

# BUSINESS

Tue. 11.18.08

What will Barack Obama's tax-rollback plan mean for New Jersey's non-profits? 2



Stock listings on A-21

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## ASK A LAWYER

# Business woes may justify breaking a lease

**Q. My business is falling. Can I get out of my lease?**

Maybe.

A thorough review of your lease needs to be performed to determine your rights. Your lease may permit termination because your gross sales have not reached a certain amount by the one-year anniversary of your lease. Or, perhaps you have the right to terminate the lease if a particular tenant or a percentage of tenants in your building or center are no longer operating. Other leases provide for termination of the lease for no reason at all upon payment of a termination fee.

You also can ask your landlord to terminate your lease. The landlord may be willing to do so if the space can be easily re-let, perhaps for a higher rent.

Offering to pay the landlord a few months' rent following your departure may entice the landlord as well. Assigning your lease or subleasing all or a portion of the space also are potential options. You may not be released from liability entirely, but at least there is another party responsible for the rental payments.

You also could just walk away from the lease, but if you do that, the tenant who signed the lease (most likely you) and any guarantor would be liable for the rent for the rest of the

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term or until the landlord finds a new tenant plus other costs incurred to secure the new tenant. If the new tenant pays the same or higher rent, you may be off the hook. However, if the new tenant pays less rent than required by the lease, you will owe the landlord the difference, plus possibly any other related costs incurred by your landlord.

It is strongly recommended that you seek the advice of legal counsel to help you understand your options.

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Do you have a business question for a lawyer? Send it to [BusinessNews@northjersey.com](mailto:BusinessNews@northjersey.com).