STATE OF NEW YORK

3346

2021-2022 Regular Sessions

IN ASSEMBLY

January 22, 2021

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

AN ACT to amend the real property law, in relation to permitting the early termination of a lease by certain tenants during a state of emergency

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

Section 1. The real property law is amended by adding a new section 227-g to read as follows:

§ 227-g. Termination of certain commercial leases during a state of emergency. 1. (a) For the purposes of this section, a "tenant" shall mean a tenant that is (i) a small business, as defined by section one hundred thirty-one of the economic development law, or (ii) a non-profit organization employing less than one hundred people.

(b) In any lease or rental agreement covering premises occupied for commercial purposes, where the tenant of such property no longer requires use of the property for reasons including, but not limited to, the cause of a declared state of emergency causing: (i) seating, occupancy or on-premises service limitations at the tenant's business pursuant to an executive order issued by the governor during a declared state of emergency or the six months after the expiration of the state of emergency; (ii) the revenues of the tenant's business during any three-month period within the declared state of emergency or within the six months after the expiration of the state of emergency to be less than fifty percent of its revenues for the same period in the previous year or less than fifty percent of its aggregate revenues for the three months preceding the declared state of emergency; or (iii) the covered premises to be unusable for sixty days or more, such tenant shall be permitted to terminate such lease or rental agreement and quit and surrender possession of the leasehold premises and the land so leased or occupied pursuant to the provisions of this section and to be released

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

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from any liability to pay to the lessor or owner, rent or other payments in lieu of rent for the time subsequent to the date of termination of such lease in accordance with subdivision two of this section. A tenant shall be permitted to terminate such lease or rental agreement up to six months after the expiration of such state of emergency.

2. Any lease or rental agreement covered by subdivision one of this section may be terminated by notice in writing delivered to the lessor or owner or to the lessor's or owner's agent by a tenant. Unless the lease or rental agreement provides for an earlier termination date, such termination shall be effective no earlier than thirty days after the date on which the next rental payment subsequent to the date when such notice is delivered is due and payable. Such notice shall be accompanied by documentation of the reasons the tenant of such property no longer requires use of the property. Such notice shall be deemed delivered five days after mailing.

3. Any person who shall knowingly seize, hold, or detain the property of any tenant who has lawfully terminated a lease or rental agreement covered by this section, or in any manner interferes with the removal of such property from the premises covered by such lease or rental agreement, for the purpose of subjecting or attempting to subject any of such property to a purported claim for rent accruing subsequent to the date of termination of such lease or rental agreement, or attempts so to do, shall be guilty of a misdemeanor and shall be punished by imprisonment not to exceed one year or by fine not to exceed one thousand dollars, or by both such fine and imprisonment.

4. Upon termination, the premises shall be delivered to the lessor or owner in accordance with the terms of the lease relating to delivery of the premises at the termination of the lease.

5. Any agreement by a tenant of premises occupied for commercial purposes waiving or modifying his or her rights as set forth in this section shall be void as contrary to public policy.

§ 2. This act shall take effect immediately.