

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sens. KRUEGER, KLEIN -- read twice and ordered printed,
and when printed to be committed to the Committee on Housing,
Construction and Community Development

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

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

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

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

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1 ty tax law, or (b) by virtue of article seven-C of the multiple dwelling
2 law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

52 3. DEREGULATION RENT THRESHOLD MEANS TWO THOUSAND SEVEN HUNDRED
53 DOLLARS. FOR PROCEEDINGS COMMENCED ON OR AFTER JANUARY FIRST, TWO THOU-
54 SAND TWELVE, THE DEREGULATION RENT THRESHOLD SHALL BE ADJUSTED ANNUALLY
55 ON THE FIRST DAY OF OCTOBER OF EACH YEAR FOR PROCEEDINGS IN EACH SUBSE-
56 QUENT YEAR BY THE CHANGE IN THE REGIONAL CONSUMER PRICE INDEX FOR ALL

1 URBAN CONSUMERS, NEW YORK-NORTHERN NEW JERSEY-LONG ISLAND, NY-NJ-CT-PA,
2 AS ESTABLISHED THE PRECEDING AUGUST.

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

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

1 include a warning in bold faced type that failure to respond will result
2 in an order of [decontrol] DEREGULATION being issued by the division for
3 such housing accommodation.

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

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

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

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

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

44 S 5. Subparagraph (j) of paragraph 2 of subdivision e of section
45 26-403 of the administrative code of the city of New York, as amended by
46 chapter 116 of the laws of 1997, is amended to read as follows:

47 (j) Upon the issuance of an order of [decontrol] DEREGULATION by the
48 division, housing accommodations which: (1) are occupied by persons who
49 have a total annual income, AS DEFINED IN AND SUBJECT TO THE LIMITATIONS
50 AND PROCESS SET FORTH IN SECTION 26-403.1 OF THIS CHAPTER, in excess of
51 [one hundred seventy-five thousand dollars] THE DEREGULATION INCOME
52 THRESHOLD, AS DEFINED IN SECTION 26-403.1 OF THIS CHAPTER, per annum in
53 each of the two preceding calendar years[, as defined in and subject to
54 the limitations and process set forth in section 26-403.1 of this chap-
55 ter]; and (2) have a maximum rent [of two thousand dollars or more per
56 month] THAT EQUALS OR EXCEEDS THE DEREGULATION RENT THRESHOLD, AS

1 DEFINED IN SECTION 26-403.1 OF THIS CHAPTER. Provided however, that
2 this exclusion shall not apply to housing accommodations which became or
3 become subject to this law by virtue of receiving tax benefits pursuant
4 to section four hundred eighty-nine of the real property tax law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 lease who will reoccupy the housing accommodation upon the expiration of
2 the sublease shall be considered.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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