

# STATE OF NEW YORK

4888

2017-2018 Regular Sessions

## IN ASSEMBLY

February 6, 2017

Introduced by M. of A. ROSENTHAL -- 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 applications for major  
capital improvement rent increases

The People of the State of New York, represented in Senate and Assem-  
bly, 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 mainte-  
7 nance of the structure. An adjustment under this subparagraph (g) for  
8 any order of the commissioner issued after the effective date of the  
9 rent act of 2015 shall be in an amount sufficient to amortize the cost  
10 of the improvements pursuant to this subparagraph (g) over an eight-year  
11 period for buildings with thirty-five or fewer units or a nine year  
12 period for buildings with more than [~~thirty-five~~] thirty-five units[~~7~~];  
13 provided, however, no application for a major capital improvement rent  
14 increase shall be approved by the division of housing and community  
15 renewal unless the owner of the property has filed all copies of permits  
16 pertaining to the major capital improvement work with such application.  
17 Any application submitted with fraudulent permits or without required  
18 permits shall be denied; or

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

22 (6) provides criteria whereby the commissioner may act upon applica-  
23 tions by owners for increases in excess of the level of fair rent  
24 increase established under this law provided, however, that such crite-  
25 ria shall provide (a) as to hardship applications, for a finding that  
26 the level of fair rent increase is not sufficient to enable the owner to

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

LBD05141-01-7

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 after the effective date of the rent act of 2015, based upon cash purchase price exclusive of interest or service charges. The division of housing and community renewal shall require the submission of copies of all permits pertaining to major capital improvement work with any application for a major capital improvement rent increase. Any application submitted with fraudulent permits or without required permits shall be denied. Notwithstanding anything to the contrary contained herein, no hardship increase granted pursuant to this paragraph shall, when added to the annual gross rents, as determined by the commissioner, exceed the sum of, (i) the annual operating expenses, (ii) an allowance for management services as determined by the commissioner, (iii) actual annual mortgage debt service (interest and amortization) on its indebtedness to a lending institution, an insurance company, a retirement fund or welfare fund which is operated under the supervision of the banking or insurance laws of the state of New York or the United States, and (iv) eight and one-half percent of that portion of the fair market value of the property which exceeds the unpaid principal amount of the mortgage indebtedness referred to in subparagraph (iii) of this paragraph. Fair market value for the purposes of this paragraph shall be six times the annual gross rent. The collection of any increase in the stabilized rent for any apartment pursuant to this paragraph shall not exceed six percent in any year from the effective date of the order granting the increase over the rent set forth in the schedule of gross rents, with collectability of any dollar excess above said sum to be spread forward in similar increments and added to the stabilized rent as established or set in future years;

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

(3) there has been since January first, nineteen hundred seventy-four a major capital improvement required for the operation, preservation or

1 maintenance of the structure. An adjustment under this paragraph shall  
2 be in an amount sufficient to amortize the cost of the improvements  
3 pursuant to this paragraph over an eight-year period for a building with  
4 thirty-five or fewer housing accommodations, or a nine-year period for a  
5 building with more than thirty-five housing accommodations, for any  
6 determination issued by the division of housing and community renewal  
7 after the effective date of the rent act of 2015[7]; provided, however,  
8 no application for a major capital improvement rent increase shall be  
9 approved by the division of housing and community renewal unless the  
10 owner of the property has filed all copies of permits pertaining to the  
11 major capital improvement work with such application. Any application  
12 submitted with fraudulent permits or without required permits shall be  
13 denied; or

14 § 4. Subparagraph 7 of the second undesignated paragraph of paragraph  
15 (a) of subdivision 4 of section 4 of chapter 274 of the laws of 1946,  
16 constituting the emergency housing rent control law, as amended by  
17 section 32 of part A of chapter 20 of the laws of 2015, is amended to  
18 read as follows:

19 (7) there has been since March first, nineteen hundred fifty, a major  
20 capital improvement required for the operation, preservation or mainte-  
21 nance of the structure; which for any order of the commissioner issued  
22 after the effective date of the rent act of 2015 the cost of such  
23 improvement shall be amortized over an eight-year period for buildings  
24 with thirty-five or fewer units or a nine year period for buildings with  
25 more than [~~thirty-five~~] thirty-five units[7]; provided, however, no  
26 application for a major capital improvement rent increase shall be  
27 approved by the division of housing and community renewal unless the  
28 owner of the property has filed all copies of permits pertaining to the  
29 major capital improvement work with such application. Any application  
30 submitted with fraudulent permits or without required permits shall be  
31 denied; or

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

33 (a) the amendments to section 26-405 of the city rent and rehabili-  
34 tation law made by section one of this act shall remain in full force  
35 and effect only as long as the public emergency requiring the regulation  
36 and control of residential rents and evictions continues, as provided in  
37 subdivision 3 of section 1 of the local emergency housing rent control  
38 act;

39 (b) the amendments to section 26-511 of the rent stabilization law of  
40 nineteen hundred sixty-nine made by section two of this act shall expire  
41 on the same date as such law expires and shall not affect the expiration  
42 of such law as provided under section 26-520 of such law, as from time  
43 to time amended;

44 (c) the amendments to section 6 of the emergency tenant protection act  
45 of nineteen seventy-four made by section three of this act shall expire  
46 on the same date as such act expires and shall not affect the expiration  
47 of such act as provided in section 17 of chapter 576 of the laws of  
48 1974, as from time to time amended; and

49 (d) the amendments to section 4 of the emergency housing rent control  
50 law made by section four of this act shall expire on the same date as  
51 such law expires and shall not affect the expiration of such law as  
52 provided in subdivision 2 of section 1 of chapter 274 of the laws of  
53 1946.