

STATE OF NEW YORK

7370

2019-2020 Regular Sessions

IN ASSEMBLY

April 26, 2019

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

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 limiting the improvements that are eligible for a major capital improvement rent increase

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 period for buildings with more than ~~thirty-five~~ thirty-five units, provided, however, a major capital improvement rent increase shall not be approved by the division of housing and community renewal for the following improvements: installation of aluminum siding, enlargement or construction of a boiler room, replacement of a catwalk, installation or replacement of a chimney, replacement of fire escapes including landings, replacement of parapets, pointing and waterproofing on exposed sides of a building, resurfacing of exterior walls including brick or masonry work, installation of new solar heating systems, replacement of structural steel beams including footing and foundation, installation of new security monitoring systems, installation of waste compactor serving

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

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1 an entire building, construction of a waste compactor room or installa-
2 tion of new water tanks; 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. A major capi-
37 tal improvement rent increase shall not be approved by the division of
38 housing and community renewal for the following improvements: installa-
39 tion of aluminum siding, enlargement or construction of a boiler room,
40 replacement of a catwalk, installation or replacement of a chimney,
41 replacement of fire escapes including landings, replacement of parapets,
42 pointing and waterproofing on exposed sides of a building, resurfacing
43 of exterior walls including brick or masonry work, installation of new
44 solar heating systems, replacement of structural steel beams including
45 footing and foundation, installation of new security monitoring systems,
46 installation of waste compactor serving an entire building, construction
47 of a waste compactor room or installation of new water tanks. Notwith-
48 standing anything to the contrary contained herein, no hardship increase
49 granted pursuant to this paragraph shall, when added to the annual gross
50 rents, as determined by the commissioner, exceed the sum of, (i) the
51 annual operating expenses, (ii) an allowance for management services as
52 determined by the commissioner, (iii) actual annual mortgage debt
53 service (interest and amortization) on its indebtedness to a lending
54 institution, an insurance company, a retirement fund or welfare fund
55 which is operated under the supervision of the banking or insurance laws
56 of the state of New York or the United States, and (iv) eight and one-

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

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

16 (3) there has been since January first, nineteen hundred seventy-four
17 a major capital improvement required for the operation, preservation or
18 maintenance of the structure. An adjustment under this paragraph shall
19 be in an amount sufficient to amortize the cost of the improvements
20 pursuant to this paragraph over an eight-year period for a building with
21 thirty-five or fewer housing accommodations, or a nine-year period for a
22 building with more than thirty-five housing accommodations, for any
23 determination issued by the division of housing and community renewal
24 after the effective date of the rent act of 2015, provided, however, a
25 major capital improvement rent increase shall not be approved by the
26 division of housing and community renewal for the following improve-
27 ments: installation of aluminum siding, enlargement or construction of a
28 boiler room, replacement of a catwalk, installation or replacement of a
29 chimney, replacement of fire escapes including landings, replacement of
30 parapets, pointing and waterproofing on exposed sides of a building,
31 resurfacing of exterior walls including brick or masonry work, installa-
32 tion of new solar heating systems, replacement of structural steel beams
33 including footing and foundation, installation of new security monitor-
34 ing systems, installation of waste compactor serving an entire building,
35 construction of a waste compactor room or installation of new water
36 tanks, or

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

42 (7) there has been since March first, nineteen hundred fifty, a major
43 capital improvement required for the operation, preservation or mainte-
44 nance of the structure; which for any order of the commissioner issued
45 after the effective date of the rent act of 2015 the cost of such
46 improvement shall be amortized over an eight-year period for buildings
47 with thirty-five or fewer units or a nine year period for buildings with
48 more than [~~thirty-five~~] thirty-five units, provided, however, a major
49 capital improvement rent increase shall not be approved by the division
50 of housing and community renewal for the following improvements: instal-
51 lation of aluminum siding, enlargement or construction of a boiler room,
52 replacement of a catwalk, installation or replacement of a chimney,
53 replacement of fire escapes including landings, replacement of parapets,
54 pointing and waterproofing on exposed sides of a building, resurfacing
55 of exterior walls including brick or masonry work, installation of new
56 solar heating systems, replacement of structural steel beams including

1 footing and foundation, installation of new security monitoring systems,
2 installation of waste compactor serving an entire building, construction
3 of a waste compactor room or installation of new water tanks, or

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

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

11 (b) the amendments to section 26-511 of the rent stabilization law of
12 nineteen hundred sixty-nine made by section two of this act shall expire
13 on the same date as such law expires and shall not affect the expiration
14 of such law as provided under section 26-520 of such law, as from time
15 to time amended;

16 (c) the amendments to section 6 of the emergency tenant protection act
17 of nineteen seventy-four made by section three of this act shall expire
18 on the same date as such act expires and shall not affect the expiration
19 of such act as provided in section 17 of chapter 576 of the laws of
20 1974, as from time to time amended; and

21 (d) the amendments to section 4 of the emergency housing rent control
22 law made by section four of this act shall expire on the same date as
23 such law expires and shall not affect the expiration of such law as
24 provided in subdivision 2 of section 1 of chapter 274 of the laws of
25 1946.