

860--A

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I N A S S E M B L Y

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January 7, 2009

Introduced by M. of A. BING, V. LOPEZ, GLICK, PERALTA, MILLMAN, ROSEN-
THAL, KAVANAGH, DINOWITZ, O'DONNELL, COLTON, MAISEL, WRIGHT, TITUS,
ORTIZ, POWELL, BROOK-KRASNY, SPANO -- Multi-Sponsored by -- M. of A.
BOYLAND, CARROZZA, CASTRO, COOK, FARRELL, GOTTFRIED, HOOPER, KELLNER,
PERRY, PHEFFER, SCHIMEL -- read once and referred to the Committee on
Housing -- reported from committee, advanced to a third reading,
amended and ordered reprinted, retaining its place on the order of
third reading

AN ACT to amend the emergency tenant protection act of nineteen seven-
ty-four, the emergency housing rent control law, the administrative
code of the city of New York and the tax law, in relation to dereg-
ulation thresholds

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

1 Section 1. Paragraph 12 of subdivision a of section 5 of section 4 of
2 chapter 576 of the laws of 1974, constituting the emergency tenant
3 protection act of nineteen seventy-four, as amended by chapter 116 of
4 the laws of 1997, is amended to read as follows:
5 (12) upon issuance of an order by the division, housing accommodations
6 which are: (1) occupied by persons who have a total annual income [in
7 excess of one hundred seventy-five thousand dollars per annum], AS
8 DEFINED IN AND SUBJECT TO THE LIMITATIONS AND PROCESS SET FORTH IN
9 SECTION FIVE-A OF THIS ACT, THAT EXCEEDS THE DEREGULATION INCOME THRESH-
10 OLD, AS DEFINED IN SECTION FIVE-A OF THIS ACT in each of the two preced-
11 ing calendar years[, as defined in and subject to the limitations and
12 process set forth in section five-a of this act]; and (2) have a legal
13 regulated rent [of two thousand dollars or more per month] THAT EQUALS
14 OR EXCEEDS THE DEREGULATION RENT THRESHOLD, AS DEFINED IN SECTION FIVE-A
15 OF THIS ACT. Provided however, that this exclusion shall not apply to
16 housing accommodations which became or become subject to this act (a) by

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

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1 virtue of receiving tax benefits pursuant to section four hundred twen-
2 ty-one-a or four hundred eighty-nine of the real property tax law,
3 except as otherwise provided in subparagraph (i) of paragraph (f) of
4 subdivision two of section four hundred twenty-one-a of the real proper-
5 ty tax law, or (b) by virtue of article seven-C of the multiple dwelling
6 law.

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

12 S 5-a. High income rent [decontrol] DEREGULATION. (a) 1. For purposes
13 of this section, annual income shall mean the federal adjusted gross
14 income as reported on the New York state income tax return. Total annual
15 income means the sum of the annual incomes of all persons whose names
16 are recited as the tenant or co-tenant on a lease who occupy the housing
17 accommodation and all other persons that occupy the housing accommo-
18 dation as their primary residence on other than a temporary basis,
19 excluding bona fide employees of such occupants residing therein in
20 connection with such employment and excluding bona fide subtenants in
21 occupancy pursuant to the provisions of section two hundred twenty-six-b
22 of the real property law. In the case where a housing accommodation is
23 sublet, the annual income of the tenant or co-tenant recited on the
24 lease who will reoccupy the housing accommodation upon the expiration of
25 the sublease shall be considered.

26 2. DEREGULATION INCOME THRESHOLD MEANS TWO HUNDRED FORTY THOUSAND
27 DOLLARS. FOR PROCEEDINGS COMMENCED ON OR AFTER JANUARY FIRST, TWO THOU-
28 SAND ELEVEN, THE DEREGULATION INCOME THRESHOLD SHALL BE ADJUSTED ANNUAL-
29 LY ON THE FIRST DAY OF OCTOBER OF EACH YEAR FOR PROCEEDINGS IN EACH
30 SUBSEQUENT YEAR BY THE CHANGE IN THE REGIONAL CONSUMER PRICE INDEX FOR
31 ALL URBAN CONSUMERS, NEW YORK-NORTHERN NEW JERSEY-LONG ISLAND,
32 NY-NJ-CT-PA, AS ESTABLISHED THE PRECEDING AUGUST.

33 3. DEREGULATION RENT THRESHOLD MEANS TWO THOUSAND SEVEN HUNDRED
34 DOLLARS. FOR PROCEEDINGS COMMENCED ON OR AFTER JANUARY FIRST, TWO THOU-
35 SAND ELEVEN, THE DEREGULATION RENT THRESHOLD SHALL BE ADJUSTED ANNUALLY
36 ON THE FIRST DAY OF OCTOBER EACH YEAR FOR PROCEEDINGS IN EACH SUBSEQUENT
37 YEAR BY THE CHANGE IN THE REGIONAL CONSUMER PRICE INDEX FOR ALL URBAN
38 CONSUMERS, NEW YORK-NORTHERN NEW JERSEY-LONG ISLAND, NY-NJ-CT-PA, AS
39 ESTABLISHED THE PRECEDING AUGUST.

40 (b) On or before the first day of May in each calendar year, the owner
41 of each housing accommodation for which the legal regulated MONTHLY rent
42 [is two thousand dollars or more per month] EQUALS OR EXCEEDS THE DEREG-
43 ULATION RENT THRESHOLD may provide the tenant or tenants residing there-
44 in with an income certification form prepared by the division of housing
45 and community renewal on which such tenant or tenants shall identify all
46 persons referred to in subdivision (a) of this section and shall certify
47 whether the total annual income is in excess of [one hundred seventy-
48 five thousand dollars] THE DEREGULATION INCOME THRESHOLD in each of the
49 two preceding calendar years. Such income certification form shall state
50 that the income level certified to by the tenant may be subject to
51 verification by the department of taxation and finance pursuant to
52 section one hundred seventy-one-b of the tax law, and shall not require
53 disclosure of any information other than whether the aforementioned
54 threshold has been exceeded. Such income certification form shall clear-
55 ly state that: (i) only tenants residing in housing accommodations which
56 had a legal regulated MONTHLY rent [of two thousand dollars or more per

1 month] THAT EQUALS OR EXCEEDS THE DEREGULATION RENT THRESHOLD are
2 required to complete the certification form; (ii) that tenants have
3 protections available to them which are designed to prevent harassment;
4 (iii) that tenants are not required to provide any information regarding
5 their income except that which is requested on the form and may contain
6 such other information the division deems appropriate. The tenant or
7 tenants shall return the completed certification to the owner within
8 thirty days after service upon the tenant or tenants. In the event that
9 the total annual income as certified is in excess of [one hundred seven-
10 ty-five thousand dollars] THE DEREGULATION INCOME THRESHOLD in each such
11 year, the owner may file the certification with the state division of
12 housing and community renewal on or before June thirtieth of such year.
13 Upon filing such certification with the division, the division shall,
14 within thirty days after the filing, issue an order providing that such
15 housing accommodation shall not be subject to the provisions of this act
16 upon the expiration of the existing lease. A copy of such order shall be
17 mailed by regular and certified mail, return receipt requested, to the
18 tenant or tenants and a copy thereof shall be mailed to the owner.

19 (c) 1. In the event that the tenant or tenants either fail to return
20 the completed certification to the owner on or before the date required
21 by subdivision (b) of this section or the owner disputes the certif-
22 ication returned by the tenant or tenants, the owner may, on or before
23 June thirtieth of such year, petition the state division of housing and
24 community renewal to verify, pursuant to section one hundred seventy-
25 one-b of the tax law, whether the total annual income exceeds [one
26 hundred seventy-five thousand dollars] THE DEREGULATION INCOME THRESHOLD
27 in each of the two preceding calendar years. Within twenty days after
28 the filing of such request with the division, the division shall notify
29 the tenant or tenants that such tenant or tenants named on the lease
30 must provide the division with such information as the division and the
31 department of taxation and finance shall require to verify whether the
32 total annual income exceeds [one hundred seventy-five thousand dollars]
33 THE DEREGULATION INCOME THRESHOLD in each such year. The division's
34 notification shall require the tenant or tenants to provide the informa-
35 tion to the division within sixty days of service upon such tenant or
36 tenants and shall include a warning in bold faced type that failure to
37 respond will result in an order being issued by the division providing
38 that such housing accommodations shall not be subject to the provisions
39 of this act.

40 2. If the department of taxation and finance determines that the total
41 annual income is in excess of [one hundred seventy-five thousand
42 dollars] THE DEREGULATION INCOME THRESHOLD in each of the two preceding
43 calendar years, the division shall, on or before November fifteenth of
44 such year, notify the owner and tenants of the results of such verifica-
45 tion. Both the owner and the tenants shall have thirty days within which
46 to comment on such verification results. Within forty-five days after
47 the expiration of the comment period, the division shall, where appro-
48 priate, issue an order providing that such housing accommodation shall
49 not be subject to the provisions of this act upon expiration of the
50 existing lease. A copy of such order shall be mailed by regular and
51 certified mail, return receipt requested, to the tenant or tenants and a
52 copy thereof shall be sent to the owner.

53 3. In the event the tenant or tenants fail to provide the information
54 required pursuant to paragraph one of this subdivision, the division
55 shall issue, on or before December first of such year, an order provid-
56 ing that such housing accommodation shall not be subject to the

1 provisions of this act upon the expiration [or] OF the current lease. A
2 copy of such order shall be mailed by regular and certified mail, return
3 receipt requested, to the tenant or tenants and a copy thereof shall be
4 sent to the owner.

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

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

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

21 S 3. Paragraph (m) of subdivision 2 of section 2 of chapter 274 of the
22 laws of 1946, constituting the emergency housing rent control law, as
23 amended by chapter 116 of the laws of 1997, is amended to read as
24 follows:

25 (m) upon the issuance of an order of [decontrol] DEREGULATION by the
26 division, housing accommodations which: (1) are occupied by persons who
27 have a total annual income, AS DEFINED IN AND SUBJECT TO THE LIMITATIONS
28 AND PROCESS SET FORTH IN SECTION TWO-A OF THIS LAW, in excess of [one
29 hundred seventy-five thousand dollars] THE DEREGULATION INCOME THRESHOLD
30 AS DEFINED IN SECTION TWO-A OF THIS LAW in each of the two preceding
31 calendar years[, as defined in and subject to the limitations and proc-
32 ess set forth in section two-a of this law]; and (2) have a maximum rent
33 [of two thousand dollars or more per month].

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

39 S 2-a. (a) 1. For purposes of this section, annual income shall mean
40 the federal adjusted gross income as reported on the New York state
41 income tax return. Total annual income means the sum of the annual
42 incomes of all persons who occupy the housing accommodation as their
43 primary residence on other than a temporary basis, excluding bona fide
44 employees of such occupants residing therein in connection with such
45 employment and excluding bona fide subtenants in occupancy pursuant to
46 the provisions of section two hundred twenty-six-b of the real property
47 law. In the case where a housing accommodation is sublet, the annual
48 income of the sublessor shall be considered.

49 2. DEREGULATION INCOME THRESHOLD MEANS TWO HUNDRED FORTY THOUSAND
50 DOLLARS. FOR PROCEEDINGS COMMENCED ON OR AFTER JANUARY FIRST, TWO THOU-
51 SAND ELEVEN, THE DEREGULATION INCOME THRESHOLD SHALL BE ADJUSTED ANNUAL-
52 LY ON THE FIRST DAY OF OCTOBER OF EACH YEAR FOR PROCEEDINGS IN EACH
53 SUBSEQUENT YEAR BY THE CHANGE IN THE REGIONAL CONSUMER PRICE INDEX FOR
54 ALL URBAN CONSUMERS, NEW YORK-NORTHERN NEW JERSEY-LONG ISLAND,
55 NY-NJ-CT-PA, AS ESTABLISHED THE PRECEDING AUGUST.

1 3. DEREGULATION RENT THRESHOLD MEANS TWO THOUSAND SEVEN HUNDRED
2 DOLLARS. FOR PROCEEDINGS COMMENCED ON OR AFTER JANUARY FIRST, TWO THOU-
3 SAND ELEVEN, THE DEREGULATION RENT THRESHOLD SHALL BE ADJUSTED ANNUALLY
4 ON THE FIRST DAY OF OCTOBER OF EACH YEAR FOR PROCEEDINGS IN EACH SUBSE-
5 QUENT YEAR BY THE CHANGE IN THE REGIONAL CONSUMER PRICE INDEX FOR ALL
6 URBAN CONSUMERS, NEW YORK-NORTHERN NEW JERSEY-LONG ISLAND, NY-NJ-CT-PA,
7 AS ESTABLISHED THE PRECEDING AUGUST.

8 (b) On or before the first day of May in each calendar year, the owner
9 of each housing accommodation for which the maximum MONTHLY rent [is two
10 thousand dollars or more per month] EQUALS OR EXCEEDS THE DEREGULATION
11 RENT THRESHOLD may provide the tenant or tenants residing therein with
12 an income certification form prepared by the division of housing and
13 community renewal on which such tenant or tenants shall identify all
14 persons referred to in subdivision (a) of this section and shall certify
15 whether the total annual income is in excess of [one hundred seventy-
16 five thousand dollars] THE DEREGULATION INCOME THRESHOLD in each of the
17 two preceding calendar years. Such income certification form shall state
18 that the income level certified to by the tenant may be subject to
19 verification by the department of taxation and finance pursuant to
20 section one hundred seventy-one-b of the tax law and shall not require
21 disclosure of any income information other than whether the aforemen-
22 tioned threshold has been exceeded. Such income certification form shall
23 clearly state that: (i) only tenants residing in housing accommodations
24 which had a maximum MONTHLY rent EQUAL TO OR IN EXCESS of [two thousand
25 dollars or more per month] THE DEREGULATION RENT THRESHOLD are required
26 to complete the certification form; (ii) that tenants have protections
27 available to them which are designed to prevent harassment; (iii) that
28 tenants are not required to provide any information regarding their
29 income except that which is requested on the form and may contain such
30 other information the division deems appropriate. The tenant or tenants
31 shall return the completed certification to the owner within thirty days
32 after service upon the tenant or tenants. In the event that the total
33 annual income as certified is in excess of [one hundred seventy-five
34 thousand dollars in each such year] THE DEREGULATION INCOME THRESHOLD,
35 the owner may file the certification with the state division of housing
36 and community renewal on or before June thirtieth of such year. Upon
37 filing such certification with the division, the division shall, within
38 thirty days after the filing, issue an order of [decontrol] DEREGULATION
39 providing that such housing accommodations shall not be subject to the
40 provisions of this law as of the first day of June in the year next
41 succeeding the filing of the certification by the owner. A copy of such
42 order shall be mailed by regular and certified mail, return receipt
43 requested, to the tenant or tenants and a copy thereof shall be mailed
44 to the owner.

45 (c) 1. In the event that the tenant or tenants either fail to return
46 the completed certification to the owner on or before the date required
47 by subdivision (b) of this section or the owner disputes the certif-
48 ication returned by the tenant or tenants, the owner may, on or before
49 June thirtieth of such year, petition the state division of housing and
50 community renewal to verify, pursuant to section one hundred seventy-
51 one-b of the tax law, whether the total annual income exceeds [one
52 hundred seventy-five thousand dollars] THE DEREGULATION INCOME THRESHOLD
53 in each of the two preceding calendar years. Within twenty days after
54 the filing of such request with the division, the division shall notify
55 the tenant or tenants that such tenant or tenants must provide the divi-
56 sion with such information as the division and the department of taxa-

tion and finance shall require to verify whether the total annual income exceeds [one hundred seventy-five thousand dollars] THE DEREGULATION INCOME THRESHOLD in each such year. The division's notification shall require the tenant or tenants to provide the information to the division within sixty days of service upon such tenant or tenants and shall include a warning in bold faced type that failure to respond will result in an order of [decontrol] DEREGULATION being issued by the division for such housing accommodation.

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

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

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

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

(e) Upon receipt of such order of [decontrol] DEREGULATION 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 5. 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] DEREGULATION by the division, housing accommodations which: (1) are occupied by persons who have a total annual income, AS DEFINED IN AND SUBJECT TO THE LIMITATIONS AND PROCESS SET FORTH IN SECTION 26-403.1 OF THIS CHAPTER, in excess of [one hundred seventy-five thousand dollars] THE DEREGULATION INCOME

1 THRESHOLD, AS DEFINED IN SECTION 26-403.1 OF THIS CHAPTER, per annum in
2 each of the two preceding calendar years[, as defined in and subject to
3 the limitations and process set forth in section 26-403.1 of this chap-
4 ter]; and (2) have a maximum rent [of two thousand dollars or more per
5 month] THAT EQUALS OR EXCEEDS THE DEREGULATION RENT THRESHOLD, AS
6 DEFINED IN SECTION 26-403.1 OF THIS CHAPTER. Provided however, that
7 this exclusion shall not apply to housing accommodations which became or
8 become subject to this law by virtue of receiving tax benefits pursuant
9 to section four hundred eighty-nine of the real property tax law.

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

14 S 26-403.1 High income rent [decontrol] DEREGULATION. (a) 1. For
15 purposes of this section, annual income shall mean the federal adjusted
16 gross income as reported on the New York state income tax return. Total
17 annual income means the sum of the annual incomes of all persons who
18 occupy the housing accommodation as their primary residence other than
19 on a temporary basis, excluding bona fide employees of such occupants
20 residing therein in connection with such employment and excluding bona
21 fide subtenants in occupancy pursuant to the provisions of section two
22 hundred twenty-six-b of the real property law. In the case where a hous-
23 ing accommodation is sublet, the annual income of the sublessor shall be
24 considered.

25 2. DEREGULATION INCOME THRESHOLD MEANS TWO HUNDRED FORTY THOUSAND
26 DOLLARS. FOR PROCEEDINGS COMMENCED ON OR AFTER JANUARY FIRST, TWO THOU-
27 SAND ELEVEN, THE DEREGULATION INCOME THRESHOLD SHALL BE ADJUSTED ANNUAL-
28 LY ON THE FIRST DAY OF OCTOBER OF EACH YEAR FOR PROCEEDINGS IN EACH
29 SUBSEQUENT YEAR BY THE CHANGE IN THE REGIONAL CONSUMER PRICE INDEX FOR
30 ALL URBAN CONSUMERS, NEW YORK-NORTHERN NEW JERSEY-LONG ISLAND,
31 NY-NJ-CT-PA, AS ESTABLISHED THE PRECEDING AUGUST.

32 3. DEREGULATION RENT THRESHOLD MEANS TWO THOUSAND SEVEN HUNDRED
33 DOLLARS. FOR PROCEEDINGS COMMENCED ON OR AFTER JANUARY FIRST, TWO THOU-
34 SAND ELEVEN, THE DEREGULATION RENT THRESHOLD SHALL BE ADJUSTED ANNUALLY
35 ON THE FIRST DAY OF OCTOBER OF EACH YEAR FOR PROCEEDINGS IN EACH SUBSE-
36 QUENT YEAR BY THE CHANGE IN THE REGIONAL CONSUMER PRICE INDEX FOR ALL
37 URBAN CONSUMERS, NEW YORK-NORTHERN NEW JERSEY-LONG ISLAND, NY-NJ-CT-PA,
38 AS ESTABLISHED THE PRECEDING AUGUST.

39 (b) On or before the first day of May in each calendar year, the owner
40 of each housing accommodation for which the maximum rent [is two thou-
41 sand dollars or more per month] EQUALS OR EXCEEDS THE DEREGULATION RENT
42 THRESHOLD may provide the tenant or tenants residing therein with an
43 income certification form prepared by the division of housing and commu-
44 nity renewal on which such tenant or tenants shall identify all persons
45 referred to in subdivision (a) of this section and shall certify whether
46 the total annual income is in excess of [one hundred seventy-five thou-
47 sand dollars] THE DEREGULATION INCOME THRESHOLD in each of the two
48 preceding calendar years. Such income certification form shall state
49 that the income level certified to by the tenant may be subject to
50 verification by the department of taxation and finance pursuant to
51 section one hundred seventy-one-b of the tax law and shall not require
52 disclosure of any income information other than whether the aforemen-
53 tioned threshold has been exceeded. Such income certification form shall
54 clearly state that: (i) only tenants residing in housing accommodations
55 which have a maximum MONTHLY rent [of two thousand dollars or more per
56 month] THAT EQUALS OR EXCEEDS THE DEREGULATION RENT THRESHOLD are

1 required to complete the certification form; (ii) that tenants have
2 protections available to them which are designed to prevent harassment;
3 (iii) that tenants are not required to provide any information regarding
4 their income except that which is requested on the form and may contain
5 such other information the division deems appropriate. The tenant or
6 tenants shall return the completed certification to the owner within
7 thirty days after service upon the tenant or tenants. In the event that
8 the total annual income as certified is in excess of [one hundred seven-
9 ty-five thousand dollars] THE DEREGULATION INCOME THRESHOLD in each such
10 year, the owner may file the certification with the state division of
11 housing and community renewal on or before June thirtieth of such year.
12 Upon filing such certification with the division, the division shall,
13 within thirty days after the filing, issue an order of [decontrol]
14 DEREGULATION providing that such housing accommodations shall not be
15 subject to the provisions of this law as of the first day of June in the
16 year next succeeding the filing of the certification by the owner. A
17 copy of such order shall be mailed by regular and certified mail, return
18 receipt requested, to the tenant or tenants and a copy thereof shall be
19 mailed to the owner.

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

40 2. If the department of taxation and finance determines that the total
41 annual income is in excess of [one hundred seventy-five thousand
42 dollars] THE DEREGULATION INCOME THRESHOLD in each of the two preceding
43 calendar years, the division shall, on or before November fifteenth of
44 such year, notify the owner and tenants of the results of such verifica-
45 tion. Both the owner and the tenants shall have thirty days within which
46 to comment on such verification results. Within forty-five days after
47 the expiration of the comment period, the division shall, where appro-
48 priate, issue an order of [decontrol] DEREGULATION providing that such
49 housing accommodation shall not be subject to the provisions of this law
50 as of the first day of March in the year next succeeding the filing of
51 the owner's petition with the division. A copy of such order shall be
52 mailed by regular and certified mail, return receipt requested, to the
53 tenant or tenants and a copy thereof shall be sent to the owner.

54 3. In the event the tenant or tenants fail to provide the information
55 required pursuant to paragraph one of this subdivision, the division
56 shall issue, on or before December first of such year, an order of

1 [decontrol] DEREGULATION providing that such housing accommodation shall
2 not be subject to the provisions of this law as of the first day of
3 March in the year next succeeding the last day on which the tenant or
4 tenants were required to provide the information required by such para-
5 graph. A copy of such order shall be mailed by regular and certified
6 mail, return receipt requested, to the tenant or tenants and a copy
7 thereof shall be sent to the owner.

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

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

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

24 S 7. Section 26-504.1 of the administrative code of the city of New
25 York, as amended by chapter 116 of the laws of 1997, is amended to read
26 as follows:

27 S 26-504.1 Exclusion of accommodations of high income renters. Upon
28 the issuance of an order by the division, "housing accommodations" shall
29 not include housing accommodations which: (1) are occupied by persons
30 who have a total annual income, AS DEFINED IN AND SUBJECT TO THE LIMITA-
31 TIONS AND PROCESS SET FORTH IN SECTION 26-504.3 OF THIS CHAPTER, in
32 excess of [one hundred seventy-five thousand dollars per annum] THE
33 DEREGULATION INCOME THRESHOLD, AS DEFINED IN SECTION 26-504.3 OF THIS
34 CHAPTER, for each of the two preceding calendar years[, as defined in
35 and subject to the limitations and process set forth in section 26-504.3
36 of this chapter]; and (2) have a legal regulated MONTHLY rent [of two
37 thousand dollars or more per month] THAT EQUALS OR EXCEEDS THE DEREGU-
38 LATION RENT THRESHOLD, AS DEFINED IN SECTION 26-504.3 OF THIS CHAPTER.
39 Provided, however, that this exclusion shall not apply to housing accom-
40 modations which became or become subject to this law (a) by virtue of
41 receiving tax benefits pursuant to section four hundred twenty-one-a or
42 four hundred eighty-nine of the real property tax law, except as other-
43 wise provided in subparagraph (i) of paragraph (f) of subdivision two of
44 section four hundred twenty-one-a of the real property tax law, or (b)
45 by virtue of article seven-C of the multiple dwelling law.

46 S 8. Section 26-504.3 of the administrative code of the city of New
47 York, as added by chapter 253 of the laws of 1993, subdivision (b) and
48 paragraphs 1 and 2 of subdivision (c) as amended and subdivision (e) as
49 added by chapter 116 of the laws of 1997, is amended to read as follows:

50 S 26-504.3 High income rent [decontrol] DEREGULATION. (a) 1. For
51 purposes of this section, annual income shall mean the federal adjusted
52 gross income as reported on the New York state income tax return. Total
53 annual income means the sum of the annual incomes of all persons whose
54 names are recited as the tenant or co-tenant on a lease who occupy the
55 housing accommodation and all other persons that occupy the housing
56 accommodation as their primary residence on other than a temporary

1 basis, excluding bona fide employees of such occupants residing therein
2 in connection with such employment and excluding bona fide subtenants in
3 occupancy pursuant to the provisions of section two hundred twenty-six-b
4 of the real property law. In the case where a housing accommodation is
5 sublet, the annual income of the tenant or co-tenant recited on the
6 lease who will reoccupy the housing accommodation upon the expiration of
7 the sublease shall be considered.

8 2. DEREGULATION INCOME THRESHOLD MEANS TWO HUNDRED FORTY THOUSAND
9 DOLLARS. FOR PROCEEDINGS COMMENCED ON OR AFTER JANUARY FIRST, TWO THOU-
10 SAND ELEVEN, THE DEREGULATION INCOME THRESHOLD SHALL BE ADJUSTED ANNUAL-
11 LY ON THE FIRST DAY OF OCTOBER OF EACH YEAR FOR PROCEEDINGS IN EACH
12 SUBSEQUENT YEAR BY THE CHANGE IN THE REGIONAL CONSUMER PRICE INDEX FOR
13 ALL URBAN CONSUMERS, NEW YORK-NORTHERN NEW JERSEY-LONG ISLAND,
14 NY-NJ-CT-PA, AS ESTABLISHED THE PRECEDING AUGUST.

15 3. DEREGULATION RENT THRESHOLD MEANS TWO THOUSAND SEVEN HUNDRED
16 DOLLARS. FOR PROCEEDINGS COMMENCED ON OR AFTER JANUARY FIRST, TWO THOU-
17 SAND ELEVEN, THE DEREGULATION RENT THRESHOLD SHALL BE ADJUSTED ANNUALLY
18 ON THE FIRST DAY OF OCTOBER OF EACH YEAR FOR PROCEEDINGS IN EACH SUBSE-
19 QUENT YEAR BY THE CHANGE IN THE REGIONAL CONSUMER PRICE INDEX FOR ALL
20 URBAN CONSUMERS, NEW YORK-NORTHERN NEW JERSEY-LONG ISLAND, NY-NJ-CT-PA,
21 AS ESTABLISHED THE PRECEDING AUGUST.

22 (b) On or before the first day of May in each calendar year, the owner
23 of each housing accommodation for which the legal regulated rent [is two
24 thousand dollars or more per month] EQUALS OR EXCEEDS THE DEREGULATION
25 RENT THRESHOLD may provide the tenant or tenants residing therein with
26 an income certification form prepared by the division of housing and
27 community renewal on which such tenant or tenants shall identify all
28 persons referred to in subdivision (a) of this section and shall certify
29 whether the total annual income is in excess of [one hundred seventy-
30 five thousand dollars] THE DEREGULATION INCOME THRESHOLD in each of the
31 two preceding calendar years. Such income certification form shall state
32 that the income level certified to by the tenant may be subject to
33 verification by the department of taxation and finance pursuant to
34 section one hundred seventy-one-b of the tax law and shall not require
35 disclosure of any income information other than whether the aforemen-
36 tioned threshold has been exceeded. Such income certification form shall
37 clearly state that: (i) only tenants residing in housing accommodations
38 which have a legal regulated MONTHLY rent [of two thousand dollars or
39 more per month], THAT EQUALS OR EXCEEDS THE DEREGULATION RENT THRESHOLD
40 are required to complete the certification form; (ii) that tenants have
41 protections available to them which are designed to prevent harassment;
42 (iii) that tenants are not required to provide any information regarding
43 their income except that which is requested on the form and may contain
44 such other information the division deems appropriate. The tenant or
45 tenants shall return the completed certification to the owner within
46 thirty days after service upon the tenant or tenants. In the event that
47 the total annual income as certified is in excess of [one hundred seven-
48 ty-five thousand dollars] THE DEREGULATION INCOME THRESHOLD in each such
49 year, the owner may file the certification with the state division of
50 housing and community renewal on or before June thirtieth of such year.
51 Upon filing such certification with the division, the division shall,
52 within thirty days after the filing, issue an order providing that such
53 housing accommodation shall not be subject to the provisions of this act
54 upon the expiration of the existing lease. A copy of such order shall be
55 mailed by regular and certified mail, return receipt requested, to the
56 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 thousand dollars] THE DEREGULATION INCOME THRESHOLD
9 in each of the two preceding calendar years. Within twenty days after
10 the filing of such request with the division, the division shall notify
11 the tenant or tenants named on the lease that such tenant or tenants
12 must provide the division with such information as the division and the
13 department of taxation and finance shall require to verify whether the
14 total annual income exceeds [one hundred seventy-five thousand dollars]
15 THE DEREGULATION INCOME THRESHOLD in each such year. The division's
16 notification shall require the tenant or tenants to provide the informa-
17 tion to the division within sixty days of service upon such tenant or
18 tenants and shall include a warning in bold faced type that failure to
19 respond will result in an order being issued by the division providing
20 that such housing accommodation shall not be subject to the provisions
21 of this law.

22 2. If the department of taxation and finance determines that the total
23 annual income is in excess of [one hundred seventy-five thousand
24 dollars] THE DEREGULATION INCOME THRESHOLD in each of the two preceding
25 calendar years, the division shall, on or before November fifteenth of
26 such year, notify the owner and tenants of the results of such verifica-
27 tion. Both the owner and the tenants shall have thirty days within which
28 to comment on such verification results. Within forty-five days after
29 the expiration of the comment period, the division shall, where appro-
30 priate, issue an order providing that such housing accommodation shall
31 not be subject to the provisions of this law upon the expiration of the
32 existing lease. A copy of such order shall be mailed by regular and
33 certified mail, return receipt requested, to the tenant or tenants and a
34 copy thereof shall be sent to the owner.

35 3. In the event the tenant or tenants fail to provide the information
36 required pursuant to paragraph one of this subdivision, the division
37 shall issue, on or before December first of such year, an order provid-
38 ing that such housing accommodation shall not be subject to the
39 provisions of this law upon the expiration of the current lease. A copy
40 of such order shall be mailed by regular and certified mail, return
41 receipt requested, to the tenant or tenants and a copy thereof shall be
42 sent to the owner.

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

46 (d) This section shall apply only to section 26-504.1 of this [code]
47 CHAPTER.

48 (e) Upon receipt of such order of [decontrol] DEREGULATION pursuant to
49 this section, an owner shall offer the housing accommodation subject to
50 such order to the tenant at a rent not in excess of the market rent,
51 which for the purposes of this section means a rent obtainable in an
52 arm's length transaction. Such rental offer shall be made by the owner
53 in writing to the tenant by certified and regular mail and shall inform
54 the tenant that such offer must be accepted in writing within ten days
55 of receipt. The tenant shall respond within ten days after receipt of
56 such offer. If the tenant declines the offer or fails to respond within

1 such period, the owner may commence an action or proceeding for the
2 eviction of such tenant.

3 S 9. Paragraph (b) of subdivision 3 of section 171-b of the tax law,
4 as amended by chapter 116 of the laws of 1997, is amended to read as
5 follows:

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

15 S 10. This act shall take effect immediately, provided, however, that:

16 (a) the amendments to paragraph 12 of subdivision a of section 5 and
17 section 5-a of section 4 of the emergency tenant protection act of nine-
18 teen seventy-four made by sections one and two of this act, respective-
19 ly, shall expire on the same date as such act expires and shall not
20 affect the expiration of such act as provided in section 17 of chapter
21 576 of the laws of 1974;

22 (b) the amendments to paragraph (m) of subdivision 2 of section 2 and
23 section 2-a of the emergency housing rent control law made by sections
24 three and four of this act, respectively, shall expire on the same date
25 as such law expires and shall not affect the expiration of such law as
26 provided in subdivision 2 of section 1 of chapter 274 of the laws of
27 1946;

28 (c) the amendments to sections 26-403 and 26-403.1 of the city rent
29 and rehabilitation law made by sections five and six of this act,
30 respectively, shall remain in full force and effect only as long as the
31 public emergency requiring the regulation and control of residential
32 rents and evictions continues, as provided in subdivision 3 of section 1
33 of the local emergency housing rent control act; and

34 (d) the amendments to sections 26-504.1 and 26-504.3 of chapter 4 of
35 title 26 of the administrative code of the city of New York made by
36 sections seven and eight of this act, respectively, shall expire on the
37 same date as such law expires and shall not affect the expiration of
38 such law as provided under section 26-520 of such law.