

4319

2011-2012 Regular Sessions

I N S E N A T E

March 29, 2011

Introduced by Sen. YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Aging

AN ACT to amend the public health law, in relation to establishing the independent senior housing resident freedom of choice act

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

1 Section 1. Short title. This act shall be known and may be referred to
2 as the "independent senior housing resident freedom of choice act".
3 S 2. Legislative intent. The legislature hereby finds and declares
4 that the complexity of state statutes and regulations governing the
5 operation and services provided in congregate settings has caused or
6 contributed to a lack of clarity in, and thus caused confusion and
7 interference with the rights and opportunities of senior citizens and
8 persons with disabilities residing in independent housing to choose and
9 access services from the community, services that would otherwise be
10 available to such individuals if residing in their own private homes.
11 Such community-based services help seniors, in private homes and inde-
12 pendent housing alike, to "age in place" and remain living in the less
13 restrictive, more integrated setting that independent housing also
14 represents, consistent with the Olmstead decision of the United States
15 Supreme Court. Ensuring access to such services is also in furtherance
16 of the state policy of promoting access to community living and communi-
17 ty-based services to maintain the health and quality of life of senior
18 citizens and the disabled as well as to prevent avoidable and costly
19 admission to medical and other institutional-type facilities.
20 Therefore, the legislature enacts this act in order to advance the
21 opportunities for seniors and persons with disabilities to choose, live
22 and access services in independent housing.
23 S 3. Paragraph (j) of subdivision 1 of section 4651 of the public
24 health law, as added by chapter 2 of the laws of 2004, is amended to
25 read as follows:

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

LBD10539-01-1

1 (j) independent senior housing, shelters or residences for adults. For
2 purposes of this article and for purposes of determining certification
3 pursuant to article seven of the social services law, the department
4 shall by regulation, define independent senior housing, provided such
5 definition shall be based on whether the operator does not provide,
6 arrange for, or coordinate personal care services or home care services
7 on behalf of residents; and the [facility] OPERATOR does not provide
8 case management services in a congregate care setting for residents.
9 Nothing in this chapter shall preclude [a resident of]: (I) ANY inde-
10 pendent senior housing RESIDENT OR ANY NUMBER OF SUCH RESIDENTS from
11 personally and directly obtaining [private] personal care or home care
12 services from [a] ANY licensed [or certified] home care SERVICES agency,
13 CERTIFIED HOME HEALTH AGENCY, LONG TERM HOME HEALTH CARE PROGRAM,
14 PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY OR OTHER MANAGED LONG
15 TERM CARE PROGRAM;

16 (II) AN AGENCY OR PROGRAM LICENSED OR APPROVED UNDER ARTICLE
17 THIRTY-SIX OR SECTION FORTY-FOUR HUNDRED THREE-F OF THIS CHAPTER FROM
18 OFFERING, ARRANGING FOR OR PROVIDING SERVICES TO THE RESIDENTS OF SUCH
19 HOUSING AS SUCH AGENCY IS OTHERWISE AUTHORIZED TO OFFER, ARRANGE FOR OR
20 PROVIDE TO ANY OTHER PERSON OR PERSONS RESIDING IN THEIR OWN HOME OR
21 APARTMENT OR IN THE HOME OF ANY OTHER RESPONSIBLE RELATIVE OR ADULT IN
22 THE COMMUNITY;

23 (III) ANY INDEPENDENT SENIOR HOUSING RESIDENT OR ANY NUMBER OF SUCH
24 RESIDENTS FROM PERSONALLY AND DIRECTLY CHOOSING AND OBTAINING SERVICES
25 FROM AN APPROPRIATELY LICENSED OR APPROVED AGENCY OR PROGRAM OFFERING
26 PERSONAL CARE, HOME CARE OR CASE MANAGEMENT SERVICES, OR FROM OBTAINING,
27 PERSONALLY AND DIRECTLY, TECHNOLOGIES THAT ASSIST IN MAINTAINING INDE-
28 PENDENCE; OR

29 (IV) AN INDEPENDENT SENIOR HOUSING OPERATOR FROM OFFERING ROOM, BOARD,
30 LAUNDRY, HOUSEKEEPING, INFORMATION AND REFERRAL, SECURITY, TRANSPORTA-
31 TION OR CONCIERGE-LIKE SERVICES; ASSISTING TENANTS WITH HOUSING ISSUES;
32 PROVIDING INFORMATION TO TENANTS ABOUT SERVICES AND ACTIVITIES AVAILABLE
33 IN THE COMMUNITY; ASSISTING TENANTS WISHING TO DO SO IN CONNECTING WITH
34 SUCH SERVICES AND ACTIVITIES; PROVIDING ACCESS TO SUCH SERVICES AND
35 ACTIVITIES; AND CONTACTING APPROPRIATE RESPONDERS IN AN EMERGENCY OR
36 OTHER SITUATION INVOLVING ANY TENANTS THAT APPEARS TO WARRANT IMMEDIATE
37 ATTENTION, ASSISTANCE OR INTERVENTION.

38 S 4. This act shall take effect immediately.