

A RESOLUTION TO BE SUBMITTED BY  
LEGISLATORS HARDWICK and WALTER

Re: Supporting the Independent Senior Housing Resident Freedom of Choice Act

WHEREAS, the complexity of state statutes and regulations governing the operation and services provided in congregate settings has caused or contributed to a lack of clarity in, and thus caused confusion and interference with the rights and opportunities of senior citizens and persons with disabilities residing in independent housing to choose and access services from the community, services that would otherwise be available to such individuals if residing in their own private homes; and

WHEREAS, the complexity of state statutes and regulations governing the operation and services provided in congregate settings has caused or contributed to a lack of clarity in, and thus caused confusion and interference with the rights and opportunities of senior citizens and persons with disabilities residing in independent housing to choose and access services from the community, services that would otherwise be available to such individuals if residing in their own private homes; and

WHEREAS, Ensuring access to such services is also in furtherance of the state policy of promoting access to community living and community-based services to maintain the health and quality of life of senior citizens and the disabled as well as to prevent avoidable and costly admission to medical and other institutional-type facilities; and

WHEREAS, New York State Senate Bill S. 4319 and Assembly Bill A. 7309 seek to advance the opportunities for seniors and persons with disabilities to choose, live and access services in independent housing.

NOW, THEREFORE, BE IT

RESOLVED, that this body supports New York State Senate Bill S. 4319 and Assembly Bill A. 7309; and be it further,

RESOLVED, that a certified copy of this resolution be sent to Senate Leader Dean Skelos, Assembly Speaker Sheldon Silver, the local delegation of the New York State Legislature and the Erie County Commissioner of Senior Services.

Fiscal Impact: None.

4319  
 2011-2012 Regular Sessions  
 I N S E N A T E  
 March 29, 2011

Introduced by Sen. YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Aging  
 AN ACT to amend the public health law, in relation to establishing the independent senior housing resident freedom of choice act

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

- 1 Section 1. Short title. This act shall be known and may be referred to  
 2 as the "independent senior housing resident freedom of choice act".  
 3 S 2. Legislative intent. The legislature hereby finds and declares  
 4 that the complexity of state statutes and regulations governing the  
 5 operation and services provided in congregate settings has caused or  
 6 contributed to a lack of clarity in, and thus caused confusion and  
 7 interference with the rights and opportunities of senior citizens and  
 8 persons with disabilities residing in independent housing to choose and  
 9 access services from the community, services that would otherwise be  
 10 available to such individuals if residing in their own private homes.  
 11 Such community-based services help seniors, in private homes and inde-  
 12 pendent housing alike, to "age in place" and remain living in the less  
 13 restrictive, more integrated setting that independent housing also  
 14 represents, consistent with the Olmstead decision of the United States  
 15 Supreme Court. Ensuring access to such services is also in furtherance  
 16 of the state policy of promoting access to community living and communi-  
 17 ty-based services to maintain the health and quality of life of senior  
 18 citizens and the disabled as well as to prevent avoidable and costly  
 19 admission to medical and other institutional-type facilities.  
 20 Therefore, the legislature enacts this act in order to advance the  
 21 opportunities for seniors and persons with disabilities to choose, live  
 22 and access services in independent housing.  
 23 S 3. Paragraph (j) of subdivision 1 of section 4651 of the public  
 24 health law, as added by chapter 2 of the laws of 2004, is amended to  
 25 read as follows:

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

LBD10539-01-1

S. 4319

2

1 (j) independent senior housing, shelters or residences for adults. For  
2 purposes of this article and for purposes of determining certification  
3 pursuant to article seven of the social services law, the department  
4 shall by regulation, define independent senior housing, provided such  
5 definition shall be based on whether the operator does not provide,  
6 arrange for, or coordinate personal care services or home care services  
7 on behalf of residents; and the [~~facility~~] OPERATOR does not provide  
8 case management services in a congregate care setting for residents.  
9 Nothing in this chapter shall preclude [~~a resident of~~]: (I) ANY inde-  
10 pendent senior housing RESIDENT OR ANY NUMBER OF SUCH RESIDENTS from  
11 personally and directly obtaining [~~private~~] personal care or home care  
12 services from [~~a~~] ANY licensed [~~or certified~~] home care SERVICES agency,  
13 CERTIFIED HOME HEALTH AGENCY, LONG TERM HOME HEALTH CARE PROGRAM,  
14 PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY OR OTHER MANAGED LONG  
15 TERM CARE PROGRAM;  
16 (II) AN AGENCY OR PROGRAM LICENSED OR APPROVED UNDER ARTICLE  
17 THIRTY-SIX OR SECTION FORTY-FOUR HUNDRED THREE-F OF THIS CHAPTER FROM  
18 OFFERING, ARRANGING FOR OR PROVIDING SERVICES TO THE RESIDENTS OF SUCH  
19 HOUSING AS SUCH AGENCY IS OTHERWISE AUTHORIZED TO OFFER, ARRANGE FOR OR  
20 PROVIDE TO ANY OTHER PERSON OR PERSONS RESIDING IN THEIR OWN HOME OR  
21 APARTMENT OR IN THE HOME OF ANY OTHER RESPONSIBLE RELATIVE OR ADULT IN  
22 THE COMMUNITY;  
23 (III) ANY INDEPENDENT SENIOR HOUSING RESIDENT OR ANY NUMBER OF SUCH  
24 RESIDENTS FROM PERSONALLY AND DIRECTLY CHOOSING AND OBTAINING SERVICES  
25 FROM AN APPROPRIATELY LICENSED OR APPROVED AGENCY OR PROGRAM OFFERING  
26 PERSONAL CARE, HOME CARE OR CASE MANAGEMENT SERVICES, OR FROM OBTAINING,  
27 PERSONALLY AND DIRECTLY, TECHNOLOGIES THAT ASSIST IN MAINTAINING INDE-  
28 PENDENCE; OR  
29 (IV) AN INDEPENDENT SENIOR HOUSING OPERATOR FROM OFFERING ROOM, BOARD,  
30 LAUNDRY, HOUSEKEEPING, INFORMATION AND REFERRAL, SECURITY, TRANSPORTA-  
31 TION OR CONCIERGE-LIKE SERVICES; ASSISTING TENANTS WITH HOUSING ISSUES;  
32 PROVIDING INFORMATION TO TENANTS ABOUT SERVICES AND ACTIVITIES AVAILABLE  
33 IN THE COMMUNITY; ASSISTING TENANTS WISHING TO DO SO IN CONNECTING WITH  
34 SUCH SERVICES AND ACTIVITIES; PROVIDING ACCESS TO SUCH SERVICES AND  
35 ACTIVITIES; AND CONTACTING APPROPRIATE RESPONDERS IN AN EMERGENCY OR  
36 OTHER SITUATION INVOLVING ANY TENANTS THAT APPEARS TO WARRANT IMMEDIATE  
37 ATTENTION, ASSISTANCE OR INTERVENTION.  
38 S 4. This act shall take effect immediately.

7309  
2011-2012 Regular Sessions  
I N A S S E M B L Y  
April 29, 2011

Introduced by M. of A. DINOWITZ -- read once and referred to the Committee on Aging

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