



September 8, 2020

Representative Graham Filler, Chairman
Judiciary Committee
RE: HB 6030 | 6031 | 6032

Mr. Chairman, committee members, thank you for the opportunity to speak today on the impact and potential threat to our industry from the consequences of the scourge of COVID-19.

BOMA members represent every aspect of the commercial real estate industry from building owners, managers, engineers, developers, and the various suppliers including security, landscapers, roofers, janitorial services, utilities, HVAC, construction firms and architects to name a few. Over 1.2 million tenants work in southeast Michigan office buildings. The vast majority of buildings have never closed, and property owners and managers have continued operations to maintain safe workplaces and assure the continuance of essential services.

As our state grapples with the severe toll of the pandemic, the commercial real estate sector is playing a vital role in re-opening and recovery efforts. Businesses and employers are relying on us to provide safe, secure, and healthy environments necessary to bring individuals back to their workplaces and move the economy forward. Our sector stepped up immediately to meet this challenge to identify industry best practices and protocols for safety procedures, and published a series of comprehensive re-opening guidance documents to our members and communities based on government issued and mandated health and safety rules, directives, and guidelines.

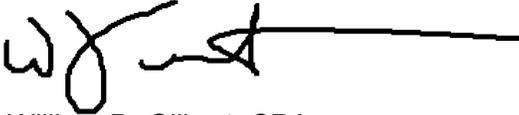
Despite these best efforts and extraordinary cost and expense, the threat of legal liability persists. Much remains unknown about the novel coronavirus, federal, state, and local rules and directives often diverge and rapidly evolve, creating legal uncertainty. The threat of lawsuits against commercial building owners and managers for re-opening prematurely or using inadequate virus mitigation measures, even when managers follow government guidelines and act in good faith, is pervasive. This threat creates instability, clouds decision-making, and diverts needed resources – all of which detracts from our work in welcoming back tenants and pushing the economy forward.

HB 6030 – 6032 and 6101 ensure businesses who are acting in good faith are following public health rules, directives, and guidelines which are prudent the necessary assurances that we will not be endlessly defending frivolous lawsuits alleging that people were negligently exposed to the COVID-19 Virus. We also believe that a premises owner and manager is subject to liability **ONLY** if they recklessly disregard the risks of exposing an individual to the virus. Building Owners also have thousands of unidentified visitors in and out of buildings which makes it impracticable to prove beyond reasonable doubt where a person was actually infected despite intensive contact tracing efforts. Several states have already enacted legislation providing these types of liability protections and hope Michigan can follow suit to retain and attract business to our state. If a business is willfully violating laws or public health guidelines, then they should not be able to avail themselves of liability protections. These bills are essential to balance the risk of reopening and resuming economic activity and investment in commercial properties.

For these reasons among others, we believe liability protections for building owners, managers, and employees in compliance with emergency orders during COVID-19 Emergency and in the process of reopening is just and imperative.

Thank you for your consideration. We look forward to working with you to support Michigan's recovery and re-opening ongoing efforts.

Respectfully,

A handwritten signature in black ink, appearing to read 'W.D. Gilbert', followed by a long horizontal line extending to the right.

William D. Gilbert, CPA
Vice President/Corporate Controller

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