

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 HERMELYN, 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 Assembly, 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.

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

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

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

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

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

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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.