

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2016**

No. 77

Introduced by Council Members Cornegy, Levine, Chin, Constantinides, Cumbo, Gibson, Koslowitz, Rosenthal, Johnson, Reynoso, Menchaca, Wills, Rodriguez, Lander, Kallos, Vallone, Koo, Gentile, Garodnick and Barron.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to curtailing harassment of small businesses and other non-residential tenants.

Be it enacted by the Council as follows:

Section 1. Title 22 of the administrative code of the city of New York is amended by adding a new chapter 9 to read as follows:

*CHAPTER 9
NON-RESIDENTIAL TENANT HARASSMENT*

§ 22-901 Definitions. As used in this chapter, the following terms have the following meanings:

Commercial tenant. The term “commercial tenant” means a person or entity lawfully occupying a covered property pursuant to a lease or other rental agreement.

Covered property. The term “covered property” means any building or portion of a building (i) that is lawfully used for buying, selling or otherwise providing goods or services, or for other lawful business, commercial, professional services or manufacturing activities, and (ii) for which a certificate of occupancy authorizing residential use of such building or such portion of a building has not been issued.

Essential service. The term “essential service” means a service that a landlord must furnish to a commercial tenant pursuant to a lease or other rental agreement between such commercial tenant and landlord, or pursuant to applicable law.

Landlord. The term “landlord” means an owner of covered property or such owner’s agent.

§ 22-902 *Commercial tenant harassment.* a. A landlord shall not engage in commercial tenant harassment. Except as provided in subdivision b of this section, commercial tenant harassment is any act or omission by or on behalf of a landlord that (i) is intended to cause a commercial tenant to vacate covered property, or to surrender or waive any rights under a lease or other rental agreement or under applicable law in relation to such covered property, and (ii) includes one or more of the following:

1. using force against or making express or implied threats that force will be used against a commercial tenant or such tenant’s invitee;
2. causing repeated interruptions or discontinuances of one or more essential services;
3. causing an interruption or discontinuance of an essential service for an extended period of time;
4. causing an interruption or discontinuance of an essential service where such interruption or discontinuance substantially interferes with a commercial tenant’s business;
5. repeatedly commencing frivolous court proceedings against a commercial tenant;
6. removing from a covered property any personal property belonging to a commercial tenant or such tenant’s invitee;
7. removing the door at the entrance to a covered property occupied by a commercial tenant; removing, plugging or otherwise rendering the lock on such entrance door inoperable; or

changing the lock on such entrance door without supplying a key to the new lock to the commercial tenant occupying the covered property;

8. preventing a commercial tenant or such tenant's invitee from entering a covered property occupied by such tenant;

9. substantially interfering with a commercial tenant's business by commencing unnecessary construction or repairs on or near covered property; or

10. engaging in any other repeated or enduring acts or omissions that substantially interfere with the operation of a commercial tenant's business.

b. A landlord's lawful termination of a tenancy, lawful refusal to renew or extend a lease or other rental agreement, or lawful reentry and repossession of the covered property shall not constitute commercial tenant harassment for purposes of this chapter.

§ 22-903 Private right of action. a. A commercial tenant may bring an action in any court of competent jurisdiction for a claim of commercial tenant harassment. If a court of competent jurisdiction finds that a landlord has engaged in commercial tenant harassment in relation to such commercial tenant, the court shall impose a civil penalty in an amount not less than one thousand dollars and not more than ten thousand dollars for each covered property in which such commercial tenant has been the subject of commercial tenant harassment and may further:

1. issue an order restraining the landlord from engaging in commercial tenant harassment and directing the landlord to ensure that no further violation occurs; and

2. award such other relief as the court deems appropriate, including but not limited to injunctive relief, equitable relief, compensatory damages, punitive damages and reasonable attorneys' fees and court costs.

b. The commercial tenant shall not be relieved of the obligation to pay any rent for which the commercial tenant is otherwise liable. Any monetary remedy awarded to a commercial tenant pursuant to subdivision a of this section shall be reduced by any amount of delinquent rent or other sum for which a court finds such commercial tenant is liable to the landlord.

c. This section does not limit or abrogate any claim or cause of action a person has under common law or by statute. The provisions of this section are in addition to any such common law and statutory remedies.

d. Nothing contained in this chapter shall be construed as creating any cause of action for a commercial tenant's invitee.

e. Nothing contained in this chapter shall be construed as creating any private right of action against the city or any agency or employee thereof.

§ 22-904 Affirmative defenses. It is an affirmative defense to an allegation of commercial tenant harassment of the kind described in paragraphs 2, 3, 4, 6, 7, 8, 9 and 10 of subdivision a of section 22-902 that (i) such condition or service interruption was not intended to cause any commercial tenant to vacate a covered property or waive or surrender any rights in relation to such covered property, and (ii) the landlord acted in good faith in a reasonable manner to promptly correct such condition or service interruption, including providing notice to all affected lawful tenants in a covered property of such efforts, where appropriate.

§ 2. This local law takes effect 90 days after it becomes law.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on June 21, 2016 and approved by the Mayor on June 28, 2016.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 77 of 2016, Council Int. No. 851-B of 2015) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council and approved by the Mayor.

STEPHEN LOUIS, Acting Corporation Counsel