

STATE OF NEW YORK

6110

2019-2020 Regular Sessions

IN ASSEMBLY

February 28, 2019

Introduced by M. of A. MOSLEY -- read once and referred to the Committee on Cities

AN ACT to amend the administrative code of the city of New York, in relation to the regulation of commercial rents

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

1 Section 1. Title 26 of the administrative code of the city of New York
2 is amended by adding a new chapter 23 to read as follows:

CHAPTER 23

COMMERCIAL RENT STABILIZATION

Section 26-2301 Scope.

26-2302 Definitions.

26-2303 Rental guidelines.

26-2304 Security deposits.

26-2305 Retaliation.

26-2306 Waiver.

26-2307 Manner of service.

26-2308 Inconsistency with other laws.

13 § 26-2301 Scope. This chapter shall apply only to all commercial lease
14 renewals for commercial premises. On any occasion wherein a landlord and
15 tenant are required to negotiate the terms of a lease renewal for
16 commercial uses the provisions of this chapter shall apply. The
17 provisions of this chapter shall apply to any landlord and current
18 tenant whose lease expired on or after July first, two thousand nine-
19 teen.

20 § 26-2302 Definitions. As used in this chapter:

21 a. "Commercial premises" shall mean a building or space occupied for
22 non-residential purposes including, but not limited to, manufacturing,
23 retail, professional services, offices, assembling, processing, cultural

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

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1 and not-for-profit entities that are present in the city of New York,
2 who have a valid commercial lease.

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

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

9 d. "Tenant" shall mean tenant, subtenant, lessee, sublessee, or any
10 other persons lawfully entitled to use or occupancy of any commercial
11 premises.

12 § 26-2303 Rental guidelines. a. The rent guidelines board established
13 pursuant to section 26-510 of this title shall establish annually guide-
14 lines for the maximum increase in rent for a renewal of a lease of
15 commercial premises, and in determining such maximum rent increase shall
16 consider, among other things (1) the economic condition of the commer-
17 cial real estate industry in the affected area including such factors as
18 the prevailing and projected (i) real estate taxes and sewer and water
19 rates, (ii) gross operating maintenance costs (including insurance
20 rates, governmental fees, cost of fuel and labor costs), (iii) costs and
21 availability of financing (including effective rates of interest), (iv)
22 over-all supply of commercial premises and over-all vacancy rates, (2)
23 relevant data from the current and projected cost of operating indices
24 for the affected area, (3) such other data as may be made available to
25 it. Not later than July first of each year, the rent guidelines board
26 shall file with the city clerk its findings for the preceding calendar
27 year, and shall accompany such findings with a statement of the maximum
28 increase in rent for a renewal of a lease, if any, for commercial prem-
29 ises subject to this law, authorized for leases or other rental agree-
30 ments commencing on the next succeeding October first or within the
31 twelve months thereafter. Such findings and statement shall be published
32 in the City Record.

33 b. All leases of a commercial premises may be renewed at the option of
34 a tenant who did not lose the right to renew a lease under the grounds
35 described in subdivision c of this section.

36 c. A tenant shall lose the right of renewal and a landlord may refuse
37 to renew a lease only on the following grounds:

38 (1) The tenant has persistently delayed rent payments without cause.
39 For the purpose of this subdivision, "cause" is defined as the withhold-
40 ing of rental payments by the tenant due to the alleged violations of
41 the rental agreement by the landlord. In order for the landlord to be
42 excused from renewal on this ground, the landlord must have served the
43 tenant at least three prior notices during the term of the lease to the
44 tenant for demand of payment within thirty days, and then show that the
45 lessee has not paid within such thirty day period. The landlord shall
46 not serve such notice unless the rent payment was in arrears for a mini-
47 mum of fifteen days;

48 (2) The tenant uses the commercial premises in a manner substantially
49 different from that described in the lease;

50 (3) The tenant conducts or permits any form of illegal activity on the
51 premises;

52 (4) The tenant has substantially breached any substantive obligation
53 under the current lease and has failed to cure such breach within thirty
54 days following written notice to cure by the landlord;

55 (5) Upon the termination of the current tenancy, the landlord intends,
56 in good faith, to demolish or substantially reconstruct the premises or

1 a substantial part thereof, or to carry out substantial work or
2 construction on the commercial premises or substantial part thereof
3 which he or she could not reasonably do without obtaining possession of
4 the commercial premises. The landlord shall notify the tenant of his or
5 her decision to reoccupy the commercial premises at least one year prior
6 to the termination of the lease. In the event that the lessor fraudu-
7 lently invokes this justification for a refusal to renew a commercial
8 lease, the defrauded tenant may collect treble damages for any loss
9 suffered as a result of such action;

10 (6) The current tenancy was created by the subletting of the property,
11 whereby the prime tenant did not notify the landlord by certified mail
12 of the subtenant's existence and did not obtain the written consent of
13 the landlord. This ground is void if the landlord and tenant had agreed
14 in the lease to allow subleasing rights without the consent of the land-
15 lord and all obligations of the prime tenant on the issue, were in
16 compliance;

17 (7) It has been determined by the rent guidelines board or by a civil
18 court of competent jurisdiction that the tenant is a gross and persist-
19 ent violator of New York city tax laws, of any license obligations
20 related to the use of the premises or of any laws of the city of New
21 York;

22 (8) Upon the termination of the current tenancy, the landlord intends
23 to occupy the retail premises in order to carry out its own business,
24 which cannot be the same type of business that the current tenant is
25 operating, unless the landlord compensates the tenant at fair market
26 value as determined by an arbitrator as restitution for the loss of such
27 tenant's business. The landlord shall notify the tenant of his or her
28 decision to reoccupy the premises at least one hundred eighty days prior
29 to the termination of the lease. In the event that the landlord fraudu-
30 lently invokes this justification for a refusal to renew a commercial
31 lease, the defrauded tenant may collect treble damages for any loss
32 suffered as a result of such action.

33 § 26-2304 Security deposits. Security deposits shall not exceed an
34 amount equal to two months rent. All security deposits shall be placed
35 in escrow in an interest-bearing account at a federally insured bank
36 located in New York state. The tenant shall be notified in writing of
37 the location of such escrow account. Interest paid on the account shall
38 be paid in full to the tenant upon termination of the lease. The amount
39 of interest paid to the tenant shall equal the interest paid by such
40 federally insured bank less one percent for the landlord's administra-
41 tive costs.

42 § 26-2305 Retaliation. No landlord shall in any way retaliate against
43 any tenant for the tenant's assertion or exercise of any rights under
44 this chapter. Any such retaliation may subject the landlord to a suit
45 for actual and punitive damages, injunctive relief, and attorney's fees.

46 § 26-2306 Waiver. No provision in any lease, rental agreement, or
47 agreement made in connection therewith which waives or diminishes any
48 right of tenant under this chapter is valid.

49 § 26-2307 Manner of service. All papers and notices which, by the
50 terms of this chapter are required to be served, shall be served by a
51 process server, or shall be sent by first class mail and certified mail,
52 return receipt requested or by any express mail service.

53 § 26-2308 Inconsistency with other laws. In the event of any incon-
54 sistency with any other laws of the city of New York, this law shall
55 take precedence.

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

8 § 3. This act shall take effect on the one hundred eightieth day after
9 it shall have become a law.