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

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:

Section 1. Legislative findings and purposes. The legislature finds that financial incentives provided by state programs designed to encourage construction and maintenance of temporary and permanent housing for homeless persons, and financial assistance provided to such persons, have had the unintended effect, in certain cities of large population, of stimulating the construction of unregulated motels for-profit, which have arisen willy-nilly, even next to garbage dumps, to take advantage of such incentives. Not only are these motels getting the homeless in at full rates, courtesy of the taxpayers, but they are providing insufficient care and facilities for the population they are intended to shelter or serve.

The purpose of this act is to regulate such motels by including them within the definition of "adult care facility", thereby subjecting them to the provisions of article 7 of the social services law, allowing the commissioner of the office of temporary and disability assistance to classify them and provide for inspection and supervision of their operation. With respect to the construction and location of these for-profit "motels", the purpose of this act is to subject such places to land use review procedures which, for site selection, require input from the 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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S 2. Subdivision 21 of section 2 of the social services law, as amended by chapter 558 of the laws of 1999, is amended to read as follows:

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

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

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

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

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

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

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

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

3. NO PROVISION OF THIS SECTION SHALL BE CONSTRUED TO PRECLUDE, LIMIT OR REGULATE THE OWNERSHIP, LEASING OR OPERATION OF ANY MOTEL BUSINESS WHICH DOES NOT AND WILL NOT IN THE FUTURE PROVIDE LODGING OR SHELTER ON A TEMPORARY OR PERMANENT BASIS TO FIVE OR MORE HOMELESS ADULTS WHO ARE UNRELATED TO THE OPERATOR THEREOF; OR WHICH DOES NOT RECEIVE PAYMENTS, LOANS OR ASSISTANCE, AND IN WHICH FIVE OR MORE LODGERS WHO ARE HOMELESS PERSONS DO NOT RECEIVE PAYMENTS FOR RENT OR SHELTER, FROM ANY STATE OR CITY DEPARTMENT, AGENCY OR PROGRAM. ANY MOTEL BUSINESS NOT SUBJECT TO REGULATION BY THIS SECTION SHALL IMMEDIATELY BECOME SUBJECT TO SUCH REGULATION PURSUANT TO THE TERMS SPECIFIED HEREINABOVE UPON BECOMING, OR DECLARING IN WRITING ITS INTENTION TO THE COMMISSIONER OF THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE TO BECOME, A MOTEL FOR HOMELESS PERSONS TO WHICH THIS SECTION APPLIES. ANY MOTEL BUSINESS WHICH IS SUBJECT TO REGULATION PURSUANT TO THE TERMS OF THIS SECTION SHALL NO LONGER BE SUBJECT TO SUCH REGULATION ONE YEAR AFTER SUCH BUSINESS CEASES TO BE A MOTEL FOR HOMELESS PERSONS FOR WHICH REGULATION IS REQUIRED UNDER THIS SECTION AND ONE YEAR AFTER IT DECLARES IN WRITING ITS INTENTION TO THE COMMISSIONER, WHICH IS HEREBY REQUIRED IN SUCH CASE, THAT IT WILL NOT IN THE FUTURE PROVIDE LODGING OR SHELTER TO FIVE OR MORE HOMELESS ADULTS UNDER THE CONDITIONS SPECIFIED HEREINABOVE, WHICHEVER EVENT TAKES PLACE LAST.

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