

March 10th, 2023

The Honorable Kumar Barve
Chair, Environment and Transportation Committee
Taylor House Office Building
6 Bladen Street, Annapolis MD 21401



RE: Commercial Leases - Force Majeure Clauses - Required

Position: Oppose

Chair Barve and Members of the Environment and Transportation Committee,

The ICSC Maryland Government Relations Committee urges an unfavorable report on House Bill 1220, *Commercial Leases - Force Majeure Clauses - Required*. ICSC is the marketplaces industry association supporting more than 45,000 members. In Maryland, we support almost 1,000 members, 500,000 jobs and provide nearly \$7.1 Billion in state sales and use tax revenue.

This bill would require all commercial leases signed in Maryland to include a force majeure clause that identifies the certain events that would extend relief, and defines what expected relief may be. Additionally, this bill also requires the inclusion of State of Emergencies and Catastrophic Health Emergencies under Title 14 of the Public Safety article. As we understand it, this bill is intended to provide relief to tenants in situations similar to the Covid-19 pandemic, however, this would lead to an vast expansion of scope for force majeure clauses.

In their current standing, force majeure strictly cover relief from events that cause physical damage. Altering the scope of force majeure clauses opens the door to other required provisions that stray further from their a force majeure's initial intent- physical damage to a commercial property that inhibits normal operation. Additionally, our members found common ground with tenants during the Covid-19 pandemic, often providing much-needed relief from agreed upon rent to stores and restaurants that were hit hardest during the crisis. Mandating such provisions in all lease contracts may hamper this flexibility in future relevant events.

While this legislation is well intended, we believe that the unintentional consequences may cause serious harm to our membership's ability to operate their marketplaces, and we respectfully urge the Committee to provide an unfavorable report.

If you have any questions regarding this document, the legislation, or ICSC generally please do not hesitate to contact Sushant Sidh (Sushant.Sidh@capitol-strategies.com) or Michael Walsh (Michael.Walsh@capitol-strategies.com)