STATE OF NEW YORK

10387

IN ASSEMBLY

May 4, 2020

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

AN ACT to amend the real property actions and proceedings law, in relation to default of payment of rent

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

Section 1. Subdivision 2 of section 711 of the real property actions and proceedings law, as amended by section 12 of part M of chapter 36 of the laws of 2019, is amended to read as follows:

2. The tenant has defaulted in the payment of rent, pursuant to the agreement under which the premises are held, and a written demand of the rent has been made with at least fourteen days' notice requiring, in the alternative, the payment of the rent, or the possession of the premises, has been served upon him **or her** as prescribed in section seven hundred thirty-five of this article. Any person succeeding to the landlord's interest in the premises may proceed under this subdivision for rent due his **or her** predecessor in interest if he **or she** has a right thereto. Where a tenant dies during the term of the lease and rent due has not been paid and the apartment is occupied by a person with a claim to possession, a proceeding may be commenced naming the occupants of the apartment seeking a possessory judgment only as against the estate. Entry of such a judgment shall be without prejudice to the possessory claims of the occupants, and any warrant issued shall not be effective as against the occupants. **This subdivision shall not apply where a tenant that is a small business, as defined by section one hundred thirty-one of the economic development law, has defaulted in the payment of rent due between March seventh, two thousand twenty and a date six months after the expiration of the state disaster emergency, as such term is defined in section twenty of the executive law, declared pursuant to executive order two hundred two of two thousand twenty, as amended.**

§ 2. Subdivision 2 of section 747 of the real property actions and proceedings law, as added by chapter 312 of the laws of 1962, is amended to read as follows:

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

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2. The judgment shall not bar an action to recover the possession of real property. The judgment shall not bar an action, proceeding or counterclaim, commenced or interposed within sixty days of entry of the judgment, for affirmative equitable relief which was not sought by counterclaim in the proceeding because of the limited jurisdiction of the court. **No judgment for possession shall be entered from rent owed by a tenant that is a small business, as defined by section one hundred thirty-one of the economic development law, between March seventh, two thousand twenty and a date six months after the expiration of the state disaster emergency, as such term is defined in section twenty of the executive law, declared pursuant to executive order two hundred two of two thousand twenty, as amended.**

§ 3. The real property actions and proceedings law is amended by adding a new section 712 to read as follows:

§ 712. Grounds where landlord-tenant relationship exists; special proceedings for rent due from small businesses during the COVID-19 pandemic. As used in this section, a "tenant" shall mean a tenant that is a small business, as defined by section one hundred thirty-one of the economic development law. No tenant shall be removed from possession in a special proceeding maintained under this article upon the grounds of this section. A special proceeding for a judgment of rent due may be maintained where the tenant has defaulted in the payment of rent, pursuant to the agreement under which the premises are held, where such rent was due between March seventh, two thousand twenty and a date six months after the expiration of the state disaster emergency, as that term is defined in section twenty of the executive law, declared pursuant to executive order two hundred two of two thousand twenty, as amended, and a written demand of the rent has been made with at least fourteen days' notice requiring the payment of the rent, served upon the tenant as prescribed in section seven hundred thirty-five of this article. Any person succeeding to the landlord's interest in the premises may proceed under this section for rent due his or her predecessor in interest for the time period specified above if he or she has a right thereto.

§ 4. This act shall take effect immediately.