

9324

I N A S S E M B L Y

February 18, 2016

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 emer-
gency housing rent control law, in relation to the adjustment of maxi-
mum 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 ASSEM-
BLY, 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.