

Honolulu, Hawaii

MAR 06 2009

RE: S.B. No. 764
S.D. 2

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Madam:

Your Committee on Judiciary and Government Operations, to which was referred S.B. No. 764, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO REAL PROPERTY,"

begs leave to report as follows:

The purpose of this measure is to ensure that residents of Hawaii remain employed, that businesses continue to operate and pay wages and taxes, and that financial failures be reduced by establishing a fair and reasonable standard for lease provisions in long term industrial and commercial property leases.

Specifically, this measure:

- (1) Requires, for leases existing on July 1, 2009 or entered into thereafter, that include provisions for rent renegotiation during the term of the lease and renegotiated rents based on fair and reasonable annual rent as of the commencement of the term, that those provisions:
 - (A) Be construed to require that the rent shall be fair and reasonable to both the lessor and the lessee to the lease; and
 - (B) Take into account the uses and intensity of use approved by the lessor, and the surface and subsurface characteristics of the site and the neighborhood on the renegotiation date; and



- (2) Requires, unless otherwise specified in the lease, that subtenants with subleases that provide for recovery by the lessee of ground lease rent be charged their pro-rata share of the fair and reasonable annual rent as renegotiated.

Your Committee finds it necessary to alleviate the economic consequences of allowing unfair and unreasonable rent increases for commercial and industrial properties until the local economy improves. However, your Committee has concerns regarding the definition of "reasonable rent".

Accordingly, your Committee has amended this measure by changing the effective date to July 1, 2050, to encourage further discussions on this matter.

As affirmed by the record of votes of the members of your Committee on Judiciary and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 764, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 764, S.D. 2.

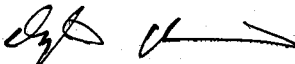
Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Government Operations,


BRIAN T. TANIGUCHI, Chair



The Senate
Twenty-Fifth Legislature
State of Hawaii

Record of Votes
Committee on Judiciary and Government Operations
JGO

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 764, SD1	CPN, JGO	8/5/2009		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
TANIGUCHI, Brian T. (C)	✓			
TAKAMINE, Dwight Y. (VC)	✓			
BUNDA, Robert				✓
GABBARD, Mike				✓
NISHIHARA, Clarence K.	✓			
SLOM, Sam	✓			
TOTAL	4	0	0	2
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original	Yellow	Pink	Goldenrod	
File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy	

*Only one measure per Record of Votes