
A BILL FOR AN ACT

RELATING TO COMMERCIAL PROPERTY RENT RELIEF.

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

1 SECTION 1. The legislature finds that coronavirus disease
2 2019 (COVID-19) and the extraordinary measures instituted to
3 minimize the spread of the SARS-CoV-2 virus have had devastating
4 impacts on the local economy. Businesses in the State have
5 faced mounting losses in revenue while incurring substantial
6 expenses during mandated closure periods. These costs represent
7 among the largest expenses for a business operation,
8 particularly for retail and restaurant establishments. Many
9 commercial landlords have suffered financially as they absorbed
10 losses due to unpaid rent or business closures, which is
11 displacing jobs and reducing local household income.

12 The legislature further finds that, in an effort to
13 mitigate the effects of the COVID-19 pandemic, commercial
14 landlords have taken significant efforts to ease the burden
15 placed upon their small business tenants and their employees.
16 These measures have included renegotiating lease terms and
17 providing rent deferrals.



1 The legislature additionally finds that non-residential
2 landowners who exclusively use their property for commercial
3 purposes or lease their property to commercial tenants deserve
4 financial relief to cover land costs or unpaid rent. This will
5 assist with the circulation of money throughout the economy,
6 including banks, landlords, businesses, and employees, which
7 ultimately leads to higher tax revenue to maintain government
8 fiscal budgets and employ the public workforce. Landowners or
9 landlords are better equipped to participate in the
10 administrative process of applying for government-sponsored
11 programs than small business tenants who are struggling to
12 survive.

13 The legislature also finds that in order to allow small
14 businesses the ability to recover without causing further
15 hardships to the real estate industry, commercial landowners
16 need financial support to continue the mitigation efforts to
17 keep small businesses open and people employed. This can be
18 done by providing grants to landowners to abate or reduce the
19 rental payments, common area maintenance fees, and real property
20 taxes due by the tenants.



1 Accordingly, the purpose of this Act is to establish a
2 commercial rent relief grant program to be funded through
3 federal funds.

4 SECTION 2. (a) Notwithstanding any law to the contrary,
5 owners of property classified as commercial, hotel and resort,
6 or industrial under county real property tax classifications
7 shall be eligible for a grant not to exceed three per cent of
8 taxable revenue derived from the property in 2019; annualized
9 taxable revenue for commercial tenants established and
10 registered for business with the State before March 20, 2020,
11 and with less than twelve months operating history; or three
12 months of full rent, whichever is less; provided that:

13 (1) Owners of commercial or industrial classified property
14 attest or otherwise prove that they exclusively use
15 their property for their own commercial or industrial
16 purposes or lease their property to commercial or
17 industrial tenants, if applicable;

18 (2) Owners of hotel and resort classified property attest
19 or otherwise prove that a portion of the subject
20 property is dedicated to use by commercial tenants



1 including legally non-conforming commercial uses, if
2 applicable; and

3 (3) The property owner provides rent forgiveness to any
4 commercial or industrial tenants who occupy the
5 property at the time of submittal of the grant
6 application in a cumulative amount not less than the
7 value of the grant;

8 provided further that owners of hotel and resort classified
9 property shall only be eligible for a grant proportionate to the
10 portion of the property that is leased to tenants operating a
11 commercial business on the subject property.

12 (b) Rent relief grants pursuant to this section shall be
13 applicable to rent forgiven on or after April 1, 2020.

14 (c) A property owner that receives a rent relief grant
15 pursuant to this section shall not evict or take any other
16 retributive action against a commercial or industrial tenant for
17 the nonpayment of any rent that is forgiven pursuant to the rent
18 relief grant program.

19 (d) Within sixty days of receiving a grant, a property
20 owner providing rent forgiveness to their eligible commercial or



1 industrial tenants shall provide to the department of business,
2 economic development, and tourism:

3 (1) Attestations or other proof from each eligible tenant
4 that the tenant received rent forgiveness; and

5 (2) The amount of rent forgiveness provided to each
6 eligible tenant.

7 (e) Eligible tenants shall meet the following criteria:

8 (1) Operation in a physical commercial space in the State
9 of Hawaii;

10 (2) Demonstration of financial hardship in excess of a
11 forty per cent decline in taxable revenue between
12 either:

13 (A) Taxable years 2019 and 2020; or

14 (B) An annualized operating period prior to March 31,
15 2020, and a comparable annualized operating
16 period after April 1, 2020, if the business has
17 less than twelve months of operating history;

18 (3) Registration with the department of commerce and
19 consumer affairs unless the tenant is a sole
20 proprietorship;



- 1 (4) Status as a small business as defined by the United
- 2 States Small Business Administration's size standards;
- 3 (5) Occupancy under a lease dated prior to March 20, 2020;
- 4 (6) Attestation by the majority owner or owners that:
 - 5 (A) Each majority owner is a resident of the State;
 - 6 (B) The business is located in the State; and
 - 7 (C) The business is not publicly traded and is not a
 - 8 national or international chain unless it is a
 - 9 locally-owned franchise location; and
- 10 (7) The business is currently open or unable to open due
- 11 to government restrictions; provided that if the
- 12 business is not open, the owner plans to re-open in
- 13 the same location once government restrictions are
- 14 lifted.
- 15 (f) Grant applications shall be submitted to and reviewed
- 16 by the department of business, economic development, and
- 17 tourism. All grant applications are subject to audit or
- 18 investigation at the discretion of the department of business,
- 19 economic development, and tourism.
- 20 A fraudulent application and grant award shall be deemed a
- 21 violation of section 661-21, Hawaii Revised Statutes.



1 (g) The department of taxation may share confidential tax
2 information necessary to determine the eligibility for a grant
3 pursuant to this Act with the department of business, economic
4 development, and tourism.

5 (h) Moneys for grants pursuant to this section shall be
6 appropriated out of any and all federal funding suitable for
7 this purpose. Appropriated funds shall be used for the
8 commercial landlord-tenant grant program and shall be
9 replenished as additional federal funds or state funds become
10 available.

11 (i) As additional federal funding becomes available,
12 consideration shall be made to expand the program to properties
13 classified as agricultural to benefit farmers, or transient
14 accommodations to benefit the tourism sector.

15 SECTION 3. As additional sources of federal funding
16 appropriate to the purposes of this Act become available, the
17 grant program established by this Act shall be given priority in
18 the distribution of those funds.

19 SECTION 4. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$ or so
21 much thereof as may be necessary for fiscal year 2021-2022 and



1 the same sum or so much thereof as may be necessary for fiscal
2 year 2022-2023 to be deposited into the emergency and budget
3 reserve fund; provided that no funds shall be made available
4 under this Act unless the federal government provides the
5 necessary funds through stimulus payments to the State.

6 SECTION 5. There is appropriated out of the emergency and
7 budget reserve fund the sum of \$ or so much thereof as
8 may be necessary for fiscal year 2021-2022 and the same sum or
9 so much thereof as may be necessary for fiscal year 2022-2023
10 for grants under the commercial landlord-tenant grant program
11 pursuant to section 2 of this Act.

12 The sums appropriated shall be expended by the department
13 of business, economic development, and tourism for the purposes
14 of this Act.

15 SECTION 6. This Act shall take effect on July 1, 2050.



Report Title:

Commercial Rent Relief; Grant Program; DBEDT; Emergency Budget and Relief Fund; Appropriation

Description:

Establishes a commercial rent relief grant program to be administered by the Department of Business, Economic Development, and Tourism. Requires that the commercial rent relief grants be given priority for moneys received through federal funding. Appropriates funds. Effective 7/1/2050.
(SD1)

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