

STATE OF NEW YORK

1461

2025-2026 Regular Sessions

IN SENATE

January 10, 2025

Introduced by Sens. KAVANAGH, 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 housing rent control law and the emergency tenant protection
act of nineteen seventy-four, in relation to extending the time a
tenant shall have to answer when an application for a major capital
improvement rent increase has been filed

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

1 Section 1. Paragraph 10 of subdivision a of section 26-511.1 of the
2 administrative code of the city of New York, as added by section 4 of
3 part K of chapter 36 of the laws of 2019, is amended to read as follows:
4 (10) provide, that where an application for a major capital improve-
5 ment rent increase has been filed, a tenant shall have [~~sixty~~] ninety
6 days from the date of mailing of a notice of a proceeding in which to
7 answer or reply;
8 § 2. Paragraph 10 of subdivision a of section 26-405.1 of the adminis-
9 trative code of the city of New York, as added by section 5 of part K of
10 chapter 36 of the laws of 2019, is amended to read as follows:
11 (10) provide, that where an application for a major capital improve-
12 ment rent increase has been filed, a tenant shall have [~~sixty~~] ninety
13 days from the date of mailing of a notice of a proceeding in which to
14 answer or reply;
15 § 3. Paragraph 10 of subdivision (a) of section 10-b of section 4 of
16 chapter 576 of the laws of 1974, constituting the emergency tenant
17 protection act of nineteen seventy-four, as added by section 6 of part K
18 of chapter 36 of the laws of 2019, is amended to read as follows:
19 10. provide, that where an application for a major capital improvement
20 rent increase has been filed, a tenant shall have [~~sixty~~] ninety days

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

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1 from the date of mailing of a notice of a proceeding in which to answer
2 or reply;

3 § 4. Paragraph (j) of subdivision 1 of section 8-a of chapter 274 of
4 the laws of 1946, constituting the emergency housing rent control law,
5 as added by section 7 of part K of chapter 36 of the laws of 2019, is
6 amended to read as follows:

7 (j) provide, that where an application for a major capital improvement
8 rent increase has been filed, a tenant shall have [~~sixty~~] ninety days
9 from the date of mailing of a notice of a proceeding in which to answer
10 or reply;

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

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

1 the increase over the rent set forth in the schedule of gross rents,
2 with collectability of any dollar excess above said sum to be spread
3 forward in similar increments and added to the rent as established or
4 set in future years. Upon vacancy, the landlord may add any remaining
5 balance of the temporary major capital improvement increase to the legal
6 regulated rent. Notwithstanding any other provision of the law, for any
7 renewal lease commencing on or after June 14, 2019, the collection of
8 any rent increases due to any major capital improvements approved on or
9 after June 16, 2012 and before June 16, 2019 shall not exceed two
10 percent in any year for any tenant in occupancy on the date the major
11 capital improvement was approved or based upon cash purchase price
12 exclusive of interest or service charges. Where an application for a
13 temporary major capital improvement increase has been filed, a tenant
14 shall have [~~sixty~~] ninety days from the date of mailing of a notice of a
15 proceeding in which to answer or reply. The state division of housing
16 and community renewal shall provide any responding tenant with the
17 reasons for the division's approval or denial of such application. The
18 division of housing and community renewal shall require the submission
19 of copies of all permits pertaining to major capital improvement work
20 with any application for a major capital improvement rent increase. Any
21 application submitted with fraudulent permits or without required
22 permits shall be denied. Notwithstanding anything to the contrary
23 contained herein, no hardship increase granted pursuant to this para-
24 graph shall, when added to the annual gross rents, as determined by the
25 commissioner, exceed the sum of, (i) the annual operating expenses, (ii)
26 an allowance for management services as determined by the commissioner,
27 (iii) actual annual mortgage debt service (interest and amortization) on
28 its indebtedness to a lending institution, an insurance company, a
29 retirement fund or welfare fund which is operated under the supervision
30 of the banking or insurance laws of the state of New York or the United
31 States, and (iv) eight and one-half percent of that portion of the fair
32 market value of the property which exceeds the unpaid principal amount
33 of the mortgage indebtedness referred to in subparagraph (iii) of this
34 paragraph. Fair market value for the purposes of this paragraph shall be
35 six times the annual gross rent. The collection of any increase in the
36 stabilized rent for any apartment pursuant to this paragraph shall not
37 exceed six percent in any year from the effective date of the order
38 granting the increase over the rent set forth in the schedule of gross
39 rents, with collectability of any dollar excess above said sum to be
40 spread forward in similar increments and added to the stabilized rent as
41 established or set in future years;

42 § 6. Paragraph 3-a of subdivision d of section 6 of section 4 of chap-
43 ter 576 of the laws of 1974, constituting the emergency tenant
44 protection act of nineteen seventy-four, as added by section 13 of part
45 K of chapter 36 of the laws of 2019, is amended to read as follows:

46 (3-a) an application for a temporary major capital improvement
47 increase has been filed, a tenant shall have [~~sixty~~] ninety days from
48 the date of mailing of a notice of a proceeding in which to answer or
49 reply. The state division of housing and community renewal shall provide
50 any responding tenant with the reasons for the division's approval or
51 denial of such application; or

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

(7) there has been since March first, nineteen hundred fifty, a major capital improvement essential for the preservation, energy efficiency, functionality, or infrastructure of the entire building, improvement of the structure including heating, windows, plumbing and roofing, but shall not be for operational costs or unnecessary cosmetic improvements; which for any order of the commissioner issued after the effective date of the chapter of the laws of two thousand nineteen that amended this paragraph the cost of such improvement shall be amortized over a twelve-year period for buildings with thirty-five or fewer units or a twelve and one-half year period for buildings with more than thirty-five units, and shall be removed from the legal regulated rent thirty years from the date the increase became effective inclusive of any increases granted by the applicable rent guidelines board. Temporary major capital improvement increases shall be collectible prospectively on the first day of the first month beginning sixty days from the date of mailing notice of approval to the tenant. Such notice shall disclose the total monthly increase in rent and the first month in which the tenant would be required to pay the temporary increase. An approval for a temporary major capital improvement increase shall not include retroactive payments. The collection of any increase shall not exceed two percent in any year from the effective date of the order granting the increase over the rent set forth in the schedule of gross rents, with collectability of any dollar excess above said sum to be spread forward in similar increments and added to the rent as established or set in future years. Upon vacancy, the landlord may add any remaining balance of the temporary major capital improvement increase to the legal regulated rent. Notwithstanding any other provision of the law, for any renewal lease commencing on or after June 14, 2019, the collection of any rent increases due to any major capital improvements approved on or after June 16, 2012 and before June 16, 2019 shall not exceed two percent in any year for any tenant in occupancy on the date the major capital improvement was approved; provided, however, where an application for a temporary major capital improvement increase has been filed, a tenant shall have ~~sixty~~ ninety days from the date of mailing of a notice of a proceeding in which to answer or reply. The state division of housing and community renewal shall provide any responding tenant with the reasons for the division's approval or denial of such application; provided, however, no application for a major capital improvement rent increase shall be approved by the division of housing and community renewal unless the owner of the property has filed all copies of permits pertaining to the major capital improvement work with such application. Any application submitted with fraudulent permits or without required permits shall be denied; or

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

(g) There has been since July first, nineteen hundred seventy, a major capital improvement essential for the preservation energy efficiency, functionality, or infrastructure of the entire building, improvement of the structure including heating, windows, plumbing and roofing but shall not be for operational costs or unnecessary cosmetic improvements. The temporary increase based upon a major capital improvement under this subparagraph for any order of the commissioner issued after the effective date of the chapter of the laws of two thousand nineteen that amended this subparagraph shall be in an amount sufficient to amortize

the cost of the improvements pursuant to this subparagraph (g) over a twelve-year period for buildings with thirty-five or fewer units or a twelve and one-half year period for buildings with more than thirty-five units, and shall be removed from the legal regulated rent thirty years from the date the increase became effective inclusive of any increases granted by the applicable rent guidelines board. Temporary major capital improvement increases shall be collectible prospectively on the first day of the first month beginning sixty days from the date of mailing notice of approval to the tenant. Such notice shall disclose the total monthly increase in rent and the first month in which the tenant would be required to pay the temporary increase. An approval for a temporary major capital improvement increase shall not include retroactive payments. The collection of any increase shall not exceed two percent in any year from the effective date of the order granting the increase over the rent set forth in the schedule of gross rents, with collectability of any dollar excess above said sum to be spread forward in similar increments and added to the rent as established or set in future years. Upon vacancy, the landlord may add any remaining balance of the temporary major capital improvement increase to the legal regulated rent. Notwithstanding any other provision of the law, for any renewal lease commencing on or after June 14, 2019, the collection of any rent increases due to any major capital improvements approved on or after June 16, 2012 and before June 16, 2019 shall not exceed two percent in any year for any tenant in occupancy on the date the major capital improvement was approved^[7]; provided, however, no application for a major capital improvement rent increase shall be approved by the division of housing and community renewal unless the owner of the property has filed all copies of permits pertaining to the major capital improvement work with such application. Any application submitted with fraudulent permits or without required permits shall be denied; or

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

(3) there has been since January first, nineteen hundred seventy-four a major capital improvement essential for the preservation, energy efficiency, functionality, or infrastructure of the entire building, improvement of the structure including heating, windows, plumbing and roofing, but shall not be for operation costs or unnecessary cosmetic improvements. An adjustment under this paragraph shall be in an amount sufficient to amortize the cost of the improvements pursuant to this paragraph over a twelve-year period for a building with thirty-five or fewer housing accommodations, or a twelve and one-half period for a building with more than thirty-five housing accommodations and shall be removed from the legal regulated rent thirty years from the date the increase became effective inclusive of any increases granted by the applicable rent guidelines board, for any determination issued by the division of housing and community renewal after the effective date of the chapter of the laws of two thousand nineteen that amended this paragraph. Temporary major capital improvement increases shall be collectible prospectively on the first day of the first month beginning sixty days from the date of mailing notice of approval to the tenant. Such notice shall disclose the total monthly increase in rent and the first month in which the tenant would be required to pay the temporary increase. An approval for a temporary major capital improvement increase shall not include retroactive payments. The collection of any increase

1 shall not exceed two percent in any year from the effective date of the
2 order granting the increase over the rent set forth in the schedule of
3 gross rents, with collectability of any dollar excess above said sum to
4 be spread forward in similar increments and added to the rent as estab-
5 lished or set in future years. Upon vacancy, the landlord may add any
6 remaining balance of the temporary major capital improvement increase to
7 the legal regulated rent. Notwithstanding any other provision of the
8 law, the collection of any rent increases for any renewal lease commenc-
9 ing on or after June 14, 2019, due to any major capital improvements
10 approved on or after June 16, 2012 and before June 16, 2019 shall not
11 exceed two percent in any year for any tenant in occupancy on the date
12 the major capital improvement was approved[7]; provided, however, no
13 application for a major capital improvement rent increase shall be
14 approved by the division of housing and community renewal unless the
15 owner of the property has filed all copies of permits pertaining to the
16 major capital improvement work with such application. Any application
17 submitted with fraudulent permits or without required permits shall be
18 denied; or

19 § 10. This act shall take effect immediately; provided that the
20 amendments to sections 26-405 and 26-405.1 of the city rent and rehabil-
21 itation law made by sections two and eight of this act shall remain in
22 full force and effect only as long as the public emergency requiring the
23 regulation and control of residential rents and evictions continues, as
24 provided in subdivision 3 of section 1 of the local emergency housing
25 rent control act; provided, further, that the amendments to sections
26 26-511 and 26-511.1 of the administrative code of the city of New York,
27 made by sections one and five of this act shall expire on the same date
28 as such law expires and shall not affect the expiration of such law, as
29 provided under section 26-520 of such law.