

6454

I N S E N A T E

January 13, 2016

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

AN ACT to amend the emergency tenant protection act of nineteen seventy-four, and the administrative code of the city of New York, in relation to penalties for owners of property who fail to file a proper or timely rent registration statement

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

1 Section 1. The opening paragraph of paragraph 1 of subdivision a of  
2 section 12 of section 4 of chapter 576 of the laws of 1974, constituting  
3 the emergency tenant protection act of nineteen seventy-four, as amended  
4 by chapter 116 of the laws of 1997, is amended to read as follows:  
5 Subject to the conditions and limitations of this paragraph, any owner  
6 of housing accommodations in a city having a population of less than one  
7 million or a town or village as to which an emergency has been declared  
8 pursuant to section three, who, upon complaint of a tenant or of the  
9 state division of housing and community renewal, is found by the state  
10 division of housing and community renewal, after a reasonable opportu-  
11 nity to be heard, to have collected an overcharge above the rent author-  
12 ized for a housing accommodation subject to this act shall be liable to  
13 the tenant for a penalty equal to [three] FIVE times the amount of such  
14 overcharge FOR A FIRST OFFENSE AND TEN TIMES THE AMOUNT OF SUCH OVER-  
15 CHARGE FOR ANY SUBSEQUENT OVERCHARGES. In no event shall such treble  
16 damage penalty be assessed against an owner based solely on said owner's  
17 failure to file a proper or timely initial or annual rent registration  
18 statement. If the owner establishes by a preponderance of the evidence  
19 that the overcharge was neither willful nor attributable to his negli-  
20 gence, the state division of housing and community renewal shall estab-  
21 lish the penalty as the amount of the overcharge plus interest at the  
22 rate of interest payable on a judgment pursuant to section five thousand  
23 four of the civil practice law and rules. (i) Except as to complaints  
24 filed pursuant to clause (ii) of this paragraph, the legal regulated  
25 rent for purposes of determining an overcharge, shall be deemed to be

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

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1 the rent indicated in the annual registration statement filed four years  
2 prior to the most recent registration statement, (or, if more recently  
3 filed, the initial registration statement) plus in each case any subse-  
4 quent lawful increases and adjustments. Where the amount of rent set  
5 forth in the annual rent registration statement filed four years prior  
6 to the most recent registration statement is not challenged within four  
7 years of its filing, neither such rent nor service of any registration  
8 shall be subject to challenge at any time thereafter. (ii) As to  
9 complaints filed within ninety days of the initial registration of a  
10 housing accommodation, the legal regulated rent for purposes of deter-  
11 mining an overcharge shall be deemed to be the rent charged on the date  
12 four years prior to the date of the initial registration of the housing  
13 accommodation (or, if the housing accommodation was subject to this act  
14 for less than four years, the initial legal regulated rent) plus in each  
15 case, any lawful increases and adjustments. Where the rent charged on  
16 the date four years prior to the date of the initial registration of the  
17 accommodation cannot be established, such rent shall be established by  
18 the division. Where the amount of rent set forth in the annual rent  
19 registration statement filed four years prior to the most recent regis-  
20 tration statement is not challenged within four years of its filing,  
21 neither such rent nor service of any registration shall be subject to  
22 challenge at any time thereafter.

23 S 2. The opening paragraph of subdivision a of section 26-516 of the  
24 administrative code of the city of New York, as amended by chapter 116  
25 of the laws of 1997, is amended to read as follows:

26 Subject to the conditions and limitations of this subdivision, any  
27 owner of housing accommodations who, upon complaint of a tenant, or of  
28 the state division of housing and community renewal, is found by the  
29 state division of housing and community renewal, after a reasonable  
30 opportunity to be heard, to have collected an overcharge above the rent  
31 authorized for a housing accommodation subject to this chapter shall be  
32 liable to the tenant for a penalty equal to [three] FIVE times the  
33 amount of such overcharge FOR A FIRST OFFENSE AND TEN TIMES THE AMOUNT  
34 OF SUCH OVERCHARGE FOR ANY SUBSEQUENT OVERCHARGES. In no event shall  
35 such treble damage penalty be assessed against an owner based solely on  
36 said owner's failure to file a timely or proper initial or annual rent  
37 registration statement. If the owner establishes by a preponderance of  
38 the evidence that the overcharge was not willful, the state division of  
39 housing and community renewal shall establish the penalty as the amount  
40 of the overcharge plus interest. (i) Except as to complaints filed  
41 pursuant to clause (ii) of this paragraph, the legal regulated rent for  
42 purposes of determining an overcharge, shall be the rent indicated in  
43 the annual registration statement filed four years prior to the most  
44 recent registration statement, (or, if more recently filed, the initial  
45 registration statement) plus in each case any subsequent lawful  
46 increases and adjustments. Where the amount of rent set forth in the  
47 annual rent registration statement filed four years prior to the most  
48 recent registration statement is not challenged within four years of its  
49 filing, neither such rent nor service of any registration shall be  
50 subject to challenge at any time thereafter. (ii) As to complaints  
51 filed within ninety days of the initial registration of a housing accom-  
52 modation, the legal regulated rent shall be deemed to be the rent  
53 charged on the date four years prior to the date of the initial regis-  
54 tration of the housing accommodation (or, if the housing accommodation  
55 was subject to this chapter for less than four years, the initial legal  
56 regulated rent) plus in each case, any lawful increases and adjustments.

1 Where the rent charged on the date four years prior to the date of the  
2 initial registration of the accommodation cannot be established, such  
3 rent shall be established by the division.

4 S 3. This act shall take effect immediately; provided that

5 a. the amendments to the opening paragraph of paragraph 1 of subdivi-  
6 sion a of section 12 of the emergency tenant protection act of nineteen  
7 seventy-four made by section one of this act shall expire on the same  
8 date as such act expires and shall not affect the expiration of such act  
9 as provided in section 17 of chapter 567 of the laws of 1974; and  
10 b. the amendments to section 26-516 of chapter 4 of title 26 of the  
11 administrative code of the city of New York made by section two of this  
12 act shall expire on the same date as such law expires and shall not  
13 affect the expiration of such law as provided under section 26-520 of  
14 such law.