

STATE OF NEW YORK

S. 8783

A. 9802

SENATE - ASSEMBLY

April 18, 2022

IN SENATE -- Introduced by Sen. KAVANAGH -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

IN ASSEMBLY -- Introduced by M. of A. EPSTEIN -- read once and referred to the Committee on Local Governments

AN ACT to amend the real property law, in relation to establishing a program to address the legalization of specified accessory dwelling units 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 real property law is amended by adding a new article 16
2 to read as follows:

ARTICLE 16

ACCESSORY DWELLING UNITS

Section 480. Definitions.

6 481. Accessory dwelling unit regulations and local laws.

7 482. Tenant protections.

8 § 480. Definitions. As used in this article, unless the context other-
9 wise requires, the following terms shall have the following meanings:

10 1. "Accessory dwelling unit" shall mean an attached or a detached
11 residential dwelling unit that provides complete independent living
12 facilities for one or more persons, which is located on the same lot as
13 a single-family or multi-family dwelling proposed or existing as a
14 primary residence, and such unit shall include permanent provisions for
15 living, sleeping, eating, cooking, bathing and washing, and sanitation
16 on the same lot as such primary residence.

17 2. "Regulation" shall mean any ordinance, local law, resolution, rule,
18 policy, or regulation adopted or enacted pursuant to the authority of a
19 general, special, charter or other law unless the context suggests a
20 different meaning.

21 3. "Rented" shall mean to lease, let, or hire out an accessory dwell-
22 ing unit, a residence, or any portion of such unit or residence, to be
23 occupied or that is occupied for living purposes.

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

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1 § 481. Accessory dwelling unit regulations and local laws. Notwith-
2 standing any other provision of state or local law to the contrary, in a
3 city with a population greater than one million, the local government
4 may, by local law, establish a program to address, as appropriate, the
5 legalization of specified accessory dwelling units in existence prior to
6 the effective date of this article. Such program may provide amnesty to
7 owners of buildings that contain such accessory dwelling units from
8 violations, as applicable, of local law, regulation, and the zoning
9 resolution of the local government. Such program may provide that any
10 provision of the multiple dwelling law and any other provision of local
11 law, regulation, and the zoning resolution of such local government
12 shall not be applicable, as necessary, to administer and implement this
13 program. Such program shall not require additional zoning actions or
14 discretionary land use or environmental review.

15 § 482. Tenant protections. 1. As used in this section, the following
16 terms shall have the following meanings:

17 (a) "Tenant" shall mean a tenant, subtenant, lessee, sublessee, or
18 assignee of an accessory dwelling unit.

19 (b) "Rent" shall mean any consideration, including any bonus, benefit
20 or gratuity demanded or received for or in connection with the
21 possession, use or occupancy of an accessory dwelling unit or the
22 execution or transfer of a lease for such unit.

23 2. A permit application to create an accessory dwelling unit in
24 conformance with a local law adopted under this article shall be accom-
25 panied by a certification identifying whether the unit was rented to a
26 tenant as of the effective date of this article and the rent charged for
27 the unit as of such date, notwithstanding whether the occupancy of such
28 unit was authorized by law. A local government may not use such certif-
29 ication as the basis for an enforcement action against an applicant
30 concerning the unauthorized habitation of a unit. Where a tenant is
31 evicted or otherwise removed from a unit prior to approval of a permit
32 application to create an accessory dwelling unit under this article,
33 such tenant shall have a right of first refusal to return to the unit as
34 a tenant upon its first lawful occupancy as an accessory dwelling unit,
35 notwithstanding whether such prior occupancy was authorized by law.

36 3. A tenant unlawfully denied a right of first refusal under this
37 article shall have a cause of action in any court of competent jurisdic-
38 tion for compensatory and punitive damages and declaratory and injunc-
39 tive relief and such other relief as the court deems necessary in the
40 interests of justice.

41 § 2. This act shall take effect on the one hundred eightieth day after
42 it shall have become a law.