

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:

1 Section 1. The real property law is amended by adding a new section
2 227-g to read as follows:

3 § 227-g. Termination of certain commercial leases during a state of
4 emergency. 1. (a) For the purposes of this section, a "tenant" shall
5 mean a tenant that is (i) a small business, as defined by section one
6 hundred thirty-one of the economic development law, or (ii) a non-profit
7 organization employing less than one hundred people.

8 (b) In any lease or rental agreement covering premises occupied for
9 commercial purposes, where the tenant of such property no longer
10 requires use of the property for reasons including, but not limited to,
11 the cause of a declared state of emergency causing: (i) seating, occu-
12 pancy or on-premises service limitations at the tenant's business pursu-
13 ant to an executive order issued by the governor during a declared state
14 of emergency or the six months after the expiration of the state of
15 emergency; (ii) the revenues of the tenant's business during any three-
16 month period within the declared state of emergency or within the six
17 months after the expiration of the state of emergency to be less than
18 fifty percent of its revenues for the same period in the previous year
19 or less than fifty percent of its aggregate revenues for the three
20 months preceding the declared state of emergency; or (iii) the covered
21 premises to be unusable for sixty days or more, such tenant shall be
22 permitted to terminate such lease or rental agreement and quit and
23 surrender possession of the leasehold premises and the land so leased or
24 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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1 from any liability to pay to the lessor or owner, rent or other payments
2 in lieu of rent for the time subsequent to the date of termination of
3 such lease in accordance with subdivision two of this section. A tenant
4 shall be permitted to terminate such lease or rental agreement up to six
5 months after the expiration of such state of emergency.

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

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

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

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

32 § 2. This act shall take effect immediately.