S T A T E O F N E W Y O R K

5460--A

2015-2016 Regular Sessions

I N S E N A T E

May 14, 2015

Introduced by Sen. HANNON -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- recommitted to the Committee on Health in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to enacting the "public nursing home protection act of 2016"; and providing for the repeal of such provisions upon expiration thereof

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

Section 1. The public health law is amended by adding a new article 28-F to read as follows:

ARTICLE 28-F
PUBLIC NURSING HOME PROTECTION
ACT OF 2016

SECTION 2899-C. SHORT TITLE.
2899-D LEGISLATIVE FINDINGS AND INTENT.
2899-E. DEFINITIONS.
2899-F. COMPREHENSIVE REPORT ON PUBLIC NURSING HOMES.
2899-G. RESTRICTION ON DIVESTITURE AND ELIMINATION OF SERVICES.

S 2899-C. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "PUBLIC NURSING HOME PROTECTION ACT OF 2016".

S 2899-D. LEGISLATIVE FINDINGS AND INTENT. THE LEGISLATURE HEREBY FINDS, DETERMINES AND DECLARES THAT:

1. PUBLIC NURSING HOMES ARE A CRITICAL COMPONENT TO THE HEALTH CARE INFRASTRUCTURE OF THE STATE AND OFTEN REPRESENT THE CAREGIVER OF LAST RESORT FOR MANY NEW YORKERS. WITH THE STATE'S POPULATION CONTINUING TO AGE, THE DEMAND FOR PUBLIC NURSING HOMES IS LIKELY TO INCREASE OVER THE COMING YEARS;

2. AS FUNDING FROM THE FEDERAL, STATE AND LOCAL GOVERNMENTS HAS DECREASED OVER THE PAST SEVERAL YEARS, MANY MUNICIPALITIES OF THE STATE

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

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HAVE SOLD, CLOSED, PRIVATIZED, TRANSFERRED OWNERSHIP OR OTHERWISE LIMITED OR ELIMINATED PUBLICLY AVAILABLE NURSING HOME SERVICES; AND

3. THE CONTINUED LOSS OF SUCH PUBLIC NURSING HOMES MAY LEAD TO COMPROMISED OR INADEQUATE CARE FOR MANY PEOPLE IN NEED. THEREFORE, THE LEGISLATURE FINDS THAT IT SHALL BE THE GOAL OF THE STATE TO ENSURE THAT PUBLIC NURSING HOMES REMAIN AVAILABLE FOR THE FUTURE CARE OF PEOPLE IN NEED.

S 2899-E. DEFINITIONS. AS USED IN THIS ARTICLE:

1. "MUNICIPALITY" SHALL MEAN ANY COUNTY, EXCEPT A COUNTY WHOLLY CONTAINED WITHIN A CITY HAVING A POPULATION OF ONE MILLION OR MORE PERSONS.

2. "PUBLIC NURSING HOME" SHALL MEAN ANY NURSING HOME OR RESIDENTIAL HEALTH CARE FACILITY ESTABLISHED UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER THAT IS OPERATED OR OWNED BY A MUNICIPALITY.

S 2899-F. COMPREHENSIVE REPORT ON PUBLIC NURSING HOMES. 1. THE COMMISSIONER, IN CONJUNCTION WITH THE DIRECTOR OF THE DIVISION OF THE BUDGET, SHALL STUDY AND ISSUE A COMPREHENSIVE REPORT ON PUBLIC NURSING HOMES IN THE STATE. SUCH STUDY AND REPORT CARRIED OUT PURSUANT TO THIS SECTION SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING:

(A) THE CURRENT AND EXPECTED FUTURE FINANCIAL CONDITION OF PUBLIC NURSING HOMES INCLUDING, BUT NOT LIMITED TO:

(1) THE CURRENT AND EXPECTED FUTURE SUPPORT FROM MEDICAID, AND THE STATE AND LOCAL GOVERNMENTS,

(2) THE CURRENT AND EXPECTED FUTURE IMPACT OF THE STATE'S NEW MEDICAID REIMBURSEMENT METHODOLOGY FOR NURSING HOMES,

(3) FINANCIAL SUPPORT TRENDS FROM LOCAL GOVERNMENTS OVER THE PREVIOUS TWENTY YEARS,

(4) ADDITIONAL AID FROM STATE OR LOCAL GOVERNMENTS, AND

(5) THE AVAILABILITY OF ANY GRANTS TO PUBLIC NURSING HOMES;

(B) THE CURRENT USAGE OF PUBLIC NURSING HOMES, INCLUDING, BUT NOT LIMITED TO:

(1) THE DEMOGRAPHIC PROFILE OF PUBLIC NURSING HOME RESIDENTS;

(2) THE AVERAGE BED COUNT PER FACILITY,

(3) THE MOST DEMANDED SERVICES PER FACILITY, AND

(4) SPECIALTY SERVICES THAT ARE NOT PROVIDED BY NON-PUBLIC NURSING HOMES;

(C) THE EXPECTED FUTURE NEED FOR PUBLIC NURSING HOMES INCLUDING, BUT NOT LIMITED TO:

(1) THE EXPECTED FUTURE DEMAND FOR VARIOUS SERVICES, AND

(2) PROJECTIONS OF FACILITY POPULATIONS AGED SIXTY-FIVE OR OLDER, SEVENTY-FIVE OR OLDER, AND EIGHTY-FIVE OR OLDER FOR THE NEXT THREE DECADES; AND

(D) THE EFFECTS THAT THE CLOSURE, SALE, TRANSFER, DIVESTMENT, DEFUNDING, DOWNSIZING OR REASSIGNMENT OF OWNERSHIP OF A PUBLIC NURSING HOME FROM A MUNICIPALITY TO ANY OTHER PERSON OR ENTITY WOULD HAVE ON THE RESIDENTS OF SUCH FACILITY INCLUDING, BUT NOT LIMITED TO, (1) THE IMPACT ON THE PHYSICAL AND MENTAL HEALTH OF THE RESIDENTS, (2) THE AVAILABILITY OF SERVICES FOR HARD-TO-PLACE RESIDENTS, AND (3) THE IMPACT ON FAMILY MEMBERS OF RESIDENTS.

2. THE COMMISSIONER MAY REQUEST AND SHALL RECEIVE FROM ANY AGENCY IN THE STATE, AND FROM ANY SUBDIVISION, DEPARTMENT, BOARD, BUREAU, COMMISSION, OFFICE, AGENCY, OR OTHER INSTRUMENTALITY OF THE STATE OR OF ANY POLITICAL SUBDIVISION THEREOF SUCH INFORMATION, ASSISTANCE AND DATA DEEMED NECESSARY OR DESIRABLE TO EFFECTUATE THE PURPOSES SET FORTH IN THIS SECTION. SUCH INFORMATION RECEIVED BY THE COMMISSIONER SHALL BE SUBJECT TO THE SAME REQUIREMENTS AND CONFIDENTIALITY AND LIMITATIONS ON

USE, IF ANY, AS ARE APPLICABLE TO THE DEPARTMENT'S USE OF SUCH INFORMATION.

3. THE COMMISSIONER SHALL MAKE A REPORT OF HIS OR HER FINDINGS TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE AND THE MINORITY LEADER OF THE ASSEMBLY WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS ARTICLE.

S 2899-G. RESTRICTION ON DIVESTITURE AND ELIMINATION OF SERVICES. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NO MUNICIPALITY SHALL CLOSE, SELL, TRANSFER, DIVEST, DEFUND, DOWNSIZE OR REASSIGN OWNERSHIP OF A PUBLIC NURSING HOME UNTIL ONE YEAR AFTER THE COMMISSIONER SHALL HAVE REPORTED HIS OR HER FINDINGS PURSUANT TO SUBDIVISION THREE OF SECTION TWENTY-EIGHT HUNDRED NINETY-NINE-F OF THIS ARTICLE.

S 2. This act shall take effect immediately and shall expire and be deemed repealed 2 years after it shall take effect.