

7993--B

2015-2016 Regular Sessions

I N   A S S E M B L Y

June 3, 2015

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Introduced by M. of A. DINOWITZ -- read once and referred to the Committee on Health -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Health in accordance with Assembly Rule 3, sec. 2 -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to rates of payment to residential health care facilities based on the historical costs to the owner

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

1     Section 1. Paragraph (d) of subdivision 2-a of section 2808 of the  
2     public health law, as amended by section 52 of part B of chapter 57 of  
3     the laws of 2015, is amended to read as follows:  
4     (d) For facilities granted operating certificates on or after March  
5     tenth, nineteen hundred seventy-five, recognition of real property costs  
6     in such regulations shall be based upon historical costs to the owner of  
7     the facility, provided that payment for real property costs shall not be  
8     in excess of the actual debt service, including principal and interest,  
9     and payment with respect to owner's equity, and further provided that,  
10    subject to federal financial participation, and subject to the approval  
11    of the commissioner, effective April first, two thousand fifteen, the  
12    commissioner may modify such payments for real property costs for  
13    purposes of effectuating a shared savings program, whereby facilities  
14    share a minimum of fifty percent of savings, for facilities that elect  
15    to refinance their mortgage loans. For purposes of this subdivision,  
16    owner's equity shall be calculated without regard to any surplus created  
17    by revaluation of assets and shall not include amounts resulting from  
18    mortgage amortization where the payment therefor has been provided by

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

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1 real property cost reimbursement; PROVIDED, HOWEVER, AS USED IN THIS  
2 SUBDIVISION THE TERMS "HISTORICAL COSTS" AND "OWNER'S EQUITY" SHALL  
3 INCLUDE THE FULL REVALUATION OF THE ASSETS OF A FACILITY PURCHASED AND  
4 TRANSFERRED IMMEDIATELY FOLLOWING THE OPERATION OF SUCH FACILITY UNDER A  
5 COURT-ORDERED RECEIVERSHIP, BUT ONLY IF:

6 (I) THE FACILITY HAS BEEN CONTINUOUSLY OPERATED AND OCCUPIED PRIMARILY  
7 WITH PERSONS WHO ARE IN RECEIPT OF MEDICAL ASSISTANCE BENEFITS FROM THE  
8 TIME THAT THE RECEIVERSHIP WAS ESTABLISHED UNTIL THE TIME OF PURCHASE OR  
9 TRANSFER;

10 (II) THE PUBLIC HEALTH AND HEALTH PLANNING COUNCIL HAS CONSIDERED THE  
11 APPLICATION FOR THE ESTABLISHMENT OF A NEW OPERATOR OF A RESIDENTIAL  
12 HEALTH CARE FACILITY AT THE SITE OF THE FACILITY;

13 (III) THE COMMISSIONER HAS REQUIRED SIGNIFICANT UPGRADE TO THE FACILI-  
14 TY'S PHYSICAL PLANT IN CONSIDERATION OF HIS OR HER APPROVAL OF THE  
15 CONSTRUCTION OF A RESIDENTIAL HEALTH CARE FACILITY AT THE SITE OF THE  
16 FACILITY; AND

17 (IV) THE COMMISSIONER HAS DETERMINED EACH OF THE FOLLOWING CONDITIONS  
18 IS TRUE:

19 (1) THERE IS A CONTINUING NEED FOR THE BEDS AT THEIR CURRENT LOCATION;

20 (2) THE ESTIMATED TOTAL PROJECT COST FOR NEW CONSTRUCTION OF A FACILI-  
21 TY OF THE SAME BED CAPACITY IN THE AREA WOULD SUBSTANTIALLY EXCEED THE  
22 COMBINED PURCHASE PRICE AND TOTAL PROJECT COST FOR APPROVED RENOVATION  
23 COSTS OF THE REVALUED FACILITY;

24 (3) THE PURCHASE PRICE IS REASONABLE; AND

25 (4) THE CONTINUED USE OF THE FACILITY AS A RESIDENTIAL HEALTH CARE  
26 FACILITY IS IN THE PUBLIC INTEREST.

27 S 2. Paragraph (d) of subdivision 2-a of section 2808 of the public  
28 health law, as added by chapter 483 of the laws of 1978, is amended to  
29 read as follows:

30 (d) For facilities granted operating certificates on or after March  
31 tenth, nineteen hundred seventy-five, recognition of real property costs  
32 in such regulations shall be based upon historical costs to the owner of  
33 the facility, provided that payment for real property costs shall not be  
34 in excess of the actual debt service, including principal and interest,  
35 and payment with respect to owner's equity. For purposes of this subdivi-  
36 sion, owner's equity shall be calculated without regard to any surplus  
37 created by revaluation of assets and shall not include amounts resulting  
38 from mortgage amortization where the payment therefor has been provided  
39 by real property cost reimbursement; PROVIDED, HOWEVER, AS USED IN THIS  
40 SUBDIVISION THE TERMS "HISTORICAL COSTS" AND "OWNER'S EQUITY" SHALL  
41 INCLUDE THE FULL REVALUATION OF THE ASSETS OF A FACILITY PURCHASED AND  
42 TRANSFERRED IMMEDIATELY FOLLOWING THE OPERATION OF SUCH FACILITY UNDER A  
43 COURT-ORDERED RECEIVERSHIP, BUT ONLY IF:

44 (I) THE FACILITY HAS BEEN CONTINUOUSLY OPERATED AND OCCUPIED PRIMARILY  
45 WITH PERSONS WHO ARE IN RECEIPT OF MEDICAL ASSISTANCE BENEFITS FROM THE  
46 TIME THAT THE RECEIVERSHIP WAS ESTABLISHED UNTIL THE TIME OF PURCHASE OR  
47 TRANSFER;

48 (II) THE PUBLIC HEALTH AND HEALTH PLANNING COUNCIL HAS CONSIDERED THE  
49 APPLICATION FOR THE ESTABLISHMENT OF A NEW OPERATOR OF A RESIDENTIAL  
50 HEALTH CARE FACILITY AT THE SITE OF THE FACILITY;

51 (III) THE COMMISSIONER HAS REQUIRED SIGNIFICANT UPGRADE TO THE FACILI-  
52 TY'S PHYSICAL PLANT IN CONSIDERATION OF HIS OR HER APPROVAL OF THE  
53 CONSTRUCTION OF A RESIDENTIAL HEALTH CARE FACILITY AT THE SITE OF THE  
54 FACILITY; AND

55 (IV) THE COMMISSIONER HAS DETERMINED EACH OF THE FOLLOWING CONDITIONS  
56 IS TRUE:

1 (1) THERE IS A CONTINUING NEED FOR THE BEDS AT THEIR CURRENT LOCATION;

2 (2) THE ESTIMATED TOTAL PROJECT COST FOR NEW CONSTRUCTION OF A FACILI-  
3 TY OF THE SAME BED CAPACITY IN THE AREA WOULD SUBSTANTIALLY EXCEED THE  
4 COMBINED PURCHASE PRICE AND TOTAL PROJECT COST FOR APPROVED RENOVATION  
5 COSTS OF THE REVALUED FACILITY;

6 (3) THE PURCHASE PRICE IS REASONABLE; AND

7 (4) THE CONTINUED USE OF THE FACILITY AS A RESIDENTIAL HEALTH CARE  
8 FACILITY IS IN THE PUBLIC INTEREST.

9 S 3. This act shall take effect immediately; provided, however, that  
10 the amendments to paragraph (d) of subdivision 2-a of section 2808 of  
11 the public health law made by section one of this act shall not affect  
12 the expiration of such paragraph and shall be deemed to expire there-  
13 with, when upon such date section two of this act shall take effect.