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. 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:

Section 1. Paragraph (m) of subdivision 2 of section 2 of chapter 274 of the laws of 1946, constituting the emergency housing rent control law, as amended by chapter 116 of the laws of 1997, is amended to read as follows:

(m) upon the issuance of an order of decontrol by the division, housing accommodations which[: (1)] are occupied by persons who have a total annual income in excess of one hundred [seventy-five] TWENTY-FIVE thousand dollars in each of the two preceding calendar years, as defined in and subject to the limitations and process set forth in section two-a of this law[; and (2) have a maximum rent of two thousand dollars or more per month].

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

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of subdivision 2 of section 2 of chapter 274 of the laws of 1946 constituting the emergency housing rent control law is REPEALED.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

verification by the department of taxation and finance pursuant to section one hundred seventy-one-b of the tax law and shall not require disclosure of any income information other than whether the aforementioned threshold has been exceeded. Such income certification form shall clearly state that: (i) [only tenants residing in housing accommodations which have a maximum rent of two thousand dollars or more per month are required to complete the certification form; (ii) that] tenants have protections available to them which are designed to prevent harassment; [(iii) that] (II) tenants are not required to provide any information regarding their income except that which is requested on the form and may contain such other information the division deems appropriate. The tenant or tenants shall return the completed certification to the owner within thirty days after service upon the tenant or tenants. In the event that the total annual income as certified is in excess of one hundred [seventy-five] TWENTY-FIVE thousand dollars in each such year, the owner may file the certification with the state division of housing and community renewal on or before June thirtieth of such year. Upon filing such certification with the division, the division shall, within thirty days after the filing, issue an order of decontrol providing that such housing accommodations shall not be subject to the provisions of this law as of the first day of June in the year next succeeding the filing of the certification by the owner. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be mailed to the owner.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

S 19. This act shall take effect immediately; provided, however, that the income certification forms provided for by this act shall not be transmitted until on or after January 1, 2011; provided that the amendments to the city rent and rehabilitation law made by sections four and six of this act shall remain in full force and effect only so long as the public emergency requiring the regulation and control of residential rents and evictions continues, as provided in subdivision 2 of section 1 of the local emergency housing rent control act; and provided that the amendments to the rent stabilization law of nineteen hundred sixty-nine made by section fifteen of this act shall expire on the same date as such law expires and shall not affect the expiration of such law as provided under section 26-520 of such law; and provided that the amendments to the emergency tenant protection act of nineteen seventy-four made by sections seven, nine and fourteen of this act shall expire on the same date as such act expires and shall not affect the expiration of such act as provided in section 17 of chapter 576 of the laws of 1974; and provided that the amendments to the emergency housing rent control law made by sections one, three and eleven 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; and provided that the amendment to the local emergency housing rent control act made by section twelve of this act shall remain in full force and effect only so long as the public emergency requiring the regulation and control of residential rents and evictions continues, as provided in subdivision 2 of section 1 of the local emergency housing rent control act; and provided further that the amendment to paragraph (h) of subdivision 10 of section 1 of the local emergency housing rent control act made by section thirteen of this act shall not affect the expiration of certain provisions of such paragraph (h) made by section 3 of chapter 576 of the laws of 1974 and shall expire when such chapter 576 of the laws of 1974 expires.