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

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I N S E N A T E

February 25, 2016

Introduced by Sens. GOLDEN, SERINO, FUNKE -- read twice and ordered printed, and when printed to be committed to the Committee on Aging

AN ACT to amend the elder law, in relation to the supportive service program for classic and neighborhood naturally occurring retirement communities

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

Section 1. Section 209 of the elder law, as amended by section 41 of part A of chapter 58 of the laws of 2010, paragraph (b) of subdivision 1 as separately amended by chapter 348 of the laws of 2010, paragraph (d) of subdivision 1 as amended by chapter 271 of the laws of 2014, paragraph (d) of subdivision 4 as separately amended by chapter 410 of the laws of 2010, and paragraph (k) of subdivision 4, subparagraph (6) of paragraph (c) of subdivision 5-a, and subdivision 6 as amended by chapter 320 of the laws of 2011, is amended to read as follows:

S 209. Naturally occurring retirement community supportive service program. 1. As used in this section:

(a) "Advisory committee" or "committee" shall mean the advisory committee convened by the director for the purposes specified in this section. Such committee shall be broadly representative of housing and senior citizen groups, and all geographic areas of the state.

(b) "Older adults" shall mean persons who are sixty years of age or older.

(c) "Eligible applicant" shall mean a not-for-profit agency specializing in housing, health or other human services which serves or would serve the community within which a naturally occurring retirement community is located.

(d) "Eligible services" shall mean services including, but not limited to: case management, care coordination, counseling, health assessment and monitoring, transportation, socialization activities, home care facilitation and monitoring, education regarding the signs of elder abuse and exploitation and available resources for a senior who is a suspected victim of elder abuse or exploitation, chemical dependence counseling provided by credentialed alcoholism and substance abuse coun-

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

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selors as defined in paragraph three of subdivision (d) of section 19.07 of the mental hygiene law and referrals to appropriate chemical dependence counseling providers, and other services designed to address the needs of residents of naturally occurring retirement communities by helping them extend their independence, improve their quality of life, and avoid unnecessary hospital and nursing home stays.

(e) "Government assistance" shall mean and be broadly interpreted to mean any monetary assistance provided by the federal, the state or a local government, or any agency thereof, or any authority or public benefit corporation, in any form, including loans or loan subsidies, for the construction of an apartment building or housing complex for low and moderate income persons, as such term is defined by the United States Department of Housing and Urban Development.

(f) "Naturally occurring retirement community", "CLASSIC NATURALLY OCCURRING RETIREMENT COMMUNITY" OR "CLASSIC NORC" shall mean an apartment building or housing complex which:

(1) [was constructed with government assistance;

(2)] was not originally built for older adults;

[(3)] (2) does not restrict admissions solely to older adults;

[(4)] (3) (A) at least [fifty] FORTY percent of the units have an occupant who is an older adult; or

(B) in which at least [twenty-five hundred] TWO HUNDRED FIFTY of the residents OF AN APARTMENT BUILDING are older adults OR FIVE HUNDRED RESIDENTS OF A HOUSING COMPLEX ARE OLDER ADULTS; and

[(5)] (4) a majority of the older adults to be served are low or moderate income, as defined by the United States Department of Housing and Urban Development.

(G) "NEIGHBORHOOD NATURALLY OCCURRING RETIREMENT COMMUNITY" OR "NEIGHBORHOOD NORC" SHALL MEAN A RESIDENTIAL DWELLING OR GROUP OF RESIDENTIAL DWELLINGS IN A GEOGRAPHICALLY DEFINED NEIGHBORHOOD OF A MUNICIPALITY WHICH:

(1) WAS NOT PREDOMINANTLY DEVELOPED FOR OLDER ADULTS;

(2) DOES NOT PREDOMINANTLY RESTRICT ADMISSION TO OLDER ADULTS;

(3) AT LEAST THIRTY PERCENT OF THE UNITS HAVE AN OCCUPANT WHO IS AN OLDER ADULT;

(4) IS MADE UP OF LOW-RISE BUILDINGS SIX STORIES OR LESS IN HEIGHT AND/OR SINGLE AND MULTI-FAMILY HOMES.

2. A naturally occurring retirement community supportive service program is established as a [demonstration] program to be administered by the director.

3. The director shall be assisted by the advisory committee in the development of appropriate criteria for the selection of grantees of funds provided pursuant to this section and programmatic issues as deemed appropriate by the director.

4. The criteria recommended by the committee and adopted by the director for the award of grants shall be consistent with the provisions of this section and shall include, at a minimum:

(a) the number, size, type and location of the projects to be served, INCLUDING THE NUMBER, SIZE, TYPE AND LOCATION OF RESIDENTIAL DWELLINGS OR GROUP OF RESIDENTIAL DWELLINGS SELECTED AS CANDIDATES FOR INCLUSION IN A NEIGHBORHOOD NATURALLY OCCURRING RETIREMENT COMMUNITY; provided, that the committee and director shall make reasonable efforts to assure that geographic balance in the distribution of such projects is maintained, consistent with the needs to be addressed, funding available, applications for eligible applicants, ABILITY TO COORDINATE SERVICES,

other requirements of this section, and other criteria developed by the committee and director;

(b) the appropriate number and concentration of older adult residents to be served by an individual project; provided, that such criteria need not specify, in the case of a project which includes several buildings, the number of older adults to be served in any individual building;

(c) the demographic characteristics of the residents to be served;

(d) A REQUIREMENT THAT THE APPLICANT DEMONSTRATE THE DEVELOPMENT OR INTENT TO DEVELOP COMMUNITY WIDE SUPPORT FROM RESIDENTS, NEIGHBORHOOD ASSOCIATIONS, COMMUNITY GROUPS, NONPROFIT ORGANIZATIONS AND OTHERS;

(E) IN THE CASE OF NEIGHBORHOOD NATURALLY OCCURRING RETIREMENT COMMUNITIES, A REQUIREMENT THAT THE BOUNDARIES OF THE GEOGRAPHIC AREA TO BE SERVED ARE CLEAR AND COHERENT AND CREATE AN IDENTIFIABLE PROGRAM AND SUPPORTIVE COMMUNITY;

(F) the financial or in-kind support required to be provided to the project by the owners, managers and residents of the housing development OR GEOGRAPHICALLY DEFINED AREA; provided, however, that such criteria need not address whether the funding is public or private, or the source of such support;

[(e)] (G) the scope and intensity of the services to be provided, and their appropriateness for the residents proposed to be served. THE APPLICANT SHALL CONDUCT OR HAVE CONDUCTED A NEEDS ASSESSMENT ON THE BASIS OF WHICH SUCH APPLICANT SHALL ESTABLISH THE NATURE AND EXTENT OF SERVICES TO BE PROVIDED; AND FURTHER THAT SUCH SERVICES SHALL PROVIDE A MIX OF APPROPRIATE SERVICES THAT PROVIDE ACTIVE AND MEANINGFUL PARTICIPATION FOR RESIDENTS. The criteria shall not require that the applicant agency be the sole provider of such services, but shall require that the applicant at a minimum actively manage the provision of such services. SUCH SERVICES MAY BE THE SAME AS SERVICES PROVIDED BY THE LOCAL MUNICIPALITY OR OTHER COMMUNITY-BASED ORGANIZATION PROVIDED THAT THOSE SERVICES ARE NOT AVAILABLE TO OR DO NOT ENTIRELY MEET THE NEEDS OF THE RESIDENTS OF THE CLASSIC OR NEIGHBORHOOD NATURALLY OCCURRING RETIREMENT COMMUNITY;

[(f)] (H) the experience and financial stability of the applicant agency, provided that the criteria shall require that priority be given to programs already in operation, including those projects participating in the resident advisor program administered by the office, [and] enriched housing programs which meet the requirements of this section, and PROGRAMS IN EXISTENCE PRIOR TO APRIL FIRST, TWO THOUSAND FIVE WHICH, EXCEPT FOR DESIGNATION AND FUNDING REQUIREMENTS ESTABLISHED HEREIN, WOULD HAVE OTHERWISE GENERALLY QUALIFIED AS A NEIGHBORHOOD NATURALLY OCCURRING RETIREMENT COMMUNITY which have demonstrated to the satisfaction of the director and the committee their fiscal and managerial stability and programmatic success in serving residents;

[(g)] (I) the [nature and extent of requirements proposed to be established] PLAN for active, meaningful participation for residents proposed to be served in project design, implementation, monitoring, evaluation, and governance;

[(h)] (J) an agreement by the applicant to participate in the data collection and evaluation project necessary to complete the report required by this section;

[(i)] (K) the policy and program roles of the applicant agency and any other agencies involved in the provision of services or the management of the project, including the housing development governing body, or other owners or managers of the apartment buildings and housing complexes and the residents of such apartment buildings and housing

complexes. The criteria shall require a clear delineation of such policy and program roles;

[(j)] (L) a requirement that each eligible agency document the need for the project and financial commitments to it from such sources as the committee and the director shall deem appropriate given the character and nature of the proposed project, and written evidence of support from the appropriate housing development governing body or other owners or managers of the apartment buildings and housing complexes IN THE CASE OF CLASSIC NATURALLY OCCURRING RETIREMENT COMMUNITIES, OR THE GEOGRAPHICALLY DEFINED NEIGHBORHOOD IN THE CASE OF NEIGHBORHOOD NATURALLY OCCURRING RETIREMENT COMMUNITIES. The purpose of such documentation shall be to demonstrate the need for the project, support for it in the areas to be served, and the financial and managerial ability to sustain the project;

[(k)] (M) a requirement that any aid provided pursuant to this section be matched by an [equal] amount EQUAL TO ONE QUARTER OF THE AID PROVIDED, CONSISTING OF MONETARY SUPPORT, in-kind support [of equal value], or some combination thereof from other sources, provided that such in-kind support [to] be utilized only upon approval from the director and only to the extent matching funds are not available[,] and that at least [twenty-five] FIFTY percent of such [amount] REQUIRED MATCH be contributed by the housing development governing body or other owners or managers and residents of the apartment buildings and housing complexes, OR GEOGRAPHICALLY DEFINED AREA, in which the project is proposed, or, upon approval by the director, sources in neighborhoods contiguous to the boundaries of the geographic areas served where services may also be provided pursuant to subdivision [six] SEVEN of this section; [and]

[(l)] (N) the circumstances under which the director may waive all or part of the requirement for provision of an equal amount of funding from other sources required pursuant to paragraph [(k)] (M) of this subdivision, provided that such criteria shall include provision for waiver at the discretion of the director upon a finding by the director that the program will serve a low income or hardship community, and that such waiver is required to assure that such community receive a fair share of the funding available. The committee shall develop appropriate criteria for determining whether a community is a low income or hardship community[.];

(O) THE POLICY AND PROGRAM ROLES OF THE APPLICANT AGENCY AND ANY OTHER AGENCIES INVOLVED IN THE PROVISION OF SERVICES OR THE MANAGEMENT OF THE NEIGHBORHOOD NATURALLY OCCURRING RETIREMENT COMMUNITY, PROVIDED THAT THE CRITERIA SHALL REQUIRE A CLEAR DELINEATION OF SUCH POLICY AND PROGRAM ROLES; AND

(P) NOTWITHSTANDING ANY OTHER PROVISION TO THE CONTRARY, NO CHANGES MADE PURSUANT TO THE CHAPTER OF THE LAWS OF TWO THOUSAND SIXTEEN WHICH AMENDED THIS SECTION SHALL AFFECT THE CONTINUATION OF CONTRACTS PURSUANT TO THIS SECTION AS IT EXISTED PRIOR TO THE AMENDMENTS MADE BY SUCH CHAPTER.

5. Within amounts specifically appropriated therefor and consistent with the criteria developed and required pursuant to this section the director shall approve grants to eligible applicants in amounts not to exceed one hundred fifty thousand dollars for a project in any twelve month period. [The director shall not approve more than ten grants in the first twelve month period after the effective date of this section.] GRANTS TO AN ELIGIBLE NEIGHBORHOOD NATURALLY OCCURRING RETIREMENT COMMUNITY SHALL BE NO LESS THAN SIXTY THOUSAND DOLLARS FOR ANY TWELVE-MONTH PERIOD.

[5-a. The director may, in addition recognize neighborhood naturally occurring retirement communities, or Neighborhood NORCs, and provide program support within amounts specifically available by appropriation therefor, which shall be subject to the requirements, rules and regulations of this section, provided however that:

(a) the term Neighborhood NORC as used in this subdivision shall mean and refer to a residential dwelling or group of residential dwellings in a geographically defined neighborhood of a municipality containing not more than two thousand persons who are older adults reside in at least forty percent of the units and which is made up of low-rise buildings six stories or less in height and/or single and multi-family homes and which area was not originally developed for older adults, and which does not restrict admission strictly to older adults;

(b) grants to an eligible Neighborhood NORC shall be no less than sixty thousand dollars for any twelve-month period;

(c) the director shall be assisted by the advisory committee in the development of criteria for the selection of grants provided pursuant to this section and programmatic issues as deemed appropriate by the director. The criteria recommended by the committee and adopted by the director for the award of grants shall be consistent with the provisions of this subdivision and shall include, at a minimum, the following requirements or items of information using such criteria as the advisory committee and the director shall approve:

(1) the number, size, type and location of residential dwellings or group of residential dwellings selected as candidates for neighborhood NORCs funding. The director shall make reasonable efforts to assure that geographic balance in the distribution of such grants is maintained, consistent with the needs to be addressed, funding available, applications from eligible applicants, ability to coordinate services and other requirements of this section;

(2) the appropriate number and concentration of older adult residents to be served by an individual Neighborhood NORC. The criteria need not specify the number of older adults to be served in any individual building;

(3) the demographic characteristics of the residents to be served;

(4) a requirement that the applicant demonstrate the development or intent to develop community wide support from residents, neighborhood associations, community groups, nonprofit organizations and others;

(5) a requirement that the boundaries of the geographic area to be served are clear and coherent and create an identifiable program and supportive community;

(6) a requirement that the applicant commit to raising matching funds, in-kind support, or some combination thereof from non-state sources, provided that such in-kind support be utilized only upon approval from the director and only to the extent matching funds are not available, equal to fifteen percent of the state grant in the second year after the program is approved, twenty-five percent in the third year, forty percent in the fourth year, and fifty percent in the fifth year, and further commit that in each year, twenty-five percent of such required matching funds, in-kind support, or combination thereof be raised within the community served and, upon approval by the director, in neighborhoods contiguous to the boundaries of the geographic areas served where services may also be provided pursuant to subdivision six of this section. Such local community matching funds, in-kind support, or combination thereof shall include but not be limited to: dues, fees for

service, individual and community contributions, and such other funds as the advisory committee and the director shall deem appropriate;

(7) a requirement that the applicant demonstrate experience and financial stability;

(8) a requirement that priority in selection be given to programs in existence prior to the effective date of this subdivision which, except for designation and funding requirements established herein, would have otherwise generally qualified as a Neighborhood NORC;

(9) a requirement that the applicant conduct or have conducted a needs assessment on the basis of which such applicant shall establish the nature and extent of services to be provided; and further that such services shall provide a mix of appropriate services that provide active and meaningful participation for residents;

(10) a requirement that residents to be served shall be involved in design, implementation, monitoring, evaluation and governance of the Neighborhood NORC;

(11) an agreement by the applicant that it will participate in the data collection and evaluation necessary to complete the reporting requirements as established by the director;

(12) the policy and program roles of the applicant agency and any other agencies involved in the provision of services or the management of the Neighborhood NORC, provided that the criteria shall require a clear delineation of such policy and program roles;

(13) a requirement that each applicant document the need for the grant and financial commitments to it from such sources as the advisory committee and the director shall deem appropriate given the character and nature of the proposed Neighborhood NORC and written evidence of support from the community;

(14) the circumstances under which the director may waive all or part of the requirement for provision of an equal amount of funding from other sources required pursuant to this subdivision, provided that such criteria shall include provision for waiver at the discretion of the director upon a finding by the director that the Neighborhood NORC will serve a low income or hardship community, and that such waiver is required to assure that such community receive a fair share of the funding available. For purposes of this paragraph, a hardship community may be one that has developed a successful model but which needs additional time to raise matching funds required herein. An applicant applying for a hardship exception shall submit a written plan in a form and manner determined by the director detailing its plans to meet the matching funds requirement in the succeeding year;

(15) a requirement that any proposed Neighborhood NORC in a geographically defined neighborhood of a municipality containing more than two thousand older adults shall require the review and recommendation by the advisory committee before being approved by the director;

(d) on or before March first, two thousand eight, the director shall report to the governor and the fiscal and aging committees of the senate and the assembly concerning the effectiveness of Neighborhood NORCs in achieving the objectives set forth by this subdivision. Such report shall address each of the items required for Neighborhood NORCs in achieving the objectives set forth in this section and such other items of information as the director shall deem appropriate, including recommendations concerning continuation or modification of the program, and any recommendations from the advisory committee.

(e) in] 6. IN providing program support for [Neighborhood NORCs] NEIGHBORHOOD NATURALLY OCCURRING RETIREMENT COMMUNITIES as authorized by

this subdivision, the director shall in no event divert or transfer funding for grants or program support from any naturally occurring retirement community supportive service programs authorized pursuant to other provisions of this section.

[6.] 7. The director may allow services provided by a naturally occurring retirement community supportive service program or by a neighborhood naturally occurring retirement community to also include services to residents who live in neighborhoods contiguous to the boundaries of the geographic area served by such programs if: (a) the persons served are older adults; (b) the services affect the health and welfare of such persons; and (c) the services are provided on a one-time basis in the year in which they are provided, and not in a manner which is said or intended to be continuous. The director may also consent to the provision of such services by such program if the program has received a grant which requires services to be provided beyond the geographic boundaries of the program. The director shall establish procedures under which a program may request the ability to provide such services. The provision of such services shall not affect the funding provided to the program by the department pursuant to this section.

[7.] 8. The director shall promulgate rules and regulations as necessary to carry out the provisions of this section.

[8.] 9. On or before March first, two thousand [five] EIGHTEEN, AND EVERY FIVE YEARS THEREAFTER, the director shall report to the governor and the finance committee of the senate and the ways and means committee of the assembly concerning the effectiveness of the naturally occurring retirement community supportive services program[, other than Neighborhood NORCs, as defined in subdivision five-a of this section,] in achieving the objectives set forth by this section, which include helping to address the needs of residents in such CLASSIC AND NEIGHBORHOOD naturally occurring retirement communities, assuring access to a continuum of necessary services, increasing private, philanthropic and other public funding for programs, and preventing unnecessary hospital and nursing home stays. The report shall also include recommendations concerning continuation or modification of the program from the director and the committee, and shall note any divergence between the recommendations of the director and the committee. The director shall provide the required information and any other information deemed appropriate to the report in such form and detail as will be helpful to the legislature and the governor in determining to extend, eliminate or modify the program including, but not limited to, the following:

(a) the number, size, type and location of the projects developed and funded, including the number, kinds and functions of staff in each program;

(b) the number, size, type and location of the projects proposed but not funded, and the reasons for denial of funding for such projects;

(c) the age, sex, religion and other appropriate demographic information concerning the residents served;

(d) the services provided to residents, reported in such manner as to allow comparison of services by demographic group and region;

(e) a listing of the services provided by eligible applicants, including the number, kind and intensity of such services; and

(f) a listing of other organizations providing services, the number, kind and intensity of such services, the number of referrals to such organizations and, to the extent practicable, the outcomes of such referrals.

S 2. This act shall take effect immediately.