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Commercial Leases: What are the Laws?

The success or failure of a business can ride on legal protections negotiated in a commercial lease.

Small business owners may be unaware that the laws governing commercial leases vary from state to state and are different from the laws governing residential leases.

Here's a look at the key differences:



Many state and federal

laws protect the rights of residential tenants. These laws guarantee residential tenants privacy

from intrusive landlords, require landlords to

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provide tenants with a habitable home, prohibit racial and other types of discrimination, and limit what a landlord can require as a security deposit. No such laws protect commercial tenants.

Most commercial leases are not based on standardized forms but rather are customized to the landlord's needs. Business owners should carefully examine every commercial lease agreement before signing on the dotted line.

Most commercial leases are much longer than residential leases. Typical residential leases are for one to three years; typical commercial leases are for five to 10 years or more.

Most tenants in a residential lease have no bargaining power. On the other hand, commercial leases can and should be negotiated between business owners and the landlord.



Important Negotiable Commercial Lease Terms

Some items crucial to the business's success should be a part of the negotiations of the lease agreement. For instance, if the business expects to depend on walk-in customers, the business should be sure that the lease agreement gives the tenant the right to put up one or more signs that are visible from the street. Or, if the business is counting on being the only shop of its kind inside a new commercial complex, the lease agreement should restrict the landlord from leasing space to a competitor. Here are some other examples of important terms a business should consider when negotiating a lease:

The amount of the security deposit and conditions for its return.

Which party is responsible for maintaining and repairing the premises, including the heating and air conditioning systems. How the parties may terminate the lease, including notice requirements and penalties for early termination.

Who will be responsible for compliance with federal and state laws (e.g. American with Disabilities Act, State and Building Code Laws, and Occupational Safety and Health).

Whether the parties must mediate or arbitrate disputes before resorting

to litigation or as an alternative to litigation.

Legal Rights of Commercial Landlords

Laws outside of the lease apply to the relationship between a commercial landlord and a tenant. If the tenant defaults on a lease obligation, a commercial landlord has the right to terminate the lease, take possession of the premises, and sue for damages. In many states, the landlord in a commercial lease may evict a defaulting tenant without going to court.

Another legal right that a commercial landlord has in most states is the right to place liens on the tenant's personal property. A commercial landlord may retain all of a tenant's personal property on the leased premises under a statutory landlord's lien. In most states, a lien may attach 20 days after rent becomes due or at the time the tenant attempts to remove personal property when rent is due.

Legal Rights of Commercial Tenants

Although not nearly as well-

protected as residential tenants, commercial tenants have some rights. If a commercial tenant is facing a wrongful eviction, the tenant can sue the landlord for breach of the lease, breach of the covenant of quiet enjoyment, conversion, and wrongful eviction and/or trespass.

If a commercial landlord wrongfully puts a lien on a tenant's personal property or confiscates the property, the landlord may be liable to the tenant for conversion and punitive damages.

According to a legal principle known as "contra proferentem," courts typically interpret any ambiguity in a contract against the drafter of the contract. The doctrine is often applied to leases that a landlord imposes on a party with no genuine bargaining power or on a take-it-or-leave-it basis. A commercial tenant can rely on this doctrine if a lease written by a commercial landlord contains ambiguous or unclear terms to ensure the court interprets the terms in tenant's favor.

In resolving a dispute between a commercial landlord and tenant, a court may look to how the parties operated under the lease, rather than the language of the lease, particularly if the lease has been in effect for a while. For example, the courts will rarely allow a commercial landlord to suddenly change the method of calculating rent to the tenant's disadvantage. In one such case, the lease agreement required the tenant to pay "additional rent" but did not include the items that made up additional rent. At the beginning of the lease, the landlord included operating expenses such as routine repairs and real estate taxes as "additional rent." Later, the landlord attempted to require the tenant to pay for a new roof arguing that this expense was an operating expense. The court disagreed and found that the tenant had to pay for routine roof repairs only and not for a new roof. ■

Illustrations by Storyset

Simple Tips to Eat Healthier

Background: Pyramids & Plates

Most people are familiar with the Food Guide Pyramid. Originally created by the United States Department of Agriculture (USDA) in 1992, the Pyramid was incredibly widespread, appearing everywhere from boxes of cereal to evening news programs.

As our knowledge of the link between health and dietary choices increased, the USDA retired the Food Guide Pyramid in 2005 and replaced it with a follow-up suggestion called MyPyramid. This was relatively short-lived, lasting just eight years before being supplanted by the USDA's MyPlate, which was designed to offer practical, easy-to-comprehend dietary advice and is the current government standard.

Certain educational institutes, including the Harvard School of Public Health (HSPH), have argued that MyPlate was partially shaped by the lobbying efforts of particular



food industry groups. Thus, they claim, MyPlate's ratios and advice may be somewhat skewed. The HSPH has put forth a revised version of MyPlate called the Healthy Eating Plate that uses objective science to analyze how dietary choices affect overall health.

We make no claim as to which of these sources is more trustworthy, merely that both are worthy of examination and consideration. In general, they have similar guidelines and support the findings below.

Balance & Variety

A well-balanced diet has been a staple of nutritional advice for decades and is no secret. However, the quantities constituting the proper balance—and what foods make up those sub-categories—have been subject to more debate and revision in recent years, as noted above. In general, you should aim to follow these basic food group and proportion guidelines.

Vegetables and fruits (in that order):

Roughly $\frac{1}{2}$ of your plate.

Unsurprisingly, veggies and fruits top the list. Go for a variety of both in multiple colors for maximum benefit, but remember that potatoes aren't counted in the vegetable category, which rules out French fries. This is due to the negative effect that potatoes have on blood sugar.



Whole grains:

Roughly $\frac{1}{4}$ of your plate.

There are many types of whole grains you can add to your daily meals, including quinoa, barley, regular oats, brown rice, and whole wheat pasta. These provide a healthier option than refined grains like white rice, white bread, along with regular pasta.



Proteins:

Roughly $\frac{1}{4}$ of your plate.

It is common knowledge that sausage, bacon, and other processed meats can be detrimental to one's health. Eating high quantities of red meat carries a similar warning. Instead, opt for chicken, fish, nuts, and beans. 📌



Illustrations by Storyset

How to Take a Deep Breath— The Right Way

Everyone knows how to breathe. It's secondhand, right? Much like your heart beating and your blood pumping, breathing is a physiological function that seems to happen on its own to keep you alive. However, you may be surprised to learn that it is actually possible to breathe incorrectly.

In today's modern society, many people are often not breathing correctly. Things like fast-paced jobs, greater stressors, and the constant access to rapidly changing stimuli can contribute to incorrect, shallow breathing.

Incorrect and damaging ways of breathing include breathing with your chest, taking too big or too small of a breath, and not taking



enough breaths. Breathing like this can lead to:

- Low energy due to oxygen deprivation
- Constricted blood vessels
- Stressed cells that can no longer develop
- An unbalanced nervous system
- Higher overall levels of stress
- Even your brain, heart, and

muscles are directly affected by poor breathing. Your brain may function more slowly, your heart may pump blood less efficiently, and your muscles may be much more tense.

The first step is awareness. Always be aware of your breathing in the moment so you can quickly catch

yourself if you are breathing incorrectly.

When you breathe, you should always be breathing through your nose instead of your mouth. Your nose acts as a filter for your breath, while your mouth lets in air that may be filled with bacteria. It helps to close your mouth and touch your tongue to your upper palate; inhale for two or three seconds, and then exhale for another three or four seconds. Pause for two or three seconds, and repeat.

You should also be breathing into your diaphragm. Oftentimes, we breathe into our chests, especially during times of distress. This is much less efficient. Breathing with your diaphragm is more efficient for your lungs, makes your heart not have to work as hard, supports healthy immune system function, and can even help relax your neck and shoulder muscles.

Be aware of stressful situations. Your breathing may change quickly to adapt to the stressor. Always pay attention and try to prevent this by keeping your breathing relaxed and rhythmic. It might help to take note of specific situations that trigger bad breathing—is it road rage? Or maybe watching your favorite sports team as they lose a match?

Oftentimes, you hear the phrase, “Just take a deep breath.” While it might not be that easy, with focus and attention, you can learn to adjust your breathing to enable your body to function at its best. 📌

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Improve Your Airport Experience

There are many different ways to improve a visit to the airport, whether it's smarter packing, using technology to keep apprised of scheduling changes, or choosing flights in off-peak times. Before you go, try these suggestions to improve your experience.

Schedule Smart

If you've ever been in an airport on a Monday morning, you already know that attempting to battle a wave of business travelers can be exhausting and end up costing you additional time...even if morning flights are overall less likely to be delayed. Similarly, weekend adventurers love to fly out on Friday to get a head start on their plans.

If your schedule permits, you can save a lot of time by picking flights on days like Tuesday or Wednesday when airports are generally less crowded. Airlines usually have cheaper rates in the middle of the week, as well.

If midweek days aren't an option, scheduling a Saturday evening flight can provide a more relaxing airport experience than Friday or Sunday, and of course, there is always the overnight "red-eye" option for those looking to arrive at their destination bright and early the next morning.

Download Useful Apps

Most major airlines now offer free travel apps that can help you stay organized and informed while reducing time spent on various airport tasks. Why print out your

boarding pass when an app can store a digital copy for you? No need to waste extra minutes looking at massive walls of arriving and departing flights any longer; your app will tell you if your flight is on time or if the gate has been changed.

Many airports also now offer their own apps that can alert you to any traffic or parking issues, relay information about new restaurants and stores, and provide maps to get you where you need to go in the quickest, most efficient way possible. If your airport doesn't have an app, check the ubiquitous Google Maps for photos and reviews. You may stumble upon a piece of advice that could lead to a time-saving epiphany. 📌

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