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Proposed Int. No. 1470-A

By Council Members Levine, Rivera, Powers, Rosenthal and Ayala

A Local Law to amend the administrative code of the city of New York, in relation to legal services for small business tenants

Be it enacted by the Council as follows:

Section 1. Section 22-1003 of the administrative code of the city of New York, as added by local law number 156 for the year 2019, is renumbered section 22-1004.

§ 2. Chapter 10 of title 22 of the administrative code of the city of New York is amended by adding a new section 22-1006 to read as follows:

§ 22-1006 Small business legal services. a. Definitions. For the purposes of this chapter, the following terms have the following meanings:

Covered legal matter. The term "covered legal matter" means a legal matter related to a commercial lease, including but not limited to drafting and negotiation of lease terms, terminating a lease, and addressing other lease-related issues.

Covered proceeding. The term "covered proceeding" means any proceeding in any court of competent jurisdiction against a covered small business tenant to:

(i) Evict such tenant, including a summary proceeding to seek possession for the non-payment of rent or a holdover; or

(ii) Terminate such tenancy; or

(iii) Establish a breach of the terms of such tenant's commercial lease.

Covered small business tenant. The term "covered small business tenant" means a business that is:

(i) A lessee or sublessee in a commercial tenancy located in the city;

(ii) Small, in accordance with the size standards set forth in section 121.201 of title 13 of the code of federal regulations;

(iii) Not a franchisee, as such term is defined in section 681 of the general business law; and

(iv) Owned and operated by one or more persons, all of whom are income-eligible individuals.

Designated organization. The term "designated organization" means a person or entity licensed to provide legal services in New York and designated by the commissioner pursuant to this section, provided, however, that the commissioner may give preference to not-for-profit organizations when designating an organization pursuant to this section.

In-court legal representation. The term "in-court legal representation" means ongoing legal representation provided by a designated organization to a covered small business tenant in connection with a covered proceeding, and all legal advice, advocacy, and assistance associated with such representation. In-court legal representation includes, but is not limited to, the filing of a notice of appearance on behalf of the covered small business tenant in a covered proceeding.

Income-eligible individual. The term "income-eligible individual" means an individual whose annual gross household income is no more than 500 percent of the federal poverty guidelines.

Legal services. The term "legal services" means out-of-court legal assistance and in-court legal representation.

Out-of-court legal assistance. The term "out-of-court legal assistance" means the provision of individualized legal assistance or counseling regarding a covered legal matter provided by a designated organization to a covered small business tenant, but does not include any representation in a legal action or proceeding to enforce the terms of a lease or the filing of any papers or in-court appearance or representation by such designated organization.

b. Provision of legal services to covered small business tenants. 1. Subject to appropriation, the

commissioner shall provide, at no cost to a covered small business tenant, out-of-court legal assistance and may provide, at no cost to a covered small business tenant, in-court legal representation.

2. Any legal services performed by a designated organization pursuant to this section shall not supplant, replace, or satisfy any obligations or responsibilities of such designated organization pursuant to any other program, agreement, or contract.

3. Nothing in this section or the administration or application thereof shall be construed to create a private right of action on the part of any person or entity against the city or the department, or any official or employee thereof.

c. Reporting. On or before October 1, 2022, and on or before October 1 every two years thereafter, the commissioner shall submit to the mayor and the speaker of the council a report on the operation of the provision of legal services provided pursuant to subdivision b of this section during the previous two fiscal years. Such report shall include, but need not be limited to:

1. The number of small businesses that received such legal services in the previous fiscal year, disaggregated by the following characteristics of such businesses:

(a) Borough and postal code;

(b) Number of persons employed by business;

(c) Net income of business; and

(d) Type of business as categorized by section 121.201 of subpart A of part 121 of title 13 of the code of federal regulations;

2. A description of the aggregate performance outcomes of designated organizations, information on the geographic areas for which such organizations provided legal services, and identification of the types of covered legal matters handled by designated organizations.

d. Rules. The commissioner shall promulgate rules to implement this section. Such rules shall include factors to be considered in providing in-court legal representation pursuant to subdivision b of this section,

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including but not limited to, the procedural posture of such covered proceeding, the current operational capacity of the covered small business tenant, and compliance with applicable laws and rules by such tenant or person commencing the covered proceeding.

§ 3. Provision of services to small businesses impacted by COVID-19. a. Subject to appropriation, the department of small business services shall offer assistance to covered small business tenants with respect to funding programs offered by the federal, state, and city government to businesses to alleviate the impact of COVID-19 on such tenants. Such assistance may include understanding eligibility requirements, completing applications and understanding the terms of awarded grants and loans of any such funding program.

b. For the purposes of this section, all terms have the meanings set forth in section two of this local law.

§ 4. This local law takes effect 60 days after it becomes law, provided that section three of this local law expires 180 days following the expiration of the local state of emergency declared by the mayor in emergency executive order number 98, issued on March 12, 2020, as extended.

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