

3557--A

2015-2016 Regular Sessions

I N S E N A T E

February 12, 2015

Introduced by Sen. ESPAILLAT -- 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 chapter 576 of the laws of 1974 constituting the emergency tenant protection act of nineteen seventy-four, the administrative code of the city of New York and the emergency housing rent control law, in relation to prohibiting the collection of rent arrearages accruing prior to the date of approval of an application for an adjustment in the legal regulated rent based upon a major capital improvement

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

1 Section 1. Section 6 of section 4 of chapter 576 of the laws of 1974
2 constituting the emergency tenant protection act of nineteen seventy-
3 four is amended by adding a new subdivision h to read as follows:
4 H. NOTWITHSTANDING ANY PROVISION OF LAW OR RULE OR REGULATION TO THE
5 CONTRARY, ANY ADJUSTMENT IN THE LEGAL REGULATED RENT BASED UPON A MAJOR
6 CAPITAL IMPROVEMENT SHALL BE EFFECTIVE UPON APPROVAL OF THE APPLICATION
7 THEREFOR. NO INCREASE MAY BE COLLECTED FOR THE PERIOD OF TIME PRIOR TO
8 THE DATE OF APPROVAL OF THE APPLICATION.
9 S 2. Section 26-512 of the administrative code of the city of New York
10 is amended by adding a new subdivision g to read as follows:
11 G. NOTWITHSTANDING ANY PROVISION OF LAW OR RULE OR REGULATION TO THE
12 CONTRARY, ANY ADJUSTMENT IN THE LEGAL REGULATED RENT BASED UPON A MAJOR
13 CAPITAL IMPROVEMENT SHALL BE EFFECTIVE UPON APPROVAL OF THE APPLICATION
14 THEREFOR. NO INCREASE MAY BE COLLECTED FOR THE PERIOD OF TIME PRIOR TO
15 THE DATE OF APPROVAL OF THE APPLICATION.

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

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1 S 3. The second undesignated paragraph of paragraph (a) of subdivi-
2 sion 4 of section 4 of chapter 274 of the laws of 1946, constituting the
3 emergency housing rent control law, as amended by section 25 of part B
4 of chapter 97 of the laws of 2011, is amended to read as follows:

5 No application for adjustment of maximum rent based upon a sales price
6 valuation shall be filed by the landlord under this subparagraph prior
7 to six months from the date of such sale of the property. In addition,
8 no adjustment ordered by the commission based upon such sales price
9 valuation shall be effective prior to one year from the date of such
10 sale.

11 Where, however, the assessed valuation of the land exceeds four
12 times the assessed valuation of the buildings thereon, the commission
13 may determine a valuation of the property equal to five times the equal-
14 ized assessed valuation of the buildings, for the purposes of this
15 subparagraph. The commission may make a determination that the valu-
16 ation of the property is an amount different from such equalized
17 assessed valuation where there is a request for a reduction in such
18 assessed valuation currently pending; or where there has been a
19 reduction in the assessed valuation for the year next preceding the
20 effective date of the current assessed valuation in effect at the time
21 of the filing of the application. Net annual return shall be the amount
22 by which the earned income exceeds the operating expenses of the proper-
23 ty, excluding mortgage interest and amortization, and excluding allow-
24 ances for obsolescence and reserves, but including an allowance for
25 depreciation of two per centum of the value of the buildings exclusive
26 of the land, or the amount shown for depreciation of the buildings in
27 the latest required federal income tax return, whichever is lower;
28 provided, however, that (1) no allowance for depreciation of the build-
29 ings shall be included where the buildings have been fully depreciated
30 for federal income tax purposes or on the books of the owner; or (2) the
31 landlord who owns no more than four rental units within the state has
32 not been fully compensated by increases in rental income sufficient to
33 offset unavoidable increases in property taxes, fuel, utilities, insur-
34 ance and repairs and maintenance, excluding mortgage interest and amor-
35 tization, and excluding allowances for depreciation, obsolescence and
36 reserves, which have occurred since the federal date determining the
37 maximum rent or the date the property was acquired by the present owner,
38 whichever is later; or (3) the landlord operates a hotel or rooming
39 house or owns a cooperative apartment and has not been fully compensated
40 by increases in rental income from the controlled housing accommodations
41 sufficient to offset unavoidable increases in property taxes and other
42 costs as are allocable to such controlled housing accommodations,
43 including costs of operation of such hotel or rooming house, but exclud-
44 ing mortgage interest and amortization, and excluding allowances for
45 depreciation, obsolescence and reserves, which have occurred since the
46 federal date determining the maximum rent or the date the landlord
47 commenced the operation of the property, whichever is later; or (4) the
48 landlord and tenant voluntarily enter into a valid written lease in good
49 faith with respect to any housing accommodation, which lease provides
50 for an increase in the maximum rent not in excess of fifteen per centum
51 and for a term of not less than two years, except that where such lease
52 provides for an increase in excess of fifteen per centum, the increase
53 shall be automatically reduced to fifteen per centum; or (5) the land-
54 lord and tenant by mutual voluntary written agreement agree to a
55 substantial increase or decrease in dwelling space or a change in the
56 services, furniture, furnishings or equipment provided in the housing
accommodations; provided that an owner shall be entitled to a rent

1 increase where there has been a substantial modification or increase of
2 dwelling space or an increase in the services, or installation of new
3 equipment or improvements or new furniture or furnishings provided in or
4 to a tenant's housing accommodation. The permanent increase in the maxi-
5 mum rent for the affected housing accommodation shall be one-fortieth,
6 in the case of a building with thirty-five or fewer housing accommo-
7 dations, or one-sixtieth, in the case of a building with more than thir-
8 ty-five housing accommodations where such permanent increase takes
9 effect on or after September twenty-fourth, two thousand eleven, of the
10 total cost incurred by the landlord in providing such modification or
11 increase in dwelling space, services, furniture, furnishings or equip-
12 ment, including the cost of installation, but excluding finance charges
13 provided further that an owner who is entitled to a rent increase pursu-
14 ant to this clause shall not be entitled to a further rent increase
15 based upon the installation of similar equipment, or new furniture or
16 furnishings within the useful life of such new equipment, or new furni-
17 ture or furnishings. The owner shall give written notice to the commis-
18 sion of any such adjustment pursuant to this clause; or (6) there has
19 been, since March first, nineteen hundred fifty, an increase in the
20 rental value of the housing accommodations as a result of a substantial
21 rehabilitation of the building or housing accommodation therein which
22 materially adds to the value of the property or appreciably prolongs its
23 life, excluding ordinary repairs, maintenance and replacements; or (7)
24 there has been since March first, nineteen hundred fifty, a major capi-
25 tal improvement required for the operation, preservation or maintenance
26 of the structure; or (8) there has been since March first, nineteen
27 hundred fifty, in structures containing more than four housing accommo-
28 dations, other improvements made with the express consent of the tenants
29 in occupancy of at least seventy-five per centum of the housing accom-
30 modations, provided, however, that no adjustment granted hereunder shall
31 exceed fifteen per centum unless the tenants have agreed to a higher
32 percentage of increase, as herein provided; or (9) there has been,
33 since March first, nineteen hundred fifty, a subletting without written
34 consent from the landlord or an increase in the number of adult occu-
35 pants who are not members of the immediate family of the tenant, and the
36 landlord has not been compensated therefor by adjustment of the maximum
37 rent by lease or order of the commission or pursuant to the federal act;
38 or (10) the presence of unique or peculiar circumstances materially
39 affecting the maximum rent has resulted in a maximum rent which is
40 substantially lower than the rents generally prevailing in the same area
41 for substantially similar housing accommodations; OR (11) NOTWITHSTAND-
42 ING ANY PROVISION OF LAW OR RULE OR REGULATION TO THE CONTRARY, ANY
43 ADJUSTMENT IN THE LEGAL REGULATED RENT BASED UPON A MAJOR CAPITAL
44 IMPROVEMENT SHALL BE EFFECTIVE UPON APPROVAL OF THE APPLICATION THERE-
45 FOR. NO INCREASE MAY BE COLLECTED FOR THE PERIOD OF TIME PRIOR TO THE
46 DATE OF APPROVAL OF THE APPLICATION.

47 S 4. Paragraph 1 of subdivision g of section 26-405 of the administra-
48 tive code of the city of New York is amended by adding a new subpara-
49 graph (p) to read as follows:

50 (P) NOTWITHSTANDING ANY PROVISION OF LAW OR RULE OR REGULATION TO THE
51 CONTRARY, ANY ADJUSTMENT IN THE LEGAL REGULATED RENT BASED UPON A MAJOR
52 CAPITAL IMPROVEMENT SHALL BE EFFECTIVE UPON APPROVAL OF THE APPLICATION
53 THEREFOR. NO INCREASE MAY BE COLLECTED FOR THE PERIOD OF TIME PRIOR TO
54 THE DATE OF APPROVAL OF THE APPLICATION.

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

1 a. the amendments to section 4 of the emergency tenant protection act
2 of nineteen seventy-four made by section one of this act shall expire on
3 the same date as such act expires and shall not affect the expiration of
4 such act as provided in section 17 of chapter 576 of the laws of 1974;
5 b. the amendments to section 26-512 of chapter 4 of title 26 of the
6 administrative code of the city of New York made by section two of this
7 act shall expire on the same date as such law expires and shall not
8 affect the expiration of such law as provided under section 26-520 of
9 such law;
10 c. the amendments to section 4 of the emergency housing rent control
11 law made by section three of this act shall expire on the same date as
12 such law expires and shall not affect the expiration of such law as
13 provided in subdivision 2 of section 1 of chapter 274 of the laws of
14 1946; and
15 d. the amendments to section 26-405 of the city rent and rehabili-
16 tation law made by section four of this act shall remain in full force
17 and effect only as long as the public emergency requiring the regulation
18 and control of residential rents and evictions continues, as provided in
19 subdivision 3 of section 1 of the local emergency housing rent control
20 act.