

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sen. PARKER -- 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 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
6 of the structure. An adjustment under this subparagraph [(g)]
7 shall be in an amount sufficient to amortize the cost of the improvements
8 pursuant to this subparagraph [(g)] over a seven-year period. NO
9 LANDLORD SHALL DENY ACCESS TO A PROFESSIONAL ENGINEER LICENSED TO PRACTICE
10 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

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