

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:

1 Section 1. The real property law is amended by adding a new article 16
2 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:

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

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

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

20 4. "Moderate-income homeowners" shall mean homeowners with an income,
21 adjusted for family size, not exceeding one hundred twenty percent of
22 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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1 5. "Nonconforming zoning condition" shall mean a physical improvement
2 on a property that does not conform with current zoning standards.

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

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

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

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

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

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

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

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

34 (b) A qualifying local law or ordinance may:

35 (i) Require owner occupancy in either the primary or accessory dwell-
36 ing unit.

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

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

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

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

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

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

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

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

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

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

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

24 3. Such program shall be funded through capital projects appropri-
25 ations and reappropriations set forth in the state fiscal year housing
26 program.

27 4. Within one hundred eighty days of the effective date of this arti-
28 cle, the division shall establish a program to provide technical assist-
29 ance to all homeowners seeking to create an accessory dwelling unit, and
30 to protect tenants of accessory dwelling units against discrimination,
31 unreasonable rent increases and unwarranted evictions.

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

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

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

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

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

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

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

5 § 4. This act shall take effect immediately.