

STATE OF NEW YORK

2107--A

2017-2018 Regular Sessions

IN ASSEMBLY

January 17, 2017

Introduced by M. of A. MAYER, WRIGHT, ABINANTI, COLTON, GOTTFRIED, HOOPER, JAFFEE, KAVANAGH, O'DONNELL, PRETLOW, RIVERA, ROZIC, SOLAGES, ARROYO, MOSLEY, PICHARDO, DE LA ROSA, WALKER -- Multi-Sponsored by -- M. of A. BUCHWALD, HEVESI, SIMON -- read once and referred to the Committee on Housing -- reported and referred to the Committee on Codes -- 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 § 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.

LBD02497-04-7

§ 3. The second undesignated paragraph of paragraph (a) of subdivision 4 of section 4 of chapter 274 of the laws of 1946, constituting the emergency housing rent control law, as amended by section 25 of part B of chapter 97 of the laws of 2011, subparagraph 7 as amended by section 32 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

No application for adjustment of maximum rent based upon a sales price valuation shall be filed by the landlord under this subparagraph prior to six months from the date of such sale of the property. In addition, no adjustment ordered by the commission based upon such sales price valuation shall be effective prior to one year from the date of such sale. Where, however, the assessed valuation of the land exceeds four times the assessed valuation of the buildings thereon, the commission may determine a valuation of the property equal to five times the equalized assessed valuation of the buildings, for the purposes of this subparagraph. The commission may make a determination that the valuation of the property is an amount different from such equalized assessed valuation where there is a request for a reduction in such assessed valuation currently pending; or where there has been a reduction in the assessed valuation for the year next preceding the effective date of the current assessed valuation in effect at the time of the filing of the application. Net annual return shall be the amount by which the earned income exceeds the operating expenses of the property, excluding mortgage interest and amortization, and excluding allowances for obsolescence and reserves, but including an allowance for depreciation of two per centum of the value of the buildings exclusive of the land, or the amount shown for depreciation of the buildings in the latest required federal income tax return, whichever is lower; provided, however, that (1) no allowance for depreciation of the buildings shall be included where the buildings have been fully depreciated for federal income tax purposes or on the books of the owner; or (2) the landlord who owns no more than four rental units within the state has not been fully compensated by increases in rental income sufficient to offset unavoidable increases in property taxes, fuel, utilities, insurance and repairs and maintenance, excluding mortgage interest and amortization, and excluding allowances for depreciation, obsolescence and reserves, which have occurred since the federal date determining the maximum rent or the date the property was acquired by the present owner, whichever is later; or (3) the landlord operates a hotel or rooming house or owns a cooperative apartment and has not been fully compensated by increases in rental income from the controlled housing accommodations sufficient to offset unavoidable increases in property taxes and other costs as are allocable to such controlled housing accommodations, including costs of operation of such hotel or rooming house, but excluding mortgage interest and amortization, and excluding allowances for depreciation, obsolescence and reserves, which have occurred since the federal date determining the maximum rent or the date the landlord commenced the operation of the property, whichever is later; or (4) the landlord and tenant voluntarily enter into a valid written lease in good faith with respect to any housing accommodation, which lease provides for an increase in the maximum rent not in excess of fifteen per centum and for a term of not less than two years, except that where such lease provides for an increase in excess of fifteen per centum, the increase shall be automatically reduced to fifteen per centum; or (5) the landlord and tenant by mutual voluntary written agreement agree to a substantial increase or decrease in dwelling space or a change in the

1 services, furniture, furnishings or equipment provided in the housing
2 accommodations; provided that an owner shall be entitled to a rent
3 increase where there has been a substantial modification or increase of
4 dwelling space or an increase in the services, or installation of new
5 equipment or improvements or new furniture or furnishings provided in or
6 to a tenant's housing accommodation. The permanent increase in the maxi-
7 mum rent for the affected housing accommodation shall be one-fortieth,
8 in the case of a building with thirty-five or fewer housing accommo-
9 dations, or one-sixtieth, in the case of a building with more than thir-
10 ty-five housing accommodations where such permanent increase takes
11 effect on or after September twenty-fourth, two thousand eleven, of the
12 total cost incurred by the landlord in providing such modification or
13 increase in dwelling space, services, furniture, furnishings or equip-
14 ment, including the cost of installation, but excluding finance charges
15 provided further that an owner who is entitled to a rent increase pursu-
16 ant to this clause shall not be entitled to a further rent increase
17 based upon the installation of similar equipment, or new furniture or
18 furnishings within the useful life of such new equipment, or new furni-
19 ture or furnishings. The owner shall give written notice to the commis-
20 sion of any such adjustment pursuant to this clause; or (6) there has
21 been, since March first, nineteen hundred fifty, an increase in the
22 rental value of the housing accommodations as a result of a substantial
23 rehabilitation of the building or housing accommodation therein which
24 materially adds to the value of the property or appreciably prolongs its
25 life, excluding ordinary repairs, maintenance and replacements; or (7)
26 there has been since March first, nineteen hundred fifty, a major capi-
27 tal improvement required for the operation, preservation or maintenance
28 of the structure; which for any order of the commissioner issued after
29 the effective date of the rent act of 2015 the cost of such improvement
30 shall be amortized over an eight-year period for buildings with thirty-
31 five or fewer units or a nine year period for buildings with more than
32 ~~[thirty-five]~~ thirty-five units, or (8) there has been since March first,
33 nineteen hundred fifty, in structures containing more than four housing
34 accommodations, other improvements made with the express consent of the
35 tenants in occupancy of at least seventy-five per centum of the housing
36 accommodations, provided, however, that no adjustment granted hereunder
37 shall exceed fifteen per centum unless the tenants have agreed to a
38 higher percentage of increase, as herein provided; or (9) there has
39 been, since March first, nineteen hundred fifty, a subletting without
40 written consent from the landlord or an increase in the number of adult
41 occupants who are not members of the immediate family of the tenant, and
42 the landlord has not been compensated therefor by adjustment of the
43 maximum rent by lease or order of the commission or pursuant to the
44 federal act; or (10) the presence of unique or peculiar circumstances
45 materially affecting the maximum rent has resulted in a maximum rent
46 which is substantially lower than the rents generally prevailing in the
47 same area for substantially similar housing accommodations; or (11)
48 notwithstanding any provision of law or rule or regulation to the
49 contrary, any adjustment in the legal regulated rent based upon a major
50 capital improvement shall be effective upon approval of the application
51 therefor. No increase may be collected for the period of time prior to
52 the date of approval of the application.

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

1 (p) Notwithstanding any provision of law or rule or regulation to the
2 contrary, any adjustment in the legal regulated rent based upon a major
3 capital improvement shall be effective upon approval of the application
4 therefor. No increase may be collected for the period of time prior to
5 the date of approval of the application.

6 § 5. This act shall take effect immediately; provided that:

7 a. the amendments to section 4 of the emergency tenant protection act
8 of nineteen seventy-four made by section one of this act shall expire on
9 the same date as such act expires and shall not affect the expiration of
10 such act as provided in section 17 of chapter 576 of the laws of 1974;

11 b. the amendments to section 26-512 of chapter 4 of title 26 of the
12 administrative code of the city of New York made by section two of this
13 act shall expire on the same date as such law expires and shall not
14 affect the expiration of such law as provided under section 26-520 of
15 such law;

16 c. the amendments to section 4 of the emergency housing rent control
17 law made by section three of this act shall expire on the same date as
18 such law expires and shall not affect the expiration of such law as
19 provided in subdivision 2 of section 1 of chapter 274 of the laws of
20 1946; and

21 d. the amendments to section 26-405 of the city rent and rehabili-
22 tation law made by section four of this act shall remain in full force
23 and effect only as long as the public emergency requiring the regulation
24 and control of residential rents and evictions continues, as provided in
25 subdivision 3 of section 1 of the local emergency housing rent control
26 act.