

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 Assem-
bly, do enact as follows:

1 Section 1. Subdivision 1 of section 8-412 of the election law, as
2 amended by chapter 140 of the laws of 2020, is amended to read as
3 follows:
4 1. The board of elections shall cause all absentee ballots received by
5 it before the close of the polls on election day and all ballots
6 contained in envelopes [~~showing a cancellation mark of~~] submitted to the
7 United States postal service or a foreign country's postal service, or
8 [~~showing a dated endorsement of receipt by~~] another agency of the United
9 States government, with a date which is ascertained to be not later than
10 the day of the election and received by such board of elections not
11 later than seven days following the day of election to be cast and
12 counted. For purposes of this section, any absentee ballot received by
13 the board of elections by mail that does not bear or display a dated
14 postmark shall be presumed to have been timely mailed or delivered if
15 such ballot bears a time stamp of the receiving board of elections indi-
16 cating receipt by such board on the day after the election. The board of
17 elections shall affix to each absentee ballot envelope a unique bar code
18 that permits the board of elections to ascertain the date upon which an
19 absentee ballot is submitted to the United States postal service or a
20 foreign country's postal service, or another agency of the United States
21 government.

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~~] submitted to the
6 United States postal service or a foreign country's postal service, or
7 [~~showing a dated endorsement of receipt by~~] another agency of the United
8 States government, with a date which is ascertained to be not later than
9 the day of the election and received by such board of elections not
10 later than seven days following the day of election to be cast and
11 counted except that the absentee ballot of a voter who requested such
12 ballot by letter, rather than application, shall not be counted unless a
13 valid application form, signed by such voter, is received by the board
14 of elections with such ballot. For purposes of this section, any absen-
15 tee ballot received by the board of elections by mail that does not bear
16 or display a dated postmark shall be presumed to have been timely mailed
17 or delivered if such ballot bears a time stamp of the receiving board of
18 elections indicating receipt by such board on the day after the
19 election. The board of elections shall affix to each absentee ballot
20 envelope a unique bar code that permits the board of elections to ascer-
21 tain the date upon which an absentee ballot is submitted to the United
22 States postal service or a foreign country's postal service, or another
23 agency of the United States government.

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

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

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