



QUESTION: I am renting a venue for church services. What are the things I need to know about my rental contract?

ANSWER: Contractual agreements to rent/lease facilities contain the parties' **expressed and mutually agreed rights and obligations** within the contract terms. For example, AMC Theaters are not charging lease payments if a church cannot meet because it falls under an Act of God clause.

It really comes down to a case-by-case scenario. There is not one size that will fit all, as there are (likely) no two contracts just alike.

Given that, the prime objective here is not to "break" a contract, but rather to effectively negotiate with the Venue Provider **either a temporary suspension** of service-related fees and penalties, if any, or a **premature ending of** their contract without penalty during this period of time given the President's disaster declaration due to the COVID-19 outbreak in the USA.

There's a good article in The National Law Review, entitled "COVID-19 and Its Growing Impact on Commercial Contracts: How Should Contracting Parties Respond?" © Polsinelli PC, Polsinelli LLP. Here's a [link](#). It lays out some of the primary considerations as copied and pasted below.

"Contract-law concepts like force majeure, impracticability, and frustration of purpose — which rarely apply in normal circumstances — are now front and center, and understanding their application is critical to most businesses."

1. "The party seeking to avoid performance must be able to show that performance was impracticable. . . the event must be the reason that performance could not be completed."
2. "The contracting party must not be at fault for either the event or the non-performance and the event must have been unforeseeable at the time the contract was executed. An increase in the expense of performance or a change in market conditions alone, is generally not sufficient because those types of economic uncertainties are foreseeable."
3. "The event must fall within the scope of the particular force majeure provision which turns on the contract language. A contract provision that identifies pandemics, disease, or outbreaks as force majeure events is going to be more useful when trying to avoid contractual obligations in the context of COVID-19. But, most force majeure provisions do not reference these types of events. One of the most common events referenced in a force majeure provision is an "act of God." There are few cases that define that term, but those that do agree that an "act of God" must be a natural disaster or other natural phenomenon that is void of human error.

A force majeure clause must be expressed. It cannot be implied. If a contract does not have an express force majeure provision, a party may need to look to other defenses such as impracticability, impossibility, and frustration of purpose. Finally, in many instances, application of a force majeure provision turns on applicable government action in a particular jurisdiction. For example, a declaration of a state of emergency may trigger a force majeure provision.

*This should not be considered legal advice from CMN and the AG National Office.