# STATE OF NEW YORK

3195

2021-2022 Regular Sessions

# IN SENATE

January 28, 2021

Introduced by Sen. ORTT -- read twice and ordered printed, and when printed to be committed to the Committee on Mental Health

AN ACT to amend the mental hygiene law and the state finance law, in relation to the housing opportunities for people to empower excellence and equity trust fund

**The People of the State of New York, represented in Senate and Assembly, do enact as follows:**

Section 1. Legislative findings. Many adults with intellectual or developmental disabilities have lived at home with family their entire lives, which has resulted in substantial savings for the state of New York over many years. In a growing number of cases, however, these individuals now live with aging family caregivers who can no longer effectively provide care due to their own age related disabilities and these individuals and their families remain on waiting lists for years at a time, awaiting the opportunity to access an appropriate residential opportunity. The legislature therefore finds that it is incumbent upon the state of New York to address the needs of these aging caregivers and their loved ones by identifying a source of funding to assist in meeting the residential needs of these individuals.

§ 2. The mental hygiene law is amended by adding a new section 41.58 to read as follows:

**§ 41.58 The housing opportunities for people to empower excellence and equity trust fund.**

**(a) The housing opportunities for people to empower excellence and equity, hereinafter referred to as the HOPE trust fund, established pursuant to section ninety-nine-ii of the state finance law, shall be administered and overseen in accordance with these provisions with the purpose of providing access to rental housing for persons with developmental disabilities; to facilitate the construction, renovation and rehabilitation of facilities to provide additional residential opportunities for people with developmental disabilities; to develop new and**

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

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innovative approaches to residential living which bring people into the community consistent with the goal of full integration of persons with disabilities and to promote creation of sustainable living environments through home modifications, payment assistance options and home repairs. The trust fund would be administered by the office of people with developmental disabilities, in consultation with the department of health, to provide a mechanism to identify and prioritize need, by region, and work with other state agencies, local government units, and other interested persons, including people with intellectual or developmental disabilities, parents or guardians or such persons, advocates for such persons and service providers in prioritizing and planning for the satisfaction of the identified needs.

(b) The funding from the trust fund shall be used for state-operated and not-for-profit operated housing and other non-medicaid funded supports to insure that the identified priority needs can be met, in consultation with the commissioner of health, the commissioner of the office for people with developmental disabilities shall allocate the funds, by region, in order to implement the HOPE trust fund plan each year. Funds would be transferred from the fund to support the above purposes, as may be directed by the commissioner of the office for people with developmental disabilities.

(c) An annual plan for the use of the HOPE trust fund would be developed and approved by the HOPE trust fund board composed of the commissioner of the office for people with developmental disabilities, who will serve as chair, and twelve members of the public appointed by the governor, of whom two shall be upon the recommendation of the speaker of the assembly, two shall be upon the recommendation of the temporary president of the senate, one shall be upon the recommendation of the minority leader of the state assembly and one shall be upon the recommendation of the minority leader of the state senate. The commissioners of health and of housing and community renewal, the director of the division of the budget and the chief executive officers of the dormitory authority of the state of the New York and of the state of New York mortgage agency shall serve as ex officio members of the board. Membership of the board shall include self-advocates, parents, guardians and family members of persons with developmental disabilities, advocates and others with expertise in the provision of residential services.

(d) In developing a plan for the disbursement of funds from the HOPE trust fund, the board shall:

(i) Determine eligibility requirements for those individuals with developmental disabilities who are provided services through the fund and who are defined pursuant to subdivision twenty-two of section 1.03 of this chapter. In establishing eligibility, the board shall consider the length of time the individual has been waiting for residential services, the ability of family caregivers to continue to provide care, and the extent of an individual's needs. Individuals who, in accordance with the residential opportunities protocol established by the office for people with developmental disabilities, have been determined to be either priority one (requiring emergency placement due to abusive or neglectful situation, facing imminent danger to self or others or at risk of homelessness, among other factors) or priority two (requiring urgent or emergency prevention placement, as a result of aging or failing health of caregivers, risk of neglect or abuse, or the individual's medical or physical condition, among other factors) shall be eligible for the support of the trust fund.

(ii) Establish audit protocols for non-profit organizations licensed pursuant to this chapter to assure that any monies spent from the HOPE trust fund are appropriately expended consistent with the provisions of this section.

(iii) Establish funding levels for state-operated and not-for-profit operated programs providing services under this section. However, state-operated programs shall receive a minimum of fifty percent of funding available in this fund.

(iv) Prepare an annual progress report on the status of persons waiting for services, the number of individuals served through the HOPE trust fund, the settings such persons are served in and the extent of federal financial participation in the fund.

(e) In order to receive monies provided by the fund, an authorized provider of waiver services to persons with developmental disabilities must enter into a contract with the office for people with developmental disabilities. Approval of such contract shall require such provider to agree to terms and conditions including:

(i) A description of the manner in which operating expenses of the project shall be met, including the usage of available federal funding, as appropriate, including, but not limited, to supplemental security income and supplemental nutritional assistance program benefits;

(ii) a description of the services and supports which shall be provided to eligible persons with developmental disabilities served by the fund;

(iii) a description of the manner in which the project will provide person centered services to the eligible individual;

(iv) the type of facility proposed; and

(v) such other terms and conditions as may be required by such office.

(f) The board may authorize expenditures from the HOPE trust fund for expenses that it deems appropriate to develop person centered residential services for eligible individuals with developmental disabilities. Such expenses may include:

(i) technical assistance for general project development and operation;

(ii) necessary legal, architectural, financial and other consulting services;

(iii) the cost of renovation, construction and rehabilitation for residential projects authorized pursuant to this section; and

(iv) funding for rental assistance and housing subsidies along with rental security assistance.

(g) The office for people with developmental disabilities is hereby directed to authorize and fund any necessary home and community based medicaid waiver services for individuals placed into projects completed pursuant to this section.

§ 3. The state finance law is amended by adding a new section 99-ii to read as follows:

§ 99-ii. Housing opportunities for people to empower excellence and equity trust fund. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a fund to be known as the "HOPE trust fund".

2. The fund shall consist of all monies appropriated for its purpose, all monies required by this section or any other provision of law to be paid into or credited to such fund, and no less than five hundred million dollars collected by the state in settlements from banking institutions or other financial services organizations. Nothing contained herein shall prevent the department of health or the office

for people with developmental disabilities from receiving grants, gifts or bequests for the purposes of the fund as defined in this section and in section 41.58 of the mental hygiene law and depositing them into the fund according to law.

3. Monies of the fund, when allocated, shall be available for administrative costs of the HOPE trust fund board established pursuant to section 41.58 of the mental hygiene law and for funding the costs of providing housing and residential supports to persons with developmental disabilities in accordance with such section that are not otherwise reimbursed by the medical assistance or other programs, as administered and authorized by such board.

4. Monies shall be payable from the fund on the audit and warrant of the state comptroller on vouchers approved and certified by the commissioner of the office for people with developmental disabilities.

§ 4. This act shall take effect immediately.