

# STATE OF NEW YORK

5026

2019-2020 Regular Sessions

## IN ASSEMBLY

February 6, 2019

Introduced by M. of A. L. ROSENTHAL, GOTTFRIED, SEAWRIGHT, MOSLEY,  
BARRON, ORTIZ -- read once and referred to the Committee on Housing

AN ACT to amend the multiple dwelling law, in relation to the definition  
of floor area

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

1 Section 1. The opening paragraph and paragraph b of subdivision 2 of  
2 section 26 of the multiple dwelling law, the opening paragraph and para-  
3 graph b as amended by chapter 748 of the laws of 1961 and subparagraph 1  
4 of paragraph b as amended by chapter 857 of the laws of 1985, are  
5 amended to read as follows:

6 For the purpose of this section certain words are defined herein but,  
7 except where specified, such definitions shall not be held to modify or  
8 affect legal interpretations of such terms or words as used in any local  
9 law, ordinance, rule or regulation and shall apply in addition to and  
10 not in substitution for the provisions of section four of this chapter.

11 b. "Floor area": the sum of the gross horizontal areas of all of the  
12 several floors of a dwelling or dwellings and accessory structures on a  
13 lot measured from the exterior faces of exterior walls or from the  
14 center line of party walls, except that notwithstanding any other  
15 provision of law, general, special, or local, any habitable area with  
16 floor to ceiling height in excess of twelve feet shall be counted twice,  
17 any habitable area with floor to ceiling height in excess of twenty-four  
18 feet shall be counted three times, any habitable area with floor to  
19 ceiling height in excess of thirty-six feet shall be counted four times,  
20 and any habitable area with floor to ceiling height in excess of forty-  
21 eight feet shall be counted five times. The following areas shall be  
22 excluded from floor area:

23 (1) cellar space;

24 (2) attic space providing head room of less than eight feet;

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

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1 (3) space for mechanical equipment, except that notwithstanding any  
2 other provision of law, general, special, or local, such space is not  
3 excludable from "floor area" unless it is less than five percent of the  
4 gross horizontal areas of all of the several floors of a dwelling or  
5 dwelling and measures less than twenty feet floor to floor;

6 (4) elevator and stair bulkheads, rooftop tanks and cooling towers;

7 (5) open or roofed terraces, exterior balconies or porches, uncovered  
8 steps and open porte-cocheres or breezeways abutting or adjoining grade  
9 entrances, except that notwithstanding any other provision of law,  
10 general, special, or local, such space is not excludable from "floor  
11 area" unless it is located beyond the exterior walls of the dwelling or  
12 dwelling when viewed directly from above;

13 (6) accessory space used for off-street motor vehicle parking or stor-  
14 age.

15 § 2. This act shall take effect immediately.