

3486

2009-2010 Regular Sessions

I N   S E N A T E

March 20, 2009

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Introduced by Sen. HUNTLEY -- (at request of the Office of Mental Health) -- read twice and ordered printed, and when printed to be committed to the Committee on Mental Health and Developmental Disabilities

AN ACT to amend the mental hygiene law and the real property actions and proceedings law, in relation to discharge of residents of a community residence

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

1     Section 1. Section 41.33 of the mental hygiene law, as amended by  
2 chapter 298 of the laws of 1984, is amended to read as follows:  
3     S 41.33 Community residences for the mentally disabled.  
4     The commissioner shall have the power to operate or cause to be oper-  
5 ated community residential facilities for the mentally disabled.  
6 NOTWITHSTANDING ANY CONTRARY PROVISION OF LAW, NOTHING CONTAINED IN THIS  
7 SECTION SHALL BE CONSTRUED AS CREATING A RELATIONSHIP OF LANDLORD AND  
8 TENANT BETWEEN AN OPERATOR OF A COMMUNITY RESIDENCE AND A RESIDENT THERE-  
9 EOF. Within amounts available therefor and subject to regulations estab-  
10 lished by him OR HER and notwithstanding any other provisions of this  
11 article, he OR SHE may provide state aid to local governments and to  
12 voluntary agencies (i) in an amount not to exceed fifty percent for  
13 acquisition or construction of such community residences, and (ii) in an  
14 amount not to exceed fifty percent for the total operating costs of  
15 community residences except community residences for the mentally ill.  
16 Such state aid to voluntary agencies shall not be granted unless there  
17 has been prior approval of the proposed community residence by the local  
18 governmental unit.  
19     S 2. Section 41.41 of the mental hygiene law is amended by adding a  
20 new subdivision 3 to read as follows:  
21     3. NOTWITHSTANDING ANY CONTRARY PROVISION OF LAW, NOTHING CONTAINED  
22 IN THIS SECTION SHALL BE CONSTRUED AS CREATING A RELATIONSHIP OF LAND-

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

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1 LORD AND TENANT BETWEEN AN OPERATOR OF A COMMUNITY RESIDENCE AND A RESI-  
2 DENT THEREOF.

3 S 3. Section 41.44 of the mental hygiene law is amended by adding a  
4 new subdivision (h) to read as follows:

5 (H) NOTWITHSTANDING ANY CONTRARY PROVISION OF LAW, NOTHING CONTAINED  
6 IN THIS SECTION SHALL BE CONSTRUED AS CREATING A RELATIONSHIP OF LAND-  
7 LORD AND TENANT BETWEEN AN OPERATOR OF A COMMUNITY RESIDENCE AND A RESI-  
8 DENT THEREOF.

9 S 4. The real property actions and proceedings law is amended by  
10 adding a new section 713-b to read as follows:

11 S 713-B. SPECIAL REQUIREMENTS FOR DISCHARGE OF RESIDENTS FROM COMMU-  
12 NITY RESIDENCES OR TERMINATION OF RESIDENCY AGREEMENTS. 1. FOR PURPOSES  
13 OF THIS SECTION, A "COMMUNITY RESIDENCE" SHALL MEAN A COMMUNITY RESI-  
14 DENCE AS DEFINED IN SUBDIVISION TWENTY-EIGHT OF SECTION 1.03 OF THE  
15 MENTAL HYGIENE LAW.

16 2. NOTWITHSTANDING ANY CONTRARY PROVISIONS OF LAW, NOTHING CONTAINED  
17 IN THIS ARTICLE SHALL BE CONSTRUED AS CREATING A RELATIONSHIP OF LAND-  
18 LORD AND TENANT BETWEEN AN OPERATOR OF A COMMUNITY RESIDENCE AND A RESI-  
19 DENT THEREOF, AND DISCHARGE OF A RESIDENT FROM A COMMUNITY RESIDENCE OR  
20 TERMINATION OF A RESIDENCY AGREEMENT SHALL BE IN ACCORDANCE WITH THE  
21 LAWS, REGULATIONS AND PROCEDURES OF THE OFFICE OF MENTAL HEALTH OR THE  
22 OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES, AS APPLICA-  
23 BLE.

24 S 5. This act shall take effect immediately.