

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2011**

No. 65

Introduced by Council Members Dilan, Chin, Comrie, Jackson, Mark-Viverito, Nelson, Rose, Seabrook, Vann, Brewer, Lander, Rodriguez, Williams, Arroyo, Barron, Gennaro and Gentile (by request of the Mayor)

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to penalties for violation of the heat and hot water requirements of the housing maintenance code.

Be it enacted by the Council as follows:

Section 1. 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 16 for the year 2011, is amended to read as follows:

(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 [article eight of subchapter two of] this chapter shall be subject to a civil penalty of not less than two hundred fifty nor more than 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 five hundred nor more than one 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 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 thousand dollars. There shall be a presumption that the condition constituting a violation continues after the affixing of the notice.

(ii) Notwithstanding the provisions of subparagraph (i) of this paragraph and section 27-2116 of this chapter, the civil penalties set forth in subparagraph (i) of this paragraph shall be deemed satisfied for a first violation of section 27-2028, subdivision a of section 27-2029, section 27-2031 or section 27-2032 of this chapter if a notice, in a form prescribed by the department, that such violation has been corrected by the owner or an agent or employee of the owner within twenty-four hours of the affixing of the notice of such violation pursuant to paragraph two of this subdivision, and a payment of two hundred fifty dollars, are submitted to the department within ten days of affixing the notice of such violation. A person who submits a false notice of correction shall be subject to a civil penalty of not less than two hundred fifty dollars for each false notice of correction, in addition to the other penalties herein provided. If the notice of correction and payment are not received within such ten-day period then the penalties set forth in subparagraph (i) of this paragraph shall be applicable to such violations and the department may commence a proceeding for an order to correct and to recover such penalties in accordance with this section and section 27-2116 of this chapter. A person who has violated section 27-2028, subdivision a of section 27-2029, section 27-2031 or section 27-2032 of this chapter may allege as a defense or in mitigation of liability for civil penalties, compliance with the notice of correction and payment requirements of this subparagraph in any proceeding brought by the department seeking civil penalties under this subdivision. The process for submission of the notice of correction and payment set forth in this subparagraph shall not be available if a violation of section 27-2028, section 27-2031 or section 27-2032 of this chapter occurred at the same

dwelling or multiple dwelling during the prior calendar year or, in the case of subdivision a of section 27-2029 of this chapter, if a violation of such subdivision occurred at the same dwelling or multiple dwelling during the prior period of October first through May thirty-first.

(iii) Notwithstanding any other provision of law, within five business days from the date of receipt of the notice of correction by the department, the department shall mail to the occupant of any dwelling unit for which such violation was issued notification that the owner has submitted a notice of correction for such violation. The notification to the occupant shall include information on when the violation was reportedly corrected and how the occupant may object to such notice of correction. In addition, the provisions of paragraphs 4 and 5 of subdivision f of this section shall also be applicable to a notice of correction submitted in compliance with subparagraph (ii) of this paragraph.

(iv) Notwithstanding any other provision of law, a person who, after inspection by the department, is issued an immediately hazardous violation for a third or any subsequent violation of section 27-2028, section 27-2031 or section 27-2032 of this chapter at the same dwelling or multiple dwelling within the same calendar year or, in the case of subdivision a of section 27-2029 of this chapter, at the same dwelling or multiple dwelling within the same period of October first through May thirty-first, shall be subject to a fee of two hundred dollars for each inspection that results in the issuance of such violation as well as any civil penalties that may be due and payable for the violation, provided, however, that such fee shall not be applicable to inspections performed in a multiple dwelling that is included in the alternative enforcement program pursuant to article ten of subchapter five of this chapter. All fees that remain unpaid shall constitute a debt recoverable from the owner and a lien upon the premises, and upon the rents and other income thereof. The provisions of article eight of subchapter five of this chapter shall govern

the effect and enforcement of such debt and lien.

§2. This local law shall take effect on June 1, 2012, and shall apply to any violation issued on or after such date, except that the commissioner of housing preservation and development shall take such actions as are necessary for its implementation, including the promulgation of rules, prior to such effective date.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council onNovember 29, 2011..... and approved by the Mayor onDecember 14, 2011.....

MICHAEL M. McSWEENEY, City Clerk Clerk of the Council.

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE §27

Pursuant to the provisions of Municipal Home Rule Law §27, I hereby certify that the enclosed Local Law (Local Law 65 of 2011, Council Int. No. 666-A) contains the correct text and was passed by the New York City Council on November 29, 2011 approved by the Mayor on December 14, 2011 and returned to the City Clerk on December 14, 2011.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel.