

STATE OF NEW YORK

4401

2019-2020 Regular Sessions

IN ASSEMBLY

February 4, 2019

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

AN ACT eliminating the department of homes and community renewal's major capital improvement program; creating the guaranteed habitability protections program within the department of homes and community renewal; to amend the emergency housing rent control law, the emergency tenant protection act of nineteen seventy-four and the administrative code of the city of New York, in relation to eliminating rent increases to pay for major capital improvements

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

- 1 Section 1. (a) The department of homes and community renewal shall end
2 the major capital improvement program. All increases to rents allowed
3 during the life of the major capital improvement program shall be
4 repealed upon petition from a tenant, all applications pending review
5 for the major capital improvement program shall be denied, and no rent
6 increases shall be allowed under the major capital improvement program.
7 (b) The department of homes and community renewal, upon repealing any
8 increase or increases in rent under the major capital improvement
9 program, shall require that the rent is reduced by an amount equal to
10 that of the previous increase or increases allowed under the major capi-
11 tal improvement program in that instance for all current tenants
12 affected by such increase or increases. This rent shall be considered
13 the legal rent and shall no longer be a preferential rent.
14 (c) The department of homes and community renewal shall require that
15 any increase in a tenant's security deposit due to an increase in rent
16 under the major capital improvement program be repaid to the tenant by
17 the landlord within thirty days of such repeal.
18 (d) The new legal rent shall be the legal rent beginning on the date
19 rent is required to be paid next succeeding the repeal of any rent
20 increase under the major capital improvement program.

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

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1 (e) Any lease signed after a repeal of rent increase or increases
2 under the major capital improvement program shall be tied to the new
3 legal rent which shall have such rent reduced by all previous rent
4 increases granted under and/or by the major capital improvement program.

5 (f) The department of homes and community renewal shall notify all
6 current tenants affected by an increase in rent under the major capital
7 improvement program that they can appeal to such department for the
8 repeal of such increase in rent and that any increase in rent under the
9 major capital improvement program that is repealed will result in the
10 reduction of rent and the repayment of the various security deposit
11 increases associated with said increases.

12 (g) The department of homes and community renewal shall, within one
13 year of the effective date of this act, consider all appeals for the
14 repeal of an increase in rent under the major capital improvement
15 program. If an appeal was filed but not ruled upon after an investi-
16 gation within one year of the effective date of this act by the depart-
17 ment of homes and community renewal, the appeal shall be granted.

18 § 2. (a) The department of homes and community renewal is hereby
19 authorized and directed to establish a guaranteed habitability
20 protections program and promulgate, amend, add or remove any rules or
21 regulations necessary to establish such program.

22 (b) The program shall work to ensure the habitability of all rental
23 dwellings, specifically that no rental dwelling becomes uninhabitable by
24 requiring regular updates and improvements to rental dwellings. A rental
25 dwelling shall be deemed uninhabitable where it is not safe and livable
26 and the landlord would be in violation of the warranty of habitability.

27 (c) When the department of homes and community renewal determines that
28 any unit of a rental dwelling has an issue which may impact the habita-
29 bility of the unit, such department under this program shall give
30 notice to the landlord. Where the issue is not life threatening, the
31 landlord shall have within thirty days to rectify the issue before
32 incurring a violation. Where the issue is life threatening, as deter-
33 mined by the department of homes and community renewal, the landlord
34 shall have an amount of time as determined by such department based on
35 the severity of the issue to rectify the issue before incurring a
36 violation. The department of homes and community renewal shall determine
37 which issues are and which issues are not life threatening. Upon incur-
38 ring a violation, the landlord shall have the same amount of time to
39 rectify the issue before incurring another violation. An issue shall be
40 deemed rectified when the issue no longer exists or the tenants have
41 been moved into another unit of equal or greater quality, where such
42 determination of quality shall be made by the department of homes and
43 community renewal. A landlord shall be fined:

44 (i) \$10,000 for the first violation involving a non-life threatening
45 issue;

46 (ii) \$25,000 for the second violation involving a non-life threatening
47 issue;

48 (iii) \$50,000 for the third and each subsequent violation involving a
49 non-life threatening issue; and

50 (iv) \$100,000 for each resident of an affected unit for a violation
51 involving a life threatening issue.

52 § 3. Paragraph 2 of subdivision 3-a, subparagraph (iii) of the opening
53 paragraph of paragraph (a) and subparagraphs 7, 8, 9 and 10 of the
54 second undesignated paragraph of paragraph (a) of subdivision 4 of
55 section 4 and subdivision 9 of section 5 of chapter 274 of the laws of
56 1946, constituting the emergency housing rent control law, paragraph 2

1 of subdivision 3-a of section 4 as amended by chapter 337 of the laws of
2 1961, subparagraph (iii) of the opening paragraph of paragraph (a) of
3 subdivision 4 of section 4 as amended by chapter 21 of the laws of 1962,
4 subparagraph 7 of the second undesignated paragraph of paragraph (a) of
5 subdivision 4 of section 4 as amended by section 32 of part A of chapter
6 20 of the laws of 2015, subparagraphs 8, 9 and 10 of the second undesignated
7 paragraph of paragraph (a) of subdivision 4 of section 4 as
8 amended by section 25 of part B of chapter 97 of the laws of 2011 and
9 subdivision 9 of section 5, as added by chapter 116 of the laws of 1997,
10 are amended to read as follows:

11 (2) the amount of increases in maximum rent authorized by order
12 because of increases in dwelling space, services, furniture, furnishings
13 or equipment[, ~~or major capital improvements~~].

14 (iii) The ratio of the sales price to the annual gross income of the
15 property, with consideration given to the total amount of rent adjustments
16 previously granted, exclusive of rent adjustments because of
17 changes in dwelling space, services, furniture, furnishings or equipment,
18 [~~major capital improvements,~~] or substantial rehabilitation;

19 (7) [~~there has been since March first, nineteen hundred fifty, a major
20 capital improvement required for the operation, preservation or maintenance
21 of the structure, which for any order of the commissioner issued
22 after the effective date of the rent act of 2015 the cost of such
23 improvement shall be amortized over an eight-year period for buildings
24 with thirty-five or fewer units or a nine year period for buildings with
25 more than thirty-five units, or (8)~~] there has been since March first,
26 nineteen hundred fifty, in structures containing more than four housing
27 accommodations, other improvements made with the express consent of the
28 tenants in occupancy of at least seventy-five per centum of the housing
29 accommodations, provided, however, that no adjustment granted hereunder
30 shall exceed fifteen per centum unless the tenants have agreed to a
31 higher percentage of increase, as herein provided; or [~~(9)~~] (8) there
32 has been, since March first, nineteen hundred fifty, a subletting without
33 written consent from the landlord or an increase in the number of
34 adult occupants who are not members of the immediate family of the
35 tenant, and the landlord has not been compensated therefor by adjustment
36 of the maximum rent by lease or order of the commission or pursuant to
37 the federal act; or [~~(10)~~] (9) the presence of unique or peculiar
38 circumstances materially affecting the maximum rent has resulted in a
39 maximum rent which is substantially lower than the rents generally
40 prevailing in the same area for substantially similar housing accommodations.
41

42 9. Notwithstanding any provision of this law to the contrary in the
43 case where all tenants occupying the housing accommodation on the effective
44 date of this subdivision have vacated the housing accommodation and
45 a family member of such vacating tenant or tenants is entitled to and
46 continues to occupy the housing accommodation subject to the protections
47 of this law, if such accommodation continues to be subject to this law
48 after such family member vacates, on the occurrence of such vacancy the
49 maximum collectable rent shall be increased by a sum equal to the allowance
50 then in effect for vacancy leases for housing accommodations
51 covered by the rent stabilization law of nineteen hundred sixty-nine,
52 including the amount allowed by paragraph five-a of subdivision c of
53 section 26-511 of such law. This increase shall be in addition to any
54 other increases provided in this law including an adjustment based upon
55 [~~a major capital improvement, or~~] a substantial increase or decrease in
56 dwelling space or a change in the services, furniture, furnishings or

1 equipment provided in the housing accommodation, pursuant to section
2 four of this law and shall be applicable in like manner to each second
3 subsequent succession.

4 § 4. Paragraphs 3, 4 and 5 of subdivision d and subdivision g of
5 section 6 of section 4 of chapter 576 of the laws of 1974, constituting
6 the emergency tenant protection act of nineteen seventy-four, paragraph
7 3 of subdivision d as amended by section 30 of part A of chapter 20 of
8 the laws of 2015, paragraph 4 of subdivision d as amended by chapter 403
9 of the laws of 1983, paragraph 5 of subdivision d as amended by chapter
10 102 of the laws of 1984, and subdivision g as added by chapter 116 of
11 the laws of 1997, are amended to read as follows:

12 (3) ~~[there has been since January first, nineteen hundred seventy four~~
13 ~~a major capital improvement required for the operation, preservation or~~
14 ~~maintenance of the structure. An adjustment under this paragraph shall~~
15 ~~be in an amount sufficient to amortize the cost of the improvements~~
16 ~~pursuant to this paragraph over an eight year period for a building with~~
17 ~~thirty 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, or~~

21 ~~(4)]~~ an owner by application to the state division of housing and
22 community renewal for increases in the rents in excess of the rent
23 adjustment authorized by the rent guidelines board under this act estab-
24 lishes a hardship, and the state division finds that the rate of rent
25 adjustment is not sufficient to enable the owner to maintain approxi-
26 mately the same ratio between operating expenses, including taxes and
27 labor costs but excluding debt service, financing costs, and management
28 fees, and gross rents which prevailed on the average over the immediate
29 preceding five year period, or for the entire life of the building if
30 less than five years, or

31 ~~(5)]~~ (4) as an alternative to the hardship application provided under
32 paragraph ~~four~~ three of this subdivision, owners of buildings acquired
33 by the same owner or a related entity owned by the same principals three
34 years prior to the date of application may apply to the division for
35 increases in excess of the level of applicable guideline increases
36 established under this law based on a finding by the commissioner that
37 such guideline increases are not sufficient to enable the owner to main-
38 tain an annual gross rent income for such building which exceeds the
39 annual operating expenses of such building by a sum equal to at least
40 five percent of such gross rent. For the purposes of this paragraph,
41 operating expenses shall consist of the actual, reasonable, costs of
42 fuel, labor, utilities, taxes, other than income or corporate franchise
43 taxes, fees, permits, necessary contracted services and non-capital
44 repairs, insurance, parts and supplies, management fees and other admin-
45 istrative costs and mortgage interest. For the purposes of this para-
46 graph, mortgage interest shall be deemed to mean interest on a bona fide
47 mortgage including an allocable portion of charges related thereto.
48 Criteria to be considered in determining a bona fide mortgage other than
49 an institutional mortgage shall include; condition of the property,
50 location of the property, the existing mortgage market at the time the
51 mortgage is placed, the term of the mortgage, the amortization rate, the
52 principal amount of the mortgage, security and other terms and condi-
53 tions of the mortgage. The commissioner shall set a rental value for any
54 unit occupied by the owner or a person related to the owner or unoccu-
55 pied at the owner's choice for more than one month at the last regulated
56 rent plus the minimum number of guidelines increases or, if no such

regulated rent existed or is known, the commissioner shall impute a rent consistent with other rents in the building. The amount of hardship increase shall be such as may be required to maintain the annual gross rent income as provided by this paragraph. The division shall not grant a hardship application under this paragraph or paragraph ~~four~~ three of this subdivision for a period of three years subsequent to granting a hardship application under the provisions of this paragraph. The collection of any increase in the rent for any housing accommodation 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 rent as established or set in future years. No application shall be approved unless the owner's equity in such building exceeds five percent of: (i) the arms length purchase price of the property; (ii) ~~[the cost of any capital improvements for which the owner has not collected a surcharge, (iii)]~~ any repayment of principal of any mortgage or loan used to finance the purchase of the property ~~[or any capital improvements for which the owner has not collected a surcharge]~~; and ~~[(iv)]~~ (iii) any increase in the equalized assessed value of the property which occurred subsequent to the first valuation of the property after purchase by the owner. For the purposes of this paragraph, owner's equity shall mean the sum of (i) the purchase price of the property less the principal of any mortgage or loan used to finance the purchase of the property, (ii) ~~[the cost of any capital improvement for which the owner has not collected a surcharge less the principal of any mortgage or loan used to finance said improvement, (iii)]~~ any repayment of the principal of any mortgage or loan used to finance the purchase of the property ~~[or any capital improvement for which the owner has not collected a surcharge]~~, and ~~[(iv)]~~ (iii) any increase in the equalized assessed value of the property which occurred subsequent to the first valuation of the property after purchase by the owner.

g. Notwithstanding any provision of this act to the contrary in the case where all tenants named in a lease have permanently vacated a housing accommodation and a family member of such tenant or tenants is entitled to and executes a renewal lease for the housing accommodation if such accommodation continues to be subject to this act after such family member vacates, on the occurrence of such vacancy the legal regulated rent shall be increased by a sum equal to the allowance then in effect for vacancy leases, including the amount allowed by subdivision (a-1) of section ten of this act. Such increase shall be in addition to any other increases provided for in this act including an adjustment based upon ~~[a major capital improvement, or]~~ a substantial modification or increase of dwelling space or services, or installation of new equipment or improvements or new furniture or furnishings provided in or to the housing accommodation, pursuant to section six of this act and shall be applicable in like manner to each second subsequent succession.

§ 5. Subdivision (a-1) of section 10 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 16-b of part A of chapter 20 of the laws of 2015, is amended to read as follows:

(a-1) provides that, notwithstanding any provision of this act, the legal regulated rent for any vacancy lease entered into after the effective date of this subdivision shall be as hereinafter set forth. The previous legal regulated rent for such housing accommodation shall be increased by the following: (i) if the vacancy lease is for a term of

two years, twenty percent of the previous legal regulated rent; or (ii) if the vacancy lease is for a term of one year the increase shall be twenty percent of the previous legal regulated rent less an amount equal to the difference between (a) the two year renewal lease guideline promulgated by the guidelines board of the county in which the housing accommodation is located applied to the previous legal regulated rent and (b) the one year renewal lease guideline promulgated by the guidelines board of the county in which the housing accommodation is located applied to the previous legal regulated rent. However, where the amount charged and paid by the prior tenant pursuant to paragraph fourteen of this subdivision, was less than the legal regulated rent, such increase to the legal regulated rent shall not exceed: five percent of the previous legal regulated rent if the last vacancy lease commenced less than two years ago; ten percent of the previous legal regulated rent if the last vacancy commenced less than three years ago; fifteen percent of the previous legal regulated rent if the last vacancy lease commenced less than four years ago; twenty percent of the previous legal regulated rent if the last vacancy lease commenced four or more years ago. In addition, if the legal regulated rent was not increased with respect to such housing accommodation by a permanent vacancy allowance within eight years prior to a vacancy lease executed on or after the effective date of this subdivision, the legal regulated rent may be further increased by an amount equal to the product resulting from multiplying such previous legal regulated rent by six-tenths of one percent and further multiplying the amount of rent increase resulting therefrom by the greater of (A) the number of years since the imposition of the last permanent vacancy allowance, or (B) if the rent was not increased by a permanent vacancy allowance since the housing accommodation became subject to this act, the number of years that such housing accommodation has been subject to this act. Provided that if the previous legal regulated rent was less than three hundred dollars the total increase shall be as calculated above plus one hundred dollars per month. Provided, further, that if the previous legal regulated rent was at least three hundred dollars and no more than five hundred dollars in no event shall the total increase pursuant to this subdivision be less than one hundred dollars per month. Such increase shall be in lieu of any allowance authorized for the one or two year renewal component thereof, but shall be in addition to any other increases authorized pursuant to this act including an adjustment based upon ~~[a major capital improvement, or]~~ a substantial modification or increase of dwelling space or services, or installation of new equipment or improvements or new furniture or furnishings provided in or to the housing accommodation pursuant to section six of this act. The increase authorized in this subdivision may not be implemented more than one time in any calendar year, notwithstanding the number of vacancy leases entered into in such year.

§ 6. Section 26-403.2 of the administrative code of the city of New York, as added by chapter 116 of the laws of 1997, is amended to read as follows:

§ 26-403.2 Increase in maximum collectable rent. Notwithstanding any provision of this law to the contrary in the case where all tenants occupying the housing accommodation on the effective date of this section have vacated the housing accommodation and a family member of such vacating tenant or tenants is entitled to and continues to occupy the housing accommodation subject to the protections of this law, if such accommodation continues to be subject to this law after such family member vacates, on the occurrence of such vacancy the maximum collecta-

ble rent shall be increased by a sum equal to the allowance then in effect for vacancy leases for housing accommodations covered by the rent stabilization law of nineteen hundred sixty-nine, including the amount allowed by paragraph five-a of subdivision c of section 26-511 of such law. This increase shall be in addition to any other increases provided for in this law including an adjustment based upon ~~[a major capital improvement, or]~~ a substantial increase or decrease in dwelling space or a change in the services, furniture, furnishings or equipment provided in the housing accommodation, pursuant to section 26-405 of this law and shall be applicable in like manner to each second subsequent succession.

§ 7. Subparagraph (c) of paragraph 1 of subdivision g of section 26-405 of the administrative code of the city of New York is amended to read as follows:

(c) the ratio of the sales price to the annual gross income of the property, with consideration given to the total amount of rent adjustments previously granted, exclusive of rent adjustments because of changes in dwelling space, services, furniture, furnishings or equipment, ~~[major capital improvements,]~~ or substantial rehabilitation;

§ 8. Subparagraphs (g), (h), (i), (j), (k), (l), (m), (n) and (o) of paragraph 1 of subdivision g of section 26-405 of the administrative code of the city of New York, subparagraph (g) as amended by section 31 of part A of chapter 20 of the laws of 2015, subparagraph (k) as amended by chapter 749 of the laws of 1990, and clause 7 of subparagraph (n) as amended by local law number 76 of the city of New York for the year 2005, are 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 period for buildings with more than thirty five units, or~~

~~(h)]~~ There have been since March first, nineteen hundred fifty-nine, in structures containing more than four housing accommodations, other improvements made with the express consent of the tenants in occupancy of at least seventy-five per centum of the housing accommodations; provided, however, that whenever the city rent agency has determined that the improvements proposed were part of a plan designed for overall improvement of the structure or increases in services, it may authorize increases in maximum rents for all housing accommodations affected upon the express consent of the tenants in occupancy of at least fifty-one per centum of the housing accommodations, and provided further that no adjustment granted hereunder shall exceed fifteen per centum unless the tenants have agreed to a higher percentage of increase, as herein provided; or

~~[(i)]~~ (h) There has been, since March first, nineteen hundred fifty-nine, a subletting without written consent from the landlord or an increase in the number of adult occupants who are not members of the immediate family of the tenant, and the landlord has not been compensated therefor by adjustment of the maximum rent by lease or order of the city rent agency or pursuant to the state rent act or the federal act; or

~~[(j)]~~ (i) The presence of unique or peculiar circumstances materially affecting the maximum rent has resulted in a maximum rent which is

1 substantially lower than the rents generally prevailing in the same area
2 for substantially similar housing accommodations.

3 ~~[(k) The landlord has incurred, since January first, nineteen hundred~~
4 ~~seventy, in connection with and in addition to a concurrent major capi-~~
5 ~~tal improvement pursuant to subparagraph (g) of this paragraph, other~~
6 ~~expenditures to improve, restore or preserve the quality of the struc-~~
7 ~~ture. An adjustment under this subparagraph shall be granted only if~~
8 ~~such improvements represent an expenditure equal to at least ten per~~
9 ~~centum of the total operating and maintenance expenses for the preceding~~
10 ~~year. An adjustment under this subparagraph shall be in addition to any~~
11 ~~adjustment granted for the concurrent major capital improvement and~~
12 ~~shall be in an amount sufficient to amortize the cost of the improve-~~
13 ~~ments pursuant to this subparagraph over a seven-year period.~~

14 ~~(1)]~~ (j) (1) The actual labor expenses currently incurred or to be
15 incurred (pursuant to a collective agreement or other obligation actual-
16 ly entered into by the landlord) exceed the provision for payroll
17 expenses in the current applicable operating and maintenance expense
18 allowance under subdivision a of this section. No application pursuant
19 to this subparagraph may be granted within one year from the granting of
20 an adjustment in maximum rent pursuant to this subparagraph ~~[(1)]~~, or
21 pursuant to subparagraph (a) of this paragraph. Any rent increase the
22 applicant would be entitled to, or such portion thereof, shall not
23 exceed a total increase of seven and one-half per centum per annum of
24 the maximum rent as provided in paragraph five of subdivision a of this
25 section.

26 (2) Any adjustment in the maximum rents pursuant hereto shall be
27 subject to:

28 (i) The adjustment in maximum rent for any twelve-month period for any
29 housing accommodation shall not exceed four percent of the maximum rent
30 in effect on December thirty-first, nineteen hundred seventy-three.

31 (ii) Where the increase in labor costs compensable herein is the
32 result of an industry-wide collective bargaining agreement or a specific
33 agreement in anticipation of, or subsequent to, an industry-wide collec-
34 tive bargaining agreement, the adjustment shall be in such amount
35 (subject to the above limitation) that the increased rental income from
36 January first, nineteen hundred seventy-four to December thirty-first,
37 nineteen hundred seventy-six shall reflect the increased labor costs for
38 the period from April thirtieth, nineteen hundred seventy-three to April
39 thirtieth, nineteen hundred seventy-six.

40 (3) For the purpose of this subparagraph ~~[(1)]~~ the increase in labor
41 costs shall be the amount by which the labor costs (a) actually in
42 effect and paid, or (b) actually in effect and paid or payable and fixed
43 and determined pursuant to agreement on the date of the filing of the
44 application and projected over the period ending April thirtieth, nine-
45 teen hundred seventy-six, exceed the labor costs for the twelve calendar
46 months immediately preceding the last day of the month in which the wage
47 agreement became effective.

48 (4) Notwithstanding any other provision of this chapter, the adjust-
49 ment pursuant to this subparagraph shall be collectible upon the land-
50 lord's filing of a report with the city rent agency, subject to the
51 provisions of subparagraph (e) of paragraph two of subdivision a of this
52 section.

53 (5) No increase in the maximum rent for any housing accommodation may
54 be granted under this subparagraph ~~[(1)]~~ if on the date when the appli-
55 cation is sought to be filed, less than the full term of such agreement
56 has elapsed since the date of the filing of the last prior application

1 for an increase with respect to such property under this subparagraph
2 [~~(1)~~], which application resulted in the granting of an increase. Where,
3 however, the landlord establishes the existence of unique or peculiar
4 circumstances affecting an increase in labor costs for the property, the
5 agency may accept such application where it determines that such accept-
6 ance is not inconsistent with the purposes of this local law.

7 (6) The increase authorized herein shall be apportioned equitably
8 among all the housing accommodations in the property whether or not
9 subject to control under this chapter.

10 [~~(a)~~] (k) Where the rehabilitation or improvement of sub-standard or
11 deteriorated housing accommodations has been financed under a govern-
12 mental program providing assistance through loans, loan insurance or tax
13 abatement or has been undertaken under another rehabilitation program
14 not so financed but approved by the commissioner.

15 [~~(a)~~](1) The city rent agency shall hereafter promulgate in January
16 of each year;

17 (i) findings regarding the price increase or decrease, respectively,
18 for all types of heating fuel, including numbers two, four and six home
19 heating oils, utility supplied steam, gas, electricity and coal, togeth-
20 er with the sales and excise taxes thereon, on December thirty-first as
21 compared to the January first in any year; and

22 (ii) standards for consumption of heating fuel, which shall be no more
23 than two hundred twenty-five gallons per year per room commencing Janu-
24 ary first, nineteen hundred eighty-one, for buildings using heating oils
25 for heat with comparable unit limitations to be established by the city
26 rent agency for utility supplied steam, gas, electricity, coal and any
27 other types of heating systems, provided that such consumption standards
28 for heating fuels shall be reduced by five gallons per room per year for
29 heating oils and a comparable amount for other heating fuels for the
30 next succeeding year and ten gallons per room per year for heating oils
31 and a comparable amount for other heating fuels for two succeeding years
32 thereafter.

33 Such findings and consumption standards shall be published in the City
34 Record.

35 (2) To obtain a rental adjustment pursuant to this subparagraph [~~(a)~~],
36 the landlord shall file a report with the agency on forms prescribed by
37 the agency and shall:

38 (i) certify the amount of heating fuel consumed in the calendar year
39 immediately prior to the filing of the report;

40 (ii) state the type of fuel used and the number of rooms in the build-
41 ing;

42 (iii) certify that (a) all essential services required to be provided
43 have been and will continue to be maintained and (b) there has been no
44 rent reduction order issued pursuant to this chapter based on the land-
45 lord's failure to provide heat or hot water during the prior twelve
46 months;

47 (iv) certify on information and belief, in order to qualify for an
48 additional rent increase pursuant to this subparagraph [~~(a)~~], that for
49 an individual housing accommodation, if the maximum rent collectible
50 pursuant to paragraph five of subdivision a of this section plus actual
51 rent adjustments pursuant to this subparagraph [~~(a)~~] and such additional
52 rent increase, is equal to or exceeds the maximum rent established
53 pursuant to paragraphs three and four of subdivision a of this section
54 plus the amount calculated pursuant to subitem (i) of item three and
55 subitem (i) of item four of this subparagraph [~~(a)~~], each to be allo-
56 cated to such housing accommodation pursuant to subitem (ii) of item

four of this subparagraph ~~[(a)]~~, that the landlord will not be earning an amount in excess of the statutory return specified in subparagraph (a) of paragraph one of subdivision g of this section after collection of a rent increase pursuant to this subparagraph ~~[(a)]~~, with respect to a building or buildings serviced by a single heating plant;

(v) report any funds received with respect to the housing accommodations from any governmental grant program compensating such landlord for fuel price increases during the period for which an adjustment is obtained pursuant to this subparagraph ~~[(a)]~~;

(vi) provide such other information as the agency may require.

(3) Rent adjustments for controlled housing accommodations for annual heating fuel cost increases or decreases experienced after December thirty-first, nineteen hundred seventy-nine, shall be determined as follows:

(i) the increase or decrease in heating fuel prices found by the agency for that year shall be multiplied by the actual consumption, not to exceed that year's consumption standard established pursuant to subitem (ii) of item one of this subparagraph; and

(ii) seventy-five percentum of such amount shall be allocated among all rental space in the building, including commercial, professional and similar facilities, provided, for the purposes of this subparagraph ~~[(a)]~~, that living rooms, kitchens over fifty-nine square feet in area and bedrooms shall be considered rooms and that bathrooms, foyers and kitchenettes shall not be considered rooms.

(4) Rent adjustments for controlled housing accommodations for heating fuel cost increases or decreases experienced from April ninth, nineteen hundred seventy-nine, through and including December thirty-first, nineteen hundred seventy-nine, shall be determined as follows:

(i) the increase or decrease in heating fuel prices found by the agency for that period shall be multiplied by seventy-five percentum of the actual heating fuel consumption during the period from January first, nineteen hundred seventy-nine, through and including December thirty-first, nineteen hundred seventy-nine, which consumption shall not exceed seventy-five percentum of that year's consumption standard established by the agency; and

(ii) such amount shall be allocated among all rental space in the building, including commercial, professional and similar facilities, provided, for the purposes of this subparagraph ~~[(a)]~~, that living rooms, kitchens over fifty-nine square feet in area and bedrooms shall be considered rooms and that bathrooms, foyers and kitchenettes shall not be considered rooms.

The city rent agency shall promulgate findings for heating fuel price increases or decreases and standards for consumption for the periods set forth in this item four thirty days after this local law is enacted. The standard for consumption shall be no more than seventy-five percentum of two hundred thirty gallons per room for buildings using heating oils for heat with comparable unit limitations to be established by the city rent agency for utility supplied steam, gas, electricity, coal and any other types of heating systems.

(5) A landlord who files a report pursuant to this subparagraph and who falsely certifies shall not be eligible to collect any rent adjustment pursuant to this subparagraph for two years following a determination of a false certification and, in addition, any adjustments obtained pursuant to this subparagraph for up to two years prior to such determination shall not be collectible for that same two year period.

1 Such landlord shall also be subject to any additional penalties imposed
2 by law.

3 (6) A landlord annually may file a report pursuant to this subpara-
4 graph ~~[(n)]~~ after promulgation by the agency of the findings and
5 consumption standards set forth in item one of this subparagraph ~~[(n)]~~.
6 A rent adjustment pursuant to such report shall be prospectively collec-
7 tible upon the landlord's serving and filing the report, provided,
8 however, that if a landlord files such report within sixty days of the
9 promulgation of such findings and consumption standards, such rent
10 adjustment shall be retroactive to and shall be effective as of the
11 January first of the year in which the report is filed.

12 (7) A landlord demanding or collecting a rent adjustment pursuant to
13 this subparagraph ~~[(n)]~~ shall at the time of either the demand or
14 collection issue to the tenant either a rent bill or receipt separately
15 setting forth the amount of the adjustment pursuant to this subparagraph
16 ~~[(n)]~~ and the amount of the maximum rent otherwise demanded or
17 collected. If the tenant has been issued a valid senior citizen rent
18 exemption order or a valid disability rent exemption order, the owner
19 shall also separately state the amount payable by the senior citizen or
20 person with a disability after the exemption.

21 (8) In the event that a rent reduction order is issued by the city
22 rent agency based upon the landlord's failure to provide heat or hot
23 water to housing accommodations for which the landlord is collecting a
24 rent adjustment pursuant to this subparagraph ~~[(n)]~~, the rent adjustment
25 shall not be collected during the time such rent reduction order is in
26 effect and for twelve months following the date of the restoration of
27 the rent reduction. In addition, the landlord shall not be eligible to
28 collect any subsequent rent adjustment pursuant to this subparagraph
29 ~~[(n)]~~ until twelve months following the date of the restoration of the
30 rent reduction.

31 (9) In the event that the city rent agency promulgates a finding of a
32 price decrease, if any landlord who has obtained a rent adjustment
33 pursuant to this subparagraph ~~[(n)]~~ does not file a report for a rent
34 adjustment pursuant to this subparagraph ~~[(n)]~~ within sixty days of the
35 promulgation of such findings, then all rent adjustments obtained pursu-
36 ant to this subparagraph ~~[(n)]~~ shall not be collectible for a period of
37 twelve months.

38 (10) Any rent adjustment obtained pursuant to this subparagraph ~~[(n)]~~
39 shall not be included in the maximum rent established pursuant to para-
40 graph four or five of subdivision (a) of this section.

41 (11) The city rent agency shall have the power to promulgate such
42 regulations as it may consider necessary or convenient to implement and
43 administer the provisions of this subparagraph ~~[(n)]~~. The regulations
44 shall also require that any rent adjustment granted pursuant to this
45 subparagraph ~~[(n)]~~ be reduced by an amount equal to any governmental
46 grant received by the landlord compensating the landlord for any fuel
47 price increases, but not required by the city, the agency or any grant-
48 ing government entity to be expended for fuel related repairs or
49 improvements.

50 ~~[(e)]~~ (m) (1) There has been an increase in heating and heating fuel
51 expenditures in a property resulting from a city-wide rise in heating
52 fuel costs such that the verifiable expenditures for heating or heating
53 fuel in a property for nineteen hundred seventy-four exceeds the verifi-
54 able expenditures for such heating or heating fuel during nineteen
55 hundred seventy-three.

(2) To obtain a rental adjustment pursuant to this subparagraph ~~[(e)]~~, the landlord must certify that he or she is presently maintaining all essential services required to be furnished with respect to the housing accommodations covered by such certification, and that he or she will continue to so maintain such essential services for the period of any such adjustment.

(3) To obtain a rental adjustment pursuant to this subparagraph ~~[(e)]~~, the landlord must certify on information and belief that he or she will not be earning an amount in excess of the statutory return specified in subparagraph (a) of this paragraph ~~[one of subdivision g of this section]~~ after collection of such rental adjustment, with respect to the building or buildings serviced by a single heating plant; and where the building, or buildings serviced by a single heating plant, contains forty-nine or fewer housing accommodations, the landlord must certify that the amount expended directly for heating or heating fuel in nineteen hundred seventy-four equalled or exceeded ten per cent of the total rental income which was derived from the property during nineteen hundred seventy-four; and, where the building, or buildings serviced by a single heating plant, contains fifty or more housing accommodations the landlord must certify that the amount expended directly for heating or heating fuel in nineteen hundred seventy-four equalled or exceeded seven and one-half percentum of the total rental income which was derived from the property during nineteen hundred seventy-four.

(4) The total rental adjustments for a property to be allocated or deemed allocated pursuant to this subparagraph ~~[(e)]~~ shall not exceed one-half of the gross amount by which the total verifiable expenditures for heating or heating fuel for nineteen hundred seventy-four exceeds the total verifiable expenditures for such heating or heating fuel for nineteen hundred seventy-three.

(5) Such total rental adjustments shall be allocated or deemed allocated pursuant to this subparagraph ~~[(e)]~~ to all housing accommodations subject to this chapter, to all other housing accommodations, and to all commercial, professional and similar facilities in or associated with the property in a manner to be determined by the agency. In no event shall any adjustment in maximum rent pursuant to this subparagraph ~~[(e)]~~ for any housing accommodations subject to this chapter exceed a monthly increase of two dollars per room, as defined by item eight below. In any apartment containing five or more rooms, any increase shall not exceed the total of nine dollars.

(6) Any adjustment pursuant to this subparagraph ~~[(e)]~~ shall be effective for all or part of the period July first, nineteen hundred seventy-five through June thirtieth, nineteen hundred seventy-six. Any adjustment pursuant to this subparagraph shall automatically expire no later than June thirtieth, nineteen hundred seventy-six.

(7) The rental increases provided for herein shall be effective and collectible upon the landlord's filing a report with the agency on forms prescribed by the agency and upon giving such notice to the tenants as the agency shall prescribe, subject to adjustments upon order of the agency.

(8) In determining the amount of an adjustment allocation of an adjustment pursuant to this subparagraph ~~[(e)]~~, only living rooms, kitchens over fifty-nine square feet in area, dining rooms and bedrooms shall be considered rooms; bathrooms, foyers, and kitchenettes shall not be considered rooms.

§ 9. Subdivision a of section 26-407 of the administrative code of the city of New York is amended to read as follows:

1 a. Notwithstanding any provisions of this chapter, any labor cost
2 pass-along rent increase requested of, or received from, any tenant on
3 or after July first, nineteen hundred seventy-two, pursuant to the
4 provisions of subparagraph ~~[(1)]~~ (j) of paragraph one of subdivision g
5 of section 26-405 of this ~~[title]~~ chapter, shall not exceed the maximum
6 rent adjustment as provided under this chapter after the effective date
7 of this section.

8 § 10. Paragraphs 5-a and 6 of subdivision c of section 26-511 of the
9 administrative code of the city of New York, paragraph 5-a as amended by
10 section 16-a and paragraph 6 as amended by section 29 of part A of chap-
11 ter 20 of the laws of 2015, are amended to read as follows:

12 (5-a) provides that, notwithstanding any provision of this chapter,
13 the legal regulated rent for any vacancy lease entered into after the
14 effective date of this paragraph shall be as hereinafter provided in
15 this paragraph. The previous legal regulated rent for such housing
16 accommodation shall be increased by the following: (i) if the vacancy
17 lease is for a term of two years, twenty percent of the previous legal
18 regulated rent; or (ii) if the vacancy lease is for a term of one year
19 the increase shall be twenty percent of the previous legal regulated
20 rent less an amount equal to the difference between (a) the two year
21 renewal lease guideline promulgated by the guidelines board of the city
22 of New York applied to the previous legal regulated rent and (b) the one
23 year renewal lease guideline promulgated by the guidelines board of the
24 city of New York applied to the previous legal regulated rent. However,
25 where the amount charged and paid by the prior tenant pursuant to para-
26 graph fourteen of this subdivision, was less than the legal regulated
27 rent, such increase to the legal regulated rent shall not exceed: five
28 percent of the previous legal regulated rent if the last vacancy lease
29 commenced less than two years ago; ten percent of the previous legal
30 regulated rent if the last vacancy lease commenced less than three years
31 ago; fifteen percent of the previous legal regulated rent if the last
32 vacancy lease commenced less than four years ago; twenty percent of the
33 previous legal regulated rent if the last vacancy lease commenced four
34 or more years ago. In addition, if the legal regulated rent was not
35 increased with respect to such housing accommodation by a permanent
36 vacancy allowance within eight years prior to a vacancy lease executed
37 on or after the effective date of this paragraph, the legal regulated
38 rent may be further increased by an amount equal to the product result-
39 ing from multiplying such previous legal regulated rent by six-tenths of
40 one percent and further multiplying the amount of rent increase result-
41 ing therefrom by the greater of (A) the number of years since the im-
42 position of the last permanent vacancy allowance, or (B) if the rent was
43 not increased by a permanent vacancy allowance since the housing accom-
44 modation became subject to this chapter, the number of years that such
45 housing accommodation has been subject to this chapter. Provided that if
46 the previous legal regulated rent was less than three hundred dollars
47 the total increase shall be as calculated above plus one hundred dollars
48 per month. Provided, further, that if the previous legal regulated rent
49 was at least three hundred dollars and no more than five hundred dollars
50 in no event shall the total increase pursuant to this paragraph be less
51 than one hundred dollars per month. Such increase shall be in lieu of
52 any allowance authorized for the one or two year renewal component ther-
53 eof, but shall be in addition to any other increases authorized pursuant
54 to this chapter including an adjustment based upon ~~[a major capital~~
55 ~~improvement, or]~~ a substantial modification or increase of dwelling
56 space or services, or installation of new equipment or improvements or

1 new furniture or furnishings provided in or to the housing accommodation
2 pursuant to this section. The increase authorized in this paragraph may
3 not be implemented more than one time in any calendar year, notwith-
4 standing the number of vacancy leases entered into in such year.

5 (6) provides criteria whereby the commissioner may act upon applica-
6 tions by owners for increases in excess of the level of fair rent
7 increase established under this law provided, however, that such crite-
8 ria shall provide ~~[(a)]~~, as to hardship applications, for a finding that
9 the level of fair rent increase is not sufficient to enable the owner to
10 maintain approximately the same average annual net income (which shall
11 be computed without regard to debt service, financing costs or manage-
12 ment fees) for the three year period ending on or within six months of
13 the date of an application pursuant to such criteria as compared with
14 annual net income, which prevailed on the average over the period nine-
15 teen hundred sixty-eight through nineteen hundred seventy, or for the
16 first three years of operation if the building was completed since nine-
17 teen hundred sixty-eight or for the first three fiscal years after a
18 transfer of title to a new owner provided the new owner can establish to
19 the satisfaction of the commissioner that he or she acquired title to
20 the building as a result of a bona fide sale of the entire building and
21 that the new owner is unable to obtain requisite records for the fiscal
22 years nineteen hundred sixty-eight through nineteen hundred seventy
23 despite diligent efforts to obtain same from predecessors in title and
24 further provided that the new owner can provide financial data covering
25 a minimum of six years under his or her continuous and uninterrupted
26 operation of the building to meet the three year to three year compar-
27 ative test periods herein provided~~[, and (b) as to completed building-~~
28 ~~wide major capital improvements, for a finding that such improvements~~
29 ~~are deemed depreciable under the Internal Revenue Code and that the cost~~
30 ~~is to be amortized over an eight year period for a building with thir-~~
31 ~~ty five or fewer housing accommodations, or a nine year period for a~~
32 ~~building with more than thirty five housing accommodations, for any~~
33 ~~determination issued by the division of housing and community renewal~~
34 ~~after the effective date of the rent act of 2015, based upon cash~~
35 ~~purchase price exclusive of interest or service charges]~~. Notwithstand-
36 ing anything to the contrary contained herein, no hardship increase
37 granted pursuant to this paragraph shall, when added to the annual gross
38 rents, as determined by the commissioner, exceed the sum of, (i) the
39 annual operating expenses, (ii) an allowance for management services as
40 determined by the commissioner, (iii) actual annual mortgage debt
41 service (interest and amortization) on its indebtedness to a lending
42 institution, an insurance company, a retirement fund or welfare fund
43 which is operated under the supervision of the banking or insurance laws
44 of the state of New York or the United States, and (iv) eight and one-
45 half percent of that portion of the fair market value of the property
46 which exceeds the unpaid principal amount of the mortgage indebtedness
47 referred to in subparagraph (iii) of this paragraph. Fair market value
48 for the purposes of this paragraph shall be six times the annual gross
49 rent. The collection of any increase in the stabilized rent for any
50 apartment pursuant to this paragraph shall not exceed six percent in any
51 year from the effective date of the order granting the increase over the
52 rent set forth in the schedule of gross rents, with collectability of
53 any dollar excess above said sum to be spread forward in similar incre-
54 ments and added to the stabilized rent as established or set in future
55 years;

§ 11. Subdivision f of section 26-512 of the administrative code of the city of New York, as added by chapter 116 of the laws of 1997, is amended to read as follows:

f. Notwithstanding any provision of this law to the contrary in the case where all tenants named in a lease have permanently vacated a housing accommodation and a family member of such tenant or tenants is entitled to and executes a renewal lease for the housing accommodation if such accommodation continues to be subject to this law after such family member vacates, on the occurrence of such vacancy the legal regulated rent shall be increased by a sum equal to the allowance then in effect for vacancy leases, including the amount allowed by paragraph [~~five-a~~] **five-a** of subdivision c of section 26-511 of this law. Such increase shall be in addition to any other increases provided for in this law including an adjustment based upon [~~a major capital improvement, or~~] a substantial modification or increase of dwelling space or services, or installation of new equipment or improvements or new furniture or furnishings provided in or to the housing accommodation pursuant to section 26-511 of this law and shall be applicable in like manner to each second subsequent succession.

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

(a) the amendments to sections 4 and 5 of the emergency housing rent control law made by section three 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;

(b) the amendments to sections 6 and 10 of the emergency tenant protection act of nineteen seventy-four made by sections four and five 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;

(c) the amendments to sections 26-403.2, 26-405 and 26-407 of the city rent and rehabilitation law made by sections six, seven, eight and nine 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;

(d) that the amendments to section 26-511 of chapter 4 of title 26 of the administrative code of the city of New York made by section ten 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;

(e) the amendments to section 26-512 of chapter 4 of title 26 of the administrative code of the city of New York made by section eleven 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; and

(f) effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.