

1004

2009-2010 Regular Sessions

I N S E N A T E

January 22, 2009

Introduced by Sen. KRUGER -- read twice and ordered printed, and when printed to be committed to the Committee on Social Services

AN ACT to amend the social services law, in relation to providing for the regulation, supervision and inspection of "motels" for-profit in cities of one million or more persons which provide temporary or permanent places for homeless persons and receive state financial assistance

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Legislative findings and purposes. The legislature finds
2 that financial incentives provided by state programs designed to encour-
3 age construction and maintenance of temporary and permanent housing for
4 homeless persons, and financial assistance provided to such persons,
5 have had the unintended effect, in certain cities of large population,
6 of stimulating the construction of unregulated motels for-profit, which
7 have arisen willy-nilly, even next to garbage dumps, to take advantage
8 of such incentives. Not only are these motels getting the homeless in at
9 full rates, courtesy of the taxpayers, but they are providing insuffi-
10 cient care and facilities for the population they are intended to shel-
11 ter or serve.

12 The purpose of this act is to regulate such motels by including them
13 within the definition of "adult care facility", thereby subjecting them
14 to the provisions of article 7 of the social services law, allowing the
15 commissioner of the office of temporary and disability assistance to
16 classify them and provide for inspection and supervision of their opera-
17 tion. With respect to the construction and location of these for-profit
18 "motels", the purpose of this act is to subject such places to land use
19 review procedures which, for site selection, require input from the
20 community in which the "motel" is to be located.

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

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1 S 2. Subdivision 21 of section 2 of the social services law, as
2 amended by chapter 558 of the laws of 1999, is amended to read as
3 follows:

4 21. Adult care facility shall mean a family type home for adults, a
5 shelter for adults, a residence for adults, an enriched housing program
6 [or], an adult home OR A MOTEL FOR HOMELESS PERSONS, which provides
7 temporary or long-term residential care and services, OR SHELTER, to
8 adults who, though not requiring continual medical or nursing care as
9 provided by facilities licensed pursuant to article twenty-eight of the
10 public health law or articles nineteen, [twenty-three,] thirty-one and
11 thirty-two of the mental hygiene law, are by reason of physical or other
12 limitations associated with age, physical or mental disabilities or
13 other factors, unable or substantially unable to live independently. In
14 addition, a residence for adults, enriched housing program or an adult
15 home may provide services to non-residents in accordance with the
16 provisions of section four hundred sixty-one-k of this chapter.

17 S 3. Subdivision 21 of section 2 of the social services law, as
18 amended by chapter 626 of the laws of 1984, is amended to read as
19 follows:

20 21. Adult care facility shall mean a family type home for adults, a
21 shelter for adults, a residence for adults, an enriched housing program
22 [or], an adult home OR A MOTEL FOR HOMELESS PERSONS, which provides
23 temporary or long-term residential care and services, OR SHELTER, to
24 adults who, though not requiring continual medical or nursing care as
25 provided by facilities licensed pursuant to article twenty-eight of the
26 public health law or articles nineteen[, twenty-three] and thirty-one of
27 the mental hygiene law, are by reason of physical or other limitations
28 associated with age, physical or mental disabilities or other factors,
29 unable or substantially unable to live independently.

30 S 4. Section 2 of the social services law is amended by adding a new
31 subdivision 38 to read as follows:

32 38. "MOTEL FOR HOMELESS PERSONS" SHALL MEAN A FOR-PROFIT BUSINESS,
33 HOWEVER ORGANIZED, WHICH OWNS, LEASES OR OPERATES, OR WHICH PURCHASES OR
34 LEASES LAND FOR THE PURPOSE OF CONSTRUCTING, A BUILDING OR BUILDINGS
35 UPON THE SAME LOT OF LAND FOR THE PURPOSES OF LODGING OF GUESTS AND OF
36 PROVIDING, OR WHICH BUILDING OR BUILDINGS PROVIDE, TEMPORARY OR PERMA-
37 NENT SHELTER TO FIVE OR MORE HOMELESS ADULTS WHO ARE UNRELATED TO THE
38 OPERATOR THEREOF.

39 S 5. The social services law is amended by adding a new section 461-s
40 to read as follows:

41 S 461-S. REGULATION AND SUPERVISION OF MOTELS FOR HOMELESS PERSONS IN
42 CITIES OF ONE MILLION OR MORE PERSONS. 1. THE COMMISSIONER OF THE OFFICE
43 OF TEMPORARY AND DISABILITY ASSISTANCE SHALL PROMULGATE REGULATIONS
44 WHICH PROVIDE FOR THE REGULATION, INSPECTION AND SUPERVISION OF MOTELS
45 FOR HOMELESS PERSONS WHICH RECEIVE PAYMENTS, LOANS OR ASSISTANCE, OR THE
46 LODGERS IN WHICH ARE FIVE OR MORE HOMELESS PERSONS WHO RECEIVE PAYMENTS
47 FOR RENT OR SHELTER, FROM ANY STATE OR CITY DEPARTMENT, AGENCY OR
48 PROGRAM, AND WHICH ARE LOCATED IN CITIES OF ONE MILLION OR MORE PERSONS,
49 UNDER THE PROVISIONS OF THIS ARTICLE AND TITLE. SUCH REGULATIONS ALSO
50 SHALL REQUIRE THAT THE OWNER, LESSEE OR OPERATOR OF ANY SUCH FACILITY
51 PROVIDE AN APPROPRIATE AND ADEQUATE LEVEL OF SERVICES TO THE HOMELESS
52 PERSONS SHELTERED THEREIN, AS DETERMINED BY SUCH COMMISSIONER, WHICH
53 SHALL APPROPRIATELY DIFFER FROM THOSE SERVICES, IF ANY, PROVIDED TO
54 ORDINARY LODGERS AT THE MOTEL, AND WHICH, IN ADDITION, SHALL ENSURE THAT
55 THE LODGING PROVIDED IS HABITABLE FOR THE REGULAR AND SPECIAL NEEDS OF
56 HOMELESS PERSONS.

1 2. SITE SELECTION FOR THE LOCATION OF MOTELS FOR HOMELESS PERSONS, AS
2 WELL AS APPROVAL OF THE LOCATION OF AN EXISTING STRUCTURE WHICH HAS OR
3 WILL BECOME A MOTEL FOR HOMELESS PERSONS SUBJECT TO REGULATION UNDER THE
4 TERMS OF SUBDIVISION ONE OR THREE OF THIS SECTION, SHALL BE SUBJECT TO
5 ANY UNIFORM LAND USE REVIEW PROCEDURE ADOPTED BY ANY SUCH CITY AND WHICH
6 OTHERWISE IS APPLICABLE TO HOUSING AND URBAN RENEWAL PLANS AND PROJECTS,
7 PROVIDED THAT SUCH UNIFORM LAND USE REVIEW PROCEDURE CONTAINS A MECH-
8 ANISM FOR REVIEW BY REPRESENTATIVES OF THE COMMUNITY DISTRICT IN WHICH
9 THE MOTEL FOR HOMELESS PERSONS IS, OR IS TO BE, LOCATED.

10 3. NO PROVISION OF THIS SECTION SHALL BE CONSTRUED TO PRECLUDE, LIMIT
11 OR REGULATE THE OWNERSHIP, LEASING OR OPERATION OF ANY MOTEL BUSINESS
12 WHICH DOES NOT AND WILL NOT IN THE FUTURE PROVIDE LODGING OR SHELTER ON
13 A TEMPORARY OR PERMANENT BASIS TO FIVE OR MORE HOMELESS ADULTS WHO ARE
14 UNRELATED TO THE OPERATOR THEREOF; OR WHICH DOES NOT RECEIVE PAYMENTS,
15 LOANS OR ASSISTANCE, AND IN WHICH FIVE OR MORE LODGERS WHO ARE HOMELESS
16 PERSONS DO NOT RECEIVE PAYMENTS FOR RENT OR SHELTER, FROM ANY STATE OR
17 CITY DEPARTMENT, AGENCY OR PROGRAM. ANY MOTEL BUSINESS NOT SUBJECT TO
18 REGULATION BY THIS SECTION SHALL IMMEDIATELY BECOME SUBJECT TO SUCH
19 REGULATION PURSUANT TO THE TERMS SPECIFIED HEREINABOVE UPON BECOMING, OR
20 DECLARING IN WRITING ITS INTENTION TO THE COMMISSIONER OF THE OFFICE OF
21 TEMPORARY AND DISABILITY ASSISTANCE TO BECOME, A MOTEL FOR HOMELESS
22 PERSONS TO WHICH THIS SECTION APPLIES. ANY MOTEL BUSINESS WHICH IS
23 SUBJECT TO REGULATION PURSUANT TO THE TERMS OF THIS SECTION SHALL NO
24 LONGER BE SUBJECT TO SUCH REGULATION ONE YEAR AFTER SUCH BUSINESS CEASES
25 TO BE A MOTEL FOR HOMELESS PERSONS FOR WHICH REGULATION IS REQUIRED
26 UNDER THIS SECTION AND ONE YEAR AFTER IT DECLARES IN WRITING ITS INTEN-
27 TION TO THE COMMISSIONER, WHICH IS HEREBY REQUIRED IN SUCH CASE, THAT IT
28 WILL NOT IN THE FUTURE PROVIDE LODGING OR SHELTER TO FIVE OR MORE HOME-
29 LESS ADULTS UNDER THE CONDITIONS SPECIFIED HEREINABOVE, WHICHEVER EVENT
30 TAKES PLACE LAST.

31 S 6. This act shall take effect on the one hundred twentieth day after
32 it shall have become a law and shall apply by its terms to existing
33 motels, to motels under construction and to motels to be constructed;
34 provided however, that effective immediately, the addition, amendment
35 and/or repeal of any rules or regulations necessary for the implementa-
36 tion of the foregoing sections of this act on such effective date are
37 authorized and directed to be made and completed on or before such
38 effective date; and provided further, however, that the amendment to
39 subdivision 21 of section 2 of the social services law made by section
40 two of this act shall be subject to the expiration and reversion of such
41 subdivision pursuant to section 4 of chapter 779 of the laws of 1986, as
42 amended, when upon such date the provisions of section three of this act
43 shall take effect.