



Legislation Text

File #: Res 1643-2021, **Version:** *

Res. No. 1643

Resolution calling upon the New York State Legislature to pass, and the Governor to sign, legislation suspending or limiting the accrual of monetary damages against essential businesses in connection with eviction or removal actions during a state of emergency, and for such legislation to be retroactive to March 7, 2020.

By Council Member Cumbo

Whereas, On March 7, 2020, Governor Andrew M. Cuomo issued Executive Order Number 202, declaring a disaster emergency for the State of New York in response to the outbreak of COVID-19; and

Whereas, To help reduce the spread of COVID-19, the Governor used his powers under Section 29-a of Article 2-B of the Executive Law to temporarily suspend or modify several provisions of law and regulations on the grounds they would “prevent, hinder, or delay action necessary to cope with the disaster,” and to issue other directives necessary to cope with the disaster during the state of emergency; and

Whereas, On March 20, 2020, Governor Cuomo signed the “New York State (NYS) on PAUSE” executive order, which allowed businesses that were deemed essential to continue in-person operations with strict social distancing rules and other health and safety protocols in place; and

Whereas, Since March 2020, executive orders and legislation have suspended evictions of commercial tenants statewide, culminating most recently in the New York Legislature’s renewal of the COVID-19 Emergency Protect Our Small Businesses Act of 2021 (“the 2021 Act”), to suspend evictions of commercial tenants that have fewer than 50 employees and that demonstrate financial hardship through August 31, 2021; and

Whereas, Despite the suspension of commercial evictions, some landlords are nevertheless demanding that their commercial tenants pay monetary damages allegedly caused by their continued occupancy of leased

premises; and

Whereas, Some tenants affected by such demands are businesses that have provided essential services to the residents of the City of New York throughout the state of emergency; and

Whereas, The New York Times has reported that the financial impact of accumulated rent and debt can lead to permanent closure of small businesses, damaged credit scores and job losses; and

Whereas, Such closures damage not only the private interests of such businesses and their employees, but also public access to essential businesses during the state of emergency and the public interest in a rapid and robust economic recovery after the termination of the state of emergency; and

Whereas, The 2021 Act does not prevent the continuation of eviction actions that were commenced prior to or during the state of emergency, does not protect essential business that have not demonstrated financial hardship, and does not suspend the accrual of monetary damages in connection with an eviction or removal action; and

Whereas, The 2021 Act does not protect essential businesses that are holdover tenants from consequential damages that have accrued during the state of emergency; and

Whereas, Small, essential business owners in the City of New York require protection from the accrual of monetary damages, including but not limited to compensatory, incidental, consequential, nominal, liquidated and punitive damages, in connection with eviction or removal efforts; and

Whereas, Small, essential businesses that are holdover tenants require protection from accruing monetary damages in connection with such holdover during the state of emergency; and

Whereas, Protecting small, essential businesses by suspending the accrual of devastating monetary damages during the present state of emergency is in the broad interest of the people of the State of New York because it would enable such businesses to continue to provide essential services and would further support the State's economic recovery; now, therefore, be it

Resolved, That the Council of the City of New York calls on the New York State Legislature to pass,

and the Governor to sign, legislation suspending or limiting the accrual of monetary damages against essential businesses in connection with eviction or removal actions during a state of emergency, and for such legislation to be retroactive to March 7, 2020.

JG
LS #17718
5/12/21 2:09 PM