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

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I N A S S E M B L Y

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Introduced by M. of A. V. LOPEZ, GOTTFRIED, DINOWITZ, KAVANAGH -- Multi-Sponsored by -- M. of A. AUBRY, BOYLAND, COOK, GLICK, HOOPER, MILLMAN -- read once and referred to the Committee on Housing

AN ACT to amend the administrative code of the city of New York and the emergency housing rent control law, in relation to providing for the establishment of rent guidelines

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

Section 1. Subdivision a of section 26-405 of the administrative code of the city of New York is amended by adding a new paragraph 10 to read as follows:

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

(B) EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH, THE RENT GUIDELINES BOARD ESTABLISHED PURSUANT TO SECTION 26-510 OF THIS TITLE SHALL ESTABLISH ANNUAL GUIDELINES FOR THE CLASS OF HOUSING ACCOMMODATIONS SUBJECT TO THIS CHAPTER, IN THE MANNER PROVIDED BY SUCH SECTION. THE FACT THAT THE HOUSING ACCOMMODATION IS SUBJECT TO THIS CHAPTER MAY NOT BE CONSIDERED AS A FACTOR IN DETERMINING THE RATE OF RENT ADJUSTMENT. NOT LATER THAN OCTOBER FIRST, TWO THOUSAND TEN, AND NOT LATER THAN OCTOBER FIRST ANNUALLY THEREAFTER, THE RENT GUIDELINES BOARD SHALL FILE WITH THE CITY CLERK ITS FINDINGS ESTABLISHED IN CONSIDERATION OF THE ECONOMIC FACTORS LISTED IN SUBDIVISION B OF SECTION 26-510 OF THIS TITLE, AND SHALL ACCOMPANY SUCH FINDINGS WITH A STATEMENT OF THE MAXIMUM RATE OR RATES OF RENT ADJUSTMENT, IF ANY, FOR ONE OR MORE CLASSES OF ACCOMMODATIONS SUBJECT TO THIS CHAPTER AUTHORIZED FOR THE ADJUSTMENT OF THE MAXIMUM RENT OF THE HOUSING ACCOMMODATION FOR THE TWELVE MONTH PERIOD

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

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COMMENCING JANUARY FIRST, TWO THOUSAND ELEVEN AND FOR EACH SUCCEEDING TWELVE MONTH PERIOD.

(C) EFFECTIVE JANUARY FIRST, TWO THOUSAND ELEVEN, THE MAXIMUM RENT COLLECTIBLE FROM THE TENANT SHALL BE THE MAXIMUM RENT COLLECTIBLE ON DECEMBER THIRTY-FIRST, TWO THOUSAND TEN, INCLUDING ANY RENT ADJUSTMENTS THEN COLLECTIBLE PURSUANT TO SUBPARAGRAPH (N) OF PARAGRAPH ONE OF SUBDIVISION G OF THIS SECTION, AS SUCH RENT MAY BE ADJUSTED PURSUANT TO SUBPARAGRAPH (B) OF THIS PARAGRAPH ANNUALLY, WITHOUT AN ORDER OF THE CITY RENT AGENCY, OR AS ADJUSTED PURSUANT TO ANY OTHER PROVISION OF THIS CHAPTER, PROVIDED THAT WHERE THE LANDLORD WAS NOT GRANTED OR DID NOT APPLY OR QUALIFY FOR AN INCREASE IN MAXIMUM RENT PURSUANT TO PARAGRAPHS THREE AND FOUR OF THIS SUBDIVISION FOR THE YEARS NINETEEN HUNDRED NINETY-NINE, TWO THOUSAND, TWO THOUSAND ONE, TWO THOUSAND TWO, TWO THOUSAND THREE, TWO THOUSAND FOUR, TWO THOUSAND FIVE, TWO THOUSAND SIX, TWO THOUSAND SEVEN, TWO THOUSAND EIGHT OR TWO THOUSAND NINE A LANDLORD SHALL NOT COLLECT ANY RENT INCREASE OR ADJUSTMENT OTHERWISE COLLECTIBLE UNDER THIS SUBPARAGRAPH UNLESS AND UNTIL THE FIRST RENT PAYMENT DATE AFTER THE LANDLORD CERTIFIES TO THE CITY RENT AGENCY THAT ALL RENT IMPAIRING VIOLATIONS, AS DEFINED BY SECTION THREE HUNDRED TWO-A OF THE MULTIPLE DWELLING LAW, AND AT LEAST EIGHTY PER CENTUM OF ALL OTHER VIOLATIONS OF THE HOUSING MAINTENANCE CODE OR OTHER STATE OR LOCAL LAWS THAT IMPOSE REQUIREMENTS ON PROPERTY AND WHICH WERE RECORDED AGAINST THE PROPERTY ON JULY FIRST, TWO THOUSAND TEN, OR JULY FIRST OF THE YEAR PRECEDING THE ADJUSTMENT, WHICHEVER IS LATER, HAVE BEEN CLEARED, CORRECTED OR ABATED AND THE LANDLORD HAS RECEIVED A CERTIFICATE OF ELIGIBILITY FROM THE CITY RENT AGENCY THAT THE VIOLATION CLEARING REQUIREMENTS SET FORTH ABOVE HAVE BEEN MET AND FURTHER AUTHORIZING THE LANDLORD TO COLLECT ANY RENT INCREASE OR ADJUSTMENT AUTHORIZED PURSUANT TO THIS SUBPARAGRAPH, AND THE LANDLORD HAS SERVED SUCH CERTIFICATE UPON THE TENANT RESIDING IN THE HOUSING ACCOMMODATION.

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

(E) NOTHING CONTAINED IN THIS PARAGRAPH SHALL ALTER, RESTRICT OR IMPAIR AN OWNER'S RIGHT TO ESTABLISH THE INITIAL REGULATED RENT, SUBJECT TO THE PROVISIONS OF SECTION 26-513 OF THIS TITLE, FOR ACCOMMODATIONS SUBJECT TO THIS CHAPTER WHICH BECOME VACANT.

S 2. Paragraph 6 of subdivision h of section 26-405 of the administrative code of the city of New York is amended to read as follows:

(6) (A) If at least six months before the effective date of any adjustment or establishment of rents pursuant to paragraph three or four of subdivision a of this section, the landlord has not certified to the agency having jurisdiction that (a) all rent impairing violations (as defined by section three hundred two-a of the multiple dwelling law), and (b) at least eighty per centum of all other violations of the housing maintenance code or other state or local laws that impose requirements on property that were recorded against the property one year prior to such effective date have been cleared, corrected, or abated, no increase pursuant to such paragraphs shall take effect until he or she shall have entered into a written agreement with the city rent agency to deposit all income derived from the property into an escrow or trust account pursuant to subparagraph (a) of paragraph four of this subdivision, in addition to the procedures set forth in this paragraph and all other applicable penalties and procedures under this chapter, such

violation shall also be subject to repair or removal by the city pursuant to the provisions of article five of subchapter five of the housing maintenance code, the landlord to be liable for the cost thereof.

(B) ON OR AFTER JANUARY FIRST, TWO THOUSAND ELEVEN, TO BE ENTITLED TO COLLECT ANY ANNUAL RENT ADJUSTMENTS PURSUANT TO THE PROVISIONS OF PARAGRAPH TEN OF SUBDIVISION A OF THIS SECTION, A LANDLORD MUST FILE WITH THE CITY RENT AGENCY, AS PART OF EACH REGISTRATION REQUIRED PURSUANT TO SUBDIVISION K OF SECTION 26-409 OF THIS CHAPTER, A WRITTEN CERTIFICATION THAT HE OR SHE IS MAINTAINING AND WILL CONTINUE TO MAINTAIN SERVICES FURNISHED OR REQUIRED TO BE FURNISHED PURSUANT TO THIS CHAPTER OR REQUIRED TO BE FURNISHED BY ANY LAW, ORDINANCE OR REGULATION APPLICABLE TO THE PREMISES.

S 3. Section 26-409 of the administrative code of the city of New York is amended by adding a new subdivision k to read as follows:

K. EFFECTIVE JANUARY FIRST, TWO THOUSAND ELEVEN, THE CITY RENT AGENCY SHALL REQUIRE THE LANDLORD OF A BUILDING OR PROPERTY CONTAINING HOUSING ACCOMMODATIONS SUBJECT TO THIS CHAPTER, TO EXECUTE AND FILE REGISTRATION STATEMENTS WITH RESPECT TO SUCH HOUSING ACCOMMODATIONS AS FOLLOWS:

(1) EACH HOUSING ACCOMMODATION SHALL BE REGISTERED BY THE LANDLORD THEREOF ANNUALLY WITH THE CITY RENT AGENCY UPON FORMS AND IN SUCH MANNER AS SHALL BE PRESCRIBED BY THE CITY RENT AGENCY. AT SUCH TIME, A LANDLORD SHALL ALSO PROVIDE EACH TENANT THEN IN OCCUPANCY WITH A COPY OF THAT PORTION OF SUCH REGISTRATION STATEMENT AS PERTAINS TO THE TENANT'S UNIT BY PERSONAL DELIVERY WITH ACKNOWLEDGEMENT OF SERVICE, CERTIFIED OR REGISTERED MAIL, OR FIRST CLASS MAIL WITH OFFICIAL PROOF OF SERVICE.

(2) REGISTRATION PURSUANT TO THIS SUBDIVISION SHALL NOT BE SUBJECT TO THE FREEDOM OF INFORMATION LAW, PROVIDED THAT REGISTRATION INFORMATION RELATIVE TO A TENANT OR LANDLORD SHALL BE MADE AVAILABLE TO SUCH PARTY OR HIS OR HER AUTHORIZED REPRESENTATIVE.

(3) THE FAILURE TO FILE A PROPER AND TIMELY RENT REGISTRATION STATEMENT, PURSUANT TO THIS SUBDIVISION, SHALL, UNTIL SUCH TIME AS SUCH REGISTRATION IS FILED, BAR A LANDLORD FROM APPLYING FOR OR COLLECTING ANY RENT IN EXCESS OF THE MAXIMUM RENT IN EFFECT ON THE DATE OF THE LAST PRECEDING REGISTRATION STATEMENT OR IF NO SUCH STATEMENTS HAVE BEEN FILED, THE MAXIMUM RENT IN EFFECT ON THE DATE THAT THE HOUSING ACCOMMODATION BECAME SUBJECT TO THE REGISTRATION REQUIREMENTS OF THIS SUBDIVISION. THE FILING OF A LATE REGISTRATION SHALL RESULT IN THE PROSPECTIVE ELIMINATION OF SUCH SANCTIONS AND PROVIDED THAT INCREASES IN THE LEGAL REGULATED RENT WERE LAWFUL EXCEPT FOR THE FAILURE TO FILE A TIMELY REGISTRATION, THE OWNER, UPON THE SERVICE AND FILING OF A LATE REGISTRATION, SHALL NOT BE FOUND TO HAVE COLLECTED AN OVERCHARGE AT ANY TIME PRIOR TO THE FILING OF A LATE REGISTRATION. IF SUCH LATE REGISTRATION IS FILED SUBSEQUENT TO THE FILING OF AN OVERCHARGE COMPLAINT, THE OWNER SHALL BE ASSESSED A LATE FILING SURCHARGE FOR EACH LATE REGISTRATION IN AN AMOUNT EQUAL TO FIFTY PERCENT OF THE TIMELY RENT REGISTRATION FEE.

S 4. Section 4 of chapter 274 of the laws of 1946, constituting the emergency housing rent control law, is amended by adding a new subdivision 3-b to read as follows:

3-B. EFFECTIVE JANUARY 1, 2011, THE COMMISSION SHALL REQUIRE THE LANDLORD OF A BUILDING OR PROPERTY CONTAINING HOUSING ACCOMMODATIONS SUBJECT TO THIS CHAPTER, TO EXECUTE AND FILE REGISTRATION STATEMENTS WITH RESPECT TO SUCH HOUSING ACCOMMODATIONS AS FOLLOWS:

(1) EACH HOUSING ACCOMMODATION SHALL BE REGISTERED BY THE LANDLORD THEREOF ANNUALLY WITH THE COMMISSION UPON FORMS AND IN SUCH MANNER AS SHALL BE PRESCRIBED BY THE COMMISSION. AT SUCH TIME, A LANDLORD SHALL PROVIDE EACH TENANT THEN IN OCCUPANCY WITH A COPY OF THAT PORTION OF THE

REGISTRATION STATEMENT AS PERTAINS TO THE TENANT'S UNIT BY PERSONAL DELIVERY WITH ACKNOWLEDGEMENT OF SERVICE, CERTIFIED OR REGISTERED MAIL, OR FIRST CLASS MAIL WITH OFFICIAL PROOF OF SERVICE.

(2) REGISTRATION PURSUANT TO THIS SUBDIVISION SHALL NOT BE SUBJECT TO THE FREEDOM OF INFORMATION LAW, PROVIDED THAT REGISTRATION INFORMATION RELATIVE TO A TENANT OR LANDLORD SHALL BE MADE AVAILABLE TO SUCH PARTY OR HIS OR HER AUTHORIZED REPRESENTATIVE.

(3) FOR HOUSING ACCOMMODATIONS SUBJECT TO THIS ACT WHICH ARE SUBJECT TO RENT ADJUSTMENTS PURSUANT TO RENT GUIDELINES BOARD ORDERS, THE FAILURE TO FILE A PROPER AND TIMELY RENT REGISTRATION STATEMENT, PURSUANT TO THIS SUBDIVISION, SHALL, UNTIL SUCH TIME AS SUCH REGISTRATION IS FILED, BAR A LANDLORD FROM APPLYING FOR OR COLLECTING ANY RENT IN EXCESS OF THE MAXIMUM RENT IN EFFECT ON THE DATE OF THE LAST PRECEDING REGISTRATION STATEMENT OR IF NO SUCH STATEMENTS HAVE BEEN FILED, THE MAXIMUM RENT IN EFFECT ON THE DATE THAT THE HOUSING ACCOMMODATION BECAME SUBJECT TO THE REGISTRATION REQUIREMENTS OF THIS SUBDIVISION. THE FILING OF A LATE REGISTRATION SHALL RESULT IN THE PROSPECTIVE ELIMINATION OF SUCH SANCTIONS AND PROVIDED THAT INCREASES IN THE LEGAL REGULATED RENT WERE LAWFUL EXCEPT FOR THE FAILURE TO FILE A TIMELY REGISTRATION, THE OWNER, UPON THE SERVICE AND FILING OF A LATE REGISTRATION, SHALL NOT BE FOUND TO HAVE COLLECTED AN OVERCHARGE AT ANY TIME PRIOR TO THE FILING OF THE LATE REGISTRATION. IF SUCH LATE REGISTRATION IS FILED SUBSEQUENT TO THE FILING OF AN OVERCHARGE COMPLAINT, THE OWNER SHALL BE ASSESSED A LATE FILING SURCHARGE FOR EACH LATE REGISTRATION IN AN AMOUNT EQUAL TO FIFTY PERCENT OF THE TIMELY RENT REGISTRATION FEE.

S 5. Section 4 of chapter 274 of the laws of 1946, constituting the emergency housing rent control law, is amended by adding two new subdivisions 9 and 10 to read as follows:

9. NOTWITHSTANDING ANY CONTRARY PROVISIONS OF THIS ACT, EFFECTIVE JANUARY 1, 2011, EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, THE RENT FOR HOUSING ACCOMMODATIONS SUBJECT TO THIS ACT LOCATED IN THE COUNTIES OF WESTCHESTER AND NASSAU SHALL BE ADJUSTED AS FOLLOWS:

(A) THE RENT GUIDELINES BOARDS ESTABLISHED PURSUANT TO SECTION 4 OF SECTION 4 OF THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR, SHALL ESTABLISH ANNUAL GUIDELINES FOR THE CLASS OF HOUSING ACCOMMODATIONS SUBJECT TO THIS ACT LOCATED IN THE COUNTIES OF WESTCHESTER AND NASSAU, IN THE MANNER PROVIDED BY SUCH SECTION. THE FACT THAT THE HOUSING ACCOMMODATION IS SUBJECT TO THIS ACT MAY NOT BE CONSIDERED AS A FACTOR IN DETERMINING THE RATE OF RENT ADJUSTMENT. NOT LATER THAN OCTOBER 1, 2009, AND NOT LATER THAN OCTOBER FIRST ANNUALLY THEREAFTER, THE COUNTY GUIDELINES BOARDS SHALL FILE WITH THE COMMISSION THEIR FINDINGS ESTABLISHED IN CONSIDERATION OF THE ECONOMIC FACTORS LISTED IN SUBDIVISION B OF SECTION 4 OF SECTION 4 OF THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR, AND SHALL ACCOMPANY SUCH FINDINGS WITH A STATEMENT OF THE MAXIMUM RATE OR RATES OF RENT ADJUSTMENT, IF ANY, FOR ONE OR MORE CLASSES OF ACCOMMODATIONS SUBJECT TO THIS ACT WITHIN SUCH COUNTIES AUTHORIZED FOR THE ADJUSTMENT OF THE MAXIMUM RENT OF THE HOUSING ACCOMMODATION FOR THE TWELVE MONTH PERIOD COMMENCING JANUARY 1, 2011, AND FOR EACH SUCCEEDING TWELVE MONTH PERIOD.

(B) EFFECTIVE JANUARY 1, 2011, THE MAXIMUM RENT COLLECTIBLE FROM THE TENANT SHALL BE THE MAXIMUM RENT COLLECTIBLE ON DECEMBER 31, 2010, AS SUCH RENT MAY BE ADJUSTED PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION ANNUALLY, WITHOUT AN ORDER OF THE COMMISSION, OR AS ADJUSTED PURSUANT TO ANY OTHER PROVISION OF THIS ACT. HOWEVER, NO SUCH INCREASE PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION SHALL BE AUTHORIZED UNTIL THE EXPIRATION OF TWELVE MONTHS FROM THE EFFECTIVE DATE OF ANY RENT ADJUSTMENT

AUTHORIZED PURSUANT TO REGULATIONS ADOPTED FOR RENT ADJUSTMENTS TO COMPENSATE FOR UNAVOIDABLE INCREASED COSTS OF OPERATIONS AS PROVIDED FOR UNDER THIS ACT.

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

(D) NOTHING CONTAINED IN THIS PARAGRAPH SHALL ALTER, RESTRICT OR IMPAIR AN OWNER'S RIGHT TO ESTABLISH THE INITIAL REGULATED RENT FOR ACCOMMODATIONS SUBJECT TO THIS ACT WHICH BECOME VACANT.

10. ON OR AFTER JANUARY 1, 2011, TO BE ENTITLED TO COLLECT ANNUAL RENT ADJUSTMENTS AUTHORIZED PURSUANT TO THE PROVISIONS OF SUBDIVISION NINE OF THIS SECTION, A LANDLORD MUST FILE WITH THE COMMISSION, AS PART OF EACH REGISTRATION REQUIRED PURSUANT TO SUBDIVISION 3-B OF THIS SECTION, A WRITTEN CERTIFICATION THAT HE OR SHE IS MAINTAINING AND WILL CONTINUE TO MAINTAIN ALL SERVICES FURNISHED OR REQUIRED TO BE FURNISHED PURSUANT TO THIS ACT, OR ANY OTHER STATE OR LOCAL LAW, ORDINANCE OR REGULATION APPLICABLE TO THE PREMISES.

S 6. This act shall take effect immediately; provided that:

(a) the amendments to sections 26-405 and 26-409 of the city rent and rehabilitation law made by sections one, two and three of this act shall remain in full force and effect only as long as the public emergency requiring the regulation and control of residential rents and evictions continues, as provided in subdivision 3 of section 1 of the local emergency housing rent control act; and

(b) the amendments to section 4 of the emergency housing rent control law made by sections four and five of this act shall expire on the same date as such law expires and shall not affect the expiration of such law as provided in subdivision 2 of section 1 of chapter 274 of the laws of 1946.