

# STATE OF NEW YORK

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2888

2023-2024 Regular Sessions

## IN SENATE

January 25, 2023

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Introduced by Sens. MYRIE, COMRIE, GOUNARDES, HOYLMAN-SIGAL, 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:

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~~]  
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 except that the absentee ballot of a voter who requested such  
13 ballot by letter, rather than application, shall not be counted unless a  
14 valid application form, signed by such voter, is received by the board  
15 of elections with such ballot. For purposes of this section, any absen-  
16 tee ballot received by the board of elections by mail that does not bear  
17 or display a dated postmark shall be presumed to have been timely mailed  
18 or delivered if such ballot bears a time stamp of the receiving board of  
19 elections indicating receipt by such board on the day after the  
20 election. The board of elections shall affix to each absentee ballot  
21 envelope a unique bar code that permits the board of elections to ascer-  
22 tain the date upon which an absentee ballot is submitted to the United

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

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1 States postal service or a foreign country's postal service, or another  
2 agency of the United States government.

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

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

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