STATE OF NEW YORK

10744

IN ASSEMBLY

July 9, 2020

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Paulin) -- read once and referred to the Committee on Election Law

AN ACT to amend the election law, in relation to ballots where the express intent of the voter is unambiguous

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 8-410 of the election law, as amended by chapter 352 of the laws of 1986, is amended to read as follows:

§ 8-410. Absentee voting; method of. The absentee voter shall mark an absentee ballot as provided for paper ballots or ballots prepared for counting by ballot counting machines. He **or she** shall make no mark or writing whatsoever upon the ballot, except as above prescribed, and shall see that it bears no such mark or writing. He **or she** shall make no mark or writing whatsoever on the outside of the ballot. **In cases where the express intent of the voter is unambiguous, any stray marks or writing shall not be a basis for voiding a ballot.** After marking the ballot or ballots he **or she** shall fold each such ballot and enclose them in the envelope and seal the envelope. He **or she** shall then take and subscribe the oath on the envelope, with blanks properly filled in. The envelope, containing the ballot or ballots, shall then be mailed or delivered to the board of elections of the county or city of his **or her** residence.

§ 2. Paragraph (a) of subdivision 2 of section 9-209 of the election law is amended by adding three new subparagraphs (vii), (viii) and (ix) to read as follows:

(vii) An absentee ballot may only be voided if the express intent of the voter is not clear and he or she has not otherwise substantially complied with the requirements of this chapter.

(viii) An absentee ballot shall not be voided where the voter did not date the ballot envelope or the date on the ballot is after the election if the ballot envelope bears a timestamp indicating it was timely mailed in accordance with this article.

(ix) In cases where the express intent of the voter is unambiguous, any stray marks or writing shall not be a basis for voiding an absentee ballot.

§ 3. This act shall take effect immediately and shall apply to elections occurring on or after such effective date.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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