

# STATE OF NEW YORK

2180

2019-2020 Regular Sessions

## IN SENATE

January 23, 2019

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

AN ACT to amend chapter 576 of the laws of 1974 constituting the emergency tenant protection act of nineteen seventy-four, the administrative code of the city of New York and the emergency housing rent control law, in relation to prohibiting the collection of rent arrearages accruing prior to the date of approval of an application for an adjustment in the legal regulated rent based upon a major capital improvement

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

1 Section 1. Section 6 of section 4 of chapter 576 of the laws of 1974  
2 constituting the emergency tenant protection act of nineteen seventy-  
3 four is amended by adding a new subdivision h to read as follows:

4 h. Notwithstanding any provision of law or rule or regulation to the  
5 contrary, any adjustment in the legal regulated rent based upon a major  
6 capital improvement shall be effective upon approval of the application  
7 therefor. No increase may be collected for the period of time prior to  
8 the date of approval of the application.

9 § 2. Section 26-512 of the administrative code of the city of New York  
10 is amended by adding a new subdivision g to read as follows:

11 g. Notwithstanding any provision of law or rule or regulation to the  
12 contrary, any adjustment in the legal regulated rent based upon a major  
13 capital improvement shall be effective upon approval of the application  
14 therefor. No increase may be collected for the period of time prior to  
15 the date of approval of the application.

16 § 3. The second undesignated paragraph of paragraph (a) of subdivi-  
17 sion 4 of section 4 of chapter 274 of the laws of 1946, constituting the  
18 emergency housing rent control law, as amended by section 25 of part B  
19 of chapter 97 of the laws of 2011, subparagraph 7 as amended by section

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

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1 32 of part A of chapter 20 of the laws of 2015, is amended to read as  
2 follows:

3 No application for adjustment of maximum rent based upon a sales price  
4 valuation shall be filed by the landlord under this subparagraph prior  
5 to six months from the date of such sale of the property. In addition,  
6 no adjustment ordered by the commission based upon such sales price  
7 valuation shall be effective prior to one year from the date of such  
8 sale. Where, however, the assessed valuation of the land exceeds four  
9 times the assessed valuation of the buildings thereon, the commission  
10 may determine a valuation of the property equal to five times the equal-  
11 ized assessed valuation of the buildings, for the purposes of this  
12 subparagraph. The commission may make a determination that the valu-  
13 ation of the property is an amount different from such equalized  
14 assessed valuation where there is a request for a reduction in such  
15 assessed valuation currently pending; or where there has been a  
16 reduction in the assessed valuation for the year next preceding the  
17 effective date of the current assessed valuation in effect at the time  
18 of the filing of the application. Net annual return shall be the amount  
19 by which the earned income exceeds the operating expenses of the proper-  
20 ty, excluding mortgage interest and amortization, and excluding allow-  
21 ances for obsolescence and reserves, but including an allowance for  
22 depreciation of two per centum of the value of the buildings exclusive  
23 of the land, or the amount shown for depreciation of the buildings in  
24 the latest required federal income tax return, whichever is lower;  
25 provided, however, that (1) no allowance for depreciation of the build-  
26 ings shall be included where the buildings have been fully depreciated  
27 for federal income tax purposes or on the books of the owner; or (2) the  
28 landlord who owns no more than four rental units within the state has  
29 not been fully compensated by increases in rental income sufficient to  
30 offset unavoidable increases in property taxes, fuel, utilities, insur-  
31 ance and repairs and maintenance, excluding mortgage interest and amor-  
32 tization, and excluding allowances for depreciation, obsolescence and  
33 reserves, which have occurred since the federal date determining the  
34 maximum rent or the date the property was acquired by the present owner,  
35 whichever is later; or (3) the landlord operates a hotel or rooming  
36 house or owns a cooperative apartment and has not been fully compensated  
37 by increases in rental income from the controlled housing accommodations  
38 sufficient to offset unavoidable increases in property taxes and other  
39 costs as are allocable to such controlled housing accommodations,  
40 including costs of operation of such hotel or rooming house, but exclud-  
41 ing mortgage interest and amortization, and excluding allowances for  
42 depreciation, obsolescence and reserves, which have occurred since the  
43 federal date determining the maximum rent or the date the landlord  
44 commenced the operation of the property, whichever is later; or (4) the  
45 landlord and tenant voluntarily enter into a valid written lease in good  
46 faith with respect to any housing accommodation, which lease provides  
47 for an increase in the maximum rent not in excess of fifteen per centum  
48 and for a term of not less than two years, except that where such lease  
49 provides for an increase in excess of fifteen per centum, the increase  
50 shall be automatically reduced to fifteen per centum; or (5) the land-  
51 lord and tenant by mutual voluntary written agreement agree to a  
52 substantial increase or decrease in dwelling space or a change in the  
53 services, furniture, furnishings or equipment provided in the housing  
54 accommodations; provided that an owner shall be entitled to a rent  
55 increase where there has been a substantial modification or increase of  
56 dwelling space or an increase in the services, or installation of new

1 equipment or improvements or new furniture or furnishings provided in or  
2 to a tenant's housing accommodation. The permanent increase in the maxi-  
3 mum rent for the affected housing accommodation shall be one-fortieth,  
4 in the case of a building with thirty-five or fewer housing accommo-  
5 dations, or one-sixtieth, in the case of a building with more than thir-  
6 ty-five housing accommodations where such permanent increase takes  
7 effect on or after September twenty-fourth, two thousand eleven, of the  
8 total cost incurred by the landlord in providing such modification or  
9 increase in dwelling space, services, furniture, furnishings or equip-  
10 ment, including the cost of installation, but excluding finance charges  
11 provided further that an owner who is entitled to a rent increase pursu-  
12 ant to this clause shall not be entitled to a further rent increase  
13 based upon the installation of similar equipment, or new furniture or  
14 furnishings within the useful life of such new equipment, or new furni-  
15 ture or furnishings. The owner shall give written notice to the commis-  
16 sion of any such adjustment pursuant to this clause; or (6) there has  
17 been, since March first, nineteen hundred fifty, an increase in the  
18 rental value of the housing accommodations as a result of a substantial  
19 rehabilitation of the building or housing accommodation therein which  
20 materially adds to the value of the property or appreciably prolongs its  
21 life, excluding ordinary repairs, maintenance and replacements; or (7)  
22 there has been since March first, nineteen hundred fifty, a major capi-  
23 tal improvement required for the operation, preservation or maintenance  
24 of the structure; which for any order of the commissioner issued after  
25 the effective date of the rent act of 2015 the cost of such improvement  
26 shall be amortized over an eight-year period for buildings with thirty-  
27 five or fewer units or a nine year period for buildings with more than  
28 ~~[thirty-five]~~ thirty-five units, or (8) there has been since March first,  
29 nineteen hundred fifty, in structures containing more than four housing  
30 accommodations, other improvements made with the express consent of the  
31 tenants in occupancy of at least seventy-five per centum of the housing  
32 accommodations, provided, however, that no adjustment granted hereunder  
33 shall exceed fifteen per centum unless the tenants have agreed to a  
34 higher percentage of increase, as herein provided; or (9) there has  
35 been, since March first, nineteen hundred fifty, a subletting without  
36 written consent from the landlord or an increase in the number of adult  
37 occupants who are not members of the immediate family of the tenant, and  
38 the landlord has not been compensated therefor by adjustment of the  
39 maximum rent by lease or order of the commission or pursuant to the  
40 federal act; or (10) the presence of unique or peculiar circumstances  
41 materially affecting the maximum rent has resulted in a maximum rent  
42 which is substantially lower than the rents generally prevailing in the  
43 same area for substantially similar housing accommodations; or (11)  
44 notwithstanding any provision of law or rule or regulation to the  
45 contrary, any adjustment in the legal regulated rent based upon a major  
46 capital improvement shall be effective upon approval of the application  
47 therefor. No increase may be collected for the period of time prior to  
48 the date of approval of the application.

49 § 4. Paragraph 1 of subdivision g of section 26-405 of the administra-  
50 tive code of the city of New York is amended by adding a new subpara-  
51 graph (p) to read as follows:

52 (p) Notwithstanding any provision of law or rule or regulation to the  
53 contrary, any adjustment in the legal regulated rent based upon a major  
54 capital improvement shall be effective upon approval of the application  
55 therefor. No increase may be collected for the period of time prior to  
56 the date of approval of the application.

1 § 5. This act shall take effect immediately; provided that:

2 a. the amendments to section 4 of the emergency tenant protection act  
3 of nineteen seventy-four made by section one of this act shall expire on  
4 the same date as such act expires and shall not affect the expiration of  
5 such act as provided in section 17 of chapter 576 of the laws of 1974;

6 b. the amendments to section 26-512 of chapter 4 of title 26 of the  
7 administrative code of the city of New York made by section two of this  
8 act shall expire on the same date as such law expires and shall not  
9 affect the expiration of such law as provided under section 26-520 of  
10 such law;

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

16 d. the amendments to section 26-405 of the city rent and rehabili-  
17 tation law made by section four of this act shall remain in full force  
18 and effect only as long as the public emergency requiring the regulation  
19 and control of residential rents and evictions continues, as provided in  
20 subdivision 3 of section 1 of the local emergency housing rent control  
21 act.