# STATE OF NEW YORK

2276

2023-2024 Regular Sessions

# IN SENATE

January 19, 2023

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

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:**

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

**ARTICLE 7-D**

**LEGALIZATION AND CONVERSION OF BASEMENTS AND CELLARS**

**Section 288. Definitions.**
**289. Basement and cellar local laws and regulations.**
**290. Tenant protections in inhabited basements or cellars.**

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

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

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

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

**§ 289. Basement and cellar local laws and regulations. 1. Notwithstanding any other provision of state or local law to the contrary, in a city with a population of one million or more, the local legislative body may, by local law, establish a program to address, as appropriate,**

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

LBD03476-01-3

and provided that safety is protected, (a) the legalization of specified inhabited basements and cellars in existence prior to the effective date of this article through conversion to legal dwelling units, or (b) the conversion of other specified basements and cellars in existence prior to the effective date of this article to legal dwelling units. The local law authorized by this section, and any rules or regulations promulgated thereunder, shall not be subject to environmental review.

2. The program established by such local law may provide to an owner who converts an inhabited basement or cellar in accordance with a local law authorized by this article or who otherwise abates the illegal occupancy of a basement or cellar amnesty from prosecution, as applicable, for violations of this chapter or other state law or local law, rules, and the zoning resolution of such city, and resolution of any outstanding judgments issued in connection with any violation of such laws, rules or zoning resolution issued before the effective date of this article.

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

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

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

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

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

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

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

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

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

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

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

§ 5. This act shall take effect immediately.