

# STATE OF NEW YORK

385

2021-2022 Regular Sessions

## IN ASSEMBLY

(Prefiled)

January 6, 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 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 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 opportu-  
12 nity to be heard, to have collected an overcharge above the rent author-  
13 ized for a housing accommodation subject to this act shall be liable to  
14 the tenant for a penalty equal to three times the amount of such over-  
15 charge. A treble damage penalty shall be assessed against an owner  
16 based solely on said owner's failure to file a timely or proper 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.

LBD00466-01-1

1 rules. After a complaint of rent overcharge has been filed and served on  
2 an owner, the voluntary adjustment of the rent and/or the voluntary  
3 tender of a refund of rent overcharges shall not be considered by the  
4 division of housing and community renewal or a court of competent juris-  
5 diction as evidence that the overcharge was not willful. (i) Except as  
6 to complaints filed pursuant to clause (ii) of this paragraph, the legal  
7 regulated rent for purposes of determining an overcharge, shall be  
8 deemed to be the rent indicated in the most recent reliable annual  
9 registration statement for a rent stabilized tenant filed and served  
10 upon the tenant [~~six or more years prior to the most recent registration~~  
11 ~~statement, (or, if more recently filed, the initial registration state-~~  
12 ~~ment)] plus in each case any subsequent lawful increases and adjust-  
13 ments. The division of housing and community renewal or a court of  
14 competent jurisdiction, in investigating complaints of overcharge and in  
15 determining legal regulated rent, shall consider all available rent  
16 history which is reasonably necessary to make such determinations. (ii)  
17 As to complaints filed within ninety days of the initial registration of  
18 a housing accommodation, the legal regulated rent for purposes of deter-  
19 mining an overcharge shall be deemed to be the rent charged on the date  
20 [~~six~~ four years prior to the date of the initial registration of the  
21 housing accommodation (or, if the housing accommodation was subject to  
22 this act for less than [~~six~~ four years, the initial legal regulated  
23 rent) plus in each case, any lawful increases and adjustments. Where the  
24 rent charged on the date [~~six~~ four years prior to the date of the  
25 initial registration of the accommodation cannot be established, such  
26 rent shall be established by the division. (iii) Failure to file an  
27 annual rent registration statement shall result in a fine of two thou-  
28 sand dollars per unregistered housing accommodation, made payable to the  
29 state division of housing and community renewal.~~

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

33 Subject to the conditions and limitations of this subdivision, any  
34 owner of housing accommodations who, upon complaint of a tenant, or of  
35 the state division of housing and community renewal, is found by the  
36 state division of housing and community renewal, after a reasonable  
37 opportunity to be heard, to have collected an overcharge above the rent  
38 authorized for a housing accommodation subject to this chapter shall be  
39 liable to the tenant for a penalty equal to three times the amount of  
40 such overcharge. A treble damage penalty shall be assessed against an  
41 owner based solely on said owner's failure to file a timely or proper  
42 initial or annual rent registration statement. If the owner establishes  
43 by a preponderance of the evidence that the overcharge was not willful,  
44 the state division of housing and community renewal shall establish the  
45 penalty as the amount of the overcharge plus interest. After a complaint  
46 of rent overcharge has been filed and served on an owner, the voluntary  
47 adjustment of the rent and/or the voluntary tender of a refund of rent  
48 overcharges shall not be considered by the division of housing and  
49 community renewal or a court of competent jurisdiction as evidence that  
50 the overcharge was not willful. (i) Except as to complaints filed pursu-  
51 ant to clause (ii) of this paragraph, the legal regulated rent for  
52 purposes of determining an overcharge, shall be the rent indicated in  
53 the most recent reliable annual registration statement filed and served  
54 upon the tenant [~~six or more years prior to the most recent registration~~  
55 ~~statement, (or, if more recently filed, the initial registration state-~~  
56 ~~ment)] plus in each case any subsequent lawful increases and adjust-~~

1 ments. The division of housing and community renewal or a court of  
2 competent jurisdiction, in investigating complaints of overcharge and in  
3 determining legal regulated rent, shall consider all available rent  
4 history which is reasonably necessary to make such determinations. (ii)  
5 As to complaints filed within ninety days of the initial registration of  
6 a housing accommodation, the legal regulated rent shall be deemed to be  
7 the rent charged on the date [~~six~~ four years prior to the date of the  
8 initial registration of the housing accommodation (or, if the housing  
9 accommodation was subject to this chapter for less than [~~six~~ four  
10 years, the initial legal regulated rent) plus in each case, any lawful  
11 increases and adjustments. Where the rent charged on the date [~~six~~ four  
12 years prior to the date of the initial registration of the accommodation  
13 cannot be established, such rent shall be established by the division.  
14 (iii) Failure to file an annual rent registration statement shall result  
15 in a fine of two thousand dollars per unregistered housing accommo-  
16 dation, made payable to the state division of housing and community  
17 renewal.

18 § 3. This act shall take effect immediately; provided, however, that  
19 the amendments to the opening paragraph of subdivision a of section  
20 26-516 of chapter 4 of title 26 of the administrative code of the city  
21 of New York made by section two of this act shall expire on the same  
22 date as such law expires and shall not affect the expiration of such law  
23 as provided under section 26-520 of such law.