STATE OF NEW YORK

1075--B

2023-2024 Regular Sessions

IN ASSEMBLY

January 13, 2023

Introduced by M. of A. EPSTEIN, GONZALEZ-ROJAS, GLICK, MAMDANI, GALLAGHER, REYES, JACKSON, CARROLL, BICHOTTE HERMELYN, AUBRY, BENEDETTO, TAPIA, MITAYNES, SIMON, ANDERSON, CRUZ, GIBBS, FORREST, CUNNINGHAM, BURDICK, RAGA, BURGOS, ARDILA, SEPTIMO, BORES, SEAWRIGHT, RAMOS, SIMONE, DE LOS SANTOS, ALVAREZ -- Multi-Sponsored by -- M. of A. LEVENBERG -- read once and referred to the Committee on Local Governments -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Local Governments in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the multiple dwelling 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 and 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;

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

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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 dwelling unit 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, provided that health and safety are protected, establish a program to address (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, and (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, including, but not limited to, environmental review conducted pursuant to article eight of the environmental conservation law and any state and local regulations promulgated thereunder.

2. The program established by such local law may provide to an owner who converts a 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: (a) amnesty from prosecution for any violations of this chapter, other state law or local law or rules, and the zoning resolution of such city relating to the premises prior to such conversion, and (b) relief from any outstanding civil judgments issued in connection with any such violation of such laws, rules or zoning resolution issued before the effective date of this article relating to the premises prior to such conversion; provided, however, that such local law shall require that such amnesty or relief shall be available only to an owner that has submitted an application for a conversion by a date certain subsequent to the effective date of such local law and that such date shall not be later than ten years after the effective date of such local law.

3. (a) Such local law may supersede any provision of local law or rule to facilitate the conversion of a specified inhabited basement or cellar or other specified basement or cellar in existence prior to the effective date of this article into a lawful dwelling unit. For the purposes of this program, the local law adopted by the legislative body of such municipality shall be no less stringent than the relevant standards or specifications of the uniform fire prevention and building code and state energy conservation construction code applicable to the conversion of basements and cellars to habitable dwelling units in municipalities other than a city with a population of one million or more, unless such legislative body determines that the application of such standards or specifications would present practical difficulties that impede the purposes of this article and includes in such local law an alternative standard or specification that such legislative body determines to be sufficient to protect public safety.

(b) Such local law may supersede the following provisions of this chapter: sections twenty-six, twenty-eight, thirty, thirty-one, thirty-two, thirty-three, thirty-four, thirty-five, thirty-six, thirty-seven, fifty, fifty-a, fifty-one, fifty-two, fifty-four, fifty-six, sixty-one, sixty-two, sixty-three, sixty-four, sixty-five, sixty-eight, and seventy-six, and articles four, five and six.

(c) 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, provided, however, that it shall not require environmental review, including, not limited to, environmental review conducted pursuant to article eight of the environmental conservation law and any state and local regulations promulgated thereunder, or any additional land use review.

§ 290. Tenant protections in inhabited basements and 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. An agency or office of a city where the program has been established 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 any agency or office from issuing a vacate order for hazardous conditions.

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 against the owner of such dwelling unit 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.

4. Notwithstanding the local emergency housing rent control act of 1962 as amended, the local law authorized by this article shall include protections against eviction and limitations on rent increases for basement or cellar dwelling units that undergo legalization, including limitations on rent increases for tenants returning to such units pursuant to the provisions of subdivision two of this section.

§ 2. This act shall take effect immediately.