

# STATE OF NEW YORK

3812

2025-2026 Regular Sessions

## IN SENATE

January 30, 2025

Introduced by Sen. RIVERA -- 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 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

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

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

1 increase granted pursuant to this paragraph shall, when added to the  
2 annual gross rents, as determined by the commissioner, exceed the sum  
3 of, (i) the annual operating expenses, (ii) an allowance for management  
4 services as determined by the commissioner, (iii) actual annual mortgage  
5 debt service (interest and amortization) on its indebtedness to a lend-  
6 ing institution, an insurance company, a retirement fund or welfare fund  
7 which is operated under the supervision of the banking or insurance laws  
8 of the state of New York or the United States, and (iv) eight and one-  
9 half percent of that portion of the fair market value of the property  
10 which exceeds the unpaid principal amount of the mortgage indebtedness  
11 referred to in subparagraph (iii) of this paragraph. Fair market value  
12 for the purposes of this paragraph shall be six times the annual gross  
13 rent. The collection of any increase in the stabilized rent for any  
14 apartment pursuant to this paragraph shall not exceed six percent in any  
15 year from the effective date of the order granting the increase over the  
16 rent set forth in the schedule of gross rents, with collectability of  
17 any dollar excess above said sum to be spread forward in similar incre-  
18 ments and added to the stabilized rent as established or set in future  
19 years;

20 § 3. Subdivision d of section 6 of section 4 of chapter 576 of the  
21 laws of 1974, constituting the emergency tenant protection act of nine-  
22 teen seventy-four, is amended by adding a new paragraph 3-b to read as  
23 follows:

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

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

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

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

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

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

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