STATE OF NEW YORK

1628

2017-2018 Regular Sessions

IN ASSEMBLY

January 12, 2017

Introduced by M. of A. MOSLEY, DAVILA, WALKER, JOYNER, BICHOTTE, ARROYO, O'DONNELL -- read once and referred to the Committee on Housing

AN ACT to amend the administrative code of the city of New York, the emergency tenant protection act of nineteen seventy-four and the emergency housing rent control law, in relation to adjustment of maximum allowable rent

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

Section 1. Subparagraph (e) of paragraph 1 of subdivision g of section 26-405 of the administrative code of the city of New York, as amended by section 15 of part B of chapter 97 of the laws of 2011, is amended to read as follows:

(e) The landlord and tenant by mutual voluntary written agreement agree to a substantial increase or decrease in dwelling space or a change in the services, furniture, furnishings or equipment provided in the housing accommodations. An adjustment under this subparagraph shall be equal to [~~one-fortieth, in the case of a building with thirty-five or fewer housing accommodations, or one-sixtieth, in the case of a building with more than thirty-five housing accommodations where such adjustment takes effect on or after September twenty-fourth, two thousand eleven,~~] **one eighty-fourth** of the total cost incurred by the landlord in providing such modification or increase in dwelling space, services, furniture, furnishings or equipment, including the cost of installation, but excluding finance charges **and cosmetic improvements**, provided further that an owner who is entitled to a rent increase pursuant to this subparagraph shall not be entitled to a further rent increase based upon the installation of similar equipment, or new furniture or furnishings within the useful life of such new equipment, or new furniture or furnishings. The owner shall give written notice to the city rent agency of any such adjustment pursuant to this subparagraph; or

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

LBD01124-02-7

§ 2. Subdivision g of section 26-405 of the administrative code of the city of New York is amended by adding a new paragraph 8 to read as follows:

(8) (a) Within one hundred twenty days of the effective date of this paragraph, the division of housing and community renewal shall issue a schedule of reasonable costs for upgrades and improvements that may be claimed as a basis for an adjustment of rent pursuant to subparagraph (e) of paragraph one of this subdivision. The schedule of reasonable costs shall exclude cosmetic improvements. The schedule of reasonable costs shall be based on the average costs for similar upgrades or improvements made to comparable properties located in each county, subject to the provisions of this chapter, and shall be updated at least once every two years. No increase in rent shall be collectible under subparagraph (e) of paragraph one of this subdivision based upon costs that exceed the reasonable costs set forth in the schedule, unless approved by the division pursuant to subparagraph (b) of this paragraph.

(b) Within thirty days of the signing of a mutual voluntary written agreement including a rent increase pursuant to subparagraph (e) of paragraph one of this subdivision that includes improvements that exceed the schedule of reasonable costs pursuant to subparagraph (a) of this paragraph, the landlord will file with the division of housing and community renewal an explanation of how the rent was computed, and all documents necessary to support the collection of such increase, including but not limited to, cancelled checks, invoices and signed contracts contemporaneously with the improvements alleged and a statement that any increase above the previous rent is in accordance with adjustments permitted by law. Upon receipt of all documents submitted by the landlord, and after giving the tenant an opportunity to respond, the division of housing and community renewal shall issue an order approving or disapproving such increase in whole or in part.

(c) Within thirty days of the signing of a mutual voluntary written agreement including a rent increase that exceeds ten percent of the maximum collectible rent, the landlord will file with the division of housing and community renewal an explanation of how the rent was computed, and all documents necessary to support the collection of such increase, including but not limited to, cancelled checks, invoices and signed contracts contemporaneously with the improvements alleged and a statement that any increase above the previous rent is in accordance with adjustments permitted by law. Upon receipt of all documents submitted by the owner, and after giving the tenant an opportunity to respond, the division of housing and community renewal shall issue an order approving or disapproving such increase in whole or in part. Based upon such determination, the division of housing and community renewal shall order a refund to the tenant equal to the amount collected in excess of the rent approved by the division of housing and community renewal.

(d) No increase in rent shall be collectible under subparagraph (e) of paragraph one of this subdivision until:

(1) the landlord has provided the tenant with a written notice, including an explanation of how the rent in the mutual voluntary written agreement has been computed, and the specific amounts of all expenditures supporting a rent increase under subparagraph (e) of paragraph one of this subdivision; and

(2) the landlord has filed with the division of housing and community renewal an explanation of how the rent was computed, and all documents necessary to support the collection of such increase, including, but not

limited to, cancelled checks, invoices and signed contracts entered into contemporaneously with the improvements alleged, and a statement that any increase above the previous rent is in accordance with adjustments permitted by law.

(e) No increase shall be collectible under subparagraph (e) of paragraph one of this subdivision where the division of housing and community renewal has determined that the owner is not maintaining all building-wide required services or all required services with respect to the affected housing accommodation, or where there are current or outstanding hazardous violations of any municipal, county, state or federal law which relate to the maintenance of such services.

§ 3. Paragraph 13 of subdivision c of section 26-511 of the administrative code of the city of New York, as amended by section 16 of part B of chapter 97 of the laws of 2011, is amended to read as follows:

(13) provides that an owner is entitled to a rent increase where there has been a substantial modification or increase of dwelling space or an increase in the services, or installation of new equipment or improvements or new furniture or furnishings provided in or to a tenant's housing accommodation, on written tenant consent to the rent increase. In the case of a vacant housing accommodation, tenant consent shall not be required.

(a) The permanent increase in the legal regulated rent for the affected housing accommodation shall be [~~one-fortieth, in the case of a building with thirty-five or fewer housing accommodations, or one-sixtieth, in the case of a building with more than thirty-five housing accommodations where such permanent increase takes effect on or after September twenty-fourth, two thousand eleven,~~] one eighty-fourth of the total cost incurred by the landlord in providing such modification or increase in dwelling space, services, furniture, furnishings or equipment, including the cost of installation, but excluding finance charges and cosmetic improvements.

(b) Provided further that an owner who is entitled to a rent increase pursuant to this paragraph shall not be entitled to a further rent increase based upon the installation of similar equipment, or new furniture or furnishings within the useful life of such new equipment, or new furniture or furnishings.

§ 4. Subdivision c of section 26-511 of the administrative code of the city of New York is amended by adding a new paragraph 15 to read as follows:

(15) (a) Within one hundred twenty days of the effective date of this paragraph, the division of housing and community renewal shall issue a schedule of reasonable costs for upgrades and improvements that may be claimed as a basis for an adjustment of rent pursuant to paragraph thirteen of this subdivision. The schedule of reasonable costs shall exclude cosmetic improvements. The schedule of reasonable costs shall be based on the average costs for similar upgrades or improvements made to comparable properties located in each county, subject to the provisions of this chapter, and shall be updated at least once every two years. No increase in rent shall be collectible under paragraph thirteen of this subdivision based upon costs that exceed the reasonable costs set forth in the schedule, unless approved by the division pursuant to subparagraph (b) of this paragraph.

(b) Within thirty days of the signing of a vacancy lease including a rent increase pursuant to paragraph thirteen of this subdivision that includes improvements that exceed the schedule of reasonable costs pursuant to subparagraph (a) of this paragraph, the landlord will file

with the division of housing and community renewal an explanation of how the vacancy rent was computed, and all documents necessary to support the collection of such increase, including but not limited to, cancelled checks, invoices and signed contracts contemporaneously with the improvements alleged and a statement that any increase above the previous rent is in accordance with adjustments permitted by law. Upon receipt of all documents submitted by the landlord, and after giving the tenant named in the vacancy lease an opportunity to respond, the division of housing and community renewal shall issue an order approving or disapproving such increase in whole or in part.

(c) Within thirty days of the signing of a vacancy lease including a rent increase that exceeds ten percent of the rent charged to the previous tenant, the landlord will file with the division of housing and community renewal an explanation of how the rent was computed, and all documents necessary to support the collection of such increase, including but not limited to, cancelled checks, invoices and signed contracts contemporaneously with the improvements alleged and a statement that any increase above the previous rent is in accordance with adjustments permitted by law. Upon receipt of all documents submitted by the owner, and after giving the tenant named in such vacancy lease an opportunity to respond, the division of housing and community renewal shall issue an order approving or disapproving such increase in whole or in part. Based upon such determination, the division of housing and community renewal shall order a refund to the tenant equal to the amount collected in excess of the rent approved by the division of housing and community renewal.

(d) No increase in rent shall be collectible under paragraph thirteen of this subdivision until:

(i) the landlord has provided the tenant with a written notice, including an explanation of how the rent in the vacancy lease has been computed, and the specific amounts of all expenditures supporting a rent increase under paragraph thirteen of this subdivision; and

(ii) the landlord has filed with the division of housing and community renewal an explanation of how the vacancy rent was computed, and all documents necessary to support the collection of such increase, including, but not limited to, cancelled checks, invoices and signed contracts entered into contemporaneously with the improvements alleged, and a statement that any increase above the previous rent is in accordance with adjustments permitted by law.

(e) No increase shall be collectible under paragraph thirteen of this subdivision where the division of housing and community renewal has determined that the owner is not maintaining all building-wide required services or all required services with respect to the affected housing accommodation, or where there are current or outstanding hazardous violations of any municipal, county, state or federal law which relate to the maintenance of such services.

§ 5. Paragraph 1 of subdivision d of section 6 of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, as amended by section 18 of part B of chapter 97 of the laws of 2011, is amended to read as follows:

(1) there has been a substantial modification or increase of dwelling space or an increase in the services, or installation of new equipment or improvements or new furniture or furnishings, provided in or to a tenant's housing accommodation, on written tenant consent to the rent increase. In the case of a vacant housing accommodation, tenant consent shall not be required.

(a) The permanent increase in the legal regulated rent for the affected housing accommodation shall be [~~one-fortieth, in the case of a building with thirty-five or fewer housing accommodations, or one-sixtieth, in the case of a building with more than thirty-five housing accommodations where such permanent increase takes effect on or after September twenty-fourth, two thousand eleven,~~] one eighty-fourth of the total cost incurred by the landlord in providing such modification or increase in dwelling space, services, furniture, furnishings or equipment, including the cost of installation, but excluding finance charges and cosmetic improvements.

(b) Provided further that an owner who is entitled to a rent increase pursuant to this paragraph shall not be entitled to a further rent increase based upon the installation of similar equipment, or new furniture or furnishings within the useful life of such new equipment, or new furniture or furnishings.

(c) The owner shall give written notice to the division of housing and community renewal and the tenant named in a vacancy lease on forms prescribed by the division of any such adjustment pursuant to this paragraph and the failure to provide such written notice as provided herein shall preclude the collection of any such adjustment. Such notice must include a detailed breakdown of the nature and cost of any improvements underlying an increase in rent under this paragraph and a statement that any increase above the previous rent is in accordance with adjustments permitted by law. The owner shall file with the division of housing and community renewal all documents necessary to support the collection of such increase, including, but not limited to, cancelled checks, invoices and signed contracts entered into contemporaneously with the improvements alleged.

§ 6. Subdivision d of section 6 of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, is amended by adding a new paragraph 6 to read as follows:

(6) (a) Within one hundred twenty days of the effective date of this paragraph, the division of housing and community renewal shall issue a schedule of reasonable costs for upgrades and improvements that may be claimed as a basis for an adjustment of rent pursuant to paragraph one of this subdivision. The schedule of reasonable costs shall exclude cosmetic improvements. The schedule of reasonable costs shall be based on the average costs for similar upgrades or improvements made to comparable properties located in each county, subject to the provisions of this act, and shall be updated at least once every two years. No increase in rent shall be collectible under paragraph one of this subdivision based upon costs that exceed the reasonable costs set forth in the schedule, unless approved by the division pursuant to subparagraph (b) of this paragraph.

(b) Within thirty days of the signing of a vacancy lease including a rent increase pursuant to paragraph one of this subdivision that includes improvements that exceed the schedule of reasonable costs pursuant to subparagraph (a) of this paragraph, the landlord will file with the division of housing and community renewal an explanation of how the vacancy rent was computed, and all documents necessary to support the collection of such increase, including but not limited to, cancelled checks, invoices and signed contracts contemporaneously with the improvements alleged and a statement that any increase above the previous rent is in accordance with adjustments permitted by law. Upon receipt of all documents submitted by the landlord, and after giving the

tenant named in the vacancy lease an opportunity to respond, the division of housing and community renewal shall issue an order approving or disapproving such increase in whole or in part.

(c) Within thirty days of the signing of a vacancy lease including a rent increase that exceeds ten percent of the rent charged to the previous tenant, the landlord will file with the division of housing and community renewal an explanation of how the rent was computed, and all documents necessary to support the collection of such increase, including but not limited to, cancelled checks, invoices and signed contracts contemporaneously with the improvements alleged and a statement that any increase above the previous rent is in accordance with adjustments permitted by law. Upon receipt of all documents submitted by the owner, and after giving the tenant named in such vacancy lease an opportunity to respond, the division of housing and community renewal shall issue an order approving or disapproving such increase in whole or in part. Based upon such determination, the division of housing and community renewal shall order a refund to the tenant equal to the amount collected in excess of the rent approved by the division of housing and community renewal.

(d) No increase shall be collectible under paragraph one of this subdivision where the division of housing and community renewal has determined that the owner is not maintaining all building-wide required services or all required services with respect to the affected housing accommodation, or where there are current or outstanding hazardous violations of any municipal, county, state or federal law which relate to the maintenance of such services.

§ 7. Clause 5 of the second undesignated paragraph of paragraph (a) of subdivision 4 of section 4 of chapter 274 of the laws of 1946, constituting the emergency housing rent control law, as amended by section 25 of part B of chapter 97 of the laws of 2011, is amended to read as follows:

(5) the landlord and tenant by mutual voluntary written agreement agree to a substantial increase or decrease in dwelling space or a change in the services, furniture, furnishings or equipment provided in the housing accommodations; provided that an owner shall be entitled to a rent increase where there has been a substantial modification or increase of dwelling space or an increase in the services, or installation of new equipment or improvements or new furniture or furnishings provided in or to a tenant's housing accommodation. The permanent increase in the maximum rent for the affected housing accommodation shall be [~~one-fortieth, in the case of a building with thirty-five or fewer housing accommodations, or one-sixtieth, in the case of a building with more than thirty-five housing accommodations where such permanent increase takes effect on or after September twenty-fourth, two thousand eleven,~~] one eighty-fourth of the total cost incurred by the landlord in providing such modification or increase in dwelling space, services, furniture, furnishings or equipment, including the cost of installation, but excluding finance charges and cosmetic improvements provided further that an owner who is entitled to a rent increase pursuant to this clause shall not be entitled to a further rent increase based upon the installation of similar equipment, or new furniture or furnishings within the useful life of such new equipment, or new furniture or furnishings. The owner shall give written notice to the commission of any such adjustment pursuant to this clause; or

§ 8. This act shall take effect on the ninetieth day after it shall have become a law; provided that:

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

(b) the amendments to section 26-511 of chapter 4 of title 26 of the administrative code of the city of New York made by sections three and four of this act shall expire on the same date as such law expires and shall not affect the expiration of such law as provided under section 26-520 of such law;

(c) the amendments to section 6 of the emergency tenant protection act of nineteen seventy-four made by sections five and six of this act shall expire on the same date as such act expires and shall not affect the expiration of such act as provided in section 17 of chapter 576 of the laws of 1974;

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

(e) effective immediately, the division of housing and community renewal is authorized to and shall promulgate all rules, regulations and standards necessary to implement the provisions of this act.