

# STATE OF NEW YORK

1020

2025-2026 Regular Sessions

## IN SENATE

(Prefiled)

January 8, 2025

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-

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

LBD02943-01-5

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

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

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

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

52 § 3. Paragraph 3 of subdivision d of section 6 of section 4 of chapter  
53 576 of the laws of 1974, constituting the emergency tenant protection  
54 act of nineteen seventy-four, as amended by section 26 of part Q of  
55 chapter 39 of the laws of 2019, is amended to read as follows:

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

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

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

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

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

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

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