

The Commercial Lease: What You Should Know

Know what you're getting yourself into when you rent space for your business.

Renting commercial space is a big responsibility -- the success or failure of your business may ride on certain terms of the lease. Before you approach a landlord, you should understand how commercial leases differ from the more common residential variety, and before you sign anything, 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.

How Commercial Leases Differ From Residential Leases

It's crucial to understand from the get-go that, practically and legally speaking, commercial leases and residential leases are quite different. Here are the main distinctions between them:

- **Fewer 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 tenant's privacy.
- **No standard forms.** Many commercial leases are not based on a standard form or agreement; each commercial lease is customized to the landlord's needs. As a result, you need to carefully examine every commercial lease agreement offered to you.
- **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 the business owners and the landlord, since businesses often need special features in their spaces, and landlords are often eager for tenants and willing to extend special offers.

Making Sure the Lease Will Fit Your Business

Before you sign a lease agreement, you should carefully investigate its terms to make sure the lease meets your business's needs.

First, consider the amount of rent -- make sure you can afford it -- and the length of the lease. You probably don't want to tie yourself to a five- or ten-year lease if you can help it; your business may grow faster than you expect or the location might not work out for you. A short-term lease with renewal options is usually safer.

Also think about the physical space. If your business requires 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.

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Other, less conspicuous items spelled out in the lease may be just as crucial to your business's success. For instance, if you expect your camera repair business to depend 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. Or, if you are counting on being the only sandwich shop inside a new commercial complex, make sure your lease prevents the landlord from leasing space to a competitor.

Critical Lease Terms

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

- the length of lease (also called the lease term), when it begins and whether there are renewal options
- rent, including allowable increases (also called escalations) and how they will be computed
- whether the rent you pay includes insurance, property taxes, and maintenance costs (called a gross lease); or whether you will be charged for these items separately (called a net lease)
- the security deposit and conditions for 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 tenant
- whether there's an option to renew the lease or expand the space you are renting
- if and how the lease may be terminated, including notice requirements, and whether there are penalties for early termination, and
- whether disputes must be mediated or arbitrated as an alternative to court. .