

STATE OF NEW YORK

11226

IN ASSEMBLY

May 1, 2026

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

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 authorizing owners of certain condominium units to apply to raise
rents in excess of certain guidelines as an alternative to making a
hardship application

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

1 Section 1. Paragraph 6-a of subdivision c of section 26-511 of the
2 administrative code of the city of New York is amended to read as
3 follows:
4 (6-a) provides criteria whereby as an alternative to the hardship
5 application provided under paragraph six of this subdivision owners of
6 buildings, or owners of one or more condominium units in a building,
7 acquired by the same owner or a related entity owned by the same princi-
8 pals three years prior to the date of application may apply to the divi-
9 sion for increases in excess of the level of applicable guideline
10 increases established under this law based on a finding by the commis-
11 sioner that such guideline increases are not sufficient to enable the
12 owner to maintain an annual gross rent income for such building or
13 condominium unit which exceeds the annual operating expenses of such
14 building or condominium unit by a sum equal to at least five percent of
15 such gross rent, which for condominium units shall be based on the
16 lawfully allowable rent for such units. For the purposes of this para-
17 graph, operating expenses shall consist of the actual, reasonable, costs
18 of fuel, labor, utilities, taxes, other than income or corporate fran-
19 chise taxes, fees, permits, necessary contracted services and non-capi-
20 tal repairs, insurance, parts and supplies, management fees and other
21 administrative costs and mortgage interest; provided, however, that for
22 condominium units operating expenses shall consist of all costs attrib-
23 utable to such units, including common charges and assessments levied by
24 the condominium association for such units, taxes, insurance, non-capi-
25 tal repairs and mortgage interest. For the purposes of this paragraph,

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

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1 mortgage interest shall be deemed to mean interest on a bona fide mort-
2 gage including an allocable portion of charges related thereto. Criteria
3 to be considered in determining a bona fide mortgage other than an
4 institutional mortgage shall include; condition of the property,
5 location of the property, the existing mortgage market at the time the
6 mortgage is placed, the term of the mortgage, the amortization rate, the
7 principal amount of the mortgage, security and other terms and condi-
8 tions of the mortgage. The commissioner shall set a rental value for any
9 unit occupied by the owner or a person related to the owner or unoccu-
10 pied at the owner's choice for more than one month at the last regulated
11 rent plus the minimum number of guidelines increases or, if no such
12 regulated rent existed or is known, the commissioner shall impute a rent
13 consistent with other rents in the building. The amount of hardship
14 increase shall be such as may be required to maintain the annual gross
15 rent income as provided by this paragraph. The division shall not grant
16 a hardship application under this paragraph or paragraph six of this
17 subdivision for a period of three years subsequent to granting a hard-
18 ship application under the provisions of this paragraph. The collection
19 of any increase in the rent for any housing accommodation pursuant to
20 this paragraph shall not exceed six percent in any year from the effec-
21 tive date of the order granting the increase over the rent set forth in
22 the schedule of gross rents, with collectability of any dollar excess
23 above said sum to be spread forward in similar increments and added to
24 the rent as established or set in future years. No application shall be
25 approved unless the owner's equity in such building exceeds five percent
26 of: (i) the arms length purchase price of the property; (ii) the cost of
27 any capital improvements for which the owner has not collected a
28 surcharge; (iii) any repayment of principal of any mortgage or loan used
29 to finance the purchase of the property or any capital improvements for
30 which the owner has not collected a surcharge and (iv) any increase in
31 the equalized assessed value of the property which occurred subsequent
32 to the first valuation of the property after purchase by the owner. For
33 the purposes of this paragraph, owner's equity shall mean the sum of (i)
34 the purchase price of the property less the principal of any mortgage or
35 loan used to finance the purchase of the property, (ii) the cost of any
36 capital improvement for which the owner has not collected a surcharge
37 less the principal of any mortgage or loan used to finance said improve-
38 ment, (iii) any repayment of the principal of any mortgage or loan used
39 to finance the purchase of the property or any capital improvement for
40 which the owner has not collected a surcharge, and (iv) any increase in
41 the equalized assessed value of the property which occurred subsequent
42 to the first valuation of the property after purchase by the owner.

43 § 2. Paragraph 5 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 chapter 102 of the laws of
46 1984, is amended to read as follows:

47 (5) as an alternative to the hardship application provided under para-
48 graph four of this subdivision, owners of buildings, or owners of one or
49 more condominium units in a building, acquired by the same owner or a
50 related entity owned by the same principals three years prior to the
51 date of application may apply to the division for increases in excess of
52 the level of applicable guideline increases established under this law
53 based on a finding by the commissioner that such guideline increases are
54 not sufficient to enable the owner to maintain an annual gross rent
55 income for such building or condominium unit which exceeds the annual
56 operating expenses of such building or condominium unit by a sum equal

1 to at least five percent of such gross rent, which for condominium units
2 shall be based on the lawfully allowable rent for such units. For the
3 purposes of this paragraph, operating expenses shall consist of the
4 actual, reasonable, costs of fuel, labor, utilities, taxes, other than
5 income or corporate franchise taxes, fees, permits, necessary contracted
6 services and non-capital repairs, insurance, parts and supplies, manage-
7 ment fees and other administrative costs and mortgage interest;
8 provided, however, that for condominium units operating expenses shall
9 consist of all costs attributable to such units, including common charg-
10 es and assessments levied by the condominium association for such units,
11 taxes, insurance, non-capital repairs and mortgage interest. For the
12 purposes of this paragraph, mortgage interest shall be deemed to mean
13 interest on a bona fide mortgage including an allocable portion of
14 charges related thereto. Criteria to be considered in determining a
15 bona fide mortgage other than an institutional mortgage shall include;
16 condition of the property, location of the property, the existing mort-
17 gage market at the time the mortgage is placed, the term of the mort-
18 gage, the amortization rate, the principal amount of the mortgage, secu-
19 rity and other terms and conditions of the mortgage. The commissioner
20 shall set a rental value for any unit occupied by the owner or a person
21 related to the owner or unoccupied at the owner's choice for more than
22 one month at the last regulated rent plus the minimum number of guide-
23 lines increases or, if no such regulated rent existed or is known, the
24 commissioner shall impute a rent consistent with other rents in the
25 building. The amount of hardship increase shall be such as may be
26 required to maintain the annual gross rent income as provided by this
27 paragraph. The division shall not grant a hardship application under
28 this paragraph or paragraph four of this subdivision for a period of
29 three years subsequent to granting a hardship application under the
30 provisions of this paragraph. The collection of any increase in the rent
31 for any housing accommodation pursuant to this paragraph shall not
32 exceed six percent in any year from the effective date of the order
33 granting the increase over the rent set forth in the schedule of gross
34 rents, with collectability of any dollar excess above said sum to be
35 spread forward in similar increments and added to the rent as estab-
36 lished or set in future years. No application shall be approved unless
37 the owner's equity in such building exceeds five percent of: (i) the
38 arms length purchase price of the property; (ii) the cost of any capital
39 improvements for which the owner has not collected a surcharge; (iii)
40 any repayment of principal of any mortgage or loan used to finance the
41 purchase of the property or any capital improvements for which the owner
42 has not collected a surcharge; and (iv) any increase in the equalized
43 assessed value of the property which occurred subsequent to the first
44 valuation of the property after purchase by the owner. For the purposes
45 of this paragraph, owner's equity shall mean the sum of (i) the purchase
46 price of the property less the principal of any mortgage or loan used to
47 finance the purchase of the property, (ii) the cost of any capital
48 improvement for which the owner has not collected a surcharge less the
49 principal of any mortgage or loan used to finance said improvement,
50 (iii) any repayment of the principal of any mortgage or loan used to
51 finance the purchase of the property or any capital improvement for
52 which the owner has not collected a surcharge, and (iv) any increase in
53 the equalized assessed value of the property which occurred subsequent
54 to the first valuation of the property after purchase by the owner.

55 § 3. This act shall take effect immediately; provided that the amend-
56 ments to section 26-511 of chapter 4 of title 26 of the administrative

1 code of the city of New York made by section one of this act shall
2 expire on the same date as such law expires and shall not affect the
3 expiration of such law as provided under section 26-520 of such law.