

Administrative Code of the City of New York

Sections 26-414 and 26-415

Section 26-414

Decontrol on basis of vacancy rate. Whenever the city rent agency shall find, after making such studies and investigations as it deems necessary for such purpose, or for processing an application supported by adequate proof filed by an interested party pursuant to regulation that the percentage of vacancies in all or any particular class of housing accommodations in the city, as such class is determined by the city rent agency, is five per centum or more, the controls imposed on rents and evictions by and pursuant to this chapter, with respect to the housing accommodations as to which such finding has been made, shall be forthwith scheduled for orderly decontrol, with due regard to preventing uncertainty, hardship and dislocation, by order of such agency; provided, however, that notwithstanding any provision of this section to the contrary, such agency shall not order the decontrol of any particular class of housing accommodations as to which it shall find that the percentage of vacancies is less than five per centum; provided, further, that no such order shall be made unless such agency shall hold a public hearing on such proposal at which interested persons are given a reasonable opportunity to be heard. Notice of such hearing shall be provided by publication thereof, on at least five days during the period of fifteen days next preceding the date of the commencement of such hearing, in the City Record and in at least two daily newspapers having general circulation in the city.

Section 26-415

Surveys of need for rent control. As provided in subdivision three of section one of the local emergency housing rent control act, the mayor shall cause to be made, and shall present to the council a report of the results of, a survey of the supply of housing accommodations within the city, the condition of such accommodations and the need for continuing the regulation and control of residential rents and evictions within the city.

Local Emergency Housing Rent Control Act 21/62
Unconsolidated Laws of New York

Chapter 21 of the laws of 1962

Section 1. The regulation and control of residential rents and evictions within cities having a population of one million or more on and after May first, nineteen hundred sixty-two shall be governed by the provisions of this section, notwithstanding the provisions of the emergency housing rent control law:

1. Short title. This section shall be known and may be cited as the "local emergency housing rent control act".

2. Legislative finding. The legislature hereby finds that a serious public emergency continues to exist in the housing of a considerable number of persons in the state of New York which emergency was created by war, the effects of war and the aftermath of hostilities; that such emergency necessitated the intervention of federal, state and local government in order to prevent speculative, unwarranted and abnormal increases in rents; that there continues to exist an acute shortage of dwellings; that unless residential rents and evictions continue to be regulated and controlled, disruptive practices and abnormal conditions will produce serious threats to the public health, safety and general welfare; that to prevent such perils to health, safety and welfare, preventive action by the legislature continues to be imperative; that such action is necessary in order to prevent exactions of unjust, unreasonable and oppressive rents and rental agreements and to forestall profiteering, speculation and other disruptive practices tending to produce threats to the public health; that in order to prevent uncertainty, hardship and dislocation, the provisions of this section are necessary and designed to protect the public health, safety and general welfare, that the transition from regulation to a normal market of free bargaining between landlord and tenant, while still the objective of state policy, must be administered with due regard for such emergency; and that the policy herein expressed should now be administered locally within cities having a population of one million or more by an agency of the city itself.

3. Local determination as to continuation of emergency. The continuation, after May thirty-first, nineteen hundred sixty-seven, of the public emergency requiring the regulation and control of residential rents and evictions within cities having a population of one million or more shall be a matter for local determination within each such city. Any such determination shall be made by the local legislative body of such city on or before April first, nineteen hundred sixty-seven and at least once in every third year thereafter following a survey which the city shall cause to be made of the supply of housing accommodations within such city, the condition of such accommodations and the need for continuing the regulation and control of residential rents and evictions within such city, provided, however, that when the date by which such determination shall be made falls in a calendar year immediately following a calendar year during which a federal decennial census is conducted, such date shall be postponed by one year. Such survey shall be submitted to such legislative body not less than thirty nor more than sixty days prior to the date of any such determination.

4. Establishment of city housing rent agency. On or before April first, nineteen hundred sixty-

two, the mayor of each city having a population of one million or more shall establish or designate an official, bureau, board, commission or agency of such city (referred to in this section as the "city housing rent agency") to administer the regulation and control of residential rents and evictions within such city unless such city, acting through its local legislative body, shall have enacted, prior to April first, nineteen hundred sixty-two, a local law or ordinance pursuant to subdivision five of this section, prescribing a different method of establishing or designating a city housing rent agency and in such case such agency shall be established or designated in accordance with said local law or ordinance.

5. Authority for local rent control legislation. Each city having a population of one million or more, acting through its local legislative body, may adopt and amend local laws or ordinances in respect of the establishment or designation of a city housing rent agency. When it deems such action to be desirable or necessitated by local conditions in order to carry out the purposes of this section, such city, except as hereinafter provided, acting through its local legislative body and not otherwise, may adopt and amend local laws or ordinances in respect of the regulation and control of residential rents, including but not limited to provision for the establishment and adjustment of maximum rents, the classification of housing accommodations, the regulation of evictions, and the enforcement of such local laws or ordinances. The validity of any such local laws or ordinances, and the rules or regulations promulgated in accordance therewith, shall not be affected by and need not be consistent with the state emergency housing rent control law or with rules and regulations of the state division of housing and community renewal.

Notwithstanding any local law or ordinance, housing accommodations which became vacant on or after July first, nineteen hundred seventy-one or which hereafter become vacant shall be subject to the provisions of the emergency tenant protection act of nineteen seventy-four, provided, however, that this provision shall not apply or become effective with respect to housing accommodations which, by local law or ordinance, are made directly subject to regulation and control by a city housing rent agency and such agency determines or finds that the housing accommodations became vacant because the landlord or any person acting on his behalf, with intent to cause the tenant to vacate, engaged in any course of conduct (including but not limited to, interruption or discontinuance of essential services) which interfered with or disturbed or was intended to interfere with or disturb the comfort, repose, peace or quiet of the tenant in his use or occupancy of the housing accommodations. The removal of any housing accommodation from regulation and control of rents pursuant to the vacancy exemption provided for in this paragraph shall not constitute or operate as a ground for the subjection to more stringent regulation and control of any housing accommodation in such property or in any other property owned by the same landlord, notwithstanding any prior agreement to the contrary by the landlord. The vacancy exemption provided for in this paragraph shall not arise with respect to any rented plot or parcel of land otherwise subject to the provisions of this act, by reason of a transfer of title and possession occurring on or after July first, nineteen hundred seventy-one of a dwelling located on such plot or parcel and owned by the tenant where such transfer of title and possession is made to a member of the tenant's immediate family provided that the member of the tenant's immediate family occupies the dwelling with the tenant prior to the transfer of title and possession for a continuous period of two years.

The term "immediate family" shall include a husband, wife, son, daughter, stepson,

stepdaughter, father, mother, father-in-law or mother-in-law.

Notwithstanding the foregoing, no local law or ordinance shall hereafter provide for the regulation and control of residential rents and eviction in respect of any housing accommodations which are (1) presently exempt from such regulation and control or (2) hereafter decontrolled either by operation of law or by a city housing rent agency, by order or otherwise. No housing accommodations presently subject to regulation and control pursuant to local laws or ordinances adopted or amended under authority of this subdivision shall hereafter be by local law or ordinance or by rule or regulation which has not been theretofore approved by the state commissioner of housing and community renewal subjected to more stringent or restrictive provisions of regulation and control than those presently in effect.

Notwithstanding any other provision of law, on and after the effective date of this paragraph, a city having a population of one million or more shall not, either through its local legislative body or otherwise, adopt or amend local laws or ordinances with respect to the regulation and control of residential rents and eviction, including but not limited to provision for the establishment and adjustment of rents, the classification of housing accommodations, the regulation of evictions, and the enforcement of such local laws or ordinances, or otherwise adopt laws or ordinances pursuant to the provisions of this act, the emergency tenant protection act of nineteen seventy-four, the New York city rent and rehabilitation law or the New York city rent stabilization law, except to the extent that such city for the purpose of reviewing the continued need for the existing regulation and control of residential rents or to remove a classification of housing accommodation from such regulation and control adopts or amends local laws or ordinances pursuant to subdivision three of section one of this act, section three of the emergency tenant protection act of nineteen seventy-four, section 26-415 of the New York city rent and rehabilitation law, and sections 26-502 and 26-520 of the New York city rent stabilization law of nineteen hundred sixty-nine.

Notwithstanding the foregoing, no local law or ordinance shall subject to such regulation and control any housing accommodation which is not occupied by the tenant in possession as his or her primary residence; provided, however, that such housing accommodation not occupied by the tenant in possession as his or her primary residence shall continue to be subject to regulation and control as provided for herein unless the city housing rent agency issues an order decontrolling such accommodation, which the agency shall do upon application by the landlord whenever it is established by any facts and circumstances which, in the judgment of the agency, may have a bearing upon the question of residence, that the tenant maintains his or her primary residence at some place other than at such housing accommodation. For the purposes of determining primary residency, a tenant who is a victim of domestic violence, as defined in section four hundred fifty-nine-a of the social services law, who has left the unit because of such violence, and who asserts an intent to return to the housing accommodation shall be deemed to be occupying the unit as his or her primary residence.

6. Succession of city agency to state rent control functions within city. All the functions and powers possessed by and all the obligations and duties of the temporary state housing rent commission and the state rent administrator under the provisions of the state emergency housing rent control law and the rules and regulations of the commission thereunder, insofar as they

relate to the regulation and control of residential rents and evictions within a city having a population of one million or more, shall be transferred to the city housing rent agency of such city on May first, nineteen hundred sixty-two, subject to the provisions of any local laws, ordinances, rules or regulations adopted pursuant to this subdivision or subdivision five of this section. On and after such date, and until the adoption of a local law or ordinance in respect of the regulation and control of residential rents within such city pursuant to subdivision five of this section, such city housing rent agency is hereby authorized and empowered, from time to time, to adopt, promulgate, amend or rescind rules, regulations and orders under the state emergency housing rent control law and the validity of such rules, regulations and orders shall not be affected by and need not be consistent with the rules, regulations and orders of the temporary state housing rent commission under such law. All acts, orders, determinations, decisions, rules and regulations of the temporary state housing rent commission relating to the regulation and control of residential rents and eviction within such city which are in force at the time of such transfer shall continue in force and effect as acts, orders, determinations, decisions, rules and regulations of such city housing rent agency until duly modified, superseded or abrogated pursuant to such local laws, ordinances, rules or regulations.

7. Investigations. The city housing rent agency is authorized to make such studies and investigations, to conduct such hearings, and to obtain such information as it deems necessary or proper in prescribing any regulation or order under a local law adopted pursuant to subdivision five of this section or in administering and enforcing such local law and the regulations and orders thereunder or the state emergency housing rent control law and the regulations and orders thereunder.

The city housing rent agency is further authorized, by regulation or order, to require any person who rents or offers for rent or acts as broker or agent for the rental of any housing accommodations to furnish any such information under oath or affirmation, or otherwise, to make and keep records and other documents, and to make reports, and the city housing rent agency may require any such person to permit the inspection and copying of records and other documents and the inspection of housing accommodations. Any officer or agent designated by the city housing rent agency for such purposes may administer oaths and affirmations and may, whenever necessary, by subpoena, require any such person to appear and testify or to appear and produce documents, or both, at any designated place.

For the purpose of obtaining any information under this subdivision, the city housing rent agency may by subpoena require any other person to appear and testify or to appear and produce documents, or both, at any designated place.

The production of a person's documents at any place other than his place of business shall not be required under this subdivision in any case in which, prior to the return date specified in the subpoena issued with respect thereto, such person either has furnished the city housing rent agency with a copy of such documents certified by such person under oath to be a true and correct copy, or has entered into a stipulation with the city housing rent agency as to the information contained in such documents.

In case of contumacy by, or refusal to obey a subpoena served upon, any person referred to in

this subdivision, the supreme court in or for any judicial district in which such person is found or resides or transacts business, upon application by the city housing rent agency, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce documents, or both; and any failure to obey such order of the court may be punished by such court as a contempt thereof. The provisions of this paragraph shall be in addition to the provisions of paragraph (a) of subdivision nine of this section.

Witnesses subpoenaed under this subdivision shall be paid the same fees and mileage as are paid witnesses under article eighty of the civil practice law and rules.

Upon any such investigation or hearing, the city housing rent agency, or an officer duly designated by the city housing rent agency to conduct such investigation or hearing, may confer immunity in accordance with the provisions of section 50.20 of the criminal procedure law.

The city housing rent agency shall not publish or disclose any information obtained under this section that the city housing rent agency deems confidential or with reference to which a request for confidential treatment is made by the person furnishing such information, unless the city housing rent agency determines that the withholding thereof is contrary to the public interest.

Any person subpoenaed under this section shall have the right to make a record of his testimony and to be represented by counsel.

8. Judicial review. Any person who is aggrieved by the final determination of the city housing rent agency in an administrative proceeding protesting a regulation or order of such agency may, in accordance with article seventy-eight of the civil practice law and rules, within sixty days after such determination, file a petition with the supreme court specifying his objections and praying that the regulation or order protested be enjoined or set aside in whole or in part. Such proceeding may at the option of the petitioner be instituted in the county where the city housing rent agency has its principal office or where the property is located. A copy of such petition shall forthwith be served on the city housing rent agency, and the city housing rent agency shall file with such court the original or a transcript of such portions of the proceedings in connection with the determination as are material under the petition. Such return shall include a statement setting forth, so far as practicable, the economic data and other facts of which the city housing rent agency has taken official notice. Upon the filing of such petition the court shall have jurisdiction to set aside the regulation or order protested, in whole or in part, to dismiss the petition, or to remit the proceeding to the city housing rent agency; provided, however, that the regulation or order may be modified or rescinded by the city housing rent agency at any time notwithstanding the pendency of such proceeding for review. No objection to such regulation or order, and no evidence in support of any objection thereto, shall be considered by the court, unless such objection shall have been presented to the city housing rent agency by the petitioner in the proceedings resulting in the determination or unless such evidence shall be contained in the return. If application is made to the court by either party for leave to introduce additional evidence which was either offered and not admitted, or which could not reasonably have been offered or included in such proceedings before the city housing rent agency, and the court determines that such evidence should be admitted, the court shall order the evidence to be presented to the city housing rent agency. The city housing rent agency shall promptly receive

the same, and such other evidence as the city housing rent agency deems necessary or proper, and thereupon the city housing rent agency shall file with the court the original or a transcript thereof and any modification made in such regulation or order as a result thereof; except that on request by the city housing rent agency, any such evidence shall be presented directly to the court. Upon final determination of the proceeding before the court, the original record, if filed by the city housing rent agency with the court, shall be returned to the city housing rent agency.

No regulation or order of the city housing rent agency shall be enjoined or set aside, in whole or in part, unless the petitioner shall establish to the satisfaction of the court that the regulation or order is not in accordance with law, or is arbitrary or capricious. The effectiveness of an order of the court enjoining or setting aside, in whole or in part, any such regulation or order shall be postponed until the expiration of thirty days from the entry thereof. The jurisdiction of the supreme court shall be exclusive and its order dismissing the petition or enjoining or setting aside such regulation or order, in whole or in part, shall be final, subject to review by the appellate division of the supreme court and the court of appeals in the same manner and form and with the same effect as provided in the civil practice act for appeals from a final order in a special proceeding. Notwithstanding any provision of section thirteen hundred four of the civil practice act to the contrary, any order of the court remitting the proceeding to the city housing rent agency may, at the election of the city housing rent agency, be subject to review by the appellate division of the supreme court and the court of appeals in the same manner and form and with the same effect as provided in the civil practice act for appeals from a final order in a special proceeding. All such proceedings shall be heard and determined by the court and by any appellate court as expeditiously as possible and with lawful precedence over other matters. All such proceedings for review shall be heard on the petition, transcript and other papers, and on appeal shall be heard on the record, without requirement of printing.

Within thirty days after arraignment, or such additional time as the court may allow for good cause shown, in any criminal proceeding, and within five days after judgment in any civil or criminal proceeding, brought pursuant to subdivision ten of this section involving alleged violation of any provision of any regulation or order of the city housing rent agency, the defendant may apply to the court in which the proceeding is pending for leave to file in the supreme court a petition setting forth objections to the validity of any provision which the defendant is alleged to have violated or conspired to violate. The court in which the proceeding is pending shall grant such leave with respect to any objection which it finds is made in good faith and with respect to which it finds there is reasonable and substantial excuse for the defendant's failure to present such objection in an administrative proceeding before the city housing rent agency. Upon the filing of a petition pursuant to and within thirty days from the granting of such leave, the supreme court shall have jurisdiction to enjoin or set aside in whole or in part the provision of the regulation or order complained of or to dismiss the petition. The court may authorize the introduction of evidence, either to the city housing rent agency or directly to the court, in accordance with the first paragraph of this subdivision. The provisions of the second paragraph of this subdivision shall be applicable with respect to any proceedings instituted in accordance with this paragraph.

In any proceeding brought pursuant to subdivision ten of this section involving an alleged violation of any provision of any such regulation or order, the court shall stay the proceeding:

(1) during the period within which a petition may be filed in the supreme court pursuant to leave granted under the third paragraph of this subdivision with respect to such provision;

(2) during the pendency of any administrative proceeding before the city housing rent agency properly commenced by the defendant prior to the institution of the proceeding under subdivision ten of this section, setting forth objections to the validity of such provision which the court finds to have been made in good faith; and

(3) during the pendency of any judicial proceeding instituted by the defendant under this subdivision with respect to such administrative proceeding or instituted by the defendant under the third paragraph of this subdivision with respect to such provision, and until the expiration of the time allowed in this subdivision for the taking of further proceedings with respect thereto.

Notwithstanding the provisions of the immediately preceding paragraph, stays shall be granted thereunder in civil proceedings only after judgment and upon application made within five days after judgment. Notwithstanding the provisions of the third paragraph of this subdivision, in the case of a proceeding under the first paragraph of subdivision ten of this section the court granting a stay under the immediately preceding paragraph of this subdivision shall issue a temporary injunction or restraining order enjoining or restraining, during the period of the stay, violations by the defendant of any provision of the regulation or order involved in the proceeding. If any provision of a regulation or order is determined to be invalid by judgment of the supreme court which has become effective in accordance with the second paragraph of this subdivision, any proceeding pending in any court shall be dismissed, and any judgment in such proceeding vacated, to the extent that such proceeding or judgment is based upon violation of such provision. Except as provided in this paragraph, the pendency of any administrative proceeding before the city housing rent agency or judicial proceeding under this subdivision shall not be grounds for staying any proceeding brought pursuant to subdivision ten of this section; nor, except as provided in this paragraph, shall any retroactive effect be given to any judgment setting aside a provision of a regulation or order.

The method prescribed herein for the judicial review of a regulation or order of the city housing rent agency shall be exclusive.

9. Prohibitions. (a) It shall be unlawful, regardless of any contract, lease or other obligation heretofore or hereafter entered into, for any person to demand or receive any rent for any housing accommodations in excess of the maximum rent established therefor by the temporary state housing rent commission or the city housing rent agency or otherwise to do or omit to do any act, in violation of any regulation, order or requirement of the city housing rent agency hereunder or under any local law adopted pursuant to subdivision five of this section or to offer, solicit, attempt or agree to do any of the foregoing.

(b) It shall be unlawful for any person to remove or attempt to remove from any housing accommodations the tenant or occupant thereof or to refuse to renew the lease or agreement for the use of such accommodations, because such tenant or occupant has taken, or proposes to take, action authorized or required by the state emergency housing rent control law or any local law

adopted pursuant to subdivision five of this section or any regulation, order or requirement thereunder.

(c) It shall be unlawful for any officer or employee of the city housing rent agency or for any official adviser or consultant to the city housing rent agency to disclose, otherwise than in the course of official duty, any information obtained under this section, or to use any such information for personal benefit.

(d) It shall be unlawful for any landlord or any person acting on his behalf, with intent to cause the tenant to vacate, to engage in any course of conduct (including, but not limited to, interruption or discontinuance of essential services) which interferes with or disturbs or is intended to interfere with or disturb the comfort, repose, peace or quiet of the tenant in his use or occupancy of the housing accommodations.

10. Enforcement. (a) Whenever in the judgment of the city housing rent agency any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of subdivision nine of this section, the city housing rent agency may make application to the supreme court for an order enjoining such acts or practices, or for an order enforcing compliance with such provision, or for an order directing the landlord to correct the violation, and upon a showing by the city housing rent agency that such person has engaged or is about to engage in any such acts or practices a permanent or temporary injunction, restraining order, or other order shall be granted without bond. Jurisdiction shall not be deemed lacking in the supreme court because the defense is based upon an order of an inferior court.

(b) Any person who wilfully violates any provision of subdivision nine of this section, and any person who makes any statement or entry false in any material respect in any document or report required to be kept or filed under any local law adopted pursuant to subdivision five of this section or any regulation, order, or requirement thereunder, and any person who wilfully omits or neglects to make any material statement or entry required to be made in any such document or report, shall, upon conviction thereof, be subject to a fine of not more than five thousand dollars, or to imprisonment for not more than two years in the case of a violation of paragraph (c) of subdivision nine of this section and for not more than one year in all other cases, or to both such fine and imprisonment. Whenever the city housing rent agency has reason to believe that any person is liable to punishment under this paragraph, the city housing rent agency may certify the facts to the district attorney of any county having jurisdiction of the alleged violation, who shall cause appropriate proceedings to be brought.

(c) Any court shall advance on the docket and expedite the disposition of any criminal or other proceedings brought before it under this subdivision.

(d) No officer or employee of the city housing rent agency shall be held liable for damages or penalties in any court, on any grounds for or in respect of anything done or omitted to be done in good faith pursuant to any provision of the state emergency housing rent control law or any local law adopted pursuant to subdivision five of this section or any regulation, order, or requirement thereunder, notwithstanding that subsequently such provision, regulation, order, or requirement may be modified, rescinded, or determined to be invalid. In any action or proceeding wherein a

party relies for ground of relief or defense or raises issue or brings into question the construction or validity of such local law or any regulation, order, or requirement thereunder, the court having jurisdiction of such action or proceeding may at any stage certify such fact to the city housing rent agency. The city housing rent agency may intervene in any such action or proceeding.

(e) If any landlord who receives rent from a tenant violates a regulation or order of the temporary state housing rent commission or the city housing rent agency prescribing the maximum rent with respect to the housing accommodations for which such rent is received from such tenant, the tenant paying such rent may, within two years from the date of the occurrence of the violation, except as hereinafter provided, bring an action against the landlord on account of the overcharge as hereinafter defined. In such action, the landlord shall be liable for reasonable attorney's fees and costs as determined by the court, plus whichever of the following sums is the greater: (a) such amount not more than three times the amount of the overcharge, or the overcharges, upon which the action is based as the court in its discretion may determine, or (b) an amount not less than twenty-five dollars nor more than fifty dollars, as the court in its discretion may determine; provided, however, that such amount shall be the amount of the overcharge or overcharges or twenty-five dollars, whichever is greater, if the defendant proves that the violation of the regulation or order in question was neither wilful nor the result of failure to take practicable precautions against the occurrence of the violation. As used in this section, the word "overcharge" shall mean the amount by which the consideration paid by a tenant to a landlord exceeds the applicable maximum rent. If any landlord who receives rent from a tenant violates a regulation or order of the temporary state housing rent commission or the city housing rent agency prescribing maximum rent with respect to the housing accommodations for which such rent is received from such tenant, and such tenant either fails to institute an action under this paragraph within thirty days from the date of the occurrence of the violation or is not entitled for any reason to bring the action, the city housing rent agency may institute an action within such two-year period. If such action is instituted by the city housing rent agency, the tenant affected shall thereafter be barred from bringing an action for the same violation or violations. Any action under this paragraph by either the tenant or the city housing rent agency, as the case may be, may be brought in any court of competent jurisdiction. A judgment in an action for damages under this subdivision shall be a bar to the recovery under this paragraph of any damages in any other action against the same landlord on account of the same overcharge prior to the institution of the action in which such judgment was rendered. Where judgment is rendered in favor of the city housing rent agency in such action, there shall be paid over to the tenant from the moneys recovered one-third of such recovery, exclusive of costs and disbursements.

(f) If any landlord who receives rent from a tenant violates any order of the city housing rent agency containing a directive that rent collected by the landlord in excess of the maximum rent be refunded to the tenant within thirty days, the city housing rent agency may, within one year after the expiration of such thirty day period or after such order shall become final by regulation of the city housing rent agency, bring an action against the landlord on account of the failure of the landlord to make the prescribed refund. In such action, the landlord shall be liable for reasonable attorney's fees and costs as determined by the court, plus whichever of the following sums is the greater: (a) such amount not more than three times the amount directed to be refunded, or the amount directed to be refunded, upon which the action is based as the court in its discretion may determine, or (b) an amount not less than twenty-five dollars nor more than fifty

dollars, as the court in its discretion may determine; provided, however, that such amount shall be the amount directed to be refunded or twenty-five dollars, whichever is greater, if the defendant proves that the violation of the order in question was neither wilful nor the result of failure to take practical precautions against the occurrence of the violation. The tenant paying such rent may also institute an action under this section if the city housing rent agency fails to institute an action within thirty days from the date of occurrence of the violation. If an action is instituted by the city housing rent agency, the tenant affected shall thereafter be barred from bringing an action for the same violation. Any action under this section by either the city housing rent agency or the tenant, as the case may be, may be brought in any court of competent jurisdiction. A judgment in an action for damages under this section shall be a bar to recovery under this subdivision of any damages in any other action against the same landlord on account of the same violation prior to the institution of the action in which such judgment was rendered. Where an action is brought by the tenant the damages which shall be awarded to the tenant shall be the same as if such action was brought by the city housing rent agency. Where judgment is rendered in favor of the city housing rent agency in such action, there shall be paid over to the tenant from the moneys recovered one-third of such recovery, exclusive of the costs and disbursements.

(g) Where after the city housing rent agency has granted a certificate of eviction certifying that the landlord may pursue his remedies pursuant to local law to acquire possession, and a tenant voluntarily removes from a housing accommodation or has been removed therefrom by action or proceeding to evict from or recover possession of a housing accommodation upon the ground that the landlord seeks in good faith to recover possession of such accommodation for any purpose specified in a local law adopted pursuant to subdivision five of this section and such landlord shall lease or sell the housing accommodation or the space previously occupied thereby, or permit use thereof in any manner other than contemplated in such eviction certificate, such landlord shall, unless for good cause shown, be liable to the tenant for three times the damages sustained on account of such removal plus reasonable attorney's fees and costs as determined by the court; in addition to any other damage, the cost of removal of property shall be a lawful measure of damage.

(h) Any tenant who has vacated his housing accommodations because the landlord or any person acting on his behalf, with intent to cause the tenant to vacate, engaged in any course of conduct (including but not limited to, interruption or discontinuance of essential services) which interfered with or disturbed or was intended to interfere with or disturb the comfort, repose, peace or quiet of the tenant in his use or occupancy of the housing accommodations may, within ninety days after vacating, apply for a determination that the housing accommodations were vacated as a result of such conduct, and may, within one year after such determination, institute a civil action against the landlord by reason of such conduct. Application for such determination may be made to the city housing rent agency with respect to housing accommodations which, by local law or ordinance, are made directly subject to regulation and control by such agency. For all other housing accommodations subject to regulation and control pursuant to the New York city rent stabilization law of nineteen hundred sixty-nine, application for such determination may be made to the New York city conciliation and appeals board. For the purpose of making and enforcing any determination of the New York city conciliation and appeals board as herein provided, the provisions of sections seven, eight and ten, whenever they refer to the city housing

rent agency, shall be deemed to refer to such board. In such action the landlord shall be liable to the tenant for three times the damages sustained on account of such conduct plus reasonable attorney's fees and costs as determined by the court. In addition to any other damages the cost of removal of property shall be a lawful measure of damages.

(h) Any tenant who has vacated his housing accommodations because the landlord or any person acting on his behalf, with intent to cause the tenant to vacate, engaged in any course of conduct (including but not limited to, interruption or discontinuance of essential services) which interfered with or disturbed or was intended to interfere with or disturb the comfort, repose, peace or quiet of the tenant in his use or occupancy of the housing accommodations may, within ninety days after vacating, apply for a determination that the housing accommodations were vacated as a result of such conduct, and may, within one year after such determination, institute a civil action against the landlord by reason of such conduct. Application for such determination may be made to the city housing rent agency with respect to housing accommodations which, by local law or ordinance, are made directly subject to regulation and control by such agency. For all other housing accommodations subject to regulation and control by local law or ordinance, application for such determination may be made to the state division of housing and community renewal. For the purpose of making and enforcing any determination of the state division, as herein provided, the provisions of sections seven, eight and ten, whenever they refer to the city housing rent agency, shall be deemed to refer to the state division. In such action the landlord shall be liable to the tenant for three times the damages sustained on account of such conduct plus reasonable attorney's fees and costs as determined by the court. In addition to any other damages the cost of removal of property shall be a lawful measure of damages.

11. Transfer of certain pending matters. Except as provided in subdivision thirteen of this section, any matter, application, proceeding or protest undertaken, filed or commenced by, with or before the temporary state housing rent commission or the state rent administrator relating to the regulation and control or residential rents and evictions within a city having a population of one million or more and pending on May first, nineteen hundred sixty-two, shall be transferred to, conducted by, and completed or determined by the city housing rent agency. In discharging such responsibilities the city housing rent agency shall act in conformity with the provisions of the state emergency housing rent control law, and the rules and regulations promulgated thereunder, governing such matters, applications or proceedings, unless at the time such action is taken, such state law, and the rules and regulations promulgated thereunder, have been amended or superseded by local laws, ordinances, rules or regulations adopted pursuant to subdivision five of this section, and in such event, in conformity therewith to the extent such local law, ordinances, rules or regulations are made expressly applicable to such matters, applications or proceedings.

12. Termination of state regulation and control. On and after May first, nineteen hundred sixty-two, the temporary state housing rent commission and the state rent administrator shall have no jurisdiction over the regulation and control of residential rents and evictions within any city having a population of one million or more.

13. Pending court proceedings. All appeals or other court proceedings relating to the regulation and control of residential rents and evictions in a city having a population of one million or more

to which the temporary state housing rent commission or the state rent administrator is a party and which is pending on May first, nineteen hundred sixty-two or thereafter prosecuted shall be prosecuted or defended by the temporary state housing rent commission and the state rent administrator pursuant to the state emergency housing rent control law to a final determination or other disposition by the court in accordance with law. If the court remits any such matter to the temporary state housing rent commission, the commission may transfer such matter to the city housing rent agency for disposition pursuant to subdivision eleven of this section.

14. Civil service. Upon the transfer of the functions of the temporary state housing rent commission to the city housing rent agency pursuant to subdivision six of this section, the officers, and employees of such commission, other than those certified for retention by the state rent administrator to the state department of civil service prior to April first, nineteen hundred sixty-two, as required for the continued operations of such commission, shall be transferred as of May first, nineteen hundred sixty-two, to the city housing rent agency for the continued performance of their functions. Such officers and employees shall be transferred to similar or corresponding positions in such city housing rent agency, without further examination or qualification, and shall retain their respective civil service jurisdictional classifications and status. If the city housing rent agency determines that it will not accept for transfer all such officers and employees, the city housing rent agency shall certify to the state department of civil service those officers and employees whom it will not accept for transfer and in such event, the determination of those to be transferred shall be made by selection of the city housing rent agency from among officers and employees holding permanent appointments in competitive class positions in the order of their respective dates of original appointments in the service of the state, with due regard to the right of preference in retention of disabled and non-disabled veterans and blind persons.

Notwithstanding the provisions of any general, special or local law, code or charter requiring officers and employees of a city having a population of one million or more to be residents of such city at the time of their entry into city service or during the continuance of such service, officers and employees of the temporary state housing rent commission shall be transferred to and shall be retained by the city housing rent agency pursuant to this subdivision without regard to local residence.

Officers and employees holding permanent appointments in competitive class positions, other than those certified by the state rent administrator for retention in the service of the state, who are not accepted for transfer by the city housing rent agency or who request to be excepted from such transfer shall have their names entered on an appropriate preferred list for reinstatement to the same or similar positions in the service of the state.

Officers and employees transferred to the city housing rent agency pursuant to this subdivision shall be entitled to full seniority credit for all purposes, including the determination of their city salaries and increments, for service in the state government rendered prior to such transfer, as though such service had been service in the city government. Such transferees shall retain their earned unused sick leave and vacation credits, but not in excess of maximum accumulations permitted under such municipal rules as may be applicable.

Officers and employees transferred pursuant to this subdivision shall thereafter be subject to the rules and jurisdiction of the municipal civil service commission having jurisdiction over the city housing rent agency to which such transfer is made. The state department of civil service shall transfer to such municipal civil service commission on May first, nineteen hundred sixty-two, or as soon thereafter as may be practicable, all eligible lists, records, documents and files pertaining to the officers and employees so transferred and to their positions. Examinations for positions in the temporary state housing rent commission which are in process on May first, nineteen hundred sixty-two, shall be completed by the state civil service commission and eligible lists established. Such lists shall be included among the eligible lists transferred to the municipal civil service commission. Any such eligible list shall continue to be used by such municipal civil service commission and shall be certified by it in accordance with the provisions of its rules and regulations for filling vacancies in appropriate positions in the city housing rent agency exercising the functions transferred pursuant to this section; provided, however, that such certifications from promotion eligible lists shall be limited to eligibles transferred to such city housing rent agency pursuant to this subdivision. Promotions in the temporary state housing rent commission shall be made from among eligibles on appropriate lists who are not transferred to the city housing rent agency. All other matters which relate to the administration of the civil service law with respect to the officers and employees transferred pursuant to this subdivision, and with respect to their positions, and which at the time of such transfer are pending before the state department of civil service or the state civil service commission, shall be transferred to such municipal civil service commission, and any action theretofore taken on such matters by such state department or commission shall have the same force and effect as if taken by such municipal civil service commission.

15. Intergovernmental cooperation. The temporary state housing rent commission and the state rent administrator shall cooperate with the city housing rent agency in effectuating the purposes of this act and shall make available to the city housing rent agency such cooperation, information, records and data as will assist the city housing rent agency in effectuating such purposes.

Upon the request of the city housing rent agency, all such information, records and data relating to the regulation and control of residential rents and evictions within such city shall be transferred to the city housing rent agency on May first, nineteen hundred sixty-two or as soon thereafter as may be practicable.

Subject to the approval of the state rent administrator, the state commissioner of general services is hereby authorized to sublease or otherwise make available, in part or in whole, to the city housing rent agency, upon such terms and conditions as the said commissioner may prescribe, any premises leased to the state and occupied on or prior to May first, nineteen hundred sixty-two by the temporary state housing rent commission.

Notwithstanding the provisions of section one hundred seventy-eight of the state finance law, the state commissioner of general services is hereby authorized to sell, lease or otherwise make available to the city housing rent agency, upon such terms and conditions as the said commissioner may prescribe and subject to the approval of the state rent administrator, any or all personal property used on or prior to May first, nineteen hundred sixty-two by the temporary

state housing rent commission.

16. Saving clause. If any local law or ordinance in respect of the regulation and control of residential rents and evictions adopted pursuant to subdivision five of this section shall be held wholly or partially invalid by final decree of a court of competent jurisdiction, the city housing rent agency shall administer the provisions of the state emergency housing rent control law to the extent of any such invalidity.

17. Separability. If any subdivision, paragraph, sentence, clause or provision of this section shall be held wholly or partially invalid by final decree of a court of competent jurisdiction, to the extent that it is not invalid, it shall be valid and no other subdivision, paragraph, sentence, clause or provision shall on account thereof be deemed invalid.

§ 2. Promptly after the effective date of this act, the mayor of each city having a population of one million or more shall transmit to the governor, in such form and detail as the governor may prescribe, his request, if any, for an appropriation from the state treasury to defray the reasonable and necessary expenses of such city for personal service and for maintenance and operation in respect of the regulation and control of residential rents within such city pursuant to this act. Any such request shall be in sufficient detail to justify the reasonableness and necessity of the amount requested.

If a request is received from the mayor of any such city after the final adjournment of the regular session of the legislature in nineteen hundred sixty-two, the state director of the budget is authorized to transfer to such city from time to time a portion of any outstanding appropriation made to the temporary state housing rent commission after filing a certificate of such transfer with the state comptroller, the chairman of the senate finance committee and the chairman of the assembly ways and means committee. Any amount so transferred shall be paid from the general fund to the credit of the local assistance fund on the audit and warrant of the state comptroller on vouchers requisitioned by the mayor of such city or by an official of such city designated by the mayor.

§ 2-a. Notwithstanding any other provision of law, during the period April first, nineteen hundred seventy-two to March thirty-first, nineteen hundred seventy-three, the city housing rent agency may assess and collect fees or charges upon landlords pursuant to local rent control laws or regulations subject to such terms and conditions as it may deem to be appropriate, provided, however, that such fees or charges shall not exceed three dollars per housing accommodation in the aggregate. In addition, no such fees or charges shall be assessed against any owner occupied structure with eight or less housing accommodations. To the extent that such fees and charges are insufficient to provide the full amount required for services and expenses necessary to the operation of the rent control program, the amount appropriated by the legislature, or so much thereof as may be necessary, shall be available for the payment of state aid. The officer or officers designated by local law or regulation to assess and collect such fees or charges and to make disbursements therefrom, shall maintain, and provide at such times and in the manner and form as may be prescribed by the comptroller and the director of the budget of the state of New York, a record and accounting of all funds received and disbursed pursuant to this authorization.

§ 5. Any adjustments in maximum rents ordered by the temporary state housing rent commission on and after June thirtieth, nineteen hundred sixty-one, and resulting in an increase thereof solely by reason of the amendments made by chapter three hundred thirty-seven of the laws of nineteen hundred sixty-one to paragraph (a) of subdivision four of section four of the emergency housing rent control law which provided for the application of the most recent equalization rate, rather than the equalization rate for the year nineteen hundred fifty-four, are hereby rescinded and nullified, provided, however, that no right is conferred by this act to recover any such increase paid prior to the effective date of this act.

§ 6. Notwithstanding any provision of chapter three hundred thirty-seven of the laws of nineteen hundred sixty-one, maximum rents established in any city having a population of one million or more pursuant to the emergency housing rent control law, as last amended by such chapter, shall not be increased during the period between the effective date of this act and May first, nineteen hundred sixty-two, except with the voluntary written consent of the tenant affected.