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I N   S E N A T E

June 6, 2012

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

AN ACT to amend the public health law, in relation to review of eligible federally qualified health center capital projects

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

1     Section 1. Section 2807-z of the public health law, as added by  
2     section 36 of part D of chapter 56 of the laws of 2012, is amended to  
3     read as follows:

4     S 2807-z. [Limited or administrative review] REVIEW OF ELIGIBLE FEDER-  
5     ALLY QUALIFIED HEALTH CENTER CAPITAL PROJECTS. 1. Notwithstanding any  
6     provision of this chapter or regulations or any other state law or regu-  
7     lation, for any eligible capital project as defined in subdivision six  
8     of this section, the department shall have thirty days of receipt of the  
9     certificate of need application for a limited or administrative review  
10    to deem such application complete. If the department determines the  
11    application is incomplete or that more information is required, the  
12    department shall notify the applicant in writing within thirty days of  
13    the date of the application's submission, and the applicant shall have  
14    twenty business days to provide additional information or otherwise  
15    correct the deficiency in the application.

16    2. For an eligible capital project requiring a limited or administra-  
17    tive review, within ninety days of the department deeming the applica-  
18    tion complete, the department shall make a decision to approve [(and in  
19    the case of limited reviews)] or disapprove the certificate of need  
20    application for such project. If the department determines to disapprove  
21    the project, the basis for such disapproval shall be provided in writ-  
22    ing; however, disapproval shall not be based on the incompleteness of  
23    the application. If the department fails to take action to approve or  
24    disapprove the application within ninety days of the certificate of need  
25    application being deemed complete, the application will be deemed  
26    approved.

27    3. For an eligible capital project requiring full review by the  
28    [Public Health and Health Planning Council] COUNCIL, the certificate of

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

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1 need application shall be placed on the next [PHHPC] COUNCIL agenda  
2 following the department deeming the application complete.

3 4. Where the commissioner or department requires the applicant to  
4 submit a contingency submission for an eligible capital project, the  
5 commissioner or department shall have thirty days to review and approve  
6 or disapprove the contingency submission. If the commissioner or depart-  
7 ment determines that the contingency submission is incomplete, it shall  
8 so notify the applicant in writing and provide the applicant with ten  
9 business days to correct the deficiency or provide additional informa-  
10 tion. If the commissioner or department determines to disapprove the  
11 contingency [of the] submission, the basis for such disapproval shall be  
12 provided in writing; however, disapproval shall not be based on the  
13 incompleteness of the application. Within fifteen days of complete  
14 contingency satisfaction, the commissioner or department shall transmit  
15 the final approval letter to the applicant.

16 5. The department shall develop expedited pre-opening survey processes  
17 for eligible capital projects approved under [subdivision one of] this  
18 section, but under no circumstances shall pre-opening survey reviews be  
19 scheduled later than thirty days after final approval, CONSTRUCTION  
20 COMPLETION AND NOTIFICATION OF SUCH COMPLETION OF THE DEPARTMENT.

21 6. DEFINITIONS. FOR THE PURPOSES OF THIS SECTION THE FOLLOWING TERMS  
22 SHALL BE DEFINED AS FOLLOWS:

23 (A) "Eligible capital project" shall mean:

24 [(a)] (I) A project [whose] THAT DOES NOT INVOLVE THE ESTABLISHMENT OF  
25 A NEW OPERATOR PURSUANT TO SECTION TWENTY-EIGHT HUNDRED ONE-A OF THIS  
26 ARTICLE, WITH A total budget [is] OF three million dollars or more fund-  
27 ed, IN WHOLE OR IN PART, with federal monies pursuant to section 330 of  
28 the Public Health Service (PHS), 42 USC 254b, as amended; or

29 [(b)] (II) A project [whose] THAT DOES NOT INVOLVE THE ESTABLISHMENT  
30 OF A NEW OPERATOR PURSUANT TO SECTION TWENTY-EIGHT HUNDRED ONE-A OF THIS  
31 ARTICLE, WITH A total budget [is] OF three million dollars or more fund-  
32 ed, IN WHOLE OR IN PART, with federal monies pursuant to the federal  
33 Capital Development-Building Capacity (CD-BC) Grant Program and Immedi-  
34 ate Facility Improvements (CD-IFI) Grant Program, as authorized by the  
35 Patient Protection and Affordable Care Act (Affordable Care Act)((P.L.  
36 111-148), Section 10503(c)).

37 (B) "BUDGET" SHALL MEAN THE BUDGET FOR THE CAPITAL PROJECT.

38 7. Capital [protects] PROJECTS, WITH A TOTAL BUDGET OF LESS THAN THREE  
39 MILLION DOLLARS THAT DO NOT INVOLVE THE ESTABLISHMENT OF A NEW OPERATOR  
40 PURSUANT TO SECTION TWENTY-EIGHT HUNDRED ONE-A OF THIS ARTICLE, funded  
41 in whole or in part through section 330 of the Public Health Service  
42 (PHS), 42 USC 254b, as amended, or [whose total budget is less than  
43 three million dollars shall not be subject to the provisions of this  
44 section or] THROUGH the federal Capital Development-Building Capacity  
45 (CD-BC) Grant Program and Immediate Facility Improvements (CD-IFI) Grant  
46 Program, as authorized by the Patient Protection and Affordable Care Act  
47 (Affordable Care Act)((P.L. 111-148), Section 10503(c)), shall not be  
48 subject to the requirements set forth in this section or any other law  
49 or regulation regarding certificate of need process or requirements.

50 8. FOR CAPITAL PROJECTS EXEMPT FROM CERTIFICATE OF NEED REQUIREMENTS  
51 PURSUANT TO SUBDIVISION SEVEN OF THIS SECTION, THE DEPARTMENT SHALL (A)  
52 ESTABLISH MECHANISMS TO ACCOUNT FOR THE CAPITAL COSTS OF SUCH PROJECTS  
53 IN THE APPLICANT'S RATE OF PAYMENT BY GOVERNMENTAL AGENCIES ESTABLISHED  
54 PURSUANT TO SECTION TWENTY-EIGHT HUNDRED SEVEN OF THIS ARTICLE; (B)  
55 ESTABLISH LICENSURE REQUIREMENTS FOR SUCH FACILITY, WHICH SHALL INCLUDE  
56 PAYMENT OF THE FEES SPECIFIED AT SUBDIVISION SEVEN OF SECTION

TWENTY-EIGHT HUNDRED TWO OF THIS ARTICLE; AND (C) DEEM SUCH FACILITIES ELIGIBLE FOR UNCOMPENSATED CARE REIMBURSEMENT MADE AVAILABLE PURSUANT TO SECTION SEVEN OF CHAPTER FOUR HUNDRED THIRTY-THREE OF THE LAWS OF NINETEEN HUNDRED NINETY-SEVEN, AS AMENDED BY SECTION SEVENTY-FIVE OF CHAPTER ONE OF THE LAWS OF NINETEEN HUNDRED NINETY-NINE.

9. THE COMMISSIONER SHALL PROMULGATE REGULATIONS, AND MAY PROMULGATE EMERGENCY REGULATIONS, TO IMPLEMENT THE PROVISIONS OF THIS SECTION. TO THE EXTENT THAT THE COMMISSIONER HAS NOT PROMULGATED SUCH REGULATIONS, PROJECTS THAT WOULD OTHERWISE BE EXEMPT FROM CERTIFICATE OF NEED REQUIREMENTS MAY BE PROCESSED, AT THE OPTION OF THE APPLICANT, IN ACCORDANCE WITH STATUTES AND REGULATIONS GOVERNING THE CERTIFICATE OF NEED PROCESS.

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2012.