



Legislation Text

File #: Int 0852-2008, **Version:** A

Int. No. 852-A

By Council Members Weprin, Fidler, Eugene, Gennaro and Rivera (by request of the Mayor)

A Local Law to amend the administrative code of the city of New York, in relation to recovery of expenses for repair work performed by or on behalf of the department of housing preservation and development and department of finance statements of account.

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 11 of the administrative code of the city of New York is amended by adding a new section 11-129 to read as follows:

§11-129 Department of finance statement of account. a. At intervals determined by the commissioner of finance, the department of finance shall send to owners of real property a statement of account for the property, which shall represent a bill for taxes, charges and assessments, and which shall include, in a manner determined by the commissioner, a description of taxes, charges and assessments that remain unpaid on the property, and payments received by the department for taxes, charges and assessments on the property, and which may include additional information as the commissioner deems appropriate.

b. The statement of account shall be sent to owners who notified the department of a mailing address for such statements, or, if no mailing address has been so provided, to the owner of record at the property address appearing on the assessment roll.

c. Notwithstanding subdivision b of this section, in lieu of mailing the statement of account, the department may send the statement of account by electronic means to any owner whose electronic mailing address is known to the department.

§2. Section 27-2129 of the administrative code of the city of New York is amended to read as

follows:

§ 27-2129 Statement of account. Whenever the department has incurred expenses for the repair of a dwelling or for the elimination of any dangerous or unlawful conditions therein, pursuant to this article or any other provision of the administrative code or any other applicable provision of law, [it] the department, its authorized representative, or the department of finance may [serve upon] send to the owner or his or her designee in the manner provided in section [27-2095 of article one of subchapter four of this code] 11-129 of the administrative code a statement of account with the expense incurred and a demand for payment thereof. If the owner does not [within thirty days of service of such statement,] notify the department in writing of his or her objection to the first statement of [expenses or any individual item therein,] account containing such charge before the date that such charge becomes due and payable as provided in subdivision b of section 27-2144 of article eight of this subchapter, such owner may not in any subsequent judicial or administrative proceeding contest [any item] the expense contained in such statement. The department will only review such objections that are received by it in writing on or prior to the due and payable date for the charge provided on the second statement of account containing such charge..

§3. Section 27-2144 of the administrative code of the city of New York is amended to read as follows:

§ 27-2144 Lien on premises. a. There shall be filed in the office of the department a record of all work caused to be performed by or on behalf of the department. Such records shall be kept on a building-by-building basis and shall be accessible to the public during business hours. Such record may be made and maintained electronically. Within thirty days after the issuance of a purchase or work order to cause a repair to be made by or on behalf of the department, entry of such order shall be made on the records of the department. Such record may be made and maintained electronically. Such record shall be deemed to be entered on the date that such record is entered electronically on the records of the department. Such entry shall constitute notice to all parties.

b. All expenses incurred by the department for the repair or the elimination of any dangerous or unlawful conditions therein, pursuant to this chapter or any other applicable provision of law, shall constitute a lien upon the premises when [the amount thereof shall have been definitely computed as a statement of account by the department and the department shall cause to be filed in the office of the city collector an entry of the account stated in the book in which such charges against the premises are to be entered] such charge is due and payable, which, notwithstanding any other provision of law, shall be the due and payable date for such charge provided on the second statement of account containing such charge. Such lien shall have a priority over all other liens and encumbrances on the premises except for the lien of taxes and assessments. However, no lien created pursuant to this chapter shall be enforced against a subsequent purchaser in good faith or mortgagee in good faith unless the requirements of subdivision a of this section are satisfied; this limitation shall only apply to transactions occurring after the date such record should have been entered pursuant to subdivision a and the date such entry was made.

c. A notice thereof, stating the amount due and the nature of the charge, shall be [mailed] sent by [the city collector, within five days after such entry, to the last known address of the person whose name appears on the records in the office of the city collector as being the owner or agent or as the person designated by the owner to receive tax bills or, where no name appears, to the premises, addressed to either the owner or the agent] the department of finance in accordance with section 11-129 of the administrative code, and such charge shall be due and payable, notwithstanding any other provision of law, on the due and payable date provided on the second statement of account containing such charge.

d. If such charge is not paid [within thirty days from the date of entry] by the date when such charge is due and payable in accordance with subdivision c of this section, it shall be the duty of the [city collector] department of finance to receive interest thereon at the rate of seven percent per annum, to be calculated to the date of payment from the due and payable date [of entry].

e. Such charge and the interest thereon shall continue to be, until paid, a lien on the premises.

Such lien shall be a tax lien within the meaning of sections 11-319 and 11-401 of the administrative code and may be sold, enforced or foreclosed in the manner provided in chapters three and four of title eleven of the administrative code or may be satisfied in accordance with the provisions of section thirteen hundred fifty-four of the real property actions and proceedings law.

f. [Such notice mailed] Any statement sent by the [city collector] department of finance pursuant to this section shall have [stamped or printed] included thereon a reference to article eight of this subchapter.

§4. Section 27-2145 of the administrative code of the city of New York is amended to read as follows:

§ 27-2145 Establishment of lien. [Upon the completion of any repair, or other work giving rise to a lien, the] The department shall [file] include among its records a [certificate setting forth the work done and the expenses incurred and certifying] statement that such expenses were necessary and proper in the exercise of its lawful powers. Such statement may be made and maintained electronically.

§5. Section 27-2146 of the administrative code of the city of New York is amended to read as follows:

§ 27-2146 Validity of lien; grounds for challenge. a. In any proceedings to enforce or discharge the lien, the validity of the lien shall not be subject to challenge based on:

(1) The lawfulness of the repair or other work done; or

(2) The propriety and accuracy of the [items of expenses] expense for which a lien is claimed, except as provided in this section.

b. No [such] challenge may be made except by (1) the owner of the property, or (2) a mortgagee or lienor whose mortgage or lien would, but for the provisions of section 27-2144 of this article, have priority over the department's lien.

c. An issue specified in subdivision a which was decided, or could have been contested, in a prior court proceeding to secure a court order to repair under article five of this subchapter or to secure the

appointment or the discharge of a receiver under article six of this subchapter, shall not be open to reexamination, but if any mortgagee or lienor entitled to notice of such prior proceeding was not served and did not appear therein, his or her mortgage or lien shall have priority over the lien of the department. In addition to this limitation, an owner who has been served with a statement pursuant to section 27-2129 of article five of this subchapter, or his successor in interest, may not subsequently contest [any item] the expense contained therein [except as provided in such section] unless such owner or successor in interest notified the department in writing of his or her objection to the statement of account in the manner and within the time period provided in section 27-2129 of article five of this subchapter.

d. With respect to any issue specified in subdivision a which is not subject to subdivision c, the [certificate] statement of the department [filed] made pursuant to section 27-2145 of this article shall be presumptive evidence of the facts stated therein.

§6. This local law shall take effect thirty days after its enactment.