

1789

2013-2014 Regular Sessions

I N   A S S E M B L Y

(PREFILED)

January 9, 2013

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Introduced by M. of A. MILLMAN, DINOWITZ, ENGLEBRIGHT, RIVERA, JAFFEE,  
GUNTHER -- Multi-Sponsored by -- M. of A. ABBATE, FINCH, HOOPER,  
MAISEL -- read once and referred to the Committee on Aging

AN ACT to amend the elder law, in relation to expanding the coverage of  
the naturally occurring retirement community supportive service  
program

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

1     Section 1. Section 209 of the elder law, as amended by section 41 of  
2     part A of chapter 58 of the laws of 2010, paragraph (b) of subdivision 1  
3     as separately amended by chapter 348, paragraph (d) of subdivision 4 as  
4     separately amended by chapter 410 of the laws of 2010, and paragraph (k)  
5     of subdivision 4, subparagraph 6 of paragraph (c) of subdivision 5-a and  
6     subdivision 6 as amended by chapter 320 of the laws of 2011, is amended  
7     to read as follows:  
8     S 209. Naturally occurring retirement community supportive service  
9     program. 1. As used in this section:  
10    (a) "Advisory committee" or "committee" shall mean the advisory  
11    committee convened by the director for the purposes specified in this  
12    section. Such committee shall be broadly representative of housing and  
13    senior citizen groups, and all geographic areas of the state.  
14    (b) "Older adults" shall mean persons who are sixty years of age or  
15    older.  
16    (c) "Eligible applicant" shall mean a not-for-profit agency specializ-  
17    ing in housing, health or other human services which serves or would  
18    serve the community within which a naturally occurring retirement commu-  
19    nity is located.  
20    (d) "Eligible services" shall mean services including, but not limited  
21    to: case management, care coordination, counseling, health assessment  
22    and monitoring, transportation, socialization activities, home care

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

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1 facilitation and monitoring, and other services designed to address the  
2 needs of residents of naturally occurring retirement communities by  
3 helping them extend their independence, improve their quality of life,  
4 and avoid unnecessary hospital and nursing home stays.

5 (e) ["Government assistance" shall mean and be broadly interpreted to  
6 mean any monetary assistance provided by the federal, the state or a  
7 local government, or any agency thereof, or any authority or public  
8 benefit corporation, in any form, including loans or loan subsidies, for  
9 the construction of an apartment building or housing complex for low and  
10 moderate income persons, as such term is defined by the United States  
11 Department of Housing and Urban Development.

12 (f)] "Naturally occurring retirement community" shall mean an apart-  
13 ment building or housing complex OR OTHER HOUSING WITH A LARGE CONCEN-  
14 TRATION OF OLDER ADULTS which:

15 (1) [was constructed with government assistance;

16 (2)] was not [originally built] DEVELOPED for older adults;

17 [(3)] (2) does not restrict admissions solely to older adults;

18 [(4) at least fifty percent of the units have an occupant who is an  
19 older adult or in which at least twenty-five hundred]

20 (3) FORTY-FIVE PERCENT OF THE OCCUPANTS OF WHICH ARE OLDER ADULTS OR  
21 IN WHICH TWO HUNDRED FIFTY of the residents are older adults; and

22 [(5)] (4) a majority of the older adults to be served are low or  
23 moderate income, as defined by the United States Department of Housing  
24 and Urban Development.

25 2. [A naturally occurring retirement community supportive service  
26 program is established as a demonstration program to be administered by  
27 the director.

28 3.] The director shall be assisted by the advisory committee in the  
29 development of appropriate criteria for the selection of grantees of  
30 funds provided pursuant to this section and programmatic issues as  
31 deemed appropriate by the director.

32 [4.] 3. The criteria recommended by the committee and adopted by the  
33 director for the award of grants shall be consistent with the provisions  
34 of this section and shall include, at a minimum:

35 (a) the number, size, type and location of the projects to be served;  
36 provided, that the committee and director shall make reasonable efforts  
37 to assure that geographic balance in the distribution of such projects  
38 is maintained, consistent with the needs to be addressed, funding avail-  
39 able, applications for eligible applicants, other requirements of this  
40 section, ABILITY TO COORDINATE SERVICES AND PLANNING WITH THE AREA AGEN-  
41 CY ON AGING, and other criteria developed by the committee and director;

42 (b) the appropriate number and concentration of older adult residents  
43 to be served by an individual project; provided, that such criteria need  
44 not specify, in the case of a project which includes several buildings,  
45 the number of older adults to be served in any individual building;

46 (c) the demographic characteristics of the residents to be served;

47 (d) the financial or in-kind support required to be provided to the  
48 project by the owners, managers and residents of the housing develop-  
49 ment; provided, however, that such criteria need not address whether the  
50 funding is public or private, or the source of such support;

51 (e) the scope and intensity of the services to be provided, and their  
52 appropriateness for the residents proposed to be served. The criteria  
53 shall not require that the applicant agency be the sole provider of such  
54 services, but shall require that the applicant at a minimum actively  
55 manage the provision of such services;

(f) the experience and financial stability of the applicant agency, [provided that the criteria shall require that priority be given to programs already in operation, including those projects participating in the resident advisor program administered by the office, and enriched housing programs] which meet the requirements of this section and which have demonstrated to the satisfaction of the director [and the committee] their fiscal and managerial stability and programmatic success in serving residents;

(g) the nature and extent of requirements proposed to be established for active, meaningful participation for residents proposed to be served in project design, implementation, monitoring, evaluation and governance;

(h) an agreement by the applicant to participate in the data collection and evaluation project [necessary] SUFFICIENT to complete the [report required by this section] REPORTING REQUIREMENTS ESTABLISHED BY THE DIRECTOR;

(i) the policy and program roles of the applicant agency and any other agencies involved in the provision of services or the management of the project, including the housing development governing body, or other owners or managers of the apartment buildings and housing complexes and the residents of such apartment buildings and housing complexes. The criteria shall require a clear delineation of such policy and program roles;

(j) a requirement that each eligible agency document the need for the project and financial commitments to it from such sources as the committee and the director shall deem appropriate given the character and nature of the proposed project, and written evidence of support from the appropriate housing development governing body or other owners or managers of the apartment buildings and housing complexes. The purpose of such documentation shall be to demonstrate the need for the project, support for it in the areas to be served, and the financial and managerial ability to sustain the project;

(k) a requirement that any aid provided pursuant to this section be matched by an equal amount, in-kind support of equal value, or some combination thereof from other sources, provided that such in-kind support to be utilized only upon approval from the director and only to the extent matching funds are not available, and that at least twenty-five percent of such amount be contributed by the housing development governing body or other owners or managers and residents of the apartment buildings and housing complexes in which the project is proposed, or, upon approval by the director, sources in neighborhoods contiguous to the boundaries of the geographic areas served where services may also be provided pursuant to subdivision six of this section; and

(l) the circumstances under which the director may waive all or part of the requirement for provision of an equal amount of funding from other sources required pursuant to paragraph (k) of this subdivision, provided that such criteria shall include provision for waiver at the discretion of the director upon a finding by the director that the program will serve a low income or hardship community, and that such waiver is required to assure that such community receive a fair share of the funding available. The committee shall develop appropriate criteria for determining whether a community is a low income or hardship community.

[5.] 4. Within amounts specifically appropriated therefor and consistent with the criteria developed and required pursuant to this section the director shall approve grants to eligible applicants in amounts not

1 to exceed one hundred fifty thousand dollars for a project in any twelve  
2 month period. [The director shall not approve more than ten grants in  
3 the first twelve month period after the effective date of this section.

4 5-a.] 5. The director may, in addition recognize neighborhood  
5 naturally occurring retirement communities, or Neighborhood NORCs, and  
6 provide program support within amounts specifically available by appro-  
7 priation therefor, which shall be subject to the requirements, rules and  
8 regulations of this section, provided however that:

9 (a) the term Neighborhood NORC as used in this subdivision shall mean  
10 and refer to a residential dwelling or group of residential dwellings in  
11 a geographically defined neighborhood of a municipality containing not  
12 more than two thousand persons who are older adults reside in at least  
13 forty percent of the units and which is made up of low-rise buildings  
14 six stories or less in height and/or single and multi-family homes and  
15 which area was not originally developed for older adults, and which does  
16 not restrict admission strictly to older adults;

17 (b) grants to an eligible Neighborhood NORC shall be no less than  
18 sixty thousand dollars for any twelve-month period;

19 (c) the director shall be assisted by the advisory committee in the  
20 development of criteria for the selection of grants provided pursuant to  
21 this section and programmatic issues as deemed appropriate by the direc-  
22 tor. The criteria recommended by the committee and adopted by the direc-  
23 tor for the award of grants shall be consistent with the provisions of  
24 this subdivision and shall include, at a minimum, the following require-  
25 ments or items of information using such criteria as the advisory  
26 committee and the director shall approve:

27 (1) the number, size, type and location of residential dwellings or  
28 group of residential dwellings selected as candidates for [neighborhood]  
29 NEIGHBORHOOD NORCs funding. The director shall make reasonable efforts  
30 to assure that geographic balance in the distribution of such grants is  
31 maintained, consistent with the needs to be addressed, funding avail-  
32 able, applications from eligible applicants, ability to coordinate  
33 services and other requirements of this section;

34 (2) the appropriate number and concentration of older adult residents  
35 to be served by an individual Neighborhood NORC. The criteria need not  
36 specify the number of older adults to be served in any individual build-  
37 ing;

38 (3) the demographic characteristics of the residents to be served;

39 (4) a requirement that the applicant demonstrate the development or  
40 intent to develop community wide support from residents, neighborhood  
41 associations, community groups, nonprofit organizations and others;

42 (5) a requirement that the boundaries of the geographic area to be  
43 served are clear and coherent and create an identifiable program and  
44 supportive community;

45 (6) a requirement that the applicant commit to raising matching funds,  
46 in-kind support, or some combination thereof from non-state sources,  
47 provided that such in-kind support be utilized only upon approval from  
48 the director and only to the extent matching funds are not available,  
49 equal to fifteen percent of the state grant in the second year after the  
50 program is approved, twenty-five percent in the third year, forty  
51 percent in the fourth year, and fifty percent in the fifth year, and  
52 further commit that in each year, twenty-five percent of such required  
53 matching funds, in-kind support, or combination thereof be raised within  
54 the community served and, upon approval by the director, in neighbor-  
55 hoods contiguous to the boundaries of the geographic areas served where  
56 services may also be provided pursuant to subdivision six of this

1 section. Such local community matching funds, in-kind support, or combi-  
2 nation thereof shall include but not be limited to: dues, fees for  
3 service, individual and community contributions, and such other funds as  
4 the advisory committee and the director shall deem appropriate;

5 (7) a requirement that the applicant demonstrate experience and finan-  
6 cial stability;

7 (8) a requirement that priority in selection be given to programs in  
8 existence prior to the effective date of this subdivision which, except  
9 for designation and funding requirements established herein, would have  
10 otherwise generally qualified as a Neighborhood NORC;

11 (9) a requirement that the applicant conduct or have conducted a needs  
12 assessment on the basis of which such applicant shall establish the  
13 nature and extent of services to be provided; and further that such  
14 services shall provide a mix of appropriate services that provide active  
15 and meaningful participation for residents;

16 (10) a requirement that residents to be served shall be involved in  
17 design, implementation, monitoring, evaluation and governance of the  
18 Neighborhood NORC;

19 (11) an agreement by the applicant that it will participate in the  
20 data collection and evaluation necessary to complete the reporting  
21 requirements as established by the director;

22 (12) the policy and program roles of the applicant agency and any  
23 other agencies involved in the provision of services or the management  
24 of the Neighborhood NORC, provided that the criteria shall require a  
25 clear delineation of such policy and program roles;

26 (13) a requirement that each applicant document the need for the grant  
27 and financial commitments to it from such sources as the advisory  
28 committee and the director shall deem appropriate given the character  
29 and nature of the proposed Neighborhood NORC and written evidence of  
30 support from the community;

31 (14) the circumstances under which the director may waive all or part  
32 of the requirement for provision of an equal amount of funding from  
33 other sources required pursuant to this subdivision, provided that such  
34 criteria shall include provision for waiver at the discretion of the  
35 director upon a finding by the director that the Neighborhood NORC will  
36 serve a low income or hardship community, and that such waiver is  
37 required to assure that such community receive a fair share of the fund-  
38 ing available. For purposes of this paragraph, a hardship community may  
39 be one that has developed a successful model but which needs additional  
40 time to raise matching funds required herein. An applicant applying for  
41 a hardship exception shall submit a written plan in a form and manner  
42 determined by the director detailing its plans to meet the matching  
43 funds requirement in the succeeding year;

44 (15) a requirement that any proposed Neighborhood NORC in a geograph-  
45 ically defined neighborhood of a municipality containing more than two  
46 thousand older adults shall require the review and recommendation by the  
47 advisory committee before being approved by the director;

48 (d) on or before March first, two thousand eight, the director shall  
49 report to the governor and the fiscal and aging committees of the senate  
50 and the assembly concerning the effectiveness of Neighborhood NORCs in  
51 achieving the objectives set forth by this subdivision. Such report  
52 shall address each of the items required for Neighborhood NORCs in  
53 achieving the objectives set forth in this section and such other items  
54 of information as the director shall deem appropriate, including recom-  
55 mendations concerning continuation or modification of the program, and  
56 any recommendations from the advisory committee.

(e) in providing program support for Neighborhood NORCs as authorized by this subdivision, the director shall in no event divert or transfer funding for grants or program support from any naturally occurring retirement community supportive service programs authorized pursuant to other provisions of this section.

6. The director may allow services provided by a naturally occurring retirement community supportive service program or by a neighborhood naturally occurring retirement community to also include services to residents who live in neighborhoods contiguous to the boundaries of the geographic area served by such programs if: (a) the persons served are older adults; (b) the services affect the health and welfare of such persons; and (c) the services are provided on a one-time basis in the year in which they are provided, and not in a manner which is said or intended to be continuous. The director may also consent to the provision of such services by such program if the program has received a grant which requires services to be provided beyond the geographic boundaries of the program. The director shall establish procedures under which a program may request the ability to provide such services. The provision of such services shall not affect the funding provided to the program by the department pursuant to this section.

7. The director shall promulgate rules and regulations as necessary to carry out the provisions of this section.

[8. On or before March first, two thousand five, the director shall report to the governor and the finance committee of the senate and the ways and means committee of the assembly concerning the effectiveness of the naturally occurring retirement community supportive services program, other than Neighborhood NORCs, as defined in subdivision five-a of this section, in achieving the objectives set forth by this section, which include helping to address the needs of residents in such naturally occurring retirement communities, assuring access to a continuum of necessary services, increasing private, philanthropic and other public funding for programs, and preventing unnecessary hospital and nursing home stays. The report shall also include recommendations concerning continuation or modification of the program from the director and the committee, and shall note any divergence between the recommendations of the director and the committee. The director shall provide the required information and any other information deemed appropriate to the report in such form and detail as will be helpful to the legislature and the governor in determining to extend, eliminate or modify the program including, but not limited to, the following:

(a) the number, size, type and location of the projects developed and funded, including the number, kinds and functions of staff in each program;

(b) the number, size, type and location of the projects proposed but not funded, and the reasons for denial of funding for such projects;

(c) the age, sex, religion and other appropriate demographic information concerning the residents served;

(d) the services provided to residents, reported in such manner as to allow comparison of services by demographic group and region;

(e) a listing of the services provided by eligible applicants, including the number, kind and intensity of such services; and

(f) a listing of other organizations providing services, the number, kind and intensity of such services, the number of referrals to such organizations and, to the extent practicable, the outcomes of such referrals.]

1       S 2. Such moneys as may be necessary to effect the purposes of this  
2 act shall be appropriated to the director of the office for the aging  
3 for expenses associated with such purposes, but in no event shall funds  
4 be diverted from any of the naturally occurring retirement community  
5 supportive service programs in existence prior to the effective date of  
6 this act.  
7       S 3. This act shall take effect immediately.