AN ACT to amend the general obligations law, in relation to personal liability provisions in commercial leases during the COVID-19 period

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

Section 1. The general obligations law is amended by adding a new section 5-338 to read as follows:

§ 5-338. Personal liability provisions in commercial leases during the COVID-19 period. 1. Definitions. For the purposes of this section, the following terms have the following meanings:

(a) "COVID-19" means the two thousand nineteen novel coronavirus or 2019-nCoV.

(b) "COVID-19 period" means March seventh, two thousand twenty through the later of:

(i) the end of the first month that commences after the expiration of the moratorium on enforcement of evictions of residential and commercial tenants set forth in executive order number 202.8, as issued by the governor on March twentieth, two thousand twenty and thereafter extended;

(ii) September thirtieth, two thousand twenty, inclusive.

(c) "Impacted by COVID-19" means that:

(i) the business was subject to seating, occupancy or on-premises service limitations pursuant to an executive order issued by the governor during the COVID-19 period; or

(ii) the revenues of the business during any three-month period within the COVID-19 period were less than fifty percent of its revenues for the same period in two thousand nineteen or less than fifty percent of its aggregate revenues for the months of December two thousand nineteen, January two thousand twenty and February two thousand twenty.

(d) "Personal liability provision" means, with respect to a commercial lease or other rental agreement involving real property and to which a business is a party as tenant, a term that provides for an individual to become wholly or partially personally liable for an obligation of such

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [ ] is old law to be omitted.
business arising under such lease or agreement upon the occurrence of a
default or other event.

2. No personal liability provision of a commercial lease or other
rental agreement involving real property and to which a business
impacted by COVID–19 is a party as tenant may be enforced against an
individual where the default or other event allowing for such enforce-
ment occurs during the COVID–19 period.

$ 2. This act shall take effect immediately.