

STATE OF NEW YORK

523--A

2017-2018 Regular Sessions

IN ASSEMBLY

January 9, 2017

Introduced by M. of A. L. ROSENTHAL -- read once and referred to the Committee on Housing -- recommitted to the Committee on Housing in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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~~ up to five] times the amount of
14 such overcharge. In no event shall such treble damage penalty 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

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

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

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~~ up to five] times the
37 amount of such overcharge. In no event shall such treble damage penalty
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 annual registration
46 statement filed four years prior to the most recent registration state-
47 ment, (or, if more recently filed, the initial registration statement)
48 plus in each case any subsequent lawful increases and adjustments. Where
49 the amount of rent set forth in the annual rent registration statement
50 filed four years prior to the most recent registration statement is not
51 challenged within four years of its filing, neither such rent nor
52 service of any registration shall be subject to challenge at any time
53 thereafter. (ii) As to complaints filed within ninety days of the
54 initial registration of a housing accommodation, the legal regulated
55 rent shall be deemed to be the rent charged on the date four years prior
56 to the date of the initial registration of the housing accommodation

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

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

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

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