

第十一课 E 租约终止

Lesson 11 Part e

Lease Terminations

租约的违约和终止

Lease Breaches & Terminations

租约的违约和终止

Lease Breaches & Terminations

- ▶ A commercial lease is a binding legal contract between the landlord and the tenant

商业租约是业主与租户之间具有约束力的法律合同

- ▶ It's important understand the type of lease that's to be terminated

了解要终止的租约类型很重要

租约的违约和终止

Lease Breaches & Terminations



- ▶ General Information and details in NSW

新南威尔士州的一般信息和详细信息

- ▶ Next section of slides we will cover the other states and territories in Australia

幻灯片的下一节中，我们将介绍澳大利亚的其他州和领地

- ▶ It may be governed by several different sources of law including:

它可能会受到几种不同法律来源的约束，包括：

- Contract law
合同法
- Conveyancing Act 1919 (NSW)
1919年产权转让法（新南威尔士州）
- Retail Leases Act 1994 (NSW)
1994年零售租赁法（新南威尔士州）



租约的违约和终止

Lease Breaches & Terminations

- ▶ Additional rights and procedural requirements apply to retail leases in NSW and other states... So ...

适用于新南威尔士州和其他州零售租约的附加权利和程序要求，因此：

- ▶ When terminating a lease, you must understand what type of lease it is, so you can know how to proceed.

在终止租约时，您必须了解租约的类型，以便知道如何终止终约。

何时可以终止租约？

When can a lease be terminated?

Several reasons 几个原因

- ▶ When the lease term expires
租约期满时
- ▶ There may be terms in the lease, that say under what circumstances the lease can be terminated
租约中有条款说明了在什么情况下可以终止租约
- ▶ As a tenant negotiated surrender with the landlord
租户与房东协商放弃租约
- ▶ It may be assigned to a 3rd party, such as when a tenant sells their business and a new tenant takes over the lease
租约被分配给第三方，例如当租户出售其业务并且新租户接管租约时
- ▶ When a breach of obligations occurs - Landlord or Tenant
发生违约时（房东或租户）

房东的义务

Landlord's Obligations

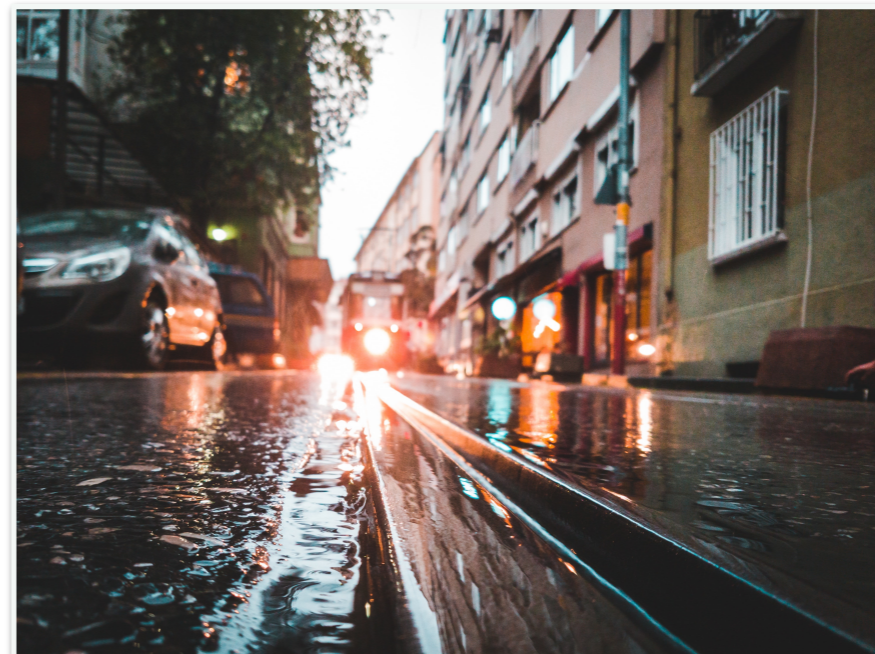
- ▶ Allow tenant quiet enjoyment of the leased premise... without substantial interference by the landlord-
使租户能够安静地享用租用的场地，而不会受到房东的实质性干预
- ▶ Terms are written into the lease 将此条款写入租约
- ▶ Also implied by common law 在习惯法中也暗示了这一点



租户的义务

Tenant's Obligations

- ▶ The tenant must pay the rent and pay on time
租户必须支付租金并按时支付
- ▶ Except for when premises are deemed unfit for occupation, eg during flood or storm damage....
除非场地被认为不适合占用，例如在洪水或风暴破坏期间
- ▶ Then all or part of the rent may be reserved until repairs are completed
可以保留全部或部分租金，直到完成维修



租户的义务

tenant's Obligations

- ▶ In addition to paying on time....
除了按时付款之外
- ▶ Keep the premises in good repair (allowing for reasonable wear and tear)
保持场地维修良好（允许有合理的磨损）
- ▶ If considerable damage, due to tenant's activities or neglect- then it's a breach of the lease
如果由于租户的活动或疏忽造成严重损坏，则租户违反了租约
- ▶ The landlord can then terminate the lease on the tenant
这样房东可以终止租户的租约

新南威尔士州的特定条件

NSW specific conditions

- ▶ Tenant must be in breach for at least 1 month & 租户必须违约至少 1 个月，并且
- ▶ After 2 months, the tenant hasn't fixed the breach 2个月后，租户仍未纠正违约行为
- ▶ Eg. Tenant has not paid their rent after 1 month... but a week before the end of the 2nd month, they pay last month's rent and this month's rent- so they are fully up to date... then the landlord does not have the right to terminate

例如。租户在 1 个月没有支付租金，但在第二个月结束前一周，他们支付了上个月的租金和本月的租金，所以他们目前支付了全部租金，那么房东无权终止租约

- ▶ If relating to repairs, the landlord must have served a notice to repair, but repairs have not been carried out within a reasonable time... then the landlord can terminate

如果与维修有关，必须是房东已经发出维修通知，但租户未在合理时间内进行维修，那么房东可以终止租约

- ▶ The landlord can then repossess the premises and cancel the lease

然后房东可以收回场地并取消租约

- ▶ And the tenant may be liable for the landlords losses or damages

租户可能需要对房东的损失或损害承担责任



房东终止程序

Landlord Termination procedure

- ▶ End of term
租期结束
- ▶ After original lease expires
原租约到期后
- ▶ Non- payment of rent
未支付租金
- ▶ Tenant breaches other obligations
租户违反其他义务
- ▶ When lease has a demolition clause - specifying that the landlord will be renovating or demolishing the property
当租约中有说明房东将翻新或拆除物业的拆除条款时

房东终止 – 租期结束

Landlord Termination - end of term

- ▶ For retail leases, the landlord must notify the tenant in writing, 6 to 12 months before expiry date- Must give this notice.

如果是零售租约，房东必须在到期日前 6 至 12 个月以书面形式通知租户，此通知是必须发出的。

- ▶ If not- the tenant can make a request to extend the lease.

如果不是，租户可以提出延长租约的请求。

- ▶ Eg if Landlord give notice 4 month from expiry... the tenant may request a 2 month extension beyond the expiry of the lease.

例如，如果房东在距到期日4 个月时发出通知，那么租户可以要求在租约到期后延长 2 个月。

- ▶ But tenant must request that extension in writing where the lease ends

但租户必须在租约结束时以书面形式要求延长租约



房东终止 – 租约到期后

Landlord Termination - After Lease Expires

- ▶ If tenant in possession of property and hasn't moved out, and are still paying rent...

如果租户占有物业且没有搬出，并且仍在支付租金.....

- ▶ Then they are considered to be on an on-going monthly lease

那么可以认为租户正在进行按月支付租约

- ▶ Under these circumstances, either party (landlord or tenant) can terminate the lease with one month's written notice.

在这种情况下，任何一方（房东或租户）都可以在一个月的书面通知的情况下终止租约。



房东终止 – 未支付租金

Landlord Termination - non-payment of rent

Does the lease contain a right for forfeiture? 租约中是否包含没收权？

- ▶ If so... then the landlord can repossess as per terms of the lease
如果包括，那么房东可以根据租约条款收回物业
- ▶ No need to give written notice, unless the lease specifies it.
除非租约中有明确规定，否则无需发出书面通知
- ▶ If there is no right of forfeiture written into the lease, the landlord can still repossess if...
如果在租约中没有写明有没收权，下列情况房东仍可以收回物业：
- ▶ If rent has been in arrears for at least 1 months and not fixed within 2
如果已拖欠租金至少 1 个月且未在第2个月内补交
- ▶ There's no requirement on the lease to give notice for non-payment
租约中没有要求发出未付款通知



房东终止 – 未支付租金

Landlord Termination - non-payment of rent

Does the lease contain a right for forfeiture?

租约中是否包含没收权？

- ▶ Understand the details of your lease

了解您的租约详情

- ▶ Speak with your solicitor to go through the specifics with you if you are unclear.

如果您对此不清楚，请与您的律师讨论具体细节

- ▶ Your solicitor will send out breach notices on your behalf

您的律师将代表您发出违约通知

房东终止 – 违反其他义务

Landlord Termination - breach of other obligations

A notice must be served on the tenant before the landlord can re-possess

房东在回收物业之前，必须向租户送达通知

- ▶ Must specify the breach
必须指明违约行为
- ▶ Require the tenant to remedy the breach
要求租户纠正违约行为
- ▶ Require them to pay compensation if applicable
如有必要，要求租户支付赔偿金
- ▶ Give the tenant reasonable time to remedy the above breach
给租户合理的时间来纠正上述行为
- ▶ Must not waive the breach
不得放弃租约
- ▶ Reference section 29 of the *Conveyancing Act 1919* and describe consequences if no remedy landlord permitted to. Re-enter property etc

参考 《1919 年产权转让法》第 29 条并说明如果不采取补救措施的后果，例如房东可以重新收回物业等



房东终止 – 不追究违约

Landlord Termination - waiving a breach

Beware of Waiving a Breach 谨防不追究违约

- ▶ A landlord can lose the right to forfeit a lease when..
在以下情况下，房东可能会失去没收租约的权利
 - There shown to be aware of the breach by the tenant 表明知道租户的违约行为
 - They act in away that shows the tendency may still be considered to be ongoing
他们的行为表明这种趋势可能被认为是持续性的
- ▶ The landlord must act specifically to forfeit the lease...
房东必须采取具体行动来没收租约
 - Must re-enter the premises, or 必须重新进入场地
 - Start action to repossess the premises 开始采取行动回收场地
- ▶ There landlord must be unequivocal, if they wish to terminate the lease due to a breach (You cannot afford to be vague)

如果房东因违约而希望终止租约，房东必须明确这一点（您不能含糊其词）



房东终止 – 拆迁条款

Landlord Termination - demolition clause

- ▶ Only applies to a “Retail Shop Lease”
仅适用于“零售店租约”
- ▶ And the lease has a demolition clause written into it
并且租约中写明了拆迁条款
- ▶ Termination of lease prior to it's expiry is possible
可能在租约到期前终止租约
- ▶ Demolition also includes major repairs or renovations
拆迁还包括大修或翻新
- ▶ 6 months written notice to tenant
向租户发送6个月书面通知
- ▶ Tenant has right to terminate within 7 days at anytime
租户有权在7天内随时终止租约
- ▶ Demolition details must be provided to tenant
必须向租户提供拆迁详情

clause 房东终止 – 拆迁条款

Landlord Termination - demolition

- ▶ Demolition must be carried out within a reasonable time of the termination date
- ▶ If lease required tenant to fit out the shop, landlord ,may be liable to pay the tenant compensation

拆迁必须在终止日期后的合理时间内进行

如果租约要求租户装修店铺，房东可能有责任向租户支付赔偿金

租户终止程序

Tenant Termination procedures

End of term 租期结束

- ▶ For fixed lease term with no options 对于没有续租的固定租期
- ▶ Tenant provides written notice of intention to terminate
租户提供书面意向通知来终止租约
- ▶ If lease has expired, then on a month to month basis and tenant can provide 1 month's notice 如果租约期满后逐月续租，租户可以发送1个月通知

Early termination 提前终止

- ▶ Tenant may be liable for compensation unless.. 租户可能要承担赔偿责任，除非是以下情况：
- ▶ Both parties have agreed and negotiated 双方协商一致
- ▶ Or there is a break or termination clause in the lease 租约中有中断或终止条款
- ▶ The landlord has breached obligations 房东违反义务
- ▶ The tenant transfers the lease to a 3rd party (when a business is sold)
租户将租约转让给第三方（出售企业时）



租户终止程序

Tenant Termination procedures

Transfer to a 3rd party 转让给第三方

- ▶ The landlord must agree and a deed of assignment is drawn up by a solicitor and signed
必须获得房东同意并由律师起草契约，并在上面签字
- ▶ For Retail Leases: 对于零售租约
 - The tenant must provide the new business owner with Disclosure statements
租户必须向新企业主提供披露声明
 - Seek consent to the transfer in writing & provide information about the new tenant to the landlord
以书面形式寻求同意，并向房东提供新租户的信息
 - No landlord response in 28 days, means consent has been given
房东在28天内没有回复则表示同意

租户终止程序

Tenant Termination procedures

Transfer to a 3rd party 转让给第三方

► For Retail Leases Landlord can refuse consent if:

对于零售租约，如果出现以下情况，房东可以拒绝同意：

- The tenant will change the use of the shop or...
租户想要改变商店的用途
- The new tenant has inferior resources or retailing skills
新租户的资料或零售技能较差

租户终止程序

Tenant Termination procedures

Tenant can abandon the property 租户可以放弃物业

- ▶ If so, tenant is liable for rent until premises are leased out again
如果是这样，租户有义务承担租金，直到物业再次出租



终止的补救方法

Remedies for Termination

- ▶ Do the terms of the lease provide costs for damages?
租约条款是否规定了损坏赔偿费用？
- ▶ **If not- then contract law applies. 如果没有，则适用合同法**
- ▶ Damages: 损坏
 - Tenant terminates early or there was a breach
租户提前终止或出现违约
 - Amount owing is based on rent remaining
欠款基于剩余租金
 - Except when the tenant abandons premises, landlord must minimise or mitigate their losses... by seeking to rent out the premises to a new tenant
除非租户放弃物业，否则房东必须力求将物业出租给新租户，以便尽量减少或减轻他们的损失
 - If new lease is at a lower rent, the difference can be claimed.
如果新租约的租金较低，可以就差额进行索赔

终止的补救方法

Remedies for Termination

- ▶ Do the terms of the lease provide costs for damages? 租约条款是否规定了损坏赔偿费用?
- ▶ **If not- then contract law applies.** 如果没有，则适用合同法
- ▶ Mesne (pronounced Mene) profits apply: 中间收益适用于：
 - When lease terminated due to non-payment of rent
因未支付租金而终止租约时
 - But tenant is still occupying premises and they won't leave... they are still conducting business essentially “squatting” and trespassing
但租户仍占用物业并且不打算离开，他们仍在开展业务，这在本质上是“非法占用”和非法入侵
 - In this case, the landlord claims trespassing from the date of termination, until date the landlord regains possession of the premises
如果是这种情况，房东可以就租约终止之日起的非法入侵主张索赔，直到房东重新获得物业
 - Claim based on actual rate of return and includes repossession costs... eg. If higher rate to a new tenant, can claim this
索赔基于回报的实际利率，包括回收成本。例如，如果新租户的费率更高，则可以
以此费率索赔

其他州的租赁终止

Lease Termination In other states

- ▶ Many of the common law obligations on landlords and tenants, are the same across Australia.

房东和租户的许多普通法义务在澳大利亚是相同的

- ▶ But legislations for retail leases does differ across states.

但零售租赁的立法在各州是不同的



维多利亚州的租约终止

Lease Termination In Victoria



- ▶ Leases are covered by legislations depending on the type of lease
根据租约类型，租约受法律保护
- ▶ Retail Tenancies Act 2003 - covers all retail premises
《2003 年零售租赁法》涵盖了所有零售场所
- ▶ Property Law act 1958- which covers different types of leases
《1958 年物权法》涵盖了不同类型的租约
- ▶ Common Law - which covers any aspect of leases, not covered by these acts.
《普通法》涵盖了这些法案未涵盖的租赁的任何方面。

维多利亚州的租约终止

Lease Termination In Victoria



Retail Lease Expiration: 零售租约到期

- ▶ Minimum term of 5 years 最短期限为5年
- ▶ A landlord or tenant can terminate a lease, prior to the end of term, in the event of a default, relocation, or damage to the retail premise....如果零售场所发生违约、搬迁或损坏，房东或租户可以在租期结束前终止租约

As lease approaches its expiry date: 随着租约临近到期日

- ▶ Landlord gives written notice to the tenant, within 6 to 12 months of end of lease. 房东在租约结束前的6-12个月向租户发出书面通知
- ▶ Offering a lease renewal, specified on the notice.
通知中写明提议的租约续期
- ▶ Offer to renew lease, remains valid for 60 days.
提议的租约续期有效期为60天
- ▶ Or informing the tenant that the landlord does not intend to offer a lease renewal. 或是通知租户房东不打算续租

维多利亚州的租约终止

Lease Termination In Victoria



If Landlord fails to give notice within the time required:

如果房东没有在规定时间内发出通知

- ▶ The lease continues for 6 months after the notice is given...
租约在发出通知后持续6个月
- ▶ Or the tenant can give written notice to terminate on or after, the expiry date.
租户也可以在到期日或之后发出书面通知终止租约
- ▶ **Assignment on Transfer of Leases: 租约转移的转让方法**
- ▶ Tenant requests consent from Landlord 租户请求房东同意
- ▶ Tenant provides all information on new tenant, including their business experience and resources. 租户提供新租户的所有信息，包括他们的业务经验和资源
- ▶ Tenant must provide the Assignee (New tenant who is buying their business) a disclosure statement concerning the lease... or ask the landlord to provide a current disclosure statement 租户必须向受让人（购买其业务的新租户）提供租约的相关披露声明，或要求房东提供当前的披露声明。

维多利亚州的租约终止

Lease Termination In Victoria



► Assignment on Transfer of Leases: 租约转移的转让方法

If Landlord fails to give a disclosure statement within 14 days: 如果房东未能在14天内提供披露声明

- The landlord may be fined up to 10 penalty units. 房东可能会被处以10个罚款单位的罚款
- No response from landlord in 28 days = consent to the tenants request 房东在28天内未回复则等于同意租户的请求

Forfeiture - To forfeit the lease & Re-enter premises: 没收 – 没收租约并重新进入场地

- Landlord gives prior written notice of breach to the tenant, specifying the... 房东事先向租户发出书面通知，说明：
 - Breach on the lease 违反租约
 - The minimum time required for the tenant to remedy the breach 租户补救违约行为的所需最短时间
 - Compensation required to be paid by tenant 需要租户支付的赔偿金

维多利亚州的租约终止

Lease Termination In Victoria



Forfeiture - To forfeit the lease & Re-enter premises:

没收 – 没收租约并重新进入场地

- ▶ Landlord must give tenant reasonable time to comply with the notice (At least 14 days)
房东必须给租户合理的时间按照通知行事（至少 14 天）
- ▶ Tenant can apply to go to court for relief against forfeiture
租户可以就没收向法院申请减免
- ▶ Landlord is entitled to claim and recover any costs associated with forfeiture
房东有权要求并收回与没收有关的任何费用

昆士兰州的租约终止

Lease Termination In Queensland



- ▶ Leases are covered by
租约受到以下法令管辖
- ▶ Retail shop Leases Act 1994 - covers all retail premises
《1994年零售租赁法》涵盖了所有零售场所
- ▶ Property Law Act 1974 - which covers different types of leases
《1974年物权法》涵盖了不同类型的租约
- ▶ Common Law - which covers any aspect of leases, not covered by these acts.
《普通法》涵盖了这些法案未涵盖的租赁的任何方面。

昆士兰州的租约终止 Lease Termination In Queensland



Retail Lease Expiration: 零售租约到期

- ▶ No minimum lease term (QLD unique from other states)
没有最短租期（昆士兰州与其他州不同）

Options to renew...

选择续租

- ▶ 6 months prior to option date, landlord must give tenant written notice of the option date
在续租日期前6个月，房东必须以书面形式通知租户续租日期
- ▶ Up to 40 penalty units apply, if landlord does not comply with this.
如果房东不遵守此规定，最多适用于40个罚款单位的罚款

昆士兰州的租约终止 Lease Termination In Queensland



No Options Expiry approaching...没有续租，租约即将到期

- ▶ Landlord must give written notice either offering a renewal, or extension of the lease with terms - or informing tenant there is no renewal on offer

房东必须发出书面通知，提供续期或延长租约的条款，或是通知租户没有续租

- ▶ If lease is less than 1 year... need to give notice between 3-6 months prior to end of term

如果租约短于1年，则需要在租期结束前3-6年月通知

- ▶ More than 1 year.... need to give notice between 6-12 months prior to end of term

如果租约超过1年，需要在租期结束前6-12月发出通知

- ▶ If landlord fails to comply with this... tenant has 6 months from the late notice - or - tenant gives 1 month notice to terminate the lease.

如果房东未能遵守此规定，租户在收到延迟的通知后有6个月的时间，租户也可以发出1个月通知终止租约



昆士兰州的租约终止

Lease Termination In Queensland



Assignment / Transfer to new tenant...转让/转移给新租户

▶ Disclosure Statements (DS) before asking the landlord for consent:

征得房东同意前的披露声明 (DS)

- Tenant gives DS to assignee (new business buyer), 7 days before seeking consent
租户在征求同意前7天将披露声明交给受让人 (新业务买家)
- Assignee provides DS to tenant, before the landlord is asked to consent to the assignment

在要求房东同意转让前，受让人向租户提供披露声明

▶ Before Assignment & Transfer

在转让/转移前

- Landlord gives DS + a copy of the lease to assignee, 7 days before transfer
在转让前7天，房东将披露声明和租约副本交给受让人
- Assignee must give a DS to the landlord

受让人必须向房东提供披露声明

昆士兰州的租约终止 Lease Termination In Queensland



Forfeiture - To forfeit the lease & Re-enter premises:

没收 – 没收租约并重新进入场地

- ▶ Landlord to give written notice, specifying breach, remedies and compensation.
房东发出书面通知，说明违约、补救措施和赔偿
- ▶ Landlord must give tenant reasonable time to comply with the notice (At least 14 days)
房东必须给租户合理的时间按照通知行事（至少 14 天）
- ▶ Tenant can apply to court for relief against forfeiture
租户可以就没收向法院申请减免

南澳大利亚州的租约终止

Lease Termination In South Australia



- ▶ Leases are covered by
租约受到以下法令管辖
- ▶ Retail & Commercial Leases Act 1995 - covers all retail premises and certain commercial leases
《1995年零售商业租赁法》涵盖了所有零售场所
- ▶ Landlord & Tenant Act 1936 - covers all leases that aren't residential tenancy agreements
《1936年房东与房客法》 - 涵盖了所有非民用租赁协议的租约
- ▶ Common Law - which covers any aspect of leases, not covered by these acts.
《普通法》涵盖了这些法案未涵盖的租赁的任何方面。

南澳大利亚州的租约终止

Lease Termination In South Australia



Retail Lease Expiration:

零售租约到期：

- ▶ Minimum lease term 5 years
最短租期为5年

As lease approaches its expiry date:

随着租约临近到期日：

- ▶ Landlord gives written notice to the tenant, within 6 to 12 months of end of lease.
房东在租约结束前的6-12个月向租户发出书面通知
- ▶ Offering a lease renewal
提供租约续期
- ▶ Offer to renew lease, remains valid for 1 month
续租提议有效期为1个月
- ▶ Or informing the tenant that the landlord does not intend to offer a lease renewal.
或是通知租户房东不打算续租

南澳大利亚州的租约终止

Lease Termination In South Australia



If Landlord fails to give notice within the time required:

如果房东没有在规定时间内发出通知：

- ▶ The lease continues for 6 months after the notice is given...
租约在发出通知后持续6个月
- ▶ Or the tenant can give written notice to terminate with 1 month's notice
租户也可以发出书面1个月通知来终止租约

Assignment on Transfer of Leases:

租约转移的转让方法

- ▶ Tenant requests consent from Landlord in writing
租户请求房东的书面同意
- ▶ Tenant provides all information on new tenant, that the landlord requires, including their business experience and financial resources.
租户提供房东要求的所有新租户信息，包括他们的业务经验和财政资源
- ▶ If 42 days pass, with no response for landlord = Consent given by landlord to new assignee
如果房东在42天后仍未答复，即表明房东同意此新的受让人



南澳大利亚州的租约终止

Lease Termination In South Australia



► Assignment on Transfer of Leases:

租约转移的转让方法

► Grounds for landlord refusing

房东拒绝的理由

- Changing use of premises
改变场地用途
- Proposed Assignee cannot meet financial obligations under the lease
提议的受让人无法满足租约中的财务义务
- Or Assignee lacks retail skills and experience
受让人缺乏零售技能和经验
- Or if current tenant hasn't complied with procedural requirements
当前租户没有遵守程序要求

南澳大利亚州的租约终止

Lease Termination In South Australia



Forfeiture - To forfeit the lease & Re-enter premises:

没收 – 没收租约并重新进入场地

- ▶ Tenant needs to be 6 months in arrears of rental payments
租户拖欠了6个月的应付租金
- ▶ Landlord can force forfeiture and bring proceedings against the tenant to re-enter the premises and seek compensation for the rent
房东可以强制没收并对租户提起诉讼，以便重新进入场地并要求赔偿租金
- ▶ Landlord must give prior written notice, specifying the breach, the remedies and compensation
房东必须事先给出书面通知，说明违约、补救措施和赔偿
- ▶ Allow reasonable time to comply, before landlord commences proceedings
在房东开始诉讼前留出合理的时间来履行租约

西澳大利亚州的租约终止

Lease Termination In Western Australia



- ▶ Leases are covered by...

租约受到以下法令管辖

- ▶ Commercial Tenancy (Retail Shops) Agreements Act 1985 - covers all retail premises

《1985年商业租赁（零售店）协议法案》 - 涵盖了所有零售场所

- ▶ Property Law Act 1969

《1969年物权法》

- ▶ Common Law - which covers any aspect of leases, not covered by these acts.

《普通法》涵盖了这些法案未涵盖的租赁的任何方面

西澳大利亚州的租约终止

Lease Termination In Western Australia



Retail Lease Expiration:

零售租约到期：

- ▶ Minimum lease term 5 years... but can actually be between 6 months & 5 years, with tenant option to extend (so total term amounts to 5 years)

最短5年租期，但实际租期可以在6个月和5年之间，租户可以选择延长（因此总租期为5年）

- ▶ If lease doesn't include option to renew, tenant requests a statement of expiry intentions (within 12 months before the expiry of the lease)

如果租约中不包括续租选项，租户可以要求提供到期意向声明（在租约到期前12个月内）

- Landlord must provide statement within 30 days
房东必须在30天内提供声明
- Failure to provide a statement = lease extended for period of failure to comply
未能提供声明 = 未能遵守而延长租约
- Tenant can give written notice to terminate
租户可以书面通知终止租约



西澳大利亚州的租约终止

Lease Termination In Western Australia



Options to renew...

选择续租

- ▶ 6 to 12 months prior to option date, landlord must give tenant written notice of the option date to exercise the option
在续租日期前 6 至 12 个月，房东必须向租户发出续租日期的书面通知，以便进行续租
- ▶ If landlord knows ahead, that they wish to terminate the lease... Earlier termination can be written into the lease, if the WA State Administration Tribunal approves (eg a demolition clause)

如果西澳州行政法庭批准（例如拆除条款），在房东提前知道他们希望终止租约的情况下，可以将提前终止写入租约

西澳大利亚州的租约终止

Lease Termination In Western Australia



Assignment on Transfer of Leases:

租约转移的转让方法

- ▶ Tenant requests consent from Landlord in writing
租户请求房东的书面同意
- ▶ Landlord can only withhold consent on “Reasonable Grounds”
房东只能以“合理理由”拒绝同意
- ▶ (Reasonable Grounds, not specified, but likely to be similar to those in other states)
(对“合理理由”没有规定，但可能与其他州的类似)

西澳大利亚州的租约终止

Lease Termination In Western Australia



Forfeiture - To forfeit the lease & Re-enter premises:

没收 – 没收租约并重新进入场地

- ▶ Landlord must give prior written notice, specifying the breach, the remedies and compensation

房东必须发出书面通知，说明违约、补救措施和赔偿

- ▶ Allow reasonable time to comply, before landlord commences proceedings

在房东开始诉讼前留给租户合理的时间按照通知行事

塔基马尼亚州的租约终止

Lease Termination In Tasmania



- ▶ Leases are covered by...
租约受到以下法令管辖
- ▶ Fair Trading (Code of Practice for Retail Tenancies) Regulations Act 1998 - covers all retail premises
《1998年公平交易（零售租赁实务守则）条例法案》 - 涵盖了所有零售场所
- ▶ Conveyancing and Law of Property Etc 1884
《1984年产权转让和物权法等》
- ▶ Common Law - which covers any aspect of leases, not covered by these acts.
《普通法》 - 涵盖了这些法案未涵盖的租赁的任何方面。

塔基马尼亚州的租约终止

Lease Termination In Tasmania



Retail Lease Expiration:

零售租约到期

- ▶ Minimum lease term 5 years

最短租期5年

- ▶ Tenants must exercise options, 4 to 6 months before expiry, by putting in a written request to the landlord

租户必须在到期前 4 至 6 个月通过向房东提出书面请求来续租

- ▶ Landlord notifies tenant of renewal intentions, 3 months before expiry... eg, renew, or operate on a monthly tenancy

房东在到期前 3 个月通知租户续约意向.....例如，续租或按月租赁

- ▶ Tenant has 30 days to respond, otherwise lease is not renewed

租户有 30 天的时间作出回应，否则不续租



塔基马尼亚州的租约终止 Lease Termination In Tasmania



Assignment on Transfer of Leases:

租约转移的转让方法

- ▶ Tenant requests consent from Landlord in writing
租户请求房东的书面同意
- ▶ Landlord has 14 days to request information on the Assignee
房东有14天的时间要求提供受让人的信息
- ▶ No objection in 21 days = Landlords consent to Assignee as new tenant
21天内无异议 = 房东同意受让人成为新租户
- ▶ Landlord cannot withhold consent unreasonably
房东不能无理由拒绝

塔基马尼亚州的租约终止 Lease Termination In Tasmania



Forfeiture - To forfeit the lease & Re-enter premises:

没收 – 没收租约并重新进入场地

- ▶ Landlord must give prior written notice, specifying the breach, the remedies and compensation

房东必须事先发出书面通知，说明违约、补救措施和赔偿

- ▶ Allow reasonable time to comply, before landlord commences proceedings

在房东开始诉讼前留给租户合理的时间按照通知行事

澳大利亚首都地区的租约终止

Lease Termination In ACT



- ▶ Leases are covered by...

租约受到以下法令管辖

- ▶ Lease (Commercial & Retail) Act 2001 - covers all retail premises and some specific Commercial leases

《2001年租赁（商业和零售）法》 - 涵盖了所有零售场所和一些特定的商业租赁

- ▶ Civil Law (Property) Act 2006

《2006年民法（财产）法案》

- ▶ Common Law - which covers any aspect of leases, not covered by these acts.

普通法 - 涵盖了这些法案未涵盖的租赁的任何方面。

澳大利亚首都地区的租约终止 Lease Termination In ACT



Retail Lease Expiration:

零售租约到期

- ▶ Minimum lease term 5 years
最短租期5年
- ▶ Can terminate early if there's mutual agreement
如果双方同意，可以提前终止
- ▶ 3 to 6 months before expiry, Tenant can ask landlord as to their intention on the lease expiry
租户可以在到期前3-6个月，向房东询问租约到期后的打算
- ▶ Landlord has 1 month to respond to tenant's request
房东有1个月的时间来回复租户的要求

澳大利亚首都地区的租约终止 Lease Termination In ACT



If Landlord wishes to terminate lease:

如果房东希望终止租约:

- ▶ Landlord must give termination notice to the tenant
房东必须向租户发出终止通知
- ▶ Tenant may agree to termination or... contest the termination within the magistrates court - within 14 days
租户可以在14天内同意终止，也可以在地方法庭上对终止提出异议
- ▶ If court issues termination order, landlord can evict
如果法院发出终止令，房东可以驱逐租户
- ▶ If tenant abandons the premises, the lease terminates on abandonment + landlord recovers premises and cost recovery for advertising and reletting to another tenant

如果租户放弃场地，则租约在放弃时终止，房东可以收回场地和广告费用，并将其转租给其他租户

澳大利亚首都地区的租约终止 Lease Termination In ACT



If Tenant wishes to terminate lease:

如果租户希望终止租约:

- ▶ Gives landlord 1 months notice after expiry date
在租约到期后1个月内通知房东
- ▶ Failure of landlord to provide an accurate disclosure statement can give grounds for tenant to terminate
如果房东未能提供准确的披露声明，那么租户有理由终止合同
- ▶ Landlord can contest termination in magistrates court
房东可以在地方法院对终止租约提出异议

澳大利亚首都地区的租约终止 Lease Termination In ACT



Assignment on Transfer of Leases:

租约转移的转让方法

- ▶ Tenant requests consent from Landlord in writing
租户请求房东的书面同意
- ▶ Landlord can only withhold consent on the following grounds:
房东只能基于以下理由拒绝同意：
 - Change of use of premises (that's not allowed under the existing lease)
改变场地用途（现有租约不允许这样做）
 - Lack of financial resources or skills to run the business 缺乏经营业务的财务资源或技能
 - Assignee Cannot produce a certificate of occupancy 受让人无法出示占用证明
 - Assignee not compatible with other tenants in the building
受让人无法与大楼内的其他租户和谐共处
 - Or tenant has failed to rectify a breach of the lease
租户未能纠正违反租约的行为

澳大利亚首都地区的租约终止 Lease Termination In ACT



Forfeiture - To forfeit the lease & Re-enter premises:

没收 – 没收租约并重新进入场地

- ▶ Landlord must give prior written notice, specifying the breach, the remedies and compensation

房东必须事先发出书面通知，说明违约、补救措施和赔偿

- ▶ Does not apply to non-payment of rent

不适用于未支付租金的情况

- ▶ Allow reasonable time to comply, before landlord commences proceedings

在房东开始诉讼前留给租户合理的时间按照通知行事

北领地的租约终止

Lease Termination In Northern Territory



- ▶ Leases are covered by...
租约受到以下法令管辖
- ▶ Business Tenancies (Fair Dealings) Act 2003 - covers all retail leases
《2003年商业租赁（公平交易）法》 - 涵盖了所有零售租赁
- ▶ Property Law Act
《物权法》
- ▶ Common Law - which covers any aspect of leases, not covered by these acts.
《普通法》 - 涵盖了这些法案未涵盖的租赁的任何方面。

北领地的租约终止

Lease Termination In Northern Territory



Retail Lease Expiration:

零售租约到期：

- ▶ Minimum lease term 5 years

最短租期为5年

- ▶ Landlord provides notice on intentions 6 to 12 months before expiry

房东在到期前 6 至 12 个月提供意向通知

- ▶ Failure to comply with this timeframe, extends term by 6 months, from the date the landlord does give notice

如果未能遵守此期限，则租约自房东发出通知之日起将期限延长 6 个月

北领地的租约终止

Lease Termination In Northern Territory



Assignment on Transfer of Leases:

租约转移的转让方法

- ▶ Tenant requests consent from Landlord in writing
租户请求房东的书面同意
- ▶ No objection in 42 days = consent form landlord
42天内无异议 = 房东同意
- ▶ Tenant provides Disclosure Statement (DS) and any changes and updates to the Landlord and the Assignee
租户向房东和受让人提供披露声明以及任何更改和更新

北领地的租约终止

Lease Termination In Northern Territory



Assignment on Transfer of Leases:

租约转移的转让方法

► Landlord can only withhold consent on the following grounds:

房东只能基于以下理由拒绝同意：

- Change of use of premises (that's not allowed under the existing lease)
改变场地用途（现有租约不允许这样做）
- Lack of financial resources or skills to run the business
缺乏经营业务的财务资源或技能
- Or tenant has failed to provide the information required
租户未能提供所需的信息

北领地的租约终止

Lease Termination In Northern Territory



Forfeiture - To forfeit the lease & Re-enter premises:

没收 – 没收租约并重新进入场地

- ▶ Landlord can only re-enter premises, if they have applied for a court order, or...

房东只有在申请了法院令和以下情况下才能重新进入场地

- ▶ On abandonment of the premises by the tenant

租房放弃场地

- ▶ If breach, Landlord must serve notice, specifying the breach, the remedies and compensation

如果违约，房东必须发出通知，说明违约、补救措施和赔偿

- ▶ Allow reasonable time to comply, before landlord applies to court for repossession of premises

在房东向法院申请收回场地之前，留给租户合理的时间按照通知行事



总结

Summary

- ▶ Laws are similar but procedures vary
法律是相似的，但程序有所不同
- ▶ Retail leases have separate laws
零售租赁有单独的法律
- ▶ Most states (except QLD) have a minimum of 5 years
大多数州（昆士兰州除外）的租期最短为 5 年
- ▶ Landlord must inform tenant of intentions within a proper time frame
房东必须在适当的时间范围内通知租户其意图
- ▶ Landlord serves notice before forfeiture
房东在没收前应发送通知

So understand what type of lease you are dealing with... then understand the laws of the state you are investing in.

因此，了解您正在处理的租约类型.....然后了解您进行投资州的法律。

