

STATE OF NEW YORK

2482--A

Cal. No. 369

2023-2024 Regular Sessions

IN SENATE

January 20, 2023

Introduced by Sens. HOYLMAN-SIGAL, JACKSON, KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development -- reported favorably from said committee, ordered to first and second report, amended on second report, ordered to a third reading, and to be reprinted as amended, retaining its place in the order of third reading

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 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

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

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

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

33 § 2. The opening paragraph and paragraph 2 of subdivision a of section
34 26-516 of the administrative code of the city of New York, as amended by
35 section 4 of part F of chapter 36 of the laws of 2019, are amended to
36 read as follows:

37 Subject to the conditions and limitations of this subdivision, any
38 owner of housing accommodations who, upon complaint of a tenant, or of
39 the state division of housing and community renewal, is found by the
40 state division of housing and community renewal, after a reasonable
41 opportunity to be heard, to have collected an overcharge above the rent
42 authorized for a housing accommodation subject to this chapter shall be
43 liable to the tenant for a penalty equal to [~~three~~] five times the
44 amount of such overcharge for a first offense and ten times the amount
45 of such overcharge for any subsequent offense. If the owner establishes
46 by a preponderance of the evidence that the overcharge was not willful,
47 the state division of housing and community renewal shall establish the
48 penalty as the amount of the overcharge plus interest. After a complaint
49 of rent overcharge has been filed and served on an owner, the voluntary
50 adjustment of the rent and/or the voluntary tender of a refund of rent
51 overcharges shall not be considered by the division of housing and
52 community renewal or a court of competent jurisdiction as evidence that
53 the overcharge was not willful. (i) Except as to complaints filed pursu-
54 ant to clause (ii) of this paragraph, the legal regulated rent for
55 purposes of determining an overcharge, shall be the rent indicated in
56 the most recent reliable annual registration statement filed and served

1 upon the tenant six or more years prior to the most recent registration
2 statement, (or, if more recently filed, the initial registration state-
3 ment) plus in each case any subsequent lawful increases and adjustments.
4 The division of housing and community renewal or a court of competent
5 jurisdiction, in investigating complaints of overcharge and in determin-
6 ing legal regulated rent, shall consider all available rent history
7 which is reasonably necessary to make such determinations. (ii) As to
8 complaints filed within ninety days of the initial registration of a
9 housing accommodation, the legal regulated rent shall be deemed to be
10 the rent charged on the date six years prior to the date of the initial
11 registration of the housing accommodation (or, if the housing accommo-
12 dation was subject to this chapter for less than six years, the initial
13 legal regulated rent) plus in each case, any lawful increases and
14 adjustments. Where the rent charged on the date six years prior to the
15 date of the initial registration of the accommodation cannot be estab-
16 lished, such rent shall be established by the division.

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

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