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The Honorable Kumar P. Barve, Chairman
House Environment and Transportation Committee
Room 251 House Office Building
Annapolis, MD. 21401

RE: House Bill 1273 - Real Property – Commercial Lease Addendum – Liquidated Damages
UNFAVORABLE

Dear Chairman Barve and Members of the Committee,

I am writing on behalf of my client, the Building Owners and Managers Association of Greater Baltimore (BOMA), in opposition to House Bill 1273.

BOMA, through its nearly 300 members, represents owners and managers of all types of commercial property, comprising 143 million square feet of office, industrial and mixed use space in Baltimore and Central Maryland. BOMA members' facilities support over 19,000 jobs and contribute \$2.5 billion to the Maryland economy each year.

A liquidated damages provision in a commercial lease is commonly used by the parties to agree upon a measure of damages for a loss or event that would otherwise be difficult to ascertain. The amount of the liquidated damages is supposed to be the parties' best estimate at the time they sign a lease as to the damages that would be caused by a breach. Almost always, it is a subject of negotiation between landlord and tenant.

House Bill 1273 would mandate a payment of a minimum amount of liquidated damages - \$1,000 – but only from landlord to tenant in the event of a breach of the lease. A tenant in a commercial lease, unlike a tenant in a residential lease, has much greater ability to negotiate the terms and provisions of that lease with the landlord. A mandate for a minimum payment of \$1,000 in liquidated damages would only encourage the declaration of a breach in disputes that could, and should, be resolved by other means. In effect, because it has no relationship to the estimated damages, it becomes a penalty upon the landlord. BOMA has seen no evidence that such an approach is required in the commercial leasing business, and for that reason we respectfully request an unfavorable report on House Bill 1273.

Very truly yours,



Bryson F. Popham, Esq.

cc: The Honorable Frank M. Conaway, Jr. at frank.conaway@house.state.md.us
Kevin J. Bauer