



Legislation Text

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Int. No. 1015

By Council Members Kallos, Williams, Mendez, Rose, Rodriguez, Rosenthal and Miller (by request of the Manhattan Borough President)

A Local Law to amend the administrative code of the city of New York, in relation to establishing a housing portal

Be it enacted by the Council as follows:

Section 1. Title 26 of the administrative code of the city of New York is amended by adding a new chapter 12 to read as follows:

CHAPTER 12

HOUSING PORTAL

§ 26-1201 Definitions.

§ 26-1202 Covered programs.

§ 26-1203 Conflict with federal or state laws, rules, grants or contracts.

§ 26-1204 Required posting.

§ 26-1205 Applications.

§ 26-1206 Required occupancy of qualifying units.

§ 26-1207 Waivers.

§ 26-1208 Retaliation.

§ 26-1201 Definitions. As used in this chapter:

Affordable housing program. The term “affordable housing program” means a city program, or a federal or state program administered by the city, in which financial assistance, or any additional use or bulk, as such terms are defined in section 12-10 of the New York city zoning resolution, is conditioned upon the provision of affordable units.

Affordable unit. The term “affordable unit” means a dwelling unit for which the rent, sale price or resale price, as applicable, is restricted to make such unit affordable for occupants thereof; provided that such term

does not include a dwelling unit that is reserved for occupancy by the superintendent of the building containing such unit.

Covered program. The term “covered program” means an affordable housing program identified as a covered program under section 26-1202.

Department. The term “department” means the department of housing preservation and development and any successor thereto.

Dwelling unit. The term “dwelling unit” means a dwelling unit as defined in the housing maintenance code.

Fair market rent. The term “fair market rent” means the fair market rent established by the United States department of housing and urban development.

Financial assistance. The term “financial assistance” means assistance that is paid for by the city, allocated by the city, or allocated by another individual or entity on the city’s behalf. Financial assistance includes, but is not limited to, cash payments or grants; bond financing; tax abatements or exemptions, including, but not limited to, abatements or exemptions from real property, mortgage recording, or sales and use taxes, and the difference between any payments in lieu of taxes and the amount of real property or other taxes that would have been due if the property were not exempted from the payment of such taxes; tax increment financing; filing fee waivers; energy cost reductions; environmental remediation costs; and write-downs in the market value of building, land, or leases, or the cost of capital improvements undertaken for the benefit of building or land.

Housing portal. The term “housing portal” means the publicly available online listing of dwelling units created under section 26-1203.

Listed unit. The term “listed unit” means a dwelling unit listed on the housing portal.

Qualifying unit. The term “qualifying unit” means an affordable unit used to satisfy an affordable

housing program's requirements for affordable units.

Rent-regulated unit. The term "rent-regulated unit" means a dwelling unit for which the rent is regulated by law or rule or pursuant to an affordable housing program, other than such a unit that is reserved for occupancy by the superintendent of the building containing such unit.

§ 26-1202 Covered programs. a. By no later than three months after the effective date of the local law that added this section, and within every year thereafter, the department shall, with the cooperation of all relevant agencies, provide the speaker of the council and the mayor, and make publicly available online, a report with the following:

1. A list of each affordable housing program for which an affordable unit used to satisfy the conditions of issuance of financial assistance under such program may, whether through waivers or exceptions to such conditions or otherwise, be occupied by a household of any income; and

2. A list of each affordable housing program not listed under paragraph one of this section.

b. Three months after the first report filed under subdivision a of this section, the affordable housing programs listed under paragraph one of such subdivision on such report shall be considered the covered programs. Immediately upon provision of each subsequent report, the affordable housing programs listed under paragraph one of such subdivision on such subsequent report shall be considered the covered programs.

c. If a covered program, as a result of changes to a provision of such program, or to a law or rule governing such program, ceases to satisfy the requirements for listing under paragraph one of subdivision a of this section, such program shall immediately cease to be a covered program.

§ 26-1203 Housing portal. a. The department shall, with the cooperation of all other relevant agencies, create and thereafter maintain a website that any owner of a dwelling unit or owner of a building that contains one or more dwelling units may use to post, at a minimum, the following information for such unit:

1. Street address, including unit or apartment number;

2. Square footage and number of bedrooms;

3. The name, address, telephone number and electronic mail address, if any, of the owner and such information for a property manager or superintendent responsible for such unit;

4. A statement as to whether the building containing such unit contains any qualifying units or rent-regulated units, and a listing of each affordable housing program for which at least one dwelling unit in such building is serving as a qualifying unit, if any;

5. A statement as to whether such unit is occupied; unoccupied and being offered for rent; unoccupied and being offered for sale; unoccupied and being offered for rent or sale; or unoccupied and not being offered for rent or sale;

6. If such unit is unoccupied and being offered for rent, for sale, or for rent or sale, the following additional information:

(a) If such unit is being offered for rent, the proposed monthly rent;

(b) If such unit is being offered for sale:

(1) The proposed sale price;

(2) The estimated annual property taxes; and

(3) All monthly fees or charges;

(c) The average monthly utility costs for the previous calendar year and a statement as to whether the occupant of such unit will be responsible for the payment of monthly utility costs for such unit;

(d) The department may promulgate rules to limit or prevent the information described in subparagraphs (a), (b) or (c) of this paragraph from being posted on the housing portal where (A) such unit is contained within a building that contains at least one dwelling unit serving as a qualifying unit but does not contain at least one dwelling unit serving as a qualifying unit for a covered program; (B) such information will vary based, in whole or in part, on the occupant's income and (C) the department determines in accordance with paragraph (b) of subdivision 2 of section 87 of the public officers law that disclosure of such information would constitute an unwarranted invasion of personal privacy;

(e) A listing of the amenities within such unit;

(f) A listing of the amenities within the building containing such unit and available for use by the occupants of such unit, excluding amenities listed under subparagraph (e) of this paragraph;

(g) A statement as to whether such unit is an accessible unit as defined in the New York city building code;

(h) A unit floor plan and pictures of the unit;

(i) A listing of the qualifications required to obtain occupancy of such unit, including, but not limited to, any qualifications concerning occupant age, income, disability status, veteran status, previous housing status and family size; provided that the department may promulgate rules to limit or prevent such information from being posted on the housing portal where:

(1) Such unit is contained within a building that contains at least one dwelling unit serving as a qualifying unit but does not contain at least one dwelling unit serving as a qualifying unit for a covered program; and

(2) The department determines in accordance with paragraph (b) of subdivision 2 of section 87 of the public officers law that disclosure of such information would constitute an unwarranted invasion of personal privacy;

(j) A description of the application process for such unit, including a statement as to whether prospective occupants may apply:

(1) For occupancy of such unit specifically; or

(2) For occupancy within the building or group of buildings containing such unit; and

(k) If prospective occupants may apply for occupancy of such unit specifically, a statement as to whether:

(1) No applications have been received for occupancy of such unit;

(2) One or more applications have been received for occupancy of such unit, but no such applications

have been accepted for review;

(3) One or more applications have been received for occupancy of such unit and one or more such applications have been accepted for review; or

(4) One or more applications concerning such unit have been approved and an offer of occupancy for such unit has or will be made.

b. The housing portal shall, at a minimum, allow users to view:

1. All listed units, provided that the department shall replace each unit or apartment number with a unique identifier;

2. A selection of listed units based on search criteria entered by the user;

3. A selection of listed units for which the user would appear to qualify for occupancy based upon information posted on the housing portal and information entered by the user; and

4. For each listed unit, a listing of each change in the information posted for such unit since initial posting, including a description of such change and the date of such change.

c. By no later than six months after the effective date of the local law that added this chapter, the housing portal shall, at a minimum, satisfy the following requirements:

1. Such portal shall allow a user to create and maintain a password-protected profile containing information concerning the user, including, but not limited to, the user's name, contact information and relevant qualifications for occupancy of listed units.

2. Such portal shall allow a user to apply for occupancy of each listed unit, or for occupancy within the building or group of buildings containing such unit, for which the user would appear to qualify for occupancy based upon information posted on the housing portal and information entered by the user.

3. For a user who submits at least one application for occupancy of a listed unit, or for occupancy within a building or group of buildings containing a listed unit, such portal shall automatically populate subsequent applications initiated by the user with applicable information from previous applications submitted by the user.

4. Such portal shall allow a user who initiates an application for occupancy of a listed unit, or for occupancy within a building or group of buildings containing a listed unit, to save his or her progress on such application and resume such application at a later time.

5. Such portal shall allow a user to receive notifications, by electronic mail and text message, when:

(a) A new listed unit is posted that matches criteria specified by such user; and

(b) Posted information changes for a listed unit specified by such user.

6. Where a user has submitted an application for occupancy of a listed unit that is a qualifying unit or rent-regulated unit, or for occupancy within a building or group of buildings containing such a unit, such portal shall:

(a) Notify the owner of such unit, or the property manager responsible for such unit, of such submission through the housing portal and any electronic mail address provided by the owner for such purpose;

(b) Allow the user to view the status of such application;

(c) Notify the user when such application has been accepted, or notify the user if additional information is required before such application can be accepted, through the housing portal and any electronic mail address provided by the user for such purpose;

(d) Allow the user to view a listing of the following information for each application submitted by other applicants for occupancy of such unit, or for occupancy within the building or group of buildings containing such unit, whether such applications were submitted through the housing portal or otherwise, in the order that such applications will be considered for occupancy:

(1) The date that such application was filed;

(2) The status of such application;

(3) A unique identifier for such application, with no public disclosure of applicant identity; and

(4) If such application has been preferred for any reason or will otherwise be considered before any other application submitted earlier in time, a notice that the application has been preferred, without specifying

the reason for such preference, and a general list of current preference categories applicable to applications for such unit.

7. Such portal shall allow an occupant of a listed unit to request a copy of the rent history for such unit, as reported by the owner to the portal, provided that such rent history shall be sent by mail to the unit address.

8. Such portal shall utilize a web application programming interface that permits application programs to request and receive publicly available data directly from such portal.

d. Upon completing the housing portal, the department shall provide notice that such portal is completed to the mayor and speaker of the council and shall make such notice publicly available on the department's website.

§ 26-1204 Required posting. a. For each qualifying unit that is in existence on the date which the notice of completion under subdivision d of section 26-1203 is provided, and for each rent-regulated unit that is in existence on such date, the owner thereof and the owner of the building containing such unit, where such information is known to such building owner, shall, in addition to any other advertising for such unit, post on the housing portal the information set forth in subdivision a of section 26-1203, other than the information set forth in subparagraph (h) of paragraph a of such subdivision, for such unit by no later than (A) six months after such date, if such unit is located within a building containing 20 or more dwelling units, (B) one year after such date, if such unit is located within a multiple dwelling, as defined in the housing maintenance code, containing fewer than 20 dwelling units or (C) two years after such date if such unit is located within a building that is not a multiple dwelling, and shall amend such posting upon any change in such information; provided that such information need not be posted for a dwelling unit that is demolished or converted to a use other than residential use on or before the date by which compliance with this subdivision is required or which ceases to be a qualifying unit or rent-regulated unit before such date.

b. For each qualifying unit created after the date by which compliance with subdivision a of this section is required, and for each rent-regulated unit created after such date, the owner thereof shall post on the housing

portal the information required by subdivision a of this section for such unit by no later than 30 days after such unit becomes a qualifying unit or rent-regulated unit, as applicable, and shall amend such posting upon any change in such information.

c. Where any of the information required by subdivision a of this section changes, after initial posting, for a listed unit that is a qualifying unit or rent-regulated unit, the owner thereof and the owner of the building containing such unit, where such information is known to such building owner, shall amend the posting on the housing portal for such unit accordingly no later than seven days after such change.

d. An owner who fails to post information in the time and manner required by subdivision a, b or c of this section shall be subject to a civil penalty for each month as follows until such information is posted as required:

1. For the first six-month period, 100 dollars per month;
2. For the second six-month period, 250 dollars per month;
3. For the third six-month period, 1,000 dollars per month; and
4. For the fourth six-month period, and for each month thereafter, 2,000 dollars per month.

e. Civil penalties under this section may be recovered by the department in an action in any court of appropriate jurisdiction or in a proceeding before the environmental control board. Such board shall have the power to impose civil penalties provided for in this section.

f. The civil penalties set forth in subdivision d of this section shall be indexed to inflation in a manner to be determined by department rules.

g. Any individual who has submitted an application for occupancy of a listed unit, or for occupancy within the building or group of buildings containing such unit, shall have a cause of action against any owner who failed to post information in the time and manner required by subdivision a, b or c of this section and who had not yet corrected such failure at the time such application was submitted, in any court of competent jurisdiction for damages in an amount not to exceed the amounts set forth for civil penalties under subdivision d

of this section and for attorneys' fees and costs, provided such relief is sought within six months after the application's submission. This subdivision shall not limit the department in recovering civil penalties under subdivision e of this section.

§ 26-1205 Applications. a. The owner of a qualifying unit or rent-regulated unit that is available for rent, sale or both on or after the date for which compliance with subdivision a or b of section 26-1204 is required for such unit shall, in addition to any other application process, comply with the following requirements for each application for occupancy of such unit, or for occupancy within the building or group of buildings containing such unit, submitted through the housing portal:

1. Acknowledge, by means of the housing portal, such application within five business days after receiving notice of such submission; and

2. Accept, by means of the housing portal, such application within three weeks after receiving notice of such submission or, within the same time period, notify, by means of the housing portal, the applicant of any additional information required before such application can be accepted.

b. An owner who fails to acknowledge, accept or provide notice with respect to an application, as required by subdivision a of this section, shall be subject to a civil penalty as provided under subdivision d of section 26-1204 for each month until such application is acknowledged or accepted or notice is provided with respect to such application, whichever is applicable.

c. The department shall implement measures to periodically determine whether owners are complying with subdivision a of this section including, but not limited to, submitting test applications.

d. Civil penalties under this section may be recovered by the department in an action in any court of appropriate jurisdiction or in a proceeding before the environmental control board. Such board shall have the power to impose civil penalties provided for in this section.

e. Any individual who has submitted an application for occupancy of a listed unit, or for occupancy within the building or group of buildings containing such unit, shall have a cause of action against any owner of

such unit, or owner of the building or group of buildings containing such unit, who failed to acknowledge, accept or provide notice with respect to such application, as required by subdivision a of this section, in any court of competent jurisdiction for damages in an amount not to exceed the amounts set forth for civil penalties under subdivision d of this section and for attorneys' fees and costs. This subdivision shall not limit the department in recovering civil penalties under subdivision d of this section.

§ 26-1206 Required occupancy of qualifying units. a. The owner of a qualifying unit used to satisfy the requirements of an affordable housing program through which such owner was conferred financial assistance under an agreement executed on or after the effective date of the local law that added this chapter shall on and after the date for which compliance with section subdivision a of 26-1204 is required for such unit:

1. Promptly make such unit available for rent, sale or both unless such unit is undergoing repair or improvement or is otherwise allowed to be unavailable in accordance with department rules;

2. Review such application as soon as practicable upon accepting an application for occupancy of such unit, or for occupancy of the building or group of buildings containing such unit; provided that this paragraph shall not require such owner to review such application before other applications submitted for such unit, or for occupancy of the building or group of buildings containing such unit, where such other applications have a higher preference status for review and a law, rule or the provisions of such affordable housing program allow such owner to prefer certain applications; and

3. Offer such unit to such applicant upon finding that such application satisfies all qualifications and other requirements established by law, rule or the provisions of such affordable housing program, or established by such owner, where law, rule or the provisions of such affordable housing program allow the owner to establish such requirements.

b. Upon receipt of a complaint alleging that an owner has violated any provision of subdivision a of this section with respect to a qualifying unit, the department shall investigate and, upon verifying such allegation in a manner to be determined by department rules, such owner shall be subject to a civil penalty as follows:

1. For the first three complaints received by the department within a five year period with respect to such unit, and verified, the civil penalty shall be equal to one-half the fair market rent applicable for dwelling units located in the geographic area containing such unit and having the same number of bedrooms as such unit;

2. For the fourth through eighth complaints received by the department within a five year period with respect to such unit, and verified, the civil penalty shall be equal to such fair market rent; and

3. For the ninth complaint and each subsequent complaint received by the department within a five year period with respect to such unit, and verified, the civil penalty shall be equal to double such fair market rent.

c. Civil penalties under this section may be recovered by the department in an action in any court of appropriate jurisdiction or in a proceeding before the environmental control board. Such board shall have the power to impose civil penalties provided for in this section.

d. Any individual who has submitted an application for occupancy of a listed unit that is a qualifying unit shall have a cause of action against any owner who has violated any provision of subdivision a of this section, in any court of competent jurisdiction for damages in an amount not to exceed the amounts set forth for civil penalties under paragraph (1) of subdivision b of this section and for attorneys' fees and costs, provided such relief is sought within six months after the application's submission. This subdivision shall not limit the department in recovering civil penalties under subdivision c of this section.

§ 26-1207 Waivers. a. Upon a showing by an owner of a qualifying unit required to comply with any provision of this chapter that the application of such provision to such unit would violate a federal or state law or rule relating to the affordable housing program for which such unit serves as a qualifying unit, or would be inconsistent with the terms or conditions of a federal or state grant or contract, the department shall waive such provision for such unit to the minimum extent necessary to remedy such violation or inconsistency.

§ 26-1208 Retaliation. a. Terms used in this section shall have the meanings set forth in section 704 of the labor law.

b. An employer shall not take retaliatory personnel action against an employee because such employee

discloses, or threatens to disclose, to a supervisor or to a public body an activity, policy or practice of the employer that is in violation of this chapter, or a rule promulgated under this chapter. This protection shall not apply to an employee who makes such disclosure to a public body unless the employee has brought the activity, policy or practice in violation of this chapter, or a rule promulgated under this chapter, to the attention of a supervisor of the employer and has afforded such employer a reasonable opportunity to correct such activity, policy or practice.

c. An employee who has been the subject of a retaliatory personnel action in violation of this section may institute a civil action in a court of appropriate jurisdiction for relief as set forth in subdivision five of section 704 of the labor law within one year after the alleged retaliatory personnel action was taken.

§ 2. This local law takes effect one year after it becomes law, except that the commissioner of housing preservation and development may take such actions as are necessary for the implementation of this local law, including the promulgation of rules, prior to such effective date.

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