

# STATE OF NEW YORK

253

2021-2022 Regular Sessions

## IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sens. MYRIE, COMRIE, GOUNARDES, HOYLMAN, LIU, MAY -- read twice and ordered printed, and when printed to be committed to the Committee on Elections

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:

1 Section 1. Section 8-410 of the election law, as amended by chapter  
2 352 of the laws of 1986, is amended to read as follows:

3 § 8-410. Absentee voting; method of. The absentee voter shall mark an  
4 absentee ballot as provided for paper ballots or ballots prepared for  
5 counting by ballot counting machines. He or she shall make no mark or  
6 writing whatsoever upon the ballot, except as above prescribed, and  
7 shall see that it bears no such mark or writing. He or she shall make no  
8 mark or writing whatsoever on the outside of the ballot. In cases where  
9 the express intent of the voter is unambiguous, any stray marks or writ-  
10 ing shall not be a basis for voiding a ballot. After marking the ballot  
11 or ballots he or she shall fold each such ballot and enclose them in the  
12 envelope and seal the envelope. He or she shall then take and subscribe  
13 the oath on the envelope, with blanks properly filled in. The envelope,  
14 containing the ballot or ballots, shall then be mailed or delivered to  
15 the board of elections of the county or city of his or her residence.

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

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

22 (viii) An absentee ballot shall not be voided where the voter did not  
23 date the ballot envelope or the date on the ballot is after the election

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

LBD02099-01-1

1 if the ballot envelope bears a timestamp indicating it was timely mailed  
2 in accordance with this article.

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

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