

Amend Senate S.6407, Assembly A.9007, AN ACT to amend chapter 58 of the laws of 2005, relating to authorizing reimbursements for expenditures made by or on behalf of social services districts for medical assistance...

Page	Line	Amendment
Page 2,	Unnumbered line 2 (AN ACT CLAUSE),	After "policies" insert ";"
Page 43,	Between lines 6 and 7	Insert " <u>(4)"Office" shall mean the office for people with developmental disabilities.</u> "
Page 43,	Line 7,	Before " <u>Temporary Operator</u> " strike out " <u>(4)</u> " and insert " <u>(5)</u> "
Page 48,	Between lines 39 and 40,	<p style="text-align: center;">Insert "§ 3. Subdivision (i) of section 17 of the social services law, as relettered by section 1 of part k3 of chapter 57 of the laws of 2007, is relettered as subdivision (j).</p> <p style="text-align: center;">§ 4. Section 17 of the social services law is amended by adding a new subdivision (i) to read as follows:</p> <p style="text-align: center;"><u>(i) have the authority to undertake, or authorize a designee to undertake, an investigation of the financial matters, the affairs and the management of any emergency shelter, or of any person, corporation, society, association or organization which operates or holds itself out as being authorized to operate any such emergency shelter, or of the conduct of any officers or employers of any such emergency shelter. Persons empowered by the commissioner or by a designee to conduct any such investigation are hereby empowered to issue compulsory process for the attendance of witnesses and the production of papers, to administer oaths and to examine persons under oath, and to exercise the same powers in respect to the conduct of such an investigation as those belonging to referees appointed by the supreme court, consistent with, but not limited by, the authority conferred pursuant to paragraphs (a) and (b) of subdivision five of section thirty-four of this article.</u></p> <p style="text-align: center;"><u>Whenever the commissioner or a designee has determined an emergency shelter described in</u></p>

		<p><u>this subdivision has failed to comply with the requirements of state or local laws or regulations applicable to the operation of such emergency shelter, then the following provisions apply:</u></p> <p><u>(1) For the purposes of this section:</u></p> <p><u>(i) "Building" shall mean an entire building or a unit within that provides emergency shelter to homeless persons.</u></p> <p><u>(ii) "Commissioner" shall mean the commissioner of the office or his or her designee.</u></p> <p><u>(iii) "Data" shall mean written documentation or knowledge obtained via announced or unannounced inspections, audits, or other methods made by any state or local entity authorized to conduct inspections or audits, including state or local comptrollers.</u></p> <p><u>(iv) "Emergency shelter" means any building with overnight sleeping accommodations, the primary purpose of which is to provide temporary shelter for the homeless in general or for specific populations of the homeless, including residential programs for victims of domestic violence and runaway and homeless youth programs certified by the office of children and family services.</u></p> <p><u>(v) "Established operator" shall mean a provider of emergency shelter.</u></p> <p><u>(vi) "Serious financial, health or safety deficiency " shall include, but not be limited to, missed mortgage payments, missed rent payments, a pattern of untimely payment of debts, failure to pay its employees or vendors, insufficient funds to meet the general operating expenses of the program, or a violation of law, regulation, or code with respect to a building that provides emergency shelter to homeless persons, in which there are conditions that are dangerous, hazardous, imminently detrimental to</u></p>
--	--	---

		<p><u>life or health, or otherwise render the building not fit for human habitation.</u></p> <p><u>(vii) "Temporary operator" shall mean any provider of emergency shelter that:</u></p> <p><u>(A) agrees to provide emergency shelter pursuant to this chapter on a temporary basis in the best interests of its homeless individuals and families served by the building;</u></p> <p><u>(B) has a history of compliance with applicable laws, rules, and regulations and a record of providing emergency shelter of good quality, as determined by the commissioner; and</u></p> <p><u>(C) prior to appointment as temporary operator, develops a plan determined to be satisfactory by the commissioner to address the building's deficiencies.</u></p> <p><u>(2) (i) In the event that: (A) data demonstrates that the building is exhibiting a serious financial, health, or safety deficiency; (B) data demonstrates that the established operator is unable or unwilling to ensure the proper operation of the building; or (C) data indicates there exist conditions that seriously endanger or jeopardize emergency shelter residents, the commissioner may notify the established operator of his or her intention to appoint a temporary operator to assume sole responsibility for the provider of the emergency shelter's operations for a limited period of time. The appointment of a temporary operator shall be effectuated pursuant to this section, and shall be in addition to any other remedies provided by law.</u></p> <p><u>(ii) The established operator may at any time request the commissioner to appoint a temporary operator. Upon receiving such a request, the commissioner may, if he or she determines that such an action is necessary, enter into an agreement with the established operator for the appointment of a temporary</u></p>
--	--	--

		<p><u>operator to restore or maintain the provision of quality emergency shelter to the emergency shelter residents until the established operator can resume operations within the designated time period or other action is taken to suspend, revoke, or limit the authority of the established operator.</u></p> <p><u>(3) (i) A temporary operator appointed pursuant to this section shall use his or her best efforts to implement the plan deemed satisfactory by the commissioner to correct or eliminate any deficiencies in the building and to promote the quality and accessibility of the emergency shelter in the community served by the provider of emergency shelter.</u></p> <p><u>(ii) During the term of appointment, the temporary operator shall have the authority to direct the staff of the established operator as necessary to appropriately provide emergency shelter for homeless individuals and families. The temporary operator shall, during this period, provide emergency shelter in such a manner as to promote safety and the quality and accessibility of emergency shelter in the community served by the established operator until either the established operator can resume operations or until the office revokes the authority of the emergency shelter to operate under this chapter.</u></p> <p><u>(iii) The established operator shall grant access to the temporary operator to the established operator's accounts and records in order to address any serious financial, health or safety deficiency. The temporary operator shall approve any decision related to an established provider's day to day operations or the established provider's ability to provide emergency shelter.</u></p> <p><u>(iv) The temporary operator shall not be required to file any bond. No security interest</u></p>
--	--	--

in any real or personal property comprising the established operator or contained within the established operator or in any fixture of the building, shall be impaired or diminished in priority by the temporary operator. Neither the temporary operator nor the office shall engage in any activity that constitutes a confiscation of property.

(4) The temporary operator shall be entitled to a reasonable fee, as determined by the commissioner and subject to the approval of the director of the division of the budget, and necessary expenses incurred while serving as a temporary operator. The temporary operator shall be liable only in its capacity as temporary operator for injury to person and property by reason of its operation of such building; no liability shall incur in the temporary operator's personal capacity, except for gross negligence and intentional acts.

(5) (i) The initial term of the appointment of the temporary operator shall not exceed ninety days. After ninety days, if the commissioner determines that termination of the temporary operator would cause significant deterioration of the quality of, or access to, emergency shelter in the community or that reappointment is necessary to correct the deficiencies that required the appointment of the temporary operator, the commissioner may authorize an additional ninety-day term. However, such authorization shall include the commissioner's requirements for conclusion of the temporary operatorship to be satisfied within the additional term.

(ii) Within fourteen days prior to the termination of each term of the appointment of the temporary operator, the temporary operator shall submit to the commissioner and to the established operator a report describing:

		<p><u>(A) the actions taken during the appointment to address the identified building deficiencies, the resumption of building operations by the established operator, or the revocation of authority to operate an emergency shelter;</u></p> <p><u>(B) objectives for the continuation of the temporary operatorship if necessary and a schedule for satisfaction of such objectives;</u> <u>and</u></p> <p><u>(C) if applicable, the recommended actions for the ongoing provision of emergency shelter subsequent to the temporary operatorship.</u></p> <p><u>(iii) The term of the initial appointment and of any subsequent reappointment may be terminated prior to the expiration of the designated term, if the established operator and the commissioner agree on a plan of correction and the implementation of such plan.</u></p> <p><u>(6) (i) The commissioner shall, upon making a determination of an intention to appoint a temporary operator pursuant to subparagraph (i) of paragraph (2) of this subdivision, cause the established operator to be notified of the intention by registered or certified mail addressed to the principal office of the established operator. Such notification shall include a detailed description of the findings underlying the intention to appoint a temporary operator, and the date and time of a required meeting with the commissioner within ten business days of the receipt of such notice. At such meeting, the established operator shall have the opportunity to review and discuss all relevant findings. At such meeting, the commissioner and the established operator shall attempt to develop a mutually satisfactory plan of correction and schedule for implementation. If a mutually satisfactory plan of correction and schedule for implementation is developed,</u></p>
--	--	--

		<p><u>the commissioner shall notify the established operator that the commissioner will abstain from appointing a temporary operator contingent upon the established operator remediating the identified deficiencies within the agreed upon timeframe.</u></p> <p><u>(ii) Should the commissioner and the established operator be unable to establish a plan of correction pursuant to subparagraph (i) of this paragraph, or should the established operator fail to respond to the commissioner's initial notification, there shall be an administrative hearing on the commissioner's determination to appoint a temporary operator to begin no later than thirty days from the date of the notice to the established operator. Any such hearing shall be strictly limited to the issue of whether the determination of the commissioner to appoint a temporary operator is supported by substantial evidence. A copy of the decision shall be sent to the established operator.</u></p> <p><u>(iii) If the decision to appoint a temporary operator is upheld such temporary operator shall be appointed as soon as is practicable and shall provide emergency shelter pursuant to the provisions of this section.</u></p> <p><u>(7) Notwithstanding the appointment of a temporary operator, the established operator shall remain obligated for the continued provision of emergency shelter. No provision contained in this section shall be deemed to relieve the established operator or any other person of any civil or criminal liability incurred, or any duty imposed by law, by reason of acts or omissions of the established operator or any other person prior to the appointment of any temporary operator of the building hereunder; nor shall anything contained in this section be construed to suspend during the term of the appointment of the temporary operator of</u></p>
--	--	--

		<p><u>the building any obligation of the established operator or any other person for the maintenance and repair of the building, provision of utility services, payment of taxes or other operating and maintenance expenses of the building, nor of the established operator or any other person for the payment of mortgages or liens.</u></p> <p>§ 5. Nothing in section four of this act shall be deemed in any way to limit the authority of the commissioner of the office of temporary and disability assistance or the commissioner of the office of children and family services or his or her designee to take additional actions with respect to a building that provides emergency shelter, in which there are conditions that are dangerous, hazardous, imminently detrimental to life or health, or otherwise render the building not fit for human habitation."</p>
Page 48,	Line 40,	After "\$" strike out "3." and insert "6."
Page 48,	Line 40,	After "immediately" insert "and shall be deemed to have been in full force and effect on and after April 1, 2016"