

STATE OF NEW YORK

105

2017-2018 Regular Sessions

IN SENATE

(Prefiled)

January 4, 2017

Introduced by Sens. HOYLMAN, RIVERA -- 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 seven-
ty-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 Assem-
bly, 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 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 divi-
19 sion 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 prac-

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

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1 tice law and rules. (i) Except as to complaints filed pursuant to clause
2 (ii) of this paragraph, the legal regulated rent for purposes of deter-
3 mining an overcharge, shall be deemed to be the rent indicated in the
4 most recent annual registration statement filed [~~four years prior to the~~
5 ~~most recent registration statement, (or, if more recently filed, the~~
6 ~~initial registration statement)], plus in each case any subsequent
7 lawful increases and adjustments. [~~Where the amount of rent set forth in~~
8 ~~the annual rent registration statement filed four years prior to the~~
9 ~~most recent registration statement is not challenged within four years~~
10 ~~of its filing, neither such rent nor service of any registration shall~~
11 ~~be subject to challenge at any time thereafter.~~] (ii) As to complaints
12 filed within ninety days of the initial registration of a housing accom-
13 modation, the legal regulated rent for purposes of determining an over-
14 charge shall be deemed to be the rent charged on the date four years
15 prior to the date of the initial registration of the housing accommo-
16 dation (or, if the housing accommodation was subject to this act for
17 less than four years, the initial legal regulated rent) plus in each
18 case, any lawful increases and adjustments. Where the rent charged on
19 the date four years prior to the date of the initial registration of the
20 accommodation cannot be established, such rent shall be established by
21 the division. [~~Where the amount of rent set forth in the annual rent~~
22 ~~registration statement filed four years prior to the most recent regis-~~
23 ~~tration statement is not challenged within four years of its filing,~~
24 ~~neither such rent nor service of any registration shall be subject to~~
25 ~~challenge at any time thereafter.~~] (iii) Failure to file an annual rent
26 registration statement, shall result in a fine of two thousand dollars,
27 per unregistered housing accommodation made payable to the state divi-
28 sion of housing and community renewal.~~

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

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

1 legal regulated rent shall be deemed to be the rent charged on the date
2 four years prior to the date of the initial registration of the housing
3 accommodation (or, if the housing accommodation was subject to this
4 chapter for less than four years, the initial legal regulated rent) plus
5 in each case, any lawful increases and adjustments. Where the rent
6 charged on the date four years prior to the date of the initial regis-
7 tration of the accommodation cannot be established, such rent shall be
8 established by the division. (iii) Failure to file an annual rent
9 registration statement, shall result in a fine of two thousand dollars,
10 per unregistered housing accommodation made payable to the state divi-
11 sion of housing and community renewal.

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