

S T A T E O F N E W Y O R K

1763--A

2015-2016 Regular Sessions

I N A S S E M B L Y

January 12, 2015

Introduced by M. of A. WRIGHT -- read once and referred to the Committee on Housing -- recommitted to the Committee on Housing in accordance with Assembly Rule 3, sec. 2 -- 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 section 31 of part A of chapter 20 of the laws of 2015, is amended to
4 read as follows:
5 (g) There has been since July first, nineteen hundred seventy, a major
6 capital improvement required for the operation, preservation or maintenance of the structure. An adjustment under this subparagraph [(g)] for
7 any order of the commissioner issued after the effective date of the
8 rent act of 2015 shall be in an amount sufficient to amortize the cost
9 of the improvements pursuant to this subparagraph [(g)] over an eight-
10 year period for buildings with thirty-five or fewer units or a nine year
11 period for buildings with more than [thirty-five] THIRTY-FIVE units[,
12 or]. NO LANDLORD SHALL DENY ACCESS TO A PROFESSIONAL ENGINEER LICENSED
13 TO PRACTICE IN THE STATE OF NEW YORK OR A REGISTERED ARCHITECT LICENSED
14 TO PRACTICE IN THE STATE OF NEW YORK HIRED BY ANY TENANT, TENANTS OR
15 TENANT ASSOCIATION REPRESENTING TENANTS OF A MULTIPLE DWELLING OF SIX
16 UNITS OR MORE FOR THE PURPOSE OF CONDUCTING AN INSPECTION OF A MAJOR
17 CAPITAL IMPROVEMENT FOR WHICH AN APPLICATION FOR ADJUSTMENT OF MAXIMUM
18 RENT HAS BEEN FILED. SUCH INSPECTION SHALL BE CONDUCTED AFTER NOTICE TO
19 THE LANDLORD AND DURING NORMAL BUSINESS HOURS. SUCH TENANT MAY FILE THE
20

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

LBD05008-03-6

1 REPORT OF THE INSPECTION WITH THE CITY RENT AGENCY FOR CONSIDERATION IN
2 THE DETERMINATION OF SUCH APPLICATION; OR

3 S 2. Paragraph 6 of subdivision c of section 26-511 of the administra-
4 tive code of the city of New York, as amended by section 29 of part A of
5 chapter 20 of the laws of 2015, is amended to read as follows:

6 (6) provides criteria whereby the commissioner may act upon applica-
7 tions by owners for increases in excess of the level of fair rent
8 increase established under this law provided, however, that such crite-
9 ria shall provide (a) as to hardship applications, for a finding that
10 the level of fair rent increase is not sufficient to enable the owner to
11 maintain approximately the same average annual net income (which shall
12 be computed without regard to debt service, financing costs or manage-
13 ment fees) for the three year period ending on or within six months of
14 the date of an application pursuant to such criteria as compared with
15 annual net income, which prevailed on the average over the period nine-
16 teen hundred sixty-eight through nineteen hundred seventy, or for the
17 first three years of operation if the building was completed since nine-
18 teen hundred sixty-eight or for the first three fiscal years after a
19 transfer of title to a new owner provided the new owner can establish to
20 the satisfaction of the commissioner that he or she acquired title to
21 the building as a result of a bona fide sale of the entire building and
22 that the new owner is unable to obtain requisite records for the fiscal
23 years nineteen hundred sixty-eight through nineteen hundred seventy
24 despite diligent efforts to obtain same from predecessors in title and
25 further provided that the new owner can provide financial data covering
26 a minimum of six years under his or her continuous and uninterrupted
27 operation of the building to meet the three year to three year compar-
28 ative test periods herein provided; and (b) as to completed building-
29 wide major capital improvements, for a finding that such improvements
30 are deemed depreciable under the Internal Revenue Code and that the cost
31 is to be amortized over an eight-year period for a building with thir-
32 ty-five or fewer housing accommodations, or a nine-year period for a
33 building with more than thirty-five housing accommodations, for any
34 determination issued by the division of housing and community renewal
35 after the effective date of the rent act of 2015, based upon cash
36 purchase price exclusive of interest or service charges. NO LANDLORD
37 SHALL DENY ACCESS TO A PROFESSIONAL ENGINEER LICENSED TO PRACTICE IN THE
38 STATE OF NEW YORK OR A REGISTERED ARCHITECT LICENSED TO PRACTICE IN THE
39 STATE OF NEW YORK HIRED BY ANY TENANT, TENANTS OR TENANT ASSOCIATION
40 REPRESENTING TENANTS OF A MULTIPLE DWELLING OF SIX UNITS OR MORE FOR THE
41 PURPOSE OF CONDUCTING AN INSPECTION OF A MAJOR CAPITAL IMPROVEMENT FOR
42 WHICH AN APPLICATION FOR ADJUSTMENT OF MAXIMUM RENT HAS BEEN FILED. SUCH
43 INSPECTION SHALL BE CONDUCTED AFTER NOTICE TO THE LANDLORD AND DURING
44 NORMAL BUSINESS HOURS. SUCH TENANT MAY FILE THE REPORT OF THE INSPECTION
45 WITH THE CITY RENT AGENCY FOR CONSIDERATION IN THE DETERMINATION OF SUCH
46 APPLICATION. Notwithstanding anything to the contrary contained herein,
47 no hardship increase granted pursuant to this paragraph shall, when
48 added to the annual gross rents, as determined by the commissioner,
49 exceed the sum of, (i) the annual operating expenses, (ii) an allowance
50 for management services as determined by the commissioner, (iii) actual
51 annual mortgage debt service (interest and amortization) on its indebt-
52 edness to a lending institution, an insurance company, a retirement fund
53 or welfare fund which is operated under the supervision of the banking
54 or insurance laws of the state of New York or the United States, and
55 (iv) eight and one-half percent of that portion of the fair market value
56 of the property which exceeds the unpaid principal amount of the mort-

gage 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;

S 3. Paragraph 3 of subdivision d of section 6 of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, as amended by section 30 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

(3) there has been since January first, nineteen hundred seventy-four a major capital improvement required for the operation, preservation or maintenance of the structure. An adjustment under this paragraph shall be in an amount sufficient to amortize the cost of the improvements pursuant to this paragraph over an eight-year period for a building with thirty-five or fewer housing accommodations, or a nine-year period for a building with more than thirty-five housing accommodations, for any determination issued by the division of housing and community renewal after the effective date of the rent act of 2015[, or]. 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, OR

S 4. This act shall take effect on the one hundred twentieth day after it shall have become a law, except that any rules and regulations necessary for the timely implementation of this act on its effective date shall be promulgated on or before such date; provided that the amendment to section 26-405 of the city rent and rehabilitation law made by section one of this act shall remain in full force and effect only so long as the public emergency requiring the regulation and control of residential rents and evictions continues, as provided in subdivision 3 of section 1 of the local emergency housing rent control act and provided further that the amendment to section 26-511 of the rent stabilization law of nineteen hundred sixty-nine made by section two of this act shall expire on the same date as such law expires and shall not affect the expiration of such law as provided under section 26-520 of such law and provided further that the amendment to section 6 of the emergency tenant protection act of nineteen seventy-four made by section three of this act shall expire on the same date as such act expires and shall not affect the expiration of such act as provided in section 17 of chapter 576 of the laws of 1974, as amended.