

# STATE OF NEW YORK

2276--B

2023-2024 Regular Sessions

## IN SENATE

January 19, 2023

Introduced by Sens. KAVANAGH, CLEARE, FELDER, GOUNARDES, HOYLMAN-SIGAL, JACKSON, SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- committee discharged and said bill committed to the Committee on Housing, Construction and Community Development -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Housing, Construction and Community Development in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee and committed to the Committee on Finance -- 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:

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 and cellars.

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;

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

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

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

5 § 289. Basement and cellar local laws and regulations. 1. Notwith-  
6 standing any other provision of state or local law to the contrary, in a  
7 city with a population of one million or more, the local legislative  
8 body may, by local law, provided that health and safety are protected,  
9 establish a program to address (a) the legalization of specified inhab-  
10 ited basements and cellars in existence prior to the effective date of  
11 this article through conversion to legal dwelling units, and (b) the  
12 conversion of other specified basements and cellars in existence prior  
13 to the effective date of this article to legal dwelling units. The local  
14 law authorized by this section, and any rules or regulations promulgated  
15 thereunder, shall not be subject to environmental review, including, but  
16 not limited to, environmental review conducted pursuant to article eight  
17 of the environmental conservation law and any state and local regu-  
18 lations promulgated thereunder.

19 2. The program established by such local law may provide to an owner  
20 who converts a basement or cellar in accordance with a local law author-  
21 ized by this article or who otherwise abates the illegal occupancy of a  
22 basement or cellar: (a) amnesty from prosecution for any violations of  
23 this chapter, other state law or local law or rules, and the zoning  
24 resolution of such city relating to the premises prior to such conver-  
25 sion, and (b) relief from any outstanding civil judgments issued in  
26 connection with any such violation of such laws, rules or zoning resol-  
27 ution issued before the effective date of this article relating to the  
28 premises prior to such conversion; provided, however, that such local  
29 law shall require that such amnesty or relief shall be available only to  
30 an owner that has submitted an application for a conversion by a date  
31 certain subsequent to the effective date of such local law and that such  
32 date shall not be later than ten years after the effective date of such  
33 local law.

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

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

55 (c) Any amendment of the zoning resolution necessary to enact such  
56 program shall be subject to a public hearing at the planning commission

1 of such locality, and approval by such commission and the legislative  
2 body of such local government, provided, however, that it shall not  
3 require environmental review, including, not limited to, environmental  
4 review conducted pursuant to article eight of the environmental conser-  
5 vation law and any state and local regulations promulgated thereunder,  
6 or any additional land use review.

7 § 290. Tenant protections in inhabited basements and cellars. 1. The  
8 program authorized by this article shall require an application to make  
9 alterations to legalize an inhabited basement or cellar be accompanied  
10 by a certification indicating whether such unit was rented to a tenant  
11 on the effective date of this article, notwithstanding whether the occu-  
12 pancy of such unit was authorized by law. An agency or office of a city  
13 where the program has been established may not use such certification as  
14 the basis for an enforcement action for illegal occupancy of such unit,  
15 provided that nothing contained in this article shall be construed to  
16 limit any agency or office from issuing a vacate order for hazardous  
17 conditions.

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

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

35 4. Notwithstanding the local emergency housing rent control act of  
36 1962 as amended, the local law authorized by this article shall include  
37 protections against eviction and limitations on rent increases for base-  
38 ment or cellar dwelling units that undergo legalization, including limi-  
39 tations on rent increases for tenants returning to such units pursuant  
40 to the provisions of subdivision two of this section.

41 § 2. This act shall take effect immediately.