STATE OF NEW YORK

4637--A

Cal. No. 1030

2021-2022 Regular Sessions

IN SENATE

February 8, 2021

Introduced by Sens. HOYLMAN, KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development -- recommitted to the Committee on Housing, Construction and Community Development in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first report, amended on first report, ordered to a second report and ordered reprinted, retaining its place in the order of second report

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 addressing rent overcharge by increasing its penalty

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The opening paragraph of paragraph 1 of subdivision a of section 12 of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, as amended by section 1 of part F of chapter 36 of the laws of 2019, is amended to read as follows:

Subject to the conditions and limitations of this paragraph, any owner of housing accommodations in a city having a population of less than one million or a town or village as to which an emergency has been declared pursuant to section three, who, upon complaint of a tenant or of the state division of housing and community renewal, is found by the state division of housing and community renewal, after a reasonable opportunity to be heard, to have collected an overcharge above the rent authorized for a housing accommodation subject to this act shall be liable to the tenant for a penalty equal to [~~three~~] **at least three times the amount, not to exceed five** times the amount of such overcharge. If the owner establishes by a preponderance of the evidence that the overcharge was neither willful nor attributable to his **or her** negligence, the state division of housing and community renewal shall establish the penalty as

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

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the amount of the overcharge plus interest at the rate of interest payable on a judgment pursuant to section five thousand four of the civil practice law and rules. After a complaint of rent overcharge has been filed and served on an owner, the voluntary adjustment of the rent and/or the voluntary tender of a refund of rent overcharges shall not be considered by the division of housing and community renewal or a court of competent jurisdiction as evidence that the overcharge was not willful. (i) Except as to complaints filed pursuant to clause (ii) of this paragraph, the legal regulated rent for purposes of determining an overcharge, shall be deemed to be the rent indicated in the most recent reliable annual registration statement for a rent stabilized tenant filed and served upon the tenant six or more years prior to the most recent registration statement, (or, if more recently filed, the initial registration statement) plus in each case any subsequent lawful increases and adjustments. The division of housing and community renewal or a court of competent jurisdiction, in investigating complaints of overcharge and in determining legal regulated rent, shall consider all available rent history which is reasonably necessary to make such determinations. (ii) As to complaints filed within ninety days of the initial registration of a housing accommodation, the legal regulated rent for purposes of determining an overcharge shall be deemed to be the rent charged on the date six years prior to the date of the initial registration of the housing accommodation (or, if the housing accommodation was subject to this act for less than six years, the initial legal regulated rent) plus in each case, any lawful increases and adjustments. Where the rent charged on the date six years prior to the date of the initial registration of the accommodation cannot be established, such rent shall be established by the division.

§ 2. The opening paragraph of subdivision a of section 26-516 of the administrative code of the city of New York, as amended by section 4 of part F of chapter 36 of the laws of 2019, is amended to read as follows:

Subject to the conditions and limitations of this subdivision, any owner of housing accommodations who, upon complaint of a tenant, or of the state division of housing and community renewal, is found by the state division of housing and community renewal, after a reasonable opportunity to be heard, to have collected an overcharge above the rent authorized for a housing accommodation subject to this chapter shall be liable to the tenant for a penalty equal to [~~three~~] **at least three times the amount, not to exceed five** times the amount of such overcharge. If the owner establishes by a preponderance of the evidence that the overcharge was not willful, the state division of housing and community renewal shall establish the penalty as the amount of the overcharge plus interest. After a complaint of rent overcharge has been filed and served on an owner, the voluntary adjustment of the rent and/or the voluntary tender of a refund of rent overcharges shall not be considered by the division of housing and community renewal or a court of competent jurisdiction as evidence that the overcharge was not willful. (i) Except as to complaints filed pursuant to clause (ii) of this paragraph, the legal regulated rent for purposes of determining an overcharge, shall be the rent indicated in the most recent reliable annual registration statement filed and served upon the tenant six or more years prior to the most recent registration statement, (or, if more recently filed, the initial registration statement) plus in each case any subsequent lawful increases and adjustments. The division of housing and community renewal or a court of competent jurisdiction, in investigating complaints of overcharge and in determining legal regulated rent, shall consider all

available rent history which is reasonably necessary to make such determinations. (ii) As to complaints filed within ninety days of the initial registration of a housing accommodation, the legal regulated rent shall be deemed to be the rent charged on the date six years prior to the date of the initial registration of the housing accommodation (or, if the housing accommodation was subject to this chapter for less than six years, the initial legal regulated rent) plus in each case, any lawful increases and adjustments. Where the rent charged on the date six years prior to the date of the initial registration of the accommodation cannot be established, such rent shall be established by the division.

§ 3. This act shall take effect immediately; provided, however, that the amendments to section 26-516 of chapter 4 of title 26 of the administrative code of the city of New York made by section two of this act shall expire on the same date as such law expires and shall not affect the expiration of such law as provided under section 26-520 of such law.