



NEW YORK STATE SENATOR

Brian Kavanagh

## Assembly Member Epstein and Senator Kavanagh Announce Bill Empowering New York City to Safely Legalize Existing Basement Apartments

BRIAN KAVANAGH May 10, 2022

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NEW YORK — Assemblymember Harvey Epstein, chair of the Assembly subcommittee on Retention of Homeownership and Stabilization of Affordable Housing and Senator Brian Kavanagh, chair of the Senate Committee on Housing, Construction and Community Development unveiled legislation to pave the way for the enactment of local laws legalizing basement apartments. The bill ([S8783/A9802](#)) allows for the

establishment of a program to address the legalization of specified accessory dwelling units in a city with a population of one million or more.

The bill has the support of Mayor Eric Adams, City Comptroller Brad Lander, and a coalition of groups including, AARP New York, the BASE Campaign, Chhaya CDC, Citizens Housing & Planning Council, Cypress Hills Local Development Corporation, Pratt Center for Community Development, Queens Legal Services, the Center for NYC Neighborhoods, Housing Justice for All, and the Regional Plan Association.

Under the bill, the City would get the local control, legal tools, and discretion it needs to create a program to bring existing illegal basement units into conformance with the state's safety standards without having to comply with elements of the state multiple dwelling law that have historically inhibited the formalization of these units, including the State's ban on basement apartments except in very limited circumstances. Currently, the application of the multiple dwelling law to two-family homes that could in theory convert basements to livable apartments would render many conversions prohibitively expensive due to the requirements of the multiple dwelling law.

With the authority provided in the bill, the City would be set to provide relief to homeowners facing penalties for illegal apartments as well as unprotected tenants under terms it creates through its own legislative process. Thousands of New Yorkers in basement apartments stand to gain strong protections afforded to tenants in legal apartments.

In September of last year, 11 basement apartment tenants died as a result of flooding in their homes caused by Hurricane Ida. Because they live in unauthorized housing, tenants in basement apartments are disincentivized from reporting unsafe conditions for fear of losing their homes entirely.

“There are tens of thousands of New Yorkers living in basement apartments right now. They live without the same strong tenant protections that other renters enjoy. We can't ignore the fact that illegal apartments exist. We should recognize that they are an important part of our city's affordable housing stock and ensure that they are safe for the residents. I am proud to be joined by advocates and many of my colleagues in the State Legislature and the New York City Council in creating a pathway to safely legalize these apartments in our city,” **said Assemblymember Harvey Epstein (74th Assembly District).**

“As we learned last summer in tragic fashion, we need to take steps to ensure that tenants have affordable access to safe and dignified housing. This legislation provides the City of New York with the tools it needs to bring existing illegal basement units into conformity with the state's safety standards. It also provides protections for the residents of these units, many of whom are immigrants, and may be hesitant to report unsafe conditions. I thank Assemblymember Epstein for his partnership in sponsoring this legislation and our colleagues in the state legislature for their support. Thanks also to Mayor Adams, Comptroller Lander

and the many advocates who are working to get it enacted,” **said Senator Brian Kavanagh (26th Senate District).**

“Thousands of our neighbors are living in basements across New York City whether they are legal or not, and last summer, we saw the devastating impact of letting these homes remain under the radar. But we are not standing by any longer and ignoring this issue,” **said New York City Chief Housing Officer Jessica Katz.** “Legalizing basements can’t happen at the city level alone though, which is why I am grateful for Assemblymember Epstein and Senator Kavanagh for their leadership and partnership in finally creating a pathway to helping more New Yorkers access safe and legal homes.”

“It’s long past time we legalize Accessory Dwelling Units to protect residents from deadly disasters and contribute to solving the affordable housing crisis. This critical bill will protect 100,000 vulnerable New Yorkers living in basement apartments and ensure the tragedies of Hurricane Ida are not repeated,” **said New York City Comptroller Brad Lander.**

"For so many working-class immigrant families, basement apartments are the only option for housing in New York City. We know this well here in Jackson Heights and Elmhurst. So long as basement apartments are not legalized, they are dangerous, overcrowded, and unsafe. I applaud the efforts of Assembly Member Epstein and State Senator Kavanagh for introducing legislation that will recognize these basement apartments for what they truly are: badly needed affordable housing,” **said Councilmember Shekar Krishnan (25th Council District).**

“Legalizing basement accessory dwelling units in New York City will help alleviate a severe shortage of affordable housing while ensuring countless residents have a safe place to live. In addition, this legislation gives homeowners an opportunity to use and improve their properties, which will allow seniors on fixed incomes to grey in place. It is truly a win-win initiative,” **said Senator Pete Harckham (40th Senate District).**

“New York’s priority should be to expand affordable housing – not criminalize those who are trying to make it work. I applaud Assemblymember Epstein and Senator Kavanagh for fighting to protect the over 100,000 New Yorkers who are currently dwelling in basement apartments. Effective governing means meeting people where they are – and ensuring that New Yorkers are living safely instead of ripping them from their homes does exactly that,” **said Senator Brad Hoylman (27th Senate District).**

“Government’s first responsibility is to protect the lives and health of its people, but last year 11 New Yorkers living in illegal basement units were killed when their apartments rapidly flooded during Hurricane Ida. Simply put, that is morally unacceptable. New York City must safely secure these dwelling units and allow for their regulation through legalization. I agree with my colleagues Assembly Member

Harvey Epstein and Senator Brian Kavanagh in making their legislation a top priority this year,” **said Assembly Member Richard Gottfried (75th Assembly District).**

“Every unit of safe, affordable housing in New York City must be preserved. Keeping our neighbors in their homes and enhancing the safety of their apartments is a crucial step we must take. Adding more affordable housing is equally vital. I thank Assemblymember Epstein and Senator Kavanagh for introducing this important bill,” **said Assemblymember Deborah J. Glick (66th Assembly District).**

"The flooding of last September proved just how important it is that basement units be safe, regulated homes." **Said Assemblymember Niu (65th Assembly District).** "The majority of tenants in these units are immigrants and people of color, and we must act to protect them from future storms. As both a matter of increasing housing stock and of protecting vulnerable New Yorkers, it is vital that we pass this legislation and legalize these apartments so we can bring them up to appropriate safety standards."

“Legalizing ADUs will create tens of thousands of new, affordable housing units while giving homeowners access to new sources of income. I'm proud to support this legislation and look forward to it being signed into law,” **said Senator Zellnor Myrie (20th Senate District).**

“Hurricane Ida devastated my neighbors, proving to be fatal to those living in unregulated basement apartments. When we remember that fact against the backdrop of our overwhelmed housing courts, the rising costs of rents, and the hundreds of constituent calls my team fields week after week, sharing concerns about eviction, the only natural conclusion is that we must do something to increase our affordable housing supply. My constituents need this legislation,” **said State Senator Jessica Ramos (13th Senate District).**

“New York State has an obligation to use every tool available to create more safe, affordable homes and safeguard existing homes, especially for those residents currently living in unsafe conditions. Accessory dwelling units (ADU) represent one important tool we can use to achieve these goals,” **said Marcel Negret, Senior Planner, Regional Plan Association.** “This legislation would give New York City the local control, legal tools, and discretion it needs to develop a program to legalize existing ADUs and basement apartments and bring them up to code, providing support where it is most needed to keep tenants safe.”

“The fact that 11 people drowned in illegal basement apartments in New York City during Hurricane Ida last year tells you all you need to know about the need for safe, affordable housing. Cutting the red tape to ensure the city’s basement apartments are livable is the bare minimum we should do, and AARP New York thanks Senator Kavanagh and Assemblyman Epstein for their legislation to do so. Albany should work towards encouraging the creation of more safe, affordable accessory dwelling units in owner-

occupied houses statewide. As the State's population continues aging and our older residents seek ways to remain close to their family caregivers, AARP New York will continue advocating to achieve this goal," **said AARP New York State Director Beth Finkel.**

"Chhaya has long championed the housing and economic rights of South Asian and Indo-Caribbean communities. For many of the most vulnerable community members we serve, basement apartments are their only option for affordable housing. Formalizing these housing units is imperative to protecting vulnerable New Yorkers from unsafe conditions that can end in tragedy as we witnessed during Hurricane Ida. We applaud the efforts from Assemblymember Harvey Epstein and Senator Brian Kavanagh to partner with NYC BASE and other partners to prioritize this important legislation" **said [Annetta Seecharran](#), Executive Director, Chhaya Community Development Corporation.**

"Basement apartments provide housing for immigrant and working class New Yorkers and vital income for small homeowners. Everyone deserves to live in safe, stable, affordable housing and yet Hurricane Ida showed us that not everyone does. After 15 years advocating with the Basement Apartments Safe for Everyone (BASE) Coalition, we are glad to see traction from State lawmakers on solving one of our City's most important affordable housing challenges. We encourage legislators to pass this bill as a first step in providing New York City with the local control it needs to enact measures that can bring these units up to code, creating safe housing for all," **said Lena Afridi, Acting Director, Pratt Center for Community Development.**

"We are very disappointed that the ENY campaign to support basement pilots has lost its funding," **said Ivy Perez, senior policy and research manager at the Center for NYC Neighborhoods.** "This project was an important effort to learn directly from homeowners, tenants, and community organizations about barriers and challenges to making basement apartments safe as homes. These companion bills represent a tremendous opportunity to make right on that lost opportunity: this is an important first, legal step in making NYC's basements safe, and we hope to see their passage in the very near future."

"The NYC BASE Coalition has been fighting for basement tenants and homeowners for over a decade. Tens of thousands of New Yorkers live in basement apartments and the time to act is now. Too many of our most vulnerable community members—low-income residents, immigrants, seniors—live in illegal basement units with no safety standards and no protections. As a coalition made up of nonprofit community-based organizations, legal service providers, and other community groups, we thank Assemblymember Harvey Epstein and Senator Brian Kavanagh for working with NYC BASE and championing this bill which will remove hurdles towards creating safe, regulated basement apartments in NYC," **said Jose Miranda, Member of NYC BASE.**

“For the last three years, Cypress Hills Local Development Corporation has been leading the Basement Apartment Conversion Pilot Program in East New York, Brooklyn. We know from first-hand experience that this legislation will make it far more feasible for low- and moderate-income homeowners to legalize their existing basement apartments into safe and healthy units. This is an important step towards stabilizing homeownership in communities like East New York and creating more housing in our City,” **said Ryan Chavez, Program Director of the Basement Apartment Conversion Pilot Program at Cypress Hills Local Development Corporation.**

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