

# STATE OF NEW YORK

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3874--A

2017-2018 Regular Sessions

## IN SENATE

January 27, 2017

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Introduced by Sen. ALCANTARA -- 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. No  
12 landlord shall deny access to a professional engineer licensed to practice in the state of New York or a registered architect licensed to  
13 practice in the state of New York hired by any tenant, tenants or tenant  
14 association representing tenants of a multiple dwelling of six units or  
15 more for the purpose of conducting an inspection of a major capital  
16 improvement for which an application for adjustment of maximum rent has  
17  
18

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

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1 been filed. Such inspection shall be conducted after notice to the land-  
2 lord and during normal business hours. Such tenant may file the report  
3 of the inspection with the city rent agency for consideration in the  
4 determination of such application, or

5 § 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. Notwithstand-  
39 ing anything to the contrary contained herein, no hardship increase  
40 granted pursuant to this paragraph shall, when added to the annual gross  
41 rents, as determined by the commissioner, exceed the sum of, (i) the  
42 annual operating expenses, (ii) an allowance for management services as  
43 determined by the commissioner, (iii) actual annual mortgage debt  
44 service (interest and amortization) on its indebtedness to a lending  
45 institution, an insurance company, a retirement fund or welfare fund  
46 which is operated under the supervision of the banking or insurance laws  
47 of the state of New York or the United States, and (iv) eight and one-  
48 half percent of that portion of the fair market value of the property  
49 which exceeds the unpaid principal amount of the mortgage indebtedness  
50 referred to in subparagraph (iii) of this paragraph. Fair market value  
51 for the purposes of this paragraph shall be six times the annual gross  
52 rent. No landlord shall deny access to a professional engineer licensed  
53 to practice in the state of New York or a registered architect licensed  
54 to practice in the state of New York hired by any tenant, tenants or  
55 tenant association representing tenants of a multiple dwelling of six  
56 units or more for the purpose of conducting an inspection of a major

1 capital improvement for which an application for adjustment of maximum  
2 rent has been filed. Such inspection shall be conducted after notice to  
3 the landlord and during normal business hours. Such tenant may file the  
4 report of the inspection with the city rent agency for consideration in  
5 the determination of such application. The collection of any increase in  
6 the stabilized rent for any apartment pursuant to this paragraph shall  
7 not exceed six percent in any year from the effective date of the order  
8 granting the increase over the rent set forth in the schedule of gross  
9 rents, with collectability of any dollar excess above said sum to be  
10 spread forward in similar increments and added to the stabilized rent as  
11 established or set in future years;

12 § 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. No landlord shall deny  
25 access to a professional engineer licensed to practice in the state of  
26 New York or a registered architect licensed to practice in the state of  
27 New York hired by any tenant, tenants or tenant association representing  
28 tenants of a multiple dwelling of six units or more for the purpose of  
29 conducting an inspection of a major capital improvement for which an  
30 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 § 4. Section 26-520 of the administrative code of the city of New  
36 York, as amended by local law number 26 of the city of New York for the  
37 year 2015, is amended to read as follows:

38 § 26-520 Expiration date. This chapter shall expire on April first,  
39 two thousand [~~eighteen~~ twenty-two unless rent control shall sooner  
40 terminate as provided in subdivision three of section one of the local  
41 emergency housing rent control law.

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

1 three of this act shall expire on the same date as such act expires and  
2 shall not affect the expiration of such act as provided in section 17 of  
3 chapter 576 of the laws of 1974, as amended.