

STATE OF NEW YORK

5387

2021-2022 Regular Sessions

IN SENATE

March 3, 2021

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 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

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

LBD07022-01-1

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

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

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

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

1 is to be amortized over a twelve-year period for a building with thir-
2 ty-five or fewer housing accommodations, or a twelve and one-half-year
3 period for a building with more than thirty-five housing accommodations,
4 for any determination issued by the division of housing and community
5 renewal after ~~[the effective date of the the chapter of the laws of two~~
6 ~~thousand nineteen that amended this paragraph]~~ June 14, 2019 and shall
7 be removed from the legal regulated rent thirty years from the date the
8 increase became effective inclusive of any increases granted by the
9 applicable rent guidelines board. Temporary major capital improvement
10 increases shall be collectible prospectively on the first day of the
11 first month beginning sixty days from the date of mailing notice of
12 approval to the tenant. Such notice shall disclose the total monthly
13 increase in rent and the first month in which the tenant would be
14 required to pay the temporary increase. An approval for a temporary
15 major capital improvement increase shall not include retroactive
16 payments. The collection of any increase shall not exceed two percent in
17 any year from the effective date of the order granting the increase over
18 the rent set forth in the schedule of gross rents, with collectability
19 of any dollar excess above said sum to be spread forward in similar
20 increments and added to the rent as established or set in future years.
21 Upon vacancy, the landlord may add any remaining balance of the tempo-
22 rary major capital improvement increase to the legal regulated rent. No
23 landlord shall deny access to a professional engineer licensed to prac-
24 tice in the state of New York or a registered architect licensed to
25 practice in the state of New York hired by any tenant, tenants or tenant
26 association representing tenants of a multiple dwelling of six units or
27 more for the purpose of conducting an inspection of a major capital
28 improvement for which an application for adjustment of maximum rent has
29 been filed. Such inspection shall be conducted after notice to the land-
30 lord and during normal business hours. Such tenant may file the report
31 of the inspection with the city rent agency for consideration in the
32 determination of such application. Notwithstanding any other provision
33 of the law, for any renewal lease commencing on or after June 14, 2019,
34 the collection of any rent increases due to any major capital improve-
35 ments approved on or after June 16, 2012 and before June 16, 2019 shall
36 not exceed two percent in any year for any tenant in occupancy on the
37 date the major capital improvement was approved or based upon cash
38 purchase price exclusive of interest or service charges. Where an appli-
39 cation for a temporary major capital improvement increase has been
40 filed, a tenant shall have sixty days from the date of mailing of a
41 notice of a proceeding in which to answer or reply. The state division
42 of housing and community renewal shall provide any responding tenant
43 with the reasons for the division's approval or denial of such applica-
44 tion. Notwithstanding anything to the contrary contained herein, no
45 hardship increase granted pursuant to this paragraph shall, when added
46 to the annual gross rents, as determined by the commissioner, exceed the
47 sum of, (i) the annual operating expenses, (ii) an allowance for manage-
48 ment services as determined by the commissioner, (iii) actual annual
49 mortgage debt service (interest and amortization) on its indebtedness to
50 a lending institution, an insurance company, a retirement fund or
51 welfare fund which is operated under the supervision of the banking or
52 insurance laws of the state of New York or the United States, and (iv)
53 eight and one-half percent of that portion of the fair market value of
54 the property which exceeds the unpaid principal amount of the mortgage
55 indebtedness referred to in subparagraph (iii) of this paragraph. Fair
56 market value for the purposes of this paragraph shall be six times the

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

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

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

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