

STATE OF NEW YORK

2332

2021-2022 Regular Sessions

IN ASSEMBLY

January 14, 2021

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 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 section 1 of part F of chapter 36 of the laws of 2019, is amended to
5 read as follows:

6 Subject to the conditions and limitations of this paragraph, any owner
7 of housing accommodations in a city having a population of less than one
8 million or a town or village as to which an emergency has been declared
9 pursuant to section three, who, upon complaint of a tenant or of the
10 state division of housing and community renewal, is found by the state
11 division of housing and community renewal, after a reasonable opportunity
12 to be heard, to have collected an overcharge above the rent authorized
13 for a housing accommodation subject to this act shall be liable to
14 the tenant for a penalty equal to [~~three~~] at least three times the
15 amount, not to exceed five times the amount of such overcharge. If the
16 owner establishes by a preponderance of the evidence that the overcharge
17 was neither willful nor attributable to his or her negligence, the state
18 division of housing and community renewal shall establish the penalty as
19 the amount of the overcharge plus interest at the rate of interest payable
20 on a judgment pursuant to section five thousand four of the civil
21 practice law and rules. After a complaint of rent overcharge has been
22 filed and served on an owner, the voluntary adjustment of the rent
23 and/or the voluntary tender of a refund of rent overcharges shall not be

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

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1 considered by the division of housing and community renewal or a court
2 of competent jurisdiction as evidence that the overcharge was not will-
3 ful. (i) Except as to complaints filed pursuant to clause (ii) of this
4 paragraph, the legal regulated rent for purposes of determining an over-
5 charge, shall be deemed to be the rent indicated in the most recent
6 reliable annual registration statement for a rent stabilized tenant
7 filed and served upon the tenant six or more years prior to the most
8 recent registration statement, (or, if more recently filed, the initial
9 registration statement) plus in each case any subsequent lawful
10 increases and adjustments. The division of housing and community renewal
11 or a court of competent jurisdiction, in investigating complaints of
12 overcharge and in determining legal regulated rent, shall consider all
13 available rent history which is reasonably necessary to make such deter-
14 minations. (ii) As to complaints filed within ninety days of the initial
15 registration of a housing accommodation, the legal regulated rent for
16 purposes of determining an overcharge shall be deemed to be the rent
17 charged on the date six years prior to the date of the initial registra-
18 tion of the housing accommodation (or, if the housing accommodation was
19 subject to this act for less than six years, the initial legal regulated
20 rent) plus in each case, any lawful increases and adjustments. Where the
21 rent charged on the date six years prior to the date of the initial
22 registration of the accommodation cannot be established, such rent shall
23 be established by the division.

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

27 Subject to the conditions and limitations of this subdivision, any
28 owner of housing accommodations who, upon complaint of a tenant, or of
29 the state division of housing and community renewal, is found by the
30 state division of housing and community renewal, after a reasonable
31 opportunity to be heard, to have collected an overcharge above the rent
32 authorized for a housing accommodation subject to this chapter shall be
33 liable to the tenant for a penalty equal to [~~three~~] at least three times
34 the amount, not to exceed five times the amount of such overcharge. If
35 the owner establishes by a preponderance of the evidence that the over-
36 charge was not willful, the state division of housing and community
37 renewal shall establish the penalty as the amount of the overcharge plus
38 interest. After a complaint of rent overcharge has been filed and served
39 on an owner, the voluntary adjustment of the rent and/or the voluntary
40 tender of a refund of rent overcharges shall not be considered by the
41 division of housing and community renewal or a court of competent juris-
42 diction as evidence that the overcharge was not willful. (i) Except as
43 to complaints filed pursuant to clause (ii) of this paragraph, the legal
44 regulated rent for purposes of determining an overcharge, shall be the
45 rent indicated in the most recent reliable annual registration statement
46 filed and served upon the tenant six or more years prior to the most
47 recent registration statement, (or, if more recently filed, the initial
48 registration statement) plus in each case any subsequent lawful
49 increases and adjustments. The division of housing and community renewal
50 or a court of competent jurisdiction, in investigating complaints of
51 overcharge and in determining legal regulated rent, shall consider all
52 available rent history which is reasonably necessary to make such deter-
53 minations. (ii) As to complaints filed within ninety days of the initial
54 registration of a housing accommodation, the legal regulated rent shall
55 be deemed to be the rent charged on the date six years prior to the date
56 of the initial registration of the housing accommodation (or, if the

1 housing accommodation was subject to this chapter for less than six
2 years, the initial legal regulated rent) plus in each case, any lawful
3 increases and adjustments. Where the rent charged on the date six years
4 prior to the date of the initial registration of the accommodation
5 cannot be established, such rent shall be established by the division.
6 § 3. This act shall take effect immediately; provided, however, that
7 the amendments to section 26-516 of chapter 4 of title 26 of the admin-
8 istrative code of the city of New York made by section two of this act
9 shall expire on the same date as such law expires and shall not affect
10 the expiration of such law as provided under section 26-520 of such law.