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 19, 2009

Introduced by M. of A. V. LOPEZ, KELLNER -- read once and referred to the Committee on Housing

AN ACT to amend the administrative code of the city of New York, in relation to maximum rent calculation

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

Section 1. Subparagraphs (j) and (k) of paragraph 2 of subdivision e of section 26-403 of the administrative code of the city of New York, subparagraph (j) as amended by chapter 116 of the laws of 1997 and subparagraph (k) as amended by chapter 82 of the laws of 2003, are 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 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 MONTHLY rent [of two thousand dollars or more per month] EQUAL TO OR GREATER THAN THE GREATER OF TWO THOUSAND DOLLARS OR THE "ADJUSTED SUM" DETERMINED AS FOLLOWS:

ON OR BEFORE THE FIRST OF NOVEMBER TWO THOUSAND NINE AND EACH NOVEMBER FIRST THEREAFTER THE COMMISSIONER SHALL DETERMINE THE ADJUSTED SUM WHICH SHALL BE TWO THOUSAND DOLLARS, INCREASED BY THE PERCENTAGE DIFFERENCE BETWEEN THE MONTHLY CONSUMER PRICE INDEX FOR RENT FOR ALL URBAN CONSUMERS (CPI-U), THE RENT COMPONENT FOR NEW YORK CITY, AS PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF STATISTICS FOR THE MONTH OF JULY NINETEEN HUNDRED NINETY-THREE AND SUCH INDEX FOR THE MONTH OF JULY IN THE SAME YEAR AS THE AFOREMENTIONED NOVEMBER FIRST. EACH ADJUSTED SUM SHALL BE EFFECTIVE FROM THE FIRST DAY OF JANUARY UNTIL THE THIRTY-FIRST DAY OF DECEMBER OF THE YEAR IMMEDIATELY FOLLOWING THE AFOREMENTIONED FIRST OF NOVEMBER. Provided however, that this exclusion shall not apply to housing accommodations which became or become subject to this

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

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law by virtue of receiving tax benefits pursuant to section four hundred eighty-nine of the real property tax law.

(k) Any housing accommodation which becomes vacant on or after April first, nineteen hundred ninety-seven and where at the time the tenant vacated such housing accommodation the maximum MONTHLY rent was EQUAL TO OR GREATER THAN THE GREATER OF two thousand dollars or [more per month, or any housing accommodation] THE ADJUSTED SUM AS DETERMINED PURSUANT TO SUBPARAGRAPH (J) OF THIS PARAGRAPH, which is or becomes vacant on or after the effective date of the rent regulation reform act of 1997 [with a maximum rent of two thousand dollars or more per month]. This exclusion shall apply regardless of whether the next tenant in occupancy or any subsequent tenant in occupancy actually is charged or pays less than two thousand dollars a 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. This subparagraph shall not apply, however, to or become effective with respect to housing accommodations which the commissioner determines or finds that the landlord or any person acting on his or her behalf, with intent to cause the tenant to vacate, has 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 the tenant in his or her use or occupancy of the housing accommodations and in connection with such course of conduct, any other general enforcement provision of this law shall also apply.

S 2. Subdivision (b) of section 26-403.1 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:

(b) On or before the first day of May in each calendar year, the owner of each housing accommodation for which the MONTHLY maximum rent is [two thousand dollars or more per month] EQUAL TO OR GREATER THAN THE GREATER OF TWO THOUSAND DOLLARS OR THE ADJUSTED SUM AS DETERMINED PURSUANT TO SUBPARAGRAPH (J) OF PARAGRAPH TWO OF SUBDIVISION E OF SECTION 26-403 OF THIS CHAPTER, 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 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 MONTHLY maximum rent [of two thousand dollars or more per month] EQUAL TO OR GREATER THAN THE GREATER OF TWO THOUSAND DOLLARS OR THE ADJUSTED SUM AS DETERMINED PURSUANT TO SUBPARAGRAPH (J) OF PARAGRAPH TWO OF SUBDIVISION E OF SECTION 26-403 OF THIS CHAPTER, are required to complete the certification form; (ii) that tenants have protections available to them which are designed to prevent harassment; (iii) that 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 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.

S 3. Section 26-504.1 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:

S 26-504.1 Exclusion of accommodations of high income renters. Upon the issuance of an order by the division, "housing accommodations" shall not include housing accommodations which: (1) are occupied by persons who have a total annual income in excess of one hundred seventy-five thousand dollars per annum for each of the two preceding calendar years, as defined in and subject to the limitations and process set forth in section 26-504.3 of this chapter; and (2) have a legal MONTHLY regulated rent [of two thousand dollars or more per month] EQUAL TO OR GREATER THAN THE GREATER OF TWO THOUSAND DOLLARS OR THE "ADJUSTED SUM" DETERMINED AS FOLLOWS:

ON OR BEFORE THE FIRST OF NOVEMBER TWO THOUSAND NINE AND EACH NOVEMBER FIRST THEREAFTER THE COMMISSIONER SHALL DETERMINE THE ADJUSTED SUM WHICH SHALL BE TWO THOUSAND DOLLARS, INCREASED BY THE PERCENTAGE DIFFERENCE BETWEEN THE MONTHLY CONSUMER PRICE INDEX FOR RENT FOR ALL URBAN CONSUMERS (CPI-U), THE RENT COMPONENT FOR NEW YORK CITY, AS PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF STATISTICS FOR THE MONTH OF JULY NINETEEN HUNDRED NINETY-THREE AND SUCH INDEX FOR THE MONTH OF JULY IN THE SAME YEAR AS THE AFOREMENTIONED NOVEMBER FIRST. EACH ADJUSTED SUM SHALL BE EFFECTIVE FROM THE FIRST DAY OF JANUARY UNTIL THE THIRTY-FIRST DAY OF DECEMBER OF THE YEAR IMMEDIATELY FOLLOWING THE AFOREMENTIONED FIRST OF NOVEMBER. Provided, however, that this exclusion shall not apply to housing accommodations which became or become subject to this law (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 4. Section 26-504.2 of the administrative code of the city of New York, as amended by chapter 116 of the laws of 1997, subdivision a as amended by chapter 82 of the laws of 2003 and subdivision b as added by local law number 12 of the city of New York for the year 2000, is amended to read as follows:

S 26-504.2 Exclusion of high rent accommodations. a. "Housing accommodations" shall not include any housing accommodation which becomes vacant on or after April first, nineteen hundred ninety-seven and where at the time the tenant vacated such housing accommodation the MONTHLY legal regulated rent was [two thousand dollars or more per month, or any housing accommodation] EQUAL TO OR GREATER THAN THE GREATER OF TWO THOUSAND DOLLARS OR THE ADJUSTED SUM DETERMINED PURSUANT TO SECTION 26-504.1 OF THIS CHAPTER, which is or becomes vacant on or after the effective

date of the rent regulation reform act of 1997 [with a legal regulated rent of two thousand dollars or more per month]. This exclusion shall apply regardless of whether the next tenant in occupancy or any subsequent tenant in occupancy actually is charged or pays less than two thousand dollars a month. Provided however, that this exclusion shall not apply to housing accommodations which became or become subject to this law (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. This section shall not apply, however, to or become effective with respect to housing accommodations which the commissioner determines or finds that 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 the tenant in his or her use or occupancy of the housing accommodations and in connection with such course of conduct, any other general enforcement provision of this law shall also apply.

b. The owner of any housing accommodation that is not subject to this law pursuant to the provisions of subdivision a of this section or subparagraph [k] (K) of paragraph [2] TWO of subdivision e of section 26-403 of this code shall give written notice certified by such owner to the first tenant of that housing accommodation after such housing accommodation becomes exempt from the provisions of this law or the city rent and rehabilitation law. Such notice shall contain the last MONTHLY regulated rent, the reason that such housing accommodation is not subject to this law or the city rent and rehabilitation law, a calculation of how either the rental amount charged when there is no lease or the rental amount provided for in the lease has been derived so as to reach [two thousand dollars or more per month] AN AMOUNT EQUAL TO OR GREATER THAN THE GREATER OF TWO THOUSAND DOLLARS OR THE ADJUSTED SUM DETERMINED PURSUANT TO SECTION 26-504.1 OF THIS CHAPTER, a statement that the last legal regulated rent or the maximum rent may be verified by the tenant by contacting the state division of housing and community renewal, or any successor thereto, and the address and telephone number of such agency, or any successor thereto. Such notice shall be sent by certified mail within thirty days after the tenancy commences or after the signing of the lease by both parties, whichever occurs first or shall be delivered to the tenant at the signing of the lease. In addition, the owner shall send and certify to the tenant a copy of the registration statement for such housing accommodation filed with the state division of housing and community renewal indicating that such housing accommodation became exempt from the provisions of this law or the city rent and rehabilitation law, which form shall include the last regulated rent, and shall be sent to the tenant within thirty days after the tenancy commences or the filing of such registration, whichever occurs later.

S 5. Subdivision (b) of section 26-504.3 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:

(b) On or before the first day of May in each calendar year, the owner of each housing accommodation for which the MONTHLY legal regulated rent is [two thousand dollars or more per month] EQUAL TO OR GREATER THAN THE GREATER OF TWO THOUSAND DOLLARS OR THE ADJUSTED SUM AS DETERMINED PURSU-

ANT TO SECTION 26-504.1 OF THIS CHAPTER, 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 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 MONTHLY legal regulated rent [of two thousand dollars or more per month] EQUAL TO OR GREATER THAN THE GREATER OF TWO THOUSAND DOLLARS OR THE ADJUSTED SUM AS DETERMINED PURSUANT TO SECTION 26-504.1 OF THIS CHAPTER, are required to complete the certification form; (ii) that tenants have protections available to them which are designed to prevent harassment; (iii) that 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 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.

S 6. Separability clause. 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 thereof directly involved in the controversy in which such judgment shall have been rendered; provided, however, that in the event that 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 the 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 of 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 this act.

S 7. Any rule or regulation or form necessary for the implementation of this act, or any section of this act, is authorized and directed to be made and completed within 180 days after the date on which this act becomes a law.

S 8. This act shall take effect immediately; provided that the amendments to sections 26-403 and 26-403.1 of the city rent and rehabilitation law made by sections one and two of this act shall remain in full

force and effect only as long as the public emergency requiring the regulation and control of residential rents and evictions continues, as provided in subdivision 3 of section 1 of the local emergency housing rent control act; and provided that the amendments to sections 26-504.1, 26-504.2 and 26-504.3 of the rent stabilization law of nineteen hundred sixty-nine made by sections three, four and five of this act shall expire on the same date as such law expires and shall not affect the expiration of such law as provided under section 26-520 of such law.