



**DALLAS COUNTY**  
ELECTIONS DEPARTMENT  
*Your Vote Counts! Let your voice be heard.*

**HB 658 Provisions for Voting at Residential Care Facilities  
For the November 7<sup>th</sup>, 2017 Constitutional Amendment & Joint Election**

The Texas Legislature recently approved a new method of ballot by mail that is valid only for the November 7<sup>th</sup> Election. House Bill 658 ("HB-658") provides an alternative voting process for those voters who reside at a Residential Care Facility (an "RCF"). Rather than Dallas County's Early Voting Clerk (the Elections Department) mailing balloting material to voters who apply to vote by mail, official election judges will: 1) hand-deliver the balloting materials to the voter on a scheduled day; 2) accept the sealed and signed carrier envelope (containing the voted ballot, inside the ballot envelope) back from the voter; and 3) deliver the carrier envelope to the EV clerk-Elections Department. To participate, a registered voter living at a qualifying RCF must first apply for an absentee Ballot by Mail at:

[WWW.DALLASCOUNTYVOTES.ORG/ABSENTEE-VOTING](http://WWW.DALLASCOUNTYVOTES.ORG/ABSENTEE-VOTING). For more details regarding voting at a qualifying RCF and what the process is, more information can be found at: <http://www.dallascountyvotes.org/residential-care-facilities-legislation-update/>. The Texas Secretary of State has published Election Advisory No. 2017-12 that details the information and process for this method of voting: <http://www.sos.state.tx.us/elections/laws/advisory2017-12.shtml>.

Below are important points and provisions regarding the Residential Care Facilities (RCF) program

- Dallas County election department will start making visits to RCFs on Monday October 16, 2017.
- HB-658 voting at RCF is a state law and is a ballot delivery system by the Dallas county election department.
- The early voting clerk will arrange for the ballots and balloting material to be delivered to a RCF with more than 10 beds and 5 applications to vote by mail.
- The applicants and registered voters may vote the ballots and return to the RCF judges which will return the ballots to the Dallas county early voting department.
- If the voter has already mailed an application for ballot by mail to the early voting clerk, this ballot will be delivered to the RCF -- **pre-applicants**.
- If a registered voter at the RCF address wishes to vote they may complete an application for ballot by mail and vote that day -- **on-site voter**.
- The RCF judges will supply ballots, ballot materials, and supplies to assist with applications as needed for the RCF voters.
- If a pre-applicant voter is not going to be present at the designated date and time the voter may complete and return a "delivery of balloting materials to a temporary location" form to the RCF administer.
- If a voter cannot come to the voting station at the RCF, the RCF judges will deliver to ballot to the voters' room.
- If a family member wants to be present when the RCF judges are present they must notify the RCF administer in writing who will inform the RCF judges.



## **disposiciones para votar en las instalaciones de atención residencial de HB 658 para la elección del 7 de noviembre, 2017 para enmienda constitucional y elección conjunta**

La Legislatura de Texas aprobó recientemente un nuevo método de boleta por correo que solo es válido para la elección del 7 de Noviembre del 2017. La HB 658 ofrece un proceso de votación alternativo para aquellos votantes que residen en un Centro de Cuidado Residencial (un “RCF”, siguen las siglas en ingles). En vez que el Secretario de Votación Adelantada del Condado de Dallas (el Departamento de Elecciones) envíe material electoral al votante que solicita una boleta por correo, los jueces de la elección van a: 1) entregaran material electoral en persona durante un día previsto; 2) aceptar el sobre del votante sellado y firmado del transportista (que contiene la boleta votada dentro del sobre); 3) entregue el sobre del transportista al Departamento de Elecciones al Secretario de Votación Adelantada. Para participar en este método, un votante registrado debe vivir en uno de los Centros de Cuidado Residencial calificado puede solicitar una boleta por correo a: [WWW.DALLASCOUNTYVOTES.ORG/ABSENTEE-VOTING](http://WWW.DALLASCOUNTYVOTES.ORG/ABSENTEE-VOTING). Para más información sobre este nuevo método de votación y el proceso, puedes encontrar más detalles en:

<http://www.dallascountyvotes.org/residential-care-facilities-legislation-update/>.

A continuación se indican los puntos importantes y las disposiciones relativas al programa de servicios de atención residencial (RCF)

- El Departamento de Elecciones del Condado Dallas comenzará a hacer visitas a centros de cuidado residencial (RCF) el lunes, 16 de octubre del 2017.
- La HB 658 Votando en centros de cuidado residencial (RCF) - Es una ley estatal y un sistema de entrega de boletas por medio del Departamento de Elecciones del Condado de Dallas.
- El Secretario de Votación Adelantada se encargará de las boletas y los materiales electorales se entreguen a un RCF con más de 10 camas y 5 solicitudes para boleta por correo.
- Los solicitantes y votantes registrados pueden votar las boletas y regresar a los jueces asignados a estos centros de cuidado residencial. Los jueces devolverán las boletas al Departamento Votación Adelantada.
- Si el votante ha enviado una solicitud para boleta por correo al Secretario de Votación Adelantada, esta boleta será entregada al RCF—**pre-candidatos**.
- Si un votante registrado en la dirección en el RCF desea votar, puede completar una solicitud para boleta por correo y votar ese día- **votante en el sitio**.
- Los jueces de RCF suministrarán las boletas, material electoral, y ayudar con las solicitudes según sea necesario para los votantes de RCF.
- Si un pre-candidato votante no va a estar presente en la fecha y hora designada, el votante puede completar y devolver el formulario “Entrega de Materiales Electoral a una Ubicación Temporal” a la administración de RCF.
- Si un votante no puede venir a la estación de votación en el RCF, los jueces de RCF llevar la boleta al cuarto del votante.
- Si un miembro de la familia quiere estar presente cuando los jueces de RCF están presentes, deben notificar la administración de RCF por escrito, que informara a los jueces de RCF.

**Election Outlook:** [Voters who do not possess and cannot reasonably obtain one of the seven forms of approved photo ID have additional options at the polls](#) | [More about Identification Requirements for Voting](#)

Note - Navigational menus along with other non-content related elements have been removed for your convenience. Thank you for visiting us online.

## Election Advisory No. 2017-12

**To:** County Election Officers and City, School and Other Political  
Subdivision Officials

**From:** Keith Ingram, Director of Elections



**Date:** September 12, 2017

**RE:** Voting at Residential Care Facilities and Other Provisions of HB  
658 (85th Legislature, RS, 2017)

HB 658 (85th Legislative Session, RS, 2017) adds new Section 63.0013 to the Code, to provide for voting order priority. HB 658 also amends Sections 86.003 and 86.004 and adds new **Chapter 107** to the Texas Election Code (the Code) to provide procedures for voting at Residential Care Facilities.

### Voting Order Priority

HB 658 adds new Section 63.0013 to the Code, which provides that voters with mobility problems and their assistants may be accepted for voting ahead of other voters in line. (Sec. 63.0013). A mobility problem is defined as one that substantially impairs a person's ability to move around, such as paralysis, lung disease, use of portable oxygen, cardiac deficiency, severe limitation in the ability to walk due to arthritic, neurological, or orthopedic condition, wheelchair confinement, arthritis, foot disorder, the inability to walk 200 feet without stopping to rest, or use of a brace, cane, crutch, or other assistive device. Note that this procedure is permissive – the election judge MAY offer this service but is not required to do so.

NEW FORM: [Notice of Voting Order Priority \(PDF\)](#)

This notice MUST be posted at one or more locations in the polling place where it can be seen by voters waiting in line. The notice is posted so that voters in line are aware that they can **ask** for this consideration, although, as noted, the election judge is not in fact required to allow it. However, as a best practice, we recommend that the election judge allow it when appropriate and have a clerk walk the line to see if there is anyone who appears in need of this service, if the presiding judge decides to offer it.

### Voting at Residential Care Facility

New Chapter 107 and related provisions provide a method for persons in a Residential Care Facility ("RCF"), such as nursing homes and assisted living centers, to vote by mail, but to have their blank ballots hand delivered to them and the completed ballots returned to the Early Voting Clerk by election

judges. Pursuant to Section 8 of HB 658, these provisions are effective September 1, 2017. Note that this is a BY-MAIL PROCEDURE, NOT a temporary branch early voting location.

You may also have heard that SB 5 passed in the first called special session of the legislature last week and has been signed by the Governor. Pursuant to Section 20 of SB 5 (85th Legislature, Special Session, 2017), the repeal of new Chapter 107 and related provisions is not effective until December 1, 2017. See *also* Tex. Const. Art. III, Sec. 39.

**This means that Chapter 107 and related provisions will be in effect for the November 7, 2017 election.** As a best practice, due to the timing of mailing ballots out to voters, we suggest that you apply the procedures in HB 658 (new Chapter 107) to elections held on or after the 38th day after the effective date of HB 658 through the expiration date of HB 658. This would include elections held on or after October 7, 2017 up to elections held on or before November 30, 2017. Note that you may visit RCFs for any election held on or after September 1, 2017 but due to practical considerations and the necessity to treat voters equally, you are not required to do so.

NOTE: Since SB 5 (85th Legislature, Special Session, 2017) is in effect December 1, 2017, Chapter 107 will have been repealed as of that day, and thus will not apply to any **runoff elections** stemming from the November election date or **second elections** held due to a tie that are scheduled on or after December 1, 2017.

## Introduction to Chapter 107

As noted, this is a ballot-delivery procedure. If five or more individuals submit an Application for a Ballot by Mail (“ABBM”) for the reason of age (being 65 or older on election day) or disability, are eligible to vote in the election conducted by the Early Voting Clerk (“EV Clerk”), and request that their ballot be mailed to a given RCF, then new Chapter 107 is triggered, and ballots must be hand-delivered to these voters rather than sent by mail. We will refer to such a visit to an RCF as a “**Mandatory Visit.**” After providing the balloting materials to voters at the facility, the RCF Judges will accept the sealed and signed carrier envelopes (containing the voted ballot, inside the ballot secrecy envelope) back from the voters, and deliver the materials back to the EV Clerk.

The EV Clerk is going to have to HOLD the ABBMs (and not mail those voters any balloting materials) until the earlier of:

- The EV clerk has received at least 5 ABBMS that request ballots to be sent to the same RCF; OR
- The deadline to apply for a ballot by mail (11th day before election day)

We suggest that the EV Clerk keep the ABBMs in a physical file by RCF (or scan and save by RCF) and create a spreadsheet containing the RCFs and a tally of the number of ABBMs received for that facility.

NOTE: The EV Clerk is NOT required to send judges to an RCF unless there are at least 5 individuals who are registered to vote at the address of the RCF, would be eligible to vote in the election being held, and who are residents of the facility (Sec. 107.016). If there are not 5 such potential voters, the EV Clerk may mail ballots to voters at that facility.

If the EV Clerk does not receive 5 such ABBMs on or before the deadline to apply for a ballot by mail, the EV Clerk must send these voters the balloting materials by mail, in the normal manner. Ballots in this category must be mailed **as soon as possible** after the application deadline. Note that the EV Clerk need not wait until they have received 5 such ABBMs; the EV Clerk may schedule voting at an RCF on their own authority, as long as notice is posted at the RCF 48 hours in advance of the visit. (107.007(f)).

If the EV clerk decides on their own authority to make such a visit (rather than waiting until they have received 5 or more ABBMs for ballots to be sent to a given facility), this will be referred to as a “**Discretionary Visit.**”

Note that, once at the facility, the RCF Judges will also accept applications from, provide balloting materials to, and accept voted ballots back from voters who are registered at the facility. More information on this procedure is provided below.

## Voters Eligible to Vote under Chapter 107

There are two groups of voters who may vote at an RCF under Chapter 107.

### Pre-Applicants

Group 1 consists of the “**Pre-Applicants.**” This is the group of voters who initially trigger the requirement to send judges to the RCF, as follows. If the EV clerk receives **5 or more** ABBMs in which the applicant is voting due to age or disability AND who asks the ballot to be sent to a particular RCF that is within your political subdivision, the EV Clerk will not mail the balloting materials, but instead must send two RCF Judges to the site to **hand-deliver** the balloting materials to those voters. These voters are currently staying at the RCF, but may or may not be registered at the address of the facility. The voter must be registered to vote in the political subdivision having the election. The ballots sent to these voters will be the correct ballot style for the precinct in which the voter is actually registered.

NOTE: If an applicant who is registered to vote in your political subdivision wants the ballot mailed to an RCF **outside the boundaries of your political subdivision**, RCF judges do not need to be sent to that location. Rather, the EV Clerk sends that voter the balloting materials by mail as usual, regardless of how many ABBMs are received requesting ballots be sent to that facility.

### On-Site Applicants

Group 2 consists of the “**On-Site Applicants.**” While present at the facility delivering ballots to the Pre-Applicants, the RCF Judges also will accept applications for a ballot by mail from individuals who are **registered to vote** at the facility (and who have not already applied for a ballot by mail), and allow those individuals to vote, using the by-mail materials (ballot, ballot secrecy envelope, carrier envelope). The individuals in Group 2 are **not only currently living at the facility, but are also registered to vote at the address of the facility.** Ballots provided for these voters will be in the ballot style for the election precinct in which the RCF is physically located. Therefore, only one ballot style will need to be provided for On-Site applicants. Thus an individual who works at the RCF or is visiting a resident of the facility would **not** be able to vote under this procedure, as they would not be registered to vote at the RCF.

## What Counts as an RCF?

“Residential Care Facility” means a facility licensed and regulated under Chapter 242 or 247, Health and Safety Code, with **11 or more beds.**

- E.g., nursing facility or assisted living facility in which a significant number of occupants, patients, or residents lack adequate transportation to an appropriate polling place, need assistance in voting, are 65 years of age or older or are disabled, or are indefinitely confined.
- The number of beds in the RCF is shown under the heading “Licensed Capacity” on the list provided by HHSC

The EV Clerk does not need to figure out which RCFs are in their political subdivision. Rather, the Texas Health and Human Services Commission (“HHSC”) provides the Secretary of State (“SOS”) with a list of the facilities in Texas, by county, that also shows the number of beds in each facility. The SOS will in turn share this list with the counties and other political subdivisions. Unfortunately, the SOS will not be able to break out the list of RCFs for political subdivisions other than counties. The EV Clerk of other



political subdivisions will have to use a map or street index to determine which RCFs are in their boundaries

### [County by County List of Residential Care Facilities \(Excel\)](#)

If a facility has **10 or fewer beds, Chapter 107 does not apply** and you CANNOT use this procedure for voting at that location. Ballots should be mailed to those voters who apply. You may choose to set up a regular branch early voting site at such a facility, in which case all the normal procedures for early voting in person would apply.

## **Selection and Service of RCF Judges – General Information**

A minimum of two RCF Judges must be appointed to serve at each RCF. Note that the EV Clerk may send additional RCF Judges to a given facility and that the same RCF Judges may serve at multiple locations. Per Section 107.005(b), an RCF Judge may be a volunteer, an employee of the authority conducting the election, or compensated by the authority conducting the election in the same manner as a polling place judge. It is our understanding that this means that employees of the political subdivision may serve as RCF Judges. Thus, the EV Clerk (not the governing body of the political subdivision) may appoint employees of the political subdivision to serve as RCF Judges, just as the EV Clerk would appoint deputy early voting clerks to assist voters at an early voting site.

## **Special Appointment Procedures for Counties**

If other individuals are needed to serve as RCF Judges (in addition to or instead of employees of the EV Clerk serving as RCF Judges), the other RCF Judges will be appointed using the “List Procedure,” wherein the county party chairs submit lists of potential judges to serve at the RCFs. In [Advisory 2017-04](#) (on Appointment Procedures for County Election Precinct Presiding and Alternate Judges, Election Clerks, Early Voting Ballot Board Members, Signature Verification Committee Members, and Central Counting Station Personnel), we suggested that names of RCF Judges be included on the lists submitted this year, even though HB 658 would not be not effective until September 1, 2017. If the county EV Clerk was not provided with names of potential RCF Judges on that list, we recommend that the EV Clerk work with the county chair to find RCFs for this November. Note, the county chair need not specify at which RCF a judge is to work on any list submitted to the EV Clerk, since at the time of submission of the lists, it will not be known which RCFs will be visited.

The EV Clerk (not the Commissioners Court) appoints the RCF Judges just like with other Deputy EV Clerks. The EV Clerk essentially puts RCF Judges into a “RCF Pool” of judges, and assigns them to RCFs as necessary. If the list procedure is being used, one RCF Judge must be appointed from each party; these judges serve as co-judges, rather than as a presiding election judge and an alternate judge.

## **What are the Requirements to Serve as an RCF Election Judge?**

The eligibility requirements are the same as for election judges serving on election day (Secs. 32.051 – 32.056), except that the RCF Judge need not be a registered voter of the precinct in which the RCF is located. A person who was employed at an RCF in the political subdivision holding the election for **two years** prior to election day is not eligible to serve as a judge at an RCF.

NOTE for Counties: If the list procedure is being used, then as with all potential judges submitted through the list procedure, the county chair should confirm the individual’s eligibility and willingness to serve prior to adding the individual’s name to the list of potential RCF Judges.

Prior to beginning service as an RCF Judge, the individual must take the “[Oath for Residential Facility Judge \(PDF\)](#),” the wording of which is specified in Section 107.005(d). Note that this is the only oath RCF Judges need to take. It does not need to be notarized; the judges simply must sign and date the form. Judges serving at multiple RCFs need only take the oath a single time.

## **Training of RCF Judges**

The SOS is tasked with providing training, per Section 107.005(e). Training materials are in development and will be available shortly. We will alert you all when the materials are available online for you to print or otherwise present to your RCF Judges. We note that the training will include the exact wording of the applicable statutes, because the oath provides that the judges have read the statutes and training materials relevant to serving at an RCF.

## **Notice Requirements**

### **Notice of Mandatory Visit**

Per Section 107.0079(c), when a visit is scheduled in response to the EV Clerk receiving five or more ABBMs requesting ballots to be sent to a given RCF, thereby triggering the requirement that a visit **MUST** be made to the RCF (e.g., a mandatory visit), notice must be posted at the RCF no later than 5th day before voting is to begin at that RCF. It must include the date(s) and hours that voting will be held at the RCF.

### **Notice of Discretionary Visit**

For a visit scheduled by the EV Clerk on their own authority under Section 107.007(f), the EV Clerk must post notice of such a visit at the RCF and on the county’s website at least 48 hours in advance of the visit. This notice must include the dates voting will be conducted at the facility for each election and the names of RCF Judges who will serve at the RCF.

NOTE: We have created the “[Notice of Voting at Residential Care Facility \(PDF\)](#)” that can be used for either type of notice.

As a **best practice**, we recommend that the EV Clerk inform the RCF administrator or other RCF contact person of the procedures and deadlines to apply for a ballot by mail and to register to vote in the election.

### **List of Qualifying RCFs**

Per Section 107.007(d), the EV Clerk must maintain a list of qualifying RCFs that are in the EV Clerk’s jurisdiction and must post this list at the courthouse or wherever the political subdivision posts public notices. Alternatively, the EV Clerk must make the list available on the political subdivision’s website. As a best practice, we recommend having the list on the website and posted at the courthouse or other location for posting notices in your political subdivision. This list must include name and address of each RCF, times voting will be conducted at each RCF and the names of the RCF Judges for each RCF. Note that the EV Clerk may not know the names of the election judges who are going to serve at a given facility, in which case the EV Clerk could put a notation such as “TBA” (to be announced) in the column that would contain the names of the RCF judges.

### **Request to RCF Judge for Notice for Voting at RCF**

Finally, Section 107.012 provides that if a relative of a voter makes a written request to the RCF Judge, the RCF Judge may notify the relative of the time(s) voting will be conducted at the RCF. As a practical matter, it may be the case that a voter’s relative will not have contact information for the RCF Judges (since that is not required to be provided on any of the notices). Therefore, we recommend that the request be sent to the RCF Judges via the EV Clerk, by faxing, emailing, or mailing the request to the

EV Clerk. The EV Clerk may then respond directly or pass the request along to the RCF Judges for a response.

## Setting up Visitation Time(s) at RCF

The law requires that the RCF Judges and the RCF Administrator decide on visitation times. However, as a best practice, we recommend that the EV Clerk take the lead in coordinating visitation schedules for the RCFs, especially since the EV Clerk often will be sending their own employees (early voting deputies). The decision about when to visit a given RCF must be made not later than 5 p.m. on the **6th business day** before election day\*. Note that you can designate one or more visits to a location. A visit to an RCF may occur no earlier than 29th day before election day and not later than 4th day before election day.

\*NOTE: If you wait until the 6th business day before election day to make the decision of when to go to a particular RCF (when the visit is **mandatory** rather than discretionary, ), then **you will not have enough time left to post notice in a timely fashion**. For example, in the November 7, 2017 election, if you decided the visit to the facility on the 4th day before election day (Friday, November 3, 2017), then the notice would have to be posted on October 29, 2017. However, the 6th business day before the November 7, 2017 election is Monday October 30, 2017. Therefore, as a practical matter, you cannot wait until the 6th business day before election day to make this decision.

If the EV Clerk decides on their own authority to make a discretionary visit to a given RCF, then this issue does not arise, as that notice must only be posted 48 hours before voting at the facility.

NEW INTERPRETATION: In the seminar for County Election Officials, we stated that if the RCF Judges visit an RCF before the deadline to apply for a ballot by mail (11th day before election day), and the EV Clerk receives any additional ABBMs requesting ballots to be sent to the same RCF (after the initial 5) by that deadline, this will re-trigger the requirement to visit the RCF. However, after deliberating further, we determined that **additional ABBMs received after the initial visit to the RCF do not require another visit to the facility, and that instead the EV Clerk should mail ballots to those additional applicants**. There is nothing in the law that requires a second visit, although the EV Clerk may schedule one if they wish to do so.

## Materials to be provided to RCF Judges:

### Balloting Materials for Pre-Applicants:

- [List of Pre-applicant RCF Voters at Residential Care Facility \(PDF\)](#)

Used to inform the RCF Judges of the names and number of voters who have pre-applied for ballots by mail and for whom the EV Clerk has prepared materials

NOTE: The names of these voters should be on the early voting roster and precinct early voting list along with other voters to whom the EV Clerk has sent a ballot by mail. Rather than adding the voter's name to the precinct early voting list, the EV Clerk may make an indication of the list of registered voters (or e-pollbook) that the voter has been sent a ballot "by mail."

- Balloting Materials - contained in larger envelope with pre-applicant voter's name on outside (Form 5-23B)
  - Ballot (ballot style depends on where this voter is registered in your political subdivision)
  - Ballot (Secrecy) envelope
  - Carrier Envelope (be sure voter's name is on Carrier)
  - List of declared write-in candidates, if applicable



- SOR, if applicable
- Dear Voter Letter
- Notice regarding Postage, if applicable (because some of these ballots may be left at the RCF for absent voters or delivered to voters at a temporary location who may then return the ballot by mail)

### **Materials for On-Site Applicants:**

- Blank Applications for a Ballot by Mail
- Ballot pertaining to the precinct in which the RCF is located for those residents who are registered AT the RCF and who submit an application for a ballot by mail to the RCF Judges on the day the RCF Judges are present at the facility
- Ballot (Secrecy) envelope
- Carrier Envelope (be sure voter's name is on Carrier)
- List of declared write-in candidates, if applicable
- SOR, if applicable
- Dear Voter Letter
- Paper clips to attach completed ABBM to the carrier envelope containing on-site applicant's ballot. Alternative procedure is to send Jacket envelopes for these ABBMs and carrier envelopes.

### **Other Materials RCF judges will need:**

- List of individuals registered to vote at the facility
  - Suggestion: Generate a list of registered voters for the precinct in which RCF is located, put that information into a spreadsheet, sort by address, and retain only those voters registered at address of RCF.
- Indelible markers
- FORMS:
  - [List of Pre-Applicant Voters at Residential Care Facility \(PDF\)](#)
  - [Oath for Residential Care Facility Judge \(PDF\)](#)
  - [Signature Roster for Residential Care Facility \(PDF\)](#)
  - [Tracking Sheet \(for Ballots left at Residential Care Facility for Absent Voters Expected to Return\) \(PDF\)](#)
  - [Ballot Transmittal Form for Residential Care Facility \(PDF\)](#) (to be used to log seal numbers and establish chain of custody of ballots). Note that this form includes a Ballot Register so that all ballots are accounted for by the RCF Judges.
- Envelope in which to put completed carrier envelopes
- Secure bag or ballot container for transporting ballots and other materials back to EV Clerk
- Tamper evident paper seals to place over flap of envelopes in which carriers will be placed after being completed (*optional* – RCF Judges may simply sign over the flap of the sealed envelope)
- Tamper evident/resistant wire seals to seal ballot box/bag.

### **Picking up Materials from EV Clerk**

The EV Clerk must have ready for the RCF Judges the materials noted above and any other supplies deemed necessary for voting at the RCF. The EV Clerk should complete their portion of the [Ballot Transmittal Form for Residential Care Facility \(PDF\)](#). The EV Clerk must provide balloting materials in a secure transport container that is locked with a seal containing a unique serial number or identifier. The RCF Judges should record this number in Box A on the front of the form and sign the form.

As a best practice, both RCF Judges should be involved in pick-up and delivery of the balloting materials from/to the EV Clerk. However, if the RCF Judges agree, only one of them may pick up/deliver the materials. In this case, the other RCF Judge must independently verify that the correct seal is on the box used to transport the balloting materials once it arrives at the RCF and prior to beginning voting at that

RCF. Note that at the RCF itself, both RCF Judges must be present and must process the voters together.

## Voting Procedures at RCF

- RCF Administrator must provide common space/allow posting of notices.
- RCF Judges arrive before the time set to begin voting in order to get set up and alert the RCF director or administrator they are there.
- RCF Judges take Oath for Residential Care Facility Judges
- Set up in common space
  - Be aware of accessible pathways
  - Area shall allow voter to cast a secret ballot
  - RCF Judges may bring balloting materials to voter's private room, upon request of voter.
    - Recommend 2 RCF Judges perform this
    - Ask RCF Administrator which voters would like the Judges to visit their rooms
- Arrange materials
- Remember this is a by-mail procedure, **so there are NO DREs, NO Ballot Marking Devices, NO Provisional Voting, and NO Spoiled Ballots**
- Using List of Pre-Applicant Voters at Residential Care Facility (and with the assistance of RCF personnel), locate voters whose personalized balloting materials are in the possession of the RCF Judges.
- Provide ABBMs to On-Site applicants who request it, check to see if On-Site applicant is on List of Registered Voters for that facility.
- RCF Judge may serve as witness to signature on an ABBM if necessary; there is no limit on the number of ABBMs they can witness
- RCF Judge must make notation on ABBM that it was made under TEC Section 107.007
- RCF Judge checks to see if ABBM is "properly completed," e.g., conduct a facial examination to make sure all required information is filled in.
- Check the List of Voter Registered at RCF.

If On-Site Applicant is on the list of voters registered at RCF:

- Provide balloting materials and verbal instructions on proper completion of carrier. Voter returns sealed, signed carrier with ballot inside to RCF Judges, who then review carrier to make sure it is signed correctly and RCF Judges sign as witnesses.
- RCF Judges attach the application to the voter's carrier (staple/paper clip) and put in secure container.
- In lieu of attaching ABBM to carrier, can place both into jacket envelope.
- Place completed carrier envelope and ABBM in secure envelope or other container

If On-Site applicant is NOT on the list of voters registered at RCF?

- Inform voter that if voter is not registered at the facility, the ballot may not be counted
  - If voter wishes to proceed, process the voter in the same manner as other On-Site applicants.
  - If voter does not wish to proceed with voting, the RCF Judge may instruct the voter that they can submit their ABBM to the EV Clerk, in the normal manner (by mail, common or contract carrier, fax, or email) and that it must be received by the EV Clerk by the 11th day before election day.
- RCF Judge prints voter's name on Signature Roster, indicates whether voter is a Pre-applicant or an On-site applicant, and has voter sign Signature Roster.
  - Voter marks their ballot and then RETURNS carrier to RCF Judges, who then review carrier to make sure it is sealed and signed correctly.

- **Both** RCF Judges then sign the carrier as witnesses (as witnesses to the procedure, not necessarily to the signature) and put “Residential Care Facility Election Judge” in the space where witness would normally put address.
- RCF Judges then place completed carrier envelope in the larger envelope used to return these materials and which, in turn, will be placed in the bag or box (and appropriately sealed), for transportation back to the EV Clerk.

## Electioneering

To the extent applicable and where not in conflict with Chapter 107 or other law, Chapter 85 of the Election Code applies to voting at the RCFs. Note that individuals staying or residing at RCFs have rights under state and federal law regarding their privacy and other aspects of their daily living. RCF Judges must keep in mind that they are essentially entering these people’s homes and their living rooms. We recommend that the RCF Judges respectfully request that political discussions not be held where voters marking their ballots can hear them and that voters or other residents who are wearing clothing with political slogans be asked to cover them. However, voting at the RCF is NOT the same as setting up a temporary branch voting location; this is simply a method of ballot delivery that should be conducted in a manner that is the least intrusive as possible.

## Witnessing and Assistance at the RCF

### ABBM

If an on-site applicant needs assistance in completing the ABBM, this is done in the same manner as any other assistance in completing an ABBM (Sec. 84.003). The RCF Judges must put their title (no need to provide residence address) on the assistance portion of the ABBM and indicate they assisted the voter. An RCF Judge may also serve as a witness for applicant who cannot sign; the RCF Judges may witness an unlimited number of ABBMs (Sec. 107.009(b)). Per 107.009(c), an RCF Judge must review each RCF ABBM for completeness – this is **NOT** assistance under Sec. 84.003.

Note that individuals other than RCF Judges may assist/witness an ABBM, in which case the regular assistance and witness rules apply to them. If an individual other than the RCF judge assists the applicant or acts as a witness, the individual must put their name, residential address, and signature on the ABBM. A non-relative may only serve as a witness for one individual.

### Carrier Envelope

Both RCF Judges sign **EVERY** carrier envelope on the Assistant/Witness line, regardless of whether the RCF Judge is actually assisting the voter or serving as a witness to the voter’s **signature** (Sec. 107.008 (d)) In the space for the address of the witness, the RCF Judge writes in "Residential Care Facility Election Judge."

If an RCF Judge is actually assisting a voter in reading or marking their ballot or serving as witness to a voter’s signature under Section 107.009(e), the RCF Judge should also check the appropriate box on the carrier. RCF Judges can serve as witness or assistant for unlimited number of voters at RCF.

If an individual other than an RCF Judge, such as relative of the voter or an employee of the facility, is assisting a voter in reading or marking their ballot or is serving as a witness to the voter’s signature on the carrier envelope, the regular by-mail assistance and witness laws and procedures apply. The individual must put their name, address, and signature, and must check the appropriate box (Assistant and/or Witness).

Even if an individual other than an RCF Judge assists or witnesses, per Section 107.012(c), the RCF Judges must “seal the ballot” i.e., just as with other carrier envelopes, the **RCF Judges must still sign and add their title on witness line.**

## Poll Watchers at RCF

Poll watchers may be appointed to serve at an RCF, including by political parties. The name of the poll watcher must be submitted to the early voting clerk by the close of business on the last business day before the date the poll watcher is to observe voting at the RCF. The name may be submitted by delivering a copy of the poll watcher appointment for to the early voting clerk, (by hand-delivery, email, fax, etc.)

Once at the RCF, the poll watcher presents the appointment certificate to the RCF Judges as usual. The poll watcher has the same access to the RCF as the RCF Judges. Note that a poll watcher still cannot observe a voter being assisted by a person of their choosing (i.e., not by an RCF Judge).

## Leaving Ballot Package at RCF

NOTE: This procedure **only** applies to **Pre-Applicants**

Per Section 107.014(c), the RCF Judges shall leave the balloting materials prepared by the EV Clerk for a given voter if the voter was a **pre-applicant** who was not present **any time** when the RCF Judges were at the facility (“Absent Voter”); AND is “expected to return” to the RCF before the deadline to return the ballot by mail (7:00 pm on election day, if the carrier envelope is not postmarked, or 5:00 pm on next business day after election day, if the carrier envelope is postmarked by 7:00 on election day).

Prior to leaving the RCF, the RCF Judges should ask RCF Administrator of the whereabouts of any pre-applicant voters who have not shown up to vote.

NOTE: It is likely that balloting materials will not often be left behind at the facility for such voters, due to the inherent inability to know exactly when an absent voter is expected to return to the RCF. If the RCF Administrator is not able to confirm that an absent voter will be back before the deadline to return a ballot by mail, then the RCF Judges should not leave that voter’s ballot package at the facility. Instead, the RCF Judges should return the materials to the EV Clerk, who will promptly mail the materials to the voter (no later than the 4th day before election day).

**If** the RCF Judges are going to leave balloting materials behind for an absent voter, those materials should be left with the RCF Administrator or other senior official at the RCF. The RCF Judges should instruct the RCF Administrator (or other senior official) to secure the balloting materials in a lockable cabinet, safe, etc. The RCF Judges must complete the “Tracking Sheet for Ballots Left at RCF,” showing the name of the voter(s) for whom materials were left at the facility, and with whom they were left. When the materials are delivered to the voter, the individual making that delivery must write their name on the Tracking Sheet and the date of delivery, and the voter must sign to indicate receipt. The voter then returns the sealed and signed carrier envelope in the normal by-mail manner (by mail, courier, or hand-delivery by the voter on election day).

The RCF administrator or other contact person is requested to mail, fax, or email the Tracking Sheet to the EV clerk, for the EV Clerk’s records. If the EV Clerk does not get a copy of the Tracking Sheet, the voter should make arrangements to receive a copy of the Tracking Sheet. If the Tracking Sheet received by the EV Clerk indicates that any voters whose materials were left at the RCF did not receive their balloting materials, the EV Clerk should make arrangements to pick up those materials. The Tracking Sheet and any unvoted ballots and accompanying materials should be kept by the EV Clerk along with other records for the election for the applicable retention period.

## Delivery of Ballot Package to Voter at Temporary Location

NOTE: This procedure is **only** available to **Pre-Applicant** voters.

If a Pre-Applicant is temporarily located at another location when voting is conducted at the facility (e.g., hospitalized), **and** the applicant has submitted a signed [“Request to Deliver Ballot to Temporary Location \(PDF\)”](#), both RCF judges **may** choose to personally deliver the ballot package prepared by the EV Clerk to the voter’s temporary address as indicated on the Request form. Once the ballot is handed to the voter, the RCF Judges may wait for the voter to complete the ballot and carrier and accept the completed carrier envelope back from the voter (RCF Judges sign as “witnesses”). Alternatively, the RCF Judges may leave the balloting materials with the voter, for the voter to complete and submit by mail.

If the RCF Judges do **not** deliver the balloting materials to the voter at a temporary location, the Judges shall return the ballot package to the EV Clerk along with the “Request for Delivery of Balloting Materials to Temporary Location” form, and the EV Clerk will then promptly mail the materials to the voter – either at the address noted on the ABBM (*recommended*) or to the temporary address. See Sections (107.014 (a), (d)).

## Concluding Visit to RCF

- RCF Judges complete necessary paperwork (including Tracking Sheet for Ballots Left at RCF for Absent Voters Intended to Return, if applicable) and Ballot Transmittal Form
- RCF Judges place **all** carrier envelopes (and attached ABBMs, if applicable) still in their possession and the signature roster in an envelope provided for this purpose, seal the envelope, and sign over the seal.
- RCF Judges complete the Ballot Register portion of the Ballot Transmittal Form, to show the number of ballots completed by voters, the number of pre-applicant ballots personally delivered to voters temporarily away from RCF or left at the RCF (under Sec. 107.014(c)), and the number of unvoted ballots to be returned to the EV Clerk. When added together, Lines 2-4 should equal the amount in Line 1.
- RCF Judges place the secure envelope and other materials inside a ballot bag or other secure container for transportation back to the EV Clerk. This ballot transport container should be affixed with a serially numbered seal (provided by the EV Clerk). The RCF judges should note the seal number used to seal the ballot transport container in Box B of the Ballot Transmittal form and sign the form.
- RCF Judges return materials to EV Clerk as soon as possible, and no later than 18 hours after voting has concluded at the RCF.
- When returned to the EV Clerk, the official receiving the ballots should verify the seal number on the box or bag used to transport the balloting materials and record it in Box C. That election official should sign form after completing verification.

## Transport to EV Clerk

**As soon as possible after conducting voting at RCF, but not later than 18 hours after leaving the facility**, the RCF Judges shall deliver the locked/sealed ballot bag or container to the EV Clerk. The EV clerk should make arrangements with the RCF judges ahead of time regarding the schedule for returning the materials, to ensure that the EV Clerk (or a deputy) will be available to receive the ballot bag/container, and sign Ballot Transmittal form in order to establish the chain of custody.

If RCF Judges do not deliver the ballots by the deadline, contact them to arrange **immediate delivery**.

## EV Clerk’s Review & Bookkeeping

The EV Clerk must review the ABBMs completed by each On-Site applicant to determine whether the On-Site applicant is in fact eligible to vote under Chapter 107. If the voter was not eligible, then the EV clerk will reject the ABBM, write “rejected” on the application and the reason for and date of rejection, and deliver written notice of the reason for the rejection to the applicant, just as with any other voter



whose ABBM is rejected (Sec. 86.001(c)). The carrier envelope and other materials should be placed in a jacket envelope labeled with the voter's name for the duration of the retention period; the jacket envelope does **not** go to EVBB, the voter's name is not added to the early voting roster and no indication should be made on the list of registered voters (or e-pollbook) that the voter voted early.

If the On-Site applicant voter **is** eligible to vote in the election and is **registered** to vote at the facility, the EV Clerk will store the completed carrier and ABBM in the jacket envelope, and send this jacket envelope along with all the other by mail ballots to the EVBB when appropriate. The name of the on-site applicants whose carrier envelopes are going to be sent to the ballot board should be added to the early voting roster and an indication made on the list of registered voters (or e-pollbook) that the voter voted early by mail.

The names of Pre-Applicant voters will already be on the early voting roster (just as with any other voter to whom the EV Clerk has sent a ballot by mail). For **all** carrier envelopes completed and returned to the RV Clerk under Chapter 107, the EV Clerk must update early voting roster to indicate that the voter has returned a ballot.

Note that if a Pre-Applicant did not complete the carrier, and the balloting materials were **not** left for the voter at the RCF or at a temporary location, then no indication should be made on the roster that the voter returned the ballot, until such time as the EV Clerk **receives the ballot back from the voter**.

Neither the unofficial results generated on election night nor the canvass need to separately notate ballots cast at an RCF; they are treated as other early voting ballots. Additionally, if reporting voter history to TEAM, just note that voter voted early by mail (there is no special coding for this procedure).

## FAQ

1. Q. If I have received ABBMs prior to September 1, 2017, do they count towards the 5 or more ABBMs that will trigger a visit to an RCF?  
A. Yes, we suggest that any ABBM the EV Clerk has on hand that would cause the EV Clerk to send a ballot to a voter for an election held on or after the 38th day after September 1, 2017, and that requests the ballot to be sent to a given RCF, should count towards the 5. Note that the EV Clerk **may** use the procedures under Chapter 107 for any election held after the effective date of the act (September 1, 2017), but due to the practical considerations in the timing of mailing ballots out for most elections and the necessity to treat voters equally, we believe that the EV Clerk is not required to do so.
2. Q. Do limited ballot applications submitted along with a voter's ABBM count toward the 5 ABBMs that trigger a mandatory visit to an RCF?  
A. Yes.
3. Q. Once we make an initial visit to a facility, if we receive more ABBMS requesting ballots to be sent to that facility (and these ABBMs are received by the deadline of the 11th day before election day) are we required to schedule another visit to the RCF?  
A. No. Once you have made an initial visit to a given RCF, you do not need to schedule another visit; rather the EV Clerk may simply mail ballots to those voters whose ABBMs come in after the initial visit. Note that a subsequent visit may be scheduled if the RCF Judges and EV Clerk determine it is warranted. This would then be considered a discretionary visit, requiring only a 48 hour notice.
4. Q. Are RCF Judges entitled to reimbursement for mileage due to travel to RCFs?  
A. That is a decision each political subdivision must make on their own. The law does not require that such travel expenses be reimbursed, but the political subdivision may make such payments if it wishes to do so.
5. Q. How much time should we schedule at each RCF?  
A. That would depend upon the number of Pre-Applicants the EV Clerk has for the facility and the number of voters registered at the facility who are potential On-Site applicants. We would

recommend a minimum visit of two hours, though you may need to schedule a longer visit if there are multiple applicants (or potential applicants). The RCF Judges may extend the time they visit a given RCF without additional notice, as long as that extension does not affect or delay visits to other RCFs to be made that day.

6. Q. How are any Requests to Deliver Ballot to Temporary Location provided to the RCF Judges?  
A. We recommend that the EV Clerk arrange to have a few blank request forms delivered to the facility (for example, when the Notice of Voting at RCF is delivered to the facility), so that voters who believe they will be absent at the time of the visit can fill them out and leave them with the facility contact person, who would then submit them to the RCF Judges upon their arrival at the RCF. Note that delivery to a temporary location is optional; even if the RCF Judges receive a request, they do not have to deliver the balloting materials to that location.
7. . Do we need to supply the RCF Judges with additional ballots of various ballot styles in case the voters spoil their ballots?  
A. No, this is a by-mail procedure; there are no spoiled ballots. The voter receives one ballot only. If the voter makes a mistake or wants to change how the ballot is marked, the voter may make that change on the ballot provided to them, and the ballot will later be reviewed for voter intent just as with other irregularly marked ballots.
8. Q. What if an On-Site applicant is on the list of registered voters for a given facility, but the residence address the On-Site applicant puts on the ABBM is not the RCF address?  
A. The RCF Judges should provide such a voter with a Statement of Residence, and mark the carrier envelope so that it indicates a statement of residence is inside. If the EV Clerk determines that the voter is currently registered to vote at the facility and that the address on the ABBM is still inside the territory of the political subdivision holding the election, the EV Clerk should accept the ABBM and pass the balloting materials on to the EVBB.
9. Q. If a ballot is left at the RCF for an absent voter expected to return prior to the deadline to submit the ballot, but the voter does not return to the facility, can an employee of the RCF deliver the balloting materials to the voter at that temporary location?  
A. No. There is no authority in the Election Code for such a delivery. A ballot left for an absent voter that is not eventually voted by that voter should be returned to the EV Clerk after the election.
10. Q. While the RCF Judges are onsite, can a voter who had not pre-applied but who is not registered to vote at the facility complete an ABBM and email or fax it to the EV Clerk, who would then review the ABBM, and if the voter is qualified to vote, send a runner with the balloting materials for that voter out to the RCF Judges?  
A. Yes, since the law requiring faxed or emailed ABBMs to be followed up by the original with 4 business days is not in effect until December 1, 2017 (SB 5, 85th Legislature, Special Session, 2017).
11. Q. Is entering a resident's room at the RCF or at a hospital with voting materials a violation of HIPAA?  
A. No. Entering a resident's room with permission from the resident is not a violation of HIPAA. Note that if there is any discussion of a patient's medical history when the RCF judges are in the room, this would be a violation on the part of the medical staff, not on the RCF judges' part. However, please be sure the RCF Judges are aware that the residents' rooms are private spaces, and any election officials entering resident rooms should be respectful and cognizant of residents' privacy rights. This is especially so given that residents may have roommates who are not also voting under this procedure in the election.
12. Q. The law says that anyone employed at a covered RCF for the two years preceding the election is not eligible to serve as a judge at the RCF. What does "employed" mean in this context – full time, part time, temporary, permanent?  
A. The word "employed" is not defined in Chapter 107. Therefore, we believe that any type of employee would be prohibited from serving as an RCF Judge if their employment was within the two years preceding election day.
13. Q. If the RCF Judges are still in possession of the voted and completed carrier envelopes after the deadline for those materials to be delivered back to the EV Clerk, are the judges improperly

possessing the carrier envelopes in violation of Section, 86.006(f) and therefore subject to criminal prosecution?

A. No. Section 86.006(f) does not apply early voting clerks or deputy early voting clerks. The RCF Judges are deputy early voting clerks. However, arrangements should be made for those ballots to be immediately delivered to the EV Clerk.

14. Q. Once the secure bag or box containing the completed carrier envelopes and other materials is returned to the EV Clerk, does the EV Clerk open that container?

A. Yes, the EV Clerk must process the ABBMs of the On-Site applicants and must place the carrier envelopes and other materials in the appropriate jacket envelopes.

15. Q. Can students serve at RCF Judges?

A. No, the RCF Judges serve as co-judges (not as presiding judge and alternate judge), and neither is classified as a clerk. Therefore, student election clerks cannot serve in this capacity.

16. Q. What if the RCF is entered into TEAM as a business address?

A. If the facility is included on the list created by HHSC and sent to you by the SOS, then we would recommend that you re-code that address as a residential address.

17. Q. We have a building at a given address that serves several functions- as a rehabilitation center, a nursing home, a residential care facility, and as senior living homes (with no in-home care). What do we do with ABBMs that request a ballot to be sent to this address?

A. We recommend that balloting materials be prepared for and delivered to the voters (eligible to vote in an election held by the EV Clerk) that list as their residence address on the ABBM an address of **any qualifying RCF that is included on the spreadsheet supplied by HHSC** for that county (once the EV Clerk has received 5 or more ABBMs requesting that ballots be sent to that address).

18. Q. If we have a runoff election (or a second election due to a tie) scheduled on or after December 1, 2017, do we deliver ballots to RCFs under Chapter 107 for the runoff/second election?

A. No. The portions of HB 658 concerning voting at RCFs are repealed as of December 1, 2017.

If you have any questions or situations that are not covered by this memo, please do not hesitate to contact the Elections Division toll-free at 1-800-252-2216.

KI:CG