

HOUSE BILL 1102

N1, Q1

EMERGENCY BILL

11r2809

By: **Delegate Wilson**

Introduced and read first time: February 5, 2021

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Tenants – Personal Liability Clauses – Enforceability and Landlord**
3 **Relief**

4 FOR the purpose of providing that a certain personal liability clause in a commercial lease
5 or associated document is unenforceable under certain circumstances; prohibiting a
6 commercial landlord from attempting to enforce a personal liability clause that the
7 commercial landlord knows or reasonably should know is unenforceable under this
8 Act; authorizing a court to enter a certain judgment; providing that certain lawful
9 action by a commercial landlord may not be construed as a violation of certain
10 provisions of this Act; requiring the Mayor and City Council of Baltimore City and
11 the governing body of each county to grant a property tax refund to commercial
12 landlords for any county property taxes paid in a certain taxable year on the space
13 subject to a commercial lease; providing that a commercial landlord is eligible for a
14 certain tax refund under certain circumstances; authorizing a county to provide, by
15 law, for certain provisions necessary to carry out the requirement to issue a certain
16 property tax refund; defining certain terms; making this Act an emergency measure;
17 providing for the termination of this Act; and generally relating to commercial leases
18 and associated documents.

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
20 That:

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

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

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (5) "COVID-19" means, interchangeably and collectively, the coronavirus
2 known as COVID-19 or 2019-nCoV and SARS-CoV-2 virus.

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

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

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

13 (i) cease serving patrons food or beverage for on-premises
14 consumption; or

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

18 (2) the default causing the individual to become wholly or partially
19 personally liable for such obligation occurred between March 23, 2020, and September 30,
20 2020, inclusive.

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

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

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

31 (d) (1) The Mayor and City Council of Baltimore City and the governing body
32 of each county shall grant, by law, a refund to commercial landlords for any county property
33 taxes paid in the taxable year beginning after June 30, 2020, but before July 1, 2021,
34 imposed on space subject to a commercial lease.

1 (2) To be eligible for the tax refund under paragraph (1) of this subsection,
2 a commercial landlord may not enforce or attempt to enforce a personal liability clause in
3 violation of subsection (c) of this section.

4 (3) A county may provide, by law, for:

5 (i) the amount of a property tax refund under this subsection;

6 (ii) the conditions to qualify for the tax refund;

7 (iii) the period of time during which an individual may apply for a tax
8 refund, provided that a commercial landlord shall have at least 1 year to apply for the tax
9 refund; and

10 (iv) any other provision necessary to carry out this subsection.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
12 measure, is necessary for the immediate preservation of the public health or safety, has
13 been passed by a ye and nay vote supported by three-fifths of all the members elected to
14 each of the two Houses of the General Assembly, and shall take effect from the date it is
15 enacted. It shall remain effective through September 30, 2023, and, at the end of September
16 30, 2023, this Act, with no further action required by the General Assembly, shall be
17 abrogated and of no further force and effect.