

FEB 28 2008

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# SENATE CONCURRENT RESOLUTION

SUPPORTING AND ENCOURAGING THE ESTABLISHMENT OF GOOD FAITH  
VALUATION STANDARDS AND NEGOTIATING PRACTICES BY LESSORS  
AND LESSEES UNDER LONG-TERM INDUSTRIAL AND COMMERCIAL  
GROUND LEASES.

1           WHEREAS, industrial and commercial businesses in Hawaii are  
2 vital to Hawaii's economy and provide thousands of jobs and pay  
3 millions of dollars in state and local taxes; and  
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5           WHEREAS, many small industrial and commercial lessees in  
6 Hawaii operate under long-term ground leases for properties  
7 being used as warehousing, office, and distribution facilities  
8 for the sale and servicing of industrial and construction  
9 equipment, materials, and supplies; for the sale and servicing  
10 of automobiles, trucks, and other vehicles; and for the general  
11 manufacture, warehousing, distribution, and sale of goods of  
12 every kind and nature into the stream of commerce for the people  
13 of Hawaii; and  
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15           WHEREAS, under most long-term industrial and commercial  
16 ground leases, rents are customarily "renegotiated" at periodic  
17 intervals of typically ten to fifteen years; and  
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19           WHEREAS, Hawaii's industrial and commercial ground lessees  
20 already pay among the highest ground rents in the country and  
21 have no choice but to pass on these increasing ground rents to  
22 Hawaii consumers, thereby adding significantly to Hawaii's  
23 already extremely high cost of living; and  
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25           WHEREAS, continuing increases in ground rents put  
26 increasing economic pressure on Hawaii's industrial and  
27 commercial lessees and make it more and more difficult for them  
28 to compete with out-of-state businesses, and increasingly  
29 require them to downsize, move their businesses out of the  
30 State, or go out of business altogether; and  
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1           WHEREAS, under current valuation and renegotiation  
2 practices, current ground rent demands by ground lessors may  
3 lead to a round of staggering new ground rent increases that  
4 will further increase the economic pressure on Hawaii's  
5 industrial and commercial ground lessees and ultimately on  
6 Hawaii's consumers, workers, and the state economy; and  
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8           WHEREAS, the economic effects of such increases are likely  
9 to include:

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- 11           (1) A significant increase in unemployment and the number  
12           of families becoming homeless or requiring increasing  
13           financial assistance to survive in Hawaii; and
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  - 15           (2) A significant decrease in the tax base and in local  
16           and state tax collections in Hawaii; and  
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18           WHEREAS, in order to ensure an even playing field where  
19 long-term ground lessees and lessors will be able to negotiate  
20 ground rents and increases that will allow a fair return on  
21 investment to both parties, the Legislature should encourage the  
22 development of good faith valuation standards and negotiating  
23 practices as will allow such lessors and lessees to achieve fair  
24 and reasonable rents under such leases, with due regard for the  
25 existing use of the land demised as well as pertinent economic  
26 principles and considerations; and  
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28           WHEREAS, if such lessees and lessors are unable to develop  
29 such good faith valuation standards and practices, it may be  
30 necessary for the Legislature, in order to best serve the  
31 interests of the consumers, workers, and the economy in Hawaii,  
32 to adopt such measures as will otherwise allow such lessors and  
33 lessees to achieve fair and reasonable rents under such leases,  
34 with due regard for the existing use of the land as well as  
35 pertinent economic principles and considerations; now,  
36 therefore,  
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38           BE IT RESOLVED by the Senate of the Twenty-fourth  
39 Legislature of the State of Hawaii, Regular Session of 2008, the  
40 House of Representatives concurring, that the Legislature  
41 supports and encourages the establishment of good faith  
42 valuation standards and negotiating practices by lessors and  
43 lessees under long-term industrial and commercial ground leases  
44 to allow such lessors and lessees to achieve fair and reasonable



1 rents under such leases, with due regard for the existing use of  
2 the land as well as pertinent economic principles and  
3 considerations, that will provide a fair return on investment  
4 for both parties and will best serve the interests of the  
5 consumers, workers, and the economy in Hawaii; and

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7 BE IT FURTHER RESOLVED that a certified copy of this  
8 Concurrent Resolution be transmitted to the Director of Commerce  
9 and Consumer Affairs.

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OFFERED BY: Norman Salomone