STATE OF NEW YORK

3133

2021-2022 Regular Sessions

IN SENATE

January 27, 2021

Introduced by Sen. KAVANAGH -- read twice and ordered printed, and when printed to be committed to the Committee on Cities 1

AN ACT to amend the administrative code of the city of New York, in relation to commercial rent protections

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

Section 1. Title 22 of the administrative code of the city of New York is amended by adding a new chapter 12 to read as follows:

CHAPTER 12
COMMERCIAL TENANCIES

§ 22-1201 Definitions. a. "Commercial premises" shall mean a building or space occupied for non-residential purposes including, but not limited to, manufacturing, retail, professional services, offices, assembling, processing, cultural and not-for-profit entities that are present in the city of New York, who have a valid commercial lease.

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

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

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

§ 22-1203 Commercial rent requirements. a. The rent for any commercial premises shall not be increased by the landlord during the term of the lease, without the written consent of the tenant, for any reason without a determination by an arbitrator that such rent increase is not fraudulent and is not above the fair market value of the commercial premises.

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

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b. All arbitration conducted for the purposes of this section shall be subject to the provisions of article seventy-five of the civil practice law and rules. The landlord and the arbitrator shall make a good faith effort to allow the tenant to attend and be heard at a hearing and to have reasonable time to prepare for such hearing.

c. In the event that a tenant does not believe a rent increase was in compliance with subdivision a of this section, the tenant may bring a civil action in a court of competent jurisdiction for injunctive relief and such other remedies as may be appropriate. If the court finds in favor of the tenant, it shall award such person, in addition to other relief, reasonable attorney's fees and costs.

§ 22-1205 Retaliation. No landlord shall in any way retaliate against any tenant for the tenant's assertion or exercise of any rights under this chapter. Any such retaliation may subject the landlord to a suit for actual and punitive damages, injunctive relief, and attorney's fees.

§ 22-1207 Waiver. No provision in any lease, rental agreement, or agreement made in connection with a lease which waives or diminishes any right of the tenant under this chapter is valid.

§ 22-1209 Inconsistency with other laws. In the event of any inconsistency with any other laws of the city of New York, this chapter shall take precedence.

§ 22-1211 Commercial lease requirements. a. The lease for any commercial premises shall not contain a waiver of the right to seek court intervention or judicial redress for any issue arising under the lease.

b. Any provision in any lease, rental agreement, or agreement made in connection with a lease which waives or diminishes any of the rights to judicial intervention or redress under this chapter shall be deemed invalid.

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

§ 3. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.