

# STATE OF NEW YORK

4564

2021-2022 Regular Sessions

## IN ASSEMBLY

February 4, 2021

Introduced by M. of A. BICHOTTE HERMELYN -- read once and referred to the Committee on Election Law

AN ACT to amend the election law, in relation to absentee voting

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

1 Section 1. Paragraph (d) of subdivision 2 of section 8-400 of the  
2 election law, as separately amended by chapters 97 and 104 of the laws  
3 of 2010, is amended to read as follows:

4 (d) The board of elections shall mail an absentee ballot to every  
5 qualified voter otherwise eligible for such a ballot, [~~who~~] when such  
6 voter requests [~~such~~] an absentee ballot from such board of elections in  
7 writing in a letter, telefax indicating the address, phone number and  
8 the telefax number from which the writing is sent or other written  
9 instrument, or an electronic application submitted by the voter by elec-  
10 tronic mail or through an electronic transmittal system or web portal  
11 established by the state board of elections or city or county board of  
12 elections, which is [~~signed by the voter and~~] received by the board of  
13 elections not earlier than the thirtieth day nor later than the seventh  
14 day before the election for which the ballot is first requested and  
15 which states the address where the voter is registered and the address  
16 to which the ballot is to be mailed; provided, however, a military voter  
17 may request a military ballot or voter registration application or an  
18 absentee ballot application in a letter as provided in subdivision three  
19 of section 10-106 of this chapter; and provided further, a special  
20 federal voter may request a special federal ballot or voter registration  
21 application or an absentee ballot application in a letter as provided in  
22 paragraph d of subdivision one of section 11-202 of this chapter. The  
23 board of elections shall enclose with such ballot a form of application  
24 for absentee ballot if the applicant is registered with such board of  
25 elections.

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

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1 § 2. Subdivision 1 of section 8-412 of the election law, as amended by  
2 chapter 140 of the laws of 2020, is amended to read as follows:

3 1. The board of elections shall cause all absentee ballots received by  
4 it before the close of the polls on election day and all ballots  
5 contained in envelopes showing a cancellation mark of the United States  
6 postal service or a foreign country's postal service, or showing a dated  
7 endorsement of receipt by another agency of the United States govern-  
8 ment, with a date which is ascertained to be not later than the day of  
9 the election and received by such board of elections not later than  
10 seven days following the day of election to be cast and counted [~~except~~  
11 ~~that the absentee ballot of a voter who requested such ballot by letter,~~  
12 ~~rather than application, shall not be counted unless a valid application~~  
13 ~~form, signed by such voter, is received by the board of elections with~~  
14 ~~such ballot~~]. For purposes of this section, any absentee ballot received  
15 by the board of elections by mail that does not bear or display a dated  
16 postmark shall be presumed to have been timely mailed or delivered if  
17 such ballot bears a time stamp of the receiving board of elections indi-  
18 cating receipt by such board on the day after the election.

19 § 3. Subparagraph (iii) of paragraph (b) of subdivision 2 of section  
20 9-209 of the election law, as amended by chapter 104 of the laws of  
21 2010, is amended to read as follows:

22 (iii) If such a federal write-in absentee ballot is received after  
23 election day, the envelope in which it is received must contain: (A) a  
24 cancellation mark of the United States postal service or a foreign coun-  
25 try's postal service; (B) a dated endorsement of receipt by another  
26 agency of the United States government; or (C) if cast by a military  
27 voter, the signature and date of the voter and one witness thereto with  
28 a date which is ascertained to be not later than the day [~~before~~ of the  
29 election day].

30 § 4. Subdivision 1 of section 10-114 of the election law, as amended  
31 by chapter 165 of the laws of 2009, is amended to read as follows:

32 1. The board of elections shall cause all military ballots received by  
33 it before the close of the polls on election day and all ballots  
34 contained in envelopes showing a cancellation mark of the United States  
35 postal service or a foreign country's postal service, or showing a dated  
36 endorsement of receipt by another agency of the United States government  
37 or are signed and dated by the voter and one witness thereto, with a  
38 date which is ascertained to be not later than the day [~~before~~ of the  
39 election and received by such board of elections not later than seven  
40 days following the day of a primary election and not later than thirteen  
41 days following the day of a general or special election to be cast and  
42 counted.

43 § 5. Subdivision 1 of section 11-110 of the election law, as amended  
44 by chapter 99 of the laws of 1989, is amended to read as follows:

45 1. To be counted, any ballot cast under the provisions of this article  
46 must be received by the appropriate board of elections not later than  
47 the close of the polls on election day except that all ballots contained  
48 in envelopes showing a cancellation mark of the United States postal  
49 service, or a foreign country's postal service with a date which is  
50 ascertained to be not later than the day [~~before~~ of the election, shall  
51 be cast and counted if received by the board of elections not later than  
52 seven days following the day of election.

53 § 6. Section 11-212 of the election law, as amended by chapter 163 of  
54 the laws of 2010, is amended to read as follows:

55 § 11-212. Special federal ballots; deadline for receipt. All special  
56 federal ballots received by the board of elections before the close of

1 the polls on election day shall be retained by the board of elections  
2 and cast and canvassed pursuant to section 9-209 of this chapter. All  
3 ballots contained in envelopes showing a cancellation mark of the United  
4 States postal service or a foreign country's postal service, or showing  
5 a dated endorsement of receipt by another agency of the United States  
6 government, with a date which is ascertained to be not later than the  
7 day [~~before~~ of the election, shall be cast and counted if received by  
8 the board of elections not later than seven days following the day of a  
9 primary election or thirteen days following the day of a general or  
10 special election [~~except that the special federal ballot of a voter who~~  
11 ~~requested such ballot by letter, rather than application, shall not be~~  
12 ~~counted unless a valid application form, signed by such voter, is~~  
13 ~~received by the board of elections with such ballot~~]. All ballots  
14 received by the board of elections and all federal write-in ballots  
15 received from special federal voters not later than seven days following  
16 the day of a primary election or thirteen days following the day of a  
17 general or special election, shall be retained at the board and shall be  
18 cast and canvassed in the same manner as other ballots retained by such  
19 board.  
20 § 7. This act shall take effect immediately.