STATE OF NEW YORK

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106--A

2023-2024 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 4, 2023
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Introduced by M. of A. L. ROSENTHAL -- read once and referred to the
   Committee on Housing -- committee discharged, bill amended, ordered
   reprinted as amended and recommitted to said committee

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 and clause (ii) of subparagraph (b)
 2 of paragraph 1 of subdivision a of section 12 of section 4 of chapter
 3 576 of the laws of 1974, constituting the emergency tenant protection
 4 act of nineteen seventy-four, as amended by section 1 of part F of chap-
 5 ter 36 of the laws of 2019, are amended to 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**] **five** times the amount of such
15 overcharge **for a first offense and ten times the amount of such over-**
16 **charge for any subsequent offense**. If the owner establishes by a prepon-
17 derance of the evidence that the overcharge was neither willful nor
18 attributable to [**his**] **their** negligence, the state division of housing
19 and community renewal shall establish the penalty as the amount of the
20 overcharge plus interest at the rate of interest payable on a judgment
21 pursuant to section five thousand four of the civil practice law and

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 adjustments.
13 The division of housing and community renewal or a court of competent
14 jurisdiction, in investigating complaints of overcharge and in determin-
15 ing legal regulated rent, shall consider all available rent history
16 which is reasonably necessary to make such determinations. (ii) As to
17 complaints filed within ninety days of the initial registration of a
18 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 years prior to the date of the initial registration of the housing
21 accommodation (or, if the housing accommodation was subject to this act
22 for less than six years, the initial legal regulated rent) plus in each
23 case, any lawful increases and adjustments. Where the rent charged on
24 the date six years prior to the date of the initial registration of the
25 accommodation cannot be established, such rent shall be established by
26 the division.
27   (ii) A penalty of [**three**] **five** times the overcharge **for a first**
28 **offense and ten times the amount of such overcharge for any subsequent**
29 **offense** shall be assessed upon all overcharges willfully collected by
30 the owner starting six years before the complaint is filed.
31   § 2. The opening paragraph and paragraph 2 of subdivision a of section
32 26-516 of the administrative code of the city of New York, as amended by
33 section 4 of part F of chapter 36 of the laws of 2019, are amended to
34 read as follows:
35   Subject to the conditions and limitations of this subdivision, any
36 owner of housing accommodations who, upon complaint of a tenant, or of
37 the state division of housing and community renewal, is found by the
38 state division of housing and community renewal, after a reasonable
39 opportunity to be heard, to have collected an overcharge above the rent
40 authorized for a housing accommodation subject to this chapter shall be
41 liable to the tenant for a penalty equal to [**three**] **five** times the
42 amount of such overcharge **for a first offense and ten times the amount**
43 **of such overcharge for any subsequent offense**. If the owner establishes
44 by a preponderance of the evidence that the overcharge was not willful,
45 the state division of housing and community renewal shall establish the
46 penalty as the amount of the overcharge plus interest. After a complaint
47 of rent overcharge has been filed and served on an owner, the voluntary
48 adjustment of the rent and/or the voluntary tender of a refund of rent
49 overcharges shall not be considered by the division of housing and
50 community renewal or a court of competent jurisdiction as evidence that
51 the overcharge was not willful. (i) Except as to complaints filed pursu-
52 ant to clause (ii) of this paragraph, the legal regulated rent for
53 purposes of determining an overcharge, shall be the rent indicated in
54 the most recent reliable annual registration statement filed and served
55 upon the tenant six or more years prior to the most recent registration
56 statement, (or, if more recently filed, the initial registration state-

 1 ment) plus in each case any subsequent lawful increases and adjustments.
 2 The division of housing and community renewal or a court of competent
 3 jurisdiction, in investigating complaints of overcharge and in determin-
 4 ing legal regulated rent, shall consider all available rent history
 5 which is reasonably necessary to make such determinations. (ii) As to
 6 complaints filed within ninety days of the initial registration of a
 7 housing accommodation, the legal regulated rent shall be deemed to be
 8 the rent charged on the date six years prior to the date of the initial
 9 registration of the housing accommodation (or, if the housing accommo-
10 dation was subject to this chapter for less than six years, the initial
11 legal regulated rent) plus in each case, any lawful increases and
12 adjustments. Where the rent charged on the date six years prior to the
13 date of the initial registration of the accommodation cannot be estab-
14 lished, such rent shall be established by the division.
15   (2) A complaint under this subdivision may be filed with the state
16 division of housing and community renewal or in a court of competent
17 jurisdiction at any time, however any recovery of overcharge penalties
18 shall be limited to the six years preceding the complaint. A penalty of
19 [**three**] **five** times the overcharge **for a first offense and ten times the**
20 **amount of such overcharge for any subsequent offense** shall be assessed
21 upon all overcharges willfully collected by the owner starting six years
22 before the complaint is filed.
23   § 3. This act shall take effect immediately; provided, however, that
24 the amendments to section 26-516 of chapter 4 of title 26 of the admin-
25 istrative code of the city of New York made by section two of this act
26 shall expire on the same date as such law expires and shall not affect
27 the expiration of such law as provided under section 26-520 of such law.