



Legislation Text

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Int. No. 1168-A

By Council Members Torres, Richards, Williams, Barron, Rose, Koslowitz, Salamanca, Cornegy, Gibson, Espinal, Levin, Reynoso, Rosenthal, Gentile, Chin, Rodriguez, Levine, Kallos, Lander, Menchaca and the Public Advocate (Ms. James)

A Local Law to amend the administrative code of the city of New York, in relation to improperly conditioning residential occupancy on medical treatment

Be it enacted by the Council as follows:

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

CHAPTER 12

IMPROPERLY CONDITIONING RESIDENTIAL OCCUPANCY ON MEDICAL TREATMENT

§ 26-1201 Improperly conditioning residential occupancy on medical treatment. a. Definitions. As used in this chapter:

Dwelling unit. The term “dwelling unit” has the meaning ascribed to such term in the housing maintenance code.

Medical treatment. The term “medical treatment” means any medical care, whether or not such care is provided by a licensed medical practitioner, including but not limited to any activity intended to further examination, diagnosis, counseling, physical or psychotherapy, preventive care, prescription or administration of medication, prescription or administration of prostheses, surgery, referral to a medical provider, any procedure to cure or abate any injury, illness, physical or mental condition or any treatment for substance abuse addiction.

Relative. The term “relative” means, with respect to a person, (i) a spouse, domestic partner, parent,

grandparent, child, stepchild or stepparent of such person or (ii) any individual who is the direct descendant of the grandparents of such person or of the spouse or domestic partner of such person.

b. It shall be unlawful for a person to condition occupancy of a dwelling unit or any term, benefit or right of such occupancy upon a lawful occupant seeking, receiving or refraining from submitting to medical treatment unless such person can establish that:

1. Each such occupant is a relative of such person; or
2. Such medical treatment is required in connection with one or more of the following programs, provided that such programs are currently licensed or certified by and in good standing with the appropriate government agency: (i) medically managed withdrawal and stabilization services as defined in section 816.4 of title 14 of the New York codes, rules and regulations; (ii) inpatient medically supervised withdrawal and stabilization services as defined in section 816.4 of title 14 of the New York codes, rules and regulations; (iii) chemical dependence residential rehabilitation services for youth established by part 817 of title 14 of the New York codes, rules and regulations; (iv) chemical dependence inpatient rehabilitation services established by part 818 of title 14 of the New York codes, rules and regulations; (v) intensive residential rehabilitation services established by section 819.8 of title 14 of the New York codes, rules and regulations; (vi) adult-care facilities as defined in section 485.2 of title 18 of the New York codes, rules and regulations; (vii) enriched housing programs as defined in section 488.2 of title 18 of the New York codes, rules and regulations; (ix) assisted living programs as defined in section 494.2 of title 18 of the New York codes, rules and regulations; (x) residential treatment facilities for children and youth established by part 584 of title 14 of the New York codes, rules and regulations; (xi) crisis residences as defined in section 589.4 of title 14 of the New York codes, rules and regulations; (xii) hospitals, nursing homes, and residential health care facilities as defined in section 2801 of the public health law; and (xiii) any other program regulated by state or federal law or rule that affirmatively permits conditioning occupancy, or any term, benefit or right thereof, upon seeking, receiving, or refraining from submitting to medical treatment.

§ 26-1202 Private right of action. a. A lawful occupant of a dwelling unit or a group of such occupants in a building may bring an action alleging a violation of subdivision b of section 26-1201 in any court of competent jurisdiction. If such court finds that a person is in violation of such subdivision, such court shall, in addition to any other relief such court determines to be appropriate:

1. Award to each such occupant (i) compensatory damages and, in such court's discretion, punitive damages or (ii) at the election of each occupant, damages of \$1,000;

2. Award to such occupants reasonable attorneys' fees and court costs; and

3. Issue an order restraining such person from engaging in further conduct in violation of such subdivision.

b. Such occupant or occupants shall not be relieved of the obligation to pay rent for which such occupant or occupants are otherwise liable to a person found to be in violation of subdivision b of section 26-1201. Any monetary relief awarded to such occupant or occupants pursuant to subdivision a of this section shall be reduced by any amount of delinquent rent or other sum for which such court finds such occupant or occupants to be liable to such person.

c. This section does not limit or abrogate any claim or cause of action a person has under common law or by other law or rule. The provisions of this section are in addition to any other remedies that may be provided for under common law or by other law or rule.

d. Nothing contained in this chapter shall be construed as creating any private right of action against the city or any agency or employee thereof.

§ 2. Subparagraph g of paragraph 48 of subdivision a of section 27-2004 of the administrative code of the city of New York, as added by local law number 7 for the year 2008, is amended to read as follows:

g. other repeated acts or omissions of such significance as to substantially interfere with or disturb the comfort, repose, peace or quiet of any person lawfully entitled to occupancy of such dwelling unit and that cause or are intended to cause [any] such person [lawfully entitled to occupancy of a dwelling unit] to vacate

such dwelling unit or to surrender or waive any rights in relation to such occupancy, including improperly requiring such person to seek, receive or refrain from submitting to medical treatment in violation of subdivision b of section 26-1201.

§ 3. Paragraph 1 of subdivision h of section 27-2115 of the administrative code of the city of New York, as added by local law number 7 for the year 2008, is amended to read as follows:

(h)(1) Should the department fail to issue a notice of violation upon the request of a [tenant] lawful occupant or group of [tenants] lawful occupants within thirty days of the date of such request, or if there is a notice of violation outstanding respecting the premises in which the [tenant] lawful occupant or group of [tenants] lawful occupants resides, or, if there is a claim of harassment pursuant to subdivision d of section 27-2005 of this chapter, the [tenant] lawful occupant or any group of [tenants] lawful occupants, may individually or jointly apply to the housing part for an order directing the owner and the department to appear before the court. Such order shall be issued at the discretion of the court for good cause shown, and shall be served as the court may direct. If the court finds a condition constituting a violation exists, it shall direct the owner to correct the violation and, upon failure to do so within the time set for certifying the correction of such violation pursuant to subdivision (c) of this section, it shall impose a penalty in accordance with subdivision (a) of this section. Nothing in this section shall preclude any person from seeking relief pursuant to any other applicable provision of law.

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

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