

STATE OF NEW YORK

523

2017-2018 Regular Sessions

IN ASSEMBLY

January 9, 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~~] 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

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

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

25 § 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~~ five times the
35 amount of such overcharge for a first offense and ten times the amount
36 of such overcharge for any subsequent overcharges. In no event shall
37 such treble damage penalty be assessed against an owner based solely on
38 said owner's failure to file a timely or proper initial or annual rent
39 registration statement. If the owner establishes by a preponderance of
40 the evidence that the overcharge was not willful, the state division of
41 housing and community renewal shall establish the penalty as the amount
42 of the overcharge plus interest. (i) Except as to complaints filed
43 pursuant to clause (ii) of this paragraph, the legal regulated rent for
44 purposes of determining an overcharge, shall be the rent indicated in
45 the annual registration statement filed four years prior to the most
46 recent registration statement, (or, if more recently filed, the initial
47 registration statement) plus in each case any subsequent lawful
48 increases and adjustments. Where the amount of rent set forth in the
49 annual rent registration statement filed four years prior to the most
50 recent registration statement is not challenged within four years of its
51 filing, neither such rent nor service of any registration shall be
52 subject to challenge at any time thereafter. (ii) As to complaints
53 filed within ninety days of the initial registration of a housing accom-
54 modation, the legal regulated rent shall be deemed to be the rent
55 charged on the date four years prior to the date of the initial regis-
56 tration of the housing accommodation (or, if the housing accommodation

1 was subject to this chapter for less than four years, the initial legal
2 regulated rent) plus in each case, any lawful increases and adjustments.
3 Where the rent charged on the date four years prior to the date of the
4 initial registration of the accommodation cannot be established, such
5 rent shall be established by the division.

6 § 3. This act shall take effect immediately; provided that

7 a. the amendments to the opening paragraph of paragraph 1 of subdivi-
8 sion a of section 12 of the emergency tenant protection act of nineteen
9 seventy-four made by section one of this act shall expire on the same
10 date as such act expires and shall not affect the expiration of such act
11 as provided in section 17 of chapter 567 of the laws of 1974; and

12 b. the amendments to section 26-516 of chapter 4 of title 26 of the
13 administrative code of the city of New York made by section two of this
14 act shall expire on the same date as such law expires and shall not
15 affect the expiration of such law as provided under section 26-520 of
16 such law.