

STATE OF NEW YORK

5680

2019-2020 Regular Sessions

IN SENATE

May 10, 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, the emergency tenant protection act of nineteen seventy-four and the emergency housing rent control law, in relation to the amount of time to submit supporting documentation for major capital improvements

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

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

4 (g-1) No increase for major capital improvements shall be granted to
5 any landlord or property owner, unless an application including all
6 necessary documentation are submitted within one hundred twenty days
7 after the completion of the new installation or improvement or improve-
8 ments.

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

12 (6) provides criteria whereby the commissioner may act upon applica-
13 tions by owners for increases in excess of the level of fair rent
14 increase established under this law provided, however, that such crite-
15 ria shall provide (a) as to hardship applications, for a finding that
16 the level of fair rent increase is not sufficient to enable the owner to
17 maintain approximately the same average annual net income (which shall
18 be computed without regard to debt service, financing costs or manage-
19 ment fees) for the three year period ending on or within six months of
20 the date of an application pursuant to such criteria as compared with
21 annual net income, which prevailed on the average over the period nine-
22 teen hundred sixty-eight through nineteen hundred seventy, or for the

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

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1 first three years of operation if the building was completed since nine-
2 teen hundred sixty-eight or for the first three fiscal years after a
3 transfer of title to a new owner provided the new owner can establish to
4 the satisfaction of the commissioner that he or she acquired title to
5 the building as a result of a bona fide sale of the entire building and
6 that the new owner is unable to obtain requisite records for the fiscal
7 years nineteen hundred sixty-eight through nineteen hundred seventy
8 despite diligent efforts to obtain same from predecessors in title and
9 further provided that the new owner can provide financial data covering
10 a minimum of six years under his or her continuous and uninterrupted
11 operation of the building to meet the three year to three year compar-
12 ative test periods herein provided; and (b) as to completed building-
13 wide major capital improvements, for a finding that such improvements
14 are deemed depreciable under the Internal Revenue Code and that the cost
15 is to be amortized over an eight-year period for a building with thir-
16 ty-five or fewer housing accommodations, or a nine-year period for a
17 building with more than thirty-five housing accommodations, for any
18 determination issued by the division of housing and community renewal
19 after the effective date of the rent act of 2015, based upon cash
20 purchase price exclusive of interest or service charges. Notwithstand-
21 ing anything to the contrary contained herein, no hardship increase
22 granted pursuant to this paragraph shall, when added to the annual gross
23 rents, as determined by the commissioner, exceed the sum of, (i) the
24 annual operating expenses, (ii) an allowance for management services as
25 determined by the commissioner, (iii) actual annual mortgage debt
26 service (interest and amortization) on its indebtedness to a lending
27 institution, an insurance company, a retirement fund or welfare fund
28 which is operated under the supervision of the banking or insurance laws
29 of the state of New York or the United States, and (iv) eight and one-
30 half percent of that portion of the fair market value of the property
31 which exceeds the unpaid principal amount of the mortgage indebtedness
32 referred to in subparagraph (iii) of this paragraph. Fair market value
33 for the purposes of this paragraph shall be six times the annual gross
34 rent. The collection of any increase in the stabilized rent for any
35 apartment pursuant to this paragraph shall not exceed six percent in any
36 year from the effective date of the order granting the increase over the
37 rent set forth in the schedule of gross rents, with collectability of
38 any dollar excess above said sum to be spread forward in similar incre-
39 ments and added to the stabilized rent as established or set in future
40 years. No increase for major capital improvements shall be granted to
41 any landlord or property owner, unless an application including all
42 necessary documentation is submitted within one hundred twenty days
43 after the completion of the new installation or improvement or improve-
44 ments;

45 § 3. Subdivision b of section 4 of chapter 576 of the laws of 1974,
46 constituting the emergency tenant protection act of nineteen seventy-
47 four, is amended by adding a new paragraph 3-a to read as follows:

48 (3-a) no increase for major capital improvements shall be granted to
49 any landlord or property owner, unless an application including all
50 necessary documentation is submitted within one hundred twenty days
51 after the completion of the new installation or improvement or improve-
52 ments;

53 § 4. Subparagraph 7 of the second undesignated paragraph of paragraph
54 (a) of subdivision 4 of section 4 of chapter 274 of the laws of 1946,
55 constituting the emergency housing rent control law, as amended by

1 section 32 of part A of chapter 20 of the laws of 2015, is amended to
2 read as follows:

3 (7) there has been since March first, nineteen hundred fifty, a major
4 capital improvement required for the operation, preservation or mainte-
5 nance of the structure; which for any order of the commissioner issued
6 after the effective date of the rent act of 2015 the cost of such
7 improvement shall be amortized over an eight-year period for buildings
8 with thirty-five or fewer units or a nine year period for buildings with
9 more than [~~thiry-five~~] thirty-five units. No increase for major capital
10 improvements shall be granted to any landlord or property owner, unless
11 an application including all necessary documentation is submitted within
12 one hundred twenty days after the completion of the new installation or
13 improvement or improvements, or

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

15 a. the amendments to section 26-405 of the city rent and rehabili-
16 tation law made by section one of this act shall remain in full force
17 and effect only as long as the public emergency requiring the regulation
18 and control of residential rents and evictions continues, as provided in
19 subdivision 3 of section 1 of the local emergency housing rent control
20 act;

21 b. the amendments to section 26-511 of the administrative code of the
22 city of New York made by section two of this act shall not affect the
23 expiration of such section and shall be deemed to expire therewith;

24 c. the amendments to section 4 of the emergency tenant protection act
25 of nineteen seventy-four made by section three of this act shall expire
26 on the same date as such act expires and shall not affect the expiration
27 of such act as provided in section 17 of chapter 576 of the laws of
28 1974; and

29 d. the amendments to section 4 of the emergency housing rent control
30 law made by section four of this act shall expire on the same date as
31 such law expires and shall not affect the expiration of such law as
32 provided in subdivision 2 of section 1 of chapter 274 of the laws of
33 1946.