

STATE OF NEW YORK

1020--A

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 -- 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, the emergency tenant protection act of nineteen seventy-four and the emergency housing rent control law, in relation to requiring ninety days 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

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

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

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

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

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

54 § 3. Paragraph 3 of subdivision d of section 6 of section 4 of chapter
55 576 of the laws of 1974, constituting the emergency tenant protection

1 act of nineteen seventy-four, as amended by section 26 of part Q of
2 chapter 39 of the laws of 2019, is amended to read as follows:

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

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

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

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

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

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

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