

STATE OF NEW YORK

9154--A

IN SENATE

August 24, 2018

Introduced by Sens. GIANARIS, AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT eliminating the department of homes and community renewal's major capital improvement program; creating the guaranteed habitability protections program within the department of homes and community renewal; to amend the tax law, in relation to creating a guaranteed habitability protections tax credit; to amend chapter 274 of the laws of 1946, constituting the emergency housing rent control law, the emergency tenant protection act of nineteen seventy-four and the administrative code of the city of New York, in relation to eliminating rent increases to pay for major capital improvements

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

- 1 Section 1. (a) The department of homes and community renewal shall end
2 the major capital improvement program. All increases to rents allowed
3 during the life of the major capital improvement program shall be
4 repealed upon petition from a tenant, all applications pending review
5 for the major capital improvement program shall be denied, and no rent
6 increases shall be allowed under the major capital improvement program.
7 (b) The department of homes and community renewal, upon repealing any
8 increase in rent under the major capital improvement program, shall
9 require that the rent is reduced by an amount equal to that of the
10 increase allowed under the major capital improvement program in that
11 instance for all current tenants affected by such increase provided,
12 however, that no rent shall be reduced to an amount lower than the
13 amount such rent was ten years or more in the past. This rent shall be
14 considered the legal rent and shall no longer by a preferential rent.
15 (c) The department of homes and community renewal shall require that
16 any increase in a tenant's security deposit due to an increase in rent
17 under the major capital improvement program be repaid to the tenant by
18 the landlord within thirty days of such repeal.

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

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1 (d) The new legal rent shall be the legal rent beginning on the date
2 rent is required to be paid next succeeding the repeal of any rent
3 increase under the major capital improvement program.

4 (e) Any lease signed after a repeal of a rent increase under the major
5 capital improvement program shall be tied to the new legal rent which
6 shall be without such repealed increases under the major capital
7 improvement program.

8 (f) The department of homes and community renewal shall notify all
9 current tenants affected by an increase in rent under the major capital
10 improvement program that they can appeal to such department for the
11 repeal of such increase in rent and that any increase in rent under the
12 major capital improvement program that is repealed will result in the
13 reduction of rent and the repayment of the various security deposit
14 increases associated with said increases.

15 (g) The department of homes and community renewal shall, within one
16 year of the effective date of this act, consider all appeals for the
17 repeal of an increase in rent under the major capital improvement
18 program. If an appeal was filed but not ruled upon after an investi-
19 gation within one year of the effective date of this act by the depart-
20 ment of homes and community renewal, the appeal shall be granted.

21 § 2. (a) The department of homes and community renewal is hereby
22 authorized and directed to establish a guaranteed habitability
23 protections program and promulgate, amend, add or remove any rules or
24 regulations necessary to establish such program.

25 (b) The program shall work to ensure the habitability of all rental
26 dwellings, specifically that no rental dwelling becomes uninhabitable by
27 requiring regular updates and improvements to rental dwellings. A rental
28 dwelling shall be deemed uninhabitable where it is not safe and livable
29 and the landlord would be in violation of the warranty of habitability.

30 (c) When the department of homes and community renewal determines that
31 any unit of a rental dwelling has an issue which may impact the habita-
32 bility of the unity, such department under this program shall give
33 notice to the landlord. Where the issue is not life threatening, the
34 landlord shall have within thirty days to rectify the issue before
35 incurring a violation. Where the issue is life threatening, as deter-
36 mined by the department of homes and community renewal, the landlord
37 shall have an amount of time as determined by such department based on
38 the severity of the issue to rectify the issue before incurring a
39 violation. The department of homes and community renewal shall determine
40 which issues are and which issues are not life threatening. Upon incur-
41 ring a violation, the landlord shall have the same amount of time to
42 rectify the issue before incurring another violation. An issue shall be
43 deemed rectified when the issue no longer exists or the tenants have
44 been moved into another unit of equal or greater quality, where such
45 determination of quality shall be made by the department of homes and
46 community renewal. A landlord shall be fined:

47 (i) \$10,000 for the first violation involving a non-life threatening
48 issue;

49 (ii) \$25,000 for the second violation involving a non-life threatening
50 issue;

51 (iii) \$50,000 for the third and each subsequent violation involving a
52 non-life threatening issue; and

53 (iv) \$100,000 for each resident of an affected unit for a violation
54 involving a life threatening issue.

55 § 3. Section 210-B of the tax law is amended by adding a new subdivi-
56 sion 53 to read as follows:

1 53. Guaranteed habitability protections tax credit. (a) Allowance of
 2 credit. A taxpayer with approval from the guaranteed habitability
 3 protections program of the department of homes and community renewal
 4 shall be allowed a credit, to be computed as provided in paragraph (b)
 5 of this subdivision, against the tax imposed by this article.

6 (b) Amount of credit. The credit allowed pursuant to paragraph (a) of
 7 this subdivision shall be in an amount equal to the amount approved by
 8 the guaranteed habitability protections program of the department of
 9 homes and community renewal.

10 (c) Application of credit. The credit allowed under this subdivision
 11 for any taxable year shall not reduce the tax due for such year to less
 12 than the amount prescribed in paragraph (d) of subdivision one of
 13 section two hundred ten of this article. If, however, the amount of
 14 credits allowed under this subdivision for any taxable year reduces the
 15 tax to such amount, any amount of credit thus not deductible in such
 16 taxable year shall be treated as an overpayment of tax to be credited or
 17 refunded in accordance with the provisions of section one thousand
 18 eighty-six of this chapter. Provided, however, the provisions of
 19 subsection (c) of section one thousand eighty-eight of this chapter
 20 notwithstanding, no interest shall be paid thereon.

21 § 4. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
 22 of the tax law is amended by adding a new clause (xliv) to read as
 23 follows:

24 <u>(xliv) Guaranteed habitability</u>	<u>Amount of credit under</u>
25 <u>protections tax credit under</u>	<u>subdivision fifty-three of</u>
26 <u>subsection (jjj).</u>	<u>section two hundred ten-B</u>

27 § 5. Section 606 of the tax law is amended by adding a new subsection
 28 (jjj) to read as follows:

29 (jjj) Guaranteed habitability protections tax credit. (1) Allowance of
 30 credit. A taxpayer with approval from the guaranteed habitability
 31 protections program of the department of homes and community renewal
 32 shall be allowed a credit, to be computed as provided in paragraph two
 33 of this subsection, against the tax imposed by this article.

34 (2) Amount of credit. The credit allowed pursuant to paragraph one of
 35 this subsection shall be in an amount equal to the amount approved by
 36 the guaranteed habitability protections program of the department of
 37 homes and community renewal.

38 (3) Application of credit. If the amount of the credit allowed under
 39 this subsection for any taxable year shall exceed the taxpayer's tax for
 40 such year, the excess shall be treated as an overpayment of tax to be
 41 credited or refunded in accordance with the provisions of section six
 42 hundred eighty-six of this article, provided, however, that no interest
 43 shall be paid thereon.

44 § 6. Paragraph 2 of subdivision 3-a of section 4, subparagraph (iii)
 45 of the opening paragraph of paragraph (a) of subdivision 4 of section 4,
 46 subparagraphs 7, 8, 9 and 10 of the second undesignated paragraph of
 47 paragraph (a) of subdivision 4 of section 4, and subdivision 9 of
 48 section 5 of chapter 274 of the laws of 1946, constituting the emergency
 49 housing rent control law, as amended by chapter 337 of the laws of 1961,
 50 subparagraph (iii) of paragraph (a) of subdivision 4 of section 4 as
 51 amended by chapter 21 of the laws of 1962, subparagraphs 8, 9 and 10 of
 52 the second undesignated paragraph of paragraph (a) of subdivision 4 of
 53 section 4 as amended by section 25 of part B of chapter 97 of the laws
 54 of 2011, subparagraph 7 of the second undesignated paragraph of para-
 55 graph (a) of subdivision 4 of section 4 as amended by section 32 of part
 56 A of chapter 20 of the laws of 2015, and subdivision 9 of section 5 as

1 added by chapter 116 of the laws of 1997, are amended to read as
2 follows:

3 (2) the amount of increases in maximum rent authorized by order
4 because of increases in dwelling space, services, furniture, furnishings
5 or equipment[, or major capital improvements].

6 (iii) The ratio of the sales price to the annual gross income of the
7 property, with consideration given to the total amount of rent adjust-
8 ments previously granted, exclusive of rent adjustments because of
9 changes in dwelling space, services, furniture, furnishings or equip-
10 ment, [major capital improvements,] or substantial rehabilitation;

11 (7) [there has been since March first, nineteen hundred fifty, a major
12 capital improvement required for the operation, preservation or mainte-
13 nance of the structure; which for any order of the commissioner issued
14 after the effective date of the rent act of 2015 the cost of such
15 improvement shall be amortized over an eight-year period for buildings
16 with thirty-five or fewer units or a nine year period for buildings with
17 more than thirty-five units, or (8)] there has been since March first,
18 nineteen hundred fifty, in structures containing more than four housing
19 accommodations, other improvements made with the express consent of the
20 tenants in occupancy of at least seventy-five per centum of the housing
21 accommodations, provided, however, that no adjustment granted hereunder
22 shall exceed fifteen per centum unless the tenants have agreed to a
23 higher percentage of increase, as herein provided; or [(9)] (8) there
24 has been, since March first, nineteen hundred fifty, a subletting with-
25 out written consent from the landlord or an increase in the number of
26 adult occupants who are not members of the immediate family of the
27 tenant, and the landlord has not been compensated therefor by adjustment
28 of the maximum rent by lease or order of the commission or pursuant to
29 the federal act; or [(10)] (9) the presence of unique or peculiar
30 circumstances materially affecting the maximum rent has resulted in a
31 maximum rent which is substantially lower than the rents generally
32 prevailing in the same area for substantially similar housing accommo-
33 dations.

34 9. Notwithstanding any provision of this law to the contrary in the
35 case where all tenants occupying the housing accommodation on the effec-
36 tive date of this subdivision have vacated the housing accommodation and
37 a family member of such vacating tenant or tenants is entitled to and
38 continues to occupy the housing accommodation subject to the protections
39 of this law, if such accommodation continues to be subject to this law
40 after such family member vacates, on the occurrence of such vacancy the
41 maximum collectable rent shall be increased by a sum equal to the allow-
42 ance then in effect for vacancy leases for housing accommodations
43 covered by the rent stabilization law of nineteen hundred sixty-nine,
44 including the amount allowed by paragraph five-a of subdivision c of
45 section 26-511 of such law. This increase shall be in addition to any
46 other increases provided in this law including an adjustment based upon
47 [a major capital improvement, or] a substantial increase or decrease in
48 dwelling space or a change in the services, furniture, furnishings or
49 equipment provided in the housing accommodation, pursuant to section
50 four of this law and shall be applicable in like manner to each second
51 subsequent succession.

52 § 7. Paragraphs 3, 4, and 5 of subdivision d and subdivision g of
53 section 6 of section 4 of chapter 576 of the laws of 1974, constituting
54 the emergency tenant protection act of nineteen seventy-four, paragraph
55 3 of subdivision d as amended by section 30 of part A of chapter 20 of
56 the laws of 2015, paragraph 4 of subdivision d as amended by chapter 403

1 of the laws of 1983, paragraph 5 of subdivision d as amended by chapter
2 102 of the laws of 1984, and subdivision g as added by chapter 116 of
3 the laws of 1997, are amended to read as follows:

4 (3) [there has been since January first, nineteen hundred seventy-four
5 a major capital improvement required for the operation, preservation or
6 maintenance of the structure. An adjustment under this paragraph shall
7 be in an amount sufficient to amortize the cost of the improvements
8 pursuant to this paragraph over an eight-year period for a building with
9 thirty-five or fewer housing accommodations, or a nine-year period for a
10 building with more than thirty-five housing accommodations, for any
11 determination issued by the division of housing and community renewal
12 after the effective date of the rent act of 2015, or

13 (4)] an owner by application to the state division of housing and
14 community renewal for increases in the rents in excess of the rent
15 adjustment authorized by the rent guidelines board under this act estab-
16 lishes a hardship, and the state division finds that the rate of rent
17 adjustment is not sufficient to enable the owner to maintain approxi-
18 mately the same ratio between operating expenses, including taxes and
19 labor costs but excluding debt service, financing costs, and management
20 fees, and gross rents which prevailed on the average over the immediate
21 preceding five year period, or for the entire life of the building if
22 less than five years, or

23 [(5)] (4) as an alternative to the hardship application provided under
24 paragraph four of this subdivision, owners of buildings acquired by the
25 same owner or a related entity owned by the same principals three years
26 prior to the date of application may apply to the division for increases
27 in excess of the level of applicable guideline increases established
28 under this law based on a finding by the commissioner that such guide-
29 line increases are not sufficient to enable the owner to maintain an
30 annual gross rent income for such building which exceeds the annual
31 operating expenses of such building by a sum equal to at least five
32 percent of such gross rent. For the purposes of this paragraph, operat-
33 ing expenses shall consist of the actual, reasonable, costs of fuel,
34 labor, utilities, taxes, other than income or corporate franchise taxes,
35 fees, permits, necessary contracted services and non-capital repairs,
36 insurance, parts and supplies, management fees and other administrative
37 costs and mortgage interest. For the purposes of this paragraph, mort-
38 gage interest shall be deemed to mean interest on a bona fide mortgage
39 including an allocable portion of charges related thereto. Criteria to
40 be considered in determining a bona fide mortgage other than an institu-
41 tional mortgage shall include; condition of the property, location of
42 the property, the existing mortgage market at the time the mortgage is
43 placed, the term of the mortgage, the amortization rate, the principal
44 amount of the mortgage, security and other terms and conditions of the
45 mortgage. The commissioner shall set a rental value for any unit occu-
46 pied by the owner or a person related to the owner or unoccupied at the
47 owner's choice for more than one month at the last regulated rent plus
48 the minimum number of guidelines increases or, if no such regulated rent
49 existed or is known, the commissioner shall impute a rent consistent
50 with other rents in the building. The amount of hardship increase shall
51 be such as may be required to maintain the annual gross rent income as
52 provided by this paragraph. The division shall not grant a hardship
53 application under this paragraph or paragraph four of this subdivision
54 for a period of three years subsequent to granting a hardship applica-
55 tion under the provisions of this paragraph. The collection of any
56 increase in the rent for any housing accommodation pursuant to this

1 paragraph shall not exceed six percent in any year from the effective
2 date of the order granting the increase over the rent set forth in the
3 schedule of gross rents, with collectability of any dollar excess above
4 said sum to be spread forward in similar increments and added to the
5 rent as established or set in future years. No application shall be
6 approved unless the owner's equity in such building exceeds five percent
7 of: (i) the arms length purchase price of the property; (ii) the cost of
8 any capital improvements for which the owner has not collected a
9 surcharge; (iii) any repayment of principal of any mortgage or loan used
10 to finance the purchase of the property or any capital improvements for
11 which the owner has not collected a surcharge; and (iv) any increase in
12 the equalized assessed value of the property which occurred subsequent
13 to the first valuation of the property after purchase by the owner. For
14 the purposes of this paragraph, owner's equity shall mean the sum of (i)
15 the purchase price of the property less the principal of any mortgage or
16 loan used to finance the purchase of the property, (ii) the cost of any
17 capital improvement for which the owner has not collected a surcharge
18 less the principal of any mortgage or loan used to finance said improve-
19 ment, (iii) any repayment of the principal of any mortgage or loan used
20 to finance the purchase of the property or any capital improvement for
21 which the owner has not collected a surcharge, and (iv) any increase in
22 the equalized assessed value of the property which occurred subsequent
23 to the first valuation of the property after purchase by the owner.

24 g. Notwithstanding any provision of this act to the contrary in the
25 case where all tenants named in a lease have permanently vacated a hous-
26 ing accommodation and a family member of such tenant or tenants is enti-
27 tled to and executes a renewal lease for the housing accommodation if
28 such accommodation continues to be subject to this act after such family
29 member vacates, on the occurrence of such vacancy the legal regulated
30 rent shall be increased by a sum equal to the allowance then in effect
31 for vacancy leases, including the amount allowed by subdivision (a-1) of
32 section ten of this act. Such increase shall be in addition to any other
33 increases provided for in this act including an adjustment based upon [a
34 major capital improvement, or] a substantial modification or increase of
35 dwelling space or services, or installation of new equipment or improve-
36 ments or new furniture or furnishings provided in or to the housing
37 accommodation, pursuant to section six of this act and shall be applica-
38 ble in like manner to each second subsequent succession.

39 § 8. Subdivision (a-1) of section 10 of section 4 of chapter 576 of
40 the laws of 1974, constituting the emergency tenant protection act of
41 nineteen seventy-four, as amended by section 16-b of part A of chapter
42 20 of the laws of 2015, is amended to read as follows:

43 (a-1) provides that, notwithstanding any provision of this act, the
44 legal regulated rent for any vacancy lease entered into after the effec-
45 tive date of this subdivision shall be as hereinafter set forth. The
46 previous legal regulated rent for such housing accommodation shall be
47 increased by the following: (i) if the vacancy lease is for a term of
48 two years, twenty percent of the previous legal regulated rent; or (ii)
49 if the vacancy lease is for a term of one year the increase shall be
50 twenty percent of the previous legal regulated rent less an amount equal
51 to the difference between (a) the two year renewal lease guideline
52 promulgated by the guidelines board of the county in which the housing
53 accommodation is located applied to the previous legal regulated rent
54 and (b) the one year renewal lease guideline promulgated by the guide-
55 lines board of the county in which the housing accommodation is located
56 applied to the previous legal regulated rent. However, where the amount

1 charged and paid by the prior tenant pursuant to paragraph fourteen of
2 this subdivision, was less than the legal regulated rent, such increase
3 to the legal regulated rent shall not exceed: five percent of the
4 previous legal regulated rent if the last vacancy lease commenced less
5 than two years ago; ten percent of the previous legal regulated rent if
6 the last vacancy commenced less than three years ago; fifteen percent of
7 the previous legal regulated rent if the last vacancy lease commenced
8 less than four years ago; twenty percent of the previous legal regulated
9 rent if the last vacancy lease commenced four or more years ago. In
10 addition, if the legal regulated rent was not increased with respect to
11 such housing accommodation by a permanent vacancy allowance within eight
12 years prior to a vacancy lease executed on or after the effective date
13 of this subdivision, the legal regulated rent may be further increased
14 by an amount equal to the product resulting from multiplying such previ-
15 ous legal regulated rent by six-tenths of one percent and further multi-
16 plying the amount of rent increase resulting therefrom by the greater of
17 (A) the number of years since the imposition of the last permanent
18 vacancy allowance, or (B) if the rent was not increased by a permanent
19 vacancy allowance since the housing accommodation became subject to this
20 act, the number of years that such housing accommodation has been
21 subject to this act. Provided that if the previous legal regulated rent
22 was less than three hundred dollars the total increase shall be as
23 calculated above plus one hundred dollars per month. Provided, further,
24 that if the previous legal regulated rent was at least three hundred
25 dollars and no more than five hundred dollars in no event shall the
26 total increase pursuant to this subdivision be less than one hundred
27 dollars per month. Such increase shall be in lieu of any allowance
28 authorized for the one or two year renewal component thereof, but shall
29 be in addition to any other increases authorized pursuant to this act
30 including an adjustment based upon [a major capital improvement, or] a
31 substantial modification or increase of dwelling space or services, or
32 installation of new equipment or improvements or new furniture or
33 furnishings provided in or to the housing accommodation pursuant to
34 section six of this act. The increase authorized in this subdivision
35 may not be implemented more than one time in any calendar year, notwith-
36 standing the number of vacancy leases entered into in such year.

37 § 9. Section 26-403.2 of the administrative code of the city of New
38 York, as added by chapter 116 of the laws of 1997, is amended to read as
39 follows:

40 § 26-403.2 Increase in maximum collectable rent. Notwithstanding any
41 provision of this law to the contrary in the case where all tenants
42 occupying the housing accommodation on the effective date of this
43 section have vacated the housing accommodation and a family member of
44 such vacating tenant or tenants is entitled to and continues to occupy
45 the housing accommodation subject to the protections of this law, if
46 such accommodation continues to be subject to this law after such family
47 member vacates, on the occurrence of such vacancy the maximum collecta-
48 ble rent shall be increased by a sum equal to the allowance then in
49 effect for vacancy leases for housing accommodations covered by the rent
50 stabilization law of nineteen hundred sixty-nine, including the amount
51 allowed by paragraph five-a of subdivision c of section 26-511 of such
52 law. This increase shall be in addition to any other increases provided
53 for in this law including an adjustment based upon [a major capital
54 improvement, or] a substantial increase or decrease in dwelling space or
55 a change in the services, furniture, furnishings or equipment provided



1 in the housing accommodation, pursuant to section 26-405 of this law and
2 shall be applicable in like manner to each second subsequent succession.
3 § 10. Subparagraph (c) of paragraph 1 of subdivision g of section
4 26-405 of the administrative code of the city of New York is amended to
5 read as follows:

6 (c) the ratio of the sales price to the annual gross income of the
7 property, with consideration given to the total amount of rent adjust-
8 ments previously granted, exclusive of rent adjustments because of
9 changes in dwelling space, services, furniture, furnishings or equip-
10 ment, [major capital improvements,] or substantial rehabilitation;

11 § 11. Subparagraphs (g), (h), (i), (j), (k), (l), (m), (n) and (o) of
12 paragraph 1 of subdivision g of section 26-405 of the administrative
13 code of the city of New York, subparagraph (g) as amended by section 31
14 of part A of chapter 20 of the laws of 2015, subparagraph (k) as amended
15 by chapter 749 of the laws of 1990, and clause 7 of subparagraph (n) as
16 amended by local law number 76 of the city of New York for the year
17 2005, are amended to read as follows:

18 (g) [There has been since July first, nineteen hundred seventy, a
19 major capital improvement required for the operation, preservation or
20 maintenance of the structure. An adjustment under this subparagraph (g)
21 for any order of the commissioner issued after the effective date of the
22 rent act of 2015 shall be in an amount sufficient to amortize the cost
23 of the improvements pursuant to this subparagraph (g) over an eight-year
24 period for buildings with thirty-five or fewer units or a nine year
25 period for buildings with more than thirty-five units, or

26 (h)] There have been since March first, nineteen hundred fifty-nine,
27 in structures containing more than four housing accommodations, other
28 improvements made with the express consent of the tenants in occupancy
29 of at least seventy-five per centum of the housing accommodations;
30 provided, however, that whenever the city rent agency has determined
31 that the improvements proposed were part of a plan designed for overall
32 improvement of the structure or increases in services, it may authorize
33 increases in maximum rents for all housing accommodations affected upon
34 the express consent of the tenants in occupancy of at least fifty-one
35 per centum of the housing accommodations, and provided further that no
36 adjustment granted hereunder shall exceed fifteen per centum unless the
37 tenants have agreed to a higher percentage of increase, as herein
38 provided; or

39 [(i)] (h) There has been, since March first, nineteen hundred fifty-
40 nine, a subletting without written consent from the landlord or an
41 increase in the number of adult occupants who are not members of the
42 immediate family of the tenant, and the landlord has not been compen-
43 sated therefor by adjustment of the maximum rent by lease or order of
44 the city rent agency or pursuant to the state rent act or the federal
45 act; or

46 [(j)] (i) The presence of unique or peculiar circumstances materially
47 affecting the maximum rent has resulted in a maximum rent which is
48 substantially lower than the rents generally prevailing in the same area
49 for substantially similar housing accommodations.

50 [(k) The landlord has incurred, since January first, nineteen hundred
51 seventy, in connection with and in addition to a concurrent major capi-
52 tal improvement pursuant to subparagraph (g) of this paragraph, other
53 expenditures to improve, restore or preserve the quality of the struc-
54 ture. An adjustment under this subparagraph shall be granted only if
55 such improvements represent an expenditure equal to at least ten per
56 centum of the total operating and maintenance expenses for the preceding

1 year. An adjustment under this subparagraph shall be in addition to any
2 adjustment granted for the concurrent major capital improvement and
3 shall be in an amount sufficient to amortize the cost of the improve-
4 ments pursuant to this subparagraph over a seven-year period.

5 (1)] (j) (1) The actual labor expenses currently incurred or to be
6 incurred (pursuant to a collective agreement or other obligation actual-
7 ly entered into by the landlord) exceed the provision for payroll
8 expenses in the current applicable operating and maintenance expense
9 allowance under subdivision a of this section. No application pursuant
10 to this subparagraph may be granted within one year from the granting of
11 an adjustment in maximum rent pursuant to this subparagraph [(1)], or
12 pursuant to subparagraph (a) of this paragraph. Any rent increase the
13 applicant would be entitled to, or such portion thereof, shall not
14 exceed a total increase of seven and one-half per centum per annum of
15 the maximum rent as provided in paragraph five of subdivision a of this
16 section.

17 (2) Any adjustment in the maximum rents pursuant hereto shall be
18 subject to:

19 (i) The adjustment in maximum rent for any twelve-month period for any
20 housing accommodation shall not exceed four percent of the maximum rent
21 in effect on December thirty-first, nineteen hundred seventy-three.

22 (ii) Where the increase in labor costs compensable herein is the
23 result of an industry-wide collective bargaining agreement or a specific
24 agreement in anticipation of, or subsequent to, an industry-wide collec-
25 tive bargaining agreement, the adjustment shall be in such amount
26 (subject to the above limitation) that the increased rental income from
27 January first, nineteen hundred seventy-four to December thirty-first,
28 nineteen hundred seventy-six shall reflect the increased labor costs for
29 the period from April thirtieth, nineteen hundred seventy-three to April
30 thirtieth, nineteen hundred seventy-six.

31 (3) For the purpose of this subparagraph [(1)] the increase in labor
32 costs shall be the amount by which the labor costs (a) actually in
33 effect and paid, or (b) actually in effect and paid or payable and fixed
34 and determined pursuant to agreement on the date of the filing of the
35 application and projected over the period ending April thirtieth, nine-
36 teen hundred seventy-six, exceed the labor costs for the twelve calendar
37 months immediately preceding the last day of the month in which the wage
38 agreement became effective.

39 (4) Notwithstanding any other provision of this chapter, the adjust-
40 ment pursuant to this subparagraph shall be collectible upon the land-
41 lord's filing of a report with the city rent agency, subject to the
42 provisions of subparagraph (e) of paragraph two of subdivision a of this
43 section.

44 (5) No increase in the maximum rent for any housing accommodation may
45 be granted under this subparagraph [(1)] if on the date when the appli-
46 cation is sought to be filed, less than the full term of such agreement
47 has elapsed since the date of the filing of the last prior application
48 for an increase with respect to such property under this subparagraph
49 [(1)], which application resulted in the granting of an increase. Where,
50 however, the landlord establishes the existence of unique or peculiar
51 circumstances affecting an increase in labor costs for the property, the
52 agency may accept such application where it determines that such accept-
53 ance is not inconsistent with the purposes of this local law.

54 (6) The increase authorized herein shall be apportioned equitably
55 among all the housing accommodations in the property whether or not
56 subject to control under this chapter.

1 [(m)] (k) Where the rehabilitation or improvement of sub-standard or
2 deteriorated housing accommodations has been financed under a govern-
3 mental program providing assistance through loans, loan insurance or tax
4 abatement or has been undertaken under another rehabilitation program
5 not so financed but approved by the commissioner.

6 [(n)](1) The city rent agency shall hereafter promulgate in January
7 of each year;

8 (i) findings regarding the price increase or decrease, respectively,
9 for all types of heating fuel, including numbers two, four and six home
10 heating oils, utility supplied steam, gas, electricity and coal, togeth-
11 er with the sales and excise taxes thereon, on December thirty-first as
12 compared to the January first in any year; and

13 (ii) standards for consumption of heating fuel, which shall be no more
14 than two hundred twenty-five gallons per year per room commencing Janu-
15 ary first, nineteen hundred eighty-one, for buildings using heating oils
16 for heat with comparable unit limitations to be established by the city
17 rent agency for utility supplied steam, gas, electricity, coal and any
18 other types of heating systems, provided that such consumption standards
19 for heating fuels shall be reduced by five gallons per room per year for
20 heating oils and a comparable amount for other heating fuels for the
21 next succeeding year and ten gallons per room per year for heating oils
22 and a comparable amount for other heating fuels for two succeeding years
23 thereafter.

24 Such findings and consumption standards shall be published in the City
25 Record.

26 (2) To obtain a rental adjustment pursuant to this subparagraph [(n)],
27 the landlord shall file a report with the agency on forms prescribed by
28 the agency and shall:

29 (i) certify the amount of heating fuel consumed in the calendar year
30 immediately prior to the filing of the report;

31 (ii) state the type of fuel used and the number of rooms in the build-
32 ing;

33 (iii) certify that (a) all essential services required to be provided
34 have been and will continue to be maintained and (b) there has been no
35 rent reduction order issued pursuant to this chapter based on the land-
36 lord's failure to provide heat or hot water during the prior twelve
37 months;

38 (iv) certify on information and belief, in order to qualify for an
39 additional rent increase pursuant to this subparagraph [(n)], that for
40 an individual housing accommodation, if the maximum rent collectible
41 pursuant to paragraph five of subdivision a of this section plus actual
42 rent adjustments pursuant to this subparagraph [(n)] and such additional
43 rent increase, is equal to or exceeds the maximum rent established
44 pursuant to paragraphs three and four of subdivision a of this section
45 plus the amount calculated pursuant to subitem (i) of item three and
46 subitem (i) of item four of this subparagraph [(n)], each to be allo-
47 cated to such housing accommodation pursuant to subitem (ii) of item
48 four of this subparagraph [(n)], that the landlord will not be earning
49 an amount in excess of the statutory return specified in subparagraph
50 (a) of paragraph one of subdivision g of this section after collection
51 of a rent increase pursuant to this subparagraph [(n)], with respect to
52 a building or buildings serviced by a single heating plant;

53 (v) report any funds received with respect to the housing accommo-
54 dations from any governmental grant program compensating such landlord
55 for fuel price increases during the period for which an adjustment is
56 obtained pursuant to this subparagraph [(n)];

1 (vi) provide such other information as the agency may require.

2 (3) Rent adjustments for controlled housing accommodations for annual
3 heating fuel cost increases or decreases experienced after December
4 thirty-first, nineteen hundred seventy-nine, shall be determined as
5 follows:

6 (i) the increase or decrease in heating fuel prices found by the agen-
7 cy for that year shall be multiplied by the actual consumption, not to

8 exceed that year's consumption standard established pursuant to subitem
9 (ii) of item one of this subparagraph; and

10 (ii) seventy-five percentum of such amount shall be allocated among
11 all rental space in the building, including commercial, professional and
12 similar facilities, provided, for the purposes of this subparagraph
13 [(n)], that living rooms, kitchens over fifty-nine square feet in area
14 and bedrooms shall be considered rooms and that bathrooms, foyers and
15 kitchenettes shall not be considered rooms.

16 (4) Rent adjustments for controlled housing accommodations for heating
17 fuel cost increases or decreases experienced from April ninth, nineteen
18 hundred seventy-nine, through and including December thirty-first, nine-
19 teen hundred seventy-nine, shall be determined as follows:

20 (i) the increase or decrease in heating fuel prices found by the agen-
21 cy for that period shall be multiplied by seventy-five percentum of the
22 actual heating fuel consumption during the period from January first,
23 nineteen hundred seventy-nine, through and including December thirty-
24 first, nineteen hundred seventy-nine, which consumption shall not exceed
25 seventy-five percentum of that year's consumption standard established
26 by the agency; and

27 (ii) such amount shall be allocated among all rental space in the
28 building, including commercial, professional and similar facilities,
29 provided, for the purposes of this subparagraph [(n)], that living
30 rooms, kitchens over fifty-nine square feet in area and bedrooms shall
31 be considered rooms and that bathrooms, foyers and kitchenettes shall
32 not be considered rooms.

33 The city rent agency shall promulgate findings for heating fuel price
34 increases or decreases and standards for consumption for the periods set
35 forth in this item four thirty days after this local law is enacted. The
36 standard for consumption shall be no more than seventy-five percentum of
37 two hundred thirty gallons per room for buildings using heating oils for
38 heat with comparable unit limitations to be established by the city rent
39 agency for utility supplied steam, gas, electricity, coal and any other
40 types of heating systems.

41 (5) A landlord who files a report pursuant to this subparagraph and
42 who falsely certifies shall not be eligible to collect any rent adjust-
43 ment pursuant to this subparagraph for two years following a determi-
44 nation of a false certification and, in addition, any adjustments
45 obtained pursuant to this subparagraph for up to two years prior to such
46 determination shall not be collectible for that same two year period.
47 Such landlord shall also be subject to any additional penalties imposed
48 by law.

49 (6) A landlord annually may file a report pursuant to this subpara-
50 graph [(n)] after promulgation by the agency of the findings and
51 consumption standards set forth in item one of this subparagraph [(n)].
52 A rent adjustment pursuant to such report shall be prospectively collec-
53 tible upon the landlord's serving and filing the report, provided,
54 however, that if a landlord files such report within sixty days of the
55 promulgation of such findings and consumption standards, such rent

1 adjustment shall be retroactive to and shall be effective as of the
2 January first of the year in which the report is filed.

3 (7) A landlord demanding or collecting a rent adjustment pursuant to
4 this subparagraph [(n)] shall at the time of either the demand or
5 collection issue to the tenant either a rent bill or receipt separately
6 setting forth the amount of the adjustment pursuant to this subparagraph
7 [(n)] and the amount of the maximum rent otherwise demanded or
8 collected. If the tenant has been issued a valid senior citizen rent
9 exemption order or a valid disability rent exemption order, the owner
10 shall also separately state the amount payable by the senior citizen or
11 person with a disability after the exemption.

12 (8) In the event that a rent reduction order is issued by the city
13 rent agency based upon the landlord's failure to provide heat or hot
14 water to housing accommodations for which the landlord is collecting a
15 rent adjustment pursuant to this subparagraph [(n)], the rent adjustment
16 shall not be collected during the time such rent reduction order is in
17 effect and for twelve months following the date of the restoration of
18 the rent reduction. In addition, the landlord shall not be eligible to
19 collect any subsequent rent adjustment pursuant to this subparagraph
20 [(n)] until twelve months following the date of the restoration of the
21 rent reduction.

22 (9) In the event that the city rent agency promulgates a finding of a
23 price decrease, if any landlord who has obtained a rent adjustment
24 pursuant to this subparagraph [(n)] does not file a report for a rent
25 adjustment pursuant to this subparagraph [(n)] within sixty days of the
26 promulgation of such findings, then all rent adjustments obtained pursu-
27 ant to this subparagraph [(n)] shall not be collectible for a period of
28 twelve months.

29 (10) Any rent adjustment obtained pursuant to this subparagraph [(n)]
30 shall not be included in the maximum rent established pursuant to para-
31 graph four or five of subdivision (a) of this section.

32 (11) The city rent agency shall have the power to promulgate such
33 regulations as it may consider necessary or convenient to implement and
34 administer the provisions of this subparagraph [(n)]. The regulations
35 shall also require that any rent adjustment granted pursuant to this
36 subparagraph [(n)] be reduced by an amount equal to any governmental
37 grant received by the landlord compensating the landlord for any fuel
38 price increases, but not required by the city, the agency or any grant-
39 ing government entity to be expended for fuel related repairs or
40 improvements.

41 [(o)] (m) (1) There has been an increase in heating and heating fuel
42 expenditures in a property resulting from a city-wide rise in heating
43 fuel costs such that the verifiable expenditures for heating or heating
44 fuel in a property for nineteen hundred seventy-four exceeds the verifi-
45 able expenditures for such heating or heating fuel during nineteen
46 hundred seventy-three.

47 (2) To obtain a rental adjustment pursuant to this subparagraph [(o)],
48 the landlord must certify that he or she is presently maintaining all
49 essential services required to be furnished with respect to the housing
50 accommodations covered by such certification, and that he or she will
51 continue to so maintain such essential services for the period of any
52 such adjustment.

53 (3) To obtain a rental adjustment pursuant to this subparagraph [(o)],
54 the landlord must certify on information and belief that he or she will
55 not be earning an amount in excess of the statutory return specified in
56 subparagraph (a) of this paragraph [one of subdivision g of this

1 section] after collection of such rental adjustment, with respect to the
2 building or buildings serviced by a single heating plant; and where the
3 building, or buildings serviced by a single heating plant, contains
4 forty-nine or fewer housing accommodations, the landlord must certify
5 that the amount expended directly for heating or heating fuel in nine-
6 teen hundred seventy-four equalled or exceeded ten per cent of the total
7 rental income which was derived from the property during nineteen
8 hundred seventy-four; and, where the building, or buildings serviced by
9 a single heating plant, contains fifty or more housing accommodations
10 the landlord must certify that the amount expended directly for heating
11 or heating fuel in nineteen hundred seventy-four equalled or exceeded
12 seven and one-half percentum of the total rental income which was
13 derived from the property during nineteen hundred seventy-four.

14 (4) The total rental adjustments for a property to be allocated or
15 deemed allocated pursuant to this subparagraph [(o)] shall not exceed
16 one-half of the gross amount by which the total verifiable expenditures
17 for heating or heating fuel for nineteen hundred seventy-four exceeds
18 the total verifiable expenditures for such heating or heating fuel for
19 nineteen hundred seventy-three.

20 (5) Such total rental adjustments shall be allocated or deemed allo-
21 cated pursuant to this subparagraph [(o)] to all housing accommodations
22 subject to this chapter, to all other housing accommodations, and to all
23 commercial, professional and similar facilities in or associated with
24 the property in a manner to be determined by the agency. In no event
25 shall any adjustment in maximum rent pursuant to this subparagraph [(o)]
26 for any housing accommodations subject to this chapter exceed a monthly
27 increase of two dollars per room, as defined by item eight below. In any
28 apartment containing five or more rooms, any increase shall not exceed
29 the total of nine dollars.

30 (6) Any adjustment pursuant to this subparagraph [(o)] shall be effec-
31 tive for all or part of the period July first, nineteen hundred seven-
32 ty-five through June thirtieth, nineteen hundred seventy-six. Any
33 adjustment pursuant to this subparagraph shall automatically expire no
34 later than June thirtieth, nineteen hundred seventy-six.

35 (7) The rental increases provided for herein shall be effective and
36 collectible upon the landlord's filing a report with the agency on forms
37 prescribed by the agency and upon giving such notice to the tenants as
38 the agency shall prescribe, subject to adjustments upon order of the
39 agency.

40 (8) In determining the amount of an adjustment allocation of an
41 adjustment pursuant to this subparagraph [(o)], only living rooms,
42 kitchens over fifty-nine square feet in area, dining rooms and bedrooms
43 shall be considered rooms; bathrooms, foyers, and kitchenettes shall not
44 be considered rooms.

45 § 12. Subdivision a of section 26-407 of the administrative code of
46 the city of New York is amended to read as follows:

47 a. Notwithstanding any provisions of this chapter, any labor cost
48 pass-along rent increase requested of, or received from, any tenant on
49 or after July first, nineteen hundred seventy-two, pursuant to the
50 provisions of subparagraph [(1)] (i) of paragraph one of subdivision g
51 of section 26-405 of this title, shall not exceed the maximum rent
52 adjustment as provided under this chapter after the effective date of
53 this section.

54 § 13. Paragraphs 5-a and 6 of subdivision c of section 26-511 of the
55 administrative code of the city of New York, paragraph 5-a as amended by
56 section 16-a of part A of chapter 20 of the laws of 2015 and paragraph 6

1 as amended by section 29 of part A of chapter 20 of the laws of 2015,
2 are amended to read as follows:

3 (5-a) provides that, notwithstanding any provision of this chapter,
4 the legal regulated rent for any vacancy lease entered into after the
5 effective date of this paragraph shall be as hereinafter provided in
6 this paragraph. The previous legal regulated rent for such housing
7 accommodation shall be increased by the following: (i) if the vacancy
8 lease is for a term of two years, twenty percent of the previous legal
9 regulated rent; or (ii) if the vacancy lease is for a term of one year
10 the increase shall be twenty percent of the previous legal regulated
11 rent less an amount equal to the difference between (a) the two year
12 renewal lease guideline promulgated by the guidelines board of the city
13 of New York applied to the previous legal regulated rent and (b) the one
14 year renewal lease guideline promulgated by the guidelines board of the
15 city of New York applied to the previous legal regulated rent. However,
16 where the amount charged and paid by the prior tenant pursuant to para-
17 graph fourteen of this subdivision, was less than the legal regulated
18 rent, such increase to the legal regulated rent shall not exceed: five
19 percent of the previous legal regulated rent if the last vacancy lease
20 commenced less than two years ago; ten percent of the previous legal
21 regulated rent if the last vacancy lease commenced less than three years
22 ago; fifteen percent of the previous legal regulated rent if the last
23 vacancy lease commenced less than four years ago; twenty percent of the
24 previous legal regulated rent if the last vacancy lease commenced four
25 or more years ago. In addition, if the legal regulated rent was not
26 increased with respect to such housing accommodation by a permanent
27 vacancy allowance within eight years prior to a vacancy lease executed
28 on or after the effective date of this paragraph, the legal regulated
29 rent may be further increased by an amount equal to the product result-
30 ing from multiplying such previous legal regulated rent by six-tenths of
31 one percent and further multiplying the amount of rent increase result-
32 ing therefrom by the greater of (A) the number of years since the im-
33 position of the last permanent vacancy allowance, or (B) if the rent was
34 not increased by a permanent vacancy allowance since the housing accom-
35 modation became subject to this chapter, the number of years that such
36 housing accommodation has been subject to this chapter. Provided that if
37 the previous legal regulated rent was less than three hundred dollars
38 the total increase shall be as calculated above plus one hundred dollars
39 per month. Provided, further, that if the previous legal regulated rent
40 was at least three hundred dollars and no more than five hundred dollars
41 in no event shall the total increase pursuant to this paragraph be less
42 than one hundred dollars per month. Such increase shall be in lieu of
43 any allowance authorized for the one or two year renewal component ther-
44 eof, but shall be in addition to any other increases authorized pursuant
45 to this chapter including an adjustment based upon [a major capital
46 improvement, or] a substantial modification or increase of dwelling
47 space or services, or installation of new equipment or improvements or
48 new furniture or furnishings provided in or to the housing accommodation
49 pursuant to this section. The increase authorized in this paragraph may
50 not be implemented more than one time in any calendar year, notwith-
51 standing the number of vacancy leases entered into in such year.

52 (6) provides criteria whereby the commissioner may act upon applica-
53 tions by owners for increases in excess of the level of fair rent
54 increase established under this law provided, however, that such crite-
55 ria shall provide [(a)]₁ as to hardship applications, for a finding that
56 the level of fair rent increase is not sufficient to enable the owner to

1 maintain approximately the same average annual net income (which shall
2 be computed without regard to debt service, financing costs or manage-
3 ment fees) for the three year period ending on or within six months of
4 the date of an application pursuant to such criteria as compared with
5 annual net income, which prevailed on the average over the period nine-
6 teen hundred sixty-eight through nineteen hundred seventy, or for the
7 first three years of operation if the building was completed since nine-
8 teen hundred sixty-eight or for the first three fiscal years after a
9 transfer of title to a new owner provided the new owner can establish to
10 the satisfaction of the commissioner that he or she acquired title to
11 the building as a result of a bona fide sale of the entire building and
12 that the new owner is unable to obtain requisite records for the fiscal
13 years nineteen hundred sixty-eight through nineteen hundred seventy
14 despite diligent efforts to obtain same from predecessors in title and
15 further provided that the new owner can provide financial data covering
16 a minimum of six years under his or her continuous and uninterrupted
17 operation of the building to meet the three year to three year compar-
18 ative test periods herein provided[; and (b) as to completed building-
19 wide major capital improvements, for a finding that such improvements
20 are deemed depreciable under the Internal Revenue Code and that the cost
21 is to be amortized over an eight-year period for a building with thir-
22 ty-five or fewer housing accommodations, or a nine-year period for a
23 building with more than thirty-five housing accommodations, for any
24 determination issued by the division of housing and community renewal
25 after the effective date of the rent act of 2015, based upon cash
26 purchase price exclusive of interest or service charges]. Notwithstand-
27 ing anything to the contrary contained herein, no hardship increase
28 granted pursuant to this paragraph shall, when added to the annual gross
29 rents, as determined by the commissioner, exceed the sum of, (i) the
30 annual operating expenses, (ii) an allowance for management services as
31 determined by the commissioner, (iii) actual annual mortgage debt
32 service (interest and amortization) on its indebtedness to a lending
33 institution, an insurance company, a retirement fund or welfare fund
34 which is operated under the supervision of the banking or insurance laws
35 of the state of New York or the United States, and (iv) eight and one-
36 half percent of that portion of the fair market value of the property
37 which exceeds the unpaid principal amount of the mortgage indebtedness
38 referred to in subparagraph (iii) of this paragraph. Fair market value
39 for the purposes of this paragraph shall be six times the annual gross
40 rent. The collection of any increase in the stabilized rent for any
41 apartment pursuant to this paragraph shall not exceed six percent in any
42 year from the effective date of the order granting the increase over the
43 rent set forth in the schedule of gross rents, with collectability of
44 any dollar excess above said sum to be spread forward in similar incre-
45 ments and added to the stabilized rent as established or set in future
46 years;

47 § 14. Subdivision f of section 26-512 of the administrative code of
48 the city of New York, as added by chapter 116 of the laws of 1997, is
49 amended to read as follows:

50 f. Notwithstanding any provision of this law to the contrary in the
51 case where all tenants named in a lease have permanently vacated a hous-
52 ing accommodation and a family member of such tenant or tenants is enti-
53 tled to and executes a renewal lease for the housing accommodation if
54 such accommodation continues to be subject to this law after such family
55 member vacates, on the occurrence of such vacancy the legal regulated
56 rent shall be increased by a sum equal to the allowance then in effect

1 for vacancy leases, including the amount allowed by paragraph [(five-a)]
2 five-a of subdivision c of section 26-511 of this law. Such increase
3 shall be in addition to any other increases provided for in this law
4 including an adjustment based upon [a major capital improvement, or] a
5 substantial modification or increase of dwelling space or services, or
6 installation of new equipment or improvements or new furniture or
7 furnishings provided in or to the housing accommodation pursuant to
8 section 26-511 of this law and shall be applicable in like manner to
9 each second subsequent succession.

10 § 15. This act shall take effect immediately; provided:

11 (a) that sections three, four, and five of this act shall apply to
12 taxable years beginning on and after January 1, 2019;

13 (b) that the amendments to sections 4 and 5 of the emergency housing
14 rent control law made by section six of this act shall expire on the
15 same date as such law expires and shall not affect the expiration of
16 such law as provided in subdivision 2 of section 1 of chapter 274 of the
17 laws of 1946;

18 (c) that the amendments to sections 6 and 10 of section 4 of the emer-
19 gency tenant protection act of nineteen seventy-four made by sections
20 seven and eight of this act shall expire on the same date as such act
21 expires and shall not affect the expiration of such act as provided in
22 section 17 of chapter 576 of the laws of 1974;

23 (d) that the amendments to section 26-511 of chapter 4 of title 26 of
24 the administrative code of the city of New York made by section thirteen
25 of this act shall expire on the same date as such law expires and shall
26 not affect the expiration of such law as provided under section 26-520
27 of such law;

28 (e) that the amendments to section 26-512 of chapter 4 of title 26 of
29 the administrative code of the city of New York made by section fourteen
30 of this act shall expire on the same date as such law expires and shall
31 not affect the expiration of such law as provided under section 26-520
32 of such law; and

33 (f) that the amendments to sections 26-403.2, 26-405 and 26-407 of the
34 city rent and rehabilitation law made by sections nine, ten, eleven and
35 twelve of this act shall remain in full force and effect only as long as
36 the public emergency requiring the regulation and control of residential
37 rents and evictions continues, as provided in subdivision 3 of section 1
38 of the local emergency housing rent control act.

39 (g) Effective immediately, the addition, amendment and/or repeal of
40 any rule or regulation necessary for the implementation of this act on
41 its effective date are authorized and directed to be made and completed
42 on or before such effective date.