



Legislation Text

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Int. No. 1218-A

By Council Members Gentile, Williams, Grodenchik, Kallos, Rosenthal, Miller, Koo, Rose, Salamanca, King, Dromm, Levin, Treyger, Gibson, Vallone, Lancman, Cornegy, Crowley, Menchaca, Mealy, Greenfield, Koslowitz, Deutsch, Barron and Ulrich (at the request of the Brooklyn Borough President)

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

Be it enacted by the Council as follows:

Section 1. Item 13 of section 28-201.2.1 of the administrative code of the city of New York, as amended by local law number 17 for the year 2010, is amended to read as follows:

13. A violation of any provision of chapter 4 of this title for engaging in any business or occupation without a required license or other authorization.

[13.1. The minimum civil penalty that shall be imposed for a violation of section 28-408.1 or section 28-410.1 of this code and the minimum fine that shall be imposed for a violation of such sections shall be two thousand five hundred dollars for the first violation and five thousand dollars for each subsequent violation.]

§ 2. Section 28-202.1 of the administrative code of the city of New York, as amended by local law number 141 for the year 2013, is amended to read as follows:

§ 28-202.1 Civil penalties. Except as otherwise specified in this code or other law, violations of this code, the 1968 building code, the zoning resolution or other laws or rules enforced by the department shall be punishable by civil penalties within the ranges set forth below:

1. For immediately hazardous violations, a civil penalty of not less than one thousand dollars nor more than [twenty-five thousand dollars] \$25,000 may be imposed for each violation. In addition to such civil penalty, a separate additional penalty may be imposed of not more than [one thousand dollars] \$1,000 for each day that the violation is not corrected. The commissioner may by rule establish such specified daily penalties.
2. For major violations, a civil penalty of not more than [ten thousand dollars] \$10,000 may be imposed for each violation. In addition to such civil penalty, a separate additional penalty may be imposed of not more than [two hundred fifty dollars] \$250 for each month that the violation is not corrected. The commissioner may by rule establish such specified monthly penalties.

3. For lesser violations, a civil penalty of not more than [five hundred dollars] \$500 may be imposed for each violation.

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.

3. The owner, lessee, occupant, manager or operator of a building shall not be subject to a civil penalty for a violation resulting from work done by a city employee, or by a third party under contract with the city, in response to a natural or man-made disaster, provided that such violation is corrected on or before 60 days after the issuance of such violation, or such greater amount of time as determined by the commissioner for such violation. If such owner, lessee, occupant, manager or operator of a building can demonstrate to the satisfaction of the department that a city employee or third party under contract with the city has committed to correcting such violation then such violation shall be rescinded, without penalty. 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 or violations charged as aggravated violations.

4. The minimum civil penalty for a violation of section 28-408.1 or section 28-410.1 of this code shall be \$2,500 for a first violation and \$5,000 for a second violation, in addition to any separate daily penalty imposed pursuant to item 1 of this section.

5. For a violation of section 28-210.1:

- 5.1. Unless exception 5.2 applies, the minimum civil penalty for a violation of section 28-210.1 in any building involving the illegal conversion, maintenance or occupancy of three or more dwelling units above the number of dwelling units that is legally authorized by the certificate of occupancy or if no certificate of occupancy is required as evidenced by official records shall be \$15,000. Each dwelling unit above the number that is legally authorized by the certificate of occupancy or if no certificate of occupancy is required as evidenced by official records shall constitute a separate offense that shall be charged separately and shall be punishable by a

separate civil penalty. Provided, however, that the penalties for multiple violations of this exception may be based on the same evidence; and

5.2. The owner of a building shall not be subject to a civil penalty for a violation of section 28-210.1 in such building if such owner can show the following:

5.2.1. Such violation was the first such violation issued for such building or was issued within 30 days after such first violation;

5.2.2. At the time such violation was issued or, if such violation was issued within 30 days after such first violation was issued, the time such first violation was issued, a registration for such building has been properly filed with the department of housing preservation and development in accordance with article two of subchapter 4 of the housing maintenance code; and

5.2.3. At the time such violation was issued or, if such violation was issued within 30 days after such first violation was issued, the time such first violation was issued, such owner reasonably did not know of, or could not reasonably have known of such illegal conversion, the maintenance thereof or occupancy thereof and takes lawful immediate and diligent steps to cure said violation.

§ 3. Section 28-204.6 of the administrative code of the city of New York, as added by local law number 33 of 2007, is amended to read as follows:

§ 28-204.6 Tax Lien. Enforcement of environmental control board judgments against owners for certain building code violations. Notwithstanding any provision of law to the contrary, an environmental control board judgment against an owner for (i) a building code violation with respect to a private dwelling, a wooden-framed single room occupancy multiple dwelling, or a dwelling with a legal occupancy of three or fewer dwelling units or (ii) a violation of section 28-210.1 involving the illegal conversion, maintenance or occupancy of three or more dwelling units than are legally authorized by the certificate of occupancy or if no certificate of occupancy is required as evidenced by official records, shall constitute a tax lien on the property named in the violation with respect to which such judgment was rendered, as hereinafter provided. Such liens shall be entered and enforced as provided in this section 28-204.6.

§ 4. Article 210 of title 28 of the administrative code of the city of New York is amended by adding new section 28-210.1.1 to read as follows:

§ 28-210.1.1 Inspection; failure to gain access to premises. Upon receiving a complaint of a condition relating to a building or part thereof that would, if observed by the commissioner, be identified by the commissioner as a violation of section 28-210.1 involving the illegal conversion, maintenance or occupancy of three or more dwelling units than are legally authorized by the certificate of occupancy or if no certificate of occupancy is required as evidenced by official records, the commissioner shall attempt to enter and inspect such building or part thereof. After two unsuccessful attempts to gain access to such building or part thereof, the commissioner shall request the corporation counsel to make an application in any court of competent jurisdiction for an ex parte administrative warrant directing the entry and inspection of such premises or

location and to issue violations found upon access to such premises or locations. In preparing such requests, priority may be given by the commissioner to requests based on the degree of hazard to safety or property that the commissioner believes present. Such counsel shall promptly consider such request, and where such counsel determines that there is appropriate basis to obtain such an order, shall seek such an order. The commissioner shall promptly execute any such order in accordance with its terms.

§ 5. Section 11-319 of the administrative code of the city of New York is amended by adding a new subdivision a-6 to read as follows:

a-6. Notwithstanding any provision of this chapter to the contrary, beginning on September first, two thousand seventeen, a lien that includes civil penalties for a violation of section 28-201.1 of the code where such civil penalties accrued on or after July first, two thousand seventeen, and became a lien pursuant to section 28-204.6.6 of the code, may be sold by the city pursuant to this chapter, where such civil penalties component of such lien, as of the date of the first publication, pursuant to subdivision a of section 11-320 of this chapter, of the notice of sale (i) shall have remained unpaid in whole or in part for one year or more, and (ii) equals or exceeds the sum of one thousand dollars. After such sale, any such civil penalties component of such lien may be transferred in the manner provided by this chapter.

§ 6. This local law shall take effect 120 days after it becomes law, except that the commissioner of buildings and the commissioner of finance may take such actions as are necessary for its implementation, including the promulgation of rules, before such effective date.

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