

5763

2011-2012 Regular Sessions

I N S E N A T E

June 14, 2011

Introduced by Sen. YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the administrative code of the city of New York, the emergency tenant protection act of nineteen seventy-four and the real property tax law, in relation to rent regulated housing accommodations

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

1 Section 1. Section 26-504.1 of the administrative code of the city of
2 New York, as amended by chapter 116 of the laws of 1997, is amended to
3 read as follows:
4 S 26-504.1 Exclusion of accommodations of high income renters. Upon
5 the issuance of an order by the division, "housing accommodations" shall
6 not include housing accommodations which: (1) are occupied by persons
7 who have a total annual income in excess of one hundred seventy-five
8 thousand dollars per annum for each of the two preceding calendar years,
9 as defined in and subject to the limitations and process set forth in
10 section 26-504.3 of this chapter; and (2) have a legal regulated rent of
11 two thousand dollars or more per month. Provided, however, that this
12 exclusion shall not apply to housing accommodations which became or
13 become subject to this law (a) by virtue of receiving tax benefits
14 pursuant to section four hundred twenty-one-a or four hundred eighty-
15 nine of the real property tax law, except as otherwise provided in
16 subparagraph (i) of paragraph (f) of subdivision two of section four
17 hundred twenty-one-a of the real property tax law, or (b) by virtue of
18 article seven-C of the multiple dwelling law. NOTWITHSTANDING THE FORE-
19 GOING, HOUSING ACCOMMODATIONS WHICH WERE SUBJECT TO THIS CHAPTER OR
20 CHAPTER THREE OF THIS TITLE IMMEDIATELY PRIOR TO THE COMMENCEMENT OF THE
21 RECEIPT OF TAX BENEFITS PURSUANT TO SECTION FOUR HUNDRED EIGHTY-NINE OF
22 THE REAL PROPERTY TAX LAW OR WHICH ARE OR WOULD BE SUBJECT TO THIS CHAP-
23 TER PURSUANT TO SUCH RULING SHALL BE DEEMED TO BE HOUSING ACCOMMODATIONS
24 WHICH BECAME OR BECOME SUBJECT TO THIS CHAPTER BY VIRTUE OF RECEIVING

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

LBD13151-01-1

1 TAX BENEFITS PURSUANT TO SUCH SECTION FOUR HUNDRED EIGHTY-NINE BUT ONLY
2 FOR THE DURATION OF SUCH BENEFITS AND SHALL BE EXCLUDED FROM REGULATION
3 THEREAFTER; PROVIDED, HOWEVER, THAT SUCH EXCLUSION SHALL BE APPLICABLE
4 TO SUCH HOUSING ACCOMMODATIONS SUBJECT TO THE RULING OF THE STATE COURT
5 OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 270,
6 ONLY WHERE THE OWNER OF SUCH HOUSING ACCOMMODATIONS HAS MADE FULL
7 PAYMENT TO THE CITY IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION
8 SEVENTEEN OF SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX
9 LAW AND SUBDIVISION EE OF SECTION 11-243 OF THIS CODE. FOR PURPOSES OF
10 THIS SECTION, "HOUSING ACCOMMODATIONS SUBJECT TO THE RULING OF THE STATE
11 COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D
12 270" SHALL MEAN HOUSING ACCOMMODATIONS IN BUILDINGS THAT WERE SUBJECT TO
13 THIS CHAPTER, THE NEW YORK CITY RENT AND REHABILITATION LAW, OR THE
14 EMERGENCY TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR PRIOR TO THE
15 RECEIPT OF BENEFITS PURSUANT TO SECTION FOUR HUNDRED EIGHTY-NINE OF THE
16 REAL PROPERTY TAX LAW, EXCEPT AS TO (I) THOSE HOUSING ACCOMMODATIONS
17 RENTED AFTER SAID TAX BENEFITS HAD EXPIRED, (II) HOUSING ACCOMMODATIONS
18 RENTING DURING THE TAX BENEFIT PERIOD WHERE EACH LEASE HAD THE REQUISITE
19 DEREGULATION NOTICE OR (III) THOSE HOUSING ACCOMMODATIONS DEREGULATED BY
20 ADMINISTRATIVE OR COURT ORDER, WHICH HOUSING ACCOMMODATIONS SHALL REMAIN
21 DEREGULATED DESPITE SUCH RULING.

22 FOR HOUSING ACCOMMODATIONS IN BUILDINGS WHICH WERE, ARE OR BECOME THE
23 SUBJECT OF CONVERSIONS PURSUANT TO SECTION THREE HUNDRED FIFTY-TWO-EEEE
24 OF THE GENERAL BUSINESS LAW, SUCH HOUSING ACCOMMODATIONS SHALL NOT BE
25 DEEMED TO BE HOUSING ACCOMMODATIONS WHICH BECAME OR BECOME SUBJECT TO
26 THIS CHAPTER BY VIRTUE OF RECEIVING TAX BENEFITS PURSUANT TO SECTION
27 FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW AND THE OWNER OR
28 PROPRIETARY LESSEE OF SUCH HOUSING ACCOMMODATIONS SHALL NOT BE REQUIRED
29 TO ACT IN ACCORDANCE WITH SUCH SECTIONS OF THE REAL PROPERTY TAX LAW AND
30 THIS CODE TO QUALIFY AS HOUSING ACCOMMODATIONS NOT SUBJECT TO THIS CHAP-
31 TER BY VIRTUE OF RECEIVING SUCH TAX BENEFITS.

32 S 2. Subdivision a of section 26-504.2 of the administrative code of
33 the city of New York, as amended by chapter 82 of the laws of 2003, is
34 amended to read as follows:

35 a. (1) "Housing accommodations" shall not include any housing accommo-
36 dation which becomes vacant on or after April first, nineteen hundred
37 ninety-seven and where at the time the tenant vacated such housing
38 accommodation the legal regulated rent was two thousand dollars or more
39 per month, or any housing accommodation which is or becomes vacant on or
40 after the effective date of the rent regulation reform act of 1997 with
41 a legal regulated rent of two thousand dollars or more per month. This
42 exclusion shall apply regardless of whether the next tenant in occupancy
43 or any subsequent tenant in occupancy actually is charged or pays less
44 than two thousand dollars a month. Provided however, that this exclusion
45 shall not apply to housing accommodations which became or become subject
46 to this law (a) by virtue of receiving tax benefits pursuant to section
47 four hundred twenty-one-a or four hundred eighty-nine of the real prop-
48 erty tax law, except as otherwise provided in subparagraph (i) of para-
49 graph (f) of subdivision two of section four hundred twenty-one-a of the
50 real property tax law, or (b) by virtue of article seven-C of the multi-
51 ple dwelling law. NOTWITHSTANDING THE FOREGOING, HOUSING ACCOMMODATIONS
52 WHICH WERE SUBJECT TO THIS CHAPTER OR CHAPTER THREE OF THIS TITLE IMME-
53 DIATELY PRIOR TO THE COMMENCEMENT OF THE RECEIPT OF TAX BENEFITS PURSU-
54 ANT TO SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW OR
55 WHICH ARE OR WOULD BE SUBJECT TO THIS CHAPTER PURSUANT TO SUCH RULING
56 SHALL BE DEEMED TO BE HOUSING ACCOMMODATIONS WHICH BECAME OR BECOME

1 SUBJECT TO THIS CHAPTER BY VIRTUE OF RECEIVING TAX BENEFITS PURSUANT TO
2 SUCH SECTION FOUR HUNDRED EIGHTY-NINE BUT ONLY FOR THE DURATION OF SUCH
3 BENEFITS AND SHALL BE EXCLUDED FROM RENT REGULATION THEREAFTER;
4 PROVIDED, HOWEVER, THAT SUCH EXCLUSION SHALL BE APPLICABLE TO SUCH HOUS-
5 ING ACCOMMODATIONS SUBJECT TO THE RULING OF THE STATE COURT OF APPEALS
6 IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 270, ONLY WHERE
7 THE OWNER OF SUCH HOUSING ACCOMMODATIONS HAS MADE FULL PAYMENT TO THE
8 CITY IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION SEVENTEEN OF
9 SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW AND SUBDI-
10 VISION EE OF SECTION 11-243 OF THIS CODE. FOR PURPOSES OF THIS SECTION,
11 "HOUSING ACCOMMODATIONS SUBJECT TO THE RULING OF THE STATE COURT OF
12 APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 270"
13 SHALL MEAN HOUSING ACCOMMODATIONS IN BUILDINGS THAT WERE SUBJECT TO THIS
14 CHAPTER, THE NEW YORK CITY RENT AND REHABILITATION LAW, OR THE EMERGENCY
15 TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR PRIOR TO THE RECEIPT OF
16 BENEFITS PURSUANT TO SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROP-
17 ERTY TAX LAW, EXCEPT AS TO (I) THOSE HOUSING ACCOMMODATIONS RENTED AFTER
18 SAID TAX BENEFITS HAD EXPIRED, (II) HOUSING ACCOMMODATIONS RENTING
19 DURING THE TAX BENEFIT PERIOD WHERE EACH LEASE HAD THE REQUISITE DEREGU-
20 LATION NOTICE OR (III) THOSE HOUSING ACCOMMODATIONS DEREGULATED BY
21 ADMINISTRATIVE OR COURT ORDER, WHICH HOUSING ACCOMMODATIONS SHALL REMAIN
22 DEREGULATED DESPITE SUCH RULING.

23 FOR HOUSING ACCOMMODATIONS IN BUILDINGS WHICH WERE, ARE OR BECOME THE
24 SUBJECT OF CONVERSIONS PURSUANT TO SECTION THREE HUNDRED FIFTY-TWO-EEEE
25 OF THE GENERAL BUSINESS LAW, SUCH HOUSING ACCOMMODATIONS SHALL NOT BE
26 DEEMED TO BE HOUSING ACCOMMODATIONS WHICH BECAME OR BECOME SUBJECT TO
27 THIS CHAPTER BY VIRTUE OF RECEIVING TAX BENEFITS PURSUANT TO SECTION
28 FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW AND THE OWNER OR
29 PROPRIETARY LESSEE OF SUCH HOUSING ACCOMMODATIONS SHALL NOT BE REQUIRED
30 TO ACT IN ACCORDANCE WITH SUCH SECTIONS OF THE REAL PROPERTY TAX LAW AND
31 THIS CODE TO QUALIFY AS HOUSING ACCOMMODATIONS NOT SUBJECT TO THIS CHAP-
32 TER BY VIRTUE OF RECEIVING TAX BENEFITS.

33 (2) This section shall not apply, however, to or become effective with
34 respect to housing accommodations which the commissioner determines or
35 finds that the landlord or any person acting on his or her behalf, with
36 intent to cause the tenant to vacate, engaged in any course of conduct
37 (including, but not limited to, interruption or discontinuance of
38 required services) which interfered with or disturbed or was intended to
39 interfere with or disturb the comfort, repose, peace or quiet of the
40 tenant in his or her use or occupancy of the housing accommodations and
41 in connection with such course of conduct, any other general enforcement
42 provision of this law shall also apply.

43 S 3. The administrative code of the city of New York is amended by
44 adding a new section 26-504.4 to read as follows:

45 S 26-504.4 ENFORCEMENT AND PROCEDURES FOR IMPLEMENTING THE DECISION OF
46 THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES,
47 L.P., 13 NY3D 270. FOR PURPOSES OF THIS SECTION, "HOUSING ACCOMMODATIONS
48 SUBJECT TO THE RULING OF THE STATE COURT OF APPEALS IN ROBERTS V. TISH-
49 MAN SPEYER PROPERTIES, L.P., 13 NY3D 270" SHALL MEAN HOUSING ACCOMMO-
50 DATIONS IN BUILDINGS THAT WERE SUBJECT TO THIS CHAPTER, THE NEW YORK
51 CITY RENT AND REHABILITATION LAW, AND/OR THE EMERGENCY TENANT PROTECTION
52 ACT OF NINETEEN SEVENTY-FOUR PRIOR TO THE RECEIPT OF BENEFITS PURSUANT
53 TO SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW, EXCEPT
54 AS TO (I) THOSE HOUSING ACCOMMODATIONS RENTED AFTER SAID TAX BENEFITS
55 HAD EXPIRED, (II) HOUSING ACCOMMODATIONS RENTING DURING THE TAX BENEFIT
56 PERIOD WHERE EACH LEASE HAD THE REQUISITE DEREGULATION NOTICE OR (III)

1 THOSE HOUSING ACCOMMODATIONS DEREGULATED BY ADMINISTRATIVE OR COURT
2 ORDER, WHICH HOUSING ACCOMMODATIONS SHALL REMAIN DEREGULATED DESPITE
3 SUCH RULING.

4 A. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, THE EMERGENCY
5 TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR OR THE CIVIL PRACTICE LAW
6 AND RULES TO THE CONTRARY, AND SUBJECT TO THE PROVISIONS OF SUBDIVISION
7 C OF THIS SECTION, ANY HOUSING ACCOMMODATION THAT IS OR WOULD BE SUBJECT
8 TO REGULATION UNDER THIS CHAPTER AS A RESULT OF THE DECISION OF THE
9 STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13
10 NY3D 270, SHALL BE SUBJECT TO THE FOLLOWING:

11 (1) THE LEGAL REGULATED RENT FOR A HOUSING ACCOMMODATION SUBJECT TO
12 THIS SECTION SHALL BE (I) THE RENT CHARGED AND PAID FOR SUCH HOUSING
13 ACCOMMODATION ON OCTOBER TWENTY-SECOND, TWO THOUSAND FIVE, OR PROVIDED
14 FOR IN THE LEASE IN EFFECT ON SUCH DATE, WHICHEVER IS GREATER, PLUS ALL
15 SUBSEQUENT ADJUSTMENTS AND INCREASES, INCLUDING BUT NOT LIMITED TO
16 INCREASES ATTRIBUTABLE TO VACANCIES, MAJOR CAPITAL IMPROVEMENTS, INDI-
17 VIDUAL APARTMENT IMPROVEMENTS, RENT GUIDELINES BOARD ORDERS, SURCHARGES
18 OR ANY OTHER INCREASES THAT WERE NOT PRECLUDED BY AN ORDER OF THE DIVI-
19 SION OF HOUSING AND COMMUNITY RENEWAL AS TO OTHER REGULATED HOUSING
20 ACCOMMODATIONS IN THE BUILDING AND THAT WOULD HAVE BEEN PERMITTED
21 NOTWITHSTANDING THE ABSENCE OR OMISSION OF ANY FORM, RIDER, NOTICE,
22 REGISTRATION, APPLICATION OR ANY OTHER DOCUMENT THAT WOULD HAVE BEEN
23 REQUIRED OR OTHERWISE PROVIDED; IF THERE IS NO TENANT OR NO LEASE IN
24 EFFECT ON OCTOBER TWENTY-SECOND, TWO THOUSAND FIVE, THEN THE FIRST RENT
25 CHARGED AND PAID OR PROVIDED FOR IN THE FIRST LEASE IN EFFECT AFTER SAID
26 DATE, WHICHEVER IS GREATER; OR (II) THE LEGAL REGULATED RENT AGREED TO
27 BY THE TENANT PURSUANT TO PARAGRAPH FIVE OF THIS SUBDIVISION; OR (III)
28 SUCH OTHER AMOUNT AS AGREED TO BY THE OWNER AND TENANT IN A WRITING
29 EXECUTED BY THE PARTIES AFTER RECEIPT BY THE TENANT OF THE NOTICE
30 REQUIRED BY PARAGRAPH THREE OF THIS SUBDIVISION AND PAYMENT BY THE OWNER
31 OF THE REFUND AMOUNT, IF ANY, PROVIDED IN SUCH AGREEMENT.

32 (2) WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF THIS SECTION, THE OWNER
33 OF A HOUSING ACCOMMODATION SUBJECT TO THIS SECTION SHALL OFFER TO REFUND
34 TO THE TENANT RESIDING IN SUCH HOUSING ACCOMMODATION ALL RENT COLLECTED
35 FROM SUCH TENANT IN EXCESS OF THE LEGAL REGULATED RENT CALCULATED IN
36 ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH ONE OF THIS SUBDIVISION.

37 (3) WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SECTION, AN OWNER
38 OF A HOUSING ACCOMMODATION SUBJECT TO THIS SECTION SHALL PROVIDE WRITTEN
39 NOTICE TO THE CURRENT TENANT OF THE HOUSING ACCOMMODATION OF: (I) THE
40 FACT THAT THE HOUSING ACCOMMODATION IS SUBJECT TO THIS CHAPTER AS A
41 RESULT OF THE DECISION OF THE STATE COURT OF APPEALS IN ROBERTS V. TISH-
42 MAN SPEYER PROPERTIES, L.P., 13 NY3D 270; (II) A CALCULATION OF THE
43 LEGAL REGULATED RENT FOR THE HOUSING ACCOMMODATION IN ACCORDANCE WITH
44 THE PROVISIONS OF PARAGRAPH ONE OF THIS SUBDIVISION; AND (III) THE TOTAL
45 AMOUNT TO BE REFUNDED PURSUANT TO PARAGRAPH TWO OF THIS SUBDIVISION.

46 (4) AN OWNER WHO MAKES A GOOD FAITH CALCULATION OF THE LEGAL REGULATED
47 RENT AND MAKES A REFUND OFFER IN ACCORDANCE WITH THE REQUIREMENTS OF
48 PARAGRAPH TWO OF THIS SUBDIVISION SHALL NOT BE SUBJECT TO ANY OF THE
49 OVERCHARGE PENALTIES, INCLUDING INTEREST AND TREBLE DAMAGES, PROVIDED
50 FOR IN SECTION 26-516 OF THIS CHAPTER.

51 (5) THE TENANT SHALL BE OBLIGATED TO RESPOND WITHIN THIRTY-FIVE DAYS
52 OF THE MAILING OF SUCH NOTICE TO THE TENANT. WHERE A TENANT OF A HOUSING
53 ACCOMMODATION SUBJECT TO THE PROVISIONS OF THIS SECTION CONSENTS IN
54 WRITING TO THE LEGAL REGULATED RENT AND REFUND AMOUNT, IF ANY, SET FORTH
55 BY THE OWNER IN THE NOTICE REQUIRED BY PARAGRAPH THREE OF THIS SUBDIVI-
56 SION, AND THE OWNER MAKES THE REQUIRED REFUND TO THE TENANT, OR AFTER

1 THE NOTICE REQUIRED BY SUCH PARAGRAPH THE OWNER AND TENANT ENTER INTO A
2 WRITTEN AGREEMENT PROVIDING FOR A DIFFERENT LEGAL REGULATED RENT AND
3 REFUND AMOUNT AND THE OWNER MAKES THE REFUND, IF ANY, AGREED TO BY THE
4 PARTIES, THEN NEITHER SUCH LEGAL REGULATED RENT NOR SUCH REFUND AMOUNT,
5 IF ANY, SHALL THEREAFTER BE SUBJECT TO CHALLENGE BY THE TENANT OR ANY
6 SUBSEQUENT TENANT OF THE HOUSING ACCOMMODATION. HOWEVER, IF THE AGREE-
7 MENT ENTERED INTO PURSUANT TO THIS PARAGRAPH REQUIRES THE TENANT VACAT-
8 ING THE SUBJECT HOUSING ACCOMMODATION OR ENCOMPASSES SURRENDER OF
9 POSSESSION OF THE HOUSING ACCOMMODATION BY THE TENANT, IT SHALL NOT BE
10 BINDING UPON SUBSEQUENT TENANTS.

11 (6) IN NO EVENT SHALL A TENANT WHO FILES A COMPLAINT WITH THE DIVISION
12 OF HOUSING AND COMMUNITY RENEWAL SEEKING RELIEF UNDER THE PROVISIONS OF
13 THIS SECTION BE ENTITLED TO A REFUND FOR RENT PAYMENTS MADE MORE THAN
14 FOUR YEARS BEFORE THE COMPLAINT IS FILED.

15 (7) FOR ANY HOUSING ACCOMMODATION THAT IS OR WOULD BE SUBJECT TO REGU-
16 LATION AS A RESULT OF THE DECISION OF THE STATE COURT OF APPEALS IN
17 ROBERTS V. TISHMAN SPEYER PROPERTIES, 13 NY3D 270, AND WHERE THE OWNER
18 MAKES PAYMENT IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION SEVENTEEN
19 OF SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW AND
20 SUBDIVISION EE OF SECTION 11-243 OF THIS CODE, THE LEGAL REGULATED RENT
21 FOR SUCH HOUSING ACCOMMODATION SHALL BE THE AMOUNT SET FORTH IN THE
22 LEASE IN EFFECT ON OCTOBER TWENTY-SECOND, TWO THOUSAND NINE; IF THERE IS
23 NO LEASE IN EFFECT ON SAID DATE, THEN THE AMOUNT SET FORTH IN THE FIRST
24 LEASE IN EFFECT AFTER SAID DATE, PLUS ALL SUBSEQUENT ADJUSTMENTS AND
25 INCREASES, INCLUDING BUT NOT LIMITED TO INCREASES ATTRIBUTABLE TO VACAN-
26 CIES, MAJOR CAPITAL IMPROVEMENTS, INDIVIDUAL APARTMENT IMPROVEMENTS,
27 RENT GUIDELINES BOARD ORDERS, SURCHARGES OR ANY OTHER INCREASES THAT
28 WERE NOT PRECLUDED BY AN ORDER OF THE DIVISION OF HOUSING AND COMMUNITY
29 RENEWAL AS TO OTHER REGULATED HOUSING ACCOMMODATIONS IN THE BUILDING AND
30 THAT WOULD HAVE BEEN PERMITTED NOTWITHSTANDING THE ABSENCE OR OMISSION
31 OF ANY FORM, RIDER, NOTICE, REGISTRATION, APPLICATION OR ANY OTHER DOCU-
32 MENT THAT WOULD HAVE BEEN REQUIRED OR OTHERWISE PROVIDED.

33 B. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, THE EMERGENCY
34 TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR OR THE CIVIL PRACTICE LAW
35 AND RULES TO THE CONTRARY, AND SUBJECT TO THE PROVISIONS OF SUBDIVISION
36 C OF THIS SECTION, ANY HOUSING ACCOMMODATION THAT, PRIOR TO ITS VACANCY,
37 WAS SUBJECT TO REGULATION UNDER CHAPTER THREE OF THIS TITLE AND WHICH IS
38 OR WOULD BE SUBJECT TO REGULATION UNDER THIS CHAPTER AS A RESULT OF THE
39 DECISION OF THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER
40 PROPERTIES, L.P., 13 NY3D 270, SHALL BE SUBJECT TO THE FOLLOWING:

41 (1) WHERE A HOUSING ACCOMMODATION PRIOR TO ITS VACANCY WAS SUBJECT TO
42 REGULATION UNDER CHAPTER THREE OF THIS TITLE AND WHICH IS OR WOULD BE
43 SUBJECT TO REGULATION UNDER THIS CHAPTER AS A RESULT OF THE DECISION OF
44 THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES,
45 L.P., 13 NY3D 270, THE INITIAL LEGAL REGULATED RENT SHALL BE (I) DETER-
46 MINED IN ACCORDANCE WITH THE METHODOLOGY USED FOR FAIR MARKET RENT
47 APPEALS, PROVIDED, HOWEVER, THAT THE RENTS IN EFFECT FOR COMPARABLE
48 APARTMENTS, WHETHER OR NOT REGULATED, ON THE DATE FOUR YEARS PRIOR TO
49 THE DATE OF THE COMMENCEMENT OF THE FIRST LEASE EXECUTED AFTER THE
50 VACANCY BY THE FORMER RENT CONTROLLED TENANT OF SUCH HOUSING ACCOMMO-
51 DATION, BUT IN NO EVENT PRIOR TO OCTOBER TWENTY-SECOND, TWO THOUSAND
52 FIVE, SHALL BE UTILIZED FOR THE PURPOSE OF DETERMINING THE COMPARABILITY
53 COMPONENT USED FOR THE DETERMINATION OF FAIR MARKET RENT APPEALS, PLUS
54 ALL SUBSEQUENT ADJUSTMENTS AND INCREASES INCLUDING BUT NOT LIMITED TO
55 INCREASES ATTRIBUTABLE TO VACANCIES, MAJOR CAPITAL IMPROVEMENTS, INDI-
56 VIDUAL APARTMENT IMPROVEMENTS, RENT GUIDELINES BOARD ORDERS, SURCHARGES

1 OR OTHER INCREASES THAT WERE NOT PRECLUDED BY AN ORDER OF THE DIVISION
2 OF HOUSING AND COMMUNITY RENEWAL AS TO OTHER REGULATED HOUSING ACCOMMO-
3 DATIONS IN THE BUILDING AND THAT WOULD HAVE BEEN PERMITTED NOTWITHSTAND-
4 ING THE ABSENCE OR OMISSION OF ANY FORM, RIDER, NOTICE, REGISTRATION,
5 APPLICATION OR ANY OTHER DOCUMENT THAT WOULD HAVE BEEN REQUIRED OR
6 OTHERWISE PROVIDED, OR (II) THE INITIAL LEGAL REGULATED RENT AGREED TO
7 BY THE TENANT PURSUANT TO PARAGRAPH FIVE OF THIS SUBDIVISION, OR (III)
8 SUCH OTHER AMOUNT AS AGREED TO BY THE OWNER AND TENANT IN A WRITING
9 EXECUTED BY THE PARTIES AFTER RECEIPT BY THE TENANT OF THE NOTICE
10 REQUIRED BY PARAGRAPH THREE OF THIS SUBDIVISION AND PAYMENT BY THE OWNER
11 OF THE REFUND AMOUNT, IF ANY, PROVIDED IN SUCH AGREEMENT.

12 (2) WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF THIS SECTION, THE OWNER
13 OF A HOUSING ACCOMMODATION SUBJECT TO THIS SECTION SHALL OFFER TO REFUND
14 TO THE TENANT RESIDING IN SUCH HOUSING ACCOMMODATION ALL RENT COLLECTED
15 FROM SUCH TENANT IN EXCESS OF THE LEGAL REGULATED RENT CALCULATED IN
16 ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH ONE OF THIS SUBDIVISION.

17 (3) WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SECTION, AN OWNER
18 OF A HOUSING ACCOMMODATION SUBJECT TO THIS SECTION SHALL PROVIDE WRITTEN
19 NOTICE TO THE CURRENT TENANT OF THE HOUSING ACCOMMODATION OF: (I) THE
20 FACT THAT THE HOUSING ACCOMMODATION IS SUBJECT TO THIS CHAPTER AS A
21 RESULT OF THE DECISION OF THE STATE COURT OF APPEALS IN ROBERTS V. TISH-
22 MAN SPEYER PROPERTIES, L.P., 13 NY3D 270; (II) A CALCULATION OF THE
23 LEGAL REGULATED RENT FOR THE HOUSING ACCOMMODATION IN ACCORDANCE WITH
24 THE PROVISIONS OF PARAGRAPH ONE OF THIS SUBDIVISION; AND (III) THE TOTAL
25 AMOUNT TO BE REFUNDED PURSUANT TO PARAGRAPH TWO OF THIS SUBDIVISION.

26 (4) AN OWNER WHO MAKES A GOOD FAITH CALCULATION OF THE LEGAL REGULATED
27 RENT AND MAKES A REFUND OFFER IN ACCORDANCE WITH THE REQUIREMENTS OF
28 PARAGRAPH TWO OF THIS SUBDIVISION SHALL NOT BE SUBJECT TO ANY OF THE
29 OVERCHARGE PENALTIES, INCLUDING INTEREST AND TREBLE DAMAGES, PROVIDED
30 FOR IN SECTION 26-516 OF THIS CHAPTER.

31 (5) THE TENANT SHALL BE OBLIGATED TO RESPOND WITHIN THIRTY-FIVE DAYS
32 OF THE MAILING OF SUCH NOTICE TO THE TENANT. WHERE A TENANT OF A HOUSING
33 ACCOMMODATION SUBJECT TO THE PROVISIONS OF THIS SECTION CONSENTS IN
34 WRITING TO THE LEGAL REGULATED RENT AND REFUND AMOUNT, IF ANY, SET FORTH
35 BY THE OWNER IN THE NOTICE REQUIRED BY PARAGRAPH THREE OF THIS SUBDIVI-
36 SION, AND THE OWNER MAKES THE REQUIRED REFUND TO THE TENANT, OR AFTER
37 THE NOTICE REQUIRED BY SUCH PARAGRAPH THE OWNER AND TENANT ENTER INTO A
38 WRITTEN AGREEMENT PROVIDING FOR A DIFFERENT LEGAL REGULATED RENT AND
39 REFUND AMOUNT AND THE OWNER MAKES THE REFUND, IF ANY, AGREED TO BY THE
40 PARTIES, THEN NEITHER SUCH LEGAL REGULATED RENT NOR SUCH REFUND AMOUNT,
41 IF ANY, SHALL THEREAFTER BE SUBJECT TO CHALLENGE BY THE TENANT OR ANY
42 SUBSEQUENT TENANT OF THE HOUSING ACCOMMODATION. HOWEVER, IF THE AGREE-
43 MENT ENTERED INTO PURSUANT TO THIS PARAGRAPH REQUIRES THAT THE TENANT
44 VACATE THE SUBJECT HOUSING ACCOMMODATION OR SURRENDER POSSESSION OF THE
45 HOUSING ACCOMMODATION, IT SHALL NOT BE BINDING UPON SUBSEQUENT TENANTS.

46 (6) IN NO EVENT SHALL A TENANT WHO FILES A COMPLAINT WITH THE DIVISION
47 OF HOUSING AND COMMUNITY RENEWAL SEEKING RELIEF UNDER THE PROVISIONS OF
48 THIS SECTION BE ENTITLED TO A REFUND FOR RENT PAYMENTS MADE MORE THAN
49 FOUR YEARS BEFORE THE COMPLAINT IS FILED.

50 (7) FOR ANY HOUSING ACCOMMODATION THAT IS OR WOULD BE SUBJECT TO REGU-
51 LATION AS A RESULT OF THE DECISION OF THE STATE COURT OF APPEALS IN
52 ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 270, AND WHERE THE
53 OWNER MAKES PAYMENT IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION
54 SEVENTEEN OF SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX
55 LAW AND SUBDIVISION EE OF SECTION 11-243 OF THIS CODE, THE INITIAL LEGAL
56 REGULATED RENT FOR SUCH HOUSING ACCOMMODATION SHALL BE THE AMOUNT SET

1 FORTH IN THE LEASE IN EFFECT ON OCTOBER TWENTY-SECOND, TWO THOUSAND
2 NINE; IF THERE IS NO LEASE IN EFFECT ON SAID DATE, THE FIRST LEASE IN
3 EFFECT THEREAFTER; PLUS ALL SUBSEQUENT ADJUSTMENTS AND INCREASES,
4 INCLUDING BUT NOT LIMITED TO INCREASES ATTRIBUTABLE TO VACANCIES, MAJOR
5 CAPITAL IMPROVEMENTS, INDIVIDUAL APARTMENT IMPROVEMENTS, RENT GUIDELINES
6 BOARD ORDERS, SURCHARGES OR ANY OTHER INCREASES THAT WERE NOT PRECLUDED
7 BY AN ORDER OF THE DIVISION OF HOUSING AND COMMUNITY RENEWAL AS TO OTHER
8 REGULATED HOUSING ACCOMMODATIONS IN THE BUILDING AND THAT WOULD HAVE
9 BEEN PERMITTED NOTWITHSTANDING THE ABSENCE OR OMISSION OF ANY FORM,
10 RIDER, NOTICE, REGISTRATION, APPLICATION OR ANY OTHER DOCUMENT THAT
11 WOULD HAVE BEEN REQUIRED OR OTHERWISE PROVIDED.

12 C. AS AN ALTERNATIVE TO THE PROCEDURES SET FORTH IN SUBDIVISIONS A AND
13 B OF THIS SECTION, AN OWNER MAY, WITHIN NINETY DAYS OF THE EFFECTIVE
14 DATE OF THIS SECTION, PROVIDE WRITTEN NOTICE TO THE CURRENT TENANT OF
15 THE HOUSING ACCOMMODATION THAT THE OWNER INTENDS TO MAKE PAYMENT TO THE
16 CITY IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION SEVENTEEN OF
17 SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW AND SUBDI-
18 VISION EE OF SECTION 11-243 OF THIS CODE. AN OWNER WHO PROVIDES A NOTICE
19 PURSUANT TO THIS SECTION BUT WHO DOES NOT MAKE PAYMENT TO THE CITY IN
20 ACCORDANCE WITH THE REAL PROPERTY TAX LAW AND THIS CODE BY JUNE THIRTI-
21 ETH, TWO THOUSAND TWELVE SHALL BE SUBJECT TO THE OVERCHARGE PENALTIES,
22 INCLUDING INTEREST AND TREBLE DAMAGES, PROVIDED FOR IN SECTION 26-516 OF
23 THIS CHAPTER. DURING THE PERIODS IN WHICH THE PROCEDURES SET FORTH IN
24 SUBDIVISION A, B OR C OF THIS SECTION ARE BEING UTILIZED, THE OWNER OF
25 SUCH HOUSING ACCOMMODATIONS SHALL BE AUTHORIZED TO CHARGE, AND A TENANT
26 OR FORMER TENANT OF SUCH A HOUSING ACCOMMODATION SHALL BE OBLIGATED TO
27 PAY, THE AMOUNT SET FORTH IN THE LEASE THEN IN EFFECT.

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

31 S 5-B. ENFORCEMENT AND PROCEDURES FOR IMPLEMENTING THE DECISION OF THE
32 COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D
33 270. FOR PURPOSES OF THIS SECTION, "HOUSING ACCOMMODATIONS SUBJECT TO
34 THE RULING OF THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER
35 PROPERTIES, L.P., 13 NY3D 270" SHALL MEAN HOUSING ACCOMMODATIONS IN
36 BUILDINGS THAT WERE SUBJECT TO THE NEW YORK CITY RENT AND REHABILITATION
37 LAW, NEW YORK CITY RENT STABILIZATION LAW OF NINETEEN HUNDRED SIXTY-NINE
38 OR THIS ACT PRIOR TO THE RECEIPT OF BENEFITS PURSUANT TO SECTION 489 OF
39 THE REAL PROPERTY TAX LAW, EXCEPT AS TO (I) THOSE HOUSING ACCOMMODATIONS
40 RENTED AFTER SAID TAX BENEFITS HAD EXPIRED, (II) HOUSING ACCOMMODATIONS
41 RENTING DURING THE TAX BENEFIT PERIOD WHERE EACH LEASE HAD THE REQUISITE
42 DEREGULATION NOTICE OR (III) THOSE HOUSING ACCOMMODATIONS DEREGULATED BY
43 ADMINISTRATIVE OR COURT ORDER, WHICH HOUSING ACCOMMODATIONS SHALL REMAIN
44 DEREGULATED DESPITE SUCH RULING.

45 A. NOTWITHSTANDING ANY OTHER PROVISION OF THE RENT STABILIZATION LAW
46 OF NINETEEN HUNDRED SIXTY-NINE, THIS ACT OR THE CIVIL PRACTICE LAW AND
47 RULES TO THE CONTRARY, AND SUBJECT TO THE PROVISIONS OF SUBDIVISION C OF
48 THIS SECTION, ANY HOUSING ACCOMMODATION THAT IS OR WOULD BE SUBJECT TO
49 REGULATION UNDER THIS ACT AS A RESULT OF THE DECISION OF THE COURT OF
50 APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 270,
51 SHALL BE SUBJECT TO THE FOLLOWING:

52 (1) THE LEGAL REGULATED RENT FOR A HOUSING ACCOMMODATION SUBJECT TO
53 THIS SECTION SHALL BE (I) THE RENT CHARGED AND PAID FOR SUCH HOUSING
54 ACCOMMODATION ON OCTOBER 22, 2005, OR PROVIDED FOR IN THE LEASE IN
55 EFFECT ON SUCH DATE, WHICHEVER IS GREATER, PLUS ALL SUBSEQUENT ADJUST-
56 MENTS AND INCREASES, INCLUDING BUT NOT LIMITED TO INCREASES ATTRIBUTABLE

1 TO VACANCIES, MAJOR CAPITAL IMPROVEMENTS, INDIVIDUAL APARTMENT IMPROVE-
2 MENTS, RENT GUIDELINES BOARD ORDERS, SURCHARGES OR ANY OTHER INCREASES
3 THAT WERE NOT PRECLUDED BY AN ORDER OF THE DIVISION OF HOUSING AND
4 COMMUNITY RENEWAL AS TO OTHER REGULATED HOUSING ACCOMMODATIONS IN THE
5 BUILDING AND THAT WOULD HAVE BEEN PERMITTED NOTWITHSTANDING THE ABSENCE
6 OR OMISSION OF ANY FORM, RIDER, NOTICE, REGISTRATION, APPLICATION OR ANY
7 OTHER DOCUMENT THAT WOULD HAVE BEEN REQUIRED OR OTHERWISE PROVIDED; IF
8 THERE IS NO TENANT OR NO LEASE IN EFFECT ON OCTOBER TWENTY-SECOND, TWO
9 THOUSAND FIVE, THEN THE FIRST RENT CHARGED AND PAID OR PROVIDED FOR IN
10 THE FIRST LEASE IN EFFECT AFTER SAID DATE, WHICHEVER IS GREATER; OR (II)
11 THE LEGAL REGULATED RENT AGREED TO BY THE TENANT PURSUANT TO PARAGRAPH
12 FIVE OF THIS SUBDIVISION; OR (III) SUCH OTHER AMOUNT AS AGREED TO BY THE
13 OWNER AND TENANT IN A WRITING EXECUTED BY THE PARTIES AFTER RECEIPT BY
14 THE TENANT OF THE NOTICE REQUIRED BY PARAGRAPH THREE OF THIS SUBDIVISION
15 AND PAYMENT BY THE OWNER OF THE REFUND AMOUNT, IF ANY, PROVIDED IN SUCH
16 AGREEMENT.

17 (2) WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF THIS SECTION, THE OWNER
18 OF A HOUSING ACCOMMODATION SUBJECT TO THIS SECTION SHALL OFFER TO REFUND
19 TO THE TENANT RESIDING IN SUCH HOUSING ACCOMMODATION ALL RENT COLLECTED
20 FROM SUCH TENANT IN EXCESS OF THE LEGAL REGULATED RENT CALCULATED IN
21 ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH ONE OF THIS SUBDIVISION.

22 (3) WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SECTION, AN OWNER
23 OF A HOUSING ACCOMMODATION SUBJECT TO THIS SECTION SHALL PROVIDE WRITTEN
24 NOTICE TO THE CURRENT TENANT OF THE HOUSING ACCOMMODATION OF: (I) THE
25 FACT THAT THE HOUSING ACCOMMODATION IS SUBJECT TO THIS CHAPTER AS A
26 RESULT OF THE DECISION OF THE COURT OF APPEALS IN ROBERTS V. TISHMAN
27 SPEYER PROPERTIES, L.P., 13 NY3D 270; (II) A CALCULATION OF THE LEGAL
28 REGULATED RENT FOR THE HOUSING ACCOMMODATION IN ACCORDANCE WITH THE
29 PROVISIONS OF PARAGRAPH ONE OF THIS SUBDIVISION; AND (III) THE TOTAL
30 AMOUNT TO BE REFUNDED PURSUANT TO PARAGRAPH TWO OF THIS SUBDIVISION.

31 (4) AN OWNER WHO MAKES A GOOD FAITH CALCULATION OF THE LEGAL REGULATED
32 RENT AND MAKES A REFUND OFFER IN ACCORDANCE WITH THE REQUIREMENTS OF
33 PARAGRAPH TWO OF THIS SUBDIVISION SHALL NOT BE SUBJECT TO ANY OF THE
34 OVERCHARGE PENALTIES, INCLUDING INTEREST AND TREBLE DAMAGES, PROVIDED
35 FOR IN SECTION 26-516 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW
36 YORK.

37 (5) THE TENANT SHALL BE OBLIGATED TO RESPOND WITHIN THIRTY-FIVE DAYS
38 OF THE MAILING OF SUCH NOTICE TO THE TENANT. WHERE A TENANT OF A HOUSING
39 ACCOMMODATION SUBJECT TO THE PROVISIONS OF THIS SECTION CONSENTS IN
40 WRITING TO THE LEGAL REGULATED RENT AND REFUND AMOUNT, IF ANY, SET FORTH
41 BY THE OWNER IN THE NOTICE REQUIRED BY PARAGRAPH THREE OF THIS SUBDIVI-
42 SION, AND THE OWNER MAKES THE REQUIRED REFUND TO THE TENANT, OR AFTER
43 THE NOTICE REQUIRED BY SUCH PARAGRAPH THE OWNER AND TENANT ENTER INTO A
44 WRITTEN AGREEMENT PROVIDING FOR A DIFFERENT LEGAL REGULATED RENT AND
45 REFUND AMOUNT AND THE OWNER MAKES THE REFUND, IF ANY, AGREED TO BY THE
46 PARTIES, THEN NEITHER SUCH LEGAL REGULATED RENT NOR SUCH REFUND AMOUNT,
47 IF ANY, SHALL THEREAFTER BE SUBJECT TO CHALLENGE BY THE TENANT OR ANY
48 SUBSEQUENT TENANT OF THE HOUSING ACCOMMODATION. HOWEVER, IF THE AGREE-
49 MENT ENTERED INTO PURSUANT TO THIS PARAGRAPH REQUIRES THE TENANT VACAT-
50 ING THE SUBJECT HOUSING ACCOMMODATION OR SURRENDER POSSESSION OF THE
51 HOUSING ACCOMMODATION, IT SHALL NOT BE BINDING UPON SUBSEQUENT TENANTS.

52 (6) IN NO EVENT SHALL A TENANT WHO FILES A COMPLAINT WITH THE DIVISION
53 OF HOUSING AND COMMUNITY RENEWAL SEEKING RELIEF UNDER THE PROVISIONS OF
54 THIS SECTION BE ENTITLED TO A REFUND FOR RENT PAYMENTS MADE MORE THAN
55 FOUR YEARS BEFORE THE COMPLAINT IS FILED.

1 (7) FOR ANY HOUSING ACCOMMODATION THAT IS OR WOULD BE SUBJECT TO REGU-
2 LATION AS A RESULT OF THE DECISION OF THE STATE COURT OF APPEALS IN
3 ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 270, AND WHERE THE
4 OWNER MAKES PAYMENT IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION 17
5 OF THE REAL PROPERTY TAX LAW AND SUBDIVISION EE OF SECTION 11-243 OF THE
6 ADMINISTRATIVE CODE OF THE CITY OF NEW YORK, THE LEGAL REGULATED RENT
7 FOR SUCH HOUSING ACCOMMODATION SHALL BE THE AMOUNT SET FORTH IN THE
8 LEASE IN EFFECT ON OCTOBER 22, 2009; IF THERE IS NO LEASE IN EFFECT ON
9 SAID DATE, THEN THE AMOUNT SET FORTH IN THE FIRST LEASE IN EFFECT AFTER
10 SAID DATE; PLUS ALL SUBSEQUENT ADJUSTMENTS AND INCREASES, INCLUDING BUT
11 NOT LIMITED TO INCREASES ATTRIBUTABLE TO VACANCIES, MAJOR CAPITAL
12 IMPROVEMENTS, INDIVIDUAL APARTMENT IMPROVEMENTS, RENT GUIDELINES BOARD
13 ORDERS, SURCHARGES OR ANY OTHER INCREASES THAT WERE NOT PRECLUDED BY AN
14 ORDER OF THE DIVISION OF HOUSING AND COMMUNITY RENEWAL AS TO OTHER REGU-
15 LATED HOUSING ACCOMMODATIONS IN THE BUILDING AND THAT WOULD HAVE BEEN
16 PERMITTED NOTWITHSTANDING THE ABSENCE OR OMISSION OF ANY FORM, RIDER,
17 NOTICE, REGISTRATION, APPLICATION OR ANY OTHER DOCUMENT THAT WOULD HAVE
18 BEEN REQUIRED OR OTHERWISE PROVIDED.

19 B. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, THE NEW YORK CITY
20 RENT STABILIZATION LAW OF NINETEEN HUNDRED SIXTY-NINE, OR THE CIVIL
21 PRACTICE LAW AND RULES TO THE CONTRARY, AND SUBJECT TO THE PROVISIONS OF
22 SUBDIVISION C OF THIS SECTION, ANY HOUSING ACCOMMODATION THAT IS OR
23 WOULD BE SUBJECT TO REGULATION UNDER THIS ACT AS A RESULT OF THE DECI-
24 SION OF THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPER-
25 TIES, L.P., 13 NY3D 270, SHALL BE SUBJECT TO THE FOLLOWING:

26 (1) WHERE A HOUSING ACCOMMODATION IS OR WOULD BE SUBJECT TO REGULATION
27 UNDER THIS ACT AS A RESULT OF A DECISION OF THE STATE COURT OF APPEALS
28 IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 270, THE INITIAL
29 LEGAL REGULATED RENT SHALL BE (I) DETERMINED IN ACCORDANCE WITH THE
30 METHODOLOGY USED FOR FAIR MARKET RENT APPEALS, PROVIDED, HOWEVER, THAT
31 THE RENTS IN EFFECT FOR COMPARABLE APARTMENTS, WHETHER OR NOT REGULATED,
32 ON THE DATE FOUR YEARS PRIOR TO THE DATE OF THE COMMENCEMENT OF THE
33 FIRST LEASE EXECUTED AFTER THE VACANCY BY THE FORMER RENT CONTROLLED
34 TENANT OF SUCH HOUSING ACCOMMODATION BUT IN NO EVENT PRIOR TO OCTOBER
35 22, 2005, SHALL BE UTILIZED FOR THE PURPOSE OF DETERMINING THE COMPAR-
36 ABILITY COMPONENT USED FOR THE DETERMINATION OF FAIR MARKET RENT
37 APPEALS, PLUS ALL SUBSEQUENT ADJUSTMENTS AND INCREASES INCLUDING BUT NOT
38 LIMITED TO INCREASES ATTRIBUTABLE TO VACANCIES, MAJOR CAPITAL IMPROVE-
39 MENTS, INDIVIDUAL APARTMENT IMPROVEMENTS, RENT GUIDELINES BOARD ORDERS,
40 SURCHARGES OR ANY OTHER INCREASES THAT WERE NOT PRECLUDED BY AN ORDER OF
41 THE DIVISION OF HOUSING AND COMMUNITY RENEWAL AS TO OTHER REGULATED
42 HOUSING ACCOMMODATIONS IN THE BUILDING AND THAT WOULD HAVE BEEN PERMIT-
43 TED NOTWITHSTANDING THE ABSENCE OR OMISSION OF ANY FORM, RIDER, NOTICE,
44 REGISTRATION, APPLICATION OR ANY OTHER DOCUMENT THAT WOULD HAVE BEEN
45 REQUIRED OR OTHERWISE PROVIDED, OR (II) THE INITIAL LEGAL REGULATED RENT
46 AGREED TO BY THE TENANT PURSUANT TO PARAGRAPH FIVE OF THIS SUBDIVISION
47 OR (III) SUCH OTHER AMOUNT AS AGREED TO BY THE OWNER AND TENANT IN A
48 WRITING EXECUTED BY THE PARTIES AFTER RECEIPT BY THE TENANT OF THE
49 NOTICE REQUIRED BY PARAGRAPH THREE OF THIS SUBDIVISION AND PAYMENT BY
50 THE OWNER OF THE REFUND AMOUNT, IF ANY, PROVIDED IN SUCH AGREEMENT.

51 (2) WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF THIS SECTION, THE OWNER
52 OF A HOUSING ACCOMMODATION SUBJECT TO THIS SECTION SHALL OFFER TO REFUND
53 TO THE TENANT RESIDING IN SUCH HOUSING ACCOMMODATION ALL RENT COLLECTED
54 FROM SUCH TENANT IN EXCESS OF THE LEGAL REGULATED RENT CALCULATED IN
55 ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH ONE OF THIS SUBDIVISION.

1 (3) WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SECTION, AN OWNER
2 OF A HOUSING ACCOMMODATION SUBJECT TO THIS SECTION SHALL PROVIDE WRITTEN
3 NOTICE TO THE CURRENT TENANT OF THE HOUSING ACCOMMODATION OF: (I) THE
4 FACT THAT THE HOUSING ACCOMMODATION IS SUBJECT TO THIS ACT AS A RESULT
5 OF THE DECISION OF THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN
6 SPEYER PROPERTIES, L.P., 13 NY3D 270; (II) A CALCULATION OF THE LEGAL
7 REGULATED RENT FOR THE HOUSING ACCOMMODATION IN ACCORDANCE WITH THE
8 PROVISIONS OF PARAGRAPH ONE OF THIS SUBDIVISION; AND (III) THE TOTAL
9 AMOUNT TO BE REFUNDED PURSUANT TO PARAGRAPH TWO OF THIS SUBDIVISION.

10 (4) AN OWNER WHO MAKES A GOOD FAITH CALCULATION OF THE LEGAL REGULATED
11 RENT AND MAKES A REFUND OFFER IN ACCORDANCE WITH THE REQUIREMENTS OF
12 PARAGRAPH TWO OF THIS SUBDIVISION SHALL NOT BE SUBJECT TO ANY OF THE
13 OVERCHARGE PENALTIES, INCLUDING INTEREST AND TREBLE DAMAGES, PROVIDED
14 FOR IN SECTION 26-516 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW
15 YORK.

16 (5) THE TENANT SHALL BE OBLIGATED TO RESPOND WITHIN THIRTY-FIVE DAYS
17 OF THE MAILING OF SUCH NOTICE. WHERE A TENANT OF A HOUSING ACCOMMODATION
18 SUBJECT TO THE PROVISIONS OF THIS SECTION CONSENTS IN WRITING TO THE
19 LEGAL REGULATED RENT AND REFUND AMOUNT, IF ANY, SET FORTH BY THE OWNER
20 IN THE NOTICE REQUIRED BY PARAGRAPH THREE OF THIS SUBDIVISION, AND THE
21 OWNER MAKES THE REQUIRED REFUND TO THE TENANT, OR AFTER THE NOTICE
22 REQUIRED BY SUCH PARAGRAPH THE OWNER AND TENANT ENTER INTO A WRITTEN
23 AGREEMENT PROVIDING FOR A DIFFERENT LEGAL REGULATED RENT AND REFUND
24 AMOUNT AND THE OWNER MAKES THE REFUND, IF ANY, AGREED TO BY THE PARTIES,
25 THEN NEITHER SUCH LEGAL REGULATED RENT NOR SUCH REFUND AMOUNT, IF ANY,
26 SHALL THEREAFTER BE SUBJECT TO CHALLENGE BY THE TENANT OR ANY SUBSEQUENT
27 TENANT OF THE HOUSING ACCOMMODATION. HOWEVER, IF THE AGREEMENT ENTERED
28 INTO PURSUANT TO THIS PARAGRAPH REQUIRES THAT THE TENANT VACATE THE
29 SUBJECT HOUSING ACCOMMODATION OR SURRENDER POSSESSION OF THE HOUSING
30 ACCOMMODATION, IT SHALL NOT BE BINDING UPON SUBSEQUENT TENANTS.

31 (6) IN NO EVENT SHALL A TENANT WHO FILES A COMPLAINT WITH THE DIVISION
32 OF HOUSING AND COMMUNITY RENEWAL SEEKING RELIEF UNDER THE PROVISIONS OF
33 THIS SECTION BE ENTITLED TO A REFUND FOR RENT PAYMENTS MADE MORE THAN
34 FOUR YEARS BEFORE THE COMPLAINT IS FILED.

35 (7) FOR ANY HOUSING ACCOMMODATION THAT IS OR WOULD BE SUBJECT TO REGU-
36 LATION AS A RESULT OF THE DECISION OF THE STATE COURT OF APPEALS IN
37 ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 270, AND WHERE THE
38 OWNER MAKES PAYMENT IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION 17
39 OF SECTION 489 OF THE REAL PROPERTY TAX LAW AND SUBDIVISION EE OF
40 SECTION 11-243 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK, THE
41 INITIAL LEGAL REGULATED RENT FOR SUCH HOUSING ACCOMMODATION SHALL BE THE
42 AMOUNT SET FORTH IN THE LEASE IN EFFECT ON OCTOBER 22, 2009; IF THERE IS
43 NO LEASE IN EFFECT ON SAID DATE, THE FIRST LEASE IN EFFECT THEREAFTER;
44 PLUS ALL SUBSEQUENT ADJUSTMENTS AND INCREASES, INCLUDING BUT NOT LIMITED
45 TO INCREASES ATTRIBUTABLE TO VACANCIES, MAJOR CAPITAL IMPROVEMENTS,
46 INDIVIDUAL APARTMENT IMPROVEMENTS, RENT GUIDELINES BOARD ORDERS,
47 SURCHARGES OR ANY OTHER INCREASES THAT WERE NOT PRECLUDED BY AN ORDER OF
48 THE DIVISION OF HOUSING AND COMMUNITY RENEWAL AS TO OTHER REGULATED
49 HOUSING ACCOMMODATIONS IN THE BUILDING AND THAT WOULD HAVE BEEN PERMIT-
50 TED NOTWITHSTANDING THE ABSENCE OR OMISSION OF ANY FORM, RIDER, NOTICE,
51 REGISTRATION, APPLICATION OR ANY OTHER DOCUMENT THAT WOULD HAVE BEEN
52 REQUIRED OR OTHERWISE PROVIDED.

53 C. AS AN ALTERNATIVE TO THE PROCEDURES SET FORTH IN SUBDIVISIONS A AND
54 B OF THIS SECTION, AN OWNER MAY, WITHIN NINETY DAYS OF THE EFFECTIVE
55 DATE OF THIS SECTION, PROVIDE WRITTEN NOTICE TO THE CURRENT TENANT OF
56 THE HOUSING ACCOMMODATION THAT THE OWNER INTENDS TO MAKE PAYMENT TO THE

1 CITY OF NEW YORK IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION 17 OF
2 SECTION 489 OF THE REAL PROPERTY TAX LAW AND SUBDIVISION EE OF SECTION
3 11-243 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK. AN OWNER WHO
4 PROVIDES A NOTICE PURSUANT TO THIS SECTION BUT WHO DOES NOT MAKE PAYMENT
5 TO SUCH CITY IN ACCORDANCE WITH THE REAL PROPERTY TAX LAW AND THE ADMIN-
6 ISTRATIVE CODE OF THE CITY OF NEW YORK BY JUNE 30, 2012 SHALL BE SUBJECT
7 TO THE OVERCHARGE PENALTIES, INCLUDING INTEREST AND TREBLE DAMAGES,
8 PROVIDED FOR IN SECTION 26-516 OF THE ADMINISTRATIVE CODE OF THE CITY OF
9 NEW YORK. DURING THE PERIODS IN WHICH THE PROCEDURES SET FORTH IN SUBDI-
10 VISIONS A, B OR C OF THIS SECTION ARE BEING UTILIZED, THE OWNER OF SUCH
11 HOUSING ACCOMMODATIONS SHALL BE AUTHORIZED TO CHARGE, AND A TENANT OR
12 FORMER TENANT OF SUCH A HOUSING ACCOMMODATION SHALL BE OBLIGATED TO PAY,
13 THE AMOUNT SET FORTH IN THE LEASE THEN IN EFFECT.

14 S 5. Subparagraph (i) of paragraph 14 of subdivision a of section 5 of
15 section 4 of chapter 576 of the laws of 1974, constituting the emergency
16 tenant protection act of nineteen seventy-four, as added by chapter 253
17 of the laws of 1993, is amended to read as follows:

18 (i) housing accommodations owned as a cooperative or condominium unit
19 which are or become vacant on or after the effective date of this para-
20 graph REGARDLESS OF WHETHER SUCH HOUSING ACCOMMODATIONS WERE, ARE OR
21 WILL BE IN A BUILDING WHICH RECEIVED OR RECEIVES TAX BENEFITS PURSUANT
22 TO SECTION 489 OF THE REAL PROPERTY TAX LAW AND REGARDLESS OF THE RULING
23 OF THE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P.,
24 13 NY3D 270, except that this subparagraph shall not apply to units
25 occupied by non-purchasing tenants under section[three hundred fifty-
26 two-eee] 352-EEE of the general business law until the occurrence of a
27 vacancy.

28 S 6. Section 489 of the real property tax law is amended by adding a
29 new subdivision 17 to read as follows:

30 17. WHERE HOUSING ACCOMMODATIONS WERE SUBJECT TO RENT REGULATION IMME-
31 DIATELY PRIOR TO THE RECEIPT OF TAX EXEMPTION OR TAX ABATEMENT BENEFITS
32 PURSUANT TO THIS SECTION OR WHICH ARE OR WOULD BE SUBJECT TO RENT REGU-
33 LATION DUE TO THE RECEIPT OF SUCH BENEFITS PURSUANT TO THE RULING OF THE
34 COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D
35 270, THE OWNER OF SUCH HOUSING ACCOMMODATIONS SHALL BE AUTHORIZED TO
36 MAKE TO THE CITY OF NEW YORK, AND THE CITY OF NEW YORK SHALL BE OBLIGED
37 TO ACCEPT, PAYMENT OF THE FULL AMOUNT OF ALL SUCH BENEFITS RECEIVED BY
38 ALL OWNERS OF SUCH HOUSING ACCOMMODATIONS PURSUANT TO ANY ORDER OR
39 DETERMINATION ISSUED BY THE LOCAL HOUSING AGENCY ADMINISTERING THIS
40 CHAPTER OR THE LOCAL GOVERNMENT AGENCY RESPONSIBLE FOR REAL PROPERTY TAX
41 ASSESSMENT PRIOR TO OCTOBER TWENTY-SECOND, TWO THOUSAND NINE WHICH
42 REQUIRED THE HOUSING ACCOMMODATION TO BE SUBJECT TO RENT REGULATIONS.
43 SUCH PAYMENT SHALL BE MADE NO LATER THAN JUNE THIRTIETH, TWO THOUSAND
44 TWELVE. SUCH PAYMENT SHALL ENTITLE SUCH OWNER TO THE BENEFIT OF THE
45 EXCLUSIONS SET FORTH IN SECTIONS 26-504.1 AND 26-504.2 OF THE ADMINIS-
46 TRATIVE CODE OF THE CITY OF NEW YORK WHERE THE HOUSING ACCOMMODATIONS
47 WERE SUBJECT TO RENT REGULATION IMMEDIATELY PRIOR TO THE RECEIPT OF TAX
48 BENEFITS PURSUANT TO THIS SECTION OR WHICH ARE OR WOULD BE SUBJECT TO
49 RENT REGULATION DUE TO RECEIPT OF SUCH BENEFITS PURSUANT TO THE RULING
50 OF THE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P.,
51 13 NY3D, 270 UPON THE EXPIRATION OF SAID BENEFITS. PAYMENT PURSUANT TO
52 THIS SUBDIVISION SHALL BE PAID INTO THE GENERAL FUND OF THE CITY OF NEW
53 YORK. THE CITY OF NEW YORK SHALL, UPON REQUEST OF SUCH OWNER, PROVIDE
54 WITHIN THIRTY DAYS OF SUCH REQUEST A STATEMENT SETTING FORTH THE AMOUNTS
55 DUE FOR PAYMENT AND WAIVER, AND THE BASIS THEREOF. THE CITY'S FAILURE TO
56 RESPOND TIMELY TO SUCH REQUEST SHALL TOLL THE RUNNING OF THE OWNER'S

1 OBLIGATION TO MAKE PAYMENT FOLLOWING THE DELIVERY OF NOTICE OF SUCH
2 INTENT TO THE TENANT. FOR PURPOSES OF THIS SECTION, "HOUSING ACCOMMO-
3 DATIONS SUBJECT TO THE RULING OF THE STATE COURT OF APPEALS IN ROBERTS
4 V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 270" SHALL MEAN HOUSING
5 ACCOMMODATIONS IN BUILDINGS THAT WERE SUBJECT TO THE NEW YORK CITY RENT
6 AND REHABILITATION LAW, THE NEW YORK CITY RENT STABILIZATION LAW OF
7 NINETEEN HUNDRED SIXTY-NINE OR THE EMERGENCY TENANT PROTECTION ACT OF
8 NINETEEN SEVENTY-FOUR PRIOR TO THE RECEIPT OF BENEFITS PURSUANT TO THIS
9 SECTION, EXCEPT AS TO (I) THOSE HOUSING ACCOMMODATIONS RENTED AFTER SAID
10 TAX BENEFITS HAD EXPIRED, (II) HOUSING ACCOMMODATIONS RENTING DURING THE
11 TAX BENEFIT PERIOD WHERE EACH LEASE HAD THE REQUISITE DEREGULATION
12 NOTICE OR (III) THOSE HOUSING ACCOMMODATIONS DEREGULATED BY ADMINISTRA-
13 TIVE OR COURT ORDER, WHICH HOUSING ACCOMMODATIONS SHALL REMAIN DEREGU-
14 LATED DESPITE SUCH RULING.

15 S 7. Section 11-243 of the administrative code of the city of New York
16 is amended by adding a new subdivision ee to read as follows:

17 EE. WHERE HOUSING ACCOMMODATIONS WERE SUBJECT TO RENT REGULATION IMME-
18 DIATELY PRIOR TO THE RECEIPT OF TAX EXEMPTION OR TAX ABATEMENT BENEFITS
19 PURSUANT TO THIS SECTION OR WHICH ARE OR WOULD BE SUBJECT TO RENT REGU-
20 LATION DUE TO THE RECEIPT OF SUCH BENEFITS PURSUANT TO THE RULING OF THE
21 COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D
22 270, THE OWNER OF SUCH HOUSING ACCOMMODATIONS SHALL BE AUTHORIZED TO
23 MAKE OR TO HAVE MADE TO THE CITY, AND THE CITY SHALL BE OR HAVE BEEN
24 OBLIGED TO ACCEPT, PAYMENT OF THE FULL AMOUNT OF ALL SUCH BENEFITS
25 RECEIVED BY ALL OWNERS OF SUCH HOUSING ACCOMMODATIONS PURSUANT TO ANY
26 ORDER OR DETERMINATION ISSUED BY THE DEPARTMENT OR BY THE DEPARTMENT OF
27 HOUSING PRESERVATION AND DEVELOPMENT PRIOR TO OCTOBER TWENTY-SECOND, TWO
28 THOUSAND NINE WHICH REQUIRED THE HOUSING ACCOMMODATION TO BE SUBJECT TO
29 SUCH RENT REGULATIONS. SUCH PAYMENT SHALL BE MADE NO LATER THAN JUNE
30 THIRTIETH, TWO THOUSAND TWELVE. SUCH PAYMENT SHALL ENTITLE SUCH OWNER TO
31 THE BENEFIT OF THE EXCLUSIONS SET FORTH IN SECTIONS 26-504.1 AND
32 26-504.2 OF THIS CODE WHERE THE HOUSING ACCOMMODATIONS WERE SUBJECT TO
33 RENT REGULATION IMMEDIATELY PRIOR TO THE RECEIPT OF TAX BENEFITS PURSU-
34 ANT TO THIS SECTION OR WHICH ARE OR WOULD BE SUBJECT TO RENT REGULATION
35 DUE TO RECEIPT OF TAX BENEFITS PURSUANT TO THE RULING OF THE COURT OF
36 APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., NY3D 270 UPON THE
37 EXPIRATION OF SAID BENEFITS. PAYMENT PURSUANT TO THIS SUBDIVISION SHALL
38 BE PAID INTO THE GENERAL FUND OF THE CITY. THE CITY SHALL, UPON REQUEST
39 OF SUCH OWNER, PROVIDE WITHIN THIRTY DAYS OF SUCH REQUEST A STATEMENT
40 SETTING FORTH THE AMOUNTS DUE FOR PAYMENT AND WAIVER, AND THE BASIS
41 THEREOF. THE CITY'S FAILURE TO RESPOND TIMELY TO SUCH REQUEST SHALL TOLL
42 THE RUNNING OF THE OWNER'S OBLIGATION TO MAKE PAYMENT FOLLOWING THE
43 DELIVERY OF NOTICE OF SUCH INTENT TO THE TENANT. FOR PURPOSES OF THIS
44 SECTION, "HOUSING ACCOMMODATIONS SUBJECT TO THE RULING OF THE STATE
45 COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D
46 270" SHALL MEAN HOUSING ACCOMMODATIONS IN BUILDINGS THAT WERE SUBJECT TO
47 THE NEW YORK CITY RENT AND REHABILITATION LAW, THE NEW YORK CITY RENT
48 STABILIZATION LAW OF NINETEEN HUNDRED SIXTY-NINE OR THE EMERGENCY TENANT
49 PROTECTION ACT OF NINETEEN SEVENTY-FOUR PRIOR TO THE RECEIPT OF BENEFITS
50 PURSUANT TO SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX
51 LAW, EXCEPT AS TO (I) THOSE HOUSING ACCOMMODATIONS RENTED AFTER SAID TAX
52 BENEFITS HAD EXPIRED, (II) HOUSING ACCOMMODATIONS RENTING DURING THE TAX
53 BENEFIT PERIOD WHERE EACH LEASE HAD THE REQUISITE DEREGULATION NOTICE,
54 OR (III) THOSE HOUSING ACCOMMODATIONS DEREGULATED BY ADMINISTRATIVE OR
55 COURT ORDER, WHICH HOUSING ACCOMMODATIONS SHALL REMAIN DEREGULATED
56 DESPITE SUCH RULING.

1 S 8. Subdivision c of section 26-504 of the administrative code of the
2 city of New York, as amended by chapter 289 of the laws of 1985, is
3 amended to read as follows:

4 c. [Dwelling] EXCEPT AS OTHERWISE PROVIDED BY SUBDIVISION SEVENTEEN
5 AND SUBDIVISION EIGHTEEN OF SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL
6 PROPERTY TAX LAW AND SUBDIVISION EE AND SUBDIVISION FF OF SECTION 11-243
7 OF THIS CODE, DWELLING units in a building or structure receiving the
8 benefits of section 11-243 or section 11-244 of [the] THIS code or arti-
9 cle eighteen of the private housing finance law, not owned as a cooper-
10 ative or as a condominium, except as provided in section three hundred
11 fifty-two-eeee of the general business law and not subject to chapter
12 three of this title. [Upon] EXCEPT AS OTHERWISE PROVIDED BY SUBDIVISION
13 SEVENTEEN AND SUBDIVISION EIGHTEEN OF SECTION FOUR HUNDRED EIGHTY-NINE
14 OF THE REAL PROPERTY TAX LAW AND SUBDIVISION EE AND SUBDIVISION FF OF
15 SECTION 11-243 OF THIS CODE, the expiration or termination for any
16 reason of the benefits of section 11-243 or section 11-244 of [the] THIS
17 code or article eighteen of the private housing finance law any such
18 dwelling unit shall be subject to this chapter until the occurrence of
19 the first vacancy of such unit after such benefits are no longer being
20 received or if each lease and renewal thereof for such unit for the
21 tenant in residence at the time of the expiration of the tax benefit
22 period has included a notice in at least twelve point type informing
23 such tenant that the unit shall become subject to deregulation upon the
24 expiration of such tax benefit period and states the approximate date on
25 which such tax benefit period is scheduled to expire, such dwelling unit
26 shall be deregulated as of the end of the tax benefit period; provided,
27 however, that if such dwelling unit would have been subject to this
28 chapter or the emergency tenant protection act of nineteen seventy-four
29 in the absence of this subdivision, such dwelling unit shall, upon the
30 expiration of such benefits, continue to be subject to this chapter or
31 the emergency tenant protection act of nineteen seventy-four to the same
32 extent and in the same manner as if this subdivision had never applied
33 thereto. NOTWITHSTANDING THE FOREGOING, WHERE THE NOTIFICATION REQUIRED
34 BY THIS SUBDIVISION WAS NOT PROVIDED FOR ANY HOUSING ACCOMMODATION WHICH
35 IS OR WOULD BE SUBJECT TO REGULATION UNDER THIS CHAPTER AS A RESULT OF
36 THE DECISION OF THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER
37 PROPERTIES, L.P., 13 NY3D 270, THE FAILURE TO PROVIDE SUCH NOTIFICATION
38 SHALL NOT PRECLUDE THE DEREGULATION OF SUCH HOUSING ACCOMMODATION UPON
39 THE EXPIRATION OF THE LEASE OR RENEWAL LEASE IMMEDIATELY SUBSEQUENT TO
40 THE EXPIRATION OF SUCH TAX BENEFITS, PROVIDED THAT THE OWNER OF SUCH
41 HOUSING ACCOMMODATION SHALL COMPLY WITH SUCH NOTICE REQUIREMENT FOR EACH
42 LEASE OR RENEWAL LEASE OFFERED FOR SUCH HOUSING ACCOMMODATION DURING THE
43 PERIOD BETWEEN NINETY DAYS AFTER THE EFFECTIVE DATE OF THE CHAPTER OF
44 THE LAWS OF TWO THOUSAND ELEVEN WHICH AMENDED THIS SUBDIVISION AND THE
45 EXPIRATION OF SUCH TAX BENEFITS. FOR PURPOSES OF THIS SECTION, "HOUSING
46 ACCOMMODATIONS SUBJECT TO THE RULING OF THE STATE COURT OF APPEALS IN
47 ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 270" SHALL MEAN
48 HOUSING ACCOMMODATIONS IN BUILDINGS THAT WERE SUBJECT TO THIS CHAPTER,
49 THE NEW YORK CITY RENT AND REHABILITATION LAW, AND/OR THE EMERGENCY
50 TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR PRIOR TO THE RECEIPT OF
51 BENEFITS PURSUANT TO SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROP-
52 erty TAX LAW, EXCEPT AS TO (I) THOSE HOUSING ACCOMMODATIONS RENTED AFTER
53 SAID TAX BENEFITS HAD EXPIRED, (II) HOUSING ACCOMMODATIONS RENTING
54 DURING THE TAX BENEFIT PERIOD WHERE EACH LEASE HAD THE REQUISITE DEREGU-
55 LATION NOTICE, OR (III) THOSE HOUSING ACCOMMODATIONS DEREGULATED BY

ADMINISTRATIVE OR COURT ORDER, WHICH HOUSING ACCOMMODATIONS SHALL REMAIN DEREGULATED DESPITE SUCH RULING.

S 9. Section 489 of the real property tax law is amended by adding a new subdivision 18 to read as follows:

18. WHERE HOUSING ACCOMMODATIONS ARE LOCATED IN BUILDINGS WHICH WERE COMPLETED AFTER JANUARY FIRST, NINETEEN HUNDRED SEVENTY-FOUR AND WHICH WERE PREVIOUSLY REGULATED PURSUANT TO ARTICLE TWO OF THE PRIVATE HOUSING FINANCE LAW AND SUCH HOUSING ACCOMMODATIONS BECAME SUBJECT TO RENT STABILIZATION SUBSEQUENT TO THE PRIVATE HOUSING FINANCE LAW DISSOLUTION DUE TO THE RECEIPT OF TAX EXEMPTION OR TAX ABATEMENT BENEFITS PURSUANT TO THIS SECTION, THE OWNER OF SUCH HOUSING ACCOMMODATIONS SHALL BE AUTHORIZED TO MAKE OR TO HAVE MADE TO THE CITY OF NEW YORK, AND THE CITY OF NEW YORK SHALL BE OR HAVE BEEN OBLIGED TO ACCEPT, PAYMENT OF THE FULL AMOUNT OF ALL SUCH BENEFITS, PLUS INTEREST AT A RATE OF NINE PER CENTUM, WHENEVER RECEIVED BY ALL OWNERS OF SUCH HOUSING ACCOMMODATIONS PURSUANT TO ANY ORDER OR DETERMINATION ISSUED BY THE LOCAL HOUSING AGENCY ADMINISTERING THIS CHAPTER OR THE LOCAL GOVERNMENT AGENCY RESPONSIBLE FOR REAL PROPERTY TAX ASSESSMENT WHICH REQUIRED THE HOUSING ACCOMMODATION TO BE SUBJECT TO RENT REGULATIONS AND, IF APPLICABLE, TO WAIVE THE RECEIPT OF ANY FURTHER TAX EXEMPTION OR TAX ABATEMENT BENEFITS WHICH WOULD OTHERWISE BE DUE TO SUCH OWNER PURSUANT TO ANY SUCH ORDER OR DETERMINATION AND THE CITY OF NEW YORK SHALL BE OBLIGATED TO ACCEPT SUCH WAIVER. SUCH PAYMENT AND SUCH WAIVER SHALL BE MADE NO LATER THAN JUNE THIRTIETH, TWO THOUSAND TWELVE. SUCH PAYMENT AND SUCH WAIVER SHALL RESULT IN THE EXEMPTION OF SUCH HOUSING ACCOMMODATIONS FROM RENT STABILIZATION AS IF TAX EXEMPTION OR TAX ABATEMENT BENEFITS PURSUANT TO THIS SECTION HAD NEVER BEEN RECEIVED BY ANY OWNERS OF SUCH HOUSING ACCOMMODATIONS. PAYMENT PURSUANT TO THIS SUBDIVISION SHALL BE PAID OR HAVE BEEN PAID INTO THE GENERAL FUND OF THE CITY OF NEW YORK. THE CITY OF NEW YORK SHALL, UPON REQUEST OF SUCH OWNER, PROVIDE WITHIN THIRTY DAYS OF SUCH REQUEST A STATEMENT SETTING FORTH THE AMOUNTS DUE FOR PAYMENT AND WAIVER, AND THE BASIS THEREOF. THE CITY'S FAILURE TO RESPOND TIMELY TO SUCH REQUEST SHALL TOLL THE RUNNING OF THE OWNER'S OBLIGATION TO MAKE PAYMENT FOLLOWING THE DELIVERY OF NOTICE OF SUCH INTENT TO THE TENANT.

S 10. Section 11-243 of the administrative code of the city of New York is amended by adding a new subdivision ff to read as follows:

FF. WHERE HOUSING ACCOMMODATIONS ARE LOCATED IN BUILDINGS WHICH WERE COMPLETED AFTER JANUARY FIRST, NINETEEN HUNDRED SEVENTY-FOUR AND WHICH WERE PREVIOUSLY REGULATED PURSUANT TO ARTICLE TWO OF THE PRIVATE HOUSING FINANCE LAW AND SUCH HOUSING ACCOMMODATIONS BECAME SUBJECT TO RENT STABILIZATION SUBSEQUENT TO THE PRIVATE HOUSING FINANCE LAW DISSOLUTION DUE TO THE RECEIPT OF TAX EXEMPTION OR TAX ABATEMENT BENEFITS PURSUANT TO THIS SECTION, THE OWNER OF SUCH HOUSING ACCOMMODATIONS SHALL BE AUTHORIZED TO MAKE OR TO HAVE MADE TO THE CITY, AND THE CITY SHALL BE OR HAVE BEEN OBLIGED TO ACCEPT, PAYMENT OF THE FULL AMOUNT OF ALL SUCH BENEFITS, PLUS INTEREST AT A RATE OF NINE PER CENTUM, WHENEVER RECEIVED BY ALL OWNERS OF SUCH HOUSING ACCOMMODATIONS PURSUANT TO ANY ORDER OR DETERMINATION ISSUED BY THE DEPARTMENT OR BY THE DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT WHICH REQUIRED THE HOUSING ACCOMMODATION TO BE SUBJECT TO SUCH RENT REGULATIONS AND, IF APPLICABLE, TO WAIVE THE RECEIPT OF ANY FURTHER TAX EXEMPTION OR TAX ABATEMENT BENEFITS WHICH WOULD OTHERWISE BE DUE TO SUCH OWNER PURSUANT TO ANY SUCH ORDER OR DETERMINATION AND THE CITY SHALL BE OBLIGATED TO ACCEPT SUCH WAIVER. SUCH PAYMENT AND SUCH WAIVER SHALL BE MADE NO LATER THAN JUNE THIRTIETH, TWO THOUSAND TWELVE. SUCH PAYMENT AND SUCH WAIVER SHALL RESULT IN THE EXEMPTION OF SUCH HOUSING ACCOMMODATIONS FROM RENT STABILIZATION AS IF

1 TAX EXEMPTION OR TAX ABATEMENT BENEFITS PURSUANT TO THIS SECTION HAD
2 NEVER BEEN RECEIVED. PAYMENT PURSUANT TO THIS SUBDIVISION SHALL BE PAID
3 OR HAVE BEEN PAID INTO THE GENERAL FUND OF THE CITY. THE CITY SHALL,
4 UPON REQUEST OF SUCH OWNER, PROVIDE WITHIN THIRTY DAYS OF SUCH REQUEST A
5 STATEMENT SETTING FORTH THE AMOUNTS DUE FOR PAYMENT AND WAIVER, AND THE
6 BASIS THEREOF. THE CITY'S FAILURE TO RESPOND TIMELY TO SUCH REQUEST
7 SHALL TOLL THE RUNNING OF THE OWNER'S OBLIGATION TO MAKE PAYMENT FOLLOW-
8 ING THE DELIVERY OF NOTICE OF SUCH INTENT TO THE TENANT.

9 S 11. Section 26-504 of the administrative code of the city of New
10 York is amended by adding a new subdivision d to read as follows:

11 D. HOUSING ACCOMMODATIONS IN BUILDINGS COMPLETED OR SUBSTANTIALLY
12 REHABILITATED AFTER JANUARY FIRST, NINETEEN HUNDRED SEVENTY-FOUR WHICH
13 ARE NOT SUBJECT TO THE RENT STABILIZATION LAW, AS AMENDED, AS A RESULT
14 OF THE PROVISIONS OF SUBDIVISION EIGHTEEN OF SECTION FOUR HUNDRED EIGHT-
15 Y-NINE OF THE REAL PROPERTY TAX LAW AND SUBDIVISION FF OF SECTION 11-243
16 OF THIS CODE AND WHICH ARE LOCATED IN A BUILDING WHICH HAD PREVIOUSLY
17 BEEN SUBJECT TO REGULATION PURSUANT TO ARTICLE TWO OF THE PRIVATE HOUS-
18 ING FINANCE LAW AND FOR WHICH THE DATE OF PRIVATE HOUSING FINANCE LAW
19 DISSOLUTION OCCURRED AFTER JANUARY FIRST, TWO THOUSAND FOUR AND WHICH
20 DID NOT BENEFIT FROM FEDERAL SECTION 8 RENT SUBSIDY, AND (1) WHICH WERE
21 OCCUPIED ON THE DATE OF PRIVATE HOUSING FINANCE LAW DISSOLUTION AND IN
22 WHICH NO VACANCY HAS OCCURRED SINCE THE DATE OF PRIVATE HOUSING FINANCE
23 LAW DISSOLUTION AND FOR WHICH AGREEMENTS OR LEASES WERE ENTERED INTO
24 FOLLOWING SUCH PRIVATE HOUSING FINANCE LAW DISSOLUTION PROVIDING FOR TWO
25 TIER RENTS, SHALL BECOME SUBJECT TO THE RENT STABILIZATION LAW, AS
26 AMENDED, AS OF THE EFFECTIVE DATE OF THIS SECTION, AND THE LOWER TIER
27 RENT BILLED ON AUGUST THIRTIETH, TWO THOUSAND TEN, SHALL BE A PREFFEREN-
28 TIAL RENT UPON WHICH ALL FUTURE GUIDELINE AND OTHER PERMISSIBLE RENT
29 INCREASES SHALL BE COMPUTED FOR THE PERIOD DURING WHICH THE TENANT IN
30 OCCUPANCY ON THE DATE OF PRIVATE HOUSING FINANCE LAW DISSOLUTION REMAINS
31 IN OCCUPANCY AND THE HIGHER TIER RENT IN EFFECT ON AUGUST THIRTIETH, TWO
32 THOUSAND TEN, SHALL BE THE LEGAL REGULATED RENT, AND (2) WHICH WERE
33 VACANT ON OR BECAME VACANT AFTER THE DATE OF PRIVATE HOUSING FINANCE LAW
34 DISSOLUTION BUT IN WHICH NO VACANCY HAS OCCURRED SUBSEQUENT TO APRIL
35 SECOND, TWO THOUSAND SIX, SHALL BECOME SUBJECT TO THE RENT STABILIZATION
36 LAW, AS AMENDED, AS OF THE EFFECTIVE DATE OF THIS SECTION AND THE LEGAL
37 RENT AS OF SUCH DATE SHALL BE THE RENT BILLED ON AUGUST THIRTIETH, TWO
38 THOUSAND TEN.

39 S 12. This act shall take effect immediately, provided, that sections
40 one and two of this act shall be deemed to have been in full force and
41 effect on and after July 6, 1993; provided, further, that:

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

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

51 (c) the provisions of this act shall preclude in their entirety any
52 and all claims in any administrative or judicial proceeding relating to
53 the deregulation of housing accommodations which were subject to rent
54 regulation immediately prior to the receipt of tax benefits pursuant to
55 section 489 of the real property tax law and section 11-243 of the
56 administrative code of the city of New York or which are or would be

1 subject to rent regulation pursuant to the ruling of the court of
2 appeals in Roberts v. Tishman Speyer Properties, L.P., 13 NY3d 270,
3 provided that the owner of such housing accommodations has acted in
4 accordance with this act, regardless of whether such claims are brought,
5 or any payments by such owner permitted under this act are made, prior
6 or subsequent to the effective date of this act. For purposes of this
7 section, "housing accommodations subject to the ruling of the state
8 court of appeals in ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D
9 270" shall mean housing accommodations in buildings that were subject to
10 the New York city rent and rehabilitation law, the New York city rent
11 stabilization law of nineteen hundred sixty-nine or the emergency tenant
12 protection act of nineteen seventy-four prior to the receipt of benefits
13 pursuant to section 489 of the real property tax law, except as to (i)
14 those housing accommodations rented after said tax benefits had expired,
15 (ii) housing accommodations renting during the tax benefit period where
16 each lease had the requisite deregulation notice, or (iii) those housing
17 accommodations deregulated by administrative or court order, which hous-
18 ing accommodations shall remain deregulated despite such ruling;
19 (d) if any provision or provisions of this act shall be held to be
20 invalid, the validity of the remaining provisions shall not in any
21 manner be affected or impaired thereby; and
22 (e) the provisions of this act shall preclude in their entirety any
23 and all claims in any administrative or judicial proceeding, whether
24 previously or hereafter commenced, relating to the regulation or rents
25 of housing accommodations which are located in buildings completed or
26 substantially rehabilitated after January 1, 1974 and which became
27 subject to rent stabilization due to the receipt of tax exemption or tax
28 abatement benefits pursuant to section 489 of the real property tax law
29 and section 11-243 of the administrative code of the city of New York,
30 provided that the owner of such housing accommodations has acted in
31 accordance with this act, regardless of whether such proceedings are
32 brought, or payments by such owner permitted under this act are made,
33 prior or subsequent to the effective date of this act.