

436--A

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sen. KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development -- recommitted to the Committee on Housing, Construction and Community Development in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 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

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

LBD01020-03-2

1 CAUSE, THE OWNER OF THE PROPERTY SHALL FILE, NOT LESS THAN THIRTY DAYS
2 BEFORE THE COMMENCEMENT OF THE IMPROVEMENT, WITH THE DIVISION OF HOUSING
3 AND COMMUNITY RENEWAL A STATEMENT CONTAINING INFORMATION OUTLINING THE
4 SCOPE OF WORK, EXPECTED DATE OF COMPLETION FOR SUCH WORK AND AN AFFIDA-
5 VIT SETTING FORTH THE FOLLOWING INFORMATION:

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

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

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

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

26 (6-B) PROVIDES CRITERIA WHEREBY THE COMMISSIONER MAY ACT UPON APPLICA-
27 TION BY OWNERS FOR INCREASES IN EXCESS OF THE LEVEL OF FAIR RENT
28 INCREASE ESTABLISHED UNDER THIS LAW PROVIDED HOWEVER, THAT SUCH CRITERIA
29 SHALL PROVIDE THAT:

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

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

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

55 (B) A STATEMENT THAT NONE OF SUCH PERSONS HAD, WITHIN THE FIVE YEARS
56 PRIOR TO THE IMPROVEMENT, BEEN FOUND TO HAVE HARASSED OR UNLAWFULLY

1 EVICTED TENANTS BY JUDGMENT OR DETERMINATION OF A COURT OR AGENCY UNDER
2 THE PENAL LAW, ANY STATE OR LOCAL LAW REGULATING RENTS OR ANY STATE OR
3 LOCAL LAW RELATING TO HARASSMENT OF TENANTS OR UNLAWFUL EVICTION.

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

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

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

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

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

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

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

55 S 4. Paragraph 3 of subdivision d of section 6 of section 4 of chapter
56 576 of the laws of 1974 constituting the emergency tenant protection act

1 of nineteen seventy-four, as amended by chapter 749 of the laws of 1990,
2 is amended to read as follows:

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

11 S 5. Subparagraph (g) of paragraph 1 of subdivision g of section
12 26-405 of the administrative code of the city of New York, as amended by
13 chapter 749 of the laws of 1990, is amended to read as follows:

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

22 S 6. Subparagraph (k) of paragraph 1 of subdivision g of section
23 26-405 of the administrative code of the city of New York, as amended by
24 chapter 749 of the laws of 1990, is amended to read as follows:

25 (k) The landlord has incurred, since January first, nineteen hundred
26 seventy, in connection with and in addition to a concurrent major capi-
27 tal improvement pursuant to subparagraph (g) of this paragraph, other
28 expenditures to improve, restore or preserve the quality of the struc-
29 ture; PROVIDED THAT SUCH OTHER EXPENDITURES WERE NOT FUNDED IN ANY PART
30 FROM MONEYS PROVIDED BY THE NEW YORK STATE ENERGY RESEARCH AND DEVELOP-
31 MENT AUTHORITY OR ANY SUCCESSOR AGENCY. An adjustment under this
32 subparagraph shall be granted only if such improvements represent an
33 expenditure equal to at least ten per centum of the total operating and
34 maintenance expenses for the preceding year. An adjustment under this
35 subparagraph shall be in addition to any adjustment granted for the
36 concurrent major capital improvement and shall be in an amount suffi-
37 cient to amortize the cost of the improvements pursuant to this subpara-
38 graph over a seven-year period.

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

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

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

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