

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

5432--A

2009-2010 Regular Sessions

I N S E N A T E

May 4, 2009

Introduced by Sens. KRUEGER, KLEIN -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development -- recommitted to the Committee on Housing, Construction and Community Development in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, 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
17 virtue of receiving tax benefits pursuant to section four hundred twenty-
18 one-a or four hundred eighty-nine of the real property tax law,
19 except as otherwise provided in subparagraph (i) of paragraph (f) of

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

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1 subdivision two of section four hundred twenty-one-a of the real proper-
2 ty tax law, or (b) by virtue of article seven-C of the multiple dwelling
3 law.

4 S 2. 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] DEREGULATION. (a) 1. For purposes
10 of this section, annual income shall mean the federal adjusted gross
11 income as reported on the New York state income tax return. Total annual
12 income means the sum of the annual incomes of all persons whose names
13 are recited as the tenant or co-tenant on a lease who occupy the housing
14 accommodation and all other persons that occupy the housing accommo-
15 dation as their primary residence on other than a temporary basis,
16 excluding bona fide employees of such occupants residing therein in
17 connection with such employment and excluding bona fide subtenants in
18 occupancy pursuant to the provisions of section two hundred twenty-six-b
19 of the real property law. In the case where a housing accommodation is
20 sublet, the annual income of the tenant or co-tenant recited on the
21 lease who will reoccupy the housing accommodation upon the expiration of
22 the sublease shall be considered.

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

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

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

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

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

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

50 3. In the event the tenant or tenants fail to provide the information
51 required pursuant to paragraph one of this subdivision, the division
52 shall issue, on or before December first of such year, an order provid-
53 ing that such housing accommodation shall not be subject to the
54 provisions of this act upon the expiration [or] OF the current lease. A
55 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.

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

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

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

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

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

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

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

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

54 3. DEREGULATION RENT THRESHOLD MEANS TWO THOUSAND SEVEN HUNDRED
55 DOLLARS. FOR PROCEEDINGS COMMENCED ON OR AFTER JANUARY FIRST, TWO THOU-
56 SAND ELEVEN, THE DEREGULATION RENT THRESHOLD SHALL BE ADJUSTED ANNUALLY

1 ON THE FIRST DAY OF OCTOBER OF EACH YEAR FOR PROCEEDINGS IN EACH SUBSE-
2 QUENT YEAR BY THE CHANGE IN THE REGIONAL CONSUMER PRICE INDEX FOR ALL
3 URBAN CONSUMERS, NEW YORK-NORTHERN NEW JERSEY-LONG ISLAND, NY-NJ-CT-PA,
4 AS ESTABLISHED THE PRECEDING AUGUST.

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

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

1 require the tenant or tenants to provide the information to the division
2 within sixty days of service upon such tenant or tenants and shall
3 include a warning in bold faced type that failure to respond will result
4 in an order of [decontrol] DEREGULATION being issued by the division for
5 such housing accommodation.

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

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

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

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

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

46 S 5. Subparagraph (j) of paragraph 2 of subdivision e of section
47 26-403 of the administrative code of the city of New York, as amended by
48 chapter 116 of the laws of 1997, is amended to read as follows:

49 (j) Upon the issuance of an order of [decontrol] DEREGULATION by the
50 division, housing accommodations which: (1) are occupied by persons who
51 have a total annual income, AS DEFINED IN AND SUBJECT TO THE LIMITATIONS
52 AND PROCESS SET FORTH IN SECTION 26-403.1 OF THIS CHAPTER, in excess of
53 [one hundred seventy-five thousand dollars] THE DEREGULATION INCOME
54 THRESHOLD, AS DEFINED IN SECTION 26-403.1 OF THIS CHAPTER, per annum in
55 each of the two preceding calendar years[, as defined in and subject to
56 the limitations and process set forth in section 26-403.1 of this chap-

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

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

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

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

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

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

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

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

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

51 3. In the event the tenant or tenants fail to provide the information
52 required pursuant to paragraph one of this subdivision, the division
53 shall issue, on or before December first of such year, an order of
54 [decontrol] DEREGULATION providing that such housing accommodation shall
55 not be subject to the provisions of this law as of the first day of
56 March in the year next succeeding the last day on which the tenant or

1 tenants were required to provide the information required by such para-
2 graph. A copy of such order shall be mailed by regular and certified
3 mail, return receipt requested, to the tenant or tenants and a copy
4 thereof shall be 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 subparagraph (j) of paragraph two
9 of subdivision e of section 26-403 of this [code] CHAPTER.

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

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

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

47 S 26-504.3 High income rent [decontrol] DEREGULATION. (a) 1. For
48 purposes of this section, annual income shall mean the federal adjusted
49 gross income as reported on the New York state income tax return. Total
50 annual income means the sum of the annual incomes of all persons whose
51 names are recited as the tenant or co-tenant on a lease who occupy the
52 housing accommodation and all other persons that occupy the housing
53 accommodation as their primary residence on other than a temporary
54 basis, excluding bona fide employees of such occupants residing therein
55 in connection with such employment and excluding bona fide subtenants in
56 occupancy pursuant to the provisions of section two hundred twenty-six-b

1 of the real property law. In the case where a housing accommodation is
2 sublet, the annual income of the tenant or co-tenant recited on the
3 lease who will reoccupy the housing accommodation upon the expiration of
4 the sublease shall be considered.

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

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

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

54 (c) 1. In the event that the tenant or tenants either fail to return
55 the completed certification to the owner on or before the date required
56 by subdivision (b) of this section or the owner disputes the certif-

1 ication returned by the tenant or tenants, the owner may, on or before
2 June thirtieth of such year, petition the state division of housing and
3 community renewal to verify, pursuant to section one hundred seventy-
4 one-b of the tax law, whether the total annual income exceeds [one
5 hundred seventy-five thousand dollars] THE DEREGULATION INCOME THRESHOLD
6 in each of the two preceding calendar years. Within twenty days after
7 the filing of such request with the division, the division shall notify
8 the tenant or tenants named on the lease that such tenant or tenants
9 must provide the division with such information as the division and the
10 department of taxation and finance shall require to verify whether the
11 total annual income exceeds [one hundred seventy-five thousand dollars]
12 THE DEREGULATION INCOME THRESHOLD in each such year. The division's
13 notification shall require the tenant or tenants to provide the informa-
14 tion to the division within sixty days of service upon such tenant or
15 tenants and shall include a warning in bold faced type that failure to
16 respond will result in an order being issued by the division providing
17 that such housing accommodation shall not be subject to the provisions
18 of this law.

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

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

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

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

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

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

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

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

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

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

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

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