

S. 4697

A. 6791

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.

LBD08846-05-3

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

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

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

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

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

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

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

ARTICLE 21

CERTIFICATION OF SOBER LIVING HOMES

SECTION 21.01 AUTHORITY.

21.03 DEFINITION.

21.05 CERTIFICATION PROCESS.

21.07 CERTIFICATION FEE.

21.09 REVOCATION OF CERTIFICATES.

21.11 INSPECTIONS.

21.13 VIOLATIONS.

21.15 EXCLUSIVITY OF SOBER LIVING HOME TITLE.

21.17 LISTING OF CERTIFIED SOBER LIVING HOMES.

21.19 TOLL-FREE HOTLINE.

S 21.01 AUTHORITY.

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

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

ICAL AND PSYCHOLOGICAL FUNCTIONING. BY ENSURING THAT SOBER LIVING HOMES ARE OFFERING THE ENVIRONMENT NECESSARY FOR SUCH SUCCESS, POSITIVE TREATMENT OUTCOMES CAN BE FURTHER ATTAINED.

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

S 21.03 DEFINITION.

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

S 21.05 CERTIFICATION PROCESS.

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

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

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

(2) BE OPERATED OR MANAGED BY PEOPLE WITH AT LEAST TWO YEARS EMPLOYMENT EXPERIENCE WITH PEOPLE WITH SUBSTANCE ABUSE DISORDERS. OPERATORS MAY NOT HAVE ANY PRIOR FELONY CONVICTIONS.

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

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

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

(C) SUCH CERTIFICATE SHALL SPECIFY:

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

(2) THE ADDRESS TO WHICH THE CERTIFICATE APPLIES.

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

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

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

(F) NOTHING IN THIS SECTION SHALL RELIEVE CERTIFICATE HOLDERS FROM COMPLYING WITH OTHER PROVISIONS OF THIS ARTICLE, NOR SHALL POWERS OR DUTIES OF THE OFFICE GRANTED OR IMPOSED BY OTHER SECTIONS OF THIS ARTICLE 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 CERTIFI-
9 CATION 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.