
1 **9 NYCRR §2500.2 subdivisions (d), (h), (o) and (q) are amended as follows:**

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

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

12 (o) Senior citizen.

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

14 (q) Base date. For all purposes other than for the purposes of proceedings pursuant to sections
15 2502.3(a), 2506.1, and 2506.8 of this Title, "base date" shall mean the date which is the most
16 recent of:

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

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

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

23 [3] (4) April 1, 1984, for complaints filed on or before March 31, 1988 for housing
24 accommodations for which initial registrations were required to be filed by June 30, 1984,
25 and for which a timely challenge was not filed.

26 **9 NYCRR §2500.2 is amended to add a new subdivision (s) to read as follows:**

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

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

6 **9 NYCRR §2500.5 is amended as follows:**

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

11
12 **9 NYCRR §2500.6 is amended as follows:**

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

21
22
23
24 **9 NYCRR §2500.9 subdivision (c) and paragraph (e) (1) are amended and paragraph (e)(2) is**
25 **repealed and former paragraphs (e)(3), (e)(4), (e)(5), (e)(6) and (e)(7) are renumbered (e)(2), (e)(3),**
26 **(e)(4), (e)(5), (e)(6) and new paragraphs (e)(7) and (e)(10) are added as follows:**

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

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

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

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

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

19 [(3)] (2) the rehabilitation must have been commenced in a building that was in a
20 substandard or seriously deteriorated condition. [The extent to which the building was
21 vacant of residential tenants when the rehabilitation was commenced shall constitute
22 evidence of whether the building was in fact in such condition. Where the rehabilitation
23 was commenced in a building in which at least 80% of the housing accommodations were
24 vacant of residential tenants, there shall be a presumption that the building was substandard
25 or seriously deteriorated at that time.] Space converted from non-residential use to
26 residential use shall not be required to have been in substandard or seriously deteriorated
27 condition for there to be a finding that the building has been substantially rehabilitated;

1 [(4)] (3) [except in the case of extenuating circumstances,] the division will not find the
2 building to have been in a substandard or seriously deteriorated condition where it can be
3 established that the owner has attempted to secure a vacancy by an act of arson resulting in
4 criminal conviction of the owner or the owner's agent, or the division or other government
5 entity has made a finding of harassment, as defined pursuant to any applicable rent
6 regulatory law, code or regulation[;]. If there has been a finding of harassment by a
7 governmental entity other than the division, that finding shall be considered in full force
8 for three years from the date the finding was made, unless proof of its being lifted is
9 provided or otherwise obtained;

10 [(5)] (4) **Renumbered only text remains the same**

11 [(6)] (5) [where] occupied rent regulated housing accommodations [have not been
12 rehabilitated, such housing accommodations] shall remain regulated until vacated,
13 notwithstanding a finding that the remainder of the building has been substantially
14 rehabilitated, and therefore qualifies for exemption from regulation;

15 [(7)] (6) where, because of the existence of hazardous conditions in his or her housing
16 accommodation, a tenant has been ordered by a governmental agency to vacate such
17 housing accommodation, and the tenant has received a court order or an order of the
18 division that provides for payment by the tenant of a nominal rental amount while the
19 vacate order is in effect, and permits the tenant to resume occupancy without interruption
20 of the rent stabilized status of the housing accommodation upon restoration of the housing
21 accommodation to a habitable condition, such housing accommodation will be excepted
22 from any finding of substantial rehabilitation otherwise applicable to the building.

23 However, the exemption from rent regulation based upon substantial rehabilitation will
24 apply to a housing accommodation that is subject to a right of reoccupancy, if the returning
25 tenant subsequently vacates, or if the tenant who is entitled to return pursuant to court or
26 division order chooses not to do so[;] and expresses such intent not to return in writing.

27 The DHCR may waive the requirement that the tenant expresses a desire not to return in
28 writing at its discretion if the owner demonstrates that the tenant could not be found after

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

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

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

17
18 **9 NYCRR §2500.9 subdivisions (f), (j), and (k) are amended as follows:**

19 (f) housing accommodations owned, operated, or leased or rented pursuant to governmental
20 funding, by a hospital, convent, monastery, asylum, public institution, or college or school
21 dormitory or any institution operated exclusively for charitable or educational purposes on a
22 nonprofit basis, other than accommodations occupied by a tenant on the date such housing
23 accommodation is acquired by such institution, or which are occupied subsequently by a tenant
24 whose initial occupancy is [not] contingent upon an affiliation with such institution[.

25 H];however, the following housing accommodations shall be subject to the ETPA and this act:

26 (1) housing accommodations occupied by a tenant on the date such housing accommodation is
27 acquired by any such institution, or which are occupied subsequently by a tenant who is not
28 affiliated with such institution at the time of his initial occupancy or (2) permanent housing

1 accommodations with government contracted services, as of and after June fourteenth, two
2 thousand nineteen, occupied by vulnerable individuals or individuals with disabilities who are
3 or were homeless or at risk of homelessness. For the purposes of this subdivision (and
4 subdivision 2500.9(k)), such vulnerable individuals or individuals with disabilities as described
5 herein shall be considered to be tenants;

6 (j) housing accommodations in buildings operated exclusively for charitable purposes on a
7 nonprofit basis; however such housing accommodation shall be subject to the ETPA and this
8 act if they are permanent housing accommodations with government contracted services, as of
9 and after the effective date of the chapter of the laws of June fourteenth, two thousand nineteen
10 that amended this paragraph, for vulnerable individuals or individuals with disabilities who are
11 or were homeless or at risk of homelessness. For the purposes of this subdivision (and
12 subdivision 2500.9(k)), such vulnerable individuals or individuals with disabilities as described
13 herein shall be considered to be tenants;

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

22 **9 NYCRR §2500.9 subdivision (l) is amended as follows:**

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

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

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

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

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

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

18 (3)

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

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

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

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

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

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

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

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

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

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

3 **(3)** all shareholders or former unit owners described in this clause shall be
4 offered a vacancy lease within 30 days after the deconversion, and shall have
5 [30]90 days to accept such offer. However, in the event such shareholder or
6 former unit owner does not enter into the vacancy lease, he or she shall be
7 deemed to have surrendered all rights to the housing accommodation effective
8 120 days after the [deconversion]failure to accept such offered vacancy lease.

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

15 **(d)**

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

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

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

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

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

16
17 **9 NYCRR §2500.9 subdivision (m) is amended as follows:**

18 **(m) (1)** Effective June 14, 2019, high rent vacancy deregulation is no longer applicable. Any
19 apartment that was lawfully deregulated pursuant to McKinney’s Unconsolidated Law Section
20 8625(a)(12), shall remain deregulated, notwithstanding that such Section was repealed by
21 Chapters 36 and 39 of the Laws of 2019.

22 [housing accommodations which:

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

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

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

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

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

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

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

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

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

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

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

15
16 **9 NYCRR 2500.9 subdivision (n) is amended as follows:**

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

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

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

6 [(1) have a legal regulated rent of \$2,000 or more per month as of October 1, 1993, or as of
7 any date on or after June 19, 1997, and which are occupied by persons who had a total annual
8 income in excess of \$250,000 per annum for each of the two preceding calendar years, where
9 the first of such two preceding calendar years is 1992 through 1995 inclusive, and in excess of
10 \$175,000, where the first of such two preceding calendar years is 1996 through 2009 inclusive,
11 with total annual income being defined in and subject to the limitations and process set forth in
12 Part 2511 of this Title;

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

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

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

1 **9 NYCRR §2500.9 subdivision (s) is amended as follows:**

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

25 **9 NYCRR §2500.14 is added to read as follows:**

26 **(a) Establishment**

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

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

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

24 **(b) Members**

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

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

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

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

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

18 **(c) Duties**

19 Rent guidelines boards shall have the powers and obligations detailed in the ETPA.
20

21 **9 NYCRR §2501.1 is amended to add new subdivisions (c) and (d) as follows:**

22 **(c)**

23
24 (1) Where an owner combines two or more vacant housing accommodations or combines a
25 vacant housing accommodation with an occupied accommodation, such initial rent for such new
26 housing accommodation shall be the combined legal rent for both previous housing
27 accommodations, subject to any applicable guideline increases and any other increases authorized
28 by this Title including any individual apartment improvement increases applicable for both
29 housing accommodations. If an owner combines a rent regulated accommodation with an
30 apartment not subject to rent regulation, the resulting apartment shall be subject to the ETPA. If

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

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

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

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

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

23 (6) Apartment combinations and individual apartment improvements.

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

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

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

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

11 (d) For housing accommodations made subject to this Title as of June 14, 2019 as set forth in
12 2500.9(f), (j) and (k) the initial rents thereafter upon vacatur of the not for profit and affiliated
13 subtenant shall be set using the rent in effect for a regulated tenant in occupancy immediately prior
14 to occupancy by the not for profit and the affiliated subtenant plus any applicable increases.
15

16 **9 NYCRR §2501.2 (a) and (c) are amended and new subdivisions (d) and (e) are added as**
17 **follows:**

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

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

1
2 (d) Any tenant who is subject to a lease in effect on or after June 14, 2019, or is or was entitled to
3 receive a renewal or vacancy lease on or after such date, upon renewal of such lease, the amount of
4 rent for such housing accommodation that may be charged and paid shall be no more than the rent
5 charged to and paid by the tenant prior to that renewal, as adjusted by the most recent applicable
6 guidelines increases and any other increases authorized by law.

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

19
20 **9 NYCRR § 2502.2 is amended as follows:**

21 Except as otherwise provided in this Title or set forth in the order, [with regard to increases pursuant to
22 sections 2502.4(b) (1)(i), (ii) and (iii)(a) (2) (ii), (iii) and (iv) of this Part, where] the legal regulated rent
23 shall be adjusted effective the first rent payment date occurring 30 days after the filing of the application,
24 [the legal regulated rent shall be adjusted effective the date of issuance of an order by the division, unless
25 otherwise set forth in the order,] or on the effective date of a lease or other rental agreement providing for
26 the rent guidelines board annual rate of adjustment as filed with the division and as provided for in section
27 2502.5 of this Part. Adjustments shall also be made upon vacancy [or succession] as provided in section

1 2502.7 of this Part[, or upon improvements to an individual housing accommodation qualifying for a rent
2 increase pursuant to section 2502.4(a)(2)(i) of this Part]. No rent adjustment may take place during a
3 lease term unless a clause in the lease authorizes such increase, or as otherwise provided by law and this
4 Title.

5
6

1 **9 NYCRR § 2502.3 is repealed and replaced as follows:**

2 **(a)** Fair market rent appeals.

3 **(1)**

4 **(i)** The tenant of a housing accommodation for which the initial legal regulated rent was
5 established under section 2501.1 of this Title based upon the rent reserved in a lease or
6 other rental agreement which became effective on or after January 1, 1974 may file within
7 90 days after notice has been received pursuant to section 2503.1 of this Title, an
8 application on forms prescribed by the division for adjustment of the initial legal regulated
9 rent on the allegation that such rent is in excess of the fair market rent. This right is limited
10 to the first tenant taking occupancy on or after January 1, 1974, except where such tenant
11 had vacated the housing accommodation prior to the service by the owner of the notice
12 required by section 2503.1 of this Title. In such event, any subsequent tenant shall also
13 have a right to file an application for adjustment of the legal regulated rent until the owner
14 mails the required notice and 90 days shall have elapsed without the filing of an application
15 by a tenant continuing in occupancy during said 90-day period. However, no fair market
16 rent appeal may be filed after six years from the date of initial occupancy of the housing
17 accommodation. Once a fair market rent appeal has been filed, no subsequent tenant may
18 file such appeal.

19 **(ii)** The tenant must allege in such appeal:

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

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

23 **(iii)** Such appeal shall be dismissed where:

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

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

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

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

26 **(b) Unique or peculiar circumstances.**

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

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

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

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

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

19
20
21 **9 NYCRR § 2502.4 is repealed and replaced as follows:**

22 (a)

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

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

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

7
8 (b) Temporary major capital improvement rent adjustments.

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

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

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

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

22 (c) it is an improvement to the building or to the building complex which
23 inures directly or indirectly to the benefit of all tenants, and which includes
24 the same work performed in all similar components of the building or
25 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

1	(e) Single-Ply Rubber	20
2	(f) Single-Ply Modified Bitumen	10
3	(g) Quarry Tile	20
4		
5	4) Pointing	15
6	5) Rewiring	25
7	6) Intercom System	15
8	7) Mailboxes	25
9	8) Plumbing/Repiping	
10	(a) Galvanized Steel	25
11	(b) TP Copper	30
12	(c) Brass cold water	15
13	(d) Fixtures	25
14	9) Elevators	
15	(a) Major Upgrade.....	25
16	(b) Controllers and Selector	25
17	10) Doors	
18	(a) Apartment Entrance	25
19	(b) Lobby/Vestibule	15
20		
21	11) Water Tanks	
22	(a) Metal	25
23	(b) Wood	20
24	12) Waste Compactors	10
25	13) Air Conditioners	
26	(a) Individual Units/Sleeves	10

1	(b) Central System	15
2	(c) Branch Circuitry Fixtures	15
3	14) Siding	
4	(a) Aluminum Siding	25
5	(b) Vinyl Siding	15
6	15) Catwalk	25
7	16) Chimney	
8	(a) Steel	25
9	(b) Brick	25
10	17) Courtyards/Walkways/Driveways	
11	(a) Cement	15
12	(b) Asphalt	10
13	18) Fire Escapes	25
14	19) Fuel Oil Tanks	
15	(a) In Vaults	25
16	(b) Underground	20
17	20) Water Heating Units	
18	(a) Hot Water/Central Heating	20
19	(b) Hot Water Heater (Domestic)	10
20	21) Parapets brick	25
21	22) Resurfacing Exterior Walls	25
22	23) Solar Heating System	25
23	24) Structural Steel	25
24	25) Television Security	10

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

1 (e)

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

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

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

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

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

12 (iii)

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

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

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

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

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

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

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

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

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

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

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

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

- 20 (a) improve, restore or preserve the quality of the structure and the grounds;
21 (b) have been completed subsequent to, or contemporaneously with, the
22 completion of the work for the major capital improvement; and
23 (c) not be for primarily cosmetic improvements or for operational costs.

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

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

6 (2) Major Capital Improvement Schedules

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

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

15 1. Major Systems;

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

20 2. Façade, Parapet, Roof;

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

23 3. Other Systems.

24 i. The maximum recoverable costs shall be presented for the
25 following classes of work: (a) Chimney; (b) Doors; (c) Security
26

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

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

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

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

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

17 (vi) Periodic Review of Reasonable Cost Schedule:

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

23 (vii) Procedure:

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

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

- 3 (i) within or below the maximum costs for the class of work,
- 4 (ii) are necessary for the claimed improvement, and
- 5 (iii) eligible for reimbursement as a major capital
6 improvement.

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

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

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

22 (viii) Waiver of Application of Reasonable Cost Schedule

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

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

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

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

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

- 14 (1) not identified in the Reasonable Cost Schedule, or
- 15 (2) necessarily and appropriately priced higher than those costs
16 listed in the Reasonable Cost Schedule due to the unique nature of
17 the installation and the circumstances surrounding such installation,
18 and such costs are accurate, reasonable, necessary, verifiable, and
19 eligible for a rent increase under these circumstances, or
- 20 (3) that use of the Reasonable Cost Schedule will cause an undue
21 hardship and the use of alternative procedures are appropriate to the
22 interests of the owner, the tenants, and the public, and the costs of
23 such improvement are accurate, reasonable, necessary, verifiable,
24 and eligible for a rent increase under the circumstances.

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

4 (ix) Requirements for Waiver under Specific Circumstances

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

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

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

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

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

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

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

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

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

6 DHCR may also accept the cost of contract where:

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

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

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

15 (4) Emergency Capital Improvements:

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

21 (5) Interim Rules:

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

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

1 immediately preceding January 27, 2021, the final
2 adoption date of Emergency Regulation HCR-26-20-
3 00012, or

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

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

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

19 (x) Waiver Procedure:

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

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

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

1 solicited to perform the work unless the owner can demonstrate that
2 the work is so highly specialized that such bids cannot be extended;
3 (2) List of items for which owner solicited bids were necessary;
4 (3) The costs claimed by owner for the major capital improvement
5 work are accurate and reasonable, provided that the architect or
6 engineer's basis for such conclusion is fully and credibly supported;
7 (4) All changes to the original agreed upon scope of work were
8 necessary to the underlying major capital improvement and
9 reasonably priced;
10 (5) The owner selected the lowest responsible bidder or the bidder
11 best suited to perform the major capital improvement work, provided
12 that the architect or engineer's basis for such conclusion is credibly
13 supported; and
14 (6) Such other and additional proof as DHCR may require to
15 ascertain the need for the waiver and the certification of such
16 reasonable, necessary, verifiable, and eligible costs.

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

19 (1) Tabulation of all bids received; and
20 (2) Copies of all bids received; and
21 (3) A certification by each bidder disclosing whether the owner or
22 any board member, general partner, officer or employee of owner,
23 and/or principal or employee of any managing agent retained by
24 owner, has a direct or indirect interest in the bidder or in the
25 compensation to be received by the bidder pursuant to the proposed
26 contract. Failure to accurately and fully complete this certification

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

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

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

13 (xi) For Emergency Capital Improvement MCI Applications:

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

18 (xii) Notice:

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

23 —————(xiii) Operational Bulletin

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

1 31 Union Hall Street, Jamaica, Queens, New York, and will be available on DHCR's
2 website at www.hcr.ny.gov.

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

8 SCHEDULE OF MAJOR CAPITAL IMPROVEMENTS

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

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

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

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

18 5. CATWALK – complete replacement.

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

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

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

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

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

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

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

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

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

13 15. PARAPET - complete replacement.

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

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

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

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

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

- 1 21. SOLAR HEATING SYSTEM - new central system, including additional components required
2 for the system.
- 3 22. STRUCTURAL STEEL - complete new replacement of all beams including footing and
4 foundation.
- 5 23. TELEVISION SYSTEM - new security monitoring system including additional components
6 required for the system.
- 7 24. WASTE COMPACTOR - new installation(s) serving entire building.
- 8 25. WASTE COMPACTOR ROOM - new room where none existed before.
- 9 26. WATER SPRINKLER SYSTEM (FOR FIRE CONTROL PURPOSES) - new installation(s).
- 10 27. WATER TANK - new installation(s).
- 11 28. WINDOWS - new framed windows.

12

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

22 (5)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22
23
24 (c) Individual Apartment Improvements
25

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

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

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

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

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

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

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

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

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

11
12 (ii) For work commenced on or after June 14, 2019, the recoverable costs incurred by the
13 owner pursuant to this subdivision shall be limited to a total aggregate cost of fifteen
14 thousand dollars (\$15,000) that may be expended on no more than three (3) separate
15 individual apartment improvements in any fifteen (15) year period.

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

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

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

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

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

14 (vii) For rent increases pursuant to this subdivision that took effect prior to June 14, 2019,
15 the increase in the monthly legal regulated rent for the affected housing accommodations
16 when authorized pursuant to this paragraph shall for buildings and complexes containing
17 35 or fewer housing accommodations be $\frac{1}{40\text{th}}$ of the total cost, including installation but
18 excluding finance charges; and for buildings and complexes containing more than 35
19 housing accommodations be $\frac{1}{60\text{th}}$ of the total cost, including installation but excluding
20 finance charges.

21 (viii) For temporary rent increases pursuant to this subdivision effective as of or after June
22 14, 2019, the temporary increase in the monthly legal regulated rent for the affected
23 housing accommodations when authorized pursuant to this paragraph shall for buildings
24 and complexes containing 35 or fewer housing accommodations be $\frac{1}{168\text{th}}$ of the total cost,
25 including the cost of installation but excluding finance charges; and for buildings and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (a) the annual gross rent income collectible for the test year does not exceed the annual
2 operating expenses of such building by a sum equal to at least five percent of such annual
3 gross rental income collectible; and
- 4 (b) the owner or an entity related to the owner acquired the building at least 36 months
5 prior to the date of application; and
- 6 (c) the owner's equity in the building exceeds five percent of the sum of:
- 7 (1) the arm's-length purchase price of the property; and
- 8 (2) the cost of any capital improvements for which the owner has not collected an
9 increase in rent pursuant to subdivision (a), (b), & (c) of this section; and
- 10 (3) any repayment of principal of any mortgage or loan used to finance the purchase of
11 the property or any capital improvements for which the owner has not collected an
12 increase in rent pursuant to subdivision (a), (b), & (c) of this section; and
- 13 (4) any increase in the equalized assessed value of the property which occurred
14 subsequent to the first valuation of the property after purchase by the owner; and
- 15 (d) the building was last granted a hardship increase more than 36 months prior to the date
16 of application, provided that no application may be made for any hardship if a six-percent
17 increase is still in effect based on a prior application; and
- 18 (e) the owner has resolved all legal objections to any real estate taxes and water and sewer
19 charges for the test year.
- 20 (ii) The division may, in its discretion, deny an owner an increase as provided, in
21 whole or in part, if the owner is not maintaining all essential services as required by
22 law, or there are violations of record of any municipal, county, State or Federal law to
23 his knowledge which relates to the maintenance of such services. Any increase granted
24 herein may be conditioned or revoked upon the owner's failure to continue to maintain
25 such services during the period for which the increase is granted, provided that where
26 the division determines that insufficient income is the cause of such failure to maintain

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

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

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

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

25 (vi) Each application under this section shall be certified by the owner or his duly
26 authorized agent as to its accuracy and compliance with this section, under the penalty
27 of perjury.
28

1 **9 NYCRR § 2502.5(d) is amended and paragraphs (d)(6), (d)(7)(ii), and (d)(8) are repealed and**
2 **paragraph (d)(7) is renumbered (d)(6) and paragraph (d)(9) renumbered (d)(7) as follows:**
3

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

5 (1)

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

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

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

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

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

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

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

7 ([7]6) Same terms and conditions.

8 [(i)] The lease provided to the tenant by the owner pursuant to both paragraphs (1) and (2)
9 of this subdivision shall be on the same terms and conditions as the last lease prior to the
10 local effective date, except where the owner can demonstrate that a change is required or
11 authorized by a law applicable to the building or to leases for housing accommodations
12 subject to the act, or with the approval of the DHCR. Where there was no prior lease for
13 the housing accommodations, the lease shall be on the same terms and conditions as the
14 last leases for the other housing accommodations in the building subject to the act, and
15 shall otherwise provide for the maintenance by the owner of all services and facilities
16 required by the laws applicable to the building and housing accommodations.

17 Notwithstanding the foregoing, the tenant shall have the right to have their spouse or
18 domestic partner added to the lease or any renewal thereof as an additional tenant where
19 said spouse or domestic partner resides in the housing accommodation as their primary
20 residence.

21
22
23 **9 NYCRR § 2502.6 is amended as follows:**

24
25 (a)

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

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

20 (2) These amounts are:

- 21 (i) the lowest rent registered pursuant to section 2509.2 of this Title for a comparable
22 apartment in the building in effect on the date the complaining tenant first occupied the
23 apartment; or
- 24 (ii) the complaining tenant's initial rent reduced by the percentage adjustment authorized
25 by section 2502.5 of this Title; or
- 26 (iii) the last registered rent paid by the prior tenant [(if within the fouryear period of
27 review)]; or

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

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

7 (b) However, in the absence of collusion or any relationship between an owner and any prior
8 owner, where such owner purchases the housing accommodations upon a judicial sale, or such
9 other sale effected in connection with, or to resolve, in whole or in part, a bankruptcy proceeding,
10 mortgage foreclosure action or other judicial proceeding, and no records sufficient to establish the
11 legal regulated rent were made available to such purchaser, such orders shall establish the legal
12 regulated rent on the date of the inception of the complaining tenant's tenancy, or the date six
13 [four] years prior to the date of the filing of an overcharge complaint pursuant to section
14 25[20]06.1 of this Title, whichever is most recent, based on either:

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

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

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

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

3
4 **9 NYCRR § 2502.7 is repealed and replaced with a new 9 NYCRR § 2502.7 as follows:**

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

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

11
12 (2) if the vacancy lease is for a term of two years, the two-year renewal guideline increase,
13 as promulgated by the applicable Rent Guidelines Board, can be applied to the previous
14 legal regulated rent.

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

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

20
21 **9 NYCRR § 2502.8 (b)(3) is amended as follows:**
22

23 (b)

24 (3) Where there is in effect a prior practice of charging for installation of a tenant-owned
25 washing machine, dryer or dishwasher, the owner may continue the charge[, which may also
26 continue to be included in the legal regulated rent, if such was the prior practice.]
27

28
29
30 **9 NYCRR § 2503.1 is amended as follows:**

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

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

8 Compliance with section 2509.1 of this Title shall also be considered compliance with this section.
9

10 **9 NYCRR § 2503.4 (a)(2) and (f)(1) are amended as follows:**
11
12

13 (a)

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

23 (f)

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

1 conditions exist [(if the affidavit is offered by the tenants)] or do not exist [(if the affidavit is
2 offered by the owner)]. The affidavit shall specify what conditions were investigated and what
3 the findings were with respect to each condition. The affidavit shall state when the
4 investigation was conducted, must be submitted within a reasonable time after the completion
5 of the investigation, and when served by the division on the opposing party, will raise a
6 rebuttable presumption that the conditions that are the subject of the complaint, answer or
7 application exist [(if the affidavit is submitted by the tenants)], or do not exist [(if the affidavit
8 is submitted by the owner)].
9

10
11 **9 NYCRR § 2503.5(d)(1) is amended and (f) is repealed as follows:**

12 (d)

13 (1) Unless otherwise prohibited by occupancy restrictions based upon income limitations
14 pursuant to federal, state or local law, regulations or other requirements of governmental
15 agencies, if an offer is made to the tenant pursuant to the provisions of subdivision (a) of this
16 section, and such tenant has permanently vacated the housing accommodation, any member of
17 such tenant's family, as defined in section 2500.2(n) of this Title, who has resided with the
18 tenant in the housing accommodation as a primary residence for a period of no less than two
19 years, or where such person is a "senior citizen," or a "disabled person" as defined in paragraph
20 (4) of this subdivision, for a period of no less than one year, immediately prior to the
21 permanent vacating of the housing accommodation by the tenant, or from the inception of the
22 tenancy or commencement of the relationship, if for less than such periods, shall be entitled to
23 be named as a tenant on the renewal lease. A tenant shall be considered to have permanently
24 vacated the subject housing accommodation when the tenant has permanently ceased residing
25 in the housing accommodation. The continued payment of rent by the tenant or the signing of
26 renewal leases shall not preclude a claim by a family member as defined in section 2500.2(n)
27 of this Title in seeking tenancy.
28
29
30

31 **9 NYCRR § 2503.7(a) and (b)(2) are amended as follows:**

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

16 (b)

17 (2) Court-appointed receivers. A receiver who is appointed by a court of competent
18 jurisdiction to receive rent for the use or occupation of a housing accommodation shall not, in
19 the absence of collusion or any relationship between such receiver and any owner or other
20 receiver, be required to provide records for the period prior to such appointment, except where
21 records sufficient to establish the legal regulated rent are available to such receiver. This
22 subdivision shall not be construed to waive the purchaser's or receiver's obligation to register
23 pursuant to Part 2509 of this Title.
24

25 **9 NYCRR §2503.8 is added to read as follows:**

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

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

3 (b) Within thirty (30) days after a change in the address of the managing agent, such managing
4 agent, or, if there is no managing agent, the owner of a building or group of buildings or
5 development shall give written notice to the DHCR and to all tenants of the new address.
6

7 **9 NYCRR § 2504.3 subdivision (d) and (d)(1) are amended as follows:**

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

10 (1) that the owner will not renew the tenant's lease because the owner has filed an application
11 pursuant to section 2504.4(f) for permission to recover possession of all of the housing
12 accommodations in the building for the purpose of demolishing them, for which plans and
13 financing have been obtained[, or are in the process of being obtained,] as stated in the
14 application;
15
16

17 **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**
18 **(f)(2)(vi) are amended and (f)(2)(vii) is added as follows:**

19 (a) Occupancy by owner or immediate family.

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

24 (2) The provisions of this subdivision shall not apply where a member of the household is
25 62 years of age or older, or has been a tenant in a housing accommodation in that building
26 for[20] 15 years or more, or has an impairment which results from anatomical,
27 physiological or psychological conditions, other than addiction to alcohol, gambling, or
28 any controlled substance, which are demonstrable by medically acceptable clinical and
29 laboratory diagnostic techniques, and which are expected to be permanent and which
30 prevent such person from engaging in any substantial gainful employment.

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

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

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

29 (f) Demolition.

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

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

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

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

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

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

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

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

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

4 **9 NYCRR § 2505.2 is amended and a new subdivision (b) is added to read as follows:**

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

10 (b)

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

14 (i) the date;

15 (ii) the amount;

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

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

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

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

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

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

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

10
11 **9 NYCRR §2506.1 is renamed to “Determination of legal regulated rents; penalties; fines;**
12 **assessment of costs; attorney’s fees; rent credits; where the proceeding is commenced prior to June**
13 **14, 2019” and a new subdivision (j) is added to read as follows:**

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

16 **9 NYCRR § 2506.2(c) is amended and § 2506.2(d) and (e) are added as follows:**

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

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

21 (2) to have harassed a tenant to obtain vacancy of a housing accommodation, the division may impose by
22 administrative order after hearing, a civil penalty at minimum in the amount of \$2,000 not to exceed
23 \$3,000 for the first such offense and [up to] at minimum \$10,000 not to exceed \$11,000 for each
24 subsequent offense or for a violation consisting of conduct directed at the tenant of more than one housing
25 accommodation.

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

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

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

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15 **9 NYCRR § 2506.8 is added to read as follows:**

16 § 2506.8 Determination of legal regulated rents; penalties; fines; assessment of costs; attorney's fees; rent
17 credits; where the proceeding is commenced on or after June 14, 2019.

18 (a) Definitions.

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

25 Absent an exception set forth in 2506.1, if no base date can be determined subsequent to June 14,
26 2015, the base date shall be June 14, 2015.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (e) The division shall examine the rent prior to June 15, 2015, pursuant to section 2506.1 of this Part.

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

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

18 (h)

19 (1) Any affected tenant shall be given notice of and an opportunity to commence a subsequent
20 proceeding or an opportunity to join in any proceeding commenced by the division pursuant to this
21 section.

22 (2) Where a complainant pursuant to this subdivision vacates the housing accommodation, and the
23 division continues the proceeding, the division shall give any affected tenant notice of and an
24 opportunity to commence a subsequent proceeding or an opportunity to join in such proceeding.

25 (i) Damages

1 (1) Any owner who is found by the division, after a reasonable opportunity to be heard, to have
2 collected any rent or other consideration in excess of the collectable rent shall be ordered to pay to
3 the tenant a penalty equal to three times the amount of such excess, except as provided in
4 subdivision (f) of this section. If the owner establishes by a preponderance of the evidence that the
5 overcharge was not willful, the division shall establish the penalty as the amount of the
6 overcharge, plus interest, which interest shall accrue from the date of the first overcharge on or
7 after the base date, at the rate of interest payable on a judgment pursuant to section 5004 of the
8 Civil Practice Law and Rules, and the order shall direct such a payment to be made to the tenant.

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

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

18 (4)

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

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

25 (5) The division shall determine the owner's liability between or among two or more tenants found
26 to have been overcharged during their particular occupancy of a housing accommodation, and at

1 its discretion, may require the owner to make diligent efforts to locate prior tenants who are not
2 parties to the proceeding, and to make refunds to such tenants or pay the amount of such penalty as
3 a fine.

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

9 **(7)** A tenant may recover any overcharge penalty established by the division by deducting it from
10 the rent due to the present owner at a rate not in excess of 20 percent of the amount of the penalty
11 for any one month's rent. If no such rent credit has been taken, the order of the division awarding
12 penalties may be entered, filed and enforced by a tenant in the same manner as a judgment of the
13 Supreme Court, on a form prescribed by the division, provided that the amount of the penalty
14 exceeds \$1,000 or the tenant is no longer in possession. Neither of these remedies are available
15 until the expiration of the period in which the owner may institute a proceeding pursuant to Part
16 2510.12 of this Title.

17 **(8) Responsibility for overcharges.**

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

21 **(ii)**

22 **(a)** For overcharge complaints filed or overcharges collected on or after April 1,
23 1984, a current owner shall be responsible for all overcharge penalties, including
24 penalties based upon overcharges collected by any prior owner. However, in the
25 absence of collusion or any relationship between such owner and any prior owner,
26 where no records sufficient to establish the legal regulated rent were provided at a
27 judicial sale, or such other sale effected in connection with, or to resolve, in whole
28 or in part, a bankruptcy proceeding, mortgage foreclosure action or other judicial

1 proceeding, an owner who purchases upon or subsequent to such sale shall not be
2 liable for overcharges collected by any owner prior to such sale, and treble damages
3 upon overcharges that he or she collects which result from overcharges collected by
4 any owner prior to such sale. An owner who did not purchase at such sale, but who
5 purchased subsequent to such sale, shall also not be liable for overcharges collected
6 by any prior owner subsequent to such sale to the extent that such overcharges are
7 the result of overcharges collected prior to such sale.
8

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

19 **(9)** This subdivision shall not be construed to entitle a tenant to more than one refund for the same
20 overcharge.
21

22 **(j)** Where no rent history for the housing accommodation is available, the rent shall be determined in the
23 manner set forth in Section 2509.2 of this Title.
24

25 **9 NYCRR § 2507.2 is amended as follows:**

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

28 **9 NYCRR § 2507.3 (a)(2) is amended and a new subdivision (c) is added as follows:**

29 **(a)**

1 (2) Where an application is filed, pursuant to section 2502.4(b)[(a) (2) (ii), (iii), (iv) or (v)] of
2 this Title, to increase the legal regulated rent, the division shall notify all parties adversely
3 affected thereby, and shall afford such parties the opportunity to submit written responses
4 thereto. Tenants shall have sixty (60) days from the date of the mailing of notice of the
5 proceeding to answer or reply. The owner shall maintain a copy of the application, with
6 supporting documentation, on the premises so that tenants may examine it, or in the
7 alternative, a copy of the application, with supporting documentation, shall be made available
8 by the division for tenant examination upon [prior] request. Tenants' written responses shall be
9 considered by the division prior to a final determination of the application.

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

16 **9 NYCRR § 2507.4 is amended as follows:**

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

22 **9 NYCRR § 2507.5 (j) and (k) are amended and subdivisions (l) and (m) are added as follows:**

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

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

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

1 (m) permit a tenant to withdraw a complaint.

2
3 **9 NYCRR § 2508.1 subdivision (a) is amended and subdivision (e) is added as follows:**

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

12
13 **(e)** DHCR may establish such other procedures for service and filing via electronic or online
14 methods via operational bulletin.

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16 **9 NYCRR § 2509.1 is amended as follows:**

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

26 **9 NYCRR § 2509.3(a) is amended as follows:**

27
28 **(a)** The failure to properly and timely comply[, on or after the base date,] with the rent registration
29 requirements of this Part shall, until such time as such registration is completed, bar an owner from

1 applying for or collecting any rent in excess of the base date rent, plus any increases allowable
2 prior to the failure to register. Such a bar includes but is not limited to rent adjustments pursuant to
3 section 2502.7 of this Title. The filing of a late registration shall result in the prospective
4 elimination of such sanctions, and for proceedings commenced on or after July 1, 1991, provided
5 that increases in the legal regulated rent were lawful except for the failure to file a timely
6 registration, an owner, upon the service and filing of a late registration, shall not be found to have
7 collected rent in excess of the legal regulated rent at any time prior to the filing of the late
8 registration. [Nothing herein shall be construed to permit the examination of a rental history for the
9 period prior to four years before the commencement of a proceeding pursuant to sections 2502.3
10 and 2506.1 of this Title.]

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15 **9 NYCRR § 2510.3 is amended as follows:**
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17 Review pursuant to this Part shall be limited to the facts or evidence before a district rent administrator as
18 raised in the petition. Where the petitioner submits with the petition certain facts or evidence which he or
19 she establishes could not reasonably have been offered or included in the proceeding prior to the issuance
20 of the order being appealed, the proceeding may be remanded for determination to the district rent
21 administrator to consider such facts or evidence. Proceedings remanded back to the division following an
22 Article 78 may be reconsidered, at the discretion of the commissioner, without being remanded to the rent
23 administrator.
24

25 **9 NYCRR § 2510.9 is amended as follows:**
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27 Where a regulation is amended during the pendency of a PAR, or an applicable statute is enacted or
28 amended during the pendency of a PAR, the determination shall be in accordance with the amended
29 regulation[.], statute or Code as it existed at the time the rent administrator's order was issued, unless the
30 relevant law or regulation states otherwise.

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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:

1 (a) Effective June 14, 2019, high rent high income deregulation pursuant to McKinney’s Unconsolidated
2 Law Section 8625(a)(13), otherwise repealed by Chapters 36 and 39 of the Laws of 2019, is no longer
3 applicable. Any apartment that was lawfully deregulated pursuant to the McKinney’s Unconsolidated
4 Law Section 8625(a)(13) shall remain deregulated, notwithstanding that such section was repealed
5 pursuant to Chapters 36 and 39 of the Laws of 2019. For the purposes of this subdivision, lawful
6 deregulation shall be defined as the issuance of an order by the DHCR pursuant to McKinney’s
7 Unconsolidated Law Section 8625(a)(13), which was repealed by Chapters 36 and 39 of the Laws of 2019
8 and the expiration of the lease in effect upon issuance of such order expiring prior to June 14, 2019.

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

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