

4815

2011-2012 Regular Sessions

I N A S S E M B L Y

February 8, 2011

Introduced by M. of A. KOLB, BURLING, CALHOUN, 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, hous-
6 ing accommodations which[: (1)] are occupied by persons who have a total
7 annual income in excess of one hundred [seventy-five] TWENTY-FIVE thou-
8 sand dollars in each of the two preceding calendar years, as defined in
9 and subject to the limitations and process set forth in section two-a of
10 this law[; and (2) have a maximum rent of two thousand dollars or more
11 per month].

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14 REPEALED.

15 S 3. Section 2-a of chapter 274 of the laws of 1946, constituting the
16 emergency housing rent control law, as added by chapter 253 of the laws

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

LBD05157-01-1

1 of 1993, subdivision (b), paragraphs 1 and 2 of subdivision (c) as
2 amended and subdivision (e) as added by chapter 116 of the laws of 1997,
3 is amended to read as follows:

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

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

51 (c) 1. In the event that the tenant or tenants either fail to return
52 the completed certification to the owner on or before the date required
53 by subdivision (b) of this section or the owner disputes the certif-
54 ication returned by the tenant or tenants, the owner may, on or before
55 June thirtieth of such year, petition the state division of housing and
56 community renewal to verify, pursuant to section one hundred seventy-

1 one-b of the tax law, whether the total annual income exceeds one
2 hundred [seventy-five] TWENTY-FIVE thousand dollars in each of the two
3 preceding calendar years. Within twenty days after the filing of such
4 request with the division, the division shall notify the tenant or
5 tenants that such tenant or tenants must provide the division with such
6 information as the division and the department of taxation and finance
7 shall require to verify whether the total annual income exceeds one
8 hundred [seventy-five] TWENTY-FIVE thousand dollars in each such year.
9 The division's notification shall require the tenant or tenants to
10 provide the information to the division within sixty days of service
11 upon such tenant or tenants and shall include a warning in bold faced
12 type that failure to respond will result in an order of decontrol being
13 issued by the division for such housing accommodation.

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

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

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

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

52 (e) Upon receipt of such order of decontrol pursuant to this section,
53 an owner shall offer the housing accommodation subject to such order to
54 the tenant at a rent not in excess of the market rent, which for the
55 purposes of this section means a rent obtainable in an arm's length
56 transaction. Such rental offer shall be made by the owner in writing to

1 the tenant by certified and regular mail and shall inform the tenant
2 that such offer must be accepted in writing within ten days of receipt.
3 The tenant shall respond within ten days after receipt of such offer. If
4 the tenant declines the offer or fails to respond within such period,
5 the owner may commence an action or proceeding for the eviction of such
6 tenant.

7 S 4. Subparagraph (j) of paragraph 2 of subdivision e of section
8 26-403 of the administrative code of the city of New York, as amended by
9 chapter 116 of the laws of 1997, is amended to read as follows:

10 (j) Upon the issuance of an order of decontrol by the division, hous-
11 ing accommodations which[: (1)] are occupied by persons who have a total
12 annual income in excess of one hundred [seventy-five] TWENTY-FIVE thou-
13 sand dollars per annum in each of the two preceding calendar years, as
14 defined in and subject to the limitations and process set forth in
15 section 26-403.1 of this chapter[; and (2) have a maximum rent of two
16 thousand dollars or more per month]. Provided however, that this exclu-
17 sion shall not apply to housing accommodations which became or become
18 subject to this law by virtue of receiving tax benefits pursuant to
19 section four hundred eighty-nine of the real property tax law.

20 S 5. Subparagraph (k) of paragraph 2 of subdivision e of section
21 26-403 of the administrative code of the city of New York is REPEALED.

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

26 S 26-403.1 High income rent decontrol. (a) For purposes of this
27 section, annual income shall mean the federal [adjusted] gross income as
28 reported on the New York state income tax return. Total annual income
29 means the sum of the annual incomes of all persons who occupy the hous-
30 ing accommodation as their primary residence other than on a temporary
31 basis, excluding bona fide employees of such occupants residing therein
32 in connection with such employment and excluding bona fide subtenants in
33 occupancy pursuant to the provisions of section two hundred
34 twenty-six-b of the real property law. In the case where a housing
35 accommodation is sublet, the annual income of the sublessor shall be
36 considered.

37 (b) On or before the first day of May in each calendar year, the owner
38 of each housing accommodation [for which the maximum rent is two thou-
39 sand dollars or more per month] WHICH IS OCCUPIED BY A TENANT OR TENANTS
40 WHOM THE OWNER IN GOOD FAITH BELIEVES HAS A TOTAL ANNUAL INCOME IN
41 EXCESS OF ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS IN EACH OF THE TWO
42 PRECEDING CALENDAR YEARS may provide the tenant or tenants residing
43 therein with an income certification form prepared by the division of
44 housing and community renewal on which such tenant or tenants shall
45 identify all persons referred to in subdivision (a) of this section and
46 shall certify whether the total annual income is in excess of one
47 hundred [seventy-five] TWENTY-FIVE thousand dollars 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
54 shall clearly state that: (i) [only tenants residing in housing accommo-
55 dations which have a maximum rent of two thousand dollars or more per
56 month are required to complete the certification form; (ii) that]

1 tenants have protections available to them which are designed to prevent
2 harassment; [(iii) that] (II) tenants are not required to provide any
3 information regarding their income except that which is requested on the
4 form and may contain such other information the division deems appropri-
5 ate. The tenant or tenants shall return the completed certification to
6 the owner within thirty days after service upon the tenant or tenants.
7 In the event that the total annual income as certified is in excess of
8 one hundred [seventy-five] TWENTY-FIVE thousand dollars in each such
9 year, the owner may file the certification with the state division of
10 housing and community renewal on or before June thirtieth of such year.
11 Upon filing such certification with the division, the division shall,
12 within thirty days after the filing, issue an order of decontrol provid-
13 ing that such housing accommodations shall not be subject to the
14 provisions of this law as of the first day of June in the year next
15 succeeding the filing of the certification by the owner. A copy of such
16 order shall be mailed by regular and certified mail, return receipt
17 requested, to the tenant or tenants and a copy thereof shall be mailed
18 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 certifi-
22 cation 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] TWENTY-FIVE thousand dollars in each of the two
27 preceding calendar years. Within twenty days after the filing of such
28 request with the division, the division shall notify the tenant or
29 tenants that such tenant or tenants must provide the division with such
30 information as the division and the department of taxation and finance
31 shall require to verify whether the total annual income exceeds one
32 hundred [seventy-five] TWENTY-FIVE thousand dollars in each such year.
33 The division's notification shall require the tenant or tenants to
34 provide the information to the division within sixty days of service
35 upon such tenant or tenants and shall include a warning in bold faced
36 type that failure to respond will result in an order of decontrol being
37 issued by the division for such housing accommodation.

38 2. If the department of taxation and finance determines that the total
39 annual income is in excess of one hundred [seventy-five] TWENTY-FIVE
40 thousand dollars in each of the two preceding calendar years, the divi-
41 sion shall, on or before November fifteenth of such year, notify the
42 owner and tenants of the results of such verification. Both the owner
43 and the tenants shall have thirty days within which to comment on such
44 verification results. Within forty-five days after the expiration of the
45 comment period, the division shall, where appropriate, issue 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 filing of the owner's petition with the division. A
49 copy of such order shall be mailed by regular and certified mail, return
50 receipt requested, to the tenant or tenants and a copy thereof shall be
51 sent to the owner. WHERE THE DEPARTMENT OF TAXATION AND FINANCE IS
52 UNABLE TO DETERMINE, BASED UPON THE INFORMATION CONTAINED IN THE INFOR-
53 MATION PROVIDED BY THE TENANT, WHETHER THE TOTAL ANNUAL INCOME IS IN
54 EXCESS OF ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS IN EACH OF THE TWO
55 PRECEDING CALENDAR YEARS, IT SHALL BE PRESUMED THAT THE TOTAL ANNUAL
56 INCOME OF SUCH TENANT IS IN EXCESS OF ONE HUNDRED TWENTY-FIVE THOUSAND

1 DOLLARS IN EACH OF THE TWO PRECEDING CALENDAR YEARS AND THE PROCEDURES
2 OF THIS PARAGRAPH SHALL APPLY TO SUCH TENANT. THE DIVISION OF HOUSING
3 AND COMMUNITY RENEWAL SHALL PROMULGATE REGULATIONS WHICH SET FORTH THE
4 MANNER IN WHICH SUCH TENANT MAY REBUT SUCH PRESUMPTION.

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

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

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

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

31 S 7. Paragraph 12 of subdivision a of section 5 of section 4 of chap-
32 ter 576 of the laws of 1974 constituting the emergency tenant protection
33 act of nineteen seventy-four, as amended by chapter 116 of the laws of
34 1997, is amended to read as follows:

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

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

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

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

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

51 (c) 1. In the event that the tenant or tenants either fail to return
52 the completed certification to the owner on or before the date required
53 by subdivision (b) of this section or the owner disputes the certifi-
54 cation returned by the tenant or tenants, the owner may, on or before
55 June thirtieth of such year, petition the state division of housing and
56 community renewal to verify, pursuant to section one hundred seventy-

1 one-b of the tax law, whether the total annual income exceeds one
2 hundred [seventy-five] TWENTY-FIVE thousand dollars in each of the two
3 preceding calendar years. Within twenty days after the filing of such
4 request with the division, the division shall notify the tenant or
5 tenants that such tenant or tenants named on the lease must provide the
6 division with such information as the division and the department of
7 taxation and finance shall require to verify whether the total annual
8 income exceeds one hundred [seventy-five] TWENTY-FIVE thousand dollars
9 in each such year. The division's notification shall require the tenant
10 or tenants to provide the information to the division within sixty days
11 of service upon such tenant or tenants and shall include a warning in
12 bold faced type that failure to respond will result in an order being
13 issued by the division providing that such housing accommodations shall
14 not be subject to the provisions of this act.

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

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

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

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

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

1 The tenant shall respond within ten days after receipt of such offer. If
2 the tenant declines the offer or fails to respond within such period,
3 the owner may commence an action or proceeding for the eviction of such
4 tenant.

5 S 10. Paragraph (b) of subdivision 3 of section 171-b of the tax law,
6 as amended by chapter 116 of the laws of 1997, is amended to read as
7 follows:

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

17 S 11. Paragraph (i) of subdivision 2 of section 2 of chapter 274 of
18 the laws of 1946, constituting the emergency housing rent control law,
19 as amended by chapter 576 of the laws of 1974, is amended to read as
20 follows:

21 (i) housing accommodations which become vacant ON AND AFTER JUNE
22 SIXTEENTH, TWO THOUSAND TWELVE, provided, however, that this exemption
23 shall not apply or become effective where the commission determines or
24 finds that the housing accommodations became vacant because the landlord
25 or any person acting on his behalf, with intent to cause the tenant to
26 vacate, engaged in any course of conduct (including, but not limited to,
27 interruption or discontinuance of essential services) which interfered
28 with or disturbed or was intended to interfere with or disturb the
29 comfort, repose, peace or quiet of the tenant in his use or occupancy of
30 the housing accommodations; [and further provided that housing accommo-
31 dations as to which a housing emergency has been declared pursuant to
32 the emergency tenant protection act of nineteen seventy-four shall be
33 subject to the provisions of such act for the duration of such emergen-
34 cy;] or

35 S 12. The second undesignated paragraph of subdivision 5 of section 1
36 of chapter 21 of the laws of 1962, constituting the local emergency
37 housing rent control act, as amended by chapter 82 of the laws of 2003,
38 is amended to read as follows:

39 Notwithstanding any local law or ordinance, housing accommodations
40 which [became] BECOME vacant on or after [July first, nineteen hundred
41 seventy-one or which hereafter become vacant] JUNE SIXTEENTH, TWO THOU-
42 SAND TWELVE shall be [subject to the provisions of the emergency tenant
43 protection act of nineteen seventy-four] EXEMPT FROM REGULATION AND
44 CONTROL, provided, however, that this [provision] EXEMPTION shall not
45 apply or become effective with respect to housing accommodations which,
46 by local law or ordinance, are made directly subject to regulation and
47 control by a city housing rent agency and such agency determines or
48 finds that the housing accommodations became vacant because the landlord
49 or any person acting on his behalf, with intent to cause the tenant to
50 vacate, engaged in any course of conduct (including but not limited to,
51 interruption or discontinuance of essential services) which interfered
52 with or disturbed or was intended to interfere with or disturb the
53 comfort, repose, peace or quiet of the tenant in his use or occupancy of
54 the housing accommodations. The removal of any housing accommodation
55 from regulation and control of rents pursuant to the vacancy exemption
56 provided for in this paragraph shall not constitute or operate as a

1 ground for the subjection to more stringent regulation and control of
2 any housing accommodation in such property or in any other property
3 owned by the same landlord, notwithstanding any prior agreement to the
4 contrary by the landlord. The vacancy exemption provided for in this
5 paragraph shall not arise with respect to any rented plot or parcel of
6 land otherwise subject to the provisions of this act, by reason of a
7 transfer of title and possession occurring on or after July first, nine-
8 teen hundred seventy-one of a dwelling located on such plot or parcel
9 and owned by the tenant where such transfer of title and possession is
10 made to a member of the tenant's immediate family provided that the
11 member of the tenant's immediate family occupies the dwelling with the
12 tenant prior to the transfer of title and possession for a continuous
13 period of two years.

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

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

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

48 (3-A) HOUSING ACCOMMODATIONS WHICH BECOME VACANT ON OR AFTER JUNE
49 SIXTEENTH, TWO THOUSAND TWELVE, PROVIDED, HOWEVER, THAT THIS EXCEPTION
50 SHALL NOT APPLY TO OR BECOME EFFECTIVE WITH RESPECT TO HOUSING ACCOMMO-
51 DATIONS WHICH THE COMMISSIONER DETERMINES OR FINDS BECAME VACANT BECAUSE
52 THE LANDLORD OR ANY PERSON ACTING ON HIS OR HER BEHALF, WITH INTENT TO
53 CAUSE THE TENANT TO VACATE, ENGAGED IN ANY COURSE OF CONDUCT (INCLUDING,
54 BUT NOT LIMITED TO, INTERRUPTION OR DISCONTINUANCE OF REQUIRED SERVICES)
55 WHICH INTERFERED WITH OR DISTURBED OR WAS INTENDED TO INTERFERE IN HIS
56 OR HER USE OR OCCUPANCY OF THE HOUSING ACCOMMODATIONS.

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

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

15 S 19. This act shall take effect immediately; provided, however, that:
16 (a) the income certification forms provided for by this act shall not be
17 transmitted until on or after January 1, 2013;

18 (b) the amendments to the city rent and rehabilitation law made by
19 sections four and six of this act shall remain in full force and effect
20 only so long as the public emergency requiring the regulation and
21 control of residential rents and evictions continues, as provided in
22 subdivision 2 of section 1 of the local emergency housing rent control
23 act;

24 (c) the amendments to the rent stabilization law of nineteen hundred
25 sixty-nine made by section fifteen of this act shall expire on the same
26 date as such law expires and shall not affect the expiration of such law
27 as provided under section 26-520 of such law;

28 (d) the amendments to the emergency tenant protection act of nineteen
29 seventy-four made by sections seven, nine and fourteen of this act shall
30 expire on the same date as such act expires and shall not affect the
31 expiration of such act as provided in section 17 of chapter 576 of the
32 laws of 1974;

33 (e) the amendments to the emergency housing rent control law made by
34 sections one, three and eleven of this act shall expire on the same date
35 as such law expires and shall not affect the expiration of such law as
36 provided in subdivision 2 of section 1 of chapter 274 of the laws of
37 1946;

38 (f) the amendment to the local emergency housing rent control act made
39 by section twelve of this act shall remain in full force and effect only
40 so long as the public emergency requiring the regulation and control of
41 residential rents and evictions continues, as provided in subdivision 2
42 of section 1 of the local emergency housing rent control act; and

43 (g) the amendments to the second undesignated paragraph of subdivision
44 5 and paragraph (h) of subdivision 10 of section 1 of the local emergen-
45 cy housing rent control act made by sections twelve and thirteen of this
46 act shall not affect the expiration of certain provisions of such second
47 undesignated paragraph of subdivision 5 and paragraph (h) of subdivision
48 10 made by section 1 of chapter 82 of the laws of 2003 and section 3 of
49 chapter 576 of the laws of 1974, respectively, and shall expire when
50 such chapter 576 of the laws of 1974 expires.