



Legislation Text

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Int. No. 1037-A

By Council Members Treyger, Gentile, Koo, Mealy, Mendez, Rodriguez, Rose, Deutsch, Dickens, Koslowitz, Reynoso, Richards, Cohen, Levin, Vallone, Kallos, Greenfield and Ulrich

A Local Law to amend the administrative code of the city of New York, in relation to violations received after a disaster

Be it enacted by the Council as follows:

Section 1. Section 28-202.1 of the administrative code of the city of New York is amended by adding new exceptions to read as follows:

Exceptions:

1. The owner, lessee, occupant, manager or operator of a building affected by a natural or man-made disaster, as determined by the commissioner, shall not be subject to a civil penalty for a violation involving such building if (i) notice of such violation is issued by the department during the 90-day period immediately after such disaster or, in the case of a major natural or man-made disaster as determined by the commissioner, during the six-month period immediately after such disaster, and (ii) such violation is corrected on or before 40 days after such disaster period or such greater amount of time as determined by the commissioner for such violation. The notice of such violation shall state that such violation is subject to this exception and shall set forth the procedure and time period for correcting such violation without incurring a civil penalty. This exception shall not apply to immediately hazardous violations, violations charged as aggravated violations or violations without connection to such disaster, as determined by the department.
2. The owner, lessee, occupant, manager or operator of a building where a violation occurs shall not be subject to a civil penalty for such violation if (i) such violation was connected to a natural or man-made disaster, as determined by the commissioner, and (ii) such building is undergoing, or scheduled or under evaluation for, work or acquisition through a city-operated disaster recovery program responding to such disaster.

§ 2. Section 28-203.1 of the administrative code of the city of New York is amended by adding new exceptions to read as follows:

Exceptions:

1. The owner, lessee, occupant, manager or operator of a building affected by a natural or man-made

disaster, as determined by the commissioner, shall not be subject to a criminal fine or imprisonment if notice of such violation was issued during the 90-day-period immediately after such disaster or, in the case of a major natural or man-made disaster as determined by the commissioner, during the six-month period immediately after such disaster. This exception shall not apply to immediately hazardous violations, violations charged as aggravated violations or violations without connection to such disaster.

2. The owner, lessee, occupant, manager or operator of a building where a violation occurs shall not be subject to a criminal fine or imprisonment for such violation if (i) such violation was connected to a natural or man-made disaster, as determined by the commissioner, and (ii) such building is undergoing, or scheduled or under evaluation for, work or acquisition through a city operated disaster recovery program responding to such disaster.

§ 3. Chapter 1 of title 16 of the administrative code of the city of New York is amended by adding a new section 16-142 to read as follows:

§ 16-142 Violations received after a disaster. a. For the purposes of this section, the term “covered person” means any owner, lessee, tenant or occupant of a one-, two- or three-family residential building or of a premises or lot that contained such a building immediately preceding a natural or man-made disaster.

b. It shall be an affirmative defense to a violation of subdivision two of section 16-118 for any covered person that:

1. A natural or man-made disaster, as determined by the commissioner, occurred within the prior 30 days preceding issuance of such violation and such building or premises is within the area affected by such disaster; or

2. The covered person was displaced by such disaster and such building or premises was undergoing or scheduled for work or acquisition through a city-operated disaster recovery program responding to such disaster.

c. It shall be an affirmative defense to a violation of subdivisions a or b of section 16-123 for any covered person who is displaced by a natural or man-made disaster, as determined by the commissioner, that such building or lot was undergoing or scheduled for work or acquisition by a city-operated disaster recovery program responding to such disaster.

d. The commissioner may establish by rule an affirmative defense, in addition to those enumerated in

subdivisions b and c of this section, to any requirement of this chapter for any covered person that in the commissioner's determination cannot reasonably comply with such requirement due to (i) the direct effects of a natural or man-made disaster or (ii) a displacement caused by such disaster or the recovery therefrom.

§ 4. The commissioner of buildings may refund or waive any penalties or fines paid or imposed after October 29, 2012 and before the effective date of this local law for any violation that would have been subject to exception 1 or 2 of section 28-202.1 of the administrative code of the city of New York or exception 1 or 2 of section 28-203.1 of such code, as added by section one and section two of this local law, if such exceptions had been in effect during such period.

§ 5. The commissioner of sanitation may refund or waive any penalties or fines, paid or imposed, after October 29, 2012 and before the effective date of this local law for any violation that would have been subject to subdivision b or c of section 16-142 of the administrative code of the city of New York, as added by section three of this local law, if such section had been in effect during such period.

§ 6. This local law takes effect 90 days after it becomes law.

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