

APA-1  
07/04

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control No. \_\_\_\_\_ Department or Agency: Secretary of State

Rule No. 820-2-2-.21

Rule Title: Procedure for County Boards of Registrars to Determine Applicant's Citizenship for Voting Purposes

X New \_\_\_\_\_ Amend \_\_\_\_\_ Repeal \_\_\_\_\_ Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare or safety? No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? No

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

.....

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

.....

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying office Beta Chapman  
Date 9-21-12

(DATE FILED)

Office of the Secretary of State  
Elections Division

NOTICE OF INTENDED ACTION

AGENCY NAME: Secretary of State

RULE NO. & TITLE: 820-2-2-.17 Voter Registration Instructions for  
Voter Registrars to Assess  
Eligibility of Voter Registration  
Applicant  
820-2-2-.18 Affidavit and Application for  
Certification of Free Alabama Birth  
Record for Voter Registration Use  
820-2-2-.19 Citizenship Document Inconsistency  
Affidavit Form  
820-2-2-.20 Form for Notification of  
Insufficiency of Proof of  
Citizenship  
820-2-2-.21 Procedure for County Boards of  
Registrars to Determine Applicant's  
Citizenship for Voting Purposes  
820-2-2-.22 Application Form to the Board of  
Registrars for Hearing on  
Eligibility to Register to Vote  
820-2-2-.23 Agency-Based Voter Registration  
Form  
820-2-2-.24 Mail-In Voter Registration Form

INTENDED ACTION: New rules.

SUBSTANCE OF PROPOSED ACTION:

Adopt voter registration rules to comply with the Beeson-Hammon  
Alabama Taxpayer and Citizen Protection Act, as amended, pursuant to  
§31-13-28, Code of Alabama (2012).

TIME, PLACE, MANNER OF PRESENTING VIEWS:

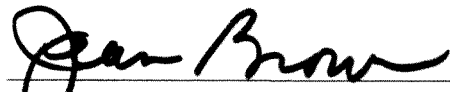
Views may be presented in writing and should be addressed to Jean Brown, Chief Legal Advisor, Office of the Secretary of State, P.O. Box 5616, Montgomery, Alabama 36103.

FINAL DATE FOR COMMENT AND COMPLETION OF THE NOTICE:

November 2, 2012

CONTACT PERSON AT AGENCY:

Adam Thompson, Office of the Secretary of State, State Capitol, 600 Dexter Avenue, Suite S-105, Montgomery, Alabama 36104; 334-353-7818.

  
\_\_\_\_\_  
Jean Brown

**820-2-2-.21 Procedure for County Boards of Registrars for Hearing to Determine Applicant's Citizenship for Voting Purposes.**

(1) If an applicant is a U.S. citizen but does not have any of the documentation listed in Code of Alabama, section 31-13-28 (k), the applicant may submit any evidence that the applicant believes demonstrates his or her U.S. citizenship. Among the documents that may be submitted when the applicant does not have any of the documents listed in Code of Alabama, section 31-13-28(k), are:

(a) Religious record, such as family Bible, certificate of baptism or confirmation, or other similar record showing either the date of birth or the person's age when the record was made;

(b) Marriage certificate showing a U.S. place of birth;

(c) Life, health, or other insurance record showing a U.S. place of birth;

(d) Early school record showing a U.S. place of birth;

(e) Newspaper birth announcement showing a U.S. place of birth;

(f) Affidavits signed under penalty of perjury by three (3) people;

(g) Military dependent's identification card showing U.S. citizenship;

(h) If none of the aforementioned evidence of U.S. citizenship is available, three or more corroborating documents may be accepted if said documents establish U.S. citizenship by a preponderance of the evidence.

(2) Any applicant seeking an assessment of evidence under this section may directly contact the county board of registrars by submitting a state voter registration application or the national voter registration application and any supporting evidence of U.S. citizenship. The county board of registrars

shall give the applicant an opportunity for a hearing, upon the applicant's request in writing, and an opportunity to present any additional evidence to the county board of registrars. Notice of such hearing shall be given to the applicant at least five days prior to the hearing date. An applicant shall have the opportunity to be represented by counsel at such hearing. The county board of registrars shall assess the evidence provided by the applicant to determine whether the applicant has provided satisfactory evidence of U.S. citizenship. If the county board of registrars finds proof of U.S. citizenship by a preponderance of the evidence for an applicant whose voter registration application was received before the close of registration for the next scheduled election, said applicant shall be able to vote in that election.

(4) Standard of Proof and Majority Vote. The standard of proof for establishing U.S. citizenship before the county board of registrars shall be proof by a preponderance of the evidence. A decision of the county board of registrars shall be determined by majority vote.

(5) If the county board of registrars finds that the evidence presented by an applicant does not constitute satisfactory evidence of U.S. citizenship, the applicant shall have the right to appeal such determination by instituting an action under 8 U.S.C. § 1503. Any negative assessment of an applicant's eligibility by a county board of registrars shall be reversed if the applicant obtains a declaratory judgment pursuant to 8 U.S. C. § 1503, demonstrating that the applicant is a citizen of the United States.

**Authors:** Jean Brown; Edward Packard; Julie Sinclair.  
**Statutory Authority:** Code of Alabama, section 31-13-28 (2012); Code of Alabama, section 17-3-1. **History:**  
**New Rule:** Filed September 28, 2012; effective November 2, 2012.

**820-2-2-.22. Application Form to the Board of Registrars for Hearing to Determine Applicant's Citizenship for Voting Purposes.**

The following application form ("Form C-4") to the county board of registrars shall be completed and submitted by applicants who desire to have a hearing or to submit additional evidence after a board of registrars determines that an applicant has not submitted satisfactory documentary proof of citizenship as required under Code of Alabama, section 31-13-28 (2012).