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Int. No. 1767

By Council Member Ulrich

A Local Law to amend the administrative code of the city of New York, in relation to instituting cure periods for certain department of sanitation and department of buildings violations by veterans service organizations

Be it enacted by the Council as follows:

Section 1. Title 16 of the administrative code of the city of New York is amended by adding a new section 16-143 to read as follows:

§ 16-143 Cure periods for certain department violations issued to veterans service organizations. a. Definitions. For the purposes of this section, the term “veterans service organization” means an association, corporation or other entity that qualifies under paragraphs (2), (4), (7), (8), (10), (19) or (23) of subsection (c) of section 501 of the internal revenue code as a tax-exempt organization that has been organized for the benefit of veterans; and that is (i) chartered by congress under part B of subtitle II of title 36 of the United States code,

(ii) recognized or approved by the secretary of the federal department of veterans affairs for purposes of preparation, presentation and prosecution of laws administered by such department under section 5902 of title 38 of the United States code and paragraphs (a) and (c) of section 628 of part 14 of title 38 of the code of federal regulations, or (iii) both.

b. The department shall provide a warning period of 120 days during which a veterans service organization may cure a violation issued by the department.

c. After such warning period expires, the veterans service organization may request the department for an extension of time to cure the violation. The organization shall make such a request in a manner and form determined by the department and shall include proof that such organization attempted to cure the violation within the initial warning period of 120 days.

d. The department shall determine by rule which categories of violations qualify for such warning period.

e. The department shall not apply such warning period to any safety-threatening violation.

§ 2. Section 28-202.1 of the administrative code of the city of New York is amended by adding a new item 8 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 \$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 \$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 \$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 \$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 \$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.

6. The minimum civil penalty for a violation of section 3321.1 of the New York city building code shall be \$5,000. The department may by rule provide that, for a first violation of such section or a first set of such violations that occur substantially at the same time, the minimum penalty may be reduced to \$2,500.

7. The minimum civil penalty for a violation of section 3321.2 of the New York city building code shall be \$2,500.

8. The department shall apply the cure period and conditions provided pursuant to section 16-143 to any violation the department issues to any veterans service organization.

§ 3. Title 31 of the administrative code of the city of New York is amended by adding a new section 31-106 to read as follows:

§ 31-106 Outreach campaign pertaining to certain department of sanitation and department of buildings violations by veterans service organizations. a. Definitions. For the purposes of this section, the term “veterans service organization” has the same meaning as provided in section 16-143.

b. The department shall conduct and promote a public information and outreach campaign to inform veterans service organizations about the cure periods available pursuant to sections 16-143 and 28-202.1. The department shall also post information about such cure periods on its website.

§ 4. This local law takes effect 120 days after it becomes law, except that the department of sanitation, department of buildings, and department of veterans’ services shall take such measures as are necessary for the implementation of this local law, including the promulgation of rules, before such date.

JJ
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