

# STATE OF NEW YORK

6970

2021-2022 Regular Sessions

## IN ASSEMBLY

April 16, 2021

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

AN ACT to amend the election law, in relation to establishing an electronic absentee ballot application transmittal system

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

1 Section 1. Subdivision 2 of section 8-400 of the election law, the  
2 opening paragraph as amended by chapter 216 of the laws of 1988, para-  
3 graph (a) as amended by chapter 263 of the laws of 1991, paragraph (c)  
4 as amended by chapter 321 of the laws of 1988 and paragraph (d) as sepa-  
5 rately amended by chapters 97 and 104 of the laws of 2020, is amended to  
6 read as follows:

7 2. A qualified voter desiring to vote at such election as an absentee  
8 voter for any reason specified in subdivision one hereof must make  
9 application for an absentee ballot on a form to be obtained and filed as  
10 provided herein ~~[or]~~, by letter as provided in paragraph (d) of this  
11 subdivision, or through the electronic absentee ballot application tran-  
12 smittal system pursuant to section 8-408 of this title.

13 (a) Application forms shall be furnished by and may be obtained from  
14 any board of elections at any time until the day before such election,  
15 or on the electronic absentee ballot application transmittal system.  
16 Application forms shall also be supplied by the board of inspectors of  
17 the election district in which applicant is a qualified voter on all of  
18 the days provided for local registration. In addition, application forms  
19 shall be supplied upon the request of the person authorized to vote  
20 pursuant to this section, any such person's spouse, parent or child, a  
21 person residing with the applicant as a member of his household, or the  
22 applicant's duly authorized agent. Application forms sent outside of the  
23 United States to a country other than Canada or Mexico, shall be sent  
24 airmail. Any reference to "board of elections" in the remaining  
25 provisions of this section, except with respect to the furnishing and

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

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1 obtaining of applications for absentee ballots, means only the board of  
2 elections of the county or city in which the applicant is a qualified  
3 voter.

4 (b) Applications may be filed ~~[either]~~ with the board of elections,  
5 through the electronic absentee ballot application transmittal system or  
6 in person with the board of inspectors of the election district in which  
7 the applicant is a qualified voter~~[7]~~ on one of the days provided for  
8 local registration.

9 (c) All applications requesting an absentee ballot by mail or through  
10 the electronic absentee ballot application transmittal system must be  
11 ~~[mailed to]~~ received by the board of elections not later than the  
12 ~~[seventh]~~ fifteenth day before the election for which a ballot is first  
13 requested ~~[or delivered to]~~. Applications for an absentee ballot that  
14 will be delivered in person at the board of election to the voter or to  
15 an agent of the voter must be received by such board not later than the  
16 day before such election.

17 (d) The board of elections shall mail an absentee ballot to every  
18 qualified voter otherwise eligible for such a ballot, who requests such  
19 an absentee ballot from such board of elections in writing in a letter,  
20 telefax indicating the address, phone number and the telefax number from  
21 which the writing is sent or other written instrument, or an electronic  
22 application submitted by the voter through the electronic absentee  
23 ballot application transmittal system established by the state board of  
24 elections, which is signed by the voter and received by the board of  
25 elections not ~~[earlier than the thirtieth day nor]~~ later than the  
26 ~~[seventh]~~ fifteenth day before the election for which the ballot is  
27 first requested and which states the address where the voter is regis-  
28 tered and the address to which the ballot is to be mailed; provided,  
29 however, a military voter may request a military ballot or voter regis-  
30 tration application or an absentee ballot application in a letter as  
31 provided in subdivision three of section 10-106 of this chapter; and  
32 provided further, a special federal voter may request a special federal  
33 ballot or voter registration application or an absentee ballot applica-  
34 tion in a letter as provided in paragraph d of subdivision one of  
35 section 11-202 of this chapter. The board of elections shall enclose  
36 with such ballot a form of application for absentee ballot if the appli-  
37 cant is registered with such board of elections.

38 § 2. The election law is amended by adding a new section 8-408 to read  
39 as follows:

40 § 8-408. Electronic absentee ballot application transmittal system. 1.  
41 Establishment.

42 In addition to any other means of applying for an absentee ballot, the  
43 state board of elections shall establish and maintain an electronic  
44 absentee ballot application transmittal system through which voters may  
45 apply for an absentee ballot online. The state board of elections shall  
46 electronically transmit such applications to the applicable board of  
47 elections of each county or the city of New York for processing consist-  
48 ent with this chapter. In accordance with technical specifications  
49 provided by the state board of elections, each board of elections shall  
50 maintain an absentee ballot application system capable of receiving and  
51 processing electronic absentee ballot applications, including electronic  
52 signatures, from the electronic absentee ballot application transmittal  
53 system established by the state board of elections pursuant to this  
54 section. Notwithstanding any other inconsistent provision of this chap-  
55 ter, applications filed using such system shall be considered filed with  
56 the applicable board of elections on the calendar date the application

1 is initially transmitted by the voter through the electronic absentee  
2 ballot application transmittal system.

3 2. Online absentee ballot application.

4 (a) A voter shall be able to apply for an absentee ballot using a  
5 personal online voter registration application submitted through the  
6 electronic absentee ballot application transmittal system when the  
7 voter:

8 (i) completes an electronic absentee ballot application promulgated by  
9 the state board of elections which shall include all of the information  
10 required by section 8-400 of this title; and

11 (ii) affirms, subject to penalty of perjury, by means of electronic or  
12 manual signature, that the information contained in the absentee ballot  
13 application is true; and

14 (iii) consents to the use of an electronic copy of the individual's  
15 manual signature that is in the custody of the department of motor vehi-  
16 cles, the state board of elections, or other agency designated by  
17 section 5-211 or 5-212 of this article, as the individual's absentee  
18 ballot exemplar signature, or provides such a signature by direct upload  
19 in a manner that complies with the New York state electronic signature  
20 and records act and the rules and regulations promulgated by the state  
21 board of elections.

22 (b) The board of elections shall provide the personal online absentee  
23 ballot application in any language required by the federal Voting Rights  
24 Act of 1965 (52 U.S.C. Sec. 10503) in any county in the state.

25 (c) The online absentee ballot application process shall provide  
26 reasonable accommodations to improve accessibility for persons with  
27 disabilities and shall be compatible for use with standard online acces-  
28 sibility assistance tools for persons with visual, physical or percep-  
29 tive disabilities.

30 (d) The state board of elections shall promulgate rules and regu-  
31 lations for the creation and administration of an online absentee ballot  
32 registration system pursuant to this section.

33 3. Failure to provide exemplar signature not to prevent application.

34 (a) If an absentee ballot exemplar signature is not provided by an  
35 applicant who submits an absentee ballot application pursuant to this  
36 section, the local board shall seek to obtain such exemplar signature  
37 from the statewide voter registration database, the state board of  
38 elections, or a state or local agency designated by section 5-211 or  
39 5-212 of this article.

40 (b) If such exemplar signature is not available from the statewide  
41 voter registration database, the state board of elections, or a state or  
42 local agency designated by section 5-211 or 5-212 of this article, the  
43 local board of elections shall, absent another reason to reject the  
44 application, require the voter to provide an exemplar signature by any  
45 one of the following methods: in person, by electronic mail, or by  
46 electronic upload to the board of elections through the electronic  
47 absentee ballot application transmittal system.

48 (c) If such voter does not provide the required exemplar signature,  
49 the board of elections shall proceed to issue an absentee ballot to the  
50 voter along with an absentee ballot application form requiring such  
51 voter to submit a signature upon such application form and return it to  
52 the board of elections with the voter's ballot.

53 § 3. This act shall take effect January 1, 2022. Effective immediate-  
54 ly, the state board of elections shall be authorized to promulgate any  
55 rules or regulations required to carry out the provisions of this act  
56 prior to such effective date.