

MICHIGAN ELECTION LAW (EXCERPT)
Act 116 of 1954

***** 168.765.amended THIS AMENDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT
OF THE 2023 REGULAR SESSION SINE DIE *****

168.765.amended Absent voter ballot return envelopes; safekeeping by clerk; delivery of envelopes; review and verification of signatures for tabulation; absent voter counting board; voter ballot received after polls closed.

Sec. 765. (1) The clerk of a city or township who receives an absent voter ballot return envelope containing the marked ballot of an absent voter shall not open that sealed absent voter ballot return envelope and shall safely keep the sealed absent voter ballot return envelopes in the clerk's office until delivering the absent voter ballot return envelopes to a precinct board of election inspectors, an absent voter counting board, or a team of election inspectors as provided under subsection (3).

(2) The city or township clerk shall review each absent voter ballot return envelope to determine whether the absent voter ballot is approved for tabulation in accordance with section 766. The review under this subsection includes verifying the signature on each absent voter ballot return envelope in accordance with section 766a. Subject to section 768, a precinct board of election inspectors or an absent voter counting board must not make any further signature verification for an absent voter ballot return envelope. Written or stamped on each absent voter ballot return envelope must be the date, and the time and date if received on election day, that the absent voter ballot return envelope was received by the city or township clerk and a statement by the city or township clerk that the absent voter ballot is approved for tabulation. If the city or township clerk determines that the elector's signature on the absent voter ballot return envelope is missing or does not agree sufficiently with the signature on file, the clerk shall reject the absent voter ballot and provide the elector with notice and the opportunity to cure the deficiency in accordance with section 766(4).

(3) The clerk of a city or township that is not processing and tabulating absent voter ballots before election day under section 765a(11) shall appoint 1 or more teams of 2 election inspectors, with 1 election inspector appointed from each major political party, to assist the clerk in determining whether the ballots for absent uniformed services voters and overseas voters are approved for tabulation. Beginning no earlier than 7 days before an election, a team of election inspectors appointed under this subsection shall assist the city or township clerk with the absent voter ballots that were electronically transmitted to absent uniformed services voters and overseas voters under section 759a and are returned in envelopes that do not have the elector's signature affixed to the exterior of the return envelope. The election inspectors shall open the return envelope and extract the certificate that absent uniformed services voters and overseas voters are instructed to sign and return in the same envelope as the ballot, while leaving the ballot in the return envelope. The clerk shall copy the certificate bearing the elector's signature, and the election inspectors shall reinsert the certificate into the return envelope and reseal the return envelope. The clerk shall proceed to determine whether the absent voter ballot is approved for tabulation as required under subsection (2).

(4) Except as otherwise provided under section 764d, the clerk of a city or township shall deliver absent voter ballot return envelopes to a board of election inspectors of an election day precinct only if the city or township has not established an absent voter counting board. The city or township clerk shall deliver to that board of election inspectors only those absent voter ballots that have been approved for tabulation under section 766, along with the clerk's list or record that is kept relative to those absent voters. The city or township clerk shall retain the applications in the clerk's office and shall keep the applications and lists open for public inspection during regular business hours. Absent voter ballots that will be tabulated by a board of election inspectors of an election day precinct must not be tabulated before the opening of the polls on election day.

(5) Subject to sections 764d and 765a(11), if a city or township has established an absent voter counting board, the clerk must deliver absent voter ballots approved for tabulation as provided under section 766 to the absent voter counting board by the time the election inspectors of the absent voter counting board report for duty on election day. Except as otherwise provided in section 764d, absent voter ballots received by the clerk by 8 p.m. on election day and approved for tabulation as provided under section 766 must be delivered to the absent voter counting board.

(6) Except as otherwise provided in section 759a for absent uniformed services voters and overseas voters, if an absent voter ballot return envelope is received by the clerk after the close of the polls, the clerk shall plainly mark the absent voter ballot return envelope with the time and date of receiving the absent voter ballot return envelope and shall file the absent voter ballot return envelope in the clerk's office. The city or township clerk shall as soon as practicable, but no later than 90 days after the election, notify by mail, telephone, or

email any elector who returned an absent voter ballot return envelope with an absent voter ballot that was not tabulated. The notification provided to an elector by the city or township clerk under this subsection must inform the elector that the elector's absent voter ballot was not tabulated and the reason that the absent voter ballot was not tabulated.

(7) As close as possible to 8 p.m. on election day, the city or township clerk shall collect absent voter ballots from the post office at which the city or township clerk regularly receives mail addressed to the city or township clerk. Any return envelopes containing absent voter ballots that are received from the post office or from voters who voted by absent voter ballot in person in the clerk's office on election day must be reviewed and approved for tabulation before being delivered to the board of election inspectors or an absent voter counting board to be tabulated.

(8) On or before 8 a.m. on election day, the clerk shall post in the clerk's office or otherwise make public the number of absent voter ballots the clerk distributed to absent voters and the number of absent voter ballot return envelopes containing the marked ballots of absent voters received by the clerk before election day and to be delivered to the board of election inspectors or the absent voter counting boards under this act. As soon as possible after all precincts in the city or township are processed, the clerk shall post in the clerk's office or otherwise make public the number of absent voter ballots tabulated for that election. The city or township clerk shall maintain a record of the absent voter ballots that reconciles the number of absent voter ballots received as recorded in the qualified voter file with the number of absent voter ballots tabulated at the polling place locations or absent voter counting board locations in that city or township. This subsection applies only to elections in which a federal or state office appears on the ballot.

History: 1954, Act 116, Eff. June 1, 1955;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 207, Imd. Eff. May 21, 1996;—Am. 2018, Act 120, Eff. Dec. 31, 2018;—Am. 2018, Act 127, Imd. Eff. May 3, 2018;—Am. 2018, Act 603, Imd. Eff. Dec. 28, 2018;—Am. 2020, Act 95, Imd. Eff. June 23, 2020;—Am. 2020, Act 177, Imd. Eff. Oct. 6, 2020;—Am. 2022, Act 195, Imd. Eff. Oct. 7, 2022;—Am. 2023, Act 81, Eff. (sine die).

Popular name: Election Code