

---

---

# 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   rental expenses during mandated closure periods. These costs  
7   represent 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 help them continue to  
19 make their area maintenance fees, real property taxes, or other  
20 payments in light of reduced rental payments. These grants



1 would, in turn, allow landlords to provide rent relief to their  
2 commercial tenants.

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

6 SECTION 2. Notwithstanding any law to the contrary:

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

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



1           (2) Owners of hotel and resort classified property attest  
2           or otherwise prove that a portion of the subject  
3           property is dedicated to use by commercial tenants  
4           including legally non-conforming commercial uses, if  
5           applicable; and

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

11 provided further that owners of hotel and resort classified  
12 property shall only be eligible for a grant proportionate to the  
13 portion of the property that is leased to tenants operating a  
14 commercial business on the subject property.

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

17          (c) Within sixty days of receiving a grant, a property  
18 owner providing rent forgiveness to their eligible commercial or  
19 industrial tenants shall provide to the department of taxation:

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



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



1 (B) The business is located in the State; and  
2 (C) The business is not publicly traded and is not a  
3 national or international chain, unless it is a  
4 locally-owned franchise location; and

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

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

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

18 (f) Moneys for grants pursuant to this section shall be  
19 appropriated out of any and all federal funding suitable for  
20 this purpose. Appropriated funds shall be used for the



1 commercial rent relief grant program and shall be replenished as  
2 additional federal funds or state funds become available.

3 (g) 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 for 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 \$ 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 \$ or so much thereof as  
21 may be necessary for fiscal year 2021-2022 and the same sum or



1 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.





**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 Commercial Landlord-Tenant Grant Program. (SD1)

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

