MARKUP OF H.R. 3224, H.R. 2843, COMMITTEE RESOLUTION 111–6, COMMITTEE RESOLUTION 111–7, H.R. 3542, AND H.R. 3489

MEETING

BEFORE THE

COMMITTEE ON HOUSE ADMINISTRATION HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

HELD IN WASHINGTON, DC, NOVEMBER 4, 2009

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MARKUP OF H.R. 3224, H.R. 2843, COMMITTEE RESOLUTION 111–6, COMMITTEE RESOLUTION 111–7, H.R. 3542, AND H.R. 3489

WEDNESDAY, NOVEMBER 4, 2009

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOUSE ADMINISTRATION,
Washington, DC.

The committee met, pursuant to call, at 11:05 a.m., in Room 1310, Longworth House Office Building, Hon. Robert A. Brady [chairman of the committee] presiding.

Present: Representatives Brady, Lofgren, Capuano, Davis of California, Davis of Alabama, Lungren, McCarthy, and Harper.

Staff Present: Jamie Fleet, Staff Director; Tom Hicks, Senior Elections Counsel; Jennifer Daehn, Elections Counsel; Matt Pinkus, Professional Staff/Parliamentarian; Kyle Anderson, Press Director; Joe Wallace, Legislative Clerk; Daniel Favarulo, Legislative Assistant, Elections; Shervan Sebastian, Staff Assistant; Victor Arnold-Bik, Minority Staff Director; Peter Schalestock, Minority Counsel; Karin Moore, Minority Legislative Counsel; Salley Collins, Minority Press Secretary; and Mary Sue Englund, Minority Professional Staff.

The CHAIRMAN. I would like to call the Committee on House Administration to order.

We have a number of items on today's agenda. But before we begin, I would like to let members know that we have a completed calendar for the committee for the 110th Congress, and it is available for your review.

I plan to take up H.R. 3224, H.R. 2843, Committee Resolution 111–6, and Committee Resolution 111–7 en bloc.

[The information follows:]

AUTHENTICATED
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I

111TH CONGRESS
1ST SESSION

H. R. 3224

To authorize the Board of Regents of the Smithsonian Institution to plan, design, and construct a vehicle maintenance building at the vehicle maintenance branch of the Smithsonian Institution located in Suitland, Maryland, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 15, 2009

Mr. BECERRA (for himself, Ms. MATSUI, and Mr. SAM JOHNSON of Texas) introduced the following bill; which was referred to the Committee on House Administration, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

A BILL

To authorize the Board of Regents of the Smithsonian Institution to plan, design, and construct a vehicle maintenance building at the vehicle maintenance branch of the Smithsonian Institution located in Suitland, Maryland, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. VEHICLE MAINTENANCE BUILDING, SUITLAND,**
2 **MARYLAND.**

3 (a) AUTHORITY TO PLAN, DESIGN, AND CON-
4 STRUCT.—The Board of Regents of the Smithsonian Insti-
5 tution is authorized to plan, design, and construct a vehi-
6 cle maintenance building at the vehicle maintenance
7 branch of the Smithsonian Institution located in Suitland,
8 Maryland.

9 (b) PURPOSE OF BUILDING.—The purpose of the
10 building shall be to provide a facility to be used for hous-
11 ing, maintaining, and repairing vehicles and transpor-
12 tation equipment of the Smithsonian Institution.

13 **SEC. 2. AUTHORIZATION OF APPROPRIATIONS.**

14 There is authorized to be appropriated to carry out
15 this Act $4,000,000 for fiscal year 2010.

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111TH CONGRESS
1ST SESSION

H. R. 2843

To provide for the joint appointment of the Architect of the Capitol by the Speaker of the House of Representatives, the President pro tempore of the Senate, the majority and minority leaders of the House of Representatives and Senate, and the chairs and ranking minority members of the committees of Congress with jurisdiction over the Office of the Architect of the Capitol, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 12, 2009

Ms. WASSERMAN SCHULTZ (for herself, Mr. ADERHOLT, Mr. EHLERS, Mr. DANIEL E. LUNGREN of California, Mr. BRADY of Pennsylvania, Mr. LATHAM, and Mr. WAMP) introduced the following bill; which was referred to the Committee on House Administration, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

A BILL

To provide for the joint appointment of the Architect of the Capitol by the Speaker of the House of Representatives, the President pro tempore of the Senate, the majority and minority leaders of the House of Representatives and Senate, and the chairs and ranking minority members of the committees of Congress with jurisdiction over the Office of the Architect of the Capitol, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Architect of the Capitol Appointment Act of 2009".

SEC. 2. APPOINTMENT AND TERM OF SERVICE OF ARCHITECT OF THE CAPITOL.

(a) APPOINTMENT.—The Architect of the Capitol shall be appointed jointly by the Speaker of the House of Representatives, the President pro tempore of the Senate, the majority and minority leaders of the House of Representatives and Senate, the chair and ranking minority member of the Committee on House Administration of the House of Representatives, the chair and ranking minority member of the Committee on Rules and Administration of the Senate, and the chairs and ranking minority members of the Committees on Appropriations of the House of Representatives and Senate.

(b) TERM OF SERVICE.—The Architect of the Capitol shall be appointed for a term of 10 years, and may be reappointed for additional terms.

(c) CONFORMING AMENDMENT.—Section 319 of the Legislative Branch Appropriations Act, 1990 (2 U.S.C. 1801) is repealed.

1 (d) EFFECTIVE DATE.—This section shall apply with
2 respect to appointments made on or after the date of the
3 enactment of this Act.

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COMMITTEE ON HOUSE ADMINISTRATION
111TH CONGRESS
COMMITTEE RESOLUTION # 111-6
November 4, 2009

Voucher Documentation Standards

Resolved, that the regulations of the Committee on House Administration are amended by inclusion of the attached document titled "Voucher Documentation Standards" dated November 4, 2009.

The Chairman is authorized to make such technical and conforming modifications to the attached document as are necessary for inclusion in the Committee and Member Handbooks.

The effective date for implementation of the "Voucher Documentation Standards" is January 3, 2010. The Chairman, in consultation with the Ranking Minority Member, shall develop an outreach strategy to ensure adequate prior notification to all congressional offices.

October 21, 2009

Voucher Documentation Standards

The Office of Finance annually receives thousands of requests for payment/reimbursement. Detailed supporting documentation is essential to providing outstanding service while ensuring compliance with government accounting practices and standards, and all applicable laws, House Rules, and House Administration Committee Regulations. Appropriate supporting documentation also reduces the risk of erroneous and fraudulent disbursements. The table below specifies the required supporting documentation for the processing of vouchers.

APPLIES TO ALL VOUCHERS

IRRESPECTIVE OF SUBMITTING OFFICE

ORIGINAL RECEIPT/INVOICE REQUIRED: Whenever a Member, Officer, employee, etc. pays a vendor directly from personal funds (by cash, check, credit card, etc.) for goods or services rendered to a House office, the voucher must be accompanied by the **original** vendor receipt/invoice, showing "proof of payment". See "PROOF OF PAYMENT" below.

LOST ORIGINAL RECEIPT/INVOICE: If the original vendor receipt/invoice showing payment has been lost or destroyed or was not received, the individual submitting the expense for payment must make a good faith effort to secure a duplicate copy of the receipt/invoice from the vendor. If unable to secure a duplicate copy from the vendor, the expense may be documented by providing proof of the good faith effort made (copies of correspondence, etc.) and proof of payment (see "PROOF OF PAYMENT" below).

A voucher not documented by an original receipt/invoice must be accompanied by:

1. Documentation giving evidence of the good faith effort made to secure a duplicate copy of the receipt/invoice;
2. Proof of payment; and
3. A signed "certification memo" containing the following elements (see sample of certification memo language in "d." below):
   a. Detailed description of the expense
   b. Date(s) on which the expense was incurred
   c. Amount of the expense, and
   d. A certification memo to the effect: "In lieu of an original receipt/invoice, I am submitting the attached documentation as proof of payment. This is the only copy that will be submitted for payment."

PROOF OF PAYMENT
Proof of payment can be supported by (but is not limited to) credit card statements, bank statements, and cancelled checks.

FINANCE CHARGES
The Office of Finance will not pay finance charges or other fees incurred on personal credit or charge cards or personal accounts. To avoid finance changes and other fees, any obligation should be timely paid by the submitting individual directly to the card/account issuer, while the individual seeks reimbursement from the Finance Office.

TRAVEL RELATED EXPENSES	
*ANY TRAVEL EXPENSE LESS THAN **$25.00** DOES NOT REQUIRE A RECEIPT/INVOICE*	
Airfare	Required original receipt/invoice must include the following information: a. Name of Passenger b. Airline Ticket Number c. Dates of travel (begin date & end date) d. Flight Segments (points of travel) e. Fare If an e-ticket is not available, a credit card statement may be submitted. If using an upgrade coupon, each coupon must coincide with the ticket used.
Train and bus fares	Required original receipt/invoice must include the following information: a. Dates of travel (begin date & end date) b. Points of travel c. Fare
Lodging	Required original receipt/invoice must include the following information: a. Name of traveler b. Dates of service (check in & check out) c. Lodging name and location d. Itemization of all expenses charged (day by day) e. Payment method used Mini bar and In-room movies (such as Pay-Per-View) are not reimbursable expenses.
Food and Beverage *(travel-related)*	Required original receipt/invoice must include the following information: a. Itemized cost of food/beverage composing the meal Alcoholic beverages are not reimbursable expenses.
Mileage	Required original documentation is a travel log that includes the following information: a. Name of traveler b. Dates of travel c. Points of travel d. Number of miles traveled e. Mileage Rate at which travel is to be reimbursed
Parking/Tolls	Required original receipt/invoice must include the following information: a. Date b. Location c. Amount of parking fee or toll

Rental Cars	Required original receipt/invoice must include the following information: a. Name of traveler (all drivers must be Members, House employees, authorized vendors, etc.) b. Dates of rental-(out date through return date) c. Itemization of all charges d. Method of payment e. Collision Damage Waivers (CDW) and Loss Damage Waivers (LDW) are the only reimbursable insurance charges (and only when the traveler was unable to rent the car at government rate which includes these charges) Estimated Billing Invoices will not be accepted as documentation of an expense incurred.
Taxis, Shuttles, Airport limos, etc.	Required original receipt/invoice must include the following information: a. Dates of travel b. Points of Travel c. Amount of fare (including tip) See Committee on House Administration policy regarding use of taxi after hours (Alternative Ride Home).
Travel Agent/Booking Fee	Required original receipt/invoice must show proof of payment: a. Booking Agent receipt/invoice (should be submitted with any corresponding travel-related expenses).
Incidentals	Required original receipt/invoice for the following: a. Telephone, computer, and internet access charges, fax services, and other official communication expenses. b. Any other travel expenses not listed where expenses are $\geq$ $25.00.
Combined Travel	Usual and customary required original receipts/invoices accompanied by a memo from the Member describing the circumstances of the combined travel and amount(s) claimed.
TRAINING & EDUCATIONAL EXPENSES	
TYPE OF EXPENSE	**DOCUMENTATION REQUIREMENTS**
Registration and/or Tuition Fee	Required original receipt/invoice must include the following information: a. Name of attendee b. Dates of training or educational program, conference, or course c. Full name of training or educational program, conference, or course (no abbreviations or acronyms) d. Description and/or agenda of training or educational program, conference, or course e. Amount of tuition or fee
NON-TRAVEL RELATED EXPENSES	
TYPE OF EXPENSE	**DOCUMENTATION REQUIREMENTS**

Qualifying Advertisements	Required original receipt/invoice must include the following information: a. Name of congressional office or individual placing the ad b. Dates of service c. Service provided d. Name of service provider e. Address of service provider f. Remit address g. Amount h. Payment method used (if applicable) i. Except for an employment ad to fill a position in the office, a copy of the corresponding Franking Advisory Opinion (Advisory Certificate and copy of advertisement)
Cable/Internet Services	Required original receipt/invoice must include the following information: a. Name of congressional office or individual placing the order b. Dates of service c. Service provided d. Name of service provider e. Address of service provider f. Remit address g. Amount h. Payment method used (if applicable)
Clipping Service	Required original receipt/invoice must include the following information: a. Name of congressional office or individual placing the order b. Dates of service c. Service provided d. Name of service provider e. Address of service provider f. Remit address g. Amount h. Payment method used (if applicable)
Communications	Required original receipt/invoice must include the following information: a. Name of congressional office or individual placing the order b. Dates of service c. Service provided d. Name of service provider e. Address of service provider f. Remit address g. Amount h. Payment method used (if applicable)
Contracts (Non-Technology) **Consultants** *(Committees and House Officers only)* **Detailees** *(Committees only)*	Required original receipt/invoice must include the following information: a. Name of congressional office or individual placing the order b. Dates of service c. Service provided d. Name of service provider e. Address of service provider f. Remit address g. Amount h. Payment method used (if applicable) i. Copy of contract or detail agreement

Distribution Lists *(mail, e-mail, telephone, etc.)*	Required original receipt/invoice must include the following information: a. Name of congressional office or individual placing the order b. Dates of service c. Service provided d. Name of service provider e. Address of service provider f. Remit address g. Amount h. Payment method used (if applicable)
Equipment & District Office Furnishing and Items < $500.00	Required original receipt/invoice must include the following information: a. Name of congressional office or individual placing the order b. Name of provider c. Address of provider d. Description of item(s) purchased e. Date(s) of delivery f. Shipping Address (if shipped) g. Remit address h. Amount i. Payment method used (if applicable)
Food and Beverage *(not travel-related)*	Required original receipt/invoice must include the following information: a. Date of meeting b. Location of meeting c. Cost of food and beverages (itemized); and the voucher must be accompanied by a memo or notation on the face of the voucher describing the purpose of the meeting. Food and Beverage expenses must be incidental to the conduct of an official business meeting that includes a person or persons who are not Members or employees of the House. Food and Beverage expenses solely associated with staff meetings and/or Member meetings are not reimbursable. Alcoholic beverages are not reimbursable.
Franked Mail *(originating from a district office(s) or alternative work site)*	Required original documentation must include: a. A District Office Franked Mail Reporting Form for each district office and/or alternative work site accompanied by Certification of Franked Mail Form.
Postage/Shipping & Handling/Courier Service	Required original receipt/invoice must include the following information: a. Name of congressional office or individual placing the order b. Dates of service c. Service provided d. Name of service provider e. Address of service provider f. Remit address g. Amount h. Payment method used (if applicable); and Must be accompanied by a memo or notation on the face of the voucher describing the purpose for which the postage or services were/will be used.

Comment [jh1]: Reference the $500.00 limit. It may be beneficial to state the rule that governs the $500 limit and what procedures the offices need to follow to purchase an item >$500.00.

Utilities	Required original receipt/invoice must include the following information: a. Name of congressional office or individual placing the order b. Dates of service c. Service provided d. Name of service provider e. Address of service provider f. Remit address g. Amount h. Payment method used (if applicable)
Leased Auto	Required original Lease must include the following information: a. Lease commencement and termination date (not to exceed current term of the Member unless acknowledgement of liability is on file) b. Name of Lessee c. Name of Lessor d. Make and Model of Vehicle (must be a low greenhouse gas emitting vehicle) e. Amount of lease payment due per month f. Payment Instructions (including ACH form) All automobile leases must be pre-approved by CAO Administrative Counsel before any payment is made. *[Online version – hyperlink to SAMPLE LEASE]*
Website Development and/or Hosting	Required original receipt/invoice must include the following information: a. Name of congressional office or individual placing the order b. Dates of service c. Service provided d. Name of service provider e. Address of service provider f. Remit address g. Amount h. Payment method used (if applicable) Website Development cannot be paid in advance.
Recurring Payments	Required original documentation must include the following information: a. Vendor invoice or contract (term may not exceed the Member's current congressional term) b. Confirmation of payment record c. If paid by credit/charge card, credit/charge card statement referencing payment
Telecommunications (Wireless Services for Members and Staff)	**RECOMMEND THAT ALL STAFF ACQUIRE PHONES THROUGH HIR.**
Telecommunications (Wireless and District Office Charges)	Required original receipt/invoice must include the following information: a. Name of congressional office or individual placing the order b. Dates of service c. Service provided d. Name of service provider e. Address of service provider f. Remit address g. Amount h. Payment method used (if applicable)

Town Hall Meetings *(regardless of format)* *(all related expenses)*	Required original receipt/invoice must include the following information: a. Copy of invitation to/notice of meeting and/or agenda b. Name of congressional office or individual reserving the room, the time slot, etc. c. Dates of service d. Service provided e. Name of service provider f. Address of service provider g. Remit address h. Amount i. Payment method used (if applicable)
Subscriptions	Required original receipt/invoice must include the following information: a. Name of congressional office or individual placing the order b. Term of subscription (begin date & end date) c. Name of Publication d. Delivery Address e. Remit Address f. Amount g. Payment method used (if applicable)
Printing & Reproduction	Required original receipt/invoice must include the following information: a. Name of congressional office or individual placing the order b. Dates of service c. Service provided d. Name of service provider e. Address of service provider f. Remit address g. Amount h. Payment method used (if applicable) i. A copy of the corresponding Franking Advisory Opinion (Advisory Certificate and copy of material) A Franking Advisory Opinion is required for all printed material (except for business cards, letterhead, and the usual and customary stationery items; content of these items must be in compliance with regulations stated in the Handbooks)
Postage/Courier Service	Required original receipt/invoice must include the following information: a. Name of congressional office or individual placing the order b. Dates of service c. Service provided d. Name of service provider e. Address of service provider f. Remit address g. Amount h. Payment method used (if applicable)

Rent	Required original Lease must include the following information: a. Term of lease (begin date; end date). Term may not exceed the Member's current congressional term b. Name of Lessee c. Name of Lessor d. Property Address e. Amount of lease payment due per month All District Office Leases must be approved by CAO Administrative Counsel before any payment will be made. All District Offices must be located in the congressional district currently represented by the Member or in a Federal government building serving that congressional district, unless otherwise authorized by the Committee on House Administration *[Online version – hyperlink to SAMPLE LEASE]*
Miscellaneous Other Services (e.g., Closed Captioning, Insurance, Janitorial, Maintenance, Laundry, Steno, Translation, Interpretation, , Technology)	Required original receipt/invoice must include the following information: a. Name of congressional office or individual placing the order b. Dates of service c. Service provided d. Name of service provider e. Address of service provider f. Remit address g. Amount h. Payment method used (if applicable)
Security – ordinary *(locks, lock release utilities, keys, panic buttons, etc.)*	**Required original receipt/invoice must** include the following information: a. Name of congressional office or **individual placing the order** b. Dates of service c. Description of items/services procured d. Name of service provider e. Address of service provider f. Remit address g. Amount h. Payment method used (if applicable)
Security -- extraordinary *(personal protective services, alarm and monitoring systems, etc.)*	Required original receipt/invoice must include the following information a. Copy of recommendation from USCP Threat Assessment Office b. Name of congressional office or individual placing the order c. Dates of service d. Description of items/services procured e. Name of service provider f. Address of service provider g. Remit address h. Amount i. Payment method used (if applicable)
Supplies & Materials	Required original receipt/invoice must ~~contain~~ include the following information: a. Name of congressional office or individual placing the order a. Dates of service b. Description of items purchased including quantity c. Address retailer/vendor d. Remit Address e. Amount f. Payment method used (if applicable) g. Certification statement acknowledging receipt of goods (committees only)

COMMITTEE ON HOUSE ADMINISTRATION
111TH CONGRESS
COMMITTEE RESOLUTION # 111-7
November 4, 2009

Prohibiting text messaging while driving on official business

Resolved, that the regulations of the Committee on House Administration are amended by inclusion of the following language in the Committee's regulations:

> ***Persons employed within the House shall not engage in text messaging when driving a Government owned or leased vehicle, or when driving a privately owned or leased vehicle while on official business, or when using text messaging equipment supplied by the House while driving any vehicle at any time. "Text messaging" means reading from or entering data into any handheld or other electronic device, including for the purpose of SMS texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication.***

The Chairman is authorized to make such technical and conforming modifications to the above language as are necessary for inclusion in the Committee and Member Handbooks, and to notify all congressional offices by suitable means.

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release October 1, 2009

EXECUTIVE ORDER

- - - - - - -

FEDERAL LEADERSHIP ON REDUCING TEXT MESSAGING WHILE DRIVING

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 7902(c) of title 5, United States Code, and the Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. 101 et seq., and in order to demonstrate Federal leadership in improving safety on our roads and highways and to enhance the efficiency of Federal contracting, it is hereby ordered as follows:

Section 1. Policy. With nearly 3 million civilian employees, the Federal Government can and should demonstrate leadership in reducing the dangers of text messaging while driving. Recent deadly crashes involving drivers distracted by text messaging while behind the wheel highlight a growing danger on our roads. Text messaging causes drivers to take their eyes off the road and at least one hand off the steering wheel, endangering both themselves and others. Every day, Federal employees drive Government-owned, Government-leased, or Government-rented vehicles (collectively, GOV) or privately-owned vehicles (POV) on official Government business, and some Federal employees use Government-supplied electronic devices to text or e-mail while driving. A Federal Government-wide prohibition on the use of text messaging while driving on official business or while using Government-supplied equipment will help save lives, reduce injuries, and set an example for State and local governments, private employers, and individual drivers. Extending this policy to cover Federal contractors is designed to promote economy and efficiency in Federal procurement. Federal contractors and contractor employees who refrain from the unsafe practice of text messaging while driving in connection with Government business are less likely to experience disruptions to their operations that would adversely impact Federal procurement.

Sec. 2. Text Messaging While Driving by Federal Employees. Federal employees shall not engage in text messaging (a) when driving GOV, or when driving POV while on official Government business, or (b) when using electronic equipment supplied by the Government while driving.

Sec. 3. Scope of Order. (a) All agencies of the executive branch are directed to take appropriate action within the scope of their existing programs to further the policies of this order and to implement section 2 of this order. This includes, but is not limited to, considering new rules and programs, and reevaluating existing programs to prohibit text messaging while driving, and conducting education, awareness, and other outreach for Federal employees about the safety risks associated with texting while driving. These initiatives should encourage voluntary compliance with the agency's text messaging policy while off duty.

(b) Within 90 days of the date of this order, each agency is directed, consistent with all applicable laws and regulations: (i) to take appropriate measures to implement this order, (ii) to adopt measures to ensure compliance with section 2 of this order, including through appropriate disciplinary actions, and (iii) to notify the Secretary of Transportation of the measures it undertakes hereunder.

(c) Agency heads may exempt from the requirements of this order, in whole or in part, certain employees, devices, or vehicles in their respective agencies that are engaged in or used for protective, law enforcement, or national security responsibilities or on the basis of other emergency conditions.

Sec. 4. Text Messaging While Driving by Government Contractors, Subcontractors, and Recipients and Subrecipients. Each Federal agency, in procurement contracts, grants, and cooperative agreements, and other grants to the extent authorized by applicable statutory authority, entered into after the date of this order, shall encourage contractors, subcontractors, and recipients and subrecipients to adopt and enforce policies that ban text messaging while driving company-owned or -rented vehicles or GOV, or while driving POV when on official Government business or when performing any work for or on behalf of the Government. Agencies should also encourage Federal contractors, subcontractors, and grant recipients and subrecipients as described in this section to conduct initiatives of the type described in section 3(a) of this order.

Sec. 5. Coordination. The Secretary of Transportation, in consultation with the Administrator of General Services and the Director of the Office of Personnel Management, shall provide leadership and guidance to the heads of executive branch agencies to assist them with any action pursuant to this order.

Sec. 6. Definitions.

(a) The term "agency" as used in this order means an executive agency, as defined in 5 U.S.C. 105, except for the Government Accountability Office.
(b) "Texting" or "Text Messaging" means reading from or entering data into any handheld or other electronic device, including for the purpose of SMS texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication.
(c) "Driving" means operating a motor vehicle on an active roadway with the motor running, including while temporarily stationary because of traffic, a traffic light or stop sign, or otherwise. It does not include operating a motor vehicle with or without the motor running when one has pulled over to the side of, or off, an active roadway and has halted in a location where one can safely remain stationary.

Sec. 7. General Provisions.

(a) Nothing in this order shall be construed to impair or otherwise affect or alter:
(i) Authority granted by law or Executive Order to an agency, or the head thereof;
(ii) Powers and duties of the heads of the various departments and agencies pursuant to the

Highway Safety Act of 1966, as amended, 23 U.S.C. 402 and 403, section 19 of the Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. 668, sections 7901 and 7902 of title 5, United States Code, or the Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. 101 et seq.;

(iii) Rights, duties, or procedures under the National Labor Relations Act, 29 U.S.C. 151 et seq.; or

(iv) Functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

THE WHITE HOUSE,
October 1, 2009.

The CHAIRMAN. Does anyone have anything to say on these items?

If there is no objection we order the two bills favorably reported and pass the two committee resolutions.

With regard to Committee Resolution 111–6 regarding Voucher Documentation Standards, I agree that we will take up the security and printing documentation requirement on the next markup. So we are adopting the committee resolution excluding those two provisions, and we will work with all and any to resolve the differences between now and then.

And members may insert for the record on all these matters.

[The information follows:]

CHAIRMAN'S STATEMENT

Committee Resolution 111-7

Prohibiting text messaging while driving on official business

Mr. Brady: The next item is Committee Resolution 111-7.

We've all heard the recent reports about how distracted driving is much more dangerous than drunk driving. On October 1st, the President issued an Executive Order prohibiting texting while driving a government vehicle, texting while driving a private vehicle while on official business, or texting on Government electronic equipment while driving. The language in the Committee resolution is straight from that Executive Order, and by informing the House of this requirement, we can expect in the coming years to reduce loss of life, injuries, property damage, and taxpayer liability related to the conduct of official House business. It is the appropriate and responsible thing for the House to do, and I encourage all my colleagues to support the adoption of this distracted driving policy.

The CHAIRMAN. Mr. Lungren, I would like to recognize you for any comments.

Mr. LUNGREN. Thank you very much, Mr. Chairman.

You have accurately reflected the agreement we have entered into, with respect to the various bills we are talking about today. I appreciate the comity, and I thank you for working so well with us.

The CHAIRMAN. Thank you.

So, without objection, H.R. 3224, H.R. 2843 are ordered reported favorably to the House, and then Committee Resolutions 111–6 and 111–7 are adopted.

All those in favor, signify by saying, "Aye."

None opposed.

So ordered; they are adopted.

The next item on the agenda is H.R. 3542, the "State Admission Day Recognition Act of 2009."

This bill, which was introduced by Ranking Member Lungren would commemorate each State's admission to the Union by directing the Architect to fly a State's flag over the Capitol on the anniversary date of its admission, beginning with Delaware, the first State.

I understand that the ranking member has concerns about the disposition of the flags. And I commit to working with him to word the regulations to provide that, during the first year of commemorating, the flags would be delivered to the Governor of each State or territory and that, in the future years, the Governors will have the option to deliver these flags to universities, high schools, and elementary schools.

I now would like to recognize the sponsor of this legislation, the ranking member, Mr. Lungren, for an opening statement.

Mr. LUNGREN. Thank you very much, Mr. Chairman, for bringing this bill to the committee. I am pleased to have authored this legislation, brought to me by one of my constituents, at least the suggestion was.

It instructs the Architect of the Capitol to fly flags of each individual State of these United States over the Capitol Building on the anniversary of the admission of that State into the Union. As the embodiment of the phrase which appears on the seal of the United States, "E Pluribus Unum," meaning, "Out of Many, One," the flying of the States' flags will honor each State for their contribution to our country.

Additionally, this legislation supports the concept that our Nation was created to be a Federal system as opposed to a centrally based system of government and will serve as a reminder of the unique ideas incorporated by our Founding Fathers in drafting the Constitution and the charge we carry forward as stewards of our Nation.

And I urge support of my colleagues and thank the chairman for bringing the bill before our committee.

The CHAIRMAN. I thank the gentleman.

And I now call up and lay before the committee H.R. 3542. Without objection, the first reading of the bill is dispensed with, and the bill is considered as read and open for amendment at any point.

[The information follows:]

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

I

111TH CONGRESS
1ST SESSION

H. R. 3542

To direct the Architect of the Capitol to fly the flag of a State over the Capitol each year on the anniversary of the date of the State's admission to the Union.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 9, 2009

Mr. DANIEL E. LUNGREN of California introduced the following bill; which was referred to the Committee on House Administration

---

A BILL

To direct the Architect of the Capitol to fly the flag of a State over the Capitol each year on the anniversary of the date of the State's admission to the Union.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "State Admission Day Recognition Act of 2009".

SEC. 2. FLYING STATE FLAG OVER CAPITOL ON ANNIVERSARY OF STATE'S ADMISSION TO UNION.

(a) IN GENERAL.—To honor the anniversary of each State's admission to the Union, the Architect of the Cap-

1 itol shall fly the flag of the State over the Capitol each
2 year on the anniversary of the date of the State's admis-
3 sion to the Union.

4 (b) EFFECTIVE DATE.—The Architect of the Capitol
5 shall fly the first flag of a State over the Capitol under
6 this section on the first December 7 which occurs after
7 the date of the enactment of this Act, in honor of the anni-
8 versary of the admission of Delaware, the first State ad-
9 mitted to the Union.

○

The CHAIRMAN. The Chair now would like to offer an amendment, which is in the members' packet and which would provide greater specifics about how the bill would operate and authorize the issuance of regulations.

Without objection, the amendment is considered as read.

[The information follows:]

AMENDMENT TO H.R. 3542

OFFERED BY MR. BRADY OF PENNSYLVANIA

Add at the end the following new section:

1 **SEC. 3. REGULATIONS.**

2 The Committee on House Administration of the
3 House of Representatives and the Committee on Rules
4 and Administration of the Senate may promulgate jointly
5 such regulations as may be appropriate to carry out this
6 Act, including regulations permitting the Architect of the
7 Capitol to honor the District of Columbia, the Common-
8 wealth of Puerto Rico, American Samoa, Guam, the
9 United States Virgin Islands, and the Northern Mariana
10 Islands by flying the flag of each such jurisdiction over
11 the Capitol each year on an appropriate date for that ju-
12 risdiction.

The CHAIRMAN. And I now would like to again ask the ranking member for any comments.

Mr. LUNGREN. I support the chairman's amendment and ask for its adoption.

The CHAIRMAN. Is there any additional debate on the amendment? If not, the question is on the amendment.

All those in favor, signify by saying, "Aye."

Any opposed?

So ordered. The ayes have it, in the opinion of the Chair, and the amendment is agreed to.

Are there any additional amendments?

If not, I now move to report H.R. 3542 favorably to the House, as amended.

All those in favor, signify by saying, "Aye."

Any opposed, "No."

So ordered. The ayes have it, in opinion of the Chair. And the bill, as amended, is ordered reported to the House.

Without objection, the motion to reconsider is laid on the table.

The next item on the agenda is H.R. 3489, a bill to amend the Help America Vote Act of 2002.

This bill will protect persons residing in a house subject to foreclosure proceedings or in an area which has been affected by a natural disaster from challenges by election officials to their eligibility to register to vote.

Because our voter registration system is based on people's residence, the current foreclosure crisis has the potential to do considerable damage to the integrity of the Nation's elections.

Reports surfaced during the 2008 presidential election that political operatives planned to use lists of foreclosed properties in Michigan and Ohio to challenge voters' residency. Election officials around the country reportedly received numerous questions from foreclosed homeowners regarding their voting status.

But there is no rational basis for using foreclosure lists to challenge a voter's eligibility. Otherwise-eligible voters may be renting a foreclosed home or working with a bank to refinance. And voters displaced by hurricanes and other natural disasters should have the right to vote in communities in which they intend to return.

H.R. 3489 is an important bill that will help ensure the integrity of our elections. It has been a long time since there were property requirements for voting. We should act now to ensure that voters do not lose their civil right to vote because they have lost or may lose their homes. I strongly urge support of this bill.

And I would like to recognize the ranking member, Mr. Lungren.

Mr. LUNGREN. Thank you very much, Mr. Chairman.

I knew that, despite the comity and our agreement on most everything, there would be times in which we would disagree.

Whenever this committee deals with something as sensitive as an individual's constitutional right to vote and to not have that vote diluted by fraudulent votes, I think we must act carefully and deliberately. And when it comes to fundamental rights, I would hope that we would not tinker with the law based on mere accusations or mere possibilities.

Yet, as I examine this legislation, I fear that is exactly where we are headed. Far from being just unnecessary, I feel the legislation could be dangerous to the health of our electoral system.

The two separate prongs of the bill, dealing with the victims of natural disasters and individuals facing foreclosure, both carry their own set of concerns.

The most staggering implication of the provision prohibiting the challenge of voters in areas that have been declared a natural disasters is its breadth. The wording of the bill suggests that it would be impossible to challenge anyone for any reason if they happen to be in a disaster area.

For example, in the event that someone attempted to vote fraudulently under the name of a person known to be deceased or an individual who is known to not be a citizen of the United States, it would not be possible to challenge that individual, the person attempting to vote, if they live in an area that has been declared a disaster area. There is no limiting language to suggest that the challenge has to be one based solely on residency.

In addition, there is zero language in the bill that would limit how long the prohibition against challenges would last in disaster areas. Under the current language of the bill, any area that has been declared by the President to be a disaster area at any time—no limit—would be subject to a complete ban on challenges of any kind. A disaster may have happened and recovery completed decades ago, yet the wording of this bill would permit no challenges to be brought in these areas. So the scope of the provision is truly staggering.

Presumably, this portion of the bill was drafted to cover situations like that which occurred to the victims in Hurricane Katrina. Yet the two States affected most by that disaster, Mississippi and Louisiana, have both filed letters of opposition with the committee.

In their letters, both secretaries of State's offices—that is, of the States most directly affected—detailed the ways in which they have already made provisions for displaced voters under State law. I would like unanimous consent to enter both of those letters into the record.

The CHAIRMAN. Without objection.

[The information follows:]

DELBERT HOSEMANN
Secretary of State

October 16, 2009

The Honorable Gregg Harper
United States Representative
307 Cannon House Office Building
Washington, DC 20515

Re: H.R. 3489-amendment to the Help America Vote Act of 2002

Dear Representative Harper:

Because you are a member of the Administration Committee of the House of Representatives, I wanted to comment to you about a bill that is before that committee. H.R. 3489 seeks to amend the Help America Vote Act of 2002 (HAVA) to require "good cause" for election officials to consider challenges to the qualifications of citizens to register to vote or to cast a ballot. I think this bill is unwise, and I ask you to oppose it in its current form.

Mississippi currently has a statute that governs challenges to voter qualifications. Miss. Code Ann. 23-15-571. This statute is comprehensive. H.R. 3489 attempts to federalize challenges to voter qualifications. I feel that this matter should be regulated by each State individually.

This bill attempts to define two areas that are excluded as "good cause" for a challenge. First, if an individual resides in a "household" subject to a foreclosure proceeding, good cause would not be found. Second, if a voter is in a jurisdiction included in a disaster area, he is not subject to a challenge.

Under Mississippi law, being subject to foreclosure would not be sufficient to prohibit voting. Mississippi law currently allows a challenge to be upheld against a voter who does not reside in the precinct in which he is registered or that he is otherwise disqualified by law from voting. Miss. Code Ann. 23-15-571 (3). Evidence that an individual has a home in a foreclosure proceeding is evidence tending to prove that the individual no longer lives in the precinct where he offers to vote. Coupled with other evidence, it can demonstrate convincingly that an individual should not be allowed to vote in a particular precinct. A challenger to voter qualification should be allowed to present evidence of such a proceeding.

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www.sos.ms.gov

October 16, 2009
Page 2

H.R. 3489 would disallow challenges to any voter in any jurisdiction covered by a disaster declaration. In the event that someone attempted to vote fraudulently under the name of a person universally known to be deceased, it would not be possible to challenge that individual. Likewise, no challenge would be allowed even if the person were not a United States citizen. No challenge would be allowed if the person were a felon convicted of a disenfranchising crime.

In the event that this bill survives the scrutiny of the committee, I would suggest three changes. First, delete any reference to "good cause." The standard for determining a sufficient challenge to voter qualifications should be defined by each state. Second, limit the foreclosure provision to disallow challenges solely based on foreclosure proceedings. Third, disallow challenges based on residency in jurisdictions covered by a disaster declaration.

I believe that the bill is not necessary. Challenging voter qualifications is a matter best handled by state law. Further, as written, the bill is overbroad and would prohibit valid challenges that are far outside the apparent intent of the bill. Please feel free to contact me if you have any questions or comments.

Best regards,

Sincerely,

C. Delbert Hosemann, Jr.

C. Delbert Hosemann, Jr
Secretary of State

CDH,JR/me

JAY DARDENNE
SECRETARY OF STATE

STATE OF LOUISIANA
SECRETARY OF STATE

P.O. BOX 94125
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October 19, 2009

Hon. Robert A. Brady
Chair, Committee on House Administration
U.S. House of Representatives
1309 Longworth House Office Building
Washington, DC 20515

Re: HR 3489, 111th Congress
Mr. Jackson of Illinois

Dear Chairman Brady:

The State of Louisiana has been informed that HR 3489 is presently before the Committee on House Administration. It is our understanding that this House Resolution provides an amendment to the Help America Vote Act of 2002 to prevent a state, such as Louisiana, or local election official from accepting a challenge to a person's eligibility to register to vote in a federal election or to vote in a federal election if such challenge was based on the reason that (1) the individual resides in a household subject to foreclosure proceedings, or (2) the jurisdiction is in an area which was adversely affected by a hurricane or other major disaster declared by the President under the Stafford Act.

Louisiana law allows a challenge to be made to a person applying to vote if (1) the person is not qualified to vote in the election, (2) the person is not qualified to vote in the precinct, or (3) the person is not the person whose name is shown on the precinct register. A person must be qualified in order to register to vote, and thereafter, is canvassed annually to confirm their voting registration address. If they move outside of their parish, they may be challenged by our local election official and have 21 days to show proof as to why their registration should remain valid at their registration address.

Many citizens of Louisiana were displaced following hurricane Katrina in 2005, but we believe that our legislature appropriately provided for laws to assist our citizens with registration and voting following this disaster, and continue to do so today. Presently our registration laws provide that "a person who has been involuntarily displaced from his place of residence by the effects of a gubernatorially declared state of emergency shall not be considered to have vacated his residence and shall be considered to be an actual bona fide resident of the state and parish in which he is registered to vote unless he has either established a new domicile or has changed his registration to an address outside the voting district." LSA-R.S. 18:101(F). This law applies to those citizens who were displaced and continue to be displaced by hurricane Katrina.

We have several questions and concerns regarding HR 3489, such as how do you identify who is in foreclosure and what date is to be used when applying to hurricanes? We had hurricanes Katrina, Rita, and Gustav, to name a few in the last couple of years but we have had many more before that time that may still be affecting our citizens.

Louisiana follows the provisions of the National Voter Registration Act ("NVRA"), 42 U.S.C. § 1973 gg-6, in the administration of voter registration for elections for federal office, which includes removal from the voting rolls in certain instances. How would HR 3489 work with the provisions of list maintenance under the NVRA?

We appreciate the opportunity to address the committee with our initial questions and concerns. If our office can provide any additional information regarding Louisiana's challenge procedures, please do not hesitate to contact us.

Yours very truly,

ANGIE R. LAPLACE
Commissioner of Elections
LA Secretary of State's Office

ARL/dr

Cc: Ranking Member Lungren
Secretary Jay Dardenne
Tom Schedler

Mr. LUNGREN. Regarding the foreclosure provision, I can understand my colleagues' concerns, given the high number of foreclosures. And this particularly affects my State. In fact, it particularly affects my district. We do have a large number of foreclosures. We have had people who have left our area after their house has been foreclosed.

At times, when they have left, we found that, not only were they living there, but we have had some major marijuana growing going on in houses in my district that have been foreclosed.

But to thus my knowledge—and we have not held a hearing on this bill, so I can't say for certain—the only basis for the foreclosures provision in this bill is a posting on one blog citing statements by party representatives that were vehemently denied by those who purportedly uttered them. Both parties even signed court documents stating they would not use foreclosure lists. I have certainly not seen any evidence that foreclosure lists were used to challenge voters.

In my last election, as I mentioned, I was the subject of suppression calls to try and limit the number of people voting in my district at a crucial time, on the afternoon of the election. But I haven't seen any evidence nor do I know anything about people being denied their right to vote because people used foreclosure lists.

But even if this were an actual problem, I believe this committee could find a more prudent way to protect the affected voters. Rather than narrowly focusing on voters affected by foreclosure lists as was written, the bill now goes far beyond that and establishes a new Federal, quote/unquote, "good cause" standard by which all voter challenges would be measured.

So we are told that this bill deals with the question of foreclosure and deals with the other problem of people in natural disaster areas, but it goes far beyond that and creates this new standard, good faith standard, to which all voter challenges would be measured. And this is without the benefit of defining what "good cause" would be, even having a hearing on what we are talking about.

I think it would be of great benefit to both the intended beneficiaries of the bill and those who would be charged with its implementation if the bill were referred to the Subcommittee on Elections for a hearing.

Yet, if the committee proceeds in considering the legislation, I would hope, at a minimum, the chairman and my colleagues would adopt the amendments we plan to offer to address a number of these issues, not to getting rid of the final import of this bill but trying to limit its application because of the concerns that I have expressed.

And, with that, I would yield back the balance of my time.

The CHAIRMAN. I thank the gentleman.

And I would like to recognize the chairwoman of the Elections Subcommittee, Ms. Lofgren, for the purpose of a statement.

Ms. LOFGREN. Mr. Chairman, first, I would ask unanimous consent that documents related to the bill be made a part of the record. That would be articles from The New York Times, the Michigan Messenger, The Columbus Dispatch; the NAACP Legal Defense Fund memo and court order on the case of Herring v. Mar-

ion County; advisories and press releases from Maryland, Ohio, Nevada, Missouri, and Minnesota on challenges related to home foreclosure; information regarding the home foreclosure and voting bill that passed the Michigan House of Representatives last year; as well as letters from the Leadership Conference on Civil Rights regarding challenges related to home foreclosures.

The CHAIRMAN. Without objection.

[The information follows:]

The New York Times
nytimes.com

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October 5, 2008

EDITORIAL

Foreclosures and the Right to Vote

The foreclosure crisis could do considerable damage to the nation's voting system. More than a million people have lost their homes in the past two years. And because voter registration is based on people's residences, they could face politically motivated challenges at the polls.

The problem may be especially acute in the presidential battleground states. In Ohio, more than 5 percent of home mortgages are seriously delinquent or in the foreclosure process, and there were more than 67,000 foreclosure actions in the first half of 2008. Michigan and Florida have also been hard hit.

There are a large number of advocacy groups and other programs that work to ensure that minorities, the disabled and students are able to cast ballots. Because the foreclosure crisis is so recent, not much work has been done to ensure that people who lose their homes do not also lose their chance to vote.

Many of the hardest-hit neighborhoods are low- income and minority areas, which tend to vote Democratic. That means officials have to be extra vigilant to ensure that Republicans do not use foreclosure lists to challenge voters. There was a dust-up recently in Michigan, after a progressive Web site quoted the Republican chairman of Macomb County as saying that his party planned to do just that. He and the party insist there are no such plans, but the Barack Obama campaign has filed suit to block foreclosure-based challenges.

Whatever happens in Macomb County, where nearly one in every 100 households is in foreclosure, it is likely that in at least some parts of the country there will be challenges to voters who have lost their homes. There is also a real danger that voters who are in foreclosure will be misled or intimidated into not casting ballots.

It is important that state and local elections officials do everything they can to help people caught up in foreclosure to cast ballots. They should make clear that in many circumstances,

people in foreclosure still have the right to vote where they have been living. The rules vary by state. They should also widely advertise how people who leave their homes can change their registration, to vote from their new addresses.

Election officials should also ensure that there are enough poll workers to handle the disputes and confusion that could arise — and that they are properly instructed in the law.

Jennifer Brunner, Ohio's secretary of state, is doing a good job. She has sent an advisory out to local boards of election reminding them that the fact that a voter is involved in a foreclosure is not, by itself, sufficient basis for challenging his or her right to vote.

It has been a long time since there were property requirements for voting. Election officials must not impose them now, by disenfranchising people because they have lost, or are losing, their homes.

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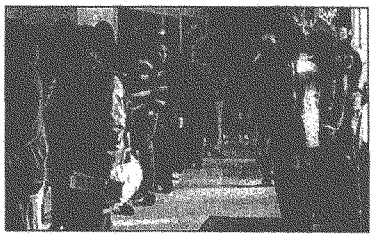
Lose your house, lose your vote

By Eartha Jane Melzer 9/10/08 6:42 AM



The chairman of the Republican Party in Macomb County, Michigan, a key swing county in a key swing state, is planning to use a list of foreclosed homes to block people from voting in the upcoming election as part of the state GOP's effort to challenge some voters on Election Day.

"We will have a list of foreclosed homes and will make sure people aren't voting from those addresses," party chairman James Carabelli told Michigan Messenger in a telephone interview earlier this week. He said the local party wanted to make sure that proper electoral procedures were followed.

State election rules allow parties to assign "election challengers" to polls to monitor the election. In addition to observing the poll workers, these volunteers can challenge the eligibility of any voter provided they "have a good reason to believe" that the person is not eligible to vote. One allowable reason is that the person is not a "true resident of the city or township."

The Michigan Republicans' planned use of foreclosure lists is apparently an attempt to challenge ineligible voters as not being "true residents."

One expert questioned the legality of the tactic.

"You can't challenge people without a factual basis for doing so," said J. Gerald Hebert, a former voting rights litigator for the U.S. Justice Department who now runs the Campaign Legal Center, a Washington D.C.-based public-interest law firm. "I don't think a foreclosure notice is

sufficient basis for a challenge, because people often remain in their homes after foreclosure begins and sometimes are able to negotiate and refinance."

As for the practice of challenging the right to vote of foreclosed property owners, Hebert called it, "mean-spirited."

GOP ties to state's largest foreclosure law firm

The Macomb GOP's plans are another indication of how John McCain's campaign stands to benefit from the burgeoning number of foreclosures in the state. McCain's regional headquarters are housed in the office building of foreclosure specialists Trott & Trott. The firm's founder, David A. Trott, has raised between $100,000 and $250,000 for the Republican nominee.

The Macomb County party's plans to challenge voters who have defaulted on their house payments is likely to disproportionately affect African-Americans who are overwhelmingly Democratic voters. More than 60 percent of all sub-prime loans — the most likely kind of loan to go into default — were made to African-Americans in Michigan, according to a report issued last year by the state's Department of Labor and Economic Growth.

Challenges to would-be voters

Statewide, the Republican Party is gearing up for a comprehensive voter challenge campaign, according to Denise Graves, party chair for Republicans in Genessee County, which encompasses Flint. The party is creating a spreadsheet of election challenger volunteers and expects to coordinate a training with the regional McCain campaign, Graves said in an interview with Michigan Messenger.

Whether the Republicans will challenge voters with foreclosed homes elsewhere in the state is not known.

Kelly Harrigan, deputy director of the GOP's voter programs, confirmed that she is coordinating the group's "election integrity" program. Harrigan said the effort includes putting in place a legal team, as well as training election challengers. She said the challenges to voters were procedural rather than personal. She referred inquiries about the vote challenge program to communications director Bill Nowling, who promised information but did not return calls.

Party chairman Carabelli said that the Republican Party is training election challengers to "make sure that [voters] are who they say who they are."

When asked for further details on how Republicans are compiling challenge lists, he said, "I would rather not tell you all the things we are

doing."

Vote suppression: Not an isolated effort

The issue of voter challenges is arising around the country. In Ohio, the Columbus Dispatch, in an July 6 article titled "Foreclosed-on voters using old addresses could snag election," reported that Doug Preisse, a member of the board of elections in Franklin County and the chair of the local GOP, said he has not ruled out challenging voters before the election.

Hebert, the voting-rights lawyer, sees a pattern.

"At a minimum what you are seeing is a fairly comprehensive effort by the Republican Party, a systematic broad-based effort to put up obstacles for people to vote," he said. "Nobody is contending that these people are not legally registered to vote.

"When you are comprehensively challenging people to vote," Hebert went on, "your goals are two-fold: One is you are trying to knock people out from casting ballots; the other is to create a slowdown that will discourage others," who see a long line and realize they can't afford to stay and wait.

Challenging all voters registered to foreclosed homes could disrupt some polling places, especially in the Detroit metropolitan area. According to the real estate Web site RealtyTrac, one in every 176 households in Wayne County, metropolitan Detroit, received a foreclosure filing during the month of July. In Macomb County, the figure was one household in every 285, meaning that 1,834 homeowners received the bad news in just one month. The Macomb County foreclosure rate puts it in the top three percent of all U.S. counties in the number of distressed homeowners.

Wayne, Oakland, Macomb, Kent and Genessee counties were — in that order — the counties with the most homeowners facing foreclosure, according to RealtyTrac. As of July, there were more than 62,000 foreclosure filings in the entire state.

Joe Rozell, director of elections for Oakland County in suburban Detroit, acknowledged that challenges such as those described by Carabelli are allowed by law but said they have the potential to create long lines and disrupt the voting process. With 890,000 potential voters closely divided between Democratic and Republican, Oakland County is a key swing county of this swing state.

According to voter challenge directives handed down by Republican Secretary of State Terri Lynn Land, voter challenges need only be "based on information obtained through a reliable source or means."

"But poll workers are not allowed to ask the reason" for the challenges, Rozell said. In other words, Republican vote challengers are free to use foreclosure lists as a basis for disqualifying otherwise eligible voters.

David Lagstein, head organizer with the Michigan Association of Community Organizations for Reform Now (ACORN), described the plans of the Macomb GOP as "crazy."

"You would think they would think, 'This is going to look too heartless,'" said Lagstein, whose group has registered 200,000 new voters statewide this year and also runs a foreclosure avoidance program. "The Republican-led state Senate has not moved on the anti-predatory lending bill for over a year and yet [Republicans] have time to prey on those who have fallen victim to foreclosure to suppress the vote."

—

Correction: This article has been amended to reflect the fact that Doug Preisse informed Michigan Messenger that he did not "state or imply" that he had not ruled out challenges "due to foreclosure related address issues," as originally reported.

Foreclosed-on voters using old addresses could snag election

Sunday, July 6, 2008 3:36 AM

BY ROBERT VITALE

THE COLUMBUS DISPATCH

Punch cards in Florida left the 2000 presidential election in limbo. Ohio's voting-machine shortage became a source of continuing controversy in 2004.

If there's Election Day disorder brewing for 2008, it might well be rooted in the nation's mortgage-foreclosure crisis. In Columbus, across Ohio and in other key presidential battlegrounds, more people losing their homes means more registered to vote from addresses where they no longer live.

Although federal law ensures that most still will be able to cast a ballot on Nov. 4, Ohio voters with outdated addresses risk pre-election challenges and trips from polling place to polling place. They're also more likely to cast provisional ballots that might not be counted.

"It's a real issue," said Daniel Tokaji, an Ohio State University law professor who wonders whether foreclosures might explain the increasing percentages of provisional votes cast between 2004 and Ohio's latest election, the presidential primary in March.

Nearly 3,700 people are registered to vote at Columbus addresses the city lists as vacant, according to records maintained by the city's code-enforcement office and the Franklin County Board of Elections.

The number of voters on the move, though, is higher than that. The board of elections sent out a plea in January to about 27,000 Franklin County residents who had filled out change-of-address forms with the U.S. Postal Service but hadn't updated their voter registrations.

Only about 10,000 had responded through the end of May, but Deputy Director Matthew Damschroder said that still helped fuel a 25 percent increase compared with 2004 in registration activity -- new registrations and address changes.

Keeping registrations current -- a responsibility of voters, not the county -- is a constant battle. Boards of health send regular updates so they can remove dead people from the rolls. Courts submit names of people convicted of felonies who lose their right to vote.

In Franklin County, people who are alive and registered but don't vote are removed after sitting out eight years of elections.

Ohio's 2-year-old requirement that voters show identification at the polls makes it more important that they keep their registration information current, said Jeff Ortega, a spokesman for Secretary of State Jennifer Brunner.

Statewide, a grant from the Pew Charitable Trusts is paying to include voter-registration forms in post-office change-of-address kits. Damschroder said Franklin County voters who have filled out postal-address changes will get another reminder in the mail this summer to update their registration as well.

In 2004, the Ohio Republican Party challenged more than 31,000 newly registered voters statewide -- including more than 4,200 in Franklin County -- after letters it mailed out came back as undeliverable. The challenges fizzled, but Brunner fears a new state law requiring counties to mail their own notices to all registered voters could fuel another round of pre-election challenges.

William A. Anthony Jr., chairman of the Franklin County Democratic Party and vice-chair of the county elections board, said he also has noticed more challenges filed by new homeowners against previous occupants.

"I can see this being a residual problem because of the foreclosures," he said.

If it turns into a problem, it could extend well beyond Franklin County.

Columbus ranked 32nd among U.S. cities in the number of foreclosure filings during the first quarter of 2008, according to RealtyTrac, a Web site that lists homes on the market in most cities. Cleveland, Dayton, Akron, Toledo and Cincinnati also were among the top 50, and Ohio was ninth among states during May, with one filing for every 410 homes.

Other battleground states rank high in foreclosure filings as well: Nevada led the nation in May with one filing for every 118 homes, while Florida was fourth, Michigan fifth, Georgia sixth, Colorado seventh and New Jersey 10th.

Nathaniel Persily, a law professor at Columbia University, said Ohio is stricter than most states in using outdated registrations as grounds for disqualifying voters. But increasing numbers of outdated registrations increase the possibility of voter challenges in 2008, he said.

Few in central Ohio predict a repeat of 2004. Although pre-election challenges still are possible, state law now bars party challengers at polling places.

Franklin County GOP Chairman Doug Preisse didn't rule out challenges before Nov. 4. He said his party wants "clean, accurate voter lists" and remains suspicious of outside groups such as ACORN, the Association of Community Organizations for Reform Now, whose paid registration workers were accused in 2004 and 2006 of submitting names for people who don't exist.

As it did in 2004, the Ohio Democratic Party is putting together a "voter-protection" plan to fight eligibility challenges.

rvitale@dispatch.com

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LDF
DEFEND EDUCATE EMPOWER

October 24, 2008

LDF Secures Voting Rights Victory that Protects Foreclosure Victims

(Friday, New York, NY) — Today, the NAACP Legal Defense Fund ("LDF") settled the lawsuit it filed just two days ago in Indiana state court to ensure that eligible voters with property subject to foreclosure proceedings or evictions cannot have their right to vote challenged during the upcoming November 4th election. In settling the case, the Plaintiffs and Defendants, Marion County Election Board, and non-parties Marion County Democratic and Republican parties, agreed that such challenges are not permitted under Indiana law.

"Foreclosure has no bearing on one's eligibility to vote. Today's settlement ensures that the current foreclosure crisis gripping the nation will not be exploited to strip the right to vote away from those who are among the financially vulnerable among us. Challenges based on foreclosure are the kind of voter suppression tactic that threaten our efforts to move towards an open and equal Democracy," said John Payton, LDF President and Director Counsel.

The case, *Herring v. Marion County Election Board*, was filed on behalf of an African-American family that fell behind on their home payments and faced the threat of foreclosure over the last two years, and the Greater Indianapolis Branch of the NAACP which has provided advocacy on behalf of countless families facing foreclosure in the region. The Plaintiffs were uncertain of their legal right to cast a regular ballot after conflicting statements were attributed to the Marion County Republican Party Chairman, who maintained that foreclosure was a "solid basis" for challenging voter eligibility on Election Day, and the Circuit Clerk, a Democrat, who disagreed.

"The sole question before the court in the case is whether voters involved in a foreclosure can be singled out for Election Day challenges," said Jenigh J. Garrett, LDF Assistant Counsel who represented Plaintiffs. "The parties to the settlement unconditionally agree that both Indiana law and fairness dictate that the answer is a resounding no. This agreement helps ensure that our clients and all voters in Marion County will be able to vote in the November 4th election without the threat of baseless challenges and intimidation."

Under the terms of the settlement agreement, the Marion County Election Board will make clear to any party authorized to issue challenger credentials that foreclosure or eviction is not a permissible basis for challenging voters on Election Day, among other things. The Marion County Democratic and Republican Parties will comply with the agreement.

LDF filed the case with the assistance of local attorneys Nathaniel Lee and Cherry Malichi, of the Indianapolis law firm of Lee, Cossell, Kuehn & Love, LLP, and the Baltimore-based NAACP.

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http://www.naacpldf.org/content.aspx?article=1337

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STATE OF INDIANA	)	IN THE MARION SUPERIOR COURT
	)SS.	
COUNTY OF MARION	)	CAUSE NO. 49D11-0810-MI-047860

APRIL HERRING, SHAWN HERRING, GREATER INDIANAPOLIS NAACP BRANCH # 3053,

Plaintiffs,

vs.

MARION COUNTY ELECTION BOARD,

Defendant.

FILED
(167) OCT 24 2008
Elizabeth K. White
CLERK OF THE MARION CIRCUIT COURT

ORDER

Plaintiffs Herring and Greater Indianapolis NAACP Branch #3053 filed their Verified Complaint for Temporary Restraining Order, Preliminary Injunction and Declaratory Relief. The Court, having considered the matter, hereby enters this order, which has been tendered by the parties by agreement.

It is hereby ORDERED:

1. The appearance of a name or property on any list or directory of purported foreclosures or eviction notices cannot serve as the sole basis for the challenge to any voter whose name appears on the precinct poll list and any challenge on that basis is contrary to Indiana law.

2. Defendant shall not reject, after the election, any provisional ballots that may be cast by voters whose eligibility to vote has been challenged solely on information pertaining to foreclosure or eviction, including but not limited to the appearance of a name or property on a foreclosure list or eviction notice.

3. Defendant shall issue a public statement within three calendar days of this Order that publicize that foreclosure or eviction, in and of themselves, is not a permissible basis for challenging voters on Election Day, challenges based solely on such grounds will be rejected, and that Defendant remains committed to ensuring that eligible voters can cast their ballots during the November 4, 2008, election. Defendant shall post the public statement on its website.

4. Defendant shall distribute this Order issued by the Court to any party authorized to issue challenger credentials under IC 3-6-7 and instruct those parties to distribute a copy of this Order, distribute the public statement described in paragraph 3 of this Order along with any challenger credentials issued under IC 3-6-7. Counsel for the Marion County Democratic and Marion County Republican Parties have represented that they will comply with this Order.

5. Except as otherwise provided by law, and upon written request by counsel for Plaintiffs, Defendant shall provide to counsel for Plaintiffs a copy of all PRE-4 challenge affidavits issued in Marion County that may be submitted during the November 4, 2008 election within 10 days of such election.

6. Defendant agrees to revise its training program following the November 4, 2008, federal election to provide instruction and guidance which makes clear that challenges based on foreclosure are impermissible in advance of the next regularly scheduled election.

7. A copy of this Order shall be distributed to the chairpersons of the Marion County Democratic, Libertarian, and Republican Parties.

SO ORDERED

Date: 10/24/08

Judge John Hanley
Marion Superior Court #11

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STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

FACSIMILE NO.

WRITER'S DIRECT DIAL NO.

September 24, 2008

Linda H. Lamone, Administrator
State Board of Elections
151 West Street, Suite 200
Annapolis MD 21401

Dear Ms. Lamone:

You recently alerted my office about calls received by some local boards of elections expressing concern that persons who have lost their homes to foreclosure will be challenged at the polls when they vote in the upcoming general election. Although there is no evidence that this repugnant practice is being planned for in Maryland, there have been widespread Internet and email rumors that such an effort may occur. Moreover, there are media accounts of such an effort in at least one other state. Thus, to allay any fears, I ask that you instruct all state and local election officials to make clear to voters that persons who lose their homes to foreclosure do not lose their right to vote.

In Maryland, an individual is entitled to vote "in the ward or election district in which he resides..." and retains the right to vote in that location "until he shall have acquired a residence in another election district or ward... ." Maryland Const. art I, § 1. A person's residence is determined based on that person's domicile, which is:

> [T]he place with which an individual has a settled connection for legal purposes and the place where a person has his true, fixed, permanent home, habitation and principal establishment, without any present intention of removing therefrom, and to which place he has, whenever his is absent, the intention of returning.

Oglesby v. Williams, 372 Md. 360, 372 – 375 (2002)(quoting *Roberts v. Lakin*, 340 Md. 147, 153 (1995)).

The primary factor in determining an individual's domicile is the individual's intent. *Oglesby*, 372 Md. at 373. As this office has previously advised, "Once a person establishes a domicile in one place, there is a presumption that the location remains the

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person's domicile unless there is affirmative evidence demonstrating that the individual has abandoned the established domicile and adopted a new one." 89 Op. Atty. Gen. 166, 169 (2004). The constitutional provision on where a person is to vote incorporates that presumption. Maryland Const. art. I, §1 (person entitled to vote in district of residence "until he shall have acquired a [new] residence"). In order for an individual to adopt a new domicile, there must be "an actual removal to another habitation, coupled with an intention." *Oglesby*, 372 Md. at 374.

With respect to an individual's intent regarding domicile, the person must intend to both (1) abandon the former domicile and (2) adopt another location as his or her new domicile. *Id.* at 375. In several cases addressing domicile, the Court of Appeals required clear evidence that the individual had abandoned an established domicile and adopted a new one during the relevant time period. *See Oglesby*, 372 Md. 360; *Stevenson v. Steele*, 352 Md. 60 (1998); *Blount v. Boston*, 351 Md. 360 (1998). Accordingly, persons who have received a foreclosure notice or whose homes have been foreclosed have not necessarily changed their domicile.

Moreover, a foreclosure list is not a valid basis on which to challenge a registered voter at the polls. Under state law, a voter may only be challenged on the basis of identity; that is, on the claim that the voter is not who he or she claims to be. EL § 10-312. Thus, a person cannot challenge a voter at the polls on the ground that the voter has moved, or that the person is homeless. *See* 69 Op. Atty. Gen. 138 (1984)(homeless persons may register to vote if they maintain a fixed domicile).

I thank your office for bringing the matter to my attention. Should anyone have information that persons are challenging the right of persons whose homes have been foreclosed to vote, I ask that they contact my office immediately. Both the federal and State constitutions guarantee citizens the right to vote. The strength of our democratic system depends on ensuring that all citizens entitled to vote may do so. Public confidence in the election process cannot be maintained if voters are impeded from exercising their right to vote by intimidation, misinformation or deceit.

Sincerely,

Douglas F. Gansler

~~cc: Local Election Board Directors~~

JENNIFER BRUNNER
OHIO SECRETARY OF STATE

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TEL: 1-877-767-6446 FAX: 1-614-644-0649
WWW.SOS.STATE.OH.US

ADVISORY 2008-25
September 24, 2008

To: All County Boards of Elections

Re: Voting Rights of Persons Facing Home Foreclosure

In response to numerous questions received by the Secretary of State's office, this advisory addresses how Ohio election law may affect persons who are the subject of foreclosure actions. Although primarily focused upon the rights of Ohioans who are facing or have lost their homes due to foreclosure, the information contained within this advisory applies generally to situations where an elector has changed residences, on or before Election Day, without updating his or her voter registration.

As a preliminary matter, boards of elections are advised that they may **not** cancel an Ohioan's voter registration based **solely** on the fact that the person is involved in the foreclosure process. The filing of a foreclosure action is not determinative until there is a final judgment entry, including the passage of at least 30 days from the date of the entry because of the right of appeal, and the person no longer resides at the property. Due to the protracted nature of legal foreclosure proceedings, mere involvement in a foreclosure action does not, by definition, mean that an elector no longer resides at the address that is the subject of the foreclosure. An elector might continue to reside at an address throughout the pendency of a foreclosure action, a legal process that may take several months or even more than a year.

Therefore, boards are advised that evidence of a foreclosure action is, on its own, insufficient to sustain a voter registration challenge. Under the federal National Voter Registration Act, a county board of election may cancel a voter's registration for reasons of residency **only if** the elector has either (1) confirmed in writing that he or she has moved to a different jurisdiction, or (2) failed to respond to a forwardable notice sent by a board of elections *and* failed to vote at the two subsequent general elections for federal office. For additional information regarding the administration of voter challenges, please review Directive 2008-79.

Under R.C. 3503.19(A), any Ohio elector may update his or her voter registration by completing a change of registration form and returning it in person to the board of elections, the Secretary of State, or any designated agency, or by mail to the board of elections or Secretary of State. Updated voter registration forms postmarked or received at least thirty (30)[1] days before an election qualify that elector to vote a regular ballot.

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[1] If an otherwise valid voter registration application that is returned by mail does not bear a postmark or a legible postmark, the registration shall be valid for that election if received by the office of the Secretary of State or the office of a board of elections no later than twenty-five days preceding any special, primary, or general election.

Even if a change of address form is postmarked or received after the thirtieth day before the election, Ohio law allows electors to update their voter registrations to reflect a change of address through Election Day and cast a provisional ballot as provided in R.C. 3503.16 and Directive 2008-81.

R.C 3503.16 requires electors who wait until Election Day to update their address to comply with different voting procedures that will depend upon whether the elector moves within the same precinct, within the same county but to a different precinct, or to a different county in Ohio.

Where, due to foreclosure, eviction, or for any other reason, an Ohio elector changes residences within the same voting precinct on or before Election Day, R.C. 3503.16(B)(1) allows that elector to appear at his or her regular precinct polling location on Election Day and vote a **regular ballot.** The elector must complete a change of address form and provide identification that reflects the elector's current (new) address. If the elector provides an Ohio driver's license or state issued identification card that does not show the elector's current address, the elector may still vote a regular ballot if he or she provides the last four digits of his or her driver's license or state identification card number for the poll worker to record. In this case, the poll worker must mark in the pollbook that the elector provided a driver's license or state identification card number with a former address and then record the last four digits of the elector's driver's license number or state identification card number.

When an elector moves to a different voting precinct but remains within the same county, R.C. 3503.16(B)(2) allows that elector to appear at his or her new polling location on Election Day or at the county board of elections on or before Election Day and vote a **provisional ballot.** The elector must complete a change of address form and a statement attesting that the elector: moved on or before Election Day, voted a provisional ballot at either the polling location or the board office, and will not vote or attempt to vote at any other location for that particular election.

R.C. 3503.16(C) allows electors, who move from one Ohio county to another, to appear on or before Election Day at the office of their new county board of elections and vote a **provisional ballot.** These electors must complete a change of address form and a statement attesting that the elector: moved on or prior to Election Day, voted a provisional ballot at either the polling location or the board office, and will not vote or attempt to vote at any other location for that particular election.

Directive 2008-79 prohibits the cancellation of an elector's voter registration for the sole reason that a 60-day notice sent pursuant to R.C. 3501.19 was returned. Similarly, a challenge based on a foreclosure action cannot be sustained without first holding a hearing on such a challenge before Election Day that meets the requirements of due process as set forth in Directive 2008-79.

When a challenge is made on the basis of an elector being a defendant in a foreclosure action or residing at a property that is the subject of a foreclosure action, in addition to meeting all other requirements of Directive 2008-79, the board of elections must determine:

1) Whether the foreclosure action is for property that is the residence of the elector, as that residential address is reflected in the records of the board of elections;
2) If the foreclosure action is for the property that is the residence of the elector, the status of the foreclosure action; i.e. whether the action is still pending in court, whether there is a judgment entry from the court action granting foreclosure, and if there is a judgment granting foreclosure, whether the time to appeal the judgment has expired (appeal must be filed no later than 30 days after the judgment);
3) Regardless of the status of the foreclosure action, whether the elector resides at the property;
4) If the foreclosure action or judgment is for property that is the residence of the elector and the action is still pending or the time to appeal a judgment granting foreclosure is not yet expired, whether the elector has the intention of returning (R.C. 3503.02(A)) or if the elector has left the residence for temporary purposes only with the intention of returning (R.C. 3503.02(B)).

Please note that R.C. 3503.02(I) provides:

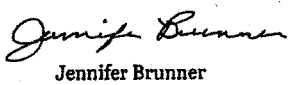
> If a person does not have a fixed place of habitation, but has a shelter or other location at which the person has been a consistent or regular inhabitant and to which the person has the intention of returning, that shelter or other location shall be deemed the person's residence for the purpose of registering to vote.

Therefore, if an elector's residence is property that is the subject of a foreclosure action, and his or her residency, upon challenge, either at a hearing held before the election or at the polling place, cannot be established as that which appears in the records of the board of elections, the elector may use his or her current location of residence as his or her residence for the purposes of voting. In such a case, however, the elector must be directed to the proper precinct polling location (in the case of moving from one precinct to another within the county) or to the board of elections (in the case of moving from one precinct to another in the county or from one county to another in Ohio) in order to complete the requisite change of address form and attestation statements that will allow the elector to vote a provisional ballot for his or her new voting precinct.

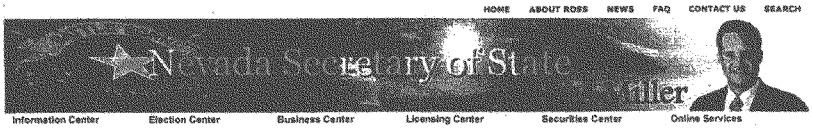
When a challenge is made on the bases of (a) a returned 60-day notice under R.C. 3501.19, and (b) an elector being a defendant in a foreclosure action or residing at a property that is the subject of a foreclosure action, the same determinations must be made as set forth in 1) through 4) above and in compliance with Directive 2008-79.

If you have any questions about this advisory, you may contact the elections attorney assigned to your board of elections.

Sincerely,



Jennifer Brunner



FOR IMMEDIATE RELEASE
DATE: October 01, 2008
CONTACT: Rob Walsh
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NEVADA HOME FORECLOSURES CAUSING POTENTIAL CONFUSION IN THE VOTING PROCESS

Nevada's "Swing State" Status Combined with Nation's Highest Foreclosure Rate Causes Concern That Some Voters Could Become Disenfranchised

(Carson City, NV) – Nevada's status as the nation's leader in home foreclosures per capita is causing confusion among registered voters who have lost their homes and fear they may have lost their voting rights in the process. Not so, says Nevada Secretary of State Ross Miller, who says his office remains committed to accessibility at the pools and transparency in the electoral system. Miller says that Nevada's status as the national leader in home foreclosures per capita, and the increasing belief that Nevada will be a swing state in the national election combine to make the state a ripe target for such a strategy.

"There are some concerns that Nevadans who have lost their homes to foreclosure and have not changed the address on their voter registration will not be eligible to vote," said Miller. "Nevada's laws on this are clear and I can say with confidence that registered voters who find themselves in that situation retain their right to vote as a registered voter. That said, I would nonetheless encourage every registered voter to check their registration status, and keep in mind that the deadline for registering to vote by mail is this Saturday, October 4th, and the deadline for in-person registration is October 14, 2008. As I have done before, I encourage Nevada voters to visit www.silverstate08.com. They can check their registration status, including their address of record, and there are instructions for re-registering with a new address. But again, even without the change of address, they remain registered voters."

The strategy of challenging voters who have changed their address due to foreclosure has been discussed by partisan groups in Michigan and Ohio. Nevada's per capita foreclosure rate has been estimated to be as high as one foreclosure in every 91 households, with more than 11,000 Nevada homes falling into foreclosure during August if 2008.

"It's important to note that with Nevada's status as a swing state, we can expect an increased potential for more of this type of activity at the polls," said Miller. "That's one of the reasons we established a multi-jurisdictional voter fraud task force, and a command center concept for dealing with election-day complaints. Our commitment is to an election that is open to every eligible registered voter, and an election that is run with complete integrity."

Nevada Secretary of State Ross Miller Copyright 2008 All rights reserved Terms of Use

Missouri Secretary of State, Robin Carnahan

SOS Home :: News Releases

News Releases

FOR IMMEDIATE RELEASE
Friday, October 03, 2008
Contact: Laura Egerdal, (573) 526-0949
Contact: Ryan Hobart, (573) 526-4734

Carnahan Defends the Voting Rights of Missourians Losing their Homes

State law sides with those facing foreclosures

JEFFERSON CITY, MO – Secretary of State Robin Carnahan is taking steps to protect Missourians facing foreclosures by educating the public about their voting rights. These individuals are no different than any other Missourian nor should their fundamental rights be jeopardized.

"These folks are hurting. The lives they built have been turned upside down because they can no longer provide a home for their families," said Carnahan. "This is the most crucial time to vote and the possibility of losing that right should be the last thing they worry about."

There are approximately 27,000 foreclosed homes throughout Missouri. This number continues to increase, leaving more Missourians feeling less secure about their ability to vote when going to the polls.

"There is no place in our state for targeting those in foreclosure proceedings and questioning their right to vote," said Carnahan. "I will not stand for partisan games that aim to prevent eligible voters from participating in this election."

Secretary Carnahan will continue to protect the rights of Missourians facing this issue and inform the public that the law is on their side.

Any individual who still resides at the address where they are currently registered to vote is still eligible to vote. Foreclosure is about ownership, not residence, and simply because a home is on a public foreclosure notice, does not mean the individual must leave their home or no longer lives there.

If an individual has left the foreclosed home, it does not mean they are not eligible to vote.

- If an individual has relocated within an election authority's jurisdiction, that person may file a "change of address" with the election authority up to and including Election Day and they may vote at a central polling place or at the polling place that serves his or her new address.
- If an individual has relocated and moved outside their previous election authority's jurisdiction, they may complete a new voter registration application by the deadline so long as it is received or postmarked by October 8, 2008.
- If an individual has relocated outside their election authority's jurisdiction and updates their voter registration information after the October 8, 2008 deadline, they may vote by absentee ballot for President, Vice-President, US Congress and statewide elected officials, questions, propositions and amendments by contacting their local election authority.

– 30 –
To find out more about Missouri's Secretary of State's office, visit www.sos.mo.gov

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Know Your Voting Rights

From the Office of the Minnesota Secretary of State

Voting Rights for Minnesotans Facing Home Foreclosure

There are many Minnesotans currently feeling the pain of a home foreclosure. While the housing crisis has raised important questions about America's economic health, it has also raised questions about where Minnesotans can vote when facing the foreclosure of their home. Here is what voters need to know.

In Minnesota, all voters must identify their residential address before they can vote in an election. They must provide this information when pre-registering to vote in advance of an election or when registering to vote on Election Day.

The fact that a home may be in foreclosure is not sufficient evidence that homeowners no longer reside at their address. The act of home foreclosure is a drawn-out process. An entire foreclosure procedure can take at least 8½ months from start to finish and may take even longer if homeowners pursue legal action. Voters may continue to reside at their property and still have rights to their property for some time during foreclosure. In fact, homeowners are allowed to live in their homes for at least 6 months after a sheriff's sale.

No one can legally challenge the registration of a voter in a precinct simply because he or she knows a voter's property is in foreclosure. State law requires that challengers must have personal knowledge that an individual is not eligible to vote, which in this case would be personal knowledge that the individual does not reside in the precinct. To bring a challenge, a challenger would have to personally know that a voter has indeed vacated their residence—through either a voluntary move or eviction proceeding—and the voter does not intend to return. Only upon this basis can a challenger then legally commence a challenge to a voter's residency and sign a sworn statement under oath that he or she has personal knowledge that the individual in question is not eligible to vote in the precinct, in accordance with Minnesota Statutes, section 204C.12.

Voters who vacate their property in foreclosure with no intention of returning to that residence must not vote from that address. To do so is a felony. Instead, they must vote from where they currently reside. Minnesota law allows voters to vote from their current residence, even if they just moved there, as long as they have resided in Minnesota for 20 days. Minnesota does allow for Election Day registration for voters who can provide proof of residence when they arrive at their polling location.

Citizens with additional voter questions related to Minnesotans facing home foreclosure may contact the Office of the Minnesota Secretary of State.

Information related to voting, voter registration, absentee balloting, overseas/military voting, and locating your polling place is available by contacting your county auditor, visiting the Office of the Secretary of State online at **www.sos.state.mn.us** or calling **1-877-600-VOTE (8683)** or Minnesota Relay Service at **1-800-627-3529**.

This document is available in alternate formats for individuals with disabilities.

News

Dean Plan Protects Voting Rights for Victims of Foreclosure

Plan preventing election fraud now heads to Senate

— September 24, 2008

LANSING – The Michigan House of Representatives today passed a plan introduced by State Representative Robert Dean (D-Grand Rapids) that protects the right to vote for residents who have received a foreclosure notice. The plan now heads to the Senate.

"Voting is a right that no citizen should be denied – no matter their age, sex, race, religion or financial status," Dean said. "There have been some rumors floating around that residents who have received a foreclosure notice will not be eligible to vote in the November election. That is simply not true. This plan says in no uncertain terms that a foreclosure notice is not valid grounds to challenge a voter's ballot."

Political parties and other organizations often send challengers to the polls to oversee election procedure, protect the rights of voters and prevent election fraud. Dean's plan will prohibit a challenger from making a challenge based solely on a voter having received a foreclosure notice.

The Michigan Messenger has reported that the chairman of the Republican Party in Macomb County is planning to use a list of foreclosed homes to block people from voting in the upcoming election. However, a foreclosure notice is not evidence that a voter no longer meets residence requirements for voting.

"In these difficult economic times, many of our working families are facing the threat of losing their home to foreclosure," Dean said. "I will not let their right to vote be denied. We must

© 2009 Michigan House Democrats
P.O. Box 30014 • Lansing, MI 48909-7514

HOUSE BILL No. 6477

September 18, 2008, Introduced by Reps. Dean, Tobocman, Jackson, Spade, Young, Valentine, Bauer, Polidori, Cheeks, Miller, Lemmons, Simpson, Robert Jones, Corriveau and Ebli and referred to the Committee on Ethics and Elections.

A bill to amend 1954 PA 116, entitled

"Michigan election law,"

by amending section 727 (MCL 168.727), as amended by 2004 PA 92.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 727. (1) An election inspector shall challenge an
2 applicant applying for a ballot if the inspector knows or has good
3 reason to suspect that the applicant is not a qualified and
4 registered elector of the precinct, or if a challenge appears in
5 connection with the applicant's name in the registration book. A
6 registered elector of the precinct present in the polling place may
7 challenge the right of anyone attempting to vote if the elector
8 knows or has good reason to suspect that individual is not a
9 registered elector in that precinct. **EVIDENCE THAT A MORTGAGE OF AN**
10 **APPLICANT'S RESIDENTIAL PROPERTY IS IN FORECLOSURE IS NOT VALID**

HOUSE BILL No. 6477

1 **GROUNDS FOR A CHALLENGE WITHOUT ADDITIONAL SUPPORTING EVIDENCE**
2 **WHICH STANDING ON ITS OWN PROVES THAT THE APPLICANT DOES NOT MEET**
3 **THE RESIDENCE REQUIREMENTS AS SET FORTH IN SECTION 11.** An election
4 inspector or other qualified challenger may challenge the right of
5 an individual attempting to vote who has previously applied for an
6 absent voter ballot and who on election day is claiming to have
7 never received the absent voter ballot or to have lost or destroyed
8 the absent voter ballot.
9 (2) Upon a challenge being made under subsection (1), an
10 election inspector shall immediately do all of the following:
11 (a) Identify as provided in sections 745 and 746 a ballot
12 voted by the challenged individual, if any.
13 (b) Make a written report including all of the following
14 information:
15 (*i*) All election disparities or infractions complained of or
16 believed to have occurred.
17 (*ii*) The name of the individual making the challenge.
18 (*iii*) The time of the challenge.
19 (*iv*) The name, telephone number, and address of the challenged
20 individual.
21 (*v*) Other information considered appropriate by the election
22 inspector.
23 (c) Retain the written report created under subdivision (b)
24 and make it a part of the election record.
25 (d) Inform a challenged elector of his or her rights under
26 section 729.
27 (3) A challenger shall not make a challenge indiscriminately

1 and without good cause. A challenger shall not handle the poll
2 books while observing election procedures or the ballots during the
3 counting of the ballots. A challenger shall not interfere with or
4 unduly delay the work of the election inspectors. An individual who
5 challenges a qualified and registered elector of a voting precinct
6 for the purpose of annoying or delaying voters is guilty of a
7 misdemeanor.

Leadership Conference on Civil Rights

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Ron Gettelfinger
International Union, United Automobile Workers of America
Marcia Greenberger
National Women's Law Center
Linda D. Hallman
American Association of University Women
Dennis Courtland Hayes
NAACP
Andrew J. Imparato
American Association of People with Disabilities
Jacqueline Johnson
National Congress of American Indians
Kathryn Kolbert
People For the American Way
Edward J. McElroy
American Federation of Teachers, AFL-CIO
Floyd Mori
Japanese American Citizens League
Marc H. Morial
National Urban League
Janet Murguía
National Council of La Raza
Debra Ness
National Partnership for Women and Families
Mary Rose Oakar
American-Arab Anti-Discrimination Committee
John Payton
NAACP Legal Defense & Educational Fund, Inc.
David Saperstein
Religious Action Center for Reform Judaism
Shanna L. Smith
National Fair Housing Alliance
Jon Sorensen
Human Rights Campaign
Andrew L. Stern
Service Employees International Union
John Trasviña
Mexican American Legal Defense and Educational Fund
Ray Weaver
National Education Association
Mary G. Wilson
League of Women Voters
Richard Womack
AFL-CIO
COMPLIANCE/ENFORCEMENT COMMITTEE CHAIRPERSON
Karen K. Narasaki
Asian American Justice Center
PRESIDENT & CEO
Wade J. Henderson

October 20, 2008

Honorable Pedro Cortes, PA
President
National Association of Secretaries of State
Hall of the States
444 North Capitol Street, NW
Suite 401
Washington, DC 20001

Dear President Cortes:

On behalf of the Leadership Conference on Civil Rights (LCCR), we, the undersigned groups, write to urge you, in your role as President of NASS, to call for your members to issue an immediate public statement and advisory to their local election boards to inform poll workers and the public that people facing foreclosure on their homes retain their right to vote.

Many individuals across the country are facing foreclosure of their homes. Adding to this tragedy is the fact that many also fear this situation will render them ineligible to vote. Press accounts of threats to challenge voter registration based on foreclosure information in Macomb County, Michigan among other places have placed this issue squarely in front of voters facing foreclosure.[1] This threat is especially troubling because even voters still in their homes, who merely face the possibility of foreclosure, may be led to believe that they are not allowed to vote. This concern is particularly acute because of the high percentage of traditionally disenfranchised poor and minority individuals facing foreclosure.

It is imperative that the Secretaries of State set the record straight for the voters of their states. People in foreclosure still have the right to vote. Each Secretary of State must provide clear information to the voters of his or her state about the laws surrounding the right to vote specifically for people facing foreclosure. In addition, they must ensure that poll workers are properly instructed on this issue. For these reasons, we urge you to ask each Secretary of State to issue an advisory to local election boards instructing them that a voter involved in foreclosure is not precluded from voting and to issue a public statement clarifying that all people facing foreclosure absolutely have the right to vote in the upcoming election.

In just over two weeks, voters will flock to the polls in unprecedented numbers. It is

[1] Although those implicated in the news story about the Michigan challenge to foreclosed voters denied such a plan, the matter is pending in the court, indicating that additional facts are yet to be revealed.

imperative that every eligible voter be allowed to cast a vote free from intimidation, misinformation or fear. Challenges such as those threatened in Macomb County serve to disenfranchise voters. We urge you to act to protect the rights of all voters.

We are hopeful that you will act quickly to respond to our concerns. If you have any questions, please feel free to contact Lisa Bornstein, LCCR Senior Counsel at (202) 263-2856 or Bornstein@civilrights.org.

Sincerely,

Leadership Conference on Civil Rights (LCCR)
American Association of People with Disabilities (AAPD)
American Civil Liberties Union (ACLU)
American Federation of Labor-Congress of Industrial Organizations (AFL-CIO)
Asian American Justice Center (AAJC)
Campaign Legal Center
Common Cause
DEMOS
Lawyers' Committee for Civil Rights Under Law
League of Women Voters of the United States
Mexican American Legal Defense and Educational Fund (MALDEF)
NAACP
NAACP Legal Defense and Educational Fund (NAACPLDF)
National Education Association
National Urban League
People for the American Way (PFAW)
Union for Reform Judaism

Cc: Leslie Reynolds, Executive Director of NASS
Mike Coffman, Secretary of State, Colorado
Todd Rokita, Secretary of State, Indiana
Terri Lynn Land, Secretary of State, Michigan
Ross Miller, Secretary of State, Nevada
Elaine F. Marshall, Secretary of State, North Carolina
Kurt Browning, Secretary of State, Florida
Jennifer Brunner, Secretary of State, Ohio
Katherine K. Hanley, Secretary of the Commonwealth, Virginia

Ms. LOFGREN. Mr. Chairman, it is important that—and we all agree on this—that eligible voters be permitted to vote. And the use of foreclosure lists to challenge voters has, actually, nothing to do with a voter's eligibility.

Placement of a house on public foreclosure notice doesn't say anything about a voter's eligibility. Foreclosure notices reflect ownership, not residence, as, for example, eligible voters may be renting a foreclosed home. In addition, a foreclosure notice does not require anyone to leave his or her home, and many homeowners, in fact, do remain in their homes well after foreclosure proceedings begin, as they negotiate with lenders in an attempt to refinance.

I would add that the other element to this is that individuals who are in foreclosure proceedings are often very distraught and sometimes even ashamed of what has happened to them financially. And to have the humiliation of being challenged off a foreclosure list in front of your neighbors at your polling place is something that I think is to be avoided.

As to the natural disaster element, I think it is worth noting, in the case, for example, of the Katrina hurricane, that people who maintain their residence, their lawful residence, in the zone in some cases took a very long time to return. And it is important that those people who maintain their legal residence but were displaced have an opportunity to continue to vote once in their legal residence.

So I think this is an important step forward. I hope that we can adopt the bill.

And I yield back the balance of my time.

The CHAIRMAN. I thank the lady.

Mr. McCarthy.

Mr. MCCARTHY. Thank you, Mr. Chairman.

I would like unanimous consent to submit for the record a USA Today article in which the Macomb Republican county chairman named in the MichiganMessenger blog post denies he ever intended to use foreclosure lists and demands a retraction.

The CHAIRMAN. Without objection.

[The information follows:]

USA TODAY

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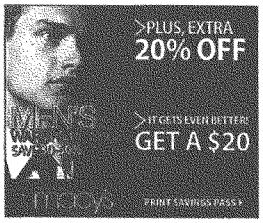
Mich. Dems file suit against GOP in Ohio

LANSING, Mich. (AP) — A lawsuit has been filed to challenge what Democratic presidential candidate Barack Obama's campaign says is an attempt to keep people facing foreclosure from voting.



The lawsuit was filed Tuesday in federal district court in Detroit by Obama for America, the Democratic National Committee and several Macomb County voters.

It asks for an injunction prohibiting the Macomb County GOP, the Michigan Republican Party and the Republican National Committee or anyone connected with them from challenging Michigan voters whose homes are on foreclosure lists.

Macomb County Republican Party Chairman James Carabelli denied last week that he had told a writer for liberal website MichiganMessenger.com that he planned to make sure no one on a list of foreclosed homes voted in his county.

"The story is not true, and I never said those things," he said. He demanded a retraction, but the writer stuck by her story.

Michigan Democratic Party Chairman Mark Brewer said past experience with other Republican efforts to challenge Democratic voters at the polls makes him skeptical Carabelli is telling the truth.

"I simply do not believe his denial. This fits the pattern we've seen here in Michigan," Brewer said Tuesday during a conference call with reporters.

State GOP Chairman Saul Anuzis planned to hold a 2:15 p.m. conference call with reporters to respond to the lawsuit.

Obama campaign general counsel Bob Bauer said during the Democratic call that the "lose your home, lose your vote" strategy, even if the challenges are unsuccessful, "creates an atmosphere of intimidation that could drive voters from the polls."

He said even people who aren't challenged may leave without voting because the challenges slow everything down.

State Republican officials deny there's any plan to challenge voters on those grounds and say the tactic doesn't make sense because the lists don't give them information on where a voter lives.

Despite the denials, Democratic organizations and liberal groups have created a chorus of criticism over Carabelli's comments. Brewer noted that more than 11,000 homes in Michigan received a foreclosure notice in July. The state has one of the nation's highest foreclosure rates, and figures show more than half of the foreclosed homes are owned by blacks, a group that could favor Obama.

"Instead of offering solutions to this terrible crisis in Michigan ... they want to disenfranchise" voters facing foreclosure, Brewer said of the Republicans.

Macomb County has attracted a lot of attention from the campaigns and the media because the heavily populated area north of Detroit has long been a swing area in presidential elections. Both Obama and GOP rival John McCain have campaigned in the county, which could decide if the key battleground state of Michigan goes Republican or Democratic.

State officials say homeowners with a foreclosed home can still live there unless they are evicted or the home is sold by the lender, giving them to right to vote where they always do.

Voters who move within 60 days of an election also can vote at their old polling place, according to the secretary of state's office.

If voters move and change their address 30 or more days before an election, they must vote in their new precinct. If they change their address within 30 days of an election, they must vote in the old precinct.

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Find this article at:
http://www.usatoday.com/news/politics/election2008/2008-09-16-obama-foreclosure_N.htm

The CHAIRMAN. Mr. Harper.

Mr. HARPER. Thank you.

I would like to take just a minute to expand on a point that my colleague from California brought up in his opening statement.

After Hurricane Katrina, one of the many problems facing my home State of Mississippi was how to deal with displaced voters. The secretary of State, along with our State legislature, saw that challenge and met it with legislation addressing the problem.

I find it both presumptive and perhaps somewhat arrogant that this committee is considering legislation today having not consulted with the States this legislation would affect the most.

In a letter opposing the legislation we are considering today, Mississippi Secretary of State Delbert Hosemann offered a frank assessment of H.R. 3489, declaring it to be unwise and an attempt to Federalize challenges to voter qualifications.

Secretary Hosemann further explained in his letter that this bill poses a serious threat to the integrity of our election system by undermining legitimate challenges to voter qualification. As an example, he detailed circumstances in which a registered voter may be protected from challenge due to the locale in the case of a disaster area, despite failing to meet the most basic requirement of election law: citizenship.

When States are responding to their citizens' needs in the wake of a natural disaster, what they need is flexibility, not a blanket Federal mandate that will handcuff them to one course of action. I hope the committee will consider moving this misguided and unnecessary legislation and encourage you to vote "no."

Thank you, and I reserve the balance of my time, Mr. Chairman.

The CHAIRMAN. I thank the gentleman.

Any other statements?

We do have four votes on the floor. I was hoping we could probably get through before that, but it doesn't look like it can happen because there are other amendments to this bill. So what I would like to do is just recess until the last vote and come back and reconvene and just finish this bill up. Okay?

Thank you all. We are now in recess until the last vote on the floor.

[Recess.]

The CHAIRMAN. I would like to call the Committee on House Administration back to order.

And I now call up and lay before the committee H.R. 3489. Without objection, the first reading of the bill is dispensed with, and the bill is considered as read and open to amendments at any point.

[The information follows:]

I

111TH CONGRESS
1ST SESSION

H. R. 3489

To amend the Help America Vote Act of 2002 to prohibit State election officials from accepting a challenge to an individual's eligibility to register to vote in an election for Federal office or to vote in an election for Federal office in a jurisdiction on the grounds that the individual resides in a household in the jurisdiction which is subject to foreclosure proceedings or that the jurisdiction was adversely affected by a hurricane or other major disaster, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 2009

Mr. JACKSON of Illinois (for himself, Mr. WATT, Mr. CONYERS, Ms. ZOE LOFGREN of California, Mr. CAPUANO, Mr. GONZALEZ, Mr. DAVIS of Alabama, Ms. LEE of California, Mr. SCOTT of Virginia, Mr. NADLER of New York, and Mrs. DAVIS of California) introduced the following bill; which was referred to the Committee on House Administration

---

A BILL

To amend the Help America Vote Act of 2002 to prohibit State election officials from accepting a challenge to an individual's eligibility to register to vote in an election for Federal office or to vote in an election for Federal office in a jurisdiction on the grounds that the individual resides in a household in the jurisdiction which is subject to foreclosure proceedings or that the jurisdiction was adversely affected by a hurricane or other major disaster, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. PROHIBITING ACCEPTANCE OF CHALLENGES**
4 **TO ELIGIBILITY TO REGISTER OR VOTE IN**
5 **FEDERAL ELECTIONS NOT BASED ON GOOD**
6 **CAUSE OR BASED ON RESIDENCE IN PROP-**
7 **ERTY SUBJECT TO FORECLOSURE PRO-**
8 **CEEDINGS OR IN AREA DAMAGED BY HURRI-**
9 **CANE OR OTHER MAJOR DISASTER.**

10 (a) IN GENERAL.—Subtitle A of title III of the Help
11 America Vote Act of 2002 (42 U.S.C. 15481 et seq.) is
12 amended by inserting after section 303 the following new
13 section:

14 **"SEC. 303A. PROHIBITING ACCEPTANCE OF CHALLENGES**
15 **TO ELIGIBILITY TO REGISTER OR ELIGI-**
16 **BILITY TO VOTE IN FEDERAL ELECTIONS NOT**
17 **BASED ON GOOD CAUSE.**

18 "(a) IN GENERAL.—A State or local election official
19 may not accept a challenge to an individual's eligibility
20 to register to vote in an election for Federal office in a
21 jurisdiction or to vote in an election for Federal office in
22 a jurisdiction which is not based on good cause.

23 "(b) CHALLENGES BASED ON CERTAIN GROUNDS
24 NOT CONSIDERED GOOD CAUSE.—For purposes of sub-
25 section (a), a challenge to an individual's eligibility to reg-

1 ister to vote in an election for Federal office in a jurisdic-
2 tion or to vote in an election for Federal office in a juris-
3 diction is not based on good cause if the challenge is based
4 on any of the following grounds:

5 "(1) The individual resides in a household in
6 the jurisdiction which is subject to foreclosure pro-
7 ceedings.

8 "(2) The jurisdiction is included in a geo-
9 graphic area which was adversely affected by a hur-
10 ricane or other major disaster declared by the Presi-
11 dent under section 401 of the Robert T. Stafford
12 Disaster Relief and Emergency Assistance Act (42
13 U.S.C. 5170).

14 "(c) EFFECTIVE DATE.—This section shall apply
15 with respect to the regularly scheduled general election for
16 Federal office held in November 2010 and each subse-
17 quent election for Federal office.".

18 (b) CONFORMING AMENDMENT RELATING TO EN-
19 FORCEMENT.—Section 401 of such Act (42 U.S.C. 15511)
20 is amended by striking "and 303" and inserting "303, and
21 303A".

22 (c) CLERICAL AMENDMENT.—The table of contents
23 of the Help America Vote Act of 2002 is amended by in-
24 serting after the item relating to section 303 the following
25 new item:

"Sec. 303A. Prohibiting acceptance of challenges to eligibility to register or eligibility to vote in Federal elections not based on good cause.".

○

The CHAIRMAN. Is there any debate?
Yes, Mr. Lungren.
Mr. LUNGREN. Mr. Chairman, I have an amendment at the desk.
The CHAIRMAN. Okay.
Mr. LUNGREN. In fact, I have three amendments.
The CHAIRMAN. The Chair recognizes Mr. Lungren.
Mr. LUNGREN. This will be the first amendment.
[The information follows:]

AMENDMENT TO H.R. 3489

OFFERED BY M__. _____

Page 2, line 5, strike "**NOT BASED ON GOOD CAUSE OR**".

Page 2, line 16, strike "**NOT BASED ON GOOD CAUSE**" and insert the following: "**BASED ON RESIDENCE IN PROPERTY SUBJECT TO FORECLOSURE PROCEEDINGS OR IN AREA DAMAGED BY HURRICANE OR OTHER MAJOR DISASTER**".

Page 2, line 22, strike "which is not based on good cause" and all that follows through page 3, line 4, and insert "which is based solely on any of the following grounds:" (and redesignate the succeeding provision accordingly).

Amend the matter on page 4 to read as follows:

"Sec. 303A. Prohibiting acceptance of challenges to eligibility to register or eligibility to vote in Federal elections based on residence in property subject to foreclosure proceedings or in area damaged by hurricane or other major disaster.".

The CHAIRMAN. Amendment No. 1. The Chair recognizes Mr. Lungren.

Mr. LUNGREN. Mr. Chairman, this amendment addresses fundamental ambiguity in the bill as written and, as I see it, a danger in the language of the bill. And it attempts to address it by striking the amorphous new standard merely defined as "good cause."

Right now, the bill would override all States' laws on voter challenges and say that challenges cannot be made except for, quote/unquote, "good cause," which is not defined in this bill. It then provides a nonexclusive list of two things that are not good cause, leaving it to creative lawyers in every State and local court in the Nation to decide what else might not be good cause.

Mr. Chairman, rather than creating a broad new threshold that will undoubtedly lead to conflicting interpretations, I would hope that the bill would be narrowly and clearly drafted to approach this issue. This is achieved by explicitly addressing the two targets of the bill: foreclosure proceedings and natural disaster areas.

Additionally, the original wording of the bill is so broad that it may inadvertently prevent valid challenges. For example, if hard evidence exists demonstrating that an individual is registered and voting in another jurisdiction, the bill might block a challenge just because the person also claims to reside in a natural disaster area or to have had a foreclosure.

The amendment would make it clear that only challenges based solely on those factors and not challenges based on other evidence where those factors might be present. It is an attempt to try and refine the bill and hopefully not override all of the law that currently exists, having been developed over the years with all of the States dealing with challenges in their jurisdictions.

And I would hope I could get the support of my colleagues. And I will yield back the balance of my time.

The CHAIRMAN. I thank the gentleman.

Mr. Davis.

Mr. DAVIS of Alabama. Mr. Chairman, I will be brief because I know that you want to move us to the other amendments, but two observations.

First of all, I think everyone understands, especially my friend, the former attorney general of California, that forfeiture is a process—or foreclosure, rather, is a process. A notice of foreclosure is no more the termination or the end of a process than an arrest or an indictment is the end of a criminal process.

I don't think that anyone on the other side of the aisle would propose that if someone were arrested that we go through and we comb the list of people who have been arrested and try to use that to challenge their capacity to vote. The legal or the technical capacity is there to do that, but I don't think anyone believes that would be a good thing to do from the standpoint of public policy.

It strikes me that, if we use a foreclosure proceeding, or the initiation of a foreclosure proceeding, as the basis to challenge a voter's suffrage, that is not fundamentally different from using an arrest record as the basis to do it, that obviously do not result in convictions.

Second observation: Several years ago, I introduced a bill that would have dealt with the problem of displaced voters after a nat-

ural disaster. The bill was not marked up in committee, but I thought that it was an important way to resolve the clear ambiguities that exist and that occurred after Katrina, when someone is knocked out of their home, they don't have a permanent place to live.

But since that approach wasn't adopted, frankly the bill that we have today seems to me to be the next best thing. It provides some safe haven for people who may have been affected by a natural disaster. And, again, not having acted on the bill I proposed several years ago, I think that this is a good alternative. So I would certainly urge the rejection of this amendment on those grounds.

I will yield back the balance of my time.

The CHAIRMAN. I thank the gentleman.

Anyone else wish to speak on the amendment?

If not, the question is on the amendment offered by Mr. Lungren.

All those in favor, signify by saying, "Aye."

Those opposed, say, "No."

In opinion of the Chair, the noes have it, and the amendment is not agreed to.

I would now like to recognize Mr. Lungren.

Mr. LUNGREN. Mr. Chairman, I have another amendment. This is Amendment No. 3. It is the 18-month expiration.

The CHAIRMAN. Without objection, the amendment is considered as having been read.

[The information follows:]

AMENDMENT TO H.R. 3489

OFFERED BY M_. _____

Page 3, line 13, strike the period and insert the following: ", if the challenge is made during the 18-month period beginning on the date the President declares the disaster under such section.".

The CHAIRMAN. And the gentleman is recognized for 5 minutes.

Mr. LUNGREN. Mr. Chairman, this amendment would establish a sunset for the application of the restrictions on challenges involved in a disaster area.

Right now, there is absolutely no limitation whatsoever. It could be decades later, a year later, or years later. By providing an 18-month timeline for the disaster—that is, a limit of 18 months after the disaster declaration—we would protect against the application of the provisions to an event many years past. For example, without a sunset on the eligibility of an event, one might be able to argue that a natural disaster from the 1980s prevented a voter eligibility challenge today.

The amendment is simply clarifying to ensure that the purpose of the remedy is appropriately applied, and the 18–month period is the same period that FEMA provides temporary housing for disaster victims. So I would hope we would get support for this limiting amendment.

And, with that, I would yield back the balance of my time.

The CHAIRMAN. The Chair recognizes Mrs. Davis.

Mrs. DAVIS of California. Thank you, Mr. Chairman.

I think in some ways the amendment actually points to the reason that we should have the legislation before us. And I think that the 18 months—I mean, we just have to think about the number of people in Katrina that were affected and how long it took for them to get back. I think about some of the fires in San Diego, where people had to wait, you know, a good 2 years before they even got their insurance to okay their development plans.

And so I think that trying to put a time limit on this, I think, is really too limiting. It may be that, you know, 10 years out would be reasonable, but someone could argue that that is not necessarily appropriate either.

So I think trying to have it—personal responsibility here is really important, and people have a number of reasons that they have to leave the area in which they choose to vote. And I think that we need to be open on this one.

The CHAIRMAN. Mr. Davis.

Mr. DAVIS of Alabama. Mr. Chairman, I will be brief again.

Just 1 month ago, there was a group of folks who came to my office who were previously residents of New Orleans. This is, by my count, approximately 4 years after Katrina, a little bit more than 4 years. These individuals, who I think right now are living in the Mobile/Baldwin County area, would love to return to New Orleans. They never got the assistance the government promised them 4 years ago. And they are exactly in that gray area that my bill several years ago sought to address: people who were displaced because of Katrina, individuals who have not gotten the assistance that was promised them, who have every desire and intent to return to their original domicile.

The problem with the amendment is natural disasters can have a long-running consequence. Katrina may be a worst case, but it is a worst case that many individuals are living with.

So, again, I agree with my friend from California that there is surely some reasonable time period that we could agree on. But it absolutely is not 18 months if people are coming to see me 4 years

later, much less what would have happened in the time frame 18 months from Katrina.

I will yield back.

The CHAIRMAN. I thank the gentleman.

Any other discussion on the amendment?

Hearing none, the question is on the amendment offered by Mr. Lungren, No. 3.

All those in favor, signify by saying, "Aye."

Those opposed, say, "No."

In the opinion of the Chair, the noes have it, and the amendment is not agreed to.

Mr. LUNGREN. Mr. Chairman, I have a last amendment.

The CHAIRMAN. Without objection, the amendment is considered as having been read.

[The information follows:]

AMENDMENT TO H.R. 3489

OFFERED BY M__. _____

Page 3, line 7, strike the period and insert the following: ", except that nothing in this paragraph shall be construed to prohibit an election official from accepting a challenge which is based on the grounds that, as a result of completed foreclosure proceedings, the individual no longer resides in the jurisdiction.".

The CHAIRMAN. And the gentleman is recognized for 5 minutes.

Mr. LUNGREN. This amendment goes to the point that Mr. Davis made just a moment ago about the initiation of foreclosure. It is also a point that was made by Ms. Lofgren when we were here earlier.

So, while we can all agree that simply having a foreclosure proceeding initiated would not be enough to indicate the person no longer lives there and therefore is not an eligible voter, when a foreclosure is completed and individuals have left the residence in question, I think we can agree that this should be eligible evidence to challenge a voter. It is not conclusive evidence, but it is evidence that would allow the challenge.

This legislation should not preclude challenges based on concrete evidence that an individual no longer resides in the home. And the amendment makes clear that this legislation applies only to—that this legislation would apply to completed foreclosures and not just pending foreclosures, as was the complaint raised by the gentleman from Alabama.

And so I am attempting to try and deal with the issue that he mentioned, and hope that this would gain his support and the support of others on the committee.

And, with that, I yield back the balance of my time.

The CHAIRMAN. I thank the gentleman.

Mr. Davis.

Mr. DAVIS OF ALABAMA. If I understand the gentleman's amendment correctly, there is still a problem with scope. The fact that a foreclosure may be affected still doesn't necessarily speak to who actually owns the property and who actually may be voting.

For example, I think someone mentioned earlier that someone could be a resident of a foreclosed home, but, again, the fact that there is a foreclosure notice doesn't necessarily goes to their status, in terms of whether or not they are still in that jurisdiction.

So I am concerned that, once again, the gentleman's amendment is going to sweep in a group of people—and whether it is a narrow group or a large group, we don't know; whether people have a right to exercise the capacity to vote—that it is going to sweep in a group of people who were, frankly, not intended to be reached by the amendment. And that is why I would urge its rejection.

The CHAIRMAN. Any other question on the amendment? Any other speakers?

The question of the amendment is over Mr. Lungren.

All those in favor, signify by saying, "Aye."

Those opposed, "No."

In the opinion of the Chair, the noes have it, and the amendment is not agreed to.

I now move to report H.R. 3489 favorably to the House.

All those in favor, signify by saying, "Aye."

Any opposed?

In the opinion of the Chair, the ayes have it, and the bill is ordered.

Mr. LUNGREN. Mr. Chairman, on that I would ask for a recorded vote.

The CHAIRMAN. The clerk would call the roll.

The CLERK. Ms. Lofgren?

[No response.]

The CLERK. Mr. Capuano?

Mr. CAPUANO. Aye.

The CLERK. Mr. Gonzalez?

[No response.]

The CLERK. Mrs. Davis?

Mrs. DAVIS of California. Aye.

The CLERK. Mr. Davis?

Mr. DAVIS of Alabama. Aye.

The CLERK. Mr. Lungren?

Mr. LUNGREN. No.

The CLERK. Mr. McCarthy?

[No response.]

The CLERK. Mr. Harper?

Mr. HARPER. No.

The CLERK. Chairman Brady?

The CHAIRMAN. Aye.

The vote is four ayes, two against. The bill passes.

And, without objection, the motion to reconsider is laid upon the floor.

Without objection, the staff will be authorized to make any necessary technical and conforming changes to the matters considered today.

And the committee meeting on House Administration now stands adjourned. Thank you all.

[Whereupon, at 12:22 p.m., the committee was adjourned.]

111th Congress
Committee on House Administration
U.S. House of Representatives

DATE: WEDNESDAY, NOVEMBER 4, 2009

ROLL CALL NO. 111– 4

SUBJECT: Final Passage of H.R. 3489

	RESPONSE TO CALL OF THE ROLL			OFFICE EXTENSION
NAME	AYE	NO	ANSWERED PRESENT	
Ms. Lofgren				53072
Mr. Capuano	X			551111
Mr. Gonzalez				53236
Mrs. Davis, of California	X			52040
Mr. Davis, of Alabama	X			52665
Mr. Lungren		X		55716
Mr. McCarthy				52915
Mr. Harper		X		55031
Mr. Brady	X			54731

Passed by a roll call vote of four (ayes) - two (noes)

○