

REAL ESTATE BRIEFING: Special Edition

## Recent Developments in Real Estate Legislation

Article 121 of Law 4926/2022 Establishes the Maximum Limit of Rent Adjustments on Commercial Leases for 2022

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#### A. Scope of Article 121 of Law 4926/2022

1. Article 121 of Law 4926/2022 (Article 121) establishes a 3% upper limit on adjustments to rents on commercial and professional real estate leases which fall within the scope of Presidential Decree 34/1995 and Article 13 of Law 4242/2014.
2. According to the provisions of Article 121, the adjustment of rents of professional and commercial leases shall not exceed a limit of 3% calculated on the rent payable for 2021. This limitation applies to rent adjustments taking place from 1 January to 31 December 2022.
3. Three categories of lessors are excluded from the scope of the New Law as follows:
  - a. Real Estate Investment Société Anonymes (Α.Ε.Α.Α.Π.), as defined in par. 1 of Article 21 of L. 2778/1999;
  - b. companies:
    - i. the majority of whose registered shares or voting rights directly or indirectly belong to Alternative Investment Funds (Οργανισμοί Εναλλακτικών Επενδύσεων),
    - ii. which are managed by Alternative Investment Fund Managers (Διαχειριστές Οργανισμών Εναλλακτικών Επενδύσεων), as governed by Law 4209/2013 and Directive 2011/61/EU, and
    - iii. whose registered office is not located in a:
      - Non-Cooperative State for tax purposes, as defined in Article 65 of Law 4172/2013 (Income Tax Code), or

- in a third country designated by the European Commission as having a high risk of money laundering or terrorist financing, as defined in Article 16A of Law 4557/2018 and Regulation (EU) 2016/1675 (Law 254); and

- c. businesses operating a shopping center within the meaning of Article 2 of Decision No. 21093809/8296/1161/B 0014/15.10.2007 of the Deputy Minister of Economy and Finance of over 15,000 sqm on one or more levels.

#### B. Purpose of the New Provisions

1. The New Law's Explanatory Memorandum states that the aim of the 3% ceiling is to regulate the real estate market to cater for the special economic conditions that have been created in particular during the current year by the high inflationary pressures caused from the unprecedented rise in international commodity prices.
2. It goes on to stipulate that the temporary imbalances that have been created in the global supply chain are due to international crises with transient characteristics, such as the geopolitical crisis caused by the military invasion in Ukraine. Therefore, the establishment of a fair framework for professional and commercial leases is aimed at:
  - a. safeguarding the smooth economic operation of medium, small and very small businesses and, indirectly, consumer income;
  - b. allowing for fair and profitable utilization of real estate by its owners; and
  - c. enabling international investors to stay within their initial investment forecasts.

#### C. Retrospective Effect

1. The New Law has a retrospective effect on adjustments

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made from 1 January 2022 to the entry into force of the New Law on 20 April 2022.

2. This means that the contracting parties to professional and commercial leases adjusted outside the 3% ceiling between 1 January 2022 and the entry of the New Law into force on 20 April 2022 will have to make any necessary amendments to bring the leases within the 3% ceiling and register the amendment on the electronic platform of the Independent Authority of Public Revenues (ΑΑΔΕ).
3. The registration of amendments to leases entered into between 1 January and 28 February 2022 is already overdue

and failure to register carries a fine of €100 (Article 54 of the Income Tax Code). It is anticipated that a regulation will be issued by the Independent Authority of Public Revenues (ΑΑΔΕ) providing that, where leases must be amended retroactively to take into account the 3% ceiling and bring them in line with the provisions of Article 121, the fine for failure to register on time will not apply. In cases where rent exceeding the 3% ceiling has been collected between 1 January 2022 and 20 April 2022, lessors must either return any amounts received above the 3% threshold to lessees or apply it as a credit against future rent payments.

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