

**[ REPUBLIC ACT NO. 9189, February 13, 2003 ]**

**AN ACT PROVIDING FOR A SYSTEM OF OVERSEAS ABSENTEE VOTING BY QUALIFIED CITIZENS OF THE PHILIPPINES ABROAD, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES**

*Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*

SECTION 1. *Short Title.* — This Act shall be known as "The Overseas Absentee Voting Act of 2003."

SEC. 2. *Declaration of Policy.* — It is the prime duty of the State to provide a system of honest and orderly overseas absentee voting that upholds the secrecy and sanctity of the ballot. Towards this end, the State ensures equal opportunity to all qualified citizens of the Philippines abroad in the exercise of this fundamental right.

SEC. 3. *Definition of Terms.* — For purposes of this Act:

- a. "*Absentee Voting*" refers to the process by which qualified citizens of the Philippines abroad exercise their right to vote;
- b. "*Commission*" refers to the Commission on Elections;
- c. "*Certified List of Overseas Absentee Voters*" refers to the list of registered overseas absentee voters whose applications to vote *in absentia* have been approved by the Commission, said list to be prepared by the Committee on Absentee Voting of the Commission, on a country-by-country basis. The list shall be approved by the Commission in an *en banc* resolution;
- d. "*Day of Election*" refers to the actual date of elections in the Philippines;
- e. "*National Registry of Absentee Voters*" refers to the consolidated list prepared, approved and maintained by the Commission, of overseas absentee voters whose applications for registration as absentee voters, including those registered voters who have applied to be certified as absentee voters, have been approved by the Election Registration Board.
- f. "Overseas absentee voters" refers to a citizen of the Philippines who is qualified to register and vote under this Act, not otherwise disqualified by law, who is abroad on the day of elections;

SEC. 4. *Coverage.* — All citizens of the Philippines abroad, who are not otherwise disqualified by law, at least eighteen (18) years of age on the day of elections, may vote for president, vice-president, senators and party-list representatives.

SEC. 5. *Disqualifications.* — The following shall be disqualified from voting under this Act:

- a. Those who have lost their Filipino citizenship in accordance with Philippine laws;
- b. Those who have expressly renounced their Philippine citizenship and who have pledged allegiance to a foreign country;
- c. Those who have committed and are convicted in a final judgment by a court or tribunal of an offense punishable by imprisonment of not less than one (1) year, including those who have committed and been found guilty of Disloyalty as defined under Article 137 of the *Revised Penal Code*, such disability not having been removed by plenary pardon or amnesty: *Provided, however,* That any person disqualified to vote under this subsection shall automatically acquire the right to vote upon expiration of five (5) years after service of sentence; *Provided, further,* That the Commission may take cognizance of final judgments issued by foreign courts or tribunals only on the basis of reciprocity and subject to the formalities and processes prescribed by the *Rules of Court* on execution of judgments;
- d. An immigrant or a permanent resident who is recognized as such in the host country, unless he/she executes, upon registration, an affidavit prepared for the purpose by the Commission declaring that he/she shall resume actual physical permanent residence in the Philippines not later than three (3) years from approval of his/her registration under this Act. Such affidavit shall also state that he/she has not applied for citizenship in another country. Failure to return shall be cause for the removal of the name of the immigrant or permanent resident from the National Registry of Absentee Voters and his/her permanent disqualification to vote *in absentia*.
- e. Any citizen of the Philippines abroad previously declared insane or incompetent by competent authority in the Philippines or abroad, as verified by the Philippine embassies, consulates or foreign service establishments concerned, unless such competent authority subsequently certifies that such person is no longer insane or incompetent.

SEC. 6. *Personal Overseas Absentee Registration*. — Registration as an overseas absentee voter shall be done in person.

Qualified citizens of the Philippines abroad who failed to register under Republic Act No. 8189, otherwise known as "The Voters Registration Act of 1996", may personally apply for registration with the Election Registration Board of the city or municipality where they were domiciled immediately prior to their departure from the Philippines, or with the representative of the Commission at the Philippine embassies, consulates and other foreign service establishments that have jurisdiction over the locality where they temporarily reside. Subject to the specific guidelines herein provided, the Commission is hereby authorized to prescribe additional procedures for overseas absentee registration pursuant to the provisions of Republic Act No. 8189, whenever applicable, taking into strict consideration the time zones and the various periods and processes herein provided for the proper implementation of this Act. The embassies, consulates and other foreign service establishments shall transmit within (5) days from receipt the accomplished registration forms to the Commission, after which the Commission shall coordinate with the Election Officer of the city or municipality of the applicant's stated residence for verification, hearing and annotation in the permanent list of voters.

All applications for the May, 2004 elections shall be filed with the Commission not later than two hundred eighty (280) calendar days before the day of elections. For

succeeding elections, the Commission shall provide for the period within which applications to register must be filed.

In the case of seafarers, the Commission shall provide a special mechanism for the time and manner of personal registration taking into consideration the nature of their work.

6.1. Upon receipt of the application for registration, the Election Officer shall immediately set the application for hearing, the notice of which shall be posted in a conspicuous place in the premises of the city or municipal building of the applicant's stated residence for at least one (1) week before the date of the hearing. The Election Officer shall immediately furnish a copy of the application to the designated representatives of political parties and other accredited groups.

6.2. If no verified objection to the application is filed, the Election Officer shall immediately forward the application to the Election Registration Board, which shall decide on the application within one (1) week from the date of hearing without waiting for the quarterly meeting of the Board. The applicant shall be notified of the approval or disapproval of his/her application by registered mail.

6.3. In the event that an objection to the application is filed prior to or on the date of hearing, the Election Officer shall notify the applicant of said objection by registered mail, enclosing therein copies of affidavits or documents submitted in support of the objection filed with the said Election Officer, if any. The applicant shall have the right to file his counter-affidavit by registered mail, clearly stating therein facts and defenses sworn before any officer in the host country authorized to administer oaths.

6.4. The application shall be approved or disapproved based on the merits of the objection, counter-affidavit and documents submitted by the party objecting and those of the applicant.

6.5. A Certificate of Registration as an overseas absentee voter shall be issued by the Commission to all applicants whose applications have been approved, including those certified as registered voters. The Commission shall include the approved applications in the National Registry of Absentee Voters.

6.6. If the application has been approved, any interested party may file a petition for exclusion not later than two hundred ten (210) days before the day of elections with the proper municipal or metropolitan trial court. The petition shall be decided within fifteen (15) days after its filing on the basis of the documents submitted in connection therewith. Should the court fail to render a decision within the prescribed period, the ruling of the Election Registration Board shall be considered affirmed.

6.7. If the application has been disapproved, the applicant or his authorized representative shall, within a period of five (5) days from receipt of the notice of disapproval, have the right to file a petition for

inclusion with the proper municipal or metropolitan trial court. The petition shall be decided within five (5) days after its filing on the basis of documents submitted in connection therewith.

Qualified citizens of the Philippines abroad, who have previously registered as voters pursuant to Republic Act No. 8189 shall apply for certification as absentee voters and for inclusion in the National Registry of Overseas Absentee Voters, with a corresponding annotation in the Certified Voters' List.

*SEC. 7. System of Continuing Registration.* — The Commission shall ensure that the benefits of the system of continuing registration are extended to qualified overseas absentee voters. Towards this end, the Commission shall optimize the use of existing facilities, personnel and mechanisms of the various government agencies for purposes of data gathering, data validation, information dissemination and facilitation of the registration process.

Pre-departure programs, services and mechanisms offered and administered by the Department of Foreign Affairs, Department of Labor and Employment, Philippine Overseas Employment Administration, Overseas Workers' Welfare Administration, Commission on Filipinos Overseas and other appropriate agencies of the government shall be utilized for purposes of supporting the overseas absentee registration and voting processes, subject to limitations imposed by law.

*SEC. 8. Requirements for Registration.* — Every Filipino registrant shall be required to furnish the following documents:

- a. A valid Philippine passport. In the absence of a valid passport, a certification of the Department of Foreign Affairs that it has reviewed the appropriate documents submitted by the applicant and found them sufficient to warrant the issuance of a passport, or that the applicant is a holder of a valid passport but is unable to produce the same for a valid reason;
- b. Accomplished registration form prescribed by the Commission containing the following mandatory information:
  - i. Last known residence of the applicant in the Philippines before leaving for abroad;
  - ii. Address of applicant abroad, or forwarding address in the case of seafarers;
  - iii. Where voting by mail is allowed, the applicant's mailing address outside the Philippines where the ballot for absentee voters will be sent, in proper cases; and
  - iv. Name and address of applicant's authorized representative in the Philippines for purposes of Section 6.7 and Section 12 hereof.
- c. In the case of immigrants and permanent residents not otherwise disqualified to vote under this Act, an affidavit declaring the intention to resume actual physical permanent residence in the Philippines not later than three (3) years after approval of his/her registration as an overseas absentee voter under this Act. Such affidavit shall also state that he/she has not applied for citizenship in another country.

The Commission may also require additional data to facilitate registration and recording. No information other than those necessary to establish the identity and

qualification of the applicant shall be required.

SEC. 9. *National Registry of Overseas Absentee Voters.* — The Commission shall maintain a National Registry of Overseas Absentee Voters. Approved applications of overseas absentee registrants shall also be included in the permanent list of voters of the city or municipality where the registrant is domiciled, with the corresponding annotation that such person has been registered or will be voting as an overseas absentee voter. The registry shall also include those registered under Republic Act No. 8189 and who have been issued certifications as overseas absentee voters. The entries in the National Registry of Overseas Absentee Voters and the annotations as overseas absentee voters in the Certified Voters' List shall be permanent, and cannot be cancelled or amended except in any of the following cases:

9.1. When the overseas absentee voter files a letter under oath addressed to the Commission that he/she wishes to be removed from the Registry of Overseas Absentee Voters, or that his/her name be transferred to the regular registry of voters; or,

9.2. When an overseas absentee voter's name was ordered removed by the Commission from the Registry of Overseas Absentee Voters for his/her failure to exercise his/her right to vote under this Act for two (2) consecutive national elections.

SEC. 10. *Notice of Registration and Election.* — The Commission shall, through the embassies, consulates and other foreign service establishments, cause the publication in a newspaper of general circulation of the place, date and time of the holding of a regular or special national election and the requirements for the participation of qualified citizens of the Philippines abroad, at least six (6) months before the date set for the filing of applications for registration.

The Commission shall determine the countries where publication shall be made, and the frequency thereof, taking into consideration the number of overseas Filipinos present in such countries. Likewise, the Commission and the Department of Foreign Affairs shall post the same in their respective websites.

SEC. 11. *Procedure for Application to Vote in Absentia.* —

11.1. Every qualified citizen of the Philippines abroad whose application for registration has been approved, including those previously registered under Republic Act No. 8189, shall, in every national election, file with the officer of the embassy, consulate or other foreign service establishment authorized by the Commission, a sworn written application to vote in a form prescribed by the Commission. The authorized officer of such embassy, consulate or other foreign service establishment shall transmit to the Commission the said application to vote within five (5) days from receipt thereof. The application form shall be accomplished in triplicate and submitted together with the photocopy of his/her overseas absentee voter certificate of registration.

11.2. Every application to vote *in absentia* may be done personally at, or by mail to, the embassy, consulate or foreign service establishment, which has jurisdiction over the country where he/she has indicated his/her address for purposes of the elections.