

This is your Release #6 (April 2019)

Friedman on Leases

Sixth Edition

by Andrew R. Berman

Friedman on Leases is widely regarded as the leading authority on commercial real estate leasing, recognized for its extensive and balanced coverage of tenant and landlord concerns. This sixth release of *Friedman on Leases, Sixth Edition* continues to deliver not only the foundational knowledge required by novice practitioners, but also analysis of and insight into the most current and relevant developments facing seasoned practitioners in the commercial real estate field. The author Andrew R. Berman is currently in private practice and Principal of Andrew Berman PLLC, where he continues to focus on real estate transactions. He is a former real estate partner at Orrick Herrington, Akerman, and Sidley Austin. He also served as in-house counsel at a major real estate brokerage and advisory firm where he was Senior Vice President and Associate General Counsel. Mr. Berman is a Distinguished Adjunct Professor of Law at New York Law School, where he founded and served as the Director of the Center for Real Estate Studies and the Institute for In-House Counsel. Mr. Berman's expertise in both practice and academia enable him to provide the broad perspective and insight that real estate professionals need in this rigorous and dynamic field.

Highlights of this Release #6 include the following:

Sample Provisions; Determination of Cancellation Fee. New sample provision to determine the Cancellation Fee. (See section 22:5.5)

Case Developments. Includes the latest developments in the following areas: **Interruption of Services**, if a tenant can establish that the interruption of services has caused a constructive eviction of tenant, most courts have allowed tenants to plead constructive eviction as a defense to a non-payment of rent action (see section 12:2); **Tenant's Retention of Possession After End of Lease: Liability for Damages**, a tenant may be found to have retained constructive possession of the premises, giving rise to a holdover tenancy, by failing to remove fixtures or improvements as required to restore the premises (see section 18:2); **Effect of Bankruptcy on Landlord's Remedies for Default; Claims**

(continued on reverse)

Practising Law Institute
1177 Avenue of the Americas
New York, NY 10036
#267428

for Damages, in finding that the damages cap in section 502(b)(6) does not apply to damages for waste, trespass, or nuisance, the Ninth Circuit Court of Appeals proposed a test to resolve the question of application of the cap, which test has been adapted by some jurisdictions (see section 20:6.3); and **Mechanics' Lien**, the New York Court of Appeals held that consent for purposes of the Lien Law can be inferred from lease terms, and no express consent or privity between landlord and contractor is required (see section 23:9).

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