

1282--A

2011-2012 Regular Sessions

I N   S E N A T E

January 6, 2011

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Introduced by Sen. DUANE -- 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 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 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     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 maintenance of the structure. An adjustment under this subparagraph [(g)]  
6     shall be in an amount sufficient to amortize the cost of the improvements pursuant to this subparagraph [(g)] over a seven-year period. NO  
7     LANDLORD SHALL DENY ACCESS TO A PROFESSIONAL ENGINEER LICENSED TO PRACTICE IN THE STATE OF NEW YORK OR A REGISTERED ARCHITECT LICENSED TO  
8     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  
9     MORE FOR THE PURPOSE OF CONDUCTING AN INSPECTION OF A MAJOR CAPITAL IMPROVEMENT FOR WHICH AN APPLICATION FOR ADJUSTMENT OF MAXIMUM RENT HAS  
10    BEEN FILED. SUCH INSPECTION SHALL BE CONDUCTED AFTER NOTICE TO THE LANDLORD AND DURING NORMAL BUSINESS HOURS. SUCH TENANT MAY FILE THE REPORT  
11    OF THE INSPECTION WITH THE CITY RENT AGENCY FOR CONSIDERATION IN THE  
12    DETERMINATION OF SUCH APPLICATION; or

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

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1 S 2. Paragraph 6 of subdivision c of section 26-511 of the administra-  
2 tive code of the city of New York, as amended by chapter 116 of the laws  
3 of 1997, is amended to read as follows:

4 (6) provides criteria whereby the commissioner may act upon applica-  
5 tions by owners for increases in excess of the level of fair rent  
6 increase established under this law provided, however, that such crite-  
7 ria shall provide (a) as to hardship applications, for a finding that  
8 the level of fair rent increase is not sufficient to enable the owner to  
9 maintain approximately the same average annual net income (which shall  
10 be computed without regard to debt service, financing costs or manage-  
11 ment fees) for the three year period ending on or within six months of  
12 the date of an application pursuant to such criteria as compared with  
13 annual net income, which prevailed on the average over the period nine-  
14 teen hundred sixty-eight through nineteen hundred seventy, or for the  
15 first three years of operation if the building was completed since nine-  
16 teen hundred sixty-eight or for the first three fiscal years after a  
17 transfer of title to a new owner provided the new owner can establish to  
18 the satisfaction of the commissioner that he or she acquired title to  
19 the building as a result of a bona fide sale of the entire building and  
20 that the new owner is unable to obtain requisite records for the fiscal  
21 years nineteen hundred sixty-eight through nineteen hundred seventy  
22 despite diligent efforts to obtain same from predecessors in title and  
23 further provided that the new owner can provide financial data covering  
24 a minimum of six years under his or her continuous and uninterrupted  
25 operation of the building to meet the three year to three year compar-  
26 ative test periods herein provided; and (b) as to completed building-  
27 wide major capital improvements, for a finding that such improvements  
28 are deemed depreciable under the Internal Revenue Code and that the cost  
29 is to be amortized over a seven-year period, based upon cash purchase  
30 price exclusive of interest or service charges. NO LANDLORD SHALL DENY  
31 ACCESS TO A PROFESSIONAL ENGINEER LICENSED TO PRACTICE IN THE STATE OF  
32 NEW YORK OR A REGISTERED ARCHITECT LICENSED TO PRACTICE IN THE STATE OF  
33 NEW YORK HIRED BY ANY TENANT, TENANTS OR TENANT ASSOCIATION REPRESENTING  
34 TENANTS OF A MULTIPLE DWELLING OF SIX UNITS OR MORE FOR THE PURPOSE OF  
35 CONDUCTING AN INSPECTION OF A MAJOR CAPITAL IMPROVEMENT FOR WHICH AN  
36 APPLICATION FOR ADJUSTMENT OF MAXIMUM RENT HAS BEEN FILED. SUCH  
37 INSPECTION SHALL BE CONDUCTED AFTER NOTICE TO THE LANDLORD AND DURING  
38 NORMAL BUSINESS HOURS. SUCH TENANT MAY FILE THE REPORT OF THE INSPECTION  
39 WITH THE CITY RENT AGENCY FOR CONSIDERATION IN THE DETERMINATION OF SUCH  
40 APPLICATION. Notwithstanding anything to the contrary contained herein,  
41 no hardship increase granted pursuant to this paragraph shall, when  
42 added to the annual gross rents, as determined by the commissioner,  
43 exceed the sum of, (i) the annual operating expenses, (ii) an allowance  
44 for management services as determined by the commissioner, (iii) actual  
45 annual mortgage debt service (interest and amortization) on its indebt-  
46 edness to a lending institution, an insurance company, a retirement fund  
47 or welfare fund which is operated under the supervision of the banking  
48 or insurance laws of the state of New York or the United States, and  
49 (iv) eight and one-half percent of that portion of the fair market value  
50 of the property which exceeds the unpaid principal amount of the mort-  
51 gage indebtedness referred to in subparagraph (iii) of this paragraph.  
52 Fair market value for the purposes of this paragraph shall be six times  
53 the annual gross rent. The collection of any increase in the stabilized  
54 rent for any apartment pursuant to this paragraph shall not exceed six  
55 percent in any year from the effective date of the order granting the  
56 increase over the rent set forth in the schedule of gross rents, with

1 collectability of any dollar excess above said sum to be spread forward  
2 in similar increments and added to the stabilized rent as established or  
3 set in future years;

4 S 3. Paragraph 3 of subdivision d of section 6 of section 4 of chapter  
5 576 of the laws of 1974, constituting the emergency tenant protection  
6 act of nineteen seventy-four, as amended by chapter 749 of the laws of  
7 1990, is amended to read as follows:

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

23 S 4. Section 26-520 of the administrative code of the city of New  
24 York, as amended by local law number 23 of the city of New York for the  
25 year 2009, is amended to read as follows:

26 S 26-520 Expiration date. This chapter shall expire on April first,  
27 two thousand [twelve] FIFTEEN unless rent control shall sooner terminate  
28 as provided in subdivision three of section one of the local emergency  
29 housing rent control law.

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