

(KEYWORD, SUMMARY, AND DIGEST as amended by Senate committee amendments)

ADMINISTRATIVE PROCEDURE. Provides relative to ordinances and adjudicative procedures.



DIGEST

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, sanitation, and litter ordinances on immovable property pursuant to the administrative adjudication procedures provided in present law.

Proposed law authorizes the city of New Orleans to adopt ordinances establishing an administrative adjudication hearing procedure, and requires that each ordinance provide a reasonable time period for a hearing, which in no event shall be less than 15 days from the sanitation 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 that the ordinance must provide that the city bears the burden of proving by a preponderance of the evidence that the person receiving the ticket is responsible for the sanitation or litter violation.

Proposed law requires that the sanitation 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 who received the sanitation ticket may present any relevant 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 who received the sanitation ticket is liable for a violation of the 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 against the property 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. Also provides that no fine shall exceed a maximum of \$500 per violation.

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.

Proposed law also provides that in any parish with a population of not less than thirty-five thousand five hundred persons and not more than thirty-six thousand persons, according to the most recent federal decennial census, the term "housing violation" as used in the present law shall also encompass violations of building codes, zoning, vegetation, and nuisance ordinances. Proposed law further provides that in any parish with a population of not less than thirty-five thousand five hundred persons and not more than thirty-six thousand persons, according to the most recent federal decennial census, the procedures for administrative adjudication provided in the present law may also be utilized in matters involving licensing and permits and any other ordinance violations that may be determined by the municipal governing authority.

(Adds R.S. 13:2575.6 and 2575.7)

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.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the reengrossed bill

1. Added proposed law relative to parishes with certain population sizes.
2. Deleted language stating that ordinance in city of New Orleans may provide for a legal presumption that the property owner was responsible for the offense.
3. Added \$500 maximum on fine.