

RISK Alert

ACTIONABLE INSIGHTS FOR BOND POLICYHOLDERS.



Alert Type

Awareness

Watch

Warning

Protect Yourself in Lease Agreements

Some credit unions are looking to derive extra income by leasing available space as a source of this income. As the landlord or lessor, you can dictate the terms of the lease, excluding legal requirements that may benefit the renter or lessee. Contract language risks to be concerned with includes the verbiage / conditions and terms in the lease, hold harmless agreements, the type of business, and the potential interaction between the operation of the credit union and the business.

Details

As the landlord or lessor, credit unions can dictate the terms of a lease, excluding legal requirements that may benefit the renter or lessee; however, there are some risk considerations that you'll want to review.

Contract language risk considerations include:

- the verbiage / conditions and terms in the lease,
- hold harmless agreements,
- the type of business operating on your premise, and
- the potential interaction between the operation of the credit union and the operation of the business.

Some types of business which may affect the operation of the credit union or the property itself include those operations involved in food handling, childcare, tavern, cannabis dispensary, animals, medical procedures, and chemicals which may create hazardous or medical waste. The credit union should carefully consider the risks these businesses could present prior to engaging in a lease agreement.

Although there are not as many protections for a tenant in a commercial lease as a residential lease, it is important to review and understand the regulations of the local jurisdictions. The credit union should be aware of any tenants' rights, landlord obligations, and safety rules and notify the tenant in writing of their legal obligations.

It is also important to be aware of any state laws addressing risks that may be transferred from one party to the other, (or not transferred from one party to the other) in the state where the property is located.

Always engage the services of a real estate attorney for the creation of the lease which will outline the terms, conditions, and responsibilities of both parties.

Manage Operations Awareness When Sharing Space

Lessees should be aware of emergency procedures including response to robbery and active assailant situations. Depending on the location of the lessor's office or operation, it is possible to be impacted by these types of incidents. Tenants should also be aware of and included in drills for situations that require evacuation as well as those that require shelter in place strategies.

Date: March 22, 2022

Risk Category: Physical Security; Lease / Contractual Agreements; Legal

States: All

Share with:

- Branch Operations
- Executive Management
- Legal / Compliance
- Risk Manager



Facing risk challenges?

[Schedule](#) a free personalized discussion with a Risk Consultant to learn more about managing risk.

Protect Yourself in Lease Agreements

Additionally, tenants may have hours that differ from the credit union so any issues about the zoning of alarm systems and issuing of access credentials need to be addressed to allow the tenant to conduct business while ensuring the credit union's assets remain protected.

The Credit Union as a Lessee

When the credit union is in the role of a lessee, rather than a lessor it is just as important to work with a real estate attorney and have them review the lease before the credit union signs it to make sure the credit union is aware of their responsibilities. Also, there may be room for negotiation. Items that may be addressed in leases (besides term and cost) may include improvements and betterments insurance, and maintenance.

Risk Mitigation

Credit unions should consider these risk mitigation tips:

- Consult with a real estate attorney during the leasing process whether the credit union is the lessor, or lessee. This includes the creation of the lease as a lessor and protecting the credit union by transferring risk where allowed. As a lessee, having the attorney review the lease, also to protect the credit union and suggesting areas for negotiation.
- Determine if the type of business may cause risks to the operation of the credit union or the assets of the credit union including the property itself
- Include the tenants in any type of training where necessary which involves safety measures in place related to situations that may arise in the credit union which effects the health and safety of the employees including the evacuation of the premises.

Risk Prevention Resources

Access CUNA Mutual Group's [Protection Resource Center](#) for exclusive risk and compliance resources to assist with your loss control needs. The Protection Resource Center requires a User ID and Password.



Access the Protection Resource Center for exclusive resources:

- [Loss Prevention Library](#) for resources & checklists
- [Webinars and Education](#)
- [RISK Alerts Library](#)
- [Report a RISK Alert](#)

The Protection Resource Center requires a User ID and Password.

© CUNA Mutual Group, 2022.

Insurance products offered to credit unions are underwritten by CUMIS Insurance Society, Inc., a member of the CUNA Mutual Group. This RISK Alert is intended solely for CUNA Mutual Group Fidelity Bond policyowners to prevent fraud losses. Any further distribution of this information could subject you to liability under common law and various statutes including the Fair Credit Reporting Act.

This resource was created by CUNA Mutual Group based on our experience in the credit union, insurance, and risk management marketplace. It is intended to be used only as a guide, not as legal advice. Any examples provided have been simplified to give you an overview of the importance of selecting appropriate coverage limits, insuring-to-value, and implementing loss prevention techniques. No coverage is provided by this resource, nor does it replace any provisions of any insurance policy or bond. Please read the actual policy for specific coverage, terms, conditions, and exclusions.