

2783--A

2011-2012 Regular Sessions

I N S E N A T E

February 1, 2011

Introduced by Sens. ESPAILLAT, KRUEGER, SQUADRON -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

LBD08273-04-1

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

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

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

12 PART A

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

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

1 substance, which are demonstrable by medically acceptable clinical and
2 laboratory diagnostic techniques, and which are expected to be permanent
3 and which prevent the tenant from engaging in any substantial gainful
4 employment; or

5 S 2. Subparagraph (b) of paragraph 9 of subdivision c of section
6 26-511 of the administrative code of the city of New York is amended to
7 read as follows:

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

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

44 a. For cities having a population of less than one million and towns
45 and villages, the state division of housing and community renewal shall
46 be empowered to implement this act by appropriate regulations. Such
47 regulations may encompass such speculative or manipulative practices or
48 renting or leasing practices as the state division of housing and commu-
49 nity renewal determines constitute or are likely to cause circumvention
50 of this act. Such regulations shall prohibit practices which are likely
51 to prevent any person from asserting any right or remedy granted by this
52 act, including but not limited to retaliatory termination of periodic
53 tenancies and shall require owners to grant a new one or two year vacan-
54 cy or renewal lease at the option of the tenant, except where a mortgage
55 or mortgage commitment existing as of the local effective date of this
56 act provides that the owner shall not grant a one-year lease; and shall

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

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

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

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

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

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

1 c. the amendments to subdivision a of section 10 of section 4 of the
2 emergency tenant protection act of nineteen seventy-four made by section
3 three of this act shall expire on the same date as such act expires and
4 shall not affect the expiration of such act as provided in section 17 of
5 chapter 576 of the laws of 1974; and
6 d. the amendments to paragraph (a) of subdivision 2 of section 5 of
7 the emergency housing rent control law made by section four of this act
8 shall expire on the same date as such law expires and shall not affect
9 the expiration of such law as provided in subdivision 2 of section 1 of
10 chapter 274 of the laws of 1946.

11 PART B

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

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

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

5 (a-1) provides that, notwithstanding any provision of this act, the
6 legal regulated rent for any vacancy lease entered into after the effec-
7 tive date of this subdivision shall be as hereinafter set forth. The
8 previous legal regulated rent for such housing accommodation shall be
9 increased by the following: (i) if the vacancy lease is for a term of
10 two years, [twenty] TEN percent of the previous legal regulated rent; or
11 (ii) if the vacancy lease is for a term of one year the increase shall
12 be [twenty] TEN percent of the previous legal regulated rent less an
13 amount equal to the difference between (a) the two year renewal lease
14 guideline promulgated by the guidelines board of the county in which the
15 housing accommodation is located applied to the previous legal regulated
16 rent and (b) the one year renewal lease guideline promulgated by the
17 guidelines board of the county in which the housing accommodation is
18 located applied to the previous legal regulated rent. In addition, if
19 the legal regulated rent was not increased with respect to such housing
20 accommodation by a permanent vacancy allowance within eight years prior
21 to a vacancy lease executed on or after the effective date of this
22 subdivision, the legal regulated rent may be further increased by an
23 amount equal to the product resulting from multiplying such previous
24 legal regulated rent by six-tenths of one percent and further multiply-
25 ing the amount of rent increase resulting therefrom by the greater of
26 (A) the number of years since the imposition of the last permanent
27 vacancy allowance, or (B) if the rent was not increased by a permanent
28 vacancy allowance since the housing accommodation became subject to this
29 act, the number of years that such housing accommodation has been
30 subject to this act. Provided that if the previous legal regulated rent
31 was less than three hundred dollars the total increase shall be as
32 calculated above plus one hundred dollars per month. Provided, further,
33 that if the previous legal regulated rent was at least three hundred
34 dollars and no more than five hundred dollars in no event shall the
35 total increase pursuant to this subdivision be less than one hundred
36 dollars per month. Such increase shall be in lieu of any allowance
37 authorized for the one or two year renewal component thereof, but shall
38 be in addition to any other increases authorized pursuant to this act
39 including an adjustment based upon a major capital improvement, or a
40 substantial modification or increase of dwelling space or services, or
41 installation of new equipment or improvements or new furniture or
42 furnishings provided in or to the housing accommodation pursuant to
43 section six of this act. THE INCREASE AUTHORIZED IN THIS SUBDIVISION
44 MAY NOT BE IMPLEMENTED MORE THAN ONE TIME IN ANY CALENDAR YEAR NOTWITH-
45 STANDING THE NUMBER OF VACANCY LEASES ENTERED INTO IN SUCH YEAR.

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

1

PART C

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

PROVISIONS OF SUBPARAGRAPH (D) OR (G) OF PARAGRAPH ONE OF THIS SUBDIVISION OR PARAGRAPH FIVE OF SUBDIVISION A OF SECTION FIVE OF THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR PROVIDED HOWEVER, THAT ANY DWELLING UNIT WHICH BECOMES SUBJECT TO THIS LAW PURSUANT TO THIS PARAGRAPH SHALL NOT BE SUBJECT TO THE PROVISIONS OF SUBDIVISION A OF SECTION 26-513 OF THIS CHAPTER; and

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

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

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

PART D

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

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

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

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

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

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

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

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

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

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

52

PART E

53 Section 1. Section 17 of chapter 576 of the laws of 1974 amending the
54 emergency housing rent control law relating to the control of and

1 stabilization of rent in certain cases, as amended by chapter 82 of the
2 laws of 2003, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

17 6. sections twenty-eight, twenty-eight-a, twenty-eight-b and twenty-
18 eight-c of this act shall expire and be deemed repealed after June 15,
19 [2011] 2016;

20 S 7. This act shall take effect immediately.

21 PART F

22 Section 1. Subparagraph (e) of paragraph 1 of subdivision g of section
23 26-405 of the administrative code of the city of New York, as amended by
24 chapter 253 of the laws of 1993, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

52 S 4. Paragraph 1 of subdivision d of section 6 of section 4 of chapter
53 576 of the laws of 1974, constituting the emergency tenant protection
54 act of nineteen seventy-four, as added by chapter 253 of the laws of
55 1993, is amended to read as follows:

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

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

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

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

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

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

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

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

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

44

PART G

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

53 The legislature further recognizes that severe disruption of the
54 rental housing market has occurred and threatens to be exacerbated as a

1 result of the present state of the law in relation to the deregulation
2 of housing accommodations upon vacancy. The situation has permitted
3 speculative and profiteering practices and has brought about the loss of
4 vital and irreplaceable affordable housing for working persons and fami-
5 lies.

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

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

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

20 S 4. Subparagraph (k) of paragraph 2 of subdivision e of section
21 26-403 of the administrative code of the city of New York is REPEALED.

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

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

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

S 8. This act shall take effect immediately.

PART H

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

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

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

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

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

PART I

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

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

1 to finance the purchase of the property or any capital improvement for
2 which the owner has not collected a surcharge, and (iv) any increase in
3 the equalized assessed value of the property which occurred subsequent
4 to the first valuation of the property after purchase by the owner.

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

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

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

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

20

PART J

21 Section 1. Subparagraph (g) of paragraph 1 of subdivision g of section
22 26-405 of the administrative code of the city of New York, as amended by
23 chapter 749 of the laws of 1990, is amended to read as follows:

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

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

50 S 2. Subparagraph (k) of paragraph 1 of subdivision g of section
51 26-405 of the administrative code of the city of New York, as amended by
52 chapter 749 of the laws of 1990, is amended to read as follows:

53 (k) The landlord has incurred, since January first, nineteen hundred
54 seventy, in connection with and in addition to a concurrent major capi-

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

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

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

1 year from the effective date of the order granting the increase over the
2 rent set forth in the schedule of gross rents, with collectability of
3 any dollar excess above said sum to be spread forward in similar incre-
4 ments and added to the stabilized rent as established or set in future
5 years;

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

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

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

34 S 5. Paragraph 3 of subdivision d of section 6 of section 4 of chapter
35 576 of the laws of 1974, constituting the emergency tenant protection
36 act of nineteen seventy-four, as amended by chapter 749 of the laws of
37 1990, is amended to read as follows:

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

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

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

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

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

1 faith with respect to any housing accommodation, which lease provides
2 for an increase in the maximum rent not in excess of fifteen per centum
3 and for a term of not less than two years, except that where such lease
4 provides for an increase in excess of fifteen per centum, the increase
5 shall be automatically reduced to fifteen per centum; or (5) the land-
6 lord and tenant by mutual voluntary written agreement agree to a
7 substantial increase or decrease in dwelling space or a change in the
8 services, furniture, furnishings or equipment provided in the housing
9 accommodations; provided that an owner shall be entitled to a rent
10 increase where there has been a substantial modification or increase of
11 dwelling space or an increase in the services, or installation of new
12 equipment or improvements or new furniture or furnishings provided in or
13 to a tenant's housing accommodation. The permanent increase in the maxi-
14 mum rent for the affected housing accommodation shall be one-fortieth of
15 the total cost incurred by the landlord in providing such modification
16 or increase in dwelling space, services, furniture, furnishings or
17 equipment, including the cost of installation, but excluding finance
18 charges provided further that an owner who is entitled to a rent
19 increase pursuant to this clause shall not be entitled to a further rent
20 increase based upon the installation of similar equipment, or new furni-
21 ture or furnishings within the useful life of such new equipment, or new
22 furniture or furnishings. The owner shall give written notice to the
23 commission of any such adjustment pursuant to this clause; or (6) there
24 has been, since March first, nineteen hundred fifty, an increase in the
25 rental value of the housing accommodations as a result of a substantial
26 rehabilitation of the building or housing accommodation therein which
27 materially adds to the value of the property or appreciably prolongs its
28 life, excluding ordinary repairs, maintenance and replacements; or (7)
29 (I) COLLECTION OF SURCHARGES TO THE MAXIMUM RENT AUTHORIZED PURSUANT TO
30 ITEM (II) OF THIS CLAUSE SHALL CEASE WHEN THE OWNER HAS RECOVERED THE
31 COST OF THE MAJOR CAPITAL IMPROVEMENT; (II) there has been since March
32 first, nineteen hundred fifty, a major capital improvement [required for
33 the operation, preservation or maintenance of the structure]; PROVIDED
34 THAT THE COMMISSIONER FINDS THAT SUCH IMPROVEMENTS ARE DEEMED DEPRECIA-
35 BLE UNDER THE INTERNAL REVENUE CODE AND SUCH IMPROVEMENTS ARE REQUIRED
36 FOR THE OPERATION, PRESERVATION OR MAINTENANCE OF THE STRUCTURE. THE
37 INCREASE PERMITTED FOR SUCH CAPITAL IMPROVEMENT SHALL BE COLLECTED AS A
38 MONTHLY SURCHARGE TO THE MAXIMUM RENT. IT SHALL BE SEPARATELY DESIGNATED
39 AND BILLED AS SUCH AND SHALL NOT BE COMPOUNDED BY ANY OTHER ADJUSTMENT
40 TO THE MAXIMUM RENT. THE SURCHARGE ALLOCABLE TO EACH APARTMENT SHALL BE
41 AN AMOUNT EQUAL TO THE COST OF THE IMPROVEMENT DIVIDED BY EIGHTY-FOUR,
42 DIVIDED BY THE NUMBER OF ROOMS IN THE BUILDING, AND THEN MULTIPLIED BY
43 THE NUMBER OF ROOMS IN SUCH APARTMENT; PROVIDED THAT THE SURCHARGE ALLO-
44 CABLE TO ANY APARTMENT IN ANY ONE YEAR MAY NOT EXCEED AN AMOUNT EQUAL TO
45 SIX PERCENT OF THE MONTHLY RENT COLLECTED BY THE OWNER FOR SUCH APART-
46 MENT AS SET FORTH IN THE SCHEDULE OF GROSS RENTS. ANY EXCESS ABOVE SAID
47 SIX PERCENT SHALL BE CARRIED FORWARD AND COLLECTED IN FUTURE YEARS AS A
48 FURTHER SURCHARGE NOT TO EXCEED AN ADDITIONAL SIX PERCENT IN ANY ONE
49 YEAR PERIOD UNTIL THE TOTAL SURCHARGE EQUALS THE AMOUNT IT WOULD HAVE
50 BEEN IF THE AFOREMENTIONED SIX PERCENT LIMITATION DID NOT APPLY; or (8)
51 there has been since March first, nineteen hundred fifty, in structures
52 containing more than four housing accommodations, other improvements
53 made with the express consent of the tenants in occupancy of at least
54 seventy-five per centum of the housing accommodations, provided, howev-
55 er, that no adjustment granted hereunder shall exceed fifteen per centum
56 unless the tenants have agreed to a higher percentage of increase, as

1 herein provided; or (9) there has been, since March first, nineteen
2 hundred fifty, a subletting without written consent from the landlord or
3 an increase in the number of adult occupants who are not members of the
4 immediate family of the tenant, and the landlord has not been compen-
5 sated therefor by adjustment of the maximum rent by lease or order of
6 the commission or pursuant to the federal act; or (10) the presence of
7 unique or peculiar circumstances materially affecting the maximum rent
8 has resulted in a maximum rent which is substantially lower than the
9 rents generally prevailing in the same area for substantially similar
10 housing accommodations.

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

32

PART K

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

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

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

52

PART L

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

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

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

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

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

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

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

36 (c) 1. In the event that the tenant or tenants either fail to return
37 the completed certification to the owner on or before the date required
38 by subdivision (b) of this section or the owner disputes the certif-
39 ication returned by the tenant or tenants, the owner may, on or before
40 June thirtieth of such year, petition the state division of housing and
41 community renewal to verify, pursuant to section one hundred seventy-
42 one-b of the tax law, whether the total annual income exceeds [one
43 hundred seventy-five thousand dollars] THE DEREGULATION INCOME THRESHOLD
44 in each of the two preceding calendar years. Within twenty days after
45 the filing of such request with the division, the division shall notify
46 the tenant or tenants that such tenant or tenants named on the lease
47 must provide the division with such information as the division and the
48 department of taxation and finance shall require to verify whether the
49 total annual income exceeds [one hundred seventy-five thousand dollars]
50 THE DEREGULATION INCOME THRESHOLD in each such year. The division's
51 notification shall require the tenant or tenants to provide the informa-
52 tion to the division within sixty days of service upon such tenant or
53 tenants and shall include a warning in bold faced type that failure to
54 respond will result in an order being issued by the division providing
55 that such housing accommodations shall not be subject to the provisions
56 of this act.

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

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

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

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

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

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

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

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

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

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

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

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

1 provisions of this law as of the first day of June in the year next
2 succeeding the filing of the certification by the owner. A copy of such
3 order shall be mailed by regular and certified mail, return receipt
4 requested, to the tenant or tenants and a copy thereof shall be mailed
5 to the owner.

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

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

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

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

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

55 (e) Upon receipt of such order of [decontrol] DEREGULATION pursuant to
56 this section, an owner shall offer the housing accommodation subject to

1 such order to the tenant at a rent not in excess of the market rent,
2 which for the purposes of this section means a rent obtainable in an
3 arm's length transaction. Such rental offer shall be made by the owner
4 in writing to the tenant by certified and regular mail and shall inform
5 the tenant that such offer must be accepted in writing within ten days
6 of receipt. The tenant shall respond within ten days after receipt of
7 such offer. If the tenant declines the offer or fails to respond within
8 such period, the owner may commence an action or proceeding for the
9 eviction of such tenant.

10 S 5. Subparagraph (j) of paragraph 2 of subdivision e of section
11 26-403 of the administrative code of the city of New York, as amended by
12 chapter 116 of the laws of 1997, is amended to read as follows:

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

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

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

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

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

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

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

1 in an order of [decontrol] DEREGULATION being issued by the division for
2 such housing accommodation.

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

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

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

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

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

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

46 S 26-504.1 Exclusion of accommodations of high income renters. Upon
47 the issuance of an order by the division, "housing accommodations" shall
48 not include housing accommodations which: (1) are occupied by persons
49 who have a total annual income, AS DEFINED IN AND SUBJECT TO THE LIMITA-
50 TIONS AND PROCESS SET FORTH IN SECTION 26-504.3 OF THIS CHAPTER, in
51 excess of [one hundred seventy-five thousand dollars per annum] THE
52 DEREGULATION INCOME THRESHOLD, AS DEFINED IN SECTION 26-504.3 OF THIS
53 CHAPTER, for each of the two preceding calendar years[, as defined in
54 and subject to the limitations and process set forth in section 26-504.3
55 of this chapter]; and (2) have a legal regulated MONTHLY rent [of two
56 thousand dollars or more per month] THAT EQUALS OR EXCEEDS THE DEREGU-

LATION RENT THRESHOLD, AS DEFINED IN SECTION 26-504.3 OF THIS CHAPTER. Provided, however, that this exclusion shall not apply to housing accommodations which became or become subject to this law (a) by virtue of receiving tax benefits pursuant to section four hundred twenty-one-a or four hundred eighty-nine of the real property tax law, except as otherwise provided in subparagraph (i) of paragraph (f) of subdivision two of section four hundred twenty-one-a of the real property tax law, or (b) by virtue of article seven-C of the multiple dwelling law.

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

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

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

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

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

1 which have a legal regulated MONTHLY rent [of two thousand dollars or
2 more per month], THAT EQUALS OR EXCEEDS THE DEREGULATION RENT THRESHOLD
3 are required to complete the certification form; (ii) that tenants have
4 protections available to them which are designed to prevent harassment;
5 (iii) that tenants are not required to provide any information regarding
6 their income except that which is requested on the form and may contain
7 such other information the division deems appropriate. The tenant or
8 tenants shall return the completed certification to the owner within
9 thirty days after service upon the tenant or tenants. In the event that
10 the total annual income as certified is in excess of [one hundred seven-
11 ty-five thousand dollars] THE DEREGULATION INCOME THRESHOLD in each such
12 year, the owner may file the certification with the state division of
13 housing and community renewal on or before June thirtieth of such year.
14 Upon filing such certification with the division, the division shall,
15 within thirty days after the filing, issue an order providing that such
16 housing accommodation shall not be subject to the provisions of this act
17 upon the expiration of the existing lease. A copy of such order shall be
18 mailed by regular and certified mail, return receipt requested, to the
19 tenant or tenants and a copy thereof shall be mailed to the owner.

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

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

54 3. In the event the tenant or tenants fail to provide the information
55 required pursuant to paragraph one of this subdivision, the division
56 shall issue, on or before December first of such year, an order provid-

ing that such housing accommodation shall not be subject to the provisions of this law upon the expiration of the current lease. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be sent to the owner.

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

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

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

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

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

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

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

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

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

(d) the amendments to sections 26-504.1 and 26-504.3 of chapter 4 of title 26 of the administrative code of the city of New York made by sections seven and eight of this act, respectively, shall expire on the

1 same date as such law expires and shall not affect the expiration of
2 such law as provided under section 26-520 of such law.

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

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