

STATE OF NEW YORK

10444

IN ASSEMBLY

May 18, 2020

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Epstein) --
read once and referred to the Committee on Judiciary

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:

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

3 § 5-338. Personal liability provisions in commercial leases during the
4 COVID-19 period. 1. Definitions. For the purposes of this section, the
5 following terms have the following meanings:

6 (a) "COVID-19" means the two thousand nineteen novel coronavirus or
7 2019-nCoV.

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

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

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

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

17 (i) the business was subject to seating, occupancy or on-premises
18 service limitations pursuant to an executive order issued by the gover-
19 nor during the COVID-19 period; or

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

25 (d) "Personal liability provision" means, with respect to a commercial
26 lease or other rental agreement involving real property and to which a
27 business is a party as tenant, a term that provides for an individual to
28 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.

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1 business arising under such lease or agreement upon the occurrence of a
2 default or other event.

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

8 § 2. This act shall take effect immediately.