

8212

2009-2010 Regular Sessions

I N A S S E M B L Y

May 7, 2009

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Introduced by M. of A. KOLB, BURLING, CALHOUN, ERRIGO, RAIA, TEDISCO --  
Multi-Sponsored by -- M. of A. BARCLAY, CROUCH, OAKS, SAYWARD -- read  
once and referred to the Committee on Housing

AN ACT to amend the emergency housing rent control law, the administrative code of the city of New York, the emergency tenant protection act of nineteen seventy-four and the tax law, in relation to eliminating rent regulation protections for certain high income tenants; to amend the emergency housing rent control law, the local emergency housing rent control act, the emergency tenant protection act of nineteen seventy-four and the administrative code of the city of New York, in relation to the de-regulation of rent-stabilized housing accommodations upon vacancy and to repeal certain provisions of the emergency housing rent control law, the administrative code of the city of New York and the emergency tenant protection act of nineteen seventy-four relating to eliminating rent regulation protections for certain high income tenants

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

1 Section 1. Paragraph (m) of subdivision 2 of section 2 of chapter 274  
2 of the laws of 1946, constituting the emergency housing rent control  
3 law, as amended by chapter 116 of the laws of 1997, is amended to read  
4 as follows:  
5 (m) upon the issuance of an order of decontrol by the division, hous-  
6 ing accommodations which[: (1)] are occupied by persons who have a total  
7 annual income in excess of one hundred [seventy-five] TWENTY-FIVE thou-  
8 sand dollars in each of the two preceding calendar years, as defined in  
9 and subject to the limitations and process set forth in section two-a of  
10 this law[; and (2) have a maximum rent of two thousand dollars or more  
11 per month].

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

LBD11497-01-9

1 S 2. Paragraph (n) of subdivision 2 of section 2 of chapter 274 of the  
2 laws of 1946 constituting the emergency housing rent control law is  
3 REPEALED.

4 S 3. Section 2-a of chapter 274 of the laws of 1946, constituting the  
5 emergency housing rent control law, as added by chapter 253 of the laws  
6 of 1993, subdivision (b), paragraphs 1 and 2 of subdivision (c) as  
7 amended and subdivision (e) as added by chapter 116 of the laws of 1997,  
8 is amended to read as follows:

9 S 2-a. (a) For purposes of this section, annual income shall mean the  
10 federal [adjusted] gross income as reported on the New York state income  
11 tax return. Total annual income means the sum of the annual incomes of  
12 all persons who occupy the housing accommodation as their primary resi-  
13 dence on other than a temporary basis, excluding bona fide employees of  
14 such occupants residing therein in connection with such employment and  
15 excluding bona fide subtenants in occupancy pursuant to the provisions  
16 of section two hundred twenty-six-b of the real property law. In the  
17 case where a housing accommodation is sublet, the annual income of the  
18 sublessor shall be considered.

19 (b) On or before the first day of May in each calendar year, the owner  
20 of each housing accommodation [for which the maximum rent is two thou-  
21 sand dollars or more per month] WHICH IS OCCUPIED BY A TENANT OR TENANTS  
22 WHOM THE OWNER IN GOOD FAITH BELIEVES HAS A TOTAL ANNUAL INCOME IN  
23 EXCESS OF ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS IN EACH OF THE TWO  
24 PRECEDING CALENDAR YEARS may provide the tenant or tenants residing  
25 therein with an income certification form prepared by the division of  
26 housing and community renewal on which such tenant or tenants shall  
27 identify all persons referred to in subdivision (a) of this section and  
28 shall certify whether the total annual income is in excess of one  
29 hundred [seventy-five] TWENTY-FIVE thousand dollars in each of the two  
30 preceding calendar years. Such income certification form shall state  
31 that the income level certified to by the tenant may be subject to  
32 verification by the department of taxation and finance pursuant to  
33 section one hundred seventy-one-b of the tax law and shall not require  
34 disclosure of any income information other than whether the aforemen-  
35 tioned threshold has been exceeded. Such income certification form shall  
36 clearly state that: (i) [only tenants residing in housing accommodations  
37 which had a maximum rent of two thousand dollars or more per month are  
38 required to complete the certification form; (ii) that] tenants have  
39 protections available to them which are designed to prevent harassment;  
40 [(iii) that] (II) tenants are not required to provide any information  
41 regarding their income except that which is requested on the form and  
42 may contain such other information the division deems appropriate. The  
43 tenant or tenants shall return the completed certification to the owner  
44 within thirty days after service upon the tenant or tenants. In the  
45 event that the total annual income as certified is in excess of one  
46 hundred [seventy-five] TWENTY-FIVE thousand dollars in each such year,  
47 the owner may file the certification with the state division of housing  
48 and community renewal on or before June thirtieth of such year. Upon  
49 filing such certification with the division, the division shall, within  
50 thirty days after the filing, issue an order of decontrol providing that  
51 such housing accommodations shall not be subject to the provisions of  
52 this law as of the first day of June in the year next succeeding the  
53 filing of the certification by the owner. A copy of such order shall be  
54 mailed by regular and certified mail, return receipt requested, to the  
55 tenant or tenants and a copy thereof shall be mailed to the owner.

1 (c) 1. In the event that the tenant or tenants either fail to return  
2 the completed certification to the owner on or before the date required  
3 by subdivision (b) of this section or the owner disputes the certifi-  
4 cation returned by the tenant or tenants, the owner may, on or before  
5 June thirtieth of such year, petition the state division of housing and  
6 community renewal to verify, pursuant to section one hundred seventy-  
7 one-b of the tax law, whether the total annual income exceeds one  
8 hundred [seventy-five] TWENTY-FIVE thousand dollars in each of the two  
9 preceding calendar years. Within twenty days after the filing of such  
10 request with the division, the division shall notify the tenant or  
11 tenants that such tenant or tenants must provide the division with such  
12 information as the division and the department of taxation and finance  
13 shall require to verify whether the total annual income exceeds one  
14 hundred [seventy-five] TWENTY-FIVE thousand dollars in each such year.  
15 The division's notification shall require the tenant or tenants to  
16 provide the information to the division within sixty days of service  
17 upon such tenant or tenants and shall include a warning in bold faced  
18 type that failure to respond will result in an order of decontrol being  
19 issued by the division for such housing accommodation.

20 2. If the department of taxation and finance determines that the total  
21 annual income is in excess of one hundred [seventy-five] TWENTY-FIVE  
22 thousand dollars in each of the two preceding calendar years, the divi-  
23 sion shall, on or before November fifteenth of such year, notify the  
24 owner and tenants of the results of such verification. Both the owner  
25 and the tenants shall have thirty days within which to comment on such  
26 verification results. Within forty-five days after the expiration of  
27 the comment period, the division shall, where appropriate, issue an  
28 order of decontrol providing that such housing accommodation shall not  
29 be subject to the provisions of this law as of the first day of March in  
30 the year next succeeding the filing of the owner's petition with the  
31 division. A copy of such order shall be mailed by regular and certified  
32 mail, return receipt requested, to the tenant or tenants and a copy  
33 thereof shall be sent to the owner. WHERE THE DEPARTMENT OF TAXATION  
34 AND FINANCE IS UNABLE TO DETERMINE, BASED UPON THE INFORMATION CONTAINED  
35 IN THE INFORMATION PROVIDED BY THE TENANT, WHETHER THE TOTAL ANNUAL  
36 INCOME IS IN EXCESS OF ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS IN EACH  
37 OF THE TWO PRECEDING CALENDAR YEARS, IT SHALL BE PRESUMED THAT THE TOTAL  
38 ANNUAL INCOME OF SUCH TENANT IS IN EXCESS OF ONE HUNDRED TWENTY-FIVE  
39 THOUSAND DOLLARS IN EACH OF THE TWO PRECEDING CALENDAR YEARS AND THE  
40 PROCEDURES OF THIS PARAGRAPH SHALL APPLY TO SUCH TENANT. THE DIVISION OF  
41 HOUSING AND COMMUNITY RENEWAL SHALL PROMULGATE REGULATIONS WHICH SET  
42 FORTH THE MANNER IN WHICH SUCH TENANT MAY REBUT SUCH PRESUMPTION.

43 3. In the event the tenant or tenants fail to provide the information  
44 required pursuant to paragraph one of this subdivision, the division  
45 shall issue, on or before December first of such year, an order of  
46 decontrol providing that such housing accommodation shall not be subject  
47 to the provisions of this law as of the first day of March in the year  
48 next succeeding the last day on which the tenant or tenants were  
49 required to provide the information required by such paragraph. A copy  
50 of such order shall be mailed by regular and certified mail, return  
51 receipt requested, to the tenant or tenants and a copy thereof shall be  
52 sent to the owner.

53 4. The provisions of the state freedom of information act shall not  
54 apply to any income information obtained by the division pursuant to  
55 this section.

1 (d) This section shall apply only to paragraph (m) of subdivision two  
2 of section two of this law.

3 (e) Upon receipt of such order of decontrol pursuant to this section,  
4 an owner shall offer the housing accommodation subject to such order to  
5 the tenant at a rent not in excess of the market rent, which for the  
6 purposes of this section means a rent obtainable in an arm's length  
7 transaction. Such rental offer shall be made by the owner in writing to  
8 the tenant by certified and regular mail and shall inform the tenant  
9 that such offer must be accepted in writing within ten days of receipt.  
10 The tenant shall respond within ten days after receipt of such offer. If  
11 the tenant declines the offer or fails to respond within such period,  
12 the owner may commence an action or proceeding for the eviction of such  
13 tenant.

14 S 4. Subparagraph (j) of paragraph 2 of subdivision e of section  
15 26-403 of the administrative code of the city of New York, as amended by  
16 chapter 116 of the laws of 1997, is amended to read as follows:

17 (j) Upon the issuance of an order of decontrol by the division, hous-  
18 ing accommodations which[: (1)] are occupied by persons who have a total  
19 annual income in excess of one hundred [seventy-five] TWENTY-FIVE thou-  
20 sand dollars per annum in each of the two preceding calendar years, as  
21 defined in and subject to the limitations and process set forth in  
22 section 26-403.1 of this chapter[; and (2) have a maximum rent of two  
23 thousand dollars or more per month]. Provided however, that this exclu-  
24 sion shall not apply to housing accommodations which became or become  
25 subject to this law by virtue of receiving tax benefits pursuant to  
26 section four hundred eighty-nine of the real property tax law.

27 S 5. Subparagraph (k) of paragraph 2 of subdivision e of section  
28 26-403 of the administrative code of the city of New York is REPEALED.

29 S 6. Section 26-403.1 of the administrative code of the city of New  
30 York, as added by chapter 253 of the laws of 1993, subdivision (b) and  
31 paragraphs 1 and 2 of subdivision (c) as amended and subdivision (e) as  
32 added by chapter 116 of the laws of 1997, is amended to read as follows:

33 S 26-403.1 High income rent decontrol. (a) For purposes of this  
34 section, annual income shall mean the federal [adjusted] gross income as  
35 reported on the New York state income tax return. Total annual income  
36 means the sum of the annual incomes of all persons who occupy the hous-  
37 ing accommodation as their primary residence other than on a temporary  
38 basis, excluding bona fide employees of such occupants residing therein  
39 in connection with such employment and excluding bona fide subtenants in  
40 occupancy pursuant to the provisions of section two hundred  
41 twenty-six-b of the real property law. In the case where a housing  
42 accommodation is sublet, the annual income of the sublessor shall be  
43 considered.

44 (b) On or before the first day of May in each calendar year, the owner  
45 of each housing accommodation [for which the maximum rent is two thou-  
46 sand dollars or more per month] WHICH IS OCCUPIED BY A TENANT OR TENANTS  
47 WHOM THE OWNER IN GOOD FAITH BELIEVES HAS A TOTAL ANNUAL INCOME IN  
48 EXCESS OF ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS IN EACH OF THE TWO  
49 PRECEDING CALENDAR YEARS may provide the tenant or tenants residing  
50 therein with an income certification form prepared by the division of  
51 housing and community renewal on which such tenant or tenants shall  
52 identify all persons referred to in subdivision (a) of this section and  
53 shall certify whether the total annual income is in excess of one  
54 hundred [seventy-five] TWENTY-FIVE thousand dollars in each of the two  
55 preceding calendar years. Such income certification form shall state  
56 that the income level certified to by the tenant may be subject to

1 verification by the department of taxation and finance pursuant to  
2 section one hundred seventy-one-b of the tax law and shall not require  
3 disclosure of any income information other than whether the aforemen-  
4 tioned threshold has been exceeded. Such income certification form  
5 shall clearly state that: (i) [only tenants residing in housing accommo-  
6 dations which have a maximum rent of two thousand dollars or more per  
7 month are required to complete the certification form; (ii) that]  
8 tenants have protections available to them which are designed to prevent  
9 harassment; [(iii) that] (II) tenants are not required to provide any  
10 information regarding their income except that which is requested on the  
11 form and may contain such other information the division deems appropri-  
12 ate. The tenant or tenants shall return the completed certification to  
13 the owner within thirty days after service upon the tenant or tenants.  
14 In the event that the total annual income as certified is in excess of  
15 one hundred [seventy-five] TWENTY-FIVE thousand dollars in each such  
16 year, the owner may file the certification with the state division of  
17 housing and community renewal on or before June thirtieth of such year.  
18 Upon filing such certification with the division, the division shall,  
19 within thirty days after the filing, issue an order of decontrol provid-  
20 ing that such housing accommodations shall not be subject to the  
21 provisions of this law as of the first day of June in the year next  
22 succeeding the filing of the certification by the owner. A copy of such  
23 order shall be mailed by regular and certified mail, return receipt  
24 requested, to the tenant or tenants and a copy thereof shall be mailed  
25 to the owner.

26 (c) 1. In the event that the tenant or tenants either fail to return  
27 the completed certification to the owner on or before the date required  
28 by subdivision (b) of this section or the owner disputes the certifi-  
29 cation returned by the tenant or tenants, the owner may, on or before  
30 June thirtieth of such year, petition the state division of housing and  
31 community renewal to verify, pursuant to section one hundred seventy-  
32 one-b of the tax law, whether the total annual income exceeds one  
33 hundred [seventy-five] TWENTY-FIVE thousand dollars in each of the two  
34 preceding calendar years. Within twenty days after the filing of such  
35 request with the division, the division shall notify the tenant or  
36 tenants that such tenant or tenants must provide the division with such  
37 information as the division and the department of taxation and finance  
38 shall require to verify whether the total annual income exceeds one  
39 hundred [seventy-five] TWENTY-FIVE thousand dollars in each such year.  
40 The division's notification shall require the tenant or tenants to  
41 provide the information to the division within sixty days of service  
42 upon such tenant or tenants and shall include a warning in bold faced  
43 type that failure to respond will result in an order of decontrol being  
44 issued by the division for such housing accommodation.

45 2. If the department of taxation and finance determines that the total  
46 annual income is in excess of one hundred [seventy-five] TWENTY-FIVE  
47 thousand dollars in each of the two preceding calendar years, the divi-  
48 sion shall, on or before November fifteenth of such year, notify the  
49 owner and tenants of the results of such verification. Both the owner  
50 and the tenants shall have thirty days within which to comment on such  
51 verification results. Within forty-five days after the expiration of the  
52 comment period, the division shall, where appropriate, issue an order of  
53 decontrol providing that such housing accommodation shall not be subject  
54 to the provisions of this law as of the first day of March in the year  
55 next succeeding the filing of the owner's petition with the division. A  
56 copy of such order shall be mailed by regular and certified mail, return

1 receipt requested, to the tenant or tenants and a copy thereof shall be  
2 sent to the owner. WHERE THE DEPARTMENT OF TAXATION AND FINANCE IS  
3 UNABLE TO DETERMINE, BASED UPON THE INFORMATION CONTAINED IN THE INFOR-  
4 MATION PROVIDED BY THE TENANT, WHETHER THE TOTAL ANNUAL INCOME IS IN  
5 EXCESS OF ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS IN EACH OF THE TWO  
6 PRECEDING CALENDAR YEARS, IT SHALL BE PRESUMED THAT THE TOTAL ANNUAL  
7 INCOME OF SUCH TENANT IS IN EXCESS OF ONE HUNDRED TWENTY-FIVE THOUSAND  
8 DOLLARS IN EACH OF THE TWO PRECEDING CALENDAR YEARS AND THE PROCEDURES  
9 OF THIS PARAGRAPH SHALL APPLY TO SUCH TENANT. THE DIVISION OF HOUSING  
10 AND COMMUNITY RENEWAL SHALL PROMULGATE REGULATIONS WHICH SET FORTH THE  
11 MANNER IN WHICH SUCH TENANT MAY REBUT SUCH PRESUMPTION.

12 3. In the event the tenant or tenants fail to provide the information  
13 required pursuant to paragraph one of this subdivision, the division  
14 shall issue, on or before December first of such year, an order of  
15 decontrol providing that such housing accommodation shall not be subject  
16 to the provisions of this law as of the first day of March in the year  
17 next succeeding the last day on which the tenant or tenants were  
18 required to provide the information required by such paragraph. A copy  
19 of such order shall be mailed by regular and certified mail, return  
20 receipt requested, to the tenant or tenants and a copy thereof shall be  
21 sent to the owner.

22 4. The provisions of the state freedom of information act shall not  
23 apply to any income information obtained by the division pursuant to  
24 this section.

25 (d) This section shall apply only to subparagraph (j) of paragraph two  
26 of subdivision e of section 26-403 of this code.

27 (e) Upon receipt of such order of decontrol pursuant to this section,  
28 an owner shall offer the housing accommodation subject to such order to  
29 the tenant at a rent not in excess of the market rent, which for the  
30 purposes of this section means a rent obtainable in an arm's length  
31 transaction. Such rental offer shall be made by the owner in writing to  
32 the tenant by certified and regular mail and shall inform the tenant  
33 that such offer must be accepted in writing within ten days of receipt.  
34 The tenant shall respond within ten days after receipt of such offer. If  
35 the tenant declines the offer or fails to respond within such period,  
36 the owner may commence an action or proceeding for the eviction of such  
37 tenant.

38 S 7. Paragraph 12 of subdivision a of section 5 of section 4 of chap-  
39 ter 576 of the laws of 1974 constituting the emergency tenant protection  
40 act of nineteen seventy-four, as amended by chapter 116 of the laws of  
41 1997, is amended to read as follows:

42 (12) upon issuance of an order by the division, housing accommodations  
43 which are[: (1)] occupied by persons who have a total annual income in  
44 excess of one hundred [seventy-five] TWENTY-FIVE thousand dollars per  
45 annum in each of the two preceding calendar years, as defined in and  
46 subject to the limitations and process set forth in section five-a of  
47 this act[; and (2) have a legal regulated rent of two thousand dollars  
48 or more per month]. Provided however, that this exclusion shall not  
49 apply to housing accommodations which became or become subject to this  
50 act (a) by virtue of receiving tax benefits pursuant to section four  
51 hundred twenty-one-a or four hundred eighty-nine of the real property  
52 tax law, except as otherwise provided in subparagraph (i) of paragraph  
53 (f) of subdivision two of section four hundred twenty-one-a of the real  
54 property tax law, or (b) by virtue of article seven-C of the multiple  
55 dwelling law.

1 S 8. Paragraph 13 of subdivision a of section 5 of section 4 of chap-  
2 ter 576 of the laws of 1974 constituting the emergency tenant protection  
3 act of nineteen seventy-four is REPEALED.

4 S 9. Section 5-a of section 4 of chapter 576 of the laws of 1974,  
5 constituting the emergency tenant protection act of nineteen seventy-  
6 four, as added by chapter 253 of the laws of 1993, subdivision (b) and  
7 paragraphs 1 and 2 of subdivision (c) as amended and subdivision (e) as  
8 added by chapter 116 of the laws of 1997, is amended to read as follows:

9 S 5-a. High income rent decontrol. (a) For purposes of this section,  
10 annual income shall mean the federal [adjusted] gross income as reported  
11 on the New York state income tax return. Total annual income means the  
12 sum of the annual incomes of all persons whose names are recited as the  
13 tenant or co-tenant on a lease who occupy the housing accommodation and  
14 all other persons that occupy the housing accommodation as their primary  
15 residence on other than a temporary basis, excluding bona fide employees  
16 of such occupants residing therein in connection with such employment  
17 and excluding bona fide subtenants in occupancy pursuant to the  
18 provisions of section two hundred twenty-six-b of the real property law.  
19 In the case where a housing accommodation is sublet, the annual income  
20 of the tenant or co-tenant recited on the lease who will reoccupy the  
21 housing accommodation upon the expiration of the sublease shall be  
22 considered.

23 (b) On or before the first day of May in each calendar year, the owner  
24 of each housing accommodation [for which the legal regulated rent is two  
25 thousand dollars or more per month] WHICH IS OCCUPIED BY A TENANT OR  
26 TENANTS WHOM THE OWNER IN GOOD FAITH BELIEVES HAS A TOTAL ANNUAL INCOME  
27 IN EXCESS OF ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS IN EACH OF THE TWO  
28 PRECEDING CALENDAR YEARS may provide the tenant or tenants residing  
29 therein with an income certification form prepared by the division of  
30 housing and community renewal on which such tenant or tenants shall  
31 identify all persons referred to in subdivision (a) of this section and  
32 shall certify whether the total annual income is in excess of one  
33 hundred [seventy-five] TWENTY-FIVE thousand dollars in each of the two  
34 preceding calendar years. Such income certification form shall state  
35 that the income level certified to by the tenant may be subject to  
36 verification by the department of taxation and finance pursuant to  
37 section one hundred seventy-one-b of the tax law, and shall not require  
38 disclosure of any information other than whether the aforementioned  
39 threshold has been exceeded. Such income certification form shall  
40 clearly state that: (i) [only tenants residing in housing accommodations  
41 which had a legal regulated rent of two thousand dollars or more per  
42 month are required to complete the certification form; (ii) that]  
43 tenants have protections available to them which are designed to prevent  
44 harassment; [(iii) that] (II) tenants are not required to provide any  
45 information regarding their income except that which is requested on the  
46 form and may contain such other information the division deems appropri-  
47 ate. The tenant or tenants shall return the completed certification to  
48 the owner within thirty days after service upon the tenant or tenants.  
49 In the event that the total annual income as certified is in excess of  
50 one hundred [seventy-five] TWENTY-FIVE thousand dollars in each such  
51 year, the owner may file the certification with the state division of  
52 housing and community renewal on or before June thirtieth of such year.  
53 Upon filing such certification with the division, the division shall,  
54 within thirty days after the filing, issue an order providing that such  
55 housing accommodation shall not be subject to the provisions of this act  
56 upon the expiration of the existing lease. A copy of such order shall

1 be mailed by regular and certified mail, return receipt requested, to  
2 the tenant or tenants and a copy thereof shall be mailed to the owner.

3 (c) 1. In the event that the tenant or tenants either fail to return  
4 the completed certification to the owner on or before the date required  
5 by subdivision (b) of this section or the owner disputes the certifi-  
6 cation returned by the tenant or tenants, the owner may, on or before  
7 June thirtieth of such year, petition the state division of housing and  
8 community renewal to verify, pursuant to section one hundred seventy-  
9 one-b of the tax law, whether the total annual income exceeds one  
10 hundred [seventy-five] TWENTY-FIVE thousand dollars in each of the two  
11 preceding calendar years. Within twenty days after the filing of such  
12 request with the division, the division shall notify the tenant or  
13 tenants that such tenant or tenants named on the lease must provide the  
14 division with such information as the division and the department of  
15 taxation and finance shall require to verify whether the total annual  
16 income exceeds one hundred [seventy-five] TWENTY-FIVE thousand dollars  
17 in each such year. The division's notification shall require the tenant  
18 or tenants to provide the information to the division within sixty days  
19 of service upon such tenant or tenants and shall include a warning in  
20 bold faced type that failure to respond will result in an order being  
21 issued by the division providing that such housing accommodations shall  
22 not be subject to the provisions of this act.

23 2. If the department of taxation and finance determines that the total  
24 annual income is in excess of one hundred [seventy-five] TWENTY-FIVE  
25 thousand dollars in each of the two preceding calendar years, the divi-  
26 sion shall, on or before November fifteenth of such year, notify the  
27 owner and tenants of the results of such verification. Both the owner  
28 and the tenants shall have thirty days within which to comment on such  
29 verification results. Within forty-five days after the expiration of the  
30 comment period, the division shall, where appropriate, issue an order  
31 providing that such housing accommodation shall not be subject to the  
32 provisions of this act upon expiration of the existing lease. A copy of  
33 such order shall be mailed by regular and certified mail, return receipt  
34 requested, to the tenant or tenants and a copy thereof shall be sent to  
35 the owner. WHERE THE DEPARTMENT OF TAXATION AND FINANCE IS UNABLE TO  
36 DETERMINE, BASED UPON THE INFORMATION CONTAINED IN THE INFORMATION  
37 PROVIDED BY THE TENANT, WHETHER THE TOTAL ANNUAL INCOME IS IN EXCESS OF  
38 ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS IN EACH OF THE TWO PRECEDING  
39 CALENDAR YEARS, IT SHALL BE PRESUMED THAT THE TOTAL ANNUAL INCOME OF  
40 SUCH TENANT IS IN EXCESS OF ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS IN  
41 EACH OF THE TWO PRECEDING CALENDAR YEARS AND THE PROCEDURES OF THIS  
42 PARAGRAPH SHALL APPLY TO SUCH TENANT. THE DIVISION OF HOUSING AND COMMU-  
43 NITY RENEWAL SHALL PROMULGATE REGULATIONS WHICH SET FORTH THE MANNER IN  
44 WHICH SUCH TENANT MAY REBUT SUCH PRESUMPTION.

45 3. In the event the tenant or tenants fail to provide the information  
46 required pursuant to paragraph one of this subdivision, the division  
47 shall issue, on or before December first of such year, an order provid-  
48 ing that such housing accommodation shall not be subject to the  
49 provisions of this act upon the expiration [or] OF the current lease. A  
50 copy of such order shall be mailed by regular and certified mail, return  
51 receipt requested, to the tenant or tenants and a copy thereof shall be  
52 sent to the owner.

53 4. The provisions of the state freedom of information act shall not  
54 apply to any income information obtained by the division pursuant to  
55 this section.

1 (d) This section shall apply only to paragraph twelve of subdivision a  
2 of section five of this act.

3 (e) Upon receipt of such order of decontrol pursuant to this section,  
4 an owner shall offer the housing accommodation subject to such order to  
5 the tenant at a rent not in excess of the market rent, which for the  
6 purposes of this section means a rent obtainable in an arm's length  
7 transaction. Such rental offer shall be made by the owner in writing to  
8 the tenant by certified and regular mail and shall inform the tenant  
9 that such offer must be accepted in writing within ten days of receipt.  
10 The tenant shall respond within ten days after receipt of such offer. If  
11 the tenant declines the offer or fails to respond within such period,  
12 the owner may commence an action or proceeding for the eviction of such  
13 tenant.

14 S 10. Paragraph (b) of subdivision 3 of section 171-b of the tax law,  
15 as amended by chapter 116 of the laws of 1997, is amended to read as  
16 follows:

17 (b) The department, when requested by the division of housing and  
18 community renewal, shall verify the total annual income of all persons  
19 residing in housing accommodations as their primary residence subject to  
20 rent regulation and shall notify the commissioner of the division of  
21 housing and community renewal as may be appropriate whether the total  
22 annual income exceeds one hundred [seventy-five] TWENTY-FIVE thousand  
23 dollars per annum in each of the two preceding calendar years. No other  
24 information regarding the annual income of such persons shall be  
25 provided.

26 S 11. Paragraph (i) of subdivision 2 of section 2 of chapter 274 of  
27 the laws of 1946, constituting the emergency housing rent control law,  
28 as amended by chapter 576 of the laws of 1974, is amended to read as  
29 follows:

30 (i) housing accommodations which become vacant ON AND AFTER JUNE  
31 SIXTEENTH, TWO THOUSAND TEN, provided, however, that this exemption  
32 shall not apply or become effective where the commission determines or  
33 finds that the housing accommodations became vacant because the landlord  
34 or any person acting on his behalf, with intent to cause the tenant to  
35 vacate, engaged in any course of conduct (including, but not limited to,  
36 interruption or discontinuance of essential services) which interfered  
37 with or disturbed or was intended to interfere with or disturb the  
38 comfort, repose, peace or quiet of the tenant in his use or occupancy of  
39 the housing accommodations; [and further provided that housing accommo-  
40 dations as to which a housing emergency has been declared pursuant to  
41 the emergency tenant protection act of nineteen seventy-four shall be  
42 subject to the provisions of such act for the duration of such emergen-  
43 cy;] or

44 S 12. The second undesignated paragraph of subdivision 5 of section 1  
45 of chapter 21 of the laws of 1962, constituting the local emergency  
46 housing rent control act, as amended by chapter 82 of the laws of 2003,  
47 is amended to read as follows:

48 Notwithstanding any local law or ordinance, housing accommodations  
49 which [became] BECOME vacant on or after [July first, nineteen hundred  
50 seventy-one or which hereafter become vacant] JUNE SIXTEENTH, TWO THOU-  
51 SAND TEN shall be [subject to the provisions of the emergency tenant  
52 protection act of nineteen seventy-four] EXEMPT FROM REGULATION AND  
53 CONTROL, provided, however, that this [provision] EXEMPTION shall not  
54 apply or become effective with respect to housing accommodations which,  
55 by local law or ordinance, are made directly subject to regulation and  
56 control by a city housing rent agency and such agency determines or

1 finds that the housing accommodations became vacant because the landlord  
2 or any person acting on his behalf, with intent to cause the tenant to  
3 vacate, engaged in any course of conduct (including but not limited to,  
4 interruption or discontinuance of essential services) which interfered  
5 with or disturbed or was intended to interfere with or disturb the  
6 comfort, repose, peace or quiet of the tenant in his use or occupancy of  
7 the housing accommodations. The removal of any housing accommodation  
8 from regulation and control of rents pursuant to the vacancy exemption  
9 provided for in this paragraph shall not constitute or operate as a  
10 ground for the subjection to more stringent regulation and control of  
11 any housing accommodation in such property or in any other property  
12 owned by the same landlord, notwithstanding any prior agreement to the  
13 contrary by the landlord. The vacancy exemption provided for in this  
14 paragraph shall not arise with respect to any rented plot or parcel of  
15 land otherwise subject to the provisions of this act, by reason of a  
16 transfer of title and possession occurring on or after July first, nine-  
17 teen hundred seventy-one of a dwelling located on such plot or parcel  
18 and owned by the tenant where such transfer of title and possession is  
19 made to a member of the tenant's immediate family provided that the  
20 member of the tenant's immediate family occupies the dwelling with the  
21 tenant prior to the transfer of title and possession for a continuous  
22 period of two years.

23 S 13. Paragraph (h) of subdivision 10 of section 1 of chapter 21 of  
24 the laws of 1962, constituting the local emergency housing rent control  
25 act, as amended by chapter 576 of the laws of 1974, is amended to read  
26 as follows:

27 (h) Any tenant who has vacated his housing accommodations because the  
28 landlord or any person acting on his behalf, with intent to cause the  
29 tenant to vacate, engaged in any course of conduct (including but not  
30 limited to, interruption or discontinuance of essential services) which  
31 interfered with or disturbed or was intended to interfere with or  
32 disturb the comfort, repose, peace or quiet of the tenant in his use or  
33 occupancy of the housing accommodations may, within ninety days after  
34 vacating, apply for a determination that the housing accommodations were  
35 vacated as a result of such conduct, and may, within one year after such  
36 determination, institute a civil action against the landlord by reason  
37 of such conduct. Application for such determination may be made to the  
38 [city housing rent agency with respect to housing accommodations which,  
39 by local law or ordinance, are made directly subject to regulation and  
40 control by such agency. For all other housing accommodations subject to  
41 regulation and control pursuant to the New York city rent stabilization  
42 law of nineteen hundred sixty-nine, application for such determination  
43 may be made to the New York city conciliation and appeals board. For the  
44 purpose of making and enforcing any determination of the New York city  
45 conciliation and appeals board as herein provided, the provisions of  
46 sections seven, eight and ten, whenever they refer to the city housing  
47 rent agency, shall be deemed to refer to such board] STATE DIVISION OF  
48 HOUSING AND COMMUNITY RENEWAL. In such action the landlord shall be  
49 liable to the tenant for three times the damages sustained on account of  
50 such conduct plus reasonable attorney's fees and costs as determined by  
51 the court. In addition to any other damages the cost of removal of prop-  
52 erty shall be a lawful measure of damages.

53 S 14. Subdivision a of section 5 of section 4 of chapter 576 of the  
54 laws of 1974, constituting the emergency tenant protection act of nine-  
55 teen seventy-four, is amended by adding a new paragraph 3-a to read as  
56 follows:

1 (3-A) HOUSING ACCOMMODATIONS WHICH BECOME VACANT ON OR AFTER JUNE  
2 SIXTEENTH, TWO THOUSAND TEN, PROVIDED, HOWEVER, THAT THIS EXCEPTION  
3 SHALL NOT APPLY TO OR BECOME EFFECTIVE WITH RESPECT TO HOUSING ACCOMMO-  
4 DATIONS WHICH THE COMMISSIONER DETERMINES OR FINDS BECAME VACANT BECAUSE  
5 THE LANDLORD OR ANY PERSON ACTING ON HIS OR HER BEHALF, WITH INTENT TO  
6 CAUSE THE TENANT TO VACATE, ENGAGED IN ANY COURSE OF CONDUCT (INCLUDING,  
7 BUT NOT LIMITED TO, INTERRUPTION OR DISCONTINUANCE OF REQUIRED SERVICES)  
8 WHICH INTERFERED WITH OR DISTURBED OR WAS INTENDED TO INTERFERE IN HIS  
9 OR HER USE OR OCCUPANCY OF THE HOUSING ACCOMMODATIONS.

10 S 15. Section 26-504 of the administrative code of the city of New  
11 York is amended by adding a new subdivision d to read as follows:

12 D. NOTWITHSTANDING ANY OF THE PROVISIONS OF THIS SECTION OR TITLE OR  
13 ANY OTHER PROVISIONS OF LAW, THIS LAW SHALL NOT APPLY TO ANY HOUSING  
14 ACCOMMODATION WHICH BECOMES VACANT ON OR AFTER JUNE SIXTEENTH, TWO THOU-  
15 SAND TEN PROVIDED, HOWEVER, THAT THIS EXCEPTION SHALL NOT APPLY TO OR  
16 BECOME EFFECTIVE WITH RESPECT TO HOUSING ACCOMMODATIONS WHICH THE  
17 COMMISSIONER DETERMINES OR FINDS BECAME VACANT BECAUSE THE LANDLORD OR  
18 ANY PERSON ACTING ON HIS OR HER BEHALF, WITH INTENT TO CAUSE THE TENANT  
19 TO VACATE, ENGAGED IN ANY COURSE OF CONDUCT (INCLUDING BUT NOT LIMITED  
20 TO, INTERRUPTION OR DISCONTINUANCE OF REQUIRED SERVICES) WHICH INTERFER-  
21 ED WITH OR DISTURBED OR WAS INTENDED TO INTERFERE WITH OR DISTURB THE  
22 COMFORT, REPOSE, PEACE OR QUIET OF TENANT IN HIS OR HER USE OR OCCUPANCY  
23 OF THE HOUSING ACCOMMODATIONS.

24 S 19. This act shall take effect immediately; provided, however, that  
25 the income certification forms provided for by this act shall not be  
26 transmitted until on or after January 1, 2011; provided that the amend-  
27 ments to the city rent and rehabilitation law made by sections four and  
28 six of this act shall remain in full force and effect only so long as  
29 the public emergency requiring the regulation and control of residential  
30 rents and evictions continues, as provided in subdivision 2 of section 1  
31 of the local emergency housing rent control act; and provided that the  
32 amendments to the rent stabilization law of nineteen hundred sixty-nine  
33 made by section fifteen of this act shall expire on the same date as  
34 such law expires and shall not affect the expiration of such law as  
35 provided under section 26-520 of such law; and provided that the amend-  
36 ments to the emergency tenant protection act of nineteen seventy-four  
37 made by sections seven, nine and fourteen of this act shall expire on  
38 the same date as such act expires and shall not affect the expiration of  
39 such act as provided in section 17 of chapter 576 of the laws of 1974;  
40 and provided that the amendments to the emergency housing rent control  
41 law made by sections one, three and eleven of this act shall expire on  
42 the same date as such law expires and shall not affect the expiration of  
43 such law as provided in subdivision 2 of section 1 of chapter 274 of the  
44 laws of 1946; and provided that the amendment to the local emergency  
45 housing rent control act made by section twelve of this act shall remain  
46 in full force and effect only so long as the public emergency requiring  
47 the regulation and control of residential rents and evictions continues,  
48 as provided in subdivision 2 of section 1 of the local emergency housing  
49 rent control act; and provided further that the amendment to paragraph  
50 (h) of subdivision 10 of section 1 of the local emergency housing rent  
51 control act made by section thirteen of this act shall not affect the  
52 expiration of certain provisions of such paragraph (h) made by section 3  
53 of chapter 576 of the laws of 1974 and shall expire when such chapter  
54 576 of the laws of 1974 expires.