STATE OF NEW YORK

6194

2021-2022 Regular Sessions

IN ASSEMBLY

March 10, 2021

Introduced by M. of A. FITZPATRICK, BARCLAY, SCHMITT -- Multi-Sponsored by -- M. of A. BROWN, BYRNES, JENSEN, LAWLER, REILLY, SMITH -- read once and referred to the Committee on Housing

AN ACT to amend the emergency tenant protection act of nineteen seventy-four, the emergency housing rent control law, and the administrative code of the city of New York, in relation to rent increases in certain cases; to repeal certain provisions of 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 relating to improvements in rent regulated buildings and units; and to repeal section 17 of part K of chapter 36 of the laws of 2019 enacting the Housing Stability and Tenant Protection act of 2019 relating to the use of certain revenues

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

Section 1. Paragraph 1 of subdivision d of section 6 of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, as amended by section 18 of part Q of chapter 39 of the laws of 2019, is amended to read as follows:

(1) 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, on written [~~informed~~] tenant consent to the rent increase. In the case of a vacant housing accommodation, tenant consent shall not be required. The [~~temporary~~] **permanent** increase in the legal regulated rent for the affected housing accommodation shall be [~~one-one hundred sixty-eighth~~] **one-fortieth**, in the case of a building with thirty-five or fewer housing accommodations or [~~one-one hundred eightieth~~] **one-sixtieth** in the case of a building with more than thirty-five housing accommodations where such **permanent** increase takes effect on or after [~~the effective date of the chapter of the laws of two~~

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

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~~thousand nineteen that amended this paragraph, of the total actual cost incurred by the landlord up to fifteen thousand dollars in providing such reasonable and verifiable modification or increase in dwelling space, furniture, furnishings, or equipment, including the cost of installation but excluding finance charges and any costs that exceed reasonable costs established by rules and regulations promulgated by the division of housing and community renewal. Such rules and regulations shall include: (i) requirements for work to be done by licensed contractors and a prohibition on common ownership between the landlord and the contractor or vendor; and (ii) a requirement that the owner resolve within the dwelling space all outstanding hazardous or immediately hazardous violations of the Uniform Fire Prevention and Building Code (Uniform Code), New York City Fire Code, or New York City Building and Housing Maintenance Codes, if applicable~~] **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 paragraph 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. [~~Provided further that the recoverable costs incurred by the landlord, pursuant to this paragraph, shall be limited to an aggregate cost of fifteen thousand dollars that may be expended on no more than three separate individual apartment improvements in a fifteen year period beginning with the first individual apartment improvement on or after June fourteenth, two thousand nineteen. Provided further that increases to the legal regulated rent pursuant to this paragraph 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.~~]

§ 2. Paragraph 13 of subdivision c of section 26-511 of the administrative code of the city of New York, as amended by section 19 of part Q of chapter 39 of the laws of 2019, is amended to read as follows:

(13) provides that an owner is 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, on written [~~informed~~] tenant consent to the rent increase. In the case of a vacant housing accommodation, tenant consent shall not be required. The [~~temporary~~] **permanent** increase in the legal regulated rent for the affected housing accommodation shall be [~~one-one hundred sixty-eighth~~] **one-fortieth**, in the case of a building with thirty-five or fewer housing accommodations [~~or one-one hundred eightieth~~]**, 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 [~~the effective date of the chapter of the laws of two thousand nineteen that amended this paragraph, of the total actual cost incurred by the landlord in providing such reasonable and verifiable modification or increase in dwelling space, furniture, furnishings, or equipment, including the cost of installation but excluding finance charges and any costs that exceed reasonable costs established by rules and regulations promulgated by the division of housing and community renewal. Such rules and regulations shall include: (i) requirements for work to be done by licensed contractors and prohibit common ownership between the landlord~~

~~and the contractor or vendor; and (ii) a requirement that the owner resolve within the dwelling space all outstanding hazardous or immediately hazardous violations of the Uniform Fire Prevention and Building Code (Uniform Code), New York City Fire Code, or New York City Building and Housing Maintenance Codes, if applicable~~] **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, by excluding finance charges**. Provided further that an owner who is entitled to a rent increase pursuant to this paragraph 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. [~~Provided further that the recoverable costs incurred by the landlord, pursuant to this paragraph, shall be limited to an aggregate cost of fifteen thousand dollars that may be expended on no more than three separate individual apartment improvements in a fifteen year period beginning with the first individual apartment improvement on or after June fourteenth, two thousand nineteen. Provided further that increases to the legal regulated rent pursuant to this paragraph 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.~~]

§ 3. Subparagraph (e) of paragraph 1 of subdivision g of section 26-405 of the administrative code of the city of New York, as amended by section 20 of part Q of chapter 39 of the laws of 2019, is amended to read as follows:

(e) The landlord and tenant by mutual voluntary written agreement [~~demonstrating informed consent~~] 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. An adjustment under this subparagraph shall be equal to [~~one-one hundred sixty-eighth~~] **one-fortieth**, in the case of a building with thirty-five or fewer housing accommodations [~~or one-one hundred eightieth~~]**, or one-sixtieth,** in the case of a building with more than thirty-five housing accommodations where such [~~temporary~~] adjustment takes effect on or after [~~the effective date of the chapter of the laws of two thousand nineteen that amended this subparagraph, of the total actual cost incurred by the landlord in providing such reasonable and verifiable modification or increase in dwelling space, furniture, furnishings, or equipment, including the cost of installation but excluding finance charges and any costs that exceed reasonable costs established by rules and regulations promulgated by the division of housing and community renewal. Such rules and regulations shall include: (i) requirements for work to be done by licensed contractors and prohibit common ownership between the landlord and the contractor or vendor; and (ii) a requirement that the owner resolve within the dwelling space all outstanding hazardous or immediately hazardous violations of the Uniform Fire Prevention and Building Code (Uniform Code), New York City Fire Code, or New York City Building and Housing Maintenance Codes, if applicable. Provided~~] **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 subparagraph 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. [~~Provided further that the recoverable costs incurred by the landlord, pursuant to this subparagraph shall be limited to an aggregate cost of fifteen thousand dollars that may be expended on no more than three separate individual apartment improvements in a fifteen year period beginning with the first individual apartment improvement on or after June fourteenth, two thousand nineteen. Provided further that increases to the legal regulated rent pursuant to this subparagraph 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.~~] The owner shall give written notice to the city rent agency of any such [~~temporary~~] adjustment pursuant to this subparagraph; or

§ 4. Section 26-511.1 of the administrative code of the city of New York is REPEALED.

§ 5. Section 26-405.1 of the administrative code of the city of New York is REPEALED.

§ 6. Section 10-b of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, is REPEALED.

§ 7. Section 8-a of chapter 274 of the laws of 1946, constituting the emergency housing rent control law, is REPEALED.

§ 8. Paragraph 2 of subdivision 3-a and subparagraphs 7 and 8 of 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, paragraph 2 of subdivision 3-a and subparagraph 8 of the second undesignated paragraph of paragraph (a) of subdivision 4 as amended by section 8 of part K of chapter 36 of the laws of 2019, subparagraph 7 of the second undesignated paragraph of paragraph (a) of subdivision 4 as separately amended by section 14 of part K of chapter 36 and section 25 of part Q of chapter 39 of the laws of 2019, are amended to read as follows:

(2) the amount of increases in maximum rent authorized by order because of increases in dwelling space, services, furniture, furnishings or equipment [~~and the amount of the temporary increase authorized by order because of a major capital improvement~~]**, or major capital improvements**.

(7) there has been since March first, nineteen hundred fifty, a major capital improvement [~~essential~~] **required** for the **operation,** preservation[~~, energy efficiency, functionality, or infrastructure of the entire building, improvement of the structure including heating, windows, plumbing and roofing, but shall not be for operational costs or unnecessary cosmetic improvements~~] **or maintenance of the structure**; which for any order of the commissioner issued after the effective date of the [~~chapter of the laws of two thousand nineteen that amended this paragraph~~] **rent act of 2015** the cost of such improvement shall be amortized over [~~a twelve-year~~] **an eight-year** period for buildings with thirty-five or fewer units or a [~~twelve and one-half year~~] **nine-year** period for buildings with more than thirty-five units[~~, 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. 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; provided, however, 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~~]; 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 [~~informed~~] 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 [~~two~~] **fifteen** per centum unless the tenants have agreed to a higher percentage of increase, as herein provided;

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

(3) there has been since January first, nineteen hundred seventy-four a major capital improvement [~~essential for the preservation, energy efficiency, functionality, or infrastructure of the entire building, improvement of the structure including heating, windows, plumbing and roofing, but shall not be for operation costs or unnecessary cosmetic improvements~~] **required for the operation, preservation or maintenance of the structure**. An adjustment under this paragraph shall be in an amount sufficient to amortize the cost of the improvements pursuant to this paragraph over [~~a twelve-year~~] **an eight-year** period for a building with thirty-five or fewer housing accommodations, or a [~~twelve and one-half~~] **nine-year** period for a building with more than thirty-five housing accommodations [~~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~~], for any determination issued by the division of housing and community renewal after the effective date of the [~~chapter of the laws of two thousand nineteen that amended this paragraph. Temporary major capital improvement increases shall be collectable 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. Notwithstanding any other provision of the law, the collection of any rent increases for any renewal lease commencing on or after June 14, 2019, 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~~] **rent act of 2015**, or

§ 10. Subparagraph (g) of paragraph 1 of subdivision g of section 26-405 of the administrative code of the city of New York, as amended by section 27 of part Q of chapter 39 of the laws of 2019, is amended to read as follows:

(g) There has been since July first, nineteen hundred seventy, a major capital improvement [~~essential~~] **required** for the **operation,** preservation [~~energy efficiency, functionality, or infrastructure of the entire building, improvement of the structure including heating, windows, plumbing and roofing but shall not be for operational costs or unnecessary cosmetic improvements~~] **or maintenance of the structure**. [~~The temporary increase based upon a major capital improvement~~] **An adjustment** under this subparagraph for any order of the commissioner issued after the effective date of the [~~chapter of the laws of two thousand nineteen that amended this subparagraph~~] **rent act of two thousand fifteen** shall be in an amount sufficient to amortize the cost of the improvements pursuant to this subparagraph (g) over [~~a twelve-year~~] **an eight-year** period for buildings with thirty-five or fewer units or a [~~twelve and one-half year~~] **nine-year** period for buildings with more than thirty-five units[~~, 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. 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

§ 11. Paragraph 6 of subdivision c of section 26-511 of the administrative code of the city of New York, as separately amended by section 12 of part K of chapter 36 and sections 28 and 14 of part Q of chapter 39 of the laws of 2019, is amended to read as follows:

(6) provides criteria whereby the commissioner may act upon applications by owners for increases in excess of the level of fair rent increase established under this law provided, however, that such criteria shall provide (a) as to hardship applications, for a finding that the level of fair rent increase is not sufficient to enable the owner to maintain approximately the same average annual net income (which shall be computed without regard to debt service, financing costs or management fees) for the three year period ending on or within six months of the date of an application pursuant to such criteria as compared with annual net income, which prevailed on the average over the period nineteen hundred sixty-eight through nineteen hundred seventy, or for the first three years of operation if the building was completed since nineteen hundred sixty-eight or for the first three fiscal years after a transfer of title to a new owner provided the new owner can establish to the satisfaction of the commissioner that he or she acquired title to the building as a result of a bona fide sale of the entire building and that the new owner is unable to obtain requisite records for the fiscal years nineteen hundred sixty-eight through nineteen hundred seventy despite diligent efforts to obtain same from predecessors in title and further provided that the new owner can provide financial data covering a minimum of six years under his or her continuous and uninterrupted operation of the building to meet the three year to three year comparative test periods herein provided; and (b) as to completed building-wide major capital improvements, for a finding that such improvements are deemed depreciable under the Internal Revenue Code and that the cost is to be amortized over [~~a twelve-year~~] **an eight-year** period for a building with thirty-five or fewer housing accommodations, or a [~~twelve and one-half-year~~] **nine-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 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. 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~~] **the rent act of 2015** 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 for any apartment pursuant to this paragraph shall not exceed six 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 stabilized rent as established or set in future years;

§ 12. Intentionally omitted.

§ 13. Paragraph 3-a of subdivision d of section 6 of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, is REPEALED.

§ 14. Intentionally omitted.

§ 15. Subdivision a of section 26-517.1 of the administrative code of the city of New York, as amended by section 15 of part K of chapter 36 of the laws of 2019, is amended to read as follows:

a. The department of finance shall collect from the owner of each housing accommodation registered pursuant to section 26-517 of this chapter an annual fee in the amount of [~~twenty~~] ten dollars per year for each unit subject to this law, in order to defray costs incurred by the city pursuant to subdivision c of section eight of the emergency tenant protection act of nineteen hundred seventy-four.

§ 16. Subdivisions c and e of section 8 of section 4 of chapter 576 of the laws of 1974 constituting the emergency tenant protection act of nineteen seventy-four, subdivision c as amended by section 1 and subdivision e as amended by section 2 of part I of chapter 56 of the laws of 2020, are amended to read as follows:

c. Whenever a city having a population of one million or more has determined the existence of an emergency pursuant to section three of this act, the provisions of this act and the New York city rent stabilization law of nineteen hundred sixty-nine shall be administered by the state division of housing and community renewal as provided in the New York city rent stabilization law of nineteen hundred sixty-nine, as amended, or as otherwise provided by law. The costs incurred by the state division of housing and community renewal in administering such regulation shall be paid by such city. All payments for such administration shall be transmitted to the state division of housing and community renewal as follows: on or after April first of each year commencing with April, nineteen hundred eighty-four, the commissioner of housing and community renewal, in consultation with the director of the budget, shall determine an amount necessary to defray the division's anticipated

annual cost, and one-quarter of such amount shall be paid by such city on or before July first of such year, one-quarter of such amount on or before October first of such year, one-quarter of such amount on or before January first of the following year and one-quarter of such amount on or before March thirty-first of the following year. After the close of the fiscal year of the state, the commissioner, in consultation with the director of the budget, shall determine the amount of all actual costs incurred in such fiscal year and shall certify such amount to such city. If such certified amount shall differ from the amount paid by the city for such fiscal year, appropriate adjustments shall be made in the next quarterly payment to be made by such city. In the event that the amount thereof is not paid to the commissioner, in consultation with the director of the budget, as herein prescribed, the commissioner, in consultation with the director of the budget, shall certify the unpaid amount to the comptroller, and the comptroller shall, to the extent not otherwise prohibited by law, withhold such amount from any state aid payable to such city. In no event shall the amount imposed on the owners exceed [~~twenty~~] **ten** dollars per unit per year.

e. The failure to pay the prescribed assessment not to exceed [~~twenty~~] **ten** dollars per unit for any housing accommodation subject to this act or the New York city rent stabilization law of nineteen hundred sixty-nine shall constitute a charge due and owing such city, town or village which has imposed an annual charge for each such housing accommodation pursuant to subdivision b of this section. Any such city, town or village shall be authorized to provide for the enforcement of the collection of such charges by commencing an action or proceeding for the recovery of such fees or by the filing of a lien upon the building and lot. Such methods for the enforcement of the collection of such charges shall be the sole remedy for the enforcement of this section.

§ 17. Section 17 of part K of chapter 36 of the laws of 2019 enacting the Housing Stability and Tenant Protection act of 2019, is REPEALED.

§ 18. This act shall take effect immediately; provided, however, that:

(a) the amendments to chapter 4 of title 26 of the administrative code of the city of New York made by sections two, eleven and fifteen of this act shall expire on the same date as such chapter expires and shall not affect the expiration of such chapter as provided under section 26-520 of such law;

(b) provided that the amendments to section 26-405 of the city rent and rehabilitation law made by sections three and ten 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; and

(c) effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.