

STATE OF NEW YORK

5616

2023-2024 Regular Sessions

IN ASSEMBLY

March 17, 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 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. If the owner establishes by a preponderance of the evidence
16 that the overcharge was neither willful nor attributable to his negli-
17 gence, the state division of housing and community renewal shall estab-
18 lish the penalty as the amount of the overcharge plus interest at the
19 rate of interest payable on a judgment pursuant to section five thousand
20 four of the civil practice law and rules. After a complaint of rent
21 overcharge has been filed and served on an owner, the voluntary adjust-
22 ment of the rent and/or the voluntary tender of a refund of rent over-
23 charges shall not be considered by the division of housing and community

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

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

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

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

1 years prior to the date of the initial registration of the housing
2 accommodation (or, if the housing accommodation was subject to this
3 chapter for less than six years, the initial legal regulated rent) plus
4 in each case, any lawful increases and adjustments. Where the rent
5 charged on the date six years prior to the date of the initial registra-
6 tion of the accommodation cannot be established, such rent shall be
7 established by the division.

8 (iii) Failure to file an annual rent
9 registration statement shall result in a fine of two thousand dollars
10 per unregistered housing accommodation, made payable to the state divi-
11 sion of housing and community renewal.

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