STATE OF NEW YORK

5144

2021-2022 Regular Sessions

IN SENATE

February 25, 2021

Introduced by Sens. GIANARIS, BROUK, GOUNARDES, JACKSON -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the real property law, in relation to personal liability provisions in certain commercial leases

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 235-i to read as follows:

§ 235-i. Personal liability provisions in commercial leases. 1. A provision in a commercial lease or other rental agreement involving real property located within New York state that provides for one or more natural persons who are not the tenant under such agreement to become, upon the occurrence of a default or other event, wholly or partially personally liable for payment of rent, utility expenses, or taxes owed by the tenant under such agreement, or fees and charges relating to routine building maintenance owed by the tenant under such agreement, shall not be enforceable against such natural persons if the conditions of paragraphs (a) and (b) of this subdivision are satisfied:

(a) The tenant was:

(i) required to cease serving patrons food or beverage for on-premises consumption or to cease operation under executive order number 202.3 issued by the governor on March sixteenth, two thousand twenty;

(ii) a non-essential retail establishment subject to in-person limitations under guidance issued by the New York state department of economic development pursuant to executive order number 202.6 issued by the governor on March eighteenth, two thousand twenty; or

(iii) required to close to members of the public under executive order number 202.7 issued by the governor on March nineteenth, two thousand twenty; and

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

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(b) The default or other event causing such natural persons to become wholly or partially personally liable for such obligation occurred between March seventh, two thousand twenty through the end of the state disaster emergency relating to the COVID-19 pandemic issued pursuant to executive order two hundred two of two thousand twenty, as amended.

2. An agreement made unenforceable by subdivision one of this section shall not be enforceable against such natural persons at any point, even after the end of the state disaster emergency relating to the COVID-19 pandemic issued pursuant to executive order two hundred two of two thousand twenty, as amended.

3. An attempt to enforce a personal liability provision that a landlord knows or reasonably should know is not enforceable pursuant to this section shall be considered an act of commercial tenant harassment.

§ 2. This act shall take effect immediately.