

STATE OF NEW YORK

5238

2019-2020 Regular Sessions

IN SENATE

April 17, 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, in relation to rent adjustments for major capital improvements

The People of the State of New York, represented in Senate and Assembly, 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~~
12 ~~year~~] nine-year period for buildings with more than thirty-five
13 units[~~7~~]. A rent adjustment for a major capital improvement may only be
14 granted if the owner or agent of the subject building first applies for
15 and receives benefits pursuant to section 11-243 of this code for the
16 building for which they are seeking a major capital improvement for,
17 provided, however, an owner or agent of the subject building that is
18 denied benefits pursuant to section 11-243 of this code for reasons
19 unrelated to an untimely or improperly completed application shall still
20 be eligible to receive a rent adjustment for a major capital improve-
21 ment; or

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

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

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1 (6) provides criteria whereby the commissioner may act upon applica-
2 tions by owners for increases in excess of the level of fair rent
3 increase established under this law provided, however, that such crite-
4 ria shall provide (a) as to hardship applications, for a finding that
5 the level of fair rent increase is not sufficient to enable the owner to
6 maintain approximately the same average annual net income (which shall
7 be computed without regard to debt service, financing costs or manage-
8 ment fees) for the three year period ending on or within six months of
9 the date of an application pursuant to such criteria as compared with
10 annual net income, which prevailed on the average over the period nine-
11 teen hundred sixty-eight through nineteen hundred seventy, or for the
12 first three years of operation if the building was completed since nine-
13 teen hundred sixty-eight or for the first three fiscal years after a
14 transfer of title to a new owner provided the new owner can establish to
15 the satisfaction of the commissioner that he or she acquired title to
16 the building as a result of a bona fide sale of the entire building and
17 that the new owner is unable to obtain requisite records for the fiscal
18 years nineteen hundred sixty-eight through nineteen hundred seventy
19 despite diligent efforts to obtain same from predecessors in title and
20 further provided that the new owner can provide financial data covering
21 a minimum of six years under his or her continuous and uninterrupted
22 operation of the building to meet the three year to three year compar-
23 ative test periods herein provided; and (b) as to completed building-
24 wide major capital improvements, for a finding that such improvements
25 are deemed depreciable under the Internal Revenue Code and that the cost
26 is to be amortized over an eight-year period for a building with thir-
27 ty-five or fewer housing accommodations, or a nine-year period for a
28 building with more than thirty-five housing accommodations, for any
29 determination issued by the division of housing and community renewal
30 after the effective date of the rent act of 2015, based upon cash
31 purchase price exclusive of interest or service charges. A rent adjust-
32 ment for a major capital improvement may only be granted if the owner or
33 agent of the subject building first applies for and receives benefits
34 pursuant to section 11-243 of this code for the building for which they
35 are seeking a major capital improvement for, provided, however, an owner
36 or agent of the subject building that is denied benefits pursuant to
37 section 11-243 of this code for reasons unrelated to an untimely or
38 improperly completed application shall still be eligible to receive a
39 rent adjustment for a major capital improvement. Notwithstanding
40 anything to the contrary contained herein, no hardship increase granted
41 pursuant to this paragraph shall, when added to the annual gross rents,
42 as determined by the commissioner, exceed the sum of, (i) the annual
43 operating expenses, (ii) an allowance for management services as deter-
44 mined by the commissioner, (iii) actual annual mortgage debt service
45 (interest and amortization) on its indebtedness to a lending institu-
46 tion, an insurance company, a retirement fund or welfare fund which is
47 operated under the supervision of the banking or insurance laws of the
48 state of New York or the United States, and (iv) eight and one-half
49 percent of that portion of the fair market value of the property which
50 exceeds the unpaid principal amount of the mortgage indebtedness
51 referred to in subparagraph (iii) of this paragraph. Fair market value
52 for the purposes of this paragraph shall be six times the annual gross
53 rent. The collection of any increase in the stabilized rent for any
54 apartment pursuant to this paragraph shall not exceed six percent in any
55 year from the effective date of the order granting the increase over the
56 rent set forth in the schedule of gross rents, with collectability of

1 any dollar excess above said sum to be spread forward in similar incre-
2 ments and added to the stabilized rent as established or set in future
3 years;

4 § 3. This act shall take effect immediately, provided, however that
5 the amendments to section 26-405 of the city rent and rehabilitation law
6 made by section one of this act shall remain in full force and effect
7 only so long as the public emergency requiring the regulation and
8 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; and provided, further, that the amendments to section 26-511 of the
11 rent stabilization law of nineteen hundred sixty-nine made by section
12 two of this act shall expire on the same date as such law expires and
13 shall not affect the expiration of such law as provided under section
14 26-520 of such law, as from time to time amended; and provided, further,
15 that the provisions of sections one and two of this act shall only apply
16 to those buildings that commence work on a major capital improvement 45
17 days or later than the effective date of this act.