

STATE OF NEW YORK

4888

2017-2018 Regular Sessions

IN ASSEMBLY

February 6, 2017

Introduced by M. of A. ROSENTHAL -- read once and referred to the Committee on Housing

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

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

1 Section 1. Subparagraph (g) of paragraph 1 of subdivision g of section
2 26-405 of the administrative code of the city of New York, as amended by
3 section 31 of part A of chapter 20 of the laws of 2015, is amended to
4 read as follows:

5 (g) There has been since July first, nineteen hundred seventy, a major
6 capital improvement required for the operation, preservation or maintenance
7 of the structure. An adjustment under this subparagraph (g) for
8 any order of the commissioner issued after the effective date of the
9 rent act of 2015 shall be in an amount sufficient to amortize the cost
10 of the improvements pursuant to this subparagraph (g) over an eight-year
11 period for buildings with thirty-five or fewer units or a nine year
12 period for buildings with more than ~~[thirty-five]~~ thirty-five units~~[-]~~;
13 provided, however, no application for a major capital improvement rent
14 increase shall be approved by the division of housing and community
15 renewal unless the owner of the property has filed all copies of permits
16 pertaining to the major capital improvement work with such application.
17 Any application submitted with fraudulent permits or without required
18 permits shall be denied; or

19 § 2. Paragraph 6 of subdivision c of section 26-511 of the administrative
20 code of the city of New York, as amended by section 29 of part A of
21 chapter 20 of the laws of 2015, is amended to read as follows:

22 (6) provides criteria whereby the commissioner may act upon applications
23 by owners for increases in excess of the level of fair rent
24 increase established under this law provided, however, that such criteria
25 shall provide (a) as to hardship applications, for a finding that
26 the level of fair rent increase is not sufficient to enable the owner to

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

LBD05141-01-7

1 maintain approximately the same average annual net income (which shall
2 be computed without regard to debt service, financing costs or manage-
3 ment fees) for the three year period ending on or within six months of
4 the date of an application pursuant to such criteria as compared with
5 annual net income, which prevailed on the average over the period nine-
6 teen hundred sixty-eight through nineteen hundred seventy, or for the
7 first three years of operation if the building was completed since nine-
8 teen hundred sixty-eight or for the first three fiscal years after a
9 transfer of title to a new owner provided the new owner can establish to
10 the satisfaction of the commissioner that he or she acquired title to
11 the building as a result of a bona fide sale of the entire building and
12 that the new owner is unable to obtain requisite records for the fiscal
13 years nineteen hundred sixty-eight through nineteen hundred seventy
14 despite diligent efforts to obtain same from predecessors in title and
15 further provided that the new owner can provide financial data covering
16 a minimum of six years under his or her continuous and uninterrupted
17 operation of the building to meet the three year to three year compar-
18 ative test periods herein provided; and (b) as to completed building-
19 wide major capital improvements, for a finding that such improvements
20 are deemed depreciable under the Internal Revenue Code and that the cost
21 is to be amortized over an eight-year period for a building with thir-
22 ty-five or fewer housing accommodations, or a nine-year period for a
23 building with more than thirty-five housing accommodations, for any
24 determination issued by the division of housing and community renewal
25 after the effective date of the rent act of 2015, based upon cash
26 purchase price exclusive of interest or service charges. The division of
27 housing and community renewal shall require the submission of copies of
28 all permits pertaining to major capital improvement work with any appli-
29 cation for a major capital improvement rent increase. Any application
30 submitted with fraudulent permits or without required permits shall be
31 denied. Notwithstanding anything to the contrary contained herein, no
32 hardship increase granted pursuant to this paragraph shall, when added
33 to the annual gross rents, as determined by the commissioner, exceed the
34 sum of, (i) the annual operating expenses, (ii) an allowance for manage-
35 ment services as determined by the commissioner, (iii) actual annual
36 mortgage debt service (interest and amortization) on its indebtedness to
37 a lending institution, an insurance company, a retirement fund or
38 welfare fund which is operated under the supervision of the banking or
39 insurance laws of the state of New York or the United States, and (iv)
40 eight and one-half percent of that portion of the fair market value of
41 the property which exceeds the unpaid principal amount of the mortgage
42 indebtedness referred to in subparagraph (iii) of this paragraph. Fair
43 market value for the purposes of this paragraph shall be six times the
44 annual gross rent. The collection of any increase in the stabilized rent
45 for any apartment pursuant to this paragraph shall not exceed six
46 percent in any year from the effective date of the order granting the
47 increase over the rent set forth in the schedule of gross rents, with
48 collectability of any dollar excess above said sum to be spread forward
49 in similar increments and added to the stabilized rent as established or
50 set in future years;

51 § 3. Paragraph 3 of subdivision d of section 6 of section 4 of chapter
52 576 of the laws of 1974, constituting the emergency tenant protection
53 act of nineteen seventy-four, as amended by section 30 of part A of
54 chapter 20 of the laws of 2015, is amended to read as follows:

55 (3) there has been since January first, nineteen hundred seventy-four
56 a major capital improvement required for the operation, preservation or

1 maintenance of the structure. An adjustment under this paragraph shall
2 be in an amount sufficient to amortize the cost of the improvements
3 pursuant to this paragraph over an eight-year period for a building with
4 thirty-five or fewer housing accommodations, or a nine-year period for a
5 building with more than thirty-five housing accommodations, for any
6 determination issued by the division of housing and community renewal
7 after the effective date of the rent act of 2015[7]; provided, however,
8 no application for a major capital improvement rent increase shall be
9 approved by the division of housing and community renewal unless the
10 owner of the property has filed all copies of permits pertaining to the
11 major capital improvement work with such application. Any application
12 submitted with fraudulent permits or without required permits shall be
13 denied; or

14 § 4. Subparagraph 7 of the second undesignated paragraph of paragraph
15 (a) of subdivision 4 of section 4 of chapter 274 of the laws of 1946,
16 constituting the emergency housing rent control law, as amended by
17 section 32 of part A of chapter 20 of the laws of 2015, is amended to
18 read as follows:

19 (7) there has been since March first, nineteen hundred fifty, a major
20 capital improvement required for the operation, preservation or mainte-
21 nance of the structure; which for any order of the commissioner issued
22 after the effective date of the rent act of 2015 the cost of such
23 improvement shall be amortized over an eight-year period for buildings
24 with thirty-five or fewer units or a nine year period for buildings with
25 more than [~~thirty-five~~] thirty-five units[7]; provided, however, no
26 application for a major capital improvement rent increase shall be
27 approved by the division of housing and community renewal unless the
28 owner of the property has filed all copies of permits pertaining to the
29 major capital improvement work with such application. Any application
30 submitted with fraudulent permits or without required permits shall be
31 denied; or

32 § 5. This act shall take effect immediately; provided that:

33 (a) the amendments to section 26-405 of the city rent and rehabili-
34 tation law made by section one of this act shall remain in full force
35 and effect only as long as the public emergency requiring the regulation
36 and control of residential rents and evictions continues, as provided in
37 subdivision 3 of section 1 of the local emergency housing rent control
38 act;

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

44 (c) the amendments to section 6 of the emergency tenant protection act
45 of nineteen seventy-four made by section three of this act shall expire
46 on the same date as such act expires and shall not affect the expiration
47 of such act as provided in section 17 of chapter 576 of the laws of
48 1974, as from time to time amended; and

49 (d) the amendments to section 4 of the emergency housing rent control
50 law made by section four of this act shall expire on the same date as
51 such law expires and shall not affect the expiration of such law as
52 provided in subdivision 2 of section 1 of chapter 274 of the laws of
53 1946.