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Int. No. 667

By Council Members Dilan, Chin, Comrie and Rodriguez (by request of the Mayor)

A Local Law to amend the administrative code of the city of New York, in relation to vacate orders and violations issued and relocation services provided by the department of housing preservation and development.

Be it enacted by the Council as follows:

Section 1. Subparagraph (v) of paragraph (a) of subdivision 1 of section 26-301 of the administrative code of the city of New York is amended to read as follows:

(v) for tenants of any privately owned building where the displacement of such tenants results from the enforcement of any law, regulation, order or requirement pertaining to the maintenance or operation of such building or the health, safety and welfare of its occupants. Where any tenant ceases to occupy a building following the issuance of any order to correct a violation or vacate a building by any agency of the city of New York, and before the rescission of such order, it shall be presumed that the displacement of such tenant results

from the enforcement of a law, regulation, order or requirement pertaining to the maintenance or operation of such building or the health, safety and welfare of its occupants.

§ 2. The section heading and subdivisions one and two, and the opening paragraph of subdivision four of section 26-305 of the administrative code of the city of New York, the opening paragraph of subdivision four as amended by local law number 65 for the year 1997, are amended to read as follows:

Expenses of relocation [pursuant to vacate order]. 1. Whenever the department of housing preservation and development has incurred expenses in providing relocation services for tenants pursuant to subparagraph (v) of paragraph (a) of subdivision one of section 26-301 of this chapter, it shall be presumed that such relocation services were provided due to displacement of such tenants pursuant to such subparagraph, and the department shall be entitled to reimbursement of such expenses. Such expenses shall be recoverable from the owner of the building from which such tenants were relocated, if the conditions giving rise to the need for such relocation arose as a result of the negligent or intentional acts of such owner, or as a result of [his or her] the failure of such owner to maintain and repair such [dwelling] building in accordance with the standards prescribed by the housing maintenance code or health code or any other applicable law governing such [dwelling] building. "Owner" for purposes of this section shall mean and include the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, agent, or any other person, firm or corporation, in whole or partial possession or directly or indirectly in control of a [dwelling] building.

2. The expenses incurred for which payment to the department is due under the provisions of this section shall include but not be limited to departmental costs, including costs for any housing provided by the department or pursuant to a contract with the department, bonuses, moving expenses or other reasonable allowances given to induce tenants to relocate voluntarily.

4. To the extent that such expenses are not recovered by the department prior to the effective date of the local law that added paragraph d of this subdivision, they shall, except as herein provided, constitute a lien or

liens upon such building and the lot upon which it stands, governed by the provisions of law regulating mechanics liens, and the provisions set forth in paragraphs a, b, and c of this subdivision.

§ 3. Subdivision 4 of section 26-305 of the administrative code of the city of New York is amended by adding a new paragraph (d) to read as follows:

(d) On and after the effective date of the local law that added this paragraph, all amounts for expenses incurred by the department for relocation services pursuant to this section that remain unpaid shall constitute a debt recoverable from the owner and a lien upon the premises, and upon the rents and other income thereof. The provisions of article eight of subchapter five of chapter two of title 27 of the administrative code shall govern the effect and enforcement of such debt and lien. A statement of account may be served upon an owner for such amounts pursuant to 27-2129 of the administrative code.

§ 4. Paragraph 2 of subdivision a of section 27-2089 of the administrative code of the city of New York is amended to read as follows:

(2) Were, or shall become, untenanted by reason of having been vacated by the department under the provisions of the administrative code or any provision of the multiple dwelling law on the ground that such dwelling was or is deemed unfit for human habitation or dangerous to life and health, it shall be unlawful for the owner of such dwelling to cause or permit same to be used in whole or in part for living purposes (other than by a janitor, superintendent or resident caretaker) until such dwelling is made to comply with the applicable requirements of the administrative code and the multiple dwelling law affecting the kind and class of such structure. For the purpose of determining whether any such dwelling is untenanted, occupancy of same by a janitor, superintendent or resident caretaker shall not be counted. It shall be unlawful for the owner of any such dwelling to cause or permit same to be used in whole or in part for living purposes (other than by a janitor, superintendent or resident caretaker) until (1) an application and plan for the work required by this article have been filed with and approved by the department of buildings, where required, (2) such work has been completed by the owner and approved by the department, [and] (3) where required by the department of

buildings, a new certificate of occupancy has been obtained, and (4) the department has inspected and determined that such dwelling is habitable and may be occupied.

§ 5. Subdivision (a) of section 27-2115 of the administrative code of the city of New York, as amended by local law number 65 for the year 1987, is amended to read as follows:

(a) A person who violates any law relating to housing standards shall be subject to a civil penalty of not less than ten dollars nor more than fifty dollars for each non-hazardous violation, not less than twenty-five dollars nor more than one hundred dollars and ten dollars per day for each hazardous violation, fifty dollars per day for each immediately hazardous violation, occurring in a multiple dwelling containing five or fewer dwelling units, from the date set for correction in the notice of violation until the violation is corrected, and not less than fifty dollars nor more than one hundred fifty dollars and, in addition, one hundred twenty-five dollars per day for each immediately hazardous violation, occurring in a multiple dwelling containing more than five dwelling units, from the date set for correction in the notice of violation until the violation is corrected. Notwithstanding the foregoing, any person who violates section 27-2070, 27-2073, 27-2077, 27-2078, 27-2079, 27-2081, or 27-2087 of this code shall be subject to a civil penalty of not less than twenty-five dollars nor more than one hundred dollars and, in addition, fifty dollars per day for each such violation. A person wilfully making a false certification of correction of a violation shall be subject to a civil penalty of not less than fifty dollars nor more than two hundred fifty dollars for each violation falsely certified, in addition to the other penalties herein provided.

§ 6. Paragraph 2 of subdivision c of section 27-2140 of the administrative code of the city of New York is amended to read as follows:

2. If the department has not revoked or extended the order pursuant to subdivision b of section 27-2142 of this article, [where such dwelling is a class B multiple dwelling or a class A multiple dwelling used for single room occupancy pursuant to section two hundred forty-eight of the multiple dwelling law,] the owner of such dwelling shall be subject to a civil penalty of five thousand dollars for each dwelling unit which is included in

said order. The fine shall be recoverable by the department by civil action in a court of appropriate jurisdiction. Such action must be commenced or notice of pendency filed within one year of the effective date of the vacate order.

§ 7. Subdivision d of section 27-2140 of the administrative code of the city of New York is amended to read as follows:

d. If a vacate order is not complied with within the time specified, the department may cause the dwelling or part thereof affected to be vacated, and may charge a fee for its expenses in enforcing such vacate order. Such fee may be established by rule by the department. Such fee that remains unpaid shall constitute a debt recoverable from the owner and a lien upon the premises, and upon the rents and other income thereof. The provisions of article eight of subchapter five of chapter two of title 27 of the administrative code shall govern the effect and enforcement of such debt and lien. A statement of account may be served upon an owner for such fee pursuant to 27-2129 of the administrative code.

§ 8. Subdivision d of section 27-2142 of the administrative code of the city of New York is amended to read as follows:

d. The department may require as a condition for revocation of a vacate order, that the owner [make reasonable effort to notify] shall have provided any tenants who may have vacated the dwelling pursuant to such order with temporary dwellings or other assistance in relocating to temporary dwellings, and notified any such tenants [who may have vacated the dwelling pursuant to such order that said tenant has] that such tenants have a right to re-occupy the dwelling, and will permit re-occupancy of the dwelling by such tenants.

§ 9. This local law shall take effect immediately.

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