

# 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:

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~~ 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

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

LBD00716-02-2

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

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

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

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

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