

# STATE OF NEW YORK

9802--A

## IN ASSEMBLY

April 18, 2022

Introduced by M. of A. EPSTEIN, GONZALEZ-ROJAS, GLICK, MAMDANI, NIOU, GOTTFRIED, GALLAGHER, QUART, REYES, JACKSON, CARROLL, BICHOTTE HERME-LYN, AUBRY, BENEDETTO, FERNANDEZ, TAPIA, MITAYNES, SIMON, ANDERSON, CRUZ, GIBBS -- read once and referred to the Committee on Local Governments -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the real property law, in relation to establishing a program to address the safety and legalization of specified basement and cellar dwelling units in New York city

The People of the State of New York, represented in Senate and Assem-  
bly, do enact as follows:

1 Section 1. The real property law is amended by adding a new article 16  
2 to read as follows:

### ARTICLE 16

#### BASEMENT AND CELLAR DWELLING UNITS IN NEW YORK CITY

##### Section 480. Definitions.

481. Basement and cellar dwelling unit legalization program.

482. Tenant protections.

3 § 480. Definitions. As used in this article, the following terms shall  
4 have the following meanings:

5 1. "Basement" shall mean a story partly below the grade plane and  
6 having less than one-half its clear height (measured from finished floor  
7 to finished ceiling) below the grade plane.

8 2. "Cellar" shall mean that portion of a building that is partly or  
9 wholly underground, and having one-half or more of its clear height  
10 (measured from finished floor to finished ceiling) below the grade  
11 plane.

12 3. "Basement or cellar dwelling unit" shall mean a residential dwell-  
13 ing unit that provides complete independent living facilities for one or  
14 more persons, including permanent provisions for living, sleeping,  
15 eating, cooking, bathing and washing, and sanitation, which is located  
16 in the basement or cellar of a legal single-family or multi-family  
17 dwelling.

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

LBD14945-02-2

1 4. "Tenant" shall mean a tenant, subtenant, lessee, sublessee, occu-  
2 pant, or assignee of a basement or cellar dwelling unit.

3 5. "Rent" shall mean any consideration, including any bonus, benefit  
4 or gratuity demanded or received for or in connection with the  
5 possession, use or occupancy of a basement or cellar dwelling unit or  
6 the execution or transfer of a lease for such unit.

7 § 481. Basement and cellar dwelling unit legalization program.  
8 Notwithstanding any other provision of state or local law to the contra-  
9 ry, in the city of New York, the local government may, by local law,  
10 establish a program to address, as appropriate, the safe legalization of  
11 specified basement or cellar dwelling units in existence prior to the  
12 effective date of this article.

13 2. Such program may provide that violations of certain provisions of  
14 any of the following shall not be applicable to such basement or cellar  
15 dwelling units, as necessary, to administer and implement this program:  
16 (a) the multiple dwelling law; (b) local laws, ordinances, resolutions,  
17 rules, policies, or regulations adopted or enacted pursuant to the  
18 authority of a general, special, charter or other law; and (c) the  
19 zoning resolution of the local government. Such program may further  
20 provide for amnesty to owners of buildings that contain such basement or  
21 cellar dwelling units from such violations that occurred prior to legal-  
22 ization.

23 3. No zoning action or discretionary land use or environmental review  
24 shall be necessary in order for such program to come into effect or for  
25 legalization of basement or cellar dwelling units under such program.

26 4. Such program shall include protections against eviction and limita-  
27 tions on rent increases for basement or cellar dwelling units that  
28 undergo legalization.

29 5. Basement and cellar dwelling unit legalization projects undertaken  
30 pursuant to this article shall be eligible for funding allocated for  
31 creating and upgrading accessory dwelling units, subject to any eligi-  
32 bility criteria generally applicable to such funds as determined by the  
33 commissioner of the division of housing and community renewal.

34 § 482. Tenant protections. 1. A permit application to legalize a  
35 basement or cellar dwelling unit in conformance with a local law adopted  
36 under this article shall be accompanied by a certification identifying  
37 whether the unit was rented, leased, let, hired out, or occupied as a  
38 basement or cellar dwelling unit or otherwise for residential purposes  
39 as of the effective date of this article, and the rent charged for the  
40 unit as of such date, notwithstanding whether occupancy of such unit was  
41 authorized by law. The local government shall not use such certification  
42 as the basis for an enforcement action against an applicant concerning  
43 the unauthorized habitation of a unit. Where a tenant is evicted or  
44 otherwise removed from a unit prior to approval of an application to  
45 legalize a basement or cellar dwelling unit under this article, such  
46 tenant shall have a right of first refusal to return to the unit as a  
47 tenant upon its first lawful occupancy as a basement or cellar dwelling  
48 unit, notwithstanding whether such prior occupancy was authorized by  
49 law.

50 2. A tenant unlawfully denied a right of first refusal under this  
51 article shall have a cause of action in any court of competent jurisdic-  
52 tion for compensatory and punitive damages and declaratory and injunc-  
53 tive relief and such other relief as the court deems necessary in the  
54 interests of justice.

55 § 2. This act shall take effect immediately.