



GOV. MSG. NO. **667**

EXECUTIVE CHAMBERS

HONOLULU

LINDA LINGLE
GOVERNOR

July 6, 2010

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

I am transmitting herewith SB2020 HD2 CD1, without my approval, and with the statement of objections relating to the measure.

SB2020 HD2 CD1

A BILL FOR AN ACT
RELATING TO REAL PROPERTY.

Sincerely,



LINDA LINGLE

EXECUTIVE CHAMBERS

HONOLULU

July 6, 2010

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2020

Honorable Members
Twenty-Fifth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2020, entitled "A Bill for an Act Relating to Real Property."

The purpose of this bill is to extend the sunset date of Act 189, Session Laws of Hawaii 2009 (Act 189), from June 30, 2010, to June 30, 2013. Act 189 contained several provisions pertaining to renegotiations of commercial and industrial leases, and in particular specified that the term "fair and reasonable" annual rent of certain leases of commercial or industrial leasehold property be construed in a specific manner.

The constitutionality of Act 189 has been litigated in the United States District Court for Hawaii in a lawsuit brought by HRPT Properties Trust which owns significant amounts of land in the Mapunapuna area. The District Court recently provided its written inclination (a summary of the court's thinking) to find that Act 189 violates the Contracts Clause of the United States Constitution. Although a written order to that effect has not yet been issued, it appears probable that the Court will soon issue a ruling that Act 189 is unconstitutional.

Extending the life of Act 189 for three additional years serves no useful purpose, and may expose the State to an increasing amount of attorneys' fees. Allowing Act 189 to

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SENATE BILL NO. 2020
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sunset may reduce or eliminate the State's liability in this case.

For the foregoing reasons, I am returning Senate Bill No. 2020 without my approval.

Respectfully,

A handwritten signature in black ink, appearing to read "Linda Lingle", written in a cursive style.

LINDA LINGLE
Governor of Hawaii

A BILL FOR AN ACT

RELATING TO REAL PROPERTY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Act 189, Session Laws of Hawaii 2009, is
2 amended by amending section 5 to read as follows:

3 "SECTION 5. This Act shall take effect on July 1, 2009,
4 and shall be repealed on [~~June 30, 2010,~~] June 30, 2013;
5 provided that the repeal of this Act shall not affect
6 renegotiations of any lease or sublease rental amount, the
7 renegotiation date for which occurred before [~~July 1, 2010,~~]
8 July 1, 2013; provided further that this Act shall not apply to
9 any lease scheduled for renegotiation after [~~June 30, 2010.~~]
10 June 30, 2013."

11 SECTION 2. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 3. This Act shall take effect on June 29, 2010.
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