

# STATE OF NEW YORK

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3195

2021-2022 Regular Sessions

## IN SENATE

January 28, 2021

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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:

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

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

15 § 41.58 The housing opportunities for people to empower excellence and  
16 equity trust fund.

17 (a) The housing opportunities for people to empower excellence and  
18 equity, hereinafter referred to as the HOPE trust fund, established  
19 pursuant to section ninety-nine-ii of the state finance law, shall be  
20 administered and overseen in accordance with these provisions with the  
21 purpose of providing access to rental housing for persons with develop-  
22 mental disabilities; to facilitate the construction, renovation and  
23 rehabilitation of facilities to provide additional residential opportu-  
24 nities 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.

LBD07530-01-1

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

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

22 (c) An annual plan for the use of the HOPE trust fund would be devel-  
23 oped and approved by the HOPE trust fund board composed of the commis-  
24 sioner of the office for people with developmental disabilities, who  
25 will serve as chair, and twelve members of the public appointed by the  
26 governor, of whom two shall be upon the recommendation of the speaker of  
27 the assembly, two shall be upon the recommendation of the temporary  
28 president of the senate, one shall be upon the recommendation of the  
29 minority leader of the state assembly and one shall be upon the recom-  
30 mendation of the minority leader of the state senate. The commissioners  
31 of health and of housing and community renewal, the director of the  
32 division of the budget and the chief executive officers of the dormitory  
33 authority of the state of the New York and of the state of New York  
34 mortgage agency shall serve as ex officio members of the board. Member-  
35 ship of the board shall include self-advocates, parents, guardians and  
36 family members of persons with developmental disabilities, advocates and  
37 others with expertise in the provision of residential services.

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

40 (i) Determine eligibility requirements for those individuals with  
41 developmental disabilities who are provided services through the fund  
42 and who are defined pursuant to subdivision twenty-two of section 1.03  
43 of this chapter. In establishing eligibility, the board shall consider  
44 the length of time the individual has been waiting for residential  
45 services, the ability of family caregivers to continue to provide care,  
46 and the extent of an individual's needs. Individuals who, in accordance  
47 with the residential opportunities protocol established by the office  
48 for people with developmental disabilities, have been determined to be  
49 either priority one (requiring emergency placement due to abusive or  
50 neglectful situation, facing imminent danger to self or others or at  
51 risk of homelessness, among other factors) or priority two (requiring  
52 urgent or emergency prevention placement, as a result of aging or fail-  
53 ing health of caregivers, risk of neglect or abuse, or the individual's  
54 medical or physical condition, among other factors) shall be eligible  
55 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

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

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

12 4. Monies shall be payable from the fund on the audit and warrant of  
13 the state comptroller on vouchers approved and certified by the commis-  
14 sioner of the office for people with developmental disabilities.

15 § 4. This act shall take effect immediately.