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# 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) 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 business,  
17 economic development, and tourism:

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

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



- 1 (d) Eligible tenants shall meet the following criteria:
- 2 (1) Operation in a physical commercial space in the State
- 3 of Hawaii;
- 4 (2) Demonstration of financial hardship in excess of a
- 5 forty per cent decline in taxable revenue between
- 6 either:
- 7 (A) Taxable years 2019 and 2020; or
- 8 (B) An annualized operating period prior to March 31,
- 9 2020, and a comparable annualized operating
- 10 period after April 1, 2020, if the business has
- 11 less than twelve months of operating history;
- 12 (3) Registration with the department of commerce and
- 13 consumer affairs unless the tenant is a sole
- 14 proprietorship;
- 15 (4) Status as a small business as defined by the United
- 16 States Small Business Administration's size standards;
- 17 (5) Occupancy under a lease dated prior to March 20, 2020;
- 18 (6) Attestation by the majority owner or owners that:
- 19 (A) Each majority owner is a resident of the State;
- 20 (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 (e) Grant applications shall be submitted to and reviewed  
10 by the department of business, economic development, and  
11 tourism. All grant applications are subject to audit or  
12 investigation at the discretion of the department of business,  
13 economic development, and tourism.

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

16 (f) The department of taxation may share confidential tax  
17 information necessary to determine the eligibility for a grant  
18 pursuant to this Act with the department of business, economic  
19 development, and tourism.

20 (g) 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 landlord-tenant grant program and shall be  
3 replenished as additional federal funds or state funds become  
4 available.

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

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

13 SECTION 4. There is appropriated out of the general  
14 revenues of the State of Hawaii the sum of \$ or so  
15 much thereof as may be necessary for fiscal year 2021-2022 and  
16 the same sum or so much thereof as may be necessary for fiscal  
17 year 2022-2023 to be deposited into the emergency and budget  
18 reserve fund; 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 landlord-tenant grant program  
6 pursuant to section 2 of this Act.

7 The sums appropriated shall be expended by the department  
8 of business, economic development, and tourism for the purposes  
9 of this Act.

10 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.  
(HD2)

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