

STATE OF NEW YORK

7213

2021-2022 Regular Sessions

IN SENATE

June 7, 2021

Introduced by Sens. KAVANAGH, RIVERA -- read twice and ordered printed,
and when printed to be committed to the Committee on Rules

AN ACT to amend the administrative code of the city of New York, in relation to establishing the legal regulated rent for the combination of two or more vacant apartments; to amend the public housing law, in relation to defining permanently vacated; to amend the emergency tenant protection act of nineteen seventy-four, in relation to exemptions from rent stabilization on the basis of substantial rehabilitation; and to repeal paragraph 9 of subdivision a of section 26-405 of the administrative code of the city of New York, in relation to public hearings by the city rent agency (Part A); to amend the administrative code of the city of New York, chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, and chapter 274 of the laws of 1946, constituting the emergency housing rent control law, in relation to major capital improvements (Part B); and to amend the multiple dwelling law, in relation to rent impairing violations; and to amend the real property actions and proceedings law, in relation to eviction proceedings (Part C)

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

1 Section 1. This act enacts into law components of legislation relating
2 to rent regulation and tenant protection. Each component is wholly
3 contained within a Part identified as Parts A through C. The effective
4 date for each particular provision contained within such Part is set
5 forth in the last section of such Part. Any provision in any section
6 contained within a Part, including the effective date of the Part, which
7 makes reference to a section "of this act", when used in connection with
8 that particular component, shall be deemed to mean and refer to the
9 corresponding section of the Part in which it is found. Section three of
10 this act sets forth the general effective date of this act.

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

LBD11064-04-1

PART A

Section 1. Paragraph 9 of subdivision a of section 26-405 of the administrative code of the city of New York is REPEALED.

§ 2. Subdivision c of section 26-511 of the administrative code of the city of New York is amended by adding a new paragraph 15 to read as follows:

(15) where an owner combines two or more vacant apartments formerly subject to this section, the legal regulated rent for the combined unit may not exceed the sum of the rents of the formerly separate units. Where an owner reduces the dimensions of a rent stabilized unit, or combines part of that unit with a neighboring unit, the legal regulated rent for the reduced unit shall be the prior rent, reduced in proportion to the reduction in floor area; the rent for any expanded neighboring unit may not exceed the former rent for that unit.

§ 3. The opening paragraph of paragraph (a) of subdivision 4 of section 14 of the public housing law, as added by chapter 116 of the laws of 1997, is amended to read as follows:

that unless otherwise prohibited by occupancy restrictions based upon income limitations pursuant to federal, state or local law, regulations or other requirements of governmental agencies, any member of the tenant's family, as defined in paragraph (c) of this subdivision, shall succeed to the rights of a tenant under such acts and laws where the tenant has permanently vacated the housing accommodation and such family member has resided with the tenant in the housing accommodation as a primary residence for a period of no less than two years, or where such person is a "senior citizen" or a "disabled person," as defined in paragraph (c) of this subdivision, for a period of no less than one year, immediately prior to the permanent vacating of the housing accommodation by the tenant, or from the inception of the tenancy or commencement of the relationship, if for less than such periods. For the purposes of this paragraph, "permanently vacated" shall mean the date when the tenant of record physically moves out of the housing accommodation and permanently ceases to use it as their primary residence, regardless of subsequent contacts with the unit or the signing of lease renewals or continuation of rent payments. The minimum periods of required residency set forth in this subdivision shall not be deemed to be interrupted by any period during which the "family member" temporarily relocates because he or she:

§ 4. Paragraph 5 of subdivision a of section 5 of section 4 of chapter 576 of the laws of 1974 constituting the emergency tenant protection act of nineteen seventy-four, is amended to read as follows:

(5) housing accommodations in buildings completed or buildings substantially rehabilitated as family units on or after January first, nineteen hundred seventy-four; provided that an owner claiming exemption from rent stabilization on the basis of substantial rehabilitation shall seek approval from state division of housing and community renewal within one year of the completion of the substantial rehabilitation, or for any building previously alleged to have been substantially rehabilitated before the effective date of the chapter of the laws of two thousand twenty-one that amended this paragraph, within six months of such effective date, and ultimately obtain such approval, which shall be denied on the following grounds:

(a) the owner or its predecessors in interest have engaged in harassment of tenants in the five years preceding the completion of the substantial rehabilitation;

(b) the building was not in a seriously deteriorated condition requiring substantial rehabilitation;

(c) the owner's or its predecessors in interest's acts or omissions in failing to maintain the building materially contributed to the seriously deteriorated condition of the premises; or

(d) the substantial rehabilitation work was performed in a piecemeal fashion and was not completed in a reasonable amount of time, during which period the building was at least eighty percent vacant;

§ 5. This act shall take effect immediately and shall apply to all pending proceedings on and after such date; provided that the amendments to section 26-511 of chapter 4 of title 26 of the administrative code of the city of New York made by section two of this act shall expire on the same date as such law expires and shall not affect the expiration of such law as provided under section 26-520 of such law.

PART B

Section 1. 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 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 operational costs or unnecessary cosmetic improvements. The temporary increase based upon a major capital improvement 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 shall be in an amount sufficient to amortize the cost of the improvements pursuant to this subparagraph (g) over a twelve-year period for buildings with thirty-five or fewer units or a twelve and one-half 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[7]; provided, however, no application for a major capital improvement rent increase shall be approved by the divi-

sion of housing and community renewal unless the owner of the property has filed all copies of permits pertaining to the major capital improvement work with such application. Any application submitted with fraudulent permits or without required permits shall be denied; or

§ 2. 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 section 28 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 period for a building with thirty-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 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

1 collection of any rent increases due to any major capital improvements
2 approved on or after June 16, 2012 and before June 16, 2019 shall not
3 exceed two percent in any year for any tenant in occupancy on the date
4 the major capital improvement was approved or based upon cash purchase
5 price exclusive of interest or service charges. Where an application for
6 a temporary major capital improvement increase has been filed, a tenant
7 shall have sixty days from the date of mailing of a notice of a proceed-
8 ing in which to answer or reply. The state division of housing and
9 community renewal shall provide any responding tenant with the reasons
10 for the division's approval or denial of such application. The division
11 of housing and community renewal shall require the submission of copies
12 of all permits pertaining to major capital improvement work with any
13 application for a major capital improvement rent increase. Any applica-
14 tion submitted with fraudulent permits or without required permits shall
15 be denied. Notwithstanding anything to the contrary contained herein, no
16 hardship increase granted pursuant to this paragraph shall, when added
17 to the annual gross rents, as determined by the commissioner, exceed the
18 sum of, (i) the annual operating expenses, (ii) an allowance for manage-
19 ment services as determined by the commissioner, (iii) actual annual
20 mortgage debt service (interest and amortization) on its indebtedness to
21 a lending institution, an insurance company, a retirement fund or
22 welfare fund which is operated under the supervision of the banking or
23 insurance laws of the state of New York or the United States, and (iv)
24 eight and one-half percent of that portion of the fair market value of
25 the property which exceeds the unpaid principal amount of the mortgage
26 indebtedness referred to in subparagraph (iii) of this paragraph. Fair
27 market value for the purposes of this paragraph shall be six times the
28 annual gross rent. The collection of any increase in the stabilized rent
29 for any apartment pursuant to this paragraph shall not exceed six
30 percent in any year from the effective date of the order granting the
31 increase over the rent set forth in the schedule of gross rents, with
32 collectability of any dollar excess above said sum to be spread forward
33 in similar increments and added to the stabilized rent as established or
34 set in future years;

35 § 3. Paragraph 3 of subdivision d of section 6 of section 4 of chapter
36 576 of the laws of 1974, constituting the emergency tenant protection
37 act of nineteen seventy-four, as amended by section 26 of part Q of
38 chapter 39 of the laws of 2019, is amended to read as follows:

39 (3) there has been since January first, nineteen hundred seventy-four
40 a major capital improvement essential for the preservation, energy effi-
41 ciency, functionality, or infrastructure of the entire building,
42 improvement of the structure including heating, windows, plumbing and
43 roofing, but shall not be for operation costs or unnecessary cosmetic
44 improvements. An adjustment under this paragraph shall be in an amount
45 sufficient to amortize the cost of the improvements pursuant to this
46 paragraph over a twelve-year period for a building with thirty-five or
47 fewer housing accommodations, or a twelve and one-half period for a
48 building with more than thirty-five housing accommodations and shall be
49 removed from the legal regulated rent thirty years from the date the
50 increase became effective inclusive of any increases granted by the
51 applicable rent guidelines board, for any determination issued by the
52 division of housing and community renewal after the effective date of
53 the chapter of the laws of two thousand nineteen that amended this para-
54 graph. Temporary major capital improvement increases shall be collecta-
55 ble prospectively on the first day of the first month beginning sixty
56 days from the date of mailing notice of approval to the tenant. Such

1 notice shall disclose the total monthly increase in rent and the first
2 month in which the tenant would be required to pay the temporary
3 increase. An approval for a temporary major capital improvement increase
4 shall not include retroactive payments. The collection of any increase
5 shall not exceed two percent in any year from the effective date of the
6 order granting the increase over the rent set forth in the schedule of
7 gross rents, with collectability of any dollar excess above said sum to
8 be spread forward in similar increments and added to the rent as estab-
9 lished or set in future years. Upon vacancy, the landlord may add any
10 remaining balance of the temporary major capital improvement increase to
11 the legal regulated rent. Notwithstanding any other provision of the
12 law, the collection of any rent increases for any renewal lease commenc-
13 ing on or after June 14, 2019, due to any major capital improvements
14 approved on or after June 16, 2012 and before June 16, 2019 shall not
15 exceed two percent in any year for any tenant in occupancy on the date
16 the major capital improvement was approved[7]; provided, however, no
17 application for a major capital improvement rent increase shall be
18 approved by the division of housing and community renewal unless the
19 owner of the property has filed all copies of permits pertaining to the
20 major capital improvement work with such application. Any application
21 submitted with fraudulent permits or without required permits shall be
22 denied; or

23 § 4. Subparagraph 7 of the second undesignated paragraph of paragraph
24 (a) of subdivision 4 of section 4 of chapter 274 of the laws of 1946,
25 constituting the emergency housing rent control law, as separately
26 amended by section 25 of part Q of chapter 39 and section 14 of part K
27 of chapter 36 of the laws of 2019, is amended to read as follows:

28 (7) there has been since March first, nineteen hundred fifty, a major
29 capital improvement essential for the preservation, energy efficiency,
30 functionality, or infrastructure of the entire building, improvement of
31 the structure including heating, windows, plumbing and roofing, but
32 shall not be for operational costs or unnecessary cosmetic improvements;
33 which for any order of the commissioner issued after the effective date
34 of the chapter of the laws of two thousand nineteen that amended this
35 paragraph the cost of such improvement shall be amortized over a twelve-
36 year period for buildings with thirty-five or fewer units or a twelve
37 and one-half year period for buildings with more than thirty-five units,
38 and shall be removed from the legal regulated rent thirty years from the
39 date the increase became effective inclusive of any increases granted by
40 the applicable rent guidelines board. Temporary major capital improve-
41 ment increases shall be collectible prospectively on the first day of
42 the first month beginning sixty days from the date of mailing notice of
43 approval to the tenant. Such notice shall disclose the total monthly
44 increase in rent and the first month in which the tenant would be
45 required to pay the temporary increase. An approval for a temporary
46 major capital improvement increase shall not include retroactive
47 payments. The collection of any increase shall not exceed two percent in
48 any year from the effective date of the order granting the increase over
49 the rent set forth in the schedule of gross rents, with collectability
50 of any dollar excess above said sum to be spread forward in similar
51 increments and added to the rent as established or set in future years.
52 Upon vacancy, the landlord may add any remaining balance of the tempo-
53 rary major capital improvement increase to the legal regulated rent.
54 Notwithstanding any other provision of the law, for any renewal lease
55 commencing on or after June 14, 2019, the collection of any rent
56 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; provided, however, no application for a major capital improvement rent increase shall be approved by the division of housing and community renewal unless the owner of the property has filed all copies of permits pertaining to the major capital improvement work with such application. Any application submitted with fraudulent permits or without required permits shall be denied; or

§ 5. This act shall take effect immediately; provided that the amendments to section 26-405 of the city rent and rehabilitation law made by section one 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; provided, further, that the amendments to section 26-511 of the rent stabilization law of nineteen hundred sixty-nine made by section two of this act shall expire on the same date as such law expires and shall not affect the expiration of such law as provided under section 26-520 of such law, as from time to time amended.

PART C

Section 1. Subdivision 3 of section 302-a of the multiple dwelling law, as added by chapter 911 of the laws of 1965, is amended to read as follows:

3. a. If (i) the official records of the department shall note that a rent impairing violation exists or existed in respect to a multiple dwelling and that notice of such violation has been given by the department, by mail, to the owner last registered with the department and (ii) such note of the violation [~~is~~] was not cancelled or removed of record within [~~six~~] three months after the date of such notice of such violation, then for the period that such violation remains uncorrected after the expiration of said [~~six~~] three months, no rent shall be recovered by any owner for any premises in such multiple dwelling used by a resident thereof for human habitation in which the condition constituting such rent impairing violation exists, provided, however, that if the violation is one that requires approval of plans by the department for the corrective work and if plans for such corrective work shall have been duly filed within [~~three months~~] one month from the date of notice of such violation by the department to the owner last registered with the department, the [~~six months~~] three month period aforementioned shall not begin to run until the date that plans for the corrective work are approved by the department; if plans are not filed within said [~~three months~~] one month period or if so filed, they are disapproved and amendments are not duly filed within thirty days after the date of notification of the disapproval by the department to the person having filed the plans, the [~~six months~~] three month period shall be computed as if no plans whatever had been filed under this proviso. If a condition constituting a rent impairing violation exists in the part of a multiple dwelling used in common by the residents or in the part under the

1 control of the owner thereof, the violation shall be deemed to exist in
2 the respective premises of each resident of the multiple dwelling.

3 b. The provisions of subparagraph a shall not apply if (i) the condi-
4 tion referred to in the department's notice to the owner last registered
5 with the department did not in fact exist, notwithstanding the notation
6 thereof in the records of the department; (ii) the condition which is
7 the subject of the violation has in fact been corrected within the three
8 month period required by subparagraph a of this subdivision, though the
9 note thereof in the department has not been removed or cancelled; (iii)
10 the violation has been caused by the resident from whom rent is sought
11 to be collected or by members of his family or by his guests or by
12 another resident of the multiple dwelling or the members of the family
13 of such other resident or by his guests, or (iv) the resident proceeded
14 against for rent has refused entry to the owner for the purpose of
15 correcting the condition giving rise to the violation.

16 c. To raise a defense under subparagraph a in any action to recover
17 rent or in any special proceeding for the recovery of possession because
18 of non-payment of rent, the resident must affirmatively plead and prove
19 the material facts under subparagraph a ~~[, and must also deposit with the~~
20 ~~clerk of the court in which the action or proceeding is pending at the~~
21 ~~time of filing of the resident's answer the amount of rent sought to be~~
22 ~~recovered in the action or upon which the proceeding to recover~~
23 ~~possession is based, to be held by the clerk of the court until final~~
24 ~~disposition of the action or proceeding at which time the rent deposited~~
25 ~~shall be paid to the owner, if the owner prevails, or be returned to the~~
26 ~~resident if the resident prevails. Such deposit of rent shall vitiate~~
27 ~~any right on the part of the owner to terminate the lease or rental~~
28 ~~agreement of the resident because of nonpayment of rent]~~.

29 d. If a resident voluntarily pays rent or an installment of rent when
30 he or she would be privileged to withhold the same under subparagraph a,
31 he or she shall ~~[not thereafter]~~ have ~~[any]~~ a claim or cause of action
32 to recover back the rent or installment of rent so paid. A voluntary
33 payment within the meaning hereof shall mean payment other than one made
34 pursuant to a judgment in an action or special proceeding.

35 e. ~~[If upon the trial of any action to recover rent or any special~~
36 ~~proceeding for the recovery of possession because of non payment of rent~~
37 ~~it shall appear that the resident has raised a defense under this~~
38 ~~section in bad faith, or has caused the violation or has refused entry~~
39 ~~to the owner for the purpose of correcting the condition giving rise to~~
40 ~~the violation, the court, in its discretion, may impose upon the resi-~~
41 ~~dent the reasonable costs of the owner, including counsel fees, in main-~~
42 ~~taining the action or proceeding not to exceed one hundred dollars.]~~The
43 department shall notify the resident and owner when a rent impairing
44 violation has been placed in their apartment. The notification shall
45 include a list of the rent impairing violations placed and an explana-
46 tion of the resident's right to raise the rent impairing violations as a
47 defense in any action to recover rent or in any special proceeding for
48 the recovery of possession because of non-payment of rent.

49 § 2. Subdivisions 10 and 11 of section 713 of the real property
50 actions and proceedings law, subdivision 10 as amended by chapter 467 of
51 the laws of 1981 and subdivision 11 as added by chapter 312 of the laws
52 of 1962, are amended to read as follows:

53 10. The person in possession has entered the property or remains in
54 possession by force or unlawful means and he or she or his or her prede-
55 cessor in interest was not in quiet possession for three years before
56 the time of the forcible or unlawful entry or detainer and the petition-

er was peaceably in actual possession at the time of the forcible or unlawful entry or in constructive possession at the time of the forcible or unlawful detainer. Any lawful occupant, physically or constructively in possession, who has been evicted or dispossessed without the court process mandated by section seven hundred eleven of this article, may commence a proceeding under this subdivision to be restored to possession, and shall be so restored upon proof that their eviction was unlawful; no notice to quit shall be required in order to maintain a proceeding under this subdivision.

11. The person in possession entered into possession as an incident to employment by petitioner, and the time agreed upon for such possession has expired or, if no such time was agreed upon, the employment has been terminated[, ~~no notice to quit shall be required in order to maintain the proceeding under this subdivision~~].

§ 3. Subdivisions 2 and 3 of section 732 of the real property actions and proceedings law, as amended by section 14 of part M of chapter 36 of the laws of 2019, are amended to read as follows:

2. If the respondent answers, the clerk shall fix a date for trial or hearing not less than three nor more than eight days after joinder of issue, and shall immediately notify by mail the parties or their attorneys of such date. If the determination be for the petitioner, the issuance of a warrant shall not be stayed for more than five days from such determination, except as provided in section seven hundred fifty-three of this article. If the respondent fails to appear on such date, the court, after making an assessment, pursuant to section three thousand two hundred fifteen of the civil practice law and rules, may issue a judgment in favor of the petitioner and the issuance of the warrant shall be stayed for a period not to exceed ten days from the date of service, except as provided in section seven hundred fifty-three of this article.

3. If the respondent fails to answer within ten days from the date of service, as shown by the affidavit or certificate of service of the notice of petition and petition, [~~the judge shall render judgment in favor of the petitioner and~~] the petitioner may make an application for a default judgment. Upon this application, the clerk shall fix a date for inquest and immediately notify by mail the parties or their attorneys of such date. If the respondent fails to appear on such date, the court, after making an assessment, pursuant to section three thousand two hundred fifteen of the civil practice law and rules, may issue a judgment in favor of the petitioner and may stay the issuance of the warrant for a period of not to exceed ten days from the date of service, except as provided in section seven hundred fifty-three of this article.

§ 4. This act shall take effect immediately and shall apply to all pending proceedings on and after such date.

§ 2. Severability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid and after exhaustion of all further judicial review, the judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part of this act directly involved in the controversy in which the judgment shall have been rendered.

§ 3. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through C of this act shall be as specifically set forth in the last section of such Parts.