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:

Section 1. The opening paragraph and paragraph b of subdivision 2 of section 26 of the multiple dwelling law, the opening paragraph and paragraph b as amended by chapter 748 of the laws of 1961 and subparagraph 1 of paragraph b as amended by chapter 857 of the laws of 1985, are amended to read as follows:

For the purpose of this section certain words are defined herein but**,** **except where specified,** such definitions shall not be held to modify or affect legal interpretations of such terms or words as used in any local law, ordinance, rule or regulation and shall apply in addition to and not in substitution for the provisions of section four of this chapter.

b. "Floor area": the sum of the gross horizontal areas of all of the several floors of a dwelling or dwellings and accessory structures on a lot measured from the exterior faces of exterior walls or from the center line of party walls, **(i)** except **that notwithstanding any other provision of law, general, special, or local, any such areas with floor to structural ceiling height greater than twelve feet and less than or equal to twenty-four feet shall be counted twice, any such areas with floor to structural ceiling height greater than twenty-four feet and less than or equal to thirty-six feet shall be counted three times, any such areas with floor to structural ceiling height greater than thirty-six feet and less than or equal to forty-eight feet shall be counted 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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excess of forty-eight feet shall be counted five times. However, when such areas are on the ground floor of any dwelling or dwellings, their height up to and including twenty feet from floor to structural ceiling shall be counted only once.

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

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

(1) cellar space;

(2) attic space providing head room of less than eight feet;

(3) space for mechanical equipment, except as specified in this section;

(4) elevator and stair bulkheads, rooftop tanks and cooling towers;

(5) open or roofed terraces, exterior balconies or porches, uncovered steps and open porte-cocheres or breezeways abutting or adjoining grade entrances that are located beyond the exterior walls of the dwelling or dwellings when viewed directly from above;

(6) accessory space used for off-street motor vehicle parking or storage.

§ 2. This act shall take effect immediately.