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

13 The legislature further finds that, in an effort to
14 mitigate the effects of the international COVID-19 pandemic,
15 commercial landlords have taken significant efforts to ease the
16 burden placed upon their small business tenants and their



1 employees. These measures have included renegotiating lease
2 terms and providing rent deferrals to tenants.

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

15 The legislature also finds that in order to allow small
16 businesses the ability to recover without causing further
17 hardships to the real estate industry, commercial landowners
18 need financial support to continue the mitigation efforts to
19 keep small businesses open and people employed. This can be
20 done by providing grants to landowners to help them continue to
21 pay their area maintenance fees, real property taxes, or other



1 payments in light of reduced rental payments. These grants
2 would, in turn, allow landlords to provide rent relief to their
3 commercial tenants.

4 Accordingly, the purpose of this Act is to establish a
5 commercial rent relief grant program to be funded through
6 federal funds.

7 SECTION 2. Notwithstanding any law to the contrary:

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

17 (1) The owner of commercial or industrial classified
18 property shall attest or otherwise prove that the
19 owner exclusively uses the property for the owner's
20 own commercial or industrial purposes or leases the



1 property to a commercial or industrial tenant, if
2 applicable;

3 (2) The owner of hotel and resort classified property
4 shall attest or otherwise prove that a portion of the
5 subject property is dedicated for use by a commercial
6 tenant, including legally non-conforming commercial
7 uses, if applicable; and

8 (3) The property owner provides rent forgiveness to any
9 commercial or industrial tenant who occupies the
10 property at the time of submittal of the grant
11 application in a cumulative amount not less than the
12 value of the grant;

13 provided further that an owner of hotel and resort classified
14 property shall only be eligible for a grant that is
15 proportionate to the portion of the property that is leased to a
16 tenant operating a commercial business on the subject property.

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

19 (c) Within sixty days of receiving a grant, a property
20 owner providing rent forgiveness to an eligible commercial or
21 industrial tenant shall provide to the department of taxation:



- 1 (1) Attestations or other proof from each eligible tenant
- 2 that the tenant received rent forgiveness; and
- 3 (2) The amount of rent forgiveness provided to each
- 4 eligible tenant.
- 5 (d) An eligible tenant shall meet the following criteria:
- 6 (1) Operation in a physical commercial space in the State
- 7 of Hawaii;
- 8 (2) Demonstration of financial hardship in excess of a
- 9 forty per cent decline in taxable revenue between
- 10 either:
- 11 (A) 2019 and 2020; or
- 12 (B) If the business has less than twelve months of
- 13 operating history, an annualized operating period
- 14 prior to March 31, 2020, and a comparable
- 15 annualized operating period after April 1, 2020;
- 16 (3) Registration with the department of commerce and
- 17 consumer affairs, unless the tenant is a sole
- 18 proprietorship;
- 19 (4) Status as a small business as defined by the United
- 20 States Small Business Administration's size standards;
- 21 (5) Occupancy under a lease dated before March 20, 2020;



- 1 (6) Attestation by the majority owner or owners that:
- 2 (A) Each majority owner is a resident of the State;
- 3 (B) The business is located in the State; and
- 4 (C) The business is not publicly traded and is not a
- 5 national or international chain, unless it is a
- 6 locally-owned franchise location; and
- 7 (7) The business is currently open or unable to open due
- 8 to government restrictions; provided that if the
- 9 business is not open, the owner plans to re-open in
- 10 the same location once government restrictions are
- 11 lifted.
- 12 (e) Grant applications shall be submitted to and reviewed
- 13 by the department of taxation. The counties, in cooperation
- 14 with the department of taxation, shall be responsible for
- 15 administering grants issued pursuant to this section. Each
- 16 grant application is subject to audit or investigation at the
- 17 discretion of the department of taxation.
- 18 A fraudulent application and grant award shall be deemed a
- 19 violation of section 661-21, Hawaii Revised Statutes.
- 20 (f) Moneys for grants pursuant to this section shall be
- 21 appropriated out of any and all federal funding suitable for



1 this purpose. Appropriated funds shall be used for the
2 commercial rent relief grant program and shall be replenished as
3 additional federal funds or state funds become available.

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

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

12 SECTION 4. There is appropriated out of the general
13 revenues of the State of Hawaii the sum of \$ or so
14 much thereof as may be necessary for fiscal year 2021-2022 and
15 the same sum or so much thereof as may be necessary for fiscal
16 year 2022-2023 to be deposited into the emergency and budget
17 reserve fund established pursuant to section 328L-3, Hawaii
18 Revised Statutes; provided that no funds shall be made available
19 under this Act unless the federal government provides the
20 necessary funds through stimulus payments to the State.



1 SECTION 5. There is appropriated out of the emergency and
2 budget reserve fund the sum of \$ or so much thereof as
3 may be necessary for fiscal year 2021-2022 and the same sum or
4 so much thereof as may be necessary for fiscal year 2022-2023
5 for grants under the commercial rent relief grant program.

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

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



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. Appropriates an unspecified amount to the emergency and budget reserve fund for the program. Effective 7/1/2050. (SD2)

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