STATE OF NEW YORK

2448

2017-2018 Regular Sessions

IN SENATE

January 13, 2017

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:

Section 1. Paragraphs 2 and 6 of subdivision (m) of section 27-2115 of the administrative code of the city of New York, paragraph 2 as amended and paragraph 6 as added by local law number 47 of the city of New York for the year 2014, are amended and a new paragraph 7 is added to read as follows:

(2) If a court of competent jurisdiction finds that conduct in violation of subdivision d of section 27-2005 of this chapter has occurred, it may determine that a class c violation existed at the time that such conduct occurred. Notwithstanding the foregoing, such court may also issue an order restraining the owner of the property from violating such subdivision and direct the owner to ensure that no further violation occurs, in accordance with section 27-2121 of this chapter. Such court shall impose a civil penalty in an amount not less than one thousand dollars and not more than ten thousand dollars **and may impose a criminal penalty of not less than one year nor more than four years imprisonment** for each dwelling unit in which a tenant or any person lawfully entitled to occupancy of such unit has been the subject of such violation, and such other relief as the court deems appropriate, provided that where a petitioner establishes that there was a previous finding of a violation of subdivision d of section 27-2005 **of this chapter** 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.

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ing five year period and (ii) on or after the effective date of [~~the~~] local law [~~that added this clause~~] **number forty-seven of the city of New York for the year two thousand fourteen**, such court shall impose a civil penalty in an amount not less than two thousand dollars and not more than ten thousand dollars **and may impose a criminal penalty of not less than one year nor more than four years imprisonment**. **If a court of competent jurisdiction finds that conduct in violation of subdivision d of section 27-2005 of this chapter has occurred and the tenant or any person lawfully entitled to occupancy of the dwelling unit who was the subject of such violation suffers from a mental illness, as defined in subdivision twenty of section 1.03 of the mental hygiene law, such court shall impose a civil penalty of not less than five thousand dollars and not more than ten thousand dollars and may impose a criminal penalty of not less than one year nor more than four years imprisonment.** It shall be an affirmative defense to an allegation by a tenant of the kind described in subparagraphs b, c and g of paragraph forty-eight of subdivision a of section 27-2004 of this chapter that (i) such condition or service interruption was not intended to cause any lawful occupant to vacate a dwelling unit or waive or surrender any rights in relation to such occupancy, and (ii) the owner acted in good faith in a reasonable manner to promptly correct such condition or service interruption, including providing notice to all affected lawful occupants of such efforts, where appropriate.

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

(7) The division of housing and community renewal and the special prosecutions division, or other appropriate division, of the district attorney's office having jurisdiction thereof shall collaborate on all proceedings where a penalty may be imposed pursuant to paragraph two of this subdivision.

§ 2. This act shall take effect immediately.