

STATE OF NEW YORK

106

2023-2024 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 4, 2023

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

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

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

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

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

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