

1721--A

2015-2016 Regular Sessions

I N S E N A T E

January 14, 2015

Introduced by Sens. PARKER, AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development -- recommitted to the Committee on Housing, Construction and Community Development in accordance with Senate Rule 6, sec. 8 -- 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

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

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1 RENT HAS BEEN FILED. SUCH INSPECTION SHALL BE CONDUCTED AFTER NOTICE TO
2 THE LANDLORD AND DURING NORMAL BUSINESS HOURS. SUCH TENANT MAY FILE THE
3 REPORT OF THE INSPECTION WITH THE CITY RENT AGENCY FOR CONSIDERATION IN
4 THE DETERMINATION OF SUCH APPLICATION; OR

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

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

1 (iv) eight and one-half percent of that portion of the fair market value
2 of the property which exceeds the unpaid principal amount of the mort-
3 gage indebtedness referred to in subparagraph (iii) of this paragraph.
4 Fair market value for the purposes of this paragraph shall be six times
5 the annual gross rent. The collection of any increase in the stabilized
6 rent for any apartment pursuant to this paragraph shall not exceed six
7 percent in any year from the effective date of the order granting the
8 increase over the rent set forth in the schedule of gross rents, with
9 collectability of any dollar excess above said sum to be spread forward
10 in similar increments and added to the stabilized rent as established or
11 set in future years;

12 S 3. Paragraph 3 of subdivision d of section 6 of section 4 of chapter
13 576 of the laws of 1974, constituting the emergency tenant protection
14 act of nineteen seventy-four, as amended by section 30 of part A of
15 chapter 20 of the laws of 2015, is amended to read as follows:

16 (3) there has been since January first, nineteen hundred seventy-four
17 a major capital improvement required for the operation, preservation or
18 maintenance of the structure. An adjustment under this paragraph shall
19 be in an amount sufficient to amortize the cost of the improvements
20 pursuant to this paragraph over an eight-year period for a building with
21 thirty-five or fewer housing accommodations, or a nine-year period for a
22 building with more than thirty-five housing accommodations, for any
23 determination issued by the division of housing and community renewal
24 after the effective date of the rent act of 2015[, or]. NO LANDLORD
25 SHALL DENY ACCESS TO A PROFESSIONAL ENGINEER LICENSED TO PRACTICE IN THE
26 STATE OF NEW YORK OR A REGISTERED ARCHITECT LICENSED TO PRACTICE IN THE
27 STATE OF NEW YORK HIRED BY ANY TENANT, TENANTS OR TENANT ASSOCIATION
28 REPRESENTING TENANTS OF A MULTIPLE DWELLING OF SIX UNITS OR MORE FOR THE
29 PURPOSE OF CONDUCTING AN INSPECTION OF A MAJOR CAPITAL IMPROVEMENT FOR
30 WHICH AN APPLICATION FOR ADJUSTMENT OF MAXIMUM RENT HAS BEEN FILED. SUCH
31 INSPECTION SHALL BE CONDUCTED AFTER NOTICE TO THE LANDLORD AND DURING
32 NORMAL BUSINESS HOURS. SUCH TENANT MAY FILE THE REPORT OF THE INSPECTION
33 WITH THE CITY RENT AGENCY FOR CONSIDERATION IN THE DETERMINATION OF SUCH
34 APPLICATION, OR

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