

Regular Session, 2014

HOUSE BILL NO. 940

BY REPRESENTATIVES ABRAMSON, BILLIOT, BROSSETT, MORENO, JAY
MORRIS, ST. GERMAIN, AND WILLMOTT

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

1 AN ACT

2 To enact R.S. 13:2575.6, relative to adjudication procedures in the city of New Orleans; to
3 authorize the adoption of nuisance ordinances relative to sanitation and litter
4 violations; to provide for administrative adjudication proceedings for sanitation and
5 litter violations; to provide for the notice and procedures for the administrative
6 adjudication hearing; to provide for civil fines and penalties; to provide for an appeal
7 process; and to provide for related matters.

8 Notice of intention to introduce this Act has been published
9 as provided by Article III, Section 13 of the Constitution of
10 Louisiana.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 13:2575.6 is hereby enacted to read as follows:

13 §2575.6. Additional administrative adjudication procedures in the city of New
14 Orleans; sanitation and litter violations; ticket procedure; appeal; penalties

15 A. The city of New Orleans may prescribe civil fines for violations of
16 nuisance ordinances relative to sanitation or litter pursuant to the procedures for
17 administrative adjudication provided in this Chapter.

18 B. The city of New Orleans may adopt an ordinance establishing an
19 administrative adjudication hearing procedure under the provisions of this Chapter.

1 Each ordinance shall provide a time period for persons charged with violating a
2 nuisance, sanitation, or litter ordinance to have a hearing under the provisions of this
3 Chapter, which in no event shall be less than fifteen days from ticket issuance. The
4 ordinance shall provide for appointment of hearing officers who shall have been
5 licensed to practice law in Louisiana for no less than two years, and who shall have
6 authority to administer oaths and affirmations and to issue orders compelling the
7 attendance of witnesses and the production of documents. Any order compelling the
8 attendance of witnesses or the production of documents may be enforced by the
9 municipal court of the municipality or the district court in which the municipality is
10 located. The ordinance may provide for a legal presumption that the owner, as
11 evidenced by the records from the Orleans Parish Assessor's Office, was responsible
12 for the offense at the time of the charged violation. The ordinance shall provide that
13 the city bears the burden of proving by a preponderance of the evidence that the
14 person receiving the ticket committed the sanitation or litter violation.

15 C. The ticket shall also provide information as to the time and place of an
16 administrative adjudication hearing, at which the city official issuing the ticket will
17 be present. The failure of any person charged with a violation to appear at the
18 hearing shall be considered an admission of liability for the charged violation. The
19 original ticket or any true copy of the ticket shall be deemed a record kept in the
20 ordinary course of business of the municipality, and shall be rebuttable proof of the
21 facts contained in the ticket.

22 D. Any administrative adjudication hearing held under the provisions of this
23 Section shall be conducted in accordance with the Administrative Procedure Act.
24 Testimony by any person shall be taken under oath or by affirmation. The person
25 charged with the ordinance violation may present any relevant evidence and
26 testimony at such hearing; however, his physical presence shall not be required at the
27 hearing if documentary evidence is submitted to the hearing officer prior to the date
28 of the hearing.

1 E. The hearing officer shall issue an order stating whether or not the person
2 charged is liable for violation of the nuisance, sanitation, or litter ordinance and the
3 amount of any fine, penalty, cost, or fee assessed against him, which order may be
4 filed in the mortgage or conveyance office of the city. Any such order filed shall
5 constitute a lien and privilege, be placed on the ad valorem tax bill, and be paid the
6 same as taxes.

7 F. Any order of the hearing officer filed under the provisions of this Section
8 shall be maintained in a separate index and file. These orders or decisions may be
9 recorded utilizing computer printouts or other similar data processing techniques.

10 G. The ordinance shall provide for the amount and disposition of fines,
11 penalties, costs, and fees.

12 H. Any person determined by the hearing officer to be in violation of a
13 nuisance, sanitation, or litter ordinance may appeal this determination to the
14 appropriate district court. Such appeal shall be instituted by filing, within thirty days
15 of the filing of the order of the hearing officer, a petition with the clerk of court for
16 the district court along with payment of such reasonable costs as may be required by
17 the clerk. After filing a petition for appeal the clerk of court of the district court shall
18 schedule a hearing and notify all parties of the date, time, and place of such hearing.
19 Service of notice of appeal under this Subsection shall not stay the enforcement and
20 collection of the judgment unless the person who files the appeal posts bond prior to
21 filing notice of appeal with the agency of the municipality designated by ordinance
22 to accept payments of violations of nuisance, sanitation, or litter ordinances.

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)]

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.