

8472

2011-2012 Regular Sessions

I N A S S E M B L Y

June 17, 2011

Introduced by M. of A. ORTIZ -- read once and referred to the Committee
on Mental Health

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 ASSEM-
BLY, 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 THER-
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-
23 LORD AND TENANT BETWEEN AN OPERATOR OF A COMMUNITY RESIDENCE AND A RESI-
24 DENT THEREOF.

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

LBD08708-01-1

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

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

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

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

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

21 S 5. This act shall take effect immediately.