

# STATE OF NEW YORK

10006

## IN ASSEMBLY

May 1, 2024

Introduced by M. of A. JACKSON -- 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 tenant responses to applications for a major capital improvement rent increase

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) Where an application for a major capital improvement rent  
5 increase has been filed, a tenant shall have one hundred twenty days  
6 from the date of mailing of a notice of a proceeding in which to answer  
7 or reply. The city rent agency shall provide any responding tenant with  
8 the reasons for the city rent agency's approval or denial of such appli-  
9 cation; or

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

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

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

LBD10017-01-3

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

1 edness to a lending institution, an insurance company, a retirement fund  
2 or welfare fund which is operated under the supervision of the banking  
3 or insurance laws of the state of New York or the United States, and  
4 (iv) eight and one-half percent of that portion of the fair market value  
5 of the property which exceeds the unpaid principal amount of the mort-  
6 gage indebtedness referred to in subparagraph (iii) of this paragraph.  
7 Fair market value for the purposes of this paragraph shall be six times  
8 the annual gross rent. The collection of any increase in the stabilized  
9 rent for any apartment pursuant to this paragraph shall not exceed six  
10 percent in any year from the effective date of the order granting the  
11 increase over the rent set forth in the schedule of gross rents, with  
12 collectability of any dollar excess above said sum to be spread forward  
13 in similar increments and added to the stabilized rent as established or  
14 set in future years;

15 § 3. Subdivision d of section 6 of section 4 of chapter 576 of the  
16 laws of 1974, constituting the emergency tenant protection act of nine-  
17 teen seventy-four, is amended by adding a new paragraph (3-b) to read as  
18 follows:

19 (3-b) an application for a major capital improvement rent increase has  
20 been filed, a tenant shall have one hundred twenty days from the date of  
21 mailing of a notice of a proceeding in which to answer or reply. The  
22 state division of housing and community renewal shall provide any  
23 responding tenant with the reasons for the division's approval or denial  
24 of such application; or

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

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

1 commencing on or after June 14, 2019, the collection of any rent  
2 increases due to any major capital improvements approved on or after  
3 June 16, 2012 and before June 16, 2019 shall not exceed two percent in  
4 any year for any tenant in occupancy on the date the major capital  
5 improvement was approved; provided, however, where an application for a  
6 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; provided,  
11 however, where an application for a major capital improvement rent  
12 increase has been filed, a tenant shall have one hundred twenty days  
13 from the date of mailing of a notice of a proceeding in which to answer  
14 or reply. The state division of housing and community renewal shall  
15 provide any responding tenant with the reasons for the division's  
16 approval or denial of such application; or

17 § 5. This act shall take effect on the ninetieth day after it shall  
18 have become a law; provided that:

19 (a) the amendments to section 26-405 of the city rent and rehabili-  
20 tation law made by section one of this act shall remain in full force  
21 and effect only as long as the public emergency requiring the regulation  
22 and control of residential rents and evictions continues, as provided in  
23 subdivision 3 of section 1 of the local emergency housing rent control  
24 act; and

25 (b) the amendments to section 26-511 of chapter 4 of title 26 of the  
26 administrative code of the city of New York made by section two of this  
27 act shall expire on the same date as such law expires and shall not  
28 affect the expiration of such law as provided under section 26-520 of  
29 such law.