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I N   S E N A T E

February 17, 2016

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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 opportunity  
11    to be heard, to have collected an overcharge above the rent authorized  
12    for a housing accommodation subject to this act shall be liable to  
13    the tenant for a penalty equal to three times the amount of such over-  
14    charge. [In no event shall such] A treble damage penalty SHALL be  
15    assessed against an owner based solely on said owner's failure to file a  
16    proper or timely initial or annual rent registration statement. If the  
17    owner establishes by a preponderance of the evidence that the overcharge  
18    was neither willful nor attributable to his negligence, the state division  
19    of housing and community renewal shall establish the penalty as the  
20    amount of the overcharge plus interest at the rate of interest payable  
21    on a judgment pursuant to section five thousand four of the civil practice  
22    law and rules. (i) Except as to complaints filed pursuant to clause  
23    (ii) of this paragraph, the legal regulated rent for purposes of determining  
24    an overcharge, shall be deemed to be the rent indicated in the  
25    MOST RECENT annual registration statement filed [four years prior to the

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

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1 most recent registration statement, (or, if more recently filed, the  
2 initial registration statement)], plus in each case any subsequent  
3 lawful increases and adjustments. [Where the amount of rent set forth in  
4 the annual rent registration statement filed four years prior to the  
5 most recent registration statement is not challenged within four years  
6 of its filing, neither such rent nor service of any registration shall  
7 be subject to challenge at any time thereafter.] (ii) As to complaints  
8 filed within ninety days of the initial registration of a housing accom-  
9 modation, the legal regulated rent for purposes of determining an over-  
10 charge shall be deemed to be the rent charged on the date four years  
11 prior to the date of the initial registration of the housing accommo-  
12 dation (or, if the housing accommodation was subject to this act for  
13 less than four years, the initial legal regulated rent) plus in each  
14 case, any lawful increases and adjustments. Where the rent charged on  
15 the date four years prior to the date of the initial registration of the  
16 accommodation cannot be established, such rent shall be established by  
17 the division. [Where the amount of rent set forth in the annual rent  
18 registration statement filed four years prior to the most recent regis-  
19 tration statement is not challenged within four years of its filing,  
20 neither such rent nor service of any registration shall be subject to  
21 challenge at any time thereafter.] (III) FAILURE TO FILE AN ANNUAL RENT  
22 REGISTRATION STATEMENT, SHALL RESULT IN A FINE OF TWO THOUSAND DOLLARS,  
23 PER UNREGISTERED HOUSING ACCOMMODATION MADE PAYABLE TO THE STATE DIVI-  
24 SION OF HOUSING AND COMMUNITY RENEWAL.

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

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

1 in each case, any lawful increases and adjustments. Where the rent  
2 charged on the date four years prior to the date of the initial regis-  
3 tration of the accommodation cannot be established, such rent shall be  
4 established by the division. (III) FAILURE TO FILE AN ANNUAL RENT  
5 REGISTRATION STATEMENT, SHALL RESULT IN A FINE OF TWO THOUSAND DOLLARS,  
6 PER UNREGISTERED HOUSING ACCOMMODATION MADE PAYABLE TO THE STATE DIVI-  
7 SION OF HOUSING AND COMMUNITY RENEWAL.

8 S 3. This act shall take effect immediately; provided, however, that  
9 the amendments to the opening paragraph of paragraph 1 of subdivision a  
10 of section 12 of section 4 of the emergency tenant protection act of  
11 nineteen seventy-four made by section one of this act shall expire on  
12 the same date as such act expires and shall not affect the expiration of  
13 such act as provided in section 17 of chapter 576 of the laws of 1974,  
14 and that the amendments to the opening paragraph of subdivision a of  
15 section 26-516 of chapter 4 of title 26 of the administrative code of  
16 the city of New York made by section two of this act shall expire on the  
17 same date as such law expires and shall not affect the expiration of  
18 such law as provided under section 26-520 of such law.