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

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2011-2012 Regular Sessions

I N A S S E M B L Y

April 18, 2011

Introduced by M. of A. TITUS, COOK, PAULIN, CAHILL, P. RIVERA, LAVINE, ROBINSON -- Multi-Sponsored by -- M. of A. V. LOPEZ, PEOPLES-STOKES, PERRY -- read once and referred to the Committee on Housing

AN ACT to amend the public housing law, in relation to a rental housing subsidy program for certain nursing facility transition and diversion medicaid waiver participants; and providing for the repeal of such provisions upon expiration thereof

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

Section 1. The public housing law is amended by adding a new article 2-B to read as follows:

ARTICLE 2-B

NURSING FACILITY

TRANSITION AND DIVERSION RENTAL SUBSIDY PROGRAM

SECTION 26. LEGISLATIVE FINDINGS.

26-A. DEFINITIONS.

26-B. RENTAL HOUSING SUBSIDY PROGRAM.

26-C. ADMINISTRATIVE PROVISIONS.

S 26. LEGISLATIVE FINDINGS. THE LEGISLATURE HEREBY FINDS THAT FIVE THOUSAND PERSONS WITH DISABILITIES WILL BE LEAVING NURSING FACILITIES OR DIVERTED FROM ENTERING A NURSING FACILITY AT THE ONSET OF THEIR DISABILITY. MANY OF THESE INDIVIDUALS WILL NEED AFFORDABLE AND ACCESSIBLE HOUSING WHICH IS IN VERY SHORT SUPPLY IN NEW YORK STATE. WITHOUT ADEQUATE INCOME DUE TO THE MONTHLY SSI OR SSDI RATES, THESE INDIVIDUALS WILL NOT BE ABLE TO FIND ADEQUATE HOUSING TO IMPLEMENT THE PURPOSES OF THE NURSING FACILITY TRANSITION AND DIVERSION WAIVER. IN ORDER FOR THE WAIVER TO BE EFFECTIVE AND TO GENERATE SAVINGS OF STATE AND LOCAL MEDICAID DOLLARS ESTIMATED FROM EIGHTY-TWO MILLION DOLLARS TO ONE HUNDRED SIXTY MILLION DOLLARS USING A FORMULA ESTABLISHED BY THE NEW YORK STATE EDUCATION DEPARTMENT, VESID, IT IS ESSENTIAL THAT SOME OF THESE SAVINGS BE RE-INVESTED IN A HOUSING SUBSIDY FOR SUCH WAIVER PARTICIPANTS. WITH-

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

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OUT SUCH A RE-INVESTMENT NEW YORK STATE WILL NOT REALIZE THE POTENTIAL SAVINGS.

THEREFORE, THE LEGISLATURE DEEMS THIS RENTAL HOUSING SUBSIDY PROGRAM TO BE IN THE PUBLIC INTEREST.

S 26-A. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS UNLESS THE CONTEXT CLEARLY REQUIRES OTHERWISE:

1. "DIVISION" SHALL MEAN THE DIVISION OF HOUSING AND COMMUNITY RENEWAL.

2. "COMMISSIONER" SHALL MEAN THE COMMISSIONER OF THE DIVISION OF HOUSING AND COMMUNITY RENEWAL.

3. "ELIGIBLE PERSON" SHALL MEAN AN INDIVIDUAL WHO HAS BEEN DEEMED ELIGIBLE FOR AND ACCEPTED INTO THE NURSING FACILITY TRANSITION AND DIVERSION MEDICAID WAIVER PROGRAM PURSUANT TO SUBDIVISION SIX-A OF SECTION THREE HUNDRED SIXTY-SIX OF THE SOCIAL SERVICES LAW.

4. "APPROVED RENTAL HOUSING" SHALL MEAN DECENT, SANITARY AND SAFE HOUSING UNIT WITH REASONABLE ACCESSIBILITY ACCOMMODATIONS FOR THE ELIGIBLE APPLICANT.

S 26-B. RENTAL HOUSING SUBSIDY PROGRAM. 1. THE DIVISION SHALL ESTABLISH A RENTAL HOUSING SUBSIDY PROGRAM, MODELED AFTER THE EXISTING DEPARTMENT OF HEALTH-RUN TRAUMATIC BRAIN INJURY SUBSIDY PROGRAM, SUBJECT TO THE AVAILABILITY OF MONEYS, FOR ELIGIBLE PERSONS. SUCH ELIGIBLE PERSONS SHALL RECEIVE RENTAL SUBSIDY PAYMENTS UPON WRITTEN VERIFICATION THAT SUCH PERSON, OR HIS OR HER REPRESENTATIVE, HAS ENTERED INTO A VALID LEASE AGREEMENT FOR APPROVED RENTAL HOUSING IN NEW YORK STATE.

2. THE DIVISION SHALL CONSIDER THE FINANCIAL STATUS OF SUCH PERSONS ONLY FOR THE PURPOSE OF DETERMINING THE AMOUNT OF THE PAYMENTS TO BE MADE, PURSUANT TO SUBDIVISION FIVE OF THIS SECTION.

3. SUCH PAYMENTS SHALL CONTINUE TO BE ISSUED MONTHLY, OR ON SUCH OTHER PERIODIC BASIS AS MAY BE PROVIDED IN THE LEASE AGREEMENT, FOR THE DURATION OF SUCH LEASE AGREEMENT, RENEWAL THEREOF, OR UPON TERMINATION OF SUCH LEASE AND ENTRANCE INTO A NEW LEASE AGREEMENT FOR AN APPROVED RENTAL HOUSING UNIT. NO PAYMENTS MAY BE MADE PURSUANT TO THIS SUBDIVISION IF THE DIVISION DETERMINES THAT THE ELIGIBLE PERSON IS NO LONGER LEGALLY RESPONSIBLE FOR THE RENTAL AGREEMENT OR LIVING IN THE APPROVED RENTAL HOUSING UNIT.

4. THE AGREEMENT PROVIDED FOR IN SUBDIVISION ONE OF THIS SECTION SHALL BE SUBJECT TO THE APPROVAL OF THE DIVISION UPON THE APPLICATION OF THE ELIGIBLE PERSON, OR HIS OR HER REPRESENTATIVE; PROVIDED, HOWEVER, THAT IN ACCORDANCE WITH THE REGULATIONS OF THE DIVISION, THE DIVISION MAY AUTHORIZE THE COMMISSIONER OF HEALTH TO APPROVE OR DISAPPROVE THE APPLICATION ON BEHALF OF THE DIVISION. IN EITHER SITUATION, THE AGREEMENT SHALL BE APPROVED OR DISAPPROVED WITHIN THIRTY DAYS OF RECEIPT.

5. THE AMOUNT OF THE MONTHLY PAYMENT MADE PURSUANT TO THIS SECTION SHALL BE FOUR HUNDRED THIRTY-FIVE DOLLARS PER INDIVIDUAL AND ELEVEN HUNDRED SEVENTY-TWO DOLLARS PER COUPLE ENTERING A LEASE AGREEMENT IN NEW YORK CITY, NASSAU, ROCKLAND, SUFFOLK OR WESTCHESTER COUNTIES; AND FOUR HUNDRED FIVE DOLLARS PER INDIVIDUAL AND ELEVEN HUNDRED TWELVE DOLLARS PER COUPLE ENTERING A LEASE AGREEMENT IN ANY OTHER COUNTY IN NEW YORK STATE. PERIODIC INCREASES IN SUCH PAYMENT LEVELS, SUBJECT TO AVAILABILITY OF MONEYS, SHALL MIRROR THE PERCENTAGE INCREASES IN STATE SUPPLEMENTAL SECURITY INCOME BENEFIT RATES AS PROVIDED IN SECTION TWO HUNDRED TEN OF THE SOCIAL SERVICES LAW.

6. EXCEPT AS MAY BE REQUIRED BY FEDERAL LAW AS A CONDITION FOR FEDERAL REIMBURSEMENT OF PUBLIC ASSISTANCE EXPENDITURES, PAYMENTS UNDER THIS

SECTION SHALL NOT BE CONSIDERED FOR THE PURPOSE OF DETERMINING ELIGIBILITY FOR PUBLIC ASSISTANCE OR MEDICAL ASSISTANCE FOR NEEDY PERSONS.

S 26-C. ADMINISTRATIVE PROVISIONS. 1. THE COMMISSIONER SHALL PROVIDE, BY REGULATIONS, FOR THE ADMINISTRATION OF THE PROVISIONS OF THIS ARTICLE. SUCH REGULATIONS SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, PROVISIONS FOR OVERSIGHT OF THE PROGRAM IN A MANNER CONSISTENT WITH THE INTENT OF THIS ARTICLE.

2. RENTAL ASSISTANCE PAYMENTS PURSUANT TO THIS ARTICLE MAY BE PLEDGED BY THE SPONSOR IN CONNECTION WITH THE FINANCING OR REFINANCING OF A PROJECT, SUBJECT TO ANY CONDITIONS PRESCRIBED IN THE HOUSING ASSISTANCE CONTRACT, BUT NO SUCH PLEDGE SHALL CREATE ANY OBLIGATION OR LIABILITY ON THE PART OF THE STATE OR ANY AGENCY OR INSTRUMENTALITY THEREOF OTHER THAN THAT PRESCRIBED IN THE CONTRACT.

3. NOTHING IN THIS ARTICLE SHALL PREVENT THE ELIGIBLE PERSON FROM SEEKING OR ACCEPTING ANY OTHER FORM OF GOVERNMENTAL SUBSIDY OR ASSISTANCE.

4. THE COMMISSIONER SHALL REQUIRE THAT ALL PERSONS WHO RECEIVE FINANCIAL ASSISTANCE PURSUANT TO THIS ARTICLE SHALL COMPLY WITH ALL REGULATIONS APPLICABLE TO THE PROGRAM ADOPTED BY THE DIVISION. THE COMMISSIONER MAY TERMINATE ANY PAYMENTS UPON A FINDING THAT A SUBSTANTIAL VIOLATION OF SUCH REGULATIONS OR LAWS HAS REMAINED UNCORRECTED FOR A SUBSTANTIAL PERIOD OF TIME.

5. ON OR BEFORE FEBRUARY FIRST, TWO THOUSAND THIRTEEN AND ON OR BEFORE FEBRUARY FIRST OF EACH YEAR THEREAFTER IN WHICH PAYMENTS UNDER THIS SECTION ARE IN FORCE, THE COMMISSIONER SHALL SUBMIT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY A REPORT DETAILING PROGRESS AND EVALUATING RESULTS, TO DATE, OF THE PROGRAM.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law and shall expire 3 years after such effective date when upon such date the provisions of this act shall be deemed repealed.