

# STATE OF NEW YORK

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2980--B

2023-2024 Regular Sessions

## IN SENATE

January 26, 2023

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Introduced by Sens. KAVANAGH, CLEARE, HOYLMAN-SIGAL, JACKSON, KRUEGER, RIVERA -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 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, the emergency tenant protection act of nineteen seventy-four, and the emergency housing rent control law, in relation to major capital improvements (Part B); 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); to apply the Housing Stability and Tenant Protection Act of 2019 to rent calculations and rent records maintenance and destruction (Part D); and to amend the administrative code of the city of New York, the emergency tenant protection act of nineteen seventy-four and the public housing law, in relation to the failure of owners to file rent registration statements and the enforcement powers of the commissioner of housing and community renewal (Part E)

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

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

LBD07250-09-3

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 E. 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.

11 PART A

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13 administrative code of the city of New York is REPEALED.

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

17 (15) (a) where an owner combines two or more vacant housing accommo-  
18 dations or combines a vacant housing accommodation with an occupied  
19 accommodation, such initial rent for such new housing accommodation  
20 shall be the combined legal rent for both previous housing accommo-  
21 dations, subject to any applicable guideline increases and any other  
22 increases authorized by this chapter including any individual apartment  
23 improvement increases applicable for both housing accommodations. If an  
24 owner combines a rent regulated accommodation with an apartment not  
25 subject to rent regulation, the resulting apartment shall be subject to  
26 the emergency tenant protection act of nineteen seventy-four. If an  
27 owner increases the area of an apartment not subject to rent regulation  
28 by adding space that was previously part of a rent regulated apartment,  
29 each apartment shall be subject to the emergency tenant protection act  
30 of nineteen seventy-four.

31 (b) where an owner substantially increases the outer dimension of a  
32 vacant housing accommodation, such initial rent shall be the prior rent  
33 of such housing accommodation, increased by a percentage that is equal  
34 to the percentage increase in the dwelling space and such other  
35 increases authorized by this chapter including any applicable guideline  
36 increase and individual apartment improvement increase that could be  
37 authorized for the unit prior to the alteration of the outer dimensions.

38 (c) notwithstanding subparagraphs (a) and (b) of this paragraph, such  
39 increases may be denied based on the occurrence of such vacancy due to  
40 harassment, fraud, or other acts of evasion which may require that such  
41 rent be set in accordance with this subdivision.

42 (d) where the vacant housing accommodations are combined, modified,  
43 divided or the dimension of such housing accommodation otherwise altered  
44 and these changes are being made pursuant to a preservation regulatory  
45 agreement with a federal, state or local governmental agency or instru-  
46 mentality, the rent stabilized rents charged thereafter shall be based  
47 on an initial rent set by such agency or instrumentality.

48 (e) where an owner substantially decreases the outer dimensions of a  
49 vacant housing accommodation, such initial rent shall be the prior rent  
50 of such housing accommodation, decreased by the same percentage the  
51 square footage of the original apartment was decreased by and such other  
52 increases authorized by this chapter including any applicable guideline  
53 increase and individual apartment improvement increase that could be

1 authorized for the apartment prior to the alteration of the outer dimen-  
2 sions.

3 (f)(i) when an owner combines two or more rent regulated apartments,  
4 the owner may use each of the previous apartments' remaining individual  
5 apartment improvement allowances for the purposes of a temporary indi-  
6 vidual apartment improvement rent increase. The owner shall subsequently  
7 designate a surviving apartment for the purposes of registration that  
8 has the same apartment number as one of the prior apartments. If that  
9 prior apartment has any reimbursable individual apartment improvement  
10 money remaining after the combination, that money may be reimbursed for  
11 future individual apartment improvements undertaken within the subse-  
12 quent fifteen years following the combination.

13 (ii) in order for an owner to qualify for a temporary individual  
14 apartment improvement rent increase when apartments are combined, the  
15 requirements for an individual apartment improvement, including all  
16 notification requirements under this chapter shall be met.

17 (g) owners shall maintain the records and rent histories of all  
18 combined apartments, both prior to and post combination, for the  
19 purposes of rent setting, overcharge and all other proceedings to which  
20 the records are applicable.

21 § 2-a. Subdivision (a) of section 10-b of section 4 of chapter 576 of  
22 the laws of 1974, constituting the emergency tenant protection act of  
23 nineteen seventy-four, is amended by adding a new paragraph 13 to read  
24 as follows:

25 13. (i) where an owner combines two or more vacant housing accommo-  
26 dations or combines a vacant housing accommodation with an occupied  
27 accommodation, such initial rent for such new housing accommodation  
28 shall be the combined legal rent for both previous housing accommo-  
29 dations, subject to any applicable guideline increases and any other  
30 increases authorized by this chapter including any individual apartment  
31 improvement increases applicable for both housing accommodations. If an  
32 owner combines a rent regulated accommodation with an apartment not  
33 subject to rent regulation, the resulting apartment shall be subject to  
34 this act. If an owner increases the area of an apartment not subject to  
35 rent regulation by adding space that was previously part of a rent regu-  
36 lated apartment, each apartment shall be subject to this act.

37 (ii) where an owner substantially increases the outer dimension of a  
38 vacant housing accommodation, such initial rent shall be the prior rent  
39 of such housing accommodation, increased by a percentage that is equal  
40 to the percentage increase in the dwelling space and such other  
41 increases authorized by this act including any applicable guideline  
42 increase and individual apartment improvement increase that could be  
43 authorized for the unit prior to the alteration of the outer dimensions.

44 (iii) notwithstanding subparagraphs (i) and (ii) of this paragraph,  
45 such increases may be denied based on the occurrence of such vacancy due  
46 to harassment, fraud, or other acts of evasion which may require that  
47 such rent be set in accordance with section twelve of this act.

48 (iv) where the vacant housing accommodations are combined, modified,  
49 divided or the dimension of such housing accommodation otherwise altered  
50 and these changes are being made pursuant to a preservation regulatory  
51 agreement with a federal, state or local governmental agency or instru-  
52 mentality, the rent stabilized rents charged thereafter shall be based  
53 on an initial rent set by such agency or instrumentality.

54 (v) where an owner substantially decreases the outer dimensions of a  
55 vacant housing accommodation, such initial rent shall be the prior rent  
56 of such housing accommodation, decreased by the same percentage the

1 square footage of the original apartment was decreased by and such other  
2 increases authorized by this act including any applicable guideline  
3 increase and individual apartment improvement increase that could be  
4 authorized for the apartment prior to the alteration of the outer dimen-  
5 sions.

6 (vi)(1) when an owner combines two or more rent regulated apartments,  
7 the owner may use each of the previous apartments' remaining individual  
8 apartment improvement allowances for the purposes of a temporary indi-  
9 vidual apartment improvement rent increase. The owner shall subsequently  
10 designate a surviving apartment for the purposes of registration that  
11 has the same apartment number as one of the prior apartments. If that  
12 prior apartment has any reimbursable individual apartment improvement  
13 money remaining after the combination, that money may be reimbursed for  
14 future individual apartment improvements undertaken within the subse-  
15 quent fifteen years following the combination.

16 (2) in order for an owner to qualify for a temporary individual apart-  
17 ment improvement rent increase when apartments are combined, the  
18 requirements for an individual apartment improvement, including all  
19 notification requirements under this act shall be met.

20 (vii) owners shall maintain the records and rent histories of all  
21 combined apartments, both prior to and post combination, for the  
22 purposes of rent setting, overcharge and all other proceedings to which  
23 the records are applicable.

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

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

48 § 4. Paragraph 5 of subdivision a of section 5 of section 4 of chapter  
49 576 of the laws of 1974, constituting the emergency tenant protection  
50 act of nineteen seventy-four, is amended to read as follows:

51 (5) housing accommodations in buildings completed or buildings  
52 substantially rehabilitated as family units on or after January first,  
53 nineteen hundred seventy-four; provided that an owner claiming exemption  
54 from rent stabilization on the basis of substantial rehabilitation shall  
55 seek approval from state division of housing and community renewal with-  
56 in one year of the completion of the substantial rehabilitation, or for

1 any building previously alleged to have been substantially rehabilitated  
2 before the effective date of the chapter of the laws of two thousand  
3 twenty-three that amended this paragraph, within six months of such  
4 effective date, and ultimately obtain such approval, which shall be  
5 denied on the following grounds:

6 (a) the owner or its predecessors in interest have engaged in harass-  
7 ment of tenants in the five years preceding the completion of the  
8 substantial rehabilitation;

9 (b) the building was not in a seriously deteriorated condition requir-  
10 ing substantial rehabilitation;

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

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

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

23

## PART B

24 Section 1. Subparagraph (g) of paragraph 1 of subdivision g of section  
25 26-405 of the administrative code of the city of New York, as amended by  
26 section 27 of part Q of chapter 39 of the laws of 2019, is amended to  
27 read as follows:

28 (g) There has been since July first, nineteen hundred seventy, 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 shall  
32 not be for operational costs or unnecessary cosmetic improvements. The  
33 temporary increase based upon a major capital improvement under this  
34 subparagraph for any order of the commissioner issued after the effec-  
35 tive date of the chapter of the laws of two thousand nineteen that  
36 amended this subparagraph shall be in an amount sufficient to amortize  
37 the cost of the improvements pursuant to this subparagraph (g) over a  
38 twelve-year period for buildings with thirty-five or fewer units or a  
39 twelve and one-half year period for buildings with more than thirty-five  
40 units, and shall be removed from the legal regulated rent thirty years  
41 from the date the increase became effective inclusive of any increases  
42 granted by the applicable rent guidelines board. Temporary major capital  
43 improvement increases shall be collectible prospectively on the first  
44 day of the first month beginning sixty days from the date of mailing  
45 notice of approval to the tenant. Such notice shall disclose the total  
46 monthly increase in rent and the first month in which the tenant would  
47 be required to pay the temporary increase. An approval for a temporary  
48 major capital improvement increase shall not include retroactive  
49 payments. The collection of any increase shall not exceed two percent in  
50 any year from the effective date of the order granting the increase over  
51 the rent set forth in the schedule of gross rents, with collectability  
52 of any dollar excess above said sum to be spread forward in similar  
53 increments and added to the rent as established or set in future years.  
54 Upon vacancy, the landlord may add any remaining balance of the tempo-

1 rary major capital improvement increase to the legal regulated rent.  
2 Notwithstanding any other provision of the law, for any renewal lease  
3 commencing on or after June 14, 2019, the collection of any rent  
4 increases due to any major capital improvements approved on or after  
5 June 16, 2012 and before June 16, 2019 shall not exceed two percent in  
6 any year for any tenant in occupancy on the date the major capital  
7 improvement was approved[7]; provided, however, no application for a  
8 major capital improvement rent increase shall be approved by the divi-  
9 sion of housing and community renewal unless the owner of the property  
10 has filed all copies of permits pertaining to the major capital improve-  
11 ment work with such application. Any application submitted with fraudu-  
12 lent permits or without required permits shall be denied; or

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

17 (6) provides criteria whereby the commissioner may act upon applica-  
18 tions by owners for increases in excess of the level of fair rent  
19 increase established under this law provided, however, that such crite-  
20 ria shall provide (a) as to hardship applications, for a finding that  
21 the level of fair rent increase is not sufficient to enable the owner to  
22 maintain approximately the same average annual net income (which shall  
23 be computed without regard to debt service, financing costs or manage-  
24 ment fees) for the three year period ending on or within six months of  
25 the date of an application pursuant to such criteria as compared with  
26 annual net income, which prevailed on the average over the period nine-  
27 teen hundred sixty-eight through nineteen hundred seventy, or for the  
28 first three years of operation if the building was completed since nine-  
29 teen hundred sixty-eight or for the first three fiscal years after a  
30 transfer of title to a new owner provided the new owner can establish to  
31 the satisfaction of the commissioner that he or she acquired title to  
32 the building as a result of a bona fide sale of the entire building and  
33 that the new owner is unable to obtain requisite records for the fiscal  
34 years nineteen hundred sixty-eight through nineteen hundred seventy  
35 despite diligent efforts to obtain same from predecessors in title and  
36 further provided that the new owner can provide financial data covering  
37 a minimum of six years under his or her continuous and uninterrupted  
38 operation of the building to meet the three year to three year compar-  
39 ative test periods herein provided; and (b) as to completed building-  
40 wide major capital improvements, for a finding that such improvements  
41 are deemed depreciable under the Internal Revenue Code and that the cost  
42 is to be amortized over a twelve-year period for a building with thir-  
43 ty-five or fewer housing accommodations, or a twelve and one-half-year  
44 period for a building with more than thirty-five housing accommodations,  
45 for any determination issued by the division of housing and community  
46 renewal after the effective date of the [~~the~~] chapter of the laws of two  
47 thousand nineteen that amended this paragraph and shall be removed from  
48 the legal regulated rent thirty years from the date the increase became  
49 effective inclusive of any increases granted by the applicable rent  
50 guidelines board. Temporary major capital improvement increases shall be  
51 collectible prospectively on the first day of the first month beginning  
52 sixty days from the date of mailing notice of approval to the tenant.  
53 Such notice shall disclose the total monthly increase in rent and the  
54 first month in which the tenant would be required to pay the temporary  
55 increase. An approval for a temporary major capital improvement increase  
56 shall not include retroactive payments. The collection of any increase

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

43 § 3. Paragraph 3 of subdivision d of section 6 of section 4 of chapter  
44 576 of the laws of 1974, constituting the emergency tenant protection  
45 act of nineteen seventy-four, as amended by section 26 of part Q of  
46 chapter 39 of the laws of 2019, is amended to read as follows:

47 (3) there has been since January first, nineteen hundred seventy-four  
48 a major capital improvement essential for the preservation, energy effi-  
49 ciency, functionality, or infrastructure of the entire building,  
50 improvement of the structure including heating, windows, plumbing and  
51 roofing, but shall not be for operation costs or unnecessary cosmetic  
52 improvements. An adjustment under this paragraph shall be in an amount  
53 sufficient to amortize the cost of the improvements pursuant to this  
54 paragraph over a twelve-year period for a building with thirty-five or  
55 fewer housing accommodations, or a twelve and one-half period for a  
56 building with more than thirty-five housing accommodations and shall be

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

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

36 (7) there has been since March first, nineteen hundred fifty, a major  
37 capital improvement essential for the preservation, energy efficiency,  
38 functionality, or infrastructure of the entire building, improvement of  
39 the structure including heating, windows, plumbing and roofing, but  
40 shall not be for operational costs or unnecessary cosmetic improvements;  
41 which for any order of the commissioner issued after the effective date  
42 of the chapter of the laws of two thousand nineteen that amended this  
43 paragraph the cost of such improvement shall be amortized over a twelve-  
44 year period for buildings with thirty-five or fewer units or a twelve  
45 and one-half year period for buildings with more than thirty-five units,  
46 and shall be removed from the legal regulated rent thirty years from the  
47 date the increase became effective inclusive of any increases granted by  
48 the applicable rent guidelines board. Temporary major capital improve-  
49 ment increases shall be collectible prospectively on the first day of  
50 the first month beginning sixty days from the date of mailing notice of  
51 approval to the tenant. Such notice shall disclose the total monthly  
52 increase in rent and the first month in which the tenant would be  
53 required to pay the temporary increase. An approval for a temporary  
54 major capital improvement increase shall not include retroactive  
55 payments. The collection of any increase shall not exceed two percent in  
56 any year from the effective date of the order granting the increase over

1 the rent set forth in the schedule of gross rents, with collectability  
2 of any dollar excess above said sum to be spread forward in similar  
3 increments and added to the rent as established or set in future years.  
4 Upon vacancy, the landlord may add any remaining balance of the tempo-  
5 rary major capital improvement increase to the legal regulated rent.  
6 Notwithstanding any other provision of the law, for any renewal lease  
7 commencing on or after June 14, 2019, the collection of any rent  
8 increases due to any major capital improvements approved on or after  
9 June 16, 2012 and before June 16, 2019 shall not exceed two percent in  
10 any year for any tenant in occupancy on the date the major capital  
11 improvement was approved; provided, however, where an application for a  
12 temporary major capital improvement increase has been filed, a tenant  
13 shall have sixty days from the date of mailing of a notice of a proceed-  
14 ing in which to answer or reply. The state division of housing and  
15 community renewal shall provide any responding tenant with the reasons  
16 for the division's approval or denial of such application; provided,  
17 however, no application for a major capital improvement rent increase  
18 shall be approved by the division of housing and community renewal  
19 unless the owner of the property has filed all copies of permits  
20 pertaining to the major capital improvement work with such application.  
21 Any application submitted with fraudulent permits or without required  
22 permits shall be denied; or

23 § 5. This act shall take effect immediately; provided that the amend-  
24 ments to section 26-405 of the city rent and rehabilitation law made by  
25 section one of this act shall remain in full force and effect only as  
26 long as the public emergency requiring the regulation and control of  
27 residential rents and evictions continues, as provided in subdivision 3  
28 of section 1 of the local emergency housing rent control act; provided,  
29 further, that the amendments to section 26-511 of the rent stabilization  
30 law of nineteen hundred sixty-nine made by section two of this act shall  
31 expire on the same date as such law expires and shall not affect the  
32 expiration of such law as provided under section 26-520 of such law, as  
33 from time to time amended.

34

## PART C

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

38 3. a. If (i) the official records of the department shall note that a  
39 rent impairing violation exists or existed in respect to a multiple  
40 dwelling and that notice of such violation has been given by the depart-  
41 ment, by mail, to the owner last registered with the department and (ii)  
42 such note of the violation [~~is~~] was not cancelled or removed of record  
43 within [~~six~~] three months after the date of such notice of such  
44 violation, then for the period that such violation remains uncorrected  
45 after the expiration of said [~~six~~] three months, no rent shall be recov-  
46 ered by any owner for any premises in such multiple dwelling used by a  
47 resident thereof for human habitation in which the condition constitut-  
48 ing such rent impairing violation exists, provided, however, that if the  
49 violation is one that requires approval of plans by the department for  
50 the corrective work and if plans for such corrective work shall have  
51 been duly filed within [~~three months~~] one month from the date of notice  
52 of such violation by the department to the owner last registered with  
53 the department, the [~~six months~~] three month period aforementioned shall  
54 not begin to run until the date that plans for the corrective work are

1 approved by the department; if plans are not filed within said [~~three-~~  
2 ~~months~~] one month period or if so filed, they are disapproved and amend-  
3 ments are not duly filed within thirty days after the date of notifica-  
4 tion of the disapproval by the department to the person having filed the  
5 plans, the [~~six-months~~] three month period shall be computed as if no  
6 plans whatever had been filed under this proviso. If a condition consti-  
7 tuting a rent impairing violation exists in the part of a multiple  
8 dwelling used in common by the residents or in the part under the  
9 control of the owner thereof, the violation shall be deemed to exist in  
10 the respective premises of each resident of the multiple dwelling.

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

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

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

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

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

5 10. The person in possession has entered the property or remains in  
6 possession by force or unlawful means and he or she or his or her prede-  
7 cessor in interest was not in quiet possession for three years before  
8 the time of the forcible or unlawful entry or detainer and the petition-  
9 er was peaceably in actual possession at the time of the forcible or  
10 unlawful entry or in constructive possession at the time of the forcible  
11 or unlawful detainer. Any lawful occupant, physically or constructively  
12 in possession, who has been evicted or dispossessed without the court  
13 process mandated by section seven hundred eleven of this article, may  
14 commence a proceeding under this subdivision to be restored to  
15 possession, and shall be so restored upon proof that their eviction was  
16 unlawful; no notice to quit shall be required in order to maintain a  
17 proceeding under this subdivision.

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

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

26 2. If the respondent answers, the clerk shall fix a date for trial or  
27 hearing not less than three nor more than eight days after joinder of  
28 issue, and shall immediately notify by mail the parties or their attor-  
29 neys of such date. If the determination be for the petitioner, the issu-  
30 ance of a warrant shall not be stayed for more than five days from such  
31 determination, except as provided in section seven hundred fifty-three  
32 of this article. If the respondent fails to appear on such date, the  
33 court, after making an assessment, pursuant to section thirty-two  
34 hundred fifteen of the civil practice law and rules, may issue a judg-  
35 ment in favor of the petitioner and the issuance of the warrant shall be  
36 stayed for a period not to exceed ten days from the date of service,  
37 except as provided in section seven hundred fifty-three of this article.

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

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

52 PART D

53 Section 1. Legislative findings. The legislature hereby finds and  
54 declares that:

1 (a) the pool of rent regulated apartments in New York state contains  
2 an unacceptably high number of apartments in which the current rents are  
3 based on prior rents that exceeded the legal regulated rent at the time  
4 they were charged, but for which remedies were limited under the law in  
5 effect before the effective date of the Housing Stability and Tenant  
6 Protection Act of 2019 (HSTPA);

7 (b) it is public policy prospectively to reduce, insofar as possible,  
8 those rents to a level in line with what they would have been in the  
9 absence of the unlawful rent setting and deregulations that were permit-  
10 ted under prior law to go unremedied, and therefore to impose the rent  
11 calculation standards of the HSTPA prospectively from the date of its  
12 enactment, including in cases where the pre-HSTPA rent has already been  
13 established by a court or administrative agency;

14 (c) the purpose of the prospective application of the penalty and  
15 record review provisions of the HSTPA is to prevent the perpetual  
16 collection of unlawful and inflated rents, and to encourage the volun-  
17 tary registration of any rent stabilized apartment for which any prior  
18 annual registration statement has not been filed, and to encourage the  
19 voluntary recalculation of unreliable pre-HSTPA rents;

20 (d) in light of court decisions arising under the HSTPA, including  
21 Regina Metro v. DHCR, it is public policy that the legislature define  
22 clearly the prospective reach of that law, and limit, to the extent  
23 required by the constitution, the retroactive reach of that law;

24 (e) despite Regina, the scope of the fraud exception to the pre-HSTPA  
25 four-year rule for calculating rents remains unsettled and the subject  
26 of litigation, and courts have diverged from the controlling authority  
27 of Thornton v. Baron and Grimm v. DHCR to impose a common law fraud  
28 standard that is not found in these cases and is inconsistent with the  
29 intent of the legislature to discourage and penalize fraud against the  
30 rent regulatory system itself, as well as against individual tenants,  
31 and it is therefore public policy that the legislature codify, without  
32 expanding or reducing the liability of landlords under pre-HSTPA law,  
33 the standard for applying that exception;

34 (f) the New York state division of housing and community renewal  
35 (DHCR) misinterpreted the rent stabilization law for a significant peri-  
36 od of time with respect to the regulatory obligations arising from the  
37 receipt of J-51 and 421-a tax benefits resulting in the unlawful deregu-  
38 lation of tens of thousands of rent-stabilized apartments, the setting  
39 of unlawful rents, and the collection of millions of dollars of rent  
40 overcharges, during a housing emergency. Both landlords and tenants  
41 relied upon the DHCR's misinterpretation of the law. In Regina, the  
42 Court of Appeals settled many of the issues arising from overcharge  
43 claims by tenants who were misled into refraining from filing overcharge  
44 cases during the period when DHCR's erroneous interpretation of the law  
45 was in effect, but left open the issue of whether a landlord's ongoing  
46 collection of overcharges and failure to return apartments to rent-sta-  
47 bilization, after the law was clarified, should be treated as fraud;

48 (g) the integrity of the registration system for rent regulated hous-  
49 ing has been eroded by the use of base date rents, rather than the  
50 service and filing of reliable registration statements, to set rents  
51 under the law in effect between the enactment of the Rent Regulation  
52 Reform Act of 1997 and the HSTPA. It is therefore public policy to  
53 impose, prospectively from the date of the enactment of the HSTPA, a  
54 rent calculation formula that, insofar as possible, derives the legal  
55 regulated rents for apartments from reliable registration statements  
56 served upon tenants and made available to the public; and

1 (h) because pre-HSTPA law with respect to the maintenance by landlords  
2 of rent records was complex, and has an ongoing impact upon the calcu-  
3 lation of post-HSTPA rents, it is necessary to codify the pre-HSTPA law  
4 that applied to the destruction of rent records prior to the enactment  
5 of the HSTPA, and to define clearly the impact of such law upon the  
6 prospective calculation of rents under the HSTPA.

7 § 2. (a) The legal rent for all rent stabilized apartments for the  
8 period from July 1, 2019 and thereafter shall be determined in accord-  
9 ance with Part F of the HSTPA. Where the legal regulated rent for a rent  
10 stabilized apartment for the period prior to June 14, 2019 has been  
11 determined by any court or administrative agency, that determination  
12 shall not foreclose a recalculation of the post-HSTPA rent, except that  
13 any pre-HSTPA rent that, as of June 14, 2019, is lower than the rent  
14 that would be permitted to be charged under the HSTPA, shall be deemed  
15 to be the lawful rent under the HSTPA on June 15, 2019, and shall be  
16 used as the basis for calculating subsequent rents under the HSTPA;

17 (b) Subdivision (a) of this section shall apply to all cases, includ-  
18 ing those pending as of June 14, 2019 before any court, appellate tribu-  
19 nal, or administrative agency in which a claim for rent overcharges or  
20 rent arrears has been asserted with respect to rent stabilized housing,  
21 the legal regulated rent for the period from June 14, 2019 and thereaft-  
22 er shall be determined in accordance with Part F of the HSTPA. The legal  
23 regulated rent for the portion of any overcharge claim involving rents  
24 paid prior to June 14, 2019 shall be determined under pre-HSTPA law,  
25 including the default formula in cases of fraud, as codified herein;

26 (c) Nothing in this act, or the HSTPA, or prior law, shall be  
27 construed as restricting, impeding or diminishing the use of records of  
28 any age or type, going back to any date that may be relevant, for  
29 purposes of determining the status of any apartment under the rent  
30 stabilization law;

31 (d) The legal regulated rent payable for the period prior to June 14,  
32 2019 shall be calculated in accordance with the law in effect prior to  
33 the HSTPA, including the prior four-year limitation on the consideration  
34 of rent records, and including the fraud exception to such limitation  
35 and such other exceptions as existed under prior law and under the regu-  
36 lations of the New York state division of housing and community renewal.  
37 Nothing in this act shall be construed as limiting such exceptions or as  
38 limiting the application of any equitable doctrine that extends statutes  
39 of limitations generally. With respect to the calculation of legal rents  
40 for the period either prior to or subsequent to June 14, 2019, an owner  
41 shall be deemed to have committed fraud if the owner shall have commit-  
42 ted a material breach of any duty, arising under statutory, administra-  
43 tive or common law, to disclose truthfully to any tenant, government  
44 agency or judicial or administrative tribunal, the rent, regulatory  
45 status, or lease information, for purposes of claiming an unlawful rent  
46 or claiming to have deregulated an apartment, whether or not the owner's  
47 conduct would be considered fraud under the common law, and whether or  
48 not a complaining tenant specifically relied on untruthful or misleading  
49 statements in registrations, leases, or other documents. The following  
50 conduct shall be presumed to have been the product of such fraud: (1)  
51 the unlawful deregulation of any apartment, including such deregulation  
52 as results from claiming an unlawful increase such as would have brought  
53 the rent over the deregulation threshold that existed under prior law,  
54 unless the landlord can prove good faith reliance on a directive or  
55 ruling by an administrative agency or court; or (2) beginning October 1,

1 2011, failing to register, as rent stabilized, any apartment in a build-  
2 ing receiving J-51 or 421-a benefits;

3 (e) In accordance with the practice of the New York state division of  
4 housing and community renewal prior to June 14, 2019, where fraud is not  
5 established, base rents of apartments unlawfully deregulated shall be  
6 calculated as the average of rents for comparable rent stabilized apart-  
7 ments in the building, rather than the default formula applicable to  
8 cases involving fraud;

9 (f) For the period prior to June 14, 2019, neither the version of  
10 subdivision g of section 26-516 of the administrative code of the city  
11 of New York then in effect, nor the version of section 2523.7 of the  
12 rent stabilization code (9 NYCRR 2523.7) then in effect shall be  
13 construed as permitting the destruction of rent records for units that  
14 have not been properly and timely registered. Where records have been  
15 permitted to be destroyed by virtue of proper registration, and no other  
16 law required the maintenance of such records, and where the owner has  
17 proven that such records were actually destroyed in accordance with  
18 prior law and that such destruction took place prior to June 15, 2019,  
19 the registration served and filed prior to such lawful destruction of  
20 records shall be presumed to be reliable, for purposes of any post-HSTPA  
21 calculation of the rent, but that presumption shall be rebuttable. The  
22 parties shall be entitled to discovery of any evidence found to be  
23 reasonably necessary to demonstrate the legal rent. Nothing in this  
24 subdivision shall be interpreted as authorizing the destruction of any  
25 record, that under prior law was relevant to establishing (1) the status  
26 of an apartment as regulated or unregulated; (2) the presence or absence  
27 of fraud with respect to renting any housing accommodation; (3) the  
28 presence or absence of willfulness in the collection of overcharges; (4)  
29 the useful life of any item, the replacement of which is claimed by the  
30 owner to qualify an apartment for a rent increase; (5) the duration of  
31 any tenancy, such as would establish whether an owner was entitled under  
32 prior law to a longevity increase; or (6) compliance with any law that,  
33 independently of the rent stabilization law, required or requires the  
34 maintenance of such records. Where the calculation of the rent is  
35 dependent upon records that the owner has improperly destroyed, includ-  
36 ing where the records were destroyed without the apartment having been  
37 registered, the rent shall be calculated in accordance with the default  
38 formula.

39 § 3. This act shall take effect immediately.

40

#### PART E

41 Section 1. Subdivision e of section 26-517 of the administrative code  
42 of the city of New York, as amended by chapter 253 of the laws of 1993,  
43 is amended to read as follows:

44 e. The failure to file a proper and timely initial or annual rent  
45 registration statement shall, until such time as such registration is  
46 filed, bar an owner from applying for or collecting any rent in excess  
47 of the legal regulated rent in effect on the date of the last preceding  
48 registration statement or if no such statements have been filed, the  
49 legal regulated rent in effect on the date that the housing accommo-  
50 dation became subject to the registration requirements of this section.  
51 The filing of a late registration shall result in the prospective elimi-  
52 nation of such sanctions and provided that increases in the legal regu-  
53 lated rent were lawful except for the failure to file a timely registra-  
54 tion, the owner, upon the service and filing of a late registration,

1 shall not be found to have collected an overcharge at any time prior to  
2 the filing of the late registration. [~~If such late registration is filed~~  
3 ~~subsequent to the filing of an overcharge complaint, the owner shall be~~  
4 ~~assessed a late filing surcharge for each late registration in an amount~~  
5 ~~equal to fifty percent of the timely rent registration fee.~~] In addition  
6 to all other requirements set forth in this subdivision, in the event a  
7 timely rent registration is not filed and after notice of such delin-  
8 quency is provided by the state division of housing and community  
9 renewal to the owner in the form of electronic mail and mail to the  
10 address listed in the owner's most recent registration statement, the  
11 owner shall be subject to a fine of five hundred dollars per unregis-  
12 tered unit for each month the registration is delinquent. Such a fine  
13 shall be imposed by order, and such order imposing a fine shall be  
14 deemed a final determination for the purposes of judicial review. Such  
15 fine may, upon the expiration of the period for seeking review pursuant  
16 to article seventy-eight of the civil practice law and rules, be docket-  
17 ed and enforced in the manner of a judgment of the supreme court by the  
18 state division of housing and community renewal.

19 § 2. Subdivision e of section 12-a of section 4 of chapter 576 of the  
20 laws of 1974 constituting the emergency tenant protection act of nine-  
21 teen seventy-four, as amended by chapter 253 of the laws of 1993, is  
22 amended to read as follows:

23 e. The failure to file a proper and timely initial or annual rent  
24 registration statement shall, until such time as such registration is  
25 filed, bar an owner from applying for or collecting any rent in excess  
26 of the legal regulated rent in effect on the date of the last preceding  
27 registration statement or if no such statements have been filed, the  
28 legal regulated rent in effect on the date that the housing accommo-  
29 dation became subject to the registration requirements of this section.  
30 The filing of a late registration shall result in the prospective elimi-  
31 nation of such sanctions and provided that increases in the legal regu-  
32 lated rent were lawful except for the failure to file a timely registra-  
33 tion, the owner, upon the service and filing of a late registration,  
34 shall not be found to have collected an overcharge at any time prior to  
35 the filing of the late registration. [~~If such late registration is filed~~  
36 ~~subsequent to the filing of an overcharge complaint, the owner shall be~~  
37 ~~assessed a late filing surcharge for each late registration in an amount~~  
38 ~~equal to fifty percent of the timely rent registration fee.~~] In addition  
39 to all other requirements set forth in this subdivision, in the event a  
40 timely rent registration is not filed and after notice of such delin-  
41 quency is provided by the division of housing and community renewal to  
42 the owner in the form of electronic mail and mail to the address listed  
43 in the owner's most recent registration statement, the owner shall be  
44 subject to a fine of five hundred dollars per unregistered unit for each  
45 month the registration is delinquent. Such a fine shall be imposed by  
46 order, and such order imposing a fine shall be deemed a final determi-  
47 nation for the purposes of judicial review. Such fine may, upon the  
48 expiration of the period for seeking review pursuant to article seven-  
49 ty-eight of the civil practice law and rules, be docketed and enforced  
50 in the manner of a judgment of the supreme court by the division of  
51 housing and community renewal.

52 § 3. Subdivision 1 of section 14 of the public housing law is amended  
53 by adding a new paragraph (x) to read as follows:

54 (x) enforce the emergency tenant protection act of nineteen seventy-  
55 four, the emergency housing rent control law, the local emergency hous-  
56 ing rent control act, the rent stabilization law of the city of New York

1 and any regulations, rules and policies enacted pursuant thereto, in  
2 addition to any other laws, rules or regulations related to housing that  
3 is financed, administered, overseen or otherwise regulated by the agency  
4 or its related entities which constitute component parts of the divi-  
5 sion; such enforcement authority shall include, but not be limited to,  
6 all of the powers granted by the other provisions of this subdivision,  
7 the statutes, rules, regulations and other documents governing the  
8 administration of housing by the division, and, where applicable, the  
9 power to issue orders.

10 § 4. This act shall take effect immediately, provided that the amend-  
11 ments to section 26-517 of chapter 4 of title 26 of the administrative  
12 code of the city of New York made by section one of this act shall  
13 expire on the same date as such law expires and shall not affect the  
14 expiration of such law as provided under section 26-520 of such law.

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

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