
A BILL FOR AN ACT

RELATING TO COMMERCIAL TENANT PROTECTION.

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

1 SECTION 1. Chapter 127A, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§127A- Commercial tenant protection. (a) It shall be
5 unlawful, during the effective period of any emergency
6 proclamation and for ninety days following the termination of
7 that effective period, for a commercial landlord to initiate or
8 to continue proceedings to collect past-due rent from an
9 impacted commercial tenant or to evict an impacted commercial
10 tenant if the impacted commercial tenant has served written
11 notice to the commercial landlord of the tenant's status as an
12 impacted commercial tenant.

13 (b) The unpaid balance of any rent that has accrued on the
14 commercial tenancy of any impacted commercial tenant during the
15 effective period of an emergency proclamation shall be due at
16 the end of the month containing the date twelve months after the
17 end of the effective period of the final emergency proclamation



1 unless the commercial landlord and the impacted commercial
2 tenant have reached an agreement to pay the balance at a later
3 date.

4 (c) An impacted commercial tenant who wishes to modify its
5 commercial lease during the effective period of an emergency
6 proclamation or within sixty days after the end of the effective
7 period may engage in good faith negotiations with the impacted
8 commercial tenant's commercial landlord to modify the rent or
9 other economic requirement of the lease. The impacted
10 commercial tenant may initiate these negotiations by serving
11 written notice, including notice of the tenant's status as an
12 impacted commercial tenant, to the commercial landlord. If the
13 impacted commercial tenant and the commercial landlord do not
14 reach a mutually satisfactory agreement within thirty days of
15 the commercial landlord's receipt of notice, the impacted
16 commercial tenant may terminate the lease by serving notice of
17 termination to the commercial landlord. If the impacted
18 commercial tenant terminates the lease, the tenant shall have
19 fourteen days from the date of service to vacate the property;
20 provided that, if the impacted commercial tenant has vacated the
21 property within those fourteen days, the following shall apply:



- 1 (1) The lease shall terminate;
- 2 (2) No further liability for rent, fees, or costs shall
3 accrue under the lease;
- 4 (3) Any third-party guaranties associated with the lease
5 shall terminate and shall no longer be enforceable;
6 and
- 7 (4) In lieu of any other damages, the impacted commercial
8 tenant shall, within twelve months of vacating the
9 property, pay the commercial landlord all of the
10 following:
 - 11 (A) Three months of rent as specified under the most
12 recent terms of the lease or the actual amount of
13 unpaid rent that accrued during the effective
14 period of any emergency proclamation, whichever
15 is less; and
 - 16 (B) All unpaid rent that accrued prior to the
17 effective period of the initial emergency
18 proclamation.
- 19 If the impacted commercial tenant and the commercial landlord
20 reach an agreement, the tenant shall not have a subsequent



1 option to terminate the lease under this subsection at a later
2 date.

3 (d) Remedies provided under this section are cumulative
4 and do not preclude any remedies available to tenants under any
5 other law.

6 (e) A commercial landlord who willfully violates this
7 section shall be liable to the impacted commercial tenant in a
8 civil action for the following:

9 (1) Actual damages to the tenant;

10 (2) An amount no less than \$250 and no more than \$2,000
11 for each incident constituting a violation; and

12 (3) Reasonable attorney's fees arising from the civil
13 action.

14 (f) For the purposes of this section:

15 "Commercial landlord" means any person, business, or other
16 entity that owns or manages commercial property, or their agent.

17 "Commercial tenant" means a tenant occupying commercial
18 real property pursuant to a lease including but not limited to
19 businesses or nonprofit organizations.

20 "COVID-19" means coronavirus disease 2019.



1 "Emergency proclamation" means an emergency proclamation
2 issued by the governor or by a mayor relating to COVID-19.

3 "Impacted commercial tenant" means a commercial tenant who
4 operates primarily in this State, occupies commercial real
5 property pursuant to a lease, has applied for a paycheck
6 protection program loan in the calendar years 2020 and 2021, and
7 meets one of the following criteria:

8 (1) The commercial tenant has experienced a decline of
9 twenty-five per cent or more in average monthly
10 revenue over the two most recent calendar months when
11 compared to:

12 (A) The commercial tenant's average monthly revenue
13 for the two calendar months before a state or
14 local emergency proclamation took effect; or

15 (B) The commercial tenant's average monthly revenue
16 for the same calendar months in 2019;

17 (2) The commercial tenant was prevented from opening or
18 was required to delay opening the tenant's business
19 because of an emergency proclamation relating to
20 COVID-19; or



1 (3) The commercial tenant has suffered a decline of
2 fifteen per cent or more in capacity due to compliance
3 with an official public health and safety guideline
4 for preventing the spread of COVID-19.

5 "Paycheck protection program loan" means a loan established
6 by the federal Coronavirus Aid, Relief, and Economic Security
7 Act of 2020."

8 SECTION 2. New statutory material is underscored.

9 SECTION 3. This Act shall take effect upon its approval
10 and shall be repealed on July 1, 2022.



Report Title:

Commercial Tenants Protection; Eviction Moratorium; Rental
Deferment

Description:

Prohibits 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 COVID-19 or official measures intended to mitigate the spread of COVID-19. Sunsets 7/1/2022. (SD1)

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