

Text of New York State Bill A08346, The Rent Regulation Reform Act of 1997

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

S. 5553

A. 8346

1997-1998 Regular Sessions

S E N A T E - A S S E M B L Y

June 19, 1997

IN SENATE -- Introduced by COMMITTEE ON RULES -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

IN ASSEMBLY -- Introduced by COMMITTEE ON RULES -- (at request of M. of A. Silver, Lopez, Farrell, Sanders, Clark, Pheffer, Meeks, Wright, Katz, Arroyo, Aubry, Boyland, Brennan, Brodsky, Colton, Cook, Crowley, Diaz, Feldman, Green, Greene, Kaufman, Klein, Lafayette, Lentol, McLaughlin, Millman, Norman, Ortiz, Polonetsky, Pretlow, Rivera, Towns, Vitaliano, Weinstein, Weisenberg) -- (at request of the Governor) -- read once and referred to the Committee on Housing

AN ACT to enact the rent regulation reform act of 1997; to amend chapter 576 of the laws of 1974, amending the emergency housing rent control law relating to the control of and stabilization of rent in certain cases, chapter 274 of the laws of 1946, constituting the emergency housing rent control law, chapter 329 of the laws of 1963, amending the emergency housing rent control law relating to the reconrol of rents in certain cases, the emergency housing rent control law, chapter 555 of the laws of 1982, amending the general business law and the administrative code of the city of New York relating to conversion of rental residential property to cooperative or condominium ownership in the city of New York and chapter 402 of the laws of 1983, amending the general business law relating to conversion of rental residential property to cooperative or condominium ownership in certain municipalities in the counties of Nassau, Westchester and Rockland, in relation to their periods of effectiveness; to amend the emergency housing rent control law, the emergency tenant protection act of nineteen seventy-four, the administrative code of the city of New York and the tax law, in relation to eliminating rent regulation for certain high income tenants; 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; to amend the public housing law, the administrative code of the city of New York, the emergency tenant protection act of

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

LBD11305-01-7

S. 5553

2

A. 8346

nineteen seventy-four, the emergency housing rent control law and the local emergency housing rent control act, in relation to succession to a rent regulated housing accommodation; to amend the penal law, in relation to harassment of rent regulated tenants; to amend the emergency tenant protection act of nineteen seventy-four and the adminis-

trative code of the city of New York, in relation to registration of rents and charges related thereto; to amend the civil practice law and rules, in relation to a four year statute of limitations for residential rent overcharges; to amend the real property actions and proceedings law, in relation to proceedings to recover possession; to amend the administrative code of the city of New York, in relation to demolition of rent regulated housing accommodations; to amend the real property law, in relation to warranty of habitability

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

1 Section 1. Short title. This act shall known and may be cited as the
2 "rent regulation reform act of 1997".

3 S 2. Section 17 of chapter 576 of the laws of 1974, constituting the
4 emergency tenant protection act of nineteen seventy-four, as amended by
5 chapter 253 of the laws of 1993, is amended to read as follows:

6 S 17. Effective date. This act shall take effect immediately and
7 shall remain in full force and effect until and including the fifteenth
8 day of June {1997} 2003; except that sections two and three shall take
9 effect with respect to any city having a population of one million or
10 more and section one shall take effect with respect to any other city,
11 or any town or village whenever the local legislative body of a city,
12 town or village determines the existence of a public emergency pursuant
13 to section three of the emergency tenant protection act of nineteen
14 seventy-four, as enacted by section four of this act, and provided that
15 the housing accommodations subject on the effective date of this act to
16 stabilization pursuant to the New York city rent stabilization law of
17 nineteen hundred sixty-nine shall remain subject to such law upon the
18 expiration of this act.

19 S 3. Subdivision 2 of section 1 of chapter 274 of the laws of 1946,
20 constituting the emergency housing rent control law, as amended by chap-
21 ter 253 of the laws of 1993, is amended to read as follows:

22 2. The provisions of this act, and all regulations, orders and
23 requirements thereunder shall remain in full force and effect until and
24 including June 15, {1997} 2003.

25 S 4. Section 2 of chapter 329 of the laws of 1963, amending the local
26 emergency housing rent control law relating to recontrol of rents in the
27 city of Albany, as amended by chapter 253 of the laws of 1993, is
28 amended to read as follows:

29 S 2. This act shall take effect immediately and the provisions of
30 subdivision 6 of section 12 of the emergency housing rent control law,
31 as added by this act, shall remain in full force and effect until and
32 including June 15, {1997} 2003.

33 S 5. Section 10 of chapter 555 of the laws of 1982, amending the
34 general business law and the administrative code of the city of New York
35 relating to conversion of residential property to cooperative or condo-
36 minium ownership in the city of New York, as amended by chapter 253 of
37 the laws of 1993, is amended to read as follows:

S. 5553

3

A. 8346

1 S 10. This act shall take effect immediately; provided, that the
2 provisions of sections one, two and nine of this act shall remain in
3 full force and effect only until and including June 15, {1997} 2003;
4 provided further that the provisions of section three of this act shall
5 remain in full force and effect only so long as the public emergency
6 requiring the regulation and control of residential rents and evictions
7 continues as provided in subdivision 3 of section 1 of the local emer-
8 gency housing rent control act; provided further that the provisions of
9 sections four, five, six and seven of this act shall expire in accord-
10 ance with the provisions of section 26-520 of the administrative code of
11 the city of New York as such section of the administrative code is, from
12 time to time, amended; provided further that the provisions of section
13 26-511 of the administrative code of the city of New York, as amended by

14 this act, which the New York City Department of Housing Preservation and
15 Development must find are contained in the code of the real estate
16 industry stabilization association of such city in order to approve it,
17 shall be deemed contained therein as of the effective date of this act;
18 and provided further that any plan accepted for filing by the department
19 of law on or before the effective date of this act shall continue to be
20 governed by the provisions of section 352-eeee of the general business
21 law as they had existed immediately prior to the effective date of this
22 act.

23 S 6. Section 4 of chapter 402 of the laws of 1983, amending the gener-
24 al business law relating to conversions of rental residential property
25 to cooperative or condominium ownership in certain municipalities in the
26 counties of Nassau, Westchester and Rockland, as amended by chapter 253
27 of the laws of 1993, is amended to read as follows:

28 S 4. This act shall take effect immediately; provided, that the
29 provisions of sections one and three of this act shall remain in full
30 force and effect only until and including June 15, {1997} 2003; and
31 provided further that any plan accepted for filing by the department of
32 law on or before the effective date of this act shall continue to be
33 governed by the provisions of section 352-eee of the general business
34 law as they had existed immediately prior to the effective date of this
35 act.

36 S 7. Paragraph (n) of subdivision 2 of section 2 of chapter 274 of
37 the laws of 1946, constituting the emergency housing rent control law,
38 as added by chapter 253 of the laws of 1993, is amended to read as
39 follows:

40 (n) any housing accommodation with a maximum rent of two thousand
41 dollars or more per month at any time between the effective date of this
42 paragraph and October first, nineteen hundred ninety-three which is or
43 becomes vacant on or after the effective date of this paragraph, OR ANY
44 HOUSING ACCOMMODATION WITH A MAXIMUM RENT OF TWO THOUSAND DOLLARS OR
45 MORE PER MONTH AT ANY TIME ON OR AFTER THE EFFECTIVE DATE OF THE RENT
46 REGULATION REFORM ACT OF 1997 WHICH IS OR BECOMES VACANT ON OR AFTER THE
47 EFFECTIVE DATE OF THE RENT REGULATION REFORM ACT OF 1997. This exclu-
48 sion shall not apply, however, to or become effective with respect to
49 housing accommodations which the commissioner determines or finds that
50 the landlord or any person acting on his or her behalf, with intent to
51 cause the tenant to vacate, has engaged in any course of conduct
52 (including, but not limited to, interruption or discontinuance of
53 required services) which interfered with or disturbed or was intended to
54 interfere with or disturb the comfort, repose, peace or quiet of the
55 tenant in his or her use or occupancy of the housing accommodations and

S. 5553

4

A. 8346

1 in connection with such course of conduct, any other general enforcement
2 provision of this law shall also apply.

3 S 7-a. Paragraph 13 of subdivision (a) of section 5 of section 4 of
4 chapter 576 of the laws of 1974, constituting the emergency tenant
5 protection act of nineteen seventy-four, as added by chapter 253 of the
6 laws of 1993, is amended to read as follows:

7 (13) any housing accommodation with a legal regulated rent of two
8 thousand dollars or more per month at any time between the effective
9 date of this paragraph and October first, nineteen hundred ninety-three
10 which is or becomes vacant on or after the effective date of this para-
11 graph, OR ANY HOUSING ACCOMMODATION WITH A LEGAL REGULATED RENT OF TWO
12 THOUSAND DOLLARS OR MORE PER MONTH AT ANY TIME ON OR AFTER THE EFFECTIVE
13 DATE OF THE RENT REGULATION REFORM ACT OF 1997 WHICH IS OR BECOMES
14 VACANT ON OR AFTER THE EFFECTIVE DATE OF THE RENT REGULATION REFORM ACT
15 OF 1997. Provided however, that this exclusion shall not apply to hous-
16 ing accommodations which became or become subject to this act (a) by
17 virtue of receiving tax benefits pursuant to section four hundred twen-
18 ty-one-a or four hundred eighty-nine of the real property tax law,
19 except as otherwise provided in subparagraph (i) of paragraph (f) of
20 subdivision two of section four hundred twenty-one-a of the real proper-

21 ty tax law, or (b) by virtue of article seven-C of the multiple dwelling
22 law. This paragraph shall not apply, however, to or become effective
23 with respect to housing accommodations which the commissioner determines
24 or finds that the landlord or any person acting on his or her behalf,
25 with intent to cause the tenant to vacate, has engaged in any course of
26 conduct (including, but not limited to, interruption or discontinuance
27 of required services) which interfered with or disturbed or was intended
28 to interfere with or disturb the comfort, repose, peace or quiet of the
29 tenant in his or her use or occupancy of the housing accommodations and
30 in connection with such course of conduct, any other general enforcement
31 provision of this act shall also apply.

32 S 7-b. Paragraph (m) of subdivision 2 of section 2 of chapter 274 of
33 the laws of 1946, constituting the emergency housing rent control law,
34 as added by chapter 253 of the laws of 1993, is amended to read as
35 follows:

36 (m) upon the issuance of an order of decontrol by the division, hous-
37 ing accommodations which: (1) are occupied by persons who have a total
38 annual income in excess of {two} ONE hundred {fifty} SEVENTY-FIVE thou-
39 sand dollars in each of the two preceding calendar years, as defined in
40 and subject to the limitations and process set forth in section two-a of
41 this law; and (2) have a maximum rent of two thousand dollars or more
42 per month {as of October first, nineteen hundred ninety-three}.

43 S 8. Subdivision (b) and paragraphs 1 and 2 of subdivision (c) of
44 section 2-a of chapter 274 of the laws of 1946, constituting the emer-
45 gency housing rent control law, as added by chapter 253 of the laws of
46 1993, are amended to read as follows:

47 (b) On or before the first day of May in each calendar year, the owner
48 of each housing accommodation for which the maximum rent {as of October
49 first, nineteen hundred ninety-three} is two thousand dollars or more
50 per month may provide the tenant or tenants residing therein with an
51 income certification form prepared by the division of housing and commu-
52 nity renewal on which such tenant or tenants shall identify all persons
53 referred to in subdivision (a) of this section and shall certify whether
54 the total annual income is in excess of {two} ONE hundred {fifty} SEVEN-
55 TY-FIVE thousand dollars in each of the two preceding calendar years.
56 Such income certification form shall state that the income level certi-

S. 5553

5

A. 8346

1 fied to by the tenant may be subject to verification by the department
2 of taxation and finance pursuant to section one hundred seventy-one-b of
3 the tax law and shall not require disclosure of any income information
4 other than whether the aforementioned threshold has been exceeded. Such
5 income certification form shall clearly state that: (i) only tenants
6 residing in housing accommodations which had a maximum rent of two thou-
7 sand dollars or more per month {as of October first, nineteen hundred
8 ninety-three} are required to complete the certification form; (ii) that
9 tenants have protections available to them which are designed to prevent
10 harassment; (iii) that tenants are not required to provide any informa-
11 tion regarding their income except that which is requested on the form
12 and may contain such other information the division deems appropriate.
13 The tenant or tenants shall return the completed certification to the
14 owner within thirty days after service upon the tenant or tenants. In
15 the event that the total annual income as certified is in excess of
16 {two} ONE hundred {fifty} SEVENTY-FIVE thousand dollars in each such
17 year, the owner may file the certification with the state division of
18 housing and community renewal on or before June thirtieth of such year.
19 Upon filing such certification with the division, the division shall,
20 within thirty days after the filing, issue an order of decontrol provid-
21 ing that such housing accommodations shall not be subject to the
22 provisions of this law as of the first day of June in the year next
23 succeeding the filing of the certification by the owner. A copy of such
24 order shall be mailed by regular and certified mail, return receipt
25 requested, to the tenant or tenants and a copy thereof shall be mailed
26 to the owner.

27 1. In the event that the tenant or tenants either fail to return the
28 completed certification to the owner on or before the date required by
29 subdivision (b) of this section or the owner disputes the certification
30 returned by the tenant or tenants, the owner may, on or before June
31 thirtieth of such year, petition the state division of housing and
32 community renewal to verify, pursuant to section one hundred seventy-
33 one-b of the tax law, whether the total annual income exceeds {two} ONE
34 hundred {fifty} SEVENTY-FIVE thousand dollars in each of the two preced-
35 ing calendar years. Within twenty days after the filing of such request
36 with the division, the division shall notify the tenant or tenants that
37 such tenant or tenants must provide the division with such information
38 as the division and the department of taxation and finance shall require
39 to verify whether the total annual income exceeds {two} ONE hundred
40 {fifty} SEVENTY-FIVE thousand dollars in each such year. The division`s
41 notification shall require the tenant or tenants to provide the informa-
42 tion to the division within sixty days of service upon such tenant or
43 tenants and shall include a warning in bold faced type that failure to
44 respond will result in an order of decontrol being issued by the divi-
45 sion for such housing accommodation.

46 2. If the department of taxation and finance determines that the total
47 annual income is in excess of {two} ONE hundred {fifty} SEVENTY-FIVE
48 thousand dollars in each of the two preceding calendar years, the divi-
49 sion shall, on or before November fifteenth of such year, notify the
50 owner and tenants of the results of such verification. Both the owner
51 and the tenants shall have thirty days within which to comment on such
52 verification results. Within forty-five days after the expiration of
53 the comment period, the division shall, where appropriate, issue an
54 order of decontrol providing that such housing accommodation shall not
55 be subject to the provisions of this law as of the first day of March in
56 the year next succeeding the filing of the owner`s petition with the

S. 5553

6

A. 8346

1 division. A copy of such order shall be mailed by regular and certified
2 mail, return receipt requested, to the tenant or tenants and a copy
3 thereof shall be sent to the owner.

4 S 9. Paragraph 12 of subdivision a of section 5 of section 4 of chap-
5 ter 576 of the laws of 1974, constituting the emergency tenant
6 protection act of nineteen seventy-four, as added by chapter 253 of the
7 laws of 1993, is amended to read as follows:

8 (12) upon issuance of an order by the division, housing accommo-
9 dations which are: (1) occupied by persons who have a total annual
10 income in excess of {two} ONE hundred {fifty} SEVENTY-FIVE thousand
11 dollars per annum in each of the two preceding calendar years, as
12 defined in and subject to the limitations and process set forth in
13 section five-a of this act; and (2) have a legal regulated rent of two
14 thousand dollars or more per month {as of October first, nineteen
15 hundred ninety-three}. Provided however, that this exclusion shall not
16 apply to housing accommodations which became or become subject to this
17 act (a) by virtue of receiving tax benefits pursuant to section four
18 hundred twenty-one-a or four hundred eighty-nine of the real property
19 tax law, except as otherwise provided in subparagraph (i) of paragraph
20 (f) of subdivision two of section four hundred twenty-one-a of the real
21 property tax law, or (b) by virtue of article seven-C of the multiple
22 dwelling law.

23 S 10. Subdivision (b) and paragraphs 1 and 2 of subdivision (c) of
24 section 5-a of section 4 of chapter 576 of the laws of 1974, constitut-
25 ing the emergency tenant protection act of nineteen seventy-four, as
26 added by chapter 253 of the laws of 1993, are amended to read as
27 follows:

28 (b) On or before the first day of May in each calendar year, the owner
29 of each housing accommodation for which the legal regulated rent {as of
30 October first, nineteen hundred ninety-three} is two thousand dollars or
31 more per month may provide the tenant or tenants residing therein with
32 an income certification form prepared by the division of housing and

33 community renewal on which such tenant or tenants shall identify all
34 persons referred to in subdivision (a) of this section and shall certify
35 whether the total annual income is in excess of {two} ONE hundred
36 {fifty} SEVENTY-FIVE thousand dollars in each of the two preceding
37 calendar years. Such income certification form shall state that the
38 income level certified to by the tenant may be subject to verification
39 by the department of taxation and finance pursuant to section one
40 hundred seventy-one-b of the tax law, and shall not require disclosure
41 of any information other than whether the aforementioned threshold has
42 been exceeded. Such income certification form shall clearly state that:
43 (i) only tenants residing in housing accommodations which had a legal
44 regulated rent of two thousand dollars or more per month {as of October
45 first, nineteen hundred ninety-three} are required to complete the
46 certification form; (ii) that tenants have protections available to them
47 which are designed to prevent harassment; (iii) that tenants are not
48 required to provide any information regarding their income except that
49 which is requested on the form and may contain such other information
50 the division deems appropriate. The tenant or tenants shall return the
51 completed certification to the owner within thirty days after service
52 upon the tenant or tenants. In the event that the total annual income as
53 certified is in excess of {two} ONE hundred {fifty} SEVENTY-FIVE thou-
54 sand dollars in each such year, the owner may file the certification
55 with the state division of housing and community renewal on or before
56 June thirtieth of such year. Upon filing such certification with the

S. 5553

7

A. 8346

1 division, the division shall, within thirty days after the filing, issue
2 an order providing that such housing accommodation shall not be subject
3 to the provisions of this act upon the expiration of the existing lease.
4 A copy of such order shall be mailed by regular and certified mail,
5 return receipt requested, to the tenant or tenants and a copy thereof
6 shall be mailed to the owner.

7 1. In the event that the tenant or tenants either fail to return the
8 completed certification to the owner on or before the date required by
9 subdivision (b) of this section or the owner disputes the certification
10 returned by the tenant or tenants, the owner may, on or before June
11 thirtieth of such year, petition the state division of housing and
12 community renewal to verify, pursuant to section one hundred seventy-
13 one-b of the tax law, whether the total annual income exceeds {two} ONE
14 hundred {fifty} SEVENTY-FIVE thousand dollars in each of the two preced-
15 ing calendar years. Within twenty days after the filing of such request
16 with the division, the division shall notify the tenant or tenants that
17 such tenant or tenants named on the lease must provide the division with
18 such information as the division and the department of taxation and
19 finance shall require to verify whether the total annual income exceeds
20 {two} ONE hundred {fifty} SEVENTY-FIVE thousand dollars in each such
21 year. The division's notification shall require the tenant or tenants
22 to provide the information to the division within sixty days of service
23 upon such tenant or tenants and shall include a warning in bold faced
24 type that failure to respond will result in an order being issued by the
25 division providing that such housing accommodations shall not be subject
26 to the provisions of this act.

27 2. If the department of taxation and finance determines that the
28 total annual income is in excess of {two} ONE hundred {fifty}
29 SEVENTY-FIVE thousand dollars in each of the two preceding calendar
30 years, the division shall, on or before November fifteenth of such year,
31 notify the owner and tenants of the results of such verification. Both
32 the owner and the tenants shall have thirty days within which to comment
33 on such verification results. Within forty-five days after the expira-
34 tion of the comment period, the division shall, where appropriate, issue
35 an order providing that such housing accommodation shall not be subject
36 to the provisions of this act upon expiration of the existing lease. A
37 copy of such order shall be mailed by regular and certified mail, return
38 receipt requested, to the tenant or tenants and a copy thereof shall be

39 sent to the owner.

40 S 11. Subparagraph (j) of paragraph 2 of subdivision e of section
41 26-403 of the administrative code of the city of New York, as amended by
42 local law number 4 of the city of New York for the year 1994, is amended
43 to read as follows:

44 (j) Upon the issuance of an order of decontrol by the division, hous-
45 ing accommodations which: (1) are occupied by persons who have a total
46 annual income in excess of {two} ONE hundred {fifty} SEVENTY-FIVE thou-
47 sand dollars per annum in each of the two preceding calendar years, as
48 defined in and subject to the limitations and process set forth in
49 section 26-403.1 of this chapter; and (2) have a maximum rent of two
50 thousand dollars or more per month. Provided however, that this exclu-
51 sion shall not apply to housing accommodations which became or become
52 subject to this law by virtue of receiving tax benefits pursuant to
53 section four hundred eighty-nine of the real property tax law.

54 S 12. Subparagraph (k) of paragraph 2 of subdivision e of section
55 26-403 of the administrative code of the city of New York, as amended by

S. 5553

8

A. 8346

1 local law number 13 of the city of New York for the year 1997, is
2 amended to read as follows:

3 (k) Any housing accommodation which becomes vacant on or after April
4 first, nineteen hundred ninety-seven and where at the time the tenant
5 vacated such housing accommodation the maximum rent was two thousand
6 dollars or more per month, OR ANY HOUSING ACCOMMODATION WHICH IS OR
7 BECOMES VACANT ON OR AFTER THE EFFECTIVE DATE OF THE RENT REGULATION
8 REFORM ACT OF 1997 WITH A MAXIMUM RENT OF TWO THOUSAND DOLLARS OR MORE
9 PER MONTH. Provided however, that this exclusion shall not apply to
10 housing accommodations which became or become subject to this law by
11 virtue of receiving tax benefits pursuant to section four hundred eight-
12 y-nine of the real property tax law. This subparagraph shall not apply,
13 however, to or become effective with respect to housing accommodations
14 which the commissioner determines or finds that the landlord or any
15 person acting on his or her behalf, with intent to cause the tenant to
16 vacate, has engaged in any course of conduct (including, but not limited
17 to, interruption or discontinuance of required services) which interfer-
18 ed with or disturbed or was intended to interfere with or disturb the
19 comfort, repose, peace or quiet of the tenant in his or her use or occu-
20 pancy of the housing accommodations and in connection with such course
21 of conduct, any other general enforcement provision of this law shall
22 also apply.

23 S 13. Subdivision (b) and paragraphs 1 and 2 of subdivision (c) of
24 section 26-403.1 of the administrative code of the city of New York,
25 subdivision (b) as amended by local law number 4 of the city of New York
26 for the year 1994, and paragraphs 1 and 2 of subdivision (c) as added by
27 chapter 253 of the laws of 1993, are amended to read as follows:

28 (b) On or before the first day of May in each calendar year, the owner
29 of each housing accommodation for which the maximum rent is two thousand
30 dollars or more per month may provide the tenant or tenants residing
31 therein with an income certification form prepared by the division of
32 housing and community renewal on which such tenant or tenants shall
33 identify all persons referred to in subdivision (a) of this section and
34 shall certify whether the total annual income is in excess of {two} ONE
35 hundred {fifty} SEVENTY-FIVE thousand dollars in each of the two preced-
36 ing calendar years. Such income certification form shall state that the
37 income level certified to by the tenant may be subject to verification
38 by the department of taxation and finance pursuant to section one
39 hundred seventy-one-b of the tax law and shall not require disclosure of
40 any income information other than whether the aforementioned threshold
41 has been exceeded. Such income certification form shall clearly state
42 that: (i) only tenants residing in housing accommodations which have a
43 maximum rent of two thousand dollars or more per month are required to
44 complete the certification form; (ii) that tenants have protections
45 available to them which are designed to prevent harassment; (iii) that

46 tenants are not required to provide any information regarding their
47 income except that which is requested on the form and may contain such
48 other information the division deems appropriate. The tenant or tenants
49 shall return the completed certification to the owner within thirty days
50 after service upon the tenant or tenants. In the event that the total
51 annual income as certified is in excess of {two} ONE hundred {fifty}
52 SEVENTY-FIVE thousand dollars in each such year, the owner may file the
53 certification with the state division of housing and community renewal
54 on or before June thirtieth of such year. Upon filing such certification
55 with the division, the division shall, within thirty days after the
56 filing, issue an order of decontrol providing that such housing accommo-

S. 5553

9

A. 8346

1 datations shall not be subject to the provisions of this law as of the
2 first day of June in the year next succeeding the filing of the certifi-
3 cation by the owner. A copy of such order shall be mailed by regular
4 and certified mail, return receipt requested, to the tenant or tenants
5 and a copy thereof shall be mailed to the owner.

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

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

39 S 14. Section 26-504.1 of the administrative code of the city of New
40 York, as amended by local law number 4 of the city of New York for the
41 year 1994, is amended to read as follows:

42 S 26-504.1 Exclusion of accommodations of high income renters. Upon
43 the issuance of an order by the division, "housing accommodations" shall
44 not include housing accommodations which: (1) are occupied by persons
45 who have a total annual income in excess of {two} ONE hundred {fifty}
46 SEVENTY-FIVE thousand dollars per annum for each of the two preceding
47 calendar years, as defined in and subject to the limitations and process
48 set forth in section 26-504.3 of this chapter; and (2) have a legal
49 regulated rent of two thousand dollars or more per month. Provided,
50 however, that this exclusion shall not apply to housing accommodations
51 which became or become subject to this law (a) by virtue of receiving

52 tax benefits pursuant to section four hundred twenty-one-a or four
53 hundred eighty-nine of the real property tax law, except as otherwise
54 provided in subparagraph (i) of paragraph (f) of subdivision two of
55 section four hundred twenty-one-a of the real property tax law, or (b)
56 by virtue of article seven-C of the multiple dwelling law.

S. 5553

10

A. 8346

1 S 15. Section 26-504.2 of the administrative code of the city of New
2 York, as amended by local law number 13 of the city of New York for the
3 year 1997, is amended to read as follows:

4 S 26-504.2 Exclusion of high rent accommodations. {a.} "Housing
5 accommodations" shall not include any housing accommodation which
6 becomes vacant on or after April first, nineteen hundred ninety-seven
7 and where at the time the tenant vacated such housing accommodation the
8 legal regulated rent was two thousand dollars or more per month, OR ANY
9 HOUSING ACCOMMODATION WHICH IS OR BECOMES VACANT ON OR AFTER THE EFFEC-
10 TIVE DATE OF THE RENT REGULATION REFORM ACT OF 1997 WITH A LEGAL REGU-
11 LATED RENT OF TWO THOUSAND DOLLARS OR MORE PER MONTH. Provided however,
12 that this exclusion shall not apply to housing accommodations which
13 became or become subject to this law (a) by virtue of receiving tax
14 benefits pursuant to section four hundred twenty-one-a or four hundred
15 eighty-nine of the real property tax law, except as otherwise provided
16 in subparagraph (i) of paragraph (f) of subdivision two of section four
17 hundred twenty-one-a of the real property tax law, or (b) by virtue of
18 article seven-C of the multiple dwelling law. This section shall not
19 apply, however, to or become effective with respect to housing accommo-
20 dations which the commissioner determines or finds that the landlord or
21 any person acting on his or her behalf, with intent to cause the tenant
22 to vacate, engaged in any course of conduct (including, but not limited
23 to, interruption or discontinuance of required services) which interfer-
24 ed with or disturbed or was intended to interfere with or disturb the
25 comfort, repose, peace or quiet of the tenant in his or her use or occu-
26 pancy of the housing accommodations and in connection with such course
27 of conduct, any other general enforcement provision of this law shall
28 also apply.

29 {b. The owner of any housing accommodation that is not subject to this
30 law pursuant to the provisions of subdivision a of this section or
31 subparagraph k of paragraph 2 of subdivision e of section 26-403 of this
32 code shall give certified written notice to the first tenant of that
33 housing accommodation after such housing accommodation became exempt
34 from the provisions of this law or the city rent and rehabilitation law
35 which contains a statement that the legal regulated rent or maximum rent
36 may be verified by the tenant by contacting the state division of hous-
37 ing and community renewal or any successor thereto, and the address and
38 telephone number of such agency, or any successor thereto, attached to
39 which shall be a certified copy of the last registration statement for
40 such housing accommodation or the document most recently filed with the
41 state division of housing and community renewal which sets forth the
42 maximum rent for such housing accommodation. Such notice shall be sent
43 by certified mail within thirty days after such tenancy commences.}

44 S 16. Subdivision (b) and paragraphs 1 and 2 of subdivision (c) of
45 section 26-504.3 of the administrative code of the city of New York,
46 subdivision (b) as amended by local law number 4 of the city of New York
47 for the year 1994 and paragraphs 1 and 2 of subdivision (c) as added by
48 chapter 253 of the laws of 1993, are amended to read as follows:

49 (b) On or before the first day of May in each calendar year, the owner
50 of each housing accommodation for which the legal regulated rent is two
51 thousand dollars or more per month may provide the tenant or tenants
52 residing therein with an income certification form prepared by the divi-
53 sion of housing and community renewal on which such tenant or tenants
54 shall identify all persons referred to in subdivision (a) of this
55 section and shall certify whether the total annual income is in excess
56 of {two} ONE hundred {fifty} SEVENTY-FIVE thousand dollars in each of

1 the two preceding calendar years. Such income certification form shall
2 state that the income level certified to by the tenant may be subject to
3 verification by the department of taxation and finance pursuant to
4 section one hundred seventy-one-b of the tax law and shall not require
5 disclosure of any income information other than whether the aforemen-
6 tioned threshold has been exceeded. Such income certification form
7 shall clearly state that: (i) only tenants residing in housing accommo-
8 dations which have a legal regulated rent of two thousand dollars or
9 more per month are required to complete the certification form; (ii)
10 that tenants have protections available to them which are designed to
11 prevent harassment; (iii) that tenants are not required to provide any
12 information regarding their income except that which is requested on the
13 form and may contain such other information the division deems appropri-
14 ate. The tenant or tenants shall return the completed certification to
15 the owner within thirty days after service upon the tenant or tenants.
16 In the event that the total annual income as certified is in excess of
17 {two} ONE hundred {fifty} SEVENTY-FIVE thousand dollars in each such
18 year, the owner may file the certification with the state division of
19 housing and community renewal on or before June thirtieth of such year.
20 Upon filing such certification with the division, the division shall,
21 within thirty days after the filing, issue an order providing that such
22 housing accommodation shall not be subject to the provisions of this act
23 upon the expiration of the existing lease. A copy of such order shall be
24 mailed by regular and certified mail, return receipt requested, to the
25 tenant or tenants and a copy thereof shall be mailed to the owner.

26 1. In the event that the tenant or tenants either fail to return the
27 completed certification to the owner on or before the date required by
28 subdivision (b) of this section or the owner disputes the certification
29 returned by the tenant or tenants, the owner may, on or before June
30 thirtieth of such year, petition the state division of housing and
31 community renewal to verify, pursuant to section one hundred seventy-
32 one-b of the tax law, whether the total annual income exceeds {two} ONE
33 hundred {fifty} SEVENTY-FIVE thousand dollars in each of the two preced-
34 ing calendar years. Within twenty days after the filing of such request
35 with the division, the division shall notify the tenant or tenants named
36 on the lease that such tenant or tenants must provide the division with
37 such information as the division and the department of taxation and
38 finance shall require to verify whether the total annual income exceeds
39 {two} ONE hundred {fifty} SEVENTY-FIVE thousand dollars in each such
40 year. The division's notification shall require the tenant or tenants to
41 provide the information to the division within sixty days of service
42 upon such tenant or tenants and shall include a warning in bold faced
43 type that failure to respond will result in an order being issued by the
44 division providing that such housing accommodation shall not be subject
45 to the provisions of this law.

46 2. If the department of taxation and finance determines that the
47 total annual income is in excess of {two} ONE hundred {fifty}
48 SEVENTY-FIVE thousand dollars in each of the two preceding calendar
49 years, the division shall, on or before November fifteenth of such year,
50 notify the owner and tenants of the results of such verification. Both
51 the owner and the tenants shall have thirty days within which to comment
52 on such verification results. Within forty-five days after the expira-
53 tion of the comment period, the division shall, where appropriate, issue
54 an order providing that such housing accommodation shall not be subject
55 to the provisions of this law upon the expiration of the existing lease.
56 A copy of such order shall be mailed by regular and certified mail,

1 return receipt requested, to the tenant or tenants and a copy thereof
2 shall be sent to the owner.

3 S 17. Subdivision d of section 26-513 of the administrative code of
4 the city of New York, as amended by local law number 13 of the city of

5 New York for the year 1997, is amended to read as follows:

6 d. Within thirty days after the local effective date of the emergency
7 tenant protection act of nineteen seventy-four the owner of housing
8 accommodations as to which an application for adjustment of the initial
9 legal regulated rent may be made pursuant to subdivision b of this
10 section shall give notice in writing by certified mail to the tenant of
11 each such housing accommodation on a form prescribed by the commissioner
12 of the initial legal regulated rent for such housing accommodation{, the
13 maximum rent at the time such housing accommodation became vacant} and
14 of such tenant`s right to file an application for adjustment of the
15 initial legal regulated rent of such housing accommodation.

16 S 17-a. Section 26-403.1 of the administrative code of the city of
17 New York is amended by adding a new subdivision (e) to read as follows:

18 (E) UPON RECEIPT OF SUCH ORDER OF DECONTROL PURSUANT TO THIS SECTION,
19 AN OWNER SHALL OFFER THE HOUSING ACCOMMODATION SUBJECT TO SUCH ORDER TO
20 THE TENANT AT A RENT NOT IN EXCESS OF THE MARKET RENT, WHICH FOR THE
21 PURPOSES OF THIS SECTION MEANS A RENT OBTAINABLE IN AN ARM`S LENGTH
22 TRANSACTION. SUCH RENTAL OFFER SHALL BE MADE BY THE OWNER IN WRITING TO
23 THE TENANT BY CERTIFIED AND REGULAR MAIL AND SHALL INFORM THE TENANT
24 THAT SUCH OFFER MUST BE ACCEPTED IN WRITING WITHIN TEN DAYS OF RECEIPT.
25 THE TENANT SHALL RESPOND WITHIN TEN DAYS AFTER RECEIPT OF SUCH OFFER. IF
26 THE TENANT DECLINES THE OFFER OR FAILS TO RESPOND WITHIN SUCH PERIOD,
27 THE OWNER MAY COMMENCE AN ACTION OR PROCEEDING FOR THE EVICTION OF SUCH
28 TENANT.

29 S 17-b. Section 26-504.3 of the administrative code of the city of New
30 York is amended by adding a new subdivision (e) to read as follows:

31 (E) UPON RECEIPT OF SUCH ORDER OF DECONTROL PURSUANT TO THIS SECTION,
32 AN OWNER SHALL OFFER THE HOUSING ACCOMMODATION SUBJECT TO SUCH ORDER TO
33 THE TENANT AT A RENT NOT IN EXCESS OF THE MARKET RENT, WHICH FOR THE
34 PURPOSES OF THIS SECTION MEANS A RENT OBTAINABLE IN AN ARM`S LENGTH
35 TRANSACTION. SUCH RENTAL OFFER SHALL BE MADE BY THE OWNER IN WRITING TO
36 THE TENANT BY CERTIFIED AND REGULAR MAIL AND SHALL INFORM THE TENANT
37 THAT SUCH OFFER MUST BE ACCEPTED IN WRITING WITHIN TEN DAYS OF RECEIPT.
38 THE TENANT SHALL RESPOND WITHIN TEN DAYS AFTER RECEIPT OF SUCH OFFER. IF
39 THE TENANT DECLINES THE OFFER OR FAILS TO RESPOND WITHIN SUCH PERIOD,
40 THE OWNER MAY COMMENCE AN ACTION OR PROCEEDING FOR THE EVICTION OF SUCH
41 TENANT.

42 S 17-c. Section 5-a of section 4 of chapter 576 of the laws of 1974,
43 constituting the emergency tenant protection act of nineteen seventy-
44 four, is amended by adding a new subdivision (e) to read as follows:

45 (E) UPON RECEIPT OF SUCH ORDER OF DECONTROL PURSUANT TO THIS SECTION,
46 AN OWNER SHALL OFFER THE HOUSING ACCOMMODATION SUBJECT TO SUCH ORDER TO
47 THE TENANT AT A RENT NOT IN EXCESS OF THE MARKET RENT, WHICH FOR THE
48 PURPOSES OF THIS SECTION MEANS A RENT OBTAINABLE IN AN ARM`S LENGTH
49 TRANSACTION. SUCH RENTAL OFFER SHALL BE MADE BY THE OWNER IN WRITING TO
50 THE TENANT BY CERTIFIED AND REGULAR MAIL AND SHALL INFORM THE TENANT
51 THAT SUCH OFFER MUST BE ACCEPTED IN WRITING WITHIN TEN DAYS OF RECEIPT.
52 THE TENANT SHALL RESPOND WITHIN TEN DAYS AFTER RECEIPT OF SUCH OFFER. IF
53 THE TENANT DECLINES THE OFFER OR FAILS TO RESPOND WITHIN SUCH PERIOD,
54 THE OWNER MAY COMMENCE AN ACTION OR PROCEEDING FOR THE EVICTION OF SUCH
55 TENANT.

S. 5553

13

A. 8346

1 S 17-d. Section 2-a of chapter 274 of the laws of 1946, constituting
2 the emergency housing rent control law, is amended by adding a new
3 subdivision (e) to read as follows:

4 (E) UPON RECEIPT OF SUCH ORDER OF DECONTROL PURSUANT TO THIS SECTION,
5 AN OWNER SHALL OFFER THE HOUSING ACCOMMODATION SUBJECT TO SUCH ORDER TO
6 THE TENANT AT A RENT NOT IN EXCESS OF THE MARKET RENT, WHICH FOR THE
7 PURPOSES OF THIS SECTION MEANS A RENT OBTAINABLE IN AN ARM`S LENGTH
8 TRANSACTION. SUCH RENTAL OFFER SHALL BE MADE BY THE OWNER IN WRITING TO
9 THE TENANT BY CERTIFIED AND REGULAR MAIL AND SHALL INFORM THE TENANT
10 THAT SUCH OFFER MUST BE ACCEPTED IN WRITING WITHIN TEN DAYS OF RECEIPT.
11 THE TENANT SHALL RESPOND WITHIN TEN DAYS AFTER RECEIPT OF SUCH OFFER. IF

12 THE TENANT DECLINES THE OFFER OR FAILS TO RESPOND WITHIN SUCH PERIOD,
13 THE OWNER MAY COMMENCE AN ACTION OR PROCEEDING FOR THE EVICTION OF SUCH
14 TENANT.

15 S 18. Paragraph (b) of subdivision 3 of section 171-b of the tax law,
16 as amended by chapter 170 of the laws of 1994, is amended to read as
17 follows:

18 (b) The department, when requested by the division of housing and
19 community renewal, shall verify the total annual income of all persons
20 residing in housing accommodations as their primary residence subject to
21 rent regulation and shall notify the commissioner of the division of
22 housing and community renewal as may be appropriate whether the total
23 annual income exceeds {two} ONE hundred {fifty} SEVENTY-FIVE thousand
24 dollars per annum in each of the two preceding calendar years. No other
25 information regarding the annual income of such persons shall be
26 provided.

27 S 19. Subdivision c of section 26-511 of the administrative code of
28 the city of New York is amended by adding a new paragraph 5-a to read as
29 follows:

30 (5-A) PROVIDES THAT, NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER,
31 THE LEGAL REGULATED RENT FOR ANY VACANCY LEASE ENTERED INTO AFTER THE
32 EFFECTIVE DATE OF THIS PARAGRAPH SHALL BE AS HEREINAFTER PROVIDED IN
33 THIS PARAGRAPH. THE PREVIOUS LEGAL REGULATED RENT FOR SUCH HOUSING
34 ACCOMMODATION SHALL BE INCREASED BY THE FOLLOWING: (I) IF THE VACANCY
35 LEASE IS FOR A TERM OF TWO YEARS, TWENTY PERCENT OF THE PREVIOUS LEGAL
36 REGULATED RENT; OR (II) IF THE VACANCY LEASE IS FOR A TERM OF ONE YEAR
37 THE INCREASE SHALL BE TWENTY PERCENT OF THE PREVIOUS LEGAL REGULATED
38 RENT LESS AN AMOUNT EQUAL TO THE DIFFERENCE BETWEEN (A) THE TWO YEAR
39 RENEWAL LEASE GUIDELINE PROMULGATED BY THE GUIDELINES BOARD OF THE CITY
40 OF NEW YORK APPLIED TO THE PREVIOUS LEGAL REGULATED RENT AND (B) THE ONE
41 YEAR RENEWAL LEASE GUIDELINE PROMULGATED BY THE GUIDELINES BOARD OF THE
42 CITY OF NEW YORK APPLIED TO THE PREVIOUS LEGAL REGULATED RENT. IN ADDI-
43 TION, IF THE LEGAL REGULATED RENT WAS NOT INCREASED WITH RESPECT TO SUCH
44 HOUSING ACCOMMODATION BY A PERMANENT VACANCY ALLOWANCE WITHIN EIGHT
45 YEARS PRIOR TO A VACANCY LEASE EXECUTED ON OR AFTER THE EFFECTIVE DATE
46 OF THIS PARAGRAPH, THE LEGAL REGULATED RENT MAY BE FURTHER INCREASED BY
47 AN AMOUNT EQUAL TO THE PRODUCT RESULTING FROM MULTIPLYING SUCH PREVIOUS
48 LEGAL REGULATED RENT BY SIX-TENTHS OF ONE PERCENT AND FURTHER MULTIPLY-
49 ING THE AMOUNT OF RENT INCREASE RESULTING THEREFROM BY THE GREATER OF
50 (A) THE NUMBER OF YEARS SINCE THE IMPOSITION OF THE LAST PERMANENT
51 VACANCY ALLOWANCE, OR (B) IF THE RENT WAS NOT INCREASED BY A PERMANENT
52 VACANCY ALLOWANCE SINCE THE HOUSING ACCOMMODATION BECAME SUBJECT TO THIS
53 CHAPTER, THE NUMBER OF YEARS THAT SUCH HOUSING ACCOMMODATION HAS BEEN
54 SUBJECT TO THIS CHAPTER. PROVIDED THAT IF THE PREVIOUS LEGAL REGULATED
55 RENT WAS LESS THAN THREE HUNDRED DOLLARS THE TOTAL INCREASE SHALL BE AS
56 CALCULATED ABOVE PLUS ONE HUNDRED DOLLARS PER MONTH. PROVIDED, FURTHER,

S. 5553

14

A. 8346

1 THAT IF THE PREVIOUS LEGAL REGULATED RENT WAS AT LEAST THREE HUNDRED
2 DOLLARS AND NO MORE THAN FIVE HUNDRED DOLLARS IN NO EVENT SHALL THE
3 TOTAL INCREASE PURSUANT TO THIS PARAGRAPH BE LESS THAN ONE HUNDRED
4 DOLLARS PER MONTH. SUCH INCREASE SHALL BE IN LIEU OF ANY ALLOWANCE
5 AUTHORIZED FOR THE ONE OR TWO YEAR RENEWAL COMPONENT THEREOF, BUT SHALL
6 BE IN ADDITION TO ANY OTHER INCREASES AUTHORIZED PURSUANT TO THIS CHAP-
7 TER INCLUDING AN ADJUSTMENT BASED UPON A MAJOR CAPITAL IMPROVEMENT, OR A
8 SUBSTANTIAL MODIFICATION OR INCREASE OF DWELLING SPACE OR SERVICES, OR
9 INSTALLATION OF NEW EQUIPMENT OR IMPROVEMENTS OR NEW FURNITURE OR
10 FURNISHINGS PROVIDED IN OR TO THE HOUSING ACCOMMODATION PURSUANT TO THIS
11 SECTION.

12 S 20. Section 10 of section 4 of chapter 576 of the laws of 1974,
13 constituting the emergency tenant protection act of nineteen seventy-
14 four, is amended by adding a new subdivision (a-1) to read as follows:

15 (A-1) PROVIDES THAT, NOTWITHSTANDING ANY PROVISION OF THIS ACT, THE
16 LEGAL REGULATED RENT FOR ANY VACANCY LEASE ENTERED INTO AFTER THE EFFEC-
17 TIVE DATE OF THIS SUBDIVISION SHALL BE AS HEREINAFTER SET FORTH. THE

18 PREVIOUS LEGAL REGULATED RENT FOR SUCH HOUSING ACCOMMODATION SHALL BE
19 INCREASED BY THE FOLLOWING: (I) IF THE VACANCY LEASE IS FOR A TERM OF
20 TWO YEARS, TWENTY PERCENT OF THE PREVIOUS LEGAL REGULATED RENT; OR (II)
21 IF THE VACANCY LEASE IS FOR A TERM OF ONE YEAR THE INCREASE SHALL BE
22 TWENTY PERCENT OF THE PREVIOUS LEGAL REGULATED RENT LESS AN AMOUNT EQUAL
23 TO THE DIFFERENCE BETWEEN (A) THE TWO YEAR RENEWAL LEASE GUIDELINE
24 PROMULGATED BY THE GUIDELINES BOARD OF THE COUNTY IN WHICH THE HOUSING
25 ACCOMMODATION IS LOCATED APPLIED TO THE PREVIOUS LEGAL REGULATED RENT
26 AND (B) THE ONE YEAR RENEWAL LEASE GUIDELINE PROMULGATED BY THE GUIDE-
27 LINES BOARD OF THE COUNTY IN WHICH THE HOUSING ACCOMMODATION IS LOCATED
28 APPLIED TO THE PREVIOUS LEGAL REGULATED RENT. IN ADDITION, IF THE LEGAL
29 REGULATED RENT WAS NOT INCREASED WITH RESPECT TO SUCH HOUSING ACCOMMO-
30 DATION BY A PERMANENT VACANCY ALLOWANCE WITHIN EIGHT YEARS PRIOR TO A
31 VACANCY LEASE EXECUTED ON OR AFTER THE EFFECTIVE DATE OF THIS SUBDIVI-
32 SION, THE LEGAL REGULATED RENT MAY BE FURTHER INCREASED BY AN AMOUNT
33 EQUAL TO THE PRODUCT RESULTING FROM MULTIPLYING SUCH PREVIOUS LEGAL
34 REGULATED RENT BY SIX-TENTHS OF ONE PERCENT AND FURTHER MULTIPLYING THE
35 AMOUNT OF RENT INCREASE RESULTING THEREFROM BY THE GREATER OF (A) THE
36 NUMBER OF YEARS SINCE THE IMPOSITION OF THE LAST PERMANENT VACANCY
37 ALLOWANCE, OR (B) IF THE RENT WAS NOT INCREASED BY A PERMANENT VACANCY
38 ALLOWANCE SINCE THE HOUSING ACCOMMODATION BECAME SUBJECT TO THIS ACT,
39 THE NUMBER OF YEARS THAT SUCH HOUSING ACCOMMODATION HAS BEEN SUBJECT TO
40 THIS ACT. PROVIDED THAT IF THE PREVIOUS LEGAL REGULATED RENT WAS LESS
41 THAN THREE HUNDRED DOLLARS THE TOTAL INCREASE SHALL BE AS CALCULATED
42 ABOVE PLUS ONE HUNDRED DOLLARS PER MONTH. PROVIDED, FURTHER, THAT IF THE
43 PREVIOUS LEGAL REGULATED RENT WAS AT LEAST THREE HUNDRED DOLLARS AND NO
44 MORE THAN FIVE HUNDRED DOLLARS IN NO EVENT SHALL THE TOTAL INCREASE
45 PURSUANT TO THIS SUBDIVISION BE LESS THAN ONE HUNDRED DOLLARS PER MONTH.
46 SUCH INCREASE SHALL BE IN LIEU OF ANY ALLOWANCE AUTHORIZED FOR THE ONE
47 OR TWO YEAR RENEWAL COMPONENT THEREOF, BUT SHALL BE IN ADDITION TO ANY
48 OTHER INCREASES AUTHORIZED PURSUANT TO THIS ACT INCLUDING AN ADJUSTMENT
49 BASED UPON A MAJOR CAPITAL IMPROVEMENT, OR A SUBSTANTIAL MODIFICATION OR
50 INCREASE OF DWELLING SPACE OR SERVICES, OR INSTALLATION OF NEW EQUIPMENT
51 OR IMPROVEMENTS OR NEW FURNITURE OR FURNISHINGS PROVIDED IN OR TO THE
52 HOUSING ACCOMMODATION PURSUANT TO SECTION SIX OF THIS ACT.

53 S 21. Section 14 of the public housing law is amended by adding a new
54 subdivision 4 to read as follows:

55 4. THE AGENCY SHALL PROMULGATE REGULATIONS, RULES AND POLICIES WHICH
56 PROVIDE FOR THE RIGHTS OF FAMILY MEMBERS TO SUCCEED IN CERTAIN CASES TO

S. 5553

15

A. 8346

1 THE RIGHTS OF TENANTS PROTECTED BY THE EMERGENCY TENANT PROTECTION ACT
2 OF NINETEEN SEVENTY-FOUR, THE EMERGENCY HOUSING RENT CONTROL LAW, THE
3 LOCAL EMERGENCY HOUSING RENT CONTROL ACT, THE ADMINISTRATIVE CODE OF THE
4 CITY OF NEW YORK AND ANY REGULATIONS, RULES AND POLICIES ENACTED PURSU-
5 ANT THERETO. SUCH REGULATIONS, RULES AND POLICIES SHALL CONTAIN
6 PROVISIONS WHICH INCLUDE, BUT SHALL NOT BE LIMITED TO, THE FOLLOWING:

7 (A) THAT UNLESS OTHERWISE PROHIBITED BY OCCUPANCY RESTRICTIONS BASED
8 UPON INCOME LIMITATIONS PURSUANT TO FEDERAL, STATE OR LOCAL LAW, REGU-
9 LATIONS OR OTHER REQUIREMENTS OF GOVERNMENTAL AGENCIES, ANY MEMBER OF
10 THE TENANT'S FAMILY, AS DEFINED IN PARAGRAPH (C) OF THIS SUBDIVISION,
11 SHALL SUCCEED TO THE RIGHTS OF A TENANT UNDER SUCH ACTS AND LAWS WHERE
12 THE TENANT HAS PERMANENTLY VACATED THE HOUSING ACCOMMODATION AND SUCH
13 FAMILY MEMBER HAS RESIDED WITH THE TENANT IN THE HOUSING ACCOMMODATION
14 AS A PRIMARY RESIDENCE FOR A PERIOD OF NO LESS THAN TWO YEARS, OR WHERE
15 SUCH PERSON IS A "SENIOR CITIZEN" OR A "DISABLED PERSON," AS DEFINED IN
16 PARAGRAPH (C) OF THIS SUBDIVISION, FOR A PERIOD OF NO LESS THAN ONE
17 YEAR, IMMEDIATELY PRIOR TO THE PERMANENT VACATING OF THE HOUSING ACCOM-
18 MODATION BY THE TENANT, OR FROM THE INCEPTION OF THE TENANCY OR
19 COMMENCEMENT OF THE RELATIONSHIP, IF FOR LESS THAN SUCH PERIODS. THE
20 MINIMUM PERIODS OF REQUIRED RESIDENCY SET FORTH IN THIS SUBDIVISION
21 SHALL NOT BE DEEMED TO BE INTERRUPTED BY ANY PERIOD DURING WHICH THE
22 "FAMILY MEMBER" TEMPORARILY RELOCATES BECAUSE HE OR SHE:

23 (I) IS ENGAGED IN ACTIVE MILITARY DUTY;

24 (II) IS ENROLLED AS A FULL TIME STUDENT;
25 (III) IS NOT IN RESIDENCE AT THE HOUSING ACCOMMODATION PURSUANT TO A
26 COURT ORDER NOT INVOLVING ANY TERM OR PROVISION OF THE LEASE, AND NOT
27 INVOLVING ANY GROUNDS SPECIFIED IN THE REAL PROPERTY ACTIONS AND
28 PROCEEDINGS LAW;
29 (IV) IS ENGAGED IN EMPLOYMENT REQUIRING TEMPORARY RELOCATION FROM THE
30 HOUSING ACCOMMODATION;
31 (V) IS HOSPITALIZED FOR MEDICAL TREATMENT; OR
32 (VI) HAS SUCH OTHER REASONABLE GROUNDS THAT SHALL BE DETERMINED BY THE
33 COMMISSIONER UPON APPLICATION BY SUCH PERSON.
34 (B) THAT A TENANT MAY IN A FORM PRESCRIBED BY THE DIVISION OF HOUSING
35 AND COMMUNITY RENEWAL, AT ANY TIME, ADVISE THE LANDLORD OF, OR A LAND-
36 LORD MAY AT ANY TIME BUT NO MORE OFTEN THAN ONCE IN ANY TWELVE MONTHS,
37 REQUEST FROM THE TENANT, THE NAMES OF ALL PERSONS OTHER THAN THE TENANT
38 WHO ARE RESIDING IN THE HOUSING ACCOMMODATION, AND THE FOLLOWING INFOR-
39 MATION PERTAINING TO SUCH PERSONS:
40 (I) IF THE PERSON IS A "FAMILY MEMBER" AS DEFINED IN PARAGRAPH (C) OF
41 THIS SUBDIVISION; AND
42 (II) IF THE PERSON IS, OR UPON THE PASSAGE OF THE APPLICABLE MINIMUM
43 PERIOD OF REQUIRED RESIDENCY, MAY BECOME A PERSON ENTITLED TO BE NAMED
44 AS A TENANT ON A RENEWAL LEASE OR TO PROTECTION FROM EVICTION PURSUANT
45 TO PARAGRAPH (A) OF THIS SUBDIVISION, AND THE DATE OF THE COMMENCEMENT
46 OF SUCH PERSON'S PRIMARY RESIDENCE WITH THE TENANT; AND
47 (III) IF THE PERSON IS A "SENIOR CITIZEN" OR A "DISABLED PERSON" AS
48 DEFINED IN PARAGRAPH (C) OF THIS SUBDIVISION.
49 FAILURE OF THE TENANT TO PROVIDE SUCH INFORMATION TO THE LANDLORD,
50 REGARDLESS OF WHETHER THE LANDLORD REQUESTS THE INFORMATION, SHALL PLACE
51 UPON ALL SUCH PERSONS NOT SO MADE KNOWN TO THE LANDLORD, WHO SEEK TO
52 EXERCISE THE RIGHT TO BE NAMED AS A TENANT ON A RENEWAL LEASE OR THE
53 RIGHT TO PROTECTION FROM EVICTION AS PROVIDED FOR IN THIS SUBDIVISION,
54 THE AFFIRMATIVE OBLIGATION TO ESTABLISH SUCH RIGHT.
55 (C) THAT FOR THE PURPOSES OF SUCH REGULATIONS: (I) "FAMILY MEMBER"
56 SHALL BE DEFINED AS A HUSBAND, WIFE, SON, DAUGHTER, STEPSON, STEPDAUGHT-

S. 5553

16

A. 8346

1 ER, FATHER, MOTHER, STEPFATHER, STEPMOTHER, BROTHER, SISTER, GRANDFA-
2 THER, GRANDMOTHER, GRANDSON, GRANDDAUGHTER, DAUGHTER-IN-LAW, SON-IN-LAW,
3 MOTHER-IN-LAW OR FATHER-IN-LAW OF THE TENANT; OR ANY OTHER PERSON RESID-
4 ING WITH THE TENANT IN THE HOUSING ACCOMMODATION AS A PRIMARY RESIDENCE
5 WHO CAN PROVE EMOTIONAL AND FINANCIAL COMMITMENT, AND INTERDEPENDENCE
6 BETWEEN SUCH PERSON AND THE TENANT. ALTHOUGH NO SINGLE FACTOR SHALL BE
7 SOLELY DETERMINATIVE, EVIDENCE WHICH IS TO BE CONSIDERED IN DETERMINING
8 WHETHER SUCH EMOTIONAL AND FINANCIAL COMMITMENT AND INTERDEPENDENCE
9 EXISTED, MAY INCLUDE, WITHOUT LIMITATION, SUCH FACTORS AS LISTED BELOW.
10 IN NO EVENT WOULD EVIDENCE OF A SEXUAL RELATIONSHIP BETWEEN SUCH PERSONS
11 BE REQUIRED OR CONSIDERED.

12 (A) LONGEVITY OF THE RELATIONSHIP;
13 (B) SHARING OF OR RELYING UPON EACH OTHER FOR PAYMENT OF HOUSEHOLD OR
14 FAMILY EXPENSES, OR OTHER COMMON NECESSITIES OF LIFE;
15 (C) INTERMINGLING OF FINANCES AS EVIDENCED BY, AMONG OTHER THINGS,
16 JOINT OWNERSHIP OF BANK ACCOUNTS, PERSONAL AND REAL PROPERTY, CREDIT
17 CARDS, LOAN OBLIGATIONS, SHARING A HOUSEHOLD BUDGET FOR PURPOSES OF
18 RECEIVING GOVERNMENT BENEFITS, OR SUCH OTHER FACTORS AS MAY BE DETER-
19 MINED BY REGULATION;
20 (D) ENGAGING IN FAMILY-TYPE ACTIVITIES BY JOINTLY ATTENDING FAMILY
21 FUNCTIONS, HOLIDAYS AND CELEBRATIONS, SOCIAL AND RECREATIONAL ACTIV-
22 ITIES, OR SUCH OTHER FACTORS AS MAY BE DETERMINED BY REGULATION;
23 (E) FORMALIZING OF LEGAL OBLIGATIONS, INTENTIONS, AND RESPONSIBILITIES
24 TO EACH OTHER BY SUCH MEANS AS EXECUTING WILLS NAMING EACH OTHER AS
25 EXECUTOR OR BENEFICIARY, CONFERRING UPON EACH OTHER A POWER OF ATTORNEY
26 OR AUTHORITY TO MAKE HEALTH CARE DECISIONS EACH FOR THE OTHER, ENTERING
27 INTO A PERSONAL RELATIONSHIP CONTRACT, MAKING A DOMESTIC PARTNERSHIP
28 DECLARATION, OR SERVING AS A REPRESENTATIVE PAYEE FOR PURPOSES OF PUBLIC
29 BENEFITS, OR SUCH OTHER FACTORS AS MAY BE DETERMINED BY REGULATION;

30 (F) HOLDING THEMSELVES OUT AS FAMILY MEMBERS TO OTHER FAMILY MEMBERS,
31 FRIENDS, MEMBERS OF THE COMMUNITY OR RELIGIOUS INSTITUTIONS, OR SOCIETY
32 IN GENERAL, THROUGH THEIR WORDS OR ACTIONS;

33 (G) REGULARLY PERFORMING FAMILY FUNCTIONS, SUCH AS CARING FOR EACH
34 OTHER OR EACH OTHER'S EXTENDED FAMILY MEMBERS, OR RELYING UPON EACH
35 OTHER FOR DAILY FAMILY SERVICES;

36 (H) ENGAGING IN ANY OTHER PATTERN OF BEHAVIOR, AGREEMENT, OR OTHER
37 ACTION WHICH EVIDENCES THE INTENTION OF CREATING A LONG-TERM, EMOTIONAL-
38 LY-COMMITTED RELATIONSHIP.

39 (II) A "SENIOR CITIZEN" IS DEFINED AS A PERSON WHO IS SIXTY-TWO YEARS
40 OF AGE OR OLDER;

41 (III) A "DISABLED PERSON" IS DEFINED AS A PERSON WHO HAS AN IMPAIRMENT
42 WHICH RESULTS FROM ANATOMICAL, PHYSIOLOGICAL OR PSYCHOLOGICAL CONDI-
43 TIONS, OTHER THAN ADDICTION TO ALCOHOL, GAMBLING, OR ANY CONTROLLED
44 SUBSTANCE, WHICH ARE DEMONSTRABLE BY MEDICALLY ACCEPTABLE CLINICAL AND
45 LABORATORY DIAGNOSTIC TECHNIQUES, AND WHICH ARE EXPECTED TO BE PERMANENT
46 AND WHICH SUBSTANTIALLY LIMIT ONE OR MORE OF SUCH PERSON'S MAJOR LIFE
47 ACTIVITIES.

48 (D) A PROCEDURE FOR MAINTAINING RECORDS FOR THE PURPOSE OF DETERMINING
49 AN OWNER'S ENTITLEMENT TO THE VACANCY ALLOWANCE PROVIDED FOR IN SUBDIVI-
50 SION F OF SECTION 26-512 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW
51 YORK, SUBDIVISION G OF SECTION SIX OF SECTION FOUR OF THE EMERGENCY
52 TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR, SUBDIVISION NINE OF
53 SECTION FIVE OF THE EMERGENCY HOUSING RENT CONTROL LAW, SECTION 26-403.2
54 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK AND THE FIFTH UNDES-
55 IGNATED PARAGRAPH OF SECTION ONE OF THE LOCAL EMERGENCY HOUSING RENT
56 CONTROL ACT.

S. 5553

17

A. 8346

1 S 22. Section 26-512 of the administrative code of the city of New
2 York is amended by adding a new subdivision f to read as follows:

3 F. NOTWITHSTANDING ANY PROVISION OF THIS LAW TO THE CONTRARY IN THE
4 CASE WHERE ALL TENANTS NAMED IN A LEASE HAVE PERMANENTLY VACATED A HOUS-
5 ING ACCOMMODATION AND A FAMILY MEMBER OF SUCH TENANT OR TENANTS IS ENTI-
6 TLED TO AND EXECUTES A RENEWAL LEASE FOR THE HOUSING ACCOMMODATION IF
7 SUCH ACCOMMODATION CONTINUES TO BE SUBJECT TO THIS LAW AFTER SUCH FAMILY
8 MEMBER VACATES, ON THE OCCURRENCE OF SUCH VACANCY THE LEGAL REGULATED
9 RENT SHALL BE INCREASED BY A SUM EQUAL TO THE ALLOWANCE THEN IN EFFECT
10 FOR VACANCY LEASES, INCLUDING THE AMOUNT ALLOWED BY PARAGRAPH (FIVE-A)
11 OF SUBDIVISION C OF SECTION 26-511 OF THIS LAW. SUCH INCREASE SHALL BE
12 IN ADDITION TO ANY OTHER INCREASES PROVIDED FOR IN THIS LAW INCLUDING AN
13 ADJUSTMENT BASED UPON A MAJOR CAPITAL IMPROVEMENT, OR A SUBSTANTIAL
14 MODIFICATION OR INCREASE OF DWELLING SPACE OR SERVICES, OR INSTALLATION
15 OF NEW EQUIPMENT OR IMPROVEMENTS OR NEW FURNITURE OR FURNISHINGS
16 PROVIDED IN OR TO THE HOUSING ACCOMMODATION PURSUANT TO SECTION 26-511
17 OF THIS LAW AND SHALL BE APPLICABLE IN LIKE MANNER TO EACH SECOND SUBSE-
18 QUENT SUCCESSION.

19 S 23. Section 6 of section 4 of chapter 576 of the laws of 1974,
20 constituting the emergency tenant protection act of nineteen seventy-
21 four, is amended by adding a new subdivision g to read as follows:

22 G. NOTWITHSTANDING ANY PROVISION OF THIS ACT TO THE CONTRARY IN THE
23 CASE WHERE ALL TENANTS NAMED IN A LEASE HAVE PERMANENTLY VACATED A HOUS-
24 ING ACCOMMODATION AND A FAMILY MEMBER OF SUCH TENANT OR TENANTS IS ENTI-
25 TLED TO AND EXECUTES A RENEWAL LEASE FOR THE HOUSING ACCOMMODATION IF
26 SUCH ACCOMMODATION CONTINUES TO BE SUBJECT TO THIS ACT AFTER SUCH FAMILY
27 MEMBER VACATES, ON THE OCCURRENCE OF SUCH VACANCY THE LEGAL REGULATED
28 RENT SHALL BE INCREASED BY A SUM EQUAL TO THE ALLOWANCE THEN IN EFFECT
29 FOR VACANCY LEASES, INCLUDING THE AMOUNT ALLOWED BY SUBDIVISION (A-1) OF
30 SECTION TEN OF THIS ACT. SUCH INCREASE SHALL BE IN ADDITION TO ANY
31 OTHER INCREASES PROVIDED FOR IN THIS ACT INCLUDING AN ADJUSTMENT BASED
32 UPON A MAJOR CAPITAL IMPROVEMENT, OR A SUBSTANTIAL MODIFICATION OR
33 INCREASE OF DWELLING SPACE OR SERVICES, OR INSTALLATION OF NEW EQUIPMENT
34 OR IMPROVEMENTS OR NEW FURNITURE OR FURNISHINGS PROVIDED IN OR TO THE
35 HOUSING ACCOMMODATION, PURSUANT TO SECTION SIX OF THIS ACT AND SHALL BE

36 APPLICABLE IN LIKE MANNER TO EACH SECOND SUBSEQUENT SUCCESSION.
37 S 24. Section 5 of chapter 274 of the laws of 1946, constituting the
38 emergency housing rent control law, is amended by adding a new subdivi-
39 sion 9 to read as follows:

40 9. NOTWITHSTANDING ANY PROVISION OF THIS LAW TO THE CONTRARY IN THE
41 CASE WHERE ALL TENANTS OCCUPYING THE HOUSING ACCOMMODATION ON THE EFFEC-
42 TIVE DATE OF THIS SUBDIVISION HAVE VACATED THE HOUSING ACCOMMODATION AND
43 A FAMILY MEMBER OF SUCH VACATING TENANT OR TENANTS IS ENTITLED TO AND
44 CONTINUES TO OCCUPY THE HOUSING ACCOMMODATION SUBJECT TO THE PROTECTIONS
45 OF THIS LAW, IF SUCH ACCOMMODATION CONTINUES TO BE SUBJECT TO THIS LAW
46 AFTER SUCH FAMILY MEMBER VACATES, ON THE OCCURRENCE OF SUCH VACANCY THE
47 MAXIMUM COLLECTABLE RENT SHALL BE INCREASED BY A SUM EQUAL TO THE ALLOW-
48 ANCE THEN IN EFFECT FOR VACANCY LEASES FOR HOUSING ACCOMMODATIONS
49 COVERED BY THE RENT STABILIZATION LAW OF NINETEEN HUNDRED SIXTY-NINE,
50 INCLUDING THE AMOUNT ALLOWED BY PARAGRAPH FIVE-A OF SUBDIVISION C OF
51 SECTION 26-511 OF SUCH LAW. THIS INCREASE SHALL BE IN ADDITION TO ANY
52 OTHER INCREASES PROVIDED IN THIS LAW INCLUDING AN ADJUSTMENT BASED UPON
53 A MAJOR CAPITAL IMPROVEMENT, OR A SUBSTANTIAL INCREASE OR DECREASE IN
54 DWELLING SPACE OR A CHANGE IN THE SERVICES, FURNITURE, FURNISHINGS OR
55 EQUIPMENT PROVIDED IN THE HOUSING ACCOMMODATION, PURSUANT TO SECTION

S. 5553

18

A. 8346

1 FOUR OF THIS LAW AND SHALL BE APPLICABLE IN LIKE MANNER TO EACH SECOND
2 SUBSEQUENT SUCCESSION.

3 S 25. The administrative code of the city of New York is amended by
4 adding a new section 26-403.2 to read as follows:

5 S 26-403.2 INCREASE IN MAXIMUM COLLECTABLE RENT. NOTWITHSTANDING ANY
6 PROVISION OF THIS LAW TO THE CONTRARY IN THE CASE WHERE ALL TENANTS
7 OCCUPYING THE HOUSING ACCOMMODATION ON THE EFFECTIVE DATE OF THIS
8 SECTION HAVE VACATED THE HOUSING ACCOMMODATION AND A FAMILY MEMBER OF
9 SUCH VACATING TENANT OR TENANTS IS ENTITLED TO AND CONTINUES TO OCCUPY
10 THE HOUSING ACCOMMODATION SUBJECT TO THE PROTECTIONS OF THIS LAW, IF
11 SUCH ACCOMMODATION CONTINUES TO BE SUBJECT TO THIS LAW AFTER SUCH FAMILY
12 MEMBER VACATES, ON THE OCCURRENCE OF SUCH VACANCY THE MAXIMUM COLLECTA-
13 BLE RENT SHALL BE INCREASED BY A SUM EQUAL TO THE ALLOWANCE THEN IN
14 EFFECT FOR VACANCY LEASES FOR HOUSING ACCOMMODATIONS COVERED BY THE RENT
15 STABILIZATION LAW OF NINETEEN HUNDRED SIXTY-NINE, INCLUDING THE AMOUNT
16 ALLOWED BY PARAGRAPH FIVE-A OF SUBDIVISION C OF SECTION 26-511 OF SUCH
17 LAW. THIS INCREASE SHALL BE IN ADDITION TO ANY OTHER INCREASES PROVIDED
18 FOR IN THIS LAW INCLUDING AN ADJUSTMENT BASED UPON A MAJOR CAPITAL
19 IMPROVEMENT, OR A SUBSTANTIAL INCREASE OR DECREASE IN DWELLING SPACE OR
20 A CHANGE IN THE SERVICES, FURNITURE, FURNISHINGS OR EQUIPMENT PROVIDED
21 IN THE HOUSING ACCOMMODATION, PURSUANT TO SECTION 26-405 OF THIS LAW AND
22 SHALL BE APPLICABLE IN LIKE MANNER TO EACH SECOND SUBSEQUENT SUCCESSION.

23 S 26. Section 1 of chapter 21 of the laws of 1962, constituting the
24 local emergency rent control act, is amended by adding a new fifth
25 undesignated paragraph to read as follows:

26 NOTWITHSTANDING ANY PROVISION OF THIS ACT TO THE CONTRARY, ANY LOCAL
27 LAW ADOPTED PURSUANT TO THIS ACT SHALL PROVIDE THAT NOTWITHSTANDING ANY
28 PROVISION OF SUCH LOCAL LAW IN THE CASE WHERE ALL TENANTS OCCUPYING THE
29 HOUSING ACCOMMODATION ON THE EFFECTIVE DATE OF THIS PARAGRAPH HAVE
30 VACATED THE HOUSING ACCOMMODATION AND A FAMILY MEMBER OF SUCH VACATING
31 TENANT OR TENANTS IS ENTITLED TO AND CONTINUES TO OCCUPY THE HOUSING
32 ACCOMMODATION SUBJECT TO THE PROTECTIONS OF SUCH ACT, IF SUCH ACCOMMO-
33 DATION CONTINUES TO BE SUBJECT TO SUCH ACT AFTER SUCH FAMILY MEMBER
34 VACATES, ON THE OCCURRENCE OF SUCH VACANCY THE MAXIMUM COLLECTABLE RENT
35 SHALL BE INCREASED BY A SUM EQUAL TO THE ALLOWANCE THEN IN EFFECT FOR
36 VACANCY LEASES FOR HOUSING ACCOMMODATIONS COVERED BY THE RENT STABILIZA-
37 TION LAW OF NINETEEN HUNDRED SIXTY-NINE, INCLUDING THE AMOUNT ALLOWED BY
38 PARAGRAPH (5-A) OF SUBDIVISION C OF SECTION 26-511 OF SUCH LAW. THIS
39 INCREASE SHALL BE IN ADDITION TO ANY OTHER INCREASES PROVIDED FOR IN
40 THIS ACT AND SHALL BE APPLICABLE IN LIKE MANNER TO EACH SECOND SUBSE-
41 QUENT SUCCESSION.

42 S 27. Subdivision 1 of section 14 of the public housing law is amended

43 by adding a new paragraph (w) to read as follows:

44 (W) ENTER INTO CONTRACTS, AS AN AGENT OF THE STATE, WITH PRIVATE ENTI-
45 TIES TO ENCOURAGE THE DEVELOPMENT OF NEW MULTI-FAMILY HOUSING IN MUNICI-
46 PALITIES FOUND BY THE LEGISLATURE TO BE SUFFERING FROM A HOUSING EMER-
47 GENCY AT THE TIME OF CONTRACTING. SUCH CONTRACTS SHALL INCLUDE A
48 COMMITMENT BY THE STATE THAT ANY SUCH NEW HOUSING SHALL REMAIN EXEMPT
49 FROM RENT CONTROL, RENT STABILIZATION AND ANY OTHER FORM OF RENT REGU-
50 LATION FOR A TERM OF FIFTY YEARS EXCEPT WHERE EQUIVALENT, CO-TERMINUS
51 AND GENERAL CONTROLS OF PRICES AND WAGES ARE IMPOSED OR WHERE THE OWNER
52 OR DEVELOPER OF SUCH HOUSING VOLUNTARILY AGREES TO ACCEPT SUCH REGU-
53 LATION IN CONSIDERATION FOR TAX OR OTHER GOVERNMENTAL BENEFITS. NOTWITH-
54 STANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, AN AGREEMENT BY THE
55 DEVELOPER TO BUILD NEW MULTI-FAMILY HOUSING IN AN AREA SUFFERING FROM A

S. 5553

19

A. 8346

1 HOUSING EMERGENCY SHALL BE DEEMED GOOD AND VALID CONSIDERATION FOR THE
2 FOREGOING COMMITMENT BY THE STATE.

3 S 28. The penal law is amended by adding a new article 241 to read as
4 follows:

5 ARTICLE 241

6 HARASSMENT OF RENT REGULATED TENANTS

7 SECTION 241.00 HARASSMENT OF A RENT REGULATED TENANT; DEFINITION OF
8 TERMS.

9 241.05 HARASSMENT OF A RENT REGULATED TENANT.

10 S 241.00 HARASSMENT OF A RENT REGULATED TENANT; DEFINITION OF TERMS.

11 AS USED IN THIS ARTICLE:

12 1. "RENT REGULATED TENANT" SHALL MEAN A PERSON OCCUPYING A HOUSING
13 ACCOMMODATION WHICH IS SUBJECT TO THE REGULATIONS AND CONTROL OF RESI-
14 DENTIAL RENTS AND EVICTIONS PURSUANT TO THE EMERGENCY HOUSING RENT
15 CONTROL LAW, THE LOCAL EMERGENCY HOUSING RENT CONTROL ACT, THE EMERGENCY
16 TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR, THE NEW YORK CITY RENT
17 AND REHABILITATION LAW OR THE NEW YORK CITY RENT STABILIZATION LAW OF
18 NINETEEN HUNDRED SIXTY-NINE, AND SUCH PERSON IS EITHER A PARTY TO A
19 LEASE OR RENTAL AGREEMENT FOR SUCH HOUSING ACCOMMODATION, A STATUTORY
20 TENANT OR A PERSON WHO LAWFULLY OCCUPIES SUCH HOUSING ACCOMMODATION WITH
21 SUCH PARTY TO A LEASE OR RENTAL AGREEMENT OR WITH SUCH STATUTORY TENANT.
22 THE DEFINITION OF "RENT REGULATED TENANT" AS USED IN THIS SUBDIVISION
23 SHALL BE APPLICABLE ONLY TO THE PROVISIONS OF THIS ARTICLE AND SHALL NOT
24 BE APPLICABLE TO ANY OTHER PROVISION OF LAW.

25 2. "HOUSING ACCOMMODATIONS" SHALL MEAN HOUSING ACCOMMODATIONS WHICH
26 ARE SUBJECT TO THE REGULATIONS AND CONTROL OF RESIDENTIAL RENTS AND
27 EVICTIONS PURSUANT TO THE EMERGENCY HOUSING RENT CONTROL LAW, THE LOCAL
28 EMERGENCY HOUSING RENT CONTROL ACT, THE EMERGENCY TENANT PROTECTION ACT
29 OF NINETEEN SEVENTY-FOUR, THE NEW YORK CITY RENT AND REHABILITATION LAW
30 OR THE NEW YORK CITY RENT STABILIZATION LAW OF NINETEEN HUNDRED
31 SIXTY-NINE.

32 3. "OWNER" SHALL MEAN AN OWNER, LESSOR, SUBLESSOR, ASSIGNEE, NET
33 LESSEE, OR A PROPRIETARY LESSEE OF A HOUSING ACCOMMODATION IN A STRUC-
34 TURE OR PREMISES OWNED BY A COOPERATIVE CORPORATION OR ASSOCIATION, OR
35 AN OWNER OF A CONDOMINIUM UNIT OR THE SPONSOR OF SUCH COOPERATIVE CORPO-
36 RATION OR ASSOCIATION OR CONDOMINIUM DEVELOPMENT, OR ANY OTHER PERSON OR
37 ENTITY RECEIVING OR ENTITLED TO RECEIVE RENT FOR THE USE OR OCCUPATION
38 OF ANY HOUSING ACCOMMODATION, OR AN AGENT OF OR ANY PERSON ACTING ON
39 BEHALF OF ANY OF THE FOREGOING.

40 S 241.05 HARASSMENT OF A RENT REGULATED TENANT.

41 AN OWNER IS GUILTY OF HARASSMENT OF A RENT REGULATED TENANT WHEN WITH
42 INTENT TO CAUSE A RENT REGULATED TENANT TO VACATE A HOUSING ACCOMMO-
43 DATION, SUCH OWNER:

44 1. WITH INTENT TO CAUSE PHYSICAL INJURY TO SUCH TENANT, CAUSES SUCH
45 INJURY TO SUCH TENANT OR TO A THIRD PERSON; OR

46 2. RECKLESSLY CAUSES PHYSICAL INJURY TO SUCH TENANT OR TO A THIRD
47 PERSON.

48 HARASSMENT OF A RENT REGULATED TENANT IS A CLASS E FELONY.

49 S 28-a. Subparagraph (a) of paragraph 2 of subdivision b of section

50 26-413 of the administrative code of the city of New York is amended to
51 read as follows:

52 (a) Impose by administrative order after hearing, a civil penalty for
53 any violation of said section and bring an action to recover same in any
54 court of competent jurisdiction. Such penalty in the case of a
55 violation of subdivision d of such section shall be in the amount of
56 {five hundred dollars for a first such offense and one thousand dollars

S. 5553

20

A. 8346

1 for each subsequent} NOT LESS THAN ONE THOUSAND DOLLARS NOR MORE THAN
2 FIVE THOUSAND DOLLARS FOR EACH offense or for a violation consisting of
3 conduct directed at the tenants of more than one housing accommodation;
4 and in the case of any other violation of such section in the amount of
5 one hundred dollars for the first such offense and five hundred dollars
6 for each subsequent offense. Such order by the city rent agency shall
7 be deemed a final determination for the purposes of judicial review as
8 provided in section 26-411 of this chapter. Such action shall be
9 brought on behalf of the city and any amount recovered shall be paid
10 into the city treasury. Such right of action may be released, compro-
11 mised or adjusted by the city rent agency at any item subsequent to the
12 issuance of such administrative order.

13 S 28-b. Paragraph 2 of subdivision c of section 26-516 of the adminis-
14 trative code of the city of New York is amended to read as follows:

15 (2) to have harassed a tenant to obtain vacancy of his or her housing
16 accommodation, the commissioner may impose by administrative order after
17 hearing, a civil penalty for any such violation. Such penalty shall be
18 in the amount of {up to one} NOT LESS THAN ONE THOUSAND DOLLARS NOR MORE
19 THAN FIVE thousand dollars for {a first} EACH such offense {and up to
20 twenty-five hundred dollars for each subsequent offense} or for a
21 violation consisting of conduct directed at the tenants of more than one
22 housing accommodation.

23 S 28-c. Clause (ii) of paragraph 3 of subdivision a of section 12 of
24 section 4 of chapter 576 of the laws of 1974, constituting the emergency
25 tenant protection act of nineteen seventy-four, as added by chapter 403
26 of the laws of 1983, is amended to read as follows:

27 (ii) to have harassed a tenant to obtain vacancy of his housing accom-
28 modation, the commissioner may impose by administrative order after
29 hearing, a civil penalty for any such violation. Such penalty shall be
30 in the amount of {up to one thousand dollars for a first such offense
31 and up to twenty-five hundred dollars for each subsequent} NOT LESS THAN
32 ONE THOUSAND DOLLARS NOR MORE THAN FIVE THOUSAND DOLLARS FOR EACH
33 offense or for a violation consisting of conduct directed at the tenants
34 of more than one housing accommodation.

35 S 29. Subdivision d of section 8 of section 4 of chapter 576 of the
36 laws of 1974 constituting the emergency tenant protection act of nine-
37 teen seventy-four, as amended by chapter 403 of the laws of 1983, is
38 amended to read as follows:

39 d. The failure to pay the prescribed assessment not to exceed ten
40 dollars per unit for any housing accommodation subject to this act or
41 the New York city rent stabilization law of nineteen hundred sixty-nine
42 shall{, until such assessment is paid, bar an owner from applying for or
43 collecting any further rent increases. The late payment of the assess-
44 ment shall result in the prospective elimination of such sanctions. The
45 city of New York shall certify to the division such information as the
46 division shall deem necessary to comply with the provisions of this
47 subdivision} CONSTITUTE A CHARGE DUE AND OWING SUCH CITY, TOWN OR
48 VILLAGE WHICH HAS IMPOSED AN ANNUAL CHARGE FOR EACH SUCH HOUSING ACCOM-
49 MODATION PURSUANT TO SUBDIVISION B OF THIS SECTION. ANY SUCH CITY, TOWN
50 OR VILLAGE SHALL BE AUTHORIZED TO PROVIDE FOR THE ENFORCEMENT OF THE
51 COLLECTION OF SUCH CHARGES BY COMMENCING AN ACTION OR PROCEEDING FOR THE
52 RECOVERY OF SUCH FEES OR BY THE FILING OF A LIEN UPON THE BUILDING AND
53 LOT. SUCH METHODS FOR THE ENFORCEMENT OF THE COLLECTION OF SUCH CHARGES
54 SHALL BE THE SOLE REMEDY FOR THE ENFORCEMENT OF THIS SECTION.

1 S 30. Subdivision b of section 26-517.1 of the administrative code of
2 the city of New York, as added by local law number 95 of the city of New
3 York for the year 1985, is amended to read as follows:

4 b. (1) Pursuant to the provisions of subdivision d of section eight of
5 the emergency tenant protection act of nineteen {hundred} seventy-four,
6 the failure to pay the fee imposed by the provisions of subdivision a of
7 this section shall {preclude an owner from applying for or collecting
8 any further rent increases authorized under this chapter or any other
9 provision of law, and the late payment of such fee shall result in the
10 prospective elimination only of the sanctions contained therein. Inter-
11 est shall be imposed on such late payment at the same rate as is imposed
12 on a delinquent tax on real property} CONSTITUTE A CHARGE DUE AND OWING
13 THE CITY. ALL SUCH FEES DUE AND OWING THE CITY SHALL CONSTITUTE A DEBT
14 RECOVERABLE FROM THE OWNER AND THE CITY MAY COMMENCE AN ACTION OR
15 PROCEEDING FOR THE RECOVERY OF SUCH FEES OR MAY FILE A LIEN UPON THE
16 BUILDING AND LOT. IF THE PAYMENT OF SUCH FEES IS NOT RECEIVED BY THE
17 CITY WITHIN SIXTY DAYS OF THE DATE CONTAINED IN THE WRITTEN NOTICE
18 REQUESTING SUCH PAYMENT, THE CITY SHALL PROVIDE A SECOND WRITTEN NOTICE
19 TO THE OWNER SETTING FORTH THE AMOUNT OF FEES DUE AND OWING THE CITY AND
20 A DEMAND FOR PAYMENT WITHIN THIRTY DAYS THEREOF.

21 (2) IF SUCH PAYMENT IS NOT MADE TO THE CITY WITHIN SUCH TIME, ALL
22 UNPAID FEES SHALL CONSTITUTE A LIEN UPON THE PREMISES AND SHALL BE FILED
23 IN THE OFFICE OF THE CITY COLLECTOR AS AN ENTRY OF THE ACCOUNT STATED IN
24 THE BOOK IN WHICH SUCH CHARGES AGAINST THE PREMISES ARE TO BE ENTERED.
25 SUCH LIEN SHALL HAVE PRIORITY OVER ALL OTHER LIENS AND ENCUMBRANCES ON
26 THE PREMISES EXCEPT FOR THE LIEN OF TAXES AND ASSESSMENTS. HOWEVER, NO
27 LIEN CREATED PURSUANT TO THIS SUBDIVISION SHALL BE ENFORCED AGAINST A
28 SUBSEQUENT PURCHASER IN GOOD FAITH OR MORTGAGEE IN GOOD FAITH UNLESS THE
29 REQUIREMENTS OF THIS PARAGRAPH ARE SATISFIED.

30 (3) A NOTICE PURSUANT TO PARAGRAPH ONE OF THIS SUBDIVISION, STATING
31 THE AMOUNT DUE AND THE NATURE OF THE CHARGE, SHALL BE MAILED BY THE CITY
32 COLLECTOR, WITHIN FIVE DAYS AFTER SUCH ENTRY, TO THE LAST KNOWN ADDRESS
33 OF THE OWNER OR AGENT.

34 (4) IF SUCH CHARGE IS NOT PAID WITHIN THIRTY DAYS FROM THE DATE OF
35 ENTRY, IT SHALL BE THE DUTY OF THE CITY COLLECTOR TO RECEIVE INTEREST
36 THEREON AT THE SAME RATE AS IS IMPOSED ON A DELINQUENT TAX ON REAL PROP-
37 erty, TO BE CALCULATED TO THE DATE OF PAYMENT FROM THE DATE OF ENTRY.

38 (5) SUCH CHARGE AND THE INTEREST THEREON SHALL CONTINUE TO BE, UNTIL
39 PAID, A LIEN ON THE PREMISES. SUCH LIEN SHALL BE A TAX LIEN WITHIN THE
40 MEANING OF SECTIONS 11-319 AND 11-401 OF THIS CODE AND MAY BE SOLD,
41 ENFORCED OR FORECLOSED IN THE MANNER PROVIDED IN CHAPTERS THREE AND FOUR
42 OF TITLE ELEVEN OF THIS CODE.

43 (6) THE PROVISIONS SET FORTH IN THIS SUBDIVISION SHALL BE THE SOLE
44 REMEDY FOR THE ENFORCEMENT OF THIS SECTION.

45 S 31. The opening paragraph of paragraph 1 of subdivision a of section
46 12 of section 4 of chapter 576 of the laws of 1974 constituting the
47 emergency tenant protection act of nineteen seventy-four, as amended by
48 chapter 253 of the laws of 1993, is amended to read as follows:

49 Subject to the conditions and limitations of this paragraph, any owner
50 of housing accommodations in a city having a population of less than one
51 million or a town or village as to which an emergency has been declared
52 pursuant to section three, who, upon complaint of a tenant or of the
53 state division of housing and community renewal, is found by the state
54 division of housing and community renewal, after a reasonable opportu-
55 nity to be heard, to have collected an overcharge above the rent author-
56 ized for a housing accommodation subject to this act shall be liable to

1 the tenant for a penalty equal to three times the amount of such over-
2 charge. In no event shall such treble damage penalty be assessed against
3 an owner based solely on said owner`s failure to file a proper or timely
4 initial or annual rent registration statement. If the owner establishes

5 by a preponderance of the evidence that the overcharge was neither will-
6 ful nor attributable to his negligence, the state division of housing
7 and community renewal shall establish the penalty as the amount of the
8 overcharge plus interest at the rate of interest payable on a judgment
9 pursuant to section five thousand four of the civil practice law and
10 rules. (i) Except as to complaints filed pursuant to clause (ii) of this
11 paragraph, the legal regulated rent for purposes of determining an over-
12 charge, shall be deemed to be the rent indicated in the annual registra-
13 tion statement filed four years prior to the most recent registration
14 statement, (or, if more recently filed, the initial registration state-
15 ment) plus in each case any subsequent lawful increases and adjustments.
16 WHERE THE AMOUNT OF RENT SET FORTH IN THE ANNUAL RENT REGISTRATION
17 STATEMENT FILED FOUR YEARS PRIOR TO THE MOST RECENT REGISTRATION STATE-
18 MENT IS NOT CHALLENGED WITHIN FOUR YEARS OF ITS FILING, NEITHER SUCH
19 RENT NOR SERVICE OF ANY REGISTRATION SHALL BE SUBJECT TO CHALLENGE AT
20 ANY TIME THEREAFTER. (ii) As to complaints filed within ninety days of
21 the initial registration of a housing accommodation, the legal regulated
22 rent for purposes of determining an overcharge shall be deemed to be the
23 rent charged on the date four years prior to the date of the initial
24 registration of the housing accommodation (or, if the housing accommo-
25 dation was subject to this act for less than four years, the initial
26 legal regulated rent) plus in each case, any lawful increases and
27 adjustments. Where the rent charged on the date four years prior to the
28 date of the initial registration of the accommodation cannot be estab-
29 lished, such rent shall be established by the division. WHERE THE
30 AMOUNT OF RENT SET FORTH IN THE ANNUAL RENT REGISTRATION STATEMENT FILED
31 FOUR YEARS PRIOR TO THE MOST RECENT REGISTRATION STATEMENT IS NOT CHAL-
32 LENGED WITHIN FOUR YEARS OF ITS FILING, NEITHER SUCH RENT NOR SERVICE OF
33 ANY REGISTRATION SHALL BE SUBJECT TO CHALLENGE AT ANY TIME THEREAFTER.

34 S 32. Clause (i) of subparagraph (b) of paragraph 1 of subdivision a
35 of section 12 of section 4 of chapter 576 of the laws of 1974 constitut-
36 ing the emergency tenant protection act of nineteen seventy-four, as
37 amended by chapter 403 of the laws of 1983, is amended to read as
38 follows:

39 (i) Except as provided under clauses (ii) and (iii) of this subpara-
40 graph, a complaint under this subdivision shall be filed with the state
41 division of housing and community renewal within four years of the first
42 overcharge alleged AND NO DETERMINATION OF AN OVERCHARGE and no award OR
43 CALCULATION OF AN AWARD of the amount of an overcharge may be based upon
44 an overcharge having occurred more than four years before the complaint
45 is filed. THIS PARAGRAPH SHALL PRECLUDE EXAMINATION OF THE RENTAL
46 HISTORY OF THE HOUSING ACCOMMODATION PRIOR TO THE FOUR-YEAR PERIOD
47 PRECEDING THE FILING OF A COMPLAINT PURSUANT TO THIS SUBDIVISION.

48 S 33. Subdivision a of section 26-516 of the administrative code of
49 the city of New York, as amended by chapter 253 of the laws of 1993, is
50 amended to read as follows:

51 a. Subject to the conditions and limitations of this subdivision, any
52 owner of housing accommodations who, upon complaint of a tenant, or of
53 the state division of housing and community renewal, is found by the
54 state division of housing and community renewal, after a reasonable
55 opportunity to be heard, to have collected an overcharge above the rent
56 authorized for a housing accommodation subject to this chapter shall be

S. 5553

23

A. 8346

1 liable to the tenant for a penalty equal to three times the amount of
2 such overcharge. In no event shall such treble damage penalty be
3 assessed against an owner based solely on said owner's failure to file a
4 timely or proper initial or annual rent registration statement. If the
5 owner establishes by a preponderance of the evidence that the overcharge
6 was not willful, the state division of housing and community renewal
7 shall establish the penalty as the amount of the overcharge plus inter-
8 est. (i) Except as to complaints filed pursuant to clause (ii) of this
9 paragraph, the legal regulated rent for purposes of determining an over-
10 charge, shall be the rent indicated in the annual registration statement

11 filed four years prior to the most recent registration statement, (or,
12 if more recently filed, the initial registration statement) plus in each
13 case any subsequent lawful increases and adjustments. WHERE THE AMOUNT
14 OF RENT SET FORTH IN THE ANNUAL RENT REGISTRATION STATEMENT FILED FOUR
15 YEARS PRIOR TO THE MOST RECENT REGISTRATION STATEMENT IS NOT CHALLENGED
16 WITHIN FOUR YEARS OF ITS FILING, NEITHER SUCH RENT NOR SERVICE OF ANY
17 REGISTRATION SHALL BE SUBJECT TO CHALLENGE AT ANY TIME THEREAFTER. (ii)
18 As to complaints filed within ninety days of the initial registration of
19 a housing accommodation, the legal regulated rent shall be deemed to be
20 the rent charged on the date four years prior to the date of the initial
21 registration of the housing accommodation (or, if the housing accommo-
22 dation was subject to this chapter for less than four years, the initial
23 legal regulated rent) plus in each case, any lawful increases and
24 adjustments. Where the rent charged on the date four years prior to the
25 date of the initial registration of the accommodation cannot be estab-
26 lished, such rent shall be established by the division.

27 Where the rent charged on the date four years prior to the date of
28 initial registration of the housing accommodation cannot be established,
29 such rent shall be established by the division provided that where a
30 rent is established based on rentals determined under the provisions of
31 the local emergency housing rent control act such rent must be adjusted
32 to account for no less than the minimum increases which would be permit-
33 ted if the housing accommodation were covered under the provisions of
34 this chapter. WHERE THE AMOUNT OF RENT SET FORTH IN THE ANNUAL RENT
35 REGISTRATION STATEMENT FILED FOUR YEARS PRIOR TO THE MOST RECENT REGIS-
36 TRATION STATEMENT IS NOT CHALLENGED WITHIN FOUR YEARS OF ITS FILING,
37 NEITHER SUCH RENT NOR SERVICE OF ANY REGISTRATION SHALL BE SUBJECT TO
38 CHALLENGE AT ANY TIME THEREAFTER.

39 (1) The order of the state division of housing and community renewal
40 shall apportion the owner`s liability between or among two or more
41 tenants found to have been overcharged by such owner during their
42 particular tenancy of a unit.

43 (2) Except as provided under clauses (i) and (ii) of this paragraph, a
44 complaint under this subdivision shall be filed with the state division
45 of housing and community renewal within four years of the first over-
46 charge alleged AND NO DETERMINATION OF AN OVERCHARGE and no award OR
47 CALCULATION OF AN AWARD of the amount of an overcharge may be based upon
48 an overcharge having occurred more than four years before the complaint
49 is filed. (i) No penalty of three times the overcharge may be based
50 upon an overcharge having occurred more than two years before the
51 complaint is filed or upon an overcharge which occurred prior to April
52 first, nineteen hundred eighty-four. (ii) Any complaint based upon
53 overcharges occurring prior to the date of filing of the initial rent
54 registration as provided in section 26-517 of this chapter shall be
55 filed within ninety days of the mailing of notice to the tenant of such
56 registration. THIS PARAGRAPH SHALL PRECLUDE EXAMINATION OF THE RENTAL

S. 5553

24

A. 8346

1 HISTORY OF THE HOUSING ACCOMMODATION PRIOR TO THE FOUR-YEAR PERIOD
2 PRECEDING THE FILING OF A COMPLAINT PURSUANT TO THIS SUBDIVISION.

3 (3) Any affected tenant shall be notified of and given an opportunity
4 to join in any complaint filed by an officer or employee of the state
5 division of housing and community renewal.

6 (4) An owner found to have overcharged may be assessed the reasonable
7 costs and attorney`s fees of the proceeding and interest from the date
8 of the overcharge at the rate of interest payable on a judgment pursuant
9 to section five thousand four of the civil practice law and rules.

10 (5) The order of the state division of housing and community renewal
11 awarding penalties may, upon the expiration of the period in which the
12 owner may institute a proceeding pursuant to article seventy-eight of
13 the civil practice law and rules, be filed and enforced by a tenant in
14 the same manner as a judgment or not in excess of twenty percent thereof
15 per month may be offset against any rent thereafter due the owner.

16 S 34. Section 213-a of the civil practice law and rules, as added by

17 chapter 403 of the laws of 1983, is amended to read as follows:

18 S 213-a. Actions to be commenced within four years; residential rent
19 overcharge. An action on a residential rent overcharge shall be
20 commenced within four years of {such} THE FIRST overcharge ALLEGED AND
21 NO DETERMINATION OF AN OVERCHARGE AND NO AWARD OR CALCULATION OF AN
22 AWARD OF THE AMOUNT OF ANY OVERCHARGE MAY BE BASED UPON AN OVERCHARGE
23 HAVING OCCURRED MORE THAN FOUR YEARS BEFORE THE ACTION IS COMMENCED.
24 THIS SECTION SHALL PRECLUDE EXAMINATION OF THE RENTAL HISTORY OF THE
25 HOUSING ACCOMMODATION PRIOR TO THE FOUR-YEAR PERIOD IMMEDIATELY PRECED-
26 ING THE COMMENCEMENT OF THE ACTION.

27 S 35. Section 731 of the real property actions and proceedings law is
28 amended by adding a new subdivision 3 to read as follows:

29 3. IN THE CITY OF NEW YORK, WHEN THE PETITIONER SEEKS TO MAKE AN
30 APPLICATION PURSUANT TO SUBDIVISION TWO OF SECTION SEVEN HUNDRED FORTY-
31 FIVE OF THIS ARTICLE, THE NOTICE OF PETITION SHALL ADVISE THE RESPONDENT
32 OF THE REQUIREMENTS OF SUBDIVISION TWO OF SECTION SEVEN HUNDRED
33 FORTY-FIVE OF THIS ARTICLE.

34 S 36. Subdivision 2 of section 745 of the real property actions and
35 proceedings law, as added by chapter 403 of the laws of 1983, is amended
36 to read as follows:

37 2. In the city of New York:

38 (a) In a summary proceeding upon the second {request by the tenant for
39 an adjournment} OF TWO ADJOURNMENTS AT THE REQUEST OF THE RESPONDENT,
40 OR, UPON THE THIRTIETH DAY AFTER THE FIRST APPEARANCE OF THE PARTIES IN
41 COURT LESS ANY DAYS THAT THE PROCEEDING HAS BEEN ADJOURNED UPON THE
42 REQUEST OF THE PETITIONER, WHICHEVER OCCURS SOONER, the court shall
43 direct that the {tenant post all} RESPONDENT, UPON AN APPLICATION BY THE
44 PETITIONER, DEPOSIT WITH THE COURT WITHIN FIVE DAYS sums OF RENT OR USE
45 AND OCCUPANCY ACCRUED FROM THE DATE THE PETITION AND NOTICE OF PETITION
46 ARE SERVED UPON THE RESPONDENT, AND ALL SUMS as they become due for
47 {future} rent and use and occupancy, which may be established without
48 the use of expert testimony, unless {waived by the court for good cause
49 shown} THE RESPONDENT CAN ESTABLISH, AT AN IMMEDIATE HEARING, TO THE
50 SATISFACTION OF THE COURT THAT RESPONDENT HAS PROPERLY INTERPOSED ONE OF
51 THE FOLLOWING DEFENSES OR ESTABLISHED THE FOLLOWING GROUNDS:

52 (I) THE PETITIONER IS NOT A PROPER PARTY TO THE PROCEEDING PURSUANT TO
53 SECTION SEVEN HUNDRED TWENTY-ONE OF THIS ARTICLE; OR

54 (II) (A) ACTUAL EVICTION, OR (B) ACTUAL PARTIAL EVICTION, OR (C)
55 CONSTRUCTIVE EVICTION; AND RESPONDENT HAS QUIT THE PREMISES; OR

S. 5553

25

A. 8346

1 (III) A DEFENSE PURSUANT TO SECTION ONE HUNDRED FORTY-THREE-B OF THE
2 SOCIAL SERVICES LAW; OR

3 (IV) THE COURT LACKS JURISDICTION.

4 WHEN THE RENTAL UNIT THAT IS THE SUBJECT OF THE PETITION IS LOCATED IN
5 A BUILDING CONTAINING TWELVE OR FEWER UNITS, THE COURT SHALL INQUIRE OF
6 THE RESPONDENT AS TO WHETHER THERE IS ANY UNDISPUTED AMOUNT OF THE RENT
7 OR USE AND OCCUPANCY DUE TO THE PETITIONER. ANY SUCH UNDISPUTED AMOUNT
8 SHALL BE PAID DIRECTLY TO THE PETITIONER, AND ANY DISPUTED AMOUNT SHALL
9 BE DEPOSITED TO THE COURT BY THE RESPONDENT AS PROVIDED IN THIS SUBDIVI-
10 SION.

11 Two adjournments shall {not} include an adjournment requested by a
12 {tenant} RESPONDENT unrepresented by counsel for the purpose of securing
13 counsel made on {the initial} A return date of the proceeding. Such
14 {future} rent {and} OR use and occupancy sums shall be deposited with
15 the clerk of the court or paid to such other person or entity, including
16 the petitioner OR AN AGENT DESIGNATED BY THE DIVISION OF HOUSING AND
17 COMMUNITY RENEWAL, as the court shall direct or shall be expended for
18 such emergency repairs as the court shall approve.

19 (b) {In any adjournment of a summary proceeding, other than on consent
20 or at the request of the petitioner, the court shall at the petitioner`s
21 request state on the record why for good cause shown it is not directing
22 the tenant to pay or post all sums demanded pursuant to a lease or
23 rental agreement in the proceeding as rent and use and occupancy.} (I)

24 THE COURT SHALL NOT REQUIRE THE RESPONDENT TO DEPOSIT THE PORTION OF
25 RENT OR USE AND OCCUPANCY, IF ANY, WHICH IS PAYABLE BY DIRECT GOVERNMENT
26 HOUSING SUBSIDY, ANY CURRENTLY EFFECTIVE SENIOR CITIZEN INCREASE
27 EXEMPTION AUTHORIZED PURSUANT TO SECTIONS FOUR HUNDRED SIXTY-SEVEN-B AND
28 FOUR HUNDRED SIXTY-SEVEN-C OF THE REAL PROPERTY TAX LAW, DIRECT PAYMENT
29 OF RENT OR A TWO-PARTY CHECK ISSUED BY A SOCIAL SERVICES DISTRICT OR THE
30 DEPARTMENT OF SOCIAL SERVICES, OR RENTAL ASSISTANCE THAT IS PAYABLE
31 PURSUANT TO COURT ORDERS ISSUED IN LITIGATION COMMENCED IN NINETEEN
32 HUNDRED EIGHTY-SEVEN IN A PROCEEDING IN WHICH THE AMOUNT OF SHELTER
33 ALLOWANCE IS AT ISSUE ON BEHALF OF RECIPIENTS OF AID TO DEPENDENT CHIL-
34 DREN. IN THE EVENT THE RESPONDENT OR OTHER ADULT MEMBER OF THE RESPOND-
35 ENT'S HOUSEHOLD RECEIVES PUBLIC ASSISTANCE PURSUANT TO TITLE THREE OR
36 TITLE TEN OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW, THE RESPONDENT
37 SHALL, WHEN DIRECTED BY THE COURT TO DEPOSIT RENT AND USE OR OCCUPANCY,
38 ONLY BE REQUIRED TO DEPOSIT WITH THE COURT THE AMOUNT OF THE SHELTER
39 ALLOWANCE PORTION OF THE PUBLIC ASSISTANCE GRANT ISSUED BY THE DEPART-
40 MENT OF SOCIAL SERVICES OR A SOCIAL SERVICES DISTRICT. IN THE EVENT THE
41 RESPONDENT RECEIVES SUPPLEMENTAL SECURITY INCOME PURSUANT TO TITLE
42 SIXTEEN OF THE FEDERAL SOCIAL SECURITY ACT AND TITLE SIX OF ARTICLE FIVE
43 OF THE SOCIAL SERVICES LAW, THE RESPONDENT SHALL ONLY BE REQUIRED TO
44 DEPOSIT ONE-THIRD OF THE MONTHLY SUPPLEMENTAL SECURITY INCOME PAYMENT.

45 (II) ANY SUM REQUIRED TO BE DEPOSITED WITH THE COURT PURSUANT TO THIS
46 SUBDIVISION SHALL BE OFFSET BY PAYMENT, IF ANY, MADE BY THE RESPONDENT
47 PURSUANT TO SECTION TWO HUNDRED THIRTY-FIVE-A OF THE REAL PROPERTY LAW
48 OR SECTION THREE HUNDRED TWO-C OF THE MULTIPLE DWELLING LAW.

49 (C) (I) IF THE RESPONDENT SHALL FAIL TO COMPLY WITH THE COURT'S
50 DIRECTIONS WITH RESPECT TO DIRECT PAYMENT TO THE PETITIONER OR MAKING A
51 DEPOSIT AS DIRECTED BY THE COURT OF THE FULL AMOUNT OF THE RENT OR USE
52 AND OCCUPANCY REQUIRED TO BE DEPOSITED, THE COURT UPON AN APPLICATION BY
53 THE PETITIONER SHALL DISMISS WITHOUT PREJUDICE THE DEFENSES AND COUNTER-
54 CLAIMS INTERPOSED BY THE RESPONDENT AND GRANT JUDGMENT FOR PETITIONER
55 UNLESS RESPONDENT HAS INTERPOSED THE DEFENSE OF PAYMENT AND SHOWS THAT

S. 5553

26

A. 8346

1 THE AMOUNT REQUIRED TO BE DEPOSITED HAS PREVIOUSLY BEEN PAID TO THE
2 PETITIONER.

3 (II) IN THE EVENT THAT THE RESPONDENT MAKES A DEPOSIT REQUIRED BY THIS
4 SUBDIVISION BUT FAILS TO DEPOSIT WITH THE COURT OR PAY, AS THE CASE MAY
5 BE, UPON THE DUE DATE, ALL RENT OR USE AND OCCUPANCY WHICH MAY BECOME
6 DUE UP TO THE TIME OF THE ENTRY OF JUDGMENT, THE COURT UPON AN APPLICA-
7 TION OF THE PETITIONER SHALL ORDER AN IMMEDIATE TRIAL OF THE ISSUES
8 RAISED IN THE RESPONDENT'S ANSWER. AN "IMMEDIATE TRIAL" SHALL MEAN THAT
9 NO FURTHER ADJOURNMENTS OF THE PROCEEDING WITHOUT PETITIONER CONSENT
10 SHALL BE GRANTED, THE CASE SHALL BE ASSIGNED BY THE ADMINISTRATIVE JUDGE
11 TO A TRIAL READY PART AND SUCH TRIAL SHALL COMMENCE AND CONTINUE DAY TO
12 DAY UNTIL COMPLETED. THERE SHALL BE NO STAY GRANTED OF SUCH TRIAL WITH-
13 OUT AN ORDER TO RESPONDENT TO PAY RENT OR USE AND OCCUPANCY DUE PURSUANT
14 TO THIS SUBDIVISION AND RENT OR USE AND OCCUPANCY AS IT BECOMES DUE.

15 (III) THE COURT SHALL NOT EXTEND ANY TIME PROVIDED FOR SUCH DEPOSIT
16 UNDER THIS SUBDIVISION WITHOUT THE CONSENT OF THE PETITIONER.

17 (IV) UPON THE ENTRY OF THE FINAL JUDGMENT IN THE PROCEEDING SUCH
18 DEPOSITS SHALL BE CREDITED AGAINST ANY JUDGMENT AMOUNT AWARDED AND,
19 WITHOUT FURTHER ORDER OF THE COURT, BE PAID IN ACCORDANCE WITH THE JUDG-
20 MENT.

21 (V) THE PROVISIONS OF THIS PARAGRAPH REQUIRING THE DEPOSIT OF RENT OR
22 USE AND OCCUPANCY AS IT BECOMES DUE SHALL NOT BE WAIVED BY THE COURT.

23 {(c) The provisions of this subdivision shall not apply if the housing
24 accommodation in question or the public areas pertaining thereto are
25 charged with immediately hazardous violations of record as defined by
26 the New York city housing maintenance code.}

27 (d) The court may dismiss any summary proceeding without prejudice and
28 with costs to the respondent by reason of excessive adjournments
29 requested by the petitioner.

30 (e) The provisions of this subdivision shall not be construed as to

31 deprive a {tenant} RESPONDENT of a trial of any {summary proceeding}
32 DEFENSES OR COUNTERCLAIMS IN A SEPARATE ACTION IF SUCH DEFENSES OR COUN-
33 TERCLAIMS ARE DISMISSED WITHOUT PREJUDICE.

34 S 36-a. Section 14 of the public housing law is amended by adding a
35 new subdivision 5 to read as follows:

36 5. IN ORDER TO EFFECTUATE THE COLLECTION, ADMINISTRATION AND PAYMENT
37 OF RENT PAYMENTS PURSUANT TO ARTICLE SEVEN OF THE REAL PROPERTY ACTIONS
38 AND PROCEEDINGS LAW, THE DIVISION OF HOUSING AND COMMUNITY RENEWAL
39 SHALL, IN COOPERATION WITH THE OFFICE OF COURT ADMINISTRATION, SELECT
40 THROUGH A COMPETITIVE PROCESS, APPROVED BY THE STATE COMPTROLLER, A
41 COMPETENT FINANCIAL INSTITUTION FOR THE DEPOSIT AND MANAGEMENT OF SUCH
42 PAYMENTS.

43 S 37. The real property actions and proceedings law is amended by
44 adding a new section 747-a to read as follows:

45 S 747-A. JUDGMENTS; STAYS. IN THE CITY OF NEW YORK, IN ANY NON-PAYMENT
46 SUMMARY PROCEEDING IN WHICH THE RESPONDENT HAS APPEARED AND THE PETI-
47 TIONER HAS OBTAINED A JUDGMENT PURSUANT TO SECTION SEVEN HUNDRED FORTY-
48 SEVEN OF THIS ARTICLE AND MORE THAN FIVE DAYS HAS ELAPSED, THE COURT
49 SHALL NOT GRANT A STAY OF THE ISSUANCE OR EXECUTION OF ANY WARRANT OF
50 EVICTION NOR STAY THE RE-LETTING OF THE PREMISES UNLESS THE RESPONDENT
51 SHALL HAVE EITHER ESTABLISHED TO THE SATISFACTION OF THE COURT BY A
52 SWORN STATEMENT AND DOCUMENTARY PROOF THAT THE JUDGMENT AMOUNT WAS PAID
53 TO THE PETITIONER PRIOR TO THE EXECUTION OF THE WARRANT OR THE RESPOND-
54 ENT HAS DEPOSITED THE FULL AMOUNT OF SUCH JUDGMENT WITH THE CLERK OF THE
55 COURT.

S. 5553

27

A. 8346

1 S 38. Subdivision b of section 26-408 of the administrative code of
2 the city of New York is amended by adding a new paragraph 6 to read as
3 follows:

4 (6) NEITHER THE PROVISIONS OF SUBPARAGRAPH (A) OF PARAGRAPH FOUR OF
5 THIS SUBDIVISION, WHICH REQUIRE THAT THE NEW BUILDING CONTAIN MORE THAN
6 OR EQUAL TO THE NUMBER OF HOUSING ACCOMMODATIONS THAT ARE CONTAINED IN
7 THE STRUCTURE TO BE DEMOLISHED OR SUBSTANTIALLY ALTERED OR REMODELED NOR
8 THE PROVISIONS OF PARAGRAPH FIVE OF THIS SUBDIVISION SHALL APPLY WITH
9 RESPECT TO ANY BUILDING IN WHICH THERE REMAINS (A) THREE OR FEWER OCCU-
10 PIED APARTMENTS WHICH CONSTITUTE TEN PERCENT OR LESS OF THE TOTAL DWELL-
11 ING UNITS IN THE BUILDING OR (B) ONE OCCUPIED APARTMENT IF THE BUILDING
12 CONTAINS TEN OR FEWER APARTMENTS BUT ONLY ON THE CONDITION THAT THE
13 TENANT IS PROVIDED WITH THE RELOCATION, MOVING EXPENSE, STIPEND AND ANY
14 OTHER BENEFITS PROVIDED UNDER THE CORRESPONDING PROVISIONS OF THE RENT
15 STABILIZATION LAW OF NINETEEN HUNDRED SIXTY-NINE. IN THE EVENT OF A
16 SUBSTANTIAL ALTERATION OR REMODELING OF A BUILDING FALLING WITHIN THE
17 LIMITATIONS OF THIS PARAGRAPH, ALL OF THE RELOCATION PROVISIONS AVAIL-
18 ABLE TO AN OWNER FOR DEMOLITION SHALL APPLY.

19 S 39. Subdivision 3 of section 235-b of the real property law is
20 amended by adding a new paragraph (c) to read as follows:

21 (C) WHERE THE PREMISES IS SUBJECT TO REGULATION PURSUANT TO THE LOCAL
22 EMERGENCY HOUSING RENT CONTROL LAW, THE EMERGENCY TENANT PROTECTION ACT
23 OF NINETEEN SEVENTY-FOUR, THE RENT STABILIZATION LAW OF NINETEEN HUNDRED
24 SIXTY-NINE OR THE CITY RENT AND REHABILITATION LAW, REDUCE THE AMOUNT
25 AWARDED HEREUNDER BY THE TOTAL AMOUNT OF ANY RENT REDUCTION ORDERED BY
26 THE STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL PURSUANT TO SUCH
27 LAWS OR ACT, AWARDED TO THE TENANT, FROM THE EFFECTIVE DATE OF SUCH RENT
28 REDUCTION ORDER, THAT RELATES TO ONE OR MORE MATTERS FOR WHICH RELIEF IS
29 AWARDED HEREUNDER.

30 S 40. Paragraph (b) of subdivision 5 of section 4 of chapter 274 of
31 the laws of 1946, constituting the emergency housing rent control law,
32 as amended by chapter 337 of the laws of 1961, is amended to read as
33 follows:

34 (b) Whenever in the judgment of the commission such action is neces-
35 sary or proper in order to effectuate the purposes of this act, the
36 commission may provide regulations to assure the maintenance of the same
37 living space, essential services, furniture, furnishings and equipment

38 as were provided on the date determining the maximum rent, and the
39 commission shall have power by regulation or order to decrease the maxi-
40 mum rent for any housing accommodation with respect to which a maximum
41 rent is in effect, pursuant to this act if it shall find that the living
42 space, essential services, furniture, furnishings or equipment to which
43 the tenant was entitled on such date has been decreased. THE AMOUNT OF
44 THE DECREASE IN MAXIMUM RENT ORDERED BY THE COMMISSION UNDER THIS PARA-
45 GRAPH SHALL BE REDUCED BY ANY CREDIT, ABATEMENT OR OFFSET IN RENT WHICH
46 THE TENANT HAS RECEIVED PURSUANT TO SECTION TWO HUNDRED THIRTY-FIVE-B OF
47 THE REAL PROPERTY LAW, THAT RELATES TO ONE OR MORE CONDITIONS COVERED BY
48 SUCH ORDER.

49 S 41. Subdivision a of section 7 of section 4 of chapter 576 of the
50 laws of 1974, constituting the emergency tenant protection act of nine-
51 teen seventy-four, is amended to read as follows:

52 a. In order to collect a rent adjustment authorized pursuant to the
53 provisions of subdivision b of section four, the owner of housing accom-
54 modations subject to this act located in a city having a population of
55 less than one million or a town or village must file with the state
56 division of housing and community renewal on a form which it shall

S. 5553

28

A. 8346

1 prescribe, a written certification that he is maintaining and will
2 continue to maintain all services furnished on the date upon which this
3 act becomes a law or required to be furnished by any law, ordinance or
4 regulation applicable to the premises. In addition to any other remedy
5 afforded by law, any tenant may apply to the state division of housing
6 and community renewal for a reduction in the rent to the level in effect
7 prior to its most recent adjustment, and the state division of housing
8 and community renewal may so reduce the rent if it finds that the owner
9 has failed to maintain such services. The owner shall be supplied with a
10 copy of the application and shall be permitted to file an answer there-
11 to. A hearing may be held upon the request of either party, or the state
12 division of housing and community renewal may hold a hearing upon its
13 own motion. The state division of housing and community renewal may
14 consolidate the proceedings for two or more petitions applicable to the
15 same building. If the state division of housing and community renewal
16 finds that the owner has knowingly filed a false certification, it
17 shall, in addition to abating the rent, assess the owner with the
18 reasonable costs of the proceeding, including reasonable attorneys`
19 fees, and impose a penalty not in excess of two hundred fifty dollars
20 for each false certification. THE AMOUNT OF THE REDUCTION IN RENT
21 ORDERED BY THE STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL UNDER
22 THIS SUBDIVISION SHALL BE REDUCED BY ANY CREDIT, ABATEMENT OR OFFSET IN
23 RENT WHICH THE TENANT HAS RECEIVED PURSUANT TO SECTION TWO HUNDRED THIR-
24 TY-FIVE-B OF THE REAL PROPERTY LAW, THAT RELATES TO ONE OR MORE CONDI-
25 TIONS COVERED BY SUCH ORDER.

26 S 42. Section 26-514 of the administrative code of the city of New
27 York is amended to read as follows:

28 S 26-514 Maintenance of services. In order to collect a rent adjust-
29 ment authorized pursuant to the provisions of subdivision d of section
30 26-510 of this chapter an owner must file with the state division of
31 housing and community renewal, on a form which the commissioner shall
32 prescribe, a written certification that he or she is maintaining and
33 will continue to maintain all services furnished on the date upon which
34 the emergency tenant protection act of nineteen seventy-four becomes a
35 law or required to be furnished by any state law or local law, ordinance
36 or regulation applicable to the premises. In addition to any other reme-
37 dy afforded by law, any tenant may apply to the state division of hous-
38 ing and community renewal, for a reduction in the rent to the level in
39 effect prior to its most recent adjustment and for an order requiring
40 services to be maintained as provided in this section, and the commis-
41 sioner shall so reduce the rent if it is found that the owner has failed
42 to maintain such services. The owner shall also be barred from applying
43 for or collecting any further rent increases. The restoration of such

44 services shall result in the prospective elimination of such sanctions.
45 The owner shall be supplied with a copy of the application and shall be
46 permitted to file an answer thereto. A hearing may be held upon the
47 request of either party, or the commissioner may hold a hearing upon his
48 or her own motion. The commissioner may consolidate the proceedings for
49 two or more petitions applicable to the same building or group of build-
50 ings or development. If the commissioner finds that the owner has know-
51 ingly filed a false certification, it shall, in addition to abating the
52 rent, assess the owner with the reasonable costs of the proceeding,
53 including reasonable attorneys` fees, and impose a penalty not in excess
54 of two hundred fifty dollars for each false certification.
55 THE AMOUNT OF THE REDUCTION IN RENT ORDERED BY THE STATE DIVISION OF
56 HOUSING AND COMMUNITY RENEWAL UNDER THIS SUBDIVISION SHALL BE REDUCED BY

S. 5553

29

A. 8346

1 ANY CREDIT, ABATEMENT OR OFFSET IN RENT WHICH THE TENANT HAS RECEIVED
2 PURSUANT TO SECTION TWO HUNDRED THIRTY-FIVE-B OF THE REAL PROPERTY LAW,
3 THAT RELATES TO ONE OR MORE CONDITIONS COVERED BY SUCH ORDER.

4 S 43. Paragraph 2 of subdivision h of section 26-405 of the adminis-
5 trative code of the city of New York is amended to read as follows:

6 (2) Whenever in the judgment of such agency such action is necessary
7 or proper in order to effectuate the purposes of this chapter, such
8 agency may provide regulations to assure the maintenance of the same
9 living space, essential services, furniture, furnishings and equipment
10 as were provided on the date determining the maximum rent, and such
11 agency shall have power by regulation or order to decrease the maximum
12 rent or take action as provided in paragraph four of this subdivision h
13 for any housing accommodation with respect to which a maximum rent is in
14 effect, pursuant to this chapter, if it shall find that the living
15 space, essential services, furniture, furnishings or equipment to which
16 the tenant was entitled on such date have been decreased. THE AMOUNT OF
17 THE REDUCTION IN MAXIMUM RENT ORDERED BY SUCH AGENCY UNDER THIS PARA-
18 GRAPH SHALL BE REDUCED BY ANY CREDIT, ABATEMENT OR OFFSET IN RENT WHICH
19 THE TENANT HAS RECEIVED PURSUANT TO SECTION TWO HUNDRED THIRTY-FIVE-B OF
20 THE REAL PROPERTY LAW THAT RELATES TO ONE OR MORE CONDITIONS COVERED BY
21 SUCH ORDER.

22 S 43-a. Paragraph 6 of subdivision c of section 26-511 of the adminis-
23 trative code of the city of New York, as amended by chapter 749 of the
24 laws of 1990, is amended to read as follows:

25 (6) provides criteria whereby the commissioner may act upon applica-
26 tions by owners for increases in excess of the level of fair rent
27 increase established under this law provided, however, that such crite-
28 ria shall provide (a) as to hardship applications, for a finding that
29 the level of fair rent increase is not sufficient to enable the owner to
30 maintain approximately the same average annual net income (which shall
31 be computed without regard to debt service, financing costs or manage-
32 ment fees) for the three year period ending on or within six months of
33 the date of an application pursuant to such criteria as compared with
34 annual net income, which prevailed on the average over the period nine-
35 teen hundred sixty-eight through nineteen hundred seventy, or for the
36 first three years of operation if the building was completed since nine-
37 teen hundred sixty-eight or for the first three fiscal years after a
38 transfer of title to a new owner provided the new owner can establish to
39 the satisfaction of the commissioner that he or she acquired title to
40 the building as a result of a bona fide sale of the entire building and
41 that the new owner is unable to obtain requisite records for the fiscal
42 years nineteen hundred sixty-eight through nineteen hundred seventy
43 despite diligent efforts to obtain same from predecessors in title and
44 further provided that the new owner can provide financial data covering
45 a minimum of six years under his or her continuous and uninterrupted
46 operation of the building to meet the three year to three year compar-
47 ative test periods herein provided; and (b) as to completed building-
48 wide major capital improvements, for a finding that such improvements
49 are deemed depreciable under the Internal Revenue Code and that the cost

50 is to be amortized over a seven-year period, based upon cash purchase
51 price exclusive of interest or service charges. Notwithstanding
52 anything to the contrary contained herein, no HARDSHIP increase granted
53 pursuant to this paragraph shall, when added to the annual gross rents,
54 as determined by the commissioner, exceed the sum of, (i) the annual
55 operating expenses, (ii) an allowance for management services as deter-
56 mined by the commissioner, (iii) actual annual mortgage debt service

S. 5553

30

A. 8346

1 (interest and amortization) on its indebtedness to a lending institu-
2 tion, an insurance company, a retirement fund or welfare fund which is
3 operated under the supervision of the banking or insurance laws of the
4 state of New York or the United States, and (iv) eight and one-half
5 percent of that portion of the fair market value of the property which
6 exceeds the unpaid principal amount of the mortgage indebtedness
7 referred to in subparagraph (iii) of this paragraph. Fair market value
8 for the purposes of this paragraph shall be six times the annual gross
9 rent. The collection of any increase in the stabilized rent for any
10 apartment pursuant to this paragraph shall not exceed six percent in any
11 year from the effective date of the order granting the increase over the
12 rent set forth in the schedule of gross rents, with collectability of
13 any dollar excess above said sum to be spread forward in similar incre-
14 ments and added to the stabilized rent as established or set in future
15 years;

16 S 44. Any rule or regulation or form necessary for the implementation
17 of this act, or any section of this act, is directed to be made and
18 completed within 180 days after the effective date of this act.

19 S 45. Severability. The provisions of this act shall be severable, and
20 if the application of any clause, sentence, paragraph, subdivision,
21 section or part of this act to any person or circumstance shall be
22 adjudged by any court of competent jurisdiction to be invalid, such
23 judgment shall not necessarily affect, impair or invalidate the applica-
24 tion of any such clause, sentence, paragraph, subdivision, section, part
25 of this act or remainder thereof, as the case may be, to any other
26 person or circumstance, but shall be confined in its operation to the
27 clause, sentence, paragraph, subdivision, section or part thereof
28 directly involved in the controversy in which such judgment shall have
29 been rendered; provided, however, that in the event that the entire
30 system of rent control or stabilization shall be finally adjudged inval-
31 id or unconstitutional by a court of competent jurisdiction because of
32 the operation of any provision of this act, such provision shall be
33 null, void and without effect and all the other provisions of this act
34 which can be given effect without such invalid provision, as well as
35 provisions of any other law, relating to the control of or stabilization
36 of rent, as in effect prior to the effective date of this act and as
37 otherwise amended by this act, shall continue in full force and effect
38 for the period of effectiveness set forth in sections two, three and
39 four of this act.

40 S 46. This act shall take effect immediately; provided, however, that:

41 1. The provisions of sections twenty-nine through thirty-four, thir-
42 ty-nine through forty-three and forty-three-a of this act shall apply to
43 any action or proceeding pending in any court or any application,
44 complaint or proceeding before an administrative agency on the effective
45 date of this act, as well as any action or proceeding commenced there-
46 after;

47 2. sections two through six, nineteen and twenty of this act shall be
48 deemed to have been in full force and effect on and after June 15, 1997;

49 3. the amendments to sections seven, seven-a, twelve, fifteen and
50 seventeen of this act shall apply to housing accommodations vacant on or
51 after the effective date of this act; the application of such sections
52 to housing accommodations vacant prior to such effective date shall be
53 governed by the law in effect on such date;

54 4. sections seven-b through eleven and thirteen, fourteen, sixteen and
55 eighteen of this act shall take effect January 1, 1998;

1 5. sections twenty-eight, twenty-eight-a, twenty-eight-b and twenty-
2 eight-c of this act shall take effect on the thirtieth day next succeed-
3 ing the date on which this act shall have become a law and shall apply
4 to acts or offenses committed on or after such date;

5 6. sections twenty-eight, twenty-eight-a, twenty-eight-b and twenty-
6 eight-c of this act shall expire and be deemed repealed after June 15,
7 2003;

8 7. sections twenty-nine and thirty of this act shall apply to any
9 arrears presently due pursuant to the provisions of the emergency tenant
10 protection act of nineteen seventy-four and the rent stabilization law
11 of nineteen hundred sixty-nine;

12 8. sections thirty-five, thirty-six and thirty-seven of this act shall
13 take effect on the one hundred twentieth day next succeeding the date on
14 which this act shall have become a law and shall apply to all
15 proceedings to recover possession of real property in New York city on
16 or after such date; provided that prior to such date the court shall
17 promulgate a brief notice which shall meet the requirements of section
18 731 of the real property actions and proceedings law, as amended by
19 section thirty-five of this act; and

20 9. section thirty-nine of this act shall apply to orders of the divi-
21 sion of housing and community renewal made before, on or after the date
22 on which this act shall have become a law.