STATE OF NEW YORK

6429

2021-2022 Regular Sessions

IN SENATE

April 28, 2021

Introduced by Sen. GIANARIS -- 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 the mailing and receipt of absentee ballots; and to provide for the repeal of such provisions upon the expiration thereof

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 section 2 of 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 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.

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

(iii) If such a federal write-in absentee ballot is received after election day, the envelope in which it is received must contain: (A) a

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

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cancellation mark of the United States postal service or a foreign country's postal service; (B) a dated endorsement of receipt by another agency of the United States government; or (C) if cast by a military voter, the signature and date of the voter and one witness thereto with a date which is ascertained to be not later than the day [~~before~~] **of the** election [~~day~~].

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

1. The board of elections shall cause all military ballots received by it before the close of the polls on election day and all ballots contained in envelopes showing a cancellation mark of 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 or are signed and dated by the voter and one witness thereto, with a date which is ascertained to be not later than the day [~~before~~] **of the** election and received by such board of elections not later than seven days following the day of a primary election and not later than thirteen days following the day of a general or special election to be cast and counted.

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

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

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

§ 11-212. Special federal ballots; deadline for receipt. All special federal ballots received by the board of elections before the close of the polls on election day shall be retained by the board of elections and cast and canvassed pursuant to section 9-209 of this chapter. All ballots contained in envelopes showing a cancellation mark of 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 [~~before~~] **of the** election, shall be cast and counted if received by the board of elections not later than seven days following the day of a primary election or thirteen days following the day of a general or special election [~~except that the special federal 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~~]. All ballots received by the board of elections and all federal write-in ballots received from special federal voters not later than seven days following the day of a primary election or thirteen days following the day of a general or special election, shall be retained at the board and shall be cast and canvassed in the same manner as other ballots retained by such board.

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

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

the polls on election day shall be retained by the board of elections and cast and canvassed pursuant to section 9-209 of this chapter. All ballots contained in envelopes showing a cancellation mark of 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 [~~before~~] **of the** election, shall be cast and counted if received by the board of elections not later than seven days following the day of a primary election or thirteen days following the day of a general or special election except that the special federal 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. All ballots received by the board of elections and all federal write-in ballots received from special federal voters not later than seven days following the day of a primary election or thirteen days following the day of a general or special election, shall be retained at the board and shall be cast and canvassed in the same manner as other ballots retained by such board.

§ 7. This act shall take effect immediately; provided, however, that sections one and five of this act shall expire and be deemed repealed December 31, 2021, when upon such date the provisions of section six of this act shall take effect.