



February 26, 2021

The Honorable Kumar P. Barve, Chair
House Environment and Transportation Committee
House Office Building, Room 251
6 Bladen St., Annapolis, MD 21401

Oppose – HB 1273 – Commercial Lease Addendum – Liquidated Damages

Dear, Chair Barve and Committee Members:

The NAIOP Maryland Chapters represent more than 700 companies involved in all aspects of commercial, industrial, and mixed-use real estate. On behalf of our member companies, I am writing in opposition to HB 1273 which sets the amount of liquidated damages due to a tenant when a provision of a lease addendum is violated.

By way of background, lease addenda are used for all sorts of purposes:

- + Extending or shortening the term
- + Extending the square footage of space
- + Altering build out/tenant allowance provisions
- + Rent abatement or forbearance
- + Changing the permitted use

I should note that no one on our legislative committee recalled ever being in breach of an addendum. Typically, a breach of an addendum would constitute default under the lease and the injured party would have the rights given to it in the lease which are, in our experience, almost always more than \$1,000. In that sense the bill would be unnecessarily land-lord friendly because it could limit the landlord's liability to \$1,000, while a tenant's liability remains subject to the lease and likely more than \$1,000.

The bill is not clear about whether the tenant can seek other damages, including specific performance or actual damages in lieu of the liquidated damages set in the bill.

In our experience both sides of commercial lease negotiations are represented by a broker, attorney and often an accountant or buildings specialist. Our general policy is that commercial lease provisions should be negotiated and agreed by the parties.

For these reasons, NAIOP respectfully requests your unfavorable report on House Bill 1273.

Sincerely;

Tom Ballentine, Vice President for Policy
NAIOP Maryland Chapters -*The Association for Commercial Real Estate*

cc: House Environment and Transportation Committee Members
Nick Manis – Manis, Canning Assoc.