

# STATE OF NEW YORK

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6906

2021-2022 Regular Sessions

## IN ASSEMBLY

April 13, 2021

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Introduced by M. of A. OTIS, ABINANTI, SEAWRIGHT, SIMON, STIRPE -- read once and referred to the Committee on Judiciary

AN ACT to amend the real property law, in relation to requiring landlords to mitigate damages when commercial tenants vacate premises in violation of the terms of the lease

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

1 Section 1. Section 227-e of the real property law, as added by section  
2 4 of part M of chapter 36 of the laws of 2019, is amended to read as  
3 follows:

4 § 227-e. Landlord duty to mitigate damages. In any lease or rental  
5 agreement, excluding any real estate purchase contract defined in para-  
6 graphs (a), (c) and (d) of subdivision four of section four hundred  
7 sixty-one of this chapter, [~~covering premises occupied for dwelling~~  
8 ~~purposes,~~] if a tenant vacates a premises in violation of the terms of  
9 the lease, the landlord shall, in good faith and according to the land-  
10 lord's resources and abilities, take reasonable and customary actions to  
11 rent the premises at fair market value or at the rate agreed to during  
12 the term of the tenancy, whichever is lower. If the landlord rents the  
13 premises at fair market value or at the rate agreed to during the term  
14 of the tenancy, the new tenant's lease shall, once in effect, terminate  
15 the previous tenant's lease and mitigate damages otherwise recoverable  
16 against the previous tenant because of such tenant's vacating the prem-  
17 ises. The burden of proof shall be on the party seeking to recover  
18 damages. Any provision in a lease that exempts a landlord's duty to  
19 mitigate damages under this section shall be void as contrary to public  
20 policy.

21 § 2. This act shall take effect immediately.

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

LBD02398-01-1