

STAND. COM. REP. NO. 1667

Honolulu, Hawaii

April 9, 2009

RE: S.B. No. 1224
S.D. 1
H.D. 2

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Sir:

Your Committee on Finance, to which was referred S.B. No. 1224, S.D. 1, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO AIRPORT CONCESSIONS,"

begs leave to report as follows:

The purpose of this bill is to provide economic relief to airport concessionaires by giving the Governor, or Director of the Department of Transportation (DOT) if so directed by the Governor, the discretion and authority to:

- (1) Provide relief to airport concessionaires:
 - (A) Whose leases or contracts were entered into on or after November 1, 2006, and who spent capital improving their concession premises; or
 - (B) Who spent capital improving their concession premises as a result of any agreement entered into with DOT under Act 128, Session Laws of Hawaii 2006;
- (2) Reach a relief agreement with the concessionaire to extend the term of the lease or contract, grant or modify existing relief provisions, reduce or waive rent, and otherwise modify and amend any terms of the concession lease or contract;

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- (3) Grant fair and reasonable relief to a concessionaire whose concession has suffered operating losses for any period starting on or after November 1, 2006;
- (4) Grant lease or contract provisions that:
 - (A) Provide for annual adjustments in the guaranteed rents of all airport concessionaires that are to be paid to the State; and
 - (B) For each airport concession lease or contract not having economic emergency relief provisions, modify and adjust these contracts to contain emergency relief provisions similar to those in other concession leases or contracts issued after September 11, 2001, and for any lease or contract, provide for optional additional relief during dire economic times;

and

- (5) Take into account the concession's economic circumstances and whether the concession received relief by way of annual adjustment in guaranteed rents or other governmental relief to avoid duplicate economic relief benefits to a concessionaire.

Finally, this bill stipulates that:

- (1) In seeking relief pursuant to this Act, qualified concessionaires may only seek relief for losses of gross receipts or loss of business which occurred during periods of time beginning November 1, 2006, or later;
- (2) Remedies are available to both DOT and the concessionaires should agreement not be reached between the two parties on the granting of economic relief within 120 days of enactment of this measure;
- (3) Relief shall be provided as long as, and to the extent that, such relief does not violate any applicable federal laws and regulations, does not jeopardize the receipt of any federal aid, or impair the obligation of DOT to holders of any bond issued by DOT; and



- (4) The Act be effective on July 1, 2009, and be repealed on July 1, 2011.

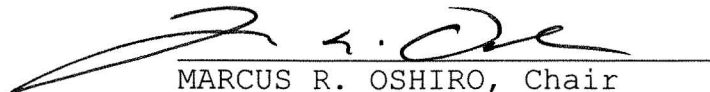
DOT, The Legislative Committee for Airport Concessionaires, HMSHost, ICE Currency Services USA, and Island Shoppers, Inc., supported this bill. The Airlines Committee of Hawaii commented on this measure.

Your Committee has amended this bill by adding an additional reference to Act 201, Session Laws of Hawaii, 2004, which also provided relief to airport concessionaires.

Technical, nonsubstantive amendments were also made for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1224, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1224, S.D. 1, H.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Finance,


MARCUS R. OSHIRO, Chair



