

2783

2011-2012 Regular Sessions

I N S E N A T E

February 1, 2011

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

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

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

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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); and 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)

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 K. 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
23 sixty-two years of age or older, has been a tenant in a housing accommo-
24 dation in that building for twenty years or more, or has an impairment
25 which results from anatomical, physiological or psychological condi-
26 tions, other than addiction to alcohol, gambling, or any controlled
27 substance, which are demonstrable by medically acceptable clinical and
28 laboratory diagnostic techniques, and which are expected to be permanent
29 and which prevent the tenant from engaging in any substantial gainful
30 employment; or

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

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

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

40 a. For cities having a population of less than one million and towns
41 and villages, the state division of housing and community renewal shall
42 be empowered to implement this act by appropriate regulations. Such
43 regulations may encompass such speculative or manipulative practices or
44 renting or leasing practices as the state division of housing and commu-
45 nity renewal determines constitute or are likely to cause circumvention
46 of this act. Such regulations shall prohibit practices which are likely
47 to prevent any person from asserting any right or remedy granted by this
48 act, including but not limited to retaliatory termination of periodic
49 tenancies and shall require owners to grant a new one or two year vacan-
50 cy or renewal lease at the option of the tenant, except where a mortgage
51 or mortgage commitment existing as of the local effective date of this
52 act provides that the owner shall not grant a one-year lease; and shall
53 prescribe standards with respect to the terms and conditions of new and
54 renewal leases, additional rent and such related matters as security
55 deposits, advance rental payments, the use of escalator clauses in leas-
56 es and provision for increase in rentals for garages and other ancillary

1 facilities, so as to insure that the level of rent adjustments author-
2 ized under this law will not be subverted and made ineffective. Any
3 provision of the regulations permitting an owner to refuse to renew a
4 lease on grounds that the owner seeks to recover possession of [the] A
5 housing accommodation for his OR HER own use and occupancy or for the
6 use and occupancy of his OR HER immediate family shall PERMIT RECOVERY
7 OF ONLY ONE HOUSING ACCOMMODATION, SHALL require that an owner demon-
8 strate immediate and compelling need AND THAT THE HOUSING ACCOMMODATION
9 WILL BE THE PROPOSED OCCUPANTS' PRIMARY RESIDENCE and shall not apply
10 where a member of the housing accommodation is sixty-two years of age or
11 older, has been a tenant in a housing accommodation in that building for
12 twenty years or more, or has an impairment which results from anatom-
13 ical, physiological or psychological conditions, other than addiction to
14 alcohol, gambling, or any controlled substance, which are demonstrable
15 by medically acceptable clinical and laboratory diagnostic techniques,
16 and which are expected to be permanent and which prevent the tenant from
17 engaging in any substantial gainful employment.

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

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

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

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

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

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

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

6 PART B

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

10 (5-a) provides that, notwithstanding any provision of this chapter,
11 the legal regulated rent for any vacancy lease entered into after the
12 effective date of this paragraph shall be as hereinafter provided in
13 this paragraph. The previous legal regulated rent for such housing
14 accommodation shall be increased by the following: (i) if the vacancy
15 lease is for a term of two years, [twenty] TEN percent of the previous
16 legal regulated rent; or (ii) if the vacancy lease is for a term of one
17 year the increase shall be [twenty] TEN percent of the previous legal
18 regulated rent less an amount equal to the difference between (a) the
19 two year renewal lease guideline promulgated by the guidelines board of
20 the city of New York applied to the previous legal regulated rent and
21 (b) the one year renewal lease guideline promulgated by the guidelines
22 board of the city of New York applied to the previous legal regulated
23 rent. In addition, if the legal regulated rent was not increased with
24 respect to such housing accommodation by a permanent vacancy allowance
25 within eight years prior to a vacancy lease executed on or after the
26 effective date of this paragraph, the legal regulated rent may be
27 further increased by an amount equal to the product resulting from
28 multiplying such previous legal regulated rent by six-tenths of one
29 percent and further multiplying the amount of rent increase resulting
30 therefrom by the greater of (A) the number of years since the imposition
31 of the last permanent vacancy allowance, or (B) if the rent was not
32 increased by a permanent vacancy allowance since the housing accommo-
33 dation became subject to this chapter, the number of years that such
34 housing accommodation has been subject to this chapter. Provided that if
35 the previous legal regulated rent was less than three hundred dollars
36 the total increase shall be as calculated above plus one hundred dollars
37 per month. Provided, further, that if the previous legal regulated rent
38 was at least three hundred dollars and no more than five hundred dollars
39 in no event shall the total increase pursuant to this paragraph be less
40 than one hundred dollars per month. Such increase shall be in lieu of
41 any allowance authorized for the one or two year renewal component ther-
42 eof, but shall be in addition to any other increases authorized pursuant
43 to this chapter including an adjustment based upon a major capital
44 improvement, or a substantial modification or increase of dwelling space
45 or services, or installation of new equipment or improvements or new
46 furniture or furnishings provided in or to the housing accommodation
47 pursuant to this section. THE INCREASE AUTHORIZED IN THIS PARAGRAPH MAY
48 NOT BE IMPLEMENTED MORE THAN ONE TIME IN ANY CALENDAR YEAR NOTWITHSTAND-
49 ING THE NUMBER OF VACANCY LEASES ENTERED INTO IN SUCH YEAR.

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

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

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

1 Section 1. Subdivision a of section 26-504 of the administrative code
2 of the city of New York, subparagraph (f) of paragraph 1 as amended by
3 chapter 422 of the laws of 2010, is amended to read as follows:
4 a. Class A multiple dwellings not owned as a cooperative or as a
5 condominium, except as provided in section three hundred fifty-two-eeee
6 of the general business law, containing six or more dwelling units
7 which: (1) were completed after February first, nineteen hundred
8 forty-seven, except dwelling units (a) owned or leased by, or financed
9 by loans from, a public agency or public benefit corporation, (b)
10 subject to rent regulation under the private housing finance law or any
11 other state law, (c) aided by government insurance under any provision
12 of the national housing act, to the extent this chapter or any regu-
13 lation or order issued thereunder is inconsistent therewith, or (d)
14 located in a building for which a certificate of occupancy is obtained
15 after March tenth, nineteen hundred sixty-nine[;], or (e) any class A
16 multiple dwelling which on June first, nineteen hundred sixty-eight was
17 and still is commonly regarded as a hotel, transient hotel or residen-
18 tial hotel, and which customarily provides hotel service such as maid
19 service, furnishing and laundering of linen, telephone and bell boy
20 service, secretarial or desk service and use and upkeep of furniture and
21 fixtures, or (f) not occupied by the tenant, not including subtenants or
22 occupants, as his or her primary residence, as determined by a court of
23 competent jurisdiction, provided, however that no action or proceeding
24 shall be commenced seeking to recover possession on the ground that a
25 housing accommodation is not occupied by the tenant as his or her prima-
26 ry residence unless the owner or lessor shall have given thirty days
27 notice to the tenant of his or her intention to commence such action or
28 proceeding on such grounds. For the purposes of determining primary
29 residency, a tenant who is a victim of domestic violence, as defined in
30 section four hundred fifty-nine-a of the social services law, who has
31 left the unit because of such violence, and who asserts an intent to
32 return to the housing accommodation shall be deemed to be occupying the
33 unit as his or her primary residence. For the purposes of this subpara-
34 graph where a housing accommodation is rented to a not-for-profit hospi-
35 tal for residential use, affiliated subtenants authorized to use such
36 accommodations by such hospital shall be deemed to be tenants, or (g)
37 became vacant on or after June thirtieth, nineteen hundred seventy-one,
38 or become vacant, provided however, that this exemption shall not apply
39 or become effective with respect to housing accommodations which the
40 commissioner determines or finds became vacant because the landlord or
41 any person acting on his or her behalf, with intent to cause the tenant
42 to vacate, engaged in any course of conduct (including but not limited
43 to, interruption or discontinuance of essential services) which inter-
44 fered with or disturbed or was intended to interfere with or disturb the
45 comfort, repose, peace or quiet of the tenant in his or her use or occu-
46 pancy of the housing accommodations and provided further that any hous-
47 ing accommodations exempted by this paragraph shall be subject to this
48 law to the extent provided in subdivision b of this section; or (2) were
49 decontrolled by the city rent agency pursuant to section 26-414 of this
50 title; or (3) are exempt from control by virtue of item one, two, six or
51 seven of subparagraph (i) of paragraph two of subdivision e of section
52 26-403 of this title; OR (4) WERE COVERED BY A PROJECT BASED ASSISTANCE
53 CONTRACT PURSUANT TO SECTION EIGHT OF THE UNITED STATES HOUSING ACT OF
54 1937 WHICH CONTRACT IS NO LONGER IN EFFECT, NOTWITHSTANDING THE
55 PROVISIONS OF SUBPARAGRAPH (D) OR (G) OF PARAGRAPH ONE OF THIS SUBDIVI-
56 SION OR PARAGRAPH FIVE OF SUBDIVISION A OF SECTION FIVE OF THE EMERGENCY

1 TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR PROVIDED HOWEVER, THAT
2 ANY DWELLING UNIT WHICH BECOMES SUBJECT TO THIS LAW PURSUANT TO THIS
3 PARAGRAPH SHALL NOT BE SUBJECT TO THE PROVISIONS OF SUBDIVISION A OF
4 SECTION 26-513 OF THIS CHAPTER; and

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

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

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

30

PART D

31 Section 1. Subdivision 5 of section 1 of chapter 21 of the laws of
32 1962, constituting the local emergency housing rent control act, as
33 amended by chapter 82 of the laws of 2003 and the closing paragraph as
34 amended by chapter 422 of the laws of 2010, is amended to read as
35 follows:

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

53 Notwithstanding any local law or ordinance, housing accommodations
54 which became vacant on or after July first, nineteen hundred seventy-one

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

28 The term "immediate family" shall include a husband, wife, son, daugh-
29 ter, stepson, stepdaughter, father, mother, father-in-law or mother-in-
30 law.

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

43 Notwithstanding any other provision of law, on and after the effective
44 date of this paragraph, a city having a population of one million or
45 more shall not, either through its local legislative body or otherwise,
46 adopt or amend local laws or ordinances with respect to the regulation
47 and control of residential rents and eviction, including but not limited
48 to provision for the establishment and adjustment of rents, the classi-
49 fication of housing accommodations, the regulation of evictions, and the
50 enforcement of such local laws or ordinances, or otherwise adopt laws or
51 ordinances pursuant to the provisions of this act, the emergency tenant
52 protection act of nineteen seventy-four, the New York city rent and
53 rehabilitation law or the New York city rent stabilization law, except
54 to the extent that such city for the purpose of reviewing the continued
55 need for the existing regulation and control of residential rents or to
56 remove a classification of housing accommodation from such regulation

1 and control adopts or amends local laws or ordinances pursuant to subdi-
2 vision three of section one of this act, section three of the emergency
3 tenant protection act of nineteen seventy-four, section 26-415 of the
4 New York city rent and rehabilitation law, and sections 26-502 and
5 26-520 of the New York city rent stabilization law of nineteen hundred
6 sixty-nine.]

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

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

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

50

PART E

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

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

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

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

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

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

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

33 S 10. This act shall take effect immediately; provided, that the
34 provisions of sections one, two and nine of this act shall remain in
35 full force and effect only until and including June 15, [2011] 2016;
36 provided further that the provisions of section three of this act shall
37 remain in full force and effect only so long as the public emergency
38 requiring the regulation and control of residential rents and evictions
39 continues as provided in subdivision 3 of section 1 of the local emer-
40 gency housing rent control act; provided further that the provisions of
41 sections four, five, six and seven of this act shall expire in accord-
42 ance with the provisions of section 26-520 of the administrative code of
43 the city of New York as such section of the administrative code is, from
44 time to time, amended; provided further that the provisions of section
45 26-511 of the administrative code of the city of New York, as amended by
46 this act, which the New York City Department of Housing Preservation and
47 Development must find are contained in the code of the real estate
48 industry stabilization association of such city in order to approve it,
49 shall be deemed contained therein as of the effective date of this act;
50 and provided further that any plan accepted for filing by the department
51 of law on or before the effective date of this act shall continue to be
52 governed by the provisions of section 352-eeee of the general business
53 law as they had existed immediately prior to the effective date of this
54 act.

55 S 5. Section 4 of chapter 402 of the laws of 1983 amending the general
56 business law relating to conversion of rental residential property to

1 cooperative or condominium ownership in certain municipalities in the
2 counties of Nassau, Westchester and Rockland, as amended by chapter 82
3 of the laws of 2003, is amended to read as follows:

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

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

15 6. sections twenty-eight, twenty-eight-a, twenty-eight-b and twenty-
16 eight-c of this act shall expire and be deemed repealed after June 15,
17 [2011] 2016;

18 S 7. This act shall take effect immediately.

19

PART F

20 Section 1. Subparagraph (e) of paragraph 1 of subdivision g of section
21 26-405 of the administrative code of the city of New York, as amended by
22 chapter 253 of the laws of 1993, is amended to read as follows:

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

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

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

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

53 (B) AN owner who is entitled to a rent increase pursuant to this para-
54 graph shall not be entitled to a further rent increase based upon the

1 installation of similar equipment, or new furniture or furnishings with-
2 in the useful life of such new equipment, or new furniture or
3 furnishings.

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

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

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

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

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

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

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

50 S 4. Paragraph 1 of subdivision d of section 6 of section 4 of chapter
51 576 of the laws of 1974, constituting the emergency tenant protection
52 act of nineteen seventy-four, as added by chapter 253 of the laws of
53 1993, is amended to read as follows:

54 (1) there has been a substantial modification or increase of dwelling
55 space or an increase in the services, or installation of new equipment
56 or improvements or new furniture or furnishings, provided in or to a

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

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

53 (5) the landlord and tenant by mutual voluntary written agreement
54 agree to a substantial increase or decrease in dwelling space or a
55 change in the services, furniture, furnishings or equipment provided in
56 the housing accommodations; provided that an owner shall be entitled to

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

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

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

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

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

32 (d) the amendments to section 4 of the emergency housing rent control
33 law made by section five 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; and

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

40

PART G

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

49 The legislature further recognizes that severe disruption of the
50 rental housing market has occurred and threatens to be exacerbated as a
51 result of the present state of the law in relation to the deregulation
52 of housing accommodations upon vacancy. The situation has permitted
53 speculative and profiteering practices and has brought about the loss of

1 vital and irreplaceable affordable housing for working persons and fami-
2 lies.

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

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

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

17 S 4. Subparagraph (k) of paragraph 2 of subdivision e of section
18 26-403 of the administrative code of the city of New York is REPEALED.

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

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

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

54 S 8. This act shall take effect immediately.

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

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

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

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

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

50

PART I

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

1 (6-a) provides criteria whereby as an alternative to the hardship
2 application provided under paragraph six of this subdivision owners of
3 buildings acquired by the same owner or a related entity owned by the
4 same principals [three] SIX years prior to the date of application may
5 apply to the division for increases in excess of the level of applicable
6 guideline increases established under this law based on a finding by the
7 commissioner that such guideline increases are not sufficient to enable
8 the owner to maintain an annual gross rent income for such building
9 which exceeds the annual operating expenses of such building by a sum
10 equal to at least five percent of such gross rent. For the purposes of
11 this paragraph, operating expenses shall consist of the actual, reason-
12 able, costs of fuel, labor, utilities, taxes, other than income or
13 corporate franchise taxes, fees, permits, necessary contracted services
14 and non-capital repairs, insurance, parts and supplies, management fees
15 and other administrative costs and mortgage interest. For the purposes
16 of this paragraph, mortgage interest shall be deemed to mean interest on
17 a bona fide mortgage including an allocable portion of charges related
18 thereto. Criteria to be considered in determining a bona fide mortgage
19 other than an institutional mortgage shall include; condition of the
20 property, location of the property, the existing mortgage market at the
21 time the mortgage is placed, the term of the mortgage, the amortization
22 rate, the principal amount of the mortgage, security and other terms and
23 conditions of the mortgage. The commissioner shall set a rental value
24 for any unit occupied by the owner or a person related to the owner or
25 unoccupied at the owner's choice for more than one month at the last
26 regulated rent plus the minimum number of guidelines increases or, if no
27 such regulated rent existed or is known, the commissioner shall impute a
28 rent consistent with other rents in the building. The amount of hardship
29 increase shall be such as may be required to maintain the annual gross
30 rent income as provided by this paragraph. The division shall not grant
31 a hardship application under this paragraph or paragraph six of this
32 subdivision for a period of three years subsequent to granting a hard-
33 ship application under the provisions of this paragraph. The collection
34 of any increase in the rent for any housing accommodation pursuant to
35 this paragraph shall not exceed six percent in any year from the effec-
36 tive date of the order granting the increase over the rent set forth in
37 the schedule of gross rents, with collectability of any dollar excess
38 above said sum to be spread forward in similar increments and added to
39 the rent as established or set in future years. No application shall be
40 approved unless the owner's equity in such building exceeds five percent
41 of: (i) the arms length purchase price of the property; (ii) the cost of
42 any capital improvements for which the owner has not collected a
43 surcharge; (iii) any repayment of principal of any mortgage or loan used
44 to finance the purchase of the property or any capital improvements for
45 which the owner has not collected a surcharge and (iv) any increase in
46 the equalized assessed value of the property which occurred subsequent
47 to the first valuation of the property after purchase by the owner. For
48 the purposes of this paragraph, owner's equity shall mean the sum of (i)
49 the purchase price of the property less the principal of any mortgage or
50 loan used to finance the purchase of the property, (ii) the cost of any
51 capital improvement for which the owner has not collected a surcharge
52 less the principal of any mortgage or loan used to finance said improve-
53 ment, (iii) any repayment of the principal of any mortgage or loan used
54 to finance the purchase of the property or any capital improvement for
55 which the owner has not collected a surcharge, and (iv) any increase in

1 the equalized assessed value of the property which occurred subsequent
2 to the first valuation of the property after purchase by the owner.

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

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

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

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

18

PART J

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

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

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

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

(k) The landlord has incurred, since January first, nineteen hundred seventy, in connection with and in addition to a concurrent major capital improvement pursuant to subparagraph (g) of this paragraph, other expenditures to improve, restore or preserve the quality of the struc-

1 ture. An adjustment under this subparagraph shall be granted only if
2 such improvements represent an expenditure equal to at least ten per
3 centum of the total operating and maintenance expenses for the preceding
4 year. An adjustment under this subparagraph shall be in addition to any
5 adjustment granted for the concurrent major capital improvement and
6 shall be [in an amount sufficient to amortize the cost of the improve-
7 ments pursuant to this subparagraph over a seven-year period] IMPLE-
8 MENTED IN THE SAME MANNER AS SUCH MAJOR CAPITAL IMPROVEMENT AS A FURTHER
9 SURCHARGE TO THE MAXIMUM RENT.

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

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

1 any dollar excess above said sum to be spread forward in similar incre-
2 ments and added to the stabilized rent as established or set in future
3 years;

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

7 (6-B) PROVIDES CRITERIA WHEREBY THE COMMISSIONER MAY ACT UPON APPLICA-
8 TION BY OWNERS FOR INCREASES IN EXCESS OF THE LEVEL OF FAIR RENT
9 INCREASE ESTABLISHED UNDER THIS LAW PROVIDED, HOWEVER, THAT SUCH CRITE-
10 RIA SHALL PROVIDE AS TO COMPLETED BUILDING-WIDE MAJOR CAPITAL IMPROVE-
11 MENTS, FOR A FINDING THAT SUCH IMPROVEMENTS ARE DEEMED DEPRECIABLE UNDER
12 THE INTERNAL REVENUE CODE AND SUCH IMPROVEMENTS ARE REQUIRED FOR THE
13 OPERATION, PRESERVATION OR MAINTENANCE OF THE STRUCTURE. THE INCREASE
14 PERMITTED FOR SUCH CAPITAL IMPROVEMENT SHALL BE COLLECTED AS A MONTHLY
15 SURCHARGE TO THE LEGAL REGULATED RENT. IT SHALL BE SEPARATELY DESIGNATED
16 AND BILLED AS SUCH AND SHALL NOT BE COMPOUNDED BY ANY ANNUAL ADJUSTMENT
17 OF THE LEVEL OF FAIR RENT PROVIDED FOR UNDER SUBDIVISION B OF SECTION
18 26-510 OF THIS LAW. THE SURCHARGE ALLOCABLE TO EACH APARTMENT SHALL BE
19 AN AMOUNT EQUAL TO THE COST OF THE IMPROVEMENT DIVIDED BY EIGHTY-FOUR,
20 DIVIDED BY THE NUMBER OF ROOMS IN THE BUILDING, AND THEN MULTIPLIED BY
21 THE NUMBER OF ROOMS IN SUCH APARTMENT; PROVIDED THAT THE SURCHARGE ALLO-
22 CABLE TO ANY APARTMENT, IN ANY ONE YEAR MAY NOT EXCEED AN AMOUNT EQUAL
23 TO SIX PERCENT OF THE MONTHLY RENT COLLECTED BY THE OWNER FOR SUCH
24 APARTMENT AS SET FORTH IN THE SCHEDULE OF GROSS RENTS. ANY EXCESS ABOVE
25 SAID SIX PERCENT SHALL BE CARRIED FORWARD AND COLLECTED IN FUTURE YEARS
26 AS A FURTHER SURCHARGE NOT TO EXCEED AN ADDITIONAL SIX PERCENT IN ANY
27 ONE YEAR PERIOD UNTIL THE TOTAL SURCHARGE EQUALS THE AMOUNT IT WOULD
28 HAVE BEEN IF THE AFOREMENTIONED SIX PERCENT LIMITATION DID NOT APPLY.

29 (6-C) COLLECTION OF SURCHARGES IN EXCESS OF THE LEVEL OF FAIR RENT
30 AUTHORIZED PURSUANT TO PARAGRAPH SIX-B OF THIS SUBDIVISION SHALL CEASE
31 WHEN THE OWNER HAS RECOVERED THE COST OF THE MAJOR CAPITAL IMPROVEMENT.

32 S 5. Paragraph 3 of subdivision d of section 6 of section 4 of chapter
33 576 of the laws of 1974, constituting the emergency tenant protection
34 act of nineteen seventy-four, as amended by chapter 749 of the laws of
35 1990, is amended to read as follows:

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

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

1 MONTHLY RENT COLLECTED BY THE OWNER FOR SUCH APARTMENT AS SET FORTH IN
2 THE SCHEDULE OF GROSS RENTS. ANY EXCESS ABOVE SAID SIX PERCENT SHALL BE
3 CARRIED FORWARD AND COLLECTED IN FUTURE YEARS AS A FURTHER SURCHARGE NOT
4 TO EXCEED AN ADDITIONAL SIX PERCENT IN ANY ONE YEAR PERIOD UNTIL THE
5 TOTAL SURCHARGE EQUALS THE AMOUNT IT WOULD HAVE BEEN IF THE AFOREMEN-
6 TIONED SIX PERCENT LIMITATION DID NOT APPLY, or

7 S 6. The second undesignated paragraph of paragraph (a) of subdivision
8 4 of section 4 of chapter 274 of the laws of 1946, constituting the
9 emergency housing rent control law, as amended by chapter 21 of the laws
10 of 1962, clause 5 as amended by chapter 253 of the laws of 1993, is
11 amended to read as follows:

12 No application for adjustment of maximum rent based upon a sales price
13 valuation shall be filed by the landlord under this subparagraph prior
14 to six months from the date of such sale of the property. In addition,
15 no adjustment ordered by the commission based upon such sales price
16 valuation shall be effective prior to one year from the date of such
17 sale. Where, however, the assessed valuation of the land exceeds four
18 times the assessed valuation of the buildings thereon, the commission
19 may determine a valuation of the property equal to five times the equal-
20 ized assessed valuation of the buildings, for the purposes of this
21 subparagraph. The commission may make a determination that the valu-
22 ation of the property is an amount different from such equalized
23 assessed valuation where there is a request for a reduction in such
24 assessed valuation currently pending; or where there has been a
25 reduction in the assessed valuation for the year next preceding the
26 effective date of the current assessed valuation in effect at the time
27 of the filing of the application. Net annual return shall be the amount
28 by which the earned income exceeds the operating expenses of the proper-
29 ty, excluding mortgage interest and amortization, and excluding allow-
30 ances for obsolescence and reserves, but including an allowance for
31 depreciation of two per centum of the value of the buildings exclusive
32 of the land, or the amount shown for depreciation of the buildings in
33 the latest required federal income tax return, whichever is lower;
34 provided, however, that (1) no allowance for depreciation of the build-
35 ings shall be included where the buildings have been fully depreciated
36 for federal income tax purposes or on the books of the owner; or (2) the
37 landlord who owns no more than four rental units within the state has
38 not been fully compensated by increases in rental income sufficient to
39 offset unavoidable increases in property taxes, fuel, utilities, insur-
40 ance and repairs and maintenance, excluding mortgage interest and amor-
41 tization, and excluding allowances for depreciation, obsolescence and
42 reserves, which have occurred since the federal date determining the
43 maximum rent or the date the property was acquired by the present owner,
44 whichever is later; or (3) the landlord operates a hotel or rooming
45 house or owns a cooperative apartment and has not been fully compensated
46 by increases in rental income from the controlled housing accommodations
47 sufficient to offset unavoidable increases in property taxes and other
48 costs as are allocable to such controlled housing accommodations,
49 including costs of operation of such hotel or rooming house, but exclud-
50 ing mortgage interest and amortization, and excluding allowances for
51 depreciation, obsolescence and reserves, which have occurred since the
52 federal date determining the maximum rent or the date the landlord
53 commenced the operation of the property, whichever is later; or (4) the
54 landlord and tenant voluntarily enter into a valid written lease in good
55 faith with respect to any housing accommodation, which lease provides
56 for an increase in the maximum rent not in excess of fifteen per centum

1 and for a term of not less than two years, except that where such lease
2 provides for an increase in excess of fifteen per centum, the increase
3 shall be automatically reduced to fifteen per centum; or (5) the land-
4 lord and tenant by mutual voluntary written agreement agree to a
5 substantial increase or decrease in dwelling space or a change in the
6 services, furniture, furnishings or equipment provided in the housing
7 accommodations; provided that an owner shall be entitled to a rent
8 increase where there has been a substantial modification or increase of
9 dwelling space or an increase in the services, or installation of new
10 equipment or improvements or new furniture or furnishings provided in or
11 to a tenant's housing accommodation. The permanent increase in the maxi-
12 mum rent for the affected housing accommodation shall be one-fortieth of
13 the total cost incurred by the landlord in providing such modification
14 or increase in dwelling space, services, furniture, furnishings or
15 equipment, including the cost of installation, but excluding finance
16 charges provided further that an owner who is entitled to a rent
17 increase pursuant to this clause shall not be entitled to a further rent
18 increase based upon the installation of similar equipment, or new furni-
19 ture or furnishings within the useful life of such new equipment, or new
20 furniture or furnishings. The owner shall give written notice to the
21 commission of any such adjustment pursuant to this clause; or (6) there
22 has been, since March first, nineteen hundred fifty, an increase in the
23 rental value of the housing accommodations as a result of a substantial
24 rehabilitation of the building or housing accommodation therein which
25 materially adds to the value of the property or appreciably prolongs its
26 life, excluding ordinary repairs, maintenance and replacements; or (7)
27 (I) COLLECTION OF SURCHARGES TO THE MAXIMUM RENT AUTHORIZED PURSUANT TO
28 ITEM (II) OF THIS CLAUSE SHALL CEASE WHEN THE OWNER HAS RECOVERED THE
29 COST OF THE MAJOR CAPITAL IMPROVEMENT; (II) there has been since March
30 first, nineteen hundred fifty, a major capital improvement [required for
31 the operation, preservation or maintenance of the structure]; PROVIDED
32 THAT THE COMMISSIONER FINDS THAT SUCH IMPROVEMENTS ARE DEEMED DEPRECIA-
33 BLE UNDER THE INTERNAL REVENUE CODE AND SUCH IMPROVEMENTS ARE REQUIRED
34 FOR THE OPERATION, PRESERVATION OR MAINTENANCE OF THE STRUCTURE. THE
35 INCREASE PERMITTED FOR SUCH CAPITAL IMPROVEMENT SHALL BE COLLECTED AS A
36 MONTHLY SURCHARGE TO THE MAXIMUM RENT. IT SHALL BE SEPARATELY DESIGNATED
37 AND BILLED AS SUCH AND SHALL NOT BE COMPOUNDED BY ANY OTHER ADJUSTMENT
38 TO THE MAXIMUM RENT. THE SURCHARGE ALLOCABLE TO EACH APARTMENT SHALL BE
39 AN AMOUNT EQUAL TO THE COST OF THE IMPROVEMENT DIVIDED BY EIGHTY-FOUR,
40 DIVIDED BY THE NUMBER OF ROOMS IN THE BUILDING, AND THEN MULTIPLIED BY
41 THE NUMBER OF ROOMS IN SUCH APARTMENT; PROVIDED THAT THE SURCHARGE ALLO-
42 CABLE TO ANY APARTMENT IN ANY ONE YEAR MAY NOT EXCEED AN AMOUNT EQUAL TO
43 SIX PERCENT OF THE MONTHLY RENT COLLECTED BY THE OWNER FOR SUCH APART-
44 MENT AS SET FORTH IN THE SCHEDULE OF GROSS RENTS. ANY EXCESS ABOVE SAID
45 SIX PERCENT SHALL BE CARRIED FORWARD AND COLLECTED IN FUTURE YEARS AS A
46 FURTHER SURCHARGE NOT TO EXCEED AN ADDITIONAL SIX PERCENT IN ANY ONE
47 YEAR PERIOD UNTIL THE TOTAL SURCHARGE EQUALS THE AMOUNT IT WOULD HAVE
48 BEEN IF THE AFOREMENTIONED SIX PERCENT LIMITATION DID NOT APPLY; or (8)
49 there has been since March first, nineteen hundred fifty, in structures
50 containing more than four housing accommodations, other improvements
51 made with the express consent of the tenants in occupancy of at least
52 seventy-five per centum of the housing accommodations, provided, howev-
53 er, that no adjustment granted hereunder shall exceed fifteen per centum
54 unless the tenants have agreed to a higher percentage of increase, as
55 herein provided; or (9) there has been, since March first, nineteen
56 hundred fifty, a subletting without written consent from the landlord or

1 an increase in the number of adult occupants who are not members of the
2 immediate family of the tenant, and the landlord has not been compen-
3 sated therefor by adjustment of the maximum rent by lease or order of
4 the commission or pursuant to the federal act; or (10) the presence of
5 unique or peculiar circumstances materially affecting the maximum rent
6 has resulted in a maximum rent which is substantially lower than the
7 rents generally prevailing in the same area for substantially similar
8 housing accommodations.

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

30

PART K

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

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

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

50 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
51 sion, section or part of this act shall be adjudged by any court of
52 competent jurisdiction to be invalid, such judgment shall not affect,
53 impair, or invalidate the remainder thereof, but shall be confined in
54 its operation to the clause, sentence, paragraph, subdivision, section

1 or part thereof directly involved in the controversy in which such judg-
2 ment shall have been rendered. It is hereby declared to be the intent
3 of the legislature that this act would have been enacted even if such
4 invalid provisions had not been included herein.
5 S 3. This act shall take effect immediately provided, however, that
6 the applicable effective date of Parts A through K of this act shall be
7 as specifically set forth in the last section of such Parts.