

3173

2013-2014 Regular Sessions

I N S E N A T E

January 31, 2013

Introduced by Sens. KRUEGER, PERALTA -- read twice and ordered printed,
and when printed to be committed to the Committee on Housing,
Construction and Community Development

AN ACT to amend the administrative code of the city of New York and the
emergency tenant protection act of nineteen seventy-four, in relation
to approval of major capital improvement rent increases

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 26-405 of the administrative code of the city of
2 New York is amended by adding a new subdivision n to read as follows:
3 N. (1) NO MAJOR CAPITAL IMPROVEMENT RENT INCREASE WILL BE APPROVED BY
4 THE DIVISION OF HOUSING AND COMMUNITY RENEWAL UNLESS THE WORK PERFORMED
5 IS AN ENHANCEMENT OR UPGRADE TO A HOUSING ACCOMMODATION OR SERVICE THER-
6 EIN; OR IS AN ADDITION TO SUCH HOUSING ACCOMMODATION AND OTHERWISE
7 ELIGIBLE ACCORDING TO THE PREREQUISITES FOR MAJOR CAPITAL IMPROVEMENT
8 RENT INCREASES. ANY REPAIR OR REPLACEMENT INTENDED TO MAINTAIN AN
9 EXISTING SERVICE SHALL NOT BE ELIGIBLE FOR A MAJOR CAPITAL IMPROVEMENT
10 RENT INCREASE.
11 (2) NO APPLICATION FOR A MAJOR CAPITAL IMPROVEMENT RENT INCREASE MAY
12 BE APPROVED IF THERE EXIST ANY OUTSTANDING HAZARDOUS VIOLATIONS AT THE
13 TIME OF THE CONSIDERATION OF SUCH APPLICATION, AS DETERMINED PURSUANT TO
14 REGULATIONS OF THE DIVISION OF HOUSING AND COMMUNITY RENEWAL OR ANY
15 AGENCY ADMINISTERING AND ENFORCING A BUILDING CODE IN THE JURISDICTION
16 IN WHICH THE PROPERTY IS LOCATED, UNLESS IT IS DETERMINED BY THE DIVI-
17 SION OF HOUSING AND COMMUNITY RENEWAL THAT SUCH WORK IS ESSENTIAL TO THE
18 ALLEVIATION OF THE VIOLATIONS AND SUCH APPROVAL IS CONSISTENT WITH THE
19 PROVISIONS OF THIS SECTION. EXCEPT IN THE CASE OF EMERGENCY OR GOOD
20 CAUSE, THE OWNER OF THE PROPERTY SHALL FILE, NOT LESS THAN THIRTY DAYS
21 BEFORE THE COMMENCEMENT OF THE IMPROVEMENT, WITH THE DIVISION OF HOUSING
22 AND COMMUNITY RENEWAL A STATEMENT CONTAINING INFORMATION OUTLINING THE

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

LBD00872-01-3

SCOPE OF WORK, EXPECTED DATE OF COMPLETION FOR SUCH WORK AND AN AFFIDAVIT SETTING FORTH THE FOLLOWING INFORMATION:

(A) EVERY OWNER OF RECORD AND OWNER OF A SUBSTANTIAL INTEREST IN THE PROPERTY OR ENTITY OWNING THE PROPERTY OR SPONSORING THE IMPROVEMENT; AND

(B) A STATEMENT THAT NONE OF SUCH PERSONS HAD, WITHIN THE FIVE YEARS PRIOR TO THE IMPROVEMENT, BEEN FOUND TO HAVE HARASSED OR UNLAWFULLY EVICTED TENANTS BY JUDGMENT OR DETERMINATION OF A COURT OR AGENCY UNDER THE PENAL LAW, ANY STATE OR LOCAL LAW REGULATING RENTS OR ANY STATE OR LOCAL LAW RELATING TO HARASSMENT OF TENANTS OR UNLAWFUL EVICTION.

UPON RECEIPT OF THE SCOPE OF WORK AND AFFIDAVIT PROVIDED FOR HEREIN, THE DIVISION OF HOUSING AND COMMUNITY RENEWAL SHALL PROVIDE THE TENANTS IN OCCUPANCY IN SUCH BUILDINGS WITH SUCH INFORMATION. THE DIVISION OF HOUSING AND COMMUNITY RENEWAL SHALL, IN ADDITION, IMPLEMENT PROCEDURES INCLUDING, BUT NOT LIMITED TO, ELICITING TENANT COMMENTS TO DETERMINE WHETHER MAJOR CAPITAL IMPROVEMENT REHABILITATION WORK HAS BEEN SATISFACTORILY COMPLETED. NO MAJOR CAPITAL IMPROVEMENT RENT INCREASE SHALL BECOME EFFECTIVE UNTIL ANY DEFECTIVE OR DEFICIENT REHABILITATION WORK HAS BEEN CURED.

S 2. Subdivision c of section 26-511 of the administrative code of the city of New York is amended by adding a new paragraph 6-b to read as follows:

(6-B) PROVIDES CRITERIA WHEREBY THE COMMISSIONER MAY ACT UPON APPLICATION BY OWNERS FOR INCREASES IN EXCESS OF THE LEVEL OF FAIR RENT INCREASE ESTABLISHED UNDER THIS LAW PROVIDED HOWEVER, THAT SUCH CRITERIA SHALL PROVIDE THAT:

(1) NO MAJOR CAPITAL IMPROVEMENT RENT INCREASE WILL BE APPROVED BY THE DIVISION OF HOUSING AND COMMUNITY RENEWAL UNLESS THE WORK PERFORMED IS AN ENHANCEMENT OR UPGRADE TO A HOUSING ACCOMMODATION OR SERVICE THEREIN; OR IS AN ADDITION TO SUCH HOUSING ACCOMMODATION AND OTHERWISE ELIGIBLE ACCORDING TO THE PREREQUISITES FOR MAJOR CAPITAL IMPROVEMENT RENT INCREASES. ANY REPAIR OR REPLACEMENT INTENDED TO MAINTAIN AN EXISTING SERVICE SHALL NOT BE ELIGIBLE FOR A MAJOR CAPITAL IMPROVEMENT RENT INCREASE.

(2) NO APPLICATION FOR A MAJOR CAPITAL IMPROVEMENT RENT INCREASE MAY BE APPROVED IF THERE EXIST ANY OUTSTANDING HAZARDOUS VIOLATIONS AT THE TIME OF THE CONSIDERATION OF SUCH APPLICATION, AS DETERMINED PURSUANT TO REGULATIONS OF THE DIVISION OF HOUSING AND COMMUNITY RENEWAL OR ANY AGENCY ADMINISTERING AND ENFORCING A BUILDING CODE IN THE JURISDICTION IN WHICH THE PROPERTY IS LOCATED, UNLESS IT IS DETERMINED BY THE DIVISION OF HOUSING AND COMMUNITY RENEWAL THAT SUCH WORK IS ESSENTIAL TO THE ALLEVIATION OF THE VIOLATIONS AND SUCH APPROVAL IS CONSISTENT WITH THE PROVISIONS OF THIS SECTION. EXCEPT IN THE CASE OF EMERGENCY OR GOOD CAUSE, THE OWNER OF THE PROPERTY SHALL FILE, NOT LESS THAN THIRTY DAYS BEFORE THE COMMENCEMENT OF THE IMPROVEMENT, WITH THE DIVISION OF HOUSING AND COMMUNITY RENEWAL A STATEMENT CONTAINING INFORMATION OUTLINING THE SCOPE OF WORK, EXPECTED DATE OF COMPLETION FOR SUCH WORK AND AN AFFIDAVIT SETTING FORTH THE FOLLOWING INFORMATION:

(A) EVERY OWNER OF RECORD AND OWNER OF A SUBSTANTIAL INTEREST IN THE PROPERTY OR ENTITY OWNING THE PROPERTY OR SPONSORING THE IMPROVEMENT; AND

(B) A STATEMENT THAT NONE OF SUCH PERSONS HAD, WITHIN THE FIVE YEARS PRIOR TO THE IMPROVEMENT, BEEN FOUND TO HAVE HARASSED OR UNLAWFULLY EVICTED TENANTS BY JUDGMENT OR DETERMINATION OF A COURT OR AGENCY UNDER THE PENAL LAW, ANY STATE OR LOCAL LAW REGULATING RENTS OR ANY STATE OR LOCAL LAW RELATING TO HARASSMENT OF TENANTS OR UNLAWFUL EVICTION.

1 UPON RECEIPT OF THE SCOPE OF WORK AND AFFIDAVIT PROVIDED FOR HEREIN,
2 THE DIVISION OF HOUSING AND COMMUNITY RENEWAL SHALL PROVIDE THE TENANTS
3 IN OCCUPANCY IN SUCH BUILDINGS WITH SUCH INFORMATION. THE DIVISION OF
4 HOUSING AND COMMUNITY RENEWAL SHALL, IN ADDITION, IMPLEMENT PROCEDURES
5 INCLUDING, BUT NOT LIMITED TO, ELICITING TENANT COMMENTS TO DETERMINE
6 WHETHER MAJOR CAPITAL IMPROVEMENT REHABILITATION WORK HAS BEEN SATISFAC-
7 TORILY COMPLETED. NO MAJOR CAPITAL IMPROVEMENT RENT INCREASE SHALL
8 BECOME EFFECTIVE UNTIL ANY DEFECTIVE OR DEFICIENT REHABILITATION WORK
9 HAS BEEN CURED.

10 S 3. Section 6 of section 4 of chapter 576 of the laws of 1974,
11 constituting the emergency tenant protection act of nineteen seventy-
12 four, is amended by adding a new subdivision d-1 to read as follows:

13 D-1. (1) NO MAJOR CAPITAL IMPROVEMENT RENT INCREASE WILL BE APPROVED
14 BY THE DIVISION OF HOUSING AND COMMUNITY RENEWAL UNLESS THE WORK
15 PERFORMED IS AN ENHANCEMENT OR UPGRADE TO A HOUSING ACCOMMODATION OR
16 SERVICE THEREIN; OR IS AN ADDITION TO SUCH HOUSING ACCOMMODATION AND
17 OTHERWISE ELIGIBLE ACCORDING TO THE PREREQUISITES FOR MAJOR CAPITAL
18 IMPROVEMENT RENT INCREASES. ANY REPAIR OR REPLACEMENT INTENDED TO MAIN-
19 TAIN AN EXISTING SERVICE SHALL NOT BE ELIGIBLE FOR A MAJOR CAPITAL
20 IMPROVEMENT RENT INCREASE.

21 (2) NO APPLICATION FOR A MAJOR CAPITAL IMPROVEMENT RENT INCREASE MAY
22 BE APPROVED IF THERE EXIST ANY OUTSTANDING HAZARDOUS VIOLATIONS AT THE
23 TIME OF THE CONSIDERATION OF SUCH APPLICATION, AS DETERMINED PURSUANT TO
24 REGULATIONS OF THE DIVISION OF HOUSING AND COMMUNITY RENEWAL OR ANY
25 AGENCY ADMINISTERING AND ENFORCING A BUILDING CODE IN THE JURISDICTION
26 IN WHICH THE PROPERTY IS LOCATED, UNLESS IT IS DETERMINED BY THE DIVI-
27 SION OF HOUSING AND COMMUNITY RENEWAL THAT SUCH WORK IS ESSENTIAL TO THE
28 ALLEVIATION OF THE VIOLATIONS AND SUCH APPROVAL IS CONSISTENT WITH THE
29 PROVISIONS OF THIS SECTION. EXCEPT IN THE CASE OF EMERGENCY OR GOOD
30 CAUSE, THE OWNER OF THE PROPERTY SHALL FILE, NOT LESS THAN THIRTY DAYS
31 BEFORE THE COMMENCEMENT OF THE IMPROVEMENT, WITH THE DIVISION OF HOUSING
32 AND COMMUNITY RENEWAL A STATEMENT CONTAINING INFORMATION OUTLINING THE
33 SCOPE OF WORK, EXPECTED DATE OF COMPLETION FOR SUCH WORK AND AN AFFIDA-
34 VIT SETTING FORTH THE FOLLOWING INFORMATION:

35 (A) EVERY OWNER OF RECORD AND OWNER OF A SUBSTANTIAL INTEREST IN THE
36 PROPERTY OR ENTITY OWNING THE PROPERTY OR SPONSORING THE IMPROVEMENT;
37 AND

38 (B) A STATEMENT THAT NONE OF SUCH PERSONS HAD, WITHIN THE FIVE YEARS
39 PRIOR TO THE IMPROVEMENT, BEEN FOUND TO HAVE HARASSED OR UNLAWFULLY
40 EVICTED TENANTS BY JUDGMENT OR DETERMINATION OF A COURT OR AGENCY UNDER
41 THE PENAL LAW, ANY STATE OR LOCAL LAW REGULATING RENTS OR ANY STATE OR
42 LOCAL LAW RELATING TO HARASSMENT OF TENANTS OR UNLAWFUL EVICTION.

43 UPON RECEIPT OF THE SCOPE OF WORK AND AFFIDAVIT PROVIDED FOR HEREIN,
44 THE DIVISION OF HOUSING AND COMMUNITY RENEWAL SHALL PROVIDE THE TENANTS
45 IN OCCUPANCY IN SUCH BUILDINGS WITH SUCH INFORMATION. THE DIVISION OF
46 HOUSING AND COMMUNITY RENEWAL SHALL, IN ADDITION, IMPLEMENT PROCEDURES
47 INCLUDING, BUT NOT LIMITED TO, ELICITING TENANT COMMENTS TO DETERMINE
48 WHETHER MAJOR CAPITAL IMPROVEMENT REHABILITATION WORK HAS BEEN SATISFAC-
49 TORILY COMPLETED. NO MAJOR CAPITAL IMPROVEMENT RENT INCREASE SHALL
50 BECOME EFFECTIVE UNTIL ANY DEFECTIVE OR DEFICIENT REHABILITATION WORK
51 HAS BEEN CURED.

52 S 4. Paragraph 3 of subdivision d of section 6 of section 4 of chapter
53 576 of the laws of 1974 constituting the emergency tenant protection act
54 of nineteen seventy-four, as amended by chapter 749 of the laws of 1990,
55 is amended to read as follows:

(3) there has been since January first, nineteen hundred seventy-four a major capital improvement required for the operation, preservation or maintenance of the structure; PROVIDED THAT THE MAJOR CAPITAL IMPROVEMENT WAS NOT FUNDED IN ANY PART FROM MONEYS PROVIDED BY THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY OR ANY SUCCESSOR AGENCY. An adjustment under this paragraph shall be in an amount sufficient to amortize the cost of the improvements pursuant to this paragraph over a seven-year period, or

S 5. Subparagraph (g) of paragraph 1 of subdivision g of section 26-405 of the administrative code of the city of New York, as amended by chapter 749 of the laws of 1990, is amended to read as follows:

(g) There has been since July first, nineteen hundred seventy, a major capital improvement required for the operation, preservation or maintenance of the structure; PROVIDED THAT THE MAJOR CAPITAL IMPROVEMENT WAS NOT FUNDED IN ANY PART FROM MONEYS PROVIDED BY THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY OR ANY SUCCESSOR AGENCY. An adjustment under this subparagraph (g) shall be in an amount sufficient to amortize the cost of the improvements pursuant to this subparagraph (g) over a seven-year period; or

S 6. Subparagraph (k) of paragraph 1 of subdivision g of section 26-405 of the administrative code of the city of New York, as amended by chapter 749 of the laws of 1990, is amended to read as follows:

(k) The landlord has incurred, since January first, nineteen hundred seventy, in connection with and in addition to a concurrent major capital improvement pursuant to subparagraph (g) of this paragraph, other expenditures to improve, restore or preserve the quality of the structure; PROVIDED THAT SUCH OTHER EXPENDITURES WERE NOT FUNDED IN ANY PART FROM MONEYS PROVIDED BY THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY OR ANY SUCCESSOR AGENCY. An adjustment under this subparagraph shall be granted only if such improvements represent an expenditure equal to at least ten per centum of the total operating and maintenance expenses for the preceding year. An adjustment under this subparagraph shall be in addition to any adjustment granted for the concurrent major capital improvement and shall be in an amount sufficient to amortize the cost of the improvements pursuant to this subparagraph over a seven-year period.

S 7. This act shall take effect immediately, provided that:

(a) the amendments to section 26-405 of the city rent and rehabilitation law made by sections one, five and six of this act shall remain in full force and effect only so long as the public emergency requiring the regulation and control of residential rents and evictions continues, as provided in subdivision 3 of section 1 of the local emergency housing rent control act;

(b) the amendment to section 26-511 of the rent stabilization law of nineteen hundred sixty-nine made by section two of this act shall expire on the same date as such law expires and shall not affect the expiration of such law as provided under section 26-520 of such law, as from time to time amended; and

(c) the amendments to section 6 of the emergency tenant protection act of nineteen seventy-four made by sections three and four of this act shall expire on the same date as such act expires and shall not affect the expiration of such act as provided in section 17 of chapter 576 of the laws of 1974, as from time to time amended.