



House Bill 719 - Commercial Tenants - Personal Liability Clauses - Enforceability

Position: Oppose

The Maryland REALTORS® appreciates efforts to assist small and struggling businesses which have been forced to temporarily close due to the COVID pandemic. However, HB 719 will negatively impact other Maryland small businesses by altering private contracts between commercial landlords and tenants.

Though HB 719 allows a landlord to recover rents due from the tenant, the likelihood of that happening without a personal guarantee is slim. When the property is leased to an LLC, that entity often has very few assets for the landlord to collect. In that case, there is little incentive for a tenant to provide any rent payment to their landlord.

Many of Maryland's commercial landlords are themselves small entities. They often need these personal guarantees from their tenants to obtain their own financing for the property from lenders. By making personal liability clauses unenforceable, a commercial landlord may be in technical default on their loan for the building. This harms the landlord and the lender, and makes it harder for businesses to obtain commercial financing in the future.

Finally, HB 719 does not account for a tenant's existing assets or ability to make full or partial rent payments in spite of the closure. In some circumstances, the commercial tenant is a larger entity and has more capital than their landlord. This bill could provide the larger tenant relief while providing less to the smaller landlord.

Most landlords are proactively working with their tenants and making whatever accommodations they can, because the likelihood of filling vacant commercial properties in the current environment is very uncertain. REALTORS® support more balanced proposals which provide relief to both landlords and tenants who have been harmed during the past year. HB 719 helps only one of those parties at the expense of the other.

We ask for an unfavorable report.

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