

# 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:

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

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

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

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

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

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

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

34 § 4. This act shall take effect immediately.