
DIGEST

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Abramson

HB No. 940

Abstract: Provides for additional administrative adjudication procedures relative to nuisance ordinances for sanitation and litter violations in the city of New Orleans.

Present law generally authorizes any parish or municipality to prescribe civil fines for blighted and abandoned property, or for violations of public health, housing, fire code, environmental, and historic district ordinances in the respective parish or municipality by owners of immovable property, their agents, tenants, or representatives. Present law additionally establishes administrative adjudication procedures relative to such violations.

Proposed law retains present law and additionally authorizes the city of New Orleans to prescribe civil fines for violations of nuisance ordinances relative to sanitation or litter pursuant to the administrative adjudication procedures provided in present law.

Proposed law authorizes the city of New Orleans to adopt an ordinance establishing an administrative adjudication hearing procedure, and requires that each ordinance provide a time period for persons' property charged with violating a nuisance, sanitation, or litter ordinance to have a hearing not less than 15 days from ticket issuance.

Proposed law further requires that the ordinance provide for the appointment of hearing officers who are licensed to practice law in this state for no less than two years and who have authority to administer oaths and affirmations and to issue orders compelling the attendance of witnesses and the production of documents to be enforced by the municipal court of the municipality or the district court in which the municipality is located.

Proposed law provides for a legal presumption that the owner as provided by the Orleans Parish Assessor's records was responsible for the offense at the time of the charged violation. The ordinance must provide that the city bears the burden of proving by a preponderance of the evidence that the person receiving the ticket committed the sanitation or litter violation.

Proposed law requires that the ticket provide information as to the time and place of an administrative adjudication hearing, at which the city official issuing the ticket will be present, and that failure of any person charged with a violation to appear at the hearing will be considered an admission of liability for the charged violation. The original ticket or any true copy shall be rebuttable proof of the facts contained therein.

Proposed law requires all hearings to be conducted in accordance with the APA and all testimony

be under oath and authorizes the person charged with the ordinance to present evidence and testimony. Provides that the physical presence of the person is not required if evidence is submitted in advance.

Proposed law requires the hearing officer to issue an order stating whether the person charged is liable for violation of the nuisance, sanitation, or litter ordinance and the amount of any fine, penalty, cost, or fee assessed against him, which order may be filed in the mortgage or conveyance office of the city and constitutes a lien and privilege to be paid the same as taxes.

Proposed law requires all hearing officer orders to be maintained in a separate index and file and recorded utilizing computer printouts or other similar data processing techniques.

Proposed law requires that the ordinance provide for the amount and disposition of fines, penalties, costs, and fees.

Proposed law provides for an appeal process with the appropriate district court which shall be instituted by filing a petition within 30 days of the filing of the hearing officer's order, and requires the district court to schedule a hearing and notify all parties of the date, time, and place of such hearing.

Proposed law prohibits service of notice of appeal from staying the enforcement and collection of the judgment unless the person who files the appeal posts bond prior to filing notice of appeal with the agency of the municipality designated by ordinance to accept payments of violations of nuisance, sanitation, or litter ordinances.

(Adds R.S. 13:2575.6)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Municipal, Parochial and Cultural Affairs to the original bill.

1. Adds a recitation of local notice.