STATE OF NEW YORK

466

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sens. MYRIE, COMRIE, GOUNARDES, HOYLMAN, LIU, MAY, RAMOS -- 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 certain absentee ballots received by a board of elections that do not bear or display a dated postmark

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

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

1. The board of elections shall cause all absentee ballots received by it before the close of the polls on election day and all ballots contained in envelopes [~~showing a cancellation mark of~~] **submitted to** the United States postal service or a foreign country's postal service, or [~~showing a dated endorsement of receipt by~~] another agency of the United States government, with a date which is ascertained to be not later than the day of the election and received by such board of elections not later than seven days following the day of election to be cast and counted. For purposes of this section, any absentee ballot received by the board of elections by mail that does not bear or display a dated postmark shall be presumed to have been timely mailed or delivered if such ballot bears a time stamp of the receiving board of elections indicating receipt by such board on the day after the election. **The board of elections shall affix to each absentee ballot envelope a unique bar code that permits the board of elections to ascertain the date upon which an absentee ballot is submitted to the United States postal service or a foreign country's postal service, or another agency of the United States government.**

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

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

1. The board of elections shall cause all absentee ballots received by it before the close of the polls on election day and all ballots contained in envelopes [~~showing a cancellation mark of~~] **submitted to** the United States postal service or a foreign country's postal service, or [~~showing a dated endorsement of receipt by~~] another agency of the United States government, with a date which is ascertained to be not later than the day of the election and received by such board of elections not later than seven days following the day of election to be cast and counted except that the absentee ballot of a voter who requested such ballot by letter, rather than application, shall not be counted unless a valid application form, signed by such voter, is received by the board of elections with such ballot. For purposes of this section, any absentee ballot received by the board of elections by mail that does not bear or display a dated postmark shall be presumed to have been timely mailed or delivered if such ballot bears a time stamp of the receiving board of elections indicating receipt by such board on the day after the election. **The board of elections shall affix to each absentee ballot envelope a unique bar code that permits the board of elections to ascertain the date upon which an absentee ballot is submitted to the United States postal service or a foreign country's postal service, or another agency of the United States government.**

§ 3. Subdivision 2 of section 8-412 of the election law is renumbered subdivision 3 and a new subdivision 2 is added to read as follows:

2. An absentee ballot that has no cancellation mark, a cancellation mark with no date, or an illegible cancellation mark, and no other information is available from the United States postal service or a foreign country's postal service, or another agency of the United States government to indicate the date on which the absentee ballot was mailed, the absentee ballot shall be timely cast and canvassed if it is received by the board of elections through the United States postal service or a foreign country's postal service or another agency of the United States government, no later than the seventh day after the election day and the absentee ballot affidavit envelope is signed and dated on or before the day of election.

§ 4. This act shall take effect immediately and shall apply to elections occurring on or after such effective date, provided, however, that the amendments to subdivision 1 of section 8-412 of the election law made by section one of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 7 of chapter 91 of the laws of 2020 as amended, when upon such date the provisions of section two of this act shall take effect.