

2674--A

2011-2012 Regular Sessions

I N   A S S E M B L Y

January 19, 2011

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Introduced by M. of A. V. LOPEZ, SILVER, FARRELL, GLICK, PRETLOW, WRIGHT, BING, O'DONNELL, ROSENTHAL, JEFFRIES, SPANO -- Multi-Sponsored by -- M. of A. ABINANTI, ARROYO, BENEDETTO, BOYLAND, BROOK-KRASNY, COLTON, CYMBROWITZ, DenDEKKER, DINOWITZ, GIBSON, GOTTFRIED, JAFFEE, KELLNER, LANCMAN, LENTOL, LINARES, MAISEL, MILLMAN, PERRY, PHEFFER, ROBINSON, STEVENSON, TITUS, WEPRIN -- read once and referred to the Committee on Housing -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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tive code of the city of New York, the emergency tenant protection act of nineteen seventy-four, and the emergency housing rent control law, in relation to adjustment of maximum allowable rent (Part F); to repeal paragraph 13 of subdivision a of section 5 of section 4 of chapter 576 of the laws of 1974 constituting the emergency tenant protection act of nineteen seventy-four, paragraph (n) of subdivision 2 of section 2 of chapter 274 of the laws of 1946, constituting the emergency housing rent control law, and section 26-504.2 and subparagraph (k) of paragraph 2 of subdivision e of section 26-403 of the administrative code of the city of New York, relating to vacancy decontrol (Part G); to amend the emergency tenant protection act of nineteen seventy-four and the administrative code of the city of New York, in relation to the regulation of rents (Part H); to amend the administrative code of the city of New York and the emergency tenant protection act of nineteen seventy-four, in relation to hardship applications (Part I); to amend the administrative code of the city of New York, the emergency tenant protection act of nineteen seventy-four and the emergency housing rent control law, in relation to extending the length of time over which major capital improvement expenses may be recovered (Part J); to amend the emergency tenant protection act of nineteen seventy-four, in relation to the declaration of housing emergencies for rental housing accommodations located in buildings owned by certain limited-profit housing companies (Part K); and to amend the emergency tenant protection act of nineteen seventy-four, the emergency housing rent control law, the administrative code of the city of New York and the tax law, in relation to deregulation thresholds (Part L)

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

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

12 PART A

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

16 (1) The landlord seeks in good faith to recover possession of a hous-  
17 ing accommodation because of immediate and compelling necessity for his  
18 or her own personal use and occupancy AS HIS OR HER PRIMARY RESIDENCE or  
19 for the use and occupancy of his or her immediate family AS THEIR PRIMA-  
20 RY RESIDENCE provided, however, that this subdivision shall PERMIT  
21 RECOVERY OF ONLY ONE HOUSING ACCOMMODATION AND SHALL not apply where a  
22 member of the household lawfully occupying the housing accommodation is

1 sixty-two years of age or older, has been a tenant in a housing accommo-  
2 dation in that building for twenty years or more, or has an impairment  
3 which results from anatomical, physiological or psychological condi-  
4 tions, other than addiction to alcohol, gambling, or any controlled  
5 substance, which are demonstrable by medically acceptable clinical and  
6 laboratory diagnostic techniques, and which are expected to be permanent  
7 and which prevent the tenant from engaging in any substantial gainful  
8 employment; or

9 S 2. Subparagraph (b) of paragraph 9 of subdivision c of section  
10 26-511 of the administrative code of the city of New York is amended to  
11 read as follows:

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

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

48 a. For cities having a population of less than one million and towns  
49 and villages, the state division of housing and community renewal shall  
50 be empowered to implement this act by appropriate regulations. Such  
51 regulations may encompass such speculative or manipulative practices or  
52 renting or leasing practices as the state division of housing and commu-  
53 nity renewal determines constitute or are likely to cause circumvention  
54 of this act. Such regulations shall prohibit practices which are likely  
55 to prevent any person from asserting any right or remedy granted by this  
56 act, including but not limited to retaliatory termination of periodic

1 tenancies and shall require owners to grant a new one or two year vacan-  
2 cy or renewal lease at the option of the tenant, except where a mortgage  
3 or mortgage commitment existing as of the local effective date of this  
4 act provides that the owner shall not grant a one-year lease; and shall  
5 prescribe standards with respect to the terms and conditions of new and  
6 renewal leases, additional rent and such related matters as security  
7 deposits, advance rental payments, the use of escalator clauses in leas-  
8 es and provision for increase in rentals for garages and other ancillary  
9 facilities, so as to insure that the level of rent adjustments author-  
10 ized under this law will not be subverted and made ineffective. Any  
11 provision of the regulations permitting an owner to refuse to renew a  
12 lease on grounds that the owner seeks to recover possession of [the] A  
13 housing accommodation for his OR HER own use and occupancy or for the  
14 use and occupancy of his OR HER immediate family shall PERMIT RECOVERY  
15 OF ONLY ONE HOUSING ACCOMMODATION, SHALL require that an owner demon-  
16 strate immediate and compelling need AND THAT THE HOUSING ACCOMMODATION  
17 WILL BE THE PROPOSED OCCUPANTS' PRIMARY RESIDENCE and shall not apply  
18 where a member of the housing accommodation is sixty-two years of age or  
19 older, has been a tenant in a housing accommodation in that building for  
20 twenty years or more, or has an impairment which results from anatom-  
21 ical, physiological or psychological conditions, other than addiction to  
22 alcohol, gambling, or any controlled substance, which are demonstrable  
23 by medically acceptable clinical and laboratory diagnostic techniques,  
24 and which are expected to be permanent and which prevent the tenant from  
25 engaging in any substantial gainful employment.

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

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

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

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

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

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

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

## PART B

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

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

furniture or furnishings provided in or to the housing accommodation pursuant to this section. THE INCREASE AUTHORIZED IN THIS PARAGRAPH MAY NOT BE IMPLEMENTED MORE THAN ONE TIME IN ANY CALENDAR YEAR NOTWITHSTANDING THE NUMBER OF VACANCY LEASES ENTERED INTO IN SUCH YEAR.

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

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

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

1 shall expire on the same date as such act expires and shall not affect  
2 the expiration of such act as provided in section 17 of chapter 576 of  
3 the laws of 1974.

4 PART C

5 Section 1. Subdivision a of section 26-504 of the administrative code  
6 of the city of New York, subparagraph (f) of paragraph 1 as amended by  
7 chapter 422 of the laws of 2010, is amended to read as follows:  
8 a. Class A multiple dwellings not owned as a cooperative or as a  
9 condominium, except as provided in section three hundred fifty-two-eeee  
10 of the general business law, containing six or more dwelling units  
11 which: (1) were completed after February first, nineteen hundred  
12 forty-seven, except dwelling units (a) owned or leased by, or financed  
13 by loans from, a public agency or public benefit corporation, (b)  
14 subject to rent regulation under the private housing finance law or any  
15 other state law, (c) aided by government insurance under any provision  
16 of the national housing act, to the extent this chapter or any regu-  
17 lation or order issued thereunder is inconsistent therewith, or (d)  
18 located in a building for which a certificate of occupancy is obtained  
19 after March tenth, nineteen hundred sixty-nine[;], or (e) any class A  
20 multiple dwelling which on June first, nineteen hundred sixty-eight was  
21 and still is commonly regarded as a hotel, transient hotel or residen-  
22 tial hotel, and which customarily provides hotel service such as maid  
23 service, furnishing and laundering of linen, telephone and bell boy  
24 service, secretarial or desk service and use and upkeep of furniture and  
25 fixtures, or (f) not occupied by the tenant, not including subtenants or  
26 occupants, as his or her primary residence, as determined by a court of  
27 competent jurisdiction, provided, however that no action or proceeding  
28 shall be commenced seeking to recover possession on the ground that a  
29 housing accommodation is not occupied by the tenant as his or her prima-  
30 ry residence unless the owner or lessor shall have given thirty days  
31 notice to the tenant of his or her intention to commence such action or  
32 proceeding on such grounds. For the purposes of determining primary  
33 residency, a tenant who is a victim of domestic violence, as defined in  
34 section four hundred fifty-nine-a of the social services law, who has  
35 left the unit because of such violence, and who asserts an intent to  
36 return to the housing accommodation shall be deemed to be occupying the  
37 unit as his or her primary residence. For the purposes of this subpara-  
38 graph where a housing accommodation is rented to a not-for-profit hospi-  
39 tal for residential use, affiliated subtenants authorized to use such  
40 accommodations by such hospital shall be deemed to be tenants, or (g)  
41 became vacant on or after June thirtieth, nineteen hundred seventy-one,  
42 or become vacant, provided however, that this exemption shall not apply  
43 or become effective with respect to housing accommodations which the  
44 commissioner determines or finds became vacant because the landlord or  
45 any person acting on his or her behalf, with intent to cause the tenant  
46 to vacate, engaged in any course of conduct (including but not limited  
47 to, interruption or discontinuance of essential services) which inter-  
48 fered with or disturbed or was intended to interfere with or disturb the  
49 comfort, repose, peace or quiet of the tenant in his or her use or occu-  
50 pancy of the housing accommodations and provided further that any hous-  
51 ing accommodations exempted by this paragraph shall be subject to this  
52 law to the extent provided in subdivision b of this section; or (2) were  
53 decontrolled by the city rent agency pursuant to section 26-414 of this  
54 title; or (3) are exempt from control by virtue of item one, two, six or

1 seven of subparagraph (i) of paragraph two of subdivision e of section  
2 26-403 of this title; OR (4) WERE COVERED BY A PROJECT BASED ASSISTANCE  
3 CONTRACT PURSUANT TO SECTION EIGHT OF THE UNITED STATES HOUSING ACT OF  
4 1937 WHICH CONTRACT IS NO LONGER IN EFFECT, NOTWITHSTANDING THE  
5 PROVISIONS OF SUBPARAGRAPH (D) OR (G) OF PARAGRAPH ONE OF THIS SUBDIVI-  
6 SION OR PARAGRAPH FIVE OF SUBDIVISION A OF SECTION FIVE OF THE EMERGENCY  
7 TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR PROVIDED HOWEVER, THAT  
8 ANY DWELLING UNIT WHICH BECOMES SUBJECT TO THIS LAW PURSUANT TO THIS  
9 PARAGRAPH SHALL NOT BE SUBJECT TO THE PROVISIONS OF SUBDIVISION A OF  
10 SECTION 26-513 OF THIS CHAPTER; and

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

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

24 S 3. This act shall take effect immediately and shall apply to all  
25 buildings which are covered by a project based assistance contract  
26 pursuant to section eight of the United States housing act of 1937 which  
27 contract ceased to be effective on or after such date; provided, howev-  
28 er, that the amendment to subdivision a of section 26-504 of the admin-  
29 istrative code of the city of New York made by section one of this act  
30 shall not affect the expiration of such section pursuant to section  
31 26-520 of such code and shall expire therewith; and provided, further,  
32 that the amendment to section 5 of the emergency tenant protection act  
33 of nineteen seventy-four made by section two of this act shall not  
34 affect the expiration of such act as provided in section 17 of chapter  
35 576 of the laws of 1974, as amended, and shall expire therewith.

36

## PART D

37 Section 1. Subdivision 5 of section 1 of chapter 21 of the laws of  
38 1962, constituting the local emergency housing rent control act, as  
39 amended by chapter 82 of the laws of 2003 and the closing paragraph as  
40 amended by chapter 422 of the laws of 2010, is amended to read as  
41 follows:

42 5. Authority for local rent control legislation. Each city having a  
43 population of one million or more, acting through its local legislative  
44 body, may adopt and amend local laws or ordinances in respect of the  
45 establishment or designation of a city housing rent agency. When it  
46 deems such action to be desirable or necessitated by local conditions in  
47 order to carry out the purposes of this section, such city, except as  
48 hereinafter provided, acting through its local legislative body and not  
49 otherwise, may adopt and amend local laws or ordinances in respect of  
50 the regulation and control of residential rents, including but not  
51 limited to provision for the establishment and adjustment of maximum  
52 rents, the classification of housing accommodations, the regulation of  
53 evictions, and the enforcement of such local laws or ordinances. The  
54 validity of any such local laws or ordinances, and the rules or regu-



lations promulgated in accordance therewith, shall not be affected by and need not be consistent with the state emergency housing rent control law or with rules and regulations of the state division of housing and community renewal.

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

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

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

Notwithstanding any other provision of law, on and after the effective date of this paragraph, a city having a population of one million or more shall not, either through its local legislative body or otherwise, adopt or amend local laws or ordinances with respect to the regulation and control of residential rents and eviction, including but not limited to provision for the establishment and adjustment of rents, the classification of housing accommodations, the regulation of evictions, and the enforcement of such local laws or ordinances, or otherwise adopt laws or

1 ordinances pursuant to the provisions of this act, the emergency tenant  
2 protection act of nineteen seventy-four, the New York city rent and  
3 rehabilitation law or the New York city rent stabilization law, except  
4 to the extent that such city for the purpose of reviewing the continued  
5 need for the existing regulation and control of residential rents or to  
6 remove a classification of housing accommodation from such regulation  
7 and control adopts or amends local laws or ordinances pursuant to subdi-  
8 vision three of section one of this act, section three of the emergency  
9 tenant protection act of nineteen seventy-four, section 26-415 of the  
10 New York city rent and rehabilitation law, and sections 26-502 and  
11 26-520 of the New York city rent stabilization law of nineteen hundred  
12 sixty-nine.]

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

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

46 S 2. This act shall take effect immediately; provided, however, that  
47 the amendments to subdivision 5 of section 1 of chapter 21 of the laws  
48 of 1962 made by section one of this act shall remain in full force and  
49 effect only so long as the public emergency requiring the regulation and  
50 control of residential rents and evictions continues, as provided in  
51 subdivision 3 of section 1 of the local emergency housing rent control  
52 act; provided further, however, that the amendment to the second undes-  
53 ignated paragraph of subdivision 5 of section 1 of chapter 21 of the  
54 laws of 1962 made by section one of this act shall not affect the expi-  
55 ration of such paragraph and shall be deemed to expire therewith.

1

## PART E

2 Section 1. Section 17 of chapter 576 of the laws of 1974 amending the  
3 emergency housing rent control law relating to the control of and  
4 stabilization of rent in certain cases, as amended by chapter 82 of the  
5 laws of 2003, is amended to read as follows:

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

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

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

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

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

33 S 4. Section 10 of chapter 555 of the laws of 1982 amending the gener-  
34 al business law and the administrative code of the city of New York  
35 relating to conversion of residential property to cooperative or condo-  
36 minium ownership in the city of New York, as amended by chapter 82 of  
37 the laws of 2003, is amended to read as follows:

38 S 10. This act shall take effect immediately; provided, that the  
39 provisions of sections one, two and nine of this act shall remain in  
40 full force and effect only until and including June 15, [2011] 2016;  
41 provided further that the provisions of section three of this act shall  
42 remain in full force and effect only so long as the public emergency  
43 requiring the regulation and control of residential rents and evictions  
44 continues as provided in subdivision 3 of section 1 of the local emer-  
45 gency housing rent control act; provided further that the provisions of  
46 sections four, five, six and seven of this act shall expire in accord-  
47 ance with the provisions of section 26-520 of the administrative code of  
48 the city of New York as such section of the administrative code is, from  
49 time to time, amended; provided further that the provisions of section  
50 26-511 of the administrative code of the city of New York, as amended by  
51 this act, which the New York City Department of Housing Preservation and  
52 Development must find are contained in the code of the real estate  
53 industry stabilization association of such city in order to approve it,  
54 shall be deemed contained therein as of the effective date of this act;  
55 and provided further that any plan accepted for filing by the department

1 of law on or before the effective date of this act shall continue to be  
2 governed by the provisions of section 352-eeee of the general business  
3 law as they had existed immediately prior to the effective date of this  
4 act.

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

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

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

21 6. sections twenty-eight, twenty-eight-a, twenty-eight-b and twenty-  
22 eight-c of this act shall expire and be deemed repealed after June 15,  
23 [2011] 2016;

24 S 7. This act shall take effect immediately.

## PART F

26 Section 1. Subparagraph (e) of paragraph 1 of subdivision g of section  
27 26-405 of the administrative code of the city of New York, as amended by  
28 chapter 253 of the laws of 1993, is amended to read as follows:

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

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

46 (13) provides that an owner is entitled to a rent increase where there  
47 has been a substantial modification or increase of dwelling space or an  
48 increase in the services, or installation of new equipment or improve-  
49 ments or new furniture or furnishings provided in or to a tenant's hous-  
50 ing accommodation, on written tenant consent to the rent increase. In  
51 the case of a vacant housing accommodation, tenant consent shall not be  
52 required.

53 (A) The permanent increase in the legal regulated rent for the  
54 affected housing accommodation shall be [one-fortieth] ONE-SIXTIETH of

1 the total cost incurred by the landlord in providing such modification  
2 or increase in dwelling space, services, furniture, furnishings or  
3 equipment, including the cost of installation, but excluding finance  
4 charges. [Provided further that an]

5 (B) AN owner who is entitled to a rent increase pursuant to this para-  
6 graph shall not be entitled to a further rent increase based upon the  
7 installation of similar equipment, or new furniture or furnishings with-  
8 in the useful life of such new equipment, or new furniture or  
9 furnishings.

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

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

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

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

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

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

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

1 S 4. Paragraph 1 of subdivision d of section 6 of section 4 of chapter  
2 576 of the laws of 1974, constituting the emergency tenant protection  
3 act of nineteen seventy-four, as added by chapter 253 of the laws of  
4 1993, is amended to read as follows:

5 (1) there has been a substantial modification or increase of dwelling  
6 space or an increase in the services, or installation of new equipment  
7 or improvements or new furniture or furnishings, provided in or to a  
8 tenant's housing accommodation, on written tenant consent to the rent  
9 increase. In the case of a vacant housing accommodation, tenant consent  
10 shall not be required. (A) The permanent increase in the legal regulated  
11 rent for the affected housing accommodation shall be [one-fortieth]  
12 ONE-SIXTIETH of the total cost incurred by the landlord in providing  
13 such modification or increase in dwelling space, services, furniture,  
14 furnishings or equipment, including the cost of installation, but  
15 excluding finance charges. [Provided further than an] (B) AN owner who  
16 is entitled to a rent increase pursuant to this paragraph shall not be  
17 entitled to a further rent increase based upon the installation of simi-  
18 lar equipment, or new furniture or furnishings within the useful life of  
19 such new equipment, or new furniture or furnishings. (C) THE OWNER  
20 SHALL GIVE WRITTEN NOTICE TO THE DIVISION OF HOUSING AND COMMUNITY  
21 RENEWAL AND THE TENANT NAMED IN A VACANCY LEASE ON FORMS PRESCRIBED BY  
22 THE DIVISION OF ANY SUCH ADJUSTMENT PURSUANT TO THIS PARAGRAPH AND THE  
23 FAILURE TO PROVIDE SUCH WRITTEN NOTICE AS PROVIDED HEREIN SHALL PRECLUDE  
24 THE COLLECTION OF ANY SUCH ADJUSTMENT. SUCH NOTICE MUST INCLUDE A  
25 DETAILED BREAKDOWN OF THE NATURE AND COST OF ANY IMPROVEMENTS UNDERLYING  
26 AN INCREASE IN RENT UNDER THIS PARAGRAPH AND A STATEMENT THAT ANY  
27 INCREASE ABOVE THE PREVIOUS RENT IS IN ACCORDANCE WITH ADJUSTMENTS  
28 PERMITTED BY LAW. (D) NO INCREASE SHALL BE COLLECTIBLE UNDER THIS PARA-  
29 GRAPH WHERE THE DIVISION OF HOUSING AND COMMUNITY RENEWAL HAS DETERMINED  
30 THAT THE OWNER IS NOT MAINTAINING ALL BUILDING-WIDE REQUIRED SERVICES OR  
31 ALL REQUIRED SERVICES WITH RESPECT TO THE AFFECTED HOUSING ACCOMMO-  
32 DATION, OR WHERE THERE ARE CURRENT HAZARDOUS VIOLATIONS OF ANY MUNICI-  
33 PAL, COUNTY, STATE OR FEDERAL LAW WHICH RELATE TO THE MAINTENANCE OF  
34 SUCH SERVICES. (E) WITHIN THIRTY DAYS OF THE SIGNING OF A VACANCY LEASE  
35 INCLUDING A RENT INCREASE PURSUANT TO THIS PARAGRAPH THAT EXCEEDS TEN  
36 PERCENT OF THE RENT CHARGED TO THE PREVIOUS TENANT, THE OWNER WILL FILE  
37 WITH THE DIVISION AN EXPLANATION OF HOW THE VACANCY RENT WAS COMPUTED,  
38 AND ALL DOCUMENTS NECESSARY TO SUPPORT THE COLLECTION OF SUCH INCREASE,  
39 INCLUDING BUT NOT LIMITED TO, CANCELLED CHECKS, INVOICES AND SIGNED  
40 CONTRACTS CONTEMPORANEOUSLY WITH THE IMPROVEMENTS ALLEGED, AND CONTRAC-  
41 TOR'S AFFIDAVITS INDICATING THAT THE INSTALLATION WAS COMPLETED AND PAID  
42 IN FULL. UPON RECEIPT OF ALL DOCUMENTS SUBMITTED BY THE OWNER AND AFTER  
43 GIVING THE TENANT NAMED IN THE VACANCY LEASE AN OPPORTUNITY TO RESPOND,  
44 THE DIVISION SHALL ISSUE AN ORDER APPROVING OR DISAPPROVING SUCH  
45 INCREASE IN WHOLE OR IN PART. BASED UPON SUCH DETERMINATION, THE DIVI-  
46 SION SHALL ORDER A REFUND TO THE TENANT EQUAL TO THE AMOUNT COLLECTED IN  
47 EXCESS OF THE LEGAL REGULATED RENT APPROVED BY THE DIVISION. (F) IF THE  
48 OWNER FAILS TO ESTABLISH BY A PREPONDERANCE OF THE EVIDENCE THAT THE  
49 OVERCHARGE WAS NOT WILLFUL, THE DIVISION SHALL ORDER THE OWNER TO PAY TO  
50 THE TENANT AN ADDITIONAL AMOUNT EQUAL TO THREE TIMES THE EXCESS CHARGED.  
51 (G) THE NEXT ANNUAL REGISTRATION STATEMENT FILED FOR ANY HOUSING ACCOM-  
52 MODATION SUBJECT TO AN INCREASE UNDER THIS PARAGRAPH, WHETHER OR NOT  
53 SUBJECT TO THE PROVISIONS OF SUBPARAGRAPH (E) OF THIS PARAGRAPH SHALL  
54 CONTAIN A DETAILED BREAKDOWN OF THE COSTS OF ALL IMPROVEMENTS UNDERLYING  
55 SUCH INCREASE.

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

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

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

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

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

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

40 (d) the amendments to section 4 of the emergency housing rent control  
41 law made by section five of this act shall expire on the same date as  
42 such law expires and shall not affect the expiration of such law as  
43 provided in subdivision 2 of section 1 of chapter 274 of the laws of  
44 1946; and

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

48 PART G

49 Section 1. Legislative findings and declaration of emergency. The  
50 legislature hereby finds and declares that the serious public emergency  
51 which led to the enactment of the existing laws regulating residential  
52 rents and evictions continues to exist; that such laws would better  
53 serve the public interest if certain changes were made thereto, includ-  
54 ing the continued regulation of certain housing accommodations that

1 become vacant and the reinstatement of regulation of certain housing  
2 accommodations that have been deregulated upon vacancy.

3 The legislature further recognizes that severe disruption of the  
4 rental housing market has occurred and threatens to be exacerbated as a  
5 result of the present state of the law in relation to the deregulation  
6 of housing accommodations upon vacancy. The situation has permitted  
7 speculative and profiteering practices and has brought about the loss of  
8 vital and irreplaceable affordable housing for working persons and fami-  
9 lies.

10 The legislature therefore declares that in order to prevent uncertain-  
11 ty, potential hardship and dislocation of tenants living in housing  
12 accommodations subject to government regulations as to rentals and  
13 continued occupancy as well as those not subject to such regulation, the  
14 provisions of this act are necessary to protect the public health, safe-  
15 ty and general welfare. The necessity in the public interest for the  
16 provisions hereinafter enacted is hereby declared as a matter of legis-  
17 lative determination.

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

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

24 S 4. Subparagraph (k) of paragraph 2 of subdivision e of section  
25 26-403 of the administrative code of the city of New York is REPEALED.

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

28 S 6. Any housing accommodations that on or after January 1, 2007 were  
29 excluded from coverage from the emergency tenant protection act of nine-  
30 teen seventy-four, the emergency housing rent control law or the admin-  
31 istrative code of the city of New York pursuant to the provisions of law  
32 repealed by sections two, three, four and five of this act shall be  
33 subject to the provisions of such act, law or administrative code,  
34 respectively. Notwithstanding the provisions of any lease or rental  
35 agreement, the legal regulated rent or maximum collectible rent of any  
36 housing accommodation excluded from regulation on or after January 1,  
37 2007 by reason of the provisions repealed by sections two, three, four  
38 and five of this act shall be the legal regulated rent or maximum  
39 collectible rent applicable to such accommodation on December 31, 2006,  
40 subject to further adjustment in accordance with applicable provisions  
41 of law.

42 S 7. Any housing accommodations that prior to January 1, 2007 were  
43 excluded from coverage from the emergency tenant protection act of nine-  
44 teen seventy-four, the emergency housing rent control law or the admin-  
45 istrative code of the city of New York pursuant to the provisions of law  
46 repealed by sections two, three, four, and five of this act, and where  
47 such housing accommodations were located outside the city of New York  
48 and were rented to a tenant on or after January 1, 2007 for less than  
49 \$3,500 per month or were located within the city of New York and were  
50 rented to a tenant on or after January 1, 2007 for less than \$5,000.00  
51 per month, shall be subject to the provisions of such act, law or admin-  
52 istrative code, respectively. Notwithstanding the provisions of any  
53 lease or rental agreement, the legal regulated rent or maximum collect-  
54 ible rent of any housing accommodation excluded from regulation prior to  
55 January 1, 2007 by reason of the provisions repealed by sections two,  
56 three, four and five of this act and made subject to regulation shall be



1 the actual rent applicable to such accommodations on January 1, 2007 or  
2 the first rent applicable to such accommodation after January 1, 2007,  
3 subject to further adjustment in accordance with applicable provisions  
4 of law.

5 S 8. This act shall take effect immediately.

6 PART H

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

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

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

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

46 S 3. This act shall take effect immediately; provided, however, that  
47 the amendments to section 10 of the emergency tenant protection act of  
48 nineteen seventy-four made by section one 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 and provided, further, that the amendments to section 26-511 of the rent  
52 stabilization law of nineteen hundred sixty-nine made by section two of  
53 this act shall expire on the same date as such law expires and shall not

1 affect the expiration of such law as provided under section 26-520 of  
2 such law.

3 PART I

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

7 (6-a) provides criteria whereby as an alternative to the hardship  
8 application provided under paragraph six of this subdivision owners of  
9 buildings acquired by the same owner or a related entity owned by the  
10 same principals [three] SIX years prior to the date of application may  
11 apply to the division for increases in excess of the level of applicable  
12 guideline increases established under this law based on a finding by the  
13 commissioner that such guideline increases are not sufficient to enable  
14 the owner to maintain an annual gross rent income for such building  
15 which exceeds the annual operating expenses of such building by a sum  
16 equal to at least five percent of such gross rent. For the purposes of  
17 this paragraph, operating expenses shall consist of the actual, reason-  
18 able, costs of fuel, labor, utilities, taxes, other than income or  
19 corporate franchise taxes, fees, permits, necessary contracted services  
20 and non-capital repairs, insurance, parts and supplies, management fees  
21 and other administrative costs and mortgage interest. For the purposes  
22 of this paragraph, mortgage interest shall be deemed to mean interest on  
23 a bona fide mortgage including an allocable portion of charges related  
24 thereto. Criteria to be considered in determining a bona fide mortgage  
25 other than an institutional mortgage shall include; condition of the  
26 property, location of the property, the existing mortgage market at the  
27 time the mortgage is placed, the term of the mortgage, the amortization  
28 rate, the principal amount of the mortgage, security and other terms and  
29 conditions of the mortgage. The commissioner shall set a rental value  
30 for any unit occupied by the owner or a person related to the owner or  
31 unoccupied at the owner's choice for more than one month at the last  
32 regulated rent plus the minimum number of guidelines increases or, if no  
33 such regulated rent existed or is known, the commissioner shall impute a  
34 rent consistent with other rents in the building. The amount of hardship  
35 increase shall be such as may be required to maintain the annual gross  
36 rent income as provided by this paragraph. The division shall not grant  
37 a hardship application under this paragraph or paragraph six of this  
38 subdivision for a period of three years subsequent to granting a hard-  
39 ship application under the provisions of this paragraph. The collection  
40 of any increase in the rent for any housing accommodation pursuant to  
41 this paragraph shall not exceed six percent in any year from the effec-  
42 tive date of the order granting the increase over the rent set forth in  
43 the schedule of gross rents, with collectability of any dollar excess  
44 above said sum to be spread forward in similar increments and added to  
45 the rent as established or set in future years. No application shall be  
46 approved unless the owner's equity in such building exceeds five percent  
47 of: (i) the arms length purchase price of the property; (ii) the cost of  
48 any capital improvements for which the owner has not collected a  
49 surcharge; (iii) any repayment of principal of any mortgage or loan used  
50 to finance the purchase of the property or any capital improvements for  
51 which the owner has not collected a surcharge and (iv) any increase in  
52 the equalized assessed value of the property which occurred subsequent  
53 to the first valuation of the property after purchase by the owner. For  
54 the purposes of this paragraph, owner's equity shall mean the sum of (i)

1 the purchase price of the property less the principal of any mortgage or  
2 loan used to finance the purchase of the property, (ii) the cost of any  
3 capital improvement for which the owner has not collected a surcharge  
4 less the principal of any mortgage or loan used to finance said improve-  
5 ment, (iii) any repayment of the principal of any mortgage or loan used  
6 to finance the purchase of the property or any capital improvement for  
7 which the owner has not collected a surcharge, and (iv) any increase in  
8 the equalized assessed value of the property which occurred subsequent  
9 to the first valuation of the property after purchase by the owner.

10 S 2. Paragraph 5 of subdivision d of section 6 of section 4 of chapter  
11 576 of the laws of 1974 enacting the emergency tenant protection act of  
12 nineteen seventy-four, as amended by chapter 102 of the laws of 1984, is  
13 amended to read as follows:

14 (5) as an alternative to the hardship application provided under para-  
15 graph four of this subdivision, owners of buildings acquired by the same  
16 owner or a related entity owned by the same principals [three] SIX years  
17 prior to the date of application may apply to the division for increases  
18 in excess of the level of applicable guideline increases established  
19 under this law based on a finding by the commissioner that such guide-  
20 line increases are not sufficient to enable the owner to maintain an  
21 annual gross rent income for such building which exceeds the annual  
22 operating expenses of such building by a sum equal to at least five  
23 percent of such gross rent. For the purposes of this paragraph, operat-  
24 ing expenses shall consist of the actual, reasonable, costs of fuel,  
25 labor, utilities, taxes, other than income or corporate franchise taxes,  
26 fees, permits, necessary contracted services and non-capital repairs,  
27 insurance, parts and supplies, management fees and other administrative  
28 costs and mortgage interest. For the purposes of this paragraph, mort-  
29 gage interest shall be deemed to mean interest on a bona fide mortgage  
30 including an allocable portion of charges related thereto. Criteria to  
31 be considered in determining a bona fide mortgage other than an institu-  
32 tional mortgage shall include; condition of the property, location of  
33 the property, the existing mortgage market at the time the mortgage is  
34 placed, the term of the mortgage, the amortization rate, the principal  
35 amount of the mortgage, security and other terms and conditions of the  
36 mortgage. The commissioner shall set a rental value for any unit occu-  
37 pied by the owner or a person related to the owner or unoccupied at the  
38 owner's choice for more than one month at the last regulated rent plus  
39 the minimum number of guidelines increases or, if no such regulated rent  
40 existed or is known, the commissioner shall impute a rent consistent  
41 with other rents in the building. The amount of hardship increase shall  
42 be such as may be required to maintain the annual gross rent income as  
43 provided by this paragraph. The division shall not grant a hardship  
44 application under this paragraph or paragraph four of this subdivision  
45 for a period of three years subsequent to granting a hardship applica-  
46 tion under the provisions of this paragraph. The collection of any  
47 increase in the rent for any housing accommodation pursuant to this  
48 paragraph shall not exceed six percent in any year from the effective  
49 date of the order granting the increase over the rent set forth in the  
50 schedule of gross rents, with collectability of any dollar excess above  
51 said sum to be spread forward in similar increments and added to the  
52 rent as established or set in future years. No application shall be  
53 approved unless the owner's equity in such building exceeds five percent  
54 of: (i) the arms length purchase price of the property; (ii) the cost of  
55 any capital improvements for which the owner has not collected a  
56 surcharge; (iii) any repayment of principal of any mortgage or loan used

1 to finance the purchase of the property or any capital improvements for  
2 which the owner has not collected a surcharge; and (iv) any increase in  
3 the equalized assessed value of the property which occurred subsequent  
4 to the first valuation of the property after purchase by the owner. For  
5 the purposes of this paragraph, owner's equity shall mean the sum of (i)  
6 the purchase price of the property less the principal of any mortgage or  
7 loan used to finance the purchase of the property, (ii) the cost of any  
8 capital improvement for which the owner has not collected a surcharge  
9 less the principal of any mortgage or loan used to finance said improve-  
10 ment, (iii) any repayment of the principal of any mortgage or loan used  
11 to finance the purchase of the property or any capital improvement for  
12 which the owner has not collected a surcharge, and (iv) any increase in  
13 the equalized assessed value of the property which occurred subsequent  
14 to the first valuation of the property after purchase by the owner.

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

25

## PART J

26 Section 1. Subparagraph (g) of paragraph 1 of subdivision g of section  
27 26-405 of the administrative code of the city of New York, as amended by  
28 chapter 749 of the laws of 1990, is amended to read as follows:

29 (g) (I) COLLECTION OF SURCHARGES TO THE MAXIMUM RENT AUTHORIZED PURSU-  
30 ANT TO ITEM (II) OF THIS SUBPARAGRAPH SHALL CEASE WHEN THE OWNER HAS  
31 RECOVERED THE COST OF THE MAJOR CAPITAL IMPROVEMENT;

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

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

4 (k) The landlord has incurred, since January first, nineteen hundred  
5 seventy, in connection with and in addition to a concurrent major capi-  
6 tal improvement pursuant to subparagraph (g) of this paragraph, other  
7 expenditures to improve, restore or preserve the quality of the struc-  
8 ture. An adjustment under this subparagraph shall be granted only if  
9 such improvements represent an expenditure equal to at least ten per  
10 centum of the total operating and maintenance expenses for the preceding  
11 year. An adjustment under this subparagraph shall be in addition to any  
12 adjustment granted for the concurrent major capital improvement and  
13 shall be [in an amount sufficient to amortize the cost of the improve-  
14 ments pursuant to this subparagraph over a seven-year period] IMPLE-  
15 MENTED IN THE SAME MANNER AS SUCH MAJOR CAPITAL IMPROVEMENT AS A FURTHER  
16 SURCHARGE TO THE MAXIMUM RENT.

17 S 3. Paragraph 6 of subdivision c of section 26-511 of the administra-  
18 tive code of the city of New York, as amended by chapter 116 of the laws  
19 of 1997, is amended to read as follows:

20 (6) provides criteria whereby the commissioner may act upon applica-  
21 tions by owners for increases in excess of the level of fair rent  
22 increase established under this law provided, however, that such crite-  
23 ria shall provide [(a)] as to hardship applications, for a finding that  
24 the level of fair rent increase is not sufficient to enable the owner to  
25 maintain approximately the same average annual net income (which shall  
26 be computed without regard to debt service, financing costs or manage-  
27 ment fees) for the three year period ending on or within six months of  
28 the date of an application pursuant to such criteria as compared with  
29 annual net income, which prevailed on the average over the period nine-  
30 teen hundred sixty-eight through nineteen hundred seventy, or for the  
31 first three years of operation if the building was completed since nine-  
32 teen hundred sixty-eight or for the first three fiscal years after a  
33 transfer of title to a new owner provided the new owner can establish to  
34 the satisfaction of the commissioner that he or she acquired title to  
35 the building as a result of a bona fide sale of the entire building and  
36 that the new owner is unable to obtain requisite records for the fiscal  
37 years nineteen hundred sixty-eight through nineteen hundred seventy  
38 despite diligent efforts to obtain same from predecessors in title and  
39 further provided that the new owner can provide financial data covering  
40 a minimum of six years under his or her continuous and uninterrupted  
41 operation of the building to meet the three year to three year compar-  
42 ative test periods herein provided[; and (b) as to completed building-  
43 wide major capital improvements, for a finding that such improvements  
44 are deemed depreciable under the Internal Revenue Code and that the cost  
45 is to be amortized over a seven-year period, based upon cash purchase  
46 price exclusive of interest or service charges]. Notwithstanding  
47 anything to the contrary contained herein, no hardship increase granted  
48 pursuant to this paragraph shall, when added to the annual gross rents,  
49 as determined by the commissioner, exceed the sum of, (i) the annual  
50 operating expenses, (ii) an allowance for management services as deter-  
51 mined by the commissioner, (iii) actual annual mortgage debt service  
52 (interest and amortization) on its indebtedness to a lending institu-  
53 tion, an insurance company, a retirement fund or welfare fund which is  
54 operated under the supervision of the banking or insurance laws of the  
55 state of New York or the United States, and (iv) eight and one-half  
56 percent of that portion of the fair market value of the property which

1 exceeds the unpaid principal amount of the mortgage indebtedness  
2 referred to in subparagraph (iii) of this paragraph. Fair market value  
3 for the purposes of this paragraph shall be six times the annual gross  
4 rent. The collection of any increase in the stabilized rent for any  
5 apartment pursuant to this paragraph shall not exceed six percent in any  
6 year from the effective date of the order granting the increase over the  
7 rent set forth in the schedule of gross rents, with collectability of  
8 any dollar excess above said sum to be spread forward in similar incre-  
9 ments and added to the stabilized rent as established or set in future  
10 years;

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

14 (6-B) PROVIDES CRITERIA WHEREBY THE COMMISSIONER MAY ACT UPON APPLICA-  
15 TION BY OWNERS FOR INCREASES IN EXCESS OF THE LEVEL OF FAIR RENT  
16 INCREASE ESTABLISHED UNDER THIS LAW PROVIDED, HOWEVER, THAT SUCH CRITE-  
17 RIA SHALL PROVIDE AS TO COMPLETED BUILDING-WIDE MAJOR CAPITAL IMPROVE-  
18 MENTS, FOR A FINDING THAT SUCH IMPROVEMENTS ARE DEEMED DEPRECIABLE UNDER  
19 THE INTERNAL REVENUE CODE AND SUCH IMPROVEMENTS ARE REQUIRED FOR THE  
20 OPERATION, PRESERVATION OR MAINTENANCE OF THE STRUCTURE. THE INCREASE  
21 PERMITTED FOR SUCH CAPITAL IMPROVEMENT SHALL BE COLLECTED AS A MONTHLY  
22 SURCHARGE TO THE LEGAL REGULATED RENT. IT SHALL BE SEPARATELY DESIGNATED  
23 AND BILLED AS SUCH AND SHALL NOT BE COMPOUNDED BY ANY ANNUAL ADJUSTMENT  
24 OF THE LEVEL OF FAIR RENT PROVIDED FOR UNDER SUBDIVISION B OF SECTION  
25 26-510 OF THIS LAW. THE SURCHARGE ALLOCABLE TO EACH APARTMENT SHALL BE  
26 AN AMOUNT EQUAL TO THE COST OF THE IMPROVEMENT DIVIDED BY EIGHTY-FOUR,  
27 DIVIDED BY THE NUMBER OF ROOMS IN THE BUILDING, AND THEN MULTIPLIED BY  
28 THE NUMBER OF ROOMS IN SUCH APARTMENT; PROVIDED THAT THE SURCHARGE ALLO-  
29 CABLE TO ANY APARTMENT, IN ANY ONE YEAR MAY NOT EXCEED AN AMOUNT EQUAL  
30 TO SIX PERCENT OF THE MONTHLY RENT COLLECTED BY THE OWNER FOR SUCH  
31 APARTMENT AS SET FORTH IN THE SCHEDULE OF GROSS RENTS. ANY EXCESS ABOVE  
32 SAID SIX PERCENT SHALL BE CARRIED FORWARD AND COLLECTED IN FUTURE YEARS  
33 AS A FURTHER SURCHARGE NOT TO EXCEED AN ADDITIONAL SIX PERCENT IN ANY  
34 ONE YEAR PERIOD UNTIL THE TOTAL SURCHARGE EQUALS THE AMOUNT IT WOULD  
35 HAVE BEEN IF THE AFOREMENTIONED SIX PERCENT LIMITATION DID NOT APPLY.

36 (6-C) COLLECTION OF SURCHARGES IN EXCESS OF THE LEVEL OF FAIR RENT  
37 AUTHORIZED PURSUANT TO PARAGRAPH SIX-B OF THIS SUBDIVISION SHALL CEASE  
38 WHEN THE OWNER HAS RECOVERED THE COST OF THE MAJOR CAPITAL IMPROVEMENT.

39 S 5. Paragraph 3 of subdivision d of section 6 of section 4 of chapter  
40 576 of the laws of 1974, constituting the emergency tenant protection  
41 act of nineteen seventy-four, as amended by chapter 749 of the laws of  
42 1990, is amended to read as follows:

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

47 (II) there has been since January first, nineteen hundred seventy-four  
48 a major capital improvement [required for the operation, preservation or  
49 maintenance of the structure. An adjustment under this paragraph shall  
50 be in an amount sufficient to amortize the cost of the improvements  
51 pursuant to this paragraph over a seven-year period]; PROVIDED THAT THE  
52 COMMISSIONER FINDS THAT SUCH IMPROVEMENTS ARE DEEMED DEPRECIABLE UNDER  
53 THE INTERNAL REVENUE CODE AND SUCH IMPROVEMENTS ARE REQUIRED FOR THE  
54 OPERATION, PRESERVATION OR MAINTENANCE OF THE STRUCTURE. THE INCREASE  
55 PERMITTED FOR SUCH CAPITAL IMPROVEMENT SHALL BE COLLECTED AS A MONTHLY  
56 SURCHARGE TO THE LEGAL REGULATED RENT. IT SHALL BE SEPARATELY DESIGNATED

1 AND BILLED AS SUCH AND SHALL NOT BE COMPOUNDED BY ANY ANNUAL RENT  
2 ADJUSTMENT AUTHORIZED BY THE RENT GUIDELINES BOARD UNDER THIS ACT. THE  
3 SURCHARGE ALLOCABLE TO EACH APARTMENT SHALL BE AN AMOUNT EQUAL TO THE  
4 COST OF THE IMPROVEMENT DIVIDED BY EIGHTY-FOUR, DIVIDED BY THE NUMBER OF  
5 ROOMS IN THE BUILDING, AND THEN MULTIPLIED BY THE NUMBER OF ROOMS IN  
6 SUCH APARTMENT; PROVIDED THAT THE SURCHARGE ALLOCABLE TO ANY APARTMENT  
7 IN ANY ONE YEAR MAY NOT EXCEED AN AMOUNT EQUAL TO SIX PERCENT OF THE  
8 MONTHLY RENT COLLECTED BY THE OWNER FOR SUCH APARTMENT AS SET FORTH IN  
9 THE SCHEDULE OF GROSS RENTS. ANY EXCESS ABOVE SAID SIX PERCENT SHALL BE  
10 CARRIED FORWARD AND COLLECTED IN FUTURE YEARS AS A FURTHER SURCHARGE NOT  
11 TO EXCEED AN ADDITIONAL SIX PERCENT IN ANY ONE YEAR PERIOD UNTIL THE  
12 TOTAL SURCHARGE EQUALS THE AMOUNT IT WOULD HAVE BEEN IF THE AFOREMEN-  
13 TIONED SIX PERCENT LIMITATION DID NOT APPLY, or

14 S 6. The second undesignated paragraph of paragraph (a) of subdivision  
15 4 of section 4 of chapter 274 of the laws of 1946, constituting the  
16 emergency housing rent control law, as amended by chapter 21 of the laws  
17 of 1962, clause 5 as amended by chapter 253 of the laws of 1993, is  
18 amended to read as follows:

19 No application for adjustment of maximum rent based upon a sales price  
20 valuation shall be filed by the landlord under this subparagraph prior  
21 to six months from the date of such sale of the property. In addition,  
22 no adjustment ordered by the commission based upon such sales price  
23 valuation shall be effective prior to one year from the date of such  
24 sale. Where, however, the assessed valuation of the land exceeds four  
25 times the assessed valuation of the buildings thereon, the commission  
26 may determine a valuation of the property equal to five times the equal-  
27 ized assessed valuation of the buildings, for the purposes of this  
28 subparagraph. The commission may make a determination that the valu-  
29 ation of the property is an amount different from such equalized  
30 assessed valuation where there is a request for a reduction in such  
31 assessed valuation currently pending; or where there has been a  
32 reduction in the assessed valuation for the year next preceding the  
33 effective date of the current assessed valuation in effect at the time  
34 of the filing of the application. Net annual return shall be the amount  
35 by which the earned income exceeds the operating expenses of the proper-  
36 ty, excluding mortgage interest and amortization, and excluding allow-  
37 ances for obsolescence and reserves, but including an allowance for  
38 depreciation of two per centum of the value of the buildings exclusive  
39 of the land, or the amount shown for depreciation of the buildings in  
40 the latest required federal income tax return, whichever is lower;  
41 provided, however, that (1) no allowance for depreciation of the build-  
42 ings shall be included where the buildings have been fully depreciated  
43 for federal income tax purposes or on the books of the owner; or (2) the  
44 landlord who owns no more than four rental units within the state has  
45 not been fully compensated by increases in rental income sufficient to  
46 offset unavoidable increases in property taxes, fuel, utilities, insur-  
47 ance and repairs and maintenance, excluding mortgage interest and amor-  
48 tization, and excluding allowances for depreciation, obsolescence and  
49 reserves, which have occurred since the federal date determining the  
50 maximum rent or the date the property was acquired by the present owner,  
51 whichever is later; or (3) the landlord operates a hotel or rooming  
52 house or owns a cooperative apartment and has not been fully compensated  
53 by increases in rental income from the controlled housing accommodations  
54 sufficient to offset unavoidable increases in property taxes and other  
55 costs as are allocable to such controlled housing accommodations,  
56 including costs of operation of such hotel or rooming house, but exclud-

1 ing mortgage interest and amortization, and excluding allowances for  
2 depreciation, obsolescence and reserves, which have occurred since the  
3 federal date determining the maximum rent or the date the landlord  
4 commenced the operation of the property, whichever is later; or (4) the  
5 landlord and tenant voluntarily enter into a valid written lease in good  
6 faith with respect to any housing accommodation, which lease provides  
7 for an increase in the maximum rent not in excess of fifteen per centum  
8 and for a term of not less than two years, except that where such lease  
9 provides for an increase in excess of fifteen per centum, the increase  
10 shall be automatically reduced to fifteen per centum; or (5) the land-  
11 lord and tenant by mutual voluntary written agreement agree to a  
12 substantial increase or decrease in dwelling space or a change in the  
13 services, furniture, furnishings or equipment provided in the housing  
14 accommodations; provided that an owner shall be entitled to a rent  
15 increase where there has been a substantial modification or increase of  
16 dwelling space or an increase in the services, or installation of new  
17 equipment or improvements or new furniture or furnishings provided in or  
18 to a tenant's housing accommodation. The permanent increase in the maxi-  
19 mum rent for the affected housing accommodation shall be one-fortieth of  
20 the total cost incurred by the landlord in providing such modification  
21 or increase in dwelling space, services, furniture, furnishings or  
22 equipment, including the cost of installation, but excluding finance  
23 charges provided further that an owner who is entitled to a rent  
24 increase pursuant to this clause shall not be entitled to a further rent  
25 increase based upon the installation of similar equipment, or new furni-  
26 ture or furnishings within the useful life of such new equipment, or new  
27 furniture or furnishings. The owner shall give written notice to the  
28 commission of any such adjustment pursuant to this clause; or (6) there  
29 has been, since March first, nineteen hundred fifty, an increase in the  
30 rental value of the housing accommodations as a result of a substantial  
31 rehabilitation of the building or housing accommodation therein which  
32 materially adds to the value of the property or appreciably prolongs its  
33 life, excluding ordinary repairs, maintenance and replacements; or (7)  
34 (I) COLLECTION OF SURCHARGES TO THE MAXIMUM RENT AUTHORIZED PURSUANT TO  
35 ITEM (II) OF THIS CLAUSE SHALL CEASE WHEN THE OWNER HAS RECOVERED THE  
36 COST OF THE MAJOR CAPITAL IMPROVEMENT; (II) there has been since March  
37 first, nineteen hundred fifty, a major capital improvement [required for  
38 the operation, preservation or maintenance of the structure]; PROVIDED  
39 THAT THE COMMISSIONER FINDS THAT SUCH IMPROVEMENTS ARE DEEMED DEPRECIA-  
40 BLE UNDER THE INTERNAL REVENUE CODE AND SUCH IMPROVEMENTS ARE REQUIRED  
41 FOR THE OPERATION, PRESERVATION OR MAINTENANCE OF THE STRUCTURE. THE  
42 INCREASE PERMITTED FOR SUCH CAPITAL IMPROVEMENT SHALL BE COLLECTED AS A  
43 MONTHLY SURCHARGE TO THE MAXIMUM RENT. IT SHALL BE SEPARATELY DESIGNATED  
44 AND BILLED AS SUCH AND SHALL NOT BE COMPOUNDED BY ANY OTHER ADJUSTMENT  
45 TO THE MAXIMUM RENT. THE SURCHARGE ALLOCABLE TO EACH APARTMENT SHALL BE  
46 AN AMOUNT EQUAL TO THE COST OF THE IMPROVEMENT DIVIDED BY EIGHTY-FOUR,  
47 DIVIDED BY THE NUMBER OF ROOMS IN THE BUILDING, AND THEN MULTIPLIED BY  
48 THE NUMBER OF ROOMS IN SUCH APARTMENT; PROVIDED THAT THE SURCHARGE ALLO-  
49 CABLE TO ANY APARTMENT IN ANY ONE YEAR MAY NOT EXCEED AN AMOUNT EQUAL TO  
50 SIX PERCENT OF THE MONTHLY RENT COLLECTED BY THE OWNER FOR SUCH APART-  
51 MENT AS SET FORTH IN THE SCHEDULE OF GROSS RENTS. ANY EXCESS ABOVE SAID  
52 SIX PERCENT SHALL BE CARRIED FORWARD AND COLLECTED IN FUTURE YEARS AS A  
53 FURTHER SURCHARGE NOT TO EXCEED AN ADDITIONAL SIX PERCENT IN ANY ONE  
54 YEAR PERIOD UNTIL THE TOTAL SURCHARGE EQUALS THE AMOUNT IT WOULD HAVE  
55 BEEN IF THE AFOREMENTIONED SIX PERCENT LIMITATION DID NOT APPLY; or (8)  
56 there has been since March first, nineteen hundred fifty, in structures



1 containing more than four housing accommodations, other improvements  
2 made with the express consent of the tenants in occupancy of at least  
3 seventy-five per centum of the housing accommodations, provided, howev-  
4 er, that no adjustment granted hereunder shall exceed fifteen per centum  
5 unless the tenants have agreed to a higher percentage of increase, as  
6 herein provided; or (9) there has been, since March first, nineteen  
7 hundred fifty, a subletting without written consent from the landlord or  
8 an increase in the number of adult occupants who are not members of the  
9 immediate family of the tenant, and the landlord has not been compen-  
10 sated therefor by adjustment of the maximum rent by lease or order of  
11 the commission or pursuant to the federal act; or (10) the presence of  
12 unique or peculiar circumstances materially affecting the maximum rent  
13 has resulted in a maximum rent which is substantially lower than the  
14 rents generally prevailing in the same area for substantially similar  
15 housing accommodations.

16 S 7. This act shall take effect immediately; provided that the amend-  
17 ments to section 26-405 of the city rent and rehabilitation law made by  
18 sections one and two of this act shall remain in full force and effect  
19 only so long as the public emergency requiring the regulation and  
20 control of residential rents and evictions continues, as provided in  
21 subdivision 3 of section 1 of the local emergency housing rent control  
22 act; and provided further that the amendments to section 26-511 of the  
23 rent stabilization law of nineteen hundred sixty-nine made by sections  
24 three and four of this act shall expire on the same date as such law  
25 expires and shall not affect the expiration of such law as provided  
26 under section 26-520 of such law, as from time to time amended; and  
27 provided further that the amendment to section 6 of the emergency tenant  
28 protection act of nineteen seventy-four made by section five of this act  
29 shall expire on the same date as such act expires and shall not affect  
30 the expiration of such act as provided in section 17 of chapter 576 of  
31 the laws of 1974, as from time to time amended; and further provided  
32 that the amendment to section 4 of the emergency housing rent control  
33 law made by section six of this act shall expire on the same date as  
34 such law expires and shall not affect the expiration of such law as  
35 provided in subdivision 2 of section 1 of chapter 274 of the laws of  
36 1946.

37

## PART K

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

41 D. NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH THREE OR FIVE OF SUBDI-  
42 VISION A OF THIS SECTION BUT SUBJECT TO ANY OTHER APPLICABLE EXCEPTIONS  
43 IN SUCH SUBDIVISION, NOTHING SHALL PREVENT THE DECLARATION OF AN EMER-  
44 GENCY PURSUANT TO SECTION THREE OF THIS ACT FOR RENTAL HOUSING ACCOMMO-  
45 DATIONS LOCATED IN BUILDINGS WHICH WERE OWNED BY A COMPANY ESTABLISHED  
46 UNDER ARTICLE 2 OF THE PRIVATE HOUSING FINANCE LAW, OTHER THAN A MUTUAL  
47 COMPANY, BY REASON OF A VOLUNTARY DISSOLUTION PURSUANT TO SECTION 35 OF  
48 SUCH LAW. THE PROVISION OF SUBDIVISION A OF SECTION NINE OF THIS ACT  
49 SHALL NOT APPLY TO ANY HOUSING ACCOMMODATION WHICH BECAME SUBJECT TO  
50 THIS ACT PURSUANT TO THIS SUBDIVISION.

51 S 2. This act shall take effect immediately and shall apply to housing  
52 companies that dissolve before, on or after such date; provided, howev-  
53 er, that the amendments to the emergency tenant protection act of nine-  
54 teen seventy-four made by this act shall not affect the expiration of

1 such act as provided in section 17 of chapter 576 of the laws of 1974,  
2 as amended and shall be deemed to expire therewith.

3 PART L

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

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

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

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

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

52 3. DEREGULATION RENT THRESHOLD MEANS THREE THOUSAND DOLLARS. FOR  
53 PROCEEDINGS COMMENCED ON OR AFTER JANUARY FIRST, TWO THOUSAND TWELVE,  
54 THE DEREGULATION RENT THRESHOLD SHALL BE ADJUSTED ANNUALLY ON THE FIRST

1 DAY OF OCTOBER EACH YEAR FOR PROCEEDINGS IN EACH SUBSEQUENT YEAR BY THE  
2 CHANGE IN THE REGIONAL CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS, NEW  
3 YORK-NORTHERN NEW JERSEY-LONG ISLAND, NY-NJ-CT-PA, AS ESTABLISHED THE  
4 PRECEDING AUGUST.

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

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

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

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

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

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

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

1 filing such certification with the division, the division shall, within  
2 thirty days after the filing, issue an order of [decontrol] DEREGULATION  
3 providing that such housing accommodations shall not be subject to the  
4 provisions of this law as of the first day of June in the year next  
5 succeeding the filing of the certification by the owner. A copy of such  
6 order shall be mailed by regular and certified mail, return receipt  
7 requested, to the tenant or tenants and a copy thereof shall be mailed  
8 to the owner.

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

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

43 3. In the event the tenant or tenants fail to provide the information  
44 required pursuant to paragraph one of this subdivision, the division  
45 shall issue, on or before December first of such year, an order of  
46 [decontrol] DEREGULATION providing that such housing accommodation shall  
47 not be subject to the provisions of this law as of the first day of  
48 March in the year next succeeding the last day on which the tenant or  
49 tenants were required to provide the information required by such para-  
50 graph. A copy of such order shall be mailed by regular and certified  
51 mail, return receipt requested, to the tenant or tenants and a copy  
52 thereof shall be sent to the owner.

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

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

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

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

(j) Upon the issuance of an order of [decontrol] DEREGULATION by the division, housing accommodations which: (1) are occupied by persons who have a total annual income, AS DEFINED IN AND SUBJECT TO THE LIMITATIONS AND PROCESS SET FORTH IN SECTION 26-403.1 OF THIS CHAPTER, in excess of [one hundred seventy-five thousand dollars] THE DEREGULATION INCOME THRESHOLD, AS DEFINED IN SECTION 26-403.1 OF THIS CHAPTER, per annum in each of the two preceding calendar years[, as defined in and subject to the limitations and process set forth in section 26-403.1 of this chapter]; and (2) have a maximum rent [of two thousand dollars or more per month] THAT EQUALS OR EXCEEDS THE DEREGULATION RENT THRESHOLD, AS DEFINED IN SECTION 26-403.1 OF THIS CHAPTER. Provided however, that this exclusion shall not apply to housing accommodations which became or become subject to this law by virtue of receiving tax benefits pursuant to section four hundred eighty-nine of the real property tax law.

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

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

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

3. DEREGULATION RENT THRESHOLD MEANS THREE THOUSAND DOLLARS. FOR PROCEEDINGS COMMENCED ON OR AFTER JANUARY FIRST, TWO THOUSAND TWELVE, THE DEREGULATION RENT THRESHOLD SHALL BE ADJUSTED ANNUALLY ON THE FIRST DAY OF OCTOBER OF EACH YEAR FOR PROCEEDINGS IN EACH SUBSEQUENT YEAR BY

1 THE CHANGE IN THE REGIONAL CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS,  
2 NEW YORK-NORTHERN NEW JERSEY-LONG ISLAND, NY-NJ-CT-PA, AS ESTABLISHED  
3 THE PRECEDING AUGUST.

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

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



1 within sixty days of service upon such tenant or tenants and shall  
2 include a warning in bold faced type that failure to respond will result  
3 in an order of [decontrol] DEREGULATION being issued by the division for  
4 such housing accommodation.

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

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

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

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

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

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

48 S 26-504.1 Exclusion of accommodations of high income renters. Upon  
49 the issuance of an order by the division, "housing accommodations" shall  
50 not include housing accommodations which: (1) are occupied by persons  
51 who have a total annual income, AS DEFINED IN AND SUBJECT TO THE LIMITA-  
52 TIONS AND PROCESS SET FORTH IN SECTION 26-504.3 OF THIS CHAPTER, in  
53 excess of [one hundred seventy-five thousand dollars per annum] THE  
54 DEREGULATION INCOME THRESHOLD, AS DEFINED IN SECTION 26-504.3 OF THIS  
55 CHAPTER, for each of the two preceding calendar years[, as defined in  
56 and subject to the limitations and process set forth in section 26-504.3

1 of this chapter]; and (2) have a legal regulated MONTHLY rent [of two  
2 thousand dollars or more per month] THAT EQUALS OR EXCEEDS THE DEREGU-  
3 LATION RENT THRESHOLD, AS DEFINED IN SECTION 26-504.3 OF THIS CHAPTER.  
4 Provided, however, that this exclusion shall not apply to housing accom-  
5 modations which became or become subject to this law (a) by virtue of  
6 receiving tax benefits pursuant to section four hundred twenty-one-a or  
7 four hundred eighty-nine of the real property tax law, except as other-  
8 wise provided in subparagraph (i) of paragraph (f) of subdivision two of  
9 section four hundred twenty-one-a of the real property tax law, or (b)  
10 by virtue of article seven-C of the multiple dwelling law.

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

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

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

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

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

tioned 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

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

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

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