

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 Assem-
bly, do enact as follows:

1 Section 1. The multiple dwelling law is amended by adding a new arti-
2 cle 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.

3
4
5
6
7
8 § 288. Definitions. As used in this article, unless the context or
9 subject matter requires otherwise, the following terms shall have the
10 following meanings:

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

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

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

18 § 289. Basement and cellar local laws and regulations. 1. Notwith-
19 standing any other provision of state or local law to the contrary, in a
20 city with a population of one million or more, the local legislative
21 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

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

8 2. The program established by such local law may provide to an owner
9 who converts an inhabited basement or cellar in accordance with a local
10 law authorized by this article or who otherwise abates the illegal occu-
11 pancy of a basement or cellar amnesty from prosecution, as applicable,
12 for violations of this chapter or other state law or local law, rules,
13 and the zoning resolution of such city, and resolution of any outstand-
14 ing judgments issued in connection with any violation of such laws,
15 rules or zoning resolution issued before the effective date of this
16 article.

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

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

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

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

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

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

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

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

23 1-a. As used in this article, the term "loan" shall include any grant
24 made by a municipality pursuant to this article, provided, however, that
25 provisions of this article concerning the repayment or forgiveness of,
26 or security for, a loan shall not apply to any grant made pursuant to
27 this article.

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

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

45 § 5. This act shall take effect immediately.