STATE OF NEW YORK

5161

2019-2020 Regular Sessions

IN ASSEMBLY

February 7, 2019

Introduced by M. of A. CYMBROWITZ -- read once and referred to the Committee on Housing

AN ACT to amend the administrative code of the city of New York, in relation to rent adjustments for major capital improvements

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

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

(g) There has been since July first, nineteen hundred seventy, a major capital improvement required for the operation, preservation or maintenance of the structure. An adjustment under this subparagraph [~~(g)~~] for any order of the commissioner issued after the effective date of the rent act of 2015 shall be in an amount sufficient to amortize the cost of the improvements pursuant to this subparagraph [~~(g)~~] over an eight-year period for buildings with thirty-five or fewer units or a [~~nine year~~] **nine-year** period for buildings with more than thirty-five units[~~,~~]**. A rent adjustment for a major capital improvement may only be granted if the owner or agent of the subject building first applies for and receives benefits pursuant to section 11-243 of this code for the building for which they are seeking a major capital improvement for, provided, however, an owner or agent of the subject building that is denied benefits pursuant to section 11-243 of this code for reasons unrelated to an untimely or improperly completed application shall still be eligible to receive a rent adjustment for a major capital improvement;** or

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

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

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(6) provides criteria whereby the commissioner may act upon applications by owners for increases in excess of the level of fair rent increase established under this law provided, however, that such criteria shall provide (a) as to hardship applications, for a finding that the level of fair rent increase is not sufficient to enable the owner to maintain approximately the same average annual net income (which shall be computed without regard to debt service, financing costs or management fees) for the three year period ending on or within six months of the date of an application pursuant to such criteria as compared with annual net income, which prevailed on the average over the period nineteen hundred sixty-eight through nineteen hundred seventy, or for the first three years of operation if the building was completed since nineteen hundred sixty-eight or for the first three fiscal years after a transfer of title to a new owner provided the new owner can establish to the satisfaction of the commissioner that he or she acquired title to the building as a result of a bona fide sale of the entire building and that the new owner is unable to obtain requisite records for the fiscal years nineteen hundred sixty-eight through nineteen hundred seventy despite diligent efforts to obtain same from predecessors in title and further provided that the new owner can provide financial data covering a minimum of six years under his or her continuous and uninterrupted operation of the building to meet the three year to three year comparative test periods herein provided; and (b) as to completed building-wide major capital improvements, for a finding that such improvements are deemed depreciable under the Internal Revenue Code and that the cost is to be amortized over an eight-year period for a building with thirty-five or fewer housing accommodations, or a nine-year period for a building with more than thirty-five housing accommodations, for any determination issued by the division of housing and community renewal after the effective date of the rent act of 2015, based upon cash purchase price exclusive of interest or service charges. **A rent adjustment for a major capital improvement may only be granted if the owner or agent of the subject building first applies for and receives benefits pursuant to section 11-243 of this code for the building for which they are seeking a major capital improvement for, provided, however, an owner or agent of the subject building that is denied benefits pursuant to section 11-243 of this code for reasons unrelated to an untimely or improperly completed application shall still be eligible to receive a rent adjustment for a major capital improvement.** Notwithstanding anything to the contrary contained herein, no hardship increase granted pursuant to this paragraph shall, when added to the annual gross rents, as determined by the commissioner, exceed the sum of, (i) the annual operating expenses, (ii) an allowance for management services as determined by the commissioner, (iii) actual annual mortgage debt service (interest and amortization) on its indebtedness to a lending institution, an insurance company, a retirement fund or welfare fund which is operated under the supervision of the banking or insurance laws of the state of New York or the United States, and (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 mortgage indebtedness referred to in subparagraph (iii) of this paragraph. Fair market value for the purposes of this paragraph shall be six times the annual gross rent. The collection of any increase in the stabilized rent for any apartment 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 stabilized rent as established or set in future years;

§ 3. This act shall take effect immediately, provided, however that the amendments to section 26-405 of the city rent and rehabilitation law made by section one of this act shall remain in full force and effect only so 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; and provided, further, that the amendments to section 26-511 of the rent stabilization law of nineteen hundred sixty-nine made by section two 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, as from time to time amended; and provided, further, that the provisions of sections one and two of this act shall only apply to those buildings that commence work on a major capital improvement 45 days or later than the effective date of this act.