

# STATE OF NEW YORK

2611--A

Cal. No. 95

2025-2026 Regular Sessions

## IN ASSEMBLY

January 21, 2025

Introduced by M. of A. OTIS, SEAWRIGHT, SIMON, STIRPE, SAYEGH, COLTON -- read once and referred to the Committee on Judiciary -- ordered to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

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:

1 Section 1. Section 227-e of the real property law, as added by section  
2 4 of part M of chapter 36 of the laws of 2019, is amended to read as  
3 follows:

4 § 227-e. Landlord duty to mitigate damages. 1. In any lease or rental  
5 agreement, excluding any real estate purchase contract defined in para-  
6 graphs (a), (c) and (d) of subdivision four of section four hundred  
7 sixty-one of this chapter, covering premises occupied for dwelling  
8 purposes, if a tenant vacates a premises in violation of the terms of  
9 the lease, the landlord shall, in good faith and according to the land-  
10 lord's resources and abilities, take reasonable and customary actions to  
11 rent the premises at fair market value or at the rate agreed to during  
12 the term of the tenancy, whichever is lower. If the landlord rents the  
13 premises at fair market value or at the rate agreed to during the term  
14 of the tenancy, the new tenant's lease shall, once in effect, terminate  
15 the previous tenant's lease and mitigate damages otherwise recoverable  
16 against the previous tenant because of such tenant's vacating the prem-  
17 ises. The burden of proof shall be on the party seeking to recover  
18 damages. Any provision in a lease that exempts a landlord's duty to  
19 mitigate damages under this section shall be void as contrary to public  
20 policy.

21 2. In any lease or rental agreement, excluding any real estate  
22 purchase contract defined in paragraphs (a), (c) and (d) of subdivision

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

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1 four of section four hundred sixty-one of this chapter, covering prem-  
2 ises not occupied for dwelling purposes, if a tenant vacates a premises  
3 in violation of the terms of the lease, the landlord shall, in good  
4 faith and according to the landlord's resources and abilities, take  
5 reasonable and customary actions to rent the premises at fair market  
6 value or at the rate agreed to during the term of the tenancy, the new  
7 tenant's lease shall, once in effect, terminate the previous tenant's  
8 lease and mitigate damages otherwise recoverable against the previous  
9 tenant because of such tenant's vacating the premises. Nothing in this  
10 section will preclude the landlord from seeking recovery of damages for  
11 that portion of the rent not recovered through any successful effort to  
12 release the property under the duty to mitigate in this section. The  
13 burden of proof shall be on the party seeking to recovery damages. Any  
14 provision in a lease that exempts a landlord's duty to mitigate damages  
15 under this section shall be void as contrary to public policy.

16 § 2. This act shall take effect immediately.