

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:

1 Section 1. Subdivision 1 of section 8-412 of the election law, as
2 amended by section 2 of chapter 140 of the laws of 2020, is amended to
3 read as 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 the United States
7 postal service or a foreign country's postal service, or showing a dated
8 endorsement of receipt by another agency of the United States govern-
9 ment, with a date which is ascertained to be not later than the day of
10 the election and received by such board of elections not later than
11 seven days following the day of election to be cast and counted [~~except~~
12 ~~that the absentee ballot of a voter who requested such ballot by letter,~~
13 ~~rather than application, shall not be counted unless a valid application~~
14 ~~form, signed by such voter, is received by the board of elections with~~
15 ~~such ballot~~]. For purposes of this section, any absentee ballot received
16 by the board of elections by mail that does not bear or display a dated
17 postmark shall be presumed to have been timely mailed or delivered if
18 such ballot bears a time stamp of the receiving board of elections indi-
19 cating receipt by such board on the day after the election.

20 § 2. Subparagraph (iii) of paragraph (b) of subdivision 2 of section
21 9-209 of the election law, as amended by chapter 104 of the laws of
22 2010, is amended to read as follows:

23 (iii) If such a federal write-in absentee ballot is received after
24 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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1 cancellation mark of the United States postal service or a foreign coun-
2 try's postal service; (B) a dated endorsement of receipt by another
3 agency of the United States government; or (C) if cast by a military
4 voter, the signature and date of the voter and one witness thereto with
5 a date which is ascertained to be not later than the day [~~before~~] of the
6 election [~~day~~].

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

9 1. The board of elections shall cause all military ballots received by
10 it before the close of the polls on election day and all ballots
11 contained in envelopes showing a cancellation mark of the United States
12 postal service or a foreign country's postal service, or showing a dated
13 endorsement of receipt by another agency of the United States government
14 or are signed and dated by the voter and one witness thereto, with a
15 date which is ascertained to be not later than the day [~~before~~] of the
16 election and received by such board of elections not later than seven
17 days following the day of a primary election and not later than thirteen
18 days following the day of a general or special election to be cast and
19 counted.

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

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

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

32 § 11-212. Special federal ballots; deadline for receipt. All special
33 federal ballots received by the board of elections before the close of
34 the polls on election day shall be retained by the board of elections
35 and cast and canvassed pursuant to section 9-209 of this chapter. All
36 ballots contained in envelopes showing a cancellation mark of the United
37 States postal service or a foreign country's postal service, or showing
38 a dated endorsement of receipt by another agency of the United States
39 government, with a date which is ascertained to be not later than the
40 day [~~before~~] of the election, shall be cast and counted if received by
41 the board of elections not later than seven days following the day of a
42 primary election or thirteen days following the day of a general or
43 special election [~~except that the special federal ballot of a voter who~~
44 ~~requested such ballot by letter, rather than application, shall not be~~
45 ~~counted unless a valid application form, signed by such voter, is~~
46 ~~received by the board of elections with such ballot~~]. All ballots
47 received by the board of elections and all federal write-in ballots
48 received from special federal voters not later than seven days following
49 the day of a primary election or thirteen days following the day of a
50 general or special election, shall be retained at the board and shall be
51 cast and canvassed in the same manner as other ballots retained by such
52 board.

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

55 § 11-212. Special federal ballots; deadline for receipt. All special
56 federal ballots received by the board of elections before the close of

1 the polls on election day shall be retained by the board of elections
2 and cast and canvassed pursuant to section 9-209 of this chapter. All
3 ballots contained in envelopes showing a cancellation mark of the United
4 States postal service or a foreign country's postal service, or showing
5 a dated endorsement of receipt by another agency of the United States
6 government, with a date which is ascertained to be not later than the
7 day [~~before~~] of the election, shall be cast and counted if received by
8 the board of elections not later than seven days following the day of a
9 primary election or thirteen days following the day of a general or
10 special election except that the special federal ballot of a voter who
11 requested such ballot by letter, rather than application, shall not be
12 counted unless a valid application form, signed by such voter, is
13 received by the board of elections with such ballot. All ballots
14 received by the board of elections and all federal write-in ballots
15 received from special federal voters not later than seven days following
16 the day of a primary election or thirteen days following the day of a
17 general or special election, shall be retained at the board and shall be
18 cast and canvassed in the same manner as other ballots retained by such
19 board.

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