

# STATE OF NEW YORK

5317

2019-2020 Regular Sessions

## IN SENATE

April 25, 2019

Introduced by Sen. RIVERA -- 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, the emergency tenant protection act of nineteen seventy-four and the emergency housing rent control law, in relation to tenant responses to applications for a major capital improvement rent increase

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

1 Section 1. Paragraph 1 of subdivision g of section 26-405 of the  
2 administrative code of the city of New York is amended by adding a new  
3 subparagraph (g-1) to read as follows:

4 (g-1) Where an application for a major capital improvement rent  
5 increase has been filed, a tenant shall have one hundred twenty days  
6 from the date of mailing of a notice of a proceeding in which to answer  
7 or reply. The city rent agency shall provide any responding tenant with  
8 the reasons for the city rent agency's approval or denial of such appli-  
9 cation; or

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

13 (6) provides criteria whereby the commissioner may act upon applica-  
14 tions by owners for increases in excess of the level of fair rent  
15 increase established under this law provided, however, that such crite-  
16 ria shall provide (a) as to hardship applications, for a finding that  
17 the level of fair rent increase is not sufficient to enable the owner to  
18 maintain approximately the same average annual net income (which shall  
19 be computed without regard to debt service, financing costs or manage-  
20 ment fees) for the three year period ending on or within six months of  
21 the date of an application pursuant to such criteria as compared with  
22 annual net income, which prevailed on the average over the period nine-

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

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1 teen hundred sixty-eight through nineteen hundred seventy, or for the  
2 first three years of operation if the building was completed since nine-  
3 teen hundred sixty-eight or for the first three fiscal years after a  
4 transfer of title to a new owner provided the new owner can establish to  
5 the satisfaction of the commissioner that he or she acquired title to  
6 the building as a result of a bona fide sale of the entire building and  
7 that the new owner is unable to obtain requisite records for the fiscal  
8 years nineteen hundred sixty-eight through nineteen hundred seventy  
9 despite diligent efforts to obtain same from predecessors in title and  
10 further provided that the new owner can provide financial data covering  
11 a minimum of six years under his or her continuous and uninterrupted  
12 operation of the building to meet the three year to three year compar-  
13 ative test periods herein provided; and (b) as to completed building-  
14 wide major capital improvements, for a finding that such improvements  
15 are deemed depreciable under the Internal Revenue Code and that the cost  
16 is to be amortized over an eight-year period for a building with thir-  
17 ty-five or fewer housing accommodations, or a nine-year period for a  
18 building with more than thirty-five housing accommodations, for any  
19 determination issued by the division of housing and community renewal  
20 after the effective date of the rent act of 2015, based upon cash  
21 purchase price exclusive of interest or service charges. Where an  
22 application for a major capital improvement rent increase has been  
23 filed, a tenant shall have one hundred twenty days from the date of  
24 mailing of a notice of a proceeding in which to answer or reply. The  
25 state division of housing and community renewal shall provide any  
26 responding tenant with the reasons for the division's approval or denial  
27 of such application. Notwithstanding anything to the contrary contained  
28 herein, no hardship increase granted pursuant to this paragraph shall,  
29 when added to the annual gross rents, as determined by the commissioner,  
30 exceed the sum of, (i) the annual operating expenses, (ii) an allowance  
31 for management services as determined by the commissioner, (iii) actual  
32 annual mortgage debt service (interest and amortization) on its indebt-  
33 edness to a lending institution, an insurance company, a retirement fund  
34 or welfare fund which is operated under the supervision of the banking  
35 or insurance laws of the state of New York or the United States, and  
36 (iv) eight and one-half percent of that portion of the fair market value  
37 of the property which exceeds the unpaid principal amount of the mort-  
38 gage indebtedness referred to in subparagraph (iii) of this paragraph.  
39 Fair market value for the purposes of this paragraph shall be six times  
40 the annual gross rent. The collection of any increase in the stabilized  
41 rent for any apartment pursuant to this paragraph shall not exceed six  
42 percent in any year from the effective date of the order granting the  
43 increase over the rent set forth in the schedule of gross rents, with  
44 collectability of any dollar excess above said sum to be spread forward  
45 in similar increments and added to the stabilized rent as established or  
46 set in future years;

47 § 3. Subdivision d of section 6 of section 4 of chapter 576 of the  
48 laws of 1974, constituting the emergency tenant protection act of nine-  
49 teen seventy-four, is amended by adding a new paragraph (3-a) to read as  
50 follows:

51 (3-a) an application for a major capital improvement rent increase has  
52 been filed, a tenant shall have one hundred twenty days from the date of  
53 mailing of a notice of a proceeding in which to answer or reply. The  
54 state division of housing and community renewal shall provide any  
55 responding tenant with the reasons for the division's approval or denial  
56 of such application; or

1 § 4. Subparagraph 7 of the second undesignated paragraph of paragraph  
2 (a) of subdivision 4 of section 4 of chapter 274 of the laws of 1946,  
3 constituting the emergency housing rent control law, as amended by  
4 section 32 of part A of chapter 20 of the laws of 2015, is amended to  
5 read as follows:

6 (7) there has been since March first, nineteen hundred fifty, a major  
7 capital improvement required for the operation, preservation or mainte-  
8 nance of the structure; which for any order of the commissioner issued  
9 after the effective date of the rent act of 2015 the cost of such  
10 improvement shall be amortized over an eight-year period for buildings  
11 with thirty-five or fewer units or a nine year period for buildings with  
12 more than thirty-five units, provided, however, where an application for  
13 a major capital improvement rent increase has been filed, a tenant shall  
14 have one hundred twenty days from the date of mailing of a notice of a  
15 proceeding in which to answer or reply. The state division of housing  
16 and community renewal shall provide any responding tenant with the  
17 reasons for the division's approval or denial of such application; or

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

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

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

31 (c) the amendments to section 6 of the emergency tenant protection act  
32 of nineteen seventy-four made by section three of this act shall expire  
33 on the same date as such act expires and shall not affect the expiration  
34 of such act as provided in section 17 of chapter 576 of the laws of  
35 1974; and

36 (d) the amendments to section 4 of the emergency housing rent control  
37 law made by section four of this act shall expire on the same date as  
38 such law expires and shall not affect the expiration of such law as  
39 provided in subdivision 2 of section 1 of chapter 274 of the laws of  
40 1946.