

# STATE OF NEW YORK

3514

2023-2024 Regular Sessions

## IN ASSEMBLY

February 3, 2023

Introduced by M. of A. L. ROSENTHAL, SEAWRIGHT, STIRPE, CARROLL, COLTON, EPSTEIN, TAYLOR, SIMON, BENEDETTO, GLICK, DINOWITZ, DICKENS, AUBRY, MAGNARELLI, WALLACE, WALKER, GALLAGHER, DAVILA, GONZALEZ-ROJAS, ZINERMAN, BICHOTTE HERMELYN -- Multi-Sponsored by -- M. of A. COOK -- 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 Assembly, 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, (i) except that notwithstanding any other  
15 provision of law, general, special, or local, any such areas with floor  
16 to structural ceiling height greater than twelve feet and less than or  
17 equal to twenty-four feet shall be counted twice, any such areas with  
18 floor to structural ceiling height greater than twenty-four feet and  
19 less than or equal to thirty-six feet shall be counted three times, any  
20 such areas with floor to structural ceiling height greater than thirty-  
21 six feet and less than or equal to forty-eight feet shall be counted  
22 four times, and any area with floor to structural ceiling height in

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

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1 excess of forty-eight feet shall be counted five times. However, when  
2 such areas are on the ground floor of any dwelling or dwellings, their  
3 height up to and including twenty feet from floor to structural ceiling  
4 shall be counted only once.

5 (ii) Notwithstanding any other provision of law, general, special, or  
6 local, space used for mechanical equipment will be counted as "floor  
7 area" to the extent that it exceeds five percent of the gross horizontal  
8 areas of all of the several floors of a dwelling or dwellings.

9 (iii) Notwithstanding any other provision of law, general, special, or  
10 local, "floor area" will include any open areas located under the dwell-  
11 ing or dwellings when viewed directly from above. Such areas will be  
12 measured from the exterior faces of vertical extensions of the exterior  
13 walls of the building that inscribe the open space so covered by the  
14 dwelling or dwellings. Such open areas covered by buildings with floor  
15 to structural ceiling height in excess of twelve feet shall be counted  
16 twice, open areas covered by buildings with floor to structural ceiling  
17 height in excess of twenty-four feet shall be counted three times, open  
18 areas covered by buildings with floor to structural ceiling height in  
19 excess of thirty-six feet shall be counted four times, open areas  
20 covered by buildings with floor to structural ceiling height in excess  
21 of forty-eight feet shall be counted five times. The following areas  
22 shall be excluded from floor area:

- 23 (1) cellar space;  
24 (2) attic space providing head room of less than eight feet;  
25 (3) space for mechanical equipment, except as specified in this  
26 section;  
27 (4) elevator and stair bulkheads, rooftop tanks and cooling towers;  
28 (5) open or roofed terraces, exterior balconies or porches, uncovered  
29 steps and open porte-cocheres or breezeways abutting or adjoining grade  
30 entrances that are located beyond the exterior walls of the dwelling or  
31 dwellings when viewed directly from above;  
32 (6) accessory space used for off-street motor vehicle parking or stor-  
33 age.

34 § 2. This act shall take effect immediately.