Legislation Details (With Text)

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Int. No. 363

By Council Members Spigner, Sabini, Freed, Leffler and Marshall (by request of the Queens Borough President); also Council Members Lasher, Michels and Robinson.

A Local Law to amend the administrative code of the city of New York, in relation to illegal apartment conversions.

Be it enacted by the Council as follows:

Section 1. Subdivision g of section 11-2105 of the administrative code of the city of New York, as added by local law number 81 for the year 1989, is relettered as subdivision h and a new subdivision i is added to read as follow:

i. Returns with respect to the conveyance of a residential building with six or fewer legal dwelling units or with respect to the conveyance of a single room occupancy multiple dwelling as defined in section 27-198 of this code will not be accepted for filing unless accompanied by an affidavit signed under penalty of perjury by

the grantor and grantee: (1) stating the number of dwelling units in the building; (2) stating the number of dwelling units permitted in the certificate of occupancy or other records of the department; (3) affirming that the number of dwelling units in the building does not exceed the number permitted in the certificate of occupancy or other records of the department; and (4) acknowledging that it is illegal to maintain more dwelling units than permitted by law, and illegal to add dwelling units to the premises except following full compliance with the zoning resolution and with the requirements of title twenty-seven of this code.

§ 2. Paragraph 3 of subdivision a of section 20-401.1 of the administrative code of the city of New York, as added by local law number 24 for the year 1996, is amended to read as follows:

3. For the purposes of this section, the term "unlicensed activity" shall mean: (i) the conduct of any activity for which a license is required pursuant to subdivision a of section 20-387 of this subchapter, without such license; or (ii) the conduct of any activity in violation of a stop work notice or order issued pursuant to section 26-118 of this code.

§ 3. Section 26-126.1 of the administrative code of the city of New York, as amended by local law number 65 for the year 1997, is amended by adding a new subdivision f to read as follows:

f. The per diem penalty imposed pursuant to paragraph (i) of subdivision e of this section for violations of section 27-118.1 of this code shall be waived in part if the respondent demonstrates all of the following: (i) the respondent resided in the building in which the dwelling unit is located during the entire time period for which the per diem penalty waiver is sought (ii) the dwelling unit was occupied by a tenant at the time of issuance of the notice of violation; (iii) the respondent commenced a judicial proceeding to evict all of the tenants; (iv) one or more of the tenants remained in the dwelling unit without the consent of the respondent during the course of the eviction proceeding; (v) the respondent has obtained a permit from the department to correct the illegal condition; and (vi) the respondent has not previously received a notice of violation pursuant to sections 27-118.1, 27-147 or 27-217 of this code. Where each of such circumstances is demonstrated, the per diem penalty shall be waived for the period beginning from the date of commencement of the eviction

proceeding to the date that the tenant vacates the dwelling unit or for one hundred twenty days after the issuance of the notice of violation, whichever occurs earlier.

§ 4. Section 27-144 of the administrative code of the city of New York, as amended by local law number 76 for the year 1985 and recodified by chapter 907 of the laws of 1985, is amended to read as follows:

§27-144 Approval of application and plans. Except as otherwise[,] provided in [section] sections 27-198, [and section] 27-198.1, 27-198.2, 27-198.3 and 27-198.4 of article nineteen of this subchapter, applications and plans complying with the provisions of this code and other applicable laws and regulations shall be approved by the commissioner and written notice of approval shall be given the applicant promptly and no later than forty calendar days after the submission thereof, and applications and plans failing to comply with the provisions of this code and other applicable laws and regulations shall be rejected and written notice of rejection, stating the grounds of rejection, shall be given the applicant promptly and not later than forty calendar days after the submission thereof, except that on or before the fortieth day, the commissioner may on good cause shown, and upon notification to the applicant, extend such times for an additional twenty days. Whenever an application and accompanying plans have been rejected and are thereafter revised and resubmitted to meet stated grounds of rejection, the revised application and plans shall be approved if they meet the stated grounds of rejection, or shall be rejected if they fail to meet the stated grounds of rejection; and written notice of approval or written notice of rejection, stating the grounds of rejection, shall be given the applicant promptly and not later than twenty calendar days after the resubmission thereof.

§ 5. Section 27-191 of the administrative code of the city of New York, as amended by local law number 19 for the year 1983 and recodified by chapter 907 of the laws of 1985, is amended to read as follows:

§27-191 Approval of permit application. All applications for permits and any accompanying plans and papers, including any amendments thereto, shall be examined promptly after their submission for compliance with the provisions of this code and other applicable laws and regulations. Except as otherwise provided in [section] sections 27-198, 27-198.1, 27-198.2, 27-198.3 and 27-198.4 of this article, applications complying

with the provisions of this code and other applicable laws and regulations shall be approved by the commissioner and the permit issued promptly and not later than forty calendar days after the submission thereof, and applications failing to comply with the requirements of this code and other applicable laws and regulations shall be rejected and written notice of rejection, stating the grounds of rejection, shall be given the applicant promptly and not later than forty calendar days after the submission thereof, except that on or before the fortieth day, the commissioner may on good cause shown, and upon notification to the applicant, extend such time for an additional twenty days. Whenever a permit application has been rejected and is thereafter revised and resubmitted to meet stated grounds of rejection, the revised application shall be approved if it meets that stated grounds of rejection, or shall be rejected if it fails to meet the stated grounds of rejection; and the permit shall be issued or written notice of rejection, stating the grounds of rejection, shall be given the applicant promptly and not later than twenty calendar days after the resubmission thereof.

§ 6. Article 19 of title 27 of the administrative code of the city of New York is amended by adding a new section 27-198.4 to read as follows:

§27-198.4 Approval of plans and permit applications where there are unpaid fines or penalties. a. Except as otherwise provided in subdivision b of this section, the commissioner shall not approve any plans pursuant to article nine of this subchapter or issue any permits pursuant to articles ten through seventeen of this subchapter if the owner, lessee, condominium unit owner or cooperative shareholder of the dwelling unit for which the plans have been submitted has failed to pay any fines or penalties imposed pursuant to chapter one of title twenty-six or chapter one of title twenty-seven of this code prior to the date of filing of the plans or the permit application.

b. Except as otherwise provided pursuant to a judicial or an administrative order, the commissioner shall have the discretion to approve plans or issue permits referred to in subdivision a of this section if the owner, lessee, condominium unit owner or cooperative shareholder has submitted proof of a payment agreement which will result in the satisfaction of all outstanding fines and penalties within six months from the

date of the filing of the plans or the permit application, and the commissioner finds: (i) that the approval of the plans or the issuance of the permit is necessary to correct the condition that resulted in the imposition of the fine or penalty; (ii) the approval of the plans or the issuance of the permit is necessary to eliminate a dangerous condition; or (iii) the plans should be approved or the permit should be issued for such other reasons as the commissioner may determine.

§ 7. This local law shall take effect thirty days after it shall have been enacted into law, except that subdivision f of section 26-126.1 of the administrative code of the city of New York as added by section 3 of this local law shall take effect immediately and shall be deemed to have been in full force and effect as of September 18, 1997. However, the commissioner of finance, the commissioner of consumer affairs and the commissioner of buildings may take such actions as are necessary for the timely implementation and enforcement of this local law, including the promulgation of rules, prior to the effective date of this local law.

LS# 671
07/13/98 5:00 p.m.