



**NEW YORK
CITY BAR**

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**REPORT ON LEGISLATION BY THE AIDS COMMITTEE
AND THE SOCIAL WELFARE LAW COMMITTEE**

**A.2565
S.2664**

**M. of A. Glick
Sen. Duane**

AN ACT to amend the social services law, in relation to limiting the percentage of income payable towards shelter costs by persons with HIV or AIDS

THIS BILL IS APPROVED

The AIDS Committee and the Social Welfare Law Committee of the New York City Bar Association ("City Bar") write to support the passage of New York State Bill A.2565/S.2664. This legislation would ensure that clients of the HIV/AIDS Services Administration (HASA), a division of the New York City Human Resources Administration (HRA), pay no more than 30% of their household's monthly earned income and/or disability income towards shelter costs, including rent and utilities. The legislation also will benefit individuals living with symptomatic HIV throughout New York State who receive earned or unearned income in addition to public assistance. The City Bar supports the 30% rent cap because it would reduce homelessness by supporting longer-term housing stability, improve health and HIV prevention outcomes, and save New York State millions of dollars.

Acknowledging the critical need for shelter for this population, New York State created an Emergency Shelter Allowance ("ESA") specifically for indigent New Yorkers living with clinical/symptomatic HIV illness or AIDS. The ESA provides individuals with symptomatic HIV a supplemental shelter allowance above what they would receive with standard public assistance benefits. While New Yorkers living with symptomatic HIV are entitled to an enhanced shelter allowance, there is no cap on their rent contribution, unlike Section 8, public housing and supportive housing, all of which set the tenant rent share at 30% of income. In New York City, each HASA client is budgeted to retain a mere \$344 or less for all other expenses. The amount is even less outside of New York City.

This legislation would create affordable housing protection for approximately 11,000 low-income people with HIV/AIDS in New York City who are extremely rent burdened, as defined by HUD (paying more than half of their income for rent and utilities). All HASA clients are budgeted to retain \$344/month, or a little over \$11/day, no matter how much disability income they receive each month. Consequently, all HASA clients who rely on disability income can be considered extremely rent burdened, as they are forced to pay 50% to 70% or more of household income towards rent. For example, a HASA client receiving \$1000 per month in Social Security Disability payments would be responsible for paying \$656 per month (66% of

her income) toward rent, leaving her with only \$344 per month for all other expenses. Based on this budgeting practice, most HASA clients who receive SSI see no increase in income from the receipt of SSI, despite the fact that SSI is an acknowledgment of the additional needs of poor people living with disabilities.

This extreme rent burden predictably results in rent arrears, evictions and homelessness among disabled New Yorkers living with HIV/AIDS. When forced to choose between buying necessities and clothing, paying utility bills, traveling to appointments, and paying their rent share, many people fall behind in their rent, leading to non-payment proceedings in Housing Court. The impact of homelessness and unstable housing can be deadly for people living with HIV/AIDS (PLWHA). Compared to stably housed PLWHA, homeless and unstably housed PLWHA have lower CD4 counts and higher viral loads, and are less likely to receive and adhere to antiretroviral therapy.¹ Housing status is a more significant predictor of health outcomes than individual characteristics, including demographics or substance abuse.²

While capping shelter costs initially sounds like a costly proposal, in fact preventing even a limited number of rent arrears payments and evictions each year will produce savings that offset the cost of implementing this affordable housing protection. This legislation would improve the effectiveness and efficiency of New York's rental assistance program for people with HIV/AIDS by shifting spending away from inappropriate and costly crisis services, to stable housing supports. The costs of implementing the affordable housing protection will be directly offset by savings on other public services, including emergency housing costs.

According to a series of independent fiscal analyses by Shubert Botein Policy Associates, this legislation would be cost neutral and could potentially create savings by shifting funding away from emergency housing costs (*i.e.*, rent arrears and commercial SROs) towards stable and long-term housing. For example, one study determined that \$12 million in annualized savings could be achieved if the policy resulted in 10% fewer evictions. While HASA-contracted commercial SROs cost at least \$55/day (the average length of stay for clients is 159 days), the average daily expense for HASA clients receiving rental assistance after factoring the 30 percent rent cap is only \$24 per day. If just 10% of the 10,800 HASA clients who pay rent are evicted each year, emergency housing for those persons would cost the city \$21 million, while the cost of maintaining their permanent housing would be only \$9 million annually.

In addition, research has shown that stable housing is essential for effective HIV/AIDS healthcare and prevention, which means the proposed legislation would produce additional *indirect* cost savings not reflected above. Housing status is a strong predictor of HIV risk, as homeless individuals have been found to be two to six times more likely to engage in high risk behaviors than their stably housed counterparts with the same personal and service use characteristics.³ Shubert Botein Policy Associates therefore also estimate that an *additional* \$16 million in annual healthcare costs could be saved as a result of averted new HIV infections.

¹ Lever, et al. (2007). The effects of housing status on health-related outcomes in people living with HIV: A systematic review of the literature, *AIDS & Behavior*, 11(6)/Supp 2:S85-S100.

² Kidder, D., Wolitski, R., Campsmith, M., Nakamura, G. (2007). Health status, health care use, medication use, and medication adherence in homeless and housed people living with HIV/AIDS. *American Journal of Public Health* 97(12):2238-2245.

³ Kidder, D., Wolitski, R., Pals, S., & Campsmith, M. (2008). Housing status and HIV risk behaviors among homeless and housed persons with HIV. *JAIDS Journal of Acquired Immune Deficiency Syndromes*, 49(4), 451.

The legislation could also increase the amount of federal dollars coming into New York State by encouraging HASA clients who are potentially eligible for SSI/SSD to zealously pursue their claims. Many HIV legal providers in New York City, including those on the AIDS and the Social Welfare Law Committee of the City Bar who provide direct legal services, will only represent HASA clients in SSI appeals if they live in subsidized housing. SSI claims for independently housed HASA clients are not a priority because a successful claim does not improve the living situation of a person living with HIV/AIDS. This would certainly change if clients would be entitled to keep 70% of their SSI benefits, leading to increased numbers of represented claimants and successful claims.

The City Bar is adding its voice to the broad support for this legislation throughout the state. On January 12, 2010, the Assembly passed A.2565 as the first bill of the new session. The Senate passed companion bill S.2664 on April 27, 2010. During town halls in Brooklyn on December 1st, 2009 and in Queens on December 8, 2009, Governor Paterson stated to members of the New York City AIDS Housing Network that he would sign the bill if it passes the Assembly. The New York City Council introduced a Resolution in August (2145-2009), supporting the passage of the bill and calling upon the Governor to sign the bill into law. The New York City Bar Association joins the call for passage of this critical legislation for New Yorkers living with HIV/AIDS.

Bebe J. Anderson
Chair, AIDS Committee

Wendy A. Bach
Chair, Social Welfare Law Committee

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