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

433

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 seventy-four, the emergency housing rent control law, the administrative code of the city of New York and the tax law, in relation to deregulation thresholds

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

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 proper-

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

LBD00651-01-1

ty 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 TWO HUNDRED FORTY 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 TWO THOUSAND SEVEN HUNDRED 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 TWO HUNDRED FORTY 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 TWO THOUSAND SEVEN HUNDRED 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 TWO HUNDRED FORTY 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 TWO THOUSAND SEVEN HUNDRED 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 DEREGULATION 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 TWO HUNDRED FORTY 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 TWO THOUSAND SEVEN HUNDRED 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 providing 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.