

# STATE OF NEW YORK

3133

2021-2022 Regular Sessions

## IN SENATE

January 27, 2021

Introduced by Sen. KAVANAGH -- read twice and ordered printed, and when printed to be committed to the Committee on Cities 1

AN ACT to amend the administrative code of the city of New York, in relation to commercial rent protections

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

1 Section 1. Title 22 of the administrative code of the city of New York  
2 is amended by adding a new chapter 12 to read as follows:

3 CHAPTER 12  
4 COMMERCIAL TENANCIES

5 § 22-1201 Definitions. a. "Commercial premises" shall mean a building  
6 or space occupied for non-residential purposes including, but not limit-  
7 ed to, manufacturing, retail, professional services, offices, assembl-  
8 ing, processing, cultural and not-for-profit entities that are present  
9 in the city of New York, who have a valid commercial lease.

10 b. "Landlord" shall mean any owner, lessor, sublessor or other person  
11 entitled to receive rent for the use or occupancy of any commercial  
12 premises, or an agent thereof.

13 c. "Rent" shall mean any and all consideration, including but not  
14 limited to pass-alongs, received by the landlord in connection with the  
15 use or occupancy of any commercial premises.

16 d. "Tenant" shall mean tenant, subtenant, lessee, sublessee, or any  
17 other persons lawfully entitled to use or occupancy of any commercial  
18 premises.

19 § 22-1203 Commercial rent requirements. a. The rent for any commercial  
20 premises shall not be increased by the landlord during the term of the  
21 lease, without the written consent of the tenant, for any reason without  
22 a determination by an arbitrator that such rent increase is not fraudu-  
23 lent and is not above the fair market value of the commercial premises.

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

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1 b. All arbitration conducted for the purposes of this section shall be  
2 subject to the provisions of article seventy-five of the civil practice  
3 law and rules. The landlord and the arbitrator shall make a good faith  
4 effort to allow the tenant to attend and be heard at a hearing and to  
5 have reasonable time to prepare for such hearing.

6 c. In the event that a tenant does not believe a rent increase was in  
7 compliance with subdivision a of this section, the tenant may bring a  
8 civil action in a court of competent jurisdiction for injunctive relief  
9 and such other remedies as may be appropriate. If the court finds in  
10 favor of the tenant, it shall award such person, in addition to other  
11 relief, reasonable attorney's fees and costs.

12 § 22-1205 Retaliation. No landlord shall in any way retaliate against  
13 any tenant for the tenant's assertion or exercise of any rights under  
14 this chapter. Any such retaliation may subject the landlord to a suit  
15 for actual and punitive damages, injunctive relief, and attorney's fees.

16 § 22-1207 Waiver. No provision in any lease, rental agreement, or  
17 agreement made in connection with a lease which waives or diminishes any  
18 right of the tenant under this chapter is valid.

19 § 22-1209 Inconsistency with other laws. In the event of any incon-  
20 sistency with any other laws of the city of New York, this chapter shall  
21 take precedence.

22 § 22-1211 Commercial lease requirements. a. The lease for any commer-  
23 cial premises shall not contain a waiver of the right to seek court  
24 intervention or judicial redress for any issue arising under the lease.

25 b. Any provision in any lease, rental agreement, or agreement made in  
26 connection with a lease which waives or diminishes any of the rights to  
27 judicial intervention or redress under this chapter shall be deemed  
28 invalid.

29 § 2. Severability. If any clause, sentence, paragraph, section or part  
30 of this act shall be adjudged by any court of competent jurisdiction to  
31 be invalid and after exhaustion of all further judicial review, the  
32 judgment shall not affect, impair or invalidate the remainder thereof,  
33 but shall be confined in its operation to the clause, sentence, para-  
34 graph, section or part of this act directly involved in the controversy  
35 in which the judgment shall have been rendered.

36 § 3. This act shall take effect on the ninetieth day after it shall  
37 have become a law. Effective immediately the addition, amendment and/or  
38 repeal of any rule or regulation necessary for the implementation of  
39 this act on its effective date are authorized to be made and completed  
40 on or before such effective date.