

STATE OF NEW YORK

3974

2021-2022 Regular Sessions

IN ASSEMBLY

January 29, 2021

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

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 27 of part Q chapter 39 of the laws of 2019, is amended to read
4 as follows:

5 (g) There has been since July first, nineteen hundred seventy, a major
6 capital improvement essential for the preservation energy efficiency,
7 functionality, or infrastructure of the entire building, improvement of
8 the structure including heating, windows, plumbing and roofing but shall
9 not be for operational costs or unnecessary cosmetic improvements. The
10 temporary increase based upon a major capital improvement under this
11 subparagraph for any order of the commissioner issued after ~~[the effec-~~
12 ~~tive date of the chapter of the laws of two thousand nineteen that~~
13 ~~amended this subparagraph]~~ June 14, 2014 shall be in an amount suffi-
14 cient to amortize the cost of the improvements pursuant to this subpara-
15 graph ~~[(g)]~~ over a twelve-year period for buildings with thirty-five or
16 fewer units or a twelve and one-half year period for buildings with more
17 than thirty-five units, and shall be removed from the legal regulated
18 rent thirty years from the date the increase became effective inclusive
19 of any increases granted by the applicable rent guidelines board. Tempo-
20 rary major capital improvement increases shall be collectible prospec-
21 tively on the first day of the first month beginning sixty days from the
22 date of mailing notice of approval to the tenant. Such notice shall

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

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1 disclose the total monthly increase in rent and the first month in which
2 the tenant would be required to pay the temporary increase. An approval
3 for a temporary major capital improvement increase shall not include
4 retroactive payments. The collection of any increase shall not exceed
5 two percent in any year from the effective date of the order granting
6 the increase over the rent set forth in the schedule of gross rents,
7 with collectability of any dollar excess above said sum to be spread
8 forward in similar increments and added to the rent as established or
9 set in future years. Upon vacancy, the landlord may add any remaining
10 balance of the temporary major capital improvement increase to the legal
11 regulated rent. No landlord shall deny access to a professional engi-
12 neer licensed to practice in the state of New York or a registered
13 architect licensed to practice in the state of New York hired by any
14 tenant, tenants or tenant association representing tenants of a multiple
15 dwelling of six units or more for the purpose of conducting an
16 inspection of a major capital improvement for which an application for
17 adjustment of maximum rent has been filed. Such inspection shall be
18 conducted after notice to the landlord and during normal business hours.
19 Such tenant may file the report of the inspection with the city rent
20 agency for consideration in the determination of such application.

21 Notwithstanding any other provision of the law, for any renewal lease
22 commencing on or after June 14, 2019, the collection of any rent
23 increases due to any major capital improvements approved on or after
24 June 16, 2012 and before June 16, 2019 shall not exceed two percent in
25 any year for any tenant in occupancy on the date the major capital
26 improvement was approved, or

27 § 2. Paragraph 6 of subdivision c of section 26-511 of the administra-
28 tive code of the city of New York, as separately amended by section 12
29 of part K of chapter 36 and section 28 of part Q of chapter 39 of the
30 laws of 2019, is amended to read as follows:

31 (6) provides criteria whereby the commissioner may act upon applica-
32 tions by owners for increases in excess of the level of fair rent
33 increase established under this law provided, however, that such crite-
34 ria shall provide (a) as to hardship applications, for a finding that
35 the level of fair rent increase is not sufficient to enable the owner to
36 maintain approximately the same average annual net income (which shall
37 be computed without regard to debt service, financing costs or manage-
38 ment fees) for the three year period ending on or within six months of
39 the date of an application pursuant to such criteria as compared with
40 annual net income, which prevailed on the average over the period nine-
41 teen hundred sixty-eight through nineteen hundred seventy, or for the
42 first three years of operation if the building was completed since nine-
43 teen hundred sixty-eight or for the first three fiscal years after a
44 transfer of title to a new owner provided the new owner can establish to
45 the satisfaction of the commissioner that he or she acquired title to
46 the building as a result of a bona fide sale of the entire building and
47 that the new owner is unable to obtain requisite records for the fiscal
48 years nineteen hundred sixty-eight through nineteen hundred seventy
49 despite diligent efforts to obtain same from predecessors in title and
50 further provided that the new owner can provide financial data covering
51 a minimum of six years under his or her continuous and uninterrupted
52 operation of the building to meet the three year to three year compar-
53 ative test periods herein provided; and (b) as to completed building-
54 wide major capital improvements, for a finding that such improvements
55 are deemed depreciable under the Internal Revenue Code and that the cost
56 is to be amortized over a twelve-year period for a building with thir-

ty-five or fewer housing accommodations, or a twelve and one-half-year period for a building with more than thirty-five housing accommodations, for any determination issued by the division of housing and community renewal after ~~[the effective date of the the chapter of the laws of two thousand nineteen that amended this paragraph]~~ June 14, 2019 and shall be removed from the legal regulated rent thirty years from the date the increase became effective inclusive of any increases granted by the applicable rent guidelines board. Temporary major capital improvement increases shall be collectible prospectively on the first day of the first month beginning sixty days from the date of mailing notice of approval to the tenant. Such notice shall disclose the total monthly increase in rent and the first month in which the tenant would be required to pay the temporary increase. An approval for a temporary major capital improvement increase shall not include retroactive payments. The collection of any increase shall not exceed two percent in any year from the effective date of the order granting the increase over the rent set forth in the schedule of gross rents, with collectability of any dollar excess above said sum to be spread forward in similar increments and added to the rent as established or set in future years. Upon vacancy, the landlord may add any remaining balance of the temporary major capital improvement increase to the legal regulated rent. No landlord shall deny access to a professional engineer licensed to practice in the state of New York or a registered architect licensed to practice in the state of New York hired by any tenant, tenants or tenant association representing tenants of a multiple dwelling of six units or more for the purpose of conducting an inspection of a major capital improvement for which an application for adjustment of maximum rent has been filed. Such inspection shall be conducted after notice to the landlord and during normal business hours. Such tenant may file the report of the inspection with the city rent agency for consideration in the determination of such application. Notwithstanding any other provision of the law, for any renewal lease commencing on or after June 14, 2019, the collection of any rent increases due to any major capital improvements approved on or after June 16, 2012 and before June 16, 2019 shall not exceed two percent in any year for any tenant in occupancy on the date the major capital improvement was approved or based upon cash purchase price exclusive of interest or service charges. Where an application for a temporary major capital improvement increase has been filed, a tenant shall have sixty days from the date of mailing of a notice of a proceeding in which to answer or reply. The state division of housing and community renewal shall provide any responding tenant with the reasons for the division's approval or denial of such application. Notwithstanding anything to the contrary contained herein, no hardship increase granted pursuant to this paragraph shall, when added to the annual gross rents, as determined by the commissioner, exceed the sum of, (i) the annual operating expenses, (ii) an allowance for management services as determined by the commissioner, (iii) actual annual mortgage debt service (interest and amortization) on its indebtedness to a lending institution, an insurance company, a retirement fund or welfare fund which is operated under the supervision of the banking or insurance laws of the state of New York or the United States, and (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 mortgage indebtedness referred to in subparagraph (iii) of this paragraph. Fair market value for the purposes of this paragraph shall be six times the annual gross rent. The collection of any increase in the stabilized rent

1 for any apartment pursuant to this paragraph shall not exceed six
2 percent in any year from the effective date of the order granting the
3 increase over the rent set forth in the schedule of gross rents, with
4 collectability of any dollar excess above said sum to be spread forward
5 in similar increments and added to the stabilized rent as established or
6 set in future years;

7 § 3. Paragraph 3 of subdivision d of section 6 of section 4 of chapter
8 576 of the laws of 1974, constituting the emergency tenant protection
9 act of nineteen seventy-four, as amended by section 26 of part Q of
10 chapter 39 of the laws of 2019, is amended to read as follows:

11 (3) there has been since January first, nineteen hundred seventy-four
12 a major capital improvement essential for the preservation, energy effi-
13 ciency, functionality, or infrastructure of the entire building,
14 improvement of the structure including heating, windows, plumbing and
15 roofing, but shall not be for operation costs or unnecessary cosmetic
16 improvements. An adjustment under this paragraph shall be in an amount
17 sufficient to amortize the cost of the improvements pursuant to this
18 paragraph over a twelve-year period for a building with thirty-five or
19 fewer housing accommodations, or a twelve and one-half period for a
20 building with more than thirty-five housing accommodations and shall be
21 removed from the legal regulated rent thirty years from the date the
22 increase became effective inclusive of any increases granted by the
23 applicable rent guidelines board, for any determination issued by the
24 division of housing and community renewal after [~~the effective date of~~
25 ~~the chapter of the laws of two thousand nineteen that amended this para-~~
26 ~~graph~~] June 14, 2019. Temporary major capital improvement increases
27 shall be collectable prospectively on the first day of the first month
28 beginning sixty days from the date of mailing notice of approval to the
29 tenant. Such notice shall disclose the total monthly increase in rent
30 and the first month in which the tenant would be required to pay the
31 temporary increase. An approval for a temporary major capital improve-
32 ment increase shall not include retroactive payments. The collection of
33 any increase shall not exceed two percent in any year from the effective
34 date of the order granting the increase over the rent set forth in the
35 schedule of gross rents, with collectability of any dollar excess above
36 said sum to be spread forward in similar increments and added to the
37 rent as established or set in future years. Upon vacancy, the landlord
38 may add any remaining balance of the temporary major capital improvement
39 increase to the legal regulated rent. No landlord shall deny access to
40 a professional engineer licensed to practice in the state of New York or
41 a registered architect licensed to practice in the state of New York
42 hired by any tenant, tenants or tenant association representing tenants
43 of a multiple dwelling of six units or more for the purpose of conduct-
44 ing an inspection of a major capital improvement for which an applica-
45 tion for adjustment of maximum rent has been filed. Such inspection
46 shall be conducted after notice to the landlord and during normal busi-
47 ness hours. Such tenant may file the report of the inspection with the
48 city rent agency for consideration in the determination of such applica-
49 tion. Notwithstanding any other provision of the law, the collection of
50 any rent increases for any renewal lease commencing on or after June 14,
51 2019, due to any major capital improvements approved on or after June
52 16, 2012 and before June 16, 2019 shall not exceed two percent in any
53 year for any tenant in occupancy on the date the major capital improve-
54 ment was approved, or

55 § 4. This act shall take effect on the one hundred twentieth day after
56 it shall have become a law, provided that the amendments to section

1 26-405 of the city rent and rehabilitation law made by section one of
2 this act shall remain in full force and effect only so long as the
3 public emergency requiring the regulation and control of residential
4 rents and evictions continues, as provided in subdivision 3 of section 1
5 of the local emergency housing rent control act; and provided further
6 that the amendments to section 26-511 of the rent stabilization law of
7 nineteen hundred sixty-nine made by section two of this act shall expire
8 on the same date as such law expires and shall not affect the expiration
9 of such law as provided under section 26-520 of such law. Effective
10 immediately, the addition, amendment and/or repeal of any rule and regu-
11 lation necessary for the implementation of this act on its effective
12 date are authorized to be made on or before such date.