

JAN 27 2016

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# A BILL FOR AN ACT

RELATING TO TRANSIT-ORIENTED DEVELOPMENT.

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

1       SECTION 1. The legislature finds that the Honolulu rail  
2 transit project represents the largest and most expensive  
3 capital project in the history of the city and county of  
4 Honolulu. Local businesses along the rail project alignment are  
5 currently being impacted by the construction activities directly  
6 associated with the rail project to the point where the economic  
7 viability of certain business establishments is being  
8 questioned. While the Honolulu authority for rapid  
9 transportation is adhering to federal and state laws that  
10 require that relocation and advisory assistance be provided to  
11 all impacted businesses affected by the construction of the rail  
12 project, this assistance may not be adequate.

13       The purpose of this Act is to establish a business  
14 mitigation relief pilot program to assist businesses negatively  
15 impacted by the construction of the rail project.

16       SECTION 2. (a) The department of business, economic  
17 development, and tourism shall establish a business mitigation



1 relief pilot program to assist qualified businesses and  
2 commercial property owners affected by rail construction  
3 pursuant to this Act.

4 (b) A business shall be eligible to receive assistance  
5 through the business mitigation relief pilot program if the  
6 business:

7 (1) Is a for-profit business or non-religious non-profit  
8 organization;

9 (2) Is located immediately adjacent to the rail corridor  
10 or directly affected by the rail construction;

11 (3) Meets the technical qualifications to participate in  
12 the program, including number of employees, time in  
13 business, and ability to provide financial records;

14 (4) Is solvent; provided that a business in bankruptcy, as  
15 a documented result of rail construction, shall be  
16 considered solvent as long as the business is filing  
17 for bankruptcy to reorganize, rather than to  
18 liquidate; and

19 (5) Is in good standing with all local, state, and federal  
20 taxing and licensing authorities.



(c) The following types of businesses shall not be eligible to participate in the business mitigation relief pilot program:

- (1) Businesses engaged in teaching, instructing, counseling, or indoctrinating religion or religious beliefs;
- (2) Businesses generating over sixty per cent of revenues from the sale of alcoholic beverages;
- (3) Businesses with any products or services of a sexual nature representing over fifty per cent of their revenue; or
- (4) National retailers or outlets, unless operated by a single owner under a franchise agreement.

(d) The business mitigation relief pilot program shall not accept applications where the commercial property is unoccupied and the owner alleges that the owner is unable to rent or lease the property due to construction. If the commercial property is occupied, the owner shall provide documentation from the tenant that the tenant has ended or will end the lease due to the rail construction.



(e) A qualified business may request payment assistance under the business mitigation relief pilot program for the following business expenses:

(1) Utilities;

(2) Insurance;

(3) Rent or mortgage payments;

(4) Payroll; or

(5) Other types of documented business related expenses as determined by the department.

(f) Commercial property owners shall request payment assistance for only a claim for mortgage, utilities, insurance, and other expenses as determined by the department.

(g) Multiple requests for payment assistance may be filed by an eligible business; provided that the total amount paid to the business shall not exceed an aggregate amount of \$50,000 annually or sixty per cent of the business's annual business revenue loss.

(h) The department shall create any necessary application forms for businesses or commercial property owners to apply under the business mitigation relief pilot program; provided



1 that the application form shall include but not be limited to  
2 the following:

3 (1) Federal tax return for the most recent tax year, sales  
4 tax report, or bank statements as required and  
5 requested to analyze eligibility and determine impact;

6 (2) Copies of delinquent bills or debt payment due; and

7 (3) If the applicant is a commercial property owner, proof  
8 of ownership and copies of tenant leases.

9 (i) Approval of an application for the business mitigation  
10 relief pilot program shall be based on a combination of factors,  
11 including:

12 (1) Financial stability and viability of the business as a  
13 going concern;

14 (2) Length of time in business;

15 (3) Recent past financial performance; and

16 (4) Overall impact of the construction on the business.

17 (j) Commercial property owners shall not be permitted to  
18 apply for an award under the business mitigation relief pilot  
19 program if any of their tenants are receiving financial  
20 assistance for rent through the program.



(k) An eligible business that can demonstrate it has lost at least twenty per cent in gross revenue due to rail construction may receive financial assistance in the amount of its lost revenue; provided that the maximum amount of the award shall not exceed \$50,000 annually or sixty per cent of the business's annual business revenue loss. Businesses demonstrating less than a twenty per cent revenue reduction may receive financial assistance in proportion to what they would have received if the reduction was twenty per cent.

(l) An eligible business applying for financial assistance for loss of revenue shall meet the following requirements:

(1) Have a minimum of twenty-four months of operational history along the rail corridor;

(2) In the case of an existing business along the rail corridor that has been acquired by a new owner, the business may qualify using a history of past performance by the previous owner; and

(3) Have experienced a revenue decline of at least twenty per cent in one quarter as compared to the same quarter prior to the start of rail construction.



1 (m) An eligible business shall file a written claim  
2 covering the impact of rail construction within one hundred  
3 eighty days from the end of the impacted quarterly period.

4 (n) Any business or commercial property owner whose  
5 application to participate in the business mitigation relief  
6 pilot program is denied may request reconsideration of the  
7 denial. Such request shall be in writing and include an  
8 explanation of why the denial should be reconsidered along with  
9 any supporting documentation. Requests for reconsideration  
10 shall be sent to the department.

11 (o) After a business or commercial property owner is  
12 approved to participate in the business mitigation relief pilot  
13 program, the business or commercial property owner shall, at a  
14 minimum, acknowledge and agree that participation in the program  
15 is voluntary.

16 (p) An annual audit of the business mitigation relief  
17 pilot program shall be conducted by the department.

18 (q) The business mitigation relief pilot program shall  
19 cease to exist on December 31, .

20 SECTION 3. There is appropriated out of the general  
21 revenues of the State of Hawaii the sum of \$ or so



# S.B. NO. 2995

1 much thereof as may be necessary for fiscal year 2016-2017 for  
2 the business mitigation relief pilot program.

3 The sum appropriated shall be expended by the department of  
4 business, economic development, and tourism for the purposes of  
5 this Act.

6 SECTION 4. This Act shall take effect on July 1, 2016.

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INTRODUCED BY: Breene Hunt

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# S.B. NO. 2995

**Report Title:**

Business Mitigation Relief Pilot Program; Rail Construction;  
Appropriation

**Description:**

Establishes the business mitigation relief pilot program to assist businesses negatively impacted by the construction of the rail project. Establishes guidelines and procedures for financial assistance through the program. Appropriates funds for the program.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

