

1443

2009-2010 Regular Sessions

I N   S E N A T E

February 2, 2009

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Introduced by Sens. DUANE, KRUEGER -- 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 inspection of major capital improvements for which rent increases  
are requested and in relation to extending the provisions of the rent  
stabilization law

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-  
BLY, 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     chapter 749 of the laws of 1990, is amended to read as follows:  
4     (g) There has been since July first, nineteen hundred seventy, a major  
5     capital improvement required for the operation, preservation or mainte-  
6     nance of the structure. An adjustment under this subparagraph [(g)]  
7     shall be in an amount sufficient to amortize the cost of the improve-  
8     ments pursuant to this subparagraph [(g)] over a seven-year period. NO  
9     LANDLORD SHALL DENY ACCESS TO A PROFESSIONAL ENGINEER LICENSED TO PRAC-  
10    TICE IN THE STATE OF NEW YORK OR A REGISTERED ARCHITECT LICENSED TO  
11    PRACTICE IN THE STATE OF NEW YORK HIRED BY ANY TENANT, TENANTS OR TENANT  
12    ASSOCIATION REPRESENTING TENANTS OF A MULTIPLE DWELLING OF SIX UNITS OR  
13    MORE FOR THE PURPOSE OF CONDUCTING AN INSPECTION OF A MAJOR CAPITAL  
14    IMPROVEMENT FOR WHICH AN APPLICATION FOR ADJUSTMENT OF MAXIMUM RENT HAS  
15    BEEN FILED. SUCH INSPECTION SHALL BE CONDUCTED AFTER NOTICE TO THE LAND-  
16    LORD AND DURING NORMAL BUSINESS HOURS. SUCH TENANT MAY FILE THE REPORT  
17    OF THE INSPECTION WITH THE CITY RENT AGENCY FOR CONSIDERATION IN THE  
18    DETERMINATION OF SUCH APPLICATION; or  
19    S 2. Paragraph 6 of subdivision c of section 26-511 of the administra-  
20    tive code of the city of New York, as amended by chapter 116 of the laws  
21    of 1997, is amended to read as follows:

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

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(6) provides criteria whereby the commissioner may act upon applications by owners for increases in excess of the level of fair rent increase established under this law provided, however, that such criteria shall provide (a) as to hardship applications, for a finding that the level of fair rent increase is not sufficient to enable the owner to maintain approximately the same average annual net income (which shall be computed without regard to debt service, financing costs or management fees) for the three year period ending on or within six months of the date of an application pursuant to such criteria as compared with annual net income, which prevailed on the average over the period nineteen hundred sixty-eight through nineteen hundred seventy, or for the first three years of operation if the building was completed since nineteen hundred sixty-eight or for the first three fiscal years after a transfer of title to a new owner provided the new owner can establish to the satisfaction of the commissioner that he or she acquired title to the building as a result of a bona fide sale of the entire building and that the new owner is unable to obtain requisite records for the fiscal years nineteen hundred sixty-eight through nineteen hundred seventy despite diligent efforts to obtain same from predecessors in title and further provided that the new owner can provide financial data covering a minimum of six years under his or her continuous and uninterrupted operation of the building to meet the three year to three year comparative test periods herein provided; and (b) as to completed building-wide major capital improvements, for a finding that such improvements are deemed depreciable under the Internal Revenue Code and that the cost is to be amortized over a seven-year period, based upon cash purchase price exclusive of interest or service charges. NO LANDLORD SHALL DENY ACCESS TO A PROFESSIONAL ENGINEER LICENSED TO PRACTICE IN THE STATE OF NEW YORK OR A REGISTERED ARCHITECT LICENSED TO PRACTICE IN THE STATE OF NEW YORK HIRED BY ANY TENANT, TENANTS OR TENANT ASSOCIATION REPRESENTING TENANTS OF A MULTIPLE DWELLING OF SIX UNITS OR MORE FOR THE PURPOSE OF CONDUCTING AN INSPECTION OF A MAJOR CAPITAL IMPROVEMENT FOR WHICH AN APPLICATION FOR ADJUSTMENT OF MAXIMUM RENT HAS BEEN FILED. SUCH INSPECTION SHALL BE CONDUCTED AFTER NOTICE TO THE LANDLORD AND DURING NORMAL BUSINESS HOURS. SUCH TENANT MAY FILE THE REPORT OF THE INSPECTION WITH THE CITY RENT AGENCY FOR CONSIDERATION IN THE DETERMINATION OF SUCH APPLICATION. Notwithstanding anything to the contrary contained herein, no hardship increase granted pursuant to this paragraph shall, when added to the annual gross rents, as determined by the commissioner, exceed the sum of, (i) the annual operating expenses, (ii) an allowance for management services as determined by the commissioner, (iii) actual annual mortgage debt service (interest and amortization) on its indebtedness to a lending institution, an insurance company, a retirement fund or welfare fund which is operated under the supervision of the banking or insurance laws of the state of New York or the United States, and (iv) eight and one-half percent of that portion of the fair market value of the property which exceeds the unpaid principal amount of the mortgage indebtedness referred to in subparagraph (iii) of this paragraph. Fair market value for the purposes of this paragraph shall be six times the annual gross rent. The collection of any increase in the stabilized rent for any apartment pursuant to this paragraph shall not exceed six percent in any year from the effective date of the order granting the increase over the rent set forth in the schedule of gross rents, with collectability of any dollar excess above said sum to be spread forward in similar increments and added to the stabilized rent as established or set in future years;

1 S 3. Paragraph 3 of subdivision d of section 6 of section 4 of chapter  
2 576 of the laws of 1974, constituting the emergency tenant protection  
3 act of nineteen seventy-four, as amended by chapter 749 of the laws of  
4 1990, is amended to read as follows:

5 (3) there has been since January first, nineteen hundred seventy-four  
6 a major capital improvement required for the operation, preservation or  
7 maintenance of the structure. An adjustment under this paragraph shall  
8 be in an amount sufficient to amortize the cost of the improvements  
9 pursuant to this paragraph over a seven-year period. NO LANDLORD SHALL  
10 DENY ACCESS TO A PROFESSIONAL ENGINEER LICENSED TO PRACTICE IN THE STATE  
11 OF NEW YORK OR A REGISTERED ARCHITECT LICENSED TO PRACTICE IN THE STATE  
12 OF NEW YORK HIRED BY ANY TENANT, TENANTS OR TENANT ASSOCIATION REPRES-  
13 ENTING TENANTS OF A MULTIPLE DWELLING OF SIX UNITS OR MORE FOR THE  
14 PURPOSE OF CONDUCTING AN INSPECTION OF A MAJOR CAPITAL IMPROVEMENT FOR  
15 WHICH AN APPLICATION FOR ADJUSTMENT OF MAXIMUM RENT HAS BEEN FILED. SUCH  
16 INSPECTION SHALL BE CONDUCTED AFTER NOTICE TO THE LANDLORD AND DURING  
17 NORMAL BUSINESS HOURS. SUCH TENANT MAY FILE THE REPORT OF THE INSPECTION  
18 WITH THE CITY RENT AGENCY FOR CONSIDERATION IN THE DETERMINATION OF SUCH  
19 APPLICATION, or

20 S 4. Section 26-520 of the administrative code of the city of New  
21 York, as amended by local law number 3 of the city of New York for the  
22 year 2006, is amended to read as follows:

23 S 26-520 Expiration date. This chapter shall expire on April first,  
24 two thousand [nine] TWELVE unless rent control shall sooner terminate as  
25 provided in subdivision three of section one of the local emergency  
26 housing rent control law.

27 S 5. This act shall take effect on the one hundred twentieth day after  
28 it shall have become a law, except that any rules and regulations neces-  
29 sary for the timely implementation of this act on its effective date  
30 shall be promulgated on or before such date; provided that the amendment  
31 to section 26-405 of the city rent and rehabilitation law made by  
32 section one of this act shall remain in full force and effect only so  
33 long as the public emergency requiring the regulation and control of  
34 residential rents and evictions continues, as provided in subdivision 3  
35 of section 1 of the local emergency housing rent control act and  
36 provided further that the amendment to section 26-511 of the rent  
37 stabilization law of nineteen hundred sixty-nine made by section two of  
38 this act shall expire on the same date as such law expires and shall not  
39 affect the expiration of such law as provided under section 26-520 of  
40 such law and provided further that the amendment to section 6 of the  
41 emergency tenant protection act of nineteen seventy-four made by section  
42 three of this act shall expire on the same date as such act expires and  
43 shall not affect the expiration of such act as provided in section 17 of  
44 chapter 576 of the laws of 1974, as amended.