

What is the NYC Basement Apartment Legalization Bill?



The Problem

THOUSANDS OF NEW YORKERS ARE LIVING WITHOUT BASIC HOUSING SAFETY REGULATIONS

In NYC, tens of thousands of people live in unregulated basement and cellar apartments due to the city's ongoing housing affordability crisis. Yet, because these homes are not legally recognized, the city is unable to regulate their safety, homeowners cannot make safety upgrades, and tenants and homeowners risk losing their homes if they report unsafe conditions. During Hurricane Ida, this lack of regulation led to the deaths of 11 New Yorkers.

New York City aims to create a citywide program to safely legalize these homes and prevent future loss of life, but convoluted state regulations make most conversions too expensive and infeasible. While local building and fire codes are the primary way NYC regulates housing safety, the State's Multiple Dwelling Law (MDL) offers an additional layer of regulations to ensure safety in large multifamily buildings. Most small homes are not subject to the MDL but, under current law, upgrading a basement or cellar unit triggers onerous MDL requirements. Many MDL rules drive up costs or make upgrades impossible without enhancing safety in the below-grade unit. MDL sections that do relate to basement and cellar safety are also addressed by local code.

Making modest reforms to MDL rules would give NYC the local authority to establish clear health and safety standards for legalizing basement and cellar homes.

The Solution

GIVE NYC LOCAL AUTHORITY TO CREATE A BASEMENT AND CELLAR APARTMENT SAFETY PROGRAM

This legislation (ELFA Part S or S2276/A1075) would enable NYC to create a program to safely legalize inhabited basement and cellar apartments in 1-3 family homes. Specifically, it will ensure that existing small homes deemed eligible for the program remain under local regulation and will not be newly subject to the State's Multiple Dwelling Law.

THIS LEGISLATION WOULD ADVANCE...

Safety

The bill would bring basement and cellar units under government oversight to ensure appropriate egress, fire suppression systems, and habitability. Currently, these homes are widespread but unregulated.

NYC would regulate basement and cellar apartments in 1-3-family homes through its Housing Maintenance Code, Building Code, Fire Code, Zoning Resolution, and other relevant safety codes, as it does all other housing.

The proposed state law does not itself legalize any apartments. The City's basement and cellar apartment program would need agency approval, and any related regulatory changes would be subject to public review and enactment by City Council and the Mayor.

Financial feasibility

Basement conversion costs will be significantly reduced by ensuring that existing, eligible small homes do not have to newly comply with the MDL. Examples of MDL rules that drive up costs without improving basement or cellar safety include requirements to add parapets and guard railings on the roof or to add skylights and windows in the stairways of upper floors.

Tenant & homeowner stability

Tenants will have legal leases and related rights, without constant threat of a vacate order. Current tenants will have right of first refusal to legally rent the unit.

Low- and moderate-income homeowners could access capital to upgrade units, helping them afford their homes.

Neighborhood improvements

Bringing inhabited basement and cellar units out of the shadows would give communities and their elected officials a better count of local population, allowing them to more effectively advocate for the levels of infrastructure investment that they need.

NYC Basement Legalization is backed by:

- AARP NEW YORK
- ASSOCIATION FOR NEIGHBORHOOD & HOUSING DEVELOPMENT (ANHD)
- BASEMENT APARTMENTS SAFE FOR EVERYONE (BASE)
- BED STUY RESTORATION CORPORATION
- CENTER FOR NYC NEIGHBORHOODS
- CITIZENS HOUSING AND PLANNING COUNCIL
- CHHAYA CDC
- CHURCHES UNITED FOR FAIR HOUSING (CUFFH)
- COMMUNITY PRESERVATION CORPORATION
- CYPRESS HILLS LDC
- FIFTH AVENUE COMMITTEE
- HABITAT FOR HUMANITY NYC AND WESTCHESTER
- HOUSING RIGHTS INITIATIVE
- IMPACCT BROOKLYN
- KINETIC COMMUNITIES
- LANTERN ORGANIZATION
- MAKE THE ROAD NEW YORK
- NEIGHBORS HELPING NEIGHBORS
- NORTHFIELD COMMUNITY LDC
- PRATT CENTER FOR COMMUNITY DEVELOPMENT
- RESTORED HOMES HDFC
- REGIONAL PLAN ASSOCIATION (RPA)
- UNITED NEIGHBORHOOD HOUSES OF NEW YORK



**BASEMENT
APARTMENTS
SAFE FOR
EVERYONE**

Basement Apartments Safe for Everyone (BASE) is a coalition of non-profit community-based organizations, policy researchers, and legal services providers dedicated to the safety and affordability of New York City's basement and cellar apartments.

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