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Int. No. 30-A

By Council Members Chin, Cornegy, Brannan, Levine, Rivera, Lancman, Kallos, Rosenthal and Cohen

A Local Law to amend the administrative code of the city of New York, in relation to the recovery of relocation expenses incurred by the department of housing preservation and development pursuant to a vacate order

Be it enacted by the Council as follows:

Section 1. The unnumbered subparagraph of paragraph (a) of subdivision 1 of section 26-301 of the administrative code of the city of New York, as amended by local law number 14 for the year 2017, is amended to read as follows:

Such services [shall consist of such activities] may be provided as such commissioner may deem necessary, useful or appropriate for the relocation of such tenants, including but not limited to the gathering and furnishing of information as to suitable vacant accommodations, the making of studies and surveys for the purpose of locating such accommodations and the provision of facilities for the registration of such accommodations with the department of housing preservation and development by owners, lessors and managing agents of real property and others. For any tenant applying for relocation services pursuant to subparagraph (v) of this paragraph, such services may also include the provision of temporary housing. Such commissioner shall not impose any deadline or limitation of time in which a tenant may apply for relocation services pursuant to subparagraph (v) of this paragraph. For purposes of this chapter, "temporary housing" includes, but is not limited to, hotels, motels, or other temporary shelter provided to a tenant by or on behalf of the department or provided pursuant to an agreement with the department.

§ 2. Section 26-301 of the administrative code of the city of New York is amended by adding a new subdivision 1-a to read as follows:

1-a. When any tenant of a privately owned building ceases to occupy such building following the issuance of any order to vacate a building or portion thereof by any agency of the city of New York, it shall be presumed that such tenant ceased to occupy such building due to the issuance of such order.

§ 3. The heading, and subdivisions 1 and 2 of section 26-305 of the administrative code of the city of New York are amended to read as follows:

§ 26-305 Expenses of relocation[pursuant to vacate order]. 1. Whenever the department of housing preservation and development has incurred expenses in providing relocation services, including, but not limited to, expenses incurred in the provision of temporary housing, for tenants pursuant to subparagraph (v) of paragraph (a) of subdivision one of section 26-301 of this chapter, the department shall be entitled to reimbursement of such expenses 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 or repair such [dwelling] building in accordance with the standards prescribed by the housing [or] maintenance code, building code, health code, or any other applicable law governing such [dwelling] building. The department shall recover such expenses from such owner. "Owner" for purposes of this section shall mean and include the owner or owners of the freehold of the premises or lesser estate therein, or any successor in interest of such owner or owners, a mortgagee or vendee in possession, a lienholder, 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, all expenses incurred in the provision of temporary housing, bonuses, moving expenses [or other reasonable] and any allowances given to induce tenants to relocate voluntarily, as authorized by rules of the department.

§ 4. The opening paragraph of subdivision 4 of section 26-305 of the administrative code of the city of

New York is amended to read as follows:

4. To the extent that such expenses [are not recovered by the department] arise from any vacate order issued prior to the effective date of the local law that added paragraph d of this subdivision, they shall, unless fully recovered by the department, and except as herein provided, constitute a lien or liens upon such building and the lot upon which it stands, with the effect and enforcement of such lien or liens governed by the provisions of law regulating mechanics liens and by the provisions of paragraphs (a), (b) and (c) of this subdivision. To the extent that such expenses arise from a vacate order issued on and after the effective date of the local law that added paragraph d of this subdivision, they shall constitute a debt recoverable from the owner of the building at which the vacate order was issued with the effect and enforcement of such debt governed by paragraph (d) of this subdivision.

§ 5. 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) Tax lien.

(1) To the extent the department incurs any expenses in providing relocation services for tenants pursuant to subparagraph (v) of paragraph (a) of subdivision 1 of section 26-301 of this chapter, as described by subdivision 2 of this section, the department may record the charge for such expenses within 30 days of each and every payment to the provider of such services. The department may record and maintain the charges for such expenses on its records electronically.

(2) A notice thereof, stating the amount due and the nature of the charge for the first payment made by the department to the provider of such services, shall be sent by the department of finance in accordance with section 11-129 of this code, and such charge shall be due and payable, notwithstanding any other provision of law, on the due and payable date provided on the statement of account containing such charge. Such notice shall constitute a final determination that: (A) the dwelling unit or, as applicable, the building, of the tenants who have been relocated was the subject of a vacate order; (B) the owner of such dwelling unit, or, as

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applicable, such building, is liable for expenses incurred by the department for the provision of relocation services for such tenants; and (C) such owner is liable for such expenses until the department terminates the provision of relocation services to such tenants. Such notice shall also constitute a final determination of the amount of such charge for the first payment made by the department to the provider of such services.

(3) A notice of any subsequent charge for any additional payment made by the department to the provider of such services shall be sent by the department of finance in accordance with section 11-129 of this code, and such charge shall be due and payable, notwithstanding any other provision of law, on the due and payable date provided on the statement of account containing such charge. Such notice shall constitute a final determination of the amount of any such charge and shall not constitute a new determination of the provisions described in clauses (A), (B) and (C) of subparagraph 2 of this paragraph.

(4) An owner, as defined in subdivision 1 of this section, may seek judicial review of such charge through a proceeding under article seventy-eight of the civil practice law and rules as of the date the department of finance sent the notice described in subparagraph (2) or (3) of this paragraph. In any such proceeding, the validity of the lien shall not be subject to review based on the lawfulness of the order for such building or part thereof to be vacated.

(5) All expenses incurred by the department for the provision of relocation services shall constitute a lien upon the building and the lot upon which it stands, when the charge for such expenses is not paid as of the due and payable date provided on the statement of account containing such charge. Such lien shall have a priority over all other liens and encumbrances on the building and the lot upon which it stands except for the lien of taxes and assessments.

(6) If such charge is not paid by the date when such charge is due and payable in accordance with subparagraph (2) or (3) of this paragraph, it shall be the duty of the department of finance to receive interest thereon, to be calculated to the date of payment from the due and payable date. The rate of interest applied to such unpaid charge shall be the rate applicable to such building for nonpayment of taxes on real property

pursuant to subdivision (e) of section 11-224.1.

(7) Such charge and the interest thereon shall continue to be, until paid, a lien upon the building and the lot upon which it stands. Such lien shall be a tax lien within the meaning of sections 11-319 and 11-401 of this code and may be sold, enforced or foreclosed in the manner provided in chapters 3 and 4 of title 11 of this code.

§ 6. Subdivision a of section 27-2089 of the administrative code of the city of New York is amended to read as follows:

a. In every multiple dwelling, where all apartments, suites of rooms and single room units, at any time after July fourteenth, nineteen hundred sixty-seven: (1) Became [untenanted] unoccupied for a period of sixty days or more, or

(2) Were, or shall become, [untenanted] unoccupied 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] unoccupied, 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 or the department of buildings where required, [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.

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§ 7. This local law takes effect 2 years after it becomes law, except that the commissioner of housing preservation and development may take such measures as are necessary for its implementation, including the promulgation of rules, prior to such effective date.

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