

Wednesday, October 23, 2019
3:30 PM – 4:45 PM

Workshop 8

**Enhance Your Credit: Lease Guaranties,
Security Deposits and Other Performance Enhancements**

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- I. Introduction to Lease Guaranties, Security Deposits and Other Performance Enhancements
- II. Lease Guaranties, Letters of Credit and Security Deposits
 - A. Guaranties
 1. General Requirements
 2. Type and Scope of Guaranty
 - a. Payment and Performance Guaranties
 - b. Guarantor Obligations and Caps on Liability
 3. Term of Guaranty
 4. Defenses
 - a. Waivers
 - b. Lease Amendments without Guarantor Consent
 - c. Assignment and Sublease
 - d. Waiver of Subrogation and Subordination
 - e. Tenant Bankruptcy
 - B. Security Deposits
 1. General
 2. Size and Duration of Security Deposits
 3. Lease Provisions Governing Security Deposits
 4. Creditor's Rights
 - C. Letter of Credit as Security for Lease Obligations

1. General
2. Lease Provisions Concerning Letters of Credit
3. Letter of Credit Provisions
4. Bankruptcy Issues

III. Construction Bonds, Escrow Accounts and Other Techniques to Secure Performance of Construction Obligations

- A. Introduction – Landlord and Tenant Concerns
- B. Escrow Accounts
- C. Construction Bonds
- D. Self-Help Rights

IV. Conclusion

Exhibit A – Sample Form of Lease Guaranty