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

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2009-2010 Regular Sessions

I N A S S E M B L Y

February 11, 2009

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

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

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

Section 1. Short title. This act shall be known and may be cited as the "rent board reform act of 2009".

S 2. Legislative findings and declaration. The legislature hereby finds and declares that the public emergency which led to the enactment of the laws regulating residential rents and evictions continues to exist, that such emergency continues to necessitate the intervention of state and local governments in order to prevent speculative, unwarranted and abnormal increases in rents and unjust and arbitrary evictions so long as such emergency exists, without further periodic authorization by the legislature; that because of the shortage of decent, safe and available housing, market forces do not operate properly, and it is necessary therefor to prevent the exaction of unjust or unreasonable rents and rental agreements, and to forestall eviction and other disruptive practices tending to produce threats to the public health, safety and general welfare; that the general welfare depends in part on the maintenance and preservation of the existing stock of privately owned rental housing, and to assure such maintenance and preservation, responsible owners should be encouraged to own, invest in and maintain such housing without

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

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

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

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

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

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

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

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

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

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

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

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

TENANCE COSTS, AND THE RENT BOARD SHALL NOT CONSIDER DEBT SERVICE PAYMENTS, CAPITAL EXPENDITURES OR DEPRECIATION IN DETERMINING ANNUAL RENT ADJUSTMENTS. THE RENT BOARD SHALL NOT CONSIDER A PRICE INDEX OF OPERATING COSTS. IN CALCULATING LABOR AND ADMINISTRATIVE COSTS, THE RENT BOARD SHALL CONSIDER THE FEASIBILITY OF IMPUTING A VALUE TO THE ACTUAL, VERIFIABLE UNSALARIED LABOR AND ADMINISTRATIVE TASKS PERFORMED BY BUILDING OWNERS OR MEMBERS OF THEIR IMMEDIATE FAMILY WHO RESIDE WITH THEM IN A HOUSING ACCOMMODATION IN A BUILDING SUBJECT TO THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR OR THIS LAW OR THE CITY RENT AND REHABILITATION LAW WITHIN THE CITY OF NEW YORK. IF THE INCLUSION OF THE VALUE OF SUCH LABOR AND ADMINISTRATIVE TASKS IS DEEMED FEASIBLE BY THE BOARD, IT SHALL BE INCLUDED AS ONE OF THE FACTORS CONSIDERED HEREIN. ALL OWNERS OF HOUSING ACCOMMODATIONS WITHIN THE CITY OF NEW YORK SUBJECT TO THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR OR THIS LAW OR THE CITY RENT AND REHABILITATION LAW SHALL ANNUALLY SUBMIT INCOME AND EXPENDITURE REPORTS TO THE RENT BOARD ON A FORM TO BE PROMULGATED BY THE BOARD. OWNERS WHO FAIL TO SUBMIT SUCH REPORTS TO THE RENT BOARD SHALL BE BARRED FROM APPLYING FOR OR COLLECTING ANY RENT INCREASE TO WHICH THE OWNER MIGHT OTHERWISE BE ENTITLED UNDER THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR OR THIS LAW OR THE CITY RENT AND REHABILITATION LAW DURING THE TWELVE-MONTH PERIOD BEGINNING THE NEXT JANUARY FIRST. THE RENT BOARD SHALL ANNUALLY REQUIRE A SAMPLE OF LANDLORDS SUBJECT TO REGULATION UNDER THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR OR THIS LAW OR THE CITY RENT AND REHABILITATION LAW TO MAKE AVAILABLE THEIR BOOKS AND RECORDS REGARDING INCOME, EXPENDITURES, TAX BENEFITS AND FINANCING ARRANGEMENTS FOR EXAMINATION BY THE BOARD AND THE BOARD SHALL UTILIZE THE RESULTS OF THE ANALYSIS OF SUCH SAMPLE AS ONE OF THE CRITERIA UPON WHICH ITS FINDINGS ARE BASED. SUCH SAMPLE SHALL BE DESIGNED TO BE REASONABLY REPRESENTATIVE OF THE TYPES OF BUILDINGS, EXCLUDING BUILDINGS THAT HAVE BEEN CONVERTED TO CO-OPERATIVE OR CONDOMINIUM STATUS, THAT ARE SUBJECT TO REGULATION UNDER THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR OR THIS LAW OR THE CITY RENT AND REHABILITATION LAW. ANY INFORMATION PROVIDED BY LANDLORDS PURSUANT TO THIS SUBDIVISION REGARDING AN INDIVIDUAL BUILDING OR GROUP OF BUILDINGS SHALL NOT BE AVAILABLE TO THE PUBLIC UNDER THE FREEDOM OF INFORMATION LAW AND THE RENT BOARD SHALL SAFEGUARD THE CONFIDENTIALITY OF SUCH INFORMATION PROVIDED HOWEVER THAT THE BOARD SHALL MAKE AVAILABLE TO THE PUBLIC CUMULATIVE AND STATISTICAL RESULTS OF THE REPRESENTATIVE SAMPLE OF BOOKS AND RECORDS REQUIRED HEREIN. Not later than [July] OCTOBER first of each year, the rent [guidelines] board shall file with the city clerk AND THE STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL its findings for the preceding calendar year, 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 HOUSING accommodations subject to THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR OR this law OR THE CITY RENT AND REHABILITATION LAW, authorized for [leases or other rental agreements] VACANCY LEASES OR ANNUAL RENT ADJUSTMENTS commencing on the next succeeding [October] JANUARY first or within the twelve months thereafter. Such findings and statement shall be published in the City Record AND THE RENT BOARD SHALL DISSEMINATE SUCH FINDINGS AND STATEMENTS TO CITYWIDE AND LOCAL NEWSPAPERS, RADIO AND TELEVISION STATIONS AND OTHER MEDIA. THE ADDITIONAL ALLOWANCE, IF ANY, FOR LEASES ON VACANT APARTMENTS SHALL NOT EXCEED FIVE PERCENT. ANY SUCH VACANCY ALLOWANCE SHALL NOT BE IMPLEMENTED FOR A HOUSING ACCOMMODATION MORE THAN ONE TIME IN ANY CALENDAR YEAR, NOTWITHSTANDING THE NUMBER OF VACANCY

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

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

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

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

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

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

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

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

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

I. NO OWNER OF ANY HOUSING ACCOMMODATION SUBJECT TO THIS LAW OR THE NEW YORK CITY RENT AND REHABILITATION LAW MAY IMPOSE OR COLLECT DURING CALENDAR YEAR TWO THOUSAND NINE AN ANNUAL RENT ADJUSTMENT AS ADOPTED PURSUANT TO THE PROVISIONS OF SUBDIVISION B OF THIS SECTION IF THERE EXIST OF RECORD WITH REGARD TO THE PROPERTY CONTAINING SUCH HOUSING ACCOMMODATION ON JANUARY FIRST OF SUCH YEAR ANY OUTSTANDING RENT IMPAIRING VIOLATIONS, AS DEFINED BY SECTION THREE HUNDRED TWO-A OF THE MULTIPLE DWELLING LAW, OF RECORD AS OF JULY FIRST, TWO THOUSAND NINE OR MORE THAN TWENTY PERCENT OF ALL OTHER VIOLATIONS OF RECORD AS OF JULY FIRST, TWO THOUSAND NINE; OR DURING A SUBSEQUENT CALENDAR YEAR IF THERE EXIST OF RECORD WITH REGARD TO SUCH PROPERTY ON JANUARY FIRST OF SUCH YEAR ANY OUTSTANDING RENT IMPAIRING VIOLATIONS OF RECORD AS OF JULY FIRST OF THE PRIOR YEAR OR MORE THAN TWENTY PERCENT OF ALL OTHER VIOLATIONS OF RECORD AS OF JULY FIRST OF THE PRIOR YEAR.

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

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

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

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

S 5. Paragraph 5-a of subdivision c of section 26-511 of the administrative code of the city of New York is REPEALED.

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

(12) permits subletting of units subject to this law pursuant to section two hundred twenty-six-b of the real property law provided that (a) the rental charged to the subtenant does not exceed the stabilized rent plus a ten percent surcharge payable to the tenant if the unit sublet was furnished with the tenant's furniture; (b) the tenant can establish that at all times he or she has maintained the unit as his or her primary residence and intends to occupy it as such at the expiration of the sublease; (c) an owner may terminate the tenancy of a tenant who sublets or assigns contrary to the terms of this paragraph [but no action or proceeding based on the non-primary residence of a tenant may be commenced prior to the expiration date of his or her lease]; (d) where an apartment is sublet the prime tenant shall retain the right to a [renewal lease] STATUTORY TENANCY and the rights and status of a tenant in occupancy as they relate to conversion to condominium or cooperative ownership; (e) where a tenant violates the provisions of subparagraph (a) of this paragraph the subtenant shall be entitled to damages of three times the overcharge and may also be awarded attorneys fees and interest from the date of the overcharge at the rate of interest payable on a judgment pursuant to section five thousand four of the civil practice law and rules; AND (f) the tenant may not sublet the unit for more than a total of two years, including the term of the proposed sublease, out of the four-year period preceding the termination date of the proposed sublease. The provisions of this subparagraph shall only apply to subleases commencing on and after July first, nineteen hundred eighty-three[; (g) for the purposes of this paragraph only, the term of the proposed sublease may extend beyond the term of the tenant's lease]. In such event, such sublease shall be subject to the tenant's right to a [renewal lease] STATUTORY TENANCY PURSUANT TO THIS LAW. The subtenant shall have no right to a renewal lease. It shall be unreasonable for an owner to refuse to consent to a sublease solely because such sublease extends beyond the tenant's lease[; and (h) notwithstanding the provisions of section two hundred twenty-six-b of the real property law, a not-for-profit hospital shall have the right to sublet any housing accommodation leased by it to its affiliated personnel without requiring the landlord's consent to any such sublease and without being bound by the provisions of subparagraphs (b), (c) and (f) of this paragraph. Commencing with the effective date of this subparagraph, whenever a not-for-profit hospital executes a renewal lease for a housing accommodation, the legal regulated rent shall be increased by a sum equal to fifteen percent of the previous lease rental for such housing accommodation, hereinafter referred to as a vacancy surcharge, unless the landlord shall have received within the seven year period prior to the commencement date of such renewal lease any vacancy increases or vacancy surcharges allocable to the said housing accommodation. In the event the landlord shall have received any such vacancy increases or vacancy surcharges during such seven year period, the vacancy surcharge shall be

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

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

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

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

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

(3) ANY ORDER OF THE STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL AUTHORIZED BY PROVISIONS OF THIS LAW PROVIDING THAT A HOUSING ACCOMMODATION SHALL NOT BE SUBJECT TO THE PROVISIONS OF THIS LAW UPON THE EXPIRATION OF THE EXISTING LEASE SHALL PROVIDE THAT SUCH ORDER, IN THE ABSENCE OF AN EXISTING LEASE, SHALL TAKE EFFECT ONE HUNDRED EIGHTY DAYS AFTER ITS ISSUANCE.

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

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

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

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

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

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

(B) THE LEGAL REGULATED RENT FOR ANY LEASE ENTERED INTO PRIOR TO JANUARY FIRST, TWO THOUSAND TEN WHICH EXPIRES BETWEEN JANUARY FIRST, TWO THOUSAND TEN AND DECEMBER THIRTY-FIRST, TWO THOUSAND ELEVEN SHALL BE ADJUSTED EFFECTIVE THE FIRST DAY FOLLOWING ITS EXPIRATION BY THE APPLICABLE TRANSITIONAL ADJUSTMENTS ESTABLISHED BY THE RENT BOARD AND ON THE FIRST DAY OF JANUARY EACH YEAR THEREAFTER BY THE RENT ADJUSTMENT ESTABLISHED BY THE RENT BOARD.

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

S 7. 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 TEN, 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 BOARD ESTABLISHED PURSUANT TO SECTION 26-510 OF THIS TITLE SHALL ESTABLISH ANNUAL RATES OF RENT ADJUSTMENT 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 NINE, AND NOT LATER THAN OCTOBER FIRST ANNUALLY THEREAFTER, THE RENT BOARD SHALL FILE WITH THE CITY CLERK AND THE DIVISION OF HOUSING AND COMMUNITY RENEWAL 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 COMMENCING JANUARY FIRST, TWO THOUSAND TEN AND FOR EACH SUCCEEDING TWELVE MONTH PERIOD.

(C) EFFECTIVE JANUARY FIRST, TWO THOUSAND TEN, THE MAXIMUM RENT COLLECTIBLE FROM THE TENANT SHALL BE THE MAXIMUM RENT COLLECTIBLE ON DECEMBER THIRTY-FIRST, TWO THOUSAND NINE, 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 A LANDLORD SHALL NOT COLLECT ANY RENT INCREASE OR ADJUSTMENT OTHERWISE COLLECTIBLE UNDER SUBPARAGRAPH (B) OF THIS PARA-

GRAPH 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 NINE, 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 SUBPARAGRAPH (B) OF THIS PARAGRAPH, 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 OR IN SUBDIVISION F OF SECTION 26-511 OF THIS TITLE SHALL ALTER, RESTRICT OR IMPAIR AN OWNER'S RIGHT TO ESTABLISH THE INITIAL REGULATED RENT FOR ACCOMMODATIONS SUBJECT TO THIS CHAPTER WHICH BECOME VACANT.

S 8. Section 4 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 486 of the laws of 1976, subdivision a as amended by chapter 349 of the laws of 1979, the opening paragraph of subdivision b as amended and subdivision d as added by chapter 403 of the laws of 1983, and the second and third undesignated paragraphs of subdivision b as amended by chapter 330 of the laws of 1980, is amended to read as follows:

S 4. Establishment of rent [guidelines] boards; duties. a. In each county wherein any city having a population of less than one million or any town or village has determined the existence of an emergency pursuant to section three of this act, there shall be created a rent [guidelines] board to consist of nine members appointed by the [commissioner of housing and community renewal upon recommendation of] COUNTY EXECUTIVE UPON THE ADVICE AND CONSENT OF the county legislature which [recommendation] APPOINTMENT shall be made within thirty days after the first local declaration of an emergency in such county; [two] THREE such members shall be representative of tenants, [two] THREE shall be representative of owners of property, and [five] THREE shall be public members [each of whom]. EACH OF THE PUBLIC MEMBERS shall have had at least five years experience in either PUBLIC SERVICE, PHILANTHROPY, SOCIAL SERVICES, URBAN PLANNING, ARCHITECTURE, SOCIAL SCIENCES, SERVICE WITH NOT-FOR-PROFIT ORGANIZATIONS, finance, economics or housing. One public member shall be designated by the [commissioner] COUNTY EXECUTIVE UPON THE ADVICE AND CONSENT OF THE COUNTY LEGISLATURE to serve as [chairman] CHAIR and shall hold no other public office. No [member, officer or] employee of THE COUNTY OR OF any [municipal rent regulation agency] MUNICIPALITY WITHIN THE COUNTY or OF the state division of housing and community renewal and no person who owns or manages real estate covered by this law or [who is an officer of any owner or tenant organization] MORE THAN TWO RENTAL HOUSING ACCOMMODATIONS NOT COVERED BY THIS LAW shall serve on a rent [guidelines] board. [One public member, one member representative of tenants and one member representative of owners

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

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

the economic condition of the residential real estate industry in [the affected area including] THOSE AREAS OF THE COUNTY WITH HOUSING ACCOMMODATIONS SUBJECT TO THIS ACT OR THE EMERGENCY HOUSING RENT CONTROL LAW, INCLUDING CHANGES IN THE VALUE OF RESIDENTIAL REAL ESTATE, THE PROFITABILITY OF OWNERSHIP OF RENTAL HOUSING AND such factors as the prevailing and projected (i) INCREASES OR DECREASES IN RENTS AND GROSS RENTAL INCOME, INCLUDING INCOME FROM OTHER RESIDENTIAL RENTS, AS WELL AS THE IMPUTED RENTAL VALUE FOR APARTMENTS OCCUPIED BY OWNERS OR MEMBERS OF THEIR FAMILIES OR ASSOCIATES OF OWNERS, FOR BUILDINGS SUBJECT TO THIS ACT OR THE EMERGENCY HOUSING RENT CONTROL LAW WITHIN THE COUNTY, (II) INCREASES OR DECREASES IN OPERATION AND MAINTENANCE COSTS OF BUILDINGS SUBJECT TO THIS ACT OR THE EMERGENCY HOUSING RENT CONTROL LAW WITHIN THE COUNTY INCLUDING real estate taxes [and], sewer and water rates, [(ii) gross operating maintenance costs (including] insurance rates, ADMINISTRATIVE COSTS, governmental fees, [cost of] fuel, UTILITIES and labor [costs)], (iii) costs and availability of financing (including effective rates of interest), AND COSTS, AVAILABILITY AND PROFITABILITY OF REFINANCING, (iv) ECONOMIC BENEFITS, OTHER THAN RENTAL INCOME, DERIVED FROM OWNERSHIP AND UPGRADING OF RENTAL PROPERTY, (V) RETURNS ON CAPITAL PLACED AT RISK BY OWNERS, (VI) over-all supply of housing accommodations and over-all vacancy rates, [(2)] (VII) INCREASES OR DECREASES IN NET OPERATING INCOME FROM BUILDINGS SUBJECT TO THIS ACT OR THE EMERGENCY HOUSING RENT CONTROL LAW WITHIN THE COUNTY, (3) relevant data from the current and projected cost of living indices for the affected area, [(3)] AND (4) such other data as may be made available to it. NET OPERATING INCOME SHALL MEAN THE PERCENTAGE OF EACH DOLLAR OF GROSS RENTAL INCOME REMAINING AFTER PAYMENT OF ALL COSTS OF OPERATION AND MAINTENANCE. DEBT SERVICE PAYMENTS, CAPITAL EXPENDITURES AND DEPRECIATION SHALL NOT BE CONSIDERED TO BE OPERATION AND MAINTENANCE COSTS, AND A COUNTY RENT BOARD SHALL NOT CONSIDER DEBT SERVICE PAYMENTS, CAPITAL EXPENDITURES OR DEPRECIATION IN DETERMINING ANNUAL RENT ADJUSTMENTS. A COUNTY RENT BOARD SHALL NOT CONSIDER A PRICE INDEX OF OPERATING COSTS. IN CALCULATING LABOR AND ADMINISTRATIVE COSTS, THE RENT BOARD SHALL CONSIDER THE FEASIBILITY OF IMPUTING A VALUE TO THE ACTUAL, VERIFIABLE UNSALARIED LABOR AND ADMINISTRATIVE TASKS PERFORMED BY BUILDING OWNERS OR MEMBERS OF THEIR IMMEDIATE FAMILY WHO RESIDE WITH THEM IN A HOUSING ACCOMMODATION IN A BUILDING SUBJECT TO THIS ACT OR THE EMERGENCY HOUSING RENT CONTROL LAW WITHIN THE COUNTY. IF THE INCLUSION OF THE VALUE OF SUCH LABOR AND ADMINISTRATIVE TASKS IS DEEMED FEASIBLE BY THE BOARD, IT SHALL BE INCLUDED AS ONE OF THE FACTORS CONSIDERED HEREIN. ALL OWNERS OF HOUSING ACCOMMODATIONS SUBJECT TO THIS ACT OR THE EMERGENCY HOUSING RENT CONTROL LAW WITHIN THE COUNTY SHALL ANNUALLY SUBMIT INCOME AND EXPENDITURE REPORTS TO THE COUNTY RENT BOARD ON A FORM TO BE PROMULGATED BY THE BOARD. OWNERS WHO FAIL TO SUBMIT SUCH REPORTS TO THE COUNTY RENT BOARD SHALL BE BARRED FROM APPLYING FOR OR COLLECTING ANY RENT INCREASE TO WHICH THE OWNER MIGHT OTHERWISE BE ENTITLED UNDER THIS ACT OR THE EMERGENCY HOUSING RENT CONTROL LAW DURING THE TWELVE MONTH PERIOD BEGINNING THE NEXT JANUARY FIRST. THE COUNTY RENT BOARD SHALL ANNUALLY REQUIRE A SAMPLE OF LANDLORDS SUBJECT TO REGULATION UNDER THIS ACT WITHIN THE COUNTY TO MAKE AVAILABLE THEIR BOOKS AND RECORDS REGARDING INCOME, EXPENDITURES, TAX BENEFITS AND FINANCING ARRANGEMENTS FOR EXAMINATION BY THE BOARD AND THE BOARD SHALL UTILIZE THE RESULTS OF THE ANALYSIS OF SUCH SAMPLE AS ONE OF THE CRITERIA UPON WHICH ITS FINDINGS ARE BASED. SUCH SAMPLE SHALL BE DESIGNED TO BE REASONABLY REPRESENTATIVE OF THE TYPES OF BUILDINGS, EXCLUDING BUILDINGS THAT HAVE BEEN CONVERTED TO CO-OPERATIVE OR CONDOMINIUM STATUS, THAT ARE SUBJECT TO REGULATION

UNDER THIS ACT. ANY INFORMATION PROVIDED BY LANDLORDS PURSUANT TO THIS SUBDIVISION REGARDING AN INDIVIDUAL BUILDING OR GROUP OF BUILDINGS SHALL NOT BE AVAILABLE TO THE PUBLIC UNDER THE FREEDOM OF INFORMATION LAW AND THE COUNTY RENT BOARD SHALL SAFEGUARD THE CONFIDENTIALITY OF SUCH INFORMATION PROVIDED HOWEVER, THAT THE BOARD SHALL MAKE AVAILABLE TO THE PUBLIC CUMULATIVE AND STATISTICAL RESULTS OF THE ANNUAL INCOME AND EXPENDITURE SUBMISSIONS AND THE EXAMINATION OF THE REPRESENTATIVE SAMPLE OF BOOKS AND RECORDS REQUIRED HEREIN. As soon as practicable after its creation and thereafter not later than [July] OCTOBER first of each year, a COUNTY rent [guidelines] board shall file with the state division of housing and community renewal its findings for the preceding calendar year, 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 HOUSING accommodation subject to this act WITHIN THE COUNTY, authorized for VACANCY leases or [other rental agreements] ANNUAL RENT ADJUSTMENTS commencing [during] ON the next succeeding JANUARY FIRST OR WITHIN THE twelve months THEREAFTER. The standards for rent adjustments may be applicable for the entire county or may be varied according to such zones or jurisdictions within such county as the board finds necessary to achieve the purposes of this subdivision. THE ADDITIONAL ALLOWANCE, IF ANY, FOR LEASES ON VACANT APARTMENTS SHALL NOT EXCEED FIVE PERCENT. ANY SUCH VACANCY ALLOWANCE SHALL NOT BE IMPLEMENTED FOR A HOUSING ACCOMMODATION MORE THAN ONE TIME IN ANY CALENDAR YEAR, NOTWITHSTANDING THE NUMBER OF VACANCY LEASES ENTERED INTO FOR SUCH HOUSING ACCOMMODATION IN SUCH CALENDAR YEAR. A COUNTY RENT BOARD SHALL DISSEMINATE SUCH FINDINGS AND STATEMENT TO COUNTYWIDE AND LOCAL NEWSPAPERS, RADIO AND TELEVISION STATIONS AND OTHER MEDIA.

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

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

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

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

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

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

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

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

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

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

S 10. Section 10 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 subdivision d to read as follows:

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

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

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

(3) ANY ORDER OF THE STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL AUTHORIZED BY PROVISIONS OF THIS LAW PROVIDING THAT A HOUSING ACCOMMODATION SHALL NOT BE SUBJECT TO THE PROVISIONS OF THIS LAW UPON THE EXPIRATION OF THE EXISTING LEASE SHALL PROVIDE THAT SUCH ORDER, IN THE ABSENCE OF AN EXISTING LEASE, SHALL TAKE EFFECT ONE HUNDRED EIGHTY DAYS AFTER ITS ISSUANCE.

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

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

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

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

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

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

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

S 11. Section 10-a 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 940 of the laws of 1984, is amended to read as follows:

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

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

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

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

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

(A) THE COUNTY RENT BOARDS ESTABLISHED PURSUANT TO SECTION 4 OF THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR, SHALL ESTABLISH ANNUAL RENT ADJUSTMENTS FOR THE CLASS OF HOUSING ACCOMMODATIONS SUBJECT TO THIS CHAPTER 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 LAW 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 RENT BOARDS SHALL FILE WITH THE COMMISSION THEIR FINDINGS ESTABLISHED IN CONSIDERATION OF THE ECONOMIC FACTORS LISTED IN SUBDIVISION B 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 LAW WITHIN SUCH COUNTIES AUTHORIZED FOR THE ADJUSTMENT OF THE MAXIMUM RENT OF THE HOUSING ACCOMMODATION FOR THE TWELVE MONTH PERIOD COMMENCING JANUARY 1, 2010, AND FOR EACH SUCCEEDING TWELVE MONTH PERIOD.

(B) EFFECTIVE JANUARY 1, 2010, THE MAXIMUM RENT COLLECTIBLE FROM THE TENANT SHALL BE THE MAXIMUM RENT COLLECTIBLE ON DECEMBER 31, 2009, 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 LAW. 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 LAW.

(C) MAXIMUM RATES OF RENT ADJUSTMENT SHALL NOT BE ESTABLISHED MORE THAN ONCE ANNUALLY FOR ANY HOUSING ACCOMMODATION SUBJECT TO THIS LAW 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 SUBDIVISION OR IN SUBDIVISION D OF SECTION 10 OF THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR SHALL ALTER, RESTRICT OR IMPAIR AN OWNER'S RIGHT TO ESTAB-

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

S 13. Any reference in chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, the administrative code of the city of New York, section 421-c of the real property tax law or section 286 of the multiple dwelling law to "rent guidelines board" shall be deemed to refer to the rent board as provided in this act. Any reference in chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, or in the administrative code of the city of New York to "rent guidelines" shall be deemed to refer to rent adjustments as provided in this act. Any reference in chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, the administrative code of the city of New York, the real property tax law or the public housing law to "renewal lease" shall be deemed to refer to the statutory tenancy as provided in this act.

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

S 15. This act shall take effect immediately, provided that the amendments to sections 26-509, 26-510 and 26-511 of the rent stabilization law of nineteen hundred sixty-nine made by sections three, four and six 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 further that the amendments to sections 4, 10 and 10-a of the emergency tenant protection act of nineteen seventy-four made by sections eight, ten and eleven 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, as amended; and provided further that the rent boards as reconstituted pursuant to sections four and eight of this act shall be appointed and confirmed within sixty days after the effective date of this act and the methodological and procedural changes made by sections four and eight of this act shall become operational on October 1, 2009; and provided further that the rent adjustments, if any, adopted in 2009 pursuant to the rent stabilization law of nineteen hundred sixty-nine or the emergency tenant protection act of nineteen seventy-four shall be effective for annual rent adjustments commencing on January 1, 2010 and during the next twelve months through December 31, 2010; and provided further that the rent adjustments, if any, adopted in subsequent years pursuant to the rent stabilization law of nineteen hundred sixty-nine or the emer-

gency tenant protection act of nineteen seventy-four shall be effective for annual rent adjustments commencing on January first of each subsequent year and during the next succeeding twelve months thereafter through December thirty-first of each such year; and provided that the amendments to section 4 of the emergency housing rent control law made by section twelve 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.