

# STATE OF NEW YORK

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11312--A

## IN ASSEMBLY

August 22, 2018

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Introduced by COMMITTEE ON RULES -- (at request of M. of A. Barnwell) --  
read once and referred to the Committee on Housing -- committee  
discharged, bill amended, ordered reprinted as amended and recommitted  
to said committee

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 eliminat-  
ing rent increases to pay for major capital improvements

The People of the State of New York, represented in Senate and Assem-  
bly, 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4 repealed upon petition from a tenant, all applications pending review  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.

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

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(d) The new legal rent shall be the legal rent beginning on the date rent is required to be paid next succeeding the repeal of any rent increase under the major capital improvement program.

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increase under the major capital improvement program shall be tied to the new legal rent which shall be without such repealed increases under the major capital improvement program.

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the repeal of such increase in rent and that any increase in rent under the major capital improvement program that is repealed will result in the reduction of rent and the repayment of the various security deposit increases associated with said increases.

(g) The department of homes and community renewal shall, within one year of the effective date of this act, consider all appeals for the repeal of an increase in rent under the major capital improvement program. If an appeal was filed but not ruled upon after an investigation within one year of the effective date of this act by the department of homes and community renewal, the appeal shall be granted.

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

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

(c) When the department of homes and community renewal determines that any unit of a rental dwelling has an issue which may impact the habitability of the unit, such department under this program shall give notice to the landlord. Where the issue is not life threatening, the landlord shall have within thirty days to rectify the issue before incurring a violation. Where the issue is life threatening, as determined by the department of homes and community renewal, the landlord shall have an amount of time as determined by such department based on the severity of the issue to rectify the issue before incurring a violation. The department of homes and community renewal shall determine which issues are and which issues are not life threatening. Upon incurring a violation, the landlord shall have the same amount of time to rectify the issue before incurring another violation. An issue shall be deemed rectified when the issue no longer exists or the tenants have been moved into another unit of equal or greater quality, where such determination of quality shall be made by the department of homes and community renewal. A landlord shall be fined:

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

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

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

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

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

53. Guaranteed habitability protections tax credit. (a) Allowance of credit. A taxpayer with approval from the guaranteed habitability protections program of the department of homes and community renewal shall be allowed a credit, to be computed as provided in paragraph (b) of this subdivision, against the tax imposed by this article.

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

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

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

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

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

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

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

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

§ 6. Paragraph 2 of subdivision 3-a of section 4, subparagraph (iii) of the opening paragraph of paragraph (a) of subdivision 4 of section 4, subparagraphs 7, 8, 9 and 10 of the second undesignated paragraph of paragraph (a) of subdivision 4 of section 4, and subdivision 9 of section 5 of chapter 274 of the laws of 1946, constituting the emergency housing rent control law, as amended by chapter 337 of the laws of 1961, subparagraph (iii) of paragraph (a) of subdivision 4 of section 4 as amended by chapter 21 of the laws of 1962, subparagraphs 8, 9 and 10 of the second undesignated paragraph of paragraph (a) of subdivision 4 of section 4 as amended by section 25 of part B of chapter 97 of the laws of 2011, subparagraph 7 of the second undesignated paragraph of paragraph (a) of subdivision 4 of section 4 as amended by section 32 of part A of chapter 20 of the laws of 2015, and subdivision 9 of section 5 as

1 added by chapter 116 of the laws of 1997, are amended to read as  
2 follows:

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

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

11 (7) [~~there has been since March first, nineteen hundred fifty, a major~~  
12 ~~capital improvement required for the operation, preservation or mainte-~~  
13 ~~nance of the structure, which for any order of the commissioner issued~~  
14 ~~after the effective date of the rent act of 2015 the cost of such~~  
15 ~~improvement shall be amortized over an eight-year period for buildings~~  
16 ~~with thirty-five or fewer units or a nine-year period for buildings with~~  
17 ~~more than thirty-five units, or (8)~~] there has been since March first,

18 nineteen hundred fifty, in structures containing more than four housing  
19 accommodations, other improvements made with the express consent of the  
20 tenants in occupancy of at least seventy-five per centum of the housing  
21 accommodations, provided, however, that no adjustment granted hereunder  
22 shall exceed fifteen per centum unless the tenants have agreed to a  
23 higher percentage of increase, as herein provided; or [~~(9)~~] (8) there  
24 has been, since March first, nineteen hundred fifty, a subletting with-  
25 out written consent from the landlord or an increase in the number of  
26 adult occupants who are not members of the immediate family of the  
27 tenant, and the landlord has not been compensated therefor by adjustment  
28 of the maximum rent by lease or order of the commission or pursuant to  
29 the federal act; or [~~(10)~~] (9) the presence of unique or peculiar  
30 circumstances materially affecting the maximum rent has resulted in a  
31 maximum rent which is substantially lower than the rents generally  
32 prevailing in the same area for substantially similar housing accommo-  
33 dations.

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

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

1 of the laws of 1983, paragraph 5 of subdivision d as amended by chapter  
2 102 of the laws of 1984, and subdivision g as added by chapter 116 of  
3 the laws of 1997, are amended to read as follows:

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

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

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

g. Notwithstanding any provision of this act to the contrary in the case where all tenants named in a lease have permanently vacated a housing accommodation and a family member of such tenant or tenants is entitled to and executes a renewal lease for the housing accommodation if such accommodation continues to be subject to this act after such family member vacates, on the occurrence of such vacancy the legal regulated rent shall be increased by a sum equal to the allowance then in effect for vacancy leases, including the amount allowed by subdivision (a-1) of section ten of this act. Such increase shall be in addition to any other increases provided for in this act including an adjustment based upon ~~a major capital improvement, or~~ a substantial modification or increase of dwelling space or services, or installation of new equipment or improvements or new furniture or furnishings provided in or to the housing accommodation, pursuant to section six of this act and shall be applicable in like manner to each second subsequent succession.

§ 8. Subdivision (a-1) of section 10 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 16-b of part A of chapter 20 of the laws of 2015, is amended to read as follows:

(a-1) provides that, notwithstanding any provision of this act, the legal regulated rent for any vacancy lease entered into after the effective date of this subdivision shall be as hereinafter set forth. The previous legal regulated rent for such housing accommodation shall be increased by the following: (i) if the vacancy lease is for a term of two years, twenty percent of the previous legal regulated rent; or (ii) if the vacancy lease is for a term of one year the increase shall be twenty percent of the previous legal regulated rent less an amount equal to the difference between (a) the two year renewal lease guideline promulgated by the guidelines board of the county in which the housing accommodation is located applied to the previous legal regulated rent and (b) the one year renewal lease guideline promulgated by the guidelines board of the county in which the housing accommodation is located applied to the previous legal regulated rent. However, where the amount

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

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

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

1 in the housing accommodation, pursuant to section 26-405 of this law and  
2 shall be applicable in like manner to each second subsequent succession.

3 § 10. Subparagraph (c) of paragraph 1 of subdivision g of section  
4 26-405 of the administrative code of the city of New York is amended to  
5 read as follows:

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

11 § 11. Subparagraphs (g), (h), (i), (j), (k), (l), (m), (n) and (o) of  
12 paragraph 1 of subdivision g of section 26-405 of the administrative  
13 code of the city of New York, subparagraph (g) as amended by section 31  
14 of part A of chapter 20 of the laws of 2015, subparagraph (k) as amended  
15 by chapter 749 of the laws of 1990, and clause 7 of subparagraph (n) as  
16 amended by local law number 76 of the city of New York for the year  
17 2005, are amended to read as follows:

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

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

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

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

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

~~year. An adjustment under this subparagraph shall be in addition to any adjustment granted for the concurrent major capital improvement and shall be in an amount sufficient to amortize the cost of the improvements pursuant to this subparagraph over a seven-year period.~~

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

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

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

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

(3) For the purpose of this subparagraph ~~[(1)]~~ the increase in labor costs shall be the amount by which the labor costs (a) actually in effect and paid, or (b) actually in effect and paid or payable and fixed and determined pursuant to agreement on the date of the filing of the application and projected over the period ending April thirtieth, nineteen hundred seventy-six, exceed the labor costs for the twelve calendar months immediately preceding the last day of the month in which the wage agreement became effective.

(4) Notwithstanding any other provision of this chapter, the adjustment pursuant to this subparagraph shall be collectible upon the landlord's filing of a report with the city rent agency, subject to the provisions of subparagraph (e) of paragraph two of subdivision a of this section.

(5) No increase in the maximum rent for any housing accommodation may be granted under this subparagraph ~~[(1)]~~ if on the date when the application is sought to be filed, less than the full term of such agreement has elapsed since the date of the filing of the last prior application for an increase with respect to such property under this subparagraph ~~[(1)]~~, which application resulted in the granting of an increase. Where, however, the landlord establishes the existence of unique or peculiar circumstances affecting an increase in labor costs for the property, the agency may accept such application where it determines that such acceptance is not inconsistent with the purposes of this local law.

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

1   ~~(n)~~ (k) Where the rehabilitation or improvement of sub-standard or  
2 deteriorated housing accommodations has been financed under a govern-  
3 mental program providing assistance through loans, loan insurance or tax  
4 abatement or has been undertaken under another rehabilitation program  
5 not so financed but approved by the commissioner.

6   ~~(n)~~ (1) (1) The city rent agency shall hereafter promulgate in January  
7 of each year;

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

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

24   Such findings and consumption standards shall be published in the City  
25 Record.

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

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

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

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

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

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

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

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

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

9 (ii) of item one of this subparagraph; and

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

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

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

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

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

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

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

1 adjustment shall be retroactive to and shall be effective as of the  
2 January first of the year in which the report is filed.

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

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

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

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

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

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

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

53 (3) To obtain a rental adjustment pursuant to this subparagraph ~~[(e)]~~,  
54 the landlord must certify on information and belief that he or she will  
55 not be earning an amount in excess of the statutory return specified in  
56 subparagraph (a) of this paragraph ~~[one of subdivision g of this~~

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

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

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

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

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

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

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

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

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

1 as amended by section 29 of part A of chapter 20 of the laws of 2015,  
2 are amended to read as follows:

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

52 (6) provides criteria whereby the commissioner may act upon applica-  
53 tions by owners for increases in excess of the level of fair rent  
54 increase established under this law provided, however, that such crite-  
55 ria shall provide ~~[(a)]~~, as to hardship applications, for a finding that  
56 the level of fair rent increase is not sufficient to enable the owner to

1 maintain approximately the same average annual net income (which shall  
2 be computed without regard to debt service, financing costs or manage-  
3 ment fees) for the three year period ending on or within six months of  
4 the date of an application pursuant to such criteria as compared with  
5 annual net income, which prevailed on the average over the period nine-  
6 teen hundred sixty-eight through nineteen hundred seventy, or for the  
7 first three years of operation if the building was completed since nine-  
8 teen hundred sixty-eight or for the first three fiscal years after a  
9 transfer of title to a new owner provided the new owner can establish to  
10 the satisfaction of the commissioner that he or she acquired title to  
11 the building as a result of a bona fide sale of the entire building and  
12 that the new owner is unable to obtain requisite records for the fiscal  
13 years nineteen hundred sixty-eight through nineteen hundred seventy  
14 despite diligent efforts to obtain same from predecessors in title and  
15 further provided that the new owner can provide financial data covering  
16 a minimum of six years under his or her continuous and uninterrupted  
17 operation of the building to meet the three year to three year compar-  
18 ative test periods herein provided[~~, and (b) as to completed building-~~  
19 ~~wide major capital improvements, for a finding that such improvements~~  
20 ~~are deemed depreciable under the Internal Revenue Code and that the cost~~  
21 ~~is to be amortized over an eight year period for a building with thir-~~  
22 ~~ty-five or fewer housing accommodations, or a nine year period for a~~  
23 ~~building with more than thirty-five housing accommodations, for any~~  
24 ~~determination issued by the division of housing and community renewal~~  
25 ~~after the effective date of the rent act of 2015, based upon cash~~  
26 ~~purchase price exclusive of interest or service charges]. Notwithstand-~~  
27 ing anything to the contrary contained herein, no hardship increase  
28 granted pursuant to this paragraph shall, when added to the annual gross  
29 rents, as determined by the commissioner, exceed the sum of, (i) the  
30 annual operating expenses, (ii) an allowance for management services as  
31 determined by the commissioner, (iii) actual annual mortgage debt  
32 service (interest and amortization) on its indebtedness to a lending  
33 institution, an insurance company, a retirement fund or welfare fund  
34 which is operated under the supervision of the banking or insurance laws  
35 of the state of New York or the United States, and (iv) eight and one-  
36 half percent of that portion of the fair market value of the property  
37 which exceeds the unpaid principal amount of the mortgage indebtedness  
38 referred to in subparagraph (iii) of this paragraph. Fair market value  
39 for the purposes of this paragraph shall be six times the annual gross  
40 rent. The collection of any increase in the stabilized rent for any  
41 apartment pursuant to this paragraph shall not exceed six percent in any  
42 year from the effective date of the order granting the increase over the  
43 rent set forth in the schedule of gross rents, with collectability of  
44 any dollar excess above said sum to be spread forward in similar incre-  
45 ments and added to the stabilized rent as established or set in future  
46 years;

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

50 f. Notwithstanding any provision of this law to the contrary in the  
51 case where all tenants named in a lease have permanently vacated a hous-  
52 ing accommodation and a family member of such tenant or tenants is enti-  
53 tled to and executes a renewal lease for the housing accommodation if  
54 such accommodation continues to be subject to this law after such family  
55 member vacates, on the occurrence of such vacancy the legal regulated  
56 rent shall be increased by a sum equal to the allowance then in effect

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

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

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

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

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

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

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

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

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