

STATE OF NEW YORK

5746

2021-2022 Regular Sessions

IN SENATE

March 17, 2021

Introduced by Sen. HOYLMAN -- 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 providing a deceased tenant's legal representative the option to terminate such tenant's lease upon notice to the landlord

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

1 Section 1. Section 236 of the real property law, as added by chapter
2 156 of the laws of 1965, is amended to read as follows:
3 § 236. [~~Assignment~~] Termination of lease of a deceased tenant.
4 Notwithstanding any contrary provision contained in any lease hereafter
5 made or renewed which affects premises demised for residential use, or
6 partly for residential and partly for professional use, the executor,
7 administrator or legal representative of a deceased tenant under such a
8 lease [~~, may request the landlord thereunder to consent to the assignment~~
9 ~~of such a lease, or to the subletting of the premises demised thereby~~]
10 shall have the option to terminate such a lease upon notice given to the
11 landlord no later than either the last day of the second calendar month
12 that follows the calendar month in which the tenant died or surrender of
13 the rental unit and removal of all the tenant's personal property. Such
14 [~~request~~] termination option shall be accompanied by the written consent
15 thereto of any co-tenant or guarantor of such lease [~~and a statement of~~
16 ~~the name, business and home addresses of the proposed assignee or~~
17 ~~sublessee. Within ten days after the mailing of such request, the land-~~
18 ~~lord may ask the sender thereof for additional information as will~~
19 ~~enable the landlord to determine if rejection of such request shall be~~
20 ~~unreasonable. Within thirty days after the mailing of the request for~~
21 ~~consent, or of the additional information reasonably asked for by the~~
22 ~~landlord, whichever is later, the landlord shall send a notice to the~~
23 ~~sender thereof of his election to terminate said lease or to grant or~~
24 ~~refuse his consent. Landlord's failure to send such a notice shall be~~

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

LBD09037-02-1

1 ~~deemed to be a consent to the proposed assignment or subletting. If the~~
2 ~~landlord consents, said lease may be assigned in accordance with the~~
3 ~~request provided a written agreement by the assignee assuming the~~
4 ~~performance of the tenant's obligations under the lease is delivered to~~
5 ~~the landlord in form reasonably satisfactory to the landlord, or the~~
6 ~~premises may be sublet in accordance with the request, as the case may~~
7 ~~be, but the estate of the deceased tenant, and any other tenant there-~~
8 ~~under, shall nevertheless remain liable for the performance of tenant's~~
9 ~~obligations under said lease. If the landlord terminates said lease or~~
10 ~~unreasonably refuses his consent, said lease shall be deemed terminated,~~
11 ~~and the estate of the deceased tenant and any other tenant thereunder~~
12 ~~shall be discharged from further liability thereunder as of the last day~~
13 ~~of the calendar month during which the landlord was required hereunder~~
14 ~~to exercise his option. If the landlord reasonably refuses his consent,~~
15 ~~said lease shall continue in full force and effect, subject to the right~~
16 ~~to make further requests for consent hereunder].~~ Nothing in this
17 section shall be construed to relieve the tenant's estate of liability
18 for rent money or any debt incurred prior to the date of termination of
19 the lease, including damages to the premises and any expenses the land-
20 lord may incur as a direct result of the tenant's death, except that the
21 tenant's estate shall not be liable for damages or any other penalty for
22 breach of inadequate notice as a result of terminating a lease under
23 this section. Any [~~request,~~] notice or communication required or author-
24 ized to be given hereunder shall be sent by registered or certified
25 mail, return receipt requested. This act shall not apply to a proprie-
26 tary lease, viz.: a lease to, or held by, a tenant entitled thereto by
27 reason of ownership of stock in a corporate owner of premises which
28 operates the same on a cooperative basis. Any waiver of any part of this
29 section shall be void as against public policy.
30 § 2. This act shall take effect on the ninetieth day after it shall
31 have become a law.