STATE OF NEW YORK

5172

2023-2024 Regular Sessions

IN SENATE

February 23, 2023

Introduced by Sen. HARCKHAM -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the real property law, in relation to establishing an accessory dwelling unit incentive program; and to amend the executive law, in relation to including an accessory dwelling unit in the term housing accommodations in the human rights law

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The real property law is amended by adding a new article 16 to read as follows:

ARTICLE 16

ACCESSORY DWELLING UNITS

Section 480. Definitions.
481. Accessory dwelling unit incentive program and local laws.
482. Low- and moderate-income homeowners program.

§ 480. Definitions. As used in this article, unless the context otherwise requires, the following terms shall have the following meanings:

1. "Accessory dwelling unit" shall mean an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons which is located on a lot with a proposed or existing primary residence and shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same lot as the single-family or multi-family dwelling.

2. "Local government" shall mean a city, town or village.

3. "Low-income homeowners" shall mean homeowners with an income, adjusted for family size, not exceeding eighty percent of the area median income.

4. "Moderate-income homeowners" shall mean homeowners with an income, adjusted for family size, not exceeding one hundred twenty percent of the area median income as defined by the division.

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

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5. "Nonconforming zoning condition" shall mean a physical improvement on a property that does not conform with current zoning standards.

6. "Proposed dwelling" shall mean a dwelling that is the subject of a permit application and that meets the requirements for permitting.

7. "Division" shall mean the New York state division of housing and community renewal.

§ 481. Accessory dwelling unit incentive program and local laws. 1. Within one hundred eighty days of the effective date of this article, the division shall establish an opt-in program for local governments who already have or who enact a local law or ordinance that meets the requirements of subdivision two of this section which encourages the creation of accessory dwelling units. A local government shall have five years from the date such program is established to enact such local law or ordinance to qualify for the program.

2. (a) To qualify for the program established pursuant to subdivision one of this section, a local law or ordinance shall:

(i) Designate areas within the jurisdiction of the local government where accessory dwelling units shall be permitted. Designated areas shall include all areas zoned for single-family or multi-family residential use, and all lots with an existing residential use.

(ii) Provide for protections for existing illegal accessory dwelling units to aid in the conversion of such units to become legal and in compliance with state and local regulations, including but not limited to: (1) a mechanism for the conversion of an illegal accessory dwelling unit to be a legal unit, provided such unit is in compliance with all applicable fire and safety codes; and (2) protections for tenants of illegal accessory dwelling units from unreasonable rent increases.

(iii) Provide for a streamlined approval process involving no more than one meeting with the applicable approving authority, and limiting the cost of any necessary applications and permits to a total of five hundred dollars.

(iv) Provide that sewer and septic hookups shall be governed under the applicable existing local requirements.

(b) A qualifying local law or ordinance may:

(i) Require owner occupancy in either the primary or accessory dwelling unit.

(ii) Set a minimum lease duration for accessory dwelling units.

(iii) Limit the total build out to the existing allowable square-foot-under-floor ratio and lot coverage, consistent with existing setback for other accessory uses.

(iv) Set minimum or maximum size limits for an accessory dwelling unit.

(c) To qualify for the program established pursuant to subdivision one of this section, a local law or ordinance shall not:

(i) Impose an off-street parking requirement on an accessory dwelling unit, except where no adjacent public street permits year-round on-street parking and the accessory dwelling unit is greater than one-half mile from a subway stop, rail station or bus stop. For purposes of this subparagraph, an adjacent public street shall be considered as permitting year-round on-street parking notwithstanding rules that prohibit parking during limited hours or on certain days of the week.

(ii) Impose undue or unnecessary fire and safety codes on accessory dwelling units.

(iii) Require more than one point of exterior access by door to an accessory dwelling unit.

3. To opt-in to the program established pursuant to subdivision one of this section a local government shall submit a copy of its local law or ordinance to the division. Within ninety days of receipt of a local government's law or ordinance, the division shall submit written findings to the local government as to whether the local government's local law or ordinance qualifies for the program.

4. All local governments who opt-in to the program and are determined by the division to have a qualifying local law or ordinance shall be eligible for a ten percent increase of points on such local government's consolidated funding application, a ten percent increase in aid and incentives for municipalities and aid and incentives for municipalities related payments, increased eligibility for individual infrastructure, transportation, parks, and economic development grants.

§ 482. Low- and moderate-income homeowners program. 1. Within one hundred eighty days of the effective date of this article, the division shall establish a lending program to assist low-income homeowners and moderate-income homeowners in securing financing for the creation of accessory dwelling units.

2. An accessory dwelling unit financed with the assistance of such program shall, if such assistance is in the form of a forgivable grant at a below-market rate for a period of no less than thirty years and if any such assistance is in the form of a repayable loan, be offered for rent at a below-market rate for a period of fifteen years.

3. Such program shall be funded through capital projects appropriations and reappropriations set forth in the state fiscal year housing program.

4. Within one hundred eighty days of the effective date of this article, the division shall establish a program to provide technical assistance to all homeowners seeking to create an accessory dwelling unit, and to protect tenants of accessory dwelling units against discrimination, unreasonable rent increases and unwarranted evictions.

5. An accessory dwelling unit financed with the assistance of such program shall be limited to an annual maximum rent increase of the lower of (a) three percent or (b) one and one-half times the annual percentage change in the consumer price index for the region in which the accessory dwelling unit is located.

6. The division shall promulgate program criteria and guidelines necessary to carry out such program.

§ 2. Section 292 of the executive law is amended by adding a new subdivision 42 to read as follows:

42. The term "housing accommodation" as used in this article shall include an accessory dwelling unit as defined in subdivision one of section four hundred eighty of the real property law.

§ 3. Paragraph (a) of subdivision 1 of section 296 of the executive law, as separately amended by chapters 202 and 748 of the laws of 2022, is amended to read as follows:

(a) For an employer or licensing agency, because of an individual's age, race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or status as a victim of domestic violence, to refuse to hire or employ or to bar or to discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment. In the case of an accessory dwelling unit as defined in subdivision one of section four hundred eighty of the real property law, the exemption from the

provisions of this paragraph for the rental of a housing accommodation in a building which contains housing accommodations for not more than two families living independently of each other, if the owner resides in one of such accommodations, shall not apply.

§ 4. This act shall take effect immediately.