

Legal Alert: Landlord/Tenant Update Affecting Commercial Leases and Guaranty Agreements in NYC

May 27, 2020

On May 26, 2020, Mayor DiBlasio signed into law NYC Local Law [2020/55](#) which enacted Section 22-1005 of the New York City Administrative Code to prohibit the enforcement of certain personal liability provisions (i.e., personal guaranty agreements) in commercial leases involving tenants impacted by the COVID-19 pandemic.

Under the new law, if a commercial lease provides that a natural person who is not the tenant (i.e., the "guarantor"), becomes personally liable for payment of rent or utilities, taxes, fees, etc., upon a default or other event, such provision cannot be enforced against the guarantor if the default in payment occurred between March 7 and September 30, 2020, only if:

1. The tenant was required to cease serving patrons food or beverages for on-premises consumption or to cease operation under the Governor's Executive Order 202.3;
2. The tenant was a non-essential retail establishment subject to in-person limitations under guidance issued by the New York State Department of Economic Development pursuant to Executive Order 202.6;
3. The tenant was required to close to members of the public under Executive Order 202.7.

As such, the new law will apply to any businesses in New York City impacted by mandated closures and service limitations delineated in Governor Cuomo's Executive Orders. Any attempt by a landlord to enforce a personal liability provision that the landlord knows or reasonably should know is not enforceable under the new law would constitute a form of harassment under the Commercial Tenant Harassment Law in the NYC Administrative Code.

Please contact any of our attorneys if you have any questions or concerns about anything referenced herein. We hope everyone is staying safe and healthy!