STATE OF NEW YORK

106--A

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

Section 1. The opening paragraph and clause (ii) of subparagraph (b) of paragraph 1 of subdivision a of section 12 of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, as amended by section 1 of part F of chapter 36 of the laws of 2019, are amended to read as follows:

Subject to the conditions and limitations of this paragraph, any owner of housing accommodations in a city having a population of less than one million or a town or village as to which an emergency has been declared pursuant to section three, who, upon complaint of a tenant or of the state division of housing and community renewal, is found by the state division of housing and community renewal, after a reasonable opportunity to be heard, to have collected an overcharge above the rent authorized for a housing accommodation subject to this act shall be liable to the tenant for a penalty equal to [~~three~~] **five** times the amount of such overcharge **for a first offense and ten times the amount of such overcharge for any subsequent offense**. If the owner establishes by a preponderance of the evidence that the overcharge was neither willful nor attributable to [~~his~~] **their** negligence, the state division of housing and community renewal shall establish the penalty as the amount of the overcharge plus interest at the rate of interest payable on a judgment 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.

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rules. After a complaint of rent overcharge has been filed and served on an owner, the voluntary adjustment of the rent and/or the voluntary tender of a refund of rent overcharges shall not be considered by the division of housing and community renewal or a court of competent jurisdiction as evidence that the overcharge was not willful. (i) Except as to complaints filed pursuant to clause (ii) of this paragraph, the legal regulated rent for purposes of determining an overcharge, shall be deemed to be the rent indicated in the most recent reliable annual registration statement for a rent stabilized tenant filed and served upon the tenant six or more years prior to the most recent registration statement, (or, if more recently filed, the initial registration statement) plus in each case any subsequent lawful increases and adjustments. The division of housing and community renewal or a court of competent jurisdiction, in investigating complaints of overcharge and in determining legal regulated rent, shall consider all available rent history which is reasonably necessary to make such determinations. (ii) As to complaints filed within ninety days of the initial registration of a housing accommodation, the legal regulated rent for purposes of determining an overcharge shall be deemed to be the rent charged on the date six years prior to the date of the initial registration of the housing accommodation (or, if the housing accommodation was subject to this act for less than six years, the initial legal regulated rent) plus in each case, any lawful increases and adjustments. Where the rent charged on the date six years prior to the date of the initial registration of the accommodation cannot be established, such rent shall be established by the division.

(ii) A penalty of [~~three~~] **five** times the overcharge **for a first offense and ten times the amount of such overcharge for any subsequent offense** shall be assessed upon all overcharges willfully collected by the owner starting six years before the complaint is filed.

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

Subject to the conditions and limitations of this subdivision, any owner of housing accommodations who, upon complaint of a tenant, or of the state division of housing and community renewal, is found by the state division of housing and community renewal, after a reasonable opportunity to be heard, to have collected an overcharge above the rent authorized for a housing accommodation subject to this chapter shall be liable to the tenant for a penalty equal to [~~three~~] **five** times the amount of such overcharge **for a first offense and ten times the amount of such overcharge for any subsequent offense**. If the owner establishes by a preponderance of the evidence that the overcharge was not willful, the state division of housing and community renewal shall establish the penalty as the amount of the overcharge plus interest. After a complaint of rent overcharge has been filed and served on an owner, the voluntary adjustment of the rent and/or the voluntary tender of a refund of rent overcharges shall not be considered by the division of housing and community renewal or a court of competent jurisdiction as evidence that the overcharge was not willful. (i) Except as to complaints filed pursuant to clause (ii) of this paragraph, the legal regulated rent for purposes of determining an overcharge, shall be the rent indicated in the most recent reliable annual registration statement filed and served upon the tenant six or more years prior to the most recent registration statement, (or, if more recently filed, the initial registration state-

ment) plus in each case any subsequent lawful increases and adjustments. The division of housing and community renewal or a court of competent jurisdiction, in investigating complaints of overcharge and in determining legal regulated rent, shall consider all available rent history which is reasonably necessary to make such determinations. (ii) As to complaints filed within ninety days of the initial registration of a housing accommodation, the legal regulated rent shall be deemed to be the rent charged on the date six years prior to the date of the initial registration of the housing accommodation (or, if the housing accommodation was subject to this chapter for less than six years, the initial legal regulated rent) plus in each case, any lawful increases and adjustments. Where the rent charged on the date six years prior to the date of the initial registration of the accommodation cannot be established, such rent shall be established by the division.

(2) A complaint under this subdivision may be filed with the state division of housing and community renewal or in a court of competent jurisdiction at any time, however any recovery of overcharge penalties shall be limited to the six years preceding the complaint. A penalty of [~~three~~] **five** times the overcharge **for a first offense and ten times the amount of such overcharge for any subsequent offense** shall be assessed upon all overcharges willfully collected by the owner starting six years before the complaint is filed.

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