

2013-2014 Regular Sessions

S E N A T E - A S S E M B L Y

April 18, 2013

IN SENATE -- Introduced by Sens. ZELDIN, LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Alcoholism and Drug Abuse

IN ASSEMBLY -- Introduced by M. of A. HENNESSEY, THIELE, ENGLEBRIGHT, RAMOS, HOOPER -- read once and referred to the Committee on Alcoholism and Drug Abuse

AN ACT to amend the general business law, in relation to improving the operation of sober living homes and to establish and enforce regulations pertaining to such homes; to amend the mental hygiene law, in relation to the certification of sober living homes; and to amend the social services law, in relation to sober living homes

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

1 Section 1. Declaration of findings and legislative intent. The legis-  
2 lature hereby finds and declares that there is an urgent need to improve  
3 the operation of sober living homes. A sober living home is intended to  
4 provide affordable, drug and alcohol free environments for persons who  
5 are enrolled in out-patient treatment or recovering from a drug or alco-  
6 hol addiction. The mission of a sober living home is to promote recovery  
7 and allow individuals to become self supporting. In order to meet this  
8 mission, residents must be afforded a safe, sanitary, and secure envi-  
9 ronment.

10 The legislature further finds that far too many sober living home  
11 operators fail to provide the atmosphere necessary for residents. While  
12 there certainly are some well-run sober living homes that truly aim to  
13 assist those in recovery, many of these homes are often overcrowded,  
14 drug and alcohol infested, unsanitary, and incompetently managed. In  
15 order to ensure that appropriate living standards are being maintained,  
16 regulations pertaining to the operation of sober living homes must be  
17 established and enforced.

18 The legislature further finds and declares that it is the intent of  
19 the legislature to prevent recidivism, injury, and death among persons  
20 seeking housing in a sober living home by establishing and enforcing

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

1 operational standards. By ensuring that appropriate standards are estab-  
 2 lished and enforced, communities which host a sober living home will  
 3 also benefit. By authorizing the state to certify establishments meeting  
 4 the criteria necessary to provide an appropriate environment, and by  
 5 allowing localities to inspect the establishments, safe and effective  
 6 sober living homes can continue to improve people's lives.

7 The legislature has further learned that many communities in Suffolk  
 8 county are burdened with a disproportionate share of poorly-operated  
 9 sober living homes. Instituting a pilot certification program in Suffolk  
 10 county, administered by the office of alcoholism and substance abuse  
 11 services, will ensure that sober living homes maintain an appropriate  
 12 environment without disrupting the quality of life in the surrounding  
 13 community.

14 S 2. The general business law is amended by adding a new section 210  
 15 to read as follows:

16 S 210. SOBER LIVING HOMES. 1. A "SOBER LIVING HOME" SHALL MEAN A HOME  
 17 LOCATED IN SUFFOLK COUNTY THAT IS OPERATED, WHETHER FOR PROFIT OR NOT,  
 18 FOR TRANSITIONAL RECOVERY PURPOSES OF INDIVIDUALS AFFLICTED WITH ALCOHOL  
 19 OR SUBSTANCE ABUSE DEPENDENCIES. SUCH HOMES SHALL HAVE, AS ITS PRIMARY  
 20 PURPOSE, THE REINTEGRATION OF SUCH AFFLICTED PERSONS INTO SOCIETY WITH  
 21 ACCOMPANYING MONITORING AND SUPPORT, AND SHALL PROVIDE A SAFE, SUPPORT-  
 22 IVE, DRUG FREE LIVING ENVIRONMENT. HOMES ESTABLISHED AS "HALF-WAY HOUSES  
 23 OR HOMES" AND/OR "RECOVERY HOUSES OR HOMES" SHALL BE INCLUDED IN THIS  
 24 DEFINITION.

25 2. AN OWNER, OPERATOR, OR LANDLORD, MAY NOT HOLD THEMSELVES OUT TO BE  
 26 OR ADVERTISE TO BE A "SOBER LIVING HOME" IN SUFFOLK COUNTY UNLESS THEY  
 27 ARE CERTIFIED BY, AND REMAIN IN GOOD STANDING WITH, THE NEW YORK STATE  
 28 OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES.

29 3. ANY VIOLATION OF THIS SECTION SHALL RESULT IN A FINE IN THE AMOUNT  
 30 OF TEN THOUSAND DOLLARS.

31 S 3. The mental hygiene law is amended by adding a new article 21 to  
 32 read as follows:

33 ARTICLE 21

34 CERTIFICATION OF SOBER LIVING HOMES

- 35 SECTION 21.01 AUTHORITY.
- 36 21.03 DEFINITION.
- 37 21.05 CERTIFICATION PROCESS.
- 38 21.07 CERTIFICATION FEE.
- 39 21.09 REVOCATION OF CERTIFICATES.
- 40 21.11 INSPECTIONS.
- 41 21.13 VIOLATIONS.
- 42 21.15 EXCLUSIVITY OF SOBER LIVING HOME TITLE.
- 43 21.17 LISTING OF CERTIFIED SOBER LIVING HOMES.
- 44 21.19 TOLL-FREE HOTLINE.

45 S 21.01 AUTHORITY.

46 THE LEGISLATURE HEREBY DECLARES THAT ALCOHOLISM, SUBSTANCE ABUSE AND  
 47 CHEMICAL DEPENDENCE POSE MAJOR HEALTH AND SOCIAL PROBLEMS FOR INDIVID-  
 48 UALS. IT HAS BEEN PROVEN THAT TRANSITIONAL LIVING ENVIRONMENTS CAN HELP  
 49 TO PREVENT RECIDIVISM AFTER AN INDIVIDUAL HAS CEASED USING ALCOHOL,  
 50 ILLEGAL SUBSTANCES AND CHEMICALS. THE TRAGIC, CUMULATIVE AND OFTEN FATAL  
 51 CONSEQUENCES OF RECIDIVISM CAN BE PREVENTED THROUGH THE ESTABLISHMENT OF  
 52 QUALITY SOBER LIVING HOMES.

53 THE LEGISLATURE RECOGNIZES LOCALLY IMPLEMENTED TRANSITIONAL LIVING  
 54 PROGRAMS AS AN EFFECTIVE AVENUE TO AVERT RECIDIVISM. THE PRIMARY GOALS  
 55 OF REHABILITATION AND RECOVERY ARE TO RESTORE SOCIAL, FAMILY, LIFESTYLE,  
 56 VOCATIONAL, AND ECONOMIC SUPPORTS BY STABILIZING AN INDIVIDUAL'S PHYS-

1 ICAL AND PSYCHOLOGICAL FUNCTIONING. BY ENSURING THAT SOBER LIVING HOMES  
2 ARE OFFERING THE ENVIRONMENT NECESSARY FOR SUCH SUCCESS, POSITIVE TREAT-  
3 MENT OUTCOMES CAN BE FURTHER ATTAINED.

4 THE STATE OF NEW YORK AND LOCAL GOVERNMENTS HAVE A RESPONSIBILITY TO  
5 COORDINATE THE DELIVERY OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES,  
6 THROUGH THE ENTIRE PROCESS OF RECOVERY. TO ACCOMPLISH THESE OBJECTIVES,  
7 THE LEGISLATURE DECLARES THAT THE ESTABLISHMENT OF A PILOT PROGRAM FOR  
8 CERTIFICATION OF SOBER LIVING HOMES IN SUFFOLK COUNTY WILL PROVIDE AN  
9 INTEGRATED FRAMEWORK TO FURTHER PLAN, OVERSEE, AND REGULATE THE STATE'S  
10 PREVENTION AND TREATMENT NETWORK. IN RECOGNITION OF THE GROWING TRENDS  
11 AND INCIDENCES OF RECIDIVISM, THIS OVERSIGHT ALLOWS THE STATE TO RESPOND  
12 TO THE RECOVERY NEEDS OF INDIVIDUALS SUFFERING FROM ALCOHOLISM,  
13 SUBSTANCE ABUSE AND CHEMICAL DEPENDENCY.

14 S 21.03 DEFINITION.

15 FOR THE PURPOSES OF THIS SECTION, A "SOBER LIVING HOME" SHALL MEAN A  
16 HOME LOCATED IN SUFFOLK COUNTY THAT IS OPERATED, WHETHER FOR PROFIT OR  
17 NOT, FOR TRANSITIONAL RECOVERY PURPOSES OF INDIVIDUALS AFFLICTED WITH  
18 ALCOHOL OR SUBSTANCE ABUSE DEPENDENCIES. SUCH HOMES SHALL HAVE, AS ITS  
19 PRIMARY PURPOSE, THE REINTEGRATION OF SUCH AFFLICTED PERSONS INTO SOCIE-  
20 TY WITH ACCOMPANYING MONITORING AND SUPPORT, AND SHALL PROVIDE A SAFE,  
21 SUPPORTIVE, DRUG FREE LIVING ENVIRONMENT. HOMES ESTABLISHED AS "HALF-WAY  
22 HOUSES OR HOMES" AND/OR "RECOVERY HOUSES OR HOMES" SHALL BE INCLUDED IN  
23 THIS DEFINITION.

24 S 21.05 CERTIFICATION PROCESS.

25 (A) THE OFFICE SHALL PROMULGATE RULES AND REGULATIONS NECESSARY FOR  
26 THE IMPLEMENTATION OF A PILOT PROGRAM FOR CERTIFICATION OF SOBER LIVING  
27 HOMES IN SUFFOLK COUNTY IN COOPERATION WITH THE SUFFOLK GROUP HOME OVER-  
28 SIGHT BOARD AND THE SUFFOLK COUNTY EXECUTIVE. PROVIDED HOWEVER, THAT  
29 ANY RULES OR REGULATIONS ADOPTED MUST INCLUDE A PROVISION REQUIRING AN  
30 INSPECTION OF THE PROPOSED SOBER LIVING HOME PRIOR TO THE COMPLETION OF  
31 THE CERTIFICATION PROCESS.

32 (B) IN ADDITION TO ANY STANDARDS PROMULGATED BY THE OFFICE, OPERATORS  
33 OF SOBER LIVING HOMES SHALL, AT A MINIMUM:

34 (1) OPERATE IN ACCORDANCE WITH ALL FEDERAL, STATE, AND LOCAL BUILDING  
35 CODES AND ORDINANCES TO THE EXTENT PRACTICABLE IN ACCORDANCE WITH THE  
36 FEDERAL FAIR HOUSING ACT.

37 (2) BE OPERATED OR MANAGED BY PEOPLE WITH AT LEAST TWO YEARS EMPLOY-  
38 MENT EXPERIENCE WITH PEOPLE WITH SUBSTANCE ABUSE DISORDERS. OPERATORS  
39 MAY NOT HAVE ANY PRIOR FELONY CONVICTIONS.

40 (3) BE AFFILIATED WITH A TREATMENT PROGRAM APPROVED BY THE OFFICE OF  
41 ALCOHOLISM AND SUBSTANCE ABUSE SERVICES.

42 (4) ESTABLISH AND ENFORCE A ZERO TOLERANCE POLICY FOR ALCOHOLISM AND  
43 SUBSTANCE ABUSE.

44 (5) PROVIDE FURNISHED LIVING SPACES IN ACCORDANCE WITH ALL LOCAL  
45 ZONING AND HOUSING STANDARDS.

46 (C) SUCH CERTIFICATE SHALL SPECIFY:

47 (1) THE NAME OF THE HOLDER OF THE CERTIFICATE.

48 (2) THE ADDRESS TO WHICH THE CERTIFICATE APPLIES.

49 (3) THE MAXIMUM NUMBER OF PERSONS TO RESIDE IN THE HOME.

50 (D) SUCH CERTIFICATE SHALL BE PUBLICLY DISPLAYED AT THE HOME.

51 (E) CERTIFICATES ARE NON-TRANSFERABLE TO NEW OWNERSHIP OR OTHER  
52 LOCATIONS.

53 (F) NOTHING IN THIS SECTION SHALL RELIEVE CERTIFICATE HOLDERS FROM  
54 COMPLYING WITH OTHER PROVISIONS OF THIS ARTICLE, NOR SHALL POWERS OR  
55 DUTIES OF THE OFFICE GRANTED OR IMPOSED BY OTHER SECTIONS OF THIS ARTI-  
56 CLE BE CIRCUMSCRIBED BY THIS SECTION. FURTHER, NOTHING IN THIS SECTION

1 SHALL RELIEVE CERTIFICATE HOLDERS FROM COMPLYING WITH OTHER APPLICABLE  
2 PROVISIONS OF SUFFOLK COUNTY LAW OR REGULATION WHICH DO NOT VIOLATE THIS  
3 ARTICLE.

4 S 21.07 CERTIFICATION FEE.

5 THE OFFICE IS HEREBY AUTHORIZED TO IMPOSE A REASONABLE FEE TO APPLY  
6 FOR A CERTIFICATE. THE OFFICE IS ALSO AUTHORIZED TO COLLECT A BIENNIAL  
7 RE-CERTIFICATION FEE OF FIVE HUNDRED DOLLARS FROM APPLICANTS AND HOLDERS  
8 OF SOBER LIVING HOME CERTIFICATES IN ORDER TO IMPLEMENT THE CERTIF-  
9 ICATION PROCESS AND OVERSEE COMPLIANCE THEREWITH. CERTIFICATION MUST BE  
10 RENEWED EVERY TWO YEARS. ONE-HALF OF THE REVENUE GENERATED BY THIS FEE  
11 SHALL BE REMITTED TO SUFFOLK COUNTY. THE OFFICE SHALL HAVE THE AUTHORI-  
12 TY TO WAIVE THIS FEE AT ITS DISCRETION.

13 S 21.09 REVOCATION OF CERTIFICATES.

14 (A) THE OFFICE SHALL HAVE THE AUTHORITY TO REVOKE A CERTIFICATE IF A  
15 SOBER LIVING HOME CEASES TO MEET THE STANDARDS PROVIDED OR WITH THE  
16 PROVISIONS OF ANY OTHER APPLICABLE STATE OF SUFFOLK COUNTY LAW OR REGU-  
17 LATION. THE HOLDER OF THE CERTIFICATE SHALL BE GIVEN AT LEAST THIRTY  
18 DAYS WRITTEN NOTICE AND THE OPPORTUNITY TO BE HEARD PRIOR TO REVOCATION.

19 (B) THE COMMISSIONER MAY IMMEDIATELY REVOKE A CERTIFICATE IF THERE ARE  
20 REASONABLE GROUNDS TO BELIEVE THAT THE CONTINUED OPERATION OF THE SOBER  
21 LIVING HOME PRESENTS AN IMMEDIATE DANGER TO RESIDENTS OF THE HOME OR THE  
22 GENERAL PUBLIC. SUCH ACTION MUST BE MADE IN WRITING TO THE CERTIFICATE  
23 HOLDER, AND MAY LAST NO LONGER THAN THIRTY DAYS, DURING WHICH TIME THE  
24 COMMISSIONER SHALL MAKE A FINAL DETERMINATION AFTER GIVING THE CERTIF-  
25 ICATE HOLDER AN OPPORTUNITY TO BE HEARD.

26 S 21.11 INSPECTIONS.

27 THE OFFICE SHALL, IN COORDINATION WITH THE SUFFOLK COUNTY DEPARTMENT  
28 OF COMMUNITY MENTAL HYGIENE SERVICES, PROMULGATE RULES AND REGULATIONS  
29 REGARDING THE INSPECTION OF CERTIFIED SOBER LIVING HOMES IN ORDER TO  
30 ENSURE THAT EACH HOME IS IN COMPLIANCE WITH ALL APPLICABLE RULES AND  
31 REGULATIONS.

32 S 21.13 VIOLATIONS.

33 ANY CERTIFIED SOBER LIVING HOME THAT IS FOUND BY THE OFFICE TO BE IN  
34 VIOLATION OF ANY PROVISION OF THIS ARTICLE OR ANY OTHER STATE, COUNTY,  
35 TOWN, OR VILLAGE LAW OR REGULATION MAY BE FINED. A FINE MAY BE IMPOSED  
36 FOR EACH DAY THAT A SOBER LIVING HOME REMAINS IN VIOLATION OF THIS ARTI-  
37 CLE OR ANY OTHER STATE OR COUNTY LAW OR REGULATION. THE DAILY FINE MAY  
38 NOT EXCEED ONE THOUSAND DOLLARS PER DAY, AND IN NO EVENT MAY THE TOTAL  
39 FINE AMOUNT EXCEED FIVE THOUSAND DOLLARS ANNUALLY EXCEPT FOR FINES  
40 ISSUED PURSUANT TO SECTION 210 OF THE GENERAL BUSINESS LAW. SUCH FINE  
41 MAY BE IN LIEU OF, OR IN ADDITION TO, CERTIFICATE REVOCATION. ONE-HALF  
42 OF ANY FINES ASSESSED SHALL BE REMITTED TO SUFFOLK COUNTY.

43 S 21.15 EXCLUSIVITY OF SOBER LIVING HOME TITLE.

44 NO OWNER, OPERATOR OR LANDLORD MAY HOLD A PROPERTY OUT TO BE OR ADVER-  
45 TISE A PROPERTY AS A SOBER HOME OR SOBER LIVING HOME IN SUFFOLK COUNTY  
46 UNLESS THE PROPERTY IS CERTIFIED BY THE OFFICE.

47 S 21.17 LISTING OF CERTIFIED SOBER LIVING HOMES.

48 THE OFFICE SHALL MAINTAIN AN ONLINE LISTING, AVAILABLE TO THE PUBLIC,  
49 OF ALL CERTIFIED SOBER LIVING HOMES IN SUFFOLK COUNTY WHICH ARE IN GOOD  
50 STANDING.

51 S 21.19 TOLL-FREE HOTLINE.

52 THE OFFICE SHALL ESTABLISH A TOLL-FREE TELEPHONE LINE TO RECEIVE AND  
53 RESPOND TO COMPLAINTS REGARDING SOBER LIVING HOMES IN SUFFOLK COUNTY.

54 S 4. Paragraph (vii) of subdivision (g), subdivisions (h) and (i) of  
55 section 17 of the social services law, paragraph (vii) of subdivision  
56 (g) as added by chapter 280 of the laws of 2002, subdivision (h) as

1 added and subdivision (i) as relettered by section 1 of part K-3 of  
2 chapter 57 of the laws of 2007, and subdivision (i) as amended by chap-  
3 ter 110 of the laws of 1971, are amended to read as follows:

4 (vii) emphasize the need for the system to hold the abusing partner  
5 responsible by appropriate referrals to law enforcement[.];

6 (h) make available on its website all award allocations for request  
7 for proposals issued by the office of children and family services upon  
8 release of such awards. Such information shall also include all organ-  
9 izations requesting funding and the amounts requested for each request  
10 for proposal. The office of children and family services may also  
11 include any other information related to each program that it deems  
12 appropriate[.];

13 (i) ENSURE THAT ALL RECIPIENTS OF PUBLIC ASSISTANCE WHO RESIDE IN  
14 SOBER LIVING HOMES, AS DEFINED BY ARTICLE TWENTY-ONE OF THE MENTAL  
15 HYGIENE LAW, RESIDE IN HOUSING ACCOMMODATIONS THAT ARE IN COMPLIANCE  
16 WITH ALL APPLICABLE BUILDING CODES, ORDINANCES AND REGULATIONS OF THE  
17 MUNICIPALITY IN WHICH THE HOUSING ACCOMMODATION IS LOCATED. REASONABLE  
18 ACCOMMODATIONS FROM BUILDING CODES, ORDINANCES AND REGULATIONS SHALL BE  
19 MADE PURSUANT TO THE FEDERAL FAIR HOUSING ACT. UPON DISCOVERY THAT SUCH  
20 HOUSING ACCOMMODATION IS NOT IN COMPLIANCE RECIPIENTS SHALL BE HOUSED IN  
21 EMERGENCY HOUSING OR OTHER ALTERNATIVE TEMPORARY HOUSING UNTIL SUCH TIME  
22 AS THE INITIAL HOUSING ACCOMMODATIONS IN WHICH SUCH RECIPIENT OR RECIPI-  
23 ENTS RESIDED IS BROUGHT INTO COMPLIANCE WITH ALL APPLICABLE BUILDING  
24 CODES, ORDINANCES AND REGULATIONS OF SUFFOLK COUNTY AND THE MUNICIPALITY  
25 IN WHICH SUCH HOUSING ACCOMMODATION IS LOCATED OR UNTIL A SUITABLE  
26 PERMANENT HOUSING ACCOMMODATION IS LOCATED, WHICHEVER OCCURS EARLIER;  
27 AND

28 (J) exercise such other powers and perform such other duties as may be  
29 imposed by law.

30 S 5. Subdivision 2 of section 143-b of the social services law, as  
31 added by chapter 997 of the laws of 1962, is amended to read as follows:

32 2. Every public welfare official shall have power to and may withhold  
33 the payment of any such rent, OR PORTION COMPRISING RENT IN INSTANCES  
34 WHERE THE DEPARTMENT MAKES ROOM AND BOARD PAYMENTS TO A SOBER LIVING  
35 HOME AS DEFINED BY THE MENTAL HYGIENE LAW, in any case where he has  
36 knowledge that there exists or there is outstanding any violation of law  
37 in respect to the building containing the housing accommodations occu-  
38 pied by the person entitled to such assistance which is dangerous,  
39 hazardous or detrimental to life or health. A report of each such  
40 violation shall be made to the appropriate public welfare department by  
41 the appropriate department or agency having jurisdiction over  
42 violations.

43 S 6. Severability. If any clause, sentence, paragraph or part of this  
44 act shall be adjudged by any court of competent jurisdiction to be  
45 invalid, such judgment shall not affect, impair or invalidate the  
46 remainder thereof, but shall be confined in its operation to the clause,  
47 sentence, paragraph or part thereof directly involved in the controversy  
48 in which such judgment shall have been rendered.

49 S 7. This act shall take effect one year after it shall have become a  
50 law. Effective immediately, the addition, amendment and/or repeal of any  
51 rule or regulation necessary for the implementation of this act on its  
52 effective date is authorized to be made on or before such effective  
53 date.