

STATE OF NEW YORK

5643

2023-2024 Regular Sessions

IN ASSEMBLY

March 20, 2023

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

AN ACT to amend the administrative code of the city of New York, the emergency tenant protection act of nineteen seventy-four and the emergency housing rent control law, in relation to the amount of time to submit supporting documentation for major capital improvements

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

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

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

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

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

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

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1 first three years of operation if the building was completed since nine-
2 teen hundred sixty-eight or for the first three fiscal years after a
3 transfer of title to a new owner provided the new owner can establish to
4 the satisfaction of the commissioner that he or she acquired title to
5 the building as a result of a bona fide sale of the entire building and
6 that the new owner is unable to obtain requisite records for the fiscal
7 years nineteen hundred sixty-eight through nineteen hundred seventy
8 despite diligent efforts to obtain same from predecessors in title and
9 further provided that the new owner can provide financial data covering
10 a minimum of six years under his or her continuous and uninterrupted
11 operation of the building to meet the three year to three year compar-
12 ative test periods herein provided; and (b) as to completed building-
13 wide major capital improvements, for a finding that such improvements
14 are deemed depreciable under the Internal Revenue Code and that the cost
15 is to be amortized over a twelve-year period for a building with thir-
16 ty-five or fewer housing accommodations, or a twelve and one-half-year
17 period for a building with more than thirty-five housing accommodations,
18 for any determination issued by the division of housing and community
19 renewal after the effective date of the [the] chapter of the laws of two
20 thousand nineteen that amended this paragraph and shall be removed from
21 the legal regulated rent thirty years from the date the increase became
22 effective inclusive of any increases granted by the applicable rent
23 guidelines board. Temporary major capital improvement increases shall be
24 collectible prospectively on the first day of the first month beginning
25 sixty days from the date of mailing notice of approval to the tenant.
26 Such notice shall disclose the total monthly increase in rent and the
27 first month in which the tenant would be required to pay the temporary
28 increase. An approval for a temporary major capital improvement increase
29 shall not include retroactive payments. The collection of any increase
30 shall not exceed two percent in any year from the effective date of the
31 order granting the increase over the rent set forth in the schedule of
32 gross rents, with collectability of any dollar excess above said sum to
33 be spread forward in similar increments and added to the rent as estab-
34 lished or set in future years. Upon vacancy, the landlord may add any
35 remaining balance of the temporary major capital improvement increase to
36 the legal regulated rent. Notwithstanding any other provision of the
37 law, for any renewal lease commencing on or after June 14, 2019, the
38 collection of any rent increases due to any major capital improvements
39 approved on or after June 16, 2012 and before June 16, 2019 shall not
40 exceed two percent in any year for any tenant in occupancy on the date
41 the major capital improvement was approved or based upon cash purchase
42 price exclusive of interest or service charges. Where an application for
43 a temporary major capital improvement increase has been filed, a tenant
44 shall have sixty days from the date of mailing of a notice of a proceed-
45 ing in which to answer or reply. The state division of housing and
46 community renewal shall provide any responding tenant with the reasons
47 for the division's approval or denial of such application. Notwithstand-
48 ing anything to the contrary contained herein, no hardship increase
49 granted pursuant to this paragraph shall, when added to the annual gross
50 rents, as determined by the commissioner, exceed the sum of, (i) the
51 annual operating expenses, (ii) an allowance for management services as
52 determined by the commissioner, (iii) actual annual mortgage debt
53 service (interest and amortization) on its indebtedness to a lending
54 institution, an insurance company, a retirement fund or welfare fund
55 which is operated under the supervision of the banking or insurance laws
56 of the state of New York or the United States, and (iv) eight and one-

1 half percent of that portion of the fair market value of the property
2 which exceeds the unpaid principal amount of the mortgage indebtedness
3 referred to in subparagraph (iii) of this paragraph. Fair market value
4 for the purposes of this paragraph shall be six times the annual gross
5 rent. The collection of any increase in the stabilized rent for any
6 apartment pursuant to this paragraph shall not exceed six percent in any
7 year from the effective date of the order granting the increase over the
8 rent set forth in the schedule of gross rents, with collectability of
9 any dollar excess above said sum to be spread forward in similar incre-
10 ments and added to the stabilized rent as established or set in future
11 years. No increase for major capital improvements shall be granted to
12 any landlord or property owner, unless an application including all
13 necessary documentation is submitted within one hundred twenty days
14 after the completion of the new installation or improvement or improve-
15 ments;

16 § 3. Subdivision b of section 4 of section 4 of chapter 576 of the
17 laws of 1974, constituting the emergency tenant protection act of nine-
18 teen seventy-four, is amended by adding a new paragraph 4 to read as
19 follows:

20 (4) no increase for major capital improvements shall be granted to any
21 landlord or property owner, unless an application including all neces-
22 sary documentation is submitted within one hundred twenty days after the
23 completion of the new installation or improvement or improvements;

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

29 (7) there has been since March first, nineteen hundred fifty, a major
30 capital improvement essential for the preservation, energy efficiency,
31 functionality, or infrastructure of the entire building, improvement of
32 the structure including heating, windows, plumbing and roofing, but
33 shall not be for operational costs or unnecessary cosmetic improvements;
34 which for any order of the commissioner issued after the effective date
35 of the chapter of the laws of two thousand nineteen that amended this
36 paragraph the cost of such improvement shall be amortized over a twelve-
37 year period for buildings with thirty-five or fewer units or a twelve
38 and one-half year period for buildings with more than thirty-five units,
39 and shall be removed from the legal regulated rent thirty years from the
40 date the increase became effective inclusive of any increases granted by
41 the applicable rent guidelines board. Temporary major capital improve-
42 ment increases shall be collectible prospectively on the first day of
43 the first month beginning sixty days from the date of mailing notice of
44 approval to the tenant. Such notice shall disclose the total monthly
45 increase in rent and the first month in which the tenant would be
46 required to pay the temporary increase. An approval for a temporary
47 major capital improvement increase shall not include retroactive
48 payments. The collection of any increase shall not exceed two percent in
49 any year from the effective date of the order granting the increase over
50 the rent set forth in the schedule of gross rents, with collectability
51 of any dollar excess above said sum to be spread forward in similar
52 increments and added to the rent as established or set in future years.
53 Upon vacancy, the landlord may add any remaining balance of the tempo-
54 rary major capital improvement increase to the legal regulated rent.
55 Notwithstanding any other provision of the law, for any renewal lease
56 commencing on or after June 14, 2019, the collection of any rent

1 increases due to any major capital improvements approved on or after
2 June 16, 2012 and before June 16, 2019 shall not exceed two percent in
3 any year for any tenant in occupancy on the date the major capital
4 improvement was approved; provided, however, where an application for a
5 temporary major capital improvement increase has been filed, a tenant
6 shall have sixty days from the date of mailing of a notice of a proceed-
7 ing in which to answer or reply. The state division of housing and
8 community renewal shall provide any responding tenant with the reasons
9 for the division's approval or denial of such application. No increase
10 for major capital improvements shall be granted to any landlord or prop-
11 erty owner, unless an application including all necessary documentation
12 is submitted within one hundred twenty days after the completion of the
13 new installation or improvement or improvements; or

14 § 5. This act shall take effect immediately; provided that:
15 a. the amendments to section 26-405 of the city rent and rehabili-
16 tation law made by section one of this act shall remain in full force
17 and effect only as long as the public emergency requiring the regulation
18 and control of residential rents and evictions continues, as provided in
19 subdivision 3 of section 1 of the local emergency housing rent control
20 act; and
21 b. the amendments to section 26-511 of the administrative code of the
22 city of New York made by section two of this act shall not affect the
23 expiration of such section and shall be deemed to expire therewith.