

6814

2009-2010 Regular Sessions

I N   A S S E M B L Y

March 12, 2009

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

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 ASSEMBLY, 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 THERE-  
6 IN; OR IS AN ADDITION TO SUCH HOUSING ACCOMMODATION AND OTHERWISE  
7 ELIGIBLE ACCORDING TO THE PREREQUISITES FOR MAJOR CAPITAL IMPROVEMENT  
8 RENT INCREASES.

9     (A) ANY REPAIR OR REPLACEMENT INTENDED TO MAINTAIN AN EXISTING SERVICE  
10 SHALL NOT BE ELIGIBLE FOR A MAJOR CAPITAL IMPROVEMENT RENT INCREASE.

11     (B) ANY SERVICE OR FACILITY WHICH IS ASSURED UNDER THE WARRANTY OF  
12 HABITABILITY, OR OTHERWISE PROVIDED FOR IN A LEASE OR RENTAL AGREEMENT  
13 BETWEEN OWNER AND TENANT, SHALL NOT BE ELIGIBLE FOR A MAJOR CAPITAL  
14 IMPROVEMENT RENT INCREASE.

15     (2) NO APPLICATION FOR A MAJOR CAPITAL IMPROVEMENT RENT INCREASE MAY  
16 BE APPROVED IF THERE EXIST ANY OUTSTANDING HAZARDOUS VIOLATIONS AT THE  
17 TIME OF THE CONSIDERATION OF SUCH APPLICATION, AS DETERMINED PURSUANT TO  
18 REGULATIONS OF THE DIVISION OF HOUSING AND COMMUNITY RENEWAL OR ANY  
19 AGENCY ADMINISTERING AND ENFORCING A BUILDING CODE IN THE JURISDICTION  
20 IN WHICH THE PROPERTY IS LOCATED, UNLESS IT IS DETERMINED BY THE DIVI-  
21 SION OF HOUSING AND COMMUNITY RENEWAL THAT SUCH WORK IS ESSENTIAL TO THE  
22 ALLEVIATION OF THE VIOLATIONS AND SUCH APPROVAL IS CONSISTENT WITH THE  
23 PROVISIONS OF THIS SECTION. EXCEPT IN THE CASE OF EMERGENCY OR GOOD  
24 CAUSE, THE OWNER OF THE PROPERTY SHALL FILE, NOT LESS THAN THIRTY DAYS

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

LBD10329-01-9

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.

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.

(A) ANY REPAIR OR REPLACEMENT INTENDED TO MAINTAIN AN EXISTING SERVICE SHALL NOT BE ELIGIBLE FOR A MAJOR CAPITAL IMPROVEMENT RENT INCREASE.

(B) ANY SERVICE OR FACILITY WHICH IS ASSURED UNDER THE WARRANTY OF HABITABILITY, OR OTHERWISE PROVIDED FOR IN A LEASE OR RENTAL AGREEMENT BETWEEN OWNER AND TENANT, 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:

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

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

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

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

21 D-1. (1) NO MAJOR CAPITAL IMPROVEMENT RENT INCREASE WILL BE APPROVED  
22 BY THE DIVISION OF HOUSING AND COMMUNITY RENEWAL UNLESS THE WORK  
23 PERFORMED IS AN ENHANCEMENT OR UPGRADE TO A HOUSING ACCOMMODATION OR  
24 SERVICE THEREIN; OR IS AN ADDITION TO SUCH HOUSING ACCOMMODATION AND  
25 OTHERWISE ELIGIBLE ACCORDING TO THE PREREQUISITES FOR MAJOR CAPITAL  
26 IMPROVEMENT RENT INCREASES.

27 (A) ANY REPAIR OR REPLACEMENT INTENDED TO MAINTAIN AN EXISTING SERVICE  
28 SHALL NOT BE ELIGIBLE FOR A MAJOR CAPITAL IMPROVEMENT RENT INCREASE.

29 (B) ANY SERVICE OR FACILITY WHICH IS ASSURED UNDER THE WARRANTY OF  
30 HABITABILITY, OR OTHERWISE PROVIDED FOR IN A LEASE OR RENTAL AGREEMENT  
31 BETWEEN OWNER AND TENANT, SHALL NOT BE ELIGIBLE FOR A MAJOR CAPITAL  
32 IMPROVEMENT RENT INCREASE.

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

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

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

55 UPON RECEIPT OF THE SCOPE OF WORK AND AFFIDAVIT PROVIDED FOR HEREIN,  
56 THE DIVISION OF HOUSING AND COMMUNITY RENEWAL SHALL PROVIDE THE TENANTS

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

8 S 4. This act shall take effect immediately, provided that the amend-  
9 ment to section 26-405 of the city rent and rehabilitation law made by  
10 section one of this act shall remain in full force and effect only so  
11 long as the public emergency requiring the regulation and control of  
12 residential rents and evictions continues, as provided in subdivision 3  
13 of section 1 of the local emergency housing rent control act and  
14 provided further that the amendment to section 26-511 of the rent  
15 stabilization law of nineteen hundred sixty-nine made by section two of  
16 this act shall expire on the same date as such law expires and shall not  
17 affect the expiration of such law as provided under section 26-520 of  
18 such law, as from time to time amended and provided further that the  
19 amendment to section 6 of the emergency tenant protection act of nine-  
20 teen seventy-four made by section three of this act shall expire on the  
21 same date as such act expires and shall not affect the expiration of  
22 such act as provided in section 17 of chapter 576 of the laws of 1974,  
23 as from time to time amended.