S T A T E O F N E W Y O R K

7613

2009-2010 Regular Sessions

I N A S S E M B L Y

April 17, 2009

Introduced by M. of A. FIELDS -- read once and referred to the Committee on Alcoholism and Drug Abuse

AN ACT to amend the mental hygiene law, in relation to a pilot program in Suffolk county regarding recovery homes for rehabilitation of persons with chemical dependence; and providing for the repeal thereof

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

Section 1. Legislative intent. The legislature finds that there is a significant need for housing options for persons recovering from chemical dependence. One such option is the "recovery home" which is an unsupervised, community-based group home for persons who have progressed enough in their recovery that they can live in the community, but still require the support of others in a similar situation. The legislature further finds that while many recovery homes are well run and offer effective programs, some recovery homes are poorly-run and cannot only be injurious to the recovery of the occupants but also to the neighborhoods in which the homes are located. The legislature has further learned that there is a high concentration of poorly-run recovery homes in Suffolk county, which have been the source of many problems in local communities. The legislature therefore finds that a pilot program to study the provision of government oversight of recovery homes in Suffolk county is needed to both protect the occupants of the homes and the communities in which they are located.

S 2. The mental hygiene law is amended by adding a new section 32.06 to read as follows:

S 32.06 SUFFOLK COUNTY PILOT PROGRAM.

THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, IN COOPERATION WITH LOCAL MENTAL HYGIENE OFFICIALS, SHALL ESTABLISH A PILOT PROGRAM IN SUFFOLK COUNTY FOR THE REGULATION, OPERATION AND OVERSIGHT OF RECOVERY HOMES AND RECOVERY HOUSING IN SUFFOLK COUNTY.

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

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(A) DEFINITION. FOR THE PURPOSES OF THIS SECTION, "RECOVERY HOME" OR "RECOVERY HOUSING" MEANS ANY HOME THAT IS AFFILIATED WITH A TREATMENT PROVIDER LICENSED BY THE OFFICE OF ALCOHOLISM AND SUBSTANCE SERVICES THAT DOES NOT PROVIDE TREATMENT BUT SETS BASIC GROUND RULES TO ASSIST WITH THE REHABILITATION OF PERSONS WHO ARE ASSESSED OR DIAGNOSED WITH CHEMICAL DEPENDENCE, AS DEFINED IN SUBDIVISION FORTY-FOUR OF SECTION 1.03 OF THIS CHAPTER.

(B) REGISTRATION AND OPERATION. 1. NO INDIVIDUAL, PARTNERSHIP, ASSOCIATION, CORPORATION, LIMITED LIABILITY COMPANY, PUBLIC OR PRIVATE AGENCY OR ANY PART THEREOF LOCATED IN SUFFOLK COUNTY SHALL HOLD ITSELF OUT TO THE PUBLIC IN A MANNER WHICH INDICATES, DIRECTLY OR INDIRECTLY, THE AVAILABILITY OF RECOVERY HOME OCCUPANCY FOR PERSONS WHO ARE ASSESSED OR DIAGNOSED WITH CHEMICAL DEPENDENCE, AS DEFINED IN SUBDIVISION FORTY-FOUR OF SECTION 1.03 OF THIS CHAPTER, UNLESS IT HAS OBTAINED A CERTIFICATE OF REGISTRATION FROM THE COMMISSIONER IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

2. ALL APPLICATIONS FOR CERTIFICATES OF REGISTRATION SHALL BE SUBMITTED IN WRITING ON FORMS FURNISHED BY THE OFFICE. THE APPLICATION SHALL BE IN A FORM AND CONTAIN SUCH DATA AS THE OFFICE SHALL PRESCRIBE PURSUANT TO RULES AND REGULATIONS PROMULGATED BY THE COMMISSIONER TO EFFECTUATE THE PROVISIONS AND PURPOSES OF THIS SECTION.

3. NO CERTIFICATE OF REGISTRATION SHALL BE ISSUED OR RENEWED UNTIL THE COMMISSIONER HAS DETERMINED THAT THE FOLLOWING CONDITIONS ARE SATISFACTORILY MET:

(I) THE PUBLIC NEED FOR A RECOVERY HOME AS IDENTIFIED BY THE DIVISION OF COMMUNITY MENTAL HYGIENE OF THE SUFFOLK COUNTY DEPARTMENT OF HEALTH;

(II) THE CHARACTER, COMPETENCE AND STANDING IN THE COMMUNITY OF THE PERSON OR ENTITY RESPONSIBLE FOR OPERATING THE RECOVERY HOME;

(III) THE COMPLIANCE OF THE APPLICANT WITH ALL APPLICABLE STATE AND LOCAL ZONING AND BUILDING CODES;

(IV) THE PROVISION BY THE APPLICANT OF AN ENVIRONMENT THAT PROMOTES AND SUPPORTS THE REHABILITATION OF PERSONS WITH A CHEMICAL DEPENDENCE; AND SUCH OTHER MATTERS AS THE COMMISSIONER SHALL DEEM PERTINENT AND IN THE PUBLIC INTEREST IN RELATION TO THE OPERATION OF ANY PROPOSED RECOVERY HOME.

4. A CERTIFICATE OF REGISTRATION SHALL SPECIFY THE NUMBER OF PERSONS AUTHORIZED TO RESIDE THEREIN AND SHALL INDICATE THE EXPIRATION DATE OF SUCH REGISTRATION. A CERTIFICATE OF REGISTRATION SHALL BE VALID FOR TWO YEARS FROM THE DATE OF ISSUANCE AND SHALL EXPIRE ON THE LAST DAY OF THE TWENTY-FOURTH MONTH FOLLOWING SUCH ISSUANCE. THE BIENNIAL REGISTRATION FEE SHALL BE FIVE HUNDRED DOLLARS TO BE PAID UPON THE ISSUANCE OR RENEWAL OF A CERTIFICATE OF REGISTRATION, HOWEVER, THE OFFICE SHALL HAVE THE AUTHORITY TO WAIVE THE FEE AT ITS DISCRETION.

5. ALL RECOVERY HOMES SHALL PUBLICLY POST THEIR CURRENT VALID CERTIFICATES OF REGISTRATION.

6. ALL CERTIFICATES OF REGISTRATION SHALL REMAIN THE PROPERTY OF THE OFFICE AND MUST BE RETURNED TO THE OFFICE UPON THE REVOCATION OR EXPIRATIONS THEREOF, OR UPON DEMAND OF THE COMMISSIONER. CERTIFICATES OF REGISTRATION ARE NOT TRANSFERABLE.

7. EXISTING FACILITIES IN SUFFOLK COUNTY THAT MEET THE DEFINITION OF A RECOVERY HOME OR RECOVERY HOUSING, AS DEFINED IN THIS SECTION, SHALL BE GRANTED CERTIFICATES OF REGISTRATION.

8. THE OFFICE SHALL MAINTAIN A REGISTRY OF RECOVERY HOMES THAT HAVE CURRENT VALID CERTIFICATES OF REGISTRATION. THE REGISTRY SHALL INCLUDE THE STREET ADDRESS AND MUNICIPALITY, THE NUMBER OF PERSONS AUTHORIZED TO

RESIDE THEREIN, AND SUCH OTHER INFORMATION AS THE COMMISSIONER SHALL DEEM PERTINENT OR NECESSARY.

(C) OVERSIGHT. THE OFFICE SHALL OPERATE A TOLL-FREE TELEPHONE HOTLINE TO RESPOND TO COMPLAINTS AGAINST RECOVERY HOMES.

(D) RULES AND REGULATIONS. THE COMMISSIONER SHALL HAVE THE POWER TO ADOPT RULES AND REGULATIONS TO EFFECTUATE THE PROVISIONS AND PURPOSES OF THIS SECTION, INCLUDING, BUT NOT LIMITED TO, ESTABLISHING TERMS AND CONDITIONS OF CERTIFICATES OF REGISTRATION FOR RECOVERY HOMES AND RECOVERY HOUSING BASED UPON AN ASSESSMENT OF SUCH FACTORS, INCLUDING BUT NOT LIMITED TO THE REHABILITATIVE CHARACTER OF THE PROPOSED HOME, THE OPERATOR'S MORAL CHARACTER, COMPETENCE, STANDING IN THE COMMUNITY, RECORD-KEEPING REQUIREMENTS, FISCAL RESPONSIBILITY, PUBLIC NEED AND SUCH OTHER MATTERS OF PUBLIC INTEREST AS THE OFFICE SHALL DEEM APPROPRIATE.

(E) REVOCATION OF CERTIFICATES OF REGISTRATION. 1. THE COMMISSIONER MAY REVOKE, SUSPEND, OR LIMIT A CERTIFICATE OF REGISTRATION UPON A DETERMINATION THAT THE HOLDER OF THE CERTIFICATE HAS FAILED TO COMPLY WITH THE TERMS OF ITS CERTIFICATE OF REGISTRATION OR WITH THE PROVISIONS OF ANY APPLICABLE STATE OR LOCAL STATUTE, RULE, OR REGULATION. THE HOLDER OF THE CERTIFICATE SHALL BE GIVEN NOTICE AND AN OPPORTUNITY TO BE HEARD PRIOR TO ANY SUCH DETERMINATION.

2. THE COMMISSIONER MAY IMPOSE A FINE UPON A FINDING THAT THE HOLDER OF THE CERTIFICATE HAS FAILED TO COMPLY WITH THE TERMS OF ITS CERTIFICATE OF REGISTRATION OR WITH THE PROVISIONS OF ANY APPLICABLE STATE OR LOCAL STATUTE, RULE OR REGULATION. THE MAXIMUM AMOUNT OF SUCH FINE SHALL BE UP TO ONE THOUSAND DOLLARS FOR EVERY DAY SUCH FAILURE TO COMPLY CONTINUES TO EXIST UP TO A MAXIMUM FINE OF FIVE THOUSAND DOLLARS.

3. PENDING A DETERMINATION PURSUANT TO THE FOREGOING PROVISIONS, THE COMMISSIONER MAY, UPON WRITTEN NOTICE TO THE HOLDER THEREOF, SUSPEND A CERTIFICATE OF REGISTRATION FOR NOT MORE THAN THIRTY DAYS IF HE OR SHE HAS REASONABLE GROUNDS FOR FINDING THAT THE CONTINUED OPERATION OF THE RECOVERY HOME PRESENTS AN IMMEDIATE DANGER TO THE HEALTH AND WELFARE OF THE PUBLIC OR OF ANY PERSONS LIVING IN THE RECOVERY HOME.

(F) REPORT. NOT LATER THAN ONE YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION, THE COMMISSION SHALL PREPARE A REPORT EVALUATING THE EFFECTIVENESS OF THE PILOT PROGRAM. SUCH REPORT SHALL INCLUDE, BUT NEED NOT BE LIMITED TO:

1. A LISTING AND DESCRIPTION OF ALL RECOVERY HOMES AND RECOVERY HOUSING IN SUFFOLK COUNTY, INCLUDING THE NUMBER OF RESIDENTS RESIDING IN EACH HOME;

2. AN ASSESSMENT AND SUGGESTION FOR IMPROVING AVAILABLE HOUSING OPTIONS FOR PERSONS RECOVERING FROM CHEMICAL DEPENDENCE; AND

3. AN ASSESSMENT OF THE EFFICACY OF THE PILOT PROGRAM, AND THE DEGREE TO WHICH IT SUCCESSFULLY ADDRESSED THE RECOVERY HOME ISSUE IN SUFFOLK COUNTY.

S 3. This act shall take effect on the one hundred eightieth day after it shall have become a law, and shall expire and be deemed repealed four years after such date; provided that any rule or regulation necessary for the implementation of this act on its effective date is immediately authorized and directed to be made.