

HOUSE BILL 1220

N1

3lr1843

By: **Delegate Conaway**

Introduced and read first time: February 10, 2023

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Leases – Force Majeure Clauses – Required**

3 FOR the purpose of requiring that a commercial lease contain a clause that allocates the
4 risk of loss if performance under the lease is hindered, delayed, or prevented due to
5 certain events; requiring a certain force majeure clause to include certain events;
6 and generally relating to the formation of leases for commercial real property in the
7 State.

8 BY adding to

9 Article – Real Property

10 Section 8–119

11 Annotated Code of Maryland

12 (2015 Replacement Volume and 2022 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
14 That the Laws of Maryland read as follows:

15 **Article – Real Property**

16 **8–119.**

17 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
18 **INDICATED.**

19 **(2) “FORCE MAJEURE CLAUSE” MEANS A CLAUSE IN A LEASE THAT**
20 **ALLOCATES THE RISK OF LOSS IF PERFORMANCE UNDER THE LEASE IS HINDERED,**
21 **DELAYED, OR PREVENTED BECAUSE OF A FORCE MAJEURE EVENT.**

22 **(3) “FORCE MAJEURE EVENT” MEANS AN EVENT THAT THE PARTIES**
23 **COULD NOT HAVE ANTICIPATED OR CONTROLLED.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(B) A LEASE EXECUTED FOR COMMERCIAL PROPERTY IN THE STATE SHALL**
2 **INCLUDE A FORCE MAJEURE CLAUSE THAT:**

3 **(1) IDENTIFIES THE FORCE MAJEURE EVENTS COVERED BY THE**
4 **CLAUSE AND THE DUTIES OF THE LESSOR OR THE LESSEE THAT MAY BE EXCUSED IF**
5 **BREACHED;**

6 **(2) REQUIRES AND DEFINES A CAUSAL CONNECTION BETWEEN THE**
7 **ELEMENTS IN ITEM (1) OF THIS SUBSECTION; AND**

8 **(3) OUTLINES THE SCOPE OF RELIEF A LESSOR OR A LESSEE IS**
9 **ENTITLED TO IF THE LESSOR'S OR THE LESSEE'S PERFORMANCE IS EXCUSED.**

10 **(C) A FORCE MAJEURE CLAUSE INCLUDED IN A LEASE UNDER SUBSECTION**
11 **(B) OF THIS SECTION SHALL INCLUDE THE FOLLOWING FORCE MAJEURE EVENTS:**

12 **(1) THE PROCLAMATION OF A STATE OF EMERGENCY UNDER TITLE**
13 **14, SUBTITLE 3 OF THE PUBLIC SAFETY ARTICLE; AND**

14 **(2) THE PROCLAMATION OF A CATASTROPHIC HEALTH EMERGENCY**
15 **UNDER TITLE 14, SUBTITLE 3A OF THE PUBLIC SAFETY ARTICLE.**

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
17 apply only prospectively and may not be applied or interpreted to have any effect on or
18 application to any commercial lease or commercial lease renewal executed before the
19 effective date of this Act.

20 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2023.