

4997

2015-2016 Regular Sessions

I N S E N A T E

April 28, 2015

Introduced by Sen. HAMILTON -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development

AN ACT to amend the administrative code of the city of New York, in relation to authorizing criminal penalties for the breach of an owner's duty to refrain from harassment of tenants and requiring the division of housing and community renewal and the district attorney's office to collaborate on proceedings involving such violations

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Paragraphs 2 and 6 of subdivision (m) of section 27-2115 of
2 the administrative code of the city of New York, paragraph 2 as amended
3 and paragraph 6 as added by local law number 47 of the city of New York
4 for the year 2014, are amended and a new paragraph 7 is added to read as
5 follows:
6 (2) If a court of competent jurisdiction finds that conduct in
7 violation of subdivision d of section 27-2005 of this chapter has
8 occurred, it may determine that a class c violation existed at the time
9 that such conduct occurred. Notwithstanding the foregoing, such court
10 may also issue an order restraining the owner of the property from
11 violating such subdivision and direct the owner to ensure that no
12 further violation occurs, in accordance with section 27-2121 of this
13 chapter. Such court shall impose a civil penalty in an amount not less
14 than one thousand dollars and not more than ten thousand dollars AND MAY
15 IMPOSE A CRIMINAL PENALTY OF NOT LESS THAN ONE YEAR NOR MORE THAN FOUR
16 YEARS IMPRISONMENT for each dwelling unit in which a tenant or any
17 person lawfully entitled to occupancy of such unit has been the subject
18 of such violation, and such other relief as the court deems appropriate,
19 provided that where a petitioner establishes that there was a previous
20 finding of a violation of subdivision d of section 27-2005 OF THIS CHAP-
21 TER against such owner and such finding was made (i) within the preced-

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

LBD10578-02-5

1 ing five year period and (ii) on or after the effective date of [the]
2 local law [that added this clause] NUMBER FORTY-SEVEN OF THE CITY OF NEW
3 YORK FOR THE YEAR TWO THOUSAND FOURTEEN, such court shall impose a civil
4 penalty in an amount not less than two thousand dollars and not more
5 than ten thousand dollars AND MAY IMPOSE A CRIMINAL PENALTY OF NOT LESS
6 THAN ONE YEAR NOR MORE THAN FOUR YEARS IMPRISONMENT. IF A COURT OF
7 COMPETENT JURISDICTION FINDS THAT CONDUCT IN VIOLATION OF SUBDIVISION D
8 OF SECTION 27-2005 OF THIS CHAPTER HAS OCCURRED AND THE TENANT OR ANY
9 PERSON LAWFULLY ENTITLED TO OCCUPANCY OF THE DWELLING UNIT WHO WAS THE
10 SUBJECT OF SUCH VIOLATION SUFFERS FROM A MENTAL ILLNESS, AS DEFINED IN
11 SUBDIVISION TWENTY OF SECTION 1.03 OF THE MENTAL HYGIENE LAW, SUCH COURT
12 SHALL IMPOSE A CIVIL PENALTY OF NOT LESS THAN FIVE THOUSAND DOLLARS AND
13 NOT MORE THAN TEN THOUSAND DOLLARS AND MAY IMPOSE A CRIMINAL PENALTY OF
14 NOT LESS THAN ONE YEAR NOR MORE THAN FOUR YEARS IMPRISONMENT. It shall
15 be an affirmative defense to an allegation by a tenant of the kind
16 described in subparagraphs b, c and g of paragraph forty-eight of subdi-
17 vision a of section 27-2004 of this chapter that (i) such condition or
18 service interruption was not intended to cause any lawful occupant to
19 vacate a dwelling unit or waive or surrender any rights in relation to
20 such occupancy, and (ii) the owner acted in good faith in a reasonable
21 manner to promptly correct such condition or service interruption,
22 including providing notice to all affected lawful occupants of such
23 efforts, where appropriate.

24 (6) After a court of competent jurisdiction has issued a finding that
25 conduct in violation of subdivision d of section 27-2005 of this chapter
26 has occurred, the department, if it receives notice of such finding,
27 shall post on its website, no later than ninety days after having
28 received notice of such finding, the following information for each such
29 finding: (i) the address of the building containing the dwelling unit
30 that was the subject of such violation; (ii) the name of the property
31 owner; (iii) the civil OR CRIMINAL penalty imposed for such violation;
32 (iv) the date such penalty was imposed; and (v) whether an order
33 restraining the owner of such unit from violating subdivision d of
34 section 27-2005 of this chapter was issued.

35 (7) THE DIVISION OF HOUSING AND COMMUNITY RENEWAL AND THE SPECIAL
36 PROSECUTIONS DIVISION, OR OTHER APPROPRIATE DIVISION, OF THE DISTRICT
37 ATTORNEY'S OFFICE HAVING JURISDICTION THEREOF SHALL COLLABORATE ON ALL
38 PROCEEDINGS WHERE A PENALTY MAY BE IMPOSED PURSUANT TO PARAGRAPH TWO OF
39 THIS SUBDIVISION.

40 S 2. This act shall take effect immediately.