



Serving Pinellas County, Florida

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LEASES

When you sign a lease for a business premise you may be asked to offer personal guarantees on the terms of the lease even though you may be operating as a separate legal entity such as a corporation or a Limited liability Company (LLC). We know of NO landlord that would not demand personal guarantees unless the firm is very large and/or has been in business for a long time.

Renting commercial space for your business is a big responsibility – **the success or failure of your business may ride on certain terms of the lease**. Over time lease payments may be your largest expense. A lease agreement is a binding contract that should be signed only after careful review by you and your attorney. Make sure you understand and agree with the basic terms of the lease, such as the amount of rent, the length of the lease and the configuration of the physical space.

Here are the main distinctions between commercial and residential leases:

- **Consumer protection laws** – commercial leases are not subject to most consumer protection laws that govern residential leases. For example, there are no caps on security deposits or rules protecting a lessee’s privacy.
- **Standard forms** – many commercial leases are not based on a standard form or agreement; each commercial lease is customized to the landlord’s needs.
- **Long-term and binding** – you cannot easily break or change a commercial lease. It is a legally binding contract, and a good deal of money is usually at stake.
- **Negotiability and flexibility** – commercial leases are generally subject to much more negotiation between business owners and landlords, since businesses often need special features in their spaces, and landlords are often eager for tenants and willing to extend special offers.

You should insure that the lease terms meet your business needs:

- Consider the amount of rent – make sure that you can afford it. You should check out rates for comparable spaces. If the rent seems unjustifiably high, you could try asking for a reduction. Landlords may be unwilling to lower the rent but may be willing to forego rent until you are open for business or to compensate for moving costs.
- Examine the rent increases – landlords will usually include an annual increase to your rent in your lease terms. You should try to get a cap or limit (such as not to

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- exceed Consumer Price Index or CPI) on the amount of each year’s increase and try to exclude a rent increase for the first year.
- Focus on the length of the lease - a short-term lease is almost always to your benefit. Shorter leases give you more flexibility if needs of your business change, for example, you may want more space or decide that a different location would be better. There is a down-side; a longer lease ensures that you’ll have an affordable business space for a predictable period of time. Landlords are often willing to make more concessions on longer-term leases.
 - A solution may be to bargain for a short initial lease with one or more options to renew – maybe a one- or two-year lease with an option to renew for two or three more years.
 - Think about the physical space – your business will probably require modifications to the existing space, for example, adding cubicles, raising a loading dock, or rewiring for better communications – make sure that you (or the landlord) will be able to make the necessary changes.
 - There may be other less conspicuous items crucial to your business’s success. For instance, if your business depends largely on walk-in customers, be sure that your lease gives you the right to put up a sign that’s visible from the street. If you are counting on being the only of your type of business inside a new commercial complex, make sure that your lease prevents the landlord from leasing space to a competitor.

The following checklist includes many items that are often addressed in commercial leases. Pay attention to terms regarding:

- Length of the lease (also called lease term), when it begins and whether there are renewal options.
- Rent, including allowable increases (also called escalations) and the method of computation.
- Whether the rent you pay includes insurance, property taxes and maintenance costs (called a gross lease) or whether you will be charged separately (called a net lease)
- Security deposit and condition of its return
- Exactly what space you are renting (including common areas such as hallways, rest rooms and elevators) and how the landlord measures the space (some measurement practices include the thickness of the walls)
- Whether there will be improvements, modifications (called build outs when new space is being finished to your specifications) or fixtures added to the space, who will pay for them and who will own them after the lease ends (generally, the landlord does)
- Specifications for signs, including where you may put them
- Who will maintain and repair the premises, including the heating and air conditioning systems
- Whether the lease may be assigned or subleased to another party
- Whether there’s an option to renew the lease or expand the space

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- If and how the lease may be terminated, including notice requirements, and whether there are penalties for early termination
- Whether disputes must be mediated or arbitrated as an alternative to court.

Negotiating a good lease can save you money. Learn where landlords are willing to make concessions.

When you get serious about an available business space, you will probably be presented with a typed or printed commercial lease prepared by the landlord’s lawyer. When you examine the lease, keep in mind that the existing terms almost always favor the landlord but know that with little effort you can always negotiate significant improvements to the terms.

Contents were extracted and paraphrased from NOLO.com. For an unabridged version, please visit <http://www.nolo.com>