

STATE OF NEW YORK

3643

2017-2018 Regular Sessions

IN SENATE

January 25, 2017

Introduced by Sens. PARKER, AVELLA -- read twice and ordered printed,
and when printed to be committed to the Committee on Housing,
Construction and Community Development

AN ACT to amend the administrative code of the city of New York and the
emergency tenant protection act of nineteen seventy-four, in relation
to inspection of major capital improvements for which rent increases
are requested and in relation to extending the provisions of the rent
stabilization law

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

1 Section 1. Subparagraph (g) of paragraph 1 of subdivision g of section
2 26-405 of the administrative code of the city of New York, as amended by
3 section 31 of part A of chapter 20 of the laws of 2015, is amended to
4 read as follows:

5 (g) There has been since July first, nineteen hundred seventy, a major
6 capital improvement required for the operation, preservation or mainte-
7 nance of the structure. An adjustment under this subparagraph [~~g~~] for
8 any order of the commissioner issued after the effective date of the
9 rent act of 2015 shall be in an amount sufficient to amortize the cost
10 of the improvements pursuant to this subparagraph [~~g~~] over an eight-
11 year period for buildings with thirty-five or fewer units or a nine year
12 period for buildings with more than [~~thirty-five~~] thirty-five units[~~7~~
13 ~~or~~]. No landlord shall deny access to a professional engineer licensed
14 to practice in the state of New York or a registered architect licensed
15 to practice in the state of New York hired by any tenant, tenants or
16 tenant association representing tenants of a multiple dwelling of six
17 units or more for the purpose of conducting an inspection of a major
18 capital improvement for which an application for adjustment of maximum
19 rent has been filed. Such inspection shall be conducted after notice to
20 the landlord and during normal business hours. Such tenant may file the

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

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

3 § 2. Paragraph 6 of subdivision c of section 26-511 of the administra-
4 tive code of the city of New York, as amended by section 29 of part A of
5 chapter 20 of the laws of 2015, is amended to read as follows:

6 (6) provides criteria whereby the commissioner may act upon applica-
7 tions by owners for increases in excess of the level of fair rent
8 increase established under this law provided, however, that such crite-
9 ria shall provide (a) as to hardship applications, for a finding that
10 the level of fair rent increase is not sufficient to enable the owner to
11 maintain approximately the same average annual net income (which shall
12 be computed without regard to debt service, financing costs or manage-
13 ment fees) for the three year period ending on or within six months of
14 the date of an application pursuant to such criteria as compared with
15 annual net income, which prevailed on the average over the period nine-
16 teen hundred sixty-eight through nineteen hundred seventy, or for the
17 first three years of operation if the building was completed since nine-
18 teen hundred sixty-eight or for the first three fiscal years after a
19 transfer of title to a new owner provided the new owner can establish to
20 the satisfaction of the commissioner that he or she acquired title to
21 the building as a result of a bona fide sale of the entire building and
22 that the new owner is unable to obtain requisite records for the fiscal
23 years nineteen hundred sixty-eight through nineteen hundred seventy
24 despite diligent efforts to obtain same from predecessors in title and
25 further provided that the new owner can provide financial data covering
26 a minimum of six years under his or her continuous and uninterrupted
27 operation of the building to meet the three year to three year compar-
28 ative test periods herein provided; and (b) as to completed building-
29 wide major capital improvements, for a finding that such improvements
30 are deemed depreciable under the Internal Revenue Code and that the cost
31 is to be amortized over an eight-year period for a building with thir-
32 ty-five or fewer housing accommodations, or a nine-year period for a
33 building with more than thirty-five housing accommodations, for any
34 determination issued by the division of housing and community renewal
35 after the effective date of the rent act of 2015, based upon cash
36 purchase price exclusive of interest or service charges. No landlord
37 shall deny access to a professional engineer licensed to practice in the
38 state of New York or a registered architect licensed to practice in the
39 state of New York hired by any tenant, tenants or tenant association
40 representing tenants of a multiple dwelling of six units or more for the
41 purpose of conducting an inspection of a major capital improvement for
42 which an application for adjustment of maximum rent has been filed. Such
43 inspection shall be conducted after notice to the landlord and during
44 normal business hours. Such tenant may file the report of the inspection
45 with the city rent agency for consideration in the determination of such
46 application.

47 Notwithstanding anything to the contrary contained herein,
48 no hardship increase granted pursuant to this paragraph shall, when
49 added to the annual gross rents, as determined by the commissioner,
50 exceed the sum of, (i) the annual operating expenses, (ii) an allowance
51 for management services as determined by the commissioner, (iii) actual
52 annual mortgage debt service (interest and amortization) on its indebt-
53 edness to a lending institution, an insurance company, a retirement fund
54 or welfare fund which is operated under the supervision of the banking
55 or insurance laws of the state of New York or the United States, and
56 (iv) eight and one-half percent of that portion of the fair market value
of the property which exceeds the unpaid principal amount of the mort-

1 gage indebtedness referred to in subparagraph (iii) of this paragraph.
2 Fair market value for the purposes of this paragraph shall be six times
3 the annual gross rent. The collection of any increase in the stabilized
4 rent for any apartment pursuant to this paragraph shall not exceed six
5 percent in any year from the effective date of the order granting the
6 increase over the rent set forth in the schedule of gross rents, with
7 collectability of any dollar excess above said sum to be spread forward
8 in similar increments and added to the stabilized rent as established or
9 set in future years;

10 § 3. Paragraph 3 of subdivision d of section 6 of section 4 of chapter
11 576 of the laws of 1974, constituting the emergency tenant protection
12 act of nineteen seventy-four, as amended by section 30 of part A of
13 chapter 20 of the laws of 2015, is amended to read as follows:

14 (3) there has been since January first, nineteen hundred seventy-four
15 a major capital improvement required for the operation, preservation or
16 maintenance of the structure. An adjustment under this paragraph shall
17 be in an amount sufficient to amortize the cost of the improvements
18 pursuant to this paragraph over an eight-year period for a building with
19 thirty-five or fewer housing accommodations, or a nine-year period for a
20 building with more than thirty-five housing accommodations, for any
21 determination issued by the division of housing and community renewal
22 after the effective date of the rent act of 2015[~~7-02~~]. No landlord
23 shall deny access to a professional engineer licensed to practice in the
24 state of New York or a registered architect licensed to practice in the
25 state of New York hired by any tenant, tenants or tenant association
26 representing tenants of a multiple dwelling of six units or more for the
27 purpose of conducting an inspection of a major capital improvement for
28 which an application for adjustment of maximum rent has been filed. Such
29 inspection shall be conducted after notice to the landlord and during
30 normal business hours. Such tenant may file the report of the inspection
31 with the city rent agency for consideration in the determination of such
32 application, or

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