

# STATE OF NEW YORK

9802--B

## 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 -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the multiple dwelling law and the private housing finance law, in relation to establishing a program to address the legalization of specified basements and cellars and the conversion of other specified basements and cellars in a city with a population of one million or more

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

1 Section 1. The multiple dwelling law is amended by adding a new article 7-D to read as follows:

2  
3 ARTICLE 7-D

4 LEGALIZATION AND CONVERSION OF BASEMENTS AND CELLARS

5 Section 288. Definitions.

6 289. Basement and cellar local laws and regulations.

7 290. Tenant protections in inhabited basements or cellars.

8 § 288. Definitions. As used in this article, unless the context or  
9 subject matter requires otherwise, the following terms shall have the  
10 following meanings:

11 1. The term "inhabited basement or cellar" means a basement or cellar  
12 unlawfully occupied as a residence by one or more tenants on or prior to  
13 the effective date of this article;

14 2. The term "rented" means leased, let, or hired out, with or without  
15 a written agreement; and

16 3. The term "tenant" means an individual to whom an inhabited basement  
17 or cellar is rented.

18 § 289. Basement and cellar local laws and regulations. 1. Notwith-  
19 standing any other provision of state or local law to the contrary, in a

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

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1 city with a population of one million or more, the local legislative  
2 body may, by local law, establish a program to address, as appropriate,  
3 and provided that safety is protected, (a) the legalization of specified  
4 inhabited basements and cellars in existence prior to the effective date  
5 of this article through conversion to legal dwelling units, or (b) the  
6 conversion of other specified basements and cellars in existence prior  
7 to the effective date of this article to legal dwelling units. The local  
8 law authorized by this section, and any rules or regulations promulgated  
9 thereunder, shall not be subject to environmental review.

10 2. The program established by such local law may provide to an owner  
11 who converts an inhabited basement or cellar in accordance with a local  
12 law authorized by this article or who otherwise abates the illegal occu-  
13 pancy of a basement or cellar amnesty from prosecution, as applicable,  
14 for violations of this chapter or other state law or local law, rules,  
15 and the zoning resolution of such city, and resolution of any outstand-  
16 ing judgments issued in connection with any violation of such laws,  
17 rules or zoning resolution issued before the effective date of this  
18 article.

19 3. Such local law may provide that any provision of this chapter or  
20 any other state law or local law, rule or regulation, shall not be  
21 applicable, as necessary, to provide for the alterations necessary for  
22 the conversion of a specified inhabited basement or cellar or other  
23 specified basement or cellar into a lawful dwelling unit. Any amendmen-  
24 t of the zoning resolution necessary to enact such program shall be  
25 subject to a public hearing at the planning commission of such locality,  
26 and approval by such commission and the legislative body of such local  
27 government, but shall not require environmental review or any additional  
28 land use review.

29 § 290. Tenant protections in inhabited basements or cellars. 1. The  
30 program authorized by this article shall require an application to make  
31 alterations to legalize an inhabited basement or cellar be accompanied  
32 by a certification indicating whether such unit was rented to a tenant  
33 on the effective date of this article, notwithstanding whether the occu-  
34 pancy of such unit was authorized by law. A city may not use such  
35 certification as the basis for an enforcement action for illegal occu-  
36 pancy of such unit, provided that nothing contained in this article  
37 shall be construed to limit such city from issuing a vacate order for  
38 hazardous conditions, when appropriate.

39 2. The local law authorized by this article shall provide that a  
40 tenant in occupancy at the time of the effective date of this article,  
41 who is evicted or otherwise removed from such unit as a result of an  
42 alteration necessary to bring an inhabited basement or cellar into  
43 compliance with the standards established by the local law authorized by  
44 this article, shall have a right of first refusal to return to such unit  
45 as a tenant upon its first lawful occupancy as a legal dwelling unit,  
46 notwithstanding whether the occupancy at the time of the effective date  
47 of this article was authorized by law. Such local law shall specify how  
48 to determine priority when multiple tenants may claim such right.

49 3. A tenant unlawfully denied a right of first refusal to return to a  
50 legal dwelling unit, as provided pursuant to the local law authorized by  
51 this article, shall have a cause of action in any court of competent  
52 jurisdiction for compensatory damages or declaratory and injunctive  
53 relief as the court deems necessary in the interests of justice,  
54 provided that such compensatory relief shall not exceed the annual  
55 rental charges for such legal dwelling unit.

1 § 2. Subdivision 1 of section 472 of the private housing finance law,  
2 as amended by chapter 479 of the laws of 2005, is amended to read as  
3 follows:

4 1. Notwithstanding the provisions of any general, special or local  
5 law, a municipality, acting through an agency, is authorized: (a) to  
6 make, or contract to make, loans to low and moderate income owner-occu-  
7 pants of one to four unit existing private or multiple dwellings within  
8 its territorial limits, subject to the limitation of subdivisions two  
9 through seven of this section, in such amounts as shall be required for  
10 the rehabilitation of such dwellings, provided, however, that such loans  
11 shall not exceed sixty thousand dollars per dwelling unit, except that  
12 the limitation on the maximum amount of a loan, as described in this  
13 paragraph, shall not apply to any such loan for, in whole or in part,  
14 rehabilitation of a specified inhabited basement or cellar or other  
15 specified basement or cellar for which such owner has sought a permit  
16 pursuant to the local law authorized pursuant to section two hundred  
17 eighty-nine of the multiple dwelling law. Such loans may also include  
18 the refinancing of the outstanding indebtedness of such dwellings, and  
19 the municipality may make temporary loans or advances to such owner-oc-  
20 cupants in anticipation of permanent loans for such purposes; and

21 (b) to make or contract to make grants to any owner described in para-  
22 graph (a) of this subdivision, on the same terms as permitted under such  
23 paragraph for a loan.

24 § 3. Section 472 of the private housing finance law is amended by  
25 adding a new subdivision 1-a to read as follows:

26 1-a. As used in this article, the term "loan" shall include any grant  
27 made by a municipality pursuant to this article, provided, however, that  
28 provisions of this article concerning the repayment or forgiveness of,  
29 or security for, a loan shall not apply to any grant made pursuant to  
30 this article.

31 § 4. Subdivision 2 of section 473 of the private housing finance law,  
32 as added by chapter 786 of the laws of 1987, is amended to read as  
33 follows:

34 2. A municipality shall neither make nor participate in a loan to an  
35 owner-occupant of an existing private or multiple dwelling pursuant to  
36 this article unless the agency finds that the area in which such dwell-  
37 ing is situated is a blighted, deteriorated or deteriorating area or has  
38 a blighting influence on the surrounding area, or is in danger of becom-  
39 ing a slum or a blighted area because of the existence of substandard,  
40 unsanitary, deteriorating or deteriorated conditions, an aged housing  
41 stock, or other factors indicating an inability of the private sector to  
42 cause such rehabilitation to be made, except that any such finding shall  
43 not be required for any such loan for, in whole or in part, rehabili-  
44 tation of a specified inhabited basement or cellar or other specified  
45 basement or cellar for which such owner has sought a permit pursuant to  
46 the local law authorized pursuant to section two hundred eighty-nine of  
47 the multiple dwelling law.

48 § 5. This act shall take effect immediately.