STATE OF NEW YORK

2729

2023-2024 Regular Sessions

IN ASSEMBLY

January 27, 2023

Introduced by M. of A. OTIS, SEAWRIGHT, SIMON, STIRPE, SAYEGH -- 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:

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

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

§ 2. This act shall take effect immediately.

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

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