

5282

2009-2010 Regular Sessions

I N A S S E M B L Y

February 11, 2009

Introduced by M. of A. LATIMER, GOTTFRIED, ROSENTHAL, COLTON, JAFFEE --
Multi-Sponsored by -- M. of A. MILLMAN -- read once and referred to
the Committee on Housing

AN ACT to amend the administrative code of the city of New York, the emergency tenant protection act of nineteen seventy-four and the emergency housing rent control law, in relation to the establishment of rent adjustments; and to repeal paragraph 5-a of subdivision c of section 25-511 of the administrative code of the city of New York and subdivision (a-1) of section 10 of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, relating to vacancy leases

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "rent board reform act of 2009".
3 S 2. Legislative findings and declaration. The legislature hereby
4 finds and declares that the public emergency which led to the enactment
5 of the laws regulating residential rents and evictions continues to
6 exist, that such emergency continues to necessitate the intervention of
7 state and local governments in order to prevent speculative, unwarranted
8 and abnormal increases in rents and unjust and arbitrary evictions so
9 long as such emergency exists, without further periodic authorization by
10 the legislature; that because of the shortage of decent, safe and avail-
11 able housing, market forces do not operate properly, and it is necessary
12 therefor to prevent the exaction of unjust or unreasonable rents and
13 rental agreements, and to forestall eviction and other disruptive prac-
14 tices tending to produce threats to the public health, safety and gener-
15 al welfare; that the general welfare depends in part on the maintenance
16 and preservation of the existing stock of privately owned rental hous-
17 ing, and to assure such maintenance and preservation, responsible owners
18 should be encouraged to own, invest in and maintain such housing without

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

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1 exacting unwarranted rent increases or rental agreements; that the
2 existing laws regulating residential rents and evictions would better
3 promote equity and serve the public interest if certain amendments were
4 made thereto, including the restructuring of the system of promulgating
5 general rent adjustments, repeal of the statutory vacancy bonus and the
6 substitution of statutory tenancies for the current renewal lease system
7 for rent stabilized housing accommodations.

8 The legislature therefore declares that the provisions of this act are
9 necessary to protect the public health, safety and general welfare. The
10 necessity in the public interest for the provisions hereinafter enacted
11 is hereby declared as a matter of legislative determination.

12 S 3. Paragraph 1 of subdivision b of section 26-509 of the administra-
13 tive code of the city of New York is amended and a new paragraph 10 is
14 added to read as follows:

15 (1) No increase in the legal regulated rent shall be collectible from
16 a tenant to whom there has been issued a currently valid rent exemption
17 order pursuant to this subdivision, except as provided in such order, if
18 such increase is a lawful increase in the monthly legal regulated rent
19 over the rent legally payable on the eligibility date which is provided
20 under a two year lease, or under such other term as regards dwelling
21 units subject to the hotel stabilization provisions of this chapter, for
22 an increase in rent:

23 (i) pursuant to an order of the New York city rent [guidelines] board,
24 or

25 (ii) based upon an owner hardship rent increase order issued by the
26 state division of housing and community renewal.

27 (10) NOTWITHSTANDING ANY PROVISIONS OF PARAGRAPHS ONE AND SIX OF THIS
28 SUBDIVISION TO THE CONTRARY, EFFECTIVE JANUARY FIRST, TWO THOUSAND TEN,
29 A TWO YEAR RENEWAL LEASE SHALL NOT BE A PREREQUISITE FOR A TENANT TO BE
30 ELIGIBLE FOR A RENT EXEMPTION UNDER THIS SUBDIVISION WHO OTHERWISE QUAL-
31 IFIES FOR SUCH RENT EXEMPTION. A RENT EXEMPTION ORDER SHALL NO LONGER
32 CONTAIN A PROVISION GIVING NOTICE THAT A TENANT MUST ENTER INTO A TWO
33 YEAR RENEWAL LEASE FOR CONTINUED ELIGIBILITY FOR A RENT EXEMPTION UNDER
34 THIS SUBDIVISION.

35 S 4. Section 26-510 of the administrative code of the city of New York
36 is amended to read as follows:

37 S 26-510 Rent [guidelines] board. a. There shall be a rent [guide-
38 lines] board to consist of nine members, appointed by the mayor UPON THE
39 ADVICE AND CONSENT OF THE CITY COUNCIL. [Two] THREE members shall be
40 representative of tenants, [two] THREE shall be representative of owners
41 of property, and [five] THREE shall be public members [each of whom].
42 EACH OF THE PUBLIC MEMBERS shall have had at least five years experience
43 in [either] PUBLIC SERVICE, PHILANTHROPY, SOCIAL SERVICES, URBAN PLAN-
44 NING, ARCHITECTURE, SOCIAL SCIENCES, SERVICE WITH NOT-FOR-PROFIT ORGAN-
45 IZATIONS, finance, economics or housing. One public member shall be
46 designated by the mayor UPON THE ADVICE AND CONSENT OF THE CITY COUNCIL
47 to serve as [chairman] CHAIR and shall hold no other public office. No
48 [member, officer or] employee of THE CITY OF NEW YORK OR OF any [munici-
49 pal rent regulation] MAYORAL OR NON-MAYORAL agency THEREOF or the state
50 division of housing and community renewal and no person who owns or
51 manages real estate covered by THE EMERGENCY TENANT PROTECTION ACT OF
52 NINETEEN SEVENTY-FOUR OR this law or [who is an officer of any owner or
53 tenant organization] THE CITY RENT AND REHABILITATION LAW OR WHO OWNS
54 MORE THAN TWO RENTAL HOUSING ACCOMMODATIONS NOT COVERED BY THE EMERGENCY
55 TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR OR THIS LAW shall serve
56 on [a] THE rent [guidelines] board. [One public member, one member

1 representative of tenants and one member representative of owners shall
2 serve for a term ending two years from January first next succeeding the
3 date of their appointment; one public member, one member representative
4 of tenants and one member representative of owners shall serve for terms
5 ending three years from the January first next succeeding the date of
6 their appointment and two public members shall serve for terms ending
7 four years from January first next succeeding the dates of their
8 appointment. The chairman shall serve at the pleasure of the mayor.] ALL
9 MEMBERS OF THE BOARD SHALL SERVE TWO YEAR TERMS, BEGINNING THE LATER OF
10 THE DATE OF APPOINTMENT OR THE EXPIRATION OF THE TERM OF THE MEMBER WHOM
11 THE APPOINTEE IS SUCCEEDING. Thereafter, all members shall continue in
12 office until their successors have been appointed and qualified. The
13 mayor, UPON THE ADVICE AND CONSENT OF THE CITY COUNCIL, shall fill any
14 vacancy which may occur by reason of death, resignation or otherwise in
15 a manner consistent with the [original appointment] PROVISIONS OF THIS
16 SUBDIVISION. A member may be removed by the [mayor] COUNCIL for cause,
17 but not without an opportunity to be heard in person or by counsel, in
18 his or her defense, upon not less than ten days notice. A SUCCESSOR TO
19 SUCH MEMBER SHALL BE APPOINTED IN ACCORDANCE WITH THE PROVISIONS OF THIS
20 SUBDIVISION TO SERVE THE BALANCE OF THE TERM OF THE MEMBER WHO WAS
21 REMOVED.

22 b. The rent [guidelines] board shall establish annually [guidelines
23 for] rent adjustments, and in determining whether rents for housing
24 accommodations subject to the emergency tenant protection act of nine-
25 teen seventy-four or this law shall be adjusted shall consider, among
26 other things (1) THE STATE OF THE RENTAL REAL ESTATE MARKET AND SUBMAR-
27 KETS WITHIN THE CITY OF NEW YORK, INCLUDING THE AVAILABILITY OF AFFORDA-
28 BLE, HABITABLE RENTAL HOUSING ACCOMMODATIONS; (2) the economic condition
29 of the residential real estate industry in the [affected area] CITY OF
30 NEW YORK including CHANGES IN THE VALUE OF RESIDENTIAL REAL ESTATE, THE
31 PROFITABILITY OF OWNERSHIP OF RENTAL HOUSING AND such factors as the
32 prevailing and projected (i) INCREASES OR DECREASES IN RENTS AND GROSS
33 RENTAL INCOME, INCLUDING INCOME FROM OTHER THAN RESIDENTIAL RENTS, AS
34 WELL AS THE IMPUTED RENTAL VALUE FOR APARTMENTS OCCUPIED BY OWNERS OR
35 MEMBERS OR THEIR FAMILIES OR ASSOCIATES OF OWNERS, FOR BUILDINGS SUBJECT
36 TO THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR OR THIS
37 LAW, (II) INCREASES OR DECREASES IN OPERATION AND MAINTENANCE COSTS OF
38 BUILDINGS SUBJECT TO THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN
39 SEVENTY-FOUR OR THIS LAW OR THE CITY RENT AND REHABILITATION LAW,
40 INCLUDING real estate taxes [and], sewer and water rates, [(ii) gross
41 operating maintenance costs (including] insurance rates, ADMINISTRATIVE
42 COSTS, governmental fees, [cost of] fuel, UTILITIES, and labor [costs)],
43 (iii) costs and availability of financing (including effective rates of
44 interest) AND COSTS, AVAILABILITY AND PROFITABILITY OF REFINANCING, (iv)
45 ECONOMIC BENEFITS, OTHER THAN RENTAL INCOME, DERIVED FROM OWNERSHIP AND
46 UPGRADING OF RENTAL PROPERTY, (V) RETURNS ON CAPITAL PLACED AT RISK BY
47 OWNERS, (VI) over-all supply of housing accommodations and over-all
48 vacancy rates, [(2)] (VII) INCREASES OR DECREASES IN NET OPERATING
49 INCOME OF BUILDINGS SUBJECT TO THE EMERGENCY TENANT PROTECTION ACT OF
50 NINETEEN SEVENTY-FOUR OR THIS LAW OR THE CITY RENT AND REHABILITATION
51 LAW, (3) relevant data from the current and projected cost of living
52 indices for the affected area, [(3)] AND (4) such other data as may be
53 made available to it. NET OPERATING INCOME SHALL MEAN THE PERCENTAGE OF
54 EACH DOLLAR OF GROSS RENTAL INCOME REMAINING AFTER PAYMENT OF ALL COSTS
55 OF OPERATION AND MAINTENANCE. DEBT SERVICE PAYMENTS, CAPITAL EXPENDI-
56 TURES AND DEPRECIATION SHALL NOT BE CONSIDERED TO BE OPERATION AND MAIN-

1 TENANCE COSTS, AND THE RENT BOARD SHALL NOT CONSIDER DEBT SERVICE
2 PAYMENTS, CAPITAL EXPENDITURES OR DEPRECIATION IN DETERMINING ANNUAL
3 RENT ADJUSTMENTS. THE RENT BOARD SHALL NOT CONSIDER A PRICE INDEX OF
4 OPERATING COSTS. IN CALCULATING LABOR AND ADMINISTRATIVE COSTS, THE RENT
5 BOARD SHALL CONSIDER THE FEASIBILITY OF IMPUTING A VALUE TO THE ACTUAL,
6 VERIFIABLE UNSALARIED LABOR AND ADMINISTRATIVE TASKS PERFORMED BY BUILD-
7 ING OWNERS OR MEMBERS OF THEIR IMMEDIATE FAMILY WHO RESIDE WITH THEM IN
8 A HOUSING ACCOMMODATION IN A BUILDING SUBJECT TO THE EMERGENCY TENANT
9 PROTECTION ACT OF NINETEEN SEVENTY-FOUR OR THIS LAW OR THE CITY RENT AND
10 REHABILITATION LAW WITHIN THE CITY OF NEW YORK. IF THE INCLUSION OF THE
11 VALUE OF SUCH LABOR AND ADMINISTRATIVE TASKS IS DEEMED FEASIBLE BY THE
12 BOARD, IT SHALL BE INCLUDED AS ONE OF THE FACTORS CONSIDERED HEREIN.
13 ALL OWNERS OF HOUSING ACCOMMODATIONS WITHIN THE CITY OF NEW YORK SUBJECT
14 TO THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR OR THIS
15 LAW OR THE CITY RENT AND REHABILITATION LAW SHALL ANNUALLY SUBMIT INCOME
16 AND EXPENDITURE REPORTS TO THE RENT BOARD ON A FORM TO BE PROMULGATED BY
17 THE BOARD. OWNERS WHO FAIL TO SUBMIT SUCH REPORTS TO THE RENT BOARD
18 SHALL BE BARRED FROM APPLYING FOR OR COLLECTING ANY RENT INCREASE TO
19 WHICH THE OWNER MIGHT OTHERWISE BE ENTITLED UNDER THE EMERGENCY TENANT
20 PROTECTION ACT OF NINETEEN SEVENTY-FOUR OR THIS LAW OR THE CITY RENT AND
21 REHABILITATION LAW DURING THE TWELVE-MONTH PERIOD BEGINNING THE NEXT
22 JANUARY FIRST. THE RENT BOARD SHALL ANNUALLY REQUIRE A SAMPLE OF LAND-
23 LORDS SUBJECT TO REGULATION UNDER THE EMERGENCY TENANT PROTECTION ACT OF
24 NINETEEN SEVENTY-FOUR OR THIS LAW OR THE CITY RENT AND REHABILITATION
25 LAW TO MAKE AVAILABLE THEIR BOOKS AND RECORDS REGARDING INCOME, EXPENDI-
26 TURES, TAX BENEFITS AND FINANCING ARRANGEMENTS FOR EXAMINATION BY THE
27 BOARD AND THE BOARD SHALL UTILIZE THE RESULTS OF THE ANALYSIS OF SUCH
28 SAMPLE AS ONE OF THE CRITERIA UPON WHICH ITS FINDINGS ARE BASED. SUCH
29 SAMPLE SHALL BE DESIGNED TO BE REASONABLY REPRESENTATIVE OF THE TYPES OF
30 BUILDINGS, EXCLUDING BUILDINGS THAT HAVE BEEN CONVERTED TO CO-OPERATIVE
31 OR CONDOMINIUM STATUS, THAT ARE SUBJECT TO REGULATION UNDER THE EMERGEN-
32 CY TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR OR THIS LAW OR THE
33 CITY RENT AND REHABILITATION LAW. ANY INFORMATION PROVIDED BY LANDLORDS
34 PURSUANT TO THIS SUBDIVISION REGARDING AN INDIVIDUAL BUILDING OR GROUP
35 OF BUILDINGS SHALL NOT BE AVAILABLE TO THE PUBLIC UNDER THE FREEDOM OF
36 INFORMATION LAW AND THE RENT BOARD SHALL SAFEGUARD THE CONFIDENTIALITY
37 OF SUCH INFORMATION PROVIDED HOWEVER THAT THE BOARD SHALL MAKE AVAILABLE
38 TO THE PUBLIC CUMULATIVE AND STATISTICAL RESULTS OF THE REPRESENTATIVE
39 SAMPLE OF BOOKS AND RECORDS REQUIRED HEREIN. Not later than [July]
40 OCTOBER first of each year, the rent [guidelines] board shall file with
41 the city clerk AND THE STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL
42 its findings for the preceding calendar year, and shall accompany such
43 findings with a statement of the maximum rate or rates of rent adjust-
44 ment, if any, for one or more classes of HOUSING accommodations subject
45 to THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR OR this
46 law OR THE CITY RENT AND REHABILITATION LAW, authorized for [leases or
47 other rental agreements] VACANCY LEASES OR ANNUAL RENT ADJUSTMENTS
48 commencing on the next succeeding [October] JANUARY first or within the
49 twelve months thereafter. Such findings and statement shall be published
50 in the City Record AND THE RENT BOARD SHALL DISSEMINATE SUCH FINDINGS
51 AND STATEMENTS TO CITYWIDE AND LOCAL NEWSPAPERS, RADIO AND TELEVISION
52 STATIONS AND OTHER MEDIA. THE ADDITIONAL ALLOWANCE, IF ANY, FOR LEASES
53 ON VACANT APARTMENTS SHALL NOT EXCEED FIVE PERCENT. ANY SUCH VACANCY
54 ALLOWANCE SHALL NOT BE IMPLEMENTED FOR A HOUSING ACCOMMODATION MORE THAN
55 ONE TIME IN ANY CALENDAR YEAR, NOTWITHSTANDING THE NUMBER OF VACANCY

1 LEASES ENTERED INTO FOR SUCH HOUSING ACCOMMODATION IN SUCH CALENDAR
2 YEAR.

3 c. Such members shall be compensated on a per diem basis of one
4 hundred FIFTY dollars per day for no more than twenty-five days a year
5 except that the [chairman] CHAIR shall be compensated at THE RATE OF one
6 hundred [twenty-five] SEVENTY-FIVE dollars a day for no more than fifty
7 days a year. The [chairman] CHAIR shall be chief administrative officer
8 of the rent [guidelines] board and among his or her powers and duties he
9 or she shall have the authority to employ, assign and supervise the
10 employees of the rent [guidelines] board and SHALL, WITH THE ADVICE AND
11 CONSENT OF FOUR OR MORE OTHER MEMBERS OF THE RENT BOARD, enter into
12 contracts for consultant services. The department of housing preserva-
13 tion and development shall cooperate with the rent [guidelines] board
14 and [may] SHALL assign personnel and perform such services in connection
15 with the duties of the rent [guidelines] board as may reasonably be
16 required by the [chairman] BOARD.

17 d. [Any housing accommodation covered by this law owned by a member in
18 good standing of an association registered with the department of hous-
19 ing preservation and development pursuant to section 26-511 of this
20 chapter which becomes vacant for any reason, other than harassment of
21 the prior tenant, may be offered for rental at any price notwithstanding
22 any guideline level established by the guidelines board for renewal
23 leases, provided the offering price does not exceed the rental then
24 authorized by the guidelines board for such dwelling unit plus five
25 percent for a new lease not exceeding two years and a further five
26 percent for a new lease having a minimum term of three years, until July
27 first, nineteen hundred seventy, at which time the guidelines board
28 shall determine what the rental for a vacancy shall be.

29 e.] With respect to hotel dwelling units, covered by this law pursuant
30 to section 26-506 of this chapter, the council, after receipt of a study
31 from the rent [guidelines] board, shall establish a guideline for rent
32 increases, irrespective of the limitations on amount of increase [in
33 subdivision d hereof], which guideline shall apply only to permanent
34 tenants. A permanent tenant is an individual or family who at any time
35 since May thirty-first, nineteen hundred sixty-eight, or hereafter, has
36 continuously resided in the same hotel as a principal residence for a
37 period of at least six months. On January first, nineteen hundred seven-
38 ty-one and once annually each succeeding year the rent [guidelines]
39 board shall cause a review to be made of the levels of [fair] rent
40 [increases] ADJUSTMENTS provided under this subdivision and may estab-
41 lish different levels of [fair] rent [increases] ADJUSTMENTS for hotel
42 dwelling units renting within different rental ranges based upon the
43 board's consideration of conditions in the market for hotel accommo-
44 dations and the economics of hotel real estate. Any hotel dwelling unit
45 which is voluntarily vacated by the tenant thereof may be offered for
46 rental at the [guideline] RENT level [for vacancies] ADJUSTED BY A
47 VACANCY ALLOWANCE established by the rent [guidelines] board. If a hotel
48 dwelling unit becomes vacant because the prior tenant was evicted there-
49 from, there shall be no increase in the rental thereof except for such
50 increases in rental that the prior tenant would have had to pay had he
51 or she continued in occupancy.

52 [g.] E. From September twenty-fifth, nineteen hundred sixty-nine until
53 the rate of permissible increase is established by the council pursuant
54 to subdivision [e] D of this section, there shall not be collected from
55 any permanent hotel tenant any rent increase in excess of ten percent
56 over the rent payable for his or her dwelling unit on May thirty-first,

1 nineteen hundred sixty-eight, except for hardship increases authorized
2 by the conciliation and appeals board. Any owner who collects or permits
3 any rent to be collected in excess of the amount authorized by this
4 subdivision shall not be eligible to be a member in good standing of a
5 hotel industry stabilization association.

6 [h.] F. The rent [guidelines] board, prior to the annual adjustment of
7 the level of [fair] rents provided for under subdivision b of this
8 section for dwelling units and hotel dwelling units covered by this law,
9 shall hold a public hearing or hearings for the purpose of collecting
10 information relating to all factors set forth in subdivision b of this
11 section. Notice of the date, time, location and summary of subject
12 matter for the public hearing or hearings shall be published in the City
13 Record daily for a period of not less than eight days and at least once
14 in one or more newspapers of general circulation at least eight days
15 immediately preceding each hearing date, at the expense of the city of
16 New York, and the hearing shall be open for testimony from any individ-
17 ual, group, association or representative thereof who wants to testify.

18 [i.] G. IN FURTHERANCE OF ITS RESPONSIBILITIES TO ENFORCE THIS ACT,
19 THE RENT BOARD SHALL BE EMPOWERED TO ADMINISTER OATHS, ISSUE SUBPOENAS,
20 CONDUCT INVESTIGATIONS AND MAKE INSPECTIONS.

21 H. Maximum rates of rent adjustment shall not be established more than
22 once annually for any housing accommodation within the board's jurisdic-
23 tion. Once established, no such rate shall[, within the one-year peri-
24 od,] be adjusted by any surcharge, supplementary adjustment or other
25 modification. NO RENT ADJUSTMENT SHALL BE ESTABLISHED BASED ON THE RENT
26 LEVEL OF HOUSING ACCOMMODATIONS SUBJECT TO THE EMERGENCY TENANT
27 PROTECTION ACT OF NINETEEN SEVENTY-FOUR OR THIS LAW OR THE CITY RENT AND
28 REHABILITATION LAW OR THE NUMBER OF HOUSING ACCOMMODATIONS IN AFFECTED
29 BUILDINGS.

30 I. NO OWNER OF ANY HOUSING ACCOMMODATION SUBJECT TO THIS LAW OR THE
31 NEW YORK CITY RENT AND REHABILITATION LAW MAY IMPOSE OR COLLECT DURING
32 CALENDAR YEAR TWO THOUSAND NINE AN ANNUAL RENT ADJUSTMENT AS ADOPTED
33 PURSUANT TO THE PROVISIONS OF SUBDIVISION B OF THIS SECTION IF THERE
34 EXIST OF RECORD WITH REGARD TO THE PROPERTY CONTAINING SUCH HOUSING
35 ACCOMMODATION ON JANUARY FIRST OF SUCH YEAR ANY OUTSTANDING RENT IMPAIR-
36 ING VIOLATIONS, AS DEFINED BY SECTION THREE HUNDRED TWO-A OF THE MULTI-
37 PLE DWELLING LAW, OF RECORD AS OF JULY FIRST, TWO THOUSAND NINE OR MORE
38 THAN TWENTY PERCENT OF ALL OTHER VIOLATIONS OF RECORD AS OF JULY FIRST,
39 TWO THOUSAND NINE; OR DURING A SUBSEQUENT CALENDAR YEAR IF THERE EXIST
40 OF RECORD WITH REGARD TO SUCH PROPERTY ON JANUARY FIRST OF SUCH YEAR ANY
41 OUTSTANDING RENT IMPAIRING VIOLATIONS OF RECORD AS OF JULY FIRST OF THE
42 PRIOR YEAR OR MORE THAN TWENTY PERCENT OF ALL OTHER VIOLATIONS OF RECORD
43 AS OF JULY FIRST OF THE PRIOR YEAR.

44 J. NOTWITHSTANDING ANY PROVISIONS OF THIS LAW TO THE CONTRARY:

45 (1) EFFECTIVE ON AND AFTER JANUARY FIRST, TWO THOUSAND TEN THE RENT
46 ADJUSTMENTS ESTABLISHED PURSUANT TO THIS SECTION SHALL BE APPLICABLE TO
47 VACANCY LEASES WHICH COMMENCE DURING THE CALENDAR YEAR FOLLOWING THE
48 YEAR IN WHICH THE ADJUSTMENT IS ESTABLISHED AND UPON EXPIRATION SUCH
49 VACANCY LEASES SHALL BE FURTHER ADJUSTED BY THE RENT ADJUSTMENTS
50 PROVIDED FOR IN SUBDIVISION F OF SECTION 26-511 OF THIS CHAPTER EFFEC-
51 TIVE THE FIRST DAY OF JANUARY FOLLOWING THE YEAR IN WHICH THE ADJUSTMENT
52 IS ESTABLISHED.

53 (2) NO LATER THAN OCTOBER FIRST, TWO THOUSAND NINE THE RENT BOARD
54 SHALL ESTABLISH TRANSITIONAL RENT ADJUSTMENTS APPLICABLE TO LEASES WHICH
55 EXPIRE BETWEEN JANUARY FIRST, TWO THOUSAND TEN AND DECEMBER
56 THIRTY-FIRST, TWO THOUSAND TEN. NO LATER THAN OCTOBER FIRST, TWO THOU-

1 SAND TEN THE BOARD SHALL ESTABLISH TRANSITIONAL RENT ADJUSTMENTS APPLI-
2 CABLE TO LEASES WHICH EXPIRE BETWEEN JANUARY FIRST, TWO THOUSAND ELEVEN
3 AND DECEMBER THIRTY-FIRST, TWO THOUSAND ELEVEN. SUCH TRANSITIONAL
4 ADJUSTMENT SHALL BE A PRO-RATA PORTION OF THE ONE OR TWO YEAR RENEWAL
5 ADJUSTMENTS.

6 S 5. Paragraph 5-a of subdivision c of section 26-511 of the adminis-
7 trative code of the city of New York is REPEALED.

8 S 6. Paragraph 12 of subdivision c of section 26-511 of the adminis-
9 trative code of the city of New York is amended and a new subdivision f
10 is added to read as follows:

11 (12) permits subletting of units subject to this law pursuant to
12 section two hundred twenty-six-b of the real property law provided that
13 (a) the rental charged to the subtenant does not exceed the stabilized
14 rent plus a ten percent surcharge payable to the tenant if the unit
15 sublet was furnished with the tenant's furniture; (b) the tenant can
16 establish that at all times he or she has maintained the unit as his or
17 her primary residence and intends to occupy it as such at the expiration
18 of the sublease; (c) an owner may terminate the tenancy of a tenant who
19 sublets or assigns contrary to the terms of this paragraph [but no
20 action or proceeding based on the non-primary residence of a tenant may
21 be commenced prior to the expiration date of his or her lease]; (d)
22 where an apartment is sublet the prime tenant shall retain the right to
23 a [renewal lease] STATUTORY TENANCY and the rights and status of a
24 tenant in occupancy as they relate to conversion to condominium or coop-
25 erative ownership; (e) where a tenant violates the provisions of subpar-
26 agraph (a) of this paragraph the subtenant shall be entitled to damages
27 of three times the overcharge and may also be awarded attorneys fees and
28 interest from the date of the overcharge at the rate of interest payable
29 on a judgment pursuant to section five thousand four of the civil prac-
30 tice law and rules; AND (f) the tenant may not sublet the unit for more
31 than a total of two years, including the term of the proposed sublease,
32 out of the four-year period preceding the termination date of the
33 proposed sublease. The provisions of this subparagraph shall only apply
34 to subleases commencing on and after July first, nineteen hundred eight-
35 y-three[; (g) for the purposes of this paragraph only, the term of the
36 proposed sublease may extend beyond the term of the tenant's lease]. In
37 such event, such sublease shall be subject to the tenant's right to a
38 [renewal lease] STATUTORY TENANCY PURSUANT TO THIS LAW. The subtenant
39 shall have no right to a renewal lease. It shall be unreasonable for an
40 owner to refuse to consent to a sublease solely because such sublease
41 extends beyond the tenant's lease[; and (h) notwithstanding the
42 provisions of section two hundred twenty-six-b of the real property law,
43 a not-for-profit hospital shall have the right to sublet any housing
44 accommodation leased by it to its affiliated personnel without requiring
45 the landlord's consent to any such sublease and without being bound by
46 the provisions of subparagraphs (b), (c) and (f) of this paragraph.
47 Commencing with the effective date of this subparagraph, whenever a
48 not-for-profit hospital executes a renewal lease for a housing accommo-
49 dation, the legal regulated rent shall be increased by a sum equal to
50 fifteen percent of the previous lease rental for such housing accommo-
51 dation, hereinafter referred to as a vacancy surcharge, unless the land-
52 lord shall have received within the seven year period prior to the
53 commencement date of such renewal lease any vacancy increases or vacancy
54 surcharges allocable to the said housing accommodation. In the event the
55 landlord shall have received any such vacancy increases or vacancy
56 surcharges during such seven year period, the vacancy surcharge shall be

1 reduced by the amount received by any such vacancy increase or vacancy
2 surcharges].

3 NOTWITHSTANDING ANY PROVISIONS OF THIS PARAGRAPH OR SECTION TWO
4 HUNDRED TWENTY-SIX-B OF THE REAL PROPERTY LAW TO THE CONTRARY RELATING
5 TO THE RIGHT TO SUBLEASE OR ASSIGN ANY TENANT OF A HOUSING ACCOMMODATION
6 COVERED BY THE PROVISIONS OF THIS LAW SHALL BE ENTITLED TO THE BENEFITS
7 OF THIS PARAGRAPH EVEN IF THE TENANT DOES NOT HAVE A WRITTEN LEASE. THE
8 PROVISIONS OF THIS PARAGRAPH AND SECTION TWO HUNDRED TWENTY-SIX-B OF THE
9 REAL PROPERTY LAW SHALL BE APPLIED ACCORDINGLY.

10 F. NOTWITHSTANDING ANY CONTRARY PROVISIONS OF THIS CHAPTER, ON OR
11 AFTER JANUARY FIRST, TWO THOUSAND TEN:

12 (1) NO TENANT, SO LONG AS HE OR SHE CONTINUES TO PAY THE RENT TO WHICH
13 THE OWNER IS ENTITLED, SHALL BE REMOVED FROM ANY HOUSING ACCOMMODATION
14 WHICH IS SUBJECT TO REGULATION UNDER THIS CHAPTER BY ACTION TO EVICT OR
15 TO RECOVER POSSESSION, OR OTHERWISE, NOR SHALL ANY PERSON ATTEMPT SUCH
16 REMOVAL OR EXCLUSION FROM POSSESSION NOTWITHSTANDING THE FACT THAT THE
17 TENANT HAS NO LEASE OR THAT HIS OR HER LEASE, OR OTHER RENTAL AGREEMENT,
18 HAS EXPIRED OR OTHERWISE TERMINATED, AND NOTWITHSTANDING ANY CONTRACT,
19 LEASE AGREEMENTS, OR OBLIGATION HERETOFORE OR HEREAFTER ENTERED INTO
20 WHICH CONFLICTS WITH THE PROVISIONS OF THIS CHAPTER, EXCEPT ON ONE OR
21 MORE OF THE GROUNDS SET FORTH IN THIS CHAPTER, OR THE CODE OR REGU-
22 LATIONS PROMULGATED PURSUANT TO THIS CHAPTER, INCLUDING THE PROVISIONS
23 OF THIS CHAPTER WHICH PERMIT AN OWNER TO REFUSE TO RENEW A LEASE.

24 (2) NO OWNER SHALL, IN THE ABSENCE OF AN EXISTING LEASE, COMMENCE AN
25 ACTION OR PROCEEDING SEEKING TO REMOVE A TENANT FROM ANY HOUSING ACCOM-
26 MODATION WHICH IS SUBJECT TO REGULATION UNDER THIS LAW BY ACTION TO
27 EVICT OR TO RECOVER POSSESSION, OR OTHERWISE, ON A GROUND SET FORTH IN
28 THIS LAW PERMITTING AN OWNER TO REFUSE TO RENEW A LEASE, UNLESS THE
29 OWNER SHALL HAVE GIVEN NINETY DAYS NOTICE TO THE TENANT OF HIS OR HER
30 INTENTION TO COMMENCE AN ACTION OR PROCEEDING ON SUCH GROUND.

31 (3) ANY ORDER OF THE STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL
32 AUTHORIZED BY PROVISIONS OF THIS LAW PROVIDING THAT A HOUSING ACCOMMO-
33 DATION SHALL NOT BE SUBJECT TO THE PROVISIONS OF THIS LAW UPON THE EXPI-
34 RATION OF THE EXISTING LEASE SHALL PROVIDE THAT SUCH ORDER, IN THE
35 ABSENCE OF AN EXISTING LEASE, SHALL TAKE EFFECT ONE HUNDRED EIGHTY DAYS
36 AFTER ITS ISSUANCE.

37 (4) PURSUANT TO THE PROVISIONS OF PARAGRAPH ONE OF THIS SUBDIVISION,
38 OWNERS SHALL NO LONGER OFFER OR ENTER INTO RENEWAL LEASES FOR ANY
39 RENEWAL WHICH WOULD COMMENCE ON OR AFTER JANUARY FIRST, TWO THOUSAND
40 TEN. HOWEVER, OWNERS SHALL BE REQUIRED TO GRANT AND FURNISH TO A NEW
41 TENANT A VACANCY LEASE, IN ACCORDANCE WITH SUBDIVISION E OF THIS SECTION
42 FOR A TERM WHICH SHALL EXPIRE ON DECEMBER THIRTY-FIRST OF THE YEAR IN
43 WHICH IT COMMENCES.

44 (5) WHERE A TENANT ENTERS INTO A VACANCY LEASE AS PROVIDED IN PARA-
45 GRAPH FOUR OF THIS SUBDIVISION, THE RENTAL PROVIDED THEREIN SHALL BE THE
46 LEGAL REGULATED RENT, AS ADJUSTED BY ANY APPLICABLE VACANCY ALLOWANCE,
47 UNLESS A VACANCY ALLOWANCE WAS PREVIOUSLY COLLECTED DURING THE PRIOR
48 TWELVE MONTH PERIOD.

49 (6) THE OWNER SHALL BE REQUIRED TO SERVE THE TENANT WITH A NOTICE OF
50 RIGHTS AND DUTIES OF OWNERS AND TENANTS PROMULGATED BY THE STATE DIVI-
51 SION OF HOUSING AND COMMUNITY RENEWAL AT THE TIME OF THE RENTAL OF THE
52 HOUSING ACCOMMODATION TO A NEW TENANT.

53 (7) ANY TENANT WHOSE LEASE IN EFFECT ON DECEMBER THIRTY-FIRST, TWO
54 THOUSAND NINE HAS EXPIRED, OR WHOSE VACANCY LEASE ENTERED INTO ON OR
55 AFTER JANUARY FIRST, TWO THOUSAND TEN HAS EXPIRED AND WHO THEREAFTER
56 VACATES A HOUSING ACCOMMODATION WITHOUT GIVING THE OWNER AT LEAST THIRTY

1 DAYS' WRITTEN NOTICE BY REGISTERED OR CERTIFIED MAIL OF HIS OR HER
2 INTENTION TO VACATE SHALL BE LIABLE TO THE OWNER FOR THE LOSS OF RENT
3 SUFFERED BY THE OWNER, BUT NOT EXCEEDING ONE MONTH'S RENT, EXCEPT WHERE
4 THE TENANT VACATES PURSUANT TO THE PROVISIONS OF THIS SUBDIVISION. SUCH
5 NOTICE SHALL BE POSTMARKED ON OR BEFORE THE LAST DAY OF THE RENTAL PERI-
6 OD IMMEDIATELY PRIOR TO SUCH THIRTY DAY PERIOD.

7 (8) (A) THE LEGAL REGULATED RENT FOR ANY LEASE WHICH EXPIRES ON DECEM-
8 BER THIRTY-FIRST, TWO THOUSAND NINE SHALL BE ADJUSTED EFFECTIVE JANUARY
9 FIRST, TWO THOUSAND TEN AND ON THE FIRST DAY OF JANUARY OF EACH YEAR
10 THEREAFTER BY THE RENT ADJUSTMENT ESTABLISHED BY THE RENT BOARD.

11 (B) THE LEGAL REGULATED RENT FOR ANY LEASE ENTERED INTO PRIOR TO JANU-
12 ARY FIRST, TWO THOUSAND TEN WHICH EXPIRES BETWEEN JANUARY FIRST, TWO
13 THOUSAND TEN AND DECEMBER THIRTY-FIRST, TWO THOUSAND ELEVEN SHALL BE
14 ADJUSTED EFFECTIVE THE FIRST DAY FOLLOWING ITS EXPIRATION BY THE APPLI-
15 CABLE TRANSITIONAL ADJUSTMENTS ESTABLISHED BY THE RENT BOARD AND ON THE
16 FIRST DAY OF JANUARY EACH YEAR THEREAFTER BY THE RENT ADJUSTMENT ESTAB-
17 LISHED BY THE RENT BOARD.

18 (C) THE LEGAL REGULATED RENT FOR ANY VACANCY LEASE ENTERED ON OR AFTER
19 JANUARY FIRST, TWO THOUSAND TEN SHALL, IN ADDITION TO ANY ADJUSTMENT
20 PROVIDED FOR IN PARAGRAPH FIVE OF THIS SUBDIVISION, BE ADJUSTED ON THE
21 FIRST DAY OF JANUARY EACH YEAR THEREAFTER BY THE RENT ADJUSTMENT ESTAB-
22 LISHED BY THE RENT BOARD.

23 S 7. Subdivision a of section 26-405 of the administrative code of the
24 city of New York is amended by adding a new paragraph 10 to read as
25 follows:

26 (10) (A) NOTWITHSTANDING ANY CONTRARY PROVISIONS OF THIS SUBDIVISION,
27 EFFECTIVE JANUARY FIRST, TWO THOUSAND TEN, MAXIMUM RENTS FOR HOUSING
28 ACCOMMODATIONS SUBJECT TO THIS CHAPTER SHALL NO LONGER BE ESTABLISHED
29 PURSUANT TO PARAGRAPHS THREE AND FOUR OF THIS SUBDIVISION, OR LIMITED BY
30 PARAGRAPH FIVE OF THIS SUBDIVISION, OR ADJUSTED BY SUBPARAGRAPH (L) OR
31 (N) OF PARAGRAPH ONE OF SUBDIVISION G OF THIS SECTION.

32 (B) EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH, THE RENT BOARD
33 ESTABLISHED PURSUANT TO SECTION 26-510 OF THIS TITLE SHALL ESTABLISH
34 ANNUAL RATES OF RENT ADJUSTMENT FOR THE CLASS OF HOUSING ACCOMMODATIONS
35 SUBJECT TO THIS CHAPTER, IN THE MANNER PROVIDED BY SUCH SECTION. THE
36 FACT THAT THE HOUSING ACCOMMODATION IS SUBJECT TO THIS CHAPTER MAY NOT
37 BE CONSIDERED AS A FACTOR IN DETERMINING THE RATE OF RENT ADJUSTMENT.
38 NOT LATER THAN OCTOBER FIRST, TWO THOUSAND NINE, AND NOT LATER THAN
39 OCTOBER FIRST ANNUALLY THEREAFTER, THE RENT BOARD SHALL FILE WITH THE
40 CITY CLERK AND THE DIVISION OF HOUSING AND COMMUNITY RENEWAL ITS FIND-
41 INGS ESTABLISHED IN CONSIDERATION OF THE ECONOMIC FACTORS LISTED IN
42 SUBDIVISION B OF SECTION 26-510 OF THIS TITLE, AND SHALL ACCOMPANY SUCH
43 FINDINGS WITH A STATEMENT OF THE MAXIMUM RATE OR RATES OF RENT ADJUST-
44 MENT, IF ANY, FOR ONE OR MORE CLASSES OF ACCOMMODATIONS SUBJECT TO THIS
45 CHAPTER AUTHORIZED FOR THE ADJUSTMENT OF THE MAXIMUM RENT OF THE HOUSING
46 ACCOMMODATION FOR THE TWELVE MONTH PERIOD COMMENCING JANUARY FIRST, TWO
47 THOUSAND TEN AND FOR EACH SUCCEEDING TWELVE MONTH PERIOD.

48 (C) EFFECTIVE JANUARY FIRST, TWO THOUSAND TEN, THE MAXIMUM RENT
49 COLLECTIBLE FROM THE TENANT SHALL BE THE MAXIMUM RENT COLLECTIBLE ON
50 DECEMBER THIRTY-FIRST, TWO THOUSAND NINE, INCLUDING ANY RENT ADJUSTMENTS
51 THEN COLLECTIBLE PURSUANT TO SUBPARAGRAPH (N) OF PARAGRAPH ONE OF SUBDI-
52 VISION G OF THIS SECTION, AS SUCH RENT MAY BE ADJUSTED PURSUANT TO
53 SUBPARAGRAPH (B) OF THIS PARAGRAPH ANNUALLY, WITHOUT AN ORDER OF THE
54 CITY RENT AGENCY, OR AS ADJUSTED PURSUANT TO ANY OTHER PROVISION OF THIS
55 CHAPTER, PROVIDED THAT A LANDLORD SHALL NOT COLLECT ANY RENT INCREASE OR
56 ADJUSTMENT OTHERWISE COLLECTIBLE UNDER SUBPARAGRAPH (B) OF THIS PARA-

1 GRAPH UNLESS AND UNTIL THE FIRST RENT PAYMENT DATE AFTER THE LANDLORD
2 CERTIFIES TO THE CITY RENT AGENCY THAT ALL RENT IMPAIRING VIOLATIONS, AS
3 DEFINED BY SECTION THREE HUNDRED TWO-A OF THE MULTIPLE DWELLING LAW, AND
4 AT LEAST EIGHTY PER CENTUM OF ALL OTHER VIOLATIONS OF THE HOUSING MAIN-
5 TENANCE CODE OR OTHER STATE OR LOCAL LAWS THAT IMPOSE REQUIREMENTS ON
6 PROPERTY AND WHICH WERE RECORDED AGAINST THE PROPERTY ON JULY FIRST, TWO
7 THOUSAND NINE, OR JULY FIRST OF THE YEAR PRECEDING THE ADJUSTMENT,
8 WHICHEVER IS LATER, HAVE BEEN CLEARED, CORRECTED OR ABATED AND THE LAND-
9 LORD HAS RECEIVED A CERTIFICATE OF ELIGIBILITY FROM THE CITY RENT AGENCY
10 THAT THE VIOLATION CLEARING REQUIREMENTS SET FORTH ABOVE HAVE BEEN MET
11 AND FURTHER AUTHORIZING THE LANDLORD TO COLLECT ANY RENT INCREASE OR
12 ADJUSTMENT AUTHORIZED PURSUANT TO SUBPARAGRAPH (B) OF THIS PARAGRAPH,
13 AND THE LANDLORD HAS SERVED SUCH CERTIFICATE UPON THE TENANT RESIDING IN
14 THE HOUSING ACCOMMODATION.

15 (D) MAXIMUM RATES OF RENT ADJUSTMENT SHALL NOT BE ESTABLISHED MORE
16 THAN ONCE ANNUALLY FOR ANY HOUSING ACCOMMODATION SUBJECT TO THIS CHAPTER
17 WITHIN THE BOARD'S JURISDICTION. ONCE ESTABLISHED, NO SUCH RATE SHALL BE
18 ADJUSTED BY ANY SURCHARGE, SUPPLEMENTARY ADJUSTMENT, REOPENER OR OTHER
19 MODIFICATION.

20 (E) NOTHING CONTAINED IN THIS PARAGRAPH OR IN SUBDIVISION F OF SECTION
21 26-511 OF THIS TITLE SHALL ALTER, RESTRICT OR IMPAIR AN OWNER'S RIGHT TO
22 ESTABLISH THE INITIAL REGULATED RENT FOR ACCOMMODATIONS SUBJECT TO THIS
23 CHAPTER WHICH BECOME VACANT.

24 S 8. Section 4 of section 4 of chapter 576 of the laws of 1974,
25 constituting the emergency tenant protection act of nineteen seventy-
26 four, as amended by chapter 486 of the laws of 1976, subdivision a as
27 amended by chapter 349 of the laws of 1979, the opening paragraph of
28 subdivision b as amended and subdivision d as added by chapter 403 of
29 the laws of 1983, and the second and third undesignated paragraphs of
30 subdivision b as amended by chapter 330 of the laws of 1980, is amended
31 to read as follows:

32 S 4. Establishment of rent [guidelines] boards; duties. a. In each
33 county wherein any city having a population of less than one million or
34 any town or village has determined the existence of an emergency pursu-
35 ant to section three of this act, there shall be created a rent [guide-
36 lines] board to consist of nine members appointed by the [commissioner
37 of housing and community renewal upon recommendation of] COUNTY EXECU-
38 TIVE UPON THE ADVICE AND CONSENT OF the county legislature which [recom-
39 mendation] APPOINTMENT shall be made within thirty days after the first
40 local declaration of an emergency in such county; [two] THREE such
41 members shall be representative of tenants, [two] THREE shall be repre-
42 sentative of owners of property, and [five] THREE shall be public
43 members [each of whom]. EACH OF THE PUBLIC MEMBERS shall have had at
44 least five years experience in either PUBLIC SERVICE, PHILANTHROPY,
45 SOCIAL SERVICES, URBAN PLANNING, ARCHITECTURE, SOCIAL SCIENCES, SERVICE
46 WITH NOT-FOR-PROFIT ORGANIZATIONS, finance, economics or housing. One
47 public member shall be designated by the [commissioner] COUNTY EXECUTIVE
48 UPON THE ADVICE AND CONSENT OF THE COUNTY LEGISLATURE to serve as
49 [chairman] CHAIR and shall hold no other public office. No [member,
50 officer or] employee of THE COUNTY OR OF any [municipal rent regulation
51 agency] MUNICIPALITY WITHIN THE COUNTY or OF the state division of hous-
52 ing and community renewal and no person who owns or manages real estate
53 covered by this law or [who is an officer of any owner or tenant organ-
54 ization] MORE THAN TWO RENTAL HOUSING ACCOMMODATIONS NOT COVERED BY THIS
55 LAW shall serve on a rent [guidelines] board. [One public member, one
56 member representative of tenants and one member representative of owners

1 shall serve for a term ending two years from January first next succeed-
2 ing the date of their appointment; one public member, one member repre-
3 sentative of tenants and one member representative of owners shall serve
4 for terms ending three years from the January first next succeeding the
5 date of their appointment and three public members shall serve for terms
6 ending four years from January first next succeeding the dates of their
7 appointment.] ALL MEMBERS OF A COUNTY RENT BOARD SHALL SERVE TWO-YEAR
8 TERMS, BEGINNING THE LATER OF THE DATE OF APPOINTMENT OR THE EXPIRATION
9 OF THE TERM OF THE MEMBER WHOM THE APPOINTEE IS SUCCEEDING. Thereafter,
10 all members shall [serve for terms of four years each. Members shall]
11 continue in office until their successors have been appointed and quali-
12 fied. The [commissioner] COUNTY EXECUTIVE UPON THE ADVICE AND CONSENT OF
13 THE COUNTY LEGISLATURE shall fill any vacancy which may occur by reason
14 of death, resignation or otherwise in a manner consistent with the
15 [original appointment] PROVISIONS OF THIS SUBDIVISION. A member may be
16 removed by the [commissioner] COUNTY LEGISLATURE for cause, but not
17 without an opportunity to be heard in person or by counsel, in his OR
18 HER defense, upon not less than ten days notice. A SUCCESSOR TO SUCH
19 MEMBER SHALL BE APPOINTED IN ACCORDANCE WITH THIS SUBDIVISION TO SERVE
20 THE BALANCE OF THE TERM OF THE MEMBER WHO WAS REMOVED. Compensation for
21 the members of the board shall be ON A PER DIEM BASIS at the rate of one
22 hundred FIFTY dollars per day, for no more than [twenty] TWENTY-FIVE
23 days a year, except that the [chairman] CHAIR shall be compensated at
24 the rate of one hundred [twenty-five] SEVENTY-FIVE dollars a day for no
25 more than [thirty] FIFTY days a year. [The board shall be provided staff
26 assistance by the division of housing and community renewal.] THE CHAIR
27 SHALL BE THE CHIEF ADMINISTRATIVE OFFICER OF THE COUNTY RENT BOARD, AND
28 AMONG HIS OR HER POWERS AND DUTIES, HE OR SHE SHALL HAVE THE AUTHORITY
29 TO EMPLOY, ASSIGN AND SUPERVISE THE EMPLOYEES OF THE BOARD, AND HE OR
30 SHE SHALL, WITH THE ADVICE AND CONSENT OF FOUR OR MORE OF THE OTHER
31 MEMBERS OF THE BOARD, ENTER INTO CONTRACTS FOR CONSULTANT SERVICES. THE
32 DIVISION OF HOUSING AND COMMUNITY RENEWAL SHALL COOPERATE WITH THE RENT
33 BOARD AND SHALL ASSIGN SUCH PERSONNEL AND PERFORM SUCH SERVICES IN
34 CONNECTION WITH THE DUTIES OF THE RENT BOARD AS MAY BE REASONABLY
35 REQUIRED BY THE BOARD. The compensation of such members SHALL BE PAID BY
36 THE COUNTY and the costs of staff assistance PROVIDED BY THE DIVISION OF
37 HOUSING AND COMMUNITY RENEWAL shall be paid by the division of housing
38 and community renewal which shall be reimbursed in the manner prescribed
39 in THIS section [four of this act]. The local legislative body of each
40 city having a population of less than one million and each town and
41 village in which an emergency has been determined to exist as herein
42 provided shall be authorized to designate one person who shall be repre-
43 sentative of tenants and one person who shall be representative of
44 owners of property to serve at its pleasure and without compensation to
45 advise and assist the county rent [guidelines] board in matters affect-
46 ing the adjustment of rents for housing accommodations in such city,
47 town or village as the case may be.

48 b. A county rent [guidelines] board shall establish annually [guide-
49 lines for] rent adjustments which, at its sole discretion may be varied
50 and different for and within the several zones and jurisdictions of the
51 [board] COUNTY, and in determining whether rents for housing accommo-
52 dations as to which an emergency has been declared pursuant to this act
53 shall be adjusted, shall consider among other things (1) THE STATE OF
54 THE RENTAL REAL ESTATE MARKET AND SUBMARKETS WITHIN THOSE AREAS OF THE
55 COUNTY WITH HOUSING ACCOMMODATIONS SUBJECT TO THIS ACT, INCLUDING THE
56 AVAILABILITY OF AFFORDABLE, HABITABLE RENTAL HOUSING ACCOMMODATIONS; (2)

1 the economic condition of the residential real estate industry in [the
2 affected area including] THOSE AREAS OF THE COUNTY WITH HOUSING ACCOMMO-
3 DATIONS SUBJECT TO THIS ACT OR THE EMERGENCY HOUSING RENT CONTROL LAW,
4 INCLUDING CHANGES IN THE VALUE OF RESIDENTIAL REAL ESTATE, THE PROFIT-
5 ABILITY OF OWNERSHIP OF RENTAL HOUSING AND such factors as the prevail-
6 ing and projected (i) INCREASES OR DECREASES IN RENTS AND GROSS RENTAL
7 INCOME, INCLUDING INCOME FROM OTHER RESIDENTIAL RENTS, AS WELL AS THE
8 IMPUTED RENTAL VALUE FOR APARTMENTS OCCUPIED BY OWNERS OR MEMBERS OF
9 THEIR FAMILIES OR ASSOCIATES OF OWNERS, FOR BUILDINGS SUBJECT TO THIS
10 ACT OR THE EMERGENCY HOUSING RENT CONTROL LAW WITHIN THE COUNTY, (II)
11 INCREASES OR DECREASES IN OPERATION AND MAINTENANCE COSTS OF BUILDINGS
12 SUBJECT TO THIS ACT OR THE EMERGENCY HOUSING RENT CONTROL LAW WITHIN THE
13 COUNTY INCLUDING real estate taxes [and], sewer and water rates, [(ii)
14 gross operating maintenance costs (including] insurance rates, ADMINIS-
15 TRATIVE COSTS, governmental fees, [cost of] fuel, UTILITIES and labor
16 [costs]], (iii) costs and availability of financing (including effective
17 rates of interest), AND COSTS, AVAILABILITY AND PROFITABILITY OF REFI-
18 NANCING, (iv) ECONOMIC BENEFITS, OTHER THAN RENTAL INCOME, DERIVED FROM
19 OWNERSHIP AND UPGRADING OF RENTAL PROPERTY, (V) RETURNS ON CAPITAL
20 PLACED AT RISK BY OWNERS, (VI) over-all supply of housing accommodations
21 and over-all vacancy rates, [(2)] (VII) INCREASES OR DECREASES IN NET
22 OPERATING INCOME FROM BUILDINGS SUBJECT TO THIS ACT OR THE EMERGENCY
23 HOUSING RENT CONTROL LAW WITHIN THE COUNTY, (3) relevant data from the
24 current and projected cost of living indices for the affected area,
25 [(3)] AND (4) such other data as may be made available to it. NET OPER-
26 ATING INCOME SHALL MEAN THE PERCENTAGE OF EACH DOLLAR OF GROSS RENTAL
27 INCOME REMAINING AFTER PAYMENT OF ALL COSTS OF OPERATION AND MAINTEN-
28 NANCE. DEBT SERVICE PAYMENTS, CAPITAL EXPENDITURES AND DEPRECIATION
29 SHALL NOT BE CONSIDERED TO BE OPERATION AND MAINTENANCE COSTS, AND A
30 COUNTY RENT BOARD SHALL NOT CONSIDER DEBT SERVICE PAYMENTS, CAPITAL
31 EXPENDITURES OR DEPRECIATION IN DETERMINING ANNUAL RENT ADJUSTMENTS. A
32 COUNTY RENT BOARD SHALL NOT CONSIDER A PRICE INDEX OF OPERATING COSTS.
33 IN CALCULATING LABOR AND ADMINISTRATIVE COSTS, THE RENT BOARD SHALL
34 CONSIDER THE FEASIBILITY OF IMPUTING A VALUE TO THE ACTUAL, VERIFIABLE
35 UNSALARIED LABOR AND ADMINISTRATIVE TASKS PERFORMED BY BUILDING OWNERS
36 OR MEMBERS OF THEIR IMMEDIATE FAMILY WHO RESIDE WITH THEM IN A HOUSING
37 ACCOMMODATION IN A BUILDING SUBJECT TO THIS ACT OR THE EMERGENCY HOUSING
38 RENT CONTROL LAW WITHIN THE COUNTY. IF THE INCLUSION OF THE VALUE OF
39 SUCH LABOR AND ADMINISTRATIVE TASKS IS DEEMED FEASIBLE BY THE BOARD, IT
40 SHALL BE INCLUDED AS ONE OF THE FACTORS CONSIDERED HEREIN. ALL OWNERS
41 OF HOUSING ACCOMMODATIONS SUBJECT TO THIS ACT OR THE EMERGENCY HOUSING
42 RENT CONTROL LAW WITHIN THE COUNTY SHALL ANNUALLY SUBMIT INCOME AND
43 EXPENDITURE REPORTS TO THE COUNTY RENT BOARD ON A FORM TO BE PROMULGATED
44 BY THE BOARD. OWNERS WHO FAIL TO SUBMIT SUCH REPORTS TO THE COUNTY RENT
45 BOARD SHALL BE BARRED FROM APPLYING FOR OR COLLECTING ANY RENT INCREASE
46 TO WHICH THE OWNER MIGHT OTHERWISE BE ENTITLED UNDER THIS ACT OR THE
47 EMERGENCY HOUSING RENT CONTROL LAW DURING THE TWELVE MONTH PERIOD BEGIN-
48 NING THE NEXT JANUARY FIRST. THE COUNTY RENT BOARD SHALL ANNUALLY
49 REQUIRE A SAMPLE OF LANDLORDS SUBJECT TO REGULATION UNDER THIS ACT WITH-
50 IN THE COUNTY TO MAKE AVAILABLE THEIR BOOKS AND RECORDS REGARDING
51 INCOME, EXPENDITURES, TAX BENEFITS AND FINANCING ARRANGEMENTS FOR EXAM-
52 INATION BY THE BOARD AND THE BOARD SHALL UTILIZE THE RESULTS OF THE
53 ANALYSIS OF SUCH SAMPLE AS ONE OF THE CRITERIA UPON WHICH ITS FINDINGS
54 ARE BASED. SUCH SAMPLE SHALL BE DESIGNED TO BE REASONABLY REPRESENTATIVE
55 OF THE TYPES OF BUILDINGS, EXCLUDING BUILDINGS THAT HAVE BEEN CONVERTED
56 TO CO-OPERATIVE OR CONDOMINIUM STATUS, THAT ARE SUBJECT TO REGULATION

1 UNDER THIS ACT. ANY INFORMATION PROVIDED BY LANDLORDS PURSUANT TO THIS
2 SUBDIVISION REGARDING AN INDIVIDUAL BUILDING OR GROUP OF BUILDINGS SHALL
3 NOT BE AVAILABLE TO THE PUBLIC UNDER THE FREEDOM OF INFORMATION LAW AND
4 THE COUNTY RENT BOARD SHALL SAFEGUARD THE CONFIDENTIALITY OF SUCH INFOR-
5 MATION PROVIDED HOWEVER, THAT THE BOARD SHALL MAKE AVAILABLE TO THE
6 PUBLIC CUMULATIVE AND STATISTICAL RESULTS OF THE ANNUAL INCOME AND
7 EXPENDITURE SUBMISSIONS AND THE EXAMINATION OF THE REPRESENTATIVE SAMPLE
8 OF BOOKS AND RECORDS REQUIRED HEREIN. As soon as practicable after its
9 creation and thereafter not later than [July] OCTOBER first of each
10 year, a COUNTY rent [guidelines] board shall file with the state divi-
11 sion of housing and community renewal its findings for the preceding
12 calendar year, and shall accompany such findings with a statement of the
13 maximum rate or rates of rent adjustment, if any, for one or more class-
14 es of HOUSING accommodation subject to this act WITHIN THE COUNTY,
15 authorized for VACANCY leases or [other rental agreements] ANNUAL RENT
16 ADJUSTMENTS commencing [during] ON the next succeeding JANUARY FIRST OR
17 WITHIN THE twelve months THEREAFTER. The standards for rent adjustments
18 may be applicable for the entire county or may be varied according to
19 such zones or jurisdictions within such county as the board finds neces-
20 sary to achieve the purposes of this subdivision. THE ADDITIONAL ALLOW-
21 ANCE, IF ANY, FOR LEASES ON VACANT APARTMENTS SHALL NOT EXCEED FIVE
22 PERCENT. ANY SUCH VACANCY ALLOWANCE SHALL NOT BE IMPLEMENTED FOR A HOUS-
23 ING ACCOMMODATION MORE THAN ONE TIME IN ANY CALENDAR YEAR, NOTWITHSTAND-
24 ING THE NUMBER OF VACANCY LEASES ENTERED INTO FOR SUCH HOUSING ACCOMMO-
25 DATION IN SUCH CALENDAR YEAR. A COUNTY RENT BOARD SHALL DISSEMINATE
26 SUCH FINDINGS AND STATEMENT TO COUNTYWIDE AND LOCAL NEWSPAPERS, RADIO
27 AND TELEVISION STATIONS AND OTHER MEDIA.

28 The standards for rent adjustments established annually shall be
29 effective for [leases] VACANCY LEASES OR ANNUAL RENT ADJUSTMENTS
30 commencing on [October] JANUARY first of each year and during the next
31 succeeding twelve months whether or not the board has filed its findings
32 and statement of the maximum rate or rates of rent adjustment by [July]
33 OCTOBER first of each year. If such [lease] VACANCY LEASE is entered
34 into before such filing by the board, it may provide for the rent to be
35 adjusted by the rates then in effect, subject to change by the applica-
36 ble rates of rent adjustment when filed, such change to be effective as
37 of the date of the commencement of the lease. [Said lease must provide
38 that, if the new rates of rent adjustment differ for leases of different
39 terms, the tenant has the option of changing the original lease term to
40 any other term for which a rate of rent adjustment is set by the board,
41 with the rental to be adjusted accordingly.]

42 Where a city, town or village shall act to determine the existence of
43 A public emergency pursuant to section three of this act subsequent to
44 the establishment of annual [guidelines for] rent adjustments [of] FOR
45 the HOUSING accommodations subject to this act, the [rent guidelines
46 board as soon as practicable thereafter shall file its findings and
47 rates of rent adjustment for leases or other rental agreements for the
48 housing accommodations in] RENT ADJUSTMENTS THEN IN EFFECT IN THE COUNTY
49 SHALL APPLY TO such a city, town or village, which rates shall be effec-
50 tive for [leases or other rental agreements] VACANCY LEASES OR ANNUAL
51 RENT ADJUSTMENTS commencing on or after the effective date of the deter-
52 mination.

53 c. [In a city having a population of one million or more, the rent
54 guidelines board shall be the rent guidelines board established pursuant
55 to the New York city rent stabilization law of nineteen hundred sixty-
56 nine as amended, and such board shall have the powers granted pursuant

1 to the New York city rent stabilization law of nineteen hundred sixty-
2 nine as amended.] A COUNTY RENT BOARD, PRIOR TO THE ANNUAL ADJUSTMENT OF
3 THE LEVEL OF RENTS PROVIDED FOR UNDER SUBDIVISION B OF THIS SECTION FOR
4 HOUSING ACCOMMODATIONS SUBJECT TO THIS ACT OR THE EMERGENCY HOUSING RENT
5 CONTROL LAW, SHALL HOLD A PUBLIC HEARING OR HEARINGS FOR THE PURPOSE OF
6 COLLECTING INFORMATION RELATING TO ALL FACTORS SET FORTH IN SUBDIVISION
7 B OF THIS SECTION. NOTICE OF THE DATE, TIME, LOCATION AND SUMMARY OF
8 SUBJECT MATTER FOR THE PUBLIC HEARING OR HEARINGS SHALL BE PUBLISHED AT
9 LEAST ONCE IN ONE OR MORE NEWSPAPERS OF GENERAL CIRCULATION AT LEAST
10 EIGHT DAYS IMMEDIATELY PRECEDING EACH HEARING DATE, AT THE EXPENSE OF
11 THE COUNTY, AND THE HEARING OR HEARINGS SHALL BE OPEN FOR TESTIMONY FROM
12 ANY INDIVIDUAL, GROUP, ASSOCIATION OR REPRESENTATIVE THEREOF WHO WANTS
13 TO TESTIFY.

14 d. NO OWNER OF ANY HOUSING ACCOMMODATION SUBJECT TO THIS ACT OR THE
15 EMERGENCY HOUSING RENT CONTROL LAW MAY IMPOSE OR COLLECT DURING CALENDAR
16 YEAR TWO THOUSAND NINE AN ANNUAL RENT ADJUSTMENT AS ADOPTED PURSUANT TO
17 THE PROVISIONS OF SUBDIVISION B OF THIS SECTION IF THERE EXIST OF RECORD
18 WITH REGARD TO THE PROPERTY CONTAINING SUCH HOUSING ACCOMMODATION ON
19 JANUARY FIRST OF SUCH YEAR ANY OUTSTANDING HAZARDOUS VIOLATIONS OF
20 RECORD AS OF JULY 1, 2009 OR MORE THAN TWENTY PERCENT OF ALL OTHER
21 VIOLATIONS OF RECORD AS OF JULY 1, 2009; OR DURING A SUBSEQUENT CALENDAR
22 YEAR IF THERE EXIST OF RECORD WITH REGARD TO SUCH PROPERTY ON JANUARY
23 FIRST OF SUCH YEAR ANY OUTSTANDING HAZARDOUS VIOLATIONS OF RECORD AS OF
24 JULY FIRST OF THE PRIOR YEAR OR MORE THAN TWENTY PERCENT OF ALL OTHER
25 VIOLATIONS OF RECORD AS OF JULY FIRST OF THE PRIOR YEAR, AS DETERMINED
26 PURSUANT TO REGULATIONS OF THE DIVISION OF HOUSING AND COMMUNITY RENEWAL
27 OR ANY AGENCY ADMINISTERING AND ENFORCING A BUILDING CODE OR HOUSING
28 MAINTENANCE CODE IN THE JURISDICTION IN WHICH THE PROPERTY IS LOCATED.

29 E. IN FURTHERANCE OF ITS RESPONSIBILITY TO ENFORCE THIS ACT, A COUNTY
30 RENT BOARD SHALL BE EMPOWERED TO ADMINISTER OATHS, ISSUE SUBPOENAS,
31 CONDUCT INVESTIGATIONS AND MAKE INSPECTIONS.

32 F. Maximum rates of rent adjustment shall not be established more than
33 once annually for any housing accommodation within a COUNTY RENT board's
34 jurisdiction. Once established, no such rate shall[, within the one-year
35 period,] be adjusted by any surcharge, supplementary adjustment or other
36 modification. NO RENT ADJUSTMENT SHALL BE ESTABLISHED BASED ON THE RENT
37 LEVEL OF HOUSING ACCOMMODATIONS SUBJECT TO THIS ACT OR THE EMERGENCY
38 HOUSING RENT CONTROL LAW OR THE NUMBER OF HOUSING ACCOMMODATIONS IN
39 AFFECTED BUILDINGS.

40 G. A COUNTY RENT BOARD IS HEREBY EMPOWERED TO SEEK AND RECEIVE FUNDING
41 FROM ANY GOVERNMENT SOURCE FOR ITS OPERATIONS. NOTWITHSTANDING THIS
42 PROVISION, THE DIVISION OF HOUSING AND COMMUNITY RENEWAL SHALL CONTINUE
43 TO PROVIDE STAFF ASSISTANCE TO THE COUNTY RENT BOARDS PURSUANT TO SUBDI-
44 VISION A OF THIS SECTION.

45 H. IN A CITY HAVING A POPULATION OF ONE MILLION OR MORE, THE RENT
46 BOARD SHALL BE THE RENT BOARD ESTABLISHED PURSUANT TO THE NEW YORK CITY
47 RENT STABILIZATION LAW OF NINETEEN HUNDRED SIXTY-NINE AS AMENDED, AND
48 SUCH BOARD SHALL HAVE THE POWERS GRANTED PURSUANT TO THE NEW YORK CITY
49 RENT STABILIZATION LAW OF NINETEEN HUNDRED SIXTY-NINE AS AMENDED.

50 S 9. Subdivision (a-1) of section 10 of section 4 of chapter 576 of
51 the laws of 1974, constituting the emergency tenant protection act of
52 nineteen seventy-four, is REPEALED.

53 S 10. Section 10 of section 4 of chapter 576 of the laws of 1974,
54 constituting the emergency tenant protection act of nineteen seventy-
55 four, is amended by adding a new subdivision d to read as follows:

1 D. NOTWITHSTANDING ANY CONTRARY PROVISIONS OF THIS ACT, ON OR AFTER
2 JANUARY 1, 2010:

3 (1) NO TENANT, SO LONG AS HE OR SHE CONTINUES TO PAY THE RENT TO WHICH
4 THE OWNER IS ENTITLED, SHALL BE REMOVED FROM ANY HOUSING ACCOMMODATION
5 WHICH IS SUBJECT TO REGULATION UNDER THIS ACT BY ACTION TO EVICT OR TO
6 RECOVER POSSESSION, OR OTHERWISE, NOR SHALL ANY PERSON ATTEMPT SUCH
7 REMOVAL OR EXCLUSION FROM POSSESSION NOTWITHSTANDING THE FACT THAT THE
8 TENANT HAS NO LEASE OR THAT HIS OR HER LEASE, OR OTHER RENTAL AGREEMENT,
9 HAS EXPIRED OR OTHERWISE TERMINATED, AND NOTWITHSTANDING ANY CONTRACT,
10 LEASE AGREEMENT OR OBLIGATION HERETOFORE OR HEREAFTER ENTERED INTO WHICH
11 CONFLICTS WITH THE PROVISIONS OF THIS ACT, EXCEPT ON ONE OR MORE OF THE
12 GROUNDS SET FORTH IN THIS ACT WHICH PERMITS AN OWNER TO REFUSE TO RENEW
13 A LEASE.

14 (2) NO OWNER SHALL, IN THE ABSENCE OF AN EXISTING LEASE, COMMENCE AN
15 ACTION OR PROCEEDING SEEKING TO REMOVE A TENANT FROM ANY HOUSING ACCOM-
16 MODATION WHICH IS SUBJECT TO REGULATION UNDER THIS LAW BY ACTION TO
17 EVICT OR TO RECOVER POSSESSION, OR OTHERWISE, ON A GROUND SET FORTH IN
18 THIS LAW PERMITTING AN OWNER TO REFUSE TO RENEW A LEASE, UNLESS THE
19 OWNER SHALL HAVE GIVEN NINETY DAYS NOTICE TO THE TENANT OF HIS OR HER
20 INTENTION TO COMMENCE AN ACTION OR PROCEEDING ON SUCH GROUND.

21 (3) ANY ORDER OF THE STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL
22 AUTHORIZED BY PROVISIONS OF THIS LAW PROVIDING THAT A HOUSING ACCOMMO-
23 DATION SHALL NOT BE SUBJECT TO THE PROVISIONS OF THIS LAW UPON THE EXPI-
24 RATION OF THE EXISTING LEASE SHALL PROVIDE THAT SUCH ORDER, IN THE
25 ABSENCE OF AN EXISTING LEASE, SHALL TAKE EFFECT ONE HUNDRED EIGHTY DAYS
26 AFTER ITS ISSUANCE.

27 (4) PURSUANT TO THE PROVISIONS OF PARAGRAPH ONE OF THIS SUBDIVISION,
28 OWNERS SHALL NO LONGER OFFER OR ENTER INTO RENEWAL LEASES FOR ANY
29 RENEWAL WHICH COMMENCED ON OR AFTER JANUARY 1, 2010; HOWEVER OWNERS
30 SHALL BE REQUIRED TO GRANT AND FURNISH TO A NEW TENANT A VACANCY LEASE,
31 IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISIONS A AND C OF THIS
32 SECTION, FOR A TERM WHICH SHALL EXPIRE ON THE THIRTY-FIRST DAY OF DECEM-
33 BER OF THE YEAR IN WHICH IT COMMENCED.

34 (5) WHERE A TENANT ENTERS INTO A VACANCY LEASE AS PROVIDED IN PARA-
35 GRAPH FOUR OF THIS SUBDIVISION, THE RENTAL PROVIDED THEREIN SHALL BE THE
36 LEGAL REGULATED RENT, AS ADJUSTED BY ANY APPLICABLE VACANCY ALLOWANCE,
37 UNLESS A VACANCY ALLOWANCE WAS PREVIOUSLY COLLECTED DURING THE PRIOR
38 TWELVE MONTH PERIOD.

39 (6) THE OWNER SHALL BE REQUIRED TO SERVE THE TENANT WITH A NOTICE OF
40 RIGHTS AND DUTIES OF OWNERS AND TENANTS PROMULGATED BY THE STATE DIVI-
41 SION OF HOUSING AND COMMUNITY RENEWAL AT THE TIME OF THE RENTAL OF THE
42 HOUSING ACCOMMODATION TO A NEW TENANT.

43 (7) ANY TENANT WHOSE LEASE IN EFFECT ON DECEMBER 31, 2010 HAS EXPIRED,
44 OR WHOSE VACANCY LEASE ENTERED INTO ON OR AFTER JANUARY 1, 2010 HAS
45 EXPIRED, AND WHO THEREAFTER VACATES A HOUSING ACCOMMODATION WITHOUT
46 GIVING THE OWNER AT LEAST THIRTY DAYS' WRITTEN NOTICE BY REGISTERED OR
47 CERTIFIED MAIL OF HIS OR HER INTENTION TO VACATE, SHALL BE LIABLE TO THE
48 OWNER FOR THE LOSS OF RENT SUFFERED BY THE OWNER, BUT NOT EXCEEDING ONE
49 MONTH'S RENT, WHERE THE TENANT VACATES PURSUANT TO THE PROVISIONS OF
50 THIS SECTION. SUCH NOTICE SHALL BE POSTMARKED ON OR BEFORE THE LAST DAY
51 OF THE RENTAL PERIOD IMMEDIATELY PRIOR TO THE THIRTY DAY PERIOD.

52 (8) (A) THE LEGAL REGULATED RENT FOR ANY LEASE WHICH EXPIRES ON DECEM-
53 BER 31, 2009 SHALL BE ADJUSTED EFFECTIVE JANUARY 1, 2010 AND ON THE
54 FIRST DAY OF JANUARY OF EACH YEAR THEREAFTER BY THE RENT ADJUSTMENT
55 ESTABLISHED BY THE RENT BOARD.

1 (B) THE LEGAL REGULATED RENT FOR ANY LEASE ENTERED INTO PRIOR TO JANU-
2 ARY 1, 2010 WHICH EXPIRES BETWEEN JANUARY 1, 2010 AND DECEMBER 31, 2011
3 SHALL BE ADJUSTED EFFECTIVE THE FIRST DAY FOLLOWING ITS EXPIRATION BY
4 THE APPLICABLE TRANSITIONAL ADJUSTMENTS ESTABLISHED BY THE RENT BOARD
5 AND ON THE FIRST DAY OF JANUARY OF EACH YEAR THEREAFTER BY THE RENT
6 ADJUSTMENT ESTABLISHED BY THE RENT BOARD.

7 (C) THE LEGAL REGULATED RENT FOR ANY VACANCY LEASE ENTERED INTO ON OR
8 AFTER JANUARY 1, 2010 SHALL, IN ADDITION TO ANY ADJUSTMENT PROVIDED FOR
9 IN PARAGRAPH FIVE OF THIS SUBDIVISION, BE ADJUSTED ON THE FIRST DAY OF
10 JANUARY OF EACH YEAR THEREAFTER BY THE RENT ADJUSTMENT ESTABLISHED BY
11 THE RENT BOARD.

12 S 11. Section 10-a of section 4 of chapter 576 of the laws of 1974,
13 constituting the emergency tenant protection act of nineteen seventy-
14 four, as amended by chapter 940 of the laws of 1984, is amended to read
15 as follows:

16 S 10-a. Right to sublease. Units subject to this law may be sublet
17 pursuant to section two hundred twenty-six-b of the real property law
18 provided that (a) the rental charged to the subtenant does not exceed
19 the legal regulated rent plus a ten percent surcharge payable to the
20 tenant if the unit sublet was furnished with the tenant's furniture; (b)
21 the tenant can establish that at all times he has maintained the unit as
22 his primary residence and intends to occupy it as such at the expiration
23 of the sublease; (c) an owner may terminate the tenancy of a tenant who
24 sublets or assigns contrary to the terms of this section [but no action
25 or proceeding based on the non-primary residence of a tenant may be
26 commenced prior to the expiration date of his lease]; (d) where an
27 apartment is sublet the prime tenant shall retain the right to a
28 [renewal lease] STATUTORY TENANCY and the rights and status of a tenant
29 in occupancy as they relate to conversion to condominium or cooperative
30 ownership; (e) where a tenant violates the provisions of subdivision (a)
31 of this section the subtenant shall be entitled to damages of three
32 times the overcharge and may also be awarded attorneys fees and interest
33 from the date of the overcharge at the rate of interest payable on a
34 judgment pursuant to section five thousand four of the civil practice
35 law and rules; AND (f) the tenant may not sublet the unit for more than
36 a total of two years, including the term of the proposed sublease, out
37 of the four-year period preceding the termination date of the proposed
38 sublease. The provisions of this subdivision (f) shall only apply to
39 subleases commencing on and after July first, nineteen hundred eighty-
40 three[; (g) for the purposes of this section only, the term of the
41 proposed sublease may extend beyond the term of the tenant's lease]. In
42 such event, such sublease shall be subject to the tenant's right to a
43 [renewal lease] STATUTORY TENANCY PURSUANT TO THIS ACT. The subtenant
44 shall have no right to a renewal lease. It shall be unreasonable for an
45 owner to refuse to consent to a sublease solely because such sublease
46 extends beyond the tenant's lease[; and (h) notwithstanding the
47 provisions of section two hundred twenty-six-b of the real property law,
48 a not-for-profit hospital shall have the right to sublet any housing
49 accommodation leased by it to its affiliated personnel without requiring
50 the landlord's consent to any such sublease and without being bound by
51 the provisions of subdivisions (b), (c) and (f) of this section.
52 Commencing with the effective date of this subdivision, whenever a not-
53 for-profit hospital executes a renewal lease for a housing accommo-
54 dation, the legal regulated rent shall be increased by a sum equal to
55 fifteen percent of the previous lease rental for such housing accommo-
56 dation, hereinafter referred to as a vacancy surcharge, unless the land-

1 lord shall have received within the seven year period prior to the
2 commencement date of such renewal lease any vacancy increases or vacancy
3 surcharges allocable to the said housing accommodation. In the event the
4 landlord shall have received any such vacancy increases or vacancy
5 surcharges during such seven year period, the vacancy surcharge shall be
6 reduced by the amount received by any such vacancy increase or vacancy
7 surcharges].

8 NOTWITHSTANDING ANY PROVISIONS OF THIS SECTION OR SECTION 226-B OF THE
9 REAL PROPERTY LAW TO THE CONTRARY, ANY TENANT OF A HOUSING ACCOMMODATION
10 COVERED BY THE PROVISIONS OF THIS ACT SHALL BE ENTITLED TO THE BENEFITS
11 OF SECTION 226-B OF THE REAL PROPERTY LAW RELATING TO THE RIGHT TO
12 SUBLEASE OR ASSIGN EVEN IF THE TENANT DOES NOT HAVE A WRITTEN LEASE. THE
13 PROVISIONS OF THIS SECTION AND SECTION 226-B OF THE REAL PROPERTY LAW
14 SHALL BE APPLIED ACCORDINGLY.

15 S 12. Section 4 of chapter 274 of the laws of 1946, constituting the
16 emergency housing rent control law, is amended by adding a new subdivi-
17 sion 9 to read as follows:

18 9. NOTWITHSTANDING ANY CONTRARY PROVISIONS OF THIS LAW, EFFECTIVE
19 JANUARY 1, 2010, EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, THE
20 RENT FOR HOUSING ACCOMMODATIONS SUBJECT TO THIS CHAPTER LOCATED IN THE
21 COUNTIES OF WESTCHESTER AND NASSAU SHALL BE ADJUSTED AS FOLLOWS:

22 (A) THE COUNTY RENT BOARDS ESTABLISHED PURSUANT TO SECTION 4 OF THE
23 EMERGENCY TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR, SHALL ESTAB-
24 LISH ANNUAL RENT ADJUSTMENTS FOR THE CLASS OF HOUSING ACCOMMODATIONS
25 SUBJECT TO THIS CHAPTER LOCATED IN THE COUNTIES OF WESTCHESTER AND
26 NASSAU, IN THE MANNER PROVIDED BY SUCH SECTION. THE FACT THAT THE HOUS-
27 ING ACCOMMODATION IS SUBJECT TO THIS LAW MAY NOT BE CONSIDERED AS A
28 FACTOR IN DETERMINING THE RATE OF RENT ADJUSTMENT. NOT LATER THAN OCTO-
29 BER 1, 2009, AND NOT LATER THAN OCTOBER FIRST ANNUALLY THEREAFTER, THE
30 COUNTY RENT BOARDS SHALL FILE WITH THE COMMISSION THEIR FINDINGS ESTAB-
31 LISHED IN CONSIDERATION OF THE ECONOMIC FACTORS LISTED IN SUBDIVISION B
32 OF SECTION 4 OF THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN SEVEN-
33 TY-FOUR, AND SHALL ACCOMPANY SUCH FINDINGS WITH A STATEMENT OF THE MAXI-
34 MUM RATE OR RATES OF RENT ADJUSTMENT, IF ANY, FOR ONE OR MORE CLASSES OF
35 ACCOMMODATIONS SUBJECT TO THIS LAW WITHIN SUCH COUNTIES AUTHORIZED FOR
36 THE ADJUSTMENT OF THE MAXIMUM RENT OF THE HOUSING ACCOMMODATION FOR THE
37 TWELVE MONTH PERIOD COMMENCING JANUARY 1, 2010, AND FOR EACH SUCCEEDING
38 TWELVE MONTH PERIOD.

39 (B) EFFECTIVE JANUARY 1, 2010, THE MAXIMUM RENT COLLECTIBLE FROM THE
40 TENANT SHALL BE THE MAXIMUM RENT COLLECTIBLE ON DECEMBER 31, 2009, AS
41 SUCH RENT MAY BE ADJUSTED PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION
42 ANNUALLY, WITHOUT AN ORDER OF THE COMMISSION, OR AS ADJUSTED PURSUANT TO
43 ANY OTHER PROVISION OF THIS LAW. HOWEVER, NO SUCH INCREASE PURSUANT TO
44 PARAGRAPH (A) OF THIS SUBDIVISION SHALL BE AUTHORIZED UNTIL THE EXPIRA-
45 TION OF TWELVE MONTHS FROM THE EFFECTIVE DATE OF ANY RENT ADJUSTMENT
46 AUTHORIZED PURSUANT TO REGULATIONS ADOPTED FOR RENT ADJUSTMENTS TO
47 COMPENSATE FOR UNAVOIDABLE INCREASED COSTS OF OPERATIONS AS PROVIDED FOR
48 UNDER THIS LAW.

49 (C) MAXIMUM RATES OF RENT ADJUSTMENT SHALL NOT BE ESTABLISHED MORE
50 THAN ONCE ANNUALLY FOR ANY HOUSING ACCOMMODATION SUBJECT TO THIS LAW
51 WITHIN A BOARD'S JURISDICTION. ONCE ESTABLISHED, NO SUCH RATE SHALL BE
52 ADJUSTED BY ANY SURCHARGE, SUPPLEMENTARY ADJUSTMENT, REOPENER OR OTHER
53 MODIFICATION.

54 (D) NOTHING CONTAINED IN THIS SUBDIVISION OR IN SUBDIVISION D OF
55 SECTION 10 OF THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN
56 SEVENTY-FOUR SHALL ALTER, RESTRICT OR IMPAIR AN OWNER'S RIGHT TO ESTAB-

1 LISH THE INITIAL REGULATED RENT FOR ACCOMMODATIONS SUBJECT TO THIS LAW
2 WHICH BECOME VACANT.

3 S 13. Any reference in chapter 576 of the laws of 1974, constituting
4 the emergency tenant protection act of nineteen seventy-four, the admin-
5 istrative code of the city of New York, section 421-c of the real prop-
6 erty tax law or section 286 of the multiple dwelling law to "rent guide-
7 lines board" shall be deemed to refer to the rent board as provided in
8 this act. Any reference in chapter 576 of the laws of 1974, constituting
9 the emergency tenant protection act of nineteen seventy-four, or in the
10 administrative code of the city of New York to "rent guidelines" shall
11 be deemed to refer to rent adjustments as provided in this act. Any
12 reference in chapter 576 of the laws of 1974, constituting the emergency
13 tenant protection act of nineteen seventy-four, the administrative code
14 of the city of New York, the real property tax law or the public housing
15 law to "renewal lease" shall be deemed to refer to the statutory tenancy
16 as provided in this act.

17 S 14. If any provision of this act or the application thereof shall,
18 for any reason, be adjudged by any court of competent jurisdiction to be
19 invalid or unconstitutional, such judgment shall not affect, impair or
20 invalidate the remainder of this act, but shall be confined in its oper-
21 ation to the provision directly involved in the controversy in which the
22 judgment shall have been rendered; provided, however, that in the event
23 the entire system of rent control or stabilization shall be finally
24 adjudged invalid or unconstitutional by a court of competent jurisdic-
25 tion because of the operation of any provision of this act, such
26 provision shall be null, void and without effect, and all other
27 provisions of this act which can be given effect without such invalid
28 provision, as well as provisions of any other law relating to the
29 control or stabilization of rent, as in effect prior to the enactment of
30 this act and as otherwise amended by this act, shall continue in full
31 force and effect for the period of effectiveness set forth in section
32 26-520 of the rent stabilization law of nineteen hundred sixty-nine and
33 in section 17 of chapter 576 of the laws of 1974, constituting the emer-
34 gency tenant protection act of nineteen seventy-four, as amended.

35 S 15. This act shall take effect immediately, provided that the amend-
36 ments to sections 26-509, 26-510 and 26-511 of the rent stabilization
37 law of nineteen hundred sixty-nine made by sections three, four and six
38 of this act shall expire on the same date as such law expires and shall
39 not affect the expiration of such law as provided under section 26-520
40 of such law; and provided further that the amendments to sections 4, 10
41 and 10-a of the emergency tenant protection act of nineteen seventy-four
42 made by sections eight, ten and eleven of this act shall expire on the
43 same date as such act expires and shall not affect the expiration of
44 such act as provided in section 17 of chapter 576 of the laws of 1974,
45 as amended; and provided further that the rent boards as reconstituted
46 pursuant to sections four and eight of this act shall be appointed and
47 confirmed within sixty days after the effective date of this act and the
48 methodological and procedural changes made by sections four and eight of
49 this act shall become operational on October 1, 2009; and provided
50 further that the rent adjustments, if any, adopted in 2009 pursuant to
51 the rent stabilization law of nineteen hundred sixty-nine or the emer-
52 gency tenant protection act of nineteen seventy-four shall be effective
53 for annual rent adjustments commencing on January 1, 2010 and during the
54 next twelve months through December 31, 2010; and provided further that
55 the rent adjustments, if any, adopted in subsequent years pursuant to
56 the rent stabilization law of nineteen hundred sixty-nine or the emer-

1 gency tenant protection act of nineteen seventy-four shall be effective
2 for annual rent adjustments commencing on January first of each subse-
3 quent year and during the next succeeding twelve months thereafter
4 through December thirty-first of each such year; and provided that the
5 amendments to section 4 of the emergency housing rent control law made
6 by section twelve of this act shall expire on the same date as such law
7 expires and shall not affect the expiration of such law as provided in
8 subdivision 2 of section 1 of chapter 274 of the laws of 1946.