STATE OF NEW YORK

3643

2017-2018 Regular Sessions

IN SENATE

January 25, 2017

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

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:

Section 1. Subparagraph (g) of paragraph 1 of subdivision g of section 26-405 of the administrative code of the city of New York, as amended by section 31 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

(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 [~~thiry-five~~] thirty-five units[~~, or~~]. No landlord shall deny access to a professional engineer licensed to practice in the state of New York or a registered architect licensed to practice in the state of New York hired by any tenant, tenants or tenant association representing tenants of a multiple dwelling of six units or more for the purpose of conducting an inspection of a major capital improvement for which an application for adjustment of maximum rent has been filed. Such inspection shall be conducted after notice to the landlord and during normal business hours. Such tenant may file the

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

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report of the inspection with the city rent agency for consideration in the determination of such application; or

§ 2. Paragraph 6 of subdivision c of section 26-511 of the administrative code of the city of New York, as amended by section 29 of part A of chapter 20 of the laws of 2015, is amended 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 after the effective date of the rent act of 2015, based upon cash purchase price exclusive of interest or service charges. **No landlord shall deny access to a professional engineer licensed to practice in the state of New York or a registered architect licensed to practice in the state of New York hired by any tenant, tenants or tenant association representing tenants of a multiple dwelling of six units or more for the purpose of conducting an inspection of a major capital improvement for which an application for adjustment of maximum rent has been filed. Such inspection shall be conducted after notice to the landlord and during normal business hours. Such tenant may file the report of the inspection with the city rent agency for consideration in the determination of such application.** 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 mort-

gage 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 maintenance of the structure. An adjustment under this paragraph shall be in an amount sufficient to amortize the cost of the improvements pursuant to this paragraph 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[~~, or~~]**. No landlord shall deny access to a professional engineer licensed to practice in the state of New York or a registered architect licensed to practice in the state of New York hired by any tenant, tenants or tenant association representing tenants of a multiple dwelling of six units or more for the purpose of conducting an inspection of a major capital improvement for which an application for adjustment of maximum rent has been filed. Such inspection shall be conducted after notice to the landlord and during normal business hours. Such tenant may file the report of the inspection with the city rent agency for consideration in the determination of such application, or**

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