

8212

2009-2010 Regular Sessions

I N A S S E M B L Y

May 7, 2009

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

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

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

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

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

LBD11497-01-9

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3 REPEALED.

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

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

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

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

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

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

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

(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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(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

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

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

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

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

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

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

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

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