

Legislative Bill Drafting Commission
07619-02-1

S. -----
Senate

IN SENATE--Introduced by Sen

--read twice and ordered printed,
and when printed to be committed
to the Committee on

----- A.
Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the
Committee on

REALPRLA
(Relates to the regulation of acces-
sory dwelling units)

RP L. accessory dwelling units

AN ACT

to amend the real property law, in
relation to accessory dwelling
units; and to amend the executive
law, in relation to including an
accessory dwelling unit in the term
housing accommodations in human
rights law

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

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship
of this proposal:

s15 Addabbo	s17 Felder	s07 Kaplan	s58 O'Mara	s10 Sanders
s52 Akshar	s59 Gallivan	s26 Kavanagh	s62 Ortt	s23 Savino
s36 Bailey	s05 Gaughran	s63 Kennedy	s01 Palumbo	s32 Sepulveda
s30 Benjamin	s12 Gianaris	s28 Krueger	s21 Parker	s41 Serino
s34 Biaggi	s22 Gounardes	s24 Lanza	s19 Persaud	s29 Serrano
s57 Borrello	s47 Griffo	s11 Liu	s13 Ramos	s39 Skoufis
s04 Boyle	s40 Harckham	s50 Mannion	s61 Rath	s16 Stavisky
s44 Breslin	s54 Helming	s42 Martucci	s38 Reichlin-	s45 Stec
s25 Brisport	s46 Hinchey	s02 Mattera	Melnick	s35 Stewart-
s08 Brooks	s27 Hoylman	s53 May	s48 Ritchie	Cousins
s55 Brouk	s31 Jackson	s37 Mayer	s33 Rivera	s49 Tedisco
s14 Comrie	s43 Jordan	s20 Myrie	s60 Ryan	s06 Thomas
s56 Cooney	s09 Kaminsky	s51 Oberacker	s18 Salazar	s03 Weik

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the
multi-sponsorship of this proposal:

a049 Abbate	a063 Cusick	a021 Griffin	a051 Mitaynes	a111 Santabarbara
a092 Abinanti	a045 Cymbrowitz	a100 Gunther	a015 Montesano	a090 Sayegh
a031 Anderson	a018 Darling	a139 Hawley	a145 Morinello	a099 Schmitt
a122 Angelino	a053 Davila	a083 Heastie	a065 Niou	a076 Seawright
a107 Ashby	a072 De La Rosa	a028 Hevesi	a037 Nolan	a084 Septimo
a035 Aubry	a003 DeStefano	a128 Hunter	a144 Norris	a016 Sillitti
a120 Barclay	a070 Dickens	a029 Hyndman	a069 O'Donnell	a052 Simon
a030 Barnwell	a054 Dilan	a079 Jackson	a091 Otis	a114 Simpson
a106 Barrett	a081 Dinowitz	a104 Jacobson	a132 Palmesano	a005 Smith
a060 Barron	a147 DiPietro	a011 Jean-Pierre	a088 Paulin	a118 Smullen
a082 Benedetto	a009 Durso	a134 Jensen	a141 Peoples-	a022 Solages
a042 Bichotte	a048 Eichenstein	a115 Jones	Stokes	a057 Souffrant
Hermelyn	a004 Englebright	a077 Joyner	a058 Perry	Forrest
a117 Blankenbush	a074 Epstein	a125 Kelles	a023 Pheffer	a110 Steck
a098 Brabenc	a109 Fahy	a040 Kim	Amato	a010 Stern
a026 Braunstein	a061 Fall	a105 Lalor	a086 Pichardo	a127 Stirpe
a138 Bronson	a080 Fernandez	a013 Lavine	a089 Pretlow	a102 Tague
a012 Brown	a008 Fitzpatrick	a097 Lawler	a073 Quart	a064 Tannousis
a093 Burdick	a124 Friend	a126 Lemondes	a019 Ra	a071 Taylor
a085 Burgos	a046 Frontus	a135 Lunsford	a038 Rajkumar	a001 Thiele
a142 Burke	a095 Galef	a123 Lupardo	a006 Ramos	a033 Vanel
a119 Buttenschon	a050 Gallagher	a129 Magnarelli	a062 Reilly	a116 Walczyk
a094 Byrne	a131 Gallahan	a036 Mamdani	a087 Reyes	a055 Walker
a133 Byrnes	a007 Gandolfo	a130 Manktelow	a043 Richardson	a143 Wallace
a103 Cahill	a002 Giglio, J.A.	a108 McDonald	a078 Rivera, J.	a112 Walsh
a044 Carroll	a148 Giglio, J.M.	a014 McDonough	a149 Rivera, J.D.	a041 Weinstein
a136 Clark	a066 Glick	a146 McMahon	a068 Rodriguez	a024 Weprin
a047 Colton	a034 Gonzalez-	a137 Meeks	a027 Rosenthal, D.	a059 Williams
a140 Conrad	Rojas	a017 Mikulin	a067 Rosenthal, L.	a113 Woerner
a032 Cook	a150 Goodell	a101 Miller, B.	a025 Rozic	a096 Zebrowski
a039 Cruz	a075 Gottfried	a020 Miller, M.	a121 Salka	a056 Zinerman

1) Single House Bill (introduced and printed separately in either or
both houses). Uni-Bill (introduced simultaneously in both houses and printed
as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2
signed copies of bill and: in Assembly 2 copies of memorandum in support, in
Senate 4 copies of memorandum in support (single house); or 4 signed copies
of bill and 6 copies of memorandum in support (uni-bill).

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

3 ARTICLE 16

4 ACCESSORY DWELLING UNITS

5 Section 480. Definitions.

6 481. Accessory dwelling unit regulations and ordinances.

7 482. State review and enforcement.

8 483. Low and moderate income homeowners program.

9 484. Good cause eviction of a tenant.

10 485. Severability.

11 § 480. Definitions. As used in this article, unless the context other-
12 wise requires, the following terms shall have the following meanings:

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

20 2. "Accessory structure" shall mean a structure that is accessory and
21 incidental to a dwelling located on the same lot.

22 3. "Living area" shall mean the interior habitable area of a dwelling
23 unit, including basements, cellars, and attics but does not include a
24 garage or any accessory structure.

25 4. "Local agency" shall mean a city, county, township, or borough.

26 5. "Low-income homeowners" shall mean homeowners with an income,
27 adjusted for family size, not exceeding eighty percent of the area medi-
28 an income.

1 6. "Moderate-income homeowners" shall mean homeowners with an income,
2 adjusted for family size, not exceeding one hundred and twenty percent
3 of the area median income.

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

6 8. "Passageway" shall mean a pathway that is unobstructed and extends
7 from a street to one entrance of the accessory dwelling unit.

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

10 10. "Impact fee" shall mean any payment imposed by a local agency for
11 the purpose of providing new or expanded public capital facilities or
12 infrastructure required to serve a new development.

13 11. "Division" shall mean the New York state division of homes and
14 community renewal.

15 § 481. Accessory dwelling unit regulations and ordinances. 1.
16 Notwithstanding any law, rule, policy, regulation or ordinance to the
17 contrary, a local agency shall, by ordinance, provide for the creation
18 of accessory dwelling units. Such ordinance shall:

19 (a) Designate areas within the jurisdiction of the local agency where
20 accessory dwelling units shall be permitted. Designated areas shall
21 include all areas zoned for single-family or multifamily residential
22 use, and all lots with an existing residential use.

23 (b) Authorize the creation of at least one accessory dwelling unit per
24 lot in designated areas.

25 (c) Provide reasonable standards for accessory dwelling units that
26 include, but are not limited to height, landscape, architectural review
27 and maximum size of a unit. In no case shall such standards unnecessar-
28 ily impair the creation of accessory dwelling units.

1 (d) Require accessory dwelling units to comply with the following:

2 (i) Such unit may be rented separate from the primary residence, but
3 shall not be sold or otherwise conveyed separate from the primary resi-
4 dence;

5 (ii) Such unit shall be located on a lot that includes a proposed or
6 existing residential dwelling;

7 (iii) Such unit shall not be rented for a term less than thirty days;
8 and

9 (iv) Such unit shall be attached to or located within the proposed or
10 existing primary dwelling, including but not limited to attached
11 garages, storage areas, basements, cellars, similar spaces, or an acces-
12 sory structure or detached from the proposed or existing primary dwell-
13 ing and located on the same lot as the proposed or existing primary
14 dwelling.

15 (v) If there is an existing primary dwelling, the total floor area of
16 an attached accessory dwelling unit shall not exceed fifty percent of
17 the existing primary dwelling, unless such limit would prevent the
18 creation of an accessory dwelling unit that is no greater than six
19 hundred squared feet.

20 2. A local agency shall not establish by ordinance any of the follow-
21 ing:

22 (a) A minimum square footage requirement for either an attached or
23 detached accessory dwelling unit greater than two hundred square feet;

24 (b) A maximum square footage requirement for either an attached or
25 detached accessory dwelling unit that is less than fifteen hundred
26 square feet;

27 (c) Any other minimum or maximum size for an accessory dwelling unit,
28 based upon a percentage of the proposed or existing primary dwelling, or

1 limits on lot coverage, floor area ratio, open space, and minimum lot
2 size, for either an attached or detached dwelling that does not permit
3 at least an eight hundred square foot accessory dwelling unit with four-
4 foot side and rear yard setbacks to be constructed in compliance with
5 other local development standards;

6 (d) A ceiling height requirement greater than seven feet;

7 (e) If an accessory dwelling unit or a portion thereof is below curb
8 level, a requirement that more than two feet of such unit's height be
9 above curb level;

10 (f) Any requirement that a passageway exist or be constructed in
11 conjunction with the creation of an accessory dwelling unit; and

12 (g) Any setback for an existing living area or accessory structure or
13 a structure constructed in the same location and to the same dimensions
14 as an existing structure that is converted to an accessory dwelling unit
15 or to a portion of an accessory dwelling unit, or any setback of more
16 than four feet from the side and rear lot lines for an accessory dwell-
17 ing unit that is not converted from an existing structure or a new
18 structure constructed in the same location and to the same dimensions as
19 an existing structure.

20 3. No ordinance for the creation of accessory dwelling units pursuant
21 to subdivision one of this section shall be considered in the applica-
22 tion of any local ordinance, policy, or program to limit residential
23 growth.

24 4. No parking requirement shall be imposed on an accessory dwelling
25 unit.

26 5. The local agency shall not require that off-street parking spaces
27 be replaced if a garage, carport, or covered parking structure is demol-

1 ished in conjunction with the construction of an accessory dwelling unit
2 or converted to an accessory dwelling unit.

3 6. Notwithstanding any local ordinance regulating the issuance of
4 variances or special use permits, a permit application to create an
5 accessory dwelling unit in conformance with the local ordinance shall be
6 considered ministerially without discretionary review or a hearing. If
7 there is an existing single-family or multifamily dwelling on the lot,
8 the permitting agency shall act on the application to create an accesso-
9 ry dwelling unit within sixty days from the date the local agency
10 receives a completed application. If the permit application to create an
11 accessory dwelling unit is submitted with a permit application to create
12 a new residential dwelling on the lot, the permitting agency may delay
13 acting on the permit application for the accessory dwelling unit until
14 the permitting agency acts on the permit application to create the new
15 dwelling, but the application to create the accessory dwelling unit
16 shall be considered without discretionary review or hearing. If the
17 applicant requests a delay, the sixty day time period shall be tolled
18 for the period of the delay. A local agency may charge a fee not to
19 exceed one thousand dollars for the reimbursement of the actual costs
20 such local agency incurs pursuant to this subdivision, including the
21 costs related to adopting or amending any ordinance that provide for the
22 creation of an accessory dwelling unit.

23 7. Municipalities shall establish an administrative appeal process
24 for the denial of a permit for accessory dwelling units. When a permit
25 to create an accessory dwelling unit pursuant to an ordinance adopted
26 pursuant to this section is denied, the agency shall issue a notice of
27 denial which shall contain the reason such permit application was denied
28 and instructions on how the applicant may appeal such denial. All

1 appeals shall be submitted to the issuing agency, or any decisional body
2 granting such permits, or any other appellate board or body, in writing
3 within thirty days of such denial.

4 8. No other local ordinance, policy, or regulation shall be the basis
5 for the denial of a building permit or a use permit under this section.

6 9. If a local agency has an existing accessory dwelling unit ordinance
7 that fails to meet the requirements of this section, that ordinance
8 shall be null and void. Such local agency shall thereafter apply the
9 standards established in this section for the approval of accessory
10 dwelling unit until such local agency adopts an ordinance that complies
11 with this section.

12 10. A local agency may amend its zoning ordinance or general plan to
13 incorporate the policies, procedures, and provisions applicable to the
14 creation of an accessory dwelling unit if such provisions are consistent
15 with this section.

16 11. The local agency shall ensure that accessory dwelling units are
17 not counted toward the allowable residential density, or any requirement
18 respecting lot coverage or open space, for the lot upon which the acces-
19 sory dwelling unit is located under the existing zoning designation for
20 such lot. The local agency shall also ensure that accessory dwelling
21 units are for a residential use that is consistent with the existing
22 zoning designation for the lot. The accessory dwelling unit shall not be
23 considered in the application of any local ordinance, policy, or program
24 to limit residential growth.

25 12. No provision of the multiple dwelling law shall apply to an acces-
26 sory dwelling unit, irrespective to whether such provisions of such law
27 apply to the primary dwelling, and a dwelling otherwise exempt from the
28 provisions of the multiple dwelling law shall not fall under the

1 provisions of such law as a result of the addition of an accessory
2 dwelling unit.

3 13. A local agency may require no more than one point of exterior
4 access by door from the proposed or existing residential dwelling.

5 14. A local agency shall not require, as a condition for ministerial
6 approval of a permit application for the creation of an accessory dwell-
7 ing unit, the correction of nonconforming zoning conditions.

8 15. Where an accessory dwelling unit requires a new or separate utili-
9 ty connection directly between the accessory dwelling unit and the util-
10 ity, the connection may be subject to a connection fee or capacity
11 charge that shall be proportionate to the burden of the proposed acces-
12 sory dwelling unit, based upon either its size or the number of its
13 plumbing fixtures upon the water or sewer system. Such fee or charge
14 shall not exceed the reasonable cost of providing such utility
15 connection. A local agency shall not impose any other impact fee in
16 connection with an accessory dwelling unit.

17 16. The first lawful occupancy of an accessory dwelling unit shall
18 occur at a time when a unit in the primary dwelling is owner-occupied,
19 and such owner-occupation must continue for at least one year following
20 the first legal occupancy of the accessory dwelling unit. A local agency
21 shall not impose any other owner occupancy requirement for either the
22 primary dwelling or the accessory dwelling unit.

23 17. A local agency shall not impose any health or safety requirement
24 on accessory dwelling units that is not necessary to protect the health
25 and safety of the occupants of such a dwelling.

26 18. A local agency shall not issue a certificate of occupancy or its
27 equivalent for an accessory dwelling unit before the local agency issues
28 a certificate of occupancy or its equivalent for the primary dwelling.

1 19. A local agency shall adopt an ordinance pursuant to this section
2 within one hundred eighty days of the effective date of this article.

3 § 482. State review and enforcement. 1. A local agency shall submit a
4 copy of the ordinance adopted pursuant to section four hundred eighty-
5 one of this article to the division within thirty days after such
6 adoption.

7 2. (a) Within sixty days of receipt of a local agency's ordinance, or
8 sixty days after expiration of the time to submit said ordinance, the
9 division shall submit written findings to the local agency as to whether
10 the local agency's ordinance complies with this article. Such findings
11 shall include a determination as to whether the local agency's ordinance
12 contains rules that are not reasonable within the meaning of paragraph
13 (c) of subdivision one of section four hundred eighty-one of this arti-
14 cle. If the division finds that the local agency's ordinance does not
15 comply with this article, such division shall notify such local agency
16 and shall provide such local agency with a reasonable time, no longer
17 than thirty days, to respond to the findings before taking any other
18 action authorized under this section.

19 (b) The local agency shall consider the findings made by the division
20 pursuant to this subdivision and shall do one of the following:

21 (i) Amend the ordinance to comply with the findings of the division;
22 or

23 (ii) Adopt the ordinance without amendments to comply with the find-
24 ings of the division. The local agency shall include findings in its
25 resolution adopting such ordinance that explain the reasons the local
26 agency believes that the ordinance complies with this article despite
27 the findings of the division.

1 3. (a) If, within thirty days of the local agency's response to the
2 division's findings, or thirty days after the expiration of the local
3 agency's time to respond, the division determines that the ordinance
4 does not comply with this article, the division shall:

5 (i) notify the local agency and the attorney general that the local
6 agency is in violation of state law; and

7 (ii) revise the ordinance to comply with this article and direct the
8 local agency to adopt it.

9 (b) Where a local agency is in violation of state law, the attorney
10 general may bring a civil action to enforce the requirements of this
11 article.

12 4. The division may review, adopt, amend, or repeal guidelines to
13 implement uniform standards or criteria that supplement or clarify the
14 terms, references, and standards set forth in this article.

15 5. Within one hundred days of the effective date of this article, the
16 division shall promulgate a model local ordinance that conforms to the
17 requirements of this article.

18 6. The division shall issue an annual report, on or before July first
19 of each year, that summarizes:

20 (a) the activities the division has taken pursuant to this section;

21 (b) local agencies' compliance with the terms of this article; and

22 (c) the development of accessory dwelling units in the state.

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

1 2. An accessory dwelling unit financed with the assistance of such
2 program shall be offered for rent at a below-market rate for a period of
3 fifteen years.

4 3. The division shall promulgate program criteria and guidelines
5 necessary to carry out such program.

6 4. Such program shall be funded through capital projects appropri-
7 ations and reappropriations set forth in the state fiscal year housing
8 program.

9 5. The division shall issue an annual report, on or before July first
10 of each year, that includes an itemized list of each project financed
11 through the program, including a brief description of the project,
12 street address, and county. Such report shall also summarize the demo-
13 graphic characteristics of participating homeowners, including income,
14 race, ethnicity, and sex.

15 6. Within one hundred eighty days of the effective date of this arti-
16 cle, the division shall establish a program to provide technical assist-
17 ance to all homeowners seeking to create an accessory dwelling unit.

18 § 484. Good cause eviction of a tenant. 1. As used in this section,
19 the following terms shall have the following meanings:

20 (a) "Landlord" shall mean any owner, lessor, sublessor, assignor, or
21 other person receiving or entitled to receive rent for the occupancy of
22 any accessory dwelling unit or an agent of any of the foregoing.

23 (b) "Tenant" shall mean a tenant, sub-tenant, lessee, sublessee,
24 assignee of an accessory dwelling unit.

25 (c) "Rent" shall mean any consideration, including any bonus, benefit
26 or gratuity demanded or received for or in connection with the
27 possession, use or occupancy of an accessory dwelling unit or the
28 execution or transfer of a lease for such a unit.

1 (d) "Disabled person" shall mean a person who has an impairment which
2 results from anatomical, physiological or psychological conditions,
3 other than addiction to alcohol, gambling, or any controlled substance,
4 which are demonstrable by medically acceptable clinical and laboratory
5 diagnostic techniques, and which are expected to be permanent and which
6 substantially limit one or more of such person's major life activities.

7 2. This section shall apply to all accessory dwelling units except:

8 (a) premises sublet pursuant to section two hundred twenty-six-b of
9 this chapter, or otherwise, where the sublessor seeks in good faith to
10 recover possession of such housing accommodation for their own personal
11 use and occupancy;

12 (b) premises the possession, use or occupancy of which is solely inci-
13 dent to employment and such employment is being lawfully terminated; and

14 (c) premises otherwise subject to regulation of rents or evictions
15 pursuant to state or federal law to the extent that such state or feder-
16 al law requires good cause for termination or non-renewal of such tenan-
17 cies.

18 3. No landlord shall, by action to evict or to recover possession, by
19 exclusion from possession, by failure to renew any lease, or otherwise,
20 remove any tenant from an accessory dwelling unit except for good cause
21 pursuant to subdivision four of this section.

22 4. (a) No landlord shall remove a tenant from any accessory dwelling
23 unit, or attempt such removal or exclusion from possession, notwith-
24 standing that the tenant has no written lease or that the lease or other
25 rental agreement has expired or otherwise terminated, except upon order
26 of a court of competent jurisdiction entered in an appropriate judicial
27 action or proceeding in which the petitioner or plaintiff has estab-

1 lished one of the following grounds as good cause for removal or
2 eviction:

3 (i) The tenant has failed to pay rent due and owing, provided however
4 that the rent due and owing, or any part thereof, did not result from a
5 rent increase which is unreasonable or imposed for the purpose of
6 circumventing the intent of this section. In determining whether all or
7 part of the rent due and owing is the result of an unreasonable rent
8 increase, it shall be a rebuttable presumption that the rent for a
9 dwelling not protected by rent regulation is unreasonable if said rent
10 has been increased in any calendar year by a percentage exceeding either
11 three percent or one and one-half times the annual percentage change in
12 the consumer price index for the region in which the housing accommo-
13 modation is located, as established the August preceding the calendar year
14 in question, whichever is greater;

15 (ii) The tenant is violating a substantial obligation of his or her
16 tenancy, other than the obligation to surrender possession, and after
17 receiving written notice from the landlord requiring that the substan-
18 tial violation be cured, the tenant has failed to cure such violation
19 within ten days of receipt of such notice, provided however, that the
20 obligation of tenancy for which violation is claimed was not imposed for
21 the purpose of circumventing the intent of this section;

22 (iii) The tenant is committing or permitting a nuisance in such acces-
23 sory dwelling unit, or is damaging the unit, whether maliciously, inten-
24 tionally, recklessly, or negligently; or the tenant's conduct is such as
25 to interfere with the comfort of the landlord or other tenants or occu-
26 pants of the same or adjacent buildings or structures;

27 (iv) Occupancy of accessory dwelling unit by the tenant is in
28 violation of or causes a violation of law and the landlord is subject to

1 civil or criminal penalties therefore; provided however that an agency
2 of the state or municipality having jurisdiction has issued an order
3 requiring the tenant to vacate the unit. No tenant shall be removed from
4 possession of a unit on such ground unless the court finds that the cure
5 of the violation of law requires the removal of the tenant and that the
6 landlord did not through neglect or deliberate action or failure to act
7 create the condition necessitating the vacate order. In instances where
8 the landlord does not undertake to cure conditions of the housing accom-
9 modation causing such violation of the law, the tenant shall have the
10 right to pay or secure payment in a manner satisfactory to the court, to
11 cure such violation provided that any tenant expenditures shall be
12 applied against rent to which the landlord is entitled. In instances
13 where removal of a tenant is absolutely essential to his or her health
14 and safety, the removal of the tenant shall be without prejudice to any
15 leasehold interest or other right of occupancy the tenant may have and
16 the tenant shall be entitled to resume possession at such time as the
17 dangerous conditions have been removed. Nothing herein shall abrogate
18 or otherwise limit the right of a tenant to bring an action for monetary
19 damages against the landlord to compel compliance by the landlord with
20 all applicable state or municipal laws or housing codes;

21 (v) The tenant is using or permitting the accessory dwelling unit to
22 be used for an illegal purpose;

23 (vi) The tenant has unreasonably refused the landlord access to the
24 accessory dwelling unit for the purpose of making necessary repairs or
25 improvements required by law or for the purpose of showing the housing
26 accommodation to a prospective purchaser, mortgagee or other person
27 having a legitimate interest therein; or

1 (vii) The landlord seeks in good faith to recover possession of an
2 accessory dwelling unit because of immediate and compelling necessity
3 for his or her own personal use and occupancy as his or her principal
4 residence, or the personal use and occupancy as principal residence of
5 his or her spouse, parent, child, stepchild, father-in-law or mother-in-
6 law, when no other suitable accommodation in such dwelling is available.
7 This paragraph shall permit recovery of only one accessory dwelling unit
8 and shall not apply to an accessory dwelling unit occupied by a tenant
9 who is sixty-two years of age or older or who is a disabled person.

10 (b) A tenant required to surrender a housing accommodation by virtue
11 of the operation of subparagraph (vii) of paragraph (a) of this subdivi-
12 sion shall have a cause of action in any court of competent jurisdiction
13 for damages, declaratory, and injunctive relief against a landlord or
14 purchaser of the premises who makes a fraudulent statement regarding a
15 proposed use of the accessory dwelling unit. In any action or proceeding
16 brought pursuant to this paragraph, a prevailing tenant shall be enti-
17 tled to recovery of actual damages, and reasonable attorneys' fees.

18 (c) Nothing in this section shall abrogate or limit the tenant's right
19 pursuant to section seven hundred fifty-one of the real property actions
20 and proceedings law to permanently stay the issuance or execution of a
21 warrant or eviction in a summary proceeding, whether characterized as a
22 nonpayment, objectionable tenancy, or holdover proceeding, the underly-
23 ing basis of which is the nonpayment of rent, so long as the tenant
24 complies with the procedural requirements of section seven hundred
25 fifty-one of the real property actions and proceedings law.

26 5. No action shall be maintainable and no judgment of possession shall
27 be entered for accessory dwelling units pursuant to this section unless
28 the landlord has complied with any and all applicable laws governing

1 such action or proceeding and has complied with any and all applicable
2 laws governing notice to tenants, including without limitation the
3 manner and the time of service of such notice and the contents of such
4 notice.

5 6. Any agreement by a tenant heretofore or hereinafter entered into in
6 a written lease or other rental agreement waiving or modifying their
7 rights as set forth in this section shall be void as contrary to public
8 policy.

9 § 485. Severability. In the event it is determined by a court of
10 competent jurisdiction that any phrase, clause, part, subdivision, para-
11 graph or section, or any of the provisions of this article, is unconsti-
12 tutional or otherwise invalid or inoperative, such determination shall
13 not affect the validity or effect of the remaining provisions of this
14 article.

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

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

20 § 3. Paragraph (a) of subdivision 1 of section 296 of the executive
21 law, as separately amended by chapters 8 and 176 of the laws of 2019, is
22 amended to read as follows:

23 (a) For an employer or licensing agency, because of an individual's
24 age, race, creed, color, national origin, sexual orientation, gender
25 identity or expression, military status, sex, disability, predisposing
26 genetic characteristics, familial status, marital status, or status as a
27 victim of domestic violence, to refuse to hire or employ or to bar or to
28 discharge from employment such individual or to discriminate against

1 such individual in compensation or in terms, conditions or privileges of
2 employment. In the case of an accessory dwelling unit as defined in
3 subdivision one of section four hundred eighty of the real property law,
4 the exemption from the provisions of this paragraph for the rental of a
5 housing accommodation in a building which contains housing accommo-
6 dations for not more than two families living independently of each
7 other, if the owner resides in one of such accommodations, shall not
8 apply.

9 § 4. This act shall take effect immediately.