

5763--B

2011-2012 Regular Sessions

I N S E N A T E

June 14, 2011

Introduced by Sen. YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- recommitted to the Committee on Housing, Construction and Community Development in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- 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; and to amend the real property tax law, in relation to extending the authorization to grant exemptions from taxation for certain alterations and improvements to multiple dwellings

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

1 Section 1. Section 26-504.1 of the administrative code of the city of
2 New York, as amended by section 35 of part B of chapter 97 of the laws
3 of 2011, is amended to read as follows:
4 S 26-504.1 Exclusion of accommodations of high income renters. Upon
5 the issuance of an order by the division, "housing accommodations" shall
6 not include housing accommodations which: (1) are occupied by persons
7 who have a total annual income, as defined in and subject to the limita-
8 tions and process set forth in section 26-504.3 of this chapter, in
9 excess of the deregulation income threshold, as defined in section
10 26-504.3 of this chapter, for each of the two preceding calendar years;
11 and (2) have a legal regulated monthly rent that equals or exceeds the
12 deregulation rent threshold, as defined in section 26-504.3 of this
13 chapter. Provided, however, that this exclusion shall not apply to hous-
14 ing accommodations which became or become subject to this law (a) by
15 virtue of receiving tax benefits pursuant to section four hundred twen-
16 ty-one-a or four hundred eighty-nine of the real property tax law,

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

LBD13151-05-2

1 except as otherwise provided in subparagraph (i) of paragraph (f) of
2 subdivision two of section four hundred twenty-one-a of the real proper-
3 ty tax law, or (b) by virtue of article seven-C of the multiple dwelling
4 law. NOTWITHSTANDING THE FOREGOING, HOUSING ACCOMMODATIONS WHICH WERE
5 SUBJECT TO THIS CHAPTER OR CHAPTER THREE OF THIS TITLE IMMEDIATELY PRIOR
6 TO THE COMMENCEMENT OF THE RECEIPT OF TAX BENEFITS PURSUANT TO SECTION
7 FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW OR WHICH ARE OR
8 WOULD BE SUBJECT TO THIS CHAPTER PURSUANT TO SUCH RULING SHALL BE DEEMED
9 TO BE HOUSING ACCOMMODATIONS WHICH BECAME OR BECOME SUBJECT TO THIS
10 CHAPTER BY VIRTUE OF RECEIVING TAX BENEFITS PURSUANT TO SUCH SECTION
11 FOUR HUNDRED EIGHTY-NINE BUT ONLY FOR THE DURATION OF SUCH BENEFITS AND
12 SHALL BE EXCLUDED FROM REGULATION THEREAFTER; PROVIDED, HOWEVER, THAT
13 SUCH EXCLUSION SHALL BE APPLICABLE TO SUCH HOUSING ACCOMMODATIONS
14 SUBJECT TO THE RULING OF THE STATE COURT OF APPEALS IN ROBERTS V. TISH-
15 MAN SPEYER PROPERTIES, L.P., 13 NY3D 270, ONLY WHERE THE OWNER OF SUCH
16 HOUSING ACCOMMODATIONS HAS MADE FULL PAYMENT TO THE CITY IN ACCORDANCE
17 WITH THE PROVISIONS OF SUBDIVISION SEVENTEEN OF SECTION FOUR HUNDRED
18 EIGHTY-NINE OF THE REAL PROPERTY TAX LAW AND SUBDIVISION EE OF SECTION
19 11-243 OF THIS CODE. FOR PURPOSES OF THIS SECTION, "HOUSING ACCOMMO-
20 DATIONS SUBJECT TO THE RULING OF THE STATE COURT OF APPEALS IN ROBERTS
21 V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 270" SHALL MEAN HOUSING
22 ACCOMMODATIONS IN BUILDINGS THAT WERE SUBJECT TO THIS CHAPTER, THE NEW
23 YORK CITY RENT AND REHABILITATION LAW, OR THE EMERGENCY TENANT
24 PROTECTION ACT OF NINETEEN SEVENTY-FOUR PRIOR TO THE RECEIPT OF BENEFITS
25 PURSUANT TO SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX
26 LAW, EXCEPT AS TO (I) THOSE HOUSING ACCOMMODATIONS RENTED AFTER SAID TAX
27 BENEFITS HAD EXPIRED, (II) HOUSING ACCOMMODATIONS RENTING DURING THE TAX
28 BENEFIT PERIOD WHERE EACH LEASE HAD THE REQUISITE DEREGULATION NOTICE OR
29 (III) THOSE HOUSING ACCOMMODATIONS DEREGULATED BY ADMINISTRATIVE OR
30 COURT ORDER, WHICH HOUSING ACCOMMODATIONS SHALL REMAIN DEREGULATED
31 DESPITE SUCH RULING.

32 FOR HOUSING ACCOMMODATIONS IN BUILDINGS WHICH WERE, ARE OR BECOME THE
33 SUBJECT OF CONVERSIONS PURSUANT TO SECTION THREE HUNDRED FIFTY-TWO-EEEE
34 OF THE GENERAL BUSINESS LAW, SUCH HOUSING ACCOMMODATIONS SHALL NOT BE
35 DEEMED TO BE HOUSING ACCOMMODATIONS WHICH BECAME OR BECOME SUBJECT TO
36 THIS CHAPTER BY VIRTUE OF RECEIVING TAX BENEFITS PURSUANT TO SECTION
37 FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW AND THE OWNER OR
38 PROPRIETARY LESSEE OF SUCH HOUSING ACCOMMODATIONS SHALL NOT BE REQUIRED
39 TO ACT IN ACCORDANCE WITH SUCH SECTIONS OF THE REAL PROPERTY TAX LAW AND
40 THIS CODE TO QUALIFY AS HOUSING ACCOMMODATIONS NOT SUBJECT TO THIS CHAP-
41 TER BY VIRTUE OF RECEIVING SUCH TAX BENEFITS.

42 S 2. Subdivision a of section 26-504.2 of the administrative code of
43 the city of New York, as amended by section 12 of part B of chapter 97
44 of the laws of 2011, is amended to read as follows:

45 a. (1) "Housing accommodations" shall not include: any housing accom-
46 modation which becomes vacant on or after April first, nineteen hundred
47 ninety-seven and before the effective date of the rent act of 2011 and
48 where at the time the tenant vacated such housing accommodation the
49 legal regulated rent was two thousand dollars or more per month; or, for
50 any housing accommodation which is or becomes vacant on or after the
51 effective date of the rent regulation reform act of 1997 and before the
52 effective date of the rent act of 2011, with a legal regulated rent of
53 two thousand dollars or more per month. This exclusion shall apply
54 regardless of whether the next tenant in occupancy or any subsequent
55 tenant in occupancy is charged or pays less than two thousand dollars a
56 month; or, for any housing accommodation with a legal regulated rent of

1 two thousand five hundred dollars or more per month at any time on or
2 after the effective date of the rent act of 2011, which is or becomes
3 vacant on or after such effective date. This exclusion shall apply
4 regardless of whether the next tenant in occupancy or any subsequent
5 tenant in occupancy actually is charged or pays less than two thousand
6 five hundred dollars a month. Provided however, that an exclusion pursu-
7 ant to this subdivision shall not apply to housing accommodations which
8 became or become subject to this law (a) by virtue of receiving tax
9 benefits pursuant to section four hundred twenty-one-a or four hundred
10 eighty-nine of the real property tax law, except as otherwise provided
11 in subparagraph (i) of paragraph (f) of subdivision two of section four
12 hundred twenty-one-a of the real property tax law, or (b) by virtue of
13 article seven-C of the multiple dwelling law. NOTWITHSTANDING THE FORE-
14 GOING, HOUSING ACCOMMODATIONS WHICH WERE SUBJECT TO THIS CHAPTER OR
15 CHAPTER THREE OF THIS TITLE IMMEDIATELY PRIOR TO THE COMMENCEMENT OF THE
16 RECEIPT OF TAX BENEFITS PURSUANT TO SECTION FOUR HUNDRED EIGHTY-NINE OF
17 THE REAL PROPERTY TAX LAW OR WHICH ARE OR WOULD BE SUBJECT TO THIS CHAP-
18 TER PURSUANT TO SUCH RULING SHALL BE DEEMED TO BE HOUSING ACCOMMODATIONS
19 WHICH BECAME OR BECOME SUBJECT TO THIS CHAPTER BY VIRTUE OF RECEIVING
20 TAX BENEFITS PURSUANT TO SUCH SECTION FOUR HUNDRED EIGHTY-NINE BUT ONLY
21 FOR THE DURATION OF SUCH BENEFITS AND SHALL BE EXCLUDED FROM RENT REGU-
22 LATION THEREAFTER; PROVIDED, HOWEVER, THAT SUCH EXCLUSION SHALL BE
23 APPLICABLE TO SUCH HOUSING ACCOMMODATIONS SUBJECT TO THE RULING OF THE
24 STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P.,
25 13 NY3D 270, ONLY WHERE THE OWNER OF SUCH HOUSING ACCOMMODATIONS HAS
26 MADE FULL PAYMENT TO THE CITY IN ACCORDANCE WITH THE PROVISIONS OF
27 SUBDIVISION SEVENTEEN OF SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL
28 PROPERTY TAX LAW AND SUBDIVISION EE OF SECTION 11-243 OF THIS CODE. FOR
29 PURPOSES OF THIS SECTION, "HOUSING ACCOMMODATIONS SUBJECT TO THE RULING
30 OF THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES,
31 L.P., 13 NY3D 270" SHALL MEAN HOUSING ACCOMMODATIONS IN BUILDINGS THAT
32 WERE SUBJECT TO THIS CHAPTER, THE NEW YORK CITY RENT AND REHABILITATION
33 LAW, OR THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR
34 PRIOR TO THE RECEIPT OF BENEFITS PURSUANT TO SECTION FOUR HUNDRED EIGHT-
35 Y-NINE OF THE REAL PROPERTY TAX LAW, EXCEPT AS TO (I) THOSE HOUSING
36 ACCOMMODATIONS RENTED AFTER SAID TAX BENEFITS HAD EXPIRED, (II) HOUSING
37 ACCOMMODATIONS RENTING DURING THE TAX BENEFIT PERIOD WHERE EACH LEASE
38 HAD THE REQUISITE DEREGULATION NOTICE OR (III) THOSE HOUSING ACCOMMO-
39 DATIONS DEREGULATED BY ADMINISTRATIVE OR COURT ORDER, WHICH HOUSING
40 ACCOMMODATIONS SHALL REMAIN DEREGULATED DESPITE SUCH RULING.

41 FOR HOUSING ACCOMMODATIONS IN BUILDINGS WHICH WERE, ARE OR BECOME THE
42 SUBJECT OF CONVERSIONS PURSUANT TO SECTION THREE HUNDRED FIFTY-TWO-EEEE
43 OF THE GENERAL BUSINESS LAW, SUCH HOUSING ACCOMMODATIONS SHALL NOT BE
44 DEEMED TO BE HOUSING ACCOMMODATIONS WHICH BECAME OR BECOME SUBJECT TO
45 THIS CHAPTER BY VIRTUE OF RECEIVING TAX BENEFITS PURSUANT TO SECTION
46 FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW AND THE OWNER OR
47 PROPRIETARY LESSEE OF SUCH HOUSING ACCOMMODATIONS SHALL NOT BE REQUIRED
48 TO ACT IN ACCORDANCE WITH SUCH SECTIONS OF THE REAL PROPERTY TAX LAW AND
49 THIS CODE TO QUALIFY AS HOUSING ACCOMMODATIONS NOT SUBJECT TO THIS CHAP-
50 TER BY VIRTUE OF RECEIVING TAX BENEFITS.

51 (2) This section shall not apply, however, to or become effective with
52 respect to housing accommodations which the commissioner determines or
53 finds that the landlord or any person acting on his or her behalf, with
54 intent to cause the tenant to vacate, engaged in any course of conduct
55 (including, but not limited to, interruption or discontinuance of
56 required services) which interfered with or disturbed or was intended to

1 interfere with or disturb the comfort, repose, peace or quiet of the
2 tenant in his or her use or occupancy of the housing accommodations and
3 in connection with such course of conduct, any other general enforcement
4 provision of this law shall also apply.

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

7 S 26-504.4 ENFORCEMENT AND PROCEDURES FOR IMPLEMENTING THE DECISION OF
8 THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES,
9 L.P., 13 NY3D 270. FOR PURPOSES OF THIS SECTION, "HOUSING ACCOMMODATIONS
10 SUBJECT TO THE RULING OF THE STATE COURT OF APPEALS IN ROBERTS V. TISH-
11 MAN SPEYER PROPERTIES, L.P., 13 NY3D 270" SHALL MEAN HOUSING ACCOMMO-
12 DATIONS IN BUILDINGS THAT WERE SUBJECT TO THIS CHAPTER, THE NEW YORK
13 CITY RENT AND REHABILITATION LAW, AND/OR THE EMERGENCY TENANT PROTECTION
14 ACT OF NINETEEN SEVENTY-FOUR PRIOR TO THE RECEIPT OF BENEFITS PURSUANT
15 TO SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW, EXCEPT
16 AS TO (I) THOSE HOUSING ACCOMMODATIONS RENTED AFTER SAID TAX BENEFITS
17 HAD EXPIRED, (II) HOUSING ACCOMMODATIONS RENTING DURING THE TAX BENEFIT
18 PERIOD WHERE EACH LEASE HAD THE REQUISITE DEREGULATION NOTICE OR (III)
19 THOSE HOUSING ACCOMMODATIONS DEREGULATED BY ADMINISTRATIVE OR COURT
20 ORDER, WHICH HOUSING ACCOMMODATIONS SHALL REMAIN DEREGULATED DESPITE
21 SUCH RULING.

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

29 (1) THE LEGAL REGULATED RENT FOR A HOUSING ACCOMMODATION SUBJECT TO
30 THIS SECTION SHALL BE (I) THE RENT CHARGED AND PAID FOR SUCH HOUSING
31 ACCOMMODATION ON OCTOBER TWENTY-SECOND, TWO THOUSAND FIVE, OR PROVIDED
32 FOR IN THE LEASE IN EFFECT ON SUCH DATE, WHICHEVER IS GREATER, PLUS ALL
33 SUBSEQUENT ADJUSTMENTS AND INCREASES, INCLUDING BUT NOT LIMITED TO
34 INCREASES ATTRIBUTABLE TO VACANCIES, MAJOR CAPITAL IMPROVEMENTS, INDI-
35 VIDUAL APARTMENT IMPROVEMENTS, RENT GUIDELINES BOARD ORDERS, SURCHARGES
36 OR ANY OTHER INCREASES THAT WERE NOT PRECLUDED BY AN ORDER OF THE DIVI-
37 SION OF HOUSING AND COMMUNITY RENEWAL AS TO OTHER REGULATED HOUSING
38 ACCOMMODATIONS IN THE BUILDING AND THAT WOULD HAVE BEEN PERMITTED
39 NOTWITHSTANDING THE ABSENCE OR OMISSION OF ANY FORM, RIDER, NOTICE,
40 REGISTRATION, APPLICATION OR ANY OTHER DOCUMENT THAT WOULD HAVE BEEN
41 REQUIRED OR OTHERWISE PROVIDED; IF THERE IS NO TENANT OR NO LEASE IN
42 EFFECT ON OCTOBER TWENTY-SECOND, TWO THOUSAND FIVE, THEN THE FIRST RENT
43 CHARGED AND PAID OR PROVIDED FOR IN THE FIRST LEASE IN EFFECT AFTER SAID
44 DATE, WHICHEVER IS GREATER; OR (II) THE LEGAL REGULATED RENT AGREED TO
45 BY THE TENANT PURSUANT TO PARAGRAPH FIVE OF THIS SUBDIVISION; OR (III)
46 SUCH OTHER AMOUNT AS AGREED TO BY THE OWNER AND TENANT IN A WRITING
47 EXECUTED BY THE PARTIES AFTER RECEIPT BY THE TENANT OF THE NOTICE
48 REQUIRED BY PARAGRAPH THREE OF THIS SUBDIVISION AND PAYMENT BY THE OWNER
49 OF THE REFUND AMOUNT, IF ANY, PROVIDED IN SUCH AGREEMENT.

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

55 (3) WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SECTION, AN OWNER
56 OF A HOUSING ACCOMMODATION SUBJECT TO THIS SECTION SHALL PROVIDE WRITTEN

1 NOTICE TO THE CURRENT TENANT OF THE HOUSING ACCOMMODATION OF: (I) THE
2 FACT THAT THE HOUSING ACCOMMODATION IS SUBJECT TO THIS CHAPTER AS A
3 RESULT OF THE DECISION OF THE STATE COURT OF APPEALS IN ROBERTS V. TISH-
4 MAN SPEYER PROPERTIES, L.P., 13 NY3D 270; (II) A CALCULATION OF THE
5 LEGAL REGULATED RENT FOR THE HOUSING ACCOMMODATION IN ACCORDANCE WITH
6 THE PROVISIONS OF PARAGRAPH ONE OF THIS SUBDIVISION; AND (III) THE TOTAL
7 AMOUNT TO BE REFUNDED PURSUANT TO PARAGRAPH TWO OF THIS SUBDIVISION.

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

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

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

33 (7) FOR ANY HOUSING ACCOMMODATION THAT IS OR WOULD BE SUBJECT TO REGU-
34 LATION AS A RESULT OF THE DECISION OF THE STATE COURT OF APPEALS IN
35 ROBERTS V. TISHMAN SPEYER PROPERTIES, 13 NY3D 270, AND WHERE THE OWNER
36 MAKES PAYMENT IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION SEVENTEEN
37 OF SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW AND
38 SUBDIVISION EE OF SECTION 11-243 OF THIS CODE, THE LEGAL REGULATED RENT
39 FOR SUCH HOUSING ACCOMMODATION SHALL BE THE AMOUNT SET FORTH IN THE
40 LEASE IN EFFECT ON OCTOBER TWENTY-SECOND, TWO THOUSAND NINE; IF THERE IS
41 NO LEASE IN EFFECT ON SAID DATE, THEN THE AMOUNT SET FORTH IN THE FIRST
42 LEASE IN EFFECT AFTER SAID DATE, PLUS ALL SUBSEQUENT ADJUSTMENTS AND
43 INCREASES, INCLUDING BUT NOT LIMITED TO INCREASES ATTRIBUTABLE TO VACAN-
44 CIES, MAJOR CAPITAL IMPROVEMENTS, INDIVIDUAL APARTMENT IMPROVEMENTS,
45 RENT GUIDELINES BOARD ORDERS, SURCHARGES OR ANY OTHER INCREASES THAT
46 WERE NOT PRECLUDED BY AN ORDER OF THE DIVISION OF HOUSING AND COMMUNITY
47 RENEWAL AS TO OTHER REGULATED HOUSING ACCOMMODATIONS IN THE BUILDING AND
48 THAT WOULD HAVE BEEN PERMITTED NOTWITHSTANDING THE ABSENCE OR OMISSION
49 OF ANY FORM, RIDER, NOTICE, REGISTRATION, APPLICATION OR ANY OTHER DOCU-
50 MENT THAT WOULD HAVE BEEN REQUIRED OR OTHERWISE PROVIDED.

51 B. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, THE EMERGENCY
52 TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR OR THE CIVIL PRACTICE LAW
53 AND RULES TO THE CONTRARY, AND SUBJECT TO THE PROVISIONS OF SUBDIVISION
54 C OF THIS SECTION, ANY HOUSING ACCOMMODATION THAT, PRIOR TO ITS VACANCY,
55 WAS SUBJECT TO REGULATION UNDER CHAPTER THREE OF THIS TITLE AND WHICH IS
56 OR WOULD BE SUBJECT TO REGULATION UNDER THIS CHAPTER AS A RESULT OF THE

1 DECISION OF THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER
2 PROPERTIES, L.P., 13 NY3D 270, SHALL BE SUBJECT TO THE FOLLOWING:

3 (1) WHERE A HOUSING ACCOMMODATION PRIOR TO ITS VACANCY WAS SUBJECT TO
4 REGULATION UNDER CHAPTER THREE OF THIS TITLE AND WHICH IS OR WOULD BE
5 SUBJECT TO REGULATION UNDER THIS CHAPTER AS A RESULT OF THE DECISION OF
6 THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES,
7 L.P., 13 NY3D 270, THE INITIAL LEGAL REGULATED RENT SHALL BE (I) DETER-
8 MINED IN ACCORDANCE WITH THE METHODOLOGY USED FOR FAIR MARKET RENT
9 APPEALS, PROVIDED, HOWEVER, THAT THE RENTS IN EFFECT FOR COMPARABLE
10 APARTMENTS, WHETHER OR NOT REGULATED, ON THE DATE FOUR YEARS PRIOR TO
11 THE DATE OF THE COMMENCEMENT OF THE FIRST LEASE EXECUTED AFTER THE
12 VACANCY BY THE FORMER RENT CONTROLLED TENANT OF SUCH HOUSING ACCOMMO-
13 DATION, BUT IN NO EVENT PRIOR TO OCTOBER TWENTY-SECOND, TWO THOUSAND
14 FIVE, SHALL BE UTILIZED FOR THE PURPOSE OF DETERMINING THE COMPARABILITY
15 COMPONENT USED FOR THE DETERMINATION OF FAIR MARKET RENT APPEALS, PLUS
16 ALL SUBSEQUENT ADJUSTMENTS AND INCREASES INCLUDING BUT NOT LIMITED TO
17 INCREASES ATTRIBUTABLE TO VACANCIES, MAJOR CAPITAL IMPROVEMENTS, INDI-
18 VIDUAL APARTMENT IMPROVEMENTS, RENT GUIDELINES BOARD ORDERS, SURCHARGES
19 OR OTHER INCREASES THAT WERE NOT PRECLUDED BY AN ORDER OF THE DIVISION
20 OF HOUSING AND COMMUNITY RENEWAL AS TO OTHER REGULATED HOUSING ACCOMMO-
21 DATIONS IN THE BUILDING AND THAT WOULD HAVE BEEN PERMITTED NOTWITHSTAND-
22 ING THE ABSENCE OR OMISSION OF ANY FORM, RIDER, NOTICE, REGISTRATION,
23 APPLICATION OR ANY OTHER DOCUMENT THAT WOULD HAVE BEEN REQUIRED OR
24 OTHERWISE PROVIDED, OR (II) THE INITIAL LEGAL REGULATED RENT AGREED TO
25 BY THE TENANT PURSUANT TO PARAGRAPH FIVE OF THIS SUBDIVISION, OR (III)
26 SUCH OTHER AMOUNT AS AGREED TO BY THE OWNER AND TENANT IN A WRITING
27 EXECUTED BY THE PARTIES AFTER RECEIPT BY THE TENANT OF THE NOTICE
28 REQUIRED BY PARAGRAPH THREE OF THIS SUBDIVISION AND PAYMENT BY THE OWNER
29 OF THE REFUND AMOUNT, IF ANY, PROVIDED IN SUCH AGREEMENT.

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

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

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

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

1 REFUND AMOUNT AND THE OWNER MAKES THE REFUND, IF ANY, AGREED TO BY THE
2 PARTIES, THEN NEITHER SUCH LEGAL REGULATED RENT NOR SUCH REFUND AMOUNT,
3 IF ANY, SHALL THEREAFTER BE SUBJECT TO CHALLENGE BY THE TENANT OR ANY
4 SUBSEQUENT TENANT OF THE HOUSING ACCOMMODATION. HOWEVER, IF THE AGREE-
5 MENT ENTERED INTO PURSUANT TO THIS PARAGRAPH REQUIRES THAT THE TENANT
6 VACATE THE SUBJECT HOUSING ACCOMMODATION OR SURRENDER POSSESSION OF THE
7 HOUSING ACCOMMODATION, IT SHALL NOT BE BINDING UPON SUBSEQUENT TENANTS.

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

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

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

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

49 S 5-B. ENFORCEMENT AND PROCEDURES FOR IMPLEMENTING THE DECISION OF THE
50 COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D
51 270. FOR PURPOSES OF THIS SECTION, "HOUSING ACCOMMODATIONS SUBJECT TO
52 THE RULING OF THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER
53 PROPERTIES, L.P., 13 NY3D 270" SHALL MEAN HOUSING ACCOMMODATIONS IN
54 BUILDINGS THAT WERE SUBJECT TO THE NEW YORK CITY RENT AND REHABILITATION
55 LAW, NEW YORK CITY RENT STABILIZATION LAW OF NINETEEN HUNDRED SIXTY-NINE
56 OR THIS ACT PRIOR TO THE RECEIPT OF BENEFITS PURSUANT TO SECTION 489 OF

1 THE REAL PROPERTY TAX LAW, EXCEPT AS TO (I) THOSE HOUSING ACCOMMODATIONS
2 RENTED AFTER SAID TAX BENEFITS HAD EXPIRED, (II) HOUSING ACCOMMODATIONS
3 RENTING DURING THE TAX BENEFIT PERIOD WHERE EACH LEASE HAD THE REQUISITE
4 DEREGULATION NOTICE OR (III) THOSE HOUSING ACCOMMODATIONS DEREGULATED BY
5 ADMINISTRATIVE OR COURT ORDER, WHICH HOUSING ACCOMMODATIONS SHALL REMAIN
6 DEREGULATED DESPITE SUCH RULING.

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

14 (1) THE LEGAL REGULATED RENT FOR A HOUSING ACCOMMODATION SUBJECT TO
15 THIS SECTION SHALL BE (I) THE RENT CHARGED AND PAID FOR SUCH HOUSING
16 ACCOMMODATION ON OCTOBER 22, 2005, OR PROVIDED FOR IN THE LEASE IN
17 EFFECT ON SUCH DATE, WHICHEVER IS GREATER, PLUS ALL SUBSEQUENT ADJUST-
18 MENTS AND INCREASES, INCLUDING BUT NOT LIMITED TO INCREASES ATTRIBUTABLE
19 TO VACANCIES, MAJOR CAPITAL IMPROVEMENTS, INDIVIDUAL APARTMENT IMPROVE-
20 MENTS, RENT GUIDELINES BOARD ORDERS, SURCHARGES OR ANY OTHER INCREASES
21 THAT WERE NOT PRECLUDED BY AN ORDER OF THE DIVISION OF HOUSING AND
22 COMMUNITY RENEWAL AS TO OTHER REGULATED HOUSING ACCOMMODATIONS IN THE
23 BUILDING AND THAT WOULD HAVE BEEN PERMITTED NOTWITHSTANDING THE ABSENCE
24 OR OMISSION OF ANY FORM, RIDER, NOTICE, REGISTRATION, APPLICATION OR ANY
25 OTHER DOCUMENT THAT WOULD HAVE BEEN REQUIRED OR OTHERWISE PROVIDED; IF
26 THERE IS NO TENANT OR NO LEASE IN EFFECT ON OCTOBER TWENTY-SECOND, TWO
27 THOUSAND FIVE, THEN THE FIRST RENT CHARGED AND PAID OR PROVIDED FOR IN
28 THE FIRST LEASE IN EFFECT AFTER SAID DATE, WHICHEVER IS GREATER; OR (II)
29 THE LEGAL REGULATED RENT AGREED TO BY THE TENANT PURSUANT TO PARAGRAPH
30 FIVE OF THIS SUBDIVISION; OR (III) SUCH OTHER AMOUNT AS AGREED TO BY THE
31 OWNER AND TENANT IN A WRITING EXECUTED BY THE PARTIES AFTER RECEIPT BY
32 THE TENANT OF THE NOTICE REQUIRED BY PARAGRAPH THREE OF THIS SUBDIVISION
33 AND PAYMENT BY THE OWNER OF THE REFUND AMOUNT, IF ANY, PROVIDED IN SUCH
34 AGREEMENT.

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

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

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

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

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

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

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

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

43 (1) WHERE A HOUSING ACCOMMODATION IS OR WOULD BE SUBJECT TO REGULATION
44 UNDER THIS ACT AS A RESULT OF A DECISION OF THE STATE COURT OF APPEALS
45 IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 270, THE INITIAL
46 LEGAL REGULATED RENT SHALL BE (I) DETERMINED IN ACCORDANCE WITH THE
47 METHODOLOGY USED FOR FAIR MARKET RENT APPEALS, PROVIDED, HOWEVER, THAT
48 THE RENTS IN EFFECT FOR COMPARABLE APARTMENTS, WHETHER OR NOT REGULATED,
49 ON THE DATE FOUR YEARS PRIOR TO THE DATE OF THE COMMENCEMENT OF THE
50 FIRST LEASE EXECUTED AFTER THE VACANCY BY THE FORMER RENT CONTROLLED
51 TENANT OF SUCH HOUSING ACCOMMODATION BUT IN NO EVENT PRIOR TO OCTOBER
52 22, 2005, SHALL BE UTILIZED FOR THE PURPOSE OF DETERMINING THE COMPAR-
53 ABILITY COMPONENT USED FOR THE DETERMINATION OF FAIR MARKET RENT
54 APPEALS, PLUS ALL SUBSEQUENT ADJUSTMENTS AND INCREASES INCLUDING BUT NOT
55 LIMITED TO INCREASES ATTRIBUTABLE TO VACANCIES, MAJOR CAPITAL IMPROVE-
56 MENTS, INDIVIDUAL APARTMENT IMPROVEMENTS, RENT GUIDELINES BOARD ORDERS,

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

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

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

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

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

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

51 (7) FOR ANY HOUSING ACCOMMODATION THAT IS OR WOULD BE SUBJECT TO REGU-
52 LATION AS A RESULT OF THE DECISION OF THE STATE COURT OF APPEALS IN
53 ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 270, AND WHERE THE
54 OWNER MAKES PAYMENT IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION 17
55 OF SECTION 489 OF THE REAL PROPERTY TAX LAW AND SUBDIVISION EE OF
56 SECTION 11-243 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK, THE

1 INITIAL LEGAL REGULATED RENT FOR SUCH HOUSING ACCOMMODATION SHALL BE THE
2 AMOUNT SET FORTH IN THE LEASE IN EFFECT ON OCTOBER 22, 2009; IF THERE IS
3 NO LEASE IN EFFECT ON SAID DATE, THE FIRST LEASE IN EFFECT THEREAFTER;
4 PLUS ALL SUBSEQUENT ADJUSTMENTS AND INCREASES, INCLUDING BUT NOT LIMITED
5 TO INCREASES ATTRIBUTABLE TO VACANCIES, MAJOR CAPITAL IMPROVEMENTS,
6 INDIVIDUAL APARTMENT IMPROVEMENTS, RENT GUIDELINES BOARD ORDERS,
7 SURCHARGES OR ANY OTHER INCREASES THAT WERE NOT PRECLUDED BY AN ORDER OF
8 THE DIVISION OF HOUSING AND COMMUNITY RENEWAL AS TO OTHER REGULATED
9 HOUSING ACCOMMODATIONS IN THE BUILDING AND THAT WOULD HAVE BEEN PERMIT-
10 TED NOTWITHSTANDING THE ABSENCE OR OMISSION OF ANY FORM, RIDER, NOTICE,
11 REGISTRATION, APPLICATION OR ANY OTHER DOCUMENT THAT WOULD HAVE BEEN
12 REQUIRED OR OTHERWISE PROVIDED.

13 C. AS AN ALTERNATIVE TO THE PROCEDURES SET FORTH IN SUBDIVISIONS A AND
14 B OF THIS SECTION, AN OWNER MAY, WITHIN NINETY DAYS OF THE EFFECTIVE
15 DATE OF THIS SECTION, PROVIDE WRITTEN NOTICE TO THE CURRENT TENANT OF
16 THE HOUSING ACCOMMODATION THAT THE OWNER INTENDS TO MAKE PAYMENT TO THE
17 CITY OF NEW YORK IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION 17 OF
18 SECTION 489 OF THE REAL PROPERTY TAX LAW AND SUBDIVISION EE OF SECTION
19 11-243 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK. AN OWNER WHO
20 PROVIDES A NOTICE PURSUANT TO THIS SECTION BUT WHO DOES NOT MAKE PAYMENT
21 TO SUCH CITY IN ACCORDANCE WITH THE REAL PROPERTY TAX LAW AND THE ADMIN-
22 ISTRATIVE CODE OF THE CITY OF NEW YORK BY JUNE 30, 2013 SHALL BE SUBJECT
23 TO THE OVERCHARGE PENALTIES, INCLUDING INTEREST AND TREBLE DAMAGES,
24 PROVIDED FOR IN SECTION 26-516 OF THE ADMINISTRATIVE CODE OF THE CITY OF
25 NEW YORK. DURING THE PERIODS IN WHICH THE PROCEDURES SET FORTH IN SUBDI-
26 VISIONS A, B OR C OF THIS SECTION ARE BEING UTILIZED, THE OWNER OF SUCH
27 HOUSING ACCOMMODATIONS SHALL BE AUTHORIZED TO CHARGE, AND A TENANT OR
28 FORMER TENANT OF SUCH A HOUSING ACCOMMODATION SHALL BE OBLIGATED TO PAY,
29 THE AMOUNT SET FORTH IN THE LEASE THEN IN EFFECT.

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

34 (i) housing accommodations owned as a cooperative or condominium unit
35 which are or become vacant on or after the effective date of this para-
36 graph REGARDLESS OF WHETHER SUCH HOUSING ACCOMMODATIONS WERE, ARE OR
37 WILL BE IN A BUILDING WHICH RECEIVED OR RECEIVES TAX BENEFITS PURSUANT
38 TO SECTION 489 OF THE REAL PROPERTY TAX LAW AND REGARDLESS OF THE RULING
39 OF THE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P.,
40 13 NY3D 270, except that this subparagraph shall not apply to units
41 occupied by non-purchasing tenants under section [three hundred fifty-
42 two-eee] 352-EEE of the general business law until the occurrence of a
43 vacancy.

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

46 17. WHERE HOUSING ACCOMMODATIONS WERE SUBJECT TO RENT REGULATION IMME-
47 DIATELY PRIOR TO THE RECEIPT OF TAX EXEMPTION OR TAX ABATEMENT BENEFITS
48 PURSUANT TO THIS SECTION OR WHICH ARE OR WOULD BE SUBJECT TO RENT REGU-
49 LATION DUE TO THE RECEIPT OF SUCH BENEFITS PURSUANT TO THE RULING OF THE
50 COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D
51 270, THE OWNER OF SUCH HOUSING ACCOMMODATIONS SHALL BE AUTHORIZED TO
52 MAKE TO THE CITY OF NEW YORK, AND THE CITY OF NEW YORK SHALL BE OBLIGED
53 TO ACCEPT, PAYMENT OF THE FULL AMOUNT OF ALL SUCH BENEFITS RECEIVED BY
54 ALL OWNERS OF SUCH HOUSING ACCOMMODATIONS PURSUANT TO ANY ORDER OR
55 DETERMINATION ISSUED BY THE LOCAL HOUSING AGENCY ADMINISTERING THIS
56 CHAPTER OR THE LOCAL GOVERNMENT AGENCY RESPONSIBLE FOR REAL PROPERTY TAX

1 ASSESSMENT PRIOR TO OCTOBER TWENTY-SECOND, TWO THOUSAND NINE WHICH
2 REQUIRED THE HOUSING ACCOMMODATION TO BE SUBJECT TO RENT REGULATIONS.
3 SUCH PAYMENT SHALL BE MADE NO LATER THAN JUNE THIRTIETH, TWO THOUSAND
4 THIRTEEN. SUCH PAYMENT SHALL ENTITLE SUCH OWNER TO THE BENEFIT OF THE
5 EXCLUSIONS SET FORTH IN SECTIONS 26-504.1 AND 26-504.2 OF THE ADMINIS-
6 TRATIVE CODE OF THE CITY OF NEW YORK WHERE THE HOUSING ACCOMMODATIONS
7 WERE SUBJECT TO RENT REGULATION IMMEDIATELY PRIOR TO THE RECEIPT OF TAX
8 BENEFITS PURSUANT TO THIS SECTION OR WHICH ARE OR WOULD BE SUBJECT TO
9 RENT REGULATION DUE TO RECEIPT OF SUCH BENEFITS PURSUANT TO THE RULING
10 OF THE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P.,
11 13 NY3D, 270 UPON THE EXPIRATION OF SAID BENEFITS. PAYMENT PURSUANT TO
12 THIS SUBDIVISION SHALL BE PAID INTO THE GENERAL FUND OF THE CITY OF NEW
13 YORK. THE CITY OF NEW YORK SHALL, UPON REQUEST OF SUCH OWNER, PROVIDE
14 WITHIN THIRTY DAYS OF SUCH REQUEST A STATEMENT SETTING FORTH THE AMOUNTS
15 DUE FOR PAYMENT AND WAIVER, AND THE BASIS THEREOF. THE CITY'S FAILURE TO
16 RESPOND TIMELY TO SUCH REQUEST SHALL TOLL THE RUNNING OF THE OWNER'S
17 OBLIGATION TO MAKE PAYMENT FOLLOWING THE DELIVERY OF NOTICE OF SUCH
18 INTENT TO THE TENANT. FOR PURPOSES OF THIS SECTION, "HOUSING ACCOMMO-
19 DATIONS SUBJECT TO THE RULING OF THE STATE COURT OF APPEALS IN ROBERTS
20 V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 270" SHALL MEAN HOUSING
21 ACCOMMODATIONS IN BUILDINGS THAT WERE SUBJECT TO THE NEW YORK CITY RENT
22 AND REHABILITATION LAW, THE NEW YORK CITY RENT STABILIZATION LAW OF
23 NINETEEN HUNDRED SIXTY-NINE OR THE EMERGENCY TENANT PROTECTION ACT OF
24 NINETEEN SEVENTY-FOUR PRIOR TO THE RECEIPT OF BENEFITS PURSUANT TO THIS
25 SECTION, EXCEPT AS TO (I) THOSE HOUSING ACCOMMODATIONS RENTED AFTER SAID
26 TAX BENEFITS HAD EXPIRED, (II) HOUSING ACCOMMODATIONS RENTING DURING THE
27 TAX BENEFIT PERIOD WHERE EACH LEASE HAD THE REQUISITE DEREGULATION
28 NOTICE OR (III) THOSE HOUSING ACCOMMODATIONS DEREGULATED BY ADMINISTRA-
29 TIVE OR COURT ORDER, WHICH HOUSING ACCOMMODATIONS SHALL REMAIN DEREGU-
30 LATED DESPITE SUCH RULING.

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

33 EE. WHERE HOUSING ACCOMMODATIONS WERE SUBJECT TO RENT REGULATION IMME-
34 DIATELY PRIOR TO THE RECEIPT OF TAX EXEMPTION OR TAX ABATEMENT BENEFITS
35 PURSUANT TO THIS SECTION OR WHICH ARE OR WOULD BE SUBJECT TO RENT REGU-
36 LATION DUE TO THE RECEIPT OF SUCH BENEFITS PURSUANT TO THE RULING OF THE
37 COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D
38 270, THE OWNER OF SUCH HOUSING ACCOMMODATIONS SHALL BE AUTHORIZED TO
39 MAKE OR TO HAVE MADE TO THE CITY, AND THE CITY SHALL BE OR HAVE BEEN
40 OBLIGED TO ACCEPT, PAYMENT OF THE FULL AMOUNT OF ALL SUCH BENEFITS
41 RECEIVED BY ALL OWNERS OF SUCH HOUSING ACCOMMODATIONS PURSUANT TO ANY
42 ORDER OR DETERMINATION ISSUED BY THE DEPARTMENT OR BY THE DEPARTMENT OF
43 HOUSING PRESERVATION AND DEVELOPMENT PRIOR TO OCTOBER TWENTY-SECOND, TWO
44 THOUSAND NINE WHICH REQUIRED THE HOUSING ACCOMMODATION TO BE SUBJECT TO
45 SUCH RENT REGULATIONS. SUCH PAYMENT SHALL BE MADE NO LATER THAN JUNE
46 THIRTIETH, TWO THOUSAND THIRTEEN. SUCH PAYMENT SHALL ENTITLE SUCH OWNER
47 TO THE BENEFIT OF THE EXCLUSIONS SET FORTH IN SECTIONS 26-504.1 AND
48 26-504.2 OF THIS CODE WHERE THE HOUSING ACCOMMODATIONS WERE SUBJECT TO
49 RENT REGULATION IMMEDIATELY PRIOR TO THE RECEIPT OF TAX BENEFITS PURSU-
50 ANT TO THIS SECTION OR WHICH ARE OR WOULD BE SUBJECT TO RENT REGULATION
51 DUE TO RECEIPT OF TAX BENEFITS PURSUANT TO THE RULING OF THE COURT OF
52 APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., NY3D 270 UPON THE
53 EXPIRATION OF SAID BENEFITS. PAYMENT PURSUANT TO THIS SUBDIVISION SHALL
54 BE PAID INTO THE GENERAL FUND OF THE CITY. THE CITY SHALL, UPON REQUEST
55 OF SUCH OWNER, PROVIDE WITHIN THIRTY DAYS OF SUCH REQUEST A STATEMENT
56 SETTING FORTH THE AMOUNTS DUE FOR PAYMENT AND WAIVER, AND THE BASIS

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

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

20 c. [Dwelling] EXCEPT AS OTHERWISE PROVIDED BY SUBDIVISION SEVENTEEN OF
21 SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW AND SUBDI-
22 VISION EE OF SECTION 11-243 OF THIS CODE, DWELLING units in a building
23 or structure receiving the benefits of section 11-243 or section 11-244
24 of [the] THIS code or article eighteen of the private housing finance
25 law, not owned as a cooperative or as a condominium, except as provided
26 in section three hundred fifty-two-eeee of the general business law and
27 not subject to chapter three of this title. [Upon] EXCEPT AS OTHERWISE
28 PROVIDED BY SUBDIVISION SEVENTEEN AND SUBDIVISION EIGHTEEN OF SECTION
29 FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW AND SUBDIVISION EE
30 AND SUBDIVISION FF OF SECTION 11-243 OF THIS CODE, the expiration or
31 termination for any reason of the benefits of section 11-243 or section
32 11-244 of [the] THIS code or article eighteen of the private housing
33 finance law any such dwelling unit shall be subject to this chapter
34 until the occurrence of the first vacancy of such unit after such bene-
35 fits are no longer being received or if each lease and renewal thereof
36 for such unit for the tenant in residence at the time of the expiration
37 of the tax benefit period has included a notice in at least twelve point
38 type informing such tenant that the unit shall become subject to deregu-
39 lation upon the expiration of such tax benefit period and states the
40 approximate date on which such tax benefit period is scheduled to
41 expire, such dwelling unit shall be deregulated as of the end of the tax
42 benefit period; provided, however, that if such dwelling unit would have
43 been subject to this chapter or the emergency tenant protection act of
44 nineteen seventy-four in the absence of this subdivision, such dwelling
45 unit shall, upon the expiration of such benefits, continue to be subject
46 to this chapter or the emergency tenant protection act of nineteen
47 seventy-four to the same extent and in the same manner as if this subdi-
48 vision had never applied thereto. NOTWITHSTANDING THE FOREGOING, WHERE
49 THE NOTIFICATION REQUIRED BY THIS SUBDIVISION WAS NOT PROVIDED FOR ANY
50 HOUSING ACCOMMODATION WHICH IS OR WOULD BE SUBJECT TO REGULATION UNDER
51 THIS CHAPTER AS A RESULT OF THE DECISION OF THE STATE COURT OF APPEALS
52 IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 270, THE FAILURE
53 TO PROVIDE SUCH NOTIFICATION SHALL NOT PRECLUDE THE DEREGULATION OF SUCH
54 HOUSING ACCOMMODATION UPON THE EXPIRATION OF THE LEASE OR RENEWAL LEASE
55 IMMEDIATELY SUBSEQUENT TO THE EXPIRATION OF SUCH TAX BENEFITS, PROVIDED
56 THAT THE OWNER OF SUCH HOUSING ACCOMMODATION SHALL COMPLY WITH SUCH

1 NOTICE REQUIREMENT FOR EACH LEASE OR RENEWAL LEASE OFFERED FOR SUCH
2 HOUSING ACCOMMODATION DURING THE PERIOD BETWEEN NINETY DAYS AFTER THE
3 EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND TWELVE WHICH
4 AMENDED THIS SUBDIVISION AND THE EXPIRATION OF SUCH TAX BENEFITS. FOR
5 PURPOSES OF THIS SECTION, "HOUSING ACCOMMODATIONS SUBJECT TO THE RULING
6 OF THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES,
7 L.P., 13 NY3D 270" SHALL MEAN HOUSING ACCOMMODATIONS IN BUILDINGS THAT
8 WERE SUBJECT TO THIS CHAPTER, THE NEW YORK CITY RENT AND REHABILITATION
9 LAW, AND/OR THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR
10 PRIOR TO THE RECEIPT OF BENEFITS PURSUANT TO SECTION FOUR HUNDRED EIGHT-
11 Y-NINE OF THE REAL PROPERTY TAX LAW, EXCEPT AS TO (I) THOSE HOUSING
12 ACCOMMODATIONS RENTED AFTER SAID TAX BENEFITS HAD EXPIRED, (II) HOUSING
13 ACCOMMODATIONS RENTING DURING THE TAX BENEFIT PERIOD WHERE EACH LEASE
14 HAD THE REQUISITE DEREGULATION NOTICE, OR (III) THOSE HOUSING ACCOMMO-
15 DATIONS DEREGULATED BY ADMINISTRATIVE OR COURT ORDER, WHICH HOUSING
16 ACCOMMODATIONS SHALL REMAIN DEREGULATED DESPITE SUCH RULING.

17 S 9. The opening paragraph of paragraph (a) of subdivision 1 of
18 section 489 of the real property tax law, as amended by chapter 244 of
19 the laws of 2006, is amended to read as follows:

20 Any city to which the multiple dwelling law is applicable, acting
21 through its local legislative body or other governing agency, is hereby
22 authorized and empowered, to and including June first, two thousand
23 [eleven] FIFTEEN, to adopt and amend local laws or ordinances providing
24 that any increase in assessed valuation of real property shall be exempt
25 from taxation for local purposes, as provided herein, to the extent such
26 increase results from:

27 S 10. The closing paragraph of subparagraph 6 of paragraph (a) of
28 subdivision 1 of section 489 of the real property tax law, as amended by
29 chapter 244 of the laws of 2006, is amended to read as follows:

30 Such conversion, alterations or improvements shall be completed within
31 thirty-six months after the date on which same shall be started except
32 that such thirty-six month limitation shall not apply to conversions of
33 residential units which are registered with the loft board in accordance
34 with article seven-C of the multiple dwelling law pursuant to subpara-
35 graph one of this paragraph. Notwithstanding the foregoing, a sixty
36 month period for completion shall be available for alterations or
37 improvements undertaken by a housing development fund company organized
38 pursuant to article eleven of the private housing finance law, which are
39 carried out with the substantial assistance of grants, loans or subsi-
40 dies from any federal, state or local governmental agency or instrumen-
41 tality or which are carried out in a property transferred from such city
42 if alterations and improvements are completed within seven years after
43 the date of transfer. In addition, the local housing agency is hereby
44 empowered to grant an extension of the period of completion for any
45 project carried out with the substantial assistance of grants, loans or
46 subsidies from any federal, state or local governmental agency or
47 instrumentality, if such alterations or improvements are completed with-
48 in sixty months from commencement of construction. Provided, further,
49 that such conversion, alterations or improvements shall in any event be
50 completed prior to December thirty-first, two thousand [eleven] FIFTEEN.
51 Exemption for conversions, alterations or improvements pursuant to
52 subparagraph one, two, three or four of this paragraph shall continue
53 for a period not to exceed fourteen years and begin no sooner than the
54 first quarterly tax bill immediately following the completion of such
55 conversion, alterations or improvements. Exemption for alterations or
56 improvements pursuant to this subparagraph or subparagraph five of this

1 paragraph shall continue for a period not to exceed thirty-four years
2 and shall begin no sooner than the first quarterly tax bill immediately
3 following the completion of such alterations or improvements. Such
4 exemption shall be equal to the increase in the valuation which is
5 subject to exemption in full or proportionally under this subdivision
6 for ten or thirty years, whichever is applicable. After such period of
7 time, the amount of such exempted assessed valuation of such improve-
8 ments shall be reduced by twenty percent in each succeeding year until
9 the assessed value of the improvements are fully taxable. Provided,
10 however, exemption for any conversion, alterations or improvements which
11 are aided by a loan or grant under article eight, eight-A, eleven,
12 twelve, fifteen or twenty-two of the private housing finance law,
13 section six hundred ninety-six-a or section ninety-nine-h of the general
14 municipal law, or section three hundred twelve of the housing act of
15 nineteen hundred sixty-four (42 U.S.C.A. 1452b), or the Cranston-Gonza-
16 lez national affordable housing act (42 U.S.C.A. 12701 et. seq.), or
17 started after July first, nineteen hundred eighty-three by a housing
18 development fund company organized pursuant to article eleven of the
19 private housing finance law which are carried out with the substantial
20 assistance of grants, loans or subsidies from any federal, state or
21 local governmental agency or instrumentality or which are carried out in
22 a property transferred from any city and where alterations and improve-
23 ments are completed within seven years after the date of transfer may
24 commence at the beginning of any tax quarter subsequent to the start of
25 such conversion, alterations or improvements and prior to the completion
26 of such conversion, alterations or improvements.

27 S 11. This act shall take effect immediately, provided, that:

28 (a) sections one and two of this act shall be deemed to have been in
29 full force and effect on and after July 6, 1993;

30 (b) sections nine and ten of this act shall be deemed to have been in
31 full force and effect on and after June 1, 2011;

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

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

41 (e) the provisions of this act shall preclude in their entirety any
42 and all claims in any administrative or judicial proceeding relating to
43 the deregulation of housing accommodations which were subject to rent
44 regulation immediately prior to the receipt of tax benefits pursuant to
45 section 489 of the real property tax law and section 11-243 of the
46 administrative code of the city of New York or which are or would be
47 subject to rent regulation pursuant to the ruling of the court of
48 appeals in *Roberts v. Tishman Speyer Properties, L.P.*, 13 NY3d 270,
49 provided that the owner of such housing accommodations has acted in
50 accordance with this act, regardless of whether such claims are brought,
51 or any payments by such owner permitted under this act are made, prior
52 or subsequent to the effective date of this act. For purposes of this
53 section, "housing accommodations subject to the ruling of the state
54 court of appeals in *ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P.*, 13 NY3D
55 270" shall mean housing accommodations in buildings that were subject to
56 the New York city rent and rehabilitation law, the New York city rent

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