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SYNOPSIS
Authorizes Governor to permit emergency rent suspension for certain small business tenants during COVID-19 pandemic.

CURRENT VERSION OF TEXT
As introduced.

(Sponsorship Updated As Of: 4/13/2020)
AN ACT establishing protections for certain small business tenants during COVID-19 pandemic.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. a. Notwithstanding any other law, ordinance, rule or regulation to the contrary, while a public health emergency, pursuant to the “Emergency Health Powers Act,” P.L.2005, c.222 (C.26:13-1 et seq.), or a state of emergency, pursuant to P.L.1942, c.251 (C.App.A.9-33 et seq.), or both, has been declared by the Governor in response to the COVID-19 pandemic, and is in effect, the Governor may issue an executive order to declare that a distressed small business tenant may assert an emergency rent suspension.

b. (1) A rent suspension executive order shall indicate the length of time, not to exceed three months, that an emergency rent suspension may remain in effect, which period shall commence upon notification from the distressed small business tenant to the landlord, or to an agent of the landlord, that the tenant is asserting an emergency rent suspension. A rent suspension executive order shall indicate the acceptable methods of delivery of the notification. This act shall not prohibit a distressed small business tenant from requesting, or prevent a landlord from providing, rent relief of longer than three months.

(2) A rent suspension executive order shall include a schedule of repayment that shall apply to an emergency rent suspension. The schedule of repayment shall authorize a distressed small business tenant to repay the amount left unpaid, due to the emergency rent suspension, over the course of six to nine months, beginning on the first day of the second month next following the end of both the state of emergency and public health emergency declared pursuant to subsection a. of this section.

c. The rent suspension executive order shall direct:

(1) the appropriate executive branch departments and agencies to notify the State’s small business and commercial rental communities of the emergency rent suspension provisions of this act; and

(2) the generation of any materials, on the most appropriate State Internet websites, necessary for the implementation of the rent suspension executive order.

d. A landlord shall not file an eviction action against a distressed small business tenant for rent that the tenant does not pay in accordance with the tenant’s assertion of an emergency rent suspension.

e. A rent suspension executive order may designate as an unlawful practice, pursuant to the New Jersey consumer fraud act,
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P.L.1960, c.39 (C.56:8-1 et seq.), either or both of the following actions:

(1) an eviction action filed by a landlord for rent that a distressed small business tenant leaves unpaid in accordance with the tenant’s assertion of an emergency rent suspension; and

(2) an intentional misrepresentation by a tenant of the tenant’s economic circumstance, made in an attempt to obtain an emergency rent suspension.

f. As used in this section:

“COVID-19” means the coronavirus disease 2019, as announced by the World Health Organization on February 11, 2020, and first identified in Wuhan, China.

“Distressed small business tenant” means, unless adjusted by the rent suspension executive order, a business that:

(1) employed 50 persons or fewer on February 10, 2020;

(2) leases real property for non-residential purposes; and

(3) as a result of the COVID-19 pandemic, does not have monthly revenue that exceeds 80 percent of the tenant’s reasonable expectations of monthly revenue during the same season prior to the COVID-19 pandemic.

“Emergency rent suspension” means a temporary recess on rent payments by a distressed small business tenant.

“Rent suspension executive order” means an executive order issued pursuant to subsection a. of this section.

2. This act shall take effect immediately.

STATEMENT

This bill would authorize the Governor to permit emergency rent suspensions for small business tenants who are economically distressed due to the COVID-19 pandemic.

This bill would provide that, while a public health emergency or a state of emergency is declared by the Governor and is in effect, in response to the COVID-19 emergency, the Governor may issue a rent suspension executive order to provide that a distressed small business tenant, as defined by the bill, may assert an emergency rent suspension, meaning a period of time during which rent payment obligations would not be paid.

An emergency rent suspension would commence upon notification from the distressed small business tenant to the landlord, or the landlord’s agent, that the tenant is asserting an emergency rent suspension. The rent suspension executive order would indicate the length of time, not to exceed three months, that an emergency rent suspension may remain in effect.

A rent suspension executive order would include a schedule of repayment that would apply to an emergency rent suspension. The
schedule of repayment would authorize a distressed small business tenant to repay the amount left unpaid, due to the emergency rent suspension, over the course of six to nine months, beginning on the first day of the second month following the end of both the state of emergency and public health emergency.

The rent suspension executive order would direct the appropriate executive branch departments and agencies to notify the State’s small business and commercial rental communities of the emergency rent suspension provisions of this bill. The executive order would also direct the generation of any materials, on the most appropriate State Internet websites, necessary for the implementation of the rent suspension executive order.

The bill would prohibit a landlord from filing an eviction action against a distressed small business tenant for rent that the tenant does not pay in association with an emergency rent suspension.

The bill provides that a rent suspension executive order may designate either or both of the following actions as an unlawful practice under the New Jersey consumer fraud act:

- an eviction action filed by a landlord for rent that a distressed small business tenant leaves unpaid in accordance with an emergency rent suspension; and
- an intentional misrepresentation by a tenant of the tenant’s economic circumstance, made in an attempt to obtain an emergency rent suspension.