1. Describe [National][state][territorial][provincial] or local transfer taxes payable on creation or assignment of a lease.

Leases and assignments of leases are generally exempt from New Jersey’s Realty Transfer Tax. Realty transfer taxes are payable upon creation or assignment of leases with terms of 99 years or more. See N.J. Stat. Ann. § 46:15-7 et seq.

2. Describe any legal restrictions limiting the maximum term of a lease (including renewals).

There are no limitations regarding the length of the term of any commercial lease, so long as the term is for a fixed and definite period, or for a period which may be rendered fixed and definite. As noted above, creation or assignment of leases for terms of 99 years or more are subject to New Jersey’s Realty Transfer Tax.

3. Describe any laws requiring landlords to allow a tenant to renew its lease.

There are no laws requiring landlords to allow a tenant to renew a commercial lease.

4. Describe any restrictions on rent that may be charged for to a tenant.

There are no restrictions on the amount of rent that may be charged for commercial leases.
5. **Describe any laws permitting tenants to terminate a lease prior to its stated expiration date.**

There are no laws expressly permitting commercial tenants to terminate their lease prior to the stated expiration date. There are, however, laws that can operate to terminate a leasehold prior to its stated expiration date. For example, when a building on leased premises is destroyed by fire, without the fault of the lessee, rent abates until the landlord completely repairs the building. N.J. Stat. Ann. § 46:8-6. If a building is totally destroyed by fire or otherwise, without the fault of the lessee, rent is payable up until the time of the destruction, at which point the lease terminates. N.J. Stat. Ann. § 46:8-7. These casualty laws are inapplicable if the parties stipulate otherwise.

Eminent domain proceedings can also terminate a lease before the expiration of the lease term. Unless the lease states otherwise, a tenant is a party in interest in the event of any eminent domain proceeding, and may recover the value of its leasehold interest. The landlord is entitled to the value of its fee interest subject to the leasehold.

6. **Describe any laws allowing tenants to assign or sublease without landlord’s consent.**

In New Jersey, commercial leases invariably require the landlord’s consent to an assignment or sublease. In absence of such a provision, a commercial tenant can freely sublet or assign its lease without the landlord’s consent.

7. **Describe any laws allowing landlord to restrict assignments or subleases by tenants.**

As noted above, commercial leases usually require the landlord’s consent to a proposed assignment or a sublease. Thus, landlords may restrict a tenant’s ability to assign or sublease. Provisions in the lease often provide that the landlord may not unreasonably withhold consent to a proposed assignment or sublease. If such a provision exists, the landlord must be commercially reasonable if it withholds consent to the proposed assignment or sublease. If the lease merely states that the landlord must consent to an assignment or sublease, but does not state that consent will not be unreasonably withheld, it appears that the landlord may arbitrarily withhold its consent.

8. **What is the common form of eviction proceeding? What is the customary length of time for that proceeding?**

An action for eviction is brought as a summary dispossession proceeding in the Superior Court, Law Division, Special Civil Part. N.J. Stat. Ann. § 2A:18-53. The time frame for such proceedings varies, but is usually completed 30 to 60 days after commencement.

9. **Are there any legal restrictions on pledging a leasehold interest as security for a financing?**

Generally, a commercial lease may be mortgaged unless otherwise prohibited by the lease. N.J. Stat. Ann. § 17:24-1(c) requires that loans on leaseholds given by insurance companies provide for amortization payments that will completely amortize the loan within a period not to exceed 90 percent of the leasehold term. Under this statute, tenants’ renewal options can be included as part of the lease term.
Further, leases prohibiting assignment of the lease without the landlord’s consent may cause difficulty to the mortgagee. Although mere execution of a mortgage does not violate such an assignment provision, the provision would be violated by the mortgagee’s entry or by transfer of the leasehold to the purchaser at a mortgage foreclosure sale.

10. Describe any requirements for landlords to hold security deposits in separate accounts and, if such requirements exist, describe if there can be one separate account for all tenant security deposits or whether each security deposit must be held in its own separate security deposit.


11. Describe any required statutory or other legal disclosures to be made to all tenants.

Landlords have a duty to disclose latent defects, remediable by the landlord, within and without the leased premises. “Latent defects” are those the existence and significance of which are not reasonably apparent to ordinary prospective tenants.

12. Describe all taxes on rent or other taxes that landlord are required to collect from tenants.

Commercial landlords are not required to collect taxes on rent or other taxes from tenants. The title owner of the property (i.e., the landlord) is responsible for paying all real property taxes. N.J. Stat. Ann. § 54:4-24. By agreement, the responsibility for paying real property taxes can be passed through to the lessee.


A landlord may not use force when exercising self-help. Where a lease permits the landlord to re-enter and take possession of the demised premises upon the tenant’s breach of any of the lease’s covenants, the landlord may not re-enter and re-take possession by force, even if such force is only used as is necessary to expel the lessee. If the lessee will not leave the premises voluntarily, commercial landlords are usually limited to summary dispossession actions. See N.J. Stat. Ann. § 2A:18-53.

Also, Landlords may file an Order to Show Cause to permit distraint of the tenant’s property. Upon receiving the court’s permission, the landlord must then comply with the procedural and notice requirements of N.J. Stat. Ann. § 2A:33-1 et seq.

14. Describe whether remedies such as acceleration of rent must be expressly stated or whether they are implied.

Such a remedy must be expressly stated in the lease to be enforceable. Without an express provision permitting acceleration, a landlord may have to sue for damages.

15. Describe whether there are any expedited remedies for tenant default and, if so, what lease provisions (such as waiver of jury trial, for example) would be required for a landlord to seek expedited remedies.

There are no expedited remedies other than those for eviction and distraint referenced above.
Jury trials are not available for either. Under N.J. Stat. Ann. § 2A:18-53, only certain defaults will permit the landlord to bring an action to evict the tenant unless the lease states otherwise.

16. Describe any formal requirements for the execution of a lease.

A lease with a term of more than three (3) years must be in writing. N.J. Stat. Ann. § 25:1-12(a). The writing must establish the leased premises, the lease term, and the identities of the lessor and lessee and must be signed by the party against whom enforcement is sought. Id. Nevertheless, nonwritten leases may be enforced if the leased premises, lease term, and identities of the lessor and lessee are proved by clear and convincing evidence. N.J. Stat. Ann. § 25:1-12(b).

17. Describe whether a memorandum of lease or other document would need to be recorded for the lease to be enforceable against third parties.

In New Jersey, any lease for life or for any term not less than two (2) years may be recorded, but is not required by law to be recorded. N.J. Stat. Ann. § 46:16-1(a). Recording of a lease gives third parties constructive notice of the lease. Regardless of whether the lease is recorded, the tenant’s actual possession of the leased premises serves as actual notice of the lease to third parties.

18. Describe any restrictions on the transfer of ownership of real properties subject to a lease. Does such a transfer affect the tenant’s rights or obligations?

A landlord may freely transfer ownership of real properties subject to a lease. The transfer does not affect the tenant’s rights or obligations.