

HOUSE BILL 719

N1

EMERGENCY BILL

11r0378
CF 11r1385

By: **Delegate Moon**

Introduced and read first time: January 26, 2021

Assigned to: Judiciary

A BILL ENTITLED

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

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

13 That:

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

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

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

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

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

22 (6) “Personal liability clause” means a clause or provision in a commercial
23 lease or an associated agreement that requires an individual who is not a commercial
24 tenant under the commercial lease to become personally liable to the commercial landlord,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 in whole or in part, for fees or charges, including rent, taxes, utility fees, or fees for routine
2 building maintenance, owed by the commercial tenant in the event of a default.

3 (b) A personal liability clause shall be unenforceable if:

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

8 (i) cease serving patrons food or beverage for on-premises
9 consumption; or

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

13 (2) the default causing the individual to become wholly or partially
14 personally liable for such obligation occurred between March 23, 2020, and September 30,
15 2020, inclusive.

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

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

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

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
27 measure, is necessary for the immediate preservation of the public health or safety, has
28 been passed by a ye and nay vote supported by three-fifths of all the members elected to
29 each of the two Houses of the General Assembly, and shall take effect from the date it is
30 enacted. It shall remain effective through September 30, 2023, and, at the end of September
31 30, 2023, this Act, with no further action required by the General Assembly, shall be
32 abrogated and of no further force and effect.