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:

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

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

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

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

§ 3. The second undesignated paragraph of paragraph (a) of subdivision 4 of section 4 of chapter 274 of the laws of 1946, constituting the emergency housing rent control law, as amended by section 25 of part B 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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32 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

No application for adjustment of maximum rent based upon a sales price valuation shall be filed by the landlord under this subparagraph prior to six months from the date of such sale of the property. In addition, no adjustment ordered by the commission based upon such sales price valuation shall be effective prior to one year from the date of such sale. Where, however, the assessed valuation of the land exceeds four times the assessed valuation of the buildings thereon, the commission may determine a valuation of the property equal to five times the equalized assessed valuation of the buildings, for the purposes of this subparagraph. The commission may make a determination that the valuation of the property is an amount different from such equalized assessed valuation where there is a request for a reduction in such assessed valuation currently pending; or where there has been a reduction in the assessed valuation for the year next preceding the effective date of the current assessed valuation in effect at the time of the filing of the application. Net annual return shall be the amount by which the earned income exceeds the operating expenses of the property, excluding mortgage interest and amortization, and excluding allowances for obsolescence and reserves, but including an allowance for depreciation of two per centum of the value of the buildings exclusive of the land, or the amount shown for depreciation of the buildings in the latest required federal income tax return, whichever is lower; provided, however, that (1) no allowance for depreciation of the buildings shall be included where the buildings have been fully depreciated for federal income tax purposes or on the books of the owner; or (2) the landlord who owns no more than four rental units within the state has not been fully compensated by increases in rental income sufficient to offset unavoidable increases in property taxes, fuel, utilities, insurance and repairs and maintenance, excluding mortgage interest and amortization, and excluding allowances for depreciation, obsolescence and reserves, which have occurred since the federal date determining the maximum rent or the date the property was acquired by the present owner, whichever is later; or (3) the landlord operates a hotel or rooming house or owns a cooperative apartment and has not been fully compensated by increases in rental income from the controlled housing accommodations sufficient to offset unavoidable increases in property taxes and other costs as are allocable to such controlled housing accommodations, including costs of operation of such hotel or rooming house, but excluding mortgage interest and amortization, and excluding allowances for depreciation, obsolescence and reserves, which have occurred since the federal date determining the maximum rent or the date the landlord commenced the operation of the property, whichever is later; or (4) the landlord and tenant voluntarily enter into a valid written lease in good faith with respect to any housing accommodation, which lease provides for an increase in the maximum rent not in excess of fifteen per centum and for a term of not less than two years, except that where such lease provides for an increase in excess of fifteen per centum, the increase shall be automatically reduced to fifteen per centum; or (5) the landlord and tenant by mutual voluntary written agreement agree to a substantial increase or decrease in dwelling space or a change in the services, furniture, furnishings or equipment provided in the housing accommodations; provided that an owner shall be entitled to a rent increase where there has been a substantial modification or increase of dwelling space or an increase in the services, or installation of new

equipment or improvements or new furniture or furnishings provided in or to a tenant's housing accommodation. The permanent increase in the maximum rent for the affected housing accommodation shall be one-fortieth, in the case of a building with thirty-five or fewer housing accommodations, or one-sixtieth, in the case of a building with more than thirty-five housing accommodations where such permanent increase takes effect on or after September twenty-fourth, two thousand eleven, of the total cost incurred by the landlord in providing such modification or increase in dwelling space, services, furniture, furnishings or equipment, including the cost of installation, but excluding finance charges provided further that an owner who is entitled to a rent increase pursuant to this clause shall not be entitled to a further rent increase based upon the installation of similar equipment, or new furniture or furnishings within the useful life of such new equipment, or new furniture or furnishings. The owner shall give written notice to the commission of any such adjustment pursuant to this clause; or (6) there has been, since March first, nineteen hundred fifty, an increase in the rental value of the housing accommodations as a result of a substantial rehabilitation of the building or housing accommodation therein which materially adds to the value of the property or appreciably prolongs its life, excluding ordinary repairs, maintenance and replacements; or (7) there has been since March first, nineteen hundred fifty, a major capital improvement required for the operation, preservation or maintenance of the structure; which for any order of the commissioner issued after the effective date of the rent act of 2015 the cost of such improvement shall be amortized over an eight-year period for buildings with thirty-five or fewer units or a nine year period for buildings with more than [~~thiry-five~~] **thirty-five** units, or (8) there has been since March first, nineteen hundred fifty, 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 no adjustment granted hereunder shall exceed fifteen per centum unless the tenants have agreed to a higher percentage of increase, as herein provided; or (9) there has been, since March first, nineteen hundred fifty, 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 commission or pursuant to the federal act; or (10) the presence of unique or peculiar circumstances materially affecting the maximum rent has resulted in a maximum rent which is substantially lower than the rents generally prevailing in the same area for substantially similar housing accommodations**; or (11) notwithstanding any provision of law or rule or regulation to the contrary, any adjustment in the legal regulated rent based upon a major capital improvement shall be effective upon approval of the application therefor. No increase may be collected for the period of time prior to the date of approval of the application**.

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

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

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

a. the amendments to section 4 of the emergency tenant protection act of nineteen seventy-four made by section one 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;

b. 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 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;

c. the amendments to section 4 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; and

d. the amendments to section 26-405 of the city rent and rehabilitation law made by section four 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.