

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 1981**

No. 10

Introduced by Council Members Kaufman, Povman and Manton; also Council Members Horwitz, Olmedo, Ryan, Samuel, Michels, Williams, Vallone, Berman, Greitzer, Pinkett, Eisland, Friedlander, Foster, Dryfoos, Messinger, Gerena-Valentin, Savino and Muratori.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to inspections and liens for inspection fees.

Be it enacted by the Council as follows:

Section one. Title A of chapter twenty-six of the administrative code of the city of New York is amended by adding a new section 643a-14.0 to read as follows:

§643a-14.0. Liens on premises for inspection fees.

a. Any unpaid fee for an inspection performed by the department pursuant to law shall constitute a lien upon the land and buildings upon or in respect to which such inspection was performed, as hereinafter provided.

b. There shall be filed in the office of the department a record of all fees for inspections performed by or on behalf of the department. Such records shall be kept on a building by building basis and shall be accessible to the public during business hours. An entry of a fee on the records of the department shall constitute notice to all parties.

c. AN such unpaid fees shall constitute a lien upon the land and building upon, or in respect to which, such inspection was performed when the amount thereof shaH have been definitely computed as a statement of account by the department and the department shall cause to be filed in the office of the city collector an entry of the account stated in the book in which such charges against the premises are to be entered. Such lien shall have a priority over all other liens and encumbrances except for the lien of taxes and assessments. However, no lien created pursuant to this section shall be enforced against a subsequent purchaser in good faith or mortgages in good faith unless the requirements of subdivision b of this section are satisfied; this limitation shall only apply to transactions occurring between the date such record should have been entered pursuant to subdivision b and the date such entry was made.

d. A notice thereof, stating the amount due and the nature of the charge, shall be mailed by the city collector, within five days after such entry, to the last known

address of the person whose name appears on the records in the office of the city collector as being the owner or agent or as the person designated by the Owner to receive tax bills or, where no name appears, to the premises, addressed to either the owner or the agent.

e. If such charge is not paid within thirty days from the date of entry, it shall be the duty of the city collector to receive interest thereon at the rate of fifteen percent per annum, to be calculated to the date of payment from the date of entry.

f. Such charge and the interest thereon shall continue to be, until paid, a lien on the premises. Such lien shall be a tax lien within the meaning of sections 415(1)-23.0 and D17-1.0 of the administrative code and may be sold, enforced or foreclosed in the manner provided in titles A and D of chapter seventeen of such code or may be satisfied in accordance with the provisions of section thirteen hundred fifty-four of the real property actions and proceedings law.

g. Such notice mailed by the city collector pursuant to this section shall have stamped or printed thereon a reference to this section of the administrative code.

h. In any proceedings to enforce or discharge a lien created pursuant to this section the validity of the lien shall not be subject to challenge based on:

- (1) The lawfulness of the inspection or
- (2) The propriety and accuracy of the fee for which a lien is claimed, except as provided in this section.

i. No such challenge may be made except by (1) the owner of the property, or (2) a mortgage or lienor whose mortgage or lien would, but for the provisions of this section, have priority over the department's lien.

§2. Subdivision d of section C26-86.5 of title C of such chapter of such code is amended to read as follows:

d. Continuing violations after notice.-Any person who, having been served with a notice as prescribed in this title to remove any violation or comply with any requirement of this title, or with any order or rule made thereunder, shall fail to comply with such notice within ten days after such service or shall continue to violate any requirement of this title in the respect named in such notice shall be upon conviction, guilty of an offense punishable by a fine of not more than five hundred dollars or imprisonment for not more than sixty days or both. Notwithstanding the foregoing provision, the commissioner may determine that the presence of a violation or the failure to comply with any requirement of this title, or any order or rule made thereunder, constitutes a condition dangerous to human life and safety as set forth by the commissioner in the rules and regulations promulgated by the commissioner.

In such event, any person who fails to remove such violation or who fails to comply with any requirements of this title, or any order or rule made thereunder, after having been served with a notice personally or by certified mail indicating that removal of such

condition exists and requiring such removal or compliance unless the removal of such condition is prevented by a labor dispute or is the result of vandalism beyond the control of the owner, shall also be liable for civil penalty of not less than one hundred fifty dollars per day commencing on the date of the service of such notice and terminating on the date that such removal or compliance has been substantially completed. When service of such notice is made by mail to the owner, civil penalties as herein provided shall commence five days from the date of such mailing.

§ 3. Subdivision f of Section C26-86.5 of such title and chapter of such code is amended, to read as follows:

f. Discontinuance of action upon removal of violation.-If any violation shall be removed or be in process of removal within ten days after the service of a notice as prescribed in this title, liability shall cease, and the corporation counsel, on request of the commissioner shall discontinue any prosecution or action pending to recover any fine, upon such removal or the completion thereof within a reasonable time. Notwithstanding the foregoing provisions where the commissioner, pursuant to subdivision d of this section, has served a notice requiring removal of a violation or compliance with the requirements of this title or with any order or rule made thereunder-with respect to a condition dangerous to human life and safety, liability shall cease and the corporation counsel on request of the commissioner, shall discontinue such prosecution or action only if the removal or compliance so required has been completed or substantially completed within ten days after the service of such notice. The commissioner shall, upon good cause shown grant additional time for such removal or compliance. In addition, the civil penalties shall be tolled from the date the owner certifies under oath, on a form prescribed by the commissioner, that the removal of the violation has been substantially completed. If subsequent inspection by the commissioner shows a failure to have removed the violation, the civil penalties shall be deemed to have accrued as of the first day notice of violation has been served.

§ 4. Section C26-1802.2 of such title and **chapter of such code is hereby amended to read as follows:**

§ C26-1808.2. Periodic inspection and test intervals.-Every new and existing device listed in sub-article 1800.0 shall be inspected as tested at least **at the following intervals:**

(a) Elevators-three times per calendar year at intervals of every 4 months, or as otherwise provided by the commissioner and except:

(1) Car safeties and counterweight safeties, where provided, shall be inspected at intervals not exceeding one year and shall be tested at intervals not exceeding 2 years.

(2) Oil buffers and governors shall be periodically inspected and shall be tested at intervals not exceeding one year.

(3) Hydraulic elevator pressure tanks and the piston rods of roped hydraulic elevators every 3 years.

(b) Escalators --every 4 months.

(c) Amusement devices --every 6 months except that the commissioner may extend the periodic inspection and test for an additional two months for amusement devices located in premises which are seasonably operated.

(d) Workmen's hoists --every 3 months and immediately following each increase in travel.

(e) Power operated scaffolds --every 6 months and at such time that replacements of parts or major repairs are made.

(f) All other devices at such intervals as the commissioner may require.

(g) Additional inspections --in addition to the inspections required by (a) through (f) above, the commissioner may make such additional inspection as required to enforce the provisions of this code. No fee shall be charged for such additional inspections.

(h) Fees --every owner of elevators and other devices shall pay to the department an inspection fee for each elevator or device in the amount prescribed by subdivision c of section C26-33.0.

§5. Section C26-1802.4 of such title and chapter of such code is hereby amended to read as follows:

§ C26-1802.4. Inspection agencies and elevator repair service. (a) The required periodic inspections shall be made by the department except that one of the three inspections required each year for elevators and escalators, and one of the two annual inspections for power operated scaffolds shall be made on behalf of the owner by an insurance company, elevator maintenance company, elevator manufacturer, elevator inspection company, or other person, each of which must be acceptable to the commissioner. The department shall promulgate rules and regulations establishing criteria as to the qualifications of such companies or persons. Such owner shall cause such inspections to be performed between January first and September fifteenth of each year. Reports by private inspection agencies shall be on such forms and in such manner as required by the commissioner. Such reports shall be delivered to the owner of each elevator, escalator or power operated scaffold inspected listing all violations of any of the provisions of this article within five days of the inspection, and a signed copy of the report of each inspection shall be filed with the commissioner within 10 days of the delivery of such report to the owner. The failure to have such inspection performed and to file a copy of the report with the department on or before September thirtieth of each year shall be a violation of this section, which shall be punishable pursuant to the provisions of § 643a-11.0 of this code. After such violation is placed the owner may file such report and the department shall enter a notation in its records of the

date on which such report was received by the department. After the date of receipt by the department, the per them penalty provided by subdivision c of §643a-11.0 of this code shall be stayed. The department shall maintain the violation an its records, with a notation of the date on which such report was received by the department, On or before October fifteenth of each year 0 defects as found upon such inspection shall be corrected.

(b) In multiple dwellings (either 11 or J2 occupancy groups), the owner shall be required to have a contract with an elevator repair person or company authorizing the performance of emergency elevator repair work. Such repair person or company shall be one of the elevator inspection agencies or inspectors employed thereby currently acceptable to the Commissioner. The name, address and telephone number of such elevator repair person or company shall be maintained on each premises, in a location readily accessible to employees of this department, and maintenance or custodial staff at the premises.

§6. Section 643a-11.0 of title A of chapter twenty-six of such cod,- is amended by adding a new subdivision c, to read as follows:

c. In addition to the penalties provided in subdivision a of this section, any owner who shall fail to file a report pursuant to the provisions of section C26-1802.4 of this code shall be -liable for a civil penalty of not less than twenty-five dollars nor more than one hundred dollars per day not to exceed one thousand dollars commencing with the date after which such report was required to be filed with the department and terminating in the date of the filing of such report with the department.

§ 7. Section C26-1802.5 of title C of such chapter of such code is Repealed. § 3.

This local law shall take effect thirty days after its enactment into law.

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 on January 22, 1981, and approved by the Mayor on February 9, 1981.

DAVID N. DINKINS, City Clerk, Clerk of the Council

Certification PURSUANT TO Municipal Home Rule Law Section 27

Pursuant to the provisions of Municipal Home Rule Law Section 27, I hereby certify that the enclosed local law (Local Law No. 10 of 1981, Council Int. No. 747-A), contains the correct text and received the following vote at the meeting of the New York City Council on January 22, 1981; 38 for, 0 against, I (one) not voting.

Was approved by the Mayor on February 9, 1981.

Was returned to the City Clerk on February 10, 1981.

ALLEN G. SCHWARTZ, Corporation Couns