

STAND. COM. REP. NO. III

Honolulu, Hawaii

FEB 10 2021

RE: S.B. No. 563
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 563 entitled:

"A BILL FOR AN ACT RELATING TO COMMERCIAL TENANT PROTECTION,"

begs leave to report as follows:

The purpose and intent of this measure is to prohibit a commercial landlord from initiating or continuing any action to evict or collect unpaid rent from a commercial tenant that has been adversely impacted by the economic effects of coronavirus disease 2019 (COVID-19) or official measures intended to mitigate the spread of COVID-19, to repeal July 1, 2022.

Your Committee received testimony in support of this measure from Vision Design Kitchen and Bath, LLC dba Poggenpohl Kitchens Hawaii; Leading Importers, LLC; and twelve individuals. Your Committee received testimony in opposition to this measure from the Land Use Research Foundation of Hawaii; NAIOP Commercial Real Estate Development Association; Ka Makana Ali'i Shopping Center; Kapolei Hawaii Property Company, LLC; Kapolei Shops, LLC; Hawaii Bankers Association; International Council of Shopping Centers; Building Owners and Managers Association of Hawaii; and seven individuals. Your Committee received comments on this measure from the Hawai'i Lodging & Tourism Association, Retail Merchants of Hawaii, and Pacific Islands Institute.





Your Committee finds that, due to the negative economic effects of COVID-19 over the past year, small businesses across the State have continued to struggle and many have been forced to close permanently. Reports have indicated that Hawaii has one of the highest rates of small business closures at twenty-five percent, many of which were landmarks in their communities. In many cases, local and federal assistance has not been sufficient to bridge the gap between the reduction in sales or business income and high rent expenses. Several jurisdictions across the country have taken measures to protect commercial tenants and due to the uncertain nature of the COVID-19 pandemic and the significant, prolonged economic disruption it has had on Hawaii's small businesses, emergency measures are necessary to support recovery and survival of Hawaii's small businesses, and the State's economy as a whole.

Your Committee has amended this measure by:

- (1) Clarifying that an impacted commercial tenant shall not have a subsequent option to terminate the lease pursuant to the terms of this measure at a later date if the impacted commercial tenant and commercial landlord reach an agreement, regardless of whether the agreement is made pursuant to the terms of this measure or any other process;
- (2) Inserting definitions for "COVID-19" and "paycheck protection program loans";
- (3) Clarifying that "impacted commercial tenant" shall additionally mean a commercial tenant who has applied for a paycheck protection program loan in the calendar years 2020 and 2021;
- (4) Specifying the criteria to qualify as an "impacted commercial tenant" to include a commercial tenant who has experienced a decline of twenty-five percent or more in average monthly revenue over the two most recent calendar months when compared to other certain averages; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.





As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 563, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 563, S.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Commerce and
Consumer Protection,

A handwritten signature in cursive script, reading "Rosalyn H. Baker".

ROSALYN H. BAKER, Chair



