

STATE OF NEW YORK

9154

IN SENATE

August 24, 2018

Introduced by Sen. GIANARIS -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT eliminating the department of homes and community renewal's major capital improvement program; creating the guaranteed habitability protections program within the department of homes and community renewal; to amend the tax law, in relation to creating a guaranteed habitability protections tax credit; to amend chapter 274 of the laws of 1946, constituting the emergency housing rent control law, the emergency tenant protection act of nineteen seventy-four and the administrative code of the city of New York, in relation to eliminating rent increases to pay for major capital improvements

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. (a) The department of homes and community renewal shall end
2 the major capital improvement program. All increases to rents allowed
3 during the life of the major capital improvement program shall be
4 repealed upon petition from a tenant, all applications pending review
5 for the major capital improvement program shall be denied, and no rent
6 increases shall be allowed under the major capital improvement program.
7 (b) The department of homes and community renewal, upon repealing any
8 increase in rent under the major capital improvement program, shall
9 require that the rent is reduced by an amount equal to that of the
10 increase allowed under the major capital improvement program in that
11 instance for all current tenants affected by such increase. This rent
12 shall be considered the legal rent and shall no longer by a preferential
13 rent.
14 (c) The department of homes and community renewal shall require that
15 any increase in a tenant's security deposit due to an increase in rent
16 under the major capital improvement program be repaid to the tenant by
17 the landlord within thirty days of such repeal.
18 (d) The new legal rent shall be the legal rent beginning on the date
19 rent is required to be paid next succeeding the repeal of any rent
20 increase under the major capital improvement program.

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

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1 (e) Any lease signed after a repeal of a rent increase under the major
2 capital improvement program shall be tied to the new legal rent which
3 shall be without such repealed increases under the major capital
4 improvement program.

5 (f) The department of homes and community renewal shall notify all
6 current tenants affected by an increase in rent under the major capital
7 improvement program that they can appeal to such department for the
8 repeal of such increase in rent and that any increase in rent under the
9 major capital improvement program that is repealed will result in the
10 reduction of rent and the repayment of the various security deposit
11 increases associated with said increases.

12 (g) The department of homes and community renewal shall, within one
13 year of the effective date of this act, consider all appeals for the
14 repeal of an increase in rent under the major capital improvement
15 program. If an appeal was filed but not ruled upon after an investi-
16 gation within one year of the effective date of this act by the depart-
17 ment of homes and community renewal, the appeal shall be granted.

18 § 2. (a) The department of homes and community renewal is hereby
19 authorized and directed to establish a guaranteed habitability
20 protections program and promulgate, amend, add or remove any rules or
21 regulations necessary to establish such program.

22 (b) The program shall work to ensure the habitability of all rental
23 dwellings, specifically that no rental dwelling becomes uninhabitable by
24 requiring regular updates and improvements to rental dwellings. A rental
25 dwelling shall be deemed uninhabitable where it is not safe and livable
26 and the landlord would be in violation of the warranty of habitability.

27 (c) When the department of homes and community renewal determines that
28 any unit of a rental dwelling has an issue which may impact the habita-
29 bility of the unity, such department under this program shall give
30 notice to the landlord. Where the issue is not life threatening, the
31 landlord shall have within thirty days to rectify the issue before
32 incurring a violation. Where the issue is life threatening, as deter-
33 mined by the department of homes and community renewal, the landlord
34 shall have an amount of time as determined by such department based on
35 the severity of the issue to rectify the issue before incurring a
36 violation. The department of homes and community renewal shall determine
37 which issues are and which issues are not life threatening. Upon incur-
38 ring a violation, the landlord shall have the same amount of time to
39 rectify the issue before incurring another violation. An issue shall be
40 deemed rectified when the issue no longer exists or the tenants have
41 been moved into another unit of equal or greater quality, where such
42 determination of quality shall be made by the department of homes and
43 community renewal. A landlord shall be fined:

44 (i) \$10,000 for the first violation involving a non-life threatening
45 issue;

46 (ii) \$25,000 for the second violation involving a non-life threatening
47 issue;

48 (iii) \$50,000 for the third and each subsequent violation involving a
49 non-life threatening issue; and

50 (iv) \$100,000 for each resident of an affected unit for a violation
51 involving a life threatening issue.

52 § 3. Section 210-B of the tax law is amended by adding a new subdivi-
53 sion 53 to read as follows:

54 53. Guaranteed habitability protections tax credit. (a) Allowance of
55 credit. A taxpayer with approval from the guaranteed habitability
56 protections program of the department of homes and community renewal

1 shall be allowed a credit, to be computed as provided in paragraph (b)
 2 of this subdivision, against the tax imposed by this article.

3 (b) Amount of credit. The credit allowed pursuant to paragraph (a) of
 4 this subdivision shall be in an amount equal to the amount approved by
 5 the guaranteed habitability protections program of the department of
 6 homes and community renewal.

7 (c) Application of credit. The credit allowed under this subdivision
 8 for any taxable year shall not reduce the tax due for such year to less
 9 than the amount prescribed in paragraph (d) of subdivision one of
 10 section two hundred ten of this article. If, however, the amount of
 11 credits allowed under this subdivision for any taxable year reduces the
 12 tax to such amount, any amount of credit thus not deductible in such
 13 taxable year shall be treated as an overpayment of tax to be credited or
 14 refunded in accordance with the provisions of section one thousand
 15 eighty-six of this chapter. Provided, however, the provisions of
 16 subsection (c) of section one thousand eighty-eight of this chapter
 17 notwithstanding, no interest shall be paid thereon.

18 § 4. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
 19 of the tax law is amended by adding a new clause (xliv) to read as
 20 follows:

21 <u>(xliv) Guaranteed habitability</u>	<u>Amount of credit under</u>
22 <u>protections tax credit under</u>	<u>subdivision fifty-three of</u>
23 <u>subsection (jjj)</u>	<u>section two hundred ten-B</u>

24 § 5. Section 606 of the tax law is amended by adding a new subsection
 25 (jjj) to read as follows:

26 (jjj) Guaranteed habitability protections tax credit. (1) Allowance of
 27 credit. A taxpayer with approval from the guaranteed habitability
 28 protections program of the department of homes and community renewal
 29 shall be allowed a credit, to be computed as provided in paragraph two
 30 of this subsection, against the tax imposed by this article.

31 (2) Amount of credit. The credit allowed pursuant to paragraph one of
 32 this subsection shall be in an amount equal to the amount approved by
 33 the guaranteed habitability protections program of the department of
 34 homes and community renewal.

35 (3) Application of credit. If the amount of the credit allowed under
 36 this subsection for any taxable year shall exceed the taxpayer's tax for
 37 such year, the excess shall be treated as an overpayment of tax to be
 38 credited or refunded in accordance with the provisions of section six
 39 hundred eighty-six of this article, provided, however, that no interest
 40 shall be paid thereon.

41 § 6. Paragraph 2 of subdivision 3-a of section 4, subparagraph (iii)
 42 of the opening paragraph of paragraph (a) of subdivision 4 of section 4,
 43 subparagraphs 7, 8, 9 and 10 of the second undesignated paragraph of
 44 paragraph (a) of subdivision 4 of section 4, and subdivision 9 of
 45 section 5 of chapter 274 of the laws of 1946, constituting the emergency
 46 housing rent control law, as amended by chapter 337 of the laws of 1961,
 47 subparagraph (iii) of paragraph (a) of subdivision 4 of section 4 as
 48 amended by chapter 21 of the laws of 1962, subparagraphs 8, 9 and 10 of
 49 the second undesignated paragraph of paragraph (a) of subdivision 4 of
 50 section 4 as amended by section 25 of part B of chapter 97 of the laws
 51 of 2011, subparagraph 7 of the second undesignated paragraph of para-
 52 graph (a) of subdivision 4 of section 4 as amended by section 32 of part
 53 A of chapter 20 of the laws of 2015, and subdivision 9 of section 5 as
 54 added by chapter 116 of the laws of 1997, are amended to read as
 55 follows:

1 (2) the amount of increases in maximum rent authorized by order
2 because of increases in dwelling space, services, furniture, furnishings
3 or equipment[~~, or major capital improvements~~].

4 (iii) The ratio of the sales price to the annual gross income of the
5 property, with consideration given to the total amount of rent adjust-
6 ments previously granted, exclusive of rent adjustments because of
7 changes in dwelling space, services, furniture, furnishings or equip-
8 ment, [~~major capital improvements,~~] or substantial rehabilitation;

9 (7) [~~there has been since March first, nineteen hundred fifty, a major
10 capital improvement required for the operation, preservation or mainte-
11 nance of the structure, which for any order of the commissioner issued
12 after the effective date of the rent act of 2015 the cost of such
13 improvement shall be amortized over an eight-year period for buildings
14 with thirty-five or fewer units or a nine-year period for buildings with
15 more than thirty-five units, or (8)~~] there has been since March first,
16 nineteen hundred fifty, in structures containing more than four housing
17 accommodations, other improvements made with the express consent of the
18 tenants in occupancy of at least seventy-five per centum of the housing
19 accommodations, provided, however, that no adjustment granted hereunder
20 shall exceed fifteen per centum unless the tenants have agreed to a
21 higher percentage of increase, as herein provided; or [~~(9)~~] (8) there
22 has been, since March first, nineteen hundred fifty, a subletting with-
23 out written consent from the landlord or an increase in the number of
24 adult occupants who are not members of the immediate family of the
25 tenant, and the landlord has not been compensated therefor by adjustment
26 of the maximum rent by lease or order of the commission or pursuant to
27 the federal act; or [~~(10)~~] (9) the presence of unique or peculiar
28 circumstances materially affecting the maximum rent has resulted in a
29 maximum rent which is substantially lower than the rents generally
30 prevailing in the same area for substantially similar housing accommo-
31 dations.

32 9. Notwithstanding any provision of this law to the contrary in the
33 case where all tenants occupying the housing accommodation on the effec-
34 tive date of this subdivision have vacated the housing accommodation and
35 a family member of such vacating tenant or tenants is entitled to and
36 continues to occupy the housing accommodation subject to the protections
37 of this law, if such accommodation continues to be subject to this law
38 after such family member vacates, on the occurrence of such vacancy the
39 maximum collectable rent shall be increased by a sum equal to the allow-
40 ance then in effect for vacancy leases for housing accommodations
41 covered by the rent stabilization law of nineteen hundred sixty-nine,
42 including the amount allowed by paragraph five-a of subdivision c of
43 section 26-511 of such law. This increase shall be in addition to any
44 other increases provided in this law including an adjustment based upon
45 [~~a major capital improvement, or~~] a substantial increase or decrease in
46 dwelling space or a change in the services, furniture, furnishings or
47 equipment provided in the housing accommodation, pursuant to section
48 four of this law and shall be applicable in like manner to each second
49 subsequent succession.

50 § 7. Paragraphs 3, 4, and 5 of subdivision d and subdivision g of
51 section 6 of section 4 of chapter 576 of the laws of 1974, constituting
52 the emergency tenant protection act of nineteen seventy-four, paragraph
53 3 of subdivision d as amended by section 30 of part A of chapter 20 of
54 the laws of 2015, paragraph 4 of subdivision d as amended by chapter 403
55 of the laws of 1983, paragraph 5 of subdivision d as amended by chapter

1 102 of the laws of 1984, and subdivision g as added by chapter 116 of
2 the laws of 1997, are amended to read as follows:

3 ~~(3) [there has been since January first, nineteen hundred seventy-four~~
4 ~~a major capital improvement required for the operation, preservation or~~
5 ~~maintenance of the structure. An adjustment under this paragraph shall~~
6 ~~be in an amount sufficient to amortize the cost of the improvements~~
7 ~~pursuant to this paragraph over an eight-year period for a building with~~
8 ~~thirty-five or fewer housing accommodations, or a nine-year period for a~~
9 ~~building with more than thirty-five housing accommodations, for any~~
10 ~~determination issued by the division of housing and community renewal~~
11 ~~after the effective date of the rent act of 2015, or~~

12 ~~(4)]~~ an owner by application to the state division of housing and
13 community renewal for increases in the rents in excess of the rent
14 adjustment authorized by the rent guidelines board under this act estab-
15 lishes a hardship, and the state division finds that the rate of rent
16 adjustment is not sufficient to enable the owner to maintain approxi-
17 mately the same ratio between operating expenses, including taxes and
18 labor costs but excluding debt service, financing costs, and management
19 fees, and gross rents which prevailed on the average over the immediate
20 preceding five year period, or for the entire life of the building if
21 less than five years, or

22 ~~(5)]~~ (4) as an alternative to the hardship application provided under
23 paragraph four of this subdivision, owners of buildings acquired by the
24 same owner or a related entity owned by the same principals three years
25 prior to the date of application may apply to the division for increases
26 in excess of the level of applicable guideline increases established
27 under this law based on a finding by the commissioner that such guide-
28 line increases are not sufficient to enable the owner to maintain an
29 annual gross rent income for such building which exceeds the annual
30 operating expenses of such building by a sum equal to at least five
31 percent of such gross rent. For the purposes of this paragraph, operat-
32 ing expenses shall consist of the actual, reasonable, costs of fuel,
33 labor, utilities, taxes, other than income or corporate franchise taxes,
34 fees, permits, necessary contracted services and non-capital repairs,
35 insurance, parts and supplies, management fees and other administrative
36 costs and mortgage interest. For the purposes of this paragraph, mort-
37 gage interest shall be deemed to mean interest on a bona fide mortgage
38 including an allocable portion of charges related thereto. Criteria to
39 be considered in determining a bona fide mortgage other than an institu-
40 tional mortgage shall include; condition of the property, location of
41 the property, the existing mortgage market at the time the mortgage is
42 placed, the term of the mortgage, the amortization rate, the principal
43 amount of the mortgage, security and other terms and conditions of the
44 mortgage. The commissioner shall set a rental value for any unit occu-
45 pied by the owner or a person related to the owner or unoccupied at the
46 owner's choice for more than one month at the last regulated rent plus
47 the minimum number of guidelines increases or, if no such regulated rent
48 existed or is known, the commissioner shall impute a rent consistent
49 with other rents in the building. The amount of hardship increase shall
50 be such as may be required to maintain the annual gross rent income as
51 provided by this paragraph. The division shall not grant a hardship
52 application under this paragraph or paragraph four of this subdivision
53 for a period of three years subsequent to granting a hardship applica-
54 tion under the provisions of this paragraph. The collection of any
55 increase in the rent for any housing accommodation pursuant to this
56 paragraph shall not exceed six percent in any year from the effective

1 date of the order granting the increase over the rent set forth in the
2 schedule of gross rents, with collectability of any dollar excess above
3 said sum to be spread forward in similar increments and added to the
4 rent as established or set in future years. No application shall be
5 approved unless the owner's equity in such building exceeds five percent
6 of: (i) the arms length purchase price of the property; (ii) the cost of
7 any capital improvements for which the owner has not collected a
8 surcharge; (iii) any repayment of principal of any mortgage or loan used
9 to finance the purchase of the property or any capital improvements for
10 which the owner has not collected a surcharge; and (iv) any increase in
11 the equalized assessed value of the property which occurred subsequent
12 to the first valuation of the property after purchase by the owner. For
13 the purposes of this paragraph, owner's equity shall mean the sum of (i)
14 the purchase price of the property less the principal of any mortgage or
15 loan used to finance the purchase of the property, (ii) the cost of any
16 capital improvement for which the owner has not collected a surcharge
17 less the principal of any mortgage or loan used to finance said improve-
18 ment, (iii) any repayment of the principal of any mortgage or loan used
19 to finance the purchase of the property or any capital improvement for
20 which the owner has not collected a surcharge, and (iv) any increase in
21 the equalized assessed value of the property which occurred subsequent
22 to the first valuation of the property after purchase by the owner.

23 g. Notwithstanding any provision of this act to the contrary in the
24 case where all tenants named in a lease have permanently vacated a hous-
25 ing accommodation and a family member of such tenant or tenants is enti-
26 tled to and executes a renewal lease for the housing accommodation if
27 such accommodation continues to be subject to this act after such family
28 member vacates, on the occurrence of such vacancy the legal regulated
29 rent shall be increased by a sum equal to the allowance then in effect
30 for vacancy leases, including the amount allowed by subdivision (a-1) of
31 section ten of this act. Such increase shall be in addition to any other
32 increases provided for in this act including an adjustment based upon [~~a~~
33 ~~major capital improvement, or~~] a substantial modification or increase of
34 dwelling space or services, or installation of new equipment or improve-
35 ments or new furniture or furnishings provided in or to the housing
36 accommodation, pursuant to section six of this act and shall be applica-
37 ble in like manner to each second subsequent succession.

38 § 8. Subdivision (a-1) of section 10 of section 4 of chapter 576 of
39 the laws of 1974, constituting the emergency tenant protection act of
40 nineteen seventy-four, as amended by section 16-b of part A of chapter
41 20 of the laws of 2015, is amended to read as follows:

42 (a-1) provides that, notwithstanding any provision of this act, the
43 legal regulated rent for any vacancy lease entered into after the effec-
44 tive date of this subdivision shall be as hereinafter set forth. The
45 previous legal regulated rent for such housing accommodation shall be
46 increased by the following: (i) if the vacancy lease is for a term of
47 two years, twenty percent of the previous legal regulated rent; or (ii)
48 if the vacancy lease is for a term of one year the increase shall be
49 twenty percent of the previous legal regulated rent less an amount equal
50 to the difference between (a) the two year renewal lease guideline
51 promulgated by the guidelines board of the county in which the housing
52 accommodation is located applied to the previous legal regulated rent
53 and (b) the one year renewal lease guideline promulgated by the guide-
54 lines board of the county in which the housing accommodation is located
55 applied to the previous legal regulated rent. However, where the amount
56 charged and paid by the prior tenant pursuant to paragraph fourteen of

1 this subdivision, was less than the legal regulated rent, such increase
2 to the legal regulated rent shall not exceed: five percent of the
3 previous legal regulated rent if the last vacancy lease commenced less
4 than two years ago; ten percent of the previous legal regulated rent if
5 the last vacancy commenced less than three years ago; fifteen percent of
6 the previous legal regulated rent if the last vacancy lease commenced
7 less than four years ago; twenty percent of the previous legal regulated
8 rent if the last vacancy lease commenced four or more years ago. In
9 addition, if the legal regulated rent was not increased with respect to
10 such housing accommodation by a permanent vacancy allowance within eight
11 years prior to a vacancy lease executed on or after the effective date
12 of this subdivision, the legal regulated rent may be further increased
13 by an amount equal to the product resulting from multiplying such previ-
14 ous legal regulated rent by six-tenths of one percent and further multi-
15 plying the amount of rent increase resulting therefrom by the greater of
16 (A) the number of years since the imposition of the last permanent
17 vacancy allowance, or (B) if the rent was not increased by a permanent
18 vacancy allowance since the housing accommodation became subject to this
19 act, the number of years that such housing accommodation has been
20 subject to this act. Provided that if the previous legal regulated rent
21 was less than three hundred dollars the total increase shall be as
22 calculated above plus one hundred dollars per month. Provided, further,
23 that if the previous legal regulated rent was at least three hundred
24 dollars and no more than five hundred dollars in no event shall the
25 total increase pursuant to this subdivision be less than one hundred
26 dollars per month. Such increase shall be in lieu of any allowance
27 authorized for the one or two year renewal component thereof, but shall
28 be in addition to any other increases authorized pursuant to this act
29 including an adjustment based upon [~~a major capital improvement, or~~] a
30 substantial modification or increase of dwelling space or services, or
31 installation of new equipment or improvements or new furniture or
32 furnishings provided in or to the housing accommodation pursuant to
33 section six of this act. The increase authorized in this subdivision
34 may not be implemented more than one time in any calendar year, notwith-
35 standing the number of vacancy leases entered into in such year.

36 § 9. Section 26-403.2 of the administrative code of the city of New
37 York, as added by chapter 116 of the laws of 1997, is amended to read as
38 follows:

39 § 26-403.2 Increase in maximum collectable rent. Notwithstanding any
40 provision of this law to the contrary in the case where all tenants
41 occupying the housing accommodation on the effective date of this
42 section have vacated the housing accommodation and a family member of
43 such vacating tenant or tenants is entitled to and continues to occupy
44 the housing accommodation subject to the protections of this law, if
45 such accommodation continues to be subject to this law after such family
46 member vacates, on the occurrence of such vacancy the maximum collecta-
47 ble rent shall be increased by a sum equal to the allowance then in
48 effect for vacancy leases for housing accommodations covered by the rent
49 stabilization law of nineteen hundred sixty-nine, including the amount
50 allowed by paragraph five-a of subdivision c of section 26-511 of such
51 law. This increase shall be in addition to any other increases provided
52 for in this law including an adjustment based upon [~~a major capital~~
53 ~~improvement, or~~] a substantial increase or decrease in dwelling space or
54 a change in the services, furniture, furnishings or equipment provided
55 in the housing accommodation, pursuant to section 26-405 of this law and
56 shall be applicable in like manner to each second subsequent succession.

1 § 10. Subparagraph (c) of paragraph 1 of subdivision g of section
2 26-405 of the administrative code of the city of New York is amended to
3 read as follows:

4 (c) the ratio of the sales price to the annual gross income of the
5 property, with consideration given to the total amount of rent adjust-
6 ments previously granted, exclusive of rent adjustments because of
7 changes in dwelling space, services, furniture, furnishings or equip-
8 ment, [~~major capital improvements,~~] or substantial rehabilitation;

9 § 11. Subparagraphs (g), (h), (i), (j), (k), (l), (m), (n) and (o) of
10 paragraph 1 of subdivision g of section 26-405 of the administrative
11 code of the city of New York, subparagraph (g) as amended by section 31
12 of part A of chapter 20 of the laws of 2015, subparagraph (k) as amended
13 by chapter 749 of the laws of 1990, and clause 7 of subparagraph (n) as
14 amended by local law number 76 of the city of New York for the year
15 2005, are amended to read as follows:

16 (g) [~~There has been since July first, nineteen hundred seventy, a~~
17 ~~major capital improvement required for the operation, preservation or~~
18 ~~maintenance of the structure. An adjustment under this subparagraph (g)~~
19 ~~for any order of the commissioner issued after the effective date of the~~
20 ~~rent act of 2015 shall be in an amount sufficient to amortize the cost~~
21 ~~of the improvements pursuant to this subparagraph (g) over an eight year~~
22 ~~period for buildings with thirty five or fewer units or a nine year~~
23 ~~period for buildings with more than thirty-five units, or~~

24 (h)] There have been since March first, nineteen hundred fifty-nine,
25 in structures containing more than four housing accommodations, other
26 improvements made with the express consent of the tenants in occupancy
27 of at least seventy-five per centum of the housing accommodations;
28 provided, however, that whenever the city rent agency has determined
29 that the improvements proposed were part of a plan designed for overall
30 improvement of the structure or increases in services, it may authorize
31 increases in maximum rents for all housing accommodations affected upon
32 the express consent of the tenants in occupancy of at least fifty-one
33 per centum of the housing accommodations, and provided further that no
34 adjustment granted hereunder shall exceed fifteen per centum unless the
35 tenants have agreed to a higher percentage of increase, as herein
36 provided; or

37 [(+) (h)] There has been, since March first, nineteen hundred fifty-
38 nine, a subletting without written consent from the landlord or an
39 increase in the number of adult occupants who are not members of the
40 immediate family of the tenant, and the landlord has not been compen-
41 sated therefor by adjustment of the maximum rent by lease or order of
42 the city rent agency or pursuant to the state rent act or the federal
43 act; or

44 [(+) (i)] (i) The presence of unique or peculiar circumstances materially
45 affecting the maximum rent has resulted in a maximum rent which is
46 substantially lower than the rents generally prevailing in the same area
47 for substantially similar housing accommodations.

48 [(k) ~~The landlord has incurred, since January first, nineteen hundred~~
49 ~~seventy, in connection with and in addition to a concurrent major capi-~~
50 ~~tal improvement pursuant to subparagraph (g) of this paragraph, other~~
51 ~~expenditures to improve, restore or preserve the quality of the struc-~~
52 ~~ture. An adjustment under this subparagraph shall be granted only if~~
53 ~~such improvements represent an expenditure equal to at least ten per~~
54 ~~centum of the total operating and maintenance expenses for the preceding~~
55 ~~year. An adjustment under this subparagraph shall be in addition to any~~
56 ~~adjustment granted for the concurrent major capital improvement and~~

1 ~~shall be in an amount sufficient to amortize the cost of the improve-~~
2 ~~ments pursuant to this subparagraph over a seven-year period.~~

3 ~~(i)]~~ (j) (1) The actual labor expenses currently incurred or to be
4 incurred (pursuant to a collective agreement or other obligation actual-
5 ly entered into by the landlord) exceed the provision for payroll
6 expenses in the current applicable operating and maintenance expense
7 allowance under subdivision a of this section. No application pursuant
8 to this subparagraph may be granted within one year from the granting of
9 an adjustment in maximum rent pursuant to this subparagraph ~~[(i)]~~, or
10 pursuant to subparagraph (a) of this paragraph. Any rent increase the
11 applicant would be entitled to, or such portion thereof, shall not
12 exceed a total increase of seven and one-half per centum per annum of
13 the maximum rent as provided in paragraph five of subdivision a of this
14 section.

15 (2) Any adjustment in the maximum rents pursuant hereto shall be
16 subject to:

17 (i) The adjustment in maximum rent for any twelve-month period for any
18 housing accommodation shall not exceed four percent of the maximum rent
19 in effect on December thirty-first, nineteen hundred seventy-three.

20 (ii) Where the increase in labor costs compensable herein is the
21 result of an industry-wide collective bargaining agreement or a specific
22 agreement in anticipation of, or subsequent to, an industry-wide collec-
23 tive bargaining agreement, the adjustment shall be in such amount
24 (subject to the above limitation) that the increased rental income from
25 January first, nineteen hundred seventy-four to December thirty-first,
26 nineteen hundred seventy-six shall reflect the increased labor costs for
27 the period from April thirtieth, nineteen hundred seventy-three to April
28 thirtieth, nineteen hundred seventy-six.

29 (3) For the purpose of this subparagraph ~~[(i)]~~ the increase in labor
30 costs shall be the amount by which the labor costs (a) actually in
31 effect and paid, or (b) actually in effect and paid or payable and fixed
32 and determined pursuant to agreement on the date of the filing of the
33 application and projected over the period ending April thirtieth, nine-
34 teen hundred seventy-six, exceed the labor costs for the twelve calendar
35 months immediately preceding the last day of the month in which the wage
36 agreement became effective.

37 (4) Notwithstanding any other provision of this chapter, the adjust-
38 ment pursuant to this subparagraph shall be collectible upon the land-
39 lord's filing of a report with the city rent agency, subject to the
40 provisions of subparagraph (e) of paragraph two of subdivision a of this
41 section.

42 (5) No increase in the maximum rent for any housing accommodation may
43 be granted under this subparagraph ~~[(i)]~~ if on the date when the appli-
44 cation is sought to be filed, less than the full term of such agreement
45 has elapsed since the date of the filing of the last prior application
46 for an increase with respect to such property under this subparagraph
47 ~~[(i)]~~, which application resulted in the granting of an increase. Where,
48 however, the landlord establishes the existence of unique or peculiar
49 circumstances affecting an increase in labor costs for the property, the
50 agency may accept such application where it determines that such accept-
51 ance is not inconsistent with the purposes of this local law.

52 (6) The increase authorized herein shall be apportioned equitably
53 among all the housing accommodations in the property whether or not
54 subject to control under this chapter.

55 ~~[(m)]~~ (k) Where the rehabilitation or improvement of sub-standard or
56 deteriorated housing accommodations has been financed under a govern-

1 mental program providing assistance through loans, loan insurance or tax
2 abatement or has been undertaken under another rehabilitation program
3 not so financed but approved by the commissioner.

4 [~~(n)~~](1)(1) The city rent agency shall hereafter promulgate in January
5 of each year;

6 (i) findings regarding the price increase or decrease, respectively,
7 for all types of heating fuel, including numbers two, four and six home
8 heating oils, utility supplied steam, gas, electricity and coal, togeth-
9 er with the sales and excise taxes thereon, on December thirty-first as
10 compared to the January first in any year; and

11 (ii) standards for consumption of heating fuel, which shall be no more
12 than two hundred twenty-five gallons per year per room commencing Janu-
13 ary first, nineteen hundred eighty-one, for buildings using heating oils
14 for heat with comparable unit limitations to be established by the city
15 rent agency for utility supplied steam, gas, electricity, coal and any
16 other types of heating systems, provided that such consumption standards
17 for heating fuels shall be reduced by five gallons per room per year for
18 heating oils and a comparable amount for other heating fuels for the
19 next succeeding year and ten gallons per room per year for heating oils
20 and a comparable amount for other heating fuels for two succeeding years
21 thereafter.

22 Such findings and consumption standards shall be published in the City
23 Record.

24 (2) To obtain a rental adjustment pursuant to this subparagraph [~~(n)~~],
25 the landlord shall file a report with the agency on forms prescribed by
26 the agency and shall:

27 (i) certify the amount of heating fuel consumed in the calendar year
28 immediately prior to the filing of the report;

29 (ii) state the type of fuel used and the number of rooms in the build-
30 ing;

31 (iii) certify that (a) all essential services required to be provided
32 have been and will continue to be maintained and (b) there has been no
33 rent reduction order issued pursuant to this chapter based on the land-
34 lord's failure to provide heat or hot water during the prior twelve
35 months;

36 (iv) certify on information and belief, in order to qualify for an
37 additional rent increase pursuant to this subparagraph [~~(n)~~], that for
38 an individual housing accommodation, if the maximum rent collectible
39 pursuant to paragraph five of subdivision a of this section plus actual
40 rent adjustments pursuant to this subparagraph [~~(n)~~] and such additional
41 rent increase, is equal to or exceeds the maximum rent established
42 pursuant to paragraphs three and four of subdivision a of this section
43 plus the amount calculated pursuant to subitem (i) of item three and
44 subitem (i) of item four of this subparagraph [~~(n)~~], each to be allo-
45 cated to such housing accommodation pursuant to subitem (ii) of item
46 four of this subparagraph [~~(n)~~], that the landlord will not be earning
47 an amount in excess of the statutory return specified in subparagraph
48 (a) of paragraph one of subdivision g of this section after collection
49 of a rent increase pursuant to this subparagraph [~~(n)~~], with respect to
50 a building or buildings serviced by a single heating plant;

51 (v) report any funds received with respect to the housing accommo-
52 dations from any governmental grant program compensating such landlord
53 for fuel price increases during the period for which an adjustment is
54 obtained pursuant to this subparagraph [~~(n)~~];

55 (vi) provide such other information as the agency may require.

1 (3) Rent adjustments for controlled housing accommodations for annual
2 heating fuel cost increases or decreases experienced after December
3 thirty-first, nineteen hundred seventy-nine, shall be determined as
4 follows:

5 (i) the increase or decrease in heating fuel prices found by the agen-
6 cy for that year shall be multiplied by the actual consumption, not to
7 exceed that year's consumption standard established pursuant to subitem
8 (ii) of item one of this subparagraph; and

9 (ii) seventy-five percentum of such amount shall be allocated among
10 all rental space in the building, including commercial, professional and
11 similar facilities, provided, for the purposes of this subparagraph
12 [~~(a)~~], that living rooms, kitchens over fifty-nine square feet in area
13 and bedrooms shall be considered rooms and that bathrooms, foyers and
14 kitchenettes shall not be considered rooms.

15 (4) Rent adjustments for controlled housing accommodations for heating
16 fuel cost increases or decreases experienced from April ninth, nineteen
17 hundred seventy-nine, through and including December thirty-first, nine-
18 teen hundred seventy-nine, shall be determined as follows:

19 (i) the increase or decrease in heating fuel prices found by the agen-
20 cy for that period shall be multiplied by seventy-five percentum of the
21 actual heating fuel consumption during the period from January first,
22 nineteen hundred seventy-nine, through and including December thirty-
23 first, nineteen hundred seventy-nine, which consumption shall not exceed
24 seventy-five percentum of that year's consumption standard established
25 by the agency; and

26 (ii) such amount shall be allocated among all rental space in the
27 building, including commercial, professional and similar facilities,
28 provided, for the purposes of this subparagraph [~~(a)~~], that living
29 rooms, kitchens over fifty-nine square feet in area and bedrooms shall
30 be considered rooms and that bathrooms, foyers and kitchenettes shall
31 not be considered rooms.

32 The city rent agency shall promulgate findings for heating fuel price
33 increases or decreases and standards for consumption for the periods set
34 forth in this item four thirty days after this local law is enacted. The
35 standard for consumption shall be no more than seventy-five percentum of
36 two hundred thirty gallons per room for buildings using heating oils for
37 heat with comparable unit limitations to be established by the city rent
38 agency for utility supplied steam, gas, electricity, coal and any other
39 types of heating systems.

40 (5) A landlord who files a report pursuant to this subparagraph and
41 who falsely certifies shall not be eligible to collect any rent adjust-
42 ment pursuant to this subparagraph for two years following a determi-
43 nation of a false certification and, in addition, any adjustments
44 obtained pursuant to this subparagraph for up to two years prior to such
45 determination shall not be collectible for that same two year period.
46 Such landlord shall also be subject to any additional penalties imposed
47 by law.

48 (6) A landlord annually may file a report pursuant to this subpara-
49 graph [~~(a)~~] after promulgation by the agency of the findings and
50 consumption standards set forth in item one of this subparagraph [~~(a)~~].
51 A rent adjustment pursuant to such report shall be prospectively collec-
52 tible upon the landlord's serving and filing the report, provided,
53 however, that if a landlord files such report within sixty days of the
54 promulgation of such findings and consumption standards, such rent
55 adjustment shall be retroactive to and shall be effective as of the
56 January first of the year in which the report is filed.

1 (7) A landlord demanding or collecting a rent adjustment pursuant to
2 this subparagraph [~~(n)~~] shall at the time of either the demand or
3 collection issue to the tenant either a rent bill or receipt separately
4 setting forth the amount of the adjustment pursuant to this subparagraph
5 [~~(n)~~] and the amount of the maximum rent otherwise demanded or
6 collected. If the tenant has been issued a valid senior citizen rent
7 exemption order or a valid disability rent exemption order, the owner
8 shall also separately state the amount payable by the senior citizen or
9 person with a disability after the exemption.

10 (8) In the event that a rent reduction order is issued by the city
11 rent agency based upon the landlord's failure to provide heat or hot
12 water to housing accommodations for which the landlord is collecting a
13 rent adjustment pursuant to this subparagraph [~~(n)~~], the rent adjustment
14 shall not be collected during the time such rent reduction order is in
15 effect and for twelve months following the date of the restoration of
16 the rent reduction. In addition, the landlord shall not be eligible to
17 collect any subsequent rent adjustment pursuant to this subparagraph
18 [~~(n)~~] until twelve months following the date of the restoration of the
19 rent reduction.

20 (9) In the event that the city rent agency promulgates a finding of a
21 price decrease, if any landlord who has obtained a rent adjustment
22 pursuant to this subparagraph [~~(n)~~] does not file a report for a rent
23 adjustment pursuant to this subparagraph [~~(n)~~] within sixty days of the
24 promulgation of such findings, then all rent adjustments obtained pursu-
25 ant to this subparagraph [~~(n)~~] shall not be collectible for a period of
26 twelve months.

27 (10) Any rent adjustment obtained pursuant to this subparagraph [~~(n)~~]
28 shall not be included in the maximum rent established pursuant to para-
29 graph four or five of subdivision (a) of this section.

30 (11) The city rent agency shall have the power to promulgate such
31 regulations as it may consider necessary or convenient to implement and
32 administer the provisions of this subparagraph [~~(n)~~]. The regulations
33 shall also require that any rent adjustment granted pursuant to this
34 subparagraph [~~(n)~~] be reduced by an amount equal to any governmental
35 grant received by the landlord compensating the landlord for any fuel
36 price increases, but not required by the city, the agency or any grant-
37 ing government entity to be expended for fuel related repairs or
38 improvements.

39 [~~(e)~~] (m) (1) There has been an increase in heating and heating fuel
40 expenditures in a property resulting from a city-wide rise in heating
41 fuel costs such that the verifiable expenditures for heating or heating
42 fuel in a property for nineteen hundred seventy-four exceeds the verifi-
43 able expenditures for such heating or heating fuel during nineteen
44 hundred seventy-three.

45 (2) To obtain a rental adjustment pursuant to this subparagraph [~~(e)~~],
46 the landlord must certify that he or she is presently maintaining all
47 essential services required to be furnished with respect to the housing
48 accommodations covered by such certification, and that he or she will
49 continue to so maintain such essential services for the period of any
50 such adjustment.

51 (3) To obtain a rental adjustment pursuant to this subparagraph [~~(e)~~],
52 the landlord must certify on information and belief that he or she will
53 not be earning an amount in excess of the statutory return specified in
54 subparagraph (a) of this paragraph [~~one of subdivision g of this~~
55 ~~section~~] after collection of such rental adjustment, with respect to the
56 building or buildings serviced by a single heating plant; and where the

1 building, or buildings serviced by a single heating plant, contains
2 forty-nine or fewer housing accommodations, the landlord must certify
3 that the amount expended directly for heating or heating fuel in nine-
4 teen hundred seventy-four equalled or exceeded ten per cent of the total
5 rental income which was derived from the property during nineteen
6 hundred seventy-four; and, where the building, or buildings serviced by
7 a single heating plant, contains fifty or more housing accommodations
8 the landlord must certify that the amount expended directly for heating
9 or heating fuel in nineteen hundred seventy-four equalled or exceeded
10 seven and one-half percentum of the total rental income which was
11 derived from the property during nineteen hundred seventy-four.

12 (4) The total rental adjustments for a property to be allocated or
13 deemed allocated pursuant to this subparagraph [~~(e)~~] shall not exceed
14 one-half of the gross amount by which the total verifiable expenditures
15 for heating or heating fuel for nineteen hundred seventy-four exceeds
16 the total verifiable expenditures for such heating or heating fuel for
17 nineteen hundred seventy-three.

18 (5) Such total rental adjustments shall be allocated or deemed allo-
19 cated pursuant to this subparagraph [~~(e)~~] to all housing accommodations
20 subject to this chapter, to all other housing accommodations, and to all
21 commercial, professional and similar facilities in or associated with
22 the property in a manner to be determined by the agency. In no event
23 shall any adjustment in maximum rent pursuant to this subparagraph [~~(e)~~]
24 for any housing accommodations subject to this chapter exceed a monthly
25 increase of two dollars per room, as defined by item eight below. In any
26 apartment containing five or more rooms, any increase shall not exceed
27 the total of nine dollars.

28 (6) Any adjustment pursuant to this subparagraph [~~(e)~~] shall be effec-
29 tive for all or part of the period July first, nineteen hundred seven-
30 ty-five through June thirtieth, nineteen hundred seventy-six. Any
31 adjustment pursuant to this subparagraph shall automatically expire no
32 later than June thirtieth, nineteen hundred seventy-six.

33 (7) The rental increases provided for herein shall be effective and
34 collectible upon the landlord's filing a report with the agency on forms
35 prescribed by the agency and upon giving such notice to the tenants as
36 the agency shall prescribe, subject to adjustments upon order of the
37 agency.

38 (8) In determining the amount of an adjustment allocation of an
39 adjustment pursuant to this subparagraph [~~(e)~~], only living rooms,
40 kitchens over fifty-nine square feet in area, dining rooms and bedrooms
41 shall be considered rooms; bathrooms, foyers, and kitchenettes shall not
42 be considered rooms.

43 § 12. Subdivision a of section 26-407 of the administrative code of
44 the city of New York is amended to read as follows:

45 a. Notwithstanding any provisions of this chapter, any labor cost
46 pass-along rent increase requested of, or received from, any tenant on
47 or after July first, nineteen hundred seventy-two, pursuant to the
48 provisions of subparagraph [~~(1)~~] (i) of paragraph one of subdivision g
49 of section 26-405 of this title, shall not exceed the maximum rent
50 adjustment as provided under this chapter after the effective date of
51 this section.

52 § 13. Paragraphs 5-a and 6 of subdivision c of section 26-511 of the
53 administrative code of the city of New York, paragraph 5-a as amended by
54 section 16-a of part A of chapter 20 of the laws of 2015 and paragraph 6
55 as amended by section 29 of part A of chapter 20 of the laws of 2015,
56 are amended to read as follows:

1 (5-a) provides that, notwithstanding any provision of this chapter,
2 the legal regulated rent for any vacancy lease entered into after the
3 effective date of this paragraph shall be as hereinafter provided in
4 this paragraph. The previous legal regulated rent for such housing
5 accommodation shall be increased by the following: (i) if the vacancy
6 lease is for a term of two years, twenty percent of the previous legal
7 regulated rent; or (ii) if the vacancy lease is for a term of one year
8 the increase shall be twenty percent of the previous legal regulated
9 rent less an amount equal to the difference between (a) the two year
10 renewal lease guideline promulgated by the guidelines board of the city
11 of New York applied to the previous legal regulated rent and (b) the one
12 year renewal lease guideline promulgated by the guidelines board of the
13 city of New York applied to the previous legal regulated rent. However,
14 where the amount charged and paid by the prior tenant pursuant to para-
15 graph fourteen of this subdivision, was less than the legal regulated
16 rent, such increase to the legal regulated rent shall not exceed: five
17 percent of the previous legal regulated rent if the last vacancy lease
18 commenced less than two years ago; ten percent of the previous legal
19 regulated rent if the last vacancy lease commenced less than three years
20 ago; fifteen percent of the previous legal regulated rent if the last
21 vacancy lease commenced less than four years ago; twenty percent of the
22 previous legal regulated rent if the last vacancy lease commenced four
23 or more years ago. In addition, if the legal regulated rent was not
24 increased with respect to such housing accommodation by a permanent
25 vacancy allowance within eight years prior to a vacancy lease executed
26 on or after the effective date of this paragraph, the legal regulated
27 rent may be further increased by an amount equal to the product result-
28 ing from multiplying such previous legal regulated rent by six-tenths of
29 one percent and further multiplying the amount of rent increase result-
30 ing therefrom by the greater of (A) the number of years since the im-
31 position of the last permanent vacancy allowance, or (B) if the rent was
32 not increased by a permanent vacancy allowance since the housing accom-
33 modation became subject to this chapter, the number of years that such
34 housing accommodation has been subject to this chapter. Provided that if
35 the previous legal regulated rent was less than three hundred dollars
36 the total increase shall be as calculated above plus one hundred dollars
37 per month. Provided, further, that if the previous legal regulated rent
38 was at least three hundred dollars and no more than five hundred dollars
39 in no event shall the total increase pursuant to this paragraph be less
40 than one hundred dollars per month. Such increase shall be in lieu of
41 any allowance authorized for the one or two year renewal component ther-
42 eof, but shall be in addition to any other increases authorized pursuant
43 to this chapter including an adjustment based upon [~~a major capital~~
44 ~~improvement, or~~] a substantial modification or increase of dwelling
45 space or services, or installation of new equipment or improvements or
46 new furniture or furnishings provided in or to the housing accommodation
47 pursuant to this section. The increase authorized in this paragraph may
48 not be implemented more than one time in any calendar year, notwith-
49 standing the number of vacancy leases entered into in such year.

50 (6) provides criteria whereby the commissioner may act upon applica-
51 tions by owners for increases in excess of the level of fair rent
52 increase established under this law provided, however, that such crite-
53 ria shall provide [~~(a)~~], as to hardship applications, for a finding that
54 the level of fair rent increase is not sufficient to enable the owner to
55 maintain approximately the same average annual net income (which shall
56 be computed without regard to debt service, financing costs or manage-

1 ment fees) for the three year period ending on or within six months of
2 the date of an application pursuant to such criteria as compared with
3 annual net income, which prevailed on the average over the period nine-
4 teen hundred sixty-eight through nineteen hundred seventy, or for the
5 first three years of operation if the building was completed since nine-
6 teen hundred sixty-eight or for the first three fiscal years after a
7 transfer of title to a new owner provided the new owner can establish to
8 the satisfaction of the commissioner that he or she acquired title to
9 the building as a result of a bona fide sale of the entire building and
10 that the new owner is unable to obtain requisite records for the fiscal
11 years nineteen hundred sixty-eight through nineteen hundred seventy
12 despite diligent efforts to obtain same from predecessors in title and
13 further provided that the new owner can provide financial data covering
14 a minimum of six years under his or her continuous and uninterrupted
15 operation of the building to meet the three year to three year compar-
16 ative test periods herein provided[~~, and (b) as to completed building-~~
17 ~~wide major capital improvements, for a finding that such improvements~~
18 ~~are deemed depreciable under the Internal Revenue Code and that the cost~~
19 ~~is to be amortized over an eight year period for a building with thir-~~
20 ~~ty five or fewer housing accommodations, or a nine year period for a~~
21 ~~building with more than thirty five housing accommodations, for any~~
22 ~~determination issued by the division of housing and community renewal~~
23 ~~after the effective date of the rent act of 2015, based upon cash~~
24 ~~purchase price exclusive of interest or service charges]. Notwithstand-
25 ing anything to the contrary contained herein, no hardship increase
26 granted pursuant to this paragraph shall, when added to the annual gross
27 rents, as determined by the commissioner, exceed the sum of, (i) the
28 annual operating expenses, (ii) an allowance for management services as
29 determined by the commissioner, (iii) actual annual mortgage debt
30 service (interest and amortization) on its indebtedness to a lending
31 institution, an insurance company, a retirement fund or welfare fund
32 which is operated under the supervision of the banking or insurance laws
33 of the state of New York or the United States, and (iv) eight and one-
34 half percent of that portion of the fair market value of the property
35 which exceeds the unpaid principal amount of the mortgage indebtedness
36 referred to in subparagraph (iii) of this paragraph. Fair market value
37 for the purposes of this paragraph shall be six times the annual gross
38 rent. The collection of any increase in the stabilized rent for any
39 apartment pursuant to this paragraph shall not exceed six percent in any
40 year from the effective date of the order granting the increase over the
41 rent set forth in the schedule of gross rents, with collectability of
42 any dollar excess above said sum to be spread forward in similar incre-
43 ments and added to the stabilized rent as established or set in future
44 years;~~

45 § 14. Subdivision f of section 26-512 of the administrative code of
46 the city of New York, as added by chapter 116 of the laws of 1997, is
47 amended to read as follows:

48 f. Notwithstanding any provision of this law to the contrary in the
49 case where all tenants named in a lease have permanently vacated a hous-
50 ing accommodation and a family member of such tenant or tenants is enti-
51 tled to and executes a renewal lease for the housing accommodation if
52 such accommodation continues to be subject to this law after such family
53 member vacates, on the occurrence of such vacancy the legal regulated
54 rent shall be increased by a sum equal to the allowance then in effect
55 for vacancy leases, including the amount allowed by paragraph [~~(five-a)~~
56 five-a] of subdivision c of section 26-511 of this law. Such increase

1 shall be in addition to any other increases provided for in this law
2 including an adjustment based upon [~~a major capital improvement, or~~] a
3 substantial modification or increase of dwelling space or services, or
4 installation of new equipment or improvements or new furniture or
5 furnishings provided in or to the housing accommodation pursuant to
6 section 26-511 of this law and shall be applicable in like manner to
7 each second subsequent succession.

8 § 15. This act shall take effect immediately; provided:

9 (a) that sections three, four, and five of this act shall apply to
10 taxable years beginning on and after January 1, 2019;

11 (b) that the amendments to sections 4 and 5 of the emergency housing
12 rent control law made by section six of this act shall expire on the
13 same date as such law expires and shall not affect the expiration of
14 such law as provided in subdivision 2 of section 1 of chapter 274 of the
15 laws of 1946;

16 (c) that the amendments to sections 6 and 10 of section 4 of the emer-
17 gency tenant protection act of nineteen seventy-four made by sections
18 seven and eight of this act shall expire on the same date as such act
19 expires and shall not affect the expiration of such act as provided in
20 section 17 of chapter 576 of the laws of 1974;

21 (d) that the amendments to section 26-511 of chapter 4 of title 26 of
22 the administrative code of the city of New York made by section thirteen
23 of this act shall expire on the same date as such law expires and shall
24 not affect the expiration of such law as provided under section 26-520
25 of such law;

26 (e) that the amendments to section 26-512 of chapter 4 of title 26 of
27 the administrative code of the city of New York made by section fourteen
28 of this act shall expire on the same date as such law expires and shall
29 not affect the expiration of such law as provided under section 26-520
30 of such law; and

31 (f) that the amendments to sections 26-403.2, 26-405 and 26-407 of the
32 city rent and rehabilitation law made by sections nine, ten, eleven and
33 twelve of this act shall remain in full force and effect only as long as
34 the public emergency requiring the regulation and control of residential
35 rents and evictions continues, as provided in subdivision 3 of section 1
36 of the local emergency housing rent control act.

37 (g) Effective immediately, the addition, amendment and/or repeal of
38 any rule or regulation necessary for the implementation of this act on
39 its effective date are authorized and directed to be made and completed
40 on or before such effective date.