STATE OF NEW YORK

1954

2023-2024 Regular Sessions

IN SENATE

January 17, 2023

Introduced by Sen. HOYLMAN-SIGAL -- 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 prohibiting the eviction of small commercial tenants in the city of New York without good cause

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

Section 1. This act shall be known and may be cited as the "Stop The Outrageous Retail Evictions Act" or the "STORE Act".

§ 2. Title 22 of the administrative code of the city of New York is amended by adding a new chapter 13 to read as follows:

CHAPTER 13

EVICTION PROTECTIONS FOR SMALL COMMERCIAL PREMISES

§ 22-1301 Definitions. As used in this chapter, the following terms shall have the following meanings:

1. "Landlord" shall mean any owner, lessor, sublessor, assignor, or other person receiving or entitled to receive rent for the occupancy of any small commercial premises, or an agent of any of the foregoing.

2. "Rent" shall mean any consideration, including any bonus, benefit or gratuity demanded or received by a landlord for or in connection with the possession, use or occupancy of a small commercial premises or the execution or transfer of a lease for such small commercial premises.

3. "Small commercial premises" shall mean a premises that is occupied or used, or could be occupied or used, for the purpose of offering or selling goods at retail and has no more than one thousand square feet of retail space.

4. "Tenant" shall mean a person or entity lawfully occupying a small commercial premises pursuant to a lease or other rental agreement.

§ 22-1302 Scope. This chapter shall apply only to all small commercial premises in the city of New York.

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

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§ 22-1303 Necessity for good cause. No landlord shall, by action to evict or to recover possession, by exclusion from possession, by failure to renew any lease, or otherwise, remove any tenant from any small commercial premises covered by this chapter except for good cause pursuant to section 22-1304 of this chapter.

§ 22-1304 Grounds for removal of tenants. 1. No landlord shall remove a tenant from any small commercial premises, or attempt such removal or exclusion from possession, notwithstanding that the tenant has no written lease or that the lease or other rental agreement has expired or otherwise terminated, except upon order of a court of competent jurisdiction entered in an appropriate judicial action or proceeding in which the petitioner or plaintiff has established one of the following grounds as good cause for removal or eviction:

(a) The tenant has failed to pay rent due and owing, provided that the rent due and owing, or any part thereof, is not the result of:

(i) a rent increase which is unconscionable or imposed for the purpose of circumventing the intent of this chapter. In determining whether all or part of the rent due and owing is the result of an unconscionable rent increase, it shall be a rebuttable presumption that the rent for a small commercial premises is unconscionable if said rent has been increased in any calendar year by a percentage exceeding one and one-half times the annual percentage change in the Consumer Price Index for the city of New York, as established in the August preceding the calendar year in question; or

(ii) the withholding of rental payments by the tenant due to the alleged violations of the lease or rental agreement by the landlord.

(b) The tenant is violating a substantial obligation of his or her tenancy, other than the obligation to surrender possession, and has failed to cure such violation within thirty days following written notice to cure the violation by the landlord, provided however, that the obligation of tenancy for which a violation is claimed was not imposed for the purpose of circumventing the intent of this chapter.

(c) The tenant is committing or permitting a nuisance in the small commercial premises, or is maliciously or by reason of negligence damaging the small commercial premises; or the tenant's conduct is such as to interfere with the comfort of other tenants or occupants of the same or adjacent buildings or structures.

(d) Occupancy of the small commercial premises by the tenant is in violation of or causes a violation of law and the landlord is subject to civil or criminal penalties therefor; provided however that an agency of the state or municipality having jurisdiction has issued an order requiring the tenant to vacate the small commercial premises. No tenant shall be removed from possession of a small commercial premises on such ground unless the court finds that the cure of the violation of law requires the removal of the tenant and that the landlord did not through neglect or deliberate action or failure to act create the condition necessitating the vacate order. In instances where the landlord does not undertake to cure conditions of the small commercial premises causing such violation of the law, the tenant shall have the right to pay or secure payment in a manner satisfactory to the court, to cure such violation provided that any tenant expenditures shall be applied against rent to which the landlord is entitled. In instances where removal of a tenant is absolutely essential to the tenant's health and safety, the removal of the tenant shall be without prejudice to any leasehold interest or other right of occupancy the tenant may have and the tenant shall be entitled to resume possession at such time as the dangerous condi-

tions have been removed. Nothing herein shall abrogate or otherwise limit the right of a tenant to bring an action for monetary damages against the landlord to compel compliance by the landlord with all applicable state or municipal laws or housing codes.

(e) The tenant conducts or permits any form of illegal activity on the premises.

(f) The tenant has unreasonably refused the landlord access to the small commercial premises for the purpose of making necessary repairs or improvements required by law or for the purpose of showing the small commercial premises to a prospective purchaser, mortgagee or other person having a legitimate interest therein.

(g) The current tenancy was created by the subletting of the small commercial premises, whereby the prime tenant did not notify the landlord of the subtenant's existence and did not obtain the written consent of the landlord to sublet the small commercial premises. This ground is void if the landlord and tenant had agreed in the lease to allow subleasing rights without the consent of the landlord and all obligations of the prime tenant on the issue were in compliance.

(h) It has been determined by an agency of the state or municipality having jurisdiction or by a civil court of competent jurisdiction that the tenant is a gross and persistent violator of New York city tax laws, of any license obligations related to the use of the small commercial premises or of any laws of the city of New York.

(i) Upon the termination of the current tenancy, the landlord intends, in good faith, to demolish or substantially reconstruct the small commercial premises or a substantial part thereof, or to carry out substantial work or construction on the commercial premises or substantial part thereof which he or she could not reasonably do without obtaining possession of the small commercial premises. The landlord shall notify the tenant of his or her decision to reoccupy the commercial premises at least one year prior to the termination of the tenant's current lease or rental agreement.

(j) Upon the termination of the current tenancy, the landlord intends to occupy the small commercial premises in order to carry out his or her own business, which cannot be the same type of business that the current tenant is operating, unless the landlord compensates the tenant at fair market value as determined by an arbitrator as restitution for the loss of such tenant's business. The landlord shall notify the tenant of his or her decision to reoccupy the premises at least one hundred eighty days prior to the termination of the tenant's current lease.

2. A tenant required to surrender a small commercial premises by virtue of the operation of paragraph (i) or (j) of subdivision one of this section shall have a cause of action in any court of competent jurisdiction for damages and declaratory and injunctive relief against a landlord or purchaser of the premises who makes a fraudulent statement regarding a proposed use of the premises. In any action or proceeding brought pursuant to this provision a prevailing tenant shall be entitled to recovery of actual damages, and reasonable attorneys' fees.

§ 22-1305 Preservation of existing requirements of law. No action shall be maintainable and no judgment of possession shall be entered for small commercial premises pursuant to section 22-1304 of this chapter, unless the landlord has complied with any and all applicable laws governing such action or proceeding.

§ 22-1306 Waiver of rights void. Any agreement by a tenant heretofore or hereinafter entered into in a written lease or other rental agreement

waiving or modifying his or her rights as set forth in this chapter shall be void as contrary to public policy.

§ 3. Severability. If any provision of this act, or any application of any provision of this act, is held to be invalid, that shall not affect the validity and effectiveness of any other provision of this act, or of any other application of any provision of this act, which can be given effect without that provision or application; and to that end, the provisions and applications of this act are severable.

§ 4. This act shall take effect immediately and shall apply to actions and proceedings commenced on or after such effective date.