



# Leasing 102

## Personal Guarantees & Lease Liabilities

by Michael Bull, CCIM, CRB, ePro

The commercial lease is an intricate and complicated document with tremendous legal and business consequences. For the power of market knowledge and negotiation, savvy practices engage a real estate attorney specializing in commercial leases, and a commercial real estate broker familiar with the medical industry, like Healthcare Real Estate Services.

The security deposit, personal or corporate guarantees and default provisions are sticking points in almost every lease negotiation. In leasing space for your practice, you should always weigh the positives and negatives and long term ramifications of these issues.

A **security deposit** generally benefits the landlord, and from a tenant's perspective, it is difficult to see money sitting idle. This immediately can create conflict. A potential solution to resolving this could be to provide for a ***right of early return*** which would provide that the security deposit be returned at some point during the lease. Another solution might be that the tenant provides some non-cash security (i.e. letter of credit or a promissory note).

**Personal or corporate guarantees** can benefit either side of the lease negotiation. If the tenant wants to reduce the required security deposit, an offer of some sort of guarantee might convince the landlord to waive the cash requirement. There are substantial differences in the level of guarantee that you may want to provide or that the landlord may require. If your practice is already established, a corporate guarantee would certainly help put the landlord's fears at ease; however, if you are starting a new practice, a personal guarantee may be required.

The **Default provisions** in a lease can be monetary and non-monetary and can be placed on the tenant for performance, as well as, the landlord. Strong consideration should be given to the cure period, types of default, and the potential remedies in the event of a default. Your lease should be designed to protect you as much if not more than the landlord. In the event that the landlord does not perform there obligations within the lease, you and your practice can be left without a place to do business. Your remedies should be strongly considered.