



Legislation Text

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Int. No. 2121

By the Public Advocate (Mr. Williams) and Council Member Kallos

A Local Law to amend the administrative code of the city of New York, in relation to increasing penalties for violations issued by the department of housing preservation and development and requiring the department of housing preservation and development to maintain a certification of correction watch list and prohibiting any listed landlord from certifying correction of violations in multiple dwellings without an inspection

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 27-2107 of the administrative code of the city of New York is amended to read as follows:

a. A person who is required to file a statement of registration or an amendment of a statement of registration or any other statement required under this article and who fails to file as required may, whenever appropriate, be punished under the provisions of article three of subchapter five of this code, and such person shall be subject to a civil penalty of not less than [two hundred and fifty dollars] \$500 and not more than [five hundred dollars] \$1000, recoverable by the department by civil action in a court of appropriate jurisdiction.

§ 2. 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] one hundred dollars nor more than [fifty] five hundred dollars, and twenty-five dollars per day for each non-hazardous violation, not less than [twenty-five] two hundred fifty dollars nor more than [one hundred] one thousand dollars and [ten] one hundred dollars per day for each hazardous violation, one hundred 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 two hundred fifty dollars nor more than [one] seven hundred fifty dollars and, in addition, [one] six 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. A person willfully making a false certification of correction of a violation shall be subject to a civil penalty of not less than [fifty] five hundred dollars nor more than [two hundred fifty] two thousand five hundred dollars for each violation falsely certified, in addition to the other penalties herein provided.

§ 3. Subdivision (f) of section 27-2115 of the administrative code of the city of New York is amended by adding new paragraphs (9), (10) and (11) to read as follows:

(9) No later than January 15 of each year, the department shall post on its website a certification of correction watch list. Such watch list shall include any person that:

(i) Owns a multiple dwelling that is subject to the alternative enforcement program pursuant to section 27-2153 or has been discharged from such program within the previous two years;

(ii) Has been found to have submitted a false certification of correction to the department within the previous five years; or

(iii) Pursuant to criteria established by rule by the department, should be subject to additional monitoring with respect to the correction of violations. Such criteria shall include, at a minimum, the number and severity of violations occurring in any multiple dwelling owned by such person.

(10) Whenever the department issues a notice of violation to correct a condition in a multiple dwelling owned by a person on the certification of correction watch list, the department shall within fourteen days after the date set for the correction of such violation conduct a final inspection to verify that the violation has been corrected. Notwithstanding any other provision of law, the department shall not deem that any such violation is corrected unless the records of the department contain written verification that the department has conducted a final inspection of the premises and that such inspection verifies that the violation has been corrected.

(11) The department shall establish by rule a process which allows property owners to request removal from the certification of correction watch list and the criteria for such removal.

§ 4. Subparagraph (i) of paragraph (1) of subdivision (k) of section 27-2115 of the administrative code of the city of New York, as amended by local law number 65 for the year 2011, is amended to read as follows:

(k) (1) (i) Notwithstanding any other provision of law, a person who violates section 27-2028, subdivision a of section 27-2029, section 27-2031 or section 27-2032 of this chapter shall be subject to a civil penalty of not less than [two] seven hundred fifty nor more than one thousand five hundred dollars per day for each violation from and including the date the notice is affixed pursuant to paragraph two of this subdivision until the date the violation is corrected and not less than one thousand five hundred nor more than [one] three thousand dollars per day for each subsequent violation of such sections at the same dwelling or multiple dwelling that occurs within two consecutive calendar years or, in the case of subdivision a of section 27-2029, during two consecutive periods of October first through May thirty-first. A person who violates subdivision b of section 27-2029 of this chapter shall be subject to a civil penalty of [twenty-five] fifty dollars per day from and including the date the notice is affixed pursuant to paragraph two of this subdivision until the date the violation is corrected but not less than [one] two thousand dollars. There shall be a presumption that the condition constituting a violation continues after the affixing of the notice.

§ 5. Paragraph (6) of subdivision (l) of section 27-2115 of the administrative code of the city of New York, as added by local law number 1 for the year 2004, is amended to read as follows:

(6) Notwithstanding any other provision of law, a person who violates article fourteen of subchapter two of this chapter by failing to correct such violation in accordance with paragraph one of subdivision a of section 27-2056.11 of this code shall be subject to a civil penalty of [two hundred fifty] five hundred dollars per day for each violation [to a maximum of ten thousand dollars] from the initial date set for correction in the notice of violation until the date the violation is corrected and certified to the department, and in addition to any civil penalty shall, whenever appropriate, be punished under the provisions of article three of subchapter five of this

code. There shall be a presumption that the condition constituting a violation continues after the service of the notice of violation. The owner shall be responsible for the correction of all violations noticed pursuant to article fourteen of subchapter two of this chapter, but in an action for civil penalties pursuant to this subdivision may in defense or mitigation of such owner's liability for civil penalties show:

(i) That the condition which constitutes the violation did not exist at the time the violation was placed;

or

(ii) That he or she began to correct the condition which constitutes the violation promptly upon discovering it but that full correction could not be completed expeditiously because of serious technical difficulties, inability to obtain necessary materials, funds or labor, or inability to gain access to the dwelling unit wherein the violation exists, or such other portion of the building as might be necessary to make the repair, provided that a postponement was granted pursuant to this subdivision; or

(iii) That he or she was unable to obtain a permit or license necessary to correct the violation, provided that diligent and prompt application was made therefor; or

(iv) That the violation giving rise to the action was caused by the act of negligence, neglect or abuse of another not in the employ or subject to the direction of the owner, except that the owner shall be precluded from showing in defense or mitigation of such owner's liability for civil penalties evidence of any acts occurring, undertaken, or performed by any predecessor in title prior to the owner taking control of the premises. Where the aforesaid allegations are made by way of mitigation of penalties, the owner shall show, by competent proof, pertinent financial data and efforts made to obtain necessary materials, funds or labor or to gain access, or to obtain a permit or license and such other evidence as the court may require.

If the court finds that sufficient mitigating circumstances exist, it may remit all or part of any penalties arising from the violations, but may condition such remission upon a correction of the violation within a time period fixed by the court.

§ 6. This local law takes effect 180 days after it becomes law, except that the commissioner of housing

preservation and development shall take such measures as are necessary for its implementation, including the promulgation of rules, prior to such date.

NAB
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