Commercial Rent Stabilization Summary

What Is Commercial Rent Stabilization
Under the bill (Int. 1796), an owner upon a lease renewal would be limited to collecting the “legal regulated rent” established annually by a guidelines board of 9 mayoral appointees comprised of representatives of landlords, tenants, and the public. Similarly, in leases lasting longer than one year, the rent charged for any subsequent year cannot exceed the legal regulated rent established by the guidelines board.

Who Is Covered Under Commercial Rent Stabilization
Commercial rent stabilization would apply to the following types of leased commercial spaces throughout New York City:
- Retail stores < 10,000 s.f.
- Manufacturing establishments < 25,000 s.f.
- Professional services or other offices < 10,000 s.f.

“Owners” is defined to be any “owner, lessor, sublessor or other person” entitled to receive rent for the use or occupancy of any commercial space, or an agent thereof. This notably includes sublessors, who would also be subject to this law.

What Will Owners Be Required To Do
Owners would be required to register the following information:
- Name and address of the building & the tenant(s)
- Number of commercial spaces in the building and whether they are subject to this law
- Rent charged on the registration date (“Initial legal regulated rent”)
- Square footage of each commercial space

The “initial legal regulated rent” is the rent charged in the lease on the effective date of the law. If there was no lease in effect on the effective date of the law, then the initial legal regulated rent is the rent charged in the first lease after the effective date of the law. The owner cannot include “pass-alongs” as part of its initial regulated rent (taxes, sewer, water/utility, op ex).

The bill allows both owners and tenants to apply for an adjustment of the initial regulated rent if it’s determined that there are “extraordinary circumstances” that “materially” affected the initial regulated rent from being “substantially” different than market.

If the rent charged for the first year of a new lease is less than the initial legal regulated rent, subsequent years’ rents cannot exceed the first year’s rent adjusted by the rate established by the guidelines board.

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What Are Owner Consequences Of Tenant Harassment
If a vacating tenant claims harassment as the reason for vacating and the claim is upheld in court, the owner owes the complaining tenant the greater of 10x the proposed new lease’s monthly rent or $50,000 plus consequential damages and any other remedies available at law or in equity. Additionally, the new tenant’s rent would become the rent that would have been charged to the previous tenant retroactive to the beginning of the new tenancy.

Overcharge Complaints Are The Mechanism For Enforcement
There is a 6-year lookback period for overcharges. The overcharge penalty would be 3x the overcharge if it’s found to be intentional. If unintentional as determined by a preponderance of the evidence, then the overcharge penalty is the amount of the overcharge plus interest from the overcharge date. A voluntary overcharge refund after an overcharge complaint has been filed has no effect on the commissioner’s determination of whether the overcharge was willful. Owners guilty of an overcharge may be responsible for the tenant’s attorney’s fees and costs.

Owners Will Be Charged $100 Per Commercial Space
The Department of Finance will assess a $100 fee per commercial space to cover the costs of enforcing this law, which will presumably appear on the property tax bill.

Please contact our NYC Real Estate Tax and Incentives Chair, YuhTyng Patka, with any questions:

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