

5826

2013-2014 Regular Sessions

I N A S S E M B L Y

March 6, 2013

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

AN ACT to amend the administrative code of the city of New York, in relation to rent adjustments for major capital improvements

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 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. A
9 RENT ADJUSTMENT FOR A MAJOR CAPITAL IMPROVEMENT MAY ONLY BE GRANTED IF
10 THE OWNER OR AGENT OF THE SUBJECT BUILDING FIRST APPLIES FOR AND
11 RECEIVES BENEFITS PURSUANT TO SECTION 11-243 OF THIS CODE FOR THE BUILD-
12 ING FOR WHICH THEY ARE SEEKING A MAJOR CAPITAL IMPROVEMENT FOR,
13 PROVIDED, HOWEVER, AN OWNER OR AGENT OF THE SUBJECT BUILDING THAT IS
14 DENIED BENEFITS PURSUANT TO SECTION 11-243 OF THIS CODE FOR REASONS
15 UNRELATED TO AN UNTIMELY OR IMPROPERLY COMPLETED APPLICATION SHALL STILL
16 BE ELIGIBLE TO RECEIVE A RENT ADJUSTMENT FOR A MAJOR CAPITAL
17 IMPROVEMENT; or

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

21 (6) provides criteria whereby the commissioner may act upon applica-
22 tions by owners for increases in excess of the level of fair rent
23 increase established under this law provided, however, that such crite-
24 ria shall provide (a) as to hardship applications, for a finding that
25 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.

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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 a seven-year period, based upon cash purchase
22 price exclusive of interest or service charges. A RENT ADJUSTMENT FOR A
23 MAJOR CAPITAL IMPROVEMENT MAY ONLY BE GRANTED IF THE OWNER OR AGENT OF
24 THE SUBJECT BUILDING FIRST APPLIES FOR AND RECEIVES BENEFITS PURSUANT TO
25 SECTION 11-243 OF THIS CODE FOR THE BUILDING FOR WHICH THEY ARE SEEKING
26 A MAJOR CAPITAL IMPROVEMENT FOR, PROVIDED, HOWEVER, AN OWNER OR AGENT OF
27 THE SUBJECT BUILDING THAT IS DENIED BENEFITS PURSUANT TO SECTION 11-243
28 OF THIS CODE FOR REASONS UNRELATED TO AN UNTIMELY OR IMPROPERLY
29 COMPLETED APPLICATION SHALL STILL BE ELIGIBLE TO RECEIVE A RENT ADJUST-
30 MENT FOR A MAJOR CAPITAL IMPROVEMENT. Notwithstanding anything to the
31 contrary contained herein, no hardship increase granted pursuant to this
32 paragraph shall, when added to the annual gross rents, as determined by
33 the commissioner, exceed the sum of, (i) the annual operating expenses,
34 (ii) an allowance for management services as determined by the commis-
35 sioner, (iii) actual annual mortgage debt service (interest and amorti-
36 zation) on its indebtedness to a lending institution, an insurance
37 company, a retirement fund or welfare fund which is operated under the
38 supervision of the banking or insurance laws of the state of New York or
39 the United States, and (iv) eight and one-half percent of that portion
40 of the fair market value of the property which exceeds the unpaid prin-
41 cipal amount of the mortgage indebtedness referred to in subparagraph
42 (iii) of this paragraph. Fair market value for the purposes of this
43 paragraph shall be six times the annual gross rent. The collection of
44 any increase in the stabilized rent for any apartment pursuant to this
45 paragraph shall not exceed six percent in any year from the effective
46 date of the order granting the increase over the rent set forth in the
47 schedule of gross rents, with collectability of any dollar excess above
48 said sum to be spread forward in similar increments and added to the
49 stabilized rent as established or set in future years;

50 S 3. This act shall take effect immediately, provided, however that
51 the amendments to section 26-405 of the city rent and rehabilitation law
52 made by section one of this act shall remain in full force and effect
53 only so long as the public emergency requiring the regulation and
54 control of residential rents and evictions continues, as provided in
55 subdivision 3 of section 1 of the local emergency housing rent control
56 act; and provided, further, that the amendments to section 26-511 of the

1 rent stabilization law of nineteen hundred sixty-nine made by section
2 two of this act shall expire on the same date as such law expires and
3 shall not affect the expiration of such law as provided under section
4 26-520 of such law, as from time to time amended; and provided, further,
5 that the provisions of sections one and two of this act shall only apply
6 to those buildings that commence work on a major capital improvement 45
7 days or later than the effective date of this act.