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

4117--A

2011-2012 Regular Sessions

I N S E N A T E

March 18, 2011

Introduced by Sen. YOUNG -- 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 real property tax law, in relation to rent regulated housing accommodations

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

Section 1. The opening paragraph of section 26-504.1 of the administrative code of the city of New York is designated subdivision a and a new subdivision b is added to read as follows:

B. NOTWITHSTANDING THE RULING OF THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 279, HOUSING ACCOMMODATIONS WHICH WERE SUBJECT TO THIS CHAPTER OR CHAPTER THREE OF THIS TITLE IMMEDIATELY PRIOR TO THE COMMENCEMENT OF THE RECEIPT OF TAX BENEFITS PURSUANT TO SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW OR WHICH ARE OR WOULD BE SUBJECT TO THIS CHAPTER PURSUANT TO SUCH RULING SHALL NOT BE DEEMED TO BE HOUSING ACCOMMODATIONS WHICH BECAME OR BECOME SUBJECT TO THIS CHAPTER BY VIRTUE OF RECEIVING TAX BENEFITS PURSUANT TO SUCH SECTION FOUR HUNDRED EIGHTY-NINE; PROVIDED, HOWEVER, THAT THE EXCLUSION SET FORTH IN THIS SUBDIVISION SHALL BE APPLICABLE TO SUCH HOUSING ACCOMMODATIONS SUBJECT TO SUCH RULING ONLY WHERE THE OWNER OF SUCH HOUSING ACCOMMODATIONS HAS MADE FULL PAYMENT TO THE CITY IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION SEVENTEEN OF SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW AND SUBDIVISION EE OF SECTION 11-243 OF THIS CODE. FOR HOUSING ACCOMMODATIONS IN BUILDINGS WHICH WERE, ARE OR BECOME THE SUBJECT OF CONVERSIONS PURSUANT TO SECTION THREE HUNDRED FIFTY-TWO-EEEE OF THE GENERAL BUSINESS LAW, SUCH HOUSING ACCOMMODATIONS SHALL NOT BE DEEMED TO BE HOUSING ACCOMMODATIONS WHICH BECAME OR BECOME SUBJECT TO THIS CHAPTER BY VIRTUE OF RECEIVING TAX

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

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BENEFITS PURSUANT TO SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW AND THE OWNER OR PROPRIETARY LESSEE OF SUCH HOUSING ACCOMMODATIONS SHALL NOT BE REQUIRED TO ACT IN ACCORDANCE WITH SUCH SECTIONS OF THE REAL PROPERTY TAX LAW AND THIS CODE TO QUALIFY AS HOUSING ACCOMMODATIONS NOT SUBJECT TO THIS CHAPTER BY VIRTUE OF RECEIVING SUCH TAX BENEFITS.

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

a. (1) "Housing accommodations" shall not include any housing accommodation which becomes vacant on or after April first, nineteen hundred ninety-seven and where at the time the tenant vacated such housing accommodation the legal regulated rent was two thousand dollars or more per month, or any housing accommodation which is or becomes vacant on or after the effective date of the rent regulation reform act of 1997 with a legal regulated rent of two thousand dollars or more per month. This exclusion shall apply regardless of whether the next tenant in occupancy or any subsequent tenant in occupancy actually is charged or pays less than two thousand dollars a month. 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.

(2) NOTWITHSTANDING THE RULING OF THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 279, HOUSING ACCOMMODATIONS WHICH WERE SUBJECT TO THIS CHAPTER OR CHAPTER THREE OF THIS TITLE IMMEDIATELY PRIOR TO THE COMMENCEMENT OF THE RECEIPT OF TAX BENEFITS PURSUANT TO SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW OR WHICH ARE OR WOULD BE SUBJECT TO THIS CHAPTER PURSUANT TO SUCH RULING SHALL NOT BE DEEMED TO BE HOUSING ACCOMMODATIONS WHICH BECAME OR BECOME SUBJECT TO THIS CHAPTER BY VIRTUE OF RECEIVING TAX BENEFITS PURSUANT TO SUCH SECTION FOUR HUNDRED EIGHTY-NINE; PROVIDED, HOWEVER, THAT THE EXCLUSION SET FORTH IN THIS PARAGRAPH SHALL BE APPLICABLE TO SUCH HOUSING ACCOMMODATIONS SUBJECT TO SUCH RULING ONLY WHERE THE OWNER OF SUCH HOUSING ACCOMMODATIONS HAS MADE FULL PAYMENT TO THE CITY IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION SEVENTEEN OF SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW AND SUBDIVISION EE OF SECTION 11-243 OF THIS CODE. FOR HOUSING ACCOMMODATIONS IN BUILDINGS WHICH WERE, ARE OR BECOME THE SUBJECT OF CONVERSIONS PURSUANT TO SECTION THREE HUNDRED FIFTY-TWO-EEEE OF THE GENERAL BUSINESS LAW, SUCH HOUSING ACCOMMODATIONS SHALL NOT BE DEEMED TO BE HOUSING ACCOMMODATIONS WHICH BECAME OR BECOME SUBJECT TO THIS CHAPTER BY VIRTUE OF RECEIVING TAX BENEFITS PURSUANT TO SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW AND THE OWNER OR PROPRIETARY LESSEE OF SUCH HOUSING ACCOMMODATIONS SHALL NOT BE REQUIRED TO ACT IN ACCORDANCE WITH SUCH SECTIONS OF THE REAL PROPERTY TAX LAW AND THIS CODE TO QUALIFY AS HOUSING ACCOMMODATIONS NOT SUBJECT TO THIS CHAPTER BY VIRTUE OF RECEIVING TAX BENEFITS.

(3) This section shall not apply, however, to or become effective with respect to housing accommodations which the commissioner determines or finds that the landlord or any person acting on his or her behalf, with intent to cause the tenant to vacate, engaged in any course of conduct (including, but not limited to, interruption or discontinuance of

required services) which interfered with or disturbed or was intended to interfere with or disturb the comfort, repose, peace or quiet of the tenant in his or her use or occupancy of the housing accommodations and in connection with such course of conduct, any other general enforcement provision of this law shall also apply.

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

S 26-504.4 ENFORCEMENT AND PROCEDURES FOR IMPLEMENTING THE DECISION OF THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D279. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR OR THE CIVIL PRACTICE LAW AND RULES TO THE CONTRARY, AND SUBJECT TO THE PROVISIONS OF SUBDIVISION C OF THIS SECTION, ANY HOUSING ACCOMMODATION THAT IS OR WOULD BE SUBJECT TO REGULATION UNDER THIS CHAPTER AS A RESULT OF THE DECISION OF THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D279, SHALL BE SUBJECT TO THE FOLLOWING:

(1) THE LEGAL RENT FOR A HOUSING ACCOMMODATION SUBJECT TO THIS SECTION SHALL BE (I) THE RENT CHARGED AND PAID FOR SUCH HOUSING ACCOMMODATION ON OCTOBER TWENTY-SECOND, TWO THOUSAND FIVE, OR PROVIDED FOR IN THE LEASE IN EFFECT ON SUCH DATE, PLUS ALL SUBSEQUENT ADJUSTMENTS AND INCREASES, INCLUDING BUT NOT LIMITED TO INCREASES ATTRIBUTABLE TO VACANCIES, MAJOR CAPITAL IMPROVEMENTS, INDIVIDUAL APARTMENT IMPROVEMENTS, RENT GUIDELINES BOARD ORDERS, SURCHARGES OR ANY OTHER INCREASES THAT WERE NOT PRECLUDED BY AN ORDER OF THE DIVISION OF HOUSING AND COMMUNITY RENEWAL AS TO OTHER REGULATED HOUSING ACCOMMODATIONS IN THE BUILDING AND THAT WOULD HAVE BEEN PERMITTED NOTWITHSTANDING THE ABSENCE OR OMISSION OF ANY FORM, RIDER, NOTICE, REGISTRATION, APPLICATION OR ANY OTHER DOCUMENT THAT WOULD HAVE BEEN REQUIRED OR OTHERWISE PROVIDED, OR

(II) THE LEGAL RENT AGREED TO BY THE TENANT PURSUANT TO PARAGRAPH FIVE OF THIS SUBDIVISION OR (III) SUCH OTHER AMOUNT AS AGREED TO BY THE OWNER AND TENANT IN A WRITING EXECUTED BY THE PARTIES AFTER RECEIPT BY THE TENANT OF THE NOTICE REQUIRED BY PARAGRAPH THREE OF THIS SUBDIVISION AND PAYMENT BY THE OWNER OF THE REFUND AMOUNT, IF ANY, PROVIDED IN SUCH AGREEMENT.

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

(3) WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SECTION, AN OWNER OF A HOUSING ACCOMMODATION SUBJECT TO THIS SECTION SHALL PROVIDE WRITTEN NOTICE TO THE CURRENT TENANT OF THE HOUSING ACCOMMODATION OF: (I) THE FACT THAT THE HOUSING ACCOMMODATION IS SUBJECT TO THIS CHAPTER AS A RESULT OF THE DECISION OF THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 279; (II) A CALCULATION OF THE LEGAL REGULATED RENT FOR THE HOUSING ACCOMMODATION IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH ONE OF THIS SUBDIVISION; AND (III) THE TOTAL AMOUNT TO BE REFUNDED PURSUANT TO PARAGRAPH TWO OF THIS SUBDIVISION.

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

(5) THE TENANT SHALL BE OBLIGATED TO RESPOND WITHIN THIRTY-FIVE DAYS OF THE MAILING OF SUCH NOTICE TO THE TENANT. WHERE A TENANT OF A HOUSING ACCOMMODATION SUBJECT TO THE PROVISIONS OF THIS SECTION CONSENTS IN

WRITING TO THE LEGAL RENT AND REFUND AMOUNT, IF ANY, SET FORTH BY THE OWNER IN THE NOTICE REQUIRED BY PARAGRAPH THREE OF THIS SUBDIVISION, AND THE OWNER MAKES THE REQUIRED REFUND TO THE TENANT, OR AFTER THE NOTICE REQUIRED BY SUCH PARAGRAPH THE OWNER AND TENANT ENTER INTO A WRITTEN AGREEMENT PROVIDING FOR A DIFFERENT LEGAL RENT AND REFUND AMOUNT AND THE OWNER MAKES THE REFUND, IF ANY, AGREED TO BY THE PARTIES, THEN NEITHER SUCH LEGAL RENT NOR SUCH REFUND AMOUNT, IF ANY, SHALL THEREAFTER BE SUBJECT TO CHALLENGE BY THE TENANT OR ANY SUBSEQUENT TENANT OF THE HOUSING ACCOMMODATION. HOWEVER, IF THE AGREEMENT ENTERED INTO PURSUANT TO THIS PARAGRAPH REQUIRES THE TENANT VACATING THE SUBJECT HOUSING ACCOMMODATION OR ENCOMPASSES SURRENDER OF POSSESSION OF THE HOUSING ACCOMMODATION BY THE TENANT, IT SHALL NOT BE BINDING UPON SUBSEQUENT TENANTS.

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

B. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR OR THE CIVIL PRACTICE LAW AND RULES TO THE CONTRARY, AND SUBJECT TO THE PROVISIONS OF SUBDIVISION C OF THIS SECTION, ANY HOUSING ACCOMMODATION THAT, PRIOR TO ITS VACANCY, WAS SUBJECT TO REGULATION UNDER CHAPTER THREE OF THIS TITLE AND WHICH IS OR WOULD BE SUBJECT TO REGULATION UNDER THIS CHAPTER AS A RESULT OF THE DECISION OF THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 279, SHALL BE SUBJECT TO THE FOLLOWING:

(1) WHERE A HOUSING ACCOMMODATION PRIOR TO ITS VACANCY WAS SUBJECT TO REGULATION UNDER CHAPTER THREE OF THIS TITLE AND WHICH IS OR WOULD BE SUBJECT TO REGULATION UNDER THIS CHAPTER AS A RESULT OF THE DECISION OF THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 279, THE INITIAL LEGAL RENT SHALL BE (I) DETERMINED IN ACCORDANCE WITH THE METHODOLOGY USED FOR FAIR MARKET RENT APPEALS, PROVIDED, HOWEVER, THAT THE RENTS IN EFFECT FOR COMPARABLE APARTMENTS, WHETHER OR NOT REGULATED, ON THE DATE FOUR YEARS PRIOR TO THE DATE OF THE COMMENCEMENT OF THE FIRST LEASE EXECUTED AFTER THE VACANCY BY THE FORMER RENT CONTROLLED TENANT OF SUCH HOUSING ACCOMMODATION, SHALL BE UTILIZED FOR THE PURPOSE OF DETERMINING THE COMPARABILITY COMPONENT USED FOR THE DETERMINATION OF FAIR MARKET RENT APPEALS, PLUS ALL SUBSEQUENT ADJUSTMENTS AND INCREASES INCLUDING BUT NOT LIMITED TO INCREASES ATTRIBUTABLE TO VACANCIES, MAJOR CAPITAL IMPROVEMENTS, INDIVIDUAL APARTMENT IMPROVEMENTS, RENT GUIDELINES BOARD ORDERS, SURCHARGES OR ANY OTHER INCREASES THAT WERE NOT PRECLUDED BY AN ORDER OF THE DIVISION OF HOUSING AND COMMUNITY RENEWAL AS TO OTHER REGULATED HOUSING ACCOMMODATIONS IN THE BUILDING AND THAT WOULD HAVE BEEN PERMITTED NOTWITHSTANDING THE ABSENCE OR OMISSION OF ANY FORM, RIDER, NOTICE, REGISTRATION, APPLICATION OR ANY OTHER DOCUMENT THAT WOULD HAVE BEEN REQUIRED OR OTHERWISE PROVIDED, OR (II) THE INITIAL LEGAL RENT AGREED TO BY THE TENANT PURSUANT TO PARAGRAPH FIVE OF THIS SUBDIVISION OR (III) SUCH OTHER AMOUNT AS AGREED TO BY THE OWNER AND TENANT IN A WRITING EXECUTED BY THE PARTIES AFTER RECEIPT BY THE TENANT OF THE NOTICE REQUIRED BY PARAGRAPH THREE OF THIS SUBDIVISION AND PAYMENT BY THE OWNER OF THE REFUND AMOUNT, IF ANY, PROVIDED IN SUCH AGREEMENT.

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

(3) WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SECTION, AN OWNER OF A HOUSING ACCOMMODATION SUBJECT TO THIS SECTION SHALL PROVIDE WRITTEN NOTICE TO THE CURRENT TENANT OF THE HOUSING ACCOMMODATION OF: (I) THE FACT THAT THE HOUSING ACCOMMODATION IS SUBJECT TO THIS CHAPTER AS A RESULT OF THE DECISION OF THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 279; (II) A CALCULATION OF THE LEGAL REGULATED RENT FOR THE HOUSING ACCOMMODATION IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH ONE OF THIS SUBDIVISION; AND (III) THE TOTAL AMOUNT TO BE REFUNDED PURSUANT TO PARAGRAPH TWO OF THIS SUBDIVISION.

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

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

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

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

S 4. 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 section 5-b to read as follows:

S 5-B. ENFORCEMENT AND PROCEDURES FOR IMPLEMENTING THE DECISION OF THE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 279. A. NOTWITHSTANDING ANY OTHER PROVISION OF THE RENT STABILIZATION LAW OF NINETEEN HUNDRED SIXTY-NINE, THIS ACT OR THE CIVIL PRACTICE LAW

AND RULES TO THE CONTRARY, AND SUBJECT TO THE PROVISIONS OF SUBDIVISION C OF THIS SECTION, ANY HOUSING ACCOMMODATION THAT IS OR WOULD BE SUBJECT TO REGULATION UNDER THIS ACT AS A RESULT OF THE DECISION OF THE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D279, SHALL BE SUBJECT TO THE FOLLOWING:

(1) THE LEGAL RENT FOR A HOUSING ACCOMMODATION SUBJECT TO THIS SECTION SHALL BE (I) THE RENT CHARGED AND PAID FOR SUCH HOUSING ACCOMMODATION ON OCTOBER 22, 2005, PLUS ALL SUBSEQUENT ADJUSTMENTS AND INCREASES INCLUDING BUT NOT LIMITED TO INCREASES ATTRIBUTABLE TO VACANCIES, MAJOR CAPITAL IMPROVEMENTS, INDIVIDUAL APARTMENT IMPROVEMENTS, RENT GUIDELINES BOARD ORDERS, SURCHARGES OR ANY OTHER INCREASES THAT WERE NOT PRECLUDED BY AN ORDER OF THE DIVISION OF HOUSING AND COMMUNITY RENEWAL AS TO OTHER REGULATED HOUSING ACCOMMODATIONS IN THE BUILDING AND THAT WOULD HAVE BEEN PERMITTED NOTWITHSTANDING THE ABSENCE OR OMISSION OF ANY FORM, RIDER, NOTICE, REGISTRATION, APPLICATION OR ANY OTHER DOCUMENT THAT WOULD HAVE BEEN REQUIRED OR OTHERWISE PROVIDED, OR (II) THE LEGAL RENT AGREED TO BY THE TENANT PURSUANT TO PARAGRAPH FIVE OF THIS SUBDIVISION OR (III) SUCH OTHER AMOUNT AS AGREED TO BY THE OWNER AND TENANT IN A WRITING EXECUTED BY THE PARTIES AFTER RECEIPT BY THE TENANT OF THE NOTICE REQUIRED BY PARAGRAPH THREE OF THIS SUBDIVISION AND PAYMENT BY THE OWNER OF THE REFUND AMOUNT, IF ANY, PROVIDED IN SUCH AGREEMENT.

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

(3) WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SECTION, AN OWNER OF A HOUSING ACCOMMODATION SUBJECT TO THIS SECTION SHALL PROVIDE WRITTEN NOTICE TO THE CURRENT TENANT OF THE HOUSING ACCOMMODATION OF: (I) THE FACT THAT THE HOUSING ACCOMMODATION IS SUBJECT TO THIS CHAPTER AS A RESULT OF THE DECISION OF THE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D279; (II) A CALCULATION OF THE LEGAL REGULATED RENT FOR THE HOUSING ACCOMMODATION IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH ONE OF THIS SUBDIVISION; AND (III) THE TOTAL AMOUNT TO BE REFUNDED PURSUANT TO PARAGRAPH TWO OF THIS SUBDIVISION.

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

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

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

B. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, THE NEW YORK CITY RENT STABILIZATION LAW OF NINETEEN HUNDRED SIXTY-NINE, OR THE CIVIL PRACTICE LAW AND RULES TO THE CONTRARY, AND SUBJECT TO THE PROVISIONS OF SUBDIVISION C OF THIS SECTION, ANY HOUSING ACCOMMODATION THAT IS OR WOULD BE SUBJECT TO REGULATION UNDER THIS ACT AS A RESULT OF THE DECISION OF THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 279, SHALL BE SUBJECT TO THE FOLLOWING:

(1) WHERE A HOUSING ACCOMMODATION IS OR WOULD BE SUBJECT TO REGULATION UNDER THIS ACT AS A RESULT OF A DECISION OF THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 279, THE INITIAL LEGAL RENT SHALL BE (I) DETERMINED IN ACCORDANCE WITH THE METHODOLOGY USED FOR FAIR MARKET RENT APPEALS, PROVIDED, HOWEVER, THAT THE RENTS IN EFFECT FOR COMPARABLE APARTMENTS, WHETHER OR NOT REGULATED, ON THE DATE FOUR YEARS PRIOR TO THE DATE OF THE COMMENCEMENT OF THE FIRST LEASE EXECUTED AFTER THE VACANCY BY THE FORMER RENT CONTROLLED TENANT OF SUCH HOUSING ACCOMMODATION, SHALL BE UTILIZED FOR THE PURPOSE OF DETERMINING THE COMPARABILITY COMPONENT USED FOR THE DETERMINATION OF FAIR MARKET RENT APPEALS, PLUS ALL SUBSEQUENT ADJUSTMENTS AND INCREASES INCLUDING BUT NOT LIMITED TO INCREASES ATTRIBUTABLE TO VACANCIES, MAJOR CAPITAL IMPROVEMENTS, INDIVIDUAL APARTMENT IMPROVEMENTS, RENT GUIDELINES BOARD ORDERS, SURCHARGES OR ANY OTHER INCREASES THAT WERE NOT PRECLUDED BY AN ORDER OF THE DIVISION OF HOUSING AND COMMUNITY RENEWAL AS TO OTHER REGULATED HOUSING ACCOMMODATIONS IN THE BUILDING AND THAT WOULD HAVE BEEN PERMITTED NOTWITHSTANDING THE ABSENCE OR OMISSION OF ANY FORM, RIDER, NOTICE, REGISTRATION, APPLICATION OR ANY OTHER DOCUMENT THAT WOULD HAVE BEEN REQUIRED OR OTHERWISE PROVIDED, OR (II) THE INITIAL LEGAL RENT AGREED TO BY THE TENANT PURSUANT TO PARAGRAPH FIVE OF THIS SUBDIVISION OR (III) SUCH OTHER AMOUNT AS AGREED TO BY THE OWNER AND TENANT IN A WRITING EXECUTED BY THE PARTIES AFTER RECEIPT BY THE TENANT OF THE NOTICE REQUIRED BY PARAGRAPH THREE OF THIS SUBDIVISION AND PAYMENT BY THE OWNER OF THE REFUND AMOUNT, IF ANY, PROVIDED IN SUCH AGREEMENT.

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

(3) WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SECTION, AN OWNER OF A HOUSING ACCOMMODATION SUBJECT TO THIS SECTION SHALL PROVIDE WRITTEN NOTICE TO THE CURRENT TENANT OF THE HOUSING ACCOMMODATION OF: (I) THE FACT THAT THE HOUSING ACCOMMODATION IS SUBJECT TO THIS ACT AS A RESULT OF THE DECISION OF THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D279; (II) A CALCULATION OF THE LEGAL REGULATED RENT FOR THE HOUSING ACCOMMODATION IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH ONE OF THIS SUBDIVISION; AND (III) THE TOTAL AMOUNT TO BE REFUNDED PURSUANT TO PARAGRAPH TWO OF THIS SUBDIVISION.

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

(5) THE TENANT SHALL BE OBLIGATED TO RESPOND WITHIN THIRTY-FIVE DAYS OF THE MAILING OF SUCH NOTICE. WHERE A TENANT OF A HOUSING ACCOMMO-

DATION SUBJECT TO THE PROVISIONS OF THIS SECTION CONSENTS IN WRITING TO THE LEGAL RENT AND REFUND AMOUNT, IF ANY, SET FORTH BY THE OWNER IN THE NOTICE REQUIRED BY PARAGRAPH THREE OF THIS SUBDIVISION, AND THE OWNER MAKES THE REQUIRED REFUND TO THE TENANT, OR AFTER THE NOTICE REQUIRED BY SUCH PARAGRAPH THE OWNER AND TENANT ENTER INTO A WRITTEN AGREEMENT PROVIDING FOR A DIFFERENT LEGAL RENT AND REFUND AMOUNT AND THE OWNER MAKES THE REFUND, IF ANY, AGREED TO BY THE PARTIES, THEN NEITHER SUCH LEGAL RENT NOR SUCH REFUND AMOUNT, IF ANY, SHALL THEREAFTER BE SUBJECT TO CHALLENGE BY THE TENANT OR ANY SUBSEQUENT TENANT OF THE HOUSING ACCOMMODATION. HOWEVER, IF THE AGREEMENT ENTERED INTO PURSUANT TO THIS PARAGRAPH REQUIRES THAT THE TENANT VACATE THE SUBJECT HOUSING ACCOMMODATION OR SURRENDER POSSESSION OF THE HOUSING ACCOMMODATION, IT SHALL NOT BE BINDING UPON SUBSEQUENT TENANTS.

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

C. AS AN ALTERNATIVE TO THE PROCEDURES SET FORTH IN SUBDIVISIONS A AND B OF THIS SECTION, AN OWNER MAY, WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SECTION, PROVIDE WRITTEN NOTICE TO THE CURRENT TENANT OF THE HOUSING ACCOMMODATION THAT THE OWNER INTENDS TO MAKE PAYMENT TO THE CITY OF NEW YORK IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION SEVENTEEN OF SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW AND SUBDIVISION EE OF SECTION 11-243 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK. AN OWNER WHO PROVIDES A NOTICE PURSUANT TO THIS SECTION BUT WHO DOES NOT MAKE PAYMENT TO SUCH CITY IN ACCORDANCE WITH THE REAL PROPERTY TAX LAW AND THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK BY JUNE 30, 2012 SHALL BE SUBJECT TO THE OVERCHARGE PENALTIES, INCLUDING INTEREST AND TREBLE DAMAGES, PROVIDED FOR IN SECTION 26-516 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK. DURING THE PERIODS IN WHICH THE PROCEDURES SET FORTH IN SUBDIVISIONS A, B OR C OF THIS SECTION ARE BEING UTILIZED, THE OWNER OF SUCH HOUSING ACCOMMODATIONS SHALL BE AUTHORIZED TO CHARGE, AND A TENANT OR FORMER TENANT OF SUCH A HOUSING ACCOMMODATION SHALL BE OBLIGATED TO PAY, THE AMOUNT SET FORTH IN THE LEASE THEN IN EFFECT.

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

(i) housing accommodations owned as a cooperative or condominium unit which are or become vacant on or after the effective date of this paragraph REGARDLESS OF WHETHER SUCH HOUSING ACCOMMODATIONS WERE, ARE OR WILL BE IN A BUILDING WHICH RECEIVED OR RECEIVES TAX BENEFITS PURSUANT TO SECTION 489 OF THE REAL PROPERTY TAX LAW AND REGARDLESS OF THE RULING OF THE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 279, except that this subparagraph shall not apply to units occupied by non-purchasing tenants under section three hundred fifty-two-eee of the general business law until the occurrence of a vacancy.

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

17. WHERE HOUSING ACCOMMODATIONS WERE SUBJECT TO RENT REGULATION IMMEDIATELY PRIOR TO THE RECEIPT OF TAX EXEMPTION OR TAX ABATEMENT BENEFITS PURSUANT TO THIS SECTION OR WHICH ARE OR WOULD BE SUBJECT TO RENT REGULATION DUE TO THE RECEIPT OF SUCH BENEFITS PURSUANT TO THE RULING OF THE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 279, OR ARE IN BUILDINGS COMPLETED OR SUBSTANTIALLY REHABILITATED AFTER

JANUARY FIRST, NINETEEN HUNDRED SEVENTY-FOUR AND BECAME SUBJECT TO RENT REGULATION DUE TO THE RECEIPT OF TAX EXEMPTION OR TAX ABATEMENT BENEFITS PURSUANT TO THIS SECTION, THE OWNER OF SUCH HOUSING ACCOMMODATIONS SHALL BE AUTHORIZED TO MAKE OR TO HAVE MADE TO THE CITY OF NEW YORK, AND THE CITY OF NEW YORK SHALL BE OR HAVE BEEN OBLIGED TO ACCEPT, PAYMENT OF THE FULL AMOUNT OF ALL SUCH BENEFITS, PLUS INTEREST AT A RATE OF NINE PER CENTUM, RECEIVED BY ALL OWNERS OF SUCH HOUSING ACCOMMODATIONS PURSUANT TO ANY ORDER OR DETERMINATION ISSUED BY THE LOCAL HOUSING AGENCY ADMINISTERING THIS CHAPTER OR THE LOCAL GOVERNMENT AGENCY RESPONSIBLE FOR REAL PROPERTY TAX ASSESSMENT WHICH REQUIRED THE HOUSING ACCOMMODATION TO BE SUBJECT TO RENT REGULATIONS AND TO WAIVE THE RECEIPT OF ANY FURTHER TAX EXEMPTION OR TAX ABATEMENT BENEFITS WHICH WOULD OTHERWISE BE DUE TO SUCH OWNER PURSUANT TO ANY SUCH ORDER OR DETERMINATION AND THE CITY OF NEW YORK SHALL BE OBLIGATED TO ACCEPT SUCH WAIVER. SUCH PAYMENT AND SUCH WAIVER SHALL BE MADE NO LATER THAN JUNE THIRTIETH, TWO THOUSAND TWELVE. SUCH PAYMENT AND WAIVER SHALL ENTITLE SUCH OWNER TO THE BENEFIT OF THE EXCLUSIONS SET FORTH IN SECTIONS 26-504.1 AND 26-504.2 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK WHERE THE HOUSING ACCOMMODATIONS WERE SUBJECT TO RENT REGULATION IMMEDIATELY PRIOR TO THE RECEIPT OF TAX BENEFITS PURSUANT TO THIS SECTION OR WHICH ARE OR WOULD BE SUBJECT TO RENT REGULATION DUE TO RECEIPT OF SUCH BENEFITS PURSUANT TO THE RULING OF THE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D, 279. FOR HOUSING ACCOMMODATIONS IN BUILDINGS COMPLETED AFTER JANUARY FIRST, NINETEEN HUNDRED SEVENTY-FOUR WHICH BECAME SUBJECT TO RENT REGULATION DUE TO THE RECEIPT OF TAX EXEMPTION OR TAX ABATEMENT BENEFITS PURSUANT TO THIS SECTION, SUCH PAYMENT AND WAIVER SHALL RESULT IN THE EXEMPTION OF SUCH HOUSING ACCOMMODATIONS FROM RENT REGULATION AS IF TAX EXEMPTION OR TAX ABATEMENT BENEFITS PURSUANT TO THIS SECTION HAD NEVER BEEN RECEIVED BY ANY OWNERS OF SUCH HOUSING ACCOMMODATIONS. PAYMENT PURSUANT TO THIS SUBDIVISION SHALL BE PAID OR HAVE BEEN PAID INTO THE GENERAL FUND OF THE CITY OF NEW YORK. THE CITY OF NEW YORK SHALL, UPON REQUEST OF SUCH OWNER, PROVIDE WITHIN THIRTY DAYS OF SUCH REQUEST A STATEMENT SETTING FORTH THE AMOUNTS DUE FOR PAYMENT AND WAIVER, AND THE BASIS THEREOF. THE CITY'S FAILURE TO RESPOND TIMELY TO SUCH REQUEST SHALL TOLL THE RUNNING OF THE OWNER'S OBLIGATION TO MAKE PAYMENT FOLLOWING THE DELIVERY OF NOTICE OF SUCH INTENT TO THE TENANT.

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

EE. WHERE HOUSING ACCOMMODATIONS WERE SUBJECT TO RENT REGULATION IMMEDIATELY PRIOR TO THE RECEIPT OF TAX EXEMPTION OR TAX ABATEMENT BENEFITS PURSUANT TO THIS SECTION OR WHICH ARE OR WOULD BE SUBJECT TO RENT REGULATION DUE TO THE RECEIPT OF SUCH BENEFITS PURSUANT TO THE RULING OF THE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 279, OR ARE IN BUILDINGS COMPLETED OR SUBSTANTIALLY REHABILITATED AFTER JANUARY FIRST, NINETEEN HUNDRED SEVENTY-FOUR AND BECAME SUBJECT TO RENT REGULATION DUE TO THE RECEIPT OF TAX EXEMPTION OR TAX ABATEMENT BENEFITS PURSUANT TO THIS SECTION, THE OWNER OF SUCH HOUSING ACCOMMODATIONS SHALL BE AUTHORIZED TO MAKE OR TO HAVE MADE TO THE CITY, AND THE CITY SHALL BE OR HAVE BEEN OBLIGED TO ACCEPT, PAYMENT OF THE FULL AMOUNT OF ALL SUCH BENEFITS, PLUS INTEREST AT A RATE OF NINE PER CENTUM, RECEIVED BY ALL OWNERS OF SUCH HOUSING ACCOMMODATIONS PURSUANT TO ANY ORDER OR DETERMINATION ISSUED BY THE DEPARTMENT OR BY THE DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT WHICH REQUIRED THE HOUSING ACCOMMODATION TO BE SUBJECT TO SUCH RENT REGULATIONS AND TO WAIVE THE RECEIPT OF ANY FURTHER TAX EXEMPTION OR TAX ABATEMENT BENEFITS WHICH WOULD OTHERWISE BE DUE TO SUCH OWNER PURSUANT TO ANY SUCH ORDER OR DETERMINATION AND THE CITY

SHALL BE OBLIGATED TO ACCEPT SUCH WAIVER. SUCH PAYMENT AND SUCH WAIVER SHALL BE MADE NO LATER THAN JUNE THIRTIETH, TWO THOUSAND TWELVE. SUCH PAYMENT AND WAIVER SHALL ENTITLE SUCH OWNER TO THE BENEFIT OF THE EXCLUSIONS SET FORTH IN SECTIONS 26-504.1 AND 26-504.2 OF THIS CODE WHERE THE HOUSING ACCOMMODATIONS WERE SUBJECT TO RENT REGULATION IMMEDIATELY PRIOR TO THE RECEIPT OF TAX BENEFITS PURSUANT TO THIS SECTION OR WHICH ARE OR WOULD BE SUBJECT TO RENT REGULATION DUE TO RECEIPT OF TAX BENEFITS PURSUANT TO THE RULING OF THE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., NY3D, 279. FOR HOUSING ACCOMMODATIONS IN BUILDINGS COMPLETED AFTER JANUARY FIRST, NINETEEN HUNDRED SEVENTY-FOUR WHICH BECAME SUBJECT TO RENT REGULATION DUE TO THE RECEIPT OF TAX EXEMPTION OR TAX ABATEMENT BENEFITS PURSUANT TO THIS SECTION, SUCH PAYMENT AND WAIVER SHALL RESULT IN THE EXEMPTION OF SUCH HOUSING ACCOMMODATIONS FROM RENT REGULATION AS IF TAX EXEMPTION OR TAX ABATEMENT BENEFITS PURSUANT TO THIS SECTION HAD NEVER BEEN RECEIVED. PAYMENT PURSUANT TO THIS SUBDIVISION SHALL BE PAID OR HAVE BEEN PAID INTO THE GENERAL FUND OF THE CITY. THE CITY SHALL, UPON REQUEST OF SUCH OWNER, PROVIDE WITHIN THIRTY DAYS OF SUCH REQUEST A STATEMENT SETTING FORTH THE AMOUNTS DUE FOR PAYMENT AND WAIVER, AND THE BASIS THEREOF. THE CITY'S FAILURE TO RESPOND TIMELY TO SUCH REQUEST SHALL TOLL THE RUNNING OF THE OWNER'S OBLIGATION TO MAKE PAYMENT FOLLOWING THE DELIVERY OF NOTICE OF SUCH INTENT TO THE TENANT.

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

c. [Dwelling] EXCEPT AS OTHERWISE PROVIDED BY SUBDIVISION SEVENTEEN OF SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW AND SUBDIVISION EE OF SECTION 11-243 OF THIS CODE, DWELLING units in a building or structure receiving the benefits of section 11-243 or section 11-244 of [the] THIS code or article eighteen of the private housing finance law, not owed as a cooperative or as a condominium, except as provided in section three hundred fifty-two-eeee of the general business law and not subject to chapter three of this title. [Upon] EXCEPT AS OTHERWISE PROVIDED BY SUBDIVISION SEVENTEEN OF SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW AND SUBDIVISION EE OF SECTION 11-243 OF THIS CODE, the expiration or termination for any reason of the benefits of section 11-243 or section 11-244 of [the] THIS code or article eighteen of the private housing finance law any such dwelling unit shall be subject to this chapter until the occurrence of the first vacancy of such unit after such benefits are no longer being received or if each lease and renewal thereof for such unit for the tenant in residence at the time of the expiration of the tax benefit period has included a notice in at least twelve point type informing such tenant that the unit shall become subject to deregulation upon the expiration of such tax benefit period and states the approximate date on which such tax benefit period is scheduled to expire, such dwelling unit shall be deregulated as of the end of the tax benefit period; provided, however, that if such dwelling unit would have been subject to this chapter or the emergency tenant protection act of nineteen seventy-four in the absence of this subdivision, such dwelling unit shall, upon the expiration of such benefits, continue to be subject to this chapter or the emergency tenant protection act of nineteen seventy-four to the same extent and in the same manner as if this subdivision had never applied thereto. NOTWITHSTANDING THE FOREGOING, WHERE THE NOTIFICATION REQUIRED BY THIS SUBDIVISION WAS NOT PROVIDED FOR ANY HOUSING ACCOMMODATION WHICH IS OR WOULD BE SUBJECT TO REGULATION UNDER THIS CHAPTER AS A RESULT OF THE DECISION OF THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES,

L.P., 13 NY3D 279, THE FAILURE TO PROVIDE SUCH NOTIFICATION SHALL NOT PRECLUDE THE DEREGULATION OF SUCH HOUSING ACCOMMODATION UPON THE EXPIRATION OF THE LEASE OR RENEWAL LEASE IMMEDIATELY SUBSEQUENT TO THE EXPIRATION OF SUCH TAX BENEFITS, PROVIDED THAT THE OWNER OF SUCH HOUSING ACCOMMODATION SHALL COMPLY WITH SUCH NOTICE REQUIREMENT FOR EACH LEASE OR RENEWAL LEASE OFFERED FOR SUCH HOUSING ACCOMMODATION DURING THE PERIOD BETWEEN NINETY DAYS AFTER THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND ELEVEN WHICH AMENDED THIS SUBDIVISION AND THE EXPIRATION OF SUCH TAX BENEFITS.

S 9. This act shall take effect immediately, provided, that sections one and two of this act shall be deemed to have been in full force and effect on and after July 6, 1993; provided, further, that:

(a) the amendments to chapter 4 of title 26 of the administrative code of the city of New York made by sections one, two, three and eight 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;

(b) the amendments to the emergency tenant protection act of nineteen seventy-four made by sections four and five 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;

(c) the provisions of this act shall preclude in their entirety any and all claims in any administrative or judicial proceeding relating to the deregulation of housing accommodations (i) which were subject to rent regulation immediately prior to the receipt of tax benefits pursuant to section 489 of the real property tax law and section 11-243 of the administrative code of the city of New York or which are or would be subject to rent regulation pursuant to the ruling of the court of appeals in ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 279, or (ii) are in buildings completed or substantially rehabilitated after January 1, 1974 and became subject to rent regulation due to the receipt of tax exemption or tax abatement benefits pursuant to section 489 of the real property tax law and section 11-243 of the administrative code of the city of New York, provided that the owner of such housing accommodations under clause (i) or clause (ii) of this subdivision has acted in accordance with this act, regardless of whether such claims are brought, or any payments by such owner permitted under this act are made, prior or subsequent to the effective date of this act; and

(d) if any provision or provisions of this act shall be held to be invalid, the validity of the remaining provisions shall not in any manner be affected or impaired thereby.