

STATE OF NEW YORK

738

2019-2020 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 9, 2019

Introduced by M. of A. L. 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~~] at least three times the
14 amount, not to exceed five times the amount of such overcharge. In no
15 event shall such [~~treble-damage~~] a penalty be assessed against an owner
16 based solely on said owner's failure to file a proper or timely initial
17 or annual rent registration statement. If the owner establishes by a
18 preponderance of the evidence that the overcharge was neither willful
19 nor attributable to his negligence, the state division of housing and
20 community renewal shall establish the penalty as the amount of the over-
21 charge plus interest at the rate of interest payable on a judgment
22 pursuant to section five thousand four of the civil practice law and

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

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1 rules. (i) Except as to complaints filed pursuant to clause (ii) of this
2 paragraph, the legal regulated rent for purposes of determining an over-
3 charge, shall be deemed to be the rent indicated in the annual registra-
4 tion statement filed four years prior to the most recent registration
5 statement, (or, if more recently filed, the initial registration state-
6 ment) plus in each case any subsequent lawful increases and adjustments.
7 Where the amount of rent set forth in the annual rent registration
8 statement filed four years prior to the most recent registration state-
9 ment is not challenged within four years of its filing, neither such
10 rent nor service of any registration shall be subject to challenge at
11 any time thereafter. (ii) As to complaints filed within ninety days of
12 the initial registration of a housing accommodation, the legal regulated
13 rent for purposes of determining an overcharge shall be deemed to be the
14 rent charged on the date four years prior to the date of the initial
15 registration of the housing accommodation (or, if the housing accommo-
16 dation was subject to this act for less than four years, the initial
17 legal regulated rent) plus in each case, any lawful increases and
18 adjustments. Where the rent charged on the date four years prior to the
19 date of the initial registration of the accommodation cannot be estab-
20 lished, such rent shall be established by the division. Where the amount
21 of rent set forth in the annual rent registration statement filed four
22 years prior to the most recent registration statement is not challenged
23 within four years of its filing, neither such rent nor service of any
24 registration shall be subject to 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~~] at least three times
35 the amount, not to exceed five times the amount of such overcharge. In
36 no event shall such [~~treble-damage~~] a penalty be assessed against an
37 owner based solely on said owner's failure to file a timely or proper
38 initial or annual rent registration statement. If the owner establishes
39 by a preponderance of the evidence that the overcharge was not willful,
40 the state division of housing and community renewal shall establish the
41 penalty as the amount of the overcharge plus interest. (i) Except as to
42 complaints filed pursuant to clause (ii) of this paragraph, the legal
43 regulated rent for purposes of determining an overcharge, shall be the
44 rent indicated in the annual registration statement filed four years
45 prior to the most recent registration statement, (or, if more recently
46 filed, the initial registration statement) plus in each case any subse-
47 quent lawful increases and adjustments. Where the amount of rent set
48 forth in the annual rent registration statement filed four years prior
49 to the most recent registration statement is not challenged within four
50 years of its filing, neither such rent nor service of any registration
51 shall be subject to challenge at any time thereafter. (ii) As to
52 complaints filed within ninety days of the initial registration of a
53 housing accommodation, the legal regulated rent shall be deemed to be
54 the rent charged on the date four years prior to the date of the initial
55 registration of the housing accommodation (or, if the housing accommo-
56 dation was subject to this chapter for less than four years, the initial

1 legal regulated rent) plus in each case, any lawful increases and
2 adjustments. Where the rent charged on the date four years prior to the
3 date of the initial registration of the accommodation cannot be estab-
4 lished, such rent shall be established by the division.

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

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

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