Int. No. 994

By Council Members Restler, Nurse, Joseph, Hudson, Ossé, Krishnan, Avilés, Cabán, Abreu, Hanif, Stevens, Williams, Hanks, Marte, Salaam, Won, Louis and Gutiérrez (by request of the Brooklyn Borough President)

..Title

A Local Law to amend the administrative code of the city of New York, in relation to requiring that tenant-occupied dwellings be provided with cooled and dehumidified air

..Body

Be it enacted by the Council as follows:

Section 1. The article heading of article 8 of subchapter 2 of chapter 2 of title 27 of the administrative code of the city of New York is amended to read as follows:

ARTICLE 8

HEAT, COOLING, AND HOT WATER

§ 2. Article 8 of subchapter 2 of chapter 2 of title 27 of the administrative code of the city of New York is amended by adding a new section 27-2030 to read as follows:

§ 27-2030 Maximum indoor temperature to be maintained; provision of cooling systems. a. Definitions. For purposes of this section, the term “covered dwelling” means a multiple dwelling or a tenant-occupied one- or two-family dwelling.

b. Cooling-related requirements. 1. During the period from June 15 through September 15, in any covered dwelling in which centrally-supplied cooling is provided, such cooling shall be furnished so as to maintain, in every interior space of such covered dwelling intended for human occupancy, an indoor temperature no greater than 78 degrees Fahrenheit at 50 percent relative humidity when the outdoor air temperature is 82 degrees Fahrenheit or higher and the coincident wet bulb temperature is 73 degrees Fahrenheit or higher.

2. (a) Except as otherwise provided in subparagraph (b) of this paragraph, the owner of a covered dwelling in which centrally-supplied cooling is not provided shall provide and install in each living room of each dwelling unit of such dwelling a cooling and dehumidifying system capable of maintaining an indoor temperature of 78 degrees Fahrenheit at 50 percent relative humidity when the outdoor air temperature is 82 degrees Fahrenheit or higher and the coincident wet bulb temperature is 73 degrees Fahrenheit or higher.

(b) The owner of a covered dwelling shall not be required to provide and install a cooling and dehumidifying system pursuant to subparagraph (a) of this paragraph where such a system is already installed, provided that if a tenant of a dwelling unit in a covered dwelling notifies the owner of such covered dwelling that a cooling and dehumidifying system already installed in such dwelling unit is not capable of maintaining the temperature specified in subparagraph (a) of this paragraph, such owner shall then be required to provide and install a cooling and dehumidifying system in such dwelling unit pursuant to subparagraph (a) of this paragraph.

(c) No later than 30 days before June 15 of each year, the owner of a covered dwelling shall inspect any cooling and dehumidifying system installed pursuant to this paragraph to ensure that it is capable of maintaining the temperature specified in subparagraph (a) of this paragraph.

3. For purposes of determining compliance with paragraphs 1 and 2 of this subdivision, indoor temperature and relative humidity are to be measured 3 feet above the floor and at least 3 feet away from any exterior wall.

4. The owner of a covered dwelling shall ensure that every dwelling unit in such dwelling has a device capable of displaying the ambient temperature and relative humidity.

5. Owners of covered dwellings shall be subject to the requirements of this subdivision beginning 4 years after the effective date of the local law that added this section.

c. 1. Disclosure. Each owner of a covered dwelling shall include in any lease offered to a tenant or prospective tenant a notice, conspicuously set forth therein, which advises such tenant of the obligations of such owner under subdivision b of this section. The department shall determine the form of such notice. Such owner shall provide such notice in, at a minimum, English and the designated citywide languages as such term is defined by section 23-1101.

2. Owners of covered dwellings shall be subject to the requirements of this subdivision beginning 4 years after the effective date of the local law that added this section.

d. Extension. Where the owner of a covered dwelling is unable to comply with paragraph 1 of subdivision b of this section or with subparagraph (a) or (b) of paragraph 2 of such subdivision because of undue hardship, including but not limited to financial hardship, the need to make major capital improvements, or designation of such covered dwelling as a landmark, as a landmark site, as an interior landmark, or within a historic district pursuant to chapter 3 of title 25, such owner may submit to the department, in a form established by the department, an application for additional time to comply with such paragraph or subparagraph. Such owner shall submit such application to the department along with supporting documents indicating the basis for a claim of undue hardship. After reviewing such application and documents, the department may grant such owner an extension of time to comply with such paragraph or subparagraph, provided that any extension granted under this subdivision not exceed 2 years.

e. Pre-enforcement reporting. 1. No later than 2 years after the effective date of the local law that added this section, the owner of a covered dwelling shall report to the department, on an electronic form established by the department, the following information about such covered dwelling:

(a) The street address;

(b) The number of existing dwelling units;

(c) The number of existing dwelling units for which such owner is required to provide and install a cooling and dehumidifying system pursuant to subparagraph (a) or (b) of paragraph 2 of subdivision b of this section; and

(d) Whether such owner has submitted or plans to submit under subdivision d of this section an application for additional time to comply with paragraph 1 or subparagraph (a) or (b) of paragraph 2 of subdivision b of this section, and if so, such owner’s basis for a claim of undue hardship under subdivision d of this section.

2. The department shall make each report submitted under this subdivision available on the department’s website no later than 30 days after the department’s receipt of such report.

f. Post-enforcement reporting. 1. No later than 5 years after the effective date of the local law that added this section, and annually thereafter, the owner of a covered dwelling shall report to the department, on an electronic form established by the department, the following information about such covered dwelling:

(a) The street address;

(b) The number of existing dwelling units;

(c) If applicable, (i) whether such covered dwelling is compliant with paragraph 1 of subdivision b of this section, and (ii) if such covered dwelling is not compliant with such paragraph, the reason for non-compliance;

(d) The number of existing dwelling units for which such owner provided and installed a cooling and dehumidifying system pursuant to subparagraph (a) of paragraph 2 of subdivision b of this section during the previous year;

(e) The number of existing dwelling units for which such owner provided and installed a cooling and dehumidifying system pursuant to subparagraph (b) of paragraph 2 of subdivision b of this section during the previous year; and

(f) Whether such owner completed an annual inspection under subparagraph (c) of paragraph 2 of subdivision b of this section, and if not, the reason such inspection was not completed.

2. For each covered dwelling, the department shall make each most recent report submitted under this subdivision available on the department’s website no later than 30 days after the department’s receipt of such report.

g. Outreach and education. 1. Beginning no later than 3 years after the effective date of the local law that added this section, the department shall establish and implement an outreach and education program to raise awareness for tenants of covered dwellings of the obligations of owners of such dwellings under subdivision b of this section. The department shall increase its outreach and education efforts under this paragraph during the 90 days leading up to June 15 of each year and during the period of June 15 through September 15 of each year.

2. The department shall establish and implement an outreach and education program to inform owners of covered dwellings of their obligations under subdivisions b, c, e, and f of this section. Through such program, the department shall also provide such owners with the following information to assist in their compliance with the requirements of subdivision b of this section:

(a) The types of cooling and dehumidifying systems that have the capacity specified in subparagraph (a) of paragraph 2 of subdivision b of this section that are available;

(b) The cost, size, and energy efficiency of such cooling and dehumidifying systems; and

(c) Any government programs, including those involving financial resources and incentives, which are available to such owners to assist in their compliance with the requirements of subdivision b of this section.

h. Violations. Notwithstanding any other provision of law, an owner of a covered dwelling that violates paragraph 4 of subdivision b or subdivision c of this section is liable for a civil penalty of $250 per violation. An owner of a covered dwelling that violates paragraph 1 or 2 of subdivision b of this section is liable for civil penalties as set forth in subdivision (k) of section 27-2115.

§ 3. Subdivision (k) of section 27-2115 of the administrative code of the city of New York, paragraph (1) of such subdivision as amended by local law number 65 for the year 2011, subparagraph (i) of such paragraph as amended by local law number 71 for the year 2023, and paragraph 3 of such subdivision 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, paragraph 1 or 2 of subdivision b of section 27-2030, section 27-2031 or section 27-2032 [of this chapter] shall be subject to a civil penalty of not less than three hundred fifty nor more than one thousand two hundred fifty dollars per day for each violation from and including the date the notice is affixed pursuant to paragraph [two] 2 of this subdivision until the date the violation is corrected, and not less than five hundred nor more than one thousand five hundred dollars per day for each subsequent violation [of such sections] at the same dwelling or multiple dwelling that occurs (i) in the case of section 27-2028, paragraph 2 of subdivision b of section 27-2030, section 27-2031 or section 27-2032, within two consecutive calendar years [or,]; (ii) in the case of subdivision a of section 27-2029, during two consecutive periods of October [first] 1 through May [thirty-first] 31; or (iii) in the case of paragraph 1 of subdivision b of section 27-2030, during two consecutive periods of June 15 through September 15. A person who violates subdivision b of section 27-2029 of this chapter shall be subject to a civil penalty of fifty dollars per day from and including the date the notice is affixed pursuant to paragraph [two] 2 of this subdivision until the date the violation is corrected but not less than two 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, paragraph 1 or paragraph 2 of subdivision b of section 27-2030, 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] 2 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, paragraph 1 or paragraph 2 of subdivision b of section 27-2030, 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 (i) if a violation of section 27-2028, paragraph 2 of subdivision b of section 27-2030, section 27-2031 or section 27-2032 [of this chapter] occurred at the same dwelling or multiple dwelling during the prior calendar year [or,]; (ii) 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] 1 through May [thirty-first] 31; or (iii) in the case of paragraph 1 of subdivision b of section 27-2030, if a violation of such paragraph occurred at the same dwelling or multiple dwelling during the prior period of June 15 through September 15.

(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 (i) section 27-2028, paragraph 2 of subdivision b of section 27-2030, 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]; (ii) subdivision a of section 27-2029 [of this chapter,] at the same dwelling or multiple dwelling within the same period of October [first] 1 through May [thirty-first,] 31; or (iii) paragraph 1 of subdivision b of section 27-2030 at the same dwelling or multiple dwelling within the same period of June 15 through September 15 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] 10 of subchapter [five] 5 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] 8 of subchapter [five] 5 of this chapter shall govern the effect and enforcement of such debt and lien.

(2) Notwithstanding any other provision of law, the department shall serve a notice upon the owner, his or her agent or other person responsible for the correction of violations by affixing such notice in a conspicuous place on the premises. The notice shall identify the condition constituting the violation, the provision of law applicable thereto, the date the violation was reported and set the penalty attendant thereto.

(3) Notwithstanding any other provision of law, the owner shall be responsible for the correction of all violations placed pursuant to article [eight] 8 of subchapter [two] 2 of this code, but in an action for civil penalties pursuant to this article may in defense or mitigation of such owner's liability for civil penalties show:

(i) That the condition which constitutes the violation did not exist at the time the violation was placed; or

(ii) That he or she began to correct the condition which constitutes the violation promptly upon discovering it but that full correction could not be completed expeditiously because of technical difficulties, inability to obtain necessary materials, funds or labor, or inability to gain access to the dwelling unit wherein the violation occurs, or such other portion of the building as might be necessary to make the repair; or

(iii) That he or she was unable to obtain a permit or license necessary to correct the violation, provided that diligent and prompt application was made therefor; or

(iv) That the violation giving rise to the action was caused by the act or negligence, neglect or abuse of another not in the employ or subject to the direction of the owner; or

(v) That in addition to any other defense or mitigation set forth in subparagraphs (i) through (iv) of this paragraph, with respect to an owner who may be subject to the penalty of not less than five hundred nor more than one thousand dollars per day with respect to a subsequent violation pursuant to paragraph [one] 1 of this subdivision, documentation of prompt and diligent efforts to correct the conditions that gave rise to an initial violation and that such conditions were corrected. Where demonstrated, such subsequent violation shall be treated as though it was an initial violation. However, this defense or mitigation may not be asserted or demonstrated where the initial and subsequent violations occurred (i) in the case of violations of section 27-2028, paragraph 2 of subdivision b of section 27-2030, section 27-2031 or section 27-2032, in the same calendar year [or,]; (ii) in the case of violations of subdivision a of section 27-2029, during the same period of October [first] 1 through May [thirty-first] 31; or (iii) in the case of violations of paragraph 1 of subdivision b of section 27-2030, during the same period of June 15 through September 15.

Where the aforesaid allegations are made by way of mitigation of penalties, the owner shall show, by competent proof, pertinent financial data, and efforts made to obtain necessary materials, funds or labor or to gain access, or to obtain a permit or license and such other evidence as the court may require.

If the court finds that sufficient mitigating circumstances exist, it may remit all or part of any penalties arising from the violation, but may condition such remission upon a correction of the violation within a time period fixed by the court.

§ 4. This local law takes effect immediately.

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