STATE OF NEW YORK

808

2017-2018 Regular Sessions

IN SENATE

January 5, 2017

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

AN ACT to amend the administrative code of the city of New York, the emergency tenant protection act of nineteen seventy-four and the emergency housing rent control law, in relation to recovery of certain housing accommodations by a landlord (Part A); to amend the administrative code of the city of New York and the emergency tenant protection act of nineteen seventy-four, in relation to limiting rent increase after vacancy of a housing accommodation; and to amend the administrative code of the city of New York, the emergency tenant protection act of nineteen seventy-four and the emergency housing rent control law, in relation to adjustment of maximum allowable rent (Part B); to amend the emergency tenant protection act of nineteen seventy-four, in relation to limited-profit housing companies and other buildings or structures which received project-based rental assistance (Part C); to amend the public housing law, in relation to the definition of "family member"; to amend the administrative code of the city of New York and the emergency tenant protection act of nineteen seventy-four, in relation to the definition of a tenant (Part D); to amend the administrative code of the city of New York and the emergency tenant protection act of nineteen seventy-four, in relation to making conforming technical changes; and to repeal paragraph 13 of subdivision a of section 5 of the emergency tenant protection act of nineteen seventy-four, paragraph (n) of subdivision 2 of section 2 of the emergency housing rent control law, and section 26-504.2 and subparagraph (k) of paragraph 2 of subdivision e of section 26-403 of the administrative code of the city of New York, relating to vacancy decontrol (Part E); to amend the administrative code of the city of New York, the emergency tenant protection act of nineteen seventy-four and the emergency housing rent control law, in relation to extending the length of time over which major capital improvement expenses may be recovered and in relation to approval of major capital improvement rent increases (Part F); to amend the administrative code of the city

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

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of New York and the emergency housing rent control law, in relation to the establishment of rent adjustments; and repealing certain provisions of the administrative code of the city of New York relating thereto (Part G); and to amend the administrative code of the city of New York, in relation to surcharges for the installation or use of certain appliances in housing accommodations subject to rent control (Part H)

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

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

§ 2. This act shall be known and may be cited as the "tenant protection act of 2017".

PART A

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

(1) The landlord seeks in good faith to recover possession of a housing accommodation because of immediate and compelling necessity for his or her own personal use and occupancy **as his or her primary residence** or for the use and occupancy of his or her immediate family **as their primary residence** provided, however, that this subdivision shall **permit recovery of only one housing accommodation and shall** not apply where a member of the household lawfully occupying the housing accommodation is sixty-two years of age or older, has been a tenant in a housing accommodation in that building for twenty years or more, or has an impairment which results from anatomical, physiological or psychological conditions, other than addiction to alcohol, gambling, or any controlled substance, which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques, and which are expected to be permanent and which prevent the tenant from engaging in any substantial gainful employment; or

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

(b) where he or she seeks to recover possession of one [~~or more~~] dwelling [~~units~~] **unit because of immediate and compelling necessity** for his or her own personal use and occupancy as his or her primary residence [~~in the city of New York and/or~~] **or** for the use and occupancy of a member of his or her immediate family as his or her primary residence [~~in the city of New York~~], provided however, that this subparagraph shall **permit recovery of only one dwelling unit and shall** not apply

where a tenant or the spouse of a tenant lawfully occupying the dwelling unit is sixty-two years of age or older**, has been a tenant in a dwelling unit in that building for twenty years or more**, or has an impairment which results from anatomical, physiological or psychological conditions, other than addiction to alcohol, gambling, or any controlled substance, which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques, and which are expected to be permanent and which prevent the tenant from engaging in any substantial gainful employment, unless such owner offers to provide and if requested, provides an equivalent or superior housing accommodation at the same or lower stabilized rent in a closely proximate area. The provisions of this subparagraph shall only permit one of the individual owners of any building to recover possession of one [~~or more~~] dwelling [~~units~~] **unit** for his or her own personal use and/or for that of his or her immediate family. [~~Any~~] **A** dwelling unit recovered by an owner pursuant to this subparagraph shall not for a period of three years be rented, leased, subleased or assigned to any person other than a person for whose benefit recovery of the dwelling unit is permitted pursuant to this subparagraph or to the tenant in occupancy at the time of recovery under the same terms as the original lease. This subparagraph shall not be deemed to establish or eliminate any claim that the former tenant of the dwelling unit may otherwise have against the owner. Any such rental, lease, sublease or assignment during such period to any other person may be subject to a penalty of a forfeiture of the right to any increases in residential rents in such building for a period of three years; or

§ 3. Subdivision a of section 10 of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, as amended by chapter 234 of the laws of 1984, is amended to read as follows:

a. For cities having a population of less than one million and towns and villages, the state division of housing and community renewal shall be empowered to implement this act by appropriate regulations. Such regulations may encompass such speculative or manipulative practices or renting or leasing practices as the state division of housing and community renewal determines constitute or are likely to cause circumvention of this act. Such regulations shall prohibit practices which are likely to prevent any person from asserting any right or remedy granted by this act, including but not limited to retaliatory termination of periodic tenancies and shall require owners to grant a new one or two year vacancy or renewal lease at the option of the tenant, except where a mortgage or mortgage commitment existing as of the local effective date of this act provides that the owner shall not grant a one-year lease; and shall prescribe standards with respect to the terms and conditions of new and renewal leases, additional rent and such related matters as security deposits, advance rental payments, the use of escalator clauses in leases and provision for increase in rentals for garages and other ancillary facilities, so as to insure that the level of rent adjustments authorized under this law will not be subverted and made ineffective. Any provision of the regulations permitting an owner to refuse to renew a lease on grounds that the owner seeks to recover possession of [~~the~~] **a** housing accommodation for his **or her** own use and occupancy or for the use and occupancy of his **or her** immediate family shall **permit recovery of only one housing accommodation, shall** require that an owner demonstrate immediate and compelling need **and that the housing accommodation will be the proposed occupants' primary residence** and shall not apply where a member of the housing accommodation is sixty-two years of age or

older, has been a tenant in a housing accommodation in that building for twenty years or more, or has an impairment which results from anatomical, physiological or psychological conditions, other than addiction to alcohol, gambling, or any controlled substance, which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques, and which are expected to be permanent and which prevent the tenant from engaging in any substantial gainful employment.

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

(a) the landlord seeks in good faith to recover possession of **a** housing [~~**accommodations**~~] **accommodation** because of immediate and compelling necessity for his **or her** own personal use and occupancy **as his or her primary residence** or for the use and occupancy of his **or her** immediate family **as their primary residence**; provided, however, this subdivision shall **permit recovery of only one housing accommodation and shall** not apply where a member of the household lawfully occupying the housing accommodation is sixty-two years of age or older, has been a tenant in a housing accommodation in that building for twenty years or more, or has an impairment which results from anatomical, physiological or psychological conditions, other than addiction to alcohol, gambling, or any controlled substance, which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques, and which are expected to be permanent and which prevent the tenant from engaging in any substantial gainful employment; or

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

a. the amendments to section 26-408 of the city rent and rehabilitation law made by section one 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;

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

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

d. the amendments to paragraph (a) of subdivision 2 of section 5 of the emergency housing rent control law made by section four 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.

PART B

Section 1. Paragraph 5-a of subdivision c of section 26-511 of the administrative code of the city of New York, as amended by section 16-a

of part A of chapter 20 of the laws of 2015, is amended to read as follows:

(5-a) provides that, notwithstanding any provision of this chapter, the legal regulated rent for any vacancy lease entered into after the effective date of this paragraph shall be as hereinafter provided in this paragraph. [~~The previous legal regulated rent for such housing accommodation shall be increased by the following: (i) if the vacancy lease is for a term of two years, twenty percent of the previous legal regulated rent; or (ii) if the vacancy lease is for a term of one year the increase shall be twenty percent of the previous legal regulated rent less an amount equal to the difference between (a) the two year renewal lease guideline promulgated by the guidelines board of the city of New York applied to the previous legal regulated rent and (b) the one year renewal lease guideline promulgated by the guidelines board of the city of New York applied to the previous legal regulated rent. However, where~~] **Where** the amount charged and paid by the prior tenant pursuant to paragraph fourteen of this subdivision, was less than the legal regulated rent, such increase to the legal regulated rent shall not exceed: five percent of the previous legal regulated rent if the last vacancy lease commenced less than two years ago; ten percent of the previous legal regulated rent if the last vacancy lease commenced less than three years ago; fifteen percent of the previous legal regulated rent if the last vacancy lease commenced less than four years ago; twenty percent of the previous legal regulated rent if the last vacancy lease commenced four or more years ago. In addition, if the legal regulated rent was not increased with respect to such housing accommodation by a permanent vacancy allowance within eight years prior to a vacancy lease executed on or after the effective date of this paragraph, the legal regulated rent may be [~~further~~] increased by an amount equal to the product resulting from multiplying such previous legal regulated rent by six-tenths of one percent and further multiplying the amount of rent increase resulting therefrom by the greater of (A) the number of years since the imposition of the last permanent vacancy allowance, or (B) if the rent was not increased by a permanent vacancy allowance since the housing accommodation became subject to this chapter, the number of years that such housing accommodation has been subject to this chapter. Provided that if the previous legal regulated rent was less than three hundred dollars the total increase shall be as calculated above plus one hundred dollars per month. Provided, further, that if the previous legal regulated rent was at least three hundred dollars and no more than five hundred dollars in no event shall the total increase pursuant to this paragraph be less than one hundred dollars per month. Such increase shall be [~~in lieu of any allowance authorized for the one or two year renewal component thereof, but shall be~~] in addition to any other increases authorized pursuant to this chapter including an adjustment based upon a major capital improvement, or a substantial modification or increase of dwelling space or services, or installation of new equipment or improvements or new furniture or furnishings provided in or to the housing accommodation pursuant to this section. The increase authorized in this paragraph may not be implemented more than one time in any calendar year, notwithstanding the number of vacancy leases entered into in such year**, and may not be implemented without the landlord providing to the new tenant an itemized cost accounting of all improvements claimed as part of such increase and copies of the corresponding receipts with the lease agreement**.

§ 2. Subdivision (a-1) of section 10 of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, as amended by section 16-b of part A of chapter 20 of the laws of 2015, is amended to read as follows:

(a-1) provides that, notwithstanding any provision of this act, the legal regulated rent for any vacancy lease entered into after the effective date of this subdivision shall be as hereinafter set forth. [~~The previous legal regulated rent for such housing accommodation shall be increased by the following: (i) if the vacancy lease is for a term of two years, twenty percent of the previous legal regulated rent; or (ii) if the vacancy lease is for a term of one year the increase shall be twenty percent of the previous legal regulated rent less an amount equal to the difference between (a) the two year renewal lease guideline promulgated by the guidelines board of the county in which the housing accommodation is located applied to the previous legal regulated rent and (b) the one year renewal lease guideline promulgated by the guidelines board of the county in which the housing accommodation is located applied to the previous legal regulated rent. However, where~~] **Where** the amount charged and paid by the prior tenant pursuant to paragraph fourteen of this subdivision, was less than the legal regulated rent, such increase to the legal regulated rent shall not exceed: five percent of the previous legal regulated rent if the last vacancy lease commenced less than two years ago; ten percent of the previous legal regulated rent if the last vacancy commenced less than three years ago; fifteen percent of the previous legal regulated rent if the last vacancy lease commenced less than four years ago; twenty percent of the previous legal regulated rent if the last vacancy lease commenced four or more years ago. In addition, if the legal regulated rent was not increased with respect to such housing accommodation by a permanent vacancy allowance within eight years prior to a vacancy lease executed on or after the effective date of this subdivision, the legal regulated rent may be [~~further~~] increased by an amount equal to the product resulting from multiplying such previous legal regulated rent by six-tenths of one percent and further multiplying the amount of rent increase resulting therefrom by the greater of (A) the number of years since the imposition of the last permanent vacancy allowance, or (B) if the rent was not increased by a permanent vacancy allowance since the housing accommodation became subject to this act, the number of years that such housing accommodation has been subject to this act. Provided that if the previous legal regulated rent was less than three hundred dollars the total increase shall be as calculated above plus one hundred dollars per month. Provided, further, that if the previous legal regulated rent was at least three hundred dollars and no more than five hundred dollars in no event shall the total increase pursuant to this subdivision be less than one hundred dollars per month. Such increase shall be [~~in lieu of any allowance authorized for the one or two year renewal component thereof, but shall be~~] in addition to any other increases authorized pursuant to this act including an adjustment based upon a major capital improvement, or a substantial modification or increase of dwelling space or services, or installation of new equipment or improvements or new furniture or furnishings provided in or to the housing accommodation pursuant to section six of this act. The increase authorized in this subdivision may not be implemented more than one time in any calendar year, notwithstanding the number of vacancy leases entered into in such year**, and may not be implemented without the landlord providing to the new tenant an itemized cost accounting of all improvements claimed as**

part of such increase and copies of the corresponding receipts with the lease agreement.

§ 3. Subparagraph (e) of paragraph 1 of subdivision g of section 26-405 of the administrative code of the city of New York, as amended by section 15 of part B of chapter 97 of the laws of 2011, is amended to read as follows:

(e) The landlord and tenant by mutual voluntary written agreement agree to a substantial increase or decrease in dwelling space or a change in the services, furniture, furnishings or equipment provided in the housing accommodations. An adjustment under this subparagraph shall be temporary until such increase or modification is paid for and shall be equal to one-fortieth, in the case of a building with thirty-five or fewer housing accommodations, or [~~one-sixtieth~~] one-eighty-fourth, in the case of a building with more than thirty-five housing accommodations where such adjustment takes effect on or after September twenty-fourth, two thousand eleven, of the total cost incurred by the landlord in providing such modification or increase in dwelling space, services, furniture, furnishings or equipment, including the cost of installation, but excluding finance charges and cosmetic improvements, with an adjustment, in both cases, being no more than twenty percent of the current rent, provided further that an owner who is entitled to a rent increase pursuant to this subparagraph shall not be entitled to a further rent increase based upon the installation of similar equipment, or new furniture or furnishings within the useful life of such new equipment, or new furniture or furnishings. The owner shall give written notice to the city rent agency of any such adjustment pursuant to this subparagraph; or

§ 4. Paragraph 13 of subdivision c of section 26-511 of the administrative code of the city of New York, as amended by section 16 of part B of chapter 97 of the laws of 2011, is amended to read as follows:

(13) provides that an owner is entitled to a temporary rent increase where there has been a substantial modification or increase of dwelling space or an increase in the services, or installation of new equipment or improvements or new furniture or furnishings provided in or to a tenant's housing accommodation until such modification or increase has been paid for, on written tenant consent to the rent increase. In the case of a vacant housing accommodation, tenant consent shall not be required. The [~~permanent~~] temporary increase in the legal regulated rent for the affected housing accommodation shall be one-fortieth, in the case of a building with thirty-five or fewer housing accommodations, or [~~one-sixtieth~~] one-eighty-fourth, in the case of a building with more than thirty-five housing accommodations where such [~~permanent~~] temporary increase takes effect on or after September twenty-fourth, two thousand eleven, of the total cost incurred by the landlord in providing such modification or increase in dwelling space, services, furniture, furnishings or equipment, including the cost of installation, but excluding finance charges and cosmetic improvements, provided, however, that in both cases, the temporary increase is no more than twenty percent of the current legal regulated rent. Provided further that an owner who is entitled to a rent increase pursuant to this paragraph shall not be entitled to a further rent increase based upon the installation of similar equipment, or new furniture or furnishings within the useful life of such new equipment, or new furniture or furnishings.

§ 5. Paragraph 1 of subdivision d of section 6 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 18 of part B of chapter 97 of the laws of 2011, is amended to read as follows:

(1) there has been a substantial modification or increase of dwelling space or an increase in the services, or installation of new equipment or improvements or new furniture or furnishings, provided in or to a tenant's housing accommodation, on written tenant consent to the rent increase. In the case of a vacant housing accommodation, tenant consent shall not be required. The [~~permanent~~] increase in the legal regulated rent for the affected housing accommodation shall be **temporary until such modification or increase is paid for and shall be** one-fortieth, in the case of a building with thirty-five or fewer housing accommodations, or [~~one-sixtieth~~] **one-eighty-fourth**, in the case of a building with more than thirty-five housing accommodations where such [~~permanent~~] increase takes effect on or after September twenty-fourth, two thousand eleven, of the total cost incurred by the landlord in providing such modification or increase in dwelling space, services, furniture, furnishings or equipment, including the cost of installation, but excluding finance charges **and cosmetic improvements, provided, however, that in both cases, the temporary increase is no more than twenty percent of the current legal regulated rent**. Provided further that an owner who is entitled to a rent increase pursuant to this paragraph shall not be entitled to a further rent increase based upon the installation of similar equipment, or new furniture or furnishings within the useful life of such new equipment, or new furniture or furnishings.

§ 6. Clause 5 of the second undesignated paragraph of paragraph (a) of subdivision 4 of section 4 of chapter 274 of the laws of 1946, constituting the emergency housing rent control law, as amended by section 25 of part B of chapter 97 of the laws of 2011, is amended to read as follows:

(5) the landlord and tenant by mutual voluntary written agreement agree to a substantial increase or decrease in dwelling space or a change in the services, furniture, furnishings or equipment provided in the housing accommodations; provided that an owner shall be entitled to a **temporary** rent increase **until such modification or increase has been paid for** where there has been a substantial modification or increase of dwelling space or an increase in the services, or installation of new equipment or improvements or new furniture or furnishings provided in or to a tenant's housing accommodation. The [~~permanent~~] **temporary** increase in the maximum rent for the affected housing accommodation shall be one-fortieth, in the case of a building with thirty-five or fewer housing accommodations, or [~~one-sixtieth~~] **one-eighty-fourth**, in the case of a building with more than thirty-five housing accommodations where such [~~permanent~~] **temporary** increase takes effect on or after September twenty-fourth, two thousand eleven, of the total cost incurred by the landlord in providing such modification or increase in dwelling space, services, furniture, furnishings or equipment, including the cost of installation, but excluding finance charges **and cosmetic improvements, provided, however, that in both cases, the temporary increase is no more than twenty percent of the current rent, and** provided further that an owner who is entitled to a rent increase pursuant to this clause shall not be entitled to a further rent increase based upon the installation of similar equipment, or new furniture or furnishings within the useful life of such new equipment, or new furniture or furnishings. The owner shall give written notice to the commission of any such adjustment pursuant to this clause; or

§ 7. This act shall take effect immediately; provided that:

a. the amendments to section 26-511 of chapter 4 of title 26 of the administrative code of the city of New York made by sections one and four 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 sections 10 and 6 of the emergency tenant protection act of nineteen seventy-four made by sections two 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 amendments to section 26-405 of the city rent and rehabilitation law made by section three 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 section 4 of the emergency housing rent control law made by section six 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.

PART C

Section 1. Legislative findings and declaration of emergency. The legislature hereby finds and declares that the serious public emergency which led to the enactment of the existing laws regulating residential rents and evictions continues to exist; that such laws would better serve the public interest if certain changes were made thereto, including extending to certain cities, towns and villages the authority to provide for the regulation of rents and evictions with regard to housing accommodations that cease or have ceased to be regulated pursuant to article 2 of the private housing finance law, known as the Mitchell-Lama law, or pursuant to project-based section eight contracts entered into with the federal government.

The legislature further recognizes that severe disruption of the rental housing market has occurred and threatens to be exacerbated as a result of the abrupt termination of rent and eviction regulation when buildings completed or substantially renovated as family units on or after January first, nineteen hundred seventy-four exit the Mitchell-Lama program or when buildings cease to be subject to project-based section eight contracts. The situation had permitted speculative and profiteering practices and has brought about the loss of vital and irreplaceable affordable housing for working persons and families.

The legislature therefore declares that in order to prevent uncertainty, potential hardship and dislocation of tenants living in housing accommodations subject to government regulations as to rentals and continued occupancy as well as those not subject to such regulations, the provisions of this act are necessary to protect the public health, safety and general welfare. The necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

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

c. Notwithstanding any other provision of this section, nothing shall prevent the declaration of an emergency pursuant to section three of this act for rental housing accommodations located in buildings or structures which were owned by a company established under article two of the private housing finance law, other than a mutual company, which are no longer owned by such company by reason of a voluntary dissolution pursuant to section thirty-five of such law or for rental housing accommodations located in buildings or structures defined as covered projects pursuant to section 8 of the United States housing act of nineteen thirty-seven, as amended, or any successor statute, and any regulations promulgated thereunder in which rental housing accommodations received project-based rental assistance from the United States department of housing and urban development pursuant to contracts with the owners of such buildings or structures which expired or were terminated. The initial legal regulated rent for housing accommodations located in buildings or structures that were owned by housing companies or that were covered projects previously regulated under the private housing finance law or under federal law, shall be the rent charged to and paid by the tenant in occupancy one hundred eighty days prior to the effective date of a chapter of the laws of two thousand fifteen which added this subdivision or, for accommodations vacant on such date, the most recent rent charged to and paid by a tenant prior to such date, including any income-related surcharges, as adjusted by all applicable guidelines increases and other increases authorized by law. The provisions of subdivision a of section nine of this act or of subdivision a of section 26-513 of the administrative code of the city of New York shall not apply to any housing accommodation which became subject to this act pursuant to the provisions of this subdivision.

§ 3. Notwithstanding any provision of law to the contrary, in a city having a population of one million or more, the New York city rent stabilization law of nineteen hundred sixty-nine may be amended by local law or ordinance to provide for the regulation of rents and evictions and the enforcement of such rent stabilization law with regard to housing accommodations made subject to such law by a declaration of emergency made pursuant to this act.

§ 4. This act shall take effect immediately and shall apply to housing accommodations located in buildings or structures owned by housing companies that dissolved on, before or after such date and to housing accommodations in buildings or structures that were covered projects and had contracts for rental assistance that expired or were terminated on, before or after such date; provided that the amendments to section 5 of the emergency tenant protection act of nineteen seventy-four made by section two of this act shall expire on the same date as such act expires and shall not affect the expiration of such act as provided in section 17 of chapter 576 of the laws of 1974.

PART D

Section 1. Paragraph (c) of subdivision 4 of section 14 of the public housing law, as added by chapter 116 of the laws of 1997, is amended to read as follows:

(c) that for the purposes of such regulations: (i) "family member" shall be defined as a husband, wife, son, daughter, stepson, stepdaughter, father, mother, stepfather, stepmother, brother, sister, uncle, aunt, nephew, niece, grandfather, grandmother, grandson, granddaughter, daughter-in-law, son-in-law, mother-in-law or father-in-law of the

tenant; or any other person residing with the tenant in the housing accommodation as a primary residence who can prove emotional and financial commitment, and interdependence between such person and the tenant. Although no single factor shall be solely determinative, evidence which is to be considered in determining whether such emotional and financial commitment and interdependence existed, may include, without limitation, such factors as listed below. In no event would evidence of a sexual relationship between such persons be required or considered.

(A) longevity of the relationship;

(B) sharing of or relying upon each other for payment of household or family expenses, or other common necessities of life;

(C) intermingling of finances as evidenced by, among other things, joint ownership of bank accounts, personal and real property, credit cards, loan obligations, sharing a household budget for purposes of receiving government benefits, or such other factors as may be determined by regulation;

(D) engaging in family-type activities by jointly attending family functions, holidays and celebrations, social and recreational activities, or such other factors as may be determined by regulation;

(E) formalizing of legal obligations, intentions, and responsibilities to each other by such means as executing wills naming each other as executor or beneficiary, conferring upon each other a power of attorney or authority to make health care decisions each for the other, entering into a personal relationship contract, making a domestic partnership declaration, or serving as a representative payee for purposes of public benefits, or such other factors as may be determined by regulation;

(F) holding themselves out as family members to other family members, friends, members of the community or religious institutions, or society in general, through their words or actions;

(G) regularly performing family functions, such as caring for each other or each other's extended family members, or relying upon each other for daily family services;

(H) engaging in any other pattern of behavior, agreement, or other action which evidences the intention of creating a long-term, emotionally-committed relationship.

(ii) a "senior citizen" is defined as a person who is sixty-two years of age or older;

(iii) a "disabled person" is defined as a person who has an impairment which results from anatomical, physiological or psychological conditions, other than addiction to alcohol, gambling, or any controlled substance, which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques, and which are expected to be permanent and which substantially limit one or more of such person's major life activities.

§ 2. Subdivision m of section 26-403 of the administrative code of the city of New York is amended to read as follows:

m. "Tenant." A tenant, subtenant, lessee, sublessee, or other person entitled to the possession or to the use or occupancy of any housing accommodation. **The term tenant shall be deemed to include a child (regardless of age) who has resided with his or her parent for two years or more in a housing accommodation subject to the provisions of this chapter and of which such parent is a tenant.**

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

§ 26-504.4 Tenant; definition. For the purposes of this chapter, the term tenant shall be deemed to include a child (regardless of age) who

has resided with his or her parent for two years or more in a housing accommodation subject to the provisions of this chapter and of which such parent is a tenant.

§ 4. Section 14 of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, is renumbered section 15 and a new section 14 is added to read as follows:

§ 14. Tenant; definition. For the purposes of this act, the term tenant shall be deemed to include a child (regardless of age) who has resided with his or her parent for two years or more in a housing accommodation subject to the provisions of this act and of which such parent is a tenant.

§ 5. This act shall take effect immediately, provided that the amendment to section 26-403 of the city rent and rehabilitation law made by section two of this act shall remain in full force and effect only so 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 provided further that section 26-504.4 of the rent stabilization law of nineteen hundred sixty-nine, as added by section three 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, as amended, and provided further that section 14 of the emergency tenant protection act of nineteen seventy-four, as added by section 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, as amended.

PART E

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

The legislature further recognizes that severe disruption of the rental housing market has occurred and threatens to be exacerbated as a result of the present state of the law in relation to the deregulation of housing accommodations upon vacancy. The situation has permitted speculative and profiteering practices and has brought about the loss of vital and irreplaceable affordable housing for working persons and families.

The legislature therefore declares that in order to prevent uncertainty, potential hardship and dislocation of tenants living in housing accommodations subject to government regulations as to rentals and continued occupancy as well as those not subject to such regulation, the provisions of this act are necessary to protect the public health, safety and general welfare. The necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

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

§ 3. Paragraph 13 of subdivision a of section 5 of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, is REPEALED.

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

§ 5. Section 26-504.2 of the administrative code of the city of New York is REPEALED.

§ 6. Any housing accommodations that prior to the effective date of this act were excluded from coverage from the emergency tenant protection act of nineteen seventy-four, the emergency housing rent control law or the administrative code of the city of New York pursuant to the provisions of law repealed by sections two, three, four and five of this act, and where such housing accommodations were located outside the city of New York and were rented to a tenant between January 1, 2015 and the effective date of this act for less than $3,500.00 per month regardless of any subsequent payment of a higher monthly rent, or were located within the city of New York and were rented to a tenant between January 1, 2015 and the effective date of this act for less than $5,000.00 per month, regardless of any subsequent payment of a higher monthly rent, shall be subject to the provisions of such act, law or administrative code, respectively. Notwithstanding the provisions of any lease or rental agreement, the legal regulated rent or maximum collectible rent of any housing accommodation excluded from regulation prior to the effective date of this act by reason of the provisions repealed by sections two, three, four and five of this act and made subject to regulation shall be the actual rent paid by a tenant on December 31, 2016 or, if no rent was paid for such accommodation on December 31, 2016, the most recent actual rent paid by a tenant for such accommodation prior to December 31, 2016, subject to further adjustment in accordance with applicable provisions of law.

§ 7. Paragraph 14 of subdivision c of section 26-511 of the administrative code of the city of New York, as amended by section 12 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

(14) provides that where the amount of rent charged to and paid by the tenant is less than the legal regulated rent for the housing accommodation, the amount of rent for such housing accommodation which may be charged upon renewal or upon vacancy thereof, may, at the option of the owner, be based upon such previously established legal regulated rent, as adjusted by the most recent applicable guidelines increases and any other increases authorized by law. [~~Such housing accommodation shall be excluded from the provisions of this code pursuant to section 26-504.2 of this chapter when, subsequent to vacancy: (i) such legal regulated rent prior to vacancy is two thousand five hundred dollars per month, or more, for any housing accommodation that is or becomes vacant after the effective date of the rent act of 2011 but prior to the effective date of the rent act of 2015 or (ii) such legal regulated rent is two thousand seven hundred dollars per month or more, provided, however that on January 1, 2016, and annually thereafter, the maximum legal regulated rent for this deregulation threshold shall be adjusted by the same percentage as the most recent one year renewal adjustment as adjusted by the relevant rent guidelines board, for any housing accommodation that is or becomes vacant on or after the rent act of 2015.~~]

§ 8. Subdivision (a-2) of section 10 of section 4 of chapter 576 of the laws of 1974 constituting the emergency tenant protection act of nineteen seventy-four, as amended by section 11 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

(a-2) Provides that where the amount of rent charged to and paid by the tenant is less than the legal regulated rent for the housing accommodation, the amount of rent for such housing accommodation which may be charged upon renewal or upon vacancy thereof, may, at the option of the owner, be based upon such previously established legal regulated rent, as adjusted by the most recent applicable guidelines increases and other increases authorized by law. [~~Such housing accommodation shall be excluded from the provisions of this act pursuant to paragraph thirteen of subdivision a of section five of this act when subsequent to vacancy: (i) such legal regulated rent is two thousand five hundred dollars per month, or more, for any housing accommodation that is, or becomes, vacant after the effective date of the rent act of 2011 but prior to the effective date of the rent act of 2015 or (ii) such legal regulated rent is two thousand seven hundred dollars per month or more for any housing accommodation that is or becomes vacant on or after the rent act of 2015; starting on January 1, 2016, and annually thereafter, the maximum legal regulated rent for this deregulation threshold, shall also be increased by the same percent as the most recent one year renewal adjustment, adopted by the applicable rent guidelines board pursuant to the rent stabilization law.~~]

§ 9. This act shall take effect immediately; provided, however, that:

(a) the amendments to section 26-511 of chapter 4 of title 26 of the administrative code of the city of New York made by section seven of this act shall expire on the same date as such law expires and shall not affect the expiration of such law as provided under section 26-520 of such law; and

(b) the amendments to subdivision (a-2) of section 10 of section 4 of the emergency tenant protection act of nineteen seventy-four made by section eight 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.

PART F

Section 1. Subparagraph (g) of paragraph 1 of subdivision g of section 26-405 of the administrative code of the city of New York, as amended by section 31 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

(g) **(i) Collection of surcharges to the maximum rent authorized pursuant to item (ii) of this subparagraph shall cease when the owner has recovered the cost of the major capital improvement;**

(ii) There has been since July first, nineteen hundred seventy, a major capital improvement [~~required for the operation, preservation or maintenance of the structure. An adjustment under this subparagraph (g) for any order of the commissioner issued after the effective date of the rent act of 2015 shall be in an amount sufficient to amortize the cost of the improvements pursuant to this subparagraph (g) over an eight year period for buildings with thirty-five or fewer units or a nine year period for buildings with more than thiry-five units,~~]**; provided that the commissioner finds that such improvements are deemed depreciable under the internal revenue code and such improvements are required for the operation, preservation or maintenance of the structure. The increase permitted for such capital improvement shall be collected as a monthly surcharge to the maximum rent. It shall be separately designated and billed as such and shall not be compounded by any other adjustment to the maximum rent. The surcharge allocable to each apartment shall be**

an amount equal to the cost of the improvement divided by eighty-four, divided by the number of rooms in the building, and then multiplied by the number of rooms in such apartment; provided that the surcharge allocable to any apartment in any one year may not exceed an amount equal to six percent of the monthly rent collected by the owner for such apartment as set forth in the schedule of gross rents. Any excess above said six percent shall be carried forward and collected in future years as a further surcharge not to exceed an additional six percent in any one year period until the total surcharge equals the amount it would have been if the aforementioned six percent limitation did not apply; or

§ 2. Paragraph 1 of subdivision g of section 26-405 of the administrative code of the city of New York is amended by adding a new subparagraph (p) to read as follows:

(p) Notwithstanding subparagraph (g) or (k) of this paragraph, there shall be no adjustment for any major capital improvement or for any other expenditures to improve, restore or preserve the quality of a structure if such major capital improvement or such other expenditure is funded in any part from moneys provided by the New York state energy research and development authority.

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

(k) The landlord has incurred, since January first, nineteen hundred seventy, in connection with and in addition to a concurrent major capital improvement pursuant to subparagraph (g) of this paragraph, other expenditures to improve, restore or preserve the quality of the structure. An adjustment under this subparagraph shall be granted only if such improvements represent an expenditure equal to at least ten per centum of the total operating and maintenance expenses for the preceding year. An adjustment under this subparagraph shall be in addition to any adjustment granted for the concurrent major capital improvement and shall be [~~in an amount sufficient to amortize the cost of the improvements pursuant to this subparagraph over a seven-year period~~] implemented in the same manner as such major capital improvement as a further surcharge to the maximum rent.

§ 4. Section 26-405 of the administrative code of the city of New York is amended by adding a new subdivision n to read as follows:

n. (1) No major capital improvement rent increase will be approved by the division of housing and community renewal unless the work performed is an enhancement or upgrade to a housing accommodation or service therein; or is an addition to such housing accommodation and otherwise eligible according to the prerequisites for major capital improvement rent increases. Any repair or replacement intended to maintain an existing service shall not be eligible for a major capital improvement rent increase.

(2) No application for a major capital improvement rent increase may be approved if there exist any outstanding hazardous violations at the time of the consideration of such application, as determined pursuant to regulations of the division of housing and community renewal or any agency administering and enforcing a building code in the jurisdiction in which the property is located, unless it is determined by the division of housing and community renewal that such work is essential to the alleviation of the violations and such approval is consistent with the provisions of this section. Except in the case of emergency or good cause, the owner of the property shall file, not less than thirty days before the commencement of the improvement, with the division of housing

and community renewal a statement containing information outlining the scope of work, expected date of completion for such work and an affidavit setting forth the following information:

(a) every owner of record and owner of a substantial interest in the property or entity owning the property or sponsoring the improvement; and

(b) a statement that none of such persons had, within the five years prior to the improvement, been found to have harassed or unlawfully evicted tenants by judgment or determination of a court or agency under the penal law, any state or local law regulating rents or any state or local law relating to harassment of tenants or unlawful eviction.

Upon receipt of the scope of work and affidavit provided for in this subdivision, the division of housing and community renewal shall provide the tenants in occupancy in such buildings with such information. The division of housing and community renewal shall, in addition, implement procedures including, but not limited to, eliciting tenant comments to determine whether major capital improvement rehabilitation work has been satisfactorily completed. No major capital improvement rent increase shall become effective until any defective or deficient rehabilitation work has been cured.

§ 5. Paragraph 6 of subdivision c of section 26-511 of the administrative code of the city of New York, as amended by section 29 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

(6) provides criteria whereby the commissioner may act upon applications by owners for increases in excess of the level of fair rent increase established under this law provided, however, that such criteria shall provide [~~(a)~~] as to hardship applications, for a finding that the level of fair rent increase is not sufficient to enable the owner to maintain approximately the same average annual net income (which shall be computed without regard to debt service, financing costs or management fees) for the three year period ending on or within six months of the date of an application pursuant to such criteria as compared with annual net income, which prevailed on the average over the period nineteen hundred sixty-eight through nineteen hundred seventy, or for the first three years of operation if the building was completed since nineteen hundred sixty-eight or for the first three fiscal years after a transfer of title to a new owner provided the new owner can establish to the satisfaction of the commissioner that he or she acquired title to the building as a result of a bona fide sale of the entire building and that the new owner is unable to obtain requisite records for the fiscal years nineteen hundred sixty-eight through nineteen hundred seventy despite diligent efforts to obtain same from predecessors in title and further provided that the new owner can provide financial data covering a minimum of six years under his or her continuous and uninterrupted operation of the building to meet the three year to three year comparative test periods herein provided[~~; and (b) as to completed building-wide major capital improvements, for a finding that such improvements are deemed depreciable under the Internal Revenue Code and that the cost is to be amortized over an eight-year period for a building with thirty-five or fewer housing accommodations, or a nine-year period for a building with more than thirty-five housing accommodations, for any determination issued by the division of housing and community renewal after the effective date of the rent act of 2015, based upon cash purchase price exclusive of interest or service charges~~]. Notwithstanding anything to the contrary contained herein, no hardship increase granted pursuant to this paragraph shall, when added to the annual gross

rents, as determined by the commissioner, exceed the sum of, (i) the annual operating expenses, (ii) an allowance for management services as determined by the commissioner, (iii) actual annual mortgage debt service (interest and amortization) on its indebtedness to a lending institution, an insurance company, a retirement fund or welfare fund which is operated under the supervision of the banking or insurance laws of the state of New York or the United States, and (iv) eight and one-half percent of that portion of the fair market value of the property which exceeds the unpaid principal amount of the mortgage indebtedness referred to in subparagraph (iii) of this paragraph. Fair market value for the purposes of this paragraph shall be six times the annual gross rent. The collection of any increase in the stabilized rent for any apartment pursuant to this paragraph shall not exceed six percent in any year from the effective date of the order granting the increase over the rent set forth in the schedule of gross rents, with collectability of any dollar excess above said sum to be spread forward in similar increments and added to the stabilized rent as established or set in future years;

§ 6. Subdivision c of section 26-511 of the administrative code of the city of New York is amended by adding three new paragraphs 6-b, 6-c and 6-d to read as follows:

(6-b) provides criteria whereby the commissioner may act upon application by owners for increases in excess of the level of fair rent increase established under this law provided however, that such criteria shall provide that:

(1) no major capital improvement rent increase will be approved by the division of housing and community renewal unless the work performed is an enhancement or upgrade to a housing accommodation or service therein; or is an addition to such housing accommodation and otherwise eligible according to the prerequisites for major capital improvement rent increases. Any repair or replacement intended to maintain an existing service shall not be eligible for a major capital improvement rent increase.

(2) no application for a major capital improvement rent increase may be approved if there exist any outstanding hazardous violations at the time of the consideration of such application, as determined pursuant to regulations of the division of housing and community renewal or any agency administering and enforcing a building code in the jurisdiction in which the property is located, unless it is determined by the division of housing and community renewal that such work is essential to the alleviation of the violations and such approval is consistent with the provisions of this section. Except in the case of emergency or good cause, the owner of the property shall file, not less than thirty days before the commencement of the improvement, with the division of housing and community renewal a statement containing information outlining the scope of work, expected date of completion for such work and an affidavit setting forth the following information:

(a) every owner of record and owner of a substantial interest in the property or entity owning the property or sponsoring the improvement; and

(b) a statement that none of such persons had, within the five years prior to the improvement, been found to have harassed or unlawfully evicted tenants by judgment or determination of a court or agency under the penal law, any state or local law regulating rents or any state or local law relating to harassment of tenants or unlawful eviction.

Upon receipt of the scope of work and affidavit provided for herein, the division of housing and community renewal shall provide the tenants in occupancy in such buildings with such information. The division of housing and community renewal shall, in addition, implement procedures including, but not limited to, eliciting tenant comments to determine whether major capital improvement rehabilitation work has been satisfactorily completed. No major capital improvement rent increase shall become effective until any defective or deficient rehabilitation work has been cured.

(6-c) the increase permitted for such capital improvement shall be collected as a monthly surcharge to the legal regulated rent. It shall be separately designated and billed as such and shall not be compounded by any annual adjustment of the level of fair rent provided for under subdivision b of section 26-510 of this law. The surcharge allocable to each apartment shall be an amount equal to the cost of the improvement divided by eighty-four, divided by the number of rooms in the building, and then multiplied by the number of rooms in such apartment; provided that the surcharge allocable to any apartment, in any one year may not exceed an amount equal to six percent of the monthly rent collected by the owner for such apartment as set forth in the schedule of gross rents. Any excess above said six percent shall be carried forward and collected in future years as a further surcharge not to exceed an additional six percent in any one year period until the total surcharge equals the amount it would have been if the aforementioned six percent limitation did not apply.

(6-d) collection of surcharges in excess of the level of fair rent authorized pursuant to paragraph six-b of this subdivision shall cease when the owner has recovered the cost of the major capital improvement.

§ 7. Paragraph 3 of subdivision d of section 6 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 A of chapter 20 of the laws of 2015, is amended to read as follows:

(3) (i) collection of surcharges in addition to the legal regulated rent authorized pursuant to subparagraph (ii) of this paragraph shall cease when the owner has recovered the cost of the major capital improvement;

(ii) there has been since January first, nineteen hundred seventy-four a major capital improvement [~~required for the operation, preservation or maintenance of the structure. An adjustment under this paragraph shall be in an amount sufficient to amortize the cost of the improvements pursuant to this paragraph over an eight-year period for a building with thirty-five or fewer housing accommodations, or a nine-year period for a building with more than thirty-five housing accommodations, for any determination issued by the division of housing and community renewal after the effective date of the rent act of 2015~~]; provided that the commissioner finds that such improvements are deemed depreciable under the internal revenue code and such improvements are required for the operation, preservation or maintenance of the structure. The increase permitted for such capital improvement shall be collected as a monthly surcharge to the legal regulated rent. It shall be separately designated and billed as such and shall not be compounded by any annual rent adjustment authorized by the rent guidelines board under this act. The surcharge allocable to each apartment shall be an amount equal to the cost of the improvement divided by eighty-four, divided by the number of rooms in the building, and then multiplied by the number of rooms in such apartment; provided that the surcharge allocable to any apartment

in any one year may not exceed an amount equal to six percent of the monthly rent collected by the owner for such apartment as set forth in the schedule of gross rents. Any excess above said six percent shall be carried forward and collected in future years as a further surcharge not to exceed an additional six percent in any one year period until the total surcharge equals the amount it would have been if the aforementioned six percent limitation did not apply, or

§ 8. Section 6 of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, is amended by adding a new subdivision d-1 to read as follows:

d-1. (1) No major capital improvement rent increase will be approved by the division of housing and community renewal unless the work performed is an enhancement or upgrade to a housing accommodation or service therein; or is an addition to such housing accommodation and otherwise eligible according to the prerequisites for major capital improvement rent increases. Any repair or replacement intended to maintain an existing service shall not be eligible for a major capital improvement rent increase.

(2) No application for a major capital improvement rent increase may be approved if there exist any outstanding hazardous violations at the time of the consideration of such application, as determined pursuant to regulations of the division of housing and community renewal or any agency administering and enforcing a building code in the jurisdiction in which the property is located, unless it is determined by the division of housing and community renewal that such work is essential to the alleviation of the violations and such approval is consistent with the provisions of this section. Except in the case of emergency or good cause, the owner of the property shall file, not less than thirty days before the commencement of the improvement, with the division of housing and community renewal a statement containing information outlining the scope of work, expected date of completion for such work and an affidavit setting forth the following information:

(a) every owner of record and owner of a substantial interest in the property or entity owning the property or sponsoring the improvement; and

(b) a statement that none of such persons had, within the five years prior to the improvement, been found to have harassed or unlawfully evicted tenants by judgment or determination of a court or agency under the penal law, any state or local law regulating rents or any state or local law relating to harassment of tenants or unlawful eviction.

Upon receipt of the scope of work and affidavit provided for herein, the division of housing and community renewal shall provide the tenants in occupancy in such buildings with such information. The division of housing and community renewal shall, in addition, implement procedures including, but not limited to, eliciting tenant comments to determine whether major capital improvement rehabilitation work has been satisfactorily completed. No major capital improvement rent increase shall become effective until any defective or deficient rehabilitation work has been cured.

§ 9. Subdivision d of section 6 of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, is amended by adding a new paragraph 6 to read as follows:

(6) notwithstanding paragraph three of this subdivision there shall be no adjustment for any major capital improvement funded in any part from

moneys provided by the New York state energy research and development authority.

§ 10. The second undesignated paragraph of paragraph (a) of subdivision 4 of section 4 of chapter 274 of the laws of 1946, constituting the emergency housing rent control law, as amended by section 25 of part B of chapter 97 of the laws of 2011, subparagraph 7 as amended by section 32 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

No application for adjustment of maximum rent based upon a sales price valuation shall be filed by the landlord under this subparagraph prior to six months from the date of such sale of the property. In addition, no adjustment ordered by the commission based upon such sales price valuation shall be effective prior to one year from the date of such sale. Where, however, the assessed valuation of the land exceeds four times the assessed valuation of the buildings thereon, the commission may determine a valuation of the property equal to five times the equalized assessed valuation of the buildings, for the purposes of this subparagraph. The commission may make a determination that the valuation of the property is an amount different from such equalized assessed valuation where there is a request for a reduction in such assessed valuation currently pending; or where there has been a reduction in the assessed valuation for the year next preceding the effective date of the current assessed valuation in effect at the time of the filing of the application. Net annual return shall be the amount by which the earned income exceeds the operating expenses of the property, excluding mortgage interest and amortization, and excluding allowances for obsolescence and reserves, but including an allowance for depreciation of two per centum of the value of the buildings exclusive of the land, or the amount shown for depreciation of the buildings in the latest required federal income tax return, whichever is lower; provided, however, that (1) no allowance for depreciation of the buildings shall be included where the buildings have been fully depreciated for federal income tax purposes or on the books of the owner; or (2) the landlord who owns no more than four rental units within the state has not been fully compensated by increases in rental income sufficient to offset unavoidable increases in property taxes, fuel, utilities, insurance and repairs and maintenance, excluding mortgage interest and amortization, and excluding allowances for depreciation, obsolescence and reserves, which have occurred since the federal date determining the maximum rent or the date the property was acquired by the present owner, whichever is later; or (3) the landlord operates a hotel or rooming house or owns a cooperative apartment and has not been fully compensated by increases in rental income from the controlled housing accommodations sufficient to offset unavoidable increases in property taxes and other costs as are allocable to such controlled housing accommodations, including costs of operation of such hotel or rooming house, but excluding mortgage interest and amortization, and excluding allowances for depreciation, obsolescence and reserves, which have occurred since the federal date determining the maximum rent or the date the landlord commenced the operation of the property, whichever is later; or (4) the landlord and tenant voluntarily enter into a valid written lease in good faith with respect to any housing accommodation, which lease provides for an increase in the maximum rent not in excess of fifteen per centum and for a term of not less than two years, except that where such lease provides for an increase in excess of fifteen per centum, the increase shall be automatically reduced to fifteen per centum; or (5) the landlord and tenant by mutual

voluntary written agreement agree to a substantial increase or decrease in dwelling space or a change in the services, furniture, furnishings or equipment provided in the housing accommodations; provided that an owner shall be entitled to a rent increase where there has been a substantial modification or increase of dwelling space or an increase in the services, or installation of new equipment or improvements or new furniture or furnishings provided in or to a tenant's housing accommodation. The permanent increase in the maximum rent for the affected housing accommodation shall be one-fortieth, in the case of a building with thirty-five or fewer housing accommodations, or one-sixtieth, in the case of a building with more than thirty-five housing accommodations where such permanent increase takes effect on or after September twenty-fourth, two thousand eleven, of the total cost incurred by the landlord in providing such modification or increase in dwelling space, services, furniture, furnishings or equipment, including the cost of installation, but excluding finance charges provided further that an owner who is entitled to a rent increase pursuant to this clause shall not be entitled to a further rent increase based upon the installation of similar equipment, or new furniture or furnishings within the useful life of such new equipment, or new furniture or furnishings. The owner shall give written notice to the commission of any such adjustment pursuant to this clause; or (6) there has been, since March first, nineteen hundred fifty, an increase in the rental value of the housing accommodations as a result of a substantial rehabilitation of the building or housing accommodation therein which materially adds to the value of the property or appreciably prolongs its life, excluding ordinary repairs, maintenance and replacements; or (7) **(i) collection of surcharges to the maximum rent authorized pursuant to item (ii) of this clause shall cease when the owner has recovered the cost of the major capital improvement; (ii)** there has been since March first, nineteen hundred fifty, a major capital improvement [~~required for the operation, preservation or maintenance of the structure; which for any order of the commissioner issued after the effective date of the rent act of 2015 the cost of such improvement shall be amortized over an eight-year period for buildings with thirty-five or fewer units or a nine year period for buildings with more than thiry-five units~~], or **provided that the commissioner finds that such improvements are deemed depreciable under the internal revenue code and such improvements are required for the operation, preservation or maintenance of the structure. The increase permitted for such capital improvement shall be collected as a monthly surcharge to the maximum rent. It shall be separately designated and billed as such and shall not be compounded by any other adjustment to the maximum rent. The surcharge allocable to each apartment shall be an amount equal to the cost of the improvement divided by eighty-four, divided by the number of rooms in the building, and then multiplied by the number of rooms in such apartment; provided that the surcharge allocable to any apartment in any one year may not exceed an amount equal to six percent of the monthly rent collected by the owner for such apartment as set forth in the schedule of gross rents. Any excess above said six percent shall be carried forward and collected in future years as a further surcharge not to exceed an additional six percent in any one year period until the total surcharge equals the amount it would have been if the aforementioned six percent limitation did not apply;** or (8) there has been since March first, nineteen hundred fifty, in structures containing more than four housing accommodations, other improvements made with the express consent of the tenants in occupancy of at least

seventy-five per centum of the housing accommodations, provided, however, that no adjustment granted hereunder shall exceed fifteen per centum unless the tenants have agreed to a higher percentage of increase, as herein provided; or (9) there has been, since March first, nineteen hundred fifty, a subletting without written consent from the landlord or an increase in the number of adult occupants who are not members of the immediate family of the tenant, and the landlord has not been compensated therefor by adjustment of the maximum rent by lease or order of the commission or pursuant to the federal act; or (10) the presence of unique or peculiar circumstances materially affecting the maximum rent has resulted in a maximum rent which is substantially lower than the rents generally prevailing in the same area for substantially similar housing accommodations.

§ 11. This act shall take effect immediately; provided that:

a. the amendments to section 26-405 of the city rent and rehabilitation law made by sections one, two, three and four of this act shall remain in full force and effect only so 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;

b. the amendments to section 26-511 of the rent stabilization law of nineteen hundred sixty-nine made by sections five and six 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, as from time to time amended;

c. the amendment to section 6 of the emergency tenant protection act of nineteen seventy-four made by sections seven, eight and nine 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, as from time to time amended; and

d. the amendment to section 4 of the emergency housing rent control law made by section ten 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.

PART G

Section 1. Paragraph 5 of subdivision a of section 26-405 of the administrative code of the city of New York is amended to read as follows:

(5) Where a maximum rent established pursuant to this chapter on or after January first, nineteen hundred seventy-two, is higher than the previously existing maximum rent, the landlord may not collect **an increase from a tenant in occupancy in any one year period of** more than **the lesser of either** seven and one-half percentum [~~increase from a tenant in occupancy on such date in any one year period, provided however, that where~~] **or an average of the previous five years of one-year rent increases on rent stabilized apartments as established by the rent guidelines board, pursuant to subdivision b of section 26-510 of this title. If** the period for which the rent is established exceeds one year, regardless of how the collection thereof is averaged over such period, the rent the landlord shall be entitled to receive during the first twelve months shall not be increased by more than **the lesser of either** seven and one-half percentum **or an average of the previous five years of one-year rent increases on rent stabilized apartments as established by**

the rent guidelines board, pursuant to subdivision b of section 26-510 of this title, over the previous rent [~~and~~]. Any additional annual rents shall not exceed the lesser of either seven and one-half percentum or an average of the previous five years of one-year rent increases on rent stabilized apartments as established by the rent guidelines board, pursuant to subdivision b of section 26-510 of this title, of the rent paid during the previous year. Notwithstanding any of the foregoing limitations in this paragraph five, maximum rent shall be increased if ordered by the agency pursuant to subparagraphs (d), (e), (f), (g), (h), (i), (k), [~~(l),~~] or (m) [~~or (n)~~] of paragraph one of subdivision g of this section. [~~Commencing January first, nineteen hundred eighty, rent adjustments pursuant to subparagraph (n) of paragraph one of subdivision g of this section shall be excluded from the maximum rent when computing the seven and one-half percentum increase authorized by this paragraph five.~~] Where a housing accommodation is vacant on January first, nineteen hundred seventy-two, or becomes vacant thereafter by voluntary surrender of possession by the tenants, the maximum rent established for such accommodations may be collected.

§ 2. Subparagraphs (l) and (n) of paragraph 1 of subdivision g of section 26-405 of the administrative code of the city of New York are REPEALED.

§ 3. Section 4 of chapter 274 of the laws of 1946, constituting the emergency housing rent control law, is amended by adding a new subdivision 9 to read as follows:

9. No annual rent increase authorized pursuant to this act shall exceed the average of the previous five annual rental increases authorized by a rent guidelines board for a rent stabilized unit pursuant to section 4 of the emergency tenant protection act of nineteen seventy-four.

§ 4. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided that the amendments to section 26-405 of the city rent and rehabilitation law made by section one 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 provided that the amendments to section 4 of the emergency housing rent control law made by section three 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.

PART H

Section 1. The administrative code of the city of New York is amended by adding a new section 26-416 to read as follows:

§ 26-416 Surcharges for tenant-installed appliances. The imposition of any surcharge for the installation or use of a tenant-installed appliance is prohibited where the tenant pays for electric utility service.

§ 2. This act shall take effect immediately; provided that section 26-416 of the city rent and rehabilitation law as added by section one 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.

§ 3. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of

competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 4. This act shall take effect immediately provided, however, that the applicable effective dates of Parts A through H of this act shall be as specifically set forth in the last section of such Parts.