

IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA

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No. 11-5349

STEPHEN LAROQUE, ANTHONY CUOMO, JOHN NIX,  
KLAY NORTHRUP, LEE RAYNOR, and KINSTON CITIZENS  
FOR NON-PARTISAN VOTING,

Plaintiffs-Appellants

v.

ERIC H. HOLDER, JR., in his official capacity as  
Attorney General of the United States, et al.,

Defendants-Appellees

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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ATTORNEY GENERAL'S MOTION TO DISMISS

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This motion is submitted in response to the Court's Order of February 13, 2012, directing the parties to file "motions to govern future proceedings" in light of the Attorney General's withdrawal of the August 17, 2009, objection to the City of Kinston's proposed change to nonpartisan voting.

For the reasons set forth below and in the Attorney General's brief as appellee, the Attorney General moves this Court for an order dismissing this case as moot. The defendants-intervenors join in this motion. If appellants file a

response to the Attorney General's mootness argument today (February 14), the Attorney General suggests that the Court permit each side to file a response to the other's pleading on February 21, 2012. If appellants' February 14 pleading does not fully respond to the mootness argument made in the Attorney General's brief, the Attorney General suggests that the Court adopt the following briefing schedule on this motion, which permits appellants a reasonable time to respond and the Attorney General a reasonable time to reply before oral argument, now scheduled for February 27, 2012:

Appellants' Response to Motion to Dismiss February 17, 2012

Appellees' Reply February 23, 2012

In the alternative, the Court may wish to postpone the oral argument until it has determined whether the case is now moot.

1. Prompted by a review of a voting change submitted on September 7, 2011, by Lenoir County, in which Kinston is located, the Attorney General reconsidered the objection to Kinston's proposed change to nonpartisan elections, and withdrew the objection on February 10, 2012. See Feb. 10, 2012, letter from Thomas E. Perez to James P. Cauley III (Feb. 10 letter); January 30, 2012, letter

from Thomas E. Perez to James P. Cauley III (Jan. 30 letter).<sup>1</sup> Lenoir County's September 7, 2011, submission proposed a change in the method of election of the County School Board from partisan to nonpartisan elections. Jan. 30 letter 1. On November 7, 2011, the Department of Justice (DOJ) requested supplemental information from Lenoir County regarding county elections since 2000, and the County submitted the requested information on December 12, 2011. Jan. 30 letter 1; see also November 7, 2011, letter from T. Christian Herren to Deborah R. Stagner 1-2.<sup>2</sup> The Attorney General was required to determine within 60 days, or by February 10, 2012, whether to preclear the County's proposed change. See 28 C.F.R. 51.37(b)(3). The Attorney General notified Lenoir County on February 10, 2012, that he did not object to the change. See Feb. 10 letter 1-2.

In the course of analyzing Lenoir County's submission, DOJ reviewed current population and electoral data for Kinston, and determined that there might have been a "substantial change in operative fact" warranting reconsideration of the 2009 Kinston objection that gave rise to this litigation. Jan. 30 letter 1 (quoting 28 C.F.R. 51.46(a)). The Department notified Kinston of its intention to reconsider

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<sup>1</sup> The February 10 letter was submitted to the Court on February 10, 2012. The January 30, 2012, letter is attached to the February 10 letter and also was submitted to the Court on January 30, 2012.

<sup>2</sup> The November 7, 2011, letter is attached to the copy of the January 30, 2012, letter submitted to the Court on January 30, 2012.

the objection on January 30, 2012. Jan. 30 letter. In particular, as the February 10 letter explained, current information indicates that the black proportion of both the voting age population and voter turnout in Kinston has increased since the time of the August 17, 2009, objection. Feb. 10 letter 2. At the time of the 2009 objection, although Kinston was a majority black city, black voters “typically” were a minority of those turning out to vote and therefore had “limited success in electing candidates of choice to the city council.” Feb. 10 letter 2. In contrast, in the November 2011 election, black voters constituted a majority of the Kinston electorate and “elected their candidates of choice to a majority of the seats on the Kinston City Council for the first time in modern times.” Feb. 10 letter 2. Based upon these increases in the black proportion of the voting-age population and voter turnout, as well as “consistently high levels of black political cohesion,” DOJ concluded that black voters are now able to elect their candidates of choice in Kinston “in either partisan or nonpartisan elections.” Feb. 10 letter 2. Because DOJ therefore concluded that the change to nonpartisan elections “is not impermissibly retrogressive under Section 5,” it withdrew its 2009 objection to Kinston’s change from partisan to nonpartisan elections. Feb. 10 letter 2.

2. “[F]ederal courts may adjudicate only actual, ongoing cases or controversies.” *Lewis v. Continental Bank Corp.*, 494 U.S. 472, 477 (1990). Thus,

“[t]he parties must continue to have a ‘personal stake in the outcome’ of the lawsuit” at all stages of the litigation. *Id.* at 478 (citations omitted).

In this case, Nix’s standing was based upon two alleged injuries – (1) that the partisan election system required to be kept in place by the Attorney General’s 2009 objection made ballot-access more costly and time-consuming, and (2) that that system caused him a competitive disadvantage in the election. *LaRoque v. Holder*, 650 F.3d 777, 786 (D.C. Cir. 2011) (*LaRoque II*).<sup>3</sup> Because these alleged injuries resulted from the preemption of the nonpartisan referendum, they were “fairly traceable to” the Attorney General’s enforcement of Section 5, *id.* at 789-790, and would be redressed “by a judgment declaring section 5 unconstitutional,” *id.* at 791. Now, however, the Attorney General’s preclearance of Kinston’s proposed change to nonpartisan elections has “remove[d] the federal barrier to the implementation of the nonpartisan referendum, and absent that barrier, there is no reason to believe that the Kinston city council would refrain from carrying out its state-law duty to put the referendum \* \* \* into effect.” *Ibid.* As a result, the operation of Section 5 will not prevent Nix from running in nonpartisan elections (or the other plaintiffs from voting in nonpartisan elections) in Kinston in 2013 or thereafter.

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<sup>3</sup> Appellants’ standing to bring both Count I and Count II is based solely only on Nix’s alleged injuries. See *LaRoque II*, 650 F.3d at 792; Joint Appendix 249, 295-300.

Nix seeks only prospective relief in this action: a declaratory judgment that Section 5 and the 2006 amendments to Section 5 are unconstitutional, an injunction barring the Attorney General from enforcing Section 5 against Kinston's implementation of the referendum, and an injunction barring the Attorney General from enforcing Section 5 in the future. J.A. 15; see also J.A. 35-36. He no longer has a cognizable interest in that relief.

Under the circumstances of this case, the "capable-of-repetition" exception to the mootness doctrine is inapplicable. See *Spencer v. Kemna*, 523 U.S. 1, 17 (1998). That exception is available only when "(1) the challenged action [is] in its duration too short to be fully litigated prior to cessation or expiration, and (2) there [is] a reasonable expectation that the same complaining party [will] be subject to the same action again." *Ibid.* (citations omitted); see *Pharmachemie B.V. v. Barr Labs., Inc.*, 276 F.3d 627, 633-634 (D.C. Cir. 2002) (emphasizing that plaintiff's claims must "satisfy both prongs of this narrow exception").

The district court correctly concluded that the passage of the 2011 elections did not moot this case because Nix's claims previously met both prongs of this test. Because Nix intended to run for office again in 2013, his claims were capable of repetition because he was "likely – indeed, nearly certain – to suffer the same injury in his 2013 run for Kinston city council." J.A. 251. And his claims might evade review because "election litigation frequently outlasts election cycles." J.A.

251. But the Attorney General's preclearance of the change to nonpartisan voting means that the "capable-of- repetition" prong is no longer satisfied. There is now *no* "reasonable expectation" that Nix will be forced to run for office in a partisan election system because of the operation of Section 5. Cf. *LaRouche v. Fowler*, 152 F.3d 974, 978-979 (D.C. Cir. 1998) (plaintiff's injuries were capable of repetition because it was likely, not only that that he would run for President again, but also that he would again be faced with a rule similar to the one he sought to challenge).<sup>4</sup> Thus, Nix's alleged injuries have been decoupled from his claims that Section 5 is unconstitutional and from the relief he seeks in this lawsuit.

In some instances, "if a plaintiff's specific claim has been mooted, [he] may nevertheless seek declaratory relief forbidding an agency from imposing a disputed policy in the future, so long as the plaintiff has standing to bring such a forward-looking challenge and the request for declaratory relief is ripe." *City of Houston v. HUD*, 24 F.3d 1421, 1429 (D.C. Cir. 1994); see *Southern Co. Servs. v. FERC*, 416 F.3d 39, 44 n.2 (D.C. Cir. 2005). Nix has asserted no cognizable injury that would entitle him to seek such relief. His alleged injuries stemmed solely from the

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<sup>4</sup> Once preclearance is obtained from the Attorney General, Section 5 provides no further remedy. *Lopez v. Monterey Cnty.*, 519 U.S. 9, 23 (1996). Neither the statute nor the Attorney General's regulations contemplate further reconsideration of the Kinston submission. Nor may any private party seek judicial review of the decision to withdraw the objection. *Morris v. Gressette*, 432 U.S. 491, 504-505 (1977); *Harris v. Bell*, 562 F.2d 772, 773-775 (D.C. Cir. 1977).

preemption of a specific voting change, *i.e.*, Kinston's change to nonpartisan elections. The possibility that the Attorney General will object to another submission that will cause injury to Nix or any of the other plaintiffs in this case is too "conjectural [and] hypothetical" to support standing. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992).<sup>5</sup> In the absence of an objection to a particular voting practice that demonstrably causes him harm, Nix is simply asserting a generalized grievance that he shares with the voters of all the covered jurisdictions. *Warth v. Seldin*, 422 U.S. 490, 499 (1975); see *Giles v. Ashcroft*, 193 F. Supp. 2d 258, 263 (D.D.C. 2002). He lacks standing to assert such a claim.

Finally, the capable-of- repetition doctrine requires "a reasonable expectation that the *same* complaining party [will] be subject to the same action again." *Spencer*, 523 U.S. at 17 (emphasis added); see *Pharmachemie B.V.*, 276 F.3d at 633-634. Thus, the fact that other parties might be injured by the enforcement of Section 5 is irrelevant to this analysis. In any event, the question of the constitutionality of Section 5 will not "evade review," even in this larger sense. In addition to *Shelby County v. Holder*, No. 11-5256, pending before this Court, two other cases challenging the constitutionality of the 2006 Reauthorization are pending in district court. *Arizona v. Holder*, No. 1:11-CV-01559 (D.D.C.);

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<sup>5</sup> The 2009 objection that led to this litigation was the first objection to any proposed voting change in either Kinston or Lenoir County. J.A. 8-9.

*Florida v. United States*, No. 1:11-cv-01428 (D.D.C.) (three-judge court). *Florida* raises issues regarding the constitutionality of the 2006 Amendments similar to those appellants raised here. *Florida*, Second Amended Complaint, Doc. No. 54, ¶¶ 18-22, 116, 119 (copy attached). Indeed, *any* jurisdiction covered by Section 5 may file an action challenging its constitutionality. Thus, this is not a situation in which the constitutionality of the statute will evade judicial review due to the timing of election cycles.

Because appellants no longer have a personal stake in this litigation, it is moot. This Court should therefore vacate the district court's judgment, and remand with instructions to dismiss the complaint. *Arizonans for Official English v. Arizona*, 520 U.S. 43, 71-72 (1997).

## CONCLUSION

This court should dismiss this appeal, vacate the judgment below, and remand with instructions to dismiss the complaint.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that on February 14, 2012, the foregoing ATTORNEY GENERAL'S MOTION TO DISMISS was filed electronically with the Clerk of the Court using the CM/ECF system, which will send notice of such filing to the following registered CM/ECF users:

J. Gerald Herbert  
The Campaign Legal Center  
215 E. St. N.E.  
Washington, DC 20002

Michael A. Carvin  
Jones Day  
51 Louisiana Ave. N.W.  
Washington, D.C. 20001

Michael E. Rosman  
Center For Individual Rights  
1233 20th St. NW, Suite 300  
Washington, D.C. 20036

I further certify that I will cause four paper copies of the foregoing MOTION to be hand delivered to the Clerk of the Court by noon on February 14, 2012.

/s/ Linda F. Thome  
LINDA F. THOME  
Attorney

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

STATE OF FLORIDA  
Office of the Secretary of State  
500 S. Bronough Street  
Tallahassee, FL 32399-0250,

Plaintiff,

v.

UNITED STATES OF AMERICA and ERIC H.  
HOLDER, JR., in his official capacity as Attorney  
General of the United States,

Defendants.

Civil No. 1:11-cv-01428-CKK-MG-ESH

**SECOND AMENDED COMPLAINT FOR DECLARATORY JUDGMENT**

The State of Florida, by and through its Secretary of State Kurt S. Browning, seeks a declaratory judgment that recently-enacted changes in the Florida Election Code are entitled to preclearance under Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973c (“VRA”). The changes have neither the purpose nor will they have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority. Alternatively, the State of Florida seeks a declaratory judgment that the preclearance obligation of Section 5 and the coverage formula of Section 4(b) of the VRA, 42 U.S.C. § 1973b(b), are unconstitutional, as well as a permanent injunction enjoining their enforcement. Subjecting Florida counties and other jurisdictions covered exclusively under the language minority provisions of the VRA to preclearance is not a rational, congruent, or proportional means of enforcing the Fourteenth and/or Fifteenth Amendments and violates the Tenth Amendment and Article IV of the U.S. Constitution.

## I. PARTIES

1. Plaintiff, the State of Florida, is a State of the United States of America and brings this action on behalf of itself and its citizens.

2. Kurt S. Browning, in his official capacity as the Secretary of State of Florida, is the chief elections officer of the State of Florida. Secretary Browning has the responsibility, *inter alia*, to obtain and maintain uniform implementation of the election laws, to ensure compliance with federal election laws, and to require the supervisors of elections to perform their official duties.

3. Defendants are the United States of America and Eric H. Holder, Jr., in his official capacity as Attorney General of the United States. Attorney General Holder is charged with certain responsibilities related to Section 5 on behalf of the Department of Justice (“DOJ”), including the defense of Section 5 declaratory judgment actions brought in the United States District Court for the District of Columbia (“DDC”).

## II. BACKGROUND

### A. The Voting Rights Act

4. In 1965, Congress enacted the VRA to enforce the substantive guarantee of the Fifteenth Amendment. *See* Pub. L. No. 89-110, 79 Stat. 437 (1965).

5. Section 2 of the VRA enforced the substantive guarantee of the Fifteenth Amendment by outlawing any “voting qualification or prerequisite to voting, or standard, practice, or procedure . . . imposed or applied . . . to deny or abridge the right of any citizen of the United States to vote on account of race or color.” *Id.* § 2, 79 Stat. at 437. This prohibition applies nationwide. *Id.*

6. Other provisions of the VRA apply only to certain jurisdictions pursuant to a geographic “coverage formula” established by the statute.

7. Section 4(b) set forth a formula under which “covered” jurisdictions would be subjected to the “preclearance” obligation of Section 5. Section 4(b) covered “any State or any political subdivision of a state which . . . the Attorney General determine[d] maintained on November 1, 1964, any [prohibited] test or device, and with respect to which . . . the Director of the Census determine[d] that less than 50 percentum of the persons of voting age residing therein were registered on November 1, 1964, or that less than 50 percentum of such persons voted in the presidential election of November 1964.” *Id.* § 4(b), 79 Stat. at 438.

8. Under Section 4(b)’s formula, seven States (Alabama, Alaska, Georgia, Louisiana, Mississippi, South Carolina, and Virginia), forty counties in North Carolina, as well as several counties in Arizona, Hawaii, and Idaho, became “covered” jurisdictions.

9. Section 5 required these covered jurisdictions to “preclear” any new law or any change to an existing law involving “any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1964.” *Id.* § 5, 79 Stat. at 439. The covered jurisdictions could obtain “preclearance” by submitting the proposed change to DOJ or by filing a declaratory-judgment action before a three-judge panel of the DDC. *Id.*

10. Preclearance could be granted by DOJ or the DDC only if the voting change “[did] not have the purpose and [would] not have the effect of denying or abridging the right to vote on account of race or color.” *Id.*

11. Section 5 was originally a “temporary provision[] . . . expected to be in effect for only five years.” *Nw. Austin Mun. Util. Dist. No. 1 v. Holder*, 129 S. Ct. 2504, 2510 (2009). In 1970, however, Congress reauthorized the VRA for another five years. *See Voting Rights Act Amendments of 1970*, Pub. L. No. 91-285, 84 Stat. 314 (1970).

12. In 1975, Congress reauthorized the VRA for another seven years. Act of Aug. 6, 1975, Pub. L. No. 94-73, 89 Stat. 400.

13. In reauthorizing the VRA in 1975, Congress extended Section 4(b)'s coverage formula and thus Section 5's preclearance obligation to any jurisdiction that had maintained a prohibited "test or device" on November 1, 1972, and had voter registration on that date or turnout in the 1972 presidential election of less than 50 percent. *Id.* § 202, 89 Stat. at 401.

14. In 1975, Congress also extended Section 5's preclearance obligation by expanding the definition of "test or device" to include the provision of election materials only in English by jurisdictions in which more than five percent of the voting age citizens were members of "a single language minority." *Id.* § 203, 89 Stat. at 401-02.

15. In 1982, Congress reauthorized the VRA for another twenty-five years. Voting Rights Act Amendments of 1982, Pub. L. No. 97-205, 96 Stat. 131 (1982).

16. In 2006, Congress again reauthorized the VRA for another twenty-five years. Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006, Pub. L. No. 109-246, 120 Stat. 577 (2006) ("2006 Reauthorization Act").

17. In reauthorizing the VRA in 2006, Congress imposed preclearance requirements under the same coverage formulas adopted in 1965, 1970, and 1975.

18. Congress also added new provisions regarding the standard a covered jurisdiction must meet for obtaining preclearance. *See* 42 U.S.C. § 1973c(b)-(d).

19. The 2006 Reauthorization Act amended Section 5 to require covered jurisdictions to prove that a voting change does not have the purpose or effect of "diminishing the ability of any citizens of the United States on account of race or color, or [membership in a language

minority group] to elect their preferred candidates of choice.” *Id.* § 1973c(b); *id.* § 1973c(d) (noting that this provision was enacted “to protect the ability of such citizens to elect their preferred candidates of choice”).

20. Before 2006, a covered jurisdiction could obtain preclearance under a more flexible standard: by proving through “the totality of the circumstances,” *Georgia v. Ashcroft*, 539 U.S. 461, 480-85 (2003), that the change would not “lead to a retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise.” *Beer v. United States*, 425 U.S. 130, 141 (1976).

21. The 2006 Reauthorization Act further amended Section 5 to require a covered jurisdiction to prove that the voting change does not have “any discriminatory purpose.” 42 U.S.C. § 1973c(c). Prior to this amendment, Section 5 had been interpreted to permit preclearance of voting changes “enacted with a discriminatory but nonretrogressive purpose.” *Reno v. Bossier Parish School Bd.*, 528 U.S. 320, 341 (2000).

22. This prior preclearance standard limited “the substantial federalism costs that the preclearance procedure already exacts” and avoided “raising concerns about § 5’s constitutionality.” *Id.* at 336.

### **B. Florida and the Voting Rights Act**

23. Florida is a “partially covered” state under the VRA because five Florida counties are subject to the preclearance requirements of Section 5. Specifically, Collier, Hardee, Hendry, Hillsborough, and Monroe Counties have been designated as covered jurisdictions under Section 4 of the Voting Rights Act, 42 U.S.C. § 1973b(b).

24. These five Florida jurisdictions are covered jurisdictions based on the Attorney General’s determination that, on November 1, 1972, these jurisdictions provided materials and

information relating to the electoral process only in the English language; more than five percent of the citizens of voting age were members of a single language minority; and less than half of the voting-age citizens in these jurisdictions were either registered to vote or voted in the Presidential election of November 1972.

25. Based on the same formula originally adopted in 1975 and still found in Section 4(b) of the Voting Rights Act, these five counties remain covered jurisdictions subject to the preclearance requirements of Section 5.

26. To obtain preclearance, Florida must establish that the voting changes in the five jurisdictions do not have the “purpose of or will have the effect of diminishing the ability of any citizens of the United States on account of race or color . . . to elect their preferred candidates of choice,” 42 U.S.C. § 1973c(b), even though Florida is itself not a covered jurisdiction, and even though the five Florida counties are covered only under the VRA’s language minority provisions, *see id.*, (f)(2).

### **C. The 2011 Florida Voting Changes**

27. On May 19, 2011, Committee Substitute for Committee Substitute for House Bill No. 1355, an omnibus bill revising the Florida Election Code, became law. This law has been codified at Chapter 2011-40, Laws of Florida (the “Act”).

28. The Act contains revisions to Florida statutes governing third-party voter registration organizations (§ 97.0575, Fla. Stat.), state constitutional amendments proposed by initiative (§ 100.371, Fla. Stat.), election-day address changes (§ 101.045, Fla. Stat.), and early voting (§ 101.657, Fla. Stat.). These provisions are collectively referred to as the “Four Voting Changes.”

29. On May 19, 2011, Secretary Browning issued Directive 2011-01 to the State supervisors of elections. The Directive described the changes made by the Act and provided guidance to the supervisors of elections as to their duties under the Act. *See* Exhibit A.

30. On June 8, 2011, Secretary Browning submitted the Act to the United States Department of Justice for administrative preclearance. On July 29, 2011, the Four Voting Changes were withdrawn from administrative preclearance, while the other 76 provisions of the Act were kept before the Department of Justice for preclearance. On August 8, the Department of Justice precleared these 76 provisions of the Act.

31. After holding a publicly-noticed rule development workshop and accepting extensive public comment from affected parties, the Florida Department of State adopted Rule 1S-2.042 on October 13, 2011. *See* Third-Party Voter Registration Organizations, Fla. Admin. Code R. 1S-2.042 (2011) (Exhibit B). Rule 1S-2.042 is an administrative rule that implements the revisions to the Florida statute governing third-party voter registration organizations, which is one of the Four Voting Changes for which preclearance is sought in this action. Except in the five covered counties, Rule 1S-2.042 will take effect on November 2, 2011.

32. Among other things, Rule 1S-2.042 clarifies that the registration requirement applies only to those organizations that “solicit[] for collection or collect[] voter registration applications from Florida voter registration applicants.” *Id.* The rule also outlines the process for the submission of completed voter registration applications, which will be accepted either in person or by mail. *Id.* Finally, the rule adopts various forms related to the registration and reporting requirements. *See* Exhibit B.

33. Florida brings this action pursuant to 42 U.S.C. § 1973c and 28 U.S.C. § 2201, seeking a declaratory judgment that the Four Voting Changes neither have the purpose nor will

have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority, thereby allowing the State to uniformly enforce its elections laws.

### **III. JURISDICTION AND VENUE**

34. This Court has subject matter jurisdiction under Section 14(b) of the Voting Rights Act, as amended, 42 U.S.C. § 19731, and under 28 U.S.C. § 1331, because this action arises under the Constitution and laws of the United States. This Court has jurisdiction to render declaratory relief under 28 U.S.C. § 2201.

35. Venue is proper in this Court pursuant to Section 5 of the Voting Rights Act and 28 U.S.C. § 2284. This action is properly determinable by a three judge district court in accordance with Section 5 and 28 U.S.C. § 2284.

### **IV. PRECLEARANCE ALLEGATIONS**

36. The Act, Chapter 2011-40, Laws of Florida, revises numerous statutes within the Florida Elections Code (Chapters 97-106 of the Florida Statutes). The Act addressed a wide range of subjects, including registration of minor political parties, political advertisement disclaimers, and reporting of election results by supervisors of elections.

37. The State of Florida seeks a declaratory judgment, pursuant to Section 5 of the VRA, related to the Four Voting Changes: Section 4 (addressing third-party voter registration organizations) together with Rule 1S-2.042, which administratively implements that statutory provision; Section 23 (addressing state constitutional amendments proposed by initiative); Section 26 (addressing change of residence); and Section 39 (addressing early voting). This action is filed for the purpose of determining an actual controversy between the parties within the Court's jurisdiction, and to allow the State to uniformly enforce duly-enacted amendments to the Florida Election Code.

38. As described below, each of the Four Voting Changes applies uniformly to all Floridians regardless of race, color, or membership in a language minority. These provisions were not adopted with the purpose and will not have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority.

**A. Section 4 (Third-Party Voter Registration Organizations)**

**(i) Benchmark Practice Third-Party Voter Registration Organizations**

39. Prior to 1995, only state officials and individuals deputized by supervisors of elections as registrars were permitted to collect voter registration applications in Florida. The Florida Legislature's first comprehensive regulation of third-party voter registration organizations came in 2005 with the enactment of section 97.0575, Florida Statutes. This statute, as amended in 2007, represents the "benchmark" practice for purposes of Section 5.

40. Under the benchmark practice, a "third-party voter registration organization" is defined as "any person, entity, or organization soliciting or collecting voter registration applications" other than a person registering, or collecting an application from, that person's spouse, child or parent; or a person who registers to vote or collects voter registration applications as an employee or agent of the Florida Department of State's Division of Elections ("Division"), a supervisor of elections, the Department of Highway Safety and Motor Vehicles, or a voter registration agency. § 97.021(37), Fla. Stat.

41. "Prior to engaging in any voter registration activities," the benchmark practice required each third-party voter registration organization to name a registered agent in the state and submit additional information to the Division. § 97.0575(1), Fla. Stat. Specifically, the benchmark practice required each third-party voter registration organization to submit to the Division a form containing:

the name of the registered agent and the name of those individuals responsible for the day-to-day operation of the third-party voter registration organization, including, if applicable, the names of the entity's board of directors, president, vice president, managing partner, or such other individuals engaged in similar duties or functions.

§ 97.0575(1), Fla. Stat.

42. Because each third-party voter registration organization that collected voter registration applications “serves as a fiduciary to the applicant,” the benchmark practice required each organization to ensure that any application entrusted to the organization, “irrespective of party affiliation, race, ethnicity, or gender,” is “promptly delivered to the division or the supervisor of elections.” § 97.0575(3), Fla. Stat.

43. The benchmark practice provided for fines on any third-party voter registration organization that failed to promptly deliver applications that it collected. § 97.0575(3), Fla. Stat. The applicable fines were \$50 for each application received by a supervisor of elections or the Division more than ten days after the applicant delivered the completed application to the third-party voter registration organization; \$100 for each application collected by a third-party voter registration organization before book closing for any given election for federal or state office and received by a supervisor of elections or the Division after the book-closing deadline for that election; and \$500 for each application collected by a third-party voter registration organization that is not submitted to the Division or a supervisor of elections. § 97.0575(3), Fla. Stat. The amounts of these fines increased to \$250, \$500, and \$1,000, respectively, for willful violations. § 97.0575(3), Fla. Stat. The benchmark practice did not impose any civil or criminal penalties on a third-party voter registration organization solely for failure to register with the Division. § 97.0575(2), Fla. Stat.

44. The benchmark practice capped at \$1,000 the maximum aggregate fine that could be assessed against any third-party voter registration organization (including affiliate organizations) for all violations committed in a calendar year. § 97.0575(3), Fla. Stat. The benchmark practice required the Secretary of State to waive the fines upon a showing that the failure to deliver the application promptly was based upon force majeure or impossibility of performance and provided for a three-fourths reduction in the applicable fines for third-party voter registration organizations that had complied with the statute's registration requirements. § 97.0575(3), Fla. Stat. Under the benchmark practice, the Division had authority to investigate violations of the third-party voter registration organization statute, assess civil fines imposed under the statute, and enforce the fines "through any appropriate legal proceedings." § 97.0575(4)(b), Fla. Stat.

45. Finally, the benchmark practice required third-party voter registration organizations to submit a report to the Division of Elections on or before the 15th day after the end of each calendar quarter providing the date and location of any organized voter registration drives conducted by the organization in the prior calendar quarter. § 97.0575(1), Fla. Stat.

(ii) Changes Sought to Be Preleared Third-Party Voter Registration Organizations

46. The benchmark practices described above are largely preserved by Section 4 of the Act, Chapter 2011-40. The third-party voter registration statute, as amended, continues to require third-party voter registration organizations to register with the Division of Elections "before engaging in any voter registration activities." § 97.0575(1), Fla. Stat. As under the benchmark, third-party voter registration organizations must promptly deliver voter registration applications that they collect. § 97.0575(3)(a), Fla. Stat. The applicable fines for untimely delivery of applications are unchanged, as is the maximum aggregate fine of \$1,000 for all

violations committed by a third-party voter registration organization and its affiliates in a calendar year. § 97.0575(3), Fla. Stat.

47. The principal change in Section 4 relates to the time period for third-party voter registration organizations to submit completed voter registration applications to the Division or a supervisor of elections. § 97.0575(3), Fla. Stat. Where the benchmark required completed applications to be submitted “promptly” and imposed a \$50 fine for applications received more than ten days after they were collected, Section 4 imposes a \$50 fine for applications received by the Division or a supervisor of elections more than 48 hours after the applicant delivers the completed voter registration application to the organization (or on the next business day, if the office is closed). § 97.0575(3)(a), Fla. Stat. Section 4 also removes the potential for a three-fourth reduction in fines for third-party voter registration organizations that have complied with the registration requirements but provides that force majeure or impossibility of performance is an affirmative defense to a failure to timely deliver a completed application. § 97.0575(3)(b), Fla. Stat. Under Section 4, the Secretary of State may waive the fines assessed against an organization upon a showing of force majeure or impossibility of performance, which is now an affirmative defense. § 97.0575(3)(b), Fla. Stat.

48. Section 4 also assigns new administrative responsibilities to the Division and supervisors of elections regarding distribution of and accounting for voter registration applications (§ 97.0575(2), (5), Fla. Stat.), requires each registration agent of a third-party voter registration organization to provide a sworn statement stating that the agent will obey all state laws and rules regarding the registration of voters (§ 97.0575(1)(d), Fla. Stat.), requires voter registration forms provided to each third-party voter registration organization to contain information identifying the third-party voter registration organization to which the forms are

provided (§ 97.0575(2), Fla. Stat.), and requires supervisors of elections to provide information to the Division on voter registration forms provided to and received from each third-party voter registration organization. (§ 97.0575(2), Fla. Stat.)

49. Finally, Section 4 shifts enforcement responsibility of the third-party voter registration statute from the Division to the Florida Attorney General. § 97.0575(4), Fla. Stat. If the Secretary of State reasonably believes that a person has committed a violation of the statute, the Secretary may refer the matter to the Attorney General. § 97.0575(4), Fla. Stat. The Attorney General may institute a civil action for a violation of, or to prevent a violation of, the statute. § 97.0575(4), Fla. Stat.

(iii) Purpose and Effect Third-Party Voter Registration Organizations

50. The changes to the third-party voter registration statute contained in Section 4 were adopted to address Florida's legitimate interests in: 1) ensuring that all voter registration applications are properly and timely submitted; 2) holding third-party voter registration organizations accountable for the applications they collect; and 3) preventing instances of fraud. The changes were not adopted for the purpose of denying or abridging the right to vote on account of race, color, or membership in a language minority.

51. The changes in Section 4 apply equally to every group meeting the definition of a third-party voter registration organization. Moreover, the benchmark requirement that each third-party voter registration organization ensure the prompt delivery of all voter registration applications they collect, "irrespective of party affiliation, race, ethnicity, or gender," remains unchanged. § 97.0575(3), Fla. Stat. Section 4 therefore protects the right to vote of all Floridians and does not have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority.

**B. Section 23 (Constitutional Amendments Proposed by Initiative)**

(i) Benchmark Practice Constitutional Amendments Proposed by Initiative

52. Under the benchmark practice, a constitutional amendment proposed by initiative shall be placed on the ballot for the general election provided the initiative is filed with the Secretary of State no later than February 1 of the year the general election is held. § 100.371(1), Fla. Stat. A petition is deemed to be filed on the date the Secretary of State determines that valid and verified petition forms have been signed by the constitutionally required number and distribution of electors. § 100.371(1), Fla. Stat. Each signature on an initiative petition must be dated and is valid for a period of four years following that date. § 100.371(3), Fla. Stat.

53. The benchmark practice required the sponsor of the petition to submit signed and dated forms to the appropriate supervisor of elections for verification of the number of registered electors whose valid signatures appear. § 100.371(3), Fla. Stat. The supervisor of elections must verify the signatures within 30 days. § 100.371(3), Fla. Stat. A supervisor may verify that a signature is valid only if it is an original signature; accurately records the date on which the form was signed; accurately sets forth the elector's name, address, county, and voter registration number or date of birth; and if the elector is, at the time he or she signed the form, a duly-qualified and registered elector authorized to vote in the county in which his or her signature was submitted. § 100.371(3), Fla. Stat.

54. The benchmark practice also provided a statutory procedure for an elector to revoke his or her signature within 150 days of the date on which he or she signed the petition. § 100.371(6), Fla. Stat. This signature revocation procedure, however, was invalidated by the Florida Supreme Court on state law grounds in *Browning v. Florida Hometown Democracy, Inc.*, PAC, 29 So. 3d 1053 (Fla. 2010).

(ii) Changes Sought to Be Precleared Constitutional Amendments Proposed by Initiative

55. The changes contained in Section 23 amend the benchmark practice by clarifying that the “appropriate” supervisor of elections to whom signed petitions must be submitted for verification is the supervisor of elections for the county of residence listed by the person signing the form. § 100.371(3), Fla. Stat. Section 23 provides that a signature on a petition form is valid for a period of two years following the date of the signature, rather than four years. § 100.371(3), Fla. Stat. Section 23 imposes a new obligation on local supervisors of elections by requiring each supervisor to notify a petition sponsor of misfiled petitions. § 100.371(3), Fla. Stat. Section 23 also amends the benchmark practice by adding a requirement that supervisors verify that a petition form sets forth the elector’s city of residence. § 100.371(3), Fla. Stat.

56. The changes in Section 23 also amend the benchmark requirement that a petition signer be a registered voter of the county where the petition was submitted for verification at the time the petition was signed. Under Section 23, the requirement has been broadened so that a signature may be verified if the elector is a duly-qualified and registered voter of the State of Florida (rather than the specific county) both at the time of signing and at the time of verification.

57. Finally, Section 23 repeals the statutory provisions related to signature revocation that have been invalidated by the Florida Supreme Court. § 100.371(6), Fla. Stat.

(iii) Purpose and Effect Constitutional Amendments Proposed by Initiative

58. The changes to the statute governing constitutional amendments proposed by initiative contained in Section 23 were adopted for the purpose of 1) clarifying the signature verification responsibilities of county supervisors of elections; 2) repealing statutory language related to signature revocation that has been judicially invalidated; and 3) ensuring that constitutional amendments proposed by initiative demonstrate significant contemporaneous

support for the proposed changes. They were not adopted with the purpose of denying or abridging the right to vote on account of race, color, or membership in a language minority.

59. The changes in Section 23 apply equally to all Floridians proposing a constitutional amendment by initiative or signing a signature petition without respect to the race, color, or language minority status of the signatory. The changes will not have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority.

### **C. Section 26 (Change of Residence)**

#### **(i) Benchmark Practice Change of Residence**

60. Under the benchmark practice, a person may only vote in the election precinct or district in which the person has his or her legal residence and in which the person is registered to vote. § 101.045(1), Fla. Stat. An elector who has moved from the address listed on the person's voter registration record must provide notification of the move to the supervisor of elections. § 97.1031, Fla. Stat. An elector who has moved from the precinct in which the elector is registered, but who has not provided notification of the move to the supervisor of elections before the day of an election, may nonetheless be permitted to vote in the precinct to which he or she has moved provided the elector completes an affirmation of change of legal residence. § 101.045(2)(a), Fla. Stat.

61. Under the benchmark practice, an elector who has completed an affirmation of change of legal residence may be permitted to vote in the precinct to which he or she has moved his or her legal residence. § 101.045(2), Fla. Stat. If the elector's registration can be verified, the elector is entitled to vote a regular ballot. § 101.045(2)(d), Fla. Stat. If the elector's eligibility to vote cannot be determined, he or she is entitled to cast a provisional ballot. § 101.045(2)(d), Fla. Stat. As an alternative to the affirmation of change of address, an elector may complete a voter

registration application that indicates the change of address of legal residence. § 101.045(2)(c), Fla. Stat.

62. Upon receipt of the affirmation or application certifying a change of address of legal residence, the supervisor of elections shall, as soon as practicable, make the necessary changes in the statewide voter registration system to indicate the change in address. § 101.045(2)(d), Fla. Stat.

(ii) Changes Sought to Be Precleared Change of Residence

63. The changes contained in Section 26 preserve the benchmark practice for all electors whose change of residence is within the same county and for active uniformed services voters and members of their families. § 101.045(2), Fla. Stat. Section 26 amended the benchmark practice only for electors who have changed their legal residence, have not previously notified the supervisor of elections of the change of address, and whose change of address is from outside the county. § 101.045(2)(b), Fla. Stat. An elector in these circumstances may not change his or her legal residence at the polls and vote a regular ballot, but is entitled to vote a provisional ballot upon completion of the affirmation of change of legal residence. § 101.045(2)(b), Fla. Stat.

64. The standards for canvassing a provisional ballot are unchanged by the Act. A provisional ballot “shall be counted unless the canvassing board determines by a preponderance of evidence that the person was not entitled to vote.” § 101.048(2)(a), Fla. Stat. In determining whether a person casting a provisional ballot is entitled to vote, the county canvassing board shall review the information provided in the Voter’s Certificate and Affirmation, any written evidence provided by the person casting the ballot, any other evidence presented by the supervisor of elections, and, in the case of a challenge, any evidence presented by the challenger. § 101.048(2)(a), Fla. Stat.

(iii) Purpose and Effect Change of Residence

65. The changes to the statute governing change of residence provisions contained in Section 26 were adopted as an anti-fraud measure, to protect against the possibility of a single elector casting ballots in more than one county. They were not adopted with the purpose of denying or abridging the right to vote on account of race, color, or membership in a language minority.

66. The changes in Section 26 apply equally to every elector regardless of race, color, or membership in a language minority. The only electors affected by the changes in Section 26 are those who (1) have changed their legal residence from one county to another county; (2) have failed to notify the supervisor of elections regarding the change of residence (in writing, by telephone, or by electronic means) at any time prior to election day; and (3) are not an active uniformed services voter or a member of his or her family.

67. Even the limited number of electors affected by the changes in Section 26 will not have their right to vote denied or abridged on account of race, color, or membership in a language minority. Each such elector is entitled to cast a provisional ballot, which “shall be counted” by the canvassing board if the elector was registered and entitled to vote at the precinct where the person cast his or her vote. § 101.048, Fla. Stat. Because the canvassing board will have the elector’s certificate and affirmation before it, Secretary Browning does not anticipate any need in the ordinary case for a voter to provide additional information regarding eligibility to the canvassing board (although the option remains available under section 101.048, Florida Statutes). An elector whose regular ballot would have been lawfully cast under the benchmark practice will therefore have his or her provisional ballot counted under the new statute.

68. The rejection of a provisional ballot cast by an elector who was not registered, or who was not entitled to cast the ballot, or who had already voted in the election, does not amount

to a denial or abridgement of the right to vote. Section 26 does not have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority.

#### **D. Section 39 (Early Voting)**

##### (i) Benchmark Practice Early Voting

69. The benchmark practice for early voting in Florida was enacted by the Florida Legislature in 2005 and is codified at Section 101.657, Florida Statutes. Under the benchmark practice, each supervisor of elections shall allow an elector to vote early “as a convenience to the voter.” § 101.657(1)(a), Fla. Stat. The supervisor of elections shall designate each early voting site no later than 30 days prior to an election. § 101.657(1)(b), Fla. Stat. Early voting must be provided at the main office of the supervisor of elections, and may be provided at a branch office, city hall, or permanent public library facility. § 101.657(1)(a), Fla. Stat.

70. The benchmark practice generally provides for early voting to begin “on the 15th day before an election and end on the 2nd day before an election.” § 101.657(1)(d), Fla. Stat. During the applicable period, the benchmark practice requires early voting to be provided “for 8 hours per weekday and 8 hours in the aggregate each weekend at each site” a total of 96 hours of early voting. § 101.657(1)(d), Fla. Stat. Early voting sites may open no sooner than 7 a.m. and close no later than 7 p.m. on each applicable day. § 101.657(1)(d), Fla. Stat. All early voting sites in a county shall be open on the same days for the same amount of time. § 101.657(1)(c), Fla. Stat. Any person in line at the closing of an early voting site is allowed to vote. § 101.657(1)(c), Fla. Stat.

##### (ii) Changes Sought to Be Precleared Early Voting

71. Section 39 preserves the option of early voting as a convenience to the voter and provides increased flexibility to supervisors of elections regarding the scheduling of early voting in each county. Under Section 39, early voting shall now begin on the 10th day before an

election that contains state or federal races (rather than the 15th day) and end on the 3rd day before the election (rather than the 2nd day). § 101.657(1)(d), Fla. Stat. Early voting shall be provided for no less than 6 hours and no more than 12 hours per day at each site. § 101.657(1)(d), Fla. Stat. Section 39 repeals the prior provision requiring that all early voting sites in a county be open on the same days for the same amount of time. § 101.657(1)(c), Fla. Stat. Section 39 also repeals the provision limiting early voting sites to operation between the hours of 7 a.m. and 7 p.m. § 101.657(1)(d), Fla. Stat.

72. For elections not held in conjunction with a state or federal election, the statute provides supervisors of elections the discretion to provide early voting and to determine the hours of operation of early voting sites. § 101.657(1)(d), Fla. Stat.

(iii) Purpose and Effect Early Voting

73. The changes to the early voting statute contained in Section 39 were adopted to expand access to early voting and provide each supervisor of elections additional flexibility regarding the scheduling of early voting. The changes to the early voting statute contained in Section 39 were not adopted with the purpose of denying or abridging the right to vote on account of race, color, or membership in a language minority.

74. Section 39 provides for expanded access to early voting in several ways. Most significantly, Section 39 mandates additional hours of weekend early voting. Under Section 39, weekend early voting is increased from 16 total hours to a minimum of 18 hours and as many as 36 hours. § 101.657(1)(d), Fla. Stat. By more than doubling the maximum number of weekend early voting hours, Section 39 provides for increased accessibility to the convenience of early voting.

75. Section 39 also increases the maximum number of weekday early voting hours: from 8 hours to 12 hours. § 101.657(1)(d), Fla. Stat. This change provides additional early voting

opportunities for electors whose work schedules do not allow time to vote during the traditional 8 hour work day.

76. If precleared, Section 39 will also mandate 6-12 hours of Sunday early voting in Florida's five counties covered by Section 5 of the Voting Rights Act. None of the covered counties offered Sunday early voting in the 2008 or 2010 primary or general elections.

77. The changes to early voting contained in Section 39 will not have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority. Indeed, Section 39 will likely result in the greatest benefit to low-income residents in the covered counties who may have found it more difficult to vote early during the limited 8 hour window allowed under the benchmark practice.

## V. CAUSES OF ACTION

### COUNT ONE: DECLARATORY JUDGMENT — THIRD-PARTY VOTER REGISTRATION

78. The State of Florida realleges, adopts, and incorporates by reference paragraphs 1 through 77 above.

79. The covered changes to section 97.0575, Florida Statutes, were adopted for the purpose of 1) ensuring that all voter registration applications are properly and timely submitted; 2) holding third-party voter registration organizations accountable for the applications they collect; and 3) preventing instances of fraud. The changes were not adopted for any discriminatory purpose.

80. The covered changes to section 97.0575, Florida Statutes, when compared to Florida's existing or "benchmark" practices, do not lead to a "retrogression" in the position of racial minorities in that they do not have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority.

81. The covered changes to section 97.0575, Florida Statutes, accordingly have neither the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority.

82. The covered changes to section 97.0575, Florida Statutes, do not and will not prohibit any citizen of the United States from electing his or her preferred candidate of choice.

83. The covered changes to section 97.0575, Florida Statutes, apply uniformly to all Floridians regardless of race, color, or membership in a language minority.

84. The covered changes to section 97.0575, Florida Statutes, do not result in any discriminatory effect that is statistically significant.

85. Florida Rule 1S-2.042 the implementing regulation of section 97.0575, Florida Statutes likewise has neither the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority.

86. The State of Florida is entitled to a judgment that the covered changes to section 97.0575, Florida Statutes, and the section's implementing regulation, Florida Rule 1S-2.042, neither have the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority under Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973c, and that Florida's covered jurisdictions may administer these covered changes without further delay.

WHEREFORE, the State of Florida respectfully requests that this Court:

A. Convene a three-judge district court to hear the matters raised in this Complaint;

B. Enter a declaratory judgment that the covered changes to section 97.0575, Florida Statutes, together with the section's implementing regulation, Florida Rule 1S-2.042,

neither have the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority and may be administered by Florida's covered jurisdictions without impediment on account of Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973c; and

C. Award the State of Florida its costs and grant such other relief as the Court may deem just and proper.

**COUNT TWO: DECLARATORY JUDGMENT — CONSTITUTIONAL AMENDMENTS  
PROPOSED BY INITIATIVE**

87. The State of Florida realleges, adopts, and incorporates by reference paragraphs 1 through 77 above.

88. The covered changes to section 100.371, Florida Statutes, were adopted for the purpose of 1) clarifying the signature verification responsibilities of county supervisors of elections; 2) repealing statutory language related to signature revocation that has been judicially invalidated; and 3) ensuring that constitutional amendments proposed by initiative demonstrate significant contemporaneous support for the proposed changes. The covered changes were not adopted for any discriminatory purpose.

89. The covered changes to section 100.371, Florida Statutes, when compared to Florida's existing or "benchmark" practices, do not lead to a "retrogression" in the position of racial minorities in that they do not have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority.

90. The covered changes to section 100.371, Florida Statutes, accordingly have neither the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority.

91. The covered changes to section 100.371, Florida Statutes, do not and will not prohibit any citizen of the United States from electing his or her preferred candidate of choice.

92. The covered changes to section 100.371, Florida Statutes, apply uniformly to all Floridians regardless of race, color, or membership in a language minority.

93. The covered changes to section 100.371, Florida Statutes, do not result in any discriminatory effect that is statistically significant.

94. The State of Florida is entitled to a judgment that the covered changes to section 100.371, Florida Statutes, neither have the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority under Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973c, and that Florida's covered jurisdictions may administer these covered changes without further delay.

WHEREFORE, the State of Florida respectfully requests that this Court:

A. Convene a three judge district court to hear the matters raised in this Complaint;

B. Enter a declaratory judgment that the covered changes to section 100.371, Florida Statutes, neither have the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority and may be administered by Florida's covered jurisdictions without impediment on account of Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973c; and

C. Award the State of Florida its costs and grant such other relief as the Court may deem just and proper.

**COUNT THREE: DECLARATORY JUDGMENT — CHANGE OF ADDRESS**

95. The State of Florida realleges, adopts, and incorporates by reference paragraphs 1 through 77 above.

96. The covered changes to section 101.045, Florida Statutes, were adopted for the purpose of preventing fraudulent voting by a single elector casting ballots in more than one county. The covered changes were not adopted for any discriminatory purpose.

97. The covered changes to section 101.045, Florida Statutes, when compared to Florida's existing or "benchmark" practices, do not lead to a "retrogression" in the position of racial minorities in that they do not have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority.

98. The covered changes to section 101.045, Florida Statutes, accordingly have neither the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority.

99. The covered changes to section 101.045, Florida Statutes, do not and will not prohibit any citizen of the United States from electing his or her preferred candidate of choice.

100. The covered changes to section 101.045, Florida Statutes, apply uniformly to all Floridians regardless of race, color, or membership in a language minority.

101. The covered changes to section 101.045, Florida Statutes, do not result in any discriminatory effect that is statistically significant.

102. The State of Florida is entitled to a judgment that the covered changes to section 101.045, Florida Statutes, neither have the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority under Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973c, and that Florida's covered jurisdictions may administer these covered changes without further delay.

WHEREFORE, the State of Florida respectfully requests that this Court:

A. Convene a three-judge district court to hear the matters raised in this Complaint;

B. Enter a declaratory judgment that the covered changes to section 101.045, Florida Statutes, neither have the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority and may be administered by Florida's covered jurisdictions without impediment on account of Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973c; and

C. Award the State of Florida its costs and grant such other relief as the Court may deem just and proper.

**COUNT FOUR: DECLARATORY JUDGMENT — EARLY VOTING**

103. The State of Florida realleges, adopts, and incorporates by reference paragraphs 1 through 77 above.

104. The covered changes to section 101.657, Florida Statutes, were adopted for the purpose of expanding access to early voting and providing each supervisor of elections additional flexibility regarding the scheduling of early voting. The covered changes were not adopted for any discriminatory purpose.

105. The covered changes to section 101.657, Florida Statutes, when compared to Florida's existing or "benchmark" practices, do not lead to a "retrogression" in the position of racial minorities in that they do not have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority.

106. The covered changes to section 101.657, Florida Statutes, accordingly have neither the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority.

107. The covered changes to section 101.657, Florida Statutes, do not and will not prohibit any citizen of the United States from electing his or her preferred candidate of choice.

108. The covered changes to section 101.657, Florida Statutes, apply uniformly to all Floridians regardless of race, color, or membership in a language minority.

109. The covered changes to section 101.657, Florida Statutes, do not result in any discriminatory effect that is statistically significant.

110. The State of Florida is entitled to a judgment that the covered changes to section 101.657, Florida Statutes, neither have the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority under Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973c, and that Florida's covered jurisdictions may administer these covered changes without further delay.

WHEREFORE, the State of Florida respectfully requests that this Court:

A. Convene a three-judge district court to hear the matters raised in this Complaint;

B. Enter a declaratory judgment that the covered changes to section 101.657, Florida Statutes, neither have the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority and may be administered by Florida's covered jurisdictions without impediment on account of Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973c; and

C. Award the State of Florida its costs and grant such other relief as the Court may deem just and proper.

**COUNT FIVE: DECLARATORY JUDGMENT  
SECTION 4(B) OF THE VRA IS UNCONSTITUTIONAL**

111. The State of Florida realleges, adopts, and incorporates by reference paragraphs 1 through 77 above.

112. For several reasons, the formula set forth in Section 4(b) of the VRA is not an “appropriate” means of enforcing the Fourteenth and/or Fifteenth Amendments and thus violates the Tenth Amendment and Article IV of the Constitution.

113. Triggering coverage based on voting practices and Presidential election data from 1964, 1968, and 1972 is not a rational, congruent, or proportional means of enforcing the Fourteenth and/or Fifteenth Amendments.

114. The coverage formula differentiates between the States in violation of the doctrine of equal sovereignty without a constitutionally appropriate basis for subjecting some States to the preclearance obligation but not others.

WHEREFORE, the State of Florida respectfully requests that this Court:

A. Convene a three-judge district court to hear the matters raised in this Complaint;

B. Enter a declaratory judgment that Section 4(b) of the VRA is facially unconstitutional;

C. Because Section 4(b)’s coverage formula is facially unconstitutional, issue a permanent injunction against Defendant Attorney General Eric H. Holder, Jr. enjoining the enforcement of Section 5; and

D. Award the State of Florida its costs and grant such other relief as the Court may deem just and proper.

**COUNT SIX: DECLARATORY JUDGMENT  
SECTION 5 OF THE VRA IS UNCONSTITUTIONAL**

115. The State of Florida realleges, adopts, and incorporates by reference paragraphs 1 through 77 above.

116. For several reasons, the preclearance obligation of Section 5 of the VRA is not an “appropriate” means of enforcing the Fourteenth and/or Fifteenth Amendments and thus violates the Tenth Amendment and Article IV of the Constitution.

117. Subjecting any jurisdiction covered exclusively under the language minority provisions of the VRA, and the five Florida counties in particular, to preclearance is not a rational, congruent, or proportional means of enforcing the Fourteenth and/or Fifteenth Amendments based on the evidence of language-minority discrimination in the legislative record when Congress reauthorized Section 5 in 2006.

118. Requiring jurisdictions covered exclusively under the language minority provisions of the VRA to establish that the relevant voting changes do not interfere with the right to vote on account of race or color is not a rational, congruent, or proportional means of enforcing the Fourteenth and/or Fifteenth Amendments.

119. Section 5’s substantive standard violates the non-discrimination requirements of the Fifth and Fourteenth Amendments. *See* 42 U.S.C. § 1973c(b)-(d).

120. To the extent that Section 5 requires Florida to obtain preclearance for voting changes that were enacted by the State, apply uniformly across the State, and were not targeted at or sought by the covered jurisdictions, it is not a rational, congruent, or proportional means of enforcing the Fourteenth and/or Fifteenth Amendments.

WHEREFORE, the State of Florida respectfully requests that this Court:

- A. Convene a three-judge district court to hear the matters raised in this Complaint;
- B. Enter a declaratory judgment that Section 5 of the VRA is facially unconstitutional;
- C. Because Section 5 is facially unconstitutional, issue a permanent injunction against Defendant Attorney General Eric H. Holder, Jr. enjoining the enforcement of Section 5; and
- D. Award the State of Florida its costs and grant such other relief as the Court may deem just and proper.

Respectfully submitted,

Dated: October 24, 2011

/s/ William S. Consovoy

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# EXHIBIT A



## FLORIDA DEPARTMENT OF STATE

**RICK SCOTT**  
Governor

**KURT S. BROWNING**  
Secretary of State

### MEMORANDUM

**FROM:** Kurt S. Browning   
Florida Secretary of State

**TO:** Supervisors of Elections

**DATE:** May 19, 2011

**SUBJECT:** Directive 2011-01

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On May 19, 2011, House Bill 1355, amending the Florida Election Code (chapters 97-106, Florida Statutes), became law (hereinafter chapter 2011-40, Laws of Florida). Most changes take effect immediately upon becoming law. The timing of certain provisions may impact the conduct of elections already in progress. Therefore, in my capacity as the Chief Elections Official of the State of Florida and pursuant to my authority in section 97.012, Florida Statutes, I hereby issue this directive for the purpose of ensuring that specific new changes are uniformly interpreted and implemented and that the elections are conducted in a fair and impartial manner so that no voter is disenfranchised.

- Early voting is now required only in elections containing state or federal races. *See* ch. 2011-40, § 39, Laws of Fla., amending § 101.657, Fla. Stat. For elections in which early voting is required, the early voting period begins 10 days before an election and ends on the 3<sup>rd</sup> day before an election. The hours in which the early voting is offered is extended to a maximum of 12 hours per day with a minimum of 6 hours per day. The hours are determined at the discretion of the Supervisor of Elections. However, a Supervisor must now provide the hours and the addresses of the early voting sites to my office no less than 30 days before the election. In the event there is an election in which early voting is required for which there is less than 30 days since the effective date of this law, I direct the Supervisor of Elections to provide me with such information immediately if not previously submitted.
- Voters who move from one Florida county to another county are generally no longer able to make the address change at the polls on the day of an election and vote a regular ballot. *See* ch. 2011-40, § 26, Laws of Fla., amending § 101.045, Fla. Stat., although an exception exists for active military voters and their family members who execute an affirmation or complete a voter registration application update.

Although these out-of-county voters who do not fall within the active military exception will have to vote a provisional ballot, the same standard that would apply for counting a regular ballot applies for counting their ballots. That is, the provisional ballot shall count unless the canvassing board determines more likely than not that the person was not entitled to vote. That would occur only if the voter was not registered or the voter voted in a precinct other than the one that corresponds to his or her new address as written under penalty of law on the ballot certificate and affirmation, or if evidence was available before the board that either the voter had already voted or that the voter was committing fraud. The Florida Legislature did not impose any additional requirements of proof for this category of provisional ballot voters; therefore, it is very important that the poll worker ensure that the voter is in the proper precinct before casting a provisional ballot.

- Address confirmation or verification at the polls at the time of presenting a photo and signature identification has also changed. *See* ch. 2010-40, § 25, Laws of Fla., amending § 101.043, Fla. Stat. A poll worker cannot ask a voter whose address on the presented identification is the same as the address on record to recite his or her residence address or to provide any other address-related information. For all other voters, a poll worker can no longer use the address on the identification to make a voter confirm or verify his or legal residence or to challenge the person's eligibility to vote.

Despite the above, I do not read the new law to keep a poll worker from being able to recite the address on record to the voter and asking the voter whether that address has changed. It is the voter's prerogative to respond if at all and to ask questions or volunteer further information. These provisions are consistent with voter intake provisions relating to photo and signature identification already contained in the Polling Place Procedures Manual (DS-DE 11, eff. 08-2010/Rule 1S-2.034, Fla. Admin. Code).

The new law simply makes it clearer that the address listed on record is deemed to be the valid legal address for the voter until the voter volunteers otherwise.

This directive remains in effect until such time as it is superseded or revoked by subsequent directive, law, or final court order.

## EXHIBIT B

**1S-2.042 Third-Party Voter Registration Organizations.**

(1) Forms. The following forms are hereby incorporated by reference and available from the Division of Elections, R. A. Gray Building, Room 316, 500 South Bronough Street, Tallahassee, Florida 32399-0250, by contact at (850)245-6200, or by download from the Division's webpage at: <http://election.myflorida.com/forms/index.shtml>:

(a) Form DS-DE 119 (eff. 06/2011), (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00428>), entitled "Third-Party Voter Registration Organization Registration Form."

(b) Form DS-DE 120 (eff. 06/2011), (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00429>), entitled "Third-Party Voter Registration Organization Registration Agent's Sworn Statement."

(c) Form DS-DE 121 (eff. 06/2011), (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00430>), entitled "Form for Complaint Against Third-Party Voter Registration Organization."

(d) Form DS-DE 123 (eff. 06/2011) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00431>), entitled "Third-Party Voter Registration Organization's Accounting of Voter Registration Applications."

(e) Form DS-DE 124 (eff. 06/2011) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00608>), entitled "Supervisor of Elections' Accounting of Third-Party Voter Registration Organization's Voter Registration Applications."

(2) Definitions. For purposes of Section 97.0575, F.S., the following definitions apply:

(a) "Affiliate organization" of a third-party voter registration organization means any person, as defined in Section 1.01(3), F.S., that is associated with the third-party voter registration organization as a subordinate, subsidiary, member, branch, chapter, as a central or parent organization, or through direct or indirect ownership or control. Ownership or control means substantial and effective, though not necessarily predominant, ownership or control.

(b) "Engaging in any voter registration activities" means that the organization is soliciting for collection or collecting voter registration applications from Florida voter registration applicants.

(c) "Force majeure" means any event or occurrence of societal significance beyond the reasonable control and without the fault of the third-party voter registration organization which could not have been prevented, avoided, or overcome by the exercise of reasonable care, diligence, or foresight of the third-party voter registration organization, including, but not limited to, civil disturbances or acts of war; extraordinarily severe weather, such as hurricanes, floods, or tornadoes; or shortages of food, electric power, or fuel.

(d) "Impossibility of performance" means an actual impossibility or impracticability of compliance as the result of a condition or circumstance which the third-party voter registration organization did not create and could not reasonably have anticipated.

(e) "Registration agent" means any individual who is employed by or volunteers for a third-party voter registration organization and who solicits for collection or who collects voter registration applications from Florida voter registration applicants on behalf of the organization.

(3) Registration.

(a) Before engaging in any voter registration activities, a third-party voter registration organization (hereinafter "organization") shall complete and file Form DS-DE 119 with the Division. The organization must submit the form as an attachment in pdf format in an email to [3PVRO@dos.myflorida.com](mailto:3PVRO@dos.myflorida.com) or transmit the form to the Division's facsimile machine at (850)245-6291. An affiliate organization which solicits for collection or collects voter registration applications from Florida voter registration applicants must file a Form DS-DE 119 even if its affiliated organization has filed a Form DS-DE 119. An organization shall also use Form DS-DE 119 to update or terminate its registration.

(b) Upon receipt of an organization's initial and completed registration, the Division shall assign the organization a unique third-party voter registration organization identification number that begins with "3P." An organization is not deemed registered as a third-party voter registration organization until the Division issues the organization its identification number.

(c) A registration agent must complete, sign, and date Form DS-DE 120 before beginning his or her duties for the organization and the organization must ensure the form is submitted to the Division within 10 days after the form is signed. Form DS-DE 120 may be submitted to the Division when the organization submits its initial Form DS-DE 119. For any addition to the list of its registration agents or change in information about a registration agent other than termination of a registration agent, the organization shall submit an updated Form DS-DE 119. For permissible means of notifying the Division of the termination of a registration agent, See paragraph (6)(b).

(d) A registration agent may be a registration agent for one or more organizations, but each organization must ensure that the registration agent submits a separate Form DS-DE 120 for its organization.

(e) An organization shall submit any change in information previously submitted to the Division within 10 days following the change. A change is not considered filed until the Division receives the change.

(f) Except as otherwise provided in paragraph (6)(b), any forms or amendments or additions to forms required under this subsection must be submitted in the same manner of transmission required for the Form DS-DE 119 used to initially register an organization.

(4) Voter Registration Applications Provided to and Used by Third-Party Voter Registration Organizations.

(a) All voter registration applications provided by the Division and each supervisor of elections to an organization shall include the third-party voter registration organization identification number on the bottom of the reverse side of each voter registration application in a manner that does not obscure any other entry.

(b) The registration agent or the organization shall print the date and time that the voter registration applicant completed the application in a conspicuous space on the bottom portion of the reverse side of the voter registration application it collects from a voter registration applicant in a manner that does not obscure any other entry. The date and time printed by the registration agent or the organization shall be in the following numerical format: MM/DD/YY; hh:mm am/pm. For example, if the voter registration applicant completed the application on May 15, 2014 at 1:30 p.m., the entry on the bottom portion of the reverse side of the application shall be: 5/15/14; 1:30pm. The entry for an application completed on October 11, 2014 at 11:30 a.m., would be printed as 10/11/14; 11:30am on the bottom portion of the reverse side of the application.

(c) Each organization shall ensure that its assigned organization identification number is recorded on the bottom portion of the reverse side of any voter registration application it delivers to the Division or a supervisor of elections in a manner that does not obscure any other entry.

(d) Delivery of the voter registration application by the organization to the Division or a supervisor of elections may be accomplished by in-person delivery or mail.

(5) Monthly Report by Organizations.

(a) By the 10th day of each month, each organization shall submit to the Division a Form DS-DE 123 to account for the number of state and federal voter registration application forms provided to and received from each of its registration agents for the preceding month. If the organization had no voter registration activity in the preceding month, the organization shall still submit Form DS-DE 123 reflecting that it did not provide voter registration applications to, or receive any from, its registration agents.

(b) Form DS-DE 123 required under this subsection must be submitted as an attachment in pdf format in an email to 3PVRO@dos.myflorida.com or transmitted to the Division's facsimile machine at (850)245-6291.

(6) Termination of Organization and Registration Agent.

(a) If an organization terminates its status as a third-party voter registration organization, the organization shall submit within 10 days a Form DS-DE 119 reflecting its termination and also a Form DS-DE 123 to report its final accounting of voter registration application forms provided to the organization by the Division or any supervisor of elections. All such voter registration applications remaining in the organization's possession should be returned either to the Division or a supervisor of elections within 10 days of filing Form DS-DE 123. The address for the Division is Bureau of Voter Registration Services, Division of Elections, R. A. Gray Building, Room 316, Tallahassee, Florida 32399-0250. The address for the applicable supervisor of elections may be obtained by telephoning 850-245-6200 or found on the Internet at [http://election.dos.state.fl.us/SOE/supervisor\\_elections.shtml](http://election.dos.state.fl.us/SOE/supervisor_elections.shtml).

(b) If a registration agent's employment with, or volunteer services for, an organization is terminated, the organization shall file notice of the terminated status of a registration agent by submitting an updated Form DS-DE 119 or by sending a notification of the termination by email to 3PVRO@dos.myflorida.com or by transmitting the notification to the Division's facsimile machine at (850)245-6291. If Form DS-DE 119 is not used as the means of notification, the notification shall contain the organization's assigned identification number and the name of the registration agent being terminated.

(c) Forms DS-DE 119 and DS-DE 123 required under this subsection must be submitted as an attachment in pdf format in an email to 3PVRO@dos.myflorida.com or transmitted to the Division's facsimile machine at (850)245-6291.

(7) Processing of Voter Registration Applications from an Organization by the Division and Supervisors of Elections.

(a) For each non-blank registration application that an organization delivers to the Division or supervisor of elections, a voter registration official shall record the date and time of delivery on the bottom portion of the reverse side of the application in a manner that does not obscure any other entries. For purposes of this rule and not for voter registration purposes, an application is considered delivered to the Division or a supervisor of elections at the time the application is actually delivered by the organization by in-person delivery or, if mailed, the date of delivery shall be the date of a clear postmark, if one is present on the mailing envelope. If a postmark is not present or unclear, the date of delivery to the Division or a supervisor of elections is the actual date of receipt. If the date of delivery is the mail postmark, the applicable 48-hour period for the determination of fines pursuant to Section 97.0575, F.S., shall be based upon a whether the postmark is within two days of the date when the applicant completed the voter registration application, unless the organization provides documentation at the time of mailing the application that the date the applicant completed the application was on an earlier date than when the applicant delivered the application to the organization. For a determination of a fine based upon the application being received by mail after the book closing date, a clear postmark on or before

the date of book closing will excuse the fine. If an organization delivers more than one application at the same time, those applications shall bear the same date and time of delivery regardless of when the applications are processed.

(b) An organization's untimely delivery of a voter registration application does not affect the validity of the application. Such application must be processed regardless of the timeliness of its delivery.

(c) The Division and supervisors of elections shall record the number of state or federal voter registration applications they provide to, and receive from, each organization. Each supervisor of elections shall report to the Division on Form DS-DE 124 by noon of the following business day the number of voter registration applications provided to and received from each organization the previous business day. Supervisors of Elections are not required to submit Form DS-DE 124 when they did not provide any voter registration applications to, or receive any from, an organization on the preceding business day.

(d) Form DS-DE 124 required under this subsection must be submitted as an attachment in pdf format in an email to 3PVRO@dos.myflorida.com or transmitted to the Division's facsimile machine at (850)245-6291.

(8) Complaints.

(a) Any person claiming to have provided a completed voter registration application to a third-party voter registration organization but whose name does not appear as an active voter on the voter registration rolls shall use Form DS-DE 121 to file the complaint with the Division.

(b) Any other person, except supervisors of elections or their staff, may report allegations of irregularities or fraud involving voter registration by filing an elections fraud complaint with the Division. *See* Rule 1S-2.025, F.A.C.

(c) Supervisors of elections or their staff shall report any untimely filed voter registration application submitted by an organization by sending the Division an explanatory statement in an email and attaching documents which reflect the untimely submission in pdf format to 3PVRO@dos.myflorida.com or by transmitting the explanatory statement and documentation to the Division's facsimile machine at (850)245-6291.

*Rulemaking Authority 20.10(3), 97.012(1), (2), (15), 97.0575(1), (2), (5) FS. Law Implemented 97.012(1), (2), (15), (37), 97.053, 97.0575 FS. History New 2 26 09, Amended 5 31 10, 11 2 11.*

Note: This form becomes a public record upon its filing.

## FLORIDA THIRD-PARTY VOTER REGISTRATION ORGANIZATION REGISTRATION FORM

**For Official Use Only:**

ID #: 3P \_\_\_\_\_

**Check applicable box:**    Original Registration    Update to Registration    Termination of Registration

<b>1. Third Party Voter Registration Organization</b> (name):		Phone:
Permanent Address:	(address, city, county, state, zip code) Email address, if any:	
Mailing Address: (if different from above)	(street or PO Box address, city, county, state, zip code)	
<b>2. Designation of Organization's Registered Agent in the State of Florida</b> (name):		Phone:
Address: (P.O. Box not permitted)	(street address, city, county, state, zip code)	
<b>3. Registered Agent's Acceptance:</b> I accept the appointment as registered agent for this organization:  (Signature of registered agent or authorized person signing for an organizational registered agent) <span style="float: right;">Date:</span>		
<b>4. Indicate the counties in which the third-party voter registration organization will operate:</b> <input type="checkbox"/> All counties; <input type="checkbox"/> Specific counties of:		
<b>5. Listing of the third-party voter registration organization's officers:</b>		
<b>Name</b>	<b>Title</b>	<b>Address</b>



**FLORIDA THIRD-PARTY VOTER REGISTRATION ORGANIZATION  
REGISTRATION FORM (CONTINUED) – ADDITIONAL PAGE # \_\_\_\_\_**

**6. (Continued) Listing of the third-party voter registration organization's registration agents (i.e., those individuals employed by, or volunteers of, the organization who solicit for collection or collect voter registration applications from Florida voter registration applicants on behalf of the organization).**

An **address** must include a street address, city, state, and zip code.

**Complete the Additional Page # entry** at the top of this form for each additional page.

Check Applicable box:     Initial Appointment     Amended Entry     Termination

Name of registration agent:

Permanent address:

Temporary address, if applicable:

Check Applicable box:     Initial Appointment     Amended Entry     Termination

Name of registration agent:

Permanent address:

Temporary address, if applicable:

Check Applicable box:     Initial Appointment     Amended Entry     Termination

Name of registration agent:

Permanent address:

Temporary address, if applicable:

Check Applicable box:     Initial Appointment     Amended Entry     Termination

Name of registration agent:

Permanent address:

Temporary address, if applicable:

Check Applicable box:     Initial Appointment     Amended Entry     Termination

Name of registration agent:

Permanent address:

Temporary address, if applicable:

**THIRD-PARTY VOTER REGISTRATION ORGANIZATION  
REGISTRATION AGENT'S  
SWORN STATEMENT**  
(Section 97.0575, Florida Statutes)

**Note:** This form becomes a public record upon its filing.

I, \_\_\_\_\_,  
(Print your name in format of First, Middle, and Last)

swear or affirm that I am employed by, or a volunteer for, the following third-party voter registration organization:

\_\_\_\_\_  
Print the name of third-party voter registration organization

(and if previously assigned, the third-party voter registration organization's identification number is \_\_\_\_\_);  
Print number, if one has been assigned at the time of completing this form

and that I will obey all state law and rules regarding the registration of voters. I understand the penalties for false registration may include a term of imprisonment up to 5 years and a fine up to \$5,000, pursuant to sections 775.082, 775.083, and 775.084, Florida Statutes. Subsequent convictions may result in greater penalties. False registration offenses include, but are not limited to, offenses constituting a felony of the third degree, such as false swearing or submission of false voter registration information (section 104.011, Florida Statutes), and giving anything of value that is redeemable in cash to any person in consideration of that person becoming a registered voter or altering a voter registration application of another person (section 104.012, Florida Statutes).

My permanent address: \_\_\_\_\_  
(street address) (city) (state) (zip code)

and if applicable,  
my temporary address: \_\_\_\_\_  
(street address) (city) (state) (zip code)

**Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in it are true.**

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature of registration agent)

**NOTES:** (1) A person who knowingly and falsely makes the above declaration is guilty of perjury by false written declaration, a felony of the third degree.

(2) This form must be completed before the registration agent begins his or her duties for the third-party voter registration organization and be submitted to the Division of Elections within 10 days of the registration agent signing this form.



Please return to: Florida Department of State  
Division of Elections  
R.A. Gray Building  
500 S. Bronough Street  
Tallahassee, Florida 32399-0250

Office Use Only

Once This Complaint Is Filed With The Division Of Elections, It Becomes A Public Record And Is Available To The Public And Media Upon Request Unless A Specific Statutory Exemption Applies.

## FORM FOR COMPLAINT AGAINST THIRD-PARTY VOTER REGISTRATION ORGANIZATION

*You will receive a written response from the Division of Elections at the end of its investigation. The Division may report its findings to the Office of Statewide Prosecution or to the State Attorney for the applicable judicial circuit if probable cause is found that a criminal violation also occurred.*

### PERSON BRINGING COMPLAINT

Name (First) (Middle or Initial) (Last) Day Phone Evening Phone  
Address City  
County State Zip Code  
E-mail Address (optional)

### THIRD-PARTY VOTER REGISTRATION ORGANIZATION (PERSON, ENTITY or ORGANIZATION AGAINST WHOM COMPLAINT IS BROUGHT) (limit one person/entity per form)

Name Phone  
Address City  
County State Zip Code

### STATEMENT OF FACTS AND CIRCUMSTANCES AS BASIS FOR ALLEGED VIOLATION. Please respond to the following questions to the best of your knowledge.

1. To whom did you speak (include names of persons or at a minimum the name of the third-party voter registration organization?)
2. From whom and where did you receive your voter registration application (date and location including address and/or event)?





## THIRD-PARTY VOTER REGISTRATION ORGANIZATION'S ACCOUNTING OF VOTER REGISTRATION APPLICATIONS

(SECTION 97.0575, FLORIDA STATUTES)

**NOTE:** The form is due no later than the 10<sup>th</sup> day of each month for activities occurring the preceding month. (It is also due no later than 10 days after an organization terminates its registration as a third-party voter registration organization.) The form must be filed either as a pdf attachment in an email to 3PVRO@dos.myflorida.com or by transmission to the Division of Election's facsimile machine at 850-245-6291.

<b>1. Third-Party Voter Registration Organization 's Name:</b>  _____	<b>Organization's Identification #:</b>  3P _____	
<b>2. This form represents the organization's accounting of voter registration applications provided to and received from the organization's registration agents during the month of _____ 20____.</b>  Check, <u>if applicable</u> : <input type="checkbox"/> The organization did not provide to, or receive from, a registration agent any state or federal voter registration applications during the month. (If the above check box is applicable, skip to Block #6.)		
<b>3. Number of Voter Registration Applications <u>provided to the Organization's Registration Agents</u>:</b> State forms: _____ Federal forms: _____		
<b>4. Number of <u>Blank</u> Voter Registration Applications <u>received from the Organization's Registration Agents</u>:</b> State forms: _____ Federal forms: _____		
<b>5. Number of <u>Non-blank</u> Voter Registration Applications <u>received from the Organization's Registration Agents</u>:</b> State forms: _____ Federal forms: _____		
<b>6. Authorized Signature by Third-Party Voter Registration Organization:</b>		
Name and Title of Person Completing Form	Signature	Date

**SUPERVISORS OF ELECTIONS' ACCOUNTING OF  
THIRD-PARTY VOTER REGISTRATION ORGANIZATION'S  
VOTER REGISTRATION APPLICATIONS**

(SECTION 97.0575, FLORIDA STATUTES)

Page 1 of \_\_\_ pages.

Supervisors of Elections must account for voter registration applications provided to, and received from, each third-party voter registration organization.

**This report reflects applications provided/received on:** \_\_\_\_\_, \_\_\_\_\_, 20\_\_\_\_.  
(month) (day) (yr)

**NOTES:**

(1) If forms are received from someone who should be registered as a third-party voter registration organization but is not registered, submit the requested information and place "NR" in the "3P" line. Obtain as much identifying information about the unregistered person or organization as possible. Inform the person or entity of the requirement to register and report the incident and information to the Division of Elections.

(2) Supervisors of Elections are to submit this completed form either as a pdf attachment in an email to 3PVRO@dos.myflorida.com or transmit the form to the Division of Election's facsimile machine at 850-245-6291 no later than noon on the business day following the day being reported.

**Third-party voter registration organization's identification number:** 3P \_\_\_\_\_

a. Number of voter registration applications provided:

State forms: \_\_\_\_\_ Federal forms: \_\_\_\_\_

b. Number of voter registration applications received:

State forms (blank): \_\_\_\_\_ State forms (non-blank): \_\_\_\_\_

Federal forms (blank): \_\_\_\_\_ Federal forms (non-blank): \_\_\_\_\_

**Third-party voter registration organization's identification number:** 3P \_\_\_\_\_

a. Number of voter registration applications provided:

State forms: \_\_\_\_\_ Federal forms: \_\_\_\_\_

b. Number of voter registration applications received:

State forms (blank): \_\_\_\_\_ State forms (non-blank): \_\_\_\_\_

Federal forms (blank): \_\_\_\_\_ Federal forms (non-blank): \_\_\_\_\_

**Third-party voter registration organization's identification number:** 3P \_\_\_\_\_

a. Number of voter registration applications provided:

State forms: \_\_\_\_\_ Federal forms: \_\_\_\_\_

b. Number of voter registration applications received:

State forms (blank): \_\_\_\_\_ State forms (non-blank): \_\_\_\_\_

Federal forms (blank): \_\_\_\_\_ Federal forms (non-blank): \_\_\_\_\_

*Use continuation pages if needed - see next page.*

**Supervisor of Elections Office for:** \_\_\_\_\_ **County**

Name of Person Completing Form

Signature

Date Submitted

**SUPERVISORS OF ELECTIONS' ACCOUNTING OF  
THIRD-PARTY VOTER REGISTRATION ORGANIZATION'S  
VOTER REGISTRATION APPLICATIONS**

(SECTION 97.0575, FLORIDA STATUTES)

<b>Third-party voter registration organization's identification number:</b>	<b>3P</b> _____
a. Number of voter registration applications <u>provided</u> :	
State forms: _____	Federal forms: _____
b. Number of voter registration applications <u>received</u> :	
State forms (blank): _____	State forms (non-blank): _____
Federal forms (blank): _____	Federal forms (non-blank): _____
<b>Third-party voter registration organization's identification number:</b>	<b>3P</b> _____
a. Number of voter registration applications <u>provided</u> :	
State forms: _____	Federal forms: _____
b. Number of voter registration applications <u>received</u> :	
State forms (blank): _____	State forms (non-blank): _____
Federal forms (blank): _____	Federal forms (non-blank): _____
<b>Third-party voter registration organization's identification number:</b>	<b>3P</b> _____
a. Number of voter registration applications <u>provided</u> :	
State forms: _____	Federal forms: _____
b. Number of voter registration applications <u>received</u> :	
State forms (blank): _____	State forms (non-blank): _____
Federal forms (blank): _____	Federal forms (non-blank): _____
<b>Third-party voter registration organization's identification number:</b>	<b>3P</b> _____
a. Number of voter registration applications <u>provided</u> :	
State forms: _____	Federal forms: _____
b. Number of voter registration applications <u>received</u> :	
State forms (blank): _____	State forms (non-blank): _____
Federal forms (blank): _____	Federal forms (non-blank): _____
<b>Third-party voter registration organization's identification number:</b>	<b>3P</b> _____
a. Number of voter registration applications <u>provided</u> :	
State forms: _____	Federal forms: _____
b. Number of voter registration applications <u>received</u> :	
State forms (blank): _____	State forms (non-blank): _____
Federal forms (blank): _____	Federal forms (non-blank): _____