

JUNE 2021

COVID-19, MORE THAN ONE YEAR IN

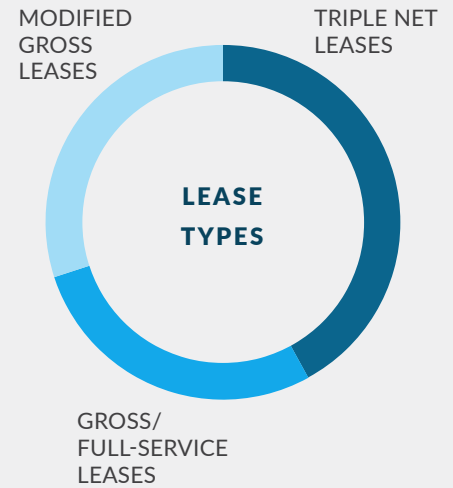
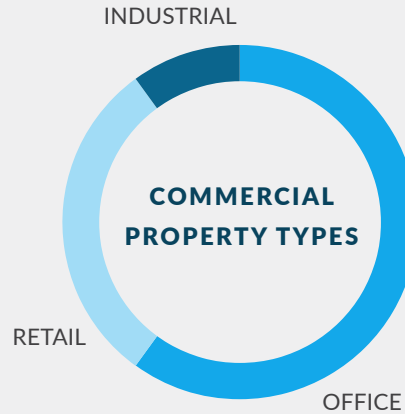
# Commercial Leasing Report

This report draws on recent interviews with seasoned commercial leasing attorneys and data from the Practical Guidance Survey of Commercial Lease Terms to provide a snapshot of the current commercial leasing market.

# Data Overview

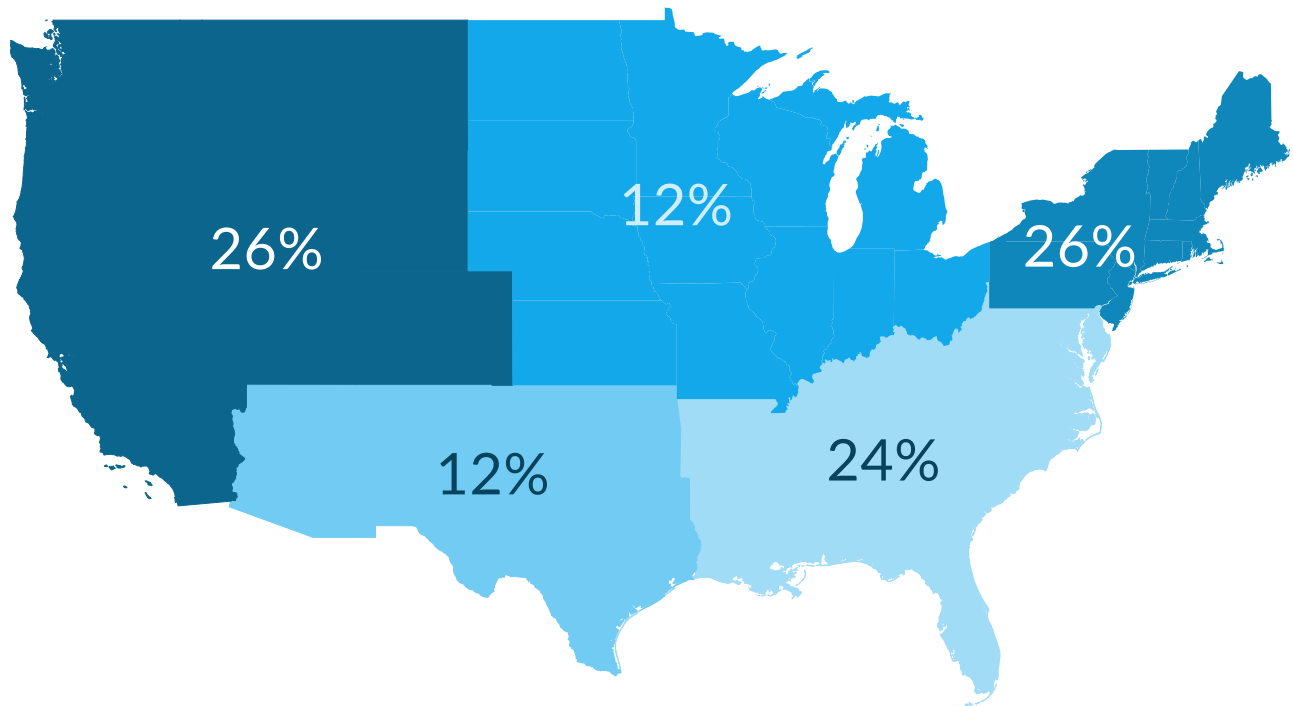
## PROPERTY AND LEASE TYPE

A variety of commercial property types are represented in this data, with office leases being the majority (60%), followed by retail (30%) and industrial (10%). In terms of lease types represented, the data includes triple net leases (42%), modified gross leases (28%), and gross or full-service leases (30%).



## LOCATION

The leased properties that are part of this study are spread across the country, with 26% located in the northeast, 26% in the west, 24% in the southeast, 12% in the midwest, and 12% in the southwest.



+ Most represented states include CA, NY, TX, and FL.

# Evolving COVID-19 Implications

The COVID-19 pandemic immediately disrupted the commercial leasing market, causing parties to restructure force majeure provisions, delay lease negotiations, and make significant changes to general lease terms such as termination rights. But where are we now, more than one year into the pandemic? And even more importantly, where are we headed? For insight into these questions and to add context to our survey data, Practical Guidance turned to several commercial leasing experts. For the full text of these interviews, [click here](#).

## CHALLENGES AND SOLUTIONS – EXPERT INSIGHTS

Not surprisingly, when asked about the biggest challenges of doing leasing work during the pandemic, practitioners cited the initial shock to and disruption of the market as well as ongoing uncertainty.



Far and away the biggest challenge presented by the pandemic was dealing with the uncertainty. As with the terrorist attacks in 2001 and the Great Recession in 2008, the pandemic was a catastrophic event that caused extraordinary uncertainty. The result was a chilling—in fact a freezing—of the markets. For a number of months, the commercial leasing market virtually stopped dead in its tracks.

ERIC MENKES  
DUVAL AND STACHENFELD, NEW YORK, NEW YORK

*In many cases, however, disruption and uncertainty have been met with cooperation and compromise.*



After the “shock” and economic stimulus programs were passed, everybody realized that it was in the best interest to cooperate. We have negotiated acceptable abatement, deferrals and extensions over the last year. In some cases, landlords have taken back space. Evictions have been rare.

DAVID BLATTNER  
BECKER & POLIAKOFF, P.C., FORT LAUDERDALE, FLORIDA



Organizations are unsure of the future of commercial real estate due to the pandemic. With so many people working remotely, employers are still navigating whether that model will sustain after the pandemic is over.

ELIZABETH SCHULTZ YEARGIN  
BROUSE MCDOWELL, AKRON, OHIO



It has been a balance of wanting to give tenants the opportunity to ride out the pandemic with smart concessions and modifications while balancing the obligations to lenders and working proactively to make sure that you have flexibility to make decisions for your properties.

KATHLEEN TARBOX MUÑOZ  
HUNTON ANDREWS KURTH, DALLAS, TEXAS

# Trending Toward Flexibility

Below are specific survey results for retail and office leases broken out by key deal point. Survey responses show that commercial landlords and tenants are finding ways to forge ahead despite the challenges and uncertainties that all parties continue to face. The survey results discussed below reveal an ongoing give-and-take, suggesting that both landlords and tenants are staying flexible in order to get the deal done.

For checklists to use when reviewing and negotiating a commercial lease on behalf of a tenant:

- ▶ [Tenant's Retail Lease Checklist](#)
- ▶ [Tenant's Office Lease Checklist](#)
- ▶ [Tenant's Industrial Lease Checklist](#)

For guidance on frustration of purpose and impossibility defenses under a commercial lease:

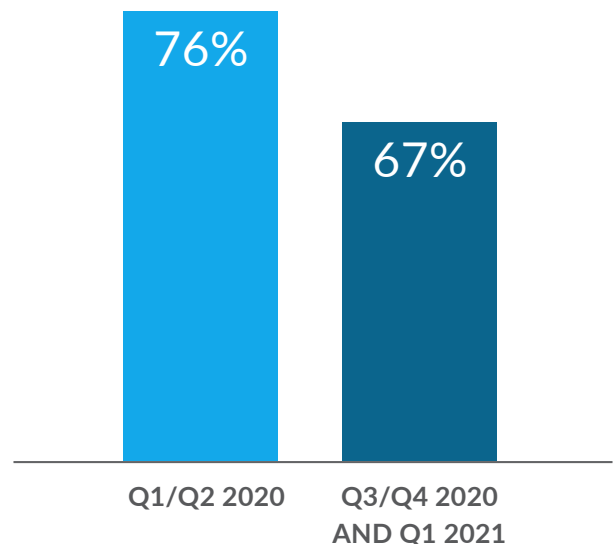
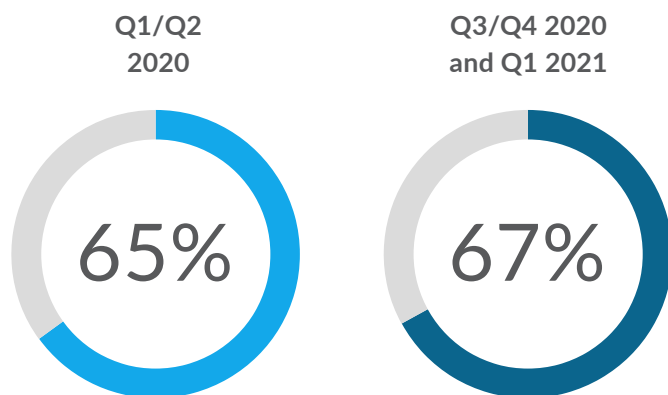
- ▶ [Frustration of Purpose and Impossibility Doctrines in the COVID-19 Era](#)

## NOTICE AND CURE RIGHTS

In Q1/Q2 of 2020, 65% of retail leases surveyed granted notice and cure rights for monetary defaults and 76% granted notice and cure rights for nonmonetary defaults. In Q3/Q4 of 2020 and Q1 of 2021, the percentage of retail leases with notice and cure rights for monetary defaults held relatively steady (67%), but the percentage with notice and cure rights for nonmonetary defaults dropped by almost 10 points to 67%.

RETAIL LEASES - CURE RIGHTS  
MONETARY DEFAULTS

RETAIL LEASES - CURE RIGHTS  
NONMONETARY DEFAULTS



To take the Survey of  
Commercial Lease Terms,  
[click here.](#)