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

2783--A

2011-2012 Regular Sessions

I N S E N A T E

February 1, 2011

Introduced by Sens. ESPAILLAT, KRUEGER, SQUADRON -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the administrative code of the city of New York, the emergency tenant protection act of nineteen seventy-four and the emergency housing rent control law, in relation to recovery of certain housing accommodations by a landlord (Part A); to amend the administrative code of the city of New York and the emergency tenant protection act of nineteen seventy-four, in relation to limiting rent increase after vacancy of a housing accommodation (Part B); to amend the administrative code of the city of New York and the emergency tenant protection act of nineteen seventy-four, in relation to the declaration of emergencies for certain rental housing accommodations (Part C); to amend the local emergency housing rent control act, in relation to rent regulation laws (Part D); to amend chapter 576 of the laws of 1974 amending the emergency housing rent control law relating to the control of and stabilization of rent in certain cases, the emergency housing rent control law, chapter 329 of the laws of 1963 amending the emergency housing rent control law relating to recontrol of rents in Albany, chapter 555 of the laws of 1982 amending the general business law and the administrative code of the city of New York relating to conversion of residential property to cooperative or condominium ownership in the city of New York, chapter 402 of the laws of 1983 amending the general business law relating to conversion of rental residential property to cooperative or condominium ownership in certain municipalities in the counties of Nassau, Westchester and Rockland and the rent regulation reform act of 1997, in relation to extending the effectiveness thereof (Part E); to amend the administrative code of the city of New York, the emergency tenant protection act of nineteen seventy-four, and the emergency housing rent control law, in relation to adjustment of maximum allowable rent (Part F); to repeal paragraph 13 of subdivision a of section 5 of section 4 of

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

LBD08273-04-1

chapter 576 of the laws of 1974 constituting the emergency tenant protection act of nineteen seventy-four, paragraph (n) of subdivision 2 of section 2 of chapter 274 of the laws of 1946, constituting the emergency housing rent control law, and section 26-504.2 and subparagraph (k) of paragraph 2 of subdivision e of section 26-403 of the administrative code of the city of New York, relating to vacancy decontrol (Part G); to amend the emergency tenant protection act of nineteen seventy-four and the administrative code of the city of New York, in relation to the regulation of rents (Part H); to amend the administrative code of the city of New York and the emergency tenant protection act of nineteen seventy-four, in relation to hardship applications (Part I); to amend the administrative code of the city of New York, the emergency tenant protection act of nineteen seventy-four and the emergency housing rent control law, in relation to extending the length of time over which major capital improvement expenses may be recovered (Part J); to amend the emergency tenant protection act of nineteen seventy-four, in relation to the declaration of housing emergencies for rental housing accommodations located in buildings owned by certain limited-profit housing companies (Part K); and 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 (Part L)

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

Section 1. This act enacts into law major components of legislation related to rent regulations in the state of New York. Each component is wholly contained within a Part identified as Parts A through L. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

Section 1. Paragraph 1 of subdivision b of section 26-408 of the administrative code of the city of New York is amended to read as follows:

(1) The landlord seeks in good faith to recover possession of a housing accommodation because of immediate and compelling necessity for his or her own personal use and occupancy AS HIS OR HER PRIMARY RESIDENCE or for the use and occupancy of his or her immediate family AS THEIR PRIMARY RESIDENCE provided, however, that this subdivision shall PERMIT RECOVERY OF ONLY ONE HOUSING ACCOMMODATION AND SHALL not apply where a member of the household lawfully occupying the housing accommodation is sixty-two years of age or older, has been a tenant in a housing accommodation in that building for twenty years or more, or has an impairment which results from anatomical, physiological or psychological conditions, other than addiction to alcohol, gambling, or any controlled

substance, which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques, and which are expected to be permanent and which prevent the tenant from engaging in any substantial gainful employment; or

S 2. Subparagraph (b) of paragraph 9 of subdivision c of section 26-511 of the administrative code of the city of New York is amended to read as follows:

(b) where he or she seeks to recover possession of one [or more] dwelling [units] UNIT BECAUSE OF IMMEDIATE AND COMPELLING NECESSITY for his or her own personal use and occupancy as his or her primary residence [in the city of New York and/or] OR for the use and occupancy of a member of his or her immediate family as his or her primary residence [in the city of New York], provided however, that this subparagraph shall PERMIT RECOVERY OF ONLY ONE DWELLING UNIT AND SHALL not apply where a tenant or the spouse of a tenant lawfully occupying the dwelling unit is sixty-two years of age or older, HAS BEEN A TENANT IN A DWELLING UNIT IN THAT BUILDING FOR TWENTY YEARS OR MORE, or has an impairment which results from anatomical, physiological or psychological conditions, other than addiction to alcohol, gambling, or any controlled substance, which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques, and which are expected to be permanent and which prevent the tenant from engaging in any substantial gainful employment, unless such owner offers to provide and if requested, provides an equivalent or superior housing accommodation at the same or lower stabilized rent in a closely proximate area. The provisions of this subparagraph shall only permit one of the individual owners of any building to recover possession of one [or more] dwelling [units] UNIT for his or her own personal use and/or for that of his or her immediate family. [Any] A dwelling unit recovered by an owner pursuant to this subparagraph shall not for a period of three years be rented, leased, subleased or assigned to any person other than a person for whose benefit recovery of the dwelling unit is permitted pursuant to this subparagraph or to the tenant in occupancy at the time of recovery under the same terms as the original lease. This subparagraph shall not be deemed to establish or eliminate any claim that the former tenant of the dwelling unit may otherwise have against the owner. Any such rental, lease, sublease or assignment during such period to any other person may be subject to a penalty of a forfeiture of the right to any increases in residential rents in such building for a period of three years; or

S 3. Subdivision a of section 10 of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, as amended by chapter 234 of the laws of 1984, is amended to read as follows:

a. For cities having a population of less than one million and towns and villages, the state division of housing and community renewal shall be empowered to implement this act by appropriate regulations. Such regulations may encompass such speculative or manipulative practices or renting or leasing practices as the state division of housing and community renewal determines constitute or are likely to cause circumvention of this act. Such regulations shall prohibit practices which are likely to prevent any person from asserting any right or remedy granted by this act, including but not limited to retaliatory termination of periodic tenancies and shall require owners to grant a new one or two year vacancy or renewal lease at the option of the tenant, except where a mortgage or mortgage commitment existing as of the local effective date of this act provides that the owner shall not grant a one-year lease; and shall

prescribe standards with respect to the terms and conditions of new and renewal leases, additional rent and such related matters as security deposits, advance rental payments, the use of escalator clauses in leases and provision for increase in rentals for garages and other ancillary facilities, so as to insure that the level of rent adjustments authorized under this law will not be subverted and made ineffective. Any provision of the regulations permitting an owner to refuse to renew a lease on grounds that the owner seeks to recover possession of [the] A housing accommodation for his OR HER own use and occupancy or for the use and occupancy of his OR HER immediate family shall PERMIT RECOVERY OF ONLY ONE HOUSING ACCOMMODATION, SHALL require that an owner demonstrate immediate and compelling need AND THAT THE HOUSING ACCOMMODATION WILL BE THE PROPOSED OCCUPANTS' PRIMARY RESIDENCE and shall not apply where a member of the housing accommodation is sixty-two years of age or older, has been a tenant in a housing accommodation in that building for twenty years or more, or has an impairment which results from anatomical, physiological or psychological conditions, other than addiction to alcohol, gambling, or any controlled substance, which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques, and which are expected to be permanent and which prevent the tenant from engaging in any substantial gainful employment.

S 4. Paragraph (a) of subdivision 2 of section 5 of chapter 274 of the laws of 1946, constituting the emergency housing rent control law, as amended by chapter 234 of the laws of 1984, is amended to read as follows:

(a) the landlord seeks in good faith to recover possession of A housing [accommodations] ACCOMMODATION because of immediate and compelling necessity for his OR HER own personal use and occupancy AS HIS OR HER PRIMARY RESIDENCE or for the use and occupancy of his OR HER immediate family AS THEIR PRIMARY RESIDENCE; provided, however, this subdivision shall PERMIT RECOVERY OF ONLY ONE HOUSING ACCOMMODATION AND SHALL not apply where a member of the household lawfully occupying the housing accommodation is sixty-two years of age or older, has been a tenant in a housing accommodation in that building for twenty years or more, or has an impairment which results from anatomical, physiological or psychological conditions, other than addiction to alcohol, gambling, or any controlled substance, which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques, and which are expected to be permanent and which prevent the tenant from engaging in any substantial gainful employment; or

S 5. This act shall take effect immediately and shall apply to any tenant in possession at or after the time it takes effect, regardless of whether the landlord's application for an order, refusal to renew a lease or refusal to extend or renew a tenancy took place before this act shall have taken effect, provided that:

a. the amendments to section 26-408 of the city rent and rehabilitation law made by section one of this act shall remain in full force and effect only as long as the public emergency requiring the regulation and control of residential rents and evictions continues, as provided in subdivision 3 of section 1 of the local emergency housing rent control act;

b. the amendments to section 26-511 of the rent stabilization law of nineteen hundred sixty-nine made by section two of this act shall expire on the same date as such law expires and shall not affect the expiration of such law as provided under section 26-520 of such law;

c. the amendments to subdivision a of section 10 of section 4 of the emergency tenant protection act of nineteen seventy-four made by section three of this act shall expire on the same date as such act expires and shall not affect the expiration of such act as provided in section 17 of chapter 576 of the laws of 1974; and

d. the amendments to paragraph (a) of subdivision 2 of section 5 of the emergency housing rent control law made by section four of this act shall expire on the same date as such law expires and shall not affect the expiration of such law as provided in subdivision 2 of section 1 of chapter 274 of the laws of 1946.

PART B

Section 1. Paragraph 5-a of subdivision c of section 26-511 of the administrative code of the city of New York, as added by chapter 116 of the laws of 1997, is amended to read as follows:

(5-a) provides that, notwithstanding any provision of this chapter, the legal regulated rent for any vacancy lease entered into after the effective date of this paragraph shall be as hereinafter provided in this paragraph. The previous legal regulated rent for such housing accommodation shall be increased by the following: (i) if the vacancy lease is for a term of two years, [twenty] TEN percent of the previous legal regulated rent; or (ii) if the vacancy lease is for a term of one year the increase shall be [twenty] TEN percent of the previous legal regulated rent less an amount equal to the difference between (a) the two year renewal lease guideline promulgated by the guidelines board of the city of New York applied to the previous legal regulated rent and (b) the one year renewal lease guideline promulgated by the guidelines board of the city of New York applied to the previous legal regulated rent. In addition, if the legal regulated rent was not increased with respect to such housing accommodation by a permanent vacancy allowance within eight years prior to a vacancy lease executed on or after the effective date of this paragraph, the legal regulated rent may be further increased by an amount equal to the product resulting from multiplying such previous legal regulated rent by six-tenths of one percent and further multiplying the amount of rent increase resulting therefrom by the greater of (A) the number of years since the imposition of the last permanent vacancy allowance, or (B) if the rent was not increased by a permanent vacancy allowance since the housing accommodation became subject to this chapter, the number of years that such housing accommodation has been subject to this chapter. Provided that if the previous legal regulated rent was less than three hundred dollars the total increase shall be as calculated above plus one hundred dollars per month. Provided, further, that if the previous legal regulated rent was at least three hundred dollars and no more than five hundred dollars in no event shall the total increase pursuant to this paragraph be less than one hundred dollars per month. Such increase shall be in lieu of any allowance authorized for the one or two year renewal component thereof, but shall be in addition to any other increases authorized pursuant to this chapter including an adjustment based upon a major capital improvement, or a substantial modification or increase of dwelling space or services, or installation of new equipment or improvements or new furniture or furnishings provided in or to the housing accommodation pursuant to this section. THE INCREASE AUTHORIZED IN THIS PARAGRAPH MAY NOT BE IMPLEMENTED MORE THAN ONE TIME IN ANY CALENDAR YEAR NOTWITHSTANDING THE NUMBER OF VACANCY LEASES ENTERED INTO IN SUCH YEAR.

S 2. Subdivision (a-1) of section 10 of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, as added by chapter 116 of the laws of 1997, is amended to read as follows:

(a-1) provides that, notwithstanding any provision of this act, the legal regulated rent for any vacancy lease entered into after the effective date of this subdivision shall be as hereinafter set forth. The previous legal regulated rent for such housing accommodation shall be increased by the following: (i) if the vacancy lease is for a term of two years, [twenty] TEN percent of the previous legal regulated rent; or (ii) if the vacancy lease is for a term of one year the increase shall be [twenty] TEN percent of the previous legal regulated rent less an amount equal to the difference between (a) the two year renewal lease guideline promulgated by the guidelines board of the county in which the housing accommodation is located applied to the previous legal regulated rent and (b) the one year renewal lease guideline promulgated by the guidelines board of the county in which the housing accommodation is located applied to the previous legal regulated rent. In addition, if the legal regulated rent was not increased with respect to such housing accommodation by a permanent vacancy allowance within eight years prior to a vacancy lease executed on or after the effective date of this subdivision, the legal regulated rent may be further increased by an amount equal to the product resulting from multiplying such previous legal regulated rent by six-tenths of one percent and further multiplying the amount of rent increase resulting therefrom by the greater of (A) the number of years since the imposition of the last permanent vacancy allowance, or (B) if the rent was not increased by a permanent vacancy allowance since the housing accommodation became subject to this act, the number of years that such housing accommodation has been subject to this act. Provided that if the previous legal regulated rent was less than three hundred dollars the total increase shall be as calculated above plus one hundred dollars per month. Provided, further, that if the previous legal regulated rent was at least three hundred dollars and no more than five hundred dollars in no event shall the total increase pursuant to this subdivision be less than one hundred dollars per month. Such increase shall be in lieu of any allowance authorized for the one or two year renewal component thereof, but shall be in addition to any other increases authorized pursuant to this act including an adjustment based upon a major capital improvement, or a substantial modification or increase of dwelling space or services, or installation of new equipment or improvements or new furniture or furnishings provided in or to the housing accommodation pursuant to section six of this act. THE INCREASE AUTHORIZED IN THIS SUBDIVISION MAY NOT BE IMPLEMENTED MORE THAN ONE TIME IN ANY CALENDAR YEAR NOTWITHSTANDING THE NUMBER OF VACANCY LEASES ENTERED INTO IN SUCH YEAR.

S 3. This act shall take effect immediately; provided that the amendments to section 26-511 of the rent stabilization law of nineteen hundred sixty-nine made by section one of this act shall expire on the same date as such law expires and shall not affect the expiration of such law as provided under section 26-520 of such law; and provided, further, that the amendments to section 4 of the emergency tenant protection act of nineteen seventy-four made by section two of this act shall expire on the same date as such act expires and shall not affect the expiration of such act as provided in section 17 of chapter 576 of the laws of 1974.

PART C

Section 1. Subdivision a of section 26-504 of the administrative code of the city of New York, subparagraph (f) of paragraph 1 as amended by chapter 422 of the laws of 2010, is amended to read as follows:

a. Class A multiple dwellings not owned as a cooperative or as a condominium, except as provided in section three hundred fifty-two-eeee of the general business law, containing six or more dwelling units which: (1) were completed after February first, nineteen hundred forty-seven, except dwelling units (a) owned or leased by, or financed by loans from, a public agency or public benefit corporation, (b) subject to rent regulation under the private housing finance law or any other state law, (c) aided by government insurance under any provision of the national housing act, to the extent this chapter or any regulation or order issued thereunder is inconsistent therewith, or (d) located in a building for which a certificate of occupancy is obtained after March tenth, nineteen hundred sixty-nine[;], or (e) any class A multiple dwelling which on June first, nineteen hundred sixty-eight was and still is commonly regarded as a hotel, transient hotel or residential hotel, and which customarily provides hotel service such as maid service, furnishing and laundering of linen, telephone and bell boy service, secretarial or desk service and use and upkeep of furniture and fixtures, or (f) not occupied by the tenant, not including subtenants or occupants, as his or her primary residence, as determined by a court of competent jurisdiction, provided, however that no action or proceeding shall be commenced seeking to recover possession on the ground that a housing accommodation is not occupied by the tenant as his or her primary residence unless the owner or lessor shall have given thirty days notice to the tenant of his or her intention to commence such action or proceeding on such grounds. For the purposes of determining primary residency, a tenant who is a victim of domestic violence, as defined in section four hundred fifty-nine-a of the social services law, who has left the unit because of such violence, and who asserts an intent to return to the housing accommodation shall be deemed to be occupying the unit as his or her primary residence. For the purposes of this subparagraph where a housing accommodation is rented to a not-for-profit hospital for residential use, affiliated subtenants authorized to use such accommodations by such hospital shall be deemed to be tenants, or (g) became vacant on or after June thirtieth, nineteen hundred seventy-one, or become vacant, provided however, that this exemption shall not apply or become effective with respect to housing accommodations which the commissioner determines or finds became vacant because the landlord or any person acting on his or her behalf, with intent to cause the tenant to vacate, engaged in any course of conduct (including but not limited to, interruption or discontinuance of essential services) which interfered with or disturbed or was intended to interfere with or disturb the comfort, repose, peace or quiet of the tenant in his or her use or occupancy of the housing accommodations and provided further that any housing accommodations exempted by this paragraph shall be subject to this law to the extent provided in subdivision b of this section; or (2) were decontrolled by the city rent agency pursuant to section 26-414 of this title; or (3) are exempt from control by virtue of item one, two, six or seven of subparagraph (i) of paragraph two of subdivision e of section 26-403 of this title; OR (4) WERE COVERED BY A PROJECT BASED ASSISTANCE CONTRACT PURSUANT TO SECTION EIGHT OF THE UNITED STATES HOUSING ACT OF 1937 WHICH CONTRACT IS NO LONGER IN EFFECT, NOTWITHSTANDING THE

PROVISIONS OF SUBPARAGRAPH (D) OR (G) OF PARAGRAPH ONE OF THIS SUBDIVISION OR PARAGRAPH FIVE OF SUBDIVISION A OF SECTION FIVE OF THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR PROVIDED HOWEVER, THAT ANY DWELLING UNIT WHICH BECOMES SUBJECT TO THIS LAW PURSUANT TO THIS PARAGRAPH SHALL NOT BE SUBJECT TO THE PROVISIONS OF SUBDIVISION A OF SECTION 26-513 OF THIS CHAPTER; and

S 2. Section 5 of section 4 of chapter 576 of the laws of 1974 constituting the emergency tenant protection act of nineteen seventy-four is amended by adding a new subdivision c to read as follows:

C. NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH FIVE OF SUBDIVISION A OF THIS SECTION BUT SUBJECT TO ANY OTHER APPLICABLE EXCEPTIONS IN SUCH SUBDIVISION, NOTHING SHALL PREVENT THE DECLARATION OF AN EMERGENCY PURSUANT TO SECTION THREE OF SECTION FOUR OF THIS ACT FOR RENTAL HOUSING ACCOMMODATIONS LOCATED IN A BUILDING WHICH WAS COVERED BY A PROJECT BASED ASSISTANCE CONTRACT PURSUANT TO SECTION EIGHT OF THE UNITED STATES HOUSING ACT OF 1937 WHICH CONTRACT IS NO LONGER IN EFFECT PROVIDED HOWEVER, THAT ANY HOUSING ACCOMMODATION WHICH BECOMES SUBJECT TO THIS ACT PURSUANT TO THIS SUBDIVISION SHALL NOT BE SUBJECT TO THE PROVISIONS OF SUBDIVISION A OF SECTION NINE OF SECTION FOUR OF THIS ACT.

S 3. This act shall take effect immediately and shall apply to all buildings which are covered by a project based assistance contract pursuant to section eight of the United States housing act of 1937 which contract ceased to be effective on or after such date; provided, however, that the amendment to subdivision a of section 26-504 of the administrative code of the city of New York made by section one of this act shall not affect the expiration of such section pursuant to section 26-520 of such code and shall expire therewith; and provided, further, that the amendment to section 5 of the emergency tenant protection act of nineteen seventy-four made by section two of this act shall not affect the expiration of such act as provided in section 17 of chapter 576 of the laws of 1974, as amended, and shall expire therewith.

PART D

Section 1. Subdivision 5 of section 1 of chapter 21 of the laws of 1962, constituting the local emergency housing rent control act, as amended by chapter 82 of the laws of 2003 and the closing paragraph as amended by chapter 422 of the laws of 2010, is amended to read as follows:

5. Authority for local rent control legislation. Each city having a population of one million or more, acting through its local legislative body, may adopt and amend local laws or ordinances in respect of the establishment or designation of a city housing rent agency. When it deems such action to be desirable or necessitated by local conditions in order to carry out the purposes of this section, such city, except as hereinafter provided, acting through its local legislative body and not otherwise, may adopt and amend local laws or ordinances in respect of the regulation and control of residential rents, including but not limited to provision for the establishment and adjustment of maximum rents, the classification of housing accommodations, the regulation of evictions, and the enforcement of such local laws or ordinances. The validity of any such local laws or ordinances, and the rules or regulations promulgated in accordance therewith, shall not be affected by and need not be consistent with the state emergency housing rent control law or with rules and regulations of the state division of housing and community renewal.

Notwithstanding any local law or ordinance, housing accommodations which became vacant on or after July first, nineteen hundred seventy-one or which hereafter become vacant shall be subject to the provisions of the emergency tenant protection act of nineteen seventy-four, provided, however, that this provision shall not apply or become effective with respect to housing accommodations which, by local law or ordinance, are made directly subject to regulation and control by a city housing rent agency and such agency determines or finds that the housing accommodations became vacant because the landlord or any person acting on his behalf, with intent to cause the tenant to vacate, engaged in any course of conduct (including but not limited to, interruption or discontinuance of essential services) which interfered with or disturbed or was intended to interfere with or disturb the comfort, repose, peace or quiet of the tenant in his use or occupancy of the housing accommodations. The removal of any housing accommodation from regulation and control of rents pursuant to the vacancy exemption provided for in this paragraph shall not constitute or operate as a ground for the subjection to more stringent regulation and control of any housing accommodation in such property or in any other property owned by the same landlord, notwithstanding any prior agreement to the contrary by the landlord. The vacancy exemption provided for in this paragraph shall not arise with respect to any rented plot or parcel of land otherwise subject to the provisions of this act, by reason of a transfer of title and possession occurring on or after July first, nineteen hundred seventy-one of a dwelling located on such plot or parcel and owned by the tenant where such transfer of title and possession is made to a member of the tenant's immediate family provided that the member of the tenant's immediate family occupies the dwelling with the tenant prior to the transfer of title and possession for a continuous period of two years.

The term "immediate family" shall include a husband, wife, son, daughter, stepson, stepdaughter, father, mother, father-in-law or mother-in-law.

[Notwithstanding the foregoing, no local law or ordinance shall hereafter provide for the regulation and control of residential rents and eviction in respect of any housing accommodations which are (1) presently exempt from such regulation and control or (2) hereafter decontrolled either by operation of law or by a city housing rent agency, by order or otherwise. No housing accommodations presently subject to regulation and control pursuant to local laws or ordinances adopted or amended under authority of this subdivision shall hereafter be by local law or ordinance or by rule or regulation which has not been theretofore approved by the state commissioner of housing and community renewal subjected to more stringent or restrictive provisions of regulation and control than those presently in effect.

Notwithstanding any other provision of law, on and after the effective date of this paragraph, a city having a population of one million or more shall not, either through its local legislative body or otherwise, adopt or amend local laws or ordinances with respect to the regulation and control of residential rents and eviction, including but not limited to provision for the establishment and adjustment of rents, the classification of housing accommodations, the regulation of evictions, and the enforcement of such local laws or ordinances, or otherwise adopt laws or ordinances pursuant to the provisions of this act, the emergency tenant protection act of nineteen seventy-four, the New York city rent and rehabilitation law or the New York city rent stabilization law, except to the extent that such city for the purpose of reviewing the continued

need for the existing regulation and control of residential rents or to remove a classification of housing accommodation from such regulation and control adopts or amends local laws or ordinances pursuant to subdivision three of section one of this act, section three of the emergency tenant protection act of nineteen seventy-four, section 26-415 of the New York city rent and rehabilitation law, and sections 26-502 and 26-520 of the New York city rent stabilization law of nineteen hundred sixty-nine.]

Notwithstanding any provision of this act to the contrary, any local law adopted pursuant to this act shall provide that notwithstanding any provision of such local law in the case where all tenants occupying the housing accommodation on the effective date of this paragraph have vacated the housing accommodation and a family member of such vacating tenant or tenants is entitled to and continues to occupy the housing accommodation subject to the protections of such act, if such accommodation continues to be subject to such act after such family member vacates, on the occurrence of such vacancy the maximum collectable rent shall be increased by a sum equal to the allowance then in effect for vacancy leases for housing accommodations covered by the rent stabilization law of nineteen hundred sixty-nine, including the amount allowed by paragraph (5-a) of subdivision c of section 26-511 of such law. This increase shall be in addition to any other increases provided for in this act and shall be applicable in like manner to each second subsequent succession.

Notwithstanding the foregoing, no local law or ordinance shall subject to such regulation and control any housing accommodation which is not occupied by the tenant in possession as his or her primary residence; provided, however, that such housing accommodation not occupied by the tenant in possession as his or her primary residence shall continue to be subject to regulation and control as provided for herein unless the city housing rent agency issues an order decontrolling such accommodation, which the agency shall do upon application by the landlord whenever it is established by any facts and circumstances which, in the judgment of the agency, may have a bearing upon the question of residence, that the tenant maintains his or her primary residence at some place other than at such housing accommodation. For the purposes of determining primary residency, a tenant who is a victim of domestic violence, as defined in section four hundred fifty-nine-a of the social services law, who has left the unit because of such violence, and who asserts an intent to return to the housing accommodation shall be deemed to be occupying the unit as his or her primary residence.

S 2. This act shall take effect immediately; provided, however, that the amendments to subdivision 5 of section 1 of chapter 21 of the laws of 1962 made by section one of this act shall remain in full force and effect only so long as the public emergency requiring the regulation and control of residential rents and evictions continues, as provided in subdivision 3 of section 1 of the local emergency housing rent control act; provided further, however, that the amendment to the second undesignated paragraph of subdivision 5 of section 1 of chapter 21 of the laws of 1962 made by section one of this act shall not affect the expiration of such paragraph and shall be deemed to expire therewith.

PART E

Section 1. Section 17 of chapter 576 of the laws of 1974 amending the emergency housing rent control law relating to the control of and

stabilization of rent in certain cases, as amended by chapter 82 of the laws of 2003, is amended to read as follows:

S 17. Effective date. This act shall take effect immediately and shall remain in full force and effect until and including the fifteenth day of June [2011] 2016; except that sections two and three shall take effect with respect to any city having a population of one million or more and section one shall take effect with respect to any other city, or any town or village whenever the local legislative body of a city, town or village determines the existence of a public emergency pursuant to section three of the emergency tenant protection act of nineteen seventy-four, as enacted by section four of this act, and provided that the housing accommodations subject on the effective date of this act to stabilization pursuant to the New York city rent stabilization law of nineteen hundred sixty-nine shall remain subject to such law upon the expiration of this act.

S 2. Subdivision 2 of section 1 of chapter 274 of the laws of 1946 constituting the emergency housing rent control law, as amended by chapter 82 of the laws of 2003, is amended to read as follows:

2. The provisions of this act, and all regulations, orders and requirements thereunder shall remain in full force and effect until and including June 15, [2011] 2016.

S 3. Section 2 of chapter 329 of the laws of 1963 amending the emergency housing rent control law relating to recontrol of rents in Albany, as amended by chapter 82 of the laws of 2003, is amended to read as follows:

S 2. This act shall take effect immediately and the provisions of subdivision 6 of section 12 of the emergency housing rent control law, as added by this act, shall remain in full force and effect until and including June 15, [2011] 2016.

S 4. Section 10 of chapter 555 of the laws of 1982 amending the general business law and the administrative code of the city of New York relating to conversion of residential property to cooperative or condominium ownership in the city of New York, as amended by chapter 82 of the laws of 2003, is amended to read as follows:

S 10. This act shall take effect immediately; provided, that the provisions of sections one, two and nine of this act shall remain in full force and effect only until and including June 15, [2011] 2016; provided further that the provisions of section three of this act shall remain in full force and effect only so long as the public emergency requiring the regulation and control of residential rents and evictions continues as provided in subdivision 3 of section 1 of the local emergency housing rent control act; provided further that the provisions of sections four, five, six and seven of this act shall expire in accordance with the provisions of section 26-520 of the administrative code of the city of New York as such section of the administrative code is, from time to time, amended; provided further that the provisions of section 26-511 of the administrative code of the city of New York, as amended by this act, which the New York City Department of Housing Preservation and Development must find are contained in the code of the real estate industry stabilization association of such city in order to approve it, shall be deemed contained therein as of the effective date of this act; and provided further that any plan accepted for filing by the department of law on or before the effective date of this act shall continue to be governed by the provisions of section 352-eeee of the general business law as they had existed immediately prior to the effective date of this act.

S 5. Section 4 of chapter 402 of the laws of 1983 amending the general business law relating to conversion of rental residential property to cooperative or condominium ownership in certain municipalities in the counties of Nassau, Westchester and Rockland, as amended by chapter 82 of the laws of 2003, is amended to read as follows:

S 4. This act shall take effect immediately; provided, that the provisions of sections one and three of this act shall remain in full force and effect only until and including June 15, [2011] 2016; and provided further that any plan accepted for filing by the department of law on or before the effective date of this act shall continue to be governed by the provisions of section 352-eee of the general business law as they had existed immediately prior to the effective date of this act.

S 6. Subdivision 6 of section 46 of chapter 116 of the laws of 1997 constituting the rent regulation reform act of 1997, as amended by chapter 82 of the laws of 2003, is amended to read as follows:

6. sections twenty-eight, twenty-eight-a, twenty-eight-b and twenty-eight-c of this act shall expire and be deemed repealed after June 15, [2011] 2016;

S 7. This act shall take effect immediately.

PART F

Section 1. Subparagraph (e) of paragraph 1 of subdivision g of section 26-405 of the administrative code of the city of New York, as amended by chapter 253 of the laws of 1993, is amended to read as follows:

(e) The landlord and tenant by mutual voluntary written agreement agree to a substantial increase or decrease in dwelling space or a change in the services, furniture, furnishings or equipment provided in the housing accommodations. An adjustment under this subparagraph shall be equal to [one-fortieth] ONE-SIXTIETH of the total cost incurred by the landlord in providing such modification or increase in dwelling space, services, furniture, furnishings or equipment, including the cost of installation, but excluding finance charges, provided further [than] THAT an owner who is entitled to a rent increase pursuant to this subparagraph shall not be entitled to a further rent increase based upon the installation of similar equipment, or new furniture or furnishings within the useful life of such new equipment, or new furniture or furnishings. The owner shall give written notice to the city rent agency of any such adjustment pursuant to this subparagraph[.]; or

S 2. Paragraph 13 of subdivision c of section 26-511 of the administrative code of the city of New York, as added by chapter 253 of the laws of 1993, is amended to read as follows:

(13) provides that an owner is entitled to a rent increase where there has been a substantial modification or increase of dwelling space or an increase in the services, or installation of new equipment or improvements or new furniture or furnishings provided in or to a tenant's housing accommodation, on written tenant consent to the rent increase. In the case of a vacant housing accommodation, tenant consent shall not be required.

(A) The permanent increase in the legal regulated rent for the affected housing accommodation shall be [one-fortieth] ONE-SIXTIETH of the total cost incurred by the landlord in providing such modification or increase in dwelling space, services, furniture, furnishings or equipment, including the cost of installation, but excluding finance charges. [Provided further that an]

(B) AN owner who is entitled to a rent increase pursuant to this paragraph shall not be entitled to a further rent increase based upon the installation of similar equipment, or new furniture or furnishings within the useful life of such new equipment, or new furniture or furnishings.

(C) NO INCREASE SHALL BE COLLECTIBLE UNDER THIS PARAGRAPH UNTIL THE LANDLORD HAS PROVIDED THE TENANT WITH A RIDER PURSUANT TO SUBDIVISION D OF THIS SECTION, INCLUDING AN EXPLANATION OF HOW THE RENT IN THE VACANCY LEASE HAS BEEN COMPUTED, AND THE SPECIFIC AMOUNTS OF ALL EXPENDITURES SUPPORTING A RENT INCREASE UNDER THIS PARAGRAPH.

(D) NO INCREASE SHALL BE COLLECTIBLE UNDER THIS PARAGRAPH WHERE THE DIVISION OF HOUSING AND COMMUNITY RENEWAL HAS DETERMINED THAT THE OWNER IS NOT MAINTAINING ALL BUILDING-WIDE REQUIRED SERVICES OR ALL REQUIRED SERVICES WITH RESPECT TO THE AFFECTED HOUSING ACCOMMODATION, OR WHERE THERE ARE CURRENT HAZARDOUS VIOLATIONS OF ANY MUNICIPAL, COUNTY, STATE OR FEDERAL LAW WHICH RELATE TO THE MAINTENANCE OF SUCH SERVICES.

(E) WITHIN THIRTY DAYS OF THE SIGNING OF A VACANCY LEASE INCLUDING A RENT INCREASE PURSUANT TO THIS PARAGRAPH THAT EXCEEDS TEN PERCENT OF THE RENT CHARGED TO THE PREVIOUS TENANT, THE OWNER WILL FILE WITH THE DIVISION OF HOUSING AND COMMUNITY RENEWAL AN EXPLANATION OF HOW THE VACANCY RENT WAS COMPUTED, AND ALL DOCUMENTS NECESSARY TO SUPPORT THE COLLECTION OF SUCH INCREASE, INCLUDING BUT NOT LIMITED TO, CANCELLED CHECKS, INVOICES AND SIGNED CONTRACTS CONTEMPORANEOUSLY WITH THE IMPROVEMENTS ALLEGED, AND CONTRACTOR'S AFFIDAVITS INDICATING THAT THE INSTALLATION WAS COMPLETED AND PAID IN FULL. UPON RECEIPT OF ALL DOCUMENTS SUBMITTED BY THE OWNER, AND AFTER GIVING THE TENANT NAMED IN SUCH VACANCY LEASE AN OPPORTUNITY TO RESPOND, THE DIVISION OF HOUSING AND COMMUNITY RENEWAL SHALL ISSUE AN ORDER APPROVING OR DISAPPROVING SUCH INCREASE IN WHOLE OR IN PART. BASED UPON SUCH DETERMINATION, THE DIVISION OF HOUSING AND COMMUNITY RENEWAL SHALL ORDER A REFUND TO THE TENANT EQUAL TO THE AMOUNT COLLECTED IN EXCESS OF THE LEGAL REGULATED RENT APPROVED BY THE DIVISION OF HOUSING AND COMMUNITY RENEWAL.

(F) IF THE OWNER FAILS TO ESTABLISH BY A PREPONDERANCE OF THE EVIDENCE THAT THE OVERCHARGE WAS NOT WILLFUL, THE DIVISION OF HOUSING AND COMMUNITY RENEWAL SHALL ORDER THE OWNER TO PAY TO THE TENANT AN ADDITIONAL AMOUNT EQUAL TO THREE TIMES THE EXCESS CHARGED.

(G) THE NEXT ANNUAL REGISTRATION STATEMENT FILED FOR ANY HOUSING ACCOMMODATION SUBJECT TO AN INCREASE UNDER THIS PARAGRAPH, WHETHER OR NOT SUBJECT TO THE PROVISIONS OF SUBPARAGRAPH (E) OF THIS PARAGRAPH SHALL CONTAIN A DETAILED BREAKDOWN OF THE COSTS OF ALL IMPROVEMENTS UNDERLYING SUCH INCREASE.

S 3. Paragraph 2 of subdivision d of section 26-511 of the administrative code of the city of New York is renumbered paragraph 3 and a new paragraph 2 is added to read as follows:

(2) FOR VACANCY LEASES, SUCH RIDER SHALL ALSO INCLUDE A NOTICE OF THE PRIOR LEGAL RENT, IF ANY, THAT WAS IN EFFECT IMMEDIATELY PRIOR TO THE VACANCY, AN EXPLANATION OF HOW THE RENTAL AMOUNT HAS BEEN COMPUTED, INCLUDING A DETAILED BREAKDOWN OF THE NATURE AND COST OF ANY IMPROVEMENTS UNDERLYING AN INCREASE UNDER PARAGRAPH THIRTEEN OF SUBDIVISION C OF THIS SECTION, AND A STATEMENT THAT ANY INCREASE ABOVE THE PREVIOUS RENT IS IN ACCORDANCE WITH ADJUSTMENTS PERMITTED BY LAW.

S 4. Paragraph 1 of subdivision d of section 6 of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, as added by chapter 253 of the laws of 1993, is amended to read as follows:

(1) there has been a substantial modification or increase of dwelling space or an increase in the services, or installation of new equipment or improvements or new furniture or furnishings, provided in or to a tenant's housing accommodation, on written tenant consent to the rent increase. In the case of a vacant housing accommodation, tenant consent shall not be required. (A) The permanent increase in the legal regulated rent for the affected housing accommodation shall be [one-fortieth] ONE-SIXTIETH of the total cost incurred by the landlord in providing such modification or increase in dwelling space, services, furniture, furnishings or equipment, including the cost of installation, but excluding finance charges. [Provided further than an] (B) AN owner who is entitled to a rent increase pursuant to this paragraph shall not be entitled to a further rent increase based upon the installation of similar equipment, or new furniture or furnishings within the useful life of such new equipment, or new furniture or furnishings. (C) THE OWNER SHALL GIVE WRITTEN NOTICE TO THE DIVISION OF HOUSING AND COMMUNITY RENEWAL AND THE TENANT NAMED IN A VACANCY LEASE ON FORMS PRESCRIBED BY THE DIVISION OF ANY SUCH ADJUSTMENT PURSUANT TO THIS PARAGRAPH AND THE FAILURE TO PROVIDE SUCH WRITTEN NOTICE AS PROVIDED HEREIN SHALL PRECLUDE THE COLLECTION OF ANY SUCH ADJUSTMENT. SUCH NOTICE MUST INCLUDE A DETAILED BREAKDOWN OF THE NATURE AND COST OF ANY IMPROVEMENTS UNDERLYING AN INCREASE IN RENT UNDER THIS PARAGRAPH AND A STATEMENT THAT ANY INCREASE ABOVE THE PREVIOUS RENT IS IN ACCORDANCE WITH ADJUSTMENTS PERMITTED BY LAW. (D) NO INCREASE SHALL BE COLLECTIBLE UNDER THIS PARAGRAPH WHERE THE DIVISION OF HOUSING AND COMMUNITY RENEWAL HAS DETERMINED THAT THE OWNER IS NOT MAINTAINING ALL BUILDING-WIDE REQUIRED SERVICES OR ALL REQUIRED SERVICES WITH RESPECT TO THE AFFECTED HOUSING ACCOMMODATION, OR WHERE THERE ARE CURRENT HAZARDOUS VIOLATIONS OF ANY MUNICIPAL, COUNTY, STATE OR FEDERAL LAW WHICH RELATE TO THE MAINTENANCE OF SUCH SERVICES. (E) WITHIN THIRTY DAYS OF THE SIGNING OF A VACANCY LEASE INCLUDING A RENT INCREASE PURSUANT TO THIS PARAGRAPH THAT EXCEEDS TEN PERCENT OF THE RENT CHARGED TO THE PREVIOUS TENANT, THE OWNER WILL FILE WITH THE DIVISION AN EXPLANATION OF HOW THE VACANCY RENT WAS COMPUTED, AND ALL DOCUMENTS NECESSARY TO SUPPORT THE COLLECTION OF SUCH INCREASE, INCLUDING BUT NOT LIMITED TO, CANCELLED CHECKS, INVOICES AND SIGNED CONTRACTS CONTEMPORANEOUSLY WITH THE IMPROVEMENTS ALLEGED, AND CONTRACTOR'S AFFIDAVITS INDICATING THAT THE INSTALLATION WAS COMPLETED AND PAID IN FULL. UPON RECEIPT OF ALL DOCUMENTS SUBMITTED BY THE OWNER AND AFTER GIVING THE TENANT NAMED IN THE VACANCY LEASE AN OPPORTUNITY TO RESPOND, THE DIVISION SHALL ISSUE AN ORDER APPROVING OR DISAPPROVING SUCH INCREASE IN WHOLE OR IN PART. BASED UPON SUCH DETERMINATION, THE DIVISION SHALL ORDER A REFUND TO THE TENANT EQUAL TO THE AMOUNT COLLECTED IN EXCESS OF THE LEGAL REGULATED RENT APPROVED BY THE DIVISION. (F) IF THE OWNER FAILS TO ESTABLISH BY A PREPONDERANCE OF THE EVIDENCE THAT THE OVERCHARGE WAS NOT WILLFUL, THE DIVISION SHALL ORDER THE OWNER TO PAY TO THE TENANT AN ADDITIONAL AMOUNT EQUAL TO THREE TIMES THE EXCESS CHARGED. (G) THE NEXT ANNUAL REGISTRATION STATEMENT FILED FOR ANY HOUSING ACCOMMODATION SUBJECT TO AN INCREASE UNDER THIS PARAGRAPH, WHETHER OR NOT SUBJECT TO THE PROVISIONS OF SUBPARAGRAPH (E) OF THIS PARAGRAPH SHALL CONTAIN A DETAILED BREAKDOWN OF THE COSTS OF ALL IMPROVEMENTS UNDERLYING SUCH INCREASE.

S 5. Clause 5 of the second undesignated paragraph of paragraph (a) of subdivision 4 of section 4 of chapter 274 of the laws of 1946, constituting the emergency housing rent control law, as amended by chapter 253 of the laws of 1993, is amended to read as follows:

(5) the landlord and tenant by mutual voluntary written agreement agree to a substantial increase or decrease in dwelling space or a change in the services, furniture, furnishings or equipment provided in the housing accommodations; provided that an owner shall be entitled to a rent increase where there has been a substantial modification or increase of dwelling space or an increase in the services, or installation of new equipment or improvements or new furniture or furnishings provided in or to a tenant's housing accommodation. The permanent increase in the maximum rent for the affected housing accommodation shall be [one-fortieth] ONE-SIXTIETH of the total cost incurred by the landlord in providing such modification or increase in dwelling space, services, furniture, furnishings or equipment, including the cost of installation, but excluding finance charges provided further that an owner who is entitled to a rent increase pursuant to this clause shall not be entitled to a further rent increase based upon the installation of similar equipment, or new furniture or furnishings within the useful life of such new equipment, or new furniture or furnishings. The owner shall give written notice to the commission of any such adjustment pursuant to this clause; or

S 6. This act shall take effect on the ninetieth day after it shall have become a law; provided that:

(a) the amendments to section 26-405 of the city rent and rehabilitation law made by section one of this act shall remain in full force and effect only as long as the public emergency requiring the regulation and control of residential rents and evictions continues, as provided in subdivision 3 of section 1 of the local emergency housing rent control act;

(b) the amendments to chapter 4 of title 26 of the administrative code of the city of New York made by sections two and three of this act shall expire on the same date as such law expires and shall not affect the expiration of such law as provided under section 26-520 of such law;

(c) the amendments to the emergency tenant protection act of nineteen seventy-four made by section four of this act shall expire on the same date as such act expires and shall not affect the expiration of such act as provided in section 17 of chapter 576 of the laws of 1974;

(d) the amendments to section 4 of the emergency housing rent control law made by section five of this act shall expire on the same date as such law expires and shall not affect the expiration of such law as provided in subdivision 2 of section 1 of chapter 274 of the laws of 1946; and

(e) effective immediately, the division of housing and community renewal is authorized to and shall promulgate all rules, regulations and standards necessary to implement the provisions of this act.

PART G

Section 1. Legislative findings and declaration of emergency. The legislature hereby finds and declares that the serious public emergency which led to the enactment of the existing laws regulating residential rents and evictions continues to exist; that such laws would better serve the public interest if certain changes were made thereto, including the continued regulation of certain housing accommodations that become vacant and the reinstatement of regulation of certain housing accommodations that have been deregulated upon vacancy.

The legislature further recognizes that severe disruption of the rental housing market has occurred and threatens to be exacerbated as a

result of the present state of the law in relation to the deregulation of housing accommodations upon vacancy. The situation has permitted speculative and profiteering practices and has brought about the loss of vital and irreplaceable affordable housing for working persons and families.

The legislature therefore declares that in order to prevent uncertainty, potential hardship and dislocation of tenants living in housing accommodations subject to government regulations as to rentals and continued occupancy as well as those not subject to such regulation, the provisions of this act are necessary to protect the public health, safety and general welfare. The necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

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

S 3. Paragraph 13 of subdivision a of section 5 of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, is REPEALED.

S 4. Subparagraph (k) of paragraph 2 of subdivision e of section 26-403 of the administrative code of the city of New York is REPEALED.

S 5. Section 26-504.2 of the administrative code of the city of New York is REPEALED.

S 6. Any housing accommodations that on or after January 1, 2007 were excluded from coverage from the emergency tenant protection act of nineteen seventy-four, the emergency housing rent control law or the administrative code of the city of New York pursuant to the provisions of law repealed by sections two, three, four and five of this act shall be subject to the provisions of such act, law or administrative code, respectively. Notwithstanding the provisions of any lease or rental agreement, the legal regulated rent or maximum collectible rent of any housing accommodation excluded from regulation on or after January 1, 2007 by reason of the provisions repealed by sections two, three, four and five of this act shall be the legal regulated rent or maximum collectible rent applicable to such accommodation on December 31, 2006, subject to further adjustment in accordance with applicable provisions of law.

S 7. Any housing accommodations that prior to January 1, 2007 were excluded from coverage from the emergency tenant protection act of nineteen seventy-four, the emergency housing rent control law or the administrative code of the city of New York pursuant to the provisions of law repealed by sections two, three, four, and five of this act, and where such housing accommodations were located outside the city of New York and were rented to a tenant on or after January 1, 2007 for less than $3,500 per month or were located within the city of New York and were rented to a tenant on or after January 1, 2007 for less than $5,000.00 per month, shall be subject to the provisions of such act, law or administrative code, respectively. Notwithstanding the provisions of any lease or rental agreement, the legal regulated rent or maximum collectible rent of any housing accommodation excluded from regulation prior to January 1, 2007 by reason of the provisions repealed by sections two, three, four and five of this act and made subject to regulation shall be the actual rent applicable to such accommodations on January 1, 2007 or the first rent applicable to such accommodation after January 1, 2007, subject to further adjustment in accordance with applicable provisions of law.

S 8. This act shall take effect immediately.

PART H

Section 1. Subdivision a-2 of section 10 of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, as added by chapter 82 of the laws of 2003, is amended to read as follows:

[a-2.] (A-2) Provides that where the amount of rent charged to and paid by the tenant is less than the legal regulated rent for the housing accommodation, the amount of rent for such housing accommodation which may be charged [upon renewal or] upon vacancy thereof may, at the option of the owner, be based upon such previously established legal regulated rent, as adjusted by [the most recent] ALL applicable guidelines increases and other increases authorized by law; PROVIDED, HOWEVER, THAT SUCH VACANCY SHALL NOT BE CAUSED BY THE FAILURE OF THE OWNER OR AN AGENT OF THE OWNER, TO MAINTAIN THE HOUSING ACCOMMODATION IN COMPLIANCE WITH THE WARRANTY OF HABITABILITY SET FORTH IN SUBDIVISION ONE OF SECTION TWO HUNDRED THIRTY-FIVE-B OF THE REAL PROPERTY LAW. [Where, subsequent to vacancy, such legal regulated rent, as adjusted by the most recent applicable guidelines increases and any other increases authorized by law is two thousand dollars or more per month, such housing accommodation shall be excluded from the provisions of this act pursuant to paragraph thirteen of subdivision a of section five of this act.]

S 2. Paragraph 14 of subdivision c of section 26-511 of the administrative code of the city of New York, as added by chapter 82 of the laws of 2003, is amended to read as follows:

(14) provides that where the amount of rent charged to and paid by the tenant is less than the legal regulated rent for the housing accommodation, the amount of rent for such housing accommodation which may be charged [upon renewal or] upon vacancy thereof may, at the option of the owner, be based upon such previously established legal regulated rent, as adjusted by the most recent applicable guidelines increases and any other increases authorized by law; PROVIDED, HOWEVER, THAT SUCH VACANCY SHALL NOT BE CAUSED BY THE FAILURE OF THE OWNER OR AN AGENT OF THE OWNER, TO MAINTAIN THE HOUSING ACCOMMODATION IN COMPLIANCE WITH THE WARRANTY OF HABITABILITY SET FORTH IN SUBDIVISION ONE OF SECTION TWO HUNDRED THIRTY-FIVE-B OF THE REAL PROPERTY LAW. [Where, subsequent to vacancy, such legal regulated rent, as adjusted by the most recent applicable guidelines increases and any other increases authorized by law is two thousand dollars or more per month, such housing accommodation shall be excluded from the provisions of this law pursuant to section 26-504.2 of this chapter.]

S 3. This act shall take effect immediately; provided, however, that the amendments to section 10 of the emergency tenant protection act of nineteen seventy-four made by section one of this act shall expire on the same date as such act expires and shall not affect the expiration of such act as provided in section 17 of chapter 576 of the laws of 1974; and provided, further, that the amendments to section 26-511 of the rent stabilization law of nineteen hundred sixty-nine made by section two of this act shall expire on the same date as such law expires and shall not affect the expiration of such law as provided under section 26-520 of such law.

PART I

Section 1. Paragraph 6-a of subdivision c of section 26-511 of the administrative code of the city of New York is amended to read as follows:

(6-a) provides criteria whereby as an alternative to the hardship application provided under paragraph six of this subdivision owners of buildings acquired by the same owner or a related entity owned by the same principals [three] SIX years prior to the date of application may apply to the division for increases in excess of the level of applicable guideline increases established under this law based on a finding by the commissioner that such guideline increases are not sufficient to enable the owner to maintain an annual gross rent income for such building which exceeds the annual operating expenses of such building by a sum equal to at least five percent of such gross rent. For the purposes of this paragraph, operating expenses shall consist of the actual, reasonable, costs of fuel, labor, utilities, taxes, other than income or corporate franchise taxes, fees, permits, necessary contracted services and non-capital repairs, insurance, parts and supplies, management fees and other administrative costs and mortgage interest. For the purposes of this paragraph, mortgage interest shall be deemed to mean interest on a bona fide mortgage including an allocable portion of charges related thereto. Criteria to be considered in determining a bona fide mortgage other than an institutional mortgage shall include; condition of the property, location of the property, the existing mortgage market at the time the mortgage is placed, the term of the mortgage, the amortization rate, the principal amount of the mortgage, security and other terms and conditions of the mortgage. The commissioner shall set a rental value for any unit occupied by the owner or a person related to the owner or unoccupied at the owner's choice for more than one month at the last regulated rent plus the minimum number of guidelines increases or, if no such regulated rent existed or is known, the commissioner shall impute a rent consistent with other rents in the building. The amount of hardship increase shall be such as may be required to maintain the annual gross rent income as provided by this paragraph. The division shall not grant a hardship application under this paragraph or paragraph six of this subdivision for a period of three years subsequent to granting a hardship application under the provisions of this paragraph. The collection of any increase in the rent for any housing accommodation pursuant to this paragraph shall not exceed six percent in any year from the effective date of the order granting the increase over the rent set forth in the schedule of gross rents, with collectability of any dollar excess above said sum to be spread forward in similar increments and added to the rent as established or set in future years. No application shall be approved unless the owner's equity in such building exceeds five percent of: (i) the arms length purchase price of the property; (ii) the cost of any capital improvements for which the owner has not collected a surcharge; (iii) any repayment of principal of any mortgage or loan used to finance the purchase of the property or any capital improvements for which the owner has not collected a surcharge and (iv) any increase in the equalized assessed value of the property which occurred subsequent to the first valuation of the property after purchase by the owner. For the purposes of this paragraph, owner's equity shall mean the sum of (i) the purchase price of the property less the principal of any mortgage or loan used to finance the purchase of the property, (ii) the cost of any capital improvement for which the owner has not collected a surcharge less the principal of any mortgage or loan used to finance said improvement, (iii) any repayment of the principal of any mortgage or loan used

to finance the purchase of the property or any capital improvement for which the owner has not collected a surcharge, and (iv) any increase in the equalized assessed value of the property which occurred subsequent to the first valuation of the property after purchase by the owner.

S 2. Paragraph 5 of subdivision d of section 6 of section 4 of chapter 576 of the laws of 1974 enacting the emergency tenant protection act of nineteen seventy-four, as amended by chapter 102 of the laws of 1984, is amended to read as follows:

(5) as an alternative to the hardship application provided under paragraph four of this subdivision, owners of buildings acquired by the same owner or a related entity owned by the same principals [three] SIX years prior to the date of application may apply to the division for increases in excess of the level of applicable guideline increases established under this law based on a finding by the commissioner that such guideline increases are not sufficient to enable the owner to maintain an annual gross rent income for such building which exceeds the annual operating expenses of such building by a sum equal to at least five percent of such gross rent. For the purposes of this paragraph, operating expenses shall consist of the actual, reasonable, costs of fuel, labor, utilities, taxes, other than income or corporate franchise taxes, fees, permits, necessary contracted services and non-capital repairs, insurance, parts and supplies, management fees and other administrative costs and mortgage interest. For the purposes of this paragraph, mortgage interest shall be deemed to mean interest on a bona fide mortgage including an allocable portion of charges related thereto. Criteria to be considered in determining a bona fide mortgage other than an institutional mortgage shall include; condition of the property, location of the property, the existing mortgage market at the time the mortgage is placed, the term of the mortgage, the amortization rate, the principal amount of the mortgage, security and other terms and conditions of the mortgage. The commissioner shall set a rental value for any unit occupied by the owner or a person related to the owner or unoccupied at the owner's choice for more than one month at the last regulated rent plus the minimum number of guidelines increases or, if no such regulated rent existed or is known, the commissioner shall impute a rent consistent with other rents in the building. The amount of hardship increase shall be such as may be required to maintain the annual gross rent income as provided by this paragraph. The division shall not grant a hardship application under this paragraph or paragraph four of this subdivision for a period of three years subsequent to granting a hardship application under the provisions of this paragraph. The collection of any increase in the rent for any housing accommodation pursuant to this paragraph shall not exceed six percent in any year from the effective date of the order granting the increase over the rent set forth in the schedule of gross rents, with collectability of any dollar excess above said sum to be spread forward in similar increments and added to the rent as established or set in future years. No application shall be approved unless the owner's equity in such building exceeds five percent of: (i) the arms length purchase price of the property; (ii) the cost of any capital improvements for which the owner has not collected a surcharge; (iii) any repayment of principal of any mortgage or loan used to finance the purchase of the property or any capital improvements for which the owner has not collected a surcharge; and (iv) any increase in the equalized assessed value of the property which occurred subsequent to the first valuation of the property after purchase by the owner. For the purposes of this paragraph, owner's equity shall mean the sum of (i)

the purchase price of the property less the principal of any mortgage or loan used to finance the purchase of the property, (ii) the cost of any capital improvement for which the owner has not collected a surcharge less the principal of any mortgage or loan used to finance said improvement, (iii) any repayment of the principal of any mortgage or loan used to finance the purchase of the property or any capital improvement for which the owner has not collected a surcharge, and (iv) any increase in the equalized assessed value of the property which occurred subsequent to the first valuation of the property after purchase by the owner.

S 3. This act shall take effect immediately; provided that the amendments to section 26-511 of chapter 4 of title 26 of the administrative code of the city of New York made by section one of this act shall expire on the same date as such law expires and shall not affect the expiration of such law as provided under section 26-520 of such law; and provided that the amendments to section 6 of the emergency tenant protection act of nineteen seventy-four made by section two of this act shall expire on the same date as such act expires and shall not affect the expiration of such act as provided in section 17 of chapter 576 of the laws of 1974.

PART J

Section 1. Subparagraph (g) of paragraph 1 of subdivision g of section 26-405 of the administrative code of the city of New York, as amended by chapter 749 of the laws of 1990, is amended to read as follows:

(g) (I) COLLECTION OF SURCHARGES TO THE MAXIMUM RENT AUTHORIZED PURSUANT TO ITEM (II) OF THIS SUBPARAGRAPH SHALL CEASE WHEN THE OWNER HAS RECOVERED THE COST OF THE MAJOR CAPITAL IMPROVEMENT;

(II) There has been since July first, nineteen hundred seventy, a major capital improvement [required for the operation, preservation or maintenance of the structure. An adjustment under this subparagraph (g) shall be in an amount sufficient to amortize the cost of the improvements pursuant to this subparagraph (g) over a seven-year period]; PROVIDED THAT THE COMMISSIONER FINDS THAT SUCH IMPROVEMENTS ARE DEEMED DEPRECIABLE UNDER THE INTERNAL REVENUE CODE AND SUCH IMPROVEMENTS ARE REQUIRED FOR THE OPERATION, PRESERVATION OR MAINTENANCE OF THE STRUCTURE. THE INCREASE PERMITTED FOR SUCH CAPITAL IMPROVEMENT SHALL BE COLLECTED AS A MONTHLY SURCHARGE TO THE MAXIMUM RENT. IT SHALL BE SEPARATELY DESIGNATED AND BILLED AS SUCH AND SHALL NOT BE COMPOUNDED BY ANY OTHER ADJUSTMENT TO THE MAXIMUM RENT. THE SURCHARGE ALLOCABLE TO EACH APARTMENT SHALL BE AN AMOUNT EQUAL TO THE COST OF THE IMPROVEMENT DIVIDED BY EIGHTY-FOUR, DIVIDED BY THE NUMBER OF ROOMS IN THE BUILDING, AND THEN MULTIPLIED BY THE NUMBER OF ROOMS IN SUCH APARTMENT; PROVIDED THAT THE SURCHARGE ALLOCABLE TO ANY APARTMENT IN ANY ONE YEAR MAY NOT EXCEED AN AMOUNT EQUAL TO SIX PERCENT OF THE MONTHLY RENT COLLECTED BY THE OWNER FOR SUCH APARTMENT AS SET FORTH IN THE SCHEDULE OF GROSS RENTS. ANY EXCESS ABOVE SAID SIX PERCENT SHALL BE CARRIED FORWARD AND COLLECTED IN FUTURE YEARS AS A FURTHER SURCHARGE NOT TO EXCEED AN ADDITIONAL SIX PERCENT IN ANY ONE YEAR PERIOD UNTIL THE TOTAL SURCHARGE EQUALS THE AMOUNT IT WOULD HAVE BEEN IF THE AFOREMENTIONED SIX PERCENT LIMITATION DID NOT APPLY; or

S 2. Subparagraph (k) of paragraph 1 of subdivision g of section 26-405 of the administrative code of the city of New York, as amended by chapter 749 of the laws of 1990, is amended to read as follows:

(k) The landlord has incurred, since January first, nineteen hundred seventy, in connection with and in addition to a concurrent major capi-

tal improvement pursuant to subparagraph (g) of this paragraph, other expenditures to improve, restore or preserve the quality of the structure. An adjustment under this subparagraph shall be granted only if such improvements represent an expenditure equal to at least ten per centum of the total operating and maintenance expenses for the preceding year. An adjustment under this subparagraph shall be in addition to any adjustment granted for the concurrent major capital improvement and shall be [in an amount sufficient to amortize the cost of the improvements pursuant to this subparagraph over a seven-year period] IMPLEMENTED IN THE SAME MANNER AS SUCH MAJOR CAPITAL IMPROVEMENT AS A FURTHER SURCHARGE TO THE MAXIMUM RENT.

S 3. Paragraph 6 of subdivision c of section 26-511 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:

(6) provides criteria whereby the commissioner may act upon applications by owners for increases in excess of the level of fair rent increase established under this law provided, however, that such criteria shall provide [(a)] as to hardship applications, for a finding that the level of fair rent increase is not sufficient to enable the owner to maintain approximately the same average annual net income (which shall be computed without regard to debt service, financing costs or management fees) for the three year period ending on or within six months of the date of an application pursuant to such criteria as compared with annual net income, which prevailed on the average over the period nineteen hundred sixty-eight through nineteen hundred seventy, or for the first three years of operation if the building was completed since nineteen hundred sixty-eight or for the first three fiscal years after a transfer of title to a new owner provided the new owner can establish to the satisfaction of the commissioner that he or she acquired title to the building as a result of a bona fide sale of the entire building and that the new owner is unable to obtain requisite records for the fiscal years nineteen hundred sixty-eight through nineteen hundred seventy despite diligent efforts to obtain same from predecessors in title and further provided that the new owner can provide financial data covering a minimum of six years under his or her continuous and uninterrupted operation of the building to meet the three year to three year comparative test periods herein provided[; and (b) as to completed building-wide major capital improvements, for a finding that such improvements are deemed depreciable under the Internal Revenue Code and that the cost is to be amortized over a seven-year period, based upon cash purchase price exclusive of interest or service charges]. Notwithstanding anything to the contrary contained herein, no hardship increase granted pursuant to this paragraph shall, when added to the annual gross rents, as determined by the commissioner, exceed the sum of, (i) the annual operating expenses, (ii) an allowance for management services as determined by the commissioner, (iii) actual annual mortgage debt service (interest and amortization) on its indebtedness to a lending institution, an insurance company, a retirement fund or welfare fund which is operated under the supervision of the banking or insurance laws of the state of New York or the United States, and (iv) eight and one-half percent of that portion of the fair market value of the property which exceeds the unpaid principal amount of the mortgage indebtedness referred to in subparagraph (iii) of this paragraph. Fair market value for the purposes of this paragraph shall be six times the annual gross rent. The collection of any increase in the stabilized rent for any apartment pursuant to this paragraph shall not exceed six percent in any

year from the effective date of the order granting the increase over the rent set forth in the schedule of gross rents, with collectability of any dollar excess above said sum to be spread forward in similar increments and added to the stabilized rent as established or set in future years;

S 4. Subdivision c of section 26-511 of the administrative code of the city of New York is amended by adding two new paragraphs 6-b and 6-c to read as follows:

(6-B) PROVIDES CRITERIA WHEREBY THE COMMISSIONER MAY ACT UPON APPLICATION BY OWNERS FOR INCREASES IN EXCESS OF THE LEVEL OF FAIR RENT INCREASE ESTABLISHED UNDER THIS LAW PROVIDED, HOWEVER, THAT SUCH CRITERIA SHALL PROVIDE AS TO COMPLETED BUILDING-WIDE MAJOR CAPITAL IMPROVEMENTS, FOR A FINDING THAT SUCH IMPROVEMENTS ARE DEEMED DEPRECIABLE UNDER THE INTERNAL REVENUE CODE AND SUCH IMPROVEMENTS ARE REQUIRED FOR THE OPERATION, PRESERVATION OR MAINTENANCE OF THE STRUCTURE. THE INCREASE PERMITTED FOR SUCH CAPITAL IMPROVEMENT SHALL BE COLLECTED AS A MONTHLY SURCHARGE TO THE LEGAL REGULATED RENT. IT SHALL BE SEPARATELY DESIGNATED AND BILLED AS SUCH AND SHALL NOT BE COMPOUNDED BY ANY ANNUAL ADJUSTMENT OF THE LEVEL OF FAIR RENT PROVIDED FOR UNDER SUBDIVISION B OF SECTION 26-510 OF THIS LAW. THE SURCHARGE ALLOCABLE TO EACH APARTMENT SHALL BE AN AMOUNT EQUAL TO THE COST OF THE IMPROVEMENT DIVIDED BY EIGHTY-FOUR, DIVIDED BY THE NUMBER OF ROOMS IN THE BUILDING, AND THEN MULTIPLIED BY THE NUMBER OF ROOMS IN SUCH APARTMENT; PROVIDED THAT THE SURCHARGE ALLOCABLE TO ANY APARTMENT, IN ANY ONE YEAR MAY NOT EXCEED AN AMOUNT EQUAL TO SIX PERCENT OF THE MONTHLY RENT COLLECTED BY THE OWNER FOR SUCH APARTMENT AS SET FORTH IN THE SCHEDULE OF GROSS RENTS. ANY EXCESS ABOVE SAID SIX PERCENT SHALL BE CARRIED FORWARD AND COLLECTED IN FUTURE YEARS AS A FURTHER SURCHARGE NOT TO EXCEED AN ADDITIONAL SIX PERCENT IN ANY ONE YEAR PERIOD UNTIL THE TOTAL SURCHARGE EQUALS THE AMOUNT IT WOULD HAVE BEEN IF THE AFOREMENTIONED SIX PERCENT LIMITATION DID NOT APPLY.

(6-C) COLLECTION OF SURCHARGES IN EXCESS OF THE LEVEL OF FAIR RENT AUTHORIZED PURSUANT TO PARAGRAPH SIX-B OF THIS SUBDIVISION SHALL CEASE WHEN THE OWNER HAS RECOVERED THE COST OF THE MAJOR CAPITAL IMPROVEMENT.

S 5. Paragraph 3 of subdivision d of section 6 of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, as amended by chapter 749 of the laws of 1990, is amended to read as follows:

(3) (I) COLLECTION OF SURCHARGES IN ADDITION TO THE LEGAL REGULATED RENT AUTHORIZED PURSUANT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH SHALL CEASE WHEN THE OWNER HAS RECOVERED THE COST OF THE MAJOR CAPITAL IMPROVEMENT;

(II) there has been since January first, nineteen hundred seventy-four a major capital improvement [required for the operation, preservation or maintenance of the structure. An adjustment under this paragraph shall be in an amount sufficient to amortize the cost of the improvements pursuant to this paragraph over a seven-year period]; PROVIDED THAT THE COMMISSIONER FINDS THAT SUCH IMPROVEMENTS ARE DEEMED DEPRECIABLE UNDER THE INTERNAL REVENUE CODE AND SUCH IMPROVEMENTS ARE REQUIRED FOR THE OPERATION, PRESERVATION OR MAINTENANCE OF THE STRUCTURE. THE INCREASE PERMITTED FOR SUCH CAPITAL IMPROVEMENT SHALL BE COLLECTED AS A MONTHLY SURCHARGE TO THE LEGAL REGULATED RENT. IT SHALL BE SEPARATELY DESIGNATED AND BILLED AS SUCH AND SHALL NOT BE COMPOUNDED BY ANY ANNUAL RENT ADJUSTMENT AUTHORIZED BY THE RENT GUIDELINES BOARD UNDER THIS ACT. THE SURCHARGE ALLOCABLE TO EACH APARTMENT SHALL BE AN AMOUNT EQUAL TO THE COST OF THE IMPROVEMENT DIVIDED BY EIGHTY-FOUR, DIVIDED BY THE NUMBER OF ROOMS IN THE BUILDING, AND THEN MULTIPLIED BY THE NUMBER OF ROOMS IN

SUCH APARTMENT; PROVIDED THAT THE SURCHARGE ALLOCABLE TO ANY APARTMENT IN ANY ONE YEAR MAY NOT EXCEED AN AMOUNT EQUAL TO SIX PERCENT OF THE MONTHLY RENT COLLECTED BY THE OWNER FOR SUCH APARTMENT AS SET FORTH IN THE SCHEDULE OF GROSS RENTS. ANY EXCESS ABOVE SAID SIX PERCENT SHALL BE CARRIED FORWARD AND COLLECTED IN FUTURE YEARS AS A FURTHER SURCHARGE NOT TO EXCEED AN ADDITIONAL SIX PERCENT IN ANY ONE YEAR PERIOD UNTIL THE TOTAL SURCHARGE EQUALS THE AMOUNT IT WOULD HAVE BEEN IF THE AFOREMENTIONED SIX PERCENT LIMITATION DID NOT APPLY, or

S 6. The second undesignated paragraph of paragraph (a) of subdivision 4 of section 4 of chapter 274 of the laws of 1946, constituting the emergency housing rent control law, as amended by chapter 21 of the laws of 1962, clause 5 as amended by chapter 253 of the laws of 1993, is amended to read as follows:

No application for adjustment of maximum rent based upon a sales price valuation shall be filed by the landlord under this subparagraph prior to six months from the date of such sale of the property. In addition, no adjustment ordered by the commission based upon such sales price valuation shall be effective prior to one year from the date of such sale. Where, however, the assessed valuation of the land exceeds four times the assessed valuation of the buildings thereon, the commission may determine a valuation of the property equal to five times the equalized assessed valuation of the buildings, for the purposes of this subparagraph. The commission may make a determination that the valuation of the property is an amount different from such equalized assessed valuation where there is a request for a reduction in such assessed valuation currently pending; or where there has been a reduction in the assessed valuation for the year next preceding the effective date of the current assessed valuation in effect at the time of the filing of the application. Net annual return shall be the amount by which the earned income exceeds the operating expenses of the property, excluding mortgage interest and amortization, and excluding allowances for obsolescence and reserves, but including an allowance for depreciation of two per centum of the value of the buildings exclusive of the land, or the amount shown for depreciation of the buildings in the latest required federal income tax return, whichever is lower; provided, however, that (1) no allowance for depreciation of the buildings shall be included where the buildings have been fully depreciated for federal income tax purposes or on the books of the owner; or (2) the landlord who owns no more than four rental units within the state has not been fully compensated by increases in rental income sufficient to offset unavoidable increases in property taxes, fuel, utilities, insurance and repairs and maintenance, excluding mortgage interest and amortization, and excluding allowances for depreciation, obsolescence and reserves, which have occurred since the federal date determining the maximum rent or the date the property was acquired by the present owner, whichever is later; or (3) the landlord operates a hotel or rooming house or owns a cooperative apartment and has not been fully compensated by increases in rental income from the controlled housing accommodations sufficient to offset unavoidable increases in property taxes and other costs as are allocable to such controlled housing accommodations, including costs of operation of such hotel or rooming house, but excluding mortgage interest and amortization, and excluding allowances for depreciation, obsolescence and reserves, which have occurred since the federal date determining the maximum rent or the date the landlord commenced the operation of the property, whichever is later; or (4) the landlord and tenant voluntarily enter into a valid written lease in good

faith with respect to any housing accommodation, which lease provides for an increase in the maximum rent not in excess of fifteen per centum and for a term of not less than two years, except that where such lease provides for an increase in excess of fifteen per centum, the increase shall be automatically reduced to fifteen per centum; or (5) the landlord and tenant by mutual voluntary written agreement agree to a substantial increase or decrease in dwelling space or a change in the services, furniture, furnishings or equipment provided in the housing accommodations; provided that an owner shall be entitled to a rent increase where there has been a substantial modification or increase of dwelling space or an increase in the services, or installation of new equipment or improvements or new furniture or furnishings provided in or to a tenant's housing accommodation. The permanent increase in the maximum rent for the affected housing accommodation shall be one-fortieth of the total cost incurred by the landlord in providing such modification or increase in dwelling space, services, furniture, furnishings or equipment, including the cost of installation, but excluding finance charges provided further that an owner who is entitled to a rent increase pursuant to this clause shall not be entitled to a further rent increase based upon the installation of similar equipment, or new furniture or furnishings within the useful life of such new equipment, or new furniture or furnishings. The owner shall give written notice to the commission of any such adjustment pursuant to this clause; or (6) there has been, since March first, nineteen hundred fifty, an increase in the rental value of the housing accommodations as a result of a substantial rehabilitation of the building or housing accommodation therein which materially adds to the value of the property or appreciably prolongs its life, excluding ordinary repairs, maintenance and replacements; or (7) (I) COLLECTION OF SURCHARGES TO THE MAXIMUM RENT AUTHORIZED PURSUANT TO ITEM (II) OF THIS CLAUSE SHALL CEASE WHEN THE OWNER HAS RECOVERED THE COST OF THE MAJOR CAPITAL IMPROVEMENT; (II) there has been since March first, nineteen hundred fifty, a major capital improvement [required for the operation, preservation or maintenance of the structure]; PROVIDED THAT THE COMMISSIONER FINDS THAT SUCH IMPROVEMENTS ARE DEEMED DEPRECIABLE UNDER THE INTERNAL REVENUE CODE AND SUCH IMPROVEMENTS ARE REQUIRED FOR THE OPERATION, PRESERVATION OR MAINTENANCE OF THE STRUCTURE. THE INCREASE PERMITTED FOR SUCH CAPITAL IMPROVEMENT SHALL BE COLLECTED AS A MONTHLY SURCHARGE TO THE MAXIMUM RENT. IT SHALL BE SEPARATELY DESIGNATED AND BILLED AS SUCH AND SHALL NOT BE COMPOUNDED BY ANY OTHER ADJUSTMENT TO THE MAXIMUM RENT. THE SURCHARGE ALLOCABLE TO EACH APARTMENT SHALL BE AN AMOUNT EQUAL TO THE COST OF THE IMPROVEMENT DIVIDED BY EIGHTY-FOUR, DIVIDED BY THE NUMBER OF ROOMS IN THE BUILDING, AND THEN MULTIPLIED BY THE NUMBER OF ROOMS IN SUCH APARTMENT; PROVIDED THAT THE SURCHARGE ALLOCABLE TO ANY APARTMENT IN ANY ONE YEAR MAY NOT EXCEED AN AMOUNT EQUAL TO SIX PERCENT OF THE MONTHLY RENT COLLECTED BY THE OWNER FOR SUCH APARTMENT AS SET FORTH IN THE SCHEDULE OF GROSS RENTS. ANY EXCESS ABOVE SAID SIX PERCENT SHALL BE CARRIED FORWARD AND COLLECTED IN FUTURE YEARS AS A FURTHER SURCHARGE NOT TO EXCEED AN ADDITIONAL SIX PERCENT IN ANY ONE YEAR PERIOD UNTIL THE TOTAL SURCHARGE EQUALS THE AMOUNT IT WOULD HAVE BEEN IF THE AFOREMENTIONED SIX PERCENT LIMITATION DID NOT APPLY; or (8) there has been since March first, nineteen hundred fifty, in structures containing more than four housing accommodations, other improvements made with the express consent of the tenants in occupancy of at least seventy-five per centum of the housing accommodations, provided, however, that no adjustment granted hereunder shall exceed fifteen per centum unless the tenants have agreed to a higher percentage of increase, as

herein provided; or (9) there has been, since March first, nineteen hundred fifty, a subletting without written consent from the landlord or an increase in the number of adult occupants who are not members of the immediate family of the tenant, and the landlord has not been compensated therefor by adjustment of the maximum rent by lease or order of the commission or pursuant to the federal act; or (10) the presence of unique or peculiar circumstances materially affecting the maximum rent has resulted in a maximum rent which is substantially lower than the rents generally prevailing in the same area for substantially similar housing accommodations.

S 7. This act shall take effect immediately; provided that the amendments to section 26-405 of the city rent and rehabilitation law made by sections one and two of this act shall remain in full force and effect only so long as the public emergency requiring the regulation and control of residential rents and evictions continues, as provided in subdivision 3 of section 1 of the local emergency housing rent control act; and provided further that the amendments to section 26-511 of the rent stabilization law of nineteen hundred sixty-nine made by sections three and four of this act shall expire on the same date as such law expires and shall not affect the expiration of such law as provided under section 26-520 of such law, as from time to time amended; and provided further that the amendment to section 6 of the emergency tenant protection act of nineteen seventy-four made by section five of this act shall expire on the same date as such act expires and shall not affect the expiration of such act as provided in section 17 of chapter 576 of the laws of 1974, as from time to time amended; and further provided that the amendment to section 4 of the emergency housing rent control law made by section six of this act shall expire on the same date as such law expires and shall not affect the expiration of such law as provided in subdivision 2 of section 1 of chapter 274 of the laws of 1946.

PART K

Section 1. Section 5 of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, is amended by adding a new subdivision d to read as follows:

D. NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH THREE OR FIVE OF SUBDIVISION A OF THIS SECTION BUT SUBJECT TO ANY OTHER APPLICABLE EXCEPTIONS IN SUCH SUBDIVISION, NOTHING SHALL PREVENT THE DECLARATION OF AN EMERGENCY PURSUANT TO SECTION THREE OF THIS ACT FOR RENTAL HOUSING ACCOMMODATIONS LOCATED IN BUILDINGS WHICH WERE OWNED BY A COMPANY ESTABLISHED UNDER ARTICLE 2 OF THE PRIVATE HOUSING FINANCE LAW, OTHER THAN A MUTUAL COMPANY, BY REASON OF A VOLUNTARY DISSOLUTION PURSUANT TO SECTION 35 OF SUCH LAW. THE PROVISION OF SUBDIVISION A OF SECTION NINE OF THIS ACT SHALL NOT APPLY TO ANY HOUSING ACCOMMODATION WHICH BECAME SUBJECT TO THIS ACT PURSUANT TO THIS SUBDIVISION.

S 2. This act shall take effect immediately and shall apply to housing companies that dissolve before, on or after such date; provided, however, that the amendments to the emergency tenant protection act of nineteen seventy-four made by this act shall not affect the expiration of such act as provided in section 17 of chapter 576 of the laws of 1974, as amended and shall be deemed to expire therewith.

PART L

Section 1. Paragraph 12 of subdivision a of section 5 of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, as amended by chapter 116 of the laws of 1997, is amended to read as follows:

(12) upon issuance of an order by the division, housing accommodations which are: (1) occupied by persons who have a total annual income [in excess of one hundred seventy-five thousand dollars per annum], AS DEFINED IN AND SUBJECT TO THE LIMITATIONS AND PROCESS SET FORTH IN SECTION FIVE-A OF THIS ACT, THAT EXCEEDS THE DEREGULATION INCOME THRESHOLD, AS DEFINED IN SECTION FIVE-A OF THIS ACT in each of the two preceding calendar years[, as defined in and subject to the limitations and process set forth in section five-a of this act]; and (2) have a legal regulated rent [of two thousand dollars or more per month] THAT EQUALS OR EXCEEDS THE DEREGULATION RENT THRESHOLD, AS DEFINED IN SECTION FIVE-A OF THIS ACT. Provided however, that this exclusion shall not apply to housing accommodations which became or become subject to this act (a) by virtue of receiving tax benefits pursuant to section four hundred twenty-one-a or four hundred eighty-nine of the real property tax law, except as otherwise provided in subparagraph (i) of paragraph (f) of subdivision two of section four hundred twenty-one-a of the real property tax law, or (b) by virtue of article seven-C of the multiple dwelling law.

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

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

2. DEREGULATION INCOME THRESHOLD MEANS THREE HUNDRED THOUSAND DOLLARS. FOR PROCEEDINGS COMMENCED ON OR AFTER JANUARY FIRST, TWO THOUSAND TWELVE, THE DEREGULATION INCOME THRESHOLD SHALL BE ADJUSTED ANNUALLY ON THE FIRST DAY OF OCTOBER OF EACH YEAR FOR PROCEEDINGS IN EACH SUBSEQUENT YEAR BY THE CHANGE IN THE REGIONAL CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS, NEW YORK-NORTHERN NEW JERSEY-LONG ISLAND, NY-NJ-CT-PA, AS ESTABLISHED THE PRECEDING AUGUST.

3. DEREGULATION RENT THRESHOLD MEANS THREE THOUSAND DOLLARS. FOR PROCEEDINGS COMMENCED ON OR AFTER JANUARY FIRST, TWO THOUSAND TWELVE, THE DEREGULATION RENT THRESHOLD SHALL BE ADJUSTED ANNUALLY ON THE FIRST DAY OF OCTOBER EACH YEAR FOR PROCEEDINGS IN EACH SUBSEQUENT YEAR BY THE CHANGE IN THE REGIONAL CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS, NEW YORK-NORTHERN NEW JERSEY-LONG ISLAND, NY-NJ-CT-PA, AS ESTABLISHED THE PRECEDING AUGUST.

(b) On or before the first day of May in each calendar year, the owner of each housing accommodation for which the legal regulated MONTHLY rent [is two thousand dollars or more per month] EQUALS OR EXCEEDS THE DEREGULATION RENT THRESHOLD may provide the tenant or tenants residing therein with an income certification form prepared by the division of housing and community renewal on which such tenant or tenants shall identify all persons referred to in subdivision (a) of this section and shall certify whether the total annual income is in excess of [one hundred seventy-five thousand dollars] THE DEREGULATION INCOME THRESHOLD in each of the two preceding calendar years. Such income certification form shall state that the income level certified to by the tenant may be subject to verification by the department of taxation and finance pursuant to section one hundred seventy-one-b of the tax law, and shall not require disclosure of any information other than whether the aforementioned threshold has been exceeded. Such income certification form shall clearly state that: (i) only tenants residing in housing accommodations which had a legal regulated MONTHLY rent [of two thousand dollars or more per month] THAT EQUALS OR EXCEEDS THE DEREGULATION RENT THRESHOLD are required to complete the certification form; (ii) that tenants have protections available to them which are designed to prevent harassment; (iii) that tenants are not required to provide any information regarding their income except that which is requested on the form and may contain such other information the division deems appropriate. The tenant or tenants shall return the completed certification to the owner within thirty days after service upon the tenant or tenants. In the event that the total annual income as certified is in excess of [one hundred seventy-five thousand dollars] THE DEREGULATION INCOME THRESHOLD in each such year, the owner may file the certification with the state division of housing and community renewal on or before June thirtieth of such year. Upon filing such certification with the division, the division shall, within thirty days after the filing, issue an order providing that such housing accommodation shall not be subject to the provisions of this act upon the expiration of the existing lease. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be mailed to the owner.

(c) 1. In the event that the tenant or tenants either fail to return the completed certification to the owner on or before the date required by subdivision (b) of this section or the owner disputes the certification returned by the tenant or tenants, the owner may, on or before June thirtieth of such year, petition the state division of housing and community renewal to verify, pursuant to section one hundred seventy-one-b of the tax law, whether the total annual income exceeds [one hundred seventy-five thousand dollars] THE DEREGULATION INCOME THRESHOLD in each of the two preceding calendar years. Within twenty days after the filing of such request with the division, the division shall notify the tenant or tenants that such tenant or tenants named on the lease must provide the division with such information as the division and the department of taxation 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 being issued by the division providing that such housing accommodations shall not be subject to the provisions of this act.

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 providing that such housing accommodation shall not be subject to the provisions of this act upon expiration of the existing lease. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be 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 providing that such housing accommodation shall not be subject to the provisions of this act upon the expiration [or] OF the current lease. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be 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 twelve of subdivision a of section five of this act.

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

(m) 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 TWO-A OF THIS LAW, in excess of [one hundred seventy-five thousand dollars] THE DEREGULATION INCOME THRESHOLD AS DEFINED IN SECTION TWO-A OF THIS LAW in each of the two preceding calendar years[, as defined in and subject to the limitations and process set forth in section two-a of this law]; and (2) have a maximum rent [of two thousand dollars or more per month].

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

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

2. DEREGULATION INCOME THRESHOLD MEANS THREE HUNDRED THOUSAND DOLLARS. FOR PROCEEDINGS COMMENCED ON OR AFTER JANUARY FIRST, TWO THOUSAND TWELVE, THE DEREGULATION INCOME THRESHOLD SHALL BE ADJUSTED ANNUALLY ON THE FIRST DAY OF OCTOBER OF EACH YEAR FOR PROCEEDINGS IN EACH SUBSEQUENT YEAR BY THE CHANGE IN THE REGIONAL CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS, NEW YORK-NORTHERN NEW JERSEY-LONG ISLAND, NY-NJ-CT-PA, AS ESTABLISHED THE PRECEDING AUGUST.

3. DEREGULATION RENT THRESHOLD MEANS THREE THOUSAND DOLLARS. FOR PROCEEDINGS COMMENCED ON OR AFTER JANUARY FIRST, TWO THOUSAND TWELVE, THE DEREGULATION RENT THRESHOLD SHALL BE ADJUSTED ANNUALLY ON THE FIRST DAY OF OCTOBER OF EACH YEAR FOR PROCEEDINGS IN EACH SUBSEQUENT YEAR BY THE CHANGE IN THE REGIONAL CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS, NEW YORK-NORTHERN NEW JERSEY-LONG ISLAND, NY-NJ-CT-PA, AS ESTABLISHED THE PRECEDING AUGUST.

(b) On or before the first day of May in each calendar year, the owner of each housing accommodation for which the maximum MONTHLY rent [is two thousand dollars or more per month] EQUALS OR EXCEEDS THE DEREGULATION RENT THRESHOLD may provide the tenant or tenants residing therein with an income certification form prepared by the division of housing and community renewal on which such tenant or tenants shall identify all persons referred to in subdivision (a) of this section and shall certify whether the total annual income is in excess of [one hundred seventy-five thousand dollars] THE DEREGULATION INCOME THRESHOLD in each of the two preceding calendar years. Such income certification form shall state that the income level certified to by the tenant may be subject to verification by the department of taxation and finance pursuant to section one hundred seventy-one-b of the tax law and shall not require disclosure of any income information other than whether the aforementioned threshold has been exceeded. Such income certification form shall clearly state that: (i) only tenants residing in housing accommodations which had a maximum MONTHLY rent EQUAL TO OR IN EXCESS of [two thousand dollars or more per month] THE DEREGULATION RENT THRESHOLD are required to complete the certification form; (ii) that tenants have protections available to them which are designed to prevent harassment; (iii) that tenants are not required to provide any information regarding their income except that which is requested on the form and may contain such other information the division deems appropriate. The tenant or tenants shall return the completed certification to the owner within thirty days after service upon the tenant or tenants. In the event that the total annual income as certified is in excess of [one hundred seventy-five thousand dollars in each such year] THE DEREGULATION INCOME THRESHOLD, the owner may file the certification with the state division of housing and community renewal on or before June thirtieth of such year. Upon filing such certification with the division, the division shall, within thirty days after the filing, issue an order of [decontrol] DEREGULATION providing that such housing accommodations shall not be subject to the

provisions of this law as of the first day of June in the year next succeeding the filing of the certification by the owner. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be mailed to the owner.

(c) 1. In the event that the tenant or tenants either fail to return the completed certification to the owner on or before the date required by subdivision (b) of this section or the owner disputes the certification returned by the tenant or tenants, the owner may, on or before June thirtieth of such year, petition the state division of housing and community renewal to verify, pursuant to section one hundred seventy-one-b of the tax law, whether the total annual income exceeds [one hundred seventy-five thousand dollars] THE DEREGULATION INCOME THRESHOLD in each of the two preceding calendar years. Within twenty days after the filing of such request with the division, the division shall notify the tenant or tenants that such tenant or tenants must provide the division with such information as the division and the department of taxation 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 THRESHOLD, AS DEFINED IN SECTION 26-403.1 OF THIS CHAPTER, per annum in each of the two preceding calendar years[, as defined in and subject to the limitations and process set forth in section 26-403.1 of this chapter]; and (2) have a maximum rent [of two thousand dollars or more per month] THAT EQUALS OR EXCEEDS THE DEREGULATION RENT THRESHOLD, AS DEFINED IN SECTION 26-403.1 OF THIS CHAPTER. Provided however, that this exclusion shall not apply to housing accommodations which became or become subject to this law by virtue of receiving tax benefits pursuant to section four hundred eighty-nine of the real property tax law.

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

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

2. DEREGULATION INCOME THRESHOLD MEANS THREE HUNDRED THOUSAND DOLLARS. FOR PROCEEDINGS COMMENCED ON OR AFTER JANUARY FIRST, TWO THOUSAND TWELVE, THE DEREGULATION INCOME THRESHOLD SHALL BE ADJUSTED ANNUALLY ON THE FIRST DAY OF OCTOBER OF EACH YEAR FOR PROCEEDINGS IN EACH SUBSEQUENT YEAR BY THE CHANGE IN THE REGIONAL CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS, NEW YORK-NORTHERN NEW JERSEY-LONG ISLAND, NY-NJ-CT-PA, AS ESTABLISHED THE PRECEDING AUGUST.

3. DEREGULATION RENT THRESHOLD MEANS THREE THOUSAND DOLLARS. FOR PROCEEDINGS COMMENCED ON OR AFTER JANUARY FIRST, TWO THOUSAND TWELVE, THE DEREGULATION RENT THRESHOLD SHALL BE ADJUSTED ANNUALLY ON THE FIRST DAY OF OCTOBER OF EACH YEAR FOR PROCEEDINGS IN EACH SUBSEQUENT YEAR BY THE CHANGE IN THE REGIONAL CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS, NEW YORK-NORTHERN NEW JERSEY-LONG ISLAND, NY-NJ-CT-PA, AS ESTABLISHED THE PRECEDING AUGUST.

(b) On or before the first day of May in each calendar year, the owner of each housing accommodation for which the maximum rent [is two thousand dollars or more per month] EQUALS OR EXCEEDS THE DEREGULATION RENT THRESHOLD may provide the tenant or tenants residing therein with an income certification form prepared by the division of housing and community renewal on which such tenant or tenants shall identify all persons referred to in subdivision (a) of this section and shall certify whether the total annual income is in excess of [one hundred seventy-five thousand dollars] THE DEREGULATION INCOME THRESHOLD in each of the two preceding calendar years. Such income certification form shall state that the income level certified to by the tenant may be subject to verification by the department of taxation and finance pursuant to section one hundred seventy-one-b of the tax law and shall not require disclosure of any income information other than whether the aforementioned threshold has been exceeded. Such income certification form shall clearly state that: (i) only tenants residing in housing accommodations which have a maximum MONTHLY rent [of two thousand dollars or more per month] THAT EQUALS OR EXCEEDS THE DEREGULATION RENT THRESHOLD are required to complete the certification form; (ii) that tenants have protections available to them which are designed to prevent harassment; (iii) that tenants are not required to provide any information regarding their income except that which is requested on the form and may contain such other information the division deems appropriate. The tenant or tenants shall return the completed certification to the owner within thirty days after service upon the tenant or tenants. In the event that the total annual income as certified is in excess of [one hundred seventy-five thousand dollars] THE DEREGULATION INCOME THRESHOLD in each such year, the owner may file the certification with the state division of housing and community renewal on or before June thirtieth of such year. Upon filing such certification with the division, the division shall, within thirty days after the filing, issue an order of [decontrol] DEREGULATION providing that such housing accommodations shall not be subject to the provisions of this law as of the first day of June in the year next succeeding the filing of the certification by the owner. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be mailed to the owner.

(c) 1. In the event that the tenant or tenants either fail to return the completed certification to the owner on or before the date required by subdivision (b) of this section or the owner disputes the certification returned by the tenant or tenants, the owner may, on or before June thirtieth of such year, petition the state division of housing and community renewal to verify, pursuant to section one hundred seventy-one-b of the tax law, whether the total annual income exceeds [one hundred seventy-five thousand dollars] THE DEREGULATION INCOME THRESHOLD in each of the two preceding calendar years. Within twenty days after the filing of such request with the division, the division shall notify the tenant or tenants that such tenant or tenants must provide the division with such information as the division and the department of taxation 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 subparagraph (j) of paragraph two of subdivision e of section 26-403 of this [code] CHAPTER.

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

S 26-504.1 Exclusion of accommodations of high income renters. Upon the issuance of an order by the division, "housing accommodations" shall not include housing accommodations which: (1) are occupied by persons who have a total annual income, AS DEFINED IN AND SUBJECT TO THE LIMITATIONS AND PROCESS SET FORTH IN SECTION 26-504.3 OF THIS CHAPTER, in excess of [one hundred seventy-five thousand dollars per annum] THE DEREGULATION INCOME THRESHOLD, AS DEFINED IN SECTION 26-504.3 OF THIS CHAPTER, for each of the two preceding calendar years[, as defined in and subject to the limitations and process set forth in section 26-504.3 of this chapter]; and (2) have a legal regulated MONTHLY rent [of two thousand dollars or more per month] THAT EQUALS OR EXCEEDS THE DEREGU-

LATION RENT THRESHOLD, AS DEFINED IN SECTION 26-504.3 OF THIS CHAPTER. Provided, however, that this exclusion shall not apply to housing accommodations which became or become subject to this law (a) by virtue of receiving tax benefits pursuant to section four hundred twenty-one-a or four hundred eighty-nine of the real property tax law, except as otherwise provided in subparagraph (i) of paragraph (f) of subdivision two of section four hundred twenty-one-a of the real property tax law, or (b) by virtue of article seven-C of the multiple dwelling law.

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

S 26-504.3 High income rent [decontrol] DEREGULATION. (a) 1. For purposes of this section, annual income shall mean the federal adjusted gross income as reported on the New York state income tax return. Total annual income means the sum of the annual incomes of all persons whose names are recited as the tenant or co-tenant on a lease who occupy the housing accommodation and all other persons that occupy the housing accommodation as their primary residence on other than a temporary basis, excluding bona fide employees of such occupants residing therein in connection with such employment and excluding bona fide subtenants in occupancy pursuant to the provisions of section two hundred twenty-six-b of the real property law. In the case where a housing accommodation is sublet, the annual income of the tenant or co-tenant recited on the lease who will reoccupy the housing accommodation upon the expiration of the sublease shall be considered.

2. DEREGULATION INCOME THRESHOLD MEANS THREE HUNDRED THOUSAND DOLLARS. FOR PROCEEDINGS COMMENCED ON OR AFTER JANUARY FIRST, TWO THOUSAND TWELVE, THE DEREGULATION INCOME THRESHOLD SHALL BE ADJUSTED ANNUALLY ON THE FIRST DAY OF OCTOBER OF EACH YEAR FOR PROCEEDINGS IN EACH SUBSEQUENT YEAR BY THE CHANGE IN THE REGIONAL CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS, NEW YORK-NORTHERN NEW JERSEY-LONG ISLAND, NY-NJ-CT-PA, AS ESTABLISHED THE PRECEDING AUGUST.

3. DEREGULATION RENT THRESHOLD MEANS THREE THOUSAND DOLLARS. FOR PROCEEDINGS COMMENCED ON OR AFTER JANUARY FIRST, TWO THOUSAND TWELVE, THE DEREGULATION RENT THRESHOLD SHALL BE ADJUSTED ANNUALLY ON THE FIRST DAY OF OCTOBER OF EACH YEAR FOR PROCEEDINGS IN EACH SUBSEQUENT YEAR BY THE CHANGE IN THE REGIONAL CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS, NEW YORK-NORTHERN NEW JERSEY-LONG ISLAND, NY-NJ-CT-PA, AS ESTABLISHED THE PRECEDING AUGUST.

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

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

(c) 1. In the event that the tenant or tenants either fail to return the completed certification to the owner on or before the date required by subdivision (b) of this section or the owner disputes the certification returned by the tenant or tenants, the owner may, on or before June thirtieth of such year, petition the state division of housing and community renewal to verify, pursuant to section one hundred seventy-one-b of the tax law, whether the total annual income exceeds [one hundred seventy-five thousand dollars] THE DEREGULATION INCOME THRESHOLD in each of the two preceding calendar years. Within twenty days after the filing of such request with the division, the division shall notify the tenant or tenants named on the lease that such tenant or tenants must provide the division with such information as the division and the department of taxation 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 being issued by the division providing that such housing accommodation shall not be subject to the provisions of this law.

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 providing that such housing accommodation shall not be subject to the provisions of this law upon the expiration of the existing lease. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be 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 provid-

ing that such housing accommodation shall not be subject to the provisions of this law upon the expiration of the current lease. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be 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 section 26-504.1 of this [code] CHAPTER.

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

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

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

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

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

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

(d) the amendments to sections 26-504.1 and 26-504.3 of chapter 4 of title 26 of the administrative code of the city of New York made by sections seven and eight of this act, respectively, shall expire on the

same date as such law expires and shall not affect the expiration of such law as provided under section 26-520 of such law.

S 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 3. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through L of this act shall be as specifically set forth in the last section of such Parts.