

STATE OF NEW YORK

9325

IN SENATE

May 13, 2024

Introduced by Sen. JACKSON -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development

AN ACT to amend the administrative code of the city of New York, the emergency tenant protection act of nineteen seventy-four and the emergency housing rent control law, in relation to requiring notice be provided to tenants prior to the beginning of work on a major capital improvement

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

1 Section 1. Subparagraph (g) of paragraph 1 of subdivision g of section
2 26-405 of the administrative code of the city of New York, as amended by
3 section 27 of part Q of chapter 39 of the laws of 2019, is amended to
4 read as follows:

5 (g) There has been since July first, nineteen hundred seventy, a major
6 capital improvement essential for the preservation energy efficiency,
7 functionality, or infrastructure of the entire building, improvement of
8 the structure including heating, windows, plumbing and roofing but shall
9 not be for operational costs or unnecessary cosmetic improvements. The
10 temporary increase based upon a major capital improvement under this
11 subparagraph for any order of the commissioner issued after the effec-
12 tive date of [~~the~~] part K of chapter thirty-six of the laws of two thou-
13 sand nineteen [~~that amended this subparagraph~~] shall be in an amount
14 sufficient to amortize the cost of the improvements pursuant to this
15 subparagraph (g) over a twelve-year period for buildings with thirty-
16 five or fewer units or a twelve and one-half year period for buildings
17 with more than thirty-five units, and shall be removed from the legal
18 regulated rent thirty years from the date the increase became effective
19 inclusive of any increases granted by the applicable rent guidelines
20 board. Temporary major capital improvement increases shall be collect-
21 ible prospectively on the first day of the first month beginning sixty
22 days from the date of mailing notice of approval to the tenant. Such
23 notice shall disclose the total monthly increase in rent and the first
24 month in which the tenant would be required to pay the temporary

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

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1 increase. An approval for a temporary major capital improvement increase
2 shall not include retroactive payments. The collection of any increase
3 shall not exceed two percent in any year from the effective date of the
4 order granting the increase over the rent set forth in the schedule of
5 gross rents, with collectability of any dollar excess above said sum to
6 be spread forward in similar increments and added to the rent as estab-
7 lished or set in future years. Upon vacancy, the landlord may add any
8 remaining balance of the temporary major capital improvement increase to
9 the legal regulated rent. Notwithstanding any other provision of the
10 law, for any renewal lease commencing on or after June 14, 2019, the
11 collection of any rent increases due to any major capital improvements
12 approved on or after June 16, 2012 and before June 16, 2019 shall not
13 exceed two percent in any year for any tenant in occupancy on the date
14 the major capital improvement was approved. To be eligible for a tempo-
15 rary rent increase based upon a major capital improvement under this
16 subparagraph, notice shall be required to be provided to tenants prior
17 to the beginning of work on such major capital improvement, or

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

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

1 the first month beginning sixty days from the date of mailing notice of
2 approval to the tenant. Such notice shall disclose the total monthly
3 increase in rent and the first month in which the tenant would be
4 required to pay the temporary increase. An approval for a temporary
5 major capital improvement increase shall not include retroactive
6 payments. The collection of any increase shall not exceed two percent in
7 any year from the effective date of the order granting the increase over
8 the rent set forth in the schedule of gross rents, with collectability
9 of any dollar excess above said sum to be spread forward in similar
10 increments and added to the rent as established or set in future years.
11 Upon vacancy, the landlord may add any remaining balance of the tempo-
12 rary major capital improvement increase to the legal regulated rent.
13 Notwithstanding any other provision of the law, for any renewal lease
14 commencing on or after June 14, 2019, the collection of any rent
15 increases due to any major capital improvements approved on or after
16 June 16, 2012 and before June 16, 2019 shall not exceed two percent in
17 any year for any tenant in occupancy on the date the major capital
18 improvement was approved or based upon cash purchase price exclusive of
19 interest or service charges. To be eligible for a temporary rent
20 increase based upon a major capital improvement under this paragraph,
21 notice shall be required to be provided to tenants prior to the begin-
22 ning of work on such major capital improvement. Where an application for
23 a temporary major capital improvement increase has been filed, a tenant
24 shall have sixty days from the date of mailing of a notice of a proceed-
25 ing in which to answer or reply. The state division of housing and
26 community renewal shall provide any responding tenant with the reasons
27 for the division's approval or denial of such application. Notwithstand-
28 ing anything to the contrary contained herein, no hardship increase
29 granted pursuant to this paragraph shall, when added to the annual gross
30 rents, as determined by the commissioner, exceed the sum of, (i) the
31 annual operating expenses, (ii) an allowance for management services as
32 determined by the commissioner, (iii) actual annual mortgage debt
33 service (interest and amortization) on its indebtedness to a lending
34 institution, an insurance company, a retirement fund or welfare fund
35 which is operated under the supervision of the banking or insurance laws
36 of the state of New York or the United States, and (iv) eight and one-
37 half percent of that portion of the fair market value of the property
38 which exceeds the unpaid principal amount of the mortgage indebtedness
39 referred to in subparagraph (iii) of this paragraph. Fair market value
40 for the purposes of this paragraph shall be six times the annual gross
41 rent. The collection of any increase in the stabilized rent for any
42 apartment pursuant to this paragraph shall not exceed six percent in any
43 year from the effective date of the order granting the increase over the
44 rent set forth in the schedule of gross rents, with collectability of
45 any dollar excess above said sum to be spread forward in similar incre-
46 ments and added to the stabilized rent as established or set in future
47 years;

48 § 3. Paragraph 3 of subdivision d of section 6 of section 4 of chapter
49 576 of the laws of 1974, constituting the emergency tenant protection
50 act of nineteen seventy-four, as amended by section 26 of part Q of
51 chapter 39 of the laws of 2019, is amended to read as follows:

52 (3) there has been since January first, nineteen hundred seventy-four
53 a major capital improvement essential for the preservation, energy effi-
54 ciency, functionality, or infrastructure of the entire building,
55 improvement of the structure including heating, windows, plumbing and
56 roofing, but shall not be for operation costs or unnecessary cosmetic

1 improvements. An adjustment under this paragraph shall be in an amount
2 sufficient to amortize the cost of the improvements pursuant to this
3 paragraph over a twelve-year period for a building with thirty-five or
4 fewer housing accommodations, or a twelve and one-half period for a
5 building with more than thirty-five housing accommodations and shall be
6 removed from the legal regulated rent thirty years from the date the
7 increase became effective inclusive of any increases granted by the
8 applicable rent guidelines board, for any determination issued by the
9 division of housing and community renewal after the effective date of
10 the chapter of the laws of two thousand nineteen that amended this para-
11 graph. Temporary major capital improvement increases shall be collecta-
12 ble prospectively on the first day of the first month beginning sixty
13 days from the date of mailing notice of approval to the tenant. Such
14 notice shall disclose the total monthly increase in rent and the first
15 month in which the tenant would be required to pay the temporary
16 increase. An approval for a temporary major capital improvement increase
17 shall not include retroactive payments. The collection of any increase
18 shall not exceed two percent in any year from the effective date of the
19 order granting the increase over the rent set forth in the schedule of
20 gross rents, with collectability of any dollar excess above said sum to
21 be spread forward in similar increments and added to the rent as estab-
22 lished or set in future years. Upon vacancy, the landlord may add any
23 remaining balance of the temporary major capital improvement increase to
24 the legal regulated rent. Notwithstanding any other provision of the
25 law, the collection of any rent increases for any renewal lease commenc-
26 ing on or after June 14, 2019, due to any major capital improvements
27 approved on or after June 16, 2012 and before June 16, 2019 shall not
28 exceed two percent in any year for any tenant in occupancy on the date
29 the major capital improvement was approved. To be eligible for a tempo-
30 rary rent increase based upon a major capital improvement under this
31 paragraph, notice shall be required to be provided to tenants prior to
32 the beginning of work on such major capital improvement, or

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

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

1 retroactive payments. The collection of any increase shall not exceed
2 two percent in any year from the effective date of the order granting
3 the increase over the rent set forth in the schedule of gross rents,
4 with collectability of any dollar excess above said sum to be spread
5 forward in similar increments and added to the rent as established or
6 set in future years. Upon vacancy, the landlord may add any remaining
7 balance of the temporary major capital improvement increase to the legal
8 regulated rent. Notwithstanding any other provision of the law, for any
9 renewal lease commencing on or after June 14, 2019, the collection of
10 any rent increases due to any major capital improvements approved on or
11 after June 16, 2012 and before June 16, 2019 shall not exceed two
12 percent in any year for any tenant in occupancy on the date the major
13 capital improvement was approved; provided, however, to be eligible for
14 a temporary rent increase based upon a major capital improvement under
15 this subparagraph, notice shall be required to be provided to tenants
16 prior to the beginning of work on such major capital improvement;
17 provided, however, where an application for a temporary major capital
18 improvement increase has been filed, a tenant shall have sixty days from
19 the date of mailing of a notice of a proceeding in which to answer or
20 reply. The state division of housing and community renewal shall provide
21 any responding tenant with the reasons for the division's approval or
22 denial of such application; or

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

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

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