

HARTMAN COMMERCIAL PROPERTIES REIT

Form S-11/A

June 25, 2004

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As filed with the Securities and Exchange Commission on June 25, 2004

Registration No. 333-111674

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

**AMENDMENT NO. 2 TO
FORM S-11
FOR REGISTRATION UNDER THE SECURITIES ACT OF 1933
OF SECURITIES OF CERTAIN REAL ESTATE COMPANIES**

Hartman Commercial Properties REIT
(Exact Name of Registrant as Specified in Its Governing Instruments)

**1450 West Sam Houston Parkway North, Suite 100
Houston, Texas 77043
(713) 467-2222**

(Address, Including Zip Code and Telephone Number,
Including Area Code, of Registrant's Principal Executive Offices)

**Allen R. Hartman, President
Hartman Commercial Properties REIT
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(713) 467-2222**

(Name, Address, Including Zip Code and Telephone Number,
Including Area Code, of Agent for Service)

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Approximate date of commencement of proposed sale to the public: As soon as practicable following effectiveness of this Registration Statement.

If this form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. o

If this form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. o

If delivery of the prospectus is expected to be made pursuant to Rule 434, check the following box. o

CALCULATION OF REGISTRATION FEE

Title of Securities Being Registered	Amount Being Registered	Proposed Maximum Offering Price Per Share	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee
Common Shares of Beneficial Interest, par value \$.001 per share	10,000,000	\$ 10.00	\$ 100,000,000	\$ 8,090.00(1)
Common Shares of Beneficial Interest, par value \$.001 per share (2)	1,000,000	\$ 9.50	\$ 9,500,000	\$ 768.55(1)

(1) Previously paid.

(2) Represents shares issuable pursuant to our dividend reinvestment plan.

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant files a further amendment that specifically states that this Registration Statement will thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the Registration Statement becomes effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

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The information in this prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities, and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

SUBJECT TO COMPLETION, DATED JUNE 25, 2004

Hartman Commercial Properties REIT

Maximum Offering of 11,000,000 Common Shares of Beneficial Interest

Minimum Offering of 200,000 Common Shares of Beneficial Interest

Minimum Purchase of 100 Shares (\$1,000) in Most States

Hartman Commercial Properties REIT is a Maryland real estate investment trust that was originally organized in 1998 as a Texas real estate investment trust under the name Hartman Commercial Properties REIT. We invest in and operate retail, industrial and office properties located primarily in the Houston and San Antonio, Texas metropolitan areas. We intend to expand our investments to retail, industrial and office properties located in major metropolitan cities in the United States, principally in the Southern United States. As of April 30, 2004, we owned 33 real estate properties.

We are offering up to 10,000,000 common shares of beneficial interest and a minimum of 200,000 common shares of beneficial interest on a best efforts basis at a price of \$10.00 per share. We also are offering up to 1,000,000 common shares of beneficial interest to be issued under our dividend reinvestment plan at a purchase price of \$9.50 per share. The shares will be offered to investors on a best efforts basis. This offering will terminate on or before , 2006.

	Per Share	Total Minimum	Total Maximum
	<hr/>	<hr/>	<hr/>
Primary Offering			
Price to Public	\$ 10.00	\$ 2,000,000	\$ 100,000,000
Selling Commissions*	.35	70,000	3,500,000
Dealer Manager Fee	.25	50,000	2,500,000
	<hr/>	<hr/>	<hr/>
Proceeds to Us	\$ 9.40	\$ 1,880,000	\$ 94,000,000
	<hr/>	<hr/>	<hr/>
Dividend Reinvestment Plan			
Price to Public	\$ 9.50		\$ 9,500,000
Selling Commissions*	.25		237,500
Dealer Manager Fee			
	<hr/>		<hr/>
Proceeds to Us	\$ 9.25		\$ 9,262,500
	<hr/>		<hr/>

* Selling commissions of up to 7.0% of gross offering proceeds (or up to 5.0% for sales under the dividend reinvestment plan) will be paid for sales through participating broker-dealers; however, no selling commissions will

be paid with respect to shares sold by Wunderlich Securities, Inc., our dealer manager, without the involvement of participating broker-dealers. We anticipate that approximately 50% of the shares sold pursuant to this offering will not be subject to selling commissions. A reduction in selling commissions will increase the amount of proceeds of this offering available for us to invest in real property.

Investing in our common shares involves a high degree of risk. You should purchase common shares only if you can afford a complete loss. See Risk Factors beginning on page 17. The most significant risks relating to your investment include the following:

No public market currently exists for our common shares. Our shares cannot be readily sold, and if you are able to sell your shares, you will likely have to sell them at a substantial discount. We intend to either liquidate our assets or list our shares for trading on an exchange within twelve years of the termination of this offering.

All of our properties are located in the Houston and San Antonio metropolitan areas. Our operations may be adversely impacted by an economic downturn in Houston and/or San Antonio. If we raise substantially less than the maximum offering, we may not be able to invest in a geographically diverse portfolio of properties.

We will rely on Hartman Management, L.P., our advisor, to select properties and other investments and conduct our operations. We are obligated to pay substantial fees to our advisor and its affiliates, some of which are payable based upon factors other than the quality of services provided to us. Our advisor and its affiliates will face conflicts of interest, such as competing demands upon their time, their involvement with other entities and the allocation of opportunities among affiliated entities and us.

We may incur substantial debt, which could hinder our ability to pay dividends to our shareholders or could decrease the value of your investment in the event that income on, or the value of, the property securing such debt falls.

The amount of dividends we may make is uncertain.

We may not qualify as a REIT in a given taxable year. If we were to fail to qualify as a REIT in any taxable year, we would be subject to federal income tax (including any applicable alternative minimum tax) on our taxable income at regular corporate rates, and we would be disqualified from being taxed as a REIT for the four taxable years following the year during which qualification was lost, unless entitled to relief under certain statutory provisions.

Neither the Securities and Exchange Commission, the Attorney General of the State of New York nor any other state securities regulator has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

No one is authorized to make any statement about this offering different from those that appear in this prospectus. The use of projections or forecasts in this offering is prohibited. Any representation to the contrary and any predictions, written or oral, as to the amount or certainty of any present or future cash benefit or tax consequence that may flow from an investment in this offering is not permitted.

The dealer manager of this offering is Wunderlich Securities, Inc. The dealer manager is not required to sell any specific number of shares or dollar amount of our common shares but will use its best efforts to sell the shares offered hereby. Your subscription payments will be placed in an account held by the escrow agent, Wells Fargo Bank Iowa, N.A., and will be held in trust for your benefit, pending release to us. If we do not sell at least \$2.0 million in shares by , 2005, which is one year from the date of this prospectus, your funds in the escrow account will be returned to you, and we will stop selling shares.

The date of this prospectus is , 2004

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EXPLANATORY NOTE

We were organized in December 2003 for the purpose of merging with Hartman Commercial Properties REIT, a Texas real estate investment trust organized in August 1998 (Hartman Texas). We will be the surviving entity after the merger. The sole purpose of the reorganization is to change our state of domicile to Maryland. On June 4, 2004, the shareholders of Hartman Texas approved the reorganization. We intend to complete the reorganization via the merger immediately prior to effectiveness of this offering.

As part of the reorganization, the shareholders of Hartman Texas approved a recapitalization of our outstanding equity interests so that the value of each common share will be \$10.00. The recapitalization will not affect the economic interests of our shareholders in us.

The information presented in this prospectus assumes that our reorganization and recapitalization have been approved by the shareholders of Hartman Texas and completed, unless otherwise indicated. The terms we, us, our and the registrant as used in this prospectus refer to Hartman Commercial Properties REIT, a Maryland real estate investment trust, and its predecessor entity, Hartman Texas, as if the reorganization has been completed, unless otherwise indicated.

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<u>You will not have the opportunity to evaluate our investments before we make them.</u>	18
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<u>An increase in market interest rates may have an adverse effect on our ability to sell shares in this offering.</u>	20
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We are uncertain of our sources for funding of future capital needs, which could adversely affect the value of our investments.

General Risks Related to Investments in Real Estate

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Your investment will be directly affected by general economic and regulatory factors we cannot control or predict.

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Properties that have significant vacancies could be difficult to sell, which could diminish the return on your investment.

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SUITABILITY STANDARDS

An investment in our company involves significant risk and is only suitable for persons who have adequate financial means, desire a relatively long-term investment and who will not need immediate liquidity from their investment.

In consideration of these factors, we have established suitability standards for investors in this offering and subsequent purchasers of our shares. These suitability standards require that a purchaser of shares have, excluding the value of a purchaser's home, furnishings and automobiles, either:

a net worth of at least \$150,000; or

a gross annual income of at least \$45,000 and a net worth of at least \$45,000.

In addition, we will not sell shares to investors in the states named below unless they meet special suitability standards:

Arizona, New Jersey, North Carolina and Texas Investors must have either (1) a net worth of at least \$225,000, or (2) gross annual income of at least \$60,000 and a net worth of at least \$60,000.

Kansas Investors must have either (1) a net worth of at least \$225,000 and a net worth of at least 10 times their investment in us, or (2) gross annual income of at least \$60,000 and a net worth of at least \$60,000.

Maine Investors must have either (1) a net worth of at least \$225,000, or (2) gross annual income of at least \$50,000 and a net worth of at least \$50,000.

California, Ohio and Oklahoma In addition to the suitability requirements described above, investors must have a net worth of at least 10 times their investment in us.

For purposes of determining suitability of an investor, net worth in all cases should be calculated excluding the value of an investor's home, furnishings and automobiles. In the case of sales to fiduciary accounts, these suitability standards must be met by the fiduciary account, by the person who directly or indirectly supplied the funds for the purchase of the shares if such person is the fiduciary or by the beneficiary of the account.

Those selling shares on our behalf must make every reasonable effort to determine that the purchase of shares in this offering is a suitable and appropriate investment for each shareholder based on information provided by the shareholder regarding the shareholder's financial situation and investment objectives. See **Plan of Distribution Suitability Standards** for a detailed discussion of the determinations regarding suitability that we require of all those selling shares on our behalf.

QUESTIONS AND ANSWERS ABOUT THIS OFFERING

Below we have provided answers to some of the more frequently asked questions relating to an offering of this type. Please see the remainder of this prospectus for more detailed information about this offering.

Q: What is a REIT?

A: In general, a REIT is an entity that:

combines the capital of many investors to acquire or provide financing for real properties;

enables individual investors to invest in a professionally managed portfolio of real estate assets;

provided certain income tax requirements are satisfied, avoids the double taxation treatment of income that generally results from investments in a corporation because a REIT is not generally subject to federal corporate income taxes on that portion of its income distributed to shareholders; and

pays dividends to investors of at least 90.0% of its taxable income.

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Q: What is Hartman Commercial Properties REIT?

A: Hartman Commercial Properties REIT is a Maryland real estate investment trust that was originally organized in 1998 as a Texas real estate investment trust. We were formed to acquire and manage retail, industrial and office properties in the Houston and San Antonio metropolitan areas. We owned 33 commercial properties on April 30, 2004, primarily consisting of retail centers, industrial and office properties.

Q: What is the experience of your executive officers and trustees?

A: Allen R. Hartman has been our president, secretary and member of our board of trustees since our formation in 1998. He is also the sole limited partner of our advisor and property manager, Hartman Management, L.P. (Hartman Management), as well as the President, Secretary, sole trustee and sole shareholder of the general partner of Hartman Management. Since 1984, Mr. Hartman, as an individual general partner, has been the sponsor of 17 private limited and general partnerships that have invested in commercial real estate in Houston, Texas. Mr. Hartman has over 30 years of experience in the commercial real estate industry. From 1978 to 1983, Mr. Hartman owned and operated residential rental properties.

Robert W. Engel has been our chief financial officer and a member of our board of trustees since 2000, and is the controller of Hartman Management. Mr. Engel is a graduate from the University of Texas with a BBA with highest honors with a major in Accounting. Mr. Engel is a CPA and holds memberships in the American Institute of Certified Public Accountants, and the Texas Society of Certified Public Accountants. Mr. Engel is also a CPM, with membership in the Institute of Real Estate Management, and a CCIM as a member of the CCIM Institute. He is a licensed real estate broker in the State of Texas. From 1991 to 1999, Mr. Engel served as vice president and controller for Reignquest/Fred Rizk Construction Company.

Chand Vyas has been a member of our board of trustees since 2002. Mr. Vyas is the Chairman and Chief Executive Officer of EPS Technology, a global information technology and business process outsourcing company that he founded in 2000. From 1982 until 1998, Mr. Vyas served as Chief Executive Officer of Ziegler Coal Holding Company, where he led a buyout of Ziegler from its parent company, Houston Natural Gas, in 1985. In subsequent years, under Mr. Vyas' leadership, Ziegler grew many fold through acquisitions including the purchase of Old Ben Coal from British Petroleum as well as Shell Mining Company from Shell Oil. Ziegler Coal Holding Company went public in 1994 with the largest initial public offering underwritten during that year's third quarter.

Jack L. Mahaffey has been a member of our board of trustees since 2000. Mr. Mahaffey served as the President of Shell Mining Co. from 1984 until 1991. Since his retirement in 1991, Mr. Mahaffey has managed his personal investments. Mr. Mahaffey graduated from Ohio State University with a B.S. and M.S. in Petroleum Engineering and served in the United States Air Force. He is a former board member of the National Coal Association and the National Coal Council.

Samuel C. Hathorn has been a member of our board of trustees since 2000. Mr. Hathorn has been in the home building and land development business for over thirty years. He has held both divisional and senior management positions with three different large publicly held home builders/developers during his real estate career. For the last twenty-one years, Mr. Hathorn has been a senior executive with Weyerhaeuser Real Estate Company (WRECO), a wholly owned subsidiary of Weyerhaeuser Company (NYSE). Since 1984, Mr. Hathorn has been President and Chief Executive Officer of Trendmaker Homes, the Houston, Texas based home building and land development subsidiary of WRECO. Mr. Hathorn is a licensed CPA in the State of California and holds a Bachelor of Science degree in accounting. He currently serves as a director of National Beverage Corp. (AMEX).

Chris A. Minton has been a member of our board of trustees since 2000. Mr. Minton was employed by Lockheed Martin for 35 years and was a Vice-President of Lockheed's Technology Services Group from 1993 until 1995.

While employed at Lockheed, he supervised the business operations of six operating companies that employed over 30,000 people. Since his retirement from Lockheed in 1995, Mr. Minton has managed his personal investments and served as a consultant to a privately held aircraft mechanics

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school and to a Lockheed Martin subsidiary company. Mr. Minton graduated from Villanova University with a Bachelors Degree, and he is a licensed C.P.A. (retired status) in the State of Texas. He has been awarded the Gold Knight of Management award for achievements as a professional manager by the National Management Association.

Q: Who is Hartman Management, L.P.?

A: Hartman Management is our advisor and property manager. Hartman Management was organized as a Texas corporation in 1990 and reorganized as a Texas limited partnership in 2001. Hartman Management manages our day-to-day operations and our portfolio of properties. As of November 30, 2003, Hartman Management had sponsored or advised private real estate programs that had raised approximately \$120 million from approximately 1,100 investors, including investors in us, and that owned and operated more than 4.5 million square feet of commercial real estate properties.

Q: In what types of real property will you invest?

A: We generally will seek to use the offering proceeds available for investment after the payment of fees and expenses to acquire commercial retail, office and industrial properties that we intend to hold for a period of seven to ten years from the date of acquisition. We will seek to invest in commercial properties in major metropolitan cities in the United States, principally in the Southern United States. We may invest in other property types or geographic areas in order to reduce overall portfolio risk or enhance overall portfolio returns if our advisor determines that it would be advantageous to do so.

Q: May you invest in anything other than real property?

A: Yes. We anticipate there will be opportunities to acquire some or all of the ownership interests of unaffiliated enterprises having real property investments consistent with those we intend to acquire directly. In addition, if our advisor determines that, due to the state of the real estate market or in order to diversify our investment portfolio, it would be advantageous to us, we may also provide mortgage loans to owners of commercial retail, office or industrial properties or purchase such mortgage loans or participations in mortgage loans from other mortgage lenders. Because there are significant limitations on the amount of non-real estate assets that a REIT may own without losing its status as a REIT, we will be significantly limited as to ownership of non-real estate investments. These limitations may limit our ability to maximize profits.

Q: How are you different from your competitors who offer unlisted REIT shares to the public?

A: We have a track record of acquiring properties for prices that provide us the ability to add value. Our REIT has an existing, growing portfolio of properties and we intend that growth trend to continue. One very important difference is that we use Hartman Management, our advisor, also as our property manager. Many of our competitors outsource that function to unaffiliated third parties or establish an affiliated property manager that also performs services for unaffiliated third-party developers. Hartman Management only manages properties in various Hartman programs. Other third-party managers work for multiple, unrelated owners. We believe Hartman Management is able to provide us more individualized service.

Q: Who will choose the investments you make?

A: Hartman Management is our advisor and makes recommendations on all investments to our board of trustees. Hartman Management is wholly owned by Allen R. Hartman, who is our President and a member of our board of trustees. Mr. Hartman has extensive experience investing in commercial real estate. In addition, various other officers and key employees of Hartman Management have extensive experience in the areas of commercial property management, leasing, development or investment. The officers, trustees and key employees of Hartman Management are Terry L. Henderson, Robert W. Engel, John Crossin and Valarie L. King, and they will assist Mr. Hartman in making property acquisition recommendations on behalf of Hartman Management to our board of trustees. Our board of trustees, including a majority of our independent trustees, must approve all of our

investments.

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Q: How will Hartman Management select potential properties for acquisition?

A: Hartman Management will generally seek to acquire good quality retail, office and industrial buildings located in major metropolitan cities in the United States, principally in the Southern United States, and leased to creditworthy companies. Many factors enter into what we consider to be good quality, including a location that generates and retains tenants because it is good for their business, construction that is attractive, meets building codes and uses materials that withstand ordinary use, and sufficient tenancy to generate current returns on investment. Current tenants of our existing properties include Kroger Food Stores, National Oilwell, 99 Cents Only Stores Texas, Bally Total Fitness, Sears Homestore, Circuit City, Michael's, PETsMART and Carrier. Some of the properties may be acquired from affiliated entities, such as the private real estate programs sponsored or advised by Hartman Management.

To find properties that best meet our selection criteria for investment, Hartman Management's property acquisition team will study regional demographics and market conditions and interview local brokers to gain practical knowledge of the regional economic and market dynamics. An experienced commercial construction engineer will inspect the structural soundness and the operating systems of each building, and an environmental firm will investigate all environmental issues to help ensure that each property meets our quality specifications.

Q: How many properties do you currently own?

A: As of April 30, 2004, we owned 33 commercial properties. These properties are retail, industrial and office properties located in the Houston and San Antonio metropolitan areas. Because we have not identified any specific properties to acquire with the proceeds from this offering, we are considered to be a partial blind pool.

Q: Do you intend to acquire some of your properties in joint ventures?

A: We may want to acquire properties in joint ventures if we determine it necessary in order to diversify our portfolio of properties in terms of geographic region, property type or tenant industry group. Also, a joint venture may enable us to invest net proceeds from this offering sooner than would be possible otherwise, since the amount of gross proceeds raised in the early stages of this offering may be insufficient to acquire title to all of a real property targeted for investment. Such joint ventures may be with our affiliates or with third parties. In January 2004, we entered into a joint venture with an affiliate to acquire an office building in Houston, Texas. We may also make or invest in mortgage loans secured by properties owned by such joint ventures.

Q: What steps do you take to make sure you invest in environmentally compliant property?

A: We will obtain a Phase I environmental assessment of each property purchased. In addition, we expect that in most cases we will obtain a representation from the seller that, to its knowledge, the property is not contaminated with hazardous materials.

Q: What will be the terms of your leases?

A: We will seek to secure leases with creditworthy tenants before or at the time we acquire a property. We expect that our leases generally will be economically net leases, which means that the tenant would be responsible for the cost of repairs, maintenance, property taxes, utilities, insurance and other operating costs. In most of these leases, we will probably be responsible for the replacement of specific structural components of a property, such as the roof of the building or the parking lot. We expect that our leases generally will have terms of three to five or more years, some of which may have renewal options.

Q: How will you own your real estate properties?