

**CONFERENCE COMMITTEE REPORT
House Bill No. 940 By Representative Abramson**

May 30, 2014

To the Honorable Speaker and Members of the House of Representatives and the Honorable President and Members of the Senate.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning House Bill No. 940 by Representative Abramson, recommend the following concerning the Reengrossed bill:

1. That Senate Committee Amendments Nos. 1 through 15 proposed by the Senate Committee on Judiciary A and adopted by the Senate on May 14, 2014, be adopted.
2. That Senate Committee Amendment No. 16 proposed by the Senate Committee on Judiciary A and adopted by the Senate on May 14, 2014, be rejected.
3. That the following amendment to the Reengrossed bill be adopted;

AMENDMENT NO. 1

On page 3, after line 22, insert the following:

"§2575.7. Additional administrative adjudication procedures; certain parishes
A. 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 this Chapter shall also encompass violations of building codes, zoning, vegetation, and nuisance ordinances.
B. 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 this Chapter may also be utilized in matters involving licensing and permits and any other ordinance violations that may be determined by the parish governing authority."

Respectfully submitted,

Representative Neil C. Abramson

Senator Jean-Paul J. Morrell

Representative Austin Badon

Senator Edwin R. Murray

Representative Raymond E. Garofalo

Senator Ben W. Nevers

 DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

CONFERENCE COMMITTEE REPORT DIGEST

House Bill No. 940 by Representative Abramson

Keyword and oneliner of the instrument as it left the House

ADMINISTRATIVE PROCEDURE: Provides relative to nuisance ordinances in the city of New Orleans

Report adopts Senate amendments to:

1. Clarify the types of ordinances for which the city of New Orleans may prescribe civil fines for violations as nuisance, sanitation, and litter ordinances on immovable property.
2. Add a provision that authorizes the city of New Orleans to enforce violations of ordinances adopted pursuant to proposed law via the issuance of a "sanitation ticket".
3. Remove provisions that provide that the ordinance may provide a legal presumption that the property owner was responsible for the offense.
4. Remove provisions that authorize the person charged with the ordinance violation to present evidence and testimony at the hearing and instead authorize the person who received the sanitation ticket to present any such evidence and testimony.
5. Add a provision that limits the amount of fines issued for ordinance violations to \$500 per violation.
6. Add a provision that provides that the term "housing violation" encompasses violations of building codes, zoning, vegetation, and nuisance ordinances in parishes with a population of not less than 35,500 persons and not more than 36,000.
7. Add a provision, applicable to the above mentioned parishes, that provides that procedures for administrative adjudication provided in present law may also be utilized in matters involving ordinance violations relative to licensing and permits.

Report rejects Senate amendments which would have:

1. Added a provision, applicable in parishes with a population of not less than 35,500 persons and not more than 36,000 persons, to authorize *municipal* governing authorities in such parishes to determine additional ordinance violations for which present law administrative adjudication procedures could be utilized.

Report amends the bill to:

1. Add a provision, applicable to parishes with a population of not less than 35,500 persons and not more than 36,000 persons, to authorize *parish* governing authorities of such parishes to determine additional ordinance violations for which present law administrative adjudication procedures can be utilized.

Digest of the bill as proposed by the Conference Committee

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 to enforce ordinance violations via the issuance of a sanitation ticket, 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, and who shall 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 sanitation 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 sanitation 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. Provides that the original sanitation 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 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 who received the sanitation ticket is liable for a violation of the nuisance, sanitation, or litter ordinance at the property 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 and provides that no fine shall exceed \$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 35,500 persons and not more than 36,000 persons, according to the most recent federal decennial census, the term "housing violation" shall also encompass violations of building codes, zoning, vegetation, and nuisance ordinances. Proposed law further provides that in any such parish 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 parish governing authority.

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