

1975 WL 29339 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 29, 1975

***1 Re: Your File V-9139 and V-9032 Our File Act No. 210 (R-284) Act No. 301 (R-442)**

Ms. Polly Dammann
Attorney at Law
Voting Section
Civil Rights Division
550 Eleventh N.W.
Washington, D.C. 20530

Dear Ms. Dammann:

On June 4, 1975, Act No. 210 was enacted by the General Assembly of South Carolina. That act amends Title 23 of the South Carolina Code of Laws so as to provide for absentee registration. A question has arisen concerning Sections 23-446 and 23-448 of that act as to whether they prescribe literacy requirements.

Section 23-446 which prescribes the form to be used by the absentee registrant requires a 'signature of Applicant'. The instructions to be printed on the back of the prescribed form state that one's 'signature should be printed or typewritten' and that the applicant 'is required to sign the form.'

In our opinion, the signature of one who applies to vote by the absentee method may be in the form of a cross or other mark when made as a substitute for a signature by a person who cannot write. Section 23-446 does not prescribe, therefore, a literacy requirement of any sort.

Section 23-448 of Act No. 210 states that '[t]he person to whom the registration form is mailed shall complete the form.' A question has also arisen as to whether that requirement creates a literacy test. We do not think so.

Although Section 23-448 does require one to whom the absentee registration form is mailed to complete it, that section does not preclude an applicant from obtaining appropriate assistance from another person in order to complete the form.

Act No. 301 of 1975 also relates to absentee voting. There is language contained therein, it has been suggested, which prescribe literacy requirements. Section 23-443 refers to a person 'having completed the required form' and Section 23-444 requires a signature.

What we have stated with respect to Act No. 210 is also true as to Act No. 301. A mark may be substituted for an applicant's signature and an applicant may obtain appropriate assistance in order to complete the prescribed form. Act No. 301 contains no literacy requirement.

Best wishes,

C. Tolbert Goolsby, Jr.
Assistant Attorney General

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