

SENATE BILL 582

N1

EMERGENCY BILL

1lr1385
CF HB 719

By: **Senator Hettleman**

Introduced and read first time: January 29, 2021

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 22, 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 unenforceable under certain circumstances; prohibiting a
5 commercial landlord from attempting to enforce a personal liability clause that the
6 commercial landlord knows or reasonably should know is unenforceable under this
7 Act; authorizing a court to enter a certain judgment; providing that certain lawful
8 action by a commercial landlord may not be construed as a violation of certain
9 provisions of this Act; providing that the period of the declared state of emergency
10 and catastrophic health emergency may not be used for the purposes of calculating
11 the time limitation on filing a certain action; defining certain terms; making this Act
12 an emergency measure; providing for the termination of this Act; and generally
13 relating to the enforcement of certain provisions in commercial leases and associated
14 documents.

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

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

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

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

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

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

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

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

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

18 (i) cease serving patrons food or beverage for on–premises
19 consumption; or

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

23 (2) the default causing the individual to become wholly or partially
24 personally liable for such obligation occurred between March 23, 2020, and September 30,
25 2020, inclusive.

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

29 (ii) A court may enter a judgment against a commercial landlord for
30 reasonable attorney’s fees and court costs for a violation of subparagraph (i) of this
31 paragraph.

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

1 SECTION 2. AND BE IT FURTHER ENACTED, That the period of the state of
2 emergency and catastrophic health emergency beginning March 5, 2020, with the
3 Governor’s “Declaration of State of Emergency and Existence of Catastrophic Health
4 Emergency – COVID–19” and ending on the expiration or rescission of the Governor’s
5 proclamation may not be considered for the purposes of calculating time limitations
6 restricting the filing of an action alleging liability that accrued during the state of
7 emergency and catastrophic health emergency under a personal liability clause of a
8 commercial lease.

9 ~~SECTION 3.~~ SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency
10 measure, is necessary for the immediate preservation of the public health or safety, has
11 been passed by a yea and nay vote supported by three–fifths of all the members elected to
12 each of the two Houses of the General Assembly, and shall take effect from the date it is
13 enacted. It shall remain effective through September 30, 2023, and, at the end of September
14 30, 2023, this Act, with no further action required by the General Assembly, shall be
15 abrogated and of no further force and effect.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.