

S T A T E O F N E W Y O R K

4117--A

2011-2012 Regular Sessions

I N S E N A T E

March 18, 2011

Introduced by Sen. YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the administrative code of the city of New York, the emergency tenant protection act of nineteen seventy-four and the real property tax law, in relation to rent regulated housing accommodations

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The opening paragraph of section 26-504.1 of the adminis-
2 trative code of the city of New York is designated subdivision a and a
3 new subdivision b is added to read as follows:
4 B. NOTWITHSTANDING THE RULING OF THE STATE COURT OF APPEALS IN ROBERTS
5 V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 279, HOUSING ACCOMMODATIONS
6 WHICH WERE SUBJECT TO THIS CHAPTER OR CHAPTER THREE OF THIS TITLE IMME-
7 DIATELY PRIOR TO THE COMMENCEMENT OF THE RECEIPT OF TAX BENEFITS PURSU-
8 ANT TO SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW OR
9 WHICH ARE OR WOULD BE SUBJECT TO THIS CHAPTER PURSUANT TO SUCH RULING
10 SHALL NOT BE DEEMED TO BE HOUSING ACCOMMODATIONS WHICH BECAME OR BECOME
11 SUBJECT TO THIS CHAPTER BY VIRTUE OF RECEIVING TAX BENEFITS PURSUANT TO
12 SUCH SECTION FOUR HUNDRED EIGHTY-NINE; PROVIDED, HOWEVER, THAT THE
13 EXCLUSION SET FORTH IN THIS SUBDIVISION SHALL BE APPLICABLE TO SUCH
14 HOUSING ACCOMMODATIONS SUBJECT TO SUCH RULING ONLY WHERE THE OWNER OF
15 SUCH HOUSING ACCOMMODATIONS HAS MADE FULL PAYMENT TO THE CITY IN ACCORD-
16 ANCE WITH THE PROVISIONS OF SUBDIVISION SEVENTEEN OF SECTION FOUR
17 HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW AND SUBDIVISION EE OF
18 SECTION 11-243 OF THIS CODE. FOR HOUSING ACCOMMODATIONS IN BUILDINGS
19 WHICH WERE, ARE OR BECOME THE SUBJECT OF CONVERSIONS PURSUANT TO SECTION
20 THREE HUNDRED FIFTY-TWO-EEEE OF THE GENERAL BUSINESS LAW, SUCH HOUSING
21 ACCOMMODATIONS SHALL NOT BE DEEMED TO BE HOUSING ACCOMMODATIONS WHICH
22 BECAME OR BECOME SUBJECT TO THIS CHAPTER BY VIRTUE OF RECEIVING TAX

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

LBD10036-08-1

BENEFITS PURSUANT TO SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW AND THE OWNER OR PROPRIETARY LESSEE OF SUCH HOUSING ACCOMMODATIONS SHALL NOT BE REQUIRED TO ACT IN ACCORDANCE WITH SUCH SECTIONS OF THE REAL PROPERTY TAX LAW AND THIS CODE TO QUALIFY AS HOUSING ACCOMMODATIONS NOT SUBJECT TO THIS CHAPTER BY VIRTUE OF RECEIVING SUCH TAX BENEFITS.

S 2. Subdivision a of section 26-504.2 of the administrative code of the city of New York, as amended by chapter 82 of the laws of 2003, is amended to read as follows:

a. (1) "Housing accommodations" shall not include any housing accommodation which becomes vacant on or after April first, nineteen hundred ninety-seven and where at the time the tenant vacated such housing accommodation the legal regulated rent was two thousand dollars or more per month, or any housing accommodation which is or becomes vacant on or after the effective date of the rent regulation reform act of 1997 with a legal regulated rent of two thousand dollars or more per month. This exclusion shall apply regardless of whether the next tenant in occupancy or any subsequent tenant in occupancy actually is charged or pays less than two thousand dollars a month. Provided however, that this exclusion shall not apply to housing accommodations which became or become subject to this law (a) by virtue of receiving tax benefits pursuant to section four hundred twenty-one-a or four hundred eighty-nine of the real property tax law, except as otherwise provided in subparagraph (i) of paragraph (f) of subdivision two of section four hundred twenty-one-a of the real property tax law, or (b) by virtue of article seven-C of the multiple dwelling law.

(2) NOTWITHSTANDING THE RULING OF THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 279, HOUSING ACCOMMODATIONS WHICH WERE SUBJECT TO THIS CHAPTER OR CHAPTER THREE OF THIS TITLE IMMEDIATELY PRIOR TO THE COMMENCEMENT OF THE RECEIPT OF TAX BENEFITS PURSUANT TO SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW OR WHICH ARE OR WOULD BE SUBJECT TO THIS CHAPTER PURSUANT TO SUCH RULING SHALL NOT BE DEEMED TO BE HOUSING ACCOMMODATIONS WHICH BECAME OR BECOME SUBJECT TO THIS CHAPTER BY VIRTUE OF RECEIVING TAX BENEFITS PURSUANT TO SUCH SECTION FOUR HUNDRED EIGHTY-NINE; PROVIDED, HOWEVER, THAT THE EXCLUSION SET FORTH IN THIS PARAGRAPH SHALL BE APPLICABLE TO SUCH HOUSING ACCOMMODATIONS SUBJECT TO SUCH RULING ONLY WHERE THE OWNER OF SUCH HOUSING ACCOMMODATIONS HAS MADE FULL PAYMENT TO THE CITY IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION SEVENTEEN OF SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW AND SUBDIVISION EE OF SECTION 11-243 OF THIS CODE. FOR HOUSING ACCOMMODATIONS IN BUILDINGS WHICH WERE, ARE OR BECOME THE SUBJECT OF CONVERSIONS PURSUANT TO SECTION THREE HUNDRED FIFTY-TWO-EEEE OF THE GENERAL BUSINESS LAW, SUCH HOUSING ACCOMMODATIONS SHALL NOT BE DEEMED TO BE HOUSING ACCOMMODATIONS WHICH BECAME OR BECOME SUBJECT TO THIS CHAPTER BY VIRTUE OF RECEIVING TAX BENEFITS PURSUANT TO SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW AND THE OWNER OR PROPRIETARY LESSEE OF SUCH HOUSING ACCOMMODATIONS SHALL NOT BE REQUIRED TO ACT IN ACCORDANCE WITH SUCH SECTIONS OF THE REAL PROPERTY TAX LAW AND THIS CODE TO QUALIFY AS HOUSING ACCOMMODATIONS NOT SUBJECT TO THIS CHAPTER BY VIRTUE OF RECEIVING TAX BENEFITS.

(3) This section shall not apply, however, to or become effective with respect to housing accommodations which the commissioner determines or finds that the landlord or any person acting on his or her behalf, with intent to cause the tenant to vacate, engaged in any course of conduct (including, but not limited to, interruption or discontinuance of

1 required services) which interfered with or disturbed or was intended to
2 interfere with or disturb the comfort, repose, peace or quiet of the
3 tenant in his or her use or occupancy of the housing accommodations and
4 in connection with such course of conduct, any other general enforcement
5 provision of this law shall also apply.

6 S 3. The administrative code of the city of New York is amended by
7 adding a new section 26-504.4 to read as follows:

8 S 26-504.4 ENFORCEMENT AND PROCEDURES FOR IMPLEMENTING THE DECISION OF
9 THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES,
10 L.P., 13 NY3D279. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER,
11 THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR OR THE
12 CIVIL PRACTICE LAW AND RULES TO THE CONTRARY, AND SUBJECT TO THE
13 PROVISIONS OF SUBDIVISION C OF THIS SECTION, ANY HOUSING ACCOMMODATION
14 THAT IS OR WOULD BE SUBJECT TO REGULATION UNDER THIS CHAPTER AS A RESULT
15 OF THE DECISION OF THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN
16 SPEYER PROPERTIES, L.P., 13 NY3D279, SHALL BE SUBJECT TO THE FOLLOWING:

17 (1) THE LEGAL RENT FOR A HOUSING ACCOMMODATION SUBJECT TO THIS SECTION
18 SHALL BE (I) THE RENT CHARGED AND PAID FOR SUCH HOUSING ACCOMMODATION ON
19 OCTOBER TWENTY-SECOND, TWO THOUSAND FIVE, OR PROVIDED FOR IN THE LEASE
20 IN EFFECT ON SUCH DATE, PLUS ALL SUBSEQUENT ADJUSTMENTS AND INCREASES,
21 INCLUDING BUT NOT LIMITED TO INCREASES ATTRIBUTABLE TO VACANCIES, MAJOR
22 CAPITAL IMPROVEMENTS, INDIVIDUAL APARTMENT IMPROVEMENTS, RENT GUIDELINES
23 BOARD ORDERS, SURCHARGES OR ANY OTHER INCREASES THAT WERE NOT PRECLUDED
24 BY AN ORDER OF THE DIVISION OF HOUSING AND COMMUNITY RENEWAL AS TO OTHER
25 REGULATED HOUSING ACCOMMODATIONS IN THE BUILDING AND THAT WOULD HAVE
26 BEEN PERMITTED NOTWITHSTANDING THE ABSENCE OR OMISSION OF ANY FORM,
27 RIDER, NOTICE, REGISTRATION, APPLICATION OR ANY OTHER DOCUMENT THAT
28 WOULD HAVE BEEN REQUIRED OR OTHERWISE PROVIDED, OR

29 (II) THE LEGAL RENT AGREED TO BY THE TENANT PURSUANT TO PARAGRAPH FIVE
30 OF THIS SUBDIVISION OR (III) SUCH OTHER AMOUNT AS AGREED TO BY THE OWNER
31 AND TENANT IN A WRITING EXECUTED BY THE PARTIES AFTER RECEIPT BY THE
32 TENANT OF THE NOTICE REQUIRED BY PARAGRAPH THREE OF THIS SUBDIVISION AND
33 PAYMENT BY THE OWNER OF THE REFUND AMOUNT, IF ANY, PROVIDED IN SUCH
34 AGREEMENT.

35 (2) WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF THIS SECTION, THE OWNER
36 OF A HOUSING ACCOMMODATION SUBJECT TO THIS SECTION SHALL OFFER TO REFUND
37 TO THE TENANT RESIDING IN SUCH HOUSING ACCOMMODATION ALL RENT COLLECTED
38 FROM SUCH TENANT IN EXCESS OF THE LEGAL RENT CALCULATED IN ACCORDANCE
39 WITH THE PROVISIONS OF PARAGRAPH ONE OF THIS SUBDIVISION.

40 (3) WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SECTION, AN OWNER
41 OF A HOUSING ACCOMMODATION SUBJECT TO THIS SECTION SHALL PROVIDE WRITTEN
42 NOTICE TO THE CURRENT TENANT OF THE HOUSING ACCOMMODATION OF: (I) THE
43 FACT THAT THE HOUSING ACCOMMODATION IS SUBJECT TO THIS CHAPTER AS A
44 RESULT OF THE DECISION OF THE STATE COURT OF APPEALS IN ROBERTS V.
45 TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 279; (II) A CALCULATION OF THE
46 LEGAL REGULATED RENT FOR THE HOUSING ACCOMMODATION IN ACCORDANCE WITH
47 THE PROVISIONS OF PARAGRAPH ONE OF THIS SUBDIVISION; AND (III) THE TOTAL
48 AMOUNT TO BE REFUNDED PURSUANT TO PARAGRAPH TWO OF THIS SUBDIVISION.

49 (4) AN OWNER WHO MAKES A GOOD FAITH CALCULATION OF THE LEGAL RENT AND
50 MAKES A REFUND OFFER IN ACCORDANCE WITH THE REQUIREMENTS OF PARAGRAPH
51 TWO OF THIS SUBDIVISION SHALL NOT BE SUBJECT TO ANY OF THE OVERCHARGE
52 PENALTIES, INCLUDING INTEREST AND TREBLE DAMAGES, PROVIDED FOR IN
53 SECTION 26-516 OF THIS CHAPTER.

54 (5) THE TENANT SHALL BE OBLIGATED TO RESPOND WITHIN THIRTY-FIVE DAYS
55 OF THE MAILING OF SUCH NOTICE TO THE TENANT. WHERE A TENANT OF A HOUS-
56 ING ACCOMMODATION SUBJECT TO THE PROVISIONS OF THIS SECTION CONSENTS IN

1 WRITING TO THE LEGAL RENT AND REFUND AMOUNT, IF ANY, SET FORTH BY THE
2 OWNER IN THE NOTICE REQUIRED BY PARAGRAPH THREE OF THIS SUBDIVISION, AND
3 THE OWNER MAKES THE REQUIRED REFUND TO THE TENANT, OR AFTER THE NOTICE
4 REQUIRED BY SUCH PARAGRAPH THE OWNER AND TENANT ENTER INTO A WRITTEN
5 AGREEMENT PROVIDING FOR A DIFFERENT LEGAL RENT AND REFUND AMOUNT AND THE
6 OWNER MAKES THE REFUND, IF ANY, AGREED TO BY THE PARTIES, THEN NEITHER
7 SUCH LEGAL RENT NOR SUCH REFUND AMOUNT, IF ANY, SHALL THEREAFTER BE
8 SUBJECT TO CHALLENGE BY THE TENANT OR ANY SUBSEQUENT TENANT OF THE HOUS-
9 ING ACCOMMODATION. HOWEVER, IF THE AGREEMENT ENTERED INTO PURSUANT TO
10 THIS PARAGRAPH REQUIRES THE TENANT VACATING THE SUBJECT HOUSING ACCOMMO-
11 DATION OR ENCOMPASSES SURRENDER OF POSSESSION OF THE HOUSING ACCOMMO-
12 DATION BY THE TENANT, IT SHALL NOT BE BINDING UPON SUBSEQUENT TENANTS.

13 (6) IN NO EVENT SHALL A TENANT WHO FILES A COMPLAINT WITH THE DIVISION
14 OF HOUSING AND COMMUNITY RENEWAL SEEKING RELIEF UNDER THE PROVISIONS OF
15 THIS SECTION BE ENTITLED TO A REFUND FOR RENT PAYMENTS MADE MORE THAN
16 FOUR YEARS BEFORE THE COMPLAINT IS FILED.

17 B. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, THE EMERGENCY
18 TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR OR THE CIVIL PRACTICE LAW
19 AND RULES TO THE CONTRARY, AND SUBJECT TO THE PROVISIONS OF SUBDIVISION
20 C OF THIS SECTION, ANY HOUSING ACCOMMODATION THAT, PRIOR TO ITS VACANCY,
21 WAS SUBJECT TO REGULATION UNDER CHAPTER THREE OF THIS TITLE AND WHICH IS
22 OR WOULD BE SUBJECT TO REGULATION UNDER THIS CHAPTER AS A RESULT OF THE
23 DECISION OF THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER
24 PROPERTIES, L.P., 13 NY3D 279, SHALL BE SUBJECT TO THE FOLLOWING:

25 (1) WHERE A HOUSING ACCOMMODATION PRIOR TO ITS VACANCY WAS SUBJECT TO
26 REGULATION UNDER CHAPTER THREE OF THIS TITLE AND WHICH IS OR WOULD BE
27 SUBJECT TO REGULATION UNDER THIS CHAPTER AS A RESULT OF THE DECISION OF
28 THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES,
29 L.P., 13 NY3D 279, THE INITIAL LEGAL RENT SHALL BE (I) DETERMINED IN
30 ACCORDANCE WITH THE METHODOLOGY USED FOR FAIR MARKET RENT APPEALS,
31 PROVIDED, HOWEVER, THAT THE RENTS IN EFFECT FOR COMPARABLE APARTMENTS,
32 WHETHER OR NOT REGULATED, ON THE DATE FOUR YEARS PRIOR TO THE DATE OF
33 THE COMMENCEMENT OF THE FIRST LEASE EXECUTED AFTER THE VACANCY BY THE
34 FORMER RENT CONTROLLED TENANT OF SUCH HOUSING ACCOMMODATION, SHALL BE
35 UTILIZED FOR THE PURPOSE OF DETERMINING THE COMPARABILITY COMPONENT USED
36 FOR THE DETERMINATION OF FAIR MARKET RENT APPEALS, PLUS ALL SUBSEQUENT
37 ADJUSTMENTS AND INCREASES INCLUDING BUT NOT LIMITED TO INCREASES ATTRIB-
38 UTABLE TO VACANCIES, MAJOR CAPITAL IMPROVEMENTS, INDIVIDUAL APARTMENT
39 IMPROVEMENTS, RENT GUIDELINES BOARD ORDERS, SURCHARGES OR ANY OTHER
40 INCREASES THAT WERE NOT PRECLUDED BY AN ORDER OF THE DIVISION OF HOUSING
41 AND COMMUNITY RENEWAL AS TO OTHER REGULATED HOUSING ACCOMMODATIONS IN
42 THE BUILDING AND THAT WOULD HAVE BEEN PERMITTED NOTWITHSTANDING THE
43 ABSENCE OR OMISSION OF ANY FORM, RIDER, NOTICE, REGISTRATION, APPLICA-
44 TION OR ANY OTHER DOCUMENT THAT WOULD HAVE BEEN REQUIRED OR OTHERWISE
45 PROVIDED, OR (II) THE INITIAL LEGAL RENT AGREED TO BY THE TENANT PURSU-
46 ANT TO PARAGRAPH FIVE OF THIS SUBDIVISION OR (III) SUCH OTHER AMOUNT AS
47 AGREED TO BY THE OWNER AND TENANT IN A WRITING EXECUTED BY THE PARTIES
48 AFTER RECEIPT BY THE TENANT OF THE NOTICE REQUIRED BY PARAGRAPH THREE OF
49 THIS SUBDIVISION AND PAYMENT BY THE OWNER OF THE REFUND AMOUNT, IF ANY,
50 PROVIDED IN SUCH AGREEMENT.

51 (2) WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF THIS SECTION, THE OWNER
52 OF A HOUSING ACCOMMODATION SUBJECT TO THIS SECTION SHALL OFFER TO REFUND
53 TO THE TENANT RESIDING IN SUCH HOUSING ACCOMMODATION ALL RENT COLLECTED
54 FROM SUCH TENANT IN EXCESS OF THE LEGAL RENT CALCULATED IN ACCORDANCE
55 WITH THE PROVISIONS OF PARAGRAPH ONE OF THIS SUBDIVISION.

1 (3) WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SECTION, AN OWNER
2 OF A HOUSING ACCOMMODATION SUBJECT TO THIS SECTION SHALL PROVIDE WRITTEN
3 NOTICE TO THE CURRENT TENANT OF THE HOUSING ACCOMMODATION OF: (I) THE
4 FACT THAT THE HOUSING ACCOMMODATION IS SUBJECT TO THIS CHAPTER AS A
5 RESULT OF THE DECISION OF THE STATE COURT OF APPEALS IN ROBERTS V.
6 TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 279; (II) A CALCULATION OF THE
7 LEGAL REGULATED RENT FOR THE HOUSING ACCOMMODATION IN ACCORDANCE WITH
8 THE PROVISIONS OF PARAGRAPH ONE OF THIS SUBDIVISION; AND (III) THE TOTAL
9 AMOUNT TO BE REFUNDED PURSUANT TO PARAGRAPH TWO OF THIS SUBDIVISION.

10 (4) AN OWNER WHO MAKES A GOOD FAITH CALCULATION OF THE LEGAL RENT AND
11 MAKES A REFUND OFFER IN ACCORDANCE WITH THE REQUIREMENTS OF PARAGRAPH
12 TWO OF THIS SUBDIVISION SHALL NOT BE SUBJECT TO ANY OF THE OVERCHARGE
13 PENALTIES, INCLUDING INTEREST AND TREBLE DAMAGES, PROVIDED FOR IN
14 SECTION 26-516 OF THIS CHAPTER.

15 (5) THE TENANT SHALL BE OBLIGATED TO RESPOND WITHIN THIRTY-FIVE DAYS
16 OF THE MAILING OF SUCH NOTICE TO THE TENANT. WHERE A TENANT OF A HOUSING
17 ACCOMMODATION SUBJECT TO THE PROVISIONS OF THIS SECTION CONSENTS IN
18 WRITING TO THE LEGAL RENT AND REFUND AMOUNT, IF ANY, SET FORTH BY THE
19 OWNER IN THE NOTICE REQUIRED BY PARAGRAPH THREE OF THIS SUBDIVISION, AND
20 THE OWNER MAKES THE REQUIRED REFUND TO THE TENANT, OR AFTER THE NOTICE
21 REQUIRED BY SUCH PARAGRAPH THE OWNER AND TENANT ENTER INTO A WRITTEN
22 AGREEMENT PROVIDING FOR A DIFFERENT LEGAL RENT AND REFUND AMOUNT AND THE
23 OWNER MAKES THE REFUND, IF ANY, AGREED TO BY THE PARTIES, THEN NEITHER
24 SUCH LEGAL RENT NOR SUCH REFUND AMOUNT, IF ANY, SHALL THEREAFTER BE
25 SUBJECT TO CHALLENGE BY THE TENANT OR ANY SUBSEQUENT TENANT OF THE HOUS-
26 ING ACCOMMODATION. HOWEVER, IF THE AGREEMENT ENTERED INTO PURSUANT TO
27 THIS PARAGRAPH REQUIRES THAT THE TENANT VACATE THE SUBJECT HOUSING
28 ACCOMMODATION OR SURRENDER POSSESSION OF THE HOUSING ACCOMMODATION, IT
29 SHALL NOT BE BINDING UPON SUBSEQUENT TENANTS.

30 (6) IN NO EVENT SHALL A TENANT WHO FILES A COMPLAINT WITH THE DIVISION
31 OF HOUSING AND COMMUNITY RENEWAL SEEKING RELIEF UNDER THE PROVISIONS OF
32 THIS SECTION BE ENTITLED TO A REFUND FOR RENT PAYMENTS MADE MORE THAN
33 FOUR YEARS BEFORE THE COMPLAINT IS FILED.

34 C. AS AN ALTERNATIVE TO THE PROCEDURES SET FORTH IN SUBDIVISIONS A AND
35 B OF THIS SECTION, AN OWNER MAY, WITHIN NINETY DAYS OF THE EFFECTIVE
36 DATE OF THIS SECTION, PROVIDE WRITTEN NOTICE TO THE CURRENT TENANT OF
37 THE HOUSING ACCOMMODATION THAT THE OWNER INTENDS TO MAKE PAYMENT TO THE
38 CITY IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION SEVENTEEN OF
39 SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW AND SUBDI-
40 VISION EE OF SECTION 11-243 OF THIS CODE. AN OWNER WHO PROVIDES A NOTICE
41 PURSUANT TO THIS SECTION BUT WHO DOES NOT MAKE PAYMENT TO THE CITY IN
42 ACCORDANCE WITH THE REAL PROPERTY TAX LAW AND THIS CODE BY JUNE THIRTI-
43 ETH, TWO THOUSAND TWELVE SHALL BE SUBJECT TO THE OVERCHARGE PENALTIES,
44 INCLUDING INTEREST AND TREBLE DAMAGES, PROVIDED FOR IN SECTION 26-516 OF
45 THIS CHAPTER. DURING THE PERIODS IN WHICH THE PROCEDURES SET FORTH IN
46 SUBDIVISIONS A, B OR C OF THIS SECTION ARE BEING UTILIZED, THE OWNER OF
47 SUCH HOUSING ACCOMMODATIONS SHALL BE AUTHORIZED TO CHARGE, AND A TENANT
48 OR FORMER TENANT OF SUCH A HOUSING ACCOMMODATION SHALL BE OBLIGATED TO
49 PAY, THE AMOUNT SET FORTH IN THE LEASE THEN IN EFFECT.

50 S 4. Section 4 of chapter 576 of the laws of 1974, constituting the
51 emergency tenant protection act of nineteen seventy-four, is amended by
52 adding a new section 5-b to read as follows:

53 S 5-B. ENFORCEMENT AND PROCEDURES FOR IMPLEMENTING THE DECISION OF THE
54 COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D
55 279. A. NOTWITHSTANDING ANY OTHER PROVISION OF THE RENT STABILIZATION
56 LAW OF NINETEEN HUNDRED SIXTY-NINE, THIS ACT OR THE CIVIL PRACTICE LAW

1 AND RULES TO THE CONTRARY, AND SUBJECT TO THE PROVISIONS OF SUBDIVISION
2 C OF THIS SECTION, ANY HOUSING ACCOMMODATION THAT IS OR WOULD BE SUBJECT
3 TO REGULATION UNDER THIS ACT AS A RESULT OF THE DECISION OF THE COURT OF
4 APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D279, SHALL
5 BE SUBJECT TO THE FOLLOWING:

6 (1) THE LEGAL RENT FOR A HOUSING ACCOMMODATION SUBJECT TO THIS SECTION
7 SHALL BE (I) THE RENT CHARGED AND PAID FOR SUCH HOUSING ACCOMMODATION ON
8 OCTOBER 22, 2005, PLUS ALL SUBSEQUENT ADJUSTMENTS AND INCREASES INCLUD-
9 ING BUT NOT LIMITED TO INCREASES ATTRIBUTABLE TO VACANCIES, MAJOR CAPI-
10 TAL IMPROVEMENTS, INDIVIDUAL APARTMENT IMPROVEMENTS, RENT GUIDELINES
11 BOARD ORDERS, SURCHARGES OR ANY OTHER INCREASES THAT WERE NOT PRECLUDED
12 BY AN ORDER OF THE DIVISION OF HOUSING AND COMMUNITY RENEWAL AS TO OTHER
13 REGULATED HOUSING ACCOMMODATIONS IN THE BUILDING AND THAT WOULD HAVE
14 BEEN PERMITTED NOTWITHSTANDING THE ABSENCE OR OMISSION OF ANY FORM,
15 RIDER, NOTICE, REGISTRATION, APPLICATION OR ANY OTHER DOCUMENT THAT
16 WOULD HAVE BEEN REQUIRED OR OTHERWISE PROVIDED, OR (II) THE LEGAL RENT
17 AGREED TO BY THE TENANT PURSUANT TO PARAGRAPH FIVE OF THIS SUBDIVISION
18 OR (III) SUCH OTHER AMOUNT AS AGREED TO BY THE OWNER AND TENANT IN A
19 WRITING EXECUTED BY THE PARTIES AFTER RECEIPT BY THE TENANT OF THE
20 NOTICE REQUIRED BY PARAGRAPH THREE OF THIS SUBDIVISION AND PAYMENT BY
21 THE OWNER OF THE REFUND AMOUNT, IF ANY, PROVIDED IN SUCH AGREEMENT.

22 (2) WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF THIS SECTION, THE OWNER
23 OF A HOUSING ACCOMMODATION SUBJECT TO THIS SECTION SHALL OFFER TO REFUND
24 TO THE TENANT RESIDING IN SUCH HOUSING ACCOMMODATION ALL RENT COLLECTED
25 FROM SUCH TENANT IN EXCESS OF THE LEGAL RENT CALCULATED IN ACCORDANCE
26 WITH THE PROVISIONS OF PARAGRAPH ONE OF THIS SUBDIVISION.

27 (3) WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SECTION, AN OWNER
28 OF A HOUSING ACCOMMODATION SUBJECT TO THIS SECTION SHALL PROVIDE WRITTEN
29 NOTICE TO THE CURRENT TENANT OF THE HOUSING ACCOMMODATION OF: (I) THE
30 FACT THAT THE HOUSING ACCOMMODATION IS SUBJECT TO THIS CHAPTER AS A
31 RESULT OF THE DECISION OF THE COURT OF APPEALS IN ROBERTS V. TISHMAN
32 SPEYER PROPERTIES, L.P., 13 NY3D279; (II) A CALCULATION OF THE LEGAL
33 REGULATED RENT FOR THE HOUSING ACCOMMODATION IN ACCORDANCE WITH THE
34 PROVISIONS OF PARAGRAPH ONE OF THIS SUBDIVISION; AND (III) THE TOTAL
35 AMOUNT TO BE REFUNDED PURSUANT TO PARAGRAPH TWO OF THIS SUBDIVISION.

36 (4) AN OWNER WHO MAKES A GOOD FAITH CALCULATION OF THE LEGAL RENT AND
37 MAKES A REFUND OFFER IN ACCORDANCE WITH THE REQUIREMENTS OF PARAGRAPH
38 TWO OF THIS SUBDIVISION SHALL NOT BE SUBJECT TO ANY OF THE OVERCHARGE
39 PENALTIES, INCLUDING INTEREST AND TREBLE DAMAGES, PROVIDED FOR IN
40 SECTION 26-516 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK.

41 (5) THE TENANT SHALL BE OBLIGATED TO RESPOND WITHIN THIRTY-FIVE DAYS
42 OF THE MAILING OF SUCH NOTICE TO THE TENANT. WHERE A TENANT OF A HOUS-
43 ING ACCOMMODATION SUBJECT TO THE PROVISIONS OF THIS SECTION CONSENTS IN
44 WRITING TO THE LEGAL RENT AND REFUND AMOUNT, IF ANY, SET FORTH BY THE
45 OWNER IN THE NOTICE REQUIRED BY PARAGRAPH THREE OF THIS SUBDIVISION, AND
46 THE OWNER MAKES THE REQUIRED REFUND TO THE TENANT, OR AFTER THE NOTICE
47 REQUIRED BY SUCH PARAGRAPH THE OWNER AND TENANT ENTER INTO A WRITTEN
48 AGREEMENT PROVIDING FOR A DIFFERENT LEGAL RENT AND REFUND AMOUNT AND THE
49 OWNER MAKES THE REFUND, IF ANY, AGREED TO BY THE PARTIES, THEN NEITHER
50 SUCH LEGAL RENT NOR SUCH REFUND AMOUNT, IF ANY, SHALL THEREAFTER BE
51 SUBJECT TO CHALLENGE BY THE TENANT OR ANY SUBSEQUENT TENANT OF THE HOUS-
52 ING ACCOMMODATION. HOWEVER, IF THE AGREEMENT ENTERED INTO PURSUANT TO
53 THIS PARAGRAPH REQUIRES THE TENANT VACATING THE SUBJECT HOUSING ACCOMMO-
54 DATION OR SURRENDER POSSESSION OF THE HOUSING ACCOMMODATION, IT SHALL
55 NOT BE BINDING UPON SUBSEQUENT TENANTS.

(6) IN NO EVENT SHALL A TENANT WHO FILES A COMPLAINT WITH THE DIVISION OF HOUSING AND COMMUNITY RENEWAL SEEKING RELIEF UNDER THE PROVISIONS OF THIS SECTION BE ENTITLED TO A REFUND FOR RENT PAYMENTS MADE MORE THAN FOUR YEARS BEFORE THE COMPLAINT IS FILED.

B. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, THE NEW YORK CITY RENT STABILIZATION LAW OF NINETEEN HUNDRED SIXTY-NINE, OR THE CIVIL PRACTICE LAW AND RULES TO THE CONTRARY, AND SUBJECT TO THE PROVISIONS OF SUBDIVISION C OF THIS SECTION, ANY HOUSING ACCOMMODATION THAT IS OR WOULD BE SUBJECT TO REGULATION UNDER THIS ACT AS A RESULT OF THE DECISION OF THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 279, SHALL BE SUBJECT TO THE FOLLOWING:

(1) WHERE A HOUSING ACCOMMODATION IS OR WOULD BE SUBJECT TO REGULATION UNDER THIS ACT AS A RESULT OF A DECISION OF THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 279, THE INITIAL LEGAL RENT SHALL BE (I) DETERMINED IN ACCORDANCE WITH THE METHODOLOGY USED FOR FAIR MARKET RENT APPEALS, PROVIDED, HOWEVER, THAT THE RENTS IN EFFECT FOR COMPARABLE APARTMENTS, WHETHER OR NOT REGULATED, ON THE DATE FOUR YEARS PRIOR TO THE DATE OF THE COMMENCEMENT OF THE FIRST LEASE EXECUTED AFTER THE VACANCY BY THE FORMER RENT CONTROLLED TENANT OF SUCH HOUSING ACCOMMODATION, SHALL BE UTILIZED FOR THE PURPOSE OF DETERMINING THE COMPARABILITY COMPONENT USED FOR THE DETERMINATION OF FAIR MARKET RENT APPEALS, PLUS ALL SUBSEQUENT ADJUSTMENTS AND INCREASES INCLUDING BUT NOT LIMITED TO INCREASES ATTRIBUTABLE TO VACANCIES, MAJOR CAPITAL IMPROVEMENTS, INDIVIDUAL APARTMENT IMPROVEMENTS, RENT GUIDELINES BOARD ORDERS, SURCHARGES OR ANY OTHER INCREASES THAT WERE NOT PRECLUDED BY AN ORDER OF THE DIVISION OF HOUSING AND COMMUNITY RENEWAL AS TO OTHER REGULATED HOUSING ACCOMMODATIONS IN THE BUILDING AND THAT WOULD HAVE BEEN PERMITTED NOTWITHSTANDING THE ABSENCE OR OMISSION OF ANY FORM, RIDER, NOTICE, REGISTRATION, APPLICATION OR ANY OTHER DOCUMENT THAT WOULD HAVE BEEN REQUIRED OR OTHERWISE PROVIDED, OR (II) THE INITIAL LEGAL RENT AGREED TO BY THE TENANT PURSUANT TO PARAGRAPH FIVE OF THIS SUBDIVISION OR (III) SUCH OTHER AMOUNT AS AGREED TO BY THE OWNER AND TENANT IN A WRITING EXECUTED BY THE PARTIES AFTER RECEIPT BY THE TENANT OF THE NOTICE REQUIRED BY PARAGRAPH THREE OF THIS SUBDIVISION AND PAYMENT BY THE OWNER OF THE REFUND AMOUNT, IF ANY, PROVIDED IN SUCH AGREEMENT.

(2) WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF THIS SECTION, THE OWNER OF A HOUSING ACCOMMODATION SUBJECT TO THIS SECTION SHALL OFFER TO REFUND TO THE TENANT RESIDING IN SUCH HOUSING ACCOMMODATION ALL RENT COLLECTED FROM SUCH TENANT IN EXCESS OF THE LEGAL RENT CALCULATED IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH ONE OF THIS SUBDIVISION.

(3) WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SECTION, AN OWNER OF A HOUSING ACCOMMODATION SUBJECT TO THIS SECTION SHALL PROVIDE WRITTEN NOTICE TO THE CURRENT TENANT OF THE HOUSING ACCOMMODATION OF: (I) THE FACT THAT THE HOUSING ACCOMMODATION IS SUBJECT TO THIS ACT AS A RESULT OF THE DECISION OF THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D279; (II) A CALCULATION OF THE LEGAL REGULATED RENT FOR THE HOUSING ACCOMMODATION IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH ONE OF THIS SUBDIVISION; AND (III) THE TOTAL AMOUNT TO BE REFUNDED PURSUANT TO PARAGRAPH TWO OF THIS SUBDIVISION.

(4) AN OWNER WHO MAKES A GOOD FAITH CALCULATION OF THE LEGAL RENT AND MAKES A REFUND OFFER IN ACCORDANCE WITH THE REQUIREMENTS OF PARAGRAPH TWO OF THIS SUBDIVISION SHALL NOT BE SUBJECT TO ANY OF THE OVERCHARGE PENALTIES, INCLUDING INTEREST AND TREBLE DAMAGES, PROVIDED FOR IN SECTION 26-516 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK.

(5) THE TENANT SHALL BE OBLIGATED TO RESPOND WITHIN THIRTY-FIVE DAYS OF THE MAILING OF SUCH NOTICE. WHERE A TENANT OF A HOUSING ACCOMMO-

1 DATION SUBJECT TO THE PROVISIONS OF THIS SECTION CONSENTS IN WRITING TO
2 THE LEGAL RENT AND REFUND AMOUNT, IF ANY, SET FORTH BY THE OWNER IN THE
3 NOTICE REQUIRED BY PARAGRAPH THREE OF THIS SUBDIVISION, AND THE OWNER
4 MAKES THE REQUIRED REFUND TO THE TENANT, OR AFTER THE NOTICE REQUIRED BY
5 SUCH PARAGRAPH THE OWNER AND TENANT ENTER INTO A WRITTEN AGREEMENT
6 PROVIDING FOR A DIFFERENT LEGAL RENT AND REFUND AMOUNT AND THE OWNER
7 MAKES THE REFUND, IF ANY, AGREED TO BY THE PARTIES, THEN NEITHER SUCH
8 LEGAL RENT NOR SUCH REFUND AMOUNT, IF ANY, SHALL THEREAFTER BE SUBJECT
9 TO CHALLENGE BY THE TENANT OR ANY SUBSEQUENT TENANT OF THE HOUSING
10 ACCOMMODATION. HOWEVER, IF THE AGREEMENT ENTERED INTO PURSUANT TO THIS
11 PARAGRAPH REQUIRES THAT THE TENANT VACATE THE SUBJECT HOUSING ACCOMMO-
12 DATION OR SURRENDER POSSESSION OF THE HOUSING ACCOMMODATION, IT SHALL
13 NOT BE BINDING UPON SUBSEQUENT TENANTS.

14 (6) IN NO EVENT SHALL A TENANT WHO FILES A COMPLAINT WITH THE DIVISION
15 OF HOUSING AND COMMUNITY RENEWAL SEEKING RELIEF UNDER THE PROVISIONS OF
16 THIS SECTION BE ENTITLED TO A REFUND FOR RENT PAYMENTS MADE MORE THAN
17 FOUR YEARS BEFORE THE COMPLAINT IS FILED.

18 C. AS AN ALTERNATIVE TO THE PROCEDURES SET FORTH IN SUBDIVISIONS A AND
19 B OF THIS SECTION, AN OWNER MAY, WITHIN NINETY DAYS OF THE EFFECTIVE
20 DATE OF THIS SECTION, PROVIDE WRITTEN NOTICE TO THE CURRENT TENANT OF
21 THE HOUSING ACCOMMODATION THAT THE OWNER INTENDS TO MAKE PAYMENT TO THE
22 CITY OF NEW YORK IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION SEVEN-
23 TEEN OF SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW
24 AND SUBDIVISION EE OF SECTION 11-243 OF THE ADMINISTRATIVE CODE OF THE
25 CITY OF NEW YORK. AN OWNER WHO PROVIDES A NOTICE PURSUANT TO THIS
26 SECTION BUT WHO DOES NOT MAKE PAYMENT TO SUCH CITY IN ACCORDANCE WITH
27 THE REAL PROPERTY TAX LAW AND THE ADMINISTRATIVE CODE OF THE CITY OF NEW
28 YORK BY JUNE 30, 2012 SHALL BE SUBJECT TO THE OVERCHARGE PENALTIES,
29 INCLUDING INTEREST AND TREBLE DAMAGES, PROVIDED FOR IN SECTION 26-516 OF
30 THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK. DURING THE PERIODS IN
31 WHICH THE PROCEDURES SET FORTH IN SUBDIVISIONS A, B OR C OF THIS SECTION
32 ARE BEING UTILIZED, THE OWNER OF SUCH HOUSING ACCOMMODATIONS SHALL BE
33 AUTHORIZED TO CHARGE, AND A TENANT OR FORMER TENANT OF SUCH A HOUSING
34 ACCOMMODATION SHALL BE OBLIGATED TO PAY, THE AMOUNT SET FORTH IN THE
35 LEASE THEN IN EFFECT.

36 S 5. Subparagraph (i) of paragraph 14 of subdivision a of section 5 of
37 section 4 of chapter 576 of the laws of 1974, constituting the emergency
38 tenant protection act of nineteen seventy-four, as added by chapter 253
39 of the laws of 1993, is amended to read as follows:

40 (i) housing accommodations owned as a cooperative or condominium unit
41 which are or become vacant on or after the effective date of this para-
42 graph REGARDLESS OF WHETHER SUCH HOUSING ACCOMMODATIONS WERE, ARE OR
43 WILL BE IN A BUILDING WHICH RECEIVED OR RECEIVES TAX BENEFITS PURSUANT
44 TO SECTION 489 OF THE REAL PROPERTY TAX LAW AND REGARDLESS OF THE RULING
45 OF THE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P.,
46 13 NY3D 279, except that this subparagraph shall not apply to units
47 occupied by non-purchasing tenants under section three hundred fifty-
48 two-eee of the general business law until the occurrence of a vacancy.

49 S 6. Section 489 of the real property tax law is amended by adding a
50 new subdivision 17 to read as follows:

51 17. WHERE HOUSING ACCOMMODATIONS WERE SUBJECT TO RENT REGULATION IMME-
52 DIATELY PRIOR TO THE RECEIPT OF TAX EXEMPTION OR TAX ABATEMENT BENEFITS
53 PURSUANT TO THIS SECTION OR WHICH ARE OR WOULD BE SUBJECT TO RENT REGU-
54 LATION DUE TO THE RECEIPT OF SUCH BENEFITS PURSUANT TO THE RULING OF THE
55 COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D
56 279, OR ARE IN BUILDINGS COMPLETED OR SUBSTANTIALLY REHABILITATED AFTER

1 JANUARY FIRST, NINETEEN HUNDRED SEVENTY-FOUR AND BECAME SUBJECT TO RENT
2 REGULATION DUE TO THE RECEIPT OF TAX EXEMPTION OR TAX ABATEMENT BENEFITS
3 PURSUANT TO THIS SECTION, THE OWNER OF SUCH HOUSING ACCOMMODATIONS SHALL
4 BE AUTHORIZED TO MAKE OR TO HAVE MADE TO THE CITY OF NEW YORK, AND THE
5 CITY OF NEW YORK SHALL BE OR HAVE BEEN OBLIGED TO ACCEPT, PAYMENT OF THE
6 FULL AMOUNT OF ALL SUCH BENEFITS, PLUS INTEREST AT A RATE OF NINE PER
7 CENTUM, RECEIVED BY ALL OWNERS OF SUCH HOUSING ACCOMMODATIONS PURSUANT
8 TO ANY ORDER OR DETERMINATION ISSUED BY THE LOCAL HOUSING AGENCY ADMIN-
9 ISTERING THIS CHAPTER OR THE LOCAL GOVERNMENT AGENCY RESPONSIBLE FOR
10 REAL PROPERTY TAX ASSESSMENT WHICH REQUIRED THE HOUSING ACCOMMODATION TO
11 BE SUBJECT TO RENT REGULATIONS AND TO WAIVE THE RECEIPT OF ANY FURTHER
12 TAX EXEMPTION OR TAX ABATEMENT BENEFITS WHICH WOULD OTHERWISE BE DUE TO
13 SUCH OWNER PURSUANT TO ANY SUCH ORDER OR DETERMINATION AND THE CITY OF
14 NEW YORK SHALL BE OBLIGATED TO ACCEPT SUCH WAIVER. SUCH PAYMENT AND SUCH
15 WAIVER SHALL BE MADE NO LATER THAN JUNE THIRTIETH, TWO THOUSAND TWELVE.
16 SUCH PAYMENT AND WAIVER SHALL ENTITLE SUCH OWNER TO THE BENEFIT OF THE
17 EXCLUSIONS SET FORTH IN SECTIONS 26-504.1 AND 26-504.2 OF THE ADMINIS-
18 TRATIVE CODE OF THE CITY OF NEW YORK WHERE THE HOUSING ACCOMMODATIONS
19 WERE SUBJECT TO RENT REGULATION IMMEDIATELY PRIOR TO THE RECEIPT OF TAX
20 BENEFITS PURSUANT TO THIS SECTION OR WHICH ARE OR WOULD BE SUBJECT TO
21 RENT REGULATION DUE TO RECEIPT OF SUCH BENEFITS PURSUANT TO THE RULING
22 OF THE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P.,
23 13 NY3D, 279. FOR HOUSING ACCOMMODATIONS IN BUILDINGS COMPLETED AFTER
24 JANUARY FIRST, NINETEEN HUNDRED SEVENTY-FOUR WHICH BECAME SUBJECT TO
25 RENT REGULATION DUE TO THE RECEIPT OF TAX EXEMPTION OR TAX ABATEMENT
26 BENEFITS PURSUANT TO THIS SECTION, SUCH PAYMENT AND WAIVER SHALL RESULT
27 IN THE EXEMPTION OF SUCH HOUSING ACCOMMODATIONS FROM RENT REGULATION AS
28 IF TAX EXEMPTION OR TAX ABATEMENT BENEFITS PURSUANT TO THIS SECTION HAD
29 NEVER BEEN RECEIVED BY ANY OWNERS OF SUCH HOUSING ACCOMMODATIONS.
30 PAYMENT PURSUANT TO THIS SUBDIVISION SHALL BE PAID OR HAVE BEEN PAID
31 INTO THE GENERAL FUND OF THE CITY OF NEW YORK. THE CITY OF NEW YORK
32 SHALL, UPON REQUEST OF SUCH OWNER, PROVIDE WITHIN THIRTY DAYS OF SUCH
33 REQUEST A STATEMENT SETTING FORTH THE AMOUNTS DUE FOR PAYMENT AND WAIV-
34 ER, AND THE BASIS THEREOF. THE CITY'S FAILURE TO RESPOND TIMELY TO SUCH
35 REQUEST SHALL TOLL THE RUNNING OF THE OWNER'S OBLIGATION TO MAKE PAYMENT
36 FOLLOWING THE DELIVERY OF NOTICE OF SUCH INTENT TO THE TENANT.

37 S 7. Section 11-243 of the administrative code of the city of New York
38 is amended by adding a new subdivision ee to read as follows:

39 EE. WHERE HOUSING ACCOMMODATIONS WERE SUBJECT TO RENT REGULATION IMME-
40 DIATELY PRIOR TO THE RECEIPT OF TAX EXEMPTION OR TAX ABATEMENT BENEFITS
41 PURSUANT TO THIS SECTION OR WHICH ARE OR WOULD BE SUBJECT TO RENT REGU-
42 LATION DUE TO THE RECEIPT OF SUCH BENEFITS PURSUANT TO THE RULING OF THE
43 COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D
44 279, OR ARE IN BUILDINGS COMPLETED OR SUBSTANTIALLY REHABILITATED AFTER
45 JANUARY FIRST, NINETEEN HUNDRED SEVENTY-FOUR AND BECAME SUBJECT TO RENT
46 REGULATION DUE TO THE RECEIPT OF TAX EXEMPTION OR TAX ABATEMENT BENEFITS
47 PURSUANT TO THIS SECTION, THE OWNER OF SUCH HOUSING ACCOMMODATIONS SHALL
48 BE AUTHORIZED TO MAKE OR TO HAVE MADE TO THE CITY, AND THE CITY SHALL BE
49 OR HAVE BEEN OBLIGED TO ACCEPT, PAYMENT OF THE FULL AMOUNT OF ALL SUCH
50 BENEFITS, PLUS INTEREST AT A RATE OF NINE PER CENTUM, RECEIVED BY ALL
51 OWNERS OF SUCH HOUSING ACCOMMODATIONS PURSUANT TO ANY ORDER OR DETERMI-
52 NATION ISSUED BY THE DEPARTMENT OR BY THE DEPARTMENT OF HOUSING PRESER-
53 VATION AND DEVELOPMENT WHICH REQUIRED THE HOUSING ACCOMMODATION TO BE
54 SUBJECT TO SUCH RENT REGULATIONS AND TO WAIVE THE RECEIPT OF ANY FURTHER
55 TAX EXEMPTION OR TAX ABATEMENT BENEFITS WHICH WOULD OTHERWISE BE DUE TO
56 SUCH OWNER PURSUANT TO ANY SUCH ORDER OR DETERMINATION AND THE CITY

1 SHALL BE OBLIGATED TO ACCEPT SUCH WAIVER. SUCH PAYMENT AND SUCH WAIVER
2 SHALL BE MADE NO LATER THAN JUNE THIRTIETH, TWO THOUSAND TWELVE. SUCH
3 PAYMENT AND WAIVER SHALL ENTITLE SUCH OWNER TO THE BENEFIT OF THE EXCLU-
4 SIONS SET FORTH IN SECTIONS 26-504.1 AND 26-504.2 OF THIS CODE WHERE THE
5 HOUSING ACCOMMODATIONS WERE SUBJECT TO RENT REGULATION IMMEDIATELY PRIOR
6 TO THE RECEIPT OF TAX BENEFITS PURSUANT TO THIS SECTION OR WHICH ARE OR
7 WOULD BE SUBJECT TO RENT REGULATION DUE TO RECEIPT OF TAX BENEFITS
8 PURSUANT TO THE RULING OF THE COURT OF APPEALS IN ROBERTS V. TISHMAN
9 SPEYER PROPERTIES, L.P., NY3D, 279. FOR HOUSING ACCOMMODATIONS IN BUILD-
10 INGS COMPLETED AFTER JANUARY FIRST, NINETEEN HUNDRED SEVENTY-FOUR WHICH
11 BECAME SUBJECT TO RENT REGULATION DUE TO THE RECEIPT OF TAX EXEMPTION OR
12 TAX ABATEMENT BENEFITS PURSUANT TO THIS SECTION, SUCH PAYMENT AND WAIVER
13 SHALL RESULT IN THE EXEMPTION OF SUCH HOUSING ACCOMMODATIONS FROM RENT
14 REGULATION AS IF TAX EXEMPTION OR TAX ABATEMENT BENEFITS PURSUANT TO
15 THIS SECTION HAD NEVER BEEN RECEIVED. PAYMENT PURSUANT TO THIS SUBDIVI-
16 SION SHALL BE PAID OR HAVE BEEN PAID INTO THE GENERAL FUND OF THE CITY.
17 THE CITY SHALL, UPON REQUEST OF SUCH OWNER, PROVIDE WITHIN THIRTY DAYS
18 OF SUCH REQUEST A STATEMENT SETTING FORTH THE AMOUNTS DUE FOR PAYMENT
19 AND WAIVER, AND THE BASIS THEREOF. THE CITY'S FAILURE TO RESPOND TIMELY
20 TO SUCH REQUEST SHALL TOLL THE RUNNING OF THE OWNER'S OBLIGATION TO MAKE
21 PAYMENT FOLLOWING THE DELIVERY OF NOTICE OF SUCH INTENT TO THE TENANT.

22 S 8. Subdivision c of section 26-504 of the administrative code of
23 the city of New York, as amended by chapter 289 of the laws of 1985, is
24 amended to read as follows:

25 c. [Dwelling] EXCEPT AS OTHERWISE PROVIDED BY SUBDIVISION SEVENTEEN OF
26 SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW AND SUBDI-
27 VISION EE OF SECTION 11-243 OF THIS CODE, DWELLING units in a building
28 or structure receiving the benefits of section 11-243 or section 11-244
29 of [the] THIS code or article eighteen of the private housing finance
30 law, not owed as a cooperative or as a condominium, except as provided
31 in section three hundred fifty-two-eeee of the general business law and
32 not subject to chapter three of this title. [Upon] EXCEPT AS OTHERWISE
33 PROVIDED BY SUBDIVISION SEVENTEEN OF SECTION FOUR HUNDRED EIGHTY-NINE OF
34 THE REAL PROPERTY TAX LAW AND SUBDIVISION EE OF SECTION 11-243 OF THIS
35 CODE, the expiration or termination for any reason of the benefits of
36 section 11-243 or section 11-244 of [the] THIS code or article eighteen
37 of the private housing finance law any such dwelling unit shall be
38 subject to this chapter until the occurrence of the first vacancy of
39 such unit after such benefits are no longer being received or if each
40 lease and renewal thereof for such unit for the tenant in residence at
41 the time of the expiration of the tax benefit period has included a
42 notice in at least twelve point type informing such tenant that the unit
43 shall become subject to deregulation upon the expiration of such tax
44 benefit period and states the approximate date on which such tax benefit
45 period is scheduled to expire, such dwelling unit shall be deregulated
46 as of the end of the tax benefit period; provided, however, that if such
47 dwelling unit would have been subject to this chapter or the emergency
48 tenant protection act of nineteen seventy-four in the absence of this
49 subdivision, such dwelling unit shall, upon the expiration of such bene-
50 fits, continue to be subject to this chapter or the emergency tenant
51 protection act of nineteen seventy-four to the same extent and in the
52 same manner as if this subdivision had never applied thereto. NOTWITH-
53 STANDING THE FOREGOING, WHERE THE NOTIFICATION REQUIRED BY THIS SUBDIVI-
54 SION WAS NOT PROVIDED FOR ANY HOUSING ACCOMMODATION WHICH IS OR WOULD BE
55 SUBJECT TO REGULATION UNDER THIS CHAPTER AS A RESULT OF THE DECISION OF
56 THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES,

1 L.P., 13 NY3D 279, THE FAILURE TO PROVIDE SUCH NOTIFICATION SHALL NOT
2 PRECLUDE THE DEREGULATION OF SUCH HOUSING ACCOMMODATION UPON THE EXPIRA-
3 TION OF THE LEASE OR RENEWAL LEASE IMMEDIATELY SUBSEQUENT TO THE EXPIRA-
4 TION OF SUCH TAX BENEFITS, PROVIDED THAT THE OWNER OF SUCH HOUSING
5 ACCOMMODATION SHALL COMPLY WITH SUCH NOTICE REQUIREMENT FOR EACH LEASE
6 OR RENEWAL LEASE OFFERED FOR SUCH HOUSING ACCOMMODATION DURING THE PERI-
7 OD BETWEEN NINETY DAYS AFTER THE EFFECTIVE DATE OF THE CHAPTER OF THE
8 LAWS OF TWO THOUSAND ELEVEN WHICH AMENDED THIS SUBDIVISION AND THE EXPI-
9 RATION OF SUCH TAX BENEFITS.

10 S 9. This act shall take effect immediately, provided, that sections
11 one and two of this act shall be deemed to have been in full force and
12 effect on and after July 6, 1993; provided, further, that:

13 (a) the amendments to chapter 4 of title 26 of the administrative code
14 of the city of New York made by sections one, two, three and eight of
15 this act shall expire on the same date as such law expires and shall not
16 affect the expiration of such law as provided under section 26-520 of
17 such law;

18 (b) the amendments to the emergency tenant protection act of nineteen
19 seventy-four made by sections four and five of this act shall expire on
20 the same date as such act expires and shall not affect the expiration of
21 such act as provided in section 17 of chapter 576 of the laws of 1974;

22 (c) the provisions of this act shall preclude in their entirety any
23 and all claims in any administrative or judicial proceeding relating to
24 the deregulation of housing accommodations (i) which were subject to
25 rent regulation immediately prior to the receipt of tax benefits pursu-
26 ant to section 489 of the real property tax law and section 11-243 of
27 the administrative code of the city of New York or which are or would be
28 subject to rent regulation pursuant to the ruling of the court of
29 appeals in ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 279, or
30 (ii) are in buildings completed or substantially rehabilitated after
31 January 1, 1974 and became subject to rent regulation due to the receipt
32 of tax exemption or tax abatement benefits pursuant to section 489 of
33 the real property tax law and section 11-243 of the administrative code
34 of the city of New York, provided that the owner of such housing accom-
35 modations under clause (i) or clause (ii) of this subdivision has acted
36 in accordance with this act, regardless of whether such claims are
37 brought, or any payments by such owner permitted under this act are
38 made, prior or subsequent to the effective date of this act; and

39 (d) if any provision or provisions of this act shall be held to be
40 invalid, the validity of the remaining provisions shall not in any
41 manner be affected or impaired thereby.