

# STATE OF NEW YORK

3874

2017-2018 Regular Sessions

## IN ASSEMBLY

January 30, 2017

Introduced by M. of A. ROSENTHAL -- read once and referred to the  
Committee on Housing

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-  
22 tice law and rules. (i) Except as to complaints filed pursuant to clause  
23 (ii) of this paragraph, the legal regulated rent for purposes of deter-

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

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

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

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

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

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