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I N   A S S E M B L Y

February 18, 2016

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

AN ACT to amend the administrative code of the city of New York, the emergency tenant protection act of nineteen seventy-four and the emergency housing rent control law, in relation to the adjustment of maximum allowable rent and requiring the division of housing and community renewal to confirm improvements have been made prior to the approval of rent increases

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Subparagraphs (e) and (g) of paragraph 1 of subdivision g  
2     of section 26-405 of the administrative code of the city of New York,  
3     subparagraph (e) as amended by section 15 of part B of chapter 97 of the  
4     laws of 2011 and subparagraph (g) as amended by section 31 of part A of  
5     chapter 20 of the laws of 2015, are amended and a new paragraph 8 is  
6     added to read as follows:  
7     (e) The landlord and tenant by mutual voluntary written agreement  
8     agree to a substantial increase or decrease in dwelling space or a  
9     change in the services, furniture, furnishings or equipment provided in  
10    the housing accommodations. An adjustment under this subparagraph shall  
11    be equal to one-fortieth, in the case of a building with thirty-five or  
12    fewer housing accommodations, or one-sixtieth, in the case of a building  
13    with more than thirty-five housing accommodations where such adjustment  
14    takes effect on or after September twenty-fourth, two thousand eleven,  
15    of the total cost incurred by the landlord in providing such modifica-  
16    tion or increase in dwelling space, services, furniture, furnishings or  
17    equipment, including the cost of installation, but excluding finance  
18    charges, provided further that an owner who is entitled to a rent  
19    increase pursuant to this subparagraph shall not be entitled to a  
20    further rent increase based upon the installation of similar equipment,  
21    or new furniture or furnishings within the useful life of such new  
22    equipment, or new furniture or furnishings. AN OWNER ENTITLED TO A RENT  
23    INCREASE PURSUANT TO THIS SUBPARAGRAPH SHALL ONLY BE ENTITLED TO SUCH  
24    INCREASE FOR A PERIOD OF FIVE YEARS FROM THE DATE OF THE ADJUSTMENT. The

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

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owner shall give written notice to the city rent agency of any such adjustment pursuant to this subparagraph; or

(g) There has been since July first, nineteen hundred seventy, a major capital improvement required for the operation, preservation or maintenance of the structure. An adjustment under this subparagraph [(g) for any order of the commissioner issued after the effective date of the rent act of 2015 shall be in an amount sufficient to amortize the cost of the improvements pursuant to this subparagraph (g) over an eight-year period for buildings with thirty-five or fewer units or a nine year period for buildings with more than thirty-five units] SHALL ONLY BE IN EFFECT FOR A PERIOD OF FIVE YEARS FROM THE DATE OF SUCH ADJUSTMENT, or

(8) BEFORE ORDERING ANY ADJUSTMENT IN RENT PURSUANT TO SUBPARAGRAPHS (E) AND (G) OF PARAGRAPH ONE OF THIS SUBDIVISION, THE DIVISION OF HOUSING AND COMMUNITY RENEWAL SHALL REQUIRE THE OWNER OF THE PROPERTY TO FILE A STATEMENT WITH THE DIVISION CONTAINING INFORMATION OUTLINING THE SCOPE OF THE WORK AND THE DATE OF COMPLETION OF SUCH WORK. UPON RECEIPT OF SUCH STATEMENT, THE DIVISION OF HOUSING AND COMMUNITY RENEWAL SHALL INSPECT THE PROPERTY TO ENSURE THE SPECIFIED WORK HAS BEEN COMPLETED. NO INCREASE SHALL BE COLLECTIBLE UNDER SUBPARAGRAPHS (E) AND (G) OF PARAGRAPH ONE OF THIS SUBDIVISION WHERE THE DIVISION OF HOUSING AND COMMUNITY RENEWAL HAS DETERMINED THE SPECIFIED WORK HAS NOT BEEN COMPLETED.

S 2. Paragraphs 6 and 13 of subdivision c of section 26-511 of the administrative code of the city of New York, paragraph 6 as amended by section 29 of part A of chapter 20 of the laws of 2015 and paragraph 13 as amended by section 16 of part B of chapter 97 of the laws of 2011, are amended and two new paragraphs 6-b and 15 are added to read as follows:

(6) provides criteria whereby the commissioner may act upon applications by owners for increases in excess of the level of fair rent increase established under this law provided, however, that such criteria shall provide [(a)] as to hardship applications, for a finding that the level of fair rent increase is not sufficient to enable the owner to maintain approximately the same average annual net income (which shall be computed without regard to debt service, financing costs or management fees) for the three year period ending on or within six months of the date of an application pursuant to such criteria as compared with annual net income, which prevailed on the average over the period nineteen hundred sixty-eight through nineteen hundred seventy, or for the first three years of operation if the building was completed since nineteen hundred sixty-eight or for the first three fiscal years after a transfer of title to a new owner provided the new owner can establish to the satisfaction of the commissioner that he or she acquired title to the building as a result of a bona fide sale of the entire building and that the new owner is unable to obtain requisite records for the fiscal years nineteen hundred sixty-eight through nineteen hundred seventy despite diligent efforts to obtain same from predecessors in title and further provided that the new owner can provide financial data covering a minimum of six years under his or her continuous and uninterrupted operation of the building to meet the three year to three year comparative test periods herein provided[; and (b) as to completed building-wide major capital improvements, for a finding that such improvements are deemed depreciable under the Internal Revenue Code and that the cost is to be amortized 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

1 after the effective date of the rent act of 2015, based upon cash  
2 purchase price exclusive of interest or service charges]. Notwithstand-  
3 ing anything to the contrary contained herein, no hardship increase  
4 granted pursuant to this paragraph shall, when added to the annual gross  
5 rents, as determined by the commissioner, exceed the sum of, (i) the  
6 annual operating expenses, (ii) an allowance for management services as  
7 determined by the commissioner, (iii) actual annual mortgage debt  
8 service (interest and amortization) on its indebtedness to a lending  
9 institution, an insurance company, a retirement fund or welfare fund  
10 which is operated under the supervision of the banking or insurance laws  
11 of the state of New York or the United States, and (iv) eight and one-  
12 half percent of that portion of the fair market value of the property  
13 which exceeds the unpaid principal amount of the mortgage indebtedness  
14 referred to in subparagraph (iii) of this paragraph. Fair market value  
15 for the purposes of this paragraph shall be six times the annual gross  
16 rent. The collection of any increase in the stabilized rent for any  
17 apartment pursuant to this paragraph shall not exceed six percent in any  
18 year from the effective date of the order granting the increase over the  
19 rent set forth in the schedule of gross rents, with collectability of  
20 any dollar excess above said sum to be spread forward in similar incre-  
21 ments and added to the stabilized rent as established or set in future  
22 years;

23 (6-B) PROVIDES CRITERIA WHEREBY THE COMMISSIONER MAY ACT UPON APPLICA-  
24 TION BY OWNERS FOR INCREASES IN EXCESS OF THE LEVEL OF FAIR RENT  
25 INCREASE ESTABLISHED UNDER THIS LAW PROVIDED, HOWEVER, THAT AS TO  
26 COMPLETED BUILDING-WIDE MAJOR CAPITAL IMPROVEMENTS, AN OWNER SHALL ONLY  
27 BE ENTITLED TO A RENT INCREASE FOR A FIVE YEAR PERIOD FROM THE DATE OF  
28 THE APPROVED INCREASE.

29 (13) provides that an owner is entitled to a rent increase where there  
30 has been a substantial modification or increase of dwelling space or an  
31 increase in the services, or installation of new equipment or improve-  
32 ments or new furniture or furnishings provided in or to a tenant's hous-  
33 ing accommodation, on written tenant consent to the rent increase. In  
34 the case of a vacant housing accommodation, tenant consent shall not be  
35 required. The [permanent] increase in the legal regulated rent for the  
36 affected housing accommodation shall be one-fortieth, in the case of a  
37 building with thirty-five or fewer housing accommodations, or one-sixti-  
38 eth, in the case of a building with more than thirty-five housing accom-  
39 modations where such [permanent] increase takes effect on or after  
40 September twenty-fourth, two thousand eleven, of the total cost incurred  
41 by the landlord in providing such modification or increase in dwelling  
42 space, services, furniture, furnishings or equipment, including the cost  
43 of installation, but excluding finance charges; PROVIDED, HOWEVER, THE  
44 INCREASE ALLOWABLE UNDER THIS PARAGRAPH SHALL ONLY BE IN EFFECT FOR A  
45 PERIOD OF FIVE YEARS FROM THE DATE OF SUCH INCREASE. Provided further  
46 that an owner who is entitled to a rent increase pursuant to this para-  
47 graph shall not be entitled to a further rent increase based upon the  
48 installation of similar equipment, or new furniture or furnishings with-  
49 in the useful life of such new equipment, or new furniture or  
50 furnishings.

51 (15) PROVIDES THAT BEFORE ORDERING ANY ADJUSTMENT IN RENT PURSUANT TO  
52 PARAGRAPHS SIX-B AND THIRTEEN OF THIS SUBDIVISION, THE DIVISION OF HOUS-  
53 ING AND COMMUNITY RENEWAL SHALL REQUIRE THE OWNER OF THE PROPERTY TO  
54 FILE A STATEMENT WITH THE DIVISION CONTAINING INFORMATION OUTLINING THE  
55 SCOPE OF THE WORK AND THE DATE OF COMPLETION OF SUCH WORK. UPON RECEIPT  
56 OF SUCH STATEMENT, THE DIVISION OF HOUSING AND COMMUNITY RENEWAL SHALL

1 INSPECT THE PROPERTY TO ENSURE THE SPECIFIED WORK HAS BEEN COMPLETED. NO  
2 INCREASE SHALL BE COLLECTIBLE UNDER PARAGRAPHS SIX-B AND THIRTEEN OF  
3 THIS SUBDIVISION WHERE THE DIVISION OF HOUSING AND COMMUNITY RENEWAL HAS  
4 DETERMINED THE SPECIFIED WORK HAS NOT BEEN COMPLETED.

5 S 3. Paragraphs 1 and 3 of subdivision d of section 6 of section 4 of  
6 chapter 576 of the laws of 1974, constituting the emergency tenant  
7 protection act of nineteen seventy-four, paragraph 1 as amended by  
8 section 18 of part B of chapter 97 of the laws of 2011 and paragraph 3  
9 as amended by section 30 of part A of chapter 20 of the laws of 2015,  
10 are amended and a new paragraph 6 is added to read as follows:

11 (1) there has been a substantial modification or increase of dwelling  
12 space or an increase in the services, or installation of new equipment  
13 or improvements or new furniture or furnishings, provided in or to a  
14 tenant's housing accommodation, on written tenant consent to the rent  
15 increase. In the case of a vacant housing accommodation, tenant consent  
16 shall not be required. The [permanent] increase in the legal regulated  
17 rent for the affected housing accommodation shall be one-fortieth, in  
18 the case of a building with thirty-five or fewer housing accommodations,  
19 or one-sixtieth, in the case of a building with more than thirty-five  
20 housing accommodations where such [permanent] increase takes effect on  
21 or after September twenty-fourth, two thousand eleven, of the total cost  
22 incurred by the landlord in providing such modification or increase in  
23 dwelling space, services, furniture, furnishings or equipment, including  
24 the cost of installation, but excluding finance charges; PROVIDED,  
25 HOWEVER, THE INCREASE ALLOWABLE UNDER THIS PARAGRAPH SHALL ONLY BE IN  
26 EFFECT FOR A PERIOD OF FIVE YEARS FROM THE DATE OF SUCH INCREASE.  
27 Provided further that an owner who is entitled to a rent increase pursu-  
28 ant to this paragraph shall not be entitled to a further rent increase  
29 based upon the installation of similar equipment, or new furniture or  
30 furnishings within the useful life of such new equipment, or new furni-  
31 ture or furnishings.

32 (3) there has been since January first, nineteen hundred seventy-four  
33 a major capital improvement required for the operation, preservation or  
34 maintenance of the structure. An adjustment under this paragraph shall  
35 [be in an amount sufficient to amortize the cost of the improvements  
36 pursuant to this paragraph over an eight-year period for a building with  
37 thirty-five or fewer housing accommodations, or a nine-year period for a  
38 building with more than thirty-five housing accommodations, for any  
39 determination issued by the division of housing and community renewal  
40 after the effective date of the rent act of 2015] ONLY BE IN EFFECT FOR  
41 A PERIOD OF FIVE YEARS FROM THE DATE OF SUCH ADJUSTMENT, or

42 (6) BEFORE ORDERING ANY ADJUSTMENT IN RENT PURSUANT TO PARAGRAPHS ONE  
43 AND THREE OF THIS SUBDIVISION, THE DIVISION OF HOUSING AND COMMUNITY  
44 RENEWAL SHALL REQUIRE THE OWNER OF THE PROPERTY TO FILE A STATEMENT WITH  
45 THE DIVISION CONTAINING INFORMATION OUTLINING THE SCOPE OF THE WORK AND  
46 THE DATE OF COMPLETION OF SUCH WORK. UPON RECEIPT OF SUCH STATEMENT, THE  
47 DIVISION OF HOUSING AND COMMUNITY RENEWAL SHALL INSPECT THE PROPERTY TO  
48 ENSURE THE SPECIFIED WORK HAS BEEN COMPLETED. NO INCREASE SHALL BE  
49 COLLECTIBLE UNDER PARAGRAPHS ONE AND THREE OF THIS SUBDIVISION WHERE THE  
50 DIVISION OF HOUSING AND COMMUNITY RENEWAL HAS DETERMINED THE SPECIFIED  
51 WORK HAS NOT BEEN COMPLETED.

52 S 4. Clauses 5 and 7 of the second undesignated paragraph of paragraph  
53 (a) of subdivision 4 of section 4 of chapter 274 of the laws of 1946,  
54 constituting the emergency housing rent control law, clause 5 as amended  
55 by section 25 of part B of chapter 97 of the laws of 2011 and clause 7

1 as amended by section 32 of part A of chapter 20 of the laws of 2015,  
2 are amended to read as follows:

3 (5) the landlord and tenant by mutual voluntary written agreement  
4 agree to a substantial increase or decrease in dwelling space or a  
5 change in the services, furniture, furnishings or equipment provided in  
6 the housing accommodations; provided that an owner shall be entitled to  
7 a rent increase where there has been a substantial modification or  
8 increase of dwelling space or an increase in the services, or installa-  
9 tion of new equipment or improvements or new furniture or furnishings  
10 provided in or to a tenant's housing accommodation. The [permanent]  
11 increase in the maximum rent for the affected housing accommodation  
12 shall be one-fortieth, in the case of a building with thirty-five or  
13 fewer housing accommodations, or one-sixtieth, in the case of a building  
14 with more than thirty-five housing accommodations where such [permanent]  
15 increase takes effect on or after September twenty-fourth, two thousand  
16 eleven, of the total cost incurred by the landlord in providing such  
17 modification or increase in dwelling space, services, furniture,  
18 furnishings or equipment, including the cost of installation, but  
19 excluding finance charges provided further that an owner who is entitled  
20 to a rent increase pursuant to this clause shall not be entitled to a  
21 further rent increase based upon the installation of similar equipment,  
22 or new furniture or furnishings within the useful life of such new  
23 equipment, or new furniture or furnishings; PROVIDED, HOWEVER, THE  
24 INCREASE ALLOWABLE UNDER THIS CLAUSE SHALL ONLY BE IN EFFECT FOR A PERI-  
25 OD OF FIVE YEARS FROM THE DATE OF SUCH INCREASE. The owner shall give  
26 written notice to the commission of any such adjustment pursuant to this  
27 clause; PROVIDED, HOWEVER, BEFORE ANY ADJUSTMENT IN RENT SHALL TAKE  
28 EFFECT PURSUANT TO THIS CLAUSE, THE DIVISION OF HOUSING AND COMMUNITY  
29 RENEWAL SHALL REQUIRE THE OWNER OF THE PROPERTY TO FILE A STATEMENT WITH  
30 THE DIVISION CONTAINING INFORMATION OUTLINING THE SCOPE OF THE WORK AND  
31 THE DATE OF COMPLETION OF SUCH WORK. UPON RECEIPT OF SUCH STATEMENT, THE  
32 DIVISION OF HOUSING AND COMMUNITY RENEWAL SHALL INSPECT THE PROPERTY TO  
33 ENSURE THE SPECIFIED WORK HAS BEEN COMPLETED. NO INCREASE SHALL BE  
34 COLLECTIBLE UNDER THIS CLAUSE WHERE THE DIVISION OF HOUSING AND COMMUNI-  
35 TY RENEWAL HAS DETERMINED THE SPECIFIED WORK HAS NOT BEEN COMPLETED; or  
36 (7) there has been since March first, nineteen hundred fifty, a major  
37 capital improvement required for the operation, preservation or mainte-  
38 nance of the structure; which [for any order of the commissioner issued  
39 after the effective date of the rent act of 2015 the cost of such  
40 improvement shall be amortized over an eight-year period for buildings  
41 with thirty-five or fewer units or a nine year period for buildings with  
42 more than thirty-five units,] SHALL ONLY BE IN EFFECT FOR A PERIOD OF  
43 FIVE YEARS FROM THE DATE OF SUCH ADJUSTMENT. BEFORE ORDERING ANY ADJUST-  
44 MENT IN RENT PURSUANT TO THIS CLAUSE, THE DIVISION OF HOUSING AND COMMU-  
45 NITY RENEWAL SHALL REQUIRE THE OWNER OF THE PROPERTY TO FILE A STATEMENT  
46 WITH THE DIVISION CONTAINING INFORMATION OUTLINING THE SCOPE OF THE WORK  
47 AND THE DATE OF COMPLETION OF SUCH WORK. UPON RECEIPT OF SUCH STATEMENT,  
48 THE DIVISION OF HOUSING AND COMMUNITY RENEWAL SHALL INSPECT THE PROPERTY  
49 TO ENSURE THE SPECIFIED WORK HAS BEEN COMPLETED. NO INCREASE SHALL BE  
50 COLLECTIBLE UNDER THIS CLAUSE WHERE THE DIVISION OF HOUSING AND COMMUNI-  
51 TY RENEWAL HAS DETERMINED THE SPECIFIED WORK HAS NOT BEEN COMPLETED; or

52 S 5. This act shall take effect immediately; provided that:

53 (a) the amendments to section 26-405 of the city rent and rehabili-  
54 tation law made by section one of this act shall remain in full force  
55 and effect only as long as the public emergency requiring the regulation  
56 and control of residential rents and evictions continues, as provided in

1 subdivision 3 of section 1 of the local emergency housing rent control  
2 act;  
3 (b) the amendments to section 26-511 of chapter 4 of title 26 of the  
4 administrative code of the city of New York made by section two of this  
5 act shall expire on the same date as such law expires and shall not  
6 affect the expiration of such law as provided under section 26-520 of  
7 such law;  
8 (c) the amendments to section 6 of the emergency tenant protection act  
9 of nineteen seventy-four made by section three of this act shall expire  
10 on the same date as such act expires and shall not affect the expiration  
11 of such act as provided in section 17 of chapter 576 of the laws of  
12 1974;  
13 (d) the amendments to section 4 of the emergency housing rent control  
14 law made by section four of this act shall expire on the same date as  
15 such law expires and shall not affect the expiration of such law as  
16 provided in subdivision 2 of section 1 of chapter 274 of the laws of  
17 1946.