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

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I N S E N A T E

February 13, 2012

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

AN ACT to amend the emergency housing rent control law, the emergency tenant protection act of nineteen seventy-four and the administrative code of the city of New York, in relation to high income decontrol of rent regulated housing accommodations

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

Section 1. Subparagraph 1 of paragraph (m) of subdivision 2 of section 2 of chapter 274 of the laws of 1946, constituting the emergency housing rent control law, as amended by section 31 of part B of chapter 97 of the laws of 2011, is amended to read as follows:

(1) are occupied by persons who have a total AVERAGE annual income, as defined in and subject to the limitations and process set forth in section two-a of this law, in excess of the deregulation income threshold as defined in section two-a of this law [in each of] FOR the two preceding calendar years;

S 2. Subdivision (b) and paragraphs 1 and 2 of subdivision (c) of section 2-a of chapter 274 of the laws of 1946, constituting the emergency housing rent control law, as amended by section 32 of part B of chapter 97 of the laws of 2011, are amended to read as follows:

(b) On or before the first day of May in each calendar year, the owner of each housing accommodation for which the maximum monthly rent equals or exceeds the deregulation rent threshold may provide the tenant or tenants residing therein with an income certification form prepared by the division of housing and community renewal on which such tenant or tenants shall identify all persons referred to in subdivision (a) of this section and shall certify whether the total annual income is in excess of the deregulation income threshold in each of the two preceding calendar years. Such income certification form shall state that the income level certified to by the tenant may be subject to verification by the department of taxation and finance pursuant to section one hundred seventy-one-b of the tax law and shall not require disclosure of

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

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any income information other than whether the aforementioned threshold has been exceeded. Such income certification form shall clearly state that: (i) only tenants residing in housing accommodations which had a maximum monthly rent equal to or in excess of the deregulation rent threshold are required to complete the certification form; (ii) that tenants have protections available to them which are designed to prevent harassment; (iii) that tenants are not required to provide any information regarding their income except that which is requested on the form and may contain such other information the division deems appropriate. The tenant or tenants shall return the completed certification to the owner within thirty days after service upon the tenant or tenants. In the event that the total AVERAGE annual income as certified is in excess of the deregulation income threshold [in each of] FOR the two preceding calendar years, the owner may file the certification with the state division of housing and community renewal on or before June thirtieth of such year. Upon filing such certification with the division, the division shall, within thirty days after the filing, issue an order of deregulation providing that such housing accommodations shall not be subject to the provisions of this law as of the first day of June in the year next succeeding the filing of the certification by the owner. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be mailed to the owner.

1. In the event that the tenant or tenants either fail to return the completed certification to the owner on or before the date required by subdivision (b) of this section or the owner disputes the certification returned by the tenant or tenants, the owner may, on or before June thirtieth of such year, petition the state division of housing and community renewal to verify, pursuant to section one hundred seventy-one-b of the tax law, whether the total AVERAGE annual income exceeds the deregulation income threshold [in each of] FOR the two preceding calendar years. Within twenty days after the filing of such request with the division, the division shall notify the tenant or tenants that such tenant or tenants must provide the division with such information as the division and the department of taxation and finance shall require to verify whether the total AVERAGE annual income exceeds the deregulation income threshold [in each of] FOR the two preceding calendar years. The division's notification shall require the tenant or tenants to provide the information to the division within sixty days of service upon such tenant or tenants and shall include a warning in bold faced type that failure to respond will result in an order of deregulation being issued by the division for such housing accommodation.

2. If the department of taxation and finance determines that the total AVERAGE annual income is in excess of the deregulation income threshold [in each of] FOR the two preceding calendar years, the division shall, on or before November fifteenth of such year, notify the owner and tenants of the results of such verification. Both the owner and the tenants shall have thirty days within which to comment on such verification results. Within forty-five days after the expiration of the comment period, the division shall, where appropriate, issue an order of deregulation providing that such housing accommodation shall not be subject to the provisions of this law as of the first day of March in the year next succeeding the filing of the owner's petition with the division. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be sent to the owner.

S 3. Paragraph 12 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 amended by section 29 of part B of chapter 97 of the laws of 2011, is amended to read as follows:

(12) upon issuance of an order by the division, housing accommodations which are: (1) occupied by persons who have a total AVERAGE annual income as defined in and subject to the limitations and process set forth in section five-a of this act in excess of the deregulation income threshold, as defined in section five-a of this act, [in each of] FOR the two preceding calendar years; and (2) have a legal regulated rent that equals or exceeds the deregulation rent threshold, as defined in section five-a of this act. Provided however, that this exclusion shall not apply to housing accommodations which became or become subject to this act (a) by virtue of receiving tax benefits pursuant to section four hundred twenty-one-a or four hundred eighty-nine of the real property tax law, except as otherwise provided in subparagraph (i) of paragraph (f) of subdivision two of section four hundred twenty-one-a of the real property tax law, or (b) by virtue of article seven-C of the multiple dwelling law.

S 4. Subdivisions (b) and (c) of sect6ion 5-a of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, as amended by section 30 of part B of chapter 97 of the laws of 2011, are amended to read as follows:

(b) On or before the first day of May in each calendar year, the owner of each housing accommodation for which the legal regulated monthly rent equals or exceeds the deregulation rent threshold may provide the tenant or tenants residing therein with an income certification form prepared by the division of housing and community renewal on which such tenant or tenants shall identify all persons referred to in subdivision (a) of this section and shall certify whether the total AVERAGE annual income is in excess of the deregulation income threshold [in each of] FOR the two preceding calendar years. Such income certification form shall state that the income level certified to by the tenant may be subject to verification by the department of taxation and finance pursuant to section one hundred seventy-one-b of the tax law, and shall not require disclosure of any information other than whether the aforementioned threshold has been exceeded. Such income certification form shall clearly state that: (i) only tenants residing in housing accommodations which had a legal regulated monthly rent that equals or exceeds the deregulation rent threshold are required to complete the certification form; (ii) that tenants have protections available to them which are designed to prevent harassment; (iii) that tenants are not required to provide any information regarding their income except that which is requested on the form and may contain such other information the division deems appropriate. The tenant or tenants shall return the completed certification to the owner within thirty days after service upon the tenant or tenants. In the event that the total AVERAGE annual income as certified is in excess of the deregulation income threshold [in each of] FOR the two preceding calendar years, the owner may file the certification with the state division of housing and community renewal on or before June thirtieth of such year. Upon filing such certification with the division, the division shall, within thirty days after the filing, issue an order providing that such housing accommodation shall not be subject to the provisions of this act upon the expiration of the existing lease. A copy of such order shall be mailed by regular and certified mail, return

receipt requested, to the tenant or tenants and a copy thereof shall be mailed to the owner.

(c) 1. In the event that the tenant or tenants either fail to return the completed certification to the owner on or before the date required by subdivision (b) of this section or the owner disputes the certification returned by the tenant or tenants, the owner may, on or before June thirtieth of such year, petition the state division of housing and community renewal to verify, pursuant to section one hundred seventy-one-b of the tax law, whether the total AVERAGE annual income exceeds the deregulation income threshold [in each of] FOR the two preceding calendar years. Within twenty days after the filing of such request with the division, the division shall notify the tenant or tenants that such tenant or tenants named on the lease must provide the division with such information as the division and the department of taxation and finance shall require to verify whether the total AVERAGE annual income exceeds the deregulation income threshold [in each of] FOR the two preceding calendar years. The division's notification shall require the tenant or tenants to provide the information to the division within sixty days of service upon such tenant or tenants and shall include a warning in bold faced type that failure to respond will result in an order being issued by the division providing that such housing accommodations shall not be subject to the provisions of this act.

2. If the department of taxation and finance determines that the total AVERAGE annual income is in excess of the deregulation income threshold [in each of] FOR the two preceding calendar years, the division shall, on or before November fifteenth of such year, notify the owner and tenants of the results of such verification. Both the owner and the tenants shall have thirty days within which to comment on such verification results. Within forty-five days after the expiration of the comment period, the division shall, where appropriate, issue an order providing that such housing accommodation shall not be subject to the provisions of this act upon expiration of the existing lease. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be sent to the owner.

3. In the event the tenant or tenants fail to provide the information required pursuant to paragraph one of this subdivision, the division shall issue, on or before December first of such year, an order providing that such housing accommodation shall not be subject to the provisions of this act upon the expiration of the current lease. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be sent to the owner.

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

S 5. Clause 1 of subparagraph (j) of paragraph 2 of subdivision e of section 26-403 of the administrative code of the city of New York, as amended by section 33 of part B of chapter 97 of the laws of 2011, is amended to read as follows:

(1) are occupied by persons who have a total AVERAGE annual income, as defined in and subject to the limitations and process set forth in section 26-403.1 of this chapter, in excess of the deregulation income threshold, as defined in section 26-403.1 of this chapter, [in each of] FOR the two preceding calendar years; and

S 6. Subdivision (b) and paragraphs 1 and 2 of subdivision (c) of section 26-403.1 of the administrative code of the city of New York, as amended by section 34 of part B of chapter 97 of the laws of 2011, are amended to read as follows:

(b) On or before the first day of May in each calendar year, the owner of each housing accommodation for which the maximum rent equals or exceeds the deregulation rent threshold may provide the tenant or tenants residing therein with an income certification form prepared by the division of housing and community renewal on which such tenant or tenants shall identify all persons referred to in subdivision (a) of this section and shall certify whether the total AVERAGE annual income is in excess of the deregulation income threshold [in each of] FOR the two preceding calendar years. Such income certification form shall state that the income level certified to by the tenant may be subject to verification by the department of taxation and finance pursuant to section one hundred seventy-one-b of the tax law and shall not require disclosure of any income information other than whether the aforementioned threshold has been exceeded. Such income certification form shall clearly state that: (i) only tenants residing in housing accommodations which have a maximum monthly rent that equals or exceeds the deregulation rent threshold are required to complete the certification form; (ii) that tenants have protections available to them which are designed to prevent harassment; (iii) that tenants are not required to provide any information regarding their income except that which is requested on the form and may contain such other information the division deems appropriate. The tenant or tenants shall return the completed certification to the owner within thirty days after service upon the tenant or tenants. In the event that the total AVERAGE annual income as certified is in excess of the deregulation income threshold [in each of] FOR the two preceding calendar years, the owner may file the certification with the state division of housing and community renewal on or before June thirtieth of such year. Upon filing such certification with the division, the division shall, within thirty days after the filing, issue an order of deregulation providing that such housing accommodations shall not be subject to the provisions of this law as of the first day of June in the year next succeeding the filing of the certification by the owner. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be mailed to the owner.

1. In the event that the tenant or tenants either fail to return the completed certification to the owner on or before the date required by subdivision (b) of this section or the owner disputes the certification returned by the tenant or tenants, the owner may, on or before June thirtieth of such year, petition the state division of housing and community renewal to verify, pursuant to section one hundred seventy-one-b of the tax law, whether the total AVERAGE annual income exceeds the deregulation income threshold [in each of] FOR the two preceding calendar years. Within twenty days after the filing of such request with the division, the division shall notify the tenant or tenants that such tenant or tenants must provide the division with such information as the division and the department of taxation and finance shall require to verify whether the total AVERAGE annual income exceeds the deregulation income threshold [in each of] FOR the two preceding calendar years. The division's notification shall require the tenant or tenants to provide the information to the division within sixty days of service upon such tenant or tenants and shall include a warning in bold faced type that

failure to respond will result in an order of deregulation being issued by the division for such housing accommodation.

2. If the department of taxation and finance determines that the total AVERAGE annual income is in excess of the deregulation income threshold [in each of] FOR the two preceding calendar years, the division shall, on or before November fifteenth of such year, notify the owner and tenants of the results of such verification. Both the owner and the tenants shall have thirty days within which to comment on such verification results. Within forty-five days after the expiration of the comment period, the division shall, where appropriate, issue an order of deregulation providing that such housing accommodation shall not be subject to the provisions of this law as of the first day of March in the year next succeeding the filing of the owner's petition with the division. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be sent to the owner.

S 7. Section 26-504.1 of the administrative code of the city of New York, as amended by section 35 of part B of chapter 97 of the laws of 2011, is amended to read as follows:

S 26-504.1 Exclusion of accommodations of high income renters. Upon the issuance of an order by the division, "housing accommodations" shall not include housing accommodations which: (1) are occupied by persons who have a total AVERAGE annual income, as defined in and subject to the limitations and process set forth in section 26-504.3 of this chapter, in excess of the deregulation income threshold, as defined in section 26-504.3 of this chapter, for [each of] the two preceding calendar years; and (2) have a legal regulated monthly rent that equals or exceeds the deregulation rent threshold, as defined in section 26-504.3 of this chapter. Provided, however, that this exclusion shall not apply to housing accommodations which became or become subject to this law (a) by virtue of receiving tax benefits pursuant to section four hundred twenty-one-a or four hundred eighty-nine of the real property tax law, except as otherwise provided in subparagraph (i) of paragraph (f) of subdivision two of section four hundred twenty-one-a of the real property tax law, or (b) by virtue of article seven-C of the multiple dwelling law.

S 8. Subdivision (b) and paragraphs 1 and 2 of subdivision (c) of section 26-504.3 of the administrative code of the city of New York, as amended by section 36 of part B of chapter 97 of the laws of 2011, are amended to read as follows:

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

deregulation rent threshold are required to complete the certification form; (ii) that tenants have protections available to them which are designed to prevent harassment; (iii) that tenants are not required to provide any information regarding their income except that which is requested on the form and may contain such other information the division deems appropriate. The tenant or tenants shall return the completed certification to the owner within thirty days after service upon the tenant or tenants. In the event that the total AVERAGE annual income as certified is in excess of the deregulation income threshold [in each of] FOR the two preceding calendar years, the owner may file the certification with the state division of housing and community renewal on or before June thirtieth of such year. Upon filing such certification with the division, the division shall, within thirty days after the filing, issue an order providing that such housing accommodation shall not be subject to the provisions of this act upon the expiration of the existing lease. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be mailed to the owner.

1. In the event that the tenant or tenants either fail to return the completed certification to the owner on or before the date required by subdivision (b) of this section or the owner disputes the certification returned by the tenant or tenants, the owner may, on or before June thirtieth of such year, petition the state division of housing and community renewal to verify, pursuant to section one hundred seventy-one-b of the tax law, whether the total AVERAGE annual income exceeds the deregulation income threshold [in each of] FOR the two preceding calendar years. Within twenty days after the filing of such request with the division, the division shall notify the tenant or tenants named on the lease that such tenant or tenants must provide the division with such information as the division and the department of taxation and finance shall require to verify whether the total AVERAGE annual income exceeds the deregulation income threshold [in each of] FOR the two preceding calendar years. The division's notification shall require the tenant or tenants to provide the information to the division within sixty days of service upon such tenant or tenants and shall include a warning in bold faced type that failure to respond will result in an order being issued by the division providing that such housing accommodation shall not be subject to the provisions of this law.

2. If the department of taxation and finance determines that the total AVERAGE annual income is in excess of the deregulation income threshold [in each of] FOR the two preceding calendar years, the division shall, on or before November fifteenth of such year, notify the owner and tenants of the results of such verification. Both the owner and the tenants shall have thirty days within which to comment on such verification results. Within forty-five days after the expiration of the comment period, the division shall, where appropriate, issue an order providing that such housing accommodation shall not be subject to the provisions of this law upon the expiration of the existing lease. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be sent to the owner.

S 9. This act shall take effect immediately and shall apply to income certification forms served on and after January 1, 2013; provided that:

(a) the amendments to the emergency housing rent control law made by sections one and two of this act shall expire on the same date as such

law expires and shall not affect the expiration of such law as provided in subdivision 2 of section 1 of chapter 274 of the laws of 1946;

(b) the amendments to the emergency tenant protection act of nineteen seventy-four made by sections three and four 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 amendments to the city rent and rehabilitation law made by sections five and six of this act shall remain in full force and effect only as long as the public emergency requiring the regulation and control of residential rents and evictions continues, as provided in subdivision 3 of section 1 of the local emergency housing rent control act; and

(d) the amendments to chapter 4 of title 26 of the administrative code of the city of New York made by sections seven 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.