

# STATE OF NEW YORK

10315

## IN ASSEMBLY

April 22, 2020

Introduced by M. of A. EPSTEIN -- read once and referred to the Committee on Judiciary

AN ACT to amend the real property law, in relation to prohibiting eviction without good cause for commercial tenants

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The real property law is amended by adding a new article 6-A to read as follows:

### ARTICLE 6-A

#### PROHIBITION OF EVICTION WITHOUT GOOD CAUSE FOR COMMERCIAL TENANTS

##### Section 210. Definitions.

211. Necessity for good cause.

212. Grounds for removal of tenants.

213. Preservation of existing requirements of law.

214. Waiver of rights void.

§ 210. Definitions. As used in this article, the following terms shall have the following meanings:

1. "commercial premises" shall mean a building or space occupied for non-residential purposes including, but not limited to, manufacturing, retail, professional services, offices, assembling, processing, cultural and not-for-profit entities who have a valid commercial lease.

2. "landlord" shall mean any owner, lessor, sublessor, assignor, or other person receiving or entitled to receive rent for the occupancy of any commercial premises, or an agent of any of the foregoing.

3. "rent" shall mean any consideration, including any bonus, benefit or gratuity demanded or received for or in connection with the possession, use or occupancy of any commercial premises or the execution or transfer of a lease for such commercial premises.

4. "tenant" shall mean a tenant, sub-tenant, lessee, sublessee, assignee or any other person entitled to the possession, use or occupancy of any commercial premises.

§ 211. Necessity for good cause. No landlord shall, by action to evict or to recover possession, by exclusion from possession, by failure to

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD13586-02-9

1 renew any lease, or otherwise, remove any tenant from any commercial  
2 premises except for good cause as defined in section two hundred twelve  
3 of this article.

4 § 212. Grounds for removal of tenants. 1. No landlord shall remove a  
5 tenant from any commercial premises, or attempt such removal or exclu-  
6 sion from possession, notwithstanding that the tenant has no written  
7 lease or that the lease or other rental agreement has expired or other-  
8 wise terminated, except upon order of a court of competent jurisdiction  
9 entered in an appropriate judicial action or proceeding in which the  
10 petitioner or plaintiff has established one of the following grounds as  
11 good cause for removal or eviction:

12 (a) the tenant has failed to pay rent due and owing, provided however  
13 that the rent due and owing, or any part thereof, did not result from a  
14 rent increase which is unconscionable or imposed for the purpose of  
15 circumventing the intent of this article. In determining whether all or  
16 part of the rent due and owing is the result of an unconscionable rent  
17 increase, it shall be a rebuttable presumption that the rent for any  
18 commercial premises is unconscionable if said rent has been increased in  
19 any calendar year by a percentage exceeding one and one-half times the  
20 annual percentage change in the Consumer Price Index for the region in  
21 which the commercial premises is located, as established the August  
22 preceding the calendar year in question;

23 (b) the tenant is violating a substantial obligation of his or her  
24 tenancy, other than the obligation to surrender possession, and has  
25 failed to cure such violation after written notice that the violation  
26 cease within ten days of receipt of such written notice, provided howev-  
27 er, that the obligation of tenancy for which violation is claimed was  
28 not imposed for the purpose of circumventing the intent of this article;

29 (c) the tenant is committing or permitting a nuisance in such commer-  
30 cial premises, or is maliciously or by reason of negligence damaging the  
31 commercial premises; or the tenant's conduct is such as to interfere  
32 with the comfort of the landlord or other tenants or occupants of the  
33 same or adjacent buildings or structures;

34 (d) occupancy of the commercial premises by the tenant is in violation  
35 of or causes a violation of law and the landlord is subject to civil or  
36 criminal penalties therefore; provided however that an agency of the  
37 state or municipality having jurisdiction has issued an order requiring  
38 the tenant to vacate the commercial premises. No tenant shall be removed  
39 from possession of a commercial premises on such ground unless the court  
40 finds that the cure of the violation of law requires the removal of the  
41 tenant and that the landlord did not through neglect or deliberate  
42 action or failure to act create the condition necessitating the vacate  
43 order. In instances where the landlord does not undertake to cure condi-  
44 tions of the commercial premises causing such violation of the law, the  
45 tenant shall have the right to pay or secure payment in a manner satis-  
46 factory to the court, to cure such violation provided that any tenant  
47 expenditures shall be applied against rent to which the landlord is  
48 entitled. In instances where removal of a tenant is absolutely essential  
49 to his or her health and safety, the removal of the tenant shall be  
50 without prejudice to any leasehold interest or other right of occupancy  
51 the tenant may have and the tenant shall be entitled to resume  
52 possession at such time as the dangerous conditions have been removed.  
53 Nothing herein shall abrogate or otherwise limit the right of a tenant  
54 to bring an action for monetary damages against the landlord to compel  
55 compliance by the landlord with all applicable state or municipal laws  
56 or housing codes;

1 (e) the tenant is using or permitting the commercial premises to be  
2 used for an illegal purpose; or

3 (f) the tenant has unreasonably refused the landlord access to the  
4 commercial premises for the purpose of making necessary repairs or  
5 improvements required by law or for the purpose of showing the commer-  
6 cial premises to a prospective purchaser, mortgagee or other person  
7 having a legitimate interest therein.

8 2. Nothing in this section shall abrogate or limit the tenant's right  
9 pursuant to section seven hundred fifty-one of the real property actions  
10 and proceedings law to permanently stay the issuance or execution of a  
11 warrant or eviction in a summary proceeding, whether characterized as a  
12 nonpayment, objectionable tenancy, or holdover proceeding, the underly-  
13 ing basis of which is the nonpayment of rent, so long as the tenant  
14 complies with the procedural requirements of section seven hundred  
15 fifty-one of the real property actions and proceedings law.

16 § 213. Preservation of existing requirements of law. No action shall  
17 be maintainable and no judgment of possession shall be entered for any  
18 commercial premises pursuant to section two hundred twelve of this arti-  
19 cle, unless the landlord has complied with any and all applicable laws  
20 governing such action or proceeding and has complied with any and all  
21 applicable laws governing notice to tenants, including without limita-  
22 tion the manner and the time of service of such notice and the contents  
23 of such notice.

24 § 214. Waiver of rights void. Any agreement by a tenant heretofore or  
25 hereinafter entered into in a written lease or other rental agreement  
26 waiving or modifying his or her rights as set forth in this article  
27 shall be void as contrary to public policy.

28 § 2. Severability. If any provision of this act, or any application of  
29 any provision of this act, is held to be invalid, that shall not affect  
30 the validity or effectiveness of any other provision of this act, or of  
31 any other application of any provision of this act, which can be given  
32 effect without that provision or application; and to that end, the  
33 provisions and applications of this act are severable.

34 § 3. This act shall take effect immediately and shall apply to actions  
35 and proceedings commenced on or after such effective date.