

## Leasing Lite – Proposed Illinois COVID-19 Immunity Act

Tenants renting commercial spaces are at varying degrees of operation in their space depending in part on the ability of employees to work from home and the needs of customers. The decision to operate in a physical space may factor in the question: What happens if an employee or customer contracts COVID-19 from being on the premises? States are responding to this question in different ways, and some states have decided to legislate concerning limitation of civil liability. The Illinois legislature endeavored to join these states by proposing Senate Bill 3989. Introduced May 19<sup>th</sup>, the COVID-19 Immunity Act shields any individual, business, or unit of local government from civil damages for any acts or omissions that result in the transmission of COVID-19. There is an exception for damages caused by willful and wanton misconduct.

Neighboring state Iowa already passed legislation similarly limiting liability. Iowa's legislation protects a person who possesses or controls a premises, including a tenant, lessee, or occupant, from civil damages for injuries sustained from an individual's exposure to COVID-19. Iowa's COVID-19 Response and Back-to-Business Limited Liability Act includes exceptions to limited liability for acts or omissions which constitute a reckless disregard for a substantial and unnecessary risk of exposure, acts which constitute actual malice and expose an individual to COVID-19, or intentional exposure.

Illinois' COVID-19 Immunity Act, if enacted, would apply to any cause of action arising on or after January 1, 2020. The COVID-19 Immunity Act is currently referred to the Committee on Assignments.

Passing of this Act would provide greater certainty for landlords and for tenants in commercial spaces when businesses are operating on the premises. With the limitation of liability for civil damages, businesses could more confidently welcome back, or continue to welcome, employees and customers to a physical location, with lesser fear of possible legal repercussions.

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