

STATE OF NEW YORK

8783--A

IN SENATE

April 18, 2022

Introduced by Sens. KAVANAGH, CLEARE, FELDER, GOUNARDES, SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- 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:

Section 1. The real property law is amended by adding a new article 16 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:

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

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

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

4. "Tenant" shall mean a tenant, subtenant, lessee, sublessee, occupant, or assignee of a basement or cellar dwelling unit.

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

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

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

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

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

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

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

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

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

53 § 2. This act shall take effect immediately.