

5277

2015-2016 Regular Sessions

I N A S S E M B L Y

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Introduced by M. of A. HEVESI, 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
21 operational standards. By ensuring that appropriate standards are estab-
22 lished and enforced, communities which host a sober living home will

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

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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 PHYSICAL AND PSYCHOLOGICAL FUNCTIONING. BY ENSURING THAT SOBER LIVING HOMES

1 ARE OFFERING THE ENVIRONMENT NECESSARY FOR SUCH SUCCESS, POSITIVE TREAT-
2 MENT OUTCOMES CAN BE FURTHER ATTAINED.

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

13 S 21.03 DEFINITION.

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

23 S 21.05 CERTIFICATION PROCESS.

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

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

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

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

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

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

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

45 (C) SUCH CERTIFICATE SHALL SPECIFY:

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

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

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

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

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

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

PROVISIONS OF SUFFOLK COUNTY LAW OR REGULATION WHICH DO NOT VIOLATE THIS ARTICLE.

S 21.07 CERTIFICATION FEE.

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

S 21.09 REVOCATION OF CERTIFICATES.

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

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

S 21.11 INSPECTIONS.

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

S 21.13 VIOLATIONS.

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

S 21.15 EXCLUSIVITY OF SOBER LIVING HOME TITLE.

NO OWNER, OPERATOR OR LANDLORD MAY HOLD A PROPERTY OUT TO BE OR ADVERTISE A PROPERTY AS A SOBER HOME OR SOBER LIVING HOME IN SUFFOLK COUNTY UNLESS THE PROPERTY IS CERTIFIED BY THE OFFICE.

S 21.17 LISTING OF CERTIFIED SOBER LIVING HOMES.

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

S 21.19 TOLL-FREE HOTLINE.

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

S 4. Paragraph (vii) of subdivision (g), subdivisions (h) and (i) of section 17 of the social services law, paragraph (vii) of subdivision (g) as added by chapter 280 of the laws of 2002, subdivision (h) as added and subdivision (i) as relettered by section 1 of part K-3 of

chapter 57 of the laws of 2007, and subdivision (i) as amended by chapter 110 of the laws of 1971, are amended to read as follows:

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

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

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

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

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

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

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

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