

HOUSE BILL 719

N1

EMERGENCY BILL
ENROLLED BILL

(11r0378)

— Judiciary/Judicial Proceedings —

Introduced by **Delegate Moon**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Commercial Tenants – Personal Liability Clauses – Enforceability**

3 FOR the purpose of providing that a certain personal liability clause in a commercial lease
4 or associated document ~~is~~ ~~may be~~ *is* unenforceable under certain circumstances;
5 prohibiting a commercial landlord from attempting to enforce a personal liability
6 clause that the commercial landlord knows or reasonably should know is
7 unenforceable under this Act; authorizing a court to enter a certain judgment;
8 providing that certain lawful action by a commercial landlord may not be construed
9 as a violation of certain provisions of this Act; *providing that the period of the*
10 *declared state of emergency and catastrophic health emergency may not be used for*
11 *the purposes of calculating the time limitation on filing a certain action;* defining
12 certain terms; making this Act an emergency measure; providing for the termination
13 of this Act; and generally relating to the enforcement of certain provisions in
14 commercial leases and associated documents.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
2 That:

3 (a) (1) In this section the following words have the meanings indicated.

4 (2) “Commercial landlord” means a landlord under a commercial lease.

5 (3) “Commercial lease” means a lease for building floor space, including
6 any addenda or modifications to the lease, intended to be used by the tenant for a
7 nonresidential use whether or not the lease expressly sets forth a use.

8 (4) “Commercial tenant” means a tenant under a commercial lease.

9 (5) “COVID–19” means, interchangeably and collectively, the coronavirus
10 known as COVID–19 or 2019–nCoV and the SARS–CoV–2 virus.

11 (6) “Personal liability clause” means a clause or provision in a commercial
12 lease or an associated agreement that requires an individual who is not a commercial
13 tenant under the commercial lease to become personally liable to the commercial landlord,
14 in whole or in part, for fees or charges, including rent, taxes, utility fees, or fees for routine
15 building maintenance, owed by the commercial tenant in the event of a default.

16 (b) A personal liability clause ~~shall~~ ~~may~~ *shall* be unenforceable *during the period*
17 *of the state of emergency and catastrophic health emergency beginning March 5, 2020, with*
18 *the Governor’s “Declaration of State of Emergency and Existence of Catastrophic Health*
19 *Emergency – COVID–19” and ending 180 days after the expiration or rescission of the*
20 *Governor’s proclamation* if:

21 (1) as a result of the issuance by the Governor on March 5, 2020, of the
22 proclamation declaring a state of emergency and the existence of a catastrophic health
23 emergency or any other proclamation issued under Title 14 of the Public Safety Article
24 relating to the outbreak of COVID–19, the commercial tenant was required to:

25 (i) cease serving patrons food or beverage for on–premises
26 consumption; or

27 (ii) close to the public due to its status as a nonessential business or
28 a specific provision contained in an executive order or proclamation issued by the Governor;
29 and ~~and~~

30 (2) the default causing the individual to become wholly or partially
31 personally liable for such obligation occurred between March 23, 2020, and September 30,
32 2020, inclusive; ~~and.~~

33 ~~(3) the court finds, based on the totality of the circumstances, that~~
34 ~~enforcement of the personal liability clause would be unjust.~~

1 (c) (1) (i) A commercial landlord may not attempt to enforce a personal
 2 liability clause that the commercial landlord knows or reasonably should know is
 3 unenforceable under this section.

4 (ii) A court may enter a judgment against a commercial landlord for
 5 reasonable attorney's fees and court costs for a violation of subparagraph (i) of this
 6 paragraph.

7 (2) A commercial landlord's lawful action for nonpayment of rent, lawful
 8 termination of a tenancy established by a commercial lease, lawful refusal to renew or
 9 extend a commercial lease or associated agreement, or lawful reentry and repossession of
 10 the covered property may not be construed as a violation of this subsection.

11 SECTION 2. AND BE IT FURTHER ENACTED, That the period of the state of
 12 emergency and catastrophic health emergency beginning March 5, 2020, with the Governor's
 13 "Declaration of State of Emergency and Existence of Catastrophic Health Emergency –
 14 COVID-19" and ending on the expiration or rescission of the Governor's proclamation may
 15 not be considered for the purposes of calculating time limitations restricting the filing of an
 16 action alleging liability that accrued during the state of emergency and catastrophic health
 17 emergency under a personal liability clause of a commercial lease.

18 SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act is an emergency
 19 measure, is necessary for the immediate preservation of the public health or safety, has
 20 been passed by a ye and nay vote supported by three-fifths of all the members elected to
 21 each of the two Houses of the General Assembly, and shall take effect from the date it is
 22 enacted. It shall remain effective ~~through September 30, 2023, and, at the end of September~~
 23 ~~30, 2023~~ until 180 days after the expiration or rescission of the Governor's proclamation of
 24 March 5, 2020, "Declaration of State of Emergency and Existence of Catastrophic Health
 25 Emergency – COVID-19", and 180 days after the expiration or rescission of the Governor's
 26 proclamation, this Act, with no further action required by the General Assembly, shall be
 27 abrogated and of no further force and effect.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.