

# STATE OF NEW YORK

4818

2019-2020 Regular Sessions

## IN SENATE

March 26, 2019

Introduced by Sens. PARKER, 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 the administrative code of the city of New York and the  
emergency tenant protection act of nineteen seventy-four, in relation  
to inspection of major capital improvements for which rent increases  
are requested and in relation to extending the provisions of the rent  
stabilization law

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

1 Section 1. Subparagraph (g) of paragraph 1 of subdivision g of section  
2 26-405 of the administrative code of the city of New York, as amended by  
3 section 31 of part A of chapter 20 of the laws of 2015, is amended to  
4 read as follows:

5 (g) There has been since July first, nineteen hundred seventy, a major  
6 capital improvement required for the operation, preservation or mainte-  
7 nance of the structure. An adjustment under this subparagraph [~~g~~] for  
8 any order of the commissioner issued after the effective date of the  
9 rent act of 2015 shall be in an amount sufficient to amortize the cost  
10 of the improvements pursuant to this subparagraph [~~g~~] over an eight-  
11 year period for buildings with thirty-five or fewer units or a nine year  
12 period for buildings with more than [~~thirty-five~~] thirty-five units[~~7~~  
13 ~~or~~]. No landlord shall deny access to a professional engineer licensed  
14 to practice in the state of New York or a registered architect licensed  
15 to practice in the state of New York hired by any tenant, tenants or  
16 tenant association representing tenants of a multiple dwelling of six  
17 units or more for the purpose of conducting an inspection of a major  
18 capital improvement for which an application for adjustment of maximum  
19 rent has been filed. Such inspection shall be conducted after notice to  
20 the landlord and during normal business hours. Such tenant may file the

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

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1 report of the inspection with the city rent agency for consideration in  
2 the determination of such application; 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. No landlord  
37 shall deny access to a professional engineer licensed to practice in the  
38 state of New York or a registered architect licensed to practice in the  
39 state of New York hired by any tenant, tenants or tenant association  
40 representing tenants of a multiple dwelling of six units or more for the  
41 purpose of conducting an inspection of a major capital improvement for  
42 which an application for adjustment of maximum rent has been filed. Such  
43 inspection shall be conducted after notice to the landlord and during  
44 normal business hours. Such tenant may file the report of the inspection  
45 with the city rent agency for consideration in the determination of such  
46 application.

47 Notwithstanding anything to the contrary contained herein,  
48 no hardship increase granted pursuant to this paragraph shall, when  
49 added to the annual gross rents, as determined by the commissioner,  
50 exceed the sum of, (i) the annual operating expenses, (ii) an allowance  
51 for management services as determined by the commissioner, (iii) actual  
52 annual mortgage debt service (interest and amortization) on its indebt-  
53 edness to a lending institution, an insurance company, a retirement fund  
54 or welfare fund which is operated under the supervision of the banking  
55 or insurance laws of the state of New York or the United States, and  
56 (iv) eight and one-half percent of that portion of the fair market value  
of the property which exceeds the unpaid principal amount of the mort-

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

10 § 3. Paragraph 3 of subdivision d of section 6 of section 4 of chapter  
11 576 of the laws of 1974, constituting the emergency tenant protection  
12 act of nineteen seventy-four, as amended by section 30 of part A of  
13 chapter 20 of the laws of 2015, is amended to read as follows:

14 (3) there has been since January first, nineteen hundred seventy-four  
15 a major capital improvement required for the operation, preservation or  
16 maintenance of the structure. An adjustment under this paragraph shall  
17 be in an amount sufficient to amortize the cost of the improvements  
18 pursuant to this paragraph over an eight-year period for a building with  
19 thirty-five or fewer housing accommodations, or a nine-year period for a  
20 building with more than thirty-five housing accommodations, for any  
21 determination issued by the division of housing and community renewal  
22 after the effective date of the rent act of 2015[~~7-05~~]. No landlord  
23 shall deny access to a professional engineer licensed to practice in the  
24 state of New York or a registered architect licensed to practice in the  
25 state of New York hired by any tenant, tenants or tenant association  
26 representing tenants of a multiple dwelling of six units or more for the  
27 purpose of conducting an inspection of a major capital improvement for  
28 which an application for adjustment of maximum rent has been filed. Such  
29 inspection shall be conducted after notice to the landlord and during  
30 normal business hours. Such tenant may file the report of the inspection  
31 with the city rent agency for consideration in the determination of such  
32 application, or

33 § 4. This act shall take effect on the one hundred twentieth day after  
34 it shall have become a law, except that any rules and regulations neces-  
35 sary for the timely implementation of this act on its effective date  
36 shall be promulgated on or before such date; provided that the amendment  
37 to section 26-405 of the city rent and rehabilitation law made by  
38 section one of this act shall remain in full force and effect only so  
39 long as the public emergency requiring the regulation and control of  
40 residential rents and evictions continues, as provided in subdivision 3  
41 of section 1 of the local emergency housing rent control act and  
42 provided further that the amendment to section 26-511 of the rent  
43 stabilization law of nineteen hundred sixty-nine made by section two of  
44 this act shall expire on the same date as such law expires and shall not  
45 affect the expiration of such law as provided under section 26-520 of  
46 such law and provided further that the amendment to section 6 of the  
47 emergency tenant protection act of nineteen seventy-four made by section  
48 three of this act shall expire on the same date as such act expires and  
49 shall not affect the expiration of such act as provided in section 17 of  
50 chapter 576 of the laws of 1974, as amended.