

HOUSE BILL 719

N1

EMERGENCY BILL

11r0378
CF SB 582

By: **Delegate Moon**

Introduced and read first time: January 26, 2021

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 9, 2021

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 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; defining certain terms; making this
10 Act an emergency measure; providing for the termination of this Act; and generally
11 relating to the enforcement of certain provisions in commercial leases and associated
12 documents.

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

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

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

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

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

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.



1 (5) "COVID-19" means, interchangeably and collectively, the coronavirus
2 known as COVID-19 or 2019-nCoV and the SARS-CoV-2 virus.

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

8 (b) A personal liability clause ~~shall~~ may be unenforceable if:

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

13 (i) cease serving patrons food or beverage for on-premises
14 consumption; or

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

18 (2) the default causing the individual to become wholly or partially
19 personally liable for such obligation occurred between March 23, 2020, and September 30,
20 2020, inclusive; and

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

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

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

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

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
34 measure, is necessary for the immediate preservation of the public health or safety, has
35 been passed by a ye and nay vote supported by three-fifths of all the members elected to

1 each of the two Houses of the General Assembly, and shall take effect from the date it is
2 enacted. It shall remain effective ~~through September 30, 2023, and, at the end of September~~
3 ~~30, 2023~~ until 180 days after the expiration or rescission of the Governor’s proclamation of
4 March 5, 2020, “Declaration of State of Emergency and Existence of Catastrophic Health
5 Emergency – COVID–19”, and 180 days after the expiration or rescission of the Governor’s
6 proclamation, this Act, with no further action required by the General Assembly, shall be
7 abrogated and of no further force and effect.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.