9 NYCRR §2500.2 subdivisions (d), (h), (o) and (q) are amended as follows:

(d) Rent. Consideration, charge, fee or other thing of value, including any bonus, benefit or gratuity demanded or received for, or in connection with, the use or occupancy of housing accommodations or the transfer of a lease for such housing accommodations. Rent shall not include surcharges authorized pursuant to section 2502.9 of this Title nor for the purposes of any summary eviction proceeding such fees, charges or penalties, however, any such excess payments even if denominated as fees, charges or penalties may be considered a violation under Part 2505 or an overcharge under Part 2506 of this Title.

(h) Tenant. A tenant, subtenant, lessee, sublessee, or any other person entitled to the possession or to the use or occupancy of any housing accommodation or entitled to occupy the housing accommodation as a tenant pursuant to any other provision of these regulations.

(o) Senior citizen.

A person who is [sixty-two] 62 years of age or older.

(q) Base date. For all purposes other than for the purposes of proceedings pursuant to sections 2502.3(a), 2506.1, and 2506.8of this Title, "base date" shall mean the date which is the most recent of:

(1) [the date four years prior to the date of the filing of such appeal or complaint;] For claims filed before June 14, 2019, the date four years prior to the filing date of such claim except where a special provision of this Regulation, the ETPA or other law required maintenance of records or review for a longer period;

(2) For claims filed on or after June 14, 2019, the base date shall be June 14, 2015;

(3) The date on which the housing accommodation first became subject to the act; or

[3] (4) April 1, 1984, for complaints filed on or before March 31, 1988 for housing accommodations for which initial registrations were required to be filed by June 30, 1984, and for which a timely challenge was not filed.

9 NYCRR §2500.2 is amended to add a new subdivision (s) to read as follows:

(s) Common Ownership. For the purposes of Section 2502.4 of this Part, Common Ownership shall be defined as any identity of interest or relationship based on family ties or financial interest between the owner/managing agent of a property and any other entity with which the owner/managing agent conducts business.

(t) ETPA. The Emergency Tenant Protection Act of 1974 and as amended.

9 NYCRR §2500.5 is amended as follows:

Any provision of this Chapter may be amended or revoked at any time by the division. However, where a law requires a different rule than set forth in any provision this act, which may be implemented in the absence of regulation, DHCR shall follow such law notwithstanding that such conflicting code provision has not yet been amended or revoked.

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9 NYCRR §2500.6 is amended as follows:

Such amendment or revocation shall be filed with the Secretary of State and shall take effect upon the date of filing unless otherwise specified therein or as otherwise provided by the State Administrative Procedure Act, or otherwise required by law. Where implementation of a provision would require new or significantly revised filing procedures or notice requirements, the division may postpone implementation of such provision, as required, for up to 180 days after the effective date of such amendment or revocation, by an advisory opinion issued pursuant to section 2507.11 of this Title, which shall be available to the public on such effective date. Where such postponement is deemed necessary, current filing procedures, notice requirements, or forms, if any, may be utilized until revision thereof.

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9 NYCRR §2500.9 subdivision (c) and paragraph (e) (1) are amended and paragraph (e)(2) is repealed and former paragraphs (e)(3), (e)(4), (e)(5), (e)(6) and (e)(7) are renumbered (e)(2), (e)(3), (e)(4), (e)(5), (e)(6) and new paragraphs (e)(7) and (e)(10) are added as follows:

(c) housing accommodations in buildings in which rentals are fixed by or subject to the supervision of the State Division of Housing and Community Renewal under other provisions of law or the New York State Urban Development Corporation, New York State Housing Finance Agency or other governmental agencies or public benefit corporations of the City or

State or, to the extent that regulation under this act is inconsistent therewith aided by government insurance under any provision of the National Housing Act. However, housing accommodations in buildings completed or substantially rehabilitated prior to January 1, 1974, and whose rentals were previously regulated under the PHFL or any other State or Federal Law, shall become subject to the ETPA and this Title, upon the termination of such regulation;

(e) housing accommodations in buildings completed or buildings substantially rehabilitated as family units on or after January 1, 1974, except such buildings which are made subject to this Subchapter by provision of the act or any other statute that meet the following criteria, which at the division's discretion, may be effectuated by Operational Bulletin;

(1) a specified percentage, [not to exceed] of at least 75% of listed building-wide and apartment systems, must have been replaced;

[(2) for good cause shown, exceptions to the criteria stated herein or effectuated by Operational Bulletin, regarding the extent of the rehabilitation work required to be effectuated building-wide or as to individual housing accommodations, may be granted where the owner demonstrates that a particular component of the building or system has recently been installed or upgraded, or is structurally sound and does not require replacement, or that the preservation of a particular component is desirable or required by law due to its aesthetic or historic merit;]

[(3)] (2) the rehabilitation must have been commenced in a building that was in a substandard or seriously deteriorated condition. [The extent to which the building was vacant of residential tenants when the rehabilitation was commenced shall constitute evidence of whether the building was in fact in such condition. Where the rehabilitation was commenced in a building in which at least 80% of the housing accommodations were vacant of residential tenants, there shall be a presumption that the building was substandard or seriously deteriorated at that time.] Space converted from non-residential use to residential use shall not be required to have been in substandard or seriously deteriorated condition for there to be a finding that the building has been substantially rehabilitated;

[(4)] (3) [except in the case of extenuating circumstances,] the division will not find the building to have been in a substandard or seriously deteriorated condition where it can be established that the owner has attempted to secure a vacancy by an act of arson resulting in criminal conviction of the owner or the owner's agent, or the division or other government entity has made a finding of harassment, as defined pursuant to any applicable rent regulatory law, code or regulation[;]. If there has been a finding of harassment by a governmental entity other than the division, that finding shall be considered in full force for three years from the date the finding was made, unless proof of its being lifted is provided or otherwise obtained;

[(5)] (4) Renumbered only text remains the same

[(6)] (5) [where] occupied rent regulated housing accommodations [have not been rehabilitated, such housing accommodations] shall remain regulated until vacated, notwithstanding a finding that the remainder of the building has been substantially rehabilitated, and therefore qualifies for exemption from regulation;

[(7)] (6) where, because of the existence of hazardous conditions in his or her housing accommodation, a tenant has been ordered by a governmental agency to vacate such housing accommodation, and the tenant has received a court order or an order of the division that provides for payment by the tenant of a nominal rental amount while the vacate order is in effect, and permits the tenant to resume occupancy without interruption of the rent stabilized status of the housing accommodation upon restoration of the housing accommodation to a habitable condition, such housing accommodation will be excepted from any finding of substantial rehabilitation otherwise applicable to the building. However, the exemption from rent regulation based upon substantial rehabilitation will apply to a housing accommodation that is subject to a right of reoccupancy, if the returning tenant subsequently vacates, or if the tenant who is entitled to return pursuant to court or division order chooses not to do so[;] and expresses such intent not to return in writing. The DHCR may waive the requirement that the tenant expresses a desire not to return in writing at its discretion if the owner demonstrates that the tenant could not be found after

the owner undertook a good faith effort to locate and contact them, and the tenant has failed to make the nominal rent payment for a period of at least six months;

(7) when an accommodation has been rendered uninhabitable and the tenant has received an order as described in paragraph (6) of this subdivision, the owner will restore the building to a layout that is substantially similar to the building layout prior to the building being rendered uninhabitable, unless the owner can demonstrate that doing so would be financially infeasible. If the owner does not restore the building to a layout that is substantially similar, tenants with orders described in paragraph (6) of this subdivision may, at their discretion, either accept a demolition stipend of an amount determined pursuant to Section 2504.4(f)(2)(ii)(c) of these Regulations or begin an ETPA rent regulated tenancy in a re-configured accommodation. In the event a tenant elects to move into a reconfigured accommodation, the rent may be determined based on local comparable ETPA regulated rents;

(10) the Applicant's lack of evidence for any reason, including passage of time, does not excuse the Applicant's obligation to substantiate the application as required by this section and any related operational bulletins.

9 NYCRR §2500.9 subdivisions (f), (j), and (k) are amended as follows:

(f) housing accommodations owned, operated, or leased or rented pursuant to governmental funding, by a hospital, convent, monastery, asylum, public institution, or college or school dormitory or any institution operated exclusively for charitable or educational purposes on a nonprofit basis, other than accommodations occupied by a tenant on the date such housing accommodation is acquired by such institution, or which are occupied subsequently by a tenant whose initial occupancy is [not] contingent upon an affiliation with such institution[. H];however, the following housing accommodations shall be subject to the ETPA and this act: (1) housing accommodations occupied by a tenant on the date such housing accommodation is acquired by any such institution, or which are occupied subsequently by a tenant who is not affiliated with such institution at the time of his initial occupancy or (2) permanent housing

accommodations with government contracted services, as of and after June fourteenth, two thousand nineteen, occupied by vulnerable individuals or individuals with disabilities who are or were homeless or at risk of homelessness. For the purposes of this subdivision, such vulnerable individuals or individuals with disabilities as described herein shall be considered to be tenants;

(j) housing accommodations in buildings operated exclusively for charitable purposes on a nonprofit basis; however such housing accommodation shall be subject to the ETPA and this act if they are permanent housing accommodations with government contracted services, as of and after the effective date of the chapter of the laws of June fourteenth, two thousand nineteen that amended this paragraph, for vulnerable individuals or individuals with disabilities who are or were homeless or at risk of homelessness. For the purposes of this subdivision, such vulnerable individuals or individuals with disabilities as described herein shall be considered to be tenants;

(k) housing accommodations which are not occupied by the tenant in possession as his primary residence. For the purposes of determining primary residency, a tenant who is a victim of domestic violence, as defined in section four hundred fifty-nine-a of the social services law, who has left the unit because of such violence, and who asserts an intent to return to the housing accommodation shall be deemed to be occupying the unit as his or her primary residence. In addition, a tenant who has left the housing accommodation and is paying a nominal rent pursuant to Part 2500.9(e)(6) of this Title shall be deemed to be occupying the unit as his or her primary residence;

9 NYCRR §2500.9 subdivision (l) is amended as follows:

(l) housing accommodations contained in buildings owned as cooperatives or condominiums, which are or become vacant on or after July 7, 1993, except that this subdivision shall not apply to units occupied by non-purchasing tenants under section 352-eee of the General Business Law until the occurrence of a vacancy:

(1) provided, however, and subject to the limitations set forth in subdivision (e) of this section, that:

(i) where cooperative or condominium ownership of such building no longer exists ("deconversion"), because the cooperative corporation or condominium association loses title to the building upon a foreclosure of the underlying mortgage or otherwise[, or where the conversion of the building to cooperative or condominium ownership is revoked retroactively by the New York State Attorney General to the date immediately prior to the effective date of the Conversion Plan on the basis of fraud or on other grounds,] such housing accommodations shall revert to regulation pursuant to the act and this Subchapter, and the legal regulated rents therefor shall be as follows:

(a) Housing accommodations not occupied at the time of deconversion:

(1) where deconversion occurs [four] six years or more after the effective date of the Conversion Plan, the initial regulated rent shall be as agreed upon by the parties and reserved in a vacancy lease;

(2) where deconversion occurs within [four]six years after the effective date of the conversion plan, the initial regulated rent shall be the most recent legal regulated rent for the housing accommodation increased by all lawful adjustments that would have been permitted had the housing accommodation been continuously subject to the act and this Subchapter;

(3)

[(i) where the rent, as agreed upon by the parties and paid by the tenant equals or exceeds the applicable amount qualifying for deregulation pursuant to subdivision (m) of this section, such accommodation and the rent therefor shall not revert to regulation under this Subchapter;

(ii)] initial regulated rents established pursuant to subclause (1) of this clause shall not be subject to challenge as a fair market rent appeal [under section 2506.1(a) (2) (ii) of this Title];

(4) (i) Within 30 days after deconversion, the new owner taking title upon deconversion shall offer a vacancy lease, at an initial regulated rent established pursuant to this clause, to the holder of shares formerly allocated to the housing

accommodation in the case of cooperative ownership, or the former unit owner in the case of condominium ownership. Such shareholder or former unit owner shall have [30]90 days to accept such offer by entering into the vacancy lease. Failure to enter into such lease shall be deemed to constitute a surrender of all rights to the housing accommodation;

(ii) [this subclause shall not apply where deconversion was caused, in whole or in part, by a violation of any material term of the proprietary lease by the shareholder or former unit owner;

(iii)] no individual former owner or proprietary lessee shall be entitled to occupy more than one housing accommodation;

(b) Housing accommodations occupied at the time of deconversion and not subject to regulation under this Subchapter at such time;

(1) where the housing accommodation is occupied by a holder of shares formerly allocated to it in the case of cooperative ownership, or by the former owner of such unit in the case of condominium ownership, such shareholder or former unit owner shall be offered a new vacancy lease, subject to regulation under this Subchapter, by the new owner taking title upon deconversion, which lease shall be subject to all of the terms and conditions set forth in subparagraph (i) of this paragraph pertaining to the establishment of initial regulated rents[,] and lease offers[, and deregulation, including item (a)(4)(ii) of this subparagraph];

(2) where the housing accommodation is occupied by a current renter pursuant to a sublease with the holder of shares formerly allocated to it in the case of cooperative ownership, or to the former owner of such unit in the case of condominium ownership, the new owner shall offer a vacancy lease to such

holder of shares or former unit owner pursuant to all of the terms and conditions set forth in subparagraph (i) of this paragraph;

(3) all shareholders or former unit owners described in this clause shall be offered a vacancy lease within 30 days after the deconversion, and shall have [30]90 days to accept such offer. However, in the event such shareholder or former unit owner does not enter into the vacancy lease, he or she shall be deemed to have surrendered all rights to the housing accommodation effective 120 days after the [deconversion]failure to accept such offered vacancy lease.

(c) Housing accommodations occupied pursuant to regulation under this Subchapter or the State Rent and Eviction Regulations by non-purchasing tenants immediately prior to deconversion. The regulated rents for such housing accommodations shall not be affected by the deconversion, and such accommodations shall remain fully subject to all provisions of this Subchapter or the State Rent and Eviction Regulations, whichever is applicable.

(d)

(1) Where it determines that the owner taking title at deconversion caused, in whole or in part, the deconversion to occur, the initial legal regulated rent shall be established by the division pursuant to sections 2502.3(b) and 2502.6 of this Title. In such cases, subdivision (m) of this section shall not apply.

(2) Upon deconversion, housing accommodations in localities subject to this Subchapter which were last subject to regulation pursuant to the State Rent and Eviction Regulations and were decontrolled prior to or pursuant to the conversion shall become subject to regulation under this Subchapter pursuant to this paragraph. In such cases, the initial legal regulated rent shall be established by the division pursuant to sections 2502.3(b) and 2502.6 of this Title.

(2) housing accommodations that were subject to regulation under this Subchapter or the State Rent and Eviction Regulations immediately prior to conversion to cooperative or

condominium ownership by virtue of the receipt of tax benefits pursuant to applicable law shall revert to regulation under this Subchapter [pursuant to paragraph (1) of this subdivision only for such period of time] as is required by [such] applicable law;

(3) where cooperative or condominium ownership of such building no longer exists (deconversion) where the conversion of the building to cooperative or condominium ownership is revoked by the New York State Attorney General, such housing accommodations shall revert to regulation pursuant to this Subchapter and this regulation, and the legal regulated rents therefore shall be an amount set forth by the Attorney General by order or negotiated settlement. If deconversion occurs due to an action by the Attorney General and the Attorney General does not set rents, the rent for the housing accommodation shall be the lowest rent determined by the most recent legal regulated rent for the housing accommodation immediately prior to the conversion, increased by all lawful adjustments that would have been permitted had the housing accommodation been continuously subject to the State Rent and Eviction Regulations, or by the methods set forth in section 2502.6(a)(2) of this Title.

9 NYCRR §2500.9 subdivision (m) is amended as follows:

(m) (1) Effective June 14, 2019, high rent vacancy deregulation is no longer applicable. Any apartment that was lawfully deregulated pursuant to McKinney's Unconsolidated Law Section 8625(a)(12), shall remain deregulated, notwithstanding that such Section was repealed by Chapters 36 and 39 of the Laws of 2019.

[housing accommodations which:

(1) became or become vacant on or after July 7, 1993 where, at any time between July 7, 1993 and October 1, 1993, inclusive, the legal regulated rent was $2,000 or more per month;

(2) became or become vacant on or after June 19, 1997 but before June 24, 2011, with a legal regulated rent of $2,000 or more per month;

(3) became or become vacant on or after June 24, 2011, with a legal regulated rent of $2,500 or more per month;

(4) exemption pursuant to this subdivision shall apply regardless of whether the next tenant in occupancy or any subsequent tenant in occupancy is charged or pays less than the applicable amount qualifying for deregulation as provided in this subdivision;

(5) exemption pursuant to this subdivision shall not apply to housing accommodations which became or become subject to the act and this Subchapter solely by virtue of the receipt of tax benefits pursuant to section 489 of the Real Property Tax Law;

(6) exemption pursuant to this subdivision shall not apply to or become effective with respect to housing accommodations for which the commissioner determines or finds that the owner or any person acting on his or her behalf, with intent to cause the tenant to vacate, engaged in any course of conduct (including, but not limited to, interruption or discontinuance of required services) which interfered with or disturbed or was intended to interfere with or disturb the comfort, repose, peace or quiet of the tenant in his or her use or occupancy of the housing accommodations. In connection with such course of conduct, any other general enforcement provision of the act and this Subchapter shall also apply;

(7) during the period of effectiveness of an order issued pursuant to section 2503.4 of this Title for failure to maintain essential services, which lowers the legal regulated rent below the applicable amount qualifying for deregulation as provided in this subdivision, during the time period specified in this subdivision, a vacancy shall not qualify the housing accommodation for exemption under this subdivision;

(8) where an owner installs new equipment or makes improvements to the individual housing accommodation qualifying for a rent increase pursuant to section 2502.4(a)(3)(i) of this Title, while such housing accommodation is vacant, and where the legal regulated rent is raised on the basis of such rent increase, or as a result of any rent increase permitted upon vacancy or succession as provided in section 2502.7 of this Title, or by a combination of rent increases, as applicable, the applicable amount qualifying for deregulation as provided in this subdivision, whether or not the next tenant in occupancy actually is charged or pays the applicable amount qualifying for deregulation as provided in this subdivision, for rental of the housing

accommodation, the housing accommodation will qualify for exemption under this subdivision;

(9) where, pursuant to section 2501.2 of this Title, a legal regulated rent is established by record within four years prior thereto, and a rent lower than such legal regulated rent is charged and paid by the tenant, and where, pursuant to such section, upon the vacancy of such tenant, a legal regulated rent previously established by record within four years prior thereto, as lawfully adjusted pursuant to the act or this Subchapter, may be charged, and where such previously established legal regulated rent, as so adjusted, equals or exceeds the applicable amount qualifying for deregulation as provided in this subdivision, such vacancy shall qualify the housing accommodation for exemption under this subdivision;

(10) where an owner substantially alters the outer dimensions of a vacant housing accommodation which qualifies for a first rent equal to or exceeding the applicable amount qualifying for deregulation as provided in this subdivision, exemption pursuant to this subdivision shall apply];

9 NYCRR 2500.9 subdivision (n) is amended as follows:

(n) (1) Effective June 14, 2019, high rent high income deregulation is no longer applicable. Any apartment that was lawfully deregulated pursuant to McKinney's Unconsolidated Law Section §8625(a)(13) shall remain deregulated, notwithstanding that such Section was repealed pursuant to Chapters 36 and 39 of the Laws of 2019. **[**upon] For the purposes of this subdivision, lawful deregulation shall be defined as the issuance of an order by the division pursuant to the procedures set forth in ETPA §8625(a)(13), as otherwise repealed by Chapters 36 and 39 of the Laws of 2019, and the expiration of the lease in effect upon issuance of such order expiring prior to June 14, 2019. [, including orders resulting from default, housing accommodations which:]

(2) Effective June 14, 2019, no further high rent high income deregulation proceedings pursuant to this Title may be commenced, and all pending applications shall be dismissed as not subject to deregulation. For the purposes of this paragraph, an application shall not be

considered pending if the subject housing accommodation was lawfully deregulated pursuant to such application prior to June 14, 2019, and such lawful deregulation is subject to review as of June 14, 2019 in a Court of competent jurisdiction, before the commissioner pursuant to a petition for administrative review, or before the rent administrator subsequent to a remand for further consideration by either the commissioner or a court.

[(1) have a legal regulated rent of $2,000 or more per month as of October 1, 1993, or as of any date on or after June 19, 1997, and which are occupied by persons who had a total annual income in excess of $250,000 per annum for each of the two preceding calendar years, where the first of such two preceding calendar years is 1992 through 1995 inclusive, and in excess of $175,000, where the first of such two preceding calendar years is 1996 through 2009 inclusive, with total annual income being defined in and subject to the limitations and process set forth in Part 2511 of this Title;

(2) have a legal regulated rent of $2,500 or more per month as of July 1, 2011 or after, and which are occupied by persons who had a total annual income in excess of $200,000 per annum for each of the two preceding calendar years, where the first of such two preceding calendar years is 2010 or later, with total annual income being defined in an subject to the limitations and process set forth in Part 2511 of this Title;

(3) exemption pursuant to this subdivision shall not apply to housing accommodations which became or become subject to the act and this Subchapter solely by virtue of the receipt of tax benefits pursuant to section 489 of the Real Property Tax Law;

(4) in determining whether the legal regulated rent for a housing accommodation is the applicable amount qualifying for deregulation, the standards set forth in subdivision (m) of this section shall be applicable; to be eligible for exemption under this subdivision, the legal regulated rent must continuously be the applicable amount qualifying for deregulation pursuant to subdivision (m) of this section, from the owner's service of the income certification form provided for in section 2511.2 of this Title upon the tenant to the issuance of an order deregulating the housing accommodation];

9 NYCRR §2500.9 subdivision (s) is amended as follows:

(s) Between January 8, 2014 and June 14, 2019, [W] where the owner of any housing accommodation claims that such housing accommodation [is] was not subject to this Subchapter pursuant to the provisions of subdivision (m) of this section or of section 2100.9(v) of the State Rent and Eviction Regulations, such owner [may give] must have given written notice certified by such owner on a form promulgated by the division to the first tenant of that housing accommodation after such housing accommodation is claimed to become exempt from the provisions of this Subchapter or the act. Such form notice [shall] must have contained the last regulated rent, the reason that such housing accommodation is not subject to this Subchapter or the act, a calculation of how either the rental amount charged when there is no lease or the rental amount provided for in the lease has been derived so as to reach the applicable amount qualifying for deregulation pursuant to subdivision (m) of this section (whether the next tenant in occupancy or any subsequent tenant in occupancy actually is charged or pays less than the applicable amount qualifying for deregulation), a statement that the last legal regulated rent or the maximum rent may be verified by the tenant by contacting the division at the address and telephone number of the division. Such form notice [will provide for service] was required to be sent by certified mail within thirty days after the tenancy commences or after the signing of the lease by both parties, whichever occurs first or delivered to the tenant at the signing of the lease. The owner [may further]was required to send and certify to the tenant a copy of the registration statement for such housing accommodation filed with the division indicating that such housing accommodation became exempt from the provisions of this Subchapter or the act, which registration statement form shall include the last regulated rent [to] be sent to the tenant within thirty days after the tenancy commences or the filing of such registration, whichever occurs later.

9 NYCRR §2500.14 is added to read as follows:

(a) Establishment

(1) In each county wherein any city having a population of less than one million or any town or village has declared the existence of an emergency pursuant to the ETPA prior to June 14, 2019, there shall

exist a rent guidelines board to consist of members appointed by the Commissioner of DHCR upon the recommendations of the local county legislature. Such board shall serve as the rent guidelines board for any city having a population of less than one million or any town or village within such county which has declared the existence of an emergency pursuant to the ETPA.

(2) Where a city having a population of less than one million or any town or village declares the existence of an emergency pursuant to the ETPA after June 14, 2019, and such city, town or village is the first municipality in the county to declare such an emergency, the rent guidelines board shall initially consist of members appointed by the Commissioner of DHCR upon the recommendations of the local legislative body of the municipality declaring the emergency. Such recommendations shall be made within thirty days of the declaration of emergency. Once constituted, such board shall serve as the rent guidelines board for such city, town or village so long as such municipality remains the only municipality within the county to have adopted the ETPA. Following any subsequent initial local declaration of emergency by a municipality within such county, such board shall be reconstituted to ensure representation of all municipalities within such county that have adopted ETPA. Such board shall be reconstituted by the Commissioner of DHCR appointing all nine members of the board upon the recommendations of the local county legislature. If such recommendations are not made by the local county legislature within a reasonable time after the second declaration of an emergency pursuant to the ETPA by a municipality within such county, the Commissioner of DHCR may appoint the initial members of the reconstituted board upon the recommendations of the local legislative bodies of the municipalities within the county that have adopted ETPA. Thereafter, such board shall serve as the rent guidelines board for any city having a population of less than one million and any town or village within such county which has declared the existence of an emergency pursuant to the ETPA.

(b) Members

(1) Each rent guidelines board shall consist of nine members. Two members shall be representative of tenants, two shall be representative of owners of property, and five shall be public members each of whom shall have had at least five years of experience in either finance, economics or housing. One public member shall be designated by the commissioner to serve as chairman and shall hold no other public office. No member, officer or employee of any municipal rent regulation agency or the state

division of housing and community renewal and no person who owns or manages real estate covered by the ETPA or who is an officer of any owner or tenant organization shall serve on a rent guidelines board.

(2) One public member, one member representative of tenants and one member representative of owners shall serve for a term ending two years from January first next succeeding the date of their appointment; one public member, one member representative of tenants and one member representative of owners shall serve for terms ending three years from the January first next succeeding the date of their appointment and three public members shall serve for terms ending four years from January first next succeeding the dates of their appointment. Thereafter, all members shall serve for terms of four years each.

(3) Members shall continue in office until their successors have been appointed and qualified. A member may be removed by the commissioner of DHCR for cause, but not without an opportunity to be heard in person or by counsel, in his defense, upon not less than ten days' notice. The Commissioner of DHCR shall fill any vacancy which may occur by reason of death, resignation, removal or otherwise upon recommendation by the appropriate legislative body.

(4) Members are entitled to compensation for serving on the rent guidelines Board in the amount set forth in the ETPA.

(c) Duties

Rent guidelines boards shall have the powers and obligations detailed in the ETPA.

9 NYCRR §2501.1 is amended to add new subdivisions (c) and (d) as follows:

(c)

(1) Where an owner combines two or more vacant housing accommodations or combines a vacant housing accommodation with an occupied accommodation, such initial rent for such new housing accommodation shall be the combined legal rent for both previous housing accommodations, subject to any applicable guideline increases and any other increases authorized by this Title including any individual apartment improvement increases applicable for both housing accommodations. If an owner combines a rent regulated accommodation with an apartment not subject to rent regulation, the resulting apartment shall be subject to the ETPA. If

an owner increases the area of an apartment not subject to rent regulation by adding space that was previously part of a rent regulated apartment, each apartment shall be subject to the ETPA.

(2) Where an owner substantially increases the outer dimension of a vacant housing accommodation, such initial rent shall be the prior rent of such housing accommodation, increased by a percentage that is equal to the percentage increase in the dwelling space and such other increases authorized by this Title including any applicable guideline increase and individual apartment improvement increase that could be authorized for the unit prior to the alteration of the outer dimensions.

(3) Notwithstanding the above, the above increases may be denied based on the occurrence of such vacancy due to harassment, fraud, or other acts of evasion which may require that such rent be set in accordance with Part 2506 of this Title.

(4) Where the vacant housing accommodations are combined, modified, divided or the dimension of such housing accommodation otherwise altered and these changes are being made pursuant to a preservation regulatory agreement with a federal, state or local governmental agency or instrumentality, the rent stabilized rents charged thereafter shall be based on an initial rent set by such agency or instrumentality.

(5) Where an owner substantially decreases the outer dimensions of a vacant housing accommodation, such initial rent shall be the prior rent of such housing accommodation, decreased by the same percentage the square footage of the original apartment was decreased by and such other increases authorized by this Title including any applicable guideline increase and individual apartment improvement increases that could be authorized for the apartment prior to the alteration of the outer dimensions.

(6) Apartment combinations and individual apartment improvements.

(i) When an owner combines two or more rent regulated apartments, the owner may use each of the previous apartments' remaining individual apartment improvement allowances for the purposes of a temporary individual apartment improvement rent increase. The owner shall subsequently designate a surviving apartment for the purposes of registration that has the same apartment number as one of the prior apartments. If that prior apartment has any reimbursable

individual apartment improvement money remaining after the combination, that money may be reimbursed for future individual apartment improvements undertaken within the subsequent fifteen years following the combination.

(ii) In order for an owner to qualify for a temporary individual apartment improvement rent increase when apartments are combined, the requirements for an individual apartment improvement, including all notification requirements under Section 2502.4(c)(2) of this Title must be met.

(7) Owners shall maintain the records and rent histories of all combined apartments, both prior to and post combination, for the purposes of rent setting, overcharge and all other proceedings to which the records are applicable.

(d) For housing accommodations made subject to this Title as of June 14, 2019 as set forth in 2500.9(f), (j) and (k) the initial rents thereafter upon vacatur of the not for profit and affiliated subtenant shall be set using the rent in effect for a regulated tenant in occupancy immediately prior to occupancy by the not for profit and the affiliated subtenant plus any applicable increases.

9 NYCRR §2501.2 (a) and (c) are amended and new subdivisions (d) and (e) are added as follows:

(a) Where the amount of rent charged to and paid by the tenant is less than the legal regulated rent for the housing accommodation, such rent shall be known as the preferential rent. The amount of rent for such housing accommodation which may be charged upon [renewal or] vacancy thereof may, at the option of the owner, be based upon either such preferential rent or an amount not more than the previously established legal regulated rent, as adjusted by the most recent applicable guidelines increases and other increases authorized by law.

(c) Where the amount of the legal regulated rent is set forth either in a vacancy lease or renewal lease where a preferential rent is charged, the owner shall be required to maintain, and submit where required to by DHCR, the rental history of the housing accommodation immediately preceding such preferential rent to the present which may be prior to the [four-year period] base date preceding the filing of a complaint.

(d) Any tenant who is subject to a lease in effect on or after June 14, 2019, or is or was entitled to receive a renewal or vacancy lease on or after such date, upon renewal of such lease, the amount of rent for such housing accommodation that may be charged and paid shall be no more than the rent charged to and paid by the tenant prior to that renewal, as adjusted by the most recent applicable guidelines increases and any other increases authorized by law.

(e) Provided, however, that for buildings that are subject to this Title by virtue of a regulatory agreement with a local government agency and which buildings receive federal project based rental assistance administered by the United States Department of Housing and Urban Development or a state or local section eight administering agency, where the rent set by the federal, state or local governmental agency is less than the legal regulated rent for the housing accommodation, the amount of rent for such housing accommodation which may be charged upon renewal or upon vacancy thereof, may be based upon such previously established legal regulated rent, as adjusted by the most recent applicable guidelines increases or other increases authorized by law; and further provided that such vacancy shall not be caused by the failure of the owner or an agent of the owner to maintain the housing accommodation in compliance with the warranty of habitability set forth in subdivision one of section two hundred thirty-five-b of the real property law.

9 NYCRR § 2502.2 is amended as follows:

Except as otherwise provided in this Title or set forth in the order, [with regard to increases pursuant to sections 2502.4(b) (1)(i), (ii) and (iii)(a) (2) (ii), (iii) and (iv) of this Part, where] the legal regulated rent shall be adjusted effective the first rent payment date occurring 30 days after the filing of the application, [the legal regulated rent shall be adjusted effective the date of issuance of an order by the division, unless otherwise set forth in the order,] or on the effective date of a lease or other rental agreement providing for the rent guidelines board annual rate of adjustment as filed with the division and as provided for in section 2502.5 of this Part. Adjustments shall also be made upon vacancy [or succession] as provided in section

2502.7 of this Part[, or upon improvements to an individual housing accommodation qualifying for a rent increase pursuant to section 2502.4(a)(2)(i) of this Part]. No rent adjustment may take place during a lease term unless a clause in the lease authorizes such increase, or as otherwise provided by law and this Title.

9 NYCRR § 2502.3 is repealed and replaced as follows:

(a) Fair market rent appeals.

(1)

(i) The tenant of a housing accommodation for which the initial legal regulated rent was established under section 2501.1 of this Title based upon the rent reserved in a lease or other rental agreement which became effective on or after January 1, 1974 may file within 90 days after notice has been received pursuant to section 2503.1 of this Title, an application on forms prescribed by the division for adjustment of the initial legal regulated rent on the allegation that such rent is in excess of the fair market rent. This right is limited to the first tenant taking occupancy on or after January 1, 1974, except where such tenant had vacated the housing accommodation prior to the service by the owner of the notice required by section 2503.1 of this Title. In such event, any subsequent tenant shall also have a right to file an application for adjustment of the legal regulated rent until the owner mails the required notice and 90 days shall have elapsed without the filing of an application by a tenant continuing in occupancy during said 90-day period. However, no fair market rent appeal may be filed after six years from the date of initial occupancy of the housing accommodation. Once a fair market rent appeal has been filed, no subsequent tenant may file such appeal.

(ii) The tenant must allege in such appeal:

(a) that the initial rent is in excess of the fair market rent; and

(b) facts which, to the best of his or her information and belief, support such allegation.

(iii) Such appeal shall be dismissed where:

(a) it is filed more than 90 days after the certified mailing to the tenant of the form required by section 2503.1 of this Title; or

(b) it is filed more than six years from the date of the initial stabilized tenancy.

(2) The division shall be guided by guidelines promulgated by the Rent Guidelines Board with jurisdiction over the housing accommodation for the determination of fair market rents and, upon a determination that the initial legal regulated rent is in excess of the fair market rent, the division shall establish by order a new legal regulated rent, and further order a refund of any excess rent paid since the base date or the date of the commencement of the tenancy, whichever is later, provided that no refund order shall relate to a period more than two years prior to the local effective date as defined in section 2500.4 of this Title. The order shall direct the affected owner to make the refund of any excess rent to the tenant in cash, check or money order, or as a credit against future rents over a period not in excess of six months, and that if the landlord does not make the refund, that the order may be enforced or the rent offset by the tenant in the same manner as a division order awarding penalties pursuant to section 2506.1 (h)(5) of this Title. In the absence of collusion between the present owner and any prior owner, where no records sufficient to establish the fair market rent were provided at a judicial sale, or such other sale effected in connection with, or to resolve, in whole or in part, a bankruptcy proceeding, mortgage foreclosure action or other judicial proceeding, an owner who purchases upon such sale or subsequent to such sale shall not be liable for excess rent collected by any owner prior to such sale. An owner who did not purchase at such sale, but who purchased subsequent to such sale shall also not be liable for excess rent collected by any prior owner subsequent to such sale to the extent that such excess rent is the result of excess rent collected prior to such sale.

(3) Court-appointed Receivers. A Receiver who is appointed by a court of competent jurisdiction to receive rent for the use or occupation of a housing accommodation shall not, in the absence of collusion or any relationship between such Receiver and any owner or other Receiver, be liable for excess rent collected by any owner or other Receiver, where records sufficient to establish the fair market rent have not been made available to such Receiver.

(b) Unique or peculiar circumstances.

(1) The landlord or tenant of a housing accommodation described in section 2501.1 of this Title may, within 60 days of the local effective date of the act or the commencement of the first tenancy thereafter, file an application on forms prescribed by the division to adjust the

initial legal regulated rent on the grounds that the presence of unique or peculiar circumstances materially affecting the legal regulated rent has resulted in a rent which is substantially different from the rents generally prevailing in the same area for substantially similar housing accommodations.

(2) The division may grant an appropriate adjustment of the initial legal regulated rent upon finding that such grounds do exist, provided that the adjustment shall not result in a legal regulated rent substantially different from the rents generally prevailing in the same area for substantially similar housing accommodations.

(3) Any such adjustment shall consider in addition to the factors contained in paragraph (2) of this subdivision, the equities involved and the general limitation that such adjustment can be put into effect without dislocation and hardship inconsistent with the purposes of the act and with due regard for preserving the regulated rental housing market.

(4) Previous regulation of the rent for the housing accommodation under the PHFL or any other State or Federal law shall not in and of itself constitute a unique and peculiar circumstance within the meaning of this subdivision. Any change in economic circumstances arising as a consequence of the termination of such prior regulation of rent may only be addressed in a proceeding for adjustment of the legal regulated rent under subdivisions (e) and (f) of section 2502.4 of this Part.

9 NYCRR § 2502.4 is repealed and replaced as follows:

(a)

(1) An owner may file an application to increase the legal regulated rents of the building or building complex, on forms prescribed by the division, on the following ground: Substantial rehabilitation.

(2) Upon application by the owner, the division may grant an appropriate adjustment of a legal regulated rent where it finds that:

(i) There has been since January 1, 1974 an increase in the rental value of the housing accommodations as a result of a substantial rehabilitation of the building or housing accommodations therein which materially adds to the value of the property or appreciably prolongs its life, excluding ordinary repairs, maintenance and replacements and that the legal regulated rent has not been adjusted prior to the application based in whole or part upon the grounds set forth in the application.

(b) Temporary major capital improvement rent adjustments.

(1) An owner of a building or building complex that contains more than thirty-five (35) percent rent-regulated units may file an application to temporarily increase the legal regulated rents of the building or building complex on forms prescribed by the DHCR which includes an itemized list of work performed and a description or explanation of the reason or purpose of such work, on one or more of the following grounds:

(i) There has been a major capital improvement, including an installation, which must meet all of the following criteria:

(a) it is deemed depreciable under the Internal Revenue Code, other than for ordinary repairs;

(b) it is essential for the preservation, energy efficiency, functionality or infrastructure of the entire building, including heating, windows, plumbing and roofing, but shall not be for operational costs or unnecessary cosmetic improvements;

(c) it is an improvement to the building or to the building complex which inures directly or indirectly to the benefit of all tenants, and which includes the same work performed in all similar components of the building or building complex, unless the owner can satisfactorily demonstrate to the

DHCR that certain of such similar components did not require improvement; and

(d) the item being replaced meets the requirements set forth on the following useful life schedule, except with DHCR approval of a waiver, as set forth in clause (e) of this subparagraph.

Useful Life Schedule for Major Capital Improvements Replacement Item or Equipment Years - Estimated Life

1) Boilers and Burners

(a) Cast Iron Boiler 35

(b) Package Boiler 25

(c) Steel Boiler 25

(d) Burners 20

2) Windows

(a) Aluminum 20

(b) Wood 25

(c) Steel 25

(d) Storm 20

(e) Vinyl 15

3) Roofs

(a) 2-Ply (asphalt) 10

(b) 3-4 Ply (asphalt) 15

(c) 5-Ply (asphalt) 20

(d) Shingle 20

(e) Single-Ply Rubber 20

(f) Single-Ply Modified Bitumen 10

(g) Quarry Tile 20

4) Pointing 15

5) Rewiring 25

6) Intercom System 15

7) Mailboxes 25

8) Plumbing/Repiping

(a) Galvanized Steel 25

(b) TP Copper 30

(c) Brass cold water 15

(d) Fixtures 25

9) Elevators

(a) Major Upgrade..... 25

(b) Controllers and Selector 25

10) Doors .....

(a) Apartment Entrance 25

(b) Lobby/Vestibule 15

11) Water Tanks

(a) Metal 25

(b) Wood 20

12) Waste Compactors 10

13) Air Conditioners

(a) Individual Units/Sleeves 10

(b) Central System 15

(c) Branch Circuitry Fixtures 15

14) Siding

(a) Aluminum Siding 25

(b) Vinyl Siding 15

15) Catwalk 25

16) Chimney

(a) Steel 25

(b) Brick 25

17) Courtyards/Walkways/Driveways

(a) Cement 15

(b) Asphalt 10

18) Fire Escapes 25

19) Fuel Oil Tanks

(a) In Vaults 25

(b) Underground 20

20) Water Heating Units

(a) Hot Water/Central Heating 20

(b) Hot Water Heater (Domestic) 10

21) Parapets brick 25

22) Resurfacing Exterior Walls 25

23) Solar Heating System 25

24) Structural Steel 25

25) Television Security 10

For major capital improvements not listed above, the owner must submit evidence with the application that the useful life of the item or equipment being replaced has expired.

(e)

(1) An owner who wishes to request a waiver of the useful life requirement set forth in clause (d) of this subparagraph must apply to the DHCR for such waiver prior to the commencement of the work for which he or she will be seeking a temporary major capital improvement rental increase. Notwithstanding this requirement, where the waiver requested is for an item being replaced because of an emergency, which causes the building or any part thereof to be dangerous to human life and safety or detrimental to health, an owner may apply to the DHCR for such waiver at the time he or she submits the temporary major capital improvement rent increase application.

(2) If the waiver is denied, the owner will not be eligible for a temporary major capital improvement increase. However, if the waiver is granted, the useful life requirement will not be a factor in the determination of eligibility for the temporary major capital improvement rent increase. Approval of the waiver does not assure that the application will be granted, as all other requirements set forth in this paragraph must be met.

(3) An owner may apply for, and the DHCR may grant, a waiver of the useful life requirements set forth in the Useful Life Schedule, if the owner satisfactorily demonstrates the existence of one or more of the following circumstances:

(i) The item or equipment cannot be repaired and must be replaced during its useful life because of a fire, vandalism or other emergency, or "act of God" resulting in an emergency;

(ii) The item or equipment needs to be replaced because such item or equipment is beyond repair, or spare parts are no longer available, or required repairs would cost more than seventy-five (75) percent of the cost of the total replacement of the item or equipment. Certification by a duly licensed engineer or architect, where there is no common ownership or other financial interest with the owner, shall be considered substantial proof of such condition(s). The owner may also be required to submit proof that the item or equipment was properly maintained. Such proof may include receipts for repairs and parts or maintenance logs;

(iii)

(A) An appropriate New York State or local governmental agency has determined that the item or equipment needs to be replaced as part of a government housing program;

(B) If a governmental lender or insurer, for the purposes of qualifying for a New York State or local government long-term loan or insured loan, requires the remaining useful life of the building or building complex, as well as the component parts of such building or building complex, to be as great as or greater than the term of the loan agreement.

(iv) The replacement of an item or equipment which has proven inadequate, through no fault of the owner, is necessary,

provided that there has been no major capital improvement rent increase for that item or equipment being replaced.

(4) In the event that the DHCR determines that an installation qualifies for a waiver of the useful life requirements, the DHCR may, subject to all other requirements of this section and the limitations of the reasonable cost schedule provisions in paragraph (2) of this subdivision:

(i) Where no previous increase was granted within the useful life of the item or equipment being replaced, approve 100 percent of the actual, reasonable, and verifiable cost of the item or equipment, including installation;

(ii) Where it is determined that an item is eligible to be replaced during its useful life, grant a temporary increase based on the actual, reasonable, and verifiable cost of the item or equipment, including installation, less both (a) the amount reimbursed from other sources, such as insurance proceeds or any other form of commercial guarantee, and (b) the amount of any increase previously granted for the same item or equipment either as a major capital improvement, or pursuant to other governmental programs, if such item or equipment has not exhausted at least seventy-five (75) percent of its useful life at the time of the installation;

(iii) Where it is determined that an item is eligible to be replaced even though it has not exhausted seventy-five (75) percent of its useful life and that it was installed as part of a substantial rehabilitation or the new construction of a building

for which the owner set initial building-wide rents, the DHCR may reduce the increase granted for a major capital improvement by a proportion of the remaining useful life of such item or equipment;

(iv) Where it is determined that an item is eligible to be replaced even though it has not exhausted one-hundred (100) percent of its useful life, but has exhausted more than seventy-five (75) percent of its useful life, the DHCR may reduce the increase granted for a major capital improvement by a proportion of the remaining useful life of such item or equipment.

(f) In no event shall a temporary major capital improvement increase be granted for work done in individual apartments that is otherwise not an improvement to an entire building.

(ii) There has been other necessary work performed in connection with, and directly related to a major capital improvement, which may be included in the computation of an increase in the legal regulated rent only if such other necessary work was completed within a reasonable time after the completion of the major capital improvement to which it relates. Such other necessary work must:

(a) improve, restore or preserve the quality of the structure and the grounds;

(b) have been completed subsequent to, or contemporaneously with, the completion of the work for the major capital improvement; and

(c) not be for primarily cosmetic improvements or for operational costs.

(iii) With approval by the DHCR, there has been an increase in services or improvement, other than repairs, on a building-wide basis, which the owner can demonstrate are necessary in order to comply with a specific requirement of law.

(iv) With approval by the DHCR, there have been other improvements made or services provided to the building or building complex, other than those specified in subparagraphs (i)-(iii) of this paragraph, with the express consent of the tenants in occupancy of at least seventy-five (75) percent of the rent regulated housing accommodations.

(2) Major Capital Improvement Schedules

(i) The reasonable costs that may be recovered for qualified major capital improvements may not exceed the recoverable costs, as determined by DHCR. In making such determination, DHCR shall, unless for good cause shown or otherwise specified, refer to such reasonable costs as specified in the Reasonable Cost Schedule found in the Reasonable Cost Schedule that is in effect at the time that the contract for work for the major capital improvement was executed.

(ii)The Reasonable Cost Schedule shall provide the recoverable cost of major capital improvements that fall within the following main three categories:

1. Major Systems;

i. The maximum recoverable costs shall be presented for the following classes of work: (a) Plumbing; (b) Gas Repipe; (c) Wiring; (d) Windows; (e) Boiler/Burner; (f) Hot Water Heater; (g) Elevator Replacement; and (h) Elevator Modernization.

2. Façade, Parapet, Roof;

i. The maximum recoverable costs shall be presented for the following classes of work: (a) Façade; (b) Parapet; and (c) Roof.

3. Other Systems.

i. The maximum recoverable costs shall be presented for the following classes of work: (a) Chimney; (b) Doors; (c) Security

System; and (d) Intercom; and may include such other systems as DHCR may determine.

(iii) Each class of major capital improvement may list more detailed types of capital improvement work. Each class of major capital improvement described in the Schedule may be inclusive of additional costs that can be associated with the type of improvements listed within such class.

(iv) The costs of each type of major capital improvement work will be listed as per unit, per unit of measurement or per piece of equipment, as is appropriate given the nature of the improvement.

(v) The maximum recoverable costs for each type of major capital improvement specified in the initial Reasonable Cost Schedule shall be based on a survey of such construction costs undertaken for such installation.

(a) The maximum recoverable costs listed in the Reasonable Cost Schedule shall be initially published and made available for public review and comment in conjunction with the promulgation process required for adoption of this regulation.

(vi) Periodic Review of Reasonable Cost Schedule:

Every year after adoption of this regulation, DHCR shall assess and review the categories of major capital improvements, the classes of work within categories eligible for major capital improvements and the maximum recoverable costs listed for the types of major capital improvement costs identified in the Reasonable Cost Schedule.

(vii) Procedure:

(a) When applying for a temporary major capital improvement rent increase, owners are required to submit an itemized list of work performed with a description or explanation of the reason or purpose of such work.

(1) Costs may be granted for related expenses that are not specified in the actual schedule, if they are found to be:

(i) within or below the maximum costs for the class of work,

(ii) are necessary for the claimed improvement, and

(iii) eligible for reimbursement as a major capital improvement.

(2) Costs will not be granted for expenses which are ineligible for major capital improvement rent increases.

(3) Only the actual and verifiable amounts expended by owners for qualifying major capital improvement costs will be the basis for any temporary major capital improvement rent increase. Qualifying owners will, therefore, be awarded a temporary major capital improvement rent increase on the lesser of either: (i) the actual amount expended, or (ii) the maximum reasonable cost from the schedule, and such other additional items that are eligible as a major capital improvement but are not listed as part of the Reasonable Cost Schedule.

(b) The schedule provides a maximum of costs that can be granted for eligible major capital improvements. All costs granted for a temporary major capital improvement rent increase must be actual, reasonable, verifiable, and meet all other regulatory requirements.

(viii) Waiver of Application of Reasonable Cost Schedule

(a) Owners may apply for a waiver of application of the Reasonable Cost Schedule. The waiver request will be denied, unless the owner satisfies the waiver requirements provided herein, and the Division finds the waiver of

the application of the schedule to be reasonable and warranted under the circumstances set forth in such application.

(b) If an owner's application for a waiver of the reasonable cost schedule is denied, the owner's maximum recoupment shall be limited to that required by the applicable Reasonable Cost Schedule.

(c) Notwithstanding any waiver of the reasonable cost schedule, not all costs claimed for a temporary major capital improvement rent increase may be awarded, as the costs of items claimed may be disallowed, in whole or in part, pursuant to all other requirements set forth in this section that must be met and fully supported.

(d) Pursuant to the requirements specified below, such application must be fully supported and demonstrate that the claimed costs underlying the temporary MCI rent increase are:

(1) not identified in the Reasonable Cost Schedule, or

(2) necessarily and appropriately priced higher than those costs listed in the Reasonable Cost Schedule due to the unique nature of the installation and the circumstances surrounding such installation, and such costs are accurate, reasonable, necessary, verifiable, and eligible for a rent increase under these circumstances, or

(3) that use of the Reasonable Cost Schedule will cause an undue hardship and the use of alternative procedures are appropriate to the interests of the owner, the tenants, and the public, and the costs of such improvement are accurate, reasonable, necessary, verifiable, and eligible for a rent increase under the circumstances.

(e) Owners must request a waiver of the use of the Reasonable Cost Schedule in writing and accompany the application with the information and documentation as specified in subparagraph (x) of this paragraph.

(ix) Requirements for Waiver under Specific Circumstances

(a) At the time of the initial application for a temporary major capital improvement rent increase, an owner must apply for a waiver of application of the Reasonable Cost Schedule. Such application shall include all necessary requirements set forth in subparagraph (viii) of this paragraph and must also meet the following requirements:

(1) Non-Landmarked Buildings (Buildings not designated by the Landmark Commission):

(i) A licensed engineer or architect must certify that:

(A) the major capital improvement costs for which an owner seeks a temporary major capital improvement rent increase are accurate and reasonable under the circumstances; and

(B) there is no common ownership or other financial interest between the contractor installing the replacement or upgrade and the ownership entity of the owner; and

(C) a bid process was conducted and supervised by a licensed architect or engineer.

(2) Landmarked Buildings (Buildings designated by the Landmark Commission):

The costs beyond those permitted by the Reasonable Cost Schedule that were the result of any law, regulation, rule, or requirement under which the premises have been designated a landmark building.

(3) Capital Improvement Work Performed While Also Under Another Governmental Agency's Supervision:

DHCR may also accept the cost of contract where:

(i) the building is subject to both (a) this Title and (b) another housing program, and

(ii) the contract is approved by or awarded under the supervision of a state, city or local housing entity in conjunction with that affordable housing program, and

(iii) such supervision includes a process by which such supervising agency reviews the costs to assure they are reasonable.

(4) Emergency Capital Improvements:

DHCR may also accept the cost of contract where capital improvements were performed to remedy an emergency condition and for which the owner paid more than the reasonable costs due to such emergency. The costs must be actual, reasonable, necessary, verifiable, and eligible for a rent increase under the circumstances.

(5) Interim Rules:

(i) An owner may apply for a waiver of application of the Reasonable Cost Schedule if, prior to the effective date of this subparagraph (ix), it has either:

(A) entered a contract for the performance of major capital improvement work within two years

immediately preceding January 27, 2021, the final adoption date of Emergency Regulation HCR-26-20-00012, or

(B) submitted to DHCR an application for a temporary major capital improvement rent increase.

(ii) The recoverable costs will be determined according to the applicable Reasonable Cost Schedule and these provisions, but the owner need not submit evidence of compliance with the bidding requirements set forth in clause (b) of subparagraph (x) of this paragraph; owner may instead submit for review alternative means of establishing the reasonableness of the major capital improvement costs sought to be recovered.

(iii) For pending major capital improvement applications, an owner was required to make this waiver application within 60 days of June 16, 2020, unless in the context of processing the major capital improvement application the owner was directed by DHCR to submit an application for waiver.

(x) Waiver Procedure:

As part of the written Waiver application for non-emergency capital improvements, owners must submit the following:

(a) A certification by a licensed architect or engineer stating that:

(1) The purchases and contracts, whose costs owner seeks to recover have been awarded on the basis of analysis and bidding to the fullest extent possible, but with no less than three bidders having been

solicited to perform the work unless the owner can demonstrate that the work is so highly specialized that such bids cannot be extended;

(2) List of items for which owner solicited bids were necessary;

(3) The costs claimed by owner for the major capital improvement work are accurate and reasonable, provided that the architect or engineer's basis for such conclusion is fully and credibly supported;

(4) All changes to the original agreed upon scope of work were necessary to the underlying major capital improvement and reasonably priced;

(5) The owner selected the lowest responsible bidder or the bidder best suited to perform the major capital improvement work, provided that the architect or engineer's basis for such conclusion is credibly supported; and

(6) Such other and additional proof as DHCR may require to ascertain the need for the waiver and the certification of such reasonable, necessary, verifiable, and eligible costs.

(b) Certification by owner that it has complied with bid process requirements including submission of:

(1) Tabulation of all bids received; and

(2) Copies of all bids received; and

(3) A certification by each bidder disclosing whether the owner or any board member, general partner, officer or employee of owner, and/or principal or employee of any managing agent retained by owner, has a direct or indirect interest in the bidder or in the compensation to be received by the bidder pursuant to the proposed contract. Failure to accurately and fully complete this certification

may result in the rejection of the bid for purposes of determining owner's application for waiver of the use of the Reasonable Cost Schedule, as well as rejection and a dismissal of the major capital improvement application; and

(4) Detailed description of the items for which owner initially solicited bids.

(c) A certification by the owner's architect or engineer certifying the necessity, appropriateness, and reasonableness of the costs of all changes to the original agreed upon scope of work that were performed in connection with the major capital improvement, along with a description of the changes in the scope, price, or time of completion of the work related to each change order.

(xi) For Emergency Capital Improvement MCI Applications:

The owner must submit a statement from an independent engineer or architect describing the emergency, why the costs were greater than those in the schedule, that the costs were reasonable for the situation, and why the owner could not obtain three bids in a timely manner due to the exigent circumstances.

(xii) Notice:

As part of the MCI application process, any request by an owner for a waiver of application of the Reasonable Cost Schedule shall be made available to the tenants of the subject building(s) with an opportunity to comment on and contest the waiver.

(xiii) Operational Bulletin

The initial Operational Bulletin 2020-1 including all amendments, shall be issued pursuant to this paragraph and Section 2507.11 of this Title. The Operational Bulletin 2020-1 and all amended versions shall be available in hardcopy form at 92-

31 Union Hall Street, Jamaica, Queens, New York, and will be available on DHCR's website at www.hcr.ny.gov.

(3) Improvements or installations for which the DHCR may grant applications for temporary rent increases based upon major capital improvements pursuant to paragraph (1) of this subdivision are described on the following Schedule. Other improvements or installations that are not included may also qualify, where all requirements of Section 2502.4 (b) of this Title have been met.

SCHEDULE OF MAJOR CAPITAL IMPROVEMENTS

1. AIR CONDITIONER - new central system; or individual units set in sleeves in the exterior wall of every housing accommodation; or, air conditioning circuits and outlets in each living room and/or bedroom (SEE REWIRING).

2. ALUMINUM SIDING - installed in a uniform manner on all exposed sides of the building (SEE RESURFACING).

3. BOILER AND/OR BURNER - new unit(s) including electrical work and additional components needed for the installation.

4. BOILER ROOM - new room where none existed before; or enlargement of existing one to accommodate new boiler.

5. CATWALK – complete replacement.

6. CHIMNEY - complete replacement, or new one where none existed before, including additional components needed for the installation.

7. COURTYARD, DRIVEWAYS AND WALKWAYS - resurfacing of entire original area within the property lines of the premises.

8. DOORS - new lobby front entrance and/or vestibule doors; or entrance to every housing accommodation, or fireproof doors for public hallways, basement, boiler room and roof bulkhead.

9. ELEVATOR UPGRADING - including new controllers and selectors; or new electronic dispatch overlay system; or new elevator where none existed before, including additional components needed for the installation.

10. FIRE ESCAPES – complete new replacement including new landings.

11. GAS HEATING UNITS - new individual units with connecting pipes to every housing accommodation.

12. HOT WATER HEATER - new unit for central heating system.

13. INTERCOM SYSTEM - new replacement; or one where none existed before, with automatic door locks and pushbutton speakerboxes and/or telephone communication, including security locks on all entrances to the building.

14. MAILBOXES - new replacements and relocation from outer vestibule to an area behind locked doors to increase security.

15. PARAPET - complete replacement.

16. POINTING AND WATERPROOFING - as necessary on exposed sides of the building.

17. REPIPING - new hot and/or cold water risers, returns, and branches to fixtures in every housing accommodation, including shower bodies, and/or new hot and/or new cold water overhead mains, with all necessary valves in basement.

18. RESURFACING OF EXTERIOR WALLS - consisting of brick or masonry facing on entire area of all exposed sides of the building.

19. REWIRING: - new copper risers and feeders extending from property box in basement to every housing accommodation; must be of sufficient capacity (220 volts) to accommodate the installation of air conditioner circuits in living room and/or bedroom; but otherwise excluding work done to effectuate conversion from master to individual metering of electricity approved by DHCR pursuant to paragraph (3) of subdivision (e) of this section.

20. ROOF - complete replacement or roof cap on existing roof installed after thorough scraping and leveling as necessary.

21. SOLAR HEATING SYSTEM - new central system, including additional components required for the system.

22. STRUCTURAL STEEL - complete new replacement of all beams including footing and foundation.

23. TELEVISION SYSTEM - new security monitoring system including additional components required for the system.

24. WASTE COMPACTOR - new installation(s) serving entire building.

25. WASTE COMPACTOR ROOM - new room where none existed before.

26. WATER SPRINKLER SYSTEM (FOR FIRE CONTROL PURPOSES) - new installation(s).

27. WATER TANK - new installation(s).

28. WINDOWS - new framed windows.

(4) Any temporary increase pursuant to paragraph (1) of this subdivision shall be 1/144 of the total cost for a building with thirty-five or fewer housing accommodations, or 1/150 of the total cost for a building with more than thirty-five housing accommodations, for any determination issued by DHCR after June 14, 2019, and such temporary increase shall be removed from the legal regulated rent thirty (30) years from the date the increase became effective inclusive of any increases granted by the applicable rent guidelines board. For increases pursuant to subparagraphs (1) (iii) and (iv) of this subdivision, in the discretion of the DHCR, an appropriate charge may be imposed in lieu of an amortization charge when an amortization charge is insignificant or inappropriate.

(5)

(i) A temporary major capital improvement increase is fixed to the unit and such increase shall be collectible prospectively on the first day of the first month beginning sixty (60) days from the date of mailing notice of approval to the tenant. Such notice shall disclose the total monthly increase in rent and the first month in which the tenant

would be required to pay the temporary increase. An approval for a temporary major capital improvement increase shall not include retroactive payments.

(ii) The temporary major capital improvement increase is added to the legal regulated rent as a temporary increase and will be removed from the legal regulated rent thirty (30) years from the date the increase became effective inclusive of any increases granted by the local rent guidelines board. The DHCR shall issue a notice to the owner and all the tenants sixty (60) days prior to the end of the temporary major capital improvement increase and shall include the initial approved increase and the total amount to be removed from the legal regulated rent inclusive of any increases granted by the applicable rent guidelines board.

(iii) Such temporary increases shall not be collectible during the term of a lease then in effect, unless a specific provision in the tenant's lease authorizes an increase during its term pursuant to an order issued by the DHCR.

(iv) The collection of such temporary increases shall not exceed two percent in any year from the effective date of the order granting the increase over the rent set forth in the schedule of gross rents, with collectability of any dollar excess above said sum to be spread forward in similar increments and added to the rent as established or set in future years. In no event shall more than one two-percent increase in the legal regulated rent pursuant to paragraph (1) of this subdivision be collected in the same year, provided, however, that upon a vacancy, the owner may temporarily increase the rent to the full temporary major capital improvement increase amount.

(v) In addition, for any rent increases due to any major capital improvements approved on or after June 16, 2012 and before June 16, 2019, an owner may not collect more than two percent in any year from any tenant in occupancy on the date the major capital improvement was approved, provided the tenant has entered into a renewal lease commencing on or after June 14, 2019, or is or was entitled to receive

a renewal lease on or after such date. In such event, the adjusted limit on collectability shall take effect on the first anniversary date on which the increase became collectible to occur after such lease renewal.

(vi) No increase pursuant to paragraph (1) of this subdivision shall be collectible from a tenant to whom there has been issued a currently valid senior citizen or disability rent increase exemption pursuant to local law or ordinance to the extent that such increase may cause the legal regulated rent of the housing accommodation to exceed a specified portion, if any, pursuant to such local law or ordinance, of the aggregate disposable income of all members of the household residing in the housing accommodation.

(6) The determination of the appropriate adjustment of a legal regulated rent shall take into consideration all factors bearing on the equities involved, subject to the general limitation that the adjustment can be put into effect without dislocation and hardship inconsistent with the purposes of the ETPA, and including as a factor a return of the actual, reasonable, and verifiable cost to the owner, limited to the reasonable cost schedule in paragraph (2) of this subdivision and exclusive of interest or other carrying charges, and the increase in the rental value of the housing accommodations.

(7) DHCR may issue, upon an owner application, an advisory prior opinion pursuant to section 2507.11 of this Title, as to whether the proposed work qualifies for an increase in the legal regulated rent.

(8) No increase pursuant to paragraph (1) of this subdivision shall be granted by the DHCR, unless an application is filed no later than two years after the completion of the installation or improvement unless the applicant can demonstrate that the application could not be made within two years due to delay, beyond the applicant's control, in obtaining required governmental approvals for which the applicant has applied within such two-year period.

(9) An increase for an improvement made pursuant to paragraph (1) of this subdivision shall not be granted by the DHCR to the extent that, after a plan for the conversion of a building to cooperative or condominium ownership is declared effective, such improvement is paid for out of the cash reserve fund of the cooperative corporation or condominium association. However, where prior to the issuance of an order granting the increase, the funds taken from the reserve fund are returned to it by the sponsor or holder of unsold shares or units or through a special assessment of all shareholders or unit owners, the increase may be based upon the actual, reasonable and verifiable cost of the improvement. Nothing in this paragraph shall prevent an owner from applying for, and the DHCR from granting, an increase for such improvement to the extent that the cost thereof is otherwise paid for by an owner.

(10) Any temporary major capital improvement increase granted pursuant to paragraph (1) of this subdivision shall be reduced by an amount equal to (i) any governmental grant received by the landlord, where such grant compensates the landlord for any improvements required by a city, state or federal government, an agency or any granting governmental entity to be expended for improvements and (ii) any insurance payment received by the landlord where such insurance payment compensates the landlord for any part of the costs of the improvements. Low interest loans or repayable subsidies shall not be considered grants for the purposes of this paragraph.

(11) Rent adjustments pursuant to paragraph (1) of this subdivision and subdivisions (e) and (f) of this section shall be allocated as follows: The DHCR shall determine the dollar amount of the monthly rent adjustment. Such dollar amount shall be divided by the total number of rooms in the building. The amount so derived shall then be added to the rent chargeable to each housing accommodation in accordance with the number of rooms contained in such housing accommodation.

(12) When determining the adjustment of legal regulated rents pursuant to paragraph (1) of this subdivision, where the subject building contains commercial rental space in addition to

residential rental space, and the DHCR determines that such commercial space benefits from the improvement, DHCR shall allocate the approved costs between the commercial rental space and the residential rental space based upon the relative square feet of each rental area.

(13) The DHCR shall not grant an owner's application for a rental adjustment pursuant to paragraph (1) of this subdivision, in whole or in part, if after review by DHCR, it is determined that the owner is not maintaining all required building wide services, or that there are outstanding hazardous, immediately hazardous, or other similar violations of any municipal, county, State or Federal law. Certain tenant caused violations may be excepted. A tenant's repeated failure to provide access to remediate a violation may result in the violation being considered to be tenant caused.

(i) An owner application, pursuant to paragraph (1) of this subdivision, may be rejected if it is determined that there are one or more unresolved applicable violations. A rejected application may be refiled within sixty (60) days which shall stay the two-year filing requirement provided in paragraph (8) of this subdivision and preserve the original filing date. In the absence of good cause shown, a rejected application that is refiled outside of the sixty (60) day period will not retain the original filing date.

(ii) A timely refiled application pursuant to subparagraph 13(i) of this subdivision, that has not addressed the outstanding violations placed against the building or has had new violations placed against the building in the interim period since rejection, will again be denied without leave to refile within sixty (60) days.

(iii) Prior to the issuance of a determination, the DHCR shall review and determine if one or more violations have been issued and not corrected to the subject building during the processing of an owner application pursuant to paragraph (1) of this subdivision. The owner will be allowed sixty (60) days to correct such violation(s).

In the absence of good cause shown, failure to correct the violation(s) within the allotted time shall result in a denial of the application.

(iv) DHCR shall retain the ability and right where appropriate to review all penalties and violations at any other time during the pendency of such application.

(14) Where an application for a temporary major capital improvement rent increase has been filed, a tenant shall have sixty (60) days from the date of mailing of a notice of a proceeding in which to answer or reply. The DHCR shall provide any responding tenant with the reasons for the DHCR's approval or denial of such application.

(15) Where during the processing of a rent increase application filed pursuant to paragraph (1) of this subdivision, tenants interpose answers complaining of defective operation of the major capital improvement, the complaint may be resolved in the following manner:

(i) Where municipal sign-offs (other than building permits) are required for the approval of the installation, and the tenants' complaints relate to the subject matter of the sign-off, the complaints may be resolved on the basis of the sign-off, and the tenants referred to the approving governmental agency for whatever action such agency may deem appropriate.

(ii) Where municipal sign-offs are not required, or where the alleged defective operation of the major capital improvement does not relate to the subject matter of the sign-off, the complaint may be resolved by the affidavit of an independent licensed architect or engineer that the condition complained of was investigated and found not to have existed, or if found to have existed, was corrected. Such affidavit, which shall be served by the DHCR on the tenants, will raise a rebuttable presumption that the major capital improvement is properly operative. Tenants may only rebut this presumption based on persuasive evidence, for example, a counter affidavit by an independent licensed architect or engineer, or an affirmation by 51 percent of the complaining tenants.

(**a**) General requirements. There must be no common ownership, or other financial interest, between such architect or engineer and the owner or tenants. The affidavit shall state that there is no such relationship or other financial interest. The affidavit must also contain a statement that the architect or engineer did not engage in the performance of any work, other than the investigation, relating to the conditions that are the subject of the affidavit. The affidavit submitted must contain the signature and professional stamp of the architect or engineer. DHCR may conduct follow-up inspections randomly to ensure that the affidavits accurately indicate the condition of the premises. Any person or party who submits a false statement shall be subject to all penalties provided by law.

(iii) At the discretion of the DHCR, the DHCR may inspect the major capital improvement to determine whether the installation was conducted in a workmanlike manner or the work was sufficiently comprehensive so as to benefit all tenants.

(16) The DHCR shall annually inspect and audit no less than twenty-five percent of applications for a temporary major capital improvement increase that have been submitted and approved. Such process shall include individual inspections and document review to ensure that owners complied with all obligations and responsibilities under the law for temporary major capital improvement increases. Inspections shall include in-person confirmation that such improvements have been completed in such way as described in the application.

(c) Individual Apartment Improvements

(1) Increase in space and services, new equipment, new furniture or furnishings; and other adjustments.

(2) An owner is entitled to a rent increase where there has been a reasonable and verifiable modification, other than an increase for which an adjustment may be claimed pursuant to subdivision (b) of this section, of dwelling space, or installation of new equipment or improvements, or new furniture or furnishings, provided in or to the tenant's housing accommodation, where the tenant has agreed to such modification or increase and the owner has obtained written informed consent to such rent increase. In the case of vacant housing accommodations, tenant consent shall not be required.

(i) For all work that commenced on or after June 14, 2019, notification of all modifications must be submitted to the division for verification. As part of such verification, an owner shall:

(a) Provide a copy of the written informed tenant consent on an approved division form, when tenant consent is required.

(b) Provide the division with an itemized list of work performed, including a description and/or explanation of the reason or purpose for such work.

(c) Provide the division with photographs of the subject apartment where the work is to be completed, taken prior to such modification or increase as well as photographs taken after, and showing that the work has been completed. Such photographs must be kept as part of the owner's permanent records such that the owner must at any future time produce such photographs upon request by an agency with appropriate jurisdiction.

(d) Use a licensed contractor to complete such work, where using a licensed contractor is required by an appropriate New York State or local government agency or rule. The costs for an individual apartment improvement paid to a person or organization conducted to do the

improvement or installation work sharing a common ownership with the owner or managing agent of the subject building or apartment will be disallowed.

(e) Resolve, within the dwelling space, all outstanding hazardous and immediately hazardous violations. In no event shall an owner be permitted to begin collection of any rent increase pursuant to this subdivision while there are any hazardous or immediately hazardous violations of the Uniform Fire Prevention and Building Code (Uniform Code), local Fire Code, or local Building and Housing Maintenance Codes, pending against the affected housing accommodation.

(ii) For work commenced on or after June 14, 2019, the recoverable costs incurred by the owner pursuant to this subdivision shall be limited to a total aggregate cost of fifteen thousand dollars ($15,000) that may be expended on no more than three (3) separate individual apartment improvements in any fifteen (15) year period.

(iii) An owner who is entitled to a rent increase pursuant to this subdivision shall not be entitled to a further rent increase based upon the installation of similar equipment, or new furniture or furnishings within the useful life of such new equipment, or new furniture or furnishings.

(iv) Any increases to the legal regulated rent pursuant to this subdivision shall be temporary and shall be removed from the legal regulated rent thirty (30) years from the date the increase became effective inclusive of any increases granted by the applicable Rent Guidelines Board that had been calculated based upon such rent increase.

(v) For individual apartment improvements pursuant to this subdivision , the division shall maintain an itemized list of work performed and a description or explanation of the reason or purpose of such work, inclusive of photographic evidence documenting the condition

prior to and after the completion of the performed work. Such documentation and any other supporting documentation shall be submitted to the division by the owner within 90 days of the completion of the work, retained in a centralized electronic retention system and made available in cases pertaining to the adjustment of legal regulated rents.

(vi) Where an owner seeks a temporary individual apartment improvement rent increase pursuant to this subdivision while the unit is occupied, the division shall provide a form for use by the owner, to obtain written informed consent from the tenant that shall include the estimated total cost of the improvement and the estimated monthly rent increase. Such form shall be completed and submitted to the division by the owner within 90 days of the completion of the work and preserved in a centralized electronic retention system. Nothing herein shall relieve an owner, lessor, or agent thereof of his or her duty to retain proper documentation of all improvements performed or any rent increases resulting from said improvements.

(vii) For rent increases pursuant to this subdivision that took effect prior to June 14, 2019, the increase in the monthly legal regulated rent for the affected housing accommodations when authorized pursuant to this paragraph shall for buildings and complexes containing 35 or fewer housing accommodations be $^{1}/_{40th}$ of the total cost, including installation but excluding finance charges; and for buildings and complexes containing more than 35 housing accommodations be $^{1}/_{60th}$ of the total cost, including installation but excluding finance charges.

(viii) For temporary rent increases pursuant to this subdivision effective as of or after June 14, 2019, the temporary increase in the monthly legal regulated rent for the affected housing accommodations when authorized pursuant to this paragraph shall for buildings and complexes containing 35 or fewer housing accommodations be $^{1}/_{168th}$ of the total cost, including the cost of installation but excluding finance charges; and for buildings and

complexes containing more than 35 housing accommodations be $^{1}/_{180th}$ of the total cost, including the cost of installation but excluding finance charges.

(d) An owner may file an application to decrease essential services for a reduction of the legal regulated rent, or to modify or substitute essential services at no change in the legal regulated rent, on forms prescribed by the division on the grounds that:

(1) the owner and tenant by mutual voluntary written agreement, consent to a decrease in dwelling space, or a decrease in the services, furniture, furnishings or equipment, or to a modification or substitution of the essential services provided in the housing accommodation; or

(2) such decrease, modification or substitution is required for the operation of the building in accordance with specific requirements of law; or

(3) such decrease, modification or substitution results from an approved conversion from master metering of electricity, with the cost of electricity included in the rent, to individual metering of electricity, with the tenant paying separately for electricity, and is in amounts set forth in a Schedule of Rent Reductions for different-sized rent stabilized housing accommodations included in Operational Bulletin 2014-1 governing electrical conversions issued pursuant to this paragraph and section 2507.11 of this Title by DHCR, 92-31 Union Hall Street, Jamaica, Queens, New York, and available at DHCR's website at www.hcr.ny.gov and determined as follows:

(i) Direct Metering. Where the conversion is to direct metering of electricity, with the tenant purchasing electricity directly from a utility, such Schedule of Rent Reductions is based on the median monthly cost of electricity to tenants derived from data from the United States Census Bureau's "New York City Housing and Vacancy Survey," as tabulated by the New York City Rent Guidelines Board, 1 Centre Street, Suite 2210, New York, New York, and available on its website at rentguidelinesboard.cityofnewyork.us , and as further adjusted where appropriate to reflect differences in electric rates outside New York City. The charge for electricity is not part of the legal regulated rent and is not

subject to this Subchapter. The resolution of any dispute arising from the billing or collection of such charge is not within the jurisdiction of the Division. A conversion to direct metering is required to include rewiring the building unless the owner can establish that rewiring is unnecessary.

(ii) Submetering: Where the conversion is to submetering of electricity, with the tenant purchasing electricity from the owner or a contractor retained by the owner, who purchases electricity from a utility at the bulk rate, such Schedule of Rent Reductions is based on the median monthly cost of electricity to tenants derived from data from the United States Census Bureau's "New York City Housing and Vacancy Survey," as tabulated by the New York City Rent Guidelines Board, 1 Centre Street, Suite 2210 , Suite 202, New York, New York, and available on its website at rentguidelinesboard.cityofnewyork.us , adjusted to reflect the bulk rate for electricity plus a reasonable service fee for the cost of meter reading and billing, based on the maximum estimated fee included in the "Residential Electric Submetering Manual" revised October 2001, published by the New York State Energy Research and Development Authority, 17 Columbia Circle, Albany, New York, and available on its website at www.nyserda.org, and further adjusted where appropriate to reflect differences in electric rates outside New York City, and reflected in Operational Bulletin 2014-1. The owner or contractor retained by the owner is not permitted to charge the tenant more than the bulk rate for electricity plus a reasonable service charge for the cost of meter reading and billing. The charge for electricity as well as any related service surcharge is not part of the legal regulated rent and is not subject to this Subchapter. The resolution of any dispute arising from the billing or collection of such charge or surcharge is not within the jurisdiction of the Division. A conversion to submetering does not require rewiring the building provided the owner submits an affidavit sworn to by a licensed electrician that the existing wiring is safe and of sufficient capacity for the building.

(iii) Recipients of Senior Citizen Rent Increase Exemptions (SCRIE) or Disability Rent Increase Exemptions (DRIE): For a tenant who on the date of the conversion is receiving a SCRIE or DRIE authorized by local law, the rent is not reduced and the cost of electricity remains included in the rent, although the owner is permitted to install any equipment in

such tenant's housing accommodation as is required for effectuation of electrical conversion pursuant to this paragraph.

(a) After the conversion, upon the vacancy of the tenant, the owner, without making application to the division, is required to reduce the legal regulated rent for the housing accommodation in accordance with the Schedule of Rent Reductions set forth in Operational Bulletin 2014-1, and thereafter any subsequent tenant is responsible for the cost of their consumption of electricity, and for the legal rent as reduced, including any applicable major capital improvement rent increase based upon the cost of work done to effectuate the electrical conversion.

(b) After the conversion, if a tenant ceases to receive a SCRIE or DRIE, the owner, without making application to the division, may reduce the rent in accordance with the Schedule of Rent Reductions set forth in Operational Bulletin 2014-1, and thereafter the tenant is responsible for the cost of their electricity, and for the legal rent as reduced, including any applicable major capital improvement rent increase based upon the cost of work done to effectuate the electrical conversion, for as long as the tenant is not receiving a SCRIE or DRIE. Thereafter, in the event that the tenant resumes receiving a SCRIE or DRIE, the owner, without making application to the division, is required to eliminate the rent reduction and resume responsibility for the tenant's electric bills.

(iv) Every three years, upon the publication of a new New York City Housing and Vacancy Survey, and tabulation of the survey data by the New York City Rent Guidelines Board, DHCR shall issue a new Operational Bulletin governing electrical conversions setting forth rent reductions based on the new survey data, and shall move to amend the regulations to incorporate by reference the new Operational Bulletin, the new New York City Housing and Vacancy Survey, and Rent Guidelines Board tabulation. At such time as NYSERDA issues a new Residential Electric Submetering Manual setting forth a new maximum estimated submetering service fee, DHCR shall move to amend the regulations to incorporate that document by reference.

(4) such decrease, modification or substitution is not inconsistent with the act or this Subchapter.

No such reduction in rent or decrease in services, or modification or substitution of essential services shall take place prior to the approval of the owner's application by the division, except that a service decrease, modification, or substitution pursuant to paragraphs (1) and (2) of this subdivision may take place prior to such approval.

(e) Comparative hardship. The division may grant an appropriate adjustment of the legal regulated rent where the landlord, by application for increases in rents in excess of the rent adjustment authorized by the Rent Guidelines Board under the act and as provided for in section 2502.5 of this Part, establishes a hardship, and the division finds that the rate of such rent adjustment is not sufficient to enable the owner to maintain approximately the same ratio between operating expenses (including taxes and labor costs, but excluding debt service, financing costs and management fees) and gross rents which prevailed on the average over the immediate preceding five-year period, or for the entire life of the building if less than five years. No application may be made under this subdivision for an increase if a six-percent rent increase is still in effect based on an application pursuant to this subdivision or pursuant to subdivision (f) of this section.

(f) Alternative hardship. As an alternative to the hardship application provided under subdivision (e) this section, owners of buildings acquired by the same owner or a related entity owned by the same principals three years prior to the date of application may apply to the division, on forms prescribed by the division, for increases in excess of the level of applicable guideline increases established under the act, based on a finding by the division that such guideline increases are not sufficient to enable the owner to maintain an annual gross rent income collectible for such building which exceeds the annual operating expenses of such building by a sum equal to at least five percent of such annual gross rent income collectible, subject to the definitions and restrictions provided for herein.

(1) Definitions. For this subdivision, the following terms shall mean:

(i) Annual gross rent income collectible shall be the actual income receivable per annum arising out of the operation and ownership of the property, including but not limited to

rental from housing accommodations, stores, professional or business use, garages, parking spaces, and income from easements or air rights, washing machines, vending machines and signs, plus the rent calculated under subparagraph (2)(iii) of this subdivision. In ascertaining income receivable, the division shall determine what efforts, if any, the owner has followed in collecting unpaid rent.

(ii) Operating expenses shall consist of the actual, reasonable costs of fuel, labor, utilities, taxes (other than income or corporate franchise taxes), fees (including attorney's fees for services rendered during the test year not related to refinancing of mortgage), permits, necessary contracted services and repairs for which an owner is not eligible for an increase pursuant to this section, insurance, parts and supplies, reasonable management fees, mortgage interest, and other reasonable and necessary administrative costs applicable to the operation and maintenance of the property.

(iii) Mortgage interest shall be deemed to mean interest on that portion of the principal of an institutional or a bona fide mortgage, including an allocable portion of the charges related thereto. Criteria to be considered in determining a bona fide mortgage other than an institutional mortgage shall include, but not be limited to, the following: the condition of the property, the location of the property, the existing mortgage market at the time the mortgage is placed, the principal amount of the mortgage, the term of the mortgage, the amortization rate, security and other terms and conditions of the mortgage.

(iv) Institutional mortgage shall include a mortgage given to any insurance company, licensed by the State of New York or authorized to do business in the State of New York, or any commercial bank, trust company, bank and trust company, savings bank or savings and loan association (which must be licensed under the laws of any jurisdiction within the United States and authorized to do business in the State of New York), pension funds, credit unions, insurance companies and governmental entities. The division may determine that any other mortgage is an institutional mortgage in its discretion.

(v) Owner's equity shall mean the sum of:

(a) the purchase price of the property, less the principal of any mortgage or loan used to finance the purchase of the property;

(b) the cost of any capital improvement for which the owner has not collected an increase in rent, less the principal of any mortgage or loan used to finance said improvement;

(c) any repayment of the principal of any mortgage or loan used to finance the purchase of the property, or any capital improvement for which the owner has not collected an increase in rent; and

(d) any increase in the equalized assessed value of the property which occurred subsequent to the first valuation of the property after purchase by the owner.

(vi) Threshold income shall mean that income for such building which exceeds the annual operating expense for such building by a sum equal to five percent of such threshold income.

(vii) Test year shall mean any one of the following:

(a) the most recent calendar year (January 1st to December 31st);

(b) the most recent fiscal year (one year ending on the last day of a month other than December 31st), provided that books of account are maintained and closed accordingly; or

(c) any 12 consecutive months ending within 90 days prior to the date of filing of the hardship application. Such period must end on the last day of a month. Nothing herein shall prevent the division from comparing and adjusting expenses and income during the test year with expenses and income occurring during the three years prior to the date of application, in order to determine the reasonableness of such expenses and income.

(2) Restrictions. (i) No owner may file an application, nor may the division grant such owner an increase in excess of the level of applicable guideline increases, unless:

(a) the annual gross rent income collectible for the test year does not exceed the annual operating expenses of such building by a sum equal to at least five percent of such annual gross rental income collectible; and

(b) the owner or an entity related to the owner acquired the building at least 36 months prior to the date of application; and

(c) the owner's equity in the building exceeds five percent of the sum of:

(1) the arm's-length purchase price of the property; and

(2) the cost of any capital improvements for which the owner has not collected an increase in rent pursuant to subdivision (a), (b), & (c) of this section; and

(3) any repayment of principal of any mortgage or loan used to finance the purchase of the property or any capital improvements for which the owner has not collected an increase in rent pursuant to subdivision (a), (b), & (c) of this section; and

(4) any increase in the equalized assessed value of the property which occurred subsequent to the first valuation of the property after purchase by the owner; and

(d) the building was last granted a hardship increase more than 36 months prior to the date of application, provided that no application may be made for any hardship if a six-percent increase is still in effect based on a prior application; and

(e) the owner has resolved all legal objections to any real estate taxes and water and sewer charges for the test year.

(ii) The division may, in its discretion, deny an owner an increase as provided, in whole or in part, if the owner is not maintaining all essential services as required by law, or there are violations of record of any municipal, county, State or Federal law to his knowledge which relates to the maintenance of such services. Any increase granted herein may be conditioned or revoked upon the owner's failure to continue to maintain such services during the period for which the increase is granted, provided that where the division determines that insufficient income is the cause of such failure to maintain

essential services, hardship increases may be granted conditionally, provided that such services will be restored within a reasonable time as determined by the division.

(iii) The maximum amount of hardship increase to which an owner shall be entitled shall be the difference between the threshold income and the annual gross rent income collectible for the test year. In buildings that also contain apartments subject to the Emergency Housing Rent Control Law, appropriate adjustments for both income and expenses will be made by the division in order to calculate the pro rata rate share for those apartments subject to this application. However, notwithstanding the above, the collection of any increase in the rent for any housing accommodation pursuant to this section shall not exceed six percent of the legal regulated rent in effect at the time immediately prior to the issuance of the order. The collectability of any amount above said sum shall be spread forward in similar increments and added to the rent as established or set in future years. No application may be made for any hardship if a six-percent increase is still in effect based on a prior application.

(iv) The division shall set a rental value for any unit occupied by the owner or managing agent, or a person related to the owner or managing agent, or an employee of the owner or managing agent, or unoccupied at the owner's choice for more than one month at the last regulated rent plus the minimum number of guideline increases; or, if no such regulated rent existed or is known, the division shall impute a rent equal to the average of rents for similar or comparable apartments subject to these regulations in the building during the test year.

(v) Each owner who files an application for a hardship rent increase shall be required to maintain all records as submitted with the subject application, and further be required to retain same for a period of three years after the effective date of the order.

(vi) Each application under this section shall be certified by the owner or his duly authorized agent as to its accuracy and compliance with this section, under the penalty of perjury.

9 NYCRR § 2502.5(d) is amended and paragraphs (d)(6), (d)(7)(ii), and (d)(8) are repealed and paragraph (d)(7) is renumbered (d)(6) and paragraph (d)(9) renumbered (d)(7) as follows:

d) Limitations. The legal regulated rent established in a lease may only be adjusted as follows:

(1)

[(i)] For renewal leases, the legal regulated rent immediately prior to the effective date of the lease may be increased by the appropriate rate of rent adjustment as last filed with the division by the Rent Guidelines Board for the county wherein the housing accommodation is located and if the said rate has not been filed by the commencement date of the lease term, the lease may make provision for the rent increase, if any, pursuant to the said rate to become effective when filed as of the commencement date of the lease term, unless the County Rent Guidelines Board shall have fixed a later effective date for the said rate, in which event the increase may only be effective as of that later date;

[(ii) for vacancy leases, in addition to the increases permitted pursuant to section 2502.7 of this Part, if an applicable Rent Guidelines Board Order has not been issued by the execution date of the vacancy lease, and such order provides for a vacancy allowance, the lease may make provision for the rent increase pursuant to such vacancy allowance when filed, to become effective as of the commencement date of the lease term, unless the County Rent Guidelines Board shall have fixed a later effective date for the said allowance, in which event the adjustment may only be effective as of that later date;]

(2) Where a renewal lease is entered into after the local effective date, but before the effective date of the first applicable guidelines as provided in section 4, subdivision b of the act, the lease may provide for an adjustment of rent pursuant to such guidelines, to be effective on the first day of the month next succeeding the effective date of such guidelines.

(3) Pursuant to an order of the division, where the vacancy lease recites that:

(i) an application for a rent increase pursuant to section 2502.4(a)(2)(i) or (b)[(ii)] of this Part is pending before the division;

(ii) a rent increase shall be payable in the amount authorized by the division in the event an application is filed pursuant to section 2502.4(a)(2)(i) of this Part, based upon work having been completed to comply with new or additional requirements of law;

(iii) a rent increase shall be payable in the amount, if any, authorized by the division in the event an application is filed to establish a hardship pursuant to section 2502.4(e) of this Part.

([7]6) Same terms and conditions.

[(i)] The lease provided to the tenant by the owner pursuant to both paragraphs (1) and (2) of this subdivision shall be on the same terms and conditions as the last lease prior to the local effective date, except where the owner can demonstrate that a change is required or authorized by a law applicable to the building or to leases for housing accommodations subject to the act, or with the approval of the DHCR. Where there was no prior lease for the housing accommodations, the lease shall be on the same terms and conditions as the last leases for the other housing accommodations in the building subject to the act, and shall otherwise provide for the maintenance by the owner of all services and facilities required by the laws applicable to the building and housing accommodations. Notwithstanding the foregoing, the tenant shall have the right to have their spouse or domestic partner added to the lease or any renewal thereof as an additional tenant where said spouse or domestic partner resides in the housing accommodation as their primary residence.

9 NYCRR § 2502.6 is amended as follows:

(a)

(1) Where the legal regulated rent or any fact necessary to the determination of the legal regulated rent, or the dwelling space, essential services, or equipment required to be provided with the accommodation, is in dispute between the owner and the tenant, or is in doubt, or is not known, the division at any time upon written request of either party, or on its own initiative, may issue an order in accordance with section

2506.1 or section 2506.8, as applicable, of this Title, and other applicable provisions of this Subchapter, determining the facts, including the legal regulated rent, the propriety of any amended registration statements, the dwelling space, essential services and equipment required to be provided with the housing accommodations. Such order shall determine such facts or establish the legal regulated rent in accordance with the provisions of [this Subchapter] this Title. Where such order establishes the legal regulated rent, it [may] shall contain a directive that all rent collected by the landlord in excess of the legal regulated rent [established under this section for a period commencing with the local effective act or the date of the commencement of the tenancy, if later,] shall be refunded to the tenant, [in cash or as a credit to the rent thereafter payable, and upon the failure to comply with the directive, that the order may be enforced in the same manner as prescribed in section 2506.1(e) of this Title] or any prior tenant, pursuant to the procedures and requirements set forth by section 2506.1 or section 2506.8 of this Title. Orders issued pursuant to this section shall be based upon the law and the ETPA provisions in effect on March 31, 1984, if the complaint was filed prior to April 1, 1984. Where either (i) [the rent charged on the base date cannot be determined] no base date, as defined in section 2506.8 of this Title, can be determined, and the rent charged on June 14, 2015 cannot be determined, or (ii) a full rental history from the base date is not provided, or (iii) the base date rent is the product of a fraudulent scheme to deregulate the apartment, or (iv) a rental practice proscribed under section 2505.3(b) or (c) has been committed, the rent shall be established at the lowest of the following amounts set forth in paragraph (2), in section 2506.1 of this Title, or in section 2506.8 of this Title.

(2) These amounts are:

(i) the lowest rent registered pursuant to section 2509.2 of this Title for a comparable apartment in the building in effect on the date the complaining tenant first occupied the apartment; or

(ii) the complaining tenant's initial rent reduced by the percentage adjustment authorized by section 2502.5 of this Title; or

(iii) the last registered rent paid by the prior tenant [(if within the fouryear period of review)]; or

(iv) if the documentation set forth in [(a)] (i) through [(c)] (iii) of this paragraph [subdivision] is not available or is inappropriate, an amount based on data compiled by the division, using sampling methods determined by the division, for regulated housing accommodations.

(3) This subdivision shall also apply where the owner purchases the housing accommodations subsequent to judicial or other sales.

(b) However, in the absence of collusion or any relationship between an owner and any prior owner, where such owner purchases the housing accommodations upon a judicial sale, or such other sale effected in connection with, or to resolve, in whole or in part, a bankruptcy proceeding, mortgage foreclosure action or other judicial proceeding, and no records sufficient to establish the legal regulated rent were made available to such purchaser, such orders shall establish the legal regulated rent on the date of the inception of the complaining tenant's tenancy, or the date six [four] years prior to the date of the filing of an overcharge complaint pursuant to section 25[20]06.1 of this Title, whichever is most recent, based on either:

(1) documented rents for comparable housing accommodations, whether or not subject to regulation pursuant to this Subchapter, submitted by the owner, subject to rebuttal by the tenant; or

(2) if the documentation set forth in paragraph (1) of this subdivision is not available or is inappropriate, data compiled by the division for comparable housing accommodations; or

(3) in the event that the information described in paragraph (1) or (2) of this subdivision is not available, the complaining tenant's rent reduced by the most recent guidelines adjustment. This subdivision shall also apply where the owner purchases the housing accommodations subsequent to such judicial or other sale. [Notwithstanding the foregoing, this subdivision shall not be deemed to impose any greater burden upon owners with regard to record keeping than is provided pursuant to section 12(f)(8) of the act.] In addition, where the amount of rent set forth in the rent registration statement filed six [four] years prior to the date the most recent registration statement was required to have been filed pursuant to Part 2509 of this Title is not

challenged within six [four] years of its filing, neither such rent nor service of any registration shall be subject to challenge any time thereafter.

9 NYCRR § 2502.7 is repealed and replaced with a new 9 NYCRR § 2502.7 as follows:

(a) The legal regulated rent for any vacancy lease effective on or after June 14, 2019 shall be as hereinafter provided in this subdivision. The previous legal regulated rent for such housing accommodation shall be increased by the following:

(1) if the vacancy lease is for a term of one year, the one-year guideline increase, as promulgated by the applicable Rent Guidelines Board, can be applied to the previous legal regulated rent; or

(2) if the vacancy lease is for a term of two years, the two-year renewal guideline increase, as promulgated by the applicable Rent Guidelines Board, can be applied to the previous legal regulated rent.

(3) The increase authorized in this paragraph may not be implemented more than one time in any calendar year, notwithstanding the number of vacancy leases or lease assignments entered into in such year.

(b) Any rent increases lawfully implemented in accordance with this Title prior to June 14, 2019 shall remain in effect.

9 NYCRR § 2502.8 (b)(3) is amended as follows:

(b)

(3) Where there is in effect a prior practice of charging for installation of a tenant-owned washing machine, dryer or dishwasher, the owner may continue the charge.[, which may also continue to be included in the legal regulated rent, if such was the prior practice.]

9 NYCRR § 2503.1 is amended as follows:

Every landlord of housing accommodations subject to this Subchapter, which are rented to a tenant on the local effective date, shall within 30 days after the local effective date give notice in writing by certified

mail to the tenant of each such housing accommodation on a form provided by the division for that purpose, reciting the initial legal regulated rent for the housing accommodation and the tenant's right to file an application for adjustment of the initial legal regulated rent within 90 days after receipt of the notice. [Notwithstanding the foregoing, nothing in this section shall require an owner to serve the above notice after four years from the date of the commencement of the initial stabilized tenancy or maintain or produce any records relating to rentals of such accommodations for more than four years prior to the date the most recent registration was required to have been filed pursuant to Part 2509 of this Title.] Compliance with section 2509.1 of this Title shall also be considered compliance with this section.

9 NYCRR § 2503.4 (a)(2) and (f)(1) are amended as follows:

(a)

(2) Where an application for a temporary rent adjustment pursuant to a major capital improvement as set forth in section 2502.4[(a)(2)](b) of this Title has been granted, and collection of such rent adjustment commenced prior to the [issuance] effective date of the rent reduction order, the owner will not be permitted to continue to collect the rent adjustment while the rent reduction order is in effect. [regardless of the effective date of the rent reduction order, notwithstanding that such date is prior to the effective date of the order granting the adjustment. However, an owner will not be permitted to collect any increment pursuant to section 2502.4(3)(iv) or section 2502.4(3)(v) that was otherwise scheduled to go into effect after the effective date of the rent reduction order.]

(f)

(1) Except as to complaints of inadequate heat and/or hot water, or applications relating to the restoration of rents based upon the restoration of such services, whenever a complaint of building-wide reduction in services, or an owner's application relating to the restoration of rents based upon the restoration of such services is filed, the tenants or owner may submit with the complaint, answer or application, the contemporaneous affidavit of an independent licensed architect or engineer, substantiating the allegations of the complaint, answer, or application. The affidavit shall state that the conditions that are the subject of the complaint, answer or application were investigated by the person signing the affidavit and that the

conditions exist [(if the affidavit is offered by the tenants)] or do not exist [(if the affidavit is offered by the owner)]. The affidavit shall specify what conditions were investigated and what the findings were with respect to each condition. The affidavit shall state when the investigation was conducted, must be submitted within a reasonable time after the completion of the investigation, and when served by the division on the opposing party, will raise a rebuttable presumption that the conditions that are the subject of the complaint, answer or application exist [(if the affidavit is submitted by the tenants)], or do not exist [(if the affidavit is submitted by the owner)].

9 NYCRR § 2503.5(d)(1) is amended and (f) is repealed as follows:

(d)

(1) Unless otherwise prohibited by occupancy restrictions based upon income limitations pursuant to federal, state or local law, regulations or other requirements of governmental agencies, if an offer is made to the tenant pursuant to the provisions of subdivision (a) of this section, and such tenant has permanently vacated the housing accommodation, any member of such tenant's family, as defined in section 2500.2(n) of this Title, who has resided with the tenant in the housing accommodation as a primary residence for a period of no less than two years, or where such person is a "senior citizen," or a "disabled person" as defined in paragraph (4) of this subdivision, for a period of no less than one year, immediately prior to the permanent vacating of the housing accommodation by the tenant, or from the inception of the tenancy or commencement of the relationship, if for less than such periods, shall be entitled to be named as a tenant on the renewal lease. A tenant shall be considered to have permanently vacated the subject housing accommodation when the tenant has permanently ceased residing in the housing accommodation. The continued payment of rent by the tenant or the signing of renewal leases shall not preclude a claim by a family member as defined in section 2500.2(n) of this Title in seeking tenancy.

9 NYCRR § 2503.7(a) and (b)(2) are amended as follows:

(a) [Any owner shall maintain records relating to rents of housing accommodations for four years prior to the date the most recent registration for such accommodation was required to have been filed. An owner shall not be required to produce any records in connection with proceedings under sections 2502.3(a) and 2506.1 of this Title relating to a period that is prior to the base date. Notwithstanding the above, such owner shall continue to maintain such records for all housing accommodations for which a complaint of overcharge or a fair market rent appeal has been filed by a tenant until a final order of the division is issued.] Except where a specific provision of this code requires the maintenance of rent records for a longer period, including records of the useful life of improvements made to any housing accommodation or any building, any owner who has duly registered a housing accommodation pursuant to these regulations shall not be required to maintain or produce any records relating to rentals of such accommodation more than six years prior to the most recent registration or annual statement for such accommodation. However, any owner's election not to maintain records shall not limit the authority of the Division of Housing and Community Renewal and the courts to conduct a full examination of all available records in order to determine legal regulated rents pursuant to this subdivision.

(b)

(2) Court-appointed receivers. A receiver who is appointed by a court of competent jurisdiction to receive rent for the use or occupation of a housing accommodation shall not, in the absence of collusion or any relationship between such receiver and any owner or other receiver, be required to provide records for the period prior to such appointment, except where records sufficient to establish the legal regulated rent are available to such receiver. This subdivision shall not be construed to waive the purchaser's or receiver's obligation to register pursuant to Part 2509 of this Title.

9 NYCRR §2503.8 is added to read as follows:

(a) Within 30 days after a change in ownership, the new owner shall notify the DHCR of such change on a form prescribed by the DHCR. Such form shall be signed by the new owner, listing

the address of the building or complex, the name, address and telephone number of the new owner, and the date of the transfer of ownership.

(b) Within thirty (30) days after a change in the address of the managing agent, such managing agent, or, if there is no managing agent, the owner of a building or group of buildings or development shall give written notice to the DHCR and to all tenants of the new address.

9 NYCRR § 2504.3 subdivision (d) and (d)(1) are amended as follows:

(d) All notices served pursuant to an application for demolition as set forth in subdivision (f) of section 2504.4 of this Part shall state:

(1) that the owner will not renew the tenant's lease because the owner has filed an application pursuant to section 2504.4(f) for permission to recover possession of all of the housing accommodations in the building for the purpose of demolishing them, for which plans and financing have been obtained[, or are in the process of being obtained,] as stated in the application;

9 NYCRR § 2504.4(a)(1), (a)(2), (a)(3), (d), (e), (f)(1), (f)(2)(i), (f)(2)(ii)(c), (f)(2)(v), (f)(2)(v) and (f)(2)(vi) are amended and (f)(2)(vii) is added as follows:

(a) Occupancy by owner or immediate family.

(1) An owner, who is a natural person [, seeks in good faith] and demonstrates an immediate and compelling need to recover possession of a housing accommodation for [his] their own personal use and occupancy of their residence or for the personal use and occupancy of [his] their immediate family as a primary residence.

(2) The provisions of this subdivision shall not apply where a member of the household is 62 years of age or older, or has been a tenant in a housing accommodation in that building for[20] 15 years or more, or has an impairment which results from anatomical, physiological or psychological conditions, other than addiction to alcohol, gambling, or any controlled substance, which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques, and which are expected to be permanent and which prevent such person from engaging in any substantial gainful employment.

(3) The provisions of this subdivision shall only permit one of the individual owners of any building to recover possession of [not more than two] only one dwelling unit[s] for personal use and occupancy [, provided that if an owner, or a member of his immediate family, already occupies two or more apartments in the building, he may only obtain another apartment if he offers the tenant a suitable apartment in the building at the same or lower rent and pays for the tenant's relocation].

(d) Primary residence. The housing accommodation is not occupied by the tenant, not including subtenants or occupants, as his or her primary residence, as determined by a court of competent jurisdiction. A tenant who is a victim of domestic violence, as defined in section four hundred fifty-nine-a of the Social Services Law, who has left the unit because of such violence, and who asserts an intent to return to the housing accommodation shall be deemed to be occupying the unit as his or her primary residence. In addition, a tenant who has left the housing accommodation and is paying a nominal rent pursuant to Part 2500.9 (e)(7) of this Title shall be deemed to be occupying the unit as his or her primary residence. For the purposes of this Section, where a housing accommodation is rented to a not-for-profit for providing, as of and after the effective date of the chapter of the laws of two thousand nineteen that amended this Section, permanent housing to individuals who are or were homeless or at risk of homelessness, affiliated individuals authorized to use such accommodations by such not-for-profit shall be deemed to be tenants.

(e) Election not to renew. Once an application is filed under this section, with notification to all affected tenants pursuant to section 2504.3 of this Part, the owner may refuse to renew all tenants' leases until a determination of the owner's application is made by the division. For the purposes of subdivisions (b), (c) and (f) of this section, service of the application at any time shall be considered sufficient compliance with section 2504.3 of this part provided that no order may be issued less than 90 days from the date the last affected tenant’s lease has expired. If such application is denied, or withdrawn, prospective renewal leases must be offered to all affected tenants within such time and at such guidelines rates as directed in the division's order of denial or withdrawal.

(f) Demolition.

(1) The owner seeks in good faith to demolish the building. [Until] As part of the application, the owner [has] shall submit[ted] proof of its financial ability to complete such undertaking to the division, and that the plans for the undertaking have been approved by the appropriate governmental agency[,]. [an order approving such application shall not be issued.] Demolition shall mean the removal of the entire building including the foundation.

(2) Terms and conditions upon which orders issued pursuant to this paragraph authorizing refusal to offer renewal leases may be based:

(i) The division shall require an owner to pay all reasonable moving expenses and a stipend pursuant to clause (c) of subparagraph (ii) of this paragraph . It shall afford the tenant a reasonable period of time within which to vacate the housing accommodation. If the tenant vacates the housing accommodation on or before the date provided in the division's final order, such tenant shall be entitled to receive moving expenses and all stipend benefits pursuant to subparagraph (ii) of this paragraph. In addition, if the tenant vacates the housing accommodation prior to the required vacate date, the owner may also pay a stipend to the tenant that is larger than the stipend designated in [a Demolition Stipend Chart to be issued pursuant to an Operational Bulletin authorized by section 2507.11 of this Title.] clause (c) of subparagraph (ii) of this paragraph. However, at no time shall an owner be required to pay a stipend in excess of [the stipend set forth in such schedule.] this amount. If the tenant does not vacate the housing accommodation on or before the required vacate date, the stipend shall be reduced by one-sixth of the total stipend for each month the tenant remains in occupancy after such vacate date except if the eviction is stayed by the commencement of judicial review of DHCR’s order including any appeals.

(c) In addition to the tenant’s moving expenses, pay the tenant a stipend which shall be the difference between the tenant's current rent and [an amount calculated using the Demolition Stipend Chart, at a set sum per room per month multiplied by the actual number of rooms in the tenant's current housing accommodation, but no less than three rooms.] the average rent for vacant non-regulated apartments as set

forth in the New York City Housing and Vacancy Survey as of the date of the determination, or such other data that may be made available to the division. This difference is to be multiplied by seventy-two months. This stipend shall be increased each year by a guideline beginning the first year after the vacancy survey is issued and continuing until a new vacancy survey is issued.

(v) Where the administrator's or commissioner's order [of the division] granting the owner's application is conditioned upon the owner's compliance with specified terms and conditions, if such terms and conditions have not been complied with, or if the division determines that the owner has not proceeded in good faith, the order may be modified or revoked.

(vi) Noncompliance by the owner with any term or condition of the administrator's or commissioner's order granting the owner's application [shall be brought to the attention of the division's ETPA Bureau for appropriate action] may result in the division initiating its own enforcement proceeding. The division shall retain jurisdiction for this purpose until all [moving expenses, stipends, and relocation requirements have been met] of the terms and conditions in the administrator's or commissioner's order granting the owner's application have been met and the project described in the owner's application has been completed. Subsequent owners shall be bound by the terms and conditions of the division's order. This subparagraph shall not be deemed to eliminate any remedy or claim that a tenant of the dwelling unit may otherwise have against the owner nor eliminate any independent authority that the division may be able to exercise by law or regulation.

(vii) An owner's failure to comply within a reasonable amount of time with any term or condition of the administrator's or commissioner's order granting the owner's application or an owner's failure to complete the project described in the owner's application may be found to be a violation of the ETPA and these regulations and subject the owner to any of the penalties and remedies described therein including but not limited to revocation of the administrator's or commissioner's order granting the

owner's application and the division's continued jurisdiction under the ETPA over the building or any subsequent construction. Any remedies and penalties prescribed by these regulations shall apply to and be binding against subsequent owners.

9 NYCRR § 2505.2 is amended and a new subdivision (b) is added to read as follows:

(a) The legal regulated rents and other requirements provided in this Chapter shall not be evaded, either directly or indirectly, in connection with the renting or leasing or the transfer of a lease of housing accommodations by requiring the tenant to pay, or obligate himself for membership or other fees, or by modification of the practices relating to payment of commissions or other charges, or by modification of the services furnished or required to be furnished with the housing accommodations, or otherwise.

(b)

(1) Upon the receipt of rent in the form of cash or any instrument other than the personal check of the tenant, it shall be the duty of the owner to provide the tenant with a written receipt containing the following:

(i) the date;

(ii) the amount;

(iii) the identity of the premises and period for which paid; and

(iv) the signature and title of the person receiving the rent.

(2) A tenant may request in writing that an owner provide a receipt for rent paid by personal check. If such request is made, the owner shall provide the tenant with the receipt described in paragraph (1) of this subdivision.

(3) The receipt provided pursuant to this subdivision shall state the name and address of the managing agent or designee thereof. A failure to comply with the provisions of this subdivision shall constitute an evasionary practice.

(4) Such request shall, unless otherwise specified by the tenant, remain in effect for the duration of such tenant's tenancy. The owner shall maintain a record of all cash receipts for rent for at least three years unless a longer period is required by other provisions of this Title.

(5) If a payment of rent is personal transmitted to an owner, the receipts for such payment shall be issued immediately to a tenant. If a payment of rent is transmitted indirectly to an owner, a tenant shall be provided with a receipt within fifteen days of such rent payment.

(6) If an owner or an agent of an owner authorized to receive rent fails to receive payment for rent within five days of the date specified in a lease agreement, such owner shall send the tenant, by certified mail, a written notice stating the failure to receive such rent payment. The failure of an owner or an agent of the owner authorized to receive rent to provide a tenant with a written notice of the non-payment of rent may be used as an affirmative defense by such tenant in an eviction proceeding based on the non-payment of rent.

9 NYCRR §2506.1 is renamed to "Determination of legal regulated rents; penalties; fines; assessment of costs; attorney's fees; rent credits; where the proceeding is commenced prior to June 14, 2019" and a new subdivision (j) is added to read as follows:

(j) The procedures and rules set forth in this subdivision shall apply only to proceedings initiated prior to June 14, 2019, except as set forth in section 2506.8 of this Part.

9 NYCRR § 2506.2(c) is amended and § 2506.2(d) and (e) are added as follows:

(c) If a landlord is found by the division:

(1) to have violated an order of the division, the division may impose by administrative order after hearing, civil penalties at minimum in the amount of $1,000 but not to exceed $2,000 for the first such offense and at minimum $2,000 not to exceed $3,000 for each subsequent offense; or

(2) to have harassed a tenant to obtain vacancy of a housing accommodation, the division may impose by administrative order after hearing, a civil penalty at minimum in the amount of $2,000 not to exceed $3,000 for the first such offense and [up to] at minimum $10,000 not to exceed $11,000 for each subsequent offense or for a violation consisting of conduct directed at the tenant of more than one housing accommodation.

(d) Any owner who has been found by the DHCR to have refused to comply with an order of the DHCR or to have harassed a tenant shall, in addition to being subject to any other penalties or remedies permitted

by law or by this Code, be barred thereafter from applying for or collecting any further rent increase for the affected housing accommodation. The finding by the DHCR that the owner has complied with such order or that the conduct which resulted in the finding of harassment has ceased, shall result in the prospective elimination of the sanctions provided for in this section. Such orders shall be deemed final determinations for the purposes of judicial review pursuant to Part 2510.12 of this Title.

(e) The failure of any owner to pay any fine, penalty or assessment authorized by the ETPA or this Title shall, until such fine, penalty or assessment is paid, bar an owner from applying for or collecting any further rent increases for such housing accommodation. The late payment of any fine, penalty or assessment shall result in the prospective elimination of such sanction. Such penalties may, upon the expiration of the period for seeking review pursuant to article 78 of the Civil Practice Law and Rules, be docketed and enforced in the manner of a judgment of the Supreme Court.

9 NYCRR § 2506.8 is added to read as follows:

§ **2506.8** Determination of legal regulated rents; penalties; fines; assessment of costs; attorney's fees; rent credits; where the proceeding is commenced on or after June 14, 2019.

(a) Definitions.

(1) Base Date: For the purposes of this section, the Base Date shall be the date of the most recent reliable annual rent registration statement, filed and served upon a tenant six or more years prior to the filing of a complaint of overcharge or the initiation of a proceeding to determine the legal regulated rent of an apartment. Any registration statement filed contemporaneously with a certification of service shall be presumed to have been served upon the tenant in occupancy. In no event shall the base date be prior to June 14, 2015.

Absent an exception set forth in 2506.1, if no base date can be determined subsequent to June 14, 2015, the base date shall be June 14, 2015.

(2) Reliable rent registration statement: A rent registration shall be considered to be reliable if, prior to the filing of such registration statement, and subsequent to June 14, 2015, the rent history contains no unexplained increases in the rent.

(b) The division shall consider all available reasonably necessary evidence when making a determination as to the reliability of a rent registration statement, including but not limited to:

(1) any rent registration or other records filed with the state division of housing and community renewal, or any other state, municipal or federal agency, regardless of the date to which the information on such registration refers;

(2) any order issued by any state, municipal or federal agency;

(3) any records maintained by the owner or tenants; and

(4) any public record kept in the regular course of business by any state, municipal or federal agency.

(c) The division shall set the legal regulated rent by adding any lawful rent increases and adjustments to the rent on the base date.

(d) The division shall examine the rent prior to the base date and subsequent to June 14, 2015 to make a determination as to:

(1) whether the legality of a rental amount charged or registered is reliable in light of all available evidence including, but not limited, to whether an unexplained increase in the registered or lease rents, or a fraudulent scheme to destabilize the housing accommodation, rendered such rent or registration unreliable.

(2) whether an accommodation is subject to the emergency tenant protection act or the rent stabilization law;

(3) whether an order issued by the division of housing and community renewal or by a court, including, but not limited to an order issued pursuant to section 2503.4(a) of this Title, or any regulatory agreement or other contract with any governmental agency, and remaining in effect

within six years of the filing of a complaint pursuant to this section, affects or limits the amount of rent that may be charged or collected;

(4) whether an overcharge was or was not willful;

(5) whether a rent adjustment that requires information regarding the length of occupancy by a present or prior tenant was lawful;

(6) the existence or terms and conditions of a preferential rent, or the propriety of a legal registered rent during a period when the tenants were charged a preferential rent;

(7) the legality of a rent charged or registered immediately prior to the registration of a preferential rent; or

(8) the amount of the legal regulated rent where the apartment was vacant or temporarily exempt on the date six years prior to a tenant's complaint.

(e) The division shall examine the rent prior to June 14, 2015 pursuant to section 2506.1 of this Part.

(f) A tenant may file a complaint of overcharge at any time.

(g) An owner may, prior to the issuance of an order determining the existence of an overcharge, file late registration statements. Provided that increases in the legal regulated rent were lawful except for the failure to file a timely registration, the owner, upon the service and filing of a late registration, shall not be found to have collected an overcharge at any time prior to the filing of the late registration.

(h)

(1) Any affected tenant shall be given notice of an opportunity to join in any proceeding commenced by the division pursuant to this section.

(2) Where a complainant pursuant to this section vacates the housing accommodation, and the division continues the proceeding, the division shall give any affect tenant notice of and an opportunity to join in such proceeding.

(i) Damages

(1) Any owner who is found by the division, after a reasonable opportunity to be heard, to have collected any rent or other consideration in excess of the collectable rent shall be ordered to pay to

the tenant a penalty equal to three times the amount of such excess, except as provided in subdivision (f) of this section. If the owner establishes by a preponderance of the evidence that the overcharge was not willful, the division shall establish the penalty as the amount of the overcharge, plus interest, which interest shall accrue from the date of the first overcharge on or after the base date, at the rate of interest payable on a judgment pursuant to section 5004 of the Civil Practice Law and Rules, and the order shall direct such a payment to be made to the tenant.

(2) Any recovery of overcharge penalties, including treble damages, where appropriate, shall be limited to the six years preceding the complaint, provided, however, that there shall be no recovery of treble damages for overcharges that occurred prior to June 15, 2017, and no recovery of damages for overcharges that occurred prior to June 15, 2015. After a complaint of rent overcharge has been filed and served on an owner, the voluntary adjustment of the rent and/or the voluntary tender of a refund of rent overcharges shall not be considered by the division as evidence that the overcharge was not willful.

(3) A penalty of three times the overcharge may not be based upon an overcharge having occurred prior to April 1, 1984.

(4)

(i) Complaints filed prior to April 1, 1984 shall be determined in accordance with the ETPA and this Title provisions in effect on March 31, 1984, except that an overcharge collected on or after April 1, 1984 may be subject to treble damages pursuant to this section.

(ii) Complaints filed on or after April 1, 1984 and prior to June 14, 2019 shall be determined pursuant to section 2506.1 of this Part.

(5) The division shall determine the owner's liability between or among two or more tenants found to have been overcharged during their particular occupancy of a housing accommodation, and at its discretion, may require the owner to make diligent effects to locate prior tenants who are not parties to the proceeding, and to make refunds to such tenants or pay the amount of such penalty as a fine.

(**6)** An owner who is found to have overcharged by the division shall be assessed and ordered to pay as an additional penalty the reasonable costs and attorney's fees of the proceeding, and except where treble damages are awarded, interest from the date of the overcharge occurring on or after April 1, 1984, at the rate of interest payable on a judgment pursuant to section 5004 of the Civil Practice Law and Rules.

(7) A tenant may recover any overcharge penalty established by the division by deducting it from the rent due to the present owner at a rate not in excess of 20 percent of the amount of the penalty for any one month's rent. If no such rent credit has been taken, the order of the division awarding penalties may be entered, filed and enforced by a tenant in the same manner as a judgment of the Supreme Court, on a form prescribed by the division, provided that the amount of the penalty exceeds $1,000 or the tenant is no longer in possession. Neither of these remedies are available until the expiration of the period in which the owner may institute a proceeding pursuant to Part 2510.12 of this Title.

(8) Responsibility for overcharges.

(i) For overcharges collected prior to April 1, 1984, an owner will be held responsible only for his or her portion of the overcharges, in the absence of collusion or any relationship between such owner and any prior owners.

(ii)

(a) For overcharge complaints filed or overcharges collected on or after April 1, 1984, a current towner shall be responsible for all overcharge penalties, including penalties based upon overcharges collected by any prior owner. However, in the absence of collusion or any relationship between such owner and any prior owner, where no records sufficient to establish the legal regulated rent were provided at a judicial sale, or such other sale effected in connection with, or to resolve, in whole or in part, a bankruptcy proceeding, mortgage foreclosure action or other judicial proceeding, an owner who purchases upon or subsequent to such sale shall not be liable for overcharges collected by any owner prior to such sale, and treble damages upon overcharges that he or she collects which result from overcharges collected by

any owner prior to such sale. An owner who did not purchase at such sale, but who purchased subsequent to such sale, shall also not be liable for overcharges collected by any prior owner subsequent to such sale to the extent that such overcharges are the result of overcharges collected prior to such sale.

(b) Court-appointed Receivers. A Receiver who is appointed by a court of competent jurisdiction to receive rent for the use or occupation of a housing accommodation shall not, in the absence of collusion or any relationship between such Receiver and any owner or other Receiver, be liable for overcharges collected by any owner or other Receiver, and treble damages upon overcharges that he or she collects which result from overcharges collected by any owner or other Receiver, where records sufficient to establish the legal regulated rent have not been made available to such Receiver. Penalties pursuant to this subdivision shall be subject to the time limitations set forth in paragraph (2) of subdivision (a) of this section.

(9) This subdivision shall not be construed to entitle a tenant to more than one refund for the same overcharge.

(j) Where no rent history for the housing accommodation is available, the rent shall be determined in the manner set forth in Section 2509.2 of this Title.

9 NYCRR § 2507.2 is amended as follows:

The division may institute, reclassify, or convert a proceeding on its own initiative whenever the division deems it necessary or appropriate pursuant to the act or this Chapter.

9 NYCRR § 2507.3 (a)(2) is amended and a new subdivision (c) is added as follows:

(a)

(2) Where an application is filed, pursuant to section 2502.4(b)[(a) (2) (ii), (iii), (iv) or (v)] of this Title, to increase the legal regulated rent, the division shall notify all parties adversely affected thereby, and shall afford such parties the opportunity to submit written responses

thereto. Tenants shall have sixty (60) days from the date of the mailing of notice of the proceeding to answer or reply. The owner shall maintain a copy of the application, with supporting documentation, on the premises so that tenants may examine it, or in the alternative, a copy of the application, with supporting documentation, shall be made available by the division for tenant examination upon [prior] request. Tenants' written responses shall be considered by the division prior to a final determination of the application.

(c) Except where an attorney or other authorized representative appears for the owner, any notice, order or other process or paper, directed to the person named in the last filed registration statement as the owner at the address given therein, or where a notice of change in identity has been filed, to the person named as owner and at the address given in the most recent such notice, shall constitute notice to the person who is then the owner. In addition thereto, the DHCR shall also serve all parties at the address specified on the application or complaint.

9 NYCRR § 2507.4 is amended as follows:

Except where otherwise provided for in this title, [A] a person who has been served with a notice of a proceeding accompanied by an application or complaint shall have no less than 20 days from the date of mailing in which to answer or reply, except that in exceptional circumstances, the division may require a shorter period. Every answer or reply must be verified or affirmed, and an original and one copy shall be filed with the division.

9 NYCRR § 2507.5 (j) and (k) are amended and subdivisions (l) and (m) are added as follows:

(j) on its own initiative, or at the request of a court of competent jurisdiction, or for good cause shown upon application of any affected party, expedite the processing of a matter; [and]

(k) sever issues within a proceeding for purposes of issuing an order and determination with respect to certain issues while reserving other issues for subsequent determination[.];

(l) stay proceedings upon such terms as may be appropriate; or

(m) permit a tenant to withdraw a complaint.

9 NYCRR § 2508.1 subdivision (a) is amended and subdivision (e) is added as follows:

(a) Notices, orders, petitions for administrative review, answers and other papers may be served personally, by mail, or electronically, as provided in an Operational Bulletin issued pursuant to section 2507.11 of this Title. Except as otherwise provided by section 2510.2 [or Part 2511] of this Title, when service other than by the division, is made personally or by mail, a contemporaneous affidavit providing dispositive facts by the person making the service or mailing shall constitute sufficient proof of service. When service is by registered or certified mail, the stamped post office receipt shall constitute sufficient proof of service. Once sufficient proof of service has been submitted to the division, the burden of proving non-receipt shall be on the party denying receipt.

(e) DHCR may establish such other procedures for service and filing via electronic or online methods via operational bulletin.

9 NYCRR § 2509.1 is amended as follows:

(a) Housing accommodations which become subject to the act after the initial registration period must be registered within 90 days thereafter. The registration shall include a an actual, physical street address from which the owner or agent conducts business and where the owner or an agent is authorized to accept service of documents, subpoenas or requests. Registration of housing accommodations subject to the Emergency Housing Rent Control Law immediately prior to the date of filing the initial registration statement shall include, in addition to the items set out in subdivision (b) of this section, where existing, the maximum rent immediately prior to the date that such housing accommodations became subject to the act.

9 NYCRR § 2509.3(a) is amended as follows:

(a) The failure to properly and timely comply[, on or after the base date,] with the rent registration requirements of this Part shall, until such time as such registration is completed, bar an owner from applying for or collecting any rent in excess of the base date rent, plus any increases allowable prior to the failure to register. Such a bar includes but is not limited to rent adjustments pursuant to section 2502.7 of this Title. The filing of a late registration shall result in the prospective

elimination of such sanctions, and for proceedings commenced on or after July 1, 1991, provided that increases in the legal regulated rent were lawful except for the failure to file a timely registration, an owner, upon the service and filing of a late registration, shall not be found to have collected rent in excess of the legal regulated rent at any time prior to the filing of the late registration. [Nothing herein shall be construed to permit the examination of a rental history for the period prior to four years before the commencement of a proceeding pursuant to sections 2502.3 and 2506.1 of this Title.]

9 NYCRR § 2510.3 is amended as follows:

Review pursuant to this Part shall be limited to the facts or evidence before a district rent administrator as raised in the petition. Where the petitioner submits with the petition certain facts or evidence which he or she establishes could not reasonably have been offered or included in the proceeding prior to the issuance of the order being appealed, the proceeding may be remanded for determination to the district rent administrator to consider such facts or evidence. Proceedings remanded back to the division following an Article 78 may be reconsidered, at the discretion of the commissioner, without being remanded to the rent administrator.

9 NYCRR § 2510.9 is amended as follows:

Where a regulation is amended during the pendency of a PAR, or an applicable statute is enacted or amended during the pendency of a PAR, the determination shall be in accordance with the amended regulation[.], statute or Code as it existed at the time the rent administrator's order was issued, unless the relevant law or regulation states otherwise.

9 NYCRR § 2510.11 is amended as follows:

The filing of a PAR against an order, other than an order adjusting, fixing or establishing the legal regulated rent, shall stay such order until the final determination of the PAR by the commissioner. Notwithstanding the above, that portion of an order fixing a penalty pursuant to subdivision (a) of section 2506.1 of this Title, that portion of an order resulting in a retroactive rent adjustment pursuant to section 2503.4 of this Title, that portion of an order resulting in a retroactive rent decrease pursuant to section 2502.3 of this Title, and that portion of an order resulting in a retroactive rent increase pursuant to section 2502.4(a), (b), (c), (e), and (f) [(1), (c) and (d)] of this Title, shall also be stayed by the timely filing of a PAR against such orders until the expiration of the period for seeking review pursuant to article seventy-eight of the Civil Practice Law and rules. However, an order granting a rent adjustment pursuant to [paragraph (2) of] subdivision (a) and (b) of section 2502.4 of this Title, against which there is no PAR filed by a tenant that is pending, shall not be stayed. Nothing herein contained shall limit the commissioner from granting or vacating a stay under appropriate circumstances, on such terms and conditions as the commissioner may deem appropriate.

9 NYCRR § 2511.1 is repealed

9 NYCRR § 25011.2 is repealed

9 NYCRR § 2511.3 is repealed

9 NYCRR § 2511.4 is repealed

9 NYCRR § 2511.5 is repealed

9 NYCRR § 2511.6 is repealed

9 NYCRR § 2511.7 is repealed

9 NYCRR § 2511.8 is repealed

9 NYCRR § 2511.9 is repealed and replaced as follows:

(a) Effective June 14, 2019, high rent high income deregulation pursuant to McKinney's Unconsolidated Law Section 8625(a)(13), otherwise repealed by Chapters 36 and 39 of the Laws of 2019, is no longer applicable. Any apartment that was lawfully deregulated pursuant to the McKinney's Unconsolidated

Law Section 8625(a)(13) shall remain deregulated, notwithstanding that such section was repealed pursuant to Chapters 36 and 39 of the Laws of 2019. For the purposes of this subdivision, lawful deregulation shall be defined as the issuance of an order by the DHCR pursuant to McKinney's Unconsolidated Law Section 8625(a)(13), which was repealed by Chapters 36 and 39 of the Laws of 2019 and the expiration of the lease in effect upon issuance of such order expiring prior to June 14, 2019.

(b) Effective June 14, 2019, no further high rent high income deregulation proceedings pursuant to this Title may be commenced, and all pending applications shall be dismissed as not subject to deregulation. For the purposes of this subdivision, an application shall not be considered pending if the subject housing accommodation was lawfully deregulated pursuant to such application prior to June 14, 2019, and such lawful deregulation is subject to review as of June 14, 2019 in a Court of competent jurisdiction, before the commissioner pursuant to a petition for administrative review, or before the rent administrator subsequent to a remand for further consideration by either the commissioner or a court.