that the appropriate state or local election office has specified by the close of the polls on the date of the election except as provided in § 24.2-709”); § 24.2-709 (extending deadline for receipt of ballots not received by the close of the polls only for absentee ballots not sent by the deadline for making absentee ballots available); (Hawaii) Haw. Rev. Stat. § 15D-10 (effective 7-1-2012) (“A valid military-overseas ballot shall be counted if it is received by the close of the polls on the day of the election and meets the requirements prescribed under section 15-9”); (California) Cal. Elec. Code §§ 3117, 3020 (effective Sept. 29, 2012) (“(a) All vote by mail ballots cast under this division shall be received by the elections official from whom they were obtained or by the precinct board no later than the close of the polls on election day. (b) Notwithstanding subdivision (a), any vote by mail ballot cast under this division shall be timely cast if it is received by the voter’s elections official via the United States Postal Service or a bona fide private mail delivery company no later than three days after election day and either of the following is satisfied: (1) The ballot is postmarked on or before election day or is time stamped by a bona fide private mail delivery company on or before election day. (2) If the ballot has no postmark, a postmark with no date, or an illegible postmark, the vote by mail ballot identification envelope is date stamped by the elections official upon receipt of the vote by mail ballot from the United States Postal Service or a bona fide private mail delivery company, and is signed and dated pursuant to Section 3011 on or before election day”); (Pennsylvania) 25 Pa. Cons. Stat. Ann. § 3509 (effective 12-24-2012) (“To be valid: (1) a military-overseas ballot must be received by the appropriate county election board not later than the close of the polls; or (2) the voter must submit the ballot for mailing or other authorized means of delivery not later than 11:59 p.m. at the place where the voter completes the ballot on the date immediately preceding the date of the election”); § 3511 (extending deadline for receipt of ballots cast in accordance with § 3509); (Montana) Mont. Code Ann. 13-21-226 (effective 1-1-2014) (“(1) A valid military-overseas ballot must be counted if it is received by 8 p.m. on election day or by 5 p.m. on the day after election day if transmitted electronically by 8 p.m. on election day”); (Kentucky) Ky. Rev. Stat. Ann. § 117A.090 (effective 7-1-2014) (“To be valid, a military-overseas ballot shall be received by the appropriate local election official not later than the time established by the election laws generally for the closing of the polls, which time shall not include the extra hour during which those voters may vote who were waiting in line to vote at the scheduled poll closing time”); § 117A.110 (providing that ballots cast in accordance with § 117A.090 shall be counted and also providing that a ballot may not be rejected on the basis that it has a late, unreadable, or no postmark); (Missouri) Mo. Ann. Stat. § 115.916 (effective 7-1-2014) (“To be valid, a military-overseas ballot shall be received by the appropriate local election official not later than the close of the polls, or the voter shall submit the ballot for mailing, or other authorized means of delivery not later than 12:01 a.m., at the place where the voter completes the ballot, on the date of the election”); § 115.920 (extending deadline for ballot cast in

accordance with 115.916); (New Mexico) N.M. Stat. 1-6B-8 (effective July 1, 2015) (“A military-overseas ballot shall be considered timely if it is received by the appropriate clerk no later than the closing of the polls on election day”).

² S.C. Code Ann. § 7-15-610(9) defines “Military-overseas ballot” as “(a) a federal write-in absentee ballot; (b) a ballot specifically prepared or distributed for use by a covered voter in accordance with this article; or (c) a ballot cast by a covered voter in accordance with this article.”