

UPDATE: CB 119829 **SUSPENSION OF PERSONAL GUARANTEES**

INTRODUCTION

Seattle City Council Bill 119829 passed unanimously on July 21, 2020. The bill effectively suspends enforcement of “personal liability” on commercial leases for nonprofits and qualifying small businesses affected by COVID-19 until six months after the Mayor’s civil emergency order proclaimed on March 3, 2020 (“Order”) is terminated.

SUMMARY

Provisions in commercial leases or other commercial rental agreements that make the tenant, or other person(s), wholly or partially personally liable for payment of rent, utilities, taxes, fees, or building maintenance are not enforceable during or within six months after termination of the Order if the tenant meets the following two criteria:

- i. Tenant is a nonprofit or qualifying small business; and
- ii. Tenant’s business was subject to in-person limitations, or closed or ceased operations, as a result of the Governor’s COVID-related proclamations.

NOTE: Although the bill appears to be aimed at suspending enforcement of personal guarantees of rent provided by natural persons, the text of the bill that curtails enforcement of lease provisions against a “tenant” that give rise to “personal liability” is unclear.

WHO QUALIFIES

Nonprofit corporations with tax-exempt status and certain small businesses.

For a small business to qualify, it must meet all the following criteria:

1. It can be any business entity that is owned and operated independently from all other businesses, and any franchisee with five or fewer franchise units
2. It must have fifty or fewer employees per establishment or premises
3. Is neither a general sales or service business with ten or more establishments in operation anywhere in the world, nor an entertainment use business with five or more establishments in operation located anywhere in the world.

NOTE: The “sales or service” business and “entertainment” business categories are terms of art used in the City’s land use code. If tenants have questions about whether a business would qualify, then they should contact one of HCMP’s Real Estate & Land Use attorneys.

Please do not hesitate to contact us with any questions or concerns you may have.

Best regards,



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