

JAN 27 2021

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 absorb
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 international COVID-19 pandemic,
14 commercial landlords have taken significant efforts to ease the
15 burden placed upon their small business tenants and their
16 employees. These measures have included renegotiating lease
17 terms and providing rent deferrals to tenants.



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. Notwithstanding any law to the contrary:

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

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

19 (2) Owners of hotel and resort classified property attest
20 or otherwise prove that a portion of the subject
21 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) Within sixty days of receiving a grant, a property
15 owner providing rent forgiveness to their eligible commercial or
16 industrial tenants shall provide to the department of taxation:

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

19 (2) The amount of rent forgiveness provided to each
20 eligible tenant.

21 (d) Eligible tenants shall meet the following criteria:



- 1 (1) Operation in a physical commercial space in the state
2 of Hawaii;
- 3 (2) Demonstration of financial hardship in excess of a
4 forty per cent decline in taxable revenue between
5 either:
 - 6 (A) 2019 and 2020; or
 - 7 (B) An annualized operating period prior to March 31,
8 2020, and a comparable annualized operating
9 period after April 1, 2020, if the business has
10 less than twelve months of operating history;
- 11 (3) Registration with the department of commerce and
12 consumer affairs unless the tenant is a sole
13 proprietorship;
- 14 (4) Status as a small business as defined by the United
15 States Small Business Administration's size standards;
- 16 (5) Occupancy under a lease dated prior to March 20, 2020;
- 17 (6) Attestation by the majority owner or owners that:
 - 18 (A) Each majority owner is a resident of the State;
 - 19 (B) The business is located in the State; and



1 (C) The business is not publicly traded and is not a
2 national or international chain unless it is a
3 locally-owned franchise location; and

4 (7) The business is currently open or unable to open due
5 to government restrictions; provided that if the
6 business is not open, the owner plans to re-open in
7 the same location once government restrictions are
8 lifted.

9 (d) Grant applications shall be submitted to and reviewed
10 by the department of taxation. The counties, in cooperation
11 with the department of taxation, shall be responsible for
12 administering grants issued pursuant to this section. All grant
13 applications are subject to audit or investigation at the
14 discretion of the department of taxation.

15 A fraudulent application and grant award shall be deemed a
16 violation of section 661-21, Hawaii Revised Statutes.

17 (e) Moneys for grants pursuant to this section shall be
18 appropriated out of any and all federal funding suitable for
19 this purpose. Appropriated funds shall be used for the
20 commercial landlord-tenant grant program and shall be



1 replenished as additional federal funds or state funds become
2 available.

3 (f) As additional federal funding becomes available,
4 consideration shall be made to expand the program to properties
5 classified as agricultural to benefit farmers, or transient
6 accommodations to benefit the tourism sector.

7 SECTION 3. As additional sources of federal funding
8 appropriate to the purposes of this Act become available, the
9 grant program established by this Act shall be given priority in
10 the distribution of those funds.

11 SECTION 4. There is appropriated out of the general
12 revenues of the State of Hawaii the sum of \$180,000,000 or so
13 much thereof as may be necessary for fiscal year 2021-2022 and
14 the same sum or so much thereof as may be necessary for fiscal
15 year 2022-2023 to be deposited into the emergency and budget
16 reserve fund; provided that no funds shall be made available
17 under this Act unless the federal government provides the
18 necessary funds through stimulus payments to the State.

19 SECTION 5. There is appropriated out of the emergency and
20 budget reserve fund the sum of \$180,000,000 or so much thereof
21 as may be necessary for fiscal year 2021-2022 and the same sum



S.B. NO. 946

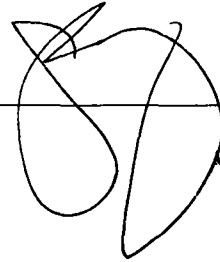
1 or so much thereof as may be necessary for fiscal year 2022-2023
2 for grants under the commercial landlord-tenant grant program.

3 The sums appropriated shall be expended by the department
4 of taxation for the purposes of this Act.

5 SECTION 6. This Act shall take effect on July 1, 2021.

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INTRODUCED BY: _____

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S.B. NO. 946

Report Title:

Commercial Rent Relief; Grant Program; Appropriation

Description:

Establishes a Commercial Rent Relief Grant Program. Requires that the commercial rent relief grants be given priority for moneys received through federal funding.

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

